

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0166R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY FOR
AUTHORITY TO MODIFY AND UPGRADE ACTIVE WARNING DEVICES AT THE
CROSSING AT CR 50 IN FORT COLLINS, COLORADO (DOT# 089373X).

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

Mailed Date: May 28, 2020
Adopted Date: May 27, 2020

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 13, 2020, requesting authority to upgrade the train detection circuitry from motion detection to constant warning time detection at the crossing of the BNSF Front Range Subdivision, railroad milepost 78.78 with Larimer County Road 50 (CR 50), National Inventory No. 089373X in the City of Fort Collins, County of Larimer, 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 17, 2020.

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 CR 50 in Fort Collins, Colorado from motion detection to constant warning time detection. BNSF will also repair a gate mechanism that was destroyed by a vehicle in late December 2019.

8. As grounds, BNSF states that the proposed changes will enhance public safety and efficiency, and will bring the crossing into compliance with American Railway Engineers and Maintenance of Way standards.

9. BNSF states there are currently 6 freight trains per day using the subject crossing at a timetable speed of 49 miles per hour (MPH). The current National Inventory Form shows there are 50 vehicles per day using the crossing at a speed of 50 MPH as of 1988.

10. BNSF estimates the cost of this project at \$90,859 for the circuitry replacement and \$118,881 for the replacement of the gate mechanism with BNSF responsible for all costs of this project.

11. 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, and current traffic volumes.

12. BNSF proposes starting the project by June 15, 2020 with completion by June 22, 2020. 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 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. 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 June 30, 2020.

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 Application.

15. 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.

16. 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 13, 2020, requesting authority to upgrade the train detection circuitry from motion detection to constant warning time detection at the crossing of the BNSF Front Range Subdivision, railroad milepost 78.78 with Larimer County Road 50 (CR 50), National Inventory No. 089373X in the City of Fort Collins, County of Larimer, State of Colorado within the meaning of § 40-6-109.5, C.R.S., is deemed complete.

2. The Application is granted.

3. BNSF is authorized and ordered to upgrade the motion detection circuitry to constant warning time detection circuitry at the crossing of CR 50 in the City of Fort Collins.

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 June 30, 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.

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 June 30, 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 27, 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