

OPEN MEETING ITEM



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



ARIZONA CORPORATION COMMISSION

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2014 JUL -2 A 11: 33

DATE: JULY 2, 2014

DOCKET NO.: RR-02634A-14-0089

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

TO ALL PARTIES:

**ORIGINAL**

Enclosed please find the recommendation of Administrative Law Judge Scott M. Hesla. The recommendation has been filed in the form of an Opinion and Order on:

ARIZONA EASTERN RAILWAY COMPANY  
(UPGRADE CROSSING)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JULY 11, 2014

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JULY 22, 2014 and JULY 23, 2014

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

**DOCKETED**

JUL 2 2014

DOCKETED BY

JODI JERICH  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

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  
HIGHWAY 191 AND 8<sup>TH</sup> STREET IN THE CITY  
OF SAFFORD, GRAHAM COUNTY, ARIZONA,  
AAR/DOT NO. 742-211V.

DOCKET NO. RR-02634A-14-0089

DECISION NO. \_\_\_\_\_

OPINION AND ORDER

DATE OF HEARING: June 2, 2014  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Scott M. Hesla  
APPEARANCES: Mr. James Redpath, Assistant Attorney General,  
Transportation Section, on behalf of the Arizona  
Department of Transportation; and  
Ms. Bridget Humphrey, Staff Attorney, Legal Division  
on behalf of the Safety Division of the Arizona  
Corporation Commission.

BY THE COMMISSION:

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the  
Commission finds, concludes, and orders that:

FINDINGS OF FACT

Procedural History

1. 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 8<sup>th</sup> Street in  
the City of Safford ("City"), Graham County, Arizona at AAR/DOT No. 742-211V.

1           2.       On March 25, 2014, a Procedural Order was issued establishing various filing dates  
2 and scheduling a hearing for June 2, 2014.

3           3.       On May 20, 2014, the Commission's Safety Division, Railroad Safety Section  
4 ("Staff") filed a Staff Memorandum recommending approval of the application.

5           4.       On May 29, 2014, ADOT filed documentation that it had provided public notice of the  
6 Application and hearing thereon.

7           5.       On June 2, 2014, a full public hearing was convened, as scheduled. ADOT and Staff  
8 appeared through counsel. At the conclusion of the hearing, the matter was taken under advisement  
9 pending submission of a Recommended Opinion and Order to the Commission.

10 **ADOT's Application**

11           6.       Prior to the filing of the Application, representatives of ADOT, the City, the Railroad,  
12 and Staff participated in several diagnostic review meetings of the proposed upgrades for the  
13 crossing. All parties who were present at these meetings were in agreement that the proposed  
14 enhancements would improve safety at the crossing.

15           7.       In its Application, ADOT is seeking Commission approval to upgrade the existing at-  
16 grade crossing at US Highway 191, which consists of one northbound through lane, one northbound  
17 left turn lane, and one southbound through lane. The crossing is currently equipped with automatic  
18 gates, flashing lights, cantilevers, and bells. The proposed improvements consist of installing two  
19 new automatic gates with LED flashing lights on the outside curbs of US Highway 191, upgrading  
20 the existing lighting on the southbound cantilever with LED flashing lights, and replacing the existing  
21 northbound cantilever with an extended cantilever with LED flashing lights that will cover current  
22 and future lanes of traffic. Constant warning time circuitry will also be installed. Additionally, a  
23 new concrete surface will be installed at the crossing.

24           8.       The proposed upgrade of the crossing was approved by the Commission in Decision  
25 No. 72020 (December 10, 2010) as part of the 2010 Annual Array to utilize federal funding pursuant  
26 to 23 U.S.C. § 130 ("Section 130"). Once a crossing has been designated on an Annual Array, the  
27 Federal Highway Administration ("FHWA") issues authorizations for the design and construction of  
28 the project and then reimburses ADOT for the cost after conducting a final inspection of the project.

1 Section 130 projects are used to eliminate hazards to pedestrians and highway vehicles at public  
2 railroad crossings which are not primarily for the benefit of the Railroad.

3 9. Mr. Jason Pike, ADOT's Railroad Coordinator for Section 130 projects, testified in  
4 support of the Application.

5 10. Mr. Pike testified that the proposed upgrades are part of an existing ADOT project to  
6 widen US Highway 191 by two additional lanes. (Tr. 6:6-8). According to Mr. Pike, the existing  
7 northbound cantilever needs to be replaced by a larger cantilever to accommodate ADOT's roadway  
8 expansion project. (Tr. 9:11-21). Mr. Pike indicated that the proposed upgrades are compliant with  
9 all state and federal regulations. (Tr. 10:5-7).

10 11. Mr. Pike testified that the project will be funded entirely by the FHWA. (Tr. 10:18-  
11 20).

12 12. Testifying further, Mr. Pike stated that construction on the project is expected to begin  
13 in August of 2014 and will take approximately one month to complete. (Tr. 9:1-10).

14 13. Mr. Chris Watson, Assistant Supervisor of Railroad Safety for the Commission,  
15 testified that he had prepared the Staff Memorandum which describes the nature of ADOT's  
16 proposed upgrade at the crossing. (Tr. 12:2-14).

17 14. Mr. Watson testified that the proposed upgrades are compliant with all state and  
18 federal regulations. (Tr. 13:16-18).

19 15. Mr. Watson further testified that the proposed upgrades will improve the safety of the  
20 crossing and are in the public interest. (Tr. 14:15-17; Tr. 13:12-15).

21 16. According to the Staff Memorandum, construction of a grade separated crossing is not  
22 warranted due to the overall high cost to construct a grade separated crossing. In addition, Mr. Pike  
23 testified that the crossing did not meet any of the nine criteria utilized by FHWA for consideration of  
24 grade separation. (Tr. 8:14-18).

25 17. In its Staff Memorandum, Staff states that it does not recommend closing the crossing.  
26 According to Staff, crossing closure would cause considerable traffic difficulties and would have a  
27 negative impact on numerous businesses and residences in the area.

28 18. Staff recommends that the Application be approved. (Tr. 13:19-21).

1 19. Staff's recommendations are reasonable and appropriate and should be adopted.

2 CONCLUSIONS OF LAW

3 1. The Commission has jurisdiction over the parties and over the subject matter of the  
4 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and  
5 40-337.01.

6 2. Notice of the Application was provided in accordance with the law.

7 3. The installation of the crossing upgrade is necessary for the public's convenience and  
8 safety.

9 4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as  
10 recommended by Staff.

11 5. After the installation of the improvements at the US Highway 191 and 8<sup>th</sup> Street  
12 crossing, the Arizona Eastern Railway Company should maintain the crossing in accordance with  
13 A.A.C. R14-5-104.

14 ORDER

15 IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application  
16 is hereby approved.

17 IT IS FURTHER ORDERED that the Arizona Eastern Railway Company shall complete the  
18 crossing upgrade as described in the Application within fifteen months of the effective date of this  
19 Decision.

20 IT IS FURTHER ORDERED that the Arizona Eastern Railway Company shall notify the  
21 Commission, in writing, within ten days of both the commencement and completion of the crossing  
22 upgrade, pursuant to A.A.C. R14-5-104.

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1 IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Arizona  
2 Eastern Railway Company 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.

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6

7 CHAIRMAN \_\_\_\_\_ COMMISSIONER

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9 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

10

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 \_\_\_\_\_ day of \_\_\_\_\_ 2014.

14

15 JODI JERICH  
16 EXECUTIVE DIRECTOR

17 DISSENT \_\_\_\_\_

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19 DISSENT \_\_\_\_\_  
20 SMH:ru

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