

Decision No. C04-0122

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

DOCKET NO. 00A-222R

---

IN THE MATTER OF THE COLORADO DEPARTMENT OF TRANSPORTATION, FOR THE AUTHORITY TO CONSTRUCT A GRADE SEPARATION STRUCTURE OVER THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY RAILROAD TRACKS, AND TO CONSTRUCT A TEMPORARY HIGHWAY RAILROAD GRADE CROSSING AT RAILROAD MILEPOST 527.27, MORE OR LESS, NATIONAL INVENTORY ID NO. 057-195A, AT I-76 AND 120<sup>TH</sup> AVENUE IN ADAMS COUNTY, COLORADO.

---

**COMMISSION ORDER GRANTING APPLICATION**

---

---

Mailed Date: February 2, 2004  
Adopted Date: January 28, 2004

**I. BY THE COMMISSION:**

**A. Statement**

1. On April 20, 2000, the Colorado Department of Transportation (CDOT) filed this application requesting authority to replace the existing highway/railroad grade crossing, National Inventory I.D. No. 057-195A, with a grade separation structure (No.E-17-UG) that will carry 120th Avenue (120<sup>th</sup> Ave.) over the tracks of The Burlington Northern Santa Fe Railway Company (BNSF) at the approximate location of railroad milepost 527.27, in Adams County, State of Colorado (Adams).

2. On May 9, 2000 the Staff of the Commission filed its Entry of Appearance and Notice of Intervention.

3. The Commission gave notice of this application together with a copy of the application, to all interested parties, including adjacent property owners in accordance with § 40-6-108(2), C.R.S. The Notice was mailed May 9, 2000.

4. On May 11, 2000, CDOT filed its Entry of Appearance and Notice of Intervention
5. On May 16, 2000, the BNSF filed its Entry of Appearance and Notice of Intervention.
6. Received by the Commission as a late-filed exhibit on August 2, 2000, is a copy of the fully executed Agreement dated July 24, 2000, by and between CDOT and BNSF, providing for construction, operation and maintenance of the highway/railroad grade separation structure (No. E-17-UG) over the tracks of BNSF located in Adams County, Colorado.
7. Received by the Commission as a late-filed exhibit on August 24, 2000, is a copy of the fully executed Agreement dated August 21, 2000, by and between CDOT and BNSF, providing for the relocation and installation of signals, lights and gates from the old crossing to a new temporary crossing to be located just south of the original grade crossing which is to be replaced.
8. No protests, objections, or petitions to intervene in opposition were filed in this application. This application is noncontested and unopposed.
9. The Commission has jurisdiction in this matter under § 40-4-106(2)(a) & (3)(a), C.R.S.
10. CDOT waives the time limits set forth in § 40-6-109.5 (1) and (2), C.R.S., for this application.
11. The Commission has reviewed the file and deems the application to be complete within the meaning of § 40-6-109.5 (3), C.R.S.

12. The Commission will determine this matter upon the record, without a formal oral hearing under § 40-6-109(5), C.R.S., and Commission Rules of Practice and Procedure No. 24, 4 CCR 723-1, because the application is noncontested and unopposed.

**B. FINDINGS OF FACT**

13. Notice of the proposed construction of the highway/railroad grade separation structure has been given by the Commission to all interested parties, including adjacent property owners. No intervenor who filed a petition to intervene or other pleading contested or opposed the application.

14. CDOT is improving a portion of 120<sup>th</sup> Ave. located in Adams County, Colorado as part of a larger project, which will replace the highway interchange structures of SH 2 and SH 51 over I-76 and replace these two structures with a new single interchange structure. By this application, CDOT proposes to replace the existing highway/railroad grade crossing at 120<sup>th</sup> avenue, National Inventory ID No. 057-195A, with a new grade separation structure (No.E-17-UG) that will carry 120<sup>th</sup> Ave. over I-76 and the mainline tracks of the BNSF at railroad milepost 527.27.

15. Average daily traffic on 120<sup>th</sup> Ave. at the project area in 1995 was 10,000 vehicles per day and is projected to be 16,000 vehicles per day in 2020. There are approximately 28 freight train movements each day with maximum speed of 79 mph.

16. The estimated cost of the theoretical structure or reasonably adequate facility is \$2,552,516.00. The BNSF will contribute 5% of this cost or \$127,626.

17. Maintenance of the new highway/railroad grade separation structure will be the responsibility of CDOT and BNSF in accordance with the agreement by and between CDOT and

BNSF dated July 24, 2000. Under the terms of this agreement, BNSF will continue to maintain its roadbed, train communication and signal lines, tracks, and appurtenances. CDOT will maintain the overpass structure including the deck, bridge rail, substructure abutments, approach slabs, and drainage system.

18. All exhibits, specifications and plans are complete, accurate and meet Commission requirements.

19. The public safety, convenience and necessity require, and will be served, by the granting of this application as hereinafter ordered.

**C. CONCLUSIONS ON FINDINGS OF FACT**

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

21. The application is noncontested and unopposed.

22. The Commission will determine this matter on the record, without a formal hearing under § 40-6-109(5), C.R.S., and Commission's Rules of Practice and Procedure No. 24, 4 CCR 723-1.

23. The public safety, convenience and necessity require, and will be served by the granting of this application.

**II. ORDER**

**A. THE COMMISSION ORDERS THAT:**

1. The Colorado Department of Transportation is authorized to construct, operate and maintain a highway/railroad grade separation structure to carry 120th Avenue over the

mainline tracks of The Burlington Northern Santa Fe Railway Company at railroad milepost 527.27, more or less, National Inventory ID No. 057-195A, in Adams County, Colorado.

2. The Colorado Department of Transportation is authorized to proceed with the relocation and installation of signals, lights and gates from the old crossing to a new temporary crossing to be located on Cameron Drive, just south of the original grade crossing which is to be replaced. Upon completion of the separation structure, the temporary grade crossing shall be permanently removed.

3. All work done shall be in accordance with the plans, specifications and exhibits submitted in this application and hereby approved.

4. The total actual cost of labor and material required for the highway/railroad grade separation structure authorized in ordering paragraph No. 1 above shall be paid in accordance with the Agreements by and between The Colorado Department of Transportation and The Burlington Northern Santa Fe Railway Company dated July 24, 2000 and August 21, 2000.

5. Maintenance of the completed grade separation structure shall be in accordance with the Agreement, dated July 24, 2000, by and between The Colorado Department of Transportation and The Burlington Northern Santa Fe Railway Company.

6. The Commission retains jurisdiction to make further orders as required in this matter.

7. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
JANUARY 28, 2004**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Commissioners