

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

MEEKER SOUTHERN RAILROAD,

Petitioner,

v.

PIERCE COUNTY PUBLIC WORKS &
UTILITIES,

Respondent.

DOCKET NO. TR-100036

NOTICE OF APPROVAL BY
COMMISSION STAFF AND
PUBLIC WORKS TO A TIME
EXTENSION FOR
INSTALLATION AND
COMMENCEMENT OF
OPERATION OF THE
REMAINDER OF THE
AUTOMATIC FLASHING LIGHTS
CROSSING SIGNAL SYSTEM
FOR THE CROSSING AND OF
CORRESPONDENCING TRAFFIC
CONTROL SIGNS

USDOT CROSSING #085536R
UTC CROSSING #42A32.40

BACKGROUND

1 On January 26, 2011, Administrative Law Judge Adam E. Torem issued Order 03 under Docket No. TR-100036. That Order amended Order 01, which granted 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 Order 03 amended Condition 3 of Order 01 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; 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.

(Emphasis added.)

3 The “Item” description and “Outside Completion Date” for Item 5 on Exhibit A attached to Order 03 state:

Item #	Item	Outside Completion Date
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

4 Since January 21, 2011, Meeker has been seeking to secure a City of Puyallup right-of-way permit for the installation of the automatic flashing lights crossing signal assembly on the south side of the spur track planned to be located slightly within the City’s 134th Avenue East right-of-way. The City ultimately advised Meeker that, as a prerequisite to the issuance of such a right-of-way permit, Meeker must enter into a “right-of-way license agreement” with the City, the form of which agreement must first be approved by the Puyallup City Council. Meeker’s counsel and the Puyallup City Attorney have worked to prepare the form of such an agreement, which is now scheduled to be before the Puyallup City Council at its March 15, 2011 regular meeting for consideration and approval.

5 Because of the circumstances described above in Paragraph 4, the work contemplated by Item 5 of Exhibit A to Order 03 has not yet been performed and will not be able to be completed by March 18, 2011.

APPROVAL OF TIME EXTENSION

6 Following consultation concerning the situation among counsel for Meeker, counsel for Commission Staff, and counsel for Public Works, and after Commission Staff and Public Works Staff have given due consideration to Meeker’s request for a time extension, Commission Staff and Public Works hereby approve a time extension for the work contemplated by Item 5 of Exhibit A as set forth in the following table:

Item #	Item	<u>Amended Outside Completion Date</u>
5	Install and make operational the remainder of the automatic flashing lights crossing signal system for the 134th crossing and corresponding traffic control signs.	Five weeks following the date by which both (a) a “right-of-way license agreement” approved by the Puyallup City Council has been executed on behalf of both Meeker and the City and (b) the City has issued a right-of-way permit for the installation of the automatic flashing-lights crossing signal assembly on the south side of the spur track planned to be located slightly within the City’s 134th Avenue East right-of-way (but in no event later than Monday, May 2, 2012).

Public Works’ approval is contingent upon Meeker obtaining a Pierce County right-of-way use permit for the portion of the remainder of the automatic flashing lights crossing signal system lying within Pierce County road right-of-way not later than noon on Friday, March 18, 2011. If this permit is not paid for and acquired by a general contractor who is licensed and bonded in the State of Washington by the above deadline Public Works’ approval shall be nullified and Meeker shall be in violation of Order 03.

7 Commission Staff agrees to approve the extension, but with much reluctance.

Commission Staff is disappointed that Meeker did not secure the needed approvals from the City of Puyallup in a more timely fashion. Despite that, Commission Staff believes that completing the work needed to make the 134th crossing safe for the public is the best use of the parties' resources at this time. Commission Staff wants the work to be done as soon as possible and does not want to create more delay by requiring Meeker to file a motion for an extension.

DATED effective March 16th, 2011.

"Meeker Southern Railroad"

Meeker Southern Railroad

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"Commission Staff"

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Pierce County Public Works & Utilities

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Prosecuting Attorney

Notice of Approval of Time Extension for Signal System (Final 3-15-11)