Docket No. TR-190228 - Vol. I

Clark County v. Burlington Northern Sante Fe Railway

July 15, 2019



COURT REPORTING AND LEGAL VIDEO

206.287.9066 | 800.846.6989 1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101 <u>www.buellrealtime.com</u> email: <u>info@buellrealtime.com</u>



Page 1	Page 3
BEFORE THE WASHINGTON	1 LACEY, WASHINGTON; JULY 15, 2019
UTILITIES AND TRANSPORTATION COMMISSION	2 9:30 A.M.
CLARK COUNTY,) DOCKET TR-190228	3000
) Petitioner,)	4 PROCEEDINGS
	5
vs.)	6 JUDGE PEARSON: Let's be on the record in
BURLINGTON NORTHERN SANTE)	7 Docket TR-190228, which is a petition filed by Clark
FE RAILWAY,)	8 County seeking to install median barriers at a highway
) Respondent.)	 9 rail-grade crossing in Vancouver, Washington. 10 Today is Monday, July 15th, 2019, at 9:30
· · · · · · · · · · · · · · · · · · ·	10Today is Monday, July 15th, 2019, at 9:3011a.m., and we're here for a prehearing conference to
PREHEARING CONFERENCE, VOLUME I Pages 1-10	12 discuss scheduling and other procedural issues.
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON	13 My name is Rayne Pearson. I'm the
	14 administrative law judge presiding over this case.
July 15, 2019	15 So let's begin by taking short appearances.
9:30 a.m.	16 We'll start with Staff and then we will identify the
Washington Utilities and Transportation Commission 621 Woodland Square Loop Southeast	17 parties on the bridge line.
Lacey, Washington 98503	18 So, Mr. Roberson?
	19 MR. ROBERSON: Good morning. My name is
REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358	²⁰ Jeff Roberson, R-o-b-e-r-s-o-n. My contact information
Buell Realtime Reporting, LLC	is on file in the docket. I'm an assistant attorney
1325 Fourth Avenue, Suite 1840 Seattle, Washington 98101	22 general representing Staff, and with me at counsel table 23 is Ms. Betty Young who is Staff's witness.
(206) 287-9066 Seattle	
(360) 534-9066 Olympia (800) 846-6989 National	24 JUDGE PEARSON: Okay. Thank you. 25 And for the County, Ms. Cook, I understand
www.buellrealtime.com	
Page 2	Page 4
1 APPEARANCES	
2 ADMINISTRATIVE LAW JUDGE:	 you're here on behalf of Taylor Hallvik and you're on the bridge line. Could you please enter an appearance?
3 RAYNE PEARSON Utilities and Transportation	 the bridge line. Could you please enter an appearance? MS. COOK: Yes, my name is Christine Cook.
4 Commission 621 Woodland Square Loop SE	4 I'm a senior deputy prosecuting attorney with Clark
5 Lacey, Washington 98503 (360) 664-1160	5 County, Washington, and I am here filling in for Taylor
6 rayne.pearson@utc.wa.gov 7	6 Hallvik who is a deputy prosecuting attorney for Clark
FOR COMMISSION STAFF:	7 County, Washington. And we are here to represent the
JEFF ROBERSON	8 County in the scheduling matter.
9 Office of the Attorney General Utilities and Transportation	9 Also with me is Ahmad Qayoumi, who is the
10 Division P.O. Box 40128	10 director of the public works department, and his last
11 Olympia, Washington 98504 (360) 664-1188	11 name is spelled Q-a-y-o-u-m-i. And Rob Klug, who is the
12 jeff.roberson@utc.wa.gov	12 interim transportation manager with the County
FOR CLARK COUNTY:	13Department of Public Works.14JUDGE PEARSON: Okay. Thank you.
	\downarrow \downarrow JUDGL FLANGOIN, ORAY, HIdHK YUU.
14 (Via phone) 15 CHRISTINE COOK	
	15 And for BN
15 CHRISTINE COOK Clark County Prosecutor's Office 16 P.O. Box 5000 1300 Franklin Street, Suite 380	15 And for BN
15 CHRISTINE COOK Clark County Prosecutor's Office 16 P.O. Box 5000 1300 Franklin Street, Suite 380 17 Vancouver, Washington 98666 (360) 397-2478	15And for BN16MR. OWSLEY: Hello?
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1 (Pages 1 to 4)

	Page 5		Page 7
1	there is no one on the bridge line seeking to intervene	1	MR. ROBERSON: Cross-answering testimony and
2	in this proceeding?	2	rebuttal would be due December 2nd, 2019; the discovery
3	Okay. Also, hearing nothing, I do have a	3	cutoff is January 6th, 2020; exhibits, witness list, and
4	question for BNSF before we get on to the other	4	time estimates are due to ALD on January 20th, 2020; the
5	procedural matters. With respect to the April 4th	5	hearing would be held February 27th, 2020; and
6	letter that was mailed to BNSF from the Commission's	6	post-hearing briefs would be due March 26th, 2020.
7	transportation safety director, Kathy Hunter, there was	7	JUDGE PEARSON: Okay. Thank you.
8	a letter requesting BNSF to review Clark County's	8	MR. ROBERSON: And there is one caveat that
9	petition and respond by either completing the waiver of	9	I have not checked with ALD to make sure that the
10	hearing form or providing a written response stating	10	hearing date is acceptable.
11	BNSF's reasons for not supporting the petition, and my	11	JUDGE PEARSON: I believe it is, but I'll
12	understanding is that BNSF took neither of these	12	check real quick on my calendar. I'm free that day, so
13	actions.	13	that works.
14	So, Mr. Owsley, if you could just state for	14	MR. ROBERSON: Apologies, Your Honor.
15	the record BNSF's position on the petition?	15	JUDGE PEARSON: That's okay.
16	MR. OWSLEY: Yes, Your Honor. First, my	16	Okay. So we will reserve a room at the
17	apologies for that. Stated briefly, Your Honor, BNSF's	17	Commission for the hearing. I assume you only think it
18	position is that given the the the geometry of	18	will take one day, is that I think that's accurate.
19	this crossing and, you know, other physical	19	So it's incumbent upon the parties to find a facility in
20	circumstances to it, feel that a Qwick Kurb median is	20	or near Vancouver to host the hearing, and if you have
21	insufficient nor preferred. Commission considers the	21	not secured a space and notified me of that location at
22	County would consider a a nontraversable median as a	22	least 45 days before the hearing date, we will hold the
23	safety measure at this crossing.	23	hearing here at the Commission's headquarters in Lacey.
24	JUDGE PEARSON: Okay. I figured that was	24	So please make sure you notify me directly when you
25	the case, but I just wanted you to state that for the	25	secure a location.
	David		
	Page 6		Page 8
1	Page 6	1	Page 8 MS. COOK: The County would be happy to try
1 2	record.	1 2	MS. COOK: The County would be happy to try
1 2 3	record. So moving on to procedural issues. Do the	2	MS. COOK: The County would be happy to try to find a room at Clark County that would be suitable
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2 3	record. So moving on to procedural issues. Do the parties want the discovery rules to be available in this	2 3	MS. COOK: The County would be happy to try to find a room at Clark County that would be suitable for a hearing, and we will get back with you on that as
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2 (Pages 5 to 8)

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1	MS. COOK: Okay.
2	JUDGE PEARSON: So just be in contact with
3	the parties, and Mr. Roberson can communicate with me
4	whatever you all decide.
5	MS. COOK: Okay.
6	JUDGE PEARSON: Okay.
7	MS. COOK: Thank you, Your Honor, I will do
8	that.
9	JUDGE PEARSON: Okay. Is there anything
10	else that we need to address while we're here today?
11 12	MR. ROBERSON: Not from Staff.
13	MR. OWSLEY: Nothing from BNSF, Your Honor.
14	JUDGE PEARSON: Okay. Thank you. Ms. Cook, nothing else?
15	MS. COOK: Nothing from the County.
16	JUDGE PEARSON: Okay, great. I will issue
17	an order reflecting what we discussed here today and we
18	are adjourned. Thank you.
19	(Adjourned at 9:40 a.m.)
20	(najoaniou at 0.70 a.m.)
21	
22	
23	
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25	
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1	
1	CERTIFICATE
2	
3 4	STATE OF WASHINGTON COUNTY OF THURSTON
4 5	
6	I, Tayler Garlinghouse, a Certified Shorthand
7	Reporter in and for the State of Washington, do hereby
8	certify that the foregoing transcript is true and
9	accurate to the best of my knowledge, skill and ability.
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11	
12	Jayles Groslinghouse_
13	Tayler Garlinghouse, CCR 3358
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