

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	BURLINGTON NORTHERN RAILROAD)	
	COMPANY,)	
4)	
	Petitioner,)	DOCKET NO. TR-960828
5)	VOLUME 1
	vs.)	Pages 1 - 50
6)	
	THURSTON COUNTY, WASHINGTON,)	
7)	
	Respondent.)	
8	-----)	

9 A hearing in the above matter was held on
10 January 9, 1997 at 9:30 a.m., at 1300 South
11 Evergreen Park Drive Southwest, Olympia, Washington,
12 before Administrative Law Judge JOHN PRUSIA.

13

14 The parties were present as follows:

15 BURLINGTON NORTHERN RAILROAD COMPANY, by
16 LARRY E. LEGGETT, Attorney at Law, 110 - 110th Avenue
NE, Suite 607, Bellevue, Washington 98004.

17 THURSTON COUNTY, by CATHERINE B. GALVIN,
18 Deputy Prosecuting Attorney, 2000 Lakeridge Drive SW,
Olympia, Washington 98512.

19 THE WASHINGTON UTILITIES AND TRANSPORTATION
20 COMMISSION STAFF, by DAVID A. STOLIER, Assistant
Attorney General, P.O. Box 40100, Olympia, Washington
21 98504.

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24 Cheryl Macdonald, CSR

25 Court Reporter

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I N D E X

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5 WITNESSES: DIRECT EXAM

6 NAUMANN 8

7 RANCOUR 17

8 BRICKER 25

9 HANNA 37

10 COVERDELL 42

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13 EXHIBITS: MARKED ADMITTED

14 1 9 16

15 2 10 16

16 3 11 16

17 4 12 16

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1 P R O C E E D I N G S

2 JUDGE PRUSIA: Let's be on the record.

3 This hearing will please come to order. This is a
4 hearing before the Utilities and Transportation
5 Commission in the matter of the Burlington Northern
6 Railroad Company, petitioner, vs. Thurston County.
7 The docket No. is TR-960828. This is a petition by
8 Burlington Northern to close to public use a highway/
9 railway crossing at grade. This is the 191st Avenue
10 Southeast crossing located off State Route 12, about
11 two miles east of Rochester. The petition describes
12 the location of the crossing as at or near railway
13 milepost 8.89 in the southeast quarter of the
14 southeast quarter all in section 5, township 15 north,
15 range 3 west, Willamette meridian in Thurston County,
16 state of Washington.

17 My name is John Prusia. I'm the
18 administrative law judge assigned to this proceeding
19 this morning. Today's date is January 9, 1997. The
20 time is approximately 9:35. We are convened at
21 Commission headquarters in Olympia, Washington. I
22 will take appearances at this time. Please include
23 your mailing address and state who you represent.
24 Let's begin with the petitioner, Mr. Leggett.

25 MR. LEGGETT: My name is Larry Leggett and

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1 I represent petitioner Burlington Northern Santa Fe
2 Railway Company. My address is 110 - 110th Avenue
3 Northeast, suite 607, Bellevue, Washington, 98004.

4 JUDGE PRUSIA: And for Commission staff.

5 MR. STOLIER: My name is David Stolier.

6 S T O L I E R. I'm an assistant attorney general. My
7 address is Box 40100, Olympia, Washington 98504-0100.

8 JUDGE PRUSIA: And for Thurston County; is
9 that correct?

10 MS. GALVIN: That's correct. My name is
11 Catherine Galvin, G A L V I N. Address is 2000 Lake-
12 ridge Drive Southwest, Olympia, Washington 98512. I'm
13 a deputy prosecuting attorney.

14 JUDGE PRUSIA: Are there any other formal
15 appearances this morning? I will note for the record
16 that there is a member of the public who will be
17 testifying later, but are there any other appearances?
18 Any person who wishes to be a party in the proceeding?
19 Let the record reflect that there is no response.

20 We'll next consider preliminary matters. I
21 understand that the parties have been engaged in
22 discussions and that there's some preliminary matters
23 that they would like to put on the record at this time
24 and I will ask Mr. Leggett to please do that.

25 MR. LEGGETT: That's correct, Your Honor.

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1 We, the railroad, the county and the Utility
2 Commission staff have been in discussions on the
3 closure of 191st Street. There is an agreement in
4 principle to close that street. Consequently there's
5 a need to do some additional survey and design with
6 respect to the construction necessary to close it.
7 There is the intent to create a turn around where the
8 crossing now exists and remove the crossing. At this
9 point the county is in the process of developing its
10 designs and evaluating -- determining where the
11 funding would come from for the construction.

12 The purpose of this hearing this morning is
13 to put on -- put this possibility of agreement on the
14 record as well as the steps that were taken to notify
15 members of the public by both the county and the
16 Utility Commission of this hearing to provide the
17 public opportunity to be heard. It is our intent to
18 move forward with completing an agreement for the
19 closure and necessary construction with the county and
20 it is hoped that an agreement, a formalized agreement,
21 could be reached and presented to Your Honor within
22 the next several months. It is our, I guess, thought
23 at this point that a May 1st date for either
24 completion of the agreement or a status report
25 submitted by the parties stating where we are in the

1 process would be appropriate.

2 JUDGE PRUSIA: Thank you, Mr. Leggett.

3 Also there was some discussion before we went on the
4 record of two additional dockets that relate in some
5 way to this crossing, and I would like to have whoever
6 is best prepared to put that on the record to please
7 address that.

8 MR. LEGGETT: Yes. There are two petitions
9 that have been filed that are currently under
10 consideration by the Commission. The docket number on
11 the first one is TR-931393 and that is a petition to
12 signalize with gates and flashing lights the crossing
13 at 191st Street. The other matter is docket No.
14 TR-931383 which is a petition to signalize with lights
15 and gates Joselyn intersection. The Joselyn
16 intersection relates to this matter in that it is
17 another railroad crossing that's approximately .44
18 miles from 191st Street, and Joselyn will become the
19 primary crossing once or if 191st Street is closed, so
20 at this point in time the petition for the
21 signalization of 191st Street is being held in
22 abeyance pending resolution of the closure petition
23 that has been filed on 191st Street.

24 It is the intention of the parties, I
25 believe, to move ahead with the signalization of

1 Joselyn which would be accomplished with some minor
2 reconstruction of the crossing at some point in the
3 future.

4 JUDGE PRUSIA: Very well, then. In our
5 discussions I believe we agreed that it doesn't appear
6 necessary at this point to consolidate these
7 proceedings but that that is a possibility in the
8 future depending on whether an agreement is reached in
9 this particular proceeding.

10 MR. LEGGETT: That's correct. If agreement
11 is reached on closing 191st then a petition to
12 signalize would become moot and we would move to have
13 it be dismissed.

14 JUDGE PRUSIA: Thank you. It's my
15 understanding that the Commission staff will go first
16 to testify regarding the posting, publication and the
17 county will go next to testify concerning notification
18 of the public.

19 MS. GALVIN: That's correct.

20 JUDGE PRUSIA: Very well, Mr. Stolier, then
21 would you please call your witness.

22 MR. STOLIER: Like to call Herman Naumann,
23 please.

24 JUDGE PRUSIA: Please proceed.

1 DIRECT EXAMINATION

2 BY MR. STOLIER:

3 Q. Please state your name and spell your last
4 name for the record.

5 A. Herman Naumann, N A U M A N N.

6 Q. Who are you employed by, Mr. Naumann?

7 A. Washington Utility and Transportation
8 Commission in the railroad section.

9 Q. And is that -- what is your actual job
10 title?

11 A. Railroad safety investigator.

12 Q. How long have you been in that position?

13 A. 24 and a half years.

14 Q. Can you state briefly what those duties
15 entail?

16 A. My duties include doing fatalities on
17 railroad property for the state of Washington,
18 derailments, public complaints, employee complaints
19 and sanitation complaints on railroads.

20 Q. Are you personally familiar with the 191st
21 Avenue Southeast crossing that's the subject of this
22 petition?

23 A. Yes, I am.

24 Q. Did you take steps to post notices of the
25 petition at the crossing?

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1 A. Yes, I did.

2 MR. STOLIER: Like to have this marked.

3 JUDGE PRUSIA: I've been handed a one page
4 document headed memorandum December 23, 1996, and I
5 will mark that for identification as Exhibit No. 1.

6 (Marked Exhibit 1.)

7 Q. Mr. Naumann, I'm handing you what's been
8 marked as Exhibit No. 1. Can you identify that
9 document, please.

10 A. It's a memo that I wrote to my supervisor
11 Alan Scott on the petition for abandonment of, closure
12 of, crossing at 191st Street Avenue Southwest,
13 Rochester, Washington.

14 Q. Does this memo accurately reflect your
15 efforts at posting the notices for this crossing?

16 A. Yes, it does.

17 Q. I am going to now hand you some
18 photographs.

19 JUDGE PRUSIA: Did you want these to be
20 separate exhibits or all one?

21 MR. STOLIER: Let's make these one exhibit.

22 JUDGE PRUSIA: I have been handed three
23 photo sheets with photographs attached and description
24 of what the photographs are, and I will mark those as
25 Exhibit No. 2.

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1 (Marked Exhibit 2.)

2 Q. Mr. Naumann, I've handed you what's been
3 marked as Exhibit No. 2. Can you describe the
4 exhibit?

5 A. Yes. On December 16, 1996 I went to the
6 crossing at 191st Street on assignment to post the
7 crossing for closure. Photo No. 1 shows the sign post
8 of 191st Street Avenue Southwest at the crossing.
9 Photo No. 2 is a photo taken from south to north
10 showing the posting being on the crossbuck post
11 covered with saran wrap and masking tape to hold it in
12 place to protect it from the weather.

13 Photo No. 3 is the crossbuck on the
14 opposite side of the track showing it being posted
15 with the saran wrap protection on it.

16 The next photo is an enlargement or a
17 closure picture of the posting on the north side of
18 the crossing.

19 Next photo shows a close-up of the printed
20 material placed on that crossbuck post, and also the
21 last one is of the entire posting of three pages on
22 the post.

23 Q. Mr. Naumann, just to clarify for the
24 record, you did this posting on December 16th, 1996;
25 is that correct?

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1 A. Yes, approximately 10 a.m. this morning.

2 Q. Are these photos accurate depictions of
3 what you posted at the crossing?

4 A. Yes, sir.

5 Q. What was the most recent time that you
6 visited the crossing?

7 A. Tuesday, last Tuesday.

8 Q. That would have been January 7th; is that
9 correct?

10 A. Yes.

11 Q. And were all the postings still up?

12 A. Yes, sir.

13 JUDGE PRUSIA: I've been handed a one page
14 document entitled affidavit of publication. I will
15 mark that for identification as Exhibit No. 3.

16 (Marked Exhibit 3.)

17 Q. I'm handing you what's been marked for
18 identification as Exhibit No. 3. Can you describe
19 this document?

20 A. It is the public notice that was given to
21 the Daily Chronicle newspaper in Centralia, Washington
22 to be posted in their paper on December 20th, 1996.

23 Q. And was it you who personally made
24 arrangements to put this ad in the Chronicle?

25 A. Yes, sir.

1 Q. And as far as you know it did run in the
2 Chronicle?

3 A. Yes.

4 JUDGE PRUSIA: I've been handed a one page
5 document which is a map and the top of it says "see
6 map 33" and more or less in the upper center of the
7 map it says Rochester. I will mark that for
8 identification as Exhibit No. 4.

9 (Marked Exhibit 4.)

10 Q. Mr. Naumann, could you identify what's been
11 marked for identification as Exhibit No. 4?

12 A. Shows the highway SR 12 with the
13 intersection of 191st Avenue Southwest and also the
14 intersection of SR 12 with Joselyn to the intersection
15 between 191st and Joselyn.

16 Q. Just to get on record, there's a couple of
17 I guess you call them Inc. Splots the way it came off
18 from the photocopy. Is that where the two
19 intersections are depicted?

20 A. Yes, on the railroad crossing
21 intersections.

22 Q. And there's also some highlight marks on
23 the photocopy; is that correct?

24 A. Yes. The highlight is from SR 12 to the
25 junction with Joselyn Street and from Joselyn back to

1 the railroad crossing at SR 12.

2 Q. And what is this photocopy from? Do you
3 know?

4 A. It's just on a county book that we have
5 that shows the roads and railroad tracks.

6 Q. And this is as far as you know a true and
7 accurate photocopy of that map?

8 A. Yes.

9 Q. Mr. Naumann, can you describe other efforts
10 you made to give notice of the petition in this
11 hearing in the area of the crossing?

12 A. When I was assigned to look at this
13 crossing and make an inventory upgrade in our records
14 I was also asked to canvass the area, talk to the fire
15 department, the school bus superintendent about their
16 need to use this crossing. In both cases the fire
17 department said they could use Joselyn and the school
18 buses said that they would use Joselyn as long as
19 there was a turn around placed on the north side of
20 the crossing at 191st, and that was in September 11th
21 1996. Again, when I went out and posted the crossing
22 on December 16, 1996, approximately 10 a.m., after
23 posting the crossing with the notice, I delivered a
24 copy to the fire department of Rochester, the school
25 bus superintendent in Rochester. I asked the post

1 office in Rochester to place it on their public
2 records display and I left a copy with the sheriff's
3 department at Grand Mound and I left a copy of the
4 petition at all the houses from 91st to the
5 intersection at Joselyn street.

6 Q. I just want to clarify, when you said left
7 the petitions at the houses, did you mean you left the
8 notice of hearing?

9 A. Yes.

10 MR. STOLIER: Like to have this photo shoot
11 marked as the next exhibit, please.

12 JUDGE PRUSIA: I've been handed a three
13 page photo sheet with photos attached and descriptions
14 of what the photos are. I will mark that for
15 identification as Exhibit No. 5.

16 (Marked Exhibit 5.)

17 Q. Mr. Naumann, handing you what's been marked
18 for identification as Exhibit No. 5, could you
19 describe what exhibit is on Exhibit 5?

20 A. Exhibit 5 consists of three pages of photos
21 of the areas of 191st Avenue Southeast or Southwest
22 and also of the Joselyn crossing. Picture No. 1 was
23 taken from north to south. It's a pan picture, series
24 of pictures cut and formed to get a view of the
25 crossing from north to south and it depicts the

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1 crossing SR 12 in the foreground and the warning
2 devices placed at the crossing.

3 For the No. 2 was taken from south to north
4 showing SR 12, the crossing and the warning devices
5 placed at the crossing.

6 Photo No. 3 was taken of 191st Street
7 Avenue Southwest showing the crossing and the
8 approaches to the crossing both from north and south.
9 The picture was taken from east to west. Also the
10 fourth picture was taken from west to east, just photo
11 of the crossing, and you can see SR 12 on the right
12 side.

13 The last photo is taken of Joselyn street
14 crossing and SR 12 from north to south also showing
15 the warning devices and stop signs placed at the
16 crossing.

17 MR. STOLIER: I don't have any further
18 questions. Let me move to admit Exhibit 1 through 5
19 into the record.

20 JUDGE PRUSIA: First I have a question of
21 clarification for Mr. Naumann. In the first photo in
22 the last set that you described, I believe you said
23 State Route 12 was in the foreground?

24 THE WITNESS: Yes.

25 JUDGE PRUSIA: In wouldn't be 191st?

1 THE WITNESS: This is Joselyn Road.

2 JUDGE PRUSIA: Oh, this is Joselyn road.

3 Which highway then is across the tracks?

4 THE WITNESS: That's SR 12.

5 JUDGE PRUSIA: Is there any objection to

6 the admission of what have been marked for

7 identification as Exhibits 1, 2, 3, 4 and 5?

8 MS. GALVIN: No, Your Honor.

9 JUDGE PRUSIA: Those exhibits will be
10 admitted.

11 (Admitted Exhibits 1, 2, 3, 4 and 5.)

12 JUDGE PRUSIA: Did the parties wish to
13 cross-examine this witness or did you wish to reserve
14 the opportunity to cross-examine at a later hearing if
15 there is one in this proceeding?

16 MS. GALVIN: Your Honor, the county would
17 wish to reserve its right to cross-examination if a
18 later hearing is necessary.

19 JUDGE PRUSIA: Very well. And I assume
20 Commission staff wishes to reserve the right to recall
21 this witness if an additional hearing is required.

22 MR. STOLIER: Yes, Your Honor.

23 JUDGE PRUSIA: Is there anything further
24 for this witness?

25 MR. LEGGETT: No, Your Honor.

1 JUDGE PRUSIA: Very well. The witness may
2 be excused. Did you have any additional witnesses
3 this morning, Mr. Stolier?

4 MR. STOLIER: I have no additional
5 witnesses this morning.

6 JUDGE PRUSIA: Ms. Galvin.

7 MS. GALVIN: Thank you. The county has one
8 witness today.

9

10 DIRECT EXAMINATION

11 BY MS. GALVIN:

12 Q. Would you please state your name and spell
13 your last name for the record.

14 A. My name is Dale Robert Rancour and the last
15 name is spelled R A N C O U R.

16 Q. And what is your occupation, Mr. Rancour?

17 A. I'm a civil engineer for the Thurston
18 County roads and transportation department. My
19 position is county engineer for that department.

20 Q. And how long have you been with Thurston
21 County as an engineer?

22 A. Almost 18 years.

23 Q. And are you familiar with the intersection
24 of 191st Avenue Southeast and SR 12?

25 A. Yes, I am.

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1 Q. Did you recently visit the site this week,
2 the week of January 6th, 1997?

3 A. Yes, I did.

4 Q. Now, in anticipation of this hearing today,
5 did you make efforts to contact members of the public
6 concerning today's hearing on the closure of 191st
7 Avenue?

8 A. Yes, I did. I actually had the person I
9 work with look up the assessor's records of the
10 property owners on Joselyn Street between intersection
11 of 191st and State Route 12 and through that and
12 through the telephone book and directory we got most
13 of the phone numbers and contacted the majority of the
14 people on that stretch of roadway.

15 Q. When you say contacted, was that telephone
16 contact?

17 A. Telephone contacts.

18 Q. And for the people that you were unable to
19 contact, was any further contact made this week?

20 A. No.

21 Q. Did you make any efforts to contact any
22 emergency departments concerning this hearing?

23 A. We made efforts to contact the fire
24 department.

25 Q. And which fire department would that be?

1 A. The Rochester Fire Department.

2 Q. And were you successful in making contact
3 with the Rochester Fire Department?

4 A. We contacted them. I talked with some --
5 one of the firefighters, gave her the message of the
6 meeting today and the time and location and offered my
7 assistance if they had any questions or comment, and
8 that was the extent of the -- I made two such requests
9 like that, a follow-up one.

10 Q. Did you make any contact with the school
11 district?

12 A. Yes. I did contact the transportation
13 superintendent for the school district.

14 Q. And informed them of the hearing today?

15 A. Yes.

16 Q. Did you make any other contacts with the
17 public apart from what was testified today by Mr.
18 Naumann?

19 A. No.

20 MS. GALVIN: Like to have this marked as
21 Exhibit No. 6.

22 JUDGE PRUSIA: I have been handed a large
23 aerial photograph. I will mark that as Exhibit No. 6,
24 mark that for the purposes of identification.

25 (Marked Exhibit 6.)

1 Q. I'm handing you a document which has been
2 marked as Exhibit No. 6. Would you please describe
3 for us what it is.

4 A. These are actually two aerial photographs
5 that are taped together. They are in the county's
6 records of this area. On it we labeled the location
7 of 191st Avenue, Joselyn Avenue, the railroad tracks
8 and State Route 12.

9 Q. And when were these aerial photographs
10 taken?

11 A. They were taken in 1989.

12 Q. And were they taken on behalf of the county
13 or for the county?

14 A. Yes, they were.

15 Q. And has the intersection of 191st Avenue
16 and SR 12 changed since 1989 when these photographs
17 were taken?

18 A. Not significantly.

19 Q. When you say not significantly, are you
20 familiar with what changes may have occurred out
21 there?

22 A. Just normal maintenance of the roadway.

23 Q. But the location of the intersection has
24 not been changed; is that correct?

25 A. No.

1 Q. And also reflected in the photographs you
2 mentioned, Joselyn road, has Joselyn Road and SR 12
3 changed in any manner since 1989?

4 A. No.

5 Q. And is this a true and accurate reflect of
6 how both the intersection of 191st Avenue and Joselyn
7 Road to SR 12 appear today?

8 A. Yes.

9 MS. GALVIN: I would like to offer this
10 into evidence at this time.

11 JUDGE PRUSIA: Let me ask a clarifying
12 question first. Are you -- I see in the photo that
13 there are some structures that appear along 191st.
14 Are you aware of whether there's been any further
15 development in terms of homes and --

16 THE WITNESS: I am not aware.

17 JUDGE PRUSIA: You're not aware one way or
18 the other?

19 THE WITNESS: Well, I haven't really
20 compared structure to structure in the location. By
21 driving the road they appear to be generally
22 representative of this photograph but there could be
23 some additions or demolitions, too.

24 JUDGE PRUSIA: Nothing substantial?

25 THE WITNESS: Nothing substantial in my

1 opinion.

2 JUDGE PRUSIA: Is there any objection to
3 the admission of this exhibit?

4 MR. STOLIER: No objection.

5 MR. LEGGETT: No objection.

6 JUDGE PRUSIA: There being none the exhibit
7 will be admitted.

8 (Admitted Exhibit 6.)

9 MS. GALVIN: That's all the questions I
10 have for Mr. Rancour at this time.

11 JUDGE PRUSIA: Very well. It will be
12 understood then that the other parties will reserve
13 the right to cross-examine this witness if there is a
14 further hearing in this proceeding and that the county
15 will reserve the right to recall this witness and
16 additional witnesses if necessary.

17 MS. GALVIN: Thank you.

18 MR. LEGGETT: That's correct.

19 JUDGE PRUSIA: Very well. Do any of the
20 parties have additional witnesses that they wish to
21 call before we hear from the public?

22 MR. LEGGETT: Not at this time, Your Honor,
23 no.

24 JUDGE PRUSIA: At this time I would like to
25 have one of the representatives describe what the

1 agreement is in principal that the parties have
2 reached to do that for the benefit of the members of
3 the public who are here so that they will have a
4 better idea of what they want to address. Mr.
5 Leggett.

6 MR. LEGGETT: Yes, Your Honor. My name is
7 Larry Leggett and I represent Burlington Northern, and
8 as we discussed this morning we have an agreement in
9 principal, railroad, the county and the Utility
10 Commission, to remove the crossing, close the crossing
11 at 191st Street. There will be some sort of turn
12 around constructed at the end of 191st Street of
13 significant size to allow emergency vehicles to turn
14 and school buses to turn.

15 At this point, as I understand it, the
16 county is in the process of beginning the design of
17 that necessary construction work and we will -- once
18 the design is completed then the railroad and the
19 Commission will be reviewing it and hopefully entering
20 into an agreement to accomplish the work.

21 In addition to that, Joselyn, there is a
22 plan to realign Joselyn which will become then the
23 primary crossing to provide access to this area.
24 There's also a petition pending to put gates and
25 lights on the Joselyn intersection as part of that

1 realignment and reconstruction.

2 JUDGE PRUSIA: And the 191st is a county
3 road; is that correct?

4 MS. GALVIN: That's correct, Your Honor.

5 JUDGE PRUSIA: Would the county then
6 continue to maintain it?

7 MS. GALVIN: That's correct, Your Honor.
8 The county would maintain 191st.

9 JUDGE PRUSIA: Very well. Is there
10 anything that any of the parties wish to add before we
11 hear from members of the public?

12 MR. LEGGETT: No, Your Honor.

13 MR. STOLIER: No, Your Honor.

14 JUDGE PRUSIA: Very well. For the benefit
15 of the members of the public, then, that's all that we
16 will hear from the parties at this point. The hearing
17 will be continued indefinitely and the parties will be
18 required to either submit an agreement or report back
19 to the Commission by the first of May. They also --
20 if they're unable to reach an agreement and they know
21 before May that they cannot reach an agreement earlier
22 than that they can request a hearing and we can
23 proceed with the matter.

24 Let's be off the record for just a minute.

25 (Recess.)

1 JUDGE PRUSIA: Let's be back on the record.
2 We'll now hear from the members of the public, and I
3 will ask Ms. Bricker first to come forward and be
4 sworn in.

5 Whereupon,

6 [witness]
7 having been first duly sworn, was called as a
8 witness herein and was examined and testified as follows:

9 JUDGE PRUSIA: The way we will proceed this
10 morning is I will ask you a few preliminary questions
11 and then I will have you make your statement and then
12 the representatives of the parties will have an
13 opportunity to ask you some questions also.

14

15 EXAMINATION

16 BY JUDGE PRUSIA:

17 Q. Please state and spell your name.

18 A. My name is Deanna Bricker,
19 D E A N N A, Bricker, B R I C K E R.

20 Q. And what's your address?

21 A. 18346 Albany Street Southwest, Rochester,
22 Washington.

23 Q. And your zip code?

24 A. 98579.

25 Q. And are you appearing on your own behalf or

1 on behalf of?

2 A. On behalf of Thurston County Fire
3 Protection District No. 1. That would be Rochester
4 Fire Department.

5 Q. What is their address?

6 A. I gave you their address.

7 Q. Please make your statement then.

8 A. The officers and the chief of Rochester
9 Fire Department have discussed this proposal in length
10 and have, after evaluating the proposal, have decided
11 that they really do not feel that it would be a good
12 thing to close 191st and State Route 12 or Joselyn.
13 The reason being that it would compromise our response
14 time in medical emergencies and fire emergencies.

15 Q. Do you have any idea how much it would
16 compromise your response time in terms of minutes?

17 A. Probably two to three minutes. That is one
18 of our main routes to get to part of our district.

19 Q. Are there alternative routes?

20 A. There are.

21 Q. What would they be?

22 A. We would need to proceed down to Joselyn
23 and turn left and go up to 191st and turn right again.

24 Q. Do you have anything to add?

25 A. No, I do not.

1 Q. Do any of the parties have questions for
2 this witness, Mr. Leggett?

3

4 EXAMINATION

5 BY MR. LEGGETT:

6 Q. Is your department volunteer or do you have
7 regular firefighters on staff?

8 A. I am a paid firefighter emergency medical
9 technician.

10 Q. You personally and so you're on staff at
11 the fire house?

12 A. Yes.

13 Q. What about the rest of the department?

14 A. Mainly volunteer.

15 Q. When they come to a fire do they come from
16 various directions?

17 A. Yes, they do. That part of the district,
18 however, the majority of our volunteer response would
19 be west of there.

20 Q. West towards Rochester?

21 A. Right.

22 Q. So as I understand it, then, they may come
23 to the fire house or they may go straight to the fire
24 from wherever they are when they get the call?

25 A. Correct.

1 MR. LEGGETT: That's all.

2 JUDGE PRUSIA: Mr. Stolier, do you have any
3 questions?

4 MR. STOLIER: I'm wondering -- actually, if
5 I could approach the witness?

6 JUDGE PRUSIA: Please proceed.

7

8 EXAMINATION

9 BY MR. STOLIER:

10 Q. This has been admitted as Exhibit 5, an
11 aerial photograph, and here's 191st and here's the
12 Joselyn and I am wondering what is the fire station.

13 A. Fire station would be down this way
14 (indicating).

15 Q. Of SR 12?

16 A. At the crossing of Albany and State Route
17 12 where the light is.

18 Q. And so that's generally northeast direction
19 to SR 12, northeast, would you say?

20 A. Northwest.

21 Q. Northwest, I'm sorry. Go ahead and correct
22 me when I'm wrong.

23 A. So the majority of our response, and
24 especially because our station is northwest, would
25 come from this area. We don't have that many people

1 that live over in this area that are responders
2 (indicating).

3 Q. And so when you're talking about the
4 response time and how the closing of this 191st
5 crossing would affect it, are you talking about the
6 response time to the houses and buildings that are
7 along 191st here (indicating)?

8 A. All along 191st and getting over into
9 Joselyn, Nye, 186th, 187th, and the reason being, here
10 at Joselyn you have another large intersection that
11 goes into the high school there and you also have the
12 bridge, so you don't have -- you have more traffic to
13 wait for and possibility of -- there's a lot less
14 traffic and obstruction here at 191st to go ahead and
15 turn on 191st and get to where we need to go rather
16 than coming up to Joselyn, which there's a distance
17 involved there also, and you also have the large
18 intersection right near there and the bridge also. So
19 there's more of an obstruction there and room for more
20 vehicles to wait for things of that nature. It's a
21 little more involved than it is down at 191st.

22 Q. And for the record we're talking about
23 getting to these areas that are now east of the
24 intersection?

25 A. Correct.

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1 Q. East part of the map?

2 A. Correct.

3 JUDGE PRUSIA: If I might ask for purposes
4 of clarification, if you could let her look at that
5 exhibit. That's Exhibit No. 6.

6 MR. STOLIER: It's 5. Didn't I -- it's 6,
7 you're right.

8 JUDGE PRUSIA: And north is to the top of
9 the photo; is that right?

10 THE WITNESS: Yes.

11 JUDGE PRUSIA: And west is to the left?

12 THE WITNESS: Yes.

13 JUDGE PRUSIA: That's all that I have.

14 Does the county have --

15 MS. GALVIN: Some clarification points.

16

17 EXAMINATION

18 BY MS. GALVIN:

19 Q. When you talked about the congestion of the
20 intersection at 191st -- excuse me. You talked about
21 the congestion of the intersection at Joselyn?

22 A. At Joselyn.

23 Q. Isn't it true that the school is even
24 further east on the next intersection not at Joselyn?
25 Isn't it correct that Joselyn -- isn't it a fact that

1 -- and close to Joselyn -- that there's a private road
2 almost directly opposite and that there is not a
3 school at that location; isn't that correct?

4 A. It is a main entrance to get to the school
5 there on old 99. It's more of a diagonal area there
6 rather than -- it's not straight across.

7 Q. Just for clarification, if I could show you
8 perhaps a vicinity map, that might help rather than
9 the aerial map.

10 A. Because it's kind of cut off here.

11 Q. And maybe that might help, and what I am
12 handing you is just a vicinity map, and would you
13 please tell us --

14 JUDGE PRUSIA: Let me mark this for
15 identification.

16 MS. GALVIN: Might be better then. Exhibit
17 No. 7.

18 (Marked Exhibit 7.)

19 JUDGE PRUSIA: Is there any objection to
20 the admission of that exhibit?

21 MR. LEGGETT: No.

22 JUDGE PRUSIA: That will be admitted.

23 (Admitted Exhibit 7.)

24 Q. What I've handed you is a vicinity map and
25 in the large circle in the center is the intersection

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1 of 191st?

2 A. Correct.

3 Q. And then just to the east of that would be
4 the intersection of Joselyn and SR 12; is that
5 correct?

6 A. Correct.

7 Q. And to the left up in the smaller circle on
8 the left corner, up to the left of that large circle
9 is Rochester fire station, is that correct, in the
10 small circle?

11 A. That's not the fire station.

12 Q. Where is the fire station?

13 A. That's where the old fire station is many
14 many years ago.

15 Q. Where is the fire station located now then?

16 A. This is the intersection right here. The
17 fire station is right here (indicating).

18 Q. Let it be reflected that Ms. Bricker has
19 circled basically the corner of Albany and -- would
20 you call that Marble?

21 A. Before Marble.

22 Q. So that's basically the location now of the
23 new fire department, and let it be indicated that the
24 circle that appears to the left of the large circle is
25 the location of the old fire department.

1 So then when we're talking about the main
2 intersection to the school, isn't it correct that if
3 you go from the large circle -- that circle is the
4 corner of 191st and SR 12 -- isn't it a fact that the
5 school is further east of that towards 195th and not
6 at Joselyn?

7 A. 195th comes around and meets Joselyn, so
8 there is no access to get to 195th from State Route 12
9 other than to turn on Joselyn and then make a right on
10 195th.

11 Q. But that's below the Burlington Northern
12 crossing; is that correct?

13 A. Correct.

14 Q. And are you familiar with the plans on
15 realigning of Joselyn and left-hand turning that's
16 going to be installed there?

17 A. Yes.

18 Q. You're familiar with that project already?

19 A. Right.

20 Q. In your opinion, then, with the replacement
21 of Joselyn or the anticipated replacement of Joselyn
22 and the straightening out of that intersection so it
23 correlates to that private road, in your opinion,
24 then, would that ease some of the burden that you're
25 discussing now with the closure of 191st? You're

1 talking about closure. If there's a new left-hand
2 turn lane, would that also ease some of the congestion
3 you're concerned about?

4 A. No, because it's not going -- that's not
5 going to take care of any of the congestion and there
6 is already somewhat of a turn lane there. It's not an
7 ideal turn lane and you would be fixing that on State
8 Route 12.

9 Q. There would be separate turns lanes,
10 another turn lane on SR 12?

11 A. But that's still not going to take care of
12 the congestion. We have much more congestion down by
13 old 99 and State Route 12 and Joselyn there rather
14 than we do down at 191st.

15 JUDGE PRUSIA: Excuse me. You referred to
16 old 99. What is that on?

17 THE WITNESS: See along the railroad tracks
18 there it says Grand Mound Way and it swings around and
19 there's Carper that comes up and meets it?

20 JUDGE PRUSIA: So that's south of the
21 railroad tracks there?

22 THE WITNESS: Correct.

23 MS. GALVIN: We have no further questions.

24 MR. LEGGETT: Couple of follow-up.

25 JUDGE PRUSIA: Mr. Leggett.

EXAMINATION

1

2

3 BY MR. LEGGETT:

4 Q. Are you saying by the congestion that
5 people ignore the lights and sirens on the fire truck?

6 A. It can happen and it's more of a cause for
7 an accident, and when people are coming west off of
8 the bridge, off of the bridge there, they don't have
9 time at Joselyn and State Route 12 to slow down and
10 pull over because they have people behind them and the
11 visibility is poor there.

12 Q. So in essence you're saying that they
13 violate the rules of the road by not pulling over when
14 they see you approaching?

15 A. That can happen and we opt to turn at 191st
16 because there's more of a visibility.

17 Q. Is there a fire station in Grand Mound?

18 A. Yes, there is.

19 Q. Is that also within your district?

20 A. I am a volunteer at Grand Mound Fire
21 Department and it is a whole separate district. It's
22 district 14.

23 Q. So they would not respond to this area at
24 all?

25 A. Very minimal. We do have some mutual aid

1 areas. Right at the tail end on Sargent and 191st
2 there's a mobile home park where they will mutual aid
3 with us, and they will mutual aid with us at 191st and
4 on Rosemary. There will be some mutual aid depending
5 on the address.

6 Q. So 191st and Sargent and 191st and Rosemary
7 in the middle of the residential area?

8 A. Correct.

9 Q. And when you say mutual aid they would
10 respond to an emergency?

11 A. There's a minimal amount of mutual aid
12 where they are toned out at the same time that we are.

13 MR. LEGGETT: Thank you.

14 JUDGE PRUSIA: Are there any other
15 questions for this witness?

16 MR. STOLIER: Not from the staff.

17 JUDGE PRUSIA: Do you have anything you
18 would like to add?

19 THE WITNESS: No.

20 JUDGE PRUSIA: You may be excused then.

21 Thank you for your testimony: Next call Mr. Hanna.

22 Whereupon,

23 JAMES HANNA,

24 having been first duly sworn, was called as a witness

25 herein and was examined and testified as follows:

1 JUDGE PRUSIA: Again I will ask you a few
2 preliminary questions and just have you give your
3 statement.

4

5 EXAMINATION

6 BY JUDGE PRUSIA:

7 Q. Please state your name and spell it.

8 A. James A. Hanna, J A M E S H A N N A.

9 Q. And what is your mailing address?

10 A. 8138 191st Avenue Southwest, Rochester,
11 Washington 98579.

12 Q. And is that also your residential address?

13 A. Yes.

14 Q. And how near to the crossing, 191st Street
15 crossing, is that?

16 A. I would say probably two blocks. I'm on
17 191st heading west. I'm about two blocks back from
18 the crossing on the north side of the road.

19 Q. Are those general city blocks that you're
20 talking about?

21 A. Yeah, just that measurement in length
22 approximately.

23 Q. And on whose behalf are you appearing?

24 A. Myself and the neighbors.

25 Q. Have you discussed your appearance with the

1 neighbors?

2 A. Yes, I have.

3 Q. Have they asked you to also express their

4 --

5 A. No. I thought others would be here today,
6 but I happened to be the only one that showed up in
7 the general area.

8 Q. Very well. Please make your statement.

9 A. I have several things. One thing is the
10 condition of the road after the crossing would be
11 closed to make sure that it would be maintained and an
12 adequate turn around provided, and one of the other
13 things is on Jos, if we use it as a main route to
14 State Route 12 that traffic lanes be adjusted
15 accordingly so as to enter and exit properly.

16 One thing I'm concerned with is the exit
17 from Highway 12 to 191st heading east. This is a
18 traffic hazard. I'm quite well familiar with the
19 amount of brakes and rear end collisions and so on
20 that take place at that intersection. I hear the
21 brakes and see the broken up cars and one thing and
22 another that happen there, and it's a major concern as
23 far as safety. I'm quite concerned with safety
24 generally.

25 Q. Are they happening on State Route 12 or on

1 191st?

2 A. Well, what happens is people that exit on
3 to 191st heading east off of 12, there's rear end
4 collisions. A car is slowed down to try to make the
5 exit because of oncoming traffic heading west on 12.
6 When this happens some of the people notice the car
7 slowing down but as a bumper to bumper effect happens
8 -- I mean, cars stack up waiting for the car to turn
9 off of 12 -- eventually somebody doesn't get stopped
10 and there's no place for them to go but to plow into
11 the cars ahead of them.

12 My wife got rear-ended there and I'm just
13 not -- I'm not just making my wife's example of an
14 accident there. I see the multiple incidents happen
15 and working out in the yard and I hear the brakes and
16 I look up and here's another mess and I think it's a
17 hazard. That's my own personal feeling.

18 The lady that works for the fire
19 department, I can understand her reasoning as far as
20 getting off of 191st. It is an easy access as far as
21 cutting down time but I'm just stating a fact.

22 JUDGE PRUSIA: Do you have anything else to
23 add?

24 THE WITNESS: No. That's pretty much all
25 what I have to say.

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1 JUDGE PRUSIA: Do any of the parties have
2 questions for this witness?

3 MR. LEGGETT: Just a couple.

4

5 EXAMINATION

6 BY MR. LEGGETT:

7 Q. Would you think a left turn lane at Joselyn
8 would solve the problem for people slowing down to
9 make the left turn?

10 A. Yes.

11 Q. Are you then, I take it, in favor of
12 closing 191st as long as there's a turn around
13 constructed and the road continues to be maintained?

14 A. I myself think it's a good idea.

15 THE WITNESS: Thank you.

16 JUDGE PRUSIA: Does the Commission staff
17 have any questions for this witness?

18 MR. STOLIER: Yes, I do, actually.

19

20 EXAMINATION

21 BY MR. STOLIER:

22 Q. Mr. Hanna, you're obviously familiar with
23 the intersection. As you go westbound on 191st and
24 where it meets SR 12 there's a line where the cars
25 stop before they turn either way on SR 12 and that's a

1 certain distance from the tracks, and I'm wondering if
2 you've noticed cars backing up across the tracks at
3 that intersection there.

4 A. I haven't noticed too much of a problem
5 that way as far as heading west getting onto 12.
6 There's been no real problem that way. I think the
7 stop sign has helped that's been added there. It has
8 a warning sign for the stop sign ahead of time, too,
9 probably 100 yards or better ahead of the stop sign so
10 people are aware that the stop sign is there.

11 Q. And I guess as a resident of 191st you
12 don't feel that it's going to be too much of an
13 inconvenience for you to go out Joselyn?

14 A. Not really at all. The fact of the matter
15 is that I think that the traffic load on 191st is
16 unnecessary. It's kind of a shortcut for trucks and
17 one thing and another and at times speeds are in
18 excess of being safe on that road.

19 MR. STOLIER: Thank you, sir.

20 JUDGE PRUSIA: Ms. Galvin, does the county
21 have any questions for this witness?

22 MS. GALVIN: No, I don't.

23 JUDGE PRUSIA: Do you have anything else
24 you wanted to add?

25 THE WITNESS: No, that's pretty much it.

1 JUDGE PRUSIA: Very well. The witness may
2 be excused. Thank you for your testimony.

3 Mr. Coverdell, please step forward.

4 Whereupon,

5 BRENT COVERDELL,
6 having been first duly sworn, was called as a witness
7 herein and was examined and testified as follows:

8

9 EXAMINATION

10 BY JUDGE PRUSIA:

11 Q. Please state your name and spell your last
12 name.

13 A. Brent Coverdell, C O V E R D E L L.

14 Q. What is your address?

15 A. 19240 Joselyn Street Southwest.

16 Q. And how near the Joselyn crossing is that?

17 A. I am extremely almost touching the corner.
18 Almost touching the corner of Highway 12 and Joselyn
19 Street.

20 Q. And on whose behalf are you appearing
21 today?

22 A. Myself and the community.

23 Q. You say the community. What does that mean
24 exactly?

25 A. Well, I've lived there almost 20 years,

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1 almost 20 years. My kids have grown up, went to high
2 school there. I've seen all the streets, the highways
3 expand, the traffic expand. My contention, though, in
4 this whole thing is I do agree with straightening
5 Joselyn Street out even though I own the property on
6 the far side but it still needs to be straightened
7 out.

8 I disagree with closing 191st and the
9 reason why I do disagree with this is because I have
10 seen and lived there for 20 years, multiple, and I
11 many many, many accidents, emergencies and Rochester
12 Fire Department has been great, but if you close 191st
13 down there is no access when the traffic gets backed
14 up. Accidents happen, after accidents, after
15 accidents. You have to have --

16 Q. At what point are these accidents?

17 A. Well, there is no access from the Briarwood
18 farm to actually to what they're talking about,
19 Joselyn Street, the turn-off to the high school, which
20 is just beyond, which is just actually east, just a
21 little bit. There is no access to get off of Highway
22 12 which is a major highway going actually east and
23 west. If you close 191st down the fire department,
24 the emergency people have no way to reroute emergency
25 vehicles, traffic alone and, I mean, it happens

1 many times a year. I live right there and I have a
2 floor covering store right there. It has big windows.
3 I watch this every day.

4 I disagree with closing 191st down. I do
5 agree with making -- there has to be some access lane.
6 There is no access. When they widened the highway for
7 Weyerhaeuser Company, which is right directly across
8 from Joselyn Street, they never made a left turn lane
9 coming from the west going to the east on Joselyn.
10 Basically it is illegal to make that turn, but
11 everybody makes it anyway because there is really
12 nothing else to do.

13 Q. You said something happens several times a
14 year. Do you mean there are accidents there on State
15 Route 12 at Joselyn crossing?

16 A. Oh, yes. Not just Joselyn but between
17 there too. Icy conditions, rain, wind, whatever.
18 When there is an emergency situation, and there's
19 quite a stretch of road there, there is no place else
20 to turn off except 191st.

21 Q. Did you have anything you wanted to add?

22 A. Basically I don't really want to add
23 anything. Just Deanna, you've done a great job out
24 there by the way, and we need to have a left-hand turn
25 lane on Highway 12 to Joselyn, and I do agree with

1 straightening out even if I have to lose some land to
2 do it.

3 Q. And again I wanted to clarify, you said you
4 were appearing on behalf of the community. Did you
5 discuss your appearance with the people --

6 A. Yes, I did, the elderly gentleman which is
7 crippled on -- on the very tip of the corner and my
8 neighbor across the street, which he says he wasn't
9 notified, and by the way I was just notified yesterday
10 of this hearing, one day's notice, and we were talking
11 about it yesterday, and I do believe that the
12 community would benefit by straightening out Joselyn
13 and making a left-hand turn lane.

14 Q. If 191st were closed and there were some
15 problem at the Joselyn crossing, would there be any
16 access into the area?

17 A. Absolutely not -- none. Denmark Street
18 turns left and that's way down past Briarwood farms.
19 The next access would be the old 99 which runs to the
20 school and there's not another access clear up over
21 the overpass clear to the other side, none whatsoever.
22 And I do agree with the railroad company putting some
23 kind of lights or something there. It's a terrible
24 turn. It really is a terrible turn.

25 Q. That's 191st Street?

1 A. Joselyn.

2 Q. How about 191st?

3 A. 191st is not near as bad as far as being
4 blind, as far as being blind, but it is definitely a
5 safety factor for getting traffic off of that highway
6 when an -- and emergency vehicles when needed.

7 JUDGE PRUSIA: Do any of the other parties
8 have questions for this witness? Mr. Leggett, do you
9 have questions?

10 MR. LEGGETT: No, I don't.

11 JUDGE PRUSIA: Mr. Stolier.

12 MR. STOLIER: Just one.

13

14 EXAMINATION

15 BY MR. STOLIER:

16 Q. I was wondering when you made reference to,
17 is it Briarwood farms?

18 A. Briarwood. It's an egg and chicken farm.

19 Q. Exhibit 6, the sheet of paper you've got in
20 front of you, I was wondering if you could just give
21 me an idea of where you're talking about. Either one
22 of those you could use.

23 JUDGE PRUSIA: Let the record reflect that
24 the witness is looking at the last exhibit which is
25 the small map.

1 A. Briarwood is just, I would say, quarter of
2 a mile east of the Denmark -- left-hand Denmark turn-
3 off.

4 Q. Oh, okay.

5 A. There is no other access totally clear on
6 -- clear to the other side actually. On Joselyn side
7 there's nothing except Joselyn street and clear over
8 the overpass to Pecan.

9 Q. So it's either the north or the south side
10 of --

11 A. Denmark Street.

12 Q. -- the Briarwood?

13 A. Briarwood is actually to the north, the
14 farm, Briarwood farms.

15 Q. Thank you.

16 MR. STOLIER: I don't have anything else.

17 JUDGE PRUSIA: For clarification there also
18 is access to the area on Pecan?

19 THE WITNESS: Pecan is over a large
20 overpass clear to the far side of the overpass which
21 is, I would say, I'm guessing three-eighths to a half
22 of a mile but it is on the other side of a large
23 overpass that goes up over a railroad track. I mean,
24 it's narrow. There is no place to pull off.

25 JUDGE PRUSIA: Ms. Galvin, did you have

1 questions for this witness?

2 MS. GALVIN: No.

3 MR. LEGGETT: I have one clarification. I
4 guess I didn't understand. Can you turn off of
5 Highway 12 onto Pecan to go north?

6 THE WITNESS: To go north, yes, you could.

7 MR. LEGGETT: So there's an intersection
8 there and you can --

9 THE WITNESS: Well, yes, there is an
10 intersection there prior to the overpass.

11 MR. LEGGETT: And that would go north to
12 191st Avenue Southwest?

13 THE WITNESS: Yes.

14 MR. LEGGETT: That's all I have.

15 JUDGE PRUSIA: Just for clarification. And
16 then northwest of 191st where would the next access be
17 between 191st and Rochester?

18 THE WITNESS: To the right or to the north.

19 JUDGE PRUSIA: To the northwest?

20 THE WITNESS: Like I say, Denmark Street is
21 actually to the south, but the next actual -- it's a
22 long ways down to the next access and it is -- I'm not
23 even sure what the name of the street is. It's a long
24 ways down to the next access after Denmark, quite a
25 ways.

1 JUDGE PRUSIA: Do you have anything else
2 you would like to add?

3 THE WITNESS: Only thing I would like to
4 add is they were mentioning the growth in the
5 community since 19 -- was it '89? That was the
6 figure?

7 JUDGE PRUSIA: I believe the county's
8 witness --

9 MR. RANCOUR: 1989.

10 THE WITNESS: The growth has expanded
11 extremely. There is many more homes. There's
12 businesses expanded out there. It has really
13 blossomed, it really has blossomed. If this is a 1989
14 map it truly is not accurate.

15 MR. STOLIER: Can I follow up with one
16 more?

17 JUDGE PRUSIA: Mr. Stolier.

18 MR. STOLIER: Looking on this small map
19 again, can you turn north or turn right off of Highway
20 12 going north on Roseburg?

21 THE WITNESS: I'm truly not -- I couldn't
22 answer that honestly. I am not really sure whether
23 you can turn right or left on Roseburg.

24 MR. STOLIER: Thank you, sir.

25 JUDGE PRUSIA: Is there anything further

1 for this witness?

2 MS. GALVIN: No, Your Honor.

3 JUDGE PRUSIA: Then the witness may be
4 excused. Thank you for your testimony. Are there any
5 other members of the public who have come while this
6 witness was testifying who wish to testify? Let the
7 record reflect that there are none. Very well. Is
8 there anything else to come before us this morning?
9 Very well then. The hearing will be continued for an
10 indefinite period to give the parties an opportunity
11 to continue their discussions and see if they can
12 reach an agreement among themselves.

13 I will direct the parties to either submit
14 their proposed agreement by the first of May or report
15 back to the Commission by the first of May indicating
16 the progress of their discussions. If it becomes
17 clear before the first of May that you're not able to
18 reach an agreement and you wish to proceed with the
19 hearing then let me know as soon as possible and we
20 can schedule another hearing date, and if there's
21 nothing further to come before us then we'll be
22 adjourned.

23 (Hearing adjourned at 10:43 a.m.)

24

25