



South Coast
Air Quality Management District
21865 Copley Drive, Diamond Bar, CA 91765-4182
(909) 396-2000 • www.aqmd.gov

E-mailed: October 27, 2010

October 27, 2010

Mr. Jay Norvell
Chief, Division of Environmental Analysis
Ms. Sharon Scherzinger
Chief, Division of Transportation Planning

Department of Transportation
1120 N Street
Sacramento, CA 94273

Colton Crossing Rail to Rail Grade Separation Project

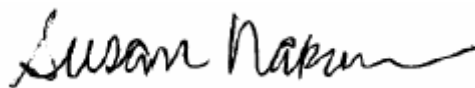
On July 6, 2010, the SCAQMD staff met with the project team for the Colton Crossing project including staff from Caltrans, the San Bernardino Association of Governments (SANBAG), and consultants. Based on information provided by the project team, the Colton Crossing currently includes 4 rail lines owned and operated by Burlington Northern Santa Fe (BNSF) and Union Pacific (UP) railroads that cross each other at the same grade. This rail intersection served approximately 120 trains per day in the peak of 2007 and can cause delays of approximately 50 minutes per train. Train traffic is expected to rise in the future with the projected increase in goods movement from the ports and other southern California destinations. The proposed project would build an overpass for the BNSF rail line to cross over the UP rail line. Approximately \$125 million of public funds (federal and state) will be used to construct this privately held project.

Based on information presented by the Colton Crossing project team, SCAQMD staff has several concerns about potential air quality impacts from the project. Most importantly, the Colton Crossing is a large source of diesel emissions in a community that is already severely impacted by poor air quality. Although one of the main purposes of the project is to relieve train congestion by building an overpass, an unintended adverse impact may be worsened local air quality for the nearby community. The Colton Crossing team also indicated that the air quality analysis will be limited to federal methodologies to determine compliance with CEQA. This approach would exclude calculating the growth inducing impacts of this project required under CEQA. Without presenting a complete air quality analysis for the project, it is impossible for the lead agency or the public to determine if the project will significantly impact air quality and public health. The lead agency should ensure that all potential impacts from the project are sufficiently assessed according to both NEPA and CEQA. SCAQMD staff is especially concerned by Caltrans apparent policy to assess projects only according to federal methodologies, and without conducting additional analysis required by CEQA. This concern has been raised repeatedly in project-specific comment letters from SCAQMD staff.¹

Further, based on information presented to SCAQMD staff by the project team, Caltrans role as lead agency is unclear. It is SCAQMD staff's understanding that Caltrans does not have the authority to approve or deny the project because it does not have jurisdiction to review rail crossings, the project is being carried out by private parties predominantly on private land, and Caltrans' role is generally limited to providing public funding (with the exception of giving up a small right-of-way). Should the funding scenario for the project change, Caltrans would have no regulatory authority over the project.

In order to address these concerns, SCAQMD staff encourages Caltrans to work with our agency to ensure air quality impacts are sufficiently analyzed. SCAQMD has successfully collaborated with other transportation agencies to develop air quality analysis protocols including the ports of Los Angeles and Long Beach and the Alameda Corridor Transportation Authority. SCAQMD staff looks forward to working with Caltrans to find a solution. Additional detailed comments on this project are attached to this letter. Should you have any questions, please do not hesitate to contact me at (909) 396-3105.

Sincerely,



Susan Nakamura
Planning and Rules Manager

Attachment

cc: Raymond Wolfe, Caltrans, Director District 8
Michael Miles, Caltrans, Director District 7
Cindy Quon, Caltrans, Director District 12
David Bricker, Caltrans, Deputy Director District 8
Ron Kosinski, Caltrans, Deputy Director District 7
Sylvia Vega, Caltrans, Deputy Director District 12
Kelly Dunlap, Caltrans, Chief Environmental Management Office
Garth Hopkins, Caltrans, Chief Regional and Interagency Planning Office
Mike Brady, Caltrans, Senior Environmental Planner
Richard Clark, PUC, Director Consumer Protection Safety Division

1) Quantitative Air Quality Analysis

Pursuant to CEQA Guidelines §15064 “The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.” In order to satisfy this requirement, Caltrans has traditionally relied on federal methodologies to evaluate air quality impacts under CEQA, including performing qualitative assessments of particulate matter impacts and avoiding analyses of health risk impacts (for further details, see citations below). Caltrans has frequently stated that no methods are available to quantitatively evaluate air quality and health risk impacts, despite the standard approaches used by other transportation agencies in the state such as the Ports of Los Angeles and Long Beach, the Alameda Corridor Transportation Authority, etc. Although Caltrans’s approach may be adequate for federal conformity and NEPA determinations, they do not present the quantitative, substantial evidence necessary under CEQA Guidelines §15064 or CEQA case law (*Berkeley Keep Jets Over the Bay Committee v. Board of Port Commissioners* (2001) 91 Cal. App. 4th 1344, 1379). In order to present substantial evidence that air quality impacts are adequately evaluated, SCAQMD staff recommends that Caltrans use standard SCAQMD methodologies² for quantifying impacts for projects located within the jurisdiction of the SCAQMD. If Caltrans does not quantify air quality impacts, it won’t have the information needed to determine if impacts are significant, and what level of mitigation is needed to reduce impacts to a less than significant level. SCAQMD staff is willing to work with Caltrans to develop an air quality analysis protocol tailored to the needs of Caltrans if it finds that an alternative approach is necessary.

2) Significance Thresholds

Although no significance thresholds have been established by the Lead Agency for air quality impacts, the Colton Crossing project team has indicated that a Mitigated Negative Declaration will be prepared. SCAQMD staff is concerned that Caltrans has concluded that air quality impacts will be less than significant without completing an air quality analysis or establishing a significance threshold. Without disclosing the rationale for determining significance, it is unclear how the public can trust that project impacts are evaluated objectively and scientifically.

SCAQMD staff is concerned about the thresholds used to determine significance because for past projects, Caltrans has claimed that “Per Caltrans policy, the number of benefited receptors will be compared to the number of adversely affected receptors to provide an overall determination of project impacts.”³ This rationale is not acceptable as it goes against Environmental Justice policies by assuming that benefits in one location can offset impacts in another location and it does not judge the severity of impacts. Further, this approach is not consistent with CEQA Guidelines §15382 whereby potentially substantial changes to the physical environment that are caused by the project must be considered significant. It is inconsistent with CEQA for a lead agency to make a significance determination based only on areas with project benefits. Localized areas with detrimental project impacts must also be considered on their own as the project benefits may not affect the local area.

SCAQMD staff recognizes that “. . . [Caltrans] has not and has no intention to develop thresholds of significance for CEQA. The determination of significance under CEQA is left to the internal project development team. . .”⁴ Consistent with CEQA Guidelines §15064.7(c), Caltrans may use thresholds established by other public agencies. As this project is located

solely within the jurisdiction of the SCAQMD, Caltrans is strongly encouraged to use the thresholds adopted by SCAQMD for the Colton Crossing project.

3) Construction Impacts

The project team informed SCAQMD staff that construction impacts will not be quantified for the Colton Crossing project. Construction emissions from the proposed project may contribute to a violation of Ambient Air Quality Standards (AAQS) locally, regionally, and cumulatively. Substantial evidence should therefore be presented in the CEQA document that quantitatively determines the potential significance of this impact. Although Caltrans has frequently determined that air quality impacts from construction are less than significant due to their temporary nature, many AAQS are based on short term averaging periods (<24 hours). Construction activities for this project will likely use many pieces of heavy duty diesel equipment for several months at a time. Further, CEQA Guidelines §15064(d) specifically requires that construction activities shall be considered by a lead agency as a direct physical change when determining the significance of a project.

In order to assist lead agencies with assessing construction impacts, the SCAQMD adopted a Localized Significance Threshold Methodology that simplifies an analysis of construction impacts.⁵ Although this method is voluntary in the SCAQMD, a lead agency is not relieved of its duty to fulfill the requirements of CEQA if it chooses not to use the Localized Significance Threshold Methodology. In order to answer Question III(b) in the CEQA checklist, a lead agency must determine if the project will violate any existing air quality standard. Many air quality standards are based on short term averaging periods that are applicable to construction activities that occur over a period of days to months. Without quantification of construction emissions and mitigation measure effectiveness, a reliance on unspecified best management practices to reduce impacts to a less than significant level is inadequate.

4) Operational Impacts

The Colton Crossing project team informed SCAQMD staff that the potential for increased emissions due to higher rail traffic volumes after project build out will not be evaluated. The rationale presented for this approach is that increased emissions from higher traffic volumes will be evaluated under CEQA for other projects that allow additional train traffic. This approach is not consistent with CEQA. The Colton Crossing project team indicated that the existing conditions present a significant bottleneck, which the project is designed to relieve. In addition, based on the San Pedro Bay Container Forecast Update⁶, port-related goods movement in Southern California is expected to reach pre-recession levels by 2014, with continued growth through 2030. This increase in traffic will be accommodated by this project, and will be above baseline levels.

Without assessing the impacts of the maximum projected train traffic that can use this crossing, the Lead Agency is inappropriately deferring the assessment of project significance and implementation of mitigation measures to other lead agencies and to a post-project approval time. SCAQMD staff therefore recommends that the Lead Agency compare maximum train traffic emissions after project build out with the current baseline emissions to determine project significance.

5) Potential for Electrification of Rail

As this project handles a large proportion of rail traffic serving the Los Angeles area, SCAQMD staff requests that the Lead Agency consider designs that would allow for the electrification of rail lines in the future as this measure may be required in the future to reduce emissions from rail traffic. SCAQMD staff also encourages the Lead Agency to include a discussion in the CEQA document of how this project may affect future rail electrification projects.

¹ For detailed comments on selected recent projects, please see the following comment letters:

Draft Environmental Impact Report / Environmental Assessment for the Interstate 10 (San Bernardino Freeway / El Monte Busway) High-Occupancy Toll Lanes Project from Ian MacMillan to Ron Kosinski, April 14, 2010.

Available here: <http://www.aqmd.gov/ceqa/igr/2010/April/DEIRcalt-10TollLane.pdf>

Draft EA/IS-MND for the Half Interchange (on-ramp) to the I-405 from Arbor Vitae Street from Ian MacMillan to Ron Kosinski, February 12, 2010. Available here:

<http://www.aqmd.gov/ceqa/igr/2010/February/EA1405HalfInterchangeArborVitae.pdf> ,

Notice of Intent to Adopt a Negative Declaration for the State Route (SR-57) Northbound Widening Between Katella Ave. and Lincoln Blvd. Project from Steve Smith to Leslie Manderscheid, April 24, 2009. Available here:

<http://www.aqmd.gov/ceqa/igr/2009/April/NDSR57.pdf>

Draft Supplemental Environmental Impact Statement/ Recirculated Environmental Impact Report and Section 4(f) Evaluation for the Schuyler Heim Bridge Replacement and SR-47 Expressway Project from Susan Nakamura to Ron Kosinski, February 13, 2009. Available here: <http://www.aqmd.gov/ceqa/igr/2009/February/SEIRbridge.pdf>

Draft Environmental Impact Report Interstate 405 Sepulveda Pass Widening Project from Steve Smith to Ron Kosinski, June 28, 2007. Available here: <http://www.aqmd.gov/ceqa/igr/2007/june/DEIR405fwy.pdf>

Negative Declaration for the Proposed I-10 Median Mixed Flow Lane Addition Project Between Orange and Ford Streets in the City of Redlands – CALTRANS District 8 from Steve Smith to Luke Stowe, June 16, 2004. Available here: <http://www.aqmd.gov/CEQA/igr/2004/june/519-08.doc>

Notice of Intent to Adopt Negative Declaration for the Proposed I-5 HOV 134 to 118 Lane Improvement Project, Cities of Burbank, Glendale and Los Angeles – Caltrans District 7 from Steve Smith to Ron Kosinski, September 12, 2000. Available here: <http://www.aqmd.gov/ceqa/igr/2000/sept/ND%20I-5%20HOV%20134%20to%20118%20Lane%20Improvement%20Project%20CALTRANS%20Sept.%208%202000.doc>

Draft Initial Study/Environmental Assessment for the San Diego (I-405) Freeway and Ventura (US-101) Freeway Interchange from Steve Smith to Ron Kosinski, August 24, 2000. Available here:

<http://www.aqmd.gov/ceqa/igr/2000/august/San%20Diego%20Freeway%20%20Ventura%20Freeway%20Interchange.doc>

² The SCAQMD CEQA Air Quality Analysis Handbook is available from SCAQMD Subscription Services by calling (909) 396-3720. Supplementary guidance is also available on the SCAQMD website at:

<http://www.aqmd.gov/ceqa/hdbk.html>

³ See minutes from the I-710 Environmental Subject Working Group September 14, 2009 meeting, available here: http://www.metro.net/projects_studies/I710/community/images/ESWG%209-14-09.pdf

⁴ Caltrans *Standard Environmental Reference* Chapter 36

<http://www.dot.ca.gov/ser/vol1/sec5/ch36eir/chap36.htm#definition>

⁵ Available here: <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>

⁶ Available here: http://www.portoflosangeles.org/pdf/SPB_Container_Forecast_Update_2009.pdf