

DEPARTMENT OF TRANSPORTATION

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February 18, 2009

The Honorable Alan S. Lowenthal, Chair
Senate Transportation Committee
P.O. Box 942848
Sacramento, CA 94248-0001

The Honorable Mike Eng, Chair
Assembly Transportation Committee
P.O. Box 942849
Sacramento, CA 94249-0001

Dear Senator Lowenthal and Assembly Member Eng:

Chapter 756, Statutes of 2008 (AB 268, Committee on the Budget) added Section 8879.52 to the Government Code. The section calls on the California Department of Transportation (Department) to prepare a one-time report regarding certain types of projects funded from the Trade Corridors Improvement Fund program established by Proposition 1B of 2006. Specifically, the legislation requires that:

(e) On or before February 18, 2009, the department shall report to the policy committees of each house of the Legislature with jurisdiction over transportation matters, a summary of any memorandum of understanding or any other agreement executed by a railroad company and any state or local transportation agency as it relates to any project funded with moneys allocated from the TCIF.

This letter constitutes the report called for by Government Code section 8879.52.

BACKGROUND:

In April 2008, the California Transportation Commission (Commission) adopted a 79 project, \$3.1 billion TCIF program. Of the 79 projects in the initial program, 33 were grade separations, seven were traditional mainline or shortline rail freight projects, ten were on the rail system within the publicly owned Port of Long Beach, two were within the San Diego Metropolitan Transit System owned by San Diego and Arizona Eastern Railway's San Ysidro yard, and two were projects on publicly owned intercity or commuter rail rights-of-way

designed to improve freight movement. TCIF projects either on publicly owned rights-of-way or within publicly owned facilities are not included as part of this report.

CURRENT STATUS:

Grade Separation Projects

As part of its program guidelines, the Commission required grade separation projects to have a "Master Agreement or Memorandum of Understanding" in place between the railroad and the nominating local agency at the time the Baseline Agreements were executed. The intent of what ultimately became known as a "Corridor Delivery Plan" was to ensure that grade separation projects, particularly those in the Los Angeles-Inland Empire rail corridors, could be accommodated by the railroads without unacceptable impacts to their operations, their ongoing capital improvement programs, or their future infrastructure development plans. The Corridor Delivery Plan was also intended to be a tool that would allow the railroads to forecast the need for construction forces to support the projects.

The Corridor Delivery Plan is not an agreement among the parties for individual grade separation projects. Traditional Construction and Maintenance (C&M) Agreements will be developed and executed for each separation at the conclusion of its design phase. It will be through those C&M Agreements that the railroad's financial contribution will be determined consistent with State and federal statutes.

Of the original 33 grade separation projects, 28 were part of a single Corridor Delivery Plan signed by the four sponsoring agencies (Los Angeles County Metropolitan Transportation Authority, San Bernardino Associated Governments, Riverside County Transportation Commission, Orange County Transportation Commission) and the BNSF Railway (BNSF) and Union Pacific Railroad (Union Pacific) in August 2008. The Commission approved the Baseline Agreements for all 28 of the projects contained in this single Corridor Delivery Plan.

Four of the remaining five grade separation projects contained in the adopted TCIF program also have completed Corridor Delivery Plans and their Baseline Agreements have been approved by the Commission. The C&M Agreements completed at the conclusion of the design phase of the projects will determine the anticipated railroad financial contribution. The one grade separation project that does not have an adopted Baseline Agreement is the 7th Street Grade Separation in Oakland. The project sponsor, the Port of Oakland, has undertaken a value engineering analysis and design review in an effort to reduce project costs and enhance the delivery schedule. The Port of Oakland anticipates submitting a revised project scope and budget as well as an amended project application to the Commission in January 2009.

Mainline and Shortline Rail Projects

The Commission's adopted TCIF program included seven mainline or shortline rail projects designed to facilitate the movement of rail freight over either of the State's two Class I railroads (Union Pacific or BNSF). The projects on the original list included:

- Sacramento Intermodal Track Relocation.
- Tehachapi Trade Corridor Improvements.
- Martinez Subdivision Rail Improvements.
- Shafter Intermodal Rail Facility.
- San Joaquin Valley Short Haul Rail/Inland Port Project.
- Colton Crossing.
- Track and Tunnel Improvements at Donner Summit.

Two of the above projects, the Tehachapi Trade Corridor Improvements and the Sacramento Intermodal Track Relocation, have Memoranda of Understanding (MOU) and Baseline Agreements in place. These two projects are discussed below.

Sacramento Intermodal Track Relocation

The Sacramento Intermodal Track Relocation Project, sponsored by the City of Sacramento, is an integral component of the Sacramento Railyard Redevelopment project. The 240-acre Railyard Development is one of the nation's largest infill and brownfield projects. Realignment of the existing tracks will provide significant freight and passenger rail benefits, improve air quality, facilitate traffic circulation, and enhance economic development. The project was part of the December 2006 development agreement among Union Pacific, Thomas Enterprises, and the City of Sacramento.

Forty-four passenger trains and approximately 12 freight trains pass daily through the Sacramento Depot in the heart of the railyards with trains sharing the same tracks. People often have to cross live freight tracks to board passenger trains. To ensure safety, freight trains are "held out" of the station area while passenger trains are loading. Finally, given the curvature of the tracks heading past the station, the maximum speed for trains is only 15 to 20 miles per hour.

The track relocation project will straighten the current alignment by moving the tracks approximately 400 feet north of their existing location. The straightened alignment will allow higher speed freight operations, and longer trains. New passenger platforms and tracks will also be constructed; separate from the freight tracks, improving rail passenger safety and convenience, and eliminating the necessity of freight traffic being "held out" of the station area while passenger trains are loading.

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The total cost of the relocation project is estimated at \$51.6 million against which \$20 million in TCIF funding has been programmed. The current schedule calls for the environmental process to be completed by May 2009 with construction starting by July 2009.

Tehachapi Trade Corridor Improvements

Sponsored by the Department on behalf of BNSF, Tehachapi Trade Corridor connects northern California with Union Pacific and BNSF's major transcontinental routes in southern California. The project focuses on a 68-mile stretch of primarily single-track railroad between Bakersfield and the Mojave, which is over the Tehachapi Mountains. The route has a high volume of traffic, 12 tunnels, many sharp curves, and grades ranging from 2 to 2.5 percent. It is already capacity constrained with a railroad Level of Service grade of E on a scale ranging from A (best) to F (worst). The section of track is owned, dispatched, and maintained by Union Pacific. BNSF has trackage rights over this corridor that date back to 1912. Approximately 40 trains per day operate through the Corridor with BNSF moving 70 percent of the volume and Union Pacific moving the remaining 30 percent.

When complete, the project will result in seven miles of new track, three new universal crossovers, three tunnels modified or eliminated, and 21 miles of upgraded signal system. The improvements are projected to improve current rail freight movements by 25 percent while removing 1,700 trucks per day from parallel highways. The estimated cost of the project is \$111.4 million with \$54 million programmed from TCIF and BNSF funding the remainder. The environmental phase of the project is scheduled for completion in mid-2010 with construction scheduled to start in the first quarter of 2012.

Following is the status of the mainline and shortline freight rail projects that do not yet have MOUs in-place.

Martinez Subdivision Rail Improvements

The original Martinez Subdivision TCIF project included building additional mainline capacity, installation of additional crossovers and signal system improvements on Union Pacific's mainline tracks near the city of Richmond. However, a ruling by the Surface Transportation Board (STB) in a track usage dispute between Union Pacific and BNSF has resulted in a necessity to revise the project scope. The BNSF, Metropolitan Transportation Commission (MTC), and the Port of Oakland are working together with the local community to revise the project's scope to reflect the outcome of the STB decision, and address local community impacts. It is anticipated that a revised project scope, MOU, and Baseline Agreement will be in place before the end of March 2009.

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Shafter Intermodal Rail Facility

The project sponsor, the City of Shafter (City), retained a private consultant to develop a business and operations plan for the facility. The plan, which included involvement of BNSF and major shippers, will also contain a public/private benefit analysis. Upon completion of the business and operations plan, the city anticipates entering into negotiations with BNSF to establish an MOU for operations and service prior to the end of March 2009. The city has also adopted a resolution committing the matching funds for the project.

San Joaquin Short Haul Rail/Inland Port Project

The project's developer, West Park, LLC, provided a detailed business and operations plan to the county of Stanislaus. The environmental process is underway with a draft Environmental Impact Report expected to be published in the spring of 2009. The project is currently subject to litigation which may delay obtaining commitment from the county to provide the necessary matching funds. After this issue is resolved, an interchange agreement with Union Pacific is needed.

Colton Crossing

The \$198 million Colton Crossing project proposed by the Department would physically separate what is currently an "at-grade" crossing of Union Pacific and BNSF's mainlines in San Bernardino County. The project's original financial plan proposed that each railroad would provide one-half the required match for the \$97.3 million in TCIF funding tentatively programmed for the project. BNSF's financial participation, however, was conditioned on securing a commitment of local funding for a portion of its share of the match. The local funding BNSF anticipated is not available and Union Pacific has indicated it is unwilling to assume sole responsibility for providing the required non-State match.

The Department continues to work with the railroads and affected stakeholders to determine the status of the project.

Track and Tunnel Improvements at Donner Summit

This project was withdrawn by the Department, at the request of the Union Pacific, and was formally deleted from the TCIF program in October 2008. The Northern California Trade Corridor Coalition has proposed shifting the Donner project's funding to the Sperry Road project in San Joaquin County which is on its Tier 2 list of TCIF projects. The sponsor of the Sperry Road project, the City of Stockton, and the San Joaquin Council of Governments plan to submit the documentation for a Project Baseline Agreement to the Commission in the first quarter of 2009.

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If you have any questions regarding the above, please contact either Ross Chittenden, Proposition 1B Program Manager, at (916) 654-4252, or William D. Bronte, Chief, Division of Rail, at (916) 654-6542.

Sincerely,

A handwritten signature in blue ink that reads "Will Kempton" with a long horizontal flourish extending to the right.

WILL KEMPTON
Director

c: Commissioners, California Transportation Commission
Bimla Rhinehart., Executive Director, California Transportation Commission
Dale E. Bonner, Secretary, Business, Transportation, and Housing Agency
Jim Bourgart, Deputy Secretary for Transportation Infrastructure, Business,
Transportation and Housing Agency