



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

**FILED**

11-01-07  
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Pasadena Avenue Monterey Road Committee, )  
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Complainant, )  
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vs. )  
)  
Los Angeles County Metropolitan Transportation )  
Authority, Los Angeles to Pasadena Metro Blue )  
Line Construction Authority, and City of South )  
Pasadena, )  
)  
Defendants. )  
)

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Case No. 06-10-015

**SECOND STATUS REPORT OF LOS ANGELES COUNTY  
METROPOLITAN TRANSPORTATION AUTHORITY**

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TRANSPORTATION AUTHORITY

November 1, 2007

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

Pasadena Avenue Monterey Road Committee,	)	
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Complainant,	)	
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Los Angeles County Metropolitan Transportation	)	
Authority, Los Angeles to Pasadena Metro Blue	)	
Line Construction Authority, and City of South	)	
Pasadena,	)	
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Defendants.	)	
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**SECOND STATUS REPORT OF LOS ANGELES COUNTY  
METROPOLITAN TRANSPORTATION AUTHORITY**

Pursuant to the Ruling of Administrative Law Judge (“ALJ”) Prestidge issued October 4, 2007, in this proceeding, the Los Angeles County Metropolitan Transportation Authority (“MTA”) hereby files this status report concerning the status of MTA’s implementation of certain “mitigation measures” set forth in Section 5 of the Settlement Agreement (the “Settlement”) that was approved by the Commission in D.05-02-032, as modified by D.05-09-040, relating to construction and operation of the Los Angeles to Pasadena Gold Line light rail system within the City of South Pasadena (“City”).

**A. Status of Mitigation Measures**

MTA’s obligations to take actions to implement the Settlement are set forth in Section 5.a of the Settlement. MTA has taken and completed all such actions for which the necessary preconditions have occurred as of this date. Specifically:

- Section 5.a.1) requires MTA to operate horns as trains approach each crossing in the manner it determines is most appropriate for public safety and the safety of its employees until the CPUC or some other regulatory body authorized to oversee operations on the Gold Line directs MTA to modify its current operational directives. MTA has received no such directive and continues to operate horns in the manner described above. No other action by MTA is required.
- Section 5.1.2) requires MTA to install certain rail lubricators. MTA satisfied this requirement prior to the filing of Case 06-10-015.
- Section 5.1.3) requires MTA not to oppose action taken by the City to seek approval to silence the remaining crossing bells in the City. The City has not taken such action, so the precondition for MTA's obligation has not occurred.
- Section 5.1.4) requires MTA to participate in a CPUC controlled study if initiated by the City. The City has not taken such action, so the precondition for MTA's obligation has not occurred.
- Section 5.1.5) requires MTA, subject to the City meeting all its obligations under the Settlement, to waive all claims relating to referenced proceedings. This provision requires no positive action by MTA.

Certain other provisions of the Settlement make MTA approval a precondition for other parties to take certain actions. MTA is not aware of any action by any other party presently being delayed or impeded because of the need to secure MTA approval.

**B. Explanation of Previous Noise Testing Conducted**

The ALJ's Ruling calls for an "explanation of any previous noise testing conducted by Defendants to determine whether mitigation measures to be implemented pursuant to the Settlement Agreement meet the Environmental Criteria referred to in the Settlement Agreement." MTA is informed that the Metro Gold Line Foothill Extension Construction Authority ("Construction Authority") will be including in its concurrently filed status report an explanation of previous sound testing relevant to the mitigation measures implemented pursuant to the Settlement Agreement.

As has been previously explained, MTA and the Construction Authority have been engaged in defending against multiple claims of inverse condemnation involving fifty-plus homeowners in South Pasadena who have alleged in suits filed in Superior Court that the design, construction and operation of the Gold Line have created noise and vibration to an extent that either has physically damaged their properties or has diminished the value of their properties. In addition, at least one property owner has asserted that the mere existence of the pre-existing Gold Line has caused them to spend additional sums to incorporate increased structural elements to reduce the impact from noise and vibration. MTA and the Construction Authority have engaged experts to defend against these claims. Although those experts may have conducted tests involving noise and vibration, the results of any such tests are trial materials and are not something MTA is willing to disclose outside of the confines of the litigation, as trial is to begin in early December. Therefore, MTA opposes disclosure of such testing information to other parties to this proceeding.

**C. Description of Previous Environmental Review**

The ALJ's Ruling calls for a "description of previous environmental review conducted regarding the noise impacts of the Gold Line light rail system, including the dates on which environmental documents were adopted and an explanation of the Environmental Criteria referred to in the Settlement Agreement."

In D.02-01-035, an Interim Decision approving certain unopposed rail crossings of the Gold Line, the Commission provided a fairly comprehensive list of environmental documents prepared in accordance with California Environmental Quality Act ("CEQA") review of the project that eventually became the Gold Line. These environmental documents included a Draft Environmental Impact Report ("EIR") circulated in 1988 and recirculated in 1989 as a Revised Draft EIR, a Final EIR (1990), a Mitigated Negative Declaration (1991), a Final Supplemental EIR (1993), a Final Supplemental EIR #2 (1994), an Addendum #1 (1995), an Addendum #2 (1996), and an Addendum #3 (2000). *See*, D.02-01-035, *mimeo*, at 11-12.<sup>1</sup>

The extent to which these environmental documents and the draft versions of them addressed the proposed grade crossings was set forth in complete detail in Attachment A to Myra Frank's testimony, which was received into evidence as Exhibit 11 in *Re Los Angeles to Pasadena Metro Blue Line Construction Authority*, A.00-10-012, *et al.* That attachment is three inches thick. As Attachment A to Ms. Frank's testimony indicates, only some of environmental documents addressed noise impacts associated with

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<sup>1</sup> The list included in D.02-01-035 was taken *verbatim* from the testimony of Myra L. Frank, the Construction Authority's environmental review expert, Exhibit 11 in *Re Los Angeles to Pasadena Metro Blue Line Construction Authority*, A.00-10-012, *et al.* The late Ms. Frank explained in her testimony that the EIR for the Gold Line project consisted of this list of documents plus, where applicable, the related draft documents. *Id.* at 4.

grade crossings proposed in connection with what came to be known as the Gold Line project. Specifically, such issues were addressed in the Revised Draft EIR (1989), the Final EIR (1990), the Mitigated Negative Declaration (1991), the Final Supplemental EIR #1 (1993), the Draft and Final Supplemental EIR #2 (1994), and Addendum #3 (2000).<sup>2</sup>

The specific dates of adoption of several of the environmental documents are not readily available, but the following information can be provided: The Los Angeles County Transportation Commission (“LACTC,” the predecessor to MTA) adopted the Final EIR on March 28, 1990.<sup>3</sup> LACTC adopted Final Supplemental EIR #1 on January 27, 1993.<sup>4</sup> LACTC adopted Final Supplemental EIR #2 on May 25, 1994.<sup>5</sup> And, finally, the Construction Authority adopted Addendum #3 on September 27, 2000.<sup>6</sup>

The Construction Authority and MTA have provided a full explanation of the “Environmental Criteria,” as referenced in the Settlement Agreement, in their Joint Opening Brief, at pages 16-18. MTA respectfully refers the Commission and ALJ Prestidge to that discussion.

MTA also notes that the earlier LACTC environmental documents addressed a project that differed in some respects from what the Construction Authority finally approved and constructed. Therefore, a reader should not rely on information from the

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<sup>2</sup> Addenda #1 and #2 did not address any issues relating to at-grade crossings, and so specific references to them were not included in Ms. Frank’s testimony or in her Attachment A. *See*, Testimony of Myra L. Frank, *supra*, Attachment A, Introduction.

<sup>3</sup> *See*, Testimony of Myra L. Frank, Exhibit 11, *supra*, Attachment A, Tab IV.A.1.

<sup>4</sup> *See*, Testimony of Myra L. Frank, Exhibit 11, *supra*, Attachment A, Tab IV.A.2.

<sup>5</sup> *See*, Testimony of Myra L. Frank, Exhibit 11, *supra*, Attachment A, Tab IV.A.3.

<sup>6</sup> *See*, Notice of Determination, filed September 28, 2000 with Los Angeles County Clerk, and October 2, 2000, with State Clearinghouse, in Testimony of Myra L. Frank, Exhibit 11, *supra*, Attachment A, Tab IV.E.

earlier documents without consulting and verifying how that information may have been updated, modified, superseded or deleted in the final environmental documents.

**D. Conclusion**

MTA respectfully submits this Second Status Report for the consideration of the ALJ and the Commission.

Respectfully submitted,

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Attorneys for LOS ANGELES METROPOLITAN  
TRANSPORTATION AUTHORITY

November 1, 2007

## CERTIFICATE OF SERVICE

I, Maura Bonal, hereby certify that I will on this date serve a copy of the foregoing **SECOND STATUS REPORT OF LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY** on the parties in C.06-10-015 below:

**By Electronic Mail:**

RFrank@bgftlaw.com; Arnold1502@hotmail.com; jguzman@nossaman.com; mmattes@nossaman.com; utucslb@mindspring.com; plumbbusy@aol.com; mskaar@alum.mit.edu; agg@cpuc.ca.gov; ggl@cpuc.ca.gov; jfp@cpuc.ca.gov; vap@cpuc.ca.gov; gle@cpuc.ca.gov; tom@cpuc.ca.gov; vdl@cpuc.ca.gov

**By hand delivery:**

Hon. Myra J. Prestidge  
Administrative Law Judge  
California Public Utilities Commission  
505 Van Ness Avenue, Room 5041  
San Francisco, CA 94102

Executed this 1<sup>st</sup> day of November, 2007 in San Francisco, California.

/S/ MAURA BONAL

Maura Bonal