

Decision 99-04-032

April 1, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The City of Vernon, a municipal corporation,

Complainant,

vs.

The Atchison, Topeka and Santa Fe Railway, a
Corporation,

Defendant.

Case 96-01-019
(Filed January 19, 1996)

**ORDER GRANTING LIMITED REHEARING TO MODIFY DECISION
(D.) 98-12-021 AND DENYING REHEARING OF MODIFIED DECISION**

I. INTRODUCTION

Decision (D.) 98-12-021 resolved a complaint proceeding filed by the City of Vernon (Vernon) vs. Burlington Northern and Santa Fe Railway (Santa Fe), by denying the complaint. Vernon had sought a Commission decision that Santa Fe's expansion project at its Hobart rail yard located in Vernon and the City of Commerce unnecessarily created avoidable adverse environmental impacts of such a magnitude that upon review the project should be deemed unreasonable under Pub. Util. Code Secs. 761, 762, 762.5, and 768. In mitigation of the alleged unreasonable project, Vernon further sought a Commission order directing Santa Fe to pay part of Vernon's share of the cost of improvements to a nearby freeway intersection.

Vernon's first complaint was filed on January 19, 1996. It alleged that Santa Fe had failed to comply with local land use regulations, had violated Commission policy requiring utilities to cooperate with local jurisdictions' planning and zoning regulations, and had violated the policies of the California Environmental Quality Act (CEQA). Santa Fe responded that the Commission lacked the authority to review the expansion project and that CEQA was not applicable since Santa Fe was not required under P.U. Code Section 1001 to apply for a certificate of public convenience and necessity (CPCN) for construction of the project. The Commission issued an Interim Opinion (D.96-11-015) in which it agreed with Santa Fe that CEQA did not apply, but at the same time that it did have authority pursuant to P.U. Code Secs. 762, 762.5 and 701 to determine in a complaint proceeding whether the expansion project, even though it may comply with all existing regulations, created adverse environmental impacts to such a degree that it should be deemed unreasonable, and therefore in violation of the above statutes. (See H.B. Ranches, Inc. v. So. Calif. Edison Co. (1983), 11 CPUC 2d 400, 407.)

Accordingly, Vernon was authorized to amend its complaint in which it could present its case that the environmental impacts were so severe that the project should be considered unreasonable under the above cited statutes. Since the Commission concluded that CEQA did not apply, Vernon was directed that it carried the burden of proof and the responsibility for any environmental studies. Furthermore, in assessing any showing in an amended complaint, the Commission stated that it would be guided by CEQA Section 21082.2 (Pub. Resources Code Sec. 21082.) which provides that the determination "whether a project may have a significant effect on the environment is to be based on substantial evidence in light of the whole record."

Subsequently, Vernon filed an amended complaint, alleging that increased street traffic resulting from Santa Fe's project resulted in adverse

significant environmental impacts that required mitigation. Vernon requested that the expansion project be found unreasonable under P.U. Code Secs. 761 and 762; and that it be suspended until an environmental study is completed and mitigation measures imposed. For mitigation, Vernon proposed that Santa Fe be ordered to pay a proportionate amount (\$1.8 million) of Vernon's share (about \$9 million) of the total cost of an earlier approved plan to improve one of five nearby freeway intersections.

After public hearing, the Commission determined in D.98-12-021 (the Decision), issued on December 3, 1998, that Vernon had failed to show that the increased traffic effects resulted in adverse environmental impacts of such a magnitude that the project should be deemed "unreasonable" and mitigation measures should be ordered.

The Decision includes findings that the expansion project is expected to permit Santa Fe to increase the number of inter-modal "lifts" (loading or unloading of container units from railroad flatcars) from 823,000 in 1997 to 1,000,000 – 1,250,000 per year; that truck traffic into and out of the yard will increase; and that traffic will increase at five nearby intersections. Although the Decision contains discussion that Vernon failed to prove that Santa Fe's project would create adverse environmental impacts that rise to the level of unreasonableness, it fails to include an express finding that the impacts are not significant. (D.98-12-021, p.8)

With respect to possible mitigation measures the Decision finds that Vernon introduced no evidence regarding measures Santa Fe could undertake to alleviate the traffic effects at any of the impacted intersections other than by contributing to the funding of planned improvements at the Atlantic/Bandoini/I-710 freeway interchange; that these improvements would be constructed whether or not Santa Fe contributed to their cost; and that this financial contribution would not mitigate the effects of the traffic specifically generated by the project.

On January 6, 1999 Vernon filed an application for rehearing. It advances two allegations of legal error:

1. The decision fails to meet the "substantial evidence in light of the whole record" test adopted in Pub. Utilities Code Section 1757.1 by enactment of SB 1322 in 1996. Therefore, according to Vernon, the decision contains legal error because there is no substantial evidence to support the Commission's findings and conclusions relating to the environmental impact of increased street traffic.
2. The Commission improperly limited the measures it would consider to mitigate the environmental effects caused by Santa Fe's project; and therefore violated Pub. Util. Code Sec. 1757.1 by abusing its discretion.

Santa Fe filed a brief reply to the application for rehearing, urging that it be denied on the ground that it only repeated its position taken during the hearing.

We have reviewed the record and each allegation of error raised by the application for rehearing. We are of the opinion that, except for clarifying the Decision to include findings related to the significance of the traffic impacts forecasted to occur as a result of Santa Fe's project, good cause does not exist for granting rehearing.

Therefore, we will grant a limited rehearing to modify D.98-12-021 for the reasons explained below, and we will deny rehearing of the Decision as modified. We also offer a discussion below about the main issues raised in the rehearing application.

II. DISCUSSION

Because this is a complaint case not challenging the reasonableness of rates which was issued prior to January 1, 1999, review of the Decision falls

within P.U. Code Sec. 1757.1(a)(4) as adopted by SB1322 (Stats. 1996, ch. 855). Therefore, the Decision is subject to judicial review under the "substantial evidence in light of the whole record" standard rather than the former "any evidence in the record" test that applied to review of Commission decisions under the Supreme Court's determinations. (See Yucaipa Water Co. No. 1 v. Pub. Util. Com. (1960) 54 Cal. 2d 823 at 828; Camp Meeker Water System, Inc. v. Pub. Util. Com. (1990) 51 Cal. 3d 845, at 863-4, et al.)

A. The Commission's Determination That Santa Fe's Expansion Project Is Not Unreasonable Is Supported By Substantial Evidence

1. Review of the Record Evidence

Vernon's main contention of legal error is that there is no substantial evidence supporting the Commission's conclusion that the traffic impacts of the expansion project do not render the project unreasonable. It urges that the evidence on traffic impacts permits only one finding: that traffic caused by the project results in significant adverse environmental impacts to such a degree that the project is unreasonable and so mitigation is required. This contention calls for a review of the evidence.

Vernon presented evidence only on traffic impacts. No showing with regard to any other environmental impact, such as noise or air pollution, was offered. Its primary witness was a traffic engineer who presented a traffic report on the effect of Santa Fe's expansion project on five nearby street and freeway intersections. Emphasis was placed on two intersections with Interstate 710; one at Washington Blvd., and the other known as the Atlantic/Bandini/I-710 intersection. The study shows that inbound truck traffic to Hobart Yard is divided about 50-50 between the two intersections, and that virtually all outbound truck traffic uses the Washington/I-710 interchange because it is closer to the Yard and involves only two right turns on surface streets. In contrast, access to the

Atlantic/Bandini interchange requires three left turns. Overall, about 75 percent of the traffic related to Hobart Yard uses the Washington Blvd. Interchange. (Tr. p.93-4) And only about 10 percent of the trips to and from the Yard take place during the peak traffic periods. (Tr. p. 71)

For analysis purposes, the traffic study utilizes intersection volume/capacity ratios (V/C). If a V/C ratio is 1.0 the intersection traffic is at full capacity. The five intersections have current V/C ratios over 0.90 which means that they are congested during peak periods, but not at full capacity. V/C ratios greater than 0.91 and less than 1.0 are designated as Level of Service E. The witness maintained that an increase of the V/C ratio of a roadway by 0.01 or greater is "significant," and that the Hobart Yard project would increase the V/C ratio by 0.03 or more at the intersections by the year 2020. (Vernon Exh. 3 at IV-3). If an intersection already has a V/C ratio of 1.0 or more the witness expressed the opinion that any "worsening" of the ratio is significant. Viewing this one impact as proving that a significant adverse environmental impact exists, Vernon asserted that mitigation was required. Its proposal for mitigation involved requiring Santa Fe to contribute part of Vernon's share of prior planned improvements at the Atlantic/Bandini/I-710 intersection. It contended that by assisting to finance this improvement project significant adverse impacts associated with Santa Fe's project will be lessened.

For its showing to the contrary, Santa Fe relied on cross-examination of Vernon's traffic witness and also presented a traffic engineer who provided a critique of Vernon's study. It agreed that traffic at and near the Yard would increase as a result of its expansion project, but it disagreed that the degree of the traffic increase was significant. Vernon's study shows that the Atlantic/Bandini interchange currently operates at or over capacity during peak hours while the Washington interchange operates at less than full capacity. Under the 1995 State Transportation Program, the Atlantic/Bandini interchange is targeted for a \$26

million improvement project, jointly financed by the Cities of Vernon and Bell, the Metropolitan Transportation Authority and CALTRANS. Vernon asserted that as a result of the improvement project Hobart Yard traffic would be diverted to the Atlantic/Bandini interchange from the Washington Blvd. interchange. Therefore Vernon maintained it was appropriate for Santa Fe to contribute to the cost of the improvements.

Vernon's witness admitted that the level of service at the affected intersections would remain the same, with or without the Hobart Yard expansion (Tr. at 76). The witness also agreed that if traffic conditions increased to a V/C ratio as high as 1.67, which his study predicted for the Washington Blvd. interchange during the AM peak period in the year 2020, vehicle drivers would take a different route or drive at a different time of day to avoid such congestion.

In contrast to Vernon's concentration on the change in V/C ratio, Santa Fe emphasized that the level of service category (Level E) remained the same with the expansion project included. It also pointed to the fact that under Vernon's study, the Atlantic/Bandini interchange would operate at above capacity even without the Hobart expansion project; that with the Santa Fe project no difference in the V/C ratio occurs until the year 2020 at the interchange and that the difference is only an increase of 2.6% in the ratio for the afternoon peak period, and none for the morning period. (See Exh. No. 2, p. 15. Ratio of 1.91 predicted for 2020 PM peak period without the expansion project divided by 1.96 ratio predicted for 2020 PM peak period with the project.)

In addition, Santa Fe cited in support of its view the CALTRANS study for the Atlantic/Bandini interchange project which forecast traffic to 2015. It does not project any diversion of traffic from the Washington Blvd. interchange to the improved Atlantic/Bandini interchange after completion of the improvements. And therefore, Santa Fe contends that Vernon's assumption that traffic will be diverted, thus relieving traffic impacts of the Hobart Yard project, is

incorrect. Consequently, Santa Fe continues, it is unreasonable to require it to assist in financing an interchange improvement project planned to alleviate congestion existing before initiation of its expansion project.

Finally, Santa Fe presented testimony regarding the regional benefits of the expansion project; that it is designed to assist in meeting the increased demand for intermodal transportation in the Los Angeles area; that the result of this increased demand has been that congestion in rail operations at Hobart Yard has increased; that expansion of the Yard's facilities is necessary to meet this increased demand; and that there was no other way to expand operations at the Yard which would lessen the effects on Vernon. (Exh. 6). It also presented testimony describing the regional benefits of freight-to-rail as a transportation mode and the location of the Hobart Yard. The result, according to Santa Fe, is fewer and shorter truck trips on regional streets and freeways given Hobart Yard's location compared to possible alternative intermodal transfer yards located farther from the central Los Angeles area. Santa Fe submits that its expansion project constitutes a "substantial regional transportation mitigation measure," and the mitigation value of freight-to-rail facilities is recognized in the Los Angeles County Congestion Management Program. (Exh. 8, pp. 4-5).

2. The Decision Is Supported By Substantial Evidence

Vernon claims that the record evidence fails to have enough relevant information combined with reasonable inferences that allow a fair argument to be made in support of the Decision. In particular, it points to the fact that the Decision fails to include a finding that the traffic impacts are insignificant even though there are statements to this effect in the body of the decision. Although Vernon is correct on this point, the Decision clearly states that "we cannot conclude that the projected traffic impacts constitute a foreseeable significant effect." (D.98-12-021, p.8; emphasis added)

The basis for Vernon's position that the Decision is not supported by substantial evidence is its traffic study. Although the study supports the view that the increase in the V/C ratios for the nearby intersections demonstrates that deterioration in the level of service forecast for the year 2020 may occur, other evidence in the record supports our conclusion that this view is speculative. After reviewing the record we conclude that there is substantial evidence in support of this finding and our ultimate determination that the expansion project should not be considered "unreasonable":

1. The study rests on a projection of peak period traffic in 2020, some 20-21 years in the future. The accuracy of a projection so far into the future can reasonably be doubted, since it is derived from the simply application of the historical traffic growth rate of 2.7 percent per year for the past ten years to the ensuing 20 years plus an increment for the expansion project. We note that the CALTRANS forecast produced for the Atlantic/Bandini improvement project runs out only to 2015. Furthermore, there is no showing what the V/C ratios are during off peak periods, and therefore adverse environmental effects during these periods.
2. Under the forecast, the V/C ratio for the southbound I-710/Washington Blvd interchange with the expansion project is 1.67 at the AM peak period. However, as stated in the Decision, Vernon's witness admitted that he had never observed an intersection with this high a V/C ratio, and he further stated that under such congested conditions motorists would travel at a different time or take a different route. (Tr. 76-79) Given this testimony, it is reasonable to infer that it is doubtful the forecasted V/C ratios will in fact occur.
3. There is unrebutted evidence that there are "regional benefits" from increased intermodal freight rail transportation and that regional truck traffic will be lessened with the Hobart Yard

expansion. This supports an inference that the impact of the increased traffic around Hobart Yard is not unreasonable because it is offset by traffic benefits for the broader Los Angeles area. (Exh. No. 6)

4. There is evidence that cargo traffic in the general Los Angeles region is growing by a factor of approximately 10 percent per year which caused a need for expansion of intermodal transportation capacity; that Santa Fe did not have any "good alternatives" to the modifications it was undertaking at Hobart Yard; and that there would be less queuing of trucks outside the Yard with completion of the project. (Exh No. 7). This evidence supports the inference that increased intermodal capacity at Hobart Yard is in the public interest.
5. Vernon presented evidence only on one environmental impact – traffic, and none on other environmental impacts, such as noise and air pollution impacts. Therefore, it is reasonable to infer that there are no quantifiable environmental impacts resulting from the expansion project, other than the possible increased traffic congestion reflected in the forecasted V/C ratios. We also note with regard to this factor that Vernon is primarily an industrial community with less than 200 residents (Tr. P. 39)
6. The environmental effects of the project are unavoidable. Vernon did not present any evidence that Santa Fe could change the traffic effects by selecting another location for it, or by changing the Yard's entrances and exists, or by developing a plan to shift traffic to non-peak periods. Given this failure, we believe that it is reasonable to infer that the expansion was not unreasonable. Indeed, this failure reasonably leads to the conclusion that the only way the traffic impacts could be avoided is by not implementing the project even though the evidence shows it is in the public interest.

Considering all of the above factors, we conclude that there is sufficient evidence to support the Decision even though the record shows, and Santa Fe admits, that traffic will increase as a result of the expansion and it will result in increased impacts of some degree. We will modify the Decision to incorporate these factors, since some of them are not expressly set forth in the Decision; and to include a finding on the significance of the traffic impacts.

The application claims that the Commission abused its discretion, thereby violating P.U. Code Sec. 1757.1, by concluding that the expansion project's forecasted traffic impacts were not sufficiently significant to render the project unreasonable, even though the increased traffic comes on top of already existing congested or "bad" traffic conditions at the interchanges. Vernon asserts that the Decision thereby violates "generally accepted environmental review policies", and cites a recent Court of Appeal decision: Los Angeles Unified School Dist. (LAUSD) v. City of Los Angeles (2d Dist., 1997) 58 Cal. App. 4th 1019; reviewed denied by the Supreme Court Jan. 14, 1998.

In this CEQA case, the Court of Appeal concluded that it was legal error for the City of Los Angeles to certify an environmental impact report (EIR) which had found insignificant small incremental increases in traffic noise levels attributable to a land development project near two schools because the existing noise level at the schools already exceeded the Dept. of Health's recommended maximum level. The Court found the EIR to be inadequate and vacated its certification.

In its decision, the Court stated that the question before it was "not the relative amount of noise created by the project when compared with existing noise levels, but whether any additional amount of noise should be considered significant in light of the serious nature of the traffic noise problem already existing around the schools." (58 Cal. App. 4th at 1025; emphasis added). It then

noted that the lead agency (the City) did not address this question in its EIR, so neither it or the Court was able to form a judgement on this question. Therefore, the EIR was held inadequate. (58 Cal. App. 4th at 1025-6.)

In the Vernon proceeding, we have dealt with this issue. We have considered and weighed Vernon's showing on the amount and effects of additional traffic forecasted to accumulate in addition to existing traffic. We are not persuaded that the predicted additional traffic is so substantial or significant that it makes Santa Fe's project unreasonable. Therefore, there is no conflict between the Court determination in LAUSD and the Decision.

Next, the application claims that the Commission has specifically recognized in D.98-05-012 (App. By PG&E To Sell Two Parcels of Land in Marin County Pursuant to Pub. Util. Code Sec. 851) that a 0.01 increase in the V/C ratio amounts to a significant environmental impact; and therefore we should follow this "precedent."

This contention lacks merit since we did not determine what increase in the V/C ratio was significant in that application. The EIR involved in D.98-05-012 was issued by the City of San Rafael. Although the EIR adopted the view that such an increase in the V/C ratio on certain segments on U.S. Highway 101 in Marin County constituted a significant impact, we did not expressly approve the City's EIR. We noted that the City found that the possible mitigation measure for the traffic impacts was economically infeasible. We only concurred that the mitigation measure was not feasible. We did not consider or adopt the City's position concerning the V/C ratio. (D.98-05-012; mimeo p. 5-6)

III. Vernon's Abuse of Discretion Contention Regarding Mitigation Measures Is Incorrect

Vernon's second category of alleged legal errors in the Decision relates to mitigation measures. It is based on Vernon's position that the expansion project creates significant adverse environmental impacts and so some sort of mitigation order from the Commission is required. Since we have found that the traffic impacts are not significant, issues relating to mitigation measures do not arise. Nevertheless, they will be briefly discussed in sequence:

A. Vernon's Contention That The Decision Unlawfully Required It to Develop All Mitigation Measures Is Without Merit

The application asserts that the Decision's Findings of Fact Nos. 11 and 12 constitute an unlawful determination, compounded by the absence of a conclusion of law, that Vernon was charged with developing all mitigation alternatives to Santa Fe's project.

Finding of Fact No. 11 provides that Vernon did not present evidence that Santa Fe could reduce the traffic effects of its project by selecting another location, or by rearranging its entrances and exits at the Yard, or by developing an operation plan to shift traffic to off peak hours. This finding is accurate since the record lacks any showing by Vernon on these specific mitigation measures. Vernon's evidence on mitigation measures related only to a cost sharing arrangement for the interchange improvement project.

Finding of Fact No. 12 states that Vernon's only mitigation proposal was that Santa Fe contribute to the cost of the Atlantic/Bandini interchange project. Vernon disagrees and cites page 45 of its brief, at which it suggests, in addition to financial aid for the freeway project, that the Commission order Santa

Fe to undertake air quality studies. The brief also mentions requiring Santa Fe to conduct site specific mitigation measures. (Vernon Opening Brief, p. 45)

Vernon's contention is correct on this point. We modify the Decision to reflect that these suggestions were advanced in its brief, but that no evidence was offered on them. As made clear in the Interim Opinion, the burden was clearly placed on Vernon to conduct any studies of the environmental impacts of Santa Fe's project, including mitigation measures. (D. 96-11-015, p. 26-7) However, they would be relevant only if we had concluded that some mitigation measures were required. With this minor correction there is no legal error in these findings.

Next, Vernon claims that since the Commission has independent authority to require mitigation measures, its failure to do so is legal error. This contention lacks merit. It is based on the position that Vernon has successfully demonstrated significant impacts result from Santa Fe's project. It would be valid only if we did nothing after Vernon had prevailed in its showing by convincing us that the environmental impacts made the expansion project unreasonable, and therefore justified implementation of mitigation measures.

In support of this argument Vernon cites the Supreme Court decision in Northern California Power Agency v. P.U.C. (1971) 5 Cal. 3d 370. Reliance on this decision, which reviewed the issuance of a powerplant certificate under P.U. Code Sec. 1001, is misplaced. It is not applicable in a complaint proceeding in which justification for relief has not been shown, and, more importantly, which involves a utility project exempt from Sec. 1001.

B. The Decision's Finding Related to Traffic Mitigation by the Atlantic/Bandini Project Is Supported By Substantial Evidence

The application asserts that Findings of Fact Nos. 13-16, dealing with the planned improvements at the Atlantic/Bandini interchange, are not

supported by the record. Specifically, Vernon claims that even though the record shows that there will be increased traffic at this interchange as a result of the Hobart Yard project; and that the planned improvements there will reduce congestion, the Decision contains legal error because it "seems to find" that requiring Santa Fe to contribute to the cost of the improvements will not mitigate the Yard's impacts. (App. For Rehearing, p. 21)

The findings provide that:

1. The improvement project is intended to alleviate congested traffic conditions existing before the Hobart Yard project was commenced. (Finding No. 13)
2. The improvement project would be constructed regardless of any contribution by Santa Fe. (Finding No. 14)
3. Any contribution to the improvement project by Santa Fe can do nothing to mitigate the effects of the traffic generated from the Hobart Yard expansion (Finding No. 16)¹

A review of the Decision and the record demonstrate the accuracy of the first two Findings. The Atlantic/Bandini improvement was planned before the Santa Fe expansion project was undertaken. Planning and financing work commenced in 1996 and actual construction of the first phase is targeted for completion in 2001, and the entire project in 2003. It was planned to relieve existing congestion, and it would be constructed even if Santa Fe's project was not and if there was no financial contribution from Santa Fe. (Tr. P. 43-44; and p. 82)

However, Finding No. 16 is not entirely consistent with the record, and should be clarified. The record shows that about 50 percent of the inbound traffic to Hobart Yard utilizes this interchange. (Tr. 94) Also, the improvement

¹ Finding of Fact No. 15 simply states that the only environmental impact identified in the proceeding related to traffic impacts. There is no need to discuss this finding since it is accurate and supported by substantial evidence.

project is conceptually designed to increase capacity at the interchange by 20-30% (Tr. 86) Some of the Hobart Yard traffic currently using the Washington Blvd. interchange may divert to the Atlantic/Bandini route. Vernon interprets this finding to mean that once completed, the improved Atlantic/Bandini interchange will not provide any mitigation whatsoever for the traffic impacts of the Hobart Yard project. Undoubtedly, this interpretation was not intended, since it is most likely, and reasonable to infer, that after completion in 4-5 years some unknown amount of Hobart Yard traffic may utilize it. Moreover, this finding is not necessary since the Commission has concluded that the traffic impacts of Santa Fe's project are not significant enough to establish unreasonableness.

Accordingly, we will delete this finding.

After considering the facts and reasoning set forth in the Decision, and also the additional factors ascertained in our review on rehearing, we remain convinced that there is sufficient information in the record that support reasonable inferences that in turn support a fair argument that the traffic impacts of the expansion project are not significant. Given the small increase in V/C ratios projected for 2000, and considering the reasons justifying reasonable doubts as to the certainty of the 2020 forecast, and after weighing the public interest served by the expansion project and its regional benefits, the forecasted results for 2020 are too speculative to justify the result that Santa Fe's project is unreasonable and that a violation of PU Code Sec. 762 is involved.

THEREFORE, IT IS ORDERED that:

1. Finding of Fact No. 5 on page 10 of D.98-12-021 is modified to read:
 5. Vernon's traffic witness projects that in 2020 the V/C ratios at such intersections will deteriorate by approximately 0.03 or more.

2. Finding of Fact No. 6 is modified to read:
 6. Vernon's witness projects that by the year 2020, for both the morning and afternoon peak hours, each of the five intersections will operate at V/C ratios substantially above 1.0, with or without the Hobart Yard expansion. There are no projections of V/C ratios for off peak periods.
3. Finding of Fact No. 7 is modified to read:
 7. (a) About 75 percent of the traffic generated by Hobart Yard uses the Washington Blvd/I-710 interchange. The inbound truck traffic is divided about 50-50 between the Washington Blvd interchange and the Atlantic/Bandini/I-710 interchange. About 90 percent of the outbound traffic uses the Washington Blvd interchange.

(b) For the year 2000, Vernon's witness projects "background" V/C ratios that range from a low of 0.89 to a high of 1.31; and with "expansion" V/C ratios that also range from 0.89 to 1.31. For the year 2020, the witness projects "background" V/C ratios that range from a low of 1.28 to a high of 1.91; and with "expansion" V/C ratios that range from 1.35 to 1.96.
4. Finding of Fact No. 12 is renumbered to be Finding of Fact No. 14.
5. New Finding of Fact No. 12 is added to D.98-12-021 to read:

There are "regional benefits" from increased intermodal freight rail transportation and regional truck traffic will be lessened with the Hobart Yard expansion.
6. New Finding of Fact No. 13 is added to read:
 13. Cargo traffic in the general Los Angeles region is growing by a factor of approximately 10 percent per year which caused a need for expansion of intermodal transportation capacity. Santa Fe did not have any "good alternatives" to the modifications it was undertaking at

Hobart Yard; and there will be less queuing of trucks outside the Yard with completion of the project.

7. Findings of Fact Nos 13, 14, 15 in D. 98-12-021 are renumbered to be Findings of Fact Nos. 15, 16, and 17 respectively.

8. Finding of Fact No. 16 in D.98-12-021 is deleted.

9. Finding of Fact No. 17 in D.98-12-021 is renumbered to be Finding of Fact No. 18.

10. Finding of Fact No. 18 in D.98-12-021 is renumbered to be Finding of Fact No. 19 and modified to read:

19. Based on the facts stated above and the reasons set forth in D.98-12-021 and this decision on rehearing, it is reasonable to conclude that Vernon has failed to prove that implementation of Santa Fe's plans of expansion create significant adverse environmental effects of such a magnitude that makes the expansion of the Hobart Yard unreasonable.

11. Conclusions of Law No. 4 and 5 in D.98-12-021 are deleted.

12. Conclusion of Law No. 6 in D.98-12-021 is renumbered to be Conclusion of Law No. 4 to read:

4. Vernon has failed to prove that the traffic impacts arising from Santa Fe's expansion project are so significant that its project is unreasonable. Therefore, Santa Fe has not violated PU Code Sections 761, 762 or 762.5.

13. Conclusion of Law No. 7 in D.98-12-021 is renumbered to be Conclusion of Law No. 5.

14. Rehearing of D.98-12-021, as modified, is denied.

This proceeding is closed.

This order is effective today.

Dated April 1, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioner