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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAR 14 2008

DOCKETED BY  
JKK

IN THE MATTER OF THE ) DOCKET NO. RR-03639A-07-0422  
APPLICATION OF UNION PACIFIC )  
RAILROAD COMPANY TO ALTER ) JOINT MOTION OF UNION  
FOUR CROSSINGS OF THE UNION ) PACIFIC RAILROAD COMPANY  
PACIFIC RAILROAD IN COCHISE ) AND STAFF TO AMEND  
COUNTY, ARIZONA ) DECISION NO. 70161

Applicant Union Pacific Railroad Company ("Union Pacific") and the Commission's Railroad Safety Section's Staff ("Staff") jointly move to amend the Commission's Decision No. 70161, which was dated and became effective on February 27, 2008. That Decision approved Union Pacific's "Application to alter four crossings by adding a second set of mainline tracks at Maley Street, Stewart Street, and Patte Road in the City [of Willcox] and at Country Club Drive in [Cochise] County . . . ." Decision No. 70161, Findings of Fact, p. 7, ¶ 36 and Order, p. 8, lines 5-6. A copy of Decision No. 70161 is attached hereto as Exhibit A.

Decision No. 70161 as signed by the Commissioners contains a minor factual error in Findings of Fact, ¶ 9, pp. 4-5, concerning Maley Street. The Decision states:

Plans call for the Railroad to re-profile a portion of the two-lane asphalt roadway where it meets the tracks and for the replacement of existing automatic warning equipment with an upgrade to new 12-inch LED flashing lights, gates and bells as well as for the construction of a new concrete crossing surface. A concrete median will be installed to the north and south of the tracks to accommodate gates and to preclude motorists from driving around them.

1 The emphasized language is mistaken in that the testimony introduced at the evidentiary hearing  
2 was that the medians would be installed only to preclude motorists from driving around the  
3 gates, not to accommodate gates. Gates will not be placed on the medians, but only to the side of  
4 Maley Street, as shown in the work plans submitted with Union Pacific's application. Chris  
5 Watson, Staff's Crossing Inspector and author of the Staff Memorandum, testified as follows:  
6

7 Q: I noted that with regard to the Maley Street upgrades that are proposed  
8 that there is an indication in the Staff report that a median will be installed  
9 in both directions at the crossing to accommodate additional gates and to  
10 help prevent motorists from driving around the lowered gates. Since  
11 preparing the report have you been provided information concerning the  
12 purpose for which the medians are being proposed?

13 A: Prior to the hearing I was informed that there will [not be] median gates on  
14 that median at the Maley Street crossing. There will be a median there,  
15 but it will be there to help prevent circumvention of gates being put in  
16 there and the cantilevers.

17 Q: So the primary purpose, as you understand it, for the installation of the  
18 median at Maley Street is to prevent motorists from driving around the  
19 lowered gates?

20 A: Correct.

21 (Transcript of hearing before Judge Stern on November 20, 2007, p. 8, lines 7-24, attached  
22 hereto as Exhibit B.)

23 Union Pacific and Staff therefore jointly request that the Commission amend the sentence  
24 appearing in Findings of Fact, ¶ 9, p. 4, lines 1-2 of its Decision No. 70161 to read: "A concrete  
25 median will be installed to the north and south of the tracks to preclude motorists from driving  
26 around the gates."

...

...

...

1 RESPECTFULLY SUBMITTED this 14 day of March, 2008.

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

4 By: Terrance L. Sims

5 Anthony J. Hancock

6 Terrance L. Sims

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10 Pacific Railroad Company

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12 Charles H. Hains

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15 Phoenix, Arizona 85007

16 Attorney for the Commission's

17 Railroad Safety Section's Staff

18 ORIGINAL AND THIRTEEN COPIES  
19 of the foregoing filed this 14 day of  
20 March, 2008 with:

21 Arizona Corporation Commission  
22 1200 West Washington Street  
23 Phoenix, Arizona 85007

24 COPY of the foregoing mailed this  
25 14 day of March, 2008, to:

26 Mr. David Raber

Mr. Brian Lehman

Mr. Chris Watson

Railroad Safety Section

Arizona Corporation Commission

2200 North Central Avenue, #300

Phoenix, Arizona 85007

24 Dan Norkol  
25 Dan Norkol

1 CHRIS WATSON,  
2 called as a witness herein by the Applicant, having been  
3 previously sworn, was examined and testified as follows:  
4

5 DIRECT EXAMINATION (MALEY STREET)  
6

7 BY MR. HANCOCK:

8 Q Mr. Watson, would you please state your full name  
9 for the record.

10 A Chris Watson.

11 Q And you are employed by the Arizona Corporation  
12 Commission Railroad Safety Section?

13 A Yes.

14 Q Your position is as a grade crossing inspector;  
15 is that correct?

16 A That's correct.

17 Q Would you please describe generally your duties  
18 in that position as they may relate to Union Pacific's  
19 application in this instance to alter four crossings in  
20 Cochise County?

21 A My job is to inspect all the grade crossings in  
22 the state of Arizona, including Union Pacific grade  
23 crossings. Also I do diagnostic reviews with the Union  
24 Pacific and other railroads and testify at hearings.

25 Q Okay. Sir, did you author or prepare the Staff

1 memorandum stated October 25, 2007 and docketed in this  
2 matter as part of your duties?

3 A. Yes, I did.

4 Q. Are there any corrections that you would like to  
5 make to that Staff memorandum?

6 A. No.

7 Q. I noted that with regard to the Maley Street  
8 upgrades that are proposed that there is an indication in  
9 the Staff report that a median will be installed in both  
10 directions at the crossing to accommodate additional gates  
11 and to help prevent motorists from driving around the  
12 lowered gates.

13 Since preparing the report have you been provided  
14 information concerning the purpose for which the medians  
15 are being proposed?

16 A. Prior to the hearing I was informed that there  
17 will be not median gates on that median at the Maley  
18 Street crossing. There will be a median there, but it  
19 will be there to help prevent circumvention of gates being  
20 put in there and the cantilevers.

21 Q. So the primary purpose, as you understand it, for  
22 the installation of the median at Maley Street is to  
23 prevent motorists from driving around the lowered gates?

24 A. Correct.

25 Q. Okay. Thank you.

1 With that correction, do you adopt the  
2 October 25, 2007 Staff memorandum and the statements  
3 contained therein as your testimony in this matter?

4 A. I do.

5 MR. HANCOCK: Your Honor, I would move for the  
6 admission of what we marked as Exhibit A-1 for purposes of  
7 today's hearing.

8 ALJ STERN: And that is the Staff report?

9 MR. HANCOCK: That is the Staff report, Your  
10 Honor.

11 ALJ STERN: Okay. We will call it A-1. It's  
12 usually S-1, but we can -- let's call it S-1, because we  
13 usually do.

14 MR. HANCOCK: I knew we did, but I figured since  
15 we were doing the examination first of the applicant, it  
16 would be A-1.

17 ALJ STERN: I don't want to confuse anybody in  
18 the building.

19 MR. HANCOCK: I will make that correction.

20 ALJ STERN: They are used to seeing it as S-1.  
21 Okay. S-1 is Staff report.

22 MR. HANCOCK: Your Honor, I would also move for  
23 the admission of the affidavit of E. Dean Carlson, which  
24 was filed yesterday, I believe, by Union Pacific in this  
25 docket. And I have now revised that to reflect Exhibit