

ORIGINAL NEW APPLICATION



BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

JEFF HATCH-MILLER, Chairman
KRISTIN K. MAYES
WILLIAM MUNDELL
MARC SPITZER
MIKE GLEASON

2005 JUN 17 P 4: 26

AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

JUN 17 2005

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IN THE MATTER OF THE
ABOLITION OF TWO UNION PACIFIC
RAILROAD PUBLIC CROSSINGS,
DOT #741 349T AND DOT #741 354P

DOCKET NO. RR-03639A-05-0444
UNION PACIFIC RAILROAD
COMPANY'S APPLICATION
FOR AUTHORITY TO ABOLISH
PUBLIC RAILROAD CROSSINGS,
DOT #741 349T AND DOT #741 354P

Applicant Union Pacific Railroad Company ("Union Pacific"), whose post office address is 1255 South Campbell Avenue, Tucson, Arizona 85713, by and through its attorneys Beaugureau, Zukowski & Hancock, P.C., pursuant to A.A.C. R14-3-106(F) and R14-3-107 and A.R.S. § 40-337(B)(2), hereby applies for authority to abolish two public grade crossings of State Highway 238 (the "Maricopa Highway") and Union Pacific's railroad tracks near Casa Grande, Arizona, DOT #741 349T at railroad milepost 905.6, and DOT #741 354P at railroad milepost 913.8, both on Union Pacific's Gila Subdivision. The reasons for this application follow, supported by the Affidavit of James H. Smith, attached hereto as Exhibit A:

1. Pursuant to A.R.S. § 40-285(C) and Babe Investments v. Arizona Corporation Commission, 189 Ariz. 147, 939 P.2d 425 (App. 1997), Union Pacific has determined that its railroad spur tracks that cross State Highway 238 at DOT #741 349T and DOT #741 354P are not necessary or useful in the performance of Union Pacific's duties to the public, and has therefore decided to abandon those spur tracks.

1           2. Crossings DOT #741 349T and DOT #741 354P are protected by automatically  
2 controlled warning signals consisting of flashing lights, bells and gate arms, which Union Pacific  
3 is currently maintaining although the tracks are no longer used. The switches controlling access to  
4 these spur tracks have been removed from the main track because no trains use the abandoned spur  
5 tracks any longer.

6           3. In light of Union Pacific's abandonment of the spur tracks, Union Pacific wishes to  
7 abolish the public crossings DOT #741 349T and DOT #741 354P, by removing at its own cost its  
8 railroad tracks where they intersect State Highway 238, removing the automatically controlled  
9 warning signals, and restoring the surface of State Highway 238 following such removal.

10           4. Abolition of crossings DOT #741 349T and DOT #741 354P is in the interest of public  
11 convenience and safety, as well as in Union Pacific's interest in not being required to maintain the  
12 tracks, crossing surfaces and signals at those crossings. Although the automatically controlled  
13 warning signals are operational, they are never activated because no trains use the abandoned spur  
14 tracks, and the switches controlling access to those spur tracks have been removed from the main  
15 track. However, because the crossings still exist, motor vehicles carrying passengers for hire,  
16 school buses and vehicles carrying or returning after delivery of explosive substances or  
17 flammable liquids are required to make unnecessary stops at those crossings pursuant to A.R.S. §  
18 28-853. It would be more convenient and safer for all travelers on State Highway 283 if the  
19 railroad crossings were removed so that such unnecessary stops were not required.  
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22           For the foregoing reasons, Union Pacific respectfully applies for authority to abolish both  
23 public grade crossings of State Highway 238 (the "Maricopa Highway") and Union Pacific's  
24 railroad tracks near Casa Grande, Arizona, DOT #741 349T and DOT #741 354P.

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RESPECTFULLY SUBMITTED this 17<sup>th</sup> day of June, 2005.

BEAUGUREAU, ZUKOWSKI  
& HANCOCK, P.C.

By: Terrance L. Sims  
Anthony J. Hancock  
Ernest Collins, Jr.  
Terrance L. Sims  
2111 E. Highland Avenue, #255  
Phoenix, Arizona 85016  
Attorneys for Applicant Union  
Pacific Railroad Company

ORIGINAL AND THIRTEEN COPIES  
of the foregoing filed this 17<sup>th</sup> day of  
June, 2005, with:

Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

COPY of the foregoing mailed this  
17<sup>th</sup> day of June, 2005, to:

Timothy J. Sabo, Esq.  
Attorney, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Mary Ann Palmer  
Mary Ann Palmer

# Exhibit

A

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

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

8 IN THE MATTER OF THE ) DOCKET NO. \_\_\_\_\_  
9 ABOLITION OF TWO UNION PACIFIC )  
10 RAILROAD PUBLIC CROSSINGS, ) **AFFIDAVIT OF JAMES H. SMITH**  
11 DOT #741 349T AND DOT #741 354P ) **IN SUPPORT OF UNION PACIFIC**  
12 ) **RAILROAD COMPANY'S**  
13 ) **APPLICATION FOR AUTHORITY**  
14 ) **TO ABOLISH PUBLIC RAILROAD**  
15 ) **CROSSINGS, DOT #741 349T AND**  
16 ) **DOT #741 354P**

17 James H. Smith, being first duly sworn upon his oath, states as follows:

- 18 1. I am over the age of eighteen, and I have personal knowledge of the facts stated  
19 herein.  
20 2. I am employed by Union Pacific Railroad Company as Manager of Industry and  
21 Public Projects and I have responsibility for the State of Arizona.  
22 3. Union Pacific has determined that its railroad spur tracks that cross State Highway  
23 238 at DOT #741 349T and DOT #741 354P are not necessary or useful in the performance of  
24 Union Pacific's duties to the public, and has therefore decided to abandon those spur tracks.  
25 4. Crossings DOT #741 349T and DOT #741 354P are protected by automatically  
26 controlled warning signals consisting of flashing lights, bells and gate arms, which Union Pacific is

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currently maintaining although the tracks are no longer used. The switches controlling access to these spur tracks have been removed from the main track because no trains use the abandoned spur tracks any longer.

5. In light of Union Pacific's abandonment of the spur tracks, Union Pacific wishes to abolish the public crossings DOT #741 349T and DOT #741 354P, by removing at its own cost its railroad tracks where they intersect State Highway 238, removing the automatically controlled warning signals, and restoring the surface of State Highway 238 following such removal.

*James H. Smith*  
\_\_\_\_\_

SUBSCRIBED AND SWORN TO before me this 14 day of June, 2005.

*[Signature]*  
\_\_\_\_\_

Notary Public

My Commission Expires:

10/30/08

