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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP

AZ CORP COMMISSION  
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
THE TOWN OF SAHUARITA TO UPGRADE  
AN EXISTING CROSSING OF THE UNION  
PACIFIC RAILROAD AT LA CANADA  
DRIVE AT EL TORO ROAD IN THE TOWN  
OF SAHUARITA, PIMA COUNTY, ARIZONA,  
AT DOT CROSSING NO. 742-159T.

DOCKET NO. RR-03639A-08-0618

PROCEDURAL ORDER

BY THE COMMISSION:

On December 29, 2008, the Town of Sahuarita ("Sahuarita" or "Town") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at the Railroad's tracks at the crossing near the interception of La Canada Drive and El Toro Road within the Town of Sahuarita, Pima County, Arizona, further described as Railroad M.P. 1005.61 -- Nogales Subdivision, DOT Crossing No. 742-159T.

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

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

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

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **March 30, 2009, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 400 West Congress Street, Room 222, Tucson, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural

1 Order, SAHUARITA SHALL PROVIDE THE RAILROAD, ARIZONA DEPARTMENT OF  
 2 TRANSPORTATION, PIMA COUNTY AND ANY OTHER MUNICIPALITY OR  
 3 INTERESTED PARTY that may be affected by the application with a copy of the application and  
 4 this Procedural Order by certified mail.

5 IT IS FURTHER ORDERED that Safety Division, Railroad Safety Section ("Staff") shall  
 6 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
 7 them with Docket Control on or before 4:00 p.m. on **February 27, 2009**.

8 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**  
 9 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **March**  
 10 **13, 2009**.

11 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
 12 105, except that all motions to intervene must be filed on or before **March 18, 2009**.

13 IT IS FURTHER ORDERED that Sahuarita shall provide public notice of the hearing in this  
 14 matter, in the following form and style:

15 **PUBLIC NOTICE OF THE HEARING IN THE MATTER OF THE**  
 16 **APPLICATION OF THE TOWN OF SAHUARITA**  
 17 **TO UPGRADE AN EXISTING CROSSING OF THE UNION PACIFIC RAILROAD**  
 18 **AT LA CANADA DRIVE AND EL TORO ROAD IN THE TOWN OF SAHUARITA,**  
**PIMA COUNTY, ARIZONA, AT DOT CROSSING NO. 742-159-T.**  
**(DOCKET NO. RR-03639A-08-0618)**

19 On December 29, 2008, the Town of Sahuarita ("Sahuarita") filed with the Arizona  
 20 Corporation Commission ("Commission") an application for approval for the Union  
 21 Pacific Railroad ("Railroad") to upgrade an existing crossing at the Railroad's tracks  
 at La Canada Drive at El Toro Road, in Sahuarita, Arizona, at AAR/DOT No. 742-  
 159-T.

22 The application is available for inspection during regular business hours at the offices  
 23 of the Commission in Tucson, at 400 West Congress, Suite 218, Tucson, Arizona, in  
 Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and on the internet via  
 24 the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the e-docket function.

25 The Commission will hold a hearing on this matter commencing on **March 30,**  
**2009, at 10:00 a.m.**, at the Commission's offices, Room 222, 400 West Congress  
 26 Street, Tucson, Arizona. Public comments will be taken on the first day of the  
 hearing.

27 The law provides for an open public hearing at which, under appropriate  
 28 circumstances, interested parties may intervene. Intervention shall be permitted to

1 any person entitled by law to intervene and having a direct and substantial interest in  
 2 the matter. Persons desiring to intervene must file a written motion to intervene with  
 3 the Commission, which motion should be sent to Sahuarita or its counsel and to all  
 4 parties of record, and which, at the minimum, shall contain the following:

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

12 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
 13 that all motions to intervene must be filed on or before March 18, 2009. If  
 14 representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme  
 15 Court, intervention will be conditioned upon the intervener obtaining counsel to  
 16 represent the intervener. For information about requesting intervention, visit the  
 17 Arizona Corporation Commission's webpage at  
 18 <http://www.azcc.gov/utility/forms/index.htm>. The granting of intervention, among  
 19 other things, entitles a party to present sworn evidence at hearing and to cross-examine  
 20 other witnesses. However, failure to intervene will not preclude any customer from  
 21 appearing at the hearing and making a statement on such customer's own behalf.

22 If you have any questions about this application, you may contact the applicant at  
 23 **[insert telephone number]**. If you wish to file written comments on the application  
 24 or want further information on intervention, you may write the Consumer Services  
 25 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona  
 26 85007 or call 1-800-222-7000 or 520 628-6550 or appear at the hearing and make  
 27 comment.

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

IT IS FURTHER ORDERED that Sahuarita shall cause the above notice to be published at  
 least once in a newspaper of general circulation in the area where the crossing is located, with  
**publication to be completed no later than February 20, 2009.**

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.

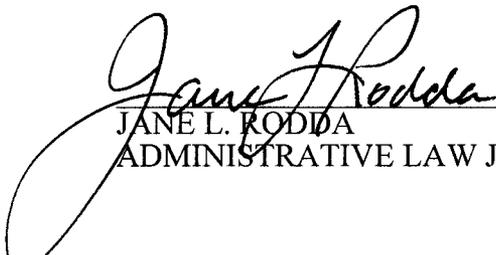
IT IS FURTHER ORDERED that the **TOWN OF SAHUARITA SHALL FILE**

1 **CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS**  
2 **SOON AS PRACTICABLE** after the publication of notice ordered herein has been completed.

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

6 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
7 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
8 ruling at hearing.  
9

10 DATED this 27<sup>th</sup> day of January, 2009.

11  
12  
13   
14 JANE L. RODDA  
ADMINISTRATIVE LAW JUDGE

15 Copies of the foregoing mailed/delivered  
16 this 27<sup>th</sup> day of January, 2009 to:

17 Town of Sahuarita - Department of  
18 Public Works  
19 Attention: Joel Harris  
375 W. Sahuarita Center Way  
Sahuarita, Arizona 85269

Aziz Aman  
Manager Special Projects  
Union Pacific Railroad  
2073 E. Jade Drive  
Chandler, Arizona 85286-4898

20 Bruce Vana, PE, Engineer-Manager  
21 Utility & Railroad Engineering Section  
ARIZONA DEPARTMENT OF  
22 TRANSPORTATION  
205 S. 17<sup>th</sup> Avenue, Mail Drop 618E  
Phoenix, AZ 85007

Bob Roggenthen, PE  
Traffic Engineering Division  
Pima County Department of Transportation  
1313 S. Mission Road  
Tucson, Arizona 85713-1398

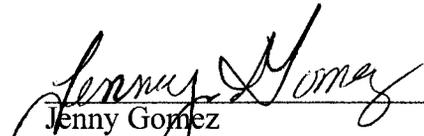
23 Traffic Records Section  
24 ARIZONA DEPARTMENT OF  
TRANSPORTATION  
25 206 S. 17<sup>th</sup> Avenue, MD-064R  
Phoenix, AZ 85007

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

1 Brian Lehman, Chief  
2 Railroad Safety Section  
3 ARIZONA CORPORATION COMMISSION  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6  
7  
8 ARIZONA REPORTING SERVICE, INC.  
9 2200 North Central Avenue, Suite 502  
10 Phoenix, AZ 85004-1481

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By:   
Jenny Gomez  
Secretary to Jane L. Rodda