

Decision No. C14-0722

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0456R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A NEW BRIDGE STRUCTURE TO CARRY THE TRACKS OF THE BNSF RAILWAY COMPANY OVER THE NEW ALIGNMENT OF STATE HIGHWAY 128 IN THE CITY AND COUNTY OF BROOMFIELD.

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

Mailed Date: July 1, 2014
Adopted Date: June 25, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application (Application) filed by the Colorado Department of Transportation (CDOT) on May 12, 2014, seeking authority to construct a new grade separation of the new alignment of State Highway 128 (SH 128) with the tracks of the BNSF Railway Company (BNSF) at BNSF railroad milepost 13.90 of the Front Range Subdivision, new National Inventory No. 929076B, in the City and County of Broomfield, State of Colorado.

2. Notice of the Application was provided by the Commission to all interested parties, including adjacent property owners pursuant to § 40-6-108(2), C.R.S., on May 14, 2014.

3. On May 15, 2014, the City and County of Broomfield filed an Entry of Appearance in this matter.

4. On June 12, 2014, BNSF filed an Entry of Appearance and Notice of Intervention. BNSF does not contest or oppose the Application.

5. 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.

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 intervention was received opposing the Application.

8. CDOT proposes to construct a new grade separation of the new alignment of SH 128 under the existing BNSF tracks at railroad milepost 13.90 of the Front Range Subdivision.

9. The new BNSF bridge structure over SH 128 is proposed to be a two-span structure with traffic lanes of SH 128 located under both spans. The total length of the bridge structure from abutment to abutment is 151'-8 3/4" with the length of each span at 72'-7". The minimum vertical clearance from the top of roadway to the bottom of the structure is 17'-9". Each span under the bridge structure will accommodate three 12' travel lanes, one 4'-0" bike lane, one 9'-0" shoulder, 10'-0" of slope paving, and an 8'-0" sidewalk. The proposed minimum clearances meet or exceed the clearances required by Commission Rules 4 *Code of Colorado Regulations* (CCR) 723-7-7327 of the Commission's Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings.

10. The proposed bridge structure over SH 128 is proposed to be 46'-3" out to out and will accommodate two tracks on 25'-0" track centers with two 3'-8" walkways, varying distances between the centerline of track and edge of the bridge structure from 10'-1 5/8" and 11'-1 3/8", and will contain steel pedestrian railing on each side of the bridge structure.

11. CDOT states that the projected vehicle traffic under the new structure at project completion is estimated at 17,728 vehicles per day (VPD) traveling at a posted speed limit of 45 miles per hour (MPH) with traffic volumes projected at 30,688 VPD by 2046. CDOT states that there are currently 16 freight train movements per day that use the existing crossing at a maximum timetable speed of 30 MPH with no estimates of growth provided at this time.

12. CDOT proposes to start construction in the fall of 2014 and be complete by the spring of 2016. CDOT will be required to inform the Commission in writing that construction of the new grade separated structure is complete and operational within ten days of completion. The Commission will expect this letter by June 30, 2016. However, the Commission does understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. CDOT shall also be required to file a signed copy of the Construction and Maintenance Agreement for the new bridge structure prior to the start of construction. We will expect this agreement to be filed by August 30, 2014 and expect that construction at the crossing will not begin until the agreement has been filed.

13. We will require BNSF to file a new crossing inventory form for the new bridge structure and to file a copy of this form in this proceeding at the end of the project by June 30, 2016.

14. CDOT estimates the cost of the entire project at \$26 million, which includes railroad flagging and a temporary shoo-fly to accommodate new bridge structure construction.

C. Conclusions

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

16. No intervenor that filed a petition to intervene or other pleading contests or opposes the Application.

17. Because the Application is unopposed, the Commission finds that it will determine this matter upon the record, without a formal hearing under § 40-6-109(5), C.R.S., and Rule 1403, 4 CCR 723-1 of the Commission's Rules of Practice and Procedure.

18. Based on the Findings of Fact, we find that 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 Colorado Department of Transportation (CDOT) on May 12, 2014, seeking authority to construct a new grade separation of the new alignment of State Highway 128 (SH 128) with the tracks of the BNSF Railway Company (BNSF) at BNSF railroad milepost 13.90 of the Front Range Subdivision, new National Inventory No. 929076B, in the City and County of Broomfield, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. The Entry of Appearance of the City and County of Broomfield is noted.

3. The Intervention by BNSF is granted.

4. The Application is granted.

5. CDOT is authorized and ordered to proceed with construction of the BNSF bridge structure over the new SH 128 roadway alignment in Broomfield, Colorado.

6. CDOT shall inform the Commission in writing when the new grade separated structures are complete and operational within ten days of completion. The Commission will expect this letter by June 30, 2016. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

7. CDOT shall file a copy of the signed Construction and Maintenance Agreement by August 30, 2014 prior to the start of any crossing construction.

8. BNSF shall be required to file a copy of the new crossing inventory form for the new bridge structure in this proceeding at the end of the project by June 30, 2016.

9. 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.

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

11. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 25, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners