

PROPOSED RESOLUTION

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RAIL SAFETY DIVISION
RAIL CROSSINGS AND ENGINEERING BRANCH

Resolution SX-156
June 20, 2024

RESOLUTION

RESOLUTION SX-156 AUTHORIZING
DESERTXPRESS ENTERPRISES, LLC, DBA BRIGHTLINE WEST
(FORMERLY DBA XPRESSWEST), TO CONSTRUCT
GRADE-SEPARATED RAILROAD CROSSINGS

SUMMARY

This resolution approves 47 grade-separated crossings of DesertXpress Enterprises, LLC dba Brightline West (Brightline West) to be constructed as part of the Brightline West electrified high-speed passenger rail project (Project). The Project will span between Rancho Cucamonga, California and Las Vegas, Nevada, and will require a total of approximately 110 grade-separated crossings (crossings). The crossings adopted herein will be in addition to the 32 crossings that have already been approved by the California Public Utilities Commission. Brightline West submitted its request pursuant to Commission Resolution (Res.) SX-148.

BACKGROUND

1. The Brightline West High-Speed Rail Project

Brightline West proposes to construct a privately owned and operated interstate high-speed passenger railroad between Southern California and Las Vegas, Nevada. The dedicated passenger-only electric high-speed rail line will be designed and constructed for operation within an approximately 220-mile

corridor that will generally follow the Interstate 15 freeway (I15) and right-of-way and is proposed to be built primarily in the median of I-15 in California and Nevada. Approximately 185 miles of the system will be constructed in California through two projects – one to be constructed between Las Vegas, Nevada and Apple Valley, California (LV/AV Line), and the other to be constructed between Apple Valley and Rancho Cucamonga, California (AV/RC Line). The system will exit west of the I-15 in Rancho Cucamonga and travel approximately one mile on a new elevated track structure within a portion of the San Bernardino County Transportation Authority’s San Gabriel Subdivision right of way on which Southern California Regional Rail Authority (Metrolink) commuter rail service and freight trains operate at grade. Stations will be located in Las Vegas, Apple Valley, and Rancho Cucamonga. The Rancho Cucamonga station will be adjacent to the existing Metrolink station, thereby enabling passengers to transfer between systems.¹ At full implementation, Brightline West estimates that the system will provide more than 11 million one-way passenger trips per year, thus eliminating an estimated 3 million one-way automobile trips per year between Southern California and Las Vegas.

a. Project Need

Brightline West asserts that there is a growing demand for travel in the corridor between the Greater Los Angeles Area and Las Vegas with motorists on this portion of the I-15 experiencing traffic delays due to traffic volume, accidents, and construction.

According to Brightline West, the Project has the potential to provide transportation, economic, safety, and environmental benefits for both states and their residents. The Project will utilize fully electric European-style high-speed trainsets that will provide a transportation alternative in a heavily congested travel corridor. The entire Project will be fully grade-separated, which is consistent with the Commission’s safety goals expressed in General Order (GO)

¹ For background information on the project, See A.20-07-006, A.20-09-012, A.20-09-015, A.21 01 007, and A.21-01-008. See also Compliance Filing in Response to Ruling, A.21-01-008 (March 19, 2021) (filing a copy of the Environmental Impact Statement with the Commission).

75-D, Paragraph 2: “As part of its mission to reduce hazards associated with at-grade crossings, and in support of the national goal of the Federal Railroad Administration (FRA), the Commission’s policy is to reduce the number of at-grade crossings on freight and passenger railroad mainlines in California.”

The Commission has previously found that, on balance, the crossings associated with the Project thus far have been consistent with the Commission’s Environmental and Social Justice (ESJ) Action Plan (ESJ Action Plan) and has found that the proposed crossings reviewed thus far will not result in a disproportionate environmental impact upon the affected ESJ communities.²

b. Project Development

On January 28, 2019, the California State Transportation Agency (CalSTA), the California Department of Transportation (Caltrans), and the California High-Speed Rail Authority (CHSRA) entered a memorandum of understanding with Brightline West with respect to advancing the LV/AV Line (the 2019 MOU). As expressed in the recitals of the 2019 MOU, the purpose of the 2019 MOU was “to assist in developing the [LV/AV Line] and other passenger rail projects under development in California, to promote the design and construction of systems with the potential for future interoperability and operational synergies, and to maintain and protect the integrity and safety of existing highway infrastructure as it may be updated and reconstructed from time to time.”

On April 16, 2021, CalSTA, Caltrans, CHSRA, and Brightline West entered a further memorandum of understanding with respect to advancing the AV/RC Line (the 2021 MOU). As expressed in the recitals to the 2021 MOU, “The Parties believe that construction of the [AV/RC Line] will serve the important purposes of increasing passenger rail transportation within Southern California, including interconnectivity between systems, and promoting the region’s mobility, safety, and air quality objectives.”

² See D.21-07-004, pp. 20-21, p. 24 (Finding of Fact 15); D.21-09-031, p. 20, p. 23 (Finding of Fact 14); D.21-12-039, p. 21, p. 24 (Finding of Fact 14); D.22-04-009, p. 20, p. 23 (Finding of Fact 16); D.22-03-017, p. 21, p. 24 (Finding of Fact 14).

Brightline West is also coordinating with other stakeholders, including the Nevada Department of Transportation, the FRA, the Federal Highway Administration, the Bureau of Land Management, Metrolink, San Bernardino County Transportation Authority, the Town of Apple Valley, and the City of Rancho Cucamonga. Several definitive agreements are in place. Brightline West represents that it is on course to begin construction in 2024.

c. Federal Permitting

The Project is being permitted and constructed under the jurisdiction of the federal Surface Transportation Board (STB). Under the Interstate Commerce Commission Termination Act (49 U.S.C. § 10501, ICCTA), the STB has jurisdiction over transportation by rail carriers and the “construction, acquisition, operation, abandonment, or discontinuance” of tracks and facilities. (49 U.S.C § 10501(b).) As part of its review of the Project, the Commission previously examined the environmental permitting of the Project in each decision authorizing Brightline West’s rail crossings. As previously found by the Commission, the FRA is the lead agency for National Environmental Policy Act (NEPA). The FRA, in cooperation with the Bureau of Land Management (BLM), the STB, Federal Highway Administration (FHWA), and the National Park Service, with the added participation of Caltrans and the Nevada Department of Transportation (NDOT), prepared the Draft Environmental Impact Statement (DEIS) in March 2009, the Supplemental Draft Environmental Impact Statement (SDEIS) in August 2010, and the Final Environmental Impact Statement (FEIS) in March 2011. FRA issued a Record of Decision (ROD) for the Project on July 8, 2011.

Due to various Project modifications, FRA reevaluated the FEIS in cooperation with BLM, STB, FHWA, and the US Army Corps of Engineers, with added participation from Caltrans and NDOT. The FRA completed the reevaluation of the FEIS and ROD in September 2020, and issued the Reevaluation, concluding that the modifications reduced overall environmental impact, as compared to the initial Project proposal, and did not constitute changes with significant environmental impacts that were not previously evaluated in the FEIS issued in 2011.

The Commission has considered the environmental impacts of the Project including the FEIS and the Reevaluation, as these documents relate to each of the crossings authorized by the Commission thus far and has found that the FEIS is adequate for our decision-making purposes in each of the proceedings processed by the Commission.³

2. Brightline West’s Crossing Applications and Diagnostic Review Process

The Commission has jurisdiction over the construction of at-grade and grade-separated railroad crossings pursuant to Public Utilities Code §§1201-1202. General Orders 26-D and 176 provide design standards that grade-separated crossings for a project of this kind must meet. Requests for approval of a railroad crossing usually come before the Commission through a formal application. Rules 3.9 (railroad across public road) and 3.10 (railroad across railroad) of the Commission’s Rules of Practice and Procedure describe information about the design and location of a proposed crossing and other content that must be included in an application.

Prior to filing the application, the California Manual on Uniform Traffic Control Devices requires the applicant to complete the diagnostic review process with the Commission’s Rail Safety Division (RSD). As part of the diagnostic review, RSD examines the applicant’s crossing design plans and conducts a site visit to the planned crossing location(s). If necessary, RSD and the applicant discuss any safety or other issues associated with a particular crossing and address any changes needed to the design or location of the proposed crossing. The diagnostic review process ensures that once the applicant files its formal application with the Commission, RSD has already confirmed that the application is in compliance with all applicable laws and regulations, and that all safety issues have been addressed.

The Project will involve the construction of approximately 110 new grade-separated crossings in California. This will include approximately 85 road

³ See D.21-07-004, p. 24 (Conclusion of Law 4); D.21-09-031, p. 23 (Conclusion of Law 4); D.21 12 039, p. 25 (Conclusion of Law 4); D.22-04-009, p. 24 (Conclusion of Law 3); D.22-03-017, p. 24 (Conclusions of Law 4).

crossings along the I-15 corridor (primarily where there are existing highway road crossings) where Caltrans is the road authority, two locations where a local agency is the road authority, nine locations where the Brightline West tracks will cross over existing freight or commuter railroad tracks, and approximately 14 new dedicated emergency vehicle flyovers that will span the width of the I-15 where Brightline West tracks will be located in the median and Caltrans will again be the road authority.⁴

Brightline West filed formal applications for Commission approval of 32 of the 110 crossings, grouped across five applications to achieve efficiencies for all stakeholders.⁵ Brightline West completed the diagnostic review process with Staff and submitted its draft applications to Staff for review and comment to ensure the sufficiency of the form of the applications and the designs' compliance with applicable GOs.⁶ In each instance, following this process has allowed the applications to proceed with Staff concurrence.

No parties protested the applications, and Staff and Caltrans filed responses in support. Because of the diagnostic review process and the pre-filing work done by the stakeholders, there have been no disputed issues of fact necessitating an evidentiary hearing. Accordingly, the Commission approved each of Brightline West's applications, as described in D.21-07-004, D.21-09-031, D.21-12-039, D.22-04-009, and D.22-03-017.

3. Resolution SX-148

For the remaining crossings, Brightline West expressed concerns that it will not meet its funding and construction deadlines, as the applications to date have

⁴ These numbers are in addition to approximately 19 grade-separated crossings that will be constructed in Nevada as part of the Project. The Public Utilities Commission of Nevada ("PUCN") exercises jurisdiction over those crossings.

⁵ The applications were A.20-07-006 (four crossings), A.20-09-012 (7 crossings), A.20-09-015 (five crossings), A.21-01-007 (seven crossings), and A.21-01-008 (9 crossings).

⁶ The Commission's staff has been working with Brightline West and other stakeholders, including Caltrans and other railroads, to ensure that grade-separated crossings on the Project comply with Commission General Orders and address other safety and design considerations. Commission's staff, FRA, and Brightline West representatives met early to review the features and requirements for crossings on both the LV/AV Line and AV/RC Line.

taken 12 to 15 months to resolve. Brightline West requested the Commission consider an expedited process that would still provide the necessary due process and Commission review to ensure the crossings comply with the CPUC safety requirements.

On August 25, 2022, the Commission adopted Res. SX-148, finding that processing the remaining crossings would not be an efficient use of the Commission’s resources—especially with respect to services provided by the Administrative Law Judge Division. The Commission has already reviewed environmental permitting documents and made determinations regarding the adequacy of this documentation. Given the Commission’s familiarity with the details of this Project, the General Orders that apply to this Project, and the various permitting of this Project by other agencies, utilizing the Staff resolution process is procedural in nature and does not affect the requirements of General Orders that would otherwise apply to the Project. Furthermore, using a Staff resolution process that is consistent with GO 96-B procedures will also preserve all substantive Commission requirements related to crossing safety and compliance. The resolution affirmed the diagnostic review process remains the same whether the rail crossing is ultimately reviewed by the Commission via a resolution or via an application.

4. Brightline West’s Request for Approval (Submissions No. 1-3)

In compliance with Res. SX-148, Brightline West submitted its requests for approval for the Project’s remaining crossings (“Proposed Crossings”) grouped across three advice letter submittals to Rail Safety Division Director, Roger Clugston, dated February 23, 2023 (Submission No. 1), May 16, 2023 (Submission No. 2), and July 5, 2023 (Submission No. 3).

In Submission No. 1, Brightline West seeks Commission authorization to construct the following grade-separated crossings:

Crossing Name	CPUC No.	USDOT No.	Appendix
Stoddard Wells Rd Underpass (AT Bell Mountain Wash)	141-174.62-B	981 180 G	Appendix A

Cement Co. Underpass (Quarry Rd)	141-175.65-BX	981 181 N	Appendix A
Stoddard Wells Rd Overhead	141-177.32-A	981 182 V	Appendix A
Mojave Rd Overhead	141-180.01-A	981 186 X	Appendix A
Roy Rogers Dr Overhead	141-180.61-A	981 187 E	Appendix A
SR-18/Palmdale Road Overhead	141-181.53-A	981 188 L	Appendix A
LaMesa Rd/Nisqualli Rd Overhead	141-183.24-A	981 189 T	Appendix A
Bear Valley Rd Overhead	141-184.44-A	981 190 M	Appendix A
Main St Overhead	141-188.03-A	981 191 U	Appendix A
Joshua St Overhead	141-189.72-A	981 193 H	Appendix A
I-15/US-395 Connector Overhead	141-190.23-A	981 194 P	Appendix B
Ranchero Road Overhead	141-191.65-A	981 196 D	Appendix B
Oak Hill Road Overhead	141-193.41-A	981 197 K	Appendix B
CHP Crossover Bridge R26.3 Overhead	141-193.88-A	981 198 S	Appendix B
CHP Crossover Bridge R24.5 Overhead	141-195.75-A	981 199 Y	Appendix B
Santa Fe Rd Underpass	141-196.73-B	981 200 R	Appendix B
CHP Crossover Bridge R23.1 Overhead	141-197.09-A	981 201 X	Appendix B
SR-138 Overhead/I-15 Separation Overhead	141-198.84-A	981 205 A	Appendix B
Cleghorn Road Underpass	141-200.19-B	981 207 N	Appendix B
CHP Crossover Bridge R17.6 Overhead	141-202.67-A	981 209 C	Appendix B
Mathews Ranch Rd Underpass	141-204.34-B	981 210 W	Appendix C
Kenwood Ave Underpass	141-205.24-B	981 211 D	Appendix C
Cajon Blvd Underpass	141-206.62-B	981 214 Y	Appendix C
Glen Helen Rd Underpass	141-207.11-B	981 217 U	Appendix C
Glen Helen Pkwy Underpass	141-207.98-B	981 218 B	Appendix C
Sycamore Creek Dr Underpass	141-209.33-B	981 219 H	Appendix C
Sierra Avenue Underpass	141-209.92-B	981 223 X	Appendix C
Duncan Canyon Rd Overhead	141-211.74-A	981 224 E	Appendix C
Beech Ave Overhead	141-213.17-A	981 225 L	Appendix C
Cherry Ave Underpass	141-213.92-B	981 226 T	Appendix C
SR-210W TO I-15S Connector Overhead	141-214.33-A	981 227 A	Appendix D
I-15S To SR-210E Connector Overhead	141-214.46-A	981 228 G	Appendix D
SR-210 Overhead (At I-15)	141-214.54-A	981 229 N	Appendix D
SR-210E To I-15N Connector Overhead	141-214.68-A	981 230 H	Appendix D
Victoria Street Underpass	141-215.32-B	981 231 P	Appendix D
Pacific Electric Bike Trail Underpass	141-215.68-BD	981 232 W	Appendix D
Baseline Rd Underpass	141-216.00-B	981 233 D	Appendix D
Baseline Road at East Ave Underpass	141-216.04-B	981 234 K	Appendix D

In Submission No. 2, Brightline West seeks Commission authorization to construct grade-separated crossings at the following locations:

Crossing Name	CPUC No.	USDOT No.	Appendix
Milliken Ave Underpass	141-219.42-B	981 248 T	Appendix E
8th St Underpass	141-218.79-B	981 246 E	Appendix E
Rochester Ave Underpass	141-218.76-B	981 245 X	Appendix E
Arrow Route Underpass	141-218.17-B	981 240 N	Appendix E
I-15/Foothill Blvd SB On-Ramp Underpass	141-217.60-B	981 239 U	Appendix E
Foothill Blvd Underpass	141-217.50-B	981 238 M	Appendix E
I-15S At Foothill On Ramp Underpass	141-217.45-B	981 237 F	Appendix E
I-15S At Foothill Underpass	141-217.36-B	981 236 Y	Appendix E

In Submission No. 3, Brightline West seeks Commission authorization to construct one grade-separated crossing:

Crossing Name	CPUC No.	USDOT No.	Appendix
SCAX At I-15 Underpass	141-218.69-BT (Brightline) 101SG-42.95-AT (SCAX under Brightline)	981243J	Appendix E

Each submittal was promptly noticed and published on the Commission’s Daily Calendar. In addition, Brightline West posted each submission, and their accompanying Exhibits, on a publicly accessible web page, which can be viewed at: <https://brightlinecrossingsubmissions.com>.

Prior to submitting the requests, RSD and Brightline West completed the diagnostic review process with RSD. There are no outstanding issues with any of the crossings listed above.

DISCUSSION

1. Environmental Review

The Project, including the Proposed Crossings, constitutes a project under the NEPA.⁷ The FRA is the lead agency under NEPA for the purposes of identifying environmental impacts of the Project.

a. Compliance with National Environmental Policy Act

Environmental review for the LV/AV Project has been completed.⁸ Environmental review for the AV/RC Project is being completed through an Environmental Assessment (EA). The FRA released the approved EA in October 2022 for public review.⁹

b. Consideration of Environmental Effects

The Commission must consider the environmental impacts identified in the final environmental document, the FEIS and Reevaluation, as it relates to the Proposed Crossings. The Commission has the authority to mitigate or avoid only the direct and indirect environmental effects of those parts of the Project involving the Proposed Crossings. The Commission also must approve any mitigation measures that avoid or mitigate the environmental effects due to the parts of the Proposed Crossings approved by the Commission and within the Commission's jurisdiction, unless the changes or alterations are infeasible for specific economic, legal, social, technical, and other considerations.¹⁰ The Commission further must balance any unavoidable impacts against specific economic, legal, social, technical, or other benefits.

⁷ 42 U.S.C. 4371 *et seq.*

⁸ The Final Environmental Impact Statement and other environmental documents for the LV/AV Project can be viewed at: <https://railroads.dot.gov/environment/environmentalreviews/desertxpress-las-vegas-victorville>.

⁹ The EA can be found here: https://railroads.dot.gov/sites/fra.dot.gov/files/2022-10/Brightline%20West%20Cajon%20Pass%20High-Speed%20Rail%20EA_PDFa.pdf.

¹⁰ 14 Cal. Code Regs. §§ 15091(a)(2) and 15096(g).

The environmental documents prepared for the Project, the FEIS and Reevaluation, considered numerous categories of possible impacts. These included: transportation; air quality; noise and vibration; greenhouse gas emissions; biology; hydrology; geology; paleontology; hazardous materials; agricultural lands; aesthetics and visual resources; cultural resources; safety and security; parks and recreation; public utilities; energy; and regional and cumulative impacts.

An extensive set of mitigation measures was developed to avoid, lessen, and/or compensate for the impacts caused by the Project. Impacts identified as significant for the whole Project include impacts to biological resources; aesthetics and visual resources; noise and vibration; air quality; archaeological resources; paleontological resources; hydrologic resources; land use; parklands; traffic; and farmlands.

Of those impacts, only impacts to biological and hydrological resources, including noise, vibration, and air quality impacts, result from construction of the Proposed Crossings and are subject to mitigation to avoid, minimize, or compensate for those impacts.

Those biological impacts will be mitigated by an extensive survey and monitoring regime in addition to compensatory mitigation for appropriate habitats. The hydrological impacts, namely potential runoff, will be mitigated by drainage design to work with existing I-15 stormwater management systems and the implementation of stormwater best management practices, in compliance with appropriate water quality permits during construction to prevent construction impacts.

The impacts from construction noise and vibration will be mitigated by complying with local noise ordinances, including limiting construction to daytime hours. Impacts to air quality from construction will be mitigated by using updated equipment and complying with local air quality management district rules and permits.

The FEIS and the Reevaluation for the Project found that the majority of the significant environmental impacts associated with the construction and

operation of the Project did not relate directly to the Proposed Crossings, and these impacts could be mitigated and minimized to less than significant. The FEIS and Reevaluation also identified that the Project would reduce greenhouse gas emissions over the course of its operation.

Staff has reviewed and considered the FEIS, including the Reevaluation, as it relates to the Proposed Crossings and finds that the FEIS is adequate for our decision-making purposes in this proceeding.

c. California Environmental Quality Act Exemption Claim

Brightline West asserts that the Proposed Crossings are exempt from requirements of the California Environmental Quality Act (CEQA), as set forth in the declaratory order of the Surface Transportation Board¹¹ and supported by reviewing courts. *See City of Auburn v. United States*, 154 F.3d 1025 (9th Cir. 1998) (affirming STB’s federal preemption finding of state and local environmental review laws for private railroad project); *see also Friends of Eel River v. North Coast Railroad Authority*, 3 Cal. 5th 677, 714-717 (2017) (“state environmental permitting or preclearance regulation that would have the effect of halting a private railroad project pending environmental compliance would be categorically preempted.”) In the *Friends of Eel River* decision, the California Supreme Court specifically cites the STB order, finding preemption applies to the BLW System. *Friends of Eel River v. North Coast Railroad Authority*, 3 Cal. 5th at 719-720 (“there seems little doubt that, in the ordinary regulatory setting in which a state seeks to regulate a private rail carrier, applying CEQA to condition permission for that carrier to go forward with railroad operations would be preempted by the ICCTA.”).

In the STB Order, STB concluded that the Project is subject to its preemption authority because DesertXpress intends to carry passengers by rail in interstate transportation. STB also found that DesertXpress will be providing this transportation as a common carrier, offering service to the public. Thus, STB found that the Project, which includes the Proposed Crossings, involves transportation by a rail carrier, and STB has exclusive jurisdiction over the

¹¹ Submission No. 1, Exhibit 2.

planned new track, facilities, and operations.¹² Accordingly, STB concluded that state permitting and land use requirements such as CEQA are preempted under its federal preemption authority pursuant to 49 U.S.C. §10501(b), since the public will have opportunities to participate in the NEPA environmental review process. As discussed in Res. SX-148, the Commission has carefully reviewed the FEIS and the Reevaluation with the emphasis on the Proposed Crossings and the required mitigations and mitigation monitoring program.

Accordingly, Staff finds that there is no need to prepare a separate CEQA document. We also find that the Proposed Crossings, including associated impacts and mitigations, were adequately reviewed in the FEIS and the Reevaluation; and the FEIS and the Reevaluation are sufficient for our decision-making purposes concerning the associated environmental impacts. Accordingly, we find it unnecessary to address the Applicant's preemption and CEQA exemption claims here.

2. Alignment with the Commission's Environmental and Social Justice (ESJ) Action Plan

Brightline West asserts that the BLW System and this Submission are consistent with the Commission's Environmental and Social Justice Action Plan ("ESJ Action Plan") and the Commission's vision to advance equity in its programs and policies for environmental justice and social justice communities ("ESJ Communities").¹³ The company contends that the Submissions and Project will help further each of the nine goals the Commission has identified to advance its important ESJ policies.

The FEIS reviewed the Project's environmental and economic impacts to ESJ communities, which is defined in the FEIS to include low-income populations

¹² See *American Orient Express Railway Company v. STB*, No. 06-1077, slip op. at 4, 6 (D.C. Cir. Apr. 20, 2007), affirming *American Orient Express Railway Company, LLC—Petition for Declaratory Order*, STB Finance Docket No. 34502 (STB served Dec. 27, 2005) (rail carrier may provide railroad transportation by transporting passengers over its own tracks).

¹³ In February 2019, the Commission adopted the ESJ Action Plan to serve as a roadmap for implementing the Commission's vision to advance equity in its programs and policies for ESJ or disadvantaged communities.

greater than 25 percent of the total population of the community, minority populations greater than 50 percent of the total population of the community, and low-income, or more, minority populations 10 percentage points higher than the city or county average.¹⁴ The FEIS found the majority of the Project will be within or adjacent to an existing transportation corridor and will not bisect minority or low-income neighborhoods nor require the displacement of residences in those neighborhoods.¹⁵ Since the Preferred Alternative rail alignment will be fully grade-separated and located almost entirely within the existing I-15 freeway ROW, the rail alignment will not interfere with access to existing land uses.¹⁶

On the southern end of the Project, the alignment will leave the existing I-15 freeway ROW, and parallel an existing railroad ROW. This section will pass through 2 ESJ census blocks but will not displace any residences or businesses.

a. Economic Impact to the ESJ Communities - Proposed Crossings Segment of the Project

The Project is expected to bring positive economic growth and value to the region, including temporary construction jobs and an expected 1,000 permanent jobs. DesertXpress has further committed to identifying and jointly developing programs for job and technical skills training to support the Project in all phases of design, construction, testing, commissioning, and operations. Additionally, the City residents, including the ESJ communities, will benefit from improved air quality through reduced traffic congestion and fossil fuel consumption after the completion of the Project.

¹⁴ See Reevaluation, Attachment B, Resources Impact Analysis Report (Reevaluation Resources Impact Report), at 11.

¹⁵ ROD at 68.

¹⁶ FEIS at 3.1-23.

b. Environmental Impacts to ESJ Communities - Proposed Crossings Segment of the Project

Upon review of the FEIS and the Reevaluation and given the increased public safety benefit from grade-separated Proposed Crossings, as compared to at-grade crossings, we find the Proposed Crossings merit approval. Although there may be some potential and gradual negative economic impacts from the Project, the construction of the Proposed Crossings, the mitigating factors, and measures, set forth above, reduce the impact to the ESJ communities to less than significant levels.

The Project further meets the Commission's ESJ Action Plan goals to (1) improve local air quality and public health through reduced carbon emissions; (2) improve access to transportation services; and (3) promote economic and workforce development opportunities in the census blocks affected by the Project. We further note the identified negative economic impacts are not directly attributable to the construction of the Proposed Crossings but related to the overall project.

On balance, the Commission finds that the construction of the Proposed Crossings will be consistent with the goals set forth in the Commission's ESJ Action Plan and adopts the mitigation measures, set forth in the mitigation plan, for adoption of Segments 2 and 3 rail alignment and to minimize the economic impact on the affected ESJ communities. Consistent with the conclusions in the FEIS and Reevaluation, we find that the Proposed Crossings will not result in a disproportionate environmental impact upon the affected ESJ communities.

NOTICE

On May 10, 2024, this Resolution was published on the Commission's Daily Calendar.

COMMENTS

The draft resolution of the Rail Safety Division in this matter was mailed in accordance with Section 311 of the Public Utilities Code and Rule 14.2(d)(1) of the Commission's Rules of Practice and Procedure.

_____ comments were received.

FINDINGS

1. Brightline West proposes to construct a privately owned and operated interstate high-speed passenger railroad within an approximately 220-mile corridor along the I-15 and right-of-way and is proposed to be built primarily in the median of I-15 in California and Nevada.
2. Approximately 185 miles of the system will be constructed in California through two projects – one to be constructed between Las Vegas, Nevada and Apple Valley, California (the "LV/AV Line"), and the other to be constructed between Apple Valley and Rancho Cucamonga, California (the "AV/RC Line").
3. The system will exit west of the I-15 in Rancho Cucamonga and travel approximately one mile on a new elevated track structure within a portion of the San Bernardino County Transportation Authority's San Gabriel Subdivision right of way on which Southern California Regional Rail Authority commuter rail service and freight trains operate at grade, with stations located in Las Vegas, Apple Valley, and Rancho Cucamonga.
4. At full implementation, Brightline West estimates that the system will provide more than 11 million one-way passenger trips per year, thus eliminating an estimated 3 million one-way automobile trips per year between Southern California and Las Vegas.
5. There is a growing demand for travel in the corridor between the Greater Los Angeles Area and Las Vegas with motorists on this portion of the I-15 experiencing traffic delays due to traffic volume, accidents, and construction.

6. The entire Project will be fully grade-separated, which is consistent with the Commission's safety goals expressed in GO 75-D, Paragraph 2: "As part of its mission to reduce hazards associated with at-grade crossings, and in support of the national goal of the Federal Railroad Administration (FRA), the Commission's policy is to reduce the number of at-grade crossings on freight and passenger railroad mainlines in California."
7. On balance, the crossings associated with the Project thus far have been consistent with the Commission's Environmental and Social Justice Action Plan ("ESJ Action Plan") and has found that the proposed crossings reviewed thus far will not result in a disproportionate environmental impact upon the affected ESJ communities.
8. On January 28, 2019, the CalSTA, the Caltrans, and the CHSRA entered a memorandum of understanding with Brightline West to assist in developing the LV/AV Line and other passenger rail projects under development in California, to promote the design and construction of systems with the potential for future interoperability and operational synergies, and to maintain and protect the integrity and safety of existing highway infrastructure as it may be updated and reconstructed from time to time.
9. On April 16, 2021, CalSTA, Caltrans, CHSRA, and Brightline West entered a further memorandum of understanding to advance the construction of the AV/RC Line, where the parties agreed the construction "will serve the important purposes of increasing passenger rail transportation within Southern California, including interconnectivity between systems, and promoting the region's mobility, safety, and air quality objectives."
10. Brightline West is also coordinating with other stakeholders, including the Nevada Department of Transportation, the FRA, the Federal Highway Administration, the Bureau of Land Management, Metrolink, San Bernardino County Transportation Authority, the Town of Apple Valley, and the City of Rancho Cucamonga.
11. Brightline West represents that it is on course to begin construction in 2024.

12. The Project is being permitted and constructed under the jurisdiction of the STB, whose oversight includes transportation by rail carriers and the “construction, acquisition, operation, abandonment, or discontinuance” of tracks and facilities. (49 U.S.C § 10501.)
13. As the lead agency for NEPA, the FRA prepared the DEIS in March 2009, the SDEIS in August 2010, and the FEIS in March 2011, and issued a ROD for the Project on July 8, 2011.
14. Due to various Project modifications, the FRA issued a Reevaluation of the FEIS and ROD in September 2020, concluding that the modifications reduced overall environmental impact, as compared to the initial Project proposal, and did not constitute changes with significant environmental impacts that were not previously evaluated in the FEIS issued in 2011.
15. The Commission has considered the environmental impacts of the Project including the FEIS and the Reevaluation, as these documents relate to each of the crossings authorized by the Commission thus far and has found that the FEIS is adequate for our decision-making purposes in each of the proceedings processed by the Commission.
16. The Commission has jurisdiction over the construction of at-grade and grade-separated railroad crossings pursuant to Public Utilities Code §§ 1201-1202, with General Orders 26-D and 176 providing design standards for grade-separated crossings for a project of this kind must meet.
17. Requests for approval of a railroad crossing usually come before the Commission through a formal application, and Rules 3.9 (railroad across public road) and 3.10 (railroad across railroad) of the Commission’s Rules of Practice and Procedure describe information about the design and location of a proposed crossing and other content that must be included in an application.
18. The California Manual on Uniform Traffic Control Devices requires the applicant to complete the diagnostic review process with the Commission’s Rail Safety Division.

19. Brightline West proposes to construct approximately 110 new grade-separated crossings in California, which include 85 road crossings along the I-15 corridor where Caltrans is the road authority, two locations where a local agency is the road authority, nine locations where the Brightline West tracks will cross over existing freight or commuter railroad tracks, and approximately 14 new dedicated emergency vehicle flyovers to span the width of the I-15 where Brightline West tracks will be located in the median and Caltrans will again be the road authority.
20. The Commission already approved 32 of the 110 crossings D.21-07-004, D.21-09-031, D.21 12-039, D.22-04-009, and D.22-03-017.
21. On August 25, 2022, the Commission adopted Res. SX-148, finding that processing the remaining crossings using a Staff resolution process that is consistent with General Order 96 B procedures, and reaffirmed the diagnostic review process remains the same whether the rail crossing is ultimately reviewed by the Commission via a resolution or via an application.
22. In compliance with Res. SX-148, Brightline West submitted its requests for approval for the remaining crossings grouped across three advice letter submittals, dated February 23, 2023 (Submission No. 1), May 16, 2023 (Submission No. 2), and July 5, 2023 (Submission No. 3).
23. Prior to submitting the requests, RSD and Brightline West completed the diagnostic review process with RSD. There are no outstanding issues with any of the crossings listed above.
24. Staff has reviewed and considered the FEIS, including the Reevaluation, as it relates to the proposed crossings and finds that the FEIS is adequate for our decision-making purposes in this proceeding.
25. Staff finds the associated impacts and mitigations of the proposed crossings were adequately reviewed in the FEIS and the Reevaluation and is sufficient for the Commission's decision-making purposes concerning the associated environmental impacts.

26. The Brightline West System proposal in Advice Letter Submissions Nos. 1-3 is consistent with the Commission’s Environmental and Social Justice Action Plan (“ESJ Action Plan”).
27. On balance, Staff finds that the construction of the proposed crossings will be consistent with the goals set forth in the Commission’s ESJ Action Plan and adopts the mitigation measures, set forth in the mitigation plan, for adoption of Segments 2 and 3 rail alignment and to minimize the economic impact on the affected ESJ communities.
28. RSD recommends that the Commission adopt this Resolution.

THEREFORE, IT IS ORDERED THAT:

1. DesertXpress Enterprises, LLC dba Brightline West is authorized to construct forty-seven new grade-separated highway-rail crossings in the County of San Bernardino.
2. The grade-separated crossings shall be identified as:

Crossing Name	CPUC No.	USDOT No.
Stoddard Wells Rd Underpass (AT Bell Mountain Wash)	141-174.62-B	981 180 G
Cement Co. Underpass (Quarry Rd)	141-175.65-BX	981 181 N
Stoddard Wells Rd Overhead	141-177.32-A	981 182 V
Mojave Rd Overhead	141-180.01-A	981 186 X
Roy Rogers Dr Overhead	141-180.61-A	981 187 E
SR-18/Palmdale Road Overhead	141-181.53-A	981 188 L
LaMesa Rd/Nisqualli Rd Overhead	141-183.24-A	981 189 T
Bear Valley Rd Overhead	141-184.44-A	981 190 M
Main St Overhead	141-188.03-A	981 191 U
Joshua St Overhead	141-189.72-A	981 193 H
I-15/US-395 Connector Overhead	141-190.23-A	981 194 P
Ranchero Road Overhead	141-191.65-A	981 196 D
Oak Hill Road Overhead	141-193.41-A	981 197 K
CHP Crossover Bridge R26.3 Overhead	141-193.88-A	981 198 S
CHP Crossover Bridge R24.5 Overhead	141-195.75-A	981 199 Y

Santa Fe Rd Underpass	141-196.73-B	981 200 R
CHP Crossover Bridge R23.1 Overhead	141-197.09-A	981 201 X
SR-138 Overhead/I-15 Separation Overhead	141-198.84-A	981 205 A
Cleghorn Road Underpass	141-200.19-B	981 207 N
CHP Crossover Bridge R17.6 Overhead	141-202.67-A	981 209 C
Mathews Ranch Rd Underpass	141-204.34-B	981 210 W
Kenwood Ave Underpass	141-205.24-B	981 211 D
Cajon Blvd Underpass	141-206.62-B	981 214 Y
Glen Helen Rd Underpass	141-207.11-B	981 217 U
Glen Helen Pkwy Underpass	141-207.98-B	981 218 B
Sycamore Creek Dr Underpass	141-209.33-B	981 219 H
Sierra Avenue Underpass	141-209.92-B	981 223 X
Duncan Canyon Rd Overhead	141-211.74-A	981 224 E
Beech Ave Overhead	141-213.17-A	981 225 L
Cherry Ave Underpass	141-213.92-B	981 226 T
SR-210W TO I-15S Connector Overhead	141-214.33-A	981 227 A
I-15S To SR-210E Connector Overhead	141-214.46-A	981 228 G
SR-210 Overhead (At I-15)	141-214.54-A	981 229 N
SR-210E To I-15N Connector Overhead	141-214.68-A	981 230 H
Victoria Street Underpass	141-215.32-B	981 231 P
Pacific Electric Bike Trail Underpass	141-215.68-BD	981 232 W
Baseline Rd Underpass	141-216.00-B	981 233 D
Baseline Road at East Ave Underpass	141-216.04-B	981 234 K
Milliken Ave Underpass	141-219.42-B	981 248 T
8th St Underpass	141-218.79-B	981 246 E
Rochester Ave Underpass	141-218.76-B	981 245 X
Arrow Route Underpass	141-218.17-B	981 240 N
I-15/Foothill Blvd SB On-Ramp Underpass	141-217.60-B	981 239 U
Foothill Blvd Underpass	141-217.50-B	981 238 M
I-15S At Foothill On Ramp Underpass	141-217.45-B	981 237 F
I-15S At Foothill Underpass	141-217.36-B	981 236 Y
SCAX At I-15 Underpass	141-218.69-BT (Brightline) 101SG-42.95-AT (SCAX under Brightline)	981243J

3. The grade-separated crossings shall have the configuration specified in Appendices A through E.
4. DesertXpress Enterprises, LLC dba Brightline West shall comply with all applicable rules, including California Public Utilities Commission General Orders and the Americans with Disability Act.
5. Within 30 days after completion of the work authorized by this approved Resolution, DesertXpress Enterprises, LLC dba Brightline West shall notify the California Public Utilities Commission's Rail Safety Division, Rail Crossings and Engineering Branch by submitting a completed Commission Standard Form G (Report of Changes at Highway Grade Crossing and Separations), for the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site at www.cpuc.ca.gov/crossings. The completed report must be submitted via email to rceb@cpuc.ca.gov.
6. DesertXpress Enterprises, LLC dba Brightline West shall notify the Federal Railroad Administration by submitting a Crossing Inventory Form (FORM FRA F 6180.71) acknowledging the establishment of the crossing. A copy shall be provided to the California Public Utilities Commission's Rail Safety Division, Rail Crossings and Engineering Branch. This copy of the form may be submitted electronically to rceb@cpuc.ca.gov.
7. This authorization shall expire if not completed within 60 months of the issuance of this decision unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity, or safety so require.
8. DesertXpress Enterprises, LLC dba Brightline West may request a time extension from the California Public Utilities Commission's Rail Safety Division, Rail Crossings and Engineering Branch at least 30 days prior to the expiration date. DesertXpress Enterprises, LLC dba Brightline West shall send a copy of the extension request to all interested parties.

This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting held on June 20, 2024. The following Commissioners voting favorably thereon:

RACHEL PETERSON
Executive Director

APPENDIX A-E

Appendix A available at

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=531114559>

Appendix B available at

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=531166530>

Appendix C available at

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=531111310>

Appendix D available at

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=531154556>

Appendix E available at

<http://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&DocID=531159396>