

Decision No. C24-0914

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0456R

IN THE MATTER OF THE APPLICATION OF BNSF RAILWAY COMPANY TO REPLACE FLASHERS, GATES, AND BUNGALOW AND UPDATE TRACK CIRCUITRY FROM MOTION DETECTION TO CONSTANT WARNING TIME FOR THE CROSSING AT COUNTY ROAD 9, IN THE CITY OF LAMAR, PROWERS COUNTY, COLORADO (DOT #003228K).

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

Issued Date: December 17, 2024

Adopted Date: December 11, 2024

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application (“Application”) filed by BNSF Railway Company (“BNSF”) on October 17, 2024, for an order authorizing the replacement of flashing lights, gates, bells, signal bungalow, and the upgrading of the track circuitry from motion detection to constant warning time for the crossing of County Road 9 with the tracks owned by BNSF, at railroad milepost 501.074, National Inventory No. 003228K, in the City of Lamar, Prowers County, 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 October 29, 2024.

3. On October 28, 2024, Staff of the Commission sent a Deficiency Letter to BNSF outlining missing information from the Application.

4. On October 29, 2024, BNSF filed a supplement to the Application that cured the identified deficiencies in the Application.

5. No interventions were filed in this matter.

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

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

B. Findings of Fact

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

9. BNSF requests authority for the replacement of flashing lights, gates, bells, and signal bungalow and the upgrading of the track circuitry from motion detection to constant warning time for the crossing of County Road 9 with the tracks owned by BNSF in the City of Lamar, Colorado. The change is necessary because the bungalow, gates, bells and flashing lights at the crossing are of an older variety and BNSF no longer has spare equipment in the event of a failure.

10. BNSF plans to update the track circuitry from Motion Detection to Constant Warning Time in order to provide a more uniform warning time to motorists based on the speed of an approaching train. BNSF's proposed changes and equipment upgrades will bring the crossing into compliance with current American Railway Engineers and Maintenance of Way standards.

11. BNSF states that most recent traffic volume at the subject crossing as of 1987 is 20 vehicles per day ("VPD"). None of the traffic volume is estimated to be heavy vehicles. No school buses use the crossing. The unposted speed limit at the crossing is 30 miles per hour ("MPH"). There were no five- or 20-year traffic volumes provided. There are currently 6 trains

per day as of 2019 that use the crossing at a maximum timetable speed of 79 MPH with no anticipated changes in train volume in the future.

12. There have been four accidents at the crossing since 1975 including one property only accident in 1983, two injuries in 1983, and one fatality at the crossing in 1980.

13. BNSF estimates the cost of the project at \$357,695. BNSF will cover 100 per cent of the costs for the project.

14. BNSF proposes to start the project on March 1, 2025, and anticipates being complete with the work by November 30, 2025. BNSF will be required to inform the Commission in writing that all work is complete within ten days of completion. The Commission will expect this letter no later than November 30, 2025. However, the Commission understands this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

15. BNSF will be required to update the US DOT Crossing Inventory Form showing the detection circuitry change for the crossing. This form will need to be filed in this proceeding by BNSF by November 30, 2025.

C. Conclusions

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

17. 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.

18. Based on the Findings of Fact, the Application is granted consistent with the discussion above.

II. ORDER

A. The Commission Orders That:

1. The Application (“Application”) filed by the BNSF Railway Company (“BNSF”) on October 17, 2024, for an order authorizing the replacement of flashing lights, gates, bells, and signal bungalow and the upgrading of the track circuitry from motion detection to constant warning time for the crossing of County Road 9 with the tracks owned by BNSF, at railroad milepost 501.074, National Inventory No. 003228K, in the City of Lamar, Prowers County, State of Colorado is deemed complete within the meaning of § 40-6-109.5, C.R.S., and is granted.

2. BNSF is authorized and ordered to proceed with the replacement of flashing lights, gates, bells, signal bungalow, and the upgrading of the track circuitry from motion detection to constant warning time.

3. BNSF is required to inform the Commission in writing that the work is complete within ten days after completion. We shall expect this letter by November 30, 2025. However, we understand this letter may be provided earlier or later than this date depending on changes or delays to the construction schedule.

4. BNSF will be required to update the US DOT Crossing Inventory Form for the crossing. This form will need to be filed in this proceeding by BNSF by November 30, 2025.

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 upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 11, 2024.**

(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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MEGAN M. GILMAN

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Commissioners