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



BRIAN C. McNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: September 22, 2000

DOCKET NO.: RR-03639A-99-0400

TO ALL PARTIES:

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

UNION PACIFIC RAILROAD COMPANY
(AT-GRADE 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 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:

OCTOBER 2, 2000

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 Working Session and Open Meeting to be held on:

OCTOBER 24, 2000 AND OCTOBER 25, 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 TOWN OF SAHUARITA, ARIZONA TO
8 ESTABLISH A NEW RAILROAD CROSSING
9 WITH AUTOMATIC WARNING DEVICES AT
10 THE TRACKS OF THE UNION PACIFIC
11 RAILROAD COMPANY AT M.P. 1009.18.

DOCKET NO. RR-03639A-00-0560

12 DECISION NO. _____

13 **OPINION AND ORDER**

14 DATE OF HEARING: September 6, 2000

15 PLACE OF HEARING: Phoenix, Arizona

16 ADMINISTRATIVE LAW JUDGE: Marc E. Stern

17 APPEARANCES: Mr. Jeffrey Guldner, SNELL & WILMER, on behalf of
18 Madera Highlands, L.L.C. and;

19 Mr. Robert Metli, Staff Attorney, Legal Division, on
20 behalf of the Utilities Division of the Arizona
21 Corporation Commission.

22 **BY THE COMMISSION:**

23 On July 18, 2000, the Town of Sahuarita ("Town") submitted to the Arizona Corporation
24 Commission ("Commission") a request for an Opinion and Order for the approval of an agreement
25 between the Town and the Union Pacific Railroad ("Railroad") for the installation of a new public
26 railroad crossing with flashing lights and gates at the Madera Highlands Subdivision, Sahuarita,
27 Arizona, at milepost 1009.18 ("Application"). The Town requested approval to construct on behalf
28 of the Railroad. The Application was docketed on July 31, 2000.

On August 14, 2000, by Procedural Order, the Application was set for a hearing and the Town
was ordered to notify any interested party of the Application and the hearing.

On August 22, 2000, the Town filed certification that notice had been provided pursuant to
the terms of the Procedural Order.

On September 6, 2000, a full public hearing was held before a duly authorized Administrative
Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing,

1 the matter was taken under advisement pending submission of a Recommended Opinion and Order to
2 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 July 18, 2000, the Town filed an Application in which it requested an Opinion and
8 Order from the Commission with respect to an agreement between the Town and the Railroad for the
9 installation of a new public railroad crossing with flashing lights and gates with a concrete surface at
10 the Madera Highlands Subdivision, Sahuarita, Arizona, at milepost 1009.18.

11 2. On August 21, 2000, the Town provided notice by regular U.S. mail of the
12 Application and hearing thereon.

13 3. A hearing was held as scheduled on September 6, 2000.

14 4. The Application provides for the Railroad to construct a new crossing with flashing
15 lights, gates, and a concrete crossing surface.

16 5. Staff testified that the cost for the installation of the new crossing with lights and gates
17 as provided in the Application will be paid by the developer of Madera Highlands.

18 6. Staff has recommended that the Application be approved.

19 **CONCLUSIONS OF LAW**

20 1. The Commission has jurisdiction over the parties and over the subject matter of the
21 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
22 40-337.01.

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

24 3. Installation of the new crossing with lights and gates is necessary for the public's
25 convenience and safety.

26 4. The Application should be approved as recommended by Staff.

27 5. After installation of the crossing, the Railroad should maintain the crossing in
28 accordance with A.A.C. R14-5-104.

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ORDER

IT IS THEREFORE ORDERED that the Town of Sahuarita's Application is hereby approved.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete the construction of the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Union Pacific Railroad shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

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

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

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

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
MES:bbs

1 SERVICE LIST FOR: UNION PACIFIC RAILROAD

2 DOCKET NO. RR-03639A-99-0400

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