

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

WASHINGTON STATE)	DOCKET TR-100131
DEPARTMENT OF)	
TRANSPORTATION,)	
)	
Petitioner,)	NOTICE OF PREHEARING
)	CONFERENCE
v.)	(Set for April 1, 2010, at 9:30 a.m.)
)	
CENTRAL PUGET SOUND)	
REGIONAL TRANSPORTATION)	
AUTHORITY AND THE CITY OF)	
DUPONT,)	
)	
Respondents.)	
)	
.....)	

- 1 On January 19, 2010, the Washington State Department of Transportation (WSDOT) filed with the Washington Utilities and Transportation Commission (Commission) a petition to modify an existing highway-rail grade crossing at Barksdale Avenue, City of DuPont, USDOT Crossing Number 085836E.
- 2 On February 2, 2010, the Commission sent a letter to Sound Transit, City of DuPont, and Tacoma Rail notifying them of the petition and requesting they respond within twenty days whether they support the petition or not.
- 3 On February 24, 2010, the City of DuPont requested additional time to file a response.
- 4 On February 16, 2010, Tacoma Rail filed with the Commission a Waiver of Hearing in this docket.
- 5 On February 19, 2010, Sound Transit also filed with the Commission a Waiver of Hearing in this docket.

6 On March 10, 2010, the City of DuPont filed with the Commission a resolution by the
City Council opposing the proposed modifications to the crossing.¹

7 **STATUTORY AUTHORITY:** 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.

8 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.

9 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference
in this matter at 9:30 a.m., on April 1, 2010, in Room 206, Second Floor, Richard
Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

10 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 petition,
and to determine any other matters to assist the Commission in resolving these cases,
as listed in WAC 480-07-430.

11 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).

12 **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

¹ The DuPont City Council adopted Resolution No. 10-388, on March 9, 2010, setting forth the
City's objection to the at-grade rail crossing modifications.

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.

13 **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.**

14 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 DuPont
Peter L. Zahn
Public Works Director
1700 Civic Drive
DuPont, WA 98327
pzahn@ci.dupont.wa.us

Representative: Steve Victor
City of DuPont Attorney
Kenyon Disend, PLLC
The Municipal Law Firm
11 Front Street South
Issaquah, WA 98027-3820
(425) 392-7090 ext. 154
steve@kenyondisend.com

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

15 Administrative Law Judge Adam E. Torem, from the Commission's Administrative Law Division, will preside during this proceeding.

16 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 15, 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.: (____) _____