

S/RE/

Decision 91 01 044 JAN 25 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California, )  
Department of Transportation, for an )  
order authorizing the Department to: )  
Widen the existing East Newark Under- )  
pass, PUC No. DAB-38.8-B, for the )  
Dumbarton Cut-off main track of the )  
Southern Pacific Transportation Company )  
in the Cities of Newark and Fremont, )  
County of Alameda. )

**ORIGINAL**

Application 90-09-068  
(Filed September 27, 1990)

O P I N I O N

As part of the project to make operational improvements on Interstate Route 880 (I-880) south of Union City, the State of California, Department of Transportation (Caltrans), requests authority to alter the existing East Newark Underpass at separated grades under Southern Pacific Transportation Company's (SPT) tracks in Newark and Fremont, Alameda County.

The existing underpass is located south of the Thornton Avenue interchange, on the border of Newark and Fremont, in an area partially residential and partially industrial. There are two tracks, each on its own independent structure. Both structures are to be replaced with longer units to accommodate additional traffic lanes on I-880. By staging the work and replacing one structure at a time, rail operations can continue uninterrupted during construction with no need for a separate, additional shoofly track.

Caltrans is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources (PR) Code Sections 21000, et seq. Caltrans has determined that the project is categorically exempt from CEQA under PR Code Section 21080.13.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's categorical exemption determination. The application meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad. A sketch of the project vicinity is included as Appendix A.

The site of the proposed project has been inspected by the Commission's Safety Division Traffic Engineering staff. The staff examined the need for and safety of the proposed grade separation, and recommends issuance of an ex parte order authorizing the altering of the existing underpass.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on October 10, 1990. No protests have been received. A public hearing is not necessary.

2. Caltrans requests authority under Public Utilities Code Sections 1201-1205 to alter the existing East Newark Underpass, carrying SPT's tracks over I-880 in Fremont and Newark, Alameda County.

3. Altering of the underpass is an essential element of I-880 operational improvements.

4. Public convenience, necessity, and safety require altering of the existing East Newark Underpass.

5. Caltrans is the lead agency for this project under CEQA, as amended.

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's categorical exemption determination.

7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The application should be granted as set forth in the following order.
2. The activity is not covered by the requirements set forth in CEQA and, therefore, the guidelines (14 Cal. Admin. Code-Div. 6) concerning the evaluation of projects and the preparation and review of environmental documents do not apply.

ORDER

IT IS ORDERED that:

1. The State of California (Caltrans) is authorized to alter the existing East Newark Underpass, carrying Southern Pacific Transportation Company's (SPT) tracks over Interstate Route 880 in Newark and Fremont, Alameda County, at the location and substantially as shown by plans attached to the application, identified as Crossing DAB-38.8-B.
2. Clearances shall be in accordance with General Order (GO) 26-D. Walkways shall conform to GO 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.
3. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement, together with plans of the crossing approved by SPT, shall be filed with the Commission's Safety Division prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.
4. Within 30 days after completion of the work under this order, Caltrans shall advise the Commission's Safety Division in writing that the authorized work has been completed.

not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

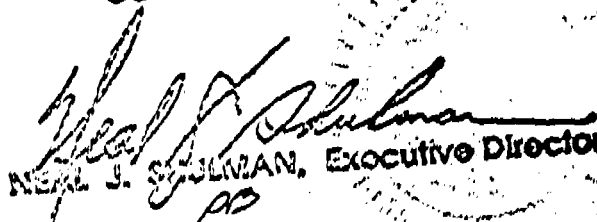
6. The application is granted as set forth above.

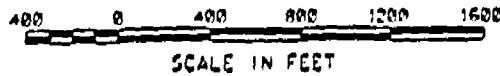
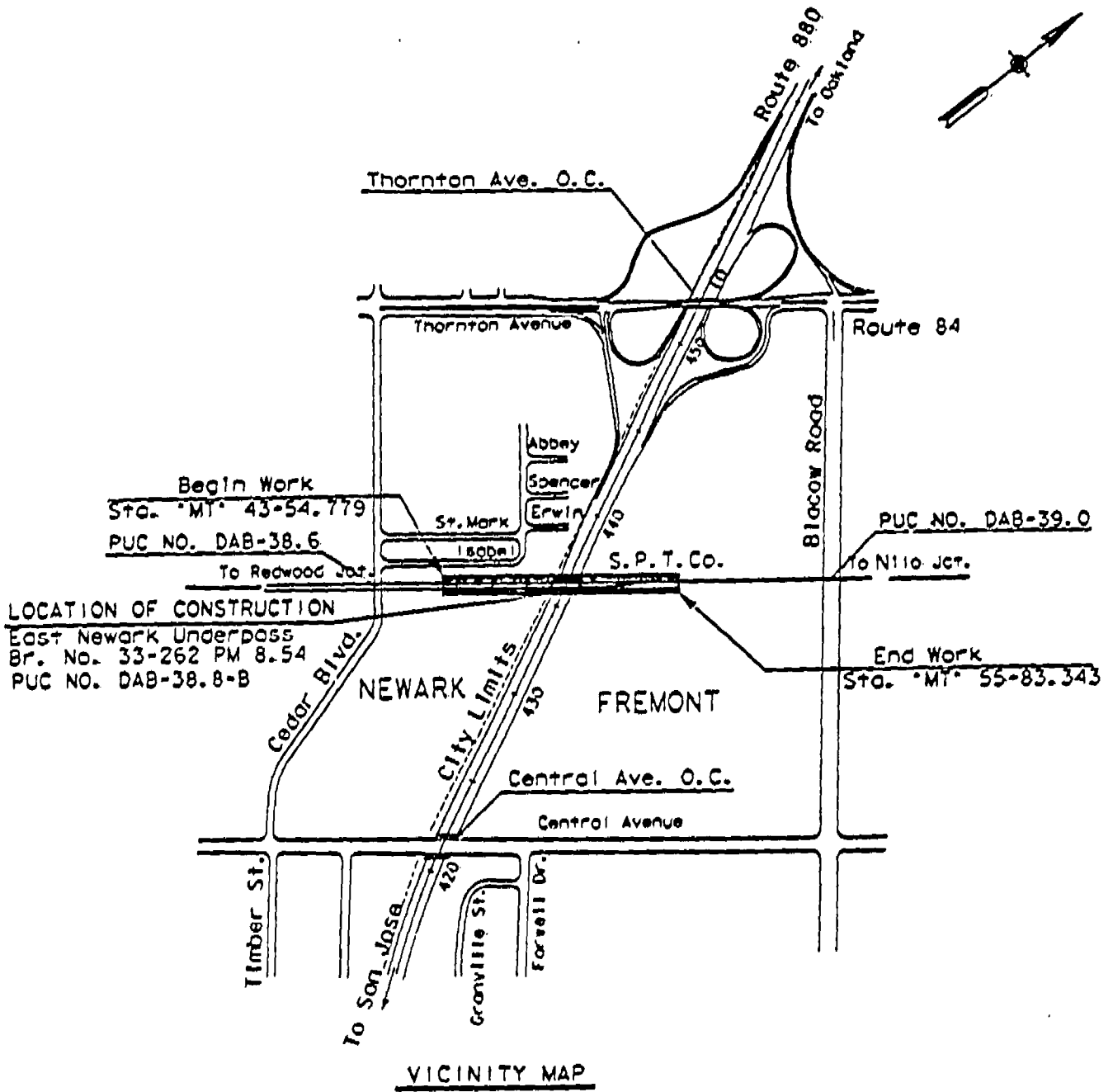
This order becomes effective 30 days from today.

Dated JAN 25 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President  
G. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

  
NEAL J. SULMAN, Executive Director



# APPENDIX A