

ORIGINAL

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0000091833

BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF
 UNION PACIFIC RAILROAD COMPANY TO
 ALTER FIVE CROSSINGS OF THE UNION
 PACIFIC RAILROAD IN PINAL COUNTY,
 ARIZONA AT TREKELL, KEELING, PEART,
 COX AND SUNLAND GIN ROADS.

DOCKET NO. RR-03639A-07-0519

**NOTICE OF FILING STAFF'S
 CLARIFYING COMMENTS TO
 RECOMMENDED OPINION AND
 ORDER**

Arizona Corporation Commission ("Commission") Railroad Safety Section Staff ("Staff") supports the Recommended Opinion and Order ("ROO") in the above-captioned application issued by Administrative Law Judge Yvette Kinsey on December 2, 2008, and believes the proposed order reflects the appropriate disposition of this case. There are, however, two short statements in the ROO that Staff believes do not accurately recite the evidence in the record as presented at hearing; therefore, Staff offers these clarifying comments.

At page 8 of the ROO, finding of fact 22 discusses alternate routes to the Cox Road crossing. Specifically, on line 15, the finding of fact states: "Both alternative crossings are at-grade crossing." Staff would clarify that, consistent with finding of fact 32 on page 10 of the ROO, and as noted in the record transcript at lines 9 to 16 on page 45, the I-10 overpass is a grade separation.

Likewise, in finding of fact 35 at lines 5 to 7 on page 11, there is a sentence that reads: "Staff's analysis of the projected data shows Trekell, Peart, and Sunland Gin are likely to meet four of the nine criteria and Keeling and Cox are likely to meet one of the nine criteria by the year 2030." As shown in Exhibit A to the ROO, which was extracted from Staff's Exhibit S-1 admitted at hearing, only Peart Road is projected to meet four of the nine criteria by 2030; Trekell and Sunland Gin are projected to meet only three.

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1 Staff continues to recommend approval of the application. In order to ensure the accuracy of
2 the ROO, Staff provides the following proposed language of an amendment for the consideration and
3 convenience of the Hearing Division.

4 Findings of Fact

5 Page 8, Line 15

6 DELETE: "Both alternative crossings are at-grade crossing."

7 INSERT: "Peart Road is an at-grade crossing. The I-10 overpass is a grade separation."

8 Page 11, Line 5 through Line 6

9 DELETE: "Trekell, Peart, and Sunland Gin are likely to meet four of the nine criteria"

10 INSERT: "Trekell and Sunland Gin are likely to meet three of the nine criteria, Peart is
11 likely to meet four of the nine criteria,"

12 RESPECTFULLY SUBMITTED this 12th day of December, 2008.

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19 Original and thirteen (13) copies
of the foregoing were filed this
12th day of December, 2008 with:

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Docket Control

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Phoenix, Arizona 85007

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Copy of the foregoing mailed this
12th day of December, 2008 to:

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