

Decision No. C20-0232

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0065R

IN THE MATTER OF THE APPLICATION OF WELD COUNTY, FOR AUTHORITY TO WIDEN AN EXISTING CROSSING, AND RELOCATE EXISTING PASSIVE WARNING SIGNS, ON EACH APPROACH AT TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY CROSSING COUNTY ROAD 98, USDOT NO. 804-870Y, IN WELD COUNTY, STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: April 10, 2020

Adopted Date: April 8, 2020

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Public Utilities Commission (Commission or PUC) for consideration of an application (Application) filed by the County of Weld (Weld County) on February 24 2020, requesting authority to widen the existing crossing and to relocate the existing passive warning signs at the crossing of Weld County Road 98 (WCR 98) with the tracks of the Union Pacific Railroad Company (UPRR) at railroad milepost 71.19 of the Greeley Subdivision, National Inventory No. 804870Y, near the Town of Nunn, Weld County, 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 February 28, 2020.

3. On March 24, 2020, Staff of the Commission (Staff) sent correspondence to Weld County asking why Weld County was proposing to keep passive warning at the crossing as part of this Application.

4. On March 27, 2020, Weld County provided additional information in response to Staff's question.

5. There were no interventions in this matter.

6. 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.

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

B. Findings of Fact

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

9. Weld County is requesting authority to widen the crossing and reset the existing passive warning signs at the crossing of WCR 98 with the UPRR adjacent to the intersection of WCR 98 and U.S. 85. WCR 98 is proposed to be widened in anticipation of additional traffic use due to the closure of the WCR 100 crossing. (The WCR 100 crossing abolishment was approved by the Commission by Decision No. C19-1034 in Proceeding No. 19A-0533R on January 2, 2020.) The WCR 100 closure and widening of CR 98 is part of a collective agreement between the Colorado Department of Transportation (CDOT), Weld County, and UPRR to purchase necessary right-of-way for the U.S. 85 corridor. CDOT has appropriated state funds for widening the crossing material and approaches and relocating the existing passive warning signs. Weld County filed additional information showing that this Application is the first of two that Weld County will file with the Commission for this crossing. This first Application is to widen

the crossing. A second PUC application will be filed at a later date to request an upgrade of the crossing to flashing lights and gates.

10. The proposed widening will include widening the roadway west of the tracks and tapering the widened roadway to the east of the tracks to eventually match the existing roadway width. The widened approach will accommodate possible truck traffic as well as allow for better alignment of the roadway with U.S. 85 and the west leg of this WCR 98 and U.S. 85 intersection. The existing crossbucks and stop signs will be moved. Weld County proposes to post “Do Not Stop on Tracks” signs west of the crossing, a W10-1 advance warning sign east of the tracks, and a W10-2 sign west of the intersection. A W10-1 sign needs to be posted at this location, but the remaining signs proposed to be posted are appropriate.

11. Weld County states that there are currently 230 vehicles per day (VPD) using the crossing at a speed limit of 55 miles per hour (MPH) with 5 percent of the traffic being trucks using the crossing and no school buses using the crossing. Background vehicles using the crossing are projected to increase to 400 VPD by 2022 and 500 VPD by 2037. There are currently approximately 14 trains per day using the crossing at a maximum timetable speed of 60 MPH with no estimates of changes in train numbers known at this time.

12. Weld County estimates the cost of this part of the project in this Application at \$2,631,742 with CDOT providing funds necessary for the project.

13. Weld County proposes starting construction on March 1, 2020, and being complete with the construction by July 31, 2020. We will require that Weld County file a copy of the signed Construction and Maintenance Agreement by April 30, 2020 prior to starting work at the crossing.

14. Weld County will be required to inform the Commission in writing when the crossing changes are complete and operational within ten days of completion. The Commission will expect this letter by July 31, 2020. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

C. Conclusions

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

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

17. 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, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

18. We find that good cause exists and that the requirements of public safety are met by granting the Application as amended with the additional information consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the County of Weld (Weld County) on February 24 2020, as amended on March 27, 2020, requesting authority to widen the existing crossing and to relocate the existing passive warning signs at the crossing of Weld County Road 98 (WCR 98) with the tracks of the Union Pacific Railroad Company (UPRR) at railroad

milepost 71.19 of the Greeley Subdivision, National Inventory No. 804870Y, near the Town of Nunn, Weld County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application as amended is granted.

3. Weld County is authorized and ordered to proceed with the proposed widening at the WCR 98 crossing with UPRR as shown in the plans attached to the Application. Weld County will be required to post a W10-1 advance warning sign on the west leg of the WCR 98/U.S. 85 with all other proposed signage approved.

4. Weld County will be required to file a signed copy of the Construction and Maintenance Agreement by April 30, 2020 prior to starting any construction work at the crossing.

5. Weld County is required to inform the Commission in writing that the crossing changes are complete and operational within ten days after completion. We shall expect this letter by July 31, 2020. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

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
April 8, 2020.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners