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COMMISSIONER

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

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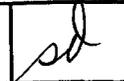
AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

DATE: MARCH 12, 2001

DOCKET NO.: RR-02854A-01-0056
TO ALL PARTIES:

MAR 12 2001

DOCKETED BY 

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:

SAN PEDRO & SOUTHWESTERN RAILWAY
(AT-GRADE)

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 ten (10) copies of the exceptions with
the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 21, 2001

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:

MARCH 27, 2001 AND MARCH 28, 2001

For more information, you may contact Docket Control at (602) 542-3477 or the
Hearing Division at (602) 542-4250.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN
3 JIM IRVIN
COMMISSIONER
4 MARC SPITZER
COMMISSIONER
5

6 IN THE MATTER OF THE APPLICATION OF
COCHISE COUNTY TO CONSTRUCT A GRADE-
7 SEPARATED CROSSING OF THE SAN PEDRO
AND SOUTHWESTERN RAILWAY COMPANY,
8 AT BISBEE JUNCTION ROAD, IN CHOCHISE
COUNTY, ARIZONA, AT AAR/DOT NO.
9 RR271+32.85.

DOCKET NO. RR- 02854A-01-0056

DECISION NO. _____

OPINION AND ORDER

10 DATE OF HEARING: February 14, 2001
11 PLACE OF HEARING: Phoenix, Arizona
12 PRESIDING OFFICER: Marc E. Stern
13 APPEARANCES: Mr. Robert Metli, Staff Attorney, Legal Division, on
14 behalf of the Utilities Division of the Arizona
Corporation Commission.

15 **BY THE COMMISSION:**

16 On January 16, 2001, Cochise County ("County") filed with the Arizona Corporation
17 Commission ("Commission") a request for approval to construct a grade-separated crossing over the
18 San Pedro and Southwestern Railway Company ("Railroad") track where Bisbee Junction Road
19 crosses the Railroad's tracks in the County at AAR/DOT No. RR271+32.85 ("Application").

20 On January 25, 2001, by Procedural Order, the Application was set for a hearing and the
21 County was ordered to notify any interested party of the Application and the hearing.

22 The County provided notice pursuant to the terms of the Procedural Order.

23 On February 14, 2001, a full public hearing was held before a duly authorized Administrative
24 Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing,
25 the matter was taken under advisement pending submission of a recommended Opinion and Order to
26 the Commission.

27 * * * * *

28 Having considered the entire record herein and being fully advised in the premises, the

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. On January 18, 2001, the County filed an Application in which it requested an
4 Opinion and Order from the Commission to approve an agreement between the County and the
5 Railroad for the construction of a grade-separated crossing over the track of the Railroad where
6 Bisbee Junction Road crosses the Railroad's tracks in the County AAR/DOT No. RR271+38.25

7 2. The County provided notice of the Application and hearing thereon in accordance with
8 the law.

9 3. A hearing was held as scheduled on February 14, 2001.

10 4. The Application provides for the County to replace an old wooden overpass that was
11 removed approximately six years ago with a new concrete overpass which will extend above the
12 tracks of the Railroad where Bisbee Junction Road crosses the Railroad's tracks.

13 5. Staff testified that the apportionment for the cost of the overpass as provided in the
14 Application will be funded by the County with federal funds.

15 6. After construction of the grade-separated crossing, the Railroad will not be responsible
16 to maintain the crossing in accordance with A.A.C. R14-5-104 because the Bisbee Junction roadway
17 will be maintained by the County.

18 7. Staff has recommended that the Application be approved.

19 **CONCLUSIONS OF LAW**

20 1. The Commission has jurisdiction over the parties and over the subject matter of the
21 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337, and
22 40-337.01.

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

24 3. The construction of the grade-separated crossing at Bisbee Junction Road is necessary
25 for the public's convenience and safety.

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

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ORDER

IT IS THEREFORE ORDERED that the Application of Cochise County for approval of a new overpass at Bisbee Junction road is hereby granted.

IT IS FURTHER ORDERED that the San Pedro and Southern Railway Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the grade-separated crossing, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:mlj

1 SERVICE LIST FOR: SAN PEDRO AND SOUTHWESTERN RAILWAY
2 COMPANY

3 DOCKET NO. RR-02854A-01-0056

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5 Highway and Floodplain Dept., Project Manager
6 Cochise County
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8 Bisbee, Arizona 85603

9 SWKR Operating Company, Inc.
10 San Pedro & Southwestern Railway Co.
11 P. O. Box 1420
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13 Don Thompson, Railroad Safety Supervisor
14 Office of Railroad Safety
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