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2010 JUN 29 P 12: 24

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 29 2010

Attorneys for Drake Cement, LLC

DOCKETED BY

BEFORE THE ARIZONA CORPORATION COMMISSION

9 IN THE MATTER OF THE APPLICATION
10 OF DRAKE CEMENT, LLC TO
11 ESTABLISH A NEW RAILROAD
12 CROSSING ON YAVAPAI COUNTY
13 ROAD 71 NEAR THE CITY OF DRAKE,
14 YAVAPAI COUNTY, ARIZONA, DOT
15 CROSSING NO. AAR/DOT# 933-885T

DOCKET NO. RR-20736A-10-0140
RESPONSE TO STAFF REPORT

16 Drake Cement, LLC ("Drake" or "Company") hereby files its Response to the Staff
17 Report filed on June 23, 2010 in the above-captioned matter. Drake fully supports the
18 recommendations contained in the Staff Report, including the recommendation that Drake
19 provide a \$5,000 donation to Arizona Operation Lifesaver in lieu of a \$5,000 civil penalty
20 or assessment. As noted in the Staff Report, Drake was unaware of the Commission's
21 authority over public highway-rail crossings; however, once the Company became aware
22 of the requirements under A.R.S. § 40-337, it immediately began working with the
23 Commission's Railroad Safety Section to ensure that the realignment of Yavapai County
24 Road 71, and the construction of a new crossing, was done in compliance with
25 Commission rules and regulations. Drake concurs with Staff that ignorance is no excuse,
26 and that a \$5,000 donation is an appropriate remedy that contributes to public awareness
through Arizona Operation Lifesaver.

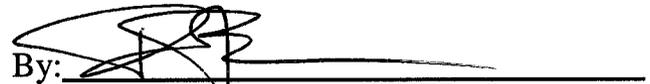
1 Drake also respectfully requests that the Administrative Law Judge and the
2 Commission consider expediting this matter once the hearing is held on July 19, 2010.
3 The proposed public crossing is vital to the Company's operation of a newly constructed
4 cement plant in Yavapai County, which in turn brings economic development and jobs to
5 this area. Rail will be used to transport raw materials needed to make cement at the
6 facility, which is scheduled to become fully operational in October of 2010. Drake
7 anticipates that it will take approximately 30-60 days to complete construction of the
8 proposed crossing and rail spur, so an Order by the Commission – if it does approve this
9 application as recommended by Staff – would be beneficial not only to Drake, but to the
10 continued economic development of Yavapai County.

11 RESPECTFULLY SUBMITTED this 29th day of June, 2010.

12 FENNEMORE CRAIG, P.C.

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By: 
Patrick J. Black
Attorneys for Drake Cement, LLC

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16

17 **ORIGINAL** and 13 copies filed
this 29th day of June, 2010 with:

18

19 Docket Control
Arizona Corporation Commission
1200 West Washington Street
20 Phoenix, Arizona 85007

21 **COPY** hand-delivered
this 29th day of June, 2010 to:

22

23 Marc E. Stern, ALJ
Hearing Division
Arizona Corporation Commission
24 1200 West Washington Street
25 Phoenix, Arizona 85007

26

1 Charles Hains, Esq.
2 Legal Division
3 Arizona Corporation Commission
4 1200 West Washington Street
5 Phoenix, Arizona 85007

4 Brian Lehman, Chief
5 Railroad Safety Section
6 Arizona Corporation Commission
7 1200 West Washington Street
8 Phoenix, Arizona 85007

7 **Copy sent via mail**
8 this 29th day of June, 2010 to:

8 Martin Brennan
9 Yavapai County Attorney's Office
10 2830 N. Commonwealth, Suite 106
11 Camp Verde, Arizona 86322

11 By: 
12 2327385

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