

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 98A-364R

IN THE MATTER OF THE APPLICATION OF THE CITY OF COLORADO SPRINGS,
COLORADO, FOR AUTHORITY TO CONSTRUCT A PEDESTRIAN/BICYCLE
UNDERPASS THROUGH THE UNION PACIFIC RAILROAD TRESTLE ADJACENT TO
SOUTH DOUGLAS CREEK IN COLORADO SPRINGS, COLORADO

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: April 25, 2003
Adopted Date: April 23, 2003

I. BY THE COMMISSION:

A. Statement

1. On August 14, 1998, the City of Colorado Springs (Colorado Springs), Colorado, filed an application for authority to construct a pedestrian-bicycle pathway under the existing trestle of the Union Pacific Railroad Company (UPRR), along South Douglas Creek at railroad milepost 71.48, in the City of Colorado Springs, El Paso County, Colorado.

2. On August 24, 1998, 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 August 24, 1998.

4. On November 27, 1998, the UPRR filed its Entry of Appearance and Notice of Intervention.

5. 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.

6. 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

7. Colorado Springs is constructing a pedestrian-bicycle pathway along South Douglas Creek within the City of Colorado Springs.

8. The purpose of this application is to secure Commission approval to construct the pedestrian-bicycle pathway under the existing UPRR trestle at railroad milepost 71.48. The project consists of the construction of 10-foot wide bicycle and pedestrian concrete pathway.

9. Notice of the proposed grade separated pathway has been given by the Commission to all interested parties, including the adjacent property owners and the UPRR. No intervention was received in opposition to this application.

10. The construction cost for the project is approximately \$14,023. Funding for the entire project will be paid by Colorado Springs.

11. Maintenance of the pedestrian-bicycle pathway and approaches will be the responsibility of Colorado Springs.

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

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

C. Conclusions

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

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

16. 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.

17. 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 Colorado Springs, Colorado, is authorized to construct a pedestrian-bicycle pathway under the existing railroad trestle of the Union Pacific Railroad Company across the South Douglas Creek, at railroad milepost 71.48, in the City of Colorado Springs, El Paso County, Colorado.

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

3. The construction, operation, and maintenance of the pedestrian-bicycle pathway shall be the responsibility of the City of Colorado Springs, Colorado.

4. The Union Pacific Railroad Company shall continue to maintain its railroad trestle.

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

B. This Order is effective on its Mailed Date.

**C. ADOPTED IN COMMISSIONERS' WEEKLEY MEETING
APRIL 23, 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