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1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

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4 WASHINGTON UTILITIES AND)
5 TRANSPORTATION COMMISSION,)
6) Petitioner,)
7) vs.) Docket No. TR-980897
8 KCLICKITAT COUNTY AND) SETTLEMENT HEARING
9 BURLINGTON NORTHERN)
10 SANTA FE RAILROAD,)
11) Respondents.)
12 _____)

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15 TRANSCRIPT OF PROCEEDINGS

16 June 5, 2002

17 Lyle, Washington

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22 REPORTER: Susan G. Walker

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1 BE IT REMEMBERED that a hearing before Lawrence J.
2 Berg, Administrative Law Judge for the Washington Utilities
3 and Transportation Commission, was held on Wednesday, June
4 5, 2002, at the Lyle Lions Club Community Center, Lyle,
5 Washington, commencing at the hour of 6:00 p.m.

6

7 APPEARANCES:

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

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

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

14

15 ALSO PRESENT:

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

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

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3 THE REVIEW JUDGE: This is a hearing before the
4 Washington Utilities and Transportation Commission in docket
5 number TR-980897. This case is captioned the Washington
6 Utilities and Transportation Commission, Petitioner, versus
7 Klickitat County and Burlington Northern Santa Fe Railroad,
8 Respondents.

9 Today's date is June 5, 2002. This hearing is
10 being conducted in Lyle, Washington, pursuant to a notice
11 that was served on all parties dated April 30, 2002.

12 My name is Larry Berg. I'm an administrative law
13 judge with the Washington Utilities and Transportation
14 Commission, and I've been appointed to preside at this
15 hearing.

16 At the start of every hearing, in addition to the
17 introduction that I've just made, we take time to allow
18 parties to state their appearances for the record. The
19 purpose of this hearing is to take presentation of testimony
20 and for me to ask questions regarding a proposed settlement
21 agreement between the WUTC Commission staff, Klickitat
22 County, and the Burlington Northern Santa Fe Railroad. I'll
23 just note that the Commission may be referred to as the WUTC
24 or as the Commission; likewise, at points in this proceeding
25 the railroad may be referred to as BNSF.

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1 At this point in time I will take appearances from
2 the parties, and I'll just ask that parties making
3 appearances, the representative who will be speaking on
4 behalf of the party, please state your full name, your job
5 title, your address, your phone number, your fax number, and
6 your e-mail address for the record. Also, I will ask those
7 lead representatives to introduce anyone else who is
8 appearing with them here this evening.

9 We'll start with Mr. Thompson, who represents the
10 Commission staff.

11 MR. THOMPSON: I'm Jonathan Thompson. I'm an
12 assistant attorney general, and I'm representing the staff
13 of the Commission, as distinct from Mr. Berg, who is the
14 judge. And my address is 1400 S. Evergreen Park Drive,
15 S.W., Olympia, 98504. My telephone number is 360-664-1225.
16 My fax is 360-586-5522. And my e-mail is jthomps@wutc.wa.gov.

17 And also appearing as witnesses on behalf of the
18 staff are Mr. Ahmer Nizam and Mr. Ray Gardner, who can
19 provide their particulars.

20 MR. NIZAM: My name is Ahmer Nizam. My job title
21 is rail engineer with the Washington Utilities and
22 Transportation Commission.

23 Would you like my address and phone number?

24 THE REVIEW JUDGE: That won't be necessary,
25 Mr. Nizam. Thank you.

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1 MR. GARDNER: My name is Ray Gardner. I'm a
2 transportation specialist for the Washington Utilities and
3 Transportation Commission.

4 THE REVIEW JUDGE: Thank you, Mr. Gardner.

5 Next we'll take Klickitat County.

6 MR. GRUNDEI: I'm Keith Grundei, office engineer
7 for Klickitat County Public Works Department. My address is
8 228 West Main, Goldendale, Washington, 98620. Phone number,
9 509-773-4616. Fax number, 509-773-5713. E-mail is
10 keithg@co.klickitat.wa.us.

11 THE REVIEW JUDGE: And Mr. Grundei, I understand
12 also here on behalf of the County this evening are
13 Commissioners Thayer and Frye, and Commissioner board
14 manager ----

15 MR. GORLEY: Clerk of the board.

16 THE REVIEW JUDGE: Clerk of the board, Mr. Gorley.

17 All right. And, just for purposes of introduction,
18 for those people here who have not met either Commissioner
19 Frye or Commissioner Thayer, I'll let them introduce
20 themselves at this point.

21 COMMISSIONER FRYE: I'm Commissioner Joan Frye.

22 Do you want my address?

23 THE ARBITRATOR: No. That's not necessary. Thank
24 you.

25 COMMISSIONER THAYER: And I'm Commissioner Ray

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1 Thayer.

2 THE REVIEW JUDGE: And for the Burlington Northern
3 and Santa Fe Railroad Company?

4 MR. COWLES: My name is Mike Cowles, C-O-W-L-E-S.
5 I'm manager of public projects for the Burlington Northern
6 Santa Fe Railway Company. My address is 2454 Occidental,
7 O-C-C-I-D-E-N-T-A-L, Avenue S., Suite 1-A, Seattle,
8 Washington, 98134. My phone number is 206-625-6146. Fax
9 number is 206-625-6115.

10 And along with me tonight is Steve Mills, who is
11 with Burlington Northern Santa Fe Railroad as well.

12 THE REVIEW JUDGE: Is it Nills?

13 MR. MILLS: Steven Mills, manager of grade crossing
14 safety for the Burlington Northern Santa Fe Railroad.

15 THE REVIEW JUDGE: Thank you, Mr. Mills.

16 The purpose of this hearing, as I stated, is to
17 take testimony regarding a settlement agreement and
18 stipulated statement of facts. I'll indicate that, in
19 addition to having some questions about the settlement
20 itself, I will want to take some testimony regarding the
21 closing, as the case has developed, from staff and the
22 railroad and from the County. This may require some input
23 from both yourself, Mr. Grundei, and you, Mr. Cowles, and
24 Mr. Nizam and Mr. Gardner. So I think, for the sake of
25 expediency, I'd like each of you to take an oath at this

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1 time.

2 If you'd all please stand and raise your right
3 hand, do you affirm under penalty of perjury that any
4 statements or testimony you give here this evening will be
5 the truth?

6 (All potential witnesses responded affirmatively.)

7

8 THE REVIEW JUDGE: Thank you.

9 Mr. Nizam, I understand that this case originally
10 started with the petition from Commission staff for the
11 closure of the Depot Road crossing. Is that correct?

12 MR. NIZAM: That's correct.

13 THE REVIEW JUDGE: In looking at the petition that
14 was filed at the time, the Commission stated that the reason
15 for seeking closure was because of a dangerous condition
16 caused by the downgrade of the road approaching the
17 crossing, which was especially dangerous in icy conditions,
18 as well as the safety facilities at the crossing?

19 MR. NIZAM: I was not the staff representative that
20 filed the petition, but in reading the memorandums and
21 different products of investigations from staff
22 representatives prior to the filing of that petition, I
23 think that the main reasons that the Commission staff
24 originally wanted to file a petition to close the crossing
25 were a little bit different than as stated in that

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1 particular paragraph. And I can explain, if you would like.

2 THE REVIEW JUDGE: Yes, please.

3 MR. NIZAM: As a general matter, the Commission's
4 view towards highway rail grade crossings is that they
5 represent a potential hazard to the motoring public due to
6 the possibility of conflict between vehicles and trains and
7 also the frequency of those conflicts on a national level,
8 which is about once every two hours there's a collision
9 between a vehicle and a train.

10 Now, because of that it's been a long-standing
11 Commission policy to consolidate crossings whenever multiple
12 crossings prove to be redundant. For example, if you have
13 two crossings that serve the same area and one of those
14 crossings can be closed with the other crossing taking on
15 all of the traffic that that crossing once accommodated,
16 then the Commission's policy would be to go ahead and
17 consolidate the two crossings into one, provided that doing
18 so would be in the interest of safety and efficiency for the
19 motoring public.

20 And in this case the Commission staff originally
21 conducted an investigation in 1996, and that investigation
22 concluded that, if the Depot Road grade crossing were
23 closed, that traffic could be safely and efficiently
24 diverted to the Seventh Street overpass, which is located
25 approximately one-half mile east of that crossing, without

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1 any adverse impact to the transportation roadway system or
2 access to property served by both crossings.

3 THE REVIEW JUDGE: And Mr. Grundei, I understand
4 that initially the County had some opposition to the
5 proposed closing. Is that correct?

6 MR. GRUNDEI: That is correct.

7 THE REVIEW JUDGE: Were you actively involved in
8 the case at that time?

9 MR. GRUNDEI: Not at that time, I wasn't.

10 THE REVIEW JUDGE: And I would like, if you would,
11 to have you explain how the County's position with regards
12 to closing has changed over time and to explain to me the
13 terms of the settlement condition that have made you believe
14 this agreement is something that is going to be to the
15 County's benefit.

16 MR. GRUNDEI: Okay. Initially there was a plat
17 that was being developed on the other side of the railroad
18 tracks, and our policy is that plats have two points of
19 access. There is actually a third point of access farther
20 east, but it's very substandard and it crosses underneath
21 the railroad tracks. So the two points of access that were
22 available were the Seventh Street crossing over the tracks
23 and the grade crossing at the west end of Depot Road.

24 This has been going on, looking back through the
25 files, sometime prior to 1995. At that time or near that

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1 time the Seventh Street over-crossing was a timbered
2 structured bridge. It was reconstructed to a modern
3 standard that could handle the current loads for trucks in
4 approximately 1994 or '95. So one of the concerns with the
5 bridge being upgraded was alleviated, that that bridge could
6 handle the loads and we wouldn't need to use the grade
7 crossing as much.

8 Then we applied for signalization funds to increase
9 the safety factor, and those funds were in the process of
10 being granted when, I believe, the Commission requested or
11 petitioned for the closure of the grade. Since that is a
12 safety issue and the remaining portion of Depot Road from
13 Seventh Street leading to Cove Road is roughly a 16-foot wide
14 gravel road, it was allowed that the funds that were
15 originally dedicated for the signalization crossing would be
16 transferred to improve the road to a safe two-lane paved
17 road. And that's where we are today.

18 THE REVIEW JUDGE: All right. Mr. Cowles, I'll
19 also take note from the settlement agreement that the
20 railroad is transferring certain rights of way to the County
21 for its road improvement. Is that correct?

22 MR. COWLES: Yes. And it's my understanding the
23 roadway right now itself is within the railroad
24 rights-of-way.

25 Is that right, Keith?

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1 MR. GRUNDEI: I think there's infringement both
2 ways.

3 MR. COWLES: And basically it's to make things
4 right and to provide that right-of-way for the County to
5 make their road improvements.

6 THE REVIEW JUDGE: So this is a situation where the
7 railroad possesses a right-of-way from the County?

8 MR. COWLES: The County road is probably on the
9 railroad right-of-way, probably without proper title,
10 easements or whichever. But I think this action that we are
11 about to endeavor and to make those road improvements, I
12 think, will make things right.

13 THE REVIEW JUDGE: So what we're dealing with here
14 is a situation where the existing road, in addition to being
15 formalized in a right-of-way where the road exists now will
16 be expanded to allow the County to build a road to other
17 standards. Is that correct?

18 MR. COWLES: That's correct. I have yet to see
19 the plans that the County has prepared as far as how much
20 right-of-way we are talking about here for the improvement.
21 I don't know where the County is with their plans.

22 MR. GRUNDEI: I'm still preparing them.

23 MR. COWLES: Still preparing them.

24 THE REVIEW JUDGE: All right. And I also noted
25 that there is some provision for the termination of a

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1 siding. Is that correct?

2 MR. COWLES: Yes. We have, I guess you'd call it,
3 a team track, and we have what you'd call a camp car, that
4 is sitting on the end of it. And the plan is to remove that
5 camp car on site because the track cannot move that camp car
6 down the rail because the rail is so badly in pieces. And
7 then also to remove the track up at the switch, provided the
8 room and the access for the roadway improvement the County
9 will be doing.

10 THE REVIEW JUDGE: Where is the switch located?

11 MR. COWLES: Basically between the Depot Road
12 crossing and where the team track crosses the street that
13 they will be improving.

14 THE REVIEW JUDGE: So that branches off of the
15 siding track?

16 MR. COWLES: Right. There's a main line and
17 there's a siding, and there's a team track which comes off
18 the siding.

19 THE REVIEW JUDGE: All right.

20 Mr. Grundei, I'll ask you because I think you may
21 be the person that knows this information, but certainly if
22 either Mr. Nizam or Mr. Cowles knows, please feel free to
23 speak up.

24 I notice where the average daily traffic across the
25 Depot Road at-grade crossing is estimated at less than 50

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1 trips a day. Do you know how that number was developed?

2 MR. GRUNDEI: No, I don't. I would have to assume
3 that someone took that number out of our files. We do have
4 counters that we put out and count the traffic on our roads.
5 I did not verify that number, but it's been thrown around
6 for the last couple of years, and I have to assume it came
7 out of our volumes of traffic counts.

8 THE REVIEW JUDGE: Do you have any knowledge about
9 what the volume of traffic over the Seventh Street overpass
10 is on a daily basis?

11 MR. GRUNDEI: Not offhand, no.

12 THE REVIEW JUDGE: And my understanding is that
13 those are the only two roads that access the frontage road.

14 UNIDENTIFIED VOICE FROM PUBLIC OBSERVERS: There's
15 a tunnel down there.

16 THE REVIEW JUDGE: Is there another way to access
17 that frontage area?

18 MR. GRUNDEI: There is, but it would be on a
19 private road. The County road -- I referred to an underpass
20 earlier on the east side of the peninsula. That is a County
21 road, but then it dead-ends and becomes a private road. And
22 you can use the private road to get back to Depot Road.

23 THE REVIEW JUDGE: All right.

24 Mr. Cowles, is it the railroad's intent to remove
25 all of the structure for that T-spur, the rail, and -- I'm

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1 trying to think of it -- the ties that go underneath it, or
2 would those remain in place?

3 MR. COWLES: It is our position to remove the
4 entire track from where the camp car sits, all the way to
5 the switch that ties into the siding.

6 THE REVIEW JUDGE: All right. Then the other
7 questions I have relate to the specific improvements that
8 will be made to various sections of the road as well as
9 signage that, whether there's any signage or other parts of
10 the settlement that may not be spelled out in the other
11 documents I have.

12 So the areas that I'm concerned with are the
13 Seventh Street overpass to Depot Road. That section. Depot
14 Road to Cove Road. And then there's Cove Road to the water.
15 Coming back up Depot Road there's the area from Depot Road
16 to the crossing. And then there's the area that's between
17 Highway 14 and the crossing. And I want to just get a clear
18 understanding of exactly what the parties understand about
19 how those various sections will be changed or improved as a
20 result of the agreement. And we'll just take them one at a
21 time.

22 We'll start with the Seventh Street overpass to
23 Depot Road.

24 MR. GRUNDEI: The portion of Seventh Street would
25 remain just like it is right now. It meets all our

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1 standards for a local access road, which is what we're
2 talking about.

3 THE REVIEW JUDGE: Is that paved right to Depot
4 Road?

5 MR. GRUNDEI: Yes, it is.

6 THE REVIEW JUDGE: And then the dirt or gravel
7 roadway begins on Depot Road heading towards Cove Road?

8 MR. GRUNDEI: Correct.

9 THE REVIEW JUDGE: All right. What improvements
10 will be made in that stretch from Depot Road to Cove Road?

11 MR. GRUNDEI: We'll reconstruct the existing road
12 and widen it to 24 feet, and at the junction with Cove Road
13 we'll put in a radius curve that allows the trucks with
14 their boats to make the corner, which is a problem now.

15 When we get around the corner and on to Cove Road
16 and heading down towards the water, the project will stop,
17 and no further improvements will be made to Cove Road.

18 THE REVIEW JUDGE: All right. Will there be any
19 improvements made to Depot Road between Cove and the
20 crossing that's proposed to be closed?

21 MR. GRUNDEI: No. There would be no improvements.
22 In fact, we anticipate beyond the portion that we're
23 vacating, we would probably scarify the road to give or
24 return it to a more natural look and put up some kind of
25 sign or barricade that denotes the end of the County road.

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1 And that would prevent people from going forth towards the
2 tracks.

3 THE REVIEW JUDGE: All right.

4 And what I'm looking for is certainly what you
5 already know, and I don't want you to necessarily speculate,
6 but it's important to see what's planned and how the
7 proposed closing would affect the public. What about that
8 section of road that comes off of Highway 14 and heads
9 towards the crossing? What will that be like?

10 MR. GRUNDEI: I anticipate leaving it just as it
11 is. The adjacent owners have already expressed a desire
12 that we not tear it up. They have some plan for that.

13 THE REVIEW JUDGE: So they could use that to get
14 ingress and egress off their property?

15 MR. GRUNDEI: I assume to access their property;
16 yes.

17 THE REVIEW JUDGE: So that would remain County
18 road and remain in the condition it's currently in?

19 MR. GRUNDEI: No. It would be vacated and would be
20 returned to the two owners on either side of the road.

21 THE REVIEW JUDGE: And then what would it look like
22 from the highway? What would happen there? I did drive 14
23 from the west, heading east, but I don't recall, for
24 example, whether that's a curbed stretch of road or what
25 delineated that ----

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1 MR. GRUNDEI: There's no curb there. There's a
2 stop sign which is put up by the State Highway Department,
3 and I believe there is a road sign denoting it as Depot
4 Road. So the only change is to remove the Depot Road sign.
5 And I'm assuming the State will then remove their stop sign
6 because it's no longer a public road.

7 THE REVIEW JUDGE: All right. Then from that point
8 on, after the road would be vacated, it would be up to the
9 property owners to otherwise mark that road or to inform the
10 public who may be used to gaining access that the status has
11 changed?

12 MR. GRUNDEI: That's correct.

13 THE REVIEW JUDGE: Mr. Nizam, I understand from the
14 stipulated statement of facts that there was a train/vehicle
15 accident at this crossing in 1975. Is that correct?

16 MR. NIZAM: That is correct.

17 THE REVIEW JUDGE: And that resulted in a fatality?

18 MR. NIZAM: According to the Federal Railroad
19 Administration accident database, yes.

20 THE REVIEW JUDGE: And are there any records of any
21 other accidents occurring at that crossing that you are
22 aware of, other than that fatality?

23 MR. NIZAM: No.

24 I would like to add one thing about the
25 characteristics of the crossing, and when one is approaching

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1 the crossing from State Route 14. Sight distance is
2 considered inadequate due to railroad curves and also
3 topography. In other words, if you were approaching the
4 crossing you don't have adequate sight distance of trains
5 coming from either direction, but especially from the west.

6 THE REVIEW JUDGE: Is that based on a federal
7 safety standard?

8 MR. NIZAM: That's based on a site investigation.

9 THE REVIEW JUDGE: Let me ask Mr. Grundei, is there
10 any other private property that needs to be acquired in
11 order for these improvements to be made? In particular, I'm
12 thinking of that one point where Depot turns on to Cove, and
13 I notice from a map that that finger of property may be
14 owned by the Corps of Engineers, Lot 17. Is it necessary to
15 acquire any other property other than property that's owned
16 or controlled by the railroad?

17 MR. GRUNDEI: I have not got the plans to that
18 point, to say positively yes or no. I have gone down and
19 looked at the site and looked where the property corners
20 are, and I feel fairly comfortable that I can accomplish
21 that, staying within the Cove Road existing 60-foot
22 right-of-way and the right-of-way that we obtained from the
23 railroad company.

24 THE REVIEW JUDGE: Is there any additional signage
25 planned by the County that would notify the public of the

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1 change or of the Seventh Street overpass access?

2 MR. GRUNDEI: Probably the only signage we would
3 have, other than the typical stop sign, yield sign, would be
4 at the junction of Cove Road and Depot Road there would be a
5 sign erected saying dead end, so people knew that going
6 beyond, past Cove Road, they would have to stop and turn
7 around.

8 THE REVIEW JUDGE: Mr. Grundei, I'll just confirm
9 for the record that you've read the stipulated statement of
10 facts?

11 MR. GRUNDEI: Yes, I have.

12 THE REVIEW JUDGE: And I know that was signed very
13 recently. To the best of your knowledge, do all those facts
14 remain true and correct?

15 MR. GRUNDEI: To the best of my knowledge, they
16 are.

17 THE REVIEW JUDGE: Would you change or add anything
18 to those statements of fact at this time?

19 MR. GRUNDEI: Not at this time.

20 THE REVIEW JUDGE: All right. Mr. Cowles, let me
21 ask the same questions of you. Have you had an opportunity
22 to review that stipulated statement of facts?

23 MR. COWLES: Yes, I have. And I faxed over a
24 signed copy of that stipulation of facts to Mr. Nizam
25 yesterday evening.

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1 THE REVIEW JUDGE: Could you tell me who signed the
2 stipulated facts on behalf of Burlington Northern Santa Fe
3 Railroad.

4 MR. COWLES: I did.

5 THE REVIEW JUDGE: All right. Thank you.

6 And are there any changes or corrections that you
7 would make to that stipulated statement at this time?

8 MR. COWLES: No, I would not.

9 THE REVIEW JUDGE: That concludes my questions.

10 Let me indicate that the stipulated statement of
11 facts will be marked and admitted as Exhibit 1. And that
12 includes the two maps, Exhibit A, page 1 and page 2, that
13 are attached to the stipulated statement of facts.

14 Exhibit 2 will be the settlement agreement signed
15 by the parties, and that exhibit is admitted.

16 Mr. Nizam, I understand that, as a result of prior
17 public hearings, there are three letters in the Commission's
18 file from interested persons. Is that correct?

19 MR. NIZAM: That's correct.

20 THE REVIEW JUDGE: All right. Those three letters
21 that are currently part of the Commission's file will be
22 marked as Exhibit 3, and they are also admitted to the
23 record.

24 And if there are any other documents that come up
25 during the course of the public hearing, we'll assign those

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1 a separate exhibit number.

2 All right. That concludes all my questions. Is
3 there anything further from the parties before this part of
4 the hearing adjourns?

5 MR. COWLES: Yes. I have a few statements about
6 the condition of the crossing as it's closed. The railroad
7 would also be, besides removing the track and the switch, we
8 would also be removing the planks within the rails. And as
9 part of the approach, as the County had made a statement,
10 that would obliterate much of the approach to bring it back
11 to the natural land.

12 I also would like to make an additional statement
13 that the barriers, class 1 and class 3 barriers would be
14 placed on the Highway 14 approach to the crossing, would be
15 placed at the railway right-of-way line. I don't have a set
16 of plans with me, but I think that's probably about 50 feet
17 from the railroad crossing.

18 THE REVIEW JUDGE: Would you explain what that
19 class of barricade is.

20 MR. COWLES: It's a reflectorized barricade, three
21 or four boards across. Class 3 barricade on both
22 approaches. And they would be placed on the Highway 14
23 approach, probably about 50 feet from the railroad track,
24 depending on where our right-of-way line is. And that's
25 where the end of the roadway would be.

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1 THE REVIEW JUDGE: If somebody were to come down
2 that vacated section of the roadway to where the barricade
3 would be off of Highway 14, will there be some area for
4 vehicles to turn around and go back the same way they came?

5 MR. COWLES: I really couldn't answer that
6 question. Maybe Keith has an answer to that. But I assume
7 that's going to be a private road as soon as it's vacated.

8 MR. GRUNDEI: That's my understanding. It's up to
9 them to control access to their property at that point.

10 THE REVIEW JUDGE: All right. And are either of
11 the owners of those properties here this evening?

12 MR. GRUNDEI: One of them is, yes.

13 THE REVIEW JUDGE: And your name, sir?

14 MR. COLT: Greg Colt.

15 THE REVIEW JUDGE: All right. I do see, Mr. Colt,
16 where you've signed the listing that you will make some
17 comments here this evening.

18 All right. Thank you, sir.

19 Anything further from the parties?

20 MR. COWLES: No, sir.

21 THE REVIEW JUDGE: All right, then. At this time
22 the hearing on the settlement agreement is adjourned.

23

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25 (Proceedings Concluded)

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1 (As a matter of firm policy, the stenographic notes and
2 computerized backup of this transcript will be destroyed
3 five years from the date appearing on the following
4 certificate unless notice is received otherwise from any
5 party or counsel hereto on or before said date of June 10,
6 2007.)

7
8 STATE OF OREGON)
9) ss.
10 County of Clackamas)

11
12 I, SUSAN G. WALKER, a Certified Shorthand Reporter
13 for Oregon, hereby certify that at said time and place I
14 reported in stenotype all testimony adduced and other oral
15 proceedings had in the foregoing settlement hearing; that
16 thereafter my notes were reduced to typewriting by me
17 personally; and that the foregoing transcript contains a
18 full, true and correct record of such testimony adduced and
19 other oral proceedings had and of the whole thereof.

20
21 WITNESS my hand at Beaver Creek, Oregon, this 10th
22 day of June, 2002.

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25

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