

Decision No. C04-0902 incorrectly referred to as C04-0904

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 01A-268R

IN THE MATTER OF THE APPLICATION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF BOULDER, STATE OF COLORADO, FOR AUTHORITY TO INSTALL SIGNALS AT A RAILROAD CROSSING ON OGALLALA ROAD EAST OF STATE HIGHWAY 119, BOULDER COUNTY, COLORADO (COUNTY ROAD NUMBER 26), AT RAILROAD CROSSING D.O.T. NUMBER 245-838H (RAILROAD MILEPOST 39.84)

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: August 4, 2004
Adopted Date: August 3, 2004

I. BY THE COMMISSION

A. Statement

1. On June 5, 2001, the County of Boulder, Colorado, filed an application requesting authority to install grade crossing warning devices consisting of flashing light signals with gates and bells, at the crossing of Ogallala Road, (Boulder County Road 26) across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company (BNSF) at railroad milepost 39.84, National Inventory I.D. No. 245-838H, in the County of Boulder, 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. This Notice was mailed July 12, 2001.

3. On July 12, 2001, the Staff of the Commission filed an Entry of Appearance and Notice of Intervention.

4. On July 19, 2001 CDOT filed an Entry of Appearance and Notice of Intervention.

5. On August 3, 2001, BNSF filed an Entry of Appearance and Notice of Intervention.

6. No intervener opposes this application.

7. On January 15, 2002, the Commission received a copy of the fully executed Agreement by and between the Colorado Department of Transportation, (CDOT), County of Boulder, and BNSF, dated April 30, 2001, pertaining to the construction, maintenance, and funding for this project.

8. The Commission has reviewed the record and deems the application is complete within the meaning of § 40-6-109.5, 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 Rule 24, Commission Rule of Practice and Procedure, 4 *Colorado Code of Regulations* (CCR) 723-1, because the application is uncontested and the Applicant did not request a public hearing.

B. Findings of Fact

10. The purpose of this application is to secure Commission approval to install grade crossing warning devices consisting of flashing light signals with gates, bells and constant warning devices at the crossing of Ogallala Road across the tracks and right-of-way of BNSF at railroad milepost 39.84, National Inventory I.D. No. 244-838H in the County of Boulder, Colorado.

11. Ogallala Road is a moderately traveled roadway, used by commercial trucks, road construction equipment, passenger vehicles, and school busses.

12. The BNSF operates two trains per day over the crossing at an estimated speed of 20 mph. The average daily vehicular traffic over the crossing is 300 vehicles per day with projected increases due to continued development.

13. The work to be done and the expenses therefor will be paid in accordance with the appropriate rules and regulations of the Federal Government CFR Title 23, Section 130 and are covered by an agreement by and between CDOT, County of Boulder, and BNSF dated April 30, 2001. The total estimated cost of the railroad portion of the project is \$150,418.00.

14. According to the application, maintenance of the roadway approaches to the crossing will be the responsibility of County of Boulder. Maintenance of the crossing surface, roadbed, tracks, grade crossing warning devices, and appurtenances will be the responsibility of BNSF.

C. Conclusions

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

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

17. The Commission will determine this matter 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.

18. 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 County of Boulder, Colorado is authorized to install grade crossing warning devices consisting of flashing light signals with gates, bell, and constant warning devices at the crossing of Ogallala Road across the tracks and right-of-way of The Burlington Northern and Santa Fe Railway Company at railroad mile post 39.84, National Inventory I.D. No. 245-838H in the County of Boulder, 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 Agreement dated April 30, 2001, by and between the Colorado Department of Transportation, the County of Boulder, Colorado, and The Burlington Northern and 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 Agreement dated April 30, 2001, by and between the Colorado Department of Transportation, the County of Boulder, Colorado, and The Burlington Northern and Santa Fe Railway Company.

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

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

7. 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 Order.

8. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 3, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners