

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

BNSF RAILWAY COMPANY,	)	DOCKET TR-070696
	)	
Petitioner,	)	
	)	DIAGNOSTIC TEAM
v.	)	RECOMMENDATION
	)	
CITY OF MOUNT VERNON,	)	
	)	
Respondent.	)	
	)	
	)	
.....	)	

Pursuant to Order (2) of the WUTC’s Final Order, the diagnostic team, comprising of representatives of BNSF, the public safety and flood control jurisdictions, and Commission Staff, propose the following safety measures at the Hickox Road railroad crossing once it is converted from a public crossing to a private crossing:

- 1      (1)      Pursuant to the Final Order, BNSF will upgrade the safety features at the Stackpole Road at-grade crossing (at BNSF expense) to include active warning devices equivalent to those now in place at Hickox Road (flashing light signals, automatic gates, and warning bells); and
  
- 2      (2)      BNSF will work with the City of Mount Vernon and Skagit County to alter intersection turning radii at Stackpole Road and Dike Road (and BNSF shall pay for the actual cost for improvements to alter intersection turning radii at Stackpole Road and Dike Road as set forth in the WUTC Order, including, but not limited to design, construction, and any necessary real property acquisition); and

- 3 (3) The diagnostic team recommends that BNSF construct a cul-de-sac on the west side of the private Hickox Road crossing. Pursuant to the WUTC Order, BNSF shall pay the actual cost of the design, construction, and installation of the cul-de-sac turnaround, including, but not limited to, the cost of any necessary real property acquisition related thereto. All parties have reached mutual consensus and agreement with respect to the need for BNSF to construct the cul-de-sac on the west side of the private Hickox Road crossing. The diagnostic team did not come to a consensus regarding whether a cul-de-sac on the east side of the private crossing is necessary. BNSF and WSDOT believe that a cul-de-sac on the east side is unnecessary due in part to adjacent property development that is anticipated to provide a sufficient area for vehicles to turn around. BNSF and WSDOT recognize that absent a diagnostic consensus recommending otherwise, the WUTC shall require BNSF to construct two cul-de-sacs, one on each side of the crossing. In the event the WUTC orders construction of two cul-de-sacs, one on each side of the private crossing, BNSF agrees that it shall be responsible to pay the actual cost of the design, construction, and installation of both cul-de-sac turnarounds, including but not limited to the cost of any necessary real property acquisition related thereto. BNSF and WSDOT further request, however, that the WUTC provide the diagnostic team further opportunity, until the time construction begins, to re-consider and evaluate the necessity of a cul-de-sac on the east side of the crossing and the opportunity to reach a consensus for an alternative design on the east side of the crossing. This request by WSDOT and BNSF is opposed by the City of Mount Vernon, Skagit County Fire Protection No. 3, and Skagit County. The City of Mount Vernon is the local jurisdiction responsible for planning and issuance of permits for any developer of property east of the crossing who must comply with the City's appropriate development regulations. According to City planning officials, any developer for the property on old 99 and Hickox will not be required to build a cul-de-sac nor will they be improving Hickox all the way to the crossing but will be limited to the widening of Hickox to any proposed driveway location which will likely be a significant distance east of the crossing. Thus, any improvements by a developer to the road will not include a cul-de-sac necessary to provide adequate turn around for vehicles. Moreover, it is the opinion of the City of Mount Vernon development review

engineering staff that any further road improvements by a developer will fail to provide sufficient area or be safely designed for the purpose of providing safe vehicle turn around which must necessarily include turn around for large emergency and commercial vehicles. The WUTC has mandated that a cul-de-sac on both the east and west sides of the private Hickox Road crossing be constructed by BNSF *unless* the diagnostic team and Commission agree the second cul-de-sac (on the east side of the private Hickox Road crossing) is unnecessary. (See Paragraph 28 of WUTC Order 07.) Such agreement or consensus has not been reached by the diagnostic team. Accordingly, the City of Mount Vernon, Skagit County Fire Protection District No. 3, and Skagit County request that Order 07 of the WUTC be enforced and that BNSF construct cul-de-sacs on both the west side and the east side of the private Hickox Road crossing; and

- 4 (4) The diagnostic team recommends that BNSF (at BNSF's expense) install two emergency-use gates sufficiently wide to allow emergency-response use and aligned so as to allow direct pass over the tracks: one on each side of the Hickox Road private crossing. Sliding gates (battery, solar or electric-powered with a battery backup) will be installed with a 3M Opticom® or equivalent emitter receiver. BNSF shall work directly with the public safety and flood control jurisdictions to determine additional gate specifications, including but not limited to gate height, potential mechanisms to minimize vandalism, the duration of time the gates will remain open before closing automatically, audible and/or visual alarm(s), and manual / fail safe override functions. While no party has complete control over trespassers, the secured gates are intended to prevent and deter unauthorized use. The gates shall remain secured and shall not be opened except for emergency-use by the public safety and flood control jurisdictions in accordance with the Commission's Final Order and Private Crossing Agreement; and
- 5 (5) The diagnostic team recommends that the existing warning devices at the Hickox Road public crossing be removed upon installation of the secured gates (at BNSF expense); and

- 6 (6) The team recommends that BNSF install (at BNSF expense) private crossing signs with stop signs at each side of the private crossing. These signs shall also contain BNSF's emergency contact phone number; and
- 7 (7) Given the Commission's determination that the crossing will be extrahazardous once the siding track is constructed, BNSF strongly recommends and the diagnostic team concurs that actual communication take place between the public safety and/or flood control jurisdiction(s) and the BNSF Resource Operations Call Center prior to emergency use of the private crossing. The ROCC will then be able to verify whether the crossing is blocked or trains are approaching.

Dated at Seattle, Washington, February 9, 2009.