

ORIGINAL

Decision No. 16789.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of the CITY OF BERKELEY for an order authorizing a street crossing at grade across the tracks and right of way of the Atchison, Topeka and Santa Fe Railway at the intersection of its main line and Santa Fe Avenue in the City of Berkeley, California.

Application No. 12,149.

In the matter of the application of the CITY OF BERKELEY for an order authorizing a street crossing at grade across tracks of the Key System Transit Company at the intersection of its Albany Branch Line and Santa Fe Avenue in the City of Berkeley.

Application No. 12,444.

E. J. Sinclair and Frank B. Stringham,  
for the City of Berkeley.

Lovett K. Frazier and C. F. Whitmore, Jr.,  
for the City of Albany.

Platt Kent and J. A. Christie for The  
Atchison, Topeka and Santa Fe Railway  
Company.

H. P. Bell, for the Key System Transit  
Company.

BY THE COMMISSION:

O P I N I O N

In these applications, the City of Berkeley asks permission to construct Santa Fe Avenue at grade across the tracks of The Atchison, Topeka and Santa Fe Railway Company, herein-

after called the Santa Fe, and the Key System Transit Company, hereinafter called the Key System. As they involve related matters, they were consolidated for the purpose of hearing and decision at the public hearing in Berkeley on January 29, 1926 before Examiner Austin.

Counsel for the Santa Fe urged that there was no necessity for opening Santa Fe Avenue, but that if it were opened permission to do so should be conditioned upon the closing of Curtis Street crossing in Berkeley and either Dartmouth Street crossing in Albany or Northside Avenue crossing in Berkeley. The Berkeley City Council is willing that Curtis Street be closed at the point of crossing but is unwilling to close any other street in the vicinity. The Board of Trustees of the City of Albany is unwilling that Dartmouth Street be closed.

The track of the Oakland Branch of Santa Fe is laid out through a residential portion of Berkeley and Albany in a north and south direction, and connects with the main line at Richmond. It is a single track line over which about twelve passenger trains and six freight trains are operated daily with an average speed of 25 miles per hour in the vicinity of Santa Fe Avenue. The single track line of the Key System known as the Sacramento Street Line has its northerly terminus at Santa Fe Avenue, east of the Santa Fe track, and parallels the Santa Fe in a southerly direction for about 2500 feet, thence turns easterly to a connection with the Northbrae Line of the Key System.

Santa Fe Avenue is laid out in a northeasterly and southwesterly direction, crossing the Santa Fe and Key System tracks at an angle of approximately 38 degrees. The crossings

herein applied for are within the Corporate limits of Berkeley but the corporate line between the cities of Berkeley and Albany is only a few feet north of the crossings. That portion of Santa Fe Avenue lying within Albany is improved with an oil macadam pavement and has a width of about 80 feet between property lines. Three blocks north of the proposed crossings Santa Fe Avenue intersects Marin Avenue, the most important east and west vehicular artery in this vicinity. Santa Fe Avenue continues north beyond Marin Avenue to the Thousand Oaks residential district.

The portion of Santa Fe Avenue lying within the City of Berkeley and south of the proposed crossings is likewise improved with an oil macadam pavement, has a width of 50 feet between property lines, and extends southerly to the intersection of Cornell Avenue and Page Street, the latter being an improved East and West Street about 50 feet in width. Vehicles using Santa Fe Avenue can turn west on Page Street for three blocks to an intersection with San Pablo Avenue, one of the most important north and south vehicular arteries connecting Oakland and Berkeley.

Santa Fe Avenue was a dedicated street at the time these two railroads were built and both the Santa Fe and Key System were granted franchises by the City of Berkeley to cross it. From the northerly city line to the south side of the Santa Fe right of way the street however, has never been improved or used as a public thoroughfare.

The next crossing north of the proposed crossing and approximately 850 feet distant is at Dartmouth Street, an unimportant street in the City of Albany. Marin Avenue, hereinbefore mentioned as the most important east and west artery in

this vicinity crosses the Santa Fe about 1,000 feet north of Dartmouth Street.

Curtis Street and Neilson Street are laid out parallel to and south of Santa Fe Avenue and are about 300 feet apart, and intersect the tracks of the Santa Fe and Key System at points about 400 feet and 800 feet, respectively, south of the proposed Santa Fe Avenue crossing. Both streets serve to some extent the same public need as Santa Fe Avenue, in so far as through traffic from San Pablo to North Berkeley points is concerned, except that neither street is as wide as the portion of Santa Fe Avenue in the town of Albany and neither street has as convenient an outlet to San Pablo Avenue on the south and Marin Avenue on the north. Vehicular traffic is not heavy on either of these streets.

Gilman Street is an east and west street in the city of Berkeley and crosses Santa Fe Avenue, Curtis Street and Neilson Street at right angles, crossing the tracks of the Key System and Santa Fe just a few feet south of the crossing of Curtis Street. On account of the proximity of these crossings to each other and to the intersection of Curtis and Gilman Streets, a hazard is created somewhat in excess of the sum of the separate hazards created by crossings of Curtis Street and Gilman Street considered by themselves. This is particularly true of the westbound traffic on Gilman Street which turns north on Curtis Street and southbound traffic on Curtis Street, turning east on Gilman. Vehicles using this route, after having crossed the railroads once must immediately turn parallel to the railroad tracks and cross them again. This type of crossing layout is hard to protect and the hazard would be greatly decreased if one of these two street crossings were closed.

Northside Avenue crosses the Santa Fe and Key System tracks about 200 feet south of Neilson Street. This street is parallel to Neilson Street but is not a through street, and terminates just a few feet north of the Key System track. On the southerly end it opens on to Hopkins Street.

The record shows that Santa Fe Avenue can better serve the through traffic desiring to reach San Pablo Avenue from the Thousand Oaks District and vice versa, than can either Curtis Street or Neilson Street. Local traffic, which originates within a block or so north of the Santa Fe Avenue crossing, can use Dartmouth Street to reach San Pablo Avenue, although it would be more convenient for such traffic if Santa Fe Avenue were open. It appears that there is need of a short connecting street between Curtis Street and Santa Fe Avenue, on the east side of the railroads as at present there are no connecting streets between these two for a distance of 2400 feet north of Gilman Street. With such a connecting street, local traffic on Santa Fe Avenue could be diverted to Curtis Street and over the existing crossing, or, in the event the Santa Fe Avenue crossing is opened, local traffic on Curtis Street could use the proposed connecting street in order to gain access to the Santa Fe Avenue crossing.

We find, from a consideration of all the evidences, that public convenience and necessity and public safety require that the Santa Fe Avenue crossings be opened, providing that Curtis Street be effectively closed to public use and travel at its point of crossing with the Key System and Santa Fe tracks. Because of the objection by the City of Albany, no order will be made herein requiring the closing of Dartmouth Street, although it appears from the record that there is very little necessity for the maintenance of this crossing after Santa Fe Avenue is opened. Nor will the closing of Northside

Avenue be required, as the record does not show that the opening of Santa Fe Avenue would serve the traffic now using Northside Avenue.

Consideration will now be given the protection to be afforded the Santa Fe Avenue crossing. The record indicates that an automatic flagman will be required for the protection of this crossing by reason of the fairly heavy train operation over the Santa Fe line, the vehicular traffic which it is expected will take advantage of this improved street, the increased hazard due to constructing the crossing at an acute angle with the railroad and the occurrence of low fogs at times in this territory.

The record shows that the Key System terminal station is at present located partially on Santa Fe Avenue and that this station will, of necessity, be relocated when the Santa Fe Avenue crossing is improved. It appears from the evidence that it is immaterial to the patrons of the line on which side of the street the station is finally relocated. Until such time as the Key System track may be extended northerly, it is apparent that the hazard at the crossing will be very greatly decreased if the terminal station is located south of Santa Fe Avenue and the order following will so provide. At such time as the Key System line may be extended northward, the Key System should join with the Santa Fe in maintaining a joint automatic flagman to operate for trains on the tracks of both companies at this crossing.

There yet remains to be decided the division of cost of constructing the crossing and the cost of providing the protection therefor.

As was before stated, Santa Fe Avenue was dedicated as a public street before the railroad tracks were constructed

and the railroads were granted franchises to cross same. Copies of such sections of said franchises as are pertinent were filed in this proceeding. These franchises place the burden of constructing and maintaining the crossings created thereunder upon the respective carriers, and as there appears no reason for setting aside the franchise provisions in that respect, the order will provide that the cost of installation and maintenance of the crossings shall be borne by the Santa Fe and Key System respectively.

The cost of providing the necessary protection, it appears, should be borne partially by the railroads because of the elimination of the hazard afforded by the closing of the Curtis Street crossing at which no protection other than the usual crossing signs is at present provided. It appears reasonable that the City of Berkeley share the initial cost of providing protection and the order will therefore provide that the cost of installation of such protection be borne equally by the City and the Santa Fe.

#### O R D E R

The City Council of the City of Berkeley having filed the above entitled applications with this Commission, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision,

IT IS HEREBY ORDERED, that permission and authority be and it is hereby granted to the City Council of the City of Berkeley, County of Alameda, State of California, to construct Santa Fe Avenue at grade across the tracks of the Atchison, Topeka and Santa Fe Railway Company as shown by the maps (exhibits "A" and "B") attached to Application No. 12,149, said

crossing to be constructed subject to the following conditions, and not otherwise:

(1) The cost of construction and maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by The Atchison, Topeka and Santa Fe Railway Company. The cost of construction and maintenance of that portion of the crossing outside of lines two (2) feet outside of the outside rails shall be borne by applicant.

(2) The crossing shall be constructed of a width not less than fifty (50) feet and at an angle of thirty-eight (38) degrees to the railroad and with grades of approach not greater than four (4) per cent; shall be constructed equal or superior to type shown as Standard No. 3 in General Order No. 72 of this Commission; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) An automatic flagman shall be installed for the protection of said crossing. Cost of installation of said automatic flagman shall be borne fifty (50) per cent by applicant, City of Berkeley, and fifty (50) per cent by The Atchison, Topeka and Santa Fe Railway Company. The cost of maintaining said automatic flagman shall be borne by The Atchison, Topeka and Santa Fe Railway Company. Said automatic flagman shall be of a type and installed in accordance with plans or data approved by the Commission.

(4) Applicant shall, within thirty (30) days thereafter notify this Commission, in writing, of the completion of the installation of said crossing.



(5) If said crossing shall not have been installed within one (1) year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(6) The crossing of Curtis Street with the right of way and track of The Atchison, Topeka and Santa Fe Railway Company shall be legally abandoned and effectively closed to public use and travel.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

IT IS HEREBY FURTHER ORDERED, that permission and authority be and it is hereby granted to the City Council of the City of Berkeley, County of Alameda, State of California, to construct Santa Fe Avenue at grade across the track of Key System Transit Company as shown by the map (Exhibits "A" and "B") attached to Application No. 12444, said crossing to be constructed subject to the following conditions, namely:

(1) The cost of construction and maintenance of that portion of the crossing between lines two (2) feet outside of the outside rails shall be borne by Key System Transit Company. The cost of construction and maintenance of that portion of the crossing outside of lines two (2) feet outside of the outside rails shall be borne by applicant.

(2) The crossing shall be constructed of a width not less than fifty (50) feet and at an angle of thirty-eight (38)

degrees to the railroad and with grades of approach not greater than four (4) per cent; shall be constructed equal or superior to type shown as Standard No. 3 in General Order No. 72 of this Commission; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereon of vehicles and other road traffic.

(3) Key System Transit Company shall move its waiting station to a suitable location south of Santa Fe Avenue and until such time as its line is extended northerly shall not permit cars to be operated regularly over said crossing.

(4) Key System Transit Company shall not operate regularly any car or train over said crossing until it shall have arranged to jointly use the automatic flagman required for the crossing of The Atchison, Topeka and Santa Fe Railway Company herein authorized.

(5) Applicant shall, within thirty (30) days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(6) If said crossing shall not have been installed within one (1) year from the date of this order, the authorization herein granted shall then lapse and become void, unless further time is granted by subsequent order.

(7) The crossing of Curtis Street with the right-of-way and track of Key System Transit Company shall be legally abandoned and effectively closed to public use and travel.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation,

maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 17th  
day of May, 1926.

L. B. Brundage

O. L. Searcy

Frank W. Scott

Commissioners.