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PLEASE REPLY TO: Ferndale

March 24, 1995

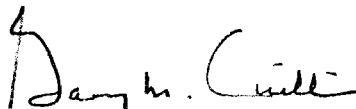
Mr. Steve McLellan, Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, Washington 98504-7250

Re: Docket No.: TR-940330

Dear Mr. McLellan:

Enclosed are the original and three copies of the Respondent City of Ferndale's Reply to Petitioner's Response to Motion of Commission Staff to Reopen Proceedings in the above referenced matter. Please accept the same for filing.

Very truly yours,



Gary M. Cuillier, City Attorney
for City of Ferndale

GMC:cju

Enclosures

cc: Stan Strebel, City Manager, City of Ferndale
Ann E. Rendahl, Assistant Attorney General, Utilities &
Transportation
Rexanne Gibson, Kroschel & Gibson, Attorneys at Law
Burlington Northern Railroad Co.
Jeanne A. Cushman, Assistant Attorney General,
Transportation & Public Construction
Robert E. Walkley, Attorney at Law
Gil Mallery, WSDOT
Alden Clark, National Railroad Passenger Corporation

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95 MAR 28 49:00
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COMMUNICATIONS SECTION

1 1. There has been no SEPA review of the new
2 proposal for the Thornton Road crossing that is recommended in
3 the Initial Order Granting Petition by Administrative Law Judge
4 Lisa Anderl. The new proposal is basically to continue to allow
5 the residents living east of the tracks on Thornton Road near its
6 dead end to use the Thornton Road crossing and to require traffic
7 to be flagged across when a train is split at the crossing. Any
8 SEPA review to this point has been for a proposal to eliminate
9 vehicular travel over the crossing by providing alternate access
10 for the residents. (See SEPA Environmental Checklist, page 4;
11 SEPA Environmental Studies prepared by Shapiro and Associates,
12 Inc., May, 1994, pages II-3 and IV-63; Addendum to SEPA
13 Determination of Non-Significance, June 24, 1994, page 2; and
14 Addendum to SEPA Determination of Non-Significance, September 8,
15 1994, page 2). SEPA review and consideration of the type of
16 crossing arrangement presently recommended would disclose viable
17 alternatives that would mitigate the tremendous future costs to
18 the public that will otherwise result from the recommended
19 closure.
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24 2. Any SEPA review that has been undertaken has
25 failed to accurately identify impacts upon the City of Ferndale
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RESPONDENT CITY OF FERNDALE'S REPLY
TO PETITIONER'S RESPONSE TO MOTION LANGABEER TULL AND CULLER, P.S.
OF COMMISSION STAFF TO REOPEN PROCEEDINGS-2 ATTORNEYS AT LAW

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1 that would result from the proposed action. For example, answer
2 15b on page 20 of the Environmental Checklist states:

3 "Because no impacts on public services are
4 anticipated, no mitigation is needed or
5 proposed."

6 And answer 8.1 on page 15-16 of the Environmental Checklist, as
7 well as page IV-63 of the Environmental Studies, state:

8 "Existing City plans and policies do not
9 include any plans for an extension of
10 Thornton Road as an east-west arterial."

11 3. Any SEPA review that has been undertaken
12 remains incomplete. For example, the "Summary of Environmental
13 Impacts and Mitigation Measures" on page I-10 of the
14 Environmental Studies has not established an effective method for
15 mitigation of impacts:

16 "Potential impacts related to the closing of
17 the Thornton Road crossing on possible future
18 plans of the City of Ferndale would be
19 considered and discussed with the city by
20 WSDOT to determine appropriate mitigation, if
needed."

21 And the City of Ferndale's "opportunity to respond" has not
22 resulted in any meaningful opportunity to receive answers or to
23 trigger the consideration of other viable alternatives. For
24 example, a critical unanswered question still remains which was
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27 RESPONDENT CITY OF FERNDALE'S REPLY
TO PETITIONER'S RESPONSE TO MOTION LANGABEER TULL AND CULLIER, P.S.
OF COMMISSION STAFF TO REOPEN PROCEEDINGS-3 ATTORNEYS AT LAW

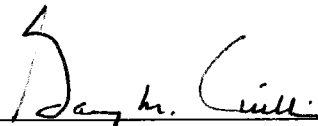
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1 posed in a May 20, 1994, letter from City Manager Stan Strebel to
2 the Washington State Department of Transportation as follows:

3 "The MDNS did not consider other options that
4 would allow for the Thornton Road crossing to
5 remain open. Why not shift the proposed
6 siding northward, so that all switching
7 activity would be located North of Thornton
8 Road?"

9 The Petitioner has resisted all efforts to undertake a
10 meaningful analysis of the closure and other viable alternatives.
11 The new arrangement for the crossing has not received any SEPA
12 review. The Motion of the Commission staff is well-taken and
13 should be granted.

14 RESPECTFULLY SUBMITTED this 27th day of March, 1995.

15 

16 _____
17 Gary M. Cuillier, WSBA #3633
18 of Langabeer, Tull & Cuillier, P.S.
19 Attorneys for Respondent CITY OF
20 FERNDALE


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27 RESPONDENT CITY OF FERNDALE'S REPLY
TO PETITIONER'S RESPONSE TO MOTION LANGABEER TULL AND CULLIER, P.S.
OF COMMISSION STAFF TO REOPEN PROCEEDINGS-4 ATTORNEYS AT LAW

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I have this date served a true copy
3 of **RESPONDENT CITY OF FERNDALE'S REPLY TO PETITIONER'S RESPONSE**
4 **TO MOTION OF COMMISSION STAFF TO REOPEN PROCEEDINGS** upon the
5 persons and entities listed on the Service List below by
6 depositing a copy of said document in the United States mail,
7 addressed as shown on said Service List, with first class
8 postage prepaid.

9 DATED this 27th day of March, 1995.

10 
11 _____
GLORIA PRUGO

12 **SERVICE LIST**

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Washington, D.C. 20001

27 **RESPONDENT CITY OF FERNDALE'S REPLY TO PETITIONER'S RESPONSE TO MOTION OF COMMISSION STAFF TO REOPEN PROCEEDINGS - 5**

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