

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

)	DOCKET NO. TR-020348
In the Matter of the Petition of)	
)	
WESTFARM FOODS,)	
)	
Petitioner,)	
)	
Seeking Exemption From WAC)	ORDER GRANTING EXEMPTION
480-60-050.)	
.....)	

BACKGROUND

1 On March 19, 2002, WestFarm Foods filed a petition requesting an exemption from the side clearance rules in WAC 480-60-050 for its facility located at 8424 Depot Road in Lynden, Washington. The Burlington Northern and Santa Fe Railway Co. provides rail services to the facility. The structures that create close clearance problems were constructed over 50 years ago. The Commission granted an exemption for one building in 1967. However, because a railroad employee was injured in the loading dock area at the plant several years ago, all interested parties agreed that the Commission should review the conditions at the plant, reconsider safety precautions, and issue an appropriate order.

DISCUSSION

2 Commission Staff investigated the petition. WestFarm Foods maintains a single railroad siding 776 feet in length on its property, which is operated by The Burlington Northern and Santa Fe Railway Co. (Railroad). The siding passes through a structure called the Lynden Feed building, around a second building and into a loading dock area. There are restricted clearances in the first building, and next to the second building, and there are severe clearance limitations in the loading dock area.

3 There are currently six warning signs that state "NO CLEARANCE" posted in
the area. One is posted east of Second Avenue and is attached to the Mile Post 11
sign on BNSF track. A sign is posted on each end of the Lynden Feed building.

4 A sign is posted on each side of the track next to Depot Road. A final sign is
posted at the entrance to the warehouse loading dock. Yellow paint currently
highlights all of the close clearance areas on buildings, loading docks and other
protrusions.

5 Notice of this petition, a copy of the petition, and a copy of the Staff investigation
report were provided to The Burlington Northern and Santa Fe Railway Co., the
Brotherhood of Locomotive Engineers, and the United Transportation Union.
The United Transportation Union sent a general objection to granting the
petition. The other organizations did not comment on the petition. When the
matter was presented at the open meeting on October 23, 2002, additional
information was provided that necessitated further investigation.

6 On November 6, 2002, representatives of Commission Staff, the Railroad, the
United Transportation Union, and WestFarm Foods met on-site in Lynden. The
safety concerns were viewed and discussed. An agreement was reached about
how the industry could be switched safely. The agreement included:

7 (1) Railroad employees will remain on the loading dock during switching
operations.

8 (2) A yellow line will be painted on the dock denoting a three-foot walkway
that will never be obstructed.

9 (3) A flashing red light will be installed in the loading dock area that railroad
employees can operate to alert forklift drivers not to operate in the dock
area.

- 10 (4) A detailed procedure for switching the industry will be maintained at the on-duty station in Sumas and on the Lynden Feed building where the first impaired clearance exists.
- 11 (5) The railroad shall publish permanent instructions for crews to review the written switching procedures when they go on duty and when they approach the Lynden Feed building.
- 12 Staff recommends that an additional sign be placed on the west side of the warehouse loading dock because rail cars are occasionally pushed through to the west side of the building. All other signs should be maintained. All yellow highlight paint should be maintained in a highly visible condition. If all of the precautions stated above are maintained, the safety reasons for requiring adherence to clearance rules at the specified location are reduced substantially.
- 13 If the petition is not approved, the railroad can drop cars at the industry site, but industry employees will have to maneuver the cars. Any safety problems will be transferred to nonrailroad employees who are unfamiliar with train operations. If the industry cannot be served by railroad, its costs will increase significantly.
- 14 Staff recommends the petition be approved subject to the conditions mentioned above.

FINDINGS AND CONCLUSIONS

- 15 (1) The Commissioners have reviewed the petition and been advised in the matter. It has jurisdiction pursuant to RCW 81.28.010 and RCW 81.04.460. Provided that the conditions recommended above are followed, granting the requested exemption is consistent with the public interest in

promoting transportation of commodities by rail without undermining the employee safety purposes underlying regulation.

ORDER

THE COMMISSION ORDERS:

16 The Commission grants the petition for an exemption from side clearance rules set forth in WAC 480-60-035 for buildings and loading docks at the facility owned by WestFarm Foods and located at 8424 Depot Road in Lynden on the following conditions:

- 17 (1) Signs warning employees of the close side clearance shall be maintained at the locations specified in the staff investigation report on file in this matter.
- 18 (2) The yellow paint marking the areas where clearances are less than the minimums prescribed by Commission rule shall be maintained in a condition that will alert employees to the location of the close clearance areas.
- 19 (3) Railroad employees will remain on the loading dock during switching operations
- 20 (4) A yellow line will be painted on the dock denoting a three-foot walkway that will never be obstructed.
- 21 (5) A flashing red light will be installed in the loading dock area that railroad employees can operate to alert forklift drivers not to operate in the dock area.

- 22 (6) A detailed procedure for switching the industry will be maintained
 at the on-duty station in Sumas and at the Lynden Feed building
 where the first impaired clearance exists.
- 23 (7) The railroad shall publish permanent instructions requiring crews
 to review the written switching procedures when they go on duty
 and when they approach the Lynden Feed building.

DATED at Olympia, Washington, and effective this 11th day of December, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner