

**Exhibit No. \_\_\_\_ (KH-1T)**  
**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**

**TESTIMONY OF**

**KATHY HUNTER**

**STAFF OF  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

**September 3, 2010**

## EXHIBIT LIST

- Exhibit No. \_\_\_ (KH-2) Safety Diagnostic Meeting Notes, 54<sup>th</sup> Avenue East Railroad Crossing in the City of Fife, April 1, 2009, revised July 14, 2009
- Exhibit No. \_\_\_ (KH-3) Initial Order in Docket TR-961394
- Exhibit No. \_\_\_ (KH-4) Final Order Affirming and Adopting Initial Order in Docket TR-961394
- Exhibit No. \_\_\_ (KH-5) Utilities and Transportation Commission Inventory Records for the 54<sup>th</sup> Avenue East Crossing in Docket TR-100098
- Exhibit No. \_\_\_ (KH-6) Federal Railroad Commission Inventory Records for the 54<sup>th</sup> Avenue East Crossing in Docket TR-100098
- Exhibit No. \_\_\_ (KH-7) Photographs of the 54<sup>th</sup> Ave. East Crossing in Docket TR-100098
- Exhibit No. \_\_\_ (KH-8) E-mail from Loren Combs, Fife City Attorney, May 13, 2009
- Exhibit No. \_\_\_ (KH-9) RCW 81.53.020
- Exhibit No. \_\_\_ (KH-10) RCW 81.53.030
- Exhibit No. \_\_\_ (KH-11) RCW 81.53.060
- Exhibit No. \_\_\_ (KH-12) RCW 81.53.261
- Exhibit No. \_\_\_ (KH-13) Federal Railroad Administration Rule 49 C.F.R. § 234.5, Definition of "Highway-Rail Grade Crossing"
- Exhibit No. \_\_\_ (KH-14) Federal Railroad Administration "National Highway-Rail Crossing Inventory Instructions and Procedures Manual" (December 1996), cover page and page 1-8
- Exhibit No. \_\_\_ (KH-15) U.S. Dep't of Transportation, Federal Highway Administration "Guidance on Traffic Control Devices at Highway-Rail Grade Crossings" (2002), Cover page, Table of Contents, and pages 16, 26, 32
- Exhibit No. \_\_\_ (KH-16) U.S. Dep't of Transportation, Federal Highway Administration "Railroad-Highway Grade Crossing Handbook" (2007), pages i, iii, iv, 136-195, 198, 207

- Exhibit No. \_\_\_\_ (KH-17) U.S. Dep't of Transportation, Federal Highway Administration  
"Manual on Uniform Traffic Control Devices" (2009), pages  
769, 771, 782, 783, 786
- Exhibit No. \_\_\_\_ (KH-18) U.S. Dep't of Transportation, Federal Railroad Administration  
"Compilation of Pedestrian Safety Devices in Use at Grade  
Crossings" (2008)
- Exhibit No. \_\_\_\_ (KH-19) Photograph of Broken Gate at the 54<sup>th</sup> Ave. East Crossing
- Exhibit No. \_\_\_\_ (KH-20) Photographs of Trespass Area at the 54<sup>th</sup> Ave. East Crossing

1 **Q. Please state your name and business address.**

2 A. My name is Kathy Hunter and my business address is 1300 South Evergreen Park  
3 Drive Southwest, Olympia, Washington 98504-7250.

4

5 **Q. Where do you work?**

6 A. I work for the Washington Utilities and Transportation Commission (UTC).

7

8 **Q. How long have you worked for the UTC?**

9 A. I have worked for the UTC for 21 years.

10

11 **Q. What is your current title?**

12 A. I am the Deputy Assistant Director, Transportation Safety.

13

14 **Q. What is your work history at the UTC?**

15 A. I began my career working in agency-wide administration and management. I did  
16 that for 12 years. In July 2001, I was promoted to a manager position that included  
17 work in Transportation Safety. In June 2006, I transferred to a management position  
18 that focused exclusively on Transportation Safety, including a workload of rail safety  
19 dockets. My workload included petitions for crossing modifications. In November  
20 2008, I was promoted to my current position of Deputy Assistant Director,  
21 Transportation Safety. Since that time, I have been responsible for supervision of the  
22 rail safety staff and for either directly working, or directing the work of, all rail  
23 safety dockets.

1 **Q. How do your job duties relate to rail safety?**

2 A. I have worked on rail safety matters since June 2006. My work in railroad safety has  
3 involved a combination of field work, policy work, and supervision. I conduct field  
4 visits to existing and potential crossing locations, high pedestrian trespass areas,  
5 locations of potential quiet zones, and any other location that may affect the safety of  
6 the railroad or the general public. I review the conditions at the location and make  
7 recommendations to improve safety, generally by conducting a diagnostic review.  
8 My policy work includes policy development and analysis performed at the direction  
9 of the Director of Safety and Consumer Protection and the Assistant Director for  
10 Transportation Safety. It generally involves research and analysis, including writing  
11 white papers or memorandums, regarding rail safety issues such as conditions of  
12 crossings, crossing consolidations, and similar issues. I also conduct policy work in  
13 evaluating applications for grade crossing safety grant money. I directly supervise  
14 six railroad safety professionals. These positions include four Federal Railroad  
15 Administration (FRA) certified inspectors, a Program Specialist 5, and a  
16 Transportation Specialist 2.

17  
18 **Q. Do you have any special training in rail safety?**

19 A. Yes.

20  
21 **Q. What is that training?**

22 A. I attended several courses offered by the University of Wisconsin, Railroad  
23 Engineering and Highway Rail Grade Crossing Safety. I've also attended about six

1 national conferences related to railroad safety, as well as a course on Interconnection  
2 of Highway Rail Grade Crossing Warning Signals and Highway Traffic Signals.

3 Annually, I attend the Association of State Rail Safety Managers' conference  
4 sponsored by the Federal Railroad Administration.

5  
6 **Q. How does your experience directly apply to this docket?**

7 A. Since June 2006, I have been the lead investigator in over 200 rail petitions and have  
8 participated in more than 225 diagnostic reviews.

9  
10 **Q. What is the purpose of your testimony?**

11 A. The purpose of my testimony is to make a recommendation on the petition filed by  
12 the City of Fife in this docket.

13  
14 **Q. What crossing does this proceeding encompass?**

15 A. The crossing is located at the intersection of 54<sup>th</sup> Avenue East in Fife and the Union  
16 Pacific Railroad tracks. The associated United States Department of Transportation  
17 (USDOT) crossing number is 396621P.

18  
19 **Q. Have you visited the crossing at issue in this docket?**

20 A. Yes, I have been to the crossing several times.

21  
22 **Q. Did you visit the crossing on April 1, 2009?**

23 A. Yes.

1 **Q. What was the purpose of this particular visit to the crossing?**

2 A. We were asked to participate in a diagnostic review of the crossing by the City of  
3 Fife (City). The City was concerned that pedestrians were involved in a number of  
4 unsafe activities at, or near, the crossing, including climbing the fence to cross the  
5 railroad tracks.

6

7 **Q. What, specifically, is a diagnostic review?**

8 A. A diagnostic review is when a team of experienced and knowledgeable individuals  
9 from interested organizations meet on-site at a crossing to review current conditions  
10 and make observations and recommendations to determine whether a specific  
11 proposed modification is warranted and whether measures can be taken to maintain  
12 or improve safety at the crossing. Generally, the team consists of the road authority,  
13 UTC staff, and the railroad though other organizations may also be involved. The  
14 team considers a number of factors, including the crossing configuration and  
15 physical characteristics, vehicle and train traffic patterns and operations at the  
16 crossing, the crossing approach zones, and traffic control devices such as pavement  
17 markings and signs or signals.

18

19 **Q. Are you familiar with a publication called the “Railroad-Highway Grade  
20 Crossing Handbook?”**

21 A. Yes, I use it often. It is published by the United States Department of  
22 Transportation, Federal Highway Administration. I understand that it is available on  
23 the internet at [http://safety.fhwa.dot.gov/xings/com\\_roaduser/07010/](http://safety.fhwa.dot.gov/xings/com_roaduser/07010/).

1 **Q. Does the Railroad-Highway Grade Crossing Handbook contain any**  
2 **recommendations about diagnostic reviews?**

3 A. Yes. Section III.C, which begins at page 62, recommends the diagnostic review  
4 approach to examining conditions at crossings, including an assessment of existing  
5 and potential hazards. The UTC follows that recommendation.

6  
7 **Q. Did you make and distribute notes of the meeting on April 1,2009 ?**

8 A. Yes. Exhibit No. \_\_\_\_ (KH-2), "Safety Diagnostic Meeting 54<sup>th</sup> Avenue East  
9 Railroad Crossing in the City of Fife," is a copy of those notes.

10  
11 **Q. Who was present at the 2009 diagnostic review?**

12 A. Participants included three individuals representing the City – Russ Blount, Public  
13 Works Director, and Charles Burnham and Crystal Bresley of David Evans and  
14 Associates. John Flynn, Public Projects Manager for the Union Pacific Railroad,  
15 also attended. Paul Curl and I represented the Utilities and Transportation  
16 Commission.

17  
18 **Q. Do you believe the notes are an accurate representation of the conditions at the**  
19 **crossing at the time of the diagnostic review?**

20 A. Yes.

21  
22 **Q. The diagnostic review notes submitted at Exhibit No. \_\_\_\_ (KH-2) state that**  
23 **staff researched the history of this crossing and discovered that the commission**



1           **ordered the closure of this crossing in May, 1997, with conditions. Is this**  
2           **accurate?**

3    A.    Yes.

4  
5    **Q.    In which docket did the commission issue an order to conditionally close the**  
6           **crossing?**

7    A.    Docket TR-961394.

8  
9    **Q.    Did you review the file in Docket TR-961394 when considering the petition in**  
10           **the current docket?**

11   A.    Yes, I did. Exhibit No. \_\_\_\_ (KH-3) is a copy of the initial order, and Exhibit No.  
12           \_\_\_\_ (KH-4) is a copy of the final order, affirming and adopting the initial order.

13  
14   **Q.    Please tell us the issue involved in TR-961394.**

15   A.    In this docket, the Union Pacific Railroad Company (Railroad) petitioned the  
16           commission to close the 54<sup>th</sup> Avenue East crossing, identified as USDOT number  
17           396621P. In the initial order, on page 2, the commission summarized the issues as  
18           follows: “Union Pacific proposes to close the crossing in conjunction with a project  
19           to extend a main line siding across 54<sup>th</sup> Avenue East, and build a bypass road south  
20           of the tracks connecting the southern portion of 54<sup>th</sup> Avenue East to Frank Albert  
21           Road, where there is an overpass across the railroad tracks. ... The proposal is to  
22           leave the grade crossing in place and not utilize the siding until the bypass road is  
23           open for use.” On page 4, the initial order explains that the Puyallup Tribe of

1 Indians was expected to construct the bypass road under an agreement connected  
2 with the Puyallup Land Claims Settlement, but that some of the details remained  
3 subject to negotiation. Exhibits 6 and 7 in the TR-961394 record are documents  
4 associated with the Puyallup Land Claims Settlement that include information about  
5 the proposed bypass road.

6  
7 **Q. Did the commission grant the Railroad's petition to close the crossing?**

8 A. Yes, it did, but with conditions.

9  
10 **Q. What was the nature of those conditions?**

11 A. In the initial order, on page 21, in paragraphs (a) through (h), the commission  
12 ordered that the petition to close the crossing be granted, subject to a number of  
13 conditions about building the bypass road and the siding.

14  
15 **Q. Have all of these conditions been met?**

16 A. No, they have not been met. At this time, the bypass road has not been built, and the  
17 Railroad has not installed a main line siding across 54<sup>th</sup> Avenue East, as envisioned  
18 in the original petition and the commission's order.

19  
20 **Q. In your opinion, is this crossing at 54<sup>th</sup> Avenue East in Fife, designated as  
21 USDOT 396621P, a closed crossing?**

22 A. No. In my opinion it is an open public crossing. Because the conditions of the order  
23 to close the crossing have not been met, the crossing is not closed.

1 **Q. Does the UTC keep inventory records for highway-rail crossings?**

2 A. Yes. UTC staff manages inventory records for public highway-rail grade crossings  
3 located in Washington State.

4

5 **Q. How does the UTC get the information that is contained in the inventory  
6 records?**

7 A. Staff receives updates to the inventory through several channels. For example, staff  
8 performs routine inspections of all public crossings every three years. If a change is  
9 noted as part of this inspection process, the inventory is updated. If the UTC  
10 approves the opening, closing or reconfiguration of a crossing, the inventory is  
11 updated. Also, if there is an accident at the crossing, this information is added to the  
12 inventory. Finally, railroads or road authorities may directly notify UTC of a change  
13 at a crossing.

14

15 **Q. Do you have current UTC inventory records for this crossing?**

16 A. Yes, I do. Exhibit No. \_\_\_\_ (KH-5) is a copy of the UTC inventory records for the  
17 crossing involved in this docket.

18

19 **Q. Does any other entity keep records of railroad crossings?**

20 A. Yes. The Federal Railroad Administration (FRA) also keeps inventory records.  
21 Exhibit No. \_\_\_\_ (KH-6) is a copy of the FRA inventory records for the crossing  
22 involved in this docket.

23

1 **Q. Do the UTC and FRA inventory records indicate whether a crossing is open or**  
2 **closed?**

3 A. Yes. Both UTC and FRA inventory records have such a designation.  
4

5 **Q. And what do those records show?**

6 A. Both the UTC and FRA inventory records indicate the crossing is open.  
7

8 **Q. Do you have pictures of the crossing involved in this docket?**

9 A. Yes, I do. Exhibit No. \_\_\_\_ (KH-7) is ten pictures of the 54<sup>th</sup> Avenue East crossing.  
10

11 **Q. Who took the pictures in Exhibit No. \_\_\_\_ (KH-7)?**

12 A. Bob Johnston, UTC Railroad Safety Inspector did.  
13

14 **Q. When were the pictures in Exhibit No. \_\_\_\_ (KH-7) taken?**

15 A. August 27, 2010.  
16

17 **Q. Do these pictures show the current condition and configuration of the crossing?**

18 A. Yes, they do.  
19

20 **Q. From the pictures, the road approaches to the crossing appear to restrict**  
21 **through-traffic. Can you tell us about that?**

22 A. Yes. It's my understanding that in 2003, the City restricted access to the crossing.

23 The City installed the concrete barricades and the gated fence on both approaches to

1 the crossing to restrict public access. The City uses the crossing for police patrols  
2 and emergency access. For those purposes, the vehicle driver navigates around the  
3 barricades, unlocks, and opens the gates in order to use the crossing, then relocks it  
4 after use. Further, the City has told me that it considers this a temporary measure.  
5 See Exhibit No. \_\_\_\_ (KH-8), an e-mail from Loren Combs, representing the City of  
6 Fife. In his e-mail, Mr. Combs states, "If and when . . . efforts . . . warranted that the  
7 voluntary traffic restrictions be lifted, then the City . . . would lift those restrictions."  
8

9 **Q. The pictures show warning lights and gates at the crossing. Is that accurate?**

10 A. Yes, it is.  
11

12 **Q. Do you know if the warning lights and gates are operational?**

13 A. Yes. The crossing is equipped with two 16-foot, shoulder-mounted gates with four  
14 pairs of flashing lights. These are designed to activate when a train approaches the  
15 crossing. The gates would descend, blocking traffic from using the crossing, and the  
16 lights would flash to warn drivers of an approaching train. According to information  
17 UTC staff received at the 2009 diagnostic review, the warning lights and gates at this  
18 crossing are fully operational and regularly maintained by the Railroad.  
19

20 **Q. Let's return to the petition involved in this docket. Did you use your experience**  
21 **and the meeting notes from the 2009 diagnostic review in analyzing the proposal**  
22 **in this docket?**

23 A. Yes, I did.

1 **Q. The City submitted design drawings for its proposed changes at this crossing.**  
2 **Did you review those drawings?**

3 A. Yes, I did.  
4

5 **Q. Did you also review the testimony filed in this docket on August 16, 2010, by**  
6 **witnesses Brad Blackburn, Charles Burnham, Kurt W. Reuter, and Russell**  
7 **Blount in analyzing the proposal in this docket?**

8 A. Yes, I did.  
9

10 **Q. Did you use any other resource or reference materials in analyzing the proposal**  
11 **in this docket?**

12 A. Yes, I did. I used the following resource or reference materials:

- 13 1. Revised Code of Washington (RCW) 81.53.020. See Exhibit No. \_\_\_\_ (KH-9).
- 14 2. Revised Code of Washington (RCW) 81.53.030. See Exhibit No. \_\_\_\_ (KH-10).
- 15 3. Revised Code of Washington (RCW) 81.53.060. See Exhibit No. \_\_\_\_ (KH-11).
- 16 4. Revised Code of Washington (RCW) 81.53.261. See Exhibit No. \_\_\_\_ (KH-12).
- 17 5. Federal Railroad Administration Rule 49 CFR, Section 234.5, regarding  
18 definition of "highway-rail grade crossing." See Exhibit No. \_\_\_\_ (KH-13).
- 19 6. "National Highway-Rail Crossing Inventory Instructions and Procedures  
20 Manual" published by the Federal Railroad Administration, dated December  
21 1996, regarding definition of "pedestrian crossing." See Exhibit No. \_\_\_\_  
22 (KH-14).

- 1 7. "Guidance on Traffic Control Devices at Highway-Rail Grade Crossings"  
2 published by the United States Department of Transportation, Federal Highway  
3 Administration, pages 16, 26, and 32. See Exhibit No. \_\_\_\_ (KH-15).
- 4 8. "Railroad-Highway Grade Crossing Handbook" published by the United States  
5 Department of Transportation, Federal Highway Administration, pages 136, 195,  
6 198, and 207. See Exhibit No. \_\_\_\_ (KH-16).
- 7 9. Manual on Uniform Traffic Control Devices, published by the United States  
8 Department of Transportation, Federal Highway Administration, Chapter 8C,  
9 pages 769, 771, 782, 783, and 786. See Exhibit No. \_\_\_\_ (KH-17).
- 10 10. Compilation of Pedestrian Safety Devices in Use at Grade Crossings, published  
11 by the United States Department of Transportation, Federal Railroad  
12 Administration. See Exhibit No. \_\_\_\_ (KH-18).

13  
14 **Q. What was your general approach in analyzing the proposal in this docket?**

15 A. Although the City made the filing as a petition to open a new pedestrian-only at-  
16 grade rail crossing, I approached the filing as a modification to an existing crossing  
17 instead of construction of a new crossing.

18  
19 **Q. Why is that?**

20 A. Because in staff's opinion, a grade crossing already exists at this location. As I  
21 explained previously, I believe this is an open, active crossing. Therefore, adding a  
22 sidewalk adjacent to the crossing is a modification to an existing crossing. See  
23 Exhibit No. \_\_\_\_ (KH-11), RCW 81.53.060, which states, in part, that any "city . . .

1 within which there exists any . . . grade crossing . . . may file with the commission  
2 . . . its petition . . . [for] an alteration in the method and manner of an existing  
3 crossing and its approaches . . . .” Also see Exhibit No. \_\_\_\_ (KH-12), RCW  
4 81.53.261, which states, in part, that whenever any “city . . . shall deem that the  
5 public safety requires signals or other warning devices . . . it shall file . . . a petition  
6 with the . . . commission . . . .”

7 Since staff believes this is an existing crossing, then the petition filed by the  
8 City represents an alteration of an existing crossing and changes to the warning  
9 devices, not establishment of a new crossing.

10  
11 **Q. Did you consider a grade separation in analyzing the proposal in this docket?**

12 A. No, I did not.

13  
14 **Q. Why not?**

15 A. As I explained previously, I treated this docket as a petition to modify an existing  
16 grade crossing and changes to the existing warning devices. The proposal would add  
17 a sidewalk to an existing crossing. The UTC receives similar petitions – that is,  
18 petitions to modify existing crossings and install or modify warning devices – on a  
19 regular basis. Under RCW 81.53.060 and RCW 81.53.261, the commission is  
20 required to receive petitions to modify crossings and to act on them. See Exhibit No.  
21 \_\_\_\_ (KH-11) and Exhibit No. \_\_\_\_ (KH-12). The UTC is required, under RCW  
22 81.53.020, to consider the practicability of grade separations only when a new  
23 crossing is proposed. See Exhibit No. \_\_\_\_ (KH-9). I interpreted this petition to be



1 a proposed modification to an existing grade crossing, not construction a new  
2 crossing. The commission does not, as a matter of course, consider grade  
3 separations when analyzing proposed modifications to existing grade crossings.  
4

5 **Q. You stated earlier that you reviewed the testimony of August 16, 2010, by**  
6 **witnesses Brad Blackburn, Charles Burnham, Kurt W. Reuter, and Russell**  
7 **Blount. Is that correct?**

8 A. Yes.  
9

10 **Q. Do you believe the conditions described by these witnesses in their testimony at**  
11 **the crossing under consideration in this docket is accurate?**

12 A. Yes.  
13

14 **Q. You also stated earlier that you reviewed the initial filing in this docket. Is that**  
15 **correct?**

16 A. Yes.  
17

18 **Q. And in that review, did you review of Section 6, essentially the City's detailed**  
19 **rationale for filing the petition?**

20 A. Yes.  
21

1 **Q. Based on your analysis of this docket and all related site visits, materials,**  
2 **documents, and information, do you have a recommendation as to whether the**  
3 **UTC should grant the petition in this docket as filed?**

4 A. Yes, I do.

6 **Q. What is that recommendation?**

7 A. I recommend the UTC issue an order approving the modifications sought by the  
8 petitioner in this docket, as filed. Based on personal observation at the crossing,  
9 information gathered during the 2009 diagnostic meeting, and the testimony of City  
10 witnesses, I believe there is a clear and pressing need to provide a safe and legal way  
11 to move pedestrians from the south side of the tracks to the north side and back  
12 again. There are hundreds of homes south of the tracks, and a junior high school and  
13 multi-field sports complex just north of, and adjacent to, the tracks along 54<sup>th</sup>  
14 Avenue East that were not there ten years ago. Construction of the homes and public  
15 facilities on opposite sides of the tracks has produced a high demand for pedestrian  
16 traffic at this location. In my opinion, it is unreasonable to expect pedestrians,  
17 especially children, to walk one and one-half miles to either 70<sup>th</sup> Avenue East or  
18 Frank Albert Road East to legally cross the tracks. They are going to take the most  
19 direct route across the tracks and currently, that route is both illegal and extremely  
20 hazardous. For example, I accompanied Inspector Bob Johnston on August 27,  
21 2010, when he took photographs of the crossing. Upon arriving at the crossing we  
22 noticed that the gate had been vandalized and the gate was unlocked as a result. See  
23 Exhibit No. \_\_\_(KH-19). In addition, in the northeast quadrant of the crossing, a

1 clear trespassing path had developed and the soil under the fence had been dug out.  
2 In my estimation I believe that pedestrians are walking back and forth across the  
3 crossing and crawling under the fence to gain access to properties on both sides of  
4 the crossing. See Exhibit No. \_\_\_\_ (KH-20). In my opinion, the modifications sought  
5 by the petitioner will create a legal, safer way for pedestrians to cross at the 54<sup>th</sup>  
6 Avenue East location.

7  
8 **Q. Does that conclude your testimony?**

9 **A. Yes, it does.**