

ORIGINAL

OPEN MEETING ITEM



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COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS



ARIZONA CORPORATION COMMISSION

Executive Director
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AZ CORP COMMISSION
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DATE: JANUARY 24, 2011

DOCKET NOS.: RR-02634A-10-0235, RR-02634A-10-0236, RR-02634A-10-0237,
RR-02634A-10-0238 and RR-02634A-10-0239

TO ALL PARTIES:

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

ARIZONA EASTERN RAILWAY COMPANY
(UPGRADE CROSSINGS)

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 2, 2011

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:

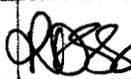
FEBRUARY 17, 2011

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 24 2011

DOCKETED BY 


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 GARY PIERCE - Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION OF
9 THE ARIZONA DEPARTMENT OF
10 TRANSPORTATION TO UPGRADE AN
11 EXISTING CROSSING OF THE ARIZONA
12 EASTERN RAILWAY COMPANY AT CENTRAL
13 ROAD EAST OF US 70 IN GRAHAM COUNTY,
14 ARIZONA, AT USDOT NO. 742-253-G.

DOCKET NO. RR-02634A-10-0235

15 IN THE MATTER OF THE APPLICATION
16 OF THE ARIZONA DEPARTMENT OF
17 TRANSPORTATION TO UPGRADE AN
18 EXISTING CROSSING OF THE ARIZONA
19 EASTERN RAILWAY COMPANY AT COLLEGE
20 AVENUE SOUTH OF RAILROAD AVENUE IN
21 THE TOWN OF THATCHER, GRAHAM
22 COUNTY, ARIZONA, AT USDOT NO. 742-243-B.

DOCKET NO. RR-02634A-10-0236

23 IN THE MATTER OF THE APPLICATION
24 OF THE ARIZONA DEPARTMENT OF
25 TRANSPORTATION TO UPGRADE AN
26 EXISTING CROSSING OF THE ARIZONA
27 EASTERN RAILWAY COMPANY AT BIXBY
28 ROAD NORTH OF SR 188 IN GILA COUNTY,
ARIZONA, AT USDOT NO. 742-364-Y.

DOCKET NO. RR-02634A-10-0237

IN THE MATTER OF THE APPLICATION
OF THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE ARIZONA
EASTERN RAILWAY COMPANY AT BIA 2
ROAD EAST OF THE BIA SR 170 HIGHWAY,
GILA COUNTY, ARIZONA, AT USDOT NO.
742-332-T.

DOCKET NO. RR-02634A-10-0238

IN THE MATTER OF THE APPLICATION
OF THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE ARIZONA
EASTERN RAILWAY COMPANY AT BIA 101
ROAD NORTH OF THE BIA SR 170 HIGHWAY,
GILA COUNTY, ARIZONA, AT USDOT NO.
742-336-V.

DOCKET NO. RR-02634A-10-0239

DECISION NO. _____

OPINION AND ORDER

1 DATE OF HEARING: October 15, 2010
2 PLACE OF HEARING: Phoenix, Arizona
3 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
4 APPEARANCES: Mr. James R. Redpath, Assistant Attorney General, on
5 behalf of the Arizona Department of Transportation;
6 Mr. Alexander B. Ritchie, Titla & Parsi, PLLC, on
7 behalf of the Intervenor, San Carlos Apache Tribe; and
8 Mr. Charles H. Hains and Ms. Bridget A. Humphrey,
Staff Attorneys, Legal Division, on behalf of the Safety
Division of the Arizona Corporation Commission.

9 **BY THE COMMISSION:**

10 On June 10, 2010, the Arizona Department of Transportation (“ADOT”) filed with the
11 Arizona Corporation Commission (“Commission”) five applications for approval for the Arizona
12 Eastern Railway Company (“Railroad”) to upgrade the following existing public crossings located at
13 the Railroad’s tracks: at Central Road east of US 70 in Graham County, Arizona, at USDOT No. 742-
14 253-G; at College Avenue south of Railroad Avenue in the Town of Thatcher, Graham County,
15 Arizona, at USDOT No. 742-243-B; at Bixby Road north of SR 188 in Gila County, Arizona, at
16 USDOT No. 742-364-Y; at BIA 2 Road east of the BIA SR 170 Highway, Gila County, Arizona, at
17 USDOT No. 742-332-T; and at BIA 101 Road north of the BIA SR 170 Highway, Gila County,
18 Arizona, at USDOT No. 742-336-V (collectively “Applications”).

19 On June 21, 2010, the Commission’s Safety Division, Railroad Safety Section (“Staff”) filed
20 a Motion to Consolidate the above-captioned proceedings.

21 On July 7, 2010, by Procedural Order, Staff’s Motion to Consolidate the above-captioned
22 proceedings was granted and a hearing was scheduled for October 15, 2010. Additionally, other
23 procedural dates for filing and public notice were established.

24 On September 20, 2010, the San Carlos Apache Tribe (“Tribe”) filed an application to
25 intervene in the proceeding.

26 On October 1, 2010, by Procedural Order, intervention was granted to the Tribe.

27 On October 8, 2010, ADOT filed certification that it had provided public notice of the
28 proceeding pursuant to the July 7, 2010 Procedural Order.

1 On October 15, 2010, a full public hearing was convened before a duly authorized
2 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. ADOT, the Tribe
3 and Staff appeared with counsel. The Tribe did not call any witnesses in the hearing, but filed a
4 Memorandum in which the Tribe requests that the Commission take steps to insure minimal
5 disruption at the two crossings located on the Tribe's land during the upgrades and that the
6 Commission assist the Tribe in securing an agreement with the Railroad with respect to a disaster
7 management plan and requiring the Railroad to provide notice prior to the transportation of hazardous
8 cargo across the Tribe's land.

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

11 * * * * *

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

14 **FINDINGS OF FACT**

15 1. On June 10, 2010, ADOT filed five separate Applications which each requested an
16 Opinion and Order from the Commission approving agreements between ADOT and the Railroad to
17 upgrade the following existing public at-grade crossings located at the Railroad's tracks: at Central
18 Road east of US 70 in Graham County, Arizona, at USDOT No. 742-253-G; at College Avenue south
19 of Railroad Avenue in the Town of Thatcher, Graham County, Arizona, at USDOT No. 742-243-B;
20 at Bixby Road north of SR 188 in Gila County, Arizona, at USDOT No. 742-364-Y; at BIA 2 Road
21 east of the BIA SR 170 Highway, Gila County, Arizona, at USDOT No. 742-332-T; and at BIA 101
22 Road north of the BIA SR 170 Highway, Gila County, Arizona, at USDOT No. 742-336-V.¹

23 2. On July 7, 2010, by Procedural Order, the above-captioned Applications were
24 consolidated for purposes of hearing.

25 3. On September 17, 2010, Staff filed its report recommending approval of the

26 _____
27 ¹ The Railroad's mainline tracks run generally from the southeast in a northwesterly direction between Bowie, Arizona
28 and Miami, Arizona. At Bowie, the tracks are interconnected to the tracks of the Union Pacific Railroad and at Miami the
tracks eventually terminate at the Freeport-McMoran smelter. The Railroad operates two to three freight trains per day
traveling between Bowie and Miami. The trains pass through the respective at-grade crossings at approximately 10 miles
per hour.

1 Applications for the upgrading of the respective at-grade crossings.

2 4. According to the Staff Report, the five upgrade projects will be funded pursuant to 23
3 U.S.C. § 130 ("Section 130") whose purpose is to provide funding which is to be utilized to eliminate
4 hazards to pedestrians and highway vehicles at public highway/at-grade crossings that are not
5 primarily for the benefit of the railroad. For an at-grade crossing to be eligible for Section 130
6 funding, the crossing must be designated on the annual Commission Crossing Array docket which
7 prioritizes the crossings for safety upgrades. The Commission has previously designated the above-
8 referenced crossings for upgrades.²

9 5. Once an at-grade crossing has been designated on the annual Commission Crossing
10 Array, the Federal Highway Administration ("FHWA") issues authorizations for the design and
11 construction of each project and then reimburses ADOT for the cost after conducting a final
12 inspection of the project in order to pay the Railroad for 100 percent of the cost of the project
13 upgrade.

14 6. Pursuant to the Commission's Procedural Order, ADOT provided all interested parties
15 with notice of the Applications and the hearing thereon by both mail and publication in the *Arizona*
16 *Silver Belt* and the *San Carlos Apache Moccasin* newspapers.

17 7. The hearing was held as scheduled on October 15, 2010.

18 8. Mr. Robert Travis, the Railroad Liaison for ADOT, testified in support of the
19 Applications.

20 **Central Road**

21 9. Mr. Travis testified that Central Road is a two-lane roadway and that the at-grade
22 crossing of the Railroad presently has passive signage only and no automatic warning devices. (Tr.
23 10: 4-12)

24 10. According to Mr. Travis, the passive warning devices, which currently consist of cross
25 bucks, will be replaced with automatic gates, bells and flashing LED lights. Additionally, Mr. Travis
26

27 ² Central Road at USDOT No. 742-25G, Decision No. 63633 (May 4, 2001); College Avenue at USDOT No. 742-243-B,
28 Decision No. 60723 (March 23, 1998); Bixby Road at USDOT No. 742-364-Y, Decision No. 62301 (February 17, 2000);
BIA 2 Road at USDOT No. 742-332-T, Decision No. 60723 (March 23, 1998); and BIA 101 Road at USDOT No. 742-
336-V, Decision No. 60723 (March 23, 1998).

1 stated that the existing timber crossing surface will be replaced with a concrete crossing surface. (Tr.
2 11:5-11)

3 11. Mr. Travis has been advised by the road authority, Graham County, that the Central
4 Road at-grade crossing was crossed by 469 vehicles per day in 2009. (Tr. 11: 20-25)

5 12. Mr. Travis further testified that the speed limit on the roadway is 35 miles per hour
6 and that the Railroad averages three through freight trains per day that cross through the roadway at
7 approximately 10 miles per hour. (Tr. 12:1-10)

8 13. Presently, the area in the vicinity of the at-grade crossing at Central Road is zoned for
9 agricultural use although Mr. Travis stated that the area could be rezoned for development in the
10 future. (Tr. 12: 22-26)

11 14. Mr. Travis further testified that the total cost of the upgrade to the Central Road
12 crossing will be approximately \$245,000, with 100 percent of the cost being paid by ADOT with
13 funds from the FHWA. (Tr. 17: 15-19)

14 15. According to Mr. Travis, the Central Road crossing would probably not be a suitable
15 candidate for grade separation because of the low train volume and low traffic volume. (Tr. 20: 5-12)

16 16. Mr. Travis further testified that the upgrades and improvements being made to the
17 Central Road crossing in Graham County are consistent with similar roads throughout the state with
18 the planned installation of the automatic warning devices. (Tr. 21: 13-19)

19 **College Avenue**

20 17. Mr. Travis testified that the College Avenue at-grade crossing is located in the Town
21 of Thatcher ("Town") which is the road authority. This crossing is similar to the crossing at Central
22 Avenue in that cross bucks are being replaced by new automatic warning devices with gates, flashing
23 lights, and bells. The upgrade will also include a new concrete crossing surface for the two-lane
24 roadway. (Tr. 23: 8-20)

25 18. Mr. Travis further testified that the total cost of the upgrade to the at-grade crossing at
26 College Avenue is estimated to be \$289,970, and that the Town will be paying approximately \$5,300
27 for the concrete crossing surface under the terms of an old upgrade agreement. (Tr.23-24:21-6)

28 19. According to records for the College Avenue crossing, the last accident occurred in

1 May 1973. (Tr. 25: 16-17)

2 20. Mr. Travis testified that the area in the vicinity of the at-grade crossing at College
3 Avenue is zoned for educational and agricultural purposes. (Tr. 26: 18-19)

4 21. Testifying further, Mr. Travis stated that crossing upgrades such as the project planned
5 at College Avenue were approved a number of years earlier (1998) and, at the time, there was an
6 expectation of state or local contributions to the Section 130 upgrades.³ (Tr. 28-29: 21-20)

7 **Bixby Road**

8 22. Mr. Travis testified concerning the at-grade improvements planned for Bixby Road⁴,
9 located in Gila County, which is the road authority for this at-grade crossing. (Tr. 32: 9-25)

10 23. Mr. Travis further testified that the Bixby Road at-grade crossing is presently
11 protected by cross bucks and has a timber crossing surface. The upgrade project replaces the cross
12 bucks and timber crossing surface with new automatic warning devices consisting of automatic gates,
13 flashing lights and bells, as well as a new concrete crossing surface. (Tr. 33: 14-23)

14 24. According to Mr. Travis, the approximate total cost of the upgrade to the Bixby Road
15 at-grade crossing will be \$264,890. (Tr. 35: 19-21)

16 25. Mr. Travis further testified that only a minimal amount of traffic utilizes the Bixby
17 Road crossing, approximately 640 vehicles per day, on a roadway with a 25 mile an hour speed limit.
18 According to Federal Railroad Administration ("FRA") records, there has been only one accident at
19 this crossing, in November 1972. (Tr. 36: 1-5)

20 26. Mr. Travis stated that the area located in the vicinity of the Bixby Road crossing is
21 zoned for low-density residential and commercial purposes with no future developments planned.
22 (Tr. 37: 1-2)

23 27. While testifying with respect to the Bixby Road crossing, Mr. Travis summarized his
24 testimony that the upgrades to all five crossings in this consolidated proceeding are receiving similar
25 upgrades, with the replacement of passive warning devices with new automatic warning devices

26 _____
27 ³ Mr. Travis explained the process for Section 130 upgrades to take place at the respective crossings once they are
28 approved on the Commission's Annual Array. Once the crossings are approved for upgrades which benefit pedestrians
and highway vehicles, he described the period of time which it takes for funding to become available to complete the
crossing and to secure the necessary governmental approvals from the local road authorities.

⁴ This crossing had been mischaracterized as Hoops Road in the Commission's Annual Array in Decision No. 62301.

1 being installed and new concrete crossing surfaces to replace the existing crossing surfaces. (Tr. 39:
2 20-24)

3 **BIA 2 Road**

4 28. Mr. Travis stated that the Tribe is the road authority for the BIA 2 Road. (Tr. 45: 1)

5 29. This crossing is presently protected by cross bucks, but the crossing will be upgraded
6 with new automatic warning devices with flashing lights, gates, bells and motion sensor detection
7 circuitry, as well as a new concrete crossing surface.

8 30. Mr. Travis testified that ADOT is installing additional flashing lights which will face
9 to the south on State Route ("SR") 170 so that traffic turning eastbound on to BIA 2 Road from SR
10 170 will also be protected at the crossing. (Tr. 46: 5-9)

11 31. The total estimated cost of the upgrade for the at-grade crossing of BIA 2 Road is
12 \$246,629 according to Mr. Travis. (Tr. 47: 3-6)

13 32. Mr. Travis further testified that the Tribe provided him with information regarding
14 vehicular traffic which indicates approximately 3,845 vehicles a day use the BIA 2 Road at-grade
15 crossing. The posted speed limit on the roadway is 35 miles an hour and according to the FRA
16 database, there have been no accidents at this crossing. (Tr. 47: 9-19)

17 33. Additionally, included in the estimated vehicular traffic which utilizes the BIA 2 Road
18 at-grade crossing, there are approximately ten school buses which utilize this crossing on a daily
19 basis when school is in session. (Tr. 48: 7-13)

20 34. Mr. Travis stated further that, because the San Carlos Indian Health Service is located
21 nearby, the crossing is used extensively by emergency medical service vehicles. (Tr. 48: 14-17)

22 35. Mr. Travis testified that land in the vicinity of the BIA 2 Road is zoned residential and
23 it is anticipated that vehicular traffic will increase with future development. (Tr. 48: 22-24)

24 36. Mr. Travis stated that he had verified that the Tribe entered into an intergovernmental
25 agreement with ADOT for the upgrade to both the BIA 2 Road and also the BIA 101 Road. (Tr. 50:
26 1-4)

27 37. Mr. Travis testified that ADOT generally relies upon the Railroad to coordinate with
28 the road authority to minimize the impact on traffic and nearby residents during construction

1 upgrades. (Tr. 51: 3-9)

2 38. Mr. Travis testified that he is aware of the concept of a disaster plan in case of an
3 accident at or near the tracks of an at-grade crossing, but he is unaware whether a disaster plan will
4 be in effect in case of any accidents on the Railroad's tracks or at the crossings. (Tr. 52: 12-18)

5 **BIA 101 Road**

6 39. Mr. Travis testified that the BIA 101 Road is also subject to the Tribe's jurisdiction as
7 the road authority. He further stated that the present cross bucks will be removed and the crossing
8 will be upgraded with new automatic warning devices consisting of automatic gates, LED flashing
9 lights, bells and motion sensor detection circuitry, as well as the replacement of the timber crossing
10 surface with a concrete crossing surface. Additionally, as with the BIA 2 Road, an extra set of
11 flashing lights will be constructed and will face towards State Route 170 to warn oncoming drivers
12 who are turning to access the public at-grade crossing at the BIA 101 Road on the reservation. (Tr.
13 63: 16-23)

14 40. According to Mr. Travis, the approximate total cost of the improvements to the at-
15 grade crossing at the BIA 101 Road is \$264,459. (Tr. 64: 11-18)

16 41. Mr. Travis further testified that, according to information from the Tribe,
17 approximately 2,992 vehicles a day utilize the public at-grade crossing at BIA 101 Road. (Tr. 65: 1-5)

18 42. The BIA 101 Road is located two miles to the north of the BIA 2 Road.

19 43. According to Mr. Travis, grade separation was not considered for either of the two at-
20 grade crossings located within the Tribe's jurisdiction because of the minimal number of trains using
21 the crossings, their size and the low traffic counts. Additionally, even though Mr. Travis estimated
22 that grade separation of such a crossing would only cost \$8 million to \$10 million, because the
23 crossing is in a rural area, this amount is beyond the funding allowed for Section 130 improvements
24 to at-grade crossings. (Tr. 65: 11-18)

25 44. Mr. Travis stated that there are approximately ten school bus crossings per day. There
26 is also some usage by public safety vehicles at the BIA 101 Road at-grade crossing because the
27 closest medical facility, the San Carlos Indian Health Services facility, is located approximately one
28 mile to the north. (Tr. 65-66: 25-6)

1 45. According to Mr. Travis, none of the five at-grade crossings involved in this
2 proceeding would meet any of the nine criteria set forth in the FHWA guidelines with respect to the
3 possible construction of grade separated crossings. (Tr. 67: 14-19)

4 46. Mr. Travis testified that when the improvements are made at the BIA 101 Road at-
5 grade crossing, they will be similar to other public at-grade crossings of a like nature throughout the
6 state. (Tr. 67: 20-25)

7 47. Testifying further, Mr. Travis stated that the Tribe is in support of the improvements
8 being made at the BIA 101 Road at-grade crossing. (Tr. 69: 22-24)

9 48. As is the case with the BIA 2 Road, the upgrade to the BIA 101 Road crossing is
10 included in the Tribe's intergovernmental agreement with ADOT dated February 3, 2009. (Tr. 70: 2-
11 8)

12 49. Mr. Travis reiterated that ADOT does not coordinate the project improvements with
13 the local road authority, but relies upon the Railroad to deal directly with the road authority. (Tr. 72:
14 15-18)

15 50. With respect to all five of the at-grade crossings which will be upgraded on the
16 Railroad's tracks as described in this proceeding, Mr. Travis stated that the Railroad has contracted
17 with Mountain States Contracting to replace the crossing surfaces at the various at-grade crossings,
18 but there is a separate sub-contractor who will install and maintain the automatic warning devices for
19 the Railroad. (Tr. 73-74: 13-2)

20 51. As with the other above described at-grade crossings, Mr. Travis stated that he
21 believes that with the improvements being made to the BIA 101 Road crossing, it will be made safer.
22 (Tr. 76: 2-4)

23 **Staff Recommendation**

24 52. Mr. Chris Watson, Staff's Grade Crossing Inspector and Assistant Supervisor for the
25 Railroad Safety Section, testified that he adopted the Staff Report as his testimony with the exception
26 of two minor changes. The recommended changes provide that all five crossing surfaces are to be
27 upgraded with concrete instead of timber. (Tr. 79: 11-15)

28 53. According to Mr. Watson, each of the five at-grade crossings, as discussed in the Staff

1 Report and as testified to by Mr. Travis herein, will each receive an improved safety rating as a result
2 of the improvements which will be made. (Tr. 82: 8-12)

3 54. Mr. Watson testified that, utilizing the FHWA guidelines with respect to all five of the
4 at-grade crossings being upgraded by ADOT, none of the crossings meet the nine criteria set forth by
5 the FHWA for the consideration of construction of grade separated crossings. (Tr. 82: 5-10)

6 55. Additionally, as stated in the Staff Report, based on the Crossing Exposure Index, all
7 five of the aforementioned at-grade crossings are located in low traffic areas in generally rural areas,
8 and the index for each of the crossings falls far below the threshold of 1 million for urban areas and
9 250,000 in rural areas.⁵

10 56. Mr. Watson stated that Staff believes the improvements being made at each of the five
11 crossings are in the public interest. (Tr. 82: 11-14)

12 57. Mr. Watson further stated that Staff is willing to contact the Railroad and encourage
13 its personnel to direct its sub-contractors to contact the Tribe so that the impact of the construction
14 improvements are minimized at the two crossings which are located within the Tribe's jurisdiction.
15 (Tr. 83: 16-21)

16 58. Mr. Watson also indicated that Staff will encourage Railroad officials to meet with
17 authorities of the Tribe and ADOT to discuss disaster planning. (Tr. 84: 12-24)

18 59. Mr. Watson testified further that the improvements being made at all five of the
19 crossings involved in the proceeding would improve the safety of the residents of Arizona who use
20 those crossings, and that they would also be similar to other crossings of a like nature in Arizona. (Tr.
21 86: 15-23)

22 60. Staff is recommending approval of all five applications involved in the proceeding.

CONCLUSIONS OF LAW

24 1. The Commission has jurisdiction over the parties and over the subject matter of the
25

26 ⁵ The Crossing Exposure Index (the product of the number of trains per day times the number of vehicle crossings daily)
for the five crossings is as follows:

- 27 • Central Road - 1,407;
- College Avenue - 3,750;
- Bixby Road - 1,920;
- 28 • BIA 2 Road - 11,535; and
- BIA 101 Road - 8,976

1 Applications pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
2 40-337.01.

3 2. Notice of the Applications was provided in accordance with the law.

4 3. Installation of the crossing upgrades is necessary for the public's convenience and
5 safety.

6 4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Applications should be approved as
7 recommended by Staff.

8 5. After the installation of the crossing upgrades, the Railroad should maintain the
9 crossings in accordance with A.A.C. R14-5-104.

10 **ORDER**

11 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's
12 Applications, as described herein, are hereby approved.

13 IT IS FURTHER ORDERED that the Arizona Eastern Railway Company shall complete the
14 crossing upgrades as described in the Applications within fifteen months of the effective date of this
15 Decision.

16 IT IS FURTHER ORDERED that the Arizona Eastern Railway Company shall notify the
17 Commission, in writing, within ten days of both the commencement and the completion of the
18 respective crossing upgrades, pursuant to A.A.C. R14-5-104.

19 ...

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1 IT IS FURTHER ORDERED that upon completion of the respective crossing upgrades, the
2 Arizona Eastern Railway Company shall maintain the crossings in compliance with A.A.C. R14-5-
3 104.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
7
8 CHAIRMAN _____ COMMISSIONER _____

9
10 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
12 Executive Director of the Arizona Corporation Commission,
13 have hereunto set my hand and caused the official seal of the
14 Commission to be affixed at the Capitol, in the City of Phoenix,
15 this _____ day of _____, 2011.

16 _____
17 ERNEST G. JOHNSON
18 EXECUTIVE DIRECTOR

19 DISSENT _____

20
21 DISSENT _____

MES:db

1 SERVICE LIST FOR: ARIZONA EASTERN RAILWAY COMPANY
2 DOCKET NOS.: RR-02634A-10-0235, RR-02634A-10-0236, RR-02634A-10-0237,
3 RR-02634A-10-0238 and RR-02634A-10-0239
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