

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. **03A-096R**

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOVELAND, COUNTY OF LARIMER, STATE OF COLORADO, FOR THE AUTHORITY TO UPGRADE THE CROSSING OF THE BURLINGTON NORTHERN RAILROAD AT TWO LOCATIONS: (1) WEST 10TH STREET; AND (2) WEST 7TH STREET, CITY OF LOVELAND, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: January 29, 2004
Adopted Date: January 21, 2004

I. BY THE COMMISSION

A. Statement

1. On March 7, 2003, City of Loveland, Colorado, filed this application requesting authority to up grade the track circuits for the existing grade crossing warning devices, which consist of flashing light signals with gates, bells, and motion detection devices at two locations across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company (BNSF). The first at 7th Street, railroad milepost 60.86, National Inventory I.D. No. 245-041H, and the second at 10th Street, railroad milepost 61.11, National Inventory I.D. No. 245-042P, in the City of Loveland, Larimer County, Colorado.

2. On March 21, 2003, the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission gave notice of this application together with a copy of the application to all interested parties, including the adjacent property owners, in accordance with § 40-6-108(2), C.R.S.. This Notice was mailed March 21, 2003.

4. On March 25, 2003, Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

5. On November 4, 2002, the Commission received two fully executed Agreements by and between the CDOT, City of Loveland, and BNSF, dated October 30, 2002, pertaining to the construction, maintenance, and funding for these projects.

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

7. The Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 24, Commission Rule of Practice and Procedure, 4 *Colorado Code of Regulations* (CCR) 723-1, because the application is noncontested and the Applicant did not request a public hearing.

B. Findings of Fact

8. There presently exists an at grade crossing of West 7th Street across the mainline track and a siding track of BNSF at railroad milepost 60.86, National Inventory I.D. No. 245-041H, in the City of Loveland, Larimer County, Colorado. West 7th Street is a two lane asphalt paved collector street that is protected by warning devices consisting of flashing light signals with gates, bell and motion detection track circuits.

9. There presently exists an at grade crossing of west 10th Street across the mainline track, siding track, and interchange lead track of BNSF at railroad milepost 61.11, National Inventory I.D. No. 245-042P, in the City of Loveland, Larimer County, Colorado. The interchange lead track diverges to the east as it crosses West 10th Street. West 10th Street is a two lane asphalt paved collector street that is protected by warning devices consisting of flashing

light signals with gates, bell and motion detection track circuits. Presently the interchange lead track is not included within the warning devices.

10. The purpose of this application is to secure Commission approval to install new track circuits consisting of constant warning devices to replace the motion detection devices at two locations across the tracks and right-of-way of BNSF. The first at West 7th Street, railroad milepost 60.86, National Inventory I.D. No. 245-041H, and the second at West 10th Street, railroad milepost 61.11, National Inventory I.D. No. 245-042P, in the City of Loveland, Larimer County, Colorado. At the West 10th Street crossing, the signal in the northeast quadrant will be relocated to include the interchange lead track.

11. The work to be done and the expenses therefor will be paid in accordance with the appropriate rules and regulations of the Federal Government and are covered by Agreements by and between CDOT, City of Loveland, and BNSF dated October 30, 2002. The total estimated cost of West 7th Street is \$131,617.00 and West 10th Street is \$131,235.00

12. Maintenance of the roadway approaches to the crossing will continue to be the responsibility of City of Loveland. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will continue to be the responsibility of BNSF.

13. All exhibits, specifications, and plans are complete, accurate, and meet Commission requirements.

14. The public safety, convenience, and necessity require, and will be served by, the granting of this application.

C. Conclusions On Findings Of Fact

15. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) and (3)(a), C.R.S. (1993).

16. The Commission will determine this matter on the record, without a formal hearing, under §40-6-109(5), C.R.S.(1993) and Rule 24, Commission Rules of Practice and Procedure, 4 CCR 723-1.

17. The public safety, convenience, and necessity require, and will be served by, the granting of this application.

II. ORDER**A. The Commission Orders That:**

1. The City of Loveland, Larimer County, Colorado is authorized to up grade the track circuits from motion detection devices to constant warning devices at two locations across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company. The first at 7th Street, railroad milepost 60.86, National Inventory I.D. No. 245-041H, and the second at 10th Street, railroad milepost 61.11, National Inventory I.D. No. 245-042P, in the City of Loveland, Larimer County, Colorado.

2. The installation of the warning devices authorized in Ordering Paragraph 1 above shall be in accordance with the plans, specifications, and exhibits submitted in this application and hereby approved.

3. The installation, operation, and maintenance of the crossing warning devices shall comply with the Agreements dated October 30, 2002, by and between the Colorado Department

of Transportation, the City of Loveland, Colorado, and The Burlington Northern Santa Fe Railway Company.

4. The total actual cost of labor and material required for installation of the grade crossing warning devices shall be paid in accordance with the Agreements dated October 30, 2002, by and between the Colorado Department of Transportation, the City of Loveland, Colorado, and The Burlington Northern Santa Fe Railway Company

5. The Burlington Northern Santa Fe Railway Company shall maintain the warning devices at its own expense for the life of the crossings so protected.

6. The Commission retains jurisdiction to enter further required orders.

7. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 21, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners