

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

In the Matter of the Petition of)	DOCKET TR-091495
)	
COLUMBIA BASIN RAILROAD,)	ORDER 01
)	
Petitioner,)	ORDER GRANTING PETITION TO
)	UPGRADE WARNING DEVICES AND
)	AUTHORIZING EXPENDITURE FROM
)	THE GRADE CROSSING PROTECTIVE
)	FUND
)	
Seeking approval to upgrade signals at)	USDOT: 396959A
a railroad-highway grade crossing)	
.....)	

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 WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

BACKGROUND

- 1 On September 14, 2009, Columbia Basin Railroad (Columbia Basin or Petitioner) filed with the Washington Utilities and Transportation Commission (Commission), a petition seeking approval to modify active warning devices at a railroad-highway grade crossing. The crossing is identified as USDOT 396959A and is located at the intersection of M Southeast Road and the Petitioner's tracks in the City of Moses Lake. The Petitioner further requested the Commission authorize an expenditure of \$3,403 from the Grade Crossing Protective Fund (GCPF) to pay for a portion of the upgrades.
- 2 Railroad warning devices at the intersection of M Southeast Road and the Petitioner's tracks in Moses Lake, Washington consist of shoulder mounted eight inch flashing lights. The Petitioner proposes to replace the obsolete eight inch flashing lights with 12 inch style LED type lights. These upgrades will improve the overall safety at the crossing because LED flashing lights will provide greater visibility for the motoring public.
- 3 The Petitioner is requesting a disbursement of \$3,403 to pay for a portion of the upgrades. The total approximate cost of the project is \$3,403. Columbia Basin will cover labor costs for installation. An expenditure of \$3,403 from the Grade Crossing Protective Fund is available to help fund the improvements.

FINDINGS AND CONCLUSIONS

- 4 (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, and authority to approve and administer

disbursements from the Grade Crossing Protective Fund. *RCW 81.53;*
RCW 81.53.271; RCW 81.53.281.

- 5 (2) The grade crossing at the intersection of M Southeast Road and the petitioner's
tracks in Moses Lake, Washington, identified as USDOT 396959A, is a public
railroad-highway grade crossing within the state of Washington.
- 6 (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. *See also*
WAC 480-62-150.
- 7 (4) RCW 81.53.271 allows the Commission to disburse up to \$20,000 from the Grade
Crossing Protective Fund to pay for the installation of a grade crossing protective
device, without requiring the Petitioner to share the cost.
- 8 (5) Commission Staff investigated the petition and recommended that it be granted,
subject to specified conditions.
- 9 (6) After reviewing Columbia Basin's petition filed on September 14, 2009, and
giving due consideration to all relevant matters and for good cause shown, the
Commission grants the petition and request for disbursement of funds.

ORDER

THE COMMISSION ORDERS:

10 Columbia Basin Railroad's petition to upgrade warning devices at a railroad-highway
grade crossing, located at the intersection of M Southeast Road and the petitioner's tracks
in Moses Lake, Washington, is granted. The cost of this upgrade shall be paid from the
Grade Crossing Protective Fund. Approval of the petition is subject to the following
conditions:

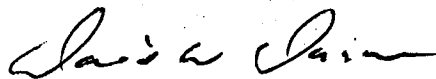
- (1) Expenditure from the Grade Crossing Protective Fund must not exceed
\$3,403.
- (2) Payment will be made upon presentation of claim for reimbursement
for materials and labor, and verification by Commission Staff that the
work has been satisfactorily completed.

- (3) Columbia Basin Railroad must sign and return the attached project agreement.
- (4) The project must be completed no later than May 31, 2010.
- (5) Traffic control devices must comply with all applicable standards specified in the U.S. Department of Transportation *Manual on Uniform Traffic Control Devices*.
- (6) Columbia Basin Railroad must notify the Commission on completion of the upgrades authorized in this Order. Acceptance of the upgrades is subject to inspection by Commission Staff, and verification that the crossing is in full compliance with applicable laws, regulations, and the conditions specified in this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective September 23, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Executive Director and Secretary

NOTICE: This is an order delegated to the Secretary for decision. In addition to serving you a copy of the decision, the Commission will post on its Internet Web site for at least fourteen (14) days a listing of all matters delegated to the Secretary for decision. You may seek Commission review of this decision. You must file a request for Commission review of this order no later than fourteen (14) days after the date the decision is posted on the Commission's Web site. The Commission will schedule your request for review for consideration at a regularly scheduled open meeting. The Commission will notify you of the time and place of the open meeting at which the Commission will review the order.

The Commission will grant a late-filed request for review only on a showing of good cause, including a satisfactory explanation of why the person did not timely file the request. A form for late-filed requests is available on the Commission's Web site.

This notice and review process is pursuant to the provisions of RCW 80.01.030 and WAC 480-07-904(2) and (3).

**PROJECT AGREEMENT
GRADE CROSSING PROTECTIVE FUND**

Docket No.: TR-091495

Commission Approval Date: September 23, 2009

A. PARTIES OF THE AGREEMENT

This project grant agreement (agreement) is entered into between the Washington Utilities and Transportation Commission (UTC), P.O. Box 47250, Olympia, Washington 98504-7250 and Columbia Basin Railroad, 111 University Parkway, Suite 200, Yakima, Washington 98901, and shall be binding upon the agents and all persons acting by or through the parties.

B. PURPOSE OF THE AGREEMENT

This agreement sets out the terms and conditions by which grants are made from the Grade Crossing Protective Fund. These grants are administered by the UTC to the grantee for Docket No. TR-091495, identified above.

C. DESCRIPTION OF PROJECT

TR-091495 involves replacing obsolete eight inch flashing lights with 12 inch style LED type lights. The crossing is identified as USDOT 396959A and located at M Southeast Road and Columbia Basin Railroad's tracks in Moses Lake, Washington.

D. PERIOD OF PERFORMANCE

The project reimbursement period shall begin on September 23, 2009, and end May 31, 2010. No expenditure made before or after this period is eligible for reimbursement unless incorporated by written amendment into this agreement.

E. PROJECT FUNDING

Total grant funding awarded by the UTC for this project shall not exceed \$3,403. The total approximate cost of the project is \$3,403. The grantee shall be responsible for all labor costs.

F. RIGHTS AND OBLIGATIONS

All rights and obligations of the parties to this agreement are subject to this agreement and its attachments, including the grantee's application, commission orders, and the general provisions, all of which are attached and incorporated into this agreement.

Except as provided, no alteration of any of the terms or conditions of this agreement will be effective unless provided in writing. All alterations must be signed by both parties.

The grantee has read, fully understands and agrees to be bound by all terms and conditions in these documents.

G. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND UTC POLICIES

This agreement is governed by, and the grantee shall comply with, all applicable state and federal laws and regulations, including RCW 81.53.281, the published agency rules in 480-62 WAC, and the commission's order in this matter which are incorporated by this reference as if fully set forth.

H. PROJECT GRANT AGREEMENT REPRESENTATIVE

All written communications sent to the grantee under this agreement will be addressed and delivered to:

Columbia Basin Railroad
Dave Cyr
111 University Parkway, Ste. 200
Yakima, WA 98901

Utilities and Transportation Commission
Kathy Hunter
1300 S. Evergreen Park Dr. SW
P.O. Box 47250
Olympia, WA 98504-7250

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

I. ENTIRE AGREEMENT

This agreement, along with all attachments, constitutes the entire agreement of the articles. No other understandings, oral or otherwise, regarding this agreement shall exist or bind any of the parties.

J. EFFECTIVE DATE

This agreement shall be effective upon signing by all parties.

State of Washington
Utilities and Transportation Commission

By: [Signature]
(Executive Director and Secretary)

Date: 9/22/09

Columbia Basin Railroad

By: [Signature]

Date: 10/1/09

Title: Signal maintainer

Approved as to form:

By: /s/
Assistant Attorney General

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STATE OF WASH.
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