

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Petitioners,

v.

KLICKITAT COUNTY,

And

THE BURLINGTON NORTHERN AND
STANTA FE RAILROAD COMPANY,

Respondents.

Docket No. TR-980897

AMENDED SETTLEMENT
AGREEMENT

I. INTRODUCTION

This agreement is entered into by the Staff of the Washington Utilities and Transportation Commission (Staff) and respondents Burlington Northern Santa Fe Railway Company (BNSF) and Klickitat County in settlement of all issues in WUTC v. BNSF and Klickitat County, WUTC Docket No. TR-980897.

II. BACKGROUND

1. The tracks of the BNSF run parallel with and close to the north shore of the Columbia River within the town of Lyle in Klickitat County. State Route 14 generally parallels the BNSF tracks on their north side, opposite the river. A motorist on SR-14 can turn south at Depot Road, and cross the BNSF tracks, at grade, to access an area that lies between the Columbia and the railroad tracks. The area includes land owned by the Confederated Tribes and Bands of Yakama Indians, the U.S. Army Corps of Engineers, and various private parties, as well as a public boat launch that also provides access to an in-lieu fishing site. This area is also accessible to vehicular traffic via the Seventh Street railroad overpass, which is located slightly less than half a mile southeast of the Depot Road at-grade crossing. A portion of Depot Road presently connects the two access points. A short spur off of Depot Road, called Cove Road, provides access to the public boat launch.

Average daily traffic across the Depot Road at-grade crossing is small--less than 50 trips. The average daily train traffic is substantial--approximately 24 trains traveling at a maximum timetable speed of 60 mph. Warning devices at the crossing consist only of Crossbuck signs.

2. Citing the low volume of vehicles using the Depot Road grade crossing, the availability of safer alternate access via the Seventh Street overpass, and the high volume of train traffic at the Depot Road crossing, the Washington Utilities and Transportation Commission, through its Staff, initiated a proceeding to close the Depot Road grade crossing. The petition initiating the proceeding was filed on June 26, 1998 pursuant to RCW 81.53.060. On July 7, 1998, BNSF filed a waiver of hearing for the proposal.

3. In written comments to the WUTC, Klickitat County Public Works representatives questioned the sufficiency of the alternative access via the Seventh Street overpass, stating that "Depot Road from Seventh Street to Cove Road is inadequate, and does not meet safety standards or Klickitat County standards. The road is too narrow with inadequate curves and radii at intersections. Road surface is a single lane gravel and not adequate for an increase in traffic. Funds must be made available to Klickitat County for necessary improvements." For these reasons, closing the Depot Road crossing would necessitate improving the segment of Depot Road between Seventh Street and Cove Road in order to facilitate two-way traffic and turning movements.

4. The County has obtained money for the necessary improvements to Depot Road from the Washington State Department of Transportation as administrator of 23 USC Section 130 Federal Highway Administration program.

III. AGREEMENT

Based on the foregoing, the Parties agree as follows:

1. In order to facilitate the necessary improvements to Depot Road, BNSF will:
 - a) remove/relocate a portion of the siding track identified as the "Lyle House Track," so that the track does not cross Depot Road or interfere with the necessary improvements to ~~the section of Depot Road located east of Tax Lot 1;~~
 - b) convey to Klickitat County, for the sum of one dollar, as much of the railroad right-of-way underlying the Lyle House Track as Klickitat County requires to assemble its own right-of-way, at least sixty feet in width, for the construction and maintenance of the necessary improvements to Depot Road between milepost 0.27 and 0.52; and
 - c) remove the camp car, currently located at the far eastern end of the Lyle House Track, from the vicinity.
2. Klickitat County will improve the portion of Depot Road, east of the ~~Tax Lot 1 entrance~~ Cove Road/Depot Road intersection, in such a manner as to comply with minimum County Road standards. Although the portion of Depot Road between Cove

Road and the entrance to Tax Lot 1 will not be improved, access to the properties along that portion will not be removed.

3. Klickitat County and BNSF will not to oppose the entry of an order by the Washington Utilities and Transportation Commission closing the Depot Road grade crossing.

4. Upon closure of the grade crossing, BNSF will install barricades or employ some other means that specifies the terminus points of Depot Road on either side of the tracks within the BNSF right-of-way and indicates that public access across the tracks is not possible via Depot Road.

KLICKITAT COUNTY

BURLINGTON NORTHERN SANTA FE

Chairman, Board of County Commissioners

Date: _____

Responsible Official

Date: _____

Commissioner

Date: _____

Commissioner

Date: _____

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

JONATHAN C. THOMPSON

Assistant Attorney General
Counsel for Commission Staff

Date: _____