

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0204R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR
AUTHORITY TO UPGRADE AN EXISTING CROSSING FROM MOTION DETECTION
TO CONSTANT WARNING TIME ON U.S. HIGHWAY 138, U.S. DOT NO. 057547D, IN
STERLING, LOGAN COUNTY, COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: June 3, 2019
Adopted Date: May 29, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the BNSF Railway Company (BNSF) on April 19, 2019, requesting authority to upgrade the train detection circuitry from motion detection to constant warning time detection at the crossing of the BNSF Angora Subdivision, railroad milepost 111.849 with U.S. Highway 138, National Inventory No. 057547D in the City of Sterling, County of Logan, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed April 22, 2019.

3. No interventions were filed in this matter.

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

5. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

6. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

7. BNSF seeks authority to upgrade the train detection circuitry at the crossing of U.S. Highway 138 in Sterling from motion detection to constant warning time.

8. As grounds, BNSF is upgrading the equipment and detection at the crossing to constant warning time to provide a relatively uniform warning time between activation of warning devices and train arrival, which will improve safety and reduce hazards at the crossing.

9. BNSF states there are currently approximately 26 freight trains per day using the subject crossing at a timetable speed of 50 miles per hour on the mainline. BNSF states that based on the latest vehicle volume information in the National Inventory From, there are 3,000 vehicles per day using the crossing at 55 miles per hour.

10. BNSF omits much of the information required by Rule 7204, Commission Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7 including plan and profile drawings, traffic volumes, and cost estimates given that BNSF will be solely responsible for the cost of the proposed changes, and no changes to the roadways and signal equipment at the crossings will be made with the exception of the train detection circuitry. Given the limited nature of the changes proposed at the crossings, we will allow the omission of this information.

11. BNSF proposes starting the changes in June 2019 and anticipates being completed by October 2019. We will require BNSF to inform us in writing that construction is complete within ten days of project completion. We shall expect this letter by October 31, 2019.

However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. We will also require BNSF to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory forms in this proceeding by October 31, 2019.

C. Conclusions

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

13. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

14. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1 of the Rules of Practice and Procedure.

15. We find that good cause exists and that the requirements of public safety are met by granting the Application consistent with the above discussion.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the BNSF Railway Company (BNSF) on April 19, 2019, requesting authority to upgrade the train detection circuitry from motion detection to constant warning time detection at the crossing of the BNSF Angora Subdivision, railroad milepost 111.849 with U.S. Highway 138, National Inventory No. 057547D in the City of Sterling, County of Logan, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. BNSF is authorized and ordered to upgrade the crossing at U.S. Highway 138 in Sterling, Colorado.

4. BNSF shall inform the Commission in writing when the detection circuitry changes are complete within ten days of completion. The Commission will expect the letter by October 31, 2019. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. BNSF is required to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory forms in this proceeding by October 31, 2019.

6. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration, begins on the first day following the effective date of this Decision.

7. The Commission retains jurisdiction to enter further decisions as necessary.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 29, 2019.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners