

August 14, 2001

**NOTICE OF REQUEST FOR RESPONSES TO MOTION
FOR CONTINUANCE**

(Thursday, August 16, 2001 – 4:00 p.m.)

NOTICE OF PREHEARING CONFERENCE

(Friday, August 17, 2001 at 1:30 p.m.)

RE: The Burlington Northern & Santa Fe Railway Company v. Snohomish County
Docket No. TR-010194

TO ALL PARTIES OF RECORD:

The Commission has received a motion by Snohomish County seeking a continuance of the hearing now set for August 30, 2001 in this matter.

The basis for the motion appears to be that the County has not completed a threshold determination regarding the proposal. The County contends that the Commission is barred from convening a hearing to receive evidence until the threshold determination is made. It cites RCW 43.21C.030(2)(a) and WAC 197-11-070(1), barring agencies from taking any action that would have an adverse environmental impact or limit the choice of reasonable alternatives until a final determination of nonsignificance or final environmental impact statement is issued, to support the proposition

The Commission asks other parties to respond to the motion. The Commission also asks all parties, including the movant, to respond to the following questions.

1. What is the degree of need for a speedy determination of the proposal regarding this crossing? Why?
2. How would convening a hearing to receive evidence before an administrative law judge have an adverse environmental impact; contravene provisions of law that the final decision maker, the Commission, take no action to limit the choice of alternatives; or commit the agency to a particular course of action on the question of closure?

3. Is the purpose of the environmental review process (in shorthand terms, not intended to change the statute) to assure that the body deciding the substantive matter have adequate environmental information before acting? How would a decision on the continuance, for or against it, affect the availability of SEPA information to the appropriate deciders at the appropriate time(s)?
4. Are there any other factors related to the public interest that would affect a decision to grant or deny the requested continuance, including without limitation the publication of notice to the public of the time and place for hearing? Would there be any irremediable prejudice to any party or the public by granting or denying the request? Exactly what would that prejudice be?
5. If a continuance is granted, how long should it be and may the Commission have confidence that no further continuances would be required?

Parties' responses and answers to these questions are due in the Commission offices no later than **4:00 p.m. on Thursday, August 16, 2001**. Parties may fax their submissions and must provide copies to other parties at the time the documents are provided to the Commission. Parties are requested to submit a copy of their responses by electronic mail to records@wutc.wa.gov in .pdf format, MS Word 97 (or later), or WordPerfect 6.0 (or later) format.

ALL PARTIES PLEASE TAKE NOTICE, That the Commission will convene a prehearing conference in this matter on **Friday, August 17, 2001 at 1:30 p.m. in Room 108 at the Commission headquarters, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington**. Parties may attend via teleconference by making arrangements with Ms. Kippi Walker at (360) 664-1139.

PLEASE NOTE that this conference is being established to provide parties the opportunity to respond to any questions that the presiding officer may have after reviewing the parties' submissions. If no questions remain after reviewing the submissions, the conference will be cancelled.

Sincerely,

CAROLE J. WASHBURN
Secretary