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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

DOCKETED

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

JUN 29 2006

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF A GRADE-SEPARATED CROSSING OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY AT COUNTRY CLUB DRIVE IN THE CITY OF FLAGSTAFF, COCONINO COUNTY, ARIZONA, AAR/DOT NO. 025-128S.

DOCKET NO. RR-02635B-06-0229

DECISION NO. 68811

OPINION AND ORDER

DATE OF HEARING: May 18, 2006
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Mr. David Ronald, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On April 6, 2006, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") a request for approval for the Burlington Northern and Santa Fe Railway Company ("Railroad") to construct a grade-separated crossing over the Railroad's tracks at Country Club Drive, Flagstaff, Arizona at AAR/DOT No. 025-128S ("Application").

On April 18, 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 April 21, 2006, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On May 18, 2006, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety Section was represented by counsel. At the conclusion of the hearing, the matter was taken under

1 advisement pending submission of a Recommended Opinion and Order to 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 April 16, 2006, ADOT filed an Application in which it requested an Opinion and
7 Order from the Commission to approve an agreement between ADOT and the Railroad for the
8 construction of a new wider grade-separated crossing which will replace an existing crossing over the
9 tracks of the Railroad where its tracks intersect with Country Club Drive in the City of Flagstaff,
10 Arizona at AAR/DOT No. 025-128S.

11 2. On April 21, 2006, ADOT filed certification that notice had been provided by certified
12 U.S. mail of the Application and hearing thereon.

13 3. A hearing was held as scheduled on May 18, 2006.

14 4. The Application provides for the construction of a new four-lane overpass over the
15 tracks of the Railroad to replace an existing two-lane overpass at Country Club Drive which is being
16 realigned and widened. When the overpass is completed, it will provide for better traffic movement.

17 5. Staff testified that the cost for the construction of the overpass as provided in the
18 Application is proper.

19 6. After construction of the new grade-separated crossing, the existing overpass will be
20 removed and the new overpass structure maintained by ADOT. The Railroad will continue to
21 maintain its tracks beneath the overpass.

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

23 **CONCLUSIONS OF LAW**

24 1. The Commission has jurisdiction over the parties and over the subject matter of the
25 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
26 40-337.01.

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

28 3. Pursuant to A.R.S. §§ 40-336 and 40-337, the construction of the grade-separated

1 crossing at Country Club Drive in Flagstaff, Arizona, is necessary for the public's convenience and
2 safety.

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

4 **ORDER**

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

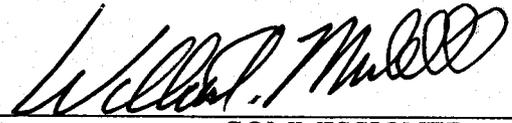
7 IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company
8 shall notify the Commission, in writing, within ten days of both the commencement and the
9 completion of the grade-separated crossing, pursuant to A.A.C. R14-5-104.

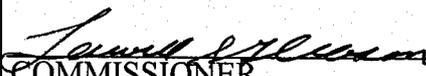
10 IT IS FURTHER ORDERED that upon completion of the overpass, the Burlington Northern
11 and Santa Fe Railway Company shall maintain its tracks in compliance with A.A.C. R14-5-104.

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

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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15 
16 CHAIRMAN

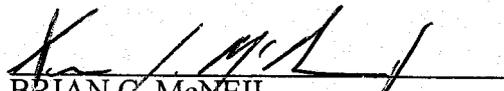

16 COMMISSIONER

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18 COMMISSIONER

18 COMMISSIONER


18 COMMISSIONER

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20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
21 Director of the Arizona Corporation Commission, have
22 hereunto set my hand and caused the official seal of the
23 Commission to be affixed at the Capitol, in the City of Phoenix,
24 this 29th day of June, 2006.

23 
24 BRIAN C. McNEIL
25 EXECUTIVE DIRECTOR

26 DISSENT _____

27 DISSENT _____

28 MES:mj

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SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE RAILWAY

DOCKET NO.: RR-02635B-06-0229

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