

Decision No. C25-0088

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0553R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR AUTHORITY TO REPLACE THE FLASHERS, GATES, AND BUNGALOW FOR THE CROSSING AT 83RD STREET IN THE UNINCORPORATED TOWN OF NIWOT, BOULDER COUNTY, COLORADO (DOT# 244836U).

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

Issued Date: February 7, 2025

Adopted Date: February 5, 2025

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application (“Application”) filed by BNSF Railway Company (“BNSF”) on December 18, 2024, for an order authorizing the replacement of flashing lights, gates, bells, and signal bungalow for the crossing of 83rd Street with the tracks owned by BNSF, at railroad milepost 39.173, National Inventory No. 244836U, in the unincorporated Town of Niwot, Boulder County, 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 December 26, 2024.

3. No interventions were filed in this matter.

4. The Commission 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 contesting or opposing the Application.

7. BNSF requests authority for the replacement of flashing lights, gates, bells, and signal bungalow for the crossing of 83rd Street with the tracks owned by BNSF in the unincorporated Town of Niwot, Colorado. The change is necessary because the bungalow, gates, bells and flashing lights at the crossing are of an older variety and BNSF no longer has spare equipment in the event of a failure.

8. BNSF plans to use Constant Warning Time track circuitry in order to provide a uniform warning time to motorists based on the speed of an approaching train. BNSF's proposed changes and equipment upgrades will bring the crossing into compliance with current American Railway Engineers and Maintenance of Way standards.

9. BNSF states that most recent traffic volume at the subject crossing as of 1994 is 1,150 vehicles per day ("VPD"). Five percent of this traffic volume is estimated to be heavy vehicles. No school buses use the crossing. The posted speed limit at the crossing is 35 miles per hour ("MPH"). There were no five- or 20-year traffic volumes provided. There are currently six trains per day as of 2019 that use the crossing at a maximum timetable speed of 49 MPH with no anticipated changes in train volume in the future.

10. There have been two accidents at the crossing since 1975 including one property damage only accident in 1987, and one injury at the crossing in 1991.

11. BNSF estimates the cost of the project at \$307,356. BNSF will cover 100 per cent of the costs for the project.

12. BNSF proposes to start the project on March 31, 2025, and anticipates being complete with the work by November 30, 2025. 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 November 30, 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.

13. BNSF will be required to update the US DOT Crossing Inventory Form for the crossing. This form will need to be filed in this proceeding by BNSF by November 30, 2025.

C. Conclusions

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

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 December 18, 2024, for an order authorizing the replacement of flashing lights, gates, bells, and signal bungalow for the crossing of 83rd Street with the tracks owned by BNSF, at railroad milepost 39.173, National Inventory No. 244836U, in the unincorporated Town of Niwot,

Boulder County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S., and is granted.

2. BNSF is authorized and ordered to proceed with the replacement of flashing lights, gates, bells, and signal bungalow.

3. BNSF is required to inform the Commission in writing that the work is complete within ten days after completion. We shall expect this letter by November 30, 2025. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

4. BNSF will be required to update the US DOT Crossing Inventory Form for the crossing. This form will need to be filed in this proceeding by BNSF by November 30, 2025.

5. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Application for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

6. The Commission retains jurisdiction to enter further decisions as necessary.

7. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 5, 2025.**

(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