

Mailed: 1/9/98

ORIGINAL

Decision 98-01-017 January 7, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the CITY OF FRESNO for an)
Order authorizing construction of two)
crossings at separated grades between)
Shaw Avenue and Marks Avenue and the)
tracks of The Atchison, Topeka & Santa)
Fe Railway Company, sometimes referred)
to as the "Shaw-Marks Avenue Underpasses")
(PUC No. 2-1004.2 and 2-1004.5), and for)
closing 10 minor downtown grade crossings)

Application 96-10-002
(Filed October 2, 1996)

O P I N I O N

The City of Fresno (City) requests authority to construct Shaw Avenue and Marks Avenue, both at separated grades, under the tracks of the Burlington Northern and Santa Fe (BNSF), formerly the Atchison, Topeka, and Santa Fe main line, in Fresno County. This project is sometimes referred to as the Shaw-Marks Double Underpass.

In May 1989, City filed application (A.89-05-065) with the Commission requesting authority to construct the Shaw-Marks Double Underpass. Authority was granted by decision (D.89-09-025). For various reasons, City did not execute the project and authority of said decision has since expired. City is resubmitting their application (A.96-10-002) with certain modifications.

Shaw and Marks Avenues are major intra-City arterials. Shaw Avenue runs east-west while Marks Avenue runs north-south. The roadways form a major intersection in the northern section of Fresno. BNSF tracks lie in the southeast-northwest directions and "cut" the northeastern quadrant of the Shaw/Marks intersection; thus, forming a triangle at the project site.

At present, Marks Avenue terminates on either side of the tracks while Shaw Avenue crosses at grade. Through traffic on Marks Avenue must "detour" around the tracks via the Shaw Avenue crossing and the Santa Fe Avenue frontage road which parallels the BNSF tracks. This circuitous route is inconvenient and undesirable in that conflicting vehicle/train movements at the Shaw Avenue grade crossing are combined with conflicting vehicle/vehicle movements at the same location. The double-underpass project will provide for uninterrupted vehicular and rail traffic throughout the project area and eliminate the conflicting movements.

The priority list of grade separation projects for fiscal year 1997-98, as set forth in Decision 97-06-051, dated June 11, 1997, shows this project as Priority No. 1.

During construction, rail traffic will continue to use the existing facilities. Vehicular traffic on Shaw Avenue will be detoured on a temporary alignment just north of the existing crossing. A sketch of the temporary crossing is set forth as Appendix B.

City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Sections 21000, et. seq. City has determined that this project is categorically exempt from CEQA under Section 21080.13 of the Public Resources Code. Said section exempts "any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation."

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

BNSF filed a protest to Application 96-10-002 on October 30, 1996 stating that BNSF and applicant were not yet in agreement over the method of construction and the terms pursuant to which such construction should be undertaken. After negotiations, BNSF withdrew its protest by filing dated March 19, 1997.

The site of the project has been inspected by the Rail Safety and Carriers Division's Traffic Engineering staff. The staff examined the need for and safety of the proposed underpasses and recommends that the sought authority be granted.

Application 96-10-002 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 proposed project area is set forth as Appendix A.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on October 4, 1996. A protest filed by BNSF on October 30, 1996, was withdrawn on March 19, 1997. No further protests have been filed.
2. City requests authority, under Public Utilities Code Sections 1201-1205, to construct Shaw Avenue and Marks Avenue at separated grades under BNSF's main line tracks in Fresno County.
3. Public convenience, necessity, and safety require the construction of the Shaw-Marks Double Underpass.
4. Construction of the double underpass requires that a detour road and temporary grade crossing be constructed for public use during construction.
5. Public safety requires that the temporary grade crossing be fitted with two Standard No. 9A automatic gate-type signals with cantilever (one on each approach), as specified in General Order (GO) 75-C.
6. Upon completion of the Shaw-Marks Double Underpass and its opening to vehicular traffic, the following crossings will be closed and physically removed: Shaw Avenue 002-1004.2, East Merced Street 002-998.40, East Illinois Avenue 002-998.60, East Grant Avenue 002-998.90, White Belmont Alley 002-999.05-D, East White Avenue 002-999.10, East Harvey Avenue 002-999.25, Lewis Harvey Alley 002-999.28-D, East Lewis Avenue 002-999.30, East Tyler

A.96-10-002 RSAC/ARO

Avenue 002-999.35, East Clay Avenue 002-999.40, and the temporary detour road crossing at Shaw Avenue (see Appendices B & C).

7. City is the lead agency for this project under CEQA, as amended, and has determined that this project is categorically exempt from the requirements of CEQA.

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

Conclusions of Law

1. There are no unresolved protests, and a public hearing is not necessary.

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.

3. The application should be granted as set forth in the following order.

ORDER

IT IS ORDERED that:

1. The City of Fresno (City) is authorized to construct Shaw Avenue and Marks Avenue at separated grades under the main line tracks of the Burlington Northern and Santa Fe (BNSF), formerly the Atchison, Topeka, and Santa Fe main line, in Fresno County, at the location and substantially as shown on the plans attached to the application, to be identified as Crossings 002-1004.2-B and 002-1004.5-B, respectively.
2. City is also authorized to construct a temporary grade crossing, for use during construction, as set forth in Appendix B of this decision.
3. Protection at the temporary grade crossing shall consist of two Standard No. 9A automatic gate-type signals with cantilever, as specified in General Order (GO) 75-C.
4. Upon completion of the Shaw-Marks Double Underpass and its opening to vehicular traffic, the following crossings shall be closed and physically removed: Shaw Avenue 002-1004.2, East Merced Street 002-998.40, East Illinois Avenue 002-998.60, East Grant Avenue 002-998.90, White Belmont Alley 002-999.05-D, East White Avenue 002-999.10, East Harvey Avenue 002-999.25, Lewis Harvey Alley 002-999.28-D, East Lewis Avenue 002-999.30, East Tyler Avenue 002-999.35, East Clay Avenue 002-999.40, and the temporary detour road crossing at Shaw Avenue.
5. Clearances shall be in accordance with GO 26-D.
6. Walkways shall conform to GO 118.
7. Construction plans, approved by BNSF, together with a copy of the agreement entered into between the parties, shall be filed by City with the Commission's Rail Safety and Carriers Division prior to commencing construction.
8. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement shall be filed by City with the

A.96-10-002 RSAC/ARO

Commission's Rail Safety and Carriers Division prior to commencing construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

9. Within thirty (30) days after completion of the work under this order, City shall advise the Commission's Rail Safety and Carriers Division, in writing, that the authorized work has been completed.

10. This authorization shall expire if not exercised within three (3) years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

11. The application is granted as set forth above.

12. Application 96-10-002 is closed.

This order becomes effective thirty days from today.

Dated January 7, 1998, at San Francisco, California.

P. GREGORY CONLON

President

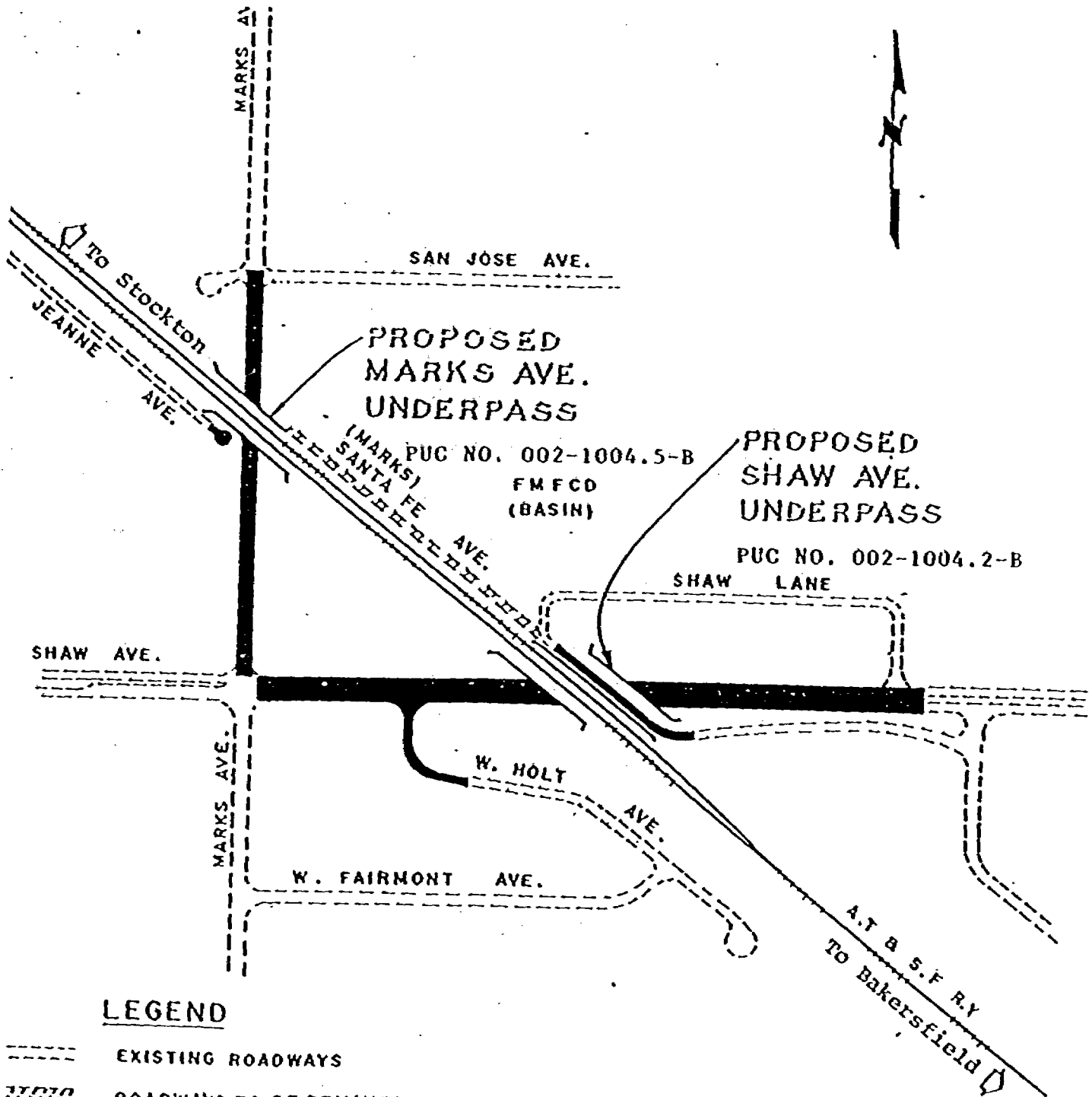
JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

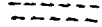



JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners



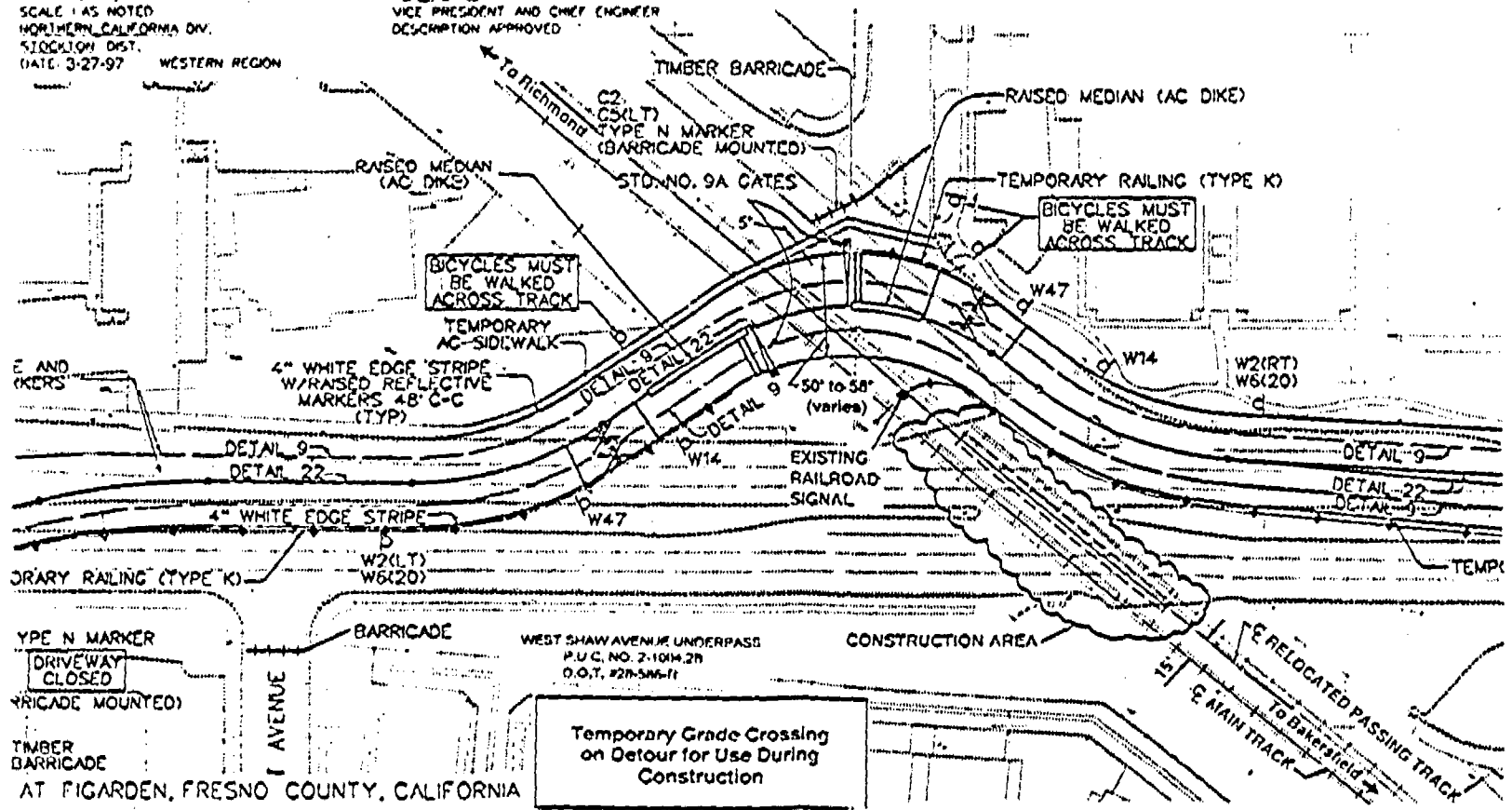
LEGEND

-  EXISTING ROADWAYS
-  ROADWAYS TO BE REMOVED
-  PROPOSED ALIGNMENTS
-  PROPOSED STRUCTURE

CITY OF FRESNO

FORT WORTH, TX
SCALE: AS NOTED
NORTHERN CALIFORNIA DIV.
STOCKTON DIST.
DATE: 3-27-97
WESTERN REGION

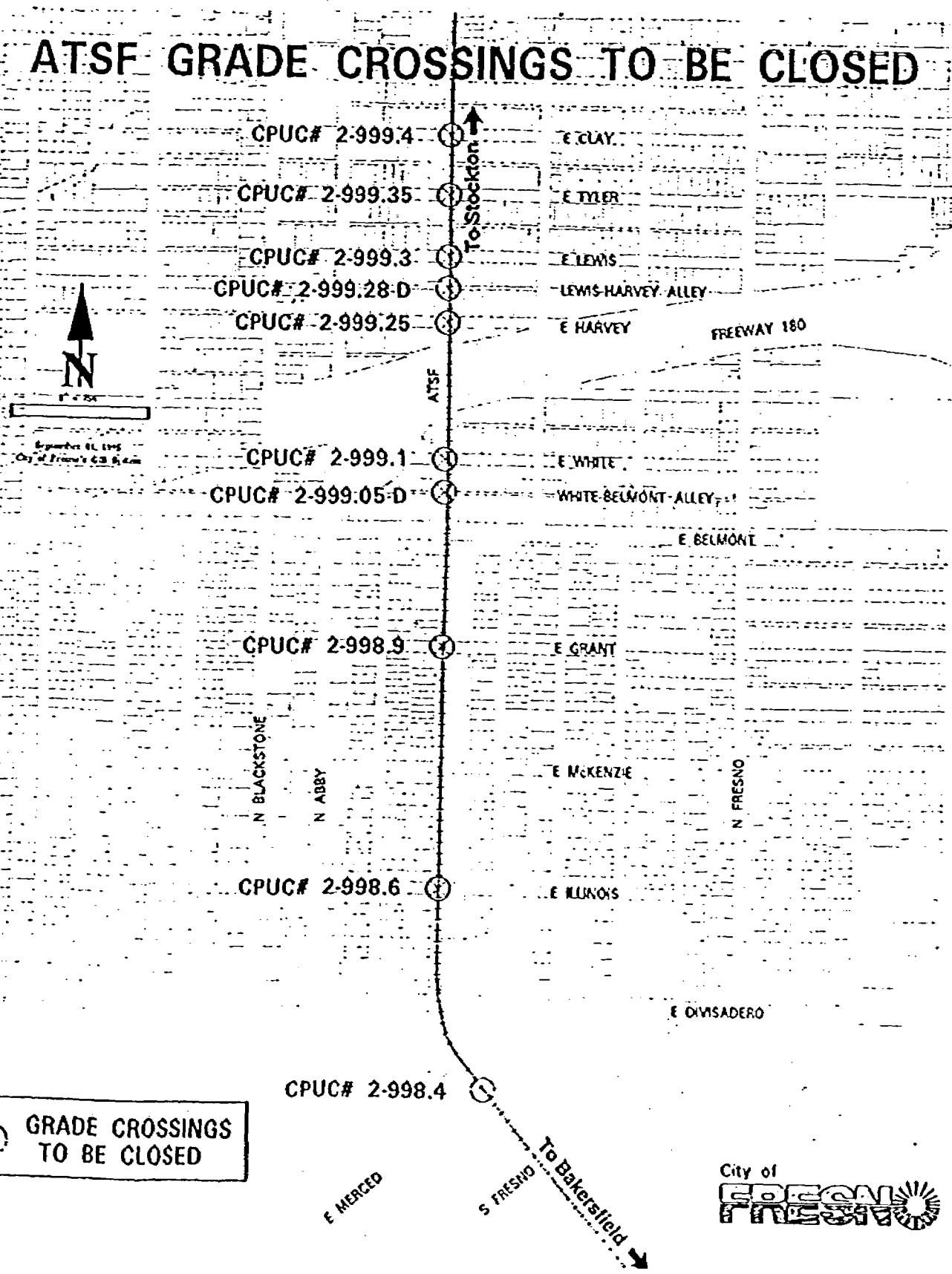
M.W. FRANK
VICE PRESIDENT AND CHIEF ENGINEER
DESCRIPTION APPROVED



Temporary Grade Crossing
on Detour for Use During
Construction

AT FIGARDEN, FRESNO COUNTY, CALIFORNIA

ATSF GRADE CROSSINGS TO BE CLOSED



CPUC# 2-999.4

CPUC# 2-999.35

CPUC# 2-999.3

CPUC# 2-999.28-D

CPUC# 2-999.25


CPUC# 2-999.1

CPUC# 2-999.05-D

CPUC# 2-998.9

CPUC# 2-998.6

CPUC# 2-998.4


**GRADE CROSSINGS
TO BE CLOSED**

