

0399

1                   BEFORE THE WASHINGTON STATE  
2                   UTILITIES AND TRANSPORTATION COMMISSION  
3                   BNSF RAILWAY COMPANY,                   )   DOCKET NO. TR-070696  
4    )   )  
5                   Petitioner,                   )   Volume VI  
6    )   Pages 399 to 464  
7                   vs.                             )  
8    )  
9                   CITY OF MOUNT VERNON,                   )  
10    )  
11                   Respondent,                   )  
12    )  
13                   and                             )  
14                   SKAGIT COUNTY, WASHINGTON                   )  
15                   STATE DEPARTMENT OF                   )  
16                   TRANSPORTATION, and WESTERN                   )  
17                   VALLEY FARMS, LLC,                   )  
18    )  
19                   Intervenors.                   )  
20                   \_\_\_\_\_ )  
21  
22  
23  
24  
25

12                   A public hearing in the above matter was held  
13 on January 7, 2008, from 1:30 p.m to 2:45 p.m., at 1805  
14 Continental Place, Multi-purpose Room, Mount Vernon,  
15 Washington, before Administrative Law Judge ADAM E.  
16 TOREM.

17                   The parties were present as follows:

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0400

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25

0401

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2 INDEX OF EXAMINATION

3 -----

4	WITNESS:	PAGE:
5	ALERD JOHNSON	
6	Examination by Judge Torem	409
7	DAVID CHRISTIANSON	
8	Examination by Judge Torem	412
9	Cross-Examination by Mr. Scarp	415
10	Cross-Examination by Mr. Jones	415
11	Examination by Judge Torem	461
12	JOHN VAN PELT	
13	Examination by Judge Torem	417
14	DAVID OLSON	
15	Examination by Judge Torem	419
16	Cross-Examination by Mr. Scarp	422
17	Cross-Examination by Mr. Rogerson	424
18	JIM YOUNGSMAN	
19	Examination by Judge Torem	426
20	MARY ARENDSE	
21	Examination by Judge Torem	429
22	MICHAEL CAMACHO	
23	Examination by Judge Torem	433
24	Cross-Examination by Mr. Jones	435
25	SUSAN ANDERSON	436

0402

1	ALLEN ROZEMA	
2	Examination by Judge Torem	437
3	MICHAEL ROOZEN	
4	Examination by Judge Torem	440
5	BRIAN WALTNER	
6	Examination by Judge Torem	442
7	Cross-Examination by Mr. Jones	444
8	Cross-Examination by Mr. Scarp	446
9	Cross-Examination by Mr. Rogerson	447
10	YVONNE BOON	
11	Examination by Judge Torem	448
12	KEVIN MAAS	
13	Examination by Judge Torem	451
14	KENNETH A. DAHLSTEDT	
15	Examination by Judge Torem	454
16	Cross-Examination by Mr. Scarp	456
17	SHARON ELDRIDGE	
18	Examination by Judge Torem	458
19		
20		
21		
22		
23		
24		
25		

0403

1 P R O C E E D I N G S

2 JUDGE TOREM: Good afternoon, my name is Adam  
3 Torem, I'm an Administrative Law Judge from the  
4 Washington Utilities and Transportation Commission. I  
5 want to thank the members of the public for coming out  
6 for our public hearing today on the proposed Hickox Road  
7 grade crossing closure. As you can see, we have a court  
8 reporter today to take down your testimony and comments  
9 in this public comment hearing. And I say public  
10 testimony because each of you that wants to speak, and I  
11 have got a list of at least 12 that are in attendance  
12 today that do want to speak, you will all be sworn in in  
13 just a few moments and potentially subject to  
14 cross-examination on anything you say by the attorneys.

15 Now I'm going to give folks a limited time to  
16 speak, there will be another opportunity for folks that  
17 don't speak today and want to see what this is all about  
18 and speak tomorrow night can do that starting at 5:30  
19 tomorrow on Tuesday. Because I anticipate this is going  
20 to be the smaller of our crowds, we're working on  
21 exactly how we can rearrange the room for tomorrow  
22 afternoon and evening to accommodate more of you, maybe  
23 move the tables out and get more chairs in, but I think  
24 we still can't exceed Mr. John Cupp in the back tells me  
25 about 90 some people, so we may be working on shuffling

0404

1 people in and out depending tomorrow night.

2           Now for today we're going to take public  
3 comment for as long as it takes to get through everyone  
4 who wants to speak. If you have written comments, as I  
5 have already identified, John Cupp is our public comment  
6 coordinator today, he will take your written comments if  
7 you have already prepared something and typed it up or  
8 if you just want to write something up today or bring it  
9 even tomorrow night and he will assemble that. We  
10 already have a number of comments on file at the  
11 Commission in Olympia that were received when this  
12 proposal and petition was first brought forward by the  
13 railroad and the State Department of Transportation,  
14 those are all going to be made part of the record when  
15 this closes. Today any comments that come in will be  
16 numbered as a different exhibit reflecting they came in  
17 on Monday, January 7th, and tomorrow's public comments  
18 exhibits and submissions will be labeled as well for  
19 Tuesday, January the 8th.

20           Now what you need to recognize as folks  
21 addressing the Commission is I am an Administrative Law  
22 Judge currently representing the Commissioners invested  
23 with making the decision as to ultimately what the law  
24 requires on the action of the railway's petition, so  
25 you're addressing me, and I've got to be able to capture

0405

1 it in the record as to what your opinion is on this  
2 proposal, whether you oppose it or you're against it. I  
3 would assume that many of you from the petitions I have  
4 already read and the comments I have already read are  
5 not in favor particularly of this closing. That's not  
6 going to be a big surprise to the lawyers that are in  
7 the front of the room or to me. So if you have already  
8 heard someone speak and you find that Mr. Smith or  
9 Mrs. Jones was particularly eloquent and said everything  
10 you wanted to say, you can just say you're agreeing with  
11 that previous speaker, and if you want to add to it from  
12 there, go ahead. But rather than keep things redundant  
13 or hearing the same things over and over as happens at  
14 some public hearings, I would encourage you to take  
15 advantage of making new points, state your agreement  
16 maybe with what you have heard and go on from there.  
17 And if you hear something you disagree with, again I  
18 encourage you not to have to take it apart point by  
19 point because you're only going to have about 3 minutes  
20 of time to make that occur.

21 Now this afternoon it may seem we have  
22 budgeted 2 hours for the public hearing and like I said  
23 we only have about 12 or 13 people that say they want to  
24 speak. A lot of you are here that don't want to speak,  
25 just want to listen, hear what's coming in to me and

0406

1 what the attorneys ask your fellow citizens. If you  
2 don't feel you have enough time in those 3 minutes and  
3 you feel like you still have something to say, I will  
4 invite you to come back a second time, but I am going to  
5 hold things to 3 minutes because of two reasons. One,  
6 tomorrow night I think we are going to have a whole lot  
7 more people that want to speak. It's just my experience  
8 that the evening public comment hearings are better  
9 attended, folks are sometimes working and can't make it  
10 in the afternoon, and this hearing was set up for those  
11 that have an afternoon availability and not in the  
12 evening maybe due to child care or something else. So  
13 tomorrow night I know I'm going to be scheduling folks  
14 for 3 minutes and I don't want to say, well, if you came  
15 on Monday you get 6 minutes, if you came on Tuesday you  
16 get 3. So for a matter of consistency we'll keep it at  
17 that.

18           Secondly, I think you will find 3 minutes  
19 when you're standing there with that microphone seems  
20 like a long time. I have already been talking for about  
21 4 or 5 and it's starting to seem like a long time. So 3  
22 minutes should be sufficient. If you feel that it's  
23 been too short for you, let me know when I hold up the  
24 card that says please stop, and I will remember to call  
25 you back and see if you still have something to add



0407

1 after your fellow citizens have testified. So those are  
2 the ground rules as far as timing.

3           The other basic ground rules I usually  
4 shouldn't have to go into, but I want to make sure  
5 because there are some strong emotions on this issue,  
6 let's keep things professional, let's keep things civil.  
7 Tell me what the reasons you support or oppose the  
8 closing are, let's not go into attacking individual  
9 people that you may have dealt with along the way, let's  
10 not go into attacking individual companies or state  
11 agencies or their motivations, let's deal with things  
12 professionally and keep things as much community  
13 oriented as we can. So I just throw that out there at  
14 the beginning so if I have to mention it later I can  
15 just refer back and you will know what I'm talking  
16 about.

17           Any questions as to the public comment  
18 procedures?

19           All right, what I would like to do now then  
20 is ask all of you that intend to speak, and I've got a  
21 list here, to take an oath of witness. And I'm going to  
22 ask each of you when you come up, were you part of the  
23 group that took the oath, and I will swear in folks  
24 individually, but to save time we're going to do this as  
25 sort of a group public swearing in. So all of you that

0408

1 have signed up and wish to speak, and I'm not going to  
2 list the names but you know who you are, if you intend  
3 to speak today, please rise and raise your right hand.

4 (Public was sworn.)

5 JUDGE TOREM: All right, so I will take it  
6 that everybody said yes, thank you very much.

7 I will give you an idea of who the first  
8 three speakers are and then sort of give you a set of  
9 speakers three at a time so you can prepare to get up  
10 and follow and save time on the switching out of seats,  
11 but I want you all to be prepared when you come up that  
12 I'm going to ask you some foundational questions, and  
13 those are to state and spell your name for the record, I  
14 will ask you your address, and depending on where you  
15 tell me you live I will ask you how long you have lived  
16 there, and I will ask you if you're representing  
17 yourself or a group. And if you are representing a  
18 group of folks, can you give me an idea, please, as to  
19 how large that group may be in your estimation.

20 And if you do have any written public  
21 comments that you're reading from or you want to submit  
22 them, again when you're done with your testimony or  
23 before you leave today make sure that Mr. Cupp in the  
24 back of the room there gets a copy of them, and they  
25 will be made part of the record.

0409

1 All right, our first three witnesses are  
2 Alerd Johnson, David Christian or Christianson maybe,  
3 and John Van Pelt, so Alerd Johnson, if you will please  
4 come on up, and you can use the podium here, or if you  
5 would like you can be seated in the chair here, either  
6 way, just pull the microphone close to you.

7

8 Whereupon,

9

ALERD JOHNSON,

10 having been first duly sworn, was called as a witness  
11 herein and was examined and testified as follows:

12

13

E X A M I N A T I O N

14

BY JUDGE TOREM:

15

Q. All right, Mr. Johnson, you have been sworn,  
16 can you state and spell your name for the record.

17

A. Alerd Johnson, A-L-E-R-D.

18

Q. And what's your address?

19

A. 14065 Gibraltar Road.

20

Q. And what city is that?

21

A. Anacortes.

22

Q. And how long have you lived in Anacortes?

23

A. I have lived in that place for over 30 years.

24

Q. And are you representing yourself today,

25

Mr. Johnson?

0410

1           A.     Myself and my brother, Addison Johnson.

2           Q.     Okay, you may begin.

3           A.     Several years ago my brother and I were  
4 looking for acreage in the Mount Vernon area to buy, and  
5 we looked for about six months, and the most desirable  
6 piece of land that we found to meet our needs was on  
7 Hickox Road. And one of the criteria that we had to  
8 have was close proximity to I-5. My brother lives on  
9 Camano Island, and he has a product that he needs  
10 storage on, and I also have a lot of agriculture  
11 equipment that we need to store. So we did buy the ten  
12 acres on Hickox Road in 2005 I believe it was, and this  
13 land is ten acres, it's agriculture land which we rent  
14 to the Boon family. We also have a house rental on the  
15 property. The property that we purchased also contained  
16 a barn for our storage, and we also built property on  
17 that.

18                     I have already submitted a letter last year,  
19 and I'm just going to quickly go over the highlights,  
20 and there's one item that came up afterwards that I  
21 didn't include in my letter that I wanted to bring up,  
22 but I will quickly go over the points that I was  
23 concerned about. Number one, which I think, well, first  
24 of all I'm opposed to the closing of this road, and the  
25 big issue of course is the delayed emergency response,

0411

1 whether that be EMT or fire protection.

2           Second one is evacuation time. This property  
3 obviously is in a flood zone, and if this crossing is  
4 closed our concern is because of the river where it's  
5 located if there was a flood we would have to be moving  
6 towards the river, which wouldn't work at all, this  
7 would be a major problem in moving out equipment or  
8 property.

9           Increased travel time for me, I live near  
10 Anacortes, I'm on this property two to three times a  
11 week. Quite often I'm using machinery, trailer, and  
12 this would include an additional ten minutes of time,  
13 and now I would have to go through the residential area  
14 in Mount Vernon.

15           Also we do rent out the house, and our  
16 concern is that this is going to be more difficult in  
17 the future if this comes to pass in renting the property  
18 due to the ability to get to the house on that. And  
19 with the time remaining, which I'm sure is seconds, I  
20 will just close with that, so.

21           JUDGE TOREM: All right, thank you,  
22 Mr. Johnson.

23           Any questions for Mr. Johnson?

24           Okay, next witness, thank you, sir, is David  
25 Christian.

0412

1 MR. CHRISTIANSON: Christianson.

2 JUDGE TOREM: Christianson, thank you, sir.

3 MR. CHRISTIANSON: Good afternoon.

4 JUDGE TOREM: Thank you, Mr. Christianson.

5

6 Whereupon,

7 DAVID CHRISTIANSON,

8 having been first duly sworn, was called as a witness

9 herein and was examined and testified as follows:

10

11 E X A M I N A T I O N

12 BY JUDGE TOREM:

13 Q. Can you tell us how to spell your last name,  
14 please.

15 A. C-H-R-I-S-T-I-A-N-S-O-N.

16 Q. All right, sir, and what's your address?

17 A. 18754 Pederson, P-E-D-E-R-S-O-N, Lane.

18 Q. And what city is that?

19 A. Mount Vernon.

20 Q. How long have you been in Mount Vernon, sir?

21 A. About 25 years.

22 Q. All right. And are you representing yourself  
23 or a group today?

24 A. Well, I'm representing myself, and then I  
25 also have several companies that I own that I am

0413

1 representing.

2 Q. All right.

3 A. D&D Farms and D&D Seed Company.

4 Q. Very well, let me start your time and give  
5 you 3 minutes.

6 A. I own the property adjacent to the Hickox  
7 Road crossing on the north, northwest corner of the  
8 crossing, and our property goes from there 3 quarters of  
9 a mile north along the railroad tracks. What we have,  
10 we have a private crossing going across the railroad  
11 crossing half a mile north of the Hickox Road crossing.  
12 The railroad has approached us wanting to close that  
13 crossing, and if that should come to be -- well, let me  
14 back up a minute.

15 The reason we bought the property was for  
16 access to I-5, you know, and convenience of freeway  
17 traffic and convenience to getting to our other farms.  
18 The railroad would like to close that crossing, they  
19 have approached us. And if that should come to be, we  
20 would have to have another alternate route to get to I-5  
21 to Mount Vernon and exit for flood evacuation,  
22 ambulance, and all what Mr. Johnson had stated. We  
23 would want to use the Hickox Road crossing if that  
24 should come to be. I mean that would be our most  
25 convenient crossing otherwise. And still using that

0414

1 crossing we're inconvenienced, we would have to travel 3  
2 more extra miles around to get to the same point where  
3 we're at right now, but it still is the most convenient  
4 access for us.

5           And as Mr. Johnson stated too, we're  
6 concerned about flood evacuation, fire and ambulatory  
7 services, and also property devaluation. If that  
8 crossing was to be closed, I think it would devalue our  
9 property substantially, well, everyone's property in  
10 that area because of the convenient access to I-5. Also  
11 if that crossing was closed, you know, it's the main  
12 access to a freeway cloverleaf, it doesn't make any  
13 sense at all to close off a main access. And I think  
14 that pretty much sums up what I had to say.

15           Q.     Mr. Christianson, let me understand, the  
16 private crossing is your primary way of getting across  
17 the tracks at this time?

18           A.     That's our only way at this time. The  
19 railroad somehow would have to buy adjacent lands to,  
20 you know, we're land locked right now.

21           JUDGE TOREM: That was the word I was looking  
22 for, thank you.

23           All right, attorneys, any questions for this  
24 witness?

25           Mr. Scarp.



0415

1 C R O S S - E X A M I N A T I O N

2 BY MR. SCARP:

3 Q. Mr. Christianson, who owns the property to  
4 the west of you between you and Britt Road?

5 A. Cadillac Ranches LLC.

6 Q. And how are they related to you, if at all?

7 A. I own that corporation.

8 Q. And does that property border Britt Road?

9 A. Yes, it does.

10 MR. SCARP: That's all, thank you.

11 JUDGE TOREM: Any other questions for  
12 Mr. Christianson?

13 MR. JONES: I have a question.

14 JUDGE TOREM: Mr. Jones.

15

16 C R O S S - E X A M I N A T I O N

17 BY MR. JONES:

18 Q. Mr. Christianson, did you previously comment  
19 on this proposal in writing to the Utilities and  
20 Transportation Commission?

21 A. Yes, we have.

22 Q. And is what you have there a copy of what you  
23 previously submitted?

24 A. Yes, and I can turn it in also at this point.

25 Q. Did you have a map that was related to --

0416

1           A.     Well, we have turned in a map.  I don't have  
2 one at this time.

3                   MR. JONES:  Okay, but this is, it would be I  
4 believe what you have indicated would mean that your  
5 comment would be in the record of this proceeding, so  
6 thank you.

7                   JUDGE TOREM:  And if you have the same  
8 letter, sir, there's no need to submit it again.  If  
9 it's something new, feel free.

10                   THE WITNESS:  Well, I'm not 100% sure if this  
11 went to the lawyer or if we did send it to Mr. Cupp  
12 earlier.

13                   JUDGE TOREM:  All right, why don't you give  
14 him a copy today just to be sure, and we'll make it a  
15 part of the record.  If it's a duplicate, that's just  
16 fine.

17                   THE WITNESS:  Okay.

18                   JUDGE TOREM:  Thank you, sir.

19                   THE WITNESS:  Thank you for your time.

20                   JUDGE TOREM:  You're very welcome.

21                   Next testifying witness will be Mr. John Van  
22 Pelt, he will be followed by David Olson from Dike  
23 District Number 3, and following him will be Mr. Jim  
24 Youngsman.

25

0417

1 Whereupon,

2 JOHN VAN PELT,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 E X A M I N A T I O N

7 BY JUDGE TOREM:

8 Q. All right, Mr. Van Pelt is at the microphone,  
9 sir, can you please state and spell your name for the  
10 record.

11 A. First name J-O-H-N, last name capital V-A-N,  
12 capital P-E-L-T.

13 Q. And what's your address, sir?

14 A. 18139 Dike Road.

15 Q. And is that here in Mount Vernon?

16 A. Yes.

17 Q. And how long have you lived in Mount Vernon,  
18 sir?

19 A. My entire life.

20 Q. I'm guessing --

21 A. Careful.

22 Q. -- not a day over 39?

23 A. Yeah, at least 39 years.

24 Q. All right, sir. And are you representing  
25 yourself or a group?

0418

1           A.     I wear several different things here, but  
2 myself, I'm also a member of a local volunteer fire  
3 district, and I work for a company that potentially  
4 would be affected by the closing also.

5                     So just quickly heeding your warnings, I'm  
6 opposed to the closing. I agree with the two people  
7 that have spoken so far that it would drastically,  
8 definitely and potentially drastically affect emergency  
9 response times, being involved in the local volunteer  
10 fire department for 30 plus years and going across that  
11 crossing numerous times to get to the fire station so  
12 that we can turn around and respond with apparatus and  
13 literally turning around and coming back across the  
14 crossing for different events.

15                     Same with evacuation, you know, I agree that  
16 it could make a real bottleneck if there was an event in  
17 the South Mount Vernon area and up near towards Mount  
18 Vernon and we had to evacuate the entire Britt Road,  
19 Dike Road area because we couldn't get out from Mount  
20 Vernon somewhere would be a major problem. That's  
21 pretty much about it.

22                     As far as response times, you know, yes, we  
23 could go a different way, yes, we could probably get  
24 there, but you get caught behind a, anybody been around  
25 farm machinery nowadays, you get caught behind a 15, 16

0419

1 foot wide piece of machinery rumbling up Dike Road  
2 around the windy corners, you can not get around it, and  
3 they have no place to go. So, you know, yeah, there's  
4 options, but it just -- it seems unacceptable especially  
5 when, and I have been to look around the room here,  
6 several people here, as a volunteer firefighter have  
7 been to their residence or place of business, and time  
8 is critical, very critical.

9 JUDGE TOREM: All right, thank you, Mr. Van  
10 Pelt.

11 Any questions for Mr. Van Pelt?

12 All right, seeing none, the next witness,  
13 thank you, sir, is David Olson.

14

15 Whereupon,

16 DAVID OLSON,  
17 having been first duly sworn, was called as a witness  
18 herein and was examined and testified as follows:

19

20 E X A M I N A T I O N

21 BY JUDGE TOREM:

22 Q. Good afternoon, Mr. Olson, you took the oath  
23 with the rest of the group?

24 A. (Nodding head.)

25 Q. All right, then can you state and spell your

0420

1 name for the record.

2 A. David Olson, D-A-V-I-D, O-L-S-O-N.

3 Q. And your address, please.

4 A. 18385 Torset Road, Mount Vernon.

5 Q. How long have you been in Mount Vernon, sir?

6 A. 64 years.

7 Q. He's got you by a few.

8 Are you representing yourself today or a  
9 group?

10 A. I'm representing Dike District Number 3 in  
11 Skagit County.

12 Q. All right, go ahead, sir.

13 A. We're responsible for approximately 13 miles  
14 of levee in Skagit County, and we're responsible for the  
15 left bank of the Skagit from Lions Park in Mount Vernon  
16 to the Skagit-Snohomish County line. Now during flood  
17 events, getting material to problem areas is one of our  
18 main concerns, and the source of that material during  
19 flood fights is the Meridian Quarry, which is at the  
20 east end of Hickox Road. And in order to get it to the  
21 levee along the south fork of the Skagit, it needs to  
22 come across the most convenient way, and that is the  
23 Hickox Road at present.

24 Now a lot of concerns have been raised  
25 already about evacuation and public safety, and those

0421

1 are also big concerns of ours. We as a commission are  
2 opposed to the closing of it. We also feel that there  
3 are alternatives that are workable, but they are more  
4 expensive, but we don't feel that money when it comes to  
5 public safety should be an issue. And I also have a  
6 written statement that's in the record already, but we  
7 will resubmit that today.

8 Q. Yes, I have seen the written statement, sir,  
9 anything else?

10 A. No, that's it.

11 Q. Question for you about the Meridian Quarry,  
12 in looking at the maps to your right, you would require  
13 crossing on Hickox Road if you wanted to make a straight  
14 line over to the west side of the tracks, has there been  
15 any thought or planning from the dike district or other  
16 response groups to stockpile some level of rock or  
17 whatever would be needed for response materials on the  
18 west side whether this is closed or not?

19 A. Well, no, it doesn't seem very practical. We  
20 never know where it's going to be or what type of  
21 material we may need or when we may need it. It just  
22 doesn't seem very practical from the dike district's  
23 point of view.

24 Q. So this quarry is the primary source of  
25 materials for response to all 13 miles of dike that you

0422

1 talked about earlier?

2 A. Most likely, yes. Unless, you know, other  
3 districts are having problems and there's a shortage  
4 there and then they would have to go to other sources,  
5 but that would be our first choice, yes.

6 Q. And is it always when you're responding to  
7 cross at Hickox Road, or do you take the material other  
8 places besides across the crossing on Hickox Road?

9 A. Hickox is by far the most convenient unless  
10 the event, the problem may be down south of Conway.  
11 Because if it's in South Mount Vernon, Hickox would be  
12 the most convenient, the less congested, and also from  
13 Hickox south to Conway it would be the most convenient  
14 access.

15 JUDGE TOREM: That helps me, I'm going to be  
16 driving the area sometime later this week, and I'm sure  
17 the quarry or Hickox Road at that end is part of what I  
18 will be seeing. All right, thank you.

19 Any other questions?

20 MR. SCARP: I do.

21 JUDGE TOREM: Mr. Scarp.

22

23 C R O S S - E X A M I N A T I O N

24 BY MR. SCARP:

25 Q. Mr. Olson, what is the northern boundary of



0423

1 the 13 mile distance of the levee that you're in charge  
2 of?

3 A. Lions Park in Mount Vernon, if you're  
4 familiar with the area at all.

5 Q. A little bit, but tell me is that to the  
6 south end of Mount Vernon?

7 A. Well, you know where the tulip tower is.

8 Q. Okay.

9 A. Just north of that a quarter mile or so,  
10 that's the northern boundary.

11 Q. And what is the southern boundary?

12 A. Skagit-Snohomish County line.

13 Q. All right. So if anything was south of  
14 Hickox, would you take those materials and head toward  
15 Conway or --

16 A. No, not necessarily. Like in 1990 we had  
17 overtopping occurring from the Stackpole Road south to,  
18 excuse me, yeah, Stackpole south to Johnson Road, and we  
19 had to put material on top of the levee for a mile, and  
20 that was the way we came, down Hickox Road and then  
21 south to Stackpole Road.

22 MR. SCARP: Thank you.

23 JUDGE TOREM: Any other questions?

24 MR. ROGERSON: Yes, Your Honor.

25

1 C R O S S - E X A M I N A T I O N

2 BY MR. ROGERSON:

3 Q. Mr. Olson, how long have you been a dike  
4 district commissioner?

5 A. 18 years.

6 Q. And can you just describe for people who  
7 aren't familiar with Skagit County and the area the  
8 flooding history here?

9 A. Well, from my time of remembrance, 1951 when  
10 I was fairly young, we did have a flood in our area, and  
11 then we went quite a few years without any events, and  
12 it seems like from 1975 to the present we have been  
13 having more events and more severe events. And so if  
14 you go by that, maybe we can anticipate more frequent  
15 and maybe more severe events in the future.

16 Q. Do you think it's going to flood again?

17 JUDGE TOREM: I don't think he's going to  
18 hold you to this prediction.

19 A. Well, I think the answer is yes, someday.

20 Q. And the levee bank, as a commissioner you're  
21 familiar with the system of levees Dike District 13 is  
22 responsible for; is that right?

23 A. Mm-hm.

24 Q. Are those levees certified by the Army Corps  
25 of Engineers at this time?

0425

1           A.     No, they're not, I don't believe there are  
2 any certified levees in Skagit County, and none of them  
3 are adequate to protect against a 100 year event.

4           Q.     Roughly to the best of your knowledge, what  
5 level of protection do those levees provide for in the  
6 Hickox area?

7           A.     I would guess 25.

8           Q.     Have you either witnessed or been told what  
9 happens when a levee breaks?

10          A.     Well, we all witnessed the 1990 break on Fir  
11 Island, and that was severe property damage there,  
12 luckily no loss of life, but there was a lot of damage.

13          Q.     And how quickly did the water inundate the  
14 floodplain there?

15          A.     Well, I really can't comment on that, I'm not  
16 sure, we were busy on our side of the river at that  
17 point in time.

18          Q.     Would your levees withstand a 100 year flood?

19          A.     No.

20                 MR. ROGERSON: Nothing further.

21                 JUDGE TOREM: Any other questions?

22                 I mean from the attorneys up here, I'm sorry,  
23 sir. I know members of the public may want to ask the  
24 commissioner, but he must have his own public meetings.

25                 All right, thank you, Mr. Olson.

0426

1                   Let me ask Mr. Jim Youngsman to come up,  
2 please. And following Mr. Youngsman it will be Marcie  
3 Arendse and my next sheet I'm got Michael Camacho and  
4 then Susan, oh, Susan, I can't read your writing,  
5 Errolson, I'm not sure, it could be Anderson also.

6

7 Whereupon,

8

JIM YOUNGSMAN,

9 having been first duly sworn, was called as a witness  
10 herein and was examined and testified as follows:

11

12

E X A M I N A T I O N

13

BY JUDGE TOREM:

14

Q. All right, Jim Youngsman, you took the oath

15

with the rest of the group?

16

A. Yes, I did.

17

Q. Can you state and spell your name for the

18

record.

19

A. My name is Jim Youngsman, J-I-M,

20

Y-O-U-N-G-S-M-A-N.

21

Q. And can you state your address for us?

22

A. My address where I do business on Hickox Road

23

is 18697 Hickox Road, my home address is 4895 Surfcrest

24

Drive, Oak Harbor.

25

Q. All right. And how long have you done

0427

1 business on Hickox Road, sir?

2 A. I have lived at that location for over 35  
3 years.

4 Q. So you have a residence and a business there?

5 A. I have a residence which I have just recently  
6 turned over to my youngest son to raise his family in  
7 the home where he grew up.

8 Q. All right, sir, so are you representing  
9 essentially your family then today?

10 A. I'm representing both my family, myself, and  
11 the business I represent.

12 Q. All right, sir, let me reset the stopwatch  
13 here and take your 3 minutes.

14 A. Thank you for the opportunity to speak. I  
15 wish to strongly oppose the closure of Hickox Road. My  
16 family consists of a son and his wife and three children  
17 who live just on the other side, the west side, of the  
18 closing. I'm concerned for their safety and welfare if  
19 there is an issue where they have to get across the  
20 railroad. I'm also concerned that this extension of the  
21 siding is probably not really necessary, because I see  
22 sometimes trains parked on the siding for as many as 10  
23 to 12 days and not moving.

24 I would also like to point out that while I'm  
25 not trying to attack anyone individually, there's

0428

1 politics here in this case, company, public safety, and  
2 the senator who represents the 10th District in which  
3 this closure is scheduled to occur should first of all  
4 represent the constituents of that district who elected  
5 to office. And I went to the public disclosure  
6 commission to determine what influence might Burlington  
7 Northern have on this closure by contributing to her  
8 election, and I noted that in the last election cycle  
9 the maximum amount was given for both the primary and  
10 the general, \$675 both times, both on the same day for  
11 that matter, to influence the senator who chairs the  
12 transportation committee and through whom no bill can  
13 pass without her consent.

14           And therefore I feel that in this case we not  
15 only have a public safety issue, we have a political  
16 issue here that doesn't smell real good, and I really  
17 appreciate you taking that into account as well when you  
18 make this decision. Thank you very much.

19           Q.     Thank you, Mr. Youngsman. Let me just be  
20 clear that I don't run for office, I'm appointed by  
21 commissioners and hired for this job, so none of that  
22 money is making its way to my pockets, Mr. Youngsman.  
23 So as much as I appreciate that, I would hope that the  
24 belief in this room would be that I'm running a fair  
25 hearing here, that I'm -- I wish I could even tell you

0429

1 the name of the senator, but I have stayed away from  
2 that sort of thing, so I think I know who you're talking  
3 about, but I couldn't say for sure.

4 A. If you ask me, I will tell you.

5 JUDGE TOREM: All right, let me ask Marcie  
6 Arendse to come up.

7

8 Whereupon,

9

MARY ARENDSE,

10 having been first duly sworn, was called as a witness  
11 herein and was examined and testified as follows:

12

E X A M I N A T I O N

13

BY JUDGE TOREM:

14

Q. Hello, Ms. Arendse, were you here when we

15

took the oath for everyone?

16

A. Yes, I did.

17

Q. All right.

18

A. I believe it's incorrect, it's Mary, and it's

19

Arendse.

20

Q. Thank you, I'm going to give you a chance to

21

state that and spell it for the record, please.

22

A. I sure will.

23

Q. Go ahead.

24

A. My name is Mary Arendse, it's spelled

25

M-A-R-Y, last name is Arendse, A-R-E-N-D-S-E, I reside

0430

1 at 16739 Dike Road in Mount Vernon, and I have been  
2 there at least 31 years plus.

3 Q. And are you representing yourself today or a  
4 group?

5 A. I'm actually representing myself, my family,  
6 and I'm also representing the neighbors of Dike Road. I  
7 believe you have a previous statement from myself, and I  
8 did a number between 60 to 75 petitions against the  
9 crossing.

10 Q. Yes, and I note that you're accompanied at  
11 least in the audience today with Jean and Joe Topness of  
12 the same organization.

13 A. Yes, I see her here.

14 Q. All right, you're speaking on their behalf as  
15 well it appears?

16 A. Possibly, I believe so.

17 Q. All right, go ahead, ma'am.

18 A. There's many of the neighbors and mostly  
19 they're seniors, some of them couldn't get out today.  
20 Obviously we have had some snow situation here, and  
21 there's a lot of them are shut-ins or can't get out, and  
22 I'm in particularly here on their behalf because they  
23 can't get out, they're mainly shut-ins. They are also  
24 generations of farmers and neighbors.

25 First concern is safety. We have heard some



0431

1 information about response time for medical aid and fire  
2 trucks. I wholeheartedly concur with that. I think  
3 that we would be in jeopardy of receiving response time  
4 and special care that we have already been accustomed  
5 to. Our fire station was moved, no one has mentioned  
6 that, but our fire station has already been moved from  
7 Cedardale to Hickox Road to more centrally locate for  
8 our district as a benefit, and I see this to be no  
9 benefit to be closing this for them to get at the center  
10 of their district.

11           There's many questions, but I would like to  
12 see us not go backwards, and is Burlington Northern  
13 willing to relocate our fire hall? What is one life  
14 worth I ask for a stroke or a heart attack? You know,  
15 these items can't be reversed, and sometimes you can  
16 save a person's life by just one simple minute, and we  
17 have all heard that we can't, there is no way this  
18 closure will allow the next distance that we have to go  
19 to to ever be within one simple minute.

20           I ask a question myself about I understood  
21 that there was an Amtrak issue. Politically someone has  
22 mentioned but I have also personally watched the storage  
23 of fuel tanks, and when I spoke to Mount Vernon Railway  
24 Services, they receive \$500 a month for these tankers  
25 just like this. There has been repeated storage tankers

0432

1 from Blackburn Road to beyond Hickox Road. And we have  
2 received Burlington Northern's studies, have we had  
3 ample time or are there any other studies?

4 I would like to say in summary we would like  
5 to share this crossing, keep it open. We need the  
6 evacuation route, all of our emergency services are  
7 intact, and we would like them to remain. Is this truly  
8 an Amtrak or is this a refinery need? If so, if they  
9 need more room for their studies or expansions for their  
10 rail cars, why not look for a solution and put those on  
11 Highway 20 out where the refineries are. Don't close  
12 our crossing or jeopardize first and foremost our  
13 property values, and let's not forget about our  
14 insurance rates. The further we are from these  
15 emergency services, the more our rates are going to go  
16 up.

17 Last but not least, I had a question or a  
18 statement regarding the quarry. The quarry has serviced  
19 us, but they also had the manpower to load the trucks in  
20 all emergency services by a phone call. These items I  
21 don't think we can simply store a stockpile of rock,  
22 because the equipment and the manpower that is necessary  
23 in an emergency situation would not be in place, and you  
24 can't depend on a battery to be up and running out in  
25 some storage field, we just can't simply do that.

0433

1                   We certainly ask for answers to some of these  
2 questions, and we appreciate your time.

3                   JUDGE TOREM: Thank you, Ms. Arendse.

4                   All right, any questions for Ms. Arendse?

5                   All right, then seeing none, the next is  
6 Michael Camacho and then Susan Anderson and then Allen  
7 Rozema.

8

9                   Whereupon,

10   MICHAEL CAMACHO,  
11 having been first duly sworn, was called as a witness  
12 herein and was examined and testified as follows:

13

14   E X A M I N A T I O N

15                   BY JUDGE TOREM:

16                   Q.     Mr. Camacho, were you here when we did the  
17 oath for everybody?

18                   A.     I was.

19                   Q.     All right, can you state and spell your name  
20 for the record.

21                   A.     Michael Camacho, last name spelled  
22 C-A-M-A-C-H-O.

23                   Q.     And your address, please?

24                   A.     1521 Linda Mood Lane, that's L-I-N-D-A,  
25 M-O-O-D, apparently a family that's been here for a long

0434

1 time, in Burlington, Washington.

2 Q. And how long have you been in Burlington,  
3 sir?

4 A. Four and a half years.

5 Q. All right, and are you representing yourself  
6 or a group today?

7 A. A little of both, myself and Mount Vernon  
8 Christian School, my children attend school there, and  
9 I'm also on the board.

10 Q. Okay, go ahead, sir.

11 A. My kids attend school there, and my concern  
12 is the traffic, the increase of traffic, it's going to  
13 be -- well, let me go back. Back in '96, '97, I used to  
14 work for Skagit City Turf Farms, and Hickox Road was a  
15 major route, that was how we got in and out, and  
16 oftentimes I would get stuck behind the big trucks, the  
17 farmers with their equipment trying to get in and out  
18 from one field to the other using Hickox Road. If you  
19 close Hickox Road, where are those farmers going to go,  
20 where are they going to get their equipment in and out?  
21 Well, Burlington is or Mount Vernon, excuse me, the  
22 Mount Vernon Christian School is a major route, and we  
23 believe, the school does, we believe that it will be  
24 impacted in a negative way. There will be a lot of  
25 bottlenecks, I mean it's not a very wide road, Blackburn

0435

1 is not a wide road, and you can not get these potato  
2 trucks and the big farm equipment down that road, it's  
3 just going to be a real hazard. My concern is safety  
4 for the kids. What are we going to, you know, when  
5 someone's big piece of equipment comes down that road  
6 and broadsides somebody, then we're going to wish we had  
7 never closed it.

8 So that's all I had to say.

9 JUDGE TOREM: Any questions for Mr. Camacho?  
10 Mr. Jones.

11

12 C R O S S - E X A M I N A T I O N

13 BY MR. JONES:

14 Q. Mr. Camacho, have you had experience with  
15 trucks using the Hickox Road overpass to go from one  
16 side of Interstate 5 to the other?

17 A. When I used -- most of the business, I was a  
18 sales rep for Skagit City Turf Farms, and most of my  
19 business was in Arlington, Marysville area, so I always  
20 used Hickox Road to get onto the freeway, and yes, I  
21 would get stuck behind the big trucks. And so again,  
22 where are they going to go? They have to go either  
23 north or further south, and they're probably not going  
24 to want to go further south because it's a long way  
25 south.

0436

1 MR. JONES: Thank you.

2 JUDGE TOREM: Any other questions for  
3 Mr. Camacho?

4 All right, seeing none, Susan Anderson.

5

6 Whereupon,

7 SUSAN ANDERSON,

8 having been first duly sworn, was called as a witness  
9 herein and was examined and testified as follows:

10 MS. ANDERSON: I'm Susan Anderson, I have  
11 nothing further to add to what Mary Arendse said, I  
12 wholeheartedly agree her and oppose the closing.

13 JUDGE TOREM: Okay, thank you, Ms. Anderson.

14 Mr. Cupp, do we have additional speakers  
15 signed up, I'll take those sheets from you now.

16 The next speakers I've got listed are Allen  
17 Rozema, and he will be followed by Michael Roozen and  
18 then Brian Waltner and Yvonne Boon.

19

20

21

22

23

24

25

0437

1 Whereupon,

2 ALLEN ROZEMA,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 E X A M I N A T I O N

7 BY JUDGE TOREM:

8 Q. All right, sir, will you state your name for  
9 the record and spell it, please.

10 A. Allen Rozema, A-L-L-E-N, R-O-Z-E-M-A.

11 Q. And I believe you were here when we had the  
12 oath for the group?

13 A. Yes, sir.

14 Q. All right, can you tell me your address,  
15 please.

16 A. 17460 Dike Road, Mount Vernon.

17 Q. How long have you lived in Mount Vernon?

18 A. All my life.

19 Q. And are you representing yourself today or a  
20 group?

21 A. I need to represent myself and a group today,  
22 and I will tailor my comments for both.

23 Q. Okay, can you pull that microphone a little  
24 bit closer so the rest of the audience can hear, and  
25 there you go, 3 minutes.

0438

1           A.     Representing myself at 17460 Dike Road, I  
2 would like to just tack on to what everyone said about  
3 emergency response.

4                     Like to add a personal note that we were a  
5 recipient of John Van Pelt's services a year ago due to  
6 some storm damage, an electrical fire, and I can assure  
7 you that emergency response was very critical in our  
8 situation in getting everything restored and put to rest  
9 so to speak.

10                    Evacuation, if you're familiar with the  
11 geography there, if there is a dike break, because of  
12 the railroad grade that area will fill up like a  
13 bathtub, and having as much access to getting out of  
14 there as possible would be greatly appreciated by us  
15 residents in that area.

16                    And then we also understand somewhere in the  
17 near future the current fire station will be moved to  
18 get out of the floodplain, we understand that may be in  
19 the Conway Hill area further extending service response  
20 time into our area, particularly if the Hickox Road  
21 intersection is closed.

22                    My comments, my additional comments will be  
23 for Skagitonians To Preserve Farmland.

24           Q.     Can you tell me the name of that again?

25           A.     Skagitonians To Preserve Farmland, I am the



0439

1 director, we have a stated position of trying to  
2 maintain essential infrastructure for agriculture.  
3 Access is absolutely critical in this area for  
4 agricultural equipment. A lot of the farmers are moving  
5 equipment in and out of that area. We do have a dairy  
6 on that road. As you know, most of you know,  
7 agriculture survives on margins, and anything that will  
8 start increasing the cost to operate dairy, operate  
9 equipment in that area, is going to impact agriculture  
10 in this area and in this valley, so we would like to see  
11 core infrastructure maintained as much as possible.

12           And my last comment is that that area is, if  
13 additional siding is extended, things like that, and  
14 Burlington Northern does store a lot of tanker cars  
15 there, we would like to question hazardous material  
16 storage in that area, what does that do for us residents  
17 if there's an emergency, emergency response, limited  
18 access, all those things, so hazardous material storage  
19 in that area also.

20           Thank you.

21           JUDGE TOREM: Any questions for Mr. Rozema?

22           Thank you, sir, for your testimony.

23           Next witness is again Michael Roozen followed  
24 by Brian Waltner.

25

0440

1 Whereupon,

2 MICHAEL ROOZEN,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 E X A M I N A T I O N

7 BY JUDGE TOREM:

8 Q. Sir, can you state and spell your name for  
9 the record.

10 A. My name is Michael Roozen, and that's  
11 R-O-O-Z-E-N.

12 Q. And were you here for the oath earlier?

13 A. I was here for the oath earlier.

14 My residence is 17345 Dike Road, Mount  
15 Vernon, we have lived here for 10 years, and I have  
16 lived in the valley my whole life. I have previously  
17 submitted comments requesting that the Commission deny  
18 the railroad request to close this interchange, and I'm  
19 going to reiterate my support for all the previous  
20 individuals.

21 I do want to make one note that Allen Rozema  
22 and I both share the discharge of the Britt slough road  
23 as it crosses underneath the dike. At this location we  
24 also have an Olympic pipeline that crosses underneath  
25 the dike. And with deference to the commissioners who

0441

1 have taken very good care of the dikes for so many  
2 years, it's once again they have done a great job for a  
3 long time, this area is an issue area, and no matter  
4 what they do it's always going to be a weak spot because  
5 we have these strange things coming together at this  
6 location. And it's going to be important if there is an  
7 event or it looks like we have a weak spot to be able to  
8 get there very quickly.

9           And once again we find ourselves at a  
10 location where we're equidistant between the Stackpole  
11 and the Blackburn Road alternative routes, we find  
12 ourselves almost in the middle, and that is an issue.  
13 You know, 5 or 10 minutes may be the difference, we'll  
14 never know that. We also have had a life threatening  
15 event at our residence, and irrespective of what the  
16 outcome was, I can tell you as a firefighter of over 20  
17 years that 2 to 4 minutes does make a difference. It  
18 makes a difference both if it's a person or if it's  
19 property.

20           And we understand commerce, I have been in  
21 business my whole life, I do want to ask the railroad  
22 what the compelling reason for this is and if that  
23 compelling reason is more important for the people in  
24 our little neighborhood than this 2 to 4 minutes.

25           And that concludes my comment. I speak for

0442

1 the Roozen family and Apollo Properties.

2 JUDGE TOREM: Thank you, sir.

3 Any questions for Mr. Roozen?

4 THE WITNESS: Thank you.

5 JUDGE TOREM: Thank you.

6 Mr. Waltner, and he will be followed by

7 Yvonne Boon.

8

9 Whereupon,

10 BRIAN WALTNER,

11 having been first duly sworn, was called as a witness

12 herein and was examined and testified as follows:

13

14 E X A M I N A T I O N

15 BY JUDGE TOREM:

16 Q. Mr. Waltner, I think you were here earlier

17 for the group oath?

18 A. Yeah.

19 Q. Can you state and spell your name for the

20 record.

21 A. Brian Waltner, B-R-I-A-N, W-A-L-T-N-E-R.

22 Q. And your address, please?

23 A. I reside at 17065 Britt Road.

24 Q. And what city is that in?

25 A. Mount Vernon.

0443

1 Q. How long have you been a Mount Vernon  
2 resident?

3 A. Oh, well, 30, 40 years now, not 39.

4 Q. Are you representing yourself or a group?

5 A. Myself, and we also farm down on the  
6 Stackpole Road, which is a mile south of Hickox, and own  
7 property from Conway that we farm and all the way up to  
8 Britt Road to Blackburn, different parcels. And I just  
9 see moving equipment, and we got one piece across the  
10 freeway down in Conway, anyway we're moving farm  
11 equipment, and I agree with everybody else on emergency  
12 response, flood evacuation, but I just see Dike Road  
13 becoming a real problem to move equipment safely. As  
14 everybody knows it's not getting smaller, you know,  
15 farming, the equipment we use now is huge, and the Dike  
16 Road has not changed, there's no shoulders, you can't  
17 get out of the way, it's curvy, and somebody is going to  
18 try and pass. I mean I won't see it, it's just going to  
19 happen.

20 And I guess that's about all I have to say.

21 JUDGE TOREM: Thank you, Mr. Waltner.

22 Any questions for this gentleman?

23 All right, seeing none, then let's move on --  
24 oh, Mr. Jones.

25

0444

1 C R O S S - E X A M I N A T I O N

2 BY MR. JONES:

3 Q. Brian, do you have a spraying service  
4 business?

5 A. Yes, we also operate a commercial spraying  
6 business for ag.

7 Q. As a result of that business, do you  
8 transport equipment on trailers?

9 A. Yes.

10 Q. Including lowboy type trailers?

11 A. Specialized equipment, trailers, yes.

12 Q. Do you have a history of using the Hickox  
13 Road overpass over Interstate 5 in that business?

14 A. Yes. I mean we cross the freeway, well, we  
15 operate from Bow Hill to Snohomish County, and I mean  
16 yeah.

17 Q. When you have occasion to be working on the  
18 east side of the freeway and you want to come back,  
19 meaning to the west side of the freeway, assume that you  
20 were coming west and you needed to make a turn to the  
21 left going back toward Conway on the frontage road  
22 there, what's the nature of that intersection, is it  
23 adequate to accommodate your equipment making left turns  
24 off of that highway overpass?

25 A. Back to like Stackpole?

0445

1 Q. Yes.

2 A. That is a real problem.

3 Q. Can you describe that problem for the Law  
4 Judge, please.

5 A. As you come over the overpass from the east  
6 to the west, the road gradually turns to the right I  
7 guess. And in that, the Conway Road comes in at about a  
8 45 to that intersection, and it is a problem I mean to  
9 make that corner. I can go -- I have gone down to  
10 Hickox, we've got a potato barn on Dike Road, on foggy  
11 mornings we will use Hickox because it's got crossing  
12 arms instead of going across Stackpole. I mean we use  
13 it a lot. And they said that they would move lights and  
14 this and that, but with all the other problems with  
15 emergency services, flood evacuation, it doesn't make  
16 sense to me I guess.

17 Q. In your opinion, would closing Hickox Road  
18 have a tendency in the business you operate to cause you  
19 to make more trips down Blackburn Road past the  
20 Christian School?

21 A. Blackburn is going to -- yes, we're going to  
22 move more stuff that way to get onto the frontage road.  
23 We farm west of Mount Vernon too, and we're going to use  
24 that more, we're going to -- I mean I know the railroad  
25 probably knows this better than me, but people know the

0446

1 shortest route to get somewhere. Case in point down in  
2 Stanwood, Warm Beach community, they take the Miller,  
3 nobody else knows this, but they will take the Miller  
4 Road which is I mean it is tiny, but it's way shorter to  
5 get up to Hagen, and they put all these cars on this  
6 little road, and it crosses the railroad tracks with  
7 just a stop sign. So definitely it's going to go to  
8 Blackburn and definitely -- I don't see Stackpole Road  
9 getting much traffic, I see it all going to Conway on  
10 Dike Road to get to the freeway.

11 JUDGE TOREM: Mr. Scarp has a follow-up  
12 question.

13 MR. SCARP: I do.

14

15 C R O S S - E X A M I N A T I O N

16 BY MR. SCARP:

17 Q. I appreciate, Mr. Waltner, so if you're on  
18 the east side of the freeway coming across and you need  
19 to go south to Hickox, I'm sorry, to Stackpole, what do  
20 you do to make that turn?

21 A. You run over the pylons, I mean they put up  
22 little stakes but with an equipment trailer there's no  
23 way to make it.

24 Q. Do you ever make that with your equipment  
25 trailer?



0447

1           A.     Oh, you can, but I mean you're into the other  
2 lane.  If there's a car at the stop sign, you almost got  
3 to wait for them to pull out so you can actually go.

4           Q.     Do you transport your equipment on lowboys  
5 down to your property on Stackpole?

6           A.     Yes.

7           MR. SCARP:  Okay, thank you.

8

9                   C R O S S - E X A M I N A T I O N

10          BY MR. ROGERSON:

11          Q.     Brian, one question, what kind of vehicles  
12 would you be driving that would be diverted up near the  
13 school?

14          A.     Everything.

15          Q.     Can you explain?

16          A.     We have farm tractors with equipment, we've  
17 got trucks, potato trucks, water trucks, sprayers,  
18 pickups, service truck, hauling, field equipment, you  
19 know, it's all minimum 12 feet wide up to 16, and then  
20 with poles but 18 I guess with -- I mean potato digger  
21 alone is about 18 feet wide.

22                   JUDGE TOREM:  All right, I think they have  
23 exhausted their questions for you, Mr. Waltner, thank  
24 you.

25                   Okay, Yvonne Boon, and then I've got Kevin

0448

1 Maas, and I'm not sure if there are any others that wish  
2 to speak today, that's the list of folks that have  
3 indicated they want to. So after Ms. Boon and Mr. Maas,  
4 I will see if any of you also still want to speak today  
5 or if you would like to submit anything in writing or  
6 perhaps come back tomorrow night and see what the rest  
7 of your fellow citizens here in the neighborhood have to  
8 say.

9

10 Whereupon,

11

YVONNE BOON,

12 having been first duly sworn, was called as a witness  
13 herein and was examined and testified as follows:

14

15

E X A M I N A T I O N

16 BY JUDGE TOREM:

17

Q. Ms. Boon, I think you were here for the  
18 swearing in?

19

A. Yes.

20

Q. All right, so then if you would state and  
21 spell your name for the record.

22

A. My name is Yvonne Boon spelled Y-V-O-N-N-E  
23 and Boon is B-O-O-N.

24

Q. And your address, ma'am?

25

A. 16481 Road 3 Southwest, Quincy, Washington

0449

1 98848.

2 Q. And how long have you lived in Quincy?

3 A. About three weeks.

4 Q. All right. Where did you live before that?

5 A. Well, I'm part of Western Valley Farms, and  
6 we still have our business and a part of our business at  
7 20616 Olson Road, Mount Vernon.

8 Q. All right. And I believe your husband and  
9 maybe brother-in-law --

10 A. No, husband and two sons.

11 Q. Oh, and two sons are submitting testimony in  
12 this case as well, and they will testify on Wednesday?

13 A. That's correct.

14 Q. All right, let me go ahead and start your 3  
15 minutes so we hear from you as well.

16 A. All right, thank you.

17 I did grow up at the west end of the  
18 Blackburn Road, and as a child I placed pennies on the  
19 railroad track to flatten them as we crossed the tracks  
20 at the Blackburn Road on our way up to Hillcrest Park up  
21 the hill. And as kids we often counted the number of  
22 riders in the cargo cars of the trains, and on one  
23 occasion my dad had my mother make a sandwich for a man  
24 who was passing through the box cars.

25 The railroad line, the Skagit River, and

0450

1 Interstate 5 were all parallel to each other, and all  
2 three determined the direction and flow of people,  
3 business, and commerce from Conway to the south and  
4 completely through Mount Vernon on the north. We have  
5 always lived with finding our way around our town and  
6 the rural areas by railroad crossings, Skagit River  
7 bridges, I-5 interchanges, and a route to the schools  
8 and the health care facilities on the hill on the east  
9 side of Mount Vernon.

10           The growth of population, commerce, and  
11 business in our area doesn't warrant closure of railroad  
12 crossings or road accesses now or in the coming years.  
13 The means of transportation through our area can not be  
14 separated to look at one piece individually. The  
15 railroad is one piece. Life with the Skagit River is  
16 another piece and affects us more, and all that  
17 testimony has reflected that statement. Throughout the  
18 year in Skagit County the power of the wind, the rain,  
19 the snow determine the course of the river. Road  
20 closures are not a new term for Mount Vernon or our  
21 county. The Dike Road which runs alongside the Skagit  
22 River dike at the west end of the Hickox Road and  
23 parallel to the railroad line at the Hickox Road can be  
24 closed or impassable due to flood control vehicles, sand  
25 bagging, or water. Without the Hickox Road railroad

0451

1 crossing as an escape for our family, our neighbors, our  
2 dairy animals, we're not safe.

3           And no longer is it safe or legal for people  
4 to ride the railroad cargo cars nor to feed a stranger a  
5 sandwich or take pennies and place them on the railroad  
6 track to flatten them. Those are memories of a better  
7 day. Conversely I can not fathom why now would my  
8 pennies or taxpayer dollars be used to take away any  
9 road or railroad crossing access to create a less safe  
10 area for people to live and work.

11           Thank you.

12           JUDGE TOREM: Thank you, Ms. Boon, let me see  
13 if any of the attorneys have questions for you.

14           All right, thank you very much.

15           Kevin Maas.

16

17 Whereupon,

18                           KEVIN MAAS,  
19 having been first duly sworn, was called as a witness  
20 herein and was examined and testified as follows:

21

22                           E X A M I N A T I O N

23 BY JUDGE TOREM:

24           Q.     Sir, I don't recall if I saw you in the back  
25 for the oath, were you here?

0452

1 A. I was here for the swearing in.

2 Q. All right, great. Let me have you state and  
3 spell your name.

4 A. My name Kevin Maas, K-E-V-I-N, M-A-A-S.

5 Q. And your address, please?

6 A. 1934 South Wall Street just off Blackburn.

7 Q. Okay, so that's here in Mount Vernon?

8 A. That's right.

9 Q. How long have you lived there?

10 A. About 12 years.

11 Q. And you're representing yourself or a group?

12 A. I'm representing a company called Farm Power  
13 Northwest. We are a renewable energy developer, and we  
14 see potential for at least a megawatt of renewable  
15 energy in the South Mount Vernon area. Closing the  
16 Hickox Road Crossing would reduce the viability of that  
17 area, because we depend on being able to move  
18 agricultural waste, primarily dairy waste, back and  
19 forth from each side of the freeway and each side of the  
20 railroad tracks. If the Hickox Road Crossing was  
21 closed, we would be unable to carry through a plan to  
22 move waste daily back and forth. It would no longer be  
23 economical to drive trucks all the way down to Conway or  
24 over to Blackburn to move waste to a potential project  
25 site on one side or the other of the freeway. So we are

0453

1 opposed, we believe that the State as the governor has  
2 called for must do everything possible to create home  
3 grown renewable energy sources, we intend to do that,  
4 please help us.

5 JUDGE TOREM: Questions for Mr. Mass?

6 I always have something new at these public  
7 hearings, Mr. Maas, and you have supplied it.

8 All right, are there any other speakers that  
9 wish to address the record today?

10 Okay, I have at least one here, any others?

11 Two, okay, let me ask both of you, were you  
12 here to take the oath earlier?

13 MR. FALLQUIST: Your Honor, the Commissioner,  
14 Ken Dahlstedt, Skagit County.

15 JUDGE TOREM: Okay, sir, if you come up to  
16 the microphone I will swear you in.

17 MR. DAHLSTEDT: I have been sworn at but not  
18 sworn in.

19 JUDGE TOREM: Sir, I know the feeling.

20

21

22

23

24

25

0454

1 Whereupon,

2 KENNETH A. DAHLSTEDT,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 E X A M I N A T I O N

7 BY JUDGE TOREM:

8 Q. Would you state and spell your name for the  
9 record.

10 A. Okay, my name is Kenneth A. Dahlstedt,  
11 D-A-H-L-S-T-E-D-T, I am one of the Skagit County  
12 Commissioners, I happen to represent the Second District  
13 which this is located in. It's actually located within  
14 the city limits, however we represent every citizen in  
15 Skagit County.

16 Q. Please, sir.

17 A. First of all, I want to thank you for coming  
18 here to have this hearing and allow the people and the  
19 citizens that we represent to have their opportunity to  
20 be heard. Certainly Skagit County has one of the most  
21 risky rivers on the West Coast of the United States, and  
22 we have spent millions and millions of dollars trying to  
23 find ways to help minimize the risk that we have, and  
24 every transportation corridor is critical in the event  
25 of an emergency. Certainly after this last flood event



0455

1 that we had down in Lewis County and Centralia and  
2 Chehalis, you can see that you never know where there  
3 might be a failure in a dike. So to say that one road  
4 might be more likely to be utilized than another I don't  
5 think is very realistic.

6 Certainly the railroad crossing with a train  
7 sitting, there's always a danger when you're in times of  
8 emergency, and the County Commissioners have sent  
9 letters and so there's some testimony, and also one of  
10 our attorneys here representing us as well, but the  
11 public safety is something that's critically important.  
12 Every citizen we have we're concerned about, not only  
13 from the flood, but fire, emergency services. And also  
14 we have two major farm equipment dealerships that are in  
15 that area, and Hickox Road is the major corridor for a  
16 lot of the farmers to go in there. So we are definitely  
17 concerned.

18 I know there was a hearing not long ago, we  
19 believe there was some interest in trying to find some  
20 reasonable compromise as to how they could either have  
21 signals put on both of the tracks, and I think there was  
22 a real interest on some of our citizens' part to try to  
23 find a reasonable compromise. I think the County  
24 Commissioners would like to see something like that  
25 happen rather than just shutting down this critical

0456

1 corridor.

2 JUDGE TOREM: Thank you, sir.

3 Any questions for the Commissioner?

4 Mr. Scarp.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. SCARP:

8 Q. Commissioner, did I understand you to say you  
9 would like to find a way for that crossing to be open  
10 for emergency evacuation and flood fighting?

11 A. Well, also for our fire and emergency  
12 services as well. I think that, you know, I think that  
13 part of the concern was that some trains may be parked  
14 there and there may be times that there might be a time  
15 limit or a longer waiting period, and in my discussions  
16 with our fire and emergency people, they said they would  
17 be willing to take the risk that sometimes there may be  
18 a crossing block but the majority times to keep it open.  
19 I think there was a real commitment to try to find a way  
20 to accommodate both the needs of the State  
21 Transportation, the railroad, and also keep our citizens  
22 safe.

23 Q. But your concern with flooding is both flood  
24 fighting operations and possible evacuations including  
25 of livestock?

0457

1           A.     Both.  Because if there is a failure in the  
2 dike, typically what happens is you've got to haul rock,  
3 and you've got to try to get it as quick as possible.  
4 The main quarry where a lot of the rock not only here  
5 but even down from the Columbia River comes out of a  
6 quarry on Hickox Road on the other side of the railroad  
7 tracks.  So when you cut off that, that's the shortest  
8 distance to get across the river, so that's another  
9 concern.

10          Q.     So being able to open that for an emergency  
11 purpose would solve that problem for you?

12          A.     Well, again, the citizens are just, you know,  
13 they're critically important too, so I mean I think that  
14 that would be a compromise if we could at least be open  
15 most of the time.

16                 MR. SCARP:  Thank you.

17                 JUDGE TOREM:  Thank you, Commissioner.

18                 All right, ma'am, you wanted to address us as  
19 well, I think you were here earlier for the swearing in?

20                 MS. ELDRIDGE:  I was here, I did not stand to  
21 talk at that time though.

22                 JUDGE TOREM:  All right, and your name is?

23                 MS. ELDRIDGE:  Sharon Eldridge.

24

25

0458

1 Whereupon,

2 SHARON ELDRIDGE,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 E X A M I N A T I O N

7 BY JUDGE TOREM:

8 Q. Can you again state and spell your name?

9 A. My name is Sharon Eldridge, I reside at 17422  
10 Britt Road, that is in Mount Vernon.

11 Q. How do you spell your last name, ma'am?

12 A. E-L-D-R-I-D-G-E.

13 Q. All right. How long have you been in Mount  
14 Vernon?

15 A. Four years.

16 Q. And are you representing yourself or a group?

17 A. I am representing myself and my husband.

18 Q. All right. Go ahead, ma'am.

19 A. We moved here four years ago and bought a  
20 farmhouse on Britt Road, and we moved here from Seattle,  
21 the Seattle east side area. One of the main points of  
22 our home is because of the easy access to I-5. We are  
23 five minutes to I-5 where we are. We still commute for  
24 work. I'm not the or we aren't the only couple that is  
25 moving north from Seattle, and I believe that this is

0459

1 going to hurt not only our property value but the  
2 property value in the area.

3 I am also concerned we are less than one  
4 block away from the dike, I am very concerned in closing  
5 this area in our exit in case of a flood as well as our  
6 access to emergency services.

7 I think it's imperative that this crossing  
8 remain open, not just for now, but for the future of  
9 South Mount Vernon. Thank you.

10 JUDGE TOREM: Thank you, Ms. Eldridge.

11 Is there anyone else here this afternoon that  
12 wishes to make a public comment?

13 All right, seeing none then, it's about 20  
14 minutes to 3:00, what I want to do is let the attorneys  
15 know we're going to take a break until 5 until 3:00,  
16 that will give you members of the public at least 15  
17 minutes to talk to the folks here you might need to talk  
18 to. See Mr. Cupp in the back of the room if you have  
19 written comments that you want him to collect and mark  
20 as submitted as written public comment from today's  
21 public hearing.

22 This afternoon we're going to have some  
23 additional testimony from the State Department of  
24 Transportation witness and I believe one of the City  
25 employees. Tomorrow we'll resume the hearing at 9:00 in

0460

1 the morning, we will be here through lunch time and then  
2 have another witness in the afternoon, and the hearing  
3 will continue in this room on Wednesday all day. We may  
4 be going Thursday morning, we may not, it depends how  
5 things run on Wednesday, but we will be wrapping things  
6 up, and I will be doing a driving tour of the area at  
7 some point before leaving later in the week.

8           There are two other witnesses for your  
9 information that will not be available this week. It  
10 sounds like they will be testifying some time before the  
11 end of the month, and at that time the attorneys on  
12 either side will be submitting closing briefs. So if  
13 you're waiting to hear what the decision from the  
14 Commission will be, it probably won't be out until  
15 sometime in March, perhaps as late as April, depends on  
16 what we get for closing briefs, and if the attorneys  
17 think they need a second chance to respond to each  
18 other, that will set things back a few more weeks.

19           So when we're done today and with the public  
20 hearing tomorrow night, there still will be some time to  
21 submit public comments. Mr. Cupp, we have not yet  
22 established a deadline for that, but I don't think the  
23 record is going to close until close to February 1st, so  
24 I would suggest that when people ask, the Commission  
25 will set February 1st as the final date for submitting

0461

1 written comments. That will give the attorneys a chance  
2 to view those before two weeks later when their initial  
3 briefs are due, so it will be February 1st, and that  
4 should give everybody that can't make it today or  
5 tomorrow or thinks of something they should have said  
6 plenty of time to put it in writing and submit it to the  
7 Commission. If you have questions about the address or  
8 electronic ways to submit that, see Mr. Cupp.

9 Sir, there's a question?

10 MR. CHRISTIANSON: Quickly I was wondering, I  
11 had about a minute left on my testimony, could I do that  
12 now?

13 JUDGE TOREM: I see no reason why not, we  
14 have time, sir.

15

16 Whereupon,

17 DAVID CHRISTIANSON,  
18 having been first previously sworn, was called as a  
19 witness herein and was examined and testified as  
20 follows:

21

22 E X A M I N A T I O N

23 BY JUDGE TOREM:

24 Q. And if I'm remembering correctly, sir, it's  
25 Mr. Christianson.

0462

1           A.     Yes, David Christianson, and I have been  
2 sworn in.

3                   I just wanted to add, there was quite a bit  
4 of interest in how much traffic, and I didn't elaborate  
5 on that. On our farm we store all of our grass seed and  
6 vegetable seeds in our warehouse, and then we ship them  
7 out in the wintertime. They go out by large truck, you  
8 know, 105,000 pounds, you know, double set of double  
9 trailers. And all of our farm equipment, and that we do  
10 -- and we do farm north of Mount Vernon and actually  
11 south, and anything that we would be farming north all  
12 of our equipment would have to go down Britt Slough Road  
13 and through the Christian School area to get to North  
14 Mount Vernon. That would be our shortest distance, and  
15 all of our trucks, you know, double set of trailers  
16 going down Britt Slough Road to go to Hickox Road even  
17 those roads are secondary roads and they aren't really  
18 made for that type of traffic. But all of our, like I  
19 say, all of our farm equipment and everything would have  
20 to go through those secondary roads and add to that  
21 traffic. That's all I wanted to add.

22                   JUDGE TOREM: Does that raise any other  
23 questions for Mr. Christianson?

24                   All right, seeing none, are there any other  
25 questions from members of the public that I can address



0463

1 now while we're still on the record?

2 MR. CAMACHO: I was going to ask

3 Mr. Christianson how large are you talking about, 15

4 foot wide?

5 MR. CHRISTIANSON: Same as everyone else's,

6 12 to 15 feet wide. And then trailers, well, you know,

7 the trailers it's 40 plus 20 foot trailer that would be

8 going through that area also, you know, a set of

9 doubles. So, you know, it's 84 foot long I think with a  
10 tractor.

11 MR. CAMACHO: And how wide would you say

12 Blackburn Road is there by the school?

13 MR. CHRISTIANSON: Pardon me?

14 MR. CAMACHO: Do you have any idea of the

15 width of Blackburn Road over by --

16 MR. CHRISTIANSON: When the cars are parked

17 on each side?

18 MR. CAMACHO: Yes.

19 MR. CHRISTIANSON: Not very wide, it's hard

20 to have two cars pass each other when there's cars

21 parked on both sides of the road.

22 JUDGE TOREM: Mr. Camacho, I appreciate your

23 interest in figuring out the traffic dimensions, and I'm

24 sure that Mr. Jones who has the school principal coming

25 to testify on Wednesday will make sure those issues are

0464

1 fully addressed. And you can speak to Mr. Jones and  
2 make sure if you have any questions about that.

3 All right, thank you members of the public  
4 for coming out today, it is very important for me to  
5 hear from you, I'm sure I may see some of you back on  
6 Tuesday night, but as you can see, we have a bit of a  
7 question of space, encourage your friends and neighbors  
8 to come on Tuesday, but we may be rotating folks in and  
9 out.

10 We will be off the record for 15 minutes.

11 (Public Hearing adjourned at 2:45 p.m.)

12

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