

08/15/22 12:26

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From: [Young, Betty \(UTC\)](#)
To: [Ryan Harmon](#); [Semenick, Stephen](#)
Cc: [Gary Owen](#); [Hunter, Kathy \(UTC\)](#); [Scott, Richard D](#); [Jacob Huylar](#)
Subject: RE: TR-220540 - Service of Petition - Response due by Aug. 8, 2022
Date: Wednesday, August 10, 2022 7:00:00 AM
Attachments: [image003.png](#)
Importance: High

Steve – please provide a response by 8/12/22 on how BNSF would like to proceed. If I do not receive a response by that date, I will ask our Administrative Law division to proceed with the adjudicative process.

Betty Young (she/her/hers)

Rail Operations Manager

(360) 292-5470 – Cell

Utilities and Transportation Commission (UTC)

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From: Ryan Harmon <RHarmon@WenatcheeWA.Gov>

Sent: Tuesday, August 9, 2022 3:01 PM

To: Young, Betty (UTC) <betty.young@utc.wa.gov>; Semenick, Stephen <Stephen.Semenick@BNSF.com>

Cc: Gary Owen <GOwen@WenatcheeWA.Gov>; Hunter, Kathy (UTC) <kathy.hunter@utc.wa.gov>; Scott, Richard D <Richard.Scott2@BNSF.com>; Jacob Huylar <JHuylar@WenatcheeWA.Gov>

Subject: RE: TR-220540 - Service of Petition - Response due by Aug. 8, 2022

External Email

Hi Betty and Steve,

I am not sure that a conference call will help us to come to an agreement. Steve, you mentioned that BNSF sees two issues with the petition.

1. *BNSF should not assume responsibility of 100% of the future maintenance costs.*

The City does not have a position on maintenance costs to BNSF equipment as this was a not a consideration since the inception of the project. The City applied for a grant through the WSDOT Railway-Highway Crossings Program with the intention of enhancing public safety and reducing risk at the railroad crossing. This project is funded 90% through this program (FHWA Section 130) and 10% by the City of Wenatchee. Given the unanticipated discussion of maintenance and operation costs since being awarded the safety grant, we rely on RCW 81.53.295 which states that “Whenever federal-aid highway funds are available and are used to pay a portion of the cost of installing a grade crossing protective device... The railroad whose road is crossed by the highway, street, or road shall thereafter pay the entire cost of

maintaining the device.”

2. *BNSF does not agree with the proposed layout.*

The scope of these improvements was developed through the grant process, as well as a diagnostic review that was attended by the UTC, BNSF, WSDOT and the City. The City ultimately decided against the proposed three gate system with no cantilever signals for two reasons.

a. *Three-gate system*

The three-gate system was proposed due to the presence of the center median on the western side of this crossing. The City is concerned with the possibility of vehicles turning out of a commercial driveway adjacent to the project being able to circumvent the safety devices which is ultimately why we advocated for all 4 gates.

b. *No cantilever signals*

The city prefers to incorporate the use cantilever signals for this project in order to maintain uniformity with the other mainline grade crossings within the City’s Quiet Zone.

The City would be willing to meet with the UTC and BNSF to discuss the proposed layout if that is the only topic of the discussion. It is the City’s understanding that BNSF shall be responsible for all maintenance costs under Washington State Laws. Since it appears that the maintenance costs continue to be an issue, I unfortunately think that the only path forward is through the hearing process.

Thank you,

Ryan Harmon
Project Engineer



1350 McKittrick St • Wenatchee, WA 98801
Telephone: (509) 888-3213 • Fax: (509) 888-3201
Email: rharm@wenatcheewa.gov Web: www.wenatcheewa.gov

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From: Young, Betty (UTC) <betty.young@utc.wa.gov>
Sent: Monday, August 8, 2022 2:19 PM
To: Semenick, Stephen <Stephen.Semenick@BNSF.com>
Cc: Gary Owen <GOwen@WenatcheeWA.Gov>; Ryan Harmon <RHarmon@WenatcheeWA.Gov>; Hunter, Kathy (UTC) <kathy.hunter@utc.wa.gov>; Scott, Richard D <Richard.Scott2@BNSF.com>
Subject: RE: TR-220540 - Service of Petition - Response due by Aug. 8, 2022

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Steve – Thank you for the response.

Gary/Ryan – please advise if the City is interested in convening a conference call to discuss these matters with BNSF. UTC staff is available to participate in such a call. If the City prefers to proceed with the adjudicative process, a mediation/settlement conference will be built into the procedural schedule, giving the parties an opportunity to meet and attempt to resolve the issues prior to the matter going to hearing before the UTC. Please advise how you would like to proceed.

Betty Young (she/her/hers)

Rail Operations Manager

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Utilities and Transportation Commission (UTC)

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From: Semenick, Stephen <Stephen.Semenick@BNSF.com>

Sent: Monday, August 8, 2022 2:00 PM

To: Young, Betty (UTC) <betty.young@utc.wa.gov>

Cc: Gary Owen <GOwen@WenatcheeWA.Gov>; Ryan Harmon <RHarmon@WenatcheeWA.Gov>; Hunter, Kathy (UTC) <kathy.hunter@utc.wa.gov>; Scott, Richard D <Richard.Scott2@BNSF.com>

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External Email

Good afternoon Betty,

BNSF does not support the petition as currently drafted. The City of Wenatchee has requested BNSF assume responsibility for 100% of the future maintenance costs of railroad infrastructure. As mentioned in the petition, the existing railroad warning devices include two cantilevers and two-quadrant gates. The City has proposed four-quadrant pedestrian gates, a four-quadrant roadway gate system (entrance/exit gates), and a wider crossing surface. Since this additional railroad infrastructure has been proposed in order to accommodate the City's roadway/sidewalk project, we believe it is fair to share the costs for future maintenance. The City and BNSF previously discussed a modified railroad warning device layout, which proposed a three-quadrant gate system and explored the option of eliminating the cantilevers. Ultimately, the City preferred the layout included in the petition.

In summary, the maintenance costs and proposed layout of the crossing are the primary reasons

BNSF does not support the petition. With that said, I do not believe a hearing is immediately necessary. A conference call between the City, BNSF, and the UTC may help resolve the aforementioned issues and advance the project closer towards construction. If the City and UTC are open to such a discussion, please let me know and I will provide BNSF's availability.

Thanks,

Stephen Semenick, PE
Manager Engineering – NW Division
BNSF Railway Company
44 South Hanford Street, Building C
Seattle, WA 98134

Office: 206.625.6152

Cell: 817.422.2486

From: Young, Betty (UTC) <betty.young@utc.wa.gov>
Sent: Monday, July 18, 2022 8:47 AM
To: Semenick, Stephen <Stephen.Semenick@BNSF.com>
Cc: Gary Owen <GOwen@WenatcheeWA.Gov>; Ryan Harmon <RHarmon@WenatcheeWA.Gov>; Hunter, Kathy (UTC) <kathy.hunter@utc.wa.gov>
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EXTERNAL EMAIL

Steve – Please see the attached letter regarding the petition filed by the City of Wenatchee. BNSF's response is due by Aug. 8, 2022.

Betty Young (she/her/hers)

Rail Operations Manager

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