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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

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

DOCKETED BY 

DOCKET NO. RR-02635B-14-0158

IN THE MATTER OF THE APPLICATION OF
THE ARIZONA DEPARTMENT OF
TRANSPORTATION TO UPGRADE AN
EXISTING CROSSING OF THE BURLINGTON
NORTHERN AND SANTA FE RAILWAY
COMPANY AT THE INTERSECTION OF SR 303L
AND US 60, MARICOPA COUNTY, ARIZONA,
AT MP 167.77

ORIGINAL

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On May 13, 2014, 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 (“Railroad”) to upgrade an existing crossing at the intersection of SR 303L and US 60, Maricopa County, Arizona, at milepost 167.77 (“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 **August 25, 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 **August 7, 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 **August 18, 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 **July 23, 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 BURLINGTON NORTHERN AND**
16 **SANTA FE RAILWAY COMPANY AT THE INTERSECTION OF**
SR 303L AND US 60, MARICOPA COUNTY, ARIZONA, AT
MP 167.77. (DOCKET NO. RR-02635B-14-0158)

17 On May 13, 2014, the Arizona Department of Transportation ("ADOT") filed with
18 the Arizona Corporation Commission ("Commission") an application for approval for
19 the Burlington Northern and Santa Fe Railway Company ("Railroad") to upgrade an
existing crossing at the intersection of SR 303L and US 60, Maricopa County,
Arizona, at milepost 167.77 ("Application").

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 August 25,
23 2014, at 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
24 day of the hearing.

25 The law provides for an open public hearing at which, under appropriate
26 circumstances, interested parties may intervene. Intervention shall be permitted to
27 any person entitled by law to intervene and having a direct and substantial interest in
the matter. Persons desiring to intervene must file a written motion to intervene with
28 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:

- 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 July 23, 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 July 9, 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 28th day of May, 2014.


SCOTT M. HESLA
ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 28th day of May, 2014 to:

19 Sayeed M. Hani
20 Railroad and Utility Coordinator
21 ARIZONA DEPARTMENT
22 OF TRANSPORTATION
23 205 S. 17th Avenue, Room 357 MD 618E
24 Phoenix, AZ 85007

ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

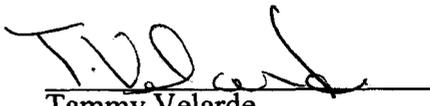
Brian Lehman, Chief
Railroad Safety Section of the Safety Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

22 Melvin V. Thomas
23 Manager Public Projects
24 BURLINGTON NORTHERN SANTA FE
25 RAILWAY COMPANY
26 740 East Carnegie Drive
27 San Bernardino, CA 92408-3571

COASH & COASH, INC.
Court Reporting,
Video and Videoconferencing
1802 North 7th Street
Phoenix, AZ 85006

26 City of Surprise Attorneys' Office
27 16000 N. Civic Center Plaza
28 Surprise, AZ 85374

Janice Alward, Chief Counsel
Legal Division

By: 
Tammy Velarde
Assistant to Scott M. Hesla