



0000024077

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

AUG 17 2005

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF
THE SAN MANUEL RAILWAY COMPANY TO
REMOVE A RAILROAD CROSSING AT THE
SAN MANUEL AIRPORT ACCESS ROAD IN
PINAL COUNTY AT AAR DOT NO. 916-303S.

DOCKET NO. RR-04188A-05-0402

DECISION NO. 68070

OPINION AND ORDER

DATE OF HEARING: July 14, 2005
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Mr. Keith Layton, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On June 3, 2005, the San Manuel Railway Company ("Railroad") submitted to the Arizona Corporation Commission ("Commission") an application requesting approval to remove an at-grade public railroad crossing at the Railroad's tracks at the San Manuel Airport Access Road in Pinal County, Arizona ("Application").

On June 17, 2005, by Procedural Order, the Application was set for a hearing and the Railroad was ordered to notify any interested party of the Application and the hearing.

Pursuant to the terms of the Procedural Order, the Railroad provided public notice.

On July 14, 2005, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken 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
2 1. On June 3, 2005, the Railroad submitted to the Commission an Application requesting
3 approval to remove the Railroad's tracks and close the at-grade public railroad crossing at the San
4 Manuel Airport Access Road in Pinal County, Arizona, at AAR DOT No. 916-303S.

5 2. The Railroad provided public notice by certified U.S. mail of the Application and
6 hearing thereon.

7 3. A hearing was held as scheduled on July 14, 2005.

8 4. The Application provides for the Railroad to remove its tracks located at the at-grade
9 crossing of the San Manuel Airport Access Road at AAR DOT No. 916-303S. After the removal of
10 the tracks, the roadway will remain open.

11 5. Staff testified that the cost for the removal of the crossing as provided in the
12 Application will be paid for by B.H.P. Copper, which owns the Railroad.

13 6. Staff has recommended that the Application be approved.

CONCLUSIONS OF LAW

14
15 1. The Commission has jurisdiction over the parties and over the subject matter of the
16 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
17 40-337.01

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

19 3. The removal of the tracks at the crossing of the San Manuel Airport Access Road is
20 necessary for the public's convenience and safety.

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

ORDER

22
23 IT IS THEREFORE ORDERED that the San Manuel Railway Company's Application is
24 hereby approved.

25 IT IS FURTHER ORDERED that the San Manuel Railway Company shall complete the
26 removal of its track and the closure of the crossing of the San Manuel Airport Access Road as
27 described in the Application.

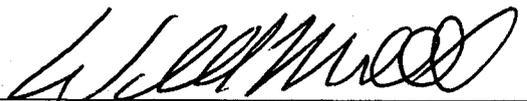
28 ...

1 IT IS FURTHER ORDERED that the San Manuel Railway Company shall notify the
2 Commission, in writing, within ten days of the closure of the crossing, pursuant to A.A.C. R14-5-
3 104.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
7 
8 CHAIRMAN


9 COMMISSIONER

10 
11 COMMISSIONER


12 COMMISSIONER


13 COMMISSIONER

14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
15 Secretary of the Arizona Corporation Commission, have
16 hereunto set my hand and caused the official seal of the
17 Commission to be affixed at the Capitol, in the City of Phoenix,
18 this 17th day of Aug., 2005.


19 BRIAN C. McNEIL
20 EXECUTIVE SECRETARY

21 DISSENT _____

22 DISSENT _____

1 SERVICE LIST FOR:

SAN MANUEL RAILWAY COMPANY

2 DOCKET NO.:

RR-04188A-05-0402

3

4 Kent Fletcher
5 San Manuel Railway Company
6 200 S. Veterans Memorial Blvd.
7 P.O. Box M
8 San Manuel, Arizona 85631

9 David Gibson
7 Arizona Department of Transportation
8 206 S. 17th Avenue, MD-064R
9 Phoenix, Arizona 85007

10 Christopher Kempley, Chief Counsel
11 Legal Division
12 ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
14 Phoenix, Arizona 85007

15 Don Thompson, Chief
16 Railroad Safety Section
17 Utilities Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, Arizona 85007

21

22

23

24

25

26

27

28

29

30

31

32

33