

Docket Nos. TR-140382 and TR-140383 - Vol. IV

BNSF Railway Company v. Yakima County

April 28, 2015

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY,)
Petitioner,)
vs.) DOCKET TR-140382 and DOCKET TR-140383
YAKIMA COUNTY,) (Pages 312-321)
Respondent.)

EVIDENTIARY HEARING, VOLUME IV ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

April 28, 2015
6:00 p.m.
2403 South 18th Street
Union Gap, Washington

REPORTED BY:
PHYLLIS CRAVER LYKKEN, RPR, CCR NO. 2423

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BNSF RAILWAY CO. vs. YAKIMA COUNTY
DOCKETS TR-140382 and TR-140383
April 28, 2015

TESTIMONY

FRANK LYALL PAGE NO.
Public Testimony 316

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BE IT REMEMBERED that on Tuesday, April 28, 2015, at 6:00 p.m., at 2403 South 18th Street, Union Gap, Washington, the Evidentiary Hearing re BNSF RAILWAY CO. vs. YAKIMA COUNTY was taken before Phyllis Craver Lykken, Certified Court Reporter. The following proceedings took place:

THE JUDGE: Good evening. We'll be on the record in the public comment portion of the hearing regarding the petition for closing Stevens Road and Barnhart Road at-grade crossings here in Yakima County.

My name is Rayne Pearson and I'm an administrative law judge with the Utilities and Transportation Commission. Today's date is Tuesday, April 28, 2015. It's now a little after 6 in the evening.

It looks like we just had someone join us who might like to speak.

UNIDENTIFIED SPEAKER: That's correct.

THE JUDGE: Do you have the sign-in sheet that you want to bring up here? Okay.

So seated in the room with me today are the parties that participated in the evidentiary hearing that was held earlier today as well as two commission staff members to my right. This is Vicky Elliott and that's Kathy Hunter.

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1 And our role tonight is to collect your comments
 2 and let me as a representative of the commission hear
 3 from you about your concerns or any other views that
 4 are relevant to the proposed closing of either the
 5 North Stevens or the Barnhart Road crossings.
 6 So can I have the sign-in sheet? It looks like
 7 Frank Lyall. Right now you're the only person signed
 8 in to speak. If you would like to come up here.
 9 What I'll do is I'm going to swear you in, because
 10 this is a formal hearing. So we'll put you under oath.
 11 If you could raise your right hand.
 12
 13 FRANK LYALL, being first duly sworn to
 14 tell the truth, the whole
 15 truth, and nothing but the
 16 truth, testified as follows:
 17
 18 THE JUDGE: Go ahead and have a seat.
 19 Do you have any questions before we get started
 20 about how any of this works?
 21 THE WITNESS: No. I just have a few general
 22 comments to make about this matter. I'm here
 23 representing the Yakima County Farm Bureau this
 24 evening.
 25 THE JUDGE: Okay.

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1 THE WITNESS: Is it possible for me to ask anyone
 2 here a question?
 3 THE JUDGE: Not on the record, no. If you want to
 4 speak with the parties after we're done, that's fine.
 5 But we're just here to take your comments tonight. So
 6 whenever you're ready, you can begin.
 7 THE WITNESS: Okay. Our general position at the
 8 Yakima County Farm Bureau is -- first, we're the
 9 largest agricultural organization that represents
 10 farmers in both the nation, the state, and the county.
 11 By membership numbers. We operate on one farmer, one
 12 vote, a structure, so we're, it's not vote by corporate
 13 entity.
 14 On this matter regarding the closing, or potential
 15 closing of these two crossings, first off, I'd like to,
 16 if there's any representatives of the railroads here
 17 tonight, I would like to thank them for the work that
 18 they do insofar as we appreciate the necessity of
 19 hauling freight, both our products to market and
 20 supplies to our farms.
 21 On the matter of these road crossings, our general
 22 position is, or the closing of these road crossings on
 23 railroads, our general position is to oppose these.
 24 And the reason being is farmers often farm in
 25 discontinuous blocks these days, as consolidation has

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1 came through the industry, and that means that they
 2 have to often move large heavy machinery across these
 3 crossings in trying to get to the most direct manner to
 4 another block of land possible.
 5 When farmers are forced to divert from the most
 6 direct path possible, we believe it increases both the
 7 danger to farmers and perhaps the public, insofar as
 8 our agricultural machinery is often very large or even
 9 over width, and it kind of creates a touch of nuisance
 10 to be on the public road any longer than it absolutely
 11 has to be.
 12 We also need, we have a necessity to haul our
 13 products to market or packing or processing plants, and
 14 there again, generally the most direct means we can get
 15 there is to our advantage and to the advantage of
 16 everyone.
 17 I was just actually out today at the Barnhart Road
 18 crossing. It's in a very rural area, but surrounding
 19 that crossing is hops on one side and mint, winter
 20 wheat, and it looks like corn is going to go in on the
 21 other side. So it's definitely an agricultural area
 22 and we would like to keep access of those two
 23 crossings.
 24 I will say one other thing, though. If there is a
 25 landowner that's adjacent to that crossing, a farmer

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1 that for some reason would like to see that closed or
 2 is not opposed to it, we would divert -- or defer to
 3 him. That's the conclusion of my remarks.
 4 THE JUDGE: Thank you. Just for the record, could
 5 I get you to give us your address?
 6 THE WITNESS: Yes, it's 850 Olmstead Road,
 7 O-L-M-S-T-E-A-D, in Grandview. And the ZIP is 98930.
 8 THE JUDGE: Thank you very much.
 9 THE WITNESS: Thank you. I appreciate the
 10 opportunity to speak here today.
 11 THE JUDGE: Thank you for coming.
 12 It's about ten after 6 right now. We'll wait a
 13 few more minutes to see if anyone else shows up. We'll
 14 go ahead and go off record so you can continue your
 15 conversation. Thank you.
 16 (A SHORT RECESS WAS HAD.)
 17 THE JUDGE: So we're back on the record. It's
 18 approximately 6:18 p.m. We're going to go ahead and
 19 call it a night.
 20 So thank you, Mr. Lyall, for coming and speaking.
 21 And we'll see you back here tomorrow at 8:30 in the
 22 morning.
 23 I do have copies of the public comments that have
 24 been submitted to the commission for each of the
 25 parties to take with them to review tonight and we can

1 discuss them tomorrow when we're back on the record.
2 Thank you.
3 (HEARING ADJOURNED AT 6:18 P.M.)
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1 CERTIFICATE
2 STATE OF WASHINGTON)
3) ss.
4 COUNTY OF YAKIMA)
5 This is to certify that I, Phyllis Craver Lykken,
6 Certified Court Reporter in and for the State of
7 Washington, residing at Yakima, reported the within and
8 foregoing hearing; said hearing being taken before me on
9 the date herein set forth; that the witnesses were first
10 by the administrative law judge duly sworn; that said
11 proceedings was taken by me in shorthand and thereafter
12 under my supervision transcribed, and that same is a
13 full, true and correct record of the testimony of said
14 witnesses, including all questions, answers and
15 objections, if any, of counsel.
16 I further certify that I am not a relative or
17 employee or attorney or counsel of any of the parties,
18 nor am I financially interested in the outcome of the
19 cause.
20 IN WITNESS WHEREOF I have set my hand this
21 8th day of May, 2015.
22
23 PHYLLIS CRAVER LYKKEN, RPR,
24 CCR NO. 2423
25

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