

Decision No. C20-0039

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 19A-0420R

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.

**COMMISSION DECISION
GRANTING AMENDED APPLICATION**

Mailed Date: January 21, 2020

Adopted Date: January 15, 2020

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 (Kit Carson County) on July 31, 2019 and amended on December 27, 2019 (Amended Application), requesting final approval of the 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. No responses were filed to the Amended Application.

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 Amended 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 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 estimated that construction would begin on October 1, 2019 and be completed by March 31, 2020. CDOT will be required to file a copy of the signed Construction and Maintenance Agreement for this crossing prior to starting work at the crossing. We will expect this signed agreement to be filed no later than February 28, 2020 prior to the start of construction. We will also require CDOT to inform the Commission in writing that the crossing work is complete and operational within ten days of completion. The Commission will expect this letter by March 31, 2020. 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.

13. We will require KYLE to update the crossing inventory form for this crossing and file a copy of the updated crossing inventory form in this proceeding. The Commission will expect this information to be filed with the completion of the crossing work by March 31, 2020.

C. Conclusions

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

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

16. Because the Amended 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.

17. Based on the Findings of Fact, we find good cause exists and that the requirements of public safety are met by granting the Amended 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 behalf of the County of Kit Carson (Kit Carson County) on July 31, 2019 and amended on December 27, 2019, requesting final approval of the 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 mile post 462.41 of the Main Line, National Inventory No. 594720H, in the Town of Bethune, Kit Carson County, State of Colorado was deemed complete by Decision No. C19-0764 on September 18, 2019.

2. The Application as amended is granted.

3. CDOT and Kit Carson County are authorized and ordered to proceed with installation of active warning equipment consisting of 12” LED flashing lights, bells, new cabin, and constant warning time circuitry at the crossing of CR 40 with the KYLE in Kit Carson County.

4. CDOT shall file a copy of the signed Construction and Maintenance Agreement for this project by February 28, 2020 prior to starting work at the crossing.

5. CDOT shall inform the Commission in writing that the crossing changes are complete and operational within ten days of completion. We shall expect this letter by March 31,

2020. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

6. KYLE shall be required to update the National Inventory Form for this crossing and file a copy of the updated crossing inventory form in this proceeding by March 31, 2020.

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 Decision.

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

9. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 15, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners