

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Petition of)
 4 the WASHINGTON STATE DEPARTMENT) DOCKET NO. TR-940308
 5 OF TRANSPORTATION, BURLINGTON)
 6 NORTHERN RAILROAD COMPANY, and)
 7 THE NATIONAL RAILROAD PASSENGER)
 8 CORPORATION for Modification of)
 9 Order Regulating the Speed of)
 10 Passenger Trains in Ferndale,)
 11 Washington.)
 -----)
 12 BURLINGTON NORTHERN RAILROAD) DOCKET NO. TR-940330
 13 COMPANY,)
 14 Petitioner,)
 15 v.) Volume II
 16 FERNDALE, WASHINGTON,) Pages 260-538
 17 Respondent.)
 18 -----)

12 A hearing in the above matter was held on
 13 October 13, 1994 at 9:08 a.m., at 2222 Main Street,
 14 Ferndale, Washington, before Administrative Law Judge
 15 LISA ANDERL.

16 The parties were present as follows:

17 WASHINGTON STATE DEPARTMENT OF
 18 TRANSPORTATION by JEANNE A. CUSHMAN, Assistant
 19 Attorney General, 905 Plum Street, P.O. Box 40113,
 20 Olympia, Washington 98504-0113.

21 BURLINGTON NORTHERN RAILROAD COMPANY by
 22 REXANNE GIBSON, Attorney, 110 110th Avenue Northeast,
 23 Suite 607, Bellevue, Washington 98004.

24 CITY OF FERNDALE by GARY M. CUILLIER,
 25 City Attorney 2084 Alder Street, P.O. Box 1126,
 Ferndale, Washington 98248.

26 Lisa K. Nishikawa, CSR, RPR

27 Court Reporter

CONTINENTAL REPORTING SERVICE
 SEATTLE, WA 206-624-DEPS (3377)

ORIGINAL

RECEIVED
 RECORDS MANAGEMENT
 STATE OF WASH.
 FILED IN TRASP.
 COMMISSION
 OCT 20 PM 12:12

15

1 WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION by ANN RENDAHL, Assistant Attorney General,
3 1400 South Evergreen Park Drive Southwest, Olympia,
4 Washington 98504.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

	I N D E X					
	WITNESS:	DIRECT	CROSS	REDIRECT	RE CROSS	EXAM
1						
2						
3	S. RONNINGEN	264	275	278		271
4	Y. GOLDSMITH	281	290			293
5	D. ASHE	295	299			301
6	J. ELEY	302	322			329
7	L. FLEM	335	341			
8	M. BIRDSALL	343	438	459		454
9	R. WIESEN	384	387,			389
10			391			
11	W. POLLMAN, JR.	393	398	399		
12	G. RUSSELL	400				
13	R. COWAN	404	408	414	417	415
14	S. GOODING	419				422
15	D. TOWNSEND	424				
16	D. SMITH	427	432	434		
17	R. HEALY	435	437			436
18	S. STREBEL	462	472			
19	G. HARDER	479	491			493
20	A. SCOTT	494	505			
21	J. LEPPALA	507				509
22	D. ATHENS	511				
23	M. NELSON	514	519	532		530
24	G. MALLERY	533				
25						

1	EXHIBIT	MARKED	ADMITTED
2	14 through 18	281	281
3	19	350	350
4	20	350	536
5	21	439	439
6	22 through 28	479	479
7	29	537	537
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

JUDGE ANDERL: Let's be on the record.
We're reconvened in Docket Numbers TR-940308 and 940330, petition by Burlington Northern to close the crossing in the city of Ferndale at Thornton Road, and also a joint petition by Burlington, Amtrak, and the Washington State Department of Transportation for increase in passenger train speed limits through the city of Ferndale. Today is October 13, 1994. This is the second day of what looks to be a two-day hearing.

The first thing we're going to do today is take testimony from members of the public. I know I have at least one person who does want to testify. If you want to step forward. Raise your right hand.
Whereupon,

SHARON RONNINGEN,
having been first duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE ANDERL: Okay, Ms. Rendahl.

DIRECT EXAMINATION

BY MS. RENDAHL:

Q. Would you please state your full name and spell your last name for the reporter, please.

A. Sharon Ronningen, R O N N I N G E N.

1 Q. And would you please state your address for
2 the record.

3 A. 2408 Fieldview Drive, Ferndale.

4 Q. So you live in Ferndale?

5 A. Mm-hmm.

6 Q. And how long have you lived in the city of
7 Ferndale?

8 A. We've owned property here -- owned our
9 house for about 19 years.

10 Q. Are you appearing today on your own behalf
11 or on behalf of a group?

12 A. I'm on my own behalf.

13 Q. Please make your statement.

14 A. Okay. I'm also the political liaison for
15 the Ferndale Image Group and, as such, I spend a lot
16 of time going to the city council meetings, and I
17 have heard this issue bantered about for over a year
18 and a half.

19 A couple of the main things is the bridge
20 on Main Street that goes over the river tends to get
21 clogged, backs up traffic, and it's our understanding
22 that we cannot enlarge that bridge because when you
23 get over the river, then you have the railroad
24 crossing that is then there, and that area tends to
25 flood and that way occasionally that area of town is

1 inaccessible to get out to Main Street down to the
2 freeway.

3 The Slater Road which would be the other
4 way, if you took Douglas Road out and went out to the
5 Slater Road. If Main Street is flooded, Slater is
6 usually flooded too, so that leaves only one way out
7 of town, which would be Washington Street winding past
8 the high school and then back over the railroad
9 tracks, and at times those are blocked with the
10 Ferndale Grain having to be loaded and unloaded.

11 So the idea has been for years to have
12 Thornton Road become one of the major ways to drain
13 all of the houses. I'm also in real estate.

14 The houses up on the hill, Thornton Road,
15 and the new school up off of Church and Thornton Road,
16 Eagle Ridge, and the new Mormon church up on that hill
17 draws a lot of traffic up that direction, and the
18 thought was that if Thornton Road was open, then we
19 could siphon some of that traffic off and have another
20 way out of town during the floods and during those
21 different times.

22 There's been considerable -- I was on the
23 city council for about four or five months and we had
24 testimony from the people at -- in the audience when
25 this issue came up about how their houses would shake

1 and how the ground was unstable in their area down
2 along the new housing development -- well, this
3 housing development and then there's a new one in
4 here.

5 JUDGE ANDERL: What part of the map are you
6 referring to here? Is that north of Thornton Road?

7 THE WITNESS: This is Thornton (pointing.)

8 JUDGE ANDERL: So north of Thornton Road?

9 A. There's another housing development planned
10 for out here, senior housing development. I'm sure
11 the city will be bringing that up during their
12 testimony.

13 But they were talking about how unstable
14 the ground was already and how their houses were
15 shaking and they were worried about the higher-speed
16 train coming through for those reasons.

17 There's also about 100 jobs, plus or minus,
18 that stay at this plant right down here at --

19 JUDGE ANDERL: Just so the record is clear,
20 we have to know that you're talking about.

21 THE WITNESS: What's the name of this
22 building, Gary?

23 MR. STREBEL: Samson Ocean.

24 A. Samson Ocean Systems. And they had planned
25 to expand across the railroad, and we might lose 100

1 jobs if Thornton Road closes, because if they can't do
2 their expansion, they may have to go somewhere else.
3 So we've got jobs at stake.

4 At one time when we went down and talked,
5 while I was on the city council, and we went down and
6 talked to the Whatcom Transit Authority, we talked
7 about the possibility of closing Second Street. I've
8 driven around and looked at it, and as a private
9 citizen I would like to see at least a pathway, if
10 that would be an option, punched underneath the road
11 there, if it closed to auto traffic, so that we can
12 make use of the new Vanderyacht Park which is down the
13 other direction along the river, this whole area down
14 here (pointing.)

15 JUDGE ANDERL: That is to the east of the
16 freeway?

17 THE WITNESS: East of the freeway and right
18 along the river there's a park that's just been
19 developed down in there and it's going to be open
20 Friday for the public.

21 A. So that we need some way for access for the
22 public to get over to that even if the road is closed,
23 but I don't know if the city is even offering that as
24 an option.

25 The transit authority through this time has

1 made it very clear that we had no choice in the
2 matter, that this road was going to be closed,
3 Thornton Road was going to be closed. It's been on a
4 proposal from since about 1971 to have the road come
5 in, cross over Thornton here, run down, and connect
6 back up so that we had a way to get back up onto
7 Portal Way.

8 JUDGE ANDERL: So you're talking about
9 extending Thornton --

10 THE WITNESS: Thornton across, down, and
11 connecting back.

12 JUDGE ANDERL: -- south to connect to Portal
13 Way?

14 THE WITNESS: Mm-hmm.

15 A. And we were told, Well, the wetlands
16 wouldn't permit it. And right about the time I was
17 getting off of the council, the railroad came through
18 and said, We would like to put a long driveway up
19 there to service the people on the other side.

20 Well, if they can put a driveway across, my
21 question was why can't we have a road. You know, if
22 you're going to put something across the wetlands that
23 serves a couple of families, why can't you service the
24 community and let us go ahead and do that?

25 We were told that that was too close of a

1 radius to the freeway. So every time we tried to make
2 any suggestions, it was blocked.

3 When the citizens down in that area where
4 the houses are came in and they talked about the
5 shaking of their houses and everything that was going
6 on there, the story changed slightly because there was
7 a loud public outcry.

8 And I guess my major reason for coming on
9 over here this morning was because I feel that the
10 local people should be in control of what happens in
11 their city and that it should not be mandated from the
12 state or from the federal government. That we should
13 have some input in how our city grows. And our city
14 happens to be growing that direction. It's the way
15 that the houses have been developing.

16 We can't get major stores to come into town
17 without another way for people to not have to go
18 through downtown.

19 As part of Fourth Corner Real Estate
20 Company, which is our corporation, which is what I do
21 as a profession, we're trying to put another complex
22 into Ferndale. That's going to cause more traffic and
23 we need another way out of town for people who do not
24 want to come down and go shopping, that they just need
25 to get on the freeway and go somewhere else. And with

1 Slater flooding and with the viaduct flooding, we're
2 coming up to winter and, you know, we need an escape
3 route.

4 And that, I guess, is my testimony. If you
5 have any questions.

6 JUDGE ANDERL: Okay. I have a couple of
7 questions.

8

9

EXAMINATION

10 BY JUDGE ANDERL:

11 Q. Where, if you can describe for me on this
12 map, where does the flooding occur when it does and
13 close the roads?

14 A. Well, Slater Road -- it's under the
15 railroad track.

16 Q. On Main Street?

17 A. On Main Street.

18 Q. I'll state for the record I came into town
19 this morning on Main Street so I have a good idea of
20 what you're talking about.

21 A. Between Samuel's Furniture and as you go
22 down in that dip, it floods in there and it will flood
23 out --

24 THE WITNESS: Is that a power station or
25 what is that that's right next to the river, that

1 concrete block building?

2 A. That whole section tends to flood.

3 Q. Okay. And then you didn't say that there
4 were any problems with flooding on the Portal Way?

5 A. No. I'm not aware of any flooding that has
6 happened on Portal Way.

7 Q. Okay. If instead of Thornton Road being
8 constructed the way it is now, there were an overpass
9 which Thornton Road went over the railroad tracks and
10 over I-5 to connect with Portal Way on the east of
11 I-5, would that address most of the concerns that you
12 have here?

13 A. When we went down and we talked with them
14 at length while I was on the council, they said that
15 that would be about a \$6 million project and that it
16 would not address being able to get to the local
17 traffic, so that wouldn't address the problem of the
18 100 jobs that we might lose at the bottom of Thornton
19 Road right down here. They said to do the -- you
20 would have to start the traffic or the bridge back
21 here to have the proper incline.

22 Q. Which is where?

23 A. Back on Malloy.

24 Q. Okay.

25 A. And then you would have no access to this

1 area because you would be doing it over the freeway
2 here. So that would address part of the problem as
3 long as there was some local traffic down here, but it
4 won't address the problem of this company that wants
5 to expand and already has land across the railroad
6 track. It won't give them the access back and forth
7 across here.

8 Now, I don't know if the railroad doesn't
9 mind splitting the siding. At one time they told us
10 they would move the siding here to Portal Way way up
11 the road and get it out of this area, because that's
12 one of the concerns of the people that live in here
13 (pointing) in this one section between Malloy and
14 Thornton and down in this section, is the ground
15 shaking from all of the connecting.

16 Q. I'm sorry. Where you say the ground shakes
17 is where? North of Thornton Road?

18 A. Mm-hmm.

19 Q. And east of Malloy?

20 A. East of Malloy -- or north of -- yeah.
21 North of Thornton and east of Malloy.

22 Q. And west of the rail line.

23 A. And the other thing is this whole city acts
24 as an amphitheater. I live off Church Road, which
25 on your map doesn't show. It's up in here.

1 (Pointing.)

2 Q. Which is for the record?

3 A. To the west of town. It's one of the other
4 major roads that go through. And even when the trains
5 are just passing through, we can hear them at night,
6 2:00, 3:00 in the morning. So for the people down
7 closer, I know it's worse. But they have to connect
8 and, you know, bang back and forth to do their
9 connections, which is just normal train things. It is
10 loud that far away from the track. So anything that
11 would move that out of town would be very helpful.

12 Q. Were you here yesterday at all?

13 A. No, I was not. I was under the impression
14 that that was only for the expert testimony.

15 Q. Well, both days are open to the public, but
16 I was just curious if you had heard the testimony
17 about the size of the freight trains that come through
18 and their speed limit and then the additional
19 testimony about what we would be talking about in
20 terms of a passenger train.

21 A. I have the pamphlet from the Whatcom
22 Transit Authority and from the Department of
23 Transportation at my house from when I was on the
24 council so, yes, I am aware of that.

25 Q. Okay. So you're aware that under the

1 current proposal even if the speed limit were approved
2 to the 70 to 79 miles per hour that Burlington is
3 requesting, that would --

4 A. -- that would only affect the passenger
5 train and not the freight, yes.

6 Q. And those are smaller, lighter trains.
7 You're aware of that also?

8 A. Mm-hmm.

9 JUDGE ANDERL: Let's see. Is there any
10 cross or questions from the attorneys for this
11 witness? Ms. Cushman?

12 MS. CUSHMAN: No.

13 JUDGE ANDERL: Ms. Gibson?
14

15 CROSS-EXAMINATION

16 BY MS. GIBSON:

17 Q. Ms. Ronningen, you've indicated that
18 there's this new development over near Samson
19 Industries and north of Thornton Road, right?

20 A. Mm-hmm.

21 Q. How new is new? When did that go in?

22 A. The one that is in this area went in in the
23 last couple of years.

24 JUDGE ANDERL: In other words, the one
25 already pictured on the photograph?

1 THE WITNESS: The next one over.

2 JUDGE ANDERL: There's one further to the
3 north?

4 THE WITNESS: This one went in.

5 JUDGE ANDERL: When you say this one --

6 THE WITNESS: I'm looking to Stan for the
7 definition of when that went in.

8 JUDGE ANDERL: When you say "this one" and
9 somebody reads the transcript later, they don't know
10 what you're talking about.

11 A. The one on Thornton and Malloy went in a
12 couple of years ago. This is some low-income housing,
13 and some farm home, I believe, is in here, and then
14 there's one and I'm not sure if it's right here or if
15 it's -- I think there's -- I think that --

16 MR. STREBEL: It's not constructed yet.

17 A. It's -- that's the one that's for the
18 senior housing that has been approved by the planning
19 commission and it has preliminary plat approval.

20 JUDGE ANDERL: That's further to the north
21 of Thornton?

22 THE WITNESS: That's further to the north.

23 Q. All right. So it's fair to say, then, these
24 properties that were constructed in the last couple of
25 years, that the builders and the property owners were

1 well aware of the existence of the track at the time
2 they built, correct?

3 A. Of the track as it is.

4 Q. Okay. And are you aware that the track has
5 been there since 1890?

6 A. I know it's been there for a long time.

7 Q. And it's fair to say, isn't it, that the
8 owner of that Samson Industries knew that the track
9 was there at the time they located their industry
10 there?

11 A. He knew the track was there, but he also
12 knew of the Thornton proposal to go on down and
13 connect to Portal Way.

14 Q. And the city has never had final approval
15 from any governmental entity to construct that
16 connector road, isn't that right?

17 A. To construct the connector road, not to my
18 knowledge they have not had final approval.

19 Q. City has never had the funds to do that,
20 right?

21 A. Not to my knowledge they haven't, but it's
22 one of the things that they have on their top priority
23 list of future expansions when the funds become
24 available.

25 Q. They meaning the city?

1 A. The city.

2 Q. Are you aware that the city has not even
3 filed a comprehensive plan yet?

4 A. The city has been working diligently on a
5 comprehensive plan.

6 Q. But it's not filed?

7 A. No, not that I know of, unless it's been in
8 the last few weeks.

9 Q. Thank you, Ms. Ronningen. I don't have
10 anything else.

11 JUDGE ANDERL: Mr. Cuillier, any questions?

12 MR. CUIILLIER: No.

13 JUDGE ANDERL: Ms. Rendahl, anything for
14 this witness?.

15 MS. RENDAHL: Just a couple of questions.

16

17

REDIRECT EXAMINATION

18 BY MS. RENDAHL:

19 Q. Ms. Ronningen, as the liaison for the
20 Ferndale Image Group, were you speaking on their
21 behalf today?

22 A. No. I was just saying I was at the council
23 meetings for about two years before I became a council
24 member, and I have been there since -- I have left the
25 council to continue to feed back information to them

1 is the reason why I attended so many council meetings
2 and have tracked these events.

3 Q. And you also mentioned that you are
4 employed by or involved in the Fourth Corner?

5 A. Real estate corporation. I'm a real estate
6 agent.

7 Q. Okay. Is that different from the Fourth
8 Corner Economic Development Group?

9 A. Yes, it is. It's just totally separate
10 entities.

11 MS. RENDAHL: Thank you. I have no further
12 questions.

13 JUDGE ANDERL: Thank you for your
14 testimony. You may step down.

15 Are there any other members of the public
16 that would like to present their testimony today? As
17 I said, I will also give an opportunity at 1:30 after
18 the lunch break. Show of hands? Okay. I don't see
19 anyone offering or volunteering to testify, so we'll
20 go ahead with the city's direct case.

21 MR. CUIILLIER: Thank you. As city's first
22 witness, we would like to call city council member
23 Yvonne Goldsmith.

24 JUDGE ANDERL: Ms. Goldsmith, would you
25 raise your right hand, please.

1 Whereupon,

2 YVONNE GOLDSMITH,

3 having been first duly sworn, was called as a witness
4 herein and was examined and testified as follows:

5 JUDGE ANDERL: Mr. Cuillier, before you go
6 ahead with this witness, I should probably go through
7 the exhibits that we marked off the record and
8 identify those now for the record.

9 Exhibit Number 14 for identification is a
10 multi-page document entitled Six Year Transportation
11 Improvement Program. It's a Washington State DOT form
12 and it indicates that it is for the city of Ferndale.

13 Exhibit Number 15 is entitled Traffic and
14 Circulation Plan, Ferndale Service Area, Whatcom
15 County, Washington, 1972. Exhibit Number 16 is a
16 Whatcom County Urban Transportation Plan prepared for
17 the Whatcom County Council of Governments. It's dated
18 November 1991.

19 Exhibit No. 17 is entitled A Transportation
20 Plan for Ferndale, Washington, Draft Final Report,
21 dated May 1994. And Exhibit Number 18 is a series of
22 maps which appears to show actual and projected
23 traffic counts.

24 Mr. Cuillier, you have indicated that
25 these exhibits are stipulated for admission by the

1 other parties?

2 MR. CUIILLIER: Yes, I believe they are.

3 JUDGE ANDERL: Okay.

4 MS. GIBSON: That's correct, your Honor.

5 JUDGE ANDERL: And I see people nodding.

6 MS. RENDAHL: That's correct.

7 JUDGE ANDERL: I hear no objection to those
8 Exhibits 14 through 18 and they'll be, therefore,
9 admitted as identified.

10 (Marked and Admitted Exhibits Nos. 14
11 through 18.)

12 MR. CUIILLIER: Thank you.

13 JUDGE ANDERL: Go ahead with your questions
14 for this witness.

15 MR. CUIILLIER: Thank you.

16

17 DIRECT EXAMINATION

18 BY MR. CUIILLIER:

19 Q. Could you please state your name and
20 address.

21 A. Hi, I'm Yvonne Goldsmith and I live at
22 5840 Church Road here in Ferndale.

23 Q. And how long have you been a member of the
24 City of Ferndale city council?

25 A. I came on board January 1 of this year.

1 Q. And why did you become a member of the
2 Ferndale city council?

3 A. Number one, to be involved in my community,
4 and I felt it was time for a change, to be quite
5 honest.

6 Q. Now, with those goals in mind, did you take
7 a personal interest in the proposed Thornton connector
8 project?

9 A. I have. And actually when I ran for
10 office, I doorbelled every single home in this town.
11 I knocked on 1,557 doors, and I talked to people face
12 to face, and when they asked me questions or had
13 complaints or ideas, I actually sat down one time with
14 Stan and got the answers that I needed to their
15 concerns and complaints and questions and then went
16 back with the answers.

17 One of the major things that I kept hearing
18 time and time again was we needed to have better
19 ingress and egress coming in and out of Ferndale,
20 especially up on the hillside in the residential
21 area.

22 Q. Now, when you say up on the hillside in the
23 residential area, which quadrant or which direction,
24 which part of the city would that be in? In the
25 northwest, northeast, south, which area?

1 JUDGE ANDERL: You can refer to the map,
2 but as you're aware from previous witnesses, it's best
3 if you also orally describe what you're referring to.

4 A. Okay. The areas that I doorbelled were
5 Church Road, which is west, okay, and it would be
6 Bakerview -- I guess it's called Bakerview Estates
7 that are up there. Evergreen, the Apollo area, Apollo
8 Street area.

9 JUDGE ANDERL: Are those designated on the
10 map what you're referring to?

11 THE WITNESS: Well, the streets are.

12 JUDGE ANDERL: That's fine.

13 A. Okay.

14 Q. Yvonne, are you talking mainly about the
15 northern part of the city, northwestern part of the
16 city?

17 A. Yes, the northwestern part, where all of
18 our major residences are going now.

19 Q. Would those be the ones that would benefit
20 most from a Thornton connector?

21 A. Absolutely. I mean, I live there and I
22 would benefit from it greatly.

23 Q. Okay. What were you learning about the
24 needs for the Thornton connector?

25 A. People wanted to be able to just get in and

1 out of Ferndale, get on the freeway, get to work.
2 Ferndale's basically a little bedroom community, and
3 we have some jobs here and we would like to hang onto
4 every one of them we've got, but people -- to go
5 downtown even when I was campaigning, I would stand on
6 the street corners and wave at people, and that's
7 where you find out traffic congestion, okay? And we
8 have four or five stoplights.

9 You've got all these cars coming in and
10 going out at -- either going to work or coming home
11 from work, and people just want a straight shot up the
12 hillside. Thornton would provide that straight shot.
13 It would take them right up the hillside and disperse
14 them out to their neighborhoods instead of putting
15 them on Main Street and waiting for all the
16 stoplights.

17 Q. Okay. What, if any, efforts did you take
18 personally to try to help in that regard?

19 A. I started doing some research on the past
20 ten years of the city and took a look at their
21 transportation plans, and that whole idea of the
22 Thornton Road exchange or exit has been there since at
23 least 1971.

24 And, you know, Samson Ocean Products, for
25 example, I sat and talked with them and he explained

1 how he gets his financing through Canada and explained
2 that if the -- they were sold the idea that Thornton
3 Road was going to be an access for them for shipping,
4 getting in and out.

5 Q. When was that that they believed that was
6 the case.

7 A. As they were setting up this business.

8 Q. When they chose the location for it?

9 A. Right. Right.

10 Q. And do you remember about when that was?

11 A. I don't remember. Now their bank tells
12 them that with such limited ingress and egress for
13 them and the Thornton Road exit not being there, that
14 their financing could dry up, because they have got to
15 show that they can move that product in and out
16 easily.

17 And losing that after they were sold the
18 idea is not good for that company. It's not good for
19 Ferndale because we're going to lose a major business.
20 And it's more than just jobs; it's a spin-off. It's a
21 place where mom and dad start work there and then
22 eventually the kids graduate and maybe they join it
23 and, you know, they buy -- they stay here in this
24 community using our local services.

25 Q. And did you after studying the -- I presume

1 are you referring to Exhibit 15 which is the 1972
2 Ferndale Traffic and Circulation --

3 A. Right.

4 Q. -- Plan, that you found the Thornton
5 connector --

6 A. Right.

7 Q. -- in that plan?

8 A. And that is in there.

9 Q. And did you find fairly consistent planning
10 in that regard for a Thornton connector throughout the
11 years?

12 A. Right. The only reason we don't have it is
13 money. I mean --

14 Q. Okay. To your knowledge what has been the
15 problem with getting the money?

16 A. I think we're in competition with a lot of
17 other cities. I sit on the COG, Council -- which is
18 the Council of -- County Council of Governments and we
19 prioritize projects and rate them according to what
20 serves the communities the best, and then it goes into
21 the big pot with all the other towns, and we're small
22 potatoes and we just don't get the projects that we
23 need.

24 Q. And we've been trying, to your knowledge?

25 A. I believe so, yes.

1 Q. Now, the idea has come up, are you aware,
2 of using an overpass over the track and over the
3 freeway instead of the Thornton extension? Have you
4 been involved in any evaluation of the pros and cons
5 of the two alternatives for that extension?

6 A. I've been told about both of them and, in
7 fact, as a delegation from Ferndale city we went down
8 to Olympia earlier this year and visited with the
9 state Department of Transportation, and when we went
10 down there and talked to them about Thornton Road and
11 not closing it, that we needed it as a connector for
12 our town. They just flat said, You can't have it,
13 it's not at the right angle, you would have to bring
14 it all the way up to Malloy, there's wetland down
15 there, and it's just not a viable project.

16 Then a few months later they come to town
17 and they tell us, Guess what, we're going to close
18 Thornton. They're going to give us a substandard road
19 and it's right over that land they told us we couldn't
20 use and have access to.

21 Q. Are you aware whether the draft plan which
22 has been circulated under the Growth Management Act
23 for adoption as the transportation element of the
24 growth management comprehensive plan also speaks to
25 the Thornton Road connector?

1 A. Right.

2 Q. And is it your intention as a Ferndale city
3 council member to include the Thornton Road connector
4 in the growth management comprehensive plan?

5 A. Right.

6 Q. And how important do you think that
7 connector is to the city of Ferndale, relatively
8 speaking, in regard to the other things that the city
9 needs streetwise?

10 A. We need it to get everyone off of Main
11 Street. It's very important. It's a high priority.
12 When you take a look, all our growth is going right
13 there in that area. And I've been working with a
14 major department store trying to get them to come and
15 look at Ferndale. Their number one complaint about
16 Ferndale is our lack of being able to get people in
17 and out of town safely. I mean, we've got the
18 bottleneck of that little railroad bridge, we've got
19 the bridge over the river, then we have Main Street,
20 and that would just alleviate a lot of the congestion.

21 Q. Is there any disagreement among the seven
22 city council members as to whether Thornton Road and
23 the extension should be included in the growth
24 management transportation plan?

25 A. I don't believe so. I think we're all for

1 the Thornton Road.

2 Q. Is there anything else you would like to
3 leave the Commission with?

4 A. Let me go down my list. (Reading.) As I
5 stated, I live on the hillside. I live right in the
6 middle and I would take Thornton Road. I serve on six
7 different committees that are a spin-off of my
8 position as a council member, and then I'm also head
9 of the Republican Party for the county, so I'm on 31
10 different civic committees.

11 It would be nice just to go in and out
12 quickly and not through all the traffic. And I think
13 about people that have jobs, okay, getting in and out,
14 coming home just directly instead of having to weave
15 through downtown. The Growth Management Act, number
16 one, forces us to solve our transportation problems.
17 Closing Thornton Road is not going to solve our
18 transportation problem; it's going to increase it.

19 And Amtrak, which I'll be polite about, is
20 talking 300 passengers a day that they need -- they
21 need that for Amtrak and it's -- it will inconvenience
22 300 passengers a day. Well, excuse me; this is going
23 to inconvenience 6,800 citizens a day to close
24 Thornton because we need that access.

25 JUDGE ANDERL: Any cross for this witness,

1 Ms. Cushman?

2

3

CROSS-EXAMINATION

4 BY MS. GIBSON:

5 Q. Ms. Goldsmith, you've already referred to
6 this draft final report on the transportation plan of
7 May 1994 document which the judge here has admitted as
8 Exhibit 17 to these proceedings. You're familiar with
9 the document, are you?

10 A. Okay. I am familiar with it. I mean, I
11 don't know every dot and T, but, yes, I am familiar
12 with it. I've read it.

13 Q. All right. Are you familiar with the
14 passage on page 17 of the document -- I'll give you a
15 minute to turn there. Second paragraph from the
16 bottom, "Third, the most direct connection with Portal
17 Way," and I believe that's a reference to the
18 extension road or connector road that you've been
19 testifying about, "is too close to the southbound
20 ramp intersection for safe and efficient traffic
21 operations."

22 You realize that that conclusion is
23 contained in your city's own document that's going to
24 be submitted?

25 A. It's in there, okay? And they're stating

1 that there's a safety problem there. Then why are
2 they coming back and asking us to take a substandard
3 road, that same route in that same area? Why is it
4 good enough for the state but not good enough for the
5 city?

6 Q. Right. And Ms. Goldsmith, I can't --
7 because of the process, I can't answer your question.
8 I'm asking you the questions. The record will speak
9 for itself.

10 Are you aware that the draft plan contained
11 in Exhibit 17 recommends the Thornton Road
12 overcrossing as the best solution to the city's
13 problem?

14 A. Right.

15 Q. And if the city elected to do the
16 overcrossing, it wouldn't matter whether Thornton Road
17 grade crossing was open or closed, isn't that right?

18 A. There's people that still need to have
19 access back and forth on Thornton that live on the
20 other side. There's a company that was led to believe
21 that they would have that access so --

22 Q. Led to believe by the city?

23 A. Right. In our plan through good faith
24 through city council members that were working on
25 that.

1 Q. All right. Excuse me a minute. (Reading.)
2 I have nothing else, thank you, but you might have
3 some other questions.

4 JUDGE ANDERL: Ms. Cushman?

5

6

CROSS-EXAMINATION

7 BY MS. CUSHMAN:

8 Q. You've just stated that the Samson Company
9 relied on the city's plan in locating down there next
10 to the crossing, is that correct?

11 A. Mm-hmm.

12 Q. I'm looking at the city's plan dated 1972
13 titled Traffic and Circulation Plan and I believe that
14 in your testimony earlier you stated that it was in
15 your opinion a part of this plan that the Thornton
16 crossing would be turned into a thoroughfare, is that
17 correct?

18 A. Yes.

19 Q. I'm reading directly from this document
20 now, page 17 of the document. It says, quote, In
21 reviewing the future traffic growth it is apparent
22 that relief to Main Street is necessary. This is
23 accomplished by two means, one, the provision of a
24 future one-way couplet with Alder Street and, two, the
25 extension of Thornton Road easterly across Interstate

1 5.

2 Easterly would imply an overpass, as a
3 Thornton Road extension would be a southerly route,
4 correct?

5 A. Okay. In the 1972 it is an overpass, all
6 right?

7 MS. CUSHMAN: Thank you. That's all.

8 JUDGE ANDERL: Ms. Rendahl, any cross for
9 this witness?

10 MS. RENDAHL: No, your Honor.

11 JUDGE ANDERL: Ms. Goldsmith, I don't know
12 if you're the right person to ask these questions to.
13 Mr. Cuillier, if you hear me ask something that you
14 feel another witness is going to be better able to
15 answer since you know what witnesses you're going to
16 present, just tell me.

17

18 EXAMINATION

19 BY JUDGE ANDERL:

20 Q. The development that you live in right now,
21 how recently was that begun or built?

22 A. Okay. My home is 38 years old.

23 Q. Okay. So the recent growth that you're
24 talking about that's to the north and the west of the
25 city, when did that start?

1 A. It's been ongoing since I moved here six
2 years ago.

3 Q. If the result of this hearing were a
4 conclusion that the city does need the Thornton Road
5 interchange and that, as such, the grade crossing
6 shouldn't be closed, what assurances would the
7 Commission have that the city will or would actually
8 construct that road anytime in the near future? It's
9 been on the city plan for over 20 years and nothing
10 has happened, so how do we know anything would?

11 A. Well, I guess we would have to make another
12 visit down to the DOT of Washington state and sit in
13 their office and get promised buckets of money that we
14 were promised before that, you know, you're in
15 competition with every other little town in
16 Washington.

17 Q. Okay. Were you on the city council when
18 Samson Ocean decided to build its plant where it did?

19 A. No, I was not.

20 Q. Okay. Do you know if Samson Ocean ever
21 received any specific promises from the city with
22 regard to the type of extension or the timing of the
23 extension of Thornton Road?

24 A. I have no idea.

25 JUDGE ANDERL: Okay. I don't think that

1 there was anything further for me. Mr. Cuillier, any
2 redirect?

3 MR. CUIILLIER: I don't believe so.

4 JUDGE ANDERL: Thank you for your
5 testimony. You may step down.

6 MR. CUIILLIER: Thank you.

7 JUDGE ANDERL: Your next witness?

8 MR. CUIILLIER: Next witness would be city
9 council member Darrell Ashe, please.

10 JUDGE ANDERL: Mr. Ashe, raise your right
11 hand.

12 Whereupon,

13 DARRELL ASHE,
14 having been first duly sworn, was called as a witness
15 herein and was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. CUIILLIER:

19 Q. Sir, could you please state your name and
20 address.

21 A. Darrell Ashe. That's D A R R E L L. Last
22 name is A S H E. 6154 Sunshine Drive, Ferndale.

23 Q. Thank you. Sir, are you a member of the
24 Ferndale city council at this time?

25 A. Yes, sir, I am.

1 Q. And how long have you been a member?

2 A. I was employed to fill a term on August 1
3 of this year.

4 Q. And have you prior to that time been
5 interested in city government and the transportation
6 issues in the city?

7 A. Yes. Since I moved here about a year and a
8 half ago. I retired.

9 Q. And what brought about your interest in
10 primarily the transportation issues in this city?

11 A. Well, one of them is the fact that I live
12 on Sunshine which is right off of Thornton and a
13 Thornton connector would serve my house very well.

14 Q. And that location is in which area of the
15 city?

16 A. It's in the northwest area of the city,
17 just north of Thornton.

18 Q. And what have you noticed in the time that
19 you've lived in the city about the growth patterns in
20 the city?

21 A. The growth pattern is primarily -- the
22 residential is primarily to the north and west of the
23 city.

24 Q. And is the amount of growth in the city
25 noticeable?

1 A. Yes, sir. I think it is. There are new
2 houses going up daily.

3 Q. And have you taken any steps or efforts to
4 -- or set any goals regarding the Thornton Road
5 connector?

6 A. Personally I think it's vital to the city
7 of Ferndale. I've stated so on the record more than
8 once.

9 Q. Why do you believe that's the case?

10 A. I believe along with most of the city
11 council that we're pretty -- all pretty well agreed
12 that we need to alleviate the traffic problem in
13 downtown Ferndale.

14 Q. Are you agreed on which method would be the
15 city's preference?

16 A. I believe that it's agreement among the
17 council and the staff that Thornton Road is the way to
18 go.

19 Q. Is there -- is there a preference, do you
20 think from your personal knowledge working with the
21 counsel, as to which method Thornton Road would be
22 extended?

23 A. A preference, no, sir. I don't think we
24 have a preference. At the moment I think we know that
25 we've got to extend Thornton Road.

1 Q. Okay. Do you know whether the overpass
2 method or the at-grade extension method, which would
3 be the city's preference, assuming the funding were
4 there for either one?

5 A. If we had our druthers and the money, we
6 would go with the overpass, but we're talking -- I
7 think a rough estimate we had was \$6 million.

8 Q. And to your knowledge, would that present a
9 problem for the city in the foreseeable future?

10 A. Yes, sir. We don't have the funds for
11 that.

12 Q. Okay. Is there anything else you would
13 like to leave the Commission with?

14 A. Personally as a personal note, I think this
15 map is very misleading in that it does not show the
16 city and the growth area of the city. It is all down
17 here and you don't have --

18 JUDGE ANDERL: Mr. Ashe, are you referring
19 to the photograph?

20 THE WITNESS: Yes, ma'am.

21 A. This photograph, the development in the
22 city is not shown. It is to the south -- or excuse me
23 -- to the west of Thornton Road. We have a new
24 elementary school, Eagle Ridge, out on Thornton Road.
25 We have the other elementary school shown right here.

1 JUDGE ANDERL: Where is that shown? Right
2 where?

3 THE WITNESS: That's at Thornton and Vista,
4 this area down in here off the map.

5 JUDGE ANDERL: West?

6 THE WITNESS: West, is the growth area of
7 Ferndale.

8 A. I don't believe an expert who comes in here
9 and tells us he spent 35 minutes doing a traffic study
10 is qualified to tell us that Washington is a viable
11 alternative to Thornton Road. The man admitted he
12 spent 30 minutes at Thornton and 5 minutes in the
13 morning watching traffic. To me that's not a viable
14 expert witness. I don't have anything else.

15 MR. CUILLIER: Okay.

16 JUDGE ANDERL: Anything else on direct?

17 MR. CUILLIER: Nothing further.

18 JUDGE ANDERL: Ms. Gibson, cross?

19 MS. GIBSON: I have nothing.

20 JUDGE ANDERL: Ms. Cushman?

21

22 CROSS-EXAMINATION

23 BY MS. CUSHMAN:

24 Q. Mr. Ashe, you stated in your testimony that
25 you believe the overpass proposal would be too

1 expensive at a price of approximately \$6 million,
2 correct?

3 A. That's not what I said. I said the city
4 could not afford it at the moment. It doesn't mean we
5 couldn't pursue funds to get it done through the state
6 and federal funds perhaps.

7 Q. I'm looking now at what's been admitted as
8 Exhibit 17. It's titled A Transportation Plan for
9 Ferndale, Washington prepared by the City of Ferndale.
10 Has the council had any role --

11 A. What's the date?

12 Q. 1994 May.

13 A. I was not on the council at that time.

14 Q. Do you know if the council has approved
15 this document?

16 A. I can't attest to that personally.

17 Q. Have you read this document?

18 A. No, ma'am. I'm not familiar with this
19 document.

20 MS. CUSHMAN: No further questions.

21 JUDGE ANDERL: Ms. Rendahl, any questions
22 for this witness?

23 MS RENDAHL: No, your Honor. I have no
24 questions.

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXAMINATION

BY JUDGE ANDERL:

Q. Mr. Ashe, one question here. You testified that the city doesn't have the money to construct the overpass. Does the city have the money to construct an extension of Thornton Road southbound to connect with Portal Way?

A. I don't believe we have the funds. It doesn't mean we cannot pursue to get those funds.

Q. Okay.

A. I think a lot of it depends on the outcome of this hearing how we're going to proceed.

JUDGE ANDERL: Mr. Cuillier, anything further for this witness?

MR. CUILLIER: No, thank you.

JUDGE ANDERL: Thank you, Mr. Ashe, for your testimony. You may step down.

JUDGE ANDERL: Your next witness, Mr. Cuillier?

MR. CUILLIER: The next witness, your Honor, Mr. John Eley, please.

JUDGE ANDERL: Mr. Eley, raise your right hand.

Whereupon,

JOHN ELEY,

1 having been first duly sworn, was called as a witness
2 herein and was examined and testified as follows:

3

4

DIRECT EXAMINATION

5 BY MR. CUILLIER:

6 Q. Could you please state your name and
7 occupation.

8 A. John F. Eley, E L E Y, director of public
9 works for the City of Ferndale.

10 Q. And what was your position called with the
11 City of Ferndale before you were the director of
12 public works?

13 A. City superintendent.

14 Q. How long have you served the City of
15 Ferndale either as its city superintendent or director
16 of public works?

17 A. I came to the city in July of 1975.

18 Q. Did you come to the city in the capacity as
19 the city superintendent at that point?

20 A. Yes, I did.

21 Q. And what was your education and experience
22 which led you to obtain this position and serve in
23 this position for this period of time?

24 A. I started in the public works field in 1961
25 in the city of Glendale, California, attending the

1 school system in California and attaining a college
2 degree at Glendale, and then moving on and becoming
3 certified in the different pursuits, and then
4 attaining this position in 1975.

5 Q. And since 1975 have you witnessed
6 personally some of the unique traffic problems that
7 Ferndale has to face periodically?

8 A. Yes, I have. And maybe a little bit of
9 clarification on some of the issues that were
10 enumerated to, one by Ms. Ronningen on the flooding
11 issue. In 1975 was the first year, of course, I was
12 here, but also was the first major flood that we came
13 in on. And if I can point to one of your exhibits,
14 the exhibit the map of Ferndale.

15 When you look at the area here in the
16 southwest, when the flood stage reaches 26 feet,
17 down to the south roads close, which go down to the
18 Church/Douglas area which leads to Slater. At that
19 time Slater had a dip which would bring that to a
20 flood stage so you couldn't go over to I-5 to the
21 south, so that closed off any path to go down Douglas
22 and go down Imhof Road to Slater Road and to go to the
23 east to enter I-5.

24 JUDGE ANDERL: So you're just generally
25 referring to the map section which is south of

1 Thornton and west of Vista?

2 THE WITNESS: Correct.

3 A. The Main Street overpass and the bypassing
4 going down Labounty Road --

5 JUDGE ANDERL: Spelling on that?

6 THE WITNESS: L A B O U N T Y.

7 A. -- would be closed also. That would lead
8 to Slater Road. It comes back down in this area
9 crossing over at Hovander Road. This area also by
10 Tennant Lake was flooded.

11 JUDGE ANDERL: Spelling?

12 THE WITNESS: T E N N A N T.

13 JUDGE ANDERL: Thank you.

14 A. So at that point the only way out of
15 Ferndale -- this is before the railroad installed the
16 new -- where the new railroad overpass going in -- was
17 through a narrow coupling here. There was no storm
18 station.

19 JUDGE ANDERL: Where are you?

20 THE WITNESS: The storm station is the same
21 area -- the southeast portion.

22 JUDGE ANDERL: Excuse me. Stop. When you
23 say the only way out was here, what were you referring
24 to?

25 THE WITNESS: Main Street, east of the

1 Nooksak overpassing.

2 JUDGE ANDERL: Thank you.

3 THE WITNESS: You're welcome.

4 A. So the only -- like I say, the only way
5 would be under that narrow crossing which had a
6 limited height restriction at that time and/or the
7 Washington Street crossing going north to Portal.

8 That continued to be an opportunity until
9 early -- the late '70s and we were able to work with
10 the urban arterial board, Washington -- or the
11 railroad, BN, and at that time we were able to widen
12 the Main Street corridor, and the railroad did install
13 an undercrossing, and we participated in that through
14 a grant, city funds, and that's when that was
15 installed.

16 But that in 1989 and '90 that area was
17 flooded and closed for about 15 days, 15 to 20 days.
18 The Smith Road access was closed. The Hovander Road
19 there again to the south was closed, so the only
20 access out of town was the Washington Street, Portal
21 Way access to I-5. The I-5 -- this area of I-5
22 (pointing) was closed and Portal Way had water on it.

23 JUDGE ANDERL: When you say "this area of
24 I-5"?

25 THE WITNESS: Okay. The area Axton Road

1 was blocked off by the state patrol to keep the -- at
2 that location (pointing), this location.

3 JUDGE ANDERL: When you say "this
4 location," you're talking --

5 THE WITNESS: Axton, exit 262.

6 JUDGE ANDERL: The Main Street exit and
7 I-5?

8 THE WITNESS: Yes.

9 JUDGE ANDERL: Okay.

10 A. So that I believe that may give you a
11 little bit more feeling on some of the opportunities
12 that have been with the city on flooding issues. We
13 also -- that created some problems with the Nooksak
14 bridge. The flood created some problems there.

15 Q. Problems where?

16 A. They were able to get that resolved through
17 a FEMA participation in 1990. Problems at Washington
18 underneath the approach of the breadth of the Nooksak
19 River bridge.

20 Q. What potential problem did that create?

21 A. That would have -- we would have lost the
22 access to the Main Street entry to town completely and
23 we could have then eroded that whole approach.
24 Without being able to save that, we would have had no
25 other access to the city under the main corridor at

1 that time.

2 Also in the 1972 plan and in our later
3 plan, the city has gone back and looked at major --
4 each major element. We've addressed and reviewed the
5 Alder Street couplet, the at-grade crossing, the
6 overcrossing, to give our council and to be able to
7 apply for funds so we can show that we've addressed
8 those.

9 And when the plan was originally done in
10 '71 and '72 and it was adopted, there was a major
11 emphasis on the Alder Street two-way couplet. With
12 the environmental concerns there today, that doesn't
13 seem to be a viable option for the community and, hence,
14 we've put our focus on the Thornton Road connection
15 and looking at either the at-grade crossing and/or the
16 overcrossing, and so that's the reason that both of
17 those are addressed. Well, all three are addressed in
18 that light.

19 Q. Mr. Eley, have there also, besides
20 flooding, been other potential hazards or problems
21 occur within the city that affects the traffic
22 circulation?

23 A. Yes. We've had -- there's been a gas spill
24 on Main Street. The gas station on Fourth and Main
25 had a ruptured tank. It was -- Main Street was closed

1 for about 11 days while they got that cleaned up and
2 put back in order, and that was in the '84 project
3 about the time we were doing our traffic control,
4 upgrading the signals in town.

5 Q. How would a Thornton Road connector, either
6 an overpass or an extension at grade, alleviate either
7 the concerns during flooding or during other emergency
8 situations?

9 A. As we alluded to the exhibit map, as you
10 can see, this map does not show all the new
11 subdivisions that are, in fact, existing, but Ferndale
12 turns out to be a large funnel bringing everything
13 down to the Main Street corridor. What we've looked
14 at is ways to alleviate that corridor. And if I could
15 point to that for you.

16 JUDGE ANDERL: Again, as long as you
17 describe what area you're pointing to.

18 A. Right now this whole area -- well, you show
19 it blank. Major subdivisions are in here. They are
20 in the growth phase. That is west of Vista Drive,
21 north of the town. This whole area is filling out.
22 We have new subdivisions being proposed, as stated by
23 Mr. Ashe. They are taking occupancy. We're getting
24 there at least once on a regular basis. What this
25 would allow us to do is take the people that are in

1 essence the only way to come to the freeway is to go
2 down to Main Street. This would allow them another
3 access.

4 This Thornton Road also was a major road
5 going -- would be able to continue to the west, clear
6 to the North Star Road, which ultimately could be
7 another arterial route much like Slater Road is when
8 you looked to the south for the industry in that area.

9 So we've looked at that in the light of
10 being able to handle the traffic not only today, but
11 for the future for the county and addressing that in
12 the light of the urban growth and the new Growth
13 Management Act boundaries that we've tried to look at.

14 Q. Okay. It's been mentioned, Mr. Eley, that
15 the 1972 plan recommended an overpass for the Thornton
16 Road connector. Did that plan change with time into
17 an extension at grade?

18 A. It really did. And as pointed out by Ms.
19 Ronningen or Ms. Goldsmith, both, the determining
20 factor there was a cost issue. We did not have the
21 right of way on the west side of I-5 at that time. It
22 was locked up. We had the right to go across and
23 service the property that was annexed to the city.
24 And so the way to get over there then would have been
25 an overcrossing.

1 Later on during the time in dealing with
2 the state on the turnbacks is when the at-grade
3 crossing, because of the cost, while it provided some
4 opportunities at the approach on the Portal Way
5 access, because of the limited ability to get there
6 and on that tangent, it certainly became within the
7 city's realm to apply for funding to be able to do
8 that. So that really became more of our number one
9 approach at that time on a cost basis.

10 Q. Do you know what efforts have been made to
11 apply for funding or to seek it out or at least
12 sources of possible funding for --

13 A. We have gone to the transportation
14 improvement board. We have applied for that on our
15 six-year plans for a number of years. I believe you
16 have that in one of the documents. We've gone and got
17 even almost condemnation procedures to acquire the
18 rest of the right of way so that this is a viable
19 option on the at-grade crossing, and so now we have
20 that.

21 So the city has gone out and applied for
22 grant money through the COG, we've looked at public
23 works trust fund, and we have acquired the property.
24 So if we were able to bring any of these monies into
25 there, that we would have the ability to construct

1 that.

2 Q. And maybe I can show you Exhibit 14 or
3 maybe that's available.

4 JUDGE ANDERL: I can provide the witness
5 with my copy of Exhibit 14.

6 MR. CUILIER: Would that be okay? The
7 TIPS. Thank you.

8 Q. Maybe for the ease of reference, you could
9 indicate which priority Thornton Road connector was
10 given in the various years between 1994 and 1990.

11 A. In 1990 the Thornton Road to Portal was a
12 number three priority and Thornton Road from Church to
13 close that for the growth factor was a number two
14 priority.

15 In 1991 the Thornton was a number two
16 priority and then the Thornton Road closes the rest of
17 that for the growth was a number four priority.

18 And 1992 there again the Thornton Road was
19 a number two priority and then the Thornton Road
20 closing of the rest for the development was a number
21 three priority.

22 1993 you can see the Portal Way was the
23 number one priority, and then the closing the rest
24 for the growth portion was a number three.

25 JUDGE ANDERL: I'm sorry. What are you

1 saying? "The closing" --

2 THE WITNESS: In other words, the rest --
3 we're talking about the overcrossing to get this here
4 (pointing) and then the other section was from Malloy
5 to the west city limits, to bring that so that it
6 meets the total city standard to be able to handle the
7 traffic that's going to be anticipated for the growth
8 management boundaries.

9 JUDGE ANDERL: Okay.

10 Q. That's to improve Thornton Road --

11 A. Yes.

12 Q. -- between Malloy and Church Road?

13 A. Yes, it is. And then, finally, on the
14 latest one, it was number five priority.

15 Q. Are there --

16 A. I guess some of the reasons you don't see
17 any further back, at a time with limited funds, the
18 state also asked to only apply for projects which
19 could be completed within a period on that, and while
20 we had hoped to put this in sometimes as a wish list
21 to be able to bring that to their attention, we knew
22 that we couldn't get that or would not be able to
23 acquire funds. And at a project of that magnitude, we
24 weren't eligible -- we weren't able to get any
25 matching on that, so we brought that to the council

1 but did not submit those in the higher priority
2 ratings as we have in the past.

3 Q. Because that project could not be completed
4 within the funding period required?

5 A. Mm-hmm.

6 Q. Do you know what the situation was -- there
7 have been some questions asked about what the
8 situation was with the city at the time that Samson
9 Ocean Systems decided to locate where it has, near the
10 Thornton crossing. What were the plans that the city
11 had for the connector and what were the
12 understandings, if any, at that time between the
13 business and the city, to your best knowledge?

14 A. Actually, when Mr. Smith came to the City
15 of Ferndale, it was El Dorado Manufacturing. It
16 manufacturered El Dorado campers from Canada. And he
17 located at that site. We did not have the right of
18 way on the west side of I-5. The turnbacks had not
19 taken place at this time. We had the right of access
20 across because of there's a sawmill that was on the
21 east side of the railroad tracks and north of
22 Thornton. When Mr. Smith came in and once we had --
23 as a matter of fact, I believe Mr. Smith met with the
24 city, the city manager at that time, Ron Peterson, and
25 Dave, I believe, with BN, and I believe either Bailey

1 Akins or John Kassell.

2 JUDGE ANDERL: Can I get a spelling on
3 Kassell?

4 THE WITNESS: K A S S E L L, I believe.

5 A. And they talked about his ability or the
6 city's ability to see that there was an access on the
7 east side of Burlington Northern for future. And at
8 that time then the city manager had worked with Mr.
9 Smith on and off throughout that time as his company
10 expanded, and then the camper manufacturing went out
11 later on, and Samson Ocean Systems moved a portion in
12 there, and then they moved their regional headquarters
13 from, I believe, Maryland to Ferndale and brought it
14 all together and has expanded continually.

15 Q. So you recall conversations with -- was it
16 with Mr. Kassell of the DOT?

17 A. Mm-hmm.

18 Q. Kassell?

19 A. Yes.

20 Q. Kassell.

21 And what was the general understanding, if
22 you were involved in those discussions, as to the
23 possibility of a Thornton connector in the future at
24 that point in time?

25 A. Basically the only thing that as I recall

1 from Mr. Kassell was that they wouldn't have an issue
2 with the access being built. There was no guarantee
3 that the state would participate in any money on the
4 turnback phase of that, but would not have a problem
5 with that being constructed as a developers' extension
6 and/or a state project.

7 Q. Has the city been able to come up with the
8 money to do design or conduct design engineering to
9 determine exactly what would be required to make the
10 connector at grade a feasible option?

11 A. We have not. We have not done that.

12 Q. Do you have an estimate of a range of what
13 even that stage would cost?

14 A. That would be somewhere in the range of
15 \$200,000.

16 Q. Do you have a range or any rough idea for
17 us of what the city obtains each year from the gas tax
18 revenue?

19 A. I do not.

20 Q. The design and engineering for the overpass
21 also is a matter that the city has not been able to
22 pursue or afford to pursue?

23 A. That's correct.

24 Q. At the present time is the feasibility of
25 either alternative known?

1 A. It is not. We've projected the engineering
2 to be between four and \$500,000 because of the
3 geotechnical work that would be derived on the
4 overcrossing and what we've told our street committee
5 and the council of the whole is since the city has now
6 enacted growth fees where we're charging each
7 individual residential there vehicle miles traveled so
8 that we can do that, that money goes into that fund so
9 that the city has set aside and is getting its ducks
10 in a row, for want of a better word, to be able to
11 review projects as they are necessary. So we're
12 trying to make sure that we're meeting the obligations
13 that are mandated for the community.

14 Q. Do you agree with a statement that was made
15 earlier in this hearing yesterday to the effect that
16 Ferndale's traffic growth problems could be
17 substantially alleviated, let us say, and that's a
18 paraphrase, I don't know the exact words used, but
19 substantially resolved or alleviated by modifications
20 to the Main Street interchange and to the Vista/Malloy
21 intersection?

22 A. No. I do not. Since Vista and Malloy --
23 since that corridor was completed under a
24 transportation improvement grant, the city's traffic
25 flow has increased dramatically with no incidents in

1 that corridor. And on the Main Street corridor the
2 only way to make that viable would be to remove all
3 the parking, remove all the restrictions, and put --
4 you would have to increase the speed limit or put
5 tickets on people, giving them a time that they could
6 actually utilize the right of way. Times were over
7 17,000 trips per day the last count on Main Street.
8 They are utilized on the normal run and it's a peak
9 p.m. trip and so we -- the Main Street corridor is a
10 well-used corridor.

11 Q. There was some thought by an expert
12 yesterday that the reading of 15,000 trips per day was
13 probably a high reading for the Main Street corridor.
14 Is that a high reading or is that an average reading
15 or what would that be?

16 A. The 15,000 is an average reading. It is
17 down when we did the original counts for Washington
18 state when we did the overcrossing -- or the
19 undercrossing for Burlington Northern, I should say.
20 The state's questioned the validity of the counts
21 and the number of vehicles there, did split counts on
22 that, and at that point they were up around 16,000
23 trips per day.

24 Q. Do you know what year?

25 A. I would have to go back and look. I

1 believe that was in 1978 or '79.

2 Q. In the '70s?

3 A. Mm-hmm. There was a tremendous amount of
4 refinery traffic and was all going through the city of
5 Ferndale at that time. Slater Road was not an active
6 or viable route and so there was a major influx of
7 traffic.

8 Q. Since that time, have counts been taken of
9 that travel?

10 A. There's been counts taken on that. The
11 counts went down into the thirteen to 14,000 range in
12 the '70s and now they are working their way back up.
13 And like I say, I believe the last counts were in the
14 17,000 range.

15 Q. That's about how recently, would you say?

16 A. 1992. '92.

17 Q. There was some indication that the
18 Vista/Malloy intersection reengineering would
19 solve the potential -- or some of the potential
20 problems. Was that intersection engineered when it
21 was constructed?

22 A. That intersection is a Y intersection and
23 it was reviewed by our consultant to mitigate -- to
24 make the best of a real poor situation. Prior to
25 that, there were a number of incidents or accidents at

1 that intersection. It was a kind of a T-Y combination
2 of an intersection without any stop. Since that time,
3 as I have indicated, there has not been an accident at
4 that location. The traffic is moving very well on the
5 Vista, which is the main thoroughfare for that. And
6 the school -- the school has increased their use of
7 that. I don't believe that that is an accurate
8 statement to be made that we could enhance that.

9 Q. About how long ago was that that it was
10 engineered?

11 A. '86.

12 Q. There was some thought that the two-lane
13 bridge across the Nooksak River does not cause a
14 traffic flow problem; it's the interchange that would
15 be the aspect of Main Street that should be improved
16 for the flow of traffic. Is the bridge not a
17 potential traffic congestion issue?

18 A. Each one of those issues are an
19 opportunity. The Main Street bridge is very close to
20 the Burlington Northern underpass. Each one is
21 influenced. The bridge itself to be able to increase
22 that capacity, as I stated before maybe a little
23 flippantly, is issuing tickets as to what time they
24 can go across two lanes. The only way you are going
25 to get any more traffic across that is to allow more

1 lanes of traffic on the Main Street itself. Right now
2 the city has asked and we've changed the parking
3 configurations to allow the most expedient traffic in
4 the safest movements of that, but also allowing a
5 limited parking in the downtown corridor. What we
6 would -- like I say, what we would have to do to
7 increase that would be to probably remove that, and
8 changing the timing on the signals in the downtown
9 corridor to the limit just to allow pedestrian
10 crossing safely would be the only way to increase flow
11 across that two lanes.

12 Q. Does Main Street experience special peak
13 problems for any reason unrelated to the city growth
14 or the city itself?

15 A. Yes, we do. And as I alluded to a little
16 bit before, you have with the industrial growth to the
17 west with Intalco, Tenaska, BP, and sometimes to
18 affect Arco -- not Arco very much anymore because of
19 the cleaning up of the Grandview Road, but that
20 traffic does come through the Ferndale corridor and
21 has been studied a number of times to look at
22 carpooling and van pooling or going to shuttles.
23 It's still -- we still seem to be experiencing many,
24 many one-vehicle occupancy going through the community
25 and a large number of their loads coming back from the

1 west to the east.

2 Q. Okay. And just a couple more questions
3 then. From your personal perspective with your many
4 years of experience personally with Ferndale's streets
5 and traffic issues, what degree of importance do you
6 personally and professionally place upon at least a
7 future option of connecting Thornton Road to Portal
8 Way at grade in the future at some point?

9 A. I think the city needs to leave its options
10 open on how we get across there. I think that the
11 crossing from the Portal and the northwest corridor of
12 the community is really imperative. Without that,
13 with the growth that's being -- is existing today with
14 the proposed subdivisions, with the growth management
15 boundaries that are being proposed for the community,
16 if we don't get that, I don't believe that the Main
17 Street corridor will be able to handle that traffic.

18 Q. In what foreseeable time period would it be
19 able to?

20 A. It's probably -- well, the outside range of
21 the plan I think is 2015, but we're experiencing --
22 we're seeing that growth coming now.

23 Q. And in your experience with attempts to
24 obtain funding, do you think that there's any
25 reasonable possibility that Ferndale could be able to

1 fund an overpass for the Thornton connector in the
2 foreseeable future when it would be needed?

3 A. As I stated before, the city is collecting
4 VMT mitigation fees, vehicle miles traveled, a way of
5 charging each residence for the demand they are
6 placing on the road. We are collecting those to be
7 able to put those in and address improvements. For
8 those to pay for that overcrossing I don't think is
9 realistic. I think that we're going to need support
10 from the state. We have the support of the Council of
11 Governments and I think we need to be able to almost
12 -- to pull a team together to be able to make that a
13 viable project. I don't see that we can afford to do
14 that, or I haven't seen the state come up and be
15 willing to fund that project.

16 MR. CUIILLIER: Thank you. No other
17 questions.

18 JUDGE ANDERL: Ms. Gibson?

19

20 CROSS-EXAMINATION

21 BY MS. GIBSON:

22 Q. Mr. Eley, on Exhibit 14 which is the Six
23 Year Transportation Improvement Program --

24 MS. GIBSON: Your Honor, could he see the
25 copy that you have?

1 JUDGE ANDERL: (Handing.)

2 MS. GIBSON: Thank you.

3 Q. If you would look at the 1990 document that
4 was submitted by the city, is it true there that this
5 project for Thornton Road is described as Portal
6 access, Vista Drive to Portal access?

7 A. Mm-hmm.

8 Q. Is that a yes?

9 A. Yes, it is.

10 Q. And that's third priority for 1990, is that
11 right?

12 A. Mm-hmm. Yes, ma'am.

13 Q. Okay. Then if you'll turn and look at the
14 latest file in that same exhibit, the one for 1994, is
15 it true that the project dropped to the town's fifth
16 priority?

17 A. That is where it's ranked.

18 Q. And isn't it true that it is labeled
19 Malloy Road to Portal Way, new east/west arterial?
20 Is that what it says?

21 A. That's correct.

22 Q. So that language references apparently an
23 east-west overpass then, is that how you would read
24 that?

25 A. No, ma'am. This is the east-west as far as

1 the arterial going from Malloy to be able to handle
2 that, as I pointed out on that map in the exhibits --

3 Q. Well, let's look at the exhibit here, Mr.
4 Eley. We've got -- looking at Exhibit Number 4, we
5 have, of course, Thornton Road and Malloy, and then
6 east-west access over I-5 is straight, implies an
7 overpass, doesn't it?

8 A. East-west would be -- we're talking here --
9 we're still talking about an at-grade crossing with
10 these dollars.

11 Q. Where in the document does it say that
12 we're talking about an at-grade crossing?

13 A. The document really doesn't talk about that
14 being an at -- our document talks about being an
15 at-grade crossing.

16 Q. Well, let's look then at something that is
17 contemporaneous with this 1994 report contained in
18 Exhibit Number 14. Let's look at Exhibit 17 which is
19 the draft plan 1994 and let's turn to page 17 of that
20 report, down to the second to the last paragraph.

21 Didn't the town conclude that an at-grade
22 crossing with an extension road is not a safe manner
23 of making access over to Portal Way?

24 A. We said that there would be a potential
25 problem there. It was when we got the turnbacks

1 from the state. It is on a tangent. We've looked at
2 that. We knew it was not the best. We were trying to
3 resolve when we could get the traffic out and we felt
4 with signalization on that and timing and rerouting of
5 some of the potential larger vehicles, like trucks,
6 rerouting them so that they would not be turning cross
7 or cross that tangent, that this would maybe not be
8 the very best, but it certainly would be something
9 that would be manageable.

10 Q. The town was aware at the time that they
11 drafted this draft plan, Exhibit 17, that even the
12 extension road was going to be a very expensive
13 proposition, isn't that right?

14 A. Yes, ma'am.

15 Q. It was going to be in the neighborhood of
16 \$4 million?

17 A. The extension road when we did that, that's
18 what this (pointing) is looking at and --

19 JUDGE ANDERL: You're referring to Exhibit
20 14?

21 THE WITNESS: Referring to existing Exhibit
22 Number 14.

23 A. And where we talk on the bottom of that on
24 the existing right of way is where we were talking
25 about going down that on the west side of I-5.

1 Q. And the town has never obtained the funds
2 to do that road?

3 A. We have not been able to obtain the funds
4 to. The only money we were able to obtain was during
5 the acquisition of the property to make that viable
6 from Thornton Road south so that we would be able to
7 obtain all of that right of way which we now are in
8 control.

9 Q. You would acknowledge, wouldn't you, Mr.
10 Eley, that at this point the town doesn't even know if
11 the extension road is feasible?

12 A. I can't say that. I would say that if at
13 all possible, if that's our only option, then that
14 certainly could be constructed.

15 Q. You said you haven't done a traffic
16 engineering study?

17 A. We have not done a traffic engineering
18 study.

19 Q. And you can't know for certain that it's a
20 feasible project until a traffic engineering study is
21 done, isn't that true?

22 A. That's true, but we also don't know that it
23 is not a viable project until it's completed.

24 Q. But you don't know that it's viable?

25 A. That's true.

1 Q. And the same with the overpass, since a
2 traffic engineering study has not been done, you don't
3 know if that's a viable option, isn't that true?

4 A. That's correct.

5 MS. GIBSON: All right. I have nothing
6 else.

7 JUDGE ANDERL: Ms. Cushman, any cross for
8 this witness?

9

10 CROSS-EXAMINATION

11 BY MS. CUSHMAN:

12 Q. Mr. Eley, are you familiar with a
13 comprehensive flood hazard management plan?

14 A. I believe so.

15 Q. Is it true that according to that plan the
16 area south of Thornton Road, east of the railroad,
17 which is the area for this proposed extension, is
18 designated as part of the plan as a flood storage
19 area?

20 A. Yes, ma'am.

21 Q. Thank you.

22 JUDGE ANDERL: Ms. Rendahl, any questions?

23 MS. RENDAHL: Yes.

24

25 CROSS-EXAMINATION

1 BY MS. RENDAHL:

2 Q. Mr. Eley, do you still have Exhibit 17 in
3 front of you?

4 A. Yes, ma'am.

5 Q. And looking at the options described, or
6 the alternatives for east-west access to I-5 on pages
7 17 and 19, does the city have a preference between
8 option A and option B or are those both options that
9 are equally being considered? Option A being Thornton
10 Road as an arterial using an at-grade crossing and
11 following the west side of I-5 to reach Portal Way.
12 Option B being Thornton Road overcrossing crossing
13 over the railroad tracks and I-5.

14 A. As I stated before, I think the issue for
15 Ferndale is monetary. We didn't feel that -- or we
16 had not in the past been being able to get anybody to
17 take on even the at-grade crossing. I believe that
18 safety-wise and access-wise that we feel that the
19 overcrossing would probably be the best, where we can
20 be able to do that, and that's why I indicated before,
21 we've looked at giving our council, and the state
22 when we go through there, we have reviewed all three
23 options which will be the, one, the old 1972, which
24 was adopted, plan of the two-way couplet going on Main
25 Street which would require another bridge over the

1 Nooksak, we've looked at the Portal Way overcrossing,
2 and we've also looked at -- I'm sorry -- Thornton Road
3 overcrossing, and also the Thornton Road at-grade
4 crossing. And we're looking at those equally.

5 Q. Do you know if in your experience with the
6 city how much traffic moves north of Thornton Road up
7 to the Brown Road area?

8 A. I can't give you the numbers. We've run
9 some of the counts when we did the traffic analysis
10 and I'm sure that Mr. Birdsall could address that
11 because we've given that in the TAZs and he can give
12 you a more accurate number.

13 JUDGE ANDERL: The excuse me?

14 THE WITNESS: Traffic analysis zones.

15 A. And he'll be able to give you a better
16 answer than I can.

17 MS. RENDAHL: Thank you. I have no further
18 questions.

19 JUDGE ANDERL: Okay. I have a couple of
20 questions.

21

22 EXAMINATION

23 BY JUDGE ANDERL:

24 Q. How are you collecting the vehicle miles
25 traveled mitigation fees?

1 A. We collect that two ways. On a subdivision
2 we'll collect half at the time of the subdivision and
3 half at the time of the building permit. We have a
4 formula that's been derived so that we can chart
5 those, the demand which is placed on the city system,
6 numerically from the Interstate 5 corridor, and then
7 we've gone back and said what the cost of the
8 construction of that utility is and what their fair
9 share of that is.

10 Q. Are those the only growth or impact fees
11 that are being collected from new subdivisions which
12 might be used to fund road improvements?

13 A. Yes.

14 Q. And how recently have those been being
15 collected?

16 A. We started -- well the VMT we started
17 in '93. We were collecting seven thirty-nine which
18 was an interim fee earlier than that and I don't have
19 the exact date of that, the first traffic mitigation
20 fee.

21 Q. You talked about changing the timing of the
22 lights on Main Street in order to improve the traffic
23 flows over the Main Street bridge?

24 A. Yes, ma'am.

25 Q. Does that include considering things such

1 as making those lights on Main what they call smart
2 lights so that they only change if someone comes from
3 a side street or presses a button to ask the light to
4 change?

5 A. We're kind of set up that way right now and
6 we've got our -- the pedestrian crossing set time to
7 the minimum standard set by the state. It would -- we
8 would be looking at cutting that down more, giving
9 more timing as the flow comes through. In other
10 words, right now we know in the morning the traffic is
11 going east to west and so right now the traffic
12 patterns give the longer green time in the morning.
13 And in the afternoon they are reversed to give the
14 traffic coming from the refineries and that to go --
15 we would be looking at putting more sensors, but more
16 so we would be moving -- removing the traffic parking
17 to allow that full corridor, of which we're going to
18 get a large outcry from the local community.

19 Q. To make Main Street four lanes?

20 A. (Nods head.)

21 Q. Is that a yes?

22 A. Yes.

23 Q. I guess one of the things that's troubling
24 me in the context of this hearing, and I think it's
25 probably pretty clear from some of the questions that

1 I've been asking, is it would be one thing if the
2 Thornton Road crossing in connection with Portal Way
3 already existed and we were talking about closing it.
4 It's quite another that we're talking about closing a
5 crossing that right now only accesses two houses and
6 that the leaving it open would be for the city to keep
7 its options open, rather than to use an existing
8 crossing which already serves a number of cars.

9 And so I guess I'll ask you the questions I
10 asked some of the other witnesses, is if this
11 Commission were to determine that the city should be
12 allowed to keep its options open and the Thornton Road
13 not be closed at the grade crossing, what kind of time
14 line or assurances could the city give that the
15 arterial would be developed?

16 A. I think we're -- I think we can give you
17 good faith that we're collecting those monies as the
18 development goes. We're doing that and we're showing
19 that we're setting those monies aside. I'm not trying
20 to bypass your answer. I just can't guarantee that we
21 can afford to come out and say we can do either
22 three, four, that was pointed out before possibly,
23 million dollars. We don't have the wherewithal to be
24 able to do that.

25 But we certainly have looked at the growth

1 management areas, the boundary that's there, the
2 potential traffic impacts that could be there, and I
3 believe that with the council's support and with the
4 support of the state which is here today that if we
5 could get together and put that as a highest priority
6 or try to get something together, I believe that could
7 be a viable project and could be completed within
8 probably, you know, a six-year time frame. It
9 certainly gives it adequate time for the engineering
10 studies to be done, adequate time for the plans to be
11 designed, and adequate time for construction to take
12 place.

13 Q. Okay. I have haven't had a chance to
14 review this Exhibit 17 since it was just admitted this
15 morning. Maybe you can tell me, the Alder Street
16 couplet, does that refer to any sort of a crossing or
17 interchange at Alder Grove Road?

18 A. No. The Alder Street couplet --

19 Q. Go ahead and refer to the map.

20 A. -- is on the southeast side. Initially it
21 came in the area of the Douglas Road, went through
22 this area on Alder Street, there would be another --

23 Q. Hang on a second. So that Alder Street
24 runs parallel to Main Street through town?

25 A. Yes, it does. There would be another

1 Nooksak bridge crossing.

2 Q. Okay.

3 A. And then it would go underneath the
4 southeast two lanes of the existing Burlington
5 Northern intercrossing.

6 Q. That's probably a pretty expensive option
7 too then?

8 A. That's why I mentioned before that when you
9 look at that and what that actually does for the
10 community, it actually makes the funnel even tighter.

11 Q. Okay. And so does Alder Grove Road, this
12 street that's fairly far to the north that's an east-
13 west street, does that on the west side of the
14 railroad tracks just dead end?

15 A. Yes, ma'am, it actually does.

16 Q. And that's outside the city limits?

17 A. That's outside the city limits.

18 JUDGE ANDERL: All right. I don't have any
19 other questions. Do you have any redirect for your
20 witness, Mr. Cuillier?

21 MR. CUILLIER: No, I believe not.

22 JUDGE ANDERL: Any other questions for him?
23 Thank you very much, sir, for your testimony. You may
24 step down.

25 I think we've all earned our morning

1 recess. Let's take a break and be back in about 15
2 minutes.

3 (Recess.)

4 JUDGE ANDERL: Let's be back on the record
5 after our morning recess. I have been asked and have
6 agreed to take a witness out of order. Mr. Flem,
7 Lloyd Flem, has taken the stand. If you would raise
8 your right hand.

9 Whereupon,

10 LLOYD FLEM,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MS. GIBSON:

16 Q. Could you state your full name and spell
17 your last name.

18 A. Lloyd H. Flem, F L E M.

19 Q. And your business address?

20 A. 203 East Fourth Avenue, Olympia, 98506.

21 Q. Are you testifying today on behalf of an
22 organization or on behalf of yourself, Mr. Flem?

23 A. I represent -- I'm the executive director
24 of the Washington Association of Rail Passengers, a
25 non-profit totally independent consumer group

1 representing roughly 500 families in the state of
2 Washington. I wear a second hat as the binational
3 rail coordinator for the Cascadia task force
4 affiliated with the Seattle-based Discovery
5 Foundation.

6 I am not connected with the Burlington
7 Northern, with Amtrak, or with the state Department of
8 Transportation. I speak independently representing
9 those organizations.

10 Q. The two citizen organizations --

11 A. Yes, WASHARP and Cascadia.

12 Q. Would you go ahead and give your testimony,
13 please.

14 A. Certainly. Though my organization is
15 independent of the rail corporations and of the state,
16 we strongly support the incremental establishment of a
17 higher-speed passenger rail program in the state of
18 Washington and in the corridor from Vancouver, B.C.
19 south to Eugene, Oregon.

20 This corridor, of which Ferndale is a part,
21 is one of the more rapidly growing urbanized areas in
22 North America. It is linear and long. Very dense
23 population growth along a long corridor. An absolute
24 textbook case for the excellence of passenger rail.

25 We've made excellent investments in our

1 continent in Canada and the U.S. in the last 30 years
2 in highways and in airways. We have found out that
3 they are not in and of themselves sufficient. The
4 third major mode of moving people has been essentially
5 ignored in North America for sixty years. However, a
6 renaissance is at hand.

7 Our state of Washington is seen as a leader
8 in passenger rail investment incentives. Seen clear
9 back to Washington, D.C. we're looked upon as a place
10 where good things are happening. We find that the
11 people along the corridor from Vancouver through
12 Whatcom, Skagit, Snohomish, King counties on south to
13 Eugene are universally strongly supportive of
14 investing in passenger trains.

15 I recall riding the Talgo train, the one
16 that just finished a very, very, very successful
17 six-month run between Seattle and Portland. When the
18 Talgo train came through Ferndale on the 31st, I
19 believe it was, of March, there were hundreds of
20 citizens from Ferndale waving and cheering as the
21 train went by.

22 My organization, the Rail Passenger
23 Association, has dozens of members in Whatcom County
24 and three families within the city of Ferndale that
25 support our work which is supportive of more and

1 better passenger service.

2 But to be effective, to serve as a
3 substitute for more short-hop flights and particularly
4 more congestion on I-5, the trains must be faster as
5 well as safe faster.

6 The issue of safety, I am a father of two
7 adult daughters, and in the near future hopefully a
8 grandfather. Passenger trains are approximately 15
9 times safer per million passenger miles than are
10 highway travels. In other words, your chances of
11 being injured or fatally -- having a fatal accident
12 are only one-fifteenth on a North American passenger
13 train than they are on the highways.

14 To be fair, the big airlines are also safe.
15 They are also safe. Trains and planes like United and
16 Alaska are much safer than even our fine interstate
17 highway systems are safe.

18 I had an uncle that was killed in Kent,
19 Washington in 1948 at a grade crossing. The speed of
20 the old Northern Pacific steam freight locomotive was
21 estimated at 15, one five, miles an hour. Are faster
22 trains then safer? Well, the overwhelming majority of
23 the accidents that occur between trains and vehicles
24 are as a result of vehicles breaking the law or
25 trespassing. They go around the gates, try to beat

1 the trains. Thus, logically, it might follow that
2 with faster trains, one would have more respect for
3 the trains, and with faster trains, they move by
4 faster, thus decreasing the propensity to try to run
5 around that gate crossing.

6 One major answer, of course, is education,
7 and my organization supports and participates in
8 Operation Lifesaver, a fine educational program
9 teaching people safety and respect for trains.

10 In some data that I've recently analyzed
11 from the Federal Rail Administration's office of
12 safety, now, this was calendar year '91, it did show
13 that fast trains were somewhat safer than slow trains
14 in terms of the ratio of injury/fatal accidents per
15 thousands of crossings. It wasn't a dramatic
16 difference, but there was a slight safety factor of
17 trains 70 to 79 miles an hour versus 20 to 29 miles an
18 hour. What was important about the data, because the
19 difference was minor, was that the higher speeds are
20 not more dangerous.

21 Operation Lifesaver again can help with
22 existing grade crossings. Our organization believes
23 that closure or grade separation are needed at many of
24 our crossings, however, it is not for me to suggest a
25 solution to the situation here in the city of

1 Ferndale.

2 What I support, what my organization
3 supports, is more, better, faster, safer, passenger
4 trains, passenger trains which are at once
5 environmentally sound, fuel efficient, potentially
6 more convenient, and most of all, safer for your
7 children and your grandchildren.

8 WASHARP and Cascadia vigorously support the
9 increase in speeds and the implementation of safe,
10 continued growth of passenger train service. Thank
11 you.

12 JUDGE ANDERL: Mr. Flem, what's the acronym
13 WASHARP, W --

14 THE WITNESS: Washington Association --

15 JUDGE ANDERL: The letters, please.

16 THE WITNESS: W A S H A R P.

17 JUDGE ANDERL: Okay. And that's the --

18 THE WITNESS: Washington Association of
19 Rail Passengers, yes.

20 JUDGE ANDERL: Thanks. Ms. Gibson, did you
21 have anything else?

22 MS. GIBSON: No. Nothing else.

23 JUDGE ANDERL: Mr. Cuillier, any questions
24 for this witness?

25 MR. CUILLIER: Please.

1

2

CROSS-EXAMINATION

3

BY MR. CUIILLIER:

4

Q. How is your organization funded?

5

A. Strictly through dues.

6

7

Q. How is it funded through dues, if I could ask?

8

A. Oh, certainly. The average family will pay \$15 to \$20 per year. We're basically a low-budget organization. There are a few of our member families that may donate -- well, we have a few that actually go to \$50 a month. Most all of our people are established members of the community. I think it's reasonably safe to say middle age, middle class, and above average in education would be a fair profile.

16

Q. And what do they get for their dues?

17

18

A. What they get for their dues is a presence in Olympia, me specifically, and others that help, who assist in bringing about education and legislation that, frankly, is promoting these rail programs.

21

22

23

24

25

Our organization was involved nine years ago, when there was no rail program, with working with legislators with the Department of Transportation, Utilities and Transportation Commission, in bringing about what we see as a fine program. And I may add

1 that we feel that the Department of Transportation is
2 doing an excellent job of implementing this program.

3 Q. So are you doing this just out of a
4 personal interest for free without any compensation?

5 A. No. My organization does pay me \$600 a
6 month.

7 Q. Out of the 20 --

8 A. Out of the dues.

9 Q. -- \$20 dues?

10 A. That's correct.

11 MR. CUILLIER: Thank you. No other
12 questions.

13 JUDGE ANDERL: Ms. Rendahl, any questions?

14 MS. RENDAHL: No, your Honor. I have no
15 questions.

16 JUDGE ANDERL: Thank you, Mr. Flem, for
17 appearing today. You may step down.

18 THE WITNESS: Thank you very much.

19 JUDGE ANDERL: Okay. We'll go back to the
20 city's preparation. Mr. Cuillier, you may call your
21 next witness.

22 MR. CUILLIER: Thank you. That would be
23 Mike Birdsall.

24 JUDGE ANDERL: Mr. Birdsall, raise your
25 right hand, please.

1 and master's degrees in engineering from University
2 of Washington and Massachusetts Institute of
3 Technology. I have postgraduate studies in the area
4 of urban planning, and I chose to specialize in the
5 area of transportation planning with a substantial
6 emphasis on the use of computerized traffic simulation
7 models to do travel forecasting and to use travel
8 forecasting as a basis for city and regional
9 transportation plans.

10 I have worked for large national firms in
11 Boston and San Francisco. Spent a year in Sao Paulo
12 Brazil doing rail transit planning for the
13 municipality of Sao Paulo, and have two years' tenure
14 at the Puget Sound Council of Governments, now known
15 as the Puget Sound Regional Council, after which I
16 entered into private practice and have provided cities
17 and counties and some state agencies with
18 transportation planning services since that time.

19 I've been heavily involved since 1990 with
20 issues of growth management planning and was retained
21 in particular by the City of Ferndale to prepare the
22 current transportation plan.

23 Q. And approximately when were you retained by
24 the City of Ferndale for that purpose?

25 A. It was in 19 -- we started in late 1992 and

1 worked through 1993 and we have a draft plan developed
2 in the spring of this year which is, you know, close
3 to being finalized and then adopted.

4 Q. And since your involvement with the city
5 beginning in 1992, has the subject of the potential
6 Thornton Road connector come up?

7 A. Yes, it has.

8 Q. And do you recall if that subject came up
9 early in your association with the city?

10 A. Certainly. It became -- it was brought up,
11 first of all, in becoming familiar with the city's
12 issues and needs that it was a longstanding desire
13 and goal of the city to make that connection, and was
14 always present as a key issue.

15 Q. And when you were retained by the city in
16 1992 to assist in this planning effort, what was
17 your perception that the city was facing as far as
18 growth management requirements?

19 A. It's a very interesting situation that
20 since the 1990 Growth Management Act was passed, in
21 essence, the state legislature told all local
22 governments that they must prepare adequate balanced
23 plans for long-term growth. And in 1991 they added
24 amendments to that act which clarified the state
25 agencies were required to cooperate with such local

1 plans.

2 What is different with the Growth
3 Management Act than, you know, all planning that ever
4 went on before then is that the Growth Management Act
5 requires local governments to work together
6 cooperatively, coordinate with their county
7 government, with their regional councils, and also
8 with, you know, the state transportation agencies, and
9 it requires that they plan, make an adequate plan for
10 projected future growth. And the act says that the
11 state itself, the office of financial management, sets
12 forth the 20-year population projection and that each
13 county is required to plan for it.

14 In the past, cities have had kind of
15 unbalanced plans which might have been called wish
16 lists by some people, and there really was not a great
17 deal of accountability, but what the Growth Management
18 Act is bringing up is a higher amount of
19 accountability and balance in these plans, and that's
20 causing some pain to various political entities
21 because they are having to change their practices.
22 That's more or less an aside.

23 But the point is that each city in Whatcom
24 County specifically and the county itself has to put
25 down -- take note of the growth potential for the

1 county as a whole and make a rational determination of
2 where that's going to be allocated and develop not
3 only transportation but other kinds of plans as well
4 through the comprehensive plan.

5 Here we're talking transportation. And the
6 requirement is to prepare a transportation plan that
7 can be demonstrated as being adequate to serve the
8 needs of the growth, and the growth is literally
9 mandated from the state. And further requirement in
10 the act is they have to demonstrate that it's
11 financially feasible. And we have accomplished all of
12 that in this plan.

13 We have used the growth forecasts for the
14 county as a whole, determined Ferndale's share of that
15 growth, determined from that the amount of traffic
16 generation that would follow from that, used the
17 computer simulation models to show where it's going to
18 -- where that traffic will flow, identified over --
19 capacity overloads that would result from that and
20 determined how to resolve those overloads, and we have
21 set forth a financial strategy for how to resolve
22 that.

23 Q. Is this the current draft transportation
24 plan for Ferndale consistent with the city's existing
25 plans in effect regarding the potential for a Thornton

1 Road connector?

2 A. Yes. The draft transportation plan takes a
3 20-year view, has, therefore, a much bigger view of
4 growth than the six-year TIPs, but the six-year TIP is
5 simply the first phase towards the long-range plan.

6 In the long-range plan we have looked at
7 east-west corridor movements and considered a number
8 of alternatives, and the Thornton -- at-grade Thornton
9 extension which has been the city's preferred option
10 for a number of years, as documented in the TIPs,
11 remains one of three viable options that we've been
12 able to look at taking the long-term view.

13 Q. What is the state of completion of the
14 proposed plan or the draft? What more remains to be
15 done, if anything, from your standpoint before it is
16 finally considered by the city council?

17 A. The document itself simply needs to be
18 finalized in terms of graphic exhibits and it's
19 essentially ready for the council to take action on.

20 Q. Okay. And what process did you utilize to
21 determine the future transportation needs of the city?

22 A. I would like to use some exhibits that I
23 would like to put up here.

24 MR. CUILLIER: Okay. I think the exhibits
25 actually -- actually, it's for illustrative purposes

1 -- I think they are more illustrations except for
2 three traffic projections that are agreed to as
3 exhibits in this matter.

4 JUDGE ANDERL: Okay. There again, though,
5 if the witness is going to be referring to exhibits,
6 in order that the record be clear for review, those
7 documents have to be accessible to subsequent people
8 who look at the record. Let's be off the record for a
9 minute.

10 (Discussion off the record.)

11 JUDGE ANDERL: Let's be back on the record.
12 While we were off the record, we coordinated some of
13 these exhibits and documents that Mr. Birdsall is
14 going to be referring to. Let me state now for the
15 record that we have marked for identification as
16 Exhibit Number 19 a large map of the city of Ferndale.
17 It's been identified off the record as the most recent
18 city planning map. Is that right?

19 MR. STREBEL: Zoning.

20 JUDGE ANDERL: City zoning map. And I have
21 an agreement from all the parties to stipulate to the
22 admission of that. In addition, there will be
23 testimony about that map from a later witness. So
24 that is marked and identified as Exhibit Number 19.

25 And then for identification as Exhibit

1 Number 20, Mr. Birdsall is going to be referring to
2 three documents that we're calling traffic model maps.
3 Those will be provided in 8-1/2 by 11 size after the
4 lunch break. For the record, right now they are
5 slightly larger documents that he's going to be
6 referring to. Go ahead, Mr. Cuillier.

7 (Marked Exhibits Nos. 19 and 20.)

8 (Admitted Exhibit No. 19)

9 MR. CUIILLIER: Thank you, your Honor.

10 Q. So I asked you, Mr. Birdsall, basically
11 what process did you utilize to determine the future
12 transportation needs for the city of Ferndale?

13 A. The process is based on the countywide
14 projections of future population, housing, and
15 employment grouping which are prepared fundamentally
16 by the Whatcom County Council of Governments, and they
17 did that -- their initial run of that work was done in
18 1990 -- following the 1990 census and there was a 1991
19 transportation -- urban area transportation study by
20 the Council of Governments.

21 And I obtained a copy of their computerized
22 traffic forecasting model and adapted it, expanded it
23 considerably in the Ferndale area to completely detail
24 out all the Ferndale street systems. Let me explain
25 briefly how it works. You may recognize this as

1 looking like a street map of Whatcom County, which it
2 is.

3 Q. You're referring to the first page of
4 Exhibit 20?

5 A. Yes. You see the major arterial system of
6 the county. You see the city of Bellingham has
7 considerable street network here.

8 JUDGE ANDERL: That's towards the bottom?

9 THE WITNESS: That's towards the bottom of
10 the map.

11 A. And this cluster of streets here is
12 Ferndale and around Ferndale.

13 Q. And that's to the northwest of Bellingham
14 on the map?

15 A. Correct. And in the regional traffic
16 model, Ferndale is represented by two zones, the way I
17 -- and that doesn't -- a traffic zone in a traffic
18 model is a point on the map where traffic goes to and
19 from. It's -- it represents a substantial area
20 similar to a census tract, but either a combination of
21 several census tracts or in some places a smaller
22 fraction of a census tract, depending on density.

23 Each of these circles that you see here
24 shows the location of one of these traffic zones, and
25 in the regional models it said all of Ferndale was

1 represented by only two zones, which is fine as far as
2 projecting traffic flows to and from Bellingham on the
3 freeway is concerned, but within Ferndale and vicinity
4 we needed much more detail.

5 Q. So on Exhibit 20 it would show two circles
6 in Ferndale?

7 A. Correct. What I have on this exhibit, what
8 you actual see as a cluster of circles is
9 approximately 100 of them. I've divided Ferndale up
10 in about 100 small land areas, and then with the help
11 of city staff, the city planners, two years ago, we
12 referred to the zoning map for the city, all the lands
13 within the city, and on the basis of the zone
14 densities, determined the potential development that
15 those land areas could hold.

16 JUDGE ANDERL: And now, Mr. Birdsall,
17 you're referring to Exhibit Number 19?

18 THE WITNESS: This is Exhibit 19.

19 JUDGE ANDERL: I do need you to speak up a
20 little bit.

21 A. The city planning department measured out
22 all of the square footage of all land, all parcels in
23 the city and determined, based on the zoning
24 densities, what the potential development there would
25 be, and then they did some additional analysis to

1 factor out that not all land can be developed. There
2 are wetlands issues. Some will be reserved for parks,
3 for roads, et cetera.

4 And the end result was a determination of
5 how much development could actually occur within the
6 city. And I took that information and -- took that
7 information and fed it into the computerized traffic
8 model, all that development, and put it into these 100
9 different traffic zones to represent the city, and we
10 used similar information for all of Whatcom County
11 taken directly from the regional council to operate
12 this traffic model, and we used the model to predict,
13 as it were, existing traffic conditions and determine
14 that it accurately represents current conditions.
15 That is the traffic model.

16 You tell it, Here are the roads, and you
17 tell it, Here's some houses and here are some jobs.
18 It goes through some calculations and ends up with a
19 finding of a certain amount of traffic going each and
20 every road in the system, and we have over a 90
21 percent correlation between this mathematical
22 prediction and what is actually counted out there on
23 the road. It's a very good calibration.

24 We -- then the next step was to enter into
25 the traffic model the additional growth for 20 years.

1 We call it 20 years roughly, but at least it matches
2 that 20-year projection that the state has mandated
3 that we plan to. And we put that forecast of future
4 growth and population, housing, and employment into
5 the model, run the model again. It gives us a new
6 forecast of traffic volumes on all roads in the
7 Ferndale area, and on the basis of that, we identified
8 many problems.

9 If it was simply the existing road system,
10 there would be some major overloads. We then looked
11 at a number of alternatives to find what improvements
12 would be necessary to either make existing roads
13 adequate or to add additional new roads in other
14 locations to handle this growth.

15 Now, that's a summary view of the process.
16 I have two additional exhibits. I would like to
17 briefly show you visually what magnitude of growth
18 we're talking about.

19 Q. Now you're looking at page 2 of Exhibit 20,
20 is that correct?

21 A. Page 2 of Exhibit 20. This -- using the
22 traffic model and using its graphic display of the
23 data that was provided, the number of existing
24 households as of 1992 in these traffic -- 100 or so
25 traffic zones in Ferndale, each circle is scaled

1 according to the number of housing units in the zone
2 immediately or surrounding that point. And you'll see
3 that in the downtown, near downtown, and to some
4 extent out to the northwest area there is substantial
5 -- there is the concentration of population.

6 This rather large circle in Washington
7 Street just east of Vista represents an area where
8 there are a number of apartment units and that's why
9 you get a fairly large circle in that particular area.

10 Now, the next page, page 3 of the same
11 exhibit, I'm showing you the same information
12 households but the projection 20 years into future,
13 and you'll see that the circles are a great deal
14 larger, which means we're dealing with a population
15 forecast for Ferndale that is on the order of two and
16 a half times the present population, and we do not
17 stop at the city limits. We are dealing with the
18 growth areas within the urban growth boundary that's
19 been negotiated between Ferndale and Whatcom County
20 and taking into account the growth projections
21 countywide so that the forecasting is balanced and
22 coordinated with the regional process.

23 And I have several times shared computer
24 files and information with consultants doing the same
25 kind of work for other cities and for the regional

1 council as a whole. So we're well coordinated there.

2 And Ferndale is faced with a future
3 projection that is, A, consistent with its past
4 experience, which is there has been growth here, it is
5 a popular bedroom community for Bellingham, and if you
6 look at it on a kind of a nationwide or global
7 perspective, western states are receiving more of our
8 national growth than eastern states because we are
9 less density developed and we have more opportunity.
10 Whatcom County -- relative to the rest of Washington
11 state, Whatcom County is a relatively lightly
12 developed county and has plenty of opportunity.
13 Within Whatcom county, a city like Ferndale, and the
14 area around Ferndale is very lightly developed. The
15 basic road system is there.

16 The economic opportunity primarily in
17 Bellingham but also in those refineries up on the
18 sound are reasons why this area can be expected to
19 grow at considerably faster than the average rate for
20 the county as a whole and state as a whole. The
21 numbers I'm working with in this model which were
22 provided to me by the city and with the cooperation of
23 the Council of Governments are simply affirmations of
24 what I just attempted to explain from a more of a
25 subjective point of view. The upshot of this is that

1 we have a very large growth forecast to deal with.

2 Q. Would you like to be seated for a minute
3 then?

4 A. Okay.

5 Q. We heard from Mr. Eley earlier the term
6 "TAZ." Is that the traffic analysis zone that you've
7 referred to by the circles?

8 A. That's correct. Yes.

9 Q. And the purpose of using this approach or
10 this number of, say, 100 TAZs is basically what?

11 A. To get precise detail within the city of
12 Ferndale.

13 Q. And did the city council of the city of
14 Ferndale take any specific step already in April of
15 '93 as a result of the growth forecast?

16 A. Yes, they did. They adopted an ordinance
17 which provides for the collection of growth impact
18 mitigation fees on the basis of vehicle miles of
19 travel generated by development. That is, again
20 using the traffic simulation model, or for that
21 matter, doing it on the back of an envelope, you can
22 determine that when a trip leaves a house, goes down
23 certain streets, ends up on Main Street and goes up
24 I-5, you can measure that distance, and with the help
25 of the traffic model is able to measure that distance

1 for each and every future dwelling unit in total for
2 the whole city, and add up all of those vehicle miles
3 of travel and compare that to what we estimate to be
4 the dollar cost of an adequate plan to serve those
5 needs and arrive at an impact fee that the city is --
6 by ordinance is attempting to collect. They encounter
7 resistance sometimes from people who are being asked
8 to pay.

9 Q. Can you tell us roughly how much population
10 was forecast during the period that you studied for
11 Ferndale?

12 A. Well, the Ferndale and vicinity, there's
13 over 2,000 dwelling units in the growth area. I
14 believe the current city within city limits was around
15 1,500, over 2,000 in the surrounding total growth
16 area, and we're looking at expansion upwards of six to
17 8,000 dwelling units in a long-term future. And I
18 might say that that isn't necessarily the end of the
19 line, but we are looking 20 years ahead, and if -- and
20 that does not saturate all of the land that might be
21 developed, but balancing the saturation viewpoint with
22 the plausibility of a certain rate of economic
23 expansion, we arrived at these figures.

24 Q. And how does that convert into population
25 projections?

1 A. You're getting close to a 20,000 -- for the
2 greater Ferndale, the growth area which is the city
3 limits plus, you know, as much as a mile or more of
4 unincorporated areas around the city that they are
5 required to plan for and anticipate that that will be
6 future annexations, that total operation is
7 approaching 20,000.

8 Q. In how many years?

9 A. We assume 20, 20 years.

10 Q. Okay. And were you through this TAZ
11 process able to accurately pinpoint the number one
12 traffic problem that's facing the city of Ferndale in
13 that 20-year period?

14 A. As I have written in the draft report, the
15 number one issue is east-west movements or access to
16 I-5. Some previous testimony this morning has also
17 spoken to this as a longstanding issue for various
18 reasons. But it is going to be a more and more
19 critical issue to the city in coming years. As this
20 growth -- this rate of growth continues, and we're
21 seeing it happen as one subdivision after another
22 takes place, we're seeing the gradual implementation,
23 if that's the right word, of this long-range growth
24 forecast, and the existing corridor, the Main Street
25 corridor, is very near to its real capacity. You can

1 argue -- you can tweak with the signal timing and make
2 little operational improvements at certain
3 intersections and make -- eek a little more capacity
4 out of that corridor, but when we're talking about
5 more than a doubling of projected long-range growth,
6 tweaking the existing saturated corridor is not going
7 to solve the problem.

8 The second reason that east-west movements
9 are critical is this issue of flooding, and when you
10 study the flood plain maps and see that the city
11 access to the outside world for Ferndale consists
12 primarily of Main Street, and if Main Street is
13 affected by a 100-year flood, they have nowhere to go
14 but to drive dozens of miles out of the way to get to
15 anywhere.

16 So it's very critical both from a simple
17 urban growth and, you know, emergency capacity point
18 of view. And from an emergency access point of view,
19 it's critical that the city have additional routes of
20 access. And the pattern of the growth, as it has been
21 said by others this morning, is the area to the north
22 and west is vacant land near roads, near -- on the
23 fringes of the existing development, and that's where
24 the future development is taking place, and most of
25 that traffic necessarily needs to get to I-5 for one

1 reason or another. So east-west movements are the
2 predominant issue.

3 Q. And when you pinpoint the predominant
4 issue, did you take steps to consider several
5 alternatives to help resolve that problem?

6 A. Yes, we did. We looked at six or seven
7 alternatives.

8 Q. Do you remember specifically any of the
9 alternatives that you looked at and decided for one
10 reason or another were not appropriate for the city?

11 A. Yes. One of them was to upgrade the
12 Washington Street corridor, to add lanes to Washington
13 Street and make it a -- and smooth out some of the
14 difficult access point -- or the route from Washington
15 Street to the Portal Way interchange involves a number
16 of stops at intersections, four-way stops, right-turn,
17 left-turn, right-turn, left-turn kind of movements,
18 and it was thought that if we could simply upgrade
19 that so that it actually functioned like a through
20 arterial, perhaps that would be a worthwhile
21 alternative.

22 And the basic problem with that was that it
23 was too close to Main Street, wasn't enough different
24 from Main Street to really well serve a lot of the new
25 movements with the growth concentrated around Thornton

1 Road which is further north than Washington. We were
2 still forcing traffic to come down, kind of move out
3 of the way.

4 Another possibility was -- that we looked
5 at very briefly, I might add, was to develop an
6 entirely new arterial somewhere north of Washington
7 Street that would provide an east-west connection
8 going from Vista Road to Portal Way, but which is
9 similar to the purpose and function of the Thornton
10 extensions, but we thought, well, if we make that
11 east-west connection located approximately in the
12 vicinity of Seaview Avenue, then the total length
13 of construction would be considerably less and it
14 might be a feasible project.

15 It turned out to be unfeasible very quickly
16 for two important reasons, one, it involves a new
17 crossing of the railroad, and we had to decide, well,
18 do we at-grade or elevate it above the railroad.
19 Secondly, it involved going through the high school's
20 recreation fields. This seemed to be a politically
21 fatal problem. So we didn't pursue that for very
22 long, although it kind of looked nice on a map for a
23 while.

24 We thought for a time that we could create
25 -- maybe we could create an alternative route to the

1 south by filling in -- connecting a missing piece of
2 Church Road. Church Road runs north and south on the
3 west edge of the city and it stops at Main Street and
4 there's about a half-mile section of it -- a little
5 longer than half a mile that's missing from that --
6 that could be filled in from Main Street south to
7 Douglas Road allowing another way for west Ferndale
8 residents to travel south to Slater Road.

9 Q. Excuse me. I don't believe that may be on
10 the maps that we're looking at. Can you show that
11 location?

12 A. I can point that out. (Pointing) on this
13 map -- I don't know its exhibit number.

14 MS. GIBSON: It's Exhibit 4.

15 A. On Exhibit 4, it's a map of the city, and
16 far to the west of the city limits you'll see Church
17 Road going north and south and it stops at Main
18 Street. Douglas --

19 JUDGE ANDERL: For the record, that is not
20 depicted on the reduced copies that we have in the
21 file, just so that that's clear. But likely one of
22 the other maps, perhaps Exhibit 19, will show that, so
23 go ahead.

24 THE WITNESS: Some of the other exhibits I
25 have will show that.

1 A. The point was, from Main Street to Douglas
2 Road there's a missing segment in the Church Road
3 alignment, and if that were connected, it would -- the
4 idea was that perhaps that would give it a new bypass
5 route. It would eventually lead to Slater Road.

6 JUDGE ANDERL: Is Douglas Road an east-west
7 or north-south?

8 THE WITNESS: It's a diagonal. It goes
9 southwesterly from Main Street.

10 JUDGE ANDERL: Okay.

11 A. We put that -- tested it in the traffic
12 model, and it draws some traffic, but was not a very
13 large amount. It was not extremely effective. I
14 think the reason for that is it's too far west. It's
15 kind of on the outside of the majority of the growth
16 area is, so for many potential users it amounts to
17 backtracking.

18 The second problem it has is it doesn't
19 solve anything about the flood problem because it
20 similarly is leading traffic down into the flood
21 plain. Between there and southerly towards Slater
22 Road is all flood plain.

23 We then looked at -- well, that left us
24 with the three major alternatives, which is the two
25 versions of Thornton -- Thornton to Portal connection

1 that we've been talking about, either in overcrossing
2 straight to Portal or the at-grade extension which
3 connects to Portal south of this interchange.

4 The third alternative is called the Main-
5 Alder couplet which is continuing -- it built up the
6 Main Street corridor. It doesn't create a new
7 corridor but it adds lanes to the Main Street corridor
8 by means of adding a second bridge across the Nooksak
9 River, converting Alder Street, which is currently a
10 low-volume collector, converting that to a major
11 arterial so that it and Main Street together can serve
12 with adequate capacity through the downtown area.

13 It assumes that Main Street west of the --
14 excuse me -- east of the Nooksak River would then also
15 be upgraded with additional lanes and the interchange
16 area would have to be expanded with additional lanes
17 across, and signaling of the ramps and those sorts
18 of improvements.

19 JUDGE ANDERL: Excuse me, Mr. Birdsall,
20 does it also involve then Main and Alder each being
21 one-way streets?

22 THE WITNESS: That's correct. It's a
23 one-way couplet.

24 A. That was in fact the recommendation of the
25 1971 or '72 report which mentioned also that if the

1 city arterial network was going to develop properly it
2 really -- there was, you know, attention should be
3 given to developing a -- completing the missing
4 segment of Thornton Road.

5 Subsequently, history has shown that the
6 city has been unsuccessful in obtaining state or
7 federal support for the idea of developing their
8 couplet alternative. Since that report was written,
9 all this flood plain emergency planning has taken
10 place and it's now apparent that some of the area on
11 the east side of Alder where that road would have gone
12 is also in flood plain, and a building has been built
13 right in the middle of where that would have gone, on
14 the edge of that flood plain, I think, making it more
15 difficult to develop that concept. We said maybe we
16 can go around the buildings. Instead of a straight
17 line, we have a curved road. But it's still
18 technically feasible to build or it's feasible to draw
19 the lines. We have not done those in detailed
20 engineering studies to find out what problems may
21 exist underground and so forth.

22 So to that extent, all alternatives, until
23 they are actually built, we would have to say they are
24 uncertain, but they are all on equal footing as far as
25 that goes. So the way the report has ended as of the

1 May draft is that we have three alternatives with some
2 -- for east-west capacity, each with some pluses and
3 some minuses, substantial difference in cost between
4 them all, and the city has, in reviewing the draft,
5 has come down pretty clearly in favoring the
6 alternative that has the appearance of being the
7 easiest to develop which is the at-grade crossing.
8 It's the lowest in cost, it's easier to do
9 incrementally. They have already acquired most of, if
10 not all of, the right of way required for at least one
11 version of that to be built.

12 So to -- you know, my concern with respect
13 to this present hearing is that if the at-grade
14 crossing is eliminated from consideration, then that
15 has put a major burden upon the city to choose --
16 solve its growth problems with reference to the other
17 two remaining alternatives, both of which are
18 considerably more expensive than the at-grade
19 crossing. So while they've had difficulty getting
20 funding for decades and not getting very much help
21 from the state in that regard, you know, they don't
22 have a track record of confidence that they are going
23 to get a lot of support and then for -- so I'm very
24 concerned about having, you know, the alternative that
25 that appears to be the smallest mountain to climb is

1 being pulled away from that. That is a concern for
2 me.

3 Q. And Mr. Birdsall, do you have the originals
4 for Exhibit 18 posted there --

5 A. Yes.

6 Q. -- that would show your graphs as to the
7 computer projections?

8 A. Yes.

9 Q. Would you explain, please, what these --
10 first of all, page 1 of Exhibit 18, show how you
11 arrived at that depiction.

12 A. Okay. This graph was computer generated.
13 It displays visually the traffic volumes that would
14 exist on the road system under different time --
15 points in time and road assumptions. The first one
16 shows existing counts. The width of the line is
17 proportional to the traffic volumes. And you've heard
18 it said this morning that about 15,000 a day plus or
19 minus a little is the current level of traffic on Main
20 Street, and that's -- if you get feeling for this
21 finger-width of line, that's the 15,000 level across
22 the river and towards I-5 and through the downtown
23 area. It's heaviest right at the river crossing and
24 then it splits a little bit. It's pretty heavy all
25 the way from approximately Third Street to I-5 is the

1 high-volume area. You'll notice just west of Third
2 Street it splits in two directions with about almost
3 half going north along Vista Way and the other half
4 going westerly on Main Street and dissipating in
5 several directions to all these different
6 developments.

7 A portion, not the largest part, but a
8 meaningful part goes westerly and off the map in the
9 direction of the refineries, and that volume from
10 counts is fairly consistent, pretty far out there.
11 There's relatively little development, mostly a few
12 large farms out to the west of Ferndale, and so our
13 models and traffic counts confirm that there's a
14 certain amount of traffic on Main Street that's coming
15 to and from those refineries.

16 Q. Does that traffic come sporadically or over
17 the entire 24-hour period of a day?

18 A. Well, it's spread throughout the day.
19 There's obviously a concentration at the commuting
20 hours, the shift changes, so early in the morning and
21 at midafternoon there are pulses of traffic for about
22 an hour's duration that are seen and, interestingly,
23 are kind of a contra-flow movement, that is, it's
24 opposite to the normal peak movement.

25 If you think of Ferndale as a bedroom

1 community, then you expect to see the major traffic
2 flow in the morning going south to Bellingham where
3 most of the jobs are, but in Ferndale you also get a
4 contra flow, a reverse flow movement of traffic going
5 the other way, going through Ferndale out to the
6 refineries. So you get two-way activity on Main
7 Street almost all day long. It's a very well-used,
8 very heavily-used road, and it's serving -- Ferndale
9 is in the position of maintaining the road that serves
10 regional purposes as well as its own purposes.

11 Q. When you say it's very heavily used, how
12 would you characterize the current traffic counts on
13 Main Street as in relation to the capacity for that
14 street?

15 A. Approximately 90 percent of capacity. That
16 is to say 10 percent margin for additional growth.

17 Q. And referring you then, if you would,
18 please, to page 2 of Exhibit 18, could you just
19 describe, please, what that depicts.

20 A. Now we're looking at the same kind of
21 depiction, but we're calling this the 20-year growth
22 projection.

23 Q. Excuse me. I think this may be page 3 of
24 some of the copies.

25 A. Which one shall we deal with first?

1 JUDGE ANDERL: Please state what it says on
2 the bottom and then we can all refer to the same page.

3 A. This one is for the at-grade Thornton
4 crossing.

5 Q. Thank you.

6 A. The one that would go at grade across the
7 railroad track, say remain on the west side of I-5 and
8 go south to tie into Portal Way south of the
9 interchange. And this traffic volume you can see --
10 this is a picture -- excuse me -- this is not total
11 volume. This is the increment of growth only. You
12 know, to get the picture of total volume in the
13 future, you would take this growth increment, add it
14 to the previous picture of current volumes, and I
15 didn't prepare that map. I thought it was informative
16 to look at what the growth increment is. This is the
17 growth that the city is required to plan for. The
18 traffic -- what's constant is that the population
19 projection is a constant. The only thing we change
20 between these three maps is where the new road
21 capacity is located, and then we'll see by comparing
22 these maps how the traffic flow shifts around.

23 But the point I want to make, therefore, in
24 this drawing is with the Thornton Road extension -- at-
25 grade extension in place, Thornton Road carries a

1 great deal of traffic, and in the portion of Thornton
2 that exists from Malloy westward, this is simply the
3 increment of new traffic. This is the growth. From
4 Malloy east where Thornton doesn't exist, the growth
5 is the same thing as the future total.

6 Notice that the growth on Main Street
7 through downtown and across the river is almost zero.
8 It's a very small amount. This is manageable. The
9 Thornton extension has -- my judgment is it's been
10 successful in routing the majority of new traffic from
11 the northwest area of Ferndale along Thornton Road,
12 towards I-5 in a way that keeps traffic within
13 manageable limits within the downtown area.

14 Now, some minor traffic revisions in the
15 downtown area, some signal, you know, tweaking may be
16 appropriate, but new construction is not required in
17 the downtown area.

18 Notice also that Washington -- volumes on
19 Washington Street which are right here, that growth
20 increment is pretty small and there's a grade crossing
21 there. We are concerned about traffic volumes on the
22 grade crossings presumably, and we've kept volumes,
23 the change on Washington Street to a minimum. We've
24 kept the increment of change up here on Brown Road to
25 a minimum, and I haven't -- up till now I haven't

1 heard anyone talk about Brown Road, but it's something
2 I'm going to point out in the course of this
3 demonstration, is that the at-grade crossing railroad
4 on Brown Road, which is another low-volume crossing,
5 potentially is at risk depending on what alternative
6 you choose here.

7 Notice also that Grandview Road has a lot
8 of growth on it and Slater Road has a lot of growth,
9 so the overall strategy for Ferndale for all this
10 east-west travel growth, and these growth increments
11 are substantially caused by the Ferndale -- by the
12 refineries, the idea is to keep refinery traffic as
13 much as possible on Grandview Road and on Slater Road
14 and not through Ferndale. That requires coordination
15 between local agencies to make sure that happens. And
16 Ferndale for its part will -- wants to develop a
17 connection to I-5 from the Thornton Road corridor to
18 keep the Main Street corridor in downtown area within
19 manageable limits.

20 Go on to the next page or do you have a
21 question?

22 Q. The title of the next page would be?

23 A. Next page is -- the title reads 1992-2010
24 Traffic Growth. Subtitle, Add Thornton, Church
25 Extension. The word "extension" is slightly

1 misleading. Sorry for the typo. This is the Thornton
2 overcrossing and it shows basically the same thing as
3 the previous exhibit in that by developing the
4 Thornton overcrossing connection to Portal Way, we
5 substantially minimize traffic volumes on Main Street
6 and accomplish that same result of keeping the Main
7 Street traffic problems within manageable limits and
8 providing good access for this growing population of
9 the northwest area to Portal Way and from Portal Way
10 to I-5 at the current interchange.

11 This particular drawing has in it that
12 Church Road extension to the south. We have -- since
13 this drawing was prepared, we have concluded that
14 that's probably not worth the city's pursuing it, so
15 the final plan recommendations would not include that
16 extension and the traffic that was there would
17 probably either -- would go -- use a little bit more
18 of Main Street and come in off Imhof Road by this
19 route instead of by way of Church Road, but it's a
20 minor revision to the general thrust of what this map
21 is displaying. It wouldn't appreciably change the
22 findings concerning Thornton Road.

23 Q. And then could you go to the fifth page of
24 Exhibit 18 and explain to us what the effect of the
25 other of the three options for Ferndale would be on

1 the traffic circulation in the city?

2 A. The third option was the Main-Alder couplet
3 which would -- you convert Main Street's two-way
4 operation into a one-way westbound and put two lanes
5 of eastbound traffic on Alder Street one block to the
6 south with a new bridge across the Nooksak River and
7 substantial improvements to the Main Street corridor
8 towards I-5 and expanding of the interchange as well.

9 This -- and there's nothing of course
10 happening in the Thornton Road area. This concept has
11 the effect of pulling lots of traffic down through
12 downtown Ferndale, creating some new kind of traffic
13 problems. Something has been said earlier this
14 morning about the intersection of Thornton Road and
15 Malloy Street --

16 JUDGE ANDERL: Vista?

17 A. Excuse me. Vista and Malloy Street.
18 Sorry. And this alternative has the effect of
19 intensifying that kind of problem by pulling almost
20 all this new growth in traffic along several arterial
21 corridors towards the downtown. And in addition to
22 the projects required to develop the couplet itself
23 in the corridor, there are more improvements required
24 in all these access arterials to make them operate
25 effectively, so the true cost of this corridor

1 alternative is not just the cost of that one bridge
2 and the couplet, but also some access roads into that
3 corridor.

4 The more significant effect that came out
5 of the traffic forecasting model, and the model
6 measures travel time and delay on all the road systems
7 and pointed out something that perhaps is not
8 intuitive without -- from the beginning, but in the
9 absence of any new connections and all this, even
10 though we can build two more lanes across the river,
11 we're still going to have a lot of congestion. This
12 will be a very full corridor even if it is expanded to
13 four lanes. And it's still pretty congested.

14 JUDGE ANDERL: That's the couplet
15 alternative?

16 THE WITNESS: The couplet alternative.

17 A. And some of the traffic in the
18 northwesterly part of Ferndale will find it
19 advantageous instead of going through town to get to
20 I-5 to go north, backtrack north to Brown Road, cross
21 the railroad tracks, get onto Portal Way, and go down
22 the Portal Way interchange. This forecast puts a
23 number on the Brown Road railroad crossing at 6,000
24 ADT. It's probably 1,000. ADT means average daily
25 traffic. So the daily volume on Brown Road would jump

1 to 6,000 instead of the present 1,000.

2 JUDGE ANDERL: 6,000 A, as in apple, DT?

3 THE WITNESS: A as in apple.

4 JUDGE ANDERL: I heard something else. Go
5 ahead.

6 A. That's an intriguing thought. It basically
7 says if nothing is done or if all of the improvements
8 are forced into the Main Street corridor, you can
9 expect in due time to see people looking for other
10 ways around the congestion, and eventually they are
11 going to find that they can use the Brown Road
12 crossing. So that's a concern. I would not like to
13 see that happening necessarily, but it's a consequence
14 that goes with either a no-action situation, which if
15 there is no money, then Ferndale is faced with no
16 action, and growth pressures will continue to create
17 more congestion and you can expect to see some traffic
18 increases at Brown Road as a result.

19 Q. If you would like to be seated again. The
20 alternatives for Ferndale then you're saying are quite
21 limited. Are there specific problems in the proposed
22 closure of Thornton Road at this particular time
23 irrevocably? In your opinion, are there problems with
24 that approach for Ferndale that could not be
25 alleviated in the future?

1 A. If money is no object, it is possible to
2 alleviate. That is, you can spend considerably more
3 money and build an overcrossing or you can develop the
4 Main Street couplet idea, and both of those have their
5 merits, but they are also much more expensive and much
6 more difficult for the city to implement because they
7 represent big projects in big chunks. You have to
8 have a lot of millions of dollars for a single project
9 to get those things built, whereas the at-grade
10 crossing the city has, since it owns most of the right
11 of way and it's collecting some growth impact fees on
12 a very incremental basis, it might be able to pay a
13 fraction of a mile of road at a time and gradually get
14 that -- I can see that the incremental task of
15 developing that corridor is much less difficult for
16 the city than to either do the overcrossing or to do
17 the Main-Alder couplet.

18 Q. Do you see any alternatives to the
19 immediate closure of the Thornton Road crossing at
20 this time that could be pursued if the direction were
21 that the city's local plan would be given some effect
22 in this process, some consideration in this process?
23 Can you see that either through negotiation or some
24 type of cooperative efforts there would be ways to
25 approach a solution to the problem?

1 A. It would be nice. I mean, it's clear to me
2 that Ferndale's problems are not entirely Ferndale's
3 making. They are to some extent in a role of a
4 victim. They receive impacts of a regional nature and
5 then they are told that they should use their local
6 resources to solve these problems, and that isn't
7 totally fair.

8 It would be nice if the state, and I don't
9 know which agency of the state I'm talking about,
10 whether it's a legislature or any administrative
11 department, I don't know or care, but it would be nice
12 if the state could give Ferndale -- and I'm sure there
13 are many cities like Ferndale around the state who
14 have similar problems, if they could have a little
15 more help with the task that they have been assigned
16 to do, so it is -- the situation is not that the
17 Thornton extension needs to happen by the day after
18 tomorrow, but if we continue on a business-as-usual
19 basis, Ferndale's got a major problem booming in the
20 horizon. It is, pardon the expression, like a
21 locomotive coming down the track. So some assurance
22 from the state that major financial commitments would
23 arrive in time to help, that would be kind of nice,
24 and I don't know what form that should take.

25 Q. Are there any advantages to considering

1 designs that might involve a modification or redesign
2 of the Portal Way interchange?

3 A. Yes. A couple of things come to mind. One
4 thing is that -- let's use the photograph.

5 JUDGE ANDERL: No, let's not, because
6 that's the hardest thing to refer to, actually, in
7 terms of making the record clear.

8 Q. Exhibit 4.

9 A. Use this map.

10 JUDGE ANDERL: Exhibit 4 would be fine.

11 A. Exhibit 4. Here's the Portal Way
12 interchange and here's Thornton Road. Now, the goal
13 of either the Thornton overcrossing or the Thornton
14 extension at grade is -- the number one goal is to get
15 traffic from Thornton Road onto I-5 at this
16 interchange. Now, we never studied it in the study
17 because we were looking for ways for the city to solve
18 its problem on its own, but just last week in a
19 conversation we started thinking if this really is a
20 matter of regional significance, could not a
21 modification of this interchange be developed by the
22 state as a state project to bring new ramps to
23 Thornton Road as an extension from the same
24 interchange.

25 I'm not asking for a new interchange, but

1 simply to create a split ramp design where people
2 would continue to use all the existing ramps, but a
3 new pair of ramps tying -- going from Thornton Road
4 straight into the interchange southward could be
5 developed. And there are examples of that kind of
6 construction in some interchanges elsewhere in the
7 state.

8 Q. What are the practical advantages to this
9 type of project involving an interchange redesign or
10 modification?

11 A. Well, it's a more direct solution. It
12 would -- it might not -- I cannot say with any kind of
13 certainty what it would cost or what the engineering
14 difficulties might turn out to be, but one thing that
15 is pretty clear to me is that by doing a direct
16 extension of this interchange, then a lot of traffic
17 is removed from the Portal Way either north or south,
18 kept completely out of the Portal Way corridor, so the
19 city has probably less improvement to do on Portal Way
20 and the majority of this burden is taken up as a state
21 project as an interchange revision.

22 Q. Thank you. You can be seated.

23 And then the alternative of perhaps
24 delaying closure until it's known if the pilot project
25 or demonstration project is a success, is there --

1 it's been asked whether there's any guarantee that a
2 delay would help.

3 A. Okay. I think a delay would help to
4 clarify, say, for in a couple years' time the city
5 would have a better handle on how much money it was
6 actually collecting through growth management fees,
7 but also have opportunity to work politically with
8 Olympia to try to find some solutions financially, and
9 I wouldn't be surprised what Ferndale -- this is
10 perhaps an aside, but I think Ferndale is not alone as
11 cities in the state strapped for cash, and Ferndale
12 may find allies in other cities around the state who
13 have similar problems of funding their transportation
14 needs. A hiatus, a temporary postponement, would give
15 the city some opportunity to explore those avenues.

16 MR. CUILIER: Thank you. I have no other
17 questions.

18 JUDGE ANDERL: Okay. I think there will
19 probably be more than a few minutes of cross on this
20 witness. Am I right?

21 MS. GIBSON: Yes.

22 JUDGE ANDERL: So we'll take our lunch
23 break now. We'll be back at 1:30. At 1:30 members of
24 the public will have an opportunity to testify. After
25 that, we'll resume cross of this witness. Thank you,

1 Mr. Birdsall. We're off the record.

2 (Lunch recess taken at 12:10 p.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AFTERNOON SESSION

1:30 p.m.

JUDGE ANDERL: Let's be back on the record after our lunch recess. I've had a show of hands. About seven members of the public would like to testify and we'll take those people right now. You can decide amongst yourselves who wants to come up first. There you go, sir. First one with your hand in the air. Go ahead and take a seat. Raise your right hand.

Whereupon,

ROBERT WIESEN,

having been first duly sworn, was called as a witness herein and was examined and testified as follows:

JUDGE ANDERL: Ms. Rendahl will ask you some basic questions, then you'll be allowed to give your statement.

DIRECT EXAMINATION

BY MS. RENDAHL:

Q. Would you please state your name and spell your last name for the record.

A. Robert Wiesen, W I E S E N.

Q. And would you please give us your address.

A. 3314 Douglas Road, Ferndale.

1 Q. How long have you lived in the city of
2 Ferndale?

3 A. Well, I'm outside the city of Ferndale,
4 but --

5 Q. So you don't live in the city of Ferndale?

6 A. Not in the city limits, no.

7 Q. Are you here today speaking on your own
8 behalf or on behalf of a group?

9 A. I'm on my own behalf.

10 Q. Please make your statement.

11 A. Okay. I'm president of Northwest
12 Washington Shippers Association which is a cooperative
13 made up of local businesses to combine to get their
14 shipping done. Samson Rope and Net located at the
15 very end of Thornton Road is one of our big members
16 and one of the people that we've been using for quite
17 some time.

18 My concern is that that location where they
19 are is not real safe to get our trucks in and out of
20 and hasn't been for years and it also has been my
21 understanding that eventually we would have a better
22 route in and out of that location.

23 In the wintertime it's a steep grade down
24 in there, the road is high crowned so that the --
25 it's quite dangerous for semis. The roads approaching

1 it from any direction from in town you would come out
2 Malloy Drive, there by Vista where you take off Vista,
3 that's a real tight maneuver for trucks. They have
4 put some dividers in the road and whatnot and most of
5 -- in most cases our longer trailers we have to go run
6 over those bumpers both to get in and out of that
7 Malloy Drive.

8 So my main concern is the safety of our
9 equipment getting in and out of those locations, and I
10 also feel that, you know, you just shouldn't be able
11 to close off the town by making this kind of a
12 maneuver by the state, you know. The city's here and
13 it's growing, and to be able to have the state just
14 arbitrarily come through and say, Hey, we're going to
15 close that crossing, when it's key to the rest of the
16 development of that part of Ferndale, it just seems
17 quite ridiculous to me.

18 JUDGE ANDERL: Okay. Anything else?

19 THE WITNESS: That's about it.

20 JUDGE ANDERL: Hang on. There may be some
21 questions for you. You're got getting off that easy.
22 Ms. Gibson, any questions for this witness?

23

24

CROSS-EXAMINATION

25 BY MS. GIBSON:

1 Q. One question for you, sir. You're talking
2 about difficult maneuvers for your trucks, and as I
3 understand it, that's at the corner of Malloy and
4 Thornton? Is that what you're talking about?

5 A. Well, one of the maneuvers is at Malloy and
6 Thornton. Let's see.

7 Q. And for the record, the witness is now
8 approaching Exhibit 4.

9 A. Okay. Samson Rope and Net are located
10 right against the railroad tracks at the very end of
11 Thornton Road.

12 Q. Just north of Thornton Road, correct?

13 A. Just north, yes. And so these -- all these
14 intersections we come in both via the brown line cross
15 this crossing from time to time. This intersection
16 really doesn't allow for safe maneuvering of 48-foot
17 semis.

18 Q. That's at Brown and Malloy?

19 A. Brown and Malloy. Then also at Vista and
20 Malloy it's not for heavy trucks. This isn't where
21 we should be -- we would like to be maneuvering or
22 should be, but we don't have any alternatives.
23 There's no really good -- if you want to consider
24 safety, there's no good approach to this employer in
25 this -- the way things are now, and it really needs to

1 improve and we've understood over the years that this
2 would be improved. Samson Rope is a major employer
3 in this area.

4 Q. You understood that from the city?

5 A. Excuse me?

6 Q. From the city?

7 A. Yeah.

8 Q. Thank you.

9 A. And Samson understood that too over the
10 years.

11 MS. GIBSON: Nothing else.

12 JUDGE ANDERL: Ms. Cushman?

13

14 CROSS-EXAMINATION

15 BY MS. CUSHMAN:

16 Q. Mr. Wiesen, how long are the trucks and
17 trailers that you're operating?

18 A. 48 foot. Occasionally -- ours aren't
19 53 footers, but Samson has occasion to get 53-foot
20 trailers in there. The longest we provide for them is
21 48 feet.

22 Q. You being who?

23 A. Northwest Washington Shippers.

24 Q. So that's a 48-foot trailer that you use
25 and then the truck is on the front of that trailer?

1 A. That's right. So the combination can be up
2 to 65 feet long. Typically it takes -- to maneuver
3 that equipment takes two lanes each direction to make
4 the turn. These are two-lane roads so you got to be
5 on the wrong side of the road and both sides of the
6 turn, and the visibility at Thornton and Malloy is
7 real bad on one corner. Coming out of there it's real
8 bad because the house on the southeast corner of that
9 has brush and plant things that go right up to the
10 corner so you can't -- your visibility from that
11 direction is real -- but that's something that this
12 doesn't correct, except if that road were improved,
13 I'm sure that would solve that.

14 MS. CUSHMAN: No further questions.

15 JUDGE ANDERL: Mr. Cuillier?

16 MR. CUILLIER: No questions.

17 JUDGE ANDERL: Ms. Rendahl?

18 MS. RENDAHL: No, your Honor.

19

20 EXAMINATION

21 BY JUDGE ANDERL:

22 Q. Okay. I have one question or a couple
23 maybe series of questions for you. Do you currently
24 use the crossing of -- the railroad grade crossing at
25 Thornton Road, you or your company?

1 A. No. At this point we don't need to because
2 we have to go the other way. You know, there's no
3 exit the other direction at this point.

4 Q. If the Thornton Road were extended south to
5 connect in with Portal Way as they've been talking
6 about, would your trucks go in and out that way then?

7 A. Yes, they would.

8 Q. And do you have any feel for how safe you
9 think that crossing would be, the railroad grade
10 crossing would be at that time?

11 A. Well, it's level -- level there, although
12 there's -- on the west side of that -- let's say
13 (drawing) Thornton and Samson is here and the railroad
14 tracks are like here.

15 JUDGE ANDERL: Well, you can't draw me a
16 little picture that nobody else can see.

17 A. All right. To the east side of Samson --
18 they are built on a bluff above the railroad tracks so
19 there is a high hump alongside the railroad tracks on
20 that -- going north from that location. I haven't
21 been on that -- I haven't crossed that for some time
22 so I don't know how -- the track is straight so you
23 can see -- theoretically you can see great distances
24 either way. And so -- but what the obstructions close
25 to the track are, I'm not sure.

1 Q. Okay. And then just one other question.
2 Have you given any thought to how your trucks would
3 handle the turning radius if at the end of the
4 Thornton Road extension they had to turn left onto
5 Portal and then left again to get onto southbound I-5?
6 We had testimony yesterday from a traffic engineer
7 that I believe used the word -- well, I'm not sure
8 what word he used, but that there was not enough
9 distance in order for one or more trucks to make the
10 left-hand turns without obstructing other traffic. Do
11 you have any thoughts on that?

12 A. I would have to see a -- I haven't seen a
13 diagram of how that -- but I can't imagine it could be
14 any worse than what we have. It's got to be an
15 improvement over what we've got. 45- and 48-foot
16 semis take a lot of room to maneuver and in a lot of
17 areas they don't have as much room as they need, but
18 some areas are easier to do those maneuvers in.

19 JUDGE ANDERL: All right. Thank you very
20 much.

21 MS. CUSHMAN: Can I ask one more question?

22

23

CROSS-EXAMINATION

24 BY MS. CUSHMAN:

25 Q. Mr. Wiesen, you said earlier you had a

1 problem with the intersections of Thornton and Malloy
2 and Thornton and Brown because you were turning off of
3 a two-lane onto a two-lane, correct?

4 A. Right.

5 Q. And so what do you need? You need two
6 four-lanes?

7 A. Well, okay, you would need -- to do it and
8 stay in your lane and stay on the right -- in the
9 proper lanes, you would need almost four lanes each
10 way.

11 Q. Are you aware that Portal is only two
12 lanes?

13 A. Yes, I'm aware of that.

14 Q. So you have to cross over a lane?

15 A. That's true. But that's -- have you been
16 on those roads?

17 Q. Yes, I have.

18 A. They are high-crowned narrow roads,
19 ditches, so you can't use the shoulder. You can't --
20 you know, you can't -- now, Portal Way has wide
21 shoulders so that allows you maneuvering room, but
22 these other roads don't have shoulders, so you're
23 either in the ditch or you take all the other lanes.

24 JUDGE ANDERL: Anything else?

25 MS. GIBSON: If I may, I have another

1 question.

2

3

CROSS-EXAMINATION

4 BY MS. GIBSON:

5 Q. I suppose it would impede the traffic flow
6 for your trucks if they had to deal with 14 trains a
7 day blocking the crossing between 20 and 40 minutes
8 each time, would that be true?

9 A. It sure would.

10 MS. GIBSON: Nothing else.

11 JUDGE ANDERL: Okay. Thank you for your
12 testimony. You may step down.

13 Next? Sir? Go ahead and take a seat.

14 Raise your right hand.

15 Whereupon,

16

WALT POLLMAN, JR.,

17 having been first duly sworn, was called as a witness
18 herein and was examined and testified as follows:

19

20

DIRECT EXAMINATION

21 BY MS. RENDAHL:

22 Q. Would you please state your full name for
23 the record and spell your last name.

24 A. Okay. Walt, last name P O L L M A N,
25 Pollman, Junior.

1 Q. And what is your address?

2 A. Business or residential?

3 Q. Well, first, are you here speaking on
4 behalf of yourself or on behalf of a business or a
5 group?

6 A. Well, let's say business, I would say.

7 Q. Okay. Then your business address?

8 A. 5715 Fourth Avenue, Ferndale, Washington,
9 zip code 98248.

10 Q. Thank you. So what business are you
11 speaking on behalf of?

12 A. The Ferndale Drug.

13 Q. And would you please give us your
14 statement.

15 A. I've been at Ferndale Drug since 1959.
16 I've seen a lot of trains go by on that railroad
17 track. I've seen lots of changes in towns, increase
18 of residential area. I've seen lots of increase of
19 traffic. I have some concerns about the impact of the
20 all-time closure of Thornton Road. The concerns
21 I have are planning and promises impacting retail
22 businesses, impacting jobs, impacting citizens'
23 ingress and egress, impacts flood time, traffic
24 potentials, and, finally, flawed government planning.

25 Recent Growth Management Act planning has

1 placed Thornton Road in a very strategical part of
2 Ferndale's future, funneling traffic from all of
3 Ferndale to a convenient I-5 access.

4 Recent residential additions have
5 predominantly been to the north paralleling the BN
6 tracks. When I-5 was built and Thornton Road access
7 to the highway was lost, we were assured as funding
8 become available this lifeline would again be
9 available to the citizens of Ferndale. This promise
10 was also relinquished to all of our new citizens also.
11 Past investments east of the BN track could lose value
12 when potential clients west of the BN tracks have not
13 a direct access to these clientele.

14 The impact on retail business. Ingress
15 from west of the Burlington Northern tracks will be
16 stymied forever. I as a businessman have researched
17 where my clientele comes from. My clientele comes
18 from the north. It comes from the north and east.
19 Majority of my clientele comes from this particular
20 area. I can visualize a choking and a threatening of
21 downtown business as more traffic is forced onto Main
22 Street. Ferndale business community needs this
23 potential open. We would possibly -- not only
24 possibly, but probably lose potential I-5 clientele.
25 Over 15,000 cars go through downtown Ferndale daily.

1 We need an alternate route.

2 Impact on jobs. Loss of retail business
3 potential means loss of future investments. We will
4 see less dollars spent in business -- future business
5 if we cannot have the possibility of clientele getting
6 to our shops and our businesses. Loss of retail
7 business -- direct loss of retail business would mean
8 also a direct loss of jobs. Loss of present light
9 industry west of BN track could also be jeopardized.

10 Impact of citizens' ingress and egress.
11 Affected quality of life. Most people choose Ferndale
12 to live because they like Ferndale. They like the
13 ease of getting around. There is a less hassle factor
14 in Ferndale. However, when these options are closed,
15 it is a choking of our clientele, of our residents.
16 What will be happening we'll be channeling people from
17 Ferndale south through the city center through a
18 two-lane bridge or we'll be channeling people north
19 via Vista Drive. In effect, we're going to have a
20 bulkinization of the town of Ferndale.

21 We also are going to take away emergency
22 services, such as ambulance, to the north part of
23 Ferndale, that is, a quick response.

24 Flood time impact. Past Nooksak River
25 floods have restricted travel to and from Cherry Point

1 industrial area. Arco, TOSCO, Intalco are the main
2 players, but there's other minor players in that
3 particular area. At flood times Slater Road access is
4 flooded; it's impossible. So all this traffic moves
5 down either Grandview or it moves through the city of
6 Ferndale. In the last flood, and I believe it was
7 1990, this passage was very nearly lost, if it was not
8 for a gravel berm put right next to Samuel's Furniture
9 store. There was water almost across the road. The
10 river is silting in and I see no near solution to this
11 potential. So one of the lifelines out to the western
12 industrial area could be lost. The Thornton Road
13 access is vital to the industrial park and citizens
14 west of the Burlington Northern track in flood times.

15 Now these are some of my own reflections.
16 I have told you of my concerns. I can remember seeing
17 Amtrak in the past running through Ferndale with one
18 passenger car on it. Government is trying to spend
19 our tax dollars to implement I believe another
20 failure. In the Washington, D.C./New York corridor
21 where there is 40 million people, Amtrak struggles to
22 make ends meet. In the Vancouver, B.C. to Eugene,
23 Oregon corridor there is only four million people.
24 We're spending \$3 million on Bellingham train stations
25 before we even see if it's a viable solution.

1 Ferndale is becoming bulkinized by these dollars
2 from Washington, D.C. I feel like an ant being
3 squashed. Ferndale was promised a Thornton Road
4 access to I-5 in the past. That promise should not be
5 forgotten.

6 I want to close with: I am from the
7 federal government. I'm here to help you. Ferndale
8 doesn't want your help.

9 JUDGE ANDERL: Thank you, sir. Any
10 questions for this witness, Ms. Gibson?

11 MS. GIBSON: No questions.

12 JUDGE ANDERL: Ms. Cushman?

13 MS. CUSHMAN: No.

14 JUDGE ANDERL: Mr. Cuillier?

15

16

CROSS-EXAMINATION

17 BY MR. CUILLIER:

18 Q. I'm wondering, what was the event that cut
19 off the -- that made Thornton Road a dead-end street?

20 A. That was when I-5 was built.

21 Q. It formerly connected into what?

22 A. Portal Way.

23 Q. And what was the north-south roadway at
24 that point?

25 A. That would be Highway 99.

1 Q. Did it go into Highway 99?

2 A. Correct.

3 Q. Separately from Portal Way or it first fed
4 into Portal Way?

5 A. Well, Portal Way and Highway 99 was --
6 would be the same. Originally it was Highway 99. Now
7 it's Portal Way.

8 Q. So it went clear across where the existing
9 freeway is now.

10 A. Correct.

11 Q. And you said the state promised that it
12 would be connected back up to Portal Way at some
13 point?

14 A. Correct.

15 MR. CUILLIER: No other questions.

16 JUDGE ANDERL: Ms. Rendahl?

17 MS. RENDAHL: Just one.

18

19 REDIRECT EXAMINATION

20 BY MS. RENDAHL:

21 Q. Just one. Mr. Pullman, where is the
22 Ferndale Drug located?

23 A. Fourth and Vista.

24 Q. Is that in the downtown area?

25 A. Yes, ma'am, it is.

1 MS. RENDAHL: I have no further questions.

2 JUDGE ANDERL: Thank you for your
3 testimony. You may step down. Who would like to go
4 next? Okay, sir. Raise your right hand.
5 Whereupon,

6 GARY E. RUSSELL,
7 having been first duly sworn, was called as a witness
8 herein and was examined and testified as follows:

9

10 DIRECT EXAMINATION

11 BY MS. RENDAHL:

12 Q. Would you please state your name and spell
13 your last name for the record.

14 A. Gary E. Russell, R U S S E L L.

15 Q. And what is your address, Mr. Russell?

16 A. Business address is PO Box 1599, Ferndale,
17 Washington.

18 Q. Are you here today speaking on your own
19 behalf or on behalf of your business or on behalf of a
20 group?

21 A. More or less on the business.

22 Q. And could you please give your statement.

23 A. I'm representing Whatcom County Fire
24 District 7 who provides fire and medical aid service
25 for the city of Ferndale under contract. We are a --

1 we cover 75 square miles of Whatcom County which
2 Ferndale is part of our service area under contract.

3 We have really not taken any position as to
4 the opposition to high-speed rail traffic coming
5 through Ferndale. What we do have a problem, what we
6 have some concerns with is access for emergency
7 vehicles. At this point in time we -- our
8 headquarters station is located at Washington and
9 Third which is adjoining to BN property and the rail
10 line. We have four stations that are outside the city
11 of Ferndale: Two on the fringe areas of the city and
12 two in the industrial grid. Those stations at times
13 are called into the city of Ferndale on a regular
14 basis to respond to alarms.

15 The city of Ferndale adds up to half of our
16 response calls of a total of an average of 850 alarms
17 a year. Out of those 850 alarms, 67 to 70 percent are
18 aid or medical-related alarms. We have by agreement
19 with the City of Bellingham located a paramedic unit
20 in one of our stations which is outside the city of
21 Ferndale on the edge of the city limits. They on a
22 regular basis respond to the city of Ferndale to the
23 -- on medical alarms along with our units.

24 What has occurred in the past and what we
25 can see the potential occurring as growth occurs in

1 the city of Ferndale, is that the alarms are directly
2 related to the population of the city. So we see an
3 increased call load over the years. We have -- in a
4 four-year total we've gone from in the city from 306
5 alarms to 415 alarms. Excuse me. They vary
6 day-to-day, but 49 percent of the alarms are inside
7 the city on an average.

8 What we see really happening is that we
9 have been looking at the ability to increase the --
10 enhance the ability to respond without side stations.
11 The Ferndale station sometimes becomes trapped from
12 west to east because of the railroad crossing. That
13 mandates that we have to travel around Vista to Brown
14 Road or Grandview to respond in the same area. BN
15 railroad has been very courteous and very good about
16 being able to break their trains, but at sometimes in
17 some occurrences that is not the fact.

18 During the flood of 1990 the Ferndale city
19 bridge was closed down. There was no access. Our
20 fire district was split, two-thirds of it on one side
21 of the river, one-third on the other side, so we had
22 to position vehicles across on the other side to help
23 alleviate the problem of response. So floods --
24 during flooding -- when flooding occurs, it creates a
25 problem for us also.

1 What we're really looking at is we feel
2 that the interchange or the crossing at grade should
3 remain open with some type of access to I-5 to
4 alleviate the future growth and the future response of
5 vehicles -- emergency vehicles back and forth across
6 the BN right of way.

7 JUDGE ANDERL: Okay, thank you. Anything
8 else?

9 THE WITNESS: No.

10 JUDGE ANDERL: Any questions for this
11 witness, Ms. Gibson?

12 MS. GIBSON: No.

13 JUDGE ANDERL: Ms. Cushman?

14 MS. CUSHMAN: No.

15 JUDGE ANDERL: Mr. Cuillier?

16 MR. CUIILLIER: (Shakes head.)

17 JUDGE ANDERL: Ms. Rendahl?

18 BY MS. RENDAHL:

19 Q. Just for clarity in the record, Mr.
20 Russell, could you point out where the four stations
21 are on the map if you can, the four remote stations?

22 A. I brought a district area map showing those
23 on there if you would like that, but they are located
24 at 2020 Washington Street in the City of Ferndale.
25 Station 2 is at 4047 Brown Road, Ferndale, Washington.

1 Station 3 is located at 5368 Northwest Road -- or
2 Northwest Drive in north Bellingham. That's a
3 Bellingham address. 98226. Station 4 is located at
4 the intersection of -- excuse me -- it's 5019
5 Grandview Road. And station 5 which houses the
6 paramedic unit is located at 1886 Grandview Road,
7 Ferndale. It's not only -- not only that paramedic
8 unit, but if that one is busy in the northwestern
9 sector of Whatcom County, units of the city of
10 Bellingham will be responding into Ferndale for
11 transport, and the paramedic service out of the city
12 of Bellingham is a transport unit or system for
13 Whatcom County.

14 MS. RENDAHL: I have no further questions,
15 your Honor.

16 JUDGE ANDERL: Okay. Thank you for your
17 testimony, Mr. Russell. You may step down. Next?
18 Raise your right hand.
19 Whereupon,

20 RON COWAN,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23

24 DIRECT EXAMINATION

25 BY MS. RENDAHL:

1 Q. Would you please state your full name
2 and spell your last name for the record.

3 A. Ron Cowan, C O W A N.

4 Q. And what is your address?

5 A. Business address is Post Office Box 698,
6 Ferndale, 98248.

7 Q. Are you here today on behalf of yourself or
8 a business or on behalf of a group?

9 A. On behalf of a group.

10 Q. And what group is that?

11 A. The Ferndale School District.

12 Q. Okay. Would you please make your
13 statement.

14 A. Yes. We have two primary concerns at the
15 Ferndale School District in regard to this plan. The
16 first is that our eastern property line at Ferndale
17 High School where we've located our high school campus
18 and play fields abuts the western property line of the
19 Burlington Northern right of way.

20 This begins at a point approximately 314
21 feet north of Washington Street and proceeds north for
22 approximately an additional 2,900 feet. We're
23 concerned that students from our high school as well
24 as other community children could gain access to the
25 railroad tracks because only the southern 875 feet of

1 the 2,900-foot common property line is adequately
2 fenced.

3 The area that's unfenced lies immediately
4 adjacent to our physical education and curricular
5 activity play fields. These play fields are used for
6 a number of activities, including football, soccer,
7 baseball, softball, and jogging. In addition to our
8 students, the greater Ferndale community also uses
9 these play fields as they are the best play fields in
10 the area due to upgrade in irrigation, drainage and
11 topography.

12 Trains traveling in excess of 70 miles per
13 hour will provide little, if any, reaction time to an
14 unsuspecting younger who might venture onto the
15 tracks to chase an errant ball or try to take a
16 shortcut across the tracks either to and from school
17 property. I've walked along the property line and
18 there are a number of well-worn trails between school
19 district property and the tracks. I also see evidence
20 of children in this area because of pop cans, potato
21 chip bags, or whatever it might be. It's clear that
22 this area is frequented by children.

23 Therefore, to protect the safety of both
24 our school children and community members, we request
25 that a chain-link fence be provided by either the

1 Department of Transportation, Burlington Northern, or
2 Amtrak from our northeastern property line due south
3 along our property line to the point where the new
4 fence will tie into an existing chain-link fence.

5 Our second concern has to do with the
6 proposed elimination of a railroad crossing at
7 Thornton Road. A number of our employees, and we are
8 the largest employer within the city limits of
9 Ferndale and the eighth largest employer in Whatcom
10 County, would greatly benefit from another route to
11 I-5 rather than have to deal with and contribute to
12 the increasing congestion through downtown Ferndale as
13 people attempt to gain access to I-5.

14 In addition, we estimate that 12 of our 30
15 school buses on regular routes would benefit from a
16 Thornton Road crossing by reducing student route time
17 and decreasing mileage.

18 Last, but certainly not least, are the
19 patrons of our schools. Patrons of our elementary
20 schools and one middle school would benefit from a
21 Thornton Road crossing by not only a shorter route to
22 school, but also in their day-to-day travel to and
23 from Interstate 5 from their homes. It's clear that
24 the northern sector of Ferndale is by far the largest
25 growing area within the city limits. We recently

1 opened a new 48,000-square foot elementary school to
2 address this increased growth. It is clear to us the
3 new residents need and deserve another access to
4 Interstate 5 rather than having to go through downtown
5 Ferndale.

6 In summary, a great number of our
7 employees, students, and parents would directly
8 benefit from the Thornton Road crossing. Many of the
9 citizens of Ferndale proper and adjacent Whatcom
10 County would benefit from a crossing due to less
11 congestion through the downtown streets of Ferndale.

12 JUDGE ANDERL: Mr. Cowan, what's your
13 position with the school district?

14 THE WITNESS: I'm the director of business
15 and operations.

16 JUDGE ANDERL: Thank you. Any questions
17 for this witness, Ms. Gibson?

18 MS. GIBSON: I have a few.

19

20 CROSS-EXAMINATION

21 BY MS. GIBSON:

22 Q. When was the original high school building
23 built, do you know?

24 A. 1930s, '20s perhaps.

25 Q. It looks like there's been newer buildings

1 added to the complex, is that right?

2 A. That's true.

3 Q. When were those constructed, do you know?

4 A. I don't. The latest in 1970, I believe.

5 Q. We understood from testimony or questioning
6 of the city's attorney yesterday that apparently the
7 school district has recently acquired some land to the
8 north of the existing play fields?

9 A. No. We've owned that property for quite
10 some time. I'm not sure of the dates that were
11 mentioned in the previous testimony.

12 Q. Do you know what the most recent purchase
13 of land for the play fields was?

14 A. Certainly. I've been in the school
15 district for -- in this position for six years and it
16 was in advance of that.

17 Q. Do you personally -- are you aware of
18 whether the tracks existed -- the railroad tracks
19 existed in that location prior to the erection of the
20 school building and the play fields?

21 A. I'm not aware of those dates.

22 Q. You don't know?

23 A. I don't know.

24 Q. To your knowledge, has your district ever
25 budgeted for fencing?

1 A. Anywhere in the district?

2 Q. For fencing for the high school. For the
3 area that you're now requesting --

4 A. No.

5 Q. -- some other party provide the fencing.
6 Has your school district ever budgeted for
7 that?

8 A. To my knowledge, I'm not aware of if.

9 Q. Has either the school itself or the
10 district as a whole ever done any special fund raising
11 for that project?

12 A. For fencing at the high school?

13 Q. Yes.

14 A. Not to my knowledge.

15 Q. You've indicated that if there were a
16 crossing to remain at Thornton Road that you think
17 your school buses could use it. Is that what you
18 said?

19 A. I think so.

20 Q. Now, you wouldn't want your school children
21 riding over a crossing -- excuse me. You would not
22 want your school buses using a road that your own city
23 has deemed to be not safe and efficient for traffic
24 operation, would you?

25 A. Probably not. I would want to know what

1 that definition was, but most likely not.

2 Q. You're not familiar with A Transportation
3 Plan for Ferndale, Draft Final Report, May 1994 which
4 has been introduced as Exhibit 17?

5 A. I'm not aware of that, no.

6 MS. GIBSON: All right. Thank you. I have
7 no other questions.

8 JUDGE ANDERL: Ms. Cushman?

9

10 CROSS-EXAMINATION

11 BY MS. CUSHMAN:

12 Q. Mr. Cowan, you've testified that if the
13 Thornton Road access was built you would run school
14 buses over that crossing, is that correct?

15 A. We've estimated that we could change some
16 of our bus routes to take advantage of that crossing,
17 yes.

18 Q. And times of school bus routes are a
19 critical factor in deciding how routes should be set,
20 is that correct?

21 A. We have a guideline that we like to limit
22 our routes to no more than 60 minutes in duration.

23 Q. Has your analysis of this proposed route
24 taken into account that there would be approximately
25 14 trains a day crossing here?

1 A. No.

2 MS. CUSHMAN: Thank you.

3 JUDGE ANDERL: Mr. Cuillier?

4

5

CROSS-EXAMINATION

6 BY MR. CUILLIER:

7 Q. The northernmost play field is the one used
8 for soccer?

9 A. And baseball field.

10 Q. Are those new fields fairly new fields?

11 A. They are recently developed, not recently
12 purchased.

13 Q. What do you mean by recently developed?
14 What was their prior state and when were they
15 developed?

16 A. Their prior state was hayfield, if you
17 will, grub grass. In 1990 the citizens of Ferndale
18 approved a capital projects levy to increase --
19 rather, improve the conditions of those play fields,
20 which included leveling so that you could play soccer
21 and what-have-you, also increased drainage and
22 provided some water lines for irrigation.

23 Q. Do you know about how many feet from the
24 northernmost boundary of the property those new play
25 fields extend southward of the 2,900 feet that you

1 testified to?

2 A. Total play fields would be approximately
3 2,100 feet. The new play field I would estimate to be
4 somewhere in the neighborhood of half that.

5 Q. Were the new play fields utilized for
6 anything by youngsters or anyone else prior to their
7 development?

8 A. No. They were not in the condition to be
9 used.

10 Q. When was the development finally completed?

11 A. The final phase of that project was
12 actually completed this fall with the construction of
13 a new jogging trail which circumvents the entire area.

14 Q. When did students start using it for soccer
15 and baseball?

16 A. If my memory is correct, we've been using
17 it for baseball for two years and for soccer for a
18 year.

19 Q. And why is fencing being considered now as
20 something that the district would feel necessary for
21 the safety of the students where it has not been
22 considered before this time, apparently?

23 A. Primarily because of speed, I guess. I
24 think of the youngster who might be walking across
25 this track and you do not have much time to get out of

1 a way of a train traveling 70 or 80 miles an hour.
2 Freight trains travel a lot slower and what-have-you.

3 MR. CUILLIER: Thank you. No other
4 questions.

5 JUDGE ANDERL: Ms. Rendahl?

6

7

REDIRECT EXAMINATION

8 BY MS. RENDAHL:

9 Q. Mr. Cowan, you said you've walked that area
10 north?

11 A. Yes, ma'am.

12 Q. Isn't there a buffer zone of high-density
13 brush and undergrowth on the east side of those play
14 fields and the jogging track?

15 A. That would depend on the area that you're
16 talking about. In some areas it's rather dense and
17 there's a lot of brush and in other areas it's a walk
18 in the park. And I personally walked it, came from
19 our property over to the railroad tracks.

20 Q. When the school district developed the play
21 fields in 1990, why wasn't there any consideration of
22 extending the existing fence from the southern play
23 fields north?

24 A. Again, as I said earlier, I think the
25 primary concern we have now is because of the

1 increased speed and the rapid time that a train could
2 approach and come upon someone as opposed to a freight
3 train.

4 Q. But it wasn't a consideration at the time
5 that they were built?

6 A. It was not.

7 MS. RENDAHL: I have no further questions.

8

9

EXAMINATION

10 BY JUDGE ANDERL:

11 Q. Mr. Cowan, you have other schools in the
12 district that aren't adjacent to the railroad tracks,
13 don't you?

14 A. Yes.

15 Q. Okay. Do those schools -- elementary
16 schools or what-have-you have play fields or
17 playgrounds?

18 A. Yes.

19 Q. Are those generally within the district
20 fenced or not fenced?

21 A. I'm just going through the schools right
22 now, okay? (Pause.) Generally fenced, although there
23 are some that are not.

24 Q. And of those that are fenced, not talking
25 about the high school, who fenced those, if you know?

1 Is that part of the construction budget when the
2 school district constructed the schools?

3 A. There are two schools I'm aware of where
4 the school district provided fencing. The other
5 schools were built prior to my time in the district so
6 I don't know where funding came from.

7 Q. And in general, why would they be fenced,
8 if they are fenced? Keep people out; keep kids in?

9 A. Mostly in elementary level to keep little
10 kids in, I suppose.

11 Q. Off the street?

12 A. Mm-hmm. Although we have had some concerns
13 at one of our rural schools to keep its boundary --
14 there's a wooded area and the parents were afraid
15 people may come out of the woods and nab the kids.

16 Q. Okay. Unfortunately, that's probably a
17 legitimate concern.

18 A. Mm-hmm.

19 JUDGE ANDERL: Any other questions for this
20 witness?

21 MS. GIBSON: I did have one, your Honor.

22 JUDGE ANDERL: Go ahead.

23

24

RE-CROSS-EXAMINATION

25 BY MS. GIBSON:

1 Q. Now, you have these play fields, and then
2 hasn't someone from the school district gone out and
3 built up a berm next to the track -- excuse me -- next
4 to the play field before you get to the track?

5 A. Not to my knowledge, no.

6 Q. When was the last time you were out there?

7 A. Today.

8 Q. Okay. You didn't see any berm built up?

9 A. (Shakes head.)

10 Q. No. Did you see a plastic fence that has
11 been erected there?

12 A. Yes.

13 Q. Can you describe that.

14 A. It's 48 inches high. Snow fence, if you
15 will. Construction fence, perhaps. And it's behind
16 the soccer goals.

17 Q. Did the school have that erected?

18 A. Yes.

19 Q. Now, this is between the play field and the
20 direction of the railroad tracks, correct?

21 A. Correct.

22 Q. And then don't you come to a large ditch
23 with water in it?

24 A. At certain times of the year, yes.

25 Q. And then still going towards the tracks,

1 don't you come to blackberry bushes?

2 A. It depends on the area of track you're
3 talking about.

4 Q. But much of their track area has blackberry
5 bushes running alongside of it, isn't that right?

6 A. I don't know what "much" means. I'm -- I
7 don't know. There's blackberry bushes along certain
8 sides. And along other areas, like I said, I had
9 absolutely no restrictions at all in walking from our
10 property to the fence -- or to the tracks.

11 MS. GIBSON: Nothing else.

12 JUDGE ANDERL: Anything else for Mr. Cowan?

13

14 RECROSS-EXAMINATION

15 BY MR. CUILLIER:

16 Q. I was wondering how far it is from the edge
17 of your play field to the track in the location of the
18 northernmost fields, the soccer and baseball fields.

19 A. Approximately 66 feet.

20 MR. CUILLIER: Thank you.

21 JUDGE ANDERL: Okay. Petitioners have
22 anything else for this witness?

23 MS. GIBSON: No.

24 JUDGE ANDERL: Thank you, Mr. Cowan, for
25 your testimony. You may step down.

1 Who else? Raise your right hand, please.

2 Whereupon,

3 SUSAN GOODING,

4 having been first duly sworn, was called as a witness

5 herein and was examined and testified as follows:

6

7

DIRECT EXAMINATION

8 BY MS. RENDAHL:

9 Q. Would you please state your full name for
10 the record and spell your last name for the record.

11 A. I'm Susan Gooding, G O O D I N G.

12 Q. And would you please state your address for
13 the record.

14 A. 6039 Barr Road.

15 Q. Is that in Ferndale?

16 A. It's two and a half miles west off of
17 Thornton.

18 JUDGE ANDERL: That's B A R R?

19 THE WITNESS: Yes.

20 Q. And how long have you lived there?

21 A. Since 1977.

22 Q. Are you here today speaking on your own
23 behalf or on behalf of a group or a business?

24 A. I'm speaking as a mother.

25 Q. Would you please make your statement.

1 A. This is a very personal attitude to share
2 with you among all these professional people, but I
3 think it needs to be shared. There was a train wreck
4 in Ferndale at a very slow rate of speed that took out
5 our phone company building in 1978 for weeks. And I
6 had a medical emergency and really needed to talk to
7 my doctor, and as it turned out, I needed a bed rest,
8 not a ride of three miles to town to use their
9 temporary phone because I had a possible miscarriage.
10 Talks of trains being statistically safe does not
11 snow me because we've had experience here in Ferndale.
12 Accidents do happen.

13 And I wonder about the safety of our
14 particular tracks. And as a mother of a Ferndale high
15 school student, I would like to point out that the
16 train tracks go along the edge of our high school
17 property, and if there is another wreck, our
18 children's lives are at risk, and there's no train
19 safety statistics or grownup desires for travel that
20 are more important than our children.

21 I know you're probably going to ignore
22 this, but I would like to get the tracks out of our
23 town and away from our school and put them over by the
24 freeway and then use overpasses to get out of our
25 towns safely.

1 I along with everyone else have been
2 frustrated during the floods and a way to get out of
3 town since both Main Street and Slater Road have been
4 closed. The only way out is Portal Way which just is
5 not enough for our growing town. Most of our
6 residential growth is along Thornton Road, and now we
7 have a second elementary school called Eagle Ridge one
8 mile west of Skyline Elementary which is located on
9 the corner of Thornton and Vista. More school traffic
10 will occur if we carry out getting the extra middle
11 school built right there beside Eagle Ridge as
12 planned. So there's a terrific amount of traffic in
13 this area.

14 The problem again is the safety of our
15 children. As it is now, Skyline children can barely
16 get across Thornton safely. The four-way stop at
17 Thornton and Vista really helps, but at two other
18 crosswalks I will stop and let my daughter's friends
19 across and they have to jump out of the way of a car
20 coming the other direction, nearly hitting them. We
21 still need another crosswalk painted down on Thornton
22 and Malloy.

23 We need another way out of town near
24 Thornton because of all the homes going in and of all
25 the school traffic, but I question the use of using

1 Thornton because of the need to protect our elementary
2 children.

3 In my opinion, our people would gladly
4 travel north toward Alder Grove, or putting in yet
5 another road to get to the freeway to get away from
6 the congestion of Main Street and away from the 20
7 miles per hour by two separate schools on Thornton.
8 This makes for a very slow second main road if it was
9 turned into a traveled and a way to keep our children
10 safer. No matter where we add this much needed extra
11 main road out of Ferndale, I vote that we use an
12 overpass so we can get out of town safely and in a
13 timely manner.

14 JUDGE ANDERL: Okay, thank you, Ms.
15 Gooding. Any questions for this witness?

16 MS. GIBSON: No, I have none.

17 JUDGE ANDERL: Ms. Cushman?

18 MS. CUSHMAN: No.

19 JUDGE ANDERL: Mr. Cuillier?

20 MR. CUILLIER: No.

21 JUDGE ANDERL: Ms. Rendahl?

22 MS. RENDAHL: No, your Honor.

23

24 EXAMINATION

25 BY JUDGE ANDERL:

1 Q. Okay. Ms. Gooding, hang on just a second.
2 I have one. Do you happen to know what the speed
3 limit along Thornton Street is when there isn't any
4 school in session?

5 A. 35 outside of the city limits. Once you
6 hit city limits, it's 25.

7 Q. And then when children are present in the
8 school zones it's 20?

9 A. (Nods head.)

10 Q. So if I could summarize your testimony
11 then, you would favor an overpass either at Thornton
12 or someplace else for additional access to I-5?

13 A. Yes.

14 Q. And that you would disfavor or would speak
15 against the speed limit increases for the passenger
16 trains because of your concerns about the high school?

17 A. Yes.

18 Q. Okay. Okay. Thank you.

19 JUDGE ANDERL: Next? Raise your right
20 hand.

21 Whereupon,

22 DOROTHY TOWNSEND,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MS. RENDAHL:

3 Q. Would you please state your full name for
4 the record and spell your last name for the record.

5 A. Dorothy Townsend, T O W N S E N D. And
6 mailing address is PO Box 1176, and I'm here for
7 personal, no business.

8 Q. Is that address -- are you within the city
9 of Ferndale?

10 A. No. It's just a private box, but that's
11 where we get our mail. We live at 5880 Malloy Road,
12 but no mail there.

13 Q. Please make your statement.

14 A. Most of the things that I was going to talk
15 about have been covered, some of them a little bit
16 different than what I would have presented. But one
17 is that we moved here in the late '40s and built a
18 house on Sterling Avenue, and then we went down and
19 built on Malloy Avenue right above a little high
20 school, one building, one little gym, and that was it.
21 And 750 people in Ferndale at that time. We wanted to
22 raise our kids in a small town and we did. But now
23 it's so much bigger than that.

24 We moved to Malloy in right close to 1949
25 and traffic was nothing, but now it isn't just the

1 traffic from Vista that you keep talking about, the
2 traffic on Vista. There's a lot of them bypass Vista
3 and come into town on Malloy. Malloy has a school
4 there. There's all the school traffic of cars,
5 bicycles, kids walking, and all these cars on the
6 traffic on Vista -- or on Malloy and that is a danger,
7 and if some of them would use the overpass or the
8 crossing that we're talking about, that would help
9 because that is a big danger for the kids and for all
10 of us that are driving the road that have to drive it.

11 One other thing, there was talk about the
12 Vista and Malloy interchange and the Vista and Malloy
13 interchange, while it isn't perfect, it is so much
14 better than it used to be. That sure it's hard for
15 the trucks, it's hard for some people, but it's so
16 much better than when you come in straight into it.
17 That it has it's disadvantages, but it's better.

18 The speed of the trains I would like to see
19 it held at 50 miles an hour. I don't like the thought
20 of 70 miles an hour through town. Accidents do
21 happen. It isn't going to make that much difference
22 between town and Brown Road in their 70 miles. It is
23 only going to be a few minutes' difference between, I
24 would think.

25 Back to the Samson cordage outfits and the

1 trailer outfit that bought -- first started up. They
2 were promised definitely that there would be an
3 opening across there, that they would not have to --
4 and on top of that, the trucks were supposed -- or the
5 mobile homes that they were building were supposed to
6 go north on Malloy and go across to Brown Road. They
7 were not supposed to come through town. That's what
8 the council decided at that time. Well, pretty soon
9 nobody paid any attention to it; they came through
10 town. Cordage comes through town. But I think the
11 rules would have stuck to cordage as well as a trailer
12 as long as that was the rules, because Malloy was not
13 built for business route.

14 And one other -- the last thing I want to
15 close with is that in meeting this morning, somebody
16 asked you if Amtrak could promise -- no, if the town
17 could promise that it would get busy on overpass, and
18 I would like to ask Amtrak can they promise and
19 guarantee that they'll be in business and make it a go
20 if the government wasn't backing them.

21 I think that pretty well takes care of me.
22 Any questions?

23 JUDGE ANDERL: Okay. Ms. Gibson, any
24 questions?

25 MS. GIBSON: I have no questions.

1 JUDGE ANDERL: Ms. Cushman?

2 MS. CUSHMAN: No.

3 JUDGE ANDERL: Mr. Cuillier?

4 MR. CUILLIER: No.

5 JUDGE ANDERL: Ms. Rendahl?

6 MS. RENDAHL: No, your Honor.

7 JUDGE ANDERL: Thank you very much. Who
8 else? Show of hands. Okay. One more. Raise your
9 right hand.

10 Whereupon,

11 DAVID J. P. SMITH,

12 having been first duly sworn, was called as a witness
13 herein and was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MS. RENDAHL:

17 Q. Would you please state your full name for
18 the record and spell your last name for the reporter.

19 A. I'm David J.P. Smith. That's S M I T H.

20 Q. Just like it sounds.

21 What's your address, sir?

22 A. 13847 33rd Avenue in Surrey, British
23 Columbia, V4P2B, that's Bob, 4.

24 Q. Are you here today speaking on behalf of a
25 group or a business or just on your own behalf?

1 A. Business.

2 Q. And what business is that?

3 A. I represent Fleetwood International
4 Development Corporation who is the owner of the Samson
5 Ocean Systems plant.

6 Q. Okay. Why don't you go ahead and make your
7 statement.

8 A. Well, I'm going to try and keep it short,
9 but I got quite a story to tell. Back in 1977 we were
10 looking for a place to establish a business in
11 Washington state. Part of the reasons that we chose
12 Ferndale was that it had a good labor force, it was
13 situated where it was close to transportation for the
14 access of trucking as well as rail use that we thought
15 we would possibly be using.

16 We were encouraged to locate in Ferndale by
17 the city council of the time because they thought that
18 it was going to be a nice, clean industry, and at that
19 time indicated that -- or I should say we had concerns
20 about the access to the property at that time. But
21 they indicated to us that there is a partial frontage
22 road constructed along the I-5 and that they in the
23 future, as business increased, that they would in all
24 likelihood extend that frontage road through to the
25 Portal Way interchange.

1 In 1979 Samson Ocean Systems leased the
2 manufacturing facility from us. It was at that time
3 37,500 square feet of manufacturing space plus a bit
4 of office space.

5 Over the years, this plant we've added on
6 to it a number of times. In fact, right at the moment
7 we're adding a small portion to their office. The
8 total square footage now is approximately 100,000
9 square feet. Samson has indicated to us that they
10 would like to have some additional space, be more than
11 the existing office that we're adding currently.

12 However, in the past when we've done these
13 other extensions, when we have gone to approach
14 financial institutions for the financing of these
15 additions, there was always concern as to this access.
16 I reported to them what I -- what I had heard from the
17 city people at various times, that they were working
18 on the new extension of the frontage road to Portal
19 Way. In fact, the last time I reported that they were
20 in negotiations of purchasing the right of way, which
21 I understand that they do have now.

22 Our investment there is approximately three
23 and a half million dollars. We have an additional
24 about seven acres of property that is not being used
25 currently that could and will ultimately, if things

1 progress in a fair manner, be developed into more
2 clean industry.

3 I wish Steve Swiacki of Samson was here
4 today to fill in a little bit on their company, but
5 unfortunately Steve is in Mexico and, no, he's not
6 down there sunning himself. He's down at a branch
7 plant. Now, when I hear Mexico and I hear branch
8 plants, I get scared. I don't know about you people,
9 but I think we all should be a little bit.

10 Steve indicated the last time we talked
11 figures about constructing a new -- some new
12 facilities, we were having trouble with figures. Now,
13 we have to stay competitive. I don't mean just we; I
14 mean all of us. We have to stay competitive. The
15 city has to, the state does. We have to stay
16 competitive. We all know about the Japanese. You
17 know where we went with the automobile industry.
18 Enough said there though.

19 It is very important, it is really
20 important that this access to Portal Way be
21 constructed in the near future. Now, when I talk
22 about access, I don't -- I know you were talking to
23 the gentleman from Northwest Shippers -- or Northwest
24 Shipper gentleman here. The question was about the
25 safety of the level crossing. The only kind of

1 crossing that could be put in there, in my estimation,
2 should be a signaled crossing, and it must be a
3 signaled crossing for safety for everyone, whether
4 it's just freight trains -- I don't think we need to
5 talk about Amtrak there necessarily -- but just
6 freight trains, you need a signaled crossing.

7 I understand that there was an offer made
8 by the mayor of the city that one of these -- one of
9 the crossings -- existing signal crossings within the
10 city could possibly be swapped for this signaled
11 crossing at Thornton. So I think you would be losing
12 one signal crossing and that crossing would be
13 eliminated altogether and we would have one at
14 Thornton. So then the net gain would be there
15 wouldn't be another -- there wouldn't be an unsignaled
16 crossing.

17 I've been concerned about traffic going up
18 Malloy past this lady's car -- or by her house, I
19 should say, for a long time. Trucks go by the school.
20 It's a real residential area up there. And I don't
21 think it's a good place for trucks, I never have and
22 I never will. So I think that it's just a must.

23 I don't know whether I got any other little
24 note scribbles here or not. (Reading.)

25 I will make a comment, I think that -- and

1 I understand why you want to close Thornton, because
2 you have that extra track there and by putting a
3 signal, if you park a train on that extra track it's
4 still going to block it. The alternative is, of course,
5 to extend that track further to the north than the
6 proposed amount, and then have simply a single track
7 at Thornton and a signaled crossing.

8 As far as the concerns at Portal Way, the
9 interchange at Portal Way not fitting exactly, there
10 are alternatives that can be done to satisfy that. I
11 know all these alternatives cost money, but I think
12 that that's another issue and it certainly could be
13 addressed.

14 I'll just say one last thing. I notice
15 that Amtrak wants to go -- this is really personal.
16 Amtrak wants to go from Vancouver to downtown Seattle
17 in three hours and fifty-five minutes. I don't know,
18 I can drive the speed limit and I can do it quicker
19 than that, and I think there are probably better
20 alternatives really. That aside, it was just a
21 personal comment.

22 JUDGE ANDERL: Okay, thank you, Mr. Smith.
23 Ms. Gibson, any questions for this witness?

24

25

1 CROSS-EXAMINATION

2 BY MS. GIBSON:

3 Q. Mr. Smith, are you aware of the city's own
4 planning documents that say that the proposed
5 extension road would not be a safe and efficient
6 alternative?

7 A. Well, this is new to me because I don't
8 know when they came up with this, because the last
9 meeting I had with them it didn't sound like it.

10 Q. Where are the seven acres that you own?

11 A. Immediately adjacent to the Samson Ocean
12 Systems plant.

13 Q. In what direction?

14 A. North and west, primarily north.

15 Q. So on the same side of the crossing that
16 the Samson facility is?

17 A. Oh, yes, absolutely, yes. Same general
18 site.

19 Q. Now, if you had trains using the Thornton
20 Road crossing and blocking it 14 times a day for 20 to
21 40 minutes each time, would you agree that that's not
22 going to make very good access for that property?

23 A. I think I just covered that off when I
24 talked about that earlier. It has to be a single
25 track and it has to be a signaled crossing and I would

1 expect that there would not be a train sitting on the
2 main line stopped.

3 MS. GIBSON: Thank you, Mr. Smith.

4 JUDGE ANDERL: Ms. Cushman, any questions?

5 MS. CUSHMAN: No.

6 JUDGE ANDERL: Mr. Cuillier?

7 MR. CUILLIER: No.

8 JUDGE ANDERL: Ms. Rendahl?

9

10 REDIRECT EXAMINATION

11 BY MS. RENDAHL:

12 Q. Mr. Smith, I would just like to clarify,
13 your company doesn't own property on the east side of
14 the track?

15 A. It does but I didn't talk -- I didn't
16 address that. I assume that that will look after
17 itself. I'm not concerned. We do own approximately
18 five acres there.

19 MS. RENDAHL: Thank you. I have no further
20 questions.

21 JUDGE ANDERL: Okay. Thank you for your
22 testimony, Mr. Smith. You may step down.

23 Are there any other members of the public
24 who would like to testify? Sir?

25 MR. HEALY: It's not so much that I wish

1 to, but we seem to be talking about Samson so much
2 that I have to.

3 Whereupon,

4

ROBERT HEALY,

5 having been first duly sworn, was called as a witness
6 herein and was examined and testified as follows:

7

8

DIRECT EXAMINATION

9 A. My name is Robert Healy, H E A L Y. I'm
10 the vice president of manufacturing for Samson. After
11 Dave's testimony, I thought it would be necessary to
12 give a little bit more information of what our plans
13 are. I'm not familiar with the history of the
14 buildings or what has been transpiring, but I know
15 what we're going to try to do in the future.

16 The comments that he made concerning, you
17 know, moving to Mexico and that type of aspect, we
18 moved our corporate headquarters from the East Coast
19 to Ferndale approximately five years ago. We have a
20 manufacturing facility in Richmond Beach City;
21 Ferndale; Anniston, Alabama; Lafayette, Louisiana; and
22 Merida, Mexico, which is on the Yucatan.

23 The expansion that has transpired here has
24 been due to the consolidation of some of the
25 facilities. We closed the one in Massachusetts and

1 transferred almost all of the assets out here. We are
2 looking in the future to continue to increase the
3 facility in Ferndale. We are expecting to have more
4 shipments both to, for our material, and from, for
5 finished goods out of the facility. So from that
6 aspect I would much prefer to see a much cleaner
7 access to I-5 than having the amount of trucking that
8 we think is going to happen, which I would guess right
9 now we have probably 12 to 14 tractor-trailers per day
10 coming to the facility, either delivering raw material
11 or taking away finished product.

12 So as I said, we're -- we would much prefer
13 an access at Thornton going straight to either Portal
14 or some type of an access to I-5 from that area.

15 JUDGE ANDERL: Okay. Anything else you
16 wanted to say?

17 THE WITNESS: No.

18

19 EXAMINATION

20 BY JUDGE ANDERL:

21 Q. What does Samson Ocean make?

22 A. Samson -- the actual -- Samson is a
23 division of -- we call it the American Group. The
24 five locations who is owned by -- the American Group
25 is owned by American Manufacturing out of

1 Philadelphia. The American Group manufactures cordage
2 products, rope.

3 Q. Rope. And that's what you do here?

4 A. Yes. All of the facilities manufacture
5 rope.

6 JUDGE ANDERL: Ms. Gibson, do you have any
7 questions for this witness?

8

9 CROSS-EXAMINATION

10 BY MS. GIBSON:

11 Q. Mr. Healy, when your company moved into the
12 facility in 1979, I assume they were aware of the
13 location by the dead-end street on Thornton?

14 A. I would have to make that assumption. I
15 wasn't with the company in '79.

16 Q. Were you with it five years ago when
17 headquarters moved out here?

18 A. I came the year after that.

19 Q. Safe to say that the people who moved it
20 out here knew that it was located at a crossing on a
21 dead-end road?

22 A. Yes.

23 MS. GIBSON: Nothing else.

24 JUDGE ANDERL: Ms. Cushman?

25 MS. CUSHMAN: No questions.

1 JUDGE ANDERL: Mr. Cuillier?

2 MR. CUIILLIER: No questions.

3 JUDGE ANDERL: Ms. Rendahl?

4 MS. RENDAHL: No, your Honor.

5 JUDGE ANDERL: Thank you, Mr. Healy, for
6 your testimony. Is there anyone else from the public
7 who wishes to testify?

8 Well, I think we're up to our afternoon
9 recess. Let's take about five minutes and be back on
10 the record for cross of Mr. Birdsall.

11 (Recess.)

12 JUDGE ANDERL: Let's be back on the record.
13 Mr. Birdsall is back on the stand and we will start
14 now with cross by Ms. Gibson.

15

16 CROSS-EXAMINATION

17 BY MS. GIBSON:

18 Q. Mr. Birdsall, you indicated you were hired
19 by the city in this matter, is that right?

20 A. Yes.

21 Q. And could you tell us how much money the
22 city has paid you to date for your work on the
23 transportation plan?

24 A. The entire contract was \$40,000. I've
25 received 37,000 of that, remainder being for finishing

1 the report.

2 MS. GIBSON: Your Honor, if I could have
3 this marked Exhibit 21. The parties are in agreement
4 and have stipulated to it.

5 JUDGE ANDERL: All right. I'll mark for
6 identification and admission Exhibit Number 21 as
7 another map.

8 (Marked and admitted Exhibit No. 21.)

9 Q. I'll show you Exhibit 21, Mr. Birdsall. If
10 you would look at that map, see where it says
11 Ferndale?

12 A. Yes.

13 Q. You've indicated that your assumptions in
14 your graphs included that part of the traffic moving
15 on Main Street is moving to and from the refineries,
16 is that correct?

17 A. Yes.

18 Q. Now, do you see where we've handwritten in,
19 I admit it's kind of sloppy handwriting, but right
20 by Mountain View on the map it's been written in
21 Texaco and Intalco. Are those the names of the
22 refineries?

23 A. Yes.

24 Q. Are those roughly in the right location?

25 A. Approximately the right area.

1 Q. Okay. And then just north of there we've
2 written in Arco. Do you see that?

3 A. Yes.

4 Q. Is that roughly the right location for
5 Arco?

6 A. Yes.

7 Q. Are those the refineries to which you were
8 referring?

9 A. Yes.

10 Q. Now, looking at this map, does it make
11 sense to you, Mr. Birdsall, that people going to and
12 from the Texaco and Intalco refineries would be using
13 primarily the Slater Road interchange to the freeway?

14 A. Yes.

15 Q. Okay. And does it make sense to you that
16 people moving to and from Arco would be using the
17 Grandview interchange?

18 A. Yes.

19 Q. Now, still looking at that map, do you see
20 where Thornton Road is indicated just above the large
21 writing saying Ferndale?

22 A. Yes.

23 Q. According to the map, Thornton Road
24 dead-ends at Lake Terrell State Game Refuge, is that
25 right?

1 A. That's right.

2 Q. And have you driven out there?

3 A. Yes.

4 Q. It in fact does dead-end there?

5 A. Yes.

6 Q. So Thornton Road then can never be extended
7 all the way to the west, can it?

8 A. Suppose you could bridge the lake, but
9 short of that option, however the routing, you'll
10 notice that Thornton connects by way of North Star
11 Road to other roads that do end up getting to those
12 other refinery destinations. It isn't quite a
13 straight line, but there are paths through the
14 network, and all my experience in transportation
15 planning says that while the majority of the people
16 will take one path, there are always some who take a
17 different path, especially when the roads are
18 congested and people have a lot of incentives to find
19 alternate ways.

20 While most of the traffic to the refineries
21 logically should be on Slater Road and on Grandview
22 Road, some of it does come through Mountain View Road,
23 which is Main Street in Ferndale, and in fact, my
24 impression is that historically there was much more
25 reliance on Mountain View and Main Street and it's

1 only that in recent years as Slater Road and Grandview
2 have been upgraded at the insistence of local
3 governments in relation to the development of those
4 refineries, things are coming in place to keep that
5 traffic out of Ferndale.

6 My remarks this morning were partly to
7 identify that Ferndale is always going to be in a
8 position, especially where the Texaco refinery is
9 concerned, that's pretty close to Mountain View Road
10 and there's going to be a temptation for traffic to
11 use Main Street and Mountain View to go to that
12 location.

13 Q. But you've indicated there already is a
14 system in place to encourage traffic down to Slater,
15 is that right?

16 A. Yes.

17 Q. And you would agree that short of building
18 a bridge over Lake Terrell State Game Refuge, you're
19 never going to have access from Thornton Road on the
20 west out at Cherry Point directly, and I'm saying
21 directly, over to the Thornton Road?

22 A. In that sense, correct.

23 MS. GIBSON: All right. Nothing else.

24 JUDGE ANDERL: Okay. Ms. Cushman?

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CROSS-EXAMINATION

BY MS. CUSHMAN:

Q. Mr. Birdsall, I'm going to direct your attention to Exhibit 18, page 3, which is your computer-generated model for the proposed Thornton extension road, correct?

A. Yes.

JUDGE ANDERL: Which one, I'm sorry? The pages in the small packets weren't necessarily the same as --

MS. CUSHMAN: It is the small packet page 3.

JUDGE ANDERL: Okay.

Q. The width of this line which is dark black on our small exhibit indicating the Thornton Road access to the east of the railroad tracks indicates what? Tell me what the thickness of this line is.

A. It indicates traffic volume.

Q. And what volume did you assign to this?

A. At that location that number is approximately 15,000 daily trips, two-way combined total.

Q. So your model assumes 15,000 daily trips across Thornton in the area east of the railroad tracks between Thornton and Portal Way?

1 A. Right.

2 Q. When you built your model, did you build in
3 the assumption that the siding would be built across
4 this crossing?

5 A. That was not a factor at that time.

6 Q. Does your assumption for your model assume
7 14 to 16 trains per day crossing here at Thornton?

8 A. Is that the existing activity or forecast?

9 Q. I'll change the question. What assumptions
10 did you make as to number of train trips per day
11 across this crossing?

12 A. Approximately the same as presently
13 existing.

14 Q. And what was that number?

15 A. I don't know. We didn't check it out.

16 Q. You put an unknown number into your model?

17 A. No. It's not relevant. The train volume,
18 if it is 14 a day, that's one per hour, that's pretty
19 minimal interruption. I've been here in Ferndale a
20 number of times when the train went through --

21 Q. Okay, I think you've answered my question.

22 Now, according to your plan, the Thornton
23 Road comes out on Portal Way within 80 feet of the
24 freeway on/off ramp, correct?

25 A. That's the version that we were looking at,

1 yes.

2 Q. Now, what assumptions did you make about
3 capacity of traffic at those intersections?

4 A. We assumed that the intersections would be
5 developed with enough signalization and turn pockets
6 to accommodate the volumes.

7 Q. 15,000 per day?

8 A. Yes.

9 Q. And what assumptions for volume did you
10 make for the on/off ramp at Portal Way?

11 A. You cannot -- because the lines all overlap
12 on that chart, you really can't see them, but the
13 volumes on the ramps are directly derived for the
14 volumes approaching the freeway from all sides. They
15 are substantial and we identified in the report, as
16 has been quoted several times today, that there was a
17 concern about safe operation of those close
18 intersections.

19 Q. How did you address those safety concerns
20 in your model?

21 A. The purpose of the model is to identify the
22 traffic volumes, so perhaps I'm giving you a
23 technical answer. We didn't.

24 Q. So there is no --

25 A. The point is that we identify what the

1 demand is. The model says, Due to population growth,
2 et cetera, there is a demand for travel and it's going
3 to show up in this amount of this volume on this
4 location. If we build the road there -- if you build
5 it, they will come. There will be 15,000 a day and
6 that translates into turning volumes of substantial
7 magnitudes that will require expanded intersections,
8 that is, turning pockets, signalization, coordinated
9 signalization between adjacent signals, and ideally
10 more separation than 80 feet. But that's a doable
11 thing.

12 I would like to point out that on page 17
13 of this celebrated report it does point out that there
14 is a safety concern there with those closely-spaced
15 intersections and the report says simply that that
16 issue needs further study. We can't solve the --
17 study every issue in the world within a fixed budget
18 within certain amounts of time periods, so we said
19 that requires additional study.

20 One very likely way to solve the problem is
21 to move the intersection further south. That involves
22 acquiring an additional adjacent property which is
23 more or less vacant. It has an industrial lagoon on
24 it, but it seems plausible to me that that property
25 for a price can be acquired, and then you move that

1 entire design further away from the interchange area.
2 You can achieve the 300-foot separation perhaps that
3 the DOT says they would like to see.

4 So to the extent that we have studied the
5 problem, it appears that there is one or more ways to
6 address the issue. For a higher amount investment in
7 dollars, it might be possible to redesign some of
8 those ramps and rearrange the whole configuration of
9 the interchange. We have not had the resources -- the
10 City of Ferndale doesn't have the resources to do the
11 state's interchange planning for it, so we haven't
12 looked into those, but we see those as possibilities.
13 It would be real nice if the state or Amtrak or
14 Burlington Northern or somebody who's concerned about
15 working the situation would look into some of those
16 things and find some viable solutions.

17 Q. Earlier today Mr. Ashe testified that the
18 area where the proposed extension would be constructed
19 is designated as a flood storage area in the flood
20 management plan. Did your model factor in possible
21 flooding in this area?

22 A. Flooding issues per se are not --

23 Q. Could you please answer yes or no.

24 A. I don't think it was a relevant concern.

25 Q. So your answer is no?

1 A. My answer is that it's a solvable problem.

2 Q. Thank you. What assumptions did you make
3 about the mode of travel for traffic when you designed
4 this model? For example, did you make any assumptions
5 about transit versus single-occupancy vehicles?

6 A. We assumed a continuation of the existing
7 trip generation practices in this area. That is to
8 say, no bold departures from the status quo. A
9 household 20 years from now would generate the same
10 amount of trips per day as a household does today.

11 It would be nice, you know -- we didn't
12 comment -- we discussed -- in fact, the report has a
13 whole chapter on transit and bicycling and ride
14 sharing and all of those options and we pointed out
15 that those are worthy public goals and there will, to
16 the extent that public programs support those
17 alternate modes, there will be somewhat less traffic,
18 but I can tell you that in general in Whatcom County
19 and in Ferndale it's a much less dense environment
20 than in, say, Seattle and the amount of reduction that
21 can be achieved will be correspondingly less. You can
22 place that in the five to ten percent range of
23 possible impacts, whereas we're dealing with 100
24 percent growth projection.

25 Q. Ferndale now is served by Whatcom Transit,

1 correct?

2 A. Yes.

3 Q. You did not factor in that there may be a
4 reduction in single-passenger vehicles due to people
5 riding in buses?

6 A. If we did, you know, this is one of the
7 unfortunate things about doing transit planning. You
8 can show a 500 percent increase in transit ridership
9 and which would seem like a wonderful success story
10 for the transit program, but the amount that that
11 would reduce road traffic would be more in the range
12 of one percent.

13 Q. So the answer to the question is no?

14 A. It's an unfortunate no.

15 Q. What is the level of service on Main Street
16 today?

17 A. Ballpark, in traditional engineer's jargon
18 we call it in peak hours D, borderline E. It's
19 occasionally that on average. There are times when
20 it's gridlocked and that you would call F, but that's
21 not the normal situation.

22 Q. Are there any projections as to what the
23 future level of service would be on Main Street?

24 A. It depends on a lot of assumptions. Each
25 of these scenarios allocates the traffic differently,

1 reading the wrong page. Strike that.

2 I'm reading now at page 24, first
3 paragraph, quote, Any train operations during peak
4 commuter hours would have seriously adverse effects on
5 traffic congestions, end quote.

6 Has this plan been adopted by the city
7 council?

8 A. Not yet.

9 Q. Has it been presented to the city council?

10 A. They have -- the city streets committee
11 has been reviewing it and we've worked interactively
12 in the course of study, but they have had the draft to
13 review since May.

14 MS. CUSHMAN: Thank you. I have no further
15 questions.

16 JUDGE ANDERL: Ms. Rendahl, any questions
17 for this witness?

18 MS. RENDAHL: Yes, your Honor.

19

20 CROSS-EXAMINATION

21 BY MS. RENDAHL:

22 Q. Mr. Birdsall, referring to the map that's
23 Exhibit 4, are you aware of a proposed annexation
24 between -- that would occur between the Malloy Road on
25 the east and Burlington Northern's track and from the

1 city limit that's just above Thornton Road and ending
2 at Brown Road?

3 A. I'm aware of growth projections for that
4 area. I haven't kept up with the specific maneuvering
5 of certain annexations.

6 Q. Did you take this growth into consideration
7 in your forecasting models?

8 A. Yes.

9 Q. Wouldn't turning the Thornton Road into an
10 arterial create a lot more traffic in the Thornton
11 Road area than is currently existing now?

12 A. Depends on what part of the Thornton Road
13 you're looking at. Most of the traffic that is being
14 projected -- all of the traffic that is projected is
15 happening or will happen in the system somewhere
16 regardless. I mean, we're starting from the given of
17 the growth -- population growth forecast. We place
18 the houses at various locations throughout the area
19 according to the zoning plan and the growth management
20 plan, and then traffic is generated at those
21 locations. So the total -- you might say a budget
22 of trips in the traffic model is a fixed amount, but
23 when we put -- we hypothesize a Thornton Road
24 extension, then traffic flows toward that extension
25 instead of toward Main Street, but a good portion of

1 that traffic, as many people have said today, Thornton
2 is sort of the center of gravity of the growth pattern
3 that's happening in Ferndale, so it's a logical place
4 to most effectively serve all of that -- as much of
5 that traffic as possible.

6 Q. Are you aware of how any citizens in the
7 area may react towards increased traffic in that area?

8 A. I've heard a lot of citizens this morning
9 testify that they would like to see Thornton Road
10 developed. I expect that there is at least one
11 resident living on Thornton Road who will not like the
12 idea. That's typical.

13 Q. Just one more question. You stated I think
14 in your direct testimony that you don't believe that
15 the Brown Road crossing should be more heavily
16 utilized, is that correct?

17 A. I was commenting, it's a fairly recent
18 discovery on our part that -- I mean, until this
19 closing issue came up, we had not particularly looked
20 at Brown Road because it's way outside the city's area
21 of responsibility. But what I was trying to say this
22 morning is that the information in our traffic models
23 is telling us that in the absence of an effective
24 capacity improvement somewhere near Thornton Road,
25 that growth forecast that we're talking about is going

1 to route traffic somewhere somehow, and some of it is
2 going to show up on Brown Road if it doesn't have a
3 better place to go. And since Brown Road is an
4 at-grade crossing, you know, that's yet another
5 at-grade crossing to be concerned about.

6 Q. Are you aware that the Brown Road crossing
7 has a single track running through it as opposed to
8 the double track running through the Thornton Road
9 crossing?

10 A. Now I know.

11 MS. RENDAHL: I have no further questions.

12 JUDGE ANDERL: Okay. I have a couple of
13 questions.

14

15 EXAMINATION

16 BY JUDGE ANDERL:

17 Q. Mr. Birdsall, I think we had testimony from
18 a member of the public that there are at least two
19 schools and possibly a third projected on Thornton
20 Road?

21 A. Mm-hmm.

22 Q. Are you aware of that?

23 A. Yes.

24 Q. And does the reduced speed limit or
25 presence of children on Thornton factor into your

1 model at all when you're considering it as an
2 arterial?

3 A. We factor speed into the -- it's one of the
4 considerations. The traffic model is really trying to
5 find the most efficient paths through the network.
6 Speed is obviously a key determiner of that.

7 Q. Would that include factoring a 20 mile per
8 hour speed limit during -- in a school zone?

9 A. No. Because we are -- the times of day
10 when the 20 mile an hour thing applies is not the time
11 period when we have the peak traffic that we're most
12 concerned about. It's typically designed for the
13 evening/late afternoon commute pattern, and schools
14 are out by that time.

15 Q. On your Exhibit 18 do those heavy lines
16 showing traffic volumes give us any indication of the
17 carrying capacity of the roads that those volumes are
18 on?

19 A. No, they do not. That is the presentation
20 of demand only.

21 Q. Okay. So you could have a really fat
22 line up there, but if it was on a good four-lane road,
23 it wouldn't be a problem?

24 A. Correct.

25 Q. Is there any part of the model or part of

1 your study that relates volume or demand --

2 A. Yes.

3 Q. -- to carrying capacity?

4 A. Yes.

5 Q. Is that anywhere in our record today?

6 A. I don't believe that I've seen that, but
7 what I can tell you is that a large part of the -- of
8 the study is to develop a complete list of
9 improvements that takes care of all the, you know,
10 the balancing of supply and demand that you're asking
11 about so that the whole system works, and we've
12 developed a complete list of -- a 20-year plan of road
13 improvements for the whole city for all three of these
14 alternative east-west facilities.

15 Q. Mr. Birdsall, in planning for
16 transportation needs, if the crossing at Thornton Road
17 were to remain open as an at-grade crossing and bear
18 the traffic you show in your Exhibit 18, under that
19 scenario have you given any thought to whether that
20 at-grade crossing would need to be gated or
21 signalized?

22 A. I would assume it would require full
23 treatment.

24 Q. Okay. You talked a little bit with Mr.
25 Cuillier about revisions to the I-5 on- and off-ramps

1 at Thornton. Do you recall that?

2 A. At Portal?

3 Q. Well, at Portal, kind of extending in and
4 connecting with Thornton.

5 A. Extending Portal and -- well, that's
6 extending from the Portal interchange to Thornton.

7 Q. Does that involve an overcrossing --

8 A. Yes.

9 Q. -- of the railroad grade then?

10 A. Yes. That is itself an overcrossing.

11 Q. But I mean, that couldn't be done in
12 conjunction with an at-grade crossing at Thornton,
13 could it?

14 A. I won't say it couldn't.

15 Q. Likely?

16 A. It probably could be done with an at-grade
17 crossing. It's just, you know, you're going to have
18 to get some design engineers to lay everything out
19 physically to see what works. Part of my point in
20 that discussion this morning was simply to say that
21 those are ideas that we've just started to talk about
22 in the last week.

23 Q. Right. For the long-term growth needs of
24 the city of Ferndale, not taking into consideration
25 the cost of the alternatives, if you had to choose one

1 which you felt would be the best, would you be able to
2 do that?

3 A. I think so.

4 Q. What would that be do you think?

5 A. Well, if cost were not the consideration, I
6 feel that the overcrossing delivers the most benefits.

7 Q. Do you think that it -- when you say
8 delivers the most benefits, would that include being
9 useful for the longest amount of time in terms of
10 absorbing growth furthest into the future?

11 A. Yeah. And probably provides the highest
12 amount of capacity, that sort of thing. In saying
13 that, I have to say that the at-grade alternative is
14 -- you know, when cost is a constraining factor, then
15 the at-grade alternative stands up to number one
16 because it's, A, the lowest cost of the three choices
17 and, B, lends itself most readily to incremental
18 construction. It's the easiest way for the city to
19 go, and that in itself has shown itself to be a
20 difficult, hard enough task to achieve. It's pretty
21 hard for the city to sign up for the other choices
22 unless they have, you know, significant help from the
23 state or somebody else.

24 JUDGE ANDERL: All right. Thank you. Mr.
25 Cuillier, any redirect?

1 MR. CUILLIER: Thank you.

2

3 REDIRECT EXAMINATION

4 BY MR. CUILLIER:

5 Q. Just briefly. I think there is in the
6 record -- maybe I misunderstood your testimony as to
7 the present percentage of capacity used on Main Street
8 to your best knowledge.

9 JUDGE ANDERL: I think he did testify about
10 that. I was asking more generally for the rest of the
11 model.

12 MR. CUILLIER: Okay.

13 Q. And if you would pick up Exhibit 21 on the
14 table there and look at the map, is it showing Intalco
15 there on that?

16 A. It appears to be just below Texaco.

17 Q. Would you put -- where would Intalco
18 Aluminum be on this map in relationship to Mountain
19 View Road? Where is it?

20 A. I'm not positive. I know it's out that way
21 and it's real close to Mountain View, if I'm not
22 mistaken.

23 Q. Okay. Do you know how many employees
24 Intalco employs?

25 A. I don't know directly. We have -- I know

1 and from the numbers in the traffic model each of
2 those traffic analysis zones that we have out that
3 area has several hundred employees in them.

4 Q. Thank you. Is there any inconsistency in
5 the two statements that you have made here today, the
6 one being that you did not believe the train volume is
7 relevant to the issue on Thornton Road, and the other
8 one being the statement in your report that any
9 operations -- train operations during peak commuter
10 hours would have seriously adverse effects on traffic
11 congestion? Are those two statements inconsistent?

12 A. Well, we were dealing with different
13 contexts to some extent and I'll try to clarify that.
14 When I said a few minutes ago that the conflict
15 between train traffic and car traffic was an
16 irrelevant concern, I was saying that in the context
17 of how the traffic model operates in terms of
18 forecasting what demand is for travel in a given
19 corridor. That -- you might say that is a best of all
20 world's situation.

21 But the comment out at the report says,
22 yeah, but to the extent that traffic is disrupted
23 during peak hours when that corridor is very heavily
24 used, there could be a problem. You know, 14 trains a
25 day sounds to me like about one train every two hours

1 and I don't know what the operating schedule is and
2 how firm that might be, but -- so I don't know whether
3 there's more than one train happening between 4:00 and
4 6:00 in the afternoon or not and whether the railroad
5 could guarantee what that frequency might be ten years
6 from now anyway.

7 Q. Okay. Thank you for clarifying.

8 MR. CUIILLIER: No other questions.

9 JUDGE ANDERL: Any recross?

10 MS. CUSHMAN: (Shakes head.)

11 MS. GIBSON: No.

12 JUDGE ANDERL: Okay. Thank you, Mr.

13 Birdsall, for your testimony. You may step down.

14 The city's next witness?

15 MR. CUIILLIER: The final witness for the
16 city, your Honor, City Manager Stan Strebels.

17 JUDGE ANDERL: Raise your right hand,
18 please.

19 Whereupon,

20 STAN STREBEL,

21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DIRECT EXAMINATION

BY MR. CUILLIER:

Q. And could you please state your name and occupation.

A. My name is Stan Strebek, S T R E B E L. I'm the city manager of the City of Ferndale.

Q. And your address, please?

A. Business address is Post Office Box 936, Ferndale, Washington.

Q. And do you live within the city limits?

A. Yes, I do.

Q. And what was your occupation prior to being appointed Ferndale's city manager?

A. I was the city manager of Bisbee, Arizona.

Q. And could you please describe the education and training that you've had in the field of municipal planning and municipal government?

A. I have a bachelor's degree in urban planning from the University of Washington, a master's degree in public administration from Brigham Young University. I've been employed as a planner, county administrator, city administrator for 17 years.

Q. Thank you. And first of all, if we could clarify the map that is Exhibit 21 that we have on I think -- there it is. And the Exhibit 21, does that

1 accurately locate Intalco Aluminum Company?

2 A. I don't believe that Intalco Aluminum
3 Company is located on the map. It should be located
4 at the end of Mountain View Road near the intersection
5 with the Kickerville Road so that it's -- if you
6 drove out Mountain View directly to the western end of
7 Mountain View, you would go into the Intalco gate.

8 Q. And how many employees does Intalco employ
9 approximately?

10 A. My understanding is that Intalco is the
11 largest employer in the Cherry Point area with
12 approximately 1,000 employees. My understanding also
13 is that Arco employs about 400 and that British
14 Petroleum employs about 300 employees.

15 Q. And what is the name of the facility south
16 of Intalco as opposed to Texaco?

17 A. TOSCO.

18 Q. And so Mountain View is the street that
19 eventually as you proceed eastbound turns into what
20 street?

21 A. Main Street.

22 Q. And goes through Ferndale?

23 A. Yes.

24 Q. Now, Mr. Strebel, do you know what the
25 city's present traffic plan at this point is in

1 addition to the TIPS?

2 A. At this point the adopted plan of the city
3 is the regional transportation plan 1991 version
4 adopted by the city council and by the Whatcom County
5 Council of Governments which is exhibit -- it's marked
6 here.

7 Q. Exhibit 16?

8 A. Yes.

9 Q. And could you find -- could we maybe find
10 that exhibit?

11 JUDGE ANDERL: Do you have an extra copy
12 because I would like to refer to it too.

13 Q. Yes. This exhibit, Mr. Strebel, is it
14 consistent with the proposed growth management traffic
15 plan to be adopted by the city?

16 A. Yes. As Mr. Birdsall testified, a lot of
17 the assumptions that he's used in developing the
18 transportation plan draft for the city have come from
19 the information contained in the Whatcom County
20 Council of Government's plan.

21 Q. Where specifically in the present city plan
22 does it refer to the Thornton Road connector?

23 A. It refers to the Thornton Road connector in
24 a number of locations in the packet that we have. In
25 front of us on page 5B -- or figure 5B, there's an

1 inset on the map where the city of Ferndale is
2 illustrated and the Thornton Road connection, the
3 extension of Thornton Road to Portal Way is projected
4 there, and a peak p.m. hourly volume of 1,000-1,500
5 trips is indicated in that particular drawing.

6 JUDGE ANDERL: Hold on a second.

7 THE WITNESS: The inset right here
8 (pointing.)

9 JUDGE ANDERL: Okay. Go ahead.

10 A. Continuing on in that plan, on page 45 the
11 document begins to describe what is called the
12 committed roadway plan, near the bottom of the page.
13 And continuing on to page 48 in describing that
14 committed roadway plan, underneath heading the City of
15 Ferndale, it is indicated that the extension of
16 Thornton Road easterly and southerly from Malloy Road
17 to Portal Way near Interstate 5 as a 48-foot street as
18 a part of that plan.

19 Q. And is that also shown in the insertion on
20 page 6B?

21 A. Yes. The insert on 6B, the same position
22 as the previous map that we described, shows the
23 Thornton Road extension to Portal Way as a 48-foot
24 street.

25 Q. Thank you. Can you maybe approach the map,

1 which I believe is Exhibit 19, the latest 1993 city
2 zoning map that we introduced in evidence, and
3 describe for us the subdivisions that are shown on
4 that map and where the residential development would
5 appear on that map primarily.

6 A. Well, this Exhibit 19 which has been
7 updated as of August 1993 is the current city zoning
8 map, and in contrast to Exhibit 4 which is not as
9 current as this map in terms of listing the
10 subdivisions, I would point out that there are -- a
11 number of what would appear as vacant properties on
12 Exhibit 4 are actually developed properties on the
13 city's zoning map, Exhibit 19.

14 For example, the Gardener Terrace
15 subdivision located west of Vista and south of
16 Thornton, south of the Skyline school, is in the
17 process of being built right now. There are homes
18 being constructed in that subdivision.

19 Q. Can you tell us about how many home sites
20 are contained in that subdivision?

21 A. There are about 60 home sites approved for
22 development for building right now that are being
23 built upon, and another phase which is set to begin
24 construction in the spring of approximately that many
25 also.

1 Q. The total lots potential there?

2 A. More than 100.

3 Q. Okay.

4 A. Additionally there are home sites developed
5 and built on north of Thornton and east of Church in
6 an area that has been developing in the just recent
7 past. The subdivision south of Thornton and east of
8 Church in the southeast corner of that intersection of
9 Church and Thornton is in the process of being
10 developed. A new subdivision has been platted to the
11 west of Church just north of Thornton and is being
12 built on the school site that has been referred to as
13 located in this vicinity west of Church at the western
14 end of the city limits on Thornton Road.

15 Q. Which of the school sites that were
16 referred to?

17 A. The Eagle Ridge elementary school, the
18 brand new school that has opened this fall. Generally
19 we see tremendous pressure for growth in the city at
20 the north city limit and at the west city limit,
21 hence, the school responding with the new facility,
22 new church facility, a new park facility being located
23 in this area.

24 Q. And do we have in the city any other plats
25 or proposed plats in that area that are either in the

1 process or proposed for subdivision, to your
2 knowledge, or that you can recall offhand?

3 A. There is a new plat being developed in the
4 vicinity of Church Road about midway between Thornton
5 and Mountain View on the west side of Church Road near
6 this reservoir, which I'm indicating on the west city
7 limits. 60 lots are being proposed in that
8 subdivision --

9 JUDGE ANDERL: Excuse me. Mr. Strebek,
10 does it say reservoir on the map?

11 THE WITNESS: It does.

12 JUDGE ANDERL: Okay.

13 A. Also not subdivision plats at this point in
14 time, but the city is considering a number of
15 annexations both to the west and to the north. I
16 believe that this area has been referred to in
17 testimony today and yesterday, the area between Malloy
18 and the interstate, north of Thornton to the Brown
19 Road, about 136 acres. That is being considered by
20 the county boundary review board next month for
21 annexation to the city.

22 There is an annexation currently submitted
23 to the city in the area immediately west of Church
24 Road and south of Thornton, about 70 acres for
25 annexation. There are other annexations that the city

1 is considering, but as I said, much of the direction
2 or the growth that seems to be coming to the city is
3 northerly and westerly.

4 Q. Thank you. You may be seated if you wish.
5 What, if anything, did you observe about the concept
6 that the city in fact probably cannot guarantee that
7 it will be able to build the at-grade Thornton
8 connector if the crossing is kept open?

9 A. Well, that question has been asked on
10 occasion during these proceedings and I suppose that
11 the answer to it is much the same as the answer that
12 we frequently get from the state when we ask for
13 assistance for different projects. The state is
14 unable to guarantee us funding into the future for
15 projects as well. And so we are somewhat frustrated
16 by that and we're doing the best we can to meet our
17 needs, trying to plan for the facilities that we
18 perceive will be needed in the community and trying to
19 get that money on an incremental basis as it can be
20 got or as it's available.

21 Q. Do you see any practical effects either
22 short term or long term if the crossing is immediately
23 closed?

24 A. Well, as has been testified today, the
25 immediate closure of the crossing I think may force

1 the city to look at otherwise more expensive
2 alternatives to providing that east-west connector
3 link which we feel is very vital to the future of the
4 city. Additionally, it would begin to frustrate the
5 efforts of industry in that manufacturing area between
6 Thornton and the interstate. The existing business
7 that has testified today would be frustrated by their
8 ability to secure financing. Jobs may be in jeopardy.
9 I think that the closure of the crossing, based on
10 what I would describe as still a somewhat speculative
11 venture on the part of Amtrak, is not well advised.

12 Q. Do you think that there's some way that the
13 city's plan can be considered or recognized in this
14 process or that there would be some value in some
15 attempts to find some ground here for a solution
16 without closing the track immediately? Are there any
17 alternatives you see between just black and white?

18 A. Well, there may be some phased alternatives
19 that could be approached. There may be the
20 opportunity for the city and the state, the railroad,
21 to explore other alternatives to the grade crossing
22 that would not completely eliminate the city's option.
23 I think we're talking here somewhat about options.
24 The city is mandated by the state to plan for growth.
25 The city is mandated to do a number of things. We're

1 wanting to keep our options open in the future. We're
2 wanting to maintain as much flexibility as we can to
3 respond to the needs.

4 I think as has been well illustrated today,
5 the city is a large funnel and traffic does not have a
6 lot of alternative places to go, and the more we
7 congest and funnel that traffic into one area, the
8 fewer the options are that we have. We want to
9 maintain flexibility, and so if we can get the state
10 to recognize our planning efforts, the railroad and
11 other entities to recognize the things that we face,
12 the responsibilities that we have, I think that there
13 are ways to accomplish this.

14 I might also point out that under the
15 Growth Management Act the idea that the state
16 legislature has is that greater densities will be
17 achieved in municipalities than in unincorporated
18 areas and so we are under considerable pressure by the
19 state and by the county and by other entities to
20 increase density within the existing city limits or in
21 the area immediately adjacent to the city limits, and
22 right now that only spells more trips per day, more
23 cars on the road, more congestion in that Main Street
24 corridor that we already now feel so acutely.

25 MR. CUILLIER: Thank you. No other

1 questions.

2 JUDGE ANDERL: Okay, thank you. Ms.
3 Gibson, any cross for this witness?

4

5 CROSS-EXAMINATION

6 BY MS. GIBSON:

7 Q. Mr. Strebel, is it true that the city has
8 not done any ecological or traffic engineering studies
9 to see if the proposed connector road would be viable?

10 A. Since I've been employed by the city, it
11 has not.

12 Q. And I think some exhibits were submitted
13 regarding the six-year plan, Exhibit 14. You saw that
14 document, didn't you?

15 A. Yes.

16 Q. The first one in that packet is 1990.
17 Since that date, since 1990 the city has not -- when
18 they started including it in their six-year plan, they
19 haven't in the intervening four years undertaken any
20 of those studies, is that right?

21 A. I started with the city in February of 1992
22 and so my answer can only be from that date.

23 Q. Now, according to documents that the city
24 has put into evidence today, and specifically I'm
25 talking about Exhibit 17, the draft transportation

1 plan, the projections, your own projection is that the
2 connector road would cost \$4 million, is that right?
3 Do you recall that?

4 A. That's a number that is in the plan.
5 There's another figure there, \$2 million, and \$2
6 million is added to that for other considerations.

7 Q. All right. And those considerations
8 include such matters as wetland impact, isn't that
9 right?

10 A. Yes.

11 Q. And since you haven't done a study to see
12 what the impact would be on the wetlands, is it your
13 experience that that figure could indeed be much
14 higher even?

15 A. It may be higher; it may be lower.

16 Q. Now, you would agree, wouldn't you, Mr.
17 Strebel, that if the Thornton Road crossing were
18 closed, the city could still pursue its option to
19 build an overpass directly over Thornton Road and
20 extending with Portal Way?

21 A. I would indicate that if the crossing were
22 closed, the city would have one fewer option to
23 pursue.

24 Q. But answering my question, the city would
25 still have the option of pursuing the overpass, isn't

1 that right?

2 A. It would still have that option.

3 Q. And as I understand it then, is this
4 correct, your position -- the position of the city is
5 that you just want Thornton Road crossing to remain
6 open so that you have one more alternative to consider
7 in the future?

8 A. I don't think that's the full position. I
9 think it needs to be understood that the overpass
10 option, while it may be superior in some respects, has
11 its drawbacks. For example, the access of the
12 businesses and properties to Thornton Road located on
13 the west side of Malloy would be, in my view, severely
14 limited by the overpass option. So our plan has
15 attempted to try and identify the positive aspects of
16 each alternative, the negative aspects of each
17 alternative, and try and preserve those options for
18 the decision makers.

19 Q. And the city would still have many other
20 alternatives to consider, isn't that right, including
21 putting more traffic over Brown Road as your
22 consultant alluded to? Wouldn't that be one
23 alternative?

24 A. I don't know that that's an option that
25 we're talking about as a viable option. I think

1 that's been illustrated by the consultant as a
2 possible consequence.

3 Q. And that is not an alternative that the
4 city has considered at this point then?

5 A. No. While this plan has been developed,
6 Brown Road is not a part of the city and so it has not
7 been included as a part of our plan.

8 Q. But your plans are now to extend the city
9 limits out to Brown Road, isn't that right?

10 A. There's an annexation petition that would
11 extend the city limits to Brown Road.

12 Q. And much of your northerly population lives
13 closer, let's say, to Brown Road than they do to Main
14 Street, isn't that right?

15 A. No, I don't think I would agree with that.
16 There are some that live closer to Brown Road than to
17 Main Street. I don't think I could characterize it as
18 much.

19 MS. GIBSON: That's fair. Thank you, Mr.
20 Strebel. I have nothing else for you.

21 JUDGE ANDERL: Ms. Cushman?

22

23 CROSS-EXAMINATION

24 BY MS. CUSHMAN:

25 Q. Mr. Strebel, referring to the freeway, I-5,

1 I believe there are four interchanges in the area of
2 Ferndale known as Slater, Axton, Portal, and
3 Grandview, and that those intersections -- excuse me
4 -- that those interchanges off and onto I-5 are
5 located within five or six miles of each other on the
6 freeway, is that correct?

7 A. That would be correct. The Slater
8 interchange and the Grandview interchange are not
9 located within the city limits.

10 Q. They are -- they serve Ferndale to the east
11 of the city, the Ferndale -- greater Ferndale area?

12 A. The greater Ferndale area, yes.

13 MS. CUSHMAN: Thank you.

14 JUDGE ANDERL: Ms. Rendahl?

15

16 CROSS-EXAMINATION

17 BY MS. RENDAHL:

18 Q. Yes, Mr. Strebel, I don't know that this
19 has been discussed today, but in considering the
20 option to build the overpass, wouldn't it be still
21 necessary to provide access to residents in that area
22 east of the tracks for ingress and egress? You would
23 still need to provide an access road for those
24 residents, isn't that correct?

25 A. Yes. That's what I mentioned a few moments

1 ago, that the overpass option, while it could be
2 superior in some aspects, has negative aspects as
3 well, one of those being providing access to
4 residents, properties, and businesses that would be
5 located underneath the overpass.

6 Q. Are you aware that if the Commission grants
7 the petition to close the crossing that the city may
8 later petition the Commission to reopen that crossing
9 if funding were to become available for a later
10 project?

11 A. Yes, I think I'm aware of that option.

12 MS. RENDAHL: I have no further questions.

13 JUDGE ANDERL: Anything on redirect?

14 MR. CUILIER: No, thank you.

15 JUDGE ANDERL: Thank you, sir, for your
16 testimony. You may step down. Let's be off the
17 record for a minute while we get ready to hear from
18 the Commission staff's witnesses.

19 (Discussion off the record.)

20 JUDGE ANDERL: Let's be back on the record.
21 While we were off the record, Commission staff's first
22 witness took the stand. If you would raise your right
23 hand, please.

24 Whereupon,

25 GARY HARDER,

1 having been first duly sworn, was called as a witness
2 herein and was examined and testified as follows:

3 JUDGE ANDERL: Go ahead, Ms. Rendahl.

4 MS. RENDAHL: Your Honor, have these been
5 admitted into evidence, these exhibits?

6 JUDGE ANDERL: Oh, no. While we were off
7 the record, we did mark for identification the
8 Commission staff's proposed exhibits. Ms. Rendahl has
9 indicated to me that all of the parties will stipulate
10 to their admission, so let's go through them now.

11 Exhibit Number 22 is a single sheet. It is
12 a map of Ferndale and it has various highlighting on
13 it indicating proposed train speeds. Exhibit Number
14 23 is a photo packet entitled BN, Cascade Division,
15 Bellingham Subdivision. Exhibit Number 24 is
16 multiple sheets, WUTC photo sheets with multiple
17 photographs attached to each sheet.

18 Exhibit Number 25 is a single sheet
19 entitled Grade Crossing Accidents, 1988 through 1993.
20 Exhibit Number 26 is entitled Derailments, Collisions
21 and Pedestrian/Trespasser Accidents 1988 through '93.
22 Both of those refer to the city of Ferndale.

23 Exhibit Number 27 is an information sheet
24 regarding Operation Lifesaver, and Exhibit Number 28
25 is entitled Accidents at All Grade Crossings Reported

1 1972 through Current. I did insert in handwriting at
2 the top the "State of Washington" on that per Ms.
3 Rendahl's request off the record.

4 And unless there is an objection to those
5 exhibits, they will be admitted as identified.

6 MS. GIBSON: No objection.

7 JUDGE ANDERL: Okay. Hearing no objection,
8 thank you. Those exhibits will be admitted as
9 identified. Go ahead, Ms. Rendahl.

10 (Marked and Admitted Exhibits Nos. 22
11 through 28.)

12

13 DIRECT EXAMINATION

14 BY MS. RENDAHL:

15 Q. Would you please state your name, your full
16 name, and spell your last name for the reporter,
17 please.

18 A. Gary Harder, H A R D E R.

19 Q. Would you please state your business
20 address for the record.

21 A. Washington Utilities and Transportation
22 Commission, 1300 South Evergreen Park Drive Southwest,
23 Olympia, Washington, 98504.

24 Q. Mr. Harder, you're employed by the
25 Commission, is that correct?

1 A. Yes, it is.

2 Q. And what is your current position with the
3 Commission?

4 A. Title is rail carrier compliance
5 specialist.

6 Q. How long have you been employed by the
7 Commission?

8 A. Approximately 22 years.

9 Q. What other positions have you held with the
10 Commission?

11 A. I've essentially held this position for my
12 Commission's employment. It's been changed as far as
13 the job title. It was railroad engineering specialist
14 and it's changed about four times since I've come to
15 work for the Commission.

16 Q. Generally what are your responsibilities as
17 a rail carrier compliance specialist?

18 A. I handle technical assistance to the
19 inspectors in the field. We handle complaints. We
20 have inspectors who do accident reports on railroad
21 grade crossings, trespassers, and derailments. I
22 review those reports. I also officiate and do field
23 inspection work with the petitions that the Commission
24 receives for grade crossing reconstruction,
25 installation of railroad signals, and the closure of

1 railroad grade crossings.

2 Q. Have you reviewed the petitions that are at
3 issue in the hearing today?

4 A. Yes, I have.

5 Q. Has the staff conducted an analysis or an
6 investigation of the issues that are presented in
7 these petitions?

8 A. Yes, we have.

9 Q. What did the staff do in conducting its
10 investigation?

11 A. Our track inspector conducted an evaluation
12 of the track structure through the city limits of the
13 city of Ferndale. I also accompanied him on various
14 segments of that section. I took pictures of the
15 railroad crossings to show the signals at that
16 crossing and the approaches to the crossing and the
17 track structure in and around the railroad crossing
18 and I also reviewed the accident records for grade
19 crossings and train accidents too.

20 Q. Looking at Exhibit 22, which is the colored
21 map, and referring to the mileposts that show the
22 southern city limit and northern city limit, does this
23 depict the track that the staff reviewed in its
24 investigation?

25 A. Yes, it does.

1 Q. Why did the staff review track all the way
2 up to milepost 109?

3 A. In verifying the petition that the parties
4 submitted, they so stated that the mileposts were 105
5 to I believe approximately 108 for the area of the
6 speed increases. To validate that petition, we went
7 and asked the city to supply us a copy of the current
8 map and would they also advise us if they had any
9 pending annexations and if there were some very
10 possible future annexations, say, within the next year
11 that would be taking in this portion of the -- and
12 taking in the Burlington Northern tracks. And we did
13 find out that there was some additional territory that
14 would include between milepost 108 and 109 above Brown
15 Road.

16 Q. So your investigation assumed that the
17 train speed would be increased up to milepost 109 at
18 79 miles per hour?

19 A. That's correct.

20 Q. Referring now to Exhibit 23 titled BN,
21 Cascade Division, Bellingham Subdivision, do the
22 photographs in this exhibit show the track that the
23 staff investigated in the city of Ferndale?

24 A. Yes, it does.

25 Q. And does it indicate the track structure in

1 that report?

2 A. It shows the track structure by the
3 pictures that my inspector took, yes.

4 Q. Does it also show various aspects of the
5 track in the notes to the right of the pictures?

6 A. Yes, it does.

7 Q. Looking next at Exhibit 24 titled WUTC
8 Photo Sheet, do the pictures in this exhibit show the
9 crossings in the city of Ferndale at the time of your
10 investigation?

11 A. Yes, they do.

12 Q. Why did you take panoramic shots of the
13 crossings?

14 A. If I may, let's just take the top one and
15 -- top sheet. It is a panoramic view of a picture --
16 pictures of Hovander Road, that crossing. They are
17 taken approximately 100 feet from the nearest rail.
18 They are taken as a driver would see the railroad
19 crossing. It's also interesting to note, well, what
20 is the driver also seeing besides just the railroad
21 signals and can he see the train, so that's why I
22 panned in this case to the north and the south. Also
23 showing in this case that Hovander Road circles around
24 in the top picture and essentially is parallel to the
25 track just after you cross the crossing in either

1 direction north and south of the crossing.

2 If I may briefly, the next picture in each
3 of the series of two sheets is also a picture of
4 Hovander Road, but taken down and looking down the
5 tracks. Essentially in some cases I am able to show
6 the elevations of the road as the road comes up to the
7 track and you get a kind of a perspective of what
8 drivers are going to have to do to negotiate crossing
9 over the tracks. And it also shows you what the
10 crossing material is between the rails.

11 Q. Mr. Harder, you've been present, haven't
12 you, throughout all the testimony yesterday and today?

13 A. Yes, I have.

14 Q. And you heard Mr. Nelson's testimony
15 yesterday concerning the current condition of the
16 track through Ferndale?

17 A. Yes.

18 Q. Do you take exception to any of his
19 testimony concerning the condition of the track?

20 A. No, I don't.

21 Q. Do you agree that the track structure meets
22 Class 4 standards?

23 A. Yes, it does.

24 Q. You also heard Mr. Frazier testify
25 concerning the crossings in the city of Ferndale?

1 A. Yes.

2 Q. And do you take exception to any of his
3 testimony concerning the present condition of the
4 crossings and the planned improvements to those
5 crossings?

6 A. No.

7 Q. You mentioned earlier that as a part of the
8 staff's investigation the staff reviewed the accident
9 statistics concerning the track in the city of
10 Ferndale, is that correct?

11 A. Yes, we did.

12 Q. What accident statistics did you review?

13 A. The accidents that are on a data base that
14 are contained in the Commission's files, which in the
15 case of railroad grade crossing accidents are compiled
16 from reports that we receive from the state patrol
17 which are required to be filled out if there is
18 approximately -- I believe right now the threshold is
19 \$250 if there's damage to a car, and that report is to
20 be filed with the State Patrol. If it has to do with
21 a train/vehicle collision, they earmark it and give a
22 copy to us.

23 The copy is then compared with the accident
24 reports that are filed with the Federal Railroad
25 Administration by the railroad and our file is created

1 from that.

2 Q. Referring to Exhibit 25, does this exhibit
3 accurately show the accidents occurring at grade
4 crossings in the city of Ferndale over the last five
5 years?

6 A. Yes, it does.

7 Q. And referring to Exhibit 26, does this
8 exhibit show the derailments and other accidents
9 occurring along the tracks within the city of Ferndale
10 over the last five years?

11 A. Yes, it does.

12 Q. Why did you just look at the last five
13 years in compiling accident statistics?

14 A. We felt that this was a timely segment that
15 would reflect what was actually taking place out
16 there, because changes are always occurring, whether
17 they be because of the railroad or because of the city
18 or because of train traffic and train operations which
19 maybe would be changed. That's the reason we only
20 went back five years.

21 Q. In your experience with the Commission in
22 reviewing rail accidents, do the statistics in these
23 two exhibits portray a relatively high or low number
24 of accidents?

25 A. Very low number.

1 Q. In your investigation did the Commission
2 staff identify any safety concerns within the city of
3 Ferndale?

4 A. I believe, as has been mentioned before, I
5 believe with the city and the school people, school
6 superintendent, that we did also observe several paths
7 or routes through the alder trees, downed trees,
8 blackberry bushes, and over the ditch, planks that had
9 been placed in the ditch area to enable people to
10 cross between the ball fields and gain access to
11 the railroad right of way.

12 Q. And you've walked along this area that you
13 just described?

14 A. Yes, I have.

15 Q. What is your recommendation concerning how
16 this safety concern should be addressed?

17 A. Because essentially the area does have
18 sort of a natural barrier, that barrier being the
19 ditch in wintertime is full of water. It is a
20 drainage area and collects water. Since about a year
21 ago from my first observation, the alder trees have
22 grown considerably. They are going to get bigger for
23 sure. Up in the north area there is -- when we walked
24 it yesterday, apparently I didn't take notice of it at
25 that time before, a year ago, but we did find the area

1 of blackberries has since been killed or is lightly
2 growing in that particular area, and there is a four-
3 strand barbwire fence in the area of the new -- what
4 I'll call the newly-constructed ball fields. That's
5 the closest ball fields to the railroad right of way.

6 In the other area you're approximately
7 maybe 150 feet from the right of way, and we only
8 found on yesterday's walk one area off of the existing
9 fencing. That fence is apparently the football field
10 -- I'll say football field. That crosses the area
11 between the football field and the railroad right of
12 way.

13 I would suggest that the existing fencing
14 along that football field be, say, extended about 100
15 feet to maybe just deter the use of that particular
16 path because in that whole area that I walked, that
17 was about the only one that has been most recently
18 used and has a great use to it.

19 Q. Given the staff's investigation of the
20 track structure and the grade crossings, the safety
21 concern you just addressed and the accident
22 statistics, what is your opinion concerning whether
23 passenger trains can safely operate at the speeds
24 requested in the petition?

25 A. I believe they can operate at the speeds

1 that the petitioners requested.

2 Q. And why is this the case?

3 A. Well, the track structure right now meets
4 that standard for which they could travel that speed.
5 As the railroad has stated and I think Mr. Nelson has
6 stated, they are going to do some extensive work in
7 the track structure, meaning the re-laying of rail,
8 which undoubtedly will be replacing some ties that
9 need to be done at the same time. They are going to
10 be re-laying rail not only in the main line but in the
11 siding track. They are going to be doing some switch
12 or turnout work that'll be replacing or installing a
13 new turnout. And they will also be upgrading to the
14 technology and the best advantages for the driver to
15 the railroad signals to make sure that they do have
16 the proper 20 seconds of warning time for an
17 approaching train.

18 The crossings seem to be all railroad
19 signaled with -- having railroad signals with gates.
20 The railroad plans to adjust the start distances to
21 provide a constant warning distance of 20 seconds and
22 I didn't really see that there was that much of an
23 adverse effect that the train speed increase would
24 have on the adjacent properties later along the
25 railroad right of way.

1 Q. When you just stated that the crossings are
2 all signalized, are you including Thornton Road in
3 that?

4 A. Excuse me. That's the one that is not
5 signalized.

6 Q. And concerning Thornton Road, what is your
7 recommendation to the Commission concerning the
8 petition to close the Thornton Road grade crossing?

9 A. Because of the likely use of that
10 particular crossing and right now it presently serves
11 two properties who are occupying that -- those
12 properties with apparently single-family residences,
13 the fact that the petitioners show that they were
14 probably going to provide an access to those property
15 owners, my recommendation would be to grant the
16 petition to close the crossing.

17 Q. If the access road is not constructed for
18 whatever reason, what would be your recommendation to
19 the Commission concerning the closure of the crossing?

20 A. The property owners naturally could not be
21 denied access. I would definitely leave the option
22 open to use that crossing as a private crossing, but
23 recommend that the crossing be closed to public use
24 and maybe insofar as to emphasize that fact is the
25 parties arrange that a gate be installed on the west

1 side to reenforce the use of the crossing by only
2 those people that really need to use the crossing.

3 MS. RENDAHL: Thank you. I have no further
4 questions, your Honor.

5 JUDGE ANDERL: Okay, thank you, Ms.
6 Rendahl. Let's see. Ms. Gibson, we'll go to you
7 first if you have any cross.

8 MS. GIBSON: I have nothing.

9 JUDGE ANDERL: Ms. Cushman?

10 MS. CUSHMAN: No cross.

11 JUDGE ANDERL: Mr. Cuillier then?

12

13 CROSS-EXAMINATION

14 BY MR. CUILLIER:

15 Q. Are you satisfied that that's the only
16 feasible location for that siding there on Thornton
17 Road or have you investigated whether the railroad
18 actually looked at alternatives without, let's say,
19 disregarding the cost factor, assuming that there's
20 space for -- well, let me just ask you that. Did you
21 look into this as to how carefully alternatives were
22 studied?

23 A. No, I didn't. I was aware that the
24 railroad had conducted a series of reviews of the
25 tracks and that this is where they had probably

1 thought that this was the best place to put it for the
2 least amount of money. That's about the only
3 investigation that I did.

4 Q. Do you know if the trains can pass in
5 Bellingham -- if the Amtrak could pass the freight in
6 the city of Bellingham someplace?

7 A. I don't know for sure. I would imagine
8 there are -- there is a yard in downtown Bellingham.
9 I'm sure that that could be done if the freight train
10 were to take one of the spur tracks in downtown
11 Bellingham and Amtrak be left with the main line open,
12 yes.

13 Q. Were you here yesterday when the gentleman
14 was testifying about choosing this location for the
15 siding because it just basically needs to be extended,
16 whereas others would have to be built from the start,
17 would involve completely new construction as opposed
18 to extensions?

19 A. Yes, I was here.

20 Q. And do you recall I asked him about areas
21 south of the city like south of Slater Road, for
22 example?

23 A. Yes, I recall that.

24 Q. I mean, are you familiar with the track
25 area south of Slater Road, for example?

1 A. Not familiar with it to determine and
2 probably answer your question. We have driven and I
3 have high railed the area, but I'm not quite that
4 familiar with maybe to the detail that you need to
5 have your question answered.

6 Q. I was just curious as to whether any
7 obvious problem strikes you as to why the siding that
8 long couldn't be built there.

9 A. I don't know.

10 MR. CUILLIER: Thank you. I have no other
11 questions.

12

13

EXAMINATION

14 BY JUDGE ANDERL:

15 Q. Mr. Harder, let me just ask you a couple
16 of things here. As a practical matter, how does that
17 work if you gate one side of the crossing, say gate
18 the west side? Then when the property owners are
19 coming out from their residence, they have to stop
20 their vehicle on the east side and cross the tracks on
21 foot and unlock and open the gate?

22 A. That's correct.

23 JUDGE ANDERL: Okay. Anything else, Ms.
24 Rendahl? Anything on redirect?

25 MS RENDAHL: No, your Honor.

1 JUDGE ANDERL: Okay. Mr. Harder, thank you
2 for your testimony. You may step down.

3 MS. RENDAHL: I would like to call Alan
4 Scott.

5 JUDGE ANDERL: Mr. Scott, raise your right
6 hand, please.

7 Whereupon,

8 ALAN SCOTT,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11 JUDGE ANDERL: Go ahead, Ms. Rendahl.

12

13 DIRECT EXAMINATION

14 BY MS. RENDAHL:

15 Q. Would you please state your full name and
16 spell your last name for the record.

17 A. Alan Scott, S C O T T.

18 Q. And what is your business address?

19 A. 1300 -- I'll start over. Washington
20 Utilities and Transportation Commission, 1300 South
21 Evergreen Park Drive Southwest, Olympia, Washington
22 98504.

23 Q. You're employed by the Utilities and
24 Transportation Commission?

25 A. That's correct.

1 Q. What is your present position with the
2 Commission?

3 A. I'm the operations manager over the rail
4 section.

5 Q. How long have you been employed by the
6 Commission?

7 A. I've been with the Commission about 18 and
8 a half years.

9 Q. And what other positions have you held with
10 the Commission?

11 A. I was a railroad engineering supervisor,
12 which is basically the same position I have today when
13 I came to work for the Commission in 1976. At one
14 time we merged the motor carrier and the rail section
15 together and I was chief of both rail and motor
16 carrier safety inspection programs for about four
17 years. And before I was -- went back to running the
18 railroad section, I was an operations manager,
19 basically a staff assistant to the director, where I
20 handled -- I did most of the legislative liaison work,
21 handled federal grant programs, rule making, and
22 represented the division and various other state
23 agencies.

24 Q. So among the other issues, you've worked in
25 railroad issues at the Commission for the last 18

1 years?

2 A. That's correct.

3 Q. What was your work experience before coming
4 to the Commission?

5 A. I spent six years with the Western Pacific
6 Railroad Company. Two in that capacity of those six
7 years I was a trainmaster, terminal superintendent,
8 and labor relations officer. And before that, I spent
9 four years as a brakeman for the former Great Northern
10 Railroad in Spokane, Portland, Seattle, railroad out
11 of Spokane, Washington.

12 Q. What are your responsibilities as the
13 operations manager for the rail section?

14 A. Basically to manage -- organize, manage,
15 and plan the statewide rail safety inspection program
16 in the state of Washington.

17 Q. And what does that rail safety inspection
18 program entail?

19 A. Well, we have several facets. Of course
20 the Washington Utilities and Transportation Commission
21 and our transportation division, specifically our
22 railroad section, were responsible for enforcing both
23 federal and state rules pertaining to railroad safety
24 involving the common carrier railroads in the state of
25 Washington. And our objective, of course, is to reduce

1 accidents or to prevent rail accidents. And it's kind
2 of a multifaceted program. One of the areas that
3 we're involved in, of course, as alluded to by Gary,
4 is that we do routine track inspections under a
5 federal state partnership program where our inspector
6 is certified by the federal government to conduct
7 independent inspections under the federal track safety
8 standards. That's one of our programs.

9 Another one of our programs that we're
10 involved in is freight car safety. Again we have --
11 it's an open position right now, a vacant position,
12 but historically what we've done there is we monitor
13 railroad employees as far as their inspections of
14 railroad equipment, rolling equipment, meaning freight
15 cars at the terminals where they put these cars
16 together, and the trains to insure that before those
17 trains depart, that the freight car components meet
18 the federal standards, that they conduct a proper air
19 brake test on those trains.

20 We also have a hazardous materials
21 specialist that oversees both the railroads and
22 shippers in the transportation of hazardous material
23 by rail. In that area we check the shipping papers,
24 insure that the hazardous material cars are properly
25 placed in trains. We check that the cars -- or the

1 hazardous material is properly packaged and handled
2 safely.

3 Another one of our programs is our highway
4 grade crossing safety program. We routinely inspect
5 grade crossings -- public grade crossings statewide,
6 and what we do is we check the pavement marking, the
7 warning signs at the crossings, the surface of the
8 crossing, of course the operation of the signal
9 systems, all those facets at the crossing. The sight
10 distances at the crossings. That's another part of
11 our program.

12 And then our last program and one that
13 we're really focusing on here in the last four to five
14 years is the Operation Lifesaver program. Again,
15 that's been alluded to. The Utilities and
16 Transportation Commission has dedicated one person
17 full time under this program. This person acts as a
18 coordinator, works closely with other state agencies,
19 with civic organizations, especially with the schools,
20 to make the public aware of the dangers around rail
21 operations, specifically grade crossings where you
22 have a highway or road that intersects a railroad
23 track, and also to make the public aware of the
24 dangers of walking in and around tracks.

25 Q. Could you explain what this program is in

1 terms of how it's set up and how the Commission adopt
2 -- has this program?

3 A. Well, basically we have found that there's
4 a public perception out there that railroads are
5 unsafe. And while there's no question that rail
6 operations are dangerous, we want to get the message
7 out that there certainly is oversight over the
8 railroads in terms of both the state and the federal
9 government monitoring railroad operations, and we want
10 to get a message out that when -- that the public when
11 they approach grade crossings need to be aware that
12 it's a dangerous situation. They need to realize that
13 the trains legally have the right of way, they can't
14 stop very quickly, and that they must yield the right
15 of way to these trains.

16 We want to get the message out that when
17 these young -- when kids, whether the elementary-age
18 kids or older kids, or even adults are walking along
19 railroad tracks or walking on railroad bridges, that
20 they are trespassing on private property. Not only
21 that, not only is it illegal, but it puts them in a
22 very dangerous situation. The whole idea is to reduce
23 accidents.

24 Q. Referring to Exhibit 27, do you have that
25 in front of you?

1 A. Yes, I do.

2 Q. Is this an example of the type of
3 literature that the Commission staff uses in promoting
4 the program?

5 A. Yes, it is. This is just a standard
6 brochure that basically explains what Operation
7 Lifesaver -- what Operation Lifesaver is, why it's
8 needed, when it began, where it's active, who gets
9 involved, and how we can help. And normally -- this
10 particular one was published by National Operation
11 Lifesaver which is -- on the national level
12 supplements the various different programs across the
13 country. And what we do is we put our sticker on it
14 and then we hand this out.

15 For example, we work in fairs. We worked
16 the Lynden Fair up here in Whatcom County this summer.
17 We use these at malls. We try to get this message out
18 to as many people as we can. This is just one
19 material. We have several different materials that we
20 use.

21 Q. Mr. Scott, has there been a reduction in
22 the number of accidents involving trains and motor
23 vehicles in Washington state since this program began
24 in the state of Washington?

25 A. Yes, there has. What's really interesting,

1 the exhibit -- if you look at the exhibit, and I don't
2 know the number on the exhibit.

3 Q. Are you referring now to Exhibit 28?

4 A. Yes, I am. Exhibit 28. This exhibit shows
5 accidents at all grade crossings reported from 1972
6 through 1993. And Operation Lifesaver there is we
7 call it the three Es. We -- the three Es stand for
8 engineering, education, and enforcement. And based on
9 my experience and what we see here is that you see
10 that we average in the '70s over 300 grade crossing
11 accidents in the state of Washington.

12 Well, in the '70s that was the era that the
13 federal program in terms of providing monies to the
14 cities and the counties for installing grade crossing
15 signals really started making a move. And so I'm
16 talking about the engineering portion where this money
17 was used to install these grade crossing signals. And
18 it really had an effect because as you can see, the
19 accident rates really started to drop.

20 Q. Mr. Scott, you referred to this as an
21 average number. This is a total number, isn't it,
22 it's not an average number?

23 A. No. This is a total number from -- but
24 what I was referring to, in the '70s there was -- if
25 you take from '72 on up to about '79 or maybe '78

1 there is probably -- obviously if you look at those
2 numbers, we were averaging about 300 accidents a year.
3 Then it started gradually dropping. So what I'm
4 saying, the engineering aspect of Operation Lifesaver,
5 which is the installation of grade crossing signals,
6 really started to have an impact.

7 Then as we go into the '80s, it kind of
8 leveled off, and then we started our Operation
9 Lifesaver program in around '87 or '88, and all of a
10 sudden now you can see even a further reduction. Now
11 we're getting into the education area where we're
12 trying to raise the public awareness of the dangers
13 of approaching a highway railroad intersection. And
14 you can see we're starting to make inroads.

15 In fact, in 1993 we had 82 accidents across
16 the state, which is the lowest we've ever had, while
17 we know that the number of licensed drivers has
18 increased two to three percent a year for the last 10,
19 15 years.

20 Q. And you mentioned that you started the
21 Operation Lifesaver program in 1987. Is that when the
22 Commission began actively promoting the program?

23 A. That really -- that's really where the --
24 the Commission was involved, but that's where the
25 Commission made a more active role by committing one

1 person full time to act as a coordinator to really
2 work closely with the, for example, the superintendent
3 in public instruction. We met with those folks and
4 also the driver education folks and we put 350 videos
5 plus a whole teaching module in every high school in
6 the state of Washington so all of these drivers, these
7 new high school drivers, would see that when they
8 approach crossings, they need to be careful. It's
9 another aspect of driving safely that sometimes the
10 public doesn't get.

11 Q. And when was the program first promoted in
12 the state of Washington?

13 A. The program has been in existence since
14 '72. It started in Idaho and it really started with
15 the railroads. The railroads started the program.
16 Then we worked closely with the railroads, and then in
17 1987, at that time the coordinator was an employee
18 from the railroad, and then we became coordinator and
19 we still worked closely with the railroads, and it's
20 just developed more impetus on the state's part to be
21 involved in Operation Lifesaver. It's given the state
22 the opportunity to work a little closer with other
23 state agencies to promote this program. We think it's
24 been real effective.

25 Q. You've heard the testimony over the last

1 few days concerning the petitions to increase the
2 train speed and to close the crossing and, concerning
3 the Burlington Northern/DOT agreement, to try to
4 increase passenger rail in the state of Washington.
5 In view of these proposals, what does the Commission
6 staff plan to do to continue the trend of lower -- to
7 lower the grade crossing accidents in the state of
8 Washington?

9 A. Well, whether the Commission grants the
10 train -- the passenger train speed increase or not,
11 from our observation that it looks like Burlington
12 Northern, DOT, and Amtrak are committed to reestablish
13 passenger train service from Seattle on to Vancouver,
14 B.C. So we're going to make an added emphasis effort
15 to reach the schools. We're committing funding for
16 public service announcements. We just finished a
17 public service announcement blitz in August. We used
18 the Bellingham station. We used Fox TV and the
19 Seattle-Tacoma market.

20 We did this in conjunction with the Idaho
21 Operation Lifesaver program and also the Oregon
22 Operation Lifesaver program and we hit most of the
23 major markets in the state of Washington and we're
24 planning on doing the same thing up north here. We
25 want to get the word out if this passenger train

1 starts, we want to get the word out as much as we can
2 to the public that this train is going to be running
3 on these tracks. We want the public to be aware of
4 it. We will blanket the area as much as we can.

5 MS. RENDAHL: I have no further questions.

6 JUDGE ANDERL: Any cross for this witness,
7 Ms. Gibson?

8 MS. GIBSON: I have a few questions.

9

10 CROSS-EXAMINATION

11 BY MS. GIBSON:

12 Q. Mr. Scott, are you aware that Burlington
13 Northern has one locomotive engineer working full time
14 on the Operation Lifesaver project in this area?

15 A. Absolutely. He's on the executive board
16 and we work very closely with Mr. Heatherton in this
17 area.

18 Q. Now, you mentioned, I wrote down when you
19 were talking, railroad operations are dangerous. Mr.
20 Scott, are you aware that the railroad industry has
21 fewer employee injuries on an annual basis than either
22 trucking or manufacturing industries?

23 A. Yes, I am.

24 Q. And are you aware that there are many more
25 injuries and fatalities on our nation's highways than

1 there are on the rail?

2 A. Yes.

3 Q. So when you said railroads are dangerous,
4 I take it you meant simply that they are -- it is
5 heavy equipment and the potential is there and people
6 need to know what they are dealing with. Is that
7 pretty much it?

8 A. That's correct. Yes.

9 MS. GIBSON: Thank you. I have nothing
10 else.

11 JUDGE ANDERL: Ms. Cushman?

12 MS. CUSHMAN: No questions.

13 JUDGE ANDERL: Mr. Cuillier?

14 MR. CUIILLIER: No questions.

15 JUDGE ANDERL: Anything on redirect?

16 MS. RENDAHL: No, your Honor.

17 JUDGE ANDERL: Okay. Thank you, Mr. Scott,
18 for your testimony. You may step down.

19 Is there anything further from Commission
20 staff?

21 MS. RENDAHL: No. That's the extent of the
22 testimony from the Commission staff.

23 JUDGE ANDERL: Do the petitioners wish an
24 opportunity for rebuttal?

25 MS. GIBSON: Yes, your Honor.

1 MS. CUSHMAN: There is someone coming from
2 the public and would like to testify.

3 JUDGE ANDERL: Sir, would that be you? We
4 took some public testimony earlier, but you're welcome
5 to come up and speak your piece now. We'll just ask
6 you a couple of very brief questions and then let you
7 make your statement. Go ahead and be seated. I will
8 swear you in.

9 Whereupon,

10 JAMES K. LEPPALA,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13 JUDGE ANDERL: And Ms. Rendahl from the
14 Commission staff, the assistant attorney general, will
15 ask you a few questions.

16

17 DIRECT EXAMINATION

18 BY MS. RENDAHL:

19 Q. Could you please state your name and spell
20 your last name for the record.

21 A. James K. Leppala, L E P P A L A.

22 Q. And what is your address, Mr. Leppala?

23 A. 2365 Thornton Street, Ferndale, 98248.

24 Q. Are you here today on your own behalf or on
25 behalf of a business or group?

1 A. I'm on behalf of myself.

2 Q. Okay, go ahead. Please make your
3 statement.

4 A. Briefly, I have a small business in
5 Ferndale, and I'm probably a very opinionated person,
6 to say the least. I fully support Amtrak's running
7 through this corridor between Seattle and Vancouver.
8 We rode the last train between Bellingham and Seattle
9 that rode back in 1981 I think it was.

10 My purpose in the public testimony here
11 today, though, is I -- the city of Ferndale I think
12 has got to keep that grade crossing open at Thornton
13 Road for a variety of reasons. We have a small
14 manufacturing area down there. We have trucks going
15 up and down our main arterials. I think to close that
16 route out of the city is ridiculous. We have a grade
17 crossing at Second Street in Ferndale that I've been
18 there when a semitruck got smacked by a train, must
19 have been a good 12 years ago. That if you're going
20 to close a crossing, close that one and leave Thornton
21 Road open. We've had cement trucks run into Amtrak at
22 Slater Road before the grade crossings were improved.

23 Burlington Northern, Utilities Exchange,
24 and whoever it is, they have done a commendable job
25 around the county. My business entails that I get

1 various places around the county many times. The
2 grade crossings have been upgraded I think on just
3 about every crossing that you have. You've gone from
4 stop signs to lights and bells and whistles and
5 everything else, and that's very good. You've closed
6 a lot of useless crossings.

7 There's still one more useless crossing to
8 close on that Second Street, but I think adamantly
9 that you have to keep Thornton Road open. You have to
10 have an exit to the freeway from the north end of the
11 city. If you're going to develop that, it has to be
12 kept that way. I don't know how much more I can --
13 how much more adamantly I can emphasize it so.

14 Q. Is that your testimony?

15 A. That's my testimony. I would have been
16 here earlier, but the press of business.

17

18 EXAMINATION

19 BY JUDGE ANDERL:

20 Q. Mr. Leppala, can I ask you what the nature
21 of your business is?

22 A. Plumbing business. Totally unrelated to
23 Amtrak.

24 Q. What's the nearest north-south cross street
25 where you are on Thornton Street?

1 A. Vista Drive. My shop is down at Third and
2 Vista in Ferndale, in downtown Ferndale.

3 Q. Okay. There has been talk about the
4 options that the city might have for east-west
5 transportation needs, and included in that discussion
6 was a Thornton Street overpass which would go over the
7 rail tracks and over I-5.

8 A. Sure.

9 Q. You're just as happy with that?

10 A. As long as you can get access in between I
11 think Portal Way is the closest or, you know, and
12 downtown Ferndale, that would be -- it's a ridiculous
13 situation. The -- all the potential growth is to the
14 north and west end of town and we're going to close
15 off that access point.

16 And like I say, I fully support Amtrak. I
17 think Amtrak is an absolute necessity. I think that
18 in the coming times you're going to have to have more
19 commuter traffic, but at the same time you have to --
20 you've got to think of the benefits of the city.

21 JUDGE ANDERL: Okay. Ms. Gibson, do you
22 have any questions for this witness?

23 MS. GIBSON: No, thank you.

24 JUDGE ANDERL: Ms. Cushman?

25 MS. CUSHMAN: No.

1 JUDGE ANDERL: Mr. Cuillier?

2 MR. CUIILLIER: No.

3 JUDGE ANDERL: Thank you for appearing.

4 Sir, did you want to testify also?

5 MR. ATHENS: Yes. I would like to make a
6 statement. My name is D. G. Athens. I reside at 1268
7 Loni Lane, Ferndale, Washington.

8 JUDGE ANDERL: Okay. Hang on a second.

9 Whereupon,

10 D. G. ATHENS,

11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 A. Very simply, from the testimony I've heard
16 today and from many of the things I have read of the
17 past history of council action, local action, and
18 other city actions further down the line, what I have
19 researched is the intent and purpose of actions
20 themselves, the ethical considerations of what happens
21 when a plan is submitted partially and not without
22 public input. Quite often this is the case locally.

23 What I am saying is if it is true that the
24 past history of some of these plans where the public
25 was given to know that they would receive some

1 consideration for access, overpass, et cetera, if
2 certain things were given in that proposal -- this is
3 a very vague reference to a past action; I'm not that
4 familiar with it -- but today's testimony obviously by
5 Commission experts and others, I've learned a lot.
6 Obviously there is some intent to proceed and to make
7 alternative suggestions, workable suggestions, and
8 plan for the future.

9 There is immediacy involved here. I think
10 both parties know it. Even the petitioners will be
11 aware of this in the future, in the immediate future.
12 But this is what I would like to see and put on the
13 testimony.

14 I would like to see a firm commitment on
15 the part of the agencies what exactly are they going
16 to do, what is speculative, what is by negotiations
17 possible, or what is definitely financially feasible.
18 In other words, let's get a good physical example
19 where the public can understand, where the public is
20 reassured and the city as a whole and the taxpayers as
21 a whole, future businesses will know concretely at
22 least there's going to be a commitment. Whether it
23 could be state money or federal money, it would be
24 spelled out. And this is the ethical dilemma agencies
25 face time and time again.

1 And the last issue is, there is a certain
2 amount of political influence for this to occur. I'm
3 aware of it. You people all are aware of it. But
4 aside from that, I would like to see the record
5 reflect an ethical, solid commitment where the public
6 will be at least reenforced and acting accordingly for
7 the future.

8 And I want to thank the chairman for
9 allowing me to testify.

10 JUDGE ANDERL: Thank you for your comments.
11 Let me see if there are any questions for you.

12 MS. GIBSON: I have nothing, thank you.

13 JUDGE ANDERL: Ms. Rendahl?

14 MS. RENDAHL: No questions.

15 JUDGE ANDERL: Mr. Cuillier?

16 MR. CUILLIER: No.

17 JUDGE ANDERL: Okay. There aren't any, so
18 thank you again.

19 Let's be off the record for just a minute
20 and coordinate our plan of attack here.

21 (Discussion off the record.)

22 JUDGE ANDERL: Let's be back on the record.
23 The petitioners will recall two witnesses for
24 rebuttal.

25 MS. GIBSON: I recall Marvin Nelson. Is

1 the witness still under oath, your Honor?

2 JUDGE ANDERL: Yes, he is.

3 Whereupon,

4 MARVIN J. NELSON,

5 having been previously duly sworn, was recalled as a

6 witness herein and was examined and testified as

7 follows:

8

9 DIRECT EXAMINATION

10 BY MS. GIBSON:

11 Q. Mr. Nelson, I'll remind you to speak slowly
12 for the court reporter.

13 A. Yes, I'll remember. Thank you.

14 Q. Mr. Nelson, are you aware of the date that
15 the tracks were constructed in this area?

16 A. Burlington Northern records indicate that
17 the railroad was first constructed through Ferndale in
18 1890.

19 Q. Now, there's been some testimony, and
20 specifically I refer to the testimony of Mr. Birdsall
21 regarding the possibility of increased use of the
22 existing Brown Road grade crossing as access for
23 people living in the northwest quadrant of the city of
24 Ferndale over to Interstate 5 and the other side of
25 the city. Are you familiar with that Brown Road

1 crossing?

2 A. Yes. I have been at the Brown Road
3 crossing several times.

4 Q. What is the state of the grade crossing
5 warning devices there at Brown Road?

6 A. The warning devices will be upgraded as
7 part of this program to be full motion sensors with --
8 I'm not sure if there's gates, but there will be full
9 motion sensors, I believe gates at that crossing, so
10 they will be upgraded for the -- as we're doing every
11 grade crossing in this entire corridor.

12 Q. So does that crossing now have signals and
13 gates and lights?

14 A. Yes, it does have.

15 Q. Are there any siding tracks currently at
16 Brown Road?

17 A. No, there is not. There is just one main
18 line track.

19 Q. There was a suggestion that perhaps
20 Burlington Northern should consider building the
21 siding track there at Brown Road rather than at
22 Thornton Road. Have you considered that?

23 A. Yes. After that question was raised, I
24 looked at our maps and if we were to stop the south
25 end of the track at Thornton Road as was suggested and

1 then extend the track northerly up to Brown Road, that
2 would allow us to construct a siding less than 7,000
3 feet long. Our current track is 8,600 foot long and
4 that is what we need to put the train in there. So if
5 we had to construct it through Brown Road, then we
6 would be blocking Brown Road.

7 Q. And there was also a suggestion that
8 perhaps you could have the trains pass at Bellingham.
9 Is that a possibility?

10 A. Yes, when that question was brought up by
11 a previous witness, I looked at our records, and I
12 have been through Bellingham many times, and from the
13 starting to northerly end of Bellingham there's a
14 very high hill coming into the downtown of Bellingham.
15 We have two tracks along the yard, both which are
16 about 4,000 foot long which aren't nearly long enough
17 for any trains to meet. In addition, these tracks are
18 normally containing cars for local businesses.

19 Then you get into the downtown Bellingham,
20 you have several heavily-traveled streets. There's
21 only one track, so there could be no train meets on
22 the way. We go to the Georgia-Pacific track plant and
23 then as we head south down towards the ferry terminal
24 it's on a single track and the single track lies
25 between a bluff and on the Puget Sound so it would be

1 almost impossible to ever get a permit to put another
2 track in there. So in essence, physically there is no
3 way that we could see how a track could be constructed
4 in Bellingham.

5 Q. And have you reexamined the issue of
6 putting the siding south of Slater Road as Mr.
7 Cuillier has suggested?

8 A. We had looked at that earlier and I believe
9 there was wetlands down there, and all of our work
10 that we've been doing on these evaluations have been
11 done with the Department of Ecology, and one of the
12 first questions is, any construction you do is done in
13 a manner to minimize any impacts to the wetlands, and
14 you look to alternates prior to even trying to
15 construct in areas where there's major wetlands.

16 Q. Could you just quickly move over here to
17 Exhibit 4 and point out if a person were using the
18 Brown Road grade crossing, where would they be in
19 relation to getting on northbound I-5 at Grandview?

20 A. Okay. I drove this the other day and I set
21 the speedometer, and at Brown Road you get onto Portal
22 Way and it's approximately seven-tenths of a mile up
23 to the Grandview interchange that allows you access
24 onto I-5 either northbound or southbound.

25 Q. What if the person wanted to use the Brown

1 Road crossing from the west side of Ferndale and go
2 southbound on I-5, how far would it be to the closest
3 interchange?

4 A. If you use the Brown Road crossing and then
5 got onto Portal Way, this distance here is one mile,
6 and to get down to the other intersection at Portal
7 Way, the current intersection, it'll be approximately
8 one and one-half miles.

9 Q. You mean to the current interchange?

10 A. Yes, to the current interchange.

11 Q. Okay. Thank you. Take your seat again,
12 please.

13 There was a question or a remark made by
14 one of the public witnesses today regarding complaints
15 of vibration in the area of the Thornton Road
16 crossing. Have any of the improvements which you
17 testified to yesterday been designed to meet problems
18 with vibration not only at Thornton Road area but in
19 other areas of the city?

20 A. The track improvements, as I mentioned
21 yesterday, were designed to increase the ride quality
22 for the passenger. By that, we have bolted rail out
23 there. Bolted rail is 39-foot lengths of rail bolted
24 together and which there's a joint. That joint does
25 cause a little rough spot in the train. Of course,

1 when the train feels that rough spot, that may put
2 some vibrations into the ground. To improve the ride
3 quality for the Amtrak passengers, all of that rail
4 throughout the city limits of Ferndale is being
5 replaced with tenuous welded rail. What that means,
6 there will be no more joints and the trains will ride
7 much smoother and, consequently, the smoother ride
8 will make for less impacts into the subgrade.

9 Q. What about the adjacent property owners,
10 though, in terms of the vibrations they might feel?

11 A. The less vibrations into the train, the
12 less vibrations into the ground, and would reduce any
13 impacts at distances close to the railroad.

14 MS. GIBSON: All right. Nothing else.

15 JUDGE ANDERL: Any cross for Mr. Nelson,
16 Mr. Cuillier?

17 MR. CUIILLIER: Thank you, your Honor.

18

19 CROSS-EXAMINATION

20 BY MR. CUIILLIER:

21 Q. Mr. Nelson, have you personally been
22 involved hands-on in the selection of the best site or
23 location for this siding?

24 A. Yes. I've been involved in the selection
25 of every part of the work in the entire corridor.

1 I've been out in the state of Washington at least
2 twice a month for the last 18 months, sometimes
3 spending two to three weeks out here. Have walked a
4 majority of the tracks and many times have looked at
5 them two and three times to try to establish what is
6 the best location to do the work. So we have spent
7 extensive time on the ground looking at things as well
8 as deciding where the best spot would be to put it.

9 Q. Okay, sir. Now, could you please tell me
10 what your second choice for the siding location would
11 be?

12 A. In the area of Ferndale with the other
13 road, Brown Road and other major arterials, there was
14 not another location that we could put a track 8,500
15 foot long and have clearance in and meet the
16 objectives of meeting a train.

17 Q. I'm not talking about Ferndale. I'm
18 talking about from Everett to the border, what is your
19 second choice for a siding of this length that you
20 need?

21 A. We are looking at in the secondary funding
22 of this, there are two more locations that we will be
23 putting them into, and that is at Stanwood and at the
24 area we call English, which is just north of
25 Marysville. In addition, one of the tracks within

1 Everett would be extended to also accommodate longer
2 train meets.

3 Q. And are these three other sidings going to
4 be put in at the same time as the Ferndale siding
5 would be?

6 A. No, they will not, because funding for the
7 first portion of the program would not allow all that
8 construction.

9 Q. Now, would the -- which of the sidings, if
10 any, are going to be built when the Ferndale one
11 is? Stanwood, English did you say?

12 A. Pardon?

13 Q. Which of the three sidings, if any of them,
14 will be built at the same time as the Ferndale one?

15 A. We also have one at the area called Bow.
16 It's a small town just north -- or just south of
17 Bellingham, just north of the Burlington area. That
18 will be built along with the Ferndale siding as well
19 as the customs inspector track just south of the city
20 of Blaine.

21 Q. Now, the customs inspector track is going
22 to be a short siding, is that my understanding?

23 A. No. That will not be a storage siding.

24 Q. Short, I'm sorry. Short. Just long enough
25 for the Amtrak train, or is it going to be for

1 freight?

2 A. The inspections for the freight trains,
3 U.S. customs inspectors.

4 Q. And you're saying that the Amtrak train
5 could not pass by while the freight train is on that
6 siding, or are you saying that you don't want to try
7 to coordinate that?

8 MS. GIBSON: I'll object to the form.

9 MR. CUILLIER: Well, okay. I'll withdraw
10 that.

11 JUDGE ANDERL: Sustained.

12 Q. Is it possible that that siding could be
13 used for the purpose you are trying to accomplish with
14 the Ferndale site?

15 A. The customs inspection is basically for
16 every train, and the customs inspectors may take one,
17 two or three or four hours, depends upon that. So
18 that track we do not expect to be available to make a
19 train meet when we needed it and we could not rely
20 on it, so that track would be pretty much dedicated
21 for customs inspections.

22 Q. On the Stanwood, the English, and the
23 Marysville tracks, will either of those -- any of
24 those be built at the same time as Ferndale?

25 A. No, they will not.

1 Q. Would building either of those sidings
2 accomplish your purpose without having to build
3 Ferndale's?

4 A. Looking at the priorities, the majority
5 of the business with the local switching for industry,
6 that is centered up in the Bellingham and the Cherry
7 Point/Custer area and is most important to get the
8 relief to the freight operations to allow that to
9 occur with the passenger operations first.

10 Q. I'm trying to follow you. Are you saying
11 that you cannot schedule your Amtrak so that these
12 other sidings will do the job you want to do -- let me
13 explain. As I understood your testimony, you wanted
14 to avoid having to wait two or three hours in
15 Everett --

16 A. That is correct.

17 Q. -- with your Amtrak, and so you needed some
18 places along the route to allow the trains to pass?

19 Now, wouldn't it make just as much sense to
20 have the siding 15 miles from north of Everett as
21 being 15 miles south of the border to accomplish that
22 purpose? If you just jockeyed the schedules, wouldn't
23 you accomplish the purpose with a siding elsewhere
24 instead of in Ferndale?

25 A. When you mention 15 miles south of the

1 border or 15 miles north of Everett, we have to
2 remember our meeting points in Canada are not at the
3 border. It's -- the point that we refer to there is
4 Spruce, is about 28 miles, so the next meeting point
5 is not 15 miles to the border, it's approximately 40
6 miles to the double track in the Vancouver area, so we
7 are much further than 15 miles from a place to make a
8 train meet.

9 Q. Okay. So say it's 40 miles. You're not
10 necessarily constructing track or a siding between
11 Everett and Bow that -- let's put it this way. Could
12 you not substitute a track siding between Everett and
13 Bow to accomplish the same purpose as you are
14 accomplishing with Ferndale, but switch the scheduling
15 around so that the passage would occur near Everett
16 instead of near wherever your double track is in
17 Canada?

18 A. As was mentioned in testimony yesterday,
19 there's three major freight trains southbound and
20 northbound daily, plus three local switch engine,
21 which means there's six local moves. A lot of those
22 moves are between Bellingham, Intalco, and the
23 refineries, so there's more traffic, more trains
24 serving local industries out in the industrial sites
25 out there than there is other locations, so this one

1 has the biggest amount of freight activity now, and
2 that's where we needed the first relief.

3 Q. You say you need the first relief here.
4 Are you saying a different siding location cannot
5 possibly be substituted for Ferndale to accomplish
6 your Amtrak purposes? I'm not saying your future
7 freight purposes and so on, but your first two or
8 three years of Amtrak service, could not one of these
9 other three in Stanwood, English, or Marysville serve
10 the purpose of the pilot project to get the Amtrak
11 train to and from Vancouver?

12 A. No. The freight activity between
13 Bellingham and Custer and these areas to service the
14 industries in this area indicate that there's more
15 congestion with the freight, which means there's more
16 opportunities to have conflicts with Amtrak. And
17 that's where we had to provide the relief for the
18 freight operations for first.

19 Q. But you only have one run a day for a year.
20 Can't you work that around the 12 or 14 freight
21 trains, at least for the first time in this pilot
22 project, to get the train up there and back once a
23 day?

24 MS. GIBSON: Objection, your Honor. It's
25 repetitive and it's also argumentative.

1 MR. CUILLIER: I'll rephrase it. I'm
2 sorry.

3 JUDGE ANDERL: Yeah, I think my personal
4 concern was I don't know that this witness is
5 scheduling the Amtraks.

6 MR. CUILLIER: Well, okay. I can ask --

7 JUDGE ANDERL: So I understand what you're
8 getting at and there may be a right way to ask the
9 question, but I'll let you try it again.

10 MR. CUILLIER: All right. Thank you.

11 Q. As I understand it, BN and Amtrak will have
12 a contract that will regulate the operation of the
13 Amtrak train on the BN track?

14 A. That is correct.

15 Q. And it'll include the scheduling for the
16 Amtrak train when it proceeds along the certain
17 portions of the BN tracks, I assume?

18 A. That is correct.

19 Q. In that scheduling process, at least for
20 the first year or two of this pilot project, would it
21 be possible to run the Amtrak train from Bellingham to
22 Vancouver without having a conflict with a freight
23 train in any 24-hour period?

24 A. Not without causing Burlington Northern
25 trains to wait at various points, because they would

1 have to wait for the Amtrak train, and one of the
2 prime objectives is to be able to provide viable
3 service to our customers.

4 Q. But you're only having one siding -- you're
5 having one train wait under the proposal, so we're
6 saying there's only going to be a conflict with one
7 freight with two trips to and fro of the Amtrak as it
8 is, right?

9 A. But the one conflict that you're talking
10 about covers a distance from up in Canada down to
11 Bellingham or down to Bow which incurs a couple hours
12 of delays to the trains to miss that one conflict.

13 Q. The trains if they had to, they could use
14 the Intalco's tracks, couldn't they, to avoid a
15 conflict?

16 A. Most generally those tracks have cars
17 parked on them so they are not available for train
18 meets.

19 Q. But they do make a -- say there would be
20 a way to either -- I suppose you could even back the
21 train onto those tracks if you had to get out of the
22 way, or you could get the train into that area and
23 back them back, back it back onto the main track to
24 stay out of the way, I assume, from either side? That
25 joins at both ends in that loop, doesn't it, the

1 Intalco track?

2 A. It's a wide track, it also has grade
3 crossings on it, and if you did that, you would block
4 other roads.

5 Q. Just curious there. If expense or savings
6 or economics were not a factor here, that there's not
7 any other possible solution between Everett and
8 Vancouver other than to close this roadway?

9 A. Pardon?

10 Q. If economics were not a factor, if we
11 weren't talking about the fact that this siding is
12 already partly built.

13 A. This would still be --

14 MS. GIBSON: I'm going to object to the
15 form. Is that a question?

16 JUDGE ANDERL: I think there was a question
17 pending and he just clarified it. I think this
18 witness can answer.

19 A. Would you rephrase it?

20 Q. If economics were not a factor and the fact
21 that this siding is already partly built were not a
22 factor here, are you saying or do you believe it's
23 impossible that you could get the Amtrak to and from
24 Vancouver once a day without putting siding in
25 Ferndale?

1 A. Not without Burlington Northern freight
2 trains being negatively impacted in terms of extra
3 time and extra cost to provide the same service for
4 our customers.

5 Q. Do we have a quantification of the extra
6 time and cost that that would take, at least for the
7 first year or two, how much impact that would cause on
8 BN to do that?

9 A. I could not speak of any specific numbers
10 on that.

11 Q. Well, would it be in the millions or do you
12 have any idea whatsoever?

13 A. I'm not aware what those costs may be.

14 Q. And they would be the costs of basically
15 using the loop that exists right now in some fashion
16 that goes out to Intalco and around to the refineries
17 to get the freight off of the main track when the
18 Amtrak is coming by twice a day?

19 A. When we looked at the entire corridor,
20 there's very few locations all the way from the border
21 down to Everett where there's more -- where there's
22 not one grade crossing or major state highway every
23 mile, so to be able to find a location for a 8,500-
24 foot train to park is very, very difficult and this is
25 one of the few locations that was physically possible

1 to do it.

2 MR. CUILLIER: That's all.

3 JUDGE ANDERL: Thank you. Ms. Rendahl?

4 MS. RENDAHL: I have no questions, your
5 Honor.

6

7

EXAMINATION

8 BY JUDGE ANDERL:

9 Q. Okay. Mr. Nelson, you may or may not be
10 the right person to ask this, but let's see if I can't
11 satisfy my question here about splitting the trains.
12 And I'm going to create a hypothetical, so try to
13 follow along with me. Imagine that Thornton Road is
14 an at-grade crossing with lights and gates and is a
15 through street.

16 A. Okay.

17 Q. Under those circumstances, when Burlington
18 Northern used the siding for a freight train, they
19 would have to split the train while it waited at that
20 crossing, is that correct?

21 A. That is correct.

22 Q. Okay. So is it correct that what would
23 happen is when the freight approached the crossing
24 initially, the lights would activate and the gates
25 would come down?

1 A. That is correct.

2 Q. And those gates would stay down until the
3 train was split, at which point they would come back
4 up?

5 A. There would be a circuit at either side of
6 the crossing. When the cars were split and moved
7 beyond a circuit and if there's no train on the
8 adjacent track, the signals would go back up.

9 Q. And then when the train that was using the
10 main line came through, it, as it approached the
11 crossing, would activate the lights and gates?

12 A. Yes. The signal steps are capable of doing
13 that.

14 Q. And those lights and gates would then be
15 activated until that train passed through and then
16 they would come -- go off and allow traffic through
17 again?

18 A. That is correct.

19 Q. And then is it correct that after that, the
20 lights would activate and the gates would come down
21 while the train was being recoupled?

22 A. Yes, they would as soon as they went into
23 the circuitry that controlled the island to the
24 crossing location.

25 Q. And then those signals would stay activated

1 and the gates would stay down until that freight was
2 clear of the crossing on the siding track?

3 A. That is correct.

4 JUDGE ANDERL: Okay. Anything else for
5 this witness?

6

7

REDIRECT EXAMINATION

8 BY MS. GIBSON:

9 Q. Just a couple questions. Burlington
10 Northern doesn't schedule Amtrak, does it?

11 A. No, we do not.

12 Q. And is it true that -- well, to compete
13 with motor freight traffic, does Burlington Northern
14 have to keep its rail freight moving in a timely
15 fashion?

16 A. Yes, it does because many of these trains
17 are -- have to go down to Everett to meet other trains
18 that take these cars to points to the south or east to
19 the Chicago markets, so it's necessary that they do
20 get down to Everett in a timely fashion to be able to
21 make other freight connections.

22 MS. GIBSON: Nothing else.

23 JUDGE ANDERL: Anything else for this
24 witness? Thank you, Mr. Nelson, for your testimony.

25 The next rebuttal witness?

1 MS. CUSHMAN: Recall Gil Mallery.

2 JUDGE ANDERL: Mr. Mallery, you're still
3 under oath from yesterday. Go ahead.

4 Whereupon,

5 GIL MALLERY,
6 having been previously duly sworn, was recalled as a
7 witness herein and was examined and testified as
8 follows:

9

10 DIRECT EXAMINATION

11 BY MS. CUSHMAN:

12 Q. Mr. Mallery, there's been testimony by
13 citizens groups and the city advocates that they have
14 no tangible benefit from this Amtrak service as
15 proposed. Could you talk about the proximity of
16 depots in relation to Ferndale as compared to depots
17 in proximity to other towns?

18 A. Certainly. Bellingham is approximately 12
19 miles from Ferndale. It will receive service when
20 service is reestablished in the spring. That 12 miles
21 may seem like a long way, but using Olympia as an
22 example, from downtown Olympia to the depot in Olympia
23 it's approximately 9 miles, and so I think we would
24 feel strongly that not only is Ferndale as well served
25 by the proximity of the Bellingham station, I think

1 it's important also to note that in Bellingham the
2 port is proceeding aggressively with the construction
3 of a completely restored multimodal facility, and that
4 facility has been endorsed not only by the Port of
5 Bellingham, but Whatcom County, the City of
6 Bellingham, and the Whatcom County -- excuse me the
7 Whatcom Transit Authority. I think I also need to
8 emphasize that there is current bus service from
9 Ferndale to Bellingham and that that transit service
10 is designed to connect to the rail depot in
11 Bellingham. In fact, the design of the facility
12 specifically has layover facilities for local transit,
13 intercity bus, so that there is convenient intermodal
14 connections between local transit and the rail
15 facilities as being constructed.

16 I think it's also important to note that
17 there is not only, by evidence of the formal
18 resolutions by those four jurisdictions that I
19 mentioned, support for the establishment of rail
20 service, support for the construction of the
21 multimodal facility, but over half of the total cost
22 of the construction of the facility is coming from
23 local financing, so I think there's a real commitment
24 to that project and to the restoration of the service.

25 Q. Mr. Mallery, earlier some testimony was

1 given about the population in the corridor from Eugene
2 to Vancouver. Are you familiar with the population
3 numbers for this area?

4 A. Yes, I am.

5 Q. Could you tell us what they are?

6 A. The current population from Vancouver, B.C.
7 to Eugene, Oregon along the corridor approximately ten
8 miles wide on either side of the Burlington Northern
9 main line is currently 7.7 million people, and that
10 population is projected to increase by some 40 percent
11 to almost 11 million over the next 20 years.

12 MS. CUSHMAN: Thank you. No further
13 questions.

14 JUDGE ANDERL: Okay. Mr. Cuillier, any
15 questions for this witness?

16 MR. CUILLIER: No.

17 JUDGE ANDERL: Ms. Rendahl?

18 MS. RENDAHL: No, your Honor.

19 JUDGE ANDERL: Thank you, Mr. Mallery, for
20 your testimony. You may step down. Does that
21 conclude --

22 MS. GIBSON: No other rebuttal.

23 JUDGE ANDERL: Okay. Before we talk about
24 briefs, I do want to state for the record that I've
25 been given by Ms. Rendahl today an additional photo

1 sheet which is to be appended to Exhibit 11 and I will
2 make that a part of Exhibit 11.

3 I don't think that I formally admitted
4 Exhibit 20. I believe there was no objection or it
5 was stipulated, the traffic model maps, and so I will
6 admit Exhibit 20.

7 (Admitted Exhibit No. 20.)

8 MS. RENDAHL: Your Honor, I have a letter
9 that came into the Commission from a member of the
10 public, a group, and in hearings such as this, any
11 public letters are provided at the end and I would
12 like to distribute this and request that it be
13 admitted into the record.

14 JUDGE ANDERL: Okay. I'll mark that for
15 identification as Exhibit Number 29. In this type of
16 proceeding we ordinarily admit letters from the public
17 for illustrative purposes to give an idea of what the
18 public opinion on this is and I will admit it for that
19 purpose as Exhibit Number 29.

20 I guess the only other thing I want to
21 state on the record before we discuss briefs is, and I
22 guess this may be something that the parties will want
23 to address on brief, or if there's anything you want
24 to say about it now, I'll give you an opportunity to
25 do that. Whatever my recommended order is in this

1 case, I think I would obviously have a very hard time
2 saying that this crossing should be absolutely closed
3 and landlock those residents who live in the island
4 there, and so maybe on brief the parties are going to
5 want to address how we'll know whether an access road
6 is going to be built so that if the decision is to
7 close the crossing, it could be closed absolutely, or
8 how we'll know if an access road is not going to be
9 built so that if the decision is to close the
10 crossing, it would be to close it to the public
11 perhaps and leave it as a private crossing for those
12 residents. And, of course, those issues are non-issues
13 if the decision is to leave the crossing open, but
14 given all the options, I think that is something that
15 I am going to want to have addressed.

16 Let's be off the record for a minute and
17 discuss briefing.

18 (Marked and admitted Exhibit No. 29.)

19 (Discussion off the record.)

20 JUDGE ANDERL: Let's be back on the record.
21 While we were off the record, it was discussed that
22 the hearing transcript in this matter would be
23 requested on an expedited basis and that the briefs
24 would then be due on November 7 by 5:00 p.m. Anything
25 else to come before us? Okay. Thank you all for

1 attending. We'll stand adjourned.

2 (Hearing concluded at 5:10 p.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

As Court Reporter, I hereby certify that
the foregoing transcript is true and
accurate and contains all the facts,
matters, and proceedings of the hearing
held on:

October 13, 1994

Lisa K. Nishikawa

CONTINENTAL REPORTING SERVICE, INC.