

## Attachment 4

**Bliss, Sandi**

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**From:** Jones, Jessica  
**Sent:** Thursday, March 12, 2015 9:53 AM  
**To:** Bliss, Sandi  
**Subject:** FW: Jennings Crossing - Helen Lehman student map  
**Attachments:** Helen Lehman SRTS GIS map 9\_2011 Opt.pdf

Hi Sandi,

I'm not sure if this got in with the correspondence for Jennings...if not, can you add it?

**Jessica Jones | Senior Planner**

Community Development Department | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404  
Tel. (707) 543-3410 | Fax (707) 543-3269 | [jjones@srcity.org](mailto:jjones@srcity.org)



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**From:** Griffin, Terri  
**Sent:** Monday, March 02, 2015 7:21 PM  
**To:** Jones, Jessica  
**Cc:** Regalia, Chuck; Griffin, Terri  
**Subject:** FW: Jennings Crossing - Helen Lehman student map

FYI

Terri

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**From:** Gary Helfrich [<mailto:gary@bikesonoma.org>]  
**Sent:** Monday, March 02, 2015 6:35 PM  
**To:** Sawyer, John; Coursey, Chris; Carlstrom, Erin; Combs, Julie; Olivares, Ernesto; Schwedhelm, Tom; Wysocky, Gary; Griffin, Terri  
**Subject:** Jennings Crossing - Helen Lehman student map

This afternoon I participated in a meeting about the City's project that will create a safe crossing of the SMART tracks at Jennings Avenue. For the last four years, the Bicycle Coalition has been providing a Safe Routes to School program at Helen Lehman Elementary School and we know that many of the kids attending Lehman cross the tracks at Jennings. We routinely perform walking audits at the schools we service to determine what routes are used by students and what barriers prevent more kids from walking or riding to school. As part of the walking audit process, we create a map identifying every household with kids attending a particular school. The map for Helen Lehman is attached and it's noteworthy how many of these kids live near (and use) the Jennings Crossing. One important thing to note is that each dot is a household, not an individual student. Many of the families living along Jennings and Range have multiple kids attending Lehman Elementary.

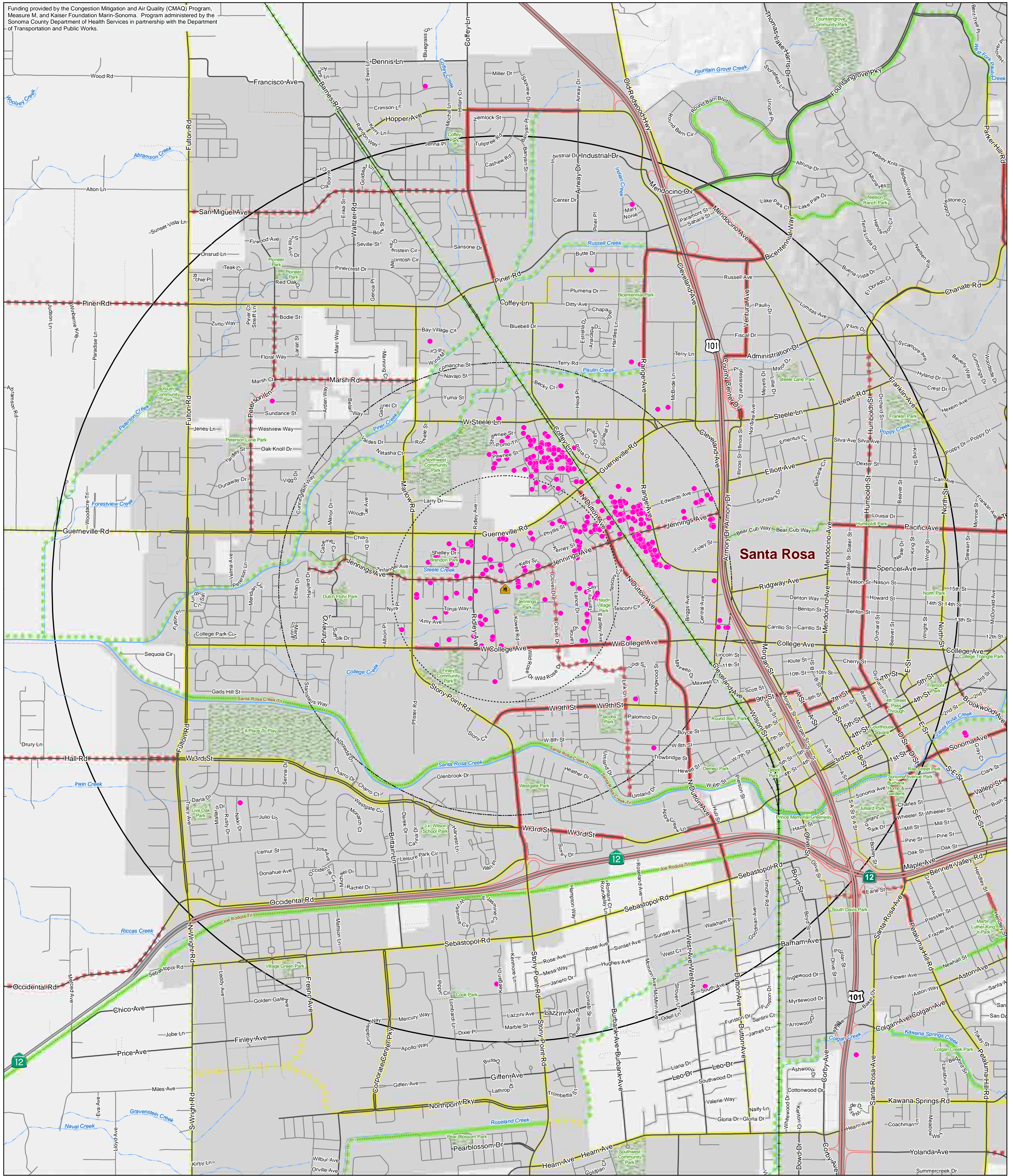
The Bicycle Coalition supports any project that provides a safe bicycle and pedestrian crossing at Jennings Avenue, but feels that a well designed at-grade crossing is much better than a bridge over the tracks. Of course, we all need to remember that regardless of what is done at the SMART tracks; the hazard presented by an active rail line is almost insignificant compared to the danger a block away when the kids have to cross Dutton Avenue.

I hope you find this map helpful. Please do not hesitate to contact me if you have any questions.

Gary

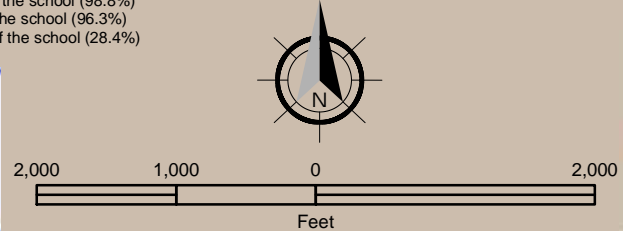
Gary Helfrich  
Executive Director  
Sonoma County Bicycle Coalition  
[www.BikeSonoma.org](http://www.BikeSonoma.org)  
Phone: 707-545-0153  
750 Mendocino Avenue, Suite 6, Santa Rosa

Funding provided by the Congestion Mitigation and Air Quality (CMAQ) Program, Measure M, and Kaiser Foundation Marin-Sonoma. Program administered by the Sonoma County Department of Health Services in partnership with the Department of Transportation and Public Works.



### Helen M. Lehman Elementary Safe Routes to School Study Map

516 Geocoded Students (7 did not have an address match)  
 510 Students live within 2 miles of the school (98.8%)  
 497 Students live within 1 mile of the school (96.3%)  
 147 Students live within 1/2 mile of the school (28.4%)



Symbol	Category	Description
Pink dot	Student Residence	Student Residence
Yellow house icon	Helen M. Lehman Elementary	Helen M. Lehman Elementary
Dashed line	1/2 Mile Buffer from School	1/2 Mile Buffer from School
Dotted line	1 Mile Buffer from School	1 Mile Buffer from School
Solid line	2 Mile Buffer from School	2 Mile Buffer from School
Green tree icon	Park	Park
Grey square	Incorporated City	Incorporated City
Thick grey line	Freeway	Freeway
Thin grey line	Highway	Highway
Black line with cross-ticks	Railway (Track)	Railway (Track)
Thin grey line	Primary Rd	Primary Rd
Thin grey line	Secondary Rd	Secondary Rd
Thin grey line	Interchange	Interchange
Thin grey line	Access Rd	Access Rd
Thin grey line	Private Rd	Private Rd
Thin grey line	Path	Path
Green line	SCTA Bike Plan	SCTA Bike Plan
Green line with dots	Class I, Existing	Class I, Existing
Green line with dashes	Class I, Proposed	Class I, Proposed
Yellow line with dots	Class II, Existing	Class II, Existing
Yellow line with dashes	Class II, Proposed	Class II, Proposed
Red line with dots	Class III, Existing	Class III, Existing
Red line with dashes	Class III, Proposed	Class III, Proposed
Blue line	Stream	Stream
Blue line with dots	Perennial	Perennial
Blue line with dashes	Intermittent	Intermittent



Map Produced by: Sonoma County GIS  
 2615 PAULIN DRIVE, SANTA ROSA, CA 95403  
 (707)565-3819 GIS@sonoma-county.org

**Author:** Sonoma County Department of Health Services  
**Projection and Coordinate System:** California State Plane Coordinate System, Zone II, NAD 83, US survey feet, Lambert Conformal Conic. Some data have been re-projected from other coordinate systems and may not reflect actual ground positions.  
**Document Source and Date:** [http://gisdata.org/projects/Health\\_Services/Public\\_Health/Safe\\_Routes\\_Schools/2011/MXD/Helen.mxd](#)  
**Source:** Sonoma County GIS Central, Sonoma County Public Safety Consortium, Sonoma County Transportation Authority, Helen M. Lehman Elementary.  
 This map is provided as a visual display of County information. Reasonable effort has been made to ensure the accuracy of the map and data provided; nevertheless, some information may not be accurate. The positional accuracy of the data is approximate and not intended to represent map accuracy from a published record of survey.  
 THE MAPS AND ASSOCIATED DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, either expressed or implied, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose. Do not make a business decision based on this data before validating your decision with the appropriate County agency or other government entity.

## Bliss, Sandi

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**From:** Jones, Jessica  
**Sent:** Monday, March 09, 2015 8:09 AM  
**To:** Bliss, Sandi  
**Cc:** Adams, Nancy; Sprinkle, Rob  
**Subject:** FW: CPUC jurisdiction  
**Attachments:** SR\_RRXings.pdf; SR\_RRXingsRefs.pdf

Hi Sandi,

Can you add this e-mail (and attachments) to my Council staff report for the Jennings Crossing EIR (3/17 Council meeting)?

### Jessica Jones | Senior Planner

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**From:** Thomas & Co. [mailto:landuse@sonic.net]  
**Sent:** Thursday, March 05, 2015 8:42 AM  
**To:** david.stewart@cpuc.ca.gov  
**Cc:** daren.gilbert@cpuc.ca.gov; bgamlen@sonomamarintrain.org; FMansourian@sonomamarintrain.org; Sprinkle, Rob; Jones, Jessica; McGlynn, Sean; Adams, Nancy; Sawyer, John; szane@sonoma-county.org  
**Subject:** CPUC jurisdiction

Dear Mr. Stewart,

I would like to bring clarity to role of the California Public Utility Commission role regarding the possible application for an at grade crossing at Jennings Ave, Santa Rosa Ca.

I first contacted you and the CPUC in 2011 regarding the City of Santa Rosa's desire create a new bike and pedestrian crossing at the Sonoma Marin Rail Transit line and Jennings Avenue in Santa Rosa. There is community concern about the possibility for the need to close an existing SMART at grade crossing if the City of Santa Rosa and SMART pursue a new grade crossing at Jennings.

The City of Santa Rosa has made it very clear the CPUC has jurisdiction over the Jennings crossing application process. You have been very clear what the process is to add a new crossing at Jennings. The City applied for a Metropolitan Transportation Commission grant in 2014 and was awarded 8.2 million dollars to construct a bridge a Jennings. These funds may be used if the bridge option is chosen. Financial hardship can not be used as a basis for a new an at grade crossing, per the CPUC.

The City Council of Santa Rosa will be selecting a crossing type for Jennings on March 17th, 2015. The project ERI should be certified that same night. I read your letter to Jessica Jones dated November 26, 2014 regarding the draft EIR. I understand that the CPUC can only encourage applicants to choose a crossing type that furthers the goals of your agency. But in the end it is the choice of the Santa Rosa City Counsel to decide how to proceed.

A group called Friends of SMART have been advocating for an at grade crossing at Jennings over the last year. They submitted a letter to Jessica Jones dated November 10, 2014; that state their objections to building a separated crossing due to the cost to tax payers and the look of the bridge. Now this same group is claiming that the CPUC does not have jurisdiction and does not control the process for creating a new crossing at Jennings.

I have attached two documents that I received yesterday regarding the CPUC's jurisdiction. I would like a response from your agency prior to March 17th, 2015 the date of Santa Rosa City counsel meeting regarding the Jennings issue. The CPUC's response hopefully will give more information to the Santa Rosa City counsel. If the CPUC stills controls the process has your agency amended it's position regarding a separated grade crossing at Jennings and the need for an at grade street closure?

Knowing if the CPUC controls the process or if SMART controls the process is vital for all concerned.

Thank you,

Allen Thomas

**Thomas & Co. Consulting**

<http://allenthomasconsulting.com/>

**707-477-8422**

# **Jennings Avenue Pedestrian and Bicycle Rail Crossing Project**

## ***Introduction & Overview***

On March 17, 2015, the Santa Rosa City Council will be voting whether to certify the Final Environmental Impact Report for the Jennings Avenue Pedestrian and Bicycle Rail Crossing Project (FEIR). Assuming the FEIR is certified, the City Council will then also be considering which of the alternatives presented in the FEIR to approve.

The Draft Environmental Impact Report (DEIR) had presented only two alternatives: an at-grade crossing at Jennings with closure of an existing crossing in the Railroad Square area; or an overcrossing without closure of any other crossing. Consideration of only those two alternatives had been based on a California Public Utilities Commission (CPUC) staff opinion citing CPUC policy that approval of a crossing at Jennings would require closure of an existing crossing.

Only after public input on the DEIR had closed was a third alternative added to the FEIR: application to the CPUC for a special exemption allowing approval of an at-grade crossing at Jennings without the closure of any other crossing. Because the Council's consideration of the FEIR will be a "report" item, however, with no public hearing, there will be no opportunity to introduce new information which clearly establishes that the CPUC does not actually have jurisdiction in the matter.

SMART is a transit district. All of the alternatives presented in the FEIR are based in erroneous assumptions regarding the extent of the CPUC authority over rail crossings in transit districts; it ignores a recent California court ruling in *Santa Clara Valley Transportation Authority v Public Utilities Commission of the State of California* 124 Cal. App. 4th 346, which clearly indicates that the CPUC has no statutory authority to require the closing of rail crossings or the construction of a rail overcrossing in a transit district. Additionally, the ruling indicates that in transit districts the authority of the CPUC over rail crossings is essentially limited to "regulation of safety appliances and procedures" and that CPUC jurisdiction does not extend to "the placement and construction" of rail crossings, i.e., whether a crossing should be built, where located, and whether at-grade or grade-separated. Based on this limited jurisdiction, the CPUC provides a specific simplified application process for approval of a "rail transit crossing" in a transit district; the FEIR ignores this as well.

The first two alternatives presented in the FEIR are not only based on erroneous assumptions, they are contrary to the goals of an EIR to identify the most socially appropriate and financially responsible way to protect the physical environment to the greatest extent. The new third alternative presented in the FEIR does at least fulfill the goals of an EIR; it has the least impact on the physical environment at the lowest social cost. However, it ignores that an application for approval of a "rail transit crossing" need only be based on technical safety factors, rather than on an appeal for exceptions to CPUC "policy."

The Santa Rosa City Council could act to correct the FEIR, i.e., incorporate new information regarding the CPUC's limited jurisdiction and simplified application process, and delete the unnecessary alternatives of closing any Railroad Square area crossing or building an overcrossing. Santa Rosa could then submit a technically correct "rail transit crossing" application to the CPUC for an at-grade crossing at Jennings. The EIR indicates that any possible delay in implementing construction is not an issue; it can go forward at any time without interfering with train service.

## *Details & References*

The City of Santa Rosa (Santa Rosa) contacted staff at the CPUC regarding construction of a pedestrian/bicycle rail crossing over the SMART right-of-way at Jennings Avenue. The CPUC staff opinion was that a Jennings pedestrian/bicycle rail crossing would be considered a new crossing and that any crossing there must be offset with the closing of one or more rail crossings in the Railroad Square area. (See attached p. 12.)

The CPUC staff opinion cites the CPUC's authority for requiring crossing closures in the SMART transit district as General Order No. 75-D, Section 2, that "as part of its mission to reduce hazards associated with at-grade crossings, and in support of the national goal of the Federal Railroad Administration (FRA), the Commission's policy is to reduce the number of at-grade crossings on freight or passenger railroad mainlines in California" (see attached p. 13: Jennings Avenue Pedestrian and Bicycle Rail Crossing Project FEIR, p. 2-12). Even though this is a "national goal of the Federal Railroad Administration (FRA)" there does not appear to be any issue of federal preemption of state law regarding rail crossing closures. A publication of the FRA, *Compilation of State Laws and Regulations Affecting Highway-Rail Grade Crossings* (see attached pp. 16-17), identifies the CPUC as having the exclusive authority to close rail crossings, pursuant to California Public Utilities Code Sections 1201 & 1202. (Also see attached pp. 18-19: discussion in the Federal Highway Administration publication *Railroad Highway Grade Crossing Handbook*, Appendix H.)

Acting on acceptance of the CPUC opinion, Santa Rosa included two alternatives in the DEIR: construction of an at-grade rail crossing at Jennings, conditional on the closure of one or more crossings in the Railroad Square area; or the construction of a rail overcrossing at Jennings with no closure. Santa Rosa ignores that the estimated cost of a Jennings overcrossing would be about ten million dollars (see attached p. 20), an amount greater than Santa Rosa pays into SMART in a year and about twice the cost of improving all of the other Santa Rosa crossings combined. In the FEIR, Santa Rosa has added a new alternative: an at-grade rail crossing without the closure of any crossing in the Railroad Square area. Santa Rosa states that recirculation of the FEIR is not required to consider this new alternative (see attached p. 13: Jennings Avenue Pedestrian and Bicycle Rail Crossing Project FEIR, pages 2-11 through 2-14) and that there will be no public hearing or comment possible at the City Council meeting considering certification of the FEIR (see attached p. 21). Consequently, there will be no opportunity to introduce new information which clearly establishes that the CPUC does not actually have jurisdiction in the matter.

Although the issue of the CPUC's jurisdiction to require crossing closures has been raised throughout the EIR process, it appears that Santa Rosa has relied on the opinion of CPUC staff (see attached pp. 12-13). Moreover, Santa Rosa has ignored a recent California court case, *Santa Clara Valley Transportation Authority v Public Utilities Commission of the State of California* 124 Cal. App. 4th 346 (2004) (VTA) (see attached at pp. 1-11), which clearly indicates that the CPUC has no statutory authority to require rail crossing closures or construction of a rail overcrossing in the SMART transit district.

In the VTA case, the scope of CPUC's jurisdiction over crossings in rail transit districts was clarified. The ruling indicates that the authority of the CPUC over rail crossings in a transit district is essentially limited, under Section 99152, to "regulation of safety appliances and procedures" and does not extend to "the placement and construction" of rail crossings, i.e., whether a crossing should be built, where located, and whether at-grade or grade-separated.

Because the factual basis of the case involved the "light rail transit systems operated by a transit district" the VTA opinion does contain the descriptive term "light rail." However, the ruling is not limited to the "light rail transit system operated by" the Santa Clara Valley Transportation Authority. Although due to the particular circumstances, the VTA court could have found the case moot it chose instead to exercise its discretion to "resolve this jurisdictional dispute since it is a matter of continuing public importance and the issue is likely to recur ... " (see attached p. 4). The court noted that, "The VTA like all transit districts in the state, is a public district organized pursuant to state law and designated as a transit district in its enabling legislation." (See attached p. 4.) SMART is also such a public district. (See attached pp. 22-23: The enabling legislation for SMART is in Public Utilities Code Sections 105010-155337.) Both SMART and Santa Clara Valley Transportation Authority are under the same relevant provisions regarding CPUC jurisdiction. (See attached pp. 24-25.)

Although, as noted above, the VTA opinion refers to "light" rail, it cites no statutory definition for that term and does not set it in contrast to any other classification such as "heavy" rail. The VTA court's relevant distinction in limiting the CPUC jurisdiction is not based in a contrast between "light" and any other classification of rail, but rather in the distinct status of public transit districts. The VTA court cited established case law that CPUC authority is limited to the regulation of privately owned utilities unless there is express legislation providing the CPUC with authority over publicly owned utilities. (See attached p. 4.) Both SMART and the North Coast Railroad Authority which will be using the SMART rail line are also publicly owned. (See attached pp. 30-31.) The enabling legislation for the NCRA is in Government Code Section 93000, et seq. (See pp. 32-34.)

The CPUC is an administrative agency and its power to enforce its Order No. 75-D crossing closure policy (cited in its opinion to Santa Rosa) is limited to the express powers granted to it in statutes enacted by the Legislature. The VTA court identified two sections of the Public Utility Code, Sections 1201 and 1202 (see attached p. 1), as "broadly worded grants of power to the CPUC over railroad crossings in general." (See attached p. 1.) These are the same sections identified by the federal publications, noted above, as the state statutes that grant the CPUC authority to close rail crossings. Under these two sections, it might appear that the CPUC would have the authority to maintain that the only way that an at-grade rail crossing at Jennings could be approved would be to close a crossing in the Railroad Square area.

However, the VTA court ruled that Sections 1201 and 1202 do not apply to transit districts. In reaching this conclusion, the court reasoned that:



" ... PUC jurisdiction over a transit district must be clearly provided by statute" and "When the Legislature has intended to grant the PUC jurisdiction over transit districts or public light rail transit districts, it has passed express legislation doing so." (See attached p. 10.)

"However, even assuming that the Legislature could extend the PUC's section 1202 exclusive railroad crossing jurisdiction to cover the light rail transit crossings of the VTA or any other transit district in the state, this does not mean that the Legislature has done so or ever intended to do so." (See attached p. 9.)

"The Legislature's historic treatment of this subject area demonstrates that the Legislature has taken great care in crafting the enabling legislation for transit districts." (See attached p. 9.)

" ... [I]n the absence of an express provision, [the courts] will not infer a legislative intent to confer PUC jurisdiction over a transit district." (See attached p. 9.)

"Rather, PUC jurisdiction over a transit district must be clearly provided by statute. If the Legislature has intended to grant the PUC jurisdiction over transit districts or public light rail transit systems, it has passed express legislation doing so." The court could "not discern any legislative intent, express or implied to impose section 1201 and section 1202 exclusive railroad crossing jurisdiction" on a transit district. (See attached p. 10.)

Based on the VTA court's reasoning, then, the CPUC has no jurisdiction under these sections to require the closing of rail crossings or the construction of a rail overcrossing in Santa Rosa which is in the SMART transit district. Research to date has not located any other statutes in the California Public Utilities Code that expressly grant the CPUC jurisdiction over transit districts to apply or to enforce the CPUC policy stated in General Order No. 75-D, Section 2.

However, SMART along with all other transit districts authorized by the Legislature are without question subject to " ... regulations of the [CPUC] relating to safety appliances and procedures" including those at crossings. (See attached p. 24: Public Utilities Code Section 99152.) (Also see attached p. 10: VTA ruling.) (Also see attached p. 5: VTA court's discussion of the legislative history of Section 99152.) Section 105241 in the enabling legislation for the SMART transit district also mandates that Section 99152 is applicable to the SMART transit district (see attached p. 25). Further, the CPUC itself identifies Public Utilities Code Section 1201-1205 as being applicable to "Public railroad crossings" but distinguishes Section 99152 as being applicable to "Transit". (See attached p. 35, in lower section of page: CPUC General Orders For Rail Crossings, Public Utilities Code.) This is consistent with the VTA court ruling that Sections 1201 and 1202 are not applicable to transit districts, whereas Section 99152 is.

The CPUC Rail Transit Rules and Regulations, General Safety Rules, lists General Order 143-B and General Order 164-D as relevant to rail transit safety and security, and each of those General Orders cites Section 99152 as one of the statutes on which its authority is based (see attached p. 36). General Order 143-B, Safety Rules and Regulations Governing Light-Rail Transit, seems to contain only safety technical information, standards, and related requirements (see attached pp. 37-38: GO 143-B, page 2, provision 1.02). General Order 164-D, Rules and Regulations

Governing State Safety Oversight of Rail Fixed Guideway Systems (see attached pp. 39-43: GO 164-D, page 2, General Provision 1.1) states that an applicant for approval of an at-grade rail crossing may file a "Rail Crossing Hazard Analysis Report" (see attached p. 41, 10.3.i), lists the contents of such a report (see attached p. 41, 10.4.a through e), and also contains information regarding Requirements for Safety Certification Plan and Safety Certification Verification Report (see attached pp. 42-43: GO 164-D, page 12-13).

In keeping with the distinct provisions for rail transit systems, the CPUC does have two different published criteria for crossing applications: one for "railroad crossing", also known as "public railroad crossing", and one for "rail transit crossing". The distinct "rail transit crossing" application process involves the preparation of a Rail Crossing Hazards Analysis Report as specified in GO 164-D. (See attached p. 44: Rail Crossing Formal Applications, paragraph 4.) (Also see attached pp. 45-46: CPUC Overview: Rail Crossings.) Santa Rosa has ignored this distinct "rail transit crossing" application process provided specifically for new crossings in rail transit districts and has failed to disclose in the FEIR that it has never filed a Rail Crossing Hazard Analysis Report with the CPUC.

Santa Rosa has also failed to disclose the history of past rail crossings in Santa Rosa. The Jennings crossing was closed to vehicle traffic by Sonoma County about 1962 in favor of the extension of Guerneville Road. (See attached pp.47-48.) Further, a historic crossing at 10th Street was closed by the Santa Rosa City Council in 1969 in favor of the extension of Piner Road. (See attached pp. 49-50.) That history, when the rail line was under exclusive CPUC jurisdiction, suggests that accepting the underlying premise of CPUC authority to close crossings has serious potential to raise the same issues again in the future. Even if Santa Rosa complies with the opinion of the CPUC staff and an overcrossing is built at Jennings, the issue of the CPUC jurisdiction to require crossing closure will be unresolved and may recur, once again focusing on Railroad Square area crossings, most notably that at Seventh Street.

SMART may expand over time and population growth may generate a need for additional crossings, particularly pedestrian and bicycle crossings. If the CPUC can continue requiring the closure of safe crossings in exchange for additional crossings, it will complicate the construction of suitable new crossings. This is a public interest issue. SMART is funded by voter-approved taxes and public trust and support must be maintained. The CPUC is a state public agency which must act within its lawful authority as defined by statutes and court rulings. Santa Rosa is also a public agency which must provide an adequate FEIR with full disclosure as well as opportunity for public input on all project alternatives.

The Santa Rosa City Council could act to correct the FEIR, i.e., incorporate new information regarding the CPUC's limited jurisdiction and simplified application process, and delete the unnecessary alternatives of closing any Railroad Square area crossing or building an overcrossing. Santa Rosa could then submit a technically correct "rail transit crossing" application to the CPUC for an at-grade crossing at Jennings.

21 Cal.Rptr.3d 270 (2004)

124 Cal.App.4th 346

**SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, Petitioner,**  
**v.**  
**PUBLIC UTILITIES COMMISSION OF the STATE OF CALIFORNIA, Respondent.**

No. H026101.

**Court of Appeal, Sixth District.**

November 22, 2004.

Rehearing Denied December 14, 2004.

Review Denied March 16, 2005.<sup>[1]</sup>

272 \*272 Suzanne B. Gifford, Richard A. Katzman, San Jose, Benjamin H. Scharf, Santa Cruz, for Petitioner, Santa Clara Valley Transportation Authority.

Lionel B. Wilson, Jr., Randy Wu, Mary F. McKenzie, Dale Alison Holzschuh, San Francisco, for Respondent, Public Utilities Commission of the State of California.

California Transit Association, Amicus Curiae on behalf of Petitioner.

271 \*271 BAMATTRE-MANOUKIAN, Acting P.J.

This case concerns the scope of the Public Utilities Commission's jurisdiction over light rail transit systems operated by a transit district. The Santa Clara Valley Transportation Authority (VTA), a regional transit district, timely sought a writ of review of two decisions of the Public Utilities Commission (PUC) in which the PUC concluded that it had independent authority to review the transit district's light rail crossings, pursuant to Public Utilities Code section 99152, which concerns the safety of public transit guideways, and pursuant to Public Utilities Code sections 1201  
273 and 1202, which are more broadly \*273 worded grants of power to the PUC over railroad crossings in general.<sup>[1]</sup> The transit district agreed that the PUC has safety oversight jurisdiction over light rail transit systems, including crossings, under section 99152, but the transit district asserted that the PUC's exclusive jurisdiction over railroad crossings under sections 1201 and 1202 did not apply to the transit district. We issued a writ of review to decide the limited issue of whether the exclusive railroad crossing jurisdiction conferred on the PUC by the Legislature pursuant to sections 1201 and 1202 also applies to the VTA's light rail transit crossings. We conclude that sections 1201 and 1202 do not apply to the transit district, and we therefore annul the PUC decisions to the extent the PUC asserted jurisdiction over the transit district's light rail crossings pursuant to these sections.

## **I. FACTUAL AND PROCEDURAL BACKGROUND**

The Santa Clara County Transit District, now known as VTA, is a transit district formed pursuant to the Santa Clara County Transit District Act in 1969. (§ 100000 et seq.)<sup>[2]</sup> The VTA is one of several public transportation operators that currently operate light rail transit systems in California.

In January 2001, the VTA filed an application with the PUC for authorization to construct an at-grade crossing of Hamilton Avenue by the light rail transit line of its Vasona Light Rail Project in the City of Campbell. (PUC Application No. 01-01-003.) The PUC's rail staff "protested" the application based on safety concerns regarding an at-grade crossing and asserted that a grade-separated crossing was the only safe method of crossing.<sup>[3]</sup> After further study, the VTA decided to construct an aerial grade-separated crossing of the road and filed a petition to withdraw the application. In its petition to withdraw the application, the VTA took the position that the PUC's authorization to construct the Hamilton Avenue crossing was not required since the VTA had decided to cross Hamilton Avenue by an aerial grade separation and had abandoned its earlier plan to cross at grade. The PUC decision denying the VTA's petition to withdraw the application and the related PUC decision denying rehearing are the subject of this court's review.

In its decision, the PUC found that it had jurisdiction to approve the construction and placement of the VTA's light rail crossings. (PUC Dec. No. 02-12-053, 2002 WL 31927540 (Dec. 17, 2002) (hereafter Decision).) The PUC also discussed the scope of its jurisdiction to review and approve rail/street crossings. As noted in the Decision, the VTA admitted that it was subject to PUC jurisdiction under sections 100168, 778, and 99152. (Decision, at p. 14.) The PUC found that it had broad safety authority under section 99152 and that this "safety jurisdiction" extended over transit system guideways, including inspection and approval of rail/street crossings.<sup>[4]</sup> The PUC also found that its  
274 \*274 exclusive "rail crossing jurisdiction," conferred by section 1202, applied to street railroads operated by transit districts, including the VTA. As stated in the Decision, "Since a plain reading of § 1202 makes it clear that the Commission has exclusive jurisdiction over street crossings by street railroads like those operated by VTA, the Commission is required to review and approve the proposed Hamilton Avenue crossing before that crossing can be constructed. That jurisdictional imperative, both as to § 1201 and § 1202, derives from the Constitution and has been broadly interpreted to apply in the case of public agencies. We conclude that VTA is subject to the rail crossing authority of this Commission."<sup>[5]</sup> (Decision, at p. 23.)

275 \*275 The VTA filed an application for rehearing of the Decision, claiming that those portions of the Decision that asserted jurisdiction over the VTA regarding the placement and construction of its light rail transit street crossings under sections 1201 and 1202 were in excess of the PUC's jurisdiction. In May 2003, the PUC denied the application for rehearing. (PUC Dec. No. 03-05-081, 2003 WL 21296333 (May 22, 2003) (hereafter Rehearing Decision).) In its Rehearing Decision, the PUC emphasized that it had adequate authority to review the VTA's crossings pursuant to either section 99152, concerning the safety of public transit guideways, or pursuant to sections 1201 and 1202, concerning railroad crossings. The PUC concluded that its authority pursuant to either statutory scheme was sufficient to support its conclusion that it had the authority to require the VTA to file an application for approval prior to the construction of the VTA's light rail crossings. The PUC also found that it independently had authority over the VTA's light rail crossings pursuant to sections 1201 and 1202.

The VTA filed a petition for writ of review, challenging only the PUC's assertion of exclusive jurisdiction under sections 1201 and 1202. We issued a writ of review to resolve this limited jurisdictional issue.

## II. SCOPE OF REVIEW

This court's authority to issue a writ of review and the scope of such review is set forth in section 1756 et seq. Section 1756, subdivision (a) provides in relevant part: "Within 30 days after the commission issues its decision denying the application for a rehearing, ... any aggrieved party may petition for a writ of review in the court of appeal or the Supreme Court for the purpose of having the lawfulness of the original order or decision or of the order or  
2 decision on rehearing inquired into and determined. If the writ issues, it shall be made returnable at a time and place

specified by court order and shall direct the commission to certify its record in the case to the court within the time specified." The scope of judicial review includes determining, inter alia, whether the commission acted without, or in excess of, its powers or jurisdiction, whether the commission has not proceeded in the manner required by law, or whether the order or decision was an abuse of discretion. (§ 1757, subd. (a)(1), (2) & (5).)

Here, petitioner VTA timely filed a petition for a writ of review after denial of rehearing, challenging the scope of the PUC's assertion of exclusive jurisdiction below. As set forth in the PUC Decision and Rehearing Decision, the PUC repeatedly asserted that it independently has authority over light rail crossings pursuant to sections 1201 and 1202, that it has exclusive rail crossing jurisdiction under section 1202, and that the VTA is subject to its section 1201 and section 1202 jurisdiction since it operates a "street railroad."

Since the PUC has repeatedly asserted that it possesses jurisdiction over the VTA under sections 1201 and 1202, the instant matter is the proper subject of a writ of review by this court. There is a legitimate question whether the PUC is acting outside the scope of its jurisdiction by asserting continuing jurisdiction under sections 1201 and 1202, notwithstanding the fact that the PUC admittedly has safety jurisdiction over light rail crossings under sections 99152, 778, and 100168.

276 The PUC maintains that the issue in this case is whether it has the authority to \*276 require the VTA to file an application and obtain the PUC's approval prior to constructing its light rail crossings. The PUC asserts that two separate legislative grants provide it with authority to review the placement and construction of light rail transit crossings and that either statutory scheme, i.e., section 99152 safety jurisdiction and section 1202 exclusive railroad crossing jurisdiction, provide it with independent sources of authority to review the VTA's crossings.

We wish to emphasize that the issue we decide is limited to the question of whether the exclusive railroad crossing jurisdiction conferred on the PUC by the Legislature pursuant to sections 1201 and 1202 also applies to the VTA's light rail transit crossings. We do not reach the separate issue of whether the PUC has the authority to require the VTA to file an application and obtain the PUC's approval of its light rail transit crossings pursuant to the PUC's section 99152 safety jurisdiction and the existing General Order 143-B application requirement since the VTA has conceded this issue and did not contest this aspect of the Decision in its rehearing application.<sup>[6]</sup> (See § 1732.) Here, the PUC maintains that sections 1201 and 1202 provide it with an independent statutory source of jurisdiction over the VTA's light rail transit crossings. Hence, we address only the issue of the PUC's assertion of jurisdiction under sections 1201 and 1202.

### III. DISCUSSION

#### A. Mootness

Prior to oral argument, we requested that the parties be prepared to discuss whether the case should be considered moot in light of the fact that the PUC subsequently approved the VTA's application for an aerial crossing of Hamilton Avenue, which was filed after the PUC Decision in this case. At oral argument, both the PUC and VTA acknowledged that a continuing jurisdictional dispute remained and noted the importance of having this court decide this issue.

After further consideration, we find that the matter is not moot and that this controversy is ripe for our review. The VTA's subsequent application for an aerial crossing was made pursuant to sections 99152 and 100168 and General Orders 164-B and 143-B, and it expressly reserved the legal jurisdictional issues in the PUC Decision for later determination by the PUC or the courts. (PUC Application No. 02-12-040.) The subsequent application

notwithstanding, the PUC issued its final Rehearing Decision in this case, reaching the section 1201 and section 1202 jurisdictional dispute, continuing to assert such jurisdiction, and triggering the VTA's right to petition this court for review. In light of the PUC's continuing assertion of section 1201 and section 1202 jurisdiction over the Hamilton Avenue crossing, we find that a material controversy remains for our determination and that the matter is not moot. (See Eye Dog Foundation v. State Board of Guide Dogs for the Blind (1967) 67 Cal.2d 536, 541, 63 Cal.Rptr. 21, 432 P.2d 717.)

277 Furthermore, even if we were to find the matter technically moot as to the Hamilton Avenue crossing, we would exercise <sup>277</sup> our discretion to resolve this jurisdictional dispute since it is a matter of continuing public importance and the issue is likely to recur with respect to future light rail transit crossings constructed by the VTA and other public entities that operate light rail transit systems throughout the state. (See Morehart v. County of Santa Barbara (1994) 7 Cal.4th 725, 746-747, 29 Cal. Rptr.2d 804, 872 P.2d 143.)

## B. Legal Background

"The [PUC] is a state agency of constitutional origin with far-reaching duties, functions and powers. (Cal. Const., art. XII, §§ 1-6.) The Constitution confers broad authority on the [PUC] to regulate utilities, including the power to fix rates, establish rules, hold various types of hearings, award reparation, and establish its own procedures. (*Id.*, §§ 2, 4, 6.)" [Citation.] In addition to those powers expressly conferred on the PUC, the California Constitution confers broad authority on the Legislature to regulate public utilities and to delegate regulatory functions to the PUC. (Cal. Const., art. XII, §§ 3, 5.)" (Hartwell Corp. v. Superior Court (2002) 27 Cal.4th 256, 264-265, 115 Cal.Rptr.2d 874, 38 P.3d 1098.)<sup>[7]</sup>

As our Supreme Court has recognized, "[e]stablished doctrine declares that, 'In the absence of legislation otherwise providing, the [PUC's] jurisdiction to regulate public utilities extends only to the regulation of privately owned utilities.' (Los Angeles Met. Transit Authority v. Public Utilities Com. (1959) 52 Cal.2d 655, 661, 343 P.2d 913.) The Court of Appeal noted the same principle in People ex rel. Pub. Util. Com. v. City of Fresno [(1967)] 254 Cal.App.2d 76, 81, 62 Cal.Rptr. 79. We reiterated in Orange County Air Pollution Control Dist. v. Public Util. Com. (1971) 4 Cal.3d 945, 953 at footnote 7, 95 Cal.Rptr. 17, 484 P.2d 1361, that 'The [PUC] has no jurisdiction over municipally owned utilities unless expressly provided by statute.' Significantly, when the Legislature first granted the PUC regulatory authority over the Los Angeles Metropolitan Transit Authority, it enacted such a specific statute (Stats.1951, ch. 1668, p. 3804), and observed that in so doing it 'has made exceptions to a long established policy....' (Stats.1951, ch. 1668, § 13.4.)" (County of Inyo v. Public Utilities Com. (1980) 26 Cal.3d 154, 166, 161 Cal.Rptr. 172, 604 P.2d 566.)

278 The VTA, like all transit districts in the state, is a public district organized pursuant to state law and designated as a transit district in its enabling legislation. (See §§ 99213, 100001.) Pursuant to its enabling legislation, the Legislature has granted the VTA a broad range of powers in order to meet the public transit and transportation problems of Santa Clara County. (§§ 100001, 100001.5.) The VTA is statutorily authorized to "exercise any and all powers granted by any other law <sup>278</sup> that, by its terms, is applicable to transit districts generally, to public agencies generally, or to any classification of districts or public agencies that includes a district of the type provided for in this part, but the district shall not exercise any power contrary to an express provision of this part." (§ 100115.) The VTA's enabling legislation also grants the VTA broad authority over the design, location, and construction of its light rail transit system. (See §§ 100161, subd. (a), 100164.)

Here, the fundamental issue concerns the scope of the PUC's jurisdiction under sections 1201 and 1202, which generally grant the PUC exclusive jurisdiction over railroad and street railroad crossings. The California Constitution authorizes the Legislature to grant jurisdiction to the PUC, and the Legislature has conferred section 1201 and section 1202 jurisdiction on the PUC; however, the Legislature also enacted the VTA's enabling legislation and granted the VTA extensive powers as a transit district. Since the VTA is in essence a creature of statute and given the statutory basis of the disputed jurisdiction, resolution of this case turns on the issue of statutory interpretation and legislative intent. The important question in this case is whether the Legislature intended for sections 1201 and 1202 to apply to the transit district. We believe that the resolution of this issue requires an understanding of the context in which the Legislature created the section 1201 and 1202 jurisdiction, the VTA, and related statutes.

The relevant provisions of sections 1201 and 1202 and the associated declaration of legislative intent found in section 1219 predate the creation of the VTA. The PUC's exclusive railroad crossing jurisdiction pursuant to section 1202 actually predates the creation of transit districts and was included in the original act creating the Public Utilities Code in 1951. (Stats.1951, ch. 764, §§ 1201-1202, pp.2071-2072.) In fact, the historical origin of the PUC's section 1202 exclusive railroad crossing jurisdiction can be traced back much further. (See, e.g., Stats.1911, ch. 20, § 15, p. 18 [predecessor of § 1202, subds. (a)-(c)]; Stats.1911, Ex.Sess., ch. 14, § 43(a), p. 40 [predecessor of § 1201]; Stats.1933, ch. 855, § 1, p. 2234 [predecessor of § 1219].)

In 1955, the Legislature added division 10 to the Public Utilities Code, which contains the enabling legislation for the individual transit districts. (Stats.1955, ch. 1036, § 2, p.1950.) Over time, the Legislature has passed enabling legislation for the individual transit districts.

In 1969, the Legislature passed the enabling legislation for the VTA, which is a separate statutory scheme contained in a separate part of the Public Utilities Code, i.e., part 12 of division 10. (§ 100000 et. seq.) The Legislature expressly found and declared that it was "necessary that a transit district be established in the County of Santa Clara in order to meet the public transit problems of that county" and that the "formation of a special district [was] required." (§ 100001.)<sup>[B]</sup>

When the Legislature passed the VTA's enabling legislation, it included an express provision subjecting the VTA to PUC regulation "relating to safety appliances and procedures." (§ 100168.) However, the VTA's enabling legislation did not and does not contain any provision similar to section 1202 that would expressly provide the PUC with exclusive jurisdiction over the VTA's light rail crossings.

279 In 1976, several years after the creation of the VTA, the Legislature added section 778, which required the PUC to adopt \*279 rules and regulations relating to safety appliances and procedures for rail transit services operated at grade and in vehicular traffic. (Stats.1976, ch. 924, § 1, p. 2110.)

In 1978, the Legislature added section 99152, which subjected any new public transit guideways to the PUC's regulation of "safety appliances and procedures." (Stats.1978, ch. 1142, § 1, p. 3509.) As noted in the Legislative Counsel's Digest, "[u]nder existing law, the San Francisco Bay Area Rapid Transit District, the [VTA], and the Southern California Rapid Transit District are subject to the regulations of the [PUC] relating to safety appliances and procedures and inspection by the [PUC] related thereto," and the new law would subject any new public transit guideways to such regulations and inspection. (Legis. Counsel's Dig., Sen. Bill No. 1634, 4 Stats. 1978 (1977-1978 Reg. Sess.) 1978 Summary Dig., pp. 315-316.)

In 1986, the Legislature amended section 99152 to add a requirement that the PUC develop a "safety oversight program" to be met by the operators of those public transit guideways. (Stats.1986, ch. 483, § 1, p. 1797.)

With this background in mind, we now turn to the question of whether the PUC's section 1201 and 1202 jurisdiction applies to the VTA.

### C. Standard of Review

Initially, the PUC asserts that its interpretation of sections 1201 and 1202 as applying to light rail transit crossings is entitled to "great deference." The VTA argues that the interpretation of the statutes is the subject of independent judicial review.

"An agency interpretation of the meaning and legal effect of a statute is entitled to consideration and respect by the courts; however, unlike quasi-legislative regulations adopted by an agency to which the Legislature has confided the power to 'make law,' and which, if authorized by the enabling legislation, bind this and other courts as firmly as statutes themselves, the binding power of an agency's *interpretation* of a statute or regulation is contextual: Its power to persuade is both circumstantial and dependent on the presence or absence of factors that support the merit of the interpretation.... [¶] Courts must, in short, independently judge the text of the statute, taking into account and respecting the agency's interpretation of its meaning, of course, whether embodied in a formal rule or less formal representation. Where the meaning and legal effect of a statute is the issue, an agency's interpretation is one among several tools available to the court. Depending on the context, it may be helpful, enlightening, even convincing. It may sometimes be of little worth." (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 7-8, 78 Cal.Rptr.2d 1, 960 P.2d 1031, original italics; see also *Southern Cal. Edison Co. v. Public Utilities Com.* (2000) 85 Cal.App.4th 1086, 1096, 102 Cal. Rptr.2d 684.)

This case turns on statutory interpretation and issues of legislative intent underlying sections 1201 and 1202 as well as the VTA's enabling legislation and related statutes applicable to public light rail transit systems. Therefore, our review is independent review. (*Yamaha Corp. of America v. State Bd. of Equalization, supra*, 19 Cal.4th at pp. 7-8, 78 Cal.Rptr.2d 1, 960 P.2d 1031.)

280 "A fundamental rule of statutory construction is that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. [Citations.] In construing a statute, our first task is to look to the language of the statute itself. [Citation.] When the language \*280 is clear and there is no uncertainty as to the legislative intent, we look no further and simply enforce the statute according to its terms. [Citations.] [¶] Additionally, however, we must consider the [statutory language] in the context of the entire statute [citation] and the statutory scheme of which it is a part. We are required to give effect to statutes "according to the usual, ordinary import of the language employed in framing them." [Citations.] [Citations.] "If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose." [Citation.] ... "When used in a statute [words] must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear." [Citations.] Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole. [Citations.]"" (*Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 743, 110 Cal.Rptr.2d 828, 28 P.3d 876, quoting *Phelps v. Stostad* (1997) 16 Cal.4th 23, 32, 65 Cal.Rptr.2d 360, 939 P.2d 760.)

"We examine the statutes in their context and with other legislation on the same subject. [Citation.] If they conflict on a central element, we strive to harmonize them so as to give effect to each. If conflicting statutes cannot be reconciled, later enactments supersede earlier ones [citation], and more specific provisions take precedence over more general ones [citation]. Absent a compelling reason to do otherwise, we strive to construe each statute in accordance with its plain language. [Citation.]" (*Collection Bureau of San Jose v. Rumsey* (2000) 24 Cal.4th 301, 310, 99 Cal.Rptr.2d 792, 6 P.3d 713.)



"It is well settled that a later statute may supersede, modify, or so affect the operation of an earlier law as to repeal the conflicting earlier law by implication. [Citations.]` The courts assume that in enacting a statute the Legislature was aware of existing, related laws and intended to maintain a consistent body of statutes.' [Citation.]" (Orange County Air Pollution Control Dist. v. Public Util. Com. (1971) 4 Cal.3d 945, 954, fn. 8, 95 Cal.Rptr. 17, 484 P.2d 1361.) "Where, as here, legislation has been judicially construed and a subsequent statute on the same or an analogous subject uses identical or substantially similar language, we may presume that the Legislature intended the same construction, unless a contrary intent clearly appears." (Estate of Griswold (2001) 25 Cal.4th 904, 915-916, 108 Cal.Rptr.2d 165, 24 P.3d 1191.)

Where the issue involves two potentially overlapping statutory schemes, "we must read the two statutes together and construe them so as to give effect, when possible, to all the provisions thereof. [Citations.] If the meaning of the statutory language is unclear, we turn to the Legislative history to determine intent, and we apply other traditional aids in statutory construction." (De Anza Santa Cruz Mobile Estates Homeowners Assn. v. De Anza Santa Cruz Mobile Estates (2001) 94 Cal.App.4th 890, 909, 114 Cal.Rptr.2d 708.) "In such circumstances, we `select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences." [Citation.]" (Day v. City of Fontana (2001) 25 Cal.4th 268, 272, 105 Cal.Rptr.2d 457, 19 P.3d 1196.)

## D. Jurisdictional Analysis

281 Looking first at the statutory language, we note that section 1201 speaks in \*281 terms of requiring the PUC's permission to construct roads or tracks across the tracks of any "railroad or street railroad corporation" and that section 1202 gives the PUC exclusive jurisdiction over the crossings of a "railroad or street railroad." In section 1219, the Legislature has expressly declared that sections 1201 to 1205 were enacted "as aids to the jurisdiction vested in the commission for the supervision, regulation, and control of railroad and street railroad corporations."

The Public Utilities Code contains general definitions for these terms. A "street railroad corporation" is generally defined to include "every corporation or person owning, controlling, operating, or managing any street railroad for compensation" (§ 232), and a "street railroad" is generally defined to include "every railway ... being mainly upon ... any street" (§ 231).<sup>191</sup> A "public utility" is generally defined to include, inter alia, "every common carrier" (§ 216), and "common carrier" is generally defined to include "every person and corporation providing transportation for compensation," including every "street railroad corporation" (§ 211, subd. (a)). A "corporation" is generally defined to include "a corporation, a company, an association, and a joint stock association." (§ 204.)

In contrast to these general definitions, the definitions contained within the VTA's enabling legislation govern its construction unless the context otherwise requires. (§ 100010.) The VTA's enabling legislation defines "person" to include "any individual ... [or] corporation ... but does not include a public agency, as defined in this chapter." (§ 100019.) A "public agency" is defined in the enabling legislation to include, inter alia, "any ... district ... or public entity of, or organized under the laws of, this state..." (§ 100016.) While the VTA arguably could be considered to be operating a "street railroad," it is a "public agency," not a "person" and arguably not a "corporation." While we recognize that the VTA conceivably could be characterized as a type of public corporation (see Turlock Irrigation Dist. v. Hetrick (1999) 71 Cal.App.4th 948, 952-953, 84 Cal.Rptr.2d 175), it is not designated as such in its enabling legislation, and, regardless, it does not necessarily follow that the VTA should be considered a "street railroad corporation," which appears to be the target of section 1201 and section 1202 jurisdiction.

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Construing this statutory language within the context of the statutory schemes, we believe that it is unclear from the statutory language alone whether the Legislature intended section 1201 and section 1202 to apply to a public transit district such as the VTA. Under the circumstances, we find the language of sections 1201, 1202, and 1219 ambiguous as to whether the PUC's section 1201 and section 1202 rail crossing jurisdiction applies to the light rail crossings of a public transit district. Therefore, it is necessary to turn to legislative history and other interpretive aids to resolve the issue of legislative intent.

As noted above, the Legislature granted the PUC exclusive railroad crossing jurisdiction under sections 1201 and 1202 long before it passed the enabling legislation for the VTA. Significantly, in the meantime, the PUC's jurisdiction over public transit was the subject of two California Supreme Court decisions, Los Angeles Met. Transit Authority v. Public Utilities Com. (1959) 52 Cal.2d 655, 343 P.2d 913 (hereafter *MTA I*), and Los Angeles Met. Transit Authority v. Public Util. Com. (1963) 59 Cal.2d 863, 31 Cal.Rptr. 463, 382 P.2d 583 (hereafter *MTA II*). These decisions are significant because they reveal the Legislature's historical treatment of public transit agencies and its view of the PUC's jurisdiction over such public agencies, as interpreted by the California Supreme Court. (See County of Inyo v. Public Utilities Com., *supra*, 26 Cal.3d 154, 166, 161 Cal.Rptr. 172, 604 P.2d 566.)

In *MTA I*, the Los Angeles Metropolitan Transit Authority (Authority) sought to annul a PUC order granting a certificate of public convenience and necessity to Charter Bus Transportation Company, which operated a privately owned transportation system. Charter Bus Transportation Company operated seasonal passenger stage services to several racetracks located in the vicinity of Los Angeles and sought to expand and operate a bus service to the home games of the Los Angeles Dodgers Baseball Club. The Authority contended that its enabling legislation precluded the PUC from authorizing new passenger stage operations in Los Angeles County. After analyzing the Authority's enabling legislation, the Supreme Court concluded that the PUC had the power to authorize privately operated public transit, and it affirmed the PUC order.

As discussed in *MTA I*, the original Los Angeles Metropolitan Transit Authority Act was enacted in 1951 (Stats.1951, ch. 1668, p. 3804) and expressly placed the Authority under the regulatory control of the PUC. When the Legislature originally placed the Authority under the control of the PUC, it expressly declared that it was making an exception to a long established policy. (Stats.1951, ch. 1668, § 13.4; see *MTA I*, *supra*, 52 Cal.2d at p. 661, fn. 9, 343 P.2d 913, quoting 1951 legislative declaration.) However, the 1951 Act proved inadequate, and the Legislature passed the Los Angeles Metropolitan Transit Authority Act of 1957 (Stats.1957, ch. 547, p. 1609), which greatly increased the powers of the Authority. (*MTA I*, *supra*, 52 Cal.2d at p. 659, 343 P.2d 913.) "The 1951 Act gave the Authority some of the foregoing powers, but expressly provided that it could exercise its powers only under the regulatory control of the Public Utilities Commission. The Authority's routes and rates, and contracts were also subject to control by the Public Utilities Commission. Under the 1957 Act the commission has no control over the Authority with respect to any of these matters. In the absence of legislation otherwise providing, the commission's jurisdiction to regulate public utilities extends only to the regulation of privately owned utilities." (*Id.* at p. 661, 343 P.2d 913, fns. omitted.)

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Four years later, in *MTA II*, the Authority challenged the validity of a PUC order requiring it to comply with safety rules and regulations contained in PUC General Order No. 98. The order challenged by the Authority was entered by the PUC pursuant to the mandate of a 1961 amendment to the 1957 Act. The Authority contended that the California Constitution allowed the Legislature to grant the PUC regulatory jurisdiction over private transportation utilities only and prohibited the PUC from exercising jurisdiction over public transportation companies such as the Authority. (*MTA II*, *supra*, 59 Cal.2d at pp. 865-866, 31 Cal.Rptr. 463, 382 P.2d 583.) The Supreme Court concluded that the Legislature could constitutionally grant the PUC regulatory jurisdiction over the Authority's safety practices. (*Id.* at p. 870, 31 Cal.Rptr. 463, 382 P.2d 583.)

As discussed in *MTA II*, the Los Angeles Metropolitan Transit Authority Act of 1957 expressly required the Authority to "adopt and comply with safety regulations prescribed by the Public Utilities Commission applicable to comparable street railway and bus systems" (Stats.1957, ch. 547, § 3.11, p. 1617), and pursuant to a 1961 amendment, the Authority was expressly made subject to the PUC's jurisdiction "with respect to safety rules and other regulations governing the operation of passenger stage corporations and street railroad corporations as contained in General Order No. 98...." (Stats.1961, ch. 1571, § 1, p. 3396; *MTA II, supra*, 59 Cal.2d at p. 866, 31 Cal.Rptr. 463, 382 P.2d 583.) As observed in *MTA II*, "many area-wide public transportation authorities are presently being established to solve the transportation problems of metropolitan regions. It would appear that the Legislature has determined that the safety of operators and passengers of the petitioning metropolitan public authority can best be assured if limited regulatory jurisdiction over safety practices is conferred upon respondent commission." (*MTA II, supra*, at pp. 869-870, 31 Cal.Rptr. 463, 382 P.2d 583.)<sup>[10]</sup>

The PUC relies on the Supreme Court's decision in *MTA II, supra*, 59 Cal.2d 863, 31 Cal.Rptr. 463, 382 P.2d 583 in support of its position that public agencies can be street railroad corporations subject to its section 1202 jurisdiction. The PUC asserts that the fact that the VTA is publicly owned does not prevent it from being a street railroad corporation or common carrier subject to the PUC's regulation.

A close reading of *MTA II* reveals that the critical issue decided in that case was whether the California Constitution prohibited the Legislature from granting the PUC jurisdiction over the transit authority. (See *MTA II, supra*, 59 Cal.2d at p. 868, 31 Cal.Rptr. 463, 382 P.2d 583.) The statute at issue in *MTA II* expressly and specifically conferred such regulatory power over the safety aspects of the transit authority's operations, and the Supreme Court concluded that the Legislature lawfully granted the PUC regulatory jurisdiction over the transit authority's safety practices. (*Id.* at p. 870, 31 Cal.Rptr. 463, 382 P.2d 583.)

284 In reaching its decision, the Supreme Court found that the California Constitution did not restrict the Legislature from conferring PUC jurisdiction over a common carrier, however it is organized. The fact that the transportation authority was a publicly owned, as opposed to a privately owned common carrier, did not take it out of the general category of common carrier. (*MTA II, supra*, 59 Cal.2d at pp. 868-869, 31 Cal.Rptr. 463, 382 P.2d 583.) In fact, the Legislature has conferred regulatory jurisdiction over publicly owned common \*284 carriers by enactment of sections 100168, 778, and 99152.

However, even assuming that the Legislature could extend the PUC's section 1202 exclusive railroad crossing jurisdiction to cover the light rail transit crossings of the VTA or any other transit district in the state, this does not mean that the Legislature has done so or ever intended to do so. Hence, the PUC's reliance on *MTA II* is misplaced. Rather, we read *MTA II* as actually supporting the VTA's position since the case affirmatively demonstrates that when the Legislature has intended to confer PUC jurisdiction over a publicly owned common carrier, it has specifically and expressly done so.

Against this backdrop, the Legislature passed the VTA's enabling legislation in 1969, expressly conferring PUC jurisdiction over the VTA's safety appliances and procedures pursuant to section 100168. The Legislature then followed up by passing statutes expressly vesting additional safety related jurisdiction in the PUC, including the addition of section 778 in 1976, the addition of section 99152 in 1978, and the related amendment of section 99152 in 1986, all of which admittedly apply to the VTA.

The Legislature's historic treatment of this subject area demonstrates that the Legislature has taken great care in crafting the enabling legislation for transit districts. In the case of the VTA, the Legislature has included express provisions vesting PUC jurisdiction over certain aspects of the VTA's operations. Here, in the absence of an express provision, we will not infer a legislative intent to confer PUC jurisdiction over a transit district. (See *Orange County Air*

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Pollution Control Dist. v. Public Util. Com., supra, 4 Cal.3d 945, 953-954, 95 Cal.Rptr. 17, 484 P.2d 1361.) Rather, PUC jurisdiction over a transit district must be clearly provided by statute. If the Legislature had wanted sections 1201 and 1202 to apply to transit districts, it could simply have said so, "[T]he judicial role in a democratic society is fundamentally to interpret laws, not to write them." (California Teachers Assn. v. Governing Bd. of Rialto Unified School Dist. (1997) 14 Cal.4th 627, 633, 59 Cal.Rptr.2d 671, 927 P.2d 1175.) When the Legislature has intended to grant the PUC jurisdiction over transit districts or public light rail transit systems, it has passed express legislation doing so. Viewed in such context, we cannot discern any legislative intent, express or implied, to impose the PUC's section 1201 and section 1202 exclusive railroad crossing jurisdiction on the VTA. We do, however, respectfully invite the Legislature to amend the statutory scheme if it determines that the issue requires clarification.

Finally, we believe that our interpretation is consistent with the Legislature's ongoing attempts to address the changing transportation needs of various areas of the state. (See, e.g., § 100001.5 [legislative findings and declarations expressing changing transportation problems and the need to vest additional authority in the VTA to solve transportation problems].) As times have changed, the Legislature has altered the express scope of the PUC's jurisdiction over transit districts and public transit in the Legislature's ongoing attempts to address the transportation problems facing the state. (See, e.g., MTA I, supra, 52 Cal.2d 655, 343 P.2d 913; MTA II, supra, 59 Cal.2d 863, 31 Cal.Rptr. 463, 382 P.2d 583.) The Legislature has addressed itself to the issue of PUC jurisdiction over publicly owned common carriers by enacting specific and express provisions granting the PUC jurisdiction over limited matters when it has deemed it fit to do so. \*285 Sections 1201 and 1202 simply do not fall into such category of legislation,

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Under the circumstances, we find that sections 1201 and 1202 do not apply to the VTA. Therefore, while the PUC has safety jurisdiction over the VTA's light rail transit crossings under section 99152, the PUC does not have exclusive railroad crossing jurisdiction over these crossings pursuant to sections 1201 and 1202.

## IV. DISPOSITION

Public Utilities Commission Decision Nos. 02-12-053 and 03-05-081 are annulled in part. The decisions are annulled to the extent that the commission found that it has exclusive railroad crossing jurisdiction over the Santa Clara Valley Transportation Authority's light rail transit crossings pursuant to Public Utilities Code sections 1201 and 1202.

WE CONCUR: MIHARA and McADAMS, JJ.

[\*] Brown, J., did not participate therein.

[1] Further statutory references are to the Public Utilities Code unless otherwise specified.

[2] The name of the Santa Clara County Transit District was changed to the Santa Clara Valley Transportation Authority in 1999. (§ 100002.)

[3] An "at-grade" crossing is one that physically crosses the road at street level. A "grade-separated" crossing physically separates the train from traffic by utilizing an overpass or underpass.

[4] As part of the VTA's enabling legislation, section 100168 provides: "The district shall be subject to the regulations of the Public Utilities Commission relating to safety appliances and procedures, and the commission shall inspect all work done pursuant to this part and may make such further additions or changes necessary for the purpose of safety to employees and the general public. The commission shall enforce the provisions of this section."

Section 99152 applies to all public transit districts and provides: "Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, is subject to regulations of the Public Utilities Commission relating to safety appliances and procedures. [¶] The commission shall inspect all work done on those guideways and may make further additions or changes necessary for the purpose of safety to employees and the general public.

[¶] The commission shall develop an oversight program employing safety planning criteria, guidelines, safety standards, and safety procedures to be

met by operators in the design, construction, and operation of those guideways. Existing industry standards shall be used where applicable. [¶] The commission shall enforce the provisions of this section."

Section 778 provides: "The commission shall adopt rules and regulations, which shall become effective on July 1, 1977, relating to safety appliances and procedures for rail transit services operated at grade and in vehicular traffic. The rules and regulations shall include, but not be limited to, provisions on grade crossing protection devices, headways, and maximum operating speeds with respect to the speed and volume of vehicular traffic within which the transit service is operated. [¶] The commission shall submit the proposed rules and regulations to the Legislature not later than April 1, 1977."

[5] Section 1202 provides in relevant part: "The commission has the exclusive power: [¶] (a) To determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad, and of each crossing of a public or publicly used road or highway by a railroad or street railroad, and of a street by a railroad or of a railroad by a street. [¶] (b) To alter, relocate, or abolish by physical closing any crossing set forth in subdivision (a). [¶] (c) To require, where in its judgment it would be practicable, a separation of grades at any crossing established and to prescribe the terms upon which the separation shall be made and the proportions in which the expense of the construction, alteration, relocation, or abolition of crossings or the separation of grades shall be divided between the railroad or street railroad corporations affected or between these corporations and the state, county, city, or other political subdivision affected."

Section 1201 provides: "No public road, highway, or street shall be constructed across the track of any railroad corporation at grade, nor shall the track of any railroad corporation be constructed across a public road, highway, or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without having first secured the permission of the commission. This section shall not apply to the replacement of lawfully existing tracks. The commission may refuse its permission or grant it upon such terms and conditions as it prescribes."

A separate legislative declaration set forth in section 1219 provides: "The Legislature declares that Sections 1201 to 1205, inclusive, are enacted as germane and cognate parts of and as aids to the jurisdiction vested in the commission for the supervision, regulation, and control of railroad and street railroad corporations in this State, and the Legislature further declares that the authority and jurisdiction thus vested in the commission involve matters of state-wide importance and concern and have been enacted in aid of the health, safety, and welfare of the people of this State."

[6] General Order 143-B and its application requirement were expressly established by the PUC to implement its light rail transit safety jurisdiction. Section 1.02 of General Order 143-B expressly provides: "These rules and regulations are authorized by and implement the provisions of Sections 778, 29047, 30646, 99152, and 100168 of the Public Utilities Code." Hence, the General Order 143-B application requirement was not implemented pursuant to the PUC's section 1202 exclusive railroad crossing jurisdiction.

[7] Article XII, section 3 of the California Constitution provides: "Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities."

Article XII, section 5, of the California Constitution provides: "The Legislature has plenary power, unlimited by the other provisions of this constitution but consistent with this article, to confer additional authority and jurisdiction upon the commission, to establish the manner and scope of review of commission action in a court of record, and to enable it to fix just compensation for utility property taken by eminent domain."

[8] Recently, the Legislature found it necessary to expand the VTA's powers to address the area's changing needs. (§ 100001.5, added by Stats.2001, ch. 217, § 1.)

[9] Section 231 provides: "'Street railroad' includes every railway, and each branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge, or public place within any city or county, together with all real estate, fixtures, and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property, but does not include a railway constituting or used as a part of a commercial or interurban railway."

Section 232 provides: "'Street railroad corporation' includes every corporation or person owning, controlling, operating, or managing any street railroad for compensation within this State, or owning, controlling, operating, or managing as a part of or in conjunction with such street railroad any automobile, jitney bus, stage, or auto stage used in the business of transportation of persons or property for compensation over any public highway in this State between fixed termini or over a regular route."

[10] The Los Angeles Metropolitan Transit Authority was succeeded by and merged into the Southern California Rapid Transit District in 1964. (See §§ 30001, 31000 et seq.) In 1992, the Legislature created the Los Angeles County Metropolitan Transportation Authority as the successor agency of the Southern California Rapid Transit District and the Los Angeles County Transportation Commission. (§§ 130050.2, 130051.13.)

//

### **2.1.3 Master Response C – Request for Evaluation of a New Alternative Consisting of the Preferred Project with No Rail Crossing Closure**

*Comment Summary: In several cases, commenters request that the EIR evaluate a Project alternative that includes an at-grade rail crossing at Jennings Avenue, with no rail crossing closure at W. Sixth, W. Seventh, or W. Eighth Street, on the basis that the CPUC request for a compensatory crossing closure is unwarranted or unnecessary.*

*Response Summary: A Preferred Project with No Rail Crossing Closure Alternative has been added to the Final EIR. This Alternative consists of an at-grade rail crossing at Jennings Avenue and is conditioned upon a determination by the CPUC that a rail crossing closure elsewhere would not be required and is, therefore, considered potentially feasible. The Alternative is a subset of the Preferred Project and has fewer significant unavoidable impacts than the Preferred Project.*

A similar alternative was briefly evaluated in Draft EIR Section 4.2.3 (No Closure of an Existing Crossing), page 4-3, under the section entitled “Alternatives Considered but not Carried Forward in this EIR.” The evaluation was as follows:

#### **4.2.3 No Closure of an Existing Crossing**

During scoping, a commenter suggested the potential to use enhanced train controls and signal warnings approved for recent at-grade crossings in the City of Los Angeles and the City of Fremont that did not require closure of an existing crossing. Based on preliminary discussions of the Project with the CPUC, construction of an at-grade crossing at Jennings Avenue will require a closure of an at-grade crossing elsewhere within the City, namely at W. Sixth Street, W. Seventh Street, or W. Eighth Street. Therefore, this alternative was determined to be infeasible and is not evaluated further in this EIR.

The CEQA Guidelines state in Section 15126.6: “An EIR is not required to consider alternatives which are infeasible.” The CEQA Guidelines define feasible in Section 15364: “Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

On January 13, 2012, the CPUC addressed a letter to Mayor Ernesto Olivares which said (see Appendix A for a copy of the CPUC letter):

With improving overall safety and the reduction of total crossings in mind, CPUC staff recommends that the City identify two existing at-grade crossings to close in exchange for the new Jennings Avenue crossing. CPUC staff believes that 6<sup>th</sup> Street, 7<sup>th</sup> Street and 8<sup>th</sup> Street crossings are good candidates for closure.

On November 13, 2012, City staff presented the results of a feasibility study prepared by Stacy and Whitbeck, a contractor for SMART, to the Council. The presentation included information that CPUC staff had stated that approval of an at-grade crossing at Jennings Avenue would be unlikely unless at least one existing at-grade crossing was eliminated at either W. Sixth, W. Seventh or W. Eighth Streets. At that meeting, the Council expressed a preference to study an at-grade pedestrian and bicycle crossing as the preferred project. The item was then continued to a future Council meeting to allow staff additional time to ascertain potential costs of environmental review.

On May 21, 2013, the Council, by Resolution No. 28284, unanimously directed City staff to complete environmental review in compliance with CEQA for an at-grade pedestrian and bicycle crossing of the SMART railroad corridor and Jennings Avenue, including an ADA compliant bicycle and pedestrian rail overcrossing alternative and possible removal of an existing crossing at W. Sixth, W. Seventh or W. Eighth Street. Hence, the Draft EIR evaluated this configuration as the Preferred Project. The Draft EIR did not, however, evaluate two crossing closures as the CPUC

suggested in their letter, because, in the event that CPUC staff requires closure of more than one existing at-grade rail crossing, the City would not pursue the Preferred Project as indicated on page 2-5 of the Draft EIR.

In addition, early implementation of the Project was considered to be important so that a crossing could be in place as soon as possible after commencement of SMART passenger service (scheduled for 2016) to ensure safety and connectivity in the Jennings Avenue area. Based on the CPUC letter, numerous subsequent phone calls with CPUC staff, two meetings with CPUC staff on December 3, 2013 and May 6, 2014, and the need for timely implementation of the Project, the Draft EIR concluded that an at-grade crossing at Jennings Avenue could not be successfully accomplished within a reasonable period of time, given the legal barriers raised by the need for CPUC approval. And, therefore, the Draft EIR identified the "No Closure of an Existing Crossing" alternative as infeasible, and did not evaluate the option further.

Nevertheless, commenters have raised a number of objections to the CPUC requirement for compensatory closures for a new at-grade rail crossing, stating that the CPUC requirement exceeds their regulatory mandate or is otherwise unwarranted.

As a result, this Final EIR includes evaluation of a Preferred Project with No Rail Crossing Closure Alternative. The Preferred Project with No Rail Crossing Closure Alternative is a subset of the Preferred Project. This alternative includes the at-grade rail crossing at Jennings Avenue, but does not include a rail crossing closure elsewhere. The Preferred Project with No Rail Crossing Closure Alternative is conditioned upon a determination by the CPUC that a closure would not be required and is, therefore, considered potentially feasible.

The CPUC General Order (GO) No. 75-D, which is the regulation governing standards for warning devices for at-grade highway-rail crossings in the State of California, states in Section 2, that "as part of its mission to reduce hazards associated with at-grade crossings, and in support of the national goal of the Federal Railroad Administration (FRA), the Commission's policy is to reduce the number of at-grade crossings on freight or passenger railroad mainlines in California." However, GO No. 75-D, Section 13.3, provides for exemptions where "in the Commission's opinion, public interest would be served by so doing."

If the CPUC were to approve an at-grade pedestrian and bicycle rail crossing at Jennings Avenue, with no closure of an existing crossing elsewhere in the City, the Commission would be exercising its judgment that an exemption to the above-noted policy regarding reduction in the number of at-grade crossings would be applicable in the case of the at-grade crossing at Jennings Avenue. Under such circumstances, the at-grade crossing would not be in conflict with GO No. 75-D, and would thus be a potentially feasible alternative. However, the determination that this alternative is feasible would be contingent upon the CPUC finding that no closure is required.

Recirculation of the EIR is not required due to the addition of the Preferred Project with No Rail Crossing Closure Alternative to the Final EIR, because the alternative is a subset of the Preferred Project and would not cause any new significant impacts compared to those already identified in the Draft EIR for the Preferred Project. The Preferred Project with No Rail Crossing Closure Alternative would have one to three fewer significant unavoidable impacts than the Preferred Project, depending upon which rail crossing would be closed at W. Sixth, W. Seventh, or W. Eighth Street. See the revised Table 5-1, Summary of Significant and Unavoidable Impacts, below for more specific information.

The Rail Overcrossing Alternative remains the Environmentally Superior Alternative, as can be seen from the revisions to Chapter 5 below. The following revisions are made to Chapter 4,

Alternatives Description and Analysis, and Chapter 5, Other CEQA-required Sections, in the Draft EIR to accommodate addition of the Preferred Project with No Rail Crossing Closure Alternative.

Revisions to the Draft EIR are made on page 4-3 as follows:

#### **4.2.3 ~~No Closure of an Existing Crossing~~**

~~During scoping, a commenter suggested the potential to use enhanced train controls and signal warnings approved for recent at-grade crossings in the City of Los Angeles and the City of Fremont that did not require closure of an existing crossing. Based on preliminary discussions of the Project with the CPUC, construction of an at-grade crossing at Jennings Avenue will require a closure of an at-grade crossing elsewhere within the City, namely at W. Sixth Street, W. Seventh Street, or W. Eighth Street. Therefore, this alternative was determined to be infeasible and is not evaluated further in this EIR.~~

### **4.3 Analysis of Alternatives**

This section describes the project alternatives that were selected and analyzed in accordance with CEQA Guidelines Section 15126.6(a). As described above, several potential alternatives were evaluated, but were determined to be infeasible. ~~Three~~<sup>Two</sup> alternatives are evaluated in this EIR: the Rail Overcrossing Alternative, and the No Project Alternative, and the Preferred Project with No Rail Crossing Closure Alternative. The Rail Overcrossing Alternative is evaluated at the same level of detail as the Preferred Project in the main body of the EIR. The No Project Alternative and the Preferred Project with No Rail Crossing Closure are evaluated below.

Revisions to the Draft EIR are added on page 4-5 as follows:

#### **4.3.2 Preferred Project with No Rail Crossing Closure**

The Preferred Project with No Rail Crossing Closure Alternative would consist of an at-grade pedestrian and bicycle rail crossing at Jennings Avenue, with no closure of an existing crossing elsewhere in the City, conditioned upon a determination by the CPUC that a closure would not be required.

The CPUC General Order (GO) No. 75-D, which is the regulation governing standards for warning devices for at-grade highway-rail crossings in the State of California, states in Section 2, that "as part of its mission to reduce hazards associated with at-grade crossings, and in support of the national goal of the Federal Railroad Administration (FRA), the Commission's policy is to reduce the number of at-grade crossings on freight or passenger railroad mainlines in California." However, GO No. 75-D, Section 13.3, provides for exemptions where "in the Commission's opinion, public interest would be served by so doing."

If the CPUC were to approve an at-grade pedestrian and bicycle rail crossing at Jennings Avenue, with no closure of an existing crossing elsewhere in the City, the Commission would be exercising its judgment that the an exemption to the above-noted policy regarding reduction in the number of at-grade crossings would be applicable in the case of the at-grade crossing at Jennings Avenue. Under such circumstances, the at-grade crossing would not be in conflict with GO No. 75-D, and would thus be a potentially feasible alternative. However, the determination that this alternative is feasible would be contingent upon the CPUC finding that no closure is required.



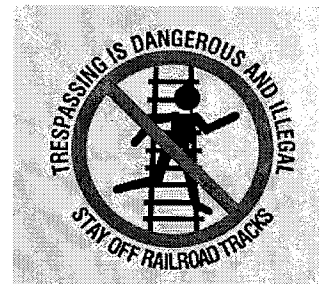
Revisions to Table 4.2 (Comparison of Alternatives) in the Draft EIR are made on pages 4-6 through 4-15 as follows:



U.S. Department of Transportation  
Federal Railroad Administration

# COMPILATION OF STATE LAWS AND REGULATIONS AFFECTING HIGHWAY-RAIL GRADE CROSSINGS

5<sup>TH</sup> EDITION



OCTOBER 2009

## ARIZONA

The Arizona Corporation Commission has the exclusive authority to alter or abolish highway-rail grade crossings within the state. This authority extends to those crossings where railroad tracks cross public roads or streets of a town or city. Ariz. Rev. Stat. Ann. § 40-337 (2009).

## ARKANSAS

The State Highway Commission has exclusive authority over grade crossings, including the power to determine and prescribe the manner, location, and terms of installation, operation, maintenance, alteration and abolishment, separation of grades, protection, and apportionment of expenses. Ark. Code Ann. §§ 23-12-301-1001-1002 (2008).

## CALIFORNIA

The California Public Utilities Commission has exclusive authority to abolish any crossing of a public or publicly used road or highway by a railroad or street railroad and of a street by railroad. Cal. Pub. Util. Code §§ 1201-1202 (2008).

## COLORADO

The revised statutes of Colorado provides for a shared responsibility for the abolition of grade crossings, but in the case of any entity other than the public utility commission so ordering, certain conditions must exist. The Colorado Public Utilities Commission has the power, upon its own motion or upon complaint of an interested party, to order the abolishment of a highway-rail grade crossing. The process requires a hearing before which all interested parties, including the owners of any adjacent property, must be given due notice.

(3)(a)(I) The commission also has power upon its own motion or upon complaint and after hearing, of which all the parties in interest including the owners of adjacent property shall have due notice, to order any crossing constructed at grade or at the same or different levels to be relocated, altered, or abolished, according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the commission, and to prescribe the terms upon which the separation should be made and the proportion in which the expense of the alteration or abolition of the crossing or the separation of the grade should be divided between the railroad corporations affected or between the corporation and the state, county, municipality, or public authority in interest.

(II) Notwithstanding other provisions of the statute, the affected railroad corporation, the commission, the department of transportation, or the local government responsible for supervising and maintaining the intersection public highway or road may abolish any crossing at grade of an public highway or road over the tracks of a corporation if:



## Railroad-Highway Grade Crossing Handbook - Revised Second Edition August 2007

### Appendix H: State Crossing Consolidations and Closures

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## APPENDIX

# H

## State Crossing Consolidations and Closures

### Overview

In the majority of states, the overall authority for highway-rail crossing safety and the authority to order the elimination of at-grade crossings lie with the state agency that regulates and oversees transportation.

In a small number of states, the responsibility for crossing elimination is vested in regulatory bodies. These are referred to by different names, including the public utility commission and the state corporation commission. A couple of states provide for shared responsibility between a state agency and a unit of local government. A few more provide for shared responsibility between the department of transportation and another state agency, such as the highway department.

The agency charged with the responsibility for elimination, or abolishment, as the process is often called, has not changed a great deal since the original publication of this handbook. In the few instances in which the responsible agency is different, it was the result of the powers and functions of the agency being assumed by another agency. For example, in Missouri, the agency originally responsible for grade crossing regulation was the Public Service Commission (PSC). The powers, functions, and duties of the PSC with respect to grade crossing safety were transferred to the Division of Motor Carriers and Railroad Safety in the Department of Economic Development. Massachusetts has renamed its agency responsible for grade crossings the Department of Telecommunications and Energy.

This appendix is intended to present a brief overview of the procedures for grade crossing elimination on a state-by-state basis. The state or county agency with statutory authority to order the elimination of a grade crossing is identified, along with an indication of whether the authority is exclusive or shared. Each state's entry concerning the subject is followed by the appropriate citation(s). The information contained in this appendix comes from the third edition of "Compilation of State Laws and Regulations on Matters Affecting Highway- Rail Crossings," published by the Federal Railroad Administration in 1999 ([www.fra.dot.gov](http://www.fra.dot.gov)).

### State Laws and Regulations

#### Alabama

The Alabama Department of Transportation (ALDOT) has statutory authority to abandon and discontinue any portion of a state highway or street on a state highway route crossing the tracks or right of way of any railroad or street railway within the state, and to close the grade crossings, with the approval of the city council or governing

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body of any municipality, when, in its judgment, the grade crossing has ceased to be necessary for the public as part of any state highway because of relocation of the highway, the construction of an underpass or overpass, or other provision made for the elimination of the grade crossing.

With respect to at-grade crossings on a municipal or county highway, street, or right of way of any railroad within the state, whenever, in the judgment of ALDOT, the grade crossing is dangerous, redundant, or the enhancement of public safety resulting from the closing outweighs any inconvenience caused by rerouting the vehicular traffic. Any such action to be taken by ALDOT concerning an at-grade crossing on a municipal or county highway must have the approval of the city or governing body. In the event any such closing is deemed by ALDOT to cause substantial inconvenience to vehicular traffic or to materially impair the provision of police, fire, or ambulance service, ALDOT may also order a relocation of the crossing or the building of another crossing at another location.

Whenever ALDOT orders the closing of a grade crossing, it must enter its order in the department minutes. Notice in writing is given by ALDOT by posting a notice on each side of the railroad or street railway at the grade crossing for a period of 30 days. If the closing is a crossing on a county or municipal road, prior to issuing the order to close the crossing, ALDOT must also give notice of its intention to close to the affected municipality or county. In addition, ALDOT must publish legal notice of intention to close the crossing in a newspaper of general circulation in the county once per week for three consecutive weeks prior to the closure. The notice must outline the procedure to request a hearing. If there is such a request for a hearing, ALDOT must give 10 days' notice to the requester and the municipality or county. Ala. Code § 37-2-84 (a)-(b)-(c) (1999).

### **Alaska**

Alaska has no code section relating to this topic.

### **Arizona**

The Arizona Corporation Commission has the exclusive authority to alter or abolish highway-rail grade crossings within the state. This authority extends to crossings where railroad tracks cross public roads or streets of a town or city. Ariz. Rev. Stat. Ann. § 40-337 (1999).

### **Arkansas**

The Arkansas State Highway Commission has exclusive authority over grade crossings, including the power to determine and prescribe the manner; location; terms of installation; operation; maintenance; alteration and abolishment; separation of grades; and protection and apportionment of expenses. Ark. Code Ann. §§ 23- 12-301-1001-1002 (1999).

### **California**

The California Public Utilities Commission has exclusive authority to abolish any crossing of a public or publicly used road or highway by a railroad or street railroad and of a street by railroad. Cal. [Pub. Util.] Code §§ 1202 (a)-(b) 1201 (West 1999).

### **Colorado**

The Colorado Public Utilities Commission has the power, upon its own motion or upon complaint of an interested party, to order the abolishment of a highway-rail grade crossing. The process requires a hearing before which all interested parties, including the owners of any adjacent property, must be given due notice. Colo. Rev. Stat. § 40-4-106(2)(3) (1999).

### **Connecticut**

The commissioner of transportation is granted statutory authority to relocate or close highway-rail grade crossings.

2014 Active Transportation Program - MPO Component  
 CTC STAFF RECOMMENDATION  
 (\$1,000s)

ID	MPO	Co	Agency	Project title	Total Project Cost	Total Fund Request	SOF	14-15	15-16	RW	CON	PAED	PSE	DAC	Plan	SRTS	SRTS-NI
M001	FCOG	FRE	Coyle	Enterprise Canal Trail/Ped Over SR 168	190	168	SOF	168			240				168		
0266	FCOG	FRE	Coalinga	City/Active Transportation Plan	240	240	SOF	240			267			240	240		
0288	FCOG	FRE	Fowler	Merced St Ped Facilities from 3rd St to 5th St	302	267	SOF	267			267						
0290	FCOG	FRE	Fresno	Ruler Ave Bicycle Lane	274	197	SOF	267			197						
W002	FCOG	FRE	Fresno	Bicycle/Pedestrian Master Plan Update	274	197	SOF	267			197						
M002	FCOG	FRE	Fresno	Sidewalk on Hughes Ave from Hughes to Florence	250	221	SOF	221			127			197	221		
M003	FCOG	FRE	Fresno	Traffic Signal Installation at Clinton and Thorne	234	208	SOF	208			127			208	208		
0293	FCOG	FRE	Fresno - PARKS	Pedestrian Bike Safety/Education Program	477	424	SOF	35			389			424	424		
M006	FCOG	FRE	Fresno Co	ADA path on Grove and Jensen Avenues from Ninth St to Cedar Ave	255	250	SOF	250			250			250	250		
M007	FCOG	FRE	Fresno Co	Dunlap Lighted Crosswalk	448	448	SOF	40			247			448	247		
M008	FCOG	FRE	Fresno Co	Mt. Whitney Paved Ped Bikeway from Garfield to Garfield	162	162	SOF	32			118			162	162		
M009	FCOG	FRE	Fresno Co	Riverdale Pedestrian Path, Hazel from Mt. Whitney to Stattem	141	141	SOF	30			61			141	61		
0295	FCOG	FRE	Kerman	Pedestrian Safety Improvements at Various Locations	503	503	SOF	40			308			503	503		
0297	FCOG	FRE	Mendota USD	Pedestrian Safety Improvements at Various Locations	250	250	SOF	250			224			250	224		
M030	FCOG	FSE	Parlier	Manning Ave/SRTS Connectivity	254	254	SOF	25			229			254	254		
0304	FCOG	FSE	Parlier	Manning Ave/SRTS Connectivity	358	200	SOF	25			180			200	200		
0308	FCOG	FSE	Arvin	702 Sidewalk Improvements	680	680	SOF	680			580			680	680		
0314	FCOG	FSE	Bakersfield	SRTS - Frank West Elementary	312	312	SOF	312			312			312	312		
0314	FCOG	FSE	Kern Co	Shen Middle School Ped Improvements	150	125	SOF	125			125			125	125		
0317	FCOG	FSE	Kern Co	Mojave Ped Improvements	640	249	SOF	249			249			249	249		
0328	FCOG	FSE	Wasco	SRTS	900	900	SOF	120			780			900	900		
0330	FCOG	FSE	Wasco	Karl Clements & Thomas Jefferson Schools Ped Improvements	306	306	SOF	33			273			306	306		
0331	FCOG	FSE	Wasco	JL Pfeiffer Ped Improvements	473	473	SOF	53			420			473	473		
0331	FCOG	FSE	Wasco	Hwy 43 Ped Lighting	593	593	SOF	63			530			593	530		
0111	MTC	ALA	Alameda	Cross Alameda Trail (includes SRTS component)	2,520	2,331	SOF	226			2,005			2,331	2,231	718	123
0115	MTC	ALA	Alameda Co	Be Oakland, Be Active: A Comprehensive SRTS Program	988	988	SOF	82			600			988	988	682	388
0124	MTC	ALA	Berkeley	SRTS Improvements for LeConte Elementary	758	682	SOF	82			600			682	682	682	388
0130	MTC	ALA	Livermore	Madryn Ave Elementary SRTS	359	358	SOF	358			358			358	358	358	
0138	MTC	ALA	Oakland	Lake Merritt to Bay Trail Bicycle Ped Gap Closure Project	18,212	3,210	SOF	3,210			3,210			3,210	3,210	358	
0147	MTC	CC	CCIA	Riverdale Ave Ped Overcrossing	4,885	682	SOF	682			682			682	682	301	
0148	MTC	CC	CCIA	Riverdale Ave Ped Overcrossing	7,100	4,000	SOF	4,000			4,000			4,000	4,000	301	
0192	MTC	CC	East Bay Regional Park District	San Francisco Bay Trail, Pinnole Shores to Bay Front Park	500	443	SOF	443			443			443	443		
0224	MTC	SON	San Mateo	VTAS Central and South County Bicycle Corridor Plan	2,515	2,515	SOF	795			1,720			2,515	2,515	390	
0231	MTC	VAR	Santa Rosa	Jennings Ave Bicycle and Ped Crossing at the SMART Railroad Tracks	9,568	8,157	SOF	8,157			7,713			8,157	8,157	21	
0057	SAFCOG	ED	MTC	Bay Area Bike Share Expansion	19,831	7,713	SOF	7,713			7,713			7,713	7,713		
M013	SAFCOG	ED	EDJTC	Western El Dorado County Bike Travel Opportunities Map	57	50	SOF	50			50			50	50		
M013	SAFCOG	PIA	Albion	Nevada St Pedestrian & Bicycle Facilities	1,648	799	SOF	799			799			799	799		
0070	SAFCOG	PIA	Colfax	N. Main Street Bike Route Project	299	264	SOF	44			220			264	220		
M012	SAFCOG	SAC	Folsom	Oak Parkway Trail Undercrossing and Johnson Cash Trail Connection Project	1,121	992	SOF	35			957			992	957		
0079	SAFCOG	SAC	Galt	South Galt SRTS	2,150	1,800	SOF	35			882			1,800	882		
0082	SAFCOG	SAC	Rancho Cordova	Waltham Rails to Trails Project	2,525	2,083	SOF	35			1,800			2,083	1,800		
M013	SAFCOG	SAC	Sacramento Co	El Camino Ave Phase 2 - Street and Sidewalk Improvements	1,923	1,692	SOF	1,692			2,083			1,692	2,083		
M016	SAFCOG	SAC	West Sacramento	Cycle Track	645	87	SOF	27			60			87	60		
0197	SAFCOG	SUT	Yuba City	Franklin Road Improvements	393	313	SOF	27			313			313	313		
M014	SAFCOG	YUB	West Sacramento	Citywide Bike Lane Gap Closures	593	525	SOF	124			401			525	401		
0108	SAFCOG	YUB	Yuba Co	Ella Elementary SRTS Project	1,350	1,195	SOF	60			1,135			1,195	1,135		
0443	SCAG	IMP	El Centro	Prepare ATR/SRS Plan and make bike/ped improvements	797	797	SOF	797			797			797	797		
0473	SCAG	LA	Alameda Corridor East	SGV Regional Active Transportation Planning Initiative	643	643	SOF	643			643			643	643		
0326	SCAG	LA	Baldwin Park	Main Ave Corridor Complete Streets Improvement	3,651	2,201	SOF	2,201			2,201			2,201	2,201		
0383	SCAG	LA	Coyna	Covina Bicycle Network	1,048	839	SOF	839			839			839	839		
0393	SCAG	LA	Glendale	Citywide Safety Education Initiative	500	500	SOF	500			500			500	500		
0399	SCAG	LA	Huntington Park	Randolph St Shared Use Bikeway/Rails to Trails Project Study	400	400	SOF	400			400			400	400		

Subject **Jennings Avenue Pedestrian and Bicycle Rail Crossing Final EIR**  
From Jones, Jessica <JJones@srcity.org>  
Cc Adams, Nancy <NAdams@srcity.org>, Sprinkle, Rob <RSprinkle@srcity.org>  
Date 02/11/2015 13:51

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- Jennings Final EIR NOA.pdf (17 KB)

The Jennings Avenue Pedestrian and Bicycle Rail Crossing Final Environmental Impact Report (EIR) is now available for public review.

The Final EIR is comprised of the Draft EIR dated August 15, 2014 and the Final EIR dated February 9, 2015. The Final EIR includes the comments received during the 45-day public comment period regarding the Draft EIR from individuals and agencies, and a written response to environmental issues raised by commenters. Twenty-two letters were received on the Draft EIR, and fourteen individuals commented during the public hearing on November 18, 2014. The Final EIR also includes minor revisions and clarifications to the Draft EIR, including the addition of a new alternative; an at-grade bicycle and pedestrian rail crossing with no street closure, which was previously determined to be infeasible (see Final EIR Section 2.1.3, Master Response C, "Request for Evaluation of a New Alternative Consisting of the Preferred Project with No Rail Crossing Closure").

Copies of the Final EIR are available at the following locations:

- Santa Rosa City Hall, 100 Santa Rosa Avenue, Community Development Department (Room 3) and City Manager's Office (Room 10);
- Transportation and Public Works Department, 69 Stony Circle;
- California Welcome Center, 9 Fourth Street;
- Northwest Santa Rosa Library, 150 Coddington Center; and
- Central Santa Rosa Library, 211 E Street.

The Final EIR can also be accessed on the City website at the following address:

<http://srcity.org/departments/communitydev/Pages/JenningsAvenuePedestrianandBicycleRailCrossingEIR.aspx>

**The Council will consider certification of the EIR on March 17, 2015, at or after 4 p.m. in the Council Chambers at City Hall (100 Santa Rosa Avenue). \* Please note that this will be a "report" item not a "public hearing".**

**The Council will also consider selection of a project on March 17, 2015, if the EIR is certified.**

Jessica Jones | Senior Planner

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Tel. (707) 543-3410 | Fax (707) 543-3269 | jjones@srcity.org



# PUBLIC UTILITIES CODE

## SECTION 105000-105004

105000. This part shall be known and may be cited as the Sonoma-Marin Area Rail Transit District Act.

105001. It is the intent of the Legislature in enacting this part to provide for a unified, comprehensive institutional structure for the ownership and governance of a passenger rail system within the Counties of Sonoma and Marin that shall operate in harmony with existing freight service that operates upon the same rail line and serves the Counties of Humboldt, Marin, Mendocino, Napa, and Sonoma. It is the further intent of the Legislature that the district established by this act may succeed to the powers, duties, obligations, liabilities, immunities, and exemptions of both the Sonoma-Marin Area Rail Transit Commission and the Northwestern Pacific Railroad Authority upon their dissolution. Because there is no general law under which this district could be formed, the adoption of a special act and the formation of a special district is required.

105002. Unless the context otherwise requires, the provisions of this chapter govern the construction of this part.

105003. As used in this part, the following terms have the following meanings:

(a) "District" means the Sonoma-Marin Area Rail Transit District.

(b) "Rail transit" means the transportation of passengers and their incidental baggage by rail.

(c) "Rail transit works" or "rail transit facilities" means any or all real and personal property, equipment, rights or interests owned or to be acquired by the district for rail transit service purposes, including ancillary bicycle and pedestrian pathways that provide connections between and access to station sites.

(d) "Board of directors," "board," or "directors" means the board of directors of the district.

(e) "Public agency" includes the state, and any county, city and county, city, district, or other political subdivision or public entity of, or organized under the laws of, this state, or any department, instrumentality, or agency thereof.

105004. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Part 1 (commencing with Section 56000) Division 3 of Title 5 of the Government Code), shall not apply to the formation or dissolution of the district, or the annexation of additional contiguous territory to the district.



## **PUBLIC UTILITIES CODE**

### **SECTION 105010-105012**

105010. There is hereby created the Sonoma-Marín Area Rail Transit District, comprising the territory lying within the boundaries of the Counties of Marin and Sonoma.

105011. Through compliance with the provisions for annexation set forth in Chapter 7 (commencing with Section 105280), the territory of all or part of any other contiguous county may be included within the district.

105012. (a) Upon the dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, the district shall succeed to any or all of the powers, duties, rights, obligations, liabilities, indebtedness, bonded and otherwise, immunities, and exemptions of the commission and its board of commissioners and the authority and its board of directors.

(b) Upon the dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, the district shall assume the rights and obligations of the commission and the authority under any contract to which the commission or the authority is a party and which is to be performed, in whole or in part, on or after the date of dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, including, without limitation, any existing operating agreements with the North Coast Railroad Authority. The district shall thereafter negotiate in good faith a new operating agreement with the North Coast Railroad Authority. If the parties are unable to reach an agreement on the new operating agreement, the parties shall select a mutually agreed upon third party to mediate a resolution of the dispute.

(c) All real and personal property owned by the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority may be transferred to the district. Any real or personal property owned individually or jointly by the Golden Gate Bridge, Highway and Transportation District, the County of Marin, or the Marin County Transit District, or any other public agency, may be transferred to the district. The transfer of any right-of-way from the Northwestern Pacific Railroad Authority, the Golden Gate Bridge, Highway and Transportation District, the County of Marin, or the Marin County Transit District to the district shall be made subject to any existing easements for freight and passenger excursion service issued to the North Coast Railroad Authority prior to the time of the transfer.

(d) Upon the dissolution of the Sonoma-Marín Area Rail Transit Commission, the district shall assume, without any condition whatsoever, all responsibilities and obligations previously assumed by the commission with respect to its fund transfer agreement with Caltrans for the funding of the Sonoma-Marín Area Rail Transit Project.

(e) On and after the date of dissolution of the Sonoma-Marín Area Rail Transit Commission and the Northwestern Pacific Railroad Authority, any reference in any provision of law or regulation to the commission or the authority shall be deemed to refer to the district.

# PUBLIC UTILITIES CODE

## SECTION 99150-99172

99150. In locating its bus stops, park and ride service facilities, and special service terminal points and stations, a transit district shall consult with, and consider the recommendations of, the city if such transit facilities are to be located therein, or the county if such transit facilities are to be located in the unincorporated area thereof, on the proposed locations.

The city or county, as the case may be, in making its recommendations to the transit district on the proposed location of any such transit facilities, shall consider whether the proposed location is consistent with the circulation element of its general plan.

99151. Any transit district whose area is served by the Southern Pacific Transportation Company line from the City of San Jose to the City and County of San Francisco may make a bulk purchase of passenger tickets for that line from the company, or from the Greyhound Bus Lines for transportation services within the area, or from both, for resale at less than the cost to the transit district to residents of the transit district.

The governing body of the transit district shall determine the resale price of tickets purchased by it.

99152. Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, is subject to regulations of the Public Utilities Commission relating to safety appliances and procedures.

The commission shall inspect all work done on those guideways and may make further additions or changes necessary for the purpose of safety to employees and the general public.

The commission shall develop an oversight program employing safety planning criteria, guidelines, safety standards, and safety procedures to be met by operators in the design, construction, and operation of those guideways. Existing industry standards shall be used where applicable.

The commission shall enforce the provisions of this section.

99153. Any transit district or operator may adopt uniform standards to rate bidders, on the basis of questionnaires and required statements, with respect to contracts for railroad rolling stock upon which each bidder is qualified to bid. Notwithstanding any other provision of law, the district or operator may limit bidding and award of contracts for railroad rolling stock to the bidders the district or operator has determined are qualified to bid. However, the district or operator shall qualify at least two persons or entities for bidding on the contracts.

99154. Any transit district or operator may require from prospective bidders for any contract answers to questions contained

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**PUBLIC UTILITIES CODE**  
**SECTION 105240-105241**

SMART

105240. The Improvement Act of 1911 (Part 1 (commencing with Section 5000) of Division 7 of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Chapter 1 (commencing with Section 10000) of Division 12 of the Streets and Highways Code), and the Improvement Bond Act of 1915 (Part 1 (commencing with Section 8500) of Division 10 of the Streets and Highways Code) are applicable to the district.

105241. The provisions of Chapter 1 (commencing with Section 99000) of Part 11 of Division 10 of the Public Utilities Code are applicable to the district.

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# PUBLIC UTILITIES CODE

## SECTION 99200-99217

99200. This chapter shall be known and may be cited as the  
"Mills-Alquist-Deddeh Act."

99201. Unless the context otherwise requires, the definitions given in this article shall govern construction of this chapter.

99203. "Claimant" or any derivative term, such as "applicant," means an operator, city, county, or consolidated transportation service agency.

99204. "City" means a city within the county having the fund from which the disbursement will be made.

99204.3. "Commission" means the California Transportation Commission.

99204.5. "Consolidated transportation service agency" means an agency designated pursuant to subdivision (a) of Section 15975 of the Government Code.

99204.6. "Controller" means the Controller of the State of California.

99205. "County" includes a city and county.

99205.5. "Department" means the Department of Transportation.

99205.6. "Director" means the Director of Transportation.

99205.7. "Fare revenues" means the revenue object classes 401, 402, and 403 as specified in Section 630.12 of Title 49 of the Code of Federal Regulations, as now or as may hereafter be amended.

99206. "Fund" means the local transportation fund established by a county under Article 11 (commencing with Section 29530) of Chapter 2 of Division 3 of Title 3 of the Government Code.

other than funds specifically included in the formula allocation program.

99208. "Included transit district" means any of the following which has operated a public transportation system since at least January 1, 1971:

(a) A transit district whose boundaries are contained entirely within those of a larger transit district.

(b) A district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code.

99209. "Municipal operator" means a city or county, including any nonprofit corporation or other legal entity wholly owned or controlled by the city or county, which operates a public transportation system, or which on July 1, 1972, financially supported, in whole or in part, a privately owned public transportation system, and which is not included, in whole or in part, within an existing transit district.

99209.1. "Municipal operator" also means any county which is located in part within a transit district and which operates a public transportation system in the unincorporated area of the county not within the area of the district.

99209.5. "Operates" for purposes of Sections 99209 and 99215, and "operation" for purposes of paragraph (1) of subdivision (b) of Section 99289, mean that the operator owns or leases the equipment, establishes routes and frequency of service, regulates and collects fares, and otherwise controls the efficiency and quality of the operation of the system, but does not require that operators of rolling stock be employees of a public agency.

99210. "Operator" means any transit district, included transit district, municipal operator, included municipal operator, or transit development board.

99210.1. "Operator" also means the San Joaquin Regional Rail Commission for operation of commuter rail services.

99211. "Public transportation system" means any system of an operator which provides transportation services to the general public by any vehicle which operates on land or water, regardless of whether operated separated from or in conjunction with other vehicles.

99211.5. "Ridesharing services" means a comprehensive organizational effort which is designed to reduce the number of vehicles on the highways during peak travel periods within a defined area by encouraging the planning and marketing of high-occupancy vehicle facilities, increases in the number of passengers per vehicle

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in vehicles used for ridesharing, alternative work schedules, and other transportation demand management strategies among employers and commuters.

99212. "Secretary" means the Secretary of Transportation.

99213. "Transit district" means a public district organized pursuant to state law and designated in the enabling legislation as a transit district or a rapid transit district.

99214. (a) "Transportation planning agency" means the entity designated in Section 29532 of the Government Code.

(b) "Transportation planning agency" also includes, for purposes of this chapter, the county transportation commissions created in the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura pursuant to Division 12 (commencing with Section 130000).

(c) "Transportation planning agency" also includes, for purposes of this chapter, the Imperial County Transportation Commission in Imperial County.

99215. "Transit development board" means a public entity created pursuant to state law and designated in the enabling legislation as a transit development board, including, solely for purposes of submission of claims, receipt of funds, separate annual reporting to the Controller, and provision of service as an operator under this chapter, any nonprofit corporation or other legal entity wholly owned or controlled by the transit development board which operates a public transportation system.

99217. "Urbanized area" means such an area as defined by Section 101 of Title 23 of the United States Code.

## PUBLIC UTILITIES CODE

### SECTION 105095-105105

105095. The district may provide a rail transit system for the transportation of passengers and their incidental baggage by rail.

105096. (a) The district may acquire, construct, own, operate, control, or use rights-of-way; rail lines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rail transit within and without the district, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, including ancillary bicycle and pedestrian pathways, and may acquire or contract for any interest in or rights to the use or joint use of any or all of the foregoing.

(b) The district may contract with any public agency or person for the operation of shuttle services necessary or convenient for rail transit.

(c) In Sonoma County, north of Healdsburg, the district shall locate commuter stations only within incorporated areas.

(d) In Marin County north of San Rafael, the district shall locate commuter stations only within areas that are incorporated as of the operative date of this part.

105097. The district may lease or contract for the use of its rail transit facilities, or any portion thereof, to any operator, and may provide for subleases by the operator upon any terms and conditions it deems in the public interest. As used in this section, "operator" means any public agency or any person.

105098. Except as otherwise provided in Section 105143, the board may contract with any public agency or person to provide rail transit facilities and services for the district.

105099. The district may construct and operate or acquire and operate rail transit works and facilities in, under, upon, over, across, or along any state or public highway or any stream, bay or watercourse, or over any of the lands that are the property of the state, to the same extent that these rights and privileges are granted to municipalities within the state.

105100. Except as otherwise provided in Section 105087, the provisions of Article 5 (commencing with Section 53090) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code shall not be applicable to the district.

105101. The district may enter into agreements for the joint use of any property and rights by the district and any city, public agency, or public utility operating transit facilities and may enter into agreements with any city, public agency, or public utility operating

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# North Coast Railroad Authority

419 Talmage Road . Suite M . Ukiah CA 95482  
(707) 463-3280 . FAX (707) 463-3282

## Mission Statement

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The Mission of the North Coast Railroad Authority is to provide a unified & revitalized rail infrastructure meeting the freight and passenger needs of the region; a first class service working in partnership with others to build and sustain the economy of the region.

## History

The North Coast Railroad Authority (NCRA) was formed in 1989 by the California Legislature under the North Coast Railroad Authority Act, Government Code Sections 93000, et seq . The Act was intended to ensure continuation of railroad service in Northwestern California and envisioned the railroad playing a significant role in the transportation infrastructure serving a vital part of the State that suffers from restricted access and limited transport options. In 1992, the State purchased the railroad line from Willits north. In 1995, a separate transaction added the railroad line from Healdsburg north to the NCRA's holdings and provided for a joint powers authority, the Northwestern Pacific Railroad Authority (NWPRA) to own the right of way from Healdsburg south to Schellville in Sonoma County, where the railroad then feeds a 12-mile shortline through Napa County which connects to the Union Pacific mainline at Fairfield-Suisun in Solano County.

Search:

The legislation setting up the NCRA clearly articulated the mandate and intent of the State. A companion bill, which was passed by a bipartisan vote of both houses of the California legislature would have provided funds to execute the mandate, to preserve and improve the asset, and to fund the NCRA's administrative responsibilities. Unfortunately, that bill was vetoed by Governor Deukmejian. The fact that the NCRA and its railroad, the Northwestern Pacific, have survived to date under the contradiction of a mandate without funding is not only a miracle but testimony to the tremendous dedication and sacrifices of the people involved with the railroad since its inception. It has had continued support from elected legislators representing the area.

Since its inception, the NCRA has been confronted with three substantial challenges: (1) to establish a public-private partnership whereby the NCRA would have policy and oversight authority, while the railroad itself would be operated by a qualified and experienced private entity; (2) to operate an ongoing railroad enterprise without start-up operating capital on a right-of way that had suffered from years of deferred maintenance; and (3) to obtain Federal and State funds to repair the right-of-way, as a result of both deferred maintenance and consecutive years of weather-related disasters, so as to allow the railroad operation to be viable for the long-term future.

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Against all odds and overcoming mistakes made in the past, the NCRA and the New Northwestern Pacific Railroad are now on the verge of meeting all three challenges outlined above. Although the NCRA has already met and overcome the first two of three challenges (established a public private-partnership and begun operating the railroad without any operating subsidy from the State), the third challenge will require the public funding to achieve.

[Click here for more information on the history of the NWP and the NCRA.](#)

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Designed and maintained by North Coast Railroad Authority

# GOVERNMENT CODE

## SECTION 93000-93005

93000. This title shall be known and may be cited as the North Coast Railroad Authority Act.

93001. It is the intent of the Legislature, in enacting this title, to provide an alternative for ensuring railroad service if the Interstate Commerce Commission authorizes the abandonment or discontinuance of service on, or in the event of the bankruptcy or sale of, the current Eureka Southern Railroad line, the Northwestern Pacific Railroad line, or the California Western Railroad line.

It is the intent of the Legislature to provide a means to consider and, if justified, to pursue economic development opportunities and projects related to rail service along these railroad lines.

It is the further intent of the Legislature that this title not provide a justification for the commission to grant a petition for abandonment or discontinuance of service on any of those lines.

93002. It is the intent of the Legislature that the authority be expanded to include the County of Del Norte if the extension of rail service to that county becomes feasible at a future date.

93003. The Legislature finds and declares that maintaining railroad service to the north coast area of California will provide economic benefits and, in addition, do all of the following:

(a) Ensure continuing passenger and freight railroad service to the north coast area.

(b) Explore opportunities for the improvement of rail service extending from Humboldt County through Mendocino County, and the potential extension of rail service to Del Norte County.

(c) Enhance tourist access to the north coast area and encourage the establishment of tourist-related facilities.

(d) Reduce reliance on motor vehicles and encourage the use of rail service as an alternative transportation means.

(e) Reduce traffic congestion on and deterioration of State Highway Route 101.

(f) Provide convenient and attractive transportation service for residents of and visitors to the north coast area.

93004. As used in this title "authority" means the North Coast Railroad Authority.

93005. The authority is a local agency for purposes of the Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 2).

# GOVERNMENT CODE

## SECTION 93020-93025

93020. The authority has all of the following powers:

(a) To acquire, own, operate, and lease real and personal property reasonably related to the operation and maintenance of railroads.

(b) To issue revenue bonds pursuant to Section 93024 for any purpose of the authority.

(c) To acquire property by purchase, lease, gift, or through exercise of the power of eminent domain.

(d) To operate railroads, including those outside its boundaries in order to connect its lines with the lines of another railroad corporation.

(e) To accept grants or loans from state or federal agencies.

(f) To select a franchisee, which may be a public or private entity, to acquire or operate a rail transportation system within the area of the authority's jurisdiction.

93021. The authority may acquire, own, lease, and operate railroad lines and equipment, including, but not limited to, real and personal property, tracks, rights-of-way, equipment, and facilities.

93022. The authority may prepare a plan for the acquisition and operation of any railroad line specified in Section 93001, at no expense to the state, to achieve the purposes set forth in Section 93003.

93023. After preparation of a plan pursuant to Section 93022, the authority may do any of the following:

(a) Conduct engineering and other studies related to the acquisition of any railroad line.

(b) Evaluate alternative plans from the private sector to acquire, finance, and operate a railroad system in a manner which achieves the purposes specified in Section 93003.

(c) Establish criteria for the award of a franchise.

(d) Select a franchisee to acquire, finance, and operate the railroad system.

(e) Accept grants, gifts, fees, or allocations from other entities, including private and public sources.

(f) Employ an executive officer, other staff, and consultants deemed appropriate for support of the activities of the authority.

93024. (a) The authority may issue bonds, payable from revenues of any facility or enterprise to be acquired or constructed by the authority, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code).

However, an election is not required in the case of revenue bonds authorized by the board of directors for railroad facilities, and any addition, extension, and improvement thereto, and all other facilities authorized to be acquired, constructed, or completed by the authority under this title.

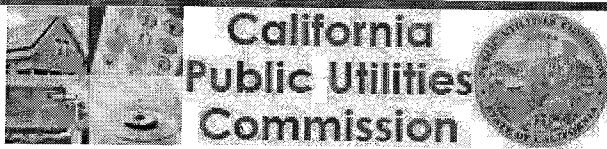
(b) The authority is a local agency within the meaning of the

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Revenue Bond Law of 1941. The term "enterprise," as used in that law, includes railroad facilities, and any addition, extension, and improvement thereto, and all other facilities authorized to be acquired, constructed, or completed by the authority under this title.

93025. The state is not liable for any contracts, debts, or other obligations of the authority.

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[PUC](#) > [Safety](#) > [Rail Safety](#) > [Rail Crossings](#) > General Orders

## CPUC General Orders For Rail Crossings

The [CPUC Online Documents page](#) has links to additional [Commission General Orders](#), as well as the [Public Utilities Code](#) and [Commission Rules of Practice & Procedure](#).

### COMMISSION GENERAL ORDERS

The following General Orders (GO) may be applicable to rail crossings:

[GO 26-D](#): Clearances on railroads and street railroads as to side and overhead structures, parallel tracks and crossings

[GO 72-B](#): Construction & Maintenance - Standard types of pavement construction at railroad grade crossings

[GO 75-D](#): Warning Devices for at-grade railroad crossings

[GO 88-B](#): Alterations of railroad crossings

[GO 118](#): Construction, reconstruction and maintenance of walkways and control, of vegetation adjacent to railroad tracks

[GO 135](#): Blocking of Crossings

[GO 143-B](#): Design, construction and operation of light rail transit systems

[GO 145](#): Railroad crossings to be classified exempt from the mandatory stop requirements of Section 22452 of the Vehicle Code

[GO 164-D](#): Regulations governing state safety oversight of rail fixed guideway systems

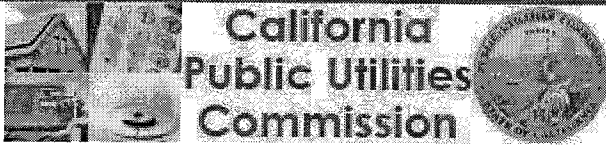
### PUBLIC UTILITIES CODE

The following Public Utilities (PU) Code sections may be applicable to rail crossings:

→ [PU Code Sections 1201-1205](#): Public railroad crossings

PU Code Sections [7537](#): Private railroad crossings

→ [PU Code Section 99152](#): Transit



[PUC](#) > [Safety](#) > [Rail Safety](#) > [Rail Transit](#) > Rail Transit Rules

# Rail Transit Rules and Regulations

## CPUC General Orders

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Rules established by the Commission are called General Orders or GOs. The following lists some of the more relevant General Orders to rail transit safety and security. Other General Orders are available in the [index of all General Orders](#).

### GENERAL SAFETY RULES

- ➔ [GO 143-B: Safety Rules and Regulations Governing Light-Rail Transit](#)
- ➔ [GO 164-D: Rules and Regulations Governing State Safety Oversight of Rail Fixed Guideway Systems](#)

### CONSTRUCTION AND MAINTENANCE RULES

- [GO 26-D: Clearances on railroads and street railroads as to side and overhead structures, parallel tracks and crossings](#)
- [GO 95: Overhead electric line construction](#)
- [GO 118-A: Construction, reconstruction and maintenance of walkways and control, of vegetation adjacent to railroad tracks](#)

**Last Modified: 3/17/2014**

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**GENERAL ORDER 143-B**  
**(Superseding General Order 143-Adopted May 8, 1991)**

**PUBLIC UTILITIES COMMISSION OF THE  
STATE OF CALIFORNIA**

**SAFETY RULES AND REGULATIONS GOVERNING  
LIGHT-RAIL TRANSIT**

Adopted May 8, 1991. Effective June 7, 1991

Decision 91-05-015 in I.89-07-003.

Amended April 6, 1994; Effective May 1, 1994

Resolution ST-11

Amended January 20, 2000, Effective January 20, 2000

Resolution ST-47

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## **1. GENERAL PROVISIONS**

- 1.01 **SHORT TITLE.** These rules and regulations shall be known as "General Order No. 143-B."
- 1.02 **AUTHORITY.** These rules and regulations are authorized by and implement the provisions of Sections 778, 29047, 30646, 99152, and 100168 of the Public Utilities Code.
- 1.03 **PURPOSE.** The purpose of these rules and regulations is to establish safety requirements governing the design, construction, operation, and maintenance of light-rail transit systems in the State of California. The safety of patrons, employees, and the public is of primary importance in the application of these regulations.
- 1.04 **APPLICABILITY.** These rules and regulations are applicable to light-rail public transit guideways planned, acquired, or constructed on or after January 1, 1979, and to all private light-rail transit systems in accordance with Sections 778 and 99152 of the California Public Utilities Code. Light rail transit carriers not subject to the Commission's jurisdiction are encouraged to follow these rules and regulations.
- 1.05 **NOT RETROACTIVE.** Unless otherwise specified, these rules and regulations shall not require reconstruction, additions, or changes to existing systems, facilities, and light-rail vehicles in service or advertised for construction prior to the effective date hereof. This section does not apply to maintenance of equipment and facilities.
- 1.06 **COMMISSION MAY ORDER ADDITIONAL RULES.** The Commission may make such further additional rules or changes as necessary for the purpose of safety to employees and the general public.
- 1.07 **EXEMPTIONS OR MODIFICATIONS.** Requests for exemptions or modifications from these rules and regulations shall contain a full statement of the reasons justifying the request and demonstrating that safety is not reduced thereby. Any exemption or modification so granted shall be limited to the particular case covered by the request.
- 1.08 **LRV EQUIPMENT AND CONDITION.** Every LRV, as defined in Section 2.09 of these rules and regulations, used in revenue service shall be equipped as required by this General Order. All such LRV equipment shall be maintained in safe proper working condition as required by the carriers' approved operating rules and procedures.

\* \* \*





California Public Utilities Commission

CPUC Home

Word Document PDF Document

**GENERAL ORDER NO. 164-D**

**(Supersedes General Order No. 164-C)**

**PUBLIC UTILITIES COMMISSION OF THE**

**STATE OF CALIFORNIA**

**RULES AND REGULATIONS GOVERNING STATE SAFETY OVERSIGHT OF RAIL  
FIXED GUIDEWAY SYSTEMS**

**Adopted September 20, 1996. Effective September 20, 1996.**

**(D.96-09-081 in R.96-04-021)**

**Amended September 3, 1997. Effective October 1, 1997.**

**Resolution No. ST-27**

**Amended December 2, 1999. Effective December 2, 1999.**

**Resolution No. ST-44**

**Adopted February 27, 2003. Effective February 27, 2003.**

**(D.03-02-048 in R.02-01-009)**

**Amended May 3, 2007. Effective May 3, 2007.**

**(D.07-05-014 in R.06-10-004)**

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**IT IS ORDERED** that the following rules and regulations governing the safety oversight of Rail Transit Agencies and Rail Fixed Guideway Systems shall hereafter be observed in this State unless otherwise directed by the California Public Utilities Commission (Commission).

## 1 GENERAL PROVISIONS

1.1 *Authority.* These rules and regulations are authorized by and implement the provisions of 49 U.S.C. 5330, Intermodal Surface Transportation Efficiency Act of 1991, Sec. 3029, Title 49 of the Code of Federal Regulation, Part 659, Rail Fixed Guideway Systems, State Safety Oversight; Final Rule, and Sections 778 and 99152 of the California Public Utilities Code.

1.2 *Applicability.* These rules and regulations are applicable to all Rail Transit Agencies and Rail Fixed Guideway Systems in California.

1.3 *Additional Rules.* The Commission may make such additional rules and regulations or changes to these rules and regulations as are necessary for the purpose of safety.

1.4 *Exemptions or Modifications.* Requests for exemption from, or modification of, these rules and regulations must be filed by Rail Transit Agencies, and shall contain a full statement of the reasons justifying the request and demonstrating that safety is not reduced. Any exemption or modification so granted shall be limited to the particular matter covered by the request. Any exemption or modification shall require Commission approval.

1.5 For the purpose of construing these rules, *may* is permissive and *shall* is mandatory.

## 2 DEFINITIONS

2.1 *Certifiable Elements List* means a list that contains all facilities, systems, rail at-grade crossings, and other items that are subject to safety certification due to their safety functions.

2.2 *Contractor* means an entity that performs tasks required on behalf of the Commission or Rail Transit Agency (RTA).

2.3 *Corrective Action Plan* means a plan developed by an RTA that describes the actions the RTA will take to minimize, mitigate, control, correct, or eliminate hazards, and the schedule for implementing those actions.

2.4 *Existing Industry Standards* means the currently accepted industry and professional engineering standards and/or guidelines relating to the design, construction, operation, and maintenance of Rail Fixed Guideway Systems such as ANSI, APTA, AREMA, ASCE, ASEE, ASME, FRA, FTA, IEEE, NFPA, and others.

2.5 *FRA* means the Federal Railroad Administration

2.6 *FTA* means the Federal Transit Administration.

2.7 *Hazard* means any real or potential condition (as defined in the RTA's hazard management process) that can cause injury, illness, or death; damage to or loss of a system, equipment or property; or damage to the environment.

2.8 *Hazard Analysis* means any analysis performed to identify hazards for the purpose of their elimination, mitigation, or control.

2.9 *Individual* means a passenger; employee; contractor; other rail transit facility worker; pedestrian; trespasser; or any person on rail transit-controlled property.

2.10 *Investigation* means the process used to determine the causal and contributing factors of an accident or hazard, so that actions can be identified to prevent recurrence.

2.11 *Mainline* means all tracks used for the purpose of the movement of passengers on rail transit vehicles. Mainline does not include storage tracks, yard tracks or other tracks used for the purpose of storage.

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9.6 Each RTA shall submit to Staff verification that the corrective action(s) has been implemented as described in the corrective action plan, or that a proposed alternate action(s) has been implemented with the agreement of Staff.

## 10 REQUIREMENTS FOR AT-GRADE RAIL CROSSINGS

10.1 The procedures described in this section apply to the construction of all at-grade crossings established after the effective date of this General Order.

10.2 In the initial phase, the RTA shall consult with Staff during the process of developing a Draft Environmental Impact Report (DEIR) for projects that require such a document to be prepared. For other proposed crossings, where a DEIR is not required, the RTA shall consult with Staff prior to initiating preliminary engineering. The purpose of this consultation is for the RTA to provide its reasons and supporting evidence, why the at-grade crossing is not a good candidate for closure or grade separation. Staff shall provide feedback by a letter to RTA. The following information is to be provided to Staff as part of the consultation:

- a. Current and projected railroad operations. If the crossing is planned to be used by other types of trains such as freight trains, the number, type and speed(s) of trains shall be provided;
- b. Current and projected highway usage - number, type (cars, trucks, buses, pedestrians, bicyclists, etc.), and speed of vehicles;
- c. Existing and projected facilities that generate traffic in the area, such as shopping centers, major industries, schools, entertainment venues, or emergency services (hospitals, fire stations, police departments, etc.);
- d. Preliminary drawings and/or aerial photographs, or site maps of the crossing and vicinity - include information on nearby roads to determine if they can accommodate additional vehicular traffic if existing intersections are eliminated.

10.3 In the second phase, the RTA shall request Commission authorization for every crossing during the preliminary engineering phase of the project. At its option, the RTA may choose either of the following processes to request Commission approval:

i. Filing a Rail Crossing Hazard Analysis Report (RCHAR) as outlined below, or

ii. Filing a formal application in accordance with the Commission's Rules of Practice and Procedure.

10.4 If the RTA chooses option (i) in Section 10.3, it shall submit to Staff an RCHAR listing every at-grade rail crossing. The RCHAR shall include the following:

- a. Detailed engineering drawings for each at-grade crossing
- b. Proposed rail operations
- c. Updates of data provided during consultation (see Section 10.2)
- d. Analysis of identified hazards at each proposed at-grade crossing, such as:
  - Queuing on tracks
  - Pedestrian movements
  - Turning movements
  - Sightlines
- e. Identification of hazard mitigation measures, such as:
  - Crossing warning devices

- Active and passive signs
- Median islands
- Fencing

10.5 After an RCHAR that meets the requirements of Section 10.4 is submitted, Staff shall schedule field diagnostic review meetings, with all affected agencies, within 60 days after receiving the RCHAR, to assess the safety aspects of the proposed at-grade crossing design(s). Within 90 days after the field diagnostic reviews are completed, Staff shall provide preliminary recommendations to the RTA pertaining to the design of each at-grade crossing.

10.6 If the RTA accepts Staff's preliminary recommendations, then those recommendations will be considered to be final and the RTA shall submit plans incorporating the changes for approval by Commission Resolution.

10.7 If the RTA does not accept Staff's preliminary recommendations, then the RTA can request a meeting with Staff to discuss the design of the at-grade crossings. Within 30 days after this meeting, Staff

shall provide their final recommendations to the RTA. If the RTA accepts Staff's final recommendations, the RTA shall submit final plans incorporating the changes for approval by Commission Resolution.

10.8 If the RTA and Staff cannot reach agreement on the design of specific at-grade crossings, then the RTA may file a formal application with the Commission for those crossings, in accordance with Section 10.3 (ii), where agreement was not reached

10.9 Nothing in this GO shall preclude the RTA from filing a formal application in accordance with Section 10.3 (ii) at any point in the process.

## **11 REQUIREMENTS FOR SAFETY CERTIFICATION PLAN**

11.1 Each RTA shall be responsible for Safety Certification of all Projects that initiate preliminary engineering after February 27, 2003. The RTA shall ensure that all entities involved in design, construction, operation, and maintenance of all Projects shall comply with the requirements of the Safety Certification process.

11.2 Each RTA shall prepare a Project specific Safety Certification Plan (SC Plan) for each of its Projects. Applicable FTA guidelines shall be used as a reference.

11.3 Each RTA shall submit the SC Plan to Staff for review and Commission approval during the preliminary engineering phase. The RTA shall revise and expand the SC Plan as the Project progresses, as necessary. The RTA shall file any revision of the SC Plan with Staff. Within 45 calendar days, Staff shall approve or reject the proposed revisions.

11.4 The SC Plan shall address safety certification management including organizational authority and responsibilities, safety certification activities, processes and procedures, documentation requirements and responsibilities, and reporting requirements.

11.5 The SC Plan shall describe the controls used to maintain effective communications and liaison with Staff throughout the life of the Project. It shall also include procedures to obtain and adequately address Staff's written comments on safety and security design reviews conducted throughout Project development lifecycle.

11.6 The SC Plan shall identify the process used to verify and document conformance with safety and security requirements during design, construction, testing, and operational readiness. The SC Plan shall include the following:

- a. The hazard management process to conduct safety hazard analyses and safety hazard resolution. The document shall include a list of hazard analyses to be performed. Each RTA shall submit hazard analyses to Staff upon request.
- b. A list of all safety and security design criteria that will be used in the planning, design, and construction of Projects.
- c. Certifiable elements and sub-elements list.
- d. Safety certification audits conducted in accordance with written checklists to verify compliance and judge the

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effectiveness of the SC Plan.

e. Format of Conformance checklists, and a list of the actual checklists as they become available: the actual checklists shall be submitted upon request.

f. Safety Certification milestones.

g. Procedure for updates.

## 12 REQUIREMENTS FOR SAFETY CERTIFICATION VERIFICATION REPORT

12.1 Each RTA shall submit a Safety Certification Verification Report to verify Project compliance with the SC Plan.

12.2 Each RTA shall submit the SCVR to Staff at least 21 calendar days prior to the start of service. The SCVR shall certify that: (a) all requirements of the SC Plan have been completed except for listed open items, if any, (b) that all safety hazards have been adequately mitigated, and (c) adequate restrictions/workarounds are in place to ensure the safety of operations until open items are closed. Staff shall respond to the SCVR within 9 calendar days of filing by indicating that it approves the SCVR, or identifying areas that are not acceptable to Staff. Staff shall give its approval of the SCVR by issuing a formal letter to the RTA so stating. The Staff's approval letter will not bind the Commission, but shall constitute provisional Commission approval. The Project shall not be placed in service until the SCVR is provisionally approved by Staff in this manner.

12.3 The SCVR shall include a:

- a. Letter of Intent to Operate;
- b. Final Project Verification of Safety; and
- c. Remaining Open Items List, if any, with appropriate workarounds.

## 13 COMMISSION APPROVAL

13.1 Where formal Commission approval is required by this General Order, requests for Commission approval, shall be made by letter to Staff unless otherwise specified. Staff shall prepare a resolution on the request for Commission consideration at a public meeting.

13.2 All protests, comments, and appeals of initial Staff or Director determinations shall be submitted to the Commission pursuant to the Commission Rules of Practice and Procedure.

Dated May 3, 2007, at San Francisco, California.

PUBLIC UTILITIES COMMISSION

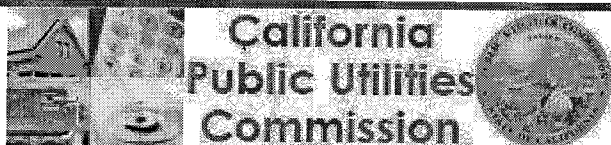
STATE OF CALIFORNIA

By PAUL CLANON

Executive Director

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[PUC](#) > [Safety](#) > [Rail Safety](#) > [Rail Crossings](#) > Formal Applications

## Rail Crossing Formal Applications

### 1. Does a rail crossing project require a "formal application" or "GO 88-B" authorization from CPUC?

Authority to construct a new public rail crossing is typically granted by the CPUC through the "formal application" process outlined in the Rules of Practice and Procedure, Rules 3.7 to 3.11, which results in an Order signed by the Commission.

Authority to modify an existing public rail crossing is typically granted through the General Order 88-B (GO 88-B) authorization process which results in an authorization letter from the Rail Crossings and Engineering Branch supervisor under authority delegated from the Commission, if General Order 88-B is applicable.

### 2. When is a formal application required?

Whenever a new public railroad crossing is proposed, including the establishment of a public crossing at an existing private crossing location. A formal application may sometimes be required to authorize alterations to an existing crossing where all parties cannot agree on the alterations, or for projects not meeting the requirements of GO 88-B.

### 3. What about minor alterations?

A letter may be submitted to CPUC staff in the Rail Crossings and Engineering Branch to request authority to alter a crossing, pursuant to GO 88-B. Forms and instructions are available on the General Order 88-B Projects page.

Such alterations may include roadway widening within the existing right-of-way, approach grade changes, track elevation changes, roadway realignment within the existing or contiguous right-of-way, the addition of one track within existing railroad right-of-way, alteration or reconstruction of a grade-separated crossing, or construction of a grade-separation that eliminates an existing at-grade crossing.

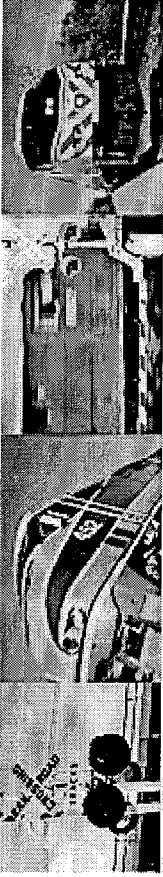
### 4. Are rail transit crossings authorized in the same way?

Rail transit crossing projects may be authorized through the formal application or GO 88-B process discussed above, however, rail transit projects may choose to follow the process discussed in General Order 164-D Section 10, which requires the transit agency to prepare a Rail Crossings Hazards Analysis Report.

### 5. Who can file an application?

Rules 3.7 to 3.11 discuss this. Generally speaking, the road agency (city, county, or state), railroad, or rail transit agency.

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# CPUC Rail and Transit Hazard Management Program

**August 2012**

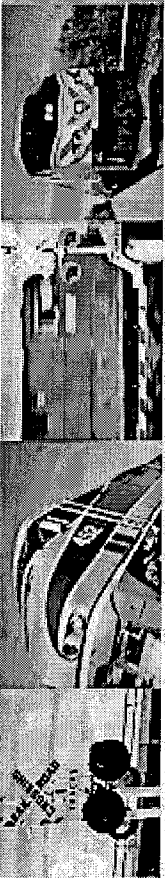
**2012 Railroad Right-of-Way Trespass Prevention Workshop**

45

Daren Gilbert, Manager  
Rail Transit & Crossings Branch  
California Public Utilities Commission



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# CPUC Overview: Rail Crossings

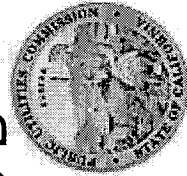
- **CPUC authorization required for all new crossings and crossing modifications:**

- • All Transit and Railroad crossings
- New crossings (at-grade and grade-separations)
- Change in type of warning devices at public crossings
- Road Modifications (widening, medians, sidewalks)
- Change in number of tracks

- **Authorization process**

- • Formal Commission Application for new rail crossings
- New transit system crossings under General Order 164-D, based on. submission of a Hazard Analysis for each proposed crossing
- Staff authorization of modifications for existing rail and transit crossings through delegated authority under General Order 88-B

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*Record*

THE UNDERSIGNED INSTRUMENT AS A CORRECT  
COPY OF THE ORIGINAL ON FILE IN  
THIS OFFICE:

ATTEST: AUG 21 1961

EUGENE D. WILLIAMS

County Clerk & ex-officio Clerk of the  
Board of Supervisors of the County of Sonoma,  
formed in 1842 for the County of Sonoma, B. P.  
BY *[Signature]* CLERK

Resolution No. 00567-1

County of Sonoma  
Administration Building  
Santa Rosa, California.

August 28, 1961

RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SONOMA APPROVING AND  
ACCEPTING AGREEMENT BETWEEN THE NORTH-  
WESTERN PACIFIC RAILROAD COMPANY AND  
THE COUNTY OF SONOMA COVERING GRANT  
OF EASEMENT FOR GUERNEVILLE ROAD EXTEN-  
SION CROSSING, AND AUTHORIZING THE  
CHAIRMAN OF THE BOARD TO EXECUTE SAID  
AGREEMENT ON BEHALF OF THE COUNTY OF  
SONOMA.

WHEREAS, under date of November 21, 1960, appli-  
cation was made to the Public Utilities Commission of the State  
of California applying for permission to construct a crossing,  
at grade, over the tracks of the Northwestern Pacific Railroad  
at Guerneville Road Extension, westerly of the City of Santa Rosa,

AND WHEREAS, said Northwestern Pacific Railroad  
Company has presented a conveyance granting to the County of  
Sonoma an easement, for construction and maintenance of a high-  
way within the right of way of said Company as described in  
said conveyance and shown in yellow tint on the print of Rail-  
roads San Rafael Drawing X-7053 dated July 7, 1961, and attached  
and made a part of said conveyance, and

NOW THEREFORE BE IT RESOLVED, that the said  
above described agreement relative to the grant of easement be  
and hereby is accepted under the terms and conditions set forth  
in that indenture above described, and

BE IT FURTHER RESOLVED, that the chairman of  
this Board of Supervisors be, and hereby is authorized and  
directed to execute said indenture for and in behalf of the  
County of Sonoma, and

BE IT FURTHER RESOLVED, that the County Recorder  
be and he hereby is authorized and directed to record such inden-  
ture, without fee.

WHEREAS, the Developer owning property adjacent to said Frontage Road is desirous of making arrangements with the Division of Highways for immediate construction of said road,

AND WHEREAS, the location of said Frontage Road has been heretofore approved by this Board, by Freeway Agreement with the Department of Public Works, State of California dated April 26, 1961, now

THEREFORE BE IT RESOLVED, that should said Frontage Road be constructed to the satisfaction of the Division of Highways and the County Road Commission, by others, the County of Sonoma will assume maintenance upon completion of said construction.

The foregoing resolution was introduced by Supervisor King, who moved its adoption, seconded by Supervisor Mitchell, and adopted on roll call by the following vote:

Supervisor Mitchell	Aye
Supervisor Shoemaker	Absent
Supervisor King	Aye
Supervisor Lampson	Aye
Supervisor Guidotti	Aye

Ayes: 4; Noes: 0; Absent or not voting: 1.

WHEREUPON, the Chairman declared the above resolution adopted, and

SO ORDERED

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA  
AGREEING TO THE ABANDONMENT AND CLOSING OF THE PUBLIC GRADE  
CROSSING AT JENNINGS AVENUES, NO. 5-55.0.

Resolution No. 22954  
Administration Building  
Santa Rosa, California  
June 12, 1961

WHEREAS, in connection with the proposed extension of Guerneville Road to Steele Lane, a project on F.A.S. Route 780, this Board of Supervisors did, on November 21, 1960 by Resolution 21208, authorize the filing of an application with the Public Utilities Commission for permission to construct a grade crossing at the intersection of said Guerneville Road Extension, and the tracks of the Northwestern Pacific Railroad Company, and on November 29, 1960 such application was filed and assigned Application No. 42935, and

WHEREAS, under date of February 20, 1961, the Northwestern Pacific Railroad did address a letter to the Public Utilities Commission, a copy of which was filed with this Board of Supervisors (C-2-87, February 27, 1961), in which it was stated that Northwestern Pacific Railroad Company would interpose no objection to the proposed crossing provided that all cost of construction and protection would be borne by the County of Sonoma and with further understanding that the Commission in its Orders would require that the existing public crossing at Jennings Avenue, No. 5-55.0, be abandoned and removed at no expense to the Railroad Company, and

WHEREAS, the matter of the proposed abandonment of the existing crossing at Jennings Avenue was referred to the Sonoma County Planning Commission, which by resolution 2918 dated April 6, 1961 recommended that the existing crossing at Jennings Avenue be closed upon the completion of the proposed extension of Guerneville Road, and

WHEREAS, this Board of Supervisors has reviewed such recommendation and concurs therewith, now,

THEREFORE BE IT RESOLVED, that this Board of Supervisors agrees to the abandonment and closing of the public grade crossing at Jennings Avenue, No. 5-55.0, at no expense to the Northwestern Pacific Railroad Company upon the authorization of the proposed grade crossing at Guerneville Road Extension and upon the completion of the extension of said Guerneville Road, and

BE IT FURTHER RESOLVED, that the County Surveyor and Road Commissioner be, and he hereby is, authorized and directed to forward certified copies of this resolution to the Public Utilities Commission and to the Northwestern Pacific Railroad Company.

The foregoing resolution was introduced by Supervisor King, who moved its adoption, seconded by Supervisor Mitchell, and adopted on roll call by the following vote:

Supervisor Mitchell	Aye
Supervisor Shoemaker	Absent
Supervisor King	Aye
Supervisor Lampson	Aye
Supervisor Guidotti	Aye

Ayes: 4; Noes: 0; Absent or not voting: 1.

WHEREUPON, the Chairman declared the above resolution adopted, and

SO ORDERED

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA  
RE: FIRE TRAIL AGREEMENT RENEWAL, AND AUTHORIZING THE CHAIRMAN  
OF THE BOARD TO EXECUTE SAID AGREEMENT ON BEHALF OF THE COUNTY  
OF SONOMA. (FOURTH SUPERVISORIAL DISTRICT)(KYNOCH ET AL).

Resolution No. 22955  
Administration Building  
Santa Rosa, California  
June 12, 1961

WHEREAS, there is located in the County of Sonoma, a certain private roadway providing access to an area of intense fire hazard, described as follows:

Commencing at Pine Mtn., Road in Section 5 Township 11  
North Range 10 West; thence northerly through the lands  
of Kynoch, Murphy, Ratto and Greppi to the Mendocino  
County line.

AND WHEREAS, there has been presented to this Board of Supervisors an executed agreement for the renewal of an existing fire trail as above described, and

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## RESOLUTION NO. 8910

## RESOLUTION ORDERING THE ABANDONMENT AND VACATION OF THE TENTH STREET RAILROAD CROSSING WHEN A CROSSING IS CONSTRUCTED AT PINER ROAD

WHEREAS, the Council of the City of Santa Rosa did on the 28th day of January, 1969 adopt Resolution No. 8881, declaring its intention to consider the vacation and abandonment of the Tenth Street Railroad Crossing, subject to certain conditions relative to the construction of a railroad crossing at Piner Road in the County of Sonoma, State of California; and

WHEREAS, said Resolution No. 8881 fixed the 18th day of February, 1969, at the hour of 8:00 p. m. in the Council Chambers, City Hall, Santa Rosa California, as the time and place for hearing all persons interested in or objecting to the proposed abandonment of the Tenth Street Railroad crossing; and

WHEREAS, said notice to consider abandonment and vacation was duly published as required by law and at least three notices of such proposed abandonment and vacation were duly posted at the crossing proposed to be abandoned, which notices recited that the said resolution had been adopted and stated the time and place of hearing; and

WHEREAS, the Council of the City of Santa Rosa has duly held the hearing at the time and place above stated and there being no objections submitted by persons interested in the vacation and abandonment of the said portion of right of way, or all objections being hereby overruled;

NOW, THEREFORE, IT IS RESOLVED by the Council of the City of Santa Rosa that that certain railroad crossing designated as the Tenth Street Railroad Crossing, will be declared unnecessary for public use and will be abandoned and vacated when a railroad crossing is constructed at Piner Road; SAVING AND EXCEPTING, that there is hereby reserved to all public utilities the right to maintain, repair, construct or reconstruct sewers, water pipes, gas pipes, power lines, and other public utility facilities now in place at said crossing, street or road, and the right of all necessary entry therefor.

IT IS FURTHER RESOLVED, that the City Clerk be and is hereby directed to cause a certified copy of such order of abandonment to be recorded in the office of the Sonoma County Recorder, when the crossing is constructed on Piner Road and the Tenth Street Crossing may be finally abandoned and vacated.

IN COUNCIL DULY PASSED this 18th day of March, 1969

AYES: (5) Mayor Meyers, Councilmen Coddig, Downey, Poznanovich, Ryersen

NOES: (0)

ABSENT: (0)

APPROVED: LEWIS A. MEYERS

Mayor

ATTEST: AGNES M. BICK  
City Clerk



I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION DULY AND REGULARLY ADOPTED BY THE COUNCIL OF THE CITY OF SANTA ROSA AT A REGULAR MEETING THEREOF HELD March 18, 1969.

Agnes M. Bick  
City Clerk

City of Santa Rosa  
RECORDED AT REQUEST OF  
AT 14 MIN. PAST 11 A M  
SONOMA COUNTY, CALIFORNIA

Hubert Anglin Jr. RECORDER

MAR 24 1969

OFFICIAL RECORDS

BOOK 2385 PAGE 27

FEES \$ No Fee PD.

L 13484

L 13484

(525)

## Bliss, Sandi

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**From:** Jones, Jessica  
**Sent:** Monday, March 09, 2015 8:10 AM  
**To:** Bliss, Sandi  
**Cc:** Adams, Nancy; Sprinkle, Rob  
**Subject:** FW: Jennings Avenue Pedestrian and Bicycle Rail Crossing Final EIR

Hi Sandi,

Can you add this e-mail to my Council staff report for the Jennings Crossing EIR (3/17 Council meeting)?

### Jessica Jones | Senior Planner

Community Development Department | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404  
Tel. (707) 543-3410 | Fax (707) 543-3269 | jjones@srcity.org



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**From:** Richard Deringer [mailto:rdodyssey@hotmail.com]  
**Sent:** Saturday, March 07, 2015 8:04 AM  
**To:** Jones, Jessica  
**Subject:** RE: Jennings Avenue Pedestrian and Bicycle Rail Crossing Final EIR

Jessica-even though I have previously sent you a letter objecting to the closing of 8th Street I am now re-sending you my objection based on reading the EIR. As you know we have a approved tentative map that is still active that requires access to and from 8th Street. Without the use of this street the users of our property plus the local community will have to travel through the west end neighborhood for ingress and egress. We feel this violates our tentative map. Also, under our map we have the right to ask the City to vacate the right of way to us from 8th and Donahue to 9th Street. This has already been approved by the council. This too will be impacted by an 8th Street closing. Therefore I am again requesting the City to not close 8th Street.

As to closing 7th Street I would also like to remind you that we have the option to purchase the Western Farm property between 6th and 7th Street, with our intent to build about 80+ housing units. Closing 7th Street would severely impact this opportunity. We feel the closing of these streets in not in the best interest of developing housing under the guidelines of the station area plan. It would also create a severe barrier to not only efforts to bring new housing to this area. As the placement of the downtown mall on

4th street was a significant impediment to growth of the 4th Street corridor, the closing of these streets will create the same barriers to development. Thanks Rick Deringer for Railroad Square Village, LLC

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From: [JJones@srcity.org](mailto:JJones@srcity.org)

CC: [NAdams@srcity.org](mailto:NAdams@srcity.org); [RSprinkle@srcity.org](mailto:RSprinkle@srcity.org)

Subject: Jennings Avenue Pedestrian and Bicycle Rail Crossing Final EIR

Date: Wed, 11 Feb 2015 21:51:27 +0000

The Jennings Avenue Pedestrian and Bicycle Rail Crossing Final Environmental Impact Report (EIR) is now available for public review.

The Final EIR is comprised of the Draft EIR dated August 15, 2014 and the Final EIR dated February 9, 2015. The Final EIR includes the comments received during the 45-day public comment period regarding the Draft EIR from individuals and agencies, and a written response to environmental issues raised by commenters. Twenty-two letters were received on the Draft EIR, and fourteen individuals commented during the public hearing on November 18, 2014. The Final EIR also includes minor revisions and clarifications to the Draft EIR, including the addition of a new alternative; an at-grade bicycle and pedestrian rail crossing with no street closure, which was previously determined to be infeasible (see Final EIR Section 2.1.3, Master Response C, "Request for Evaluation of a New Alternative Consisting of the Preferred Project with No Rail Crossing Closure").

Copies of the Final EIR are available at the following locations:

- Santa Rosa City Hall, 100 Santa Rosa Avenue, Community Development Department (Room 3) and City Manager's Office (Room 10);
- Transportation and Public Works Department, 69 Stony Circle;
- California Welcome Center, 9 Fourth Street;
- Northwest Santa Rosa Library, 150 Coddington Center; and
- Central Santa Rosa Library, 211 E Street.

The Final EIR can also be accessed on the City website at the following address: <http://srcity.org/departments/communitydev/Pages/JenningsAvenuePedestrianandBicycleRailCrossingEIR.aspx>

**The Council will consider certification of the EIR on March 17, 2015, at or after 4 p.m. in the Council Chambers at City Hall (100 Santa Rosa Avenue).** \* Please note that this will be a "report" item not a "public hearing".

**The Council will also consider selection of a project on March 17, 2015, if the EIR is certified.**

**Jessica Jones | Senior Planner**

Community Development Department | 100 Santa Rosa Avenue, Room 3 | Santa Rosa, CA 95404  
Tel. (707) 543-3410 | Fax (707) 543-3269 | [jjones@srcity.org](mailto:jjones@srcity.org)



**Bliss, Sandi**

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**From:** sbchaller@aol.com  
**Sent:** Wednesday, March 11, 2015 6:48 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep W. 7th Street Open!

To Whom it May Concern,

Please consider keeping W 7th St open as closing it would create many tragic flow problems. It would also be a huge disservice to the many businesses that are on the street and surrounding area.

Thank You for you consideration,

Sherri Boyd  
Sent from AOL Mobile Mail



## Bliss, Sandi

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**From:** Carol Ciavonne <cah@sonic.net>  
**Sent:** Wednesday, March 11, 2015 8:22 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep West 7th Street Open

To the City Council:

Please keep West 7th Street open. We need the through street for at least 4 businesses on the block: Western Farm Center, Stark's, La Chatita Market and the Franco-American Bakery. In addition, this is one of the few streets that does go through from Wilson to Dutton. We also have Chop's Teen Center on 6th St. and 6th St. Theater, which means we get a lot of traffic in the neighborhood. We do not need more congestion and fewer ways to get out. I am also concerned that emergency vehicles will be delayed if the closure goes through.

We have a really nice neighborhood on the West End, and our neighborhood association has worked to make it a business and people friendly place. Please do not block off 7th, especially as Santa Rosa has an opportunity to make a safe and handsome bridge at the Jennings crossing.

Thanks for your attention,

Carol Ciavonne

**Bliss, Sandi**

---

**From:** lcol7@hotmail.com  
**Sent:** Wednesday, March 11, 2015 7:24 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Seventh Street

Please keep 7th Street open ! Emergency vehicles need to get through to neighborhoods' do consider building a pedestrian bridge as safest option. My mother is a West End resident and I hope to soon move to Santa Rosa myself. Where I live on the S.F. Peninsula, there are frequent, tragic casualties on the train tracks. In past several weeks, a motorist trapped on the tracks was killed, and a teen suicide near Palo Alto High. We sadly live with horrifying rail events here, something the council in Santa Rosa will face with trains moving through town at high speeds.

Thank you for your time.

Lissa L. Coleman

## Bliss, Sandi

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**From:** Lestudio <lestudiodanse@gmail.com>  
**Sent:** Wednesday, March 11, 2015 9:00 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep west 7th open

I live and work in the west end and daily see the use of 7th street. Do not close it- it will bring major issues for the neighborhood, the businesses and their customers.

Katherine Gallagher

Sent from my iPhone

## Bliss, Sandi

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**From:** jacqueline.debra@gmail.com  
**Sent:** Wednesday, March 11, 2015 9:28 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep w 7th sat open

It makes no sense to close off w. 7th st in rr square. Don't make more development mistakes that make long term problems for our city.

Thank you.

Sent from my iPhone

**Bliss, Sandi**

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**From:** Donna LaGraffe <lagraffe@sonic.net>  
**Sent:** Wednesday, March 11, 2015 9:10 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep West 7th Street Open at the tracks!

Thank you!

Donna LaGraffe

1220 Marlow Road

568-5330

# **WESTERN FARM CENTER NEEDS YOUR HELP!**



## **Please Help Us Keep West 7th Street Open**

Please ask the Santa Rosa City Council to keep West 7th St. open at the SMART tracks. The Council may be forced to close the West 7th St. crossing if the city chooses to open another street crossing at Jennings Ave.

You can simply email "Keep West 7th Street Open" to [citycouncil@srcity.org](mailto:citycouncil@srcity.org)

**Bliss, Sandi**

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**From:** Mark Senzig <dtmassagebysenzig@yahoo.com>  
**Sent:** Wednesday, March 11, 2015 10:14 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep 7th open

I'm a business owner off 8th street Please keep 7th open for better traffic flow.

**Like  
Comment**

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Thank you

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We need attention in west end

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Building painted

---

Roads paved not patched

---

More trash bins

---

More street benches

---

Bus stop at 8th and Donahue at needs trash bin

---

Homeless have outgrown the area

---

Health insurance for the homeless

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Sent from my iPhone

**Bliss, Sandi**

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**From:** Andre Siedentopf <andresiedentopf@gmail.com>  
**Sent:** Wednesday, March 11, 2015 7:32 PM  
**To:** \_CityCouncilListPublic  
**Subject:** "Keep West 7th Street Open"

My family has been in the West End neighborhood since 1944. I am now raising my son here in my grandparents home.

It is ridiculous to think of closing a street that been in use over 100 years just because a bridge needs to put in at a crossing that was an illegal railroad crossing.

Please keep 7th street. It will affect many people and businesses.

Please consider repaving it as well, the condition is awful from the tracks all the way to Madison Street.

Thanks,

Andre' Siedentopf  
128 Hewett Street  
Santa Rosa, CA



**Bliss, Sandi**

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**From:** Sheryl Chapman <chappy19@pacbell.net>  
**Sent:** Thursday, March 12, 2015 6:57 AM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep West 7th Street Open

I support Western Farm and would like to keep 7th Street open when the Smart train goes in.

-Sheryl Chapman

**Bliss, Sandi**

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**From:** Debbi DeBruin <debbidebruin@gmail.com>  
**Sent:** Thursday, March 12, 2015 12:10 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Please don't close W. 7th St.

I've been a loyal customer at Western Farm Center for many years. I love shopping and bringing my dogs to the store. I believe closing W 7th St will hurt the business and cause terrible traffic jams in the area. The already busy parking lot at Western Farm Center will be a nightmare! The owners of this store have been supportive and generous to Sonoma County for 45 years. Please don't close W. 7th Street!

Thank you,  
Debbi DeBruin

## Bliss, Sandi

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**From:** Dana Gondola <dana@westernfarmcenter.com>  
**Sent:** Thursday, March 12, 2015 11:33 AM  
**To:** \_CityCouncilListPublic  
**Subject:** Closing 7th Street

Dear Council Members, I am a native Santa Rosan for 55 years and truly love my city. My parents were born here before that. The city has changed in many ways some, good and some not so. I have seen our beloved Traverso's and other long time businesses disappear and it makes me sad that we are losing the flavor of our city. The independent homegrown retailer who not only cares for their employees but for their community as well because they are that community. Western Farm Center is just such a business. They have been in operation since 1967 and have provided countless services to our local youth and citizens. I am sure that the taxes they have paid to the city and state for the last 48 years have been used for many different projects around the city and state. It is time to help take care of them. If you have ever been to Western Farm Center on a weekend, you will see that the parking lot is FULL. With so many people coming in and out of the parking lot there would be a true negative effect on this long standing business if there were only one access. Closing 7<sup>th</sup> street would make it unsafe for customers crossing the parking lot, their small children who love to run over to see the chickens and people with their dogs, by diminishing the space for the forklifts, trailers, etc to be able to maneuver, not to mention the cars that would use the drive way as a pass through to 6<sup>th</sup> street. It is time to stand up for our hometown, homegrown, business. I voted for the Smart Train and believe in the many positive aspects of the project but cannot abide by seeing another small town business go under due to government short sightedness. I urge you all to stand up for the Jennings bridge. It will be safer all the way around. Please keep 7<sup>th</sup> Street OPEN! Thank you. Dana Gondola

**Bliss, Sandi**

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**From:** Marco Mollison <mollisons@att.net>  
**Sent:** Thursday, March 12, 2015 11:42 AM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep west 7th street open

I would just like to say I think it makes no sense to close West 7<sup>th</sup> Street when the funding is already there to build a pedestrian bridge over the SMART tracks at Jennings.

-Marco Mollison

**Bliss, Sandi**

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**From:** nelson pereira <nelsonop1@yahoo.com>  
**Sent:** Thursday, March 12, 2015 12:08 PM  
**To:** \_CityCouncilListPublic  
**Subject:** Keep 7th Street open

for Western Farm Center

use common sense

## Bliss, Sandi

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**From:** Williams, Stephanie  
**Sent:** Thursday, March 12, 2015 2:47 PM  
**To:** Jones, Jessica; Bliss, Sandi; Adams, Nancy; Halverson, Mary  
**Cc:** Griffin, Terri  
**Subject:** FW: Don't close w.7th street

FYI. Please upload. Thanks.

Stephanie Williams, CMC | Deputy City Clerk City Manager's Office/City Clerk's Office | 100 Santa Rosa Avenue | Santa Rosa, CA 95404 Tel. (707) 543-3011 | Fax (707) 543-3030 | swilliams@srcity.org

-----Original Message-----

From: Becky Ankers [mailto:beccimac@sbcglobal.net]  
Sent: Thursday, March 12, 2015 2:42 PM  
To: \_CityCouncilListPublic  
Subject: Don't close w.7th street

Dear city council,

We are residents of W.7th street and we love our neighborhood.

We love the families, and the businesses that are on and near our street.

Closing W. 7th street would be a bad thing for this area. A lot of our cross streets are very narrow and would make it difficult for delivery trucks and more importantly, fire trucks and ambulances to maneuver around these streets, if W.7th was closed to through traffic. Our businesses which include Starks steakhouse, Western farms, Franco American bakery and the Mexican grocery store on the corner of W.7th and Madison, would have customer and delivery problems. Those businesses would have to relay on the two other streets, w.8th and w.6th for transportation, and then they'd have to use smaller side streets, which are barely wide enough for 2 cars to pass each other.

The crossing that is already in the works on Jennings is such an easier solution to this situation.

Please, leave W. 7th street open! We need our street to continue to work for our neighborhood, and not create traffic issues on our smaller, residential streets.

AND please, consider resurfacing W.7th street. It's in such need of repair.

Thank you for your time in reading our e mail.

We love W. 7th street and the Westend!!!

Bob and Becky Ankers  
134 W.7th Street

Sent from my iPad