

March 31, 2014

Steven King
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Washington Utilities and Transportation Commission
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Via Electronic Mail

Re: Docket TR-140424 BNSF Railway Request for Waiver of the Overhead Clearance Rules in WAC 480-60-040

Dear Mr. King:

On behalf of Sierra Club, Dogwood Initiative, Climate Solutions, and Washington Environmental Council, I am writing to request that the hearing on BNSF's height variance for its proposed surfactant re-spray facility near Pasco, WA be postponed to the UTC's April 24 open hearing.

The undersigned groups only recently learned of the BNSF proceeding and were only able to obtain the underlying documents at issue halfway through the March 27 open meeting,¹ which was not sufficient time for public input. While we appreciate that this issue was postponed from being heard during the March 27 hearing, the UTC's proposed April 10 hearing date for the BNSF re-spray station is less than two weeks away and we would welcome additional time—until the April 24 open meeting—to provide input.

A coal re-spray station in Pasco, WA, is an issue of extraordinary public interest and concern. Too many unanswered questions remain about the re-spray facility for the issue to be heard and resolved at the open meeting on April 10. For instance, what chemicals might the surfactants contain? How will neighbors next to the tracks be impacted? How much water will the re-spray station utilize? What hours will it operate? Will the re-spray station cause significant noise or aesthetic issues given its height and location? Have similar re-spray stations ever been tested or utilized before? How might SEPA apply to this decision? What other permits will BNSF need to obtain in order to build this re-spray station? Where is the coal sprayed by these trains going? If some of this coal is traveling to British Columbia for export, how effective will these surfactants be by the time they reach these B.C. communities?

Railroads have claimed that surfactants are effective for the entire rail journey when they are applied to coal at the mines. Thus, the proposal to build a surfactant re-spray station in Pasco,

¹ The documents were erroneously designated confidential and not posted to the UTC website. After the designation was changed, the documents did not immediately post.

Washington—over 900 miles from the Powder River Basin coal mines in Wyoming and Montana and approximately 400 miles from the ports in British Columbia—should open a conversation about whether those claims about surfactant effectiveness are true. As the Surface Transportation Board has found, coal is “a pernicious ballast foulant.”² BNSF has admitted that “coal dust, even in small amounts, poses a real threat to the integrity of the ballast section and track stability.”³ Since ballast stability is a public safety issue, the UTC should be raising questions about the effectiveness of this purported solution.

We believe that the re-spray station proposed by BNSF may be in reaction to mitigation commitments made to residents of British Columbia facing coal export expansion proposals. *See Exh. A.* The UTC should be considering such broader links.

The public is extremely concerned about issues relating to coal transportation and coal exports. Hundreds of thousands of comments were received in conjunction with the coal export scoping process for the proposed Longview and Gateway Pacific Terminals. There is a Clean Water Act case pending against BNSF for its alleged discharges of coal, petroleum coke, surfactants, and related byproducts to Washington’s waterways without a permit.

Given the significant public concern over coal issues, especially those relating to coal transportation, we respectfully request that the hearing on this issue be delayed to the April 24 UTC open hearing to provide adequate time for public comment.

Sincerely,



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² See Surface Transportation Board Decision, *Re: Ark Arkansas Electric Cooperative Corporation - Petition for Declaratory Order*, Docket No. FD 35305 (Mar. 3, 2011) (available at <http://www.stb.dot.gov/decisions/readingroom.nsf/WebDecisionID/40436?OpenDocument>).

³ See Testimony of Gregory Fox, Vice President of Transportation for BNSF, Surface Transportation Board Hearing Transcript (“STB Hearing Transcript”), *Re: Arkansas Electric Cooperative Corporation – Petition for Declaratory Order*, Docket No. FD 35305 (July 29, 2010), Tape 42:06; Tr. 46:18-20.