

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0183R

IN THE MATTER OF THE APPLICATION OF THE CITY AND COUNTY OF DENVER FOR
AUTHORITY TO MODIFY AN AT-GRADE CROSSING BY REALIGNING THE
RAILROAD TRACKS OWNED BY THE DENVER ROCK ISLAND RAILROAD AND
SIGNALIZING THE CROSSING AT THE INTERSECTION OF RACE COURT AND
FRANKLIN STREET (DOT# 967983E MILEPOST 3.02) IN THE CITY AND COUNTY OF
DENVER, STATE OF COLORADO.

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

Mailed Date: June 24, 2020
Adopted Date: June 17, 2020

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City and County of Denver (Denver) on April 28, 2020, requesting authority to realign the railroad tracks of the Denver Rock Island Railroad (DRIR) through the at-grade crossing of Race Court, and to install a traffic signal at the intersection of Race Court and Franklin Street that will provide active warning for the Race Court at-grade crossing at railroad milepost 3.02 of Track 410, National Inventory No. 967983E in Denver, 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 28, 2020.

3. There were no interventions 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. Denver is requesting authority to make changes at the existing single track at-grade crossing of Race Court. Denver is in the process of developing a new National Western Center Campus, which is bounded on the north by Race Court. Denver proposes to realign the DRIR tracks through the Race Court crossing. Additionally, Denver proposes to install active warning at the crossing by installing a traffic signal at the intersection of Race Court and Franklin Street just adjacent to the subject crossing, which will control traffic through the intersection and will provide active warning and train control upon a detection of a train approaching the crossing. The traffic signal will run as a standard traffic signal providing green time along Franklin Street and then transitioning to provide green time to Race Court. When a train is detected by the installed circuitry, the traffic signal will call the phase for the train to provide green time to the train. The train will operate on a stop and proceed basis and will have to wait until the traffic signal provides the train a green signal to proceed. The traffic signals controlling Race Court will be located upstream from the crossing as will the crosswalk pavement markings and the stop bar and railroad markings for the crossing location. Vehicles on Race Court will be required to stop prior to entering the crossing or intersection, which will reduce the possibility of a train-vehicle collision.

8. There have been no collisions at this crossing since 1975.

9. Denver states there are two switching trains per day that pass through the crossing at a maximum timetable speed of ten miles per hour (MPH) with no estimates of increases or decreases in these volumes in the future. There are currently 1,820 vehicles per day (VPD) with approximately ten percent heavy vehicles using the crossing at a posted speed limit of 25 MPH with traffic expected to increase to 1,940 VPD in five years and 2,100 VPD in 20 years.

10. Denver estimates the cost of this project at \$617,119.50 with all costs for the project being paid by Denver through the Mayor's Office of the National Western Center. Denver proposes starting construction in September 2020 with work being complete by December 2020.

C. Conclusions

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

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

13. 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, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

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

15. We require that Denver file a copy of the signed Construction and Maintenance Agreement for this project by August 31, 2020, prior to starting work at the crossing.

16. Denver shall inform the Commission in writing when the crossing changes are complete and operational within ten days of completion. The Commission will expect this letter on or before December 31, 2020.¹

17. Denver shall provide an updated crossing inventory form from DRIR for the changed crossing conditions and shall file a copy of the updated crossing inventory form with the Commission concurrent with notice to the Commission of completion of the crossing work initially expected by December 31, 2020.

18. In the event there are delays in providing the signed Construction and Maintenance Agreement, Denver shall file a supported motion for extension of time upon conferral with DRIR. Parties are reminded that ongoing delay and incompliance with Commission orders can present public safety concerns relevant to the Commission's jurisdiction under § 40-4-106, C.R.S., and that pursuant to Rule 4 CCR 723-1-1302(b) of the Commission's Rules of Practice and Procedure and § 40-4-106(1)(b), C.R.S.,² the Commission may impose a civil penalty against a railroad company that fails to comply with a Commission order or rule directing compliance with railroad crossing safety regulations. Filings seeking an extension of time, if any is requested or deemed necessary, shall be supported with information confirming that there are no safety concerns caused by any delay.

¹ The Commission understands there may be changes or delays in the construction schedule. While a request for extension is not required in the event completion of the construction project goes past December 31, 2020, Denver should inform the Commission through an appropriate filing if delays are anticipated or significant.

² The Commission may pursue a notice of civil penalty assessment on its own motion, or upon consideration of a complaint filed pursuant to Rule 4 CCR 723-1-1302(a) setting forth sufficient facts and information to adequately advise the respondent and the Commission of the relief sought and how a statute, rule, decision or agreement memorialized, accepted, or approved by a Commission decision is alleged to have been violated. Relief requested must be clear, including without limitation, whether the complainant requests the Commission pursue civil penalties.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the City and County of Denver (Denver) on April 28, 2020, requesting authority to realign the railroad tracks of the Denver Rock Island Railroad (DRIR) through the at-grade crossing of Race Court, and to install a traffic signal at the intersection of Race Court and Franklin Street that will provide active warning for the Race Court at-grade crossing at railroad milepost 3.02 of Track 410, National Inventory No. 967983E in Denver, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application is granted.

3. Denver is authorized and ordered to proceed with changes at the Race Court crossing including realignment of the track through the crossing and installation of the traffic signal active warning at the intersection of Race Court and Franklin Street and crossing.

4. Denver is required to file a signed copy of the Construction and Maintenance Agreement by August 31, 2020 with construction work at the crossing not expected to begin until these signed agreements are filed.

5. Denver is required to inform the Commission in writing that the crossing changes are complete and operational within ten days after completion.

6. Denver shall obtain from DRIR an update the crossing inventory form showing the changed crossing conditions and file a copy of that updated inventory form in this proceeding concurrent with notice of completion of the crossing changes.

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
June 17, 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 GILMAN

Commissioners