

Decision 08-11-012 November 6, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Department of Transportation for an Order Authorizing Construction of one New Six Lane Overhead Grade Separated Structure (Bob Hope Drive Overhead) over Two Sets of Tracks Owned by the Union Pacific Railroad near Thousand Palms in the County of Riverside.

Application 08-05-008
(Filed May 2, 2008;
amended May 19, 2008 and
July 24, 2008)

**DECISION GRANTING AUTHORITY TO THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION TO CONSTRUCT ONE
NEW SIX-LANE BRIDGE STRUCTURE OVER TWO SETS OF
TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY IN
UNINCORPORATED AREA OF THOUSAND PALMS IN
THE COUNTY OF RIVERSIDE**

Summary

This decision grants the California Department of Transportation (Caltrans) permission to construct one new six-lane grade separated bridge structure to extend Bob Hope Drive over Union Pacific Railroad Company (UPRR) Yuma Subdivision railroad tracks, in an unincorporated area of Thousand Palms in the County of Riverside. The six-lane grade-separated bridge structure is part of a larger project to improve the Ramon Road interchange with Interstate 10 (I-10). This project extends Bob Hope Drive from its existing terminus at Ramon Road by constructing an eight-lane overcrossing across I-10 to Varner Road as well as a new diamond

interchange at Bob Hope Drive and I-10 (I-10 at Bob Hope Drive/Ramon Road Interchange Improvement Project.)

The application was filed May 2, 2008 and then amended on May 19, 2008, to correct a misstatement of the location of the project. The original application incorrectly identified the location of the project as "State Route ("SR") 65 in the City of Lincoln, County of Placer." On July 24, 2008 the applicant filed a second amendment to the application to request a temporary deviation from the vertical clearance requirements of Commission General Order (GO) 26-D.

Discussion

Proposed Project

Caltrans proposes the construction of the Bob Hope Drive Extension with a new diamond interchange for the Interstate 10 freeway to replace the existing freeway ramp at Ramon Road over railroad tracks owned by UPRR. In addition to UPRR freight trains, the National Passenger Railroad Company (Amtrak) operates Amtrak passenger trains on this line.

The second amendment to the application states that during construction the vertical clearance will be 21.0 feet. GO 26-D requires a minimum vertical clearance of 22.5 feet. Since the vertical clearance of 21.0 feet during construction will be less than the minimum 22.5 feet required by GO 26-D, Caltrans request permission for temporary deviation from GO 26-D vertical clearance requirement. The plans attached to the application show a permanent minimum vertical clearance of 23.0 feet above the top of rail. The second amendment to the application states that UPRR is aware of and does not object to the temporary vertical clearance

of 21.0 feet, and it includes a print-out of electronic mail correspondence from UPRR Senior Manager of Public Projects as evidence.

Environmental Review

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 Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission must approve the project pursuant to 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 the public agency with the greatest responsibility for supervising or approving the project as a whole.¹ Here, the lead agency is Caltrans for this project and the Commission is a responsible agency. 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.²

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

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

Pursuant to CEQA and the National Environmental Policy Act (NEPA),³ in June 2006, Caltrans and the United States Department of Transportation's Federal Highway Administration Federal Highway (FHWA) prepared Final Environmental Assessment with Findings of No Significant Impact and an Initial Study with Mitigated Negative Declaration for the I-10 at Bob Hope Drive/Ramon Road Interchange Improvement Project. We will adopt Caltrans' environmental findings and mitigations for purposes of our approval.

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 road across a railroad.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section reviewed and analyzed the plans submitted with the application, and recommends that the Commission grant Caltrans request.

Categorization and Need for Hearings

In Resolution ALJ 176-3213 dated May 15, 2008, and published in the Commission Daily Calendar on May 16, 2008, 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 176-3213.

³ 42 USC 4332 (2)(c) of 1969 as amended. Projects undertaken in California that utilize federal funds, require discretionary federal approval or are undertaken by federal agencies are subject to both NEPA and CEQA.

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

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 May 8, 2008. The application was amended on May 19, 2008 to correct a misstatement of the location of the project. On July 24, 2008, a second amendment to the application was filed to request a deviation from GO 26-D. 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 one new six-lane grade-separated bridge structure crossing over UPRR's Yuma Subdivision railroad tracks.

3. Caltrans requests permission for temporary deviation, during construction period, from the vertical clearance requirements of GO 26-D.

4. Pursuant to CEQA and NEPA, in June 2006, Caltrans and the FHWA prepared Final Environmental Assessment with Findings of No Significant Impact and an Initial Study with Mitigated Negative Declaration for the I-10 at Bob Hope Drive/Ramon Road Interchange Improvement Project.

5. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Final Environmental Assessment/Initial Study.

Conclusions of Law

1. The Final Environmental Assessment/Initial Study prepared by Caltrans and the 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.

ORDER

IT IS ORDERED that:

1. The California Department of Transportation (Caltrans) is authorized to construct one new six-lane grade-separated bridge structure, referred to as Bob Hope Drive Overhead, over railroad tracks owned by Union Pacific Railroad Company (UPRR), to be identified as CPUC Crossing No. 001B-597.70-A.

2. Caltrans is granted permission to have temporary impaired vertical clearance of 21.0 feet (measured from top of rail to the lowest portion of the overhead structure) during the construction period only.

3. Caltrans shall notify UPRR and the Los Angeles office of the Commission's Consumer Protection and Safety Division - Rail Operations Safety Branch (ROSB) and Rail Crossings Engineering Section (RCES) at least 15 days but not more than 30 days in advance of the date when it will create the temporary overhead clearance.

4. UPRR shall issue instructions to their operating employees regarding the temporary reduced overhead clearance of 21.0 feet beneath the Bob Hope Drive Overhead bridge structure. They shall submit the instructions in advance of the date when Caltrans will create the temporary reduced overhead clearance to ROSB and RCES.

5. Within 30 days after completion of the construction of the new grade-separated crossing, 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*.

6. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. A request for extension of the three-year authorization 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.

8. This application is granted as set forth above.

9. Application 08-05-008 is closed.

This order becomes effective 30 days from today.

Dated November 6, 2008, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners