

00108

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 THE BURLINGTON NORTHERN AND)
SANTA FE RAILWAY COMPANY,)

4)
5 Petitioner,)

6 vs.)

7 SNOHOMISH COUNTY,)

8 Respondent.)

DOCKET NO. TR-010194

Volume 3

Pages 108 - 113

9 A prehearing conference in the above matter

10 was held on October 10, 2001, at 9:45 a.m., at 1300

11 South Evergreen Park Drive Southwest, Olympia,

12 Washington, before Administrative Law Judge MARJORIE

13 SCHAER.

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The parties were present as follows:

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16 SNOHOMISH COUNTY, by JASON J. CUMMINGS,
Deputy Prosecuting Attorney, 2918 Colby Avenue, Suite
203, Everett, Washington 98201.

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18 BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY, by ROBERT E. WALKLEY, Attorney at Law, 20349
Northeast 34th Court, Sammamish, Washington 98074.

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20 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION, by JONATHAN THOMPSON, Assistant Attorney
General, 1400 South Evergreen Park Drive Southwest,
Post Office Box 40128, Olympia, Washington 98504.

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22 WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION, by JEFFREY D. STIER, Assistant Attorney
23 General, Post Office Box 40113, Olympia, Washington
98504.

24 Kathryn T. Wilson, CCR

25 Court Reporter

P R O C E E D I N G S

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JUDGE SCHAER: Let's be on the record. We are here this morning for a prehearing conference in Docket No. TR-010194, which is a filing by Burlington Northern and Santa Fe Railroad granting permission to close a railroad crossing at 156th Street Northeast in Snohomish County. We are in the Commission's Hearing Room 108 in the Commission's headquarters building in Olympia, Washington. I'm Marjorie Schaer, and I'm the administrative law judge now assigned by the Commission to this proceeding.

Our purpose this morning is to organize the materials for hearings in this matter that will take place in Everett on October 11th and 12th. Let's start out taking appearances from all of the parties starting with the Company, please.

MR. WALKLEY: My name is Robert E. Walkley, attorney at law, 20349 Northeast 34th Court, Sammamish, Washington, 98074-4319. Telephone and fax, (425) 868-4846. E-mail is rewalkey@earthlink.net, and I represent the Burlington Northern and Santa Fe Railroad, the petitioner.

MR. STIER: Jeff Stier. I'm assistant attorney general representing Washington State

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1 Department of Transportation, rail division. My
2 address is P.O. Box 40113, Olympia, Washington,
3 98504-0113. My telephone number is (360) 753-6126. My
4 card doesn't have my e-mail number, and that's
5 jeffreys@atg.wa.gov.

6 MR. CUMMINGS: Jason Cummings, deputy
7 prosecuting attorney, Snohomish County. My address is
8 2918 Colby Avenue, Everett, Washington, 98201;
9 telephone number, (425) 388-6332, and unfortunately, I
10 do not have an e-mail address. Limitation in our
11 technology.

12 JUDGE SCHAER: Mr. Thompson?

13 MR. THOMPSON: I'm Jonathan Thompson, also an
14 assistant attorney general representing the staff of
15 the Washington Utilities and Transportation Commission.
16 My address is 1400 South Evergreen Park Drive
17 Southwest, Olympia, 98504; phone number,
18 (360) 664-1225. Fax is 586-5522, and e-mail is
19 jthompso@wutc.wa.gov.

20 JUDGE SCHAER: This prehearing conference was
21 scheduled by a letter sent out on September 14th, and
22 in that letter, the parties were told that the purpose
23 of this conference is going to be to exchange witness
24 lists and proposed exhibits and to discuss the order of
25 presentation of witnesses. So what I'd like to

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1 accomplish this morning is to get those distributed to
2 look at whether we want to go ahead and premark as much
3 as we can to save time in the hearings. I recognize we
4 also have a time constraint on this hearing due to a
5 need by counsel for the Railroad to be at an 11 o'clock
6 presentation before the Commission.

7 I'm not sure if it would be more efficient to
8 do this on or off the record. Does anyone have a
9 preference?

10 MR. WALKLEY: I think off the record for now,
11 Your Honor.

12 JUDGE SCHAER: Off the record.

13 (Discussion off the record.)

14 JUDGE SCHAER: While we were off the record,
15 we had an extensive discussion of who the witnesses in
16 this proceeding will be and what the order of witnesses
17 will be. We also had distribution of exhibits from all
18 four parties. What we have decided to do is to have
19 those parties who have not already done so put together
20 an exhibit list of the exhibits they will be presenting
21 in order by witness and have that ready by tomorrow
22 morning. I'll also ask that the parties look at each
23 other's exhibits and determine which ones could come in
24 by stipulation. It sounds like perhaps most or all of
25 them can at this point.

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1 I've asked the Department of Transportation
2 to number their exhibits from 1 to 20. I've asked
3 Burlington Northern Santa Fe to number their exhibits
4 from 21 through 40. Snohomish County had provided an
5 exhibit list at the top of their materials, and I have
6 gone through those exhibits which were lettered and
7 numbered those consecutively from 41 through 58, and
8 then I have two exhibits provided by Commission staff,
9 which I've identified as Nos. 61 and 62.

10 So that's pretty much what we are going to do
11 today. I've asked the parties to look these over and
12 know by tomorrow morning if there are any exhibits they
13 are going to object to, and otherwise, we are going to
14 get all of the exhibits in the record so we can be
15 ready when the hearing starts at ten o'clock. I'm
16 going to ask you, Mr. Thompson, to prepare a short
17 exhibit list for your two documents so we can have the
18 convenience of putting the four lists together and
19 having everything in order.

20 Is there anything else we need to talk about
21 this morning? Hearing nothing, I will tell the counsel
22 I appreciate how you are working together to make
23 things go smoothly, and we have decided we will
24 continue this prehearing conference until 9:30 tomorrow
25 morning, and we will be meeting then in Snohomish

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1 County. We will reconvene tomorrow morning, Thursday,
2 October 11th, 2001, at 9:30 in the morning at the WSU
3 Cooperative Extension office in Snohomish County
4 located at 600 128th Street Southeast in Everett. At
5 that point, we will hold another prehearing conference
6 to be followed at ten o'clock by the beginning of the
7 hearings in this matter, which are scheduled for
8 tomorrow and Friday. Is there anything else we need to
9 discuss this morning? Hearing nothing, then this
10 hearing is continued until tomorrow, and we are off the
11 record.

12 (Prehearing concluded at 10:50 a.m.)

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