

**Docket No. TR-190081 - Vol. I**

**City of Monroe v. Burlington Northern Sante Fe Railway**

**March 14, 2019**



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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

CITY OF MONROE, ) DOCKET TR-190081

)  
Petitioner, )

vs. )

)  
BURLINGTON NORTHERN SANTE )  
FE RAILWAY, )

)  
Respondent. )

PREHEARING CONFERENCE, VOLUME I  
Pages 1-7  
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

March 14, 2019  
2:30 p.m.

Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive Southwest  
Olympia, Washington 98504

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

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1 OLYMPIA, WASHINGTON; MARCH 14, 2019  
2 2:30 P.M.  
3 --oOo--  
4 P R O C E E D I N G S  
5

6 JUDGE PEARSON: Let's be on the record.  
7 This is Docket TR-190081, which is a petition filed by  
8 the City of Monroe to modify warning devices and install  
9 median barriers at a highway rail grade crossing located  
10 at Kelsey Street in Monroe.

11 Today is Thursday, March 14th, 2019, at 2:30  
12 p.m., and we're here for a prehearing conference to  
13 discuss scheduling and other procedural issues.

14 My name is Rayne Pearson. I am an  
15 administrative law judge, and I'm presiding over this  
16 case.

17 So we'll begin by taking appearances  
18 starting with Commission Staff. And I'll just take a  
19 short appearance, so just your -- your name, spelling  
20 your last name, and who you represent.

21 MR. CALLAGHAN: All right. Nash Callaghan,  
22 AAG representing Commission Staff.

23 JUDGE PEARSON: Okay. And, Mr. Owsley?

24 MR. OWSLEY: Travis Owsley, representing  
25 BNSF Railway.

1 A P P E A R A N C E S

2 ADMINISTRATIVE LAW JUDGE:

3 RAYNE PEARSON  
4 Utilities and Transportation  
Commission  
5 1300 South Evergreen Park Drive SW  
Olympia, Washington 98504  
6 (360) 664-1160  
rayne.pearson@utc.wa.gov

7 FOR COMMISSION STAFF:

8 NASH CALLAGHAN  
9 Assistant Attorney General  
10 PO Box 40128  
Olympia, Washington 98504  
11 (360) 664-1187  
nash.callaghan@utc.wa.gov

12 FOR CITY OF MONROE:

(Via bridge)

13 SCOTT PETERSON  
14 Deputy City Engineer  
806 West Main Street  
15 Monroe, Washington 98272  
(360) 863-4606  
16 speterson@monroewa.gov

17 FOR BNSF:

(Via bridge)

18 TRAVIS OWSLEY  
19 BNSF Railway  
2500 Lou Menk Drive, AOB-3  
20 Fort Worth, Texas 76131  
(817) 352-2255  
21 travis.owsley@bnsf.com

22 ALSO PRESENT:

23 BETTY YOUNG  
24 \* \* \* \* \*  
25

1 JUDGE PEARSON: Thank you.  
2 And, Mr. Peterson?

3 MR. PETERSON: Scott Peterson, City of  
4 Monroe.

5 JUDGE PEARSON: Okay. And, Mr. Peterson,  
6 what's your position with the City?

7 MR. PETERSON: Deputy city engineer.

8 JUDGE PEARSON: Deputy city engineer, okay.  
9 Thank you.

10 Is there anyone else on the bridge line who  
11 wishes to enter an appearance?

12 Okay. Hearing nothing, I did receive  
13 information that the parties may be close to resolving  
14 this matter. So at this time, I recommend that we  
15 schedule a second prehearing conference in a few weeks  
16 to allow the parties more time for negotiations. Is  
17 that acceptable to the parties?

18 MR. CALLAGHAN: Yes, Your Honor.

19 MR. OWSLEY: Yes, Your Honor --

20 MR. PETERSON: -- Your Honor.

21 JUDGE PEARSON: Okay. And what time frame  
22 would be preferable? Is four weeks enough time?

23 MR. PETERSON: (Inaudible.)

24 THE COURT REPORTER: I wasn't able to hear  
25 that.


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1 JUDGE PEARSON: I'm sorry, can you repeat  
 2 that, Mr. Peterson?  
 3 MR. PETERSON: City of Monroe would defer to  
 4 Burlington Northern to choose a time that's best for  
 5 them.  
 6 JUDGE PEARSON: Okay. Mr. Owsley, do you  
 7 have...  
 8 MR. OWSLEY: Your Honor, we anticipate  
 9 having this settled within the next -- next week, but  
 10 now that I've said that, Murphy's Law will -- will take  
 11 hold. So if we could schedule a prehearing conference  
 12 for three weeks out from today, I anticipate we will  
 13 have this resolved well before then.  
 14 JUDGE PEARSON: Okay. So what would work  
 15 for me is if we scheduled it about a month out. That  
 16 way you have plenty of time to request, if a settlement  
 17 is reached, that we cancel the second prehearing  
 18 conference. And the dates that I had in mind were the  
 19 afternoon of either April 15th or April 18th.  
 20 MR. PETERSON: City of Monroe is good with  
 21 either of those.  
 22 JUDGE PEARSON: Okay.  
 23 MR. OWSLEY: Likewise with BNSF.  
 24 JUDGE PEARSON: Okay. Mr. Callaghan?  
 25 MR. CALLAGHAN: Commission Staff is

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1 available at both those times.  
 2 JUDGE PEARSON: Okay. So why don't we go  
 3 ahead and set it for April 15th in the afternoon. Does  
 4 2:00 p.m. work for the parties?  
 5 MR. PETERSON: Yes, Your Honor.  
 6 JUDGE PEARSON: Okay. So I think that it  
 7 makes sense to take up any petitions for intervention  
 8 and discovery issues at the second prehearing  
 9 conference, should we even convene one, so we can hold  
 10 those matters in abeyance until that time unless there's  
 11 any objection.  
 12 MR. CALLAGHAN: None, Your Honor.  
 13 MR. PETERSON: No objection.  
 14 JUDGE PEARSON: Okay. So thank you all for  
 15 being here or calling in today. I will issue a notice  
 16 of a second prehearing conference shortly reflecting  
 17 that we chose the afternoon of April 15th at 2:00 p.m.  
 18 Is there anything else from any of the parties?  
 19 MR. PETERSON: No, Your Honor.  
 20 MR. OWSLEY: Nothing from BNSF, Your Honor.  
 21 JUDGE PEARSON: Okay. Thank you. And we  
 22 are adjourned.  
 23 (Adjourned at 2:35 p.m.)  
 24  
 25

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1 CERTIFICATE  
 2  
 3 STATE OF WASHINGTON  
 4 COUNTY OF THURSTON  
 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.  
 10  
 11  
 12  
 13   
 14 Tayler Garlinghouse, CCR 3358  
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<p style="text-align: center;"><b>A</b></p> <p><b>AAG</b> 3:22  <b>abeyance</b> 6:10  <b>ability</b> 7:9  <b>able</b> 4:24  <b>acceptable</b> 4:17  <b>accurate</b> 7:9  <b>adjourned</b> 6:22,23  <b>administrative</b>  1:13 2:2 3:15  <b>afternoon</b> 5:19 6:3  6:17  <b>ahead</b> 6:3  <b>allow</b> 4:16  <b>anticipate</b> 5:8,12  <b>AOB-3</b> 2:20  <b>appearance</b> 3:19  4:11  <b>appearances</b> 3:17  <b>April</b> 5:19,19 6:3  6:17  <b>Assistant</b> 2:9  <b>Attorney</b> 2:9  <b>available</b> 6:1  <b>Avenue</b> 1:22</p> <hr/> <p style="text-align: center;"><b>B</b></p> <p><b>barriers</b> 3:9  <b>best</b> 5:4 7:9  <b>BETTY</b> 2:24  <b>BNSF</b> 2:18,19 3:25  5:23 6:20  <b>Box</b> 2:10  <b>bridge</b> 2:13,18 4:10  <b>Buell</b> 1:21  <b>Burlington</b> 1:7 5:4</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p><b>C</b> 2:1 3:4 7:1,1  <b>Callaghan</b> 2:9 3:21  3:21 4:18 5:24,25  6:12  <b>calling</b> 6:15  <b>cancel</b> 5:17  <b>case</b> 3:16  <b>CCR</b> 1:20 7:13</p>	<p><b>Certified</b> 7:6  <b>certify</b> 7:8  <b>choose</b> 5:4  <b>chose</b> 6:17  <b>city</b> 1:4 2:13,14 3:8  4:3,6,7,8 5:3,20  <b>close</b> 4:13  <b>Commission</b> 1:2,17  2:4,8 3:18,22 5:25  <b>conference</b> 1:11  3:12 4:15 5:11,18  6:9,16  <b>convene</b> 6:9  <b>COUNTY</b> 7:4  <b>COURT</b> 4:24  <b>crossing</b> 3:9</p> <hr/> <p style="text-align: center;"><b>D</b></p> <p><b>D</b> 3:4  <b>dates</b> 5:18  <b>defer</b> 5:3  <b>Deputy</b> 2:14 4:7,8  <b>devices</b> 3:8  <b>discovery</b> 6:8  <b>discuss</b> 3:13  <b>Docket</b> 1:4 3:7  <b>Drive</b> 1:18 2:5,20</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p><b>E</b> 2:1,1 3:4,4 7:1,1  <b>either</b> 5:19,21  <b>engineer</b> 2:14 4:7,8  <b>enter</b> 4:11  <b>Evergreen</b> 1:18 2:5</p> <hr/> <p style="text-align: center;"><b>F</b></p> <p><b>F</b> 7:1  <b>FE</b> 1:7  <b>filed</b> 3:7  <b>foregoing</b> 7:8  <b>Fort</b> 2:20  <b>four</b> 4:22  <b>Fourth</b> 1:22  <b>frame</b> 4:21</p> <hr/> <p style="text-align: center;"><b>G</b></p>	<p><b>G</b> 3:4  <b>Garlinghouse</b> 1:20  7:6,13  <b>General</b> 2:9  <b>go</b> 6:2  <b>good</b> 5:20  <b>grade</b> 3:9</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>hear</b> 4:24  <b>Hearing</b> 4:12  <b>highway</b> 3:9  <b>hold</b> 5:11 6:9  <b>Honor</b> 4:18,19,20  5:8 6:5,12,19,20</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>Inaudible</b> 4:23  <b>information</b> 4:13  <b>install</b> 3:8  <b>intervention</b> 6:7  <b>issue</b> 6:15  <b>issues</b> 3:13 6:8</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>judge</b> 1:13 2:2 3:6  3:15,23 4:1,5,8,21  5:1,6,14,22,24 6:2  6:6,14,21</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p><b>Kelsey</b> 3:10  <b>knowledge</b> 7:9</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>law</b> 1:13 2:2 3:15  5:10  <b>Let's</b> 3:6  <b>Likewise</b> 5:23  <b>line</b> 4:10  <b>LLC</b> 1:21  <b>located</b> 3:9  <b>Lou</b> 2:20</p> <hr/> <p style="text-align: center;"><b>M</b></p> <p><b>Main</b> 2:15  <b>March</b> 1:15 3:1,11</p>	<p><b>matter</b> 4:14  <b>matters</b> 6:10  <b>median</b> 3:9  <b>Menk</b> 2:20  <b>mind</b> 5:18  <b>modify</b> 3:8  <b>Monroe</b> 1:4 2:13  2:15 3:8,10 4:4  5:3,20  <b>month</b> 5:15  <b>Murphy's</b> 5:10</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p><b>N</b> 2:1 3:4  <b>name</b> 3:14,19,20  <b>Nash</b> 2:9 3:21  <b>nash.callaghan@...</b>  2:11  <b>National</b> 1:24  <b>negotiations</b> 4:16  <b>Northern</b> 1:7 5:4  <b>notice</b> 6:15</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p><b>O</b> 3:4  <b>o0o--</b> 3:3  <b>objection</b> 6:11,13  <b>okay</b> 3:23 4:5,8,12  4:21 5:6,14,22,24  6:2,6,14,21  <b>Olympia</b> 1:18,23  2:5,10 3:1  <b>Owsley</b> 2:19 3:23  3:24,24 4:19 5:6,8  5:23 6:20</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p><b>P</b> 2:1,1 3:4  <b>p.m</b> 1:16 3:2,12 6:4  6:17,23  <b>Pages</b> 1:12  <b>Park</b> 1:18 2:5  <b>parties</b> 4:13,16,17  6:4,18  <b>Pearson</b> 1:13 2:3  3:6,14,23 4:1,5,8</p>	<p>4:21 5:1,6,14,22  5:24 6:2,6,14,21  <b>Peterson</b> 2:14 4:2,3  4:3,5,7,20,23 5:2  5:3,20 6:5,13,19  <b>petition</b> 3:7  <b>Petitioner</b> 1:5  <b>petitions</b> 6:7  <b>plenty</b> 5:16  <b>PO</b> 2:10  <b>position</b> 4:6  <b>preferable</b> 4:22  <b>prehearing</b> 1:11  3:12 4:15 5:11,17  6:8,16  <b>PRESENT</b> 2:23  <b>presiding</b> 3:15  <b>procedural</b> 3:13</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p style="text-align: center;"><b>R</b></p> <p><b>R</b> 2:1 3:4 7:1  <b>rail</b> 3:9  <b>Railway</b> 1:7 2:19  3:25  <b>Rayne</b> 1:13 2:3  3:14  <b>rayne.pearson@...</b>  2:6  <b>reached</b> 5:17  <b>Realtime</b> 1:21  <b>receive</b> 4:12  <b>recommend</b> 4:14  <b>record</b> 3:6  <b>reflecting</b> 6:16  <b>repeat</b> 5:1  <b>REPORTED</b> 1:20  <b>Reporter</b> 4:24 7:7  <b>Reporting</b> 1:21  <b>represent</b> 3:20  <b>representing</b> 3:22  3:24  <b>request</b> 5:16  <b>resolved</b> 5:13  <b>resolving</b> 4:13</p>
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<p><b>speterson@monr...</b></p>	<p><b>we're</b> 3:12</p>	<p><b>5</b></p>	
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