

Road crossing will be an undercrossing, it will not intersect the railroad tracks at-grade. As a result, no warning signs or signals are necessary at the crossing. The undercrossing will provide vehicle users with safe passage because of the separation between the railroad tracks and users.

- 6 Construction of the undercrossing will be completed substantially ahead of closing the existing at grade crossing on Webber Canyon Road. The County has funding to construct the undercrossing but has not secured funding for relocating Webber Canyon Road to match up with the undercrossing. The County anticipates funding for the roadway changes will be obtained within one to two years and at that time the existing at-grade crossing and roadway will be removed. Until this happens, the undercrossing will be built but remain unattached to the roadway system. USDOT 104562 will be replaced with USDOT 927487A when the undercrossing is put into service.
- 7 On November 4, 2008, BNSF Railway Co. consented to entry of an Order by the Commission without further notice or hearing.

FINDINGS AND CONCLUSIONS

- 8 (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*.
- 9 (2) The railroad-highway grade crossing at the intersection of Webber Canyon Road and the Respondent's tracks in Benton county, Washington, currently identified as USDOT 104562, is a public railroad-highway grade crossing within the state of Washington.
- 10 (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*.
- 11 (4) Commission Staff investigated the petition and recommended that it be granted, provided that the County notify the Commission within 30 days of completion of the undercrossing and 30 days prior to closure and removal of the at-grade crossing. All work at these crossings is subject to inspection by Commission Staff, verifying that it is in full compliance with applicable laws and regulations.

- 12 (5) After reviewing Benton county's petition filed on October 22, 2008, and giving due consideration to all relevant matters and for good cause shown, the Commission conditionally grants the petition.

ORDER

THE COMMISSION ORDERS:

- 13 Benton County's petition to close an at-grade railroad-highway grade crossing and construct an undercrossing in its place, located at the intersection of Webber Canyon Road and the respondent's tracks in Benton county, Washington, is granted. Approval of the petition is subject to the following conditions:

- (1) The Petitioner must notify the Commission within 30 days of completion of the undercrossing.
- (2) The petitioner must notify the Commission 30 days prior to closure and removal of the existing at grade crossing.
- (3) All work done at these crossings 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 December 12, 2008.

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).