

**ORIGINAL**

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

**OPEN MEETING ITEM**



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**RECEIVED**

**ARIZONA CORPORATION COMMISSION**

2010 JAN 29 P 2:50

DATE: JANUARY 29, 2010

DOCKET NO.: RR-03639A-09-0430

AZ CORP COMMISSION  
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

**UNION PACIFIC RAILROAD  
(UPGRADE CROSSING)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

**FEBRUARY 8, 2010**

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

**FEBRUARY 18, 2010**

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

**DOCKETED**

**JAN 29 2010**

DOCKETED BY *MM*

**ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR**

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION OF  
THE TOWN OF GILBERT TO UPGRADE A  
CROSSING OF THE UNION PACIFIC  
RAILROAD AT WILLIAMS FIELD ROAD IN  
THE TOWN OF GILBERT, MARICOPA  
COUNTY, ARIZONA, AAR/DOT NO. 741-831-F.

DOCKET NO. RR-03639A-09-0430

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

DATE OF HEARING: December 14, 2009  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
APPEARANCES: Mr. William P. Sullivan, CURTIS, GOODWIN,  
SULLIVAN, UDALL & SCHWAB, PLC, on behalf of  
the Town of Gilbert;  
Mr. Terrance L. Sims, BEAUGUREAU, ZUKOWSKI  
& HANCOCK, P.C., on behalf of the Union Pacific  
Railroad Company; and  
Mr. Charles Hains, Staff Attorney, Legal Division, on  
behalf of the Safety Division of the Arizona Corporation  
Commission.

**BY THE COMMISSION:**

On September 4, 2009, the Town of Gilbert ("Town") filed with the Arizona Corporation  
Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad")  
to upgrade an existing crossing at Williams Field Road in the Town of Gilbert, Maricopa County,  
Arizona at AAR/DOT NO. 741-831-F ("Application").

On September 1, 2009, by Procedural Order, the proceeding was scheduled for a hearing on  
December 14, 2009.

On December 14, 2009, a full public hearing was convened before a duly authorized  
Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Town, the  
Railroad and the Commission's Safety Division Railroad Safety Section ("Staff") were present with

1 counsel. At the conclusion of the hearing, the matter was taken under advisement pending  
2 submission of a Recommended Opinion and Order to the Commission.

3 \* \* \* \* \*

4 Having considered the entire record herein and being fully advised in the premises, the  
5 Commission finds, concludes, and orders that:

6 **FINDINGS OF FACT**

7 1. On September 4, 2009, the Town filed an Application in which it requested an  
8 Opinion and Order from the Commission approving an agreement between the Town and the  
9 Railroad to upgrade the existing public crossing at Williams Field Road located in Gilbert at  
10 AAR/DOT NO. 741-831-F.<sup>1</sup>

11 2. The Town is seeking Commission approval to improve the crossing in the following  
12 manner: by widening the existing crossing from four lanes to six lanes with three lanes of traffic  
13 eastbound and three lanes of traffic westbound; by constructing a 16-foot wide raised median; by  
14 replacing the existing warning devices with incandescent flashing lights with new warning devices  
15 that have 12-inch LED flashing lights; by installing new cantilevers that have 12-inch LED flashing  
16 lights; by installing new median and curb-side automatic gates and bells; and by installing constant  
17 warning time circuitry. Additionally, a new concrete crossing surface will be constructed where the  
18 roadway intersects with the tracks along with replacing any impacted pavement markings in order to  
19 conform with the widening of the roadway.

20 3. The Railroad's tracks which intersect Williams Field Road run from the southeast to  
21 the northwest and are used by six trains a day.

22 4. On October 27, 2009, the Town filed certification that it had provided public notice of  
23 the Application and hearing thereon pursuant to the Commission's Procedural Order by publishing  
24 notice in the *Arizona Business Gazette* and by mailing, by certified U.S. mail, notice to surrounding  
25 adjacent property owners.

26 5. The hearing was held as scheduled on December 14, 2009.

27 <sup>1</sup> Planning for the proposed upgrade to the Williams Field Road crossing began on August 27, 2007, when Staff, the  
28 Railroad, the Town's engineering consultants, Aztec Engineering ("Aztec"), and the Town's representatives participated  
in a diagnostic review.

1           6.       According to the Staff Report, Williams Field Road is a main east to west arterial  
2 roadway which runs through the Town. The general area surrounding the Williams Field Road  
3 intersection with the Railroad tracks is a mixture of residential, commercial, agricultural and  
4 industrial properties.

5           7.       Mr. Robert Lyons, a civil engineer with Aztec, testified in support of the Application  
6 for the Town.

7           8.       According to Mr. Lyons, the widening of Williams Field Road at the Railroad's tracks  
8 will tie into previous improvements of the roadway which are located to the east and to the west of  
9 the tracks and link other major arterial roadway sections. (Tr. at p. 7)

10          9.       Mr. Lyons testified that when the Town constructs the improvements where Williams  
11 Field Road crosses the tracks, the Town will, in conjunction with the construction of the raised  
12 median, install new gates, new cantilevers with flashers, new sidewalks, curbs, gutters, streetlights  
13 and pedestrian lighting. (Tr. at p. 10)

14          10.      Mr. Lyons indicated that he had performed calculations as set forth in the *Federal*  
15 *Highway Administration Railroad-Highway Grade Crossing Handbook (2<sup>nd</sup> Edition)* with respect to  
16 whether a grade-separated crossing should be constructed and determined that grade-separation is not  
17 warranted now or in the year 2030 according to the nine categories set forth within the Federal  
18 Highway Administration ("FHWA") handbook. (Tr. at p. 12 and 24)

19          11.      Mr. Lyons stated that the Town is in agreement with the recommendations made by  
20 Staff in its report in this matter. (Tr. at p. 13)

21          12.      According to Mr. Lyons, the proposed improvements to be made at the Williams Field  
22 Road crossing are consistent with similar crossings in Arizona. (Tr. at p. 23)

23          13.      Based on the Application and Mr. Lyons' testimony, the Town is paying for the total  
24 cost of the Williams Field Road improvements, which are estimated at approximately \$1,138,683  
25 with \$139,000 representing the cost of roadway improvements and approximately \$999,683  
26 representing the cost of safety upgrades at the crossing. (Tr. at p. 10 and 11) (Ex. A-1)

27          14.      Mr. Lyons estimated that if the Town chose to install a grade-separated crossing, it  
28 would cost approximately \$31.9 million and involve a number of complications due to access

1 problems and the requirement to relocate various utility lines which have previously been installed in  
2 the area of the crossing including both above ground power lines and underground utilities. (Tr. at p.  
3 12 and 20)

4 15. Mr. Lyons believes that the widening of Williams Field Road and the improvements at  
5 the crossing will provide for a higher level of service and improve traffic for all users of the crossing.  
6 (Tr. at p. 24).

7 16. Mr. Chris Watson, an assistant supervisor and grade-crossing inspector for the  
8 Commission, testified concerning the nature of the Railroad's tracks where they intersect at Williams  
9 Field Road. Mr. Watson further testified that he prepared the Staff Report which describes the  
10 single-track configuration and the low number of trains which utilize the crossing. (Tr. at p. 28)

11 17. Mr. Watson testified that Staff does not believe that grade-separation is necessary at  
12 the crossing according to the FHWA guidelines. (Tr. at p. 34)

13 18. Based on data from the Town's website utilized in the Staff Report, the Average Daily  
14 Traffic ("ADT") for 2008 was 12,009 vehicles per day and the projected ADT for 2025 is 29,020  
15 vehicles per day. The current Level of Service ("LOS") for the Williams Field Road crossing is LOS  
16 B for off-peak hours and LOS C for morning and afternoon peak hours. After the proposed  
17 improvements are completed, Staff indicates that the LOS will remain the same.

18 19. According the Staff Report, there are up to 39 daily school bus trips which utilize the  
19 crossing. In part, this may be attributable to the fact that there are thirteen schools within three miles  
20 of the crossing.

21 20. The Staff Report further indicates that there are minimum delays at the crossing and it  
22 is unlikely that vehicle delays will meet the FHWA criteria required for grade-separation by 2030.  
23 (Ex. S-1)

24 21. Mr. Watson further stated that the upgrade to the Williams Field Road crossing as  
25 proposed by the Town is in the public interest, and will improve safety at the crossing. (Tr. at p. 31  
26 and 32)

27 22. According to Mr. Watson, the upgrade to the Williams Field Road crossing as  
28 proposed by the Town is consistent with similar crossings throughout the state. (Tr. at p. 34 and 35)



1 IT IS FURTHER ORDERED that the Union Pacific Railroad shall file, every five years from  
2 the effective date of this Decision, with the Commission's Docket Control, as a compliance item in  
3 this docket, an update on the average daily traffic count at the crossing described in the Application.  
4 The updated average daily traffic count shall be obtained from the Road Authority or a contractor  
5 hired by the Railroad.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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10 CHAIRMAN \_\_\_\_\_ COMMISSIONER

11  
12 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

13  
14 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
15 Executive Director of the Arizona Corporation Commission,  
16 have hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

19 \_\_\_\_\_  
20 ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

21 DISSENT \_\_\_\_\_

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23 DISSENT \_\_\_\_\_  
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1	SERVICE LIST FOR:	UNION PACIFIC RAILROAD COMPANY
2	DOCKET NO.:	RR-03639A-09-0430
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4	Aziz Aman, Manager of Special Projects UNION PACIFIC RAILROAD COMPANY 2073 East Jade Drive Chandler, AZ 85286	Janice Alward, Chief Counsel Legal Division AZ CORPORATION COMMISSION 1200 West Washington Street Phoenix, AZ 85007
6	William P. Sullivan CURTIS, GOODWIN, SULLIVAN, UDALL & SCHWAB, PLC 501 East Thomas Road Phoenix, AZ 85012-3205 Attorneys for the Town of Gilbert	Brian Lehman, Chief Railroad Safety Section of the Safety Division AZ CORPORATION COMMISSION 1200 West Washington Street Phoenix, AZ 85007
10	Anthony J. Hancock Terrance L. Sims BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C. 302 East Coronado Phoenix, AZ 85004 Attorneys for Union Pacific Railroad Company	
14	Robert Travis, P.E. State Railroad Liaison AZ DEPARTMENT OF TRANSPORTATION 205 South 17 <sup>th</sup> Avenue, Room 357 M/D 618E Phoenix, AZ 85007	
17	Rick Allred TOWN OF GILBERT 90 East Civic Center Drive Gilbert, AZ 85296	
20	Robert Lyons, P.E. AZTEC ENGINEERING 4561 East McDowell Road Phoenix, AZ 85008	
22	Kelly Roy, Utility Project Coordinator MARICÓPA COUNTY DEPARTMENT OF TRANSPORTATION 2901 West Durango Street Phoenix, AZ 85009	

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