

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

PROCEEDING NO. 19A-0688R

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IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, ON BEHALF OF THE TOWN OF PLATTEVILLE, FOR AUTHORITY TO REMOVE EXISTING PASSIVE WARNING SIGNS, CROSSING SURFACE AND ROAD APPROACHES TO CLOSE THE EXISTING CROSSING AT TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY CROSSING COUNTY ROAD 30, USDOT NO. 804-338H, IN WELD COUNTY, STATE OF COLORADO.

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**COMMISSION DECISION GRANTING AMENDED  
APPLICATION WITH CONDITIONS**

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Mailed Date: March 13, 2020

Adopted Date: March 11, 2020

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**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) on behalf of the Town

of Platteville (Platteville) on December 3, 2019, requesting authority to abolish the existing at-grade highway-rail crossing of Weld County Road 30 (WCR 30) with the tracks of the Union Pacific Railroad (UPRR) at railroad milepost 34.02 of the Greeley Subdivision by closure and removal of the roadway, National Inventory No. 804338H, in Platteville, County of Weld, State of Colorado.

2. The Commission gave notice of this Application to all interested parties, including adjacent property owners in accordance with § 40-6-108(2), C.R.S. The Notice was mailed December 18, 2019.

3. Notice of proposed closure of the existing WCR 30 crossing was posted at the crossing by Chad Hall on December 18, 2019 as stated in the Affidavit of Chad Hall and filed with the Commission on December 26, 2019. The affidavit includes photos of the notice posted at the subject crossing.

4. There were no interventions filed in this matter.

5. Four public comments were received in this matter.

6. The Commission reviewed the record in this matter and deemed the Application complete within the meaning of § 40-6-109.5, C.R.S., by Decision No. C20-0070-I mailed January 31, 2020.

7. The Commission requested additional information from CDOT in this application answering the following questions:

- a) What is the maximum distance a resident living along WCR 30 near the crossing would have to travel to access US 85 if the WCR 30 crossing is abolished?
- b) What is the impact on emergency services and response times if the WCR 30 crossing is abolished?

- c) Are emergency service providers aware of this proposed closure and have they determined how such a closure would impact their emergency response times to residents along WCR 30?
- d) Does the Town of Platteville and/or Weld County have any plans to extend Front Street from its present termination point to WCR 30? What would be the costs associated with extending Front Street and what would the timeline be for this extension project?
- e) What mitigation measures, if any, are being taken to mitigate any of the emergency service and additional travel issues discussed by the public commenters?<sup>1</sup>

8. On February 28, 2020, CDOT provided responses to the above questions.

9. Now being fully advised in the matter, we grant the Application with conditions.

**B. Findings of Fact**

10. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application. Four public comments were filed regarding the Application.

11. CDOT proposes to abolish the crossing of WCR 30, which is a two-track crossing, by closure and removal of the roadway. CDOT states that closure of this crossing is part of a Purchase and Sale Agreement between CDOT and UPRR to purchase right-of-way (ROW) for the U.S. 85 corridor. CDOT, UPRR, and Weld County worked together to identify locations for road closures as part of the Purchase and Sale Agreement with CDOT's goal from the negotiation to obtain full fee ownership from UPRR for the U.S. 85 ROW, with UPRR's goal from the negotiation to mitigate capacity impairments and to close the Purchase and Sale Agreement, and with Weld County's goal from the negotiation to ensure the long-term stability of the U.S. 85 corridor that improves safety of the highway and rail corridors, improves

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<sup>1</sup> Decision No. C20-0070-I at ¶ 15.

operational efficiencies to enhance economic development opportunities, and reduces conflicts for communities while also ensuring reliable emergency response time. Weld County is contracting via Intergovernmental Agreement with Platteville for the closure work

12. The WCR 30 crossing is a two track crossing that has crossbucks and stop signs as warning devices. There are currently 200 vehicles per day (VPD) that use the crossing at a speed limit of 55 miles per hour (MPH). There are currently approximately 10 trains per day that use the crossing at a maximum timetable speed of 60 MPH. There have been four collisions at the crossing including the latest in 2016 that resulted in the fatality of a truck driver.

13. There were four public comments filed in this proceeding from residents that live along WCR 30. All four public comments include references to decreased property values, extended travel times for these residents to get to Platteville and U.S. 85, and concern about the time it will take for emergency vehicles to access homes along WCR 30.

14. While property and vehicle values are not among the items the Commission is to consider when determining whether or not to abolish a crossing, the issues of the extended travel distance and time, and emergency vehicle response time are important issues for consideration.

15. The public commenters provide information that closure of the WCR 30 would add anywhere from 4.5 miles to 14 miles and 30 minutes round trip on mostly dirt roads for residents and would add additional time for emergency responders. One commenter provided a statement that if Front Street were extended south to WCR 30, many of these issues would be mitigated.

16. CDOT provided responses to our questions addressing the issues brought up by the four public commenters.

17. CDOT reports that the maximum distance a resident living along WCR 30 near the crossing would have to travel to access US 85 if the WCR 30 crossing is abolished is approximately 5.8 miles. If the Front Street extension is completed, that distance would be approximately 1.6 miles. CDOT states the current distance is 1.5 miles.

18. In regards to the impact on emergency services and response times if the WCR 30 crossing is abolished, the response time would increase by 6.4 minutes. The current response time is 1.9 minutes and would increase to 8.3 minutes if the WCR 30 crossing is closed. If the Front Street extension is completed, the response time would only increase by an additional 0.6 minutes. CDOT calculated these travel times based on an emergency vehicle traveling ten MPH over the posted speed limit.

19. Regarding the question about if emergency service providers were aware of this proposed closure and if they had determined how such a closure would impact their emergency response times to residents along WCR 30, CDOT reports that the Platteville Police Department did not feel that the closure of the WCR 30 crossing would result in any responsiveness issues and that alternative accesses were sufficient for responding to emergencies. The Fire Department, which also houses the ambulance, stated they are aware of the upcoming closure, but they did not state how the closure would affect response times.

20. In regards to the fourth question, CDOT states that the extension of Front Street will offset impacts from the re-routes and this extension was included in the *US 85 Planning and Environmental Linkage (PEL) Study* (CDOT 2011). CDOT is providing \$1M to Platteville to support construction of this local access improvement. As of the CDOT response, design of this project has not been started because if the Commission denies the WCR 30 crossing, there would be no need to extend Front Street. Additionally, depending on the anticipated costs of the

improvements, Platteville may attempt to leverage CDOT funding to obtain a Department of Local Affairs grant to pay for the improvements. Platteville estimates that design, ROW acquisition, and construction of the Front Street extension will take three to five years to complete.

21. Finally, in response to mitigation measures to mitigate any emergency service and/or additional travel issues discussed by the public commenters, CDOT states that the Front Street extension is the mitigation measure.

22. CDOT does point out in its responses that the closure of WCR 30 would result in a vast improvement to the predictability and safety of the traveling public. This can be demonstrated by an incident that occurred at the WCR 30 crossing the morning after this Application was submitted. A UPRR train collided with a commercial truck at the WCR 30 crossing resulting in a major derailment of the train that resulted in U.S. 85 being completely shut down for 16 hours. Northbound U.S. 85 lanes were completely blocked by the derailment and portions of the southbound lanes were also blocked. This derailment caused one of the most important north-south roadways in northern Colorado to be inaccessible for nearly a full day. Given that U.S. 85 is a major artery for commercial and personal vehicles carrying approximately 29,000 VPD with 8.4 percent heavy vehicles, it is fortunate that the derailment did not cause any fatalities. CDOT states that closure of the WCR 30 crossing will eliminate similar incidents from occurring at this location in the future.

23. If the subject crossing is closed, the 200 VPD will likely cross the tracks at either WCR 28 to the south of the subject crossing or Grand Avenue north of the subject crossing.

24. CDOT estimates starting the closure portion of the project by March 1, 2020 and it is anticipated to be complete by September 30, 2020.

25. CDOT estimates the cost of the WCR 30 closure at \$20,000 with all costs for the project being paid for with Section 130 funding.

### C. Discussion

26. Subsections 40-4-106(1)(a),<sup>2</sup> 40-4-106(2)(a),<sup>3</sup> and 40-4-106(3)(a)(I),<sup>4</sup> C.R.S., both provide the jurisdictional basis for the Commission to act on applications to abolish railroad crossings and establish the standard to be applied to such applications. *Hassler and Bates Company v. Public Utilities Commission*, 168 Colo. 183, 451 P.2d 280 (1969) (interpreting predecessor statutes with substantially identical language to current statutes). Based on the statutory language and the Colorado Supreme Court's interpretation, the standard to be applied in this case is: will abolishing (that is, closing) the 5th Avenue crossing serve to prevent accidents and promote public safety; and, if so, are there just and reasonable conditions and terms which the Commission ought to attach to the closing?

27. Using the information provided by CDOT, the existing exposure factor at the WCR 30 is 2,000 (number of trains per day multiplied by the number of VPD). Traffic volumes provided by CDOT for the two crossings closest to the subject crossing are 800 VPD for WCR 28 (which is a single track crossing) and 2,300 for Grand Avenue (which is a two-track crossing). Thus, the exposure factor for each of these crossings is 8,000 at WCR 28 and 23,000

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<sup>2</sup> As pertinent here, that subsection grants the Commission the "[power to make] special orders ... [or otherwise] to require each public utility to maintain and operate its ... tracks, and premises in such manner as to promote and [to] safeguard the health and safety of ... the public and to require the performance of any other act that the health or safety of its employees ... or the public may demand."

<sup>3</sup> As pertinent here, that subsection grants the Commission the "power ... to determine, [to] order, and [to] prescribe the terms and conditions of installation and operation, maintenance, and warning at all such crossings that may be constructed, including ... the installation and regulation of ... means or instrumentalities as may to the commission appear reasonable and necessary to the end, intent, and purpose that accidents may be prevented and the safety of the public promoted."

<sup>4</sup> As pertinent here, that subsection grants the Commission the "power ... to order any crossing constructed at grade ... to be ... abolished, according to plans and specifications to be approved and upon just and reasonable terms and conditions to be prescribed by the commission[.]"

at Grand Avenue. The cumulative exposure factor for the three existing crossings is 33,000. The cumulative exposure factor will remain the same for the two remaining crossings if the subject crossing is abolished.

28. Using information provided by CDOT, the hazard index for the existing conditions (approximately ten trains per day), as the calculation is outlined in the *1974 Colorado State Highway Railroad Grade Crossing Data* book, is 1.11 for the WCR 30 crossing under the current configuration of crossbucks and stop signs; 1.73 for WCR 28 under the current configuration of crossbucks and stop signs; and 1.04 for the Grand Avenue crossing under the current configuration of flashing lights, gates, and bells. The hazard index is the probable number of accidents expected to occur in a five-year time period. The cumulative hazard index for the three crossings is 3.88.

29. To analyze the hazard indices if the WCR 30 were to be abolished, we will look at two scenarios: Scenario 1 would involve all traffic from the WCR 30 crossing moving to either WCR 28 or Grand Avenue. Scenario 2 would involve traffic from WCR 30 splitting evenly so half of the traffic crosses WCR 28 and half of the traffic crosses Grand Avenue. Under Scenario 1, the hazard index for WCR 28 increases to 1.90 if all traffic moves to this crossing. If all traffic moves to Grand Avenue, the hazard index would remain the same at 1.04. The cumulative hazard index for the two crossings would be 2.94 if all traffic moved to WCR 28 and 2.77 if all traffic moved to Grand Avenue. Under Scenario 2, the hazard index for WCR 28 would increase to 1.80 and the hazard index at Grand Avenue would remain the same as the existing hazard index with the cumulative hazard index for the two crossings being 2.84. In both scenario calculations, the total number of accidents expected to occur in a five-year time period with the removal of the WCR 30 is reduced with the closure of this crossing. Therefore, the



overall risk of crossing accidents at the two remaining crossings decreases since the exposure occurs now at only two crossings as opposed to three crossings.

30. It is our principal function in this proceeding to determine whether the WCR 30 crossing should be abolished in order to prevent accidents and to promote public safety. Our decision is predictive out of necessity because we are dealing with prevention of accidents and promotion of public safety when the crossing is abolished in the future. While we cannot predict with absolute certainty and accuracy what may happen in the future, we have to make the best judgment possible based on the data available.

31. Based on our analysis, with the reduction in the number of crossings to which vehicles are exposed to potential train collisions and a reduction in the cumulative hazard index with the closure of the WCR 30 crossing, we find that closure of the WCR 30 crossing will serve to prevent accidents and promote public safety and find that the WCR 30 crossing should be abolished.

32. In reaching our decision, we are mindful of, and take fully into consideration, the comments provided by the public commenters. Impact to emergency vehicle access increases from 1.9 minutes to 8.3 minutes. This is a result of the increase in travel distance of approximately 5.8 miles. However, these issues will be mitigated once Front Street is extended to WCR 30. Additionally, with the extension of Front Street, it is likely that more vehicles would use Front Street to cross the Grand Avenue crossing and access U.S. 85 at the traffic signal for US 85 and Grand Avenue. Also, with the closure of the WCR 30 crossing, UPRR will have a greater length of siding that it can store trains by having one less crossing to be concerned about blocking. On balance and once the Front Street extension is complete, the points raised by the public commenters, which are significant and not to be dismissed lightly, would be mitigated and

closure of the WCR 30 crossing would increase public safety and or prevention of accidents which is supported by the Amended Application once the Front Street extension is complete.

33. The Commission's second function in this matter is to determine whether there are just and reasonable terms which should be imposed. In this matter, the construction of the Front Street extension will mitigate the issues raised by the public commenters of increased emergency service response due to longer distances emergency vehicles have to travel to respond. We therefore find that requiring the Front Street extension to be completed and operational before the WCR 30 crossing is abolished is just and reasonable, and shall be imposed in this matter.

34. CDOT shall inform the Commission in writing when the Front Street extension is complete and the WCR 30 crossing has been abolished. The Commission will initially expect this letter by March 31, 2022. However, we understand that this letter may be provided at a later date depending on how long it takes to construct the Front Street extension.

35. CDOT shall file a copy of the updated National Inventory Form for the crossing showing the crossings as closed by the completion of the project, initially expected by March 31, 2022.

#### **D. Conclusions**

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

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

38. Because the Amended Application is unopposed, the Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and

Rule 1403, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

39. Based on the Findings of Fact, we find good cause exists and that the requirements of public safety and necessity are met by granting CDOT's Amended Application to abolish the WCR 30 crossing once the construction of the Front Street extension to WCR 30 is complete consistent with the above discussion and our previous decisions in this matter.

## **II. ORDER**

### **A. The Commission Orders That:**

1. This application filed by the Colorado Department of Transportation (CDOT) on behalf of the Town of Platteville on December 3, 2019 as amended on February 28, 2020, requesting authority to abolish the existing at-grade highway-rail crossing of Weld County Road 30 (WCR 30) with the tracks of the Union Pacific Railroad at railroad milepost 34.02 of the Greeley Subdivision by closure and removal of the roadway, National Inventory No. 804338H, in Platteville, County of Weld, State of Colorado is granted with conditions.

2. CDOT is authorized and ordered to proceed with the abolishment of the WCR 30 crossing by removal of the crossing surfaces and all railroad signage upon completion of the construction of the Front Street extension to WCR 30 to mitigate additional emergency response time due to increased travel time.

3. CDOT shall inform the Commission in writing when the WCR 30 crossing is closed. The Commission will expect this letter initially by March 31, 2022, but understands that it will not be provided until the Front Street extension is complete.

4. CDOT shall file a copy of the updated National Inventory Form for the crossing showing the crossing as closed by the completion of the project, initially estimated at March 31, 2022.

5. 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.

6. The Commission retains jurisdiction to enter further required decisions.

7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
March 11, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

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FRANCES A. KONCILJA

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JOHN GAVAN

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Commissioners