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SERVICE DATE
MAY 26 1995

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Burlington Northern Railroad Co.,)	
)	
Petitioner,)	DOCKET NO. TR-940282
)	
v.)	
)	FINDINGS OF FACT,
Skagit County, Washington,)	CONCLUSIONS OF LAW,
)	AND FINAL ORDER
Respondent.)	CONCERNING BOE STREET
)	CROSSING
.....)	

Hearings were held in this matter in Mt. Vernon on February 23 and 24, 1995, before Administrative Law Judge Lisa A. Anderl of the Office of Administrative Hearings.

The parties appeared and were represented as follows:

PETITIONER: BURLINGTON NORTHERN RAILROAD CO.
By Rexanne Gibson, attorney
110 - 110th Ave. NE, Suite 670
Bellevue, Washington 98004

RESPONDENT: SKAGIT COUNTY
By John R. Moffat, prosecuting attorney
227 North 4th Street, room 206
Mt. Vernon, Washington 98273

COMMISSION: WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
By Ann Rendahl, assistant attorney general
1400 S. Evergreen Park Dr. SW
P.O. Box 40128
Olympia, Washington 98504-0128

INTERVENOR: Bradford E. Furlong, attorney
904 South 3rd Street
Mt. Vernon, Washington 98273

MEMORANDUM

This is a petition by Burlington Northern Railroad Company (Burlington or company) to close six highway-railway crossings at grade in Skagit County. The petition was protested by the respondent and set for hearing. This order concerns only the Boe Street crossing.¹ Burlington petitioned the Commission for closure of this crossing, citing public safety concerns with increased train speeds associated with passenger train operations.

At the hearing in this matter, Burlington described the Boe Street crossing, which consists of three tracks protected by stop signs and crossbucks. Boe Street dead-ends to the east of the tracks, and closure of this crossing would cut off approximately four residences. If the crossing is closed, Burlington proposes to build a frontage road to connect the east end of Boe Street with Bow Hill Road, allowing access to the four residences and allowing them to use the signalized and gated crossing at Bow Hill Road.

Conditioned upon the construction of the frontage road, no party opposes closure of the Boe Street crossing. No members of the public appeared to testify about this proposal. The Commission concludes that the crossing at Boe Street should be closed, such closure conditioned upon the construction by Burlington of a frontage road to allow ingress and egress to the east end of Boe Street. Under these circumstances there is no public need for the Boe Street crossing and public safety requires its closure.

FINDINGS OF FACT

1. On February 2, 1994, Burlington Northern Railroad Company filed a petition to close the Boe Street crossing at railroad milepost 79.20 in Skagit County, Washington.
2. The Boe Street crossing is an at-grade crossing of three tracks, protected by stop signs and crossbucks on each side. Boe Street dead-ends east of the railroad tracks. There are approximately four residences east of the tracks.
3. As a condition precedent to the closure of Boe Street, the railroad will construct a frontage road connecting the portion of Boe Street which extends east of the railroad tracks to the Bow Hill Road.

¹The respondent withdrew West Johnson Road and West Stackpole Road from consideration. At the first day of hearing in this matter, the company requested that separate orders be entered for each of the crossings. Insofar as Boe Street is concerned that request is granted. The parties stipulated to an indefinite continuance for hearing on the Spruce Street and Milltown Road crossings.

4. The railroad has obtained a determination of non-significance for this closure under the State Environmental Policy Act.

5. The parties waived an initial order in this matter.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of and the parties to this application.

2. Pursuant to RCW 81.53.060, a railroad crossing at grade may be closed upon petition of the railroad company if the public safety requires such closure. The grade crossing at Boe Street in Skagit County is dangerous. If a frontage road is constructed to connect the east end of Boe Street with the Bow Hill Road, the Boe Street crossing will not be required by the public convenience and necessity. The petition of Burlington Northern Railroad Company for closure of this crossing should be granted, as conditioned above.

3. An initial order may properly be omitted in this matter.

ORDER

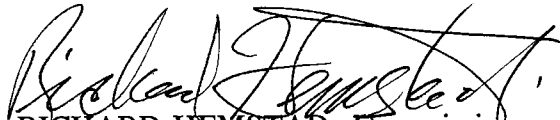
THE COMMISSION HEREBY ORDERS That the petition of Burlington Northern Railroad Company for closure of the at-grade crossing at Boe Street in Skagit County is granted, conditioned upon the prior construction of a frontage road to connect the east end of Boe Street with Bow Hill Road.

DATED at Olympia, Washington, and effective this 24th day of May 1995.


WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



SHARON L. NELSON, Chairman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner

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NOTICE TO PARTIES:

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).