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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

AUG 22 2002

DOCKETED BY 

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE BURLINGTON  
NORTHERN AND SANTA FE RAILWAY AT  
43RD AVENUE AND CAMELBACK ROAD IN  
PHOENIX, ARIZONA AT M.P. 186.70.

DOCKET NO. RR-02635B-02-0396

DECISION NO. 65116

**OPINION AND ORDER**

DATE OF HEARING: July 11, 2002  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
APPEARANCES: Mr. Timothy Sabo, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On May 28, 2002, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for approval for the Burlington Northern and Santa Fe Railway Company ("Railroad") to upgrade a crossing at the Railroad's existing tracks at 43rd Avenue and Camelback Road in Phoenix, Arizona at M.P. 186.70.

On June 14, 2002, by Procedural Order, the Application was set for hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On June 26, 2002, ADOT provided notice pursuant to the Procedural Order.

On July 11, 2002, 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

1 Commission finds, concludes, and orders that:

2 **FINDINGS OF FACT**

3 1. On May 28, 2002, ADOT filed an Application in which it requested an Opinion and  
4 Order from the Commission approving an agreement between ADOT and the Railroad to upgrade a  
5 crossing at the Railroad's existing tracks at 43rd Avenue and Camelback Road in Phoenix, Maricopa  
6 County, Arizona at M.P. 186.70.

7 2. On June 26, 2002, ADOT mailed written notice to all interested parties of the  
8 Application and hearing thereon as ordered in the Commission's Procedural Order. Subsequently, no  
9 objections to the Application were received by the Commission.

10 3. The Application provides for the Railroad to upgrade its crossing at 43rd Avenue and  
11 Camelback Road as part of ADOT's Grand Avenue corridor upgrade by removing the existing  
12 automatic gates and installing additional cantilevered flashing light signals.

13 4. Staff testified that the cost for the installation of the upgrade as provided in the  
14 Application is proper.

15 5. Staff has recommended that the Application be approved.

16 **CONCLUSIONS OF LAW**

17 1. The Commission has jurisdiction over the parties and over the subject matter of the  
18 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and  
19 40-337.01.

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

21 3. The installation of the upgrade as described hereinabove is necessary for the public's  
22 convenience and safety.

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

24 5. After the construction upgrade is completed, the Railroad should maintain the  
25 crossings in accordance with A.A.C. R14-5-104.

26 **ORDER**

27 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application  
28 on behalf of the Burlington Northern and Santa Fe Railway Company is hereby approved.

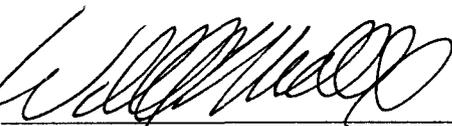
1 IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company  
2 shall complete the construction upgrades described in the Application within fifteen months from the  
3 effective date of this Decision.

4 IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company  
5 shall notify the Commission, in writing, within ten days of both the commencement and the  
6 completion of the crossing upgrades, pursuant to A.A.C. R14-5-104.

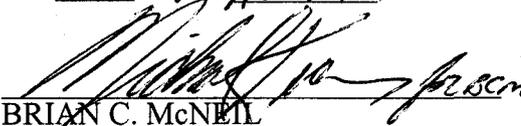
7 IT IS FURTHER ORDERED that upon completion of the crossing upgrades, the Burlington  
8 Northern and Santa Fe Railway Company shall maintain the crossings in compliance with A.A.C.  
9 R14-5-104.

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

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	COMMISSIONER

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15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
16 Secretary of the Arizona Corporation Commission, have  
17 hereunto set my hand and caused the official seal of the  
18 Commission to be affixed at the Capitol, in the City of Phoenix,  
19 this 22<sup>ND</sup> day of AUGUST, 2002.

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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

21 DISSENT \_\_\_\_\_  
22 MES:mlj

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SERVICE LIST FOR:

BURLINGTON NORTHERN AND SANTA FE  
RAILWAY COMPANY

DOCKET NO.:

RR-02635B-02-0010

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