

CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER



0000156559

BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: JULY 13, 2000
DOCKET NO: RR-02634A-00-0193
TO ALL PARTIES:

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

ARIZONA AND EASTERN RAILWAY COMPANY
(AT-GRADE)

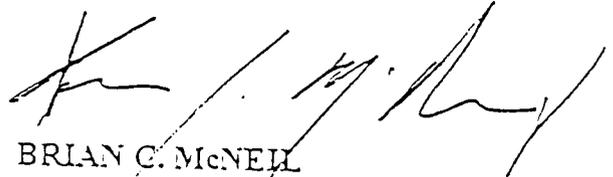
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

JULY 21, 2000

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

AUGUST 1, 2000 and AUGUST 2, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 WILLIAM A. MUNDELL
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
7 THE CITY OF SAFFORD, ARIZONA TO
8 ESTABLISH A CROSSING FOR THE ARIZONA
AND EASTERN RAILWAY COMPANY, AT 14TH
AVENUE AND 8TH STREET.

DOCKET NO. RR-02634A-00-0193

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: June 28, 2000

10 PLACE OF HEARING: Phoenix, Arizona

11 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

12 APPEARANCES: Mr. Robert Metli, Staff Attorney, Legal Division, on
13 behalf of the Utilities Division of the Arizona
Corporation Commission.

14 **BY THE COMMISSION:**

15 On March 17, 2000 the City of Safford, Arizona ("City") submitted to the Arizona
16 Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an
17 agreement between the City and the Arizona and Eastern Railway Company ("Company") to
18 construct a new at-grade railroad crossing at 14th Avenue and 8th Street in Safford, Graham County,
19 Arizona ("Application"). The Application was docketed on March 24, 2000.

20 On April 5 2000, by Procedural Order, the Application was set for a hearing and the City was
21 ordered to notify any interested party of the Application and the hearing.

22 On April 11, 2000, the City filed certification that notice had been provided pursuant to the
23 terms of the Procedural Order.

24 On April 19, 2000 the Utilities Division ("Staff") filed its report.

25 Subsequently, the proceeding was continued to a later date.

26 On June 28, 2000, a full public hearing was held before a duly authorized Administrative Law
27 Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the
28 matter was taken under advisement pending submission of a recommended Opinion and Order to the

1 Commission.

2 * * * * *

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

5 **FINDINGS OF FACT**

6 1. On March 24, 2000, the City filed an Application in which it requested an Opinion and
7 Order from the Commission with respect to an agreement between the City and the Company for the
8 construction of a new at-grade crossing at 14th Avenue and 8th Street with automatic gates and
9 flashing light signals in Safford, Graham County, Arizona.

10 2. On April 10, 2000, the City provided notice by registered U.S. mail of the Application
11 and hearing.

12 3. A hearing was held as scheduled on June 28, 2000.

13 4. The Application provides for the Company to construct a new at-grade crossing at 14th
14 Avenue and 8th Street with automatic gates and flashing light signals.

15 5. The City and the Company agree that the existing crossing at 3rd Avenue and 8th Street
16 should be closed when the new at-grade crossing at 14th Avenue and 8th Street is opened.

17 6. Staff testified that the cost apportionment for the installation of the new at-grade
18 crossing as provided in the Application will be born by the City.

19 7. The City will maintain the roadway and the Company will maintain the crossing.

20 8. Staff has recommended that the Application be approved with the Company closing its
21 existing crossing at 3rd Avenue and 8th Street either before or concurrently with the opening of the
22 new at-grade crossing at 14th Avenue and 8th Street.

23 9. Both the City and the Company concur with Staff's recommendation.

24 **CONCLUSIONS OF LAW**

25 1. The Commission has jurisdiction over the parties and over the subject matter of the
26 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
27 40-337.01.

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

1 IT IS FURTHER ORDERED that upon completion of the new at-grade crossing, the Arizona
2 and Eastern Railway Company shall maintain the crossing in compliance with the 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

COMMISSIONER

8
9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
10 Secretary of the Arizona Corporation Commission, have
11 hereunto set my hand and caused the official seal of the
12 Commission to be affixed at the Capitol, in the City of Phoenix,
13 this ____ day of _____, 2000.

14 _____
BRIAN C. McNEIL
EXECUTIVE SECRETARY

15 DISSENT _____
16 MES:dap

1 SERVICE LIST FOR:

ARIZONA and EASTERN RAILWAY COMPANY

2 DOCKET NO.

RR-02634A-00-0193

3

4 Irval L. Mortensen
CITY OF SAFFORD
717 Main Street
5 P.O. Box 272
Safford, Arizona 85548-0272

6

7 Donald Tolle
ARIZONA EASTERN RAILWAY CO.
P.O. Box Y
8 Claypool, Arizona 85532

9

Lyn Farmer, Chief Counsel
Legal Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
11 Phoenix, Arizona 85007

12

Deborah Scott, Director
Utilities Division
13 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
14 Phoenix, Arizona 85007

15

Don Thompson, Railroad Safety Supervisor
Office of Railroad Safety
16 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
17 Phoenix, Arizona 85007

18

19

20

21

22

23

24

25

26

27

28