

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-411R

IN THE MATTER OF THE APPLICATION OF THE COUNTY MESA, COLORADO FOR
THE AUTHORITY TO UPGRADE THE CROSSING OF THE UNION PACIFIC AT COUNTY
ROAD 36 (MP439.04 GLENWOOD SPRINGS SUB DOT#253 607Y AWO 07596 PID 42961)
IN MESA COUNTY, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: November 3, 2003

Adopted Date: October 29, 2003

I. BY THE COMMISSION

A. Statement

1. On September 18, 2003, the County of Mesa, State of Colorado (Mesa), filed this 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 County Road 36 (CR36), across the tracks and right-of-way of the Union Pacific Railroad Company (UPRR), at railroad mile post 439.04, National Inventory I.D. No. 253-607Y, near the Town of Palisade, in Mesa County, Colorado.

2. On September 23, 2003, 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 September 23, 2003.

4. On September 26, 2003, the Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

5. On October 8, 2003, the Commission received a copy of the fully executed Agreement by and between CDOT, Mesa, and UPRR, dated September 5, 2003, pertaining to the construction, maintenance, and funding for this project.

6. On October 10, 2003, the UPRR filed its Entry of Appearance and Notice of Intervention.

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 at the crossing of County Road 36 across the tracks and right-of-way of UPRR at railroad mile post 439.04, National Inventory I.D. No. 253-607Y near the Town of Palisade, in Mesa County, Colorado.

10. CR36 is a two lane paved road that crosses the UPRR mainline tracks at an angle of 58 degrees. The crossing surface is precast concrete crossing panels. Mesa proposes to realign the roadway to provide for an approximate 90 degree crossing of the UPRR tracks to improve site distance.

11. The average daily vehicle traffic at this crossing is 240 vehicles per day with a maximum speed of 5 mph. There are approximately 11 freight train movements a day at a timetable speed of 60 mph and 2 passenger train movements at a timetable speed of 79 mph.

12. The proposed warning devices will consist of train-activated flashing light signals with gates and bells, and constant warning devices.

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, Mesa, and UPRR dated September 5, 2003. The total cost of the grade crossing signal portion of the project is \$158,526.

14. Maintenance of the roadway approaches to the crossing will be the responsibility of the Mesa. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of UPRR.

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 County of Mesa, 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 County Road 36 across the tracks and right-of-way of the Union Pacific Railroad Company at railroad milepost 439.04, National Inventory I.D. No. 253-607Y near the Town of Palisade, in Mesa 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 5, 2003, by and between the Colorado Department of Transportation, Mesa County, Colorado and the Union Pacific Railroad 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 5, 2003, by and between the Colorado Department of Transportation, Mesa County, Colorado, and the Union Pacific Railroad Company.

5. Upon completion of the installation of the grade crossing warning devices ordered herein, the Union Pacific Railroad 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 Union Pacific Railroad 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 Union Pacific Railroad 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
October 29, 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