

Decision No. C20-0433-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0167R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION AND WELD COUNTY, FOR AUTHORITY TO REMOVE EXISTING ACTIVE WARNING RAILROAD GATES, CROSSING SURFACE AND ROAD APPROACHES TO CLOSE THE EXISTING CROSSING AT TRACKS OWNED BY UNION PACIFIC RAILROAD COMPANY CROSSING COUNTY ROAD 37, USDOT NO. 804-857K, AND COUNTY ROAD 78, USDOT NO. 804-859Y IN WELD COUNTY, STATE OF COLORADO.

**INTERIM DECISION DEEMING APPLICATION
COMPLETE AND REQUESTING
ADDITIONAL INFORMATION**

Mailed Date: June 11, 2020
Adopted Date: June 10, 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) and the County of Weld (Weld County) (collectively Applicants) on April 13, 2020, requesting authority to abolish the existing at-grade highway-rail crossings by closure and removal of the roadway with the tracks of the Union Pacific Railroad (UPRR) Greeley Subdivision of Weld County Road 37 (WCR 37) at railroad milepost 60.19, National Inventory No. 804857K and Weld County Road 78 (WCR 78) at railroad milepost 60.94, National Inventory No. 804859Y, near the Town of Eaton, Weld County, 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 April 28, 2020.

3. Notice of proposed closure of the existing WCR 37 and WCR 78 crossing was posted at the crossing by Chad Hall on April 28, 2020 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. Three public comments were received in this matter.

6. 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.

7. Now being fully advised in the matter, we request additional information from CDOT in response to concerns raised in the public comments.

8. The Applicants propose to abolish the crossings of WCR 37 and WCR 78, both of which are single track crossings, by closure and removal of the roadways. Applicants state that closure of the crossings are part of a Purchase and Sale Agreement between CDOT and UPRR to purchase right-of-way for the US 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 US 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 US 85 corridor that improves safety of the highway and rail corridors, improves

operational efficiencies to enhance economic development opportunities, and reduces conflicts for communities while also ensuring reliable emergency response time.

9. The WCR 37 and WCR 78 crossings are single track crossings that have crossbucks and stop signs as warning devices. These two crossings are adjacent to each other. There are currently 100 vehicles per day (VPD) that use the WCR 37 crossing at an unposted speed limit of 55 miles per hour (MPH), and 170 VPD using the WCR 78 at an speed limit of 55 MPH. There are currently approximately 14 trains per day that use the crossings at a maximum timetable speed of 60 MPH. There have been no collisions at the WCR 37 accident. There has been one collision at the WCR 78 crossing that occurred in 1991 where 2 individuals were injured.

10. There were three public comments filed in this proceeding from residents that live along WCR 37 and WCR 78. The public comments included references to decreased property values, extended travel times for these residents to get to the Town of Ault and the Town of Eaton, changes in traffic patterns that would cause congestion, increased use of dirt roads that will increase dust that could affect people with breathing problems, the closest crossing, WCR 80, does not have crossing arms and is steep creating dangerous conditions in ice and snow, the SH 14 crossing in Ault being blocked, and concern about the time it will take for emergency vehicles to access homes along WCR 37 and WCR 78.

11. A review of information provided in the Application shows that the WCR 80 crossing is equipped with flashing lights and gates. A review of our records shows that flashing lights and gates were installed at the WCR 80 crossing through Proceeding No. 11A-242R and the application for that proceeding shows that WCR 80 does not have a steep approach from either side towards the crossing.

12. While property values and dust levels 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, potentially blocked crossings, and emergency vehicle response time are important issues for consideration.

13. The public commenters provide information that closure of the WCR 37 and WCR 78 would add 15 minutes on more dirt roads for residents and would add additional time for emergency responders. One commenter stated that WCR 78 can be closed, but WCR 37 should not be closed.

14. In reviewing the Application, no information has been provided regarding these issues, and specifically if emergency vehicle response times with these two crossings closed have been discussed with the affected emergency services entities.

15. We request that the Applicants provide additional information in this application that answer and provide information regarding the following questions:

- a) What is the maximum distance a resident living along WCR 37 near the crossing would have to travel to access US 85 if the WCR 37 and WCR 78 crossings are abolished?
- b) What is the maximum distance a resident living along WCR 78 near the crossing would have to travel to access US 85 if the WCR 37 and WCR 78 crossings are abolished?
- c) Where are the emergency services located that would serve residents along WCR 37 and WCR 78?
- d) What is the impact on emergency services and response times if the WCR 37 and WCR 78 crossing is abolished?
- e) Are emergency service providers aware of these proposed closures and have they determined how such a closure would impact their emergency response times to residents along WCR 37 and WCR 78?
- f) What mitigation measures, if any, are being taken to mitigate any of the emergency service and additional travel time issues discussed by the public commenters?

- g) If no mitigation measures are being provided to mitigate any of the emergency service and additional travel time issues discussed by the public commenters, please explain why mitigation measures are not being provided or not necessary.

16. We request that the Applicants provide answers to the above questions by July 6, 2020.

II. **ORDER**

A. **The Commission Orders That:**

1. This application filed by the Colorado Department of Transportation and the County of Weld (Weld County) (collectively Applicants) on April 13, 2020, requesting authority to abolish the existing at-grade highway-rail crossings by closure and removal of the roadway with the tracks of the Union Pacific Railroad Greeley Subdivision of Weld County Road 37 (WCR 37) at railroad milepost 60.19, National Inventory No. 804857K and Weld County Road 78 (WCR 78) at railroad milepost 60.94, National Inventory No. 804859Y, near the Town of Eaton, Weld County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Applicants are requested to answer the questions listed in Paragraph 15 above and provide additional information for the record on concerns raised by the public commenters by July 6, 2020.

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

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 10, 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