

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-012R

IN THE MATTER OF THE APPLICATION FOR THE CITY OF THORNTON, COLORADO,
FOR AN ORDER AUTHORIZING THE INSTALLATION OF A TEMPORARY AT-GRADE
CROSSING ON THE RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD COMPANY
AT THE NORTHERN LIGHTS BALLFIELDS AND CHERRYWOOD PARK SUBDIVISION,
THORNTON, COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: April 7, 2004
Adopted Date: March 31, 2004

I. BY THE COMMISSION:

A. Statement

1. On December 22, 2003, the City of Thornton (Thornton), Colorado, filed an application for authority to construct a pedestrian-bicycle pathway across the Union Pacific Railroad Company (UPRR) tracks, between the Northern Lights Ball Fields and Cherrywood Park Subdivision at railroad milepost 10.89, in the City of Thornton, Adams County, Colorado.

2. The Commission gave notice of the 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. The Notice was mailed January 8, 2004

3. On January 8, the Staff of the PUC filed its Entry of Appearance and Notice of Intervention.

4. On January 14, 2004, the UPRR filed its Entry of Appearance and Notice of Intervention.

5. 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.

6. The Commission will determine this matter without a formal hearing, under § 40-6-109(5), C.R.S., and Rule 24, Commission Rules of Practice and Procedure, 4 *Colorado Code of Regulations* (CCR) 723-1, because the application is not contested and is unopposed.

B. Findings of Fact

7. The Northern Lights Ball Fields, Cherrywood Park Subdivision and Middle School #10, which is under construction north of the Ball Fields, are generating increased pedestrian traffic across the UPRR tracks.

8. There are currently no trains operating on this portion of the tracks. There will be an estimated 100 pedestrian crossings per day with the opening of Middle School #10.

9. The purpose of this application is to secure Commission approval to construct a temporary pedestrian-bicycle trail across the existing UPRR track at railroad milepost 10.89. The application states that Thornton is currently studying whether a grade separation trail is warranted and may file an application for this in the future.

10. This project consists of the construction of 8 foot wide, 6 inch thick, pedestrian-bicycle asphalt pathway. The pedestrian-bicycle trail will extend from the cul-de-sac at E. 140th Avenue in the Cherrywood Park Subdivision, across the UPRR easement and into the Northern Lights Ball Field property.

11. Notice of the proposed trail has been given by the Commission to all interested parties, including the adjacent property owners and UPRR. No intervention was received in opposition to this application.

12. The construction cost for the project will be paid for by Thornton.

13. Maintenance of the pedestrian-bicycle trail will be the responsibility of Thornton.

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

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

C. Conclusions

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

17. No intervention was received in opposition to this application. The application is uncontested and unopposed.

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

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

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

1. The City of Thornton, Colorado, is authorized to construct a temporary pedestrian-bicycle trail across the existing railroad track of the Union Pacific Railroad Company, at railroad milepost 10.89, in the City of Thornton, Adams County, Colorado. The authorization for the temporary trail is for a period of two (2) years from the effective date of this order.

2. The City of Thornton, Colorado is ordered to submit plans and an application for a permanent pedestrian-bicycle trail or grade separation within this two (2) year period.

3. The construction authorized in Ordering Paragraph 1 above shall be in accordance with the plans, specifications, and exhibits submitted with the application that are hereby approved.

4. The construction, operation, and maintenance of the pedestrian-bicycle trail shall be the responsibility of the City of Thornton, Colorado.

5. The Union Pacific Railroad Company shall continue to maintain its railroad track.

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

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 31, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners