

Decision No. C24-0065

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0613R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR AUTHORITY TO ADD RAILROAD FLASHING LIGHT SIGNALS WITH GATES AND REMOVE PASSIVE WARNING SIGNING, ON EACH APPROACH AT TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY CROSSING BEAVER CREEK ROAD, USDOT NO. 253-303H, IN GILPIN COUNTY, STATE OF COLORADO.

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

Mailed Date: February 6, 2024
Adopted Date: January 31, 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 20, 2023, requesting authority to install flashing light signals, gates and bells, and removal of the passive warning signs at the crossing of Beaver Creek Road with the tracks of the Union Pacific Railroad Company (UPRR) at railroad milepost 35.58 of the Moffat Tunnel Subdivision, National Inventory No. 253303H near the Town of Pinecliffe, County of Gilpin, 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 22, 2023.

3. On January 19, 2024, UPRR filed an Entry of Appearance and Notice of Intervention. UPRR 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 install flashing lights with gates and bells and remove the existing passive warning signs at the crossing of Beaver Creek Road with the UPRR in Gilpin County, Colorado.

9. CDOT is proposing changes at Beaver Creek Road because the crossing has a high degree of skew between the roadway and the railroad, which creates visibility issues along the track to the south of the crossing. UPRR has reported two unsafe motorist activities at the crossing in the last five years.

10. There are currently seven trains per day that use the crossing at a maximum timetable speed of 45 MPH with no anticipated increases or decreases in the number or character of trains at this time. There are currently 500 Vehicles Per Day (VPD) with approximately two percent heavy vehicles and school buses that do use the crossing at a posted speed limit of 30 MPH. Vehicle volume is projected to increase to 510 VPD in five years and 520 VPD in 20 years.

11. There have been five accidents at the crossing since 1975 including three property damage only accidents in 1988, 2004, and 2011, and two injury accidents at the crossing in 19983 and 1984.

12. CDOT states that the cost of the active warning equipment is estimated at \$416,787. Section 130 funds will pay for the costs of this project. An estimate for ongoing maintenance was also included with the cost estimate and will be disallowed pursuant to 4 *Code of Colorado* 723-7-7301(a).

13. CDOT proposes to start construction on May 1, 2024, and be completed by December 31, 2025. 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, 2025. 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 signed master agreement task order by April 30, 2024, prior to starting construction at the crossing.

14. CDOT and UPRR 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, 2025.

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, 4 CCR 723-1 of the Rules of Practice and Procedure.

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

II. ORDER

A. The Commission Orders That:

1. The Application (Application) filed by the Colorado Department of Transportation (CDOT) on December 20, 2023, requesting authority to install flashing light signals, gates and bells, and removal of the passive warning signs at the crossing of Beaver Creek Road with the tracks of the Union Pacific Railroad Company (UPRR) at railroad milepost 35.58 of the Moffat Tunnel Subdivision, National Inventory No. 253303H near the Town of Pinecliffe, County of Gilpin, in the State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. CDOT is authorized and ordered to remove the existing passive crossing signs and to add new active warning devices at the crossing of Beaver Creek Road with the tracks of the UPRR including flashing light signals, gates, bells, and new signal cabin and removal of the existing active warning equipment. Ongoing maintenance costs to the road authority are disallowed pursuant to 4 *Code of Colorado* 723-7-7301(a). CDOT shall be required to file a copy of the signed Master Agreement Task Order by April 30, 2024, prior to starting construction at the crossing.

4. 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, 2025. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. CDOT and UPRR 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, 2025.

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
January 31, 2024.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners