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BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY)	
)	
Petitioner,)	DOCKET TR-150189
)	
Vs.)	
)	
WHATCOM COUNTY)	
)	
Respondent.)	

EXHIBITS TO TESTIMONY OF
ROLAND MIDDLETON

Letter from Department of Ecology to BNSF dated March 17, 2015.

September 25, 2015

Whatcom County Prosecuting Attorney
311 Grand Avenue Suite 201
Bellingham, WA 98225
(360) 676-6784
(360) 738-2532 (FAX)



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

March 17, 2015

Glen Gaz
Manager Engineering
BNSF Railway Co.
2454 Occidental Avenue South, Suite 2-D
Seattle, WA 98134-1451

Re: BNSF Railway "Intalco Yard Improvement Project"

Dear Mr. Gaz:

The Department of Ecology has received the State Environmental Policy Act checklist for the Intalco Yard Improvement Project signed on January 13, 2015. Before making a SEPA threshold determination, Ecology needs additional information on the project.

Updated SEPA Checklist: The SEPA environmental checklist, WAC 197-11-960, was updated and revised in May 2014. Most questions are identical in both versions of the checklist. However, there are some new and revised questions. You can find the updated checklist at Ecology's website: <http://www.ecy.wa.gov/programs/sea/sepa/forms.htm>. Please complete and submit the updated checklist for this proposal as soon as possible.

Whatcom County permits: The checklist indicates that a Whatcom County land disturbance permit and a Whatcom County temporary right-of-way permit will be needed. If permit applications will be submitted to Whatcom County, the County should be the SEPA lead agency (WAC 197-11-932). Please clarify when applications will be submitted to Whatcom County.

Relation to Custer Spur improvement project: The Intalco Yard project was previously part of the larger Custer Spur improvement project which includes proposed rail modifications and addition of a second track along the approximately six-mile long Custer Spur. The Custer Spur project is currently being reviewed as part of a SEPA and NEPA Environmental Impact Statement, in conjunction with the proposed Gateway Pacific Terminal project. Please explain why the Intalco Yard Improvement Project requires separate review.

Relation to approved refinery projects: Both the BP refinery and the Phillips 66 refinery received SEPA threshold determinations and permits from Whatcom County to construct facilities to allow crude oil delivery via the Custer Spur; BP in 2012 and Phillips 66 in 2013. The documentation submitted to the county for both projects indicated that no improvements to

Mr. Glen Gaz
March 17, 2015
Page 2

the rail line were necessary to accommodate the increased rail traffic transporting crude oil to the refineries. Please explain why Intalco Yard improvements and the road closure are necessary at this time given that the recent previous studies showed adequate capacity.

Environmental Health: The checklist should describe the direct impacts due to upgrading 1.37 miles of rail line, as well as potential impacts associated with operation. The risks associated with transportation of crude oil are reported by the Pipeline and Hazardous Materials Safety Administration in the proposed new rulemaking for High-Hazard Flammable Trains¹, defined as a train comprised of 20 or more carloads of a Class 3 flammable liquid. The checklist does not adequately explain measures to prevent risk or describe response capabilities.

Amount of wetland fill: Please indicate the *area* of wetland fill (question 3.a.1) in addition to the quantity.

Questions and the updated checklist should be directed to Alice Kelly at alice.kelly@ecy.wa.gov, telephone (425) 649-7128. Thank you in advance for your response.

Sincerely,



Josh Baldi
Regional Director

e-cc: Kathy Hunter, UTC
Ron Ewart, Whatcom County
Skip Kalb, BNSF
Marnie Black, Ecology

¹ 79 FR 45016 (8-1-2014) <http://www.gpo.gov/fdsys/pkg/FR-2014-08-01/pdf/2014-17764.pdf>