

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON STATE DEPARTMENT	)	
OF TRANSPORTATION,	)	DOCKET NO. TR-961002
	)	
Petitioner,	)	
	)	
v.	)	
	)	
BURLINGTON NORTHERN SANTA FE	)	
RAILROAD	)	
	)	
Respondent.	)	
.....	)	
.	)	
WASHINGTON UTILITIES AND	)	DOCKET NO. TR-981276
TRANSPORTATION COMMISSION,	)	
	)	
Petitioner,	)	ORDER ACKNOWLEDGING THE
	)	FULFILLMENT OF CONDITIONS;
v.	)	APPROVING SETTLEMENT
	)	AGREEMENT; ALLOWING THE
BURLINGTON NORTHERN SANTA FE	)	COMMENCEMENT OF WORK
RAILROAD	)	
.....	)	

**I. SYNOPSIS**

**A. Summary**

1 The Commission previously approved reconstruction of one railroad crossing at grade and closure of another in Winlock, Washington, subject to the fulfillment of specified conditions. The Commission now finds that the parties have met the conditions that it required them to fulfill prior to commencement of the work at the railroad crossing sites in Winlock, Washington. That work includes the closure of the Campbell Street crossing, track work in the vicinity of the Walnut Street crossing, and regrading of the Walnut Street crossing and Kerron Avenue. Therefore, the Commission approves the settlement agreement between the parties and authorizes them to commence work as specified in the agreement.

**B. Procedural History**

2 On December 28, 1998, the Commission entered an order approving the proposed settlement agreement conditioned on the following:

- (1) Commission review and approval of final engineering plans, which the parties must submit to the Commission prior to commencement of construction;
- (2) development of a plan to monitor blockages of the Fir and Walnut Street crossings, which the parties must also submit to the Commission prior to the commencement of construction; and
- (3) implementation of a public education campaign and a plan, including a plan to enforce an ordinance prohibiting trespassing on the railroad right-of-way, to become effective after the completion of all work.

3 On June 13, 2000, the Commission Staff filed a letter with the Commission stating that the parties believe that they have met the conditions set by the Commission.

**C. Parties**

4 Deborah L. Cade, Assistant Attorney General, Olympia, represented Petitioner Washington State Department of Transportation. Ann Rehndal, Assistant Attorney General, Olympia, represented Petitioner Washington Utilities and Commission. Rexanne Gibson, attorney, Bellevue, represented respondent Burlington Northern Santa Fe Railroad. Mark Scheibmeier, Winlock City Attorney, Chehalis, represented intervenor, City of Winlock.

**II. DECISION**

5 The Commission finds that the parties have met the required conditions and authorizes the commencement of work on the railroad crossing sites in Winlock. The Commission directs the parties to continue in its Operation Lifesaver Educational campaign and to continue to monitor blockages of the Fir and Walnut Street crossings.

**III. FINDINGS OF FACT**

- 6 1) The final engineering plans submitted by the parties are satisfactory.
- 7 2) The parties have monitored blockages of the Fir and Walnut Street crossings by reporting incidents to the BNSF using the BNSF telephone number. This

method appears to be minimizing the crossing blockage problem for the present time.

- 8           3) The Commission Staff is planning a public education campaign in Winlock for the fall of 2000 to educate the residents of Winlock and the surrounding area of the dangers of trespassing and how to use crossings safely. Commission Staff plans to work in cooperation with city and school officials to make presentations at Winlock schools, the Senior Citizen Center, and other Winlock-based organizations.

#### IV. CONCLUSIONS OF LAW

- 9           1) The Washington Utilities and Transportation Commission has jurisdiction over the parties and subject matter of these Applications.
- 10          2) The Commission has the authority to approve settlement agreements pursuant to WAC 480-09-466.
- 11          3) The conditions as set out in the December 28, 1998 Commission order, are appropriate and necessary and in the public interest.
- 12          4) The final design plans, the proposed method of blockage monitoring, and the public education plans that the parties have submitted satisfy the conditions as set out in the December 28, 1998 Commission order.

#### V. ORDER

THE COMMISSION ORDERS That

- 13          1) The parties' have met the conditions for final approval of the settlement agreement as set out in the December 28, 1998 Commission order.
- 14          2) The settlement agreement is approved and the parties may commence work as specified in the settlement agreement and final design plans.
- 15          3) The parties must continue to develop a plan to educate the public, to become effective after the completion of all work.
- 16          4) The parties must continue to monitor blockages at the Fir Street and Walnut Street crossings.
- 17          5) The requirements that the Commission set out in the December 28, 1998 order remain in full force and effect.

- 18           6) The Commission retains jurisdiction over the subject matter of and parties to this proceeding to effectuate the terms of this and prior orders.

DATED at Olympia, Washington, and effective this     day of June, 2000.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

**NOTICE TO ALL 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).**