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Exhibit No. \_\_\_\_\_ (MM-2T)

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY, a Delaware Corporation,  
  
Petitioner  
  
vs.  
  
CITY OF MOUNT VERNON  
  
Respondents,  
  
SKAGIT COUNTY, WSDOT, and WEST VALLEY FARMS, LLC,  
  
Intervenors.

DOCKET NO: TR-070696  
  
PREFILED REBUTTAL TESTIMONY  
OF MEGAN McINTYRE

1. **Have you reviewed Mr. Zeinz’s prefiled testimony in this case?**

Yes, I have.

2. **Let’s talk about Mr. Zeinz’s testimony. Did you agree with his recommendation that four-quadrant gates should be installed at Hickox instead of closing the crossing?**

No, I do not.

1     **3.     Why do you disagree that four-quadrant gates should be installed instead of closing**  
2     **the Hickox crossing?**

3             The "exit" gates lower later than the "entrance" gates to allow traffic to clear the tracks.  
4     Motorists might still try to "beat" the gates by driving through the opposite lane's exit gate if there  
5     is no oncoming traffic. And drivers who know the exit gates go down later may try to beat the  
6     entrance gates before they are fully lowered even if there is oncoming traffic. Since Hickox will  
7     be blocked with frequency, it increases the incentive for drivers to try to beat the gates in order  
8     to avoid retracing their journey and having to use another crossing.

9  
10    **4.     Do you have any exhibits that demonstrate motorists trying to beat gates or ignoring**  
11    **warning devices at crossings like Hickox?**

12            I anticipate that BNSF will show two or three brief videos of drivers ignoring warning  
13    devices or trying to beat gates at crossings like Hickox (involving both siding and mainline  
14    tracks). The videos can only be played using proprietary software on BNSF laptop computers, so  
15    BNSF will be able to show all parties before the evidentiary hearing in this case but I cannot attach  
16    a copy here. The videos do not depict any collisions or graphic material. *See* First Exhibit to  
17    Megan McIntyre's Prefiled Rebuttal Testimony, attached hereto as Exhibit No. \_\_\_\_\_ (MM-3).  
18

19    **5.     Are there any other safety reasons you believe four-quadrant gates are not a**  
20    **reasonable alternative to closing the Hickox crossing?**

21            When a train is blocking the crossing, four-quadrant gates do not prevent people from  
22    trying to climb above or below the train to cross the tracks. The safest crossing is one that does  
23    not exist.  
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DECLARATION

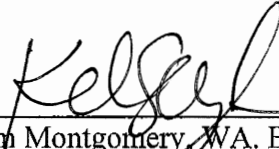
I, Megan McIntyre, declare under penalty of perjury under the laws of the State of Washington that the foregoing PREFILED REBUTTAL TESTIMONY OF MEGAN McINTYRE is true and correct to the best of my knowledge and belief.

DATED this 30<sup>th</sup> day of November, 2007.

  
\_\_\_\_\_  
MEGAN McINTYRE

DATED this 30<sup>th</sup> day of November, 2007.

Montgomery Scarp MacDougall, PLLC

  
\_\_\_\_\_  
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Bradley P. Scarp, WA. Bar No. 21453  
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CERTIFICATE OF SERVICE

I am over the age of 18; and not a party to this action. I am the assistant to an attorney with Montgomery Scarp MacDougall, PLLC, whose address is 1218 Third Avenue, Suite 2700, Seattle, Washington, 98101.

1 I hereby certify that the original and 12 copies of PREFILED REBUTTAL TESTIMONY OF MEGAN McINTYRE  
2 has been sent by FedEx to Carole J. Washburn at WUTC and a PDF version sent by electronic mail. I also certify that true and  
3 complete copies have been sent via electronic mail and U.S. Mail to the following interested parties:

4 Stephen Fallquist  
5 Deputy Prosecuting Attorney  
6 Skagit County  
7 605 S. 3<sup>rd</sup> Street  
8 Mount Vernon, WA 98273

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Mount Vernon, WA 98273

15 Adam E. Torem  
16 1300 S. Evergreen Park Dr. SW  
17 P.O. Box 47250  
18 Olympia, WA 98504-7250

19 I declare under penalty under the laws of the State of Washington that the foregoing information is true and correct.

20 DATED this 30<sup>th</sup> day of November, 2007 at Seattle, Washington.

21 

22 Lisa Miller, Paralegal

DOCKET TR-070696  
PREFILED REBUTTAL TESTIMONY OF MEGAN McINTYRE

“EXHIBIT 1”  
BNSF VIDEOS

DESCRIPTION: BNSF anticipates showing two or three brief videos of drivers ignoring warning devices or trying to beat gates at crossings like Hickox (involving both siding and mainline tracks). The videos can only be played using proprietary software on BNSF laptop computers, so BNSF will be able to show all parties before the evidentiary hearing in this case but cannot attach a copy here. Although the videos show drivers ignoring warning devices, they do not depict any collisions or graphic material.