

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Department of Transportation for an order authorizing construction of BNSF Railroad Overhead over 4 sets tracks owned by the BNSF Railway Company and Central California Traction Company in the City of Stockton, County of San Joaquin.

Application 13-01-013
(Filed January 25, 2013)

DECISION GRANTING AUTHORIZATION TO THE CALIFORNIA DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A GRADE-SEPARATED STRUCTURE TO BE KNOWN AS BNSF RAILROAD OVERHEAD OVER THREE TRACKS OWNED BY BNSF RAILWAY COMPANY AND ONE TRACK OWNED BY CENTRAL CALIFORNIA TRACTION COMPANY IN THE CITY OF STOCKTON, COUNTY OF SAN JOAQUIN

Summary

This decision grants the California Department of Transportation authorization to construct a new grade-separated highway-rail crossing overhead structure to be known as BNSF Railroad Overhead over three tracks owned by the BNSF Railway Company and one track owned by Central California Traction Company in the City of Stockton in San Joaquin County, identified as CPUC Crossing Nos. 002-1122.95-A and 061-0.01-A respectively.

Discussion

The California Department of Transportation (Caltrans) requests authority to construct a new grade-separated highway-rail crossing overhead structure that will span over three tracks owned by BNSF Railway Company (BNSF) and one track owned by Central California Traction Company (CCTC) in the City of

Stockton (City) in San Joaquin County. This new overhead structure is part of the Caltrans State Route 4 Crosstown Freeway Ramp Extension project (project) and will be known as BNSF Railroad Overhead. Caltrans states that the purpose of the project is to improve the inadequate connection between Interstate 5 and the Port of Stockton and adjacent industrial areas of the City. The project will extend the on-and-off ramps of State Route 4 from their current terminus at Fresno Avenue, approximately one-half mile west to Navy Drive. Caltrans states that the project is needed to accommodate increased regional and inter-regional traffic, and will also improve air quality and reduce industrial truck traffic in the local neighborhoods.

The grade-separated highway-rail crossing overhead structure will be 2,313-foot long, 131-foot and 1-3/8 inches wide, that spans over three tracks of the BNSF and one track of CCTC at an approximate 26-degree skew angle. The crossing will be identified as CPUC Crossing No. 002-1122.95-A (for BNSF) and 061-0.01-A (for CCTC). There will be a temporary minimum overhead clearance of 21 feet, 6 inches during construction, with a permanent minimum overhead clearance of 26 feet, 6 inches. Current rail operations consist of an average of 11 freight and 8 passenger trains per day at a maximum speed of 79 miles per hour.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000 et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the California Public Utilities Commission (Commission) must issue a discretionary decision in order for the project to proceed (i.e., the Commission

has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, Caltrans is the lead agency for this project because the project is being constructed by it, and is subject to its review and approval, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.³

In February 2010, Caltrans issued the Draft Environmental Impact Report (DEIR) and in June 2010 issued the Final Environmental Impact Report (FEIR) for the State Route 4 Crosstown Freeway Ramp Extension project. On November 15, 2010 Caltrans filed a Notice of Determination (NOD) with the State Clearinghouse which states, "The Project will have a significant effect on the environment. Mitigation measures were adopted as a condition of approval of the project. A mitigation monitoring and reporting plan and a Statement of Overriding Conditions were also adopted for the project."

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

The inmitigable impacts identified for the project include the need to relocate 36 single-family units and 6 local businesses, the impacts to community character and cohesion and visual aesthetics from the elevated freeway and bridge structure, as well as long-term unmitigated traffic noise impacts to the area from the presence of the freeway extension Caltrans has adopted feasible mitigations to reduce the impacts to the extent possible.

With respect to impacts that fall within the jurisdiction of the Commission, noise from construction was identified as having a potentially significant impact on the environment. Noise control devices, such as equipment mufflers, enclosures and barriers will be used to reduce noise levels to less-than-significant levels. There were no negative impacts identified that relate to transportation and safety as a result of the grade-separated highway-rail crossing overhead structure (or its construction) as requested in this application.

The Commission reviewed and considered Caltrans' DEIR, FEIR, and NOD as they relate to this grade-separated highway-rail crossing overhead structure and finds them adequate for our decision-making purposes.

Filing Requirements and Staff Recommendations

This application is in compliance with the Commission's filing requirements including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public road across a railroad.

The Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Section has inspected the site of the proposed crossing, reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject grade-separated highway-rail crossing overhead structure be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3309, dated February 13, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Emory J. Hagan is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on February 1, 2013. There are no unresolved matters or protests. A public hearing is not necessary.
2. Caltrans requests authority, under Public Utilities Code Sections 1201-1205, to construct a new grade-separated highway-rail crossing overhead structure that will span over three tracks owned the BNSF Railway Company and one track owned by Central California Traction Company in the City of Stockton in San Joaquin County. This new grade-separated highway-rail crossing overhead structure will be known as BNSF Railroad Overhead and will be identified as CPUC Crossing Number 002-1122.95-A (for BNSF) and 061-0.01-A (for CCTC).

3. Caltrans is the lead agency for this project under CEQA.
4. In February 2010, Caltrans issued the DEIR and in June 2010 issued the FEIR for the State Route 4 Crosstown Freeway Ramp Extension project.
5. On November 15, 2010 Caltrans filed an NOD with the State Clearinghouse which states, "The Project will have a significant effect on the environment. Mitigation measures were made a condition of the approval of the project. A mitigation reporting or monitoring plan was adopted for this project. A Statement of Overriding Conditions was adopted for this project. Findings were made pursuant to the provisions of CEQA"
6. With respect to impacts that fall within the jurisdiction of the Commission, noise from construction was identified as having a potentially significant impact on the environment. Noise control devices, such as equipment mufflers, enclosures and barriers will be used to reduce noise levels to less-than-significant levels
7. There were no negative impacts identified that relate to transportation and safety in the grade separated crossing requested in this application.
8. In areas outside the Commission's jurisdiction, Caltrans adopted reasonable and feasible mitigation measures to reduce identified impacts to the extent possible with implemented mitigation measures.
9. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's DEIR, FEIR, and NOD.
10. The DEIR, FEIR, and NOD reflect the Commission's independent judgment and analysis

Conclusions of Law

1. The DEIR, FEIR, and NOD prepared by Caltrans as the documentation required by CEQA for the project are adequate for our decision-making

purposes. The State Route 4 Crosstown Freeway Ramp Extension Project will have significant effect on the environment.

2. The DEIR, FEIR, and NOD were completed in compliance with CEQA.
3. The application is uncontested and a public hearing is not necessary.
4. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The California Department of Transportation is authorized to construct a new grade-separated highway-rail crossing overhead structure over three tracks owned by the BNSF Railway Company and one track owned by Central California Traction Company in the City of Stockton in San Joaquin County, identified as CPUC Crossing No. 002-1122.95-A for BNSF Railway Company and 061-0.01-A for Central California Traction Company.

2. There shall be a temporary minimum overhead clearance of 21 feet and 6 inches during construction with a permanent minimum overhead clearance of 26 feet and 6 inches.

3. The California Department of Transportation shall notify the California Public Utilities Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Section at least five (5) business days prior to opening the grade-separated highway-rail crossing overhead structure.

Notification should be made to rces@cpuc.ca.gov.

4. Within 30 days after completion of the work under this order, the California Department of Transportation shall notify the Rail Crossings Engineering Section in writing, by submitting a completed Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be

obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/formg> . This report may be submitted electronically to rces@cpuc.ca.gov as outlined on the web page.

5. Within 30 days after completion of the work under this order, BNSF Railway Company and Central California Traction Company shall notify the Federal Railroad Administration of the existence of the road over track crossing by submitting a U.S.DOT CROSSING INVENTORY FORM, form FRA F6180.71. Concurrently BNSF Railway Company and Central California Traction Company shall provide a copy of the inventory form to the California Public Utilities Commission's Safety and Enforcement Division, Office of Rail Safety - Rail Crossings Engineering Section. This copy of the form may be submitted electronically to rces@cpuc.ca.gov .

6. The California Department of Transportation shall comply with all applicable rules, including California Public Utilities Commission General Orders and the California Manual on Uniform Traffic Control Devices.

7. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so require.

8. A request for extension of the three-year authorization period must be submitted to the Rail Crossings Engineering Section at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

9. The application is granted as set forth above.

10. Application 13-01-013 is closed.

This order is effective today.

Dated _____, at San Francisco, California.