

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY,)	DOCKET NO. TR-090121
)	
Petitioner,)	BNSF'S OPPOSITION TO THE
)	PETITION FOR INTERVENTION OF
vs.)	LYNN F. LOGEN
)	
)	
SNOHOMISH COUNTY,)	
)	
Respondent.)	

1 BNSF respectfully requests Lynn F. Logen's petition to intervene in this matter be denied.

2 The petition states the petitioner's interest as:

The Logen family owns and farms property on both sides of the BNSF rail line and those properties are most easily accessed by the crossing that is the subject of this proceeding. The alternate access routes, through the town of Stanwood, or via Pioneer Highway and the Old Pacific Highway or via these two highways and 300th will pose more of a danger to the public and the Logens when moving slow farm equipment on these busy high speed roads than allowing that equipment to cross the BNSF rail lines at Logen Road.¹

As best BNSF can ascertain, the petition implies that since some members of the Logen family have lived near Logen Road for many years, that *ipso facto* gives any Logen the right to intervene.

¹ See *Petition for Intervention of Lynn F. Logen*, page 2.

3 First, petitioner Logen does not actually reside at Logen Road, but in Bellevue.²
Whether the petitioner even has *standing* to intervene is therefore in question.

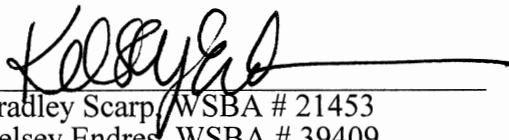
4 Second, the petition does not express a sufficiently specific substantial interest
in the subject matter of the hearing nor does it further the public interest. The interest
of petitioner Logen is undistinguishable from that of any other property owner in the
nearby area. And Snohomish County is in a superior position to address any impacts
on regional or local transportation plans. Granting this petition would be cumulative
and therefore impair the orderly and prompt conduct of the proceedings, to which
Snohomish County has waived hearing.³ The interests of petitioner Logen or any other
member of the Logen family may be expressed through written comment to the
Commission. Status as a separate party is not warranted.

5 Finally, the WUTC lacks authority to grant petitioner Logen's request for a
private crossing.

6 BNSF respectfully requests the petition to intervene be denied.

DATED this 10th day of February, 2009.

Montgomery Scarp MacDougall, PLLC



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² *Id.* at page 1.

³ *See* Waiver of Hearing by Respondant on behalf of Snohomish County from Owen B. Carter (dated January 26, 2009).

CERTIFICATE OF SERVICE

I am over the age of 18; and not a party to this action. I am the assistant to an attorney with Montgomery Scarp MacDougall, PLLC, whose address is 1218 Third Avenue, Suite 2700, Seattle, Washington, 98101.

I hereby certify that the original and 12 copies of BNSF'S *OPPOSITION TO PETITION FOR INTERVENTION OF LYNN F. LOGEN* has been sent by U.S. Mail to David W. Danner at WUTC and a PDF version sent by electronic mail. I also certify that true and complete copies have been sent via Electronic mail and U.S. Mail to the following interested parties:

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

DATED this 10th day of February, 2009 at Seattle, Washington.



Lisa Miller, Paralegal