

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SPOKANE COUNTY,	)	DOCKET NO. TR-950332
	)	(Kenny Road)
)	
Petitioner,	)	DOCKET NO. TR-950333
	)	(Garry Road)
)	
v.	)	DOCKET NO. TR-950334
	)	(Lynden Road)
)	
	)	DOCKET NO. TR-961353
	)	(Ashton Road)
UNION PACIFIC RAILROAD)	
	)	DOCKET NO. TR-970009
	)	(Ashton Road)
Respondent.)	
	)	DOCKET NO. TR-980936
	)	(Lynden Road)
)	
	)	DOCKET NO. TR-980937
	)	(Arden Road)
)	
	)	DOCKET NO. TR-980938
	)	(Corrigan Road)
)	
	)	FOURTH SUPPLEMENTAL
	)	ORDER APPROVING
.....	)	STIPULATION

BACKGROUND:

- 1 This matter was initiated by the filing of petitions for closure of several crossings at grade. Soon after, the parties and other Washington and Idaho interests began discussions aimed at a larger solution, permitting the closure of these and a number of additional crossings in both states. Parties asked that these petitions be deferred until parties determined that the "global" solution proved infeasible. The Commission has been scheduling periodic prehearing conferences aimed at garnering enough status information to determine when to set these matters for hearing.

- 2 On September 19, 2000, Commission Staff filed a stipulation among the parties which reflects the parties' proposal to the Commission for resolution of all outstanding issues and which further is intended to constitute a settlement agreement among the parties. A copy of the stipulation is attached hereto as Exhibit A.

SETTLEMENT CONFERENCE:

- 3 The Commission convened a prehearing conference on October 19, 2000, at the
Commission's headquarters in Olympia, Washington to allow the parties an opportunity
to present the stipulation and settlement agreement for approval.
- 4 The following representatives appeared at the settlement conference: Robert Binger,
senior deputy prosecuting attorney, Spokane, representing Spokane County; William J.
Schroeder, attorney, Spokane, representing Union Pacific Railroad; and Jonathan C.
Thompson, assistant attorney general, Olympia, representing Commission Staff.
- 5 In addition to the stipulation filed on September 19, 2000, attached hereto as Exhibit A,
the parties presented an addendum to the stipulation which is in regard to a "hump" on
Kenney Road as it crosses the BNSF tracks. This addendum is attached hereto as Exhibit
B and is incorporated into the stipulation herein by this reference.

DISCUSSION AND DECISION:

- 6 The Commission finds the stipulation and settlement agreement of the parties to be fully
consistent with the law, with the interest of all parties, and with the public interest. While
it appears that this "global" settlement explored by the parties may be infeasible at the
present time, this proposal would install signals at each affected crossing and thereby
provide adequate protection for the public.
- 7 In addition, the Commission accepts the commitment by Spokane County to rebuild the
Kenney Street crossing to eliminate the potentially dangerous "hump."
- 8 The Commission should adopt the settlement agreement and dismiss these petitions for
closure.

FINDINGS OF FACT:

- 9 The Washington Utilities and Transportation Commission is an agency of the State of
Washington authorized to regulate railroad crossings in the State of Washington and to
resolve the issues contained in the petitions filed in these proceedings.
- 10 Union Pacific Railroad Company is a railroad company and is engaged in the business of
operating a railroad in the State of Washington.
- 11 Spokane County is a municipal corporation of the State of Washington.
- 12 This consolidated proceeding is the result of petitions filed by Spokane County to
signalize the Ashton, Kenney, Arden, Lynden, and Garry Road railroad crossings;
petitions filed by the Commission to close the Ashton, Corrigan, Arden and Lynden
railroad crossings; and a petition filed by Union Pacific Railroad to close the Arden Road
railroad crossing.

- 13 On September 18, 2000, representatives on behalf of Commission Staff, Union Pacific Railroad Company and Spokane County executed a Stipulation among the parties which proposes a resolution of all outstanding issues in this proceeding.

CONCLUSIONS OF LAW:

- 14 The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of and all parties to these proceedings pursuant to Title 81 RCW and further authority to approve settlement agreements pursuant to WAC 480-09-466.
- 15 The stipulation and settlement agreement with addendum which are attached to this order as Appendices A and B, respectively, fully and fairly resolve the issues in this proceeding and are in the public interest.

ORDER:

- 16 The Commission accepts the stipulation and settlement agreement with addendum of the parties, adopts it, and incorporates it into this order as though set out in full herein.
- 17 The Commission retains jurisdiction over these proceedings to effectuate the terms of this order.

DATED at Olympia, Washington and effective this 27th day of October, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION


MARILYN SHOWALTER, Chairwoman


RICHARD HEMSTAD, Commissioner


WILLIAM R. GILLIS, Commissioner

NOTICE TO PARTIES: This is a final Order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this Order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

APPENDIX A

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

SPOKANE COUNTY,	)	DOCKET NO. TR-950332
Petitioner,	)	(Kenney Road)
v.)	
UNION PACIFIC RAILROAD COMPANY,)	
Respondent.)	
-----)	
SPOKANE COUNTY,	)	DOCKET NO. TR-950333
Petitioner,	)	(Garry Road)
v.)	
UNION PACIFIC RAILROAD COMPANY,)	
Respondent.)	
-----)	
SPOKANE COUNTY,	)	DOCKET NO. TR-950334
Petitioner,	)	(Lynden Road)
v.)	
UNION PACIFIC RAILROAD COMPANY,)	
Respondent.)	
-----)	
SPOKANE COUNTY,	)	DOCKET NO. TR-961353
Petitioner,	)	(Ashton Road)
v.)	
UNION PACIFIC RAILROAD COMPANY,)	
Respondent.)	
-----)	
UNION PACIFIC RAILROAD COMPANY,	)	DOCKET NO. TR-970009
Petitioner,	)	(Ashton Road)
v.)	
SPOKANE COUNTY,)	
Respondent.)	
-----)	
WASHINGTON UTILITIES AND	)	DOCKET NO. TR-980936
TRANSPORTATION COMMISSION	)	(Lynden Road)
Petitioner,)	
v.)	
UNION PACIFIC RAILROAD COMPANY, and)	
SPOKANE COUNTY,)	
Respondents.)	
-----)	

WASHINGTON UTILITIES AND	)	DOCKET NO. TR-980937
TRANSPORTATION COMMISSION	)	(Arden Road)
Petitioner,)	
v.)	
UNION PACIFIC RAILROAD COMPANY, and)	
SPOKANE COUNTY,)	
<u>Respondents.</u>)	
WASHINGTON UTILITIES AND	)	DOCKET NO. TR-980938
TRANSPORTATION COMMISSION	)	(Corrigan Road)
Petitioner,)	
v.)	
UNION PACIFIC RAILROAD COMPANY, and)	
SPOKANE COUNTY,)	
<u>Respondents.</u>)	

STIPULATION

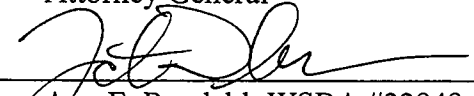
This stipulation is entered into between Spokane County ("County"), the Union Pacific Railroad Company ("Union Pacific") and the Staff of the Washington Utilities and Transportation Commission ("Staff"), collectively referred to as the Parties, in resolution of all issues in the consolidated Dockets in this proceeding.

The Parties stipulate and agree as follows:

1. Spokane County withdraws without prejudice the Petitions in Docket Nos. TR-950176, TR-950333 and TR-950334, requesting signals and gates for the crossings at Ashton Road, Lynden Road and Garry Road.
2. Union Pacific withdraws without prejudice the Petition in Docket No. TR-970009 requesting the closure of Ashton Road.
3. Staff withdraws without prejudice the Petitions in Docket Nos. TR 980936, TR-980937 and TR-980938 requesting closure of Corrigan Road, Arden Road and Lyden Road.
4. The County and Staff agree that the crossing at Kenney Road should be equipped with signals and gates if federal funds are available to pay for them. Union Pacific does not object.
5. The Parties agree Union Pacific shall have no financial responsibility with respect to the installation of signals and gates at Kenney Road.
6. The County and Staff request the Commission approve the construction of signals and gates at the Kenney Road crossing. Union Pacific does not object.

DATED this 18th day of September, 2000.

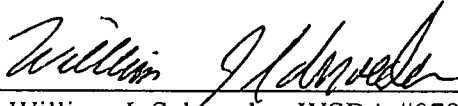
CHRISTINE O. GREGOIRE
Attorney General

BY 

~~Ann E. Rendahl, WSBA #22848~~
Assistant Attorney General
Counsel for Commission Staff

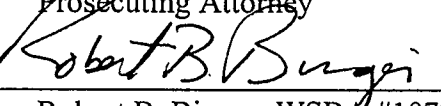
JONATHAN C. THOMPSON WSBA #26375

PAINE, HAMBLIN, COFFIN,
BROOKE & MILLER LLP

BY 

William J. Schroeder, WSBA #07942
Attorneys for Union Pacific Railroad Company

STEVEN TUCKER
Prosecuting Attorney

BY 

Robert B. Binger, WSBA #10774
Senior Deputy Prosecuting Attorney
Counsel for Spokane County

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APPENDIX B



S P O K A N E C O U N T Y

DIVISION OF ENGINEERING AND ROADS
William A. Johns, P.E., County Engineer

A DIVISION OF THE PUBLIC WORKS DEPARTMENT

August 14, 2000

Mike Roswell
Washington Utilities and Transportation Commission
Chandler Plaza Building
PO Box 47250
Olympia, WA 98540-7250

Dear Mr. Roswell,

The Stipulation Agreement between Spokane County, the Union Pacific Railroad Company and the Staff of the Washington Utilities and Transportation Commission, which resolves the issues of the consolidated dockets for the railroad crossings in the Otis Orchards area of Spokane County and requests the approval of the construction of signals and gates at Kenney Road, does not mention the removal of the hump on Kenney Road as it crosses the BNSF tracks. It is the intent of Spokane County to reconstruct the "hump" on Kenney Road as a part of the railroad grade crossing signalization project to meet Spokane County Road Standards. The construction of this roadway improvement will be timed to coincide with the construction of the signal and gate installation at the crossing.

Very truly yours,

William A. Johns, P.E.
County Engineer

Ross E. Kelley, P.E.
Assistant County Engineer