

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

MEEKER SOUTHERN RAILROAD,)	DOCKET TR-081407
)	
Petitioner.)	
)	
v.)	NOTICE OF PREHEARING
)	CONFERENCE
PIERCE COUNTY PUBLIC WORKS)	(Set for April 23, 2009,
AND UTILITIES,)	9:30 a.m.)
)	
Respondent.)	
)	
.....)	

1 On July 29, 2008, Meeker Southern Railroad filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify an existing highway-rail grade crossing at 134th Avenue East, Pierce County, USDOT Crossing Number 085536R. The complete file in this matter sets forth the issues in more detail and is available for public inspection at the Commission’s offices in the Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington, and on the Commission’s web site at www.utc.wa.gov/081407.

2 On August 12, 2008, the Commission sent a letter to Pierce County Public Works and Utilities (Pierce County) notifying them of the petition and requesting they respond within twenty days whether they support the petition or not.

3 On August 27, 2008, Pierce County notified the Commission that it does not support the petition.

4 **STATUTORY AUTHORITY:** The Commission will hear this matter pursuant to Part IV of RCW 34.05 pertaining to adjudicative proceedings, including but not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, RCW 34.05.452, RCW 81.04.110, RCW 81.44.010, and RCW 81.53.060. The Commission has jurisdiction over this matter under RCW Title 81, and has legal authority to regulate alterations in the style or nature of construction of existing grade crossing, and to apportion the expense of such a change between the railroad and the

municipality or county affected pursuant to RCW 81.53, including without limitation, RCW 81.53.060 and RCW 81.53.110. Statutes involved, in addition to those previously cited, include those within RCW 81.04, RCW 81.44, RCW 81.53, and WAC 480-07.

5 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

6 **THE COMMISSION GIVES NOTICE That the Commission will hold a prehearing conference in this matter at 9:30 a.m., on April 23, 2009, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

7 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling and other procedural matters, including establishing dates for distributing evidence and workpapers, identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430. Among other things, the administrative law judge may consider the procedure and timing for dispositive motions.

8 **INTERVENTION:** Persons seeking to intervene in the proceeding must file written petitions to intervene at least three business days before the date of the prehearing conference. *See WAC 480-07-355(a)*. In addition, party representatives must file notices of appearance with the Commission, as required by WAC 480-07-345(2), no later than the day before the conference. If any party or witness needs an interpreter or other assistance, they should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for the evidentiary hearings at the prehearing conference or by later written notice.

9 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440. The Commission specifically invokes the sanction provisions of WAC 480-07-450 which allow the Commission to seek penalties for a party in default.**

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

Petitioner:	Meeker Southern Railroad Byron Cole, General Manager 4725 Ballard Avenue NW Seattle, WA 98107 (206) 782-1447 byroncole@comcast.net
Representative:	David Halinen Halinen Law Offices PS 1019 Regents Blvd. Suite 202 Fircrest, WA 98466-6037 (253) 627-6680 davidhalinen@halinenlaw.com
Respondent:	Pierce County Public Works and Utilities Jerry P. Bryant, Field Engineer Manager Brian D. Stacy, County Engineer 2702 South 42 nd Street Suite 201 Tacoma, WA 98409-7322 (253) 798-3682 jerry.bryant@co.pierce.wa.us brian.stacy@co.pierce.wa.us
Representative:	Unknown
Commission Staff:	Washington Utilities and Transportation Commission 1300 S. Evergreen Park Drive SW PO Box 47250 Olympia, WA 98504-7250 (360) 664-1160

Representative: Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Drove SW
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1225
jthomps@utc.wa.gov

- 11 Administrative Law Judge Patricia Clark, from the Commission's Administrative Law Division, will preside during this proceeding.
- 12 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective April 3, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, 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.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case 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.: (____) _____