

Decision No. C04-1276

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-090R

IN THE MATTER OF THE APPLICATION OF THE CITY OF FORT COLLINS, FOR THE AUTHORITY TO IMPROVE THE AT-GRADE CROSSINGS OF UNION PACIFIC RAILROAD AND BURLINGTON NORTHERN & SANTA FE RAILWAY ALONG NORTH COLLEGE AVENUE AND CHERRY STREET IN THE CITY OF FORT COLLINS, LARIMER COUNTY, STATE OF COLORADO.

COMMISSION ORDER GRANTING APPLICATION

Mailed Date: October 29, 2004

Adopted Date: October 27, 2004

I. BY THE COMMISSION:

A. Statement

1. On March 6, 2003, the City of Fort Collins, Colorado (Fort Collins) filed an application requesting authority to improve a portion of North College Avenue (N. College) and Cherry Street at the crossing of the Union Pacific Railroad Company (UPRR) and the Burlington Northern and Santa Fe Railway (BNSF). These crossing are near railroad milepost 32.17 and National Inventory I.D. 906-297N (UPRR) and near railroad milepost 74.633, National Inventory I.D. 244-643V, (BNSF) located in Fort Collins, Larimer County, Colorado.

2. 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 on March 13, 2003.

3. On March 13, 2003, the Commission Staff filed an Entry of Appearance and Notice of Intervention.

4. On March 17, 2003, Colorado Department of Transportation (CDOT) filed its Entry of Appearance and Notice of Intervention.

5. On March 25, 2003, the BNSF filed its Entry of Appearance and Notice of Intervention.

6. On April 3, 2003, the UPRR filed its Entry of Appearance and Notice of Intervention.

7. On September 13, 2004 the Commission received a copy of the fully executed Agreement by and between Fort Collins and UPRR, dated April 20, 2004, pertaining to the construction, maintenance, and funding for the UPRR portion of the project.

8. On September 13, 2004 the Commission received a copy of the fully executed Agreement by and between Fort Collins and BNSF, dated September 3, 2004, pertaining to the construction, maintenance, and funding for the BNSF portion of the project.

9. No intervention was received in opposition to this application.

10. 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.

B. Findings of Fact

11. The purpose of this application is to secure Commission approval to add pedestrian crossings over the UPRR and the BNSF, and to widen the BNSF crossing near the intersection of N. College and Cherry Street.

12. The UPRR crossing, east of N. College will be widened 16 feet and the crossing north of Cherry Street will be widened 8 feet with concrete crossing material. The BNSF will extend the rubber crossing material on each side of N. College with 8 feet of concrete crossing material to accommodate roadway widening. The pedestrian crossings will be separate from N. College to allow for a perpendicular crossing and require 24 feet of concrete crossing material on each side of the roadway. Traffic lights and rail signals will also be upgraded to improve the phasing patterns and preemption sequences.

13. The posted speed limit on N. College is 35 mph. The posted speed limit on Cherry Street is 25 mph. No speed limit changes are projected.

14. The average daily vehicle traffic (ADT) count at N. College/UPRR is 27,500 and projected to be 40,300 in 20 years. The ADT at N. College/BNSF is 26,000 and projected to be 42,600 in 20 years. The ADT at Cherry Street/UPRR is 10,250 and projected to be 12,150 in 20 years.

15. There are presently 2 to 4 UPRR trains per day and 8 BNSF trains per day, each with a maximum timetable speed of 15 mph. No 20-year projections are available.

16. The work to be done and the expenses therefor will be paid in accordance with the Agreement by and between Fort Collins, and UPRR dated April 26, 2004 and the Agreement by and between Fort Collins and the BNSF dated September 3, 2004.

17. Maintenance of the sidewalk and roadway approaches to the crossing will be by Fort Collins. Maintenance of the crossing surface, roadbed, tracks, and warning devices will continue to be the responsibility of the UPRR and BNSF.

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

C. Conclusions

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

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

21. The Commission will determine this matter on the record, without a formal hearing, under § 40-6-109(5), C.R.S. (7093), and Rule 24, of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.

22. 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 Fort Collins, Colorado is authorized to make improvements to portions of track surface for road widening and pedestrian walkways at the crossings of North

College Avenue and Cherry Street and Union Pacific Railroad Company and the Burlington Northern and Santa Fe Railway. These crossing are near railroad milepost 32.17 and National Inventory I.D. 906-297N (UPRR) and near railroad milepost 74.633, National Inventory I.D. 244-643V, (BNSF) located in Fort Collins, Larimer County, Colorado.

2. The total actual cost of labor and material required for the projects shall be paid in accordance with the Agreement by and between the City of Fort Collins and The Union Pacific Railroad Company dated January 30, 2004 and the fully executed Agreement by and between the City of Fort Collins and the Burlington Northern and Santa Fe Railway Company, dated September 3, 2004.

3. The Railroad companies shall continue to maintain the crossing surface, roadbed, tracks, and grade crossing warning devices. The City of Fort Collins shall continue to maintain the roadway and sidewalk approaches.

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

5. 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.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN THE COMMISSIONER'S WEEKLY MEETING
October 27, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners