

NEW APPLICATION

ORIGINAL



0000076140

BEFORE THE ARIZONA CORPORATION

RECEIVED

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

2007 AUG 24 P 12:46

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

AUG 24 2007

DOCKETED BY [Signature]

IN THE MATTER OF THE
ABOLITION OF THE PUBLIC
RAILROAD CROSSING AT
LA PALMA ROAD, DOT #741 710H

DOCKET NO. RR-03639A-07-0493
UNION PACIFIC RAILROAD
COMPANY'S APPLICATION TO
ABOLISH THE PUBLIC CROSSING
AT LA PALMA ROAD, DOT #741 710H

Applicant Union Pacific Railroad Company ("Union Pacific"), whose post office address is 1255 South Campbell Avenue, Tucson, Arizona 85713, by and through its attorneys Beaugureau, Zukowski, Hancock, Stoll & Schwartz, P.C., pursuant to A.A.C. R14-3-106(F) and R14-3-107 and A.R.S. § 40-337(B)(2), hereby applies for authority to abolish the public grade crossing at La Palma Road and Union Pacific's railroad tracks in the City of Eloy, Arizona, DOT #741 710H, at railroad milepost 934.88. By submitting this application, Union Pacific does not waive its rights with respect to any lack of jurisdiction or authority of the Arizona Corporation Commission, including, without limitation, the right to assert federal preemption.

The reasons for this application follow, supported by the Affidavit of James H. Smith, attached hereto as Exhibit A:

1. The City of Eloy has decided to abandon the public crossing of La Palma Road and Union Pacific's tracks, DOT #741 710H.

2. Attached to the Affidavit of Mr. Smith, Exhibit A hereto, are: (a) the City's "Request for Council Action" dated June 11, 2007; (b) an engineering drawing showing the intended

1 abandonment; and (c) a letter from Joseph Blanton, Interim City Manager for the City of Eloy to
2 Mr. Smith, stating that the City of Eloy “desires to relinquish its rights to that portion of public
3 right-of-way for La Palma Road that currently exists across Union Pacific Railroad right-of-way
4”

5 3. As shown in the City’s Request for Council Action, “[t]he closure of the La Palma
6 Road Railway Crossing was contemplated in the approved development agreement between New
7 NGC, Inc. [“National Gypsum”] and the City of Eloy.” As shown in Mr. Blanton’s letter to Mr.
8 Smith, the City Council of Eloy approved the Request for Council Action and authorized Mr.
9 Blanton to initiate the abandonment.
10

11 4. Abolition of the La Palma public crossing is in the public interest because it will
12 allow National Gypsum, an industry locating to this site in Eloy, to be served by Union Pacific’s
13 industry track, while eliminating an unnecessary public crossing.

14 5. Upon receiving permission from the Commission for abolition of the La Palma
15 public crossing, the roadway approaches will be removed, access to the crossing will be blocked,
16 and the crossing warning devices and crossing surface will be removed. The costs for this work
17 will be borne by Union Pacific or National Gypsum.

18 6. Union Pacific is contributing \$10,000 to the City of Eloy in connection with the
19 abolition of the La Palma public crossing of Union Pacific’s railroad tracks.
20

21 For the foregoing reasons, Union Pacific respectfully applies for authority to abolish the
22 public grade crossing at La Palma Road in the City of Eloy, Arizona, DOT #741 710H.

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RESPECTFULLY SUBMITTED this 24th day of August, 2007.

BEAUGUREAU, ZUKOWSKI, HANCOCK,
STOLL, & SCHWARTZ, P.C.

By: *Terrance L. Sims*
Anthony J. Hancock
Terrance L. Sims
302 East Coronado Road
Phoenix, Arizona 85004
Attorneys for Applicant Union
Pacific Railroad Company

ORIGINAL AND THIRTEEN COPIES
of the foregoing filed this 24th day of
August, 2007, with:

Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPY of the foregoing mailed this
24th day of August, 2007, to:

David Raber
Brian Lehman
Chris Watson
Railroad Safety Section
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Janice M. Alward, Esq.
Charles H. Hains, Esq.
Kenya Collins, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mary Ann Palmer
Mary Ann Palmer

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON, Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE
9 ABOLITION OF THE PUBLIC
10 RAILROAD CROSSING AT
11 LA PALMA ROAD, DOT #741 710H

) DOCKET NO. _____
)
) **AFFIDAVIT OF JAMES H. SMITH**
) **IN SUPPORT OF UNION PACIFIC**
) **RAILROAD COMPANY'S**
) **APPLICATION FOR AUTHORITY**
) **TO ABOLISH THE PUBLIC**
) **CROSSING AT LA PALMA ROAD,**
) **DOT #741 710H**

12
13 James H. Smith, being first duly sworn upon his oath, states as follows:

14 1. I am over the age of eighteen, and I have personal knowledge of the facts stated
15 herein.

16 2. I am employed by Union Pacific Railroad Company ("Union Pacific") as Manager
17 of Industry and Public Projects and I have responsibility for the State of Arizona.

18 3. The City of Eloy has decided to abandon the public crossing of La Palma Road and
19 Union Pacific's tracks, DOT #741 710H.

20 4. Attached hereto are: (a) the City's "Request for Council Action" dated June 11,
21 2007; (b) an engineering drawing showing the intended abandonment; and (c) a letter from Joseph
22 Blanton, Interim City Manager for the City of Eloy to Mr. Smith, stating that the City of Eloy
23 "desires to relinquish its rights to that portion of public right-of-way for La Palma Road that
24 currently exists across Union Pacific Railroad right-of-way"
25
26

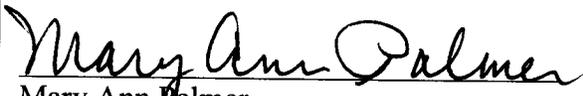
1 ORIGINAL AND THIRTEEN COPIES
2 of the foregoing filed this 24th day of
3 August, 2007, with:

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5 1200 West Washington Street
6 Phoenix, Arizona 85007

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18 Kenya Collins, Esq.
19 Legal Division
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 
24 Mary Ann Palmer
25 Mary Ann Palmer
26

CONSENT AGENDA

CITY OF ELOY REQUEST FOR COUNCIL ACTION

Agenda item: IX-D
Date: 06/11/07

Date submitted:
06/04/07

Date requested:
06/11/07

Action:
 Resolution
 Ordinance
 Formal
 Other

Subject: Council authorization to allow staff to initiate the abandonment of that portion of La Palma Road, which crosses the Union Pacific railroad lines.

TO: MAYOR AND CITY COUNCIL
FROM: Joe Blanton, Interim City Manager/
Community Development Director

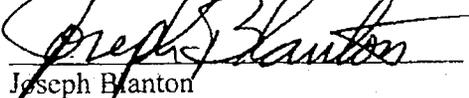
RECOMMENDATION: Staff is seeking authorization from the Mayor and City Council to initiate the abandonment of that portion of La Palma Road, which crosses the Union Pacific railroad lines that run along the northern edge of the National Gypsum property. Staff is also recommending that any improvements or modifications required by the Union Pacific Rail Road to render La Palma Road impassible at this crossing shall be at the sole expense of National Gypsum.

DISCUSSION: The closure of the La Palma Road Railway Crossing was contemplated in the approved development agreement between New NGC, Inc., and the City of Eloy. Section 1.7 of the development agreement states: *"In view of the benefits accruing to the City by reason of NGC's development of the NGC Property, as more particularly described in Recital J of this agreement, the City hereby acknowledges that it supports closure, pursuant to A.R.S. Section 28-7205, of that portion of La Palma Road which crosses the Union Pacific railroad lines which run along the northern edge of the NGC Property. Formal approval of the closure has not yet occurred."*

STAFF FINDINGS: To initiate the abandonment of that portion of La Palma Road, which crosses the Union Pacific railroad lines that run along the northern edge of the National Gypsum property, a letter to Union Pacific Rail Road from the city (on city letterhead) is required. Staff understands that once the UPRR receives the city's request to relinquish its rights to that portion of public right-of-way for La Palma Road that currently exists across Union Pacific Rail Road right-of-way, then UPRR would handle the abandonment from that point forward.

FISCAL IMPACT: There is a monetary benefit offered by UPRR to any municipality that closes an at-grade crossing. The dollar amount is believed to be \$10,000.00.

Prepared/Reviewed by:

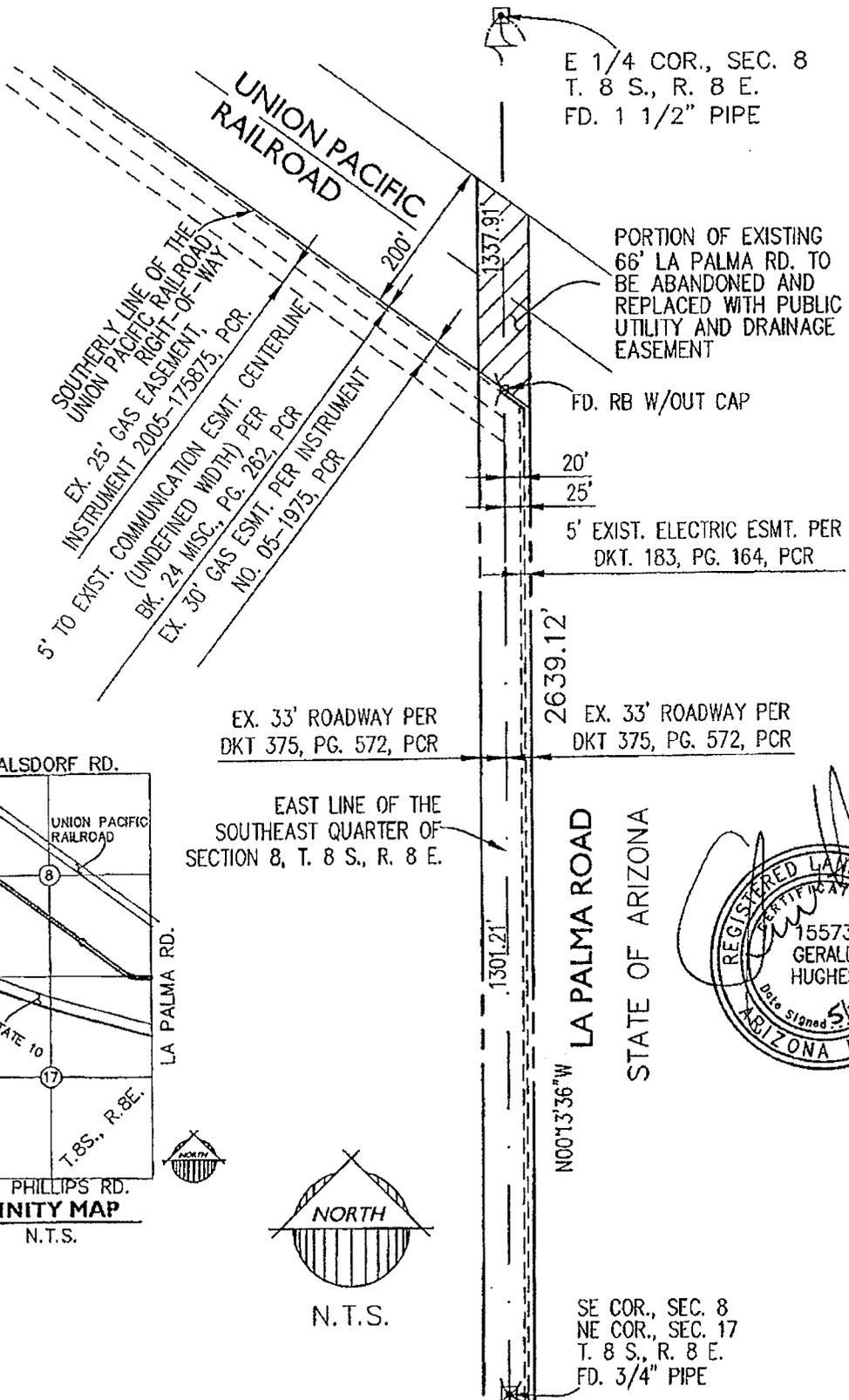


Joseph Blanton
Interim City Manager/Community Development Director

Reviewed as to form:



Stephen Cooper
City Attorney



E 1/4 COR., SEC. 8
T. 8 S., R. 8 E.
FD. 1 1/2" PIPE

PORTION OF EXISTING
66' LA PALMA RD. TO
BE ABANDONED AND
REPLACED WITH PUBLIC
UTILITY AND DRAINAGE
EASEMENT

FD. RB W/OUT CAP

20'
25'

5' EXIST. ELECTRIC ESMT. PER
DKT. 183, PG. 164, PCR

EX. 33' ROADWAY PER
DKT 375, PG. 572, PCR

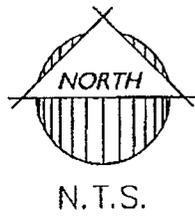
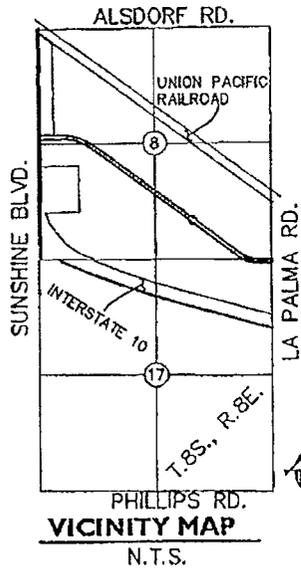
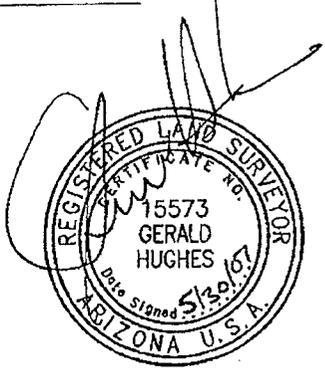
2639.12'

EX. 33' ROADWAY PER
DKT 375, PG. 572, PCR

EAST LINE OF THE
SOUTHEAST QUARTER OF
SECTION 8, T. 8 S., R. 8 E.

1301.21'

N00°13'36"W
LA PALMA ROAD
STATE OF ARIZONA



SE COR., SEC. 8
NE COR., SEC. 17
T. 8 S., R. 8 E.
FD. 3/4" PIPE

06-031	Project: LaPalma Road R/W Section Line between Sections 8 & 9, T.8S., R.8E. Eloy, AZ	 Geps group, Inc. Engineers, Planners & Surveyors 2150-1 S. Country Club Dr., Ste. 22, Mesa, Arizona 85210 Phone (480) 503-2250 Fax (480) 503-2258
	Exhibit	



CITY OF ELOY

ARIZONA

OFFICE OF THE CITY MANAGER

June 21, 2007

James Smith, Manager Industry & Public Projects
Union Pacific Railroad
10031 Foothills Boulevard
Roseville, CA 95747

RE: Abandonment of the La Palma Road crossing, Eloy, AZ

Dear Jim:

This letter will serve notice that the City of Eloy, Arizona desires to relinquish its rights to that portion of public right-of-way for La Palma Road that currently exists across Union Pacific Railroad right-of-way in Sections 8 and 9, Township 8 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

Attached is an exhibit showing the right-of-way, which was prepared by EPS Group on behalf of the City of Eloy and National Gypsum. Also attached is the Council Action form that was presented to the Mayor and City Council, and approved, authorizing me to initiate the abandonment.

If you should need any additional information, please do not hesitate to contact me.

Sincerely,
CITY OF ELOY

Joseph Blanton
Interim City Manager

Enclosures