

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3	THE BURLINGTON NORTHERN AND)	
4	SANTA FE RAILWAY COMPANY,)	Docket No. TR-010684
)	
5	Petitioner,)	Volume IV
)	Pages 281 to 301
6	vs.)	
)	
7	CITY OF SPRAGUE,)	
)	
8	Respondent.)	
	_____)	

9
10 A public hearing in the above matter was held
11 on September 18, 2002, from 6:30 p.m. to 7:50 p.m., at
12 213 South C Street, Sprague, Washington, before
13 Administrative Law Judge THEODORA M. MACE.

14 The parties were present as follows:

15 THE COMMISSION, by JONATHAN THOMPSON,
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18 BURLINGTON NORTHERN AND SANTA FE RAILWAY
19 COMPANY, by DANIEL L. KINERK, Attorney at Law, Koschel
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21 CITY OF SPRAGUE, by SYLVIA FOX, Mayor, 312
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24
25

Joan E. Kinn, CCR, RPR
Court Reporter

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

2 JUDGE MACE: Let's be back on the record in
3 Docket Number TR-010684, Burlington Northern and Santa
4 Fe Railroad against the City of Sprague. We're here
5 today, this evening that is, for a public hearing on
6 this particular case. This case involves Burlington
7 Northern's petition to close the D Street grade
8 crossing, its D Street grade crossing, in the City of
9 Sprague. You should also be aware that since this case
10 began, since Burlington Northern filed their petition,
11 they have amended it to include as an alternative
12 closing the F Street grade crossing. I just want to
13 make sure that you're aware that that is an additional
14 consideration in this case.

15 My name is Theodora Mace, and I am an
16 Administrative Law Judge for the Washington Utilities
17 and Transportation Commission, and I will be holding the
18 public hearing tonight, and I'm going to tell you a
19 little bit more about the case and also about the
20 process that we will follow for taking in comments in a
21 moment.

22 I just want to indicate for the record that
23 today is September 18th, 2002, and we are convened in a
24 room at the offices of the Sprague Chamber of Commerce
25 in Sprague, Washington. I have already indicated that

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1 the issue in this case is the petition of Burlington
2 Northern to close either the D Street grade crossing or
3 the F Street grade crossing. Some of the issues that
4 are involved in determining whether to make a decision
5 to close those crossings are whether or not one of those
6 crossings is what's called redundant, and that means
7 that there are other crossings in close proximity and
8 alternative routes that the City could use to direct
9 traffic. And the flip side of the redundancy issue is
10 that when a grade crossing is closed, it helps to
11 improve the chances that someone will not be injured at
12 that grade crossing. One of the things that we have
13 heard during the evidentiary hearing that took place,
14 and is still taking place, but took place earlier today
15 is that approximately 50% of railroad incidents or
16 accidents that occur occur at gated grade crossings, and
17 that's an issue that the company is very concerned
18 about. On the other hand, another concern, of course,
19 is the safety of the residents of the City of Sprague in
20 terms of where their emergency vehicles will travel and
21 what the impact of closing the grade crossing is on the
22 City of Sprague.

23 These are all issues that we're considering
24 in the evidentiary hearing. It's a more formal process.
25 It took place starting at 9:30 today. We adjourned at

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1 5:00, and we're going to go back in session tomorrow at
2 9:30. So that's a more formal process. We take
3 evidence, hear witnesses, see exhibits, and there's
4 cross-examination. It's a court proceeding.

5 The purpose of the proceeding tonight is to
6 take comments from the public, and that doesn't involve
7 cross-examination. It does involve me administering an
8 oath to anybody who wants to speak, but basically what
9 you will do is you will come up to the chair that we
10 have here, and you will make your comments. I'm going
11 to time you, probably give you five minutes. It looks
12 like there aren't very many people here tonight, but
13 give you five minutes so that you can tell the
14 Commission what you would like to have the Commission
15 hear about this petition to close either the D Street or
16 the F Street grade crossing in the City of Sprague.

17 I want to make you aware that there are
18 people from both the Commission Staff and from
19 Burlington Northern here tonight who can answer your
20 questions, and I'm saying that because when you come up
21 to the podium, you're not going to really be able to ask
22 questions. Your purpose is to give a statement of what
23 your belief is about the petition. But these Staff
24 people and company people can answer your questions
25 after you have made your statement or before. And I

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1 want to just make sure you're aware of who they are.
2 There's an Assistant Attorney General, Jon Thompson, who
3 is here representing the Commission Staff, and Ahmer
4 Nizam is with him, and he is a member of the Staff, and
5 we have Penny Hansen at the back, who is also a member
6 of the Staff of the Washington Utilities and
7 Transportation Commission, and they can certainly answer
8 your questions. And then we have Mr. Kinerk, who is the
9 counsel for Burlington Northern, and Mike Cowles is on
10 staff at Burlington Northern, and they can, I'm sure, be
11 quite willing to answer any questions that you might
12 have.

13 I'm going to make sure I have covered
14 everything in my notes. Just a few more housekeeping
15 matters. You need to make sure that you have signed up
16 here if you want to speak tonight so that I can call on
17 you to speak, and there's more of those sheets back
18 there, and I'm sure Penny Hansen will direct you to
19 those so that you can sign up. I will ask you to stand
20 at a certain point very shortly now, and I will
21 administer an oath to all of you at once, and I will
22 then call on you one by one, and I will ask you to sit
23 in the chair here or stand if you're more comfortable
24 than that.

25 We have a reporter here who is going to

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1 record everything that you say, so you need to speak
2 clearly and loudly and relatively slowly so that she can
3 record what you're saying. I want you to make sure you
4 introduce yourself stating your name and spelling your
5 last name and then giving your address. If you should
6 have written remarks, and sometimes that's the case at a
7 public hearing, again I want to ask you to read those
8 remarks slowly, because sometimes people read too
9 quickly and the reporter can't take down what you're
10 saying.

11 I indicated I would be limiting your remarks
12 to five minutes. If you're nervous, that's very
13 natural, you're sort of in the spotlight, and just take
14 a few deep breaths and everything will be fine, it will
15 be over shortly. And we do appreciate that you have
16 come to make these comments. It's hard to get up in
17 front of people and speak about issues that are close to
18 your heart.

19 I think that completes my remarks. I think
20 at this point do you have any further people signed up?

21 I would like to ask everybody who has
22 indicated they want to speak tonight to stand now and
23 raise your right hand.

24 (Arletta Hoffman, Paul Scott, Janna Ringwood,
25 and Mike Evans were sworn as witnesses.)

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JUDGE MACE: All right, please be seated.

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I'm noticing that there's more people signed up than stood up; is that correct?

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All right, I am going to call first on Arletta Hoffman. She has a conflicting scheduling issue, and so I'm going to call on you first. Please come forward.

9

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Whereupon,

11

ARLETTA HOFFMAN,

12

having been first duly sworn, was called as a witness

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herein and was examined and testified as follows:

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MS. HOFFMAN: I'm going to speak on behalf of both the City of Sprague, I am a member of the City Council, as well as the fire department, of which I'm also a member.

19

20

JUDGE MACE: Okay, and would you spell your last name, and give your address for us.

21

MS. HOFFMAN: Pardon?

22

23

JUDGE MACE: Would you spell your last name and give us your address, please.

24

25

MS. HOFFMAN: Hoffman, H-O-F-F-M-A-N, physical address is 415 E Street in Sprague.

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1 JUDGE MACE: Go ahead.

2 MS. HOFFMAN: I've got some concerns both
3 from the standpoint of the City Council and also from
4 the standpoint of the fire department about closing any
5 crossings, either crossing in Sprague. The City is in
6 the process of attempting to develop a PDA, a public
7 district authority, anyway, to try and attract
8 additional businesses into the city of Sprague. One of
9 the good locations for this to begin to develop is up
10 above where these crossings are up on the hill. I don't
11 think that it would be wise to limit the access,
12 accessibility to that area.

13 That is also an area that is beginning to --
14 we're beginning to see additional housing, additional
15 families moving in and additional development, housing
16 development in that area, which we would like to
17 continue to encourage. It's one of the places that
18 there does not have to be a whole lot of concern as to
19 development being in the flood plane in the city of
20 Sprague. We're kind of limited because of where the
21 flood plane runs as to being able to -- where we can
22 develop or encourage further development in the city.

23 As this comes to pass, we need to be able to
24 address the emergency and fire needs in that area, both
25 for industry and also for our residents. There are

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1 chemicals associated with one of the businesses that is
2 there now. If there is an issue with the chemicals and
3 with a fire in that area, it would be unable to approach
4 that to do fire suppression and to do rescue work if
5 that were necessary, and also medical could be an issue.

6 I was involved with the fire department in
7 1991 when the Burlington Northern train derailed and
8 crashed here in Sprague. The train went through town,
9 if I remember correctly, they figured between 88 miles
10 and 90 miles an hour and, of course, could not make the
11 grade. I would hate to see increased speeds, and my
12 concern is that as any crossings are closed, then speeds
13 would be increased on trains coming through the area.
14 There are several children who live -- families and
15 children who live up in that area as well. There's no
16 way that those kids are going to not cut across the
17 railroad tracks. And if we need to -- if it means that
18 the trains will continue to be very aware of the
19 situation and -- because there is a crossing still
20 there, then I think that that's a good thing.

21 There's been some talk about running an
22 overpass. This would be a detriment for people with
23 handicaps that are walking, or we have had a resident
24 who lived up on that hill who was in an electric
25 wheelchair, and it would be a hardship for anyone else

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1 in that situation to have to use a crossing that was
2 either further away from where the D Street crossing is.
3 Children aren't going to take the time, and adults quite
4 frankly aren't going to take the time to go up over an
5 overpass or a bridgeway. We're just not going to do it,
6 unfortunately. We're going to try and beat the train.

7 I lived many years in Spokane Valley where
8 two primary crossings were the Argon Street crossing and
9 also the Park Road crossing and saw several accidents in
10 that area involving trains, because people were
11 impatient, they did not have alternate routes, there
12 were not other accesses to main areas, and they tried to
13 beat the train.

14 JUDGE MACE: I'm going to have to ask you to
15 summarize, because your time is --

16 MS. HOFFMAN: Okay. So those are my
17 concerns. I think that as we develop that area, both
18 the residential and for businesses, that we need to take
19 those things into consideration and to keep the trains
20 down to a minimum speed, and I think that giving up any
21 crossings would not do that.

22 JUDGE MACE: Thank you very much.

23 Paul Scott.

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1 Whereupon,

2 PAUL SCOTT,

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

4 herein and was examined and testified as follows:

5

6 MR. SCOTT: My name is Paul Scott, S-C-O-T-T,

7 last name. I'm from Davenport, Washington, our town.

8 JUDGE MACE: And what's your address?

9 MR. SCOTT: And my address is 1205 Morgan
10 Street in Davenport.

11 JUDGE MACE: Okay, go ahead.

12 MR. SCOTT: Yeah, my main concern would be
13 as, being interested in trains all of my life, would be
14 to close as many crossings as are possible for purposes
15 of safety, yet at the same time I realize there are
16 issues of access, emergency vehicle access, fire
17 equipment has to get through, ambulance, and a lot -- if
18 they close all the crossings, the town will be separated
19 from these vital services, divided off by a railroad
20 track.

21 As far as the people crossing over the
22 tracks, what about doing like what they did in Rathdrum,
23 Idaho, build a pedestrian underpass for the children to
24 get like to and from school and people with electric
25 wheelchairs and things like that, so they don't have to

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1 go over, which would be, like was said earlier, would be
2 a hardship, but they could go under, and it would
3 improve safety, as well as putting up fencing and direct
4 the children to the underpass.

5 Like anything else, I'm not sure exactly what
6 street would have the most traffic that would be
7 affected by these closures, but there should be a
8 balance between crossing closures as well as continued
9 access to both sides of the town for like emergency
10 vehicles. That's my concern.

11 JUDGE MACE: Okay, thank you very much, we
12 appreciate it.

13 MR. SCOTT: Yeah.

14 JUDGE MACE: Janna Ringwood.

15

16 Whereupon,

17 JANNA RINGWOOD,
18 having been first duly sworn, was called as a witness
19 herein and was examined and testified as follows:

20

21 MS. RINGWOOD: Hi, my name is Janna Ringwood,
22 R-I-N-G-W-O-O-D, 41503 State Route 23, East Sprague.

23 JUDGE MACE: And is your first name spelled
24 J-A-N-N-A?

25 MS. RINGWOOD: Yes, it is.

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1 JUDGE MACE: Okay, thank you.

2 MS. RINGWOOD: I'm a school bus driver. I
3 don't represent the school, but I have been driving for
4 many years, and most of it has been up on that hill.
5 Snow seems to be a factor in where we go on the hill,
6 and if we have a variety of crossings where we can go,
7 coming down and going up is much easier for us to get
8 the kids. Many times I have seen kids miss the bus and
9 follow me down the hill and cross before I even do.

10 The school buses now do not cross the
11 railroad tracks. We go over the overpass on the
12 highway. The reason for this is because their main
13 crossing area for us was a building was in the way.
14 That building has recently been moved, and that was the
15 only visibility hazard in that area, so the school buses
16 could go across now if they wanted to.

17 If you close down D Street or F Street,
18 you're limiting our ability to go across there safely
19 and pick up kids safely. We time our routes, and we
20 pick up kids on the right-hand side as much as possible
21 so they don't have to cross roads at all. And it's
22 safer for a child to cross a railroad track in a school
23 bus than it is on foot.

24 I would suggest, and it's just a suggestion,
25 I also drive out Doerschlag Road, and there have been

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1 one or two people killed on the Doerschlag Road
2 crossing, which is just west of town. Very dangerous
3 crossing, not any fun at all. I have also been stopped
4 there longer than 20 minutes with a bus load of kids,
5 which is definitely not fun. We actually had a bus come
6 out and attempt to cross the kids, and I wouldn't let
7 them off the bus. The other bus was on the other side
8 of the road, the tracks, and I wouldn't let the kids go
9 across in between the train cars. So we finally had to
10 call somebody and get them to move it. And after that
11 point, we were given a telephone number, if we were ever
12 kept more than 20 minutes, we could call this number and
13 get results. So far it's worked. So I feel that
14 Doerschlag crossing would be the one to close for safety
15 purposes. The traffic could then be routed to either F
16 or D Street in Sprague, which would give them more use
17 and close down the crossing that was unsafe.

18 That's about all I have to say, thank you.

19 JUDGE MACE: I appreciate it, thank you.

20 I have a David McIntyre signed up, but he's
21 indicated that he doesn't wish to speak; is that
22 correct?

23 MR. MCINTYRE: Yeah, that's fine.

24 JUDGE MACE: Thank you.

25 Okay, the following people, Sylvia Fox,

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1 Leonard Robertson, and Donald Ringwood have all signed
2 up, but they don't wish to speak; is that correct?

3 Okay, thank you.

4 Mike Evans.

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6 Whereupon,

7 MIKE EVANS,

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

10

11 MR. EVANS: My name is Mike Evans, E-V-A-N-S,
12 and I live at 319 Fourth Street.

13 JUDGE MACE: Go ahead.

14 MR. EVANS: How are you. I'm a resident of
15 Sprague here. I also am on the City Council here. I
16 have been listening to the proceedings all day today,
17 and I'm really impressed with all the pictures and
18 everything that the railroad had to bring in,
19 considering the first time they were here they didn't
20 even know what the population of our town was, and they
21 also had no idea how many people were using D Street,
22 and, in fact, they weren't even aware that we had F
23 Street with a crossing on it. That was a fact that was
24 brought out in the meeting.

25 I'm also kind of disappointed that we don't

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1 have the turnout here that we did last May, but we have
2 a conflict with an event that's going on at the high
3 school at the same time, because there was a tremendous
4 turnout at that time, and everybody -- the consensus
5 then was nobody wanted anything closed. I think that --
6 I'm rather nervous.

7 JUDGE MACE: That's okay, take a deep breath,
8 it's going to be fine.

9 MR. EVANS: I hate to see us close D Street,
10 because I know the potential for the growth in this town
11 is on the north side. I myself have an interest on the
12 north side as far as wanting to put in a softball
13 complex, just a couple of fields. We have a great
14 interest in softball here in this town. We had a
15 wonderful tournament this summer, brought a lot of money
16 into the town, and we would like to continue doing
17 something like that. The proposal, I have talked with
18 the mayor, and I have talked with the softball members
19 in the town and stuff, and everybody seems to be quite
20 interested in it. It would take the area up there where
21 the landfill is, and which again this is going to
22 increase traffic.

23 I know our picture is gone, this is going to
24 increase a lot of traffic to that area hopefully. But
25 the development of the new business in town, I can't

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1 remember, it's, I think it's the PDA; is that the
2 program?

3 JUDGE MACE: I don't know.

4 MR. EVANS: I think that's it. The grange
5 closing will also be a perfect facility for the proposal
6 that we're trying to make to get new businesses in here.
7 We would like to take these other buildings that have
8 been left abandoned or for sale or vacated for whatever
9 reason and use those for these new businesses, so
10 there's a lot of potential in the grange building itself
11 for the future, especially when we're going after this
12 program as we are.

13 I guess that's basically all I got to say
14 except for we did have quite a bit of discussion on the
15 routing of the traffic, especially the trucks, the
16 semis, and I'm very against going up onto Alder and back
17 down B Street, because you would be bringing a lot of
18 heavy traffic up into a residential area, and coming
19 back down by the ball park is a real concern of mine.
20 And I think if you take a look at Sprague, you will
21 notice that we pretty much diverted all the commercial
22 traffic, these trucks, up B Street to the Railroad
23 street and then back down D Street first and then back
24 out to A, so it's been kind of a loop, and it's kept
25 pretty much all of that heavy traffic, the trucks, off

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1 the residential streets and into the commercial part of
2 town itself, and I would hate to see us lose that.

3 Thank you.

4 JUDGE MACE: Thanks very much.

5 Well, my pieces of paper here show that there
6 isn't anybody else signed up to speak, and lo and behold
7 it's only 5 minutes to 7:00. I guess I would propose
8 that we adjourn but in place so to speak and wait to see
9 if anybody else would show up. I don't want to close
10 the hearing at this point in case there would be someone
11 else, but yet by the same token, if no one else shows
12 up, I would hesitate to hold it open until 8:30.

13 Yes.

14 MS. FOX: There's a chance that people that
15 are up at the open house at the school possibly will be
16 coming down after they have been up there for a little
17 while also, so. The dinner was scheduled for 6:30, so
18 she said that it should be getting over here pretty
19 soon, so there's a chance those people will be coming
20 down here after that.

21 JUDGE MACE: Well, as I say, we will
22 certainly hold it open until 7:30, and let's see what's
23 happening at that point. I'm not going to say for sure
24 we will close at 7:30. Let's just see what's happening.

25 Thank you, let's be off the record at this

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1 point.

2 (Recess taken.)

3 JUDGE MACE: We have waited until quarter to
4 8:00, and we haven't had any further individuals from
5 the public come to sign up so that they could speak and
6 address the Burlington Northern petition to close grade
7 crossings in the city of Sprague. On that basis, I am
8 going to adjourn the hearing at this point, but before I
9 do that, I want to indicate that anyone who the City of
10 Sprague, and I notice that Mayor Fox is here, expresses
11 to you that they would have wished to speak tonight can
12 file comment with the Commission in writing, and they
13 should send it to the Washington Utilities and
14 Transportation Commission, it's WUTC, Post Office Box
15 47250, that's in Olympia, and the zip code is 98504, or
16 they can E-mail the Commission at comments, that's
17 C-O-M-M-E-N-T-S, @wutc.wa.gov, and they should put in
18 the subject line, Sprague, so that Ms. Hansen can field
19 those and pick them up so that they can be submitted.
20 Now what will happen with those comments as I understand
21 it is that Ms. Hansen will shepherd them together and
22 then speak with Mr. Thompson, who will gather them for
23 purposes of submitting them as an exhibit.

24 MS. FOX: And that was W-A-T-C?

25 JUDGE MACE: It's W-U-T-C.

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1 MS. FOX: Oh.

2 JUDGE MACE: Wutc.wa.gov like gov.

3 MS. FOX: Oh, G-O-V.

4 JUDGE MACE: G-O-V. And then again the
5 subject line should stay Sprague or City of Sprague or
6 something that would denote that it's related to this
7 petition about the City of Sprague.

8 Okay, I thank you all for coming. I thank
9 those people in particular who spoke.

10 Those of you who are involved in the
11 evidentiary hearing, you know that we will be resuming
12 tomorrow at 9:30 in the morning.

13 Thanks again.

14 (Hearing adjourned at 7:50 p.m.)

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