

Decision No. C24-0040

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0580R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FORT COLLINS FOR AUTHORITY TO ADD ONE DETACHED SIDEWALK AT THE CHERRY STREET CROSSING OF TRACKS OWNED BY BNSF RAILWAY COMPANY, USDOT NO. 244-642N, IN LARIMER COUNTY, STATE OF COLORADO.

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

Mailed Date: January 19, 2024

Adopted Date: January 17, 2024

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 November 30, 2023, requesting to replace the existing flashing lights, gates, bells, signal bungalow, and upgrading the crossing detection circuitry to newer constant warning time at the crossing of Morgan County Road 3 (MCR 3) with the tracks of the BNSF Brush Subdivision, railroad milepost 480.19, National Inventory No. 057229S near the Town of Wiggins, Morgan County, 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 December 7, 2023.

3. No interventions were 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. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

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

7. BNSF requests authority to replace the existing flashing lights, gates, bells, signal bungalow, and upgrading the crossing detection circuitry to newer constant warning time at the crossing of MCR 3 with the tracks of the BNSF Brush Subdivision.

8. As grounds, BNSF states that it wants to replace and upgrade the active warning equipment at the crossing; bells will be added to both sides of the crossing.

9. BNSF states in its Application there are currently approximately 24 trains per day using the subject crossing at a timetable speed of 79 miles per hour (MPH) on the mainline. BNSF states that based on the latest vehicle volume information in the National Inventory Form from 1989, there are 200 vehicles per day using the crossing with an unposted speed limit of 55 MPH with eleven percent estimated heavy vehicles or number of school buses using the crossing.

10. There has been one accident at the crossing since 1975 involving one property damage only accident in 1981.

11. BNSF states the estimate for replacing the existing active warning equipment is \$234,035 with BNSF paying for 100 percent of the cost of the project.

12. BNSF plans to start this project as soon as possible after Commission approval and estimates completing the project by March 30, 2024. We will require BNSF to inform the

Commission in writing that the project has been completed by March 30, 2024, although we understand this completion may be earlier or later based on weather and construction schedule.

13. BNSF will also be required to provide the updated U.S. DOT Inventory Form for the updated crossing by the end of the project estimated to be on March 30, 2024.

C. Conclusions

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

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

16. 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 *Code of Colorado Regulations* 723-1 of the Rules of Practice and Procedure.

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

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the City of Fort Collins (Fort Collins) on October 30, 2023, as amended on November 16, 2023, requesting authority to add an additional detached sidewalk to the south side of the roadway at the crossing of Cherry Street crossing with the tracks of the BNSF Railway (BNSF) at railroad milepost 74.52 of the Front Range Subdivision, National Inventory No. 244642N in Fort Collins, County of Larimer, in the State of Colorado is deemed complete.

2. The intervention by BNSF is granted.
3. The Application is granted.
4. Fort Collins is authorized and ordered to proceed with the proposed construction of the detached pedestrian and bicycle sidewalk on the south side of Cherry Street crossing in Fort Collins, Colorado.
5. Fort Collins shall file a copy of the signed Construction and Maintenance Agreements for this project by March 30, 2024, prior to starting work at the crossing.
6. Fort Collins shall inform the Commission in writing that the crossing changes are complete and operational within ten days of completion. We shall expect this letter by June 30, 2024. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.
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. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 17, 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

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners