

Decision No. C04-0866

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01A-282R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR THE AUTHORITY TO CONSTRUCT A GRADE SEPARATION STRUCTURE OVER THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY RAILROAD TRACKS, NEAR RAILROAD MILEPOST 56.31, MORE OR LESS ON STATE HIGHWAY 287 IN LARIMER COUNTY, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: July 28, 2004

Adopted Date: July 27, 2004

I. BY THE COMMISSION:

A. Statement

1. On June 21, 2001, the Colorado Department of Transportation (CDOT) filed an application requesting authority to construct a new roadway as a new highway/railroad grade separation overpass, across the mainline tracks of the Burlington Northern and Santa Fe Railway Company (BNSF) at railroad milepost 56.31, more or less, on State Highway 287 (SH 287), in Larimer County, Colorado.

2. 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. This Notice was mailed on July 17, 2001.

3. On July 17, 2001, the Staff of the Commission filed an Entry of Appearance and Notice of Intervention.

4. On August 8, 2001, BNSF filed an Entry of Appearance and Notice of Intervention.

5. On February 7, 2003, CDOT filed as a late filed exhibit the fully executed Contract specifying costs and maintenance responsibilities.

6. No intervention was received in opposition to the application. The application is uncontested and unopposed.

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

8. The Commission has reviewed the record in this matter and deems the application complete within the meaning of § 40-6-109.5, C.R.S.

B. Findings of Fact

9. The purpose of this application is to obtain Commission approval for the new highway/railroad grade separation structure to carry SH 287 over the mainline tracks of the BNSF at railroad milepost 56.31, more or less, in Larimer County, Colorado.

10. The new structure will be 200 feet long and identified as C-16-CF.

11. The traffic on SH 287 in 2002 is approximately 9,000 vehicles per day with an estimated increase to 12,700 with a maximum design speed of 60 mph. Presently seven trains per day operate on this line at a maximum timetable speed of 40 mph.

12. The work done and the expenses therefore will be in accordance with the appropriate rules and regulations of the Federal Government and are covered by the Contract

between CDOT and BNSF dated August 15, 2002. The total project cost estimate is \$1,591,480.11

13. Maintenance of the entire highway/railroad grade separation structure, including but not limited to, roadway approaches, abutments, substructure, superstructure, and roadway, will be the responsibility of Colorado Department of Transportation. Maintenance of the trackage and railroad operating facilities will continue to be the responsibility of BNSF.

C. Conclusions

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

15. No intervention was received in opposition to this application. The application is uncontested 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, 4CCR 723-1.

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

II. ORDER:

A. The Commission Orders That:

1. The Colorado Department of Transportation is authorized to construct a new highway/railroad grade separation overpass, across the mainline tracks of the Burlington

Northern and Santa Fe Railway Company at railroad milepost 56.31, in Larimer County, Colorado.

2. All work done shall be in accordance with the plans, specifications, and exhibits submitted in this application and shall comply with the Contract dated August 15, 2002 by and between the Colorado Department of Transportation and the Burlington Northern and Santa Fe Railway Company.

3. The total cost of the project will be paid in accordance with the Contract dated August 15, 2002 by and between the Colorado Department of Transportation and the Burlington Northern and Santa Fe Railway Company.

4. The Commission retains jurisdiction to make further orders as required in this matter.

5. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLEY MEETING
July 27, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners