

Decision No. \_\_\_\_\_

ORIGINAL

Decision No. 2964

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the matter of the application of the CITY OF TROPICO, a municipal corporation, to establish road crossings in said city.

Application No. 1901.

Henry P. Goodwin, City Attorney,  
for applicant.  
George D. Squires for Southern  
Pacific Company.  
T. W. Watson for City of Glendale.

BY THE COMMISSION.

OPINION.

This is an application by the City of Tropico, a municipal corporation of the sixth class, for authority to establish a crossing over the right of way and tracks of the Southern Pacific Company in said city by Brand Boulevard at grade. It appears, however, from the application, that the principal question involved concerns the payment of the cost of removal to a different location of an interlocking tower now installed at said crossing.

A hearing was held at Tropico on November 5, 1915. The testimony showed that the right of way of the Southern Pacific Company is 100 feet wide in the center of which its double track railroad is laid. These tracks form part of the main line of the system. All of the trains of the system running from Los Angeles to points north, both

local and through trains, pass over this crossing. The right of way and tracks at this point extend in a north-westerly and southeasterly direction. The southeasterly line of the right of way is the common boundary line between the City of Tropic and the City of Los Angeles. Brand Boulevard crosses said right of way at almost a right angle, extending northeasterly and southwesterly. It consists of two roadways each 40 feet wide lying on either side of the right of way of the Pacific Electric Railroad Company in the center of which is located the double track electric interurban railroad of that company. Both roadways of the Boulevard are paved and curbed along that portion lying northeasterly of the right of way. No part of the right of way is paved. Southwesterly from the railroad right of way only the southeasterly roadway is paved in the vicinity of the railroad. The crossing is now being used by the public.

It was represented that the cities of Los Angeles, Tropic and Glendale desire to co-operate in completing the pavement of the Boulevard and in making it still more a main artery of travel from Los Angeles by way of Allesandro Street to the easterly portion of the San Fernando Valley connecting Los Angeles with the cities of Tropic, Glendale, Casa Verdugo and to the east with Eagle Rock, Pasadena and other localities.

The crossing of the steam road and the electric road is at present made safe by a system of interlocking switches by means of which derailing devices prevent the approach of trains on either line to the crossing when the crossing is occupied by trains of the other line. The mechanism is operated by levers in the tower referred to. The tower

consists of a two story frame building about ten or twelve feet square standing to the easterly of the boulevard near the northeasterly rail of the Southern Pacific tracks and wholly upon its right of way. The southeasterly curb line and street line of Brand Boulevard if prolonged across the railroad right of way would pass through the tower, which would project 8/10 of a foot beyond the curb line into the roadway and about two or three feet southeasterly beyond the street line.

The city wishes to have the switch tower moved back to a point on the right of way adjoining the northeasterly line thereof and lying southeasterly from the street line prolonged, leaving the proposed sidewalk and parking space clear of obstruction. It claims that the boulevard really extends across the right of way and that nearly all of the tower now stands in the street and constitutes an obstruction to traffic which should be removed by the Southern Pacific Company. Its claim of title is based upon alleged adverse use by the public, but no evidence was submitted showing when the use by the public began or its adverse character. Its counsel later stated that he was unable to prove that the ground where the tower now stands was ever used by the public for highway purposes. No evidence was offered tending to show the location on the ground of any highway crossing said tracks at any time in the vicinity of what is now Brand Boulevard.

It was stipulated that the right of way of the Southern Pacific Company was acquired by it by deed from one Richardson dated March 11, 1873; that it was part of a large ranch, that no roads crossed the ranch at or near the present crossing, and no roads or crossing rights were reserved in the deed.

It was also stipulated that the said electric road now owned and operated as part of the Pacific Electric Railway was built about 1904 by the Los Angeles Inter-Urban Railway Company and that the tower in question was erected by the Southern Pacific Company in 1902 at its sole cost but that the said Inter-Urban Company thereafter paid the cost thereof, and that it has ever since been maintained and operated jointly by the two roads which it serves.

The contract of date May 24, 1904, for the crossing by the electric road, copy of which was submitted after the hearing, shows that the Inter-Urban agreed to forthwith install said switch and signal system at its own sole cost, the expense of maintenance and operation to be borne jointly. The terms of the contract, however, do not affect the relations between either road and applicant.

Pacific Electric Railway Company was not represented at the hearing but has since stated that it waives its right to appear and will accept and be bound by Southern Pacific Company's position and will abide the Commission's order in the matter.

Southern Pacific Company offers to remove the tower to the location proposed and also to dedicate as a part of Brand Boulevard the two strips each 40 feet in width extending across its right of way which would lie within the lines of the two roadways of Brand Boulevard if the lines thereof were prolonged across its right of way. It also offers to pave at its own expense between its tracks and rails and for a distance of two feet on either side thereof, and when the remainder of the boulevard is improved to pay without protest or obstruction of proceedings its assessed share of the cost of such improvement.

It has made an estimate of the cost of removing the tower to the proposed new location. The amount of this estimate is \$685.00. It offers to do the work at actual cost if the city will pay said cost. The city wishes the company to pay the entire cost of the removal. All parties agree that the removal of the tower will be highly beneficial in that it will not only permit

the improvement of the southeasterly roadway by suitable pavement and sidewalk, but will also give all persons using the boulevard at or near said crossing a much better view of approaching trains and will make the crossing much safer than at present.

During the time that the tower is being removed the railroad companies propose to maintain a flagman at the crossing to make travel at that point safe. The crossing will be authorized. Under the circumstances here prescribed the city should pay for the removal of the tower.

O R D E R.

CITY OF TROPICO, a municipal corporation of the sixth class, having applied to the Railroad Commission for authority to establish and construct at the present grade a crossing of the tracks and right of way of the Southern Pacific Company by Brand Boulevard, a public street in said city, and to remove from said crossing the interlocking tower and other structures or devices which obstruct free travel for the full width of said street, and a public hearing having been had upon said application in the City of Tropicco, and it appearing that the public convenience and necessity will be subserved by the establishment and construction of said crossing at grade,

IT IS HEREBY ORDERED that said application be and the same is hereby granted upon the following express conditions:

(1) Southern Pacific Company shall dedicate to public use, by suitable conveyance or map, an easement across its right of way and tracks over the land lying between the lines of the roadways of said Brand Boulevard prolonged, but reserving to itself the right to construct, maintain and operate, repair and reconstruct present and future railroad tracks of various kinds across said street so conveyed.

(2) Southern Pacific Company shall remove the interlocking switch tower and appliances and devices used in connection therewith, from their present location and erect and construct them at a point outside the lines of Brand Boulevard prolonged across its said right of way, the entire actual cost of said removal and reconstruction to be paid for by applicant.

(3) The authority hereby given to remove and reconstruct said switch tower, devices and appliances used in connection therewith shall be exercised and said work finished before February 1, 1916.

(4) Suitable precautions shall be taken by Southern Pacific Company and the Pacific Electric Company to insure the safety of the traveling public at said crossing during the time said tower, appliances and devices are being removed and reconstructed.

(5) Applicant shall report in writing to the Railroad Commission within ten days after the completion of said work the fact that the work has been completed satisfactorily.

(6) The Commission reserves the right to make such further orders in regard to this application as to it may appear to be right and proper and to revoke its permission if in its opinion public convenience and necessity demand such action.

Dated at San Francisco, California, this 16<sup>th</sup> day of November, 1915.

*Max Thelen*  
*W. H. ...*  
*...*  
*Francis R. ...*  
Commissioners.