

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0202R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION FOR AUTHORITY TO OBTAIN PUC AUTHORIZATION TO RECONSTRUCT THE GREAT WESTERN RAILWAY OF COLORADO, LLC (GWRCO) BRIDGE CROSSING OVER INTERSTATE I-25 (U.S. DOT# 872121E) AND TO UPGRADE THE EQUIPMENT AND SAFETY OF THE CROSSING OF GWRCO ON THE INTERSTATE 25 FRONTAGE ROAD AT COUNTY ROAD LCR 20E, U.S. DOT # 872120X) LARIMER COUNTY, STATE OF COLORADO.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE, GRANTING APPLICATION AS AMENDED
FOR THE GRADE SEPARATION STRUCTURE, AND
APPROVING PRELIMINARY CONCEPT FOR THE AT-
GRADE CROSSING**

Mailed Date: July 2, 2020
Adopted Date: July 1, 2020

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 May 14, 2020 as amended May 28, 2020, seeking final authority to perform a full reconstruction of the existing Interstate 25 (I-25) bridge structure over I-25, National Inventory No. 872121E and preliminary approval to upgrade the existing active warning crossing of the I-25 Frontage Road, just adjacent to the bridge structure, crossing the from flashing lights with bells to flashing lights, gates and bells, National Inventory No. 872120X, both crossing the tracks of the Great Western Railway Company of Colorado (GWR) Loveland Branch, near the City of Loveland, County of Larimer, 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 May 18, 2020.

3. On May 18, 2020, Staff of the Commission sent a Deficiency Letter outlining information missing from the Application under Rule 7204.

4. On May 28, 2020, CDOT filed an amendment to the Application that provided the missing information from Rule 7204, filed final construction plans for the grade separation structure, and filed preliminary plans for the at-grade crossing.

5. CDOT waives the statutory period found in § 40-6-109.5, C.R.S. regarding the time limit for decisions.

6. There were no interventions filed in this matter.

7. The Commission has reviewed the record in this matter and deems that the Application as amended is complete within the meaning of § 40-6-109.5, C.R.S.

8. Now being fully advised in the matter, we grant the Application as amended for the grade separation and provide a preliminary approval of the proposed at-grade crossing improvements.

B. Findings of Fact

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

1. Grade Separation – Final Authority Request

10. CDOT proposes to lengthen the GWR bridge over I-15 to accommodate an additional express lane on I-25 in each direction and has filed the final signed and stamped plans for the grade separation. Construction will occur in four phases. Phase 1 involves construction

of the new abutments and Pier 2 in the center of the new bridge span. Phase 2 involves demolition of the east side of the bridge structure and installation of the east half of the new bridge structure. Phase 3 involves demolition of the west side of the bridge structure and installation of the west half of the new bridge structure. Phase 4 will bring the completion of the new bridge structure.

11. The new bridge structure is proposed to be a two span structure with the existing GWR tracks located above I-25. The bridge structure will be a total length of 239'-0" from abutment to abutment, will span three lanes and one express lane in each direction, and will have a minimum vehicle clearance of 18'-1". The bridge structure will accommodate a single track with a width of 21'-6" out to out with checkered plate walkways on both side of the track. The proposed minimum clearance meets or exceed the clearances required by Commission Rules 4 *Code of Colorado Regulations* (CCR) 723-7-7324 and 7325 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

2. At-Grade Crossing – Preliminary Approval Request

12. CDOT proposes to upgrade the existing at-grade crossing of the I-25 Frontage Road with the track of the GWR from flashing lights with bells to flashing lights, gates and bells. Preliminary plans show that additional area will be constructed on the northwest corner of the crossing to provide enough space to accommodate not only the gate operations, but also to allow a signal maintainer to be able to safely move around the signal to maintain the gate mechanism without fear of falling down the slope to I-25 below.

13. CDOT proposes to post crossbucks with the flashing lights, gates and bells, and provide W10-1 railroad crossing advance warning signs at the crossing.

14. CDOT states it will file the final plans and additional information for the at-grade crossing by September 30, 2020.

3. Information Regarding Both Crossings

15. CDOT states that the existing traffic volumes using the I-25 roadway is 82,000 vehicles per day (VPD) with an estimated 9.4 percent heavy trucks and seven percent combination heavy trucks using the roadway and a posted speed limit of 75 MPH with projected growth to 97,000 VPD in five-years and 143,000 in twenty-years. Traffic volumes on the I-25 Frontage Road is currently 7,600 VPD with an estimated four percent trucks and average of 4 school buses using the crossing. Traffic volumes on the I-25 frontage road are projected to increase to 9,300 VPD in five-years and 15,800 VPD in twenty-years. CDOT estimates that approximately 2 trains per day use the crossing at a maximum time table speed of 35 MPH with no anticipated increases or decreases known at this time.

16. CDOT estimates the cost of the project at \$7,375,000 with the cost for the project being funded through the North I-25 Express Lanes Project.

17. CDOT proposes to start construction of the bridge structure in July 2020 and be completed by January 2022.

18. CDOT proposes to start construction of the at-grade crossing in January 2021 and be complete by March 2021.

C. Conclusions

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

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

21. 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's Rules of Practice and Procedure, 4 CCR 723-1.

22. We find that good cause exists and that the requirements of public safety are met by granting the Application for the grade-separated crossing as amended consistent with the above discussion.

23. We find that good cause exists and that the requirements of public safety are met by approving the preliminary concept for the at-grade crossing and require CDOT to file a copy of the final plans for Commission review and approval by September 30, 2020.

24. We require that CDOT file a copy of the signed Construction and Maintenance Agreement for the grade separation structure by July 31, 2020 prior to the start of construction.

25. CDOT shall inform the Commission in writing when the bridge construction is complete and operational within ten days of completion. The Commission will expect this letter on or before January 31, 2022.¹

26. CDOT shall provide an updated crossing inventory 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 January 31, 2022.

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 July 31, 2022, Denver should inform the Commission through an appropriate filing if delays are anticipated or significant.

27. In the event there are delays in providing the signed Construction and Maintenance Agreement, CDOT shall file a supported motion for extension of time upon conferral with GWR. 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 *Code of Colorado Regulations* (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.

II. ORDER

A. The Commission Orders That:

1. The application (Application) filed by the Colorado Department of Transportation (CDOT) on May 14, 2020 as amended May 28, 2020, seeking final authority to perform a full reconstruction of the existing Interstate 25 (I-25) bridge structure over I-25, National Inventory No. 872121E and preliminary approval to upgrade the existing active warning crossing of the I-25 Frontage Road, just adjacent to the bridge structure, crossing the from flashing lights with bells to flashing lights, gates and bells, National Inventory No. 872120X, both crossing the tracks of the Great Western Railway Company of Colorado (GWR) Loveland Branch, near the City of

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.

Loveland, County of Larimer, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Application as amended is granted for the grade separation structure.
3. The preliminary concept for the at-grade crossing is approved.
4. CDOT is required to file the final construction plans for the at-grade crossing by September 30, 2020.
5. CDOT is authorized and ordered to proceed with the demolition and replacement of the GWR bridge structure over the widened I-25 roadway in Loveland, Colorado.
6. CDOT shall file a copy of the signed Construction and Maintenance Agreement with the GWR for the bridge structure by July 31, 2020 with construction work at the crossing not expected to begin until these signed agreements are filed.
7. CDOT is required to inform the Commission in writing that the new grade separated structure is complete and operational within ten days of completion.
8. CDOT shall 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.
9. 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.
10. The Commission retains jurisdiction to enter further decisions as necessary.

This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 1, 2020.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners