

Decision 00-04-021 April 06, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Oakland, a municipal )  
 corporation, acting by and through its Board of )  
 Port Commissioners for permission to construct )  
 a crossing of Middle Harbor Road at-grade )  
 in the City of Oakland. )  
 \_\_\_\_\_ )

Application 99-06-023  
 (Filed June 16, 1999)

**OPINION**

The City of Oakland (City) requests authority to construct a new track crossing at grade across Middle Harbor Road in the City of Oakland, County of Alameda. The City proposes to construct a new joint intermodal terminal on the existing Navy base for the Port of Oakland (Port). The new terminal will allow for additional ship-to-rail cargo distribution and provide more efficient cargo throughput by consolidating interspersed intermodal local rail yards into one large near-dock terminal. The proposed 7<sup>th</sup> Street realignment, the New Road and the existing Middle Harbor Road provide necessary vehicular and truck traffic access to the new terminal. The proposed at grade crossing on Middle Harbor Road will provide access to Union Pacific Railroad, Burlington Northern Santa Fe, and Oakland Terminal Railway trains exiting and entering the new terminal on four sets of railroad tracks. The new crossing will henceforth be referred to as Middle Harbor Road, PUC Crossing Number 001A-5.2-C. A map of the project vicinity is set forth as Appendix A.

The crossing will be controlled by a new traffic signal to be installed at the new intersection of existing Middle Harbor Road and the New Road. Trains moving through the crossing in either eastbound or westbound directions will have to stop short of the crossing and manually throw a switch key to activate the train traffic signal phase. The traffic signal will be timed to allow for an appropriate clearance interval for southbound traffic on Middle Harbor Road.

PUC standard number 9A automatic gate types with cantilever arms per General Order 75-C will also be provided on either side of the crossing. The gates will be activated when the

switch key is thrown. Trains will proceed through the crossing when vehicular traffic is clear. The signal phase will be deactivated when the train clears the proposed AC/DC island track circuit. Non-conflicting eastbound and westbound through traffic would be given a green indication and proceed unimpeded during the train signal phase.

Southbound vehicles on Middle Harbor Road will be stopped approximately 450 feet north of Middle Harbor Road during every signal cycle to ensure that stopped vehicles do not queue on the crossing. Railroad warning flashers will be centered over each traffic lane on Middle Harbor Road. A traffic signal head assembly centered between the two lanes will supplement the railroad warning flashers on a single cantilever arm for southbound traffic.

Advance warning signs and skewed bicycle/motorcycle crossing signs will be posted on each approach. Pavement marking including railroad crossing warnings and appropriate "KEEP CLEAR" warnings will also be installed.

The Port is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code 21000, et. seq. After preparation and review of an Environmental Impact Report (EIR), the Port approved the project. On April 22, 1999, the Port filed a CEQA Notice of Determination with the County of Alameda and the State Office of Planning and Research, which states that the project will have a significant effect on the environment, though mitigation measures were made a condition of approval of the project and a statement of overriding considerations was adopted.

The Commission is a responsible agency for this project under CEQA and has reviewed and considered the lead agency's EIR and Notice of Determination.

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

Application 99-06-023 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.

In Resolution ALJ 176-3018 dated June 24, 1999, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. The Commission's RSAC recommends that this

application be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3018.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU code Section 311 (g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on June 21, 1999. No protests have been filed.
2. City request authority, under Public Utilities Code Sections 1201 – 1205, to construct a new track crossing at grade across Middle Harbor Road to be identified as PUC Crossing Number 001A-5.2-C.
3. Public convenience and necessity require the construction of a track crossing at grade across Middle Harbor Road.
4. Public safety requires that the grade crossing be fitted with two Standard Number 9-A automatic gate-type signals with cantilever (one on each approach), as specified in General Order (GO) 75-C. The cantilever for southbound traffic on Middle Harbor Road will be additionally equipped with a traffic signal head assembly centered between the two travel lanes.
5. Gates will be activated manually when the switch key is thrown.
6. The Port is the lead agency for this project under CEQA, as amended.
7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIR and Statements of Findings of Fact and Overriding Considerations.
8. The project will have a significant effect on the environment. Mitigation measures were made a condition of approval. A Statement of Overriding Considerations was filed regarding unmitigable impacts.

### **Conclusions of Law**

1. The application is uncontested and a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

**ORDER**

**IT IS ORDERED** that:

1. The City of Oakland (City) is authorized to construct a new track crossing at grade across Middle Harbor Road in the City of Oakland, County of Alameda, at the location and substantially as shown on the plans attached to the application to be identified as PUC Crossing Number 001A-5.2-A.

2. The crossing shall be equipped with two Standard No. 9-A automatic gate-type signals with cantilever, as specified in General Order (GO) 75-C. Cantilevers for southbound traffic on Middle Harbor Road will be modified with a traffic signal head assembly centered between the two travel lanes synchronized with the traffic signal for intersection at Middle Harbor Road and the New Road.

3. On-rail vehicles will first be brought to a stop, signals will be activated, and vehicular traffic must be clear before on-rail vehicles proceed through the crossing. Signals will be operated on a manual switch key activated by a competent employee of the railroad.

4. Clearances shall be in accordance with GO 26-D.

5. 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.

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

7. Final construction plans, approved by the City, Union Pacific Railroad (UPRR), Burlington Northern Santa Fe (BNSF), and the Oakland Terminal Railway (OTR), shall be filed by the City with RSAC prior to commencing construction.

8. This authorization shall expire if not exercised within four (4) 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.

9. The Executive Director shall serve a copy of this order on UPRR, BNSF and OTR so that the railroad companies are informed of the obligation herein imposed upon it.

10. This application is granted as set forth above.

Application 99-06-023 is closed.

This order becomes effective thirty (30) days from today.

Dated April 06, 2000, at San Francisco, California.

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
CARL W. WOOD  
Commissioners

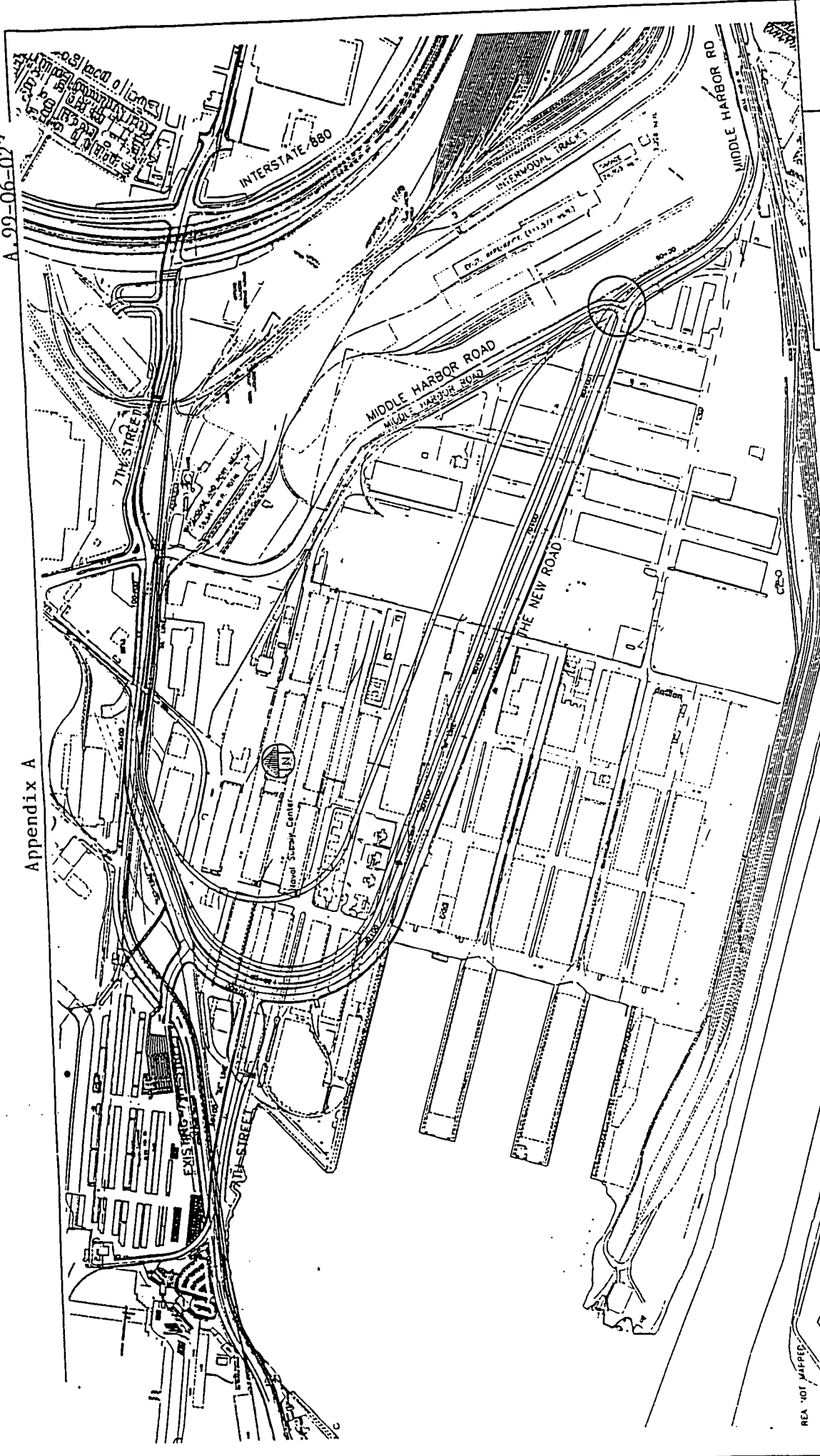
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APPENDIX A

Map of Project Vicinity

A.99-06-02

Appendix A



**Korve Engineering**  
 144 Lakeside Avenue, Suite 400  
 Oakland, CA 94612  
 (415) 764-3438

PORT OF OAKLAND  
 CONSTRUCTION OF THE STREET RECONFIGURATION

DATE: 11-11-88  
 SCALE: 1"=250'

CHIEF ENGINEER

ORIGIN: SCALE

CAUTION: THE PLAN MAY BE REVISED

**PORT OF OAKLAND**

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|------|----|----------|
| DATE | BY | REVISION |
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REVISIONS

DATE: 11-11-88

SCALE: 1"=250'

CHIEF ENGINEER

ORIGIN: SCALE

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PORT OF OAKLAND

REVISIONS

DATE: 11-11-88

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