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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

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CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER

DOCKETED BY CLP

IN THE MATTER OF THE APPLICATION OF  
THE TOWN OF SAHUARITA, ARIZONA TO  
ESTABLISH A NEW RAILROAD CROSSING  
WITH AUTOMATIC WARNING DEVICES AT  
THE TRACKS OF THE UNION PACIFIC  
RAILROAD COMPANY AT M.P. 1009.18.

DOCKET NO. RR-03639A-00-0560

DECISION NO. 62987

**OPINION AND ORDER**

DATE OF HEARING: September 6, 2000  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
APPEARANCES: Mr. Jeffrey Guldner, SNELL & WILMER, on behalf of  
Madera Highlands, L.L.C. and;  
Mr. Robert Metli, Staff Attorney, Legal Division, on  
behalf of the Utilities Division of the Arizona  
Corporation Commission.

**BY THE COMMISSION:**

On July 18, 2000, the Town of Sahuarita ("Town") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between the Town and the Union Pacific Railroad ("Railroad") for the installation of a new public railroad crossing with flashing lights and gates at the Madera Highlands Subdivision, Sahuarita, Arizona, at milepost 1009.18 ("Application"). The Town requested approval to construct on behalf of the Railroad. The Application was docketed on July 31, 2000.

On August 14, 2000, by Procedural Order, the Application was set for a hearing and the Town was ordered to notify any interested party of the Application and the hearing.

On August 22, 2000, the Town filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On September 6, 2000, 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,

1 the matter was taken under advisement pending submission of a Recommended Opinion and Order to  
2 the Commission.

3 \* \* \* \* \*

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

6 **FINDINGS OF FACT**

7 1. On July 18, 2000, the Town filed an Application in which it requested an Opinion and  
8 Order from the Commission with respect to an agreement between the Town and the Railroad for the  
9 installation of a new public railroad crossing with flashing lights and gates with a concrete surface at  
10 the Madera Highlands Subdivision, Sahuarita, Arizona, at milepost 1009.18.

11 2. On August 21, 2000, the Town provided notice by regular U.S. mail of the  
12 Application and hearing thereon.

13 3. A hearing was held as scheduled on September 6, 2000.

14 4. The Application provides for the Railroad to construct a new crossing with flashing  
15 lights, gates, and a concrete crossing surface.

16 5. Staff testified that the cost for the installation of the new crossing with lights and gates  
17 as provided in the Application will be paid by the developer of Madera Highlands.

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 new crossing with lights and gates is necessary for the public's  
25 convenience and 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

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IT IS THEREFORE ORDERED that the Town of Sahuarita's Application is hereby approved.

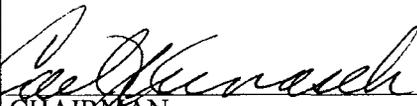
IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the construction of the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad 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. R14-5-104.

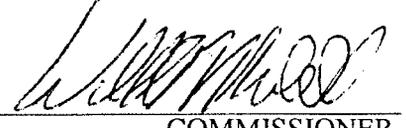
IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific Railroad shall maintain the crossing in compliance with A.A.C. R14-5-104.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

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 1<sup>st</sup> day of November, 2000.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
MES:bbs

1 SERVICE LIST FOR:

UNION PACIFIC RAILROAD

2 DOCKET NO.

RR-03639A-00-0560

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