

**ORIGINAL**

Decision No. 61694

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
THE ATCHISON, TOPEKA AND SANTA FE )  
RAILWAY COMPANY for authority to )  
abandon its grade crossings of )  
Ohio Avenue (2K-0.65-C) and Cutting )  
Boulevard (2K-1.02-C), in the City )  
of Richmond, County of Contra Costa, )  
State of California. )

Application No. 40762

In the Matter of the Application of )  
THE ATCHISON, TOPEKA AND SANTA FE )  
RAILWAY COMPANY for authority to )  
construct and maintain a grade )  
crossing of Garrard Boulevard, )  
Cutting Boulevard and Canal Boule- )  
vard in the City of Richmond, County )  
of Contra Costa, State of California. )

Application No. 42462

Robert Walker and Matthew H. Witteman, by Matthew H. Witteman, for applicant.  
James P. O'Drain, for the City of Richmond;  
Frederick Bold, Jr., Carlson, Collins, Gordon and Bold, for the Redevelopment Agency of the City of Richmond, interested parties.  
John T. Halen, for Maritime Administration, U. S. Department of Commerce; Tom N. Deane and William R. Goodrich, for Bray Lubricants Co., Bray Oil Co. and Bray Chemical Co.; Warren Howard McClain, for Willamette Iron and Steel Company; Ernest E. Bridgewater, for The Learner Company; and James V. Christie, for Barkow Petroleum Co., protestants.  
Charles J. Astrue, for the Commission staff.

O P I N I O N

Application No. 40762 was filed on January 21, 1959, by the applicant herein as the result of a demand from the City of Richmond that the applicant remove its track from the section of land situated between Ohio Avenue and Cutting Boulevard, which is to be sold by the Redevelopment Agency of the City of Richmond. The application alleges that the two crossings to be closed are over a spur track constructed during 1942 under a wartime franchise from

the City of Richmond, which was to expire when the Richmond Shipyard was no longer being operated as a part of the program of national defense. The shipyard is no longer operated for the national defense and a substantial portion of the trackage is within an area sought to be industrially developed. Applicant further alleges that a new spur track will be built along Cutting Boulevard to continue serving those industries formerly served by the present line.

Application No. 42462 was filed on June 14, 1960. It alleges that the three crossings to be opened are located on the new line of track to be built as authorized by Ordinance No. 1664 of the City of Richmond, dated May 9, 1960. This track will be constructed to serve all of the shippers formerly served by the old line. The applicant has agreed to assume all the cost of closing the crossings on the old track and of opening and maintaining the crossings it has applied to construct on its proposed line.

Most of the shippers to be served by the new line were opposed to subparagraph (h) of Section 2, of Ordinance 1664, which limits "operations on said trackage on days on which school is in session (except in the event of an emergency) to the hours between 5:00 p.m. and 8:00 a.m." A public hearing was therefore scheduled to enable all concerned to present evidence.

Public hearing was held in San Francisco before Examiner Edward G. Fraser, on January 10 and 11, 1961. The City of Richmond and the Redevelopment Agency of the City of Richmond joined in support of the application. The protestants are industrial organizations that will be served by the new spur track. They object only to the restriction placed on the use of the track by the City of Richmond. Since opposition to the applications is confined to the restriction which requires the new track to be used only at night, this decision will not digress to develop the other evidence presented.

Two of the protestants presented witnesses who testified that operating trains during regular business hours on weekdays was very necessary to their operation. The U. S. Maritime Association provided a witness who testified that occasional shipments for the Government are shipped or received during the day by the Richmond Shipyard, which is owned by the United States and in the area served by the old and proposed rail lines. In the event of a national emergency the shipyard would start to function again and continuous rail service would be required. The yard is now maintained in an inactive status, although some of its area has been leased to the Nicolai-Jaffe Co. and to Willamette Iron and Steel Co. The Learner Company is a sublessee of the latter. These lessees are using the facilities of the shipyard for repair and rebuilding of new ships and for the demolition of obsolete ships into usable scrap iron and steel.

By letters addressed to this Commission, several shippers expressed their opposition to the elimination of weekday daylight rail service.

A witness for the City of Richmond explained that the restriction against operating trains over the proposed track was made a part of Ordinance 1664 at the request of the Parent Teacher Association of Richmond. A school is located less than a block from the new line and frequent operation of trains during school hours may create a safety problem as well as being a serious distraction while school is in session. The restriction does not apply on days when there is no school and "during periods of emergency", as set out in the Ordinance. The witness stated that the City Council would probably amend the Ordinance if they were advised during an official session of the need for a change. He was sure that a compromise restriction could be adopted which would satisfy the requirements of both the parent-teacher group and the protestants herein.

A Commission staff engineer testified as to the recommended warning signals to be installed on the highway crossings over the proposed section of track.

<u>Crossing</u>	<u>Identification</u>	<u>Suggested Installations</u>
Garrard Boulevard	2-1190.3-C	Two Standard No. 8 flashing lights. (G.O. 75-B)
Cutting Boulevard	2-1190.5-C	Four Standard No. 8 flashing lights (G.O. 75-B) and two 20,000 lumen (minimum) mercury vapor overhead lights.
Canal Boulevard	2-1190.6-C	Two Standard No. 8 flashing lights. (G. O. 75-B)

The staff witness recommended that the proposed Cutting Boulevard crossing have a raised concrete median island of 6-foot minimum width constructed on each crossing vehicular approach in order to locate two of the Standard No. 8 signals. He further suggested that the recommended lights be located to illuminate these islands during darkness. The staff witness also suggested that the Cutting Boulevard crossing be declared an exempt crossing under the provisions of Section 22452(d) of the Vehicle Code of the State of California and that the crossing be marked "exempt" by a distinctive sign or device as required by Section 22452(e) of said Code.

Section 22452, subsections (a) through (e) of the Vehicle Code provide as follows:

"Section 22452. (a) The provisions of this section shall apply to the operation of the following vehicles. ....

"Any motor vehicle carrying passengers for hire.

"Any motor truck transporting employees in addition to those riding in the cab.

"Any bus transporting employees.

"Any school bus carrying any school child.

"Any motor truck carrying explosive substances as a cargo or part of a cargo.

"Any motor tank truck, tank trailer, or tank semi-trailer, used in the transportation of flammable liquids of liquefied petroleum gas as a cargo or part of a cargo, whether loaded or empty.

"(b) Before traversing a grade crossing of a railway, or electric railway, the driver of any vehicle described in subdivision (a) shall stop such vehicle not less than 10 nor more than 50 feet from the nearest rail of the track and while so stopped shall listen, and look in both directions along the track, for any approaching train, interurban car, or other vehicle using such rails. The vehicle shall remain standing while any train is moving toward the crossing and is close enough to constitute an immediate hazard.

"(c) .... No stop need be made at street railway tracks within a business or residence district.

"(d) Unless a train or locomotive is approaching, the driver of a motor vehicle need not stop at any industrial or spur track as defined by the Public Utilities Commission unless the Public Utilities Commission determines that a stop should be made.

"(e) Distinctive signs or devices of a type authorized by the Public Utilities Commission shall be erected at industrial or spur tracks where no stop need be made."

#### Discussion

It is suggested that the protestants herein apply to the City Council of Richmond for an amendment to City Ordinance No. 1664, which will permit daylight operation of trains when necessary. If no relief can be obtained and the service furnished by the applicant is seriously curtailed, this matter may again be brought before this Commission.

The recommendations made by the staff regarding the flashing light signals, median islands and overhead lights to be installed at the new crossings will be approved. The crossing at Cutting Boulevard will be declared exempt, since it appears the track will be infrequently used and trucks and buses have unobstructed vision in both directions along the right of way.

After carefully considering the record in this proceeding, it is the Commission's opinion that both applications should be

granted and the industrial spur track relocated over the route suggested on Exhibit B of Application No. 42462.

O R D E R

A public hearing having been held and the matter being now ready for decision,

IT IS ORDERED that:

1. The Atchison, Topeka and Santa Fe Railway Company is hereby authorized to abandon and abolish the crossings of Ohio Avenue (2K-0.65-C) and Cutting Boulevard (2K-1.02-C) by physical removal of the tracks now located at said crossings which are a part of an existing industrial spur track in the City of Richmond, County of Contra Costa, State of California, more particularly shown in map attached to Application No. 40762 herein. The entire cost of closing said crossings and removal of said tracks shall be borne by the applicant.
2. Within thirty days after the closing of said crossings and removal of said tracks as provided herein, the applicant shall so advise the Commission in writing.
3. Applicant is hereby authorized to construct and maintain crossings at grade over Garrard Boulevard, Cutting Boulevard and Canal Boulevard of its industrial spur track in the City of Richmond, County of Contra Costa, substantially at the locations as described in Application No. 42462 and as shown by the map attached thereto, subject to the following conditions:
  - (a) The entire expense of constructing the crossings and fulfilling the requirements herein-mentioned shall be borne by the applicant, and within thirty days thereafter The Atchison, Topeka and Santa Fe Railway Company shall give the Commission written notice of the completion of all said construction and of its compliance with the terms hereof as to each of said grade crossings, except that expense for overhead lights and channelization shall be in accordance with agreement between

the parties or, if they fail to agree, by further order of the Commission.

- (b) The protection and identification at the crossings shall be as follows:

<u>Crossing</u>	<u>Identification</u>	<u>Protection</u>
Garrard Boulevard	2-1190.3-C	Two Standard No.8 flashing light signals (G.O. 75-B).
Cutting Boulevard	2-1190.5-C	(1) Four Standard No.8 flashing light signals (G.O. 75-B). (One signal to be located at each right side approach position and one signal to be located on each approach median island to the crossing). (2) Two raised concrete median islands of 6-foot minimum width, one on each crossing approach, in order to locate two of the Standard No.8 signals. (3) Two 20,000 lumen (minimum) mercury vapor type overhead lights, one on each crossing approach, to be located to illuminate the approach median islands during the hours of darkness.
Canal Boulevard	2-1190.6-C	Two Standard No.8 flashing light signals (G.O. 75-B).

4. Approval is hereby granted for the display of distinctive "exempt signs" (Vehicle Code Section 22452, subsections (d) and (e)), at the Cutting Boulevard crossing of The Atchison, Topeka and Santa Fe Railway Company, located in the City of Richmond. Such signs shall comply with Decision No.58385 and shall be erected and maintained by the City of Richmond. Within thirty days after the erection of such signs, city shall so advise the Commission in writing.

5. This authorization shall expire if the conditions enumerated in the prior ordering paragraphs are not complied with, or if it is not exercised within two years from the effective date

of this order. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

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

Dated at San Francisco, California, this 21st day of March, 1961.

Charles H. Page  
President  
W. S. Bushnell  
E. J. Fox  
George T. Grover  
Fredrick B. Holbrook  
Commissioners