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A Professional Service Corporation

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January 12, 2011

VIA EMAIL AND FIRST CLASS MAIL

Pierce County Public Works and Utilities
Office of the County Engineer
Field Engineering Division
Attn: Jerry P. Bryant, P.E., Field Engineering Manager
Tacoma Mall Office Building
4301 S. Pine Street, Suite 446
Tacoma, WA 98409-7207

Pierce County Public Works and Utilities
Traffic Engineering Division
Attn: Marlene Ford, P.E., P.T.O.E., Associate County Traffic Engineer
Tacoma Mall Office Building
4301 S. Pine Street, Fifth Floor
Tacoma, WA 98409-7207

John F. Salmon III
Office of the Pierce County Prosecuting Attorney
Civil Division
955 Tacoma Avenue S., Suite 301
Tacoma, WA 98402-6713

Kathy Hunter, Deputy Assistant Director, Transportation Safety
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
PO Box 47250
Olympia, WA 98504-7250

Frona Woods
Assistant Attorney General
Utilities and Transportation Division
P.O. Box 40128
1400 S. Evergreen Park Drive S.W.
Olympia, WA 98504-0218

Re: WUTC Docket No. TR-100036
**(1) Meeker's Report #1 on Interim Use of the Spur at the 134th Crossing and (2)
Photocopy of a New Flagger Card for Jim L. Rose
(USDOT Crossing No. 085536 R) / (WUTC Crossing No. 42A32.40)**

2011 JAN 13 AM 8:05

Pierce County Public Works and Utilities, Attn: Jerry P. Bryant, P.E., and Marlene Ford, P.E.
John F. Salmon III, Office of the Pierce County Prosecuting Attorney, Civil Division
Kathy Hunter, Deputy Assistant Director, Transportation Safety, WUTC
Frona Woods, Assistant Attorney General, WUTC
January 12, 2011
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Dear Pierce County and WUTC Officials:

In view of condition 2 on page 2 my January 6, 2011 letter to David W. Danner of the WUTC,¹ I am writing on behalf of my client Meeker Southern Railroad (“Meeker”) to herewith forward Meeker’s first report concerning limited operation of the spur track prior to completion and operation of the 134th Avenue East flashing lights signal crossing signal system. That report (copy attached), which covers the time period from Sunday, December 19, 2010 through Friday, January 7, 2011 consists of the following items:

- (a) Meeker’s “Log (spreadsheet) for 134th Ave. E Crossing” setting forth the “[d]aily number of trains crossing 134th Avenue East on the *spur track*, their length, and the date and time of each crossing” **and** the “[d]aily number of trains crossing 134th Avenue East on *the mainline* track, and the date and time of each crossing;”
- (b) Three Certified Payroll Report sheets from Asphalt Patch Systems, Inc. concerning the flagging of the 134th Avenue East crossing by certified flaggers; and
- (c) Meeker’s table entitled “Verification of Compliance with the conditions in Table 2” (Table 2 being the table attached to my January 6, 2010 letter to Mr. Danner and attached as Exhibit C to Meeker’s Motion to Amend WUTC Order 01).

¹ Condition 2 states:

- (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.

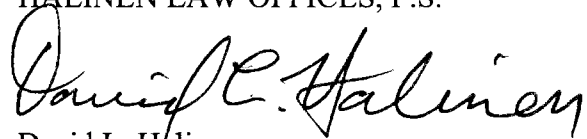
Pierce County Public Works and Utilities, Attn: Jerry P. Bryant, P.E., and Marlene Ford, P.E.
John F. Salmon III, Office of the Pierce County Prosecuting Attorney, Civil Division
Kathy Hunter, Deputy Assistant Director, Transportation Safety, WUTC
Frona Woods, Assistant Attorney General, WUTC
January 12, 2011
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In addition, in follow-up to my January 10, 2011 letter to you, I am herewith forwarding you a photocopy of a new Washington State Traffic Control Flagger card for Jim L. Rose, who was recertified today.

Please let me know if you have any questions or comments.

Sincerely,

HALINEN LAW OFFICES, P.S.



David L. Halinen

Enclosures

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

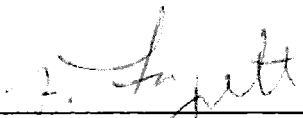
Meeker's Report #1

concerning limited operation of the spur track prior to completion and operation of the 134th Avenue East flashing lights signal crossing signal system

Prepared January 12, 2011

Covering the period from December 19, 2010 through January 8, 2011

I, James Forgette, the Operations Manager for Meeker Southern Railroad, hereby certify that the (a) the data in the enclosed one-page crossing spreadsheet and (b) the comments in the enclosed VERIFICATION OF COMPLIANCE WITH TABLE 2 are true and correct to my best knowledge and belief.



James Forgette

1-12-11
Date


MEEKER SOUTHERN
LOG FOR 134TH AVE. E CROSSING
DECEMBER 19, 2010 THROUGH JANUARY 8, 2011

DATE OF OPERATION	ONE-WAY MAINLINE CROSSINGS		TIME OF CROSSING		TRAIN LENGTH FEET		ONE-WAY SPUR CROSSINGS		TIME OF CROSSING		TRAIN LENGTH FEET	
	1	2	8:14	9:45	100	385	1	2	9:05	9:20	50 ENGINE ONLY	335 ENGINE + 3 CARS
12/22/2010	1		15:00		385		NONE					
	2		16:15		175							
12/23/2010	1		8:30		100		NONE					
	2		9:30		350							
12/24/2010	1		8:45		100		1		9:15		194 ENG. + 2 CARS	
	2		9:30		170		2		9:25		121 ENG. + 1 CAR	
	3		9:50		300							
	4		10:15		50							
12/28/2010	1		8:10		100		1		9:15		200 ENG. + 2 CARS	
	2		8:35		403		2		9:20		271 ENG. + 3 CARS	
	3		9:10		250				9:25		200 ENG. + 2 CARS	
	4		9:45		50				9:30		125 ENG. + 1 CAR	
12/31/2010	1		8:55		50		1		9:05		50 ENG. ONLY	
	2		9:20		106		2		9:15		106 ENG. + 1 CAR	
	3		9:30		353							
	4		10:00		50							
1/3/2011	1		8:20		160		NONE					
	2		9:05		303							
1/5/2011	1		8:20		303		NONE					
	2		9:10		242							
1/7/2011	1		8:30		242		NONE					
	2		9:15		220							


CERTIFIED PAYROLL REPORT

For the week ending:		Meeker Southern Railroad Flagging Personnel							
Month	Day	Year							
12	25	10							
Name and Address of Employee			Day and Date (e.g. 10/10/11)						
			Sun	Mon	Tues	Wed	Thu	Fri	Sat
			19	20	21	22	23	24	25
			Hours Worked Each Day (e.g. 9:00 AM - 3:00 PM)						Total Hrs
1	James L. Rose 10204 Woodland					2			2
2	Sharon K. Ward 10204 Woodland					2			2
3	Rygallo, WA 98373								
4									
5									
Today's Date:			Printed name of party signing this report:					Title:	
01-12-11			Jay Looker					Corp. Sec Treas	
The party signing this report pays or supervises the payment of the persons employed by:			(Name of Flagging Company)						
			Asphalt Patch Systems Inc						
Project Name:			For the week starting:		For the week ending:				
134 Av E Railroad Crossing			December 19, 2010		December 25, 2010				
The party signing below declare under penalty of perjury that all information contained in this Certified Payroll Report is correct and complete and that all persons hold a current certified flagging card.									
Print name of party signing this report:			Title:			Signature:			
Jay Looker			Corp. Sec - Treas						

CERTIFIED PAYROLL REPORT

For the week ending:		Meeker Southern Railroad Flagging Personnel							
Month	Day	Year							
01	01	2011							
Name and Address of Employee			134th Avenue East & Pioneer Way East Rail Crossing					Total Hrs	
			Day and Date (e.g. 10/10/11)						
			Sun	Mon	Tues	Wed	Thu	Fri	Sat
			26	27	28	29	30	31	1
			Hours Worked Each Day (e.g. 9:00 AM - 3:00 PM)						
1	James L. Rose 10204 woodland			2				2	
2	Sharon K. Ward 10204 woodland			2				2	
3	Puyallup, WA 98373								
4									
5									
Today's Date:			Printed name of party signing this report:			Title:			
01-12-11			JAY LOOKER			Corp. Sec-Treas			
The party signing this report pays or supervises the payment of the persons employed by:			(Name of Flagging Company)						
			Asphalt Patch Systems Inc						
Project Name:			For the week starting:			For the week ending:			
134 AV E Railroad Crossing			Dec 26, 2010			January 1, 2011			
<p>The party signing below declare under penalty of perjury that all information contained in this Certified Payroll Report is correct and complete and that all persons hold a current certified flagging card.</p>									
Print name of party signing this report:			Title:			Signature:			
JAY LOOKER			Corp. Sec/Treas						

CERTIFIED PAYROLL REPORT

For the week ending:		Meeker Southern Railroad Flagging Personnel						
Month		134th Avenue East & Pioneer Way East Rail Crossing						
Day								
Year								
01 - 08 - 2011								
Name and Address of Employee		Day and Date (e.g. 10/10/11)						
		Sun	Mon	Tues	Wed	Thu	Fri	Sat
1		2	3	4	5	6	7	8
James L. Rose 10204 Woodland		Hours Worked Each Day (e.g. 9:00 AM - 3:00 PM)						
2							2	2
3							2	2
4								
5								
Today's Date:		Printed name of party signing this report:					Title:	
01-12-2011		Jay Looker					Corp Sec-Treas	
The party signing this report pays or supervises the payment of the persons employed by:								
		(Name of Flagging Company)						
		Asphalt Patch Systems Inc						
Project Name:		For the week starting:			For the week ending:			
134 AV E Railroad Crossing		January 2, 2011			January 8, 2011			
The party signing below declare under penalty of perjury that all information contained in this Certified Payroll Report is correct and complete and that all persons hold a current certified flagging card.								
Print name of party signing this report:		Title:			Signature:			
Jay Looker		Corp Sec/Treas						

**Portion of Meeker's Report #1 dated January 12, 2011
VERIFICATION OF COMPLIANCE WITH TABLE 2**

(a table attached as Exhibit C to Meeker's Motion to Amend WUTC Order 01, which table sets forth "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>	<p>The period covered by Meeker's Report #1 is Sunday December 19, 2010 through Saturday, January 8, 2011 (a 3-week period). During the week ending Saturday, December 25, 2010, the spur was used for crossings only one day (December 22). During the week ending Saturday, January 1, 2011, the spur was used for crossings three days (December 28, 29 and 31). During the week ending Saturday, January 8, 2011, the spur was used for crossings only one day (January 7). Thus, the average number of days per week that that the spur track was used during the reporting period is calculated as follows:</p> $\frac{1 + 3 + 1}{3} = 1.6 \text{ days}$ <p>That is less than the subject limitation.</p>
2	Maximum number of round-trip crossings per day that the spur track may be used for crossings of 134th: <u>2</u>	As Meeker's accompanying "Log (spreadsheet) for 134th Ave. E Crossing" shows, not more than 2 round trip crossings of 134th along the spur track occurred during any of the days that the spur track was used for crossings.
3	Hours during the day that spur crossings will be limited to: <u>9:00 AM to 3:00 PM</u>	As Meeker's accompanying "Log (spreadsheet) for 134th Ave. E Crossing" shows, all spur crossings occurred between the hours of 9:00 AM to 3:00 PM.
4	Maximum number of train cars per train to be operated through the spur crossing: <u>3 cars plus an engine</u>	As Meeker's accompanying "Log (spreadsheet) for 134th Ave. E Crossing" shows, the maximum number of train cars per train operated through the spur crossing was 3 cars plus an engine.
5 (as modified on January 6, 2011 by agreement of the attorneys	Traffic flagging of 134 th Avenue East on the north and south sides of the crossing must be performed in accordance	During the period of Sunday, December 19, 2010 through Saturday, January 8, 2011, traffic flagging of 134th Avenue East on the north and south sides of the crossing was performed by certified flagger James L. Rose and Washington State Traffic

<p>for Meeker, Public Works and the WUTC)</p>	<p>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.</p>	<p>Control Supervisor Sharon K. Ward, who are employees of Asphalt Patch Systems, Inc. (a third-party company providing flagging services to Meeker) during all train crossings of 134th via the spur track.</p> <p>(The modification of Requirement/Limitation #5 to add flagging of the train crossings via the mainline track as part of the requirement was not agreed to by attorneys for Meeker, Public Works and the WUTC until late in the day on January 6, 2011 and was not known by Meeker's train operating crew and flagging crew in time for operations during the period of Sunday, December 19, 2010 through Saturday, January 8, 2011.)</p> <p>Note: For Meeker's next reporting period (the period of Sunday, January 9, 2011 through Saturday, January 22, 2011) flagging of the crossing will be provided during all train crossings of 134th via either the spur track or the mainline track.</p>
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WASHINGTON DRIVER LICENSE

LIC # ROSE*JL645L4 EXP 06-24-2013

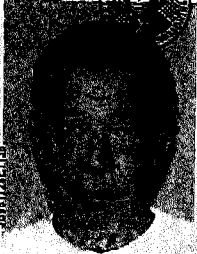
ROSE, JAMES LEE
 10204 WOODLAND AVE E
 PUYALLUP WA 98373-1184

CDL END 3 RES

SEX	HT	WT	EYES
M	5-08	160	BRN

ISSUE DATE 06-20-2008
 DOB 06-24-1936

Jim Rose



recognizes that the named person has received
 knowledge and information compliant with
 TCD and necessary to perform the duties of
 Traffic Control Flagger.

Training was conducted by:

Organization Pierce College
 Instructor's Name (print) Andrea Pollard
 Instructor's ID Number 00081



WASHINGTON STATE TRAFFIC CONTROL
FLAGGER

Name **JIM ROSE**
 I.D. No./S.S.N. B013-Y142-014
 Card No. **269499**
 Date of Expiration **01/2014**
 Date of Issue **01/12/2014**

valid
 with
 photo
 ID

Jim Rose
 Flagger's Signature