

SERVICE DATE

NOV - 8 1995

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DANIEL T. MILLER,)

Complainant,)

vs.)

C. DAVID GEORGE, A. M. PARKE,)
and BURLINGTON NORTHERN)
RAILROAD,)

Respondents.)
.....)

LINCOLN COUNTY, WASHINGTON,)

Petitioner,)

vs.)

BURLINGTON NORTHERN)
RAILROAD COMPANY,)

Respondent.)
.....)

DOCKET NO. TR-940287

DOCKET NO. TR-940851

Docket No. TR-940287
Docket No. TR-940851
Docket No. TR-940852

LINCOLN COUNTY, WASHINGTON,)	
)	
Petitioner,)	DOCKET NO. TR-940852
)	
vs.)	
)	
BURLINGTON NORTHERN)	
RAILROAD COMPANY,)	
)	
Respondent.)	
.....)	

ORDER OF CONSOLIDATION
AND
NOTICE OF HEARING
(December 8, 1995)

Docket No. TR-940287 is in the nature of a complaint against Burlington Northern Railroad Company (Burlington) and was filed on December 29, 1993, and amendment was filed February 10, 1994. A copy of the complaint and amendment was served by the Commission upon respondent and Answer and Motion to Dismiss for Lack of Jurisdiction was filed on March 21, 1994. The complaint indicates a dispute exists between complainant and respondents regarding liability and cost of maintaining a crossing over Burlington Northern Railroad Company tracks at Milepost 1512.27, approximately one mile west of Edwall, Washington. A more detailed account of the dispute is reflected in the foregoing complaint which is available for inspection at the Commission's office.

By letter, in Docket No. TR-940851, dated June 23, 1994, Lincoln County filed a petition with the Commission for an order directing the construction of a grade crossing over Burlington tracks at Burlington MP 1507.87 located in:

NW¼ of the NW¼, Section 3, Township 23 North, Range 39 E.W.M., North of County Road 63620, Lincoln County, Washington.

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The petition states that the following are the maximum speeds for trains within this area:

Passenger 70 MPH
Freight 60 MPH

("MP" stands for milepost)

By letter, in Docket No. TR-940852, dated June 23, 1994, Lincoln County filed a petition with the Commission for an order directing the construction of a grade crossing over Burlington tracks at Burlington MP 1512.27 located in:

SW¼ of the SW¼, Section 12, Township 23 North, Range 38 E.W.M. North of County Road No. 96100, Lincoln County, Washington.

The petition states that the following are the maximum speeds for trains within this area:

Passenger 70 MPH
Freight 60 MPH

Inasmuch as the foregoing matters involve common questions of fact and law, it has been determined that they should be consolidated for hearing and determination.

ORDER OF CONSOLIDATION

IT IS HEREBY ORDERED That each of the above-entitled dockets be and the same is consolidated for hearing and determination, with the Commission reserving the right to hold such separate hearings and to issue separate orders in individual dockets as it may deem appropriate.

NOTICE OF HEARING

Hearing in this matter is being held pursuant to Part IV of chapter 34.05 RCW pertaining to adjudicative proceedings, including but not limited to RCW 34.05.413, 34.05.440, 34.05.449, 34.05.452, and 80.01.040. In Docket No. TR-940287,

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statutes cited by the respective parties included chapter 62A RCW, RCW 81.01.010, 81.04.020, .110, .380, .385, .405, .440, .460, .510, 81.52.050, 81.52.060, chapter 81.53 RCW, RCW 81.53.010, 81.53.030, and 81.04.040. The commission has jurisdiction over these matters under Title 81 RCW, and has legal authority to determine whether to establish public grade crossings pursuant to 81.53 RCW, including without limitation, RCW 81.53.030 and 81.53.060. In addition to the foregoing statutes, rules involved include those within chapter 480-09 WAC relating to practice and procedure. The issues involved in Docket TR-940287 are stated above and more specifically in the pleadings herein. The ultimate issues involved in Dockets No. TR-940851 and No. TR-940852 are whether public crossings should be established.

NOTICE IS GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET HEREIN, OR OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH THE TERMS OF RCW 34.05.440. THE PARTIES ARE FURTHER ADVISED THAT THE SANCTION PROVISIONS OF WAC 480-09-700(4) ARE SPECIFICALLY INVOKED.

The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Daniel T. Miller
Box 115
Edwall, WA 99008

Respondents: C. David George
Arlene M. Parke
Burlington Northern Permit Offices
2200 First Interstate Center
999 Third Avenue
Seattle, WA 98104

Burlington Northern Railroad Company
2000 First Interstate Center
999 Third Avenue
Seattle, WA 98104

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Representative: Kroschel & Gibson
Attorneys at Law
Suite 607
110 - 110th Avenue NE
Bellevue, WA 98004
(206) 625-6517

Petitioner: Robert Breshears, P.E.
Lincoln County Engineer
P. O. Box 368
Davenport, WA 99122-0368
(509) 725-7041

Representative: Ronald B. Shepherd
Lincoln County
Prosecuting Attorney
P. O. Box 874
Davenport, WA 99122
(509) 725-4040

An Administrative Law Judge from the Utilities and Transportation Commission will be designated to preside at the hearing.

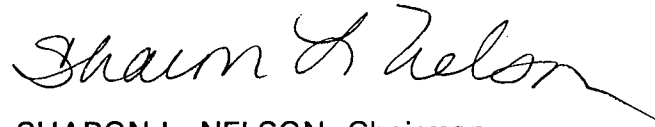
The Commission will appear through the Office of the Attorney General, 1400 S. Evergreen Park Drive SW, P. O. Box 40128, Olympia, Washington 98504-0128, (360) 753-2281.

PLEASE TAKE NOTICE That a hearing in these matters will be held beginning at 9:00 a.m., Friday, December 8, 1995, in the downstairs meeting room of the Administrative Offices of the Lincoln County Highway Department, on Highway 25, one-quarter mile north of the intersection with Highway 2 at Davenport, Washington, for the purpose of receiving the direct evidence of all parties to the proceeding, including members of the public, and cross-examination thereof.

Please see the form attached to this notice which should be filled out and returned if any party or witness needs an interpreter or other assistance.

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DATED at Olympia, Washington, and effective this 8th day of November, 1995.



SHARON L. NELSON, Chairman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner

Inquiries should be addressed to:

The Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive SW
P. O. Box 47250
Olympia, WA 98504-7250
(360) 753-6423

NOTICE

PLEASE BE ADVISED that the hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and that if limited English-speaking or hearing impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be designated below and returned to Washington Utilities and Transportation Commission, Attention: Steve McLellan, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (SUPPLY ALL REQUESTED INFORMATION)

Docket No.: _____

Case Name: _____

Your Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: () _____