



**FILED**

10-14-11  
11:23 AM

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

Order Instituting Investigation on the Commission's Own Motion into the Closure of the Highway-Rail At-Grade Crossing at West Doran Street south of State Route 134 between San Fernando Road and West San Fernando Road, in the City of Glendale, California, DOT Crossing No. 746804B, CPUC Crossing No 101VY-7.99, and the Effects of that Closure on the City of Glendale and Nearby Residents in the City of Los Angeles, California.

Investigation 10-02-020  
(Filed February 25, 2010)

**REVISED SCOPING MEMO RULING OF THE ASSIGNED COMMISSIONER  
AND ADMINISTRATIVE LAW JUDGE**

**1. Background**

**1.1. Initial Activity**

On February 25, 2010, Order Instituting Investigation (OII) 10-02-020 was issued on the Commission's own motion to investigate closing the West Doran Street highway-rail at-grade crossing in the City of Glendale and to examine the impacts of the closure on nearby residents and businesses. The OII included a preliminary scoping memo. A prehearing conference was noticed and held on Friday, May 21, 2010, in Los Angeles. A scoping memo was issued on June 11, 2010 and a public participation hearing (PPH) was held in the City of Glendale on June 24, 2010. A revised scoping memo was issued on July 23, 2010, incorporating issues raised at the first PPH, revising the proceeding schedule and

setting another PPH for September 29, 2010. Speakers at the September 29th PPH raised additional issues that are included in this revised scoping memo.

## **1.2. California Environmental Quality Act (CEQA) Exemption**

Via email on October 20, 2010, the proceeding schedule was suspended by the Administrative Law Judge (ALJ) pending clarification of the at-grade crossing closure exemption from the provisions of CEQA. Specifically, CEQA Guideline 15282(g) provides an exemption for:

(g) Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation as set forth in Section 21080.13 of the Public Resources Code.

The cited section of the Public Resources Code excludes from CEQA review...“any railroad grade separation project which eliminates an existing grade crossing...”

Historically, the Commission has construed “grade separation project” in light of California Streets and Highways Code Section 2450(b)(3), which defines a grade separation project as one that removes or relocates highways or railway tracks to eliminate existing grade crossings. In 2008, Assembly Bill 660 (Gagliani) eliminated subsection (b)(3).

After reviewing these sections of the CEQA Guidelines, the Public Resources Code, and the Streets and Highways Code, we believe that, arguably, the CEQA Guidelines and the Public Resources Code are sufficiently clear by themselves, and that the Doran Street crossing closure qualifies for the exemption under these provisions. However, we seek input from the parties through briefs on the issue. Therefore, by the deadline provided in the schedule below, parties may submit briefs on the CEQA review exemption of the Doran Street crossing closure.

## **2. Revisions to Scope of the Proceeding**

Parties' testimony should address the following issues raised by the Rail Carriers Engineering Section (RCES) regarding the safety of the West Doran Street crossing, the recommendations of RCES for improvements, the impact of closure on local businesses, and any possible mitigation measures. At the June 24, 2010 PPH, speakers raised issues regarding the current safety of the Brazil Street crossing and the impact of closing the West Doran Street crossing. At the September 29, 2010 PPH, speakers raised additional issues regarding access to the area by public safety personnel and increased criminal activity if the Doran Street crossing is closed. All of these issues are included within the scope of the proceeding.

### **2.1. Safety of the West Doran Street Crossing**

Should the West Doran Street crossing be closed based on the safety concerns and conditions cited by RCES in the OII and summarized below?

- The location of a propane and industrial gas storage and wholesale/retail distributorship immediately adjacent to the crossing increases the risk of a collision between a passenger or freight train and an industrial gas or propane-laden vehicle.
- The proximity of the industrial gas and/or propane storage facility is sufficiently close to the rail line to create a hazard of impact with a derailed train, flying debris from a derailed train or flying debris from a train and vehicle collision.
- The proximity of the industrial gas and/or propane storage facility to the State Route 134 highway structure and overhead off ramp is sufficient to put the structures and motorists at risk in any propane or industrial gas release and/or ignition resulting from a collision at the crossing.
- The 35 feet crossing space between the railroad tracks and San Fernando Road is insufficient for traffic traveling west over the tracks on West Doran Street to safely make right turns onto southbound San Fernando Road.

- The configuration of the West Doran Street crossing forces southbound tractor trailer trucks and long flat bed trucks on San Fernando Road that turn right onto West Doran Street to extend into and block the east bound traffic on West Doran Street.
- The noise generated by the freeway, local traffic on San Fernando Road, the nearby City of Glendale power plant and the South Coast Recycling Center, is significant enough to interfere with the ability of pedestrians and motorists to hear crossing bells and approaching train horns at the crossing.
- The West Doran Road crossing of the Southern California Regional Rail Authority's commuter railroad line, which travels up to 79 miles per hour, and the Union Pacific Rail Road, which travels up to 69 miles per hour, poses a risk of collision.
- The West Doran Street at-grade crossing is unnecessary given that the Brazil Street crossing is located 2,640 feet away and the Colorado Street crossing is located 4,500 feet away.

## **2.2. Impact of West Doran Street Crossing Closure**

The following questions address issues raised at the PPHs on June 24 and September 29, 2010. Parties should include responses to these issues in their testimony.

- What are the current traffic and safety conditions at the Brazil Street and Colorado Street crossings?
- If the West Doran Street crossing is closed, what impact will it have on traffic and safety at the Brazil Street and Colorado Street crossings? Parties should include recent traffic studies and accident data to support their positions on these issues.
- If the West Doran Street crossing is closed, or propane and long trucks are restricted or banned at the West Doran Street and Brazil Street crossings, what is the impact on local businesses and residents?
- If the West Doran Street crossing is closed, what impact will it have on fire and safety personnel access to the area?

- If the West Doran Street crossing is closed, what impact will it have on crime in the area and why?
- What mitigation measures should be taken to address these impacts, if any? What is the appropriate city, county or state government entity to implement the proposed mitigation measures?

### **2.3. 2006 Settlement Agreement Projects**

On November 20, 2006, the Commission's Consumer Protection and Safety Division entered into a Settlement Agreement with the City of Glendale permitting the City of Glendale to construct an at-grade crossing at Flower Street on the San Fernando Road corridor. As part of the settlement,

- The City of Glendale agreed to the closure of two at-grade crossings in the San Fernando Road corridor;
- The City of Glendale agreed to substantially improve the crossing warning devices at several other at-grade crossings in the corridor; and
- The City of Glendale agreed to use its best efforts to pursue state, federal, and local funding for the construction of SR-134 flyover at Fairmont Avenue.

The City of Glendale should provide a status update on each of the projects and should indicate its current plans for any of the projects that are incomplete. Parties should address which if any of these projects should be completed before the proposed West Doran Street crossing closure?

## **2.4. RCES Recommendations**

RCES made the following recommendations in the OII:

- The cities of Glendale and Los Angeles should improve the Brazil Street highway-rail at-grade crossing warning devices.
- The cities of Glendale and Los Angeles should seek funding for the construction of a State Route 134 flyover at Fairmont Avenue.
- The cities of Glendale and Los Angeles should immediately implement measures to reduce risks, such as permanently restricting propane trucks and long trucks from using either the West Doran Street or Brazil Street crossing or banning such trucks until the West Doran Street crossing is closed and the Brazil Street crossing is improved.
- A crash wall should be constructed adjacent to the industrial gas transfer facility to protect the gas storage tanks from debris caused by a nearby train derailment or train/vehicle collision.

Will the RCES recommendations reduce risk at the West Doran Street and Brazil Street crossings? Will the RCES recommendations mitigate the impact of closing the West Doran Street crossing? Are there alternatives to the RCES recommendations? Parties should address the estimated time needed for completion of all recommended and alternative improvements and possible impediments to the start or completion of the projects.

**3. Schedule**

The schedule for this proceeding is as follows:

<b>MILESTONE</b>	<b>DATE</b>
Briefs on CEQA exemption	November 21, 2011
All-Party Workshop	January 10 and 11, 2012
Opening Testimony	March 30, 2012
Reply Testimony	April 23, 2012
Witness List and Cross Exam Schedule to ALJ	May 16, 2012
Evidentiary Hearings	May 22, 23 & 24, 2012,
Opening Briefs	June 22, 2012
Reply Briefs	July 6, 2012
Presiding Officers Decision	November 2013

The Workshop will be held in the Commission conference room and the evidentiary hearings will be held in the Commission hearing room, State Office Building, 320 W. 4th Street, Suite 500, Los Angeles, California.

**4. Discovery**

Discovery will be conducted according to Article 11 of the Rules of Practice and Procedure. If the parties have discovery disputes they are unable to resolve through meet and confer sessions, they shall raise these disputes under the Commission’s Law and Motion procedure as soon as possible to avoid unnecessary delay in the proceeding. (See Rule 11.3)

**5. Final Oral Argument Before the Commission**

Any party wishing to exercise the right under Rule 13.13 to make a final oral argument before the Commission must file a written request in its Opening

Brief, or earlier, and serve the request on all parties, the assigned Commissioner and assigned ALJ.

## **6. *Ex Parte* Communications**

Since this proceeding is categorized as Ratesetting, *ex parte* communications with the Assigned Commissioner, other Commissioners, their advisors, and the ALJ are only permitted as described at Public Utilities Code Section 1701.3(c) and Article 8 of the Rules of Practice and Procedure.

## **7. Filing, Service and Service List**

In this proceeding, there are several types of documents participants may prepare. Each type of document carries with it different obligations with respect to filing and service.

Parties must file certain documents as required by the Rules or in response to a ruling by either the Assigned Commissioner or the ALJ. All formally filed documents must be filed with the Commission's Docket Office *and* served on the service list for the proceeding. Article 1 of the Rules contains the Commission's filing requirements. Resolution ALJ-188 sets forth the interim rules for electronic filing, which replaces only the filing requirements, not the service requirements. Parties are encouraged to file electronically whenever possible as it speeds processing of the filing and allows them to be posted on the Commission's website. More information about electronic filing is available at <http://www.cpuc.ca.gov/efile/static.htm>.

Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. We will follow the electronic service protocols adopted by the Commission in Rule 1.10 of the Commission's Rules of Practice and Procedure for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format,

unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided for an appearance, then service should be made by United States mail. In this proceeding, I require concurrent e-mail service to ALL persons on the list for whom an e-mail address is available, including those listed under “information only.” Parties are expected to provide paper copies of served documents upon request. **Paper format copies, in addition to electronic copies, of all served and filed documents shall be provided to the Assigned Commissioner and the ALJ.**<sup>1</sup>

E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: Investigation 10-02-020. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Brief*. The official service list for this proceeding is available on the Commission’s web page. Parties should confirm that their information on the service list is correct, and serve notice of any errors on the Commission’s Process Office, the service list, and the ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission’s web site meets that definition.

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or who has questions about the electronic filing procedures should contact the Commission’s Public Advisor at (866) 849-8390 or (415) 703-2074, or (866) 836-7825 (TTY-toll-free), or send an email to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

---

<sup>1</sup> The ALJ should receive two paper format copies of all served documents; one for the formal file and one for the ALJ. If a document is formally filed, the ALJ only needs one paper format copy as the filed copy will go to the formal file.

Therefore, **IT IS RULED** that:

1. The issues to be considered are those described in this ruling.
2. The timetable for the proceeding is as set forth herein.
3. The Commission's rules governing *ex parte* communications in Ratesetting proceedings apply to this proceeding.
4. Any party wishing to make a final oral argument before the Commission must file a written request in their Opening Brief, or earlier, and serve it on all parties, the assigned Commissioner and assigned Administrative Law Judge.

Dated October 14, 2011, at San Francisco, California.

/s/ TIMOTHY ALAN SIMON  
Timothy Alan Simon  
Assigned Commissioner

/s/ LINDA A. ROCHESTER  
Linda A. Rochester  
Administrative Law Judge