

Decision No. C03-0090

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 02A-335R

~~Decision No. SELECT PARAGRAPH, F9 TO UPDATE Decision No. SELECT PARAGRAPH, F9 TO UPDATE Decision No.~~

~~BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO~~

DOCKET NO. 02A-335R

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IN THE MATTER OF THE APPLICATION OF THE COUNTY OF EL PASO, STATE OF COLORADO, FOR AUTHORITY TO CONSTRUCT A TRAIL UNDERPASS, AT MILEPOST 84.1, UNDER THE EXISTING BURLINGTON NORTHERN AND SANTA FE RAILWAY BRIDGE OVER CREWS GULCH, IN EL PASO COUNTY, COLORADO; AND FOR AUTHORITY TO CONSTRUCT A TRAIL UNDERPASS, AT MILEPOST 81.65, UNDER THE EXISTING UNION PACIFIC RAILROAD BRIDGE OVER CREWS GULCH, IN EL PASO COUNTY, COLORADO.

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**COMMISSION ORDER GRANTING APPLICATION**

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Mailed Date: January 24, 2003

Adopted Date: January 22, 2003

**I. BY THE COMMISSION:**

**A. Statement**

1. On June 14, 2002, the County of El Paso (El Paso), Colorado, filed an application for authority to construct a trail under the existing bridge of the Union Pacific Railroad Company (UPRR), at railroad mile-post 81.65 and the existing bridge of The Burlington Northern and Santa Fe Railway~~road~~ Company (BNSF), at railroad milepost 84.1 over Crews Gulch, in the County of El Paso, Colorado.

2. On June 19, 2002, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission gave notice of the application together with a copy of the application to all interested parties, including the adjacent property owners, in accordance with § 40-6-108(2), C.R.S. The Notice was mailed June 19, 2002.

4. On June 24, 2002, the BNSF filed its Entry of Appearance and Notice of Intervention.

5. On July 5, 2002, the UPRR filed its Entry of Appearance and Notice of Intervention.

6. El Paso waived the time limits set forth in § 40-6-109.5, (1) and (2), C.R.S. for this application.

6.7. The Commission has reviewed the record in this matter and deems that the application is now complete within the meaning of § 40-6-109.5, C.R.S.

7.8. The Commission will determine this matter upon the record, without a formal hearing, under § 40-6-109(5), C.R.S., and Rule 24, Commission Rules of Practice and Procedure, 4 *Colorado Code of Regulations* ("CCR") 723-1, because the application is noncontested, and the Applicant did not request a public hearing.

#### **B. Findings of Fact**

8.9. El Paso is constructing a pedestrian/bicycle trail along Crews Gulch to connect to the multi-use trail along Fountain Creek. This project consists of extending the trail from the S.H. 85-87 underpass, easterly under the existing railroad bridges over Crews Gulch, in the County of El Paso, Colorado.

~~9.10.~~ The purpose of this application is to secure Commission approval to construct ~~thea~~ trail under the existing UPRR bridge at railroad milepost 8~~1.654.1.~~ and the existing BNSF bridge at railroad milepost 84.1 over Crews Gulch, in the County of El Paso, Colorado.

~~10.11.~~ The project consists of the construction of a 10 foot wide concrete trail under both railroad structures that will transition to a —with gravel trail as it continues easterly approaches, The construction will include a debris structure under each railroad structure to prevent objects from falling from the railroad structure or passing train onto trail occupants and fencing to keep trail users on the trail. ~~This trail will link to the existing multi-use trail system beneath U.S. Highway 85-87 adjacent to the rights of way described herein.~~

~~11.12.~~ Notice of the proposed trail has been given by the Commission to all interested parties, including the adjacent property owners, the UPRR, and ~~the~~ BNSF. No intervention was received in opposition to this application.

~~12.13.~~ Funding for the entire project will be paid by El Paso.

~~13.14.~~ Maintenance of the pedestrian-bicycle trail, debris structures, fencing and approaches will be the responsibility of El Paso.

~~14.15.~~ All exhibits, specifications, and plans are complete, accurate, and meet Commission requirements.

~~15.16.~~ The public safety, convenience, and necessity require, and will be served by the granting of this application.

**C. Conclusions**

~~16.17.~~ The Commission has jurisdiction in this matter under § 40-4-106(2)(a) and (3)(a), C.R.S.

~~17.18.~~ No intervention was received in opposition to this application. The application is noncontested and unopposed.

~~18.19.~~ The Commission will determine this matter on the record, without a formal hearing, under § 40-6-109(5), C.R.S., and Rule 24, Commission Rules of Practice and Procedure, 4 CCR 723-1.

~~19.20.~~ The public safety, convenience, and necessity require, and will be served by, the granting of this application.

**II. ORDER:****A. The Commission Orders That:**

1. The County of El Paso, Colorado, is authorized to construct a pedestrian-bicycle trail under the existing railroad bridge of the Union Pacific Railroad Company at railroad milepost 81.65 and the existing railroad bridge of The Burlington Northern and Santa Fe Railway Company ~~road at railroad milepost 84.1~~ across Crews Gulch ~~at railroad milepost 84.1 and railroad milepost 81.65~~, in the County of El Paso, Colorado.

2. The construction authorized in Ordering Paragraph 1 above shall be in accordance with the plans, specifications, and exhibits submitted with the application are hereby approved.

3. The construction and maintenance of the trail facility shall be in accordance with the contract dated August 10, 2002 by and between the Union Pacific Railroad Company and the

County of El Paso dated May 30, 2002, and the contract by and between The Burlington Northern and Santa Fe Railway Company and the County of El Paso dated October 24, 2002.

~~3.4.~~ The construction, operation, and maintenance of the pedestrian-bicycle trail shall be the responsibility of the County of El Paso, Colorado.

~~4.5.~~ The Union Pacific Railroad Company shall continue to maintain its railroad bridge, track structure, and facilities.

6. The Burlington Northern and Santa Fe Railway Company shall continue to maintain its railroad bridge, track structure, and facilities.

~~5.7.~~ The Commission retains jurisdiction to enter further required orders.

~~B-8.~~ This Order is effective on its Mailed Date.

**C.B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
JANUARY 22, 2003**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

RAYMOND L. GIFFORD

POLLY PAGE

JIM DYER

Commissioners

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