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**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

<p>In Re the Petition of:</p> <p><b>WHATCOM COUNTY,</b> Petitioner</p> <p>v.</p> <p>BNSF Railway Company, Respondent.</p>	<p>DOCKET NO. TR-180466</p> <p><b>PREFILED TESTIMONY OF STEPHEN SEMENICK</b></p>
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**Q: Please state your full name and job title.**

A: My name is Stephen Semenick. I am currently the BNSF Manager of Public Projects for BNSF for Washington and British Columbia.

**Q: Please describe your professional background and position with BNSF Railway Company (BNSF).**

A: I have a degree in Civil Engineering from the University of Delaware. I have been employed by BNSF Railway Company (BNSF) for five years. I began my career with BNSF working for the track department, then became a Project Engineer for the engineering services department. Since June of 2017 I have been the Manager of Public Projects for BNSF for

1 Washington and British Columbia. In general, my duties as Manager Public Projects include  
2 negotiating all construction and maintenance agreements relating to grade separations to eliminate  
3 at-grade crossings, new at-grade crossings, at-grade crossing safety enhancement projects,  
4 complete closures of at-grade crossings which are unnecessary or redundant or impact expansion  
5 projects and quiet zone establishment, Federal Section 130 funded improvements, or any Agency  
6 project needing access on, over or under BNSF Property within Washington and British Columbia,  
7 Canada and all phases of those projects. I have led or attended safety evaluations and diagnostic  
8 evaluations with Transport Canada, the FRA, the WUTC, WSDOT, and road authorities of  
9 numerous grade crossings in Washington, and British Columbia as BNSF's grade crossing safety  
10 representative for the Northwest Division. These safety evaluations included quiet zone  
11 diagnostics, closure petitions, construct/reconstruct petitions as well as grade crossing safety  
12 improvement petitions.

13  
14 **Q: Do you have any involvement with Washington State municipalities and/or**  
15 **government agencies on behalf of BNSF?**

16 A: Yes, many of my responsibilities involve working with state and federal agencies,  
17 including Transport Canada, the Federal Railroad Administration, the Washington State  
18 Department of Transportation, the Washington Utilities and Transportation Commission, and  
19 Amtrak, along with other municipalities, and road authorities in Washington State and Canada. We  
20 have the mutual goal of providing and supporting safe, reliable, and efficient rail transportation  
21 options for passengers and businesses, and work together to implement those goals.

22  
23 **Q: Are you familiar with the process for municipalities to petition the Federal Railroad**  
24 **Administration (FRA) to establish Railroad Crossing Quiet Zones?**

1 A: I am.

2  
3 **Q: Are you familiar with Whatcom County’s “Petition for Installation of Median**  
4 **Barriers at a Highway-Rail Grade Crossing” involving Cliffside Drive? What does it**  
5 **involve?**

6 A: This project is within my territory and involves the modification of existing crossing  
7 devices to address the increased risk posed by the creation of a quiet zone at the Cliffside Drive at-  
8 grade crossing. It is a general requirement that trains blow their whistle four times while  
9 approaching a public crossing, day or night. With a quiet zone, trains will no longer need to blow  
10 their horn while approaching Cliffside Drive; this should increase the peace and quiet for nearby  
11 residents. According to the FRA, “A corridor will not be designated a Quiet Zone unless specific  
12 requirements are met to reduce the risk index to a level that is equal to or less than the national  
13 average risk at gated crossings with horns, or the risk is reduced enough to compensate for the loss  
14 of the safety benefit afforded by a train sounding its horn.”

15 <https://safetydata.fra.dot.gov/quiet/quietzonehelp.htm#1>. To reduce the risk index presented by  
16 making the crossing a quiet zone, the County filed a petition to install mountable medians with  
17 channelization devices on either side of the crossing. I attended the diagnostic meeting at the  
18 Cliffside Drive crossing with Mr. Swan, along with representatives from the FRA and WUTC. Our  
19 mutual goal is to try to best reduce the risk index of creating a quiet zone at this location.

20  
21 **Q: What is BNSF’s position regarding mountable/traversable channelization devices?**

22 A: Safety is BNSF’s highest priority. BNSF strongly prefers the mitigation alternative of a  
23 non-mountable, or non-traversable, concrete median. A non-traversable median means a curb  
24 designed to discourage a motor vehicle from leaving the roadway. They are generally at least six

1 inches high. Additional design specifications are determined by the standard traffic design  
2 specifications used by the governmental entity constructing the curb. I was surprised that the  
3 County proposed mountable medians, because the WUTC and Whatcom County had agreed that  
4 non-mountable medians were the safest measure at the last crossing converted to a quiet zone  
5 (Yacht Club Road), and I saw no significant difference at the Cliffside Drive crossing and the  
6 Yacht Club Road crossing (or their respective roads) to merit lesser protection. See Exhibit SS-2  
7 (photos of Yacht Club Road). Mountable medians allow drivers to actually drive over them and  
8 around crossing gates as compared to non-mountable medians, which provide a greater deterrent  
9 simply because they can damage the undercarriage of an ordinary vehicle unlawfully attempting to  
10 cross them. The FRA recognizes that non-mountable medians (called non-traversable curbs in the  
11 regulations) provide a greater reduction in risk of a collision with a train in a quiet zone. In fact,  
12 even non-traversable curbs without channelization devices are more effective than traversable  
13 channelization devices. Whatcom County says in its various documents that it is installing  
14 supplemental measures in the interest of public safety, BNSF prefers that the County install the  
15 more effective option. Especially because I understand that Mr. Swan testified that the installation  
16 costs between the two (mountable and non-mountable) are approximately the same, and that the  
17 County intends to widen the shoulder of part of Cliffside Drive to facilitate the travel of emergency  
18 vehicles regardless of which type of median/curb is selected.

19  
20 **Q: Are there any other practical problems with mountable medians/traversable**  
21 **channelization?**

22 A: The vertical channelization paddles, while in theory are designed to bend if driven over and  
23 return to their original position, in my experience they are often bent or broken. See Exhibit SS-3,  
24 a photo of an existing Kent median for reference (Google street view, Sept 2018). The median

1 shown, which is located at the Willis Street grade crossing, is unfortunately fairly representative of  
2 the condition of medians/delineators throughout Kent.

3  
4 **Q: How is that a problem?**

5 A: Well, in at least two ways. Bent or especially broken channelization devices make it easier,  
6 and probably more tempting, to go over the mountable median. Additionally, if one or more  
7 channelization device is bent or broken, then under the federal regulations the safety measure is  
8 deemed to be not working as intended, which permits all trains to return to blowing their horns at  
9 the crossing, which defeats the purpose of establishing a quiet zone.

10  
11 **Q: Whatcom County's petition represents that it would repair damaged channelization  
12 devices "immediately." Does that sufficiently address your concern?**

13 A: No. In my experience it would be a difficult standard for municipalities to meet, and in any  
14 event with 19 trains per day, I am concerned that the County will be unable to prevent some time  
15 lag between a channelization device being damaged, its discovery, and its repair. Moreover, I do  
16 not know how the County plans to "encourage" motorists to notify the County if and when they  
17 damage the channelization paddles. If a driver is going to choose to drive over and thus damage  
18 them in the first place (illegally), we cannot assume that the driver would then "do the right thing"  
19 to call the County and then confess to their behavior and resulting damage.

20  
21 **Q: Did you on behalf of BNSF express its opposition to Whatcom County's notice of  
22 intent to install mountable medians at Cliffside Drive?**

1 A: I did. I said in part that BNSF does “not support the use of traversable medians and  
2 strongly encourage the County to use non-mountable concrete center medians with a minimum  
3 height of 7” instead.” See Exhibit SS-4.  
4

5 **Q: Did Whatcom County agree to install non-mountable medians as it did at Yacht Club**  
6 **Road?**

7 A: No. It filed its petition proposing mountable medians.  
8

9 **Q: Do you have any other concerns with the County’s petition?**

10 A: Yes. It appears that the County’s Average Daily Traffic Count (“ADT”) of 300, which was  
11 input into the FRA Quiet Zone Risk Indicator calculation per Cody Swan, is only based off of two  
12 days’ worth of data collection—not even a full week. See Exhibit SS-5 (traffic count information  
13 provided in County’s responses to BNSF’s data requests). I question whether we can be confident  
14 that that number is accurate with such a small data pool. Moreover, the FRA’s Quiet Zone Risk  
15 Index Calculator has a preset count of 450 ADT for this crossing. I ran the Calculator with an  
16 AADT of 450. The QZRI would be 15,707, which is approximately 1000 points above the  
17 Nationwide Significant Risk Threshold. With those numbers Whatcom County would *have to*  
18 install some type of SSM/ASM to reduce the risk index prior to establishing a quiet zone, which  
19 further supports choosing the supplemental safety measures that would provide the highest  
20 disincentive for motorists to drive over them (i.e., non-mountable medians).  
21

22 **Q: You have mentioned Yacht Club Road several times, which is also located in**  
23 **Whatcom County. Did the WUTC staff also weigh in in response to Whatcom County’s**  
24 **Notice of Intent regarding the Yacht Club Road proceeding? What was staff’s response?**

1 A: It did. The WUTC staff responded by letter dated May 17, 2016, which said in part:

2 The [diagnostic] team at the February 3, crossing review agreed that the preferred  
3 treatment would be adding an exit gate for eastbound traffic and installing non-  
4 traversable medians on both approaches. It is commission's staff opinion that non-  
traversable medians provide a much higher disincentive for motorists to drive over  
them because of the potential damage to vehicles.

5 See Exhibit SS-6. Thus, the WUTC staff agreed that non-traversable medians are preferable to  
6 traversable medians.

7  
8 **Q: Did the WUTC ultimately approve the installation of mountable medians at Yacht  
9 Club Road?**

10 A: Whatcom County ultimately amended its petition to seek approval of non-mountable  
11 medians at the Yacht Club Road crossing. See Exhibit SS-7. BNSF and the WUTC then consented  
12 to the amended petition, and the WUTC granted the petition provided that non-mountable medians  
13 were installed. See Exhibits SS-8.

14  
15 **Q: Has the County indicated significant maintenance required for the Yacht Club Rd  
16 median?**

17 A: The County indicated (via phone call) that they have not been required to perform any  
18 repairs on the non-mountable concrete median itself at Yacht Club Rd. Moreover, you can clearly  
19 see tire marks along the non-mountable median in some of the attached photos. See Exhibit SS-2.  
20 Had the median been mountable, vehicles would have most likely run right into/over the  
21 delineators. A concrete curb is much more durable than channelization paddles.

1 **Q: What about emergency response? Mr. Swan's direct testimony states that non-**  
2 **mountable medians restrict the ingress/egress of emergency vehicles and increase the risk of**  
3 **damaging their vehicle while responding to emergencies.**

4 A: My understanding is that Mr. Swan testified at deposition that emergency vehicles will still  
5 be able to access all properties on Cliffside Drive without having to cross the median with or  
6 without a non-traversable curb, have sufficient space to turn around at multiple locations on  
7 Cliffside Drive if necessary, and that the County plans to widen the shoulder on the west side of  
8 the crossing regardless of which supplemental safety measure is selected. Moreover, BNSF was  
9 not provided with any data suggesting that emergency responders would be unable to meet their  
10 applicable standardized emergency response time goals if a non-traversable median is installed.  
11 Finally, the crossing has a sign posted with a BNSF telephone number that the County could use to  
12 call BNSF if an emergency at the adjacent homeowner's property (just southwest of the crossing)  
13 might affect the crossing itself.

14  
15 **Q: With non-mountable medians, does BNSF have a preference whether channelization**  
16 **devices are (also) installed?**

17 A: BNSF does not have a preference as to whether channelization devices also be installed on  
18 top of non-mountable medians, as the FRA's Quiet Zone Risk reduction is the same with or  
19 without channelization. The non-traversable median itself should prevent motorists from damaging  
20 corresponding channelization devices, at least to the extent that such devices could be damaged  
21 with a mountable median. BNSF would defer to the WUTC and/or County to make that decision.

22  
23 **Q: To summarize, what is BNSF's position in this proceeding?**  
24



1 A: BNSF's respectfully requests that the WUTC order that non-mountable medians be  
2 installed on both approaches to the Cliffside Drive crossing prior to its conversion to a quiet zone,  
3 similar to Yacht Club Road. Mountable medians provide a lower deterrent to illegal motorist  
4 behavior, and are damaged more easily than non-mountable median curbs.

5  
6  
7 DECLARATION

8 I, Stephen Semenick, declare under penalty of perjury under the laws of the State of  
9 Washington that the foregoing PREFILED TESTIMONY OF STEPHEN SEMENICK is true and  
10 correct to the best of my knowledge and belief.

11 DATED this 20<sup>th</sup> day of December, 2018, at Seattle, WA.

12  
13   
14 \_\_\_\_\_  
STEPHEN SEMENICK

1 DATED this 21st day of December, 2018.

2  
3 Montgomery Scarp & Chait PLLC

4  
5 s/Kelsey Endres

6 Tom Montgomery, WSBA #19998

7 Kelsey Endres, WSBA #39409

8 Attorneys for BNSF Railway Company

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10 Seattle, WA 98101

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1 **CERTIFICATE OF SERVICE**

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

4 I hereby certify that the original and 1 copies of the PREFILED TESTIMONY OF STEPHEN SEMENICK  
5 has been submitted to [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing) for filing with the WUTC. I also certify that true and complete  
6 copies have been sent to the following interested parties via email:

7 Jeff Roberson  
8 Office of the Attorney General, WUTC  
9 1400 S. Evergreen Park Drive SW  
10 P.O. Box 40128, Olympia, WA 98504-0128  
11 jeff.roberson@utc.wa.gov

12 James P. Karcher  
13 Whatcom County Public Works Department  
14 5280 Northwest Drive, Suite C  
15 Bellingham, W A 98226  
16 jkarcher@co.whatcom.wa.us

17 Christopher Quinn  
18 311 Grand Ave STE 201  
19 Bellingham, WA 98225  
20 cquinn@co.whatcom.wa.us

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

23 DATED this 21st day of December, 2018, at Seattle, Washington.

24 s/Pamela Ruggles  
Pamela Ruggles, Paralegal