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A Professional Service Corporation

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January 6, 2011

VIA EMAIL AND FIRST CLASS MAIL

David W. Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
c/o WUTC Records Center
1300 S. Evergreen Park Dr. SW
PO Box 47250
Olympia, WA 98504-7250

Re: TR-100036

MEEKER SOUTHERN RAILROAD'S REQUEST FOR LEAVE TO SUBMIT ON OR BEFORE FRIDAY, JANUARY 21, 2011 REPLIES TO BOTH (1) PUBLIC WORKS' DECEMBER 30, 2010 RESPONSE TO MEEKER'S DECEMBER 20, 2010 MOTION FOR AMENDMENT OF ORDER 01 (THE "MOTION") AND (2) THE COMMISSION STAFF'S RESPONSE TO THE MOTION, SUBJECT TO AGREED CONDITIONS AMONG MEEKER, PUBLIC WORKS, AND COMMISSION STAFF SET FORTH HEREIN.

(USDOT Crossing No. 085536 R)

(WUTC Crossing No. 42A32.40)

Dear Mr. Danner:

I am again writing on behalf of my client Meeker Southern Railroad ("Meeker"). Meeker hereby requests leave for submittal of replies on or before Friday, January 21, 2011 to both (1) Public Works' December 30, 2010 response to Meeker's December 20, 2010 Motion for Amendment of Order 01 (the "Motion") and (2) the Commission Staff's response to the Motion. Please let me explain.

Meeker's Byron Cole and I met this morning with Deputy Pierce County Prosecuting Attorney John Salmon and other Pierce County officials regarding the Motion and Public Works' December 30, 2010 response thereto. Meeker, Public Works and Commission Staff are engaged in good faith negotiations seeking to resolve their differences regarding this matter. I have spoken multiple times by phone with Mr. Salmon and Assistant Attorney General Fronda Woods (counsel for Commission Staff) to discuss Meeker having through close of business on Friday, January 21, 2011 in order to submit such replies. The parties believe that having this time window will facilitate settlement.

Mr. Salmon, Ms. Woods and I have agreed on behalf of our respective clients via a three-way phone call late this afternoon that, in conjunction with this request for leave, through Friday,

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January 21, 2011 limited operation of the spur by Meeker to serve Sound Delivery Service will be permitted subject to the conditions set forth in Table 2 attached to Meeker's Motion (copy of Table 2 attached hereto as well) and subject to the following additional conditions derived from Paragraphs 9 and 10 of the Staff Response to Meeker's Motion:

- (1) Item 5 in Table 2 is hereby revised to read as follows:

Traffic flagging of 134th Avenue East on the north and south sides of the crossing must be performed in accordance with WAC 296-155-305 by certified flaggers provided by Meeker during all train crossings of 134th via either the spur track or the mainline track.

- (2) Meeker will be required to file a report to both Public Works and Commission Staff, due on the 12th and 26th days of January, containing the following information verifying compliance with the conditions in Table 2:

- a. Daily number of trains crossing 134th Avenue East on the spur track, their length, and the date and time of each crossing.
- b. Daily number of trains crossing 134th Avenue East on the mainline track, and the date and time of each crossing.
- c. Certified Payroll Reports (in conformance with the form proposed by Pierce County in its response filed on December 30, 2010 in this docket) listing the flaggers controlling traffic at the 134th Avenue East crossing, and showing the dates and times worked by each flagger.

- (3) Meeker is required to file evidence (which may be sent via email) not later than Monday, January 10, 2011 with Public Works and with Commission Staff (and, in follow-up, via First Class Mail) that each flagger who will be listed on the Certified Payroll Reports holds a valid traffic control flagger card that meets the requirements of WAC 296-155-305(6). A photocopy of each flagger's card would be such evidence.

Thank you for your consideration of this request. Please let me know if you have any questions or comments.

Sincerely,

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David L. Halinen

Enclosure (copy of Table 2 that was attached to Meeker's Motion to Amend Order 01)

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cc: Meeker Southern Railroad
Attn: Byron Cole, Manager (via email and First Class Mail, with copy of enclosure)

Kathy Hunter, Deputy Assistant Director, Transportation Safety, WUTC
(via email and First Class Mail, with copy of enclosure)

Frona Woods, Washington Attorney General's Office (via email and First Class Mail,
with copy of enclosure)

Gregary B. Heath, P.E., P.T.O.E., Heath & Associates, Inc. (via email, with copy of
enclosure)

Robert Dahmen, P.E., Sitts & Hill Engineers, Inc. (via email, with copy of enclosure)

John F. Salmon III, Deputy Pierce County Prosecutor (via email and First Class Mail,
with copy of enclosure)

Brian D. Stacy, P.E., County Engineer, Pierce County Public Works & Utilities
Department (via email)

Jerry P. Bryant, P.E., Field Engineering Manager, Pierce County Public Works &
Utilities Department, Field Engineering Division (via email and First Class Mail,
with copy of enclosure)

Marlene Ford, P.E., P.T.O.E., Associate County Traffic Engineer, Pierce County Public
Works & Utilities Department, Traffic Engineering Division (via email and First
Class Mail, with copy of enclosure)

Table 2 Special Requirements and Operational Limitations Concerning Meeker Southern Railroad's Crossings of 134th Avenue East Via the Recently Installed Spur Track Prior to Completion and Commencement of Operation of the Planned Flashing Lights Crossing Signal System		
Requirement/ Limitation #	Description of Requirement/Limitation	Comments
1	Average number of days per week that the spur track will be used for crossings of 134th: <u>3 days</u>	This limitation coupled with Requirement/Limitation #2 will mean a relatively small number of spur crossings per week.
2	Maximum number of round-trip crossings per day that the spur track may be used for crossings of 134th: <u>2</u>	This limitation coupled with Requirement/Limitation #1 will mean a relatively small number of spur crossings per week.
3	Hours during the day that spur crossings will be limited to: <u>9:00 AM to 3:00 PM</u>	These proposed operating hours are daylight hours outside of the AM and PM hours of peak traffic on nearby roadways.
4	Maximum number of train cars per train to be operated through the spur crossing: <u>3 cars plus an engine</u>	Such short trains will minimize the length of time of each of the crossings along the spur track.
5	Traffic flagging of 134th Avenue East on the north and south sides of the crossing must be performed in accordance with WAC 296-155-305 by certified flaggers provided by Meeker during all train crossings of 134th via the spur track.	Meeker has already arranged to hire and will hire a third-party contractor to provide the certified flaggers.