

0097

1 BEFORE THE WASHINGTON STATE
2 UTILITIES AND TRANSPORTATION COMMISSION
3 CITY OF KENNEWICK)
4 Petitioner,) DOCKET NO. TR-040664
5 vs.) Volume V
6 UNION PACIFIC RAILROAD) Pages 97 to 272
7 Respondent.)
8 _____
9 CITY OF KENNEWICK,) DOCKET NO. TR-050967
10 Petitioner,)
11 vs.)
12 PORT OF BENTON and TRI-CITY &)
13 OLYMPIA RAILROAD,)
14 Respondent.)
15 _____
16

15 A hearing in the above matter was held on
16 October 19, 2006, from 9:30 a.m to 3:15 p.m., at 1300
17 South Evergreen Park Drive Southwest, Room 206, Olympia,
18 Washington, before Administrative Law Judge PATRICIA
19 CLARK.

20 The parties were present as follows:
21 THE COMMISSION, by JONATHAN THOMPSON,
22 Assistant Attorney General, 1400 South Evergreen Park
23 Drive Southwest, Olympia, Washington 98504-0128,
24 Telephone (360) 664-1225, Fax (360) 586-5522, E-Mail
25 jthompso@wutc.wa.gov.
26 Joan E. Kinn, CCR, RPR
27 Court Reporter

0098

1 CITY OF KENNEWICK, by JOHN S. ZIOBRO, City
2 Attorney, 210 West Sixth Avenue, Kennewick, Washington
3 99336, Telephone (509) 585-4272, Fax (509) 585-4424,
4 E-Mail john.ziobro@ci.kennewick.wa.us.

5 UNION PACIFIC RAILROAD, by CAROLYN L. LARSON,
6 Attorney at Law, Dunn Carney, 851 Southwest Sixth
7 Avenue, Suite 1500, Portland, Oregon 97204, Telephone
8 (503) 224-6440, Fax (503) 224-7324, E-Mail
9 cll@dunn-carney.com.

10 TRI-CITY & OLYMPIA RAILROAD, by BRANDON L.
11 JOHNSON, Attorney at Law, Minnick-Hayner, 249 West
12 Alder, Walla Walla, Washington 99362, Telephone (509)
13 527-3500, Fax (509) 527-3506, E-Mail
14 bljohnson@myl80.net.

15 BNSF RAILWAY CO., by KEVIN S. MACDOUGALL,
16 Attorney at Law, Montgomery Scarp, 1218 Third Avenue,
17 Suite 2700, Seattle, Washington 98101, Telephone (206)
18 625-1801, Fax (206) 625-1807, E-Mail
19 kevin@montgomeryscarp.com.
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0099

1 -----

2 INDEX OF EXAMINATION

3 -----

4 WITNESS: PAGE:

5 ROBERT R. HAMMOND

6 Direct Examination by Mr. Ziobro 115

7 Cross-Examination by Ms. Larson 117

8 Cross-Examination by Mr. Johnson 120

9 Cross-Examination by Mr. Thompson 124

10 Examination by Judge Clark 124

11 Redirect Examination by Mr. Ziobro 126

12 Recross-Examination by Mr. Johnson 129

13 STEPHEN R. PLUMMER

14 Direct Examination by Mr. Ziobro 132

15 Cross-Examination by Ms. Larson 133

16 Cross-Examination by Mr. Johnson 142

17 Cross-Examination by Mr. Thompson 143

18 Examination by Judge Clark 150

19 Redirect Examination by Mr. Ziobro 159

20 Recross-Examination by Ms. Larson 166

21 Recross-Examination by Mr. Johnson 168

22 Recross-Examination by Mr. Thompson 170

23 Examination by Judge Clark 171

24

25

0100

1	JOHN DESKINS	
2	Direct Examination by Mr. Ziobro	176
3	Cross-Examination by Ms. Larson	177
4	Cross-Examination by Mr. Thompson	190
5	Examination by Judge Clark	200
6	DANIEL L. KAUFMAN	
7	Direct Examination by Mr. Ziobro	207
8	Cross-Examination by Ms. Larson	208
9	Redirect Examination by Mr. Ziobro	213
10	JOHN W. TRUMBULL	
11	Direct Examination by Ms. Larson	219
12	Cross-Examination by Mr. Thompson	222
13	Cross-Examination by Mr. Ziobro	225
14	Examination by Judge Clark	237
15	RANDY HAMMOND	
16	Direct Examination by Ms. Larson	240
17	Cross-Examination by Mr. Johnson	241
18	Cross-Examination by Mr. Thompson	244
19	Cross-Examination by Mr. Ziobro	246
20	Examination by Judge Clark	259
21	JAMES T. LABBERTON	
22	Direct Examination by Mr. MacDougall	261
23	Cross-Examination by Mr. Ziobro	263
24	Examination by Judge Clark	265
25		

0101

1 -----

2 INDEX OF EXHIBITS

3 -----

4	EXHIBIT:	MARKED:	ADMITTED:
5	ROBERT R. HAMMOND		
6	5	267	114
7	STEPHEN R. PLUMMER		
8	6	267	114
9	7	267	114
10	8	268	114
11	9	268	114
12	10	268	114
13	11	268	114
14	12	268	114
15	45	268	114
16	JOHN DESKINS		
17	13	268	114
18	DANIEL L. KAUFMAN		
19	14	268	114
20	JOHN W. TRUMBULL		
21	32	270	114
22	33	270	114
23	34	270	114
24	35	271	
25	36	271	

0102

1		RANDY HAMMOND (Adopting Raymond Wright)		
2	37		271	114
3	38		271	114
4	39		271	114
5	40		271	114
6		JAMES T. LABBERTON		
7	50		272	114
8	51		272	114
9	52		272	114
10		JOHN C. DARRINGTON		
11	1		267	114
12	2		267	114
13	3		267	114
14	4		267	114
15		WAYNE SHORT		
16	48		268	114
17	49		268	114
18		LLOYD L. LEATHERS		
19	15		269	114
20	16		269	114
21	17		269	114
22	18		269	114
23	19		269	
24	20		269	
25	21		269	114

0103

1	22	269	114
2	23	269	114
3	24	270	114
4	25	270	114
5	26	270	114
6	27	270	114
7	28	270	114
8	29	270	114
9	30	270	114
10	31	270	114
11	46	269	114
12	47	269	114

13

RANDOLPH V. PETERSON

14	41	271	114
15	42	272	
16	43	272	
17	44	272	114

18

19

20

21

22

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24

25

0104

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

2 JUDGE CLARK: Good morning, it's
3 approximately 9:30 a.m., October 19th, 2006, in the
4 Commission's hearing room in Olympia, Washington. This
5 is the time and the place set for hearing in the matter
6 of the City of Kennewick, Petitioner, versus Union
7 Pacific Railroad, Respondent, given Docket Number
8 TR-040664, and the City of Kennewick versus Port of
9 Benton and Tri-City and Olympia Railroad, given Docket
10 Number TR-050967, Patricia Clark, Administrative Law
11 Judge for the Commission presiding.

12 The purpose of this morning's proceeding is
13 to determine whether or not an at-grade crossing should
14 be approved at the Union Pacific Railroad's dead end
15 spur west of Richland Junction and the Port of Benton
16 and Tri-City and Olympia Railroad's Hanford Industrial
17 Branch west of Richland Junction.

18 At this time I will take appearances on
19 behalf of the parties appearing on behalf of the City of
20 Kennewick.

21 MR. ZIOBRO: Good morning, Your Honor, John
22 Ziobro, Z-I-O-B-R-O, City Attorney for the City of
23 Kennewick.

24 JUDGE CLARK: And when you're speaking into
25 the microphone, you need to make sure the button is up

0105

1 so that it's on and probably speak a little more
2 directly into it so we can get you on the record.

3 MR. ZIOBRO: Would you like me to do that
4 again?

5 JUDGE CLARK: As long as the court reporter
6 got it, we're fine.

7 Appearing on behalf of the Commission Staff.

8 MR. THOMPSON: Jonathan Thompson, Assistant
9 Attorney General.

10 JUDGE CLARK: Thank you.

11 Appearing on behalf of Union Pacific
12 Railroad.

13 MS. LARSON: Carolyn Larson.

14 JUDGE CLARK: Appearing on behalf of the Port
15 of Benton.

16 The record should reflect that late yesterday
17 afternoon I received an E-mail message from Mr. Ziobro
18 indicating that the Port of Benton and the Cities of
19 Kennewick and Richland had entered into a stipulation, I
20 believe that is one of the preliminary matters we will
21 address this morning before taking testimony, and it is
22 my understanding that the Port of Benton will not be
23 entering an appearance this morning.

24 Appearing on behalf of Tri-City and Olympia
25 Railroad.

0106

1 MR. JOHNSON: Brandon L. Johnson.

2 JUDGE CLARK: Thank you, Mr. Johnson, and is
3 your microphone button up too?

4 MR. JOHNSON: Yes.

5 JUDGE CLARK: All right, then you might want
6 to move that a little bit closer to you so that we can
7 make sure the record is accurate.

8 MR. JOHNSON: Okay.

9 JUDGE CLARK: And appearing on behalf of BNSF
10 Railway.

11 MR. MACDOUGALL: Good morning, Your Honor,
12 Kevin MacDougall.

13 JUDGE CLARK: Thank you, Mr. MacDougall.

14 Are there any preliminary matters other than
15 the stipulation that the parties wish to address this
16 morning?

17 MR. ZIOBRO: The City has one, Your Honor.

18 JUDGE CLARK: In addition to the stipulation,
19 Mr. Ziobro?

20 MR. ZIOBRO: Yes, Your Honor.

21 JUDGE CLARK: Please proceed.

22 MR. ZIOBRO: Thank you. It's mostly by way
23 of clarification. Based upon the prehearing conference
24 we had on Monday, I was not clear on the scope of direct
25 testimony. We have prefiled testimony in this matter.

0107

1 I interpreted comments made by the Court that to the
2 extent possible you would like the parties to present
3 their case in chief exclusively through prefiled
4 testimony. And I can give some background on how the
5 parties arrived at prefiling testimony, but I thought if
6 you could clarify whether when we have a party up
7 testifying if we're able to supplement testimony in any
8 way. Have you made a decision on whether there will be
9 any latitude granted to the parties to do that?

10 JUDGE CLARK: All right, well, just by way of
11 background, the prehearing conferences that established
12 prefiled testimony in this proceeding occurred long
13 before I was assigned to this case, and they have been
14 memorialized numerous times, not only in the transcripts
15 of those prehearing conferences, but in the orders
16 issued by the Commission and in the orders granting the
17 request for extension of time filed by all parties to
18 submit prefiled testimony in this proceeding. In
19 preparing for this case, I also had the opportunity to
20 review all of the applicable statutes, and this is
21 actually a statutory requirement in Revised Code
22 Washington 81.53.030 which requires in these proceedings
23 that written testimony be presented. So there will be
24 no latitude for additional supplemental oral testimony
25 in this proceeding.

0108

1 MR. ZIOBRO: And can you reconcile that with
2 the fact that I don't think the parties, maybe through
3 inadvertence, maybe it was conscious, there was no
4 rebuttal schedule in the order, and like I said, I can't
5 represent that we didn't foresee the need for rebuttal,
6 and I would be glad to hear from the other parties, but
7 given that we have had a round of testimony from each
8 party, certainly there's things that come to light when
9 you're the first party and then you read the second
10 party's testimony. The City would have some evidence
11 that would be, if not exclusively, primarily rebuttal
12 testimony. Do you have a position on whether that will
13 be permissible? And my hope is if that rebuttal
14 testimony was not addressed and it was an inadvertent,
15 you know, item that slipped through the cracks when we
16 had a prehearing conference that the Commission will
17 take into consideration that may not have been fully
18 contemplated and that for a full and complete record
19 that may be something that all the parties are
20 interested in doing.

21 JUDGE CLARK: All right, well, you're really
22 sort of retreading ground that we covered at the
23 prehearing conference, and at the prehearing conference
24 I noted that no provision was made for rebuttal in this
25 proceeding, that if the Commission has prefiled

0109

1 testimony, rebuttal is also prefiled, and there was no
2 provision for that, there was no request for that in the
3 two years that Docket 040664 has been outstanding and
4 over a year that 050967 has been outstanding, so I
5 believe that has already been addressed.

6 MR. ZIOBRO: Thank you, I just wanted to make
7 a record and at least clarify what the position of the
8 Commission was.

9 JUDGE CLARK: All right.

10 And you have a stipulation with the Port of
11 Benton.

12 MR. ZIOBRO: It has not been signed. It was
13 approved by the Kennewick City Council two weeks ago.
14 Tuesday night the Richland City Council executed the
15 agreement. It's before the Port of Benton to be
16 executed today. I hope to have an executed copy
17 provided and filed tomorrow morning.

18 You may recall that Daryl Jonson for the Port
19 represented at the prehearing conference that they would
20 not be appearing. I believe the decision not to appear
21 is based on large part that there is an agreement in
22 principle, it just has not been executed by all the
23 parties, but it would allow -- the City essentially
24 gives a deed to cross Port property for purposes of
25 extending Center Parkway.

0110

1 JUDGE CLARK: All right, well, I think it is
2 going to be important to have that stipulation as soon
3 as possible. What I would like to hear from the
4 parties, although you will not have an executed copy
5 bearing the signature of the Port of Benton, interested
6 in knowing whether or not you would be interested in
7 reviewing the terms and conditions in that stipulation
8 absent a signature.

9 Ms. Larson?

10 MS. LARSON: Yes, I would be interested in
11 viewing that stipulation.

12 JUDGE CLARK: Mr. Johnson?

13 MR. JOHNSON: Yes, Your Honor, I would, and I
14 would also like to comment for the record that I have
15 seen prior drafts, I haven't seen the one that was
16 actually signed yet, but the agreement as far as I
17 understand between the Port and the Cities, the Port's
18 position is not absolute, it is subject to the rights of
19 Tri-City Olympia Railroad, so it is not an absolute
20 grant, it is conditioned upon our rights as the operator
21 of that railroad, and our position, of course, is not
22 the same as the Port's in that regard.

23 JUDGE CLARK: I understand.

24 Mr. Thompson?

25 MR. THOMPSON: I think it would be important

0111

1 to have the document on record.

2 JUDGE CLARK: Mr. MacDougall?

3 MR. MACDOUGALL: I would agree with
4 Mr. Thompson, it would be good to see.

5 JUDGE CLARK: All right, do you happen to
6 have with you a copy of the unexecuted agreement?

7 MR. ZIOBRO: I do not believe I do, Your
8 Honor, but I can have it over the lunch break.

9 JUDGE CLARK: All right, I need you to get
10 that over the lunch break, and ensure that you have
11 sufficient copies to distribute to all of the parties in
12 this proceeding and one for me. I do not expect you to
13 file this document until it is executed by the Port of
14 Benton.

15 Do the parties have additional preliminary
16 matters?

17 MS. LARSON: Yes, Your Honor, I do.

18 JUDGE CLARK: Ms. Larson.

19 MS. LARSON: My first question is a
20 clarification of the direct testimony discussion that
21 Mr. Ziobro initiated. Is it permissible on direct
22 examination for a witness to illustrate with magnets on
23 a white board what the train movements are that were
24 described in written testimony?

25 JUDGE CLARK: Yes, we discussed this also at

0112

1 the prehearing conference, and my understanding was this
2 will not in any way supplement or alter prefiled
3 testimony, but is rather simply a demonstrative exhibit
4 so that it is more clear what the train movements would
5 be that are involved in the switching operations. And
6 to the extent the testimony does not alter or
7 supplement, they can certainly make those adjustments
8 with the white board.

9 MS. LARSON: Thank you.

10 There is one other matter, I think we still
11 need to talk about the admissibility of the various
12 exhibits that have been offered.

13 JUDGE CLARK: Right, we did discuss that at
14 the prehearing conference, and the parties were unable
15 to concur or stipulate regarding the admission of the
16 exhibits, so we are just going to address them one by
17 one as the witnesses take the stand and see which
18 exhibits are admitted and which ones are not.

19 MS. LARSON: It was my understanding that the
20 reason why we weren't able to stipulate before was that
21 Kevin MacDougall's computer wasn't working, and he
22 wasn't able to confirm what his position was on certain
23 exhibits. There may be some in which everyone would
24 agree as to admissibility.

25 JUDGE CLARK: All right, then it certainly

0113

1 does make the hearing go faster and more efficiently if
2 the parties are able to concur regarding the admission
3 of any or all of the exhibits, so what I will do is take
4 a few moments off record, I will allow the parties to
5 confer with the most recent exhibit list I sent to
6 everyone, and make a determination if you are able to
7 agree or stipulate regarding the admission of any or all
8 of those exhibits.

9 I would like to note that I sent an E-mail to
10 Mr. Ziobro requesting that he submit an errata to
11 Mr. Short's testimony because it was somewhat confusing
12 with the reference to certain exhibits and that I did
13 not have an attachment to Mr. Short's testimony. The
14 deadline for submitting that was 10:00 a.m. yesterday
15 morning. It was not submitted by the deadline, but we
16 do now have copies of Mr. Short's testimony with the
17 attachment. And to the extent anyone needs additional
18 time to review the attachment to Mr. Short's testimony,
19 which has been assigned Exhibit Number 49 and that is a
20 two-page exhibit, I will allow some latitude for the
21 parties to spend additional time reviewing that with
22 your experts or your witnesses.

23 All right, we're going to take a few moments
24 off record at this juncture to allow the parties to
25 confer regarding the admission of exhibits.

0114

1 (Discussion off the record.)

2 JUDGE CLARK: Have the parties had an
3 adequate opportunity to confer regarding the stipulation
4 of the admission of any or all of the exhibits?

5 Ms. Larson.

6 MS. LARSON: Yes, we have agreed that all of
7 the exhibits may be admitted into evidence without
8 objection except for 19, 20 --

9 JUDGE CLARK: Okay, wait, give me just a
10 minute.

11 All right, we have 19, 20.

12 MS. LARSON: 35, 36.

13 JUDGE CLARK: 35, 36.

14 MS. LARSON: 42 and 43.

15 JUDGE CLARK: Thank you.

16 MS. LARSON: And the admissibility of those
17 will be taken up at the point in which a party wants to
18 offer them into evidence.

19 JUDGE CLARK: That would be the appropriate
20 time.

21 Then exhibits 1 through 18, 45, 46, 47, I'm
22 doing these in the order in which I have them on the
23 exhibit list, 48, 49, 21 through 34, 37 through 41, 44,
24 50 through 52 are received.

25 And Mr. Ziobro, any other preliminary

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1 matters?

2 All right, hearing nothing, Mr. Ziobro, would
3 you call your first witness, please.

4 MR. ZIOBRO: Yes, Your Honor, City calls
5 Robert Hammond.

6 (Witness ROBERT R. HAMMOND was sworn.)

7 JUDGE CLARK: Thank you, please be seated.

8 Mr. Ziobro, are you familiar with the
9 presentation of prefiled testimony in a Commission
10 proceeding?

11 MR. ZIOBRO: Mr. Thompson was kind enough to
12 hand us a transcript from a prior hearing, so I believe
13 I am.

14 JUDGE CLARK: All right, thank you, please
15 proceed.

16

17 Whereupon,

18 ROBERT R. HAMMOND,
19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21

22 D I R E C T E X A M I N A T I O N

23 BY MR. ZIOBRO:

24 Q. Can you state your full name for the record,
25 please.

0116

1 A. My name is Robert R. Hammond.

2 Q. Can you tell the Commission your title.

3 A. I am the City Manager with the City of
4 Kennewick.

5 Q. And have you previously submitted prefiled
6 testimony in this matter?

7 A. Yes, I have.

8 Q. And have you had a chance to review that
9 testimony since it was first authored some months ago?

10 A. I have.

11 Q. Has anything changed or is there any
12 clarification to your testimony?

13 A. It has not.

14 Q. Thank you.

15 MR. ZIOBRO: The City offers the testimony, I
16 do not believe there's any exhibits associated with the
17 testimony of Mr. Hammond.

18 JUDGE CLARK: All right, the testimony of
19 Mr. Hammond has already been received in evidence. Do
20 you want to tender him? He doesn't have any additions
21 or corrections to that?

22 MR. ZIOBRO: Right.

23 JUDGE CLARK: And so do you want to just go
24 ahead and offer him for cross-examination?

25 MR. ZIOBRO: Yes, Your Honor.

0117

1 JUDGE CLARK: Have the parties any kind of
2 agreement regarding the order of cross-examination? I
3 am inclined to call on Union Pacific Railroad, Tri-City
4 and Olympia Railroad, BNSF Railway, and finally
5 Commission Staff, if that order is acceptable to the
6 parties.

7 MS. LARSON: That is acceptable.

8 JUDGE CLARK: People are nodding their heads
9 affirmatively.

10 All right, Ms. Larson.

11

12 C R O S S - E X A M I N A T I O N

13 BY MS. LARSON:

14 Q. Good morning, Mr. Hammond.

15 A. Good morning.

16 Q. I understand from your testimony that the
17 primary benefit of the extension of Center Parkway would
18 be to relieve present and future traffic congestion on
19 Columbia Center Boulevard?

20 A. That's one of the benefits, yes, ma'am.

21 Q. Just to orient ourselves --

22 MS. LARSON: May I approach the witness?

23 JUDGE CLARK: You may.

24 BY MS. LARSON:

25 Q. To orient ourselves for purposes of this

0118

1 hearing, Columbia Center Boulevard is the road that runs
2 north-south east of the proposed crossing, that's
3 correct?

4 A. That's correct.

5 Q. Okay. And so for traffic congestion to be
6 lessened with the construction of Center Parkway, what
7 kind of -- I would be interested in any general routes
8 you know about that would be using Center Parkway
9 instead of Columbia Center Boulevard?

10 A. The routes would come from Gage Boulevard
11 which is an east-west from Steptoe, which is the west --
12 it is a north-south over on this side of your sheet,
13 Ms. Larson, and Gage is the east-west primary arterial,
14 that's one route. Another one is that as people come
15 down the south end of Columbia Center Boulevard, they
16 take Deschutes Avenue, which comes over to Center
17 Parkway. I don't know if that's on your -- that's
18 further south than you have shown here with Quinalt, and
19 also at Quinalt, they take those routes and come down
20 through here trying to work their way through at times
21 too. So by having the opportunity to go -- extend on
22 north from where Gage is on through to Tapteal, it would
23 be one of the ways that congestion is relieved.

24 Q. Do you know whether any studies have been
25 done by the City to quantify the extent to which that

0119

1 congestion would be relieved?

2 A. I do not know that.

3 Q. Did you have an opportunity to read the
4 testimony of HNTB and its traffic studies?

5 A. No, ma'am.

6 Q. Okay. As Public Works Director in your prior
7 position, you testified that you were involved in public
8 involvement with this project?

9 A. Yes, ma'am.

10 Q. Have you read the SCM report which describes
11 the public's input on the proposed crossing?

12 A. I did read that, I did not read that
13 recently, ma'am.

14 Q. Do you recall the general comments from
15 residents of the development that's between the Port of
16 Benton tracks and the Union Pacific tracks stating that
17 they did not want any storage of rail cars or to be
18 moved any closer to their residential area?

19 A. That is what I recall, yes.

20 Q. If Center Parkway is extended as proposed in
21 the City's application across all four tracks that
22 currently exist, that would be the result, would it not,
23 that it would push the storage closer to those
24 residences?

25 A. I don't know that, ma'am.

0120

1 MS. LARSON: Thank you, that's all my
2 questions.

3 THE WITNESS: Thank you.

4 JUDGE CLARK: Any inquiry, Mr. Johnson?

5 MR. JOHNSON: Yes, I do, Your Honor, thank
6 you.

7

8 C R O S S - E X A M I N A T I O N

9 BY MR. JOHNSON:

10 Q. In your direct testimony, you indicate that
11 economic benefit is one of the primary purposes of
12 extending Center Parkway; how will that be achieved?

13 A. Columbia Center Mall is the primary retail
14 center in Southeastern Washington, and that's in the
15 City of Kennewick. From the City of Kennewick's
16 perspective, allowing that extension to occur between
17 Tapteal and up to Gage will allow better direct access
18 from folks towards the north outside of Kennewick's
19 region to access the mall. That's one of the primary
20 reasons.

21 From a secondary perspective, the whole
22 southwest area of Kennewick is the one that is growing
23 at the fastest rate. It's, you know, we estimate for
24 planning purposes over the last five or so years we have
25 estimated about around 5% annual population growth, and

0121

1 some of that also occurs developments that will be
2 putting in retail services. So it's the access from the
3 north into those areas that will be of primary benefit
4 to Kennewick from an economic perspective.

5 Q. You also indicate that a separated grade
6 crossing would cost multiple times the cost of the
7 project; is that correct?

8 A. I don't recall that in my direct testimony.

9 Q. Do you have a copy of your testimony?

10 A. I do not.

11 JUDGE CLARK: Mr. Ziobro, can you provide
12 Mr. Hammond with a copy of his prefiled.

13 MR. ZIOBRO: (Complies.)

14 BY MR. JOHNSON:

15 Q. If you would look at page 4, it's question
16 11.

17 A. Okay.

18 Q. How is the entire -- the statement is, entire
19 project budget, how is that determined?

20 A. Well, I --

21 Q. I mean what is the scope of the project?

22 A. Well, the scope of the project was the --
23 what we originally submitted for a grant back in I think
24 1999, so to me it was around a \$3.5 Million range.

25 Q. But it's just the asphalt, the curbing, the

0122

1 road necessary to connect Center Parkway to Tapteal?

2 A. I'm sorry, what is, sir?

3 Q. The project.

4 A. Well, the project involves all project
5 aspects for a new road, which would include utilities
6 and the roadway and all of that, yes.

7 Q. But you determine the project budget by the
8 scope of the project, and that's a determination made by
9 the City?

10 A. Well, we had estimates for the project when
11 we put forward the application for grants, yes.

12 Q. The City put a separated or converted an
13 at-grade crossing near the intersection of Columbia
14 Center Boulevard and Clearwater from at-grade to
15 separated grade; is that correct?

16 A. That is correct.

17 Q. What was the purpose of that, making that
18 change?

19 A. To separate the rail from the vehicular and
20 pedestrian traffic.

21 Q. Why?

22 A. Because of traffic on Columbia Center
23 Boulevard.

24 Q. The only concern was traffic congestion?

25 A. Well, that's the primary concern.

0123

1 Q. Was safety a concern?

2 A. Certainly, always.

3 Q. Aren't those same concerns going to be
4 present here at Center Parkway; assuming Center Parkway
5 gets extended, aren't those same concerns that you
6 alleviated at the Clearwater and Columbia Center
7 Boulevard crossing going to now be present here?

8 A. Well, if you're asking is the grade
9 separation looked at the same as it is with Columbia
10 Center Boulevard, I would say no because of the heavy
11 traffic on Columbia Center Boulevard. I mean that's the
12 primary difference, so if I understand your question it
13 would be no.

14 Q. The crossing that was converted from at-grade
15 to separated grade, that was a single track, correct?

16 A. I think there was some siding tracks on that
17 too, but I have not reviewed that project for this
18 testimony, so.

19 Q. Is it really a matter of economic priority
20 for the City?

21 A. Yes, it is.

22 MR. JOHNSON: That's all the questions I
23 have.

24 JUDGE CLARK: Any inquiry, Mr. MacDougall?

25 MR. MACDOUGALL: No, Your Honor, I have no

0124

1 questions for this witness.

2 JUDGE CLARK: Any inquiry, Mr. Thompson?

3 MR. THOMPSON: I would just have one
4 question.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. THOMPSON:

8 Q. On page 3 of your testimony you mentioned,
9 Mr. Hammond, that part of the money for this project
10 would come from a Rural Economic Vitality Grant, can you
11 speak to the criteria for that grant, what the criteria
12 are in being awarded such a grant?

13 A. I'm really not knowledgeable about the
14 specific criteria. I have overseen funding for those
15 sorts of things before, but I'm really out of date.
16 It's been four or five years, you know, since I have
17 worked on those, so.

18 MR. THOMPSON: Okay, that's I think the only
19 question I had, thanks.

20 THE WITNESS: Thank you.

21 JUDGE CLARK: All right.

22

23 E X A M I N A T I O N

24 BY JUDGE CLARK:

25 Q. I just have one question for you,

0125

1 Mr. Hammond, and that's on page 2 of your testimony at
2 about line 18. You talk about the primary benefit of
3 the project being to relieve the present and future
4 traffic congestion from Columbia Center Boulevard now
5 running over 40,000 vehicles per day.

6 A. Yes, ma'am.

7 Q. And I'm interested in how you calculated the
8 vehicular traffic on that roadway.

9 A. Again, others in the room are better able to
10 go through the specifics, but we do traffic studies with
11 trip counts basically that establish that and establish
12 I think either annually or twice a year, every two years
13 for our major arterials what those results are.

14 Q. All right. And the count that's referenced
15 in your testimony, do you know which traffic study that
16 came from?

17 A. Well, it would be an internal, that would be
18 internal work from the City.

19 Q. I'm interested in the date, I'm not trying to
20 put you on the spot.

21 A. Oh, okay. It was very -- I think we tripped
22 over 40,000 on the north end of Columbia Center
23 Boulevard about, you know, around the time this
24 testimony was done, so it would have -- it might have
25 been 2004 I was looking at when I did this.

0126

1 Q. All right, so approximately 2004 you believe
2 is when that -- and that is based on a traffic study
3 performed by the City?

4 A. Well, I would say traffic counts, ma'am.

5 Q. Traffic counts.

6 A. Not traffic study.

7 JUDGE CLARK: Thank you, that's all I have.

8 Do you have any redirect, Mr. Ziobro?

9 MR. ZIOBRO: Just a couple questions.

10

11 R E D I R E C T E X A M I N A T I O N

12 BY MR. ZIOBRO:

13 Q. Mr. Johnson had asked you some questions
14 about justification for the Columbia Center Boulevard
15 grade crossing, can you articulate the difference in
16 train traffic at Columbia Center Boulevard with train
17 traffic at Center Parkway where the proposed extension
18 is?

19 A. As I recall, the existing train traffic at
20 Columbia Center Boulevard crossing is around eight
21 trains per day, and it's one to two on the project as I
22 understand where we are on Center Parkway.

23 Q. And can you articulate, if you know it, the
24 difference in speeds on trains that travel on Columbia
25 Center Boulevard where that subgrade crossing is versus

0127

1 speed of the trains at Center Parkway where the proposed
2 extension is?

3 A. Without recalling the specific numbers, I
4 know that the speeds are greater at the Columbia Center
5 Boulevard crossing.

6 Q. And as far as assessing priority between
7 having a subgrade crossing at Center Parkway, subgrade
8 crossing at Columbia Center Boulevard, is it safe to
9 assume that it wasn't just traffic count that justified
10 that project?

11 A. That's correct.

12 Q. It also includes safety for the cars?

13 A. That's correct.

14 Q. And part of that is the speed of the trains?

15 A. That's correct.

16 Q. And in terms of projecting future traffic at
17 Columbia Center Boulevard versus Center Parkway, can you
18 discuss any differences between projected traffic at
19 those two sites?

20 A. I can speak with more knowledge to the
21 Columbia Center Boulevard site where we believe that the
22 train traffic is projected in the next, we don't know
23 how many years, but it's projected with the completion
24 of the Stampede Pass retunneling and so forth in
25 information we have up to 20 trains per day.

0128

1 Q. So when we're talking about prioritization of
2 projects, there's quite a bit more than just funding
3 sources when we talk about prioritizing a subgrade
4 crossing at Columbia Center Boulevard versus an at-grade
5 crossing at Center Parkway?

6 A. That's correct.

7 MR. ZIOBRO: Thank you, I have no further
8 questions.

9 JUDGE CLARK: Thank you for your testimony,
10 Mr. Hammond.

11 THE WITNESS: Thank you, ma'am.

12 JUDGE CLARK: Mr. Ziobro, would you call your
13 next witness, please.

14 MR. ZIOBRO: Yes. Steve Plummer.

15 MR. JOHNSON: Your Honor, can I ask a
16 question, is there no ability to recross after redirect?

17 JUDGE CLARK: Typically there is no
18 authority, if you have an inquiry that you do need to
19 pursue, you can certainly inquire for that opportunity.
20 It's not automatic is what I'm saying.

21 MR. ZIOBRO: Would you like to recall
22 Mr. Hammond, or is that just a procedural question?

23 MR. JOHNSON: Actually, I do have a couple of
24 questions if that's -- I don't want to do anything out
25 of line.

0129

1 JUDGE CLARK: Good plan. I'm just kidding.

2 If we can recall Mr. Hammond.

3 Mr. Hammond, I realize it's only been a
4 matter of seconds, but I need to remind you that you
5 remain under oath having previously been sworn in this
6 proceeding. Please be seated.

7 THE WITNESS: Thank you.

8 JUDGE CLARK: And will Mr. Hammond need his
9 direct testimony in order to respond to this inquiry?

10 MR. JOHNSON: I do not believe so.

11 JUDGE CLARK: All right.

12 MR. JOHNSON: Thank you, Your Honor.

13

14 R E C R O S S - E X A M I N A T I O N

15 BY MR. JOHNSON:

16 Q. Sorry about that, Mr. Hammond.

17 Is there more or less pedestrian traffic at
18 the proposed Center Parkway crossing or the Columbia
19 Center Boulevard crossing?

20 A. I know of no information that would quantify
21 that. If you're asking my opinion, I would be glad to
22 give that.

23 Q. Sure.

24 A. I think there would be more at the Columbia
25 Center Boulevard.

0130

1 Q. Why?

2 A. Well, there's a lot of residential around
3 Columbia Center Boulevard. Many people use -- there's a
4 new park down at the south end called the Hanson Park,
5 there's runners, there's bicyclists, there's --
6 primarily because there's so much more residential
7 around that area than there is Center Parkway.

8 Q. But there is residential around Center
9 Parkway certainly, you would agree with that?

10 A. There's some, but I think the access of the
11 residential is very limited over the Center Parkway.
12 Again, my opinion, we haven't that I know of -- I'm not
13 knowledgeable of any study.

14 Q. And the mall is right there, there's a lot of
15 traffic around the mall at Center Parkway?

16 A. I don't know of much pedestrian traffic
17 coming into the mall, but.

18 Q. But no studies have been done on that?

19 A. That's correct.

20 Q. Is there any switching activity that occurs
21 at the Columbia Center Boulevard crossing, railroad
22 switching activity?

23 A. No. Well, there's some siding, but I don't
24 know of any switching that occurs there.

25 Q. And you said that one of the big factors for

0131

1 choosing to make the Columbia Center Boulevard crossing
2 a separated grade crossing was because there was so much
3 more traffic there, correct?

4 A. Yes.

5 Q. Isn't the goal of extending Center Parkway to
6 increase the traffic there?

7 A. Yes.

8 MR. JOHNSON: That's all the questions I
9 have.

10 JUDGE CLARK: All right, thank you.

11 Mr. Ziobro, does the additional inquiry
12 prompt any additional reredirect?

13 MR. ZIOBRO: No, Your Honor.

14 JUDGE CLARK: Thank you again for your
15 testimony, Mr. Hammond.

16 THE WITNESS: Thank you.

17 MR. ZIOBRO: It's probably enough that just
18 Mr. Johnson has been out of line so far this morning.

19 JUDGE CLARK: Oh, no.

20 MR. ZIOBRO: City calls Steve Plummer.

21 JUDGE CLARK: Thank you.

22 (Witness STEPHEN R. PLUMMER was sworn.)

23 JUDGE CLARK: Thank you, please be seated.

24 Mr. Ziobro.

25

0132

1 Whereupon,

2 STEPHEN R. PLUMMER,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 D I R E C T E X A M I N A T I O N

7 BY MR. ZIOBRO:

8 Q. Can you state your name for the record
9 please.

10 A. Stephen R. Plummer.

11 Q. And how are you employed?

12 A. I am project engineer for the City of
13 Kennewick.

14 Q. I see that you have your testimony in front
15 of you.

16 A. Yes, I do.

17 Q. Would you also like to have your exhibits in
18 the event that you're asked any questions related to
19 your exhibits?

20 A. Not at this time, no.

21 Q. Okay. I see that you have your testimony and
22 you have testified that it's in your possession, when
23 was the last time you reviewed it?

24 A. This morning.

25 Q. Okay. Since the time of originally providing

0133

1 that testimony, is there anything that has changed that
2 would lead you to respond differently if you were asked
3 those same questions here today?

4 A. No.

5 Q. Anything that needs to be clarified?

6 A. I don't believe so.

7 MR. ZIOBRO: Thank you.

8 I would offer Mr. Plummer for
9 cross-examination.

10 JUDGE CLARK: All right, Ms. Larson.

11

12 C R O S S - E X A M I N A T I O N

13 BY MS. LARSON:

14 Q. Good morning, Mr. Plummer.

15 A. Good morning.

16 Q. On page 3 of your testimony, you stated that
17 the vertical alignment of the street had not been
18 finalized pending resolution of railroad issues and that
19 the project could involve one to four at-grade
20 crossings.

21 A. That's correct.

22 Q. Do you agree that for purposes of this
23 hearing, however, we have to look at this street
24 alignment as if there are four crossings?

25 A. That would be fair.

0134

1 Q. And also for purposes of this hearing that we
2 need to assume that the alignment is depicted as in your
3 Exhibits 39 and 40?

4 A. I would like to see those exhibits, please.

5 Thank you.

6 What was your question again, I'm sorry?

7 Q. Whether it's true that for purposes of this
8 hearing we would need to assume that the street
9 alignment would be as depicted in those prints, those
10 exhibits?

11 A. If the railroad is unwilling to allow any
12 alteration to the vertical placement of their tracks at
13 this time, yes.

14 Q. Well, I think it -- would you agree that it's
15 important for our Administrative Law Judge to know what
16 kind of a crossing she might be authorizing that we --
17 that this would be something known, that we would know
18 what kind of a crossing surface would be authorized if
19 this road were to be extended?

20 A. The crossing surface as in concrete or --

21 Q. No, in the vertical alignment, horizontal
22 alignment, whatever makes it smooth or not smooth.

23 A. Well, it would not be a very good ride as
24 shown. It would be traversable by all vehicles, not a
25 whole lot different than pulling off the street and onto

0135

1 a driveway, it would be a low speed movement. With some
2 minor modifications to the track, it could be made much
3 smoother.

4 Q. Has any design work been done as to what kind
5 of modifications to the track would be needed to make it
6 smoother?

7 A. No, not in depth.

8 Q. So for purposes of this hearing, doesn't our
9 Administrative Law Judge have to assume that the tracks
10 are where they are and not make assumptions that they
11 could easily be changed?

12 A. They can be crossed as they are.

13 Q. Can you explain to me what the difference is
14 between Exhibits 39 and 40, what they're depicting?

15 A. We have two existing streets in town,
16 Washington Street and Fruitland Street, we have just
17 showed that a rough ride across railroad tracks in,
18 well, not just Kennewick but in any city is not an
19 unusual event, that the existing crossings on Washington
20 Street are not significantly worse than the crossing
21 we're proposing for Center Parkway, the same with
22 Fruitland Street.

23 Q. Looking first at Exhibit 39, which is
24 comparing Washington Street to Center Parkway, and
25 looking between engineering stations 51 plus 50 and 52

0136

1 plus 00, that's over on the left-hand side.

2 A. Yes, ma'am.

3 Q. Where you can, at least for the Center
4 Parkway, we see a what appears to me to be more
5 exaggerated difference between the two Union Pacific
6 tracks than anything I'm seeing on Washington Street;
7 would you agree?

8 A. There's a vertical exaggeration to it that
9 helps depict it, but it's a little rougher on Center
10 Parkway if we have to work with those tracks like that,
11 but it's still workable.

12 Q. But again for purposes of this hearing, if we
13 don't -- is there any other testimony by the City as to
14 how this could be adjusted, the tracks adjusted so that
15 we don't have this particular alignment for Center
16 Parkway, or does the Administrative Law judge have -- is
17 the only evidence before her what you have shown here on
18 39 and 40 as to what the alignment would be across the
19 tracks?

20 A. We have just shown that a crossing with the
21 tracks as they are is possible. I think we would try to
22 work with the railroads to make adjustments as necessary
23 to provide a better ride. We have been trying to work
24 with UP in a lot of areas that came to this crossing
25 over the years.

0137

1 Q. Are you familiar with SCM's design report?

2 A. It's been a long time since I have read it,
3 but yes, I am.

4 Q. Did you agree with it?

5 A. Yes.

6 Q. And you agreed with SCM's statement that it
7 was important to avoid a design for a roadway extension
8 that would push railroad switching and storage closer to
9 the adjacent neighborhood?

10 A. That would be undesirable.

11 Q. And also that it wanted to achieve a road
12 design that would meet driver expectations?

13 A. That is correct.

14 Q. Can you explain to me what driver
15 expectations are on a road when you're designing one,
16 what you're looking to achieve?

17 A. Well, I think we have the experts from the
18 City, our traffic engineer and city engineer, that can
19 probably define that better than me, but I think drivers
20 expect a fairly smooth ride unless they have prior
21 advanced warning that there's a rough situation and bump
22 ahead. So there's signing and warning, calming devices
23 that can be done if you need to slow people down, but.

24 Q. But generally you're trying to achieve
25 something where they're expecting a certain standard on

0138

1 a minor arterial?

2 A. That would be more desirable.

3 Q. On pages 5 to 6 of your testimony, you talked
4 about the risks of at-grade crossings, and I'm wondering
5 whether you performed any specific safety study for this
6 crossing?

7 A. No, ma'am.

8 Q. Did you review HNTB's safety analysis for
9 this crossing?

10 A. I have looked at it.

11 Q. Did you disagree with it?

12 A. Well, I think it's probably got its points,
13 but I think it's also somewhat exaggerated.

14 Q. Okay. On page 6 of your testimony, you
15 mention the Transpo traffic work that was done in 1997,
16 has anything more specific been done beyond that by or
17 on behalf of the City?

18 A. Not that I'm aware of.

19 Q. Did you happen to read the travel demand
20 modeling in HNTB's report?

21 A. I read it, I can't recall it though.

22 Q. Do you recall whether you had any -- saw any
23 objections or saw problems with it?

24 A. That's the sort of thing I would leave to our
25 traffic engineer.

0139

1 Q. Okay, thank you, fair enough. Your traffic
2 engineer will be testifying later, is that right?

3 A. I believe so.

4 Q. In talking about the speed on the extension
5 of Center Parkway as it goes across the tracks, you
6 stated that it would be a minimum of 15 miles an hour at
7 the crossing and 30 miles an hour on either side of the
8 crossing; is that correct?

9 A. Again, depending on how we cross those tracks
10 would, you know, dictate the speed, you know, a maximum
11 of 30 miles an hour. Conditions might warrant that it
12 would be less or more. Again, that would be a decision
13 of the traffic engineer and the city engineer.

14 Q. Okay, I will defer questions about that to
15 them then.

16 You have mentioned that the unevenness in the
17 street profile is similar to that of a driveway,
18 correct?

19 A. The difference between the two Union Pacific
20 tracks would create a situation similar to that.

21 Q. Isn't it true that in a situation where a
22 motorist encounters a driveway that they're normally
23 turning and naturally slowing so that they can turn off
24 of a road?

25 A. That's probably a fair assumption.

0140

1 Q. On pages 7 to 8 of your testimony, you talked
2 about this crossing being easily transversable by a
3 low-boy tractor trailer; is that something that you
4 personally verified?

5 A. No, ma'am.

6 Q. Okay. And you also talked about traffic
7 calming that could be installed; what did you have in
8 mind for traffic calming?

9 A. For traffic calming, I would defer to the
10 City's traffic engineer.

11 Q. Okay.

12 And on pages 9 to 10 of your testimony, you
13 talked about an alternative alignment for railroad
14 tracks, but again that's not what you are seeking for
15 the WTC to authorize in this hearing, is it; you're not
16 asking for only one or two crossings, you're actually
17 asking to go across four tracks?

18 A. If we have to, we would, we are seeking to go
19 across four tracks. Ideally we would still attempt to
20 negotiate with all of the railroads involved to come up
21 with mitigation with regards to the lost siding so that
22 they could continue their operations and reduce the
23 number of crossings down to one track. We would hope
24 that the railroads would be willing to entertain those
25 ideas.

0141

1 Q. But you're not amending your application to
2 provide that the WTC should authorize this extension
3 only if you are able to reduce the number of tracks to
4 only one or two tracks?

5 A. That's correct.

6 Q. Okay. On the last page of your testimony,
7 you mentioned wayside horns; can you tell me what you
8 understand wayside horns to do?

9 A. Well, my knowledge of them comes strictly
10 from a seminar at an APWA conference that was put on by
11 a gentleman by the name of Mike Cowels, who was formerly
12 with BNSF and is now with HNTB, and he discussed their
13 directional horns that are mounted at the crossing
14 themselves, and they direct the sound in a similar --
15 it's a similar sound to a train horn, it's directed at
16 the street and the oncoming traffic and significantly
17 reduces the noise impacts of a horn perpendicular to the
18 roadway so that the residences, or in this case Holiday
19 Inn Express, on either side of the roadway would not
20 hear the horns in the same way as if they were coming
21 from a locomotive.

22 Q. Well, isn't it true that actually the benefit
23 of a wayside horn is for the people who are a quarter
24 mile away from the crossing when the whistling starts
25 when you've got a moving train moving along making noise

0142

1 that people have to hear for a long distance before and
2 after the cross, I guess basically before the crossing,
3 but the wayside horn directs the noise right down the
4 street, so actually it would be aimed right at that
5 Holiday Inn Express?

6 A. Well, no, it would be aimed parallel to it,
7 but as you move away from the front side of the horn, it
8 does significantly reduce the sound. I mean the
9 demonstration they put on was really quite graphic, and
10 I wasn't a quarter mile away from it, very noticeable.

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

13 JUDGE CLARK: Mr. Johnson.

14 MR. JOHNSON: Yes, Your Honor, thank you.

15

16 C R O S S - E X A M I N A T I O N

17 BY MR. JOHNSON:

18 Q. Just so I can be clear on this, the purpose
19 of Exhibits 39 and 40 is basically to show that there
20 are worse crossings in the cities than what is being
21 proposed here; is that correct?

22 A. Well, not necessarily worse but almost as
23 bad. It's really just to show that a rough ride across
24 the railroad tracks is not unheard of.

25 Q. When were those other crossings installed?

0143

1 A. Oh, I couldn't say that exactly, that's an
2 older part of town.

3 Q. So those are significantly older crossings?

4 A. They have been upgraded, or at least some of
5 them have, by both BNSF and UPR over the years, but yes,
6 they are significantly older.

7 Q. Do you know when they were last upgraded?

8 A. Not exactly, no.

9 BY MR. JOHNSON: That's all I have.

10 JUDGE CLARK: Mr. MacDougall.

11 MR. MACDOUGALL: Thank you, Your Honor, I
12 actually have no additional questions for Mr. Plummer.

13 JUDGE CLARK: Thank you.

14 Mr. Thompson.

15 MR. THOMPSON: Yes.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. THOMPSON:

19 Q. Good morning, Mr. Plummer.

20 A. Good morning.

21 Q. I want to talk to you a little bit first
22 about page 5 of your testimony, something you said
23 there. You stated that a grade separated crossing was
24 not considered economically feasible from project
25 inception by both cities and our consultant. Is there

0144

1 any kind of a cost benefit analysis behind that, or what
2 was behind that conclusion that it wasn't economically
3 feasible?

4 A. It was the surrounding topography. There's a
5 substation that belongs to Benton Public Utilities, an
6 electrical substation. We do have to relocate one
7 business as, you know, with the existing project. To
8 start grade separating would probably lead to the
9 relocation of additional businesses and reduce access to
10 some viable commercial properties. It would eliminate
11 the access to the Holiday Inn Express that's there. The
12 structural costs of building a structure for four sets
13 of tracks and then the retaining walls, the scope of
14 work increased significantly. And it was without any
15 in-depth study but obvious that being able to cross at
16 grade would be significantly less expensive.

17 Q. So, well, okay, would it be fair to sum it up
18 as there's a higher construction cost to the City and
19 impacts on adjoining property owners?

20 A. Yes.

21 Q. Okay. But certainly that's the case, would
22 be the case with any grade separation project, wouldn't
23 it?

24 A. Yes.

25 Q. Okay. But in some instances, I saw from your

0145

1 testimony that you have been involved in other grade
2 separation projects, right?

3 A. I was involved with the Columbia Center
4 Boulevard BNSF mainline grade separation project.

5 Q. Okay, I'm just trying to get an insight into
6 what the -- if there is a cost benefit analysis or
7 something like that, when -- what are the circumstances
8 under which a grade separation is considered to be
9 economically justifiable for the City?

10 A. Well, I can only speak with regard to
11 Columbia Center Boulevard. Our traffic volumes in that
12 area were in the high 20's, low 30's at the time,
13 thousands of vehicles per day. BNSF's trains were 8 to
14 10 per day, projected to go up to 20 to 22 trains per
15 day upon modifications to Stampede Pass. BNSF trains
16 that were coming through at grade at Columbia Center
17 Boulevard were traveling at between 45 and 49 miles per
18 hour. Just the sheer number of vehicles, the sheer
19 number of trains, the speed of the trains, that made
20 that a desirable grade separation.

21 Q. We're just talking about the Columbia Center
22 Boulevard which is on the same aerial photos as a lot of
23 the things we've been looking at, is that the grade
24 separation we're talking about?

25 A. The Columbia Center Boulevard grade

0146

1 separation is at Clearwater Avenue, it's several miles
2 south, so I would be surprised if it was in any of the
3 aerials for this project.

4 Q. Okay, thank you, I was unclear on whether we
5 were talking about something in the near vicinity or
6 not, okay, thank you.

7 So high traffic volumes is a consideration,
8 is that because of the hazard to the motorist that's
9 presented by a grade crossing?

10 A. That's one of the considerations.

11 Q. Does that increase the risk of a collision
12 when there's more road traffic?

13 A. Yeah, just statistically that would probably
14 be the case.

15 Q. Is there any consideration given to delay if
16 the crossing is blocked by train traffic?

17 A. Delays are a consideration on a major
18 arterial. It begins to affect air quality, idling cars
19 are dirty, you know, emit more exhaust. And then
20 there's other considerations, emergency vehicle access
21 and those types of things.

22 Q. Does the road become less useful to motorists
23 when it's blocked?

24 A. No, it didn't seem to affect the number of
25 vehicles on Columbia Center Boulevard. I mean people

0147

1 still travel the road.

2 Q. Okay, I want to shift gears here a little bit
3 to page 8 of your testimony. You said that you will
4 seek permission from the Federal Railroad Administration
5 to install a silent crossing; have you done that yet?

6 A. No, sir.

7 Q. Okay. If you're not approved for a silent
8 crossing, does the City still propose to put in four
9 quadrant gates and median barriers?

10 A. Well, we're probably -- we're not really that
11 far into the design, but that is something that could be
12 looked at.

13 Q. Maybe you could just say a little bit about
14 it, what's the purpose of that kind of a protection at a
15 crossing?

16 A. I believe the quadrant gates are required by
17 FRA at silent crossings. That's pretty much to keep
18 anybody from making an end run around the cross bucks.

19 Q. Okay, so as they're sitting there waiting --

20 A. They decide they can beat the train and try
21 to go around, and so this type of a gate would eliminate
22 that.

23 Q. So the median barrier prevents them from
24 driving out into the other lane and around the gate?

25 A. That's correct.

0148

1 Q. Plus there's another gate across the other
2 lane as well, right?

3 A. That's correct.

4 Q. Okay.

5 Is a wayside horn, is that what is referred
6 to as a supplemental safety device for purposes of
7 getting permission to have a silent crossing?

8 A. You know, I can't answer that, I'm sorry, I
9 don't know.

10 Q. Okay. Well, is the idea that by putting in a
11 wayside horn, that's something that would eliminate the
12 need for the trains to sound their horn, or would it be
13 in addition to the trains sounding their horn?

14 A. No, it's instead of.

15 Q. Okay. Again, I'm just trying to get a sense
16 of how the protection would work, the gates and so forth
17 would work at the crossing if there were switching
18 activity going on at this location. Can you tell me a
19 little bit about how the gates are triggered, are they
20 triggered if the train is within a certain number of
21 feet of the crossing, or are they triggered by motion of
22 the train; how does that work?

23 A. I can't answer that either, I'm just not into
24 the electrical components of a -- I don't understand
25 them that well.

0149

1 Q. Is there another witness for the City who
2 would be able to address that?

3 A. I would be surprised, that's the type of work
4 that we go to a consultant.

5 Q. Okay. So you don't know, for example, if a
6 cut of rail cars were to be broken at the crossing and
7 they were moved to 250 feet away from the crossing,
8 would the gates come up at that point, or would they
9 still be engaged?

10 A. I'm sorry, I can't answer that question.

11 Q. Also at page 8 you said that the cost for a
12 silent at-grade crossing has been estimated at \$1/2
13 Million, does that figure include the cost of the safety
14 devices as well as the construction of the road and
15 associated things as well?

16 A. No, I believe as presented by Mike Cowels, it
17 was the crossing and the gates, lights, and that pretty
18 much was limited to that.

19 Q. Okay. Do you have a figure, a combined
20 figure of the cost of the gates as well as the
21 construction of the whole project?

22 A. The Center Parkway portion gates and all is
23 approximately \$2 Million if I recall. I haven't looked
24 at that estimate at all, but that's my recollection
25 roughly.

0150

1 Q. So \$2 Million inclusive of the gates as well
2 as just construction of the road and so forth?

3 A. That's correct.

4 Q. So that's the figure that we should compare
5 with the \$9.4 Million figure that was provided for the
6 cost of an undercrossing?

7 A. That's correct.

8 MR. THOMPSON: Okay, I think that's all the
9 questions I have for you, thank you.

10 THE WITNESS: Thank you.

11

12 E X A M I N A T I O N

13 BY JUDGE CLARK:

14 Q. I think I have just a couple questions for
15 you, Mr. Plummer, I just want to make sure I understand
16 the testimony.

17 A. Okay.

18 Q. I understand from Mr. Hammond's testimony
19 that one of the primary benefits of the extension of
20 this road is to relieve the congestion, and some of that
21 congestion I understand would come from Columbia Center
22 Boulevard and some of it I presume from Steptoe as well;
23 is that correct?

24 A. Yes.

25 Q. All right. And can you tell me how many

0151

1 lanes are currently on Columbia Center Boulevard?

2 A. At the north end of the project on the other
3 side of the mall from where this project is proposed,
4 it's three lanes in each direction.

5 Q. Three lanes in each direction, and is there a
6 turn lane in the middle?

7 A. There are protected left turn buckets, yes.

8 Q. Okay. And that's one of the three lanes
9 you're referencing?

10 A. No, ma'am.

11 Q. That's in addition to the three lanes you're
12 referencing?

13 A. Yes.

14 Q. All right. And what about the Steptoe, how
15 many lanes is that?

16 A. Two lanes in each direction with a two-way
17 left-turn lane.

18 Q. Okay. And then if we get the Center Parkway
19 pushed through, this extension, how many lanes will that
20 be at the area of the railroad crossing?

21 A. One lane in each direction.

22 Q. Okay. My understanding too is that the road
23 before you come to the crossing is going to be wider
24 than it would be at the crossing; is that correct?

25 A. Yes, ma'am, we feel that we might be able to

0152

1 drop the two-way left-turn lane at that point and narrow
2 the road up. We've only got a 30% design on that
3 portion of the project at this time, so there's room for
4 flexibility there.

5 Q. Okay, I'm understanding that it will go from
6 approximately five lanes down to two, is that correct,
7 at the area of the crossing?

8 A. Center Parkway?

9 Q. Yes.

10 A. No, ma'am, it would go from three to two.

11 Q. Three to two, all right.

12 The other question I have is on page 6 of
13 your testimony where you're talking about the projected
14 traffic volume for this particular project and comparing
15 the traffic volume for Columbia Center Parkway,
16 apparently that's about 40,000 vehicles per day?

17 A. I believe so. I would defer to our traffic
18 engineer for the number of vehicles per day on Columbia
19 Center Boulevard.

20 Q. Columbia Center, thank you, and I'm just
21 referring back to the testimony that we received from
22 Mr. Hammond.

23 A. Yes, ma'am.

24 Q. And I understand this is approximate, I'm not
25 asking you to --

0153

1 A. I believe that's the correct number, yes.

2 Q. All right. And so if the projected volumes
3 on this particular roadway are initially about 2,200
4 vehicles as you indicate in your testimony, and that
5 would increase up to 4,200 vehicles in 2023, you're only
6 relieving about 5% to 10% of the traffic, aren't you?

7 A. That would calculate out that way, yes.

8 Q. All right. I'm interested also on page 7 of
9 your testimony where you're talking about, and it goes
10 from line 6 through line 11, about the change in
11 topography, and I understand that it looks like there's
12 a change going from approximately 409 feet to 447 feet
13 if we were to cross all 4 tracks; is that correct?

14 A. Well, those elevations, that elevation
15 change, yeah, you're right, yes, ma'am.

16 Q. All right. In response to some inquiry from
17 Mr. Thompson, you were talking on page 8 about the cost
18 of the silent at-grade crossing being at approximately
19 \$500,000, and did I understand your testimony to be
20 there had not been a specific cost study to verify that?

21 A. That's correct.

22 Q. If I look on page 10 of your testimony, and
23 I'm looking again at the top of the page where you're
24 talking about the possibility of relocating a portion of
25 the existing Port of Benton siding and eliminating an

0154

1 at-grade crossing at the siding track and moving the
2 switching operations entirely, I'm wondering if there's
3 any cost study performed for that work?

4 A. Not at this time.

5 Q. Okay.

6 Now I'm looking at Exhibit 7, do you have
7 your exhibits that were attached to your testimony?

8 A. No, ma'am.

9 JUDGE CLARK: Mr. Ziobro, if you would be
10 kind enough to provide him with those. Actually just
11 Exhibit 7 I believe is the only one where I have
12 inquiry.

13 THE WITNESS: Okay.

14 BY JUDGE CLARK:

15 Q. All right, I'm looking at Exhibit 7, and the
16 pagination at the bottom, it says 4, this is a little
17 confusing because the exhibit is not paginated from the
18 beginning of the exhibit, the portion I'm looking at
19 comes after figure number 1, and then there's at the
20 bottom of the page or at the top of the page it starts
21 with background, and then it goes on on page 4 to
22 existing conditions.

23 A. Yes, ma'am.

24 Q. Okay, and I'm on page 4, and I want to
25 understand this testimony with what you indicated to me

0155

1 earlier orally. Can you explain to me under the
2 existing conditions that you talked about the number of
3 lanes that you're going to have. This indicates Center
4 Parkway currently goes from Deschutes, which is I
5 believe somewhere the other side of Quinalt, to Gage
6 Boulevard, and that's approximately 1 mile, and that is
7 how many lanes now?

8 A. Oh, that would depend on what portion of the
9 roadway you were on.

10 Q. All right.

11 A. From Deschutes south, and I'm not sure where
12 the exact break is, it's coming out of a residential
13 area, it's just one lane in each direction.

14 Q. All right.

15 JUDGE CLARK: Mr. Ziobro, could you please
16 give the witness what has been identified I believe as
17 Exhibit 2. That may well be the map that Ms. Larson was
18 using with Mr. Hammond.

19 MR. ZIOBRO: (Complies.)

20 BY JUDGE CLARK:

21 Q. And I think I'm just going to do better with
22 a visual combined with your written testimony.

23 A. Okay.

24 Q. So I have Exhibit 2, and I have page 4 of
25 your testimony, so if you can just talk -- in your

0156

1 testimony, and this doesn't have line numbers on it, but
2 you could indicate, let's see, from Quinalt to Gage
3 Boulevard it says the roadway is a five-lane road, okay?

4 A. That's correct.

5 Q. And I see -- and I'm assuming that starts
6 somewhere around the Columbia Center Boulevard, is it
7 five lanes?

8 A. Yes, ma'am, Quinalt Avenue is the one right
9 across the bottom of the photograph here.

10 Q. Right, I have that, and I have that
11 intersection with Columbia Center Boulevard, so at that
12 intersection and perhaps even at the other side of that,
13 how many lanes, it's five lanes?

14 A. Center Parkway?

15 Q. No, no, no.

16 A. Oh.

17 Q. Quinalt Avenue. I'm looking at -- I'm trying
18 to look at your testimony and the map. If I look at
19 your testimony, it says Quinalt Avenue to Gage
20 Boulevard, the roadway is a five-lane road with a center
21 turn lane; is that correct?

22 A. Yes, ma'am.

23 Q. Okay.

24 A. The report is dealing with Center Parkway,
25 the existing portion.

0157

1 Q. Right.

2 A. Okay.

3 Q. And so when I'm looking at your testimony on
4 page 4 and that report, I want you to explain to me
5 which section of the roadway you're talking about here
6 in conjunction with this map that is a five-lane road
7 with a center turn lane.

8 A. The design report is dealing with Center
9 Parkway from Quinalt, which is the street here, to Gage
10 Boulevard, which is this street somewhat more central in
11 the map, and that is a five-lane road.

12 Q. Right, that is a five-lane road, okay. Now
13 if you can go to the bottom of this map where it
14 intersects with Quinalt Avenue.

15 A. Yes, ma'am.

16 Q. How many lanes is Quinalt Avenue there?

17 A. I believe it's five lanes.

18 Q. It's five lanes as well with a center turn
19 lane?

20 A. You know, I am not really sure.

21 Q. Okay.

22 A. And I would defer to our traffic engineer on
23 that.

24 Q. All right, I'm just trying to get an
25 understanding of the lay of the land.

0158

1 A. Sure.

2 Q. You don't have to be extremely specific. And
3 if I continue on with this map and go down to where
4 Quinalt Avenue meets with Columbia Center Boulevard.

5 A. Yes, ma'am.

6 Q. And at that intersection, how many lanes is
7 Columbia Center Boulevard?

8 A. North of it I believe it is three lanes in
9 each direction, and south of it two lanes in each
10 direction. But again, I would defer to our traffic
11 engineer there.

12 Q. Okay, so I have approximately three lanes of
13 traffic traveling south, two lanes of traffic traveling
14 north to this intersection?

15 A. Yes, ma'am.

16 Q. And some of that traffic being diverted off
17 onto Quinalt Avenue; is that correct?

18 A. Yes, ma'am.

19 Q. And it's being diverted off onto a five-lane
20 road at that juncture; is that correct?

21 A. Again, two through lanes in each direction on
22 Quinalt there.

23 Q. Okay, two through lanes, one turn lane. And
24 I go on up to Center Parkway, and that is the same
25 configuration from Quinalt to Gage, correct?

0159

1 A. Yes, ma'am.

2 Q. Now if you can explain to me from Gage,
3 assuming the Center Parkway Boulevard extension is made
4 across the railroad tracks, would you tell me from Gage
5 Boulevard to the other side of the tracks adjacent to
6 the Holiday Inn Express how many lanes of traffic you're
7 talking about?

8 A. The project is proposing one lane in each
9 direction.

10 Q. All right, that was my understanding.

11 A. With a two-way left-turn lane in portions of
12 it.

13 Q. All right, thank you, that was my
14 understanding.

15 A. Okay.

16 Q. I do appreciate the additional clarification.

17 A. Okay.

18 JUDGE CLARK: Any redirect, Mr. Ziobro?

19 MR. ZIOBRO: Just a little, Your Honor.

20 I'm going to try to return some of these.

21

22 R E D I R E C T E X A M I N A T I O N

23 BY MR. ZIOBRO:

24 Q. Mr. Plummer, Ms. Larson asked you a series of
25 questions about the petition to cross four tracks; do

0160

1 you remember that?

2 A. Yes.

3 Q. And that's essentially existing conditions
4 today?

5 A. That's correct.

6 Q. And there are proposals or modifications that
7 can be made to the existing track to raise or lower one,
8 some, or all of the tracks to even out the ride,
9 correct?

10 A. That is correct.

11 Q. And still allow you to cross all four?

12 A. That is correct.

13 Q. And that would smooth out the profile?

14 A. That's correct.

15 Q. And then there are alternatives to move some
16 of those operations either west or east, correct?

17 A. That could be done, yes.

18 Q. And that would be an enhancement over the
19 existing conditions?

20 A. Correct.

21 Q. Okay. And so when you're looking at the SCM
22 report, that's not the exclusive possibility to extend
23 Center Parkway, is it?

24 A. That's correct.

25 Q. Okay.

0161

1 I think it was Mr. Thompson was asking you a
2 little bit about cost benefit analysis.

3 A. That's correct.

4 Q. And I'm not -- I don't think I'm
5 mischaracterizing your testimony to say there was no
6 formal cost benefit analysis conducted, correct?

7 A. That's correct.

8 Q. But there were numerous factors considered?

9 A. Yes.

10 Q. One of the ones I didn't hear discussed was
11 the frequency of train traffic at the proposed extension
12 on weekends; are you aware of any switching operations
13 that occurs on weekends?

14 A. I don't believe they exchange cars on
15 weekends, Tri-City Rail with UP or with BN. In looking
16 at the number of cars delivered, number of cars received
17 from TCRY that was in Lloyd Leathers' testimony and
18 putting it chronologically, there was no exchange
19 activities on weekends at all.

20 Q. So if you're doing a cost benefit comparison
21 between Columbia Center Boulevard tracks versus the
22 proposed extension at Center Parkway, would it be
23 significant that two days out of the week there would be
24 no train traffic?

25 A. That's correct.

0162

1 Q. And given that that's near a retail shopping
2 center, would that be significant in terms of peak
3 volume of traffic at a shopping mall?

4 A. I would think that the weekends would be
5 their busy times.

6 Q. Okay.
7 Judge Clark asked you some questions about
8 the number of lanes.

9 A. Mm-hm.

10 Q. At various locations around the area.

11 A. That's correct.

12 Q. And we're going to have one lane of traffic
13 in each direction at the proposed extension, correct?

14 A. That's correct.

15 Q. And for how many feet will this extension
16 have just the two lanes?

17 A. Well, for the full length from Gage Boulevard
18 to Tapteal Drive. On either end there will be
19 accommodations for left turning motions, but there's no
20 need for left turning motions in the area of the
21 railroad tracks, so it would be just the two travel
22 lanes.

23 Q. Okay. If the grade crossing is granted by
24 the WUTC, what would the City do in terms of working
25 with the railroads to come up with a final product?

0163

1 A. We would continue to try to work with the
2 railroads to come up with solutions, not only to the
3 number of crossings involved. I believe that -- and we
4 have worked for several years with UP in an effort to
5 relocate switching operations, I would like to think
6 that that might still be a possibility. There's a
7 possibility to reconstruct siding so that the switching
8 operations could be done differently than they are now
9 but in the same area that would provide benefits for
10 both the railroads and the City and eliminate the number
11 of crossings necessary. And, in fact, that's what's on
12 board here. We would try to work with the railroads to
13 come up with something that was acceptable to them and
14 workable for the City.

15 Q. There was portions of questions asked of you
16 related to how complete the analysis conducted by the
17 City of Kennewick, either through SCM, HDR, or others,
18 there were questions about how complete the analysis was
19 for extending the Center Parkway project. Even myself
20 sitting here, I had the impression that that analysis
21 was not real complete; is that a correct way to
22 characterize your testimony?

23 A. That's correct, yes.

24 Q. Could you tell the Commission why that
25 analysis is not completed?

0164

1 A. Well, a lot of it was in our early meetings
2 with railroad personnel at the project site, it was
3 indicated that switching operations in a different
4 location would be desirable from an operational
5 standpoint with Union Pacific Railroad as well as
6 possibly BN. The track from Wallula Junction in
7 downtown Kennewick out to the Richland Y Junction is old
8 track, it's dilapidated, it's 10 mile an hour track, and
9 it presents challenges in the handling of rail cars in
10 this area. And we began a very long series of
11 negotiations primarily with Union Pacific Railroad to
12 come up with a solution that would allow for the
13 switching operations to be accomplished at a different
14 location, which would eliminate three of the four
15 at-grade crossings that we're talking about here. We
16 just weren't able to come to an agreement. I would
17 think at this point we would still probably try to
18 pursue that alternative. It is a desirable alternative,
19 it eliminates a lot of other problems in the area,
20 including noise issues relative to the storage of
21 refrigerated cars in the area, the sound of the
22 compressors is one of the areas of complaints that local
23 residents have with the switching operations in that
24 area.

25 Q. So is it safe to say for purposes of your

0165

1 testimony the baseline condition is crossing four
2 tracks?

3 A. That would be the worst case scenario.

4 Q. And the baseline condition would be to not
5 change the elevation of the tracks?

6 A. That too would be the worst case scenario.

7 Q. But in terms of probability of that being the
8 final product if this crossing is granted, how likely
9 would you consider that to be?

10 A. I would like to think that the railroads
11 would be willing to work with us to come up with any
12 modifications necessary to make the roadway profile
13 smoother as well as maintain their ability to conduct
14 their switching operations in the area safely.

15 Q. And I believe you have touched on this, but
16 is there anything that inhibits the cities from working
17 with the railroad to come up with the best possible
18 product if this crossing is granted?

19 A. Not that I'm aware of, nothing that -- I
20 would think they would want to work with us at that
21 point.

22 Q. And the City would be willing to entertain
23 the input of all parties affected, correct?

24 A. Absolutely.

25 Q. There's been some talk about the funding of

0166

1 this project.

2 A. Yes.

3 Q. Given that there is no final product that's
4 been determined, does the City have the ability to fund
5 some or all of these alternatives if that is what is
6 ultimately agreed upon?

7 A. I believe under the current funding that we
8 could accomplish it.

9 MR. ZIOBRO: Thank you, I have no further
10 questions.

11 MS. LARSON: I do have some recross.

12 JUDGE CLARK: I suspected that would be the
13 case, Ms. Larson.

14

15 R E C R O S S - E X A M I N A T I O N

16 BY MS. LARSON:

17 Q. Mr. Ziobro just asked you whether there are
18 proposals to lower some or all of the tracks to even out
19 the ride, correct?

20 A. There are no proposals, but we would make
21 those proposals and try to work with the railroad if
22 that was the case.

23 Q. Did you read the HNTB testimony about what
24 would be required to lower the Union Pacific tracks to
25 even out the ride?

0167

1 A. Yes.

2 Q. And didn't that require actually changing the
3 elevation all the way out to Steptoe Street?

4 A. Well, Mr. Wright's testimony presumed that
5 the tracks would need to be lowered 3 feet, and that's
6 not the case. We could accomplish this by raising one
7 set of tracks a matter of inches to provide a much
8 smoother ride, would not require extensive track rework
9 and be hundreds of feet as opposed to thousands of feet.

10 Q. Is there anything in evidence in this
11 proceeding that describes what could be done in that
12 regard, anything that we can look at that we can
13 cross-examine you on whether it's practical?

14 A. I don't know if there is or not. I don't
15 believe -- we haven't drawn anything up to that effect.

16 Q. So again, for purposes of this proceeding,
17 the only evidence we have is the existing conditions and
18 really no other proposal that an Administrative Law
19 Judge could rely on to know that in fact there is a cost
20 efficient way of changing the elevation of tracks so
21 that a smoother ride could be accomplished, correct?

22 A. Would you ask me that again, that was a long
23 question.

24 Q. Is there anything in evidence at this hearing
25 that could be used by the Administrative Law Judge in

0168

1 determining that, in fact, there is a smooth ride
2 available over four tracks?

3 A. I believe the elevations of the tracks are
4 available in there. Our city engineer could testify to
5 what's possible there. I don't believe there is a
6 profile drawn to that effect though.

7 Q. Do you understand how important it is though
8 for purposes of authorizing a crossing to know whether
9 it could be a smooth ride for motorists or whether it
10 would have to be a very uneven ride?

11 A. I can't answer that question.

12 MS. LARSON: Okay, no more questions.

13 JUDGE CLARK: Mr. Johnson.

14 MR. JOHNSON: Thank you, Your Honor.

15

16 R E C R O S S - E X A M I N A T I O N

17 BY MR. JOHNSON:

18 Q. The petition that the City has filed is to
19 cross the existing railroad tracks in their present
20 condition, correct?

21 A. As their worst case scenario.

22 Q. And that's what you have called it, the worst
23 case scenario?

24 A. Yes.

25 Q. But that's exactly what you're asking for is

0169

1 the worst case scenario, correct?

2 A. We are asking to cross the tracks, and we are
3 willing to work to make it better.

4 Q. But that is speculation, is it not, that the
5 tracks will be moved or that switching operations will
6 be moved? I mean all that is speculation. The purpose
7 of this hearing is to determine whether or not the City
8 can have a crossing over things as they are today.

9 A. Okay.

10 Q. Do you know or are you assuming that there
11 are no switching activities that occur during the
12 weekends?

13 A. The testimony that was presented by Lloyd
14 Leathers indicates that there is no weekend switching
15 activities.

16 Q. So you're relying on his testimony then?

17 A. That's correct.

18 Q. Your testimony includes a projection
19 regarding traffic volumes, has there been any projection
20 made regarding railroad traffic volume?

21 A. Not that I'm aware of.

22 Q. Do you have any reason to believe that the
23 railroad traffic will be less in the future than it is
24 now?

25 A. I believe there are some economic

0170

1 developments regarding the railroad in the region that
2 may affect that and may take some of that traffic away
3 from the Richland Junction, the recent completion of the
4 Railex facility in Wallula.

5 Q. Again, these are assumptions you're making
6 that are speculative?

7 A. Yes, they are.

8 Q. Because no studies have been done by the
9 City?

10 A. That's correct.

11 MR. JOHNSON: That's all the questions I
12 have.

13 JUDGE CLARK: Any other inquiry?

14 Yes, Mr. Thompson.

15

16 R E C R O S S - E X A M I N A T I O N

17 BY MR. THOMPSON:

18 Q. I do just have a couple of questions in
19 regard to Mr. Ziobro's questions about the baseline
20 scenario or what other people call the worst case
21 scenario. When we were talking about -- do you recall
22 when we were talking about the \$2 Million figure that
23 you had for the full cost of the project?

24 A. Mm-hm.

25 Q. If the City were to work with the railroad to

0171

1 change the vertical alignment of the tracks, raise or
2 lower them to make for a smooth ride, would that be
3 something that you would anticipate the City would pay
4 for?

5 A. Yes.

6 Q. And so would that be in addition to the \$2
7 Million figure that you discussed earlier?

8 A. Yes.

9 Q. Okay. And do you have any ball park estimate
10 of what the cost of that might be?

11 A. No, I don't.

12 MR. THOMPSON: Okay, thank you.

13 JUDGE CLARK: Well, of course I have a few
14 extra ones now too.

15 THE WITNESS: Okay.

16

17 E X A M I N A T I O N

18 BY JUDGE CLARK:

19 Q. You were talking in your redirect with
20 Mr. Ziobro about some of the funding that had been
21 discussed for this project, and I believe the primary
22 one that you were discussing with Mr. Thompson was the
23 REV funding; is that correct?

24 A. We do have slightly over \$2 Million of Rural
25 Economic Vitality funds in the project.

0172

1 Q. Right. And what Mr. Ziobro was exploring
2 with you was I think it was characterized as additional
3 funds from the City for the final project. I don't want
4 to mischaracterize this question, I just want to make
5 sure I'm asking you the same thing. Is that your
6 recollection?

7 A. I'm not sure I understand your question. We
8 have -- I mean would you like a --

9 Q. It's really --

10 A. Summary of --

11 Q. Yes.

12 A. -- more of the funding that's involved in the
13 project?

14 Q. Not yet.

15 A. Okay.

16 Q. What I would like to know first of all is, is
17 my memory accurate that that's what he was asking you,
18 about whether or not additional funds were available
19 from the City for a final project?

20 A. Yes, that's correct.

21 Q. That's what he was asking you about?

22 A. Yes.

23 Q. All right. Yes, and what I would like you to
24 do is explain to me a little bit about what it is you're
25 talking about there, what you would consider to be a

0173

1 final project, how much money is available, and then
2 finally whether any of this is in the prefiled testimony
3 that I have in this proceeding.

4 A. Well, the project in its entirety includes
5 work on Gage Boulevard, and this has to do with the way
6 that the grant funds were obtained. The Rural Economic
7 Vitality Grant is not only for the extension of Center
8 Parkway, it is for the widening of Gage Boulevard from
9 Leslie Road to Center Parkway and includes the
10 construction of a double lane roundabout at Center
11 Parkway and Gage Boulevard. We also have I believe
12 \$375,000 in some regional competitive funds, STP funds,
13 which are federal funds. Richland has committed
14 approximately \$600,000 of their direct allocation STP
15 funds also, federal funds. We have \$1.9 Million, i.e.,
16 \$1.9 Million transportation board improvement grant.
17 And the Cities have committed the additional local funds
18 to commit or to complete this entire project.

19 So the entire project would include the
20 widening of Gage Boulevard, the construction of the
21 roundabout, the extension of Center Parkway from Gage
22 Boulevard to Tapteal, and would include any necessary
23 work at the railroad tracks, whether that would be the
24 crossings exactly where the tracks are now or with some
25 modifications to improve the conditions or possibly even

0174

1 eliminate some of the proposed crossings and provide
2 either track mitigation or assistance to the railroads,
3 which we have already offered them, to conduct these
4 switching operations in another area.

5 Q. And how much money are we talking about for
6 what falls under that umbrella?

7 A. The entire project umbrella?

8 Q. Yes.

9 A. Hm.

10 Q. Approximately.

11 A. Approximately \$2 Million.

12 Q. Okay, so that is within the range of what you
13 were discussing with Mr. Thompson about what it's going
14 to cost to do all of these things?

15 A. Yes, ma'am.

16 Q. All right. So one of the things you
17 discussed, one of the elements that you discussed in
18 this was track mitigation, and that would be to smooth
19 out the ride that a motorist would have, for lack of a
20 better term, correct?

21 A. That's correct.

22 Q. Can you show me where in the testimony you
23 have discussed the cost of that track mitigation?

24 A. I don't believe it's discussed in my
25 testimony.

0175

1 Q. All right, thank you.

2 You also talked with Mr. Ziobro about
3 additional funds that would be available from the City
4 for the final project. Do you have any idea how much in
5 additional funding the City would be willing to put
6 forth?

7 A. I really couldn't address that right off the
8 top of my head.

9 Q. So additional funding could range anywhere --
10 do you have a range where you think the City might be
11 willing to put additional funding into this?

12 A. Well, it would involve both cities, Kennewick
13 and Richland.

14 Q. Right.

15 A. As it is a joint project. It's a high
16 priority project for both cities, so I would think that
17 adjustments in our budgets would be accomplished as
18 appropriate to make the project a reality. But no, I
19 don't have a range right off the top of my head.

20 JUDGE CLARK: All right, thank you.

21 THE WITNESS: Thank you.

22 JUDGE CLARK: Anything further, Mr. Ziobro?

23 MR. ZIOBRO: No, Your Honor.

24 JUDGE CLARK: Thank you very much for your
25 testimony, Mr. Plummer.

0176

1 THE WITNESS: Thank you.

2 JUDGE CLARK: What we're going to do is take
3 a recess for approximately ten minutes.

4 (Recess taken.)

5 JUDGE CLARK: Mr. Ziobro, would you call your
6 next witness, please.

7 MR. ZIOBRO: The City calls John Deskins.

8 JUDGE CLARK: Thank you.

9 (Witness JOHN DESKINS was sworn.)

10 JUDGE CLARK: Thank you, please be seated.

11 Mr. Ziobro.

12 MR. ZIOBRO: Thank you, Your Honor.

13

14 Whereupon,

15 JOHN DESKINS,

16 having been first duly sworn, was called as a witness

17 herein and was examined and testified as follows:

18

19 D I R E C T E X A M I N A T I O N

20 BY MR. ZIOBRO:

21 Q. Can you state your name for the record,

22 please.

23 A. My name is John Deskins.

24 Q. And tell us how you're employed.

25 A. I'm the Traffic Engineer for the City of

0177

1 Kennewick.

2 Q. And you have previously submitted prefiled
3 testimony in this matter?

4 A. That is correct.

5 Q. And have you had a chance to review that
6 since the filing of that testimony?

7 A. Yes, I have.

8 Q. And is it still complete and accurate?

9 A. Yes.

10 Q. Is there anything that needs to be clarified
11 in that testimony?

12 A. I don't believe so, I'm sure some folks will
13 have some questions.

14 Q. You can almost count on it.

15 MR. ZIOBRO: Thank you.

16 The City offers Mr. Deskins' testimony.

17 JUDGE CLARK: Thank you, and you tender this
18 witness for cross-examination?

19 MR. ZIOBRO: Yes, Your Honor.

20 JUDGE CLARK: All right, Ms. Larson.

21

22 C R O S S - E X A M I N A T I O N

23 BY MS. LARSON:

24 Q. Good morning, Mr. Deskins.

25 A. Good morning.

0178

1 Q. I understand your role with the City is to or
2 includes determining design standards for projects?

3 A. It does include that. It's in cooperation
4 with the City Engineer as well, who is more dealing with
5 the geometric aspects.

6 Q. Okay. On page 3 of your testimony, you
7 talked about the design speed at the crossing and on
8 either side of the crossing. Can you explain to me what
9 design speed is versus posted speed?

10 A. The design speed is typically the design
11 speed you would design a facility for under ideal
12 conditions, so whenever possible you try and achieve
13 standards for that.

14 Q. And is that the same as the posted speed
15 limit?

16 A. Not necessarily. Typically you go out and do
17 the speed survey after a facility is constructed and see
18 what the majority of drivers are driving, and then you
19 take into account other factors such as driveway
20 accesses, volumes, turning movements, things like that
21 that might influence your decision on how to post the
22 roadway.

23 Q. If you have a different design speed at the
24 crossing than on either side of the crossing, how is
25 that posted for motorists, are those those white signs

0179

1 with the black letters going from --

2 A. No, you're referring to a regulatory speed
3 sign I believe; is that correct?

4 Q. Yes.

5 A. Okay. Typically when you have some element
6 such as this, you might have a warning sign such as, you
7 know, bumps ahead, other warning sign, you know, to be
8 determined. Sometimes you would post that with a
9 placard underneath that would show an advisory speed.
10 You know, you see those frequently on corners where they
11 give an advisory speed for corners such as 45. This is
12 one of those where we would probably post a warning as
13 well as the advisory placard that would be in the range
14 of 15 to 20 depending on what we determined it
15 reasonably should be once it's constructed.

16 Q. Am I correct that a posted speed is what the
17 legal speed limit is, but if you have an advisory speed
18 on one of those yellow diamond signs that that's
19 advisory only and you wouldn't get a ticket for going
20 over that speed?

21 A. That is correct, unless you are considered to
22 be reckless driving. It would not be -- you would not
23 get a ticket for traveling 30 miles an hour on the, you
24 know, when it's posted as an advisory of 20. However,
25 if your driving was to be considered reckless, you could

0180

1 be cited.

2 Q. All right. So I believe in your testimony
3 you talked about posted speed at the crossing, let's see
4 if that's true, no, you only talked about the design
5 speed, you didn't talk about posted speed either at the
6 crossing or on the road itself?

7 A. I couldn't say for sure.

8 Q. Okay.

9 A. I can tell you if we were to post a speed, I
10 would expect it to be in the range of 30 to 35 miles an
11 hour for this type of facility normally. But this is
12 kind of a special case and it might even be posted as
13 low as 25.

14 Q. Okay. In setting the design standards for a
15 roadway, can you tell me the importance of driver
16 expectation?

17 A. Well, I think an ideal driver expectation is
18 to build a straight road that's flat. Certainly that's
19 not always possible. We have curves that can't be
20 mitigated due to rivers, other things that are, you
21 know, you just can not design around. And so, and
22 that's when you see things like the yellow warning signs
23 that indicate a curve, a bump in the road, things like
24 that. So your driver expectation is you would like to
25 have, you know, a perfect facility, but there are

0181

1 instances where you can't achieve that.

2 Q. So probably along a road that's normally 30
3 to 35 miles an hour approaching railroad tracks, a
4 driver is not normally going to be expecting as rough a
5 ride as they would get if the road was constructed over
6 the tracks as they now exist?

7 A. Can you please restate.

8 Q. Would a driver on a 35 mile per hour minor
9 arterial approaching tracks expect a crossing as rough
10 as these crossings would be?

11 A. I would say not necessarily, and that's why
12 we would post it appropriately.

13 Q. Okay. When designing a road, is it important
14 to maintain design consistency in terms of speed of the
15 road, other characteristics of the road?

16 A. Certainly whenever possible. Many of our
17 minor arterials are long segments that are posted 30 to
18 35 miles an hour, and this is really a different type of
19 roadway. Just to clarify what was stated earlier, there
20 is a five section lane, a five section roadway, Center
21 Parkway, that approaches this, but it's actually
22 basically a redirection of Columbia Center Boulevard to
23 Gage Boulevard traffic, and so it's major arterial
24 routes just for one block. We have a lot of people
25 turning, and we actually have designed a roundabout to

0182

1 be installed there. So really we're going to have
2 people slow down to the range of 20 miles an hour as
3 they exit that roundabout. At Tapteal it's a
4 T-intersection, so people would be turning onto that and
5 accelerating from a low speed. So in each instance, you
6 will actually have people starting out at a low speed,
7 they will see the warning signs almost immediately, so
8 it wouldn't really be unreasonable to post a 25 on this
9 from the start.

10 Q. In your testimony on page 6, you mentioned
11 that vehicles that did ignore that warning could launch
12 over the second track or bottom out.

13 A. That would be the worst case scenario.

14 Q. Okay. As a City, do you have liability
15 concerns about designing a road that has that kind of a
16 feature in it?

17 A. Again, we have numerous minor arterials that
18 have curves, and we post warning signs, yellow and black
19 chevron signs, and this is to help avoid that liability.

20 Q. What kind of traffic calming devices might
21 you use to warn motorists that they were going to
22 approach a crossing that was uneven?

23 A. Generally you would not install traffic
24 calming devices on a minor arterial. Specifically those
25 are things that are typically reserved for a residential

0183

1 street, so I wouldn't propose necessarily doing so. But
2 the City is open to things like speed humps and traffic
3 circles as traffic calming devices. As I just
4 mentioned, the roundabout is a large traffic circle, it
5 inhibits people's initial approach speed. And the
6 tracks themselves, as I quoted, is similar to a half of
7 a speed bump. So I mean we wouldn't probably put
8 traffic calming devices on the roadway, but we have done
9 that. For example, the colosseum has a raised
10 crosswalk, and the raised crosswalk has a similar
11 profile to this street, at least in half. It's not the
12 same, but the grade breaks are similar.

13 Q. Well, aren't speed bumps generally a rounded
14 uniform mass that goes across the lane?

15 A. To differentiate between a speed bump and a
16 speed hump is a speed bump is maybe one foot wide and
17 goes across the roadway, and it's something you would
18 see in a mall parking lot right next door. A speed hump
19 has got a more parabolic profile, and it usually takes
20 place over 14 feet in length, so it's more gradual, a
21 gradual transition.

22 Q. And which of those were you saying you might
23 consider using?

24 A. Well, I wouldn't really consider using
25 either, I'm just comparing this roadway crossing to

0184

1 that.

2 Q. To a speed hump?

3 A. Yes, to a speed hump.

4 Q. But with a railroad crossing, don't you have
5 flat planes that are being intersected in the roadway as
6 opposed to a rounded surface?

7 A. Yes, so to -- I guess to be more compare --
8 for a better comparison, a raised crosswalk is a speed
9 hump that doesn't have the parabolic feature. It has
10 grades, you know, rising grades on the approach on each
11 side, and then it is flat for about 10 to 15 feet. And
12 so that's similar to what you're describing. And what
13 we have here is a raised crosswalk that doesn't have the
14 parabolic. It's similar to parabola, but it is flat on
15 top for about 10 or 15 feet of width, so the pedestrians
16 have a flat crossing similar to the railroad.

17 Q. On page 4 of your testimony, you were asked
18 whether you had applied any statistical standards on
19 traffic counts to justify the Center Parkway extension,
20 and you said not really.

21 A. That's correct.

22 Q. Except you said to eliminate the 1 to 2 mile
23 trip that would be required to drive between Gage and
24 Tapteal. When you were talking about that 1 to 2 mile
25 trip, where were your starting and ending points?

0185

1 A. Well, I looked at this, you know, from a
2 simple standpoint. If I were at the back of the mall at
3 what will be the roundabout and I wanted to travel to
4 Circuit City, which is on Tapteal, I've got to find a
5 way to get there. That means I need to drive, you know,
6 a mile or two down Gage, I don't know the exact
7 distances, a similar distance up Steptoe, and a similar
8 distance back up Tapteal, that's one choice. Another
9 choice would be to go south on Center Parkway and turn
10 onto Quinalt and enter the intersection of Quinalt and
11 Columbia Center Boulevard, which is one of our
12 significantly congested intersections for the City of
13 Kennewick, try to make a left turn, and head down
14 towards Circuit City on Tapteal Drive.

15 Q. Did you measure the time that that would
16 take?

17 A. No, I did not. And there was on, you know,
18 one alternative which many people use, they drive
19 through the back side of the mall parking lot, which is
20 private roadway, so we don't really encourage or endorse
21 it, but unfortunately it is a shortcut that people do
22 use, and it has numerous speed bumps, at least four or
23 five pedestrian crossings, they have to slow down,
24 several stop signs, and one of the speed bumps is on an
25 angle so it's really very annoying when you drive over

0186

1 it, and yet people do use this as an alternate route as
2 a way to avoid congestion on the primary roadways.

3 Q. Do you know how long that alternate route
4 that goes through the mall parking lot takes?

5 A. No, I do not, I would say significantly
6 longer than the Center Parkway extension would be, in
7 the range of two to three to four minutes to get around
8 versus maybe one minute.

9 Q. You're just guesstimating?

10 A. I'm just guesstimating, yes.

11 Q. So the kind of people you're talking about
12 here making that trip would be people in like by Mail By
13 The Mall or one of those other -- there's not too many
14 places that are labeled on our exhibits, but on Exhibit
15 3 --

16 JUDGE CLARK: Do you have that exhibit,
17 Mr. Deskins?

18 THE WITNESS: I do not.

19 JUDGE CLARK: All right, we need to get --
20 thank you, we will give him a copy of that first.

21 BY MS. LARSON:

22 Q. Okay, so, for example, if someone is at Mail
23 By The Mall and they wanted to go to Home Depot, this
24 Center Parkway extension is what you're saying that this
25 would make a shorter route for them to make it from the

0187

1 back of the Columbia Center Mall to businesses on
2 Tapteal?

3 A. That's correct.

4 Q. And did you do calculations as to how much --
5 how often that would happen?

6 A. I did not. I took, well, I did some
7 estimates based on the SCM study that was done some time
8 ago. The reality is we're in the middle of a
9 transportation system plan update right now which could
10 give us better estimates in the near future, but the
11 best I could come up with based on their study was about
12 3,000 vehicles. Now understand that is during normal
13 business days. We also have, as you can see, the mall
14 is a regional mall that drives people from Walla Walla,
15 Hermiston, Pendleton, all over the area, and Home Depot
16 is somewhat similar in that way or Circuit City, you
17 know, any of these stores here, you know, it's a
18 commercial district, and so there is a lot of back and
19 forth traffic that would be expected now and even more
20 so as it develops. So on a weekend day or on the
21 holiday season where the traffic is significantly
22 increased over the similar congestion is a major
23 problem, that's when those volumes could be up. I
24 estimated about 3,000 vehicles I believe, I would have
25 to look at the testimony, and I wouldn't be surprised if

0188

1 those numbers doubled during that time period, easily
2 could double.

3 Q. Did you review the traffic study information
4 provided in HNTB's report?

5 A. I did, but it has been some time.

6 Q. Do you recall whether you thought that the
7 conclusions as to traffic in the traffic diversion
8 analysis were accurate?

9 A. Well, I looked in -- they chose about four
10 routes I think to analyze the travel time, and I would
11 say only one of them was close to the mark in terms of
12 how I feel about it locally and how I would drive in the
13 area. And so, you know, I really looked at it from the
14 perspective of from this corner near Mail By The Mall or
15 by the back side of Columbia Center Mall to Tapteal.

16 Q. So to the extent that was being modeled, did
17 you find it to be good information?

18 A. Not necessarily.

19 Q. Can you recall what you disagreed about it?

20 A. Well, I just say the routes that were chosen
21 were not what I would have chosen, and that might have
22 been as a result of the SCM study, which I did not
23 participate in, I couldn't say.

24 Q. All right. On page 7 of your testimony, you
25 stated that you did not understand what other

0189

1 engineering standards were being -- that Mr. Wright
2 might have felt were being violated in the extension of
3 Center Parkway.

4 A. Mm-hm.

5 Q. Could some of those standards be driver
6 expectations?

7 A. It's possible.

8 Q. Or --

9 A. Those aren't usually standards though.
10 Driver expectation is just -- it's more subtle than
11 that.

12 Q. Okay. Or consistency of design along a road,
13 consistency of traffic speeds?

14 A. Similar to the driver expectation answer.

15 Q. All right. And on page 8 of your testimony,
16 you speak to the WSDOT and AASHTO policies on the
17 geometric design of highways and streets dealing with
18 approach grades that are not level and where
19 superelevation exists about a specific site analysis for
20 rail clearance being necessary; did you personally
21 perform that analysis?

22 A. No, I did not. I just identified the
23 standard, and I state in page 9 that the City of
24 Kennewick City Engineer performed this analysis.

25 MS. LARSON: Okay, thank you.

0190

1 I have no further questions.

2 JUDGE CLARK: Mr. Johnson.

3 MR. JOHNSON: I don't have any questions.

4 JUDGE CLARK: Mr. MacDougall.

5 MR. MACDOUGALL: I don't have any questions,

6 thank you.

7 JUDGE CLARK: Mr. Thompson.

8 MR. THOMPSON: I do have some questions.

9

10 C R O S S - E X A M I N A T I O N

11 BY MR. THOMPSON:

12 Q. Good morning, Mr. Deskins. I just first want
13 to start out with a question on page 3 of your
14 testimony, there was something you said there that I was
15 puzzled by that I wanted to get your explanation about.
16 Toward the bottom about line 23, it says the current
17 traffic is 800 vehicles per day with a projection at
18 opening of 2,200 vehicles per day. How can there be
19 current traffic since there's no roadway in existence
20 now, what do you mean by current traffic?

21 A. I believe in that instance I was quoting from
22 the SCM design report, and it's unclear to me at this
23 time, you know, I don't recall what they did to achieve
24 that guesstimate, whether it was placed two counters
25 down in the vicinity of Mail By The Mall, I just don't

0191

1 honestly know where that number came from, but it was --
2 other than it was from their report.

3 Q. Okay, so it's not -- it wasn't sort of
4 hypothesizing if there were a road in now, that would be
5 the volume?

6 A. Right, because the next line does hypothesize
7 about what the volume would be of 2,200 vehicles per day
8 of opening, obviously a significant increase.

9 Q. On page 4 of your testimony, line 16, you say
10 that:

11 The primary need is to stimulate
12 economic growth on both sides of the
13 tracks, the difficulty in going between
14 the two areas limits the desirability of
15 building on available sites.

16 Can you just explain a little more, please,
17 how the extension of Center Parkway would achieve that
18 objective?

19 A. Well, right now if you still have exhibit, I
20 think it's Exhibit Number 3 we have already looked at.

21 Q. Okay.

22 A. You can see that there's some vacant land
23 there adjacent to Tapteal Drive and Center Parkway.
24 It's been sitting for quite some time. There's at least
25 one more structure out there now, I think it's a Macy's

0192

1 furniture store, but the development has been slow on
2 that side. And similarly in Kennewick there is a corner
3 right by Center Parkway and Gage, it is the northeast
4 corner, that has been slated for development since I
5 moved to the city of Kennewick two and a half years ago,
6 and yet nothing has occurred there. And I think, you
7 know, part of that is just the interconnectivity in how
8 these commercial developments play off each other. If
9 you want to find an iPod and check the price at Circuit
10 City and then come back to the mall and find the prices
11 there, it's just a lot easier if you can exit out the
12 back side and go on Center Parkway instead of having to
13 go out to the boulevard where it's very congested and up
14 and over the overpass.

15 Q. I see. So it's not necessarily a matter of
16 easing traffic congestion getting to and from the mall
17 say, but more sort of tying together these two
18 commercial areas; is that fair?

19 A. That's my feeling on the subject, that's my
20 opinion.

21 Q. Okay. There was -- because there was some
22 discussion in the study that contained the, oh, that
23 contained the older traffic study. I'm sorry, I don't
24 have it right at my -- the SCM Consultants design study,
25 are you familiar with that, that was attached to

0193

1 Mr. Plummer's testimony; do I have that right?

2 A. Again, it's been some time since I reviewed
3 the SCM study.

4 Q. Okay.

5 A. That's a pretty old study.

6 Q. Okay. Well, I will just say there was some
7 suggestion there that a purpose of the project was to
8 reduce traffic volumes on adjacent streets, particularly
9 Columbia Center Boulevard, which would be operating at a
10 level of service between E and F in 2023; would you
11 still consider that to be a --

12 A. Is that what they stated there?

13 Q. Yes.

14 A. Okay.

15 Q. Well, assuming that's the case, would you
16 agree that that's a purpose of the extension project
17 here?

18 A. Yes, I mean certainly in the year 2023 I
19 would agree with, you know, it could be operating that
20 poorly, particularly during the holiday season. If you
21 go out there in the holiday season, you will see an
22 increase in traffic between 25% on Columbia Center
23 Boulevard and I calculated the entry into the mall to be
24 two and a half times greater. The primary entry or the
25 northern entry, the one that people would use as a

0194

1 shortcut, the volume there is increased two and a half
2 times greater on a holiday Saturday versus standard
3 p.m., which is still pretty high.

4 Q. Have you, well, are you familiar with that
5 what's called the Transpo Group study that was contained
6 in that SCM document?

7 A. I'm not familiar with that one at all.
8 Currently Transpo is doing our transportation system
9 plan, but I don't think they -- I'm not familiar with
10 this one at all, I wasn't with the City at that time.

11 Q. Well, is there any other study that's been
12 done or that is part of the record that would
13 demonstrate the effect of this project on relieving
14 traffic congestion on other streets?

15 A. None as part of the record as such. You
16 know, as I get information from the transportation
17 system plan, I have done some analysis of the
18 intersections that people would have to travel through,
19 and certainly the intersections such as Columbia Center
20 Boulevard and Quinalt is one that's a problem today, it
21 could happen at any time. And the movement, you know,
22 the movement that is a problem most that I get the most
23 complaints about is the one that would travel around
24 from that future roundabout and head out and make a left
25 on Columbia Center Boulevard.

0195

1 Now I don't know the origins and
2 destinations, I don't know how many people are making
3 that intersection left turn that are actually coming
4 that route. But it certainly is an issue that's
5 pressing, and it will press even more in the future, and
6 so we will have to identify a major project to help
7 alleviate that, and certainly this is one that could
8 help, and other projects we have identified are ones
9 that could help as well. However, those other projects
10 probably bring in more traffic than reduce Columbia
11 Center Parkway. You know, it's a dynamic thing, it
12 depends on funding projects that are built, and we're
13 always looking at ways to try and alleviate traffic, and
14 this is certainly one key piece of that.

15 Q. Well, getting back to your point about the
16 primary need being to stimulate economic growth, do you
17 think that the development will occur along Tapteal
18 Drive in the absence of a crossing in this location, or
19 is this to stimulate growth?

20 A. You know, anything I say would be speculation
21 on that. I mean I'm not an economic development person.

22 Q. Okay.

23 I asked Mr. Plummer some questions about the
24 protective devices, gates and such that would be
25 installed at the crossing, and I wonder are you familiar

0196

1 with that subject, is that something I can ask you
2 about?

3 A. You know, I'm not an expert on that subject,
4 but, you know, I may know as much as Steve, and I would
5 certainly be willing to try and answer questions,
6 understanding that I'm not an expert on that.

7 Q. Okay. Well, let me ask you this, I sort of
8 hit a dead end with him, but I'm hoping maybe you'll --
9 you might have a bit more information about it. You
10 have seen some of the testimony about the switching
11 movements that would be going on on the tracks assuming
12 the situation stayed as it was and the crossings were
13 just built over the existing tracks?

14 A. Okay, I have not seen information on the
15 switching activity itself, no.

16 Q. Is that something that the City has analyzed
17 in looking at the usefulness of this crossing to serve
18 the goals that you have identified? In other words, has
19 the City looked at whether the possibility of frequent
20 blockages of the road would render this crossing less
21 useful for the City's objectives?

22 A. You know, there has been no study, and all I
23 can tell you is what, you know, what Steve has told me
24 from what he understands of other recorded testimony is
25 that most train movements, well, there won't be that

0197

1 many train movements, especially compared to Columbia
2 Center Boulevard, that was discussed earlier, and that
3 those movements would more likely be at night than
4 frequently during the day and not necessarily on the
5 weekends. So with nothing else to go on, that would be
6 particularly useful in terms of how it would mesh with
7 our usefulness, because our primary times are going to
8 be during the weekends when people are out shopping or
9 during the middle of the days when people are out
10 shopping, not expected to be that much of a 3,000
11 vehicles per day that we estimate to be happening, you
12 know, during the switching operations if I am to
13 believe, you know, what I have heard.

14 Q. Okay. Would your opinion change if it were
15 true that there would be a lot of mid day and afternoon
16 switching activities?

17 A. Well, it would certainly decrease the
18 usefulness if that were the case. If there were mid day
19 and afternoon type switching activities and weekend
20 activities, then we would have more conflicts, certainly
21 much more conflicts. One of the nice things about this
22 crossing is that there are other alternative routes that
23 have been identified in the HNTB study. And you can
24 see, if you're there, you can see the train crossing and
25 choose one of those alternate routes, and at least one

0198

1 of them allows you to access the other side without
2 crossing another train track somewhere. In other words,
3 you can use an alternate route, but maybe you get stuck
4 by another train. We do have at least one alternate
5 route where that wouldn't be, you know, where you could
6 avoid the train.

7 Q. Okay, so --

8 A. You can see it, you can see it clearly in
9 advance.

10 Q. Okay. Well, from a -- you're aware that one
11 of the proposals is to put in a median separator and
12 four quadrant gates in order to obtain a silent
13 crossing?

14 A. That would be one possible design.

15 Q. Okay.

16 A. Probably an ideal design.

17 Q. Well, do you have any concerns about let's
18 say if there's traffic approaching just as the gates go
19 down, would you agree that there's a possibility of
20 traffic sort of being trapped there for the full length
21 of the switching movement, 30 minutes, 45 minutes,
22 something like that?

23 A. That is a possibility. If that does become a
24 concern, there's always, you know, other alternatives
25 that can be considered. Well, there's a possibility of

0199

1 an alternate such as a jug handle turn around where
2 people could turn around depending on right of way
3 availability. I don't know that that's a possibility,
4 it might not be.

5 Q. So the jug handle turn may not be a
6 possibility?

7 A. It may or may not be. I know that a PUD
8 facility is probably in the way of one potential turn
9 like that.

10 Q. Okay.

11 A. But the point is, you know, there aren't --
12 there are situations like this in other cities. I can
13 recall a significant one in the city of Portland where
14 people would be stuck for long periods of time, and
15 certainly it was much more impactful there than it would
16 be ever here.

17 Q. Oh, one other question, do you know what, I
18 don't know if I'm using this term right, but signal
19 preemption is?

20 A. Signal preemption would not be an issue here,
21 because there are no signals planned at this location
22 that I know of. At some point in the future, maybe
23 Center Parkway and Tapteal will be signalized, in which
24 case you would have to look at it, but I believe that,
25 you know, it would be very simply accomplished here as

0200

1 compared to some other locations where we have that.

2 Q. Okay. So there's no plan for a signal on
3 Tapteal Drive at the intersection with Center Parkway?

4 A. You would have to -- that is in the City of
5 Richland, and I don't honestly know that.

6 MR. THOMPSON: Okay, that's all my questions,
7 thanks.

8

9 E X A M I N A T I O N

10 BY JUDGE CLARK:

11 Q. I think I just have a couple for you, I just
12 want to make sure I understand the testimony. On page 6
13 of your testimony at the top of the page, you're talking
14 about the grade changes are less than ideal for a
15 typical minor arterial, but they're within reasonable
16 limits based on the specific function that this is
17 supposed to perform, which is shorten travel time. And
18 so do you have an indication about how much, assuming no
19 switching operations, how much time would be saved with
20 the traffic going from basically one side to the other
21 side of the track?

22 A. It would -- I would have to do some travel
23 time studies to do that.

24 Q. Okay, so you don't know at this --

25 A. I don't know at this point. I know that the

0201

1 routes are a significant detour, because you have to go
2 over the Tapteal overpass over Columbia Center
3 Boulevard, you have to weave your way either around on
4 Center Parkway, Quinalt, Columbia Center Boulevard or
5 take the shortcut through the mall, make a left turn
6 onto Columbia Center Boulevard, and then you have to do
7 a little loop over Columbia Center Boulevard and come
8 down and land again, and I don't know if that's been
9 made clear or not. So it is a circuitous route, it's
10 going to take, you know, four or five minutes at least,
11 whereas this route to cross the tracks is obviously, you
12 know, a minute depending on where you're starting and
13 going to.

14 Q. Right, so it would reduce the travel time if
15 there were no switching operations, but we're not sure
16 how much?

17 A. Yeah, that's just an estimate. It would
18 probably reduce it I would say three to four minutes.

19 Q. And you were talking about with some inquiry,
20 I believe it was with Mr. Thompson, about one of the
21 nice things about this roadway extension is that there
22 are some alternate routes in the event there were
23 switching operations going on, and you were talking
24 about being able to see the conflict clearly in advance,
25 and I want you to just explain to me a little bit more

0202

1 about that.

2 A. Sure.

3 Q. Does that mean that if I am sitting at the
4 extension of this road, Center Parkway, I'm able to see
5 to Steptoe Street to see whether that's an alternate
6 route or see over to Columbia Center Boulevard to see
7 that's an alternate route, or what exactly do you mean?

8 A. I guess what I mean is if you were coming
9 down the five lane section of Center Parkway, and that
10 would be heading north, where you see the intersection,
11 which will be, the intersection of Center Parkway and
12 Gage will be a roundabout by the time this will be done,
13 so as you come down -- it's a downhill approach, you
14 will see the train in front that's blocking. And I
15 couldn't say for sure, you might have a feel for how
16 fast it's moving or how long it is, but the fact is it
17 can be seen. You could actually come into that
18 roundabout, make a U-turn, and go right back the same
19 direction and head out to Quinalt and Columbia Center
20 Boulevard, or you could choose to make a right turn into
21 the mall, or you could choose to make a left turn and go
22 Gage to Steptoe and all the way around, just depends on
23 where your destination is, but you can clearly see in
24 advance from there.

25 Q. Okay, so what you're talking about, the

0203

1 conflict that you're able to see in advance would be the
2 train on the track with perhaps crossing gates down and
3 like that, you're able to see that, okay, I understand.

4 And the second thing I was interested in was
5 your testimony about the additional traffic that you get
6 from outside the area because the Columbia Center Mall
7 is I guess sort of a regional mall that is used I
8 understand perhaps even interstate by individuals from
9 Pendleton, Oregon and other locations; is that correct?

10 A. That's right.

11 Q. And if I were to look at the map, where are
12 these individuals going to be coming from? Are they
13 coming in on 240, where are they coming from, which
14 direction would they be more likely, where's the most
15 traffic going to come from to the Columbia Center Mall?

16 A. You know, I honestly don't know, I don't know
17 where the origin and destinations are.

18 Q. Okay.

19 A. And you're saying specifically from out of
20 town or in general?

21 Q. Yes, I'm interested in the out of town
22 traffic that might be elevated on the holidays and
23 weekends.

24 A. From Walla Walla I would anticipate maybe
25 they're coming SR 240.

0204

1 Q. Okay.

2 A. And come down that way. And they might go to
3 Circuit City first because it's in, well, actually if
4 they came in that way, they would have to go over the
5 overpass, they might go to Circuit City first and may
6 have to come out and then they get to the mall or go to
7 some of the other locations like Costco, which is
8 another regional draw, Costco is --

9 Q. I see it.

10 A. Okay, good, because I don't.

11 Q. It's at Gage and -- I think it's at Gage and
12 Grandridge.

13 A. So yeah, that's another regional facility.
14 But basically it's not just the mall, it's not just
15 Tapteal, but Gage is a major arterial for the cities of
16 Richland and Kennewick and has many commercial
17 destinations along it too, so people coming from Walla
18 Walla would probably come 240. From Hermiston or
19 Pendleton I would guess they might come up I-82.

20 Q. Okay.

21 A. And come up what is Clearwater Avenue and
22 make a left turn on Columbia Center Boulevard, and
23 that's another left turn today that we have difficulty
24 serving adequately from our perspective, which is a
25 little different than what you're used to. But

0205

1 certainly you would sit through several cycles at busy
2 times there trying to make that left turn. We try and
3 find other connections for the future, try and mitigate
4 those issues, try and distribute the traffic evenly
5 across multiple facilities.

6 Q. Right. The other thing I was interested in
7 was you were talking about, and I believe that was also
8 with Mr. Thompson about promoting some economic
9 activity, and you talked a little bit about some of the
10 vacant area of property that is available for potential
11 commercial activity that hasn't seen a lot of activity I
12 guess in terms of development. Looking at the
13 photographs, are you familiar with the photographs that
14 were put into this proceeding?

15 A. Not necessarily.

16 Q. All right, well, then just generally, the
17 Holiday Inn Express, not having been there, just looking
18 at the photographs, looks like a pretty new facility to
19 me, do you know how long that has been there?

20 A. I don't, but I would say you're correct, it's
21 pretty new.

22 Q. Relatively new?

23 A. Yes.

24 Q. Then there's a Home Depot also on Tapteal
25 Drive, do you have any idea how old that is?

0206

1 A. That's been there some period longer, I would
2 guess ten years.

3 Q. Ten years?

4 A. Plus or minus.

5 Q. Okay. Plus or minus what?

6 A. Three or four years.

7 Q. Okay.

8 A. In other words, it's older than five years
9 I'm pretty certain.

10 Q. Older than five years, all right.

11 A. I have only been there two years, two and a
12 half years. Some of these things are in the city of
13 Richland, so I'm not as familiar with them.

14 JUDGE CLARK: I understand.

15 I think that's all the questions I have, just
16 let me look.

17 It is, thank you.

18 Redirect?

19 MR. ZIOBRO: None from the City, Your Honor.

20 JUDGE CLARK: All right, thank you for your
21 testimony, Mr. Deskins.

22 We'll take a lunch recess at this juncture
23 and we'll reconvene at 1:30.

24 (Luncheon recess taken at 12:10 p.m.)

25

0207

1 A F T E R N O O N S E S S I O N

2 (1:30 p.m.)

3

4 JUDGE CLARK: All right, Mr. Ziobro, would
5 you call your next witness, please.

6 MR. ZIOBRO: The City calls Daniel Kaufman.

7 JUDGE CLARK: Thank you.

8 (Witness DANIEL L. KAUFMAN was sworn.)

9 JUDGE CLARK: Thank you, please be seated.
10 Mr. Ziobro.

11

12 Whereupon,

13 DANIEL L. KAUFMAN,

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

16

17 D I R E C T E X A M I N A T I O N

18 BY MR. ZIOBRO:

19 Q. Can you state your name for the record.

20 A. Daniel L Kaufman.

21 Q. And your position with the City?

22 A. I'm the City Engineer for Kennewick.

23 Q. Okay. And you have previously filed
24 testimony in this matter?

25 A. Yes, I have.

0208

1 Q. And have you had a chance to review that
2 testimony?

3 A. Yes.

4 Q. And are there any changes or any
5 discrepancies in your testimony from the time you
6 originally filed it?

7 A. No.

8 MR. ZIOBRO: Thank you.

9 I offer Mr. Kaufman for cross-examination.

10 JUDGE CLARK: Thank you.

11 Ms. Larson.

12

13 C R O S S - E X A M I N A T I O N

14 BY MS. LARSON:

15 Q. Good afternoon, Mr. Kaufman.

16 A. Good afternoon.

17 Q. I'm going to be asking you about your
18 testimony on page 4, question 9.

19 A. Okay.

20 Q. In which you discussed design simulations
21 that have been run to verify that a commercial low-boy
22 truck and trailer could safely traverse the crossing.

23 A. Yes.

24 Q. Can you explain to me how you do that
25 simulation?

0209

1 A. We have a computer program or a series of
2 computer programs that duplicate various trucks and
3 trailers at different highway conditions, and so it was
4 a computer simulation.

5 Q. Are you familiar with the WSDOT and AASHTO
6 standards that talk about measuring 30 feet out from the
7 nearest rail on a plane even with the plane of the rails
8 and then measuring down to the plane of the roadway 30
9 feet out?

10 A. Right, typically those standards would apply
11 to speeds over 45 miles per hour.

12 Q. So it's your opinion that that's a speed
13 based calculation?

14 A. It's not a calculation, it's a recommended
15 design criteria for higher speed highways.

16 Q. Did you happen to run that calculation for
17 this particular roadway?

18 A. With the 30 foot extension on each side?

19 Q. Yes.

20 A. No, I didn't.

21 Q. Isn't that formula supposed to measure
22 whether a low-boy truck would get hung up on a hump that
23 was between the front and rear wheels?

24 A. The 30 foot extension each side?

25 Q. Yes.

0210

1 A. No, that's more of a travel criteria rather
2 than the truck criteria.

3 MS. LARSON: May I use the dry erase board?

4 JUDGE CLARK: You may. I will caution you
5 that one of the problems you have with the dry erase
6 board is that you're not close to a microphone, so to
7 the extent possible, you need to make whatever notations
8 you need to on the board and then go to the microphone
9 that Mr. Ziobro is sharing with you at the end of the
10 table.

11 MS. LARSON: Okay.

12 BY MS. LARSON:

13 Q. I'm going to draw for you an illustration of
14 what I understood the test to be.

15 A. Okay.

16 Q. I have done a top of roadway alignment in
17 blue and those dots I have marked where top of rail is
18 for two parallel tracks. And then I have extended the
19 plane of the tracks out 30 feet and then dropped a line
20 down to the surface of the roadway.

21 A. Okay.

22 Q. And it was my understanding this was to
23 measure whether a truck going across that hump would hit
24 it with those small wheels that hang off the bottom of
25 the trailer.

0211

1 A. Okay.

2 Q. So is this incorrect?

3 A. Actually, you're trying to duplicate the
4 report here, and I guess the only difference there is
5 that the elevation difference between those two tracks
6 is .6 feet, which is about 7 inches, so that 30 foot
7 extension you have is actually an extension that's going
8 up about this high, so.

9 JUDGE CLARK: And this high doesn't record
10 real well, so if you can indicate the distance that you
11 were showing so that the court reporter can put that
12 down.

13 A. So your 30 foot extension there at 1%, your
14 drop they show on the other end is maybe on the order of
15 9 inches, so your drawing would be correct as long as
16 you understand that proportion.

17 Q. Right, I understand that I have exaggerated
18 the --

19 A. Yeah.

20 Q. Right. But in theory, what was the distance
21 supposed to be at 30 feet?

22 A. The elevation difference?

23 Q. The elevation difference.

24 A. Your HTN report shows that the elevation
25 difference between the two tracks is 6/10 with 1% super

0212

1 on that track, so at 30 feet that would be 3/10, so it
2 would be a total elevation difference of 9/10 of a foot.

3 Q. 9/10 of a foot?

4 A. 9/10 of one foot, which would be roughly
5 around 11 inches.

6 Q. And what is the WSDOT standard?

7 A. For that drop?

8 Q. Yes.

9 A. Boy, I don't know that one.

10 Q. Okay.

11 A. That's --

12 Q. Do you know what the AASHTO standard is for
13 that drop?

14 A. No.

15 Q. When you did the analysis, were you assuming
16 that the rails were on an even plane, a flat plane
17 versus superelevated?

18 A. No, we used -- if you want to reference page
19 28 of your HNTB report, we verified those elevations
20 ourselves in the field and then used that datum so that
21 we would be sure that both you and I were looking at the
22 same information. And we did concur with that
23 elevations and grades, and then we used those elevations
24 and grades in our computer simulation.

25 MS. LARSON: Okay, thank you, I have no

0213

1 further questions.

2 JUDGE CLARK: Mr. Johnson.

3 MR. JOHNSON: No questions.

4 JUDGE CLARK: Mr. MacDougall.

5 MR. MACDOUGALL: No questions, Your Honor.

6 JUDGE CLARK: Mr. Thompson.

7 MR. THOMPSON: No questions from me either.

8 JUDGE CLARK: Thank you for your testimony,
9 Mr. Kaufman.

10 I'm sorry, did you have redirect?

11 MR. ZIOBRO: Maybe a question or two.

12 JUDGE CLARK: But with the microphone maybe.

13 MR. ZIOBRO: Button up, Your Honor?

14 JUDGE CLARK: Yes, up is on.

15 MR. ZIOBRO: Thank you.

16

17 R E D I R E C T E X A M I N A T I O N

18 BY MR. ZIOBRO:

19 Q. Mr. Kaufman, you testified you didn't know
20 the standard for the drop on the white board drawn by
21 Ms. Larson?

22 A. We did a computer simulation using the
23 low-boy, but off the top of my head I can't remember
24 what the clearance on that low-boy trailer was.

25 Q. And that gets to my question.

0214

1 A. But it --

2 Q. Do you believe the computer program builds in
3 the WSDOT and AASHTO standards when it's doing its
4 computations?

5 A. Yes, it does.

6 Q. So the fact that you don't know it sitting
7 here today doesn't affect your substantive analysis when
8 you're using the computer program?

9 A. Right, our finding was that the elevation
10 difference there did not impact the crossing of the
11 low-boy trailer, which was our worst case trailer.

12 Q. Are you able to draw that in a way that would
13 be consistent with the findings from the City's computer
14 analysis of this situation?

15 A. Actually, that's actually drawn correctly as
16 long as you understand that the vertical scale is
17 exaggerated extensively.

18 Q. Now I'm just going to go over to the drawing
19 real quick. Looking at the photo, the second track
20 mark, it would appear that the truck would bottom out
21 there.

22 A. That track actually has a 1% grade, which
23 raises it 5/100 or roughly about 3/4 of an inch from
24 track to track. So again, you have to understand that
25 that's exaggerated scale there.

0215

1 Q. Do you think you could draw in blue what you
2 believe a more accurate reflection of that drop with the
3 distance between tires would be?

4 A. I can try.

5 Q. And why don't you do that in a blue marker so
6 that we can contrast that to the base of the low-boy and
7 the wheels as depicted by Ms. Larson. And if you're
8 going to speak to describe anything, make sure you get
9 as close to the microphone as you can.

10 A. There's two contentions.

11 Q. Oh, excuse me, she has a green pen, why don't
12 we do it in green.

13 A. There's two contentions with the grade and
14 the crossing. One is that this is a 1% reversed super
15 and one that this is a 9% grade. Again exaggerated
16 because of the scales, 1% across the two tracks is a
17 total rise of 5/100 which is roughly 3/4 of an inch, so
18 it would be like coming up to a track with the rails 5
19 feet apart and raising 3/4 of an inch, which probably
20 almost most tracks would have that. The 9% grade has a
21 total drop of 6/10 of a foot, which roughly 7 inches
22 over approximately 10 feet. So again, going probably,
23 you know, 2/3 the length of this table going from the
24 edge of the table up 7 inches clear to the other end, so
25 real minor changes. So if I try to put that 5 foot

0216

1 track in some scale at the 1%, it's like this, the 9%
2 grade is like that, and the other track is flat like
3 that, so it would be more on that.

4 The other thing that -- this being a total of
5 about 6, 7 inches difference, we've said that we're
6 willing to live with that. If the Railroad UP isn't
7 willing to work with us to adjust those tracks up and
8 down 3 inches, we have to leave it like that, we've done
9 enough tests that we're satisfied that that is an
10 acceptable crossing. We'll have to sign it like John
11 testified, but we want the crossing bad enough that if
12 that's a condition of the crossing, we're willing to
13 accept that.

14 Q. Okay. You can go back to your seat, and you
15 really led me into my next question, and it may involve
16 you going back to the drawing, but one way to mitigate
17 this impact is to raise the track slightly and lower the
18 other track slightly, correct?

19 A. We're willing to live with it. We don't want
20 to condition the crossing on UP agreeing to changes in
21 the elevation of their tracks. But if one track is
22 lowered 3/10 and one track is raised 3/10, I have a flat
23 grade across those tracks, the 9% grade is gone, and the
24 crossing of that track, the worst grade in the crossing
25 of all four tracks is 1.8%. To put that into

0217

1 perspective, a crown of a typical street is 2% to 3% up,
2 2% to 3% down, most people cross an intersection across
3 that crown and don't give it a second thought. This
4 would be below any of those standards.

5 Q. If you were to have to raise and lower the
6 track as you describe, for what distance would you have
7 to do that?

8 A. 3/10 at 1/2%, which is typical railroad
9 criteria would be I would take that adjustment out in
10 about 60 feet each side of the crossing, outside limits
11 of the crossing, so say easily within 100 feet.

12 MR. ZIOBRO: Okay, thank you, I have no
13 further questions.

14 JUDGE CLARK: Thank you for your testimony,
15 Mr. Kaufman.

16 THE WITNESS: Thank you.

17 JUDGE CLARK: Mr. Ziobro.

18 MR. ZIOBRO: Your Honor, as you may recall,
19 John Darrington is having oral surgery, and he was
20 authorized to either have a replacement or to testify
21 live on Friday, he will be here Friday morning, as will
22 Wayne Short for the City.

23 JUDGE CLARK: All right.

24 MR. ZIOBRO: That concludes the City's case
25 for today.

0218

1 JUDGE CLARK: Until Friday.

2 MR. ZIOBRO: Until Friday.

3 JUDGE CLARK: Got it. And looking at the
4 back of the hearing room, I think the stipulation may
5 now be available to the parties, so why don't we take a
6 few moments off record to give you the opportunity to
7 distribute. We're off the record.

8 (Discussion off the record.)

9 JUDGE CLARK: The record should reflect that
10 during the recess Mr. Ziobro delivered the stipulation
11 entered into between the cities of Kennewick and
12 Richland and the Port of Benton to all parties. It is a
13 somewhat lengthy exhibit, a somewhat lengthy document
14 that contains both the stipulation and an attached
15 exhibit. And there's separate paginations, so I'm not
16 sure how many pages it actually is, but I want the
17 parties to know that to the extent review of this
18 document will have an impact on the examination you
19 would have of any witnesses, you will be given an
20 adequate opportunity to review before you're required to
21 conduct that examination.

22 It's my intention to turn next to Union
23 Pacific, I understand that Mr. Leathers needs to testify
24 tomorrow as well.

25 MS. LARSON: That's right.

0219

1 JUDGE CLARK: Is Mr. Hammond available for
2 examination today?

3 MS. LARSON: Mr. Hammond is available, but I
4 prefer to call John Trumbull first.

5 JUDGE CLARK: All right, please call
6 whomever.

7 (Witness JOHN W. TRUMBULL was sworn.)

8 JUDGE CLARK: Ms. Larson.

9 MS. LARSON: Thank you, Your Honor.

10

11 Whereupon,

12 JOHN W. TRUMBULL,
13 having been first duly sworn, was called as a witness
14 herein and was examined and testified as follows:

15

16 D I R E C T E X A M I N A T I O N

17 BY MS. LARSON:

18 Q. Good afternoon, Mr. Trumbull.

19 A. Good afternoon.

20 Q. Could you please state your name and address
21 for the record.

22 A. My name is John Trumbull, my address is 5424
23 Southeast McLaughlin Boulevard, Portland, Oregon 97202.

24 Q. And what is your position with Union Pacific
25 Railroad?

0220

1 A. Manager of Industry and Public Projects.

2 Q. Were you asked by me to analyze from a safety
3 and noise standpoint the proposal by the City of
4 Kennewick to extend Center Parkway across Union Pacific
5 tracks and Port tracks?

6 A. Yes.

7 Q. And have you prepared testimony in this case
8 and exhibits which have been marked Exhibit 32 and
9 attached Exhibits 33 and 34?

10 A. Yes.

11 Q. Do you have any changes or corrections to
12 those exhibits?

13 A. No, I don't.

14 Q. If I were to ask you the same questions today
15 as we did when that testimony was originally prepared,
16 would your answers be the same?

17 A. Yes.

18 MS. LARSON: Your Honor, I would like to
19 offer Mr. Trumbull's exhibits into evidence, and he is
20 ready for cross-examination.

21 JUDGE CLARK: Those exhibits are received
22 under stipulation, and you have tendered the witness for
23 examination, what I'm going to do is call on the other
24 parties to the proceeding first, City of Kennewick last.
25 I understand that the interests of other parties may be

0221

1 aligned with those of Union Pacific Railroad, and I will
2 remind everyone that friendly cross-examination is not
3 permitted in these proceedings.

4 Do you have any examination Mr. Johnson?

5 MR. ZIOBRO: Your Honor, may I interrupt?

6 JUDGE CLARK: You may.

7 MR. ZIOBRO: I'm just not familiar with the
8 term friendly cross-examination.

9 JUDGE CLARK: You're not familiar with the
10 term friendly cross-examination, well, then we probably
11 wouldn't have drawn an objection.

12 MR. ZIOBRO: Is that a way of saying
13 assisting him in his case in chief?

14 JUDGE CLARK: Exactly.

15 MR. ZIOBRO: Okay.

16 JUDGE CLARK: That would be akin to
17 supplemental direct testimony elicited through
18 examination.

19 MR. ZIOBRO: And that's what I wanted to make
20 sure I understood, I apologize.

21 JUDGE CLARK: Okay, Mr. Johnson has no
22 examination.

23 Mr. MacDougall.

24 MR. MACDOUGALL: No, Your Honor, no
25 questions.

0222

1 JUDGE CLARK: Mr. Thompson.

2 MR. THOMPSON: Yeah, I think I just do have
3 two or three questions.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. THOMPSON:

7 Q. Mr. Trumbull, on page 3 of your testimony,
8 you're talking there about the impact about page, well,
9 line 10 says:

10 Second, laying a new grade crossing
11 across tracks where switching operations
12 are taking place greatly interfere with
13 the Railroad's operations.

14 And then you point out that under Union
15 Pacific rules, cars can't be set out within 250 feet of
16 a crossing and that the effect of that is to shorten the
17 usable portion of track by 500 feet. What's your
18 understanding if in the event that the City acquires an
19 easement across these tracks, will it be required in
20 your view to compensate the Railroad for that loss of
21 capacity?

22 A. We would need the additional capacity
23 somewhere, so I would say yes.

24 Q. In other words, they might be required to --
25 the City might be required to pay as part of its

0223

1 compensation an amount to extend the siding in some way
2 to increase the capacity?

3 A. Yes.

4 Q. Okay. Again just at the bottom of page 3 and
5 carrying over onto page 4, you say:

6 Tragically motorists making assumptions
7 have at times attempted to drive around
8 gates, explaining one reason for
9 accidents at grade crossings.

10 Do you believe that to be a risk where you
11 would have a situation where there are median barriers
12 and four quadrant gates?

13 A. If there's four quadrant gates, probably not.
14 If there was just two gates, one on each side, and even
15 if you had a median, there still would be a possibility
16 they could drive around whether they jump the curb or,
17 you know, the median or, you know, just take off in the
18 other lane around to beat the train.

19 Q. But in the kind of situation where you have
20 supplemental safety devices that satisfy the Federal
21 Railroad Administration's quiet zone rules, would there
22 be an opportunity for people to drive around the gates
23 in that circumstance?

24 A. Yeah, you know, the FRA is a little unclear
25 whether a four quad gate would be installed or not. If

0224

1 a four quad gate was installed, I would say it would be
2 hard for them to drive around a gate. They would have
3 to drive through a gate then.

4 Q. At page 4 again, you discuss how the lowering
5 Union Pacific's tracks to fit the City's proposed road
6 profile would be costly. Do you understand that now to
7 be what they're proposing to do, or is that more from I
8 guess Union Pacific's testimony in the case?

9 A. I don't think that's what was set before the
10 hearing today was to lower the tracks. The City did
11 bring it up that they would try to work with the
12 Railroad to do that, to help smooth out the crossing.
13 I'm not sure how much or how, you know, how we could
14 lower the tracks, how much we can lower them. There's a
15 bridge on one end which would stop us from, you know,
16 going any further towards Kennewick to try to, you know,
17 to get down, so it just -- I'm not sure how much we can
18 lower it, but there could be that possibility.

19 Q. Okay. But you understand that they're --
20 that's not part of their proposal, you know, for
21 purposes of determining what we're talking about in the
22 hearing today I guess?

23 A. Correct.

24 MR. THOMPSON: Okay, that's all I have, thank
25 you.

0225

1 JUDGE CLARK: Mr. Ziobro.

2 MR. ZIOBRO: Thank you, Your Honor.

3

4 C R O S S - E X A M I N A T I O N

5 BY MR. ZIOBRO:

6 Q. Mr. Trumbull, can you tell me your
7 educational background?

8 A. I have two years college and a high school
9 diploma.

10 Q. Okay. Is any of that college in urban
11 design?

12 A. Civil engineering.

13 Q. Is it in the form of a degree?

14 A. No.

15 Q. Okay. How about city planning?

16 A. No.

17 Q. How about economic development?

18 A. No.

19 Q. Okay. In your testimony on page 2, I want to
20 direct you to line 15 where you offer the opinion that
21 the City has failed to demonstrate it is absolutely
22 required by public convenience and necessity, that a
23 grade separation at this location is impractical. I
24 want to focus for a second on the term absolutely
25 required by public convenience and necessity, is that a

0226

1 statutory standard that you're familiar with?

2 A. I'm not sure, it's generally required from
3 other states that I deal with, that you would have to
4 prove why a grade separation could not be built there.

5 Q. But you're using a fairly technical term
6 there, is there a basis for that term?

7 A. I'm not sure if I could come up and say there
8 is a basis, whether there is or not, no.

9 Q. Okay. And is it your testimony that UP is in
10 the best position to make that determination?

11 A. No.

12 Q. Do you think a certain amount of deference is
13 required to a city that has interest in its urban
14 design, city planning, and economic development?

15 A. Yes.

16 Q. Okay. Starting on page 2, you list a series
17 of reasons why UP opposes the crossing, I think the top
18 of page 3 actually is the first actual reason. Are you
19 caught up with me?

20 A. Right.

21 Q. And the first reason relates to concerns
22 about the physical point of contact between trains and
23 other modes of travel.

24 A. Correct.

25 Q. Do you see that?

0227

1 A. Mm-hm.

2 Q. Okay. If switching operations are moved east
3 or west, would that mitigate that particular concern
4 about train-vehicle conflict?

5 A. I'm not sure how far you're talking about
6 east or west.

7 Q. Let's say we're actually able to remove one
8 or more of the sidings, would that mitigate potential
9 for train-vehicle conflict that you described?

10 A. No.

11 Q. It would not?

12 A. There would still be that conflict, is that
13 what you mean?

14 Q. Correct, but would it be mitigated?

15 A. No.

16 Q. Could you elaborate on why it wouldn't?

17 A. Well, you would still have the switching
18 operations there near the road, and there would still be
19 trains crossing back and forth across the road backing
20 across and forward and reverse moves.

21 Q. Okay, let's change the facts a little bit.
22 If all of the siding is moved east of the track, would
23 that mitigate the conflict between trains and vehicles?

24 A. It just depends on how far it was moved east
25 of the crossing.

0228

1 Q. If it was moved far enough, would it
2 mitigate?

3 A. It possibly would, yes.

4 Q. Your second concern is the interference with
5 Railroad operations. I think Mr. Thompson touched on
6 one of the issues here, do you have right of way to
7 extend your siding operations if you lose trackage
8 because Center Parkway goes through?

9 A. I'm not sure how far that -- how much right
10 of way we own out there. It's quite a ways though.

11 Q. So you have some additional --

12 A. Some, there is some.

13 Q. You could lay additional track and recover
14 some or all of the lost track from the Center Parkway
15 extension?

16 A. That's possible.

17 Q. Okay. And again, that would mitigate the
18 interference with your operations?

19 A. I really don't feel so, because you still
20 have to cross the roadway.

21 Q. But it would be better than simply just
22 losing the track and not extending, correct?

23 A. Correct.

24 Q. Okay. Your third point is that crossing will
25 be blocked while the road crews perform federally

0229

1 required air brake tests.

2 A. Correct.

3 Q. And when you perform air brake tests, is it
4 your testimony that the Railroad would be unable to move
5 the cars off of the roadway say a couple hundred feet,
6 perform the air brake inspection, and then leave to
7 wherever its ultimate destination is?

8 A. You can not, you have to -- you can't go 200
9 or 300 feet, you have to do your air test before you
10 move the train.

11 Q. So if the train is on the track as part of
12 switching, you can't move it off and do your air brake
13 inspection?

14 A. Correct.

15 Q. Under any circumstance?

16 A. Correct.

17 Q. Okay. How many times are air brakes
18 inspected during a switching maneuver?

19 A. I'm not sure if I'm a good one to answer that
20 question. I think Lloyd Leathers would be a better
21 person to answer that.

22 Q. Okay. Do you know if that's required at each
23 step of the switching process?

24 A. I don't know.

25 Q. Okay. If this road goes through and you

0230

1 continue to switch at this location, would UP be a good
2 partner with the City in attempting to reduce the amount
3 of time that Center Parkway would be closed?

4 A. You mean blocked?

5 Q. Yeah.

6 A. You know, we'll try our darndest, but the
7 problem is when you switch it that way, you are, you
8 know, you're going to -- it's going to be blocked a
9 certain amount of time no matter what.

10 Q. Understandable, but you also recognize if
11 there were a way for you to reduce the amount of time
12 the street was blocked, you wouldn't be as a rebellious
13 act for having this street punched through when you
14 don't want it sit there longer than you need to?

15 A. Oh, no, we're running a business, we need to
16 get our cars moved.

17 Q. Okay. And relations with the City is one of
18 the many interests that the Railroad has?

19 A. Sure.

20 Q. You talked about on your fourth point that
21 motorists might mistakenly assume stationary rail cars
22 are spotted near the crossing and might try to drive
23 around them?

24 A. Correct.

25 Q. Do you have any statistical data to support

0231

1 that?

2 A. I don't know as I have anything that I can
3 hand you. I just know that more than 50% of accidents
4 happen at signalized road crossings, and that's because
5 people don't want to wait for trains, or maybe they
6 don't have a situation like this where they think
7 there's just, well, this train is causing a switching
8 movement over here, there's not going to be anybody
9 going over the crossing, so I will just go around the
10 gates.

11 Q. So it's a very good general statement, but it
12 has no real specific findings or analysis that in this
13 project is going to present those types of problems?

14 A. Well, I think -- I'm not sure as I agree with
15 you, because there is statistics that do show the
16 accident rates at public crossings that have signal
17 lights.

18 Q. Right. And you have been here for the
19 testimony this morning?

20 A. Correct.

21 Q. And there will be a roundabout, so that will
22 help with some of the cuing problems?

23 A. That really doesn't have anything to do with
24 people going around the gates.

25 Q. How about a turnout into the mall parking lot

0232

1 on the -- if you were in the -- heading north and you
2 turned east into the mall as a turnout to go into the
3 parking lot?

4 A. What you're talking about is somebody coming
5 up to the crossing instead of going across, if they see
6 its going to be blocked to go just a different
7 direction?

8 Q. Correct.

9 A. Yeah, that's -- I understand what you're
10 saying, yes.

11 Q. So there are those possibilities?

12 A. I can't speak for the driver, but if, you
13 know, if the driver realizes that.

14 Q. They probably realize in terms of their
15 personal safety it's easier to turn in a parking lot
16 than go around a rail crossing and take their chances
17 going over the track?

18 A. Yeah, you would -- if they had any sense at
19 all, yes.

20 Q. Fair enough. We all do this long enough, we
21 know there's some that don't, but by and large you would
22 agree with that statement?

23 A. Right.

24 Q. Your last concern is about horn noise. Do
25 you have any basis to believe that a silent crossing

0233

1 would not be granted at this location?

2 A. No.

3 Q. So it's a possibility?

4 A. Yes.

5 Q. And that would mitigate the horn noise
6 concern?

7 A. Possibly, depends on what mitigation they
8 used.

9 Q. Okay. Could you give examples of what type
10 of mitigation is available?

11 A. You brought up the wayside horn earlier, I
12 don't feel that that's a quiet crossing or a silent
13 crossing.

14 Q. Is it better than train horn noise?

15 A. It depends on where you're at.

16 Q. So it could be an enhancement?

17 A. If you're like a quarter of a mile each side
18 of the crossing, it's going to be quieter. But if
19 you're right at the crossing, that horn blasts a certain
20 decibel noise down the middle of the street each
21 direction, and so those people are going to get the full
22 benefit of the horn noise.

23 Q. Right, and would you agree with me -- well,
24 let me strike that.

25 Are you familiar with complaints from

0234

1 neighbors of this particular location?

2 A. Currently?

3 Q. Correct.

4 A. No, not really.

5 Q. You're not familiar with the home owners

6 being frustrated over rail car noise?

7 A. Oh, I have heard, yes, I have heard some of

8 that, yes, correct, excuse me.

9 Q. And have you heard that the Holiday Inn owner
10 is a little grumpy about noise as well?

11 A. No, I haven't really heard that.

12 Q. So if we were able to mitigate at least one
13 complaining party that you're aware of, being the home
14 owners, that would be an enhancement to them?

15 A. To them, yes.

16 Q. Okay. But the rest of the facilities around
17 there are all commercial, are they not?

18 A. Seems like there is.

19 Q. So again --

20 A. Yes.

21 Q. -- horn noise would have a different impact
22 on residential than it would on commercial activities,
23 don't you agree?

24 A. Seems that way, yes.

25 Q. Okay. And you haven't had a complaint from

0235

1 any commercial establishments, have you?

2 A. Not that I know of.

3 Q. Okay. Again, you have commented that if
4 you're forced to alter your switching operations, it may
5 result in more complaints about refrigerated cars?

6 A. Yes, it could.

7 Q. And I think your testimony was that it's
8 already a problem there?

9 A. It seems to be, yes.

10 Q. Okay. And that hasn't compelled UP to move
11 its operations?

12 A. No.

13 Q. I mean you certainly have entitlement to
14 conduct these operations at this location?

15 A. Correct.

16 Q. And so if you had to extend some of the
17 siding deeper into a neighborhood, it's well within UP's
18 authority to do that, correct?

19 A. Correct.

20 Q. It may not be the best public relations, but
21 well within your authority, correct?

22 A. I believe so.

23 Q. Okay. Are you familiar with a company called
24 Railex?

25 A. Yes, I am.

0236

1 Q. And can you describe for the Commission what
2 the function of Railex is?

3 A. It's a facility, it's a rail loop facility
4 that has a rather large building that will load fresh
5 fruit from the state of Washington basically down by
6 Wallula and ship it all the way to New York. And I
7 think it's like a two day period that they are able to
8 run this 40, 45 car train.

9 Q. Does UP utilize its refrigerated rail
10 operation at the Railex site?

11 A. No, it's just their cars, it's the Railex
12 cars.

13 Q. Has UP contributed any money towards Railex?

14 A. I believe so, I couldn't tell you how much.

15 Q. From an operational point of view with Railex
16 sending these cars at a rapid turn around time to the
17 East Coast, from UP operation point of view is it more
18 advantageous to use that for switching refrigerated cars
19 or for using the Richland Y area?

20 A. The problem is Railex, that's a privately
21 owned track, so it's only for their use, it's not for
22 Union Pacific use.

23 Q. If you were granted access or use of it,
24 would that change the way you might transport and store
25 refrigerated cars?

0237

1 A. From say Richland Junction you mean?

2 Q. Correct.

3 A. I don't know if you can or not.

4 Q. Okay.

5 A. I don't know.

6 Q. Would Mr. Leathers be able to discuss the
7 logistics of that?

8 A. I'm not even sure if he could, I'm not sure.

9 MR. ZIOBRO: Okay, thank you, I have no
10 further questions.

11 THE WITNESS: Okay.

12

13 E X A M I N A T I O N

14 BY JUDGE CLARK:

15 Q. I just have a clarification for you,
16 Mr. Trumbull. I'm looking at Exhibit 33, which is the
17 map that is attached to your testimony where you're
18 talking about the noise from the refrigerator cars, and
19 you talk about the housing development there that is
20 currently the genesis of that concern. Can you explain
21 for me on the map what would happen under the existing
22 configuration if UP were to move its switching
23 operations in compliance with UP standards 250 feet on
24 either side of the crossing where those switching
25 operations would end up in perspective to this housing

0238

1 development?

2 A. Is this the map you're looking at here?

3 Q. That's the map I'm looking at there.

4 A. It would just move it further into the
5 housing district area.

6 Q. Right, and this isn't to scale, so I'm having
7 a little bit of difficulty figuring out where 250 feet
8 might be, if you could help me with that, it would
9 clarify slightly.

10 A. Well, I'm guessing that a block is about 300
11 feet.

12 Q. Okay.

13 A. So it would probably be -- just assuming this
14 would be about a block.

15 Q. Right.

16 A. So it would be this way. Does that make
17 sense?

18 Q. Right, I understand it would be that way, and
19 do you have any idea where it might be on that? There's
20 one street that's running through this housing
21 development.

22 A. Right.

23 Q. It veers off to what looks like a cul-de-sac
24 on the left, and then it continues on. If you could
25 give me some perspective about where it might be in

0239

1 relation to that street, the cross street or the
2 cul-de-sac, that would be helpful.

3 A. It would probably be the closest to this
4 cross street here.

5 Q. All right, thank you very much, and you have
6 indicated the first cross street on the map?

7 A. Correct.

8 JUDGE CLARK: Thank you.

9 Redirect, Ms. Larson?

10 MS. LARSON: No.

11 JUDGE CLARK: Thank you for your testimony,
12 Mr. Trumbull.

13 Would you call your next witness, please.

14 MS. LARSON: Randy Hammond.

15 JUDGE CLARK: Thank you.

16 (Witness RANDY HAMMOND was sworn.)

17 JUDGE CLARK: Please be seated.

18 Ms. Larson.

19 MS. LARSON: Thank you.

20

21 Whereupon,

22 RANDY HAMMOND,

23 having been first duly sworn, was called as a witness

24 herein and was examined and testified as follows:

25

0240

1 D I R E C T E X A M I N A T I O N

2 BY MS. LARSON:

3 Q. Good afternoon, Mr. Hammond.

4 A. Hi.

5 Q. Could you please state your full name and
6 title and business address for the record.

7 A. Randy Hammond, I'm a transportation engineer
8 and project manager with HNTB Corporation, 600 - 108th
9 Avenue Northeast in Bellevue, Washington 98004.

10 Q. And could you briefly tell us your
11 educational background.

12 A. I have a Bachelor's Degree in engineering and
13 a Master's Degree in transportation engineering, about
14 30 years of experience in the transportation engineering
15 field.

16 Q. Thank you. Are you familiar with the request
17 that I made of HNTB to review the City's crossing
18 project from a traffic engineering and safety
19 standpoint?

20 A. Yes, we had prepared a report about a year
21 ago summarizing the issues that were involved.

22 Q. Were you involved in the preparation of that
23 report?

24 A. I was, yes.

25 Q. Have you reviewed the exhibits in this case,

0241

1 the testimony of Mr. Wright and the report that was
2 attached to his testimony?

3 A. Yes, Mr. Wright was my supervisor, immediate
4 supervisor at the time, and so we prepared this report
5 under his supervision.

6 Q. Are these testimony and exhibits correct to
7 your knowledge?

8 A. Yes.

9 Q. If I asked you the questions today that I had
10 asked of Mr. Wright a year ago, would your answers be
11 the same?

12 A. My testimony would be the same, yes.

13 Q. Would you adopt this testimony as your own?

14 A. Yes.

15 MS. LARSON: Thank you, I would like to offer
16 Mr. Hammond for cross-examination.

17 JUDGE CLARK: Thank you.

18 Mr. Johnson, do you have any inquiry?

19 MR. JOHNSON: Yes, I do.

20

21 C R O S S - E X A M I N A T I O N

22 BY MR. JOHNSON:

23 Q. You have been here for the prior testimony
24 today, sir?

25 A. I have been.

0242

1 Q. One of the -- some of the questions that were
2 asked of I believe it was Mr. Deskins was regarding
3 travel time studies, and he had it sounded like had done
4 some but more kind of on his own. Did you have an
5 opportunity to do any travel time studies, was that a
6 part of your report?

7 A. We conducted travel time studies last October
8 on several weekdays including both middle of the day and
9 at the peak commute hours.

10 Q. What were the results of those studies?

11 A. We found that the proposed Center Parkway
12 extension would not offer much benefit for trips that
13 are traveling to and from State Highway 240 to these
14 areas of town. We did confirm that it would have some
15 benefit for trips to and from the business park that
16 were headed south, so we ran about four different travel
17 routes which we felt were more realistic than the
18 origin-destination pair that the City was representing.
19 In other words, we don't think many trips are going to
20 go from Mail By The Mall over to Circuit City, that
21 would be a minor component of the trips. We felt like
22 there would be more trips that were using this route for
23 other travel between other origins and destinations.
24 Q. And that was another topic that there was
25 testimony on was whether this would alleviate congestion

0243

1 on --

2 A. Right.

3 Q. -- these other thoroughfares or main
4 arterials, Columbia Center Boulevard and Steptoe; did
5 you analyze that at all?

6 A. Again, we used the traffic figures that were
7 presented in the SCM consultant report to the City.
8 They showed a level of diversion at the 2023 year of
9 analysis of about 700 vehicles per day on Steptoe
10 Street. So in other words 700 vehicles would be
11 diverted off of Steptoe daily onto the new Center
12 Parkway extension. And that report showed about 2,500
13 vehicles a day being diverted from Columbia Center
14 Boulevard onto the new extension. In the case of
15 Steptoe Street, the 700 vehicle daily diversion is I
16 would have to characterize as slight, it's probably
17 within the daily variation of traffic on Steptoe Street.
18 And the diversion on Columbia Center Boulevard is on the
19 order of 5% or 6% of Columbia Center Boulevard traffic
20 would be diverted, again a fairly modest diversion.

21 MR. JOHNSON: That's all the questions I
22 have.

23 JUDGE CLARK: Mr. MacDougall.

24 MR. MACDOUGALL: I have no questions, Your
25 Honor, thank you.

0244

1 JUDGE CLARK: Mr. Thompson.

2 MR. THOMPSON: Yes, I do have a couple
3 questions.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. THOMPSON:

7 Q. Let's see, on Exhibit 38, the traffic impacts
8 at Richland Junction crossing document, if you could
9 turn to page 11, please. You're talking there, well,
10 the study's talking there about the hazards presented by
11 a grade crossing, and you state that one of the hazards
12 at crossing multiple tracks is that motorists would run
13 around the crossing gates. We talked about this a
14 little bit with prior witnesses, but isn't that
15 likelihood substantially reduced if not eliminated by
16 median barriers and four quadrant gates?

17 A. It would be reduced with that equipment.

18 Q. Okay. Does the accident prediction model
19 that was used in this study, does it have -- is there
20 some way you can input the existence of gates like that?

21 A. I'm not familiar with the methodology that
22 you could adapt this to reflect that type of equipment.

23 Q. Okay.

24 A. In other words, our results do not assume
25 that type of equipment.

0245

1 Q. Okay. So the data upon which the accident
2 prediction model is based might include a lot of --
3 might include crossings that have a lesser level of
4 protection?

5 A. They could, yes.

6 Q. Okay. And when it says in the table at the
7 bottom of page 11 that there is a, let's see, total
8 accidents per year for both crossings, it says 0.06,
9 does that mean basically it's predicting a likelihood of
10 an accident every about 16 2/3 years?

11 A. That's correct.

12 Q. Okay. Does it say, does the model say
13 anything about the severity, likelihood of the severity
14 of the accident?

15 A. It does not, no.

16 Q. Okay. In a scenario like exists at this
17 crossing presently with switching operations going on,
18 what's a typical speed of the train movements?

19 A. I think the train speeds are generally below
20 15 miles per hour.

21 Q. Okay. So is that likely to produce a very
22 severe accident or --

23 A. I would say in a train-vehicle collision, no.
24 But in a train-pedestrian collision, it could still be
25 severe, yes.

0246

1 MR. THOMPSON: Okay, thanks, I think that's
2 all the questions I have.

3 JUDGE CLARK: All right.

4 Mr. Ziobro.

5 MR. ZIOBRO: Thank you, Your Honor.

6

7 C R O S S - E X A M I N A T I O N

8 BY MR. ZIOBRO:

9 Q. Mr. Hammond, could I direct your attention to
10 page 2 of your report.

11 Are you there?

12 A. Yes.

13 Q. You indicate that in preparation of your
14 report that you reviewed documents provided by the City
15 of Kennewick, correct?

16 A. Correct.

17 Q. The last portion of that paragraph states
18 that in the City's proposal, the UP Main, UP Pass, and
19 Port tracks would be abandoned and removed, leaving only
20 the Port main track to serve the various switching
21 movements. Are you aware of any other documents that
22 may show alternatives?

23 A. I believe was it -- I believe now there's an
24 exhibit that shows crossing of all four of the tracks,
25 although there's still a gap shown at these three

0247

1 tracks. In other words, the drawing still makes it only
2 look like there's one active track, but I know the City
3 is now proposing that all four tracks would be crossed.

4 Q. So you would agree there's not one firmly
5 decided upon option at this location?

6 A. Yes.

7 Q. The next thing you state in that same
8 paragraph is reconstruction of the Port main tracks
9 would be required to adjust the elevation to conform to
10 the proposed roadway profile at the crossing. What
11 document did you use to base that conclusion upon?

12 A. We were looking at the roadway profile as it
13 was presented in the SCM report, and I believe that
14 profile shows these, at least the two UP tracks, being
15 three to four feet above that proposed profile.

16 Q. Do you know if that's the same as the actual
17 profile?

18 A. I don't, I don't know if a new profile has
19 been submitted. Again, we were looking at the SCM
20 report, which may be dated 2002, August of 2002, yes.

21 Q. So when you conducted your analysis and gave
22 the opinion that 3 to 4 feet of elevation would need to
23 change over a distance of 3,000 feet, was that opinion
24 based on the actual profile as it is today or the
25 profile in the document you reviewed that was the work

0248

1 product of SCM?

2 A. The SCM work is what we were referring to. I
3 think that was all we had at the time. If there is a
4 new profile, we haven't analyzed against that.

5 Q. Okay. And that led to the opinion that you
6 would have to do this major excavation to even out the
7 tracks?

8 A. That's correct.

9 Q. And you were here for the testimony of Dan
10 Kaufman from the City?

11 A. Right.

12 Q. And you saw this little exercise on the white
13 board about the current location of the track and that
14 if you reduced one elevation by 3 inches and increased
15 one by 3 inches --

16 A. And adjusted the profile of the roadway, I
17 think that's the key, that could be feasible,
18 absolutely.

19 Q. Would it be less costly than removing three
20 to four feet of --

21 A. Absolutely.

22 Q. Significantly less costly?

23 A. Yes.

24 Q. So when you kind of dovetail that into
25 whether an at-grade crossing is justifiable or not,

0249

1 you're driving down the cost of an at-grade crossing and
2 creating a bigger disparity between cost of an at-grade
3 crossing versus cost of a subgrade crossing?

4 A. That would be correct, yes.

5 Q. So would that change your opinion about the
6 cost benefit portion of putting in a grade crossing
7 versus a subgrade crossing?

8 A. It would, yes.

9 Q. So if money were an issue, that definitely is
10 a factor that would say, well, maybe an at-grade
11 crossing is now something we ought to look at?

12 A. Right.

13 Q. Okay. When you conducted your analysis,
14 again at-grade versus subgrade, did the speed of the
15 cars, the rail traffic, play any part of your analysis?

16 A. No, I don't think it was considered in the
17 rail accident prediction model, no, it did not play a
18 part.

19 Q. And that kind of gets at Mr. Thompson's
20 point, trains at 45 miles an hour do a lot more damage
21 than trains at under 10?

22 A. Right.

23 Q. Again, a factor worth considering if you're a
24 city trying to decide whether to go subgrade or
25 at-grade?

0250

1 A. Right. The lower speeds obviously would
2 produce less severe impacts in train-vehicle collisions.
3 I don't think it would drive that accident rate to zero,
4 which grade separation would do, but it certainly would
5 reduce the severity of the accidents.

6 Q. Certainly hard to criticize the City if it
7 utilized that as one of its decision points on whether
8 it should go at-grade or subgrade at this location?

9 A. Yeah, to me there's an issue of technical
10 feasibility and one of economic feasibility.

11 Q. Correct.

12 A. It's technically feasible to provide a grade
13 separation, it may not be economically desirable given
14 the light level of traffic upon the roadway and the low
15 train speeds, true.

16 Q. How about to date the testimony is at least
17 with regard to UP that they don't do any switching on
18 weekends, would that be another factor that the City
19 would justifiably rely upon in deciding whether they
20 should go above grade or at-grade or subgrade on a
21 crossing?

22 A. It could be, but the SCM report didn't
23 present any evidence about weekend traffic or holiday
24 traffic, so we had no way to assess that.

25 Q. Well, UP's witness, John Trumbull, has filed

0251

1 testimony, and if you chart it out, there's five days
2 on, two days off, every month.

3 A. Right.

4 Q. Which is a reasonable assumption to make that
5 they're not switching cars on weekends?

6 A. Yes.

7 Q. Again, would that be an important factor when
8 you're talking about whether you should go at-grade or
9 subgrade?

10 A. Again, we looked at this crossing as if the
11 tracks would remain in their existing locations. Any
12 time you have an at-grade railroad crossing, you're
13 going to have incidents and accidents. Depending on the
14 severity of those incidents and accidents, grade
15 separation could still be a better choice here. You
16 know, railroad policies are to eliminate these at-grade
17 crossings. Generally whenever a new at-grade crossing
18 is proposed, the railroad wants to see evidence that an
19 equal number would be removed. That's maybe a policy
20 standpoint for this, but I think even the UTC has a
21 similar policy of trying to eliminate at-grade railroad
22 crossings.

23 Q. But you understand my question, you can't
24 find fault with the City for taking that into
25 consideration, likewise you can't find fault with the

0252

1 WUTC if it considers the frequency and intensity of the
2 use of the track when deciding whether it's practical or
3 not to go below grade here?

4 A. That's true, yes.

5 Q. Fair enough.

6 Okay, would you agree with me that if some or
7 all of the siding operations were moved so that it would
8 not be on any part of Center Parkway that it would
9 reduce some of the safety factors that you have
10 evaluated in your report?

11 A. Yes, I believe in that case only one
12 crossing, one at-grade rail crossing, would be required,
13 and the switching would be done elsewhere, that would
14 reduce the exposure.

15 Q. And if you were able to do that, delays
16 associated with switching activities would also go away,
17 correct?

18 A. I think the delays would reduce. There would
19 still be interruption on the one remaining crossing.

20 Q. Harder to say that those delays would be in
21 the 1/2 hour to 45 minute range?

22 A. They would probably be in the 10 minute
23 range.

24 Q. Possibly even shorter than that?

25 A. Could be.

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1 Q. Again, when you're trying to decide, should
2 we go underground, should we go at-grade, it's certainly
3 a factor worth considering?

4 A. Yes.

5 Q. Okay. You know, I'm -- could you go to page
6 2, line 16, of your report, maybe it's 17, but that
7 sentence.

8 A. You're in?

9 Q. Your direct testimony.

10 A. The Wright testimony, okay.

11 Q. It's yours now, Mr. Hammond.

12 A. Yes. Line 17, documents furnished by the
13 City of Kennewick to UP Railroad.

14 Q. I'm sorry, on page 3, line 17, I apologize.

15 A. Page 3, right, this refers to our travel time
16 studies that we did between Highway 240 and the
17 commercial area south of the railroad tracks.

18 Q. And you're aware the City's offered no
19 analysis of whether you save time getting to 240 or not?

20 A. But I believe the SCM report cites
21 improvements in travel time to route 240.

22 Q. Okay. Do you have any idea what the cost
23 difference is between your testimony where you suggest
24 we need to reduce 3 to 4 feet of grade over a 3,000 foot
25 distance between moving the track, one track up 6

0254

1 inches, 3 inches, and another track down 6 inches?

2 A. We did not prepare any cross data for that
3 alternative.

4 Q. Do you think it's reasonable to believe the
5 cost between the two would be significantly different?

6 A. Yes.

7 Q. And what Mr. Kaufman suggested in his earlier
8 testimony would be significantly less expensive --

9 A. Yes.

10 Q. -- than what you or Mr. Wright has opined
11 about in this case?

12 A. Exactly, yes.

13 Q. Okay, thank you. And again, when you made
14 that recommendation of removing 3 to 4 feet of earth to
15 even out the tracks, is it your testimony that's the
16 only option available out here?

17 A. That was the option that was consistent with
18 the roadway profile that we had available to us at the
19 time. We didn't attempt to draw a new roadway profile,
20 because this was the -- this came from the design report
21 from the City's consultant.

22 Q. Okay. Would you agree out of everything we
23 have discussed here today though that that's probably
24 the most drastic alteration of the track that's been
25 discussed by any party?

0255

1 A. Yes.

2 Q. Okay. Did you have an opportunity to review
3 the testimony of John Deskins?

4 A. I did.

5 Q. And did you have an opportunity to review his
6 testimony with regard to the WSDOT and the policy on
7 geometric design of highways and streets?

8 A. Yes, I believe that's where he was speaking
9 to the grades at the crossing.

10 Q. And there seems to be some disparity between
11 your testimony and the City's testimony on whether the
12 WSDOT standards apply to higher speed traffic and that
13 those standards are loosened or lowered when you come to
14 slower speed city arterial streets?

15 A. Certainly still we consider 7% to be the
16 maximum grade that's desirable for a minor arterial.

17 Q. You consider it, but --

18 A. I think --

19 Q. -- does the WSDOT manual mandate it?

20 A. I wouldn't say it mandates it, I would say
21 it's a guideline.

22 Q. Fair enough. Same with Mr. Deskins' signs,
23 the geometric design of a highway and streets, I mean
24 you're not disputing that one reasonable interpretation
25 of what the City has proposed at that speed is fine at

0256

1 that location?

2 A. My concern is with the change, the abrupt
3 changes in grade at the crossing. In other words, maybe
4 it is only 9% for 6 or 7 feet between the two tracks,
5 but then when it comes to the next track it's a negative
6 1% in the other direction, and so the effect is there's
7 an algebraic difference in grade of over 10% at that one
8 particular location. And so yeah, I think 9% is
9 defensible for a minor arterial roadway, but to have
10 then a change in grade to 1% the other direction seems
11 drastic.

12 Q. But you're not saying that the design and the
13 testimony by Mr. Kaufman and Mr. Deskins is in plain
14 contradiction of the WSDOT manual that they cited in
15 their testimony?

16 A. I guess if I were to look at other portions
17 of the WSDOT manual, in particular where they talk about
18 roadway alignments in general, and so at WSDOT Design
19 Manual Chapter 6.3 there is a discussion about
20 coordinating horizontal and vertical geometry on
21 roadways to achieve four things, safety --

22 MR. ZIOBRO: I'm going to interrupt you.

23 Your Honor, I don't like to do this normally,
24 but I'm going to move to strike as that not being a
25 responsive answer. My question was fairly limited to

0257

1 whether the testimony of Mr. Deskins or Kaufman is in
2 conflict with the language that they cited in the
3 manuals, and I think the answer has gone well beyond
4 that.

5 JUDGE CLARK: Response, Ms. Larson?

6 MS. LARSON: Well, I think that he is trying
7 to cite a different portion of the manual that does deal
8 with that issue.

9 MR. ZIOBRO: I asked about the portions of
10 the manual cited by Mr. Deskins and Mr. Kaufman.

11 JUDGE CLARK: Well, the record will certainly
12 reflect the nature of what your question was. I do
13 think that this testimony may be helpful, I'm going to
14 overrule the objection, and when I have had the
15 opportunity to read your question in the transcript,
16 that will determine the appropriate weight to be given
17 this response.

18 You may proceed.

19 A. In other portions of the WSDOT manual then,
20 they talk about four goals, safety, uniform speed,
21 pleasing appearance, and efficient traffic operation.
22 And I would have to say the choppiness of the grades
23 across this proposed crossing would not lend themselves
24 to a uniform speed by vehicles. And I think Deskins'
25 testimony pointed out that you would need to be slowed

0258

1 to maybe 15 miles an hour to cross this series of 4
2 tracks, and that's half the speed that the project was
3 anticipated to be posted for, SCM report mentions a
4 posting of 30 miles per hour. And so I agree that maybe
5 a 9% grade is not a fatal flaw in this design, but by
6 the overall, the more general criteria of roadway
7 alignments, I think this one would fail at least one of
8 these tests that's listed in the manual.

9 BY MR. ZIOBRO:

10 Q. And you understand that's baseline today if
11 you go across those tracks?

12 A. Yes.

13 Q. And that's enhanced if you take Mr. Kaufman's
14 suggestion by raising one track 3 inches and lowering
15 one track 3 inches?

16 A. Right, and yet my impression of this hearing
17 is that we're looking at the situation where the tracks
18 are not adjusted, and that's how our report was
19 prepared.

20 Q. Well, you're on the spot right now, I'm
21 asking you if it is, you understand that?

22 A. Yeah, certainly if the profile were
23 different, my conclusions would have to be different,
24 yes.

25 MR. ZIOBRO: Okay, thank you, I have no

0259

1 further questions.

2 JUDGE CLARK: I have just a couple questions
3 for you, Mr. Hammond.

4

5 E X A M I N A T I O N

6 BY JUDGE CLARK:

7 Q. You have referred to the SCM report that was
8 prepared on behalf of the City, and is the SCM report
9 the one that you used to perform your analysis of what
10 the various factors would be for this crossing?

11 A. It is, yes.

12 Q. All right.

13 The second question I have was in response to
14 some inquiry from Mr. Ziobro, you indicated that based
15 on your experience a 7% grade is preferable for a minor
16 arterial.

17 A. Right.

18 Q. Could you explain to me why that's the case?

19 A. This is a listing in the manual for maximum a
20 desirable grade for different types of facilities.
21 Obviously for the freeways and principal arterials it's
22 something less. For minor arterial 7% is not an
23 egregious condition. Frequently minor arterials are
24 built in areas of more difficult topography, and so you
25 would expect that the grades could be higher there. And

0260

1 then I think we have heard testimony that for things
2 like driveways and so on, even higher grades would be
3 permitted because speeds are slower, maybe you don't
4 have as many trucks in those settings. Trucks operating
5 on grades have fairly dramatic affects on capacity. So
6 yeah, I think the 7% is what they refer to as a maximum,
7 and occasionally they will also have a category called
8 desirable, and I can't remember now the two criteria for
9 a minor arterial, but I think the 7% is the maximum for
10 that category of roadway.

11 JUDGE CLARK: All right, thank you.

12 Redirect?

13 MS. LARSON: No.

14 JUDGE CLARK: Thank you for your testimony,
15 Mr. Hammond.

16 MR. JOHNSON: Your Honor, could I ask we go
17 off the record for just a moment.

18 JUDGE CLARK: Yes, this would be the
19 appropriate time to take a short recess.

20 (Recess taken.)

21 JUDGE CLARK: During the recess it was
22 brought to my attention, Mr. Ziobro, that you do need to
23 move that microphone a little bit closer to you.
24 Everything is directional, and so when you're speaking,
25 we need to have you a little bit closer to the

0261

1 microphone and speaking directly into it, and that's not
2 only to make a transcript, but tha's so that everyone
3 else in the hearing room can hear you, thank you.

4 During the recess we agreed that -- the
5 parties agreed that it would be acceptable to take
6 witnesses out of order. BNSF is prepared to call its
7 witness today, and we're prepared to have you do that.

8 MR. MACDOUGALL: Thank you, Your Honor.

9 JUDGE CLARK: Proceed, Mr. MacDougall.

10 MR. MACDOUGALL: Thank you very much, BNSF
11 calls James T. Labberton.

12 (Witness JAMES T. LABBERTON was sworn.)

13 JUDGE CLARK: Thank you, please be seated.

14

15 Whereupon,

16 JAMES T. LABBERTON,
17 having been first duly sworn, was called as a witness
18 herein and was examined and testified as follows:

19

20 D I R E C T E X A M I N A T I O N

21 BY MR. MACDOUGALL:

22 Q. Good afternoon, Mr. Labberton.

23 A. Good afternoon.

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

0262

1 A. James T. Labberton, L-A-B-B-E-R-T-O-N.

2 Q. And what is your business address?

3 A. 4920 North Railroad Avenue, Pasco, Washington
4 99301.

5 Q. And have you had occasion to prepare
6 testimony and attached exhibits in this matter?

7 A. Yes, I have.

8 Q. And do you have a copy of your testimony and
9 attached exhibits before you?

10 A. Yes, I do.

11 Q. Do you have any changes or corrections that
12 you think you might need to make to those today?

13 A. No, I do not.

14 Q. Are they true and correct to the best of your
15 knowledge?

16 A. Yes, they are.

17 MR. MACDOUGALL: Your Honor, at this time I
18 would like to offer Mr. Labberton's testimony and
19 exhibits.

20 JUDGE CLARK: All right, the testimony and
21 exhibits of Mr. Labberton were previously received under
22 stipulation, and would you want to tender the witness
23 for cross-examination?

24 MR. MACDOUGALL: Yes, Your Honor, the witness
25 is available for cross-examination.

0263

1 JUDGE CLARK: Thank you, Mr. MacDougall.

2 Ms. Larson, do you have any inquiry of this
3 witness?

4 MS. LARSON: No, I don't.

5 JUDGE CLARK: Mr. Johnson?

6 MR. JOHNSON: Nope.

7 JUDGE CLARK: Mr. Thompson?

8 MR. THOMPSON: None for Staff.

9 JUDGE CLARK: Mr. Ziobro.

10 MR. ZIOBRO: Just a couple, Your Honor.

11 JUDGE CLARK: And get that microphone a
12 little closer to you, please, I'm sorry, but we do want
13 to make sure we get the inquiry.

14 MR. ZIOBRO: I'm normally not accused of not
15 being heard, so I apologize.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. ZIOBRO:

19 Q. Mr. Labberton, your testimony is that
20 switching operations could take up to 30 minutes?

21 A. That is correct, yes.

22 Q. Okay. And BN drops cars off in the evening?

23 A. Yes, at this time, yes.

24 Q. And they're picked up in the morning?

25 A. Yes.

0264

1 Q. No traffic on the weekends?

2 A. The BNSF present assignment works Sunday
3 through Thursday that serves that location. They're off
4 on Friday and Saturday.

5 Q. Okay, so no traffic on those days?

6 A. That is correct.

7 Q. You reference federally mandated air brake
8 checks on the bottom of page 3, top of page 4?

9 A. Yes.

10 Q. I'm going to ask you the same question I
11 asked Mr. Trumbull, can you move those cars, if they're
12 sitting on Center Parkway, can you move those cars to
13 check the brakes before you leave for your final
14 destination if you're in the middle of switching?

15 A. No, that's a federal mandate that is
16 required. Cars received in an interchange must receive
17 a full air brake inspection at the time of pick up.

18 Q. At the time of pick up, but there's
19 maneuvering that occurs, correct?

20 A. Yes.

21 Q. And between each maneuver you don't check the
22 air brakes?

23 A. No, no, once the entire pick up is made or
24 the train is completed, then that inspection will take
25 place.

0265

1 Q. Okay. So if you're done maneuvering and you
2 maneuver in a way so you're off Center Parkway before
3 you leave for your destination, you can do it in a way
4 so that the time delay at the intersection is reduced if
5 you do your air brake inspection while the trains are
6 not parked on Center Parkway?

7 A. I will say it is possible. It is not the
8 federal mandate or regulation to do so.

9 Q. Okay. But it's an adjustment that could be
10 made in operations to reduce the time the crossing's
11 down?

12 A. That is correct, yes.

13 MR. ZIOBRO: Okay, I have no further
14 questions.

15

16 EXAMINATION

17 BY JUDGE CLARK:

18 Q. I have just one. In response to Mr. Ziobro's
19 last question, you said that's not the federal mandate
20 or regulation to do so. So are you explaining that it
21 is required by FRA regulations or some statute, federal
22 statute or something, to conduct the air brake
23 inspection in that manner?

24 A. The railroads set their own operating
25 practice and rules, and that is part of the one of the

0266

1 BNSF's rules. The Federal Railway Administration
2 advises, monitors, and observes the railroad if they
3 comply with those set rules. That is a BNSF set rule,
4 it is the same as adopted by other railroads, and it's
5 -- if you go out of compliance with what you say you're
6 going to do, then you're in violation via the FRA.

7 JUDGE CLARK: All right, thank you.

8 Any redirect?

9 MR. MACDOUGALL: No, Your Honor, thank you.

10 JUDGE CLARK: Thank you for your testimony,
11 Mr. Labberton.

12 THE WITNESS: Thank you all for allowing me
13 to go on today.

14 JUDGE CLARK: All right, it's my
15 understanding that the remainder of our witnesses will
16 be heard tomorrow. We will reconvene tomorrow morning
17 at 9:30, we're adjourned.

18 (Hearing adjourned at 3:15 p.m.)

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0267

1 E X H I B I T L I S T

2

3 CITY OF KENNEWICK

4 JOHN C. DARRINGTON

5 1 Prefiled Direct Testimony of John C.

6 Darrington (4 pp.)

7 Cross-Examination Exhibits

8 Union Pacific Railroad

9 2 Photograph entitled Port of Benton, Center
10 Parkway Extension Project - Vicinity (1 p.)

11 3 Photograph entitled Port of Benton, Center
12 Parkway Extension Project - Existing
13 Conditions (1 p.)

14 4 Photograph entitled Port of Benton, Center
15 Parkway Extension Project - Multiple Rail
16 Crossings (1 p.)

17 ROBERT R. HAMMOND

18 5 Prefiled Direct Testimony of Robert R. Hammond
19 (4 pp.)

20 STEVE PLUMMER

21 6 Prefiled Direct Testimony of Steve Plummer
22 (12 pp.)

23 7 Exhibit 1: N. Center Parkway Extension Gage
24 Boulevard to Tapteal Drive Design Report
25 (53 pp.)

0268

1 8 Exhibit 2: City of Kennewick, N. Center
2 Parkway Extension Plan and Profile, STA. 11+50
3 to STA 16+50 (1 p.)
4 9 Exhibit 3: City of Kennewick, N. Center
5 Parkway Extension Plan and Profile, STA. 16+50
6 to 21+50 (1 p.)
7 10 Exhibit 4: City of Kennewick, N. Center
8 Parkway Extension Plan and Profile, STA. 21+50
9 To End (1 p.)
10 11 Exhibit 5: City of Kennewick, N. Center
11 Parkway Extension Plan and Profile, STA. 16+50
12 To 21+50
13 12 Schematic Showing Roundabout (1 p.)
14 45 Center Parkway Underpass Conceptual Estimate
15 of Additional Costs (1 p.)
16 JOHN DESKINS
17 13 Prefiled Direct Testimony of John Deskins
18 (9 pp.)
19 DANIEL L. KAUFMAN
20 14 Prefiled Direct Testimony of Daniel L. Kaufman
21 (5 pp.)
22 WAYNE SHORT
23 48 Prefiled Testimony of Wayne Short (8 pp.)
24 49 Alternative Track Layouts (2 pp.)
25

0269

1 UNION PACIFIC RAILROAD COMPANY

2 LLOYD L. LEATHERS

3 15 Prefiled Direct Testimony of Lloyd L. Leathers
4 (6 pp.)

5 16 Richland Junction Track Print (1 p.)

6 17 Exhibit B: Cars Delivered to TCRY at Richland
7 Jct. (3 pp.)

8 18 Exhibit C: Cars Received From TCRY at Richland
9 Jct. (3 pp.)

10 46 Exhibit D: Cars Delivered to TCRY at Richland
11 Jct. (4/3/06 to 10/9/06) (3pp.)

12 47 Exhibit E: Cars Received from TCRY at
13 Richland Jct. (4/3/06 to 10/9/06) (3 pp.)

14 Cross-Examination Exhibits

15 City of Kennewick

16 19 Email messages from Jerry Pinkepank to WC
17 Wilson (2 pp.)

18 20 Redacted Email messages between Trumbull,
19 Miller, and Stephan (2 pp.)

20 21 Aerial Photograph of Proposed Extension and
21 Surrounding Infrastructure (1 p.)

22 22 Photograph of Southern Viewpoint of Switching
23 Operations from Center Parkway (1 p.)

24 23 Photograph from Switching Operation Northern
25 View Toward Holiday Inn Express (1 p.)

0270

1 24 Photograph from Existing Trackage Facing North
2 Toward Holiday Inn Express (1 p.)
3 25 Photograph of Southern View of Switching
4 Operation from Tapteal Drive (1 p.)
5 26 Photograph of Southern View of Switching
6 Operation and Holiday Inn Express from Tapteal
7 Dr. (1 p.)
8 27 Photograph of PUD Substation (1 p.)
9 28 Photograph of Switching Operation and
10 Residential Vehicle Storage (1 p.)
11 29 Aerial Photograph with Roundabout and
12 Extension Overlay (1 p.)
13 30 Aerial Photograph with Path through Columbia
14 Center Mall Parking Lot to Columbia Center
15 Blvd. (1 p.)
16 31 Aerial Photograph Showing Connection from
17 Center Parkway to Tapteal Dr. to Columbia
18 Center Blvd. and Mall Parking Lot (1 p.)
19 JOHN W. TRUMBULL
20 32 Prefiled Responsive Testimony of John W.
21 Trumbull (5 pp.)
22 33 Aerial of Houses and Tracks at Richland
23 Junction (1 p.)
24 34 Exhibit B: Petition to Remove Box Cars and
25 Tankers at Columbia Center Estates (6 pp.)

0271

1 Cross-Examination Exhibits

2 City of Kennewick

3 35 Redacted Email messages between David E.
4 Peterson and Tom T. Ogee, Steve Berki, and
5 John Trumbull and messages from Trumbull to UP
6 Staff (1 p.)

7 36 Email message between John Miller and Robert
8 Gloodt (1 p.)

9 RAYMOND WRIGHT, JR., P.E. - Sponsored by RANDY HAMMOND

10 37 Prefiled Responsive Testimony of Raymond
11 Wright, Jr. (6 pp.)

12 38 Traffic Impacts at Richland Junction Crossing
13 (30 pp. including cover)

14 Cross-Examination Exhibits

15 City of Kennewick

16 39 Drawing comparing elevation changes
17 (Washington St. Kennewick, Washington)
18 (1 p.)

19 40 Drawing comparing elevation changes (1 p.)

20

21 TRI-CITY AND OLYMPIA RAILROAD

22 RANDOLPH V. PETERSON

23 41 Prefiled Responsive Testimony of Randolph V.
24 Peterson (10 pp.)

25

0272

1 Cross-Examination Exhibits

2 City of Kennewick

3 42 TCRY Meeting - 6/7/05 - Randy Peterson (1 p.)

4 43 BNSF Railway letter dated 6/9/05 to Carolyn L.

5 Larson (2 pp.)

6 44 Port of Benton letter dated 10/23/00 to

7 Columbia Center Estates Homeowners (3 pp.)

8

9 BNSF RAILWAY COMPANY

10 JAMES T. LABBERTON

11 50 Supplemental Prefiled Responsive Testimony of

12 James T. Labberton (4 pp.)

13 51 Exhibit A - Interchange Received Volume Totals

14 at Specific Interchange Pints for last 13

15 months (3 pp.)

16 52 Exhibit B - Interchange Delivered Volume

17 Totals at Specific Interchange Points for the

18 last 13 months (2 pp.)

19

20

21

22

23

24

25