

RECEIVED  
RECORDS MANAGEMENT  
07 JUL 11 AM 8:16  
STATE OF WASHINGTON  
UTIL. AND TRANSPORTATION  
COMMISSION

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

In the Matter of the Petition of the BNSF )  
Railway to Close a Grade Crossing Located ) DOCKET NO. TR-070696  
at Hickox Road, at Railroad Milepost 65.60 ) PETITION TO INTERVENE BY  
in Skagit County, Washington State. ) ADVERSELY AFFECTED  
 ) AGRICULTURAL LANDOWNERS  
 )

**1. Name and address of petitioner.**

DAVID BOON and YVONNE G. BOON, husband and wife, individually and as members of WESTERN VALLEY FARMS, L.L.C., a Washington Limited Liability Co.  
20616 Bulson Road  
Mount Vernon, WA 98274

**Phone Number** (360) 445-6612

**2. Name and address of the attorney, if any, representing the petitioner.**

Gary T. Jones  
Jones & Smith  
415 Pine Street  
P. O. Box 1245  
Mount Vernon, WA 98273-1245

**Phone Number** (360) 336-6608

**3. If the petitioner is an organization:** Western Valley Farms, L.L.C. is registered in Washington State.

**a. State the number of members in the organization:**

4

- b. State the name of the person authorized to initiate this petition for the organization:**

David Boon, General Manager

- c. Attach a copy of the document authorizing participation in this case or state the basis for the authorization.**

Not Applicable

- d. State the purpose of the organization:**

Milk production, dairy farming, 75 acres owned and 400 acres rented in vicinity of crossing.

**4. The petitioner has the following interest in this proceeding:**

Ownership and rental of farmland and operation of dairy which depends upon access to fields for forage and feed and daily milk shipments.

On Hickox Road west of the railroad crossing 700 dairy cattle are kept in barns on the flood plain. Evacuation would be required in the event of a Skagit River flood. The twenty or more semi-truck loads of cows would not practical to evacuate without access to the Hickox Road Freeway interchange over the railroad crossing.

The reports of traffic used by the study published before the petition are grossly inadequate to account for summertime traffic over the grade crossing during harvest of corn silage as one of several examples.

Failure to reach the farm premises in the event of a fire or serious injury would also cause harm to Western Valley Farms, L.L.C.

Public safety for life and property requires separation of the grade crossing if the goals of rail transport use are to be reconciled with urban growth and continuing agricultural land use.

**5. The petitioner's position with respect to the matters in controversy:**

The petitioner opposes the closure of the crossing. The crossing is essential for realizing the economic value of a dairy farm whose owner and is a substantial investor in farmland and farm business enterprises on the west side of the Hickox Road closure and on the east side of Interstate 5, all of which would be adversely affected by the Hickox Road closure. The ability to farm on the east and west

side of Interstate 5 depends substantially upon the ability to drive farm equipment over the Hickox road interchange to the frontage roads and hence to fields that are designated Agricultural Natural Resource Lands by the Skagit County Comprehensive Plan. There is no practical alternative to the use of the Hickox Road interchange for moving farm equipment to till the soil, plant crops, harvest crops and deliver milk to market.

**6. Whether the petitioner proposes to broaden the issues in the proceedings:**


Yes. The original petition and the intervention by WSDOT have not considered the Skagit County Comprehensive Plan, the state Growth Management Act, the local transportation planning needs of Agriculture, Natural Resource Lands or Urban Growth of Mount Vernon. The petition serves exclusively the demands of the freight rail carrier and intercity rail passenger service. Alternatives to the proposed action exist and have been dismissed unreasonably by the BNSF and WSDOT. Petitioner contends that the railroad crossing closure is a major action affecting the environment because of its implications for agricultural natural resource land use, from Stanwood to Mount Vernon. Public safety, including fire response, emergency medical service, flood evacuation and other issues touching the public interest warrant preparation of a Draft Environmental Impact Statement. If this closure is part of a corridor plan for high speed passenger rail transport as stated by the petitioner then a broader review of alternatives and impacts is required by SEPA.

**7. The petitioner intends to:**

- a. Submit written testimony and exhibits of the following people:  
To be named.
- b. Call witnesses to testify.
- c. Cross-examine the witnesses called by other parties.
- d. Submit written arguments and/or motions.

**8. I submit this Petition to Intervene and request authorization to participate in this proceeding.**

DATED this 9<sup>th</sup> day of July 2007.

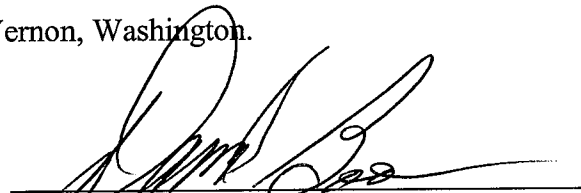
  
\_\_\_\_\_  
DAVID BOON, individually and  
as General Manager of Western Valley Farms, L.L.C.

DECLARATION

I, DAVID BOON, declare and affirm that this petition is true and complete to the best of my knowledge and belief.

I further declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 9<sup>th</sup> day of July 2007 at Mount Vernon, Washington.

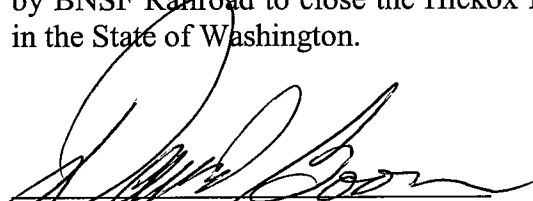


DAVID BOON, individually and as  
General Manager of  
Western Valley Farms, L.L.C.

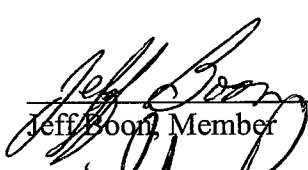
RESOLUTION # 2007-\_\_\_\_\_

July 9, 2007

On this date, Western Valley Farms, L.L.C., met and authorized Gary T. Jones, attorney for Western Valley Farms, L.L.C., to act on behalf of the LLC, in Petition to Intervene before the Washington Utilities and Transportation Commission concerning the petition by BNSF Railroad to close the Hickox Road crossing in Mount Vernon, Skagit County, in the State of Washington.

  
David Boon, Member

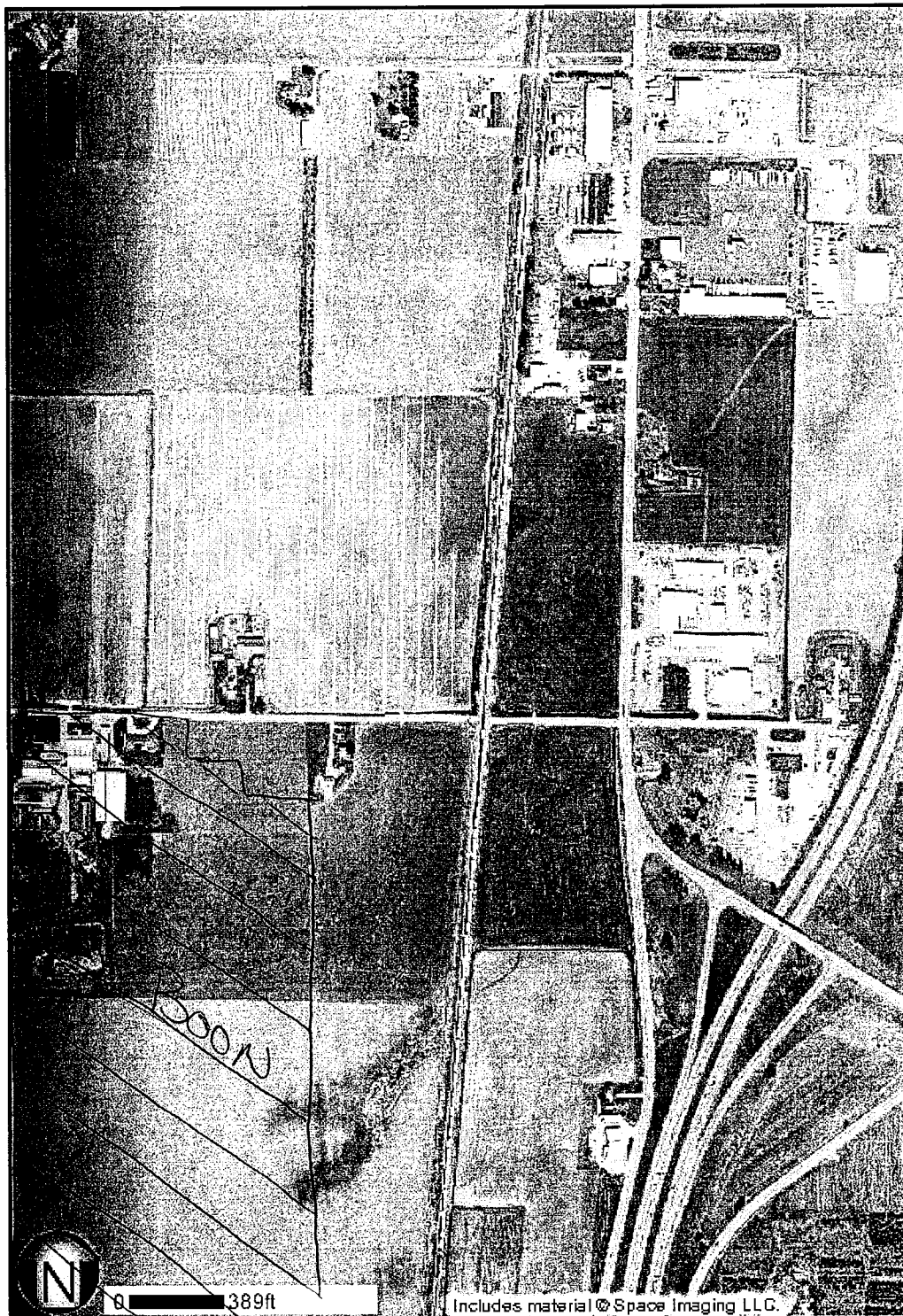
  
Yvonne G. Boon, Member

  
Jeff Boon, Member

*by Steve Boon telephone permission 7-9-07*

  
Steve Boon, Member

# Skagit County GIS Map



## Skagit County iMap

SKAGIT COUNTY does not attest to the accuracy to the data contained herein and makes no warranty with respect to the correctness or validity of this map. Data contained in this map is limited by the method and accuracy of its collection.

**Map Scale: 1 inch = 705 Feet (1 inch = 0.1 Miles)**

DECLARATION OF SERVICE

Llewella Faye Davis states and declares as follows:

I am over the age of 18; and not a party to this action. I am the assistant to Gary T. Jones of Jones & Smith whose address is PO Box 1245, Mount Vernon, Washington 98273.

I hereby declare that the original PETITION TO INTERVENE BY ADVERSELY AFFECTED AGRICULTURAL LANDOWNERS has been sent by U.S. mail to Carole J. Washburn at Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., PO Box 47250, Olympia, WA 98504-7250. I also declare that true and complete copies have been sent via U.S. Mail to the following interested parties:

Stephen Fallquist  
Deputy Prosecuting Attorney  
Skagit County  
605 South 3<sup>rd</sup> Street  
Mount Vernon, WA 98273

L. Scott Lockwood  
Assistant Attorney General  
1400 S. Evergreen Park Dr., S.W.  
PO Box 40128  
Olympia, WA 98504

Tom Montgomery  
Bradley Scarp  
Montgomery, Scarp MacDougall, PLLC  
1218 Third Avenue, Suite 2700  
Seattle, WA 98101

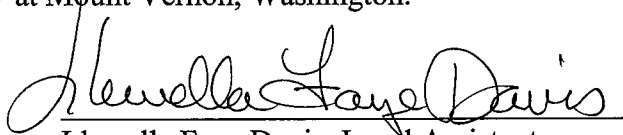
Jonathan Thompson  
Assistant Attorney General  
1400 S. Evergreen Park Dr., S.W.  
PO Box 40128  
Olympia, WA 98504

Brian K. Snure  
Snure Law Office  
612 South 227<sup>th</sup> Street  
Des Moines, WA 98198

Kevin Rogerson, City Attorney  
City of Mount Vernon  
PO Box 809  
Mount Vernon, WA 98273

I declare under penalty under the law of the State of Washington that the foregoing is true and correct.

DATED this <sup>10</sup>10 day of July 2007 at Mount Vernon, Washington.

  
Llewella Faye Davis, Legal Assistant