

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

CITY OF FIFE,	)	DOCKET TR-100098
	)	
Petitioner,	)	
	)	
v.	)	NOTICE OF PREHEARING
	)	CONFERENCE
UNION PACIFIC RAILROAD,	)	<b>(Set for May 3, 2010, at 1:30 p.m.)</b>
	)	
Respondent.	)	
	)	
.....	)	

1     On January 13, 2010, the City of Fife (City) filed with the Washington Utilities and Transportation Commission (Commission) a Petition to open a pedestrian only at-grade rail crossing at 54<sup>th</sup> Avenue East in the City of Fife. The City cites the need to construct the new crossing to accommodate the increase in pedestrian traffic due to increased development in the area.

2     On January 25, 2010, the Commission sent a letter to Union Pacific Railroad notifying them of the petition and requesting they respond within twenty days, stating whether they support the petition.

3     On February 12, 2010, Union Pacific Railroad filed with the Commission a letter opposing the proposed modifications to the crossing.

4     **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 crossings, 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. The statutes that apply to this matter include 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.

5 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.

6 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 1:30 p.m., on May 3, 2010,<sup>1</sup> in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** Parties may participate in the prehearing conference via the Commission's conference bridge line **(360) 664-3846**. Parties who wish to participate via the bridge line should call the conference bridge approximately five minutes before the prehearing conference is scheduled to convene.

7 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.

8 **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.

9 **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.**

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<sup>1</sup> The Commission would ordinarily schedule a prehearing conference sooner than May 3, 2010. This date was selected to accommodate the parties' interest in meeting to discuss settlement options prior to the prehearing conference.

10 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner: City of Fife  
Russell Blount, P.E.  
5411 23<sup>rd</sup> Street E  
Fife, WA 98424  
(253) 922-2489  
[rblount@cityoffife.org](mailto:rblount@cityoffife.org)

Representative: Loren D. Combs  
City Attorney  
VSI Law Group, PLLC  
3600 Port of Tacoma Road, Suite 311  
Tacoma, WA 98424  
(253) 922-5464  
[ldc@vsilawgroup.com](mailto:ldc@vsilawgroup.com)

Respondent: Union Pacific Railroad  
Terry Anderson  
Manager Industry & Public Projects  
9451 Atkinson Street  
Roseville, CA 95747  
(916) 789-5134  
[taanders@up.com](mailto:taanders@up.com)

Representative: Carolyn Larson  
Dunn Carney Allen Higgins & Tongue LLP  
851 SW Sixth Avenue, Suite 1500  
Portland, OR 97204  
(503) 417-5462  
[cll@dunn-carney.com](mailto:cll@dunn-carney.com)

Commission Staff Washington Utilities and  
Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

Representative: Fronda Woods  
Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
P.O. Box 40128  
Olympia, WA 98504-0128  
(360) 664-1225  
[fwoods@utc.wa.gov](mailto:fwoods@utc.wa.gov)

- 11 Administrative Law Judge Patricia Clark, from the Commission's Administrative Law Division, will preside during this proceeding.
- 12 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 30, 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.  
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.: (\_\_\_\_) \_\_\_\_\_