Exhibit No._____ (SN-1T)

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY, Petitioner vs. WHATCOM COUNTY, Respondent.	DOCKET NO: TR-150189 PREFILED TESTIMONY OF STEVEN NEUBAUER ON BEHALF OF PETITIONER BNSF RAILWAY COMPANY

Q: Please state your full name and job title.

A: Steven Wayne Neubauer, Director Field Safety and Support, BNSF Railway Company.

Q: Please describe your position with BNSF Railway Company (BNSF).

A: I have been employed by BNSF Railway Company (BNSF), or one of its predecessors, for about 38 years. During my employment, I have worked various positions including Mechanical Laborer, Machinist Helper, Carman, Locomotive Engineer, Grade Crossing Safety

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

Manager, Manager Field Safety Audit, and now Director Field Safety Support. In general, my current duties include: education of the public and law enforcement community; involvement of the law enforcement community in pursuit of the reduction in the number of highway/rail grade crossing right-of-way violations; ongoing training of volunteers to educate the community about grade crossing safety; Industrial Truck Driver Education Program; train crew participation in filing Unsafe Driver/Trespasser reports; private grade crossing closures and control of new permit issuance; highway/rail grade crossing closures; and oversight of the Report of Unsafe Motorist Program, an internal company program of close calls with motorists along with promoting railroad safety through the Operation Lifesaver Inc. Program. In addition I sit on the National Board of Directors for Operation Lifesaver Inc.

Q: Please explain your background and qualifications for working on crossing safety issues and potential crossing closures.

A: My training with the BNSF Railway Company includes locomotive engineer, maintenance of way, and hazardous materials training. As a locomotive engineer, I know regulations and company rules and have firsthand observations of vehicle and trespasser incidents and close calls. In addition, I was a volunteer presenter for Operation Lifesaver presentations, and I train volunteers as Operation Lifesaver presenters.

Q: What is the purpose of the Operation Lifesaver presentations?

A: To save lives. Operation Lifesaver is a nonprofit organization designed to help educate the public to make safe decisions when approaching a highway rail grade crossing and around railroad tracks, particularly the dangers of trying to beat trains, stopping on the tracks, and trespassing on railroad property.

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

Q: You have in front of you Exhibit No. (SN-2), a set of graphics. The first page is titled Welcome to Operation Lifesaver. Are you familiar with this document?

A: Yes. These are visuals used in Operation Lifesaver presentations to educate the public about safety around train tracks.

Q: Could you explain what they are?

A: Slide two shows Operation Lifesavers three E's of traffic safety: Education, Engineering, and Enforcement. Education increases public awareness about the danger around railroad track. Engineering typically refers to engineering projects like the signalization of crossings and grade separations. Enforcement is where we bring in partners such as the law enforcement community to explain why it is important for the public to yield to a train, emphasizing the importance of stopping distance and promoting enforcement of traffic laws.

In the next slide, we talk about statistical data and the fact that grade crossing collisions involving a train and a vehicle or a train striking a person, occur every day.

In the slide called Any Time is Train Time, we talk about the fact that people need to expect trains on any track in either direction at any time of day.

Q: Could you explain what this illustration on page 7 of Exhibit No. (SN-2) represents?

A: This slide and the one on the next page illustrate some weight ratios. The weight ratio of a train to a car is about that of a car to a soda can, about 4,000 to 1. This analogy shows what sort of effect a collision would have, like how a soda can is going to be crushed by a car. In vehicle/train collisions, people are about 20 percent more likely to die than in

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

vehicle/vehicle collisions simply because of the weight difference. The Operation Lifesaver website reports that, all railroads considered, there were 269 grade crossing fatalities and 832 grade crossing injuries in the United States in 2014. There were 501 trespassing fatalities and 414 trespassing injuries. Compared to all states, Washington had the 18th-highest amount of trespass casualties and 27th-highest amount of grade crossing collisions in 2014.

Q: Have you had personal experiences with close calls where people ignored the warning devices?

A: Yes. I was a locomotive Engineer for over twenty years, and throughout my career it was almost a daily occurrence of drivers racing to get across the tracks before the train arrived. Unfortunately I have also been involved in grade crossing incidents. I have seen the aftermath of what happens and because of these events I began presenting for Operation Lifesaver sometime in the early 1990s.

Q: Why do you think motorists or pedestrians disregard warning devices?

A: There are a variety of reasons. Driver inattention is a common factor. Drivers, pedestrians, and bicyclists may also underestimate the potential dangers of a slow-moving train, thinking that they have time to try to "beat" the train when they don't. Impatience also plays into the equation. Drivers, bicyclists, and pedestrians may take more risks when they see a long freight train coming down the tracks, even at a slow speed, because they do not want to wait for the train to pass.

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

Q: In your experience, how long does it take a train to stop?

A: Depending on variable factors such as grade, track curvature, the weight of the train and other physical factors, it could take a freight train traveling over a mile to stop after applying the brakes. On page 6 of Exhibit No. (SN-2) there is a comparison of the stopping distance at 55 miles per hour for various vehicles. You can see that the freight train takes significantly longer to stop. Even a train traveling 10 miles per hour or less cannot stop quickly or in a short distance, even after applying the emergency brakes.

Given these facts, by the time a motorist and a train crew can see each other, the motorist has the duty to stop and yield to the train or for the pedestrian to avoid the tracks.

Q: Over your 30 plus years as a locomotive engineer, Manager Grade Crossing Safety, Director of Field Safety, and Operation Lifesaver volunteer and presenter, do you have an opportunity to talk to and learn about motorist's beliefs, attitudes, perceptions, and actions at-grade railroad crossings?

A: Yes.

Q: Is driver perception problematic for railroad operations?

A: Yes. It is a serious safety concern because people can misjudge the train's speed. Drivers and pedestrians may think that they have enough time to cross than they actually do, when in reality they should wait as they may not have time to safely clear the tracks. Obviously these risks only increase when there are multiple sets of tracks; one train can sometimes obscure the view of another oncoming train until the other train has entered or is very close to the crossing. When you combine these factors, I think that is one explanation for collisions.

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

Q: On page 15 of Exhibit No. (SN-3) there is a statement that some drivers who responded to a questionnaire believed that it was possible for a fully loaded train traveling at 55 miles per hour to come to a complete stop in 300 feet or less. In your experience do some drivers think it is possible for a train to come to a stop in that distance?

A: Yes, some people may believe that train brakes work similar to a vehicle and can stop in a much shorter distance than they can. Even trains moving relatively slowly cannot stop quickly.

Q: Please describe your involvement in the petition to close the Valley View railroad crossings.

A: I was provided a copy of the petition to close the crossing and asked to give testimony about general safety issues involving at-grade railroad crossings.

Q: Did you review any information regarding accidents at the Valley View crossing? If so, what did you find?

A: Yes. I looked up the crossing's accident history on the FRA website. The crossing DOT number did not appear to be associated with any grade crossing accidents.

Q: Do you believe the Valley View grade crossing should be closed? Why or why not?

A: Yes, given there is alternate access available, I believe the crossing should be closed because it presents an increased safety exposure to the traveling public once the second track is added. According to the Railroad-Highway Grade Crossing Handbook, crossings should always be considered for closure. Crossings are inherently dangerous especially if motorists do not obey traffic laws, and the public often disregards safety warning traffic devices, even lights and gates (a motorist can drive around, or even under or through, gate arms). Over half

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

of all highway/rail grade crossings occur at crossings equipped with active warning devices. In the hierarchy of safety controls elimination is always the preferred course as this takes the risk completely out.

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

DECLARATION

I, Steven Neubauer, declare under penalty of perjury under the laws of the State of Washington that the foregoing PREPARED TESTIMONY OF STEVEN NEUBAUER is true and correct to the best of my knowledge and belief.

DATED this 1 day of August, 2015, at Ft Worth, TX.

Steven Neubauer

DATED this 7th day of August 2015.

Montgomery Scarp, PLLC

Bradley P. Scarp, WSBA #21453
Kelsey Endres, WSBA #39409
Attorneys for BNSF Railway Company
1218 Third Ave., Ste. 2500
Seattle, WA 98101
Tel. (206) 625-1801
Fax (206) 625-1807
kelsey@montgomeryscarp.com
brad@montgomeryscarp.com

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807

CERTIFICATE OF SERVICE

I am over the age of 18; and not a party to this action. I am the assistant to an attorney with Montgomery Scarp PLLC, whose address is 1218 Third Avenue, Suite 2500, Seattle, Washington, 98101.

I hereby certify that the original and 1 · copies of the PREFILED TESTIMONY OF STEVEN NEUBAUER have been sent by VIA FED EX to Steven King at WUTC and a PDF version sent by electronic mail. I also certify that true and complete copies have been sent to the following interested parties via U.S. Mail:

Daniel L. Gibson
Chief Civil Deputy
Prosecuting Attorney
Whatcom County
311 Grand Ave., Suite 201
Bellingham, WA 98225

Joseph P. Rutan
County Engineer/Interim PW Director
Whatcom County Public Works Dept.
322 N. Commercial St., Suite 210
Bellingham, WA 98225

Julian Beattie
Assistant Attorney General
1400 S. Evergreen Park Drive SW
P.O. Box 40128
Olympia, WA 98504-0128

I declare under penalty under the laws of the State of Washington that the foregoing information is true and correct.

DATED this 7th day of August, 2015, at Seattle, Washington.

Pamela Ruggles, Paralegal

MONTGOMERY SCARP, PLLC
1218 Third Avenue, Suite 2500
Seattle, Washington 98101
Telephone: (206) 625-1801
Fax: (206) 625-1807