

OPEN MEETING ITEM  
ORIGINAL



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



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**ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission  
**DOCKETED**

DATE: April 8, 2005

DOCKET NO: RR-02632A-05-0125

APR - 8 2005

TO ALL PARTIES:

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:

**ARIZONA AND CALIFORNIA RAILROAD COMPANY  
(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:

APRIL 18, 2005

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 Open Meeting to be held on:

MAY 3 AND 4, 2005

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.

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1 **THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

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

8 IN THE MATTER OF THE APPLICATION OF  
9 THE ARIZONA DEPARTMENT OF  
10 TRANSPORTATION TO UPGRADE AN  
11 EXISTING CROSSING OF THE ARIZONA AND  
12 CALIFORNIA RAILROAD COMPANY AT  
13 McVAY ROAD IN LA PAZ COUNTY, ARIZONA,  
14 AAR/DOT NO. 025-921-F.

DOCKET NO. RR-02632A-05-0125

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

OPINION AND ORDER

10 DATE OF HEARING: March 17, 2005  
11 PLACE OF HEARING: Phoenix, Arizona  
12 ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
13 APPEARANCES: Ms. Diane Targovnik and Mr. Tim Sabo, Staff  
14 Attorneys, Legal Division, on behalf of the Utilities  
15 Division of the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On February 28, 2005, 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 Arizona and California Railroad Company  
19 (“Railroad”) to upgrade the Railroad’s crossing at McVay Road in La Paz County, Arizona, at  
20 AAR/DOT No. 025-921-F (“Application”).

21 On March 3, 2005, 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 March 10, 2005, ADOT certified that notice had been provided pursuant to the terms of  
24 the Procedural Order.

25 On March 17, 2005, a full public hearing was held before a duly authorized Administrative  
26 Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission’s Railroad Safety  
27 Section (“Staff”) was present with counsel. At the conclusion of the hearing, the matter was taken  
28 under advisement pending submission of a recommended Opinion and Order to the Commission.

\* \* \* \* \*

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 February 28, 2005, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad to upgrade a crossing by replacing existing crossbucks with new LED automatic warning devices with automatic gate arms at McVay Road in La Paz County, Arizona at AAR/DOT No. 025-921-F.

2. On March 10, 2005, ADOT filed certification that it had provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on March 17, 2005.

4. The Application provides for the Railroad to install new LED flashing lights with automatic gates at the crossing.

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

6. Staff 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. Pursuant to A.R.S. §§ 40-336 and 40-337, 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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SERVICE LIST FOR:

ARIZONA AND CALIFORNIA RAILROAD  
COMPANY

DOCKET NO.

RR-02632A-05-0125

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