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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

MAR 23 2006

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IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO CONSTRUCT A NEW
CROSSING OF THE MAGMA ARIZONA
RAILROAD AT U.S. HIGHWAY 60 IN PINAL
COUNTY, ARIZONA, AAR/DOT NO. 853-084-D.

DOCKET NO. RR-02638A-06-0032

DECISION NO. 68593

OPINION AND ORDER

DATE OF HEARING: February 16, 2006

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES: Ms. Linda Fisher, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On January 19, 2006, 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 Magma Arizona Railroad ("Railroad") to construct a new crossing at U.S. Highway 60 in Pinal County, Arizona, at AAR/DOT No. 853-084-D ("Application").

On January 24, 2006, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On January 27, 2006, ADOT certified that notice had been provided pursuant to the terms of the Procedural Order.

On February 16, 2006, 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.

* * * * *

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

4 **FINDINGS OF FACT**

5 1. On January 19, 2006, ADOT filed an Application in which it requested an Opinion
6 and Order from the Commission approving an agreement between ADOT and the Railroad to convert
7 the existing two-way crossing of the Railroad at U.S. Highway 60 east of Florence Junction by
8 converting the existing two lane crossing into a westbound only crossing with automatic cantilever
9 flashing lights and by constructing two new lanes for an eastbound only crossing with automatic
10 cantilever flashing lights where the Railroad tracks cross U.S. Highway 60 in Pinal County, Arizona
11 at AAR/DOT No. 853-084-D.

12 2. Both crossings will have concrete crossing surfaces.

13 3. On January 27, 2006, ADOT filed certification that it had provided notice by
14 registered U.S. mail of the Application and hearing thereon.

15 4. A hearing was held as scheduled on February 16, 2006.

16 5. The Application provides for the Railroad to reconfigure the existing two-way
17 crossing into a two lane westbound only crossing and for the construction of a new two lane
18 eastbound only crossing, both with automatic cantilever flashing lights and other improvements.

19 6. Staff testified that the cost apportionment for the construction of the crossing upgrade
20 as provided in the Application was proper.

21 7. Staff has recommended that the Application be approved.

22 **CONCLUSIONS OF LAW**

23 1. The Commission has jurisdiction over the parties and over the subject matter of the
24 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
25 40-337.01.

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

27 3. Installation of the new crossing is necessary for the public's convenience and safety.

28 4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as

1 recommended by Staff.

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

4 **ORDER**

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

7 IT IS FURTHER ORDERED that the Magma Arizona Railroad shall complete the
8 construction at the crossing as described in the Application within fifteen months from the effective
9 date of this Decision.

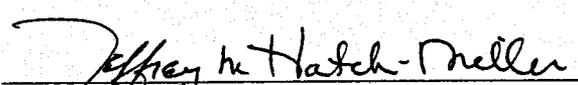
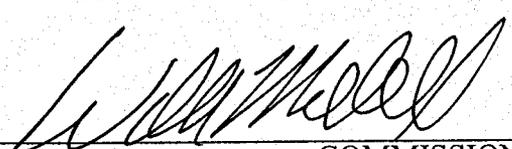
10 IT IS FURTHER ORDERED that the Magma Arizona Railroad shall notify the Commission,
11 in writing, within ten days of both the commencement and the completion of the crossing upgrade,
12 pursuant to A.A.C. R14-5-104.

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1 IT IS FURTHER ORDERED that upon completion of the crossing construction, the Magma
2 Arizona Railroad shall maintain the crossing in compliance with the A.A.C. R14-5-104.

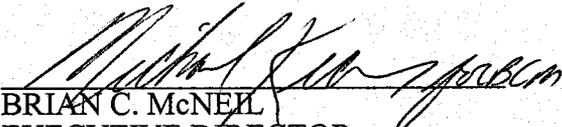
3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 CHAIRMAN COMMISSIONER

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10 COMMISSIONER COMMISSIONER COMMISSIONER

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12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
13 Director of the Arizona Corporation Commission, have
14 hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this 23rd day of March, 2006.

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19 BRIAN C. McNEIL
20 EXECUTIVE DIRECTOR

21 DISSENT _____

22 DISSENT _____

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MES:mj

1 SERVICE LIST FOR: MAGMA ARIZONA RAILROAD

2 DOCKET NO.: RR-02638A-06-0032

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