

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0113R

IN THE MATTER OF THE JOINT APPLICATION OF BNSF RAILWAY COMPANY AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR THE AUTHORITY TO REMOVE THE WARNING DEVICES AND CLOSE THE CROSSING AT 3RD ST. IN STERLING, LOGAN COUNTY, COLORADO (DOT #057436L).

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

Mailed Date: May 15, 2020

Adopted Date: May 13, 2020

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a joint application (Application) filed by the BNSF Railway Company (BNSF) and the Colorado Department of Transportation (CDOT) (collectively Applicants) on March 19, 2020, requesting authority to abolish the at-grade crossing of BNSF with 3rd Street by removal of the tracks, signals, and associated signage and pavement markings, National Inventory No. 057436L, in the City of Sterling, County of Logan, 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 April 6, 2020.

3. Notice of proposed closure of the crossing with the BNSF was posted at the crossing by BNSF on April 6, 2020 as stated in the Statement of Posting of Notice of Proposed Closure filed with the Commission on May 6, 2020. The Notice included photos of the notice posted at the subject crossing.

4. No interventions were filed in this matter.

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

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

B. Findings of Fact

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

8. Applicants request the authority to abolish the existing crossing of 3rd Street in Sterling, Colorado. Closure will involve removal of track, crossing panels, surfaces, signals, and railroad crossing related signage. The subject crossing is no longer in use by BNSF, so BNSF is seeking to remove the track at this crossing. Additionally, CDOT has a project along 3rd Street to convert the traffic flow on this road from one-way to two-way traffic. This requires removal of the signals currently situated for one-way travel. Once the track and signal is removed by BNSF, CDOT will repave the road surface.

9. BNSF will bear the costs associated with the removal of the crossing and CDOT will bear the cost for repaving the road surface, of which the costs will be minimal.

10. The Applicants propose to remove the track through the crossing, signals, and associated railroad signage immediately upon Commission approval and with completion by December 1, 2020. The Applicants will be required to inform the Commission in writing that all work is complete within ten days of completion. The Commission will expect this letter no later than December 1, 2020. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

11. The National Inventory Form will need to be updated to show the crossings as closed. This updated form for the crossing in this proceeding will need to be filed in this proceeding by the Applicants by December 1, 2020.

12. With the removal of the tracks, signals, and signage through the subject crossings, any potential highway-rail grade crossing safety issues at the crossings will be eliminated thereby preventing accidents and promoting public safety. Because the roadway will remain, no motor vehicle drivers will be inconvenienced by closure of the roadway.

C. Conclusions

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

14. No intervenor that filed a petition to intervene or other pleading contests or opposes the abolishment of the seven subject crossings.

15. Because the 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.

16. Based on the Findings of Fact, the Application is granted consistent with the discussion above.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the BNSF Railway Company and the Colorado Department of Transportation (collectively Applicants) on March 19, 2020, requesting authority to abolish the at-grade crossing of BNSF with 3rd Street by removal of the tracks, signals, and associated signage and pavement markings, National Inventory No. 057436L, 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. The Applicants are authorized and ordered to proceed with the closure of the 3rd Street crossing by removal of rail and all related railroad crossing signage.

4. The Applicants are required to inform the Commission in writing that the crossing abolishment is complete within ten days after completion. We shall expect this letter by December 1, 2020. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. The National Inventory Form for the subject crossing needs to be updated to show the crossing as closed and the Applicants are required to file the updated National Inventory Form in this proceeding by December 1, 2020.

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 13, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners