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August 2, 2005

Dennis Moss, ALJ
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

Re: *Benton County v. BNSF Railway Co.*
Docket No. TR-042083

Dear Judge Moss:

On August 1, 2005, the BNSF Railway Company filed a document in this matter consenting to entry of a final order without further notice of hearing and agreeing that the petition should be granted.

In a case such as this where a road authority has filed a petition for a new at-grade crossing and the affected railroad has filed a waiver of hearing (but without the matter first having been set for adjudication as it was in this case), the staff prepares a proposed order for the Commissioners' consideration. Consistent with that practice, staff has prepared the enclosed proposed order for the Commission's consideration in this case. Because an adjudication has been initiated, staff is providing the proposed order to you, the assigned Administrative Law Judge, with copies to all parties, rather than presenting it to the Commission on the Open Meeting consent agenda.

Sincerely,

JONATHAN C. THOMPSON
Assistant Attorney General

JCT: tmw
Enclosure
cc: Parties



**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

BENTON COUNTY,)	DOCKET NO. TR-042083
)	
Petitioner,)	
)	ORDER NO. 1
v.)	
)	ORDER GRANTING PETITION TO
BNSF RAILWAY CO.,)	ESTABLISH A PUBLIC RAILROAD-
)	HIGHWAY GRADE CROSSING AT
Respondent.)	SAGEBRUSH ROAD
.....)	

BACKGROUND

- 1 On November 24, 2004, Benton County filed a petition with the Commission seeking approval to establish a new public highway-railroad grade crossing. The location of the proposed crossing is the intersection of the proposed Sagebrush Drive and the tracks of the BNSF Railway Company, in the SE ¼ of the NE ¼ of Section 11, Township 8 N., Range 28 E., W.M., in Benton County, Washington.
- 2 On August 1, 2005, the BNSF Railway Company filed a document in this matter consenting to entry of a final order without further notice of hearing and agreeing that the petition should be granted. The waiver was conditioned on it being without prejudice to further proceedings if final, detailed agreements are not reached between the parties.
- 3 Benton County proposed a new crossing to serve an industrial property to be developed in the near future that is located immediately south of Interstate 82 and west of a BNSF rail line which runs parallel to Badger Road. The area is currently accessible via the Leslie Road at-grade crossing, located approximately 3/10 mile to the north of the proposed site, and the Cottonwood Drive grade crossing, located 1.6 miles to the south of the proposed site; however, both of these routes involve travel through residential neighborhoods. Benton County alleges that the amount of heavy truck traffic that will serve the largely industrial

development is not compatible with the residential nature of the alternate routes, and therefore warrants a separate crossing.

- 4 In 2002, Benton County obtained an estimate of \$10 million from JUB Engineers, Inc. for constructing a grade separated crossing at this location. That estimate, and the county's own assessment that "there is inadequate room to construct an overpass or underpass with reasonable and safe road grades,"¹ led Benton County to conclude that a grade separated crossing at this location is not practicable.
- 5 Sagebrush Road is designed to be a two-lane local access roadway with a speed limit of 35 mph. The roadway will have approximately 3% ascending grades on both approaches to the track, however, a level grade will be provided for approximately 50 feet on either side of the tracks. Projected daily traffic through the crossing has not yet been determined; however, it is expected that trucks will be the main users due to the industrial nature of the development. The roadway will provide a direct access from I-82/Badger Road interchange to the development area. Each existing alternate route requires more than three miles of travel from the I-82 off-ramp at Badger Road to the northwest corner of the project area (the only portion of the area currently accessible by road). Both of these alternate routes include travel through residential areas for about 1.5 miles. The proposed Sagebrush roadway would allow direct access to the industrial area approximately .85 mile from the I-82 off-ramp.
- 6 BNSF maintains one main-line track through the proposed crossing. The track runs parallel to Badger Road, with approximately 200 feet of separation between the edge of pavement and the nearest rail. Average daily train traffic consists of six trains traveling at a maximum speed of 49 mph.
- 7 Warning devices proposed at the crossing include shoulder-mounted signals with gates.

¹ Benton County's petition in TR-042083

FINDINGS AND CONCLUSIONS

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington having jurisdiction over public railroad-highway grade crossings within the state of Washington. *Chapter 81.53 RCW.*
- 9 (2) The proposed Sagebrush Road crossing will be a public railroad-highway grade crossing, as defined in RCW 81.53.010.
- 10 (3) RCW 81.53.030 and WAC 480-62-150(1)(a) require that the Commission grant approval prior to establishing new public railroad-highway grade crossings within the state of Washington.
- 11 (4) Commission Staff investigated the petition and recommended that it be granted, subject to specified conditions.
- 12 (5) The parties agreed to approval of the petition subject to reopening if final agreements cannot be reached.
- 13 (5) After examination of the petition filed by Benton County on November 24, 2004, and giving consideration to all relevant matters and for good cause shown, the Commission grants the petition.

ORDER

THE COMMISSION ORDERS:

- 14 The petition of Benton County for establishing a public railroad-highway grade crossing at the intersection of the proposed Sagebrush Road and the tracks of the BNSF Railway Company in Benton County, Washington, is granted, subject to the following conditions:
- (1) All construction and installations must conform to the plans filed in this proceeding.

- (2) The crossing must be hard-surfaced between the rails and for a distance of at least one foot outside each rail for the full width of the traveled roadway, including the shoulders.
- (3) Traffic control devices, advance warning signs, and pavement markings must comply with applicable standards specified in the U.S. Department of Transportation *Manual on Uniform Traffic Control Devices*.
- (4) Traffic control devices and instrument housing must be installed in such a manner as to provide required clearances for both rail and vehicular traffic.
- (5) Trees and other vegetation along the tracks that obstruct sight distance of approaching trains must be cleared for a distance of at least 100 feet on either side of Sagebrush Road.
- (6) Upon completion of the construction authorized herein, Petitioner must notify the Commission. Acceptance of the installations is subject to inspection by Commission Staff, verifying that the crossing is in full compliance with law, regulation, and the conditions specified herein.
- (7) If a final agreement concerning this matter cannot be reached, any party may bring this matter back before the Commission for further proceedings.

The Commissioners, having determined that this filing complies with the requirements of RCW 81.53.030, directed the Secretary to enter this Order.

Dated at Olympia, Washington, and effective this ___ day of August, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner