

Decision 02-01-035 January 9, 2002

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

In the Matter of the Application of the Los Angeles to Pasadena Metro Blue Line Construction Authority for an order authorizing the construction of two light rail transit tracks at-grade crossing West Avenue 45 in the City and County of Los Angeles, California.

Application 00-10-012  
(Filed October 11, 2000)

And Related Matters.

Application 01-06-011  
Application 00-11-050  
Application 00-11-040  
Application 00-11-034  
Application 00-11-033  
Application 00-11-032  
Application 00-11-029  
Application 00-11-016  
Application 00-11-015  
Application 00-10-050  
Application 00-10-039  
Application 00-10-033  
Application 00-10-020

**INTERIM OPINION DECLINING TO CONFIRM THE ASSIGNED  
COMMISSIONER'S RULING AND GRANTING AUTHORITY  
TO CONSTRUCT CERTAIN CROSSINGS**

**Summary**

This interim decision declines to confirm the Commissioner Bilas' Assigned Commissioner's Ruling (ACR) dated November 1, 2001, which granted

conditioned interim authority for the applicant to begin construction of all grade crossings included in the fourteen applications of grade crossings prior to a final commission decision.

This decision also grants final approval for certain of the applications to construct crossings.

### **Applicant**

The Los Angeles County Metropolitan Transportation Authority (MTA) was created by the legislature pursuant to Public Utilities Code (PU Code) Section 130050.2 to be the successor agency to the Southern California Rapid Transit District (SCRTD) and the Los Angeles County Transportation Commission (LACTC), which ceased to exist as of April 1, 1993.

The applicant in these proceedings is the Los Angeles to Pasadena Metro Blue Line Construction Authority (Authority), which was created by the legislature pursuant to Section 132400 et seq. of the PU Code to award and oversee all design and construction contracts for the completion of the Los Angeles to Pasadena Metro Blue Line Light Rail Project. Pursuant to Sections 132425 and 132430 of the PU Code, MTA has transferred to the Authority all real and personal property, and other assets, as well as unencumbered balance of all local funds accumulated for completion of the project. Upon completion of the Line it will be deeded to MTA for operation and maintenance.

### **Description of the Project**

Los Angeles to Pasadena Metro Blue Line (Line) will run approximately 13.6 miles from Los Angeles to Pasadena, and will be similar to the Los Angeles to Long Beach Blue Line, which has been in operation since 1990. The fourteen consolidated applications cover 61 crossings in the Cities of Los Angeles, Pasadena and South Pasadena in the County of Los Angeles. The Line will begin

at Los Angeles Union Pacific Terminal (LAUPT), which is the largest train station in Southern California, serving Amtrak inter-city trains, Metrolink commuter trains, and the Red Line subway. From LAUPT it will run on aerial construction on exclusive right-of-way northward along Vignes Street and across intervening streets to a location north of College Street and east of Broadway. The Line will transition from aerial structure to ground level and continue northward on exclusive right-of-way to the approach of a new reinforced concrete bridge constructed across the Los Angeles River and the railroads that exist on its west and east banks in accordance with Decisions (D.) 95-02-030 dated February 8, 1995 (Application (A.) 94-08-034) and D. 95-01-043 dated January 24, 1995 (A.94-08-051). The Line will continue on exclusive right-of-way across the new bridge and northward along the former right-of-way of The Atchison Topeka and Santa Fe Railway Company's (AT&SF) Pasadena Subdivision, now owned by the Authority, to Avenue 33 in Los Angeles. Then it will continue northward on approximately 1.9 miles of semi-exclusive right-of-way in the City of Los Angeles. It will transition to street-running alignment along Marmion Way for approximately one half mile in the City of Los Angeles, then continue on approximately 4.2 miles of semi-exclusive right-of-way in the cities of Los Angeles and South Pasadena to a point across Del Mar Boulevard in the City of Pasadena. Included in this segment is the Arroyo Seco Bridge across State Route 110, subject of D. 95-09-067 dated September 7, 1995 (A.94-11-027). The Line will continue northward on exclusive right-of-way for approximately 5 miles to the median of the I-210 Freeway and eastward within the median to the eastern boundary of the City of Pasadena.

## **The Application**

The fourteen applications were all filed between October 11, 2000, and June 8, 2001 and seek authority to construct 61 crossings along the route. Some crossings are proposed to be at-grade; others to be grade separated. Rulings dated February 21, 2001 and September 28, 2001 consolidated the applications. The applications were previously categorized as ratesetting on a preliminary basis by various resolutions. We affirm that categorization. Various applications were at one time protested by the Mt. Washington Homeowners Alliance, the Citizens for No Build At Grade (NOBLAG), Ms. Jo Anne Barker, and the Commission's Rail Carrier and Safety Division staff (Staff). Hearings have been held in this matter during November and December 2001.

## **Motion for Interim Authority to Construct**

Before hearings were completed in this matter, the Authority requested interim authorization to proceed with construction of the project including construction of tracks across various public roads, highways, or streets, either grade separated or at-grade as the case may be, as proposed in each of the applications. The interim authorization was to be entirely at the Authority's risk and was to be effective only until the Commission reached its final decision.

## **The Assigned Commissioner's Ruling**

On November 1, 2001, the Assigned Commissioner issued a ruling granting conditional interim authority for the applicant to begin construction of all grade crossings prior to a final commission decision on the consolidated applications.

The Ruling was based upon several considerations:

1. Applicant alleged severe potential cost overruns caused by the time necessary to secure regulatory approval;

2. Applicant was willing to accept numerous conditions, including the cost of undoing any construction required by further order of this Commission; and
3. There would be no environmental consequences because no trains would be allowed to operate until the Commission had issued a final order in the proceeding.

The Assigned Commissioner's Ruling provided that:

“1. Applicant may construct its light rail line in accordance with the Applications consolidated in this proceeding.

“2. In accepting this Ruling Applicant agrees not to argue or allude to any costs of remedial work attributable to construction performed under authority of this Ruling in any brief, pleading, oral argument, or *ex parte* meeting with the Commission, any Commissioners, or employee of the Commission.

“3. Applicant accepts this authority with full knowledge that one or more of the Protestants may be successful in the final Commission decision. Should this occur Applicant acknowledges it will be required to undo any construction contrary to the Commission decision. Cost of this remedial action may well exceed the cost Applicant now claims is at risk if it is not permitted to continue construction.

“4. Applicant shall give notice of its intentions with regard to this Ruling within 15 days of the date of the Ruling. All parties shall be served with this notice by Applicant.”

### **Ruling Contested**

NOBLAG, RSCD staff, Mt. Washington Homeowners Alliance, and Jo Anne Barker have contested the Ruling. In summary, the Protestants recommend that the interim authority to construct granted by the Ruling be held in abeyance until:

1. The costs and inconvenience to the neighborhood and the public of removing or modifying the safety protections at the crossings, including grade separations are minimal.
2. The Authority has demonstrated the actual costs of delay necessitating interim relief.
3. The Authority is likely to be successful on the merits with respect to their recommended safety protections at the crossings.
4. The Authority has obtained a bond sufficient to cover all costs removing or modifying the grade crossings.
5. The Authority has complied with all relevant provisions of CEQA.

### **Full Commission Review of the Assigned Commissioner's Ruling**

The effect of an Assigned Commissioner ruling is set forth in Public Utilities Code Section 310:

“Every finding, opinion, and order made by the commissioner or commissioners so designated, pursuant to the investigation, inquiry, or hearing, when approved or confirmed by the commission and ordered filed in its office, is the finding, opinion, and order of the commission.”

The ruling issued in November 1, 2001, thus does not have the effect of a Commission order until it is confirmed by the Commission. In this instance, the Commission declines to approve or confirm the assigned commissioner's November 1, 2001 ruling.

Approval of the applications is a discretionary act on the part of this Commission, requiring at a minimum, that we address all relevant environmental and safety issues. Our review of these matters is ongoing. Any action now to authorize construction of all crossings prejudices that careful review and circumscribes our decision-making options, and there is no legal mechanism by which we can approve construction before that review is completed. This cannot further the public interest, which is best served by our development of a full evidentiary record and careful review, as responsible agency, of the environmental issues raised by these applications. Thus, the Assigned Commissioner's Ruling should be vacated and will not become a final order of the Commission. The legal result of this action is to confirm that the Blue Line, at no time prior to this order to this order, had authority to construct.

#### **Authority to Construct**

Although we decline to confirm the Assigned Commissioner's Ruling which granted conditioned interim authority to construct all crossings without our consideration of environmental matters prior to construction, we now find that we can grant final authority for many of the crossings based upon the record developed to date and review of the environmental documentation compiled by MTA (and successor agencies) which is the lead agency for this project under CEQA.

During the course of this proceeding many of the objections to granting the authority to construct have been removed as the staff and parties came to various agreements. Thus, at this time, we will grant all applications that are no longer contested and not in controversy. These approvals are consistent with the authorization granted by the lead agency for this project. We will resolve the remainder of the applications in a later decision.

Staff has reviewed the need for these crossings and agrees that granting these un-contested applications, as requested, is in the public interest. The applications/crossings that are granted in this decision are shown in the table below:

<b>Table 1 - Authority Granted in this Decision</b>						
<b>Proposed #</b>	<b>Warning Devices</b>	<b>Old Crossing#</b>	<b>Street</b>	<b>City</b>	<b>Crossing Type</b>	<b>Application Number</b>
84P-4.81-B		2-139.00-B	Avenue 19	Los Angeles	Separated	A. 00-10-020
84P-4.90-B		2-138.90-B	San Fernando Rd	Los Angeles	Separated	A. 00-10-020
84P-6.06-A		2-137.7/137.8	Figueroa/Marmion/ Pasadena	Los Angeles	Separated	A. 00-10-020
84P-5.46	4 quad gates	2-138.30	Avenue 33	Los Angeles	At-grade	A. 00-10-020
84P-5.79	4 quad gates	2-138.00	French Av	Los Angeles	At-grade	A. 00-10-020
84P-10.61-AD		2-133.20-A	Oaklawn Dr	South Pasadena	Separated	A. 00-10-033
84P-10.85-A		2-133.00-A	Columbia St (110 Fwy)	South Pasadena	Separated	A. 00-10-033
84P-12.31-A		2-131.50	Green St	Pasadena	Separated	A. 00-10-039
84P-12.40-A		2-131.40	Colorado Bl (SR 248)	Pasadena	Separated	A. 00-10-039
84P-12.47-A		2-131.30	Union St	Pasadena	Separated	A. 00-10-039
84P-12.53-A		2-131.20	Holly St	Pasadena	Separated	A. 00-10-039
84P-12.67-A		2-131.12-A	Walnut St	Pasadena	Separated	A. 00-10-039
84P-5.09-B		2-138.70-B	I-5 Fwy	Los Angeles	Separated	A. 00-10-050
84P-5.69-B		2-138.10-B	110 Fwy	Los Angeles	Separated	A. 00-10-050
84P-10.48-B		2-133.30-B	110 Fwy	South Pasadena	Separated	A. 00-10-050
84P-15.10-B		2-128.80-B	Craig Av	Pasadena	Separated	A. 00-11-029
84P-15.54-B		2-128.40-B	Altadena Dr	Pasadena	Separated	A. 00-11-029
84P-15.77-B		2-128.20-B	Sierra Madre/San Gabriel	Pasadena	Separated	A. 00-11-029
84P-16.02-B		2-127.90-B	Sunnyslope Av	Pasadena	Separated	A. 00-11-029
84P-16.16-B		2-127.70-B	Foothill Bl	Pasadena	Separated	A. 00-11-029
84P-16.58-B		2-127.30-B	Madre St (Sierra Madre Villa)	Pasadena	Separated	A. 00-11-029
84P-12.80-A		2-131.10-A	Marengo Av	Pasadena	Separated	A. 00-11-032
84P-12.86-A			Eastbound Lane Of I-210	Pasadena	Separated	A. 00-11-032
84P-13.08-A		2-130.80-A	Los Robles Av	Pasadena	Separated	A. 00-11-032
84P-13.34-A		2-130.60-A	El Molino Av	Pasadena	Separated	A. 00-11-032
84P-13.60-A		2-130.30-A	Lake Av	Pasadena	Separated	A. 00-11-032
84P-13.85-A		2-130.10-A	Wilson Av	Pasadena	Separated	A. 00-11-032
84P-14.23-B		2-129.70-B	Hill Av	Pasadena	Separated	A. 00-11-032
84P-14.46-B		2-129.40-B	Sierra Bonita Av	Pasadena	Separated	A. 00-11-032
84P-14.70-B		2-129.20-B	Allen Av	Pasadena	Separated	A. 00-11-032

Proposed #	Warning Devices	Old Crossing#	Street	City	Crossing Type	Application Number
84P-8.98	4 quad gates	2-134.80	Arroyo Verde/ Sycamore	South Pasadena	At-grade	A. 00-11-033
84P-9.59	4 quad gates	2-134.20	Indiana Av	South Pasadena	At-grade	A. 00-11-033
84P-9.81	4 quad gates	2-134.00	Orange Grove Av	South Pasadena	At-grade	A. 00-11-033
84P-10.03	5 #9's, 1 #8	2-133.80	El Centro St/ Glendon Wy	South Pasadena	At-grade	A. 00-11-033
84P-10.13	7 #9's, 1 #8	2-133.70	Mission St/ Meridian	South Pasadena	At-grade	A. 00-11-033
84P-8.02	4 quad gates	2-135.80	N Avenue 59	Los Angeles	At-grade	A. 00-11-034
84P-8.08	4 quad gates	2-135.70	Avenue 60	Los Angeles	At-grade	A. 00-11-034
84P-8.19	4 quad gates	2-135.60	N Avenue 61	Los Angeles	At-grade	A. 00-11-034
84P-8.22	2 #9A's, 2 #9's	2-135.55	N Figueroa St	Los Angeles	At-grade	A. 00-11-034
84P-5.21-B		2-138.60-B	Avenue 26	Los Angeles	Separated	A. 00-11-050

### Authority Not Granted at This Time

We will not grant authority to construct, at this time, the following applications/crossings:

Table 2 - Authority Not Granted in this Decision						
Proposed #	Old Crossing#	Street	City	Crossing Type	Application Number	
84P-6.50	2-137.30	Avenue 45	Los Angeles	At-grade	A. 00-10-012	
84P-10.23	2-133.60	Hope St	South Pasadena	At-grade	A. 00-11-015	
84P-10.28	2-133.50	Fairview Av	South Pasadena	At-grade	A. 00-11-015	
84P-10.34	2-133.45	Magnolia St	South Pasadena	At-grade	A. 00-11-015	
84P-10.44	2-133.40	Fremont Av/ Grevalia	South Pasadena	At-grade	A. 00-11-015	
84P-6.52-D	2-137.10-BD	Southwest Museum Station	Los Angeles	At-grade	A. 00-11-016	
84P-7.26	2-136.50	Avenue 50	Los Angeles	At-grade	A. 00-11-016	
84P-7.35	2-136.45	Avenue 51	Los Angeles	At-grade	A. 00-11-016	
84P-7.44	2-136.40	Avenue 52	Los Angeles	At-grade	A. 00-11-016	
84P-7.53	2-136.30	Avenue 53	Los Angeles	At-grade	A. 00-11-016	
84P-7.61	2-136.20	Avenue 54	Los Angeles	At-grade	A. 00-11-016	
84P-7.70	2-136.10	Avenue 55	Los Angeles	At-grade	A. 00-11-016	
84P-7.78	2-136.00	Avenue 56	Los Angeles	At-grade	A. 00-11-016	
84P-7.88	2-135.90	Avenue 57	Los Angeles	At-grade	A. 00-11-016	
84P-10.91-A	2-132.90-A	Fair Oaks Av	Pasadena	Separated	A. 00-11-040	
84P-11.14	2-132.50	Glenarm St	Pasadena	At-grade	A. 00-11-040	

84P-11.52-D	2-132.30	Fillmore St	Pasadena	At-grade	A. 00-11-040
84P-11.71	2-132.10	California Bl	Pasadena	At-grade	A. 00-11-040
84P-12.04	2-131.80	Del Mar Bl	Pasadena	At-grade	A. 00-11-040
84P-9.29	2-134.51	Pasadena Av West	South Pasadena	At-grade	A. 01-06-011
84P-9.34	2-134.50	Pasadena Av East	South Pasadena	At-grade	A. 01-06-011

**Authority to Construct - CEQA Discussion**

The Commission is a Responsible Agency for these applications and as such is required by the California Environmental Quality Act (CEQA) to review and consider the environmental documents produced by the lead agency before we can grant authority to construct. (CEQA Guidelines Section 15050(b), 15096.)

Over the life of the Los Angeles to Pasadena Metro Blue Line Project (“Project”), the Authority and its predecessors in interest have prepared numerous environmental review documents for the Project as the lead Agency (Public Resources Code Section 21000 et seq.). The following is a chronological listing of the environmental documents (collectively, the “Environmental Documents”) prepared for the Project:

- Draft EIR, 1988 (SCH # 88042713). This document was circulated for public review in 1988. Due to changes in project design initiated in response to public comment, the Draft EIR was substantially revised and recirculated as the Revised Draft EIR in 1989. While the Final EIR supersedes this document for purposes of environmental review, comments received during public review of the Draft EIR and the Revised Draft EIR were responded to and included in the Final EIR.
- Final EIR, 1990 (SCH # 89082327). This document addressed the environmental review for both the Highland Park and North Main alternatives with various segment options, rail yards, and other facilities.

- Mitigated Negative Declaration, 1991 (SCH # 91071040). This document addressed the environmental review for the aerial structure from Downtown Los Angeles/Union Station to Chinatown.
- Final Supplemental EIR, 1993 (SCH # 92071005). This document addressed the environmental review for three alternative locations for the maintenance facility, three new station locations, and two grade separations.
- Final Supplemental EIR #2, 1994 (SCH # 93121099). This document addressed the environmental review for a change in operations along Marmion Way, five additional street closures in Highland Park, additional property acquisitions, sound barrier modifications, a cut-and-cover tunnel option for the Marmion Way/Figueroa Street grade separation, and alternate location for a park-and-ride facility.
- Addendum #1, 1995 (No SCH #). This document addressed the environmental review for additional property acquisitions.
- Addendum #2, 1996 (No SCH #). This document addressed the environmental review for redesign of the Del Mar Station and transfer of entitlements.
- Addendum #3, 2000 (SCH # 93121099). This document addressed the environmental review for minor modifications to the Project subsequent to transfer of the Project from the MTA to the Authority; including the opening of three at-grade crossings, various Project enhancements, selection of a train vehicle, and construction of an aerial pedestrian bridge at Sierra Madre Villa station.

Each of the grade crossings proposed as part of the Project was analyzed for environmental effects in the Environmental Documents. The eight grade-separated crossings associated with the Chinatown Station alignment were analyzed as part of the project in the Mitigated Negative Declaration (SCH

#91071040) approved and adopted by the MTA on March 25, 1992. The four grade-separated crossings associated with the Colorado Boulevard segment and the Southwest Museum Station at-grade crossing were analyzed as part of the Project in the Final Supplemental EIR #1 (SCH #92071005) approved and adopted by the MTA on January 27, 1993. The grade-separated crossing at Figueroa Street and Marmion Way was analyzed as part of the Project in Final Supplemental EIR #2 (SCH #93121099), approved and adopted by the MTA on May 25, 1994. The environmental effects associated with the twenty-seven (27) other grade-separated crossings and twenty-seven (27) other at-grade crossings proposed as part of the Project were analyzed in the Final EIR (SCH # 89082327), approved and adopted by the MTA on March 30, 1990.

The Environmental Documents for the Project identified seven unavoidable significant environmental effects, for which Findings and A Statement of Overriding Considerations (“SOC”) was adopted. While these are summarized below, the particular environmental effects are not within the scope of the Commission’s permitting authority for this project. Accordingly, we are not required under CEQA to adopt related findings. (Public Resources Code Sections 21153(c), 21204(c).)

Pursuant to the analysis in the Final EIR, an SOC was adopted for the two unavoidable significant adverse impacts of the selected alternative:

(1) modifications to the historic Arroyo Seco Bridge; and (2) loss of parking along Marmion Way between Avenue 51 and Avenue 57.

The aforementioned modification to the historic Arroyo Seco railroad bridge across State Route 110 was identified as a significant adverse impact in the Final EIR due to the widening of the bridge deck and reinforcement of the historic structure to meet seismic safety requirements. The MTA submitted a grade crossing application for this crossing in 1994 (A.94-11-027), which was

approved by the Commission in 1995 by D.95-09-067. The reinforcement and seismic modifications then were completed by the MTA prior to their suspension of the Project.

Pursuant to the analysis in Supplemental EIR #1, an SOC was adopted for four unavoidable significant adverse impacts associated with the Project changes: (1) temporary traffic impacts during construction at the Marmion Way/Figueroa Street intersection; (2) visual impacts of the then-proposed aerial structure at Marmion Way/Figueroa Street (subsequently eliminated in favor of a below-grade alternative); (3) traffic impacts at Fair Oaks and Colorado Boulevard associated with the Colorado Boulevard grade separation; and (4) visual impacts from the aerial structure for the west bank maintenance facility.

Finally, pursuant to the analysis in Supplemental EIR #2, an SOC was adopted for the unavoidable significant adverse vibration impacts associated with the proposed Project changes.

Of the 14 applications now pending before the Commission (excluding A.00-04-022 already approved by the Commission), only two of those applications involve rail crossings for which any significant environmental impact has been identified in the Environmental Documents: A.00-11-016 and A.00-10-039. The visual impacts associated with the aerial structure for the west bank maintenance facility does not involve any railroad crossing application before the Commission, and is outside the purview of the Commission's discretionary approval of any aspect of the Project. Largely in response to public and City of Los Angeles comments and involvement, the aerial structure at Marmion Way/Figueroa Street was eliminated in favor of a below-grade separation, extinguishing the significant visual and short-term traffic impacts associated with that structure. In addition, the unavoidable significant adverse vibration impacts associated with the Project are not associated with grade

crossings proposed as part of the Project but rather the entirety of the Project itself, and so are not within the Commission's jurisdiction over the Project. The remaining significant impacts are related to the following applications:

**APPLICATION 00-11-016.** This application seeks approval of at-grade crossings from Avenue 50 to Avenue 57 along Marmion Way. The Final EIR (1990) identified one unavoidable significant adverse impact associated with this configuration - loss of parking along Marmion Way between Avenue 51 and Avenue 57.

The loss of parking along Marmion Way is not an environmental impact within the scope of the Commission's authority over grade crossings. Rather, this impact stems from the conversion of a portion of the Marmion Way right-of-way to accommodate the proposed light rail alignment.

**APPLICATION 00-10-039.** This application seeks approval of grade separations at four streets in the City of Pasadena, including Colorado Boulevard. Final Supplemental EIR #1 found traffic at the intersection of Fair Oaks Avenue and Colorado Boulevard to be impacted beyond an acceptable level of service under all Colorado Boulevard grade crossing scenarios, regardless of whether the proposed grade separation was constructed.

This impact also does not fall within the purview of the Commission's authority over the Project's grade crossings. The Final Supplemental EIR #1 indicates that the Fair Oaks Avenue and Colorado Boulevard intersection would be impacted beyond an acceptable level of service under either an at-grade or grade-separated crossing, due to trips generated by the Holly Street/Memorial Park station and ambient traffic growth in the area. Final SEIR #1 at 4-27. Since the traffic impacts at this intersection are not generated by the grade crossing, this significant impact does not fall within the scope of the Commission's review of the Project's Environmental Documents.

### **Comments on Proposed Decision**

On December 26, 2001, the alternate decision in this proceeding of Commissioner Lynch was filed with the Commission and served on the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 77.1 of the Commission's Rules of Practice and Procedure. Comments have been received from the Applicant (Authority) and the Mt. Washington Association.

The Authority recommends that we confirm the ACR and that we also grant final authority to construct several additional crossings that it alleges are no longer at issue. We will not accept the recommended changes at this time.

Mt Washington makes an argument regarding duties of a responsible agency under CEQA. We are not persuaded to change our order in this regard.

### **Findings of Fact**

1. We have considered the Assigned Commissioner's Ruling dated November 1, 2001 and decline to confirm the ruling.
2. Notices of the applications were published in the Commission Daily Calendar.
3. Los Angeles to Pasadena Metro Blue Line Construction Authority (Authority) requests authority, under Public Utilities Code Sections 1201-1205, to construct light rail tracks at certain separated grades and certain at-grade crossings through various intersections in the Cities of Los Angeles, Pasadena and South Pasadena in Los Angeles County.
4. Construction of the proposed project is an essential element in the construction of the Los Angeles to Pasadena Metro Blue Line light rail transit project.
5. Public convenience, necessity and safety require the construction of the proposed light rail tracks at separated grades.

6. MTA (its successor agencies) is the Lead Agency for this project under CEQA.

7. The Commission is a responsible agency for this project, and has reviewed and considered the lead agency's Final Environmental Impact Report, (FEIR) supplements to the FEIR and the statement of overriding considerations.

8. The Lead Agency found that The Los Angeles to Pasadena Metro Blue Line light rail transit project will have a significant effect on the environment. The Lead Agency also concluded that the mitigation measures required by the lead agency in the areas of noise and vibration, housing, transportation/circulation, and other issues will reduce the severity of the adverse impacts to acceptable levels. These effects were not identified as being specific to any of the proposed crossing locations.

9. A Statement of Overriding Considerations was adopted related to specific aspects of this project.

10. Transit improvements are an integral part of the Regional Air Quality Management Plan.

11. A shift from auto to rail transit would be beneficial to the Los Angeles Metropolitan Area.

12. The Project is in conformance with applicable local improvement and regional transportation plans. This project will be part of the countywide rail transit system, and will thereby provide alternative means of transportation during fuel crises and increased future traffic congestion.

### **Conclusions of Law**

1. The Assigned Commissioner's Ruling dated November 1, 2001, should not become a final order of the Commission.

2. There are no unresolved matters or protests with respect to the applications as discussed in this order above.

3. A.00-10-020, A.00-10-033, A.00-10-039, A.00-10-050, A.00-11-029, A.00-11-032, A.00-11-033, A.00-11-034, and A.00-11-050 should be granted as set forth in the following order.

### **INTERIM ORDER**

#### **IT IS ORDERED** that:

1. Los Angeles to Pasadena Metro Blue Line Construction Authority (Authority) is authorized to construct grade crossings as proposed in Application (A.) 00-10-020, A.00-10-033, A.00-10-039, A.00-10-050, A.00-11-029, A.00-11-032, A.00-11-033, A.00-11-034, and A.00-11-050 in the Cities of Los Angeles, Pasadena and South Pasadena in Los Angeles County substantially in accordance with the plans attached to the applications and as delineated in Table 1 of this Decision.

2. The crossings shall be identified as described in Table 1 of this Decision.

3. Clearances and walkways shall be in accordance with the Commission's General Order (GO) 143-B.

4. Walkways shall conform to GO 118.

5. The crossings shall be fitted with warning devices, as described in Table 1 of this Decision, in accordance with GO 75-C.

6. Construction and maintenance costs shall be borne in accordance with the agreement titled Master Cooperative Agreement for the Los Angeles to Pasadena Metro Blue Line by and between the City of Los Angeles and the Los Angeles to Pasadena Metro Blue Line Construction Authority, date June 13, 2000.

7. Within 30 days after completion of the work under this order, Authority shall notify the Commission's Rail Safety and Carriers Division in writing that the authorized work was completed.

8. This authorization shall expire if not exercised within three 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.

9. The applications are categorized as Ratesetting.

This order is effective today.

Dated January 9, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

I will file partial dissent.

/s/ HENRY M. DUQUE  
Commissioner

I will file partial dissent.

/s/ RICHARD A. BILAS  
Commissioner

A.00-10-012 etal.  
D.02-01-035

Commissioners Richard A. Bilas and Henry M. Duque, dissenting in part:

Today's decision has the same goal as Commissioner Bilas' Assigned Commissioner Ruling (ACR), which is to minimize the waste of taxpayer dollars. While the decision will reduce the amount of wasted taxpayer dollars, the decision does not go far enough.

We believe that the work on the approved, non-controversial crossings will be completed before a final decision will be issued. The result is that contractors will still be idle, although admittedly for a shorter amount of time than an outright denial of the ACR would have caused. Second, there will be a tremendous loss of efficiency at some crossings. As the Construction Authority is laying track, it will be forced to stop construction at the near end of a crossing, and then resume construction on the far end of the crossing. Heavy equipment, some of which are designed to operate while on the rail line, will need to be physically moved over the crossing. After the final decision, the Construction Authority will need to return to the site to join the two segments together. These two factors alone will cause an additional burden on taxpayers.

One sentence in today's decision is particularly troubling. It reads, "The legal result of this action is to confirm that the Blue Line, at no time prior to this order, had authority to construct." After the issuance of the ACR on November 1, 2001, the Blue Line would have understandably thought that it could proceed with construction. However, today, there is language that says the Blue Line never had authority to construct. The messages from the Commission on the Blue Line could not be any more confusing.

**/s/ RICHARD A. BILAS**  
Richard A. Bilas  
Commissioner

**/s/ HENRY M. DUQUE**  
Henry M. Duque  
Commissioner

January 9, 2002  
San Francisco, California