Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of Victorville for the construction of a proposed grade separation of National Trails Highway (historic Route 66) over the proposed Southern California Logistics Rail Authority crossing in the City of Victorville.	Application 04-08-036 (Filed August 27, 2004)

O P I N I O N

Summary

This decision grants the City of Victorville's (City) request for authority to construct a grade-separated highway-rail crossing (overhead) bridge structure over The Burlington Northern and Santa Fe Railway Company's (BNSF) two proposed Southern California Logistics Rail Authority (SCLRA) spur tracks within the existing 100-foot wide right-of-way of National Trails Highway in Victorville, San Bernardino County.

Discussion

City requests authority to construct National Trails Highway overhead to provide vital access to industrial and commercial sites adjacent to the Southern California Logistics Airport (SCLA). The proposed overhead is part of the proposed SCLA Specific Plan project to reuse the closed George Air Force Base. The Specific Plan includes a total of 8703 acres primarily of airport, business park, and industrial facilities. The City recognizes the Specific Plan as a potential catalyst for transportation given its central location 60 minutes east of Los

Angeles alongside major trucking corridors with direct access to the BNSF and Union Pacific Railroad Company tracks and a two-runway airport. The overhead is necessary to eliminate the possibility of collisions between trains and vehicles, to eliminate vehicle delays and congestion due to train traffic and switching operations, and to facilitate access and egress in the area. The spur tracks are necessary to provide rail service from BNSF's Main Line to SCLA sites. A vicinity map and detailed drawings of the proposed overhead are shown in Appendices A and B attached to the order.

City will construct the overhead within the existing road right-of-way. The overhead bridge structure will have an approximate 24-foot 6-inch clearance from the finished top of rail grade to the lead track to the bottom of the bridge soffits. The structure will consist of two supporting bridge columns, each with an approximate 40-foot horizontal clearance from the centerline of the lead track; thereby, providing an 80-foot total clearance for the lead track. The columns will have a 4-foot width and a 30-foot height.

The overhead will be a box-girder bridge structure, designed to provide a 32-foot total width to accommodate one 12-foot travel lane in each direction and a 4-foot shoulder along both sides. The bridge edge will include a 2-foot 8-inch concrete bridge barrier with a 2-foot railing. The proposed overpass will provide an appropriate transition from the bridge to the existing National Trails Highway right-of-way.

The overhead will require a drainage system. BNSF will incorporate a utility corridor into the rail line for communications for rail signaling and switching capabilities. City will install infrastructure utilities within the 2.6-foot by 6.9-foot bridge soffits within National Trail Highway right-of-way.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended in 1982, as stated in Public Resources Code Section 21000, et seq. On January 5, 2004, City prepared a Draft and Final Subsequent Program Environmental Impact Report (EIR), assigned State Clearinghouse (SCH) Number 2003011008. The Draft EIR described the existing environmental conditions on the project site as well as the project's potential environmental effects and mitigation measures to reduce or avoid significant adverse impacts. City circulated the Draft EIR for public review and comment from January 5, 2004, to February 18, 2004. On April 20, 2004, City approved the project and adopted the Final EIR. On April 21, 2004, in compliance with Section 21108 or 21152 of the Public Resources Code, City filed a Notice of Determination (NOD) with the State Clearinghouse and San Bernardino County Clerk. A copy of the NOD is included in Appendix C attached to the order. The NOD concluded that the project will have a significant effect on the environment. Mitigation measures were made a condition for project approval. Findings were made pursuant to the provisions of CEQA. City adopted a "Statement of Overriding Considerations" (SOC) for this project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050 (b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

We reviewed the lead agency's environmental documents and found them adequate for our decision-making purposes. These documents include the Draft

and Final EIR for Southern California Logistics Airport Specific Plan Amendment and Rail Service Project (SCH 2003011008), the NOD, and the "Statement of Facts and Findings and Statement of Overriding Considerations" (SFFSOC). In considering the Draft EIR, we note that Draft EIR developed and evaluated a range of alternatives as well as "No Development" alternative and "No Project-Existing General and Zoning" alternative. The Draft EIR included an analysis of potential environmental impacts related to, among other items, land use, hydrology and water quality, geology, air quality, noise, public services, human health, and transportation. Safety, transportation, and noise are within the scope of the Commission's permitting process. City identified environmental impacts related to transportation and noise.

Project implementation may result in an increase in traffic that substantially impacts long-term capacity of the study area street system and an increase in additional project access that would affect project circulation. City will implement traffic mitigation measures to mitigate the potential impacts to less-than-significant levels. City will amend its General Plan Circulation Element to show Perimeter Road from Phantom Road East to Desert Flower Road as an "Arterial" roadway, Colusa Road north of Perimeter Road to City's westerly boundary as an "Arterial" roadway, and Street "A" extension north to Desert Flower Road as a "Major Arterial" roadway. The amendment also will show the realignment of Turner Road with Shay Road located east of the lead track connection with the Inter-Modal rail facility. The City also will enter into agreements with the City of Adelanto and the California Department of Transportation (Caltrans) to ensure that both cities and Caltrans construct the SCLA off-site roadway improvements pursuant to improvement programs established by each jurisdiction. The agreements will identify the scope and

costs of feasible improvement, as determined by the respective jurisdiction. The improvements will be acceptable to each jurisdiction toward fulfilling the timing and cost of the transportation improvement obligations as required to mitigate transportation impacts in each jurisdiction. As determined by mutual agreement between the agencies, the agencies will use funding to improve the capacity of impacted intersections and traffic links or for substituted improvements determined by the agreement.

Both construction and long-term operation (mobile sources) of the proposed project would result in significant impacts in regards to noise generation. Feasible mitigation measures are not available to reduce the significance of these impacts. As such, anticipated impacts concerning construction and long-term operation of the project may be significant and unavoidable.

The SFFSOC contains statements pertaining to impacts, mitigation measures, and findings for each impact. The SFFSOC categorized these impacts as "Less Than Significant Impact," "Less Than Significant Impact with Mitigation Incorporated," and "unavoidable significant impact." Included in the SFFSOC are the SOC and "Mitigation Monitoring and Reporting Checklist" (MMRC). City adopted the SOC to approve the project despite significant and unavoidable adverse environmental impacts identified in the Final EIR and SFFSOC related to noise. Specifically, City determined that noise mitigation measures adopted for the project would not fully reduce impacts to less-than-significant levels for grading and construction within the project area that would result in temporary noise and vibration impacts to nearby noise sensitive receptors and for long-term noise impacts due to mobile source noise impacts into the year 2025. However, mitigation measures adopted to reduce stationary noise impacts (on-site noise

associated with commercial and light industrial activities, which include loading and unloading activities, mechanical equipment activities, and activities occurring in parking lots) would reduce such impacts to less-than-significant levels.

City found that the benefits of the proposed project outweigh the unavoidable significant adverse environmental impact. City determined that each of the separate benefits identified in the SOC, in itself and independent of other project benefits, is a basis for overriding all unavoidable impacts identified in the Final EIR and noted in the City's findings. Specified overriding benefits resulting from the project include enhancing the project area with rail facilities to optimize the use of the area for economic development and job creation and to provide synergy with airport services, future development and business uses; creating an economically viable employment center and enhancing the tax base for the Victor Valley area of San Bernardino County; creating a regional and nationally significant multi-modal distribution and manufacturing center in the vicinity of Interstate 15 freeway, State Route 18, United States Highway 395, and SCLA air cargo and BNSF rail facilities; providing adequate infrastructure and site amenities to create an efficient and attractive location for businesses; expediting the movement of goods across the nation from the congested ports of Los Angeles and Long Beach, while reducing truck traffic in the more highly populated areas of Los Angeles, San Bernardino, and Riverside Counties; and providing maximum efficiency of land use at the Ports of Los Angeles and Long Beach by moving storage of rail and truck containers to SCLA and moving the sorting and deconstruction of cargo to SCLA.

In reviewing the Final EIR and MMRC, we find that with respect to issues within the scope of our permitting process, City, where possible, adopted

feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt City's findings and mitigations for purposes of our approval.

With respect to the SOC, we find that City enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably justify approval of the project despite certain significant and unavoidable impacts. Therefore, we accept and adopt the findings of the SOC for purposes of our approval.

Representatives from the City, BNSF and Commission's Consumers Protection and Safety Division – Rail Crossings Engineering Section (RCES) staff held a diagnostic meeting at the site of the proposed overhead and determined that the City should realign Turner Road and National Trails Highway intersection approximately 1200 feet north of Air Expressway. Turner Road provides access to businesses and residential neighborhoods west of National Trails Highway. With the realignment, the Turner Road and National Trails Highway intersection will shift north of the rail right-of-way. The realignment will require the road to turn eastward following the abandoned rail right-of-way to where Turner Road intersects National Trails Highway. The realignment will improve the existing condition by providing a 90-degree intersection with National Trails Highway while maintaining access to the existing commercial and residential uses north of the proposed overpass. After reviewing the need for and the safety of the proposed overhead, RCES recommends that the Commission grant City's request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad track.

Categorization and Need for Hearings

In Resolution ALJ 176-3138, dated September 2, 2004, and published in the Commission Daily Calendar on September 3, 2004, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains correct. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3138.

Waiver of Comment Period

This Application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), we waive the otherwise applicable 30-day period for public review and comment.

Assignment of Proceeding

Richard Clark is the assigned Examiner in the proceeding.

Findings of Fact

1. The Commission published Notice of the Application in the Commission Daily Calendar on August 30, 2004. There are no unresolved matters or protests; a public hearing is not necessary.

2. City requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed National Trails Highway overhead in Victorville, San Bernardino County.

3. Construction of the National Trails Highway overhead is necessary to provide rail service and vital access to adjacent industrial and commercial sites developed by SCLRA.

4. City is the lead agency for this project under CEQA, as amended. City prepared a Draft and Final EIR, NOD, and SFFSOC.

5. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Draft and Final EIR, the NOD, and the SFFSOC. We find these documents to be adequate for our decision-making purposes.

6. Safety, transportation and noise are within the scope of the Commission's permitting process.

7. For the approved project, the lead agency identified environmental impacts related to transportation and noise.

Conclusions of Law

1. With respect to significant impacts from transportation and noise, we find that the lead agency adopted feasible mitigation measures where possible to substantially lessen the environmental impacts to less-than-significant levels. We adopt these mitigation measures for purposes of our approval. With respect to the significant and unavoidable environmental impacts, we find that City enumerated several significant benefits to justify project approval. Therefore, we also adopt the SOC for purposes of our approval.

2. The Application is uncontested and a public hearing is not necessary.

3. The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. City of Victorville (City) is authorized to construct a proposed grade-separated highway-rail crossing (overhead), identified as CPUC Crossing No. 002-38.45-AC, over The Burlington Northern and Santa Fe Railway Company's (BNSF) Southern California Logistics Rail Authority spur tracks within the existing 100-foot wide right-of-way of National Trails Highway, in Victorville,

San Bernardino County, at the location and substantially as shown by the plans attached to the Application and Appendices A and B attached to this order.

2. City and BNSF (parties) shall bear construction and maintenance costs in accordance with an agreement between the parties. Should the parties fail to agree, the Commission will apportion the cost of construction and maintenance by further order.

3. Within 30 days after completion of the work under this order, BNSF shall notify the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section in writing by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

4. This authorization shall expire if not exercised within three years unless the Commission extends the time or the parties do not comply with the above conditions. The Commission may revoke or modify the authorization if public convenience, necessity or safety so require.

5. The Application is granted as set forth above.

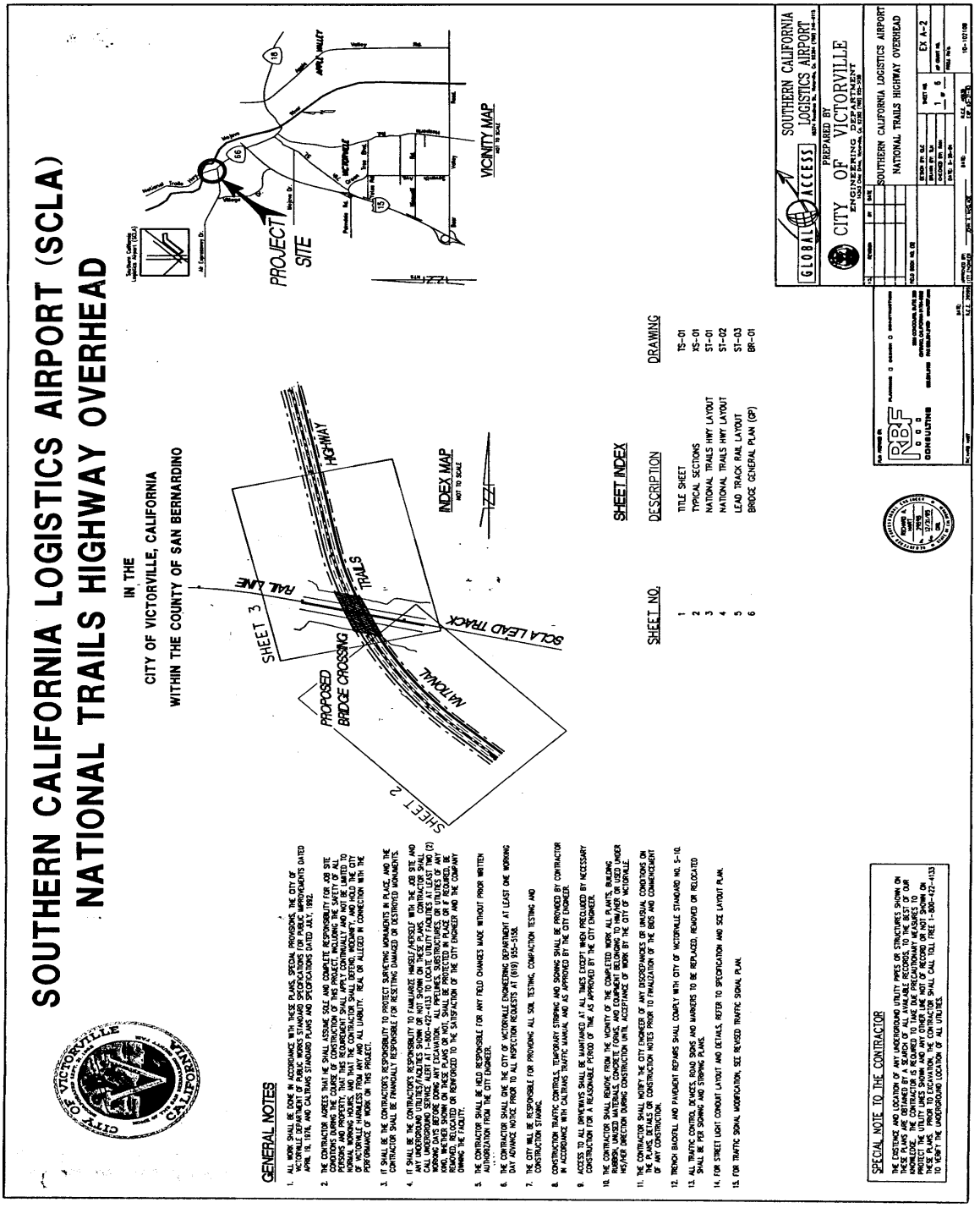
6. Application 04-08-036 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

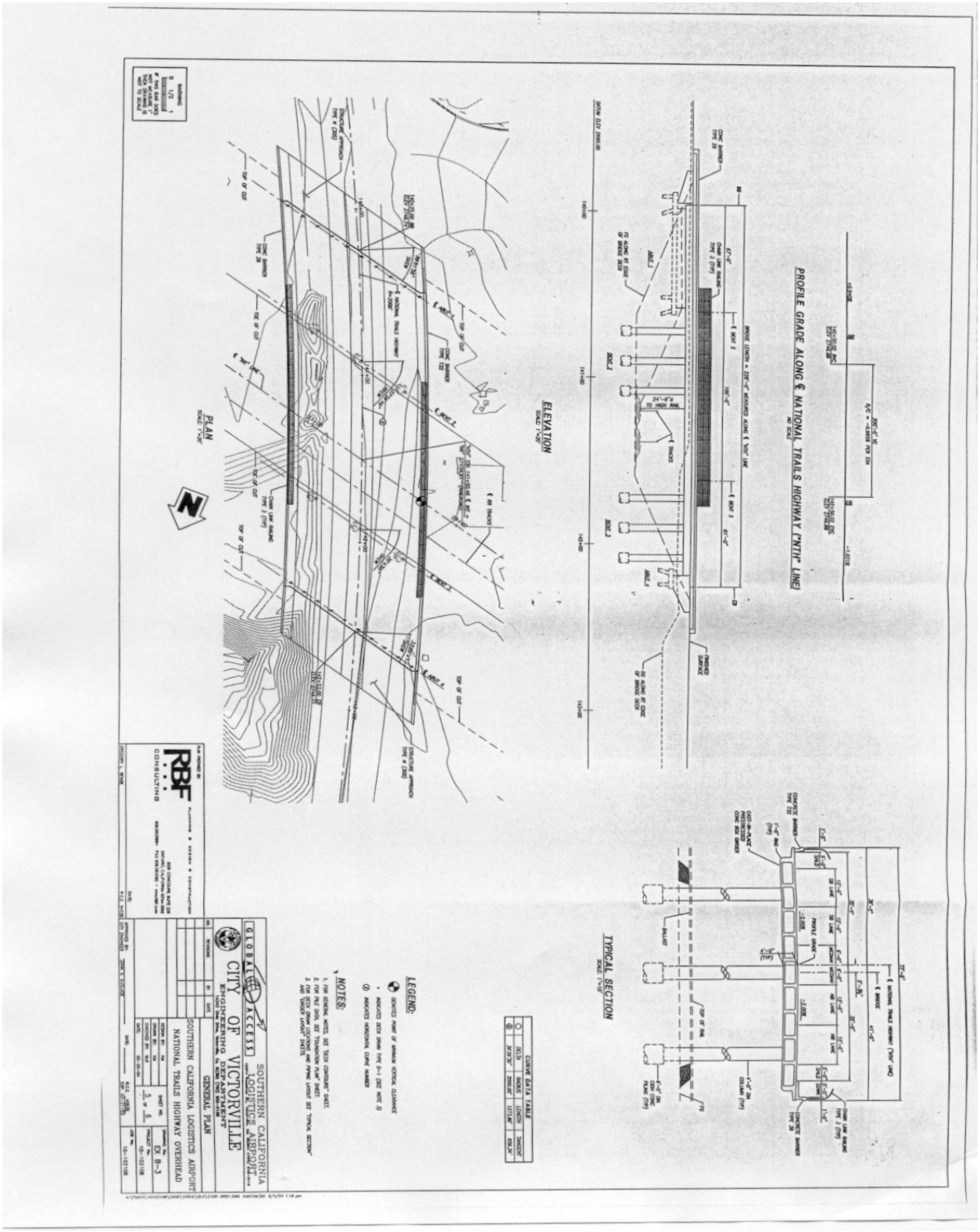
APPENDIX A

SITE MAP


SOUTHERN CALIFORNIA LOGISTICS AIRPORT (SCLA)
NATIONAL TRAILS HIGHWAY OVERHEAD
IN THE
CITY OF VICTORVILLE, CALIFORNIA
WITHIN THE COUNTY OF SAN BERNARDINO
GENERAL NOTES
1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THESE PLANS, SPECIAL PROVISIONS, THE CITY OF VICTORVILLE STANDARD SPECIFICATIONS FOR PUBLIC WORKS STANDARD SPECIFICATIONS FOR PUBLIC IMPROVEMENTS DATED APRIL 18, 1978, AND CALTRANS STANDARD PLANS AND SPECIFICATIONS DATED JULY, 1992.
2. THE CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE SAFETY IN CONNECTION WITH THE PROJECT. THIS REQUIREMENT SHALL APPLY CONTINUALLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY OF VICTORVILLE HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT.
3. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO PROTECT SURVEYING MONUMENTS IN PLACE, AND THE CONTRACTOR SHALL BE PERSONALLY RESPONSIBLE FOR RESETTING DAMAGED OR DESTROYED MONUMENTS.
4. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE HIMSELF/HERSELF WITH THE JOB SITE AND ANY UNDERGROUND UTILITIES/FACILITIES SHOWN OR NOT SHOWN ON THESE PLANS. CONTRACTOR SHALL CONTACT UNDERGROUND SERVICE ALERT (U.S.A.) AT 1-800-422-4133 AT LEAST TWO WORKING DAYS BEFORE DOING ANY EXCAVATION. ALL PIPELINES, SUBSTRUCTURES, OR UTILITIES OF ANY KIND, WHETHER SHOWN ON THESE PLANS OR NOT, SHALL BE PROTECTED IN PLACE OR IF REQUIRED, BE REMOVED TO CLEARANCE OR REPAIRED TO THE SATISFACTION OF THE CITY ENGINEER AND THE COMPANY OWNING THE FACILITY.
5. THE CONTRACTOR SHALL BE HELD RESPONSIBLE FOR ANY FIELD CHANGES MADE WITHOUT PRIOR WRITTEN AUTHORIZATION FROM THE CITY ENGINEER.
6. THE CONTRACTOR SHALL GIVE THE CITY OF VICTORVILLE ENGINEERING DEPARTMENT AT LEAST ONE WORKING DAY ADVANCE NOTICE PRIOR TO ALL INSPECTION REQUESTS AT (619) 955-5358.
7. THE CITY WILL BE RESPONSIBLE FOR PROVIDING ALL SOIL TESTING, COMPACTION TESTING AND CONSTRUCTION STAKING.
8. CONSTRUCTION TRAFFIC CONTROLS, TEMPORARY STRIPING AND SIGNING SHALL BE PROVIDED BY CONTRACTOR IN ACCORDANCE WITH CALTRANS TRAFFIC MANUAL AND AS APPROVED BY THE CITY ENGINEER.
9. ACCESS TO ALL DRIVEWAYS SHALL BE MAINTAINED AT ALL TIMES EXCEPT WHEN PRECLUDED BY NECESSARY CONSTRUCTION FOR A REASONABLE PERIOD OF TIME AS APPROVED BY THE CITY ENGINEER.
10. THE CONTRACTOR SHALL REMOVE FROM THE VICINITY OF THE COMPLETED WORK ALL PLANTS, BUILDING RUBBISH, UNUSED MATERIALS, CONCRETE FORMS, AND CONSTRUCTION EQUIPMENT. DO NOT BURY RUBBISH UNDER HIS/HER DIRECTION DURING CONSTRUCTION UNTIL ACCEPTANCE OF WORK BY THE CITY OF VICTORVILLE.
11. THE CONTRACTOR SHALL NOTIFY THE CITY ENGINEER OF ANY DISCREPANCIES OR UNUSUAL CONDITIONS ON THE PLANS, DETAILS OR CONSTRUCTION NOTES PRIOR TO FINALIZATION OF THE BIDS AND COMMENCEMENT OF ANY CONSTRUCTION.
12. TRENCH BACKFILL AND PAVEMENT REPAIRS SHALL COMPLY WITH CITY OF VICTORVILLE STANDARD NO. S-10.
13. ALL TRAFFIC CONTROL DEVICES, ROAD SIGNS AND MARKERS TO BE REPLACED, REMOVED OR RELOCATED SHALL BE PER SIGNING AND STRIPING PLANS.
14. FOR STREET LIGHT CONDUIT LAYOUT AND DETAILS, REFER TO SPECIFICATION AND SCE LAYOUT PLAN.
15. FOR TRAFFIC SIGNAL MODIFICATION, SEE REVISED TRAFFIC SIGNAL PLAN.
SPECIAL NOTE TO THE CONTRACTOR
THE DISTANCE AND LOCATION OF ANY UNDERGROUND UTILITY PIPES OR STRUCTURES SHOWN ON THESE PLANS ARE OBTAINED BY A SEARCH OF ALL AVAILABLE RECORDS, TO THE BEST OF OUR KNOWLEDGE, THE PLANS ARE CORRECT. THE CONTRACTOR SHALL BE RESPONSIBLE TO LOCATE AND PROTECT THE UTILITY LINES SHOWN AND ANY OTHER LINE NOT OF RECORD OR NOT SHOWN ON THESE PLANS. PRIOR TO EXCAVATION, THE CONTRACTOR SHALL CALL TOLL FREE 1-800-422-4133 TO VERIFY THE UNDERGROUND LOCATION OF ALL UTILITIES.
SHEET 3
SHEET 2
RAIL LANE
NATIONAL TRAILS HIGHWAY
PROPOSED BRIDGE CROSSING
SCLA LEAD TRACK
INDEX MAP
NOT TO SCALE
SHEET INDEX
SHEET NO.
DESCRIPTION
DRAWING
1 TITLE SHEET TS-01
2 TYPICAL SECTIONS XS-01
3 NATIONAL TRAILS HWY LAYOUT S1-01
4 NATIONAL TRAILS HWY LAYOUT S1-02
5 LEAD TRACK RAIL LAYOUT S1-03
6 BRIDGE GENERAL PLAN (GP) BR-01
PROJECT SITE
VICINITY MAP
NOT TO SCALE
Southern California Logistics Airport (SCLA)
Air Expressway Dr.
National Trails Hwy
Mojave Dr.
Via Pima
Bear Valley Rd.
Phelan Rd.
Yucca Ave.
Bear
Valley
Rd.
Hesperia Rd.
Bear Valley Rd.
Stoddard St.
Highland Ave.
Highland
Rd.
Verdemont
Rd.
Cajon Blvd.
Kenwood Ave.
Cedar Ave.
Lena Rd.
Oleander Ave.
Cypress Ave.
Alder Ave.
Maple Ave.
Poplar Ave.
Sierra Ave.
Citrus Ave.
Beech Ave.
Cherry Ave.
Fir Ave.
Spruce Ave.
Larch Ave.
Juniper Ave.
Pine Ave.
Willow Ave.
Oak Ave.
Walnut Ave.
Olive Ave.
Vineyard Ave.
Mariposa Rd.
Ridgecrest Rd.
Bear Valley Rd.
Rancho Rd.
Ranchero Rd.
Hesperia Rd.
Main St.
Seventh St.
Sixth St.
Fifth St.
Fourth St.
Third St.
Second St.
Mojave Dr.
Air Expressway Dr.
Via Pima
Via Pima
Via Pima

A P P E N D I X B

PLAN



APPENDIX C

NOTICE OF DETERMINATION

04/26/2004 15:13 7602458250 PLANNING PAGE 02

NOTICE OF DETERMINATION

TO: X Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

or

__ County Clerk
County of: _____

FROM: (Public Agency) City of Victorville
14343 Civic Drive
Victorville, CA 92392

SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code.

Southern California Logistics Airport Specific Plan Amendment and Rail Service Project
Project Title

SCH # 2003011008
State Clearinghouse Number (If submitted to Clearinghouse)

Mr. John Hnatek — 760/955-5146
Contact Person — Telephone Number

Project Location: The site is situated in the northwest portion of the City of Victorville (adjacent to the former George Air Force Base) approximately four miles west of Interstate 15 (I-15), one mile east of U.S. Highway 395, north and south of Air Expressway and south of the northerly Victorville City boundary.

Project Description: The proposed Southern California Logistics Airport (SCLA) Specific Plan Amendment and Rail Service Project is a complex development proposal comprised of three main components: rail facilities, related industrial uses and off-site rail and roadway improvements. The project encompasses a total of 3,373 acres as part of the Specific Plan Amendment and 171 acres for related off-site improvements, and consists of the following components: 1) conversion of 540 acres within the existing SCLA Specific Plan from a zoning designation of Business Park to Industrial per the SCLA Specific Plan; 2) the 2,833-acre expansion of the existing SCLA Specific Plan area; 3) 44-acre study area for the off-site realignment of Turner/Shay Roads, 4) 127 acres of off-site rail improvements including a proposed lead track alignment and siding track improvements, and 5) eliminate a trip limitation budget pursuant to a new SCLA Specific Plan Amendment Traffic Impact Analysis. As proposed, the project would be a major inland Inter-Modal/Multi-Modal rail distribution center and industrial development. The proposed project includes the entitlements as follows: an amendment to the City of Victorville General Plan (GPA-04-001[B]); a zone change pursuant to Title 18 of the City of Victorville Municipal Code (ZC-04-002); and an amendment to the SCLA Specific Plan (SPA-92-001[A-22]). It should be noted that a Water Supply Assessment for the proposed project (satisfying the requirements of SB 610) was approved under separate action by the City of Victorville City Council on April 6, 2004.

This is to advise that the City of Victorville (Lead Agency or Responsible Agency) has approved the above described project on April 20, 2004 (Date) and has made the following determinations regarding the above described project:

1. The project X will __ will not have a significant effect on the environment.
2. X An Environmental Impact Report was prepared and certified for this project pursuant to the provisions of CEQA.
   __ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures X were __ were not made a condition of the approval of the project.
4. A Statement of Overriding Considerations X was __ was not adopted for this project.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at: City of Victorville Planning Department, 14343 Civic Drive, Victorville, CA 92392

April 21, 2004
Date Received for Filing

Signature

Director of Planning
Title

Exhibit D-1
(page 1 of 2)

NOTICE OF DETERMINATION

TO: __ Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

or

X Clerk of the Board of Supervisors
County of:
San Bernardino

FROM: (Public Agency) City of Victorville
14343 Civic Drive
Victorville, CA 92392

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April 21, 2004
Date Received for Filing

Signature

Director of Planning
Title

Exhibit D-1
(page 2 of 2)