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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

MARC SPITZER, Chairman
 JIM IRVIN
 WILLIAM A. MUNDELL
 JEFF HATCH-MILLER
 MIKE GLEASON

DOCKET NO. RR-02636A-03-0080

DECISION NO. 65845

IN THE MATTER OF THE APPLICATION OF
 THE ARIZONA DEPARTMENT OF
 TRANSPORTATION TO INSTALL CROSSING
 SIGNALS AT A CROSSING OF THE COPPER
 BASIN RAILWAY AT FLORENCE-KELVIN
 HIGHWAY, PINAL COUNTY, ARIZONA, M.P.
 RE 987.32.

OPINION AND ORDER

DATE OF HEARING: April 3, 2003
 PLACE OF HEARING: Phoenix, Arizona
 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
 APPEARANCES: Mr. Gary Horton, Staff Attorney, Legal Division, on behalf of the Railroad Safety Section of the Arizona Corporation Commission.

BY THE COMMISSION:

On February 6, 2003, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between ADOT and the Copper Basic Railway, Inc. ("Railroad") to upgrade the crossing surface with timbers and automatic flashing lights with gates in Pinal County, Arizona at milepost RE 987.32 ("Application"). ADOT requested approval to construct on behalf of the Railroad.

On March 12, 2003, 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 March 21, 2003, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On April 3, 2003, 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

1 Commission.

2 * * * * *

3 Having considered the entire record herein and being fully advised in the premises, the
4 Commission finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. On February 6, 2003, ADOT filed an Application in which it requested an Opinion
7 and Order from the Commission with respect to an agreement between ADOT and the Railroad for
8 the construction of a crossing upgrade with a wooden surface and the installation of automatic gates
9 with flashing light signals at the Florence-Kelvin Highway, Pinal County, Arizona, at milepost RE
10 987.32.

11 2. On March 19, 2003, ADOT provided notice by registered U.S. mail of the Application
12 and hearing thereon.

13 3. A hearing was held as scheduled on April 3, 2003.

14 4. The Application provides for the Railroad to upgrade the crossing surface with a
15 timber crossing surface and automatic gates with flashing light signals.

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

18 6. 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. Installation of the crossing upgrade is necessary for the public's convenience and
25 safety.

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

27 5. After installation of the crossing, the Railroad should maintain the crossing in
28 accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's application is hereby approved.

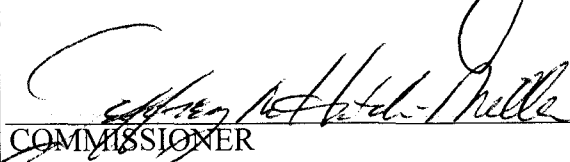
IT IS FURTHER ORDERED that the Copper Basin Railway, Inc. shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Copper Basin Railway, Inc. shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-2-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Copper Basin Railway, Inc. shall maintain the crossing in compliance with 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
		
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 25th day of April, 2003.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

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SERVICE LIST FOR:

COPPER BASIN RAILWAY, INC.

DOCKET NO.

RR-02636A-03-0080

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