

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

CHELAN COUNTY,)	DOCKET TR-061442
)	
Petitioner.)	
)	
v.)	NOTICE OF PREHEARING
)	CONFERENCE
THE BURLINGTON NORTHERN)	(Set for January 29, 2007,
SANTE FE RAILWAY COMPANY,)	9:30 a.m.)
)	
Respondent.)	
)	
.....)	

1 Chelan County, on September 11, 2006 filed with the Washington Utilities and Transportation Commission (Commission) a petition to authorize the alteration and relocation of a highway-rail under-crossing at Chumstick Highway, milepost 1.83.

2 The Commission will hear this matter pursuant to Part IV of RCW 34.05 pertaining to adjudicative proceedings, including but not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, RCW 34.05.452, RCW 81.04.110, RCW 81.44.010, and RCW 81.53.060. The Commission has jurisdiction over this matter pursuant to RCW Title 81, having legal authority to regulate alterations in the style or nature of construction of existing grade crossing, 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. Statutes involved, in addition to those previously cited, include those within RCW 81.04, RCW 81.44, RCW 81.53, and WAC 480-07.

3 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.

4 **THE COMMISSION GIVES NOTICE That the Commission will hold a prehearing conference in this matter at 9:30 a.m., on January 29, 2007, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

5 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling and other procedural matters, including establishing dates for distributing evidence and workpapers, 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. Among other things, the administrative law judge may consider the procedure and timing for dispositive motions

6 **INTERVENTION:** Persons seeking to intervene in the proceeding must file written petitions to intervene at least three business days before the date of the prehearing conference. *See WAC 480-07-355(a)*. In addition, party representatives must file notices of appearance with the Commission, as required by WAC 480-07-345(2), no later than the day before the conference. If any party or witness needs an interpreter or other assistance, they should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for the evidentiary hearings at the prehearing conference or by later written notice.

7 **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. The Commission specifically invokes the sanction provisions of WAC 480-07-450 which allow the Commission to seek penalties for a party in default.**

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

Petitioner:	Chelan County
	Buell Hawkins
	350 Orondo Avenue
	Wenatchee, WA 98801
	(509) 667-6215

Representative: Louis Chernak
Deputy Prosecuting Attorney
Chelan County Prosecuting Attorney's Office
401 Washington Street
PO Box 2596
(509) 667-6643
Wenatchee, WA 98807-2596
E-mail: lou.chernak@co.chelan.wa.us

Respondent: Burlington Northern Santa Fe Railway
Mike Cowles
Manager, Public Projects
2454 Occidental Avenue S., Suite 1-A
Seattle, WA 98134-1451
(206) 625-6146

Representative: Tom Montgomery
Bradley Scarp
Leslie Fleming
Montgomery Scarp MacDougall, PLLC
1218 Third Avenue, Suite 2700
Seattle, WA 98101
(206) 625-1801
Tom@montgomeryscarp.com
Brad@montgomeryscarp.com
Lesley@montgomeryscarp.com

Commission Staff: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Drove SW
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1225
jthompson@wutc.wa.gov

9 Administrative Law Judge Theodora M. Mace, from the Commission's
Administrative Law Division, will preside during this proceeding.

10 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 January 8, 2007.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary

Inquiries may be addressed to:

Executive Secretary
Washington State Utilities and
Transportation Commission
Chandler Plaza 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: Carole J. Washburn, 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.: (____) _____