

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Petition of</p> <p>SNOHOMISH COUNTY,</p> <p style="text-align: center;">Petitioner,</p> <p>BNSF RAILWAY COMPANY,</p> <p style="text-align: center;">Respondent.</p>	<p>DOCKET TR-210152</p> <p>ORDER 01</p> <p>GRANTING PETITION TO CONSTRUCT OR RECONSTRUCT A GRADE SEPARATION (UNDERCROSSING)</p> <p>USDOT: 979310B</p>
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BACKGROUND

- 1 On March 4, 2021, Snohomish County Parks, Recreation, and Tourism (Snohomish County or Petitioner) filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) seeking approval to reconstruct an undercrossing at the intersection of the Meadowdale Beach Park Underpass Trail (Meadowdale Beach Trail) and the BNSF Railway Company (BNSF) tracks in Snohomish county.
- 2 Respondent BNSF consented to entry of an Order by the Commission without further notice or hearing.
- 3 Snohomish County’s Meadowdale Beach Trail undercrossing is a 6-foot wide culvert built under the BNSF tracks that serves as the only legal access for 65,000 annual park visitors and 16 environmental and recreational groups seeking saltwater beach access. Land’s Gulch Creek, a coastal salmon-bearing stream, also flows through the culvert. Increased sediment deposition, flooding, and prevailing high-water levels in the culvert force pedestrians wishing to access the beach to either wade through critical habitat in fast-flowing water, or illegally trespass over the BNSF railroad tracks by ignoring warning signs and cutting fencing. BNSF operates 40 freight trains daily on its two-track mainline at up to 45 miles per hour. In addition, two passenger trains operate daily at up to 50 miles per hour.
- 4 Because the undercrossing does not intersect the railroad tracks at grade, no railroad warning signs or signals are necessary.
- 5 Snohomish County states that this project will replace the 6-foot-wide culvert with a 102-foot-long railroad bridge, and relocate the trail to pass beneath the south span of the

undercrossing. This will create an Americans with Disabilities Act accessible pedestrian path that will be away from critical habitat and free from flooding. The longer undercrossing will also allow re-establishment of the original (pre-railroad) estuary, providing critical habitat for threatened juvenile Chinook salmon and restore coastal processes such as sediment delivery and widened channel meander. In addition to the environmental benefits, this project will improve safety for trail users by providing a safe passageway to the beach and eliminating pedestrian trespass on the BNSF tracks during periods of flooding.

6 According to the Petition, Snohomish County will be responsible for all trail maintenance. BNSF will be responsible for all bridge maintenance.

7 Commission staff (Staff) has investigated the Petition and recommends that it be granted subject to the following conditions: (1) the project must conform to the description in the Petition, (2) Snohomish County must notify the Commission within 60 days upon completion of the project authorized herein. Acceptance is subject to inspection by Staff, who will verify that the undercrossing is in full compliance with applicable laws, regulations, and the conditions specified herein.

DISCUSSION

8 RCW 81.53.060 requires that the Commission grant approval prior to reconstruction of a public undercrossing within the state of Washington. We find that the proposed changes to the undercrossing will improve overall safety for trail users. When the Commission directs the modifications to an undercrossing, it will apportion construction and maintenance costs in accordance with the applicable statutes.¹ The parties to this Petition confirmed that they have reached an agreement related to cost apportionment. Accordingly, the Commission grants the Petition subject to the conditions that Staff recommends.

FINDINGS AND CONCLUSIONS

9 (1) The Commission is an agency of the State of Washington having jurisdiction over public undercrossings within the state of Washington.

10 (2) The Meadowdale Beach Park Underpass Trail undercrossing, identified as USDOT 979310B, is a public undercrossing within the state of Washington.

¹ See RCW 81.53.130.

- 11 (3) RCW 81.53.060 requires that the Commission grant approval prior to reconstructing a public undercrossing within the state of Washington. See also WAC 480-62-150.
- 12 (4) Staff investigated the Petition and recommends that it be granted with the conditions set out in paragraph 7, above.
- 13 (5) After examination of the Petition filed by Snohomish County on March 4, 2021, and giving consideration to all relevant matters and for good cause shown, the Commission grants the Petition.

O R D E R

THE COMMISSION ORDERS:

- 14 Snohomish County Parks, Recreation, and Tourism's Petition to reconstruct a public undercrossing located at the intersection of the Meadowdale Beach Park Underpass Trail and BNSF's tracks is granted and the parties are directed to proceed with the project as described in the Petition, subject to the following conditions:
- (1) The project must conform to the description in the Petition.
 - (2) Snohomish County must notify the Commission within 60 days upon completion of the project authorized herein. Acceptance is subject to inspection by Staff, who will verify that the undercrossing is in full compliance with applicable laws, regulations, and the conditions specified herein.

The Secretary of the Commission has delegated authority over this matter pursuant to Order 01 in Docket A-180762. The Secretary finds this Order to be consistent with the public interest.

DATED at Lacey, Washington, and effective April 28, 2021.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK L. JOHNSON
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.