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January 29, 2010

2010 FEB -3 AM 8:55  
STATE OF WASH  
OFFICE OF THE  
COMMISSIONER

**VIA FACSIMILE (360) 586-1150  
& 1<sup>st</sup> CLASS MAIL**

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Compliance Manager  
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& 1<sup>st</sup> CLASS MAIL**

Brian Hipol  
Division Engineer  
BNSF  
2454 Occidental Avenue S 1A  
Seattle, WA 98134

**Re: DOCKET TR-080957  
ORDER 01  
ORDER GRANTING PETITION, WITH CONDITIONS, TO CLOSE A  
PUBLIC HIGHWAY-RAIL GRADE CROSSING AT SECOND STREET  
IN SUMAS**

Dear Sir/Madam:

Our office serves as the City Attorneys for the City of Sumas. I am writing regarding an outstanding issue related to the closure of the railroad-street crossing on Second Street in the City of Sumas. Specifically, BNSF Railway Co. (BNSF) requested that the City consent to the closure of the Second Street crossing. In support of its petition to close the Second Street crossing, BNSF proposed that the adjacent crossing at Garfield Street could be used as an alternate route. The City was agreeable to the closure of the crossing contingent upon certain occurrences, including the repair of the Garfield Street crossing by BNSF. BNSF committed to the City that they would make the necessary repairs, including the repair and stabilization of panels located between the rails. Unfortunately, it is my understanding that the repair and stabilization has not been completed and at least one panel in the crossing remains loose and unsecure. City staff have been unable to obtain any assurance from BNSF as to when, or if, these repairs will be completed. The

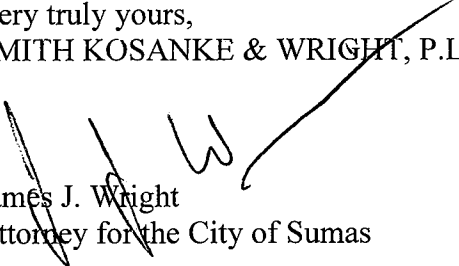
Kathy Hunter  
Brian Hipol  
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City is requesting that the repairs be completed so that all panels in the Garfield Street crossing are stable and secure and considers the completion of these repairs essential to the closure of the Second Street crossing.

Thank you for your attention to this matter. Should you have any questions or concerns regarding this correspondence, please feel free to call or write.

Very truly yours,  
SMITH KOSANKE & WRIGHT, P.L.L.C.



James J. Wright  
Attorney for the City of Sumas

JJW/jmc  
c: City of Sumas