

Decision 22-06-030 June 23, 2022.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation to Establish a Priority List, for the Fiscal Years 2022-2023 and 2023-2024, of Existing At-Grade Rail Crossings, of City Streets, County Roads or State Highways, in need of separation, or Existing Grade-Separated Rail Crossings in need of Alterations or Reconstruction in Accordance with Section 2452 of the California Streets and Highways Code.

Investigation 21-06-018

**DECISION ESTABLISHING THE CALIFORNIA GRADE SEPARATION
FUND PRIORITY LIST FOR FISCAL YEAR 2022-2023**

Summary

This interim decision establishes the California Grade Separation Fund Priority List for Fiscal Year 2022-2023, as required by California Streets and Highways Code § 2452. In accordance with our adopted procedure, this proceeding will remain open until we issue our final decision establishing the California Grade Separation Priority List for Fiscal Year 2023-2024 and opening a new investigation for the next cycle proceeding for the establishment of future Grade Separation Priority Lists.

1. Background

We initiated this proceeding by issuing Order Instituting Investigation (I.) 21-06-018 on June 24, 2021, to evaluate and establish the California Grade Separation Program Priority Lists for Fiscal Year (FY) 2022-2023 and FY 2023-2024.

California Streets and Highways (S&H) Code § 2452 requires the California Public Utilities Commission (Commission) to establish annual California Grade Separation Program Priority Lists (Priority List(s)) for certain rail crossing projects, including projects to construct new grade separations to replace existing at-grade crossings and projects to alter or reconstruct existing grade separations.

The Commission's adoption of Priority Lists establishes the relative priorities for allocation of funds to qualified projects that eliminate or otherwise improve hazardous railroad crossings under California S&H Code § 2450 *et seq.* By July 1st of each year, the Priority List adopted by the Commission is provided to the California Transportation Commission (CTC) for use in the FY beginning on that date to fund the qualified projects in accordance with that Priority List. The CTC has delegated this authority to California Department of Transportation (CalTrans)¹.

Every two years, the Commission issues a new Order Instituting Investigation (OII), to establish the Priority Lists for the next two Fiscal Years.

The Commission adopted the State Priority List for the first FY by interim decision. The Commission also adopted the State Priority List for the first FY by interim decision for grade separation projects. According to CalTrans staff, approximately \$5 million in funding from FY 2020-2021 and \$15 million in funding from FY 2021-2022 will carry over to the FY 2022-2023 application cycle. This means that approximately \$35 million in funding will be available for the FY 2022-2023 program cycle.

issued before that FY begins. The Commission then updates and revises that Priority List for the second FY by deleting projects for which funds were actually allocated in the first FY and adopting a revised Priority List by final decision before the second FY begins. The two-year funding cycle thereafter begins again with the issuance of a new OII to establish new priority lists for the following two FYs.

Commission procedure also requires local agencies to furnish planned grade separation nomination projects in response to an announcement made a year prior to the cycle. The Commission reviews each nominated project to ensure that it is eligible for the California Grade Separation Program and holds hearing(s), as needed, so that nominating agencies may present each proposal, answer questions about its proposal details, and confirm accuracies of the proposals, as appropriate. Attendance and participation in these hearing(s) is mandatory for any nomination project proponent. For each FY, the Commission's Rail Safety Division (RSD) staff, using currently adopted formulas, adjusts, and ranks the draft Priority List in accordance with evidence received at the hearings, and that list is presented to the Commission as the Priority List for adoption by interim decision.²

² The Priority List is a comparative evaluation of all qualified projects nominated and accepted for inclusion in this investigation, with the priority index value based on one of the two formulas that RSD staff uses to rank projects, as published in Appendix A: one formula for crossings nominated for separation or elimination, and the other for existing grade separations in need of alteration or renovation. The formulas incorporate crossing inventory and accident data submitted in the nomination forms and verified by RSD staff. RSD staff reviews each application for qualification and creates the prioritized list from the nomination data entered into a Microsoft Excel spreadsheet that calculates the priority index value for each project.

1.1. Procedural Background

On September 30, 2021, a telephonic prehearing conference (PHC) was held. Commissioner Genevieve Shiroma and her advisor attended as well as representatives from the San Gabriel Council of Governments, RSD and CalTrans. On October 25, 2021, the Commission issued a scoping memo that included a schedule for the proceeding. Project proponents submitted their nomination proposals to RSD on October 22, 2021.

On February 15, 2022, RSD staff released the draft Staff Exhibit with the initial priority designations for each project being considered in this proceeding for FY 2022-2023 and FY 2023-2024. Parties' comments on the draft Staff Exhibit were due on February 28, 2022, and a final Staff Exhibit list was released on March 15, 2022.

On March 22, 2022, the Administrative Law Judge (ALJ) issued a ruling instructing parties to upload their project materials to the supporting documents database on the Commission's website. Once the upload is completed Parties can get a link to their materials to comply with the Commission's service requirements pursuant to Rule 1.9. The link can then be included in any material needed to provide service for this proceeding. Pursuant to the Commission's Rules of Practice and Procedure 1.4 (Rule(s)) and to comply with the ALJ ruling, nomination project proponents had to file a motion for party status.

On March 23, 2022, the Orange County Transportation Authority, the City of Menlo Park, and the City of Oakland, filed motions for party status; on March 24, 2022, the City of South San Francisco, the City of Riverside, the San Bernadino County Transportation Authority, the City of Sunnyvale, the City of Oxnard, the City of San Bruno, and the City of Santa Barbara, filed motions for party status; and, on March 25, 2022, the City of San José,

Sutter County, and the City of Stockton filed motions for party status. The ALJ granted all motions for party status on March 28, 2022. On April 4, 2022, a remote virtual evidentiary hearing was conducted.

1.2. Updating Formulas for the FY 2024 – 2025 and FY 2025 -2026 Years

After the September 30, 2021 PHC, RSD staff held a workshop on November 9, 2021, to explore potential future adjustments to the existing formula(s) used to determine the priority list, on a going forward basis, to start FY 2024-2025 and FY 2025-2026, following the conclusion of the herein proceeding. Parties provided input during this workshop. RSD plans to hold another workshop in the coming months to present parties with draft updated formulas that will be recommended for adoption by the Commission in its second decision of this proceeding. If adopted, such recommended formulas would become the applicable formulas for ranking projects in the future, effective for FY 2024-2025 and FY 2025-2026.

2. Establishment of the Fiscal Year 2022-2023 Priority List

RSD staff produced a preliminary draft for the FY 2022-2023 Priority List on February 15, 2022, using the existing formulas and evaluating each nominated project.

During the April 4, 2022 evidentiary hearing, each party (city, county, or transportation authority) was afforded opportunity to introduce their respective proposed projects and answer any questions about them. The hearing was transcribed by a court reporter, and parties were directed to electronically file their project materials with the Commission's docket office by April 15, 2022. On April 14, 2022, the ALJ issued an email ruling extending the deadline to April 22, 2022.

Thereafter, RSD finalized the FY 2022-2023 Priority List to include 38 nominations – all proposed projects were found to be qualified. As discussed above, the statutory procedure for creating the FY 2022-2023 Priority List was properly followed. Appendix A of this decision shows the 2022–2023 Priority List prepared and recommended by RSD staff.

This interim decision finds that RSD’s recommendation is reasonable and therefore adopts the attached Priority List for purposes of allocating funds in the California Grade Separation Fund (see Appendix A to this decision).

3. Categorization and Need for Hearing

This proceeding has been categorized as quasi-legislative. A hearing was held in accordance with the Commission’s adopted procedure for establishing the biennial Priority List.

4. Comments on Proposed Decision

The proposed decision of Commissioner Shiroma in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. No comments were filed.

5. Assignment of Proceeding

Genevieve Shiroma is the assigned Commissioner and Hazlyn Fortune is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Written notification of the opportunity to file nominations for separation of existing railroad grade crossings, or alteration or reconstruction of existing separations, pursuant to S&H Code § 2451, was provided to railroads, light rail transit agencies, cities, counties, and others on the service list compiled at the conclusion of the previous Priority List proceeding, and the notice advised them

of the deadline to file a nomination for each grade separation project they sought to include in the FY 2022-2023 Priority List.

2. RSD received a total of 38 timely nominations for proposed projects to be included in the current FY 2022-2023 Priority List.

3. RSD staff evaluated and ranked all project nominations accepted in this proceeding in priority, and the methodology utilized by RSD to rank the nominations in priority order is that which we have adopted in I.21-06-018.

4. RSD finalized the FY 2022-2023 Priority List to include 38 nominations.

5. The Priority List attached as Appendix A consists of proposed projects nominated and ranked in priority order by RSD staff in accordance with our adopted methodology in this proceeding.

6. Our adopted procedure requires that, upon adoption of the California Grade Separation Priority List for FY 2022-2023, the proceeding must remain open for subsequent phase of the proceeding to adopt the subsequent decision adopting Grade Separation Priority List for FY 2023-2024 and opening a new investigation for the next cycle proceeding for establishment of future Grade Separation Priority Lists.

Conclusions of Law

1. Appendix A should be adopted as the FY 2022-2023 Priority List in this proceeding as the Interim Decision.

2. The effective date of this Interim Decision must be no later than June 30, 2022, to comply with S&H Code § 2452.

3. This proceeding should remain open.

O R D E R

IT IS ORDERED that:

1. This interim decision adopts the California Grade Separation Priority List attached as Appendix A and establishes the Fiscal Year 2022-2023 priority list of projects which the Commission determines to be most urgently in need of separation, alteration, or reconstruction.

2. The Commission's Rail Safety Division staff shall furnish copies of this interim decision to the California Department of Transportation and the California Transportation Commission by no later than July 1, 2022.

3. The Commission's Rail Safety Division staff shall take all necessary actions to establish the California Grade Separation Priority List for Fiscal Year 2023-2024 in a timely manner, as required by law.

4. Investigation 21-06-018 shall remain open until we issue our final decision in this proceeding.

This order is effective today.

Dated June 23, 2022, at San Francisco, California.

ALICE REYNOLDS
President
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN R.D. REYNOLDS
Commissioners

APPENDIX A

California Grade Separation Program Priority List for Fiscal Year 2022-2023

Rank	Agency	Crossing Location	PUC ID	DOT ID	Railroad	VEH	TRN	LTRN	Cost Share (M)	AH/ WC	BD/ HC	VS/ SR	RS/ AS	CG/ POF	PT/ AP	OF/ DE	SCF/ SF	Priority Index
1	City of Burlingame	Broadway Ave.	105E-15.03	754879V	PCJX	32,028	108	0	5000	12	2	0	6	9	10	1	28	9021.5
2	Orange County Transportation Authority (Santa Ana)	17th Street	101OR-174.66	026699P	SCRRA/ Metrolink Amtrak BNSF UPRR	34,617	53	0	5000	4	3	1	6	10.0	7	14.0	41.0	1875.7
3	City of Riverside	Third Street	002B-9.50	026480N	BNSF UPRR SCRRA Amtrak	13,291	90	0	5000	6	5	1	3	11	5	12.5	37.8	1712.5
4	City of Menlo Park	Ravenswood Ave. Oak Grove Ave. Glenwood Ave.	105E-28.84, 105E-28.65, 105E-28.45	754991G, 754990A, 754989F	PCJX UPRR	30,739	110	0	15000	12	6	1	18	34	30	14.0	102.9	1615.4
5	City of Oxnard	Rice Ave.	001E-406.25	745855H	UPRR Metrolink Amtrak	30,301	32	0	5000	7	1	4	6	8	4	13.0	36.0	1587.4
6	City of Ontario	Campus Ave., So Campus Ave.	003-38.30, 001B-520.70	810907A, 746944D	UPRR	8,226	53	0	5000	10	3	2	4	16.2	4	9.5	38.7	997.9
7	City of Stockton	West Lane	001BEL-82.14	752897L	UPRR	26,371	33	0	3000	4	2	2	3	9	2	11.0	28.8	905.6
8	City of Mountain View	Rengstorff Ave.	105E-34.61	755013M	PCMZ PCJX UPRR	16,323	110	0	5000	1	2	1	6	9	10	10.5	38.5	756.7
9	City of Sunnyvale	Mary Ave	105E-37.82	755037B	UPRR	14,575	110	0	15000	5	0	2	6	12	10	11.0	40.6	681.9
10	City of South San Francisco and City of San Bruno	South Linden Ave. Scott Street	105E-10.13 105E-10.48	754866U 754867B	PCJX	7,824	216	0	5000	5	5	3	12	24	8	12.0	64.1	633.2
11	City of San Jose	Auzerais Ave. West Virginia St.	105E-47.35 105E-47.51	755097K 755099Y	PCJX Caltrain UPRR ACEX Amtrak	7,293	185	0	5000	6	4	0	1	15.0	20	11	51.0	601.6

Rank	Agency	Crossing Location	PUC ID	DOT ID	Railroad	VEH	TRN	LTRN	Cost Share (M)	AH/ WC	BD/ HC	VS/ SR	RS/ AS	CG/ POF	PT/ AP	OF/ DE	SCF/ SF	Priority Index
12	City of Ontario	San Antonio Ave. South San Antonio Ave.	003-37.10, 001B-519.60	810893U, 746939G	UPRR	11,220	58	0	5000	3	6	2	8	10.0	0	10.5	36.5	557.1
13	Orange County Transportation Authority (Anaheim)	State College Blvd.	101OR-170.21	026652U	SCRRA/ Metrolink Amtrak BNSF UPRR	18,962	39	0	5000	2	2	2	5	10	6	10.5	35.6	479.3
14	City of Ontario	Archibald Ave.	003-41.20	810911P	UPRR	9,109	24	0	5000	7	2	2	6	13	0	10.0	32.8	382.6
15	City of San Jose	Skyway Dr, Branham Ln, Chynoweth Ave	001E-53.45, 001E-53.95, 001E-54.80	755135S, 755136Y, 755137F	UPRR	33,715	30	0	5000	9	3	5	18	27	9	12.5	74.5	341.0
16	City of Fresno	N. Blackstone Blvd. E. McKinley Blvd.	002-1000.00, 002-1000.10	028573P, 028574W	BNSF	30,946	58	0	15000	7	6	4	12	16	6	14.0	58.5	325.7
17	City of Ontario	Grove Avenue*	001B-521.40-B	746956X	UPRR	37,063	36	0	5000	10	0	2	14.7	3	5	7.0	41.7	308.6
18	County of Kern	Olive Drive	001B-308.9	756945M	UPRR	13,669	22	0	5000	3	2	3	5	9	0	12.0	30.8	306.6
19	City of Shafter	Shafter Ave. Central Ave. Lerdo Hwy. Beech Ave	002-905.80, 002-905.50, 002-905.10, 002-904.40	028392K02	BNSF	28,772	144	0	20000	5	8	5	24	45	16	15.5	113.9	275.1
20	San Bernardino County Transportation Authority	Cedar Avenue*	001B-521.40-B	746956X	UPRR	35,794	35	0	5000	4	0	2	2.5	4	4	5.0	21.5	272.1
21	City of Stockton	Airport Way	002-120.40	029596N	UPRR	8,482	36	0	5000	2	3	1	4	10	4	10.5	32.6	215.8
22	City of Shafter	Beech Ave Cherry Ave	002-904.40 002-903.00	028386G 028384T	BNSF	5,609	72	0	5000	4	4	8	12	19.92	8	12	63.92	212.7

Rank	Agency	Crossing Location	PUC ID	DOT ID	Railroad	VEH	TRN	LTRN	Cost Share (M)	AH/ WC	BD/ HC	VS/ SR	RS/ AS	CG/ POF	PT/ AP	OF/ DE	SCF/ SF	Priority Index
23	Greater Bakersfield Separation of Grade District	Morning Drive (SR 184) Vineland Rd.	001B-317.50, 001B-318.50	757413M, 757414U	UPRR	18,370	64	0	20000	3	4	6	10	20	0	13.0	71.4	186.0
24	Stanislaus County	Claribel Road	002-1094.50	028755B	BNSF	13,271	46	0	5000	0	3	5	6	8	4	10.5	36.3	158.4
25	City of Bakersfield	E. Truxtun Ave. (close Sumner, Baker, Tulare, and Sonora Streets)	002-886.40, 002-885.40, 002-885.77, 002-885.95, 002-886.20	028289X, 028280L, 028284N, 028285V, 288288R	BNSF	17,063	125	0	20000	6	19	8	0	47	0	11.0	84.5	155.6
26	City of Sunnyvale	Sunnyvale Ave.	105E-38.79	755042X	UPRR	7,060	110	0	15000	0	0	12.6	10	0	0	0.5	41.1	144.6
27	City of Stockton	Alpine Avenue (East)	002-120.40	029598N	UPRR	16,221	33	0	5000	0	2	2	0	13	2	12.0	31.0	138.0
28	City of Mountain View	Castro Street	105E-35.80	755015B	PCMZ PCJX UPRR	2,268	110	0	5000	1	3	0	6	8	10	8.0	35.0	134.8
29	County of Kern	Rosedale Highway (SR 58)	103Q-113.20	029473N	SJVR	36,484	7	0	3000	0	1	3	0	2	0	14.0	20.0	99.1
30	City of Bakersfield	Kratzmeyer Rd.	002-897.30	028380R	BNSF	4,320	36	0	5000	1	2	4	6	8	4	11.0	34.8	97.0
31	City of Bakersfield	Reina Rd.-Renfro Rd. Jenkins Rd.	002-896.60	028379W	BNSF	1,777	36	0	5000	3	2	4	6	5	4	10.5	31.3	82.5
32	City of Oakland	Market St.	001D-6.20	749580R	UPRR	2,036	58	0	5,000	1	1	0	0	9	7	10.0	27.4	74.6
33	County of Kern	Airport Drive*	001B-309.60-B	756943Y	UPRR	22,245	14	0	5000	0	0	0	0.6	4.0	4	2.0	10.6	72.9

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34	City of Santa Barbara	Cabrillo Blvd.*	001E-369.66-B	745616H	UPRR Amtrak	7,930	16	0	5000	6	4	0	1.2	7	5	5.0	28.2	53.6
35	City of Redding	South Street	001C-258.00	750509D	UPRR	5,681	21	0	5000	1	1	0	5	11	0	10.5	27.9	51.8
36	Sutter County	Riego Rd.	004-150.90	833698J	UPRR	10,042	10	0	3000	0	1	5	5	5.3	0	7.0	23.3	43.4
37	City of Stockton	Alpine Avenue (West)	004-95.70	833939V	UPRR	10,207	6	0	3000	0	1	1	0	11	0	10.5	23.6	35.9
38	City of Brentwood	Lone Tree Way	001B-59.10	751831H	UPRR	24,850	1	0	5000	0	0	3	5	7.2	0	6.5	21.7	26.7
*GSN2																		