

Decision No. C23-0837

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0527R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR AUTHORITY TO UPGRADE TO RAILROAD FLASHING LIGHT SIGNALS WITH GATES AND REMOVE EXISTING FLASHING LIGHT SIGNALS WITHOUT GATES, ON EACH APPROACH AT TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY CROSSING COUNTY ROAD 90, USDOT NO. 804-874B, IN WELD COUNTY, STATE OF COLORADO.

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

Mailed Date: December 15, 2023
Adopted Date: December 13, 2023

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 October 27, 2023, requesting authority to remove existing flashing light signals and installing new flashing light signals with bells, constant warning time circuitry, and a new signal cabinet at the crossing of Weld County Road 90 (WCR 90) with the tracks of the Union Pacific Railroad Company (UPRR) at railroad milepost 67.150 of the Greeley Subdivision National Inventory No. 804874B near the Town of Pierce, County of Weld, 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 October 31, 2023.

3. There were no interventions filed in this matter.

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 remove existing flashing light signals and install active warning devices including flashing light signals, bells, constant warning time circuitry, and new signal cabinet at the crossing of WCR 90 with the UPRR in Weld County, Colorado.

9. CDOT is proposing changes at WCR 90 because there is short storage distance on the west side of the crossing due to the parallel US 85. Emergency vehicles also use this as an alternative route when other routes are blocked by a stopped train. The flashing lights and gates will provide drivers with information about an oncoming train. Advanced warning signs are also proposed to be installed at the crossing as there are currently none posted.

10. There are currently 12 trains per day that use the crossing at a maximum timetable speed of 60 MPH with no anticipated increases or decreases in the number or character of trains at this time. There are currently 300 Vehicles Per Day (VPD) with approximately 5 percent heavy vehicles and school buses that do not use the crossing at an unposted, statutory speed limit

of 55 MPH. Vehicle volume is projected to increase to 348 VPD in five years and 542 VPD in 20 years.

11. There was one property damage only accident at the crossing in 1979.

12. CDOT states that the cost of the active warning equipment is estimated at \$459,065. 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 October 27, 2023, requesting authority to remove existing flashing light signals and installing new flashing light signals with bells, constant warning time circuitry, and a new signal cabinet at the crossing of Weld County Road 90 (WCR 90) with the tracks of the Union Pacific Railroad Company (UPRR) at railroad milepost 167.150 of the Greeley Subdivision National Inventory No. 804874B near the Town of Pierce, County of Weld, State of Colorado is deemed complete.

2. The Application is granted.

3. CDOT is authorized and ordered to remove the existing flashing lights and to upgrade the crossing of WCR 90 with the tracks of UPRR with flashing light signals, bells, constant warning time circuitry, and new signal cabin.

4. CDOT shall be required to file a copy of the signed Master Agreement Task Order by April 30, 2023, prior to starting construction at the crossing.

5. 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.

6. CDOT and BNSF 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.

7. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an 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 decisions as necessary.

9. This Decision is effective on its Mailed Date,

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 13 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners