

ORIGINAL



0000163273

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

AZ CORP COMMISSION  
DOCKET CONTROL

2015 MAY 26 PM 3 10

COMMISSIONERS

Arizona Corporation Commission

SUSAN BITTER SMITH, Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

DOCKETED

MAY 26 2015

DOCKETED BY  
DAB

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE UNION  
PACIFIC RAILROAD AT GOLD HILL ROAD  
IN THE CITY OF NOGALES, SANTA CRUZ  
COUNTY, ARIZONA, USDOT NO. 742-032E.

DOCKET NO. RR-03639A-15-0147

**PROCEDURAL ORDER**  
**(Schedules Hearing)**

**BY THE COMMISSION:**

On May 8, 2015, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at Gold Hill Road in the City of Nogales ("City"), Santa Cruz County, Arizona at USDOT No. 742-032E ("Application").

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of the Arizona Department of Transportation shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S. § 40-337, et seq.

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **August 4, 2015, at 11:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within ten business days of receipt of this Procedural Order, **the ARIZONA DEPARTMENT OF TRANSPORTATION SHALL PROVIDE THE**

1 **RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by  
2 the application with a copy of the application and this Procedural Order by certified mail.

3 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall  
4 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of  
5 them with Docket Control on or before 4:00 p.m. on **July 10, 2015**.

6 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**  
7 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on **July**  
8 **24, 2015**.

9 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-  
10 105, except that all motions to intervene must be filed on or before **July 3, 2015**.

11 IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall provide  
12 **public notice** of the hearing in this matter, in the following form and style:

13 **IN THE MATTER OF THE APPLICATION OF**  
14 **THE ARIZONA DEPARTMENT OF TRANSPORTATION TO**  
15 **UPGRADE AN EXISTING CROSSING OF THE UNION PACIFIC**  
16 **RAILROAD AT GOLD HILL ROAD IN THE CITY OF NOGALES, SANTA**  
17 **CRUZ COUNTY, ARIZONA, USDOT NO. 742-032E.**  
18 **(DOCKET NO. RR-03639A-15-0147)**

19 On May 8, 2015, the Arizona Department of Transportation ("ADOT") filed with  
20 the Arizona Corporation Commission ("Commission") an application for approval  
21 for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at  
22 Gold Hill Road in the City of Nogales ("City"), Santa Cruz County, Arizona at  
23 USDOT No. 742-032E.

24 The application is available for inspection during regular business hours at the  
25 Commission's offices, 1200 West Washington Street, Phoenix, Arizona, and on the  
26 internet via the Commission website ([www.azcc.gov](http://www.azcc.gov)) using the e-docket function.

27 The Commission will hold a hearing on this matter commencing on **August 4, 2015,**  
28 **at 11:00 a.m.,** at the Commission's offices, 1200 West Washington Street, Hearing  
Room No. 1, Phoenix, Arizona. Public comments will be taken on the first day of  
the hearing.

The law provides for an open public hearing at which, under appropriate  
circumstances, interested parties may intervene. Intervention shall be permitted to  
any person entitled by law to intervene and having a direct and substantial interest in  
the matter. Persons desiring to intervene must file a written motion to intervene with  
the Commission, which motion should be sent to Applicant or its counsel and to all  
parties of record, and which, at the minimum, shall contain the following:

- 1           1.     The name, address, and telephone number of the proposed intervener and of  
2           any party upon whom service of documents is to be made if different than the  
            intervener.
- 3           2.     A short statement of the proposed intervener's interest in the proceeding (e.g.,  
4           a customer of Railroad, a neighboring property owner, a crossing user, etc.).
- 5           3.     A statement certifying that a copy of the motion to intervene has been mailed  
            to the Applicant or its counsel and to all parties of record in the case.

6           The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except  
7           that all motions to intervene must be filed on or before July 3, 2015. The granting  
8           of intervention, among other things, entitles a party to present sworn evidence at  
9           hearing and to cross-examine other witnesses. However, failure to intervene will not  
            preclude any customer from appearing at the hearing and making a statement on  
            such customer's own behalf.

10          If you have any questions about this application, you may contact the applicant at  
11          [insert telephone number]. If you wish to file written comments on the application  
12          or want further information on intervention, you may write the Consumer Services  
            Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007, call  
            602-542-4251 or 1-800-222-7000, or appear at the hearing and make comment.

13          The Commission does not discriminate on the basis of disability in admission to its  
14          public meetings. Persons with a disability may request a reasonable accommodation  
15          such as a sign language interpreter, as well as request this document in an  
            alternative format, by contacting Shaylin Bernal, ADA Coordinator, voice phone  
            number 602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as  
            early as possible to allow time to arrange the accommodation.

16          IT IS FURTHER ORDERED that **the Arizona Department of Transportation** shall cause  
17          the above notice to be published at least once in a newspaper of general circulation in the city/county  
18          where the crossing is located, with **publication to be completed no later than June 19, 2015**.

19          IT IS FURTHER ORDERED that notice shall be deemed complete upon the  
20          mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive  
21          the notice.

22          IT IS FURTHER ORDERED that **THE ARIZONA DEPARTMENT OF**  
23          **TRANSPORTATION SHALL FILE CERTIFICATION OF NOTICE WITH THE**  
24          **COMMISSION'S DOCKET CONTROL AS SOON AS PRACTICABLE** after the  
25          mailing/publication of notice ordered herein has been completed.

26          IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
27          Communications) applies to this proceeding as the matter is now set for public hearing  
28

1 IT IS FURTHER ORDERED that all parties must comply with Rule 31, 38, and 42 of the  
2 Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and  
3 admission *pro hac vice*.

4 IT IS FURTHER ORDERED that each party to this matter may opt to receive service of all  
5 Procedural and Recommended Orders issued by the Commission’s Hearing Division in this matter  
6 via e-mail rather than U.S. Mail, as permitted under A.A.C. R14-3-107(B). To exercise this option, a  
7 party shall send to [hearingsdivision@azcc.gov](mailto:hearingsdivision@azcc.gov), from the e-mail address at which the party desires to  
8 receive service, an e-mail request including the name of the party on whom service is to be made and  
9 the docket number for this matter. After a party receives an e-mail confirmation of its request from  
10 [hearingsdivision@azcc.gov](mailto:hearingsdivision@azcc.gov), the party will receive all future Procedural and Recommended Orders  
11 issued by the Hearing Division in this matter via e-mails to the address provided by the party, unless  
12 and until the party withdraws its request. Service of a document via e-mail shall be considered  
13 complete upon the sending of an e-mail containing the document to the e-mail address provided by a  
14 party, regardless of whether the party receives or reads the e-mail containing the document.

15 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
16 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
17 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
18 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
19 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
20 Administrative Law Judge or the Commission.

21 ...  
22 ...  
23 ...  
24 ...  
25 ...  
26 ...  
27 ...  
28 ...

1 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,  
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
3 ruling at hearing.

4 DATED this 26<sup>TH</sup> day of May, 2015.

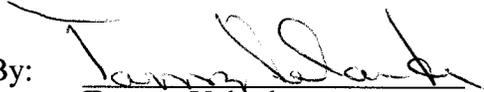
  
5  
6 MARCE. STERN  
7 ADMINISTRATIVE LAW JUDGE

8 Copies of the foregoing mailed/delivered  
9 this 26<sup>TH</sup> day of May, 2015 to:

10 Alex Popovici, Manager  
11 Industry & Public Projects  
12 UNION PACIFIC RAILROAD COMPANY  
13 631 South 7<sup>th</sup> Street  
14 Phoenix, AZ 85034-2203

COASH & COASH  
COURT REPORTING, VIDEO AND  
VIDEOCONFERENCING  
1802 North 7<sup>th</sup> Street  
Phoenix, AZ 85006

13 W Reed Campbell  
14 BEAUGUREAU, ZUKOWSKI  
15 & HANCOCK, P.C.  
16 302 East Coronado  
17 Phoenix, AZ 85004  
18 Attorneys for Union Pacific Railroad Company

By:   
19 Tammy Velarde  
20 Assistant to Marc Stern

21 Jason Pike  
22 Railroad and Utility Coordinator  
23 ARIZONA DEPARTMENT OF  
24 TRANSPORTATION  
25 205 South 17<sup>th</sup> Avenue, Room 357  
26 M/D 618E  
27 Phoenix, AZ 85007

28 City Attorney's Office  
CITY OF NOGALES  
777 N. Grand Avenue  
Nogales, AZ 85261

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

Brian Lehman, Chief  
Railroad Safety Section of the Safety Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007