

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

BNSF RAILWAY COMPANY,
Petitioner

vs.
YAKIMA COUNTY,

Respondent,

YAKAMA NATION,

Intervenor.

DOCKET NO: TR-140382 and
DOCKET NO: TR-140383

PREFILED TESTIMONY OF
KEN BEARCHIEF ON BEHALF OF
PETITIONER BNSF RAILWAY
COMPANY

INTRODUCTION

Q: What is your name and business address?

A: My name is Ken Bearchief. My business address is my home office: 210 Buena Way,
Toppenish, WA 98948.

Q: What do you do for a living?

A: I am a retired independent contractor. I worked for over 20 years for Tamaki Law,
which has offices in Yakima, Kennewick, and Bellevue, Washington.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Q: Where do you live? How long have you lived there?

A: I live at 210 Buena Way, Toppenish, WA 98948. I have lived here since I purchased the property in 2011.

Q: Are you a Native American?

A: Yes.

Q: Do you belong to a tribe?

A: Yes.

Q: Which? Where are they located?

A: I am a member of the Nooksack Tribe, located in Deming, WA, near Bellingham, WA. The Nooksack are my mother's tribe.

Q: Do you have an affiliation with the Yakama Tribe?

A: Yes. I have been married to two Yakama women, and I have five children who are members of the Yakama Tribe. I have numerous aunts, uncles, and cousins who are all Yakama. I have lived here in and around Toppenish for 63 years, so I also have many friends and acquaintances who are Yakama.

Q: Do you have any personal experience with grade crossing accidents?

A: Yes.

Q: Please tell the commission about those.

A: My stepfather and his wife were gravely injured at a crossing 1 mile south of Toppenish - this was in the 1970s – I don't remember the name of the road. It was at night; there was no signal at the crossing. My stepfather was permanently disfigured.

1 I have had other relatives and friends injured at crossings. In the mid 1990s a friend of
2 mine was crossing at an at grade crossing when her car sputtered. She and her young son
3 were both ejected from the car. She suffered brain trauma; he was miraculously ok.
4

5 Q: Are you familiar with the at-grade railroad crossings at Stevens Road and Barnhart
6 Road in the Toppenish area?

7 A: I am.
8

9 Q: Would you like to see those grade crossings closed?

10 A: Yes.
11

12 Q: Why?

13 A: There are other, safer crossings very nearby that can be used. These two crossings are
14 mostly used by farm equipment, and then only part of the year, and they are not
15 necessary. The safety risk of leaving them open is too high. Many of the crossings
16 without signals in the area are infrequently used, so people forget they need to slow
17 down and look both ways. Something needs to be done to increase safety. I think
18 closing these crossing is a good thing because they are not that used and they are
19 dangerous.
20

21 Q: How is your health, and has that been a factor in preparing this declaration?

22 A: I am recovering from spinal surgery. I have been in and out of the hospital for the last
23 several weeks, but am doing well now considering. I have been hard to reach and was
24 unable to prepare this declaration until now.
25
26
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

DECLARATION

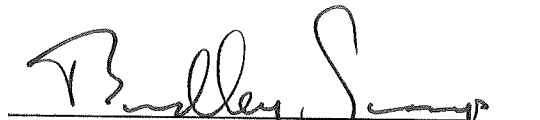
I, KEN BEARCHIEF, declare under penalty of perjury under the laws of the State of Washington that the foregoing PREFILED TESTIMONY OF KEN BEARCHIEF ON BEHALF OF PETITIONER BNSF RAILWAY COMPANY is true and correct to the best of my knowledge and belief.

DATED this 22 day of January 2015 at Toppenish, Washington.


KEN BEARCHIEF

DATED this 23rd day of January, 2015.

Montgomery Scarp, PLLC


Tom Montgomery, WA. Bar No. 19998
Bradley P. Scarp, WA. Bar No. 21453
Of Attorneys for BNSF Railway Company
1218 Third Ave., Ste. 2500
Seattle, WA 08101
Tel. (206) 625-1801
Fax (206) 625-1807
tom@montgomeryscarp.com
brad@montgomeryscarp.com