

Lessons Learned by South Pasadena Citizens Groups and the City Council During the Construction of the Gold Line by the MTA/Blue Line Construction Authority

Dear Expo Communities and Citizens,

If we South Pasadena residents knew before the Gold Line was Built what we know now, we would have insisted and ensured the following provisions be met by the MTA and Blue Line Construction Authority:

- The Gold Line be “unquestionably” subject to “federal” noise and vibration standards—not state or MTA standards.
- To reduce Noise & Vibration, floating ballasts should be used. (This was promised in South Pasadena, but floating ballasts were never installed due to cost.)
- Bells Should be Calibrated to Federal Noise standards of L_{dn} —not L_{max} as claimed by MTA. (Note that L_{dn} is measured over time and is to be only 10 dba higher than average ambient noise for an area—typically 40 dba during evenings, 55 dba during the day. Whereas MTA wants to use the higher L_{max} levels at 75 dba all day and night with “high” frequency.)
- Unfortunately, we have learned that at all times, the MTA will avoid conducting interim and/or final noise and vibration testing of the “actual” system. The MTA/Construction Authority prefers to rely on the engineering “assumptions” wherein it will assume that the Line has been built to specifications and therefore all sound and noise requirements have been met, so no sound and vibration testing are ever needed. (In 4 years, we still can’t get the MTA to agree to give us noise and vibration testing.)
Make sure that the MTA/Constuction Authority is regularly held accountable for testing standards as the project is being completed.
- To make their engineering assumptions and noise impacts appear achievable, the MTA routinely under-estimates the actual, planned or foreseeable usage/operation/transport rates for the Line. This makes it easier for them to theoretically meet the “assumed” daytime and nighttime L_{dn} thresholds.
- In South Pasadena, the MTA claimed that despite the high number of at-grade crossings where 3 roads had to be closed, there would be minimal traffic, smog and driver impacts. This was not true. On average the closures due to train crossings were roughly twice what the MTA estimated. When you take into account that the MTA now wants to double the number of trips during peak rush-hour periods, major South Pasadena intersections are expected to hold up traffic for 40 minutes of each hour! This worsens traffic, wastes fuel, hurts driver productivity, and damages air quality. This violates the regional objectives of mass transit.
- The MTA routinely under-estimates all of the bad prospects, (e.g., cost overruns, design-build budget cuts, operation levels, resulting noise and vibration, traffic impacts) and routinely over-estimates ridership and revenues. Initially the MTA does this to get their projects launched. Then they change estimates to get concessions from third parties as they need them to complete the project. MTA also does this because they don’t seem to know how to prepare and present proper long-term mass transit project modeling estimates.

- Be sure that the MTA/Construction Authority builds sound walls with acoustical material to reduce sound—don't just accept their cinderblock walls.
- In areas above grade, be sure that sound walls are built high enough to protect against noise to 2nd stories of homes (where most people sleep).
- Request that the City's consultant simultaneously deliver reports to the City Council and a Citizens Committee overseeing the construction.
- The City and/or citizens group should have a consumer advocate who speaks the MTAs language. This advocate should be paid for by the MTA but chosen by City and/or citizens,
- The Train station should provide ample space. Ours is too short—i.e. we have a 294 ft platform versus 270 feet for a three-car train. The platform could not be lengthened without closing another road. If the Gold Line in South Pasadena were grade separated, the platform could have been built long enough without having to close another road.
- In areas where an above-grade line runs, be sure that the MTA provides Privacy Screens for these homeowners. Better yet, make sure that they build the system below grade.
- Limit hours of operation, but don't let the MTA manipulation this limitation to underestimate the true long-term noise and vibration impacts of the Line. In the long run, you can be sure that whatever hours you start with, the MTA will do everything that it can to push 24-hour operation. Be sure to always shoot for foreseeable objectives in all of your calculations regarding environmental impacts.
- Be aware that City has the right to control the speed of the train over city streets. So if the noise standards are not met at high travel speeds, the City has the right to demand slower train operation to meet noise and vibration criteria. (Also be aware that City speed and noise ordinances for trains typically have to go before the CPUC for approval.)
- Be sure to reserve the right to oversee the design of attractive TPSS stations to blend into the neighborhood. Don't accept the MTA's plain big metal boxes (similar to a semi trailer).
- Be careful not to let the MTA's Environmental Impact Report filings supersede City ordinances and contract requirements. MTA is notorious for getting in more lenient standards when a City fails to challenge aspects of their EIR disclosures.
- Have your own expert lined up and in place as soon as possible. We recommend:
 - a) Wilson Irig (sp?), Ph.D., the inventor of the floating slab for a noise and vibration expert.
 - b) Bill Bayne for engineering who has background in Transportation and Civil Engineering
 - c) Robert Silverstein, an Environmental lawyer to protect your legal rights; Don't use a regular litigator since there is a lot of special environmental law.
 Get your experts lined up and up-to-speed as soon as possible.

Case Citations:

1) Blue Line Construction Authority is an alter ego of the MTA – See Pasadena Metro Blue Line Construction Authority v. Pacific Bell Telephone Company, Southern

California Edison Company, and Southern California Gas Company, LA County Superior Court Case Number BC307121, Court of Appeal of the State of California, Second Appellate District, Division Eight, B181175, filed 6/15/06

2) Arguments and excerpts from our CPUC filings supporting consistent treatment of different parts of one contiguous line...

“Although Phase I is arguable completed, the City of South Pasadena will be dramatically impacted by the East Side Extension and Phase II operations. In effect, the three separate phases of the Gold Line will become one contiguous rail system linking Boyle Heights through Los Angeles to the east end of the San Gabriel Valley. The impacts of the increased rail traffic in South Pasadena will be different than the current operating conditions. As a result, the impacts of a fully-operational Gold Line on the Phase I cities including South Pasadena, must be evaluated using the current FTA Ldn noise criteria.

PAMRC argues that the entire Section 5.0 is the “Project Environmental Criteria”. The MTA and Authority have made numerous attempts to try to apply only 5.3.3.1??—a provision specifying maximum noise in a train station area—to all areas under all conditions at all times in order to make the actual noise generated by the Gold Line operations appear to meet the Environmental Criteria. It is PAMRC’s contention that ATS has been sent back to keep completing tests and make reports until one can be produced to show that the Gold Line meets the Environmental Criteria, but since they have failed, no final report could be delivered.

When federal funds are used for a transportation project, federal laws and regulations must apply to the development and operation of the project. In some cases, projects must comply with federal laws even when federal funds are not used. See, e.g. Scottsdale Mall v. State of Indiana, 549 G/2d 484,489 (7th Cir. 1977) [hold the transportation project to be so imbued with federal character, due to such things as federal approval at various stages, that compliance with federal environmental statutes was necessary].

In addition, where there is no dispute about the existence of major federal participation, segmentation of a large project for other reasons, such as to exclude potentially harmful environmental factors, is unlawful. Piedmont Heights Civic Club. V. Moreland, 637 F.2d 430, 439 (5th Cir. 1981): see also Sierra Club v. Volpe, 351 F. Supp. 1002 (N.D. Cal. 1972). ‘Segmentation’ or ‘piecemealing’ occurs when an action is divided into component parts, each involving action with less significant environmental effects. Town of Huntington v. Marsh, 859 F.2d 1134, 1142 (2nd Cr. 1988).

In the case at hand, the East Side Extension is being funded with federal dollars, and Phase II is seeking funding with federal dollars. As such, the entire East Side Extension and Phase II are subject to federal regulations and standards, including noise assessment standards.¹

¹ Arguably, even if Phase II was not a federally funded project, the Construction Authority would still use the current Ldn noise assessment standard, as these standards are used industry-wide.

More importantly, once the East Side Extension and Phase II are complete and fully operational, the Gold Line will, in essence, be a single contiguous rail system running from Boyle Heights through Union Station in Los Angeles to the east end of the San Gabriel Valley. Simple put, there will no longer be a “Phase I”, an “East Side Extension” and “Phase II” – just the Gold Line. The complete and fully operational Gold Line will dramatically alter the rail operations and noise impacts currently affecting South Pasadena.

For example, under current conditions, once the entire Gold Line is complete, trains consisting of three double cars at 5 minute headways will be required along the entire route to handle the peak demands between Union Station in Los Angeles and the Sierra Madre Villa Station in Pasadena. The increase in the number, and weight of train cars used at 5 minute headways in both directions—i.e., trains passing from either direction every 2½ minutes on average—will dramatically increase noise impacts to those along the Gold Line. “

...

“In sum, the proposed future operational plans of the completed Gold Line will introduce severe changes to the current operations occurring in Phase I. As such, long-term impacts from the fully operational Gold Line (all three phases) within the Phase I cities, including the City of South Pasadena, must be evaluated using the FTA’s Ldn noise criteria so that actual environmental impacts on the City will be properly assessed. Piedmont Heights Civic Club, Inc. v. Moreland, 637 F. 2d at 439.”

Mark, I hope this helps you and your citizens group on 2/7/07. Best of luck. Talk to you again soon. – Melinda Skaar