

ORIGINAL

Decision No. 57971

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission Investigation into the  
 safety, maintenance, operations  
 at, use and protection of cross-  
 ings at grade of public streets  
 and the tracks of The Atchison,  
 Topeka and Santa Fe Railway Com-  
 pany between Mile Posts 2B-6.4 and  
 2B-19.0 and crossings at grade of  
 public streets and the tracks of  
 the UNION PACIFIC RAILROAD COMPANY  
 between Mile Posts 3-56.2 and  
 3-58.0 located in the City of  
 Riverside, California, and in the  
 County of Riverside, State of  
 California.

Case No. 6197

Joint Application of the CITY OF  
 RIVERSIDE, THE ATCHISON, TOPEKA  
 AND SANTA FE RAILWAY COMPANY, a  
 corporation, and UNION PACIFIC  
 RAILROAD COMPANY, a corporation,  
 for an order to modify crossing  
 protection of various crossings  
 and to close and abandon to public  
 use certain other crossings in the  
 City of Riverside, California.

Application No. 40286

Robert B. Curtiss, for The Atchison, Topeka and Santa  
 Fe Railway Company, applicant and respondent.  
Leland J. Thompson, Jr., for the City of Riverside,  
 applicant and respondent.  
Malcolm Davis, for Union Pacific Railroad Company,  
 applicant and respondent.  
A. C. Keith, for the County of Riverside, respondent.  
G. R. Mitchell, for the Brotherhood of Locomotive  
 Engineers, interested party.  
William C. Bricca and Alan F. Williams, for the  
 Commission staff.

## O P I N I O N

Applicants request that Application No. 40286, filed  
 July 23, 1958, be dismissed. This request will be granted. Case  
 No. 6197, filed November 3, 1958, is an investigation upon the  
 Commission's own motion into the safety, maintenance, operation at,

use and protection of all, or part, of approximately 44 enumerated grade crossings in or near the City of Riverside for the following purposes:

1. To determine whether or not the public safety and health require the abolishment of said crossings or any of them.
2. To determine whether or not the public safety and health require the reconstruction, relocation, or alteration of said crossings or any of them, or require the installation and maintenance of additional protective devices thereat, or require alteration of existing protective devices.
3. To prescribe the terms on which any such crossing abolishment, reconstruction, relocation, alteration, installation, or maintenance of protection shall be done, and to make such apportionment of cost among the parties hereto, or any of them, as appears just and equitable.
4. To determine whether or not the public safety and health require the discontinuance, alteration or change in the operative practices of respondent railroads at or about said crossings.
5. To enter any other order that may be appropriate in the lawful exercise of the Commission's jurisdiction.

The two railroads named in the title and the City and the County of Riverside, as well as the Division of Highways, were named as respondents. Each respondent was served with a copy of this order and was duly notified of the hearing. This hearing was held in Riverside on December 3, 1958, before Examiner Rowe. The Commission staff introduced a comprehensive study of each of the crossings involved and this exhibit also included detailed recommendations covering a period through 1962. Also evidence not substantially inconsistent with the staff's recommendations was introduced by the other appearances. The matter was duly submitted for decision following argument.

The Commission finds that public safety and health require that the protection and grade crossing closings recommended by the

staff should be constructed or accomplished. This recommendation is as follows:

Installation of Automatic Crossing Protection  
(With priority dates as shown below)

1959

- 2B-9.5 Third Street. One automatic gate and one No. 8 flashing light signal.
- 3-57.9 Third Street. One automatic gate and one No. 8 flashing light signal.
- 2B-12.7 Jane Street. Two No. 8 flashing light signals.
- 2B-13.2 Washington Street. Two No. 8 flashing light signals.

1960

- 2B-16.4 Van Buren Street. Two automatic crossing gates.
- 2B-8.8 Indianapolis Avenue. Two automatic crossing gates.
- 2B-8.9 Kansas Avenue. Two automatic crossing gates.

1961

- 2B-8.2 Marlborough Avenue. Two automatic crossing gates.
- 2B-13.7 Madison Avenue. Two automatic crossing gates.
- 2B-15.8 Jackson Street. Two No. 8 flashing light signals.
- 2B-14.2 Jefferson Street. Two No. 8 flashing light signals.

1962

- 2B-13.0 Mary Street. Two No. 8 flashing light signals.
- 2B-16.9 Harrison Street. Two No. 8 flashing light signals.
- 2B-17.4 Tyler Street. Two No. 8 flashing light signals.
- 2B-14.8 Adams Street. Two No. 8 flashing light signals.

The Following Grade Crossings Should be Closed

On The Atchison, Topeka and Santa Fe Railway Company:

2B-9.6 Fourth Street.  
2B-9.65 Fifth Street  
2B-10.8 Date Street  
2B-16.6 Myers Street (closed when this street is  
blocked off by the new freeway).

On the Union Pacific Railroad Company:

3-56.5 Date Street.  
3-58.0 Commerce Street.

The Following Grade Crossings Located  
North and South of the City Should be Closed

On The Atchison, Topeka and Santa Fe Railway Company:

2B-6.9 Villa Street. As soon as possible.  
2B-18.0 Polk Street. As soon as freeway is completed.  
2B-19.0 Fillmore Street. As soon as freeway is completed.

Automatic Crossing Protection to be Installed

2B-7.9 Columbia Avenue. Two automatic crossing gates, 1959.  
2B-6.4 Main Street. Two automatic crossing gates, 1960.

The Commission further finds that the only practical means of ingress and egress of the residence of Mrs. Myrtle Gregory and of the property of the Riverside Water Company, both located between the freeway and the water company canal and Brooks Street extended, is by means of a way of approximately 12 feet in width between the tracks of the two railroads and extending northerly to Date Street, and that if Date Street should be closed this right of way must be extended between said tracks as far north as Cridge Street. Counsel for the railroads stipulated that the order closing the grade crossings at Date Street, crossings 2B-10.8 and 3-56.5 may be conditioned upon such right of way being conferred. As to Myers Street, it is further found that it should be closed as to vehicular traffic but not as to pedestrian traffic.

There was introduced into evidence a memorandum from the Assistant City Engineer to the Public Works Director of the City of

Riverside which sets forth the terms of an agreement entered into between the City and the two railroads involved. This is as follows:

"November 14, 1958

TO: PUBLIC WORKS DIRECTOR  
FROM: ASSISTANT CITY ENGINEER  
RE: SUMMARY OF MEETING ON NOVEMBER 14, 1958, CONCERNING  
THE RAILROAD GRADE CROSSINGS AFFECTED BY THE RIVERSIDE  
FREEWAY

"A meeting was held in Riverside City Hall on November 14 and was attended by the persons listed on the attached sheet. After discussion of all phases of the matter in connection with the investigation proposed by the Public Utility Commission to be held on December 3 in Riverside, the following matters were mutually agreed upon.

"It was decided that since the City had already entered into a firm agreement with the Division of Highways for the freeways which have been or will be constructed and which affect the traffic crossing the railroad, but did not, at the time of signing these agreements, request assistance in adding protection to these crossings, it was decided that neither the City nor the railroads would request that the Division of Highways participate in the cost of additional protection.

"It was agreed between the Union Pacific Railroad and the City of Riverside that during 1959 the Date Street and Commerce Street crossings of the Union Pacific Railroad Company would be closed with the approval of management and City Council and that one automatic gate and one No. 8 flashing light would be installed at the Union Pacific's Third Street crossing. The cost of the protection at Third Street will be shared between the Union Pacific and the City on the basis of 55 percent to be paid by the Railroad and 45 percent to be paid by the City.

"It was agreed between the Santa Fe Railroad and the City of Riverside that the following crossings would be closed in 1959 with the approval of management and City Council: Fourth Street, Fifth Street, Date Street, and Myers Street. The following protection would be installed during 1959: one automatic gate and one No. 8 flashing light at Third Street, two No. 8 flashing lights at Jane Street, and two No. 8 flashing lights at Washington Street. The cost of the above protection work to be shared 55 percent by the Railroads and 45 percent by the City of Riverside.

"The other crossing protection which has been or will be ordered by the Public Utility Commission in subsequent years at the Santa Fe Crossings will be subject to further discussion as to the method of sharing the cost.

"FFL:de  
"Att.

(Signed) Frank Lefebber"

"NOVEMBER 14, 1958, MEETING CONCERNING THE RAILROAD GRADE  
CROSSINGS AFFECTED BY THE RIVERSIDE FREEWAY

<u>NAME</u>	<u>TITLE</u>	<u>ORGANIZATION</u>
J. F. Martinek	Public Works Director	City of Riverside
Frank Lefebber	Assistant City Engineer	City of Riverside
V. W. Smith	Supt., U.P.R.R.	Los Angeles
F. G. Schurman	Division Engineer	U.P.R.R., L.A.
M. J. McGuire	Office Engineer	U.P.R.R., L.A.
Malcolm Davis	Assistant Gen.Solicitor	U.P.R.R., L.A.
R. K. Knolton	Attorney	Santa Fe Railroad
A. M. Shelton	Engineer	Santa Fe Railroad
L. S. Moore	Traffic Engineer	Calif.Division of Hwys.
S. W. Martin	R/W Agent	Calif.Division of Hwys.
C. B. Mackey	R/W Agent	Calif.Division of Hwys.
Leland J. Thompson	Asst. City Attorney	City of Riverside."

It was stipulated that this memorandum correctly sets forth the agreement of these parties. The Commission finds the contract to be in the public interest and it is approved. The order herein will carry out the terms and provisions of this agreement. The grade crossings in the City not referred to in this contract have been recommended by the staff for disposition in subsequent years. In the County the evidence justifies closing Villa Street and protecting Columbia Avenue as the staff recommends. The County concurs as to the protection of the latter closing. There is insufficient evidence to justify an order as to these other grade crossings not covered by the contract or referred to in the preceding sentence, as to the proper allocation of costs. Also, it is felt that their proper determination in the future may be influenced by conditions which may not remain unchanged. Consequently, the parties will be required to file with the Commission on or before the first day of the years 1960, 1961 and 1962 annual statements setting forth the plans for the completion of the work recommended by the staff and outlined above for that particular year.

O R D E R

Public hearing having been held and based on the above findings,

IT IS ORDERED:

1. That the grade crossings of Date Street and Commerce Street over the Union Pacific Railroad Company's tracks in the City of Riverside designated as Crossings Nos. 3-56.5 and 3-58.0 shall be closed to all vehicular and pedestrian traffic within ninety days after the effective date of this order by the construction of proper barriers at the sole cost of said railroad company.

2. That Union Pacific Railroad Company shall install one Standard No. 8 flashing light signal, equipped with one automatic crossing gate, at Crossing No. 3-57.9 (Third Street).

3. That the City of Riverside shall bear 45 per cent of the cost of the additional protection provided for in the preceding ordering paragraph and Union Pacific Railroad Company shall effect said construction and improvement within 120 days after the effective date of this order and shall bear 55 per cent of said construction cost and all of the subsequent maintenance cost of said signals and gate.

4. That the grade crossings of Fourth, Fifth, Date, Myers and Villa Streets over The Atchison, Topeka and Santa Fe Railway Company tracks in or near the City of Riverside designated as Crossings Nos. 2B-9.6, 2B-9.65, 2B-10.8, 2B-16.6 and 2B-6.9 shall each be closed to vehicular traffic and each, except Myers Street (No. 2B-16.6) shall be closed to pedestrian traffic within ninety days after the effective date of this order by the construction of proper barriers at the sole cost of said railway company.

5. That after closing to vehicular use said Crossing No. 2B-16.6, The Atchison, Topeka and Santa Fe Railway Company shall have and maintain said crossing to be designated No. 2B-16.6-D as a pedestrian crossing not more than six feet in width between lines two feet outside the outer rails and shall continue the maintenance of the two Standard No. 1 crossing signs presently installed. The construction and maintenance of the pavement shall be performed by the railway.

6. That The Atchison, Topeka and Santa Fe Railway Company shall install one Standard No. 8 flashing light signal equipped with one automatic crossing gate at Crossing No. 2B-9.5 (Third Street) and at Jane Street and at Washington Street Crossings Nos. 2B-12.7 and 2B-13.2, respectively; said railway company shall install two Standard No. 8 flashing light signals.

7. That the City of Riverside shall bear 45 per cent of the cost of the additional protection provided for in the preceding ordering paragraph and The Atchison, Topeka and Santa Fe Railway Company shall effect said construction and improvement within 120 days after the effective date of this order and shall bear 55 per cent of said construction cost and all subsequent maintenance cost of said signals and gate.

8. That within thirty days after the construction has been completed, at each grade crossing, the railroad performing the work shall give written notice of compliance with the terms of this decision as applied thereto.

9. That The Atchison, Topeka and Santa Fe Railway Company shall install two Standard No. 8 flashing light signals, equipped with automatic crossing gates at Crossing No. 2B-7.9.

10. That the County of Riverside shall bear 50 per cent of the cost of the additional protection provided for in the preceding

ordering paragraph and said Company shall effect said construction and improvement within 120 days after the effective date of this order, and shall bear 50 per cent of said construction cost and all subsequent maintenance costs of said signals and gates.

11. That the closing of the grade crossing at Date Street (2B-10.8 and 3-56.5), as provided in ordering paragraphs 1 and 4, are subject to the condition that each of said railroads shall jointly or severally grant to Riverside Water Company and to Mrs. Myrtle Gregory a right of way by motor vehicle or otherwise between the respective railroad tracks to and from their property, on the one hand, and Cridge Street, on the other hand.

12. That Application No. 40286 is dismissed without prejudice.

13. That on or before the first day of the years 1960, 1961 and 1962 the respondent railroads and the City of Riverside and the County of Riverside shall file with this Commission statements setting forth the plans for the coming year for the completion of the work recommended by the staff and outlined in the preceding opinion.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 3<sup>rd</sup> day of February, 1959.

E. J. Fox  
President  
E. J. Fox  
W. H. Fox  
Theodore J. Fox  
Commissioners