

Decision **PROPOSED DECISION OF ALJ BUSHEY** (Mailed 10/30/2003)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of San Diego for an order authorizing modification of an existing at-grade crossing on three light rail vehicle tracks and one heavy rail track of the Metropolitan Transit Development Board, and one heavy rail track of the Burlington Northern and Santa Fe Railway Company, at Park Boulevard, in the City of San Diego, San Diego County, California.

Application 01-09-012
(Filed September 12, 2001)

**OPINION GRANTING APPROVAL TO CLOSE EIGHTH AVENUE
AT-GRADE CROSSING AND CONSTRUCT PARK BOULEVEARD
AT-GRADE CROSSING, WITH CONDITIONS**

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**OPINION GRANTING APPROVAL TO CLOSE EIGHTH AVENUE AT-GRADE
CROSSING AND CONSTRUCT PARK BOULEVEARD AT-GRADE
CROSSING, WITH CONDITIONS**

1. Summary

This decision grants the request of the City of San Diego (the City) for Commission authorization to (1) close an existing at-grade railroad crossing at Eighth Avenue and Harbor Drive and (2) construct an at-grade railroad crossing at the new intersection of Park Boulevard and Harbor Drive in San Diego, California. Due to the high level of light rail traffic and the presence of heavy rail traffic, significant safety conditions are also immediately imposed.

Comprehensive monitoring and long-term safety planning are also required.

2. Description of the Application

The City is currently redeveloping twenty-six blocks of East Village area of downtown San Diego, in two closely related components. The centerpiece of the first component will be a new San Diego Padres baseball stadium (Ballpark), which will also be used for concerts, public gatherings, and convention-related activities. The Ballpark project will also include a park for the surrounding community that will also have views of the ball field for games. Sports-oriented retail and entertainment will also be present at and near the Ballpark. Parking facilities and infrastructure improvements will also occur around the Ballpark as it will result in several changes to the City traffic grid. Eighth Avenue, which currently intersects Harbor Drive, will be one of the five streets closed approximately five blocks north of Harbor Drive to allow for the Ballpark structure. The most notable street addition will be a new diagonal street, Park Boulevard, which will cross three blocks and connect what is currently called Twelfth Avenue to Harbor Drive. Approximately 10 blocks further north, Twelfth Avenue becomes Park Boulevard, which goes through Balboa Park, a

1,200-acre park with over 85 cultural and recreational organizations, including the San Diego Zoo. After redevelopment the entire street will be named Park Boulevard, and the City refers to Park Boulevard as creating a park to bay link for the City. Prior to interconnecting with Harbor Drive, the new Park Boulevard will pass in front of the new Ballpark and, about 120 feet from the Ballpark, cross several railroad and trolley tracks. This crossing is the subject of this application.

The second component of the redevelopment project is ancillary development projects around the new ballpark area. The City's environmental review assumed at least 850 hotel rooms, 600,000 square feet of office buildings, and at least 150,000 square feet of retail development.

As noted above, the City will be permanently closing the Eighth Avenue several blocks north of the current crossing. The proposed Park Boulevard crossing will be located approximately 70 feet southeast of the Eighth Avenue crossing. Between the location of the former Eighth Avenue crossing and the proposed Park Boulevard crossing, the track configuration changes slightly. Both crossings have three light rail or trolley tracks. One of the two heavy rail tracks at the Eighth Avenue, however, splits just west of the Park Boulevard crossing resulting in three heavy rail tracks at the Park Boulevard crossing. A Burlington Northern and Santa Fe Railway Company (BNSF) rail yard is located 500 feet east of the proposed crossing.

The proposed crossing will be one of seven at-grade crossings in San Diego, all of which have light and heavy rail tracks. These tracks go through San Diego's downtown bay front area, referred to as the bayside corridor. The San Diego Trolley Superintendent of Transportation testified that 163 trolley trains pass through the bayside corridor daily, with occasional special event service adding 10 to 20 trolleys. The North San Diego County Transit District

(“Coaster”) would have six trains pass through the corridor daily, Monday through Friday. Although the Coaster uses the trolley tracks, it is considered a heavy rail train. One BNSF train passes through the corridor each day, and eight each night. All of these trains are heavy rail freight trains. In addition, a short line railroad, the San Diego and Imperial Valley Railway Company operates one to two heavy rail trains daily through the corridor.

Park Boulevard crosses the six rail tracks and intersects Harbor Drive. The distance from the southernmost track and Harbor Boulevard is about 120 feet on the east side of the intersection. Four southbound lanes on Park Boulevard pass over the rail tracks and into the intersection with Harbor Drive. One lane turns left, one right, one straight through to the convention center, and one is a combined right turn and straight through lane. Two northbound lanes from the Harbor Drive intersection cross the tracks and proceed north on Park Boulevard.

The proximity between the rail crossing and the street intersection significantly complicates the crossing. Southbound traffic on Park Boulevard will be required to stop for a stoplight at Harbor Drive and must be prevented from queuing across the rail tracks. A similar problem does not occur northbound because the traffic will queue before crossing the tracks.

To prevent southbound Park Boulevard traffic from queuing across the tracks, the City has proposed to locate two presignal stoplights before the rail crossing. The stoplight at Harbor Drive will be coordinated with the presignals to ensure that any traffic queued on the tracks has ample time to clear before the arrival of the train.

The City has also proposed to install four quadrant gates and a vehicle detection system at the crossing. The purpose of four quadrant gates is to prevent vehicles from going around a closed gate by going the wrong way on the

opposing traffic lanes.¹ Blocking all lanes, however, creates the possibility that vehicles could be trapped. The City has proposed installing a vehicle detection system to allow the exit gate to remain in the up position until the vehicles clear the crossing.

As a further impediment to drivers intent upon circumventing the gates, the City proposes to install raised medians with barrier hedges and fences. The raised median will be between the north and sound bound lanes, and will begin well before the crossing and extend to the intersection with Harbor Drive.

The City has proposed several safety measures to protect pedestrians using the crossing. A pedestrian bridge over the tracks and Harbor Drive is the most significant safety measure. To encourage use of the bridge, certain sidewalks will be eliminated and pedestrian barriers installed.

For major events at the Ballpark, including Padre games, the City is required as an environmental mitigation measure to develop, implement, and revise as needed, an Event Transportation Management Plan. This Plan provides that southbound Park Boulevard will be closed before, during, and after events. Traffic control officers will be stationed throughout the area of the Ballpark.

3. Amendments to Application

In its original application filed on September 12, 2001, the City sought Commission authorization to modify the existing Eighth Avenue at-grade crossing by replacing it with another nearby crossing. As proposed by San Diego, the new crossing would be located approximately 70 feet southeast of

¹ The typical gate system has two gates, for lanes entering the crossing only. The lanes exiting the crossing are unimpeded such that vehicles could conceivably cross into the lanes going the wrong way and enter into the crossing despite the two gates. Four quadrant gates also block the exiting lane to prevent such actions.

the existing crossing, where a newly constructed Park Boulevard would cross the rail tracks.

The Commission's Rail Crossings Engineering Section of the Rail Safety and Carriers Division (RCES) protested the application on October 12, 2001. RCES stated that it had worked closely with the City on considering options for the crossing but had reached the conclusion that the crossing must be grade-separated to be safe.

BNSF also filed a protest to the City's application. BNSF took issue with the City's characterization of this project as a "minor modification" of an existing crossing, which would be categorically exempt² from review under the California Environmental Quality Act (CEQA). BNSF also recommended that the new crossing include four quadrant gates as an additional safety measure. BNSF also stated that it would not make the modifications to its tracks that the City assumed in the application, and that it supported grade-separation for this crossing.

On November 5, 2001, the City submitted its first amendment to its application. The amendment revised the plans for the intersection to retain the existing two tracks for BNSF. The amendment also contained letters of support for an at-grade crossing from the Metropolitan Transit Development Board, San Diego Trolley, Inc., San Diego and Arizona Eastern Railway, San Diego and Imperial Valley Railroad, and North County Transit District, all of which will use the proposed crossing. The amendment also informed the parties that San Diego's Council of Governments is conducting a comprehensive study of

² See Commission Rule of Practice and Procedure 17.1(h)(1)(A).6.

transportation management improvements that might reduce traffic congestion in the I-5 corridor in San Diego, and that conflict between rail and automobile traffic in downtown San Diego was one of the topics being studied.

On August 16, 2002, the City submitted its second amendment to its application. The main purpose of this amendment was to provide additional detail on the safety measures the City proposed to include in the at-grade crossing:

- Pedestrian bridge, crossing deterrent and redirection to provide pedestrians a safe way to avoid the at-grade crossing.
- Four-quadrant gates, with a vehicle detection system, to ensure that automobiles do not maneuver around lowered gates, and to provide another barrier to pedestrians. Medians will also be raised and fenced to assist in achieving the same purposes.
- Traffic signal pre-emption to allow vehicles to clear the tracks before the railroad signal is activated, and traffic light presignals which will turn red and stop traffic before the railroad signals are activated.

In its second amendment, the City also included the first draft of its Event Transportation Management Plan, which provides for extensive traffic and parking controls during an event at Padre stadium.

The City, RCES, and BNSF filed a Joint Stipulation of Facts on September 20, 2002. The stipulation covers the basic facts of the crossing including the number and frequency of trains and trolleys passing over the crossing each day. On November 22, 2002, BNSF filed a motion requesting permission to withdraw its protest to the application. BNSF stated that the additional safety measures the City had added as set forth in the second

amendment³ had addressed all BNSF's concerns.⁴ BNSF thereafter ceased to participate in the proceeding.

The City submitted its third amendment to the application on December 19, 2002, which included the additional detail and drawings for the pedestrian bridge spanning both the rail tracks and Harbor Drive.

4. Determination of Factors to be Considered

On December 10, 2001, the assigned Administrative Law Judge (ALJ) convened a Prehearing Conference (PHC). At the PHC, RCES stated that it was opposed to the proposed modification of the at-grade crossing and that for safety reasons the crossing should be grade separated. RCES counsel contended that the Commission's decisions in City of San Mateo, (1982) 8 CPUC 2d 673, and City of Oceanside, (1992) 43 CPUC 2d 46, required grade separation in this instance. BNSF raised issues relating to San Diego's compliance with the California Environmental Quality Act (CEQA). Pursuant to a schedule set by the ALJ, the parties submitted briefs on the applicability of the two cited decisions and the City's compliance with CEQA.⁵

On July 11, 2002, the assigned ALJ and assigned Commissioner convened a second PHC. All parties participated in the PHC. At the PHC, the parties, ALJ, and the assigned Commissioner engaged in an extensive discussion of the most

³ BNSF also clarified that the City had agreed that the pedestrian bridge would span not only the proposed crossing but also Harbor Drive to allow access to the waterfront and the convention center.

⁴ BNSF's motion was unopposed and it is granted.

⁵ San Diego subsequently completed and distributed to the parties a Secondary Environmental Study, which specifically considered grade-separated options, as is discussed below.

efficient means to resolve the issues in this proceeding and the applicability of Pasadena Metro Blue Line, Decision (D.) 02-05-047. The parties agreed that the six factors adopted in that decision covered the scope of the issues to be addressed in this proceeding.

On August 12, 2002, the assigned Commissioner issued the scoping ruling required by Rule 6.3 of the Commission's Rules of Practice and Procedure (Rules). The ruling found that the scope of the proceeding would be to determine whether San Diego has met its burden of proving that the proposed crossing meets the standard set out in Pub. Util. Code § 1201. In making that determination, the Commission would evaluate the factors set out in the Blue Line decision, which requires:

1. A demonstration that there is a public need for the crossing;
2. A convincing showing that San Diego has eliminated all potential safety hazards;
3. The concurrence of local community and emergency authorities;
4. The opinions of the general public, and specifically those who may be affected by an at-grade crossing;
5. Although less persuasive than safety considerations, the comparative costs of an at-grade crossing with a grade separation;
6. Staff's recommendation, including any conditions; and,
7. Commission precedent in factually similar crossings.

The ruling also set the procedural schedule for the remainder of the proceeding, including a Public Participation Hearing (PPH) in San Diego, and designated the assigned ALJ, Maribeth A. Bushey, as the principal hearing officer in the proceeding.

5. Evidence Submitted

Evidentiary hearings were held on March 18, 19, 20, and 21, 2003. The parties filed initial and reply briefs. The evidence submitted by each party is summarized below. The matter was submitted for consideration on May 23, 2003.

5.1 City of San Diego

The City of San Diego presented 15 witnesses. Walter Rask, Manager of Architecture and Planning for the City Centre Development Corporation, an agency of the San Diego Redevelopment Agency, testified that Centre City Community Plan calls for development in the area to be guided by several goals, including connecting Balboa Park to the San Diego Bay, a nearly century-old idea. The City plan for “Park- to-Bay Link” to be a multi-modal transportation corridor, providing an attractive boulevard-type setting for trolley, vehicles, pedestrians, and bicyclists, with broad tree-shaded sidewalks, shops and cafes. Hal Sadler, City Centre Development Corporation Board member, also testified that a grade separation structure would divide the downtown, as well as wall off the Bay from residents and visitors. Sadler also noted that the Corporation is considering a long-range plan to underground trains throughout downtown but that the proposal is extremely expensive and requires careful coordination among all affected parties.

Lieutenant Paul Dyresen, San Diego Police Department, testified that, when completed and open, the Park Boulevard intersection will provide an important route for police and other emergency vehicles to access the waterfront area of San Diego. Park Boulevard will provide one of the few direct routes to Harbor Drive and will keep response times low.

Civil Engineer George Paulsen testified that he prepared the Grade Separation Alternatives and Feasibility Study, which evaluated five alternatives for Park Boulevard to cross the tracks before intersecting with Harbor Drive. Placing Park Boulevard under the tracks was found to be infeasible due to groundwater levels. Placing the tracks under Park Boulevard was also rejected due to the need for over half a mile of descending ramp on either side of the crossing, and the “domino effect” of having to similarly underground adjacent crossings to allow the trains an ample interval to return to grade. A mile-long, 32-foot deep ramp would require displacing the BNSF yard and would require building below the level of groundwater.⁶ A similar rationale, less the groundwater problem, led Paulsen to reject the alternative of elevating the tracks over Park Boulevard. The approach and descent ramps necessary to elevate the trains to 26 feet would interfere with the BNSF yard, as well as have significant visual impacts. The two remaining alternatives are an at-grade crossing, as proposed by the City, and a grade separation structure elevating Park Boulevard and Harbor Drive. Paulsen’s study concluded that the grade separation structure would (1) require that the City purchase additional right-of-way, (2) have severe visual impact on the area, and (3) cost approximately \$30 million more than the at-grade alternative.

Mark Peterson, Transportation and Traffic Engineer, explained his study evaluating the near and longer-term traffic implications with and without the Park Boulevard crossing to Harbor Drive. The study concluded that closing

⁶ The witness did concede, however, that under grounding would be a viable alternative if all crossing in San Diego were included, but the project would entail “tremendous expense.”

the Park Boulevard crossing would result in a broad diversion and redistribution of trips throughout the southern and eastern portions of the City. Traffic volumes also would increase on the east west streets, Market, Island, and J, as traffic seeks alternative connections to Harbor Drive. Traffic at nearby crossings⁷ to Harbor Drive will also increase.

Railroad engineering expert Eric Harkinson presented an analysis of the public safety features and the hazards at the proposed crossing. The primary hazards to motorists listed in the report were queuing across tracks on southbound Park Boulevard, and northbound vehicles queuing on the tracks for the private drive just north of the tracks. Presignals will impede the southbound traffic from entering the crossing when a train is approaching, and the Harbor Drive signals will be phased to allow the vehicles on the tracks to clear before the train arrives. Northbound traffic seeking to enter the private drive will have 200 feet of queuing area in the driveway to ensure that all vehicles seeking to enter the driveway can do so and clear the tracks. The analysis also addressed pedestrian hazards, which are reduced by pedestrian bridge and through the use of pedestrian barriers and removal of sidewalks. Harkinson explained that no other crossings in downtown San Diego have four-quadrant gates and a grade-separated pedestrian crossing. Harkinson concluded that the safety features at the Park Boulevard crossing will be significantly greater than what exists at any other downtown crossing.

Stephen P. Celniker, Traffic Engineer for the Metropolitan Transit Development Board testified that the gates and traffic signal preemptions in use

⁷ The nearby crossings at First, Front, and Cesar Chavez are all at-grade crossings, and have the same level of rail and trolley traffic as the proposed Park Boulevard crossing.

at the seven at-grade crossings in San Diego have been very successful at keeping the at-grade crossings clear of conflicts. He also pointed out that the alignment of the proposed Park Boulevard crossing would be better than the other nearby crossings because motorists will have a direct view of the crossing. At the other crossings, the streets have an approximately 45-degree curve just north of the crossing. Celniker also reported that BNSF had briefed the City on its intention to upgrade its track and all crossings in San Diego, perhaps to include four quadrant gates.

Wayne Terry, Superintendent of Transportation for the San Diego Trolley, testified that 163 trolleys pass through the bayside corridor each day, with special events adding between 10 and 20 trains, operating at an average speed of 15 miles / hour. Terry stated that conventional crossing gate equipment would be adequate for the crossing. Terry also explained the actions the trolley took to correct a signal-phasing problem observed by RCES the day of the PPH in San Diego. In rebuttal to RCES' testimony, Terry explained that the sight lines at the crossing will be improved due to a large building located near the tracks being replaced by the Ballpark, which will be set back much further. Photographs of the intersection were accepted into the record.

Brad Jacobson, Associate Traffic Engineer, City of San Diego, presented the City's Event Transportation Management Plan. Required as a mitigation measure for the Ballpark, the Plan provides for vehicular and pedestrian movement to and from on Ballpark event days. The Plan requires closure of southbound Park Boulevard before, during, and after events, as well as traffic control officers to be stationed at the crossing to guide pedestrians to the overpass. The Plan will be modified based on experience.

Timothy L. Smith, Brotherhood of Locomotive Engineers, opposed grade separating the crossing because the structures necessary to separate the crossing would interfere with the train engineers' line of sight to the crossing. He supported the use of four quadrant gates as a more effective and cost efficient option.

Christine Anderson, San Diego Unified Port District, described the effects closing or grade separating the crossing would have on the Port, and supported the City's request. John W. Haggerty, MTDB's design engineer, stated that the crossing had safety features beyond that necessary for a safe crossing. Theresa Hall, City of San Diego Fire and Life Safety Services, testified that the Park Boulevard crossing would decrease public safety response time. The architect for the new Ballpark, Jim W. Handley, stated that a grade separation structure would have a major impact on the design of the Ballpark. Representing residents of the Barrio Logan neighborhood, Rachel Ortiz opposed closing the crossing because it would send a stream of traffic into their neighborhood. Carol C. Wallace, President and Chief Executive Officer of the San Diego Convention Center Corporation, explained that a grade-separated crossing would make it very difficult for trucks to access the convention center, and the structure would interfere with views of the Bay.

5.2 RCES

RCES' Supervisor, Haji Jameel, calculated the hazard index and accident prediction factors for crossings in the downtown San Diego area and concluded that the Park Boulevard crossing scored significantly higher than the other crossings in San Diego. Jameel also compared the Park Boulevard scores to crossings being considered for grade separation, and found that Park Boulevard exceeded those crossings as well. Due to the significant accident potential at the

Park Boulevard crossing as compared to other crossings in the area, Jameel recommended that the crossing remain closed, or be grade-separated.

The hazard index is calculated by multiplying the average daily vehicle count by the average daily train count and a “protection factor” which is determined by the safety devices present at the crossing. The product is then divided by 1000. Jameel calculated the hazard index for the proposed Park Boulevard crossing and three other nearby crossings in San Diego and found that Park Boulevard’s is 464, compared to 219, 108 and 86 for the other crossings. He also compared Park Boulevard’s result to the hazard index for other at-grade crossings currently being considered for grade-separation and found that Park’s substantially exceeded all the others.

The United States Department of Transportation has developed an accident prediction formula. Like the hazard index, this formula is based on the amount of vehicular traffic and train traffic. The formula also reflects the number of tracks, number of highway lanes, and safety features present at the crossings. Using this formula, Jameel calculated the accident prediction factor for the Park Boulevard crossing as well as three other nearby crossings in San Diego and showed that Park Boulevard’s factor would be substantially higher than the factors for the other crossings.

Jameel next described a study by the Oregon Public Utility Commission which showed that as the number of tracks at a crossing increases, the probably of an accident increases proportionally.

Jameel next turned to the Federal Highway Administration’s “Railroad-Highway Grade Crossing Handbook” which lists criteria for closing at-grade crossings. A criterion for railroad mainline sections recommends closure for any mainline section where more than five crossings occur within a

one-mile segment. Here, Jameel pointed out, seven existing at-grade crossings occur within a one- mile segment, and thus meet the criterion for closure.

Jameel stated that the City's development plans for the area around the crossing would substantially increase daily vehicular traffic. The Ballpark and large hotel, plus other development projects, will bring numerous visitors unfamiliar with the intersection into the area.

Specific safety issues at the crossing include: the design of the four quadrant gate system, the six tracks, and the potential for queuing of vehicles on the tracks. Jameel observed that there is about 80 feet of clear storage distance from the Harbor Drive intersection to the tracks on southbound Park Boulevard. A 69-foot truck and one 15-foot car would fill this space, with subsequent vehicles queuing on the tracks and in danger of being hit by trains. He also noted that the sight lines at the intersection would limit motorists' ability to see approaching trains.

Jameel concluded by recommending that the Park Boulevard crossing should not be constructed at-grade over MTDB's four tracks and BNSF's two tracks. The crossing should be closed, or grade separated.

George Elsmore, RCES, testified that the stopping distance of freight trains varies due to train speed, train weight, and operator reaction time, among other things, and that reasonable fluctuations of these variables could result in a freight train being unable to stop at the Park Boulevard crossing. He also stated that it would not make sense to exclude light rail train traffic from consideration of hazards analysis of any rail crossing.

Mike N. Anderson, United Transportation Union, supported RCES and recommended closing the crossing due to the number of tracks and trains,

and the heavy automobile and pedestrian traffic. As an alternative, he supported grade separation.

5.3 Public Participation Hearing

On September 25, 2002, the assigned Commissioner and ALJ convened a duly noticed Public Participation Hearing (PPH) in San Diego. Thirty-three members of the public offered comments for the record.

Convention center representatives strongly supported the City's proposed at-grade crossing, which will provide vehicular access via Park Boulevard to the convention center. These representatives particularly opposed a grade separation due to the steep grade trucks would have to negotiate to obtain access to the convention center, and pointed out that the California Coastal Commission is opposed to constructing structures that interfere with views of the Bay.

The Deputy General Manager and Counsel for the San Diego Metropolitan Transit Development Board (MTDB) explained that the MTDB has offices immediately adjacent to this intersection. The San Diego Trolley and the San Diego and Arizona Eastern Railroad Company are subsidiaries of MTDB. In total, 172 MTDB trains a day would pass through the proposed Park Boulevard crossing. This crossing will be one of 83 at-grade crossings in the MTDB's system. The most significant difference between these and other crossings is that the trains would be running at relatively low rates of speed, compared to other crossings where the trains operate at up to 55 miles per hour. In response to a question from the assigned Commissioner, the Deputy General Manager stated that the traffic level at this crossing is not unusually high and that other crossings in San Diego exceed the level expected here. The Deputy General Manager

concluded by supporting the four quadrant gates and the pedestrian overpass particularly, and the application generally.

The president of the Downtown San Diego Partnership explained that they are finally seeing the long-planned redevelopment program come to fruition: The convention center has been expanded, a new 1,200 room hotel is being constructed to serve it, the new Ballpark, main library, and several new commercial, retail and residential projects. A grade-separation structure would interfere with access to these new developments, as well as cut off views of the Bay.

The Executive Director of Barrio Station explained that Barrio Logan is a predominantly Latino neighborhood located southeast of the proposed crossing, and that a grade-separation structure would thwart their efforts at redevelopment. She also opposed closing the crossing as that would lead to increased traffic, particularly truck traffic, in this residential neighborhood. The San Diego City Council recently approved a residential parking permit program for the neighborhood to discourage downtown workers from parking in the neighborhood. Five residents of Barrio Logan presented detailed statements opposing the grade-separated structure.

The San Diego Chapter of the American Institute of Architects stated that the park-to-bay link is an essential visual and physical link from the upland areas to the bay. While closing the crossing would preserve the view, it would grossly inconvenience guests at the convention center, the ballpark, and residents of Barrio Logan.

A representative of the North County Transit District, which operates the Coaster train service, explained that it supported the at-grade crossing with the additions of four quadrant gates and a pedestrian overpass. The

representative also noted that the freight trains which occupy the crossing for extended periods of time are waiting for clearance to enter the main line, and that efforts are underway with BNSF and Caltrans Division of Rail to upgrade the central traffic control of the main line to eliminate the need for the trains to wait.

The San Diego Regional Chamber of Commerce supported the at-grade proposal but encouraged the City to work with BNSF to address the pedestrian safety issue.

The president of the Sedona Pacific Corporation, a real estate development firm, stated that the chief safety issue in this rail corridor is BNSF building trains on the tracks, and that he has witnessed such a train blocking an intersection for 45 minutes. He recommended that BNSF cease this activity. For a longer-term solution, he supports undergrounding the entire rail corridor, but acknowledged that such a project would be extremely expensive.

Gas Lamp Quarter Associates opposed closing the crossing because it would put additional traffic in their heavily used pedestrian neighborhood and would cut off access from the convention center. The representative further noted that the greatest numbers of pedestrians cross the tracks at Fifth Avenue, and that any pedestrian bridge should be built there, not at Park Boulevard.

Additional speakers who supported San Diego's request:

San Diego Imperial Valley Railroad
San Diego Downtown Residents Group
Rocky Wilson (truck driver)
Armando Freire (transportation company owner)
Center City Advisory Committee
San Diego Imperial County Labor Council
San Diego Regional Economic Development Corporation
Committee of 2004

Lankford & Associates (real estate development firm)
San Diego Port Tenants Association
San Diego Port Commission
Downtown Partnerships Urban Design Committee
Jankovich Company (marine fuel storage tank owner)
Caryl Iseman (East Village Resident)
San Diego Council of Design Professionals
San Diego Convention and Visitors Bureau
San Diego Hotel Motel Association
East Village Association
Senator Dede Alpert, 39th District

Letters supporting the City's application were received from:

Greg Cox, San Diego County Supervisor
Steve Peace, State Senator
Christine Kehoe, Assemblymember
Dede Alpert, State Senator
Howard Wayne, Assemblymember
Juan Vargas, Assemblymember
Nicholas Delorenzo and Michael Stepner, San Diego Council
Of Design Professionals
Ron Roberts, San Diego County Supervisor

6. Discussion

6.1 Factual Setting and Factors to be Evaluated

In evaluating the safety of this crossing, we begin by noting that this crossing is part of an urban rail corridor that more or less follows the bay front in downtown San Diego. Harbor Drive, a major arterial street, is located on the bay side of the rail corridor, as is the San Diego convention center, port facilities, and several planned developments. Downtown traffic requires access to Harbor Drive and to the businesses located on the bay front. Seven other at-grade crossings provide this access. Essentially all trains, both light and heavy rail,

which would pass through the proposed Park Boulevard crossing, also pass through the seven other at-grade crossings. Light rail trolley trains, about 170 per day, predominantly use this corridor. Seven heavy rail trains pass the crossing each day, one BNSF⁸ and six Coaster trains. Because the BNSF and Coaster yards are just west of the proposed Park Boulevard crossing, the heavy rail trains operate at unusually slow speeds, between 5 and 10 miles per hour.

As noted above, the assigned Commissioner's scoping memo set out the factors that the Commission would consider in evaluating San Diego's request for an at-grade crossing.

When adopting these factors in the Blue Line decision, we further described how we would approach evaluating these issues:

When a hearing is deemed necessary we expect the evidence to include these issues. The weight to be accorded each issue will vary, depending on our evaluation of the overall presentation made. Applicant bears the heavy burden of proving safety, rather than protestants proving unsafe conditions. Where there is a request for an at-grade crossing a mere preponderance of evidence will not suffice. The safety of the proposed at-grade crossing must be convincingly shown. We start with the presumption that a separation is appropriate. To overcome this presumption we expect evidence on future pedestrian and vehicle traffic over the crossing, the protective measures to be employed, the sight lines for trains and vehicles, the speed of trains and vehicles at the crossing, the number of train movements and length of trains, the ease of evasion of crossing protection by vehicles and pedestrians, and any other factors peculiar to the crossing. The detailed analysis of the crossing placed in evidence by our staff and the staff recommendation will be of great concern.

⁸ BNSF also has up to eight trains that pass through at night.

Blue Line, D.02-05-047, *mimeo.*, at pages 11 – 12.

6.2 Evaluation of Factors Other than Safety

Consistent with our precedent, we begin with the presumption that grade separation is appropriate. The City bears the burden of overcoming this presumption, with convincing evidence that this particular crossing will be safely operated as an at-grade crossing. To determine whether the City has met this burden, we turn to the factors set out above. We will begin with the factors other than safety: public need, concurrence of emergency officials, the opinion of the general public, and the cost of a grade-separated structure.

The record shows a substantial public need for the crossing. As described above, the City presented extensive testimony from government, business, and community leaders explaining the important symbolic and physical role the Park Boulevard will play in connecting the bay to Balboa Park. The environmental documents project average daily vehicular traffic of 21,000 at this intersection with full build out of all contemplated development. This crossing will allow vehicles to access the convention center and port facilities, without impinging on adjacent residential neighborhoods. RCES did not contest the City's evidence on the public need for this crossing. Thus, we can conclude that there is a public need for the crossing.

Similarly, RCES did not dispute local emergency authorities testimony that an at-grade crossing would enhance rapid emergency response times to certain areas of the city.

The members of the public who spoke at the public participation hearing unanimously supported an at-grade crossing. Many objected to a grade-separated structure as a large and unsightly structure in a residential neighborhood, which would obscure the view of the bay as well. Several

residents of Barrio Logan, the neighborhood that would be most directly affected by grade-separation, strongly opposed it. These residents also opposed closing the crossing because the re-directed traffic would go through their residential neighborhood. Accordingly, the record shows that the affected public supports an at-grade crossing.

While less persuasive than safety issues, we also consider the cost of a grade-separated structure. The City stated that a grade-separated structure would cost approximately \$30 million more than an at-grade crossing. RCES did not dispute this estimate. The City indicated that if this Commission did not approve the requested at-grade crossing, Park Boulevard would be permanently closed at an unspecified location prior to crossing the tracks.

In sum, on the four factors that are not related to rail safety, the record shows convincing evidence in favor of an at-grade crossing.

6.3 Evaluation of Safety-Related Factors

The three safety-related factors – that the City has eliminated all potential safety hazards, RCES’ recommendation, and our precedent – were the primary focus of this proceeding. The City offered extensive testimony that it had addressed all safety issues and that the safety features at the proposed Park Boulevard at-grade crossing would exceed those at all other San Diego crossings. RCES, however, contended that the safety hazards at the crossing, as currently designed, are substantial and are not averted by the safety features.

As noted above, we begin with the presumption that the crossing must be separated. To overcome the heavy burden of this presumption, the City must present convincing evidence that the crossing is safe.

The City’s witness Hankinson, a registered Professional Engineer with extensive railroad construction experience, testified that:

The proposed public safety features for the Park Boulevard at-grade crossing would be significantly greater than what exists on any other downtown at-grade rail crossing as well as what exists at the vast majority of other at-grade crossings in the country. Compared to the existing Eighth Avenue crossing, the safety of pedestrians and motorists at this crossing would be greatly improved with the proposed Park Boulevard crossing design.

As support for this conclusion, Hankinson pointed out that four-quadrant gates and grade-separated pedestrian crossing are not present at the vast majority of crossings in this country.⁹

RCES did not dispute that the pedestrian bridge provides an adequate level of safety for pedestrians. Thus, the remaining safety issues relate to vehicular traffic.

RCES' witness Jameel, a registered Professional Engineer with extensive experience in railroad crossing design, contended that the proposed Park Boulevard "crossing poses a significantly greater risk of accident than all the other San Diego crossings used in [his] comparison." Id. Jameel based this conclusion on his application of the hazard index and accident prediction formula to the proposed Park Boulevard Crossing and three other nearby crossings in San Diego.

Careful consideration of the hazard index, however, undermines RCES' conclusion. The hazard index is calculated by multiplying the average daily vehicular traffic by the average daily train traffic and a factor for warning devices at the crossing. RCES' tables, Exhibit 20, show that the train traffic and

⁹ Hearing Exhibit 8 at page 8.

warning device factor are identical for all four crossings.¹⁰ The only variable is the average daily vehicular traffic. For the four crossings studied by RCES, the differences in the calculated hazard indices are solely a function of the number of vehicles that use the crossing. Thus, for these four crossings, whichever crossing has the highest average projected daily traffic under build out conditions, will have the highest hazard index.

The hazard index calculations are of limited usefulness in determining whether to approve the Park Boulevard crossing because the calculations do not comprehensively address traffic needs. For example, if the Park Boulevard crossing were not authorized, the traffic could be redistributed to other crossings, with a resulting increase in those intersections' hazard indices. The record does not show the resulting hazard indices and we cannot conclude that this would be a preferable outcome. The City further undermined RCES' reliance on the hazard index by presenting hazard calculations for five other at-grade crossings in unrelated proceedings where RCES did not oppose the applications, four of which substantially exceeded RCES' calculation for the Park Boulevard crossing.

RCES' accident prediction formula suffers from the same failings. Six of the seven components used in the calculation are identical for all four crossings.¹¹ Under RCES' calculation the number of main tracks is higher for Park Boulevard, because RCES counts the BNSF track that splits between Fifth and Park as two tracks. As trains cannot be present on both tracks

¹⁰ The Harbor Drive crossings RCES used are at 5th Avenue, 1st Avenue, and Front Street.

¹¹ (1) Average daily train traffic, (2) formal constant (crossing gates), (3) day thru trains, (4) highway paved, (5) maximum speed factor, (6) highway type factor.

simultaneously, double-counting this track results in a disproportionate formula calculation. This leaves only the average daily vehicular traffic and number of highway lanes as variables among the crossings. Again, if Park Boulevard is not approved, the vehicular traffic would be distributed among the other crossings, and perhaps require additional lanes. This formula does not show that disallowing the Park Boulevard crossing and diverting the traffic to other crossings will enhance vehicular safety.

In contrast to RCES's conclusions, the city contends that the Park Boulevard crossing will have a safer configuration than the nearby crossings. The City points out that unlike the nearby crossings, Park Boulevard vehicular traffic will cross the tracks at nearly a right angle. This is the preferred configuration because it maximizes drivers' view of the tracks and minimizes the width of the crossing. Fifth Avenue, First Avenue, and Front Street all have significant westward curves immediately prior to crossing the tracks, thus diminishing sight lines. The City also contends that the clear storage distance¹² for cars stopped at the Harbor Drive intersections at the other crossings is far less than at Park Boulevard.

In sum, neither the accident prediction formula nor hazard index calculations rebut the City's expert testimony that the safety level at this crossing would be higher than other crossings in San Diego due to the enhanced safety features. Moreover, RCES has not shown that its preferred option-closing the crossing-would provide the traveling public with safer crossings.

¹² Clear storage distance is the distance from the street intersection to the rail tracks in which vehicles stopped for the street intersection can safely queue awaiting a green light.

The City's environmental studies show that traffic is expected to increase substantially in this area. The public interest requires that we consider what will happen to traffic redirected by a decision denying the City's request for an at-grade crossing at Park Boulevard. We are required to evaluate whether planning for traffic to cross at Park Boulevard is safer than planning for traffic to cross elsewhere. As discussed below, comprehensive safety planning for this entire rail corridor, rather than each crossing in isolation, is needed.

RCES argued "the safety features proposed by the City, while clearly worthwhile, provide adequate safety only in an ideal or perfect environment, where everything functions as designed. Failure of any components or any car . . . accident . . . could result in the queuing of cars on the track . . ." ¹³ RCES' point is aptly illustrated by the safety equipment deficiency found by its staff member during a site visit prior to the PPH, which is discussed in more detail below. While the validity of RCES' observation, that safety equipment fails, is undisputable, it also applicable to all safety equipment,¹⁴ not just the Park Boulevard crossing safety equipment.

RCES also raised the issue of sight lines at the crossing due to the Ballpark construction. The City, however, presented photographs and testimony of train operators that the redevelopment efforts have removed a building close to the tracks, thus improving sight lines, and the Ballpark will be located well back from the crossing. The City's evidence supported their contention that the sight lines are safe and adequate.

¹³ Exhibit 19 at page 14.

¹⁴ We recognize and specifically address below the enhanced mechanical complication of four quadrant gates and vehicle detection systems.

The City proposes to install presignals. To the average driver, presignals look like traffic signals, but the presignals are a secondary safety feature with their operation linked to either a railroad-warning device or other traffic signal. The City proposes to install two presignals at Seventh Avenue to control southbound vehicles on Park Boulevard. The presignals would work in conjunction with the traffic signals on Park Boulevard and Harbor Drive. Upon notice of a train approaching, the traffic signals and the presignals would adjust their timing cycles to coordinate with the gates and warning lights. The presignals would turn a solid red concurrently with the railroad's flashing warning lights. The traffic signals at Park Boulevard and Harbor Drive would turn green for a determined amount of time to clear any vehicles in the rail crossing. When a train is not approaching, the red lights on the presignal will cycle a few moments prior to the traffic signals on Park Boulevard and Harbor Drive. The City explains that this coordination will prevent any vehicles from being trapped in the rail crossing.

RCES questioned the usefulness of presignals at this complex crossing. RCES contended that presignals confuse drivers and are often ignored. RCES showed a video of a presignal being almost entirely ignored by vehicles. The City, however, pointed out that the presignal in video was located mid-block with no intersection to alert drivers of the possibility of stoplight. The City pointed out that, in contrast to the presignal in the video, the Park Boulevard presignals are located at an intersection and on the gates at the crossing. These locations are places where drivers would reasonably expect to find a stoplight.

The City has made a convincing presentation that presignals will enhance the safe operations of this crossing. The particular geometry of this crossing is well suited to placing presignals in a reasonably expected stoplight

location. Moreover, the presignals play a critical role in controlling vehicles from queuing on the tracks. The City will provide RCES with the preemption timing cycles for each intersection interconnected with the railroad warning devices for review.

RCES next contended that the proposed crossing “will be blocked or closed during most of the daily business hours” due to the noontime BNSF train and Events Management Plan’s requirement that that southbound Park Boulevard be closed before, during, and after ballgames. RCES concluded that the “real purpose” of the crossing was to provide for convenient truck access from the freeways to the convention center and port facilities. The City dismissed RCES’ conclusion about truck traffic, and pointed out that trucks can access the convention center from either direction on Harbor Drive. The City also rebutted RCES’ assertion that the crossing will be frequently closed for ballgames as required by the Events Management Plan by noting that most ballgames occur at night and on weekends, not during high traffic business hours. Thus, the City concluded that the approximately four-hour closure of southbound Park Boulevard for each game would not significantly impact traffic.

The City bears the burden of overcoming the presumption against an at-grade crossing, which requires convincing evidence that the proposed at-grade crossing is safe. The City presented a comprehensive, crossing-specific analysis by recognized experts addressing each identified hazard in this particular crossing and concluding that this crossing would be safer than other existing at-grade crossing in San Diego. The City has also closed the Eighth Avenue crossing so that there will be no net increase in at-grade crossings in San Diego. The City has met its initial burden. RCES has not shown a material flaw in the City’s analysis that renders the conclusions invalid. RCES presented

mathematical analysis that was substantially undermined on rebuttal by the City.¹⁵ Based on this record, we conclude that the City has comprehensively identified and assessed the potential safety hazards, and has proposed a variety of safety features to diminish these hazards. We conclude that the proposed Park Boulevard Crossing will be at least as safe as the existing at-grade crossings in San Diego.

The final factor for our consideration is our precedent in factually similar crossings. The City contends that our decision approving two at-grade crossings near the San Francisco Giants Ballpark is an analogous precedent, but RCES disagreed and offered a declaration setting out the differences. The City also referred to D.02-06-020, which approved seven at-grade crossings, where there would be 266 light rail and one heavy rail train crossings per day, and average daily traffic counts of up to 25,000. In addition, our Blue Line decision, cited above, extensively discussed Commission precedent and authorized at-grade crossings. Each of the cited precedent has some factual differences with the proposed Park Boulevard crossing.

Our decision today, however, requires that we consider that specific facts of this crossing. We begin with the presumption that the crossing should be separated. Our analysis for determining whether an applicant has overcome this presumption is guided by the factors listed in the Blue Line decision. In reviewing those factors, the City has presented essentially uncontested evidence that there is a public need for this crossing, that all local government, business,

¹⁵ In the Blue Line decision we noted that staff's "detailed analysis of the crossing" would be of "great concern." Here, however, RCES did not present such an analysis. Consequently, we have little evidence in the record to support RCES' position.

residents, and public safety officials support the at-grade crossing, and that the cost of grade-separation in terms of dollars and lost view for the city are prohibitive.

As discussed above, the City proposes to install safety features that will exceed all other crossings in this rail corridor. With these features, the City's expert concludes that this crossing will be safer than the other crossings in San Diego. RCES opposes the crossing, and contends that even with the additional features, the crossing will be unsafe at-grade.

On balance, we find that the unique facts of this case overcome the presumption against an at-grade crossing. The City's evidence establishes that this crossing has particular and substantial urban planning significance to San Diego. The record shows unanimous community support for the crossing. The City will permanently close the Eighth Street crossing, such that the overall number of at-grade crossings in San Diego will be unchanged. This crossing will have more safety features than any other crossing in San Diego, which is consistent with the high level of vehicular traffic expected. Overall, we are satisfied that the City has engaged in a comprehensive effort to identify, assess, and address all known hazards.

We do not, however, lightly dismiss RCES opposition to this crossing. We respect and rely on our staff for their professional judgment, developed through years of public service, particularly with regard to issues of safety. Mindful of RCES' opposition to this crossing, and the other issues detailed below, we will impose significant limitations on our approval for this crossing.

RCES also noted that the City's plans for this crossing do not yet contain all construction details. For example, questions were raised about the location and southern terminus of the pedestrian crossing during the hearing.

As the City resolves these and other details of this crossing, we expect RCES to be involved and to assist the City in ensuring that all safety features are fully implemented. We will, therefore, require that, prior to construction, the City file and serve a compliance filing showing specific construction details of all safety features of this crossing. The City should confer with RCES prior to its filing, and RCES may review and formally comment on the filing.

6.4 Four Quadrant Gates

The City's amended application proposes four quadrant gates for the Park Boulevard crossing but the City has left it to this Commission to decide whether the gates are necessary.¹⁶ RCES contended that four quadrant gates do not necessarily enhance safety at any crossing, and that a detailed study was needed for this crossing. BNSF initially opposed the City's at-grade crossing proposal. Based on the safety features added in the second amendment, including four quadrant gates, BNSF withdrew its protest. The City's witness Hankinson stated that "it is generally acknowledged within the railroad engineering and planning community" that crossings with four quadrant gates, in addition to automatic gates, are safer than crossings with automatic gates alone. He also cited to the Commission's Resolution SX-41, Guidelines for the Use of Four Quadrant Gates, for factors¹⁷ that support installing four quadrant gates at this crossing. The City's witness Terry, however, felt that conventional

¹⁶ Standard crossing gates only block traffic entering a crossing. Four quadrant gates also block the lane leaving the crossing to prevent queued traffic from improperly entering the crossing via the exiting lane.

¹⁷ The six factors are: (1) long gate down times, (2) wide crossing, (3) streets parallel and adjacent to crossing, (4) frequent occurrence of two trains simultaneously, (5) joint use corridor, and (6) passenger stations adjacent to crossing.

crossing equipment was preferable due to the potential for vehicles to be trapped between the gates.

Although the crossing entrance gates will be timed to descend such that vehicles can clear the crossing before the exit gates descend, traffic conditions may prevent vehicles from actually exiting the crossing. To ensure that all vehicles have cleared the crossing, the City proposes to install a vehicle detection system. The City's preferred system is based on using in-pavement loop detectors. These detectors use the same technology found in typical street crossings where traffic lights respond to the presence of vehicles in particular lanes. The City considers this technology to be "proven" and supported by all stakeholders.

We will order the City to install, inspect, maintain, and evaluate, four-quadrant gates with a vehicle presence detection system that uses in-pavement loop detectors at the Park Boulevard crossing. As we found in a recent decision: "installation of the four-quadrant gate system at each crossing is necessary to enhance public safety at each crossing by closing off the entire crossing area from the rest of the roadway upon activation of the warning devices by the actuation circuitry." Alameda Corridor – East Construction Authority, D.03-06-064 (June 19, 2003). The City shall also comply with all applicable regulations for four quadrant gates, including Resolution SX-41, as it may be amended.

6.5 Enhancing Safety in the Entire Rail Corridor

The substance of RCES' testimony is that increased vehicular traffic increases the probability of an accident. The City's testimony and environmental documentation make clear that the City is planning additional commercial and

residential development along this rail corridor. Such development will lead to additional vehicular traffic, with resulting increase in hazards and accidents.

From a safety perspective, the location of this rail corridor is far from ideal. Additional development around the corridor only exacerbates the situation. Civic leaders are understandably seeking to capitalize on the attractive qualities of the bay for both visitors and residents. The series of at-grade crossings in this corridor will see increased vehicular traffic and, based on RCES' accident prediction formula, increased accidents.

RCES recommended that the City take a corridor approach to enhancing the safety of all crossings in this area. We agree. The City's near-term development plans should include efforts to (1) close at-grade crossings, (2) reduce traffic crossing the rail tracks, (3) redirect traffic to the safest crossings, and (4) implement additional safety measures on a corridor-wide triage basis. The City's long-term planning should include options for under grounding, or otherwise grade separating, this entire corridor.

The City's development planning to date appears to have given inadequate prospective consideration of these objectives. The City amended its application three times after filing, each time adding a significant safety feature. As amended, the crossing design exhibits the high level of safety features that is consistent with the high level of vehicular traffic expected. The need for these amendments strongly suggests that crossing safety in this rail corridor was not a paramount concern in the planning process.

We are, however, greatly encouraged that interested organizations are considering grade separation for the entire corridor as a long-term objective. We strongly support this objective, and direct our staff to provide all feasible assistance to the City.

Although we are satisfied that the proposed safety features are sufficient at this crossing for current and near term traffic levels, we are far less confident for the longer term. To enable us to re-evaluate this crossing in light of residential and commercial development and resulting changes in traffic conditions, we will limit the City's authorization for an at-grade crossing to 12 years from the effective date of this order. This time period will allow the City to fully consider and implement a rail corridor approach to safety enhancement, and will provide a date certain for our subsequent review.

At least one year before the expiration of its authority, the City shall submit an application requesting authorization to (1) continue at-grade operations, (2) modify the at-grade crossing (3) close the crossing, or (4) grade separate the crossing. The application shall demonstrate that the City has implemented a long-term plan to enhance safety in the entire rail corridor, and that the proposed operation of this crossing adds to the safety of the corridor.

6.6 Signal Coordination Failure at Front Street Crossing

On September 25, 2002, RCES staff member Jose Pereyra observed the traffic signal lights at the Front Street and Harbor Boulevard intersection inappropriately forcing traffic to queue across the tracks for a red light. Pereyra presented testimony on what he observed at the PPH, citing this as an example of the potential dangers with at-grade crossings.

The City's witness Wayne Terry of the San Diego Trolley testified that Trolley personnel investigated Pereyra's report and corrected the problem with modification in the relay case and the signaling case for crossing. Terry also testified that to the best of his knowledge the signal had been incorrectly set since its installation in 1990, that the crossing had passed its monthly inspections, and that there had been no "incidents" caused by the incorrect setting.

Terry also explained the coordination challenges in the San Diego downtown rail corridor. The City is responsible for setting the street traffic lights; the Trolley is responsible for the gate crossings on the north or inland side of the tracks; and BNSF is in charge of the other side of the tracks. These three entities must work in close concert to ensure that vehicular and train / trolley traffic move safely through the crossings.

The Front Street crossing management issue illustrates the on-going safety and coordination challenges presented by this rail corridor. While the safety records are good, increased vehicular traffic throughout this corridor will necessitate continuous inspections and improvements to maintain this level safety. Given the complexity of the crossing, we will require the City, RCES staff, the railroad and the transit agency to develop a regular maintenance schedule.

6.7 Compliance with CEQA

Along with its application, the City submitted its Proponent's Environmental Assessment (PEA), comprised of the September 1999 Final Subsequent Environmental Impact Report (FSEIR), for large-scale redevelopment project in East Village area of downtown San Diego.¹⁸ The primary feature of the redevelopment project is a baseball park for the San Diego Padres, which would seat 46,000 people, and include up to 200,000 square feet of retail space and an equal amount of professional office space. In addition, the first phase of ancillary development projects would include up to 850 hotel rooms, 600,000 square feet

¹⁸ The environmental documents prepared by the San Diego Redevelopment Agency for the Centre City Redevelopment Project include the Final Master Environmental Impact Report (approved April 28, 1992), the Final Subsequent Environmental Impact Report (approved October 26, 1999, and the Secondary Study for Eighth Avenue and Harbor Drive Crossing Modification (dated February 20, 2002).

of office buildings, and 150,000 square feet of retail development. The FSEIR considered a range of alternatives, including a no project alternative that would have retained the existing street grid in the area, and included extensive documentation.

In its application, the City contended that the proposed crossing was a minor alteration to the existing eight avenue crossing which was categorically exempt from further environmental review pursuant to Rule 17.1(h)(1)(A).6. The City also stated that even if the Commission finds that the crossing is not categorically exempt, then the FSEIR conducted for the larger redevelopment project included all necessary environmental review.

In response to CEQA compliance issues raised by BNSF, the City completed and distributed to the parties a Secondary Environmental Study (SES) dated February 20, 2002. This study was prepared specifically to address the potential environmental effects of modifying the Eighth Avenue and Harbor Drive crossing. This study noted that the modified crossing, as proposed in the City's application, was addressed in the previous environmental report. One of the purposes of the SES was to evaluate the potential effects of an alternative crossing which would elevate the Park Boulevard / Harbor Drive intersection to separate the roadway from the railroad tracks. The Secondary Environmental Study discussed the potential environmental impacts associated with the proposed at-grade crossing and the grade separated option for each. The SES determined that the proposed activity would not have any significant effect on the environment other than as identified in the Final Master Environmental Impact Report and the Final Subsequent Environmental Impact Report. The SES did not adopt any mitigation measures for the proposed activity.

On the issue of Aesthetics / Visual Quality, the SES stated that the grade-separated structure would have a negative impact on the aesthetic and visual quality of the area. The structure would extend for a half-mile along Harbor Drive, and block views of the San Diego Bay and Coronado Bridge from numerous points. The SES concluded that a grade-separated crossing would provide additional protection for pedestrians from trains and trolleys but would also create substantial disadvantages due to the steep grade of the crossing (7%) and the disorienting effect of the large structure seeming to impede access. The SES also noted that the large structure would eliminate view opportunities and thus diminish the pedestrian experience. The SES found no significant differences between the two options with regard to Air Quality, Noise, and Traffic.

The San Diego Redevelopment Agency is the lead agency for CEQA under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 *et seq.* The Commission is in the role of responsible agency under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's environmental impact report or negative declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

Commission staff has reviewed the Redevelopment Agency's environmental documents. We find that these environmental documents are adequate for our decision-making purposes. The scope of our permitting authority under the present Application is limited to the proposed crossing of

Park Boulevard and the railroad and trolley tracks. We are not approving the overall redevelopment plan, and accordingly we are not in a position to make findings relating to any other aspect of the ballpark development project. With respect to the proposed crossing, the City found that the activity will not have a significant effect on the environment and the City adopted no mitigation measures for the proposed activity. We find that the City reasonably concluded that the proposed activity will not have any significant effect on the environment. Accordingly, we adopt that finding for purposes of our approval.

7. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in this proceeding.

8. Comments on Proposed Decision

The proposed decision of the Administrative Law Judge was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. The City and RCES filed comments, and the City filed reply comments. RCES re-argued its position that the Commission should not apply the Blue Line standards to this crossing but rather should apply the statutory test of “impracticability” found in § 1202. This issue was resolved by the assigned Commissioner in the scoping memo, after all parties agreed at the PHC that the Blue Line factors should be used. RCES argued that the City had failed to meet its burden of proving that all potential safety hazards had been eliminated at the intersection, and had only shown that such hazards had been reduced. As set out above, we are satisfied that the City has engaged in a comprehensive effort to identify, assess, and address all known hazards.

RCES also contended that its evidence of poor sight lines at the crossing supported was not addressed. RCES’ testimony did not include an analysis of

the sight lines at the intersection but stated generally that the existing and planned buildings, including the Ballpark, would impair motorists' ability to see trains entering the intersection, as well as train operators to see vehicles. The City witness, a trolley operator familiar with the intersection, testified that the Ballpark replaced a building that was closer to the tracks and thus improved sight lines at the intersection, and that overall the sight lines were safe and adequate. The City also offered into evidence photographs of the intersection, supporting its conclusion of adequate sight lines.

The City took issue with our 10-year limitation on this authorization, and contended that city planners and developers needed greater certainty for making investment decisions and that the prospect of another lengthy, contentious, and expensive hearing process undermined these investment decisions. To provide additional certainty, we will extend the duration of this authority to 12 years. We draw the City's attention to the many steps it can take to reduce the duration, cost, and contentiousness of future applications. Most prominent among these steps is establishing a close and cooperative working relationship with our staff. An application in which staff concurs with the result will likely be processed quickly and efficiently. We caution our staff as well that, absent significantly changed circumstances, we will not revisit conclusions made in today's decision. As stated above, our goal is to encourage a long-term, cooperative, corridor approach to enhanced safety at crossings in San Diego.

Findings of Fact

1. Due to residential and commercial development, including a new San Diego Padres Baseball Park, the City is making significant changes in its street system. The City requested Commission authorization to close the existing

Eighth Avenue / Harbor Drive at-grade rail crossing and to construct an at-grade crossing near the intersection of new Park Boulevard and Harbor Drive.

2. The parties stipulated to the rail traffic through the proposed crossing.

3. The proposed Park Boulevard crossing will cross three light rail or trolley tracks and three heavy rail tracks.

4. The proposed crossing will be one of seven at-grade crossings in San Diego between the BNSF rail yard and the Santa Fe station.

5. Park Boulevard will cross the six rail tracks and intersect Harbor Drive.

The distance from the southernmost track and Harbor Boulevard is about 120 feet on the east side of the intersection. Four southbound lanes on Park Boulevard pass over the rail tracks and into the intersection with Harbor Drive. One lane turns left, one right, one straight through to the convention center, and one is a combined right turn and straight through lane. Two northbound lanes from the Harbor Drive intersection cross the tracks and proceed north on Park Boulevard.

6. The City proposed to locate two presignal stoplights before the rail crossing to stop traffic. The stoplight at Harbor Drive will be coordinated with the presignals to ensure that any traffic queued on the tracks has ample time to clear before the arrival of the train.

7. The City proposed to install four quadrant gates and a vehicle detection system at the crossing, and to install raised medians with barrier hedges and fences. The four quadrant gates will enhance safety of the crossing.

8. The City proposed several safety measures to protect pedestrians using the crossing, including a pedestrian bridge over the tracks and Harbor Drive.

9. For major events at the Ballpark, including Padres games, the City is required as an environmental mitigation measure to develop, implement, and

revise as needed, an Event Transportation Management Plan, which provides that southbound Park Boulevard will be closed before, during, and after events, and that traffic control officers will be stationed throughout the area of the Ballpark.

10. There is a public need for the proposed crossing.

11. Local community and emergency authorities concur in constructing an at-grade crossing on Park Boulevard.

12. The general public and those who will be affected by an at-grade crossing support an at-grade crossing.

13. A grade-separated structure would cost about \$30 million more than an at-grade crossing and would block views to the bay. Such a structure is financially infeasible and aesthetically undesirable.

14. RCES recommended grade separating or closing this crossing.

15. The hazard index presented by RCES is calculated by multiplying the average daily vehicle count by the average daily train count and a “protection factor” based on the safety devices at the crossing, and dividing the result by 1,000. Average daily vehicle count is the only variable among the four San Diego crossings for which RCES calculated a hazard index.

16. The U.S. Department of Transportation’s accident prediction formula takes into account the vehicular and train traffic, as well as number of tracks, highway lanes, and safety features. Average daily vehicular traffic and traffic lanes were the only variables among the four San Diego crossings to which RCES applied the accident prediction formula.

17. The City presented a comprehensive analysis of all safety hazards at this crossing, including specific measures to be address each hazard.

18. The sight lines at the proposed Park Boulevard crossing are safe and adequate.

19. The City proposes to locate the presignals at an intersection and on the crossing gates, locations where drivers would reasonably expect to find a stoplight.

20. Most major league baseball games occur at night or on weekends. Closing the crossing to accommodate baseball games will not frequently impact business week traffic.

21. BNSF protested the City's application but withdrew its protest when the City amended the application to include, among other things, four quadrant gates and a pedestrian overpass.

22. Granting the City's requests to close the Eighth Avenue crossing and open the Park Boulevard crossing will not increase the total number of at-grade crossings in San Diego.

23. The City of San Diego Redevelopment Agency is the lead agency under CEQA.

24. For the Centre City Redevelopment Project the City prepared a Final Master Environmental Impact Report and a Final Subsequent Environmental Impact Report.

25. The City prepared a Secondary Study to assess potential environmental impacts for the Eighth Avenue and Harbor Drive crossing modification. The Study included evaluation of a number of project alternatives including the Park Boulevard crossing.

26. The City determined that the proposed crossing modification would not have any significant environmental impacts beyond those previously identified in the Final Master Environmental Impact Report and the Final Subsequent Environmental Impact Report.

27. The City did not recommend or adopt environmental mitigation measures for the proposed crossing modification.

28. The City's environmental documents are adequate for our decision-making purposes.

29. The scope of our CEQA authority under this application is limited to the Eighth Avenue and proposed Park Boulevard crossings.

Conclusions of Law

1. The City reasonably concluded that the proposed closure of the Eighth Avenue crossing and construction of the Park Boulevard crossing will have no significant environmental effect and we adopt that finding for purposes of our approval.

2. Presignals will enhance safe operations at the crossing.

3. The City should install four quadrant gates with a vehicle detection system that uses in-pavement loop detectors and presignals as proposed.

4. The unique facts of this crossing overcome the presumption against an at-grade crossing.

5. Prior to construction the City should file and serve a compliance filing showing specific construction details of all safety features in the Park Boulevard, and should meet and confer with RCES in preparing such filing.

6. The authorization for this at-grade crossing should be limited to 12 years, and the City should file an application as specified above.

7. The City should implement a corridor approach to safety enhancement, and the City should file an application as specified above.

8. This application should be approved with conditions.

O R D E R

Therefore, **IT IS ORDERED** that:

1. The application of the City of San Diego (City) to permanently close the at-grade crossing at Eighth Avenue and Harbor Drive, PUC Crossing Number 2-268.79, and to construct, operated, monitor, and repair an at-grade crossing at Park Boulevard and Harbor Drive, also PUC Crossing Number 2-268.79, is granted, as conditioned by this order.
2. The Park Boulevard crossing shall be fitted with four quadrant gates including a vehicle detection systems as specified in General Order 75-C and the Commission's Resolution SX-41, Guidelines for the Use of Four Quadrant Gates.
3. The Park Boulevard crossing shall include interconnected traffic signals and presignals at nearby intersections, which shall be preempted by the railroad warning devices. The City shall submit its plans for approval by Staff pursuant to General Order 88.
4. The Park Boulevard crossing shall also include a pedestrian overpass and an Events Management Plan to accommodate events at the new ballpark.
5. Traffic signals heads and railroad flashing lights will be aligned in order that both will be visible to vehicular traffic. Any landscaping will be properly maintained so as not to impede the visibility of the railroad signal lights. Landscaping that would prohibit the visibility of the lights will be removed.
6. The City shall develop a regular maintenance schedule for all the safety devices at this crossing in coordination with the railroads, the transit agency and the Rail Crossing Engineering Section of the Rail Safety and Carriers Division (RCES).

7. The City shall meet and confer with RCES regarding the specific details for all safety systems to be installed at this crossing. All features for this crossing shall be in accordance with Commission General Orders, such as 26-D and 118.

8. No later than 45 days prior to construction of the safety features, the City shall file and serve a compliance filing setting out the details of each safety feature.

9. The City and RCES shall confer and cooperate in proposing, evaluating, and implementing long-term safety enhancements to the rail corridor in San Diego.

10. The authority for an at-grade crossing near the Park Boulevard / Harbor Drive intersection shall expire 12 years from the effective date of this order. No later than one year prior to expiration of this authority, the City shall file an application as set out in the text of this decision.

11. Application 01-09-012 is closed.

This order is effective today.

Dated _____, at San Francisco, California.