

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
November 4, 2013
Part of the Public
Record

STB Docket No. AB-6 (Sub-No. 465X)

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON (Woodinville Subdivision)**

STB Finance Docket No. 35731

**BALLARD TERMINAL RAILROAD COMPANY, L.L.C. – ACQUISITION AND
OPERATION EXEMPTION – WOODINVILLE SUBDIVISION – VERIFIED PETITION
FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502**

**REPLY OF KING COUNTY, WASHINGTON, CENTRAL PUGET SOUND REGIONAL
TRANSIT AUTHORITY, AND THE CITY OF KIRKLAND TO BALLARD TERMINAL
RAILROAD COMPANY, L.L.C.'S REQUEST FOR EXTENSION OF TIME**

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Dated: November 4, 2013

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King County, Washington, Central Puget Sound Regional Transit Authority (“Sound Transit”), and the City of Kirkland (collectively, the “Public Entities”), jointly oppose Ballard Terminal Railroad Company, LLC’s (“BTR”) request for an extension of over 60 days to file its Reply to the Comments filed by the Public Entities in the above-captioned matters. As set forth below, an extension until November 20 would be appropriate, but nothing further.

In its August 22, 2013 Order, the Board modified the procedural schedule in these proceedings, making Comments due on October 1 and Replies to Comments due 20 days later on October 21. This schedule would allow the Board to meet its deadline of January 17, 2014 to issue a final decision. *See* 78 Fed. Reg. 24,465, 24,466 (Apr. 25, 2013). In anticipation of the federal government shutdown, Kirkland filed its Comments on September 30. King County and Sound Transit filed their joint Comments on October 17, the first day the Board reopened after the shutdown. On October 24, BTR filed a “Support Statement” that actually appears to be

Comments by BTR on its own petitions. Under the 20-day reply period provided in the August 22 Order, BTR's Reply should be due by November 6, 2013.

Now BTR seeks an extension until January 13, 2014 to file its Reply, giving it a total of 88 days to reply to King County and Sound Transit's Comments and 105 days to reply to Kirkland's Comments. That is more than four times the length of the standard reply period as set forth in the Board's August 22 Order. BTR claims it needs that additional time because of the volume of documents the parties have produced in response to BTR's discovery requests. But nothing about the document production justifies the extraordinary extension requested by BTR.

To begin with, the documents produced by the Public Entities are, at best, of marginal relevance to this case. As the Board explained on page 5 of its August 1 order denying BTR's motion for a preliminary injunction, the material issues in these proceedings are whether BTR has sufficient financial capacity to acquire property rights in the Line, install new tracks, and operate the Line, and whether there exists bona fide shipper demand. The information needed for BTR to prevail on these issues concerns the business of BTR and the entities BTR has identified as potential shippers. It is not in the files of the Public Entities.

The Public Entities' responses to BTR's discovery requests confirm this conclusion:

- As King County detailed in its written discovery responses, its lawyers participated in the depositions of Bobby Wolford of Wolford Trucking & Demolition, Inc. and Michael Skrivan of CalPortland, in which BTR also participated. King County also described the communications of county officials with two real estate developers (Wright Runstad & Company and Kemper Development) that BTR believes will desire to ship construction spoils and materials on the Line. Only once – and orally – did a county official discuss such freight service with a Wright Runstad representative, and that representative stated that Wright Runstad did not intend utilize any freight service. *See* King County's Interrogatory Responses, No. 3 (attached as Exhibit 1). No one else from King County is known to have meaningfully communicated with any other potential shippers regarding freight service on the Line.

- Sound Transit explained in its interrogatory responses that, other than its lawyers' participation in the deposition of Mr. Wolford, it has not had any communications regarding freight rail service on the Line with any potential shippers. Sound Transit is in the process of planning for a multibillion dollar light rail project within the corridor and potential rail facilities on nearby property, and it has both explained the nature of and produced communications with these nearby property owners (*e.g.*, Wright Runstad and Safeway, Inc.). But these communications do not concern the material issues identified by the Board. *See Sound Transit's Interrogatory Responses* (attached as Ex. 2).
- Kirkland likewise explained that its attorneys participated in depositions for these proceedings and that some of its officials inquired of both Wright Runstad and Safeway about whether either was interested in receiving freight rail service on the Line. *See Kirkland's Interrogatory Responses*, Nos. 3, 5 (attached as Ex. 3). Neither was. Kirkland has not had any other communications regarding freight service on the Line with any other supposed potential shippers.

To the extent the Public Entities have had any communications with potential shippers, they have provided Ballard with descriptions of these few communications – none of which, it bears mentioning, supports Ballard's position. As to Ballard's financial position, the Public Entities do not have any information about BTR's financial position that BTR has not provided.

The Public Entities' document searches further confirmed that they do not have the information BTR seeks and needs. BTR made sweeping discovery requests, which forced the Public Entities to collect a massive amount of potentially responsive documents for review: at least 26,502 documents in all, totaling more than 100,801 pages. The Public Entities focused their initial document review and production efforts on materials most likely to yield relevant information. Between them, the Public Entities have reviewed a total of at least 7,002 documents. Of the documents reviewed thus far, 4,786 documents totaling 29,631 pages were arguably responsive and produced. None of these documents concerned Ballard's financial position, and only a tiny fraction have any relation to the possibility of freight service demand. King County and Kirkland provided those materials to BTR, including communications and

other documents referenced in their interrogatory answers, in their document productions of July 22, August 2, 9, and 29, and September 24. As explained above, Sound Transit has not communicated with potential shippers about freight service on the Line outside of depositions in this case and has searched for and is not aware of any documents concerning this topic in its possession, but nonetheless produced documents on October 29, 2013, relating to communications with two entities, Safeway and Wright-Runstad, that BTR believes are potential shippers. As noted above, however, none of those documents relates to demand to use the Line for freight service. Thus, further review of the Public Entities' documents is highly unlikely to yield any information relevant to the material issues in this case.

Yet BTR's extension request would significantly extend the duration of these proceedings in order to complete that unnecessary review. That is not warranted under the Board's discovery rules, and the Public Entities are seeking a protective order to terminate additional discovery in a separate joint motion filed contemporaneously with this reply.

With respect to BTR's claim that it requires considerable additional time to review documents already produced, BTR ignores the fact that it has had the documents produced pursuant to the Public Entities' targeted review for several weeks. The Public Entities provided complete responses to BTR's interrogatories on July 19 and produced a total of 4,346 documents on a rolling basis between July 22 and September 24, with one additional production of 440 documents by Sound Transit on October 29. As explained above, the Public Entities first searched for and produced documents relating to the arguably material issues, of which there were only a small number. Sound Transit's October 29 production included documents relating to communications about the development of light rail infrastructure and facilities within and near the corridor with nearby property owners. BTR, therefore, has had one to three months to

review the bulk of the documents, including the small number that could potentially be viewed as pertinent to the material issues in this case. Given the fact that BTR is represented by two law firms and has its own staff, as well as support from individuals associated with Eastside Community Rail, that time, plus the time between now and November 6, is more than sufficient to review the documents that BTR requested. Despite all of this time and potential workforce, it appears from BTR's request that it has not done much, if any, substantive review to date.

As the Board held in its August 1 decision denying BTR's request for injunction, BTR had not demonstrated a likelihood of success that it could meet the Board's test for reactivation. Since then, Kirkland has completed salvage of the tracks which, by BTR's admission, makes reactivation uneconomic. BTR's October 24 Support Statement fails to demonstrate any new shipper demand, and equally fails to demonstrate that BTR is financially capable of acquiring the necessary property interests in the Line, installing new tracks, and operating the Line. The lack of new information in BTR's October 24 Support Statement makes plain that BTR's petition remains unfounded and that BTR is trying to draw out these proceedings in the hopes that shipper demand, property rights, and financing will somehow materialize in the future, and thus allow BTR to meet its burden of proof at some uncertain future date. That approach is contrary to the Board's rules, which required BTR to present its case-in-chief at the time it filed its petitions. *See* 49 C.F.R. § 1121.3(a). BTR has had multiple opportunities in these already-delayed proceedings to make its case, including its petitions, motion for preliminary injunction, petition for reconsideration, and support statement. BTR has failed at every turn.

There is no reason to believe that documents produced by the Public Entities will enable BTR to meet its burden, whether now or in the future. Indeed, in all of its papers filed with the Board since the Public Entities began making productions, not once has BTR cited to any of the

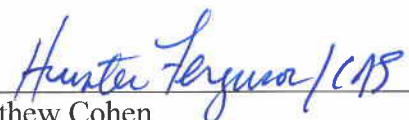
documents produced by the Public Entities. There likewise is no reason to believe that documents not yet reviewed and produced will support BTR's petitions. Although the Public Entities believe that BTR could have completed its review and prepared its Reply by November 6, the Public Entities would not object to a two-week extension, to November 20, to allow BTR to do so. But an extension until January 13, as BTR requests, would unduly delay these proceedings beyond the decision period provided in the Board's standing procedural order in this case without materially improving the quality of the record before the Board. The Board should therefore deny BTR's pretextual request.

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CONCLUSION

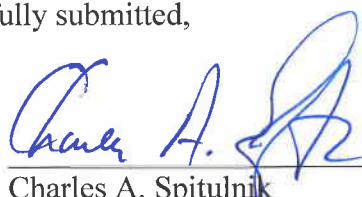
As the Board has explained, the critical issues in this proceeding are whether BTR has the financial wherewithal to acquire property interests in the Line and operate service, and whether there is a credible demand for rail service. The documents that BTR claims it needs additional time to review do not bear on these issues. There is no need for extensive additional time, and the Board should deny BTR's extension request.

Respectfully submitted,



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Dated: November 4, 2013

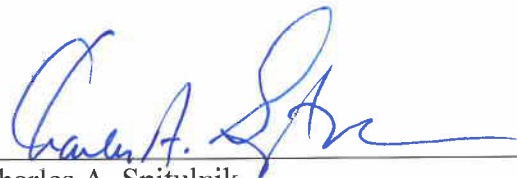
CERTIFICATE OF SERVICE

I hereby certify that I am providing a copy of REPLY OF KING COUNTY, WASHINGTON AND CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY TO BALLARD TERMINAL RAILROAD COMPANY, L.L.C.'S REQUEST FOR EXTENSION OF TIME upon the following parties of record by email and by first class U.S. mail, postage prepaid and properly addressed:

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Dated this 4th day of November, 2013

EXHIBIT 1

**BEFORE THE
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**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND REQUESTS TO
ADMIT**

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Counsel for King County, Washington

Dated: July 19, 2013

King County, Washington ("the County") hereby submits its objections and answers to Ballard Terminal Railroad Company, LLC's First Interrogatories And Requests To Admit ("Discovery Requests").

GENERAL OBJECTIONS

Each and every one of King County's responses to these Discovery Requests is subject to and incorporates the following general objections, as applicable. These objections are set forth here to avoid the duplication and repetition of restating them for each interrogatory and request. Some general objections may be referred to in a given answer for purposes of clarity. The failure to list a particular general objection in a given answer should not be construed as a waiver of that objection.

1. The County objects to these Discovery Requests to the extent that they call for the disclosure of information protected by the attorney-client privilege, common-interest privilege, or other privilege and/or the right of privacy.

2. The County objects to these Discovery Requests to the extent that they call for the disclosure of information protected by the attorney work-product privilege.

3. The County objects to these Discovery Requests to the extent that they impose any obligations on the County beyond those permitted under the Code of Federal Regulations and the United States Code.

4. The County objects to these Discovery Requests to the extent that they call for information that neither is relevant to the subject matter of the pending proceedings, nor appears reasonably calculated to lead to the discovery of admissible evidence.

5. The County objects to these Discovery Requests to the extent that they are unduly burdensome and the time and effort required to attempt to compile all responsive information or documents outweighs the potential discoverability or probative value thereof.

6. The County objects to these Discovery Requests to the extent that they are designed to cause undue annoyance, harassment, or oppression.

7. The County objects to these Discovery Requests to the extent that they are overly broad with respect to scope, context, and/or time period.

8. The County objects to these Discovery Requests to the extent that they are vague, indefinite, or ambiguous and as such would require the County to speculate as to the meaning or scope of the discovery request and potentially responsive information.

9. Notwithstanding these objections, the County's responses to these Discovery Requests are based upon a diligent search by the County and its counsel. Discovery and other investigation and research concerning these proceedings are continuing. The County, therefore, reserves the right to amend or supplement its responses at any time in light of deposition testimony, further investigation, research, or analysis, to the extent permitted or required by law, and to introduce any and all evidence in these proceedings.

RESPONSES TO INTERROGATORIES

Subject to, and without waiving, the foregoing objections, King County responds to Ballard's First Interrogatories as follows:

INTERROGATORY NO.1:

Has King County had any communications with officers, employees, or representatives of Wolford Trucking and Demolition, Inc., relating to (1) the Line; (2) shipping or development

along the Line; (3) this STB proceeding; or (4) Wolford Trucking's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. This interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. King County is a general-purpose local government comprised of three independent branches, numerous elected and appointed offices, and various agencies ranging from law enforcement to public health to tax collection to land-use permitting to regional wastewater treatment to parks and recreation and beyond. King County government employs over twelve thousand people. It is impossible to know whether one or more individual King County employees may have communicated with Wolford Trucking and Demolition, Inc., or any representatives of Wolford Trucking and Demolition, Inc. (collectively, "Wolford") in relation to the matters described in Interrogatory No. 1. It is overbroad, unreasonable and unduly burdensome for King County to ask each and every employee to respond to this interrogatory. Furthermore, any one of them may have had independent reasons to communicate with Wolford regarding the matters so described. Inquiring of every King County employee whether they may have communicated with Wolford regarding the above matters is not reasonably calculated to lead to information relevant to these proceedings.

Without waiving the above objections, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with Wolford regarding the matters specified in Interrogatory No. 1, each of them answered "no," with the following exception:

A. Deputy Prosecuting Attorney Andrew Marcuse attended the deposition of Bobby Wolford on May 16, 2013, and asked questions of Mr. Wolford on the record, to which Mr. Wolford responded on the record. Legal counsel for Ballard attended Mr. Wolford's deposition and Ballard's counsel already has access to the verbatim deposition transcript and exhibits. The verbatim transcript and exhibits speak for themselves.

INTERROGATORY NO. 2:

Has King County had any communications with officers, employees, or representatives of CalPortland Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) CalPortland's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. CalPortland is a major supplier of concrete, aggregate, and other building materials and is a major industrial landowner and employer in the King County area and any number of King County employees may have communicated with them for any number of reasons.

Without waiving the above objection, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with CalPortland regarding the matters specified in Interrogatory No. 2, each of them answered "no," with the following exceptions:

- A. In May of 2013, Deputy Prosecuting Attorney Andrew Marcuse served several deposition notices upon CalPortland employee Michael Skrivan and CalPortland's General Counsel, Mr. Scott Isaacson. In May of 2013, Mr. Marcuse also exchanged a few phone calls and emails with Mr. Skrivan regarding the scheduling of his deposition and documents to be produced in connection with that deposition. Mr. Marcuse subsequently had a handful of telephone and email communications with CalPortland's General Counsel, Mr. Scott Isaacson, and its local counsel, Mr. Benjamin Stone, all of which communications concerned Mr. Skrivan's deposition and documents to be produced in connection with that deposition. Mr. Marcuse attended Mr. Skrivan's deposition on May 28, 2013. Legal counsel for Ballard also attended Mr. Skrivan's deposition. Mr. Marcuse did not ask questions of Mr. Skrivan at the deposition. Ballard's counsel already has access to the verbatim transcript and exhibits from that deposition, as well as the documents that CalPortland produced to King County in connection with that deposition. The verbatim deposition transcript and exhibits and the produced documents speak for themselves.
- B. In May of 2013, Deputy Prosecuting Attorney Pete Ramels participated in a few of Mr. Marcuse's telephone calls with CalPortland's General Counsel, Mr. Scott Isaacson, regarding the scheduling of Mr. Skrivan's deposition and documents to be produced in connection with that deposition. Mr. Ramels did not attend Mr. Skrivan's deposition. Legal counsel for Ballard attended Mr. Skrivan's May 28 deposition and Ballard's counsel already has access to the verbatim transcript and exhibits from that deposition, as well as the documents that CalPortland produced to King County in connection with that deposition. The verbatim deposition transcript and exhibits and the produced documents speak for themselves.

INTERROGATORY NO. 3:

Has King County had any communications with officers, employees, or representatives of Wright Runstad & Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Wright Runstad's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. Wright Runstad & Company ("Wright Runstad") is a major real estate developer and employer in the King County area and any number of King County employees may have communicated with them for any number of reasons.

Without waiving the above objection, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with Wright Runstad regarding the matters specified in Interrogatory No. 3, each of them answered "no," with the following exceptions:

- A. King County Executive Chief of Staff Sung Yang met with Mr. Greg Johnson, President, Wright Runstad & Company, once on November 20, 2012, and again on June 19, 2013. Mr. Yang's recollection is that meeting on November 20, 2012, took place at the Starbucks coffee shop on the 40th floor of the Columbia Center building in downtown

Seattle, Washington. At the meeting Mr. Yang expressed his excitement about the County's likely acquisition of portions of the Corridor from the Port of Seattle, which acquisition later occurred in the first quarter of 2013. Mr. Yang further expressed his opinion that the Line could be an amenity for Wright Runstad's "Spring District" redevelopment project.

In addition, Mr. Yang, having previously received Mr. Doug Engle's assertion that Wright Runstad and Sound Transit could use freight rail to haul construction materials to the "Spring District" project and Sound Transit's "East Link" light rail project, inquired of Mr. Johnson whether he agreed with that assertion. Based on Mr. Johnson's response, it was Mr. Yang's impression that Mr. Johnson and Wright Runstad had no intent to use the Eastside Rail Corridor to transport construction materials. At the November 20, 2012 meeting, Mr. Yang did not attempt to dissuade Mr. Johnson or Wright Runstad & Company from using freight rail to move construction materials. It was Mr. Yang's impression that Mr. Johnson had formed a dismissive opinion of the freight rail concept prior to the November 20, 2012 meeting.

It is Mr. Yang's recollection that the June 19, 2013, meeting took place at Mr. Johnson's office. It is Mr. Yang's recollection that he discussed with Mr. Johnson King County's present, evolving concept for potential redevelopment of the Corridor to serve multiple uses, such as trail, light rail or similar transportation, and utilities, and how the Corridor thus might serve as an amenity for Wright Runstad's "Spring District" redevelopment project. At the June 19, 2013, meeting, Mr. Yang did not attempt to dissuade Mr. Johnson or Wright Runstad from using freight rail to move construction materials. Mr. Yang's recollection is that his June 19, 2013, discussion with Mr. Johnson

did not concern freight rail, Ballard Terminal Railway, Eastside Community Rail, or the pending STB petitions.

- B. King County Councilmember Larry Phillips, who also sits on the board of the Central Puget Sound Regional Transit Authority ("Sound Transit"), recollected having met with Wright Runstad & Company regarding Sound Transit's planned use of a portion of the Line for its "East Link" light rail line. To his recollection that meeting related to Sound Transit's plans and its potential benefit for the "Spring District" redevelopment, and did not relate to freight rail use of the Line. Councilmember Phillips could not provide specifics about the time or place of the meeting, or the name of the person or persons with whom he met. Councilmember Phillips reported a vague memory of possibly speaking with someone about Ballard's STB petitions but he could not presently recollect any specifics about the conversation, or the time or place, or who the conversation was with, or whether it was even with a representative of Wright Runstad & Company.
- C. Councilmember Phillips' Legislative Aide, Ms. Leah Zoppi, recalls attending a meeting between Councilmember Phillips and Greg Johnson on October 3, 2012. At the meeting, Ms. Zoppi recalls that Mr. Johnson wanted to discuss a public/private partnership with regard to elements of Sound Transit's planned "East Link" light rail line and potential maintenance facility locations adjacent to Wright Runstad's planned "Spring District" development. Ms. Zoppi's recollection is that Mr. Johnson hoped Sound Transit would find another location for its maintenance facility, but, if not, that Sound Transit would develop the maintenance facility to be compatible with Wright Runstad's plans for the Spring District. Ms. Zoppi does not recall any discussion of freight rail use of the Line,

excursion rail use of the Line, Ballard Terminal Railroad, Eastside Community Rail, Doug Engle, Byron Cole, or Ernie Wilson.

INTERROGATORY NO. 4:

Has King County had any communications with officers, employees, or representatives of Kemper Development Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Kemper Development's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. Kemper Development Company is a major developer and employer in the King County area and any number of King County employees may have communicated with them for any number of reasons.

Without waiving the above objection, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with Kemper Development Company regarding the matters specified in Interrogatory No. 4, each of them answered "no," except for King County Councilmember Jane Hague. For Councilmember Hague's response, please see Verified Statement of Jane Hague, attached as Exhibit B hereto.

INTERROGATORY NO. 5:

Has King County had any communications with officers, employees, or representatives of Safeway Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Safeway's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. Safeway Company is a major grocery chain, gas-station operator, land developer, and employer in the King County area and any number of King County employees may have communicated with Safeway Company for any number of reasons.

Without waiving the above objection, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with Safeway Company regarding the matters specified in Interrogatory No. 5, each of them answered "no."

INTERROGATORY NO. 6:

Has King County had any communications with officers, employees, or representatives of Sterling Realty Organization relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) the potential shipper or developers' communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers; (d) the nature of the

communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. Sterling Realty Organization is a major land developer and employer in the King County area and any number of King County employees may have communicated with them for any number of reasons.

Without waiving the above objection, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with Sterling Realty Organization regarding the matters specified in Interrogatory No. 6, each of them answered "no."

INTERROGATORY NO. 7:

Has King County had any communications with officers, employees, or representatives of any potential shipper or developer known to King County, not previously mentioned herein, relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) the potential shipper or developers' communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad,

unduly burdensome, and not reasonably calculated to lead to relevant information. King County further objects to this interrogatory because it calls for King County to speculate and engage in conjecture as to what person or entity may be or have been a “potential shipper or developer.” Any business or businessperson dealing in goods or materials is a potential shipper. Any business or businessperson owning land is a potential developer. It is impossible for King County to know whether any of its myriad employees might have communicated with someone in this open-ended class of persons and entities regarding the matters listed in this interrogatory.

King County understands that with this Interrogatory No. 7, Ballard seeks information about communications (a) between King County and persons or entities that are or were interested either in sending or receiving goods or materials via freight rail service on the Line, or (b) between King County and for-profit real estate development firms and relating to the Line. With this understanding, and without waiving the above objections, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they have had communications with potential shippers or developers regarding the matters specified in Interrogatory No. 7, each of them answered “no” except for King County Councilmember Kathy Lambert.

Councilmember Lambert recalled that years ago, prior to the Port’s 2009 acquisition of the Woodinville Subdivision, she received a phone call from someone she described as a “flour shipper.” Councilmember Lambert was unable to identify the flour shipper or the locations to or from which flour was being shipped. To her recollection, the flour shipper described a call from then-King County Executive Ron Sims, in which Executive Sims reportedly offered the flour shipper up to five years of subsidized trans-load (trucking) service if the shipper were to end its

use of rail service on the Woodinville Subdivision. She recollected that the shipper wanted to discuss what would happen after the five-year period was over.

INTERROGATORY NO. 8:

Is King County aware of any agreements between Safeway and BNSF regarding the use of freight on the Line, or otherwise relating to shipments to Bellevue? If the answer is in the affirmative, state the nature of any agreements and identify any documents pertaining to such agreements.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. In addition, King County objects to this Interrogatory No. 8 because it calls for King County to speculate as to the meaning and scope of the imprecise and undefined terms “agreements” and “shipments.” It is impossible for King County to know whether any of its myriad employees might have knowledge of some sort of “agreement” between BNSF and Safeway regarding “shipments” or the use of freight rail.

Without waiving the above objections, or the General Objections, King County identified a subset of King County-employed people who could potentially have information responsive to these Discovery Requests. The list of people identified is attached as Exhibit A to these responses. When asked if they were aware of any agreements between Safeway and BNSF regarding the use of freight on the Eastside Rail Corridor, or otherwise relating to shipments to Bellevue, each of them answered “no” except for the following individuals:

- A. Deputy Prosecuting Attorney Andrew Marcuse
- B. Deputy Prosecuting Attorney Pete Ramels

C. Christine Jensen, Legislative Aide to King County Councilmember Kathy Lambert

The only agreement of which Mr. Marcuse and Mr. Ramels are aware is a possible agreement for transload as alluded to BNSF's petition for authority to abandon the Line, and in Safeway Company's letter of support to the Surface Transportation Board regarding BNSF's petition. Copies of those documents will be provided in King County's response to Ballard's requests for production. Mr. Marcuse and Mr. Ramels do not recall ever having seen the actual BNSF-Safeway transload agreement (assuming that one exists). To their present knowledge King County does not now have and has not in the past had a copy of any such agreement between BNSF and Safeway.

Ms. Jensen had a general recollection of having seen an email to King County Councilmember Kathy Lambert quite some time ago, which email mentioned an agreement for shipping between BNSF and Safeway. Ms. Jensen's present recollection is that the email left her with the impression that such an agreement existed. Ms. Jensen has never seen the agreement (assuming that one exists), and she has never had a copy of it.

INTERROGATORY NO. 9:

Identify all King County employees, officials, and personnel who are involved in setting policy and making decisions regarding freight use on the Eastside Rail Corridor and reactivation rights on the Line. For each individual named, provide their official title.

ANSWER:

Objection. For the reasons set forth in response to Interrogatory No. 1, which response is incorporated by this reference as if fully set forth herein, this interrogatory is overbroad, unduly burdensome, and not reasonably calculated to lead to relevant information. Furthermore, King County objects to this Interrogatory No. 9 because it calls for King County to speculate as

to the meaning and scope of the imprecise and undefined term “involved.” Any number of persons may be “involved” in setting policy or making decisions by providing information, performing research, assessing costs and benefits, providing advice or counsel, or performing other tasks, without actually exercising any policy-setting or decision-making authority. The number of persons that may be “involved” in this way is enormous and varies on an ad hoc basis depending on the issues involved. It is unduly burdensome for King County to attempt to identify this open-ended set of people, and unlikely to lead to relevant information.

Without waiving the above objections, or the General Objections, by law the King County Council is the policy-making body in King County. *See* King County Charter Section 220.20 (“The county council shall be the policy determining body of the county . . .”). Similarly, under the King County Charter the King County Executive is charged with managing real property, executing King County’s legal responsibilities, and generally administering the day-to-day operations of King County. *See* King County Charter Section 320.20 (“The county executive shall be the chief executive officer of the county and shall have all the executive powers of the county which are not expressly vested in other specific elective officers by this charter . . .”) The Executive may from time to time rely on his own senior staff or King County Department Directors or Division Directors and their senior staff to communicate his decisions to others. *See* also the specific people identified by an asterisk [*] in Exhibit A attached hereto.

INTERROGATORY NO. 10:

Describe King County's policies regarding freight and other uses of the Eastside Rail Corridor.

ANSWER:

Objection. King County objects to this Interrogatory No. 10 because it calls for King County to speculate as to the meaning and scope of the imprecise and undefined term "policies."

Without waiving this objection, or the General Objections, by law the King County Council is the policy-making body in King County. *See* King County Charter Section 220.20 ("The county council shall be the policy determining body of the county . . ."). King County's policies regarding the Eastside Rail Corridor are thus set forth in and established by the ordinances and motions adopted by the King County Council, and in the final documents relating to King County transactions authorized or approved by ordinance of the King County Council.

RESPONSES TO REQUESTS TO ADMIT

REQUEST NO. 1:

Admit that King County Council Member Jane Hague attended a meeting with Kathy Cox and City of Snohomish Mayor Karen Guzak February 8, 2013, at the Bellevue Harbor Club.

RESPONSE:

Admit.

REQUEST NO. 2:

Admit that during the course of a February 8, 2013, meeting at the Bellevue Harbor club, Kathy Cox, Karen Guzak, and Jane Hague discussed the moving of construction goods to and from Bellevue.

RESPONSE:

Admit.

REQUEST NO. 3:

Admit that King County Council Member Jane Hague stated that "freight is a non-starter" at a February 8, 2013, meeting at the Bellevue Harbor Club with Kathy Cox and Karen Guzak.

RESPONSE:

Denied. See Verified Statement of Jane Hague, attached hereto.

REQUEST NO. 4:

Admit that King County Council Member Jane Hague advised Kathy Cox and Karen Guzak that King County would not allow the reactivation of freight rail operations on the Line.

RESPONSE:

Denied. See Verified Statement of Jane Hague, attached hereto.

REQUEST NO. 5:

Admit that King County Council Member Jane Hague attended a January 24, 2013, meeting of the Eastside TRailway Alliance at Ste Michelle Winery in Woodinville, Washington.

RESPONSE:

Admit.

REQUEST NO. 6:

Admit that King County Council Member Jane Hague stated that "freight is a non-starter" at a January 24, 2013, meeting of the Eastside TRailway Alliance at Ste Michelle Winery in Woodinville, Washington.

RESPONSE:

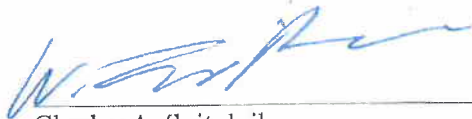
Denied. See Verified Statement of Jane Hague, attached hereto.

REQUEST NO. 7:

Admit that King County Council Member Jane advised attendees at a January 24, 2013, meeting of the Eastside TRailway Alliance at Ste Michelle Winery in Woodinville, Washington, that King County would not allow the reactivation of freight rail operations on the Line.

RESPONSE:

Denied. See Verified Statement of Jane Hague, attached hereto.



Charles A. Spitulnik
W. Eric Pilsk
Allison I. Fultz
KAPLAN KIRSCH & ROCKWELL LLP
1001 Connecticut Avenue, NW
Suite 800
Washington, D.C. 20036
(202) 955-5600
Counsel for King County, Washington

Dated: July 19, 2013

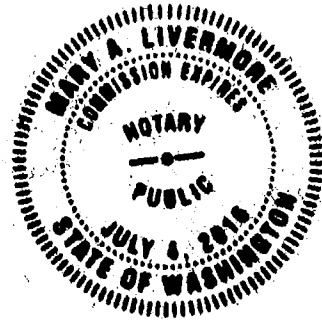
VERIFICATION

I, Sung Yang, being duly sworn, depose and say that I have read King County's Responses to Ballard Terminal Railroad Company, LLC's First Interrogatories, believe the facts asserted therein are true and that the same are true as stated therein. King County's responses were prepared with the assistance of King County employees and with the assistance and advice of counsel. King County's responses are based on King County's review of the records and information currently available. King County reserves the right to make changes or additions to any of these responses if at any time it appears that errors or omissions have been made or if more accurate or complete information becomes available.

Signed: [Signature]
Print Name: SUNG YANG
Title: Chief of Staff

Subscribed and sworn to before me this
19th day of July, 2013

[Signature]
Notary Public
My Commission Expires: 7-4-16



CERTIFICATE OF SERVICE

I hereby certify that I am providing a copy of KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND REQUESTS TO ADMIT upon the following parties of record by email and by first class mail with postage prepaid and properly addressed:

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Chicago, IL 60606-2832

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Tom Montgomery
Montgomery Scarp PLLC
1218 3rd Ave # 2700
Seattle, WA 98101

Attorneys for Ballard Terminal Railway LLC

Matthew Cohen
Hunter Ferguson
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

Attorneys for City of Kirkland

Oskar Rey
The County City Attorney's Office
123 5th Ave
The County, WA 98033

Attorney for City of Kirkland

Craig Watson
Isabel Safora
Office of General Counsel
Port of Seattle
P.O. Box 1209
Seattle, WA 98111
Attorneys for Port of Seattle



W. Eric Pilsk
Kaplan Kirsch & Rockwell, LLC
Counsel for King County, Washington

Dated this 19th day of July, 2013

CERTIFICATE OF SERVICE

I hereby certify that I am providing a copy of KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND REQUESTS TO ADMIT upon the following parties of record by email and by first class mail with postage prepaid and properly addressed:

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Attorneys for City of Kirkland

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Seattle, WA 98101

Attorneys for Ballard Terminal Railway LLC

Oskar Rey
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123 5th Ave
The County, WA 98033

Attorney for City of Kirkland

Craig Watson
Isabel Safora
Office of General Counsel
Port of Seattle
P.O. Box 1209
Seattle, WA 98111

Attorneys for Port of Seattle

W. Eric Pilsk
Kaplan Kirsch & Rockwell, LLC
Counsel for King County, Washington

Dated this 19th day of July, 2013

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND
REQUESTS TO ADMIT**

EXHIBIT A

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
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EXHIBIT A

Name	Title	Agency	* = Involved in policy-setting or decision-making regarding freight use on the Eastside Rail Corridor or reactivation rights on the Line (See King County's Answer to Ballard's First Interrogatories No. 9)
Atherton, Emiko	Legislative Aide	King County Council	
Bourguignon, Mary	Senior Legislative Analyst	King County Council	
Braddock, Shannon	Legislative Aide	King County Council	
Brewer, Jim	Legal Counsel	King County Council	
Christopher, Rob	Legislative Aide	King County Council	
Cusack, Rebecha	Director of Strategic Policy	King County Council	
Dembowski, Rob	Councilmember	King County Council	*
Domingo, Cindy	Legislative Aide	King County Council	

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
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EXHIBIT A

Dunn, Reagan	Councilmember	King County Council	*
Evans, Elizabeth	Legislative Aide	King County Council	
Goff, Tom	Legislative Aide	King County Council	
Gossett, Larry	Councilmember	King County Council	*
Hague, Jane	Councilmember	King County Council	*
Huddleston, Michael	Municipal Relations Manager	King County Council	
Jensen, Christine	Legislative Aide	King County Council	
Kinno, Erika	Legislative Aide	King County Council	
Lambert, Kathy	Councilmember	King County Council	*
McClure, AJ	Legislative Aide	King County Council	
McDermott, Joe	Councilmember	King County Council	*
Noris, Anne	Clerk of the Council	King County Council	

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
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EXHIBIT A

Nuber, Kimberly	Legislative Aide	King County Council	
Patterson, Julia	Councilmember	King County Council	*
Phillips, Larry	Councilmember	King County Council	*
Resha, John	Principal Legislative Analyst	King County Council	
Swift, BrynDel	Legislative Aide	King County Council	
Vadino, Bill	Legislative Aide	King County Council	
Von Reichbauer, Pete	Councilmember	King County Council	*
Zoppi, Leah	Legislative Aide	King County Council	
Auld, Gina	Capital Projects Manager	Facilities Management Division (FMD)	
Bender, Sid	Budget Manager	Performance, Strategy and Budget	
Bromley, Verna	Deputy Prosecuting Attorney	Prosecuting Attorney's Office	

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
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REQUESTS TO ADMIT**

EXHIBIT A

Brown, Kevin	Division Director	Parks and Recreation Division, King County Department of Natural Resources and Parks (KCDNRP)	*
Burns, Bob	Deputy Department Director	KCDNRP	*
Carlson, Diane	Directory of Regional Initiatives	Office of the King County Executive	*
Cleveland, Grover	Business Development Manager	Director's Office, KCDNRP	
Constantine, Dow	King County Executive	Office of the King County Executive	*
Davies, Marc	Paralegal	Prosecuting Attorney's Office	
Davis, Tricia	Budget Manager	Performance, Strategy and Budget Division, Executive	

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND
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EXHIBIT A

		Department	
Dively, Dwight	Division Director	Performance, Strategy and Budget Division, Executive Department	
Engstrom, Kurt	Real Property Agent	Water and Land Resources Division (WLRD), KCDNRP	
Holecek, Linda	Property Agent Supervisor	WLRD, KCDNRP	
Jackson, Robert	Real Property Agent	WLRD, KCDNRP	
Jarrett, Fred	Deputy County Executive	Office of the King County Executive	*
Lehman, Jennifer	Budget/Finance Officer	Parks and Recreation Division, KCDNRP	
Marcuse, Andrew	Deputy Prosecuting Attorney	Prosecuting Attorney's Office	
Nunnenkamp, Robert	Property Agent	Parks and Recreation Division,	

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND
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EXHIBIT A

		KCDNRP	
Nygard, Kathy	Confidential Secretary	Parks and Recreation Division, KCDNRP	
Ramels, Pete	Deputy Prosecuting Attorney	Prosecuting Attorney's Office	
Rich, Jason	Capital Projects Manager	Parks and Recreation Division, KCDNRP	
Salyer, Steve	Section Manager	Real Estate Services Section, FMD, Department of Executive Services	
St. John, David	Government Relations Administrator	Director's Office, KCDNRP	*
Sullivan, Linda	Capital Projects Managing Supervisor	Wastewater Treatment Division, KCDNRP	
Terry, Kathryn	Assistant Division Director	Parks & Recreation Division, KCDNRP	*

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND
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EXHIBIT A

Townsend, Chris	Project Program Manager	Director's Office, FMD, Department of Executive Services	
True, Christie	Department Director	KCDNRP	*
Wilbert, Bill	Environmental Programs Managing Supervisor	Wastewater Treatment Division, KCDNRP	
Williams, Doug	Property Supervisor	Real Estate Services Section, FMD, Department of Executive Services	
Yang, Sung	King County Executive Chief of Staff	Office of the King County Executive	*

STB FINANCE DOCKET NO 35731 AND DOCKET NO. AB-6 (SUB-NO. 465X)

**KING COUNTY, WASHINGTON'S RESPONSES TO BALLARD TERMINAL
RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND
REQUESTS TO ADMIT**

EXHIBIT B

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-6 (Sub-No. 456X)

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING
COUNTY, WASHINGTON
(Woodinville Subdivision, MP 12.6 to MP 23.80)**

STB Finance Docket No. 35731

**BALLRAD TERMINAL RAILWAY LLC – ACQUISITION AND OPERATION
EXEMPTION – WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR
EXEMPTION PURSUANT TO 49 U.S.C. § 10502**

VERIFIED STATEMENT OF JANE HAGUE

I, Jane Hague, do swear and affirm the following to the best of my personal knowledge:

1. I am a member of the King County Council, in which capacity I have represented King County Council District 6 for the past 18-plus years. I was first elected to represent District 6 in 1994 and I was most recently re-elected in 2011. Before my election to the King County Council, I was a member of the Bellevue City Council while I concurrently served as Manager of the King County Records and Elections Division. I have also served as president of the National Association of Counties as well as the Washington Association of Counties.
2. King County Council District 6 encompasses the cities of Bellevue, Clyde Hill, Kirkland, Medina, Mercer Island, and Woodinville, as well as the towns of Beaux

Arts Village, Hunts Point, and Yarrow Point, and a portion of the City of Redmond, as well as portions of unincorporated King County.

3. The Eastside Rail Corridor is a matter of great interest to many of my constituents in District 6 and to others in King and Snohomish counties and beyond. By “Eastside Rail Corridor” I mean the former BNSF Railway line that extends from the City of Renton north along the east side of Lake Washington through Bellevue, Kirkland, Woodinville, and unincorporated King and Snohomish Counties, to the City of Snohomish.
4. As a King County Councilmember I voted to authorize King County to become the interim trail user for the “railbanked” portions of the Corridor, to acquire a multipurpose public easement over the Corridor for trail purposes, and most recently to acquire title to portions of the Corridor, all of which votes and transactions are a matter of public record.
5. As articulated in various public documents such as King County Ordinance 17503, King County Motion 13801, and the charter for the Eastside Rail Corridor Regional Advisory Council, or RAC, as well as the 2009 Memorandum of Understanding between the Port of Seattle, King County, Sound Transit, and others, King County’s position is that the Corridor should be available for multiple interim uses, including but not limited to recreational trail, public transportation, utilities, and other purposes, all subject to reactivation of freight rail as may be authorized by the Surface Transportation Board. I fully support and endorse the County’s policy.

6. In furtherance of that policy I am participating in the RAC process. As set forth in King County Motion 13801, the mission of the RAC is to carry out a regional planning process to coordinate planning and development activities to the extent possible to ensure effective use of the railbanked portions of the Corridor. As of the date of this Verified Statement, the RAC has already met seven times and at least two more meetings are anticipated.
7. As a King County Councilmember and as a participant in the RAC I regularly meet, talk, or correspond with King County citizens, local government leaders, members of the business community, and other interested parties regarding matters concerning the Eastside Rail Corridor.
8. On January 8, 2013, I met with Kathy Cox and City of Snohomish Mayor Karen Guzak at the Bellevue Harbor Club. Ms. Cox and Mayor Guzak explained to me in general terms Eastside Community Rail's concept to move construction materials to and from Bellevue by rail via the Corridor. In response to their presentation, I remarked that it would be politically impossible—I may have said that it would be a “non-starter”—to persuade the City of Kirkland to leave in the existing rails, because City voters approved a City ballot measure to develop a trail, and the ballot measure contemplated that the rails would be removed.
9. Ballard Terminal Railroad's Requests to Admit Nos. 3 and 4 request the County to admit that at the January 8, 2013, meeting I told Ms. Cox and Mayor Guzak that “freight is a non-starter,” and that I also advised them that King County would not allow the reactivation of freight rail operations on the Corridor between

Woodinville and Bellevue. I made no such statements to Ms. Cox and Mayor Guzak. As set forth in Paragraph 5 above, King County's position is that the Corridor should be available for multiple interim uses, including but not limited to recreational trail, public transportation, utilities, and other purposes, all subject to reactivation of freight rail as may be authorized by the Surface Transportation Board. I fully support and endorse the County's policy.

10. On January 24, 2013, I and members of my staff attended a meeting of the Eastside TRailway Alliance at Chateau Ste. Michelle Winery in Woodinville, Washington. As reflected in the Cascadia Center press release attached as Exhibit A to this Verified Statement, the meeting focused on a conceptual "tasting train" excursion service and the business case for that train to go to Bellevue, on a conceptual plan to move construction materials to and from Bellevue by freight rail, and on the City of Kirkland's plan to build a trail and remove the rails in the City's segment of the Corridor. Others at the meeting aggressively encouraged the City to leave the rails in place, and questioned the City's reasons for wanting to remove them. My perception was that the questioning was hostile in tone.
11. At the January 24 TRailway Alliance meeting, I stated that I would not intervene in the City's plan to remove the rails for its trail because City voters had approved a ballot measure that called for the rails to be removed. I may have said that persuading the City otherwise would be a "non-starter" because the voters had spoken. I also expressed my observation that because no businesses had committed to the use of freight rail in Bellevue, there did not seem to be a partnership or plan in place for freight rail use of the Corridor between

Woodinville and Bellevue, such that in combination with the City's plan to remove the rails there did not seem to be a justification for freight rail service to Bellevue.

12. At the end of the January 24 TRailways Alliance meeting, I was standing with Bruce Nurse, who is employed by Kemper Development Company ("Kemper"). Kemper is a major developer in the Bellevue, Washington area. I asked him what he thought of the matters discussed at the meeting. From his response I gathered that Bruce was frustrated that the advocates for Eastside Community Rail and Ballard Terminal Railroad were asserting that Kemper supported freight rail use of the Corridor, because Kemper had not yet determined what its position was, or whether to even take a position on the issue. I do not know whether Kemper has since taken a position, or what that position is.
13. Apart from my brief conversation with Bruce Nurse at the January 24, 2013 meeting of the Eastside TRailways Alliance, I have had no communication with him or with anyone else at Kemper Development Company regarding the Eastside Rail Corridor or regarding any form of rail use of the Corridor.
14. It is my understanding that in his deposition testimony Doug Engle asserted that I visited Kemper Development Company in January or February of 2013 to dissuade Kemper from supporting freight rail use of the Corridor. I did not visit Kemper Development Company and I have never sought to dissuade Kemper from supporting position on freight use of the Corridor. As stated in Paragraph

12, I do not know whether Kemper has taken a position on freight rail use of the Corridor, or what that position is.

15. Ballard Terminal Railroad's Requests to Admit Nos. 7 and 8 request King County to admit that at the Eastside TRailways Alliance meeting on January 24, 2013, I stated that "freight is a non-starter," and that I advised attendees that King County would not allow the reactivation of freight rail operations on the Corridor between Woodinville and Bellevue. I made no such statements. As set forth in Paragraph 5 above, King County's position is that the Corridor should be available for multiple interim uses, including but not limited to recreational trail, public transportation, utilities, and other purposes, all subject to reactivation of freight rail as may be authorized by the Surface Transportation Board. I fully support and endorse the County's policy.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 17, 2013


JANE HAGUE

VERIFIED STATEMENT OF JANE HAGUE

EXHIBIT A

Copy of Cascadia Center Press Release dated January 24, 2013



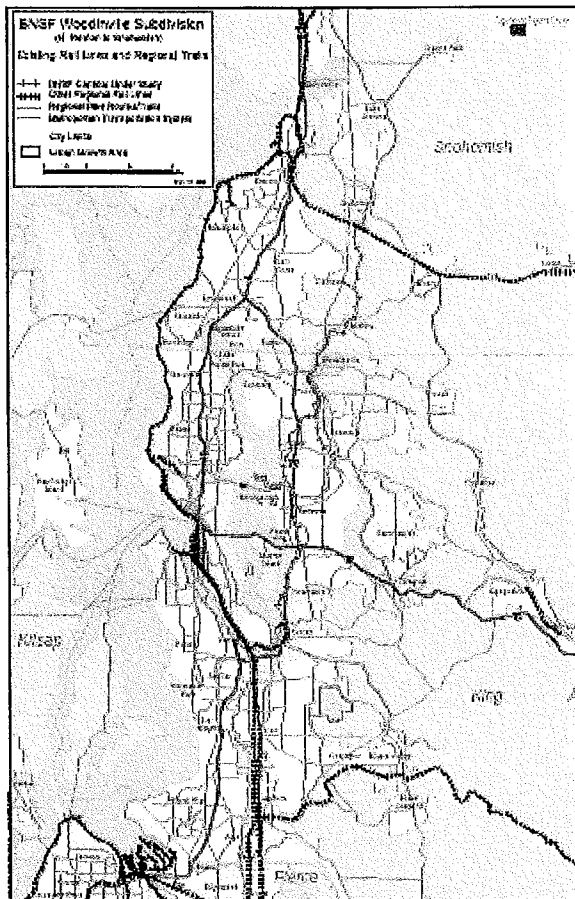
Jan. 24, 2013

Snohomish and King County leaders launch Eastside TRailway Alliance

PLEDGE cooperation between counties and raise concern over imminent track removal in Kirkland

OVERVIEW

Over 40 elected officials, winery owners, business, rail and trail advocates launched the first meeting of the **Eastside TRailway Alliance** at the Chateau St. Michelle Winery in Woodinville last night. Their mission is to support joint rail and trail development on the 42 mile Eastside Rail corridor from Snohomish to Renton, bridge a communication gap between the counties and focus on investing in the north segment.



"We are connected geographically through this remarkable, publicly-owned rail corridor...we need to connect politically for the greater good of the region", said Alliance co-chair Snohomish Mayor Karen Guzak. Les Rubstello, Woodinville City Councilmember and Alliance co-chair added, *"Woodinville is a bull's-eye in the corridor - perfectly aligned with our zoning and infrastructure investments for joint rail and trail use. We had a great relationship previously with the Dinner Train and our wineries and other businesses are eager to provide better access."*

Both co-chairs urged a delay in track removal in Kirkland until a King/Snohomish county cooperative effort is commenced and a feasibility review is conducted on transporting Bellevue construction spoils by rail north for trail construction. They circulated a declaration (attached) for signatures before the next meeting in February.

The session was hosted by the Cascadia Center for Regional Development, a private, non-profit transportation policy center dedicated to joint rail and trail use. Director Bruce Agnew outlined a vision for development of rail and trails along

the corridor emphasizing the role of private developers and interests leveraging public dollars. *"With limited public tax dollars rails and trails need each other financially to work and trains can be "trail extenders" for bicycling families in the two county area,"* he said.

King County Councilmember Jane Hague said, *"the corridor offers an open canvas for many uses"* and expressed support for connecting Snohomish and King County efforts. King County is currently organizing a stakeholder group limited to governments and private sector interests who have financially acquired ownership and easements on the corridor.

Several presenters and attendees questioned David Godfrey, transportation engineering manager for the City of Kirkland over plans by to remove 5.75 miles of track in Kirkland in mid-February. Loren Herrigstad, President of All Aboard Washington said, *"the history of track removal and later replacement in the United States is dismal...once they are gone they never come back. We can not let that happen here."*

Godfrey said the city planned to maintain the raised rail bed of the corridor as they develop a gravel trail and estimated a cost of \$1 million a mile for rail reconstruction sometime in the future.

The Eastside Community Rail group represented by Doug Engle and Kathy Cox has operating rights from the Port of Seattle (which acquired the corridor in 2009) for freight and future excursion trains between Snohomish and Woodinville. Mr. Engle outlined the need for \$6 million in track improvements for the excursion train to begin service and Ms. Cox highlighted the **"Bounty of Washington"** rail excursion concept featuring local wineries and brews as well as locally grown produce. She also said encouraging discussions with the Tulalip Tribes had taken place for use of the Eastside Rail Corridor to connect the tribal entertainment and retail complex with Snohomish's historic district and Woodinville wineries.

Mr. Engle also said the railroad is prepared to haul excavation material and equipment on temporary basis in and out of several public and private mega construction projects in Bellevue north to fill in areas for less expensive trail construction. *"We can save taxpayer dollars, reduce wear and tear on highways, and remove tons of toxic diesel fumes from hundreds of thousands of double dump trucks"*...said Engle. Agnew suggested new LNG-powered locomotives being explored by BNSF Rail way and CN Rail could also reduce air toxics by 80% over traditional diesel powered locomotives. (see attached letter to City of Bellevue)

Peter Camp, representing Snohomish County Executive Aaron Reardon, expressed support for the TRailways Alliance and indicated the County, City of Snohomish and others were exploring a new seven mile track along existing rail and utility rights of way between Snohomish and Everett. The City of Snohomish is constructing a sewer line to Everett and new rail (alongside the current BNSF east west line) could connect Eastside rail travelers to Sounder and the Amtrak *Cascades* service to British Columbia. *"This will open up Snohomish, Skagit counties and Canada to new rail and trail extensions"*, said Mayor Guzak.

The Alliance will meet in three weeks at the Columbia Winery.

For further information contact:

Bruce Agnew
Cascadia Center
206-228-4011

bagnew@discovery.org

EXHIBIT 2

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-6 (Sub-No. 465X)

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON (Woodinville Subdivision)**

STB Finance Docket No. 35731

**BALLARD TERMINAL RAILROAD COMPANY, LLC. – ACQUISITION AND
OPERATION EXEMPTION – WOODINVILLE SUBDIVISION – VERIFIED PETITION
FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502**

**CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY’S RESPONSES TO
BALLARD TERMINAL RAILROAD COMPANY, LLC.’S FIRST INTERROGATORIES**

Communications with respect to this pleading should be addressed to:

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Counsel for Central Puget Sound Regional
Transit Authority

Dated: July 19, 2013

Counsel for Central Puget Sound Regional Transit Authority (“Sound Transit”) hereby submits its objections and answers to Ballard Terminal Railroad Company, LLC’s First Interrogatories (“Interrogatories”).

GENERAL OBJECTIONS

1. Sound Transit objects to these Interrogatories to the extent that they call for the disclosure of information protected by the attorney-client privilege, common-interest privilege, or other privilege and/or the right of privacy.

2. Sound Transit objects to these Interrogatories to the extent that they call for the disclosure of information protected by the attorney work-product privilege.

3. Sound Transit objects to these Interrogatories to the extent that they impose any obligations on Sound Transit beyond those permitted under the Code of Federal Regulations and the United States Code.

4. Sound Transit objects to these Interrogatories to the extent that they call for information that neither is relevant to the subject matter of the pending proceedings, nor appears reasonably calculated to lead to the discovery of admissible evidence.

5. Sound Transit objects to these Interrogatories to the extent that they are unduly burdensome and the time and effort required to attempt to compile all responsive information or documents outweighs the potential discoverability or probative value thereof.

6. Sound Transit objects to these Interrogatories to the extent that they are designed to cause undue annoyance, harassment, or oppression.

7. Sound Transit objects to these Interrogatories to the extent that they are overly broad with respect to scope, context, and/or time period.

8. Sound Transit objects to these Interrogatories to the extent that they are vague, indefinite, or ambiguous and as such would require Sound Transit to speculate as to the meaning or scope of the discovery request and potentially responsive information.

9. Notwithstanding these objections, Sound Transit's responses to these Interrogatories are based upon a diligent search by Sound Transit and its counsel. Discovery and other investigation and research concerning these proceedings are continuing. Sound Transit, therefore, reserves the right to amend or supplement its responses at any time in light of deposition testimony, further investigation, research, or analysis, to the extent permitted or required by law, and to introduce any and all evidence in these proceedings.

RESPONSES TO INTERROGATORIES

Subject to, and without waiving, the foregoing objections, Sound Transit responds to Ballard's First Interrogatories as follows:

INTERROGATORY NO. 1:

Has Sound Transit had any communications with officers, representatives, or employees of Wolford Trucking and Demolition, Inc., relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Wolford Trucking's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER: Other than legal counsel's participation in a deposition of Bobby Wolford in this proceeding, Sound Transit is not aware of any communication between a Sound Transit employee and any officer, representative, or employee of Wolford Trucking and Demolition.

However, Sound Transit employees hold and attend many public meetings relating to its

projects, particularly its East Link light rail project, in the City of Bellevue. It is possible that Sound Transit employees have had conversations with Mr. Wolford, although such staff has no recollection of meeting anyone from Wolford.

INTERROGATORY NO. 2:

Has Sound Transit had any communications with officers, representatives, or employees of CalPortland Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER: Sound Transit is not aware of any communication as described in this interrogatory.

INTERROGATORY NO. 3:

Has Sound Transit had any communications with officers, representatives, or employees of Wright Runstad & Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Wright Runstad's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

- 1) Sound Transit is developing a light rail system through the City of Bellevue. A portion of that system will be located on the ERC and a portion of that system will be located on property owned by Wright Runstad that is neither on the ERC or the Line. There is a large volume of communication between Sound Transit and Wright Runstad regarding the development of Sound Transit's light rail system on Wright Runstad's property. Some of those communications, including, in particular, maps, diagrams, and design

drawings, include references to the ERC or the Line. Responsive information will be contained in such documents that will be provided as part of the document production request.

- 2) Other than the communications described in response to (1) above, Sound Transit is not aware of any communication as described in this interrogatory.
- 3) Sound Transit is not aware of any communication as described in this interrogatory.
- 4) Sound Transit is not aware of any communication as described in this interrogatory.

INTERROGATORY NO. 4:

Has Sound Transit had any communications with officers, representatives, or employees of Kemper Development Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Kemper Development's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER: Sound Transit is not aware of any communication as described in this interrogatory.

INTERROGATORY NO. 5:

Has Sound Transit had any communications with officers, representatives, or employees of Safeway Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Safeway's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER: Sound Transit is not aware of any communication as described in this interrogatory.

INTERROGATORY NO. 6:

Has Sound Transit had any communications with officers, representatives, or employees any potential shipper or developer known to Sound Transit, not previously mentioned herein, relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) the potential shipper or developers' communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER: Sound Transit is not aware of any communication as described in this interrogatory.

INTERROGATORY NO. 7:

Has Sound Transit restricted communication by any of its employees, agents or representatives with Ballard or Eastside? If you answer in the affirmative, state the nature of any such restrictions and the reasons therefor?

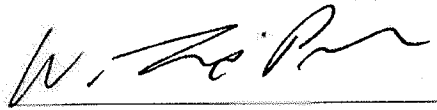
ANSWER: No. However, Sound Transit CEO Joni Earl has from time to time suggested to some employees that they not meet with Doug Engle alone so that there are witnesses to any discussion.

INTERROGATORY NO. 8:

Describe Sound Transit's policies regarding freight and other uses of the Eastside Rail Corridor. Answering further, identify by name and title all Sound Transit employees, officials, and personnel who are involved in setting policy and making decisions regarding uses the Eastside Rail Corridor.

ANSWER: Sound Transit has not adopted a policy regarding freight and other uses of the Eastside Rail Corridor. Sound Transit's obligations regarding freight and other uses of the corridor can be found in the Public Multipurpose Easement between the Port of Seattle and King County dated December 16, 2009, the Real Estate Purchase and Sale Agreement between Sound Transit and the Port of Seattle dated August 18, 2011. Sound Transit's Board of Directors is

responsible for setting policy. Decisions about the use of the Eastside Rail Corridor will be made by the Board or through the delegated authority of the Chief Executive Officer. At this time, Sound Transit's CEO and several Sound Transit board members sit on King County's Eastside Rail Corridor Regional Advisory Council. The goal of the Council is to oversee the planning process including implementing and coordinating the rail, trail, and utility uses in the Eastside Rail Corridor, coordinate with affected cities around local planning and development with the regional uses, and overseeing the work of a technical staff work group.



Charles A. Spitulnik

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Allison I. Fultz

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Counsel for Central Puget Sound Regional Transit
Authority

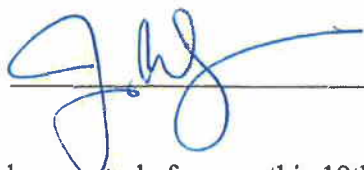
Dated: July 19, 2013

VERIFICATION

State of Washington,
County of King,
SS:

I, Jordan Wagner, being duly sworn, depose and say that I have read Sound Transit's Responses to Ballard Terminal Railroad Company, LLC's First Interrogatories, believe the facts asserted therein are true and that the same are true as stated therein. Sound Transit's responses were prepared with the assistance of Sound Transit employees and with the assistance and advice of counsel. Sound Transit's responses are based on Sound Transit's review of the records and information currently available. Sound Transit reserves the right to make changes or additions to any of these responses if at any time it appears that errors or omissions have been made or if more accurate or complete information becomes available.

Signed:

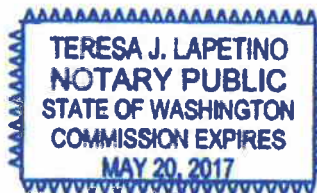


Subscribed and sworn to before me this 19th day of July, 2013



Notary Public of the State of Washington.

My Commission expires 5-20-2017



CERTIFICATE OF SERVICE

I hereby certify that I am providing a copy of CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY'S RESPONSES TO BALLARD TERMINAL RAILROAD COMPANY, LLC.'S FIRST INTERROGATORIES AND REQUESTS TO ADMIT upon the following parties of record by email and by first class mail with postage prepaid and properly addressed:

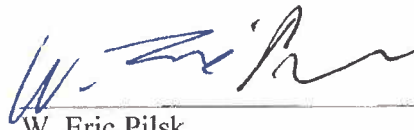
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Attorneys for Port of Seattle



W. Eric Pilsk
Kaplan Kirsch & Rockwell, LLC
Counsel for Central Puget Sound Regional Transit
Authority

Dated this 19th day of July, 2013

EXHIBIT 3

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-6 (Sub-No. 465X)

**BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY,
WASHINGTON
(Woodinville Subdivision)**

STB Finance Docket No. 35731

**BALLARD TERMINAL RAILROAD COMPANY, L.L.C. – ACQUISITION AND
OPERATION EXEMPTION – WOODINVILLE SUBDIVISION – VERIFIED PETITION
FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502**

**THE CITY OF KIRKLAND'S OBJECTIONS AND ANSWERS TO
BALLARD TERMINAL RAILROAD COMPANY, LLC'S
FIRST SET OF INTERROGATORIES AND REQUESTS TO ADMIT**

Matthew Cohen
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hoferguson@stoel.com

Counsel for the City of Kirkland, Washington

Dated: July 15, 2013

TO: Ballard Terminal Railroad Company, LLC ("Ballard"), its counsel of record, and counsel of record for all other parties to these proceedings.

The City of Kirkland, Washington ("Kirkland") hereby submits its objections and answers to Ballard's First Interrogatories And Requests To Admit ("Discovery Requests").

GENERAL OBJECTIONS

1. Kirkland objects to these Discovery Requests to the extent that they call for the disclosure of information protected by the attorney-client privilege, common-interest privilege, or other privilege and/or the right of privacy.
2. Kirkland objects to these Discovery Requests to the extent that they call for the disclosure of information protected by the attorney work-product privilege.
3. Kirkland objects to these Discovery Requests to the extent that they impose any obligations on Kirkland beyond those permitted under the Code of Federal Regulations and the United States Code.
4. Kirkland objects to these Discovery Requests to the extent that they call for information that neither is relevant to the subject matter of the pending proceedings, nor appears reasonably calculated to lead to the discovery of admissible evidence.
5. Kirkland objects to these Discovery Requests to the extent that they are unduly burdensome and the time and effort required to attempt to compile all responsive information or documents outweighs the potential discoverability or probative value thereof.
6. Kirkland objects to these Discovery Requests to the extent that they are designed to cause undue annoyance, harassment, or oppression.
7. Kirkland objects to these Discovery Requests to the extent that they are overly broad with respect to scope, context, and/or time period.

8. Kirkland objects to these Discovery Requests to the extent that they are vague, indefinite, or ambiguous and as such would require Kirkland to speculate as to the meaning or scope of the discovery request and potentially responsive information.

9. Notwithstanding these objections, Kirkland's responses to these Discovery Requests are based upon a diligent search by Kirkland and its counsel. Discovery and other investigation and research concerning these proceedings are continuing. Kirkland, therefore, reserves the right to amend or supplement its responses at any time in light of deposition testimony, further investigation, research, or analysis, to the extent permitted or required by law, and to introduce any and all evidence in these proceedings.

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INTERROGATORIES

In some cases, Interrogatories can be answered best by reference to a document. In such cases and pursuant to 49 C.F.R. § 114.26(b), Kirkland directs Ballard's attention to the pertinent documents, including documents that Ballard has previously received in these proceedings and Kirkland's forthcoming document production.

INTERROGATORY NO. 1:

Has Kirkland had any communications with officers, employees, or representatives of Woford Trucking and Demolition, Inc., relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Woford Trucking's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Without waiving any objection, Kirkland answers as follows:

Yes. In mid-March 2013, Kirkland received from Woford Trucking and Demolition, Inc. ("WTD") a bid to perform the work for the Cross Kirkland Corridor Rail Removal Project (*i.e.*, a contract proposal to salvage the tracks and ties on the Kirkland-owned segment of the Line). Kirkland Purchasing Agent Barry Scott reviewed WTD's bid. On March 22, Mr. Scott notified WTD via U.S. Mail that its bid was not selected and simultaneously returned WTD's bid deposit. Kirkland refers Ballard to the copies of WTD's bid and Kirkland's response and return of WTD's deposit that Ballard previously received through discovery in these proceedings.

In early May 2013, Kirkland's outside counsel, Hunter Ferguson of Stoel Rives LLP, spoke on the telephone with an unknown employee of WTD about contacting Bobby Wolford to schedule a deposition and to produce documents in connection with these proceedings. Mr. Ferguson subsequently spoke to Mr. Wolford on the telephone on a few occasions about scheduling his deposition and Kirkland's requests for production of documents. Kirkland then served Mr. Wolford with a cover letter, subpoena duces tecum, and notice of deposition. Thereafter, Elizabeth Alvord informed Kirkland's counsel that she would represent WTD in connection with these proceedings, and Mr. Ferguson spoke to Ms. Alvord on the telephone and communicated with her via email about Kirkland's discovery requests. Kirkland refers Ballard to the copies of these communications that it previously received in connection with these proceedings.

On May 16, 2013, Mr. Wolford appeared for a deposition in these proceedings. Counsel for WTD, Ballard, Kirkland, King County, and Sound Transit, and a court reporter attended the deposition. The day before and during Mr. Wolford's deposition, Kirkland received from Ms. Alvord documents in response to Kirkland's discovery requests. Kirkland refers Ballard to the documents produced by WTD, the transcript of Mr. Wolford's deposition testimony, and the documents marked as exhibits during Mr. Wolford's deposition.

Kirkland also understands that Mr. Wolford might have appeared at public meetings concerning the Line held during the last 12 months. Kirkland is not aware of specific details concerning any communications with Mr. Wolford during such meetings.

Kirkland further refers Ballard to Kirkland's forthcoming document production.

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KIRKLAND'S OBJECTIONS AND ANSWERS TO
BALLARD'S FIRST INTERROGATORIES AND REQUEST TO ADMIT - 5

INTERROGATORY NO. 2:

Has Kirkland had any communications with officers, employees, or representatives of CalPortland Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as calling for the disclosure of privileged attorney-client communications. Kirkland further objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Without waiving any objection, Kirkland answers as follows:

Yes. In early May 2013, Kirkland's outside counsel, Hunter Ferguson of Stoel Rives LLP, spoke on the telephone with an unknown employee of CalPortland about contacting Michael Skrivan to schedule a deposition and to produce documents in connection with these proceedings. Mr. Ferguson subsequently spoke to Mr. Skrivan on the telephone on a few occasions about scheduling his deposition and Kirkland's requests for production of documents. Mr. Ferguson also emailed Mr. Skrivan regarding the same. After Mr. Ferguson spoke to Mr. Skrivan on the telephone, Kirkland served Mr. Skrivan with a cover letter, subpoena duces tecum, and notice of deposition.

Thereafter, Mr. Ferguson and Matthew Cohen of Stoel Rives LLP communicated with CalPortland's in-house counsel. Stoel Rives represents CalPortland on various matters unrelated to the subject proceedings. Kirkland objects to providing any further information about such communications on the basis they are privileged attorney-client communications. On May 10,

Mr. Ferguson notified Mr. Skrivan via email and U.S. Mail that Kirkland had withdrawn its subpoena. Kirkland refers Ballard to the copies of these communications that it previously received in connection with these proceedings.

On May 28, 2013, Mr. Skrivan appeared for a deposition in these proceedings that was attended by a court reporter and counsel for CalPortland, Ballard, Kirkland, King County, and Sound Transit. Before Mr. Skrivan's deposition, Kirkland's attorneys received documents produced by CalPortland in response to King County's discovery requests. Kirkland refers Ballard to the documents produced by CalPortland, the transcript of Mr. Skrivan's deposition testimony, and the documents marked as exhibits during Mr. Skrivan's deposition.

Kirkland further refers Ballard to Kirkland's forthcoming document production.

INTERROGATORY NO. 3:

Has Kirkland had any communications with officers, employees, or representatives of Wright Runstad & Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Wright Runstad's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome. Without waiving any objection, Kirkland answers as follows:

Yes. Between October 12 and 15, 2013, Kirkland Economic Development Manager Ellen Miller-Wolfe emailed, and spoke on the telephone with, Greg Johnson of Wright Runstad

& Company and asked whether Wright Runstad & Company intended to utilize rail service on the Line in the future. Ms. Miller-Wolfe was informed that Wright Runstad & Company had no such intention.

On November 8, 2013, Ms. Miller-Wolfe emailed Mr. Johnson of Wright Runstad & Company to inquire whether he knew if the Safeway Distribution Center in Bellevue, Washington, expected to need freight rail service. Mr. Johnson responded that he was not aware of a need for rail service by Safeway and provided contact information for an employee of Safeway, Lorna Faxon.

Kirkland further refers Ballard to Kirkland's forthcoming document production.

INTERROGATORY NO. 4:

Has Kirkland had any communications with officers, employees, or representatives of Kemper Development Company relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) Kemper Development's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; and (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Without waiving any objection, Kirkland answers as follows:

Kirkland is not aware of any communication as described in this discovery request.

INTERROGATORY NO. 5:

Has Kirkland had any communications with officers, employees, or representatives of Safeway Company relating to (1) the Line; (2) shipping or development along the Line; (3) this

KIRKLAND'S OBJECTIONS AND ANSWERS TO
BALLARD'S FIRST INTERROGATORIES AND REQUEST TO ADMIT - 8

STB proceeding; or (4) Safeway's communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers and job titles; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Without waiving any objection, Kirkland answers as follows:

Yes. In early to mid-November 2013, after receiving the contact information for Lorna Faxon of Safeway, Inc. referenced in Kirkland's answer to Interrogatory No. 3, Kirkland Economic Development Manager Ellen Miller-Wolfe spoke on the telephone with a Safeway representative and asked whether Safeway intended to utilize rail service on the Line in the future. Ms. Miller-Wolfe was informed that Safeway had no such intention. Ms. Miller-Wolfe does not recall whether the Safeway representative she spoke with was Ms. Faxon or a different person.

INTERROGATORY NO. 6:

Has Kirkland had any communications with officers, employees, or representatives of Sterling Realty Organization relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) the potential shipper or developers' communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set

forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome. Without waiving any objection, Kirkland answers as follows:

Kirkland is not aware of any communication as described in this discovery request.

INTERROGATORY NO. 7:

Has Kirkland had any communications with officers, employees, or representatives of any potential shipper or developer, not previously mentioned herein, relating to (1) the Line; (2) shipping or development along the Line; (3) this STB proceeding; or (4) the potential shipper or developers' communications with Douglas Engle, Byron Cole, Ernie Wilson, Eastside, or Ballard? If the answer is in the affirmative, state (a) the date or dates of the communication; (b) the method of communication; (c) all participants to the communication and their respective employers; (d) the nature of the communication and what was discussed. Further, identify any documents relating to any such communications.

ANSWER:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Kirkland understands that with this discovery request Ballard seeks information about communications between Kirkland and entities that might be interested either in moving, shipping, or receiving material via freight service on the Line or real estate development firms. With this understanding and without waiving any objection, Kirkland answers as follows:

Other than those communications identified in Kirkland's answers to Interrogatory Nos. 1, 2, 3 and 5, Kirkland is not aware of any communications as defined in this discovery request.

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REQUESTS TO ADMIT

REQUEST NO. 1:

Admit that City Manager Kurt Triplett has not provided Eastside's freight shipping proposal to any Kirkland committees, subcommittees, commissions, or boards.

RESPONSE:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome. Kirkland also objects to this discovery request as designed to cause undue annoyance, harassment, or oppression.

Without waiving any objection, Kirkland answers as follows:

Denied. Kirkland City Manager Kurt Triplett has communicated information he has received from Doug Engle to all members of the Kirkland City Council.

REQUEST NO. 2:

Admit that City Manager Kurt Triplett met or conferred with Kemper Development Company in order to discuss freight shipping on the Line.

RESPONSE:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Without waiving any objection, Kirkland answers as follows:

Denied.

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REQUEST NO. 3:

Admit that City Manager Kurt Triplett met or conferred with Wright Runstad & Company in order to discuss freight shipping on the Line.

RESPONSE:

Kirkland incorporates by reference its General Objections into this answer as if fully set forth herein. Kirkland specifically objects to this discovery request as vague, indefinite, ambiguous, overly broad, and unduly burdensome.

Without waiving any objection, Kirkland answers as follows:

Denied.

Respectfully submitted,


Matthew Cohen
Hunter Ferguson
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(206) 386-7569
mcohen@stoel.com
hoferguson@stoel.com

Counsel for the City of Kirkland, Washington

Dated: July 15, 2013

VERIFICATION

State of Washington,

County of King,

SS:

KURT TRIPLETT, being duly sworn, deposes and says that he has read the City of Kirkland's foregoing Objections And Answers To Ballard Terminal Railroad Company, LLC's First Interrogatories and Requests To Admit, knows the facts asserted there are true and that the same are true as stated.

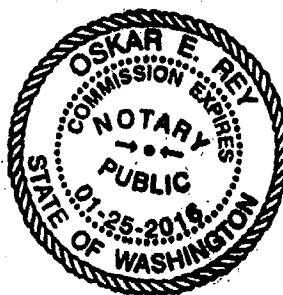
Signed

Kurt Triplett

Subscribed and sworn to before me this 15th day of July 2013

Notary Public of State of Washington

My Commission expires 1-25-2016



CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing motion upon the following parties of record in the above-captioned proceedings by first class mail with postage prepaid and properly addressed:

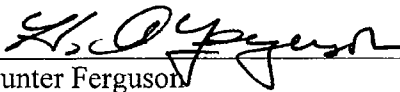
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Hunter Ferguson

Counsel for the City of Kirkland, Washington

Dated this 15th day of July 2013

KIRKLAND'S OBJECTIONS AND ANSWERS TO
BALLARD'S FIRST INTERROGATORIES AND REQUEST TO ADMIT - 14

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