

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01A-280R

THE MATTER OF THE APPLICATION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BOULDER, STATE OF COLORADO, FOR AUTHORITY TO INSTALL SIGNALS AT A RAILROAD CROSSING ON HYGIENE ROAD (COUNTY ROAD 10) WEST OF N. 75TH STREET, BOULDER COUNTY, COLORADO, RAILROAD CROSSING D.O.T. NUMBER 057-157R (RAILROAD MILEPOST 42.82)

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: June 13, 2003
Adopted Date: June 11, 2003

I. BY THE COMMISSION

A. Statement

1. On June 5, 2001, the Board of County Commissioners of the County of Boulder, State of Colorado (Boulder County) filed an application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates, bells, and constant warning devices at the crossing of Hygiene Road (County Road 10) west of N. 75th Street, across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company (BNSF) at railroad mile post 42.82, National Inventory I.D. No. 057-157R in Boulder County, Colorado.

2. On July 12, 2001, 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 July 12, 2001.

4. On August 3, 2001, BNSF filed its Entry of Appearance and Notice of Intervention.

5. On July 19, 2001, the Colorado Department of Transportation (CDOT) filed its Entry of appearance and Notice of Intervention.

6. On April 25, 2003, the Commission received a copy of the fully executed Agreement by and between CDOT, Boulder County, and BNSF, dated April 22, 2003, pertaining to the construction, maintenance, and funding for this project.

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, bells, and constant warning devices at the crossing of Hygiene Road (County Road 10) west of N. 75th Street across the tracks and right-of-way of BNSF at railroad mile post 42.82, National Inventory I.D. No. 057-157R in Boulder County, Colorado.

10. The Hygiene Road crossing is used by commercial trucks, road construction equipment, passenger vehicles and school busses. The average vehicle count per day is 1100 vehicles with a substantial increase expected due to residential development east of the crossing.

11. BNSF operates two daily trains over the crossing at a timetable speed of 20 mph.
12. The proposed warning devices will consist of train-activated flashing light signals with gates and bells. Track circuits will be constant warning devices that will provide 30 seconds of warning time for the approach of a train in either direction at any authorized train speed.
13. 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, Boulder County, and BNSF dated April 22, 2003. The total cost of the BNSF grade crossing signal portion of the project is \$138,785.
14. Maintenance of the roadway approaches to the crossing will be the responsibility of Boulder County. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of BNSF.
15. All exhibits, specifications, and plans are complete, accurate, and meet Commission requirements.
16. The public safety, convenience, and necessity require, and will be served by, the granting of this application.

C. Conclusions On Findings Of Fact

17. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) and (3)(a), C.R.S. (1993).
18. No intervention was received in opposition to this application. The application is noncontested and unopposed.

19. 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.

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 Board of County Commissioners of the County of Boulder, State of Colorado is authorized and directed to install grade crossing warning devices consisting of flashing light signals with gates, bells, and constant warning devices at the crossing of Hygiene Road (County Road 10) west of N. 75th Street across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company at railroad mile post 42.82, National Inventory I.D. No. 057-157R in Boulder 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 April 22, 2003, by and between the Colorado Department of Transportation, Boulder County, 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 April 22, 2003,

by and between the Colorado Department of Transportation, Boulder County, Colorado, and The Burlington Northern and Santa Fe Railway Company.

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

6. If the installation authorized in Ordering Paragraph 1 above has not been completed within nine months of the effective date of this order, The Burlington Northern and Santa Fe Railway Company shall file with the Commission:

- a) A status report of the project; and
- b) A progress report each month after the status report is filed, until the installation is completed.

7. 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.

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
June 11, 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