

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

ADAMS COUNTY,)	DOCKET TR-950140
)	
Petitioner,)	ORDER 02
)	
v.)	ORDER REOPENING THE RECORD
)	AND RESCINDING ORDER
BURLINGTON NORTHERN RAILWAY)	GRANTING PETITION TO
COMPANY,)	CONSTRUCT AND INSTALL
)	RAILROAD SIGNALS WITH GATES
Respondent.)	ON BOB LEE ROAD
.....)	

BACKGROUND

- 1 In 1992, the Washington Department of Fish and Wildlife (WDFW) filed an application with Adams County for a permit to establish a public access fishing area at Sprague Lake, which included plans to allow public travel over a private BNSF Railway Company¹ (BNSF or Company) railroad crossing on Bob Lee Road.²

- 2 On May 12, 1994, BNSF sent a letter to Adams County agreeing to designate the Bob Lee Road crossing as a public crossing and recommending the installation of flashing lights and gates at the crossing. On February 6, 1995, Adams County filed a petition with the Washington Utilities and Transportation Commission (Commission) to designate the private crossing on Bob Lee Road as a public crossing.

- 3 On August 21, 1995, the Commission entered an Order Granting Petition to Construct and Install Railroad Signals with Gates on Bob Lee Road (Order). The Order addressed the installation of automatic gates and lights at the crossing, but did not designate the Bob Lee Road crossing as a public crossing.

- 4 On October 26, 2000, WDFW reported to the Interagency Committee for Outdoor Recreation that the Sprague Lake project would not be completed due to difficulties

¹ Formerly known as Burlington Northern Railway Company.

² The crossing is identified as USDOT 089647W.

performing work at the crossing. WDFW subsequently constructed a public access fishing area on the opposite side of Sprague Lake.

5 On July 21, 2015, Commission staff (Staff) met with Adams County and BNSF representatives at the crossing. All parties agree that the crossing on Bob Lee Road remains a private crossing.

6 On August 5, 2015, Staff filed with the Commission a petition to reopen the record in this docket (Petition) and rescind the Order. On August 10, 2015, the Commission issued a Notice of Opportunity to File Written Response to Petition, inviting parties to respond to Staff's Petition. No party filed a response.

7 Staff's Petition contends that the Order in this docket should be rescinded because the circumstances on which it was based no longer exist. The public access fishing area originally proposed was relocated miles away from the private crossing on Bob Lee Road. Staff recommends that the record in this docket be reopened and the Order rescinded, and that the crossing on Bob Lee Road should remain designated as a private crossing.

DISCUSSION AND DECISION

8 Because no party objected, the Commission grants Staff's Petition and admits the new evidence in the Petition into the record. Based on that evidence, the Commission finds that the facts on which the Order was based have changed, and concludes that that the prior Order – which was premised on the construction of a public fishing access project that was ultimately constructed elsewhere – should be rescinded. Because the Order did not alter the designation of the crossing on Bob Lee Road, it remains a private crossing.

ORDER

9 THE COMMISSION ORDERS That

10 (1) Commission Staff's Petition to Reopen the Record and Rescind the Order Granting Petition to Construct and Install Railroad Signals with Gates on Bob Lee Road in this Docket is GRANTED.

- 11 (2) The Order Granting Petition to Construct and Install Railroad Signals with Gates on Bob Lee Road in this Docket is rescinded effective the date of this Order.

DATED at Olympia, Washington, and effective September 29, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

ANN E. RENDAHL, Commissioner