

Decision No. C23-0345

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0167R

IN THE MATTER OF THE APPLICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR AUTHORITY TO INSTALL FLASHING LIGHT SIGNALS, GATES, BELLS, CONSTANT WARNING TIME CIRCUITRY, NEW SIGNAL CABINET AND REPLACE SIDING TRACK SURFACING, AT TRACKS OWNED BY BNSF RAILWAY COMPANY CROSSING ICE LAKE ROAD, USDOT NO. 253082H, IN EL PASO COUNTY, STATE OF COLORADO.

**COMMISSION DECISION
GRANTING APPLICATION**

Mailed Date: May 24, 2023
Adopted Date: May 24, 2023

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 April 4, 2023, seeking authority to install flashing light signals with gates and bells, constant warning time circuitry and replacement of the siding track crossing surface at the crossing of Ice Lake Road with the BNSF Railway (BNSF) at railroad milepost 65.70 of the Colorado Springs Subdivision National Inventory No. 253082H in the Air Force Academy, 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 April 10, 2023.

3. On May 10, 2023, BNSF filed a Notice of Intervention in this matter. BNSF does not contest or oppose the Application.

4. The Commission has reviewed the record in this matter deems and the Application 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

1. The Commission gave notice to all interested parties, including the adjacent property owners. No intervention was received opposing the Application.

2. CDOT seeks authority to install flashing light signals with gates and bells, constant warning time circuitry and replacement of the siding track crossing surface at the crossing of Ice Lake Road in the Air Force Academy, near Colorado Springs.

3. CDOT is proposing changes at the Ice Lake Road crossing since the tracks are adjacent to a natural bluff causing limited view south of the crossing. The track is also on a horizontal curve south of the crossing that reduces visibility to crossing users. Finally, this is a two-track crossing, so active warning will provide information that another train might be coming if one track is already occupied.

4. CDOT states there are currently 17 trains per day that use the crossing at a maximum timetable speed of 45 miles per hour (MPH) with no anticipated increases or decreases in the number or character of trains at this time. There are currently 100 vehicles per day (VPD) using the crossing at an unposted speed limit of 25 MPH with approximately one percent heavy

vehicles and school buses not using either crossing. Vehicle volume is projected to increase to 105 VPD in five years, and 120 VPD in 20 years.

5. There have been two property damage only accidents at the crossing in 1985 and 1986.

6. CDOT states that the cost of the active warning equipment is estimated at \$341,489 and the cost to install the crossing surface is estimated at \$61,805 with Section 130 funds paying for the costs of this project.

7. CDOT proposes to start construction on September 1, 2023, and complete construction of the project by December 31, 2024. We will require CDOT to inform us in writing that construction is complete within ten days of project completion. We shall expect this letter by December 31, 2024. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule. We will also require CDOT to file a copy of the signed master agreement task order by September 1, 2023, prior to starting construction at the crossing.

8. We will require CDOT and BNSF to work together to update and file the revised US DOT crossing form for Ice Lake Road in this proceeding. We will require these to be filed by the end of construction on December 31, 2024.

C. Conclusions

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

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

11. 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 Rules of Practice and Procedure.

12. We find that good cause exists and that the requirements of public safety are met by granting the Application consistent with the above discussion.

I. ORDER

A. The Commission Orders That:

1. The Application (Application) filed by the Colorado Department of Transportation (CDOT) on April 4, 2023, seeking authority to install flashing light signals with gates and bells, constant warning time circuitry and replacement of the siding track crossing surface at the crossing of Ice Lake Road with the BNSF Railway (BNSF) at railroad milepost 65.70 of the Colorado Springs Subdivision National Inventory No. 253082H in the Air Force Academy, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S.

2. CDOT is authorized and ordered to install flashing light signals with gates and bells, constant warning time circuitry and replacement of the siding track crossing surface at the crossing of Ice Lake Road at the Air Force Academy near Colorado Springs.

3. CDOT shall be required to file a copy of the signed master agreement task order by September 1, 2023, prior to starting construction at the crossing.

4. CDOT shall inform the Commission in writing when the crossing changes are complete within ten days of completion. The Commission will expect the letter by December 31, 2024. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

5. CDOT and BNSF shall be required to update the U.S. DOT National Inventory form for the Ice Lake Road crossing and file an updated copy of the form in this proceeding by December 31, 2024.

6. 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,

7. The Commission retains jurisdiction to enter further decisions, as necessary.

8. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 24, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners