



BOARD OF DIRECTORS

Carolyn V. Cavecche  
Chairman

Chris Norby  
Vice-Chairman

Jerry Amante  
Director

Patricia Bates  
Director

Art Brown  
Director

Peter Buffa  
Director

Bill Campbell  
Director

Richard Dixon  
Director

Paul G. Glaab  
Director

Cathy Green  
Director

Allan Mansoor  
Director

John Moorlach  
Director

Janet Nguyen  
Director

Curt Pringle  
Director

Miguel Pulido  
Director

Mark Rosen  
Director

Gregory T. Winterbottom  
Director

Cindy Quon  
Governor's  
Ex-Officio Member

CHIEF EXECUTIVE OFFICE

Arthur T. Leahy  
Chief Executive Officer



October 24, 2007

Honorable Nancy Wieben Stock  
Presiding Judge of the Superior Court  
700 Civic Center Drive  
Santa Ana, CA 92701

**SUBJECT: Orange County Grand Jury Report: Orange County Rail Crossing Safety**

Dear Judge Wieben Stock,

On behalf of the Orange County Transportation Authority (OCTA) Board of Directors, this letter is in response to the Orange County Grand Jury's May 1, 2007, report reviewing Orange County's rail crossings.

The OCTA Board of Directors recently approved several policy issues (see attached staff report) related to this matter that allowed for a more thorough response to the report's findings and recommendations. As provided by state statute, we requested and were granted an extension for our response to the report not to exceed six months from the publication of the Grand Jury report.

With the planned expansion of Metrolink service in Orange County as well as increasing freight rail traffic, the report was very timely. I believe the OCTA Board's action on related policy matters is equally timely in addressing public concerns about rail crossing safety as well as in providing cities the opportunity to establish Quiet Zones throughout the county.

On behalf of the OCTA Board of Directors, I am pleased to share with you our response and thank the Orange County Grand Jury for its report on Orange County's rail crossings.

**FINDINGS**

**F-1 OCTA has fallen behind schedule**

**OCTA disagrees with this finding.** While we understand and appreciate the need to bring transportation solutions to the public as quickly as possible, the scope of the rail-highway improvement program changed drastically from what it was originally envisioned back in June 2005. During the summer and fall of 2006 when the Grand Jury was provided with the original schedule, the schedule did not include the addition of required improvements to achieve reduced sounding of locomotive horns at rail-highway grade crossings as defined by the Federal Railroad Administration. This additional work was

Orange County Grand Jury  
Orange County Rail Crossing Safety  
October 24, 2007  
Page 2

later added into the schedule at the request of Orange County cities as a result of the 53 field diagnostic review meetings. This work is complex in nature and has added time to the schedule as well as increased the program budget.

The following timeline provides an overview of the key milestones in OCTA Grade Crossing Safety Enhancement Program.

On June 13, 2005, the OCTA Board approved an initial allocation of \$10 million to fund the Rail-Highway Grade Crossing Enhancement Program estimated at \$19.5 million. The Program covers 53 at-grade rail-highway crossings on the OCTA-owned right-of-way known as the Orange and Olive subdivisions and on the Burlington Northern Santa Fe Railway San Bernardino subdivision.

On June 24, 2005, the Federal Railroad Administration (FRA) released its Final Rule on the Use of Locomotive Horns at Rail-Highway Grade Crossings (Final Rule). The Final Rule establishes a basic requirement for trains to sound horns at all public rail-highway grade crossings except in quiet zones established under the procedures set forth in the Final Rule. The Final Rule identifies the installation of supplemental safety measures needed for the reduction in the sounding of locomotive horns to establish a Quiet Zone.

On February 15, 2006, OCTA entered into a Memorandum of Understanding with the Southern California Regional Rail Authority (SCRRA) acting as lead agency to implement the Program. The SCRRA is the operator of the Metrolink commuter rail service in Orange, Los Angeles, Riverside, San Bernardino, and Ventura counties.

Beginning in April 2006 and continuing through November 2006, field diagnostic review meetings were completed at all 53 at-grade rail-highway crossings with full participation from OCTA, Southern California Regional Rail Authority (SCRRA), the California Public Utilities Commission (CPUC), and the local cities in which the at-grade rail-highway crossing was located. At the request of the OCTA Board, the team included scope enhancements needed to meet FRA standards for reduced sounding of locomotive horns.

On November 7, 2007, Orange County voters renewed Measure M, the ½-cent sales tax for transportation improvements in Orange County. Project "R" in the Renewed Measure M specifically identified railroad corridor quiet zones as an eligible cost.

On April 9, 2007, revised estimated Program costs were presented to the OCTA Board. The Board directed staff to provide the updated cost estimates to the affected cities for review and approval, and further authorized staff to work with affected cities in the development of policies and procedures for establishment of quiet zones.

As a result of the April 9, 2007 Board direction, a Quiet Zone Working Group was established. The Quiet Zone Working Group first convened on May 9, 2007, and held an informational session with participation from OCTA staff, the Chairman of the Board, city elected officials, and city staff to begin the development of consistent policies and procedures for the establishment of railroad corridor quiet zones in Orange County.

The Quiet Zone Working Group met again on June 27, 2007, and explored two implementation options for program delivery. Option 1 would be a comprehensive approach led by SCRRA, acting as the implementing agency on behalf of OCTA. Option 2 would establish a grant program similar to the way in which OCTA provides grants for streets and roads to local cities.

Under both delivery options, cities will be expected to complete a construction and maintenance agreement with SCRRA to outline roles and responsibilities for the funding, construction, and maintenance of the rail-highway grade crossing improvements.

At their meeting on June 27, 2007, members of the Quiet Zone Working Group selected Option 1 as the preferred method of program delivery.

On August 27, 2007, the OCTA Board of Directors approved a comprehensive, \$60 million, countywide grade crossing safety enhancement program.

**F-2 Eliminating train horns county-wide through quiet zone corridor treatments could cost \$50-\$60 million**

**OCTA agrees with this finding.** Conceptual engineering estimates provided by OCTA, SCRRA and the agencies engineering consultants have estimated that a comprehensive, countywide program that will provide safety and quiet zone treatments at 53 at grade rail-highway crossings, will cost \$60 million. On August 27, 2007, the OCTA Board approved a \$60 million program budget for the program.

**F-3 Burden of cost between OCTA and impacted cities for upgraded crossings is unclear**

**OCTA disagrees with this finding.** On August 27, 2007 the OCTA approved the expansion of the program to include improvements to for the reduced sounding of locomotive horns. Furthermore, the Board extended the 88% OCTA and 12% cost sharing arrangement to the entire program. This will result in OCTA providing \$52.8 and local cities providing \$7.2 million for a total program budget of \$60 million.

**F-4 OCTA/Metrolink has an excellent safety program to inform the public on issues of concern**

**OCTA agrees with this finding.** Both OCTA and our partners at Southern California Regional Rail Authority (Metrolink) value the importance of a strong public awareness program that educates the public on what to know when in the vicinity of rail tracks and crossings.

**RECOMMENDATIONS**

**R-1 Finalize the various memoranda of understanding with impacted cities and vigorously proceed with the succeeding steps**

**OCTA agrees with this recommendation.** OCTA and SCRAA staff are scheduling a series of project development team (PDT) meetings to begin the formal engineering design phase. As part of the engineering design phase, the program scope for each city will be finalized and the required agreements between OCTA, SCRRA and individual cities will be developed, finalized and executed.

**R-2 Create a comprehensive Quiet Zone program**

**OCTA agrees with this recommendation.** With OCTA Board approval on August 27, 2007 of a program that addresses rail-highway safety improvements as well as a structure for cities that choose to pursue a Quiet Zone, Orange County now has a program that meets the recommendation of the Grand Jury. The program includes \$60 million for the combined rail-highway grade crossing enhancements and quiet zone improvements at 53 at-grade rail-highway crossings in Orange County.

The program currently includes program and project management by SCRRA, and design, construction, and construction management for the entire program. This cost estimate does not include costs for any improvements to city traffic signal systems that may or may not be needed to support this Program. The estimated scope and cost of these improvements will be determined as an early design task by SCRRA. Once the estimated scope and costs are determined, staff will return to the OCTA Board to seek direction on funding and cost sharing with the impacted cities. Additionally, the current cost estimate does not include any improvements to pedestrian-only crossings, nor does it include any additional maintenance that may occur as the result of adding additional equipment to the railroad system such as extra crossing gates.

Lastly, rail-highway grade crossing improvements in support of the Final Rule are still a very new area and there is considerable risk in the scope, schedule, and budget for a program of this size and complexity. For this reason, staff proposes to update the Board on scope, schedule, and budget upon the completion of 35 percent design, which is currently scheduled for completion in the first quarter of 2008.

**R-3 Construction and inspection costs should be shared according to an agreed formula**

**OCTA agrees with this recommendation.** On August 27, 2007 the OCTA board adopted a cost sharing formula in which OCTA provides 88% of the funding and participating cities provide 12%.

**R-4 Conduct a rail-safety education program**

**OCTA agrees with this recommendation.** Currently OCTA and Southern California Regional Rail Authority (Metrolink) partner on such a program. The program is known as Operation Lifesaver and is aimed at the general public but especially school children. With the expansion of Metrolink as well as general freight traffic on Orange County's rail lines, OCTA has increased budget for an even more robust public education program. The program will be created this fiscal year and will be implemented along with improvements at crossings throughout Orange County.

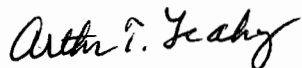
Orange County Grand Jury  
Orange County Rail Crossing Safety  
October 24, 2007  
Page 6

**Conclusion**

On behalf of the OCTA Board of Directors, I want to thank the Orange County Grand Jury for its report on the safety of Orange County's rail crossings. OCTA continually strives to provide outstanding transportation solutions for Orange County. Constructive feedback can only help in this endeavor.

Should you have any questions, or require additional follow up on this matter, please do not hesitate to contact me directly at (714) 560-5584.

Sincerely,



Arthur T. Leahy  
Chief Executive Officer

ATL:dgs  
Enclosure