

Exhibit No. ___ (KH-8)
Docket TR-100098
Witness: Kathy Hunter

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CITY OF FIFE,

Petitioner,

v.

UNION PACIFIC RAILROAD,

Respondent.

DOCKET TR-100098

EXHIBIT TO TESTIMONY OF

Kathy Hunter

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

*E-mail from Loren Combs, Fife City Attorney
May 13, 2009*

September 3, 2010

Hunter, Kathy (UTC)

From: Hunter, Kathy (UTC)
Sent: Wednesday, May 13, 2009 7:40 AM
To: 'Loren Combs'
Cc: ceb@deainc.com; Crystal Bresley; Russell Blount; TAANDERS@UP.COM; cll@dunn-carney.com; Steve Worthington; Curl, Paul (UTC); Thompson, Jonathan (UTC)
Subject: RE: Opinion regarding status of 54th Avenue Crossing, Fife

Mr. Combs,

Thank you for providing the City of Fife's opinion on the 54th Avenue crossing.

Terrel Anderson from Union Pacific is still awaiting guidance from their attorneys. Once we hear Union Pacific's position, I will reconvene a meeting/conference call to discuss possible next steps.

Thank you.

Kathy Hunter, Deputy Assistant Director, Transportation Safety
Washington Utilities and Transportation Commission
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From: Loren Combs [mailto:ldc@vsilawgroup.com]
Sent: Wednesday, May 13, 2009 6:52 AM
To: Hunter, Kathy (UTC)
Cc: ceb@deainc.com; Crystal Bresley; Russell Blount; TAANDERS@UP.COM; cll@dunn-carney.com; Steve Worthington
Subject: RE: Opinion regarding status of 54th Avenue Crossing, Fife

Ms. Hunter, I am the City Attorney for the City of Fife. Mr. Blount has requested that I respond to your e-mail.

I appreciate the thorough analysis provided by Mr. Thompson. The City has never closed the 54th avenue at grade crossing. The City daily uses the crossing for police patrols and recently used the crossing for unrestricted emergency evacuation purposes during a major flood event.

The City has chosen to limit the amount of vehicle traffic on the crossing as part of its joint efforts with the Fife School District related to park and school activities on the north side of the at grade crossing. If and when those joint efforts by the Fife School District and the City of Fife would warrant that the voluntary traffic restrictions be lifted, then the City, in concert with the School District, would lift those restrictions. This is a Fife School District \ City of Fife issue, not a UP issue, or, as Mr. Thompson mentioned an issue subject to UTC intervention. The UP is well aware of the conditions precedent to closing the crossing, as the UP was involved in negotiating those conditions. As Mr. Thompson pointed out in his analysis, those conditions precedent to closing the crossing have not been met.

is the City's position that the 54th Avenue at grade crossing is an open, active at grade crossing and the UP should properly maintain its safety devices at that crossing until such time as the crossing is closed in accordance with the UTC's 1997 order.