

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of the BNSF,
Railway to Close a Grade Crossing Located at
Hickox Road, at Railroad Milepost 65.60 in
Skagit County, Washington State

) DOCKET NO. TR-070696
) ANSWER OF SKAGIT COUNTY
)

COMES NOW, Skagit County ("Respondent"), by and through its attorney(s) of record, and Answers as follows:

I.

- 1.1 Respondent admits the content of Paragraph "1." of Petitioner's (BNSF Railway Company) Petition.
- 1.2 Respondent denies or is without sufficient information to admit or deny, and therefore denies, the content Paragraph "2." of Petitioner's Petition.
- 1.3 Respondent denies or is without sufficient information to admit or deny, and therefore denies, the content Paragraph "3." of Petitioner's Petition.

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ORIGINAL

SKAGIT COUNTY PROSECUTING ATTORNEY 605 S. 3RD ST. -- Courthouse Annex Mount Vernon, WA 98273 Phone: (360) 336-9460

- 1.4 Respondent denies or is without sufficient information to admit or deny, and therefore denies, the content Paragraph "4." of Petitioner's Petition.
- 1.5 Respondent denies or is without sufficient information to admit or deny, and therefore denies, the content Paragraph "5." of Petitioner's Petition.
- 1.6 Respondent denies or is without sufficient information to admit or deny, and therefore denies, the content Paragraph "6." of Petitioner's Petition.

II.

WHEREFORE, having fully answered the Petitioner's Petition the Respondent does assert the following DEFENSES:

- 2.1 The proposed closure of the crossing requires compliance with the State Environmental Policy Act, RCW 43.21C ("SEPA"), and that the proposed closure of the crossing is not in compliance with SEPA;
- 2.2 The proposed closure of the crossing does not serve or promote the interest of public safety;
 - 2.3 Other alternatives exist to the proposed closure of the crossing;
- 2.4 Respondent reserves any and all other defenses that are and/or may be provided by law and/or equity, as may be subsequently raised.

III.

WHEREFORE, having fully answered the Petitioner's Petition the Respondent does assert the following COUNTERCLAIMS:

3.1 Respondent reserves any and all counterclaims that are and/or may be provided by law and/or equity.

IV.

WHEREFORE, having fully answered the Petitioner's Petition and having interposed affirmative defenses, Respondent Skagit County prays for relief as follows:

- That the Petitioner's Petition be dismissed, and that the Petitioner is granted nothing thereby;
- 2. For any other relief that may be provided by law as may be subsequently requested;
- 3. For such other and further relief as the WUTC deems just and equitable.

DATED this 5 day of July, 2007.

SKAGIT COUNTY PROSECUTING ATTORNEY

STEPHEN R. FALLQUIST.

Deputy Prosecuting Attorney, Civil Division

WSBA #31678

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Judy L. Kiesser states and declares as follows:

I am a citizen of the United States of America, over 18 years of age and competent to testify to the matters set forth herein. On July 5, 2007,

I caused to be served by first class mail, postage prepaid, a true and correct copy of the

foregoing document entitled ANSWER OF SKAGIT COUNTY on the following:

JOHN LI, MANAGER PUBLIC PROJECTS BNSF RAILWAY COMPANY 2454 OCCIDENTAL AVE S, STE 1A SEATTLE WA 98134-1451

BRADLEY P. SCARP, ESQ. 1218 THIRD AVENUE, 27TH FLOOR SEATTLE, WA 98101

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CITY OF MOUNT VERNON 910 CLEVELAND AVE., MOUNT VERNON, WA 98273

DATED this 5h day of July, 2007.

JUDY KIESSER, Legal Assistant

ANSWER OF SKAGIT COUNTY

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