

installed. BNSF has represented that it opposes the installation of the proposed median in part because it will block access to crew change areas on the north and south side of NW 122nd west of the crossing. Under the circumstances it does not appear that the median design referenced in Clark County's Petition will be feasible.

III. AUTHORITY AND ARGUMENT

The Commission has authority to grant Petitioner's Motion to Withdraw pursuant to WAC 480-07-380(3), which provides in relevant part:

(3) Motion to withdraw.

- (a) *General.* Once the commission has issued a hearing notice or otherwise commenced an adjudicative proceeding pursuant to chapter 34.05 RCW, a party may withdraw from that proceeding, or may withdraw the party's tariff, complaint, petition, or application on which a proceeding is based, only upon permission granted by the commission in response to a written motion. The motion must include any settlement or other agreement pursuant to which the party is seeking withdrawal.

Under the circumstances present in this case, including BNSF's objections and its ownership of the road and right of way where the proposed western median was to be installed, the median design referenced in Clark County's Petition does not appear to be feasible. These facts constitute good cause to allow Clark County to withdraw the subject Petition without prejudice and with permission to file a future petition to facilitate a quiet zone at the crossing.

IV. CONCLUSION

In the interests of efficiency and based upon the good cause set forth herein, Clark County respectfully requests that the Commission grant this Motion to Withdraw the April 2,

2019, Petition without prejudice and with permission to re-file a future petition relating to the subject crossing.

Respectfully submitted this 25th day of August 2020.

s/ Taylor R. Hallvik

Taylor R. Hallvik, WSBA #44963
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Clark County Prosecutor's Office – Civil Div.
Attorney for Petitioner

CERTIFICATE OF SERVICE

On this 25th day of August 2020, I, Pamela Hamilton, hereby certify that I made service of the foregoing *PETITIONER’S MOTION (FOR ORDER) TO WITHDRAW PETITION WITHOUT PREJUDICE* on the parties listed below via electronic mail and U.S.P.S. mailing:

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s/ Pamela Hamilton
Pamela Hamilton, Paralegal