

Decision No. C03-0174

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02A-537R

IN THE MATTER OF THE APPLICATION OF THE TOWN OF WELLINGTON,
COLORADO, FOR THE AUTHORITY TO UPGRADE THE CROSSING OF THE
BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY AND JEFFERSON
AVENUE AKA LARIMER COUNTY ROAD 62 (NATIONAL INVENTORY CROSSING ID
NO. 244955D), WELLINGTON, LARIMER COUNTY, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: February 14, 2003
Adopted Date: February 12, 2003

I. BY THE COMMISSION

A. Statement

1. On October 3, 2002, Town of Wellington, Colorado, filed this application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates, bell, and motion detection track circuits at the crossing of Jefferson Avenue, (Larimer County Road 62) across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company (BNSF) at railroad milepost 84.75, National Inventory I.D. No. 244-955D, in the Town of Wellington, Larimer County, Colorado.

2. On October 10, 2002, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission gave notice of this 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.. This Notice was mailed October 10, 2002.

4. On October 16, 2002, BNSF filed its Entry of Appearance and Notice of Intervention.

5. On November 21, 2002, the Commission received a copy of the fully executed Agreement by and between the Colorado Department of Transportation, (CDOT), Town of Wellington, and BNSF, dated November 19, 2002, pertaining to the construction, maintenance, and funding for this project.

6. The Town of Wellington has waived the time limits set forth in § 40-6-109.5, (1) & (2), C.R.S. for this application.

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.

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 Rule 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

9. The purpose of this application is to secure Commission approval to install grade crossing warning devices consisting of flashing light signals with gates, bell, and motion detection track circuits at the crossing of Jefferson Avenue across the tracks and right-of-way of BNSF at railroad milepost 84.75, National Inventory I.D. No. 244-955D in the Town of Wellington, Larimer County, Colorado.

10. Jefferson Avenue is a moderately traveled collector roadway, used by local vehicles, emergency vehicles and school busses.

11. The BNSF operates 6 to 8 trains per day over the crossing at a maximum timetable speed of 49 mph. The average daily vehicular traffic (ADT) over the crossing is 200 vehicles per day with a projected ADT of 1000 in 2007.

12. The work to be done and the expenses therefor will be paid in accordance with the appropriate rules and regulations of the Federal Government and are covered by an agreement by and between CDOT, Town of Wellington, and BNSF dated November 19, 2002. The total estimated cost of the railroad portion of the project is \$131,616.

13. Maintenance of the roadway approaches to the crossing will be the responsibility of Town of Wellington. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of BNSF.

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

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

C. Conclusions On Findings Of Fact

16. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) and (3)(a), C.R.S. (1993).

17. The Commission will determine this matter on the record, without a formal hearing, under §40-6-109(5), C.R.S.(1993) and Rule 24, Commission Rules of Practice and Procedure, 4 CCR 723-1.

18. 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 Town of Wellington, Larimer County, Colorado is authorized to install grade crossing warning devices consisting of flashing light signals with gates, bell, and constant warning devices at the crossing of Jefferson Avenue across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company at railroad mile post 84.75, National Inventory I.D. No. 244-955D in the Town of Wellington, Larimer County, Colorado.

2. The installation of the warning devices authorized in Ordering Paragraph 1 above shall be in accordance with the plans, specifications, and exhibits submitted in this application and hereby approved.

3. The installation, operation, and maintenance of the crossing warning devices shall comply with the Agreement dated November 19, 2002, by and between the Colorado Department of Transportation, the Town of Wellington, Colorado, and The Burlington Northern and Santa Fe Railway Company.

4. The total actual cost of labor and material required for installation of the grade crossing warning devices shall be paid in accordance with the Agreement dated November 19, 2002, by and between the Colorado Department of Transportation, the Town of Wellington, Colorado, and The Burlington Northern and Santa Fe Railway Company.

5. The Burlington Northern and Santa Fe Railway Company shall maintain the warning devices at its own expense for the life of the crossing so protected.

6. The Commission retains jurisdiction to enter further required orders.

7. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 12, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners