

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

BNSF RAILWAY COMPANY,)	DOCKET TR-150189
)	
Petitioner,)	
)	
v.)	NOTICE OF PREHEARING
)	CONFERENCE
WHATCOM COUNTY,)	(Set for June 8, 2015,
)	at 1:30 p.m.)
Respondent.)	
)	
.....)	

1 On February 4, 2015, BNSF Railway Company (BNSF) filed with the Washington Utilities and Transportation Commission (Commission) a Petition for the closure of a highway-rail grade crossing located at Valley View Road in Whatcom County.

2 On February 20, 2015, the Commission sent a letter to Whatcom County, the road authority, (Whatcom County) notifying it of the petition and requesting a response within twenty days indicating its support or opposition to BNSF’s petition.

3 On March 10, 2015, Whatcom County filed with the Commission an objection to the petition and requested that the matter be scheduled for hearing in order to address its concerns.

4 **STATUTORY AUTHORITY:** The Commission has jurisdiction over this matter under RCW Title 81, and has legal authority to regulate the closure of railroad crossings pursuant to RCW 81.53, including without limitation, RCW 81.53.060. Further, the Commission has legal authority to regulate alterations in the style or nature of construction of existing grade crossings, and to apportion the expense of such a change between the railroad and the municipality or county affected pursuant to RCW 81.53, including without limitations, RCW 81.53.060 and RCW 81.53.110. In addition to those previously cited, statutes involved include those within RCW 81.04 and RCW 81.53, including but not limited to RCW 81.04.110, RCW 81.53.010, RCW 81.53.060, RCW 81.53.261, and RCW 81.53.271.

- 5 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in this proceeding as set out in WAC 480-07 and WAC 480-62.
- 6 **THE COMMISSION GIVES NOTICE That it will hold a prehearing conference in this matter at 1:30 p.m., on June 8, 2015, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** If you are unable to attend the prehearing conference in person, you may attend via the Commission's teleconference bridge line at **(360) 664-3846**. Please appear on the teleconference bridge five minutes before the conference is scheduled to begin.
- 7 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence and workpapers, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.
- 8 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.
- 9 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.**
- 10 The names and mailing addresses of all known parties and their known representatives are as follows:

Petitioner: BNSF Railway Company
Richard Wagner
Manager Public Projects
2454 Occidental Avenue S, Suite 1A
Seattle, WA 98134-1451
(206) 625-6152
Richard.wagner@bnsf.com

Representative: Bradley Scarp
Montgomery Scarp, PLLC
1218 Third Avenue, Suite 2500
Seattle, WA 98101
(206) 625-1801
brad@montgomeryscarp.com

Respondent: Whatcom County
Public Works Department
Joseph P. Rutan, PE
County Engineer/Interim PW Director
322 North Commercial Street, Suite 210
Bellingham, WA 98225
(360) 715-7450
jrutan@co.whatcom.wa.us

Commission Staff: Washington Utilities and Transportation
Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Julian Beattie
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1225
jbeattie@utc.wa.gov

- 11 Administrative Law Judge Rayne Pearson, from the Commission's Administrative Law Division, will preside during this proceeding.
- 12 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Olympia, Washington, and effective May 7, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

Inquiries may be addressed to:

Executive Director and Secretary
Washington State Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: Steven V. King, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____