

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

In the Matter of the Application of)	DOCKET NO. TR-040291
)	
WASHINGTON OPERATION)	ORDER NO. 01
LIFESAVER, INC.)	
)	
Petitioner,)	
)	ORDER DENYING REQUEST FOR
Requesting Disbursement from the)	DISBURSEMENT FROM THE GRADE
Grade Crossing Protective Fund)	CROSSING PROTECTIVE FUND
.....)	

BACKGROUND

- 1 On December 12, 2003, the Washington Utilities and Transportation Commission (Commission) sent a "Notice of Opportunity to Apply for Grant Monies from the Grade Crossing Protective Fund" to various interested parties from the public and private sectors that were either directly eligible to apply for Grade Crossing Protective Fund (GCPF) grants, or represented local agencies that were eligible. The notice directed interested parties to submit applications for funding consideration to the Commission by February 17, 2004.
- 2 On February 17, 2004, Washington Operation Lifesaver, Inc. (WOL) filed an application with the Commission, requesting disbursement from the GCPF to pay for a project related to trespass prevention.
- 3 WOL, with the cooperation of the Burlington Northern Santa Fe Railway Company (BNSF), seeks to install a six-foot high chain link fence along the BNSF right-of-way within the city limits of Kelso, Washington. The fence is intended to block access to the BNSF tracks in a section of the city where frequent trespass activity has been observed.
- 4 The project area includes the site of a former railroad-highway grade crossing, where Allen Street previously crossed the BNSF tracks. After the Allen Street grade crossing was closed in the 1990s, pedestrians continued to use the site to

cross back and forth between the city's downtown area to the east of the tracks, and a recreational trail that parallels the BNSF right-of-way on its west side. BNSF train crews have reported observing trespassing in the vicinity of the old Allen Street crossing on a regular basis.

5 The application states: "The project is contingent on the approval of the City of Kelso."

6 During a Commission Staff investigation of the application, City of Kelso Public Works representatives advised Commission Staff that the City opposes any proposal to install fencing at the identified location, and that it prefers to explore re-establishing a legal pedestrian grade crossing in the vicinity.

7 In consideration of the City of Kelso's position on the proposal, Commission Staff recommended denying any disbursement from the GCPF for this proposal.

FINDINGS AND CONCLUSIONS

8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having authority to approve and administer disbursements from the Grade Crossing Protective Fund. *Chapter 81.53.271 RCW and 81.53.281 RCW.*

9 (2) The project for which disbursement from the Grade Crossing Protective Fund is sought is eligible for funding consideration under the Grade Crossing Protective Fund Policy and Interpretive Statement in Docket No. TR-031384, and complies with the requirements of RCW 81.53.271 and RCW 81.53.281.

10 (3) The application of Washington Operation Lifesaver, Inc., to install a fence along the BNSF right-of-way within the City of Kelso stated that the project is contingent on approval by the City of Kelso.

- 11 (4) City of Kelso representatives advised Commission Staff that they oppose the proposal.
- 12 (5) Commission Staff investigated the request based on the review criteria specified in the Grade Crossing Protective Fund Policy and Interpretive Statement in Docket No. TR-031384, and recommended that it be denied.
- 13 (6) This matter was brought before the Commission at its regularly scheduled meeting on June 9, 2004.
- 14 (7) After examination of the application filed by Washington Operation Lifesaver, Inc., on February 17, 2004, and giving consideration to all relevant matters and for good cause shown, the Commission denies the request for disbursement of funds.

ORDER

THE COMMISSION ORDERS:

- 15 (1) The request of Washington Operation Lifesaver, Inc., seeking disbursement from the Grade Crossing Protective Fund for the installation of a fence along the Burlington Northern Santa Fe Railway right-of-way in Kelso, Washington is denied.

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

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DATED at Olympia, Washington, and effective this 9th day of June, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary