

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

WASHINGTON STATE)	DOCKETS TR-100127, TR-100128
DEPARTMENT OF)	and TR-100129 (<i>Consolidated</i>)
TRANSPORTATION,)	
)	ORDER 01
Petitioner,)	
)	
v.)	ORDER OF CONSOLIDATION AND
)	NOTICE OF PREHEARING
CENTRAL PUGET SOUND)	CONFERENCE
REGIONAL TRANSPORTATION)	(Set for March 16, 2010, at 2:30 p.m.)
AUTHORITY AND THE CITY OF)	
LAKWOOD,)	
)	
Respondents.)	
)	
.....)	

1 On January 19, 2010, the Washington State Department of Transportation (WSDOT) filed with the Washington Utilities and Transportation Commission (Commission) three petitions to modify existing highway-rail grade crossings, as follows:

Docket TR-100127 Clover Creek Drive SW, City of Lakewood
USDOT Crossing Number 085822W

Docket TR-100128 Berkeley Street SW, City of Lakewood
USDOT Crossing Number 085829U

Docket TR-100129 North Thorne Lane SW, City of Lakewood
USDOT Crossing Number 085828M

2 On February 2, 2010, the Commission sent letters to Sound Transit, City of Lakewood, and Tacoma Rail notifying them of the petitions and requesting they respond within twenty days whether they support the petitions or not.

3 On February 16, 2010, Tacoma Rail filed with the Commission a Waiver of Hearing
in the above dockets.

4 On February 19, 2010, Sound Transit also filed with the Commission a Waiver of
Hearing in the above dockets.

5 The City of Lakewood did not file a formal written response within twenty days with
the Commission. Commission Staff did, however, receive verbal notification from
the City of Lakewood, that the City opposes and intends to challenge the proposed
modifications to the crossings.

6 Inasmuch as the foregoing matters involve related principles of law and fact, it is
appropriate that they be consolidated for hearing and determination pursuant to WAC
480-07-320.

ORDER OF CONSOLIDATION

7 THE COMMISSION ORDERS That these matters are consolidated for purposes of
hearing and determination. The Commission reserves the right to hold separate
hearings and to enter separate orders in the individual dockets as it deems appropriate.

NOTICE OF PREHEARING CONFERENCE

8 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, and RCW 81.53,
including but not limited to RCW 81.04.110, RCW 81.44.010, RCW 81.53.060, RCW
81.53.261, and RCW 81.53.271.

9 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 and
WAC 480-62 in this proceeding.

- 10 The Commission finds there is good cause to hear these matters on shortened notice. See WAC 480-07-440(1)(a).
- 11 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in these consolidated matters at 2:30 p.m., on March 16, 2010, in Room 108, First Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** If you are unable to attend the prehearing conference in person, you may attend via the Commission's teleconference bridge line at **(360) 664-3846**. Please appear on the teleconference bridge no more than five minutes before the conference is scheduled to begin.
- 12 The purpose of the prehearing conference is to consider requests for intervention, to identify the relevant issues in the proceeding, to resolve scheduling and other procedural matters, including establishing dates for distributing evidence and workpapers and evaluating the need for public comment hearing(s) on the petitions, and to determine any other matters to assist the Commission in resolving these cases, as listed in WAC 480-07-430.
- 13 At the prehearing conference, the petitioner should be prepared to provide a status report on a schedule for completing required action(s), if any, under the State Environmental Policy Act (SEPA).
- 14 **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.
- 15 **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 and WAC 480-07-450.**
- 16 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner: Washington State Department of Transportation
Kevin Jeffers
310 North Maple Park Avenue SE
PO Box 47407
Olympia, WA 98504-7407
(360) 705-7982
JefferK@wsdot.wa.gov

Representative: L. Scott Lockwood
Assistant Attorney General
7141 Cleanwater Drive SW
PO Box 40113
Olympia, WA 98504-0113
(360) 753-1620
scottl@atg.wa.gov

Respondent: City of Lakewood
Public Works Department
Desireé Winkler
6000 Main Street SW
Lakewood, WA 98499-5027
(253) 983-7818
dwinkler@CityofLakewood.us

Representative: Heidi Wachter, City Attorney
Lakewood City Hall, 3rd Floor
6000 Main Street SW
Lakewood, WA 98499-5027
(253) 589-2489
hwachter@cityoflakewood.us

Commission Staff: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Fronda Woods
Assistant Attorney General
1400 S. Evergreen Park Drive SW
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1225
fwoods@utc.wa.gov

- 17 Administrative Law Judge Adam E. Torem, from the Commission's Administrative Law Division, will preside during this proceeding.
- 18 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 March 2, 2010.

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.
PO 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.: (____) _____