

Docket No. TR-140382 and TR-140383  
BNSF's Responses to Yakima County's Third Data Requests  
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**To BNSF:**

Each data response must state the name of the person who prepared the response, and the name of any witness who is knowledgeable about and can respond to questions concerning the response.

**DEFINITIONS**

**IDENTIFY:** The term “identify” (or “identity”), when used with reference to an individual person means to state his/her full name, present home address, present business address, present home telephone number, and present business telephone number; his/her present or last known position and business affiliation; and his/her position and business affiliation at the time in question. The term “identify” (or “identity”), when used with reference to a partnership, joint venture, trust, corporation or other entity, means to state the full legal name of such entity; each and every trademark, trade name or other name under which such entity does business; the entity's street address, mailing address and telephone number; and the identity of the chief operation officer, manager, trustee or other principal representative. The term “identify” (or “identity”), when used with reference to documents, means to state specifically (1) the type of document involved (*e.g.*, whether interoffice memorandum, etc.), together with information sufficient to enable defendants to identify the document, such as its date, the name of any addressee, the name of any signor, the title or heading of the document and its approximate number of pages; and (b) the identity of the person last known to have possession of the document, together with the present or last known location of the document.

**DOCUMENT:** The term “document” means any written, electronic, recorded or other graphic matter, however produced or reproduced. It includes all matter that relates or refers in whole or in part to the subjects referred to in any data request. If a document has been prepared in several copies, or if additional copies have been made, and the copies are not identical or have undergone alteration, each non-identical copy is a separate “document.” This definition includes, but is not limited to, the following: any paper, writing chart, memo, note, letter, interoffice memo, intra-office memo, report, study, statement, map, log entry, drawing, photograph, sketch, picture, tape recording, electronic document, or record of any type or description, and any other verbal or pictorial representation of any event or idea which has transpired, whether meant for communication to others or for personal need.

**BARNHART ROAD CROSSING** is USDOT Crossing Number 104526P, Milepost 62.40, which is the subject of BNSF's petition TR-140383.

**NORTH STEVENS ROAD CROSSING** is USDOT Crossing Number 104516J, Railroad Milepost 68.40, which is the subject of BNSF's position TR-140382.

**CROSSING** Collectively, the Barnhart Road Crossing and the North Stevens Road Crossing are referred to as the “crossing” or “crossings.”

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**PETITIONS** BNSF's petitions in TR-140383 and TR-140382 are referred to collectively as BNSF's "petitions."

**Yakima County Data Request No. 1:** Please produce all documents relating to the visibility, site distance and/or traffic at each of the railroad crossings at Meyers Road, North Stevens Road, South Track Road, Indian Church Road, Barnhart Road and Satus Longhouse Road, including but not limited to traffic counts and all photos, videos, and diagrams reflecting such crossings.

**ANSWER:** BNSF objects to this Data Request on the following grounds: (1) it seeks information protected from disclosure by the work product privilege; and (2) it seeks documents in the exclusive control of Yakima County, the Yakama Nation, or another party. Subject to and without waiving the foregoing objections, BNSF responds as follows: Attached please find all non-privileged responsive documents in BNSF's possession, custody, or control, which have not already been produced.

Date prepared: March 23, 2015.  
Preparers: BNSF Attorneys and Staff  
Witness with knowledge about this response:

**Yakima County Data Request No. 2:** Please produce all documents constituting or relating to communications between BNSF or its representatives on the one part, and Gary A. Norris, on the other part, regarding the Barnhart Road or N. Stevens Road crossings, Mr. Norris' prefiled testimony, and/or the BNSF petitions for closure of the crossings, including but not limited to any draft testimony provided to or by such individuals.

**ANSWER:** BNSF objects to this Data Request on the following grounds: (1) it seeks information protected from disclosure by the attorney-client privilege or work product privilege. Subject to and without waiving the foregoing objection, BNSF responds as follows: Attached please find all non-privileged responsive documents in BNSF's possession, custody, or control.

Date prepared: March 23, 2015.  
Preparers: BNSF Attorneys and Staff, and Gary Norris.  
Witness with knowledge about this response: Gary Norris.

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**Yakima County Data Request No. 3:** Please produce all documents constituting or relating to communications between BNSF or its representatives on the one part, and Foster Peterson, on the other part, regarding the Barnhart Road or North Stevens Road crossings, Mr. Peterson's prefiled testimony, and/or the BNSF petitions for closure of the crossings, including but not limited to any draft testimony provided to or by such individual.

**ANSWER:** BNSF objects to this Data Request on the following grounds: (1) it seeks information protected from disclosure by the attorney-client privilege or work product privilege. Subject to and without waiving the foregoing objection, BNSF responds as follows: Attached please find all non-privileged responsive documents in BNSF's possession, custody, or control.

Date prepared: March 23, 2015.  
Preparers: BNSF Attorneys and Staff, and Foster Peterson.  
Witness with knowledge about this response: Foster Peterson.

**Yakima County Data Request No. 4:** Please produce all documents constituting or relating to communications between BNSF or its representatives on the one part, and Ken Bearchief, on the other part, regarding the Barnhart Road or N. Stevens Road crossings, Mr. Bearchief's prefiled testimony, and/or the BNSF petitions for closure of the crossings, including but not limited to any draft testimony provided to or by such individuals.

**ANSWER:** BNSF objects to this Data Request on the following grounds: (1) it seeks information protected from disclosure by the attorney-client privilege or work product privilege. Subject to and without waiving the foregoing objection, BNSF responds as follows: Attached please find all non-privileged responsive documents in BNSF's possession, custody, or control.

Date prepared: March 23, 2015.  
Preparers: BNSF Attorneys and Staff, and Ken Bearchief.  
Witness with knowledge about this response: Ken Bearchief.

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DATED THIS 23<sup>rd</sup> day of March, 2015.

Montgomery Scarp, PLLC

A handwritten signature in black ink, appearing to read "Bradley Scarp", written over a horizontal line.

Bradley Scarp  
WSBA # 21453  
1218 Third Avenue, Suite 2500  
Seattle, WA 98101  
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Facsimile: (206) 625-1807  
[brad@montgomeryscarp.com](mailto:brad@montgomeryscarp.com)

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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 2500, Seattle, Washington, 98101.

I hereby certify that *BNSF's Responses to Yakima County's Third Data Requests* have been sent by VIA electronic mail and U.S. MAIL to the following parties:

Mr. Kenneth W. Harper  
Menke Jackson Beyer, LLP  
807 North 39<sup>th</sup> Avenue  
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Mr. R. Joseph Sexton  
Galanda Broadman, PLLC  
8606 35th Avenue NE, Suite L1  
P.O. Box 15146  
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[joe@galandabroadman.com](mailto:joe@galandabroadman.com)

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

DATED this 23<sup>rd</sup> day of March 2015, at Seattle, Washington.

  
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Lisa Miller, Paralegal