

Chapter 4

Responses to Individual Comments on the PRDEIR

Introduction

This Chapter contains the written comments received on the PRDEIR and responses to issues raised in the comments. The comments and responses are grouped in four categories: state agencies, local agencies, organizations, and individuals. The comments immediately precede the corresponding responses. Table 4-1 below identifies the commenters and the pages on which the responses to comments begin.

Other responses and revisions can be found in other parts of this FEIR as follows:

- Master Responses - Chapter 2
- Responses to Individual Comments on the DEIR – Chapter 3
- Revisions to the DEIR and PRDEIR - Chapter 5

Comments were marked to identify the specific issues raised in comment and numbered accordingly in the margin. Letters were numbered alphabetically by type.

Table 4-1. List of Commenters

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Local Agencies



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PR # 1

December 14, 2005

RECEIVED

DEC 14 2005

UNION CITY ECONOMIC
& COMMUNITY DEVELOPMENT

Joan Malloy, Planning Manager
Economic and Community Development Department
City of Union City
34009 Alvarado-Niles Road
Union City, CA 94587-4497

**RE: COMMENTS ON PARTIAL REVISION OF THE DRAFT EIR (PRDEIR)
FOR UNION CITY INTERMODAL STATION PASSENGER RAIL PROJECT**

Dear Ms. Malloy:

The purpose of this letter is to submit the City of Fremont's comments regarding the Revised Portion of the Draft EIR for the Union City Intermodal Station Passenger Rail Project. The City of Fremont appreciates that in response to comments from the City of Fremont and others on the Draft Environmental Impact Report (DEIR), Union City has redesigned some elements of the project as requested. The revised alignment of the Shinn Connection that moves it further east, away from the Riverwalk neighborhood should help reduce noise in that area. This is also true for the western track switch that was moved further west on the Centerville line closer to Paseo Padre Parkway. We also acknowledge the redesign to use moveable point frogs per our request in an effort to reduce noise and vibration. The elimination of one of the Layover Yard Options in Fremont is also appreciated, but as pointed out below, the City Council continues to object to the location of the remaining layover yard in Fremont and wants that location eliminated from the analysis as well. Finally, we are glad to see that construction noise impacts have been evaluated and included in the Partial Revision of the Draft EIR (PRDEIR). The elimination of the tunnel under the BART tracks may help reduce the construction noise in this area as well as the transmission of wheel squeal noise.

Although we acknowledge the improvements to the project design in the PRDEIR, the City of Fremont continues to have serious concerns about the project. Our comments and questions, by section and page on this PRDEIR are provided below. The comments are limited to the revised portion of the DEIR but we continue to have many other issues and questions that were provided to you in our June 9, 2005 comments on the original DEIR that are still valid. We look forward to your responses to all of our comments and questions.



GENERAL COMMENTS

1. At the Fremont City Council meeting held on December 6, 2005, the City Council repeated its strenuous objection to any consideration of a layover yard in Fremont due to the impacts on the community from such a yard. These impacts are described in the City's June 9, 2005 comment letter and further below. As a result, the City of Fremont requests the elimination of Layover Yard Option B from further consideration as a feasible option in the Dumbarton Rail Corridor (DRC) Project 1
2. The alignment of the redesigned Shinn Connection in the October PRDEIR is more favorable than the previous design in the April DEIR. However, as mentioned in the PRDEIR, both sets of tracks in the redesigned connection would have a tighter curve than the design in the DEIR and would have a higher likelihood of generating noise from wheel squeal. The PRDEIR mentioned some mitigation measures for wheel squeal. The document states that some measures would be included with the initial project, such as friction modifiers on the rail head, and some might be added later, such as flange (gauge face) lubricators, if necessary. It is our experience that gauge face lubricators can be quite effective at reducing wheel squeal and therefore we request that this mitigation measure be included with the initial project, not later. However, even with this additional measure, the friction modifiers should be included in the Mitigation and Monitoring Plan and their effectiveness tested after project completion. If the tests show they are not completely effective at reducing squeal noise below allowable levels, additional mitigation measures must be implemented, including, but not limited to rail grinding, wheel truing, and modification of the tracks. To ensure there is sufficient funding to provide additional mitigation, if necessary, this mitigation measure should require funds be set aside as part of the project budget to provide for this post-project testing and additional mitigation. 2
3. The existing wall along the Riverwalk frontage near the proposed Shinn Connection is not a soundwall as assumed in the PRDEIR but a privacy wood wall. While the new alignment is further away from the Riverwalk neighborhood, Fremont still asserts that replacing the existing wood wall with a soundwall may be necessary to properly mitigate project noise. 3
4. The City of Fremont does not have serious concerns with using the FTA criteria for noise analysis. However, we continue to believe that the Fremont noise guidelines should also be applied where our guidelines are more restrictive. The noise analysis within a local jurisdiction should then be compared to the relevant noise ordinances to determine the appropriate threshold for which to mitigate potential impacts. The noise analysis should show that homes along the Oakland subdivision track in the Niles area, for example, are either not impacted by the increased noise levels or that the noise will be mitigated to be below the local noise thresholds allowed within the City limits. 4
5. The construction noise/abatement/mitigation plan should also include the following requirements: be consistent with the adopted construction hours permitted within the 5

Fremont city limits, especially the requirements for construction adjacent to residential districts; if nighttime work must occur, limiting night work to essential activities during the week; providing adequate notice of impacts to the City of Fremont and adjacent residents in the construction area; and implementing effective dust and emission control measures. Also, the mitigation plan should clearly state who is responsible for implementing and enforcing the plan.

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cont.

The following are specific comments regarding the revised noise and vibration chapter in the PRDEIR:

REVISED CHAPTER 3.8: NOISE AND VIBRATION

- **Page P3.8-2, Figure P3.8-1:** The Figure should be modified to include transit sources such as: (i) trains on tight curve / wheel squeal; (ii) train engines starting and stopping; and (iii) trains running at idle outside of station in open places.
- **Page P3.8-13:** Please reinsert discussion and Table regarding the City of Fremont Residential Noise Guidelines that was on pages 3.8-13 and 3.8-14 of the April DEIR, and refer to this section where applicable in the revised chapter.
- **Pages P3.8-18 and P3.8-19:** The discussion about proposed DRC train traffic and DRC train operation noise impact at the layover yard option in the Shinn area that was discussed under “Locomotive and Wheel/Rail Rolling Noise” in the DEIR is missing, but retained under the “Idling Trains” discussion. Since the PRDEIR is still showing a layover yard option in the Shinn area, the discussion about DRC train traffic and DRC train operation noise impacts at the layover yard option should be discussed under “Locomotive and Wheel/Rail Rolling Noise” or the PRDEIR should eliminate any layover yard option consideration in the Shinn area and remove all discussion about layover yard option in the Shinn area in the PRDEIR.
- **Pages P3.8-19, P3.8-24 and P3.8-25:** If the Layover Yard Option B (in the Shinn area) is to be retained in the PRDEIR, the discussion of noise impacts related to the layover yards needs to be expanded to specifically consider early morning (5 a.m.) and late evening (6 p.m.) ambient noise levels, and the impacts of trains starting and stopping, idling, and turning at layover yards during these times; as well as noise from maintenance activities during these time periods, as the South Layover Yards Options A & B are near sensitive residential receptors.
- **Page P3.8-20, Impact NV-1: Expose Persons to and Generate Noise Levels in Excess of FTA “Severe Impact” Threshold:** As discussed under “Site R1a, Riverwalk”, the PRDEIR noise analysis assumes the existing wall will act as an effective sound wall to mitigate the severe noise impact from the wheel squeal. The existing wall is not a sound wall but a wood (property) wall. It is not believed to have much sound attenuation capability. The existing wood wall should be replaced with an effective sound wall in order to mitigate some of the noise impact from the wheel squeal at the Shinn Connection. Mitigation NV-1 should include “Replace Existing Sound Wall in the

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1 cont.

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Riverwalk Subdivision in the New Shinn Connection” as suggested in the DEIR. This mitigation measure should also be stated in Table Int-1.

3 cont.

- **Page P3.8-22, Site R2, Niles:** The DEIR states that future noise levels at first-row residences in the Niles neighborhood are predicted to exceed the impact threshold by less than 1 dBA and that this impact is less than significant. However, there is still an “impact” per FTA Noise Impact Criteria in Figure P3.8-6. Nevertheless, no mitigation is proposed. This should be re-analyzed, and mitigation should be proposed.

Further, when looking at Total Future Noise levels in Table P3.8-7, Site R2 in Niles shows “With Project” to be 62 dBA (Ldn) which appears to exceed the “impact” threshold of the FTA Noise Impact Criteria in Figure P3.8-5, which should be acknowledged in the analysis. Since the FTA threshold will be exceeded, mitigation should be proposed to eliminate this potentially significant impact.

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The need for mitigation in the Niles area should also be evaluated based on the City’s noise guidelines, not just FTA criteria.

- **Page P3.8-23, Construction Noise:** Add to the second paragraph this statement - “No night work is allowed unless absolutely necessary and no night work is allowed on Saturday and Sunday.”

- **Page P3.8-24, Mitigation Measure NV-2: Develop and Implement a Construction Noise Abatement/Mitigation Plan:** The mitigation plan should clearly state who is responsible for implementing and enforcing the plan. Also, add the following key elements:

5 cont.

- Be consistent with adopted Fremont construction hours and if night work is absolutely necessary, limiting it to essential activities.
- Providing adequate notice of impacts to the City of Fremont and adjacent residents in the construction area.
- Implementing effective dust and emission control measures.

- **Page P3.8-27, Mitigation Measure NV-3: Install Ballast Mats or Shredded Tire Underlay:** The DEIR states, “A more detailed study during the design phase of the project will be required before measures to eliminate the vibration impact can be specified.” The need for this additional study is confirmed in the PRDEIR. The City of Fremont requests that the implementing agency demonstrate to the City and other interested parties that vibration levels will not exceed allowable thresholds to ensure this issue is appropriately analyzed and mitigated during the design phase of the project. The City of Fremont further requests that the DEIR include requirements that the noise and vibration mitigations be included in the Mitigation Monitoring Plan with at least annual testing and a program for additional mitigation measures if deemed appropriate by an outside noise and vibration consultant.

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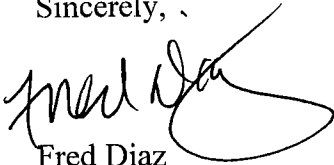
- For **Revised Chapter 3.8.**, the City of Fremont requests that potential impacts be mitigated to the City of Fremont established threshold of 60 dBA. Improvements to existing noise sources (e.g. BART and existing Centerville tracks) could be considered to reduce the total impacts to acceptable City of Fremont thresholds. To achieve this threshold, all appropriate mitigation measures should be utilized to mitigate impacts to less than significant levels.

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In addition to the above comments, we wanted to inform you that the Fremont City Council intends to request that the DRC project include a formal element in its DEIR that includes all cumulative impacts from the Union City Intermodal Station Passenger Rail Project, the Capitol Corridor intercity train service and the DRC project in their environmental analysis.

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Sincerely, ,



Fred Diaz
City Manager

cc: Mayor and City Council
Larry Cheeves, City of Union City
Capitol Corridor Joint Power Authority
San Mateo County Transportation Authority

PR1 City of Fremont

PR1.01 The comment expresses opposition to the Layover Yard Option B. The comment requests additional noise impacts, specifically early morning and late evening to be considered if the option is to remain as part of the project.

Response – Please see Master Response PD-1, Layover Yard. The DRC layover yard is not a part of the proposed project. South Layover Yard Option B is included in the impact analysis to disclose potential cumulative impacts should DRC select a southern layover yard location.

Noise impacts related to the operation of South Layover Yard Option B are discussed on pages P3.8-29 and P3.8-30 of the PRDEIR and are considered less than significant due to the distance between the layover yard and the nearest residences. With regard to early morning and late evening ambient noise, please see PRDEIR page P3.8-3 for a definition of L_{dn} and page P3.8-10 for an explanation of FTA noise criteria. The sensitivity of residences to early morning and late evening noise is accounted for in the FTA criteria through the use of L_{dn} as a measure of total community noise. L_{dn} includes an adjustment to reflect the greater sensitivity of most people to nighttime noise. The adjustment is a 10-dBA penalty for all sound that occurs in the nighttime hours of 10 p.m. to 7 a.m. This addresses early morning and late evening ambient noise levels.

PR1.02 The comment is concerned with excessive noise due to wheel squeal. The comment suggests that flange lubricators be included as mitigation in the initial project and that friction modifiers be tested as part of the MMP. Additionally, the comment requests that funds be set aside as part of the project budget in order to provide for testing and implementation of other mitigation.

Response – As the analysis in the PRDEIR states, it is difficult to accurately estimate the amount of wheel squeal generated on a tight-radius curve or the amount of noise reduction provided by friction modifiers. It is probable that the proposed mitigation, top of rail applicators, would be effective in eliminating noise from wheel squeal and that additional mitigation would be unnecessary. To address the issue of post-construction testing, the following text is added to Mitigation Measure NV-1:

The passenger rail services using the project corridor shall include in the maintenance agreement with the rail owner the requirement to conduct periodic noise monitoring following construction of the proposed project at residences in close proximity to the Shinn connection curve to determine the effectiveness of mitigation measures implemented to reduce wheel squeal.

As stated on Page P3.8-27 of the PRDEIR, “Installing wayside applicators on both ends of the curve on the Shinn connection should minimize potential wheel squeal and help prevent future noise levels from exceeding the significant impact threshold.” Therefore, the measure of effectiveness shall be that the noise level in the vicinity of representative receiver R1a shall be below the significant impact threshold of 64 dBA L_{dn} . It is important to note that, as shown in PRDEIR Table P3.8-7, Comparison of Future No Project and Future With Project Noise Levels, the future noise level at R1a without the project is predicted to be 66 dBA L_{dn} .

City does not have the authority to dictate the establishment of a contingency fund for mitigating future impacts, however, the City will not approve any project related to the Proposed Project over which it has discretion that does not comply with the mitigation identified for this project.

PR1.03 The comment states that the PDEIR incorrectly stated that the wooden wall along the Riverwalk area is a sound wall when in fact it is a privacy wall. Furthermore, the comment suggests that the construction of a sound wall may be necessary to mitigate noise impacts. The comments suggests that Mitigation NV-1 include the construction of a sound wall.

Response – As indicated in Table P3.8-7 of the PRDEIR, noise levels in the Riverwalk neighborhood after mitigation for wheel squeal are predicted to be lower with implementation of the proposed project than without the project; therefore, replacement of the wall on the south side of the Riverwalk neighborhood is not necessary to mitigate project impacts. Also, please see *Draft Environmental Impact Report, Riverwalk General Plan Amendment and Project* (1998) for a discussion of the use of soundwalls to mitigate rail noise impacts on the Riverwalk neighborhood. That document recommended against the use of soundwalls because of impacts from reflected sound on the residences on the south side of the tracks.

PR1.04 The comment states that the City of Fremont does not have serious concerns about using FTA noise criteria for determine impact significance; however, the City of Fremont thinks its criteria for noise should be applied in addition to FTA criteria where the Fremont criteria are more restrictive.

Response – Please see PRDEIR page 3.8-13 for a discussion of criteria for determining significance. Applying these criteria to homes in the Niles neighborhood along the Oakland subdivision, Table 3.8-6 Summary of Noise Impacts from Project shows that noise impacts in this area would be less than significant and no mitigation is required.

PR1.05 The comment requests that the Construction Noise Abatement/Mitigation Plan include consistency with permitted construction hours within the City, limitations to night construction hours, adequate notice of impacts for the City and residents, implementation of effective dust and emission control, and clear identification of those responsible for implementation and enforcement of the MMP. Additionally, the comment requests a text addition to page 3.8-24, second paragraph that would restrict night construction and eliminate night work on weekends.

Response – **Mitigation Measure NV-2** is amended as follows:

Mitigation Measure NV-2: Develop and Implement a Construction Noise Abatement/Mitigation Plan

The agency responsible for construction shall develop a construction noise abatement/mitigation plan to reduce adverse noise effects from construction activity. Key elements of the plan shall include, but not be limited to, the following:

- Construction contractors shall comply with all relevant provisions of applicable local noise policies and ordinances, including limitations on nighttime construction when feasible.
- All construction equipment shall have sound-control devices no less effective than those provided on the original equipment. No equipment shall have an unmuffled exhaust.
- As directed by the ~~local lead~~ agency responsible for construction, the construction contractor shall implement appropriate additional noise mitigation measures including, but not limited to, changing the location of stationary construction equipment, shutting off idling equipment, rescheduling construction activity, notifying adjacent residents in advance of construction work, rerouting heavy truck traffic, and/or installing acoustic barriers around stationary construction noise sources or construction sites. In the event that the construction engineer is unable to mitigate construction-

related noise to the local noise standards for construction noise, the construction contractor shall offer to temporarily relocate residents (i.e., provide hotel vouchers).

With regard to implementing dust and emission control measures, the commenter is referred to DEIR Chapter 3.2, Air Quality, for a discussion of construction emission control measures (Table 3.2-3. BAAQMD Feasible Control Measures for Construction Emissions of PM10).

It is not clear at this time what agency would be responsible for construction of project elements in the City of Fremont. It would most likely be a rail service provider.

PR1.06 The comment requests that Figure P3.8-1 include transit sources.

Response – Figure 3.8-1 identifies sound levels associated with transit and non-transit sources as identified by the FTA (FTA 1995). The FTA report from which Figure P3.8-1 was reproduced does not include the noise sources identified in the comment; however, for clarification typical noise levels associated with these sources are as follows:

Trains on a tight curve/wheel squeal: 90 dBA at 50 feet (includes penalty for the nature of the noise)
Train engines starting from a stop: 86 dBA at 50 feet
Trains idling: 70 dBA at 50 feet

These sound levels and those shown in Figure P3.8-1 are A-weighted levels (dBA) that approximate the sensitivity of human hearing and are consistent with the noise levels used in the noise modeling for the noise impact analysis in the PRDEIR. These noise levels represent the intensity of sound produced by the sources indicated and are not the same as the average noise levels used in determining impact significance (dBA L_{dn}). Please see Page P3.8-1 in the PRDEIR for a discussion of noise terminology.

PR1.07 The comment requests that the discussion and table regarding the City’s residential noise guidelines found in the DEIR be reinserted and referenced where applicable.

Response – As stated in the introduction to the PRDEIR, the City determined that the use of local noise criteria in evaluating the significance of impacts for a regional rail project was not consistent with other regional rail project EIRs. Therefore, the significance criteria were amended and the discussion of local noise ordinances was deleted because it was no longer relevant to the discussion of impacts under the FTA criteria.

PR1.08 The comment notes that the discussion regarding impacts at the layover yard was absent under Locomotive and Wheel/Rail Rolling Noise (Pages P3.8-18 and P3.8-19). The comment suggests that the PRDEIR include impacts in this section or eliminate any layover yard consideration and discussion of the layover yard in the Shinn area.

Response – The discussion on page 3.8-19 regarding idling trains applies only to the cumulative impact analysis. This paragraph is deleted and added to the discussion on page 3.8-28 following the last paragraph on that page.

PR1.09 The comment is concerned that the Niles neighborhood will experience an “impact” according to criteria on Figure 3.8-6. The comment requests that this impact be reanalyzed and include mitigation. Further, the comment requests that the City’s noise guidelines be considered for assessing

mitigation needs. The comment also states that the predicted “with project” noise level of 62 dBA Ldn in Table P3.8-7 appears to exceed the “impact” threshold in Figure 3.8-5.

Response – In the PRDEIR, the City has adopted significance criteria that are consistent with those used in other regional rail project EIRs. Table P3.8-7 identifies the level of impact per FTA criteria for the Niles neighborhood to be “impact,” which is considered less than significant based on adapting these standards for CEQA analysis.

With regard to the comment that the predicted “with project” noise level of 62 dBA Ldn appears to exceed the “impact” threshold in Figure P3.8-5, the values presented in Table P3.8-7 for noise are the total noise level that includes background noise. The thresholds in Figure P3.8-5 are for “project noise,” which does not include background noise. Figure P3.8-6 is the appropriate figure to use for determining impacts using the total or cumulative noise. Figure P3.8-6 shows that the threshold for “impact” is an increase of 5 dBA Ldn over existing noise levels and Table P3.8-7 shows that the Proposed Project results in an increase of less than 3 dBA Ldn.

PR1.10 The comment requests additional studies to demonstrate the effectiveness of Mitigation Measure NV-3. Further the comment requests that the MMP include annual testing to ensure the continued effectiveness of mitigation as well as plans for additional mitigation if necessary.

Response – Noise and vibration mitigation measures will be included in the mitigation monitoring plan. The quote from the DEIR that is included in the comment was removed from the discussion in the PRDEIR because it was no longer applicable with the redesign of the Shinn connection. Because the impact at the Niles neighborhood is only slightly above the impact threshold without mitigation, ballast mats and/or shredded tire underlay are expected to provide more than adequate mitigation. The detailed studies called for in the PRDEIR will determine what maintenance will be required for the mitigation measures that are implemented.

PR1.11 The comment requests that potential impacts be mitigated to the City’s established noise threshold and that improvements to existing noise sources be considered to reduce overall noise to below the City of Fremont threshold of 60 dBA.

Response – Please see Response to Comments PR1.02, PR1.03, and PR1.04 above. The PRDEIR identifies impacts and appropriate mitigation measures for the Proposed Project. After mitigating for wheel squeal, there are no “significant” project-related operational noise impacts in the City of Fremont. CEQA does not grant lead agencies the authority to mitigate for impacts that are not “significant” or for which there is no nexus to the project. (Guidelines Section 15041)

PR1.12 The comment states that the Fremont City Council intends to request that the DRC project include an element that contains all cumulative impacts from the Union City Intermodal Station Passenger Rail Project, the Capital Corridor Intercity Train Service and the DRC Project.

Response – Comment noted and considered.



SAN MATEO COUNTY
**Transportation
 Authority**

PR # 2

RECEIVED

DEC 14 2005

UNION CITY ECONOMIC
 & COMMUNITY DEVELOPMENT

December 13, 2005

Ms. Joan Malloy
 Planning Manager
 City of Union City
 Economic and Community Development Dept.
 34009 Alvarado-Niles Road
 Union City, CA 94587

**SUBJECT: REVISED PORTIONS OF A DRAFT ENVIRONMENTAL IMPACT
 REPORT UNION CITY INTERMODAL STATION PASSENGER
 RAIL PROJECT**

Dear Ms. Malloy:

We have reviewed subject Draft EIR and have the following comment:

The Peninsula Corridor Joint Powers Board (JPB) will be the CEQA lead agency in the preparation of an Environmental Impact Statement (NEPA)/Environmental Impact Report (CEQA) for the Dumbarton Rail Corridor (DRC) Project. As an interstate passenger rail carrier with a system that passes through many jurisdictions, the JPB has determined that the FTA noise and vibration criteria provide a consistent and appropriate approach to noise and vibration impact and mitigation assessment for the DRC EIS/EIR.

1

Thank you for the opportunity to comment on the environmental document.

Sincerely,

Marie Pang
 Environmental Manager

Cc: Ian McAvoy, Howard Goode, Joe Hurley, Michael Conneran

PR2 San Mateo County Transportation Authority

PR2.01 The comment states that the lead agency for the Dumbarton Rail Corridor Project has determined that the FTA criteria used for the noise and vibration is a consistent and appropriate measure of impact and mitigation for the EIS/EIR document.

Response – The comment is noted and considered.

Organizations

PR # 3

Riverwalk Homeowner's Association
2247 National Avenue
Hayward, CA 94545
(510) 780-8587 Fax (510) 780-7535

DRAFT

December 14, 2005

Joan Malloy, Planning Manager
Economic and Community Development Department
City of Union City
34009 Alvarado-Niles Road
Union City, CA 94587-4497

Re: Union City Intermodal Station Passenger Rail Project

Dear Ms. Malloy:

On behalf of the 122 Riverwalk Homeowners, we, the Riverwalk Board of Directors wish to express our continuing support for the "No Build" Option as described in the Draft Environmental Impact Report. We believe the Union City Intermodal Station Passenger Rail Project, as currently proposed, is far too burdensome to our homeowners. In particular, we are concerned with the adverse noise, vibration, construction and emissions related to: 1) the Proposed Layover Yard at the Shinn Connection, 2) the Shinn Connection and 3) the Turnout.

Notwithstanding our position described above, we recognize the large scale benefits to the community which may result from the expansion of passenger rail service throughout the Bay. We also wish to express our appreciation for the modifications that have been made since the previous Draft EIR, including moving the Shinn Connection further east, removing the Proposed Layover Yard Option A, and moving the turnout closer to Paseo Padre. In the event this project MUST still move forward, we would once again like to like to offer the following suggestions for mitigation:

- 1) Locate the layover yard in an industrial location outside of Fremont. Proposed Layover Yard option B is, in our opinion, too close to the Riverwalk and Benchmark residences as well as the recreational and wildlife rich Alameda Creek and Quarry Lakes region.
- 2) Erect a wood or concrete soundwall approximately 8 feet high and 1 foot thick at the Shinn Connection and along Riverwalk Drive. This would provide significant sound, vibration and visual protections to our residents. We recognize

that our neighbors on the other side of the Centerville line, who live in the Benchmark Neighborhood, may take issue with such a soundwall and our response is to suggest a dual soundwall such that residents on both sides of the Centerville line would benefit. To the extent reverberation of sound is a concern, we recommend a full enclosure.

3 cont.

3) Plant Sequoia or other such trees in the Riverwalk cul-de-sac at the Shinn Connection. These trees currently stand along the majority of the south side of Riverwalk Drive on the Riverwalk side of the sound fence along the Centerville line. We believe they should be extended to provide a "visual shield" from the tall Capital Corridor trains as they begin their tight radius turn at the Shinn Connection.

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4) Plant Sequoia or other such trees along the Eastern end of the Riverwalk neighborhood near the Shinn Connection, such that these trees would provide a "visual shield" from the BART trains as they pass along the Eastern end of the Riverwalk Neighborhood.

5) Work with UPRR (a Project Partner) to consider noise decreasing upgrades (new tracks, rubber underlays, etc.) to the existing UP tracks along the Centerville line within 1/2 mile of the Shinn Connection. If UPRR, were to upgrade these tracks where Freight and Ace Trains will continue to run, it could dramatically decrease the overall noise and vibration levels for our homeowners.

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6) Work with BART (a Project Partner) to determine the possibility and feasibility of upgrading the existing BART tracks (new tracks, rubber underlays, etc.) within 1/2 mile of the Shinn Connection. If BART were to upgrade its tracks near the Shinn Connection, it could dramatically decrease the overall noise and vibration levels for our homeowners.

In summary, we respectfully ask Union City to propose a comprehensive solution to our homeowners resulting in an overall noise, vibration and visual footprint that is no worse than our most affected homeowners currently experience. We believe multiple measures can be taken, many of which we've suggested above, to actually reduce the overall noise, vibration and visual impacts to the homeowners of Riverwalk.

Sincerely,



Ric Perez, CCAM, Senior Association Manager
On behalf of
Riverwalk Board of Directors & Riverwalk Homeowners

3 Riverwalk Homeowner's Association

PR3.01 The comment expresses continued objection to the Proposed Project.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR3.02 The comment suggests that the Layover Yard Option B be moved to an area outside of Fremont.

Response – Please see Master Response PD-1, Layover Yard.

PR3.03 The comment requests the construction of a dual sound wall for the residents of on both sides of the Shinn connection and along Riverwalk Drive as mitigation for noise impacts.

Response – Please see Response to Comment PR1.11. Also note that, with proposed mitigation, the Proposed Project reduces future noises levels at representative receiver R1a by more that 4 dBA Ldn compared to the No-Project Alternative.

PR3.04 The comment requests the planting of sequoia trees along the Shinn connection to act as a visual shield from passing trains.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR3.05 The comment suggests upgrading the existing tracks of BART and UPRR tracks to decrease overall noise experienced by homeowners.

Response – Please see Response to Comment PR1.11.

Individuals

PR # 4

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December 14, 2005

Via Facsimile (510) 475-7318

Joan Malloy, Planning Manager
Union City Economic and Community Development Department
34009 Alvarado-Niles Road
Union City, CA 94587

Dear Ms. Malloy:

Included in this letter are my comments on the revised portions of the Draft EIR for the Union City Intermodal Station Passenger Rail Project.

First, thank you for the revisions from the previous draft that have caused the Proposed Shinn Connection to be moved further east, the turnout to be moved further west and the elimination of one of the two layover yards. I believe there are a number of other important modifications that could be made at little cost to greatly mitigate the severe burden being placed on me and my neighbors related to increased noise and vibration.

First, I suggest improving the "soundwall", at the Shinn Connection referred to in the Draft EIR. This soundwall is better described as a thin wood fence. The construction of a concrete sound barrier at the Shinn Connection (near the cul-de-sac at the end of Riverwalk Drive) would greatly reduce the noise and vibration for the homes closest to the Shinn Connection.

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Second, I suggest the planting of Sequoia or other such trees in the Riverwalk cul-de-sac at the Shinn Connection as well as along the Eastern end of Riverwalk Drive between the homes on Riverwalk Drive and the Bart tracks. These trees currently stand along a majority of the south side of Riverwalk Drive on the Riverwalk side of the sound fence (parallel to the Centerville line), and it would be of great benefit if they were extended to provide a "visual shield" from the tall Capital Corridor trains as they begin their tight radius turn at the Shinn Connection.

2

Third, I respectfully ask the designers (and environmental impact report preparers) to work with UPRR (a Project Partner) to consider noise decreasing upgrades (new tracks, rubber underlays, etc.) to the tracks along the Centerville line near and through the Shinn Connection. If UPRR, were to upgrade these tracks where Freight and Ace Trains will

3

continue to run, it would have a dramatic decrease effect on the overall noise and vibration levels leading up to and through the Shinn Connection.

Fourth, I respectfully ask the designers (and environmental impact report preparers) to work with BART (a project Partner) to determine the possibility and feasibility of upgrading the Bart tracks (new tracks, rubber underlays, etc.) leading up to and through the Shinn Connection. If BART were to upgrade their tracks near the Shinn Connection, it could have a dramatic decrease effect on the overall noise and vibration levels leading up to and through the Shinn Connection.

3 cont.

Fifth, I respectfully ask the designers (and environmental impact report preparers) to strongly consider putting the Proposed Layover yard in Union City, rather than a location as proposed in Fremont. As a Riverwalk Resident, I am particularly concerned about the environmental effects related to diesel emissions, construction related debris, noise, vibration, etc. I believe the neighborhoods of Riverwalk and Benchmark are being asked to endure far too large a burden with respect the negative repercussions from this Project, specifically the: 1) Shinn Connection, 2) the Turnout and 3) the Proposed Layover Yard. Further, the industrialized nature of the Proposed Union City location is more suitable for such a layover yard and in speaking with those knowledgeable, provides a more logical and effective location from a "Usability" standpoint.

4

Finally, I respectfully ask the designers (and environmental impact report preparers) to develop a comprehensive solution that results in an overall noise, vibration and visual footprint that is no worse (and ideally better) than the residents who live closest to the Proposed Shinn Connection currently experience. I believe multiple measures could be taken, which I have discussed in this letter, to actually reduce the overall noise, vibration and visual impacts to the residents who live closest to the Proposed Shinn Connection.

5

Sincerely,


Brett Chamberlain

4 Brett & Victoria Chamberlain

PR4.01 The comment suggests creating a concrete sound wall to replace the existing wall located at the Shinn connection.

Response – Please see Response to Comment PR1.11.

PR4.02 The comment requests the planting of sequoia trees along the Shinn connection to act as a visual shield.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR4.03 The comment suggests improvements be made to existing BART and UPRR tracks in order to reduce overall noise experienced by residents.

Response – Please see Response to Comment PR1.11.

PR4.04 The comment requests that the DRC layover yard be located in Union City rather than Fremont.

Response – Please see Master Response PD-1, Layover Yard.

PR4.05 The comment requests that measures be taken to ensure that overall impacts resulting from the Proposed Project remain equal to or less than current conditions.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

-----Original Message-----

From: Maria Ching [mailto:maria_ching@yahoo.com]

Sent: Tuesday, December 13, 2005 10:17 PM

To: raileir@ci.union-city.ca.us; Kristine Fitzgerald; Joan Malloy

Cc: kodumade@ci.fremont.ca.us; jpierson@ci.fremont.ca.us

Subject: ***SPAM*** Comments to the Partial Revision of the DEIR, December 2005

Dear the City of Union City,

I have the following questions or comments regarding your partial revision of the DEIR:

1) There are inconsistencies as to the location and description of where R1b is in your DEIR. The verbiage at various places of the DEIR describes R1b to be a part of the Riverwalk neighborhood in Fremont, but FIG. INT-1 and FIG. P.3.8-7 show that it is in another neighborhood, which is on the west side of Paseo Padre Pkwy. and also about a few hundred feet away from the part of the Riverwalk neighborhood the DEIR is intended to study. As such, the distance of 85 ft. between the Riverwalk homes and the existing tracks is not accurate for your study. It is more accurate at about 50 ft. Furthermore, based on the greater distance, one can deduce that since the data is incorrect, the conclusion drawn about the noise and vibration impacts on the said part of the Riverwalk neighborhood is also incorrect. Please explain.

1

2) The citizens and city officials of Fremont have previously asked for a study on the cumulative noise and vibration effects of the trains running through Fremont neighborhoods as well as the cumulative effects which the proposed layover yard would bring. I have only seen a short excerpt regarding the cumulative effects of the layover yard. However, I have not seen anything on the cumulative noise and vibration impacts caused by all the future trains of the Capitol Corridor, Dumbarton Rail, UPRR, and ACE, etc., in particular their impact on the UPRR Centerville Line. Without looking at the cumulative impact of all these trains, of course the noise levels for residential neighborhoods will still be below FTA thresholds in your study. Please explain.

2

3) As Fremont Councilmember Dutra suggested, I would also like to see a reserve fund set aside by the City of Union City for the future testing and amelioration of problems arising from this project if all does not go well according to theory, in regards to the noise and vibration control measures which would be put in place during the Proposed Project. History tells us that theory cannot always be put into practice with 100% effectiveness. Therefore, I can see a great probability that we will need to dip into this reserve fund after the completion of the Proposed Project. Please comment.

3

4) In the DEIR, I had only noticed one track proposed for the Shinn Connection as well as one turnout proposed along the UPRR Centerville Line near the Riverwalk neighborhood. In this partial revision of the DEIR, I feel that a second track for the Shinn Connection and a second

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turnout along the Centerville Line have sneaked up on me. Please explain.

4 cont.

5) We, the citizens of Fremont, will not tolerate any construction work on weekends and in the night. Please give our lungs a break from the particles pollution, our eardrums a break from the noise pollution, and our sanity a break from vibration pollution. Please comment.

5

6) There are contradictions in the assumptions used the noise prediction models in the ATC Consulting report and the DEIR regarding the number of trains. P3.8-21 says, "Note that the volume of trains along the UPRR Centerville line is projected to increase with or without the Proposed Project..." However, P3.8-18 says, "In developing the predictions of future noise levels, we assumed the BART and UPRR service will remain unchanged..." Again, as in Comment 1) above, if the assumptions in your models are inconsistent or incorrect, then the data gathered during your experiments are incorrect, and finally the conclusions drawn in the models are also rendered incorrect and invalid. Please explain.

6

Thank you for your time and attention.

Sincerely,
Maria Ponsen
Fremont's Riverwalk Resident

PR5 Maria Ching

PR5.01 The comment states that there are inconsistencies with the location and description of the representative receiver R1b within the PRDEIR. Further, the comment is concerned that since the location is incorrect, the data regarding noise and vibration is incorrect.

Response – The location of representative receiver R1b is inaccurately portrayed on Figure P3.8-7. The site should be shown on the east side of Paseo Padre Parkway in the center of the Riverwalk neighborhood at the south end of Fruitwood Court. It is the figure that is in error, not the analysis.

PR5.02 The comment expresses concern that the cumulative impacts of noise and vibration would exceed FTA thresholds, and feels that they are not adequately addressed in the DEIR.

Response – The noise and vibration analyses were performed according to the procedures in the FTA manual, *Transit Noise and Vibration Impact Assessment* (FTA 1995). Existing noise sources such as ACE and freight traffic are accounted for in the measurements of the existing noise environment. The only known increases in future rail traffic are the increases in Capitol Corridor service and the DRC service. All of these sources are accounted for in the cumulative noise and impact analysis presented in the PRDEIR beginning on page P3.8-28.

PR5.03 The comment requests that a reserve fund be created by Union City as a means to fund mitigation testing and additional implementation as needed.

Response – Please see Response to Comment PR1.02.

PR5.04 The comment expresses concern that the second track for the Shinn connection and the second turnout along the Centerville Line were not adequately disclosed in the DEIR.

Response – The second set of tracks was included in the revised Shinn connection to provide operational flexibility and reduce the likelihood of “stacking” on the Centerville Line.

PR5.05 The comment requests that no construction be conducted at night or on weekends.

Response – Please see Response to Comment PR1.05.

PR5.06 The comment is concerned that there are inconsistencies between the ATC Consulting report and the DEIR regarding the number of trains. Further, the comment expresses concern over the validity of the data and conclusions reported.

Response – The comment quotes a statement in the DEIR that “the volume of trains along the UPRR Centerville Line is projected to increase with or without the Proposed Project.” This statement relates to the Capitol Corridor service. Capitol Corridor plans to increase service regardless of the Proposed Project and the traffic on the Centerville Line will therefore increase. The comment also quotes a partial statement, “In developing the predictions of future noise levels, we assumed that BART and UPRR service will remain unchanged...” and asserts that two statements are inconsistent. The second statement in the PRDEIR concludes with “...and that the Capitol Corridor will operate 16 trains per day in each direction in the year 2010.” When compared to the existing level of service of four Capitol Corridor trains per day in each direction, the two statements are clearly consistent.

From: Laura B. Cinquini [mailto:lcinquini@gofcc.org]
Sent: Thursday, November 03, 2005 10:23 AM
To: Kristine Fitzgerald
Subject: RE: Public Renoticing of Draft Rail EIR

You can take me off the list: lcinquini@gofcc.org. We are selling our home as quickly as possible and moving out of the state of California because of this project which is ruining our lives.

PR6 Laura Cinquini

PR6.01 The comment requests removal from the public notification list and remarks that the proposed project has motivated their relocation and “ruined our lives.”

Response – Comment noted and considered.

John and Margaret Daskaloff
37800 Appletree Court
Fremont, CA 94536
(510) 792-7952
jdaskaloff@yahoo.com

December 14, 2005

Joan Malloy, Planning Manager
Union City Economic and Community Development Department
34009 Alvarado-Niles Road
Union City, CA 94587-4497

Re: Union City Intermodal Station Passenger Rail Project

Dear Ms. Malloy:

Included in this letter, please find my family’s comments on the revised portions of the Draft EIR for the Union City Intermodal Station Passenger Rail Project at or around the Riverwalk community.

First and foremost, we still strive to support a “No Build” option. The fact that you have made alterations to the draft leads me to believe that you are receptive to the community’s input. As a private homeowner, I strive to ensure my family’s safety, retain my neighborhood’s aesthetics and maintain my real estate equity. I feel that the Union City Intermodal Station Passenger Rail Project, as currently proposed, is far too taxing our neighborhood.

1

I feel that the revisions from the previous draft has caused the turn radius to increase which I believe will cause increase the chance of wheel squeal, vibration, derailment and both health and environmental risk still remain throughout the surrounding areas.

2

I still feel that it is essential to have a comprehensive environmental impact report rather than piecemeal reports that are inadequate for supplying the “Big Picture”. If we as a community are to co-exist, I think you would agree on this.

3

I have also been researching the impact that this may have on our home’s equity. Bart’s Director Blalock has expressed, “...specific concerns over track improvements for the Dumbarton Rail Project that would negatively affect private property owners in Fremont near the Shinn connection”. This is exactly how we feel as I am sure you are well aware that others feel the same way.

1 cont.

I do realize the need to produce an intermodal station. And I strongly feel there are plenty of other attractive alternatives. For instance, both the Bart track and the train track cross at an area just south of Industrial blvd, north of the Union City Bart Station. The train track could parallel with Bart's track there and come down to the Union City Bart Intermodal Station. Then south of the station there's plenty of opportune land for the train track to revert back to the Niles track. If Niles track is solely destined for freight use, then run a track parallel to the Niles track as the residents are already accustomed to the existing track route.

1 cont.

I feel that the layover yard needs to be removed from Fremont. There's plenty of opportunity to move it in an industrial area outside of Fremont. I feel that the proposed Layover Yard option B is too close to the Riverwalk and Benchmark residences as well as the recreational and wildlife rich Alameda Creek and Quarry Lakes region.

4

In conclusion, I respectfully ask that Union City submit a proposal which is a more comprehensive solution to our homeowners, resulting in eliminating any additional negative impacts that the homeowners currently experience.

1 cont.

Sincerely,

John Daskaloff

PR7 John and Margaret Daskaloff

PR7.01 The comment expresses general opposition to the project citing safety, aesthetic and property values impacts as concerns. The comment acknowledges the need for the intermodal station, however feels that alternatives exist that are superior to the Proposed Project.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR7.02 The comment is concerned that the revisions in the DEIR that would increase the turn radius would impose greater impacts of noise, vibration, derailment and risks to human and environmental health.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR7.03 The comment requests a comprehensive environmental analysis that includes cumulative effects be included in the report.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR7.04 The comment requests that the layover yard located outside of Fremont.

Response – Please see Master Response PD-1, Layover Yard.

**Jose & Christina Govea
1664 Riverwalk Drive
Fremont, CA 94536**

PR # 8

December 13, 2005

Joan Malloy, Planning Manager
Economic and Community Development Department
City of Union City
34009 Alvarado-Niles Road
Union City, CA 94587-4497

Re: Union City Intermodal Station Passenger Rail Project – Partial Revision to DEIR

Dear Ms. Malloy:

After reading the Partial Revision to the Draft Environment Impact report, I am pleased with some of the changes made, but still have serious concerns. More needs to be done to protect the well-being and quality of life for my family and my neighbors in the Riverwalk community. Stronger mitigations need to be considered regarding noise and vibration and the maintenance of some of these mitigations. After Union City is done with this project and long since gone, we will be the ones who will have to deal with the impacts that have not been properly mitigated. Until I see better assurances that our interested and well being are fully protected, I continue to support the “NO BUILD option.

Below are my additional concerns in reference to this latest partial revision and requested actions to address my concerns

General

The change in Shinn connection is a great step in mitigating many concerns. But it upsets me to see that the rules of the game have changed so late in the process. I view the decision to not consider local noise standards as just a convenient way to reduce the total number of impacts that need to be addressed and mitigated. Had this been the standards used from the beginning, there would be less of a concern. But after receiving the many concerns and complaints from local residence, changing the standards by which they are judge is a quick way of eliminating the problem with out really addressing the concerns raised. Local standards need to be included in the respect to the city and local residences of Fremont.

Shinn Connection

1. Noise Impact

- a. Still the puzzling reference to the existing sound wall. As mentioned in my previous response, I cannot understand how a 1/4-inch thick wood fence can possibly mitigate any noise. I would like to see a study proving this has a significant mitigation measure. Approximately 20 to 25% of the radius would not be protected by the berm. A real sound wall, which is higher than the current fence, needs to be added as a mitigation measure.

- b. As previously commented, the report takes every opportunity to show that the overall noise level will be reduced due to horns no longer needing to be blown at the Shinn connects. That is great! But what the report does not address is the horn blowing when some trains approach the rail crossing on what is formally known as Nunes Lane. This needs to be include in the study and mitigations addressed.
- c. I am glad to see that the friction modifiers were clearly spelled out as a mitigation measure. But it is not acceptable to leave the maintenance of such measures in the hands of authorities that have no stake or direct interest in the well being of the local residences. The City of Fremont needs to be included with a voice and leverage to take the necessary action, should these measures provide to be maintained improperly or prove inadequate.
- d. In addition to mitigating the impacts of the additional noise, this is a good opportunity to improve the current noise impacts. Replacement of the existing tracks that will be affected by the Shinn Connection and addition of new tracks parallel to it need to be included in this project. Why should we only have to deal with the current noise impacts that will only get worse and not work toward improving the existing noise? This would go a long way in showing that government authorities also works to improve our quality of life.
- e. Studies need to be done after construction is complete to verify mitigations worked and additional mitigation need to be taken be if they prove to be inadequate

2 cont.

2. *Vibration Impact*

- a. This area is where the recommendations have taken a serious step backwards. The first draft determined vibration as a significant impact and included the mitigation measure to address this. The latest report reclassified this as “Less then significant”, based on ESTIMATES putting the impact at 1 VdB below the acceptable guidelines. The current vibration levels are barely tolerable now and adding to them would NOT be acceptable to my family and I. Mitigation measures HAVE to be added back.
- b. As in my comments regarding noise, this is a good opportunity to improve the current vibration impacts. Adding rubber mats to the existing tracks that will be affected by the Shinn Connection and addition of new tracks parallel to it need to be included in this project. The current vibration impacts will only get worse with additional trains. Why not work towards improving the existing vibration impacts as well?
- c. The report continues to dismiss any structural or cosmetic impacts to homes from vibrations. As mentioned before, I have had two unexplained incidents of my fire sprinkler water line bursting (outside my home closest to the tracks) after 2 to 3 year periods with no problem. Experts in the field do not understand it and cannot explain it, even after the same section had been repaired twice. While I probably could not dispute the short term affects. No evidence is provided that this does not have a long-term effect. I am then left to deal with this long after this is complete.
- d. As in my previous comments, the cumulative effects of existing vibration and new vibrations need to be considered and included. This needs to be studied and taken into account in the final report
- e. As indicated in this latest report, local site factors can impact the final level of vibration. A study is clearly warranted and needs to be included in the final report. I would dispute the fact that BART produces the highest levels of vibration in this area. Based on repeated observations, freight and passenger rail produce the highest levels of vibration. Moving the tracks 15 feet closer to my home will only make conditions worse.

3

- f. Studies need to be done after construction is complete to verify mitigations worked and additional mitigation need to be taken be if they prove to be inadequate

3
cont.

3. Construction

- a. More clarification is needed regarding the needed construction of the BART overpass. Moving the tracks farther east is a great step in the right direction. But I cannot assess the need for mitigation base on the information provided. With that said, mitigation measures need to be clearly spelled out. Saying that you will simply meet local regulations is not enough. I assume you know what those regulations are and could spell out in more detail what noise mitigation measures are needed.
- b. If construction noise is true significant and unavoidable impact, temporarily relocating my family needs to be included as a mitigation. This would include cover the cost and inconvenience of having to do this.

4

Miscellaneous

- 1. In generally, what needs to be included in all mitigation measures is clear and detailed monitoring and reporting programs, as well as remedial actions for when a specified criteria has not been met.
- 2. What also has been left out is the impact this would have to my investment. Who will compensate my neighbors and I for the drop in value of our home that we have invested in?

5

6

Final Summary – Mitigation for maintaining the Quality of Life for my family, my Riverwalk neighbors and my community.

In conclusion, this the latest report takes some great steps forward, but the project continues to raises serious concerns that still need to be addressed, as indicated above. For these reason, the following are the only mitigation options I see.

- Approve the “NO BUILD” option
- Address all my concerns, as stated above, to my satisfaction and to the satisfaction of the Riverwalk community.
- Compensate me for the drop in value of my home that will, with out a doubt, occur as a direct result of this project.

I would like to request a personal reply, in addition to the Final EIR, to this letter addressing my concerns, comments and requests. Thank you for your attention

Sincerely,

Jose & Christina Govea
Riverwalk Community Resident

PR8 Jose and Margaret Govea

PR8.01 The comment expresses concern over the exclusion of local noise standards in the DEIR.

Response – Please see Response to Comment PR1.04.

PR8.02 The comment expresses concern over excessive noise and believes that the mitigations listed are inadequate. It further states that the EIR does not address noise caused by horn blowing at Nunes Lane and requests mitigation. Construction of a sound wall and improvements to existing track are suggested as ways to decrease overall noise. The comment suggests that additional studies be conducted after construction of the project to verify the effectiveness of mitigation measures.

Response – Please see Response to Comment PR1.04. Nunes Lane terminates south of the Centerville Line. Trains are not required to sound their whistles as they approach Nunes Lane unless the engineer perceives a potential safety hazard. There is a locked gate at the end of the road; however, it is possible to circumvent the locked gate and access the railroad right of way. It is possible that on occasion, engineers are sounding their whistles to warn pedestrians that have entered the right of way. Additionally, Nunes Lane is approximately the location where eastbound trains should be sounding their whistles as they approach the Shinn grade crossing. This whistle would not be required for passenger trains using the Shinn connection because it avoids the Shinn grade crossing.

PR8.03 The comment expresses concern over the adequacy of the vibration analysis and requests that the FEIR include the cumulative effects caused by vibrations as well as reconsider the removal of the mitigation measures that were included in the DEIR. The comment requests that additional studies be conducted after construction of the project to verify the effectiveness of mitigation measures.

Response – The mitigation measures for vibration impacts related to turnouts that were taken out of the PRDEIR were included as part of the project. Please see Master Response PD-2, Turnouts. With regard to improving existing vibration impacts, it is not the intent of CEQA to require projects to improve on existing conditions. With regard to structural impacts on the commenter's house, as stated in the letter, the cause of the incidents is "unexplained." The vibration impact analysis in the PRDEIR was performed in accordance with applicable FTA guidelines and impacts in the Riverwalk neighborhood were found to be less than significant. Also, please see Response to Comment PR1.11 above.

PR8.04 The comment requests clarification and further detail regarding mitigation for construction. The comment further requests temporary relocation during construction to be included as mitigation.

Response – Please see Response to Comment PR1.07.

PR8.05 The comment requests detailed monitoring and reporting programs for all Mitigation Measures.

Response – Please see Response to Comments PR1.02 and PR1.05.

PR8.06 The comment requests compensation as mitigation for decreased property values due to implementation of the Project.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR. Also, please see Response to DEIR Comment 17.03.

RECEIVED

DEC 13 2005

UNION CITY ECONOMIC
& COMMUNITY DEVELOPMENT

December 12, 2005

UNION CITY INTERMODAL STATION

attn: Joan Malloy

Comments on the DEIR from:

Susan Lanferman
36899 Montecito Drive (Rancho Arroyo)
Fremont, CA 94536
(510) 790-2318

After reviewing the revised DEIR pertinent to noise and vibration, it is obvious that Union City is still ignoring the true realities of the impacts that the Intermodal Station Rail Project will have not only on the citizens of Fremont but on their own residents, especially the hundreds of new residents in the Pacific Pointe subdivision who will be directly impacted by the result of this project but were not included in the data because of the timing of construction and the preparation of the DEIR.

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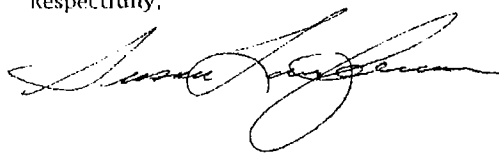
By using FTA versus City of Fremont standards, allowing more noise and vibration, the DEIR contains repeated scenarios of misapplied criteria regarding noise and vibration that do not address the true implications of living within proximity of this proposed rail project. One resident of the Riverwalk neighborhood has had his fire sprinkler system go on two times in the past year flooding his house while they were away at work caused by the vibration of the existing trains, an area you consider to be less-than-significantly impacted. You acknowledge a potentially significant impact regarding vibration along other areas of the proposed project. What damage will potentially happen to those homes?

2

The DEIR states that "the total number of new passengers that the Proposed Project would serve is relatively small" and that the Proposed Project "would create few new jobs" (Page 4.3-1). It is an injustice that so many will suffer for the comfort of so few.

3

Respectfully,



PR9 Susan Lanferman

PR9.01 The comment expresses concern over the impacts associated with noise and vibration with particular regard to Pacific Pointe subdivision that is under construction.

Response – Comment noted and considered. The comment does not raise issues regarding the adequacy of the analysis of impacts in the PRDEIR.

PR9.02 The comment expresses concern over the exclusion of the City’s noise standards when evaluating impacts of the Proposed Project.

Response – Please see Response to Comment PR1.07.

PR9.03 The comment expresses general opposition to the Proposed Project.

Response – The comment is noted and considered.

-----Original Message-----

From: Jo Ann Lew [mailto:jo_ann_lew@hotmail.com]
Sent: Sunday, December 11, 2005 1:55 AM
To: raileir@ci.union-city.ca.us; JoanM@ci.union-city.ca.us
Cc: markl@ci.union-city.ca.us
Subject: Union City Intermodal Station--Partial Revision of the Draft EIR dated Oct 2005

Hi Joan,

Please excuse the informality of my correspondence on the subject. Herein are my comments.

1) Many cities are being impacted by train noise adjacent to housing developments and many communities are asking city officials to consider mitigation measures. Some solutions are "quiet zones", use of flashing lights and gates instead of train horns, and buffer zones between tracks and houses.

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2) The report should mention trains carrying hazardous materials and the possibility of derailments. Safety zones should be a consideration particularly where trains are in close proximity to homes and businesses.

2

3) Federal funds should be sought to improve rail crossings and create quiet zones.

4) Areas where trains will be allowed to idle should be chosen carefully and boundaries established. These areas should be away from residential neighborhoods.

1 cont.

Please let me know if you have any questions.

Jo Ann Lew

PR10 Joanne Lew

PR10.01 The comment expresses concern over train noise and suggests the use of “quiet zones”, flashing lights, buffer zones and banning idling trains from residential areas as additional mitigation.

Response – The possibility of instituting quiet zones as mitigation for noise impact in Union City was considered but ruled out as infeasible at this time due to a number of legal and operational issues.

PR10.02 The comment requests that the DEIR include information regarding the transportation of hazardous materials and the possibility of derailment as well as mitigation for these impacts such as safety zones.

Response – The project involves relocating passenger trains that would not be hauling hazardous materials.

December 7, 2005

JOAN MALLOY, Planning Manager,
Union City Economic and Community Development Department
34009 Alvarado-Niles Road, Union City, CA 94587

RECEIVED
DEC 12 2005
UNION CITY ECONOMIC
& COMMUNITY DEVELOPMENT

Dear Joan Malloy:

The following are my comments regarding the revised Draft EIR for the Union City Intermodal Station Passenger Rail Project.

- 1. You need to mitigate the train noise and vibration along Montecito Drive and Hacienda in Fremont. A sound wall similar to the one being constructed by KB Homes near where the BART crosses under Niles-Alvarado Blvd. would be good. Otherwise you will be inviting law suits for inverse-condemnation. Especially when current construction includes a concrete sound wall.
- 2. The Riverwalk neighborhood is also entitled to a sound-wall. The wood fence that is being called a sound wall is nothing more than an ordinary backyard type fence.
- 3. Separating the Dumbarton EIR from the Capitol Corridor EIR will not help you in that the original EIR was done for both and the Dumbarton paid \$100,000 towards the costs of that EIR.
- 4. There needs to be one comprehensive EIR for all the proposed increases of rail traffic in the area.
- 5. There is going to be significant litigation, whether it is for inverse-condemnation, the EIR's, diesel pollution or any number of other issues. My suggestion is that you try to work out a compromise. The equities of

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the situation seem to be that it would be unfair to the people who live along the Oakland Subdivision RR to have to bear the entire burden of the passenger traffic. It would be a fair compromise to have the Capitol Corridor trains re-routed back to the Niles Subdivision RR after stopping at the Union City Station. The Bart and the Dumbarton would use the Oakland Subdivision RR. Please spend some time thinking about this option. It would save years of trouble and bitter litigation.

3 cont.

6. Also, in the first EIR, it was mentioned that there would be constructed another set of rail tracks between the Bart and the current rail tracks. The new tracks would connect with the current tracks near Montecito before the trains would travel over the bridge that goes over Alameda Creek. There needs to be mitigation of the wheel squeal from the track switches when the trains switch back and forth from the new tracks to the current tracks.

4

Yours truly,

Tim Pitsker
36863 Montecito Drive
Fremont CA 94536

PR11 Tim Pitsker

PR11.01 The comment requests the construction of a sound wall to mitigate the impacts from noise and vibration.

Response – Please see Responses to Comments PR1.03 and PR1.09.

PR11.02 The comment requests that one comprehensive EIR be prepared that would account for all proposed rail traffic increases.

Response – Please see Master Response GEN-1, Project Background and Master Response GEN-2, Segmentation.

PR11.03 The comment suggests a compromise be reached regarding rail usage among neighboring cities to reduce litigation.

Response –The comment is noted and considered.

PR11.04 The comment is concerned over noise impacts due to wheel squeal along a track switch near Montecito Drive and requests mitigation.

Response – There are no turnouts proposed in the vicinity of Montecito Drive as suggested in the comment. Additionally, all turnouts adjacent to residential areas will utilize moveable point frog technology eliminating noise and vibration associated with standard turnouts. Finally, wheel squeal is associated with trains moving on curved track and would not be created by “track switches.”

From: Vanderpool, Mondonna [mailto:mvanderp@tycoelectronics.com]
Sent: Monday, October 31, 2005 4:53 PM
To: ralleir@ci.union-city.ca.us
Subject: Union city intermodal station passenger rail project

To Joan Malloy,

I live on Bishop Avenue I do not consent to this project. You do not have my consent. My neighborhood is drowning in the pollution a noise the railroad creates. Enough is enough.

1

Mondonna Vanderpool
2058 Bishop Avenue

From: mondongna [<mailto:mondovan@myway.com>]
Sent: Friday, November 04, 2005 4:11 PM
To: Kristine Fitzgerald
Subject: RE: Public Renoticing of Draft Rail EIR

I will try to attend the meeting. I still do not give my consent.
There should be an environmental study for this proposed extension.
Please route it to your own backyard not mine.

Mondonna Vanderpool
2058 bishop avenue
fremont ca

PR12 and PR13 Madonna Vanderpool

PR12.01 The comment expresses general opposition to the Proposed Project, citing pollution and noise as particular concerns.

Response – The comment is noted and considered.

PR13.01 The comment expresses general opposition to the Proposed Project and requests an additional environmental assessment for the proposed extension.

Response – The comment is noted and considered.

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF NOVEMBER 17, 2005, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

**I. ROLL CALL: Commissioners Anderson, Sison, Sweeney and Chairperson Lew
ABSENT: Commissioner Savage**

STAFF PRESENT: Mark Leonard (Director, Economic and Community Development); Joan Malloy (Planning Manager); Jene Jernigan (Interim Senior Planner); Janice Lum (Assistant Planner); Kit Faubion (City Attorney); Carlos Jocson (City Engineer); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The minutes of the Regular Planning Commission Meeting of November 3, 2005 were approved with corrections.

III. ORAL COMMUNICATIONS: None.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

- 1. CITY OF UNION CITY, Revised Portions Of Draft Environmental Impact Report On The Union City Intermodal Station Passenger Rail Project. The noise analysis was recirculated to demonstrate consistency with regional rail projects. As part of the revised noise analysis a new track alignment is shown in the Shinn Street area of Fremont. This is an opportunity for the public to review the revised Noise Analysis. The comment period will end December 14, 2005.**

Joan Malloy, Planning Manager, presented the staff report.

Karl Schaarschmidt, EarthTech, reviewed the changes to the engineering criteria.

Bill Kasson, Jones and Stokes, reviewed the changes to the significance criteria and noise criteria.

Chairperson Lew opened the public hearing.

Tim Pitsker, Fremont, CA, stated that there are a number of lawyers whose homes are directly impacted by this project. Mr. Pitsker believes that there will be years of litigation as a result of this project. Mr. Pitsker suggested a compromise that leaves the Dumbarton train on the Oakland tracks and route the Capitol Corridor train on the Niles track. Mr. Pitsker stated that a couple of hundred BART trains run over the Oakland tracks every day and it is not fair to put the entire burden on the people who live along the Oakland tracks.

Brett Chamberlin, Fremont, CA asked if there are going to be any further recirculations of the draft EIR.

2

Ms. Malloy stated that the next phase will be the final EIR.

Mr. Chamberlin asked why there two tracks in the latest version of the Draft EIR and only one track in the earlier version.

3

Mr. Schaarschmidt replied that in previous plans they were always shown as two tracks but in the new design the tracks are much farther apart.

Mr. Chamberlin asked why there is less required construction on the BART bridge near the Riverwalk neighborhood.

Mr. Schaarschmidt stated that in the previous design it was going to be an extension of the existing bridge or they were going to put a jacked tunnel going underneath the BART embankment. In the new alignment it goes under the existing abutment span.

4

Mr. Chamberlin asked if there are going to be two layover yards, one opposite the Riverwalk neighborhood and one closer to Union City.

5

Ms. Malloy stated that yards will be used by Dumbarton rail and one is an existing UP layover yard.

Mr. Chamberlin asked if anyone is here from the City of Fremont.

Ms. Malloy replied that there is not.

Mr. Chamberlin stated that he is happy to see the revision went along way to address the complaints from Fremont. He was disappointed that no further sound wall would be needed. Mr. Chamberlin stated that the sound wall by his house is only about a ¼ inch thick and he feels a better sound wall is needed. Mr. Chamberlin stated that the Riverwalk Board of Directors suggested putting trees in that area. He stated that residents discussed track upgrades to reduce noise issues. Mr. Chamberlin suggested using a different set of tracks to route the trains.

6

Chairperson Lew closed the public hearing.

Commissioner Anderson asked which is the more restrictive analysis; the FTA or the CEQA analysis.

Mr. Kasson replied that they are pretty much the same except for the mitigation measures. Mr. Kasson stated that under NEPA mitigation needs to be considered for any impact. Mr. Kasson stated that under CEQA only significant impacts need to have mitigation.

7

Commissioner Anderson asked what is the distance between the new Shinn connection and the old Shinn connection.

8

Mr. Schaarschmidt stated that it is difficult to measure due to the different areas. He stated that in some areas it is only 15 feet and in others it was much more.

8 cont.

Commissioner Anderson asked if the tighter the curve, is it more likely there will be wheel squeal?

Mr. Schaarschmidt stated that is correct.

Commissioner Anderson asked if the new Shinn connection is a much tighter curve.

Mr. Schaarschmidt stated that it is.

Commissioner Anderson asked how they were going to mitigate the noise that was going to be much closer to the residents.

Mr. Schaarschmidt stated that they planned to use top of rail lubricators and feel that will reduce the noise. Mr. Schaarschmidt stated that if necessary they will also use side rail lubricators to help eliminate the wheel squeal.

Commissioner Anderson asked how the lubricators will be maintained to keep them functioning and keeping the wheel squeal down.

Mr. Schaarschmidt stated that they have an agreement with Capital Corridor that someone locally will be assigned to maintain the system.

Commissioner Anderson asked what a movable point frog.

Mr. Schaarschmidt stated that where two tracks cross it creates a “frog” in the rails and a movable point frog is a mechanism to reduce the gap between the rails and consequently the noise of the wheels when they cross the frog.

Commissioner Anderson asked if the primary evaluation of the noise reduction is that the horns don't sound anymore because there is no crossing.

Mr. Schaarschmidt stated that is correct.

Commissioner Anderson asked if all other existing noises will stay the same.

Mr. Schaarschmidt replied the existing noise on the existing track will stay the same.

Commissioner Sison asked if it was considered to leave the connection as it was and use the rail lubricators to reduce the wheel squeal.

Mr. Schaarschmidt stated that there would have been rail lubricators on those rails as well.

Commissioner Sison asked what is gained then by moving further east.

9

Mr. Kasson replied that it is more a factor of reducing the impact on the Riverwalk neighborhood.

9 cont.

Commissioner Sweeney stated that she likes the redesign of this connection and that some of the suggested mitigations were implemented in the project. Commissioner Sweeney stated that this is a project of regional significance and she thinks that utilization of the FTA standards is appropriate.

Chairperson Lew asked what Union City is going to do to mitigate the noise of the horns in the Decoto area.

10

Ms. Malloy stated that they are seeking to implement the Decoto road grade separation which will reduce horn blowing. Ms. Malloy stated that they are also looking at closing another grade crossing. Ms. Malloy stated that there are a lot of grade crossings in the Decoto area due to the way the streets are aligned but they are seeking alternatives.

Chairperson Lew asked if changing the zoning and discouraging more residential development near the tracks is being considered.

11

Ms. Malloy stated that Decoto is mostly built out at this time.

Chairperson Lew stated that she feels that the report is well done. Chairperson Lew asked if there was more data available on improving conditions around train tracks.

Chairperson Lew closed the public meeting.

PR14 City of Union City Planning Commission Meeting November 17, 2005

At the November 17, 2005 City of Union City Planning Commission Meeting, comments were received from the public and the planning commissioners asked questions of the City staff and consultants. Commenters were advised to submit their comments in writing to assure they were addressed in the responses to comments in the FEIR. All comments received at the planning commission meeting have been noted and considered in the preparation of the FEIR. The minutes of the planning commission meeting provide a transcript of the comments and responses to the comments presented at the meeting. All comments and questions received at the meeting were addressed at the meeting and the responses are included in the minutes of the meeting, which are a part of the public record.