

Memorandum

To: CHAIR AND COMMISSIONERS

Date: March 18, 2010

From: BIMLA G. RHINEHART
Executive Director

File: Item 2
ACTION

Ref: AB 268 Review of Trade Corridor Improvement Fund (TCIF) Project 79:
Colton Crossing Project

ISSUE

Is TCIF Project 79: *Colton Crossing Project* in compliance with the requirements of AB 268 (Chapter 756, Statutes of 2008) and if not, should the Commission delete TCIF Project 79: *Colton Crossing Project* from the TCIF Program of projects and direct the Southern California Consensus Group to propose a replacement project or projects for Commission consideration to amend into the Los Angeles/Inland Corridor element of the TCIF program?

RECOMMENDATION

Commission staff recommends that the Commission find that TCIF Project 79: *Colton Crossing Project* is not in compliance with the requirements of AB 268 (Chapter 756, Statutes of 2008) and delete TCIF Project 79: *Colton Crossing Project* from the TCIF program of projects and direct the Southern California Consensus Group to propose a replacement project or projects for Commission consideration to amend into the Los Angeles/Inland Corridor element of the TCIF program.

BACKGROUND

The Commission, at its April 10, 2008 meeting, adopted the Trade Corridor Improvement Fund (TCIF) program and directed nominating agencies to provide executed Project Baseline Agreements that set forth the proposed project scope, measurable expected performance benefits, delivery schedule, and project budget and funding plan. The adopted TCIF program included the Colton Crossing Project in San Bernardino County in the Other Regions element of the program. This project, nominated by the Department of Transportation, the Union Pacific Railroad (UP), and the Burlington-Northern Santa Fe (BNSF), proposed to construct a railroad grade separation in the City of Colton to eliminate train delays created by conflicting movements where BNSF's north-south mainline crosses UP's east-west mainline at grade.

Subsequent to the adoption of the TCIF program, the Legislature passed AB 268 on September 16, 2008, which requires that the Colton Crossing Project meet certain delivery timeframes to remain in the TCIF program. Specifically, AB 268 (Chapter 756,

Statutes of 2008) states: “if the Colton Crossing project programmed in the commission’s TCIF Program as of April 10, 2008, does not meet the requirements or delivery schedule contained in its project baseline agreement when reviewed by the commission no later than March 2010, the project shall be ineligible to receive an allocation from the TCIF. The ninety-seven million dollars (\$97,000,000) associated with the project shall then be available for programming in the Los Angeles/Inland Empire Corridor...”

Commission staff has completed its review of the status of TCIF Project 79: *Colton Crossing Project* and has determined that the project is not in compliance with the requirements of AB 268. This determination takes into account the fact that the Legislature, when passing AB 268, made reference to Commission policies and requirements as outlined in the Program’s guidelines and adopting resolutions. Among other provisions, the April 10, 2008 adopting resolution of the TCIF program states:

“BE IT FURTHER RESOLVED that the Commission requires nominating agencies, no later than its July 2008 meeting (with the exception of grade separation and mainline rail projects where this deadline is extended to the September 2008 meeting), to provide executed project baseline agreements that will set forth the proposed project scope, measurable expected performance benefits, delivery schedule, and the project budget and funding plan. The baseline agreements shall be signed by the Director of the Department of Transportation, the regional agency and nominating agency executive directors, and the CTC executive director”.

Staff considers that the March 2010 review described in AB 268 is intended to be made against the project baseline agreement that would have been in place by September 2008.