

- Docket TR-110157 Hewitt Road, Grays Harbor County
USDOT Crossing Number 096649C
- Docket TR-110159 N. 2nd Street, City of Elma
USDOT Crossing Number 096525J
- Docket TR-110160 N. 5th Street, City of Elma
USDOT Crossing Number 096635U
- Docket TR-110161 N. 10th Street, City of Elma
USDOT Crossing Number 096638P
- Docket TR-110162 N. 17th Street, Grays Harbor County
USDOT Crossing Number 096641X

2 On January 26, 2011, in Dockets TR-110159, TR-110160, TR-110161, and TR-110162, the Commission sent a letter to the City of Elma and its attorney Mr. Dan Glenn notifying them of the petitions and requesting they respond within twenty days indicating whether they support the petitions.

3 On February 10, 2011, PSPR filed revised petitions for the Hewitt Road (Docket TR-110157) and North 17th Street (TR-110162) proposals, clarifying that these two crossings are not within the city limits of the City of Elma.

4 On February 11, 2011, in Dockets TR-110157 and TR-110162, the Commission sent a letter to Grays Harbor County notifying them of the petitions and requesting they respond within twenty days indicating whether they support the petitions.

5 On February 14, 2011, the City of Elma filed with the Commission a letter opposing four of the petitions (Dockets TR-110159, TR-110160, TR-110161, and TR-110162). The City of Elma noted that TR-110162 was not technically within its city limits.

6 On February 16, 2011, Grays Harbor County filed with the Commission a letter opposing two of the petitions (Dockets TR-110157 and TR-110162).

7 On April 12, 2011, PSPR filed with the Commission a letter in Dockets TR-110159, TR-110160, TR-110161, and TR-110162, and a letter on April 19 in Docket TR-

110157, requesting a 60-day extension of time to continue settlement negotiations among the parties.

- 8 On April 20, 2011, the Commission granted PSPR's request for an extension. In addition, the Commission set a deadline of June 10, 2011, to file a joint update on the settlement negotiations.
- 9 On June 10, 2011, Commission Staff filed a status report stating that no substantive settlement discussions have occurred. Staff also recommended the Commission initiate a formal adjudicative proceeding under Revised Code of Washington (RCW) 34.05 to address the closure petitions.
- 10 Inasmuch as the foregoing matters involve related principles of law and fact, it is appropriate that they be consolidated for hearing and determination pursuant to Washington Administrative Code (WAC) 480-07-320.

ORDER OF CONSOLIDATION

- 11 THE COMMISSION ORDERS That these matters are consolidated for purposes of hearing and determination. The Commission reserves the right to hold separate hearings and to enter separate orders in the individual dockets as it deems appropriate.

NOTICE OF PREHEARING CONFERENCE

- 12 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 the 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.
- 13 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 adhere to its procedural rules in this proceeding as set out in WAC 480-07 and WAC 480-62.

- 14 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in these consolidated matters at 10:00 a.m., on Monday, July 18, 2011, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** The Commission prefers 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.
- 15 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 petitions, and to determine any other matters to assist the Commission in resolving these cases, as listed in WAC 480-07-430.
- 16 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).
- 17 **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 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.
- 18 **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.**

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

Petitioner:	Puget Sound and Pacific Railroad Steven Hefley, General Manager 411 N. 3 rd Street Elma, WA 98541 (360) 482-4994 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
Respondent:	City of Elma Steve Pettit Director of Community Development P.O. Box E 202 W. Main Street Elma, WA 98541 (360) 482-4482 steve@cityofelma.com
Representative:	Daniel O. Glenn Glenn & Associates, P.S. 2424 Evergreen Park Drive S.W. P.O. Box 49 Olympia, WA 98507-0049 (360) 943-7700

Respondent: Grays Harbor County
Russell D. Esses, P.E.
County Road Engineer
Department of Public Services
100 West Broadway, Suite 31
Montesano, WA 98563
(360) 249-4222
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Representative: James G. Baker
Senior Deputy Prosecuting Attorney
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(360) 249-3951
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Commission Staff: Washington Utilities and Transportation
Commission
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(360) 664-1192
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mfassio@utc.wa.gov

20 Administrative Law Judge Gregory J. Kopta, from the Commission's Administrative Law Division, will preside during this proceeding.

- 21 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 15, 2011.

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.: (____) _____