

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

Investigation on the Commission's own motion into the fatal accident at the North Street Crossing (MP 220.50) in the City of Selma, Fresno County, on June 6, 2003, and order to show cause why this crossing should not be closed.

**FILED**  
**PUBLIC UTILITIES COMMISSION**  
**AUGUST 21, 2003**  
**I.03-08-017**

**ORDER INSTITUTING INVESTIGATION**  
**AND ORDER TO SHOW CAUSE**

**SUMMARY**

The Rail Crossing Engineering Section (staff) of the California Public Utilities Commission (Commission) has requested on several occasions since 1999 that the City of Selma (City) in the County of Fresno, California, close the at-grade crossing at North Street (MP 220.50). Staff has requested closure on the grounds that the North Street crossing is near four other crossings in the City and is, therefore, redundant and unnecessary. The City has taken no action with respect to the closure of the crossing. The City has taken no action with respect to the installation of "STOP" signs at the crossing.

On June 6, 2003, another fatal accident occurred at the at-grade crossing when a tow truck collided with a Union Pacific Railroad Company (UP) freight train.

The North Street crossing has no automatic gates but does have Standard No. 8 flashing warning lights and bells required under the Commission's General Order No. 75-C to warn pedestrians and motorists of approaching trains.

Following the accident, the City of Selma has temporarily closed the crossing.

### **JURISDICTION**

The California Legislature has exclusively delegated safety oversight of public railroad crossings to the Commission under California Public Utilities Code section 1201 et seq.

California Public Utilities Code section 1202 provides in pertinent 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.

[and]

b). To alter, relocate, or abolish by physical closing any crossing set forth [above].

### **ATTACHED DECLARATION**

Between 1989 and February 17, 2002, four collisions occurred at this crossing resulting in four fatalities, and two injuries. The last fatal accident in this series of four occurred on February 17, 2002. Passenger buses and emergency vehicles use this crossing. In a letter dated February 9, 1999, the City requested Section 130 monies for the expenditure of federal funds for 80 percent of the cost of installing crossing gates. [See Attachment B] At a meeting of UP, City of Selma, and staff on February 25, 1999, the City agreed to conduct a traffic engineering study to determine the feasibility of closing one of the nearby crossings and installing gates at the North Street crossing, the closure of

the North Street crossing, and the installation by the City of “STOP” signs at the crossing. On March 15, 1999, the City advised staff that it was working on a request for “STOP” sign installation. At another meeting of these parties on March 28, 1999, the City stated in response to staff’s explanation of the federal and state policy of closing redundant crossings, that it opposed closure of the crossing because North Street is a direct link to the downtown central core area to Whitson Street which is a major arterial linking several shopping centers. Staff has repeatedly recommended closure of the crossing or an agreement from the City to close another nearby crossing before Section 130 monies are used to install crossing gates at this crossing. The basis of staff’s refusal is the policy of the Federal Railroad Administration, the Federal Highway Administration, the California Department of Transportation, and the Commission, against adding at-grade crossings on railroad lines when other crossings are nearby. The multiplicity of at-grade crossings increases the risk of collisions. The declaration of Mr. Haji Jameel recites these facts.

### **PRELIMINARY FINDINGS**

Staff has made a prima facie showing of the Commission’s safety oversight over the crossing and the need for consideration of closing the crossing at North Street. Staff has demonstrated the dangers at the crossing which require immediate action. Further, staff has also demonstrated the efficacy and necessity for temporarily closing the crossing pending a final determination by the Commission as to whether to order installation of automatic gates at the crossing or to close the crossing.

### **ORDER**

For good cause shown, as set forth in the declaration attached to this order dated August 21, 2003.

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

1. Investigation 03-08-017 is opened for the purposes of investigating (a) the fatal accident that occurred at the City’s North Street crossing on June 6, 2003, (b) the need to take immediate action at the crossing, i.e., issuing an order temporarily closing the

crossing pending a final determination as to further protecting or closing the crossing, (c) the need to close the crossing instead of using public Section 130 monies to install automatic gates at the crossing, and (d), to require the City, or any other affected or interested individual or individuals, to show cause why the Commission should not issue an order permanently closing the crossing.

2. On August 23, 2003, at 10:00 a.m., at 505 Van Ness Avenue, San Francisco, California, the City and any other interested party shall show cause why the Commission should not order the temporary closure of the crossing pending a final determination of the Commission.

3. Staff, the City, and any other interested party may present evidence and/or argument at the hearing on the order to show cause.

4. This proceeding shall be categorized as a ratesetting proceeding pursuant to Rules 6(c)(1) and 6.1(c) of the Commission's Rules of Practice and Procedure.<sup>1</sup> The arguments concerning the legal validity and applicability of Public Utilities Code section 1201 et seq. and the facts concerning the Commission's safety oversight of the crossing, do not clearly fit into any of the three categories, i.e., adjudicatory, ratesetting, or quasi-legislative, and so will be categorized as ratesetting pursuant to Rule 6.1(c).

5. All ex parte contacts shall be noticed pursuant to Rule 7(c) and are prohibited when a ratesetting deliberative meeting is not scheduled or when a ratesetting decision is held pursuant to Rules 7(c)(1) through 7(c)(4).

6. The need for a hearing is demonstrated by the safety concerns raised by staff's allegations and the City's refusal to close the crossing.

7. The Executive Director shall cause a copy of this order to be served upon the City Attorney of the City, Mr. Richard Hargrove of HARGROVE AND CASTANZO, 6495 N. Palm Avenue, Suite 101, Fresno, California 93704-1063.

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<sup>1</sup> Title 20, California Code of Regulations, § 6(c)(1).

This order is effective today.

Dated August 21, 2003, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
Commissioners

**PRELIMINARY SCOPING MEMORANDUM**

The scope of the issues to be determined in the proceeding shall be (1) whether the Commission has safety jurisdiction to prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use, and protection of the crossing; (2) whether the Commission has jurisdiction to abolish the crossing, (3) whether the Commission has jurisdiction to issue an order temporarily closing the crossing, and (4), in light of the evidence presented in the attached declaration and the evidence which may be adduced at hearing, whether the crossing should be permanently closed pursuant to California Public Utilities Code § 1201 et seq.

A further scoping memo, among other things, will designate a Principal Hearing or Presiding Officer.

A prehearing conference will be scheduled at a time and location to be determined by the Principal Hearing or Presiding Officer.

The Principal Hearing or Presiding Officer shall rule on the scoping memo and the scheduling of hearings at or after the prehearing conference.

**DECLARATION OF HAJI JAMEEL**

My name is Haji Jameel. I am employed by the California Public Utilities Commission as a Supervising Transportation Engineer for the Rail Crossing Engineering Section staff. I hold a Master of Engineering degree in Civil Engineering and Master of Science in Mechanical Engineering from University of California, Davis. Currently I am a member of the National Committee On Traffic Control Devices, representing the State of California. I am also a guest member of Grade Crossing Safety Committee of the Transportation Research Board, a member of the Federal Highway Committee on Guidelines for Highway/Rail Crossing Design; Technical Review Committee on Intelligent Transportation Systems, Video Monitoring Design Review Committee; and Review Committee on Signal Preemption Guidelines under the Institute of Transportation. I have also served as a member of various task forces on grade crossing safety with the Volpe Center. I declare under oath that the following is true and correct. It is based on my personal knowledge, or if based on information not of my personal knowledge, I believe the information to be true and correct. If called as a witness, I could testify competently to the matters contained below.

Pursuant to California Public Utilities Code section 1201 et seq, the crossings in the City of Selma are subject to the exclusive safety oversight of the Commission.

My experience in the crossing safety industry has provided me with knowledge of crossing operating and engineering equipment, standards, nomenclature and crossing safety training. I am familiar with the safety standards of railroad crossing systems.

Between 1989 and February 17, 2002, four collisions occurred at this crossing resulting in three fatalities, and two injuries. The last fatal accident in this series of four occurred on February 17, 2002. [See Attachment A]

Passenger buses and emergency vehicles use this crossing.

In a letter dated February 9, 1999, the City requested Section 130 monies for the expenditure of federal funds for 80 percent of the cost of installing crossing gates. [See Attachment B]

At a meeting of UP, City of Selma, and staff on February 25, 1999, the City agreed to conduct a traffic engineering study to determine the feasibility of closing one of the nearby crossings and installing gates at the North Street crossing, the closure of the North Street crossing, and the installation by the City of "STOP" signs at the crossing.

On March 15, 1999, the City advised staff that it was working on a request for "STOP" sign installation.

To this date, the City has not installed "STOP" signs at the crossing on North Street.

At another meeting of these parties on March 28, 1999, the City stated in response to staff's explanation of the federal and state policy of closing redundant crossings, that it opposed closure of the crossing because North Street is a direct link to the downtown central core area to Whitson Street which is a major arterial linking several shopping centers.

Staff has repeatedly recommended closure of the crossing or an agreement from the City to close another nearby crossing before Section 130 monies are used to install crossing gates at this crossing. The basis of staff's refusal is the policy of the Federal Railroad Administration, the Federal Highway Administration, the California Department of Transportation, and the Commission, against adding at-grade crossings on railroad lines when other crossings are nearby. The multiplicity of at-grade crossings increases the risk of collisions.

The crossing has a southeast view that is obstructed by a building and a northeast view that is somewhat obstructed by a chain link fence and other obstructions. Because of these obstructions, when approaching this crossing from the east on North Street and traveling west, if you are not paying attention to the flashing lights of the Standard No. 8 warning device with flashing lights and bells, by the time you pass these

obstructions, it may be too late for you to stop. The tow truck driver who died in the collision on June 6, 2003 was traveling west on North Street.

There are no current traffic signals at either the nearby West Front Street or East Front Street intersections adjacent to the tracks. This lack of traffic signals may cause vehicles to queue and stop on the tracks at this crossing during peak traffic hours.

Executed on \_\_\_\_\_, 2003, at San Francisco, California.

I declare that the foregoing is true and correct under penalty of perjury.

/s/ HAJI JAMEEL

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HAJI JAMEEL

ATTACHMENT A  
TO THE DECLARATION OF HAJI JAMEEL

[Information Concerning the Five Fatal Collisions Between 1989 And 2003 At This  
Crossing]

(Attachment in hard copy only)

ATTACHMENT B  
TO THE DECLARATION OF HAJI JAMEEL

[Letter from the City dated February 9, 1999]

(Attachment in hard copy only)