

Decision No. C23-0122

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0568R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR
AUTHORITY TO REMOVE ABANDONED TRACK AND TO RELOCATE SIGNALS,
LIGHTS AND GATES CLOSER TO MAIN TRACK 2 AT THE W. 13TH AVENUE
CROSSING IN THE CITY AND COUNTY OF DENVER, COLORADO (DOT #245254T).

**COMMISSION DECISION
GRANTING APPLICATION**

Mailed Date: February 22, 2023
Adopted Date: February 22, 2023

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the BNSF Railway Company (BNSF) on December 23, 2022, requesting authority to remove one track and to relocate existing flashing lights and gates to move closer to the remaining crossing tracks at the crossing of W 13th Avenue in the City and County of Denver (Denver) located at railroad milepost 1.864 of the Pikes Peak Subdivision, National Inventory No. 245254T, in Denver, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed January 4, 2023.

3. No interventions were filed in this matter.

4. The Commission has reviewed the record in this matter deemed the Application is complete within the meaning of § 40-6-109.5, C.R.S and the application was automatically deemed complete by operation of rule on February 18, 2023.

5. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

6. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

7. BNSF seeks authority to remove the easternmost track from the existing four track crossing and move the existing crossing signals closer to the changed crossing on W. 13th Avenue in Denver.

8. As grounds, BNSF states that the track in question has been abandoned and is no longer necessary. When the easternmost track is removed, the railroad signal for westbound vehicle traffic will be too far from the new three track crossing.

9. BNSF states there are currently 20 freight trains per day using the subject crossing at a timetable speed of 30 miles per hour (MPH) on the mainline. The track that is proposed to be removed has no train movements. The current National Inventory Form shows there are 6,400 vehicles per day using the crossing at a speed of 30 MPH with approximately 11 percent heavy vehicles using the crossing.

10. There have been nine accidents at the crossing including six property damage only accidents and three injuries that occurred between 1980 and 2011.

11. BNSF estimates the cost of this project at \$10,521 with BNSF responsible for all costs of this project.

12. BNSF proposes starting the project once it can arrange with Denver the start date once approval is given by the Commission upon Commission approval and completing the project by December 2023.

C. Conclusions

13. The Commission has jurisdiction in this matter under §§ 40-4-106(2)(a) and (3)(a), C.R.S.

14. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

15. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1 of the Rules of Practice and Procedure.

16. We find that good cause exists and that the requirements of public safety are met by granting the Application consistent with the above discussion.

17. We will require BNSF to inform us in writing that construction is complete within ten days of project completion. We shall expect this letter by December 31, 2023.

18. We will require BNSF to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory forms in this proceeding by December 31, 2023

II. ORDER

A. The Commission Orders That:

1. The application (Application)) filed by the BNSF Railway Company (BNSF) on December 23, 2022 requesting authority to remove one track and to relocate existing flashing lights and gates to move closer to the remaining crossing tracks at the crossing of W 13th Avenue in the City and County of Denver (Denver) located at railroad milepost 1.864 of the Pikes Peak Subdivision, National Inventory No. 245254T, in Denver, State of Colorado was deemed complete within the meaning of § 40-6-109.5, C.R.S. on February 18, 2023.

2. The Application is granted.

3. BNSF is authorized and ordered to remove the easternmost track and relocate the active warning devices at the crossing of W. 13th Avenue in Denver, Colorado.

4. BNSF shall inform the Commission in writing when the crossing changes are complete within ten days of completion. The Commission will expect the letter by December 31, 2023. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. BNSF is required to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory forms in this proceeding by December 31, 2023.

6. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

7. The Commission retains jurisdiction to enter further decisions as necessary.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 22, 2023.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners