

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-0957R

IN THE MATTER OF THE APPLICATION OF DOUGLAS COUNTY AND THE COLORADO DEPARTMENT OF TRANSPORTATION FOR AUTHORITY TO ADD RAILROAD EXIT GATES TO THE CROSSING OF THE BNSF RAILWAY TRACKS AT HIGHWAY 67 (MANHARDT STREET) IN TOWN OF SEDALIA, DOUGLAS COUNTY, COLORADO.

**COMMISSION DECISION GRANTING WITHDRAWAL
OF APPLICATION WITHOUT PREJUDICE AND
RESCINDING COMMISSION DECISION NO. C13-1340**

Mailed Date: May 9, 2014
Adopted Date: May 7, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for a Motion to Voluntarily Withdraw Application and Request Commission Rescind its Previous Decision (Motion) filed by Douglas County on April 14, 2014 requesting to voluntarily withdraw its Application for Authority to Add Railroad Exit Gates to the Crossing of State Highway 67 (Manhardt Street) over the tracks of the BNSF Railway Company, National Inventory No. 003612G in the Town of Sedalia, Douglas County, Colorado.

2. The Commission approved Douglas County's and the Colorado Department of Transportation's (CDOT) (collectively Joint Applicants) Application by Decision No. C13-1340 mailed on October 25, 2013, and authorized and ordered the Joint Applicants to proceed with installation of two exit gates with exit gate vehicle detection loops, additional advance warning signs, and realignment of sidewalk at the subject crossing.

3. As grounds for its Motion, Douglas County states that the proposed crossing changes were being made to bring the crossing into compliance with the Federal Railroad Administration Quiet Zone establishment rules and not for any identified safety issues at the crossing. In the case of this crossing, a public access existed on the northeast quadrant of the crossing that was located within 60 feet of the crossing. This location did not allow the supplemental safety measure of raised medians of a minimum length of 60 feet and no public access within 60 feet of the crossing because of this access. As a result, Douglas County chose the supplemental safety measure of using a four-quadrant gate system at the crossing.

4. Since the approval of the proposed crossing changes, there has been a change in property use on the northeast quadrant of the crossing that has eliminated the need for public access. Elimination of the public access now allows Douglas County to use the raised median supplemental safety measure since there is no longer a public access point located within 60 feet of the crossing. Raised medians were installed at the crossing as part of the application filed by CDOT and approved by the Commission in Proceeding No. 02A-383R, Decision No. C04-0109 mailed January 29, 2004.

5. Douglas County requests that it be allowed to voluntarily withdraw its Application and that the Commission rescind its previous Decision in this matter authorizing and ordering installation of exit gates and additional work that was requested. Douglas County does request that its right to re-file its Application be reserved.

6. No responses were filed to the request.

7. Because removal of the public access within 60 feet of the crossing now allows Douglas County to use the existing gates with raised medians supplemental safety measure at the crossing to pursue a quiet zone as opposed to using the four-quadrant gate supplemental safety

measure that would have been required to pursue a quiet zone due to the public access, and because the proposed crossing change was not sought to mitigate any existing safety issues at the crossing, the Commission finds good cause has been stated to grant the withdrawal of this Application without prejudice and rescind Decision No. C13-1340.

II. ORDER

A. The Commission Orders That:

1. The Motion to Voluntarily Withdraw Application and Request Commission Rescind its Previous Decision filed by Douglas County on April 14, 2014, requesting to voluntarily withdraw its Application for Authority to Add Railroad Exit Gates to the Crossing of State Highway 67 (Manhardt Street) over the tracks of the BNSF Railway Company, National Inventory No. 003612G in the Town of Sedalia, Douglas County, Colorado is granted without prejudice.
2. Commission Decision No. C13-1340 is rescinded.
3. 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.
4. The Commission retains jurisdiction to enter further decisions as necessary.
5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 7, 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

Commissioners

COMMISSIONER GLENN A. VAAD ABSENT.