

Decision 08-11-011 November 6, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the California Department of Transportation for authority to widen the existing Redlands Loop Overhead, C.P.U.C. No. 002U-0.60-A, U.S. DOT No. 027207K over tracks owned by the San Bernardino Associated Governments in the City of San Bernardino, County of San Bernardino.

Application 08-04-017
(Filed April 9, 2008)

**DECISION GRANTING AUTHORITY TO CALTRANS TO WIDEN THE
EXISTING REDLANDS LOOP OVERHEAD CROSSING OF
INTERSTATE 215 FREEWAY AND CONSTRUCT AN ADJACENT NEW
OVERHEAD BRIDGE OVER RAILROAD TRACKS OWNED BY
SANBAG WITHIN THE CITY OF SAN BERNARDINO, COUNTY OF SAN
BERNARDINO**

Summary

This decision grants the California Department of Transportation (Caltrans) permission to widen the existing Redlands Loop Overhead crossing of Interstate 215 freeway (I-215) and construct an adjacent new overhead bridge over the San Bernardino Associated Governments' (SANBAG) Redlands Subdivision railroad tracks, in the City of San Bernardino, San Bernardino County. The widening of the Redlands Loop Overhead crossing of I-215 and construction of an adjacent new overhead bridge over the SANBAG Redlands Subdivision railroad track is part of a larger project to widen and improve I-215 between I-10 and SR-30 in San Bernardino County (I-215 Improvement Project).

Discussion

Proposed Project

Caltrans proposes to widen the existing I-215 overhead structure known as the Redlands Loop Overhead and to construct an adjacent new bridge over railroad tracks owned by the SANBAG. BNSF Railway Company (BNSF) operates freight trains over and maintains the railroad tracks. The Southern California Regional Rail Authority (SCRRA) is a five-county joint powers authority created by Senate Bill 1402 of 1990, under Public Utilities Code Section 130255 pursuant to Government Code Section 6501 et al., to build and operate the Metrolink commuter rail system. SANBAG is one of the five SCRRA member agencies. SCRRA dispatches BNSF trains over this rail line, and has plans to extend Metrolink service along this line in the future.

The purpose of this project is to accommodate a reconfigured on-ramp from Second Street to I-215 and the construction of the new overhead bridge is to serve as the reconfigured off-ramp from I-215 to Second Street. This project will enhance operational functionality to I-215 by facilitating traffic ingress and egress from Second Street as well as increasing the capacity of I-215.

The application states a permanent minimum vertical clearance of 23.65 feet above the top of rail, and a permanent minimum side clearance of 10.38 feet from the face crash wall to the adjacent centerline of track will be provided. However, during construction the vertical clearance will be 21.5 feet. Commission General Order (GO) 26-D requires a minimum vertical clearance of 22.5 feet and a side clearance of 9.5 feet for curved track, which is the case here. Since the vertical clearance of 21.5 feet

during construction will be less than the minimum 22.5 feet required by GO 26-D, Caltrans requests permission for temporary deviation from the vertical clearance requirements of GO 26-D.

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 Caltrans and the United States Department of Transportation's Federal Highway Administration Federal Highway (FHWA) adopted a Final Environmental Impact Report/Final Environmental Impact Statement (FEIR/FEIS) for the I-215 Improvement project, including the widening of the Redlands Loop Overhead crossing of I-215 and construction of an adjacent new overhead bridge over the SANBAG Redlands Subdivision railroad track, which are the subject of this application. Caltrans filed a Notice of Determination (NOD) in compliance with the California Public Resource Code dated December 29, 1999. The NOD states that 1) the project will have significant effect on the environment; 2) an Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA; 3) mitigation measures were made a condition of the approval of the project; 4) a statement of overriding considerations was adopted for this project, and 5) findings were made pursuant to the provisions of CEQA. The FHWA also approved a Record of Decision (ROD) for the Project on January 2, 2001.

Caltrans and FHWA prepared an Environmental Reevaluation and CEQA Addendum in November 2005 to address additional issues related to design changes in to the I-215 Improvement Project.

The FEIR/FEIS identified noise impacts associated with the I-215 Improvement Project. Noise impacts are within the scope of the Commission's permitting process. With respect to the potentially

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.

significant noise impacts identified in the FEIR/FEIS, the Commission finds that Caltrans adopted feasible mitigation measures to either eliminate or substantially lessen those impacts to less than significant levels.⁴ Caltrans adopted a Statement of Overriding Considerations for those impacts that could not be mitigated to less-than-significant levels. 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 and Rule 3.8 relating to alteration or relocations of an existing railroad crossing. After the application was filed, Caltrans submitted an Addendum on June 26, 2008, in order to submit "a copy of the Environmental Reevaluation and CEQA Addendum from November 2005, in support of Application No, A.0804017." According to the Addendum, the additional material does not change any of the substantive information in the original application.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section reviewed and analyzed the application, and recommends that the Commission grant the permission requested by Caltrans.

Categorization and Need for Hearings

In Resolution ALJ 176-3212 dated April 24, 2008, and published in the Commission Daily Calendar on April 25, 2008, the Commission

⁴ See e.g. FEIR/FEIS, p. S-13.

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 176-3212.

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 April 15, 2008. 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 widen the existing grade separated crossing of I-215 and to construct an adjacent new grade-separated crossing over SANBAG's Redlands Subdivision railroad tracks.

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

4. Caltrans acting as the lead agency under CEQA and FHWA acting pursuant to NEPA adopted an FEIR/FEIS for the I-215 Improvement Project to widen and improve the I-215 between I-10 and SR-30 in San Bernardino. Caltrans filed an NOD in compliance with the Public

Resources Code dated December 29, 1999. FHWA approved an ROD for the Project on January 2, 2001. Caltrans and FHWA prepared an Environmental Reevaluation and CEQA Addendum in November 2005 to address additional issues related to design changes in to the Interstate 215 improvement project for design changes related to the I-215 Improvement Project.

5. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's FEIS/FEIR, NOD and Environmental Reevaluation and CEQA Addendum.

Conclusions of Law

1. The FEIR/FEIS prepared by Caltrans and FWHA has the documentation required by CEQA for the project and 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 widen the existing grade-separated crossing of Interstate 215 freeway, referred to as Redlands Loop Overhead, over railroad tracks owned by the San Bernardino Associated Governments, identified as CPUC Crossing No. 002U-0.60-A and to construct a new grade-separated crossing adjacent to the existing crossing within the City of San Bernardino, County of San Bernardino. The new and existing bridge

structures will be collectively referred to by the same CPUC Crossing No. 002U-0.60-A.

2. Caltrans is granted permission to have temporary impaired vertical clearance of 21.5 feet (measured from top of rail to the lowest portion of the overhead structure) during the construction period only.

3. BNSF Railway Company (BNSF) shall issue instructions to their operating employees regarding the temporary reduced overhead clearance of 21.5 feet beneath the Redlands Loop Overhead bridge structures. They 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 Southern California Regional Rail Authority, 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 it will create the temporary overhead clearance.

5. Within 30 days after completion of either widening the existing grade-separated crossing or construction of the new adjacent grade-separated crossing, whichever occurs later, 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 08-04-017 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