

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 99A-133R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FORT COLLINS, COLORADO
FOR THE AUTHORITY TO IMPROVE THE AT GRADE CROSSING AND INSTALL
CROSSING WARNING DEVICES AT THE BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY'S CROSSING ON WEST DRAKE ROAD IN THE CITY OF FORT
COLLINS, LARIMER COUNTY, COLORADO

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: April 11, 2003

Adopted Date: April 9, 2003

I. BY THE COMMISSION

A. Statement

1. On March 24, 1999, the City of Fort Collins, Colorado (Fort Collins), filed this application requesting authority to widen the at grade crossing and to install warning devices at the crossing of West Drake Road across the tracks and right-of-way of the Burlington Northern Santa Fe Railway Company (BNSF) at railroad milepost 71.78, National Inventory I.D. No. 244-624R in the City of Fort Collins, Larimer County, Colorado.

2. On April 12, 1999, 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. (1993). This Notice was mailed April 12, 1999.

4. On April 16, 1999, BNSF filed its Entry of Appearance and Notice of Intervention.

5. On April 19, 1999, Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

6. On October 6, 1999, the Commission received a copy of the fully executed Agreement by and between CDOT, Fort Collins, and BNSF, dated September 23, 1999, pertaining to the construction, maintenance, and funding for this project.

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

8. 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.

9. 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

10. The purpose of this application is to secure Commission approval to widen the crossing and install grade crossing warning devices at the crossing of West Drake Road across the tracks and right-of-way of BNSF at railroad milepost 71.78, National Inventory I.D. No. 244-624R in the City of Fort Collins, Larimer County, Colorado.

11. West Drake Road currently is a four-lane roadway with a left turn lane and two bicycle lanes. There are no sidewalks. The existing crossing is controlled by standard advanced warning signs, pavement markings, cantilever flashing light signals. Immediately west of the crossing, Redwing Road intersects with West Drake Road and immediately east of the crossing, McClelland Drive intersects with West Drake Drive from the south. These intersections are controlled by standard traffic signals.

12. Fort Collins proposes to widen the crossing surface to accommodate a sidewalk on each side of the street and will construct a raised median.

13. The proposed grade crossing warning devices will consist of automatic flashing light signals with gates and bells located outside the curb for each approach. There will be an additional mast mounted flashing light signal with gate in the raised median on both sides of the track. Track circuits will be constant warning devices that provide 30 seconds of warning time for a train approaching the crossing from either direction at any authorized train speed. The grade crossing warning devices will be interconnected to and preempt the standard traffic signals that control the intersections West Drake Drive with Redwing Road and McClelland Drive.

14. The average daily vehicular traffic count on West Drake Road at the existing crossing is approximately 27,400 vehicles per day with a projected increase to 43,800. The posted roadway speed limit is 35 mph.

15. There are currently 6 to 8 freight trains per day operating over the crossing at a maximum timetable speed of 49 mph.

16. 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, Fort Collins, and the BNSF dated September 23, 1999. The total estimated cost of the railroad signal portion of the project is \$162,913.

17. Maintenance of the roadway approaches to the crossing and the standard traffic signals at the roadway intersections will be the responsibility of Fort Collins. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of BNSF.

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.

C. Conclusions On Findings Of Fact

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

21. No intervention was received in opposition to this 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. (1993) and Rule 24, Commission Rules of Practice and Procedure, 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 City of Fort Collins is authorized and directed to widen the crossing and install grade crossing warning devices at the crossing of West Drake Road across the tracks and right-of-way of the Burlington Northern Santa Fe Railway Company at railroad milepost 71.78, National Inventory I.D. No. 244-624R in the City of Fort Collins, Larimer County, Colorado.

2. 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 September 23, 1999, by and between the Colorado Department of Transportation, the City of Fort Collins, Colorado, and The Burlington Northern 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 September 23, 1999, by and between the Colorado Department of Transportation, the City of Fort Collins, Colorado, and The Burlington Northern Santa Fe Railway Company.

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

6. Upon completion of the installation of the grade crossing warning devices ordered herein, The Burlington Northern Santa Fe Railway Company shall notify the Commission in writing within ten days of the initial operation of the warning devices.

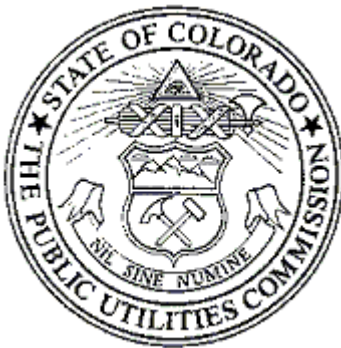
7. Upon completion of the widening of the grade crossing of West Drake Road ordered herein, the City of Fort Collins, Colorado, shall notify the Commission in writing within ten days of completion of the widening project.

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

9. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 9, 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