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To: THE COMMISSION

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Arizona Corporation Commission

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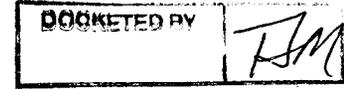
From: Robert Marvin  
Director  
Safety Division

2013 MAY 24 P 2:49

MAY 24 2013

Date: May 24, 2013

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL



RE: IN THE MATTER OF THE APPLICATION OF THE ARIZONA DEPARTMENT OF TRANSPORTATION TO UPGRADE EXISTING CROSSINGS OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY AT THE INDIAN SCHOOL ROAD CONNECTOR AND 35<sup>TH</sup> AVENUE IN THE CITY OF PHOENIX, MARICOPA COUNTY, ARIZONA, AT USDOT NOS. 025-424-D AND 025-425-K.

DOCKET NO. RR-02635B-13-0034

**Background**

On February 20, 2013, the Arizona Department of Transportation (“ADOT”) filed with the Arizona Corporation Commission (“Commission”) an application for approval for the Burlington Northern and Santa Fe Railway Company (“BNSF or Railroad”) to upgrade two existing crossings at the BNSF’s tracks at the Indian School Road Connector and 35<sup>th</sup> Avenue, in Phoenix, Arizona, at USDOT Nos. 025-424-D and 025-425-K, respectively.

An evidentiary hearing was held on May 9, 2013. During the hearing, the Commission’s Safety Division Railroad Safety Section requested a 30-day continuance due to new information received in the days immediately prior to the hearing. The new information prompted Staff to believe that certain changes had been made or were proposed to be made to the upgrades originally requested by ADOT. In light of the issues involved at the crossing, Staff wanted to further review the Application and understand the basis for the new information. The parties agreed to continue the proceeding and the hearing was continued to June 10, 2013.

**Staff Conclusions**

On May 23, 2013, Staff met with ADOT, BNSF, and the City of Phoenix to further discuss their concerns. Two days prior to the May 9 hearing, Staff learned that BNSF and the City were possibly discussing adding median gates to 35<sup>th</sup> Avenue as part of this project, which was not originally included in the application. The new information prompted questions by Staff as to how the advanced preemption was going to work at 35<sup>th</sup> Avenue if no gates were installed as well as various clarifications on project specifics.

After a meeting on May 23, 2013, it was agreed by all that the original project would move forward as requested in the original application. However, on a going forward basis BNSF and the City would work closely together to further improve 35<sup>th</sup> Avenue and evaluate measures that will enhance the features requested within the present application. Staff agrees that the upgrades proposed in this application will make both Lower Indian School Road and 35<sup>th</sup> Avenue safer crossings and are appropriate.

Having reviewed all applicable data, Staff continues to support ADOT's application as filed. Staff believes that the upgrades are in the public's interest and are reasonable. Staff believes that the measures proposed by ADOT are consistent with other similar at-grade crossings in the State and will provide for the public's safety. Therefore, Staff recommends approval of ADOT's application.

A handwritten signature in black ink, appearing to read "Brian H. Lehman". To the right of the signature, the words "for Brian Lehman" are written in a smaller, less legible hand.

Brian H. Lehman  
Railroad Safety Supervisor  
Safety Division

Originator: CBW

COPIES of the foregoing mailed  
This 24th day of May, 2013 to:

Docket No. RR-02635B-13-0034

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