

will provide both vehicle and pedestrian users with safe passage over the tracks because of the separation between the railroad tracks and users.

5 Once construction of the over-crossing begins, the City of Kent will close access to 228th Street South and traffic will be rerouted to nearby alternate routes. BNSF will construct a secured temporary crossing once the existing signals are removed. The temporary crossing will be gated and locked during non-construction time and a flagger will be present during construction to ensure safe passage for workers.

6 On June 30, 2008, the City of Kent consented to entry of an Order by the Commission without further notice or hearing.

FINDINGS AND CONCLUSIONS

7 (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. *RCW 81.53*.

8 (2) The railroad-highway grade crossing at the intersection of 228th Street South and the Petitioner's tracks in Kent, Washington, identified as USDOT 085627W, is a public railroad-highway grade crossing within the state of Washington.

9 (3) *RCW 81.53.261* requires the Commission grant approval prior to any changes to public railroad-highway grade crossings within the state of Washington in non-first class cities. *See also WAC 480-62-150*.

10 (4) Commission Staff investigated the petition and recommended that it be granted, provided that upon completion of the construction, the Petitioner must notify the Commission. The crossing is subject to inspection by Commission Staff, verifying that it is in full compliance with applicable laws and regulations.

11 (5) After reviewing BNSF Railway Co.'s petition filed on June 30, 2008, and giving due consideration to all relevant matters and for good cause shown, the Commission grants the petition.

O R D E R

THE COMMISSION ORDERS:

12 BNSF Railway Co.'s petition to close an at grade railroad-highway grade crossing and construct an over-crossing in its place, located at the intersection of 228th Street South and the petitioners's tracks in Kent, Washington, is granted. Approval of the petition is subject to the following conditions:

- (1) The Petitioner must notify the Commission upon completion of the construction. The crossing is subject to inspection by Commission Staff, to verify that it is in full compliance with applicable laws and regulations.

The Commissioners have delegated authority to the Secretary to enter this Order pursuant to RCW 80.01.030 and WAC 480-07-904((1)(a)).

DATED at Olympia, Washington, and effective September 17, 2008.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary