

Decision No. 8926.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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City of La Verne, a
Municipal corporation,
Complainant,

vs.

The Atchison, Topeka and
Santa Fe Railway Company,
a corporation, and Pacific
Electric Railway Company, a
corporation,
Defendants.

Case No. 1519.

Joseph A. Allard, Jr., for complainant.
M. W. Reed, for Atchison, Topeka & Santa Fe
Railway Company, defendant.
Robert C. Gocker, for Pacific Electric Railway
Company, defendant.

BRUNDIGE, Commissioner:

O P I N I O N

This is a complaint by the City of La Verne alleging the dangerous condition of the grade crossing of Lincoln Avenue, also known as H Street, La Verne, and the tracks of Atchison, Topeka and Santa Fe Railway Company and Pacific Electric Railway Company. It is alleged that several persons have been killed or injured at these crossings; that trains of both of the defendants cross Lincoln Avenue at a high rate of speed and that public convenience and interest require the installation and operation of gates or the separation of grades of the street and tracks. It is asked that defendants be ordered to install and operate crossing gates for 24 hours each day, or that they be required to eliminate the grade crossings by the separation of grades.

In its answer the Pacific Electric alleges that since its tracks are distant 116 feet from the Santa Fe tracks the crossing of Lincoln Avenue by these two railroads properly constitute two separate crossings instead of one, as mentioned and treated in the complaint. It denies that its crossing is dangerous and alleges that any casualties that may have occurred were avoidable by the exercise of ordinary care and caution; that its trains do not cross Lincoln Avenue at a speed in excess of 25 miles an hour; that for one traveling on the highway there is absolutely no obstruction of view of approaching trains and that the traffic at the crossing is not of sufficient density to justify either the installation of crossing gates or the separation of grades.

The Santa Fe also denies the dangerous character of its crossing; that its trains cross Lincoln Avenue at a high rate of speed and the further allegation that public convenience and interest require the installation of crossing gates or the elimination of this crossing as a grade crossing.

A public hearing was held in La Verne on March 23, 1921.

Lincoln Avenue, La Verne, is the principal street used by automobiles between Pomona and either La Verne or the Foot Hill Boulevard. The Santa Fe has one main line track crossing this street. The Pacific Electric also has one main line track and a spur track located approximately 16 feet north of its main line track, which is 116 feet south of the Santa Fe track.

Lincoln Avenue is 80 feet wide between property lines and 50.9 feet wide between curb lines. It is paved from curb to curb with an excellent pavement in very good condition. The Santa Fe crossing is now protected by a standard crossing sign on the east side of Lincoln Avenue and north of the track and by an automatic flagman on the west side of Lincoln Avenue and south of the track.

There is also a standard warning sign on the west side of the street approximately 110 feet north of the track. The Pacific Electric crossing is protected by a standard crossing sign and an automatic flagman both on the east side of Lincoln Avenue and south of the track. There is also a warning sign on the same side of the street about 250 feet from the crossing.

At a point 50 feet south of the Santa Fe track the view is unobscured for about a mile to the west and one half mile to the east and from a point 50 feet north of the track for 1200 feet to the west and 2000 feet to the east.

Witnesses for the City of La Verne all testified as to the dangerous condition of the crossing and several told of accidents and near accidents that had occurred. In addition it was brought out that there had been certain failures of the Pacific Electric's automatic flagman and that the proximity of the two crossings created a certain amount of confusion to travelers on Lincoln Avenue which greatly increased the hazard of vehicular travel. It was also stated that trains of both the Pacific Electric and Santa Fe cross Lincoln Avenue at a very high rate of speed, but there were no results of actual tests of the speed of trains introduced.

Another fact tending to increase the danger was stated in that the Santa Fe freight trains stood on the track in such a way that the automatic flagman operated, although no train was coming, and that this condition resulted in a loss of confidence by travelers in the flagman.

The City Engineer and Superintendent of Streets of La Verne made a count of the traffic on Sunday, March 26, 1921, from 8 A.M. to 8 P.M., the weather that day being cool and cloudy, with a little rain in the evening, and another count on Wednesday, March 16, 1921,

from 7:30 A.M. to 7:30 P.M., the weather this day being bright and clear. The results of these two counts are as follows:

<u>Travel</u>	<u>N u m b e r</u>	
	<u>March 6th</u>	<u>March 16th</u>
Automobiles,	1325	1016
Horse-drawn vehicles,	5	18
Bicycles,	39	22
Motorcycles,	18	25
Santa Fe trains,	8	12
Pacific Electric trains,	16	20

He commented further that in his opinion the real danger was a possible confusion due to the two tracks, but also admitted that this was about the same condition as for any double track.

Three members of the Board of Trustees were asked if the City of La Verne was prepared to assume part of the expense of the separation of grades and while all stated that they were unable to speak for the Board of Trustees, they were of the opinion that the City was not in position to assume this expenditure.

Alva J. Meckner, a member of the Board of Trustees, stated that the Santa Fe was by ordinance limited to a speed of 25 miles per hour.

The Signal Engineer of the Santa Fe, Mr. E. Winans, testified that in his judgment automatic flagmen were as effective as gates. This conclusion was supported by his reasons that gates were subject to a more variety of failures than the flagmen, such failures being due to human errors, breakage of gates by vehicles and, less important, mechanical failures in the gates themselves and that there were more accidents where gates were located. He also testified that gates would cost approximately \$2200 and that their operation for 24 hours a day would cost \$3,648.24 per year.

The Santa Fe also introduced the fact that the number of trains that crossed Lincoln Avenue were 11 passenger trains and 8 freight trains; that La Verne is a regular stop for only one train and that the average speed eastbound was 24.6 miles per hour and westbound 32.6 miles per hour.

The Signal Supervisor for the Pacific Electric testified, in general, the same as the Santa Fe signal engineer, but also stated that on his road the maintainer inspected flagmen every two or three days and that the average failure per month per signal was 0.585 for the 265 odd wig wags on the Pacific Electric. On cross examination he admitted some possibility of confusion because of two tracks and that the west-bound speed of the Pacific Electric trains was probably forty-five miles an hour. The Pacific Electric also introduced evidence to show that surprise tests indicated no speed in excess of 25 miles an hour over the crossing.

The Pacific Electric asked the privilege of referring the accidents mentioned to its claim department and of filing such record as it might have of these casualties. This has since been done and I believe I may sum up the evidence as to accidents by saying that those referred to were apparently avoidable by the use of sufficient caution in that no suit was brought and claim filed in but one case against the party. It should be noted, however, that there is always another side to the story and that I make no attempt to adjudicate the question of responsibility for these accidents.

The Pacific Electric also made a check of travel over Lincoln Avenue on Saturday March 19, 1921, from 8 A.M. to 6:30 P.M., this count resulting as follows:

Automobiles	1005
Horse-drawn Vehicles	12
Motorcycles	43
Pedestrians	3

The traffic over the crossing is not particularly heavy, there is uncontradicted evidence that the view at both of these crossings is good in all directions and further since investigation by our engineering department at and subsequent to the hearing indicates that the automatic flagmen ring for a sufficiently long period of time for even the higher rates of speed of both the Santa Fe and Pacific Electric trains, I am convinced that the public interest does not require either the installation of crossing gates or the separation of grades at this crossing.

I recommend therefore that this case be dismissed.

O R D E R

The City of La Verne having complained of the dangerous condition of the crossings of Lincoln Avenue, La Verne, and the tracks of the Atchison, Topeka and Santa Fe Railway Company and Pacific Electric Railway Company and asked that the Commission order the installation and operation of crossing gates or the separation of grades, a public hearing having been held and the Commission being fully apprised in the premises and of the opinion that the complaint should be dismissed,

IT IS HEREBY ORDERED, that this action be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of May, 1921.

H. D. Loveland

H. B. Sandage

J. W. Martin

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Commissioners.