

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERE TO RECEIVED**

July 24, 2014

Page 1

SEP 26 2014

To Yakima County:

MONTGOMERY SCARP, PLLC

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 (a) 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 petition TR-140382.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 2

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

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

BNSF DATA REQUEST NO. 1:

The County previously petitioned to close the crossings. Please produce all documents pertaining to, approving, supporting, analyzing, criticizing, or reviewing those petitions, including Commission minutes, graphs, charts, maps, photographs, reports, schematics, notes, objections, e-mails, letters, or other correspondence.

ANSWER TO DATA REQUEST NO. 1:

Objection. Respondent objects to the request to the extent responsive documents are covered by the attorney-client privilege or the attorney work product doctrine. Documents as to which respondent is asserting the attorney-client privilege or work product protection are identified on the privilege log being produced contemporaneously with these answers.

Without waiving this objection, responsive documents are provided on the enclosed CD at subfolder BNSF Data Request No. 1.

Date prepared: September 19, 2014.

Preparers: Kent McHenry, Traffic Engineering Manager, Yakima County Department of Public Services; Kenneth W. Harper, Menke Jackson Beyer, LLP.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt, Yakima County Engineer; Mike Leita, Yakima County Commissioner; Kevin Bouchey, Yakima County Commissioner, Rand Elliott, Yakima County Commissioner.

BNSF DATA REQUEST NO. 2:

Please produce copies of all traffic studies, reports, and analyses performed by or on behalf of the County or otherwise in the possession of the County relating to the County's previous petitions to close the crossings.

ANSWER TO DATA REQUEST NO. 2:

See enclosed CD at subfolder BNSF Data Request No. 2.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 3:

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 3

Please produce all charts, maps, diagrams, schematics, sketches, drawings, videos, or photographs showing or depicting the crossings.

ANSWER TO DATA REQUEST NO. 3:

Objection. A request for “all” records that depict the crossings is unduly burdensome. Yakima County and its departments maintain a large volume of data and records. Yakima County cannot, as a practical matter, certify that “all” records depicting the crossings have been located and produced.

Without waiving this objection, Yakima County’s records pertaining to the County’s prior petitions to close the crossings and the present petitions of BNSF contain depictions of the crossings. Those records are disclosed herein in response to the various data requests of BNSF. See also the enclosed CD at subfolder BNSF Data Request No. 3.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Matt Pietrusiewicz, Road Maintenance Manager, Yakima County Department of Public Services.

BNSF DATA REQUEST NO. 4:

Please provide the roadway geometry for the railway crossing roadways and adjacent roadways for the crossings, including right of way width, pavement width, any channelization [pavement marking, line delineations], distance from crossing to intersecting roadways, etc.

ANSWER TO DATA REQUEST NO. 4:

See enclosed CD at subfolder BNSF Data Request No. 4.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Matt Pietrusiewicz.

BNSF DATA REQUEST NO. 5:

Please provide 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 classification [degree of importance, principal, minor, local access], any speed data [of traffic over crossing and adjacent highway and other road(s)].

ANSWER TO DATA REQUEST NO. 5:

See enclosed CD at subfolder BNSF Data Request Nos. 4 and 5.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 4

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 6:

Please provide any record of verbal or written complaints, accidents or incidents at the crossings.

ANSWER TO DATA REQUEST NO. 6:

Respondent is not presently aware of any records of verbal or written complaints, accidents or incidents at the crossings. Discovery is ongoing and this answer may be supplemented.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 7:

Please provide all documents relating to existing traffic control, including but not limited to railroad crossing protection devices, traffic control on intersecting streets, if any, – i.e., all warning devices at or near or approaching the crossings.

ANSWER TO DATA REQUEST NO. 7:

See enclosed CD at subfolder BNSF Data Request No. 7.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 8:

Please produce all documents relating to ownership of or right to use the properties adjacent to the crossings, including but not limited to any lease agreements, usage agreements, license agreements, easements, or other type of agreement related to the use of the adjacent properties.

ANSWER TO DATA REQUEST NO. 8:

Objection. Respondent objects to the request for “all” documents relating to the ownership of these properties. The request is overly broad and unduly burdensome. Respondent further objects that the request for documents relating to the “right to use” the properties is vague. Without waiving this objection, certain information about these

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 5

properties is available from websites maintained by the Yakima County Assessor and the Yakima County Auditor. This information is equally available to BNSF.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Matt Pietrusiewicz.

BNSF DATA REQUEST NO. 9:

Please identify and provide the locations of emergency services (e.g. police, fire, medical aid) that use the crossings. For such police, fire, medical aid, or other emergency services using the crossing, please provide a (most recent) five year history of calls requiring such emergency services to use the crossing, including location of the caller and responder. For these emergency services that used the crossing during those years, provide documents and/or information showing the number of times the emergency services have used the crossing.

ANSWER TO DATA REQUEST NO. 9:

In response to Data Request Nos. 9, 10 and 11, respondent possesses a large map that depicts the locations of emergency services in relation to the crossings. The map is too large to be readily reproduced, but is available for inspection at Yakima County Public Services. Respondent is attempting to produce an electronic version of this map and will disclose the same as soon as it is available. This answer will be supplemented.

Yakima County Public Services Department has identified no records depicting a history of calls requiring emergency services to use the crossings. Discovery is ongoing, and respondent is making inquiry of other administrative departments of Yakima County. This answer may be supplemented.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 10

For the two public railroad crossings adjacent to the Barnhart Road Crossing (the one to the northwest) at Indian Church Road and (the one to the southeast) at N. Satus Road/Satus Longhouse Road, please identify and provide the locations of emergency services, police, fire, or medical aid that use those two adjacent crossings. For such police, fire, medical aid, or other emergency services using the crossings, please provide a (most recent) five year history of calls requiring such emergency services to use each crossing, including location of the caller and responder. For these emergency services that used each crossing, provide documents and/or information showing the number of times the emergency services have used each crossing.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 6

ANSWER TO DATA REQUEST NO. 10:

See response to Data Request No. 9.

Yakima County Public Services Department has identified no records depicting a history of calls requiring emergency services to use the crossings at Indian Church Road and N. Satus Road/Satus Longhouse Road. Discovery is ongoing, and respondent is making inquiry of other administrative departments of Yakima County. This answer may be supplemented.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 11:

For the two public railroad crossings adjacent to the N. Stevens Road Crossing (the one to the northwest) at N. Meyers Road and (the one to the southeast) at S. Track Road, please identify and provide the locations of emergency services, police, fire, and medical aid that use those two adjacent crossings. For such police, fire, medical aid, or other emergency services using the crossings, please provide a (most recent) five year history of calls requiring such emergency services to use each crossing, including location of the caller and responder. For these emergency services that used each crossing, provide documents and/or information showing the number of times the emergency services have used each crossing.

ANSWER TO DATA REQUEST NO. 11:

See response to Data Request No. 9.

Yakima County Public Services Department has identified no records depicting a history of calls requiring emergency services to use the crossings at N. Meyers Road and S. Track Road. Respondent has identified no records showing the number of times emergency services have used these crossings. This answer may be supplemented.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 12:

Please identify the road authority for the road at the railway crossings and for the four adjacent railway crossings.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 7

ANSWER TO DATA REQUEST NO. 12:

Yakima County maintains the roads at the railway crossings and the four adjacent crossings.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Matt Pietrusiewicz.

BNSF DATA REQUEST NO. 13:

Identify any school district bus routes over the railway crossings.

ANSWER TO DATA REQUEST NO. 13:

See enclosed CD at subfolder BNSF Data Request No. 13.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Blaine Thorington, Transportation Director, Toppenish School District; Margarita Lopez, Superintendent, Granger School District.

BNSF DATA REQUEST NO. 14:

Identify any school district bus routes over the two crossings adjacent to each railway crossing.

ANSWER TO DATA REQUEST NO. 14:

See enclosed CD at subfolder BNSF Data Request No. 13.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Blaine Thorington; Margarita Lopez.

BNSF DATA REQUEST NO. 15:

Do you disagree with any facts alleged in either of the petitions filed by BNSF? If so, please state each fact with which you disagree, and reasons why you disagree with it.

ANSWER TO DATA REQUEST NO. 15:

Objection. This request calls for information protected by the attorney work product doctrine because respondent's analysis of the allegations in the petitions filed by BNSF is ongoing, as is its analysis of BNSF's recent production of information in response to data

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 8

requests. Without waiving this objection, respondent does not agree with the average daily vehicle counts for both crossings as reported in the petitions. Respondent will supplement this answer.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 16:

Please identify all witnesses (expert and lay) you intend to call at the hearing.

ANSWER TO DATA REQUEST NO. 16:

Mr. Kent McHenry
Traffic Engineering Manager
Yakima County Public Services
128 North 2nd Street, 4th Floor
Yakima WA 98901

Mr. Gary Ekstedt
County Engineer
Yakima County Public Services
128 North Second Street #408
Yakima WA 98901

Respondent reserves the right to call additional witnesses who may be disclosed in a supplemental response.

Respondent has not yet made a decision as to expert witnesses.

Date prepared:

Preparers: Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 17:

Please state the substance of witnesses' testimony (expert and lay) you intend to present in this matter.

ANSWER TO DATA REQUEST NO. 17:

Mr. McHenry and Mr. Ekstedt are expected to testify about the current use of Barnhart Road and N. Stevens Road in the vicinity of the crossings. Mr. McHenry and Mr. Ekstedt are expected to testify about anticipated impacts of closing these crossings.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 9

These impacts include increased safety risk on SR-22 and operational challenges for adjacent agricultural operations.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 18:

Please state all reasons why you withdrew your earlier petition to close the crossings. Please provide County Commission meeting minutes and discussion related to withdrawing the closure petition.

ANSWER TO DATA REQUEST NO. 18:

The reasons for withdrawing the petition are set forth in the March 20, 2013, letter from the Yakima County Board of Commissioners to David Danner, Executive Director and Secretary of the Washington State Utilities and Transportation Commission. The letter is provided as page 90 in the .pdf file entitled "Petition Document" in response to Data Request No. 1.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Mike Leita; Kevin Bouchey; Rand Elliott.

BNSF DATA REQUEST NO. 19:

Please identify the person or persons involved in the decision to file your earlier petitions to close the crossings. Please provide documentation of any discussion before the County Commission related to the earlier petition.

ANSWER TO DATA REQUEST NO. 19:

Gary Ekstedt, Kevin Bouchey (commissioner), Mike Leita (commissioner), Rand Elliott (commissioner). Respondent has not located any documentation of discussions before the County Commission relating to the earlier petitions.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Gary Ekstedt; Kevin Bouchey; Mike Leita; Rand Elliott.

BNSF DATA REQUEST NO. 20:

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 10

Please identify the person or persons involved in the decision to withdraw your earlier petitions to close the crossings. If requested by County Commission, please provide Commission minutes documenting the deliberation.

ANSWER TO DATA REQUEST NO. 20:

Gary Ekstedt, Kevin Bouchey (commissioner), Mike Leita (commissioner), Rand Elliott (commissioner). Respondent has identified no commission minutes documenting the deliberation.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Gary Ekstedt; Kevin Bouchey; Mike Leita; Rand Elliott.

BNSF DATA REQUEST NO. 21:

In the Yakima County Board of Commissioners' March 20, 2013 letter to Mr. David Danner of the WUTC, the Commissioners stated "the crossings are used by local farmers to move farm implements." Please provide all documents in possession of the Yakima County Board of Commissioners as of March 20, 2013 that support that statement.

ANSWER TO DATA REQUEST NO. 21:

See enclosed CD at subfolder BNSF Data Request No. 21.

Date prepared: September 19, 2014.

Preparers: Kent McHenry, Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Kevin Bouchey; Mike Leita; Rand Elliott.

BNSF DATA REQUEST NO. 22:

Please identify all local farmers who, in the year proceeding March 20, 2013, moved farm implements over each crossing, what farm implements the farmers moved, the dates and times of day the implements were moved, and the point of origin and destination of each such implement that was moved across each railway crossing.

ANSWER TO DATA REQUEST NO. 22:

Objection. The request for "all" local farmers who used the crossings and the implements they moved, etc., is overbroad and unduly burdensome. Respondent does not monitor the identities of persons who use rail crossings in Yakima County.

Without waiving this objection, some farmers who claim to have moved farm implements over each crossing are identified on the enclosed CD at subfolder BNSF Data Request

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 11

No. 23. Respondent does not at present have additional information or documents responsive to this request. This answer may be supplemented.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Kevin Bouchey; Mike Leita; Rand Elliott.

BNSF DATA REQUEST NO. 23:

In the Yakima County Board of Commissioners' March 20, 2013 letter to Mr. David Danner of the WUTC, the Commissioners stated "[t]hese [farm] implements are very slow moving and have to travel on the shoulders of State Route 22 and other public roads." Please provide all documents in possession of the Yakima County Board of Commissioners as of March 20, 2013 that support that statement. Please identify the roadway geometry, (# of lanes, width, lane delineation, any channelization, and shoulder width) along the SR 22 section used by farm equipment.

ANSWER TO DATA REQUEST NO. 23:

Documents that support the Commissioner's statement are found on the enclosed CD at subfolder BNSF Data Request Nos. 21 and 23. Respondent does not have or maintain records that depict the roadway geometry along SR-22 in the vicinity of the crossings.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt; Kevin Bouchey; Mike Leita; Rand Elliott.

BNSF DATA REQUEST NO. 24:

If the crossings are closed, for the year following each closure, please identify the farm implements (or an estimate of the number) you expect would be required to travel on State Route 22 and other public roads, the owners of those implements, the point of origin and destination of each such implement that would be moved on State Route 22 and other public roads, the route that would be traveled, and the dates of travel. Please provide all documents that support or relate to your answers to the foregoing questions in this paragraph.

ANSWER TO DATA REQUEST NO. 24:

Objection. This request is vague, overly broad, and unduly burdensome in seeking the identity of specific farm implements owned or operated by third parties that may travel over public roads. Without waiving this objection, respondent does not presently have an estimate of the farm implements it expects to travel on SR-22 or other public roads as a result of the closings but discovery is ongoing and this answer may be supplemented.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 12

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 25:

In your counsel's March 27, 2014, letter to Mr. David Pratt of the WUTC, your counsel stated that the "County is well aware of significant conflict, including fatalities, associated with farm equipment traveling on public roads." Please provide all documents that support or relate to this statement. Please identify the "public roads" to which the letter refers.

ANSWER TO DATA REQUEST NO. 25:

See enclosed CD at subfolder Data Request No. 25. The reference to "public roads" encompasses roads within Yakima County that are not privately owned or maintained and in particular those identified in records produced in response to Data Request No. 25.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 26:

Please provide all documents related to accidents, including fatalities, involving farm equipment traveling on all Yakima County Roads for the past five years. Please provide all documentation during the last five years related to conflicts between farm equipment, motor vehicles and pedestrians.

ANSWER TO DATA REQUEST NO. 26:

See enclosed CD at subfolder Data Request No. 25.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 27:

In your counsel's March 27, 2014, letter to Mr. David Pratt of the WUTC, your counsel stated "[t]his conflict is heightened in terms of both the probability and consequences of risk to the public where the road in question is also a state highway." Please provide all documents that support or relate to that statement.

ANSWER TO DATA REQUEST NO. 27:

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

Page 13

Please see documents produced in response to BNSF Data Request Nos. 21, 23, 25.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 28:

Provide a map or other equivalent visual depiction showing ownership of land adjacent to the BNSF right of way from the W. Satus Road/Satus Longhouse Road crossing to the Indian Church crossing (i.e., the area between the two public crossings adjacent to the Barnhart crossing).

ANSWER TO DATA REQUEST NO. 28:

See enclosed CD at subfolder Data Request No. 28.

Date prepared: September 19, 2014.

Preparers: Kent McHenry, Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 29:

Provide a map or other equivalent visual depiction showing ownership of land adjacent to the BNSF right of way from the N. Meyers crossing to the S. Track crossing (i.e., the area between the two public crossings adjacent to the N. Stevens Road crossing).

ANSWER TO DATA REQUEST NO. 29:

See enclosed CD at subfolder Data Request No. 29.

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry; Gary Ekstedt.

BNSF DATA REQUEST NO. 30:

Identify any public transportation (excluding school district buses) routes over the crossings and scheduled times or frequency of service.

ANSWER TO DATA REQUEST NO. 30:

None known at this time.

Docket No. TR-140382 and TR 140383

BNSF's First Data Requests to Yakima County – **AND RESPONSES THERETO**

July 24, 2014

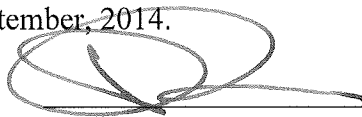
Page 14

Date prepared: September 19, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

Witness with knowledge about this response: Kent McHenry.

DATED THIS 25th day of September, 2014.



KENNETH W. HARPER

WSBA #25578

Menke Jackson Beyer, LLP

Attorneys for Yakima County

CERTIFICATE OF SERVICE

I am over the age of 18; not a party to this action. I am the assistant to an attorney with Menke Jackson Beyer, LLP, whose address is 807 North 39th Avenue, Yakima, WA 98902.

I hereby certify that BNSF's First Data Requests to Yakima County – and Responses Thereto have been sent by overnight delivery to the following parties:

Mr. Tom Montgomery
Mr. Bradley Scarp
Attorneys at Law
Montgomery Scarp, PLLC
1218 Third Avenue, Suite 2500
Seattle WA 98101

Mr. Ethan Jones
Associate Attorney
Confederated Tribes & Bands of the Yakama Nation
401 Fort Road
Toppenish WA 98948

Mr. Patrick J. Oshie
Assistant Attorney General
Office of the Attorney General/Utilities and Transportation Division
1400 S. Evergreen Park Drive S.W.
Olympia WA 98504-0128

Dated this 25th day of September, 2014.



Kathy S. Lyczewski

PRIVILEGE LOG

Yakima County - WUTC PETITIONS

LOG	DOC. DATE	TIME	RECIPIENT	AUTHOR	COURTESY COPY	DESCR. OF DOC.	PRIVILEGE CLAIMED	PRESENT LOCATION
1	Nov. 9, 2012	8:49:00 AM	Kent McHenry, Gary Ekstedt	Terry Austin	Jefferson Spencer	email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP
2	Nov. 13, 2012	9:03:00 AM	Terry Austin	Jefferson Spencer	Kent McHenry, Gary Ekstedt	email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP
3	Nov. 13, 2012	9:11:00 AM	Terry Austin, Kent McHenry, Gary Ekstedt	Jefferson Spencer		email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP
4	Nov. 13:2012	9:48:00 AM	Jefferson Spencer, Terry Austin, Gary Ekstedt	Kent McHenry		email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP
5	Nov. 9, 2012	9:22:00 AM	Terry Austin	Kent McHenry		email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP
6	Nov. 9, 2012	10:45:00 AM	Kent McHenry	Terry Austin		email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP
7	Nov. 2, 2012	8:53:00 AM	Kent McHenry, Gary Ekstedt	Terry Austin		email	attorney-client privilege	Yakima County & Menke Jackson Beyer, LLP