

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-328R

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOUISVILLE, 749 MAIN STREET, LOUISVILLE, COLORADO, 80027; FOR AUTHORITY TO CONSTRUCT 96TH STREET AS A GRADE SEPARATION AT THE CROSSING OF THE ROADWAY WITH THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY; IN BOULDER COUNTY, STATE OF COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: February 13, 2004
Adopted Date: February 11, 2004

I. BY THE COMMISSION:

A. Statement

1. On July 25, 2003, the City of Louisville (Louisville) filed this application requesting authority to construct 96th Street as a grade separated overpass that carries 96th Street over the tracks of the Burlington Northern and Santa Fe Railway Company (BNSF) at approximately railroad milepost 19.06, National Inventory ID No. 244-800L, located in Louisville, Boulder County, State of Colorado.

2. On July 31, 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 adjacent property owners in accordance with § 40-6-108(2), C.R.S. The notice was mailed July 31, 2003.

4. On August 7, 2003, BNSF filed its Entry of Appearance and Notice of Intervention.

5. Received by the Commission as a late-filed exhibit on December 24, 2003, is a copy of the fully executed Agreement dated October 14, 2003, by and between Louisville and BNSF, providing for construction, operation and maintenance of the highway/railroad grade separation structure of 96th Street over the tracks of BNSF located in Louisville, Boulder County, Colorado.

6. No protests, objections, or petitions to intervene in opposition were filed in this application. This application is noncontested and unopposed.

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

8. The Commission has reviewed the file and deems the application is complete within the meaning of § 40-6-109.5 (3), C.R.S.

9. The Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and 4 *Code of Colorado Regulations* (CCR) 723-1-24 because the application is noncontested and unopposed.

B. FINDINGS OF FACT

10. Notice of the proposed construction of the highway/railroad grade separation structure has been given by the Commission to all interested parties, including adjacent property owners. No intervenor who filed a petition to intervene or other pleading, contested or opposed the application.

11. 96th Street is a major north-south road connecting central Louisville with US Highway 36 and the Interlocken commercial and office park. The City of Louisville is extending a portion of 96th Street located in Louisville in Boulder County, Colorado. This is phase-one of a project that will extend 96th Street as a two-lane roadway and connect with State Highway 42.

12. The new structure will be a 4 span bridge of a total length of 256 feet and a width of 47 feet. Ultimately, it is intended that 96th Street will be a four-lane urban arterial roadway over the BNSF right-of-way. The design of the initial structure also allows for a future bike/pedestrian path beneath it and an additional two roadway lanes upon a future additional structure. By this application, Louisville is seeking Commission approval for a grade separation overpass located at railroad milepost 19.06, with a newly assigned National Inventory ID No. 919-120J, in Louisville, Boulder County, Colorado.

13. Upon completion of the construction it is agreed that two adjacent public railroad/highway grade crossings will be closed. These two crossings are identified by National Crossing Inventory ID No.244-800L at Lock Street and 244-802A at South Street.

14. The construction of the overpass and closing of the two crossings is estimated to result in a reduction of the crossing exposure factor of 96,600 on opening day of the new structure.

15. The current average daily traffic on 96th Street at the project area is 10,700 vehicles per day and projected to be about 36,200 vehicles per day in 2025. The posted speed limit on the new overpass will be 40 MPH. There are currently 7 freight train movements each day with maximum speeds of 30 mph. The train movement is expected to remain at this level over the next five years.

16. The total actual cost for the work directly associated with construction of the overpass is estimated to be \$3,210,000.

17. Louisville will maintain the overpass structure including the bridge, piers, abutments, grading, surfaces, substructure abutments, approach slabs, and drainage system.

18. BNSF will maintain its roadbed, train communication and signal lines, tracks, operating facilities, and appurtenances.

19. Upon closing of the Lock Street crossing, the crossing surface will be relocated by BNSF to another crossing of Louisville's choosing located within the Louisville city limits.

20. All future modifications to the proposed grade separation, done for the benefit of Louisville, will be done at no cost to BNSF.

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

C. CONCLUSIONS ON FINDINGS OF FACT

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

23. The application is noncontested and unopposed.

24. The Commission will determine this matter, without a formal hearing under § 40-6-109(5), C.R.S. and 4 CCR 723-1-24.

25. 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 Louisville is authorized to construct, operate and maintain a highway/railroad grade separation structure to carry 96th Street over the mainline tracks of the Burlington Northern and Santa Fe Railway Company at railroad milepost 19.06, more or less, National Inventory ID No. 919-120J, located in Louisville, Boulder County, Colorado.

2. All work done shall be in accordance with the plans, specifications and exhibits submitted in this application and hereby approved.

3. The total actual cost of labor and material required for the highway/railroad grade separation structure authorized in ordering paragraph No. 1 above shall be paid in accordance with the Agreement by and between the City of Louisville and the Burlington Northern and Santa Fe Railway Company dated October 14, 2003.

4. Maintenance of the completed grade separation structure shall be in accordance with the Agreement, dated October 14, 2003, by and between the City of Louisville and the Burlington Northern and Santa Fe Railway Company.

5. Upon completion of the construction two public railroad/highway grade crossings will be closed. These two crossings are identified by National Crossing Inventory ID No.'s 244-800L (at Lock Street) and 244-802A (at South Street).

6. The Commission retains jurisdiction to make further orders as required in this matter.

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
FEBRUARY 11, 2004**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners