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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 THE BURLINGTON NORTHERN & SANTA)Docket No. TR-010194
FE RAILWAY COMPANY,)Volume V
4 Petitioner,)Pages 343-377
)
5 v.)
)
6 SNOHOMISH COUNTY,)
)Respondent.
7 _____)
8

9 A public hearing in the above
10 matter was held on October 11, 2001, at 6:36 p.m., at
11 1717 Larson Road, Silvana, Washington, before
12 Administrative Law Judge MARJORIE R. SCHAER.
13 The parties were present as

14 follows:

15 BURLINGTON NORTHERN & SANTA
16 FE RAILWAY COMPANY, by Robert E. Walkley, Attorney
at Law, 20349 N.E. 34th Court, Sammamish,
Washington 98074-4319.

17 SNOHOMISH COUNTY, by Jason
18 J.Cummings, Attorney at Law, Civil Division, 2918
Colby Avenue, Suite 203, Everett, Washington
19 98201.

20 WASHINGTON STATE DEPARTMENT
21 OF TRANSPORTATION, by Jeffrey Stier, Assistant
Attorney General, P.O. Box 40113, Olympia, Washington
22 98504.

23 THE COMMISSION, by Jonathan
Thompson, Assistant Attorney General, 1400 S. Evergreen
Park Drive, S.W., Olympia, Washington 98504.

24 Barbara L. Nelson, CSR
25 Court Reporter

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Number 64

Letter from Mr. Krutsinger

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1 JUDGE SCHAER: I'm going to call this
2 hearing to order, and that means that the court
3 reporter will start taking down everything that I say
4 and keeping a record of it. I sometimes joke that
5 the court reporter is the most important person in
6 the room at any of our hearings, because if she can't
7 hear you and take down what you say, then we don't
8 get an accurate record. And it's very important to
9 us that we do get an accurate record. So if she
10 should ask you at some point to repeat something,
11 don't try to explain what you said, just try to
12 remember the exact words and give them to her so she
13 can get them down in the record and then go on.

14 We've been having hearings today and we're
15 having hearings again tomorrow in Everett, at the WSU
16 Extension Center, on the more technical parts of this
17 case, and the purpose of tonight's process, as I
18 mentioned, is to get input from members of the
19 public.

20 The Commission is a state agency and we are
21 charged with responsibility to regulate various
22 transportation companies, including railroads. And
23 one thing about the Commission that I'd like to
24 explain to you is that the Commission kind of works
25 in two sections when we work on a case. At an early

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1 point in a case, the Commission Staff, who will
2 appear here as a party and I'll introduce to you in a
3 moment, will be assigned a portion of the case, and
4 then my section, the Administrative Law Division,
5 will be assigned to work individually and in an
6 initial position or with the Commissioners on a
7 judicial -- quasi-judicial part of the case, and we
8 really don't talk to each other, other than when
9 calling on each other in a hearing in a more formal
10 way. We treat the Staff as a party just like we
11 treat any of the other parties in a proceeding.

12 I'm going to ask the counsel for each of
13 the parties to introduce themselves in a moment and
14 to introduce people who are with them.

15 The purpose of our hearing tonight is to
16 take your testimony, so we want to hear what you have
17 to say. We aren't really set up to answer questions
18 in a formal proceeding, but we do have staff members
19 from each of the parties here, and that's why I want
20 you to know who they are. So if you have questions
21 that you'd like to have someone talk over with you,
22 you know whom you may contact to discuss those
23 questions.

24 So I'm just starting out, the railroad,
25 Burlington Northern Santa Fe, is represented by Mr.

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1 Robert Walkley, and I'll ask him to stand and say
2 hello and introduce the people who are with him that
3 might be people you would want to ask questions of.
4 MR. WALKLEY: Thank you, Your Honor. With
5 me I have Mr. Steve Ketchem, who is the
6 superintendent of operations for this region, from
7 basically north of Everett to Vancouver, and he knows
8 all about running trains and how trains are operated.
9 I've got quite a panoply of people you could ask
10 questions. For example, in the back there, if each
11 of you would stand just for a second, Mr. Cowles,
12 Mike Cowles, is our manager of public projects, and
13 he is -- he's charged with the responsibility of
14 dealing with public grade crossings, for one thing.
15 And we have Mr. Kurt Reichelt, who is a consultant
16 who did a lot of work on the project, including a lot
17 of work on this drawing. We have Mr. Mike Powrie,
18 who is the project engineer, who can talk to you
19 about things like the siding extension. And we have
20 Mr. Pierre Bordenave, who is an environmental
21 consultant from Idaho, and he is very familiar with
22 the environmental things.
23 We provided tonight two maps or two things
24 that might be helpful, and it might be helpful to the
25 Commission and everybody here that if somebody lives

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1 somewhere that's shown on here or on the aerial, it
2 might be helpful to point out to us, you know, and
3 this may help you do that. This -- I think you'll
4 immediately see where we are when you get a little
5 closer view. If your eyes are like mine, you'll need
6 to get closer, so don't hesitate to do that. Thank
7 you.

8 JUDGE SCHAER: Thank you. And we have Mr.
9 Jeff Stier, Assistant Attorney General Jeff Stier,
10 who is representing the Department of Transportation.
11 And the Department of Transportation is a different
12 agency from the Utilities and Transportation
13 Commission, so they are here in a different role.
14 And I'll let Jeff briefly introduce staff who are
15 with him tonight.

16 MR. STIER: Okay. With me tonight is Jeff
17 Schultz, who's a rail operations and technical expert
18 for Washington State Department of Transportation,
19 and he'll be available afterwards. Our position in
20 this matter, as they call us, we're intervenors. You
21 know, the Burlington Northern has filed their
22 petition for the crossing closure and we are
23 interested, because we're interested in the
24 operations of the train in this vicinity, and so we
25 have intervened to be a part of this proceeding.

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1 JUDGE SCHAER: Thank you. Then Mr. Jason
2 Cummings is the deputy prosecutor. Mr. Cummings
3 represents Snohomish County, who is a party in the
4 proceeding.

5 MR. CUMMINGS: Good evening, ladies and
6 gentlemen. With me is Mr. Dave Evans, from the
7 Snohomish County Public Works Department. Mr. Evans
8 has been working with this issue from the petition --
9 actually, before the petition was actually filed.
10 And the county has been named as a Respondent in this
11 matter. As most of you know, it's a county road.
12 I'm glad to see representatives of the city here, as
13 well, tonight, because the city also has some
14 interest in Marysville. Thank you very much.

15 If you feel you have questions, feel free
16 to ask me questions after this hearing tonight, or
17 speak with Mr. Evans. We'll both stick around for a
18 few minutes afterwards.

19 JUDGE SCHAER: And then the other counsel
20 is Assistant Attorney General John Thompson, who
21 represents the Staff of the Commission. And after he
22 introduces staff with him, I'm going to ask him to
23 just say a few words about what's before us tonight.
24 Parties agree that he can give a brief introduction,
25 and then we'll move on.

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1 MR. THOMPSON: I would just introduce Ahmer
2 Nizam. He's a grade crossing specialist with the
3 Commission, and he and I are basically the Staff, an
4 independent party in this case, trying to develop an
5 independent perspective on what ought to occur based
6 on the railroad's petition.

7 If it's not clear already, I guess there's
8 a statute in our law that provides that the railroads
9 have the option of petitioning the Commission for the
10 authority to close a road crossing if the public
11 safety requires it, is basically the standard. And
12 typically what the Commission will look at in these
13 cases is to weigh the convenience of maintaining the
14 road against -- when one's considered a danger in
15 having a highway crossing at grade with the railroad,
16 which is certainly more dangerous than having a grade
17 separation that is either an over-crossing or an
18 under-crossing. So those are the types of issues we
19 look at.

20 The parties have also brought into the
21 matter issues related to construction of a siding to
22 improve the ability of Burlington Northern to use its
23 track and Amtrak and Washington State Department of
24 Transportation to use the tracks, as well.

25 As I said, the railroad has petitioned, and

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1 Washington State and the Department of Transportation
2 supports the petition. And I won't try to
3 characterize positions in the matter, but I'll just
4 say that the county opposes it for various reasons,
5 and I think I'll leave it at that.

6 JUDGE SCHAER: Thank you. At this point,
7 I'd like to swear in anyone in the room who's
8 planning to testify tonight, and then what we will do
9 is I'll call your names from the sign-in sheet one at
10 a time and ask you to come forward to the podium.
11 And I'll ask you a few questions that -- like your
12 name and address, just so we have that for the
13 record, and then ask you to tell the Commission what
14 you want us to know about this situation.

15 So would anyone who would like to testify
16 please raise your right hand?
17 Whereupon,

18 ALL WITNESSES PROVIDING STATEMENTS,
19 having been first duly sworn en masse by Judge
20 Schaer, testified as follows:

21 JUDGE SCHAER: Thank you. Just one final
22 item before we start. I note that today is the
23 one-month anniversary of the tragedy that hit our
24 nation on September 11th, and a number of
25 organizations have taken time to remember those who

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1 were injured or gave their lives, and also to honor
2 those who are currently in harm's way, protecting the
3 freedom of all Americans, so I'm going to ask that we
4 have a brief moment of silence, and then we'll start
5 calling witnesses.

6 Mr. Ralph Krutsinger, our first witness.
7 Mr. Krutsinger was brave enough to sit through the
8 hearing all day today, so he certainly deserves to go
9 first this evening.

10 MR. KRUTSINGER: Thank you. Ralph
11 Krutsinger, 409 148th Street, N.E., Arlington, 98223.

12 JUDGE SCHAER: And could you please spell
13 Krutsinger for the reporter, sir?

14 MR. KRUTSINGER: K-r-u-t-s-i-n-g-e-r,
15 singer.

16 JUDGE SCHAER: Thank you very much. Go
17 ahead.

18 MR. KRUTSINGER: Well, not knowing I
19 couldn't have some questions answered, I prepared
20 this so I could give you a copy and give the recorder
21 a copy, and I might read from it, so -- with your
22 permission.

23 JUDGE SCHAER: Go ahead.

24 MR. KRUTSINGER: That has the spelling of
25 my name.

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1 JUDGE SCHAER: Thank you.

2 MR. KRUTSINGER: And with all due respect,
3 I didn't know who was going to conduct the meeting,
4 so I structured it to the presiding authority.

5 This is a complex issue and I have some
6 questions that I would appreciate a response to.
7 One, based upon the petition request, are we hearing
8 two issues.

9 Two, is the WUTC's only responsibility for
10 closure of that public right-of-way at 156th Street,
11 N.E., or can it make closure determination and
12 decisions about other crossings in light of the needs
13 of this crossing.

14 Three, how are we able to render a decision
15 regarding land use on private-owned property.

16 Four, is federal, state and county
17 environmental issues a part of this decision.

18 Five, how are they documented and analyzed.

19 Six, how does the public get access to the
20 environmental documents.

21 Seven, is any of the previous
22 correspondence of record used in this hearing or only
23 what is being -- gets presented at this hearing.

24 Last, eight, when will you render a
25 decision and is it appealable and to whom.

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1 I would like to submit a copy of my June
2 25, 2001 letter to the WUTC regarding closure and
3 additional siding issues, which offers Options A and
4 B for consideration. To date, I have not received a
5 copy from the railroad, as my request for information
6 was forwarded to them by WUTC's Ahmer Nizam.

7 JUDGE SCHAER: I am going to break the
8 rules I just gave and respond to a couple of your
9 questions, Mr. Krutsinger.

10 MR. KRUTSINGER: Thank you.

11 JUDGE SCHAER: First of all, there is a
12 file in this matter that is public record.

13 MR. KRUTSINGER: Yes.

14 JUDGE SCHAER: It will contain all of the
15 exhibits, it will contain all of the correspondence
16 to the Commission, and some of those exhibits do
17 contain information about environmental
18 determinations. And a list of those exhibits will be
19 available a few days after this hearing, and it's
20 something you could obtain from the Commission. The
21 Commission's record center phone number is area code
22 360 --

23 MR. KRUTSINGER: I have that.

24 JUDGE SCHAER: Okay. I'll give it so the
25 others may hear it if they need it.

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1 MR. KRUTSINGER: Sorry.

2 JUDGE SCHAER: 360-664-1234. And we would
3 encourage anyone who has an interest to call that
4 number and ask about any information you have
5 questions about or would like copies of. We also, in
6 a proceeding of this kind, do put together an exhibit
7 of the correspondence from members of the public, and
8 I will include in that exhibit any written materials
9 that come into this hearing tonight. And I've just
10 marked this letter as Exhibit 64. It will be a part
11 of that. So that will be a part of the record that
12 the Commission considers.

13 The record in this matter usually would
14 close after the hearing tomorrow, but is being kept
15 open for a couple of items. One is a response that
16 the railroad is sending to a letter that is Exhibit
17 43 in the case, a letter from the Commission Staff
18 regarding environmental determination. The second
19 item is the environmental SEPA threshold
20 determination made by the Commission.

21 After the record closes, I will write an
22 initial order, and then that order may be appealed by
23 petition for administrative review to the Commission.
24 They will enter a final order, and that order may be
25 appealed to the Superior Court.

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1 MR. KRUTSINGER: Is there a fee for same,
2 appeal fee?

3 JUDGE SCHAER: To the best of my knowledge
4 -- I know there's not a fee at the Commission level.
5 I'm not certain if there's a filing fee at the court
6 level or not.

7 MR. KRUTSINGER: Thank you.

8 JUDGE SCHAER: Probably the counsel that
9 goes to the court more often than I could tell you
10 that. And on each of the documents, there will be
11 information about how to appeal. So by having your
12 name on the list tonight, you will get a copy of the
13 initial order and it will have information in it
14 about how to appeal.

15 MR. KRUTSINGER: All right. Thank you.
16 Additionally, I thought I was a party of record. I
17 received the first notice of the hearing and I
18 received a cancellation notice. I did not receive a
19 notice of tonight, but driving by the site
20 frequently, I saw the posting notices.

21 JUDGE SCHAER: Thank you. And I will make
22 a note to check on the mailing list, and if there is
23 a gap there, I'll try to get that problem solved.

24 MR. KRUTSINGER: Thank you. I gave you my
25 June 25th letter, which I would appreciate -- this

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1 one here, that is of record, because I make reference
2 to that in the one that I just handed you previously.

3 JUDGE SCHAER: I will include both of these
4 in Exhibit 64, sir.

5 MR. KRUTSINGER: Thank you.

6 JUDGE SCHAER: Thank you.

7 MR. KRUTSINGER: With the assistance of Mr.
8 Nizam, a copy of the BNSF petition was provided.
9 Under Item Three, the reasons stated go far beyond
10 those stated in the public notice of August 9, 2001.
11 I believe the general public has not been properly
12 informed as to the content of this hearing.

13 The petition cites two issues. I will
14 address the closing of 156th Street, N.E. first. The
15 Washington Utilities and Transportation Commission
16 letter of August 9, 2001, quote, Notice of Public
17 Hearing, end quote, states, quote, The ultimate
18 issues involved are whether the public safety
19 requires an order to be entered authorizing closure
20 of 156th Street, N.E. crossing, end quote.

21 There are ten lines stating the reasons to
22 abandon the 156th Street, N.E. crossing with only the
23 last three relating to accidents. While two
24 accidents in 14 years may be unacceptable, I'd ask
25 the railroad to be specific as to whether they are

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1 train-car related or car and driver related.

2 One look at the vertical alignment of 156th
3 Street, N.E. will show the pavement gouges are not a
4 result of the 15-mile-an-hour posted speed. This
5 safety issue is car-driver responsibility and not one
6 the railroad is responsible for.

7 I ask what accidents have occurred since
8 the controlled crossing at 156th Street was
9 installed. I would ask the railroad to provide
10 similar accident information at 172nd Street, N.E. to
11 better understand their rationale for closing at
12 156th.

13 Has installing devices for safety at 156th
14 Street, N.E., like what has been done at 172nd
15 Street, N.E., been considered. Would this provide
16 additional safety. Additionally, sometime plus or
17 minus 1990, there was a train derailment, which
18 closed 172nd Street, N.E. An evacuation of the area
19 resulted. The usage of 156th Street, N.E. was the
20 bypass route for traffic westbound from the freeway
21 interchange.

22 Proposed closure does not provide the same
23 safety and emergency benefits as noted by all other
24 agencies responsible for those services. Please do
25 not close 156th Street, N.E. There are alternatives.

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1 Regarding the siding issue, I ask that
2 during the siding issue presentation by the
3 proponent, that they address these issues as to the
4 petition request and provide support information on
5 closure. One, how far is proposed extension past
6 156th Street. And I'll deviate from my letter a
7 moment. I was at the hearing and I got some of this
8 information from the railroad, so I apologize, but I
9 wrote this before I came to the hearing.

10 JUDGE SCHAER: All right.

11 MR. KRUTSINGER: Continuing, number two,
12 how can a, quote, passing track, end quote, have
13 storage freight trains as it does now and affect
14 other travel.

15 Three, why does the current operation not
16 satisfy what you want. Are we really looking for
17 longer train storage. And I think that was answered
18 today.

19 Does the future project more siding tracks.

20 Five, as to the petition in Item Three,
21 quote, The 156th Street crossing will become
22 unreliable, end quote. Please clarify and justify
23 it. What does, quote, unreliable mean. Extending
24 the siding south of 156th Street, N.E. would only
25 require disconnecting cars as is presently done to

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1 the north. This is Option B in my request of June
2 25th, 2001, for railroad consideration, which still
3 does not require closure.

4 Option A extends north of 172nd Street,
5 N.E., utilizing plus or minus a thousand feet of
6 existing siding for approximately 12,000 feet, which,
7 like the proposed extension south of 156th Street,
8 has its sensitive areas.

9 In conclusion, if the railroad truly wants
10 to accomplish the desired end result of additional
11 safety and optimal future operations, then a new
12 siding extension to the north of 172nd Street, at
13 least as proposed in Option A, and installation of
14 traffic control devices at 156th Street, N.E.,
15 similar to present devices at 172nd Street would
16 accomplish their desire.

17 As I see it, everyone benefits with this
18 alternative over what is being proposed by BNSF.
19 Please consider these alternatives. Thank you.

20 JUDGE SCHAER: Thank you, sir. Are there
21 any questions? Thank you for your testimony.

22 MR. KRUTSINGER: Thank you.

23 JUDGE SCHAER: Next we have Ken Winckler.

24 MR. WINCKLER: Yes. Thank you, Your Honor.

25 JUDGE SCHAER: Would you please state your

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1 name and spell your last name for the record?

2 MR. WINCKLER: Yes, Ken Winckler,
3 W-i-n-c-k-l-e-r. I am currently the Public Works
4 Director for the City of Marysville, and I am here
5 representing the city, and I would like to read into
6 the file a letter from His Honor David Weiser, our
7 mayor. This is a letter to Washington Transportation
8 and Utilities Commission.

9 Dear Commission Members: The city of
10 Marysville is very concerned about the proposed
11 closure of 156th Street, N.E. in our community. The
12 Lakewood area is in our city's urban growth area and
13 we are responsible for planning for this community.

14 Further, there's currently an annexation
15 proposal, which will include 156th Street, N.E., and
16 the surrounding property, which illustrates immediacy
17 of this issue to our planning jurisdiction.

18 In the interest of providing for area
19 circulation, access and public services, this street
20 connection is critical. As with many cities located
21 along the railroad corridor, we have become
22 accustomed to working with the railroad and its
23 agencies to control and regulate access to provide
24 public safety and critical transportation connections
25 within the community. 156th Street, N.E. is a

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1 critical transportation corridor for the city.

2 We are currently cognizant and supportive
3 of Burlington Northern Railroad installing advanced
4 gating and crossing equipment necessary for public
5 safety at this location, as well as other street
6 crossings in our city. We are opposed, however, to a
7 road closure as the proposed mechanism, particularly
8 when there is little history to demonstrate an
9 existing hazard at this crossing.

10 Closure of 156th Street would result in a
11 single access to the Twin Lakes area. Adequate
12 east-west and north-south connections are critical
13 for providing services which include police, fire,
14 and school bus access to our citizens.

15 We understand the state's need for
16 proposing the siding extension to provide for
17 efficient commerce. We want and ask for similar
18 consideration for our local citizens. The city is
19 currently updating our transportation plan and has
20 identified 156th Street as an integral east-west
21 transportation corridor within the road network for
22 this Lakewood area.

23 Please recognize this is an existing road
24 and existing connection that we value, which you are
25 proposing to take away. We believe Northern Pacific

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1 -- Burlington Northern should either identify an
2 alternative connection further north or provide
3 adequate mitigation to the community to address the
4 loss of the critical road connection. It is our
5 understanding that an alternative does exist north of
6 172nd Street for the proposed rail extension. This
7 alternative should be pursued prior to seeking
8 closure of 156th Street, N.E.

9 Thus far, Burlington Northern
10 representatives have indicated that there are
11 environmental issues with the northern extension.
12 There are environmental issues with the current
13 proposal. Quilceda Creek is identified as a salmon
14 bearing creek. An extension of new siding will
15 undoubtedly require substantial mitigation and the
16 rehabilitation of the existing creek system, the cost
17 of which should be considered by Burlington Northern
18 prior to eliminating northern option. The northern
19 extension would not require closure of an existing
20 public road.

21 If the closure of 156th Street must be
22 pursued, mitigation for the road closure could come
23 in the form of a grade separation at 172nd Street,
24 N.E., and an extension of the Twin Lakes Avenue to
25 140th Street, N.E., with overpass to Smokey Point

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1 Boulevard east of Interstate 5.

2 That would provide adequate replacement of
3 the loss of the east-west connectivity for public
4 services, as well as mitigate the additional
5 congestion of 172nd Street, N.E., which would be
6 created by the road closure.

7 We hope that the Commission, as an
8 independent reviewing authority, will require
9 Burlington Northern Santa Fe to seriously pursue
10 alternative sites or provide mitigation for the loss
11 of this transportation connection. Sincerely, Dave
12 Weiser, Mayor.

13 JUDGE SCHAER: Thank you. Are there any
14 questions for Mr. Winckler? Then I would like to
15 have that letter, if I may, to include in our
16 exhibit, and I thank you for your testimony.

17 MR. WINCKLER: You bet.

18 JUDGE SCHAER: Next we have Greg Corn,
19 please.

20 MR. CORN: My name is Greg Corn, Fire
21 Chief, Marysville Fire District, 1635 Grove Street,
22 Marysville, Washington. On May 9th, I submitted a
23 letter to the Commission, and I'd like to read that
24 letter into record, if that's okay.

25 JUDGE SCHAER: If you'd like to, or you can

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1 summarize it if you'd like to, because we will have
2 the letter in record. Whichever you prefer.

3 MR. CORN: I'll summarize it and maybe even
4 add to it just a little bit. Marysville Fire
5 District is a consolidated fire department which
6 serves the city of Marysville, Snohomish County Fire
7 District 12, and Snohomish County Fire District 20.
8 We're very concerned about the closure of 156th
9 Street and its degradation of any emergency response
10 capabilities that we may have.

11 We provide fire and emergency medical
12 services to the area west of I-5 and the areas east
13 of I-5, also, all the way out to the Lake Goodwin
14 area. At our midway station, our Station 63, which
15 is located on your map here, we house an engine
16 company and a paramedic unit. At our Lake Goodwin
17 station, we house an engine company, a tanker, a
18 water tender and a BLS ambulance. Our paramedic unit
19 out of the station shown on the map here provides all
20 advanced life support services for the area west of
21 I-5 all the way into the Seven Lakes area, probably
22 another 12 miles, 10 or 12 miles west of I-5.

23 So the paramedic unit that comes out of
24 that station, our Station 63, the station shown on
25 the map, serves a fairly large geographical area as

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1 far as advanced life support services go.
2 156th, while it is not particularly a
3 direct response for us to serve those areas west of
4 the railroad, it is a secondary response access for
5 us in the event of a blockage at 172nd Street. If
6 our units are responding out of that station north on
7 Smokey Point Boulevard to 172nd, and then find a
8 train or other traffic hazard may be blocking 172nd
9 Street, it gives our crews the ability to come back
10 down 172nd to the frontage road, south on the
11 frontage road to 156th and over the railroad tracks,
12 and then we're west of the railroad again.

13 So it's a secondary means for us to access
14 areas west of the railroad tracks, and again,
15 primarily for advanced life support services serving
16 a large geographical area west of the railroad.

17 We're also concerned about the future.
18 While this area doesn't look -- it's predominantly
19 rural now and it has a very limited roadway system,
20 we're also very concerned about the future. It just
21 appears apparent that that whole area is ripe for
22 residential and commercial development. And as the
23 area grows, the needs for emergency services will
24 increase with that growth. Closing that road now and
25 not having access, either secondary or primary, as

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1 the area grows just doesn't seem to be a prudent
2 thing for anyone to do.

3 And while the railroad may say all we can
4 look at now is the existing needs of that area, I
5 think that that's what happened with a lot of our
6 current roadway systems. People only look at what we
7 need now and they didn't look at the future. I think
8 the Commission should help us look towards the future
9 in providing accesses for emergency services or
10 regular transportation needs and don't necessarily
11 just take face value what the area looks like now.
12 It's going to look different, and I think that we all
13 need to plan for that future.

14 I would summarize by just asking the
15 Commission strongly consider all emergency services
16 and the closure of 152nd, the impacts on the citizens
17 of that closure.

18 JUDGE SCHAER: Thank you. Do you have a
19 copy of your letter with you or would you like me to
20 get the one that's in our file?

21 MR. CORN: I have a copy of the letter with
22 me.

23 JUDGE SCHAER: Thank you. I'll put it in
24 the exhibit now, then. Are there any questions for
25 Mr. Corn? Thank you for your testimony. Next we

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1 have Bill Binford. Please state your name and spell
2 your last name for the record.

3 MR. BINFORD: Bill Binford, B-i-n-f-o-r-d.

4 JUDGE SCHAER: Thank you. Go ahead.

5 MR. BINFORD: I'd like to acknowledge that
6 Burlington Northern Railroad -- I'm a firm believer
7 that rail transit and rail freight is a foundation of
8 this country, and I support your business, and I'm
9 glad that you're there and I encourage you to keep
10 going. I think it's a great way to move freight and
11 people.

12 Regarding this decision here, I think it's
13 a mistake to close 156th. I serve as the Snohomish
14 County chairman for the Master Builders Association
15 of King and Snohomish County. Tonight I'm speaking
16 on my own, but when you really stand back and look at
17 the years of planning that have gone into the Growth
18 Management Act, this area is set up on the west side
19 as an urban reserve area for a specific reason,
20 because the planners and the elected leaders know
21 that the population will continue to grow year after
22 year and there needs to be a place to expand that
23 population when the inside of the UGA gets filled up.

24 And currently, the city limits, there's
25 annexation underway right now to bring in the area

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1 north of 156th into the city of Marysville, and the
2 area all the way over to 45 Road is included in the
3 urban reserve area, and it has been since --
4 actually, go back to the Lakewood plan back probably
5 in the early 1980s, this was first discussed. So
6 this is not a new concept, it's not something that
7 that just popped up.

8 And I think that if you really look at the
9 alternatives, especially what Fire Chief Corn said,
10 for life safety for the existing population, plus the
11 life safety of the future population, that the area
12 would be much well better served if that key corridor
13 was maintained and the siding was moved north of
14 172nd. I think that would make a lot more sense from
15 a transportation planning point of view and I highly
16 encourage the Commission to think about the impacts
17 to the entire area.

18 And I'm not trying to hurt the railroad in
19 any way, but I think this would be a better decision
20 for the railroad when they really think about the
21 impact on the neighborhood. Those type of trains
22 with all kinds of tank cars against an area that's in
23 an urban reserve, that will be an urban area in a few
24 years. So I'd ask you to consider that. Thank you.

25 JUDGE SCHAER: Thank you. Does anyone have

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1 questions for Mr. Binford? Thank you for your
2 testimony. Next we have Bruce and Becky Foster. You
3 drew the short straw, Ms. Foster.

4 MS. FOSTER: I did.

5 JUDGE SCHAER: All right. Thank you.

6 MS. FOSTER: Becky Foster, 15526 Smokey
7 Point Boulevard, Marysville. First I want to tell
8 the railroad guys that I have a lot of love for the
9 railroad. My father was one of six conductors for
10 the Northern Pacific, so I grew up with the railroads
11 and have always been very proud. He gave his life,
12 as many did to, lung cancer probably directly related
13 to some of those issues, railroad issues. So I do
14 have a lot of love for the railroad.

15 I also have been involved in the Lakewood
16 area from the growth management stage on. My husband
17 was very involved with our growth management team and
18 task force that addressed the issues of the Lakewood
19 area. I too sit as a planning commissioner, as
20 appointed by the mayor of Marysville, for this area,
21 and after spending all these years working on this
22 plan of trying to develop positive growth in the
23 community, this kind of throws a monkey wrench into
24 everything that we've been working on.

25 We desperately will need this area for

00371

1 multi-family homes, residential, as the inventory
2 within the city limits of Marysville is rapidly
3 growing beyond what we can accommodate.

4 I certainly would like the railroad to look
5 for another alternative to the closure of this
6 crossing. One of the proposals that I, as well as
7 many of the other counsel and commissioners in
8 Marysville, have been proposing, an access across the
9 freeway at 152nd, or near that vicinity. It gives
10 Marysville a great way to travel east. It also gave
11 us a wonderful way to travel west. So when we
12 develop that area, we would have ample access to the
13 freeway to get across the freeway, for our fire
14 district to be able to come out of the fire station
15 and immediately access the west side.

16 If 156th is closed, it does not do anything
17 for our potential development. We want to have the
18 access remain open. And that's probably all I have
19 to say.

20 JUDGE SCHAER: Well, thank you. Are there
21 any questions? Thank you very much for your
22 testimony.

23 MS. FOSTER: Thank you.

24 JUDGE SCHAER: And then Margaret Hubbard.

25 MS. FOSTER: Oh, I do have one more thing.

00372

1 JUDGE SCHAER: Oh, please.

2 MS. FOSTER: Please pardon me. I did want
3 to mention this. I noticed that this room is very
4 small, this gathering, this group is very small.
5 This is a Lakewood issue. And the question that I
6 have is we're here in Silvana. I did not know the
7 date of this, and had I not gotten word from the
8 planning department in Marysville, I might not have
9 been here either. So I did not hear. I don't see
10 anyone here from our school district.

11 I would really suggest that if you're going
12 to have these hearings, you need to hold them in the
13 community where the people are being affected,
14 because I don't believe many people got notice of
15 this meeting tonight. There's been other meetings on
16 issues that were far less of an impact to our
17 community that the hearing rooms have been packed.
18 So that was my other point. Thank you.

19 JUDGE SCHAER: Thank you. Margaret
20 Hubbard.

21 MS. HUBBARD: I'm Margaret Hubbard. I live
22 at 15420 23rd Avenue, N.E. Some of you know me,
23 because I'm the UPS driver in the area. I have been
24 driving in this area for 13 years of my 14 years with
25 UPS.

00373

1 Okay. They're talking access. I live
2 right at that corner. I don't know if any of you
3 know, I bought the little farm. I can see that
4 intersection. Last Friday there was an accident, I
5 don't know if you guys know, off the Fire Trail. It
6 blocked the 136th Street access. Do you want to know
7 where all that traffic went that came down off of
8 Fire Trail Road? It went past my house, over the
9 railroad tracks, up Twin Lakes Road to 172nd.

10 If you close this -- I mean, I've seen it
11 happen with the derailment. I was driving for UPS
12 back then in that area. I have been in that area for
13 a long time, I love it out here, but it's -- I think
14 it's dangerous for everybody all around if you close
15 it. We need those roads. We're an area of large
16 growth. I have seen one year where, on my route
17 alone, my route originally started at the county line
18 of Skagit County line, and I went south past Donna's,
19 and I have watched all this grow, and now my route
20 ends even before I get to 172nd. One year, I swear
21 two houses went up for every one that was in the
22 area.

23 I mean, I'm not very old, I haven't lived
24 here very long, but from what I've seen in just my
25 short time, you close any road permanently, you never

00374

1 get it back. And as one of citizens in the
2 community, I live here, I drive these roads, I don't
3 just drive them to go to work and back. I see the
4 accidents that happen, I see where the people go when
5 they happen. If you live there and you see it, then
6 you understand it a lot more.

7 I'm concerned about safety to my house. I
8 have a stable. I have teen-age girls. My daughter
9 is handling the horses all the time. One of them
10 gets kicked, what if I can't get the proper people
11 and equipment to come over and help me? I would be
12 very upset and I would be really mad at somebody
13 because they closed that road.

14 And like Becky said, they were planning on
15 putting an overpass at I-5 at 152nd. My gosh, what a
16 great access. Here you add another access east and
17 west. We already have problems in the Seattle area
18 with east and west accesses. We have water on one
19 side and mountains on the other. We have rivers,
20 streams, fish, deer, wildlife of all sorts and kinds,
21 everything that goes on there, but we need the
22 accesses, we need the ability to get from A to B. If
23 we don't have those abilities, then we do don't get
24 anywhere.

25 We need ways to move the traffic around

00375

1 when an area gets blocked. 172nd gets blocked,
2 they're going south. Yeah, you can go all the way
3 down to 116th, but what if you've got to go north.
4 We don't have a lot of access going north, either, to
5 get across I-5. Because I drive to the north of that
6 and I know you can't even get on the freeway again to
7 the north from 172nd till you get up here to Autumn
8 Crossing. And even to cross it again is at 200th,
9 you're looking at miles. You're driving through
10 neighborhoods, you know, and we need the ways around.

11 This is why people in the Seattle area have
12 so much trouble, so much congestion. They have no
13 way around. If there's an accident, the alternate
14 routes, there's so few of them, they're so packed.

15 So I really oppose the closing of this. I
16 know the people in my neighborhood do. I didn't know
17 about this meeting. Only because it's posted on the
18 telephone pole outside my house, okay. I did also
19 agree with a lot of the people that -- I live right
20 there, I see those trains cross every day, I'm
21 probably one of the closest people to that
22 intersection that there is, and I didn't know about
23 this meeting. And I've been involved with a lot of
24 Marysville stuff. I've gone to a lot of their
25 meetings, the only way I find out about any of this

00376

1 stuff. And I don't feel I'm being informed enough,
2 and I'd like to be more informed.

3 But I really do believe -- I drive this
4 area. I drive 13 hours a day and I've driven this
5 area for a long time. I think closing any existing
6 road for anybody at any time, I don't care if it was
7 the railroad or anyone, if you close a road that's
8 existing that's used by any of the population, in my
9 mind, that's wrong to close it, because if you lose
10 that road, you never get it back. So thank you very
11 much for listening to me. I'm just here as one of
12 the citizens.

13 JUDGE SCHAER: Thank you. Are there any
14 questions for this witness? Thank you for your
15 testimony. Is there anyone else in the room who has
16 not signed up to testify but would like to testify at
17 this point? I assume you're scratching your head,
18 Mr. Corn?

19 MR. CORN: Oh, I'm sorry, I was.

20 JUDGE SCHAER: That's fine. I thought I
21 had a volunteer for a moment. Well, the Commission
22 does appreciate your time tonight. We have a
23 constant struggle of how to let people know about our
24 hearings and how to find something in the appropriate
25 place.

