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Carole Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

**Re: Reference No. TR-070696
BNSF Railway Petition to Close Hickox Road Highway – Rail Grade Crossing**

Dear Ms. Washburn:

This comment letter is offered based on the Notice originally made to expire May 17, 2007 and later extended to May 31, 2007. It effects the crossing which abuts Skagit County Parcel No. P29327 owned by Richard H. Smith and Patricia A. Smith, husband and wife, and Robert E. Burkland and Pamela K. Burkland, husband and wife. My clients have pending plans for development of the property which lies within the Urban Growth Area for the City of Mount Vernon and abuts Old Highway 99 south of Mount Vernon in close proximity to a freeway overpass.

The Burklands and the Smiths live West of the BNSF track on Britt Road and Dike Road respectively and also farm land on the Westside of the BNSF tracks. Closing the Hickox Road Grade Crossing would impose a personal hardship on their homes, in addition to adverse effects on the business property.

Our office has previously commented at Public Meetings held about this proposal and attended the Board of County Commissioners Hearing prior to the decision by the Commissioners to oppose the grade crossing by Resolution adopted July 31, 2006. At that time Gary Struthers and Associates, Inc., consulting engineers put forward a compromise plan for revising the grade crossing to preserve access to the freeway from Hickox Road and from Hickox Road to South Mount Vernon west of the BNSF Railroad. The other alternative which would preserve the crossing would be a separation of the grade crossing so that the current and projected needs for surface transportation to South Mount Vernon and the agricultural land between Conway and Mount Vernon would continue to receive adequate service. Neither of the alternatives appear in the BNSF Petition and my clients are concerned that this closure is a prelude to more interference with surface transportation essential to South Mount Vernon and the agricultural land nearby.

There are already limits imposed on the westerly extension of Anderson Road which practically prohibits use of that crossing. One consequence of that closure is the limitation of access to

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South Mount Vernon from the Westside of BNSF tracks. Please see the attached letter dated August 23, 2006 which itemizes the rail crossing closure issues. We believe that regional transportation planning at the federal level should take the opportunity to coordinate with the Growth Management Act based transportation planning required by RCW 36.70A.

My clients anticipate the future development of South Mount Vernon and the interchange at Hickox Road. It would be shortsighted not to account for the future transportation needs of South Mount Vernon by retaining the Hickox Road crossing, either as a road highway – rail grade crossing or as a separation crossing. If the decision is made to close the highway – rail grade crossing now, the obligation of the BNSF to participate in sharing the costs of a separation of the highway – rail grade would be lost. This is an unfair shifting of economic burdens associated with the surface transportation requirements of the BNSF and the local community.

My clients are looking to the Washington Utilities and Transportation Commission for a resolution of this petition which pays more respect to the needs of local landowners and planning, while accomplishing the long term transportation goal of expanding the capacity of the rail line for passenger and freight transport.

Thank you for your consideration in this matter.

Respectfully yours,

JONES & SMITH

GARY T. JONES
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