

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



BRIAN C. McNEIL  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: December 17, 1999  
DOCKET NO.: RR-03639A-99-0640

TO ALL PARTIES:

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

UNION PACIFIC RAILROAD  
(AT-GRADE CROSSING)

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:

DECEMBER 27, 1999

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:

JANUARY 5, 2000 AND JANUARY 6, 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

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BEFORE THE ARIZONA CORPORATION COMMISSION

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

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO INSTALL NEW  
FLASHING LIGHTS AT A CROSSING OF THE  
UNION PACIFIC RAILROAD AT SILVER LAKE  
ROAD, TUCSON, ARIZONA, M.P. BAN 986.06.

DOCKET NO. RR-03639A-99-0640

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

**OPINION AND ORDER**

DATE OF HEARING: December 2, 1999  
PLACE OF HEARING: Phoenix, Arizona  
PRESIDING OFFICER: Marc E. Stern  
APPEARANCES: Mr. Robert Metli, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On November 2, 1999, the Arizona Department of Transportation ("ADOT") submitted to the Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the approval of an agreement between ADOT and the Union Pacific Railroad ("Railroad") to install new flashing lights at Silver Lake Road, Tucson, Arizona, at milepost BAN986.06 ("Application"). ADOT requested approval to construction behalf of the Railroad. The application was docketed on November 9, 1999.

On November 15, 1999, by Procedural Order, the Application was set for a hearing and ADOT was ordered to notify any interested party of the Application and the hearing.

On November 19, 1999, ADOT filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On December 2, 1999, a full public hearing was held before a duly authorized Hearing Officer of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the 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 November 2, 1999, ADOT filed an Application in which it requested an Opinion  
7 and Order from the Commission with respect to an agreement between ADOT and the Railroad for  
8 the installation of new and larger flashing lights and the replacement of a wooden crossing with a  
9 concrete surface at Silver Lake Road south of Tucson, Arizona, at milepost BAN986.06.

10 2. On November 18, 1999, ADOT provided notice by registered U.S. mail of the  
11 Application and hearing thereon.

12 3. A hearing was held as scheduled on December 2, 1999.

13 4. The Application provides for the Railroad to upgrade the crossing with larger flashing  
14 lights and to replace wood planking with a concrete surface.

15 5. Staff testified that the cost apportionment for the installation of the crossing upgrade  
16 as provided in the Application was proper.

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

18 **CONCLUSIONS OF LAW**

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

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

23 3. Installation of the crossing upgrade is necessary for the public's convenience and  
24 safety.

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

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

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ORDER

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

IT IS FURTHER ORDERED that the Union Pacific Railroad shall complete 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
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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

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