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1 BEFORE THE WASHINGTON STATE
 2 UTILITIES AND TRANSPORTATION COMMISSION

3 BNSF RAILWAY COMPANY,)
 4 Petitioner,)
 5 vs.) DOCKET TR-150189
 6 WHATCOM COUNTY,) Pages 12-134
 7 Respondent.)

9 PUBLIC COMMENTS, VOLUME III
 10 PAGES 134-185
 11 ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

13 6:04 P.M.
 14 DECEMBER 1, 2015
 15 WHATCOM COUNTY COURTHOUSE
 16 COUNCIL CHAMBERS, FIRST FLOOR
 17 BELLINGHAM, WASHINGTON

24 REPORTED BY: DIANE RUGH, CRR, RMR, CCR No. 2399

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1 BELLINGHAM, WASHINGTON, DECEMBER 1, 2015
 2 6:04 P.M.
 3 -ooOoo-

5 JUDGE PEARSON: Good evening. We will be on
 6 the record in the public comment portion of the hearing
 7 regarding the petition to close Valley View Road at
 8 grade crossing here in Whatcom County.
 9 My name is Rayne Pearson, I'm an
 10 administrative law judge with the Washington Utilities
 11 and Transportation Commission. And for the record,
 12 today's date is Tuesday, December 1, 2015. It's now
 13 approximately 6:04 p.m.
 14 Seated next to me is Jason Woods. He is the
 15 Commission's transportation policy advisor, and he's
 16 going to be helping me keep track of time tonight while
 17 people are making comments. And seated in front of me
 18 are the parties that participated in the evidentiary
 19 hearing that was held here earlier today, and I will ask
 20 them to introduce themselves in just a moment. Our role
 21 tonight is to collect your comments and let me as a
 22 representative of the Commission hear from you about
 23 your concerns or any other views that are relevant to
 24 the proposed closing of the Valley View Road crossing.
 25 And, Mr. Cupp, if you could bring me the

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1 sign-in sheet. It looks like there are ten of you that
 2 want to speak tonight. Mr. Cupp, our public involvement
 3 coordinator, he's collected the names on these sheets
 4 and he may bring up another sheet if other people come
 5 into the room or decide they want to speak, because
 6 there are more than ten people in the room. So if you
 7 change your mind and decide you want to speak, let me
 8 know. I'll ask anyone who is going to speak tonight to
 9 come up and stand at one of these podiums in front of me
 10 as I call you up. And because this is a formal
 11 proceeding your testimony will be under oath. And for
 12 each of you that indicated that you will speak, I will
 13 have you stand up in a few minutes and we'll take an
 14 oath together all at once.
 15 Each of you will have three or four minutes
 16 to make your comments tonight. That way we can ensure
 17 that everyone gets a chance to speak. Jason over here
 18 will flash a yellow card when you've reached the
 19 three-minute mark and the red card when you've reached
 20 four minutes. And if you continue to speak after he
 21 raises the red card, I will verbally let you know that
 22 your time is up. If there's a person that speaks and
 23 says something that you agree with, you don't need to
 24 repeat the same testimony, you can indicate that John or
 25 Jane Smith expressed the same views that you have. So I

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1 encourage you, if you're hearing the same sentiments in
 2 support or opposition being voiced before you come up,
 3 to feel free to reference the earlier speaker.
 4 Does anyone have any questions that I need
 5 to address about how this is going to go tonight? Okay,
 6 I will swear you in as a group and then call you up
 7 individually and take your comments. As you can see,
 8 there's a court reporter who will be taking down your
 9 comments as well so I encourage you to speak slowly and
 10 deliberately. And if you brought written comments with
 11 you that you're reading, you can simply give us the
 12 highlights of the written pieces and hand those written
 13 comments to Mr. Cupp. And if any of you after hearing
 14 testimony tonight think that you want to submit
 15 additional comments either for the first time or
 16 additional comments, we will accept those so long as
 17 they are postmarked or received electronically by
 18 Friday, December 4th close of business. The attorneys
 19 here put on their witnesses and are going to be
 20 submitting written briefs and arguments on the proposed
 21 closing by January 8, 2016. So I want them to be able
 22 to have a chance to take your public comments into
 23 consideration.
 24 So again, once I swear you in you'll come up
 25 and give your testimony. And please remember that this

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1 is not an opportunity for dialogue. You may be able to
 2 stay after and ask a question of our staff or any of the
 3 parties but we can't answer questions as part of the
 4 public comments session. The public comments we've
 5 received thus far are already in the record and they
 6 will be included with the transcript from tonight as
 7 well as any of the comments that are received on or
 8 before December 4th.

9 So let me have the parties introduce
 10 themselves quickly and then we will proceed with taking
 11 comments.

12 MS. ENDRES: Good evening. My name is
 13 Kelsey Endres, I'm the attorney representing BNSF
 14 Railway Company in this proceeding. With me tonight is
 15 Richard Wagner. He is BNSF's Manager of Public Projects
 16 for the Northwest Division.

17 MR. BEATTIE: Good evening. My name is
 18 Julian Beattie, I'm employed by the Washington State
 19 Office of the Attorney General, and in this proceeding
 20 I'm representing the Staff of the Washington Utilities
 21 and Transportation Commission. This is Paul Curl and he
 22 was the lead investigator for Commission Staff in this
 23 docket.

24 MR. GIBSON: My name is Dan Gibson. I work
 25 with the Whatcom County Prosecutor's Office and I'm

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1 representing Whatcom County in this matter.

2 JUDGE PEARSON: Okay, thank you. So the
 3 people who have signed up to speak so far are as
 4 follows: First is Paula Rotondi, Sandy Robson, Dena
 5 Jensen, Rayvn Whitewolf, Scott Hulse; I think this says
 6 Brenda Rye, she said she might speak; Matt Petryni,
 7 Ellen Howard, Reed Gillig and Alex Ramel. And those are
 8 all the names that I have -- and also Mary Tully, I'm
 9 sorry. Those are the names I have so far. Have I left
 10 anyone out? Yes, sir? What's your name?

11 PETER HOLCOMB: My name is Peter Holcomb.

12 JUDGE PEARSON: Peter Holcomb, okay. I will
 13 add your name to the list.

14 UNIDENTIFIED SPEAKER: There's some more
 15 names in the back of the room.

16 JUDGE PEARSON: Okay. Mr. Cupp, you're
 17 having them sign in? Okay, so he'll bring those to me
 18 as the evening goes on. So I will swear you all in now
 19 so we can begin the public comments session. If
 20 everyone who intends to speak please stand and raise
 21 their right hand.

22 (Prospective speakers sworn in.)

23 JUDGE PEARSON: For the record, everyone
 24 gave an affirmative response. Thank you for that.

25 So Paula Rotondi will be our first witness.

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1 Good evening. I will ask all of the witnesses to state
 2 and spell both their first and last name and then give
 3 us your address and tell us how long you've lived at
 4 that address or in this community. And if you're
 5 representing someone other than yourself, let us know
 6 that as well.

7 PAULA ROTONDI: My name is Paula Rotondi,
 8 R-o-t-o-n-d-i. I live at 8217 Chehalis Road, Blaine,
 9 Washington 98230. Just speaking for myself.

10 JUDGE PEARSON: How long have you lived in
 11 the community?

12 PAULA ROTONDI: Ten years. More than ten
 13 years.

14 JUDGE PEARSON: Okay. Go ahead when you're
 15 ready.

16 PAULA ROTONDI: BNSF's failure to provide on
 17 the staff here the central SEPA information to the UTC
 18 is sufficient reason to deny the request to close Valley
 19 View Road. BNSF has provided misleading, inaccurate and
 20 contradictory information. Please note the following
 21 examples:

22 In response to SEPA's request to, quote,
 23 describe in detail the reasons for closing the crossing,
 24 end quote, BNSF states, BNSF is petitioning to close
 25 this crossing to allow existing customers in the Cherry

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1 Point industrial area to receive and depart full-length
 2 trains without walking the main line or switches, end
 3 quote.

4 But BNSF is contradicting itself in
 5 statements it's made in previous project proposals,
 6 specifically the current permits for oil by rail
 7 facilities, BP and Phillips 66 refineries, that clearly
 8 state that no railway upgrades or expansions were needed
 9 to the oil trains. If BNSF and ConocoPhillips go by the
 10 way projects required this new proposed siding extension
 11 and Valley View Road closure then BNSF should have
 12 included this request with the previous projects.

13 Submitting these separately and
 14 independently from the previous project is piece-mealing
 15 and in violation of the State Environmental Policy Act.
 16 If, however, this is part of the proposed GPT coal
 17 export terminal then this should have been submitted as
 18 part of that proposal. So BNSF's failure to fully
 19 truthfully provide the reason for needing to close
 20 Valley View Road is sufficient basis for the UTC to deny
 21 the request.

22 The SEPA Environmental Checklist, Section
 23 2A, Air, asks, What types of emissions to the air would
 24 result from the proposal during construction and when
 25 the project is complete? If any, generally describe and

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<p>1 give approximate quantities if known. BNSF misleadingly 2 and inaccurately answers that, quote, Following 3 completion of the project, emissions from the site will 4 be limited to diesel train exhaust which is preexisting 5 to the project, end quote. 6 BNSF fails to describe the multiple 7 hazardous components of diesel emissions and completely 8 fails to report the other known significant emissions 9 such as coal dust that would result from the project. 10 Additionally and most importantly, BNSF fails to report 11 the significant increase in diesel emissions that would 12 result following completion of the project. In response 13 to SEPA Section 3, Water, BNSF admits that the project 14 includes water flowing into California Creek and four of 15 California Creek tributaries, part of the Drayton Harbor 16 watershed. 17 In SEPA Section 5, Animals, BNSF admits the 18 project is known to have four endangered species 19 including Chinook salmon, Steelhead trout, Bullhead 20 trout, and marbled murrelet. In SEPA Section 8, Land 21 and Shoreline Use, it admits that this site is 22 classified as an environmentally sensitive area by 23 Whatcom County. This proposed project undermines the 24 expense of ongoing efforts being made by local and state 25 governments and private businesses and individuals to</p>	<p>1 required. Following construction BNSF is responsible 2 and equipped to respond to emergencies. BNSF personnel 3 are required to comply with existing health and safety 4 plan, end quote. 5 But this fails to provide the requested 6 information and carelessly brushes off the obvious truth 7 that if a BNSF crude oil or toxic chemical train 8 explodes, all the public's emergency and equipment 9 personnel would be required to respond. BNSF ignores 10 and minimizes the traffic impacts, and also that if 11 closed, school buses to Custer Elementary School would 12 be forced to reroute. I submit that Custer Elementary 13 School already is subjected to unreasonable and 14 unconscionable exposure because it's only 1,200 feet 15 from existing track and it's unconscionable to ask these 16 same children and families to incur additional 17 pollution. 18 I'd further comment and I please ask that 19 you go ahead and read these, which I'm going to submit 20 it in written form. Thank you. 21 JUDGE PEARSON: Thank you very much. Okay, 22 Sandy Robson. 23 SANDY ROBSON: My name is Sandy Robson, 24 S-a-n-d-y, R-o-b-s-o-n. 25 JUDGE PEARSON: And your address?</p>
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<p>1 clean up Drayton Harbor, restore salmon habitat, protect 2 ground and surface waters. And by risking waterways and 3 wetlands, this project likely is in violation of the 4 Clean Water Act. 5 SEPA Question 7 asks, quote, Are there any 6 environmental hazards including exposure to toxic 7 chemicals, risk of fire and explosions, spill or 8 hazardous waste that could occur as a result of this 9 proposal? If so, describe. BNSF's response, quote, No 10 environmental health hazards are anticipated as a result 11 of the project construction and continuing and ongoing 12 railroad operations will be consistent with applicable 13 hazardous waste transport rules and regulations, end 14 quote, provides false information and does not answer 15 SEPA's question. BNSF does not list and describe the 16 multiple hazards that could be a result of this project. 17 BNSF doesn't state the risk of exposure to toxic 18 chemicals. BNSF does not state the risk of fire and 19 explosions. BNSF does not state the risk of spills and 20 hazardous waste, all that could occur as a result of the 21 proposal. 22 SEPA Section 7.A, quote, Describe special 23 emergency services that might be required, end quote. 24 BNSF callously and falsely answers, quote, BNSF does not 25 anticipate that special emergency services will be</p>	<p>1 SANDY ROBSON: 7446 Seashell Way, Blaine, 2 Washington 98230. 3 JUDGE PEARSON: And how long have you been 4 in the community? 5 SANDY ROBSON: 2009. 6 JUDGE PEARSON: Okay, thank you. 7 SANDY ROBSON: Is there a reason you ask how 8 long we've been here? 9 JUDGE PEARSON: It's not a reason that I'm 10 aware of. It's something I was told to ask. 11 SANDY ROBSON: I didn't think it would have 12 any bearing, but okay. Just curious. 13 As I'm writing this comment I can hear a 14 crude oil train traveling near my home in Birch Bay, 15 Washington, which is about a mile or so from the BP 16 crude-by-rail logistics facility. For the record, I 17 believe there are more crude oil trains calling on BP 18 refineries and possibly the Phillips 66 refineries at 19 Cherry Point allowed by the Whatcom County permit. I'm 20 opposed to the proposal by BNSF to close a portion of 21 Valley View Road where the rail spur to Cherry Point 22 crosses this county highway. 23 If the closure were allowed, this would 24 increase rail capacity for both the BP and the Phillips 25 66 refineries. Those two oil-by-rail logistics projects</p>

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1 were permitted after an ND&S determination so there was
 2 no EIS conducted for either of those projects which
 3 involved transporting an extremely volatile commodity,
 4 crude oil. Transporting crude oil has already led to
 5 terrible accidents resulting in fatalities, injuries,
 6 environmental damage, and property damage throughout our
 7 country and Canada. There has already been one crude
 8 oil train derailment in the Cherry Point area as well as
 9 one crude oil train on its way to the BB refinery that
 10 leaked oil onto land.

11 The permits granted by Whatcom County
 12 stipulated that there be no more than one crude oil
 13 train per day annually. If there were to be more oil
 14 trains unstipulated, an EIS would then be required. I
 15 have been in contact with Whatcom County Planning
 16 Department for over a year and a half requesting
 17 information as to the protocol or mechanism for keeping
 18 track of the number of oil trains traveling to the BP
 19 refinery and more recently the Phillips 66 refinery.
 20 So far there seems to be no protocol or mechanism to
 21 account for these oil train numbers to ensure that there
 22 are no more than the stipulated numbers allowed by the
 23 permit. And there seems to be a reluctance to even
 24 communicate with me on this issue by our County. I hope
 25 Mr. Gibson is listening to that. Because of this, I

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1 feel my safety and others is imperilled by the
 2 negligence of Whatcom County to enforce the permit
 3 stipulations.

4 In applying for the permits needed for their
 5 crude-by-rail logistics facilities, BP and Phillips 66
 6 both stated that their rail projects did not require any
 7 upgrades or expansions of the rail, so there's no
 8 apparent need to now close Valley View Road so the
 9 Cherry Point rail spur can be used as a holding area for
 10 trains. If BNSF wants to close Valley View Road then an
 11 EIS should first be conducted to study the needs,
 12 concerns, and impacts for such a project.

13 Additionally, it is probable that this road
 14 closure could be related to the anticipated Gateway
 15 Pacific Terminal project. If this is correct, the
 16 Valley View Road closure and change to a rail highway
 17 crossing should be included in the ongoing EIS/SEPA
 18 process for GPT, and no permit decisions on this
 19 proposed Valley View Road closure project should be made
 20 until the EIS for the GPT project is completed with an
 21 included analysis of this road closure. A cumulative
 22 assessment is needed to fully assess this Valley View
 23 closure project in terms of the Cherry Point industries
 24 and BNSF projects being separately proposed yet
 25 inherently interrelated.

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1 I hope that you can look into these things.
 2 Thank you.
 3 JUDGE PEARSON: Thank you. Dena Jensen?
 4 DENA JENSEN: Dena Jensen, D-e-n-a,
 5 J-e-n-s-e-n, at 7446 Seashell Way, Birch Bay, Washington
 6 98230, and I've lived there for six years.
 7 First I want to state that I am opposed to
 8 all crude oil-by-rail shipping that is currently
 9 happening or that is proposed in Whatcom County, and I'm
 10 also opposed to the Gateway Pacific Oil Terminal
 11 project. Meanwhile, because there has been no completed
 12 EIS for any of these projects in Whatcom County and
 13 because of the increased rail traffic caused by such
 14 operations, I believe we need detailed scrutiny of any
 15 related proposals and projects including this road
 16 closure and rail upgrade.
 17 We are dealing with toxic and volatile
 18 products traveling through our area without thorough
 19 evaluations being made and property safety measures
 20 being put in place. This project seems to potentially
 21 store such trains containing volatile materials not
 22 where the industries reside but near public roads and
 23 their drivers who would be traveling potentially in
 24 close proximity to them. I'm asking that the permit for
 25 this BNSF Valley View Road closure project be denied

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1 until a proper environmental review has been made of all
 2 the projects that include the transport of toxic and
 3 volatile products traveling the route that this closure
 4 is intended to serve. Thank you.
 5 JUDGE PEARSON: Thank you. Rayvn Whitewolf?
 6 RAYVN WHITEWOLF: Rayvn Whitewolf, 3224 Bay
 7 Road, Ferndale, and I've been there 26 years.
 8 JUDGE PEARSON: Can you spell your first and
 9 last name for the court reporter.
 10 RAYVN WHITEWOLF: R-a-v-y-n,
 11 W-h-i-t-e-w-o-l-f.
 12 JUDGE PEARSON: Thank you.
 13 RAVYN WHITEWOLF: So I opposed the proposed
 14 closure of this key intersection for the following
 15 reasons. The petition materials submitted by BNSF
 16 contain several factual errors, including the amount of
 17 traffic impacted by the proposal which is grossly
 18 underestimated by a factor of almost four. BNSF has
 19 not, as stated, adequately mitigated impacts with
 20 Whatcom County. And as the Whatcom County Engineer
 21 wrote, quote, he does not support the petition in
 22 subsequent letters to the UTC. The alternate access
 23 route identified in the application provides false
 24 indication of the extent of the detour. This closure
 25 would involve and doesn't take into account the Main

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1 Street crossing, one of the alternate routes, which is
 2 often blocked by mainline rail traffic. Furthermore,
 3 the proposed mitigation to signalize the other
 4 identified alternate route, Ham Road crossing
 5 (inaudible), is inadequate as it is already impacted by
 6 railcars and doesn't provide direct access from the
 7 north.

8 The petition incorrectly states that the
 9 crossing serves, quote, a few single-family residences,
 10 when it is actually used by a large area of Ferndale
 11 homes as primary access from Interstate 5. Application
 12 materials indicate no other emergency measures are
 13 needed; however, this proposal would grossly affect
 14 emergency response to the area as detour routes are
 15 already compromised.

16 The application materials do not include any
 17 type of alternative analysis. Such alternatives could
 18 include closure of the Ham Road crossing, which is
 19 already unsignalized, serves a much smaller area and
 20 doesn't provide nearly as direct access to Interstate 5
 21 by residents and emergency services. They combine no
 22 right-of-way and build extended sidings where existing
 23 roads won't be impacted, or they can build onsite
 24 storage for Intalco's needs as BP has already done for
 25 their purposes. In addition, the proposal indicates the

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1 closure of this crossing is for the Intalco yard, when
 2 Intalco just announced on the 2nd of November that it's
 3 curtailing their smelter operations as it's still
 4 needed. And while the Railroad may have imminent domain
 5 for its mainline operations, Valley View Road was
 6 established before the spur and should, therefore, be
 7 secondary to Railroad operations.

8 Finally, I question whether adequate notice
 9 has been provided about this scheduled public hearing,
 10 as there's been no notice on the site in months. There
 11 was a sign initially put out on the site and it's been
 12 down. And I think many of my neighbors, as I did
 13 initially, thought that this proposal went away when the
 14 sign did. The notice of the date of the public hearing
 15 was not sent to all property owners. And with great
 16 respect to Mr. Cupp, I took it upon myself to actually
 17 distribute some fliers at my own expense which resulted
 18 in several individuals coming tonight. I believe that
 19 there's hundreds of commuters and property owners who
 20 are still unaware of what is happening.

21 And finally, I just want to express my
 22 sentiment and agree with all the other statements made
 23 tonight.

24 JUDGE PEARSON: Thank you very much. Scott
 25 Hulse?

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1 SCOTT HULSE: I also note most of what I was
 2 going to say has been said here. Thank you.

3 JUDGE PEARSON: Okay, thank you. And Brenda
 4 Rye. Did I get your name right?

5 BRENDA RYE: Uh-huh. My name is Brenda,
 6 B-r-e-n-d-a, Rye, R-y-e. I live at 3320 Bay Road and I
 7 have been there for 39 years.

8 I oppose this, and like as Rayvn just said,
 9 I really didn't even kind of know what's going on. I
 10 saw a little sign and that was it. In the 1990s, in the
 11 early 1990s, this particular property down there was 400
 12 acres, wanted to be changed over to a shipping container
 13 yard where they transfer the trains off. All kinds of
 14 environmental studies were done at the time in that
 15 particular area, right there, and it was eventually
 16 turned down. So I feel like environmentally, well,
 17 okay, it should be turned down.

18 But besides that, you know what, this road
 19 is a direct route for me to civilization. I've lived
 20 there for 39 years. We now have a grocery store,
 21 woopdy-do. But you know what, there is a grocery store.
 22 If I need milk or something like that, I can now go down
 23 and get it, and I can drive down my road, Valley View,
 24 and be able to get out to the stores. And I think that
 25 that is a big asset for where I live.

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1 I also feel that, again, I agree with
 2 everything else that has been said tonight. I don't
 3 mind actually waiting for a train and sitting there for
 4 10 or 15 minutes, which I have done many, many times.
 5 In the middle of the night when it was 17 degrees out at
 6 3 a.m. in the morning, there's Brenda sitting out there
 7 in a freezing cold car waiting for the trains to go by.
 8 I've actually been locked in between a train going up
 9 Portal Way, stopped, and on Valley View trying to get my
 10 son to work for 20 minutes and being late. But I still
 11 don't want the road closed. I would really truthfully
 12 like it to remain open. Thank you.

13 JUDGE PEARSON: Thank you. Matt Petryni?

14 MATT PETRYNI: My name is Matt Petryni,
 15 M-a-t-t, P-e-t-r-y-n-i, and I'm representing Resources
 16 for Sustainable Communities. We are a non-profit
 17 environmental conservation organization located at 2309
 18 Meridian Street in Bellingham. We represent over 18,000
 19 members in the Whatcom, Skagit, and San Juan County
 20 area, and we've been in the community for 35 years. I'm
 21 submitting our comments on their behalf.

22 We agree with a lot of what has already been
 23 said and expressed by community members here tonight.
 24 We believe this project should not move forward unless
 25 there's an EIS looking at the traffic and economic and

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1 environmental risks associated with the project. And
 2 there's pretty obvious reasons for that and there's a
 3 significant precedent for it.
 4 We brought an appeal against a previous DNS
 5 that was issued in Skagit County for Shell rail
 6 offloading facility serving similar trains carrying the
 7 same commodity, crude oil, from the Bakkan region of
 8 North Dakota. The hearing examiner looked really
 9 carefully at that, basically looked at the impacts that
 10 they were talking about imposing on the community which
 11 included traffic impacts similar to this road closure,
 12 but also the risk of potentially bringing in more of
 13 these Bakken oil-by-rail trains, and concluded that
 14 based on the risk of explosions, risk to public safety,
 15 risk to the environment of bringing in these large and
 16 dangerous trains, that they should be required to go do
 17 an EIS. We submitted similar comments on this
 18 particular project to the Department of Ecology last
 19 week, basically asking them to reconsider their
 20 Determination of Non-Significance and go ahead and move
 21 this project as well to Environmental Impact Statement.
 22 As many of the commenters have mentioned
 23 tonight, this project is inherently connected to both of
 24 the oil-by-rail facilities that have been built at
 25 Cherry Point, and that is pretty clear based on both the

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1 timing and the intended use of the project. BNSF stated
 2 today that they planned to use this project to park
 3 several mile-long trains serving existing customers at
 4 Cherry Point. And if that is in fact the case, it is
 5 pretty clear that either the information that was
 6 submitted in the permitting documents for the BP and
 7 ConocoPhillips refineries was either incorrect at the
 8 time or it was just wrong or unlawfully prepared. But
 9 whatever the case is, there's clearly a need now to
 10 conduct an Environmental Impact Statement of this
 11 facility and understand the cumulative impacts of both
 12 of these projects on the community and on the needs of
 13 the community, and be able to move forward with asking
 14 for mitigations to those impacts.
 15 In addition to that, this project is coming
 16 not only in piecemeal of those oil-by-rail facilities
 17 that have already been built, but also in piecemeal of
 18 other oil-by-rail facilities being built currently at
 19 this site at the exact same time as this facility is
 20 being considered for a road closure. We're looking at a
 21 proposal to add a second siding between Custer and
 22 Ferndale that is being considered as an entirely
 23 separate project, and this is clearly in violation of
 24 the State Environmental Policy Act. At least these two
 25 projects should be rolled together, but likely this

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1 project should be rolled with the other two oil-by-rail
 2 facilities that have already been built, and we need to
 3 take a really careful look at that and make sure that
 4 that's thoroughly considered.
 5 A lot of the endangered species impacts have
 6 been mentioned so I won't belabor the point on that, but
 7 I think that's also a really important consideration for
 8 this particular project site, especially with the
 9 impaired water body at California Creek that drains into
 10 Drayton Harbor. And this is one of our major concerns
 11 in this area as a water quality organization. The oil
 12 trains have been known to leak and they're continuing to
 13 be known to leak around the country. They've obviously
 14 been known to explode and we've seen that happen in
 15 several communities.
 16 These are all things that the risk of them
 17 increases with volume, and the volume is permitted to
 18 increase with more sidings, with more traffic
 19 infrastructure. And the fact that they're not really
 20 looking at what is the volumetric increase in
 21 oil-by-rail potentially, it's leading to an under-
 22 examined significant impact. And we really need to make
 23 sure that that is thoroughly studied and that that is
 24 done before we authorize any kind of road closure here
 25 at Valley View Road. In addition to that, a number of

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1 people use this road. It's a very important connector
 2 because of the way the roads are laid out up there, so
 3 we want to make sure that that road is still accessible
 4 for both emergency first responders and the local
 5 commuters that are using the road on a regular basis.
 6 I'm going to go ahead and submit written
 7 comments as well. We might further expand on these with
 8 additional exhibits before the comment period closes on
 9 the 4th. So thank you very much for the opportunity to
 10 comment.
 11 JUDGE PEARSON: Thank you very much. Ellen
 12 Howard?
 13 ELLEN HOWARD: Ellen Howard, H-o-w-a-r-d,
 14 and my mailing address is now 702 Kentucky Street,
 15 Bellingham 98225. I used to live on Bay and Ham Road.
 16 And one of the reasons I no longer live there is because
 17 of the impact with BP. So I mean, first I'd like to
 18 make a general comment about communication, that some
 19 people weren't aware. And I must say I don't think our
 20 newspapers did a very good job of alerting people as to
 21 what's happening locally. Several years ago BP -- or a
 22 year and a half ago they immediately put in their tracks
 23 for their plant and nobody was very well notified that
 24 this was happening. All of us who lived there were very
 25 aware. They sort of laid out how they think about

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1 things because they were supposed to have covered tracks
 2 across, they did not. The rocks that they were hauling
 3 away and hauling in were flying off the trucks and
 4 breaking people's windshields making life almost
 5 impossible. A lot of properties went up for sale at
 6 that time, showing that the people were being badly
 7 impacted already by what they were doing.

8 This is something that is being
 9 piece-mealed. I saw some of this coming up about two
 10 years ago and yet it was really never brought to the
 11 forefront that they were working on some permits at that
 12 time. The noise, the traffic was unbearable. I could
 13 hear them connecting the railroad cars in the middle of
 14 the night, and I was quite a distance from them.

15 I also want to speak on behalf of what's
 16 there. Not only is it the water being impacted, we're a
 17 major flyway for the birds, and it's like all of this is
 18 being ignored of what a unique ecological zone we have
 19 there. It's not just the wetlands but it's also what's
 20 happening along the shores. If you ever go to Birch
 21 Bay, which is a great attraction and an economic source
 22 for people in the region, it kind of looks like an other
 23 world zone if you sit and look towards BP Petroleum.
 24 And I think that's just gotten worse and worse. It's
 25 like looking at a futuristic movie of what the other

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1 world is going to look like. So I urge you really to
 2 look at the impact statements and look at the total
 3 effect on our environment. Thank you.

4 JUDGE PEARSON: Thank you. Reed Gillig?
 5 REED GILLIG: Good evening. My name is Reed
 6 Gillig, I live at 7190 Ham Road. I've been there for
 7 about five years. And within about four years prior to
 8 that I lived on the corner of Bay and Ham-Valley View
 9 Road.

10 JUDGE PEARSON: If you could spell your name
 11 for the court reporter.
 12 REED GILLIG: R-e-e-d, G-i-l-l-i-g.
 13 I think that as one speaker noted earlier,
 14 there are other options in terms of how we would be able
 15 to accommodate the rail traffic that we're talking about
 16 here without having to close down Valley View Road.
 17 It's a very useful road for folks in the area. I read
 18 through the SEPA, and one of the things that just struck
 19 me is that it was kind of carelessly or recklessly,
 20 almost, assembled. It really was short on a lot of
 21 answers for things. Some other speakers talked about
 22 that.

23 The estimate of 90 cars, roughly, per day
 24 was brought up, and I highly question that. It's a
 25 seasonal area. There's a lot of rural use for that

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1 area, and it gets used by hay wagons, tractors, trucks,
 2 trailers, cars, buses, delivery drivers, you name it,
 3 and it's got its peaks and valleys. I did ask the
 4 question at one point of Mr. Cupp, and I didn't get
 5 really any response for what kind of study was done on
 6 that, but I didn't see any road counting blocks across
 7 the road that would count cars so I was kind of
 8 skeptical of that.

9 Moving on, the Valley View Road does
 10 preexist the spur that's there now, so if there's any
 11 right that it would have, I would ask you to take that
 12 into consideration.

13 The notices that were provided for the
 14 people in the immediate area I feel were very poor. It
 15 was the woefully small signs that drew my attention when
 16 I drove by there, but I physically had to stop my pickup
 17 in an area that's not designed for a stop at a railroad
 18 crossing and get out to see what was going on. A few
 19 days later I went by and that sign was in the ditch.
 20 And it did get put back up occasionally but not always.
 21 And the printing was so small that, quite frankly, I
 22 went to a meeting with our local water association to
 23 just bring it up to see if anybody knew about what was
 24 going on here in terms of this proposal, and most people
 25 are just driving right by that thing because it's so

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1 small and it's in such a difficult place to stop and
 2 feel safe about it.

3 When I called in to find out more from
 4 Utilities and Transportation, one of the recommendations
 5 I had was more direct mailings to people, say, within a
 6 three- to five-mile circle of this impacted area. I
 7 haven't seen anything like that. But that's the people
 8 that are impacted. The SEPA indicated that it was a few
 9 single-family homes and mostly rural and that's the
 10 extent of the impact. And I think we're seeing here
 11 tonight that that is not the case, it's a much greater
 12 impact. I think those people deserve to be heard, but I
 13 think we've got to reach out to those people so that
 14 they can have a sense for what's going on.

15 One of the things that's striking me that's
 16 interesting about this is that it's a proposal to do a
 17 project that's going to serve existing businesses, but
 18 everything about it smells like expansion. If it serves
 19 existing businesses, we're already waiting at railroad
 20 tracks right now and we're getting along fine with that.
 21 There are three within, I'm going to guess it's about a
 22 mile and a half proximity of each other. But often one
 23 is closed, and so, boy, if you're in a hurry you just
 24 zip around and you go to the other one. And now one of
 25 those is being proposed to be closed, so now all of a

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1 sudden what was a minor impact is a fairly major impact.
 2 The distances from the closing that we're
 3 talking about, I'm told the shortest one is 1.2 miles
 4 away, in the SEPA, but the reality is that's just to get
 5 across the railroad tracks a mile, .2 down the road.
 6 That's not where I was going, so you've got to double
 7 that here if you're going to go across the track at this
 8 point. Again, that's an illustration of how I think the
 9 SEPA was put together in kind of a reckless manner.
 10 As Ellen indicated, she's already moved
 11 because of concerns about this. I'm contemplating the
 12 same thing. The noise is something that I hear at all
 13 hours and it is increasing. So I'm not sure what folks
 14 are getting a sense for or what the responses are about
 15 increases in traffic, but the noise is definitely
 16 increasing and it is impacting the area.
 17 That concludes my comments. Thank you very
 18 much.
 19 JUDGE PEARSON: Thank you. Alex Ramel?
 20 ALEX RAMEL: Good evening.
 21 JUDGE PEARSON: Good evening.
 22 ALEX RAMEL: Alex Ramel, A-l-e-x, R-a-m-e-l.
 23 I'm the field director at Forest Ethics, and I live at
 24 2308 Woburn Street here in Bellingham, and I've lived
 25 here for 15 years.

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1 I just wanted to start off by saying thank
 2 you for coming up to Whatcom County and holding the
 3 hearing up here. I've spent enough time going down to
 4 hearings in Olympia and I know how long that trip is and
 5 I know that the drive back tonight is going to be even
 6 longer. We appreciate having you come up here.
 7 So we heard today during the evidentiary
 8 hearing that the BNSF's representatives stated that the
 9 primary purpose of this siding was to stage unit trains
 10 for crude oil. Which is really interesting that they
 11 think they need that, because we have recent reports
 12 from the companies that own the oil in those trains
 13 assuring us that it wouldn't be necessary.
 14 You've heard a couple of times tonight, but
 15 I'm going to give you the exact text, in the submission
 16 included in Phillips 66's Crude Unloading Rail Projects
 17 Environmental Checklist, a letter from their consultant,
 18 Mainline Management, dated January 25, 2013, states that
 19 they believe that the introduction of three unit trains
 20 per week on the Cherry Point Subdivision will not result
 21 in any undue conflicts or congestion from a rail
 22 perspective, end quote.
 23 Similarly, in a submittal for the BP Rail
 24 Logistics Project Environmental Checklist, their
 25 consultant, AECOM, provided a letter on July 19, 2012,

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1 which concluded, quote, With proper coordination the
 2 existing Custer spur infrastructure would be able to
 3 handle two trains per day, one serving BP, one serving
 4 BNSF's other customers.
 5 BNSF was aware of these project applications
 6 and submitted a new project review letter supporting
 7 Phillips 66's application dated January 15, 2013. You
 8 heard today the consultants for BNSF stated that they're
 9 not responsible for what other companies say about
 10 BNSF's capacity, but this letter suggests that they were
 11 in the know. Phillips 66's MDNS from Whatcom County
 12 gives us remedy if we run into this problem. Quote, The
 13 unit train frequency is limited to one unit train every
 14 other day on an annual basis to existing traffic on the
 15 BNSF Custer spur line. Any additional train traffic by
 16 Phillips 66 will require additional SEPA environmental
 17 review, end quote.
 18 The MDNS for BP says exactly the same thing
 19 except that they're allowed one unit train every day
 20 instead of one every other day. BP's application stated
 21 that in 2012 there was only one manifest train per day
 22 serving other customers on the Custer spur. The
 23 refineries have added one and a half trains per day that
 24 they're allowed, and now we have a total reported today
 25 by BNSF's representative that there's four. That math

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1 doesn't add up. Many people in Whatcom County, you've
 2 heard this already tonight, suspect that the refineries
 3 are exceeding those permits. BNSF's testimony today
 4 bolsters that concern. If it's true, this road vacation
 5 may not be necessary at all and this issue needs to be
 6 resolved before the road is vacated.
 7 In either case the congestion problem needs
 8 to be resolved by bringing fewer trains to the oil
 9 companies that promised us that their actions wouldn't
 10 cause a congestion problem or by those companies
 11 requesting a new permit that acknowledges the actual
 12 impact of the project should not land on the backs of
 13 the people of Whatcom County in reduced emergency
 14 response times, road closures, and increased exposure to
 15 dangerous, leaky, smoggy, and occasionally derailling and
 16 exploding oil trains.
 17 I've got a copy here of the documents that I
 18 referenced. Thanks.
 19 JUDGE PEARSON: Thank you so much. Mary
 20 Tully? Good evening.
 21 MARY TULLY: Hi, good evening. Mary Tully,
 22 T-u-l-l-y, living at 5210 East North Street, Bellingham,
 23 Washington 98226. I've lived at that address for four
 24 years. I'm currently a Washington -- is that
 25 everything?

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1 JUDGE PEARSON: Yes.
 2 MARY TULLY: I'm currently a Washington
 3 State employee and previously was a Department of
 4 Defense federal government employee who worked in
 5 acquisitions. In acquisitions there's regulations
 6 prohibiting split purchasing, which is, for example,
 7 somebody wants to make a \$100,000 purchase but they're
 8 going to split it into smaller purchases to circumvent
 9 the regulations that apply to a \$100,000 purchase. And
 10 that's the only time that somebody would want to split
 11 up the purchase is to get around the regulations.
 12 If this road closure project is being
 13 reviewed as an individual project, but from what I
 14 understand it's likely part of a larger project which
 15 they call piece-mealing, there are hopefully good
 16 regulations in place for good reasons, let's not
 17 circumvent them. There needs to be a cumulative
 18 assessment of the BNSF projects and Cherry Point
 19 Industries projects to determine their interrelatedness.
 20 And if this does seem to be piece-mealed then I'd be
 21 wary from issuing any extension permits to that business
 22 at all. And if they are going to be issued, I would
 23 think that at the very least there should be in-depth
 24 EIS of all of the concerns that have been expressed
 25 earlier today and greater public awareness before

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1 considering any of those comments. I only heard about
 2 this hearing yesterday and I'm here and happy to be, but
 3 I'm sure there's a lot of other people that don't know
 4 about the project.
 5 It's my understanding that the road closure
 6 would result in trains idling or parking for extended
 7 periods of time, allowing for runoff from the trains
 8 carrying contaminants to impact nearby waterways. Those
 9 impacts need to be studied. I'm concerned about the
 10 understated vehicle traffic of 90 vehicles as opposed to
 11 350 vehicles per day that Whatcom County counted. If
 12 vehicles are no longer able to use Valley View Road,
 13 traffic impacted on new routes need to be studied for
 14 the additional traffic, if they're safe for the
 15 additional traffic. And if those vehicles are no longer
 16 able to use Valley View Road and they're rerouted along
 17 the longer route, there are going to be greater carbon
 18 emissions being released and I'm concerned about those
 19 impacts.
 20 And I second all of the concerns expressed
 21 earlier.
 22 JUDGE PEARSON: Thank you.
 23 Mr. Cupp, do you have another sign-in sheet?
 24 Peter Holcomb?
 25 PETER HOLCOMB: Peter Holcomb,

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1 H-o-l-c-o-m-b, and I reside at 2332 East Hemmi Road,
 2 H-e-m-m-i, and I've been there 18 years at that address.
 3 I can try to confine my remarks to things
 4 that have not been mentioned yet. The first is that I
 5 don't know if you're aware that that waterway is an
 6 official state marine sanctuary. And I'm not a lawyer
 7 so I don't know what the law is, but it seems to me that
 8 having three docks for oil ships may not be a violation
 9 of the letter of the law but it's certainly a violation
 10 of the spirit of a marine sanctuary. So I think it's
 11 already in violation, and I think the infrastructure
 12 that's there is probably illegal, but certainly adding
 13 any more would be. And so I'm certainly against the
 14 road closure and I'm against building any additional
 15 track and certainly against any additional oil imports
 16 to that area, because when there's oil there's always
 17 the possibility that it will leak into the marine
 18 sanctuary.
 19 The other thing I'd like to bring up is the
 20 movement in Congress among some of the Congressmen to
 21 repeal the law that exists which prohibits the export of
 22 petroleum. And I know that lots of -- quite a few
 23 companies would like to see that law repealed and the
 24 Congressmen that are in the pay of those companies want
 25 to see it repealed. Maybe they'll get their way, but we

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1 certainly shouldn't let them jump the gun by putting in
 2 infrastructure that would accommodate something that's
 3 already -- that is at present illegal.
 4 So I think the Railroad really is under an
 5 obligation to state what it is they really want, because
 6 if what they really want is just what they already have
 7 then the oil companies have already stated that they
 8 don't need it. Somebody is not being completely candid
 9 here, and I think you should look in to that. Thank
 10 you.
 11 JUDGE PEARSON: Thank you. Gary Bannerman?
 12 GARY BANNERMAN: My name is Gary Bannerman,
 13 B-a-n-n-e-r-m-a-n. I live at 6810 Portal Way, Ferndale.
 14 My family has lived off of Valley View Road for over 70
 15 years, so I use this road regularly. And I just wanted
 16 to say that I'm opposed to a closing, and maybe I have a
 17 few reasons why.
 18 I read through some of the reports that BNSF
 19 supplied on the UTC website, and they cited safety over
 20 and over, all the safety concerns and how much safer it
 21 would be if they closed it. Well, if it was so much
 22 safer if we close this one, why don't we close all
 23 crossings. We ain't doing that. And I think they -- I
 24 looked through there and there was no statistics for any
 25 known wrecks in the last 50 years, so I'm not sure what

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1 we're trying to be safer about. We use tractors,
 2 equipment, we haul cows. I regularly use that road.
 3 It's access to the Birch Bay-Lynden interchange at I-5.
 4 And like other people here mentioned, if you live up on
 5 the hill on the Valley View, Bay Road, Grandview Road,
 6 you either go down to Grandview and you cross. If
 7 there's trains there you go Valley View Road, cross
 8 there, that's where you go, or you go to Custer. And
 9 I'd hate to see one of our main crossings closed.
 10 One of the things someone did mention is
 11 there's a second proposal out there, another BNSF
 12 proposal to add a siding from Ferndale to Custer called
 13 the Ferndale-Custer double track. That's like three and
 14 a half miles, and that's going to give BNSF seven miles
 15 of parallel track on the mainline. And the reason for
 16 it is so they can pull out trains on siding and allow
 17 passenger trains to go between Canada and Seattle. So
 18 if they have seven miles of new double track coming, why
 19 do we need to sit on this spur and close Valley View
 20 Road? We don't. The reason is I've sat there and
 21 watched the trains. They unhook, they switch, they
 22 reconnect and move trains around. And I'm fine with
 23 waiting, but they just want to have a train sitting
 24 there and seven other miles of double track so that they
 25 can -- under the guise of passenger rail improvement.

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1 Whatever. I'm tired of that.
 2 So mainly I'm just opposed -- obviously the
 3 safety concerns. I don't need another switch yard and
 4 they already got a Ferndale-Custer double track. So
 5 those are the reasons I'm opposed to this. Thank you.
 6 JUDGE PEARSON: Thank you. Karen Weill?
 7 KAREN WEILL: I want to repeat what Alex
 8 said; thank you for coming all the way to Bellingham.
 9 My name is Karen Weill, K-a-r-e-n, last name is
 10 W-e-i-l-l. Mailing address is P.O. Box 5405 here in
 11 Bellingham 98227. I agree with Sandy. I don't want to
 12 tell you how long I've lived here because I don't think
 13 it's important if somebody has only lived here for a
 14 month if they're opposed to this, or for it, they can
 15 certainly comment on it.
 16 The first thing I want to talk about is that
 17 these trains aren't safe under any circumstances. They
 18 explode easily. There's been several studies that have
 19 shown that there is no way to build a train, a car that
 20 is totally safe with the materials that they're talking
 21 about putting onto these trains. So you have to
 22 understand the basic premise of, you know, when people
 23 talk about the oil bombs or the exploding oil trains,
 24 you know, there's been several, many, many accidents
 25 starting with -- and I apologize, I'm going to mangle

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1 the name of the town in Canada, Lac Megantic I think is
 2 what it's called -- I cannot spell that, sorry -- and 47
 3 people dying there, luckily there's not been other
 4 deaths. But that they have tried to change the
 5 construction of those cars and have said publicly that
 6 that's not possible. And then you're talking about
 7 putting this on a track where you're going to basically
 8 create semi-rail yard type of facility and have this
 9 kind of a train next to a coal train and 1,200 feet from
 10 a school. It just boggles my mind that this is okay,
 11 that this is an okay request, in addition to the fact
 12 that -- I hate saying this, but BNSF recently was fined
 13 70,000 plus dollars for not reporting 14 oil leaks in
 14 the time required. 35,000 of that is going to be
 15 suspended because if they continue -- you know, if they
 16 do well in the next year. So basically this is the
 17 company that we're supposed to trust with our lives. I
 18 don't live up in that area, I live over by the lake,
 19 Lake Whatcom, but my husband and I go up there quite
 20 frequently and drive in that area frequently. And this
 21 really frightens me, it truly does.
 22 I also want to say as far as the waterway
 23 goes, I buy oysters from Drayton Harbor Shellfish
 24 Company, and they were able to keep their shellfish
 25 company open when other shellfish companies had to close

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1 because of the algae bloom. And again, here we go,
 2 we're wanting to destroy still one more potential source
 3 of food when climate change is affecting everything.
 4 Anyway.
 5 The next point I'd like to make is it
 6 doesn't seem to me that anybody has really looked at air
 7 quality standards. That's the one thing that hasn't
 8 been mentioned by folks previous to me, that we really
 9 need a study of the diesel particulates, particularly if
 10 you've got trains idling there for long periods of time,
 11 again 1,200 feet from a school. There is a study by Dan
 12 Chaffee, and I will try to get that to you in my written
 13 comments that I intend to submit before the deadline.
 14 The next question is have they consulted
 15 with any of the local Indian nations, which is a
 16 requirement. Is this burial grounds? Is it any kind of
 17 historical grounds for the local Indian tribes? Under
 18 the Magnuson Act -- one of the things that we've talked
 19 about from a couple of the other people is the
 20 cumulative impact of building this rail spur there. I'm
 21 going to try to get through all of it because I don't
 22 promise I'll get my written comments in. Under the
 23 Magnuson Act, how does this have an impact on water
 24 traffic for them to be able to increase the amount of
 25 oil that's now going to the refineries? They are

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1 required to take a look at that under the Magnuson Act.
 2 And I don't know that that directly impacts what they're
 3 doing here on the land; however, it will impact the
 4 water if they start increasing the boats in order to
 5 take care of the increased oil that they're bringing in.
 6 It's a lack of notice. It's not just the
 7 people who live within three or five miles of this
 8 particular location. I am worried about the water
 9 quality, I'm worried about the air quality, and I live
 10 20 miles away. These two things are going to impact me
 11 personally as well.
 12 And I just want to end by saying you don't
 13 have to accommodate every request from every
 14 corporation. You need to think about the large picture
 15 and how they fit into that. And fossil fuels is a dying
 16 industry. Do we really want to build another thing for
 17 BNSF to bring more oil or more coal when both of those
 18 things are dying. Thank you.
 19 JUDGE PEARSON: Thank you. Eleanor Hines,
 20 you have a question mark under whether you wish to
 21 speak. No? Okay. Next is Richard Mollette.
 22 RICHARD MOLLETTE: Good evening, my name is
 23 Richard Mollette, M-o-l-l-e-t-t-e. My home is at 9007
 24 Valley View Road, and I have been a resident on the
 25 planet for 70 years.

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1 After hearing my neighbors speak before me
 2 I'm feeling somewhat superfluous, therefore I will
 3 direct your attention to a conversation between
 4 Alexander Hamilton and Thomas Jefferson. Hamilton
 5 indicated that the common man was not capable of making
 6 intelligent governmental decisions and it should be left
 7 to the higher strata in society. Jefferson's rebuttal
 8 was, no, the common man is indeed intelligent enough to
 9 make these decisions because the common man deals with
 10 nature and reality on an everyday basis. Listening to
 11 my neighbors speak this evening, I'm firmly convinced
 12 that Jefferson was right.
 13 One issue I didn't hear being brought up,
 14 and that is I have a friend who is one of the five fire
 15 commissioners in the area. I don't know if they've
 16 submitted to your panel a formal statement, but it
 17 appears that there's an informal consensus on their part
 18 that the closure of this crossing would be a mistake due
 19 to the increase in response time on the part of
 20 firefighting vehicles, medic vehicles and ambulances.
 21 Please give this the consideration that it's
 22 due. Thank you.
 23 JUDGE PEARSON: Thank you. Charles Storrs?
 24 CHARLES STORRS: Good evening. That's
 25 C-h-a-r-l-e-s, S-t-o-r-r-s, and it's 2626 Valencia

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1 Street, that is in Bellingham.
 2 I have to confess that if I have driven on
 3 Valley View Drive, it was not a memorable experience.
 4 The other thing I have to confess is it's a real thrill
 5 to be down in this room speaking in support of my
 6 County's position. That doesn't happen too often and I
 7 do thank you for coming all the way up to Bellingham for
 8 this hearing.
 9 A lot of what I would normally say has
 10 already been said. The one thing that has not been
 11 stressed is the County's count of large trucks that use
 12 this route. So in addition to the emergency responders
 13 and the school buses, you are talking about rerouting,
 14 according to the County's count, somewhere in the order
 15 of 30 semi-trucks each day. And in proposing the
 16 alternative route in Main Street in Ferndale for 30
 17 additional trucks is not a good plan whatsoever.
 18 The next point I want to make is that while
 19 Whatcom County is very wet and full of wetlands, this
 20 particular part of Whatcom County appears to have even
 21 more wetlands than normal, and any spills of any size
 22 whatsoever are going to have a much larger impact than
 23 they would have on a higher and dryer section of the
 24 county.
 25 There's a lot of mistrust, from my last

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1 point, for Burlington Northern Railroad. They are
 2 transporting a product which is so dirty and toxic and
 3 nasty and dangerous that they will not tell the first
 4 responders along the route when and how much is going
 5 by. So they will not tell the fire department about
 6 their unsafe cargos but it's perfectly safe to park that
 7 unsafe cargo in my neighbor's yards out on Valley View.
 8 And, you know, that just can't be the case. They're
 9 speaking with forked tongues here.
 10 They can't have it both ways. Either it's
 11 dangerous cargo or they should let us know about it and
 12 they should be honest about who they're shipping for,
 13 how much they're shipping for, how come this extra
 14 siding is linked to the other extra siding they've got
 15 on the mainline. How come this extra siding which they
 16 claim they need, they didn't bother telling their
 17 clients, Phillips and BP, when they were filling out
 18 their environmental forms? And are they promising that
 19 it is only for the oil and not for the coal? I really
 20 do not trust Burlington Northern whatsoever. I don't
 21 trust any of the four companies whatsoever but
 22 especially Burlington Northern. They've proven their
 23 arrogance, they've proven that they are just really bad
 24 corporate citizens. They care not at all about any of
 25 the local communities. And to reroute everybody just

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1 for their own convenience, just for their own dollars,
 2 when they told their clients that they did not need to
 3 do that is just beyond the pale.
 4 So thanks again for coming to Bellingham and
 5 have a good evening.
 6 JUDGE PEARSON: Thank you. Andronetta
 7 Douglass?
 8 ANDRONETTA DOUGLASS: Good evening.
 9 JUDGE PEARSON: Good evening. Mr. Cupp
 10 mentioned that you might not have been here when we
 11 swore in witnesses earlier?
 12 ANDRONETTA DOUGLASS: Yes.
 13 JUDGE PEARSON: Okay. So if you could just
 14 raise your right hand, thank you.
 15 (Andronetta Douglass sworn in.)
 16 ANDRONETTA DOUGLASS: I currently live in
 17 Bellingham.
 18 JUDGE PEARSON: Can you start with your
 19 first and last name and spell them.
 20 THE WITNESS: My name is Andronetta,
 21 A-n-d-r-o-n-e-t-t-a, last name Douglass,
 22 D-o-u-g-l-a-s-s. I currently live at 255 West Bakerview
 23 Road, Number 105 in Bellingham here. I recently moved
 24 down from Birch Bay. I lived in Bay Crest North and I
 25 lived in that area when we had the big fire at the BP

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1 plant, which was quite frightening and you could see it
 2 was stories high up into the sky. And I don't believe
 3 that the neighborhood actually had any evacuation plans
 4 in place or anything like that.
 5 I also have a history of being a retired RN.
 6 I did work with criminally insane. I worked in a
 7 federal hospital where we took care of federal
 8 prisoners, and my husband worked for Boeing at the
 9 satellites and intelligence. He didn't tell me any
 10 government secrets, but we did have an increased
 11 awareness of terrorism threats. And I imagine that you
 12 remember some years ago when we had a terrorist crossing
 13 the border from Canada to the United States at the Peace
 14 Portal crossing with transporting explosives.
 15 Because I have driven Valley View and I know
 16 that area there, I don't consider that a very safe area
 17 for storing explosives. I don't think there's any
 18 security. And given the recent uptake in domestic
 19 terrorism, I think you are leaving the public open to a
 20 very dangerous situation. We don't have very good
 21 mental health facilities in our county and we do have a
 22 lot of mental health problems here. Therefore, I think
 23 that there needs to be some consideration given to the
 24 security of this location. I haven't heard anybody
 25 speak on that. I do agree with what has been said by my

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1 neighbors here about the use of that road. I have
 2 driven it, and I do have security concerns about having
 3 explosives thoroughly available to the mentally ill
 4 along a fairly busy stretch of I-5 where we have had
 5 known terrorists driving down that particular freeway.
 6 Thank you.
 7 JUDGE PEARSON: Thank you. Bonnie Joy
 8 Barker indicated that you might want to speak? She
 9 left? Okay. Michael Plumber. Oh, he said no, never
 10 mind. Larry Hildes? I will swear you in.
 11 (Larry Hildes was sworn in.)
 12 LARRY HILDES: My name is Larry Hildes,
 13 H-i-l-d-e-s, mailing address is P.O. Box 5405 in
 14 Bellingham. I've been a Whatcom County resident now for
 15 13 plus years.
 16 I do drive Valley View Road. I'm one of
 17 those rare people who cannot stand to drive on the
 18 freeway, so when I'm the one driving, I know every back
 19 road between here and Seattle to avoid driving the
 20 freeway.
 21 UNIDENTIFIED SPEAKER: Other direction.
 22 Between here and --
 23 LARRY HILDES: Between the border and
 24 Seattle, that's true, yes. That's my back way when we
 25 switch after customs.

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1 My wife who spoke earlier mentioned the
 2 disaster at Lac Megantic in Quebec. I'm imagining the
 3 disaster that would happen if one of these rolling bombs
 4 went off in the waterfront tunnel in Seattle where about
 5 700,000 people live or work within a mile of the tunnel,
 6 or if it went off rolling through the yards in
 7 Vancouver, Washington, in the middle of the Portland
 8 metropolitan area, let alone rolling through the
 9 waterfront at Bellingham, the waterfront of Tacoma, and
 10 every place else where one of these things explodes,
 11 thousands of people could lose their lives. We don't
 12 need to encourage this.
 13 We take the train a lot. If you're going
 14 east from here on the train you go through the Bakken
 15 Shield, and we have watched the Bakken Shield go from
 16 beautiful prairie to an unmitigated environmental
 17 catastrophe. Every trip it's worse and worse, and every
 18 trip the economic situation in that part of North Dakota
 19 is worse and worse. And if you think people are angry
 20 here, you should see what people are like in Williston,
 21 North Dakota. We need to not encourage, we need to not
 22 provide facilities. To be perfectly frank, this is an
 23 addiction and we need to cut it off, we need to stop
 24 facilitating it. We do not need these oil trains, we do
 25 not need more oil. In fact, they're cutting back in the

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1 Bakken Shield, they're cutting back in the Tar Sands, so
 2 we may be cutting off the road and building these
 3 facilities for nothing.
 4 I also note that Whatcom County has the
 5 second highest cancer rate for any county in the state
 6 because of the refineries in Whatcom and the refineries
 7 in Anacortes in the Skagit, and we don't want this to
 8 get worse. There is no good reason for these oil trains
 9 and there's no good reason to facilitate them,
 10 especially when BNSF has tried to evade the SEPA process
 11 over and over. Sticking in a project to hide it and
 12 then deny it in your Mitigated Determination of
 13 Non-Significance under SEPA is illegal and you all need
 14 to not reward it. This project is bad transportation
 15 policy, it's bad environmental policy, and it's just
 16 plain bad policy in general.
 17 We ask that you deny this, that you make
 18 them use the facilities they have, and if they can't
 19 then they need to cut back on what they're doing, which
 20 they need to be doing anyway. There's a lot of good
 21 reasons not to do this project, there's not a single
 22 good one to allow it. Thank you.
 23 JUDGE PEARSON: Thank you. Okay, is there
 24 anyone else who would like to speak before I close the
 25 public comment hearing? Please come forward. Okay, so

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1 you were on the list before.
 2 BONNY JOY BARKER: Nature does call.
 3 JUDGE PEARSON: Are you Bonnie Joy?
 4 BONNIE JOY BARKER: Yes.
 5 JUDGE PEARSON: Were you sworn in earlier?
 6 BONNY JOY BARKER: I was not.
 7 JUDGE PEARSON: Okay. If you could just
 8 raise your right hand.
 9 (Bonnie Joy Barker was sworn in.)
 10 BONNY JOY BARKER: I've been a resident of
 11 Whatcom County since 2000.
 12 JUDGE PEARSON: Can you state your name and
 13 your address.
 14 BONNIE JOY BARKER: Bonnie Joy Barker. I
 15 live on 3690 Hillside Road in Deming, and I agree with
 16 all the comments I've heard so far. I'm really proud of
 17 the citizens of Whatcom County.
 18 I only came forward to say I have a dream.
 19 Like Karen said, oil is a dying industry and we're all
 20 dying with it. And I have a dream, having been a mother
 21 in this life and being pregnant and crossing a trestle,
 22 breathing the air, feeling nauseous and sick. I want it
 23 to stop before there's no fresh air to breathe. I have
 24 a dream, light rail from Vancouver, Canada to San Diego,
 25 air we can all breathe, light rail from Bellingham to

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1 Mt. Baker so that there will be no more fatal traffic
 2 accidents in the winter. And this is a possible dream
 3 that only if we stop this runaway train to disaster.
 4 Thank you very much and thank you for coming
 5 and listening to our comments.
 6 JUDGE PEARSON: Thank you. Anyone else?
 7 Okay. Well, thank you all so much for coming here
 8 tonight and participating. Have a good evening and we
 9 will go off the record now, thank you.
 10 (Public comments concluded at 7:19 p.m.)
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1 C E R T I F I C A T E .
 2 STATE OF WASHINGTON)
 3 COUNTY OF SNOHOMISH)
 4
 5 THIS IS TO CERTIFY that I, Diane Rugh, Certified
 6 Court Reporter in and for the State of Washington,
 7 residing at Snohomish, reported the within and foregoing
 8 testimony; said testimony being taken before me as a
 9 Certified Court Reporter on the date herein set forth;
 10 that the witness was first by me duly sworn; that said
 11 examination was taken by me in shorthand and thereafter
 12 under my supervision transcribed, and that same is a
 13 full, true and correct record of the testimony of said
 14 witness, including all questions, answers and
 15 objections, if any, of counsel, to the best of my
 16 ability.
 17 I further certify that I am not a
 18 relative, employee, attorney, counsel of any of the
 19 parties; nor am I financially interested in the outcome
 20 of the cause.
 21 IN WITNESS WHEREOF I have set my hand
 22 this 9th day of December, 2015.
 23
 24 DIANE RUGH, RPR, RMR, CRR, CCR
 25 CCR NO. 2399