

OPEN MEETING ITEM  
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**COMMISSIONERS**  
MARC SPITZER - Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES



ARIZONA CORPORATION COMMISSION

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DATE: July 13, 2004  
DOCKET NO: RR-02637A-04-0380  
TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

GRAND CANYON RAILWAY  
(UPGRADE CROSSING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 22, 2004

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

AUGUST 3 AND 4, 2004

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

Arizona Corporation Commission

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JUL 13 2004

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MARC SPITZER, Chairman  
4 WILLIAM A. MUNDELL  
5 JEFF HATCH-MILLER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF  
9 THE ARIZONA DEPARTMENT OF  
10 TRANSPORTATION TO UPGRADE A  
11 CROSSING OF THE GRAND CANYON  
12 RAILWAY AT ESPEE ROAD, IN COCONINO  
13 COUNTY, ARIZONA, AAR/DOT NO. 025-963-S.

DOCKET NO. RR-02637A-04-0380

DECISION NO. \_\_\_\_\_

OPINION AND ORDER

10 DATE OF HEARING: June 24, 2004

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

13 APPEARANCES: Mr. Timothy Sabo, Staff Attorney, Legal Division, on  
14 behalf of the Utilities Division of the Arizona  
15 Corporation Commission.

15 **BY THE COMMISSION:**

16 On May 20, 2004, the Arizona Department of Transportation (“ADOT”) submitted to the  
17 Arizona Corporation Commission (“Commission”) a request for an Opinion and Order for the  
18 approval of an agreement between ADOT and the Grand Canyon Railway (“Railroad”) to upgrade  
19 the Railroad’s crossing at Espee Road in Coconino County, Arizona, at AAR/DOT No. 025-963-S  
20 (“Application”).

21 On June 3, 2004, by Procedural Order, the Application was set for a hearing and ADOT was  
22 ordered to notify any interested party of the Application and the hearing.

23 On June 17, 2004, ADOT certified that notice had been provided pursuant to the terms of the  
24 Procedural Order.

25 On June 24, 2004, a full public hearing was held before a duly authorized Administrative Law  
26 Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the  
27 matter was taken under advisement pending submission of a recommended Opinion and Order to the  
28 Commission.

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Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On May 20, 2004, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad for the upgrade of a crossing to replace the existing crossing surface and crossbucks with automatic warning devices at Espée Road, in Coconino County, Arizona, at AAR/DOT No. 025-963-S.

2. On June 17, 2004, ADOT filed certification that it provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on June 24, 2004.

4. The Application provides for the Railroad to replace the existing crossbucks and the crossing surface and to upgrade the crossing surface with concrete and with automatic flashing light signals and gates.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application was proper.

6. Staff has recommended that the Application be approved.

**CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Installation of the crossing upgrade is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

5. After installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

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1 SERVICE LIST FOR: GRAND CANYON RAILWAY

2 DOCKET NO. RR-02637A-04-0380

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