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**BEFORE THE ARIZONA CORPORATION COMMISSION**

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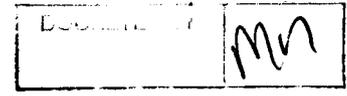
Arizona Corporation Commission

**DOCKETED**

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SEP. 30 2008

AZ CORP COMMISSION  
DOCKET CONTROL



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 APPLICATION  
 9 OF THE ARIZONA DEPARTMENT OF  
 10 TRANSPORTATION TO UPGRADE AN  
 11 EXISTING CROSSING OF THE ARIZONA  
 12 EASTERN RAILWAY COMPANY AT  
 13 COTTONWOOD STREET IN THE CITY OF  
 14 GLOBE, GILA COUNTY, ARIZONA, AT  
 15 AAR/DOT NO. 742-349-W.

DOCKET NO. RR-02634A-08-0444

**PROCEDURAL ORDER**

11 **BY THE COMMISSION:**

12 On August 26, 2008, the Arizona Department of Transportation (“ADOT”) filed with the  
 13 Arizona Corporation Commission (“Commission”) an application for approval for the Arizona  
 14 Eastern Railway Company (“Railroad”) to upgrade an existing crossing at the Railroad’s tracks at  
 15 Cottonwood Street, in Globe, Arizona, at AAR/DOT No. 742-349-W.

16 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern  
 17 the preparation and conduct of this proceeding.

18 IT IS THEREFORE ORDERED that the request of the ADOT shall be considered an  
 19 application for the Railroad to upgrade an existing crossing pursuant to A.R.S. § 40-337, et seq.

20 IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this  
 21 proceeding.

22 IT IS FURTHER ORDERED that the **hearing** on the application shall be held on  
 23 **December 4, 2008, at 9:30 a.m.**, or as soon thereafter as is practical, at the Commission’s offices,  
 24 1200 West Washington Street, Room 100, Phoenix, Arizona.

25 IT IS FURTHER ORDERED that within five business days of receipt of this Procedural  
 26 Order, **THE ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**  
 27 **RAILROAD, CITY OF GLOBE AND ANY OTHER MUNICIPALITY OR INTERESTED**  
 28

1 PARTY that may be affected by the application with a copy of the application and this Procedural  
2 Order by certified mail.

3 IT IS FURTHER ORDERED that Safety Division, Railroad Safety Section ("Staff") shall  
4 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
5 them with Docket Control on or before 4:00 p.m. on **November 14, 2008**.

6 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**  
7 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on  
8 **November 21, 2008**.

9 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
10 105, except that all motions to intervene must be filed on or before **November 14, 2008**.

11 IT IS FURTHER ORDERED that Arizona Department of Transportation shall provide public  
12 notice of the hearing in this matter, in the following form and style:

13 **PUBLIC NOTICE OF THE HEARING IN THE MATTER OF THE**  
14 **APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION**  
15 **TO UPGRADE AN EXISTING CROSSING OF THE ARIZONA EASTERN**  
16 **RAILWAY COMPANY AT COTTONWOOD STREET IN THE CITY OF GLOBE,**  
**GILA COUNTY, ARIZONA, AT AAR/DOT NO. 742-349-W.**  
**(DOCKET NO. RR-02634A-08-0444)**

17 On August 26, 2008, the Arizona Department of Transportation ("ADOT") filed with  
18 the Arizona Corporation Commission ("Commission") an application for approval for  
19 the Arizona Eastern Railway Company ("Railroad") to upgrade an existing crossing  
at the Railroad's tracks at Cottonwood Street, in Globe, Arizona, at AAR/DOT  
No. 742-349-W.

20 The application is available for inspection during regular business hours at the offices  
21 of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona,  
and on the internet via the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the  
e-docket function.

22 The Commission will hold a hearing on this matter commencing on  
23 **December 4, 2008, at 9:30 a.m.**, at the Commission's offices, 1200 West  
24 Washington Street, Phoenix, Arizona. Public comments will be taken on the first  
day of the hearing.

25 The law provides for an open public hearing at which, under appropriate  
26 circumstances, interested parties may intervene. Intervention shall be permitted to  
27 any person entitled by law to intervene and having a direct and substantial interest in  
the matter. Persons desiring to intervene must file a written motion to intervene with  
28 the Commission, which motion should be sent to Applicant or its counsel and to all  
parties of record, and which, at the minimum, shall contain the following:

- 1        1.     The name, address, and telephone number of the proposed intervenor and of  
2        any party upon whom service of documents is to be made if different than the  
3        intervenor.
- 4        2.     A short statement of the proposed intervenor's interest in the proceeding (e.g.,  
5        a customer of Railroad, a neighboring property owner, a crossing user, etc.).
- 6        3.     A statement certifying that a copy of the motion to intervene has been mailed  
7        to the Applicant or its counsel and to all parties of record in the case.

8        The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
9        that all motions to intervene must be filed on or before November 14, 2008. If  
10       representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme  
11       Court, intervention will be conditioned upon the intervenor obtaining counsel to  
12       represent the intervenor. For information about requesting intervention, visit the  
13       Arizona Corporation Commission's webpage at  
14       <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among  
15       other things, entitles a party to present sworn evidence at hearing and to cross-examine  
16       other witnesses. However, failure to intervene will not preclude any customer from  
17       appearing at the hearing and making a statement on such customer's own behalf.

18       If you have any questions about this application, you may contact the applicant at  
19       **[insert telephone number]**. If you wish to file written comments on the application  
20       or want further information on intervention, you may write the Consumer Services  
21       Section of the Commission at 1200 West Washington Street, Phoenix, Arizona  
22       85007 or call 602-542-4251 or 1-800-222-7000 or appear at the hearing and  
23       make comment.

24       The Commission does not discriminate on the basis of disability in admission to its  
25       public meetings. Persons with a disability may request a reasonable accommodation  
26       such as a sign language interpreter, as well as request this document in an alternative  
27       format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602/542-  
28       3931, E-mail [lhogan@azcc.gov](mailto:lhogan@azcc.gov). Requests should be made as early as possible to  
allow time to arrange the accommodation.

IT IS FURTHER ORDERED that Arizona Department of Transportation shall cause the  
above notice to be published at least once in a newspaper of general circulation in the city where the  
crossing is located, with **publication to be completed no later than October 31, 2008**.

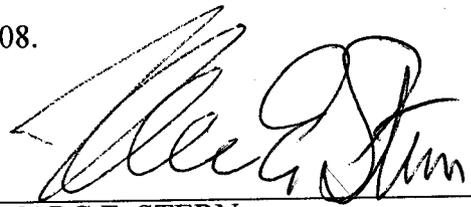
IT IS FURTHER ORDERED that notice shall be deemed complete upon the publication of  
same, notwithstanding the failure of an individual or entity to read or receive the notice.

IT IS FURTHER ORDERED that **ARIZONA DEPARTMENT OF TRANSPORTATION  
SHALL FILE CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET  
CONTROL AS SOON AS PRACTICABLE** after the publication of notice ordered herein has been  
completed.

1 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
2 of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and admission  
3 *pro hac vice*.

4 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
5 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
6 ruling at hearing.

7  
8 DATED this 30<sup>th</sup> day of September, 2008.

9  
10   
11 MARC E. STERN  
12 ADMINISTRATIVE LAW JUDGE

13 Copies of the foregoing mailed/delivered  
14 this 30<sup>th</sup> day of September, 2008 to:

15 Terry R. Vanderplas  
16 Vice President Railroad Services  
17 ARIZONA EASTERN RAILWAY CO.  
18 P.O. Box 2200  
19 Claypool, Arizona 85532-2200

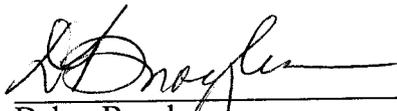
Brian Lehman, Chief  
Railroad Safety Section  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

20 John Syers  
21 Railroad Engineering Coordinator  
22 ARIZONA DEPARTMENT OF  
23 TRANSPORTATION  
24 205 S. 17<sup>th</sup> Avenue, Mail Drop 618E  
25 Phoenix, AZ 85007-3212

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

26 Traffic Records Section  
27 ARIZONA DEPARTMENT OF  
28 TRANSPORTATION  
206 S. 17<sup>th</sup> Avenue, MD-064R  
Phoenix, AZ 85007-3213

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

By:   
Debra Broyles  
Secretary to Marc E. Stern