

Docket No. TR-140382 and TR 140383

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

July 24, 2014

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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.

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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.”

SUPPLEMENTAL ANSWERS

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.

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 9:

See enclosed CD at subfolder BNSF Data Request No. 9 and BNSF Data Request Nos. 9-11.

Date prepared: October 20, 2014.

Preparers: CarriAnn Ross, Records Supervisor, Yakima County Sheriff; Kenneth W. Harper.

Witness with knowledge about this response: CarriAnn Ross, Records Supervisor, Yakima County Sheriff

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.

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 10:

See enclosed CD at subfolder BNSF Data Request Nos. 9-11.

Date prepared: October 20, 2014.

Preparers: CarriAnn Ross, Records Supervisor, Yakima County Sheriff; Kenneth W. Harper.

Witness with knowledge about this response: CarriAnn Ross, Records Supervisor, Yakima County Sheriff

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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.

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 11:

See enclosed CD at subfolder BNSF Data Request Nos. 9-11.

Date prepared: October 20, 2014.

Preparers: CarriAnn Ross, Records Supervisor, Yakima County Sheriff; Kenneth W. Harper.

Witness with knowledge about this response: CarriAnn Ross, Records Supervisor, Yakima County Sheriff

BNSF DATA REQUEST NO. 16:

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

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 16:

In addition to the witnesses identified in the County's response dated September 25, 2014, the County intends to call the following witnesses:

Andy Curfman
T & K Farms
1621 State Route 223, Toppenish, WA 98948
509.840.3349

Allen Zechinno
Zechinno Farms
1543 Satus Longhouse Rd., Granger, WA 98932
509.391.0137

Curtis Parish
S.P. Farms & Ranch
230 S. Division St., Toppenish, WA 98948
509.945.0154

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Philip Sealock
Sealock Farms
1601 Larue Rd., Toppenish, WA 98948
509.952.4457

Steve Bangs
761 Blue Heron Road, Toppenish, WA 98948
D & S Farms
509.949.9860

Tom Rollins
Crop Production Services
12 Buena Way, Toppenish, WA 98948
509.865.4111

Dave Troutman
Simplot Soilbuilders
102501 Biggam Road, Prosser, WA 99350
509.391.0136

Ed Boob
Husch & Husch Fertilizer and Chemicals
8031 Branch Road, Harrah WA 98933
509.848.2951

Date prepared: October 20, 2014

Preparers: Quinn N. Plant

Witness with knowledge about this response: Andy Curfman, Allen Zechinno, Curtis Parish, Philip Sealock, Steve Bangs, Tom Rollins, Dave Troutman, Ed Boob

BNSF DATA REQUEST NO. 17:

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

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 16:

Andy Curfman will testify about T & K Farms' farming operations in the vicinity of the N. Stevens Road railroad at-grade crossing. He will testify about how the proposed closure of this railroad at-grade crossing will impact T & K Farms' farming operations. He will testify about the numbers and types of farming equipment that will be diverted onto SR 22 if the N. Stevens Road railroad at-grade crossing is closed. He will testify about a collision that occurred on SR 22 in which a motor vehicle collided with farm equipment being moved by T & K Farms.

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Allen Zechinno will testify about Zechinno Farms' farming operations in the vicinity of the Barnhart Road railroad at-grade crossing. He will testify about how the proposed closure of this railroad at-grade crossing will impact Zechinno Farms' farming operations. He will testify about the numbers and types of farming equipment that will be diverted onto SR 22 if the Barnhart Road railroad at-grade crossing is closed.

Curtis Parish will testify about SP Farms and Ranches' farming operations in the vicinity of the N. Stevens Road railroad at-grade crossing. He will testify about how the proposed closure of this railroad at-grade crossing will impact SP Farms and Ranches' farming operations. He will testify about the numbers and types of farming equipment that will be diverted onto SR 22 if the N. Stevens Road railroad at-grade crossing is closed.

Philip Sealock will testify about Sealock Farms' farming operations in the vicinity of the N. Stevens Road railroad at-grade crossing. He will testify about how the proposed closure of this railroad at-grade crossing will impact Sealock Farms' farming operations. He will testify about the numbers and types of farming equipment that will be diverted onto alternate routes, including SR 22, if the N. Stevens Road railroad at-grade crossing is closed.

Steve Bangs will testify about D & S Farms' farming operations in the vicinity of the N. Stevens Road railroad at-grade crossing. He will testify about how the proposed closure of this railroad at-grade crossing will impact D & S Farms' farming operations. He will testify about the numbers and types of farming equipment that will be diverted onto alternate routes, including SR 22, if the N. Stevens Road railroad at-grade crossing is closed.

Tom Rollins will testify about Crop Production Services' use of the N. Stevens Road and Barnhart Road railroad at-grade crossings during the normal course of business operations. He will testify about the numbers and types of farming equipment that will be diverted onto alternate routes, including SR 22, if the N. Stevens Road and Barnhart Road railroad at-grade crossings are closed.

Dave Troutman will testify about Simplot's use of the N. Stevens Road and Barnhart Road railroad at-grade crossings during the normal course of business operations. He will testify that Simplot delivers a large volume of liquid and solid fertilizer to farms along both sides of the BNSF line in the vicinity of the crossings. He will testify that closing the crossings will cause an increase in the number of occasions on which these trucks will be required to travel on SR 22.

Ed Boob will testify about Husch & Husch Fertilizer and Chemical's use of the N. Stevens Road and Barnhart Road railroad at-grade crossings during the normal course of business operations. He will testify about the numbers and types of farming equipment

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that will be diverted onto alternate routes, including SR 22, if the N. Stevens Road and Barnhart Road railroad at-grade crossings are closed.

Date prepared: October 20, 2014

Preparers: Quinn N. Plant

Witness with knowledge about this response: Andy Curfman, Allen Zechinno, Curtis Parish, Philip Sealock, Steve Bangs, Tom Rollins, Dave Troutman, Ed Boob

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.

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 22:

Farmers who have moved farm equipment over the N. Stevens Road and Barnhart Road railroad at-grade crossings in the year proceeding March 20, 2013, include, but are not limited to Andy Curfman, Craig Oswalt, Dean Oswalt, Allen Zechinno, Curtis Parish, Philip Sealock and Steve Bangs. Known contact information for most of these individuals is produced in supplemental answer to Data Request No. 15. Known contact information for Dean Oswalt and Craig Oswalt is 543 Chausee Road, Granger, WA, 98932, tel. 509.840.3727.

Farm equipment moved across the N. Stevens Road and Barnhart Road railroad at-grade crossings in the year proceeding March 20, 2013, include, but are not limited to: tractors; disc rippers; ditcher bars; rod weeders; side-dressing boards; self-propelled sprayers; corn planters; corn choppers; land rollers and corrugators; TerraGators; RoGators; swathers; choppers (with tanks); grain drills; combines; straw bailers; maintenance rigs; trucks of various size including up to semi-trucks.

On information and belief, the above-identified individuals do not maintain records as to the dates and times of day the equipment was moved during the year proceeding March 20, 2013.

The above-described farm equipment was moved from farm land on both sides of the BNSF line to farm land on the other side of the BNSF line as part of routine farming operations of, among others, T & K Farms, Dean Oswalt, Craig Oswalt, Zechinno Farms, S & P Farms and Ranches, Philip Sealock (dba Sealock Farms) and D & S Farms.

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Date prepared: October 20, 2014

Preparers: Quinn N. Plant

Witness with knowledge about this response: Andy Curfman, Allen Zechinno, Dean Oswalt, Craig Oswalt, Curtis Parish, Philip Sealock, Steve Bangs, Tom Rollins, Dave Troutman, Ed Boob

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.

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 24:

If the crossings are closed, for the year following each closure, all of the farm equipment identified in supplemental answer to Data Request No. 22 will be required to travel on SR 22 and other public roads.

Owners of the farm equipment include, but are not limited to T & K Farms, Zechinno Farms, Philip Sealock Farms, Dean Oswalt, Craig Oswalt, D & S Farms and Ranches, SP Farms, Crop Production Services, Simplot, and Husch & Husch Fertilizer and Chemicals.

The above-described farm equipment will be moved from farm land on both sides of the BNSF line to farm land on the other side of the BNSF line as part of routine farming operations of, among others, T & K Farms, Zechinno Farms, Philip Sealock Farms, Dean Oswalt, Craig Oswalt, D & S Farms and Ranches, SP Farms, and the routine business operation of Crop Production Services, and Husch & Husch Fertilizer and Chemicals. Anticipated dates of travel for the year following closure of the crossings depend on the crop planted, weather conditions, market conditions and machinery availability, and therefore cannot be anticipated with any level of precision. The farming season in general begins in April and runs through harvest in September/October.

Alternate routes that these entities will be required to use are as follows:

- If the N. Stevens Road railroad at-grade crossing is closed, the shortest alternate route for moving farm equipment from T & K Farms' property on the north side of the BNSF line to its property on the south side of the BNSF line involves taking S. Track Road to the northwest for approximately 1.4 miles, turning south and crossing the BNSF line at the Meyers Road crossing, and turning onto and travelling along SR 22 for approximately 1 mile in a southeasterly direction. The route is reversed when moving farm equipment from the south side of the BNSF line to the north side of the BNSF line.

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- If the Barnhart Road railroad at-grade crossing is closed, the shortest alternate route for moving farm equipment to and from acreage farmed by Zechinno Farms south of the BNSF line in the vicinity of Barnhart Road involves travelling south on Satus Longhouse Road across the BNSF line to SR 22, then travelling about two miles in a northwest direction on SR 22. There are two narrow bridge crossings within this two-mile stretch of SR 22.
- If the N. Stevens Road railroad at-grade crossing is closed, the closest alternate route for farm equipment of SP Farms to move between SP farmland on both sides of the BNSF line in the vicinity of N. Stevens Road is about a mile to the southeast on S. Track Road near N. Harris Road. Because N. Harris Road has a bridge with a weight limit, this route is unavailable for the transport of heavy farm equipment. As a result, some farm equipment will be required to travel southeast to the crossing at Wapenish Road and then back along SR 22 for a distance of approximately 1.1 miles. Alternatively, farm equipment could travel northwest to the crossing at Meyers Road and then back along SR 22 for a distance of approximately 1.5 miles.
- Farm equipment utilized by Dean Oswalt, Craig Oswalt and Oswalt Farms uses the Barnhart Road crossing to access acreage south of SR 22. The alternate route involves crossing the BNSF line at Indian Church Road and travelling east on SR 22.
- Farm equipment utilized by Sealock Farms and D & S Farms and Ranches use the N. Stevens Road crossing. Because farming operations are spread out, alternate routes will vary but include those routes utilized by T & K Farms and SP Farms.
- Farm equipment utilized by Crop Production Services, Simplot, and Husch & Husch Fertilizer and Chemicals use both the N. Stevens Road and Barnhart Road crossings. In the event these railroad at-grade crossings are closed, these companies' equipment (primarily TerraGators, RoGators and semi-trucks) will use alternate routes to include those utilized by T & K Farms, Zechinno Farms and SP Farms.

Date prepared: October 20, 2014

Preparers: Quinn N. Plant

Witness with knowledge about this response: Andy Curfman, Allen Zechinno, Dean Oswalt, Craig Oswalt, Curtis Parish, Philip Sealock, Steve Bangs, Tom Rollins, Dave Troutman, Ed Boob

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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).

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 28:

See enclosed CD at subfolder BNSF Data Request No. 28.

Date prepared: October 20, 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).

SUPPLEMENTAL ANSWER TO DATA REQUEST NO. 29:

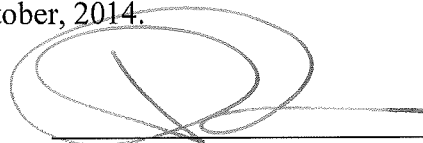
See enclosed CD at subfolder BNSF Data Request No. 29.

Date prepared: October 20, 2014.

Preparers: Kent McHenry; Kenneth W. Harper.

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

DATED THIS 21st day of October, 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.

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I hereby certify that BNSF's First Data Requests to Yakima County – Supplemental Response Thereto (with CD) has been sent by U.S. Mail, First Class 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 21st day of October, 2014.



Kathy S. Lyczewski