

Decision No. 15125

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

CITY OF BAKERSFIELD, a Municipal Corporation,

Complainant,

vs.

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a corporation,

Defendant.

ORIGINAL

Case No. 1870.

E. F. Brittan for the City of Bakersfield.
E. T. Lucey and W. W. Kelly for Atchison,
Topeka and Santa Fe Railway Company.
Alfred Seimon for Consolidated Pipe Company.
Walter Osborne for M. J. Woodside and Mrs.
Carrie L. Woodside.
P. M. Tarabino for Colorado Pacific Land Company.
Lloyd Stroud for Stroud Brothers, i.e.:
Lloyd S. Stroud, J. A. Stroud and R. S.
Seabrook

BRUNDIGE, SQUIRES and DECOTO, Commissioners:

O P I N I O N

This is a proceeding brought under Subdivision (c) of Section 43 of the Public Utilities Act upon the amended petition of the City of Bakersfield, a Municipal Corporation, vs. the Atchison, Topeka & Santa Fe Railway Company, a corporation, to fix and ascertain the damage to the abutting property caused by the separation of grades between the highway and the tracks of the Defendant, where the tracks of the Defendant cross Union Avenue in said City.

After due notice had been given to all parties named in the amended petition of complainant, the matter was regularly set for hearing and a public hearing thereon was held in the County Court House in the City of Bakersfield on January 15, 1925.

Witnesses were called by the complainant, City of Bakers-

field, by Stroud Brothers, i. e. Lloyd Stroud, J. A. Stroud and R. S. Seabrook; by M. J. Woodside and Mrs. Carrie L. Woodside; by Colorado Pacific Land Company and by the Commission, duly sworn and testified.

The testimony of the witnesses as to the damage caused to the various parcels of land, described in the amended petition, had a wide and marked variance.

From all the evidence adduced at the hearing we find as a fact:

I.

That Lot 15, Block 10, according to the "Map of the First Subdivision of the Kruse Tract in the City of Bakersfield, Kern County, California", filed in the office of the County Recorder of Kern County, California, August 3, 1911, in Book 2 of Maps, at page 30, being the property of Carrie L. Woodside, will be damaged by said separation of grades in the sum of Three Hundred and Fifty Dollars (\$350.00).

II.

That Lot 16, Block 10, according to the "Map of the First Subdivision of the Kruse Tract in the City of Bakersfield, Kern County, California", filed in the office of the County Recorder of Kern County, California, August 3, 1911, in Book 2 of Maps, at page 30, being the property of Carrie L. Woodside, will be damaged by said separation of grades in the sum of One Hundred and Fifty Dollars (\$150.00).

III.

That the parcel of land, situated in the City of Bakersfield, County of Kern, State of California, and described as follows, to-wit:

Beginning at a point in the easterly line of Union Avenue 56.63 feet southerly from the southerly line of Truxtun Avenue and running thence southerly along the easterly line of Union Avenue a distance of 258.86 feet; thence easterly on a straight line 396.95 feet to the westerly line of Sonora Street; thence northerly along the westerly line of Sonora

Street a distance of 139.09 feet; thence north-westerly on a straight line 453.09 feet to the easterly line of Union Avenue and the point of beginning.

being the property of the Atchison, Topeka & Santa Fe Railway Company, will be damaged by said separation of grades in the sum of One Hundred Dollars (\$100.00).

IV.

That the parcel of land, situated in the City of Bakersfield, County of Kern, State of California, described as follows, to-wit:

Beginning at a point in the easterly line of Union Avenue 314 feet northerly from the northerly line of Butte Street and running thence easterly along a straight line 396.95 feet to the westerly line of Sonora Street; thence southerly along the westerly line of Sonora Street 420.92 feet to the northerly line of Butte Street; thence westerly on the northerly line of Butte Street 291.53 feet to the easterly line of Union Avenue; thence northerly along the easterly line of Union Avenue 314 feet to the point of beginning.

and being the property of Lloyd Stroud, J. A. Stroud and R. S. Seabrook, will be damaged by said separation of grades in the sum of One Hundred Dollars (\$100.00).

V.

That the parcel of land, situated in the City of Bakersfield, County of Kern, State of California, described as follows, to-wit:

Beginning at the intersection of the west line of Union Avenue with the north line of California Avenue; thence west along the north line of California Avenue 1246.85 feet to the southeast corner of Block 384 in the City of Bakersfield, Kern County, California, according to the map filed in the office of the County Recorder of Kern County, California, on November 25, 1898; thence north 693 feet to the north line of 14th Street; thence west 264 feet to the east line of S Street; thence north along the east line of S Street 346.5 feet; thence east 279 feet; thence north 72.96 feet to a point in the southerly right-of-way line of Atchison, Topeka and Santa Fe Railway; thence north-easterly along the said company's right-of-way line 1245.4 feet to a point in the west line of Union Avenue; thence south along the west line of Union Avenue 1306.25 feet to the point of beginning, being portion of the S. E. $\frac{1}{4}$ of Section 30, Township 29 S., Range 28 E., M. D. B. & M.

and being the property of the Atchison, Topeka and Santa Fe Railway Company, will be damaged by said separation of grades in the sum of One Hundred Dollars (\$100.00).

VI.

That none of the other property described in the amended petition of Complainant will be damaged in any sum whatsoever.

VII.

That the separation of grades between the highway and the tracks of the Atchison, Topeka & Santa Fe Railway Company, a corporation, where the tracks of the said Atchison, Topeka & Santa Fe Railway Company cross Union Avenue in the City of Bakersfield is a use authorized by law and that said grade separation is necessary.

The following form of order is recommended.

ORDER.

A public hearing having been held in the above entitled matter, the same having been duly submitted, the Commission being now fully advised and basing its order on the Findings of Fact as appearing in the opinion, which precedes this Order, IT IS HEREBY ORDERED that the City of Bakersfield, a Municipal Corporation, and the Atchison, Topeka and Santa Fe Railway Company, a corporation, pay to Carrie L. Woodside, as damages to the property belonging to said Carrie L. Woodside, hereinabove described, the sum of \$500.00, lawful money of the United States; that the City of Bakersfield, a Municipal Corporation, and the Atchison, Topeka and Santa Fe Railway Company, a corporation, pay to the Atchison, Topeka and Santa Fe Railway Company, as damages to the property of the Atchison, Topeka and Santa Fe Railway Company, hereinabove described, the sum of Two Hundred Dollars (\$200.00), in lawful money of the United States; that the City of Bakersfield, a Municipal Corporation, and the Atchison,

Topeka and Santa Fe Railway Company, a corporation,
pay to Lloyd S. Stroud, J. A. Stroud and R. S. Seabrook,
as damages to the property of said Lloyd S. Stroud,
J. A. Stroud and R. S. Seabrook, hereinabove described,
the sum of One Hundred Dollars (\$100.00) in lawful money
of the United States.

That the payment of the sums hereinabove set forth
and directed to be paid be paid one-half (1/2) by the said
City of Bakersfield and one-half (1/2) by the Atchison,
Topeka and Santa Fe Railway Company, a corporation, and
shall be made within ninety (90) days from the date of
this order.

For all other purposes, other than hereinabove speci-
fied, the effective date of this order shall be twenty
(20) days from the date hereof.

The foregoing opinion and order are hereby approved
and ordered filed as the opinion and order of the Railroad
Commission of the State of California.

Dated at San Francisco, California, this 3rd
day of July, 1925.

H. B. Rindice

George D. Quinn
James E. Scott
Commissioners.