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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 2 2011

DOCKETED BY:

IN THE MATTER OF THE APPLICATION OF  
THE MARICOPA COUNTY DEPARTMENT OF  
TRANSPORTATION TO ESTABLISH A NEW  
GRADE SEPARATED PUBLIC RAILROAD  
CROSSING AT NORTHERN PARKWAY  
ABOVE THE TRACKS OF THE BURLINGTON  
NORTHERN SANTA-FE RAILWAY IN  
MARICOPA COUNTY, ARIZONA.

DOCKET NO. RR-02635B-11-0125

AMENDED  
PROCEDURAL ORDER

BY THE COMMISSION:

On March 21, 2011, the Maricopa County Department of Transportation ("MCDOT" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for the establishment of a new grade separated public railroad crossing on Northern Parkway above the tracks of the Burlington Northern Santa Fe Railroad ("BNSF") in Maricopa County, Arizona ("Application").

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 hearing on the Application shall be held on **July 18, 2011, at 10:00 a.m.**, or as soon thereafter as is practicable at the Commission's offices, 1200 West Washington Street, **Room 100**, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural Order, **THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION SHALL PROVIDE ANY AFFECTED RAILROAD, AND ANY OTHER FEDERAL, STATE, COUNTY, MUNICIPALITY, INTERESTED AGENCY OR INTERESTED PARTY** that may be affected by the application with a copy of the application and this Procedural Order by certified mail.

1 IT IS FURTHER ORDERED that **Safety Division, Railroad Safety Section** (“Staff”) shall  
2 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
3 them with Docket Control on or before 4:00 p.m. on **June 17, 2011**.

4 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated exhibits**  
5 shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **June 27, 2011**.

6 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-105,  
7 except that all motions to intervene must be filed on or before **July 1, 2011**.

8 IT IS FURTHER ORDERED that **the Maricopa County Department of Transportation**  
9 **shall provide public notice of the hearing** in this matter, in the following form and style:

10 **PUBLIC NOTICE OF THE HEARING IN THE MATTER OF**  
11 **THE APPLICATION OF THE MARICOPA COUNTY DEPARTMENT OF**  
12 **TRANSPORTATION TO ESTABLISH A NEW GRADE SEPARATED**  
13 **PUBLIC RAILROAD CROSSING AT NORTHERN PARKWAY ABOVE**  
14 **THE TRACKS OF THE BURLINGTON NORTHERN SANTA-FE**  
15 **RAILWAY IN MARICOPA COUNTY, ARIZONA.**  
16 **(DOCKET NO. RR-02635B-11-0125)**

14 On March 21, 2011, the Maricopa County Department of Transportation (“MCDOT”  
15 or “Applicant”) filed with the Arizona Corporation Commission (“Commission”) an  
16 application for the establishment of a new grade separated public railroad crossing on  
17 Northern Parkway above the tracks of the Burlington Northern Santa Fe Railway  
18 (“BNSF”) in Maricopa County, Arizona (“Application”).

17 The Application is available for inspection during regular business hours at the  
18 offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix,  
19 Arizona, and on the internet via the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the  
20 e-docket function.

20 The Commission will hold a hearing on this matter commencing on **July 18, 2011 at**  
21 **10:00 a.m.**, at the Commission’s offices, 1200 West Washington Street, Room 100,  
22 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

22 The law provides for an open public hearing at which, under appropriate  
23 circumstances, interested parties may intervene. Intervention shall be permitted to  
24 any person entitled by law to intervene and having a direct and substantial interest in  
25 the matter. Persons desiring to intervene must file a written motion to intervene with  
26 the Commission, which motion should be sent to Applicant or its counsel and to all  
27 parties of record, and which, at the minimum, shall contain the following:

- 25 1. The name, address, and telephone number of the proposed intervener and of  
26 any party upon whom service of documents is to be made if different than the  
27 intervener.
- 28 2. A short statement of the proposed intervener’s interest in the proceeding (e.g.,  
a customer, a neighboring property owner, a crossing user, etc.).

1 3. A statement certifying that a copy of the motion to intervene has been mailed  
2 to the Applicant or its counsel and to all parties of record in the case.

3 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
4 that all motions to intervene must be filed on or before July 1, 2011. The granting  
5 of intervention, among other things, entitles a party to present sworn evidence at  
6 hearing and to cross-examine other witnesses. However, failure to intervene will not  
7 preclude any affected individual from appearing at the hearing and making a  
8 statement on such individual's own behalf.

9 If you have any questions about this Application, you may contact the Applicant at  
10 **[insert telephone number]**. If you wish to file written comments on the application  
11 or want further information on intervention, you may write the Consumer Services  
12 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona  
13 85007 or call 1-800-222-7000 or appear at the hearing and make comment.

14 The Commission does not discriminate on the basis of disability in admission to its  
15 public meetings. Persons with a disability may request a reasonable accommodation  
16 such as a sign language interpreter, as well as request this document in an alternative  
17 format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number (602)  
18 542-3931, email SABernal@azcc.gov. Requests should be made as early as possible  
19 to allow time to arrange the accommodation.

20 IT IS FURTHER ORDERED that the **Maricopa County Department of Transportation**  
21 shall cause the above notice to be published at least once in a newspaper of general circulation in  
22 **Maricopa County, Arizona** where the crossing is located, with **publication to be completed no**  
23 **later than June 17, 2011.**

24 IT IS FURTHER ORDERED that notice shall be deemed complete upon the  
25 mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive  
26 the notice.

27 IT IS FURTHER ORDERED that **the MARICOPA COUNTY DEPARTMENT OF**  
28 **TRANSPORTATION SHALL FILE CERTIFICATION OF NOTICE WITH THE**  
COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE after the publication of  
notice ordered herein has been completed.

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

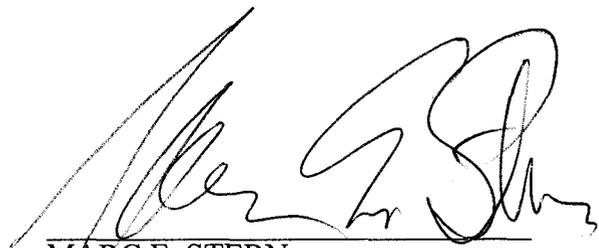
IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance

1 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
2 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
3 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
4 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
5 Administrative Law Judge or the Commission.

6 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized  
7 Communications) continues to apply to this proceeding and shall remain in effect until the  
8 Commission's Decision in this matter is final and non-appealable.

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

12 DATED this 2nd day of June, 2011.

  
16 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered  
18 this 2nd day of June, 2011 to:

19 Melvin V. Thomas, Manager Public Projects  
BURLINGTON NORTHERN SANTA FE  
20 RAILWAY COMPANY  
740 East Carnegie Drive  
San Bernardino, CA 92408-3571

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

21 Marcel Benberou, Manager  
22 Utility & Railroad Engineering  
ARIZONA DEPARTMENT OF  
23 TRANSPORTATION  
205 South 17th Avenue, M/D 618E  
24 Phoenix, AZ 85007

Brian Lehman, Chief  
Railroad Safety Section  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

25 Kelly Roy, Utility Project Coordinator  
MARICOPA COUNTY DEPARTMENT  
OF TRANSPORTATION  
26 2901 West Durango Street  
Phoenix, Arizona 85009

ARIZONA REPORTING SERVICE, INC.  
2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004-1481

27 By:   
Debra Broyles  
28 Secretary to Marc E. Stern