

Exhibit No. ____ (KH-6)
Docket TR-100572
Witness: Kathy Hunter

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

BENTON COUNTY,

Petitioner,

v.

BNSF RAILWAY COMPANY,

Respondent.

DOCKET TR-100572

EXHIBIT TO TESTIMONY OF

Kathy Hunter

**STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

RCW 81.53.020

November 29, 2010

- 81.53.080 Restrictions on structures, railway equipment, in proximity of crossings—Minimum clearance for under-crossings.
- 81.53.090 Duty to maintain crossings.
- 81.53.091 Underpasses, overpasses constructed with aid of federal funds—Apportionment of maintenance cost between railroad and state.
- 81.53.100 Cost when railroad crosses highway.
- 81.53.110 Cost when highway crosses railroad.
- 81.53.120 Cost when railroad crosses railroad.
- 81.53.130 Apportionment of cost.
- 81.53.140 Time for performance.
- 81.53.150 Practice and procedure.
- 81.53.160 Service of process.
- 81.53.170 Judicial review.
- 81.53.180 Eminent domain.
- 81.53.190 Abatement of illegal crossings.
- 81.53.200 Mandamus to compel performance.
- 81.53.210 Penalty.
- 81.53.220 Obstructions in highways.
- 81.53.230 No new right of action conferred.
- 81.53.240 Scope of chapter.
- 81.53.250 Employment of experts.
- 81.53.261 Crossing signals, warning devices—Petition—Hearing—Order—Costs apportionment—Records not evidence for actions—Appeal.
- 81.53.271 Crossing signals, warning devices—Petition contents—Apportionment of installation and maintenance costs.
- 81.53.275 Crossing signals, warning devices—Apportionment when funds not available from grade crossing protective fund.
- 81.53.281 Crossing signals, warning devices—Grade crossing protective fund—Created—Transfer of funds—Allocation of costs—Procedure—Federal funding.
- 81.53.291 Crossing signals, warning devices—Operational scope—Election by first-class cities—Procedure.
- 81.53.295 Crossing signals, warning devices, etc.—Federal funds used to pay installation costs—Grade crossing protective fund—State and local authorities to pay remaining installation costs—Railroad to pay maintenance costs.
- 81.53.400 Traffic control devices during construction, repair, etc. of crossing or overpass—Required.
- 81.53.410 Traffic control devices during construction, repair, etc. of crossing or overpass—Standards and conditions.
- 81.53.420 Traffic control devices during construction, repair, etc. of crossing or overpass—Rules.
- 81.53.900 Effective date—1975 1st ex.s. c 189.

Counties, signs, signals, etc.: RCW 36.86.040.

Railroad intersections, crossings, etc.: State Constitution Art. 12 § 13.

Traffic devices required by utilities and transportation commission: RCW 47.36.050.

81.53.010 Definitions. The term "commission," when used in this chapter, means the utilities and transportation commission of Washington.

The term "highway," when used in this chapter, includes all state and county roads, streets, alleys, avenues, boulevards, parkways and other public places actually open and in use, or to be opened and used, for travel by the public.

The term "railroad," when used in this chapter, means every railroad, including interurban and suburban electric railroads, by whatsoever power operated, for the public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. The said term shall also include every logging and other industrial railway owned or operated primarily for the purpose of carrying the property of its owners or operators or of a limited class of persons, with all tracks, spurs and sidings used in connection therewith. The said term shall not include street railways operating within the limits of any incorporated city or town.

The term "railroad company," when used in this chapter, includes every corporation, company, association, joint stock

association, partnership or person, its, their or his lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any railroad, as that term is defined in this section.

The term "over-crossing," when used in this chapter, means any point or place where a highway crosses a railroad by passing above the same.

The term "under-crossing," when used in this chapter, means any point or place where a highway crosses a railroad by passing under the same.

The term "over-crossing" or "under-crossing," shall also mean any point or place where one railroad crosses another railroad not at grade.

The term "grade crossing," when used in this chapter, means any point or place where a railroad crosses a highway or a highway crosses a railroad or one railroad crosses another, at a common grade. [1961 c 14 § 81.53.010. Prior: 1959 c 283 § 2; prior: (i) 1913 c 30 § 1; RRS § 10511. (ii) 1941 c 161 § 1; Rem. Supp. 1941 § 10511-1. Formerly RCW 81.52.080, part.]

81.53.020 Grade separation required where practicable. All railroads and extensions of railroads hereafter constructed shall cross existing railroads and highways by passing either over or under the same, when practicable, and shall in no instance cross any railroad or highway at grade without authority first being obtained from the commission to do so. All highways and extensions of highways hereafter laid out and constructed shall cross existing railroads by passing either over or under the same, when practicable, and shall in no instance cross any railroad at grade without authority first being obtained from the commission to do so: PROVIDED, That this section shall not be construed to prohibit a railroad company from constructing tracks at grade across other tracks owned or operated by it within established yard limits. In determining whether a separation of grades is practicable, the commission shall take into consideration the amount and character of travel on the railroad and on the highway; the grade and alignment of the railroad and the highway; the cost of separating grades; the topography of the country, and all other circumstances and conditions naturally involved in such an inquiry. [1961 c 14 § 81.53.020. Prior: 1913 c 30 § 2; RRS § 10512. Formerly RCW 81.52.090.]

81.53.030 Petition for crossing—Hearing—Order. Whenever a railroad company desires to cross a highway or railroad at grade, it shall file a written petition with the commission setting forth the reasons why the crossing cannot be made either above or below grade. Whenever the legislative authority of a county, or the municipal authorities of a city, or the state officers authorized to lay out and construct state roads, or the state parks and recreation commission, desire to extend a highway across a railroad at grade, they shall file a written petition with the commission, setting forth the reasons why the crossing cannot be made either above or below grade. Upon receiving the petition the commission shall immediately investigate it, giving at least ten days' notice to the railroad company and the county or city affected thereby, of the time and place of the investigation, to the end that all parties interested may be present and heard. If the highway