

Docket No. TR-140382 and TR-140383

Yakima County's Second Data Requests to BNSF –WITH BNSF'S RESPONSES

February 6, 2015

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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."

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**Yakima County Data Request No. 1:** Please provide any existing traffic data related to the crossings, including but not limited to daily and peak hour volumes and types of vehicles, crash history, roadway users, roadway classifications [degree of importance, principal, minor, local access], any speed data [or traffic over crossing and adjacent highway and other road(s)].

**ANSWER:** Attached please find the documents containing traffic data relied on by our expert, Gary Norris in forming his opinions.

Date prepared: February 6, 2015

Preparers: BNSF Attorneys and Staff

Witness with knowledge about this response: Gary Norris

**Yakima County Data Request No. 2:** Please produce all documents constituting “Engineers Unusual Incident Report,” dated from January 1, 1990, to present, pertaining to incidents reported within one mile of the crossings. An illustrative example of the category of completed document to which this request relates is attached hereto as Exhibit A.

**ANSWER:** Exhibit A, “Engineers Unusual Incident Reports” is an old version of the form no longer in use by BNSF. The newer version of the form is to be filled out and turned in when one of the criteria listed on the form occurs, for example, an emergency application of the brakes is induced by the engineer for any reason. In the past, if there was any action that needed to be taken in response to the report, it was handled when it was received and the reports themselves were not routinely preserved. Of the reports that have been retained by the existing manager, there are none in the system that are responsive to this request.

Date prepared: February 6, 2015

Preparers: BNSF Attorneys and Staff

Witness with knowledge about this response: Michael Tycksen

**Yakima County Data Request No. 3:** Please produce all documents constituting “Report of Unsafe Motorist/Trespasser,” dated from January 1, 1990, to present, pertaining to incidents/reports/activities within one mile of the crossings. An illustrative example of the category of completed document to which this request relates is attached hereto as Exhibit B.

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**ANSWER:** BNSF was unable to locate Unsafe Motorist/Trespasser reports for the crossings requested.

Date prepared: February 6, 2015

Preparers: BNSF Attorneys and Staff

Witness with knowledge about this response: Michael Tycksen; David Agee

DATED THIS 6<sup>th</sup> day of February, 2015.

Montgomery Scarp, PLLC

s/ Bradley Scarp

Bradley Scarp

WSBA # 21453

1218 Third Avenue, Suite 2500

Seattle, WA 98101

Telephone: (206) 625-1801

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 *Yakima County's Second Data Requests to BNSF AND BNSF'S RESPONSES* 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  
Yakima, WA 98902  
[kharper@mjbe.com](mailto:kharper@mjbe.com)

Mr. Ethan Jones  
Confederated Tribes & Bands of the  
Yakama Nation  
401 Fort Road  
Toppenish WA 98948  
[ethan@yakamanation-olc.org](mailto:ethan@yakamanation-olc.org)

Mr. R. Joseph Sexton  
Galanda Broadman, PLLC  
8606 35th Avenue NE, Suite L1  
P.O. Box 15146  
Seattle WA 98115  
[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 6<sup>th</sup> day of February 2015, at Seattle, Washington.

  
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Lisa Miller, Paralegal