

Decision No. C19-0947

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0542R

IN THE MATTER OF THE APPLICATION OF THE TOWN OF KERSEY FOR AUTHORITY TO CREATE A NEW ROAD, PEDESTRIAN, AND UTILITY CROSSING FOR THE UNION PACIFIC RAILROAD EAST OF 705240H IN THE TOWN OF KERSEY, WELD COUNTY, STATE OF COLORADO.

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

Mailed Date: November 22, 2019

Adopted Date: November 20, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Town of Kersey (Kersey) on October 8, 2019, requesting authority to construct a new vehicle and pedestrian/bicycle at-grade crossing of the tracks of the Union Pacific Railroad Company (UPRR) out of service Monfort Industrial Lead with the extension of 9th Street north of Latham Street and installation of passive warning devices consisting of crossbucks, yield signs, number of tracks signs, and advance warning signs; and installation of water and sewer utilities under the tracks, no current National Inventory Number, in Kersey, County of Weld, 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 October 9, 2019.

3. On October 9, 2019, Staff of the Commission sent a deficiency letter requesting final signed and stamped plans for a final Application, or to provide the additional information required for a preliminary Application for the preliminary plans filed with the Application.

4. On October 21, 2019, Kersey filed final signed and stamped plans for the final Application.

5. There were no interventions filed in this matter.

6. The Commission has reviewed the record in this matter and deems that the Application is complete pursuant to § 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 interventions opposing the Application were received in this matter.

9. Kersey seeks authority to construct a new at-grade crossing of the UPRR out of service Monfort Industrial Lead with the extension of 9th Street north of Latham Street, installation of passive warning devices including crossbucks, yield signs, number of tracks signs, and advance warning signs; and installation of water and sewer utilities under the tracks. The crossing will cross two tracks of the UPRR, provide two 20' vehicle lanes, one 5' concrete sidewalk, and one 10' concrete trail adjacent to the vehicle crossing, and curb and gutter. Water and sewer utilities will also be constructed under the UPRR tracks. Kersey requests this new crossing to connect the north and south sides of its growing town, creating a second arterial street connecting the town to U.S. Highway 34, increase safety routes for emergency response for its citizens, provide more direct access to schools, a new recreation center, and other amenities in Kersey, and to connect the new pedestrian and bicycle path through the region.

10. Kersey estimates that 1,150 vehicles per day (VPD) using the new roadway and crossing at a posted speed limit of 30 miles per hour within 5 years of the crossing opening, and 2,200 VPD using the crossing in 20 years. There are currently no trains using this out of service line with currently no future use of this line known.

11. Kersey states a grade separation crossing is not practicable because of the flat terrain in Kersey, which would require an enormous footprint for such a grade separation. Additionally, no trains are currently using the crossing.

12. Kersey proposes to install passive warning at the crossing consisting of crossbucks, yield signs, and number of tracks at the crossing and advance warning signs.

13. Kersey estimates the total cost of the project for the vehicle/pedestrian/bicycle crossing and utility crossings at \$604,440.45 with the cost of this project being funded by a combination of a Colorado Department of Transportation Alternatives Program Grant and Kersey funding with the funds for the project being available and encumbered in January 2020.

14. Kersey proposes to start construction in March 2020 and be complete by May 2020 estimating the crossing to go into service in May 2020. Kersey will be required to provide a copy of the signed Construction and Maintenance Agreement for this project prior to starting construction. We will expect this signed agreement to be filed by February 29, 2020.

15. Kersey will be required to inform the Commission in writing that all construction is complete and operational within ten days of completion. Kersey will be expected to provide this letter in this Proceeding not later than June 15, 2020. The Commission understands, however, that this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

16. We will also require UPRR to assign a U.S. Department of Transportation crossing number for the new crossing and file a copy of the new inventory form for this crossing in this proceeding by June 15, 2020.

C. Conclusions

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

18. No interventions in opposition to the Application were filed in this matter.

19. 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.

20. 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 the Application as amended with the final plans consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the Town of Kersey (Kersey) on October 8, 2019, requesting authority to construct a new vehicle and pedestrian/bicycle at-grade crossing of the tracks of the Union Pacific Railroad Company (UPRR) out of service Monfort Industrial Lead with the extension of 9th Street north of Latham Street and installation of passive warning devices consisting of crossbucks, yield signs, number of tracks signs, and advance warning signs; and installation of water and sewer utilities under the tracks, no current National Inventory Number, in Kersey, County of Weld, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.
3. Kersey is authorized and ordered to proceed with construction of a new vehicle/pedestrian/bicycle at-grade crossing for the extension of 9th Street north of Latham Street with installation of passive warning devices consisting of crossbucks, yield signs, number of tracks signs, and advance signs; and installation of water and sewer utilities under the tracks of UPRR.
4. Kersey is required to file the signed copy of the Construction and Maintenance Agreement by February 29, 2020 prior to starting construction work at the crossing.
5. Kersey 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 June 15, 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. UPRR is required to assign a U.S. Department of Transportation crossing number for the new crossing and file a copy of the new inventory form for this crossing in this proceeding by the end of construction on June 15, 2020.
7. 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.
8. The Commission retains jurisdiction to enter further required decisions.
9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 20, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners

CHAIRMAN JEFFREY P. ACKERMANN
ABSENT.