

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WHATCOM COUNTY,

Petitioner,

v.

BNSF RAILWAY COMPANY,

Respondent.

DOCKET TR-170122

NOTICE OF PREHEARING
CONFERENCE
**(Set for Monday, April 24, 2017,
at 9:30 a.m.)**

- 1 On February 27, 2017, Whatcom County filed with the Washington Utilities and Transportation Commission (Commission) a Petition for installation of median barriers at a highway-rail grade crossing located at Yacht Club Road (USDOT Crossing No. 084796F) as part of quiet zone improvement (Petition).
- 2 On February 28, 2017, the Commission sent a letter to BNSF Railway Company (BNSF) notifying it of the Petition and requesting a response within twenty days indicating its support or opposition.
- 3 On March 10, 2017, BNSF filed with the Commission a notice of opposition and requested that the matter be scheduled for hearing in order to address its concerns.
- 4 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under RCW Title 81, and has legal authority to regulate alterations in the style or nature of construction of existing grade crossings, and to apportion the expense of such a change between the railroad and the municipality or county affected pursuant to RCW 81.53, including without limitation, RCW 81.53.060 and RCW 81.53.110. The statutes that apply to this matter include RCW 80.01, RCW 80.04, and RCW 81.53, including but not limited to RCW 80.04.110, RCW 81.53.010, RCW 81.53.060, RCW 81.53.261, and RCW 81.53.271.
- 5 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW

34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.

6 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 9:30 a.m., on April 24, 2017, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

7 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, to identify the issues in the proceeding, and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

8 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

9 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**

10 The Commission will make available its teleconference bridge line for those parties who cannot attend in person. Please call into the bridge line, (360) 664-3846, five minutes before the conference is scheduled to begin.

11 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner: Whatcom County
Public Works Department
James P. Karcher, PE
Engineering Manager
322 North Commercial Street, Suite 301
Bellingham, WA 98225
(360) 778-6271
jkarcher@co.whatcom.wa.us

Representative: Daniel Gibson
Chief Civil Deputy Prosecuting Attorney
Whatcom County Prosecuting Attorney
311 Grand Ave., Suite 201
Bellingham, WA 98225
(360) 676-6784
dgibson@co.whatcom.wa.us

Respondent: BNSF Railway
Richard Wagner
Manager Public Projects
2454 Occidental Avenue S, Suite 1A
Seattle, WA 98134-1451
(206) 625-6152
Richard.wagner@bnsf.com

Representative: Jennifer L. Willingham
BNSF Railway Co.
General Attorney
2500 Lou Menk Drive, AOB-3
Fort Worth, TX 76131
(817) 352-1738
Jennifer.willingham@bnsf.com

Commission Staff: Brett Shearer
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1187
bshearer@utc.wa.gov

- 12 Administrative Law Judge Rayne Pearson, from the Commission's Administrative Law Division, will preside during this proceeding.
- 13 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective March 31, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____