

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)	
MORGAN COUNTY, COLORADO, FOR AN ORDER)	
AUTHORIZING THE INSTALLATION OF)	DOCKET NO. 93A-126R
SIGNAL LIGHTS AND OTHER PROTECTIVE)	
DEVICES TO BE CONSTRUCTED ACROSS THE)	COMMISSION ORDER
TRACKS AND RIGHT-OF-WAY OF THE)	
BURLINGTON NORTHERN RAILROAD COMPANY)	GRANTING APPLICATION
ON COUNTY ROAD 26 AT RAILROAD MILE)	
POST 456.81, DOT 057263Y, BRUSH,)	
COLORADO.)	

 Adopted Date: January 5, 1994
 Mailed Date: January 6, 1994

STATEMENT

BY THE COMMISSION:

1. On March 9, 1993, Morgan County, a political subdivision of the State of Colorado, filed this application for authority to install train activated grade crossing warning devices at the crossing of County Road 26 across the mainline tracks of The Burlington Northern Railroad Company (BN), Railroad Milepost 456.81, National Inventory I.D. No. 057-263Y, near the City of Brush, in Morgan County, Colorado.

2. The Commission gave notice of this application, together with a copy of the application, to all interested parties, including the adjacent property owners, in accordance with § 40-6-108(2), C.R.S. (1993). The notice was mailed March 15, 1993.

3. On March 16, 1993, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

4. On March 24, 1993, BN filed its Entry of Appearance and Notice of Intervention.

5. On December 14, 1993, Morgan County filed its Certification to Proceed to Hearing, together with its list of witnesses and copies of its exhibits.

6. On December 23, 1993, Morgan County filed a motion requesting that this matter be handled under the Commission's modified procedures, without a formal hearing. No objections were filed to this motion.

7. The Commission will determine this matter upon the record, without a formal oral hearing, under § 40-6-109(5), C.R.S. and Commission Rule of Practice and Procedure No. 24, because the application is noncontested and the applicant requested that the matter be decided without a public hearing.

FINDINGS OF FACT

THE COMMISSION FINDS:

1. The purpose of this application is to secure Commission approval to install automatic grade crossing warning devices at the crossing of County Road 26 across the mainline tracks of BN at Railroad Milepost 456.81, National Inventory I.D. No. 057-263Y, near the City of Brush, in Morgan County, Colorado.

2. Notice of the proposed installation of the grade crossing warning devices has been given by the Commission to all interested parties, including the adjacent property owners. No intervenor who filed a petition to intervene, or other pleading, contested or opposed the application.

3. County Road 26 is an asphalt paved road that crosses the mainline track of BN at an angle of 90 degrees. The average daily vehicular traffic (ADT) count on County Road 26 at the existing crossing is about 216. Thirty train operations affect the crossing daily, with a maximum train speed of 79 MPH.

4. The subject crossing is presently protected with standard crossbuck warning signs, stop signs, and advance warning signs. The new installation will consist of train activated flashing light signals with gates and a bell. Track circuits will be constant warning devices which provide a constant warning time of 30 seconds for the approach of a train from either direction at any speed.

5. Funding for the proposed grade crossing warning devices is available under Title 23 U.S.C., and therefore, funding under § 40-4-106(2)(b), C.R.S., does not apply. There is no railroad cost sharing for this project because of the provisions of 23 U.S.C. 130(b) and 49 CFR 1.48.

6. The work to be done and the expenses thereof will be paid for in accordance with the appropriate rules and regulations of the Federal Government and are covered by an agreement dated May 3, 1993, by and between Morgan County, BN, and the Department of Transportation, State of Colorado (CDOT). The estimated cost of the project is \$74,153.00. The estimated cost of the railroad signal work is \$65,653.

7. The installation, operation, and maintenance of the grade crossing warning devices will comply with the agreement dated May 3, 1993, by and between Morgan County, BN, and CDOT. Maintenance of the advance warning signs and the roadway approaches to the crossing will remain the responsibility of Morgan County. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will continue to be the responsibility of BN.

8. All exhibits, specifications, and plans are complete, accurate, and meet Commission requirements.

9. The public safety, convenience, and necessity requires, and will be served by, the granting of this application.

CONCLUSIONS ON FINDINGS OF FACT

1. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) and (3)(a), C.R.S. (1993).

2. No intervenor who filed a petition to intervene, or other pleading, contested or opposed the application. The application is noncontested and unopposed.

3. The Commission will determine this matter on the record, without a formal hearing, under § 40-6-109(5), C.R.S. (1993) and Commission Rule of Practice and Procedure No. 24, 4 CCR 723-1.

4. The public safety, convenience, and necessity requires, and will be served by, the granting of this application.

ORDER

THE COMMISSION ORDERS THAT:

1. Morgan County, Colorado, is authorized and directed to install, operate, and maintain automatic grade crossing warning devices at the crossing of County Road 26 across the mainline tracks of The Burlington Northern Railroad Company, at Railroad Milepost 456.81, National Inventory I.D. No. 057-263Y, near the City of Brush, Morgan County, Colorado.

2. Installation of the warning devices, authorized in Ordering Paragraph No. 1 above, shall be in accordance with the plans, specifications, and exhibits submitted and hereby approved in this application.

3. The installation, operation, and maintenance of the crossing warning devices at this crossing shall comply with the agreement dated May 3, 1993, between the Morgan County, Colorado, the Department of Transportation, State of Colorado, and The Burlington Northern Railroad Company.

4. The total actual cost of labor and material required for installation of the grade crossing warning devices shall be paid in accordance with the provisions of Title 23 U.S.C.

5. The Burlington Northern Railroad Company shall maintain the warning devices at its own expense for the life of the crossing so protected.

6. Upon completion of the installation of the grade crossing warning devices ordered herein, The Burlington Northern Railroad Company shall notify the Commission in writing within ten days of the initial operation of the warning devices.

7. If the installation authorized in Ordering Paragraph No. 1 above has not been completed within nine (9) months of the effective date of this order The Burlington Northern Railroad Company shall file with the Commission:


- a. A status report of the project; and
- b. A progress report each month after the status report is filed, until the installation is completed.


8. The Commission retains jurisdiction to enter further required orders.


This Order is effective immediately.

DONE IN OPEN MEETING January 5, 1994.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO







Commissioners