

Mailed 04/25/00

Decision 00-04-051 April 20, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Burlington Northern and)
Santa Fe Railway Company for an order authorizing)
the construction of a crossing at separated grades)
across its mainline and proposed lead track at a new)
alignment of Mariposa Road in an unincorporated)
portion of San Joaquin County C.P.U.C. Crossing)
No. 2-1114.65-A: D.O.T. No. 27-498-G)
_____)

Application 99-12-031
(Filed December 24, 1999)

OPINION

The Burlington Northern and Santa Fe Railway Company (BNSF) requests authority to construct Mariposa Road at separated grade over its main line tracks in an unincorporated portion of San Joaquin County (County).

The proposed grade separation includes realignment of Mariposa Road and Austin Road. The Mariposa Road at-grade crossing No. 2-1114.7 (AAR No. 029570X) will continue to be used until completion of the proposed grade separation, at which time it will be closed and removed. In addition, the existing at-grade crossing on Kaiser Road, Crossing No. 2-1113.5 (AAR No. 029569D) will be closed and removed as part of the project. The proposed structure will provide one 12 feet wide lane and an eight feet wide shoulder for each direction of travel. Train service on this line includes passenger trains and freight service.

The proposed grade separation will be constructed as part of BNSF's relocation of its existing intermodal operations in downtown Stockton to a 470 acre site located in an unincorporated portion of central San Joaquin County between Austin Road and Jack Tone Road.

County is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Sections 21000, et. seq. The proposed grade separation project is included in the Final Environmental Impact Report (EIR) for the Stockton Intermodal Facility, State Clearinghouse No. 98082047, dated August 1999. On September 28, 1999, a Notice of Determination was filed with the San Joaquin County Clerk

which found that "The project will have a significant effect on the environment and mitigation measures were adopted as a condition of the approval of the project". Major impacts include loss of prime farmland, increased traffic noise, air quality and aesthetics.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's Environmental Impact Report (EIR).

Application 99-12-031 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 39, which relates to alteration of an existing crossing. A sketch of the crossing site is set forth in Appendix A.

The Commission's Rail Safety and Carriers Division Rail Crossing Engineering Safety Section staff has inspected the site of the proposed project. After reviewing the need for and safety of the proposed construction, the staff recommends that the sought authority be granted.

In Resolution ALJ 176-2987 dated February 19, 1998, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-2987.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU code Section 311 (g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on December 28, 1999. No protests have been filed.
2. BNSF requests authority under Public Utilities Code Section 1201-1205 to construct Mariposa Road at separated grades over its main line tracks in an unincorporated portion of San Joaquin County.
3. Construction of Mariposa Road grade separation is required to improve traffic circulation and safety of motorists.
4. Public convenience, necessity and safety require the construction of the Mariposa Road grade separation.

5. The existing Mariposa Road at-grade crossing No. 2-1114.7 will continue to be used until completion of the proposed grade separation, at which time it will be closed and removed.
6. The existing Kaiser Road at-grade crossing No. 2-1113.5 will be closed and removed as part of the project.
7. County is the lead agency for this project under CEQA, as amended.
8. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR and its determination.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. The Burlington Northern and Santa Fe Railway Company (BNSF) is authorized to construct Mariposa Road at separated grades over its main line tracks in an unincorporated portion of San Joaquin County (County) at the location and substantially as shown by plans attached to the application, to be identified as Crossing No. 2-1114.65-A (AAR No. 027495G).
2. Upon the opening to vehicular traffic of the Mariposa Road grade separation, the existing Mariposa Road at-grade Crossing No. 2-1114.7 (AAR No. 029570X) shall be closed and removed.
3. The existing Kaiser Road at-grade Crossing No. 2-1113.5 (AAR No. 029569D) shall be closed and removed as part of the project.
4. Clearances shall be in accordance with GO 26-D. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.
5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement, together with plans of the crossing approved by the County, shall be filed by BNSF with the Commission's Rail Safety and Carriers Division prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Within 30 days after completion of work under this order, BNSF shall notify the Commission's Rail Safety and Carriers Division in writing that the authorized work has been completed.

7. This authorization shall expire if not exercised within three (3) 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.

8. The Executive Director shall serve a copy of this order on the San Joaquin County.

9. This application is granted as set forth above.

10. Application 99-12-031 is closed.

This order becomes effective thirty (30) days from today.

Dated April 20, 2000, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

CARL W. WOOD

Commissioners

