

Living With Trains: A Town Hall Meeting
March 27, 2004
Notes and Opinions by Tom Butt, Richmond City Council Member

Representatives of the three railroad companies that operate in Richmond, the California Public Utilities Commission (CPUC) and the Federal Railroad Administration (FRA) were present at a Town Hall Meeting in the Richmond City Council Chamber on Saturday, March 27, to discuss citizen's concerns. The meeting was chaired by Contra Costa county Supervisor John Gioia.

The issues on the agenda included:

- Train horns and whistles
- Long trains and blocked grade crossings
- Garbage within rights of way

The meeting was, in many ways, a rehash of a similar meeting a year ago on April 4, 2003. The railroad companies continued their irrational obsession with horns as the only way to safety, and they continued to defend their employees against charges of unnecessary and inconsiderate use of horns.

In one major development since the April, 2003, meeting, Federal rules on establishing quiet zones have been published, and cities can actually begin the process of creating quiet zones.

A summary of issues and information follows:

Horns

The issue that generated the most discussion was horns. George L. Elsmore, Superintendent of the CPUC Rail Safety and Carriers Divisions, Railroad Safety Branch (415/703-2665), reviewed the State of California rules on horns and whistles, which is included in Section 7604 of the Public Utilities Code;

7604. (a) A bell, of at least 20 pounds weight or of equivalent sound-producing capability, shall be placed on each locomotive engine, and shall be rung at a distance of at least 1,320 feet from the place where the railroad crosses any street, road, or highway, and be kept ringing until it has crossed the street, road, or highway; or a steam whistle, air siren, or an air whistle shall be attached, and be sounded at the like distance, and be kept sounding at intervals until it has crossed the street, road, or highway, except as follows: (1) In a city, the ringing of the bell or the sounding of the steam whistle, air siren, or air whistle shall be at the discretion of the operator of the locomotive engine. (2) When a locomotive engine is engaged in a switching operation or comes to a stop at any point within a distance of 1,320 feet from the place at which the railroad crosses any street, road, or highway, it shall not be necessary that the bell be rung or the whistle, air siren, or

air whistle be sounded, until the time and from the place that the locomotive begins an uninterrupted movement to and across the place at which the railroad crosses the street, road, or highway .

Elsmore explained that the above provision was somewhat arcane. (When was the last time you heard a bell or whistle used as a signal on a locomotive – as opposed to an air horn?) He noted that the requirement to sound a whistle or a horn only applies when a locomotive is crossing a street. It does not apply to yard or switching operations. The exception in paragraph 7604(1) allows the operator discretion to sound the horn either more or less, depending on conditions at the time and place of crossing. Furthermore, Section 1202(d)(2)(A) of the public Utilities Code states:

(2) The Legislature finds and declares that for the communities of the state that are traversed by railroads, there is a growing need to mitigate train horn noise without compromising the safety of the public.

Charlie Haygood of the FRA stated that there was currently no Federal law or regulation that requires sounding of horns or whistles. That will change on December 18, 2004, when the new *Interim Final Rule* for the Use of Locomotive Horns at Highway-Rail Crossings takes effect.

The new regulations, which will supersede current state law, require that horns must be sounded when approaching and passing through a public highway-rail grade crossing. A public highway-rail crossing is one where a publicly-maintained roadway intersects one or more railroad tracks at grade.

The horn does not have to be sounded when approaching or passing through grade separated or private crossings (unless required by state law). (*Section 222.21*) All locomotives must sound the horn starting 15 to 20 seconds before reaching a public highway-rail grade crossing. However, in no case may the horn be sounded more than 1/4 mile before the crossing. (*Section 222.21*)

Horns must sound in the standard sequence of two longs, one short, and one long blast until the train occupies the crossing. This is a long-standing practice. This pattern may be varied as necessary where crossings are spaced closely together. (*Section 222.21*)

Train horn sound levels must range between a minimum of 96 dB(A) and a maximum of 110 dB(A) (inclusive) measured 100 feet in front of the locomotive and 15 feet above the rail. Prior to issuance of this rule, there was no maximum horn sound limit.

The rule also provides an opportunity, not available until now, for thousands of localities nationwide to mitigate the effects of train horn noise by establishing new "quiet zones." Detailed information is available on the FRA website at <http://www.fra.dot.gov/Content3.asp?P=1318>.

Of particular interest was the subject of sounding horns for operations other than entering grade crossings. Both Haygood and Elsmore made it clear that there is no state or federal law or regulation requiring horn use at other than grade crossings. Horn use in “yard” operations is governed, instead, by the railroad’s internal *General Code of Operating Rules*, which is a voluntary industry standard that does not have the effect of law. It can be found on the Internet at <http://www.sdrm.org/faqs/rulebook/title.html>.

Contrary to information provided by the railroad companies at the meeting, the *General Code of Operating Rules* does not even require horns for yard operations. The part describing whistle (horn) use is as follows. Note that only emergencies and grade crossings always require an audible signal, while all others can be handled by radio.

5.8.2 Sounding Whistle

- When weather conditions impair visibility, sound the whistle frequently.
- If the whistle fails, ring the bell continuously while moving.
- When other employees are working in the immediate area, sound the required whistle signal before moving.
- The radio may be used in place of whistle signals, except signals (1) and (11). See following chart.
- The required whistle signals are illustrated by "o" for short sounds and "-" for longer sounds:

	Sound	Indication
(1)	Succession of short Sounds	Use when an emergency exists, or persons or livestock are on the track. When crews on other trains hear this signal, they must stop until it is safe to proceed.
(2)	-	When stopped: air brakes are applied, pressure equalized.
(3)	--	Release brakes. Proceed.
(4)	oo	Acknowledgment of any signal not otherwise provided for.
(5)	ooo	When stopped: back up. Acknowledgment of hand signal to back up.
(6)	oooo	Request for signal to be given or repeated or not understood
(7)	-ooo	Flagman protect rear of train
(8)	ooo-	Flagman protect front of train
(9)	----	Flagman may return from west or south
(10)	-----	Flagman may return from east or north
(11)	--o-	Approaching public crossings at grade with engine in front, start signal not less than ¼ mile before reaching crossing, if permits. If distance does not permit, start signal soon enough before the crossing to provide warning. Prolong or repeat signal until engine occupies the crossing. Use this signal to warn employees view is restricted.
(12)	o-	Inspect brake system for leaks or sticking brakes.

Although the railroad company representatives deny it, it has been my experience, and that of many others, that there is no consistent pattern of horn blowing used in Richmond.

The railroad companies continue to assert that safety considerations require frequent horn blowing, citing several recent instances of injuries or death in the Richmond area. What they have never done is evaluate these individual circumstances to explain how they relate to the requirement for horn blowing in yard operations or at grade crossings.

The railroad companies' own internal rules provide that radios can be used instead of horns for all operations except emergencies and grade crossings.

Grade Crossing Blockages

George L. Elsmore of the CPUC reviewed General order 135 that governs all crossing blockages except trains moving continuously in a single direction. This would typically apply to operations in and around Point Richmond and switching operations in Marina Bay. It would not apply to the mile-long trains moving through south Richmond to the Port of Oakland, unless they make a stop sometime within the transit.

GENERAL ORDER NO. 135
P-- Public Utilities Commission of the State of California
REGULATIONS GOVERNING THE OCCUPANCY OF PUBLIC
GRADE CROSSINGS BY RAILROADS
Adopted September 11, 1974. Effective November 1, 1974.
Decision No. 83446 in Case No. 8949.

IT IS ORDERED by the Public Utilities Commission of the State of California that each railroad corporation operating in the state of California shall observe the following regulations in conducting operations on and across public grade crossings:

1. TRAIN MOVEMENTS-Except as provided in Paragraph 5, a public grade crossing which is blocked by a stopped train, other than a passenger train, must be opened within 10 minutes, unless no vehicle or pedestrian is waiting at the crossing. Such a cleared crossing must be left open until it is known that the train is ready to depart. When recoupling such a train at the crossing, movement must be made promptly, consistent with safety.
2. SWITCHING MOVEMENTS-Switching over public grade crossings should be avoided whenever reasonably possible. If not reasonably possible, such crossings must be cleared frequently to allow a vehicle or pedestrian to pass and must not be occupied N-*-Y continuously for longer than 10 minutes unless no vehicle or pedestrian is waiting at the crossing.
3. GRADE CROSSING PROTECTION CIRCUITS-Cars or locomotives must not be left standing nor switches left open within the controlling circuits of automatic gate protection devices unless time-out features are provided to allow the gate arms to rise.
4. There are no time restrictions for crossing occupancy for a moving train continuing in the same direction.

5. These time limit provisions shall not apply to any blocking resulting from compliance with State and Federal laws and regulations, terrain and physical conditions, adverse weather conditions, conditions rendering the roadbed or track structure unsafe, mechanical failures, train accidents, or other occurrences over which the railroad has no control, except that such crossing shall be cleared with reasonable dispatch. 6. In the event of any uncontrolled blockage involving more than one grade crossing and a peace officer is on the scene, primary consideration shall be given to the clearing of that crossing which, in the peace officer's judgment, will result in the minimum delay to vehicular traffic.

7. A crew member of a train blocking a public crossing shall immediately take all reasonable steps, consistent with the safe operation of such train, to clear the crossing upon receiving from a peace officer, member of any fire department, as defined in Section 2801 of the Vehicle Code, or operator of an emergency vehicle, as defined in Section 165 of the Vehicle Code, that emergency circumstances require the clearing of the crossing.

8. Any agreement between a railroad and a public agency in effect on the effective date hereof or, in accordance with Attachment A, subsequently approved by this Commission permitting certain crossings to be blocked for a time period other than specified herein shall prevail.

9. Any railroad or public agency¹ may, by formal application to this Commission, request a variance from the regulations prescribed herein or have different regulations provided in connection with operations over a specific crossing where local conditions so require. The contents of the application shall be in accord with Rule 15 of the Commission's Rules of Practice and Procedure. The application shall detail any previous steps that may have been taken to reach an agreement on the proposed variance and shall list any public agencies within the geographic area or any railroads that might be affected by the variance. A application shall be mailed to all such public agencies and railroads and a certificate of service regarding such mailings any the application shall accompany the application filed with the Commission.

10. The district attorney of the proper county or the city attorney the city attorney designated to prosecute misdemeanor in his stead shall prosecute noncompliance with this General Order by means of a misdemeanor complaint issued against the railroad corporation in accordance with Chapter 11, Part 1, Division 1 of the Public Utilities Code.

This order shall become effective November I, 1974.

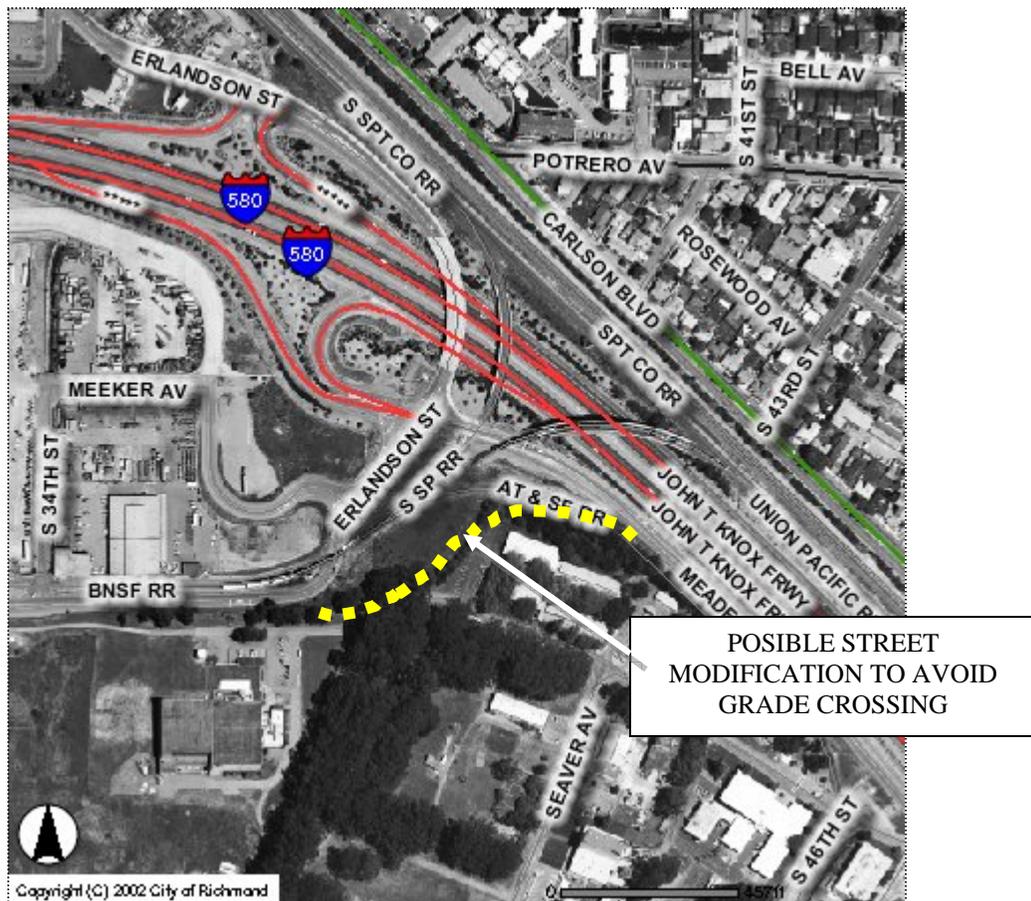
Approved and dated at San Francisco, California, this 11ith day of September, 1974.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

By WILLIAM R. JOHNSON
Secretary

¹ Public Agency – The term “public agency” as used herein shall include the State, a county, an incorporated city or town, or any authorized agencies thereof.

The only significant change that could eliminate the long train problem in South Richmond appears to be an agreement between BNSF and UP that would allow BNSF to route the long trains onto the UP tracks further north in the Martinez area instead of at the “Stege Wye.” The UP representative justified the current arrangement, citing high level of traffic. However, the same traffic uses the tracks between the Stege Wye and the Port of Oakland as would use the tracks between Martinez and Richmond. The BNSF representative indicated that the track use arrangement was more business related than operations related. Apparently, the Surface Transportation Board (<http://www.stb.dot.gov/index.htm>) has some authority to intervene in such issues and to motivate or compel the railroad companies to cooperate for the greater good of the public.



A short street spur joining Erlandson and Meade would provide a connection to the Marina Bay area to the bayview/I-580 interchange that would not have a grade crossing. It would require easements from BNSF, UP and University of California.

Another mitigation being studied by the City of Richmond involves re-routing part of Erlandson near the UC Richmond Field Station to provide an outlet to Meade that would lead to I-580 at the Bayview Avenue interchange.

Other possible solutions include overpasses or underpasses at Marina Bay Parkway, Harbour Way or Marina Way, the cost of which is estimated at \$10 million each.

Some blockages, however, are simply the result of inconsideration or stupidity. Last Sunday morning, March 29, I observed a BNSF train pulling automobile carries to the Cutting-Canal yard, stop in the middle of Canal Boulevard, blocking traffic, while the engine operator got out of the engine and walked up the track to manually operate a switch. This Sunday morning, April 4, I observed a similar operation where the train crew left the train blocking the street for a considerable time while they went looking for key to unlock the gate into the yard.

Trash and Garbage

Railroad rights of way often become dumping grounds for trash and garbage. The railroad companies are quick to point out that those who do the dumping are trespassing and breaking other laws. Nevertheless, they have offered to provide assistance and funding from time to time to communities to help with cleaning.

One has to have sympathy with any property owner who has become the victim of illegal dumpers. On the other hand, there are certain legal and social obligations that go along with property ownership.

Richmond has ordinances, such as 9.22 Public Nuisances, 9.42, Graffiti and 9.50, Weed and Rubbish Abatement that hold the property owner responsible for cleanup. For reasons that are unclear to me, Richmond officials in charge of code enforcement and nuisance abatement have a different standard for railroads than other property owners. Railroad companies are seldom held accountable.

Conclusions

The railroad companies have shown little inclination to cooperate or be proactive in solving rain-related quality of life problems in Richmond. They seem only to respond to coercion in one form or another and to act only in their self-interest.

Until this attitude changes, the Richmond City Council and the Contra Costa County Board of Supervisors should take appropriate action to protect the interests of their citizens, including:

1. Establishing a quiet zone, or zones, for areas where horn noise is a continuing problem.
2. Petition the Surface Transportation Board to assist in obtaining usage of the UP tracks by BNSF to provide a more direct route to the Port of Oakland.

3. Amend RMC 9.52, Richmond's Noise Ordinance, to remove the railroad blanket exemption, and enforce the amended ordinance to prevent horn use except in emergencies at grade crossings.
4. Enforce ordinances requiring railroads to keep their rights of way free of trash, weeds and graffiti.