

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-361R

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

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IN THE MATTER OF THE APPLICATION OF DOUGLAS COUNTY, COLORADO FOR AN ORDER AUTHORIZING THE INSTALLATION OF SIGNAL LIGHTS AND OTHER PROTECTIVE DEVICES TO BE CONSTRUCTED ACROSS THE TRACKS AND RIGHT-OF-WAY OF THE BURLINGTON NORTHERN SANTA FE RAILROAD COMPANY ON LOUVIERS AVENUE AT RAILROAD MILEPOST 20.95, DOT 003-616J IN DOUGLAS COUNTY.

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**COMMISSION ORDER GRANTING APPLICATION**

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Mailed Date: November, 21, 2003

Adopted Date: November 19, 2003

**I. BY THE COMMISSION**

**A. Statement**

1. On August 15, 2003, Douglas County, Colorado (Douglas), filed this application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates, bell, and constant warning devices at the crossing of Louviers Avenue across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company (BNSF) at railroad milepost 20.95, National Crossing No. 003-616J, in Douglas County, Colorado.

2. On August 21, 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 August 21, 2003.

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

5. On September 16, 2003, BNSF filed its Entry of Appearance and Notice of Intervention

6. On March 3, 2003 the Commission received a copy of the fully executed Agreement by and between CDOT, Douglas, and BNSF, dated February 24, 2003, pertaining to the construction, maintenance, and Federal 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, bell, and constant warning track circuits at the crossing of Louviers Avenue across the tracks and right-of-way of BNSF at railroad milepost 20.95, National Crossing I.D. No. 003-616J, in Douglas County, Colorado.

10. The existing vehicle crossing has a posted speed limit of 25 MPH. An average of 28 freight trains per day with a timetable speed of 45 miles per hour presently cross Louviers Avenue at the crossing.

11. The proposed warning devices will consist of train-activated flashing light signals with gates, a warning bell and constant warning track circuits.

12. 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, Douglas, and BNSF dated February 24, 2003. The estimated cost of the railroad portion of the project is \$148,276.

13. Maintenance of the roadway approaches to the crossing will be the responsibility of Douglas. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of BNSF.

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

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

**C. Conclusions On Findings Of Fact**

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

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

18. 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.

19. 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 Douglas County, Colorado is authorized and directed to install grade crossing warning devices consisting of flashing light signals with gates, bell, and constant warning devices at the crossing of Louviers Avenue across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company at railroad milepost 20.95, National Crossing No. 003-616J in Douglas 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 February 24, 2003, by and between the Colorado Department of Transportation, Douglas 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 February 24, 2003, by and between the Colorado Department of Transportation, Douglas County, Colorado and The Burlington Northern and Santa Fe Railway Company.

5. 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.

6. 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.

7. If the installation authorized in Ordering Paragraph No. 1 above has not been completed within nine (9) 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;
- b. A progress report each month after the status report is filed, until the installation is completed.

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  
November 19, 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

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Commissioners