

Decision No. C19-0764

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 19A-0420R

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IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, ON BEHALF OF KIT CARSON COUNTY, FOR AUTHORITY TO REMOVE EXISTING FLASHING LIGHT SIGNALS AND INSTALL UPGRADE FLASHING LIGHT SIGNALS, CONSTANT WARNING TIME CIRCUITRY AND NEW RAILROAD SIGNAL BUNGALOW AT THE EXISTING COUNTY ROAD 40 CROSSING AT TRACKS OWNED BY KYLE RAILROAD COMPANY, USDOT NO. 594-720H, IN KIT CARSON COUNTY, STATE OF COLORADO.

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**INITIAL COMMISSION DECISION  
DEEMING APPLICATION COMPLETE  
AND APPROVING PRELIMINARY CONCEPT PLANS**

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Mailed Date: September 18, 2019  
Adopted Date: September 11, 2019

**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 behalf of the County of Kit Carson on July 31, 2019, requesting authority for preliminary approval of the concept plans to upgrade the existing flashing light signals from 8” lenses to 12” LED lenses, install constant warning time circuitry and install a new railroad signal bungalow using Federal Section 130 Funds, at the crossing of Kit Carson County Road 40 (CR 40) with the tracks of the Kyle Railroad Company (KYLE) at railroad milepost 462.41 of the Main Line, National Inventory No. 594720H, in the Town of Bethune, Kit Carson 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 on August 1, 2019.

3. No interventions were filed in this matter.

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 intervention was received opposing the Application.

8. CDOT requests authority of preliminary plans to upgrade the existing flashing light signals from 8” lenses to 12” LED lenses, install constant warning time circuitry, and install a new railroad signal bungalow at the crossing of CR 40 with the KYLE.

9. There have been no reported accidents at this crossing.

10. CDOT states the current traffic volume using the crossing is approximately 375 vehicles per day (VPD) at a posted speed limit of 25 miles per hour (MPH) with approximately 15 percent heavy vehicles using the crossing. School buses do not use the crossing. Traffic is projected to remain at 375 VPD in 5 years and grow to 400 VPD in 20 years. There are currently approximately two trains per day using the crossing at speeds of up to 60 MPH with no current projections of future train traffic growth.

11. The estimated cost for the work at the crossing is \$153,670 for the signal construction with Federal Section 130 Funds being used to fund the construction. The railroad has provided an estimate of the cost of the project, but will provide a schematic of the construction at a later date.

12. CDOT proposes to start construction on October 1, 2019 and be complete by March 31, 2020. CDOT is requesting preliminary approval of the attached plans and proposes that final plans will be provided to the Commission once the KYLE has filed the schematic drawings. CDOT has waived the applicable statutory period found at § 40-6-109.5, C.R.S., regarding the time limit for decisions.

**C. Conclusions**

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

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

15. 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.

16. Based on the Findings of Fact, we find good cause exists and that the requirements of public safety are met by approving CDOT's preliminary Application consistent with the above discussion. We will expect CDOT to file final plans in this proceeding by December 31, 2019 for Commission review and approval.

## II. ORDER

### A. The Commission Orders That:

1. The application filed by the Colorado Department of Transportation (CDOT) on behalf of the County of Kit Carson on July 31, 2019, requesting authority for preliminary approval of the concept plans to upgrade the existing flashing light signals from 8” lenses to 12” LED lenses, install constant warning time circuitry and install a new railroad signal bungalow using Federal Section 130 Funds, at the crossing of Kit Carson County Road 40 with the tracks of the Kyle Railroad Company at railroad milepost 462.41 of the Main Line, National Inventory No. 594720H, in the Town of Bethune, Kit Carson County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. CDOT’s waiver of the applicable statutory period found at § 40-6-109.5, C.R.S., regarding the time limit for decisions is noted.

3. The preliminary concept plans filed by CDOT are approved.

4. CDOT will be expected to file the final design plans for Commission review and approval by December 31, 2019.

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 Decision.

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

7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
September 11, 2019.**

(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

JEFFREY P. ACKERMANN

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FRANCES A. KONCILJA

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JOHN GAVAN

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Commissioners