

Petition to Intervene  
Docket Number TR-041729  
Submitted by Gary and Lee Fleming  
Homeowners  
January 7, 2005

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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

**Issue under consideration as described by the petitioner, Puget Sound and Pacific Railroad: "Narrow country road with limited visibility for both vehicle traffic and trains due to railroads use of siding that also crosses Moon Rd. Gate road rail crossing is only 1545' from Moon Road crossings."**

**Discussion:**

1. In accordance with RCW 81.44.010, the commission may order improved facilities, "...in order to promote the security or convenience of the public or employees..." Further, the Puget Sound and Pacific Railroad alleges that its motivation for closure of the Moon Railroad crossing is to improve the safety for both the vehicle traffic and trains. In no way would the rail road's proposal improve the security or convenience of the public.
2. RCW 81.53.080 states that, "... no trains, railway cars or equipment shall be spotted less than one hundred feet from any grade crossing..."
  - a. As attested to by Cindy Johnson in her letter to the Executive Secretary of the WUTC on October 19, 2004, "This is a concern as they continually violate the law by parking less then the legal 100 foot distance they are required to observe. We have filed several complaints because of their parking as close as 15 feet from the crossing which makes it impossible to see oncoming trains."
  - b. We have personally witnessed several occasions where the railroad has parked trains closer than the required 100 foot distance and submit the photographs in exhibit one as evidence. The photographs not only demonstrate that the train is often parked closer than the 100" limit but clearly demonstrate the visibility from the Moon road crossing with no train obstructions. On many occasions, where there have been near misses between trains and vehicle traffic on the Moon Road crossing, it has been, at least partially, the result of rail cars being positioned too close to the crossing and the train's initial use of their warning horns too close to the crossing. The last close call I had, the rail cars were parked approximately 35' from the crossing on the south track obstructing my view. The first time I saw or heard the train moving east on the north track was as I was crossing the north track heading north. The train was less than 200' from the crossing and blew its horn for the first time.
  - c. The only natural limitation to view is east from the gate road crossing at about 200" at the curve. A photo of this view is also included in Exhibit one.

- d. The railroad has been slow to react to several requests to correct those occasions when they have been parked too close to the crossing. The following timeline is submitted for example purposes:
  - i. The railroad cars were first parked near the Moon road crossing on or about November 8, 2004
  - ii. A call was made to the railroad on November 12, 2004 to ask them to move the railcars the required 100' away from the crossing.
  - iii. A second call was made to the railroad on November 15, 2004 and they stated that they were unaware of the 100" requirement, but agreed to move the cars the next morning.
  - iv. The cars were moved on November 16, 2004.
  - v. However, they again parked the cars too close to the Moon Road crossing on December 12, 2004 and January 8, 2005. There were also several times prior to November 8, 2004 that this had happened.
3. Often the railroad stores hazardous materials such as Class 2 flammable gases (i.e. liquefied petroleum gas) close to homes and designated wetlands for several days at a time in the area of the Moon road crossing.
4. As further stated in Ms. Johnson's letter, "We as a neighborhood are also concerned with their parking railcars containing garbage for extended periods in our area as rats have been observed on several occasions coming from these cars."
5. Given the recent increase in demand for rail transportation and Puget Sound and Pacific Railroad's disregard of legal and safe operation at the crossing, it is more likely that the railroads petition is motivated by the desire for additional siding space than for the public safety. If this petition is, in fact, a business motivated effort to obtain additional storage space at the public's expense it would make sense for the rail road to submit a complete environmental impact statement and business plan supporting their effort.

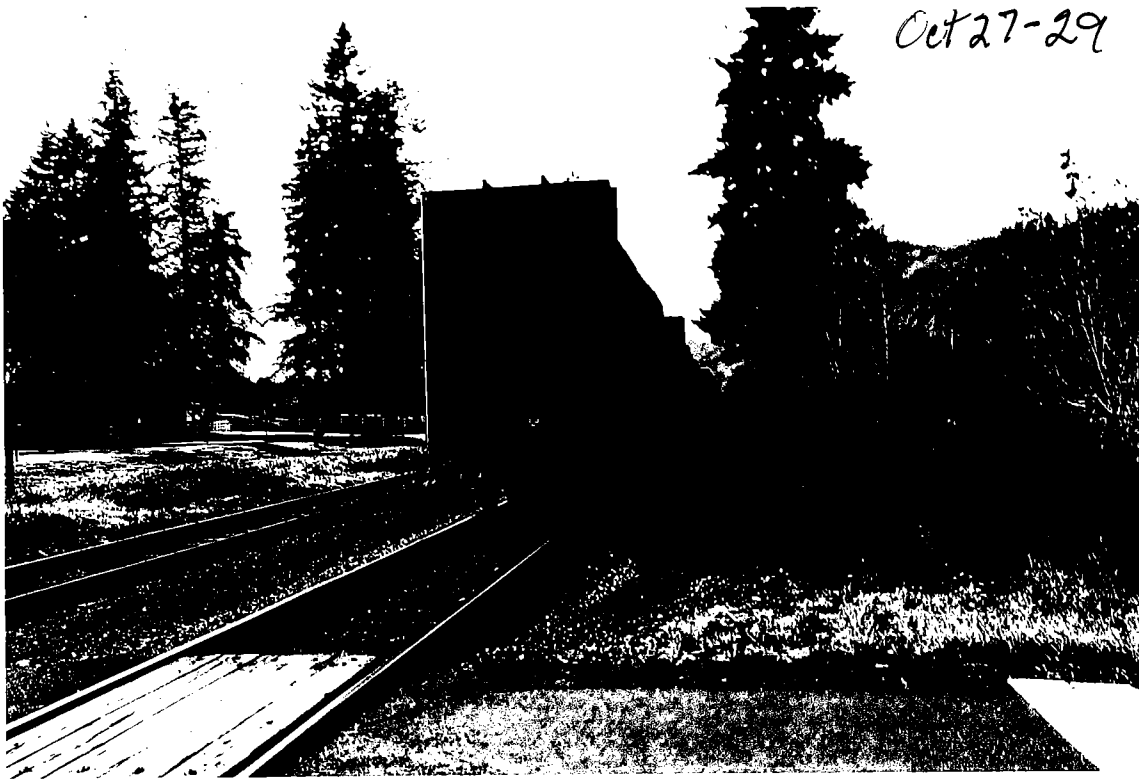
**Recommended alternative solutions:**

1. Install a four way stop system at the corner of Moon and Gate road.
2. Close the Gate road crossing instead of the Moon road crossing.
3. Install mechanical crossing guards at both the Moon and Gate road crossings.

In all cases the railroad should, without exception, obey the RCW requirement of parking the train cars at least 100' from any crossing.

Photos of Rail Cars  
parked closer than  
100' from center of  
road (with dates)

Exhibit  
#1



Oct 27-29

Oct 27-29, 2004



Nov 3  
Nov 3, 2004

Photos of Rail Cars  
parked closer than  
100' from center of road  
(with dates)



Nov 8-16

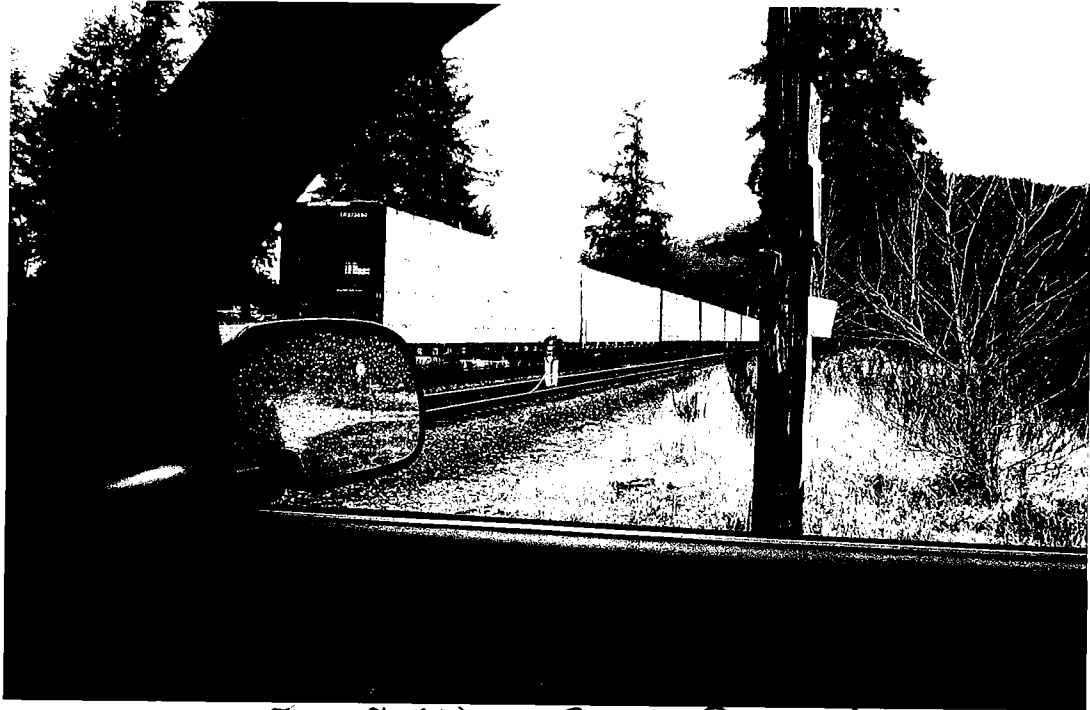


comparable to Nov 8-16 @ 100 ft.  
Comparable with G. Fleming standing at 100'  
left of same intersection. (G. Fleming in orange)

Photos of Rail Cars  
parked closer than 100'  
from center of road  
(with dates)



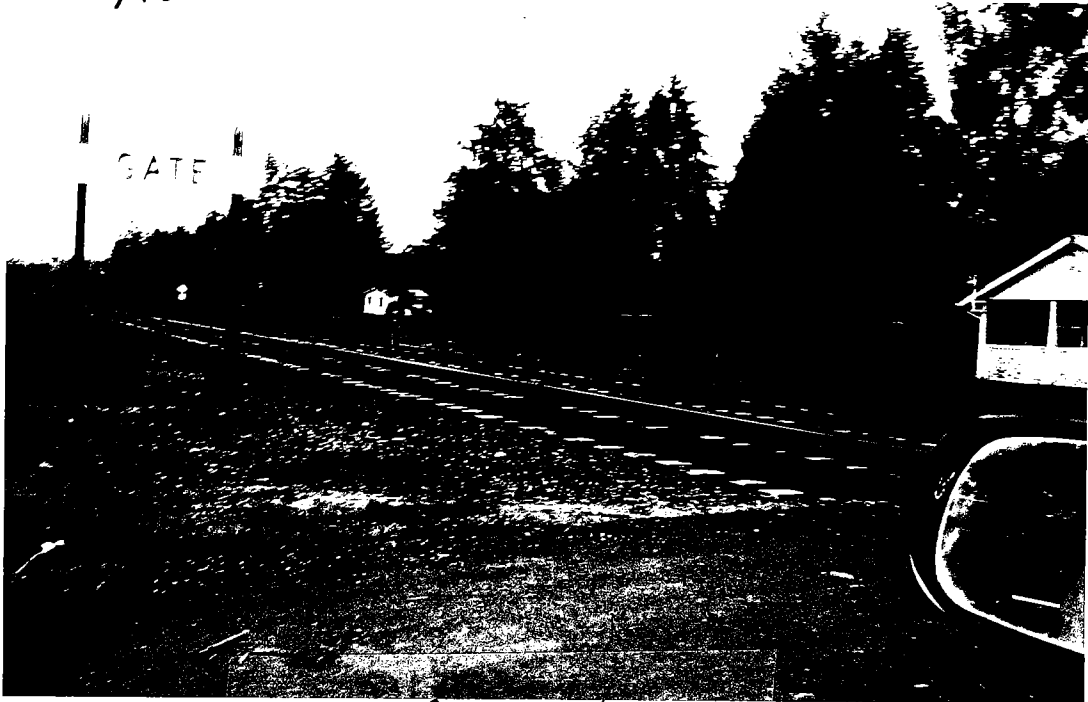
Dec 12



Jan. 8, 2005 Person @ 100 ft.

Photos showing G. Fleming  
standing at 100' from  
center of road. Moon Crossing

MOON



100ft from center of road

MOON



100' from center looking towards Hwy 12  
Practically unlimited view if no railcars

Photos of G. Fleming  
standing at 100' from  
center of road

Gate  
Crossing

Gate



100 ft.



100 ft

Car headed away from Hwy 12.  
View is obstructed by sharp curve at  
approximately 200 feet.