

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

MEEKER SOUTHERN RAILROAD	)	ORDER 03
	)	DOCKET NO. TR-100036
Petitioner,)	
vs.	)	PROPOSED ORDER AMENDING
	)	ORDER 01 (THE ORDER
PIERCE COUNTY PUBLIC WORKS &	)	GRANTING PETITION TO MODIFY
UTILITIES	)	A PUBLIC HIGHWAY-RAIL GRADE
	)	CROSSING AND UPGRADE
Respondent	)	WARNING DEVICES AT 134TH
	)	AVENUE EAST)
)	
	)	USDOT CROSSING #085536R
	)	UTC CROSSING #42A32.40

BACKGROUND

- 1 Pursuant to a delegation to the Commission's Secretary for decision, on January 12, 2010 the Commission's Executive Director and Secretary David W. Danner issued Order 01 under Docket No. TR-100036 granting Petitioner Meeker Southern Railroad's petition to modify a public highway-rail grade crossing and upgrade warning devices at 134th Avenue East in unincorporated Pierce County.
- 2 The grade crossing modification that is the subject of the Petition granted by Order 01 is an addition of a spur track along the south side of 134th Avenue East's current at-grade crossing of Petitioner's existing main line track that is located north of Pioneer Way East (in unincorporated Pierce County, Washington). During the latter portion of 2009, a five-sheet set of civil engineering design drawings prepared by Sitts & Hill Engineers, Inc.

and approved by Pierce County Engineer Brian D. Stacy, P.E. set forth the proposal's original design. (Those design drawings are referred to below as the "Original Design Drawings.") A set of copies of those drawings was attached to the Petition and incorporated in its entirety therein by reference. In addition, a December 31, 2009 *Engineering Review and Evaluation (Third Revised Version)* report and supporting documents binder concerning the proposal (prepared by Gregory B. Heath, P.E. of Heath & Associates, Inc.) (referred to below as the "Engineering Review and Evaluation") was incorporated in its entirety therein by reference.

3 On December 20, 2010, Petitioner filed a motion to amend Order 01 (the "Motion") seeking an order correcting Background paragraph "5" (actually paragraph 6) and amending Conditions 1 and 3 as currently set forth in Order 01.

4 In addition to specifying the location of the proposed spur, the Original Design Drawings specified certain planned 134th Avenue East pavement improvements at the crossing (primarily on the crossing's south side), a road shoulder-mounted flashing lights crossing signal system (connected to a motion-sensitive train detection system to detect approaching trains), pavement markings, and advance warning signs.

5 Background ¶ 6 of Order 01 states:

Meeker Southern proposes to add a spur track to the crossing which will allow service to a new customer. Operations on the new spur track will increase the number of trains using the crossing on operating days to 12 and eventually up to 18 per operating day.

Background ¶ 9 of Order 01 states:

The proposed modification of this crossing is in the interest of providing rail access to industrial properties located to the east-southeast of 134th Avenue East and promoting economic development in Pierce County.

Pages 3, 11, and 19 of the Engineering Review and Evaluation together explain that the addition of the spur track and an associated Phase 1 Service Siding would allow Sound Delivery Service to be served via the spur track as an initial new customer, as well as allow additional future industrial customers to be served once a Phase 2 Service Siding is constructed off of the spur track. (Order 01 Background ¶ 6's reference to "a new customer" rather than to "new customers" is technically inaccurate.) The table on page 19 of the Engineering Review and Evaluation correlates its forecasted 18 train crossings per train operating day upon future completion of such a Phase 2 Service Siding and possible other sidings stemming from it further to the east. (None of the Phase 2 Service Siding has yet been constructed, and none of it is now anticipated to be constructed until the second half of 2011 at the earliest.)

6 The spur track has recently been installed, as well as all but approximately the east 300 feet of the Phase 1 Service Siding along a portion of the north edge of the Sound Delivery Service property. The easterly extent of the siding matches the easterly extent of the loading dock that Sound Delivery Service has built so far along the north edge of its property. The portion of the siding so far constructed is sufficient to allow three long freight cars or four smaller freight cars to abut the Sound Delivery's currently constructed loading dock for loading and unloading. Sound Delivery Service plans an easterly extension of its loading dock at a later date and Meeker plans to correspondingly extend the length of the Phase 1 Service Siding at that time.

7 During October 2010, in conjunction with the installation of the spur track at the 134th crossing, roadway pavement improvements were made to 134th Avenue East immediately north and south of the crossing. As part of those pavement improvements, the existing main track crossing surface has been upgraded from plank to asphalt (as was

- contemplated by Background ¶ 8 of Order 01), and the newly constructed spur track crossing surface is now asphalt (as was contemplated by Background ¶ 8 of Order 01).
- 8 Because the spur track is on the south side of the main line track, the Original Design Drawings only required pavement work extending 4 feet north along 134th from the main line track's centerline.
- 9 Sheet C1.1 of the Original Design Drawings contemplated paving work extending south of the spur track's centerline approximately 40 feet along 134th's centerline to achieve a roadway surface slope of 1 percent along 134th's centerline. The roadway pavement work that has been performed only extends along 134th's centerline about 19 feet south of the spur track's centerline, resulting in a roadway surface slope of approximately 3.16 percent along 134th's centerline.
- 10 On December 16, 2010, representatives of the Petitioner met at the 134th crossing site with Jerry P. Bryant, P.E., Field Engineering Manager of the Pierce County Public Works & Utilities Department's Office of the County Engineer, and with Marlene Ford, P.E., P.T.O.E., Associate County Traffic Engineer of the Pierce County Public Works & Utilities Department's Traffic Engineering Division, to examine the paving work that has been completed to date and consider whether to (a) have further pavement work done on the south side of the crossing to comport with Sheet C1.1 of the Original Design Drawings or (b) instead have some further roadway surface regrading done on the north side of the crossing (where the existing, historic roadway surface slope is much steeper than it is on the south side—up to approximately 6.8 percent along 134th's centerline pavement starting about 10 feet north of the main line track's centerline and up to approximately 10.7 percent along a low portion of the west edge of 134th's westerly lane before 134th flattens out to the north into a sag vertical curve). A proposal by Meeker to

regrade and repave 134th to the north to a point approximately 50 lineal feet north of the main line track's centerline was set forth in the Motion and was acceptable to Public Works as an alternative to regrading 134th further to the south of the spur track than has already been done (provided that the Original Design Drawings were first supplemented and/or revised to reflect the proposed design of the 134th regrading and repaving and were approved by Public Works).

11 Thereafter, Petitioner enhanced its proposal so as to regrade and repave 134th to the north to a point approximately 60 lineal feet north of the main line track's centerline. The design of such regrading and repaving is embodied in a four-sheet set of supplemental and revised civil engineering design drawings prepared by Sitts & Hill Engineers, Inc. and approved on January 25, 2011 on behalf of the Pierce County Public Works Director (the "Revised Design Drawings"). The Revised Design Drawings consist of a supplemental sheet labeled C4.0 and revised Sheets C1.0, C1.1, and C2.0. (Sheets C1.2 and C1.3 of the Original Design Drawings are unchanged and remain in effect.) Commission Staff has reviewed the Revised Design Drawings and has no objections to them. (The now-proposed regrading and repaving of 134th to the north of the main line track is planned to reduce 134th's maximum longitudinal slope to approximately 4.27 percent.)

12 Order 01 did not have a schedule for completion of the crossing improvements. Attached to this amending order as Exhibit A is a four-page table (Table 1) that sets forth Meeker's updated proposed "Completion Schedule for Items Yet to Be Completed Concerning Meeker Southern Railroad's Modification of 134th Avenue East's existing at-grade crossing of Meeker's main line track." That completion schedule, which notes various changes to the Original Design Drawings that were embodied in the Revised Design

Drawings, was prepared in consultation with Mr. Bryant of Public Works and is acceptable to Public Works and to Commission Staff.

13 As noted in the comment cell corresponding to Item #5 in Table 1 (Exhibit A), Meeker now proposes using a more advanced signal controller (a *Harmon* PMD-2 Bi-Directional Motion Detector controller) as part of the automatic flashing lights crossing signal system than the signal controller previously planned when the Original Design Drawings were prepared. (That comment cell notes that the controller relating to train detection on the spur track will be a TD-4 AC/DC Relay System.) As also noted in that comment cell, the now-planned use of the PMD-2 Bi-Directional Motion Detector controller will eliminate the need for all but one of the insulated rail joints on Meeker's main line track and reduce the number of necessary insulated rail joints on the spur track to five. Meeker has had its consulting engineering firm, Sitts & Hill Engineers, Inc., reflect the upgraded controllers and the changes to the design locations of the insulated rail joints on Sheet C2.0 of the Revised Design Drawings.

14 Sound Delivery Service (a customer of Petitioner) has recently moved its operational facilities from Seattle to its 7.99-acre site at 13505 Pioneer Way East, which lies along a portion of the recently completed Phase 1 Service Siding. Sound Delivery Service's primary business is flatbed trucking and railcar transloading of large, heavy construction materials and equipment, as well as shipping containers from its site throughout Western Washington for both public sector and private sector projects. In order to effectively provide the materials that Sound Delivery's public and private sector customers need in order to meet their respective scheduling demands, Sound Delivery Service needs immediate freight rail service via the recently installed spur track and Phase 1 Service

Siding of up to three freight car loads per train delivery day on an average of three train delivery days per week during the next few months.

15 Attached to this amending order as Exhibit B is a one-page table (Table 2) that sets forth Meeker's updated proposed "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." [As noted in Table 1 (Exhibit A) at Item #5, Meeker's proposed outside completion date for installation and commencement of operation of the automatic flashing lights crossing signal system for the crossing and of corresponding advance warning signs is March 18, 2011.] Prior to such completion and commencement of operation of the signal system, Item #5 of Table 2 would require traffic flagging of 134th Avenue East on the north and south sides of the crossing in accordance with WAC 296-155-305 by certified flaggers provided by Meeker during all train crossings of 134th via the spur track or the main line track. Also prior to such completion, Item #s 1 through 4 of Table 2 would (a) limit the average number of days per week that the spur track will be used for crossings of 134th to 3 days, (b) limit the number of crossings per day that the spur track may be used for crossings of 134th to 4, (c) limit the time period during the day when spur crossings will be allowed to the period between 9:00 AM and 3:00 PM (i.e., to daylight hours outside of the AM and PM hours of peak traffic on nearby roadways), and (d) limit the maximum number of train cars per train to be operated through the spur crossing to 3 freight cars plus an engine. Those limitations on use of the spur are more restrictive than the limitations set forth in the Engineering Review and Evaluation for spur operations once the flashing lights system is installed and operational. Operation of the spur under those limitations coupled

with the proposed traffic flagging of 134th Avenue East on the north and south sides of the crossing in accordance with WAC 296-155-305 by certified flaggers provided by Meeker during all train crossings of 134th would not present an unacceptable or unnecessary risk to public safety. In view of Sound Delivery's immediate need for such limited rail service via the spur track, such limited interim limited operations of the spur track would serve the public interest by facilitating commerce.

FINDINGS AND CONCLUSIONS

- 16 (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.*
- 17 (2) The 134th Avenue East grade crossing, identified as USDOT #085536R, is a public railroad-highway grade crossing within the State of Washington.
- 18 (3) WAC 480-62-150(1)(f) requires that the Commission grant approval prior to constructing multiple railroad tracks at a crossing, and WAC 480-62-150(2)(b) requires that the Commission grant approval prior to adding active crossing signal warning devices at a public railroad-highway grade crossing within the State of Washington. In Order 01, the Commission granted such approval for the 134th Avenue East grade crossing, subject to three conditions.
- 19 (4) On December 20, 2010, the Petitioner filed a motion to amend Order 01.
- 20 (5) The Commission has authority to amend its prior orders. *RCW 81.04.210 and WAC 480-07-875.*
- 21 (6) Commission Staff has reviewed the Motion and its supporting exhibits as well as (a) Public Works' December 30, 2010 response letter from Pierce County Engineer Brian Stacy, P.E. and (b) Meeker's January 21, 2011 Reply to the Responses by Public Works and Commission Staff and does not object to the Motion being granted on the conditions set forth below.
- 22 (7) The Pierce County Department of Public Works & Utilities has also advised the Commission that it has no objection to the grant of the Motion on the conditions set forth below.

- 23 (8) Having reviewed the Motion and its supporting exhibits as well as (a) Public Works' December 30, 2010 response letter from Pierce County Engineer Brian Stacy, P.E., (b) the January 4, 2011 Commission Staff Response, and (c) Meeker's January 21, 2011 Reply to the Responses by Public Works and Commission Staff, and having further considered the testimony, additional written evidence, and arguments of the parties made at the January 26, 2011 hearing on the Motion, the Commission concludes that Granting Petitioner's Motion would be in the public interest and would not present an unacceptable or unnecessary risk to public safety.

ORDER

THE COMMISSION ORDERS:

- 24 (1) Petitioner's Motion to Amend Order 01 is hereby granted.
- 25 (2) Background ¶ 6 of Order 01 is hereby revised to state:
- Meeker Southern proposes to add a spur track to the crossing which will allow service to a new customers. Operations on the new spur track will increase the number of trains using the crossing (on both the main line track and the spur track) on operating days to 12 and eventually up to 18 per operating day.
- 26 (3) Approval Condition 1 of Order 01 is hereby amended to state:
- (1) Unless otherwise approved by both Commission Staff and Public Works, the crossing modifications must conform to those described and attached to the petition and set forth on (a) Sheets C1.2 and C1.3 of the civil engineering design drawings. The drawings are identified by December 29, 2009, and bearing October 20, 2009 approval signatures of Brian D. Stacy, P.E., on behalf of the Pierce County Public Works Director and (b) Sheets C1.0, C1.1, C2.0 and C4.0 of the civil engineering design drawings bearing January 25, 2011 approval signatures on behalf of the Pierce County Public Works Director.
- 27 (4) Approval Condition 2 of Order 01 remains unchanged. It states:
- (2) Traffic control devices must comply with all applicable standards specified in the U.S. Department of Transportation Manual on Uniform Traffic Control Devices.

(5) Approval Condition 3 of Order 01 is hereby amended to state:

- (3) All work for the proposed spur track and the Phase 1 Service Siding (except for approximately the east 300 feet of the siding, which may be completed at any time after the commencement of operation of the remainder of the automatic flashing lights crossing signal system) shown on the design drawings shall be completed (a) in a timeframe consistent with the time schedule set forth in Table 1 attached to this amending Order as Exhibit A (unless otherwise approved by both Commission Staff and Public Works) and (b) to the reasonable satisfaction of Commission Staff and Pierce County Public Works and Utilities Staff prior to the Petitioner starting operation of the spur line and Phase 1 Service Siding; PROVIDED, HOWEVER, that (i) Petitioner may immediately operate the spur line and Phase 1 Service Siding subject to the Special Requirements and Restrictions set forth in Table 2 attached to this Amending Order as Exhibit B and (ii) following installation and commencement of operation of the remainder of the automatic flashing lights crossing signal system for the crossing and of corresponding traffic control signs (which must occur by March 18, 2011 unless otherwise approved by both Commission Staff and Public Works), Petitioner must thereafter operate the spur line and Phase 1 Service Siding with the automatic flashing lights crossing signal system in operation.

(6) The following new approval condition (Approval Condition 4) is hereby added:

- (4) Unless otherwise approved by both Commission Staff and Public Works, at such future time as (a) the Phase 2 Service Siding and/or (b) any other additional sidings stemming from the spur, from the Phase 1 Service Siding, or from the Phase 2 Service Siding are constructed thereby making possible back-and-forth train operations that could facilitate coupling and uncoupling of rail cars and pick-up and delivery of rail cars entirely east of 134th (by taking advantage of the additional track switching opportunities that would arise from such additional sidings), if any such back-and-forth train operations on the east side of 134th involve a train heading west and either starting within or entering into a train detection zone and thereby turning on the automatic flashing lights crossing

signal system, then the entire train must (i) continue west through the 134th crossing so as to turn-off the system and (ii) continue far enough west to clear the west end of the train detection zone west of 134th before heading back to the east down the spur track.

30 (7) The following new approval condition (Approval Condition 5) is hereby added:


(5) Meeker rather than Pierce County shall be responsible for all of the costs of the installation of the proposed spur crossing and related improvements contemplated by the Revised Design Drawings.

31 (8) The following new approval condition (Approval Condition 6) is hereby added:

(6) Until such time as a left-turn lane or left-turn pocket on the west leg of the intersection of Pioneer Way and 134th has been constructed, between 4:45 p.m. and 5:45 p.m. each ~~day~~ ^{weekday} the maximum length of trains passing through the 134th crossing on either the main line track or the spur track shall be 350 feet.

DATED at Olympia, Washington, and effective JANUARY 26, 2011.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ADAM E. TORES
Administrative Law Judge

Table 1			
Completion Schedule for Items Yet to Be Completed Concerning Meeker Southern Railroad's Modification of 134th Avenue East's existing at-grade crossing of Meeker's main line track			
Item #	Item	Outside Completion Date	Comments
1	Remove gravel from the paved road surface at the intersection of 134th Avenue East and 80th Street East.	Monday, December 20, 2010	This item was completed on Monday, December 20, 2010.
2	Remove pile of existing asphalt tailings lying immediately to the west of 134th Avenue East and south of Meeker's recently installed spur track. Following the removal, smooth and shape the ground surface at that location so that the ground surface will allow surface water runoff to drain to the north-northwest.	Monday, December 20, 2010	This item was completed on Monday, December 20, 2010.
3	Re-establish a ditch/swale between (a) the area at the southeast corner of the intersection of 134th Avenue East and 80th Street East (an area that is currently experiencing ponding after heavy rainfall events) and (b) the west end of the existing railroad ditch that lies to the east of 134th along the north edge of Meeker's main line track.	Wednesday, December 22, 2010	The subject ditch/swale was re-established on Monday, December 20, 2010.
4	Some short stretches of roadway edge drop-offs along 134th exist immediately north of and/or south of the main track and the spur track. As an <i>interim</i> measure, eliminate those roadway edge drop-offs by creating a crushed rock temporary roadway shoulder with a maximum cross-slope of 3H:1V where those drop-offs currently exist.	Monday, January 31, 2011	The 134th roadway shoulder paving work contemplated by Item 7, below, will eliminate the need for continuation of the crushed rock temporary roadway shoulder contemplated by Item 4.
5	Install and make operational the remainder of the automatic flashing lights crossing signal system for the 134th crossing and corresponding traffic control signs.	Friday, March 18, 2011	A more advanced signal controller (a <i>Harmon</i> PMD-2 Bi-Directional Motion Detector controller) than the signal controller previously planned will

			be used as part of the automatic flashing lights crossing signal system. (The controller relating to train detection on the spur track will be a TD-4 AC/DC Relay System.) The planned use of the PMD-2 Bi-Directional Motion Detector controller will eliminate the need for all but one of the insulated rail joints on Meeker's main line track and reduce the number of necessary insulated rail joints on the spur track to four. (Sheet C2.0 of the civil design drawings will be updated by Sitts & Hill Engineers, Inc. to note the changes.)
6	<p>Regrade and repave 134th immediately north of Meeker's existing main line track for a distance of approximately 60 feet from the main line track's centerline to reduce 134th's surface slope.</p> <p>Paint remaining fog lines in accordance with the approved Revised Design Drawings.</p> <p>Install the torch-down, plastic retroreflectorized white railroad crossbuck pavement marking in the southbound lane of 134th Avenue East to the north of 134th's intersection with 80th Street East.</p>	Monday, May 2, 2011	The proposed regrading and repaving of the north side of 134th (which was not a requirement of the previously approved civil engineering design drawings) will substantially reduce the surface slope and thereby substantially improve the crossing over its historic condition. This work, the design of which is reflected on the approved Revised Design Drawings, is being provided as an alternative to reconstructing the south side of 134th, which was not constructed as far to the south as called-for by the Original Design Drawings.
7	Pave the shoulders of 134th to comply with the approved Revised Design Drawings.	Monday, May 2, 2011	
8	Seal/reseal the currently unsealed portion of the pavement seam along the south edge of the recently repaved portion of 134th south of Meeker's recently installed spur track.	Monday, May 2, 2011	

9	<p>Prior to Meeker commencing any work associated with items 6, 7 and 8, above, a permit to work within the Pierce County road right-of-way will be obtained from Pierce County Public Works and a preconstruction conference will be held.</p> <p>If a simultaneous closure of both traffic lanes of 134th is planned, a road closure permit must also be obtained from Pierce County Public Works.</p>		
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Table 2 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>	This limitation coupled with Requirement/Limitation #2 will mean a relatively small number of spur crossings per week.
2	Maximum number of crossings per day that the spur track may be used for crossings of 134th: <u>4</u>	This limitation coupled with Requirement/Limitation #1 will mean a relatively small number of spur crossings per week.
3	Hours during the day that spur crossings will be limited to: <u>9:00 AM to 3:00 PM</u>	These proposed operating hours are daylight hours outside of the AM and PM hours of peak traffic on nearby roadways.
4	Maximum number of train cars per train to be operated through the spur crossing: <u>3 cars plus an engine</u>	Such short trains will minimize the length of time of each of the crossings along the spur track.
5	Traffic flagging of 134th Avenue East on the north and south sides of the crossing must be performed in accordance with WAC 296-155-305 by certified flaggers provided by Meeker during all train crossings of 134th via either the spur track or the main line track.	Meeker has already hired a third-party contractor, Asphalt Paving Systems, Inc., to provide the certified flaggers.
6	<p>Meeker will be required to submit to Commission Staff and to Public Works a report (which may be submitted by email), due on the 1st and 15th day of each month, containing the following information verifying compliance with the conditions in this Table 2:</p> <ul style="list-style-type: none"> 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 	

	<p>each crossing.</p> <p>c. Certified Payroll Reports (in conformance with the form proposed by Pierce County in its December 30, 2010 response to Meeker's Motion to Amend Order 01) listing the flaggers controlling traffic at the 134th Avenue East crossing, and showing the dates and times worked by each flagger.</p> <p>In addition, if Meeker plans to use any flaggers other than the flaggers that Meeker has already provided Public Works and Commission Staff photocopies of flagger's cards for evidencing that each flagger who will be listed on the Certified Payroll Reports holds a valid traffic control flagger card that meets the requirements of WAC 296-155-305(6), Meeker is required to file like evidence (such as a photocopy of each such other flagger's certification card, which may be sent via email) prior to using any other flaggers.</p>	
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