



0000149976

**BEFORE THE ARIZONA CORPORATION**

**COMMISSIONERS**

Arizona Corporation Commission

**DOCKETED**

BOB STUMP - Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

JAN -7 2014

DOCKETED BY ne

IN THE MATTER OF THE APPLICATION OF  
THE TOWN OF SAHUARITA TO UPGRADE A  
CROSSING OF THE UNION PACIFIC  
RAILROAD AT SAHUARITA ROAD IN THE  
TOWN OF SAHUARITA, PIMA COUNTY,  
ARIZONA, USDOT NO. 742-129-B.

DOCKET NO. RR-03639A-13-0193

DECISION NO. 74249

**OPINION AND ORDER**

DATE OF HEARING: October 8, 2013

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Marc E. Stern

APPEARANCES:

Mr. W. Reed Campbell, BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C., on behalf of the Union Pacific Railroad Company;

Mr. Dan J. Hochuli, Department of Law, on behalf of the Town of Sahuarita;

Mr. Charles Hains and Mr. Matthew Laudone, Staff Attorneys, Legal Division, on behalf of the Safety Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On June 11, 2013, the Town of Sahuarita ("Town") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at Sahuarita Road in the Town of Sahuarita, Pima County, Arizona at USDOT No. 742-129-B ("Application").

On June 26, 2013, by Procedural Order, the proceeding was scheduled for hearing on October 8, 2013.

On October 8, 2013, 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 submission  
2 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 June 11, 2013, the Town filed an Application in which it requested an Opinion and  
8 Order from the Commission approving an agreement between the Town and the Railroad to upgrade  
9 the existing public crossing on Sahuarita Road at what was the then existing alignment of the Nogales  
10 Highway (“Highway”) located at USDOT No. 742-129-B.<sup>1</sup> A portion of the old Highway in the  
11 Town has been removed where it used to intersect with Sahuarita Road. The Highway has been  
12 realigned and reconstructed approximately two miles to the west of the old intersection which was  
13 close to the Railroad’s crossing at Sahuarita Road.

14 2. According to the Staff Report, Sahuarita Road is currently a two lane roadway which  
15 runs east and west with a left hand turning lane which begins before the Railroad’s at-grade crossing  
16 for vehicles that are traveling west.

17 3. The existing at-grade crossing has automatic warning devices consisting of flashing  
18 lights, automatic gates, bells and a cantilever with flashing lights for west bound traffic along with  
19 advance warning signs and pavement markings.

20 4. Sahuarita Road is to be widened to four lanes, as it approaches the Railroad’s crossing  
21 from the east and proceeds to the west toward the realigned Highway. The improvements will include  
22 a raised median with automatic gates, flashing LED lights, bells, curbside automatic gates with  
23 flashing LED lights, a new concrete crossing surface and advance warning signage. The result of the  
24 road widening project and the realignment project should be less congestion in the Town and a more  
25 safe Railroad crossing with the elimination of turns onto the old Highway.

26  
27 \_\_\_\_\_  
28 <sup>1</sup> Several times since 2007, the Town, the Railroad and Staff have met regarding this project. On May 21, 2013, a field diagnostic meeting was held at the project site with all parties present.

1           5.       On August 6, 2013, the Town filed certification that it had provided public notice of  
2 the Application and hearing thereon pursuant Commission's Procedural Order by publishing notice in  
3 the *Sahuarita Sun* and the *Arizona Daily Star*, newspapers of general circulation in the area where the  
4 crossing is located, and by mailing by certified U.S. mail, notice to the Railroad and Farmer's  
5 Investment Company ("FICO")<sup>2</sup> a copy of the Application and the Procedural Order.

6           6.       The hearing was held as scheduled on October 8, 2013.

7           7.       Mr. Joel Harris, the Town's assistant engineer, testified in support of the Application.

8           8.       Mr. Harris testified that he is the project manager for the design and the construction  
9 of the roadway widening improvement project on Sahuarita Road, approximately two miles east of  
10 Interstate 19. (Tr. 8:12-22)

11          9.       Mr. Harris stated that the Town had complied with the Commission's Procedural  
12 Order and filed confirmation of public notice of the Application and hearing. (Tr. 9:13-21)

13          10.       The areas surrounding the Sahuarita Road at-grade crossing are zoned  
14 Rural/Homestead and include existing pecan tree orchards, rural residential and light  
15 industrial/warehousing, and also include an area zoned for general business and general industrial  
16 uses.

17          11.       The Town's Sahuarita Road project is in its second phase and involves a three-and-a-  
18 half-mile corridor for the widening of the roadway to improve both the level of service and safety at  
19 the Railroad's at-grade crossing for vehicular traffic on Sahuarita Road. (TR. 10-12)

20          12.       The Sahuarita Road crossing is adjacent to the area where the former Anamax Mine  
21 Spur ("Spur") crossed the old Highway before the old Spur crossing was closed and relocated as  
22 approved in Decision No. 72726 (January 6, 2012).

23          13.       Mr. Harris testified that in the vicinity of the previously existing Sahuarita Road and  
24 Nogales Highway intersection, the Spur had intersected with both the south leg of the Highway and  
25 the east side of the Sahuarita Highway and during "red light conditions vehicles would stack up and  
26 park in two legs of the intersection which essentially shuts down the third and fourth legs" creating  
27

28 <sup>2</sup> FICO operates a large pecan tree orchard and nut processing facility adjacent to the tracks of the Railroad.

1 congestion during traffic or train crossings and causing safety issues to arise when drivers would  
2 disobey traffic control devices and stop on the crossings. (Tr. 12:5-13)

3 14. Mr. Harris testified that the new realignment of the Highway with Sahuarita Road lies  
4 to the west of the old intersection of the two roadways. The old section of the Highway as it existed  
5 previously has been physically removed. (Tr. 13-14:13-6)

6 15. Mr. Harris stated that the relocation of the intersection of Sahuarita Road with the  
7 realigned Highway (away from the crossings) has alleviated traffic issues, resulting in an  
8 improvement to the level of service and improved safety at the crossings. (Tr. 14:7-14)<sup>3</sup>

9 16. Mr. Harris testified that the Town has “a construction contract in place,” but has not  
10 yet directed the contractor to proceed with construction on Sahuarita Road and is hoping that  
11 construction will be started in January 2014. (Tr. 17:1-5)

12 17. On either side of Sahuarita Road where it crosses the Railroad’s tracks, there are two  
13 other public crossings of the Railroad’s tracks, one to the north, approximately 5.52 miles, and one to  
14 the south, approximately 4.35 miles. (Tr. 19:15-24)

15 18. The Sahuarita Road crossing will be improved as follows: the roadway will be  
16 expanded from two lanes to four lanes utilizing new state-of-the-art crossing gates with signals  
17 including bells, and LED flashing lights; the roadway will have a raised median with paved shoulders  
18 and curbs with sidewalks; new concrete crossing surfaces will be constructed where the Railroad’s  
19 tracks intersect with the travel lanes of the roadway; and advance warning signs and pavement  
20 markings will be installed. (Tr. 21:1-19)

21 19. According to Mr. Harris, the Town, which is the road authority for the crossing, has  
22 budgeted \$1.6 million for the improvements at the Sahuarita Road crossing.<sup>4</sup> (Tr. 21:20-24)

23 20. Mr. Harris stated that approximately eight thousand vehicles per day utilize the  
24 Sahuarita Road crossing of the Railroad’s tracks. (Tr. 22:14-20)

25 21. Mr. Harris further stated the Pima Association of Governments (“PAG”) projects that  
26 by 2030 approximately 28,500 vehicles per day will utilize the Sahuarita Road crossing. (Tr. 23:1-10)

27 <sup>3</sup> Another resulting benefit is that vehicles are no longer in close proximity to the crossings when red lights occur.

28 <sup>4</sup> Mr. Harris also mentioned the Regional Transportation Authority (“RTA”) is a primary funding partner for area roadway improvements.

1           22.    Mr. Harris testified that, once construction is complete and improvements have been  
2 made, the Town plans to increase the posted speed limit at the crossing from 40 miles per hour to 45  
3 miles per hour. (Tr. 23:17-19)

4           23.    Mr. Harris stated that the Town's research indicates that approximately eight trains per  
5 day utilize the Sahuarita Road crossing at an average speed of 10 to 25 miles per hour. (Tr. 24:1-4)

6           24.    The Sahuarita Unified School District has several schools in the area of the Sahuarita  
7 Road at-grade crossing and approximately one hundred school buses a day utilize the crossing.

8           25.    At one point in 2006, the Town was considering a six-lane project involving the  
9 construction of a grade separated crossing, but with the economic down turn and the reconsideration  
10 of population projections, the Town determined that the four-lane roadway with an upgraded at-grade  
11 crossing coupled with the realignment of the Highway was the best solution to traffic problems. (Tr.  
12 25-26:18-8)

13           26.    Mr. Harris stated that after considering the nine criteria in the Federal Highway  
14 Administration ("FHWA") Grade Crossing Handbook for the determination of whether to proceed  
15 with a grade separation, the Town determined that the Sahuarita Road crossing did not meet any of  
16 the criteria for a grade separated crossing to be constructed. (Tr. 26:9-15)

17           27.    It is believed that the relocation of the intersection of Sahuarita Road and the  
18 Highway, coupled with its realignment, was the most efficient method to address the Town's  
19 concerns with respect to the level of service and safety issues. (Tr. 27:8-25)

20           28.    Mr. Harris further testified that after considering all of the alternatives to the proposed  
21 upgrade of the crossing, the widening of Sahuarita Road and the realignment of the Highway were  
22 the two improvements that will work best to increase safety for the traveling public at the Railroad's  
23 at-grade crossing. (Tr. 29-30:25-3)

24           29.    Mr. Harris stated that while the permanent improvements to the at-grade crossing of  
25 the widened Sahuarita Road are being made, a temporary crossing just north of the existing at-grade  
26 crossing will be constructed to allow for the detour of traffic "to open up the whole crossing for both  
27 Union Pacific crews and our crews" to avoid problems arising from segmented construction. The  
28

1 temporary crossing will include gates, flags, and all of the state-of-the-art equipment just to the north  
2 of where the improvements will be made to the permanent crossing. (Tr. 35:1-14)

3 30. Mr. Harris estimates that, if construction on the improvements are started in January  
4 2014, in 12 to 16 months construction should be completed. (Tr. 37:13-19)

5 31. Mr. Harris testified that the Town is in agreement with Staff's recommendations with  
6 respect to the Application. (Tr. 32:11-13)

7 32. Mr. Alex Popovici, the Manager of Industry and Public Projects for the Railroad in  
8 Arizona, testified that the Railroad will also be installing an additional set of flashers to warn  
9 pedestrians along the roadway, because the Sahuarita Road crossing is longer than usual. (Tr. 41:6-  
10 22)

11 33. Mr. Chris Watson, an Assistant Supervisor and Grade Crossing Inspector for the  
12 Commission, testified that he had prepared the Staff Memorandum which describes the nature of the  
13 Town's proposed improvements at the Sahuarita Road crossing. (Tr. 44-45:24-1)

14 34. Mr. Watson said his investigation did not reveal any accidents at the crossing. (Tr.  
15 46:4-10)

16 35. Based on Mr. Watson's analysis, a grade separated crossing is not warranted at this  
17 time. (Tr. 46:15-19)

18 36. Mr. Watson further stated that the proposed improvements to the Sahuarita Road at-  
19 grade crossing are consistent with similar crossings throughout Arizona and will protect the public  
20 interest and will improve safety. (Tr. 46:20-23)

21 37. Staff is recommending that the Application be approved.

#### 22 CONCLUSIONS OF LAW

23 1. The Commission has jurisdiction over the parties and over the subject matter of the  
24 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and  
25 40-337.01.

26 2. Notice of the Application was provided in accordance of the law.

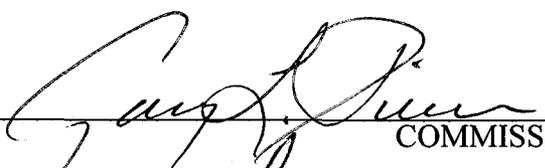
27 3. Installation of the crossing upgrade is necessary for the public's convenience and  
28 safety.

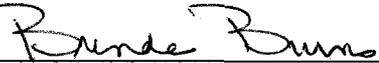


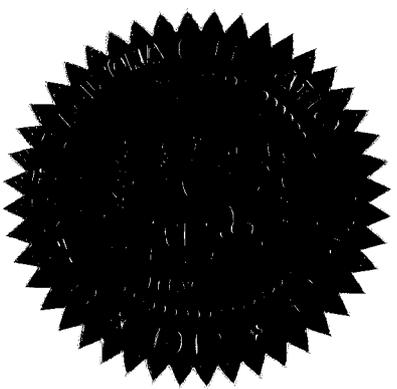
1 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Union Pacific  
2 Railroad shall maintain the crossing in compliance with A.A.C. R14-5-104.

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

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5  
6  
7  CHAIRMAN  COMMISSIONER

8  COMMISSIONER  COMMISSIONER  COMMISSIONER



11 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
12 Director of the Arizona Corporation Commission, have  
13 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 7<sup>th</sup> day of January ~~2013~~  
16 2014

17   
18 JODI JERICH  
19 EXECUTIVE DIRECTOR

20 DISSENT \_\_\_\_\_

21 DISSENT \_\_\_\_\_  
22 MS:ru

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD COMPANY

2 DOCKET NO.: RR-03639A-13-0193

3 Alex Popovici, Manager  
4 Industry & Public Projects  
5 UNION PACIFIC RAILROAD COMPANY  
6 631 South 7<sup>th</sup> Street  
7 Phoenix, AZ 85734

8 Anthony J. Hancock  
9 Terrance L. Sims  
10 BEAUGUREAU, ZUKOWSKI & HANCOCK, P.C.  
11 302 East Coronado  
12 Phoenix, AZ 85004  
13 Attorneys for Union Pacific Railroad Co.

14 Vicki Bever  
15 Manager, Utility & Railroad Engineering  
16 ARIZONA DEPARTMENT OF TRANSPORTATION  
17 205 South 17<sup>th</sup> Avenue, M/D 618E  
18 Phoenix, AZ 85007

19 Daniel J. Hochuli  
20 Town Attorney  
21 TOWN OF SAHUARITA  
22 375 West Sahuarita Center Way  
23 Sahuarita, AZ 85269

24 Joel T. Harris  
25 Department of Public Works  
26 TOWN OF SAHUARITA  
27 375 West Sahuarita Center Way  
28 Sahuarita, AZ 85269

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

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

24  
25  
26  
27  
28