

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

PUGET SOUND AND PACIFIC	)	DOCKET TR-110158
RAILROAD,	)	
	)	
Petitioner,	)	
	)	NOTICE OF PREHEARING
v.	)	CONFERENCE
	)	
LEWIS COUNTY AND PORT OF	)	<b>(Set for July 8, 2011, at 9:30 a.m.)</b>
CENTRALIA,	)	
	)	
Respondents.	)	
	)	
.....	)	

- 1 On January 19, 2011, Puget Sound and Pacific Railroad (PSPR) filed with the Washington Utilities and Transportation Commission (Commission) a Petition for the closure of the Foron Road highway-rail grade crossing in the City of Centralia.
- 2 On January 26, 2011, the Commission sent a letter to the City of Centralia, Lewis County, and Port of Centralia notifying them of the petition and requesting they respond within twenty days indicating whether they do or do not support the petition.
- 3 On February 4, 2011, the City of Centralia filed with the Commission a letter stating that the crossing is within the jurisdiction of Lewis County.
- 4 On February 10, 2011, PSPR filed a revised petition correcting the location of the crossing/road authority from the City of Centralia to Lewis County.
- 5 On February 14, 2011, the Port of Centralia filed with the Commission a letter in support of the closure.
- 6 On February 15, 2011, Lewis County filed with the Commission a letter generally supporting the petition. Lewis County expressed some concerns about Kuper Road and therefore declined to sign the Respondent’s Waiver of Hearing form. Shortly thereafter, PSPR requested additional time to negotiate a settlement with all parties.
- 7 On March 30, 2011, Commission Staff notified PSPR, Lewis County, and the Port of Centralia by letter that it would not recommend the matter be set for hearing for a period of 60 days in order to allow for additional settlement negotiations. Commission Staff is now recommending that the matter be set for hearing.

- 8 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under RCW Title 81, and has legal authority to regulate the closure of railroad crossings pursuant to RCW 81.53, including without limitation, RCW 81.53.060. Further, the Commission has legal authority to regulate alterations in the style or nature of construction of existing grade crossings, and to apportion the expense of such a change between the railroad and municipality or county affected pursuant to RCW 81.53, including without limitation, RCW 81.53.060 and RCW 81.53.110. In addition to those previously cited, statutes involved 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 this proceeding as set out in WAC 480-07 and WAC 480-62.
- 10 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 9:30 a.m., on Friday, July 8, 2011, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The Commission prefers, and strongly recommends that Parties appear in person. However, if this imposes a hardship, Parties may attend the prehearing conference 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.
- 11 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 on the petition, and to determine any other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.
- 12 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place

for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, 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: Puget Sound and Pacific Railroad  
Steve L. Hefley  
411 N. 3<sup>rd</sup> Street  
Elma, WA 98541  
(360) 482-4994  
[Steve.hefley@railamerica.com](mailto:Steve.hefley@railamerica.com)

Representative: Laura T.Z. Montgomery  
Gleaves Swearington Potter & Scott LLP  
975 Oak Street, Suite 800  
Eugene, OR 97401  
(541) 686-8833  
[Montgomery@gleaveslaw.com](mailto:Montgomery@gleaveslaw.com)

Respondent: Lewis County  
Tim Elsea, PE  
Director/County Engineer  
Lewis County Public Works  
2025 NE Kresky Ave.  
Chehalis, WA 98532  
(360) 740-2697  
[Tim.elsea@lewiscountywa.gov](mailto:Tim.elsea@lewiscountywa.gov)

Representative: Glenn J. Carter  
Chief Civil Deputy Prosecuting Attorney  
Lewis County Prosecuting Attorney's Office  
345 West Main Street, 2<sup>nd</sup> Floor  
Chehalis, WA 98532  
(360) 740-2767  
[Glenn.carter@lewiscountywa.gov](mailto:Glenn.carter@lewiscountywa.gov)

Respondent: Port of Centralia  
Kyle Heaton  
Executive Director  
3508 Galvin Road  
Centralia, WA 98531-9002  
(360) 736-3527  
[heaton@portofcentralia.com](mailto:heaton@portofcentralia.com)

Representative: Sandy Mackie  
Perkins Coie LLP  
1201 Third Avenue, Suite 4800  
Seattle, WA 98101-3099  
(206) 359-8653  
[amackie@perkinscoie.com](mailto:amackie@perkinscoie.com)

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

Representatives: Fronda Woods  
Michael A. Fassio  
Assistant Attorney's General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1225  
(360) 664-1192  
[fwoods@utc.wa.gov](mailto:fwoods@utc.wa.gov)  
[mfassio@utc.wa.gov](mailto:mfassio@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 June 10, 2011.

**WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION**

**DAVID W. DANNER**  
Executive Director and Secretary

Inquiries may be addressed to:

Executive 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.: (\_\_\_\_) \_\_\_\_\_