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25

NO EXHIBITS WERE MARKED

0814

1 JUDGE TOREM: Okay. Good evening, my name
2 is Adam Torem. I'm an Administrative Law Judge from
3 the Washington Utilities and Transportation
4 Commission, or UTC. And we're here tonight, on
5 Tuesday, January the 8th, 2008. It's now 5:45 p.m.
6 I thank all of you for indulging me an extra 15
7 minutes to allow folks to get here in what I thought
8 would be more appropriate numbers to get started
9 with, so I wouldn't have to repeat the instructions.

10 Welcome to the public hearing on the
11 proposed closure of Hickox Road that the Washington
12 State Department of Transportation, in conjunction
13 with the Burlington Northern Santa Fe Railway, wish
14 to close. It's being opposed by the City, the
15 County, and a variety of other local entities, and
16 our Commission Staff is also making inquiries as to
17 the appropriateness of this petition to close the
18 crossing.

19 We've just finished the second day of the
20 evidentiary hearing. Yesterday, there was another
21 public hearing, and I know some of you were attending
22 that public comment session yesterday at 1:30 in the
23 afternoon. We had at least a dozen, if not more
24 folks speak. The same rules are going to apply
25 tonight, and let me explain those.

0815

1 First off, this is sworn testimony, and
2 you'll see that there's sort of a murderer's row of
3 lawyers up here. They're pretty nice people, so
4 don't worry. But they're entitled, once you give
5 your testimony, to ask you questions under
6 cross-examination. So when you come up tonight,
7 you're going to be asked to first take an oath that
8 what you're going to say is the truth, to the best of
9 your knowledge. I'll swear you all in as a group,
10 those that want to speak tonight.

11 Then I'm going to ask you, when you come up
12 to the microphone, either at the podium to my left or
13 to this table, if you're more comfortable sitting
14 down, to use the microphone in front of you there and
15 state and spell your name, I'll ask you your address,
16 what city you live in and how long you've lived
17 there. Then I'll also ask you if you're representing
18 yourself or a group.

19 Some of you yesterday were quick studies and
20 just gave all those responses before I had the
21 ability to ask questions, and that's just fine, but
22 that's the required information first.

23 Then I'll be giving each of you three
24 minutes to speak, and I'll be trying to give you some
25 cue cards here that tell you how much time you have

0816

1 left. I'm not real strict about it, but I don't want
2 folks to be up here for a long period of time, more
3 than three minutes. As I told the group yesterday, I
4 think you'll find three minutes is a long time to
5 speak.

6 In interest of time, because I know all of
7 you have other busy life issues to take care of on a
8 Tuesday night -- no national football game tonight,
9 but what can you do? I'm sure there are other things
10 to attend to, as my wife is doing back home down
11 south.

12 So I'm going to ask if you hear somebody say
13 something you agree with, you can come up to the
14 microphone tonight and just indicate you agree with
15 that particular witness that's already spoken and add
16 your additional concerns from there. There's no need
17 to repeat all the concerns again and again and again.
18 If there is one that's near and dear to your
19 particular interest, because of your address or your
20 vocation or whatever it is brought you here tonight,
21 feel free to repeat it, but I'm just telling you you
22 don't have to.

23 I'm not sure if there's anything else I need
24 to say preliminarily. I've been talking now for
25 about three minutes, so it will give you an idea how

0817

1 long that time period really is.

2 There's a number of folks that indicated
3 they wanted to get on and off, so I'm going to ask
4 that -- I think it's Sunny Empie and Joe Woodmansee
5 be the first witnesses. And right now I've got, in
6 addition to those two, only maybe two or three other
7 witnesses on the sign-in sheets that have indicated
8 that they wish to speak tonight, so that would be
9 only a total of four or five.

10 John Cupp is our public hearing coordinator.
11 He's in the back there. He probably had you sign in
12 if you were interested. And if you're not already on
13 a witness or a mailing list here and you want to give
14 him your address, he'd be happy to put you on our
15 mailing list for this particular issue.

16 Mr. Cupp also will be happy to take your
17 written comments if you happen to bring something
18 tonight and you don't want to speak, you want to turn
19 something in in writing, even if it's something you
20 make handwritten while you're here, he'll take it
21 tonight and it will become an exhibit and appended to
22 our record of this case.

23 The deadline that I announce for filing
24 other written comments, I told the group yesterday,
25 if you send it to the UTC by mail and it's received

0818

1 by February 1st, that will be fine. We'll get it in
2 that particular Friday and add it to the record. We
3 also have a way to do these things electronically, on
4 the Web site or by e-mail. So if you want to submit
5 comments after tonight or, sometime later, you think
6 of something you wanted to say, but it didn't strike
7 your mind on this particular Tuesday, you'll have
8 until February 1st to make those comments. And if
9 you've already submitted comments or copies of
10 letters when this petition was originally announced,
11 you can let me know that. They're already in the
12 record. I've got a binder of them to my left here
13 tonight, and I'll be adding to that binder as things
14 come in in Olympia.

15 Mr. Cupp, anything else, from your
16 perspective, I should add? All right. So let me ask
17 the four people, and if there are more that want to
18 give testimony tonight, to rise and raise your right
19 hand.

20 Whereupon,

21 ALL PROSPECTIVE PUBLIC HEARING WITNESSES,
22 were duly sworn by Judge Torem and testified as
23 follows:

24 JUDGE TOREM: All have answered in the
25 affirmative. Let me ask, then, that Sunny Empie come

0819

1 up to one of the microphones. We do have a court
2 reporter, and I'll ask that if you're making comments
3 and you feel like you need to turn your back to the
4 court reporter, who's sitting here at my right, speak
5 into the microphone so she can hear you. Some folks
6 I know like to address the rest of the public when
7 they're speaking. So you can do that, just use the
8 microphone. Otherwise, you can talk directly to me
9 or whatever you feel comfortable.

10 Whereupon,

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

14

15 EXAMINATION

16 BY JUDGE TOREM:

17 Q. And Ms. Empie, then, if you can pull that
18 microphone closer, can you state and spell your name
19 for our court reporter?

20 A. My name is Arlene Sundquist Empie,
21 A-r-l-e-n-e S-u-n-d-q-u-i-s-t E-m-p-i-e.

22 Q. And what's your address, ma'am?

23 A. My address is P.O. Box 784, La Conner.

24 Q. How long have you lived in La Conner?

25 A. I've lived in La Conner for almost three

0820

1 years.

2 Q. And where did you live before that? What
3 city before you came to La Conner?

4 A. Scottsdale, Arizona.

5 Q. Okay. Are you representing yourself tonight
6 or a group?

7 A. I'm representing myself and also the
8 Sundquist Family Partnership.

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

10 A. Succinctly, we are opposed, I and the
11 Sundquist Family Partnership are opposed to closing
12 Hickox Road. I'm happy to date myself back to the
13 days when we kids fished off the old wood bridge that
14 connected Hickox Road to Highway 99. Our land is on
15 Hickox Road. It is the last parcel of the Sundquist
16 Farm, established in 1903, by my grandparents, Ida
17 Maria and John Sundquist, who emigrated from Finland.

18 My father, Daniel Sundquist, and mother,
19 Lillian Johnson-Sundquist, took over the farm in
20 1930. Their descendants, the Sundquist Family
21 Partnership, have placed a total of 65 acres north
22 and south of Hickox Road adjacent to the railroad
23 into the Farmland Legacy Program to be conserved as
24 ag land.

25 My generation lived on the farm and we

0821

1 worked there. My hands and knees know the rich
2 Skagit soil. Our children too participated in farm
3 life. We are all opposed to closing Hickox Road.
4 Skagit is about farming and food. Skagit is rated in
5 the top half percentile of ag areas on planet earth,
6 but also ranks as the fifth most threatened ag area
7 in the U.S. Why would we do anything to further
8 threaten agriculture?

9 You must consider farmers first, their right
10 to farm, their safety, and the safety of others when,
11 not if, but when major flooding occurs. Commissioner
12 Dalsted said yesterday -- we met at the public
13 hearing -- we met with BN, and a compromise could be
14 reached, suggesting that the road would be open most
15 of the time. That is not compromise; that is
16 closure. Must farmers consult BN's schedule to move
17 equipment? This is absurd. BN should be initiating
18 a crossing guard for this necessary and much-used
19 road, and by the way, I don't know who the we is in
20 his statement.

21 Storage tanks south of Mt. Vernon is indeed
22 scary and should be prohibited, but what scares me
23 most is creeping industrialization.

24 Skagit is about farming and food. The
25 wishes of farmers, as well as public safety should be

0822

1 paramount. I learned in another city that one's
2 appearance and statement at a hearing carries more
3 weight in decision-making than a letter, so I am
4 here, and there you have it.

5 JUDGE TOREM: Thank you, ma'am. If you want
6 to give a copy of that letter, and I'm not sure if
7 you abbreviated because of time, Mr. Cupp can take a
8 copy of that so you'll get your appearance and your
9 letter in the record.

10 THE WITNESS: Thank you.

11 JUDGE TOREM: Our next speaker is going to
12 be Joe Woodmansee.

13 Whereupon,

14 JOE WOODMANSEE,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17

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

19 BY JUDGE TOREM:

20 Q. Sir, can you state and spell your name for
21 the record?

22 A. Yes, Joe Woodmansee. That would be J-o-e
23 W-o-o-d-m-a-n-s-e-e.

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

25 A. 17146 Britt Road, B-r-i-t-t.

0823

1 Q. And I take it that's here in Mt. Vernon,
2 right in the area affected by this crossing?

3 A. Correct.

4 Q. All right. How long have you lived there?

5 A. Seventeen years.

6 Q. Are you representing yourself or a group
7 tonight?

8 A. Myself.

9 Q. Go ahead, sir.

10 A. I -- my concerns concerning this crossing
11 being closed are related to health and safety. It's
12 one of the key alternate routes, or key main routes
13 to bringing fire protection and ambulance protection
14 into our area. And kind of being right in the middle
15 of the two, let me give you a little history.

16 Actually, I'm in land development, and one
17 of the main factors that we're constantly being told
18 is that we have to have multiple points of access to
19 our projects, and the time difference between having
20 both this access stopped compared to not having it
21 stopped is considerable, and of course, in the case
22 of certain health situations, it could be the
23 difference between life and death. So my primary
24 concern is the safety aspect of it.

25 Another concern I have is that I don't

0824

1 understand at all why, if there needs to be a second
2 track there, that there can't be something that's
3 open most of the time and just not open when it is
4 necessary not to be open.

5 As a land developer, we're constantly
6 reaching compromises in this fashion, where what we'd
7 really like to do isn't exactly what we get to do,
8 but the final outcome is a better situation for all
9 involved.

10 I've been told that there are alternative
11 locations that this could happen, but the cost of
12 that is a little higher than -- or maybe much higher,
13 I don't know any facts on it. But another thing that
14 we're always told is that the decisions that are made
15 in our situations are not necessarily cost-based;
16 it's what's best for the community. If it happens to
17 be a little more costly to do what's best, then
18 ultimately that's what we usually end up doing.

19 So I guess those are my comments.

20 JUDGE TOREM: Thank you, sir. I appreciate
21 your comments. I neglected to ask with the previous
22 one if there were questions. Are there questions for
23 this gentleman?

24 MR. SCARP: I do have a question.

25

0825

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

2 BY MR. SCARP:

3 Q. Mr. Woodmansee, you said that you're in land
4 development?

5 A. Correct.

6 Q. And what company is that?

7 A. It's Woodmansee Construction, Inc., and
8 other L.L.C.s.

9 Q. Are there -- most of your development here
10 locally?

11 A. Correct.

12 Q. And how about down in the area that's
13 affected by this crossing? Do you have development
14 there?

15 A. No.

16 MR. SCARP: Thank you. Appreciate it.

17 JUDGE TOREM: Any other questions for Mr.
18 Woodmansee?

19 THE WITNESS: May I add one comment?

20 JUDGE TOREM: Sure.

21 THE WITNESS: I was going to open with I'm
22 not just a "not in my backyard person," because of my
23 occupation, but I truly believe in the safety aspect
24 of this, and I failed to mention that, so --

25 JUDGE TOREM: Thank you, sir.

0826

1 THE WITNESS: Thank you.

2 JUDGE TOREM: I see that Ms. Empie hasn't
3 left yet. Is there any attorney that did want to ask
4 her a question? I see none. The next folks wanting
5 to speak are Larry VanderPol, and after him will be
6 Ben Winkes.

7 Whereupon,

8 LARRY VANDERPOL,
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. Sir, can you state and spell your name for
15 the record?

16 A. Larry VanderPol, that's L-a-r-r-y, and then
17 V-a-n-d-e-r-P-o-l.

18 Q. All right, sir. And what's your address?

19 A. 18380 Hickox Road, Mt. Vernon.

20 Q. And how long have you been on Hickox Road?

21 A. Twenty-six years.

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

23 A. I'm representing myself and my wife.

24 Q. All right, sir. Go ahead.

25 A. I'm all in favor of growth and expansion,

0827

1 but when it comes to the expense of human or animal
2 lives, I draw the line. I feel this is what's being
3 overlooked, especially when there are other options.

4 When one would look at the fall of the land
5 and road, it slopes from the railroad to the middle
6 and then from the dike to the middle, and in the
7 middle is a slough with water standing in it all the
8 time. I don't have to talk about Chehalis. We're
9 all aware as to what happened there with the dike
10 breaking where it has never broke before.

11 Now, did you see Sunday's paper about a dike
12 breaking 30 miles east of Reno? A two-foot wall of
13 water came rushing in during the night and rose in
14 places eight foot deep. Even at times the railroad
15 has shut down several times because of slides, et
16 cetera. None of this is expected, but it does
17 happen.

18 Now, there are 7.6 miles of dike between Mt.
19 Vernon to just south of Conway. If a dike would
20 break, we would fill up like a swimming pool in a
21 hurry, because the railroad trestle is confining it
22 on the one side.

23 Now, getting back to the road and the lay of
24 the land sloping towards the middle, because water
25 fills up the low spots first, that would now cover

0828

1 the road, our only exit along, with eight homes and a
2 farm, and we have no way out. So think about that.

3 Did you know that all the houses halfway to
4 Blackburn Road, insurance premiums would double? You
5 know why? The premium is based on response time.
6 Now, isn't that strange, that all the people who have
7 spoken here and also the insurance company, that they
8 feel the response time is important, but the railroad
9 doesn't.

10 Now, in closing, would the railroad or the
11 state be willing to sign a document saying that they
12 would be responsible for any loss of life, be it
13 people or animals, due to lack of response time?

14 Now, because the railroads have heard of all
15 these problems that it would cause and all have been
16 documented, and if something would happen, can you
17 imagine the lawsuits that would follow if something
18 would happen? Just remember, it comes down to good
19 old common sense, because there are other options.

20 JUDGE TOREM: Thank You, sir. Mr. Scarp,
21 you have a question?

22 MR. SCARP: I do.

23

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

25 BY MR. SCARP:

0829

1 Q. Mr. VanderPol, I tried to understand, did
2 you say the water slopes down between Dike Road and
3 the railroad tracks?

4 A. Yes, it does, like a V shape. That's the
5 lay of the land.

6 Q. Is that the lowest area, between your house
7 and the railroad tracks?

8 A. Yes.

9 Q. And has that roadway been impassable due to
10 it being covered by water recently?

11 A. No, not yet.

12 MR. SCARP: Thank you.

13 JUDGE TOREM: Mr. Jones, you've got a copy
14 of our demonstration exhibit?

15 MR. JONES: Yeah, I just wanted to give an
16 opportunity for Mr. VanderPol to show us where his
17 house is and where this low place in the --

18 THE WITNESS: Well, it's quite plain, even
19 on the picture here. Here's your slough here and
20 here, and if you look at the lay of the land, it
21 falls from this old slough into here, and that's
22 filled up.

23 JUDGE TOREM: For the record and the rest of
24 the audience, we're looking at an area on an overhead
25 picture that's Hickox Road and to the north of it, up

0830

1 along Dike Road, so about midway between Dike Road
2 and the railway is where he's indicating an old
3 slough was and north of Hickox to where it comes to
4 Britt Road. Is that correct, sir?

5 THE WITNESS: That's correct.

6 JUDGE TOREM: So now we have an accurate
7 description of where we're looking at, and I think
8 the other folks know, as well. Any other questions
9 for Mr. VanderPol? Seeing none, thank you, sir.

10 THE WITNESS: You're welcome.

11 JUDGE TOREM: Ben Winkes is the last person
12 that signed up prior to me giving all the
13 preliminaries. I'm being signaled from the back that
14 I've got a few more people that walked in and wanted
15 to give testimony. So after Mr. Winkes is done, I'll
16 ask Mr. Cupp to -- I think what we'll probably do is
17 go off the record for five minutes, see if anybody
18 else comes in, and maybe at about 6:15, take the
19 other folks that wandered in since I gave the advice,
20 and we'll start up again at 6:15, after Mr. Winkes'
21 comments.

22 Whereupon,

23 BEN WINKES,
24 having been first duly sworn, was called as a witness
25 herein and was examined and testified as follows:

0831

1

2

E X A M I N A T I O N

3

BY JUDGE TOREM:

4

Q. Sir, can you state your name and spell it?

5

A. Ben Winkes, W-i-n-k-e-s, first name is Ben,

6

B-e-n. I live at 18431 Dike Road, Mt. Vernon,

7

Washington.

8

Q. And how long have you been there?

9

A. Three years.

10

Q. All right. And are you representing

11

yourself or a group tonight?

12

A. Myself and my wife.

13

Q. Go ahead, sir.

14

A. We are absolutely in agreement with all of

15

the concerns about the impact on farming in the

16

valley, as well as the safety concerns, particularly

17

with emergency response time.

18

What we have to offer is sort of another

19

variation on that. We're both physicians and

20

practice attending obstetrics, deliveries at Skagit

21

Valley Hospital. We also do pediatric admissions and

22

I do adult medicine admissions.

23

For us, the alternatives to the route across

24

Hickox Road results in about a four to five-minute

25

increase in our -- the time it takes us to get to the

0832

1 hospital. That's assuming that we're driving the
2 speed limit and that there's nothing in the way. And
3 we both attend about a combined 50 deliveries a year,
4 and every year, a couple of times a year, there are
5 deliveries that we get to sort of just within a few
6 minutes, and it's our experience that those few
7 minutes make a difference.

8 And as it currently stands, clearly there's
9 a crossing gate on Hickox. When it is down, we can
10 spot that easily from Dike Road, with the flashing
11 lights, and sort of reroute ourselves. But closing
12 it down entirely would take that option out.

13 Q. So which direction is the hospital for you?
14 Is it north or south?

15 A. The hospital is north.

16 Q. So tell me exactly where it is.

17 A. So the hospital is on top of Mt. Vernon
18 Hill.

19 Q. In town here?

20 A. In town, yeah. So basically, the options
21 are either to go along, if we don't go across Hickox
22 -- going across Hickox is nice, because you can do
23 Hickox and then up Old Highway 99 and then up
24 Blackburn to get up on top of the hill. But the
25 other option is to go down Britt Slough, which is

0833

1 maybe just four or five minutes difference, but it's
2 a much windier road, much harder to be driving when
3 you're moving fast. You end up going through a
4 school zone and past an area with families and small
5 children, so -- and then still hit another railroad
6 crossing. And then the other option is actually to
7 kick it back out and go up Stackpole. It's a simpler
8 route to drive, but longer, so --

9 JUDGE TOREM: Okay. Any other questions for
10 Dr. Winkes?

11 MR. ROGERSON: One quick question.

12

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

14 BY MR. ROGERSON:

15 Q. Dr. Winkes, you had mentioned two
16 alternatives in light of the Hickox Road closure, one
17 is through Britt Slough and one is through Stackpole
18 Road.

19 A. Right.

20 Q. Which one, in terms of time, is the shorter
21 route?

22 A. They're identical. I drove them both, and
23 they're within a minute. I can't remember which one.

24 Q. Which one are you likely to pursue?

25 A. It will depend. We'll have to sort of look

0834

1 at it. But my concern with Britt Slough is just that
2 if it's icy at all and you're moving fast, it's a
3 much curvier road, I think it's probably more unsafe.
4 There's a lot more population down that road, but --

5 MR. ROGERSON: Thank you.

6

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

8 BY MR. SCARP:

9 Q. Mr. Winkes, do you know what the difference
10 is in distance if you go from your house through
11 Britt Slough?

12 A. I don't know what the difference in
13 distance.

14 Q. Do you have to cross the railroad crossing
15 at Blackburn or can you take a left turn and go
16 north?

17 A. Well, you have to cross it at some point.
18 That's the fastest -- if you cross -- if you take a
19 left, then you're going into downtown Mt. Vernon and
20 crossing down there.

21 Q. Do you go all times of day and night?

22 A. Yes.

23 Q. And how many times, if ever, have you headed
24 down Hickox Road to find a train come along and the
25 gates come down while you're en route?

0835

1 A. En route to the hospital, probably, in the
2 last three years, twice.

3 Q. Then did you turn around and go back around?

4 A. Those weren't times I was being called to go
5 to a delivery emergently.

6 MR. SCARP: Thank you.

7 JUDGE TOREM: Any other questions for Dr.
8 Winkes? I know we're going to hear from your wife
9 tomorrow. Thanks.

10 All right. Let's take a five-minute break.

11 And those of you that still want to testify, make
12 sure you've told John Cupp that you want to. I'm
13 going to give five minutes for another group to come
14 in and then I'll swear in the next group and we'll
15 wrap up for the evening. Thank you. We'll be in
16 recess for five minutes.

17 (Recess taken.)

18 JUDGE TOREM: We're back on the record.
19 It's now 6:15. I'm informed that Carol Thomas came
20 in and has indicated she wants to speak, but also
21 Laura Pedroza, who has signed in with a maybe has
22 changed to a yes, so we have two folks that I need to
23 swear in. Is there anyone else that I need to swear
24 in in the room that hasn't already testified and
25 still wants to tonight? I'm going to give my

0836

1 auctioneer speech, going once, going twice.

2 Okay. Let me ask that Carol Thomas and
3 Laura Pedroza please stand, and if you'll each raise
4 your right hands.

5 Whereupon,

6 ALL PROSPECTIVE PUBLIC HEARING WITNESSES,
7 were duly sworn by Judge Torem and testified as
8 follows:

9 JUDGE TOREM: They both say yes.

10 Whereupon,

11 CAROL THOMAS,
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. Thomas, I'll take you first, please.

18 Can you state and spell your name for the record?

19 A. Carol Thomas, C-a-r-o-l T-h-o-m-a-s.

20 Q. And what's your address, ma'am?

21 A. 17460 Dike Road.

22 Q. Okay. That's here in Mt. Vernon, of course?

23 A. Mt. Vernon, 98273.

24 Q. And how long have you lived there?

25 A. Thirteen years.

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1 Q. And are you representing yourself, family,
2 or a group tonight?

3 A. My family.

4 Q. All right. Three minutes, please. Thanks.

5 A. Okay. My concern about closing Hickox Road
6 would be closing access to emergency response for my
7 home and for our neighborhood. On my property, I'm
8 at the corner of Britt Road and Dike Road, and on the
9 south end of my property is an above-ground station
10 for Olympic Pipeline. I know that they've been

11 recently purchased by BP, I don't know what their
12 current name is, but nevertheless, it is a pipeline
13 and it has airplane fuel and other kind of fuel that
14 runs from the refinery in Anacortes down to Sea-Tac,
15 I believe. But it is an above-ground station and
16 they do come out there and they do practice emergency
17 drills, and there is certainly a lot of work that is
18 done by the pipeline there at that location to keep
19 things safe.

20 My other concern is closing access to
21 emergency response in case of a fire. And this isn't
22 just hypothetical. Just over a year ago, my house
23 did catch fire during a big windstorm, where a cedar
24 tree broke down the very high-powered electrical
25 lines and there was fires arcing through the yard

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1 right next to the Olympic Pipeline site.

2 So I did get a fast response on that and the
3 volunteer fire department did a great job. But if
4 the access across Hickox Road was closed, I think the
5 response time could be quite a bit different from
6 what I experienced.

7 The other concern I have is evacuation in
8 the event of a flood or the dike wall breaking.
9 We're right there on Britt Slough, on the north side
10 of the property, and that's a major pump station for
11 emptying Britt Slough, and it's very critical in
12 times of the Skagit River flooding for flood control
13 issues.

14 So those are about my three concerns. We

15 also do have farmland, and I know it's an issue for
16 the farmers who farm my land having access, easy
17 access across Hickox Road for their farm vehicles.
18 So that's also a concern, too.

19 Q. Can I ask, ma'am, as far as that fire
20 response a year ago, you said your house actually did
21 catch fire?

22 A. It did.

23 Q. Was there any damage appreciably done to the
24 structure?

25 A. Yes.

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1 Q. And how long after you made the call do you
2 remember the fire response being on site?

3 A. You know, I wasn't home at the time, but my
4 neighbors, the Reusens (phonetic), did call it in. I
5 don't know how long the response time was, but there
6 was -- because the high-power electrical lines had
7 come down and they had broken, there was electricity
8 arcing all over the yard. I mean, I know it's a
9 freak thing, but with the proximity to the pipeline,
10 it sure is a concern.

11 Q. Do you happen to know what route the
12 volunteer fire department took to get to your home?

13 A. No, I don't.

14 JUDGE TOREM: Other attorneys have questions
15 for Ms. Thomas?

16 MR. SCARP: I do.

17

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

19 BY MR. SCARP:

20 Q. Ms. Thomas, do you know who responded
21 besides the volunteer fire department?

22 A. My understanding, it was just Cedardale.

23 Q. Okay. Thank you.

24 A. And Puget Sound Energy.

25 JUDGE TOREM: Any other questions for Ms.

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1 Thomas?

2 MR. ROGERSON: One question.

3

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

5 BY MR. ROGERSON:

6 Q. Ms. Thomas, how near the dike is that
7 pipeline you have just testified to?

8 A. It goes underneath the dike and then it
9 comes across the field. So it goes from, like, the
10 potato shed on the other side of the river, crosses
11 underneath the river, crosses the fields underneath
12 the dike, through my yard, essentially, and then
13 heads out I believe underneath Railroad and out to
14 Conway School.

15 JUDGE TOREM: All Right. Thank you. Any
16 other questions? All right. Thank you, Ms. Thomas.

17 THE WITNESS: Thank you.
18 Whereupon,

19 LAURA PEDROZA,
20 having been first duly sworn, was called as a witness
21 herein and was examined and testified as follows:

22 E X A M I N A T I O N
23 BY JUDGE TOREM:

24 Q. Ms. Pedroza, can you state and spell your
25 name for the record?

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1 A. Laura Pedroza, L-a-u-r-a P-e-d-r-o-z-a.

2 Q. And what's your address, ma'am?

3 A. 18764 Hickox Road, Mt. Vernon.

4 Q. And how long have you lived there?

5 A. Approximately 29 years.

6 Q. And you're representing yourself, family?

7 A. Myself and my family.

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

9 A. My biggest concern at this time is health
10 and safety. We're actually the closest residence to
11 the railroad, which would mean that we would be -- it
12 would take, in terms of emergency service response,
13 it would be the longest. Also, just having access in
14 the event of, you know, an emergency such as a flood,
15 we would be -- you know, how would we get out if that
16 road was closed? Those are my biggest concerns. And
17 also, I use that road every day for -- I mean, just
18 in our daily lives, getting in and out to work,
19 family, so on and so forth, so --

20 Q. If the railroad closes and I grant their
21 petition and that access to get to the freeway and
22 other places to the east is no longer there for you,
23 what would be your most usual route as an
24 alternative?

25 A. I would have to research that. I mean,

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1 every day that I -- that's the route I use every day.

2 I don't use an alternative route, so I'd have to
3 research that.

4 Q. Is it fair to say, on a general basis, you
5 don't drive toward Dike Road hardly ever?

6 A. Not if I don't have to. In high school, I
7 used to occasionally, if I had to go visit friends
8 and we took that route to go to school, but no, I
9 don't use that route. It's not convenient. The
10 roads are very curvy, they're not the safest roads to
11 travel on. So adding more traffic on those roads I
12 would think would be detrimental not only to the
13 roads, but just the area, the landscape, so --

14 Q. How often when you leave home do you have to

15 wait at the Hickox Road crossing, if ever?

16 A. Since they put the crossing in, I don't
17 think I've ever waited. I think before then, you'd
18 wait for -- you'd maybe have a train that would stop
19 in the evening, but since they've put the crossings
20 up, I haven't had to wait. My experience, I haven't
21 had to wait, so --

22 Q. And one option that folks have been
23 advocating for me to consider is leaving the crossing
24 open only for emergency vehicles, essentially with a
25 locked gate, which doesn't necessarily address your

0843

1 situation, but another one is being to leave it open
2 entirely, even subject to changing the crossing rails
3 and guards to maybe four-quadrant gates, they call
4 them, and knowing that there could be days at a time
5 on occasion where trains would sit on that track.
6 What's your response to that particular option?

7 A. That wouldn't be an option. That's not an
8 option. I wouldn't see that as an option. That's --
9 I mean, you might as well close it. I mean, that's
10 not an option in my mind. I would think there should
11 be another crossing to use. I mean, we're not the
12 only residents that use that crossing to get in and
13 out of town, I mean, so --

14 JUDGE TOREM: Okay. Attorneys, any other
15 questions for Ms. Pedroza?

16 MR. SCARP: None, Your Honor.

17 JUDGE TOREM: All Right. Thank you, ma'am.

18 THE WITNESS: Thanks.

19 JUDGE TOREM: Mr. Cupp, has anyone else come
20 in and indicated a desire to speak? All right. It's
21 now 6:25. Is there anyone here in the audience
22 tonight that wants to offer any more verbal comment
23 tonight and become part of the record? Seeing none,
24 let me remind all of you that if your neighbors, for
25 some reason, couldn't make it tonight or somehow

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1 thought they could come in at 8:30 tonight and still
2 find us here, well, they'll be disappointed.

3 So if you hear from anybody over the next
4 week that intended to come and thought we'd be going
5 later than we are tonight, please let them know that
6 they can file their written comments up until
7 February 1st. They can just look on the UTC.wa.gov
8 Web site. They can look up Docket Number 070696, and
9 that will be this BNSF Hickox Road closure, and they
10 can file their written comments. So long as they're
11 received at the Commission by close of business
12 Friday, February 1st, they'll be part of the record,
13 and I certainly will read them and consider them.

14 As Ms. Empie said earlier, it's very

15 important that you showed up tonight. I do
16 appreciate it, and last night we had some new way of
17 looking at things, and today Dr. Winkes was my new
18 way of looking at things. Close to my heart, though,
19 because that's what my father did, was deliver
20 babies, but he didn't live in a rural area, having to
21 respond, but I definitely understood that as a new
22 thing tonight. So there's always things that the
23 lawyers up here don't present during the course of
24 the case that the public brings. And with that, I
25 thank you and say good night.

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1 (Proceedings adjourned at 6:28 p.m.)
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