

Decision No. 20035

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CITY OF BURBANK, a municipal corporation,  
 BURBANK CHAMBER OF COMMERCE, a corporation,  
 BURBANK REALTY BOARD, a corporation,

Complainants,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, a  
 corporation, SOUTHERN PACIFIC COMPANY,  
 a corporation,

Defendants.

**ORIGINAL**

Case No. 2530

Jas. H. Mitchell, City Attorney for City of  
 Burbank, Complainant.  
 Homer Reed and C.C. Richards, for Burbank  
 Chamber of Commerce, Complainant.  
 Walter Iggulden, President, Burbank Realty Board,  
 Complainant,  
 R. E. Wedekind, for Southern Pacific Company,  
 Defendant.

BY THE COMMISSION -

O P I N I O N

City of Burbank, a municipal corporation, Burbank Chamber of  
 Commerce, a corporation, and Burbank Realty Board, a corporation,  
 herein complain against Southern Pacific Railroad Company and  
 Southern Pacific Company alleging the present protection at five  
 grade crossings of city streets in the City of Burbank over  
 defendants' railroad is inadequate. Complainants pray for an  
 order of the Railroad Commission requiring defendants to install,  
 maintain and hereafter operate crossing gates at each of said  
 crossings.

Defendants duly filed their answer herein denying the  
 material allegations of the complaint, and that the proposed cross-  
 ing gates offer any better protection than is afforded by the  
 protective devices now in use.

A public hearing on this complaint was conducted by Examiner Handford at Burbank, at which time evidence was received and, after stipulation by counsel for complainants and defendants, the matter was adjourned subject to further hearings by order of the Commission, either on its own initiative or on motion of any interested party.

The railroad involved is the important double track, high speed line of the Los Angeles Division of the Southern Pacific Company over which all passenger and freight trains of that company are operated between Los Angeles and Northern California points. The five streets are all moderately important thoroughfares, crossing two main tracks and auxiliary tracks at grade in each case.

An investigation was made by the Engineering Department of the Commission, resulting in a report containing recommendation for providing additional protection at these crossings. Copies of this report were furnished to the interested parties and the report was received in evidence (Exhibit 1) in this proceeding.

Prior to the hearing an informal conference was held by representatives of complainants, defendants and the Commission's Engineering Department.

As a result of this conference, an agreement was reached which later became a stipulation in the record, substantially as follows:

"Southern Pacific Company to proceed to carry out the recommendations of the Railroad Commission's Engineering Department, as set forth in Exhibit No.1, for improving protection at the several crossings involved, with minor modifications as follows:

I. Burbank Boulevard (B-471.5)

Until grades are separated, crossing is to be protected by a set of crossing gates operated by the towerman.

II. Magnolia Avenue (B-472.11)

Two standard No.4 wigwags should be installed for the protection of this crossing, to be located in the center of the street, replacing the standard No.3 wigwag. To these wigwags should be

added the light signal indicating the approach of a second train to the crossing.

III. Olive Avenue (B-472.2)

A set of light signals indicating the approach of a second train at the crossing should be added to the present wigwag installation.

IV. Verdugo Avenue (B-472-4)

A set of light signals indicating the approach of a second train at the crossing should be added to the present wigwag installation.

V. Alameda Avenue (B-472.8)

Trial installation of Kahler crossing gate recommended at this crossing.

VI. Existing wigwag installations should be carefully checked over; ringing circuits should be adjusted to comply with General Order 75 where such is not now the case. Where wigwags are so installed that they cease operation when the head end of a train passes the crossing, the circuit should be revised so that the wigwag will not cease operating until the rear end of the train passes the crossing.

VII. Cars should not be stored or spotted on side or spur tracks within 100 feet of the crossing unless trainman is available to act as human flagman.

The foregoing recommendations were subject to the following reservations in the stipulation:

"That the installation of Kahler automatic crossing gate be made without installation or maintenance cost to Southern Pacific Company, and that suitable liability bond be posted for the protection of Southern Pacific Company in event of accident or patent infringement due to the use of crossing gate."

"That modification be made of recommendation VII wherever impracticable to place same in effect at industrial spurs."

"That the cooperation of the City of Burbank be had in the matter of disciplining reckless drivers at crossings."

"The City of Burbank is willing to accept the recommendations of the Commission's Engineering Department in satisfaction of its complaint; to consider the passing of such ordinance and for enforcing such policing methods as will result in disciplining of reckless drivers at the railroad crossings complained of; and that the City Attorney is to investigate the matter of liability bond subject to these reservations covering automatic crossing gates."

"That within a reasonable time, after observing results of the trial installation recommended by the Commission's Engineering Department, the City of Burbank reserves the right to proceed without prejudice to a trial of its complaint and to a decision of the Commission thereon."

"That Southern Pacific will promptly, after receipt of the Commission's authorization, proceed to carry out the recommendations made."

We will approve this stipulation with the understanding that the Commission's Engineering Department will be conferred with in the installation of the trial protective devices as agreed upon; and that after their installation, should such devices in the opinion of our representatives prove unsafe or unsatisfactory to the public or to the defendants, their use will be immediately discontinued, subject to this Commission's further decision.

This proceeding will be held open for a period of one (1) year for such further action as the circumstances and conditions may make necessary. If, during that period, the parties herein desire to modify, amplify or terminate the experimental form of protection, or if the Commission should desire to extend or curtail any of these experiments, further consideration may be given by further hearing and supplemental order herein and with the benefit of the record as already existing in this proceeding.

O R D E R

The City of Burbank, a municipal corporation, Burbank Chamber of Commerce, a corporation, and Burbank Realty Board, a corporation, having filed a formal complaint against Southern Pacific Railroad Company, a corporation, and Southern Pacific Company, a corporation, a public hearing having been held, the Commission being now fully advised of the stipulation between all parties as in the previous opinion hereinabove referred to,

IT IS HEREBY ORDERED that the stipulation and reservations as quoted in the opinion which precedes this order be and the same hereby are approved, subject to the following conditions:

1. Any of the trial installations shall at once be removed from operation upon request of the Engineering Department of this Commission, subject, however, to the further action of this Commission.

2. The Commission hereby expressly reserves the right to make such further orders in this proceeding relative to the protection of said crossings, or any of them, as to it may seem right and proper or as required by the public safety.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 11<sup>th</sup> day of July, 1928.

Leon Whitely  
Chas. Seaver  
Edmund Cook  
Thos. J. Lott  
M. J. Carr  
COMMISSIONERS.