

Decision No. C14-0405

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0209R

IN THE MATTER OF THE APPLICATION OF THE CHAFFEE COUNTY BOARD OF COUNTY COMMISSIONERS FOR A PUBLIC ROAD CROSSING AT MILE POST 213.10 OF THE UNION PACIFIC RAILROAD'S TENNESSEE PASS LINE.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE AND GRANTING APPLICATION**

Mailed Date: April 24, 2014
Adopted Date: April 23, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the County of Chaffee (Chaffee County) on March 7, 2014, requesting authority to open a new public crossing of Chaffee County Road 102 (CR 102) with the tracks of the Union Pacific Railroad Company (UPRR) at approximate railroad milepost 213.10 of the Tennessee Pass Subdivision, no existing National Inventory Number, near the former Town of Cleora, Chaffee County, State of Colorado.

2. The Commission gave notice of this Application (Notice) to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S. The Notice was mailed March 12, 2014.

3. On March 19, 2014, UPRR filed an Entry of Appearance and Notice of Intervention as of Right. UPRR does not contest or oppose the application as long as Chaffee County does not seek a determination as to apportionment of costs.

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

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

6. Now being fully advised in the matter, we grant the Application.

B. Findings of Fact

7. The Commission gave notice to all interested parties, including the adjacent property owners. No interventions were received opposing the Application.

8. Chaffee County seeks authority to establish a new public road crossing of Chaffee CR 102 with the tracks of the UPRR Tennessee Pass Subdivision at approximate railroad milepost 213.10. Chaffee County proposes passive warning devices for the new public crossing consisting of crossbucks and yield signs mounted on the same post and a basic crossing surface using road base and/or asphalt to cover the tracks.

9. Chaffee County states that CR 102 is a key roadway in implementing and advancing the Salida Regional Transportation Plan and is necessary to implement the goals and policies of growth and traffic patterns that will be most beneficial to the community. This new roadway will also provide an alternate route around the City of Salida in the event that U.S. Highway 50 (US 50) is obstructed by an accident, spill or other mishap, and will improve emergency service access to an area of Chaffee County that is currently inaccessible. Finally, this additional route will provide an additional route for recreationists, bicyclists, and hikers.

10. Chaffee County proposes initially constructing a two-lane, rural, unpaved collector road connecting Chaffee County Road 177 with US 50. The roadway cross-section

would consist of a 28' wide roadway shoulder to shoulder accommodating two 12' travel lanes with two 2' shoulders. The grade of the roadway approaching the track would be no more than a 0.50 percent slope within the first 100' from the rail on the north side of the crossing and a maximum 2 percent slope within the first 100' from the rail on the south side of the crossing.

11. Chaffee County states there are currently no trains currently using the location of the proposed crossing, and that trains have not used this portion of the Tennessee Pass Subdivision since 1997. There are currently no known plans for UPRR to rehabilitate or reopen the line to rail traffic in the foreseeable future. Chaffee County estimates that once the crossing is open, the initial use of the roadway will be approximately ten crossings per day by motor vehicles, bicycles, and hikers. When CR 102 is completed and development starts occurring in the area, future traffic could be approximately 60 crossings per day.

12. Chaffee County states a grade crossing is not practicable or reasonable because there are no trains using the proposed crossing and the costs are not justified for a rural unpaved road.

13. Chaffee County estimates the cost of the project at \$5,000 for the right-of-way cost and \$3,823 for Chaffee County related work with the cost of the project to be paid for from the Chaffee County Road and Bridge Fund. Chaffee County states that UPRR has indicated that the county will be allowed to cover the tracks at the crossing site with road base and/or asphalt as long as the Tennessee Pass line is inactive.

14. Chaffee County proposes to start construction of the roadway within four weeks of Commission approval of the application, weather permitting. Construction should take approximately one week. Chaffee County expects the work to be complete by summer 2014. Chaffee County will be required to inform the Commission in writing that all work is complete

and the crossing is open for public use within ten days of completion. The Commission will expect this letter no later than August 31, 2014. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. We will also require Chaffee County to file a construction and maintenance agreement for the new public crossing with the Commission by June 30, 2014 prior to the start of construction.

15. We will require UPRR to assign a new National Inventory Number and to file a copy of the inventory form for the new crossing in this proceeding by the end of construction on August 31, 2014.

C. Conclusions

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

17. No intervenor that filed a petition to intervene or other pleading contests or opposes the construction of the new crossing and active warning equipment.

18. Because the Application is unopposed, the Commission will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, Commission Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

19. Based on the Findings of Fact, we find good cause exists and that the requirements of public safety and necessity are met by granting the Application consistent with the above discussion.

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

1. The application (Application) filed by the County of Chaffee (Chaffee County) on March 7, 2014 requesting authority to open a new public crossing of Chaffee County Road 102 (CR 102) with the tracks of the Union Pacific Railroad Company (UPRR) at approximate railroad milepost 213.10 of the Tennessee Pass Subdivision, no existing National Inventory Number, near the former Town of Cleora, Chaffee County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Entry of Appearance and Notice of Intervention, filed by UPRR is noted.

3. The Application is granted.

4. Chaffee County is authorized and ordered to proceed with construction of a new public crossing of Chaffee CR 102 with the tracks of the UPRR Tennessee Pass Subdivision at approximate railroad milepost 213.10, to install passive warning devices consisting of crossbucks and yield signs mounted on the same post, and to construct a basic crossing surface of road base and/or asphalt to cover the tracks in Chaffee County, Colorado.

5. Chaffee County is required to file a copy of the signed construction and maintenance agreement for the new public crossing with the Commission by June 30, 2014 prior to the start of construction.

6. Chaffee County is required to inform the Commission in writing that the crossing construction is complete and the crossing is open for public use within ten days after completion. We shall expect this letter by August 31, 2014. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

7. UPRR is required to assign a new National Inventory Number and to file a copy of the inventory form for the new crossing in this proceeding by the end of construction on August 31, 2014.

8. 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 Decision.

9. The Commission retains jurisdiction to enter further decisions as necessary.

10. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 23, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners