

BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION

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City of Auburn,	)	
	)	DOCKET NO. TR-120828
Petitioner,	)	
	)	RESPONDENT BNSF RAILWAY
vs.	)	COMPANY'S RESPONSE TO
	)	PETITION TO CONSTRUCT A
	)	HIGHWAY-RAIL GRADE CROSSING
Gates, Gates, Gates LLC; Mohawk Northern Plastics, LLC DBA Ampac; BNSF Railway Company,	)	
	)	USDOT Crossing No. 945561A
	)	
Respondents.	)	

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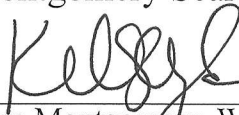
Based on the information contained in the above-referenced petition by the City of Auburn, BNSF will not complete the Respondent's Waiver of Hearing form at this time. BNSF's issues with this petition in its current form include, but are not necessarily limited to:

- The City of Auburn is proposing passive warning devices at this crossing. BNSF believes that active warning devices (flashing lights, cantilever, and gates) are warranted at this location due to the current traffic level as a minor arterial (100 vehicles/day) and the scheduled opening of 14<sup>th</sup> Street Northwest later this year, which is projected by the City of Auburn to increase to approximately 13,500 vehicles per day at this crossing by 2020.
- BNSF has concerns about whether the City of Auburn has considered the type of commodities that could potentially be shipped to or from the current or future industrial area(s) near or across the proposed public crossing in the future, including any hazardous material.
- BNSF cannot predict nor guarantee that the volume of train or railcar traffic per week in the future will average 3-4 trains, and any particular time of day. Train traffic volume can and does fluctuate based on demand and other factors.
- The City of Auburn appears to rely on its perception of trains traveling slower than the federal speed limit for the tracks ("4 mph or less"). It must always be expected that a train will be traveling as fast as the federal speed limit allows. There is no federal train speed limit slower than 10 miles per hour.

If the City of Auburn is willing to revise their petition to agree to install active warning devices with all construction and future maintenance-related costs allocated to the City, BNSF may be willing to support the petition.

DATED this 26<sup>th</sup> day of June, 2012.

Montgomery Scarp, PLLC



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Attorneys for Respondent BNSF

**CERTIFICATE OF SERVICE**

I am over the age of 18; and not a party to this action. I am the assistant to an attorney with Montgomery Scarp, PLLC, whose address is 1218 Third Avenue, Suite 2700, Seattle, Washington, 98101.

I hereby certify that the original and 12 copies of RESPONDENT BNSF RAILWAY COMPANY'S RESPONSE TO PETITION TO CONSTRUCT A HIGHWAY-RAIL GRADE CROSSING has been sent by U.S. Mail to the Records Center at WUTC and a PDF version electronically filed with the WUTC via its website. I also certify that true and complete copies have been sent via Electronic mail and U.S. Mail to the following interested parties:

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

DATED this 26<sup>th</sup> day of June, 2012, at Seattle, Washington.



Chelsea Linsley