



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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Arizona Corporation Commission
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MAR 25 2014

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IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE ARIZONA
EASTERN RAILWAY COMPANY AT US 191
AND 8TH STREET IN THE CITY OF SAFFORD,
GRAHAM COUNTY, ARIZONA, AAR/DOT NO.
742-211V.

DOCKET NO. RR-02634A-14-0089

ORIGINAL

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On March 17, 2014, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Arizona Eastern Railway Company ("Railroad") to upgrade an existing crossing at US 191 and 8th Street in the City of Safford ("City"), Graham County, Arizona at AAR/DOT No. 742-211V ("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 request of the Arizona Department of Transportation shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S. §§ 40-337, *et seq.*

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **June 2, 2014, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 2, Phoenix, Arizona.

IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural Order, **THE ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**

1 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by
2 the application with a copy of the application and this Procedural Order by certified mail.

3 IT IS FURTHER ORDERED that the Commission's Safety Division, Railroad Safety Section
4 ("Staff") shall prepare a written **Staff Report and associated exhibits** to be presented at hearing and
5 file copies of them with Docket Control on or before 4:00 p.m. on **May 20, 2014**.

6 IT IS FURTHER ORDERED that any **comments or objections to the Staff Report and**
7 **associated exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00
8 p.m. on **May 29, 2014**.

9 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
10 105, except that all motions to intervene must be filed on or before **May 5, 2014**.

11 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall provide
12 **public notice** of the hearing in this matter, in the following form and style:

13 **IN THE MATTER OF THE APPLICATION OF THE ARIZONA**
14 **DEPARTMENT OF TRANSPORTATION TO UPGRADE AN**
15 **EXISTING CROSSING OF THE ARIZONA EASTERN RAILWAY**
16 **COMPANY AT US 191 AND 8TH STREET IN SAFFORD, GRAHAM**
COUNTY, ARIZONA, USDOT NO. 742-211V.
(DOCKET NO. RR-02634A-14-0089)

17 On March 4, 2014, the Arizona Department of Transportation ("Applicant") filed
18 with the Arizona Corporation Commission ("Commission") an application for
19 approval for the Arizona Eastern Railway Company to upgrade an existing crossing at
US 191 and 8th Street in Safford, Graham County, Arizona at AAR/DOT No. 742-
211V.

20 The application is available for inspection during regular business hours at the
21 Commission's offices, 1200 West Washington Street, Phoenix, Arizona, and on the
internet via the Commission website (www.azcc.gov) using the e-docket function.

22 The Commission will hold a hearing on this matter commencing on June 2, 2014, at
23 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Hearing
Room No. 2, Phoenix, Arizona. Public comments will be taken on the first day of
the hearing.

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

28 ...

- 1 1. The name, address, and telephone number of the proposed intervenor and of
2 any party upon whom service of documents is to be made if different than the
3 intervenor.
- 4 2. A short statement of the proposed intervenor's interest in the proceeding (e.g.,
5 a customer of Railroad, a neighboring property owner, a crossing user, etc.).
- 6 3. A statement certifying that a copy of the motion to intervene has been mailed
7 to the Applicant or its counsel and to all parties of record in the case.

8 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
9 that all motions to intervene must be filed on or before May 5, 2014. The granting
10 of intervention, among other things, entitles a party to present sworn evidence at
11 hearing and to cross-examine other witnesses. However, failure to intervene will not
12 preclude any interested party from appearing at the hearing and making a statement
13 on such person's own behalf.

14 If you have any questions about this application, you may contact the Applicant at
15 [insert telephone number]. If you wish to file written comments on the application
16 or want further information on intervention, you may write the Consumer Services
17 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, call
18 602-542-4251 or 1-800-222-7000, or appear at the hearing and make comment.

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

25 IT IS FURTHER ORDERED that the Arizona Department of Transportation shall cause the
26 above notice to be published at least once in a newspaper of general circulation in the city/county
27 where the crossing is located, with **publication to be completed no later than April 22, 2014.**

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

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

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
Communications) applies to this proceeding as the matter is now set for public hearing.

...

1 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court
2 Rules 31, 38, and 42 and A.R.S. § 40-243 with respect to practice of law and admission *pro hac*
3 *vice*.

4 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
5 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
6 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
7 all hearings and procedural conferences, as well as all Open Meetings for which the matter is
8 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
9 Administrative Law Judge.

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

13 DATED this 25th day of March, 2014.

14 
15 _____
16 SCOTT M. HESLA
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 25th day of March, 2014 to:

19 Terry R. Vanderplas
20 Vice President
ARIZONA EASTERN
RAILWAY COMPANY
21 P.O. Box 2200
Claypool, Arizona 85532

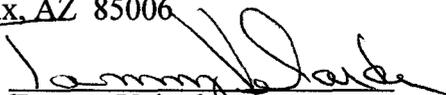
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Phoenix, AZ 85007

22 Jason Pike
23 Railroad and Utility Coordinator
ARIZONA DEPARTMENT
OF TRANSPORTATION
24 205 S. 17th Avenue, Room 357 MD 618E
Phoenix, AZ 85007

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

25 Kenny Angle, County Attorney
26 GRAHAM COUNTY
800 West Main Street
27 Safford, Arizona 85546

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1802 North 7th Street
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By: 
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Assistant to Scott M. Hesla