

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WHATCOM COUNTY PUBLIC)	DOCKET TR-071868
WORKS DEPARTMENT,)	
)	ORDER 01
Petitioner,)	
)	ORDER AUTHORIZING THE
v.)	INSTALLATION OF R15-3 "EXEMPT"
)	CROSSING SIGNS AT A HIGHWAY-
LAKE WHATCOM RAILWAY,)	RAIL GRADE CROSSING AT SOUTH
)	BAY ROAD
Respondent)	
)	USDOT: 870158M
)	UTC: 16A3.80
.....)	

BACKGROUND

- 1 On September 11, 2007, Whatcom County Public Works Department (Whatcom County) filed a petition with the Utilities and Transportation Commission (Commission) seeking approval to install R15-3 exempt crossing signs at a railroad-highway grade crossing. The crossing is located at the intersection of South Bay Road and the respondent's tracks in Whatcom County, Washington.

- 2 The respondent has consented to entry of an Order by the Commission without further notice or hearing.

- 3 The crossing is composed of two tracks; one mainline and one side track. There is no train traffic at this crossing. The crossing is physically separated from another section of track near this location because of a Washington State Supreme Court ruling issued in 1981. The only activity on the tracks at this location is an excursion ride powered by a motorized speeder car, which operates only on holidays and weekends. The speeder car is operated by Lake Whatcom Railway at a maximum speed of five miles per hour.

- 4 Whatcom County estimates average daily vehicle traffic over the crossing at 409, which includes commercial motor vehicles and school busses. The posted vehicle speed is 35 miles per hour. Current warning devices at the crossing include cross bucks, advance warning and multiple track signs.

5 Whatcom County is proposing to replace the current hand lettered, improperly installed
“Exempt” signs that were likely installed by a frustrated driver with R15-3 exempt signs
that are in compliance with the Manual on Uniform Traffic Control Devices (MUTCD).

6 Despite the absence of train traffic, RCW 46.61.350 requires that vehicles carrying
passengers for-hire, school buses and transporters of hazardous substances must stop at
crossings to look and listen for trains unless “an official traffic control device as
designated by the Washington Utilities and Transportation Commission pursuant to RCW
81.53.060 (i.e. exempt sign) gives notice that the stopping requirement imposed by this
section does not apply.” Since there is no train traffic operating on these tracks, the
purpose of the stopping requirement is defeated. There is a remote chance of a collision
with the speeder car, however all traffic on the roadway including school buses, for-hire
buses and transporters of hazardous materials, must, by law, yield to any movement on
the tracks. It is far more dangerous for these vehicles to stop at this crossing than not to
stop because of the risk of rear-end collisions, improper passing and unsafe motorist
behavior.

7 The proposed installation of R15-3 exempt crossing signs at South Bay Road is in the
interest of improving traffic efficiency and reducing the potential for rear-end collisions
related to vehicle stops.

FINDINGS AND CONCLUSIONS

8 (1) The Washington Utilities and Transportation Commission is an agency of the state
of Washington having jurisdiction over public railroad-highway grade crossings
within the state of Washington. *Chapter 81.53 RCW.*

9 (2) The South Bay Road highway-rail grade crossing is a public crossing within the
state of Washington.

10 (3) Lake Whatcom Railway will notify the Commission prior to resuming any train
operations at the South Bay Road crossing. Lake Whatcom Railway will not
conduct operations until the crossing is properly signed for operations.

11 (4) RCW 81.53.060 requires that the Commission grant approval prior to the
modification of warning devices at public railroad-highway grade crossings within
the state of Washington.

- 12 (5) Commission staff investigated the petition and recommended that it be granted with the conditions identified below.
- 13 (6) After examination of the petition filed by Whatcom County Public Works on September 11, 2007, and giving consideration to all relevant matters and for good cause shown, the Commission grants the petition authorizing the installation of exempt signs at the South Bay Road crossing.

ORDER

THE COMMISSION ORDERS:

- 14 The petition of Whatcom County Public Works to install R15-3 exempt signs a railroad-highway grade crossing at South Bay Road and the Respondent's tracks in Whatcom County, is granted, as follows:
- (1) The modifications must conform to those described in the petition.
 - (2) The installation of the R15-3 exempt signs must comply with all applicable standards specified in the U.S. Department of Transportation *Manual on Uniform Traffic Control Devices*.
 - (3) The Lake Whatcom Railway or any successor railroad company proposing to operate trains over this crossing must notify Whatcom County and the Commission, in writing, at least 30 days prior to any resumption in rail traffic at this location.
 - (4) Upon completion of the installation authorized herein, Petitioner must notify the Commission.

The Commissioners, having determined that this filing complies with the requirements of RCW 81.53.261, directed the Secretary to enter this Order.

DATED at Olympia, Washington and effective September 28, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Executive Secretary