

Decision No. C19-0843-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0480R

IN THE MATTER OF THE APPLICATION OF CITY AND COUNTY OF BROOMFIELD FOR AUTHORITY TO INSTALL APPROACH RAILROAD GATES WITH FLASHING LIGHTS AND BELLS, INSTALL EXIT RAILROAD GATES TO COMPLETE A 4-QUADRANT GATE INSTALLATION, WITH CONSTANT WARNING TIME CIRCUITRY AND NEW RAILROAD SIGNAL CABIN, AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING BRAINARD DRIVE, USDOT NO. 929085A, IN CITY AND COUNTY OF BROOMFIELD, STATE OF COLORADO.

**INTERIM COMMISSION DECISION
DEEMING APPLICATION COMPLETE
AND APPROVING PRELIMINARY DESIGN PLANS**

Mailed Date: October 17, 2019

Adopted Date: October 16, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City and County of Broomfield (Broomfield or Applicant) on September 3, 2019, seeking preliminary approval of design plans to install active warning devices including flashing lights, bells, four-quadrant gates, constant warning time circuitry, radar exit gate vehicle detection, and a new signal cabin at the crossing of Brainard Drive with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 16.352 on the Front Range Subdivision, National Inventory No. 929085A, in Broomfield, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on September 4, 2019.

3. On October 4, 2019, BNSF filed a Notice of Intervention. BNSF does not object to preliminary approval, but states it is still reviewing the design and providing comments to the Applicant and reserves all rights to object to final approval and to continue to provide comments to the Applicant on the design proposal.

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

5. Now being fully advised in the matter, we approve the preliminary design plans provided in 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. Broomfield is requesting authority to install active warning devices including flashing lights, bells, four-quadrant gates, constant warning time circuitry, radar exit gate vehicle detection, and a new signal cabin at the crossing of Brainard Drive with the BNSF. Broomfield proposes to operate the four quadrant gates in a dynamic mode with radar vehicle detection.

8. Broomfield is seeking this change because Broomfield is pursuing a quiet zone at this crossing.

9. Broomfield states there are currently 6 trains per day that use the crossing at a maximum timetable speed of 30 miles per hour (MPH) with no estimates of increases or decreases in these volumes in the future. There are currently 120 vehicles per day (VPD) with approximately 2 percent heavy vehicles and school buses not using the crossing at a posted speed limit of 25 MPH with an estimated increase to 138 VPD by 2023 and 150 VPD by 2038.

10. There have been no accidents that have occurred at this crossing since it was opened.

11. Broomfield estimates the cost of the associated civil engineering work at \$49,013 with the estimate for the BNSF signal interconnect and schematic drawing to be submitted at a later date with the final plans. The costs of the project will be paid for through a combination of Colorado Department of Transportation administered federal funds and Broomfield local Capital Improvement Project funds.

12. Broomfield proposes to start construction on March 1, 2020 and be complete by July 31, 2021. Broomfield is requesting preliminary approval of the plans attached to its application and proposes that final plans will be provided to the Commission once the railroad estimate and schematic diagram are received from the railroad by December 1, 2019. Broomfield has waived the applicable statutory period found at § 40-6-109.5, C.R.S., regarding the time limit for decisions.

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 *Code of Colorado Regulations* 723-1 of the Commission's Rules of Practice and Procedure.

16. Based on the Findings of Fact, we find that good cause exists and that the requirements of public safety and necessity are met by approving Broomfield's preliminary plans consistent with the above discussion. Broomfield will be expected to file final plans in this proceeding by December 1, 2019 for Commission review and approval and BNSF will be required to provide the outstanding cost estimate and schematic plan to Broomfield in sufficient time for Broomfield to file the final application by December 1, 2019.

II. ORDER

A. It Is Ordered That:

1. The application filed by the City and County of Broomfield (Broomfield or Applicant) on September 3, 2019, seeking preliminary approval of design plans to install active warning devices including flashing lights, bells, four-quadrant gates, constant warning time circuitry, radar exit gate vehicle detection, and a new signal cabin at the crossing of Brainard Drive with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 16.352 on the Front Range Subdivision, National Inventory No. 929085A, in Broomfield, 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. Broomfield's waiver of the applicable statutory period found at § 40-6-109.5, C.R.S., regarding the time limit for decisions is noted.

4. The preliminary plans filed by the Applicant are approved.

5. BNSF will be expected to provide the outstanding cost estimate and schematic diagram to Broomfield in this proceeding to provide Broomfield sufficient time to file the final plans in this proceeding by December 1, 2019.

6. Broomfield will be expected to file the final design plans for Commission review and approval by December 1, 2019.

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
October 16, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners