



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

E-mailed: March 31, 2011

March 31, 2011

Ms. Marie Petry, Office Chief  
Caltrans District 8  
Environmental Studies/Support B  
464 W. 4<sup>th</sup> Street  
San Bernardino, CA 92401

**Review of the Draft Mitigated Negative Declaration for the  
Colton Crossing Rail to Rail Grade Separation Project**

SCAQMD staff appreciates the opportunity to comment on the above mentioned document. SCAQMD staff is concerned that the comments from our October 27, 2010 letter (attached) on this document were generally disregarded. As a result, the air quality impacts are understated in the Draft MND, and potentially significant impacts may not have been disclosed to the public. The lead agency states in the Draft Mitigated Negative Declaration (MND) that the project will have a net project benefit by reducing regional air quality impacts through increased rail efficiency. SCAQMD staff recognizes and strongly supports the benefits of grade separated rail crossings, and that increased efficiencies can reduce exhaust emissions from cars, trucks, and locomotives. However this project also appears to have the ability to remove a bottleneck in the rail system allowing for increased rail traffic and emissions in a community that is already heavily impacted by poor air quality.

There are four primary areas in which the Draft Mitigated Negative Declaration (MND) has not addressed the potential for air quality impacts. These include the determination of localized air quality impacts, the growth inducing potential of the project, the use of an inappropriate CEQA baseline for existing conditions, and the lack of quantification of mitigation measure effectiveness. Because of the technical inadequacies of the Draft MND, it appears that the analysis must be revised before document approval.

SCAQMD staff strongly recommends that the lead agency evaluate the comments contained within this letter and the October 27, 2010 letter, and revise the analysis prior to certifying the CEQA document. Additional detailed comments on this project are attached to this letter. Should you have any questions, please contact me at (909) 396-3105.

Sincerely,

A handwritten signature in black ink that reads "Susan Nakamura".

Susan Nakamura  
Planning and Rules Manager

Attachments

Control Number  
SBC110308-01  
BW:KW:SN:IM

## 1) Local Air Quality Impacts

The lead agency did not conduct a localized air quality analysis or Health Risk Assessment (HRA) to determine how the construction or operation of the project may impact the adjacent residential neighborhood. According to Appendix B of the Air Quality Analysis, up to 900 locomotives per day will pass through this crossing. Based on information provided in this appendix, this level of activity yields 164 pounds per day of locally generated diesel particulate matter emissions that do not currently exist. The lead agency did not analyze the potential impacts to ambient air quality standards from this activity, nor did it evaluate potential health risks.

Further, the lead agency presented annual tons per year estimates of pollutants from construction activities, but did not present the peak daily emissions that are expected from the project in the Draft MND. Based on information provided in Appendix A of the Air Quality Analysis, the peak daily emissions during trackwork construction could reach 283 pounds per day of NO<sub>x</sub>, significantly above the SCAQMD threshold of 100 pounds per day. This potentially significant impact is not mitigated disclosed in the text of the Draft MND.

The lead agency relied on guidance from the Federal Highway Administration to determine that a quantitative analysis of toxic impacts is not possible due to potential uncertainties and that only a qualitative analysis is possible. This approach ignores section 15064 of the CEQA Guidelines that requires *substantial evidence* to determine the significance of an impact. Furthermore, Caltrans has relied on a HRA for other CEQA documents including the Schuyler Heims Bridge project and has agreed to conduct an HRA for the I-710 corridor expansion project. Methodologies are also available to assess emissions from rail projects as demonstrated by the HRA's completed by the California Air Resources Board for major rail yards throughout the state. Further, the lead agency is strongly encouraged to use the SCAQMD regional and local significance thresholds for any project carried out within its jurisdiction.

## 2) CEQA Baseline

The lead agency used an incorrect CEQA baseline throughout the analysis to determine the significance of impacts. Pursuant to Section 15125 of the CEQA Guidelines, the existing environmental setting "at the time that environmental assessment commences . . . will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant." Instead of using this required methodology, the lead agency chose to compare a hypothetical and speculative future scenario without the project to one with the project. This speculative approach is contrary to CEQA requirements and serves to underestimate potential impacts. For example, in Table 5-11 of the Air Quality Analysis, the lead agency states that the project will have a net benefit by reducing regional PM<sub>10</sub> emissions by 1,118 pounds per day. However as demonstrated in the table below, under CEQA the proposed project will generate 840 pounds per day of NO<sub>x</sub> above the existing conditions, which is above SCAQMD thresholds.

<b>Scenario</b>	<b>PM10 emissions (lbs/day)</b>
With project (2035)	1569.6
Existing conditions (2010)	729.6
CEQA project impact	840
SCAQMD Threshold	150

### **3) Growth Inducing Potential and Cumulative Impacts**

The lead agency claims that the rail crossing currently serves approximately 124 trains per day, and that by 2035, the project could serve up to 251 trains per day. Further, the lead agency states that construction of this project will not allow any increase in rail traffic because 1) the project will not directly generate trips and 2) the project site can currently accommodate 251 trains per day. In combination with using an incorrect CEQA baseline, both of these arguments ignore the requirements to assess growth inducing potential and cumulative impacts from the project.

The project will construct a new rail crossing, but will not remove the old rail crossing. Despite the argument that the existing crossing will only serve local traffic in the future, no enforceable measures have been included that will strictly limit the amount of trains using both east-west lines in the future. For example, if rail traffic increases beyond what is projected in this Draft MND, and more trains are required to use the crossing, then the additional capacity that this project provides will allow that activity to happen. This scenario would lessen any potential regional benefits that the Draft MND is claiming. If the lead agency chooses not to assess this impact, than an enforceable measure is needed that limits the number of trains that can use this crossing.

Further, while this project does not directly generate rail traffic, it accommodates and potentially even encourages other facilities to increase their use of rail. This indirect impact is “cumulatively considerable” under CEQA and must be analyzed by comparing existing conditions with future project conditions.

### **4) Effectiveness of Mitigation Measures**

The lead agency states in the Air Quality Analysis that the project will reduce its 19.2 tons per year of construction NOx exhaust emissions in 2012 by utilizing mitigation measures AQ-1 through AQ-5. The only measure that applies to exhaust emission is AQ-2 which states that “emissions from construction equipment vehicles will be controlled by maintaining equipment engines in good condition and in proper tune per manufacturer’s specifications.” As the emission factors used in the analysis already assume this condition, the lead agency has not demonstrated that there will be any reduction in NOx emissions through the implementation of these mitigation measures. In addition to exceeding SCAQMD regional thresholds, the project also appears to exceed general conformity requirements. The lead agency should demonstrate quantitatively how the 19.2 tons/year of NOx emissions will be reduced to less than 10 tons per year prior to certifying the MND for this project.

In addition, the lead agency states that the construction emissions estimate assumes that all off-road equipment will use Tier 3 engines. SCAQMD encourages the lead agency to include this as an explicit mitigation measure to ensure compliance.

**5) Availability of Project Documentation**

Many of the calculations included in the Draft MND are included as technical appendices. These appendices were not made available on a website for the public to review, nor were they made available to SCAQMD staff until several requests were made. In addition, the raw data was not available for public review nor provided as requested. Without the ability to review this data, SCAQMD staff does not have the ability to fully determine the technical adequacy of the information contained in the Draft MND. As we are the responsible agency with expertise in evaluating air quality impacts, we strongly recommend that the lead agency make this information available.



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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**

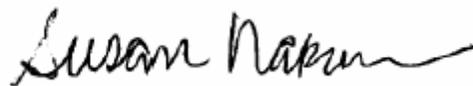
On July 6, 2010, the SCAQMD staff met with the project team for the Colton Crossing project including staff from Caltrans, the San Bernardino Association of Governments (SANBAG), and consultants. Based on information provided by the project team, the Colton Crossing currently includes 4 rail lines owned 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.<sup>1</sup>

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. 4<sup>th</sup> 1344, 1379). In order to present substantial evidence that air quality impacts are adequately evaluated, SCAQMD staff recommends that Caltrans use standard SCAQMD methodologies<sup>2</sup> 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.”<sup>3</sup> 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. . .”<sup>4</sup> 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.<sup>5</sup> 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 Update<sup>6</sup>, 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.

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<sup>1</sup> 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/EAI405HalfInterchangeArborVitae.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%20I-5%20Lane%20Improvement%20Project%20CALTRANS%20Sept.%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%20Ventura%20Freeway%20Interchange.doc>

<sup>2</sup> 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>

<sup>3</sup> 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](http://www.metro.net/projects_studies/I710/community/images/ESWG%209-14-09.pdf)

<sup>4</sup> Caltrans *Standard Environmental Reference* Chapter 36

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

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

<sup>6</sup> Available here: [http://www.portoflosangeles.org/pdf/SPB\\_Container\\_Forecast\\_Update\\_2009.pdf](http://www.portoflosangeles.org/pdf/SPB_Container_Forecast_Update_2009.pdf)