

ORIGINAL



0000083481

BEFORE THE ARIZONA CORPORATION COMMISSION

2534

COMMISSIONERS

RECEIVED

Arizona Corporation Commission

DOCKETED

2008 APR -1 P 2:05

APR -1 2008

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

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY
nr

IN THE MATTER OF THE APPLICATION
OF THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE
BURLINGTON NORTHERN AND SANTA
FE RAILWAY AT 35TH AVENUE AND U.S.
60 IN THE CITY OF PHOENIX, MARICOPA
COUNTY, ARIZONA, AT AAR/DOT NO.
R1531C106.

DOCKET NO. RR-02635B-07-0437

FOURTH
PROCEDURAL ORDER

BY THE COMMISSION:

On July 24, 2007, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Burlington Northern and Santa Fe Railway Company ("Railroad") to upgrade an existing crossing at the Railroad's tracks at 35th Avenue and U.S. 60, in Phoenix, Arizona ("City"), at AAR/DOT No. R1531C106 ("Application").

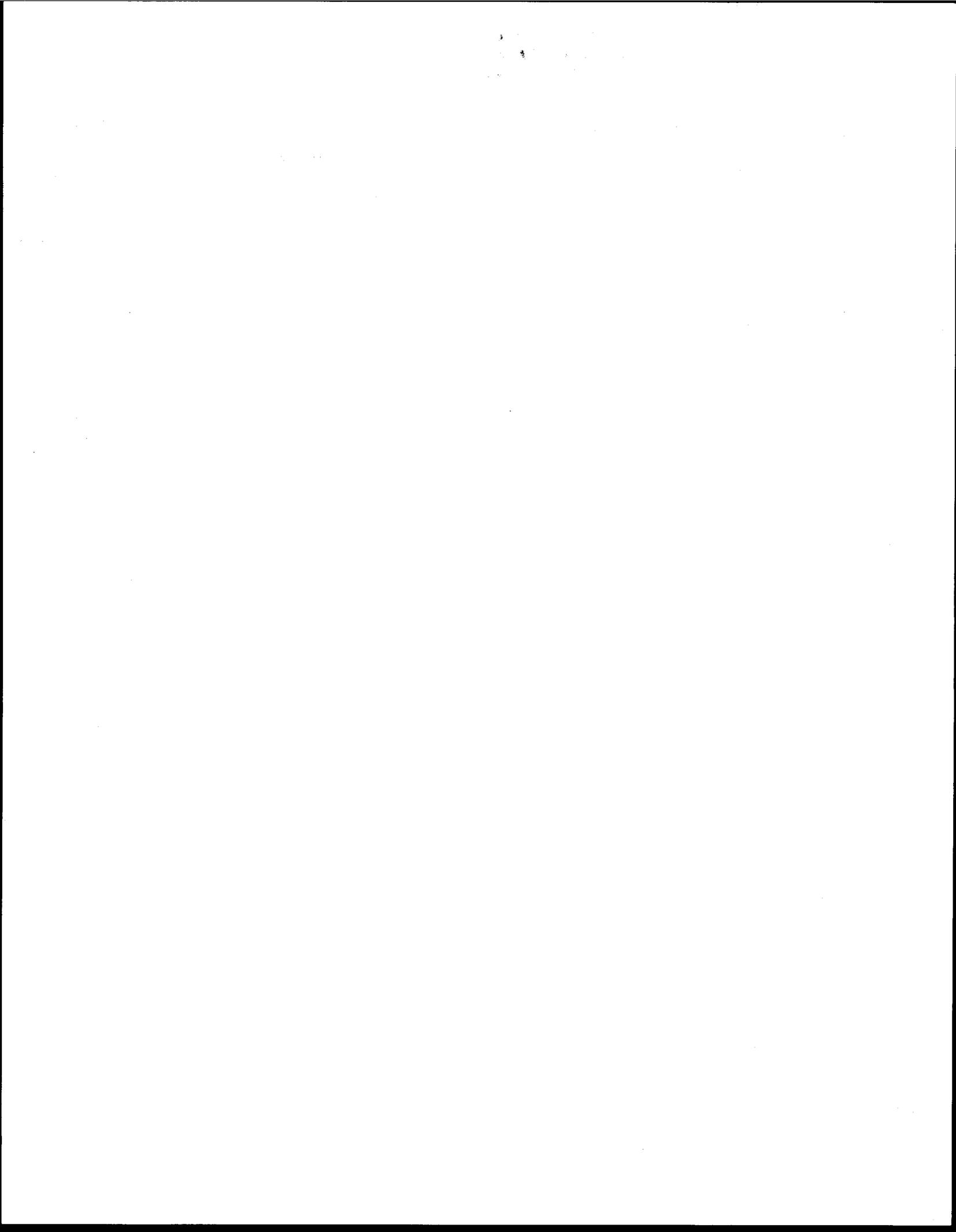
On August 1, 2007, by Procedural Order, the proceeding was scheduled for hearing on September 18, 2007, and other procedural dates for filing and public notice were set.

On September 11, 2007, the Hearing Division was notified that ADOT had not published public notice by August 24, 2007, as ordered in the Commission's Procedural Order.

On September 12, 2007, by Procedural Order, the hearing scheduled on September 18, 2007, was continued to October 11, 2007, and new procedural dates for filings and public notice were established.

Prior to the hearing, ADOT filed certification of public notice pursuant to the Commission's September 12, 2007 Procedural Order.

On October 11, 2007, a full public hearing was convened before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's



1 Railroad Safety Section of the Safety Division (“Staff”) appeared with counsel. At the conclusion of
2 the hearing, the matter was taken under advisement pending submission of a Recommended Opinion
3 and Order to the Commission.

4 On November 5, 2007, a Recommended Opinion and Order was issued by the presiding
5 Administrative Law Judge for consideration by the Commission. Several substantive amendments
6 were presented by Commissioners Mayes and Pierce and during the Commission’s December Open
7 Meeting, the item was pulled from the agenda for further testimony at an additional hearing.

8 After due consideration of the Recommended Opinion and Order and the proposed
9 amendments, it was determined that an additional hearing is necessary on the issues raised in the
10 proposed amendments to the Recommended Opinion and Order, and in order to allow the City and
11 ADOT to present evidence.

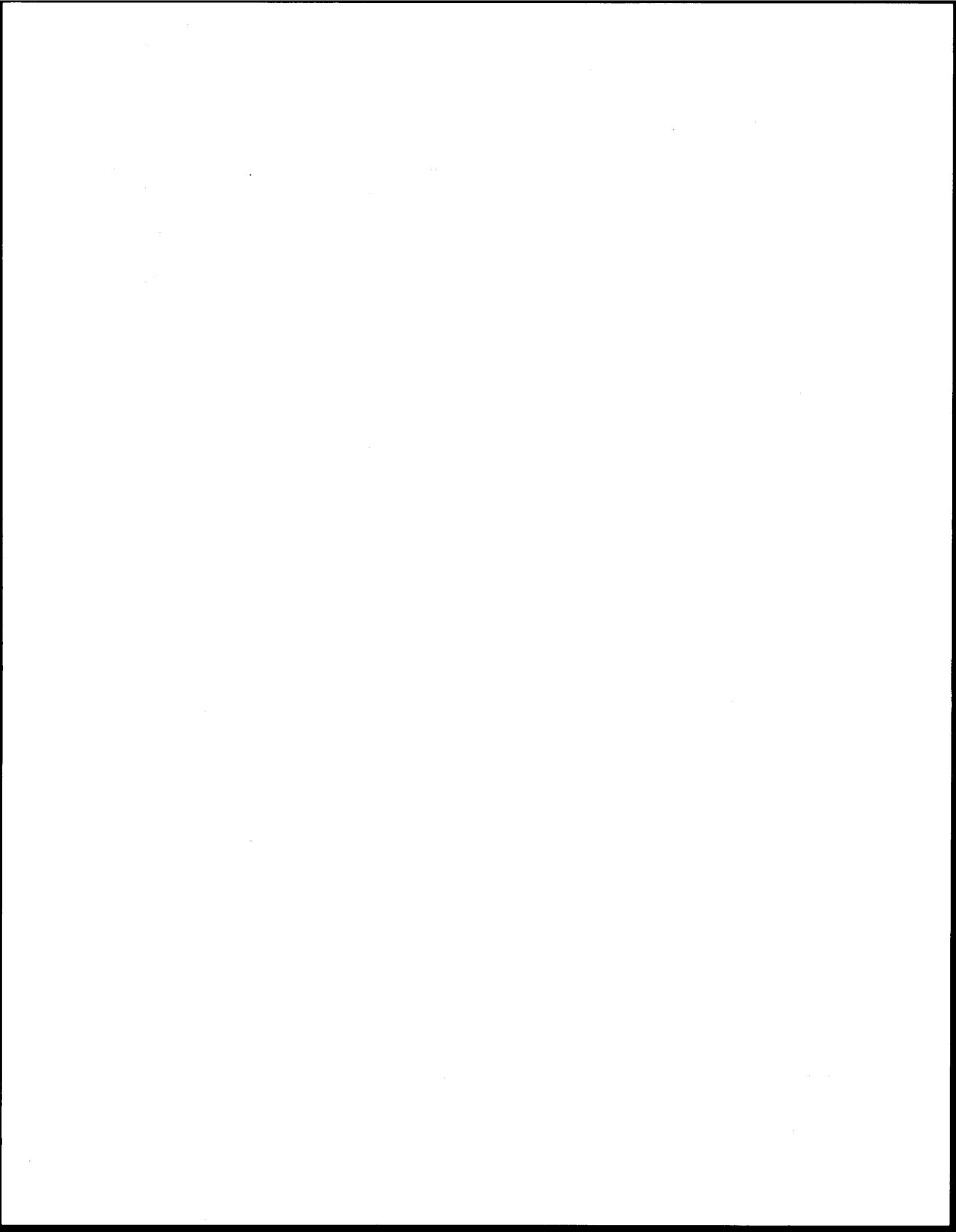
12 On January 15, 2008, by Procedural Order, the Railroad and Staff were ordered to prepare and
13 file a joint recommendation listing possible dates for hearing and to provide the names and mailing
14 addresses of any other entities whether private or governmental that should be added to the service
15 list to be provided notice of the hearing on this Application. The Railroad and Staff were further
16 ordered to provide the name and address of all road authorities for the crossing which is involved in
17 this proceeding, and to pre-file, on a date to be established, testimony concerning the issues raised by
18 the proposed amendments to the Recommended Opinion and Order to further develop the record at a
19 future hearing.

20 On March 28, 2008, the Railroad and Staff filed a Joint Stipulation and Request for
21 Procedural Conference (“Stipulation”) which states that the proceeding requires the participation of
22 ADOT, the applicant in this case, and the City, which is the road authority for the 35th Avenue
23 crossing. The Stipulation filed by the parties further requests that a procedural conference be
24 scheduled to discuss the scope and substance of issues to be addressed in the hearing.

25 Accordingly, a procedural conference should be scheduled with notice to all parties and to the
26 City and ADOT.

27 ...

28 ...



1 IT IS THEREFORE ORDERED that a **procedural conference** shall be held on **April 30,**
2 **2008, at 10:00 a.m.,** or as soon thereafter as is practical, at the Commission's offices, Hearing Room
3 1, 1200 West Washington Street, Phoenix, Arizona.

4 DATED this 15th day of April, 2008.



MARC E. STERN
ADMINISTRATIVE LAW JUDGE

8
9 Copies of the foregoing mailed/delivered
this 15th day of April 2008 to:

10 Melvin V. Thomas, Manager
11 Public Projects
12 BURLINGTON NORTHERN SANTA FE
13 RAILWAY COMPANY
14 740 East Carnegie Drive
15 San Bernardino, CA 92408

David Raber, Director
Brian Lehman, Railroad Supervisor
Railroad Safety Section
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

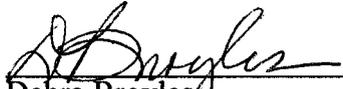
14 Patrick J. Black
15 FENNEMORE CRAIG, PC
16 3003 North Central Avenue, Suite 2600
17 Phoenix, AZ 85012
18 Attorneys for Burlington Northern and
19 Santa Fe Railroad

Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

17 Gary Verberg, City Attorney
18 CITY OF PHOENIX
19 200 West Washington Street., 13th Floor
20 Phoenix, Arizona 85003

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

20 Richard L. Rice, Chief Counsel
21 Transportation Section
22 OFFICE OF ATTORNEY GENERAL
23 1275 West Washington Street
24 Phoenix, Arizona 85007

By: 
Debra Broyles
Secretary to Marc Stern

23 Bruce Vana, P.E., Engineer-Manager
24 Utility & Railroad Engineering Section
25 ARIZONA DEPARTMENT OF
26 TRANSPORTATION
27 205 South 17th Avenue, M/D 618E
28 Phoenix, Arizona 85007

26 Traffic Records Section
27 ARIZONA DEPARTMENT OF
28 TRANSPORTATION
206 S. 17th Avenue, MD-064R
Phoenix, AZ 85007

