

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0597R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, ON BEHALF OF BOULDER COUNTY, FOR AUTHORITY TO RELOCATE AN EXISTING AT-GRADE HIGHWAY RAIL AND ADD FLASHING LIGHT SIGNALS, GATES, BELLS, CONSTANT WARNING TIME CIRCUITRY, AND NEW SIGNAL CABIN, AT THE COLORADO STATE HIGHWAY 52 (DOT# 244-831K) CROSSING OF TRACKS OWNED BY BNSF RAILWAY, IN BOULDER COUNTY, STATE OF COLORADO.

**INTERIM COMMISSION DECISION
DEEMING APPLICATION COMPLETE, APPROVING
PLANS, AND REQUIRING ADDITIONAL FILINGS**

Mailed Date: January 24, 2024

Adopted Date: January 24, 2024

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application (Application) filed by the Colorado Department of Transportation (CDOT) on December 8, 2023, requesting preliminary authority for final plans to relocate the existing crossing of Colorado State Highway 52 (SH 52), add flashing light signals with gates, bells, constant warning time circuitry, new signal cabin, new crossing surface at approximate railroad milepost 36.65, and to remove the existing active warning equipment and crossing surface at the existing SH 52 crossing, railroad milepost 36.68 of the Front Range Subdivision of the BNSF Railway Company (BNSF), no National Inventory No. for the relocated crossing and National Inventory No. 244831K near the Town of Niwot, County of Boulder, in the 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 on December 13, 2023.

3. On December 19, 2023, BNSF filed a Notice of Intervention. BNSF does not contest or oppose the Application.

4. The Commission has reviewed the record in this matter and deems the Application complete within the meaning of § 40-6-109.5, C.R.S.

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

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

B. Findings of Fact

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

8. CDOT seeks authority to upgrade the railroad flashing light signals with gates, bells, constant warning time circuitry, and to remove the existing active warning devices at the crossing of SH 52 BNSF in Boulder County, in the State of Colorado.

9. CDOT is currently working on a mobility study to improve multi-modal traffic along the Colorado State Highway 119 (SH 119), which runs parallel to the BNSF. As part of this project, CDOT needs to move SH 52 approximately 160 feet to the south to align with a connecting roadway on the west side of SH 119, creating a four-leg intersection. There will be a new traffic signal to control the vehicle movements at the intersection.

10. With the relocation of the SH 52 roadway, the crossing of the existing SH 52 will need to be moved south of its current location. At the relocated crossing location, CDOT

proposes to install new crossing surfaces, active warning equipment consisting of flashing lights, gates, bells, constant warning time circuitry, and new railroad signal bungalow. There will be a sidewalk on the north side of the roadway and medians. The new active warning equipment will be interconnected to and will preempt the new traffic signal with an advanced preemption time of 25 seconds. Once the new crossing is complete and operational, the current SH 52 crossing will have the crossing panels and active warning equipment removed and the road approaches to the crossing removed, graded, and permanently stabilized.

11. There are currently six trains per day that use the crossing at a maximum timetable speed of 49 MPH with no anticipated increases or decreases in the number or character of trains at this time. The latest vehicle counts in 2020 shows there are currently 10,000 Vehicles Per Day (VPD) with approximately 3.5 percent heavy vehicles and school buses using the crossing at a posted speed limit of 55 MPH. Vehicle volume is projected to increase to 10,470 VPD in five years and 12,000 VPD in 20 years.

12. There have been five accidents at the crossing since 1975 including four property damage only accidents in 1989, 1991, 1992, and 1995, and one injury accident in 1992.

13. CDOT estimates the cost of the civil engineering work at \$1,290,260. CDOT has not yet received the cost estimates for the railroad work elements. We will require BNSF to provide the cost estimates and state sketch for this project by March 31, 2024.

14. CDOT proposes to start construction on April 1, 2024, and be completed by December 31, 2026. We will require CDOT to inform us in writing that construction is complete within ten days of project completion. We shall expect this letter by December 31, 2026. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. We will also require CDOT to file a copy of the

cost estimates and state sketches with the Commission for review and action on this Application. We also require CDOT to file a copy of the signed agreement task order within 60 days of receipt of the cost estimate and state sketch from BNSF prior to starting any construction at the crossings.

15. CDOT and BNSF shall be required to update the U.S. DOT National Inventory form for this crossing and file an updated copy of the form in this proceeding by December 31, 2026.

C. Conclusions

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

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

18. 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.

19. We find that good cause exists and that the requirements of public safety are met by approving the proposed plans and requiring additional filings in this matter consistent with the above discussion.

II. ORDER

A. It Is Ordered That:

1. The Application (Application) filed by the Colorado Department of Transportation (CDOT) on December 8, 2023, requesting preliminary authority for final plans to relocate the existing crossing of Colorado State Highway 52 (SH 52), add flashing light signals

with gates, bells, constant warning time circuitry, new signal cabin, new crossing surface at approximate railroad milepost 36.65, and to remove the existing active warning equipment and crossing surface at the existing SH 52 crossing, railroad milepost 36.68 of the Front Range Subdivision of the BNSF Railway Company (BNSF), no National Inventory No. for the relocated crossing and National Inventory No. 244831K near the Town of Niwot, County of Boulder, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The intervention of BNSF is granted.
3. The plans are approved.
4. BNSF is required to provide the cost estimates and front sheets for this project by March 31, 2024.
5. CDOT shall file a copy of the cost estimates and state sketches once provided by BNSF.
6. CDOT shall be required to file a copy of the signed master agreement task order within 60 days of receiving the cost estimates and front sheets prior to starting construction at the crossing.
7. CDOT 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, 2026. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.
8. CDOT and BNSF shall be required to update the U.S. DOT National Inventory form for this crossing and file an updated copy of the form in this proceeding by December 31, 2026.

9. 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.

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

11. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 24, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners