

**EFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Application of

BNSF RAILWAY COMPANY,

Applicant,

Requesting Disbursement from the
Grade Crossing Protective Fund

DOCKET TR-200478

ORDER 01

GRANTING REQUEST FOR
DISBURSEMENT FROM THE GRADE
CROSSING PROTECTIVE FUND

BACKGROUND

- 1 On August 5, 2019, the Washington Utilities and Transportation Commission (Commission) sent to various interested parties a “Notice of Available Funds for Rail Safety Projects” from the Grade Crossing Protective Fund (GCPF).
- 2 On May 27, 2020, the BNSF Railway Company (BNSF or Applicant) filed with the Commission an application requesting a disbursement of \$20,000 from the GCPF to partially pay for a project related to replacing damaged chain-link fencing with cut-resistant fencing to prevent pedestrian trespass over its railroad tracks in Kelso, Washington (Application). BNSF will also contribute \$20,000 to the project for a total project cost of \$40,000. The cost of the fencing includes installation.
- 3 BNSF seeks to replace a total of 1,230 linear feet of six-foot cyclone fencing with new cut-resistant metal fencing. The existing fencing was installed by the City of Kelso and separates a recreational trail from the BNSF tracks, as described in the Application. The existing fence has been cut in numerous locations, and well-worn foot paths indicate unauthorized pedestrian trespass over BNSF’s tracks. Three pedestrian fatalities have occurred in this area in the past three years. The proposed cut-resistant fencing will restrict access to the tracks and channel pedestrians to public crossings to the north and south, reducing the potential for accidents. The City of Kelso supports the project and will be responsible for long-term maintenance of the fencing. Once the fencing is installed, BNSF will install additional “No Trespassing” signs and increase its law enforcement patrols in the immediate area.
- 4 A site visit by Commission Staff (Staff) confirmed that the safety problem described by BNSF exists and that the cut-resistant fencing will deter pedestrian trespassing on the railroad right-of-way and increase public safety at this location.

5 Staff recommends the Commission approve funding in the amount of \$20,000. Currently
there are funds available to pay for this project.

6 Staff recommends the Commission approve the request for funds with the following
conditions: (1) expenditure from the GCPF must not exceed \$20,000, (2) the work for
which the GCPF disbursement is approved must conform to the project description
specified in the Application, (3) the Applicant must sign and return the attached project
agreement, (4) payment will be made upon presentation of claim for reimbursement and
verification by Staff that the work has been satisfactorily completed, and (5) the project
must be completed and the associated request for reimbursement from the GCPF must be
filed with the Commission no later than December 31, 2020.

DISCUSSION

7 As authorized by RCW 81.53, the GCPF provides funding for projects that reduce
accident frequency and severity at public and private railroad crossings, or reduce
pedestrian trespassing, and injuries and deaths on railroad rights-of-way at places other
than crossings. We find that the proposed project will reduce pedestrian trespassing and
increase public safety. Accordingly, the Commission grants the Application subject to the
conditions that Staff recommends.

FINDINGS AND CONCLUSIONS

8 (1) The Commission is an agency of the State of Washington having authority to
approve and administer disbursements from the GCPF. RCW 81.53.271; RCW
81.53.281.

9 (2) The project for which the Applicant seeks disbursement from the GCPF is eligible
for funding consideration under Commission rules and complies with the
requirements of RCW 81.53.271, RCW 81.53.281, and WAC 480-62.

10 (3) Staff investigated the request based on the review criteria specified in the
Commission's rules and recommended that it be granted with the conditions set
out in paragraph 6, above.

11 (4) This matter came before the Commission at its regularly scheduled meeting on
June 11, 2020.

- 12 (5) After reviewing BNSF's Application and project description filed on May 27, 2020, and giving due consideration to all relevant matters and for good cause shown, the Commission grants the request for disbursement of funds.

ORDER

THE COMMISSION ORDERS:

- 13 The BNSF Railway Company's Application for disbursement from the Grade Crossing Protective Fund for a project related to replacing damaged chain-link fencing with cut-resistant fencing to prevent pedestrian trespass over its railroad tracks in Kelso is granted, subject to the following conditions:

- (1) Expenditure from the Grade Crossing Protective Fund must not exceed \$20,000.
- (2) The work for which the Grade Crossing Protective Fund disbursement was approved must conform to the project description specified in the Application.
- (3) BNSF Railway Company must sign and return the attached project agreement.
- (4) Payment will be made upon presentation of claim for reimbursement and verification by Staff that the work has been satisfactorily completed.
- (5) The project must be completed and the associated request for reimbursement from the Grade Crossing Protective Fund must be filed with the Commission no later than December 31, 2020.

- 14 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective June 12, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary