

OPEN MEETING ITEM

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



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ARIZONA CORPORATION COMMISSION

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DATE: NOVEMBER 18, 2014

DOCKET NO.: RR-02636A-14-0181

**ORIGINAL**

TO ALL PARTIES:

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:

COPPER BASIN 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:

NOVEMBER 28, 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:

DECEMBER 11, 2014 and DECEMBER 12, 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**

NOV 18 2014

DOCKETED BY

JODI JERICHI  
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 [SBernal@azcc.gov](mailto:SBernal@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  
PINAL COUNTY FOR APPROVAL TO MODIFY  
AN EXISTING CROSSING OF THE COPPER  
BASIN RAILWAY COMPANY AS PART OF THE  
PROPOSED KELVIN BRIDGE REPLACEMENT  
PROJECT IN PINAL COUNTY, ARIZONA,  
USDOT NO. 742-396E.

DOCKET NO. RR-02636A-14-0181

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

**OPINION AND ORDER**

DATE OF HEARING: September 3, 2014  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Scott M. Hesla  
APPEARANCES: Mr. Seymour Gruber, Pinal County Attorney's Office,  
on behalf of Pinal County Public Works; and  
Ms. Bridget Humphrey and Mr. Robert Geake, Staff  
Attorneys, 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 June 6, 2014, Pinal County ("County") filed with the Arizona Corporation  
Commission ("Commission") an application for approval for the Copper Basin Railway Company  
("Railroad") to modify an existing at-grade crossing and construct a new grade-separated crossing as  
part of the Kelvin Bridge Replacement Project near the community of Kearny, Pinal County,  
Arizona, at USDOT NO. 742-396E.

1           2.       On June 24, 2014, a Procedural Order was issued establishing various filing dates and  
2 scheduling a hearing for September 3, 2014.

3           3.       On July 16, 2014, the County filed certification that it provided public notice in  
4 accordance with the Commission's Procedural Order.

5           4.       On August 19, 2014, the Commission's Safety Division, Railroad Safety Section  
6 ("Staff") filed a Staff Report recommending approval of the Application.

7           5.       On September 3, 2014, a full public hearing was convened before a duly authorized  
8 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The County and  
9 Staff appeared through counsel. At the conclusion of the hearing, the matter was taken under  
10 advisement pending the submission of a Recommended Opinion and Order to the Commission.

11 **The County's Application**

12           6.       In its Application, the County is seeking Commission approval to: (1) close an  
13 existing at-grade crossing to vehicular traffic and convert it into a pedestrian/equestrian only  
14 crossing; and (2) construct a new grade-separated crossing for vehicular traffic over the Railroad's  
15 tracks. The proposed upgrades will take place along the Florence-Kelvin Highway near the Gila  
16 River as part of the Kelvin Bridge Replacement Project. The Kelvin Bridge is located approximately  
17 200 feet south of the existing at-grade crossing.

18           7.       The existing at-grade crossing consists of one northbound through lane and one  
19 southbound through lane and is currently equipped with automatic gates, flashing lights, and bells.  
20 The proposed upgrades consist of removing the existing crossing signals and installing a  
21 pedestrian/equestrian maze and a new crossing surface. Additionally, the County will construct a  
22 new grade-separated crossing for vehicular traffic over the Railroad's tracks. The new grade-  
23 separated crossing will run parallel to the existing at-grade crossing and will retain the same lane  
24 configuration.

25           8.       Mr. Joe Ortiz, Project Manager for the Pinal County Public Works Department,  
26 testified in support of the Application.

27           9.       Mr. Ortiz testified that the proposed project is needed because the Kelvin Bridge is the  
28 only viable way to cross the Gila River for the communities of Kearny, Riverside, Winkelman, and

1 Hayden, Arizona. (Tr. 8:7-13). Mr. Ortiz stated that the Kelvin Bridge was constructed in 1916 and  
 2 has a very narrow two lane configuration. (Tr. 12:4-6). Mr. Ortiz indicated that the new grade-  
 3 separated crossing will provide wider traffic lanes than the existing at-grade crossing. (Tr. 12:22-  
 4 13:7).

5 10. Mr. Ortiz further testified that an equestrian/pedestrian maze is a series of chain link  
 6 fencing positioned in a manner that will force pedestrians and equestrians to look in both directions  
 7 before crossing the Railroad's tracks. (Tr. 10:22-11:2). According to Mr. Ortiz, the  
 8 pedestrian/equestrian maze will improve the safety of the existing at-grade crossing. (Tr. 11:3-5).

9 11. Testifying further, Mr. Ortiz stated that the County expects to solicit construction bids  
 10 from contractors in January or February of 2015 and estimated that the proposed project will be  
 11 completed within eighteen months. (Tr. 13:8-15).

12 12. Mr. Brian Lehman, Supervisor of Railroad Safety for the Commission, testified that he  
 13 had prepared the Staff Memorandum which describes the nature of the County's proposed  
 14 improvements. (Tr. 16:2-8).

15 13. Mr. Lehman testified that the proposed improvements are consistent with similar  
 16 crossings located throughout Arizona. (Tr. 17:9-20).

17 14. Mr. Lehman further testified that the proposed grade-separated crossing is a  
 18 significant safety improvement because vehicular traffic will no longer be at-grade with the rail  
 19 traffic. (Tr. 17:9-16). According to Mr. Lehman, the proposed improvements will result in a safer  
 20 crossing and are in the public interest. (Tr. 18:2-4).

21 15. Staff recommends that the Application be approved. (Tr. 18:5-8).

22 16. Staff's recommendations are reasonable and appropriate and should be adopted.

### CONCLUSIONS OF LAW

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

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

28 ...

1 3. The crossing upgrades described in the Application are necessary for the public's  
2 convenience and safety.

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

5 **ORDER**

6 IT IS THEREFORE ORDERED that Pinal County's Application is hereby approved.

7 IT IS FURTHER ORDERED that the Copper Basin Railway Company shall complete the  
8 crossing upgrades described in the Application within two years of the effective date of this Decision.

9 IT IS FURTHER ORDERED that the Copper Basin Railway Company shall notify the  
10 Commission, in writing, within ten days of both the commencement and completion of the crossing  
11 upgrades, pursuant to A.A.C. R14-5-104.

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

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

14  
15 CHAIRMAN

COMMISSIONER

16  
17 COMMISSIONER

COMMISSIONER

COMMISSIONER

18  
19 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
20 Director of the Arizona Corporation Commission, have  
21 hereunto set my hand and caused the official seal of the  
22 Commission to be affixed at the Capitol, in the City of Phoenix,  
23 this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

24 \_\_\_\_\_  
25 JODI JERICH  
26 EXECUTIVE DIRECTOR

27 DISSENT \_\_\_\_\_

28 DISSENT \_\_\_\_\_  
SMH:tv

1 SERVICE LIST FOR: COPPER BASIN RAILWAY COMPANY

2 DOCKET NO.: RR-02636A-14-0181

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