

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE
W. ANTHONY COLBERT, in attendance

ADMINISTRATIVE LAW JUDGE LEAH GOLDBERG, presiding

Abraham Gonzalez,	)	PREHEARING
	)	CONFERENCE
Complainant,	)	
	)	
Vs.	)	
	)	
San Joaquin Valley Railroad Company and	)	
Genesee & Wyoming Railroad Services	)	
Inc.,	)	Case
	)	26-05-016
Defendants.	)	

REPORTER'S TRANSCRIPT
Virtual Proceeding
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VIRTUAL PROCEEDING

JULY 30, 2026 - 10:02 A.M.

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ADMINISTRATIVE LAW JUDGE GOLDBERG: So, the Commission will come to order. We're on the record. The time is 10:02 on July 20th, 2026 (sic).

This is the prehearing conference for Complaint 26-05-016, Abraham Gonzalez, Complainant, versus San Joaquin Railroad Company and Genesee & Wyoming Railroad Services, Inc., which are the defendants. And I will refer to them as "the defendants" collectively, unless I'm asking each railroad to answer a question.

I am Administrative Law Judge Leah Goldberg, the assigned administrative law judge, or ALJ, to this proceeding. I'm joined by -- I should be joined by Assistant Chief Judge Anthony Colbert. He may join a little bit later.

The assigned commissioner is Matthew Baker. Commissioner Baker will not be joining us this morning. But I'll be working very closely with Commissioner Baker and his staff, as we prepare the scoping memo for this proceeding and, of course, as we move through this proceeding.

This prehearing conference is being conducted

1 virtually via the Webex platform and is being
2 transcribed by a court reporter. In order to get a
3 complete transcript of the proceeding, please comply
4 with the following directions:

5 Speak only when I address you. Please identify
6 yourself each time before you speak. So state your name
7 before you speak. Speak slowly and clearly.

8 If someone else is speaking, please do not
9 speak over him, let him or her finish before saying
10 anything. The court reporter can't transcribe multiple
11 people at once.

12 As we go through the issues, I'll ask a
13 representative for each party separately their response
14 to my questions. So if you hear something you don't
15 like or you think is wrong, hold off, you'll have an
16 opportunity to respond.

17 After I've heard from each party, if warranted,
18 I will allow the other party one additional opportunity
19 to respond to the statements made by the other party. I
20 realize that there may be more than one representative
21 from each party on the line. I'll ask that the person
22 each party identified as the primary representative to
23 be the -- for that party -- to speak and the other
24 participants on the line to be available only for
25 questions.

1 And while I know it's unnecessary to remind
2 you, please be courteous to the other parties.

3 The main purpose of today's prehearing
4 conference is to discuss the scope, category, schedule,
5 need for evidentiary hearings, and any other procedural
6 issues. No determinations will be made today.
7 Commissioner Baker will make those determinations in the
8 scoping memo and ruling, which should be out within the
9 next 45 days. We'll start with party appearances, and
10 I'll ask commissioner -- and we'll -- and then we'll
11 talk about the Commission's Rules of Practice and
12 Procedure and the service list.

13 As I call upon the parties to the proceeding
14 who have filed an appearance so far, please state and
15 spell your name for the record. Also, please let me
16 know your preferred pronouns.

17 Who's representing Complainant, Abraham
18 Gonzalez?

19 MR. GONZALEZ: My name is Abraham Gonzalez.

20 MR. HAPAMAKA: Spell it.

21 MR. GONZALEZ: A-b-r-a-h-a-m, Gonzalez is
22 G-o-n-z-a-l-e-z.

23 ALJ GOLDBERG: Thank you.

24 Who's representing San Joaquin Railroad
25 Company?

1 MR. RYBARCZYK: Yes. This is Jerome Rybarczyk,
2 J-e-r-o-m-e; last name Rybarczyk, R-y-b-a-r-c-z-y-k. I
3 am the attorney for the defendants.

4 ALJ GOLDBERG: For both defendants?

5 MR. RYBARCZYK: Yes.

6 ALJ GOLDBERG: Okay. And, Mr. Jones, would you
7 please also introduce yourself?

8 MR. JONES: Hello, my name is Sam Jones,
9 J-o-n-e-s. I'm the assistant general manager for the
10 San Joaquin Valley Railroad.

11 ALJ GOLDBERG: Great. Thank you. I'll refer
12 to both railroads then -- both defendants as "Railroads"
13 as we move forward.

14 I would ask if there was anyone else that would
15 like to become a party to this proceeding, but I see no
16 other attendees or -- oh, yes?

17 MR. HAPAMAKA: My name is Shea Hapamaka. I'm
18 also a representative for Abraham Gonzalez. My name is
19 spelled S-h-a-e, H-a-p-a-m-a-k-a.

20 ALJ GOLDBERG: Great. Thank you. Appreciate
21 that. And I saw that you filed the papers, so thank
22 you.

23 Okay. Let's talk about the Commission's Rules
24 of Practice and Procedure. The Commission's Rules of
25 Practice and Procedure are unique, and they differ

1 significantly from the Rules of Court. I urge the
2 parties to become familiar with the Rules of Practice
3 and Procedure, because our proceedings adhere to these
4 rules, as do the rules for filing documents, ex-parte
5 communications, as we'll discuss as we go through
6 today's prehearing conference.

7 First, I want to also -- but I also want to
8 talk about the service list. The service list includes
9 an Information Only section for those who want to follow
10 the proceeding but not become a party. If you wish to
11 be on the Information Only list, please contact the
12 process office at process_office@cpuc.ca.gov.

13 Parties are reminded that if you plan to file a
14 Notice of Intent for Intervenor Compensation -- which I
15 don't see there are any intervenors on the line -- so I
16 will just mention that intervenors have 30 days from
17 this prehearing conference to make a note they want
18 Intervenor Compensation that does not apply to parties.

19 Now let's go over serving documents to the
20 parties and the service list. The Commission urges and
21 encourages electronic service and requires all documents
22 to be served electronically on every one on the service
23 list, which includes those under Information Only.
24 Please remember that I'm on the service list. If you
25 are sending discovery requests to one another or

1 arranging meetings or sharing phone numbers or anything
2 that is not applicable to -- or does not need to involve
3 me, please take me off the service list for those
4 communications.

5 After the hearing, each of the parties should
6 go to the CPUC website and confirm that the name of the
7 one person designated as the party representative and
8 the names of any other persons on the list -- service
9 list as Information Only to receive shared documents, or
10 served documents, are correct. If they are not correct,
11 there's a form to be submitted online to update the
12 names.

13 Filing documents, please note that when I
14 direct parties to file and serve documents, I expect
15 that they will in fact be served correctly and on time.
16 The parties were directed to file and serve a joint
17 prehearing conference statement. A joint prehearing
18 conference statement does not appear on the docket,
19 because it was not filed and served. I understand that
20 the parties tried to file and -- the document yesterday,
21 and it was rejected because, one, it was five days late
22 and the proof of service did not include the entire
23 service list. That was the real defect in filing that
24 document. So, additionally, they -- on the email that I
25 received that had the prehearing conference statement,

1 it was just to me. It did not include the full service
2 list. My ruling of July 15th, 2026, was explicit that
3 the parties must serve the entire list when
4 communicating with me. I'm putting the parties on
5 notice that I will not review or accept documents that
6 are not filed and served correctly.

7 Are there any questions about the service list
8 or filing documents, Mr. Gonzalez?

9 MR. HAPAMAKA: My name is Shea Hapamaka, and I
10 was responsible for filing that list. And, yeah, I did
11 review everything and it was kind of new to me. So I
12 apologize for my incompetency, but we will get it
13 corrected. And we shouldn't have any more problems with
14 filing.

15 ALJ GOLDBERG: Great. Thank you.

16 Mr. Rybarczyk? And I hope I pronounced that
17 correctly.

18 MR. RYBARCZYK: Yes.

19 ALJ GOLDBERG: Any questions about serving
20 documents?

21 MR. RYBARCZYK: No.

22 ALJ GOLDBERG: Thank you.

23 I'll give the parties one more opportunity to
24 file the joint prehearing conference statement
25 correctly. We do need that on the docket to be part of

1 the -- part of the docket record -- the administrative
2 record in this case. It's not necessarily the
3 evidentiary hearing record; they are two different
4 records. So the administrative record includes
5 everything that we discuss in this proceeding. And the
6 evidentiary record is only those things that are put
7 into evidence. The transcript of today's proceeding
8 will be in the evidentiary record.

9 I hope that makes sense. Any questions,
10 Mr. Gonzalez or Mr. Hapamaka, about the record, the
11 differences?

12 MR. HAPAMAKA: No. I'm clear on all that.

13 ALJ GOLDBERG: Great. Thank you.

14 And the Railroads, any questions about the
15 difference in the records in this case?

16 MR. RYBARCZYK: No, your Honor. It's clear.

17 ALJ GOLDBERG: Thank you.

18 So I will give the parties one more
19 opportunity. Please file the joint prehearing statement
20 by close of business tomorrow. And, Complainant -- so
21 that means Mr. Gonzalez -- it's your obligation to file
22 the statement.

23 Do you have any questions?

24 MR. HAPAMAKA: Yes. I don't believe I have the
25 complete service list, and -- and so, if -- if I could

1 be provided with that again? Because I believe that I
2 can -- I used the whole service list that I have. And
3 you were saying that it was incomplete, or I didn't
4 serve everybody. So if I could be -- get an email with
5 the complete service list, I would -- it would help me
6 out a lot.

7 ALJ GOLDBERG: So, the service list is on the
8 docket. That's actually a very good question. The
9 service list is on the docket. So you go to the CPUC
10 website, and you --

11 MR. HAPAMAKA: Okay.

12 ALJ GOLDBERG: -- put in your proceeding
13 number, which is C2605016, with no dashes -- so just "C"
14 and the numbers -- and hit enter. And the first screen
15 that shows -- pops up will have -- will say -- will tell
16 you the proceeding name and who the judge is and who the
17 Commissioner is. And on the top, it says that there's a
18 service list with de- -- I think it says delimited
19 commas, or something like that. And that's what you
20 click on. And there will be an Excel spreadsheet. And
21 then you go into the Excel spreadsheet and you copy all
22 the emails. And then you just --

23 MR. HAPAMAKA: That makes sense.

24 (Crosstalk.)

25 MR. HAPAMAKA: Thank you.

1 ALJ GOLDBERG: No worries. And I encourage you
2 to do that each time, to go -- not to just have an
3 address list, but to go back to the website each time so
4 that if anyone else has added their name to this
5 proceeding, which happens throughout the proceeding,
6 that you have everybody on the service list.

7 MR. HAPAMAKA: Understood.

8 ALJ GOLDBERG: Great. Thank you.

9 Transcripts. An expedited transcript has been
10 ordered in this case, I understand.

11 And let's talk about the category of this
12 proceeding. In the Instructions to Answer on
13 June 4th, 2026, this proceeding was categorized as
14 adjudicatory. In an adjudicatory proceeding, under
15 Rule 8.2 of the Commission's Rules of Practice and
16 Procedure, ex-parte communications with decision-makers
17 are not allowed. Decision-makers include
18 Commissioner Baker -- oh, actually, it includes all
19 Commissioners, their advisors, and me as the ALJ.

20 Discussing purely procedural matters with me is
21 permitted. Meaning, you can -- there's a procedural
22 matter -- a hearing is set on a date that becomes a
23 conflict, that is an example of a procedural matter, is
24 permitted. But be sure to copy the entire service list.
25 So, I can't have communications with either party

1 without everyone being involved. And when you -- if you
2 have a procedural matter, please be sure not to stray
3 into issues that are at issue in the proceeding, because
4 that's not allowed. Only procedural matters can we
5 speak together off the record.

6 Does any party wish to comment on the category
7 of the proceeding or the ex-parte rules?

8 Mr. Gonzalez?

9 MR. HAPAMAKA: No, ma'am. I think we're good.

10 Thank you.

11 MR. GONZALEZ: Yeah. We're going to
12 correct it.

13 ALJ GOLDBERG: Thank you.

14 Mr. Rybarczyk?

15 MR. RYBARCZYK: No, your Honor.

16 ALJ GOLDBERG: Thank you.

17 So before we go to talk about the scope of
18 this -- of the scoped issues, or the proposed scoped
19 issues, I've read the complaint and the answer. And I
20 did read the -- the statement -- the prehearing
21 conference statement. But I'm still a little confused.
22 And I wanted -- I have questions for both the
23 complainant and the defendant; but let's start with the
24 complainant.

25 Mr. Gonzalez, when did you buy the land?

1 MR. GONZALEZ: Approximately, in 2010, 2011,
2 more or less.

3 ALJ GOLDBERG: And you run a business on the
4 parcels?

5 MR. GONZALEZ: I'm trying to. That's the goal.
6 That's the reason why we're trying to get an access, you
7 know, to an easement. The goal is to run -- for
8 expansion of our business in the City of Firebaugh.

9 ALJ GOLDBERG: Okay. So you have an existing
10 business, and how long has that been going on?

11 MR. GONZALEZ: I believe that corporation was
12 in 2020, Delta Sand and Gravel.

13 ALJ GOLDBERG: Okay. And you mentioned two
14 parcels, but I don't have a map. So can you tell me,
15 are those two parcels the -- where the entire business
16 is, or do you have other land as well?

17 MR. GONZALEZ: I have other land as well, in
18 the City of Mendota. And this property we're dealing
19 with right now is in the City of Firebaugh. That is
20 eight miles north of my existing yard as -- now. But
21 we're trying to expand to Mendota -- or Firebaugh,
22 sorry. And the goal is just to -- hopefully we can have
23 an easement or get some access to have our crossing in
24 our property so we're not land-locked. But that's the
25 accomplishment of this today.

1 ALJ GOLDBERG: Okay. So, this property
2 currently doesn't have any activity on it, because
3 you're trying to expand onto the property? Or you're
4 currently operating a business on that property?

5 MR. GONZALEZ: No. It is vacant land. And
6 we've been improving it in the sense of just grading and
7 cleaning, you know -- grading the property and improving
8 it, as far as the land goes, just bare ground. But, you
9 know, we've been working on it, you know, just bringing
10 it up to elevations and slopes and et cetera. But,
11 yeah, we haven't done any major construction or anything
12 yet. We're hoping to have our crossing before we
13 proceed to do anything else.

14 ALJ GOLDBERG: Do you have entitlements to
15 expand on this property from the City already?

16 MR. GONZALEZ: From the County of Fresno, yeah.

17 (Crosstalk.)

18 MR. GONZALEZ: This property is out of the city
19 limits. But it's in the County of Fresno County.

20 ALJ GOLDBERG: Okay.

21 MR. GONZALEZ: But, yes, there's a -- you know,
22 we're trying to file conditional-use permits, et cetera.
23 But, obviously, this is going to be one of the
24 requirements. We need to have access to the parcel. We
25 can't be land-locked.

1 And, you know, all our neighbors north and
2 south of our parcels have their own access way to their
3 property. But we do not have our own, and that's what
4 we're trying to accomplish. But, yes, as far as a
5 conditional-use permit just to -- to try to get -- you
6 know, acquire access from the railroad company to cross
7 over from our parcel.

8 ALJ GOLDBERG: So neighbors north and south --
9 I'm sorry. I'm taking notes as well, even though we'll
10 the transcript, I -- so neighbors north and south have
11 access?

12 MR. GONZALEZ: Correct.

13 ALJ GOLDBERG: Okay. Okay. The -- via over
14 the railroad, or otherwise?

15 MR. GONZALEZ: Correct.

16 MR. HAPAMAKA: Yeah. They have their own --
17 excuse me. They have their own at-grade private
18 crossings.

19 ALJ GOLDBERG: Okay. It would be very helpful
20 if you could serve -- actually, I think you could file
21 as an -- an attachment or amendment to your
22 application -- or if you could -- even if you don't want
23 to -- if we're not ready to put it on the official
24 record, if you could serve copies of a map, maps that
25 include your parcels, and the neighboring surrounding

1 area, to clearly indicate where the crossings are and
2 where the crossing that you are asking would be placed.

3 MR. HAPAMAKA: We could do that.

4 ALJ GOLDBERG: So I understand that it's
5 Milepost 164, but put it in context for me.

6 Okay. I don't know who is -- is this AC
7 Colbert that's raising his hand?

8 Whoever is raising their hand with a 510 phone
9 number, could you unmute yourself and go ahead and ask
10 your question. I believe it's Assistant Chief Colbert.

11 MX. UILLMAN: You can unmute yourself with the
12 star six on your phone.

13 AC ALJ COLBERT: Your Honor, this is Assistant
14 Chief Colbert.

15 ALJ GOLDBERG: Great. We're having trouble
16 hearing your, Assistant Chief Colbert.

17 AC ALJ COLBERT: Sorry. I just had --

18 (Reporter clarification.)

19 AC ALJ COLBERT: Can you hear me now?

20 ALJ GOLDBERG: No.

21 AC ALJ COLBERT: Hello?

22 ALJ GOLDBERG: That's better. Thank you.

23 AC ALJ COLBERT: Sorry. And sorry, Reporter.

24 The question was: The complainant indicated
25 that they were currently grading and improving the land.

1 Obviously, the issue in this proceeding is access. So
2 how do they have access now?

3 ALJ GOLDBERG: That was going to be my next
4 question, but thank you.

5 Mr. Gonzalez, can you answer that question?
6 You have to unmute yourself.

7 MR. HAPAMAKA: Yes. The -- there is. Okay.
8 About five -- well, how long ago was it?

9 MR. GONZALEZ: Five to seven years ago?

10 MR. HAPAMAKA: Okay. Maybe about five or seven
11 years ago, we had tried to contact --

12 MR. GONZALEZ: San Joaquin.

13 MR. HAPAMAKA: -- the San Joaquin Railroad, and
14 we really don't know the avenues to do it, so -- and we
15 didn't get any response. And so what we did was we went
16 ahead and we -- enhanced an existing crossing that was
17 there so we could cross over. And then when we got told
18 that we couldn't do that, we found an alternate route,
19 which is four and a half miles one way down a canal bank
20 to get to our property, and three and a half miles the
21 northern way to go around to access the property through
22 a canal bank, which doesn't -- it doesn't -- it's not --

23 ALJ GOLDBERG: You're muted. You muted
24 yourself again.

25 MR. HAPAMAKA: Okay. I don't know when it got

1 muted, but --

2 ALJ GOLDBERG: You were saying there's a four
3 and a half --

4 (Crosstalk.)

5 MR. HAPAMAKA: Correct. Okay. Yeah.

6 To the south, there's an access through a canal
7 bank four and a half miles, where you have to go around
8 four and a half, roundtrip, down a canal bank, which is
9 not suitable for commercial vehicles. And to the north,
10 the same route, through the canal bank, three and half
11 miles of detour and -- which is not suitable for a
12 commercial vehicle, and definitely not suitable for any
13 kind of business that are in our future plans. That's
14 how we've been accessing the property now.

15 ALJ GOLDBERG: So can I ask you a question
16 about -- you said that five to seven years ago, you
17 enhanced an existing crossing?

18 MR. HAPAMAKA: Yes.

19 ALJ GOLDBERG: So there was a crossing at that
20 spot?

21 MR. GONZALEZ: It looked like there was a
22 crossing.

23 MR. HAPAMAKA: It appeared to us that there was
24 a crossing there. And so, what we did was we added
25 basin rock and built up the slope and made a crossing,

1 so we could access our property at that time.

2 MR. GONZALEZ: We have pictures --

3 ALJ GOLDBERG: And can I ask the railroads --
4 and Assistant Chief Colbert, I hope you don't mind, I'll
5 give you another opportunity to ask more questions. I
6 just wanted to ask Mr. Rybarczyk and Mr. Jones: Was
7 there on existing crossing, or --

8 MR. RYBARCZYK: Your Honor, I'll let Mr. Jones
9 address that.

10 MR. JONES: There was no authorized existing
11 crossing. All crossings have to go through an approval
12 process. So if there was what appeared to be a previous
13 crossing, then that would have been an illegal crossing
14 as well, that was not approved. And the complainant
15 took it upon themselves to create an unauthorized,
16 illegal crossing.

17 ALJ GOLDBERG: Thank you.

18 Assistant Chief Colbert, I would like to turn
19 it back over to you. Did you have an additional
20 question or additional questions?

21 (Audio interruption.)

22 ALJ GOLDBERG: I'm sorry. I didn't hear you.

23 Is that a yes or a no?

24 AC ALJ COLBERT: No. No, I do not.

25 ALJ GOLDBERG: Okay. Thank you.

1 So, thank you for that -- for all that
2 information, Mr. Gonzalez. I wanted to ask you if you
3 need to conduct any discovery? Meaning, get information
4 from the railroads, exchange? And you're on mute.

5 MR. GONZALEZ: Sorry. What was the question?

6 ALJ GOLDBERG: The question was: Do you need
7 to conduct discovery? That's the investigation before
8 you actually prepare any testimony or any briefing that
9 you would ask from the railroads.

10 MR. HAPAMAKA: Actually, none comes to mind at
11 the time. But I would like to reserve that option in
12 the future.

13 ALJ GOLDBERG: Great. Thank you.

14 So, now I have a couple questions for the
15 defendants. The prehearing conference statement said
16 the defendants need to gather information from the City
17 of Firebaugh and Fresno County.

18 Can you tell me what the status of your
19 efforts is?

20 MR. RYBARCZYK: I'm just beginning that, your
21 Honor. And I don't have any information on that
22 subject. But I would also like to conduct discovery,
23 perhaps interrogatories, maybe even a deposition, so
24 that we can streamline things for the final hearing.

25 ALJ GOLDBERG: Okay. What -- we'll go back to

1 that in just a moment when we talk about the hearings.

2 Well, actually we can talk about it now.

3 Hearings in our cases are evidentiary hearings,
4 and they're only to address questions of fact. So if
5 there's a factual dispute, then we would hold an
6 evidentiary hearing. Right now, I believe there are
7 some factual issues in dispute, and I will recommend
8 that to the commissioner that we hold evidentiary
9 hearings. But if there are not factual issues in
10 dispute, and there are only legal issues in dispute, the
11 legal issues are briefed in your briefs and then we
12 would not hold a hearing.

13 So we'll have time for that later on after you
14 do your discovery. But I just wanted to make that
15 distinction that unlike a court, where everything gets
16 argued in a hearing, that's not what happens in front of
17 the Commission.

18 And I also wanted to ask, but I do have a few
19 more questions for the defendants: Why did the
20 defendants close the private crossing that was
21 constructed in 2022? And I understand that you'll tell
22 me that it's illegal; but can you tell me what was wrong
23 with it?

24 MR. RYBARCZYK: Yes. I'll let Mr. Jones
25 address that.

1 MR. JONES: So, just as with any transportation
2 artery that is conveying Interstate commerce or
3 anything, there are standards for construction that are
4 overseen by the railroad. That begins with the approval
5 process, which we've already addressed. So the
6 defendant -- or excuse me -- the complainant created a
7 crossing, it -- that was out of compliance with our
8 building standards, which can cause damage to the track
9 structure, resulting in a derailment of rail cars and a
10 hazard to the community.

11 And, in addition, the -- by creating the
12 crossing where they did, the -- the complainant was
13 entering and exiting State Highway 33 at a -- just a
14 random spot. And that was in close enough proximity to
15 the railroads tracks that any vehicle accidents
16 resulting in them entering and exiting a state highway
17 would most likely impact the track structure of the
18 SJVR.

19 ALJ GOLDBERG: I guess, I'm -- I need a little
20 bit more detail, because -- or maybe I need to see this
21 also on a map. So if they entered the highway, is it
22 the turning radius or is it -- I guess I'm unsure. I
23 don't have a map of the area.

24 So if they are entering the state highway at a
25 certain angle, that can impact the tracks? Is that what

1 I'm understanding?

2 MR. JONES: Yeah. If they create -- if them
3 entering and exiting at a spot that is not normal causes
4 a vehicle accident, and then that -- any part of that
5 vehicle accident ends up impacting the track structure
6 because of the proximity, that is the concern for
7 that -- that portion of what I said. The primary
8 concern for the railroad is having an unauthorized
9 crossing that could damage -- damage the track structure
10 and cause a derailment.

11 ALJ GOLDBERG: Okay. Mr. Gonzalez, I'll give
12 you an opportunity in just a moment. I would like to go
13 through my questions with the railroads, and then -- so
14 right down your question and you'll have an opportunity
15 to respond.

16 And give me just a moment to catch up with some
17 notes I'm making.

18 How many trains cross over these tracks daily,
19 do you know that information?

20 MR. JONES: Yes. Two.

21 ALJ GOLDBERG: Two trains. And can you roughly
22 tell me the times?

23 MR. JONES: That varies, based on the operation
24 of the railroad.

25 ALJ GOLDBERG: Can I get an understanding of

1 how long these trains are when they cross?

2 MR. JONES: Again, that -- that varies. You
3 know, it could be a couple hundred feet to a mile long,
4 depending on what the -- the traffic is that's flowing
5 at the time.

6 ALJ GOLDBERG: I see. And is there a
7 difference between a weekday and weekend, in terms of
8 two trains, or is that pretty much every day?

9 MR. JONES: Yeah. That's pretty much our
10 normal operation.

11 ALJ GOLDBERG: Great. Thank you. I appreciate
12 that.

13 And then, Complainants mentioned that they had
14 submitted an application in January 2026 that was
15 refused. And can you tell me a little bit more about
16 why the railroads refused that application?

17 MR. JONES: For some of the same reasons
18 stipulated before. In addition, because the complainant
19 does in fact have access to their parcel of land, and
20 it's the same access that all the adjacent parcels use,
21 despite what the complainant said about them having
22 crossings, it was not deemed that the crossing would be
23 in the best interest of the railroad and the liability
24 that would be ensued -- or that would be taken upon us
25 for adding a crossing.

1 In general, the railroad and our direction from
2 the CPUC in the past has been to minimize crossings
3 rather than add crossings.

4 ALJ GOLDBERG: Can -- oh, so this actually --
5 again, I will need a map of the neighboring properties
6 and where they access. But I understood earlier from
7 the complainant that the other properties, the
8 neighboring properties, do have crossings; is that
9 correct?

10 MR. JONES: Not to my knowledge.

11 ALJ GOLDBERG: Okay. And how do the
12 neighboring properties access their -- also on this
13 canal road?

14 MR. JONES: Correct.

15 ALJ GOLDBERG: So I would ask that each party
16 submit -- to serve copies of maps showing crossings or
17 access to the properties and neighboring properties.
18 And if you could provide those to me, again serving the
19 service list -- the entire service list within 10 days,
20 that would be very helpful. So that will give you some
21 time to get the maps and provide them. It will be
22 extremely helpful.

23 My last question for the defendants, and
24 then -- and then I'll turn it -- then I'll allow the
25 complainant to respond -- is that I'm having trouble

1 understanding the -- your affirmative defense of unclean
2 hands. My understanding is that unclean hands refers to
3 a complainant engaging in the same behavior that the
4 complainant would be accusing the defendant of behaving
5 in; and that's not the case here. I understand that the
6 defendant is complaining installed an illegal crossing.
7 But I'm not sure how that's -- I'm not sure how that's
8 unclean hands.

9 MR. RYBARCZYK: All right. Maybe I'm misspoke.

10 What I was trying to imply or get to, your
11 Honor, is that in the complaint, the way it's set up,
12 makes it appear that there's nothing there for them to
13 access their property at present; and they want the
14 railroad to install and pay for a grade crossing, when
15 they themselves, several years ago, installed without
16 authorization or permission an illegal grade crossing.
17 That's what I was trying to get to.

18 ALJ GOLDBERG: All right. Thank you.

19 Now, Mr. Gonzalez, I'll give you an
20 opportunity -- or Mr. Hapamaka, but -- I pronounced that
21 correctly I hope -- I will give you an opportunity to
22 respond to --

23 MR. HAPAMAKA: Yeah. I initially raised my
24 hand because every crossing adjacent and on both sides
25 of us, north and south -- I got pictures, and I'll file

1 them to the service list -- that the road markings,
2 there's no special lane on any of the adjacent crossings
3 which are literally 0.7 miles away from us to the south
4 and 1 mile away to the north. And it's just -- there's
5 no extra turn lane or anything off of the 33. It would
6 be the same -- yeah, it would be the same what we have
7 now at our proposed crossing. And the marking signs,
8 they have a stop sign there. And that's what we don't
9 have.

10 And, also -- yeah. The -- there are crossings
11 that the neighbors do have. And they do not access the
12 canal road to get to their property. They actually have
13 fences on their backside, which is parallel to the
14 canal. So they cannot even access from the canal road.
15 Yeah. Indeed, there are crossings adjacent to the south
16 and north of us.

17 And, you know, we're not -- we're not actually
18 asking the railroad to install it. We -- I mean, we're
19 fully capable of installing it. As a matter of fact,
20 Abraham is a licensed contractor for grading and paving.
21 And so, that's not a problem. And we're willing to
22 install it, manage it, upkeep it; all we need is just
23 the permission to do so, or whatever inspection. And
24 we'll keep the insurance that they require. That's not
25 an issue.

1 ALJ GOLDBERG: Thank you.

2 And I think that we have -- we certainly have
3 an issue of fact that hopefully the discovery period
4 will allow everybody to reconcile what the access is on
5 each -- on what other -- if there are legitimate
6 alternative access routes and if there -- what's
7 happening on the neighboring properties. So, I
8 appreciate all this information. I will, of course,
9 share it with Commissioner Baker.

10 AC ALJ COLBERT: Your Honor?

11 ALJ GOLDBERG: Yes?

12 AC ALJ COLBERT: Sorry. Your Honor, this is
13 Assistant Chief Colbert.

14 If the neighbors have access -- this is a
15 question for the complainant. If the neighbors have
16 access, have they sought an easement to use their
17 properties to access their land?

18 ALJ GOLDBERG: Mr. Gonzalez, could you?

19 MR. HAPAMAKA: Yeah. They are private
20 crossings. And we -- we have had issues with the
21 neighboring crossings, and we're not in a -- they will
22 not grant us access to use commercial vehicles through
23 their crossing and cut through property. And they also
24 have fencing up there that prevents us from accessing
25 our property from their property. So we would literally

1 have to use their crossing and then cut through their
2 property to get to our property. And there's been --

3 MR. GONZALEZ: Issues.

4 MR. HAPAMAKA: -- issues there with the
5 neighbors north and south to us, for us to do that.

6 ALJ GOLDBERG: That's -- thank you.

7 Assistant Chief Colbert, did you have a follow
8 on to that?

9 AC ALJ COLBERT: I did not.

10 ALJ GOLDBERG: I do. I would like to ask: Are
11 the neighbors challenging your conditional use permit?

12 MR. HAPAMAKA: I'm unaware of any challenges
13 from the neighbors.

14 ALJ GOLDBERG: Thank you. Okay. Thank you.

15 So let's talk about the need for evidentiary
16 hearings. As I mentioned earlier, evidentiary hearings
17 are only held when there are disputed issues of fact.
18 Given what I've heard today, there's clearly an issue of
19 fact that's in dispute. So I will recommend that an
20 evidentiary hearing is necessary. And I suspect that we
21 will not need more than one day for an evidentiary
22 hearing.

23 Is that correct, Mr. Gonzalez?

24 MR. HAPAMAKA: Yes. It -- all we need to do is
25 just serve the -- serve and file the maps and pictures.

1 ALJ GOLDBERG: Okay. But if we hold an
2 evidentiary hearing where you have witnesses that talk
3 about, you know, the access to your property and so
4 forth, we could have those witnesses and
5 cross-examination, and you would be able to
6 cross-examine any of the railroads' experts in one day;
7 correct?

8 MR. HAPAMAKA: Oh, sure.

9 ALJ GOLDBERG: Okay. And, Mr. Rybarczyk, is
10 one day sufficient?

11 MR. RYBARCZYK: Yes, it is, your Honor.

12 ALJ GOLDBERG: Okay. Thank you.

13 Then we will put that on the schedule. And
14 we'll have an -- a status conference. You may resolve
15 the issue of access, you know, once you exchange maps
16 and have a discussion, if that issue -- if any issues
17 of -- disputed issues of fact are resolved, then we'll
18 be able to take evidentiary hearings off the schedule
19 and -- but we'll do that in a status conference later
20 on. And we'll talk about the schedule in a few minutes.

21 Disputed legal issues are decided based on the
22 briefing. And I understand that there are disputed
23 legal issues as well. And so I'll recommend to
24 Commissioner Baker that briefing be included in the
25 schedule, and of course that hearings are necessary.

1 Are there any questions about hearings and
2 briefings, Mr. Gonzalez?

3 MR. HAPAMAKA: No, I understand the difference.

4 ALJ GOLDBERG: Okay. And, Mr. Rybarczyk?

5 MR. RYBARCZYK: No.

6 ALJ GOLDBERG: Thank you.

7 So, after reviewing the complaint and the
8 answer and hearing what we've talked about today, I've
9 compiled a preliminary list of issues to recommend to
10 Commissioner Baker, which I'll share with you now. And
11 I may modify it a little bit more after I really think
12 about the answers we've heard today. But I'll go
13 through the issues and then give you an opportunity to
14 respond.

15 Issue Number 1, is a private railroad crossing
16 necessary for Complainant to access property located at
17 9830 North Dos Palos Road or 9939 Dos Palos Road in
18 Firebaugh, California;

19 Issue Number 2, what is the applicability of
20 Public Utilities Code Section 7573 to Complainants'
21 property;

22 Issue Number 3, if Public Utilities Code
23 Section 7573 applies to Complainants' property, should
24 the Commission order the San Joaquin Railroad Company
25 and the Wyoming & Genesee Railroad Services, Inc. (sic),

1 to construct and maintain a private railroad crossing in
2 Milepost 164.

3 Are there any comments about the proposed
4 scoped issues? And this time, I'll start with the
5 railroads.

6 MR. RYBARCZYK: No, your Honor.

7 ALJ GOLDBERG: Mr. Gonzalez?

8 MR. HAPAMAKA: That is correct. None --
9 nothing further.

10 ALJ GOLDBERG: Okay. Thank you.

11 So let's talk about the proceeding schedule.
12 It looks like we've lost Assistant Chief Colbert.

13 Proceeding schedule. The timeline for an
14 adjudicatory proceeding is 12 months from filing to
15 presiding officers' decision, we call that a "POD." In
16 the joint prehearing conference statement, the parties
17 did not suggest a proceeding schedule other than to say
18 that a hearing should be held 30 days following
19 completion of discovery. In our process, we start with
20 a scoping memo. So I'm hoping that the scoping memo --
21 that Commissioner Baker will be able to issue the
22 scoping memo in the next 30 to 45 days.

23 And then, I've asked the parties to file and
24 serve the PHC statement correctly, by tomorrow close of
25 business, and to serve maps of the properties and

1 surrounding areas within 10 days. So if you could serve
2 the maps by August 10th, that would -- that's -- I think
3 that's a good deadline. It gives people a fair amount
4 of time to get maps and mark them up and serve them.

5 So, it looks like there will need to be
6 discovery. And so, we'll put a discovery cutoff of
7 September 18th, 2026. I understood from the railroads
8 in the -- in the prehearing conference statement that
9 they need 45 to 60 days, so September 18th, 2026.

10 I'm not sure that we will need opening and
11 closing testimony. It depends -- testimony is
12 essentially your witness statements as to what's
13 happening and -- and something that could be
14 cross-examined. If we are going to have evidentiary
15 hearings, it would likely be helpful to have written
16 prepared testimony. I'm going to go ahead and put that
17 on the schedule and we can, if we need to, address
18 whether we need written testimony, we can do so at a
19 later date. But I'm putting open testimony on the
20 schedule for October 5th, 2026, and rebuttal testimony
21 for October 26th, 2026.

22 If through the testimony you decide that the
23 information is in writing, and you don't need to
24 cross-examine any of the witnesses, then I would ask a
25 joint motion to admit testimony and documents.

1 Meaning for you, Mr. Gonzalez, the documents would be
2 your attachments to your application. I would ask for a
3 joint motion to admit testimony and documents into
4 evidence, filed and served by October 30th, 2026.

5 If you -- if you don't -- if a hearing would be
6 helpful or necessary to address issues of fact --
7 disputed issues of fact -- we'll have -- I would ask
8 that you prepare a joint status conference statement
9 identifying who your witnesses are, how much time you
10 need for cross-examination, what the issues of disputed
11 fact are, all of that. The joint status conference
12 statement -- and I will -- Commissioner Baker will put
13 more detail in the scoping memo about what we need in
14 the joint status conference statement; but the statement
15 will be due November 12th, 2026. We'll hold a status
16 conference to further discuss hearings on
17 November 18th, 2026; and evidentiary hearing held on
18 December 8th, 2026; concurrent opening briefs filed and
19 served January 5th, 2027; concurrent reply briefs filed
20 and served on January 26th, 2027.

21 And at that time, the case will be submitted.
22 Meaning, at that time, it's handed to me as the judge,
23 and I will prepare the Presiding Officers' Decision.
24 And I have 60 days following submission to complete the
25 Presiding Officers' Decision. Following the Presiding

1 Officers' Decision, there's a 30-day comment period. If
2 there's no comment that would modify the Presiding
3 Officers' decision, then it becomes the final decision.

4 Are there any comments about the proposed
5 schedule, Mr. Hapamaka?

6 MR. HAPAMAKA: No, no comments.

7 ALJ GOLDBERG: Mr. Rybarczyk?

8 MR. RYBARCZYK: Yes, your Honor. I missed the
9 date for the rebuttal testimony. You said that -- the
10 date before was October 5, 2026. What is the date for
11 the rebuttal?

12 ALJ GOLDBERG: October 26, 2026.

13 MR. RYBARCZYK: Okay.

14 ALJ GOLDBERG: And this will all be in writing.

15 MR. RYBARCZYK: And one --

16 ALJ GOLDBERG: Go ahead.

17 MR. RYBARCZYK: One final question would be on
18 the discovery cutoff of December 18th. Now, if I
19 propound written discovery, does that hold with the same
20 rules of civil procedure for -- they would have 30 days
21 to respond?

22 ALJ GOLDBERG: I believe it's in the Rules of
23 Practice and Procedure. Discovery is -- sorry. I don't
24 have all the rules memorized. So, discovery is Rule 10.
25 And I would ask that -- and I can modify the timelines.

1 Okay. THE rules -- very quick, looking at the rules, it
2 appears that it doesn't include --

3 MR. RYBARCZYK: Yeah. That's why I asked,
4 because I hadn't seen that in there.

5 ALJ GOLDBERG: The only place I'm seeing it is
6 where it talks about -- well, here, model and database
7 access. It gives it a 5-day response. I think that a
8 10-day response to discovery should be reasonable.

9 MR. RYBARCZYK: Okay.

10 ALJ GOLDBERG: Mr. Gonzalez, do you have a
11 problem with a 10-day response for discovery?

12 MR. HAPAMAKA: No problem.

13 MR. GONZALEZ: No problem.

14 ALJ GOLDBERG: Okay. And, Mr. Rybarczyk, do
15 the railroads have a problem with a 10-day response to
16 discovery?

17 MR. RYBARCZYK: No, your Honor.

18 ALJ GOLDBERG: Okay. So let's say that all
19 discovery requests should be responded to within 10
20 days.

21 Okay. So let's talk about Alternative Dispute
22 Resolution. The Commission has a robust Alternative
23 Dispute Resolution program which, unlike other programs,
24 is free to the parties. The program offers mediation,
25 early neutral evaluation, and facilitation services

1 using administrative law judges who have received
2 significant training in Alternative Dispute Resolution.
3 We encourage parties to start talking early, reach
4 settlement, if you can, on all or individual -- of all
5 or individual issues, and notify me if you wish to make
6 use of the Alternative Dispute Resolution program at the
7 California Public Utilities Commission. And I would be
8 happy to link you to the director of those services and
9 have you start talking through the ADR process.

10 Are there any questions about the Alternative
11 Dispute Resolution process, Mr. Gonzalez?

12 MR. HAPAMAKA: No questions. We would be more
13 than likely -- glad to use that as an alternative to
14 this. I think that once we get to talking, we probably
15 can find a resolution. So this is a good thing.

16 ALJ GOLDBERG: So I'm hearing that you would be
17 open to it.

18 And, Mr. Rybarczyk, do you have any questions
19 or are you interested -- are the railroads interested,
20 or do you want to consider it?

21 MR. RYBARCZYK: I would have -- we would
22 consider it, your Honor. But I'll have to talk to my
23 clients about that.

24 ALJ GOLDBERG: Fair enough. If you do, you are
25 welcome to send me a procedural email. And I will hook

1 you up with the coordinators of the ADR program. And
2 just from a personal point of view, having served as a
3 neutral and received a lot of training, it is -- in
4 complaint cases, it can be very effective and helpful.
5 And if nothing else, it helps you identify what the
6 issues are moving into your hearings.

7 Okay. So we've reached the end of our
8 prehearing conference. And I appreciate everyone's
9 participation. I want to open it up to the parties to
10 address any other questions or issues.

11 Let's start with Mr. Gonzalez.

12 MR. HAPAMAKA: The prehearing conference was
13 (inaudible) on our end. We have nothing further to add.

14 ALJ GOLDBERG: Thank you.

15 Mr. Rybarczyk?

16 MR. RYBARCZYK: Yes, your Honor. Just want to
17 find out what arrangements do I have to make to get an
18 expedited transcript here?

19 ALJ GOLDBERG: Okay. I believe an expedited
20 transcript has already been ordered. But I'm going to
21 turn this over to the court reporter --

22 MR. RYBARCZYK: Okay.

23 ALJ GOLDBERG: -- to answer.

24 THE REPORTER: It has been ordered. It will be
25 on the Docket Card in 1 to 5 business days.

1 MR. RYBARCZYK: Okay. Thank you very much.

2 ALJ GOLDBERG: Great. Thank you.

3 Thank you all for your participation. The
4 prehearing conference is adjourned. And we are off the
5 record at 10:59.

6 (At the hour of 10:59 a.m., this matter
7 having been concluded, the Commission then
8 adjourned.)

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, KARLY POWERS, CERTIFIED SHORTHAND REPORTER
NO. 13991, IN AND FOR THE STATE OF CALIFORNIA DO
HEREBY CERTIFY THAT THE PAGES OF THIS TRANSCRIPT
PREPARED BY ME COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
THIS MATTER ON JULY 30, 2026.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE
EVENTS OF THE MATTER OR THE OUTCOME OF THE PROCEEDING.

EXECUTED THIS AUGUST 07, 2026.

A handwritten signature in black ink, appearing to read 'K Powers', is written over a horizontal line. Below the line, the text 'KARLY POWERS' and 'CSR NO. #13991' is printed.

KARLY POWERS
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