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Exhibit No. ____ (MB-8T)
Docket TR-100572
Witness: Malcolm Bowie

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

BENTON COUNTY,

Petitioner,

v.

BNSF RAILWAY COMPANY,

Respondent.

DOCKET TR-100572

**PREPARED REBUTTAL TESTIMONY OF
MALCOLM BOWIE**

Q. Please state your name and business address.

A. Malcolm Bowie, Benton County Courthouse, 620 Market Street,
P.O. Box 1001, Prosser, WA 99350.

Q. What is the purpose of your rebuttal testimony today?

A. I am testifying in response to the pre-filed testimony of
Megan McIntyre and Ward Angelos of BNSF, and Kathy Hunter of
the WUTC.

Q. What is your position with Benton County?

A. I am the Benton County Engineer. My education, qualifications
and experience were set forth in my prior testimony.

**Q. Have you read the Prepared Testimony of Megan McIntyre
(Exhibit No. ____ (MM-1T)) in this matter?**

A. Yes, I have.

Q. Do you have any concerns with the contents of her testimony?

1 A. Yes, I do. In section 7 of her testimony Ms. McIntyre stated
2 that the County did not "consider or address increased traffic
3 volume on Piert Road in the event that nearby industrial
4 development increases." On the contrary, however, the traffic
5 demand model already takes growth into account. In addition,
6 in my prior testimony on page 11, lines 10 through 14, I
7 called for ongoing monitoring of the crossing so that a
8 diagnostic team can meet and revisit the adequacy of the
9 crossing if warranted by future conditions. I also discussed
10 traffic monitoring in my earlier testimony on page 4, lines 13
11 through 18. Similarly, Kathy Hunter, the Deputy Assistant
12 Director for Transportation Safety with the WUTC, also
13 recommended monitoring the crossing, and set forth
14 specifically how that monitoring should be conducted. Exhibit
15 No. ____ (KH-1T), p.29, L. 4 - p. 30, L. 3. I am in complete
16 agreement with Ms. Hunter's recommendations for monitoring.
17
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20 **Q. Do you have any other concerns with Ms. McIntyre's testimony?**

21 A. Ms. McIntyre calls for any future diagnostic team concerning
22 the proposed crossing to include representatives from BNSF and
23 the WUTC. It would be appropriate for Benton County to be
24 permitted to send a representative as well.
25

26 In addition, Ms. McIntyre states that Benton County
27 should be obligated to maintain the crossing, but the
28 responsibility for railroad maintenance typically and
rightfully rests with the owner of that rail line, which in

1 this case is Agrium rather than BNSF. Ms. McIntyre has not
2 identified any reason to deviate from that sound practice.

3 **Q. Have you read the Prepared Testimony of BNSF Trainmaster Ward**
4 **Angelos** (Exhibit No. ____ (WA-1T)) **in this matter?**

5
6 A. Yes, I have.

7 **Q. Do you have any concerns with the contents of Mr. Angelos'**
8 **testimony?**

9 A. I do. His testimony does not comport with rail traffic count
10 information that I have received from the management of the
11 Agrium facility next to the proposed crossing, and which is
12 the end-point of traffic along that rail spur. See Exhibit
13 No. ____ (MB-9) illustrating the vicinity of the proposed
14 crossing and the Agrium Spur. Josh Regan, the Agrium Plant
15 Manager, informed me that 1 to 2 trains per week enter his
16 facility via the Agrium Spur, but he has recently revised this
17 number after consulting Agrium's internal records. Mr. Regan
18 states that based on his knowledge of Agrium operations and
19 his review of Agrium's business records, that an average of 3
20 trains per week enter and exit his facility via the Agrium
21 Spur.
22
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25 **Q. Have you read the Testimony of Kathy Hunter (Exhibit No. ____**
26 **(KH-1T)) in this matter?**

27 A. I have.
28

1 Q. Do you have any concerns with the contents of Ms. Hunter's
2 testimony?

3
4 A. I agree with almost everything in her testimony. This
5 includes not only her analysis, but also her recommendations
6 regarding monitoring the crossing site, for smooth surface
7 treatments, and for additional signage. My only quarrel
8 concerns her recommendation for the installation of additional
9 lighting. The proposed crossing already receives significant
10 nighttime illumination from the lights on the Agrium facility.
11 Although there are streetlights within incorporated areas of
12 Benton County and on state highways, Benton County does not
13 presently maintain or operate streetlights. Consequently,
14 doing so for the proposed crossing would present significant
15 difficulties for the County. Existing railway crossings
16 involving county roads have not required such illumination,
17 including the Lechelt Road crossing of the Agrium Spur
18 discussed in my prior testimony. See Exhibit No. ___ (MB-1T)
19 p. 10, L. 28 - p. 11, L. 9.
20
21

22 Furthermore, considering the specific circumstances of
23 the proposed crossing, the criteria set forth in the United
24 States Department of Transportation's Manual on Uniform
25 Traffic Control Devices concerning the illumination of
26 railroad crossings do not call for additional lighting. See
27 attached Exhibit No. ___ (MB-10). Specifically, the Manual
28 suggests that additional lighting should be considered where

1 there is substantial railway traffic at night, where the
2 crossing is blocked for extended periods of time, or where the
3 crash history indicates that road users experience difficulty
4 seeing trains, equipment, or traffic control devices during
5 hours of darkness. The proposed crossing is not anticipated
6 to have any of those difficulties. The amount of railway
7 traffic is expected to be low, day or night, there is no
8 expectation the crossing will be blocked for extended periods,
9 there is no crash history, and the geography and topography of
10 the proposed crossing does not suggest any special visibility
11 difficulties beyond that normally experienced at nighttime.
12

13
14 One possibility would be for the proposed crossing to be
15 approved with the conditions recommended by Ms. Hunter, except
16 with respect to additional lighting, with provision that such
17 lighting might be added later based on the results from the
18 County's and the WUTC's monitoring of the crossing point.
19

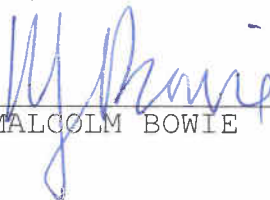
20 **Q. Does that conclude your testimony?**

21 **A. Yes.**
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DECLARATION

I, Malcolm Bowie, declare under penalty of perjury under the laws of the State of Washington that the foregoing PREPARED REBUTTAL TESTIMONY OF MALCOLM BOWIE is true and correct to the best of my knowledge and belief.

DATED this 3rd day of December, 2010.


MALCOLM BOWIE

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EXHIBIT LIST

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- Exhibit No. ____ (MB-9) Area map
- Exhibit No. ____ (MB-10) Manual on Uniform Traffic Control
Devices for Streets and Highways 2009
Edition, page 750

CERTIFICATE OF SERVICE

I certify that I served, in the manner indicated below, a true and correct copy of the foregoing document as follows:

Bradley P. Scarp
MONTGOMERY SCARP MACDOUGALL,
PLLC
2700 Seattle Tower
1218 Third Avenue
Seattle, WA 98101

- U.S. Regular Mail, Postage Prepaid
- Legal Messenger
- Overnight Express
- Facsimile
- Email

Kelsey Endres
MONTGOMERY SCARP MACDOUGALL,
PLLC
2700 Seattle Tower
1218 Third Avenue
Seattle, WA 98101

- U.S. Regular Mail, Postage Prepaid
- Legal Messenger
- Overnight Express
- Facsimile
- Email

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

- U.S. Regular Mail, Postage Prepaid
- Legal Messenger
- Overnight Express
- Facsimile
- Email

DATED this 3rd day of December, 2010, at Kennewick, Washington.


SHANNON C. SLAGHT

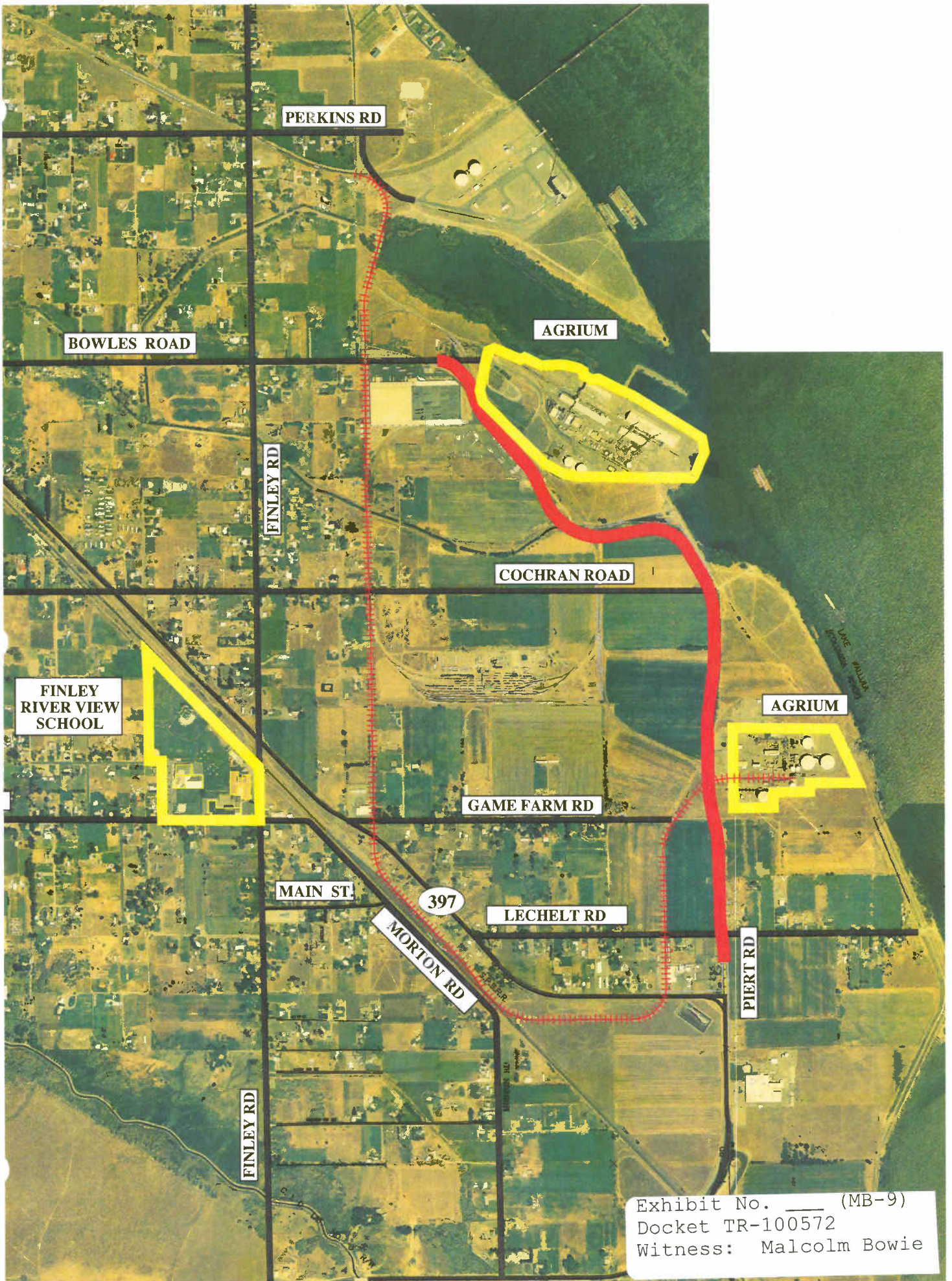


Exhibit No. ____ (MB-9)
Docket TR-100572
Witness: Malcolm Bowie

Manual on Uniform Traffic Control Devices

for Streets and Highways

2009 Edition



U.S. Department of Transportation
Federal Highway Administration

Exhibit No. ____ (MB-10)
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Option:

- 07 Based on engineering judgment, the TRACKS OUT OF SERVICE (R8-9) sign (see Figure 8B-1) may be temporarily installed until the tracks are removed or covered. The length of time before the tracks will be removed or covered may be considered in making the decision as to whether to install the sign.

Section 8A.06 Illumination at Grade Crossings

Support:

- 01 Illumination is sometimes installed at or adjacent to a grade crossing in order to provide better nighttime visibility of trains or LRT equipment and the grade crossing (for example, where a substantial amount of railroad or LRT operations are conducted at night, where grade crossings are blocked for extended periods of time, or where crash history indicates that road users experience difficulty in seeing trains or LRT equipment or traffic control devices during hours of darkness).
- 02 Recommended types and locations of luminaires for illuminating grade crossings are contained in the American National Standards Institute's (ANSI) "Practice for Roadway Lighting RP-8," which is available from the Illuminating Engineering Society (see Section 1A.11).

Section 8A.07 Quiet Zone Treatments at Highway-Rail Grade Crossings

Support:

- 01 49 CFR Part 222 (Use of Locomotive Horns at Highway-Rail Grade Crossings; Final Rule) prescribes Quiet Zone requirements and treatments.

Standard:

- 02 **Any traffic control device and its application where used as part of a Quiet Zone shall comply with all applicable provisions of the MUTCD.**

Section 8A.08 Temporary Traffic Control Zones

Support:

- 01 Temporary traffic control planning provides for continuity of operations (such as movement of traffic, pedestrians and bicycles, transit operations, and access to property/utilities) when the normal function of a roadway at a grade crossing is suspended because of temporary traffic control operations.

Standard:

- 02 **Traffic controls for temporary traffic control zones that include grade crossings shall be as outlined in Part 6.**
- 03 **When a grade crossing exists either within or in the vicinity of a temporary traffic control zone, lane restrictions, flagging (see Chapter 6E), or other operations shall not be performed in a manner that would cause highway vehicles to stop on the railroad or LRT tracks, unless a flagger or uniformed law enforcement officer is provided at the grade crossing to minimize the possibility of highway vehicles stopping on the tracks, even if automatic warning devices are in place.**

Guidance:

- 04 *Public and private agencies, including emergency services, businesses, and railroad or LRT companies, should meet to plan appropriate traffic detours and the necessary signing, marking, and flagging requirements for operations during temporary traffic control zone activities. Consideration should be given to the length of time that the grade crossing is to be closed, the type of rail or LRT and highway traffic affected, the time of day, and the materials and techniques of repair.*
- 05 *The agencies responsible for the operation of the LRT and highway should be contacted when the initial planning begins for any temporary traffic control zone that might directly or indirectly influence the flow of traffic on mixed-use facilities where LRT and road users operate.*
- 06 *Temporary traffic control operations should minimize the inconvenience, delay, and crash potential to affected traffic. Prior notice should be given to affected public or private agencies, emergency services, businesses, railroad or LRT companies, and road users before the free movement of road users or rail traffic is infringed upon or blocked.*
- 07 *Temporary traffic control zone activities should not be permitted to extensively prolong the closing of the grade crossing.*
- 08 *The width, grade, alignment, and riding quality of the highway surface at a grade crossing should, at a minimum, be restored to correspond with the quality of the approaches to the grade crossing.*

Support:

- 09 Section 6G.18 contains additional information regarding temporary traffic control zones in the vicinity of grade crossings, and Figure 6H-46 shows an example of a typical situation that might be encountered.