Exhibit No._____ (FP-1T)

BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY, a Delaware Corporation, Petitioner vs. CITY OF MOUNT VERNON Respondents, SKAGIT COUNTY, WSDOT, and WEST VALLEY FARMS, LLC, Intervenors.	DOCKET NO: TR-070696 PREFILED TESTIMONY OF FOSTER PETERSON

INTRODUCTION

1. **Please state your full name and job title.**

My name is Foster Peterson, and I am a partner and railroad consultant at Full Service Railroad Consulting, Inc., in Marietta, Georgia.

2. **Please describe your background and qualifications.**

I have over 20 years experience in the railroad industry at shortline railroads and over 12 years of experience as a railroad consultant. I have held a variety of positions including certified locomotive engineer, designated supervisor of locomotive engineers, Chief Operating Officer,

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Manager Training, Rules & Safety, machinist/mechanic, Engineer, Director Testing and Engineering Applications and Senior Director Testing and Engineering Applications.

During my career I have operated numerous passenger and freight trains. As a railroad official I have trained and supervised train and engine service personnel. I have inspected numerous locomotives, freight cars and passenger cars as both a mechanical and operating employee. I have investigated and analyzed hundreds of railroad accidents and incidents. I have extensive experience with locomotive event recorder hardware, software and analysis. I have extensive experience in both train and vehicle dynamics simulation using models such as Transportation Technology Center Inc.'s TOES™ and NUCARS™. I also have extensive experience in field testing of train operations, including on-board and wayside testing.

I am an active member of several professional organizations including the Air Brake Association, the International Association of Railway Operating Officers, the American Railway Engineering and Maintenance of Way Association, the American Society of Mechanical Engineers and Georgia Operation Lifesaver. *See* Exhibit 1 (CV).

3. **What does your job as a railroad consultant entail?**

I provide clients with timely and accurate analysis of railroad operational issues, and training in railroad safety, rules, and operating practices. I conduct operational and safety audits, and provide services as a consulting and/or testifying expert in railroad mechanical, operating, and engineering disciplines. I provide railroad technical and engineering consulting support from accident/incident response through case analysis and report preparation including consulting and/or testifying expert witness services if requested. I utilize vehicle and train dynamics simulation models in derailments and accident investigation and analysis, as well as design and perform field testing of rail vehicles.

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4. **Please describe your involvement in and review of the Mt. Vernon siding project, and what you were asked to do.**

I was asked to: (1) review materials from Closure Traffic Impact Analysis, maps of area, and proposed design of siding; and (2) comment on the appropriateness of keeping the Hickox Road crossing open after the siding project is completed, from the railroad operations and safety standpoints.

5. **Generally speaking, when is it appropriate or necessary to close a grade crossing, and what criteria is applicable?**

The FRA and FHWA offer advice on the Identification of Alternatives for Grade Crossings. Elimination should be the first alternative considered. This may be accomplished by grade separating the crossing, closing the crossing to highway traffic, or closing the crossing to railroad traffic through the abandonment or relocation of the rail line.

6. **Are grade crossing closures a common practice nationwide? Please explain.**

The Identification of Alternatives for grade crossings is promoted by the FRA and FHWA. BNSF has an internal Grade Crossing Closure program that since 2000 has closed over 3,000 crossings and is recognized as an industry leader in this area.

7. **Prior to the Mt. Vernon project, has your work dealt with a grade crossing that intersects both siding and mainline tracks?**

In my work, my involvement is often after a rail-highway grade crossing accident. It is a common accident scenario where a crossing has both a main line and siding track.

8. **Are siding/mainline crossings common nationwide? Why or why not?**

Physically, grade crossings do exist where a roadway crosses one or more main track(s) and siding track(s), but are a problem with respect to safety and operations. In most places the

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railroad has been in place for a significant period of time and roads were added as population increased. Railroads need sidings to be able to meet and pass trains operating in opposite directions where there is a single mainline track. Thus, in locations where grade crossings were put in, a siding and mainline track are both found at the crossing. These types of crossings are often given priority for future closure.

9. **Does a grade crossing that intersects both a main line and siding track cause any particular problems from a train operation or safety standpoint?**

It is a very real concern that people, who see the gates lowered but train stopped, will go around the gates to cross the tracks and potentially be hit by another train on the main line that they don't see coming. This is due to a false sense of security and decreased visibility (it is impossible to see through a parked train on the siding track). As a railroad consultant for more than 12 years, I have investigated many accidents that occurred because a driver thought the train on the siding track was the only train there (i.e., thought the reason that the grade crossing signals were operating was due to the stopped train, or simply that the stationary train was the only train in the vicinity of the crossing). This is a fatal error and huge public risk. I am even aware of emergency vehicles that have been struck by trains because they were rushing to respond to an incident when they approached the tracks.

10. **BNSF witnesses have testified that warning gates remain down and lights keep flashing when a train stops on or within 75 feet of a crossing. If the Hickox Road crossing were to remain open, would that particular scenario pose any safety problems?**

To the extent that traffic purposefully ignores or bypasses warning devices, which is not uncommon, yes. It is very unsafe for the public to in any way feel comfortable progressing through flashing gates.

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11. **BNSF witnesses have testified that up to 16 trains per day currently pass Hickox Road, and this number is expected to rise. Would you advise allowing splitting a train at this crossing, under the circumstances described? Can you explain your answer?**

I do not advise splitting at train at this crossing. First, the Washington Administrative Code does not allow a train to block an open/active crossing for more than ten minutes. It is not reasonable to require trains to be split after only ten minutes. Second, and most importantly, the safety risks simply do not justify splitting. You essentially create a zero-visibility crossing where a high number of trains pass by at varying speeds. The reason that trains are put onto siding tracks is because other (often faster) trains need to bypass them - thus, the implications of splitting on siding tracks go beyond this particular crossing, like a domino effect. Third, with the Hickox crossing, there are two alternative crossings situated close by. Use of the alternative crossings makes all drivers much less likely to be at risk. Finally, the time it takes to split (and reconnect) at train makes it impractical to split trains as a general practice.

12. **Is there any circumstance in which you would deem it safe for a vehicle, even an emergency vehicle, to cross the tracks if a train on the siding track was split or was not fully blocking the actual crossing? Please explain.**

No. A common grade crossing accident scenario is that a vehicle goes around a stopped train near a crossing and is struck by a train on the adjacent track. Closing the Hickox Road crossing would eliminate this possible scenario.

13. **Is it your professional opinion that the Hickox Road crossing should be closed when the Mt. Vernon siding project is complete? Why or why not?**

In my opinion, the Hickox Road crossing should be closed upon completion of the Mt. Vernon siding project. Two alternative routes exist nearby with active crossing protection over the single main track (rather than the main and new siding track).

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14. **You mention alternative crossings. How do those factor into your recommendation that the crossing be closed?**

The fact that alternative crossings are located nearby and are well-protected (the crossing to the North has active warning devices including flashing lights and gates) makes the Hickox Road crossing redundant. This, coupled with the fact taht the alternative crossings only cross the single main track and not the siding and main track together as they would at Hickox Road, means that the motoring public has 2 crossing options which are safer than at Hickox Road, especially when a train is parked at the siding.

DECLARATION

I, Foster Peterson, declare under penalty of perjury under the laws of the State of Washington that the foregoing PREPARED TESTIMONY OF FOSTER PETERSON is true and correct to the best of my knowledge and belief.

DATED this 8th day of October, 2007.

FOSTER PETERSON

DATED this 8th day of October, 2007.

Montgomery Scarp MacDougall, PLLC

By

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CERTIFICATE OF SERVICE

I am over the age of 18; and not a party to this action. I am the assistant to an attorney with Montgomery Scarp MacDougall, PLLC, whose address is 1218 Third Avenue, Suite 2700, Seattle, Washington, 98101.

I hereby certify that the original and 12 copies of PREFILED TESTIMONY OF FOSTER PETERSON has been sent by FedEx to Carole J. Washburn at WUTC and a PDF version sent by electronic mail. I also certify that true and complete copies have been sent via electronic mail and U.S. Mail to the following interested parties:

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I declare under penalty under the laws of the State of Washington that the foregoing information is true and correct.

DATED this _____ day of October, 2007 at Seattle, Washington.

Lisa Miller

Lisa Miller, Paralegal

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