



0000049394

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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

MAY 05 2006

DOCKETED BY *AK*

IN THE MATTER OF THE APPLICATION OF  
THE CITY OF SURPRISE TO UPGRADE AN  
EXISTING CROSSING OF THE BURLINGTON  
NORTHERN AND SANTA FE RAILWAY AT  
163<sup>RD</sup> AVENUE, IN THE CITY OF SURPRISE,  
MARICOPA COUNTY, ARIZONA, AT AAR/DOT  
NO. 025-599-G.

DOCKET NO. RR-02635B-06-0079

DECISION NO. 68690

OPINION AND ORDER

DATE OF HEARING: March 23, 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 February 8, 2006, the City of Surprise ("City") filed with the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between the City and the Burlington Northern and Santa Fe Railway Company ("Railroad") to upgrade an existing crossing at the Railroad's tracks at 163<sup>rd</sup> Avenue in Surprise, Arizona, at AAR/DOT No. 025-599-G ("Application").

On February 27, 2006, by Procedural Order, a hearing was scheduled for March 23, 2006. The City was ordered to provide public notice to the Railroad and any other municipality or interested party with a copy of the application and the Procedural Order by Certified Mail.

On March 13, 2006, the City certified that it provided notice pursuant to the terms of the Procedural Order.

On March 23, 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

1 the 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 8, 2006, the City filed an Application in which it requested an Opinion  
7 and Order from the Commission for the approval of an agreement between the City and the Railroad  
8 for the upgrade of a crossing by widening an existing two lane crossing which has a wooden crossing  
9 surface and cantilever flashing lights and automatic gates by replacing them with new cantilever  
10 flashing LED light signals with new opposing automatic gates at 163<sup>rd</sup> Avenue, in the City of  
11 Surprise at AAR/DOT No. 025-599-G.

12 2. On March 13, 2006, the City filed certification that it provided notice by registered  
13 U.S. mail of the Application and hearing thereon.

14 3. A hearing was held as scheduled on March 23, 2006.

15 4. The Application provides for the widening of 163<sup>rd</sup> Avenue from two lanes to what  
16 will in time be eight lanes and for the Railroad to replace the wooden crossing surface with a concrete  
17 crossing surface and to replace the existing cantilever flashing lights and automatic gates with new  
18 cantilever flashing LED light signals and opposing automatic gates.

19 5. Staff testified that the cost apportionment for the installation of the crossing upgrade  
20 as provided in the Application is proper.

21 6. 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.

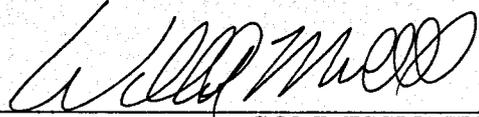
27 3. Installation of the crossing upgrade is necessary for the public's convenience and  
28 safety.



1 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Burlington  
2 Northern and Santa Fe Railway Company shall maintain the crossing in compliance with the A.A.C.  
3 R14-5-104.

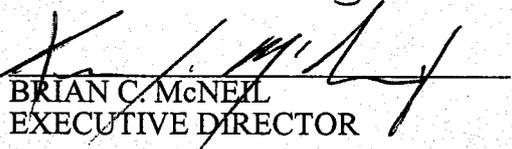
4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6  
7  CHAIRMAN  COMMISSIONER

9  
10  COMMISSIONER  COMMISSIONER  COMMISSIONER

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 5<sup>th</sup> day of May, 2006.

17   
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

18 DISSENT \_\_\_\_\_

19 DISSENT \_\_\_\_\_

20 MES:mlj

21  
22  
23  
24  
25  
26  
27  
28

1 SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE  
2 RAILWAY COMPANY

3 DOCKET NO. RR-02635B-06-0079

4 John Syers  
5 Railroad Engineering Coordinator  
6 Arizona Department of Transportation  
7 205 S. 17<sup>th</sup> Avenue, Mail Drop 618E  
8 Phoenix, AZ 85007

9 Colleen Deines, Manager  
10 Public Projects  
11 BNSF  
12 740 East Carnegie Drive  
13 San Bernardino, CA 92408

14 David Gibson  
15 ADOT  
16 Traffic Records Section  
17 206 S. 17<sup>th</sup> Avenue, MD-064R  
18 Phoenix, AZ 85007

19 Nicholas E. Mascia  
20 Traffic Engineer  
21 12425 West Bell Road, Ste. D-100  
22 Surprise, AZ 85374

23 Christopher Kempley, Chief Counsel  
24 Legal Division  
25 ARIZONA CORPORATION COMMISSION  
26 1200 West Washington Street  
27 Phoenix, Arizona 85007

28 Brian Lehman  
29 Railroad Safety Section  
30 ARIZONA CORPORATION COMMISSION  
31 1200 West Washington Street  
32 Phoenix, Arizona 85007