



PRESS RELEASE

CITY OF SAN CLEMENTE

OFFICE OF THE CITY MANAGER
ERIK SUND, INTERIM CITY MANAGER

Contact: Erik Sund, Interim City Manager
(949) 361-8322 or SundE@San-Clemente.org

FOR IMMEDIATE RELEASE
4/5/2021

Update on the Pedestrian Audible Warning System (PAWS) and Federal Renewal Process

4/5/2021...San Clemente, California... The City has been coordinating with the Federal Railroad Administration (FRA) to renew the 2015 waiver for the Pedestrian Audible Warning System (PAWS), which replaces the need for routine sounding of train horns through San Clemente. On Friday, April 2nd, the City received official notice that the FRA Safety Board has **approved** our waiver request so that the City may reactivate the PAWS. The approval letter issued by Karl Alexy, the Chief Safety Officer for the FRA, is attached. **Routine train horn sounding will stop at Noon on April 26, 2021.** The new waiver is valid for three years. The City has implemented new procedures in coordination with Metrolink to ensure timely application for future renewal requests. Updates include a new computerized maintenance and asset management system and comprehensive record keeping of all PAWS inspections and maintenance activities. As required by Federal regulations, the City has mailed a 21-day advance notice of PAWS activation to parties required by the regulations.

The San Clemente City Council appointed two Council members, Mayor Pro Tem, Gene James and Councilmember Chris Duncan, to the Train Horn Ad Hoc Committee on

December 15, 2020, to facilitate collaboration with City staff to regain waiver approval from the FRA. Our district's Congressman, Mike Levin, teamed up with the Councilmembers to support the City's waiver request in Washington. "I am glad to join the City of San Clemente in announcing the City has received the federal waiver needed to operate the Pedestrian Audible Warning System and end the frequent sounding of train horns in the community," said Rep. Levin. "I was happy to assist in securing the federal waiver, and I appreciate the work of Councilmember Chris Duncan, Mayor Pro Tem Gene James, and others in prioritizing public safety and addressing residents' concerns."

Mayor Pro Tem Gene James added, "I know this was an issue that adversely impacted a number of residents, while the process of regaining the PAWS waiver was daunting, I am proud to say that by putting safety first, the City of San Clemente has received approval from the FRA while addressing residents' concerns. I want the City to stay focused on our pedestrian train crossing from a safety perspective and look for additional ways to improve in the future."

Councilmember Chris Duncan commented, "I am extremely pleased that San Clemente received the FRA's approval to again operate the PAWS system. City staff did an exceptional job ensuring a safe environment is in place within the City's rail corridor, which the FRA required in order to grant our deserving residents a train horn waiver. I would also like to recognize the support the City received from our Congressman Mike Levin and his office, which were instrumental in navigating the waiver process at the Federal level."

###



U.S. Department
of Transportation

**Federal Railroad
Administration**

ATTACHMENT 1

1200 New Jersey Avenue, SE
Washington, DC 20590

VIA E-MAIL ONLY

April 2, 2021

Mr. Tom Bonigut
Public Works Director/City Engineer
City of San Clemente, California
BonigutT@san-clemente.org

Re: Docket Number FRA-2020-0038

Dear Mr. Bonigut:

This letter is in response to the December 11, 2020, request from the City of San Clemente, California (the City) and the Southern California Regional Rail Authority (Metrolink) to the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained in Title 49 Code of Federal Regulations (CFR) Part 222, Use of Locomotive Horns at Public Highway-Rail Grade Crossings, relating to use of a Pedestrian Audible Warning System (PAWS). FRA assigned the request Docket Number FRA-2020-0038.

Specifically, the City requested a waiver from 49 CFR § 222.59(a)(1) (*When may a wayside horn be used?*), to allow the use of a PAWS (similar to a wayside horn) instead of a locomotive horn at seven pedestrian and private grade crossings. The City also sought relief from certain provisions found in Appendix E to 49 CFR Part 222, Paragraphs 4 and 6, to allow a minimum sound level of 80 dB(A).

The seven crossings that are the subject of the City's waiver request are:

- Dije Court – US DOT Number 922847D – MP 203.95 – pedestrian – 3 PAWS
- El Portal – US DOT Number 922848K – MP 204.04 – pedestrian – 2 PAWS
- Corto Lane – US DOT Number 026977D – MP 204.56 – pedestrian – 3 PAWS
- Pier Service Road – US DOT Number 026997P – MP 204.73 – private – 4 PAWS
- T Street – US DOT Number 922849S – MP 205.16 – pedestrian – 3 PAWS
- Lost Winds – US DOT Number 922850L – MP 205.56 – pedestrian – 2 PAWS
- Calafia – US DOT Number 026637S – MP 206.00 – pedestrian – 2 PAWS

As the City noted in its December 11, 2020, letter, by a letter dated April 14, 2015, in Docket FRA-2014-0081, FRA had previously granted the City this same relief for a period of five years (*See Document Number FRA-2014-0081-0009*), which expired on April 14, 2020. By a letter dated April 27, 2020, the City again requested this relief, but FRA denied the request by letter

dated November 24, 2020, citing the petition's lack of joint filing with Metrolink as required by 49 CFR § 222.15(a), various instances of noncompliance revealed during inspections of the grade crossings, and evidence of well-worn footpaths along and across the right-of-way, indicating that trespassing on and along the tracks was prevalent.

As the 2015 relief was no longer in effect, the operating railroads were required to again sound their horns at the above-identified crossings. FRA requested that if the City planned to submit another waiver petition, it must be filed jointly with Metrolink, that it include a communication plan with the operating railroads, and that it include a maintenance plan that shows how the City will maintain all of the required portions of the system. In response to Petitioners' subsequent December 11, 2020, waiver request, FRA's grade crossing inspectors conducted a formal field investigation and verified that the City and Metrolink had taken action to address the issues previously identified by FRA and found that generally, the City and Metrolink were complying with the conditions specified by FRA in its April 14, 2015, letter. Each unit of the PAWS was independently tested and the dB(A) levels were verified to meet the 80-110 dB(A) requirement.

More than 50 citizens of the City have submitted comments to the docket in support of the PAWS system being reinstated and locomotive horn sounding to cease. All but one commenter¹ complained of excessive train noise from locomotive horns and encouraged FRA to approve the waiver. FRA understands and appreciates the commenters' point that train horn noise can adversely impact the surrounding community. FRA notes, however, that providing audible warnings of approaching trains is often necessary to ensure the safety of the traveling public, and in locations such as that at issue in the City, the safety of pedestrians in the surrounding community.

FRA notes that grade crossing and trespassing issues account for 95% of total railroad-related deaths in the United States each year. FRA's April 2020 investigation of the City's previous waiver request identified evidence of trespassing on Metrolink's tracks in the vicinity of the crossings at issue and along the San Clemente Pedestrian Trail. Accordingly, FRA reminds the City and Metrolink of the need to continue to take actions to prevent trespassing on railroad property. FRA also notes that its System Safety Program (SSP) regulation (49 CFR Part 270) requires passenger rail operations to establish an SSP that systematically evaluates railroad safety hazards and the resulting risks on their systems. Although individual passenger rail operations have the flexibility to tailor an SSP to its specific operations, given the existence of pedestrian traffic in close proximity to Metrolink's right-of-way through the City, FRA expects Metrolink to address the issue of trespassing through its SSP.

FRA's Railroad Safety Board (Board) reviewed the petition, public comments received, the results of FRA's field investigation, and the technical staff findings. The Board determined that granting the City and Metrolink's joint request is in the public interest and consistent with railroad safety. Accordingly, the Board is granting the requested relief to allow use of the PAWS system at the seven pedestrian and private crossings identified in Petitioners' December 11, 2020, letter, subject to the following conditions:

¹ One citizen stated that the train horns were a better option because the PAWS "does not work," but did not expand on that statement. See <https://www.regulations.gov/comment/FRA-2020-0038-0012>.

1. All warning system pedestrian treatments including signage, striping, and emergency exit swing gates must be maintained in compliance with all applicable parts of 49 CFR, California Public Utilities Commission General Orders, and California Manual on Uniform Traffic Control Devices.
2. All fencing must be maintained and effective.
3. Not less than annually, the City and Metrolink must conduct a joint periodic test to verify that the requirements of 49 CFR Part 222, Appendix E, paragraph 2 are being met. (“Horn system must be equipped with an indicator or other system to notify the locomotive engineer as to whether the wayside horn is operating as intended in sufficient time to enable the locomotive engineer to sound the locomotive horn for at least 15 seconds prior to arrival at the crossing in the event the wayside horn is not operating as intended.”)

This waiver expires 3 years from the date of this letter. At the conclusion of this period, FRA reserves the right to extend the waiver if conditions warrant, and if the City and Metrolink have submitted a joint request for an extension at least 6 months prior to the expiration date. Any request for extension must comply with the requirements of 49 CFR § 211.7, *Filing requirements*, § 211.9, *Content of rulemaking and waiver petitions*, and must also be submitted via email to FRAWaivers@dot.gov.

FRA reserves the right to modify or rescind this waiver upon receipt of information pertaining to the safety of railroad operations or in the event of noncompliance with any condition of this waiver. Further, FRA reserves the right to take enforcement action under 49 U.S.C. § 20111 for noncompliance with any condition of this letter or applicable Federal regulations.

In any future correspondence regarding this letter, please refer to Docket Number FRA-2020-0038. If you have any questions, please contact James Payne, Staff Director, Grade Crossing and Trespasser Outreach, at 202-493-6005 or james.payne@dot.gov.

Sincerely,



Karl Alexy
Associate Administrator for Railroad Safety
Chief Safety Officer