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January 12, 2009

Executive Secretary
WA Utilities & Transportation Commission
1300 South Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

RECEIVED
GAIL R. SMITH
2009 JAN 13 AM 8:06
UTILITY AND TRANSPORTATION
COMMISSION

Re: Docket No. TR070696

Dear Executive Secretary:

Our office represents Skagit County Diking District No. 3. The District testified by its Commission Chair, David Olson at the hearing held in January 2008 at Mount Vernon in the above entitled docket concerning the flood risk and the need for protection for the public and lands associated with the Burlington Northern Santa Fe mainline track from flooding by the Skagit River. Former chairman Richard Smith also testified about a particular event in 1990 when emergency actions saved the dike from failure. Exhibit Nos. 77 & 78.

The District, like other intervenors in the above docket number, City of Mount Vernon, Skagit County and Skagit County Fire Protection District No. 3 are municipal corporations of the State of Washington. Dike District No. 3 boundaries surround the Hickox Road Grade Crossing of the Burlington Northern Santa Fe mainline.

Because the Commission specifically highlighted flood related disaster as a primary reason for ordering a private crossing to serve emergency needs of the community, Skagit County Diking District No. 3 requests inclusion as a signer of the Private Crossing Agreement and recognition of its right to participate in any present or future diagnostic team concerning design, maintenance and operation of the emergency crossing at Hickox Road.

The District has met with Skagit County, City of Mount Vernon and Skagit County Fire Protection District No. 3 attorneys to verify that inclusion of the Diking District as a party to the agreement is not objected to by those parties. It is also mutually agreed that an Opticom gate or similar design of gate structure for the use of public agencies will serve the emergency needs of the Fire District, City, County and Skagit County Diking District No. 3.

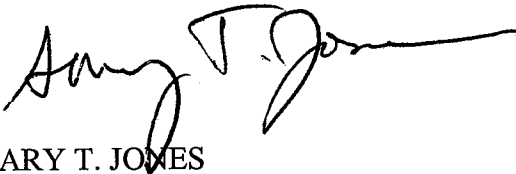
We believe that this proposal is consistent with the Commission order appearing at page 19, paragraphs 80 and 81.

Skagit County Diking District No. 3 has cooperative agreements with Skagit County and the City of Mount Vernon in addition to participating in the Rehabilitation and Inspection Program of the United States Army Corps of Engineers, disaster assistance program of the Federal Emergency Management Agency. It receives support from the Washington National Guard as well as many community volunteers when flood related disasters occur.

Thank you for your consideration of this request for inclusion in the Emergency Use Private Crossing Agreement.

Respectfully yours,

JONES & SMITH

A handwritten signature in black ink, appearing to read "Gary T. Jones", with a long horizontal flourish extending to the right.

GARY T. JONES
GTJ/lfd