

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0413R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION AND DOUGLAS COUNTY FOR AUTHORITY TO INSTALL A NEW TRAFFIC SIGNAL AT THE INTERSECTION OF THE INTERSTATE 25 WEST FRONTAGE ROAD AND TOMAH ROAD, WITH INTERCONNECTION TO THE EXISTING ACTIVE WARNING DEVICES AT THE ADJACENT TOMAH ROAD CROSSING OF TRACKS OWNED BY BNSF RAILWAY COMPANY, USDOT NO. 003593E, IN DOUGLAS COUNTY, STATE OF COLORADO.

**COMMISSION DECISION
GRANTING APPLICATION**

Mailed Date: November 22, 2019

Adopted Date: November 20, 2019

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Colorado Department of Transportation (CDOT) and Douglas County Public Works (collectively Applicants) on July 26, 2019, as amended on November 7 and 8, 2019, seeking preliminary approval of design plans to install a new traffic signal at the intersection of the Interstate 25 (I-25) west Frontage Road and Tomah Road with interconnection to the existing active warning devices at the adjacent Tomah Road crossing with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 37.438 on the Pikes Peak Subdivision, National Inventory No. 003593E, near the Town of Larkspur, Douglas County, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on July 29, 2019.

3. On July 31, 2019, Staff of the Commission sent a Deficiency Letter outlining required information for preliminary applications that was missing from the Application.

4. On August 1, 2019, CDOT submitted an Amendment to the Application providing the information missing from the original Application.

5. On August 27, 2019, BNSF filed a Notice of Intervention. BNSF does not object to preliminary approval, but states it is still reviewing the design and providing comments to the Applicants and reserves all rights to object to final approval and to continue to provide comments to the Applicants on the design proposal.

6. The Commission deemed the Application complete and approved the preliminary design plans by Decision No. C19-0745-I mailed September 13, 2019.

7. On October 11, 2019, BNSF filed a Motion requesting an extension of time for BNSF to provide the cost estimate and front sheet to the Applicants and additional time for the Applicants to file the final Application.

8. The Commission granted the BNSF Motion for Extension of Time by Decision C19-0864-I mailed October 25, 2019.

9. On November 7, 2019, CDOT filed the amendment to the Application to provide the final plans. The plans were not attached to the filing.

10. On November 8, 2019, CDOT filed the amendment to the Application to provide the final plans.

11. Now being fully advised in the matter, we approve the preliminary design plans provided in the Application.

B. Findings of Fact

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

13. The Applicants are requesting authority to install a traffic signal at the intersection of the I-25 west Frontage Road and Tomah Road and to interconnect that traffic signal with the existing active warning signals at the Tomah Road crossing of BNSF located west of the intersection.

14. The Applicants are seeking this change because of the volumes of traffic that use the I-25 west Frontage Road to bypass congestion on I-25. The I-25 Frontage Road was a two-lane road. When southbound right-turning vehicles were stopped to wait for a train, drivers wanting to continue through would drive around the stopped vehicles into the northbound lane of traffic resulting in numerous incidents between northbound and southbound vehicles on the I-25 Frontage Road. An additional southbound right-turn lane was added at the intersection to help alleviate the right-turn queue allowing southbound through traffic to proceed unobstructed. The second phase of changes at this intersection involves cooperation between the Applicants to install a traffic signal at the intersection with interconnection to the railroad signal to provide a safer access for Tomah Road traffic wishing to turn northbound onto the I-25 Frontage Road in addition to providing clearance of vehicles from the track in the event of an approaching train.

15. The Applicants state there are currently 20 trains per day that use the crossing at a maximum timetable speed of 45 miles per hour (MPH) with no estimates of increases or decreases in these volumes in the future. There are currently 5,567 vehicles per day (VPD) with less than 2 percent heavy vehicles and no school buses using the crossing at a posted speed limit of 50 MPH with an estimated increase to 6,400 VPD by 2024 and 8,600 VPD by 2039.

16. There has been one property damage only accident reported at the crossing in 1977 when the crossing had passive warning devices.

17. The Applicants estimate the cost of the traffic signal construction and associated civil engineering work at \$571,155. The estimate for the BNSF signal interconnect and schematic drawing show a cost estimate of \$204,999. The costs of the project will be paid for through County funds allocated by the Denver Regional Council of Governments.

18. There will be 16 seconds of advance preemption time provided for the intersection.

19. The Applicants wish to start construction on November 1, 2019 and be complete by June 1, 2020. The Applicants are requesting final approval of the Application as amended.

20. The Applicants will be required to file a copy of the signed construction and maintenance agreement before starting any work to interconnect the railroad crossing with the new traffic signal. This signed agreement shall be filed by March 1, 2020.

21. The Applicants will be required to inform the Commission in writing when the crossing changes are complete and operational within ten days of completion. The Commission will expect this letter by June 30, 2020. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

22. We will require BNSF to update the crossing inventory form for the changed crossing conditions and to file a copy of the updated crossing inventory form with the Commission with completion of the crossing work by June 30, 2020.

C. Conclusions

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

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

25. 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 *Code of Colorado Regulations* 723-1 of the Commission's Rules of Practice and Procedure.

26. Based on the Findings of Fact, we find that good cause exists and that the requirements of public safety and necessity are met by approving the Applicants' Application as Amended plans consistent with the above discussion.

II. ORDER**A. The Commission Orders That:**

1. The application filed by the Colorado Department of Transportation and Douglas County Public Works (collectively Applicants) on July 26, 2019, as amended on August 1, 2019, November 7, 2019, and November 8, 2019 seeking approval of design plans to install a new traffic signal at the intersection of the Interstate 25 west Frontage Road and Tomah Road with interconnection to the existing active warning devices at the adjacent Tomah Road crossing with the tracks of the BNSF Railway Company (BNSF) at railroad milepost 37.438 on the Pikes Peak Subdivision, National Inventory No. 003593E, near the Town of Larkspur, Douglas County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application as amended is granted.

3. A total of 16 seconds of advance preemption time will be provided for the traffic signal at the crossing.

4. The Applicants are required to file the signed copy of the Construction and Maintenance Agreement by March 1, 2020 with construction work related to the interconnection not expected to begin until these signed agreements are filed.

5. The Applicants are required to inform the Commission in writing that the crossing changes are complete and operational within ten days after completion. We shall expect this letter by June 30, 2020. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. BNSF will be required to update the crossing inventory form showing the changed crossing conditions and filing a copy of that updated inventory form in this proceeding at the end of the project by June 30, 2020.

7. 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.

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

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 20, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners

CHAIRMAN JEFFREY P. ACKERMANN
ABSENT.