Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Santa Clara Valley Transportation Authority for an order authorizing construction of at-grade crossings of Greengate Drive (82C-9.2), Sierra Road (82C-9.4), Berryessa Road (82C-10.0), Penitencia Creek Road (82C-10.4), Mabury Road (82C-10.8), Rainfield Drive/Gimelli Way (82C-11.0), McKee Road (82C-12.0), Gay Avenue (82C-12.4), Madden Avenue (82C-12.5), and Florence Avenue (82C-12.8) by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, County of Santa Clara.	Application 01-06-005 (Filed June 5, 2001)

O P I N I O N

Summary

Santa Clara Valley Transportation Authority (VTA) requests authority to construct at-grade crossings of Greengate Drive, Sierra Road, Berryessa Drive, Penitencia Creek Road, Mabury Road, Rainfield Drive/Gimelli Way, McKee Road, Gay Avenue, Madden Avenue and Florence Avenue by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County.

Discussion

VTA was created as a County department by the Santa Clara County Board of Supervisors on June 6, 1972 to oversee the region's transportation

system. VTA's primary responsibility since its creation has been the development, operation and maintenance of the bus and light rail system within the County. VTA separated from the County of Santa Clara and merged with the region's Congestion Management Agency in January 1995, thereby it gained the additional responsibility of managing the County's blueprint to reduce congestion and improve air quality.

The Capitol Light Rail Project is a 3.5-mile extension along Capitol Avenue from the end of the Tasman Light Rail Project to a terminal station just north of Capitol Expressway. Once completed, a continuous 18-mile long light rail line will run from east San Jose through the Cities of Milpitas, Santa Clara, Sunnyvale and Mountain View. Passengers would also be able to transfer onto the existing Guadalupe Light Rail Line at First Street and Tasman Drive to travel to downtown and south San Jose.

The proposed light rail alignment will be constructed within the current median of Capitol Avenue. Four traffic lanes (two in each direction) and on-street (Class 2) bike lanes in each direction will be provided on Capitol Avenue. The Project includes street improvements such as lane reconfiguration, signal modifications and sidewalks. Right of way acquisition will be required in some locations to accommodate the trackway, stations, park-and-ride lots, substations and street improvements.

Four light rail stations are proposed along the alignment, with a fifth station in the future. The station platforms will be similar to those on the Tasman Light Rail Project. Park-and-ride lots and transit centers are proposed at the Berryessa Station, the Penitencia Creek Station (in a future phase), the McKee Station and the Alum Rock Station. Three traction power substations will be located along the Capitol Corridor alignment to provide electric power to the

light rail. The three substations will be located at the Berryessa Park-and-Ride lot and at the Alum Rock Park-and-Ride lot.

The Capitol Corridor Light Rail Project is one of the projects to be funded by Santa Clara County's nine-year half-cent Measure B sales tax. The 1996 sales tax measure will fund a number of highway and transit projects. Construction for the Capitol Light Rail Project from Camino Del Rey to the terminal station north of Capitol Expressway is projected to begin in mid-2001. Some utility work would proceed this date. Passenger service is projected to begin in mid-2004. The future phase would be initiated when there is sufficient passenger demand and funding is available.

The light rail transit tracks will cross Greengate Drive, Sierra Road, Berryessa Road, Penitencia Creek Road, Mabury Road, Rainfield Drive/Gimelli Way, McKee Road, Gay Avenue, Madden Avenue and Florence Avenue at-grade. The proposed at-grade crossings are the most financially and environmentally acceptable choice and are in keeping with the open access concept of light rail transit. Alternatives to the at-grade crossings are depressing the street below the tracks, depressing the tracks below street level, elevating the street above the tracks, and elevating the tracks above street level. Each of these alternatives may be physically impossible. Other problems would also be created with these grade-separated crossings, such as conflicts with existing development and utilities, noise generation, aesthetic impacts and the creation of possible hazards due to flooding caused by depressing rail or street facilities. Construction of this project serves the public by providing efficient transportation in a growing area of the Santa Clara Valley.

VTA is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et

seq. A Draft Environmental Impact Report (EIR) for the Capitol Light Rail Project was released to the public in November 1999, beginning the formal review period. VTA prepared a Final EIR in February 2000 in accordance with CEQA. The EIR evaluated the proposed rail transit project and several options. A public scoping meeting was held June 2, 1999. Comments by the public and government officials, where feasible, were incorporated into the environmental documents and considered in the preparation of the EIR.

On March 3, 2000, a Notice of Determination was filed with the State Secretary of Resources - Office of Planning and Research, Sacramento and the County Clerk Recorder's Office - Santa Clara County, City of San Jose. The Notice of Determination, which is included in Appendix B, advised all interested parties that the VTA was in compliance with Section 21108 of the California Public Resources Code.

VTA has approved the proposed project, as the environmentally superior alternative, and further stated that:

1. The project will have a significant effect on the environment. However, a Statement of Overriding Considerations was adopted for the project. Mitigation measures will either eliminate or reduce the severity of the adverse impacts to acceptable levels.
2. A Final EIR was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A Statement of Overriding Considerations was adopted for this project.
5. Findings were made pursuant to the provisions of CEQA.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the

Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's EIR and Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050 (b)). The specific activities which must be conducted by a responsible agency are contained in CEQA Guideline Section 15096. The site of the proposed project has been inspected by the Commission's Rail Safety and Carriers Division – Rail Crossings Engineering Section staff. Staff examined the need to construct the proposed crossings, as indicated in the exhibits attached to the application, and recommends that the application be approved.

The Commission has reviewed the lead agency's environmental documents. In considering this documentation we note that the EIR developed and evaluated a range of alternatives as well as a No Project Alternative. The EIR included an analysis of potential environmental impacts related to the project and alternatives, including impacts related to traffic and circulation, air quality, noise and vibration, land use, vegetation and wildlife, water resources, aesthetics, energy, hazardous materials, cultural resources, construction impacts, growth-inducing impacts, soils, geology, and seismicity. Safety and security, transportation and noise are within the scope of the Commission's permitting process.

The EIR analyzed 60 potential environmental impacts. Of that number, 34 were found to have no effect, be not substantial, potentially beneficial or beneficial; 26 were found to have potentially substantial or substantial effects. However, mitigation measures were adopted and will be implemented as specified by the lead agency to either eliminate or substantially lessen those environmental impacts.

The Mitigation Monitoring Program adopted by the lead agency for the approved project did not identify any environmental impacts related to safety and security. In particular, we have considered the following information.

With the addition of the project's median, local access would require minor changes in trip length and/or route trips. This is considered a less-than-significant impact and no mitigation is required.

The project will not substantially affect school and emergency vehicle access and it will improve pedestrian and bicycle accessibility. This being a beneficial impact, mitigation is not required.

VTA's environmental documents identified one significant traffic and circulation impact and one significant construction/noise impact for which mitigation measures were adopted. With respect to traffic and circulation, the project will remove 217 on-street parking spaces on Capitol Avenue resulting in a projected shortfall of 84 parking spaces. The environmental review determined there would be no economic impact to businesses since there would be adequate off-street parking to accommodate that demand. Residential use parking demand was greater. Thus, even with adopted mitigation to retain 110 on-street parking spaces, there would be a significant and unavoidable loss of on-street parking.

With respect to noise, site preparation and construction activities will generate significant noise impacts to residential areas along both sides of Capitol Avenue. Mitigation measures were adopted to try to minimize the impacts, such as the use of pavement breakers. Nevertheless, due to the substantial number of residences in question and the need to minimize traffic obstructions during the daytime, infrequent but significant and unavoidable evening and night noise impacts could remain.

In approving the project, VTA adopted a Statement of Overriding Considerations, which concluded that certain benefits of the project outweigh the unavoidable adverse environmental effects and, therefore, result in a finding that the adverse environmental effects are acceptable. In particular, the project will result in the following benefits:

1. Reduce congested vehicle miles traveled in Santa Clara County, specifically along Capitol Avenue.

2. Provide light rail transit service to the eastern portion of the San Jose metropolitan area through a "network" of light rail transit lines.

3. Provide park-and-ride lots sufficient to meet projected demand.

4. Provide a high level of transit service, which will achieve high transit speeds and provide adequate access to surrounding land uses.

5. Provide a landscaping plan, which improves the overall aesthetics of the corridor.

6. Provide convenient bicyclist and pedestrian access.

We believe VTA adopted reasonable mitigations to try and reduce the above-described impacts to less-than-significant levels. Given the facts described in the environmental documents, we are not aware of additional mitigations that could have been adopted to eliminate the unavoidable impacts. Therefore, we similarly adopt the mitigations specified in the final EIR for purposes of our approval. Furthermore, we believe that the VTA was in the best position to assess that overall benefits of the project merited project approval and outweighed the potential unavoidable environmental impacts. We find the

stated benefits to be persuasive and similarly adopt the VTA's Statement of Overriding Considerations for purposes of our approval.

Protection at the crossings shall be signals for exclusive light rail vehicle (LRV) use and pedestrian signal heads, as more fully described by plans attached to the application and as indicated by page two of Appendix A of this order.

The application was found to be in compliance with the Commission's filing requirements, including Rules 38 to 41 of the Rules of Practice and Procedure. A site map of the grade crossings is as shown on plans attached to the application and Appendix A.

In Resolution ALJ 176-3065, dated June 14, 2001 and published on the Commission Daily Calendar on June 15, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed and no hearings were held, this preliminary determination remains accurate. The Commission's Rail Safety and Carriers Division recommends that this application be granted. Given these developments a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3065.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Notice of the application was published in the Commission Daily Calendar on June 8, 2001. There are no unresolved matters or protests; a public hearing is not necessary.

2. VTA requests authority to construct at-grade crossings of Greengate Drive, Sierra Road, Berryessa Road, Penitencia Creek Road, Mabury Road, Rainfield Drive/Gimelli Way, McKee Road, Gay Avenue, Madden Avenue and Florence Avenue by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County.

3. Construction of the proposed project is an essential element in the construction of the Capitol Light Rail Project.

4. Public convenience and necessity require the construction of the at-grade crossings.

5. Public safety requires that the crossings be protected by LRV signals of standardized traffic signal hardware, using 12" lenses and standard back plates. The signals will be provided on both the near and far side of the intersection and shall be located between the tracks. Pedestrian signal heads will also be placed on all the sidewalk approaches to the grade crossings, in order to control pedestrian traffic across the crossings. The aforementioned is indicated in more detail by drawings and plans attached to the application and described in page two of Appendix A attached to this order.

6. VTA is the lead agency for this project under the CEQA, as amended, and the National Environmental Policy Act.

7. VTA prepared a Final EIR in February 2000, State Clearinghouse Document #1999072020.

8. A Notice of Determination was filed on March 3, 2000, with the State Secretary of Resources - Office of Planning and Research, which stated that "the project will have a significant impact on the environment"; however, mitigation measures taken by VTA will either eliminate or reduce the severity of the adverse impacts to less-than-significant levels.

9. A Statement of Overriding Considerations was adopted for this project.

10. The EIR analyzed 60 potential environmental impacts. Of that number, 26 were found to have potentially substantial or substantial effects. However, mitigation measures were adopted and will be implemented as specified by the lead agency to either eliminate or substantially lessen those environmental impacts.

11. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Final EIR and Notice of Determination.

12. Safety and security, transportation and noise are within the scope of the Commission's permitting process.

13. The EIR did not identify any environmental impacts from the project related to safety and security.

14. A shift from auto to rail transit would be beneficial to the Santa Clara Valley area.

Conclusions of Law

1. We find that VTA adopted feasible mitigation measures for environmental impacts within our permitting authority and we adopt the VTA's Statement of Overriding Considerations, as stated herein, for purposes of our permitting approval of the project.

2. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Santa Clara Valley Transportation Authority (VTA) is authorized to construct at-grade crossings to be identified as follows: Greengate Drive Crossing No. 82C-9.2, Sierra Road Crossing No. 82C-9.4, Berryessa Road

Crossing No. 82C-10.0, Penitencia Creek Road Crossing No. 82C-10.4, Mabury Road Crossing No. 82C-10.8, Rainfield Drive/Gimelli Way Crossing No. 82C-11.0, McKee Road Crossing No. 82C-12.0, Gay Avenue Crossing No. 82C-12.4, Madden Avenue Crossing No. 82C-12.5 and Florence Avenue Crossing No. 82C-12.8, by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County, as set forth in Appendix A, and as more fully described in the application.

2. Clearances and walkways shall be in accordance with General Order 143-B.

3. Protection at the crossings shall be signals for exclusive light rail vehicle use and pedestrian signal heads. As more fully described by text and plans attached to the application and as indicated by page two of Appendix A of this order.

4. Construction and maintenance costs shall be borne in accordance with an agreement, which has been entered into between the parties. A copy of the agreement shall be filed with the Commission prior to starting construction.

5. Within 30 days after completion of the work under this order, VTA shall notify the Commission in writing that the authorized work was completed.

6. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

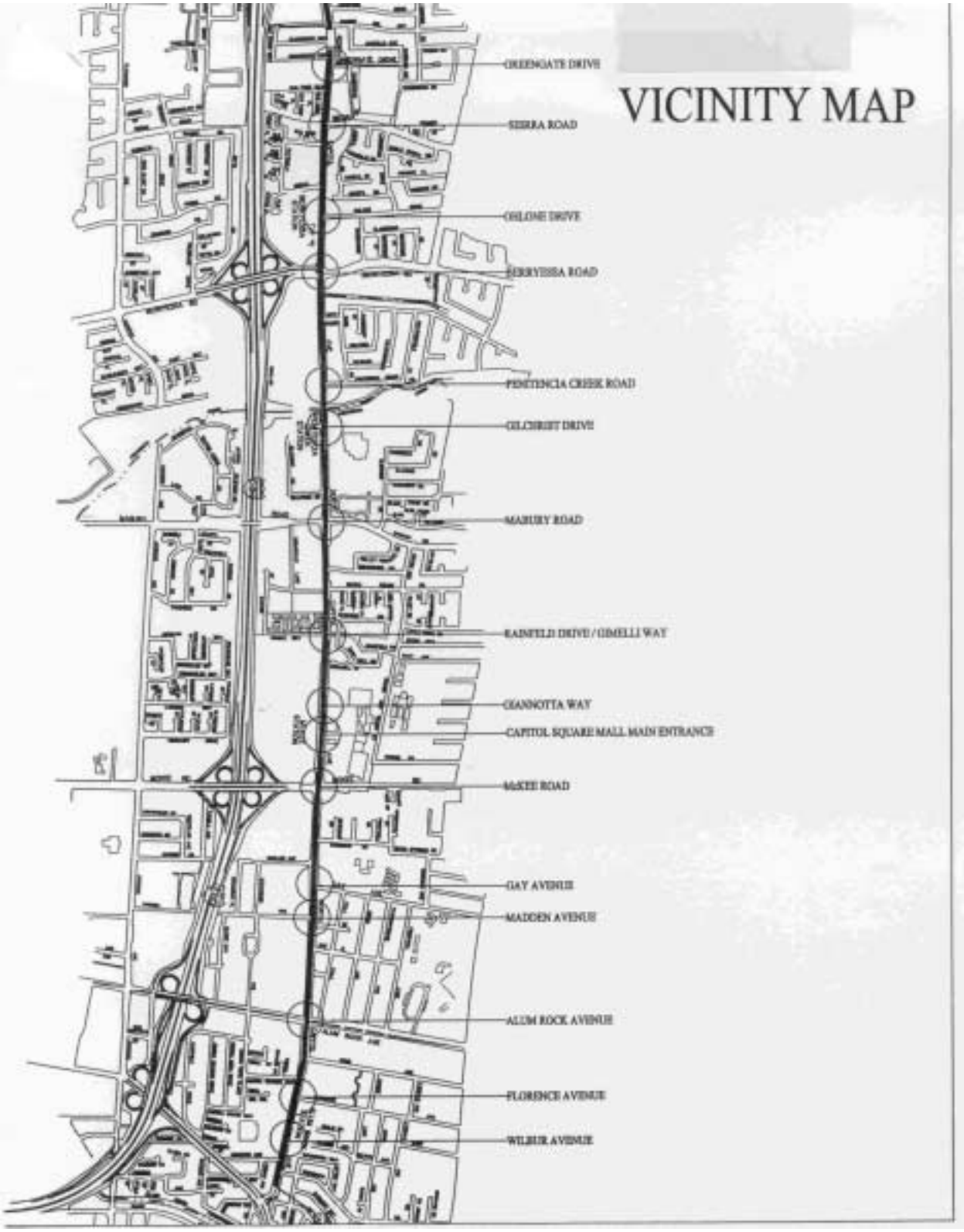
7. The application is granted as set forth above.

8. Application 01-06-005 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX A
Site Map



Santa Clara Valley Transportation Authority (VTA) requests authority to construct at-grade crossings of Greengate Drive, Sierra Road, Berryessa Drive, Penitencia Creek Road, Mabury Road, Rainfield Drive/Gimelli Way, McKee Road, Gay Avenue, Madden Avenue and Florence Avenue by the light rail transit line of the Capitol Light Rail Project in the City of San Jose, Santa Clara County. The at-grade crossings are to be protected and constructed in accordance with plans and drawings attached to the application as indicated below:

Name of Street	Crossing No.	Exhibit	Attachments
Greengate Drive	82C-9.2	D	2 to 5
Sierra Road	82C-9.4	E	2 to 5
Berryessa Road	82C-10.0	F	2 to 5
Penitencia Creek Road	82C-10.4	G	2 to 5
Mabury Road	82C-10.8	H	2 to 5
Rainfield Drive	82C-11.0	I	2 to 5
McKee Road	82C-12.0	J	2 to 5
Gay Avenue	82C-12.4	K	2 to 5
Madden Avenue	82C-12.5	L	2 to 5
Florence Avenue	82C-12.8	M	2 to 5

APPENDIX B
Notice of Determination

Notice of Determination

To: X Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

X County Clerk Recorder's Office
County of Santa Clara
70 West Hedding Street, First Floor
San Jose, CA 95110

From: Santa Clara Valley Transportation Authority
3331 North First Street, Building B
San Jose, CA 95134-1906

Subject: Filing of Notice of Determination in compliance with Section 21108 of the Public Resources Code.

Capitol Corridor Light Rail Project
Project Title

99077020
State Clearinghouse Number
(If submitted to Clearinghouse)

Julie Klingmann
Lead Agency
Contact Person

(408) 321-5789
Area Code/Telephone/Extension

On Capitol Avenue, south of Hostetter Road and north of Capitol Expressway, in San Jose, Santa Clara County, California
Project Location (include county)

Project Description: The Project extends light rail 3.5 miles along Capitol Avenue from the end of the Tasman East Light Rail Project at Camino Del Rey to a terminal station just north of Capitol Expressway. Light rail will operate in a double track configuration in the median of Capitol Avenue. Capitol Avenue, in addition to the light rail, will have two automobile travel lanes and a bicycle lane in each direction. Turning lanes will be provided at intersections. Sidewalks and landscaping are elements of the Project. The Project would construct four new light rail stations including the Berryessa Station north of Berryessa Road, the Penitencia Creek Station south of Penitencia Creek Road, the McKee Station north of McKee Road, and the Alum Rock Station north of Capitol Expressway. A fifth station, the Gay Avenue Station north of Alum Rock Avenue would be constructed in a future phase. The Berryessa, McKee, and Alum Rock Stations include park and ride lots, bus bays, and bus transit centers. The Penitencia Creek Station would include a park and ride lot, transit center, and bus bays in a future phase.

This is to advise that the Santa Clara Valley Transportation Authority has approved the above described project on
☒ Lead Agency ☐ Responsible Agency

March 2, 2000 and has made the following determinations regarding the above described project:
(Date)

1. The project [☒ will ☐ will not] have a significant effect on the environment.
2. ☒ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
   ☐ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A statement of Overriding Considerations [☒ was ☐ was not] adopted for this project.
5. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of the project approval is available to the General Public at:

3331 North First Street, Environmental Analysis, Building B, San Jose, CA 95134-1906, contact: Julie Klingmann

Signature: Julie Klingmann, VTA — Date: March 3, 2000 — Title: Environmental Analyst

Date received for filing at OPR:

RECEIVED
MAR 3 2000
STATE CLEARINGHOUSE

APPENDIX B
Notice of Determination