

BEFORE THE DEPARTMENT OF TRANSPORTATION

IN RE: STATE ROUTE 82 )  
PROSSER VICINITY: ALBRO ROAD TO )  
MP 84.27, MP 79.29 TO MP 84.27 )  
AND STATE ROUTE 82 )  
MP 84.27 TO KIONA INTERCHANGE )  
VICINITY, MP 84.27 TO MP 95.18 )  
COMBINED HEARING ON DESIGN AND )  
LIMITED ACCESS )

FINDINGS AND ORDER

Relating to that portion between MP  
84.27 and MP 95.18 (Station LE 115+  
91.76 to Station LE 691+86.72)

The hearing in the above entitled matter was held upon due notice to interested parties beginning at 7:30 P.M., Wednesday, January 19, 1977, in the Prosser Heights Elementary School Gymnasium, located at the corner of Alexander Court and Miller Avenue just off of State Route 12 in Prosser, Washington, before Charles C. Countryman, Hearing Examiner, and Washington State Highway Commissioner Howard Sorensen.

The interested persons and organizations were represented as follows:

DEPARTMENT OF HIGHWAYS, by Joseph B. Loonam, Assistant Attorney General, Temple of Justice, Olympia, Washington;

CITY OF PROSSER, by WALTER M. TITUS, 601 7th Street, Prosser, Washington, 99350;

PORT OF BENTON, by PHIL T. GEORGE, Manager, Box 309, Richland, Washington, 99352;

WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES, by CHARLES HAIGHT, Assistant Area Manager, Route 3, Box 1, Ellensburg, Washington, 98926;

CECIL F. ALLRED, by self, 1307 Oak Street, Othello, Washington, 99344;

MILO BAUDER, by self, 1986 Greenbrook, Richland, Washington, 99352;

WILFORD G. BLAKLEY, by self, Route 1, Box 399, Prosser, Washington, 99350;

JAMES M. CLARK, by self, 1516 Butternut, Richland, Washington, 99352;

LAWRENCE B. COLTON, by self, 1324 Goethals Drive, Richland, Washington, 99352;

G. R. HILEMAN, by self, Route 1, Box 398, Prosser, Washington, 99350;

DONALD G. MacKAY, by self, 13302 SE McGillivray Blvd, Vancouver, Washington, 98664;

ARCH MacDONALD, by self, 13302 SE McGillivray Blvd., Vancouver, Washington, 98664;

DON AND BETTY McCALL, by self, P. O. Box 87, Prosser, Washington, 99350;  
GRETCHEN C. MIDDLETON, by self, Route 1, Box 348B, Benton City, Washington, 99320;  
MARTIN O. RANKIN, by self, 4109 West Pearl, Pasco, Washington, 99301;  
JACK HSIEH, by self, 4109 West Pearl, Pasco, Washington, 99301;  
CLIFFORD F. RASCH, by self, Route 1, Box 348, Benton City, Washington, 99320;  
BEN A. RASCH, by self, Route 1, Box 348, Benton City, Washington, 99320;  
BILL W. SHANE, by self, Route 1, Box 348-A, Benton City, Washington, 99320;  
KIONA FARMS, INC., by MILTON R. SHARP, P. O. Box 13308, Benton City, Washington,  
99320;  
LYLE H. MINEER, 1360 Jadwin Avenue, Richland, Washington, 99352;  
A. C. GRAHAM, Route 1, Box 610, Benton City, Washington, 99320;

As a courtesy to interested citizens, the Department of Transportation furnishes a copy of its Findings and Order to all persons filing a Notice of Appearance even though some may not properly be parties to the hearing. For administrative convenience, all persons filing a Notice of Appearance are listed above. The Department of Transportation, by including a person in this listing and by furnishing a copy of its Findings and Order, does not acknowledge or necessarily recognize the recipient to be a proper party to the hearing.

The meeting was called to order by Washington State Highway Commissioner, Howard Sorensen, after which witnesses were called. The evidence was taken by a Court Reporter and thereafter transcribed. Certain exhibits were duly introduced as evidence. Based upon the oral evidence and the exhibits introduced in evidence, and acting under the authority of the Secretary of Transportation, the Deputy Secretary of Transportation of the State of Washington makes the following findings:

I

Prior to November 28, 1975, the Washington State Highway Commission in its Resolution Nos. 1921 and 2402, and the amendments and supplements thereto, instructed the

Director of Highways to prepare a plan for the establishment of a limited access highway over a portion of State Route 82 in Benton County, Washington.

Such a plan was prepared and entitled "SR 82, PROSSER VICINITY: ALBRO ROAD TO MP 84.27, MP 79.29 to MP 84.27, BENTON COUNTY", and "SR 82, MP 84.27 to KIONA INTERCHANGE VICINITY, MP 84.27 to MP 95.18, BENTON COUNTY" on sheet 2, 12, 13 and 14 of 28 sheets and sheets 1 through 26 of 57 sheets respectively. Also, the surplussing of limited access control on a portion of State Route 12 as tentatively approved on July 23, 1974, and as shown on the Limited Access Plan entitled "SR 12, PROSSER TO KIONA, PLAN SHOWING ACCESS, BENTON COUNTY", sheets 11, 12 and 13 of 13 sheets approved June 5, 1956. These above mentioned sheets were introduced into evidence marked as Exhibit Nos. 8-1 through 8-34, which exhibits were made a part of the hearing record.

## II

The Department of Highways received from the public agencies concerned with the proposed plan their available data on planning, land use, local traffic and such other information required, and thereafter prepared and submitted to the appropriate local officials a report showing how those factors had been taken into account and covering other matters required by RCW 47.52.131, et seq., and a copy of the aforementioned Access Report was introduced into evidence marked Exhibit Nos. 4-A and 4-B.

By letter dated January 17, 1977, the Benton County Board of County Commissioners approved the Access Report subject to certain modifications which are agreed to by the Highway Department. This letter of January 17, 1977 with the Department's letter of agreement to certain modifications, dated January 14, 1977 attached thereto, was introduced into evidence marked Exhibit No. 5.

## III

On December 7, 1976, the Assistant Director for Highway Development by Order proposed said plan and set a hearing date in accordance with the provisions of RCW 47.52.131, et seq., said Order being introduced into evidence marked Exhibit No. 1.

IV

Lue Clarkson, Secretary, Washington State Highway Commission, prepared and issued a Notice of Hearing. On January 4, 1977 an exact copy of the aforementioned notice was mailed to Benton County and the City of Prosser and to each of those record owners of property listed in the Affidavit of Service by Mailing introduced into evidence marked Exhibit No. 3. An exact copy of the aforesaid notice was published in the Yakima Herald-Republic on December 16, 1976 and January 10, 1977, as shown by the affidavit of S. W. Watt, Principal Clerk of said newspaper, which affidavit was introduced into evidence marked Exhibit No. 2-A. An exact copy of the aforementioned notice was published in the Tri-City Herald on December 16, 1976 and January 10, 1977, as shown by the affidavit of Phyllis Perry, Principal Clerk of said newspaper, which affidavit was introduced into evidence marked Exhibit No. 2-B. An exact copy of the aforesaid notice was published in the Prosser Record-Bulletin on December 16, 1976 and January 6 and 13, 1977, as shown by the affidavit of Richard W. Gay, the publisher of said newspaper, which affidavit was introduced into evidence marked Exhibit No. 2-C. An exact copy of the aforesaid notice was published in the Benton County Times on December 16, 1976 and January 6 and 13, 1977 as shown by the affidavit of Leslie R. Kuehl, the publisher of said newspaper, which affidavit was introduced into evidence marked Exhibit No. 2-D.

V

The plan hereinbefore referred to proposes the establishment of fully controlled, limited access highway facilities for State Route 82 from Prosser Vicinity to Kiona Interchange Vicinity between Station L<sup>E</sup> 1352+18.07 and Station L<sup>E</sup> 115+91.76 as shown on sheets 2, 12, 13 and 14 of 28 sheets entitled, "SR 82, PROSSER VICINITY: ALBRO ROAD TO MP 84.27, MP 79.29 TO MP 84.27, BENTON COUNTY", and between Station L<sup>E</sup> 115+91.76 and Station L<sup>E</sup> 691+86.72 as shown on sheets 1 through 26 of 57 sheets entitled "SR 82, MP 84.27 TO KIONA INTERCHANGE VICINITY, MP 84.27 TO MP 95.18, BENTON COUNTY".

The plan also proposes that the limited access control approved by Washington State Highway Commission Order November 19, 1956, shall be surplussed on that portion of existing SR 12 from Station LW 1292+65 Rt. and LE 1293+25 Lt. to Station 1343+00 as shown on the plan entitled "SR 12, PROSSER TO KIONA, PLAN SHOWING ACCESS, BENTON COUNTY", sheets 11, 12 and 13 of 13 sheets approved June 5, 1956.

## VI

The section of State Route 82 herein concerned is an important part of the highway system of the State of Washington and represents a substantial expenditure in construction costs. It is functionally classified as an Interstate highway and Department of Transportation policy provides for full control of access on all highways of this type. In so doing, the investment of public funds is protected by preserving the highway for future use.

The projected average daily traffic volume for the design year of 1995 indicates that there will be approximately 11,100 vehicles traveling the full length of this section each day. It is vital in planning highways to provide adequate capacity for increasing traffic demands in order to prevent the facility from becoming obsolete within a short period of time.

The 1971 through 1975 accident history for the section of State Route 12 which will be replaced by this project indicates that there were a total of 83 accidents with 57 people injured and 3 fatalities. This is equal to a fatality rate of 3.1 fatalities per one hundred million vehicle miles of travel and an accident rate of 0.8 accidents per million vehicle miles. The estimated fatality rate for proposed State Route 82 would be 1.6 fatalities per one hundred million vehicle miles of travel, which is roughly a 50 percent reduction. This section of existing highway does not have the average number of accidents when it is compared with other highways of the same classification and, therefore, Interstate 82 could be expected to have about the same total number of accidents.

The efficiency of the highways as a means of moving a maximum volume of traffic in safety is directly connected with the number of access points. It has been demonstrated in the past that as property owners establish approaches to the highway for their personal use or for business enterprise, the problem becomes increasingly great and the road gradually becomes obsolete. Therefore, access points should be kept to a minimum consistent with allowing local traffic adequate use of the facility at properly designed interchanges.

The plan for the establishment of fully controlled limited access facilities for State Route 82 in Benton County introduced into evidence marked Exhibit Nos. 8-1 through 8-34 will facilitate travel, reduce fatality rates, preserve the public investment and sustain the highway as a modern transportation facility.

#### VII

In addition to the exhibits previously mentioned, the following exhibits were entered into evidence at or subsequent to the hearing and made a part of the hearing record:

- |                |  |
|----------------|--|
| Exhibit No. 6  | Final Supplemental Environmental Impact Statement for State Route 82 (Interstate 82), UNION GAP TO PROSSER, Final Environmental Impact Statement for State Route 82, (Interstate 82) PROSSER VICINITY: ALBRO ROAD TO MP 84.27. |
| Exhibit No. 7A | Final Environmental/Section 4(f) Statement, Interstate 82/182, PROSSER, WASHINGTON TO INTERSTATE 80N IN OREGON.  |
| Exhibit No. 7B | Advance Planning Study and Environmental Report, PARKER TO PROSSER.  |
| Exhibit No. 7C | Opinion of Honorable Gordon Thompson, Jr., Judge, United States District Court.  |
| Exhibit No. 9  | Letter, January 12, 1977, signed by Milton R. Sharp, President, Kiona Farms, Inc.  |
| Exhibit No. 10 | Letter, January 19, 1977, signed by Martin O. Rankin and Jack Hsieh.   |
| Exhibit No. 11 | Letter, received at hearing, signed by G. R. Hileman.  |
| Exhibit No. 12 | Reserved Exhibit, the Department's response to Exhibit No. 9.  |

- Exhibit No. 13      Reserved Exhibit, the Department's response to Exhibit No. 10.
- Exhibit No. 14      Reserved Exhibit, the Department's response to Exhibit No. 11.
- Exhibit No. 15      Letter, January 27, 1977, signed by Milo B. Bauder.
- Exhibit No. 16      Reserved Exhibit, the Department's response to Exhibit No. 15.
- Exhibit No. 17      Letter, January 28, 1977, signed by Charles R. Haight, Assistant Area Manager, Southeast Area, Department of Natural Resources, State of Washington.
- Exhibit No. 18      Reserved Exhibit, the Department's response to Exhibit No. 17.
- Exhibit No. 19      Letter, January 21, 1977, signed by Albert L. Martin, Acting District Manager, Bureau of Land Management, United States Department of the Interior.
- Exhibit No. 20      Reserved Exhibit, the Department's response to Exhibit No. 19.
- Exhibit No. 21      Letter, January 24, 1977, signed by Lawrence B. Colton and Lyle H. Mineer.
- Exhibit No. 22      Reserved Exhibit, the Department's response to Exhibit No. 21.
- Exhibit No. 23      Letter, January 26, 1977 signed by Gary C. Hugill, Attorney representing Mr. and Mrs. James M. Clark.
- Exhibit No. 24      Reserved Exhibit, the Department's response to Exhibit No. 23.

#### VIII

The Washington State Highway Commission heard evidence on the entire portion of the above entitled highway. Subsequent to this public hearing, further study of the access to both private and public lands adjacent to State Route 82 between MP 84.27 and the West Kiona Interchange Vicinity was deemed necessary by the Department of Highways. Due to the unresolved status of the access for this area, the Washington State Highway Commission on the 19th day of April, 1977 adopted only that portion of the plan between MP 82.94 and MP 84.27 (Station LE 1352+18.07 to Station LE 115+91.76) and deferred until a later date the findings on this segment of the plan. The Commission also adopted the proposal to surplus the access control from those portions of existing State Route 12 from Station LW 1292+65 Rt. and LE 1293+25 Lt. to Station 1343+00.

IX

The Deputy Secretary of Transportation has considered evidence on that portion of the plan between MP 84.27 and the West Kiona Interchange Vicinity (Station LE 115+91.76 to Station LE 691+86.72) and finds that the plan introduced into evidence marked Exhibit Nos. 8-6 through 8-31 should be modified as hereinafter set forth and as shown on Exhibit "A" hereto attached.

1. Revise plan sheets 1 and 9 of 57 sheets to allow for construction of a vehicular overcrossing to provide access under the eastbound lanes of SR 82 for only the southern portion of Parcel No. 5-04071 as requested by the Department of Natural Resources (Exhibit No. 17) and as recommended by the Department of Transportation in Reserved Exhibit No. 18.
2. Revise plan sheet 14 of 57 sheets to indicate a gated Type B approach from the HR Line at Station HR 42+70 (Lt.) for use by Parcels 5-04079, 5-04082, Bell Telephone Company and Benton County PUD. This approach was requested by Mr. Hileman (Exhibit No. 11) and by the Department of Natural Resources (Exhibit No. 17) and recommended by the Department of Transportation in Reserved Exhibit Nos. 14 and 18.
3. Revise plan sheets 14 and 15 of 57 sheets to include access easements from Parcel No. 5-04079 for use by the Department of Natural Resources for access to their Parcel No. 5-04083 as requested by the Department of Natural Resources (Exhibit No. 17) and recommended by the Department of Transportation in Reserved Exhibit Nos. 14 and 18.
4. Revise plan sheets 2 thru 4, 14 thru 18, and 21 thru 23 of 57 sheets to allow for the construction of two frontage roads, the GS Line and KF Line, as requested by Mr. Sharp (Exhibit No. 9), by Mr. Rankin and Mr. Hseih (Exhibit No. 10), by Mr. Bauder (Exhibit No. 15), by the Department of Natural Resources (Exhibit No. 17), by Mr. Martin (Exhibit No. 19) and as recommended by the Department of Transportation in Reserved Exhibit Nos. 12, 13, 16, 18 and 20.
5. Revise plan sheets 18, 19 and 20 of 57 sheets to include an access easement from Parcel No. 5-04088 for use by Parcel No. 5-04087 for access to the A and B Lines from the GN Line as requested by the Department of Natural Resources (Exhibit No. 17) and to show joint usage of the A Line easement by Parcel Nos. 5-04087, 5-04088, 5-04092 and joint usage of the B Line easement by Parcel Nos. 5-04087 and 5-04092 as recommended by the Department of Transportation in Reserved Exhibit No. 18.
6. Revise plan sheets 1 thru 26 of 57 sheets to make minor plan revisions, to correct ownership and parcel details, area computations, and right of way details.

X

The Deputy Secretary of Transportation also considered the following requests for changes in the plan but denies them for the following reasons:

1. Mr. Charles R. Haight, Department of Natural Resources, indicated by letter (Exhibit No. 17) that DNR would be willing to exchange small isolated tracts of Parcel 5-04075 lying north of SR 82 for isolated tracts of adjoining ownerships lying south of SR 82.

The Department of Transportation does not negotiate land exchanges between property owners. However, uneconomical remainders can be purchased, where warranted, and such purchase will be considered at the time right of way negotiations are made.

2. Mr. Martin O. Rankin and Mr. Jack Hsieh indicated by letter (Exhibit No. 10) that portions of Parcel Nos. 5-04082 and 5-04105, to be landlocked between eastbound and westbound lanes of SR 82, should be purchased as a part of the right of way for the highway.

The Washington State Department of Transportation can purchase property outside that which is required for the right of way and construction of State Highway when warranted. For any parcels found to be landlocked, compensation and/or damages will be handled with the affected property owner at the time right of way negotiations are made.

3. Mr. Lawrence B. Colton and Mr. Lyle H. Mineer requested by letter (Exhibit No. 21) the elimination of the proposed utility overcrossing near Station L<sup>E</sup> 664+00 in favor of a frontage road on the south side of SR 82 from West Kiona Interchange easterly to the east side of the Kennewick Main Canal. The frontage road would serve private ownerships, including their Parcel 5-04101, in addition to the canal right of way.

Detailed feasibility studies for a frontage road determined that costs far exceed access benefits to abutting properties and construction could not be justified. Parcel No. 5-04101 will be landlocked, as indicated at the hearing. Compensation to the owners for right of way acquisition will reflect such landlocking damages. (Exhibit No. 22)

XI

The Deputy Secretary of Transportation particularly finds in the case of each abutting ownership that the adoption of the plans for making said highways limited

access facilities, said plans being attached hereto and marked Exhibit "A", is requested for public convenience and necessity.

Based upon the foregoing findings and the supportive evidence, the Deputy Secretary of Transportation of the State of Washington.

ORDERS,

I

That the section of State Route 82 in Benton County described as follows, is hereby designated as a limited access highway of the fully controlled type:

Between Station LE 115+91.76 and Station LE 691+86.72 as shown on sheets 1 through 26 of 57 sheets entitled, "SR 82, M.P. 84.27 TO KIONA INTERCHANGE VICINITY, M.P. 84.27 TO M.P. 95.18, BENTON COUNTY".

II

That the plans set forth in Exhibit Nos. 8-6 through 8-31 should be revised as follows, and as shown on Exhibit "A" hereto attached and by this reference made a part hereof:

1. Revise plan sheets 1 and 9 of 57 sheets to allow for construction of a vehicular overcrossing to provide access under the eastbound lanes of SR 82 for only the southern portion of Parcel 5-04071.
2. Revise plan sheet 14 of 57 sheets to indicate a Type B approach from the HR Line at Station HR 42+70 (Lt.) for use by Parcels 5-04079, 5-04083, Bell Telephone Company, and the Benton County PUD. This approach shall be gated and locked when not in use.
3. Revise plan sheets 14 and 15 of 57 sheets to include access easements from Parcel No. 5-04079 for use by the Department of Natural Resources for access to their Parcel No. 5-04082.  
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4. Revise plan sheets 2 thru 4, 14 thru 18, and 21 thru 23 of 57 sheets to allow for the construction of two frontage roads, the GS Line and KF Line.
5. Revise plan sheets 18, 19 and 20 of 57 sheets to include an access easement from Parcel No. 5-04088 for use by Parcel No. 5-04087 for access to the A and B Lines from the GN Line and to show joint usage of the A Line easement by Parcel Nos. 5-04087, 5-04088, 5-04092 and joint usage of the B Line easement by Parcel Nos. 5-04087 and 5-04092.

6. Revise plan sheets 1 thru 26 of 57 sheets to make minor plan revisions, to correct ownership and parcel details, area computations, and right of way details.

III

That the plan entitled "SR 82, M.P. 84.27 TO KIONA INTERCHANGE VICINITY, M.P. 84.27 TO M.P. 95.18, BENTON COUNTY", Sheets 1 through 26 of 57 sheets dated November 28, 1975, as revised above and as shown on Exhibit "A" be and the same is hereby adopted.

That the following plans are hereby superseded:

"SR 12, Prosser to Kiona, Plan Showing Access, Benton County", sheets 2(pt.), 3 through 10, 11 (pt.), 12 and 13 (pt.) of 13 sheets, approved June 5, 1956.

"SR 12, Prosser to Kiona, Benton County," right of way, sheets 2 (pt.), 3 through 20 and 21 (pt.) of 25 sheets, approved December 4, 1956.

ADOPTED this 20th day of November, 1978.

DEPUTY SECRETARY OF TRANSPORTATION

  
V. W. KORF

APPROVED AS TO FORM:

  
Assistant Attorney General