

Decision No. C20-0721

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0336R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR
AUTHORITY TO CLOSE TWO PUBLIC CROSSINGS AND INDUSTRY TRACKS ON
TEJON STREET (U.S. DOT # 245252E AND U.S. DOT # 245251X) IN THE CITY AND
COUNTY OF DENVER, STATE OF COLORADO.

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

Mailed Date: October 12, 2020

Adopted Date: October 7, 2020

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 August 14, 2020, requesting authority to abolish the two at-grade crossings of BNSF with Tejon Street near West 9th Avenue and near West Mulberry Place by removal of the tracks and signs, National Inventory Nos. 245251X and 245252E, in the City and County of Denver (Denver), 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 August 31, 2020.

3. Notice of proposed closure of the crossing with the BNSF was posted at the crossings by BNSF on August 31, 2020 as stated in the Statement of Posting of Notice of Proposed Closure filed with the Commission on September 2, 2020. The Notice included photos of the notice posted at the subject crossing.

4. No interventions were filed in this matter.

5. The Commission reviewed the record in this matter and deems the Application complete within the meaning of § 40-6-109.5, 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. BNSF requests the authority to abolish the two crossings of Tejon Street near West 9th Avenue and near West Mulberry Place in Denver, Colorado. Closure will involve removal of track, and railroad crossing related signage. The subject crossings are no longer in use by BNSF, so BNSF is seeking to remove the tracks at these crossings. Once the track is removed, BNSF states that Denver will be responsible for paving the road surfaces.

9. BNSF will bear the costs associated with the removal of the crossings and Denver will bear the cost for repaving the road surfaces, of which the costs will be minimal.

10. BNSF proposes to remove the track through the crossings starting in August 2020 and with completion in October 2020. BNSF will be required to inform the Commission in writing that all work is complete within ten days of completion. The Commission will expect this letter no later than December 1, 2020. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

11. The National Inventory Forms will need to be updated to show the crossings as closed. These updated forms for the crossings in this proceeding will need to be filed in this proceeding by BNSF by December 1, 2020.

12. With the removal of the tracks and signage through the subject crossing, any potential highway-rail grade crossing safety issues at the crossing will be eliminated thereby preventing accidents and promoting public safety. Because the roadway will remain, no motor vehicle drivers will be inconvenienced by closure of the roadway.

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 abolishment of the subject crossing.

15. Because the Application is unopposed, the Commission 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.

16. Based on the Findings of Fact, the Application is granted consistent with the discussion above.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the BNSF Railway Company (BNSF) on August 14, 2020, requesting authority to abolish the two at-grade crossings of BNSF with Tejon Street near West 9th Avenue and near West Mulberry Place by removal of the tracks and signs, National Inventory Nos. 245251X and 245252E, in the City and County of Denver, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. BNSF is authorized and ordered to proceed with the closure of the Tejon Street crossings near West 9th Avenue and near West Mulberry Place by removal of rail and all related railroad crossing signage.

4. BNSF is required to inform the Commission in writing that the crossing abolishments are complete within ten days after completion. We shall expect this letter by December 1, 2020. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. The National Inventory Forms for the subject crossing need to be updated to show the crossing as closed and BNSF is required to file the updated National Inventory Forms shall be filed in this proceeding by December 1, 2020.

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
October 7, 2020.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOHN GAVAN

MEGAN M. GILMAN

Commissioners

CHAIRMAN JEFFREY P. ACKERMANN
ABSENT.