

Decision No. C04-0062

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-091R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, FOR THE AUTHORITY TO UPGRADE THE CROSSING OF THE GREAT WESTERN RAILROAD AT COUNTY ROAD 9, SOUTH OF US HIGHWAY 34, IN LARIMER OCUNTY, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: January 16, 2004
Adopted Date: January 14, 2004

I. BY THE COMMISSION

A. Statement

1. On March 7, 2003, City of Loveland, Colorado, filed this application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates, bell, and motion detection devices at the crossing of County Road 9 across the tracks and right-of-way of The Great Western Railway Company (GWRY) at railroad milepost 3.79, National Inventory I.D. No. 872-127V, in the City of Loveland, Larimer County, Colorado.

2. On March 17, 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.. This Notice was mailed March 17, 2003.

4. On March 24, 2003, the Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

5. On November 4, 2002, the Commission received a copy of the fully executed Agreement by and between CDOT, City of Loveland, and GWRY, dated October 30, 2002, pertaining to the construction, maintenance, and funding for this project.

6. 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.

7. 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

8. 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 motion detection devices at the crossing of County Road 9 across the tracks and right-of-way of GWRY at railroad milepost 3.79, National Inventory I.D. No. 872-127V in the City of Loveland, Larimer County, Colorado.

9. County Road 9 is a two-lane asphalt road that crosses the mainline tracks of the GWRY at an angle of approximately 90 degrees. Immediately south of the crossing County Road 20E intersects County Road 9 from the east. The City of Loveland is relocating the intersection approximately 20' to the south to permit placement of the crossing signal mast in the proper location in the southeast quadrant.

10. The GWRY operates two (2) trains per day over the crossing at a maximum timetable speed of 40 mph. The average daily vehicular traffic (ADT) over the crossing is 1,500 vehicles per day with a projected ADT of 1,650 in 2005.

11. 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, City of Loveland, and GWRY dated October 30, 2002. The total estimated cost of the railroad portion of the project is \$146,069.

12. Maintenance of the roadway approaches to the crossing will be the responsibility of City of Loveland. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of GWRY.

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

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

C. Conclusions On Findings Of Fact

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

16. 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.

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 Loveland, Larimer County, Colorado is authorized to install grade crossing warning devices consisting of flashing light signals with gates, bell, and motion detection devices at the crossing of County Road 9 across the tracks and right-of-way of The Great Western Railway at railroad mile post 3.79, National Inventory I.D. No. 872-127V in the City of Loveland, Larimer County, Colorado.

2. The 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 October 30, 2002, by and between the Colorado Department of Transportation, the City of Loveland, Colorado, and The Great Western Railway.

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 October 30, 2002, by and between the Colorado Department of Transportation, the City of Loveland, Colorado, and The Great Western Railway.

5. The Great Western Railway shall maintain the warning devices at its own expense for the life of the crossing so protected.

- 6. The Commission retains jurisdiction to enter further required orders.
- 7. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
JANUARY 14, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners