

Decision 99-01-008 January 7, 1999

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
City of Fullerton, California)	Application 97-12-001
for an order authorizing the construction)	(Filed December 1, 1997)
of a grade separation between Highland Avenue)	
and the San Bernardino Subdivision of The)	
Burlington Northern and Santa Fe Railway)	
<u>Company in the City of Fullerton, California.</u>)	

OPINION

City of Fullerton (City) requests authority to construct Highland Avenue Underpass at separated grades under The Burlington Northern and Santa Fe Railway Company's (BNSF) San Bernardino Subdivision main line tracks in Fullerton, Orange County.

The existing Highland Avenue Crossing currently consists of three main line tracks and two siding tracks, located in the central portion of Fullerton, just west of Harbor Boulevard and Fullerton Station, which serves commuter passengers on Amtrak and Metrolink lines. This crossing will be replaced by a grade separation due to the heavy volume of trains and the related switching movements, which cause extensive vehicular delays and impacts the movement of emergency vehicles within the City.

The Highland Avenue Grade Separation Project will enable vehicular and pedestrian traffic to pass under the BNSF tracks between Commonwealth Avenue and Valencia Drive in the City. Through this corridor, Amtrak operates ten daily round-trip intercity passenger trains from Los Angeles to San Diego, as well as one daily transcontinental passenger train from Los Angeles to Chicago, Illinois. The Orange County Metrolink service consists of seven round-trip trains from Los Angeles to Riverside. BNSF operates basic freight service, including local switching, of approximately 50 trains daily and is the railway's mail line between the Los Angeles metropolitan area and both San Diego and Chicago.

During construction of the grade separation, motor vehicle traffic will be excluded from the use of Highland Avenue between Santa Fe Avenue and Walnut Avenue, while rail traffic will be temporarily relocated on a shoo-fly, in the existing Walnut Avenue right-of-way. Due to the high volume of pedestrian traffic on Highland Avenue, a temporary pedestrian crossing will be constructed. Fencing leading up to the tracks will channel pedestrians around the construction site and automated gates will be installed to provide protection at the crossing. Temporary controls shall be in compliance with Section 8A-5, "Traffic Controls During Construction and Maintenance," of the Uniform Traffic Control Devices Manual, U.S. Department of Transportation.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000, et seq. City has determined that this project, the elimination of an existing at-grade crossing, is categorically exempt from the reporting requirements of CEQA under PR Code Section 21080.13.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency exemption determination. The site of the proposed project has been inspected by the Commission's Rail Safety and Carrier Division staff. Staff examined the need for and the safety of the proposed grade crossing and recommends that the application be approved.

The application was found to be in compliance under the Commission's filing requirements, including Rule 38 of the Rules of Practice and Procedure which relates to the construction of public highway crossings and separations over a railroad. A site map and detailed drawing of the Underpass structure are shown in Appendix A.

By Protest filed December 15, 1997, The Burlington Northern Santa Fe Railway Company stated that the parties were not yet in full agreement with respect to the terms of construction of the grade separation. On August 21, 1998, BNSF withdrew its protest. There are no unresolved matters. The parties are now in accord.

City, in order to meet Federal and State funding schedules, wishes to commence construction of the Highland Avenue grade separation crossing at the earliest possible date.

It is, therefore, requested that the usual 30-day effective date on an order be waived. We will make our order effective immediately.

In Resolution ALJ 176-2999, dated September 3, 1998, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. The BNSF protest has been now resolved. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given these developments, public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-2999.

Findings of Fact

1. BNSF protest has been withdrawn. All parties are now in agreement with respect to the construction of the Highland Avenue Underpass. There are no other unresolved matters.
2. City requests authority, under Public Utilities Code Sections 1201-1205, to construct the Highland Avenue Underpass at separated grades under The Burlington Northern and Santa Fe Railway Company's (BNSF) San Bernardino Subdivision main line tracks in Fullerton, Orange County.
3. Construction of the underpass is required for improved traffic flow on Highland Avenue, between Commonwealth Avenue and Valencia Drive in the City.
4. Public convenience, necessity, and safety require construction of the Highland Avenue Grade Separation, as set forth in Appendix "A".
5. Upon the commencement of construction, the existing Highland Avenue at-grade crossing shall be closed and physically removed. Motor vehicle traffic will be excluded from the use of Highland Avenue. Railroad operations require construction of a temporary shoofly track in the existing Walnut Avenue right-of-way.
6. A temporary pedestrian crossing will be constructed. Fencing leading up to the tracks will channel pedestrians around the construction site and automated gates will be installed to provide protection at the crossing.
7. Upon completion of the Underpass and its opening to vehicular traffic, the temporary crossing shall be closed and physically removed.

8. Public safety requires that the temporary pedestrian at-grade crossing be protected by two Standard No. 9 automatic gate-type signals (General Order (GO) 75-C).
9. City is the lead agency for this project under CEQA, as amended.
10. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's exemption determination.

Conclusions of Law

1. There are no unresolved matters, and a public hearing is not necessary.
2. Under Public Resources Code Section 21080.13, the activity is exempted from the requirements set forth in CEQA; therefore the guidelines (14 Cal. Admin. Code - Division 6) concerning the evaluation of projects and the preparation and review of environmental documents do not apply.
3. The usual 30-day effective date on an order should be waived as City wishes to commence construction of the project at the earliest possible date, to meet Federal and State funding schedules.
4. The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. City of Fullerton (City) is authorized to construct Highland Avenue Underpass at separated grades between Commonwealth Avenue and Valencia Drive under the tracks of The Burlington Northern Santa Fe Railway Company's (BNSF) San Bernardino Subdivision main line tracks in Fullerton, Orange County, at the location and substantially as shown by plans attached to the Application and Appendix A of this order, to be identified as Crossing 2-164.7-B.
2. Upon the commencement of construction, the existing Highland Avenue at-grade crossing, Crossing 2-164.7, shall be closed and physically removed.

3. A temporary shoofly track shall be constructed in the existing Walnut Avenue right-of-way. A temporary pedestrian crossing shall also be constructed. Fencing leading up to the tracks shall channel pedestrians around the construction site.

4. Upon completion of the Underpass and its opening to vehicular traffic, the temporary crossing shall be closed and physically removed.

5. Protection at the temporary pedestrian at-grade crossing shall be two Standard No. 9 automatic gate-type signals (General Order (GO) 75-C), which shall be removed upon opening the Underpass.

6. Clearances shall be in accordance with GO 26-D. Walkways shall conform to GO 118.

7. Construction and maintenance costs shall be borne in accordance with an agreement entered into between parties. A copy of the agreement shall be filed by City with the Commission's Rail Safety and Carrier Division prior to commencing construction.

8. City shall also file final construction plans approved by BNSF, with Rail Safety and Carriers Division prior to commencing construction.

9. Within 30 days after completion of the work under this order, City shall notify the Commission in writing that the authorized work was completed.

10. 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.

The application is granted as set forth above.

Application 97-12-001 is closed.

This order is effective today.

Dated January 7, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners



