

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Department of Transportation for authority to construct connector ramps as part of the existing Cajon Overhead C.P.U.C. No. 002-78.00-A, U.S.D.O.T. No. 027860A over tracks owned by the BNSF Railway in the City of San Bernardino, County of San Bernardino.

Application 06-11-012
(Filed November 22, 2006;
Amended November 30, 2006)

**OPINION GRANTING AUTHORITY TO
CONSTRUCT OVERHEAD FREEWAY
CONNECTOR RAMPS OVER BNSF
RAILWAY COMPANY TRACKS**

Summary

This decision grants the California Department of Transportation (Caltrans) authority to construct two overhead freeway junction connector ramps over mainline and siding railroad tracks owned by BNSF Railway Company, within the City of San Bernardino, County of San Bernardino. The first ramp will be from northbound Interstate Highway 215 (I-215) to westbound State Route 210 (SR-210) identified as N215-W210, and the second ramp will be from eastbound SR-210 to southbound I-215 identified as Cajon Blvd OH (ES).

This decision also grants Caltrans a temporary exemption, pursuant to Section 16.2 of General Order (GO) 26-D, from the overhead clearance requirements of GO 26-D, of not less than 21 feet 6 inches, during the construction period.

Discussion

These tracks are utilized by approximately 81 freight trains per day and are also host to 15 National Railroad Passenger Corporation (Amtrak) passenger trains per day.

The connector ramps are a freeway improvement project undertaken by Caltrans, and the public convenience and necessity require it. The connector ramps will complete the extension of SR-210 east, to its connection to I-215 and SR-30, a major transportation project in Southern California. The application states that during construction the falsework clearance envelope will provide for a minimum vertical clearance of 21 feet 6 inches from top of rail to the lowest point of the overhead structures. GO 26-D, Section 2.1, requires a minimum clearance of 22 feet 6 inches. The permanent configuration, after completion of construction, will have a vertical clearance that meets GO 26-D requirements. Caltrans' application seeks a temporary exemption, pursuant to Section 16.2 of GO 26-D, from the overhead clearance requirements of GO 26-D, not less than 21 feet 6 inches during the construction period only. Caltrans provided copies of correspondence from the affected railroad organizations operating trains on these tracks showing that they consent to the temporarily impaired clearance.

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. The Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to Section 1202 of the Public Utilities Code);

therefore, the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

On November 30, 2006 Caltrans filed an Amendment to the Application, which provides corrected information regarding environmental review responsibilities for this project. The Amendment states that the San Bernardino Associated Governments (SANBAG) is the lead agency for this project. SANBAG prepared a combined Environmental Impact Report (EIR) under CEQA and an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA). The EIR/EIS evaluated the Route 30 Improvements Project from Route 210 to Interstate 215, Los Angeles and San Bernadino Counties (Route 30 Improvements Project). The connector ramps that are the subject of this application are part of the Route 30 Improvements Project. The EIR/EIS did not identify any significant impacts resulting from the connectors that are the subject of this application. The Amendment also states that on September 20, 1996 the Deputy Regional Administrator for the Federal Highway Administration (FHWA) issued a Record of Decision approving the EIR/EIS and certifying that all environmental requirements for the project were made. A copy of the FHWA's Record of Decision is attached to the Application.

The lead agency is the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, SANBAG is the lead agency for this project and the Commission is a responsible agency. As a responsible agency under CEQA, the Commission must consider the lead

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

agency's environmental documents and findings before acting on or approving this project.²

The Commission reviewed and considered the Decision of Record issued by the FHWA and finds it sufficient for our decision-making purposes.

Filing Requirements and Staff Recommendation

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

The Commission's Rail Crossing Engineering Section reviewed and analyzed the plans submitted with the application, and recommends that the Commission grant Caltrans' requests.

Categorization and Need for Hearings

In Resolution ALJ 176-3183, dated November 30, 2006, and published in the Commission Daily Calendar on December 1, 2006, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3138.

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.

² CEQA Guidelines, Sections 15050(b) and 15096.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on November 28, 2006. Notice of the amendment to the application was published in the Commission's Daily Calendar on December 4, 2006. 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 overhead freeway junction connector ramps from northbound I-215 to westbound SR-210 and from eastbound SR-210 to southbound I-215, over the main line and siding tracks of BNSF Railway Company, within the City of San Bernardino, County of San Bernardino.

3. Public convenience and safety require construction of the overhead connector ramps.

4. SANBAG is the lead agency for this project under CEQA, as amended. SANBAG prepared a combined EIR under CEQA and an EIS under the NEPA. The EIR/EIS evaluated the Route 30 Improvements Project. The connector ramps that are the subject of this application are part of the Route 30 Improvements Project.

5. On September 20, 1996 FHWA issued a Record of Decision approving the EIR/EIS and certifying that all environmental requirements for the project were met.

6. The Commission is a responsible agency for this project and has reviewed and considered FHWA's Record of Decision. The EIR/EIS did not identify any significant impacts resulting from the connectors that are the subject of this application.

Conclusions of Law

1. The Record of Decision issued by FHWA as the documentation required by CEQA for the project is adequate for our decision-making purposes.
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. The California Department of Transportation (Caltrans) is authorized to construct overhead freeway junction connector ramps from northbound Interstate Highway 215 (I-215) to westbound State Route 210 (SR-210), identified as N215-W210 and PUC Crossing No. 002-77.95-A, and from eastbound SR-210 to southbound I-215 identified as Cajon Blvd OH (ES) and PUC Crossing No. 002-78.09-A, over the mainline and siding tracks of BNSF Railway Company (BNSF), within the City of San Bernardino, County of San Bernardino.
2. Clearances shall conform to General Order 26-D, except that during the period of construction the Commission authorizes a temporary overhead clearance of not less than 21 feet 6 inches above the top of the highest rail.
3. BNSF shall issue instructions to operating employees of the temporary reduced overhead clearance of 21 feet 6 inches beneath the proposed bridge structures during construction. BNSF shall submit the instructions in advance of the date when Caltrans will create the temporary overhead clearance to the Los Angeles office of the Commission's Consumer Protection and Safety Division - Rail Operations Safety Branch (ROSB) and Rail Crossings Engineering Section (RCES).

4. Caltrans shall notify BNSF and the Los Angeles office of ROSB and RCES at least 15 days but not more than 30 days in advance of the date when Caltrans will create the temporary overhead clearance.

5. Caltrans shall bear the cost of construction in accordance with Public Utilities Code Section 1202.5(a). Caltrans and BNSF (parties) shall bear the cost of maintenance in accordance with an agreement between the parties. Should the parties fail to agree, the Commission will apportion the cost of maintenance by further order.

6. Within 30 days after completion of the work under this order, Caltrans shall notify RCES that the authorized work is completed, by submitting a completed Commission Standard Form G titled *Report of Changes at Highway Grade Crossings and Separations*.

7. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. The 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 RCES 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 06-11-012 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

VICINITY MAP

