

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 98A-148R

IN THE MATTER OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR
AUTHORITY TO REPLACE AND WIDEN THE EASTBOUND INTERSTATE 70 MAINLINE
VIADUCT STRUCTURE OVER 46TH AVENUE, WHICH CROSSES OVER THE
BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY TRACKS, AT
RAILROAD REFERENCE POINT 539.86, MORE OR LESS, LOCATED IN DENVER
COUNTY, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

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

I. BY THE COMMISSION:

A. Statement

1. On April 1, 1998, the Colorado Department of Transportation (CDOT) filed this application requesting authority to replace and widen the existing highway/railroad grade separation structure No. E-17-FX with structure No. E-17-UR to carry Interstate 70 (I-70) over the tracks of The Burlington Northern and Santa Fe Railway Company (BNSF) at railroad milepost 539.86, National Inventory No. 057-080F located in the City and County of Denver, Colorado.

2. On April 16, 1998, 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 adjacent property owners in accordance with § 40-6-108(2), C.R.S. The Notice was mailed April 16, 1998.

4. On April 22, 1998, the City and County of Denver filed its Entry of Appearance and Notice of Intervention.

5. On April 29, 1998, BNSF filed its Entry of Appearance and Notice of Intervention.

6. On January 19, 1999, the Commission received a copy of the fully executed Agreement by and between CDOT and BNSF dated January 13th, 1999 pertaining to the construction, maintenance, and funding for this project.

7. No protests, objections, or petitions to intervene in opposition were filed in this application. This application is noncontested and unopposed.

8. CDOT waives the time limits set forth in § 40-6-109.5, (1) & (2), C.R.S. for this application.

9. 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.

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

11. The Commission will determine this matter upon the record, without a formal oral hearing under § 40-6-109(5), C.R.S., and Commission Rules of Practice and Procedure No. 24, 4 CCR 723-1, because the application is noncontested and unopposed.

B. FINDINGS OF FACT

12. Notice of the proposed construction of the I-70 highway/railroad grade separation structure has been given by the Commission to all interested parties, including adjacent property

owners. No intervenor who filed a petition to intervene or other pleading contested or opposed the application.

13. CDOT is improving a portion of Interstate 70 located in the City and County of Denver, Colorado. By this application, CDOT proposes to replace the existing highway/railroad grade separation structure No. E-17-FX that carries I-70 over the mainline and yard tracks of the BNSF at railroad milepost 539.86, with a new wider structure No. E-17-UR.

14. The new I-70 structure (Structure No. E-17-UR) will have thirteen spans with a total length of 1876 feet. The new structure will provide for 3 through travel lanes in each direction with paved shoulders and interchange entrance/exit merge lanes.

15. Average daily traffic on I-70 at the project area in 1996 is 125,000 and projected to be about 145,000 vehicles per day in 2020. The posted speed limit is 55 mph. The estimated number of train movements under the structure per day is 70 at maximum speed of 30 mph.

16. This project is being funded under Title 23, U.S.C. and therefore is exempt from the provisions of § 40-4-106(3)(b), C.R.S. The estimated cost of the grade separation structure is \$14,000,000.

17. CDOT will maintain the new highway/railroad grade separation structure including the embankment, piers, slope paving, abutments, substructure, superstructure, and fencing. BNSF will continue to maintain its roadbed, tracks, communication and signal lines, and appurtenances underneath the new structure.

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

19. The public safety, convenience and necessity require, and will be served, by the granting of this application as hereinafter ordered.

C. CONCLUSIONS ON FINDINGS OF FACT

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

21. No intervener who filed a petition to intervene or other pleading contested of opposed the application. The application is noncontested and unopposed.

22. The Commission will determine this matter on the record, without a formal hearing under § 40-6-109(5), C.R.S., and Commission's Rules of Practice and Procedure No. 24, 4 CCR 723-1.

23. 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 Colorado Department of Transportation is authorized to construct, operate and maintain a highway/railroad grade separation structure to carry Interstate 70 over the mainline and yard tracks of The Burlington Northern and Santa Fe Railway Company at railroad milepost 539.86, located in the City and County of Denver, Colorado.

2. All work done shall be in accordance with the plans, specifications and exhibits submitted in the contract by and between the Colorado Department of Transportation and The Burlington Northern and Santa Fe Railway Company dated January 13, 1999.

3. The Colorado Department of Transportation shall pay the total actual cost of labor and material required for the highway/railroad grade separation structure authorized in ordering paragraph No. 1 above.

4. The Colorado Department of Transportation will maintain the new highway/railroad grade separation structure including the embankment, piers, slope paving, abutments, substructure, superstructure, and fencing. The Burlington Northern and Santa Fe Railway Company shall continue to maintain its roadbed, tracks, communication and signal lines, and appurtenances underneath the new structure.

5. The Commission retains jurisdiction to make further orders as required in this matter.

6. This Order is effective on its Mailed Date.

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

(SEAL)



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