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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

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COMMISSION

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WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )

5

Petitioner, )

6

vs. )

Docket No. TR-980897

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KLICKITAT COUNTY AND )  
BURLINGTON NORTHERN )  
SANTA FE RAILROAD, )

PUBLIC HEARING

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Respondents. )

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TRANSCRIPT OF PROCEEDINGS

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June 5, 2002

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Lyle, Washington

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REPORTER: Susan G. Walker

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1                   BE IT REMEMBERED that a hearing before Lawrence J.  
2 Berg, Administrative Law Judge for the Washington Utilities  
3 and Transportation Commission, was held on Wednesday, June  
4 5, 2002, at the Lyle Lions Club Community Center, Lyle,  
5 Washington, commencing at the hour of 7:15 p.m.

6

7 APPEARANCES:

8 Washington Utilities and Transportation Commission  
9           By: Jonathan Thompson  
            Assistant Attorney General

10 Klickitat County, Washington  
11           By: Keith Grundei  
            Klickitat County Public Works

12 Burlington Northern Santa Fe Railroad  
13           By: Mike Cowles  
            Manager of Public Projects

14

15 ALSO PRESENT:

16           Commissioner Joan Frye, on behalf of Klickitat County  
17           Commissioner Ray Thayer, on behalf of Klickitat County  
18           Ahmer Nizam, on behalf of WUTC  
19           Ray Gardner, on behalf of WUTC  
20           Steve Mills, on behalf of BNSF

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## P R O C E E D I N G S

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THE REVIEW JUDGE: This is a public hearing in docket number TR-980897 before the Washington Utilities and Transportation Commission in the case of WUTC, Petitioners, versus Klickitat County and the Burlington Northern and Santa Fe Railroad Company.

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As the parties will note, but the record doesn't necessarily reflect, my name is Larry Berg. I have been appointed the presiding officer at this public hearing. The purpose of the public hearing is to give members of the public an opportunity to provide testimony, sworn testimony, as to whether or not they either favor or are opposed to the proposed closing of the railroad crossing at Depot Road.

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For the record, I'll note that this public hearing immediately follows a hearing where parties gave testimony and explained a settlement agreement that has been signed in furtherance of the proposed closing. Also, immediately after this public hearing before the Washington Utilities and Transportation Commission there will be a public hearing before the Klickitat County Commissioners.

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Let me say to those folks who have come to the meeting who are willing to make a statement, it's not unusual that the person who is last on the list discovers that they've heard everything that they wanted to say. If

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1 in fact that's the case and you want to just make it known  
2 that you agree with the statements of certain other  
3 individuals, rather than making your statement in its  
4 entirety, we certainly want to provide you an opportunity to  
5 make a full statement, but if you've already heard someone  
6 else say the same thing that you had in mind of saying,  
7 maybe even said it a little more elegantly, please feel free  
8 to adopt that other person's statements, and I want you to  
9 know that that will not be considered any less than if you  
10 had made a statement yourself.

11 What I will do is I will ask all persons who think  
12 they may wish to make a statement to rise with me and take  
13 an affirmation oath. And then when I call you up to the  
14 front I will just ask you to confirm your name, full name,  
15 with the spelling of your last name, and your address. So  
16 then at this time, if everybody who thinks they may make a  
17 statement this evening would please rise and raise your  
18 right hand, do you affirm under penalty of perjury that the  
19 statement you make here this evening will be the truth?

20 (All potential witnesses responded affirmatively.)

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22 THE REVIEW JUDGE: Thank you, everyone. There was  
23 one point that came up at the conclusion of the regular  
24 hearing regarding an impact that will result from the  
25 proposed railroad crossing closure, and I would just give

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1 Mr. Cowles an opportunity to make further comment as part of  
2 the public hearing.

3 MR. COWLES: Yes. At the point that the crossing  
4 is closed and removed, it is no longer necessary by law for  
5 the railroad to blow their horns at the crossing. So once  
6 a crossing is removed, it is our position that we would  
7 remove the whistle post, thereby eliminating the need to  
8 blow at the crossing.

9 THE REVIEW JUDGE: All right. Thank you, Mr.  
10 Cowles.

11 MR. COWLES: You're welcome.

12 THE REVIEW JUDGE: All right. Mr. Don Brashers.

13 Sir, if you would just take a chair right there, if  
14 you're most comfortable.

15 MR. BRASHERS: Do you want our phone numbers and  
16 addresses?

17 THE REVIEW JUDGE: No, sir. Just name and address,  
18 and you might include your zip code.

19 MR. BRASHERS: Yes. Don Brashers. Address is P.O.  
20 Box 695, Lyle, Washington. I'm representing the Lyle Fire  
21 Department.

22 The one thing that I've noticed in your hearing  
23 here, you haven't taken any consideration in for the amount  
24 of freight that goes through here. And there is four lines  
25 parallel with the railroad line that -- I think there's 200

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1 car areas that they park, and then the one down next, they  
2 call it a turn-around for locomotives and stuff. A few  
3 years ago one of the locomotives caught on fire, and we had  
4 to service it. The only way you could get to it was around  
5 the other way. We have a tremendous west wind here. We're  
6 just a funnel up through the gorge area here. And you'll  
7 get 45, 50 mile an hour winds. If we get a car leaking  
8 ammonia or whatever down there, the only way we can get in  
9 to service that is through the extreme west side, because we  
10 have to go with the wind. And that is our main concern. If  
11 we get fire or a bumped car leaking propane or chemicals or  
12 anything like that, we've got to go in that way, because of  
13 the fumes, from the west. We have a prevailing west wind  
14 here. And that's my main concern right now.

15 THE REVIEW JUDGE: And, just so I understand the  
16 logistics, what you're saying is prevailing west wind, wind  
17 from the west ----

18 MR. BRASHERS: Coming in from the river.

19 THE REVIEW JUDGE: So you would want to approach  
20 with the wind at your back.

21 MR. BRASHERS: Well, that's the only way you can,  
22 because you can't go into something like that head on.

23 THE REVIEW JUDGE: Mr. Brashers, would you explain  
24 your formal relationship with the ----

25 MR. BRASHERS: I'm commissioner for Fire District 4.

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1 THE REVIEW JUDGE: Very good. Thank you, sir.  
2 Mr. Rich Adelman.

3 Mr. Adelman, if you'll please state your full name  
4 and spell your last name and state your address, sir.

5 MR. ADELMANN: Yeah. My name is C. Richard  
6 Adelman III. I live at 5118 S.W. Lowell Street, Portland,  
7 Oregon, 97221.

8 THE REVIEW JUDGE: Thank you, sir.

9 MR. ADELMANN: Okay. I would like to state that my  
10 family owns the parcel of property that is located west of  
11 Cove Road and south of Depot Road. The present County road  
12 borders the northern boundary of our property, and it would  
13 be my understanding that this present plan would heavily  
14 impact access to our property.

15 The property currently, to my understanding, is  
16 zoned for commercial use and is one of the few parcels of  
17 property left in the Columbia River scenic area that is  
18 available for commercial use. The information that I have  
19 just received for this proposal does seem to indicate that  
20 the County plans to terminate the road at the intersection  
21 of Cove Road and Depot Road, and I have concerns as to what  
22 that impact would be to our property in terms of access.

23 I have further questions, since this is all new  
24 information to me, how would the proposed new road width  
25 affect my property, since currently, based on maps that I



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1 have available, it looks like the right-of-way does infringe  
2 on our property locations. So I would have to understand  
3 more clearly what the intent of this new 24-foot wide road  
4 is. And I do have concerns.

5 I also have concerns about fire and emergency  
6 access to the site. Currently our property is undeveloped.  
7 There is a lot of brush on the site. We understand that  
8 we're responsible to maintain it, but there are occasions  
9 when unforeseen things can happen on that property. And I  
10 just have concerns that there would be limited access to the  
11 site as a result of closing off the access from the west.

12 I also have concerns on what the limitations are to  
13 vehicles that would actually use the bridge as an access to  
14 this commercially zoned property, and I have concerns about  
15 the weight of vehicles that would be acceptable crossing the  
16 bridge and the types of turning radiuses that would be  
17 created as a result.

18 And I'd also like to know if there's a record of  
19 the adjacent property owners all being notified about this,  
20 because I'd like to reiterate that this is the first  
21 knowledge I have of this particular railroad closing being  
22 implemented.

23 I'd like to recommend that the County extend their  
24 right-of-way further than what I have heard tonight in terms  
25 of extending the right-of-way, at the very least, to the

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1 west end of the northern boundary of our property, in order  
2 to maintain access to our site or to our property. And I  
3 think that concludes my statements.

4 THE REVIEW JUDGE: Mr. Adelman, have you had a  
5 chance to look at what was originally marked as Exhibit A,  
6 page 1 to the stipulated statements of fact that was  
7 distributed here? The map that shows the various ----

8 MR. ADELMANN: Yes. Today was the first  
9 opportunity I had to look at that.

10 THE REVIEW JUDGE: All right. So I see that your  
11 name is on tax lot 8. Is that the piece of property you're  
12 referring to?

13 MR. ADELMANN: That's correct.

14 THE REVIEW JUDGE: And this map also has some  
15 topographical notation on it which appears at the place  
16 where the road goes down to the launch on the shoreline.  
17 Is that your understanding of what I'm looking at here?

18 MR. ADELMANN: Correct.

19 THE REVIEW JUDGE: So your property borders that  
20 bluff?

21 MR. ADELMANN: That long, steep access.

22 THE REVIEW JUDGE: All right. Have you had a  
23 chance to speak with either Mr. Cowles or Mr. Grundei about  
24 your concerns?

25 MR. ADELMANN: This would be the first opportunity

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1 I've had.

2 THE REVIEW JUDGE: All right. Let me encourage you  
3 to connect with those gentlemen any time after this hearing,  
4 and I will get together with you immediately afterwards and  
5 provide you with the address for the Commission. And if you  
6 wish to make any other further position known to the  
7 Commission based upon your follow-up conversations, you are  
8 invited to send a letter to the Commission with the proper  
9 notation of this case, and your letter will be considered  
10 along with your stated concerns and testimony here today.

11 MR. ADELMANN: Okay. Thank you.

12 THE REVIEW JUDGE: You're very welcome.

13 Before I call the next witness, why don't I just  
14 check with the Commission staff. I wanted to just get a  
15 confirmation on the notice, if you know, the public notice  
16 that was provided of the hearing. Was there a published  
17 notice in this particular case? Do you happen to have any  
18 first-hand knowledge of that, Mr. Thompson, or Mr. Nizam?

19 MR. NIZAM: Actually, I believe Klickitat County  
20 published the notice. I'm not sure in which publication it  
21 was published, but you may want to ask Mr. Grundei.

22 MR. GRUNDEI: Yes. It was published -- I'm trying  
23 to see which paper it was published in. It was published in  
24 the White Salmon Enterprise. It was also published in the  
25 Goldendale Sentinel.

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1           THE REVIEW JUDGE: All right. And, Mr. Adelman, I  
2 understand your point. I think in a smaller community there  
3 is some sort of expectation that word of mouth is sort of a  
4 back-up way for adjacent and affected property owners to  
5 become aware of these sorts of actions. I'm glad that in  
6 this instance you were able to learn of the meeting and to  
7 be here.

8           MR. ADELMANN: Okay.

9           THE REVIEW JUDGE: Thank you, sir.

10          Next, Ms. Laurece Bonham.

11          Ms. Bonham, if you would spell your last name and  
12 provide your address.

13          MS. BONHAM: Do you want my street or my post  
14 office box?

15          THE REVIEW JUDGE: Why don't you provide the  
16 address where you would receive mail.

17          MS. BONHAM: My name is Laurece Bonham, B-O-N-H-A-M,  
18 Post Office Box 443, Lyle, Washington, 98635.

19          THE REVIEW JUDGE: Thank you, Ms. Bonham.

20          MS. BONHAM: I reside at 208 Seventh Street.

21          In this paper that we got tonight, on page 4,  
22 number 13 at the bottom, the last couple of sentences ----

23          THE REVIEW JUDGE: This is the document that's  
24 entitled Stipulated Statement of Facts?

25          MS. BONHAM: Right.

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1           THE REVIEW JUDGE: All right. Give me that  
2 paragraph number once more.

3           MS. BONHAM: Paragraph 13.

4           THE REVIEW JUDGE: Okay. I'm there.

5           MS. BONHAM: And the last couple of sentences  
6 there. I was at the meeting here at the Lyle Lions Club  
7 when they had their meeting, and the railroad people that  
8 were here then stated differently than what they've stated  
9 tonight about the closure of this section down here at the  
10 west.

11           They said back then something to the effect about  
12 putting a barricade along the side so the cars couldn't get  
13 through, putting a gate there with a lock on it, and giving  
14 our fire department a key to that lock so that they would  
15 have access to the point from the west end, due to fires.  
16 And I really think that that would be an idea to think  
17 about.

18           Also, when they're talking about barricading this  
19 off at the certain areas on each side, you mentioned about  
20 the train car accident, but I heard no one tonight speak of  
21 the train derailment that we had down there anywhere between  
22 two to four years ago. I was sitting in my living room,  
23 heard the whistle blow, and come to find out somebody said  
24 it had derailed. Not bad, but there was one.

25           THE REVIEW JUDGE: All right.

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1 MS. BONHAM: So when they set up their barricades  
2 on the north and the south side, I hope that they consider  
3 leaving access to the railroad track to get in there in case  
4 something like that does happen, in case of a fire.

5 You mentioned about cars across the Seventh Street  
6 bridge. With fishing season in lieu with the Indians, there  
7 is more traffic. If you close that down, there will be more  
8 traffic. And where I live, it's a busy street already. We  
9 have several children in that area, and kids get out and  
10 play in the street and don't pay attention. There's a lot  
11 of people that walk from way up on the hill across the  
12 highway from all over town, that walk out across the bridge,  
13 all areas out there, and, if there's a major change like this,  
14 I hope they take into consideration walkways or something  
15 for pedestrians.

16 And I guess that's all I have to say.

17 THE REVIEW JUDGE: Ms. Bonham, I think your  
18 concerns are very important, and I think that -- I know  
19 Commissioners Frye and Thayer have heard your comments, and  
20 they would consider them on that basis alone, but I  
21 certainly invite you to stay on hand and talk with the  
22 Commissioners as part of their meeting, which goes to  
23 vacating the road that you're referring to, suggesting that  
24 it should stay open. I think it's important for you to find  
25 out whether that's been considered and to help the County

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1 consider all options.

2 MS. BONHAM: Right. Well, I am opposed to the  
3 closure.

4 THE REVIEW JUDGE: All right.

5 MS. BONHAM: I am opposed to the closure.

6 Thank you.

7 THE REVIEW JUDGE: Thank you very much.

8 Mr. Greg Colt.

9 Good evening, sir. If you'd please state your name  
10 and your address for the record.

11 MR. COLT: Greg Colt, P.O. Box 736, Lyle,  
12 Washington.

13 THE REVIEW JUDGE: Thank you, Mr. Colt. Go ahead,  
14 sir.

15 MR. COLT: Well, I'm here -- I don't either oppose  
16 or am for this crossing. I understand what the fire  
17 department's concerns are, and I really think that they  
18 should be considered. But if it's going to be closed, I  
19 have some concerns. And I guess before I get to that, I  
20 have a letter written here by Jim and Penny Rutledge, who  
21 own the Lyle Hotel, which is at the corner of the Seventh  
22 Avenue crossing -- well, it's right there next to the  
23 Seventh Avenue crossing, and they wanted me to read this  
24 letter in their stead. They have to work.

25 Is that okay?

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1           THE REVIEW JUDGE: It is. And if you're authorized  
2 to submit that, I'll accept that and we'll make that an  
3 exhibit in the proceeding as well.

4           MR. COLT: Okay. He just typed this out. It's  
5 addressed Klickitat County WA UTC, regarding proposed  
6 closure of Depot Road, Lyle. As adjacent land owners we  
7 support closure of Depot Road.

8           I also might add, as I go on, they also are  
9 adjacent land owners to the intersection of Highway 14 and  
10 Depot Road, as well as being owners of the hotel on the  
11 other side. So they have interests on both sides of this  
12 deal.

13           One, increase the safety of persons driving to the  
14 boat launch, as sometimes their entrance onto Depot Road  
15 causes their boat and trailer to partially block Highway 14  
16 during their transition, and, as well as they sometimes  
17 create a traffic hazard when slowly entering Highway 14 from  
18 Depot Road with their boat.

19           Two, improve the ability of our hotel guests to  
20 sleep without interruption from noise of the train whistles  
21 when approaching the crossing.

22           Additionally, if this closure is approved, please  
23 consider adding a four-way stop to the corner of Washington  
24 Avenue and Seventh and post the 25 mile per hour speed limit  
25 on both streets.



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1           THE REVIEW JUDGE: Do you just have one copy of  
2 that letter, sir?

3           MR. COLT: Yes.

4           THE REVIEW JUDGE: All right.

5           Mr. Colt, you might pass along to the Rutledges  
6 that it would probably be good for them to also provide a  
7 copy of this letter to Mr. Grundei or to the County  
8 Commissioners. If necessary, I'd be glad to make a copy of  
9 this at some later date and send it back. But it looks like  
10 it was done on a computer.

11          MR. COLT: He's got it on his word processor.

12          THE REVIEW JUDGE: Okay. Great. And let me just  
13 say that the Rutledge letter will be marked as Exhibit 4 and  
14 admitted to the record. Thank you.

15          MR. COLT: Okay. Now as to my concerns. I own the  
16 land on either side of Depot Road where it intersects with  
17 Highway 14 for about the first hundred or so feet. I should  
18 have brought my survey map with me, but it's at least a  
19 hundred feet.

20          THE REVIEW JUDGE: Do you own property on just one  
21 side?

22          MR. COLT: No. Both sides. I have that office  
23 building on the edge of town, and my property actually  
24 straddles Depot Road for about a hundred feet. It then  
25 becomes part of Rutledges' property, then becomes Burlington

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1 Northern property.

2 THE REVIEW JUDGE: Got it.

3 MR. COLT: So when Mr. Grundei referred to the  
4 adjacent property owners wanting to do something with the  
5 land, yes, Mr. Rutledge and I have discussed doing something  
6 with the land. However, the biggest problem there that we  
7 have is the -- and on this map you can see it -- there's an  
8 old abandoned railroad, the tracks are gone, everything has  
9 been removed, and it says on all the maps, abandoned.  
10 However, when I looked into it, it may have been abandoned,  
11 but it hasn't been vacated, which means Burlington Northern  
12 still owns it and therefore I can't touch it. It's almost  
13 impossible to do anything there without knocking the berm  
14 down that the railroad track sat on. And if we were able to  
15 knock that berm down we could then cover up the entire  
16 existence of Depot Road ever existing. You wouldn't even  
17 see it.

18 THE REVIEW JUDGE: Are you referring to -- on page  
19 2 of Exhibit A to the stipulated statement of facts which  
20 has, for the record, also been admitted as an exhibit. Are  
21 we looking at the railroad line that cuts across Keith Drive  
22 to the north?

23 MR. COLT: Yes. Right.

24 THE REVIEW JUDGE: Okay.

25 MR. COLT: So the existence of that ownership of

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1 Burlington Northern prevents us from doing anything with the  
2 road because it's a big steep bluff there. Without knocking  
3 that down, you can't really do anything. So that concerns  
4 me.

5 If the railroad would cooperate -- I don't know why  
6 the railroad wants that piece of property. They abandoned  
7 the line. I don't understand why -- unless I'm mistaken,  
8 the line north of Highway 14 has already ----

9 MR. COWLES: I don't know what the status is of  
10 that property.

11 MR. COLT: When I called your office, you still own  
12 it.

13 MR. COWLES: Really?

14 MR. COLT: Yeah. You still own from here to down  
15 here somewhere.

16 MR. COWLES: Want to buy it?

17 MR. COLT: It cannot go with the rails to trails  
18 transaction.

19 THE REVIEW JUDGE: So if I understand you, Mr.  
20 Colt, if the closure -- your concern is that if there is a  
21 closure, that unless -- well, let me restate that. Your  
22 concern is that when there's a closure, the road that is  
23 there might not be adequately covered or that if you were  
24 able to take a berm down it would be of greater assistance  
25 in covering the road so that it would not be used in the

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1 future?

2 MR. COLT: Right. And I think it's important that  
3 the road not be used in the future. Because if all you're  
4 going to have is a barricade down where the railroad  
5 right-of-way starts, people are going to go down there and  
6 not be able to turn around. Maybe with a Volkswagen. But  
7 not with a pickup with a trailer and a boat. They won't have  
8 the radius to turn around. You'll have to back up to  
9 Highway 14.

10 THE REVIEW JUDGE: Have you had any discussions at  
11 all with the County regarding the proposed vacation of that  
12 road?

13 MR. COLT: Very casual conversation with Mr.  
14 Grundei. He and I spoke regarding this meeting, and he  
15 wanted to make sure I came here to express my concerns. We  
16 did speak that we would have an interest if the road were  
17 vacated to certainly develop the site, but we can't develop  
18 the site without the railroad cooperating with that berm.

19 THE REVIEW JUDGE: All right. I can certainly see  
20 where both you and the County have some common interests,  
21 and so I urge you to work with Mr. Grundei and the County  
22 Commissioners to see that, if there is to be a road vacation  
23 at this juncture, that it's done to, again, make it as safe  
24 as possible for the public, particularly anyone who may be  
25 used to using that access and may not be aware that a

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1 transfer has taken place.

2 MR. COLT: And it is the entrance to our town, and  
3 it should be as aesthetically pleasing as possible. Just  
4 putting up a big orange barricade there isn't something I  
5 want to see.

6 My other concerns, I want to again go back to  
7 Mr. Adelman's property, and note that he should be heard  
8 as far as providing access to his property, but also with  
9 that, the tribe there, the Confederated Tribes own a piece  
10 of land with access. You can see that little turnout  
11 further up. And I don't know if that's been discussed with  
12 them.

13 And then, just to reiterate, that the turns in the  
14 roads, and I'm sure Mr. Grundei is totally capable of doing  
15 it himself, to make sure the boats can get around the  
16 corners.

17 And I guess that's pretty much it for me.

18 THE REVIEW JUDGE: All right, sir. Thank you very  
19 much.

20 Mr. Nizam, do you want to make a statement?

21 MR. NIZAM: May I?

22 THE REVIEW JUDGE: Yes, sir. Let me do this.  
23 Would this be in the form of testimony, or close enough?

24 MR. NIZAM: Yes.

25 THE REVIEW JUDGE: All right. Raise your right

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1 hand. Do you affirm under penalty of perjury that the  
2 testimony you give here will be the truth?

3 MR. NIZAM: Yes, I do.

4 THE REVIEW JUDGE: Thank you.

5 MR. NIZAM: I would like to make a clarification  
6 with regard to the extent of the road vacation as specified  
7 in the settlement agreement. And that is that the area  
8 between the railroad crossing and the entrance to tax lot 1  
9 is what the settlement agreement specifies as the portion  
10 that would be vacated. Not the area between the crossing  
11 and Cove Road, which has been the subject of some misunder-  
12 standing. So I just wanted to make that clarification. So,  
13 in other words, tax lot 1 and tax lot 8 would retain access.

14 THE REVIEW JUDGE: All right. So as far as the  
15 settlement agreement goes, that's the extent of the road  
16 vacating that's part of the settlement agreement?

17 MR. NIZAM: Yes.

18 THE REVIEW JUDGE: All right.

19 But I will note for the record that it seemed  
20 somewhat unclear during the hearing on the settlement  
21 agreement exactly where the County intended to put up some  
22 kind of a barrier to protect people who would otherwise be  
23 traveling on that part of the County road. I don't think  
24 it's something that we need to explore further here in this  
25 public hearing, but it does seem relevant to the public

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1 hearing with the County. And, to the extent that it does  
2 affect either the Confederated Tribes' parcel, Mr.  
3 Adelman's parcel, I would encourage those parties to get  
4 together and talk things over.

5 Mr. Van De Vanter.

6 MR. VAN DE VANTER: George Van De Vanter, P.O. Box  
7 247, Lyle, Washington.

8 Mr. Barnard, Larry Rutledge, which are both gone  
9 now -- they were here at the start -- and myself live along  
10 Columbia Avenue. If you look on the map, we're right up  
11 above, facing the river. And when a train goes by, if  
12 you're talking, you quit, because of the noise from the  
13 whistle at the crossing. If somebody is on the telephone,  
14 you say, wait just a minute, the train is going through my  
15 house. So we get a lot of noise up there, and we really  
16 would like to have the crossing closed. We live just about  
17 on the south slope, so we're facing that.

18 I think Mrs. Bonham had a great idea for a gate for  
19 emergencies for this crossing. Probably with the fire  
20 department with a key only. You know, not anybody could get  
21 through.

22 One of the things that some of the people are  
23 worried about is speed across the Seventh Street bridge and  
24 down the road. I think myself that one answer to that would  
25 be -- and it's just my idea -- maybe a couple of speed

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1 bumps. One before you get to the hotel and one after you  
2 get around the corner. Because it isn't the older people so  
3 much. I walk this every day with my dog. I walk around  
4 Lyle every day. I walk down that exactly where we're  
5 talking about. And I think the speed bumps would slow the  
6 younger people down. That's what it amounts to, no matter  
7 what nationality they are.

8 That's about all I have to say. That's my concern.

9 THE REVIEW JUDGE: Thank you, sir.

10 Commissioner Frye, would you like to make a  
11 statement as part of this proceeding?

12 COMMISSIONER FRYE: Yeah. I'm Joan Frye, Klickitat  
13 County Commissioner.

14 My hope is that the Commission will consider  
15 seriously all the concerns that have been raised by the  
16 citizens at this hearing, as well as to give serious  
17 consideration to Mrs. Bonham's suggestion in regard to a  
18 locked gate. I know some of the dialogue about a locked  
19 gate and still having a crossing is that it's ineffective,  
20 but I think that the designers or anyone that would install  
21 these gates would be creative enough to make it pretty well  
22 impassable. I think that would alleviate concerns of the  
23 fire district, if they knew they had access, about being  
24 able to safely address emergency situations that could  
25 easily take place in this area.



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1           I was also pleased to hear that the Commission  
2 would consider testimony heard at this hearing. I was under  
3 the impression that it was pretty well -- as stated by a  
4 gentleman previously -- a done deal. I know the County and  
5 Burlington Northern Santa Fe and the UTC have done a good  
6 job at creating a settlement agreement that will make that  
7 a very passable, very efficient roadway down there, and it  
8 will not -- the County will not deny anyone access through  
9 this abandonment process or vacation process for Depot Road.

10           With that, I don't have any additional testimony.  
11 Just a question. Will the County be provided a record of  
12 this hearing?

13           THE REVIEW JUDGE: The court reporter can certainly  
14 provide the County with transcripts of both, either one or  
15 both of the hearings that have been conducted today.

16           COMMISSIONER FRYE: At a nominal fee?

17           THE REVIEW JUDGE: Most likely.

18           COMMISSIONER FRYE: Then I'm sure our notes will be  
19 sufficient.

20           Okay. With that, I have no further testimony.

21 Thank you.

22           THE REVIEW JUDGE: All right. I have one question,  
23 Commissioner Frye. Just so I have it clear in my mind, as  
24 part of the settlement agreement, my understanding is that  
25 it's -- well, let me take a look at it. I'm looking at the

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1 part of the settlement agreement that provides for partial  
2 vacation of Depot Road. Let me just indicate that I may not  
3 have a copy of the final settlement agreement with me. So  
4 let me check with you, Commissioner Frye. If the County is  
5 proposing to vacate that section of Depot Road between  
6 Highway 14 and the crossing, then how would you envision a  
7 gate structure being there or having access to a gate  
8 structure that would provide additional access by the fire  
9 department?

10 COMMISSIONER FRYE: How would I picture the barrier  
11 itself?

12 THE REVIEW JUDGE: Well, if the road is vacated,  
13 the property turns back to private property. And then it  
14 seems to me that the private property owners are in a  
15 position to close it off or to otherwise develop the  
16 property in a way that's inconsistent with access.

17 COMMISSIONER FRYE: That's a good question. Ray is  
18 just dying to answer it here.

19 But you didn't take an oath. Do you promise?

20 I would say that if that property were developed  
21 commercially and a roadway were maintained, there could be  
22 an agreement to allow emergency access to that gate, or the  
23 vacation, if the property owners are willing, could be  
24 conditioned on access to the locked gate, specifically for  
25 emergency response.

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1           How did I do?

2           COMMISSIONER THAYER: Exactly.

3           MR. COLT: Can I say something regarding that?

4           THE REVIEW JUDGE: Let me make sure Commissioner  
5 Frye is through, Mr. Colt.

6           Does that conclude your comments, Commissioner  
7 Frye? I know you were responding to my question.

8           COMMISSIONER FRYE: Yes.

9           THE REVIEW JUDGE: Mr. Colt, I know you'd like to  
10 make an additional statement.

11          MR. COLT: I can see if the County and property  
12 owners and the railroad could get together, we could reserve  
13 a fire lane to a gate on any development that is done on  
14 that property. It would have a fire lane. It wouldn't have  
15 the width of a County road or have to be maintained by the  
16 County, but we could certainly keep a fire lane open as a  
17 stipulation of the development.

18          THE REVIEW JUDGE: I encourage the parties to get  
19 together. I can see how everybody being here at one time  
20 definitely has some positive benefits. I don't know that  
21 it's necessarily going to affect the Commissioner's decision  
22 on whether or not it's in the public interest to approve the  
23 proposed closure, but it seems clear to me that there's some  
24 additional issues for the community to resolve. It may be  
25 that these issues are more properly addressed within the

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1 context of the County Commission's open meeting and at the  
2 County level. But I'm very encouraged by what I hear and  
3 the fact that the people who have come forward share those  
4 common concerns.

5 For purposes of the public hearing regarding the  
6 proposed closure, let me just ask one last time whether  
7 there's anybody else who would like to say something else  
8 this evening.

9 Yes, Commissioner Frye.

10 COMMISSIONER FRYE: I apologize, but I need a  
11 clarification on process and responsibilities. The UTC will  
12 determine whether or not to vacate the road or to vacate the  
13 crossing.

14 THE REVIEW JUDGE: Yes. To close the crossing.

15 COMMISSIONER FRYE: To close the crossing.

16 THE REVIEW JUDGE: Yes.

17 COMMISSIONER FRYE: Yet it's still Burlington  
18 Northern's crossing to close at whatever level of closure  
19 they see fit. Correct? I mean do they have to tear out the  
20 planks that make it crossable?

21 THE REVIEW JUDGE: What the Commission will do, the  
22 Commission will look to the terms of the proposed settlement  
23 between the parties as the requirements that would be  
24 imposed upon the parties if closure is approved. While the  
25 Commission certainly has the authority to impose other

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1 conditions, it's generally the case where, unless those  
2 conditions are clearly meeting public safety and public  
3 interest, the Commission would not develop other terms  
4 unless one of the parties or the other has actually put it  
5 on the table as something that should be done or that  
6 they're agreeing to do. And, quite honestly, not having  
7 seen the final settlement agreement, it's not clear to me  
8 whether in fact at this point the Commission would  
9 understand that to be a commitment by BNSF.

10 Mr. Cowles, do you have anything to add on that  
11 point?

12 MR. COWLES: I'd have to give it some thought. I  
13 wasn't expecting to -- one thing about these kinds of  
14 meetings is it brings out a lot of information and takes a  
15 lot of information to digest and think about appropriate  
16 answers.

17 THE REVIEW JUDGE: All right. Let me just say that  
18 the Commission will continue to consider any side agreements  
19 that are made between the parties or any amendments to the  
20 settlement agreement that's been executed.

21 MR. COWLES: That's fair.

22 THE REVIEW JUDGE: All right. Anything else?

23 All right. Again, let me thank everybody for being  
24 here this evening. I know in a small community like this  
25 it's hard to make any decision that doesn't affect everybody

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1 in some way. I assure you that the Commission has the best  
2 interests of the residents of Lyle at heart, and we'll  
3 carefully consider all of your statements and the other  
4 evidence that's been entered into the record, to try and  
5 make the best decision possible for everyone.

6 Thank you very much. We'll be adjourned. And let  
7 me just say that, for those parties who are here from the  
8 community, my understanding is Commissioner Thayer and  
9 Commissioner Frye will immediately begin their public  
10 meeting as soon as we're able to make the transition.

11 Thank you.

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14 (Proceedings Concluded)

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21 (As a matter of firm policy, the stenographic notes and  
22 computerized backup of this transcript will be destroyed  
23 five years from the date appearing on the following  
24 certificate unless notice is received otherwise from any  
25 party or counsel hereto on or before said date of June 10,  
2007.)

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1 STATE OF OREGON )  
 ) ss.  
2 County of Clackamas )

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4 I, SUSAN G. WALKER, a Certified Shorthand Reporter  
5 for Oregon, hereby certify that at said time and place I  
6 reported in stenotype all testimony adduced and other oral  
7 proceedings had in the foregoing public hearing; that  
8 thereafter my notes were reduced to typewriting by me  
9 personally; and that the foregoing transcript contains a  
10 full, true and correct record of such testimony adduced and  
11 other oral proceedings had and of the whole thereof.

12 WITNESS my hand at Beavercreek, Oregon, this 10th  
13 day of June, 2002.

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SUSAN G. WALKER, C.S.R.  
Certificate No. 90-0195

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