

1401 - 21st Street, Suite 407
Sacramento, California 95814
Telephone: (916) 445-1888

STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD

In the Matter of the Protests of)	
)	
D. LONGO, INC., dba LONGO TOYOTA;)	PROTEST NOS. PR-314-81
ROGERS TOYOTA, INC.;)	PR-315-81
MEL AND MAC TOYOTA, INC., dba)	PR-316-81
TOYOTA OF WHITTIER;)	
WEST COVINA TOYOTA INC., dba)	PR-317-81
WEST COVINA TOYOTA; and)	
FAIRWAY TOYOTA, INC.,)	PR-318-81
)	
Protestants,)	
)	
vs.)	
)	
TOYOTA MOTOR DISTRIBUTORS, INC.;)	
TOYOTA MOTOR SALES, U.S.A., INC.,)	
)	
Respondents.)	
)	
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PUENTE HILLS TOYOTA,)	
)	
Interested Individual.)	
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DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the New Motor Vehicle Board as its Decision in the above entitled matter.

This Decision shall become effective forthwith.

IT IS SO ORDERED this 21st day of August, 1981.

Kathleen O. Turner

KATHLEEN O. TURNER
President
New Motor Vehicle Board

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Procedural Background

1. Protestants^{1/} are:

D. Longo, Inc.,
dba Longo Toyota (Longo Toyota)
10501 Valley Boulevard
El Monte, California

Rogers Toyota, Inc. (Rogers Toyota)
1755 South Grand Avenue
Glendora, California

1. Fairway Toyota, Inc. was also a party to these proceedings but withdrew its Protest during the course of the hearing.

Mel and Mac Toyota, Inc.
dba Toyota of Whittier (Toyota of Whittier)
14860 East Whittier Boulevard
Whittier, California

West Covina Toyota, Inc. (West Covina Toyota)
821 South Glendora Avenue
West Covina, California

2. Respondent is Toyota Motor Distributors, Inc., 2800
Jamboree Road, Newport Beach, California (T.M.D.).^{2/}

3. The proposed dealership, Puente Hills Toyota, Inc.
(Puente Hills Toyota)^{3/} was granted "interested individual"
status pursuant to Vehicle Code Section 3066.^{4/}

4. By letter dated March 9, 1981, Toyota gave notice to
the Protestants of Toyota's intention to establish an additional
Toyota franchise at 17755 Castleton, City of Industry, California.

5. Notice was received by the New Motor Vehicle Board
(Board) on March 13, 1981.

6. Protests were filed by each of the Protestants on
March 24, 1981.

7. On March 31, 1981 Puente Hills Toyota filed with the
Board a Notice of Appearance as an Interested Individual.

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2. Toyota Motor Sales, U.S.A., Inc. (T.M.S.) was also named
as a respondent but upon stipulation of counsel for all parties
was dismissed from these proceedings at a pre-hearing conference.
Unless otherwise indicated, both T.M.D. and T.M.S. will be referred
to as Toyota.

3. Puente Hills Toyota, Inc. is the intended corporate name
of the dealership. At the time of the hearing, the stock of the
corporation had not yet been issued.

4. All references are to the California Vehicle Code unless
otherwise indicated.

8. The Protests were ordered consolidated for hearing, and a hearing was held before Anthony M. Skrocki, Administrative Law Judge of the Board, commencing on May 21, 1981 and concluding July 1, 1981.

9. Protestants were represented by Kenneth J. Murphy, Jr. of Herlihy, Herlihy, and Murphy. Toyota was represented by Robert E. Lane of Paul, Hastings, Janofsky and Walker and by Margaret S. Henry, Counsel, Toyota Motor Sales, U.S.A., Inc.. Puente Hills Toyota was represented by Sidney I. Pilot, A. Albert Spar and Michael J. Flanagan of Pilot and Spar.

Issues Presented

10. Protestants contend that there is good cause for not allowing the establishment of Puente Hills Toyota as an additional franchise for the following reasons:

a) The Protestants' investments are permanent and will be adversely affected by establishment of the additional dealership;

b) There will be an adverse effect on the retail motor vehicle business and the consuming public in the relevant market area;

c) Establishment of the additional dealership will be injurious to the public welfare;

d) The current franchisees in the relevant market area are providing adequate competition and convenient consumer care for the owners of Toyota motor vehicles in the market area, including adequate motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

e) Establishment of the additional dealership would not increase competition and therefore would not be in the public interest.

Facts Relating to Permanency of Investment [3063(1)]

Rogers Toyota

11. Clifton Rogers (Rogers) owns 100% of the stock of Rogers Toyota. Rogers has been a Toyota dealer since June, 1966. At that time, Rogers Toyota was located at 521 East Arrow Highway, Glendora. In February, 1969, Rogers moved his dealership to its present location at 1755 South Grand Avenue, Glendora.

12. Rogers owns both parcels of the real property on which the dealership is located and leases it to the corporation.

13. Rogers purchased the first parcel in 1968 at a cost of \$81,000, and the second parcel was purchased in 1973 at a cost of \$215,000.

14. The showroom, administration and parts building was built in late 1968 and early 1969 at a cost of \$550,000. The service department building and customer lounge were added in 1973 at a cost of \$273,000. A used car sales office was built in 1973 at a cost of \$6,800. The buildings were erected at Rogers' own expense. The property has been black-topped twice and lights have been installed. The parts department was "double decked" in March, 1981 at a cost of \$9,950. A computer was installed in the summer of 1980 at a cost of \$85,000. Additional hoists were purchased for the service department in April, 1981. Rogers estimated the replacement value of the dealership's equipment at \$175,000.

15. As a condition of renewal of its six-year Sales and Service Agreement (six-year Agreement), Rogers Toyota purchased a new Toyota corporate identity sign at a cost of \$8,900 in the latter part of 1980.

16. Rogers estimated the value of the land and buildings at \$2,000,000. The dealership pays Rogers \$3,000 per month rental for the land and buildings. There is no written lease between Rogers and the dealership. The rental rate is admittedly low and was determined by Rogers' accountant for "tax purposes". The taxes on the property are paid by the dealership, but in behalf of Rogers, and are deducted from a debt the corporation owes Rogers. In 1979 Rogers was offered \$16,000 per month rental for the property.

Longo Toyota

17. Ninety-seven percent of the shares of Longo Toyota are owned by Dominic Longo (Longo) and his wife. The remaining three percent of the shares are owned by Mark Arvizo (Arvizo), the General Manager, under a buy-out agreement approved by Toyota.

18. Longo became a Toyota dealer in 1966 when he purchased a bankrupt Toyota dealership. Longo Toyota opened in March, 1967 in a leased facility on Garvey Boulevard, El Monte. Approximately three or four years later, Longo moved his dealership to its present location at 10501 Valley Boulevard, El Monte.

19. The Longos purchased the five-acre site of the present dealership in 1972. The cost of acquiring the land and constructing the original showroom, administration and service facilities was \$871,154.

20. The land and improvements were formally appraised in August, 1979 at \$1,600,000. The equipment was formally appraised at a fair market value of \$339,435 as of February, 1980.

21. The property is leased by the Longos to Longo Toyota under a ten-year written lease which commenced September 1, 1979 and which includes options to renew for two additional five-year terms. The present rent is \$18,000 per month through August, 1982. After August, 1982, adjustments in the rent are to be keyed to the Consumer Price Index. By the terms of the lease, the dealership is responsible for taxes, insurance, and maintenance of the property.

22. Additionally, Longo Toyota leases two storage lots from third parties. One lot is leased for a term of one year at a rent of \$1,000 per month; the other lease is on an oral month-to-month basis.

Toyota of Whittier

23. Robert J. Slaughter (Slaughter) is the sole shareholder of Toyota of Whittier. Slaughter originally purchased 49% of the stock in August, 1976 and in March or April, 1978 became sole owner.

24. Toyota of Whittier is operating under a one-year Term Sales and Service Agreement (one-year Term Agreement), effective October 28, 1980 through October 27, 1981. Slaughter actively operates the dealership on a daily basis.

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25. Toyota of Whittier is situated on leased premises. The present lease runs from May, 1979 to June, 1984. There are no options to renew the lease or purchase the property. The present rent is \$6,675 per month.

26. Toyota of Whittier has purchased a computer for its Finance and Insurance Department at a cost of \$10,000 - \$11,000. It has also purchased a computer and program for its payroll, accounting and other internal needs, as well as service and sales follow-up, at a cost of \$66,000. Additionally, Toyota of Whittier has purchased a \$20,000 Toyota-sponsored computer system for its parts department, and a diagnostic machine was purchased 18 months ago at a cost of \$8,000.

27. As one of the conditions of renewal of its one-year Term Agreement, Toyota of Whittier was required to issue a check in the amount of \$8,967.60 in September, 1980 for the purchase of Toyota corporate identity signs. Toyota decided to change its corporate identification signs and required all dealers to purchase new replacement signs which conform to the new style. Toyota required the dealership to commit itself to a sign survey, the purchase price of the new signs, and installation costs, even though Toyota had knowledge of, and was encouraging, an attempt by Toyota of Whittier to relocate. Although the check in payment of the signs was cashed, and the signs manufactured, to date they have not been delivered to Toyota of Whittier.

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West Covina Toyota

28. West Covina Toyota was established in June, 1971.

Seventy-five percent of the stock of West Covina Toyota is owned by Mike Salta and twenty-five percent is owned by Alfred S. Taddeo (Taddeo), the Dealer Principal and working general manager.

Taddeo has spent all of his time at the dealership since 1971, with the exception of a one-year period when he managed another dealership before returning to West Covina Toyota.

29. Plans for facilities built in 1971 were approved by Toyota. There has been no additional land acquired, nor have additional buildings been constructed since that time. The land was purchased by West Covina Toyota in 1973 at a cost of \$164,500. The cost of the buildings was not established.

30. As a result of Toyota's decision to change its corporate identification, West Covina Toyota was also required to agree to change its signs. Toyota intended to offer a one-year Term Agreement upon expiration of West Covina Toyota's six-year Agreement unless West Covina Toyota agreed to participate in the new sign program. As a result, West Covina Toyota issued a check in the amount of \$15,812.13 on December 15, 1980 for the purchase of new signs. On May 21, 1981, West Covina Toyota was notified by Toyota that an additional \$1,200 to \$1,300 would be needed to cover the cost of the new signs. As of the hearing on this matter, the signs had not been delivered. West Covina Toyota's present signs are seven feet higher than the newly-ordered signs. Except for purposes of complying with Toyota's

demands as a condition of renewal of the usual six-year Agreement, new signs were unnecessary.

31. All of the Protestants have advertised in the past and continue to do substantial advertising in the La Puente and surrounding areas, as well as in other areas via newspapers, radio, television and mailers.

A. Ability of Protestants to Realize a Profit on Their Investments

32. The proposed site for the additional dealership is located in the San Gabriel Metropolitan market area, as are the Protestants. Listed below are the numbers of Toyota dealerships and the dealerships of those makes which Toyota considers to be its major competitors in the San Gabriel Metropolitan market area.

<u>Make</u>	<u>Number of Dealers</u>
Toyota	12
Datsun	10
Volkswagen	13
Honda	8
Ford	20
Chevrolet	20

33. In March, 1980 Toyota initiated the San Gabriel Metropolitan market study (Market Study). The Market Study was completed in February, 1981. This was the first time such a study of this area had been done by Toyota, and it was the

last of five major metropolitan markets in the Los Angeles Region to be so studied.

34. The Market Study concluded that Toyota needed representation in the La Puente area and recommended establishment of a dealership, although no specific site was chosen.

35. The Market Study also established for the first time geographical areas termed "primary market areas" (PMAs) in the San Gabriel Metropolitan market and assigned such areas to the existing dealerships and to the La Puente area.

36. PMAs are drawn based upon the travel time between actual or proposed dealerships. The PMA lines are drawn along census tract boundaries halfway between two dealerships, with consideration given to geographical barriers.

37. The PMAs are used by Toyota for market analysis and not for allocation of vehicles to the dealerships.

38. Cross-selling across PMA boundary lines in a metropolitan market area is common. Cross-selling occurs when a dealer sells a vehicle to a customer who registers the vehicle in a PMA other than that of the selling dealer. The chart on the following page indicates the extent of cross-selling that occurred among the Protestants in regard to their PMAs, and that of the La Puente PMA, for the period of January 1, 1980 through September 30, 1980.^{5/}

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5. This is the most current time period for which such figures are available.

	<u>Longo Toyota</u>	<u>Rogers Toyota</u>	<u>of Whittier</u>	<u>West Covina Toyota</u>
<u>Dealer's Total Retail Sales</u>	5878	754	547	823
<u>La Puente PMA</u>				
Number of Retail Sales Registered in La Puente PMA	316	58	76	230
PMA Percentage of Total Retail Sales	5.4%	7.7%	13.9%	27.9%
Dealer's Percentage of PMA	28.2%	5.2%	6.8%	20.6%
<u>Longo Toyota PMA</u>				
Number of Retail Sales Registered in Longo PMA	497	20	8	24
PMA Percentage of Total Retail Sales	8.5%	2.7%	1.5%	2.9%
Dealer's Percentage of PMA	57.5%	2.3%	0.9%	2.8%
<u>Rogers Toyota PMA</u>				
Number of Retail Sales Registered in Rogers PMA	207	354	2	107
PMA Percentage of Total Retail Sales	3.5%	46.9%	0.4%	13.0%
Dealer's Percentage of PMA	21.7%	37.0%	0.2%	11.2%
<u>West Covina Toyota PMA</u>				
Number of Retail Sales Registered in West Covina PMA	253	93	1	213
PMA Percentage of Total Retail Sales	4.3%	12.3%	0.2%	25.9%
Dealer's Percentage of PMA	33.4%	12.3%	0.1%	28.1%
<u>Toyota of Whittier PMA</u>				
Number of Retail Sales Registered in Whittier PMA	126	7	239	8
PMA Percentage of Total Retail Sales	2.1%	0.9%	43.7%	1.0%
Dealer's Percentage of PMA	12.9%	0.7%	24.5%	0.8%

39. Toyota was number one in sales in both the San Gabriel Metropolitan market area and the Los Angeles Region in both cars and trucks in 1978, 1979 and through September, 1980.

40. The chart^{6/} on the following page is a comparison of the Protestants' average gross profit per new vehicle retailed with the regional average gross profit per new vehicle retailed.^{7/}

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6. There was a discrepancy between the average gross profit per new Toyota retailed as shown in the following chart, as compared with some of the dealerships' financial statements introduced at the hearing. To the extent these figures differ, those indicated on the chart are lower than the figures listed on the financial statements.

7. There are 79 Toyota dealers in the Los Angeles Region, which includes all of Southern California.

GROSS PROFIT PER NEW TOYOTA RETAILED

COMPARISON OF PROTESTANTS WITH LOS ANGELES REGION AVERAGE

	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u> (April YTD)
LOS ANGELES REGION	\$601	\$674	\$767	\$741
WEST COVINA TOYOTA	734	757	944	835
+/- REGIONAL AVERAGE	+133	+ 83	+260	+ 94
TOTAL DEALERSHIP NET OPERATING PROFIT	\$316,317	\$423,030	\$513,253	\$93,414
TOYOTA OF WHITTIER	684	739	806	813
+/- REGIONAL AVERAGE	+ 83	+ 65	+ 39	+ 72
TOTAL DEALERSHIP NET OPERATING PROFIT	\$208,189	\$221,464	\$188,830	\$74,997
ROGERS TOYOTA	529	539	779	802
+/- REGIONAL AVERAGE	- 72	-135	+ 12	+ 61
TOTAL DEALERSHIP NET OPERATING PROFIT	\$35,455	\$78,458	\$166,247	\$190,126
LONGO TOYOTA	432	551	619	552
+/- REGIONAL AVERAGE	-169	-123	-148	-189
TOTAL DEALERSHIP NET OPERATING PROFIT*	\$970,565	\$1,336,632	\$2,220,591	\$583,812

*(includes motorhome sales)

B. Effect of Establishment of Proposed Dealership
Upon Allocations

41. Importation of Toyota vehicles into the United States is done through T.M.S.. Upon arrival at the ports, distribution of the vehicles to the dealerships is accomplished by T.M.D. (which is a wholly-owned subsidiary of T.M.S.) and three independent distributors (Gulf States Toyota Distributors, Southeast Toyota Distributors, and Mid-Atlantic Toyota Distributors).

42. Within T.M.D., there are nine regions including the Los Angeles Region.

43. The regions receive allocations of new vehicles from T.M.S. based upon the sales history of the region. The dealers within a T.M.D. region receive their allocation of vehicles based upon their individual sales history over the last 90 to 120 days prior to the allocation being done.

44. The allocation process results in each dealer being allocated a sufficient number of each series of vehicles to equal the regional average days supply. For instance, if a dealer has sold one Corolla per day on the average over the last 90 days prior to the allocation occurring, and the dealer has 15 Corollas available, the dealer will have a 15-days supply. If the region has a 30-days supply the dealer would be allocated an additional 15 Corollas from the available pool.

45. At the national level, T.M.S. withholds 1% of the non-fleet vehicles to form a national pool of vehicles to be

used for purposes such as establishing additional dealerships. The 1% figure was used in 1981 and will also be used in 1982.

46. The vehicles in this national pool will be distributed to whichever regions qualify for them due to major market representation actions, such as the establishment of additional dealerships.

47. As a result of the Market Study, Toyota assigned a planning potential of 1,460 vehicles to the La Puente point. For the first three months, the allocation to the proposed dealership in accordance with Toyota's policies is to be the equivalent of a 90-days supply, based upon the assigned planning potential. This method of initially allocating vehicles to a new dealership is necessary, because a new dealership has no established sales travel rate upon which an allocation can be based. The La Puente point will receive approximately 122 vehicles per month for the first three months of operation. Thereafter, a new dealer earns future allocations based upon his established travel rate and vehicle availability during the 90-day period.

48. If the vehicles in the national pool were not allocated to the La Puente dealership, such vehicles would be retained in the national pool and distributed to the next region experiencing major market representation activity. In the event no region qualifies for the vehicles remaining in the national pool, the vehicles would then be spread across all of the dealers in the United States by region. If this were to occur with the approximately 122 vehicles intended to be allocated per month for the

first three months to Puente Hills Toyota, the Los Angeles Region as a whole would receive 17 vehicles per month for three months. This number is based upon the Los Angeles Region's sales history which in the past has entitled it to approximately 14% of the vehicles available nationally. Each of the 79 dealers in the Los Angeles Region would then be entitled to receive, on the average, the equivalent of .2 vehicles for each of the initial three months of allocations to the proposed dealership.

49. The effect of allocating units from the national pool to a region for the purpose of establishing an additional dealership will be an increase in the travel rate of the region due to the resulting sales. This has the potential of increasing the allocation to the region and creating a larger number of vehicles from which the dealers in the region can draw from, based upon their individual sales performance.

50. A new dealership would receive the initial three-month allocation from the national pool regardless of the dealership's sales performance. After the 90-day period a new dealership's allocation comes from the regional allocation and is based upon the dealership's sales performance.

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C. Effect of Japanese Export Limitations Upon Availability
of Vehicles to Allocate

51. During the 1980 calendar year, Toyota imported approximately 565,000 cars and 130,000 trucks into the United States for a total of 695,000 vehicles.

52. Japanese vehicle manufacturers, working with the Japanese Ministry of International Trade and Industry and the United States, have agreed voluntarily to place limitations upon the number of cars exported to the United States for a three year period beginning April 1, 1981. There are no such limitations upon trucks.

53. For the period of April 1, 1981 through March 31, 1982, the number of Toyota cars to be exported to the United States is limited to 518,000. This information did not become available until June 23, 1981 during the course of the hearing on these protests.

54. Toyota reduced the number of cars imported during the first five months of 1981, as compared to the first five months of 1980. This action was taken in anticipation of the export limitations so there would not be a sharp reduction in the flow of vehicles to dealers in the United States.

55. During the first year of export limitations (April 1, 1981 through March 31, 1982), there will be approximately 47,000 fewer cars exported from Japan than were imported into the United States during the calendar year 1980.

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56. Toyota is taking the following steps to compensate for the reduction in available cars:

a) During the past two years, 47,000 cars per year had been allocated to fleet sales.^{8/} The fleet allocation is now being reduced from 47,000 cars to 20,000 cars.

b) In past years, Toyota employees were allowed to purchase two vehicles per year at favorable prices. These 1300 - 1400 employees are now permitted to purchase only one car per year at the discount price.

c) Toyota employees working in the field were replacing their company furnished cars at 6,000 mile intervals. This is now occurring at 12,000 mile intervals. The number of employees being provided such vehicles has also been reduced.

57. Although the number of cars to be exported during the first year of export limitations will be reduced by 47,000, the above steps will result in only 19,000 fewer cars being available to the dealers for retail sale.

8. Allocations to dealers are based upon retail sales. Fleet sales are treated differently and do not have any impact upon the formula by which the retail allocations are made to dealers.

58. The net reduction of availability of 19,000 cars will result, on the average, in 17 or 18 fewer cars for retail sale per dealer for the first year of export limitations. This will average approximately two cars per month less per dealer as compared to the number available during the 1980 calendar year.

59. Toyota plans to raise its truck imports to 150,000 during the first year of export limitations as compared to 130,000 units imported during the 1980 calendar year.

60. The export limitation agreement allows for an increase during the second year of restrictions based upon any increase in the vehicle market in the United States. At present the U.S. vehicle market (domestic and foreign) is estimated to be 9 million units per year. Companies used by Toyota to forecast future demand (Data Resources, Inc. and Chase Econometrics) predict the U.S. vehicle market will increase to 10.5 million in 1982. By the terms of the export limitation agreement, Japanese manufacturers will be permitted to increase their exports by 16.5% of the total U.S. vehicle market increase.

61. Toyota's share of this projected increase will permit it to export an additional 70,000 to 75,000 cars during the second year of the export limitation agreement. These figures are based upon Toyota having achieved 31.5% of the Japanese import market in the United States for 1979 and 1980.

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Facts Relating to the Effect on the Retail Motor
Vehicle Business and the Consuming Public in the
Relevant Market Area [3063(2)]

62. As indicated by the chart on the following page, the La Puente PMA had a 1980 estimated population of 154,557 and has a 1985 projected population of 171,011. This figure represents the third highest projected increase in population in absolute numbers of the thirteen PMAs in the San Gabriel Metropolitan market area, and the second highest increase on a percentage basis.

SAN GABRIEL AREA

POPULATION AND CHANGE, SELECTED P.M.A.'S

1980 - 1985

<u>P.M.A.</u>	<u>DEALER</u>	<u>1980</u>	<u>1985</u>	<u>CHANGE</u>	
				<u>#</u>	<u>%</u>
El Monte	Longo Toyota	214,695	209,047	- 5,648	- 2.63%
Glendora	Rogers Toyota	166,090	169,917	+ 3,827	+ 2.30%
West Covina	West Covina Toyota	148,817	149,890	+ 1,073	+ 0.72%
Whittier	Toyota of Whittier	141,514	143,483	+ 1,969	+ 1.39%
La Puente	Open Point	154,557	171,011	+16,454	+10.65%
Pomona	Toyota of Pomona	224,727	263,192	+38,465	+17.12%
San Gabriel Metro		2,543,655	2,521,962	+78,307	+ 3.08%

63. The La Puente PMA has the second highest average household income in the San Gabriel Metropolitan market area, exceeded only by the PMA of Toyota of Whittier.

64. The chart on the following page indicates the number of retail car and truck sales for each of the dealers in the San Gabriel Metropolitan area as compared to the San Gabriel Metropolitan market area dealer body as a whole.

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TAIL SALES GROWTH COMPARISON - SGM

1978 - 1980

CAR AND TRUCK (NO FLEET)

DEALER	1978 SALES	1978 % OF METRO SALES	1979 SALES	1979 % OF METRO SALES	+/- OVER 1978	% +/- OVER 1978	1980 SALES	1980 % OF METRO SALES	1980 +/- OVER 1979	% +/- OVER 1978
Alhambra	807	5.42	755	3.68	-52	(6.4)	610	2.72	-145	(19.2)
Crown Toyota	1197	8.04	1657	8.09	460	38.4	1553	6.91	-104	(6.3)
Downey Toyota	905	6.08	2079	10.15	1174	129.7	2909	12.95	830	39.9
Gem City	435	2.92	675	3.29	240	55.2	678	3.02	3	0.4
Longo Toyota*	5283	35.40	6131	29.92	848	16.1	7310	32.54	1179	19.2
Norwalk Toyota	1618	10.86	2066	10.08	448	27.7	2293	10.21	227	11.0
Prestige Toyota	381	2.56	714	3.48	333	87.4	561	2.50	-153	(21.4)
Rogers Toyota*	906	6.08	1201	5.86	295	32.6	901	4.01	-300	(25.0)
Toyota of Pasadena	1011	6.92	1115	5.44	84	8.1	1022	4.55	- 93	(8.3)
Toyota of Pomona	693	4.65	2261	11.03	1568	226.3	2865	12.75	604	26.7
Toyota of Whittier*	746	5.01	753	8.68	7	0.9	719	3.20	- 34	(4.5)
West Covina*	890	5.98	1087	5.30	197	22.1	1042	4.64	- 45	(41.)

Total of all Toyota Dealers in the San Gabriel Metropolitan Market:

14892	100.00	20494	100.00	5602	37.6	22463	100.00	1969	9.6
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* Protestants

Facts Pertaining to Whether the Establishment of
the Additional Dealership will be Injurious to
the Public Welfare [3063(3)]

65. The proposed dealer principal of Puente Hills Toyota is Frederick E. Hitchcock, Jr. (Hitchcock). Hitchcock presently owns a 75% interest in Marina Toyota in Long Beach, California, and a 66.66% interest in Carson City Toyota, Carson City, Nevada.

66. Should Puente Hills Toyota become a Toyota franchisee, Hitchcock has agreed to dispose of his interest in Marina Toyota in accordance with Toyota's policy prohibiting ownership of interests in dealerships in contiguous market areas. Hitchcock's interest in Carson City Toyota is subject to a current five-year, buy-sell agreement with the general manager/operator of Carson City Toyota.

67. Hitchcock had been the owner of a dealership called Hitchcock Ford/Subaru located at the site proposed for the new Toyota dealership. Hitchcock commenced construction of this Ford/Subaru facility in May, 1979. Due to business losses, however, and a decision that Hitchcock Ford could not be a viable Ford dealership for at least two more years, Hitchcock voluntarily terminated his Ford franchise on March 6, 1981. In connection with his termination of the Ford franchise, Hitchcock also terminated his Subaru franchise.

68. The land upon which the Ford/Subaru facility was constructed is owned by the Win Corporation and is under a 25-year lease to Hitchcock and his wife. The lease provides for four ten-year options. The property was sub-leased by Hitchcock and his wife to the Ford/Subaru dealership.

69. The building and improvements were constructed at a cost of \$2,061,000, most of which was financed by Ford Motor Credit Company. The amount owing Ford Motor Credit Company is \$1,790,000.

70. The equipment at the Ford/Subaru facility was installed in March and April, 1980, at a cost of \$621,000, of which \$321,000 remains unpaid. Approximately 85% of the equipment is contemplated to be used for the proposed Toyota franchise. Hitchcock also leased a computer through the Bank of America at a cost of \$38,000 and purchased a telephone system at a cost of \$89,000.

71. Under the terms of the lease, if the property is surrendered or vacated the property including improvements will revert to the lessors. The present rental rate paid by a Datsun dealer adjacent to the Ford/Subaru facility is approximately \$9.50 per square foot, as compared to Hitchcock's lease payment of approximately \$3.60 per square foot.

72. Hitchcock and his wife are personally liable on all of the above expenses incurred by the Ford/Subaru dealership.

73. It is contemplated that the proposed Toyota dealership will occupy six acres of the nine-acre Ford/Subaru facility.

74. Hitchcock will own 100% of the stock of Puente Hills Toyota, Inc. when it is issued.

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Facts Pertaining to Whether the Current Franchisees in the Relevant Market Area are Providing Adequate Competition and Convenient Consumer Care for the Owners of Toyota Motor Vehicles in the Market Area, Including Adequate Motor Vehicle Sales and Service Facilities, Equipment, Supply of Vehicle Parts, and Qualified Service Personnel [3063(4)]

75. A new planning potential^{9/} for each PMA was determined as a result of the Market Study.

76. Toyota formulates standards for each dealer based upon a planning potential established for each dealer's PMA. These standards are used to determine the adequacy of a dealer's facilities and the number of technicians required.

77. Based upon Toyota's standards, there is an overall deficiency in the number of service stalls, technicians, and service penetration in the PMAs served by the Protestants. The Protestants' service penetration is below the San Gabriel Metropolitan market area and Los Angeles Region averages. This condition exists despite the fact that none of the dealers is operating his service department at full capacity.

78. The chart on the following page indicates Toyota's standards for building and land and the extent of compliance therewith by the Protestants.

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9. A planning potential is the result of a formula which considers dealer sales, import registrations, and small car registrations in distributing the total planning potential among each of the dealers in the market.

TOYOTA BUILDING AND LAND STANDARDS

Dealership/Location		Showroom & Administration	Service	Parts	Building	Exterior Land	Land & Building
Rogers Toyota Glendora Planning Potential - 1,232	Act.	5,020/7	11,011/30	3,666	19,697	136,042	155,739
	Req.	5,244/8	6,533/19	4,271	16,048	113,152	129,200
	Var.	96%	169%	86%	123%	120%	121%
Longo Toyota El Monte Planning Potential - 2,580	Act.	7,194/8	15,680/36	4,181	27,055	214,885	241,940
	Req.	6,603/10	10,388/38	9,089	26,000	181,000	207,000
	Var.	109%	151%	48%	104%	119%	117%
Toyota of Whittier Whittier Planning Potential - 1,028	Act.	2,567/3	7,776/15	3,710	14,503	42,267	56,770
	Req.	4,860/8	5,504/16	3,564	14,008	98,512	112,520
	Var.	53%	139%	104%	104%	43%	50%
West Covina Toyota West Covina Planning Potential - 1,049	Act.	2,720/4	2,720/18	1,640	9,560	88,708	98,268
	Req.	4,889/8	5,714/17	3,637	14,240	100,170	114,410
	Var.	56%	48%	45%	67%	89%	86%

79. As a result of the Market Study, the La Puente PMA was established and a planning potential assigned to it. If the La Puente PMA had not been established, the standards which the Protestants would be required to meet would be higher, since most of the La Puente planning potential would have been distributed among the Protestants.

80. Toyota's sales penetration in the La Puente PMA and the San Gabriel Metropolitan market area is above the Los Angeles regional average. Of all foreign and domestic manufacturers, Toyota is number one in sales in the La Puente PMA, San Gabriel Metropolitan area, and Los Angeles Region.

81. Of all the Protestants, Longo Toyota is located the farthest distance away from the proposed dealership (14.5 driving miles). In spite of this, Longo Toyota sells more Toyotas into the La Puente PMA than any other dealership.

82. The driving times and distances between the proposed location and the protesting dealerships are as follows:

<u>FROM</u>	<u>TIME</u>	<u>DISTANCE</u>
Rogers Toyota	25 min., 30 secs.	11.1 miles
Longo Toyota	20 min., 30 secs.	14.5 miles
West Covina Toyota	17 min., 30 secs.	7.6 miles
Toyota of Whittier	13 min.	6.8 miles

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Rogers Toyota

83. The service department at Rogers Toyota is open from 8:00 a.m. to 5:30 p.m., Tuesday through Friday, and from 8:00 a.m. to 9:00 p.m. on Monday. At one time Rogers Toyota had other evening hours but determined there was insufficient service volume to justify the expense.

84. The net working capital of Rogers Toyota has always exceeded Toyota's minimum requirements.

85. In 1980 Rogers Toyota received an award from Toyota for parts sales in excess of \$750,000.

86. Rogers Toyota received awards from Toyota in 1977, 1979, and 1980 for selling over 1,000 Toyotas in each of those years. The dealership also received awards for its service department each year from 1976 through 1980. As of the date of the hearing, Rogers Toyota had not been informed by Toyota that the dealership was deficient in any respect in regard to sales, service, facilities, or technicians.

Longo Toyota

87. Longo Toyota has been the national sales leader every year since it was founded.

88. Longo Toyota had the highest net operating profit of any Toyota dealer in the United States in 1980.

89. Longo Toyota sold in excess of \$1,000,000 in parts during 1980.

90. Longo Toyota's sales department is open every day of the year, except Christmas, from 8:30 a.m. to 10:00 p.m..

91. For the past eight years, Longo Toyota's service department has been open from 7:00 a.m. to 10:00 p.m., Monday through Friday, operating two shifts.

92. The service department's late shift loses money but is retained for the convenience of customers, and to encourage traffic for the purpose of increasing vehicle sales.

93. As of the date of the hearing, Longo Toyota had not been informed by Toyota that there were any deficiencies with respect to its dealership, with the exception that Longo chooses not to maintain at all times a minimum net working capital as required by Toyota.

94. In 1979, Longo Toyota sold over 6,300 new Toyotas and in 1980, Longo Toyota sold 8,163 new Toyotas. Through April, 1981 Longo Toyota sold 3,106 new Toyotas.

95. In 1979, Longo Toyota achieved parts and accessories sales of \$2,257,884. In 1980, parts and accessories sales totaled \$2,600,713, and through April, 1981 the amount was \$972,711.

Toyota of Whittier

96. The facility of Toyota of Whittier is old and difficult to operate efficiently. Toyota of Whittier is attempting to relocate, but other sites are difficult to find in the Whittier area.

97. Toyota notified Toyota of Whittier that one of the conditions of renewal of its sales and service agreement was the obtaining of additional land for storage to meet Toyota's

requirements. Based upon Toyota's 1983 planning potential (projected to be sufficient to service the area through 1983), Toyota of Whittier needs an additional 57,562 square feet of land for storage.

98. Toyota of Whittier recognizes its present facility is inadequate and has made an offer to purchase other property, including buildings, at a price of \$1,464,700 (\$12.50 sq. ft.).

99. The sales department at Toyota of Whittier is open Monday through Friday, 8:30 a.m. to 9:00 p.m.; Saturday from 9:00 a.m. to 6:00 p.m., and Sunday from 10:00 a.m. to 5:00 p.m.. The service department is open Monday from 8:00 a.m. to 9:00 p.m., and Tuesday through Friday from 8:00 a.m. to 5:30 p.m..

West Covina Toyota

100. West Covina Toyota was notified by Toyota in the fall of 1980 that West Covina Toyota's current six-year Agreement would not be renewed with a like agreement unless the following three deficiencies were corrected:

A. Increasing its flooring limit (even though most of its inventory was paid for by the dealership). West Covina Toyota has complied with this demand;

B. Obligating itself to replace its existing excellent signing at its own expense, solely to enable Toyota to achieve its desired new corporate identity. This was reluctantly agreed to by West Covina Toyota, and the signs were paid for but have not yet been delivered (see paragraph 30 supra), and

C. Increasing its square footage of land and buildings. West Covina Toyota has no present intention of expanding its facilities.

101. Prior to this hearing, West Covina Toyota had not been notified by Toyota of any deficiency with regard to service stalls or technicians.

102. West Covina Toyota received Toyota's Quality Dealer Award in 1976. In addition to four or five awards for excellent service, West Covina Toyota also received awards for selling more than 1,000 new Toyota vehicles in 1979 and 1980.

Facts Pertaining to Whether the Establishment
of an Additional Franchise Would Increase
Competition and Therefore be in the Public
Interest [3063(5)]

103. The location of the proposed dealership is near one of five major regional shopping centers. Each of the Protestants is also located in close proximity to a major regional shopping center.

104. The shopping centers in La Puente, West Covina, and Whittier each have a Broadway and J.C. Penney store.

105. An auto row is contemplated in the near future in the area of the proposed new dealership. Baldwin Datsun is relocating to new facilities adjacent to the proposed dealership which are presently under construction.

106. A range of hills lies to the south of the proposed location, and is between it and Toyota of Whittier.

107. West Covina Toyota is located near the San Bernardino Freeway and is in a distinct shopping area to the north of the proposed location. Rogers Toyota is located to the north of West Covina Toyota.

108. Longo Toyota is to the west of the proposed dealership. Of the Protestants, Longo Toyota is the greatest driving distance away from the site of the proposed dealership. It is necessary to travel on three different freeways to go by freeway from Longo Toyota to the proposed location.

109. The nearest Toyota dealership to the east of the proposed location is Toyota of Pomona, which is in a separate market area.

110. There has been substantial population growth and an increase in housing units in the La Puente PMA. Many new housing units are currently under construction.

111. From 1978 through 1980, the Los Angeles Region has experienced substantial increases in Toyota sales and in the number of Toyota units in operation. During this same period, the San Gabriel Metropolitan market area has experienced even greater increases in these categories, as depicted in the graphs on the following pages.

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LOS ANGELES REGION SALES HISTORY
REGIONAL DEALER SALES
INCREASE 1978 - 1980 +26.78%
REGIONAL DEALER COUNT
INCREASE 1978 - 1980 + 1.32%

7,000

100,000

90,000

80,000

70,000

60,000

50,000

40,000

30,000

20,000

NEW MOTOR
VEHICLE BOARD
Exhibit RESP T-2
File No. PR 314-81

79,994

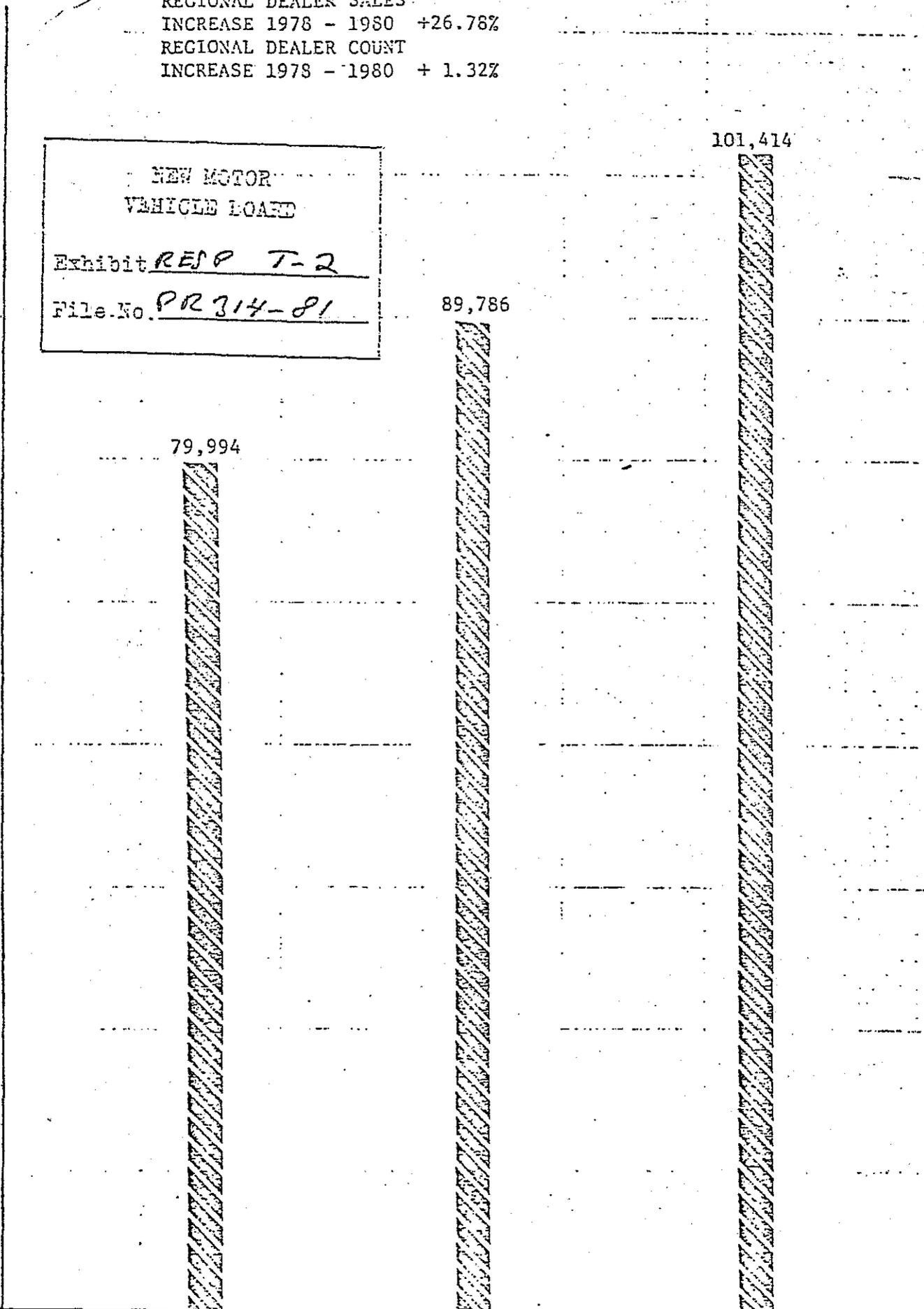
89,786

101,414

1978

1979

1980



SAN GABRIEL METRO SALES HISTORY
 SAN GABRIEL DAILY SALES
 INCREASE 1978 - 1980 50.8%

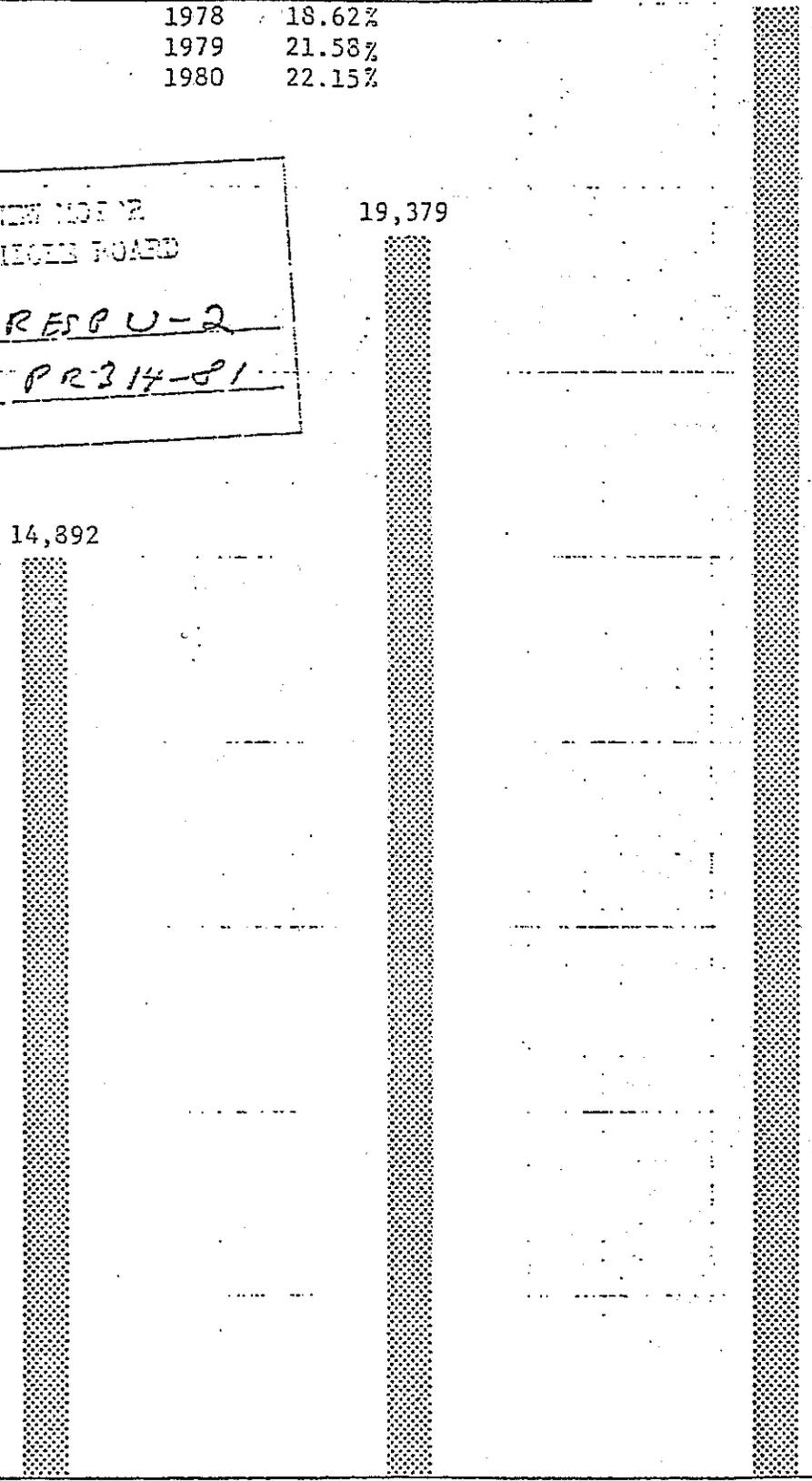
San Gabriel Metro Sales % of Region Sales

1978	18.62%
1979	21.58%
1980	22.15%

22,468

2,500
5,000
7,500
10,000
12,500
15,000
17,500
20,000
22,500

NEW MEXICO
 VEHICLE BOARD
 Exhibit RESBU-2
 File No. PR314-81

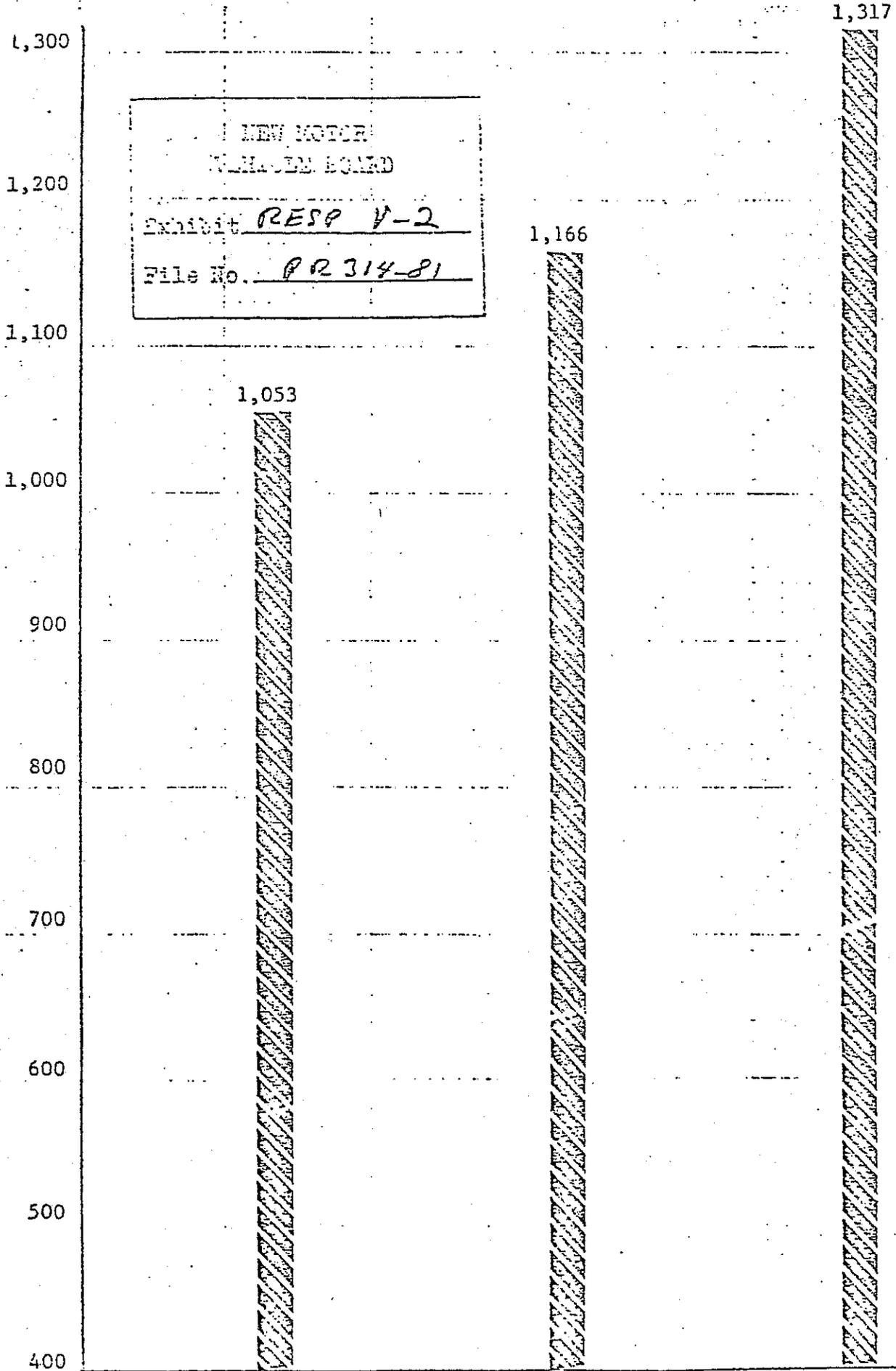


1978

1979

1980

LOS ANGELES REGION AVERAGE DEALER SALES
INCREASE 1978 - 1980 25.07%

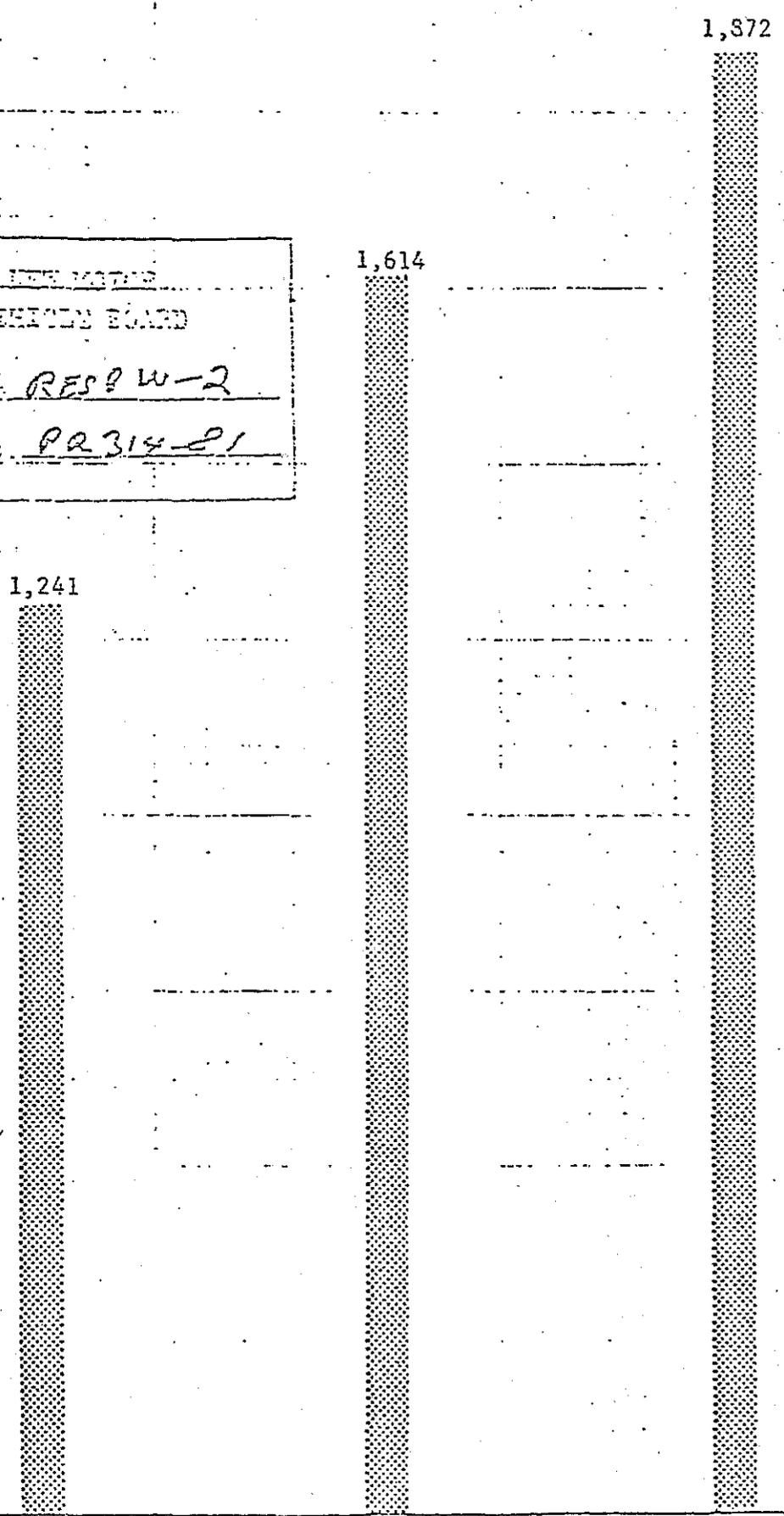


NEW MOTOR
VEHICLE BOARD
Exhibit RESP V-2
File No. PR 314-81

SAN GABRIEL METRO AVERAGE DEALER SALES
INCREASE 1978 - 1980 50.85%

2,000
1,800
1,600
1,400
1,200
1,000
800
600
400
200

NEW METRO
VEHICLE BOARD
Exhibit RES# W-2
File No. PR 314-21



LOS ANGELES REGION AVERAGE DEALER SALES
SAN GABRIEL METRO AVERAGE DEALER SALES
1978 THROUGH 1980

2,000

Region 

Metro 

1,800

1,600

1,400

1,200

1,000

800

600

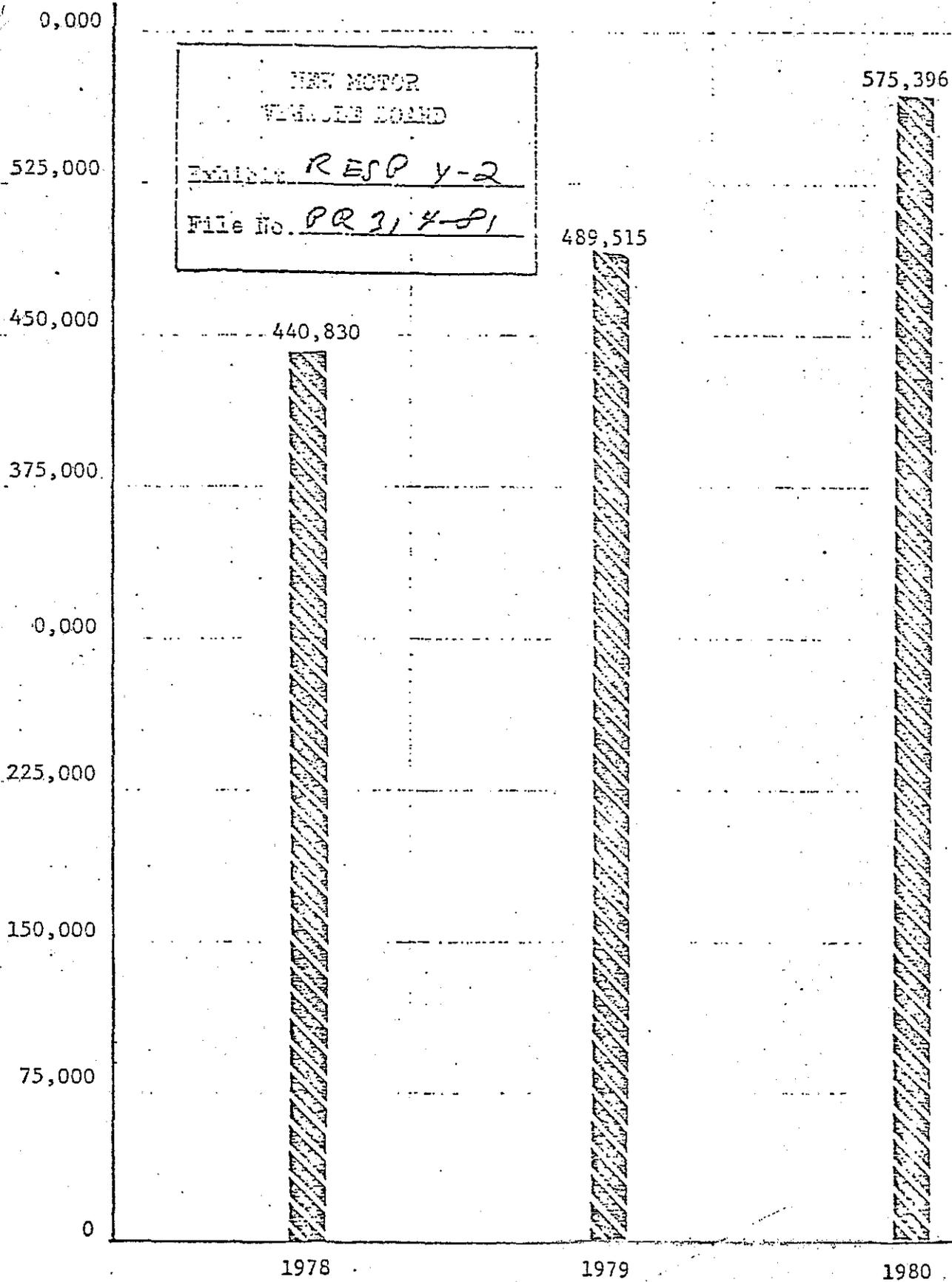
400

200

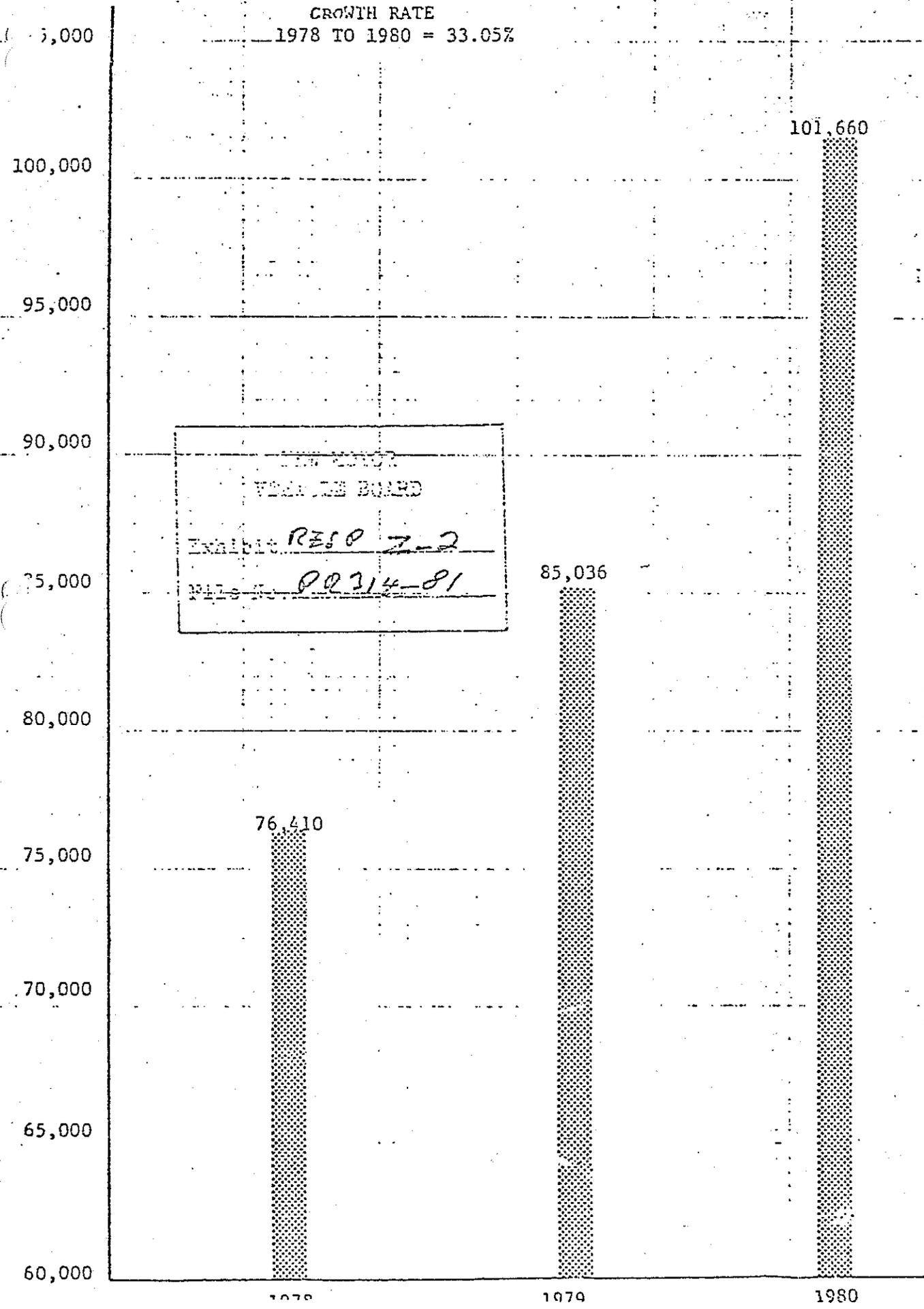
EXHIBIT
METRO
REGIONAL SALES
EXHIBIT RESP X-2
FILE NO. PR 314-81



UNITS IN OPERATION
LOS ANGELES REGION
GROWTH RATE
1978 TO 1980 = 30.50%



UNITS IN OPERATION
SAN GABRIEL METRO
GROWTH RATE
1978 TO 1980 = 33.05%

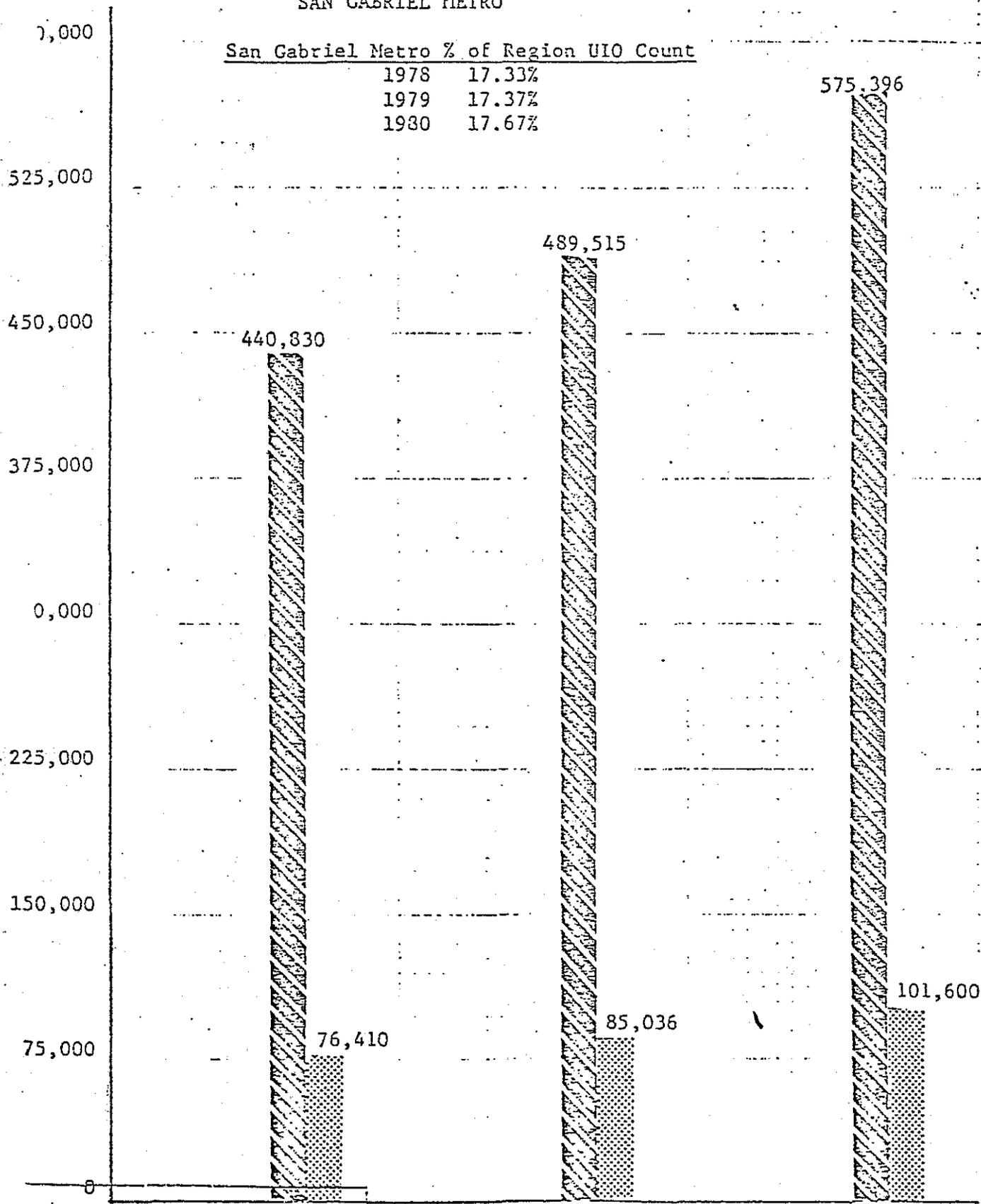


San Gabriel Metro
Water Board
Exhibit RESO 7-2
MIS 00314-81

UNITS IN OPERATION
 LOS ANGELES REGION
 SAN GABRIEL METRO

San Gabriel Metro % of Region UIO Count

1978	17.33%
1979	17.37%
1980	17.67%



NEW MOTOR 1978
 VEHICLE LOAD

Region
 Metro

FROM RESPA-3

112. There have been no new Toyota dealerships established in the San Gabriel Metropolitan market area since 1975, and only Toyota of Pomona relocated to increase the size of its facility since that time.

DETERMINATION OF ISSUES

Protestants have failed to prove that there is good cause for not establishing Puente Hills Toyota as an additional franchise, in that:

- (a) Protestants proved that their investments are permanent, but failed to prove that their investments will be adversely affected by the establishment;
- (b) Protestants failed to prove that the establishment will have an adverse effect on the retail motor vehicle business and the consuming public in the relevant market area;
- (c) Protestants failed to prove that the establishment will be injurious to the public welfare;
- (d) Protestants failed to prove that there is adequate competition and convenient consumer care for the owners of Toyota motor vehicles in

the market area including adequate motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

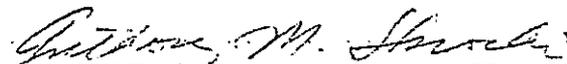
- (e) Protestants failed to prove that the establishment would not increase competition and failed to prove that the establishment would not be in the public interest.

The following proposed decision is respectfully submitted:

The Protests are overruled. Toyota is permitted to establish Puente Hills Toyota as an additional franchise.

I hereby submit the foregoing which constitutes my proposed decision in the above-entitled matter, as a result of a hearing had before me on the above dates and recommend its adoption as the decision of the New Motor Vehicle Board.

Dated:



ANTHONY M. SKROCKI
Administrative Law Judge
New Motor Vehicle Board