

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

REVISED 12/14/07

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.

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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~~ more
14 than one set of tracks). The videos can only be played using proprietary software on BNSF laptop
15 computers, so BNSF will be able to show all parties before the evidentiary hearing in this case but
16 I cannot attach a copy here. The videos do not depict ~~any collisions~~ or graphic material. *See* First
17 Exhibit to Megan McIntyre’s Prefiled Rebuttal Testimony, attached hereto as Exhibit No. _____
18 (MM-3 *REVISED*).

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

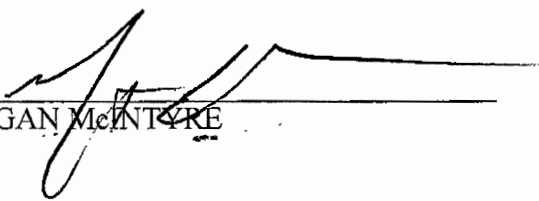
22 When a train is blocking the crossing, four-quadrant gates do not prevent people from
23 trying to climb above or below the train to cross the tracks. The safest crossing is one that does
24 not exist.

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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 17th day of December, 2007.



MEGAN McINTYRE

DATED this 17th day of December, 2007.

Montgomery Scarp MacDougall, PLLC



Tom Montgomery, WA. Bar No. 19998
Bradley P. Scarp, WA. Bar No. 21453
Kelsey Endres, WA. Bar. No. 39409
Of Attorneys for BNSF Railway Company
1218 Third Ave., Ste. 2700
Seattle, WA 08101
Tel. (206) 625-1801
Fax (206) 625-1807
tom@montgomeryscarp.com
brad@montgomeryscarp.com
kelsey@montgomeryscarp.com

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 **REVISED** PREFILED REBUTTAL TESTIMONY OF MEGAN
2 McINTYRE has been sent by FedEx to Carole J. Washburn at WUTC and a PDF version sent by electronic mail. I also certify
3 that true and 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. 3rd Street
8 Mount Vernon, WA 98273

L.Scott Lockwood
Assistant Attorney General
1400 S. Evergreen Park Dr. S.W.
P.O. Box 40128
Olympia, WA 98504

7 Gary T. Jones
8 Jones & Smith
9 PO Box 1245
10 Mount Vernon, WA 98273

Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Dr. S.W.
PO Box 40128
Olympia, WA 98504

10 Brian K Snure
11 Snure Law Office
12 612 South 227th Street
13 Des Moines, WA 98198

Kevin Rogerson
City Attorney
P.O Box 809
Mount Vernon, WA 98273

13 Adam E. Torem
14 1300 S. Evergreen Park Dr. SW
15 P.O. Box 47250
16 Olympia, WA 98504-7250

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

18 DATED this 17th day of December, 2007 at Seattle, Washington.

19 
20 _____
21 Lisa Miller, Paralegal