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BEFORE THE ARIZONA CORPORATION COMMISSION
Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

JAN 23 2008

DOCKETED BY *mm*

IN THE MATTER OF THE APPLICATION OF
THE UNION PACIFIC RAILROAD COMPANY
FOR THE CLOSURE OF A RAILROAD
CROSSING AT LA PALMA ROAD IN THE
CITY OF ELOY, PINAL COUNTY, ARIZONA
AT AAR/DOT NO. 741 710H.

DOCKET NO. RR-03639A-07-0493

DECISION NO: 70129

OPINION AND ORDER

DATE OF HEARING: December 17, 2007

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES: Mr. Terrance L. Sims, Beaugureau, Zukowski, Hancock,
Stoll and Schwartz, P.C., Attorney for Union Pacific
Railroad Company; and

Ms. Kenya Collins, Staff Attorney, Legal Division, on
behalf of the Safety Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

On August 24, 2007, the Union Pacific Railroad ("Railroad") filed with the Arizona Corporation Commission ("Commission") an application for approval to close an existing crossing at La Palma Road in the City of Eloy ("City") in Pinal County ("County"), Arizona at AAR/DOT No. 741 710H ("Application").

On September 20, 2007, by Procedural Order, a hearing was scheduled and the Railroad was ordered to notify any interested party of the Application and the hearing.

On October 18, 2007, the Commission's Safety Division ("Staff") filed its report recommending approval of the Application.

On November 15, 2007, the Railroad filed certification that it had provided public notice pursuant to the Commission's Procedural Order.

On December 17, 2007, a full public hearing was held before a duly authorized

1 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Railroad and
2 the Commission's Railroad Safety Section ("Staff") appeared with counsel. At the conclusion of the
3 hearing, the matter was taken under advisement pending submission of a Recommended Opinion and
4 Order to the Commission.

5 * * * * *

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

8 **FINDINGS OF FACT**

9 1. On August 24, 2007, the Railroad filed with the Commission a request for approval to
10 close an existing crossing at La Palma Road in the City of Eloy in Pinal County, Arizona at
11 AAR/DOT No. 741 710H.

12 2. On September 20, 2007, the Commission issued a Procedural Order which ordered
13 that a hearing be held and ordered that the Railroad provide public notice as follows: by mailing
14 copies of the Application and Procedural Order to affected governmental entities and any other
15 interested parties; by publishing notice of the proceeding in a newspaper of general circulation; and
16 by posting visible signage within 90 feet of each side of the roadway approach to the crossing
17 notifying the public of the proposed closure and hearing thereon. In response thereto, the
18 Commission has received no objections to the Application.

19 3. The Railroad filed the Application upon the request of the City and National Gypsum,
20 Inc. ("NGI"), a company that is building a new facility on the southwest corner of the intersection
21 where the crossing is located.

22 4. The hearing was held as scheduled on December 17, 2007.

23 5. The Application requests that the Railroad be authorized to abolish the crossing
24 because the City and NGI have requested it. This will enable NGI to be served by the Railroad's
25 industry track while an unnecessary public at-grade crossing can be eliminated.

26 6. La Palma Road is a north/south roadway that consists of two lanes of unmaintained
27 gravel. Since 1977, the crossing has had automatic warning devices which consist of automatic
28

1 flashing lights and gates and it also has a concrete crossing surface.

2 7. With the elimination of the La Palma Road crossing, the public will have two
3 alternative routes which cross the Railroad's tracks as follows: Sunshine Road, which is a paved
4 roadway, located approximately one mile to the west; and Picacho School Road, which is also a
5 paved roadway, approximately four miles to the east.

6 8. According to an engineering study performed in 2007, there is very little traffic on the
7 road with average daily traffic of approximately 60 vehicle crossings a day. There are 48 trains a day
8 which pass through the public crossing area at La Palma Road.

9 9. Staff testified that the La Palma Road crossing will be closed by the Railroad, which
10 will remove its safety devices, block the crossing, and also remove the crossing surface. The cost of
11 the closure will be borne by the Railroad and NGI.

12 10. The Railroad's Manager of Industry and Public Projects, Mr. James Smith, testified
13 that it is the Railroad's normal policy when public at-grade crossings are closed to contribute \$10,000
14 to the local government. In this case, the City, as the local road authority, will receive \$10,000 after
15 the Commission's approval of the closure.

16 11. The Commission's Staff received a letter from Mr. Joseph Blanton, the City's Interim
17 Manager, in support of the Application. Staff also obtained a copy of a City Council Action Form
18 that approved and authorized Mr. Blanton to initiate the abandonment.

19 12. Staff recommends that the Application be approved.

20 13. Mr. Smith anticipates that, upon Commission approval of the closure of the La Palma
21 Road crossing, the Railroad would complete the closure in approximately 60 days.

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. The closure of the crossing at La Palma Road at AAR/DOT No. 741 710H is in the
28 public interest.

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-07-0493

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