

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0079R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FRUITA FOR AUTHORITY TO CONSTRUCT A PEDESTRIAN AND BICYCLE TRAIL UNDERPASS UNDER THE UPRR RIGHT-OF-WAY LOCATED AT APPROXIMATELY MILE POST 461 IN MESA COUNTY, COLORADO.

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

Mailed Date: March 14, 2014

Adopted Date: March 12, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the City of Fruita (Fruita) on January 17, 2014, requesting authority to construct a new grade separated crossing of a pedestrian and bicycle trail for the Little Salt Wash Trail through an existing box culvert under the existing tracks of the Union Pacific Railroad Company (UPRR) at approximate railroad milepost 461, no current National Inventory Number, located in Fruita, County of Mesa, 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 January 27, 2014.

3. On February 13, 2014, the Colorado Department of Transportation (CDOT) filed an Entry of Appearance and Motion to Intervene. CDOT does not contest or oppose the

Application and states that CDOT is providing some funding for this project through a Department of Transportation enhancement grant.

4. On February 19, 2014, UPRR filed an Entry of Appearance and Notice of Intervention. UPRR does not contest or oppose the Application.

5. 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.

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. Fruita proposes to construct a new grade separated pedestrian and bicycle trail crossing of the Little Salt Wash Trail under the existing tracks of the UPRR through one side of an existing box culvert. CDOT has already reviewed and approved the use of its box culvert under U.S. Highway 6 located approximately 65' north of the UPRR right-of-way for the same trail construction as is proposed in the instant Application.

9. The plans submitted with the Application show that the trail will be approximately 58' long through the box culvert from headwall to headwall. The existing boxes of the culvert are each 17.5' in width and 12.3' in height. The proposed pedestrian and bicycle trail will be located in the eastern box of the culvert structure and will accommodate a 9'-0" height from the proposed trail to the top of the box. The proposed trail will be 10'-0" in width through the box and contain two approximate 4' wide concrete shoulders. Two approximate 38' long, 8' high chain link fences with privacy slats are proposed to be installed on the headwalls by the tracks. This fencing serves the dual purposes of keeping pedestrians and bicyclists from trespassing on

the tracks and reducing the likelihood of debris from the track area from striking trail users below. Concrete retaining walls are proposed to be constructed outside of the box culvert on each side of the proposed trail with 3' hand railing along the retaining wall to keep pedestrians and bicyclists separated from that portion of the Little Salt Wash that typically flows through the western box of the culvert structure.

10. Fruita acknowledges that the proposed trail is being constructed in an existing wash and that there is the potential of the trail flooding. During large storm events, Fruita and Mesa County have access to an emergency management system that is used to close various sections of the Colorado River front trail throughout Mesa County. Trail closure gates will be installed on the trail system to control access to the trail when it is determined that use of the proposed underpass is unsafe.

11. Given the proposed height of the trail, there will be limited emergency and maintenance vehicles that can access the trail. Fruita proposes to install foldable bollards that will limit vehicular access to the pedestrian and bicycle trail. These bollards can be lowered if needed to allow access to maintenance and emergency vehicles.

12. Regarding the proposed fencing with slats proposed in the Application, Fruita acknowledges the proposed fencing with slats does not meet the standard protective cover required by the Commission. However, Fruita and UPRR believe this installation provides a higher level of protection without further impacting the hydraulics of the box culvert.

13. We have reviewed the Commission Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Code of Colorado Regulations* (CCR) 723-7-7211(g) alluded to by Fruita. This rule is specific to sidewalk and /or bike path crossings under open deck railroad bridges or trestles. Given the proposed trail will be constructed through

a closed box culvert structure, this rule is not applicable. The proposed solution by Fruita and UPRR is a good solution in this instance to keep debris from potentially hitting trail users while at the same time not further impacting the hydraulics of the box culvert.

14. Fruita states that there are currently 17 trains per day including freight and passenger trains that move over the crossing with no projections for future increases or decreases at this time.

15. Fruita estimates between 100 to 300 trail users per day to use the new trail once it is connected to the Colorado Riverfront trail system, with potentially higher use during special events and concerts at the nearby Colorado Riverfront State Park.

16. Fruita proposes to start construction in July 2014 with construction being completed by December 2014. Fruita will be required to inform the Commission in writing that the trail construction is complete and operational within ten days of completion. The Commission will expect this letter by December 31, 2014. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. The Commission will also require Fruita to file a copy of the signed construction and maintenance agreement in this matter by no later than June 30, 2014.

17. UPRR will be required to obtain a new National Inventory Number for this crossing and to file a copy of the inventory form for the new crossing in this proceeding by December 31, 2014.

18. Fruita estimates the cost of construction for the trail under the UPRR right-of-way at \$106,720 with up to 80 percent of funding coming from a CDOT enhancement grant, and the remaining funds coming from a combination of a State Trails Grant and/or Fruita's General

Fund. The total cost of construction for the Little Salt Wash Trail improvements are estimated at \$1,023,250.

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

22. We find good cause exists and that the requirements of public safety and necessity 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 City of Fruita (Fruita) on January 17, 2014, requesting authority to construct a new grade separated crossing of a pedestrian and bicycle trail for the Little Salt Wash Trail through an existing box culvert under the existing tracks of the Union Pacific Railroad Company (UPRR) at approximate railroad milepost 461, no current National Inventory Number, located in Fruita, County of Mesa, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Intervention of the Colorado Department of Transportation is granted.

3. The Intervention of the UPRR is granted.

4. The Application is granted.

5. Fruita is authorized and ordered to proceed with the construction of the Little Salt Wash pedestrian and bicycle trail through the existing box culvert structure under the existing tracks of the UPRR.

6. Fruita shall file a copy of the signed construction and maintenance agreement in this matter no later than June 30, 2014.

7. Fruita shall inform the Commission in writing when the construction is complete and operational within ten days of completion. The Commission will expect the letter by December 31, 2014. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

8. UPRR is required to obtain a new National Inventory Number for this crossing and file a copy of the inventory form in this proceeding by December 31, 2014.

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.

11. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 12, 2014.**

(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

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners