BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)

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

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)

STB Finance Docket No. 35407

GNP RLY INC. – ACQUISITION AND OPERATION EXEMPTION – REDMOND SPUR AND WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502

PUBLIC VERSION
COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC.

Communications with respect to this pleading should be addressed to:

Charles A. Spitulnik
W. Eric Pilsk
Allison I. Fultz
KAPLAN KIRSCH & ROCKWELL LLP
1001 Connecticut Avenue, N.W.
Suite 800
Washington, DC 20036
(202) 955-5600
E-mail: cspitulnik@kaplankirsch.com
E-mail: epilsk@kaplankirsch.com
E-mail: afultz@kaplankirsch.com

Counsel for King County, Washington

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PUBLIC VERSION

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COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC.

Pursuant to the Surface Transportation Board's Request for Comments issued on September 15, 2010, King County, Washington, a political subdivision of the State of Washington (the "County") hereby submits these Comments. On August 24, 2010, GNP Rly Inc. ("GNP") filed a Petition to Vacate Notice of Interim Trail Use or Abandonment in STB Docket Numbers AB-6 (Sub-No. 463X) and AB-6 (Sub-No. 465X) ("GNP Petition to Vacate") and a Petition for Exemption in STB Finance Docket No. 35408 ("GNP Petition for Exemption"). The County respectfully submits that the Board should deny GNP's Petitions in their entirety for the reasons set forth below.

I. INTRODUCTION

GNP asks the Board (1) to vacate two Notices of Interim Trail Use (each a "NITU") covering a total of 9.1 miles of railbanked right-of-way in King County, Washington, between MP 0.0 and MP 7.30 on the former Redmond Spur and between MP 23.8 and 22.0 on the former BNSF Railway Company ("BNSF") Woodinville Subdivision (collectively, the "Lines"); and (2) to authorize GNP to acquire the rail reactivation right for the Lines from King County and operate freight service on the Lines.

GNP's Petitions are fruitless exercises that will not advance the rail policy because even if the Board granted GNP all of the relief it has requested, GNP would not be able to establish freight rail service because:

- GNP does not own or have any interest in the right-of-way that would allow it to provide freight service. To the best of the County's knowledge, the Port of Seattle ("Port"), which owns much of the right-of-way, has not agreed to sell its interest to GNP, and the other owners of rights in the right-of-way, the County and the City of Redmond, have indicated that they do not intend to convey any such interest to GNP at this time.
- The County is not willing to transfer its reactivation right to GNP.
- GNP lacks the financial capability to rehabilitate and maintain the track needed to provided rail service and GNP admits that the scant amount of freight traffic it anticipates is not financially viable and cannot cover the costs of operating the Lines.

The actions GNP asks this Board to take would not solve any of these fatal flaws in GNP's Petitions. Board authority is permissive, not mandatory, and would not require the owners of the right-of-way – The Port of Seattle and the City of Redmond – to convey anything to GNP, would not require the County to convey its property rights in the Lines or the reactivation right, and would not resolve the financial unviability of the proposed service. Even if the Board were to grant GNP's Petitions, therefore, GNP would not be able to establish freight rail service on the Lines.

The only concrete effect of granting GNP's petitions would be to vacate the NITU, thereby potentially destroying a comprehensive regional planning effort to provide recreational trail, public transportation and other public uses in the corridor. That effort has cost the County and other regional stakeholders tens of millions of dollars and, when fully implemented, will benefit all King County and region residents. However, if the NITU is vacated but GNP is unable to initiate service, the rail character of the Lines could be called in to question, creating the potential for removal of the Lines from the national rail system forever. In short, granting GNP's petitions will not benefit GNP at this time, but could potentially impose substantial and concrete harm on the County and other regional stakeholders and further harm the broader interests of the national rail system.

Why then does GNP seek Board action at this time? The answer can be found in the statements of GNP's principals regarding the full extent of GNP's plans for the Lines. In numerous public statements, GNP has said that its true goal is to use the Lines to provide excursion and commuter passenger service. GNP has quite bluntly claimed that its purported status as a railroad on the Lines would immunize it from local regulation, thereby enabling it to provide excursion and commuter services faster and cheaper than any public entity. Thus, GNP is seeking this Board's authority solely for the purpose of shielding its proposed passenger services from state and local regulation. The putative freight service is a pretext. In addition to the admitted financial unviability of the proposed freight service, the pretextual nature of GNP's plan is made plain by the fact that GNP seeks Board authority to use track on which no identified or proposed shippers exist because that track – including track in downtown Redmond – is essential for its excursion and commuter services.

Board precedent is clear that the Board will not vacate a NITU until the petitioning carrier can establish that it (1) has received Board authority to operate on the right-of-way, (2) is in a position to provide active freight service (including possessing the necessary property rights to use the right-of-way), and (3) has obtained the consent of the abandoning railroad or the current holder of the reactivation right. GNP has not and cannot fulfill any of those requirements. Accordingly, the Board should deny GNP's Petitions.

One point bears emphasis: the County is not opposed to freight rail service on the right-of-way, and further recognizes that at the appropriate time and in the appropriate circumstances the interim trail use must give way to Board approved rail service. However, GNP's proposal describes neither that time nor those circumstances. The County and its local partners are in the process of developing a long range plan for the right-of-way that will provide for trail use, potential public transportation rail use, utilities and other publicly beneficial uses, while also contemplating the potential, future reactivation of the Corridor for freight service. GNP's proposal, however, is simply too speculative and too contingent to justify endangering the comprehensive plans the County and local stakeholders have begun to establish for the right-of-way.

As discussed below, GNP's proposal fails to meet even basic tests of financial viability. GNP itself admits that its freight service would not be self-supporting and would not generate enough revenue to allow for repair and maintenance of the tracks. The viability of GNP's plans depend on excursion or commuter passenger services that are either barred by Washington law designating Sound Transit as the region's high capacity transportation provider or by GNP's inability to obtain the necessary property rights to carry out its proposed passenger services. In

addition, there is no certainty that GNP will be able to secure the RRIF loan and other financing it requires to begin any operations.

Accordingly, and for the reasons set forth below, the Board should dismiss GNP's petitions. Furthermore, because of the substantial controversy regarding GNP's proposed service and the fundamental questions about GNP's motives for seeking Board authority and the viability of its proposed service, GNP should be required to submit a full application pursuant to either Section 10901 or 10902[1] should it chose to continue to seek Board authority.[2]

II. FACTUAL BACKGROUND

GNP's Petitions address only 9.1 miles of track – 7.3 miles of the Redmond Spur and 1.8 miles of the Woodinville Subdivision (the "Lines"). The Redmond Spur and a substantial portion of the larger Woodinville Subdivision (together the "Corridor") were the subject of a complex transaction for the benefit of local communities, which culminated in BNSF conveying the property to the Port of Seattle in December, 2009 (the "Public Acquisition"). King County (the "County") and GNP were both parties to the transaction. In July, 2010, the City of Redmond ("Redmond") purchased a portion of the Redmond Spur that is located in or adjacent to the City.

The rights and obligations of the Port, Redmond, the County, and GNP are stated clearly in the deeds and contracts that were executed in December, 2009. Those agreements grant GNP the right to provide interstate freight service to the north of the Lines it seeks to reactivate. However, those same contracts specifically prohibit GNP from providing interstate freight

[1] As explained more fully *infra*, at 57 and fn. 26, it is not clear from the record in this proceeding whether GNP is a rail carrier subject to this Board's jurisdiction and, as a result, whether Section 10901 or 10902 would apply.
[2] In the alternative, the Board should hold in abeyance the effective date of any order vacating the NITU until GNP is able to demonstrate that it can (1) obtain the necessary property rights in the right-of-way to allow it operate, (2) secure the necessary financing to allow it to commence operations and (3) create a viable business plan to provide continuing freight rail service.

service on the Redmond Spur and grant no GNP rights whatsoever to use the Woodinville Subdivision south of MP 23.8.

A. General Description of the Woodinville Subdivision and Redmond Spur

The 9.1 miles of track at issue here are part of two lines of railroad – the Woodinville Subdivision and the Redmond Spur – formerly owned and operated by BNSF Railway Company. The Woodinville Subdivision ("Subdivision") extends from the City of Tukwila, in King County, Washington, northward to the City of Snohomish, in Snohomish County, Washington, where the Subdivision connects with BNSF's Everett-Spokane line at the Snohomish West junction. Exhibit 1 (BNSF Woodinville Subdivision Overview Map.) The line is "railbanked" from milepost ("MP") 5.0 in Renton to MP 10.25 in Bellevue, and from MP 11.65 (also in Bellevue) to MP 23.8 in Woodinville, all in King County, Washington. Exhibit 2 (BNSF Woodinville Subdivision Freight Use and Rail Banked Segments); *see also BNSF Ry. Co. – Abandonment Exemption in King Cnty., WA*, STB Docket No. AB-6 (Sub-No. 464X) (Service Date Oct. 27, 2008); *BNSF Ry. Co. – Abandonment Exemption in King Cnty., WA*, STB Docket No. AB-6 (Sub-No. 465X) (Service Date Nov. 28, 2008).[3]

The 1.8 mile portion of the Woodinville Subdivision at issue here, from MP 22.0 to MP 23.8, is located in the railbanked portion of the Woodinville Subdivision in the City of Woodinville. *See* Exhibit 2. From MP 23.8 in Woodinville to MP 38.25 in the City of Snohomish the line remains in active freight service. Exhibit 2; *The Port of Seattle – Acquisition Exemption – Certain Assets of BNSF Ry. Co.,* STB Finance Docket No. 35128 (Service Date June 20, 2008). A copy of BNSF's Track Chart for the Woodinville Subdivision is attached at Exhibit 4.

[3] A short segment of the Subdivision, from MP 10.25 to MP 11.65 (all in Bellevue), is fully abandoned and is no longer subject to the Board's jurisdiction. *BNSF Railway Company – Abandonment Exemption – in King Cnty., WA,* STB Docket No. AB-6 (Sub-No. 453-X) (notice of consummation, filed Mar. 10, 2008).

The Redmond Spur, which connects to the Subdivision at MP 23.8 in Woodinville, is a 7.3-mile spur line that extends to Redmond, all in King County. *See* Exhibit 1; *see also* Exhibit 2. The Spur was also railbanked as part of the Public Acquisition that closed in 2009. Exhibit 3 (BNSF Woodinville Subdivision STB Proceedings Map); *see also BNSF Ry. Co. – Abandonment Exemption in King Cnty., WA*, STB Docket No. AB-6 (Sub-No. 463X) (Service Date Oct. 27, 2008). A copy of BNSF's Track Chart for the Redmond Spur (referred to as part of the Issaquah Spur) is attached at Exhibit 5.

B. The Port, the County and Redmond Acquired Ownership Interests in the Subdivision and the Spur

The current status of the Lines is the result of a complex set of agreements between BNSF, the Port of Seattle, and King County arising from BNSF's decision, in approximately 2003, to divest the Subdivision and the Spur. Exhibit 7 at 1 (excerpts from BNSF Corridor Preservation Study). Those negotiations concluded in May of 2008, when King County, BNSF and the Port executed a set of documents pursuant to which BNSF would convey to the Port title to the Subdivision and Spur, and a substantial portion of the Subdivision and all of the Redmond Spur would be railbanked.

The principal components of the agreements with BNSF for the Public Acquisition were:

- A purchase and sale agreement whereby the Port of Seattle would purchase from BNSF the north portion of the corridor, consisting of the Woodinville Subdivision from MP 23.4 to MP 38.25, and the Redmond Spur from MP 0.0 to MP 7.3;
- A donation agreement whereby BNSF donated to the Port of Seattle the south portion of the corridor from MP 5.0 to MP 23.4; and
- A Trail Use Agreement and Railbanking Easement whereby the Woodinville Subdivision from MP 5.0 to MP 10.6 and MP 11.25 to MP 23.8 and the Redmond Spur from MP 0.0 to MP 7.3 were railbanked with King County acting as the interim trail user.

Copies of these agreements are attached hereto as Exhibits 12 through 15.

The Port desired to acquire the Subdivision and Redmond Spur to preserve ongoing freight service connecting the Port District to interstate rail lines to the north, and to preserve the railbanked portion of the Corridor to ensure its availability for future freight demand:

> The Port's primary mission is to create economic vitality in the region. This once-in-a lifetime investment preserves a valuable transportation asset for the region, maintains current freight rail service, and secures the corridor for potential future freight rail use supporting the region's economy.
>
> The Port is also interested in optimizing the use of this corridor for other transportation modes compatible with freight rail.
>
> Without the Port's involvement to secure the corridor, the corridor could have been sold piecemeal to private owners and lost to public use forever.
>
> Exhibit 9 (Port of Seattle Webpage).

The County desired to be the interim trail user on the railbanked portions of the Corridor. Exhibit 20 (Ordinance 16084 at Section 1.A). Together, the Port and the County also recognized the considerable and beneficial regional uses that could be made of the Corridor during its interim, railbanked use. Most notably, they embraced dual use for trail and public transportation purposes. *Id.* at Section 1.K.

The Public Acquisition called for the portion of the Subdivision north of MP 38.4 to remain in active freight service. Exhibit 12 (Purchase and Sale Agreement at Recital B (excerpts)). The freight service was to be performed by a Third Party Operator ("TPO") pursuant to a reserved freight easement. *Id.* at Section 8.1(b). The TPO was to be selected by BNSF with the approval of the Port. *Id.*

The closing date was extended several times, *see, e.g.*, Exhibit 19 (7th Amendment to Purchase and Sale Agreement), but ultimately the Public Acquisition was finalized on December

18, 2009.[4] Pursuant to the final agreements, the Port acquired title to the Subdivision from MP 5.0 to MP 38.25 and to the Spur from MP 0.0 to MP 7.3. Exhibits 12, 13. BNSF retained a reserved freight easement over the portion of the Subdivision north of Woodinville from MP 23.8 to MP 38.25 ("Freight Segment"). *Id.* BNSF conveyed its reserved freight easement to GNP Rly, Inc. Exhibit 16 (Quitclaim Deed Woodinville Freight Easement).

The County entered into a Trail Use Agreement with BNSF regarding the southern portion of the Subdivision from MP 5.0 to MP 23.8 and the Spur from MP 0.0 to MP 7.3 ("Railbanked Segment").[5] Exhibit 14. The Port simultaneously granted a Public Multipurpose Easement ("Railbanking Easement") to King County for the Railbanked Segment. Exhibit 15. BNSF also conveyed to the County BNSF's right to reinstitute service over the Railbanking Segment. *BNSF Ry. Co. – Acquisition Exemption*, STB Finance Docket No. 35148 (Service Date Sept. 19, 2009).

The Port and the County made substantial investments to acquire the Corridor. The Port paid BNSF $81,449,000 for the property it acquired. Exhibit 19 at Section 2. The County paid the Port $1,903,000 for the Railbanking Easement. Exhibit 12 at Section 2(b) (Purchase and Sale Agreement). Subsequently, the Port conveyed to Redmond title to the portion of the Redmond Spur located in and adjacent to the City, from approximately MP 3.4 to MP 7.3. Exhibit 21 (Deed from Port of Seattle to City of Redmond). Redmond paid the Port $10,000,000. Exhibit 22 (real estate excise tax affidavit, showing purchase price).

[4] *See, e.g.,* STB filing No. 226405 in STB Docket No. AB-6 (Sub-No. 464X), *BNSF Ry. Co. – Abandonment Exemption – in King County, WA* (letter from BNSF, filed Feb. 5, 2010, advising STB that donation of railbanked land had been consummated.

[5] The Trail Use Agreement excluded the section of the Woodinville Subdivision between MP 10.5-11.25, which was abandoned in 2008. *BNSF Railway Company – Abandonment Exemption – in King Cnty., WA,* STB Docket No. AB-6 (Sub-No. 453-X) (notice of consummation, filed Mar. 10, 2008).

All of the 9.1 miles of right-of-way that GNP seeks authority to use are within the Railbanked Segment and are subject to the County's Railbanking Easement. The City of Redmond owns approximately 3.7 miles of the subject right-of-way and the Port owns the rest. Exhibit 2; Exhibits 12, 13, and 21.

The numerous Board actions, and the current status of the Lines, may be summarized in tabular form as follows. *See also* Exhibit 3(BNSF Woodinville Subdivision STB Proceedings Map).

Woodinville Subdivision (Renton to Snohomish)

Segment	Status	STB Docket No. or Finance No.	Current Owner
MP 5.0 - 10.5	Railbanked (King County is interim trail user)	AB-6 (Sub-No. 464X) Service Date Sept. 26, 2008 Finance Docket No. 35148, *BNSF Ry. Co. – Acquisition Exemption*.	Port of Seattle (Fee) King County (Railbanking Easement and Reactivation Right)
MP 10.5 - 11.25	Abandoned	AB-6 (Sub-No. 453X) (Notice of Consummation filed Mar. 10, 2008)	Port of Seattle (Fee) King County (Railbanking Easement) Washington State Department of Transportation (right of way)
MP 11.25-23.8	Railbanked (King County is interim trail user)	AB-6 (Sub-No. 465X) Service Date: Nov. 28, 2008 Finance Docket No. 35148, *BNSF Ry. Co. – Acquisition Exemption*.	Port of Seattle (Fee) King County (Railbanking Easement and Reactivation Right)
MP 23.8-38.25	Active Freight	Finance Docket No. 31528, Service Date: July 20, 2008	Port of Seattle (Fee) GNP (Freight Easement)

Redmond Spur (Woodinville to Redmond)

Segment	Status	STB Docket No. or Finance No.	Current Owner
MP 0.0 - 7.3	Railbanked (King County is interim trail user)	AB-6 (Sub-No. 463X) Service Date Sept. 26, 2008 Finance Docket No. 35148, *BNSF Ry. Co. – Acquisition Exemption*.	Port of Seattle (Fee, MP 0.0 – MP 3.4) City of Redmond (Fee, MP 3.4 - MP 7.3) King County (Railbanking Easement and Reactivation Right)

C. Local Governments and other Regional Agencies have Invested Substantial Resources to Plan for and Acquire the Woodinville Subdivision and the Redmond Spur

Since BNSF first announced its intent to divest the Woodinville Subdivision and the Redmond Spur in 2003, local governments and other regional agencies have been planning for the best use of the asset. Exhibit 7 at 1.[6] Initially, the Puget Sound Regional Council ("PSRC") evaluated the public interest to be served by acquiring the Corridor. *Id.*[7] This culminated in the PSRC informing BNSF that the region should work to preserve the Corridor for future transportation uses. *Id.* The PSRC also prepared the extensive BNSF Corridor Preservation Study, completed in 2007, which carefully evaluated alternative, future uses of the Corridor. Exhibit 7. The PSRC, in conjunction with Central Puget Sound Regional Transit Authority ("Sound Transit"), also prepared a BNSF Eastside Corridor Commuter Rail Feasibility Study,

[6] The entire text of the BNSF Corridor Preservation Study is available online at http://www.psrc.org/assets/3176/_07-20_BNSFfinalreport.pdf. Related reports regarding the Corridor may be found at http://www.psrc.org/about/pubs/bnsf/fullreport/bnsf/ (last visited Nov. 5, 2010).

[7] The PSRC is a Regional Planning Agency that is jointly governed by representatives of the local governments in the Central Puget Sound Region, including four counties, cities and towns within those Counties, local port districts and the State. It is the Metropolitan Planning Organization designated by the U.S. Department of Transportation for conducting transportation planning in the region under 23 U.S.C. § 134, and is the Regional Transportation Planning Organization designated by the State of Washington for adopting a regional transportation plan under RCW ch. 47.80. The PSRC's plans thus carry the force of state and federal law. *See City of Des Moines v. Puget Sound Reg'l Council*, 97 Wn. App. 920, 988 P.2d 993 (Wash. Ct. App. 1999), *rev. den.*, 140 Wn. 2d 1022, 10 P.3d 403 (2000).

which was completed in 2008. Exhibit 8 (excerpts). The study evaluated the cost and feasibility of using parts of the Woodinville Subdivision and the Redmond Spur for commuter rail service.

Based on the PSRC's recommendation to preserve the Corridor in public ownership, the Port and the County sought to acquire the Subdivision and the Redmond Spur from BNSF. After executing the Purchase and Sale and Donation Agreements in May, 2008, the Port and King County also began a discussion with a consortium of local governments and public utilities to maximize the recreational and public benefits from the Port-County investment in the Subdivision and Spur. These public entities are planning to use the Railbanked Segment to develop essential public facilities,[8] including but not limited to regional multipurpose trails and other recreational facilities; light rail; facilities for electric power and natural gas; pipelines for drinking water, reclaimed water, and wastewater; and, street crossings and related improvements. In addition to the Port and the County, these entities include:

- Sound Transit, which Washington State law designates as the sole provider of high capacity transit in portions of King, Pierce, and Snohomish Counties (RCW 81.112.090, .100), has developed and is implementing a voter-mandated transit plan for the eastern side of King County, which would extend light rail service from Seattle to Bellevue and then to Redmond, critical elements of which require the use of the corridor. *See* http://www.soundtransit.org/x3245.xml (last visited Nov. 5, 2010); http://www.soundtransit.org/Projects-Home/East-Link-Project/East-Link-Library.xml (last visited Nov. 5, 2010) (describing plans for "East Link" light rail line).
- Puget Sound Energy ("PSE"), Washington state's oldest local energy utility, primarily serving customers in the Puget Sound region, is interested in acquiring utility easements throughout the entirety of the Subdivision and the Spur, except for the Redmond-owned portion of the Spur where PSE and Redmond anticipate a value

[8] Under Washington law, "essential public facility" is a defined term that encompasses public facilities that may not be precluded by local land use laws. The Washington State Growth Management Act ("GMA"), RCW chapter 36.70A, defines the term "essential public facilities" ("EPFs") to include "those facilities that are typically difficult to site." See RCW 36.70A.200(1) (listing examples). Under state GMA regulations, "the broadest view should be taken of what constitutes a public facility." WAC 365-195-340(a)(i). The expansion or improvement of essential public facilities is covered by RCW 36.70A.200(5). *See City of Des Moines v. Puget Sound Reg'l Council*, 108 Wn. App. 836, 988 P.2d 27 (Wash. Ct. App. 1999). Regional trails are considered EPFs. *See Cascade Bicycle Club v. City of Lake Forest Park*, CPSGMHB Case No.07-3-0010c, Final Decision and Order, published July 23, 2007 (Central Puget Sound Growth Management Hearing Board), available online at http://www.gmhb.wa.gov/LoadDocument.aspx?did=1448 available on Westlaw at 2007 WL 2340878.

for value exchange of perpetual easements for existing PSE facilities and infrastructure within the Redmond portion of the Spur and Redmond trail facilities on PSE properties. Exhibit 23 (PSE Service Area); Exhibit 26 (November 2009 Memorandum of Understanding Regarding Acquisition of Woodinville Subdivision).

- Cascade Water Alliance ("CWA"), composed of eight Puget Sound-area municipalities (five cites and three water and sewer districts) that joined together to provide safe, clean, reliable water supply to almost 400,000 residences and more than 22,000 businesses, is interested in acquiring a utility easement over the Railbanked Segment, including the Redmond Spur. Exhibit 24 (Summary information from CWA home page); Exhibit 26 at § 2.2.5.

In early November 2009, the Port, the County, Sound Transit, CWA, PSE, and Redmond entered into a memorandum of understanding ("MOU") to articulate their interests and establish a coordinated planning process for the Woodinville Subdivision and Redmond Spur. Exhibit 26.

The signatories to the MOU all understand and have agreed that the Corridor must be preserved as part of the national rail system, and must remain available for reactivation should a *bona fide* need arise in the future. As a result, they have proceeded with due regard for the potential that "a bona fide petitioner, under appropriate circumstances, may request the NITU to be vacated to permit reactivation of the line for continued rail service." *BNSF Ry. Co. – Acquisition Exemption*, STB Finance Docket No. 35148 at 4 (Service Date Sept. 19, 2009). The respect for this important aspect of railbanking is set forth in the MOU, which states that "[t]he Parties recognize that for any portion subject to railbanking, future local, regional or national transportation needs may require reconstruction and reactivation of the right-of-way for freight rail service." Exhibit 26 at Section 3.3.

In the meantime, however, the MOU contemplates that each of the parties may acquire real property interests from the Port, but that the Port would retain title to the Freight Segment (subject to the freight easement). The MOU contemplates that:

- Freight rail service would continue on the Freight Segment;
- Railbanking would continue on the Railbanked Segment of the Subdivision and the Redmond Spur;

- PSE and CWA would acquire rights to support utility uses in the corridor;
- The Railbanked Segment (and, to the extent consistent with ongoing freight operations, the Freight Segment) would be available for public transportation uses, including high capacity transit or bus transportation;
- If the Freight Segment were ever proposed for abandonment, interested MOU parties would cooperate to allow the Freight Segment to be railbanked; and
- The MOU parties would establish a process to consult and coordinate activities related to the Railbanked Segment, consistent with the express goal of developing and operating a dual use corridor for trail and transit purposes.

See Exhibit 26. [9]

Although not all of the plans of all of the parties to the MOU involve the 9.1 miles of right-of-way at issue here, the overall planning effort for the use of the Woodinville Subdivision and Redmond Spur is a comprehensive, interconnected process intended to yield a regional consensus on the appropriate uses of the right-of-way. The Lines are an integral part of the overall plans.

D. GNP's Limited Rights

GNP contracted to obtain a limited role in the Public Acquisition. It obtained the rights to provide interstate freight service on the Freight Segment between MP 23.8 in Woodinville north to MP 38.25 in Snohomish. GNP also obtained limited rights to provide passenger excursion service over the Freight Segment, and also over MP 0.0 to 2.5 on the Redmond Spur, which is part of the Railbanked Segment. GNP's contracts specifically prohibit it from providing commuter rail service anywhere on the Woodinville Subdivision or the Redmond Spur, and also from providing freight service on the Redmond Spur.

[9] In addition, a number of cities and special purpose districts abutting the Subdivision have sought further rights or permission to make similar public uses of the corridor for street improvements. By way of example, the City of Bellevue ("Bellevue"), seeks to use portions of the Railbanked Segments in connection with a complex set of multimillion-dollar, multi-modal transportation projects, including the Northeast Sixth Street Extension Project and the Northeast Fourth Street Extension Project. *See* http://www.bellevuewa.gov/wilburton-connections.htm (last visited Nov. 4, 2010). Similarly, the City of Kirkland ("Kirkland"), is undertaking an extensive, ongoing public process looking at the utility of the Corridor for trail & transit purposes. *See* http://www.ci.kirkland.wa.us/depart/Public_Works/Transportation___Streets/Eastside_Rail_Corridor.htm (FAQ items 11 and 12) (last visited Nov. 4, 2010).

1. GNP Rly, Inc.

GNP Rly Inc. is a for-profit corporation organized under Washington state law in 2006, and formerly known as Altac Terminals, Inc. Exhibit 27 (Washington State Secretary of State corporate documents). GNP's Chief Operating Officer is Tom Payne. *Id.* GNP's Chief Financial Officer is Doug Engle. *Id.*[10]

2. GNP Secured a Modified Certificate of Public Convenience and Necessity for A 0.2-mile Stranded Segment for Yard Operations in Snohomish County

In 2008, the Board issued GNP a Modified Certificate of Public Convenience and Necessity ("Modified Certificate") to operate over a 0.20 mile segment of line in Snohomish County, Washington, from MP 39.1 to MP 39.2 of the Subdivision. *GNP Railway, Inc. – Application for Modified Certificate of Public Convenience and Necessity*, Finance Docket No. 35151 (Service Date Aug. 13, 2008). The line subject to GNP's Modified Certificate was authorized for abandonment by the Interstate Commerce Commission over 24 years ago.[11] GNP's 0.2-mile segment is "stranded," that is, it does not connect to the national rail system. BNSF abandoned the line that previously connected this segment to the Everett-Spokane main line. *See* Exhibit 3.[12]

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[10] [***– CONFIDENTIAL INFORMATION REDACTED –***]. In fact, however, the referenced Tacoma excursion train, appears to have been operated by an Oregon corporation initially headed by Mr. Payne and known as Golden Pacific Railroad (GPRR), which ceased operation after a single season. Exhibit 43 (Debra Smith, *Is Snohomish rail project on the right track?*, Everett Herald, Aug. 2, 2009), http://www.heraldnet.com/article/20090802/NEWS01/708029882.

[11] *Burlington Northern Railroad Company – Exemption – Abandonment in Snohomish Cnty., WA*, ICC Docket No. AB-6 (Sub-No. 280X) (Service Date March 12, 1986).

[12] The segment of line from MP 38.01 to MP 39 that previously connected GNP's now-stranded segment was approved for abandonment in 2007, and the abandonment was consummated in 2008 when BNSF sold the segment to the City of Snohomish. *The Burlington Northern and Santa Fe Railway Company – Abandonment Exemption – In Snohomish Cnty., WA*, STB Docket No. AB-6 (Sub-No. 422X) (Service Date Dec. 18, 2007); *see also The Burlington Northern and Santa Fe Railway Company – Abandonment Exemption – In Snohomish Cnty., WA*, STB Docket No. AB-6 (Sub-No. 422X) (Service Date July 21, 2008); *see also* Exhibit 2 (Quitclaim Deed from BNSF to City of Snohomish).

3. GNP's Response to BNSF Request for Quotes for Third Party Operator

BNSF issued a Request for Quotes ("RFQ") dated August 1, 2008, seeking a Third Party Operator ("TPO") to haul freight on the Freight Segment. Verified Statement of Susan Odom ("Odom V.S."), Exhibit 35 at ¶ 3, Ex. A at § 8.1(b). The Purchase and Sale Agreement called for BNSF at closing to convey a reserved freight easement to a TPO selected by BNSF and approved by the Port. *Id.* In addition to the reserved freight easement, the TPO would enter into an Operations and Maintenance Agreement and Railroad Right of Way License with the Port at closing to allow passenger excursion service on the Freight Segment. *Id.* at § 1.1.

The RFQ made plain that "[a] portion of the corridor will be railbanked for use as a trail. However, the section between Woodinville and Snohomish will remain in use for freight rail service." *Id.* at 1. The RFQ required all respondents to include a "[s]tatement of willingness to accept terms, as provided, of all associated agreements." *Id.* at 3. GNP was one of only two responses the Port received. *Id.* at ¶ 4; Exhibit 9 at 2. [

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In September 2008, BNSF, with the approval of the Port, selected GNP to be the TPO. Exhibit 10.

4. GNP Executes Contracts to Fulfill its Limited Role as TPO

At closing on the Public Acquisition in December 2009, GNP acquired from BNSF the reserved freight easement over the Freight Segment between Woodinville and Snohomish. Exhibit 16. GNP also entered into two contracts with the Port that expressly defined the limits of its operating rights on the Woodinville Subdivision and Redmond Spur, including the Lines it now proposes to reactivate.

The Port negotiated an Operations and Maintenance agreement with GNP ("O&M Agreement"), regarding management of the Freight Segment of the Subdivision from MP 23.8 in Woodinville to MP 34.25 in Snohomish. Exhibit 17. The O&M agreement allows GNP to haul common carrier freight and to provide excursion rail service on the Freight Segment. However, the O&M agreement precludes GNP from providing commuter rail service. *Id.* at Section 1.9. The Port specifically reserved the right to contract with others to provide passenger commuter service on the Freight Segment. *Id.* at Section 2.2.d.

The Port also granted GNP a Railroad Right of Way License ("License") to provide excursion service over a short portion of the railbanked Redmond Spur, and also limited head and tail operations over an even shorter portion of the Spur. Exhibit 18. The County is a third-party beneficiary to the License, with full rights to enforce the terms of the License against GNP. *Id.* at Section 13.9. The License authorizes GNP to provide excursion passenger service between MP 0.0 to MP 2.5 of the Redmond Spur. *Id.* at Sections 1.6 (definition of "Excursion Rail Service" to mean excursion passenger service), 1.7 (definition of "Excursion Spur" as between MP 0.0 to MP 2.5) and 2.1 (authorizing Excursion Rail Service on the Excursion Spur). The License does not authorize any additional excursion passenger service south of MP 2.5 on the Redmond Spur, all of which GNP now seeks to reactivate, or south of MP 23.8 on the Woodinville Subdivision, which includes the 1.8 mile stretch between MP 23.8 and 22.0 that GNP also seeks to reactivate. Just prior to closing in December 2009, GNP sought rights to run excursion trains further south on the Spur, and sought a longer term for the License, but the Port did not agree to these changes. Exhibit 11 at ¶ 5 (Verified Statement of Pam Bissonnette); *see also* Exhibits 18 and 30 (correspondence between GNP and Port).

GNP's only freight-related rights on the Redmond Spur are to perform head and tail operations between MP 0.0 and MP 1.0 to support its common carrier freight service north of the Spur on the Freight Segment as allowed under the O & M Agreement. All other freight service is unambiguously prohibited. The License says:

> TPO shall have the right to utilize the Excursion Spur between milepost 0.0 in Woodinville and milepost 1.0 for all head and tail operations necessary for TPO's Rail Freight Service under the O & M Agreement, but shall have no right to operate other common carrier or contract freight rail service on the Excursion Spur.

Exhibit 18 at Section 2.8. Another section of the License confirms that "[n]otwithstanding the foregoing, TPO is prohibited from using the Excursion Spur at any time for the purpose of setting out or picking up rail cars." *Id.* at Section 2.2. As a result of these clear provisions, GNP is contractually prohibited from providing interstate freight service on the Redmond Spur, except for the limited head and tail operations between MP 0.0 and MP 1.0.

As with the O & M Agreement, the License prohibits GNP from providing commuter rail service on the Redmond Spur. "Excursion Rail Service - Means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service, except for head and tail operations as referred to Section 1.11." *Id.* at Section 1.6. The License does, however, reserve to the Port the right to authorize others – not GNP – to provide commuter rail service. *Id.* at Section 2.78.

5. GNP Payment for its Limited Interests

The public agencies have invested more than $80,000,000 in the Woodinville Subdivision and Redmond Spur. GNP has paid much less. The Port and GNP agreed to a single set of fees to cover both the O & M Agreement and the License. Exhibits 17 and 18 both at Section 9.4. GNP paid the Port $10,000 at the closing of the Public Acquisition. *Id.* In addition,

it is obligated to pay the Port $10.00 per loaded freight car (on the Freight Segment), $.10 per excursion passenger carried, and 5% of gross miscellaneous revenue. *Id.* GNP is also obligated to pay the Port an additional $990,000 if it receives a RIFF loan. *Id.* GNP paid only nominal consideration to BNSF for the reserved freight easement on the Freight Segment. Exhibit 35 at ¶ 16 (Odom V.S.).

6. GNP's Contractor Ballard Shortlines' Operations on the Freight Segment

In 2009, and citing GNP's separate, "stranded" MCPCN as having established GNP as a Class III rail carrier, the Board authorized GNP to provide freight service over the Freight Segment. *GNP Rly Inc. – Acquisition and Operation Exemption – BNSF Ry. Co.*, Finance Docket No. 35213 (Service Date Feb. 13, 2009). GNP contracted with Ballard Shortlines to perform actual freight service over the Freight Segment. Exhibit 28 at 3 (GNP Web Page). This arrangement is allowed under the O & M Agreement, which states that "[t]he parties acknowledge that TPO intends to designate Ballard Terminal Railroad Company, LLC. ("Ballard Shortlines") as the entity that will conduct the Freight Rail Service authorized under this Agreement." Exhibit 17 at Section 2.1(g).

Ballard Shortlines commenced service in January, 2010.[13] The volume of freight on the Freight Segment has remained low since Ballard Shortlines began its service. The BNSF RFQ set forth traffic volumes for the Freight Segment between Woodinville and Snohomish. From July, 2006, through June, 2007, BNSF moved 545 Cars on the Freight Segment. Exhibit 35 at ¶ 3, Ex. A at 33-35 (Traffic/Revenue Table) (Odom V.S.). That number dropped to 506 cars from July, 2007 through June, 2008. *Id.* From January through October, 2009, BNSF hauled 174 cars. *Id.* at ¶ 16, Ex. G. Volume has increased slightly with Ballard Shortlines moving 146

[13] The County has been unable to locate any indication that Ballard Terminal Railroad has sought or received authority from this Board to operate on the Northern Portion of the Line.

cars from January through July, 2010. Exhibit 35 at ¶ 16, Ex. F (Odom V.S.). At current levels, this translates to about 250 cars per year.

E. Historic Freight Service and Current Condition of Redmond Spur and the 1.8 Mile Segment of the Subdivision for which GNP Seeks Reactivation

1. Historic Freight Service on the Redmond Spur and the 1.8 Mile Segment of the Subdivision for which GNP Seeks Reactivation

The Redmond Spur intersects with the Woodinville Subdivision at MP 23.8 and extends south for 7.3 miles to its terminus near downtown Redmond. The Redmond Spur served only limited local traffic, and all freight service ceased on the Spur in 2006.

In 2000, BNSF records show that only 290 carloads (all but 33 of which are attributable to a single customer, Building Specialties) moved over the Redmond Spur. Exhibit 35 at ¶¶ 5, 8, Ex. C (Odom V.S.). That number dropped to only 26 cars in 2001, 20 cars of which were for Building Specialties. *Id.* By 2005, shipping volumes had dropped to 7 cars on the Redmond Spur. *Id.* The last freight car on the Redmond Spur was an empty from Building Specialties on March 21, 2006, one of only three cars that year. *Id.* at ¶ 5.

BNSF provided freight service to two shippers – Building Specialties and Universal Seafood – pursuant to an Industrial Track Agreement for service from an industrial track located at approximately MP 5.4 on the Spur. Exhibit 35 at ¶ 11 (Odom V.S.). The industrial track extended easterly from the Spur across the Building Specialties property, across 151st Ave. NE and then across the Universal Seafoods' property. As discussed above, traffic from Building Specialties dropped precipitously after 2000 and ended in 2006. It does not appear that Universal Seafood received rail traffic after 1990, when Universal Seafood, or its successor UniSea, removed the industrial track on its property and removed the rails that crossed 151st Ave. NE. and paved over the crossing. Exhibit 48; Exhibit 35 at ¶ 11 (Odom V.S.). It does not

appear that the UniSea property currently has direct access to the Spur or what remains of the industrial track. *See* Exhibit 37 (King County iMap[14] map of UniSea and adjacent properties).

BNSF has no record of providing any service to Drywall Distributors on the Redmond Spur. Exhibit 35 at ¶ 12 (Odom V.S.). Nor does it have any record of service to the property owned by GNP's recently identified potential shipper, Steeler, Inc., *id.*, whose property also does not have direct access to the Spur or any industrial track. *Id.; see also* Exhibit 38 (King County iMap map of Steeler, Inc. and adjacent properties). BNSF also has no record of any local traffic over the 1.8 miles of the Woodinville Subdivision covered in GNP's Petitions. Exhibit 35 at ¶ 14 (Odom V.S.).

2. Current Condition of the Redmond Spur and the 1.8 Mile Segment of the Subdivision for which GNP Seeks Reactivation

The Lines have not been used in recent years and would require significant work to restore them to operating condition. A study of the Redmond Spur found that:

> The rail in this section is a combination of 90# RE and 100# RE jointed rail and is in fair to poor condition. The rail is chipped, lipped and has head wear. The rail is seated in 7" x 10" single shouldered tie plates. Some ties are missing tie plates. The rail is missing anchors and is joined using 4 & 6 - hole joint bars. The ties are 6" x 8" x 8' - 6" long and are in extremely poor condition. 100% of the ties need to be replaced. The ties are split and hollow, and many have disintegrated. The ties that are present are slewed with the spacing varying between 22 to 24 inches. The track bed is in very poor condition with significant vegetation present and the ties covered with silt and weeds. Brush cutting is required in this section. There is very little ballast in the cribs and on the shoulders. The surface and line along this section are fair to poor with many low joints and kinks.

Exhibit 8 at C-6 (BNSF Eastside Corridor Commuter Rail Feasibility Study – Phase II Technical Memorandum – Feasibility Study).

[14] iMAP is a publicly available website application that allows you to view King County spatial information (GIS data and images) in a map display. iMAP is an interface to a wealth of geographic information, including property information, natural features, political boundaries, planning information, and much more. iMAP may be accessed at http://www.kingcounty.gov/operations/GIS/Maps/iMAP.aspx.

With regard to the identified shippers, it would be necessary to build switches and industry tracks to service Drywall Distributors and GNP's newly identified putative shippers, Steeler and UniSea.[15] Exhibit 37; Exhibit 38. There is an existing industry track entering Building Specialties, but it disappears into overgrown brush. Exhibit 37; GNP Petition at Exhibit H, Photograph 10.2.

The standard business practice in the railroad industry is for the shipping customer to pay for any switch device or industry track that is needed to serve its business. Exhibit 35 at ¶ 13 (Odom V.S.). BNSF regularly installs switch devices and industry tracks for this purpose. *Id.* The standard cost to design and construct an industry track turnout with a hand thrown switch with approximately 160 feet of industry track is $160,000. *Id.* If additional industry track were needed the standard cost calculation would be $300 per track-foot. *Id.* GNP does not provide any estimate of the likely cost of these repairs and improvements. *See* Payne Statement at 3-4 (the Lines "could be reactivated with only a minimal amount of rehabilitation work required."). Mr. Payne has indicated to King County, however, that it would cast approximately $3,000,000 to rehabilitate the Redmond Spur. *See* Exhibit 11 at ¶ 24 (Bissonnette V.S.).

F. GNP's True Goal for the Lines is to Provide Passenger Excursion and Commuter Rail Service over the Redmond Spur and the Subdivision

1. GNP's Plans to Provide Excursion and Commuter Rail Service over the Redmond Spur and the Subdivision

Despite the unambiguous contractual provisions limiting GNP to providing excursion passenger service on only the Freight Portion and MP 0.0 to MP 2.5 of the Redmond Spur, GNP has announced plans to provide excursion passenger service beyond MP 2.5 south along the

[15] It appears that Steeler, Inc. is not adjacent to the Redmond Spur. Exhibit 38. Thus, Steeler would also need to obtain property rights in order to cross over its neighbors' properties in order to install industry track to serve its property. Similarly, UniSea would need to extend the industry track that serves Building Specialties across additional properties and 151st Ave N.E. Exhibit 37.

entirety of the railbanked Redmond Spur and thereafter to commence commuter rail service on the Redmond Spur (all of which it now seeks to reactivate for freight service), and also to provide similar passenger services on the railbanked section of the Subdivision between MP 23.8 in Woodinville south to Bellevue (the first 1.8 miles of which it now seeks to reactivate for freight service).

Since at least 2007, GNP's principals, Tom Payne and Doug Engle, have sought local approval and cooperation to run excursion trains and commuter service on the Subdivision and Spur from Snohomish to Woodinville and Redmond, or from Snohomish to Woodinville and Bellevue, or possibly beyond.[16] This excursion and commuter service is the keystone of GNP's business plan. GNP's CFO, Doug Engle, stated in a guest editorial for a local newspaper:

> GNP Railway's efforts have been . . . for the highest and best use of this corridor, which are public transit and a trail. . . . We've offered to meet with anyone any time, and we've been at many meetings to listen and present.

Exhibit 41 (Doug Engle, *Eastside rail & trail a great plan* (Seattle Post-Intelligencer, May 5, 2008) (ellipses, underlining added)).[17]

Tom Payne, Doug Engle, and Tom Jones (a representative of Cascadia Center/Discovery Institute, a local think-tank and advocacy group) have indeed met with nearly every local community to pitch GNP's proposal and to invite local governments to participate, including Snohomish County, King County, the City of Snohomish, the City of Woodinville, the City of Kirkland, and the City of Redmond.[18] For example, in June of 2008 Tom Payne sent a four-part

[16] *See, e.g.*, Exhibit 40 (Keith Ervin, *Entrepreneur wheels, deals for Eastside rail,* Seattle Times, Dec. 26, 2007, http://seattletimes.nwsource.com/html/eastsidenews/2004092368_railguy26m.html (last visited Oct. 4, 2010) (Outlining Tom Payne's "behind the scenes" work to put together a deal together for ordinary diesel trains pulling two-level passenger cars, with six trains running from Snohomish to Bellevue in the morning, and back again in the evening).
[17] Available online at http://www.seattlepi.com/opinion/361856_railrebut06.html (last visited Oct. 4, 2010).
[18] *See* Exhibit 11 at ¶ 7 (Bissonnette V.S.); Exhibit 29 (2008 PowerPoint presentation); Exhibit 25 (minutes of City of Snohomish Rail and Trails Advisory Council); Verified Statement of Teresa Potter, Exhibit 44 at ¶¶8-12 ("Potter V.S.").

PowerPoint presentation to King County's lead representative in the three-party negotiations between BNSF, the Port, and the County. Exhibit 29 (PowerPoint presentation). GNP proposed to begin commuter service from Snohomish to Bellevue, beginning in 2009. *Id*. at 14.

As GNP also later elaborated, *see* Exhibit 11 at ¶ 13 (Bissonnette V.S.), it proposed to use conventional maintenance of way gang rehabilitation practices and equipment to remove fouled ballast from the railbed, and deposit it alongside to inexpensively create a "maintenance of way" road that King County could use as a trail, while GNP would provide diesel engines and rehabilitated passenger cars to provide excursion trains and commuter passenger service to attractively designed stations along the rehabilitated line. Exhibit 29 at Parts II, III. Tom Jones described a similar vision when he appeared before the Transportation Committee of the Kirkland City Council on March 24, 2010. Doug Engle did the same when he spoke to that same committee on April 28, 2010. Exhibit 44 at ¶ 10, ¶ 12 (Potter V.S.). Tom Jones, Doug Engle, and Tom Payne jointly made a similar presentation to the City of Redmond on March 30, 2010. *Id.* at ¶ 11.

Despite its aggressive marketing and expanding plans, *see Id.* 44 at¶ 8, ¶ 9, ¶ 12, GNP has repeatedly postponed the date when it will actually begin excursion service. Exhibit 39 (Michael Whitney, *Funding delays tourist train arrival; Rail company now hopes to begin service next fall*, Snohomish County News, Apr. 28, 2010);[19] *see also* Exhibit 32 (Port-GNP agreement to delay start of excursion rail service). According to Mr. Whitney's article in the Snohomish County news, as of late April 2010 GNP lacked sufficient funding to provide even the most rudimentary form of excursion service that it has contemplated. Exhibit 39.

[19] Available online at http://www.snoho.com/stories/April/042810_touristtrain.html (last visited Oct. 4, 2010).

2. GNP's Proposal Depends on Obtaining a Discretionary RRIF Loan from the FRA

A cornerstone of GNP's financing plan for its excursion and commuter rail service is its apparent intent to borrow millions of dollars through the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing ("RRIF") loan program in order to fund its excursion and passenger train operations:

> GNP is applying for a $23 million federal railroad loan. Because of new regulations put on loans by the Obama administration, the time line as been pushed back, Engle said. The federal loan is not expected to be completed until September [2010] . . .
>
> GNP must also get a $10 million loan to fix up the Snohomish River Bridge so the train can cross the river into the city. The city and GNP are working together on an agreement to let the train cross into town. Once an agreement is reached, GNP can apply for that loan, Engle said.[20]

The amount GNP has applied for is unclear. GNP has variously represented to King County, for example, that it has applied for RRIF loans in the amount of $23.5 million, $30-50 million, and even $107 million. Exhibit 11 at ¶¶ 9, 10, & 18 (Bissonnette V.S.).

Doug Engle explained the importance of a RRIF loan at the March 30, 2010, Redmond City Council meeting:

> So, one of the things that gets down to this whole matter is how the hell do you pay for it? Because this is a substantial undertaking. We have organized ourselves from the very beginning to qualify under the federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program. There are 35 billion dollars in that program. They have lent out less than a billion dollars. Lots of money left. What we have done is make sure that we have met the criteria necessary to be able to get that funding. Our loan application is currently in front of the FRA. . . . So we're very enthused about that. That is long-term money that we can get from anywhere from 20 years to 35 years that we could get from four plus percent interest and with a little help from, uh, a senator of ours in DC we might be able to get that down to the intergovernmental rate of a half a percent.

[20] Exhibit 39 Michael Whitney, *Funding delays tourist train arrival; Rail company now hopes to begin service next fall*, (Snohomish County News Tribune, Apr. 28, 2010) (bracketed material, ellipsis added).

Exhibit 44, p.11, ¶ 11 at lines 25-38 (Potter V.S.) (ellipsis added).

GNP and Cascadia have also repeatedly suggested that GNP could enlarge its RRIF loan application to include funds that local governments could then use to acquire property rights in the corridor, to construct a trail alongside its track improvements, or to make other public improvements. Exhibit 11 at ¶ 18 (Bissonnette V.S). In presentations to King County and the cities of Kirkland, Woodinville, and Redmond, GNP and Cascadia have touted the potential for its RRIF loan to be used for recreational trail improvements and other municipal amenities. *See id*. By way of example, at a January 19, 2010, meeting of the Redmond City Council, Mr. Engle said:

> [H]ow do we maximize the public utility, the public benefit of holding that together. And as a federally regulated railway there is, there is a lot that we can do help, uh, local communities and anyone along the track who wants to work with us. We have access to federal railway association money—administration money—excuse me, uh, low interest presently it's at four percent and that can go down from there to help finance these activities so we're very interested in what Cascadia is doing and at the same time I think mostly what you're seeing here is that our interests are parallel like the train tra ... the rail tracks are now.

Exhibit 44 at p.5, ¶ 8 at lines 16-23 (Potter V.S.) (bracketed material, underlining added). In March of 2010, Cascadia's Tom Jones told the Woodinville City Council that:

> They [GNP] have access—this is the other thing—uh, they have—the railroad has access to a federal—I always get it wrong—a federal pot of money that's called R-R-I-F: Railroad reconstruction and infrastructure financing. It's a 35 billion dollar program, 35 year money, at the federal rate of interest, which is one or two percent. So, they [GNP] can, they can act as the agent for anybody. One thing they [GNP] have talked about is, I understand you may want something done with this bridge down here. They [GNP]—they could, uh, lengthen the bridge, they could be your agent, they could do that and borrow the money, the only thing would be, you pay back—uh, you, you pick up the yearly tab at a 35 year [term] at one or two percent interest. You can't—nobody—no public agency can borrow money at that rate. And they're willing to do that.

Exhibit 44 at p.6, ¶ 9 at lines 10-20 (Potter V.S.) (underlining added). Similarly, at the March 30 meeting of the Redmond City Council, Mr. Engle said that:

> [W]e're here to work with you and to help come up with a better civic solution than what may be otherwise possible, and to lend our borrowing capacity to the city to come up with, if you will, the, the best, uh, conveyance of rail and trail inside of Redmond.

Exhibit 44 at p.12, ¶ 11 at lines 10-12 (Potter V.S.) (bracketed material, emphasis added).

The status of GNP's RRIF loan application is uncertain. As recently as July 2010, GNP sought to extend the term of its excursion license, in order to improve its chances of getting an FRA RRIF loan to subsidize its planned excursion operations. Exhibit 33. The Port declined to do so. Exhibit 11 at ¶ 17 (Bissonnette V.S.). To the County's knowledge, GNP has not been awarded the RRIF loan, and there has been no public statement by GNP or FRA regarding GNP's application.

3. GNP's Proposal to Secure Immunity from State and Local Environmental or Other Regulation

A consistent theme in GNP's presentations to local authorities has been its assertion that it is exempt from environmental regulation. GNP told the County that GNP's business model is contingent upon freedom from such regulation. Exhibit 11 at ¶ 10 (Bissonnette V.S.). In February of 2010, GNP and Cascadia Center/Discovery Institute sponsored a bus tour of the Subdivision and a dinner for local government officials, including representatives of the City of Bellevue, Redmond, Newcastle, as well as Sound Transit.[21] There, Mr. Engle suggested that GNP could deliver commuter passenger service on the Subdivision and the Spur – and could do so faster, cheaper, and better than public transit agencies:

> Doug Engle, the chief financial officer of GNP Railway Inc., laid out an aggressive, ambitious plan to convert portions of the rail line into a commuter service line in years, rather than decades. A special rail-fixing machine could be used to repair and renovate the line while simultaneously removing the old rocks,

[21] Exhibit 42 (Katherine Long, *Eastside commuter rail and bike trail could be built fast, some say,* Seattle Times Bellevue Blog (Feb. 4, 2010) http://seattletimes.nwsource.com/html/bellevueblog/2010985461_eastsidecommuterrailandbiketrailcouldbebuiltfastsomesay.html (last visited Oct. 4, 2010)) (bracketed material added).

> or ballast, from underneath the rails and creating a gravel pathway next to the line—the base layer for a new bikeway. And Engle claimed the company could do the renovations for one-tenth the cost a public agency would pay, renovating a mile of track a day.
>
> That raised a few eyebrows in the room. [Transit Executive Director Joni] Earl wanted to know why GNP could do the work without jumping through all the environmental hoops that would be required of a state agency. Engle's answer: GNP recently won federal government recognition as a federal railway.
>
> "The beautiful part of being a federal railway," said Engle, "is the state has no jurisdiction over us."
>
> In other words, GNP wouldn't have to jump through environmental regulations because it's a recognized railway, using an existing rail line that was very recently used for trains. The fixes to the rail line, and yes, even building the bike lane, would amount to maintenance work, Engle said.

Id. (bracketed material added). *See also* Verified Statement of Joan M. Earl at ¶ 12 (filed on Nov. 9, 2010 with Sound Transit Comment).

Subsequently, GNP and Cascadia have repeatedly asserted that GNP can do more, quicker and at lower cost, because it is exempt from environmental regulation:

> Tom Payne described his approach to initiating rail service: first freight, then excursion, then commuter. He envisions a low-cost commuter rail start up achievable within 19 months from start of planning . . . He plans to pursue a federal loan to make necessary improvements to the tracks and infrastructure. Tom also stated that only the Federal Rail Administration [sic] and the Surface Transportation Board govern railways, not state or local jurisdictions.

See, e.g., Exhibit 25 at 10 (City of Snohomish Rails and Trails Advisory Committee Meeting Summary, Monday, Feb. 23, 2009, at 2) (ellipsis, bracketed material, underlining added).

Similarly, at a March 30, 2010, meeting of the Redmond City Council, Mr. Payne referred to the categorical exclusion issued by the Federal Railroad Administration in connection with its (still pending) review of GNP's Railroad Improvement Fund loan application for the Eastside Rail Corridor:

> The Federal Railroad Administration has the ability to issue a categorical exclusion to railways under the National Environmental Policy Act, which, uh,

> we've received. So, uh, I brought a copy of our categorical exclusion approval with a little letter for you as asked for by your council. So we're pleased to, uh, uh, provide it. So, uh, what that means is that all of the environmental issues that surround us in the course of rehabilitating the track, uh, building our stations, building our shops, operating the railway have gone through all of the requisite or necessary environmental approval processes, and they've issued our categorical exclusion, which is a great document because we can start doing the work anytime as soon, and we shall, as soon as our, um, loan's approved."

Exhibit 44 pp. 9-10, at ¶ 11, lines 42-46 and 1-6 (Potter V.S.) (underlining added). Similarly, at a March 9, 2010 special presentation to the Woodinville City Council, Cascadia Center/Discovery Institute representative Tom Jones told the Council:

> I probably should mention they [GNP] have received a categorical exclusion. This—the antennaes will go up on your environmental people. Uh, the federal government has given them [GNP] an exclusion from NEPA. Any works they do on the corridor for rehabilitating the corridor, as long as they stay within the right of way of the corridor, they don't have to do NEPA or environmental analysis. It's like repaving a road to them; you—you do the analysis if you had to build a new road, but to repave it or maintain it, you don't. And that's what the exclusion is about. So they can get it done quicker, cheaper.

Exhibit 44, p.6 at ¶9, lines 21-28 (Potter V.S.). At a March 30, 2010, meeting of the Redmond City Council, Mr. Payne:

> I know that, um, there's a lot of controversy about how come, uh, it seems that, uh, environmental rules don't apply to railways. We're a different leopard. We're a black leopard. The other leopards have spots. It's a different legislative creature from transit. It's a completely separate act with respect to transit. So, uh, we are under the National Environmental Policy Act as administered by the Federal Railway Administration. It's not administered by the Environment Department. So when we get the authority to acquire, operate a line we can maintain it, improve it, and keep it in an operable condition. While initial construction for the rail line requires authority from the STB, improvement to existing lines does not require an additional license or environmental review which is necessary to remedy wear and tear and meet the changing needs in the market for services.

Exhibit 44, p.9, at ¶ 11, lines 29-40 (Potter V.S.) (underlining added); *see also* Exhibit 31 (Letter from Thomas Payne to Michelle M. McGehee dated March 29, 2010, transmitting excerpts from FRA Categorical Exclusion decision document).

G. GNP does not Possess any Property Rights to Operate Freight Service over the 9.1 Miles of Right-Of-Way at Issue in its Petitions

The 9.1 miles of right-of-way at issue in this proceeding are owned by the Port and the City of Redmond, subject to the Railbanking Easement rights held by the County. The County also holds the freight reactivation rights. GNP has no property or contractual rights to use the Lines, other than the limited rights regarding head and tail operations and excursion passenger service. After failing to negotiate an expanded excursion area just prior to closing, *see* Exhibit 30, GNP has not sought to acquire any property rights from the County or the City of Redmond, or, to the best of the County's knowledge, the Port. Exhibit 11 at ¶ 27 (Bissonnette V.S.). The County and the City of Redmond do not presently intend to transfer any such rights to GNP or otherwise approve or support its proposed use of the Lines. *Id.* at ¶ 27. The County is not aware of any negotiations or discussions between the Port and GNP regarding the Port transferring to GNP any rights in the right-of-way. *Id.* at ¶¶ 26-27.

H. GNP's Plans for Freight Service

1. GNP's Newly Announced Plan to Provide Freight Service on the Redmond Spur

GNP's Petitions plans to extend freight service on the railbanked Redmond Spur and on the railbanked Subdivision south of Woodinville emerged for the first time in August, 2010. Before then, GNP representatives consistently dismissed the possibility that freight could be profitable. *See* Exhibit 30. In March of 2010, GNP told King County that GNP intended to work inside GNP's existing agreements – which prohibit freight service on the Lines – and to provide freight only from Woodinville north. Exhibit 11 at ¶ 11 (Bissonnette V.S.). And as recently as April 28, 2010, GNP CFO Doug Engle told the City of Kirkland Transportation Committee:

> We don't have any intentions of running freight south of Woodinville other than there are some lumber yards that are just immediately south, what, about half a mile. Whatever. You know, if they want our business we probably would be open to that.

Ex. N at p.14, ¶12 lines 14-17 (Potter V.S.) (underlining added).

GNP states in its Petition that "GNP has been talking with King County representatives about restoration of common carrier rail service on the Lines; however, the parties have not yet reached an agreement." Verified Petition for Exemption at 14. However, GNP did not speak to King County representatives about restoration of common carrier rail service on the Lines until August 4, 2010. Exhibit 11 at ¶ 18 (Bissonnette V.S.); *see also* Exhibit 34 Letter from Douglas Engle, GNP, to Sung Yang, King County, dated Aug. 6, 2010). GNP inquired as to whether the County would support reactivation, but also told County representatives that GNP was ready to file for reactivation "tomorrow." Exhibit 11 at ¶ 18 (Bissonnette V.S.). GNP indicated that it would seek reactivation with the County or without the County. *Id*. at ¶ 20. The County arranged for a subsequent meeting on August 18, 2010 in which GNP discussed its proposal with representatives of the parties to the November 2, 2009 MOU, including the Port, Redmond, Sound Transit, PSE and CWA. *Id.* at ¶ 22. GNP filed its Petition six days later on August 24, 2010, little more than eight months after entering into the License for the Redmond Spur, which explicitly prohibits GNP from providing freight service on the Redmond Spur. *See* Exhibit 18 at Section 2.8.

2. GNP's Projected Traffic

In its Petitions, GNP proposes to reactivate freight service on the Lines in order to serve two potential customers, each of which has indicated it would expect to receive forty cars per year. *See* Support Letters of Drywall Distributors and Building Specialties attached to GNP Petitions. Mr. Payne indicated that these two shippers could account for 250 cars per year.

Verified Statement of Thomas Payne Statement at 4. On Oct. 27, 2010, GNP filed letters from two other potential shippers – UniSea Inc. and Steeler Inc. – apparently expressing an interest in freight rail service. GNP suggests that together these potential shippers represent "at least" 350 freight cars per year. Letter from John D. Heffner, Counsel to GNP Rly, to Cynthia T. Brown, STB, dated Oct. 27, 2010 (filing letter of support from UniSea and Steeler).

Other than letters of support, however, GNP does not provide any evidence of any commitments by any shipper to utilize GNP's services. GNP does not attach any contracts with any of the purported shippers or indicate that any firm commitments have been made. Moreover, in deposition testimony, the representatives of both Building Specialties and Drywall Distributors made clear that they are not in a position to commit to any rail service at this time. Scott McDonald of Drywall Distributors testified that Building Specialties does not have any immediate need or ability to use rail service and may not have such need for a number of years. Scott McDonald Dep. at 70:19-71:3, Oct. 26, 2010 (Exhibit 47). Mr. McDonald further testified that he would have to perform a careful analysis of the cost of using rail service compared to trucks before committing rail service. *Id.* at 55:8–19. Randy Mann from Building Specialties also described that any decision to use rail service would depend on its cost and that he had not determined whether using rail made sense for Building Specialties. Randy Mann Dep. at 93:1-15, Oct. 26, 2010 (Exhibit 46). Moreover, both Mr. Mann and Mr. McDonald testified that the estimates of annual shipments were estimates of what was possible and did not represent a firm statement of actual need. *Id.*; McDonald Dep. at 27:10-28:1.

Moreover, GNP did not explain how it intends to overcome the lack of physical access to three of the four potential shippers it identified. UniSea, Steeler and Drywall Distributors are not located on the Spur or an industry track. In order to gain access to the Spur, industry track would

have to be constructed and permission from adjacent property owners would have to be obtained. *Supra*, 21-22. Mr. McDonald testified that the cost of constructing such industry track would affect his decision to use rail service. McDonald Dep. at 48:8-24. GNP does not describe any agreements regarding the construction of the required switches and industry tracks to serve those businesses, nor does GNP indicate whether Building Specialties would pay for repairs to the existing industry track. GNP also does not provide any detailed information as to the overall scope and cost of capital investment, operations, maintenance and repair that would be needed to serve the meager amount of shipping represented by these potential customers over 9.1 miles of track. Nor does GNP provide any indication of its financial capability to carry out the service.

GNP did not identify any potential customers south of Building Specialties, at approximately MP 5.4. Nor did GNP identify any potential customers on the 1.8 miles between MP 23.8 and MP 22 on the Subdivision. Based on businesses and land uses in those areas, it does not appear that there are any potential customers on those portions of the Lines. *See* Exhibit 35 at ¶¶ 9, 14 (Odom V.S.).

III. ARGUMENT

GNP contends that its Petition presents a novel question regarding the Board's ability to vacate a NITU when the petitioner lacks any property or other interest in the Lines. However, Board precedent makes it clear that GNP must have a legal interest in the right-of-way before GNP can obtain any authority to operate on the right-of-way or vacate the NITU. GNP failed to acquire such an interest through the OFA process when BNSF abandoned the Lines and GNP has not reached an agreement with the County, the Port and the City, who own the necessary property interests. To the contrary, GNP has entered into agreements that expressly bar it from providing freight service on the Lines. The only novel issue here is GNP's attempt to force its

way onto the Lines without having obtained the property interests that would allow it to use of the Lines.

In responding to GNP's Petitions, the County will first address the question the Board specifically asked the parties to address: Under what circumstances will the Board grant a carrier's request to vacate a NITU to permit reactivation of rail service, when the petitioning carrier does not own or have any other interest in the right of way? The answer to that question is, in short, "under no circumstances," and the Board therefore should deny the Petitions because GNP does not own or have any sufficient interest in the right-of-way.

The County will also address alternative reasons why the Board should deny the Petitions. Specifically, the Petitions propose a plan for freight service that is not economically viable. Rather the proposal for freight service is a pretext to use Board approval of GNP's unviable freight service as a shield against local regulation of GNP's hoped-for intrastate passenger service. Moreover, GNP cannot establish that it is entitled to an individual exemption, and must proceed, if at all, by filing a full application pursuant to Section 10901 or Section 10902.

A. Legal Framework

1. The Acquisition of Rail Rights-of-Way

This Board regulates a wide spectrum of matters relating to railroad operations, rail carrier activities and railroad facilities. However, while the Board has authority to permissively authorize ownership of railroad property, it leaves to state and local jurisdictions the role of determining who owns railroad rights-of-way.

The Board relies on private parties to reach private agreements on the transfer of property rights, *James Riffin – Petition for Declaratory Order,* STB Finance Docket No. 35245, slip op. at

6 (Service Date Sept. 15, 2009), *petition for review docketed*, No. 09-1277 (D.C. Cir. Nov. 12, 2009) which the Board can either approve in whole or in part pursuant to 49 U.S.C. §§ 10901, 10902 (2006). *See, e.g.*, 49 C.F.R. § 1150.43(c) (a notice of exemption must contain "[a] statement that an agreement has been reached or details about when an agreement will be reached."). Only in very limited circumstances can the Board force the owner of a right of way to transfer its interests to another. For example, in the case of an Offer of Financial Assistance pursuant to 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27, the Board can, if the parties are unable to agree on a sales price, determine the sales price and mandate the sale in order to avoid abandonment. Indeed, GNP could have, but did not file an OFA when BNSF sought to abandon the Lines. Otherwise, the Board's ability to force the transfer of a right-of-way is limited to specific circumstances, none of which apply here.[22]

2. The Trails Act, Railbanking and the Reactivation of Railbanked Corridors

The Trails Act created a mechanism to preserve right-of-way for future use as a rail corridor when the operating railroad has sought authority to abandon its current obligation to provide freight rail services on a line of railroad. 16 U.S.C. § 1247(d) (2006). Under the Trails Act, a line that would otherwise be abandoned is made subject to an interim trail use agreement, which allows an entity to use the line for trail and other recreational or public uses, provided that such trail or other uses be terminated upon a request to restore freight rail service on the line. *Id*. The line is not abandoned, and remains part of the national rail network. *Id*.

Neither the Trails Act nor the Board's regulations explicitly address how an abandoning railroad can exercise its right to reactivate freight service on a railbanked line. The Act simply

[22] Other examples of the Board's exercise of authority to compel a transfer of ownership or other lesser interests in a line of railroad include: the rights of Amtrak to secure operating or ownership rights, 49 U.S.C. § 24311; transfers of rights as a condition of approval of control, merger, acquisition, lease, trackage rights or any other consolidation pursuant to 49 U.S.C. § 11123 and 49 C.F.R. Part 1180; or use by a rail carrier of terminal facilities owned by another pursuant to 49 U.S.C. § 11102.

recognizes that "if [] interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for purposes of any law or rule or law, as an abandonment of the use of such rights-of-way for railroad purposes." *Id.* § 1247(d). The Board's regulations similarly require a "[Certificate of Interim Trail Use] [to] indicate that any interim trail use is subject to future restoration of rail service . . . ." 49 C.F.R. §§ 1152.29(c)(2) & 1152.29(d)(2) (2009) . The regulations further recognize that a Certificate of Interim Trail Use ("CITU") or NITU will be vacated either when the trail sponsor decides to terminate trail use, *id.*, or "if an application to construct and operate a rail line over the right-of-way is authorized under 49 U.S.C. § 10901 and 49 C.F.R. Part 1150, or exempted therefrom under 49 U.S.C. § 10502," *id.* §§ 1152.29(c)(3) & 1152.29(d)(3).

The Board and its predecessor agency, the Interstate Commerce Commission ("I.C.C.") have determined that the abandoning railroad does not have to seek approval under Section 10901 in order to restore rail service on a railbanked line because the line had never been abandoned fully and the railroad had already obtained operating authority. *Iowa Power, Inc. – Constr. Exemption – Council Bluffs, IA*, 8 I.C.C.2d 858, n.12 (Service Date Dec. 20, 1990). The Board explained this principle more fully in *Georgia Great S. Div., South Carolina Cent. R.R. Co. – Abandonment and Discontinuance Exemption – Between Albany and Dawson, in Terrell, Lee, and Dougherty Counties, GA.*, STB Docket AB-389 (Sub-No. 1X) (Service Date May 16, 2003), in which the Board approved the vacation of a NITU over the objections of the trail sponsor because the corporate successor to the abandoning railroad, and thus the holder of the reactivation right, decided to restore rail service. The Board held that

> [N]o authority under 49 U.S.C. § 10901 is required to reactivate rail service where, as here, the carrier who would have been the abandoning railroad had there not been rail banking and interim trail use, or its successor, is the one who decides to restore active rail service. *See Iowa Power*. Because it could have

> performed the operations without seeking any additional regulatory approval prior to the interim trail use, the resumption of service by the same carrier or its successor does not trigger the licensing requirement of Section 10901, or require that its successor in interest seek concurrences from any other carrier.

Id. at 5 (citation omitted). The holder of the reactivation right had also retained the necessary property rights when the right-of-way was railbanked. *Id.*

Although the Board has recognized that the reactivation right is an independently transferable right, it has recognized and approved such transfers only when the abandoning railroad agreed to the transfer. For example, in *King Cnty., WA – Acquisition Exemption – BNSF Ry. Co.*, Finance Docket No. 35148 (Service Date Sept. 17, 2009), the Board approved the BNSF's agreement to transfer its reactivation right to the trail sponsor, King County, because BNSF had agreed to the transfer and had made clear that it did not desire to restore service itself.

The Board has also recognized that the consent of the abandoning railroad or its successor in interest is a necessary prerequisite to the restoration of service or to the acquisition of the reactivation right. In *Iowa Power*, the Board conditioned its approval on obtaining the consent of the abandoning railroad, which retained the reactivation right. *Iowa Power* at 867. Similarly, the Board denied a request by the City of Coeur d'Alene, Idaho for authorization to acquire the Union Pacific's reactivation rights on a railbanked line because, *inter alia*, there was no evidence of an agreement between the City and the railroad, nor was there evidence that the Union Pacific was unwilling or unable to restore rail service in the future. *City of Coeur d'Alene – Acquisition and Operation Exemption – Union Pacific R.R. Co*, Finance Docket No. 34980, slip op. at 1 (Service Date Mar. 30, 2007).

Accordingly, STB (and I.C.C.) precedent teaches that a railbanked line can be restored to active rail service in one of two ways. First, the abandoning railroad or its successor in interest can decide to restore rail service and invoke its reactivation right. Second, an entity other than

the abandoning railroad or its successor may seek authority to operate on the line by seeking Board authority to operate pursuant to 49 U.S.C. § 10901 or § 10902, or exemption therefrom or through other applicable Board authorization, with the consent of the abandoning railroad or its successor in interest. *R.J. Corman R.R. Co. /Pennsylvania Lines, Inc. – Constr. and Operation Exemption – In Clearfield County, PA*, STB Finance Docket No. 35116, slip op. at 5 (Service Date July 27, 2009) (a Class III carrier may reactivate a railbanked line by obtaining authority to acquire the line pursuant to Section 10902 (or an exemption) and by terminating the trail use agreement). *See also BG & CM R.R., Inc. – Exemption from 49 U.S.C. Subtitle IV*, STB Finance Docket 34398, slip op. at 3 (Service Date Oct. 17, 2003) (new operator approved under Section 10502 after acquisition of property from abandoning railroad); *Iowa Power* at 867 (approving reactivation of service on a railbanked line by a new carrier only after obtaining authority under Section 10901 or 10502 and consent of abandoning railroad).

B. Under what Circumstances will the Board Grant a Carrier's Request to Vacate a NITU to Permit Reactivation of Rail Service, when the Petitioning Carrier does not Own or have any Other Interest in the Right of Way?

The direct answer to the Board's question is "Under no circumstances." Board precedent is clear that it will not vacate a NITU unless and until the petitioner (1) has received Board authority to operate, (2) is in a position to provide active rail service *and* (3) has obtained the consent of the abandoning railroad or its successor. Ownership of an interest in the right-of-way is a necessary prerequisite to being in a position to provide active rail service on the right of way.

1. Board Precedent does not Permit Vacating a NITU until the Petitioner has (1) Received Board Authority to Operate on the Lines, (2) is in a Position to Provide Active Rail Service, and (3) Has the Consent of the Abandoning Railroad or Its Successor

The Board will not vacate a NITU for the purpose of allowing reactivation of rail service unless and until the petitioner (1) has received all Board authority and (2) is in a position to

provide active rail service, including possessing the necessary legal rights to use the right-of-way for the proposed service, and (3) has obtained the consent of the abandoning railroad or the successor holder of the reactivation right. The I.C.C. adopted that rule in the first case in which it considered reactivation of a railbanked line. GNP's proposal presents no reason for the Board to deviate from that precedent.

In *Iowa Power*, the I.C.C. considered a request by a non-carrier to reactivate rail service over a railbanked line. *Iowa Power* at 867. Although there did not appear to be any reason not to grant the request and vacate the NITU, the I.C.C. was careful to condition vacation of the NITU on the petitioner (1) having obtained all necessary I.C.C. authority to operate on that line, (2) being in a position to provide active rail service, and (3) having obtained the consent of the abandoning railroad. The I.C.C.'s decision to vacate the NITU was "subject to the grant of the concurrently filed construction petition . . . *and/or* the actual resumption of active rail service." *Id.* at 867-68. The reason for that rule is self-evident. A NITU serves to preserve a right-of-way's railroad character and forestall abandonment. If a NITU is vacated before rail service begins, there is a risk that the right-of-way would be deemed abandoned and therefore unavailable for railroad use. This is a particularly acute issue where, as here, substantial doubts exist that rail service can actually be established.

This approach is also consistent with general Board precedent regarding Board action in the face of uncertainty regarding property or contract rights. The Board has been very careful not to exercise its power to authorize a transaction when there is an underlying property or contract dispute if (1) such authorization would, in itself, prejudice one of the parties with respect to the underlying dispute, or (2) there are substantial doubts regarding the ability of the petitioner to exercise Board authority. For example, the Board has denied Petitions for

Declaratory Order declaring an applicant to be a rail carrier when the absence of property rights prevented the entity from exercising Board authority and providing rail services. *James Riffin – Petition for Declaratory Order,* STB Finance Docket No. 35245, slip op. at 6 (Service Date Sept. 15, 2009), *petition for review docketed*, No. 09-1277 (D.C. Cir. Nov. 12, 2009) (determining that Riffin's failure to obtain a cognizable possessory interest in a line of railroad rendered him incapable of exercising the authority granted to him to acquire and operate the line). Similarly, and of particular relevance here, the Board prevented use of, and revoked, a class exemption to operate on a dormant rail line when there were substantial doubts about an entity's ability to obtain property rights. *James Riffin d/b/a The N. Cent. R.R. – Acquisition and Operation Exemption – In Baltimore City, MD*, STB Finance Docket No. 34982, slip op. at 3 (Service Date Oct. 9, 2007).

2. GNP Cannot Meet Board Requirements for Vacating the NITU

GNP has not presented any evidence that could be in a position to provide active rail service. The County is not willing at this time to release its rights in its Railbanking Easement or to transfer its reactivation right to GNP for its proposed services. Exhibit 11 at ¶ 27 (Bissonnette V.S.). The City of Redmond is not willing to approve GNP's passenger or excursion services, or convey to GNP any interest in the 3.7 mile segment of the Redmond Spur the City owns. The County is not aware of any intent by the Port to transfer to GNP any of rights in the right-of-way owned by the Port. *Id.* Without those property rights, GNP lacks the legal right to make any use of the right of the right of way for freight service. Stated plainly, failure to secure the necessary property rights in the right-of-way precludes GNP from providing freight rail service on the right-of-way. *See James Riffin – Petition for Declaratory Order,* STB Finance Docket No.

35245, slip op. at 6 (Service Date Sept. 15, 2009), *petition for review docketed*, No. 09-1277 (D.C. Cir. Nov. 12, 2009); *Riffin,* STB Finance Docket No. 34982, slip op. at 3.

In addition to its lack of property rights, GNP's uncertain financial plan further demonstrates that it cannot provide active rail service. GNP's financial plan depends on receiving a discretionary RRIF loan from the FRA. Without that loan, or some other unidentified financial backing, GNP lacks the apparent ability to improve the Lines or otherwise commence operations. [***– CONFIDENTIAL INFORMATION REDACTED –***]. It appears that GNP would not pursue the proposed freight service if it did not also think it could pursue excursion and commuter passenger service. *See, e.g.*, Exhibit 30 (Dec. 2009 letter from GNP to Port).

GNP has not received local support for excursion or commuter passenger service from the relevant local authorities. The City of Redmond, which GNP acknowledges to be key to its service, opposes the plan. The County, which controls aspects of the right-of-way through its easement and trail use agreement, also opposes GNP's proposals. And the Port contractually prohibited GNP from providing commuter rail anywhere on the Lines, and from providing excursion service south of MP 2.5 on the Spur. *See supra*, 17-19. Sound Transit, the exclusive high capacity transportation service provider in the region as a matter of law, RCW 81.112.090, 100, does not appear to be pursuing an option in its current plan to contract with a private entity to provide commuter rail service on the Lines.[23]

In short, GNP has presented no basis for the Board to find that GNP can obtain the property rights, financial backing and local approvals needed to conduct any of its proposed

[23] Due to significant budget constraints, Sound Transit staff have recommended that this potential expenditure be removed from the agency's budget. Verified Statement of Joan M. Earl at ¶ 5 (filed on Nov. 9, 2010 with Sound Transit Comment). This further calls into question GNP's economic viability because GNP has indicated that its future expansion plans for commuter rail service depend on getting a $50 million grant from Sound Transit. Exhibit 11 at ¶ 12, (Bissonnette V.S.).

operations. Accordingly, GNP cannot meet the basic requirements of *Iowa Power* and its Petitions should be denied on that basis alone.

C. The Facts of this Case Present No Reason for Altering the *Iowa Power* Test for Vacating the NITU

What GNP attempts to present as an "issue of first impression," Petition at 6, is little more than a direct challenge to the Board's long-standing *Iowa Power* test and the Board's carefully constructed Trails Act jurisprudence. GNP's Petitions fail to provide any reason for the Board to abandon the *Iowa Power* test for vacating a NITU and allow valuable present property rights to be destroyed when a petitioner lacks the ability to provide active rail service.

1. Granting GNP's Petitions before GNP has an Agreement to Acquire an Interest in the Right-of-Way would not Promote the Reactivation of Rail Service in the Corridor

GNP's Petitions rest on the assumption that by granting the Petitions, the Board would be enabling the reactivation of freight rail service. Under the facts of this case, however, that is not true. Granting the Petitions would not allow the reactivation of freight rail service and would, to the contrary, create a substantial risk of destroying the rail character of the right-of-way.

Vacating the NITU and giving GNP operating authority would not allow GNP to actually use the Lines because it would still lack the legal right to make any use of the corridor. Nor would Board authority compel the current owners to grant GNP any rights to use the corridor. As GNP acknowledges, Board authority to acquire an operating right is *permissive,* not mandatory, and does not compel the actual transfer. GNP Petition for Exemption at 8. *See also In re Chicago, Milwaukee, St. Paul and Pacific R.R. Co*., 882 F.2d 1188, 1191 (7th Cir. 1989) (affirming Board's determination that its grant of authority to acquire and operate a line is "merely permissive," does not require the transfer of the line, and does not affect the rights and remedies of the parties to the transaction in the event of a dispute). Possessing Board authority

to operate the Lines does not make GNP a rail carrier on the line; it must also be in a position to actually provide rail service, including possessing the necessary property rights. *See, e.g.*, *Riffin*, Finance Docket No. 35245, slip op. at 6. Accordingly, granting the Petitions would not enable GNP to perform as a rail carrier, would not advance the national rail policy and would not help to promote rail service.

Conversely, however, vacating the NITU would have material adverse effects on the County and other regional stakeholders. Vacating the NITU would cast doubt on the ability of the County and other regional stakeholders to make use of the corridor for the planned recreational trail and other public uses, for which uses the County and others have expended tens of millions of dollars of public funds. By vacating the NITU without certainty that active rail service will be restored, substantial questions could arise regarding the status of the corridor and its legal title. Would the rail status of the corridor vanish, raising the possibility that the owners of reversionary interests in the corridor could claim title? *See, e.g.*, *Haggart v. United States*, 89 Fed. Cl. 523 (2009) (certifying a class of plaintiffs consisting of landowners who own reversionary rights to property along the Lines) (Court of Federal Claims Case No. 09-103L, pending).

Such uncertainty and litigation would not advance any public interest. Litigation over title would not lead directly to the provision of freight rail services, and indeed could lead to a disposition of title that would eliminate the railroad character of the corridor. The recreational trail, public transportation and other public uses contemplated by the NITU could as a result also be eliminated. At bottom, vacating the NITU without being able to assure that an active rail use will be established could lead to the very situation the Trails Act was designed to avoid: loss of a potentially valuable rail corridor, loss of important recreational uses and wasteful quiet title

litigation. *Preseault v. ICC*, 494 U.S. 1, 17 (1990) (purpose of Trails Act is to create recreational trails and to preserve rail corridors).

This outcome can be avoided by requiring GNP to adhere to Board precedent and industry custom by negotiating an agreement with the owners of the corridor and the reactivation right to make use of the corridor *before* seeking to vacate the NITU and seeking Board authority to operate on the Lines. *See, generally, Iowa Power; R.J. Corman*. GNP does not need Board authority to negotiate with the stakeholders. That orderly process ensures that the rail status of the corridor is preserved under the Trails Act, that the interim public uses are preserved under the NITU, and that the possibility of future use of corridor from freight rail service is preserved.

2. GNP's Arguments to Avoid Board Precedent are Unavailing

GNP does not attempt to make any argument based on the purpose or language of the Trails Act or Board regulations why its Petitions should be granted. Instead, GNP relies on formalistic legal argument that seek, in essence, a way around its fundamental failure to own an interest in the right-of-way or have a viable financial plan to provide freight service. None of its arguments provide a basis to reverse *Iowa Power*, other Board precedent or otherwise undermine Congress' goal in the Trails Act.

a. The Board is Not Compelled by the Trails Act or Other Law to Grant GNP's Request

GNP argues that "the Board is compelled to grant [its] request as a matter of precedent and Congressional intent" under the Trails Act. GNP Petition for Exemption at 7-8. GNP's basic position appears to be that the Trails Act "require[s] the restoration of rail service *by any approved rail service provider,*" and that the Board's role here is merely ministerial. GNP Petition to Vacate at 6 (emphasis in original). This position misconstrues the intent of the Trails

Act and the Board's authority in a case like this, where a railroad lacks the reactivation right yet seeks to restore rail service on a railbanked line.

Although it is true that a trail use is an "interim" use and that a trail user must be prepared to "step aside" when rail service is restored, the interim nature of a trail use does not mean, as GNP argues, that any proposed rail carrier can push aside any trail user at any time. As discussed above, and as Board precedent makes clear, a trail user must "step aside" only *after* a rail carrier has established its authority to operate on the corridor by either (1) being the abandoning railroad or its corporate successor, or (2) having obtained independent authority from the Board to operate on the corridor, being able to provide active rail service, *and* having obtained the consent of the abandoning railroad or its successor. *See Iowa Power* at 867-68*; R.J. Corman* at 6. Because GNP cannot meet these criteria, it may not obtain the vacation of the NITU until the Board grants GNP its own independent operating authority pursuant to Section 10901 or 10902 ***and*** GNP is in a position to actually provide active rail service and has the permission of the abandoning railroad or its successor. *See supra*, 39-41. Moreover, as detailed below, GNP cannot obtain operating authority pursuant to either Section 10902 or Section 10502, nor, as demonstrated above, can it provide active rail service in the foreseeable future.

GNP relies primarily on *Georgia Great Southern* to argue that the Board is compelled to grant GNP's Petition because the Board in that case approved vacating a NITU even though the railroad and trail user had not resolved how to compensate the trail user for its ouster by the railroad. GNP Petition for Exemption at 7-8. But that argument misses the critical distinction between the situation here and the issue in *Georgia Great Southern*.

The key point in *Georgia Great Southern* was that the petitioner was the corporate successor to the abandoning railroad and therefore had a pre-existing right to restore rail service

without any further Board authorization pursuant to Section 10901. *Georgia Great Southern* at 5. Accordingly, the railroad was not required to obtain Board approval to provide service under Section 10901. *Id.* Moreover, resolution of the payment dispute for the loss of the trail easement was not necessary to allow the railroad to provide service because it already possessed the necessary property rights. *Id.* at 4-5.

Here, in contrast, GNP does not own the reactivation right; the County does. GNP does not own or have any interest in the Lines except for its strictly limited License for head and tail operations and passenger excursion service; the Port, the County and the City of Redmond do. GNP has not received any prior Board authority to operate on the Lines. Lacking any of the necessary property and operating rights, and not otherwise being in a position to provide service until it obtains the property rights and secures the necessary financing, *Georgia Great Southern* is inapposite and GNP's Petitions should be denied under *Iowa Power.*[24]

Similarly, in *R.J. Corman*, the Board made clear that when a railroad other than the abandoning railroad seeks to provide service on a railbanked line, it must obtain Board approval under Section 10901 or Section 10902, as would any entity seeking to operate on a line it proposes to acquire. *R.J. Corman* at 6-7. The Board did not suggest that its traditional standards of approval under Section 10901 or Section 10902 would be relaxed or altered because the line was railbanked. Nor did the Board suggest that its standards for vacating a NITU under *Iowa Power* would be relaxed when a railroad other than the abandoning railroad seeks to reactivate a railbanked line.

[24] *Birt v. STB*, 90 F.3d 580 (D.C. Cir. 1996), is similarly not helpful to GNP's case. *Birt* merely notes by way of explaining the overall structure of the Trails Act, that the abandoning railroad may reassert its control over the line. *Id.* at 583. But *Birt* did not address the scope of the Board's authority to vacate a NITU at the request of a non-abandoning railroad, nor did it address vacating a NITU when the petitioning operator does not have any right to occupy or use the right-of-way.

b. Board Precedent Granting Exemptions Despite an Underlying Property or Contract Dispute is Inapplicable when GNP has not Demonstrated its Ability to Obtain the Rights Necessary to Exercise Board Authority

GNP further attempts to evade *Iowa Power* by citing Board decisions granting exemptions despite unresolved title and contract disputes. GNP Petition at 8-9. None of those decisions support GNP's petition here, however, and, if anything, they support dismissal of the Petitions.

GNP relies on the broad analogy to STB and I.C.C. proceedings in which granting permissive Board authority would not alter the legal rights in dispute. But that analogy is inapposite here because vacating the NITU *would* alter the legal rights of the property owners. Vacation of the NITU would end the County's authority as the Interim Trail User. It would jeopardize the ownership interests of the County, Redmond and the Port by subjecting them to potential reversionary property interest claims that would otherwise be shielded by the Trails Act. These legal rights would be altered even though GNP could not possibly exercise Board authority unless it obtains the necessary property interests. The decisions cited by GNP provide no support for granting permissive authority in such circumstances.

For example, in *Delaware & Hudson R.R. Corp. – Trackage Agreement Modification*, 290 I.C.C. 103 (Decided Aug. 20, 1953), the I.C.C. dismissed an exemption petition because the I.C.C. lacked the jurisdiction to resolve a contract dispute necessary to grant the requested abandonment exemption. The I.C.C. specifically noted that there was no basis to exercise its permissive authority when that authority could not be exercised without resolution of the underlying contract dispute. *Id*. at 110. *Delaware & Hudson* supports dismissing GNP's Petitions here, because vacating the NITU would be meaningless until GNP has obtained the

property rights and otherwise established that it can provide active rail service, as *Iowa Power* requires.

The other cases cited by GNP stand for the immaterial proposition that the Board may grant permissive authority notwithstanding an underlying dispute over contract or property rights, *where Board action would not prejudice any party*. *Morristown & Erie Ry., Inc. – Operation Exemption – Somerset Terminal R.R. Corp.*, STB Finance Docket No. 34267, slip op. at 2 (Service Date Nov. 26, 2002) (stay of exemption not warranted when irreparable harm not shown; exemption authority is permissive only and would not enable the consummation of the transaction without resolution of legal capacity to consummate transaction); *Prairie Cent. Ry. Co. – Acquisition and Operation Trackage Rights and Securities Exemption*, Finance Docket No. 30219, 367 I.C.C. 884, 885 (1982) (noting that granting the exemption would expedite transaction "when and if the trackage rights agreement is assigned."); *The Burlington Northern and Santa Fe Ry. Co. – Acquisition and Operation Exemption – State of South Dakota*, STB Finance Docket No. 34645, slip op. at 3 (Service Date Jan. 14, 2005) (Board notes that its denial of the Section 1150 exemption, and requirement to refile under Section 10901 or Section 10502 does not address the parties' dispute regarding their 1986 Operating Agreement); *Standard Terminal R.R. of New Jersey, Inc. – Acquisition Exemption – Rail Line of Joseph C. Horner,* STB Finance Docket No. 34551, slip op. at 2 (Service Date Oct. 8, 2004) (granting the exemption does not address or resolve any property ownership issues, but merely "permits [the parties] to consummate the described transaction if and when they, in fact, have the legal capacity to do so.").

Unlike those cases, however, vacating the NITU here could destroy the legal rights of the County, Redmond and the Port because GNP is unable to exercise the Board's permissive

authority. Indeed, the Board's decision in *Morristown & Erie Railway*, suggests that it is appropriate to stay issuance of an exemption when, as here, granting the request would result in irreparable injury. Such irreparable harm could occur through terminating the NITU and the protection it offers for maintaining the contiguity of the Corridor, which could in turn result in a loss of property interests. Further, the Board has refused to grant or maintain an exemption where necessary negotiating parties cannot be identified, or there is no reasonable expectation that the applicant can obtain the rights necessary to begin operations. *See, e.g., James Riffin*, STB Finance Docket No. 34501, slip op. at 2-3, 7 (vacating notice of exemption where substantial questions existed regarding ability of petitioner to obtain title to right of way).

GNP has not provided any reason for the Board to depart from its precedent requiring that a request to vacate a NITU by a non-abandoning operator be deferred until the petitioner has obtained Board authority to operate and put itself in a position to provide active rail service.

c. GNP Cannot Acquire the Reactivation Right Held by the County without the County's Consent

GNP argues that the Board should grant its Petitions to acquire the County's reactivation rights and vacate the County's NITUs despite the fact that the County has not agreed to (1) transfer the reactivation right to GNP, (2) vacate the NITUs, or (3) support GNP's proposal for freight and passenger service on the Lines. GNP Petition for Exemption at 9-10. GNP argues that the County's consent is not necessary because GNP seeks authority to acquire the County's reactivation right. *Id.* GNP's position rests on a fundamental misunderstanding of Board precedent and the nature of the reactivation right.

As explained above, the reactivation right is a personal right of the abandoning railroad. *Iowa Power* at n.12, n.15. The Board recognizes this limited right because under the Trails Act the abandoning railroad would retain the right to resume service without seeking new

authorization under Section 10901. *Id.* at n.15*; R.J. Corman* at n.6. Because allowing a new carrier to provide service would necessarily displace or impair the rights of the abandoning railroad or its successor, however, the Board requires that entity to consent to the restoration of service. *Iowa Power* at 10. Accordingly, the lack of the County's consent to GNP's proposal prevents the Board from granting GNP's Petitions.

GNP attempts to get around this bar by arguing that the County's consent is not necessary because GNP is seeking only authorization to acquire the reactivation right itself. GNP Petition for Exemption at 9-10. But that ignores the fact that any Board authorization to acquire the reactivation right would be permissive only; such authorization would not compel the County to convey the reactivation right to GNP. *See*, *e.g*., *In re Chicago, Milwaukee, St. Paul and Pacific R.R. Co*., 882 F.2d 1188, 1191 (7th Cir. 1989) (affirming Board's determination that its grant of authority to acquire and operate a line is "merely permissive," does not require the transfer of the line, and does not affect the rights and remedies of the parties to the transaction in the event of a dispute); *Riffin*, Finance Docket No. 35245, slip op. at 6. Accordingly, GNP would still have to obtain the County's consent in order to acquire the reactivation right. Because the County does not wish to convey its reactivation right to GNP, the Board's permissive authorization would not improve in any way GNP's chances of providing rail service on the Lines. Therefore, the Board should dismiss GNP's Petitions.

D. The Board should not Grant any of GNP's Petitions because its So-Called Freight Service is a Thinly Veiled Attempt to Obtain Immunity from Local Regulation for its Proposed Passenger Excursion and Commuter Services

1. The Board will not Allow its Jurisdiction to be Used to Shield Operations not Subject to its Jurisdiction from Local Regulation

The Board, and before it the I.C.C., has long held that it will "not allow its jurisdiction to be used to shield a line from the legitimate processes of state law where no overriding federal

interest exists." *The City of Chicago, Ill. – Adverse Abandonment – Chicago Terminal R.R. in Chicago, ILL.*, STB Docket No. AB 1036, slip op. at 4, n.8 (Service Date June 16, 2010) (citing *Kansas City Pub. Serv. Freight Operation − Exemption − Aban. in Jackson Cnty., MO*, 7 I.C.C.2d 216 (1990) and *CSX Corp. and CSX Transp., Inc. − Adverse Abandonment Application − Canadian Nat'l Ry. and Grand Trunk W. R.R.*, AB 31 (Sub-No. 38) (Service Date Feb. 1, 2002)). This concept is frequently invoked in the context of adverse abandonments in order to compel the abandonment of property no longer used for railroad purposes in order to enable the implementation of non-rail public purposes. *City of Chicago* at 6 (to allow the restoration of surface streets in area of city experiencing revitalization and redevelopment). However, the Board has invoked the principle to deny acquisition and operations authority when it was apparent that the applicant did not intend to use such authority for freight rail purposes. *See, e.g., The Land Conservancy of Seattle and King Cnty. – Acquisition and Operation Exemption – The Burlington N. and Santa Fe Ry. Co.*, STB Finance Docket No. 33389, slip op. at 13-14 (Service Date May 13, 1998) (affirming revocation of acquisition and operation authority where evidence demonstrated no intention to operate rail service).

In general, the Board lacks jurisdiction over wholly intra-state passenger service. *Fun Trains, Inc. – Operation Exemption – Lines of CSX Transp. Inc. and Fla. Dep't of Transp.*, STB Finance Docket No. 33472, slip op. at 2 (Service Date Mar. 5, 1998); *Napa Valley Wine Train, Inc. – Petition for Declaratory Order*, 7 I.C.C. 2d 954, 968-69 (1991); *Magner-O'Hara Scenic Ry. v. I.C.C.*, 692 F.2d 441, 444-45 (6th Cir. 1982). The fact that an operator runs both intra-state excursion service and interstate freight service on portions of the same track does not bring the excursion service within the Board's jurisdiction. *Napa Valley Wine Train*, 7 I.C.C. 2d at 964-967. Here, GNP's proposed excursion and commuter services are wholly intra-state. Those

proposed services would run from Redmond to Snohomish, all within the State of Washington. The service would not interconnect with any interstate carrier (rail or otherwise) and would not provide any interstate transportation nexus. There would be no connection between the excursion or commuter service and the freight service, and, as in *Napa Valley Wine Train*, any freight service would be minimal in any event.

Here, GNP's own statements confirm that GNP is seeking to invoke Board authority to provide freight service in order to shield itself from local environmental and land use review of its proposed passenger excursion and commuter rail services. GNP has repeatedly asserted that one key to being able to provide excursion and commuter rail service is being immune or exempt from state and local environmental and other regulations. *See* Section II.G.3, above; Exhibit 11 at ¶¶ 10, 23 (Bissonnette V.S.). GNP has incorrectly asserted that the FRA's Categorical Exemption for GNP's RRIF loan application provided that immunity.[25] Now, GNP seeks authority for a highly speculative freight operation in an attempt to actually obtain its previously asserted immunity from local environmental and other regulatory scrutiny. The Board should not condone that conduct.

[25] The National Environmental Policy Act, 42 U.S.C. § 4321 et seq., applies only to federal agencies and requires all federal agencies to take into account the environmental impacts of their decisions and actions. 42 U.S.C. § 4332 (2006). NEPA does not apply to or cover non-federal agencies, and certainly does not purport to exempt private entities from complying with state and local environmental laws. Indeed, NEPA does not even provide such exemptions for the federal agencies to which NEPA does apply. 42 U.S.C. § 4334 (2006) (preserving obligation to comply with otherwise applicable environmental laws). A categorical exclusion, as identified on an agency-specific basis, relieves only the relevant federal agency of the requirement to conduct detailed environmental review of a specified category of low-impact activities; a categorical exclusion simply does not apply to actions of any other entity. 40 C.F.R. § 1508.4 (2009). This principal is preserved in the FRA NEPA guidance in several ways. First, the categorical exclusions GNP relies on relates only to actions consisting of "financial *assistance or procurements for planning or design activities* which do not commit the FRA or its applicants to a particular course of action affecting the environment". FRA Environmental Procedures, Sec. 4(c)(3), 64 Fed. Reg. 28547 (emphasis added). Accordingly, only the decision to loan money is categorically excluded. Subsequent construction and operations by GNP, or future decisions by FRA, the Board or state or local officials, are not covered by the categorical exclusions. Second, the Categorical Exclusion Worksheet FRA requires for RRIF loan applications requires applicants to list in detail all "Related Federal, State or Local Actions" such as permits. *See* Exhibit 45 at Section V (FRA Categorical Exclusion Worksheet), available online at http://www.fra.dot.gov/downloads/RRDev/FRACATEXa06.doc (the "Worksheet Guidance"). Additionally, the Worksheet Guidance advises applicants that "[a]ny state or federal permit or consultation requirements should also be noted." Exhibit 45 at Section I.

2. GNP's Business Plan is Based on Passenger Excursion and Commuter Services, not Freight Service

It is clear from GNP's own statements to a variety of public officials that its proposed freight service is of no independent utility. There has been no local traffic on the Redmond Spur since at least 2006. When BNSF sought to abandon the Lines, it showed, and the Board accepted, that there had been no local traffic on the Redmond Spur for at least two years. *BNSF Ry. Co. – Abandonment Exemption – In King Cnty., WA*, STB Docket No. AB-6 (Sub-No. 463X) (Service Date Sept. 26, 2008). Similarly, there were only two shippers on the Woodinville Subdivision south of Woodinville, and that demand had been declining for the preceding years. *BNSF Ry. Co. – Abandonment Exemption – In King Cnty., WA*, STB Docket No. AB-6 (Sub-No. 465X), slip op. at 2-3 (Service Date Nov. 25, 2008). Neither of those shippers was in the 1.8 mile section of the Woodinville Subdivision that GNP seeks to reactivate. Exhibit 35 at ¶ 14 (Odom V.S.).

[***– CONFIDENTIAL INFORMATION REDACTED –***

]. Even accepting GNP's most optimistic estimate of demand from the four purported shippers it has identified, there is only demand for approximately 350 cars per year, approximately 38% of required demand. As detailed below, however, actual demand from those shippers is far lower, if in fact it exists at all. *Infra*, 64-66. Moreover, that estimate does not appear to take into account the cost of constructing the necessary industry tracks and switches, or acquiring the necessary property rights, to even reach those purported shippers. [***– CONFIDENTIAL INFORMATION REDACTED –***

]. Indeed, the proposed freight service will not generate sufficient revenue to carry out the repairs GNP

acknowledges will be necessary to make the Lines safe for operations. *See* Exhibit 11 at ¶ 24 (Bissonnette V.S.) (reciting GNP estimate of $3 million cost to rehabilitate line from Woodinville to Redmond).

Rather than freight operations, GNP has made it clear that its real objective is to develop passenger excursion and commuter services. [

– CONFIDENTIAL INFORMATION REDACTED –

]. Indeed, freight service has been a virtual footnote in GNP's revenue projections, GNP itself has repeatedly dismissed freight service as financially untenable on its own, and GNP has contractually limited itself to providing such freight service only on the Freight Segment from Snohomish to Woodinville.

3. GNP is Seeking Board Approval to Operate on Track for which there is no Freight Purpose to Operate

The pretextual nature of GNP's request is confirmed by comparing the authority GNP seeks to the demand it has identified for freight service. GNP is seeking acquisition and operating authority for the 7.3 miles of the Redmond Spur, and 1.8 miles of the Woodinville Subdivision from MP 23.8 to MP 22.0. But, the shippers GNP has identified are located at MP 0.96 and around MP 5.4 of the Redmond Spur. GNP has identified no shippers on any portion of the Woodinville Subdivision south of MP 23.8 and no shippers on the Redmond Spur south of MP 5.4, which extends into and through downtown Redmond. There are no likely freight customers south of Building Specialties on the Redmond Spur or on the 1.8 mile segment of the Woodinville Subdivision south of MP 23.2. Exhibit 35 at ¶¶ 9, 14 (Odom V.S.).

Moreover, there is no operational need for the 1.8 miles section of the Woodinville Subdivision. Any switching or tail operations at the junction of the Redmond Spur and the Woodinville Subdivision could be performed on the "wye" track or using the sidings on the

Woodinville Subdivision north of MP 23.8 over which GNP already possesses freight rail rights. Indeed, given the configuration of the junction, it would be difficult and inefficient to use the Woodinville Subdivision south of MP 23.8 for switching or tail operations.

Similarly, there are no identified or potential customers on that portion of the Spur where it runs to and through downtown Redmond. Although not a source of freight business, GNP representatives have emphasized that serving downtown Redmond is essential to its passenger services. Exhibit 11 at ¶ 11 (Bissonnette V.S.); Exhibit 44 at p.5 ¶ 8, at lines 2-9; p.5 ¶ 9, at lines 29-37; p.11 ¶ 11, at lines 16-23; p.14 ¶ 12, at line 13 ("Our focus is on Redmond and getting excursion started today.") (Potter V.S.). It seems apparent then that GNP is seeking Board authority to operate on sections of track for which there are no freight customers in order to gain the immunity from local regulation it seeks to further its proposed passenger services.

E. The Board should Deny the Exemption and Require GNP to Submit a Full Application

In addition to the other defects in the Petitions discussed above, the Board should deny GNP's exemption request and require GNP to submit a full application under Section 10902 or Section 10901 because GNP does not present sufficient evidence to support an individual exemption.[26]

The standard for an exemption is set forth in 49 U.S.C. § 10502(a):

> [T]he Board to the maximum extent consistent with this part, shall exempt a person . . . whenever the Board finds that the application in whole or in part of a provision of this part

[26] It is not clear which Section applies to GNP. GNP claims to be a Class III rail carrier by virtue of a Modified Certificate to operate over a 0.20 mile stranded segment of line in Snohomish County, Washington. STB F.D. No. 35151, *Certificate of Public Convenience and Necessity* (Service Date Aug. 13, 2008). However, the Modified Certificate applies only to an 0.20 mile section of track that does not appear to serve any local or overhead traffic. As explained *supra* at Section II.D.2, the segment has no connection to the interstate rail network and the County is not aware of any activities or operations by GNP on the mile segment. In addition, although GNP has obtained Board authority to operate on the Freight Segment, it does not appear that GNP is performing the operations itself. Rather, GNP has contracted with Ballard to operate the freight service and thus is not operating any freight or common carrier service at this time.

(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

(2) either –

(A) the transaction or service is of limited scope; or

(B) the application in whole or in part of the provision is not needed to protect shippers from the abuse of market power.

In this case, the answer to the question of where lies the public interest requires the Board to weigh the scant benefits of GNP's putative freight service against the harm that GNP's proposal could do to the multi-use public benefits the County and other regional stakeholders have proposed for the right-of-way.

The Board will dismiss or revoke an exemption and require a full application if it is apparent that Board regulation is necessary to assure that the proposal is consistent with the national rail policy as set forth in Section 10101a. *Ozark Mountain R.R. – Constr. Exemption*, STB Finance Docket No. 32204, slip op. at 4-5 (Service Date Dec. 15, 1994). This is particularly true where, as here, substantial questions exist as to the financial viability of the project, there is substantial public opposition, the proposed service would provide only limited rail service and the proposed rail service would impair other important public purposes. *Id*. at 4-6 (revoking conditional exemption and directing petitioner to file full application under Section 10901 because the applicant failed to demonstrate its financial capacity to undertake the project, or that the company or its principals had prior experience operating a railroad, and failed to provide credible support for the likelihood of success of its proposed rail operations, and because the project stirred up significant public controversy).

1. GNP's Petitions are too Controversial to be Appropriate for an Exemption

The Board's exemption procedures, while appropriate in many circumstances, are not available in all cases. The exemption process "works well in noncontroversial . . . cases. But

[neither the I.C.C. nor the Board has] employed it in cases where significant opposition has been expressed to the proposed project. In controversial cases, the applicant typically has filed a formal application." *Ozark Mountain RR.* slip op. at 4-5 (citing *Constr. and Operation – Indiana & Ohio Ry. Co*., 9 I.C.C.2d 783 (1993) and *Tongue River R.R. Co. – Application*, Finance Docket No. 30186 (Sub-No. 2) (Decided July 23, 1993)). In *Ozark Mountain*, the I.C.C "received information raising serious concerns about the impact of the project on the people who live in the area. This information indicates that the application process, rather than the exemption process, is the more appropriate vehicle for the Commission to use in considering whether to approve the proposed construction and operation." *Id*. The I.C.C. was specifically concerned that only the full application process would allow it "to ascertain if [the applicant] would be able to bring this project to fruition." *Id.* Similar concerns are implicated here and similarly support the need for full Board regulation under Section 10901 or 10902.

GNP's proposal, including freight, excursion and commuter rail operation that would run through the middle of downtown Redmond, is highly controversial and is actively opposed by the public entities involved, including the County and the City of Redmond. Other public entities, such as Sound Transit, have raised serious questions about GNP's proposal. The controversy relates not just to the passenger service in downtown Redmond, but to the impact the project would have on the regional planning effort for the entire corridor. At present, a variety of regional stakeholders are planning a number of uses in the corridor, including the possibility of future rail service. *Supra*, 11-14. If these entities supported GNP's highly speculative piecemeal and limited plan, then there might be some basis for concluding that this plan for re-introduction of freight service should be approved at this time. Absent such support and in the face of the

other regulatory, contractual and policy constraints described in these Comments, the Petition for Exemption should be denied.

2. GNP has no Agreement Allowing It to Carry Out Its Proposed Service and there are no Details about when an Agreement can be Reached

49 C.F.R. § 1150.43(c) requires that a notice of exemption from 49 U.S.C. § 10902 contain "[a] statement that an agreement has been reached or details about when an agreement will be reached." Although not strictly required in the context of a petition for exemption, the basic information required pursuant to Section 1150.43(c) is relevant in a petition proceeding as well because information about an agreement is necessary for the Board to understand the transactions at issue, the role of the Board in exempting the transaction from regulation and whether Board regulation is necessary to carry out the transportation policy of Section 10101. Moreover, a transaction by agreement would be more naturally suitable for an exemption because it is less likely to be controversial and is part of an orderly transfer of rights.

GNP agrees that the information required pursuant to Section 1140.43(c) is relevant here because it attempted to provide responsive information. Specifically, GNP states that "GNP has been talking to King County representatives about restoration of common carrier service on the Lines; however, the parties have not yet reached an agreement." GNP Petition for Exemption at 13. First, as a factual matter, there have been *no* meaningful negotiations between GNP and the County about restoring common carrier service, or about conveying rights to do so; nor has the County offered to negotiate regarding such matters at any time since it acquired its Railbanking Easement and became the interim trail user. Exhibit 11 at ¶¶ 20-21, 26-27 (Bissonnette V.S.). Rather, GNP on August 4, 2010 announced to King County its intention to petition to reactivate the Lines, and a few weeks later filed the present petitions. *Id.* Unable to provide responsive facts regarding an agreement, GNP relies on a legal argument that the absence of an agreement

"presents no bar to this Board's ability to issue an exemption authorizing GNP to restore service or to the restoration of service itself." GNP Petition for Exemption at 13.

GNP's legal argument misses the point. Section 1150.43(c) requires "a statement that an agreement has been reached," or details about when petitioner expect to reach an agreement in order to provide a basis for the Board to conclude that the transaction is not controversial and that Board regulation is not otherwise appropriate. Here, the absence of an agreement, and indeed the absence of negotiations that might lead to an agreement, underscores that GNP's proposals are *not* consensual, *are* controversial and *do* require Board regulation. GNP's inability to provide the information called for in Section 1150.43(c) underscores that GNP cannot meet the basic requirements of a petition for an exemption.

GNP's failure to satisfy this fundamental requirement is not only related to the acquisition of the County's reactivation right. GNP glosses over the fact that even if the County were to consent to the transfer of the reactivation right, GNP will not have secured the property rights necessary to conduct rail operations. As a result, GNP would only be able to step into the County's shoes, and the County presently lacks the right to use the Lines for any purpose other than for trail use.[27] *See* Exhibit 15 (Public Multipurpose Easement). GNP lacks the necessary agreement with the Port and Redmond for access to the right-of-way. In the absence of any agreement, or prospect of any agreement for (i) the County's reactivation right or (ii) access to the right-of-way, GNP cannot implement its plan and cannot demonstrate to the Board that its plan should be exempt from Board regulation.

[27] This is not to say that the County could not exercise its reactivation right. Like GNP, it would have to secure the necessary property rights from the owners to allow that service to commence.

3. GNP's Proposal would Constitute a Public Detriment and is not in the Public Interest

Application of the national rail transportation policy set forth at 49 U.S.C. § 10101 involves a balancing of interests in order "to operate transportation facilities and equipment without detriment to the public health and safety." 49 U.S.C. § 10101(8) (2006). Construction and operation of a rail line by a Class II or Class III railroad pursuant to 49 U.S.C. § 10902, must be consistent with the public convenience and necessity. 49 U.S.C. § 10902(c) (2006). [28]

The statute does not define the "public convenience and necessity." However, the I.C.C. established that an applicant must satisfy three criteria in order to demonstrate that the proposed construction and operation will not impose a public detriment. The applicant must demonstrate (a) financial fitness to undertake the construction and provide service; (b) public demand or need for the proposed service; and (c) that the proposed construction project is in the public interest and will not unduly harm existing services. *Indiana and Ohio R.R. Co. – Constr. and Operation – Butler, Warren, and Hamilton Counties, OH*, Finance Docket No. 31320, 9 I.C.C.2d 783, 787 (Service Date Aug. 3, 1993).

In *The Indiana and Ohio R.R.*, the I.C.C. denied an application to construct and operate freight service over an abandoned 2.9 mile line of railroad because the threat to public safety posed by the line's proximity to scores of residences (constructed since the line had been abandoned) could not be mitigated. *Id*. at 789-90. The I.C.C. determined, "[a]fter weighing the adverse impact of this line's construction on public safety against the benefits noted above . . . we conclude that Applicants have failed to meet their burden of showing that building the line is permitted or required by the public convenience and necessity." *Id*. at 790.

[28] The standard is the same under 49 U.S.C. § 10901(c).

Here GNP's precarious financial projections prevent it from demonstrating that it has the financial capacity to "operate . . . without detriment to the public safety." 49 U.S.C. § 10101(8). Unlike the applicant in *Indiana & Ohio Ry.*, GNP cannot meet any basic test of financial fitness. GNP's Petitions and public statements make it clear that GNP itself lacks the financial fitness to carry out its plan, and its suggested methods of raising capital through loans and private investment are too vague and speculative to warrant approval of a transaction by themselves. At a minimum, regulation by this Board is needed to evaluate GNP's financial fitness. The exemption process is inadequate to explore that issue, and full review of the proposal is required to determine whether GNP's proposal is consistent with the statute overall and with the National Transportation Policy in particular.

[***– CONFIDENTIAL INFORMATION REDACTED –***]. There is no evidence of any other potential rail customers on the Lines, and indeed BNSF experienced dramatic declines in demand in the years prior to its abandonment. Again, more detailed review under Section 10901 or 10902 is necessary to assess the level of public demand for freight rail service on the Lines.

Additionally, GNP's proposed service is clearly *not* in the public interest. GNP's proposal is inconsistent with the multi-use regional plans for the right of way. GNP's plan could destroy the efforts of the County and other regional stakeholders to effectively, efficiently and safely locate multiple essential public facilities, including provision for future public transportation rail service, in order to provide minimal freight service to *four* companies who have access to and have been using other modes of transportation and who are not in a position to make a firm commitment for freight service at this time. GNP's proposed passenger excursion

service would interfere with land use planning efforts in downtown Redmond, and would pose safety risks by operating trains in the middle of downtown streets in an area that has not seen rail traffic in many years. Moreover, GNP is barred by the Sound Transit authorizing legislation, RCW 81.112.090 and .100, from independently providing high capacity transportation commuter service on the Lines. At a minimum, Board review of GNP's proposal is necessary to assure that its proposal is in the public interest.

4. GNP has Omitted Material Information and Relies on Misleading Statements, and is therefore not Entitled to an Exemption

The Board will deny or revoke an exemption where it finds the applicant has omitted information of material importance to the proposed transaction. *Jefferson Terminal R.R. Co. – Acquisition and Operation Exemption – Crown Enterprises, Inc*., STB Finance Docket No. 33950, slip op. at 5 (Service Date Mar. 19, 2001) (revoking exemption because applicant had failed to disclose a pending condemnation action involving one of the parcels it sough to acquire). A similar rule should apply to petitions for an exemption for the same reasons: an individual exemption would be inappropriate when it rests, as it does here, on incomplete and therefore misleading information.

GNP's Petitions are misleading in a number of ways. Although GNP acknowledges it does not own any property or other interest in the right-of-way, it did not disclose to the Board that the local stakeholders actively oppose GNP's plans, or that it is not engaged in current negotiations with the Port, Redmond or the County for transfer of the rights it seeks here. GNP focuses on forcing the acquisition of the County's rights, but omits the discussion of the Port and City's rights in the Lines, and avoids entirely any discussion of the likelihood of its obtaining any interest in the right-of-way. Further, GNP has withheld from the Board the information that it has signed agreements that *prohibit* freight operations on the Redmond Spur. Just as the Board

refused to follow the class exemption procedure in *Riffin d/b/a The N. Cent. R.R.*, STB Finance Docket No. 34982, slip op. at 3, because the applicant had failed to disclose the difficulties he would face in obtaining title to the right-of-way, the Board should dismiss the Petitions here. GNP further omits any discussion of its own prior conclusions as to the lack of financial viability of the freight operation. It is impossible for the Board to adequately evaluate GNP's Petitions without an accurate and complete understanding of GNP's business plan.

GNP has also been misleading in a number of respects regarding the potential shippers it has identified. First, although GNP states that "a demand for rail service has developed," Petition at 5, in fact it is clear that there is no genuine demand. Mr. McDonald of Drywall Distributors has testified that Drywall Distributors has no present need for rail service and that it cannot foresee any such need for several years. McDonald Dep. at 70:22-71:3 (Exhibit 47). Representatives of both Building Specialties and Drywall Distributors testified that any decision whether or not to use rail service would depend on a careful analysis of the costs of using rail service and that they had not performed that analysis. *Id.* at 47:13 – 50:8; Mann Dep. at 93:1-15 (Exhibit 46). Mr. Mann also made it clear that while they would like to have the *option* to use rail service, apparently as leverage in negotiating shipping rates with trucking firms, he did not know if there would be any actual need for rail service. Mann Dep. at 93:1-15 (Exhibit 46). In fact, Mr. Mann testified that his demand for rail service would be entirely contingent on price and other conditions, and that he had turned down offers of rail service in approximately 2005-2006. *Id.* at 38:21-43:11. Mr. McDonald gave very similar testimony, making it clear that Drywall Distributors' interest in rail service was entirely contingent on price and a wide range of market conditions that do not exist at present. McDonald Dep. at 55:8-19; 66:4-71:36.

Second, although GNP states that "two customers have come forward and asked GNP to serve them," Petition at 5, it is clear that GNP approached those entities and that neither has asked GNP to serve them. Both Mr. Mann and Mr. McDonald testified that GNP approached them, not the other way around as GNP indicates. Mann Dep. at 17:11-18:18; McDonald Dep. at 38:14-452:16. Indeed, the letters Building Specialties and Drywall Distributors provided were a form letter provided by GNP and that they essentially filled in the blanks. *Id.* The letters do not represent the spontaneous expression of demand for service GNP attempts to portray. Moreover, as described above, neither Building Specialties or Drywall Distributors has asked GNP to provide any rail service. At most, they have expressed an interest in having the option of using rail service, if justified by cost and demand.

The letters of support from Steeler, Inc. and UniSea, Inc. use the same operative language as the letters from Building Specialties and Drywall Distributors and appear to be based on the same form provided by GNP. Those letters do not appear to represent any greater demand for service than do the letters from Building Specialties or Drywall Distributors. If anything, Steeler and UniSea are even *less* credible potential shippers because neither has direct access to the Spur or an existing industrial track. *See* Exhibits 37 and 38; Exhibit 35 at ¶¶ 11, 12 (Odom V.S.). Indeed UniSea was a former shipper on the Spur, but it voluntarily discontinued rail service before 2000 and voluntarily removed the track it had formerly used. *Id.* at ¶ 11; Exhibit 48. Neither UniSea nor Building Specialties objected when BNSF terminated the Industrial Track Agreement in 2007. Odom V.S. at ¶ 11. Even if the Board credits the letters of UniSea and Steeler as representing legitimate demand, GNP must prove that GNP can physically provide rail service to meet that demand.

Third, it is clear that GNP has overstated the amount of traffic for which even potential demand could be said to exist. In its Petition, GNP indicates that one potential shipper, Drywall Distributors, believes it would receive 40 carloads per year, and a second potential shipper, Building Specialties, would receive 2-5 carloads *daily*, for a total of approximately 250 carloads per year. GNP Petition at 5-6. But in its letter, Building Specialties indicates that it would expect to receive approximately 40 carloads per *year*, GNP Petition at Exhibit E, which is substantially lower than the 2-5 carloads per day GNP represented. Moreover, GNP's numbers simply do not add up. 2-5 carloads per day would represent approximately 500-1300 carloads per year. Yet GNP inconsistently represents that Drywall Distributors and Building Specialties would account for combined traffic of 250 cars per year. GNP Petition at 6. According to the letters of Drywall Distributors and Building Specialties themselves, however, their combined demand would be no more than 80 cars per year, or approximately 1.5 cars per week. GNP Petition at Exhibits D and E.

Moreover, none of these representations squares with BNSF's historic data, which shows *no* traffic to the Drywall Distributors and Steeler, Inc. properties, no traffic by UniSea since at least 200 (and more likely 1990),[29] and total traffic by all other shippers, including Building Specialties, shrinking from 26 total cars in 2001 to only 7 cars in 2005, and only 3 final cars in 2006 prior to abandonment. Exhibit 35 at ¶¶ 5, 8, ex. C (Odom V.S.). GNP's inconsistent and misleading description of the demand for freight service is further reason to dismiss the Petitions.

5. GNP Cannot Bring Its Proposed Freight Service to Fruition

The national rail policy would not be served by authorizing a doomed operation. *See Ozark Mountain R.R.*, slip op. at 4-5. Here, it is clear that GNP cannot bring its proposed freight

[29] *See* Exhibit 48 (building permit for UniSea to remove industrial track); *supra,* 32-34.

service to fruition. First, GNP does not own the right-of-way, and has no contract or property rights to make use of the Lines for its proposed freight service, excursion passenger or commuter rail services to downtown Redmond. Both the County and the City of Redmond have indicated that they do not intend to convey any interests or rights to GNP at this time, and the County is not aware of any intent on the part of the Port to convey any such rights to GNP. The Port's current agreement with GNP, which was negotiated and executed by GNP just eight months before GNP filed the Petitions, expressly bars freight service on the Redmond Spur. Because GNP cannot provide service on a right-of-way which it is legally unable to use, it cannot even initiate its proposed freight service.

Second, even if the owners of the right-of-way were willing to convey some interest to GNP, GNP appears to lack the financial strength to initiate service. GNP's financial plan for this project is, at best, sketchy and uncertain. At present, GNP lacks the capital and financing it admits it needs, and GNP has not identified a path to securing that financing. As detailed above, it cannot identify any credible customers or demand that could generate cash flow, much less capital. GNP has indicated that its plan is based on financing from an FRA RRIF loan and/or a Sound Transit contract. But GNP's RRIF application has been pending for some time now, and there does not appear to be any basis to believe that FRA will approve all or part of that loan.[30] Sound Transit has recently deferred its prior plan to issue an RFP for commuter service on the Subdivision, removing that source of possible funding. Before GNP receives any authority from this Board, particularly in view of the local opposition to its plan, this Board should require GNP

[30] The FRA has recently articulated its priorities for granting RRIF loans received after October 29, 2010. 75 *Fed. Reg.* 60165-60168 (Sept. 29, 2010). Even though the priorities stated there may not apply to GNP's earlier filed application, the FRA notes that it requires applicants to "identify with specificity how the public's interest would benefit from RRIF financial assistance when compared to use of conventional funding." *Id.* at 60167. Based on the strong opposition to GNP's proposed use of the Lines, it is difficult to see how GNP could satisfy that requirement.

to demonstrate that sufficient financing can be obtained or that it has the ability to provide enough working capital to restore the tracks to serviceable condition and commence operations.

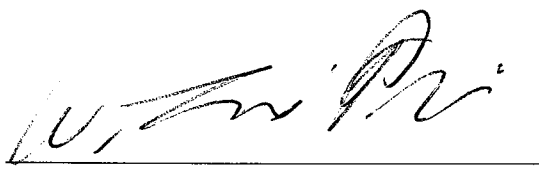
Finally, granting the exemption would not be an appropriate use of Board authority because it would not expedite the ultimate ability of GNP to provide rail service. GNP has no property interest or other right to use the right-of-way for its proposed services. The Board's permissive authority would not mandate that the Port or City convey any interest in the property, would not secure the necessary financing and would not require the County to consent to the transfer of its reactivation right or its interest in the Railbanking Easement. As the decisions cited by GNP make clear, the Board lacks authority to resolve contract and property law disputes and the Board will deny an exemption request if the underlying property issue is fundamental to the exercise of Board authority. *See BNSF*, Finance Docket No. 34645, slip op. at 3 (dismissing class exemption notice because of complicated and controversial nature of the project and unresolved litigation over rights to the track). Here, because GNP's lack of property rights in the right-of-way poses a fundamental and apparently insurmountable bar to GNP's ability to exercise any Board authority, the Board should dismiss the Petition and require GNP to submit a full application detailing, among the other required elements, how it intends to gain legal access to the right of way and to create a viable financial plan for the service.

IV. CONCLUSION

Based on the facts and the law, it is clear that GNP's Petitions must be rejected. Pursuant to *Iowa Power* the Board cannot vacate the NITU unless and until GNP can actually provide active rail service and has the consent of the abandoning railroad or its successor. GNP has not obtained the property interests needed to make any use of the Lines, which necessarily prevents GNP from being able to provide active rail service even if the Board were to grant the Petitions.

In addition, GNP's lack of a viable business plan makes GNP's proposed project infeasible and the County does not consent to its proposal. Moreover, GNP's Petitions must be rejected because the purported freight service is a pretext to obtain Board authority and use it as a shield to block application of state, local and federal environmental and other regulation to GNP's proposed passenger excursion and commuter services. The Board does not tolerate such an abuse of the Board's authority, providing an additional ground to deny the Petitions. Finally, GNP's Petitions fail to meet the requirements for an exemption pursuant to 49 U.S.C. § 10502, and, if GNP desires to continue to seek Board approval, it should be required to submit a complete application pursuant to 49 U.S.C. § 10901 or 10902.[31]

Respectfully submitted,



Charles A. Spitulnik
W. Eric Pilsk
Allison I. Fultz
KAPLAN KIRSCH & ROCKWELL LLP
1001 Connecticut Avenue, N.W.
Suite 800
Washington, DC 20036
(202) 955-5600

Counsel for King County, Washington

Dated: November 9, 2010

[31] In the alternative, and only in the event the Board is inclined to grant the Petitions, the County requests that the Board hold in abeyance the effective date of any order vacating the NITU until GNP has obtained the property or other rights needed and is in position to actually to use the Lines for any purposes authorized by the Board.

CERTIFICATE OF SERVICE

I hereby certify that I am providing a copy of the Public Version and the Confidential Version of the foregoing COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC. upon John Heffner, counsel for GNP Rly. Inc. at John D. Heffner, PLLC, 1750 K Street, N.W., Suite 350, Washington, D.C. 20006, and a copy of the Public Version of the COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC. upon the following parties of record by first class mail with postage prepaid and properly addressed:

Tom Carpenter
International Paper
International Place I
6400 Poplar Avenue
Memphis, TN 38197

Kristy D. Clark
David T. Rankin
BNSF Railway Company
2500 Lou Menk Drive
AOB-3
Fort Worth, TX 76131

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

Don Davis
Master Builders Association of King and Snohomish Counties
335 116th Avenue SE
Bellevue, WA 98004

John D. Heffner
James H.M. Savage
John D. Heffner, PLLC
1750 K Street, N.W., Suite 350
Washington, DC 20006

Kevin M. Sheys
Janie Sheng
K&L Gates LLP
1601 K Street, N.W.
Washington, DC 20006

Karl Morell
Ball Janik LLP
1455 F Street, N.W., Suite 225
Washington, DC 20005

Dean Kattler
Waste Management of Washington Inc.
13225 NE 126th Place
Kirkland, WA 98034

Denis Law
City of Renton
1055 South Grady Way
Renton, WA 98057

Isabel Safora
Port of Seattle
P. O. Box 1209
Seattle, WA 98111

Kurt Triplett
City of Kirkland
125 5th Avenue
Kirkland, WA 98033

Ernest F. Wilson
17509 NE 38th Court
Redmond, WA 98052

Kathy Cox
Marketing Philharmonic
218 Main Street #668
Kirkland, WA 98033

John F. Marchione
City of Redmond
16532 NE 98th Court
Redmond, WA 98052

Steve Sarkozy
City Manager
P. O. Box 90012
Bellevue, WA 98009

Robert P. vom Eigen
Foley & Lardner LLP
3000 K Street, N.W., Suite 500
Washington, DC 20007

Mike Bates
Woodinville Lumber, Inc.
15900 Woodinville-Redmond Road, N.E.
Woodinville, WA 98072

W. Eric Pilsk

Dated this 9th day of November, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)

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

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)

STB Finance Docket No. 35407

GNP RLY INC. – ACQUISITION AND OPERATION EXEMPTION – REDMOND SPUR AND WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502

EXHIBITS IN SUPPORT OF COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC.

VOLUME I of II, EXHIBITS 1 – 26

Communications with respect to this pleading should be addressed to:

Charles A. Spitulnik
W. Eric Pilsk
Allison I. Fultz
KAPLAN KIRSCH & ROCKWELL LLP
1001 Connecticut Avenue, N.W.
Suite 800
Washington, DC 20036
(202) 955-5600
E-mail: cspitulnik@kaplankirsch.com
E-mail: epilsk@kaplankirsch.com
E-mail: afultz@kaplankirsch.com

Counsel for King County, Washington

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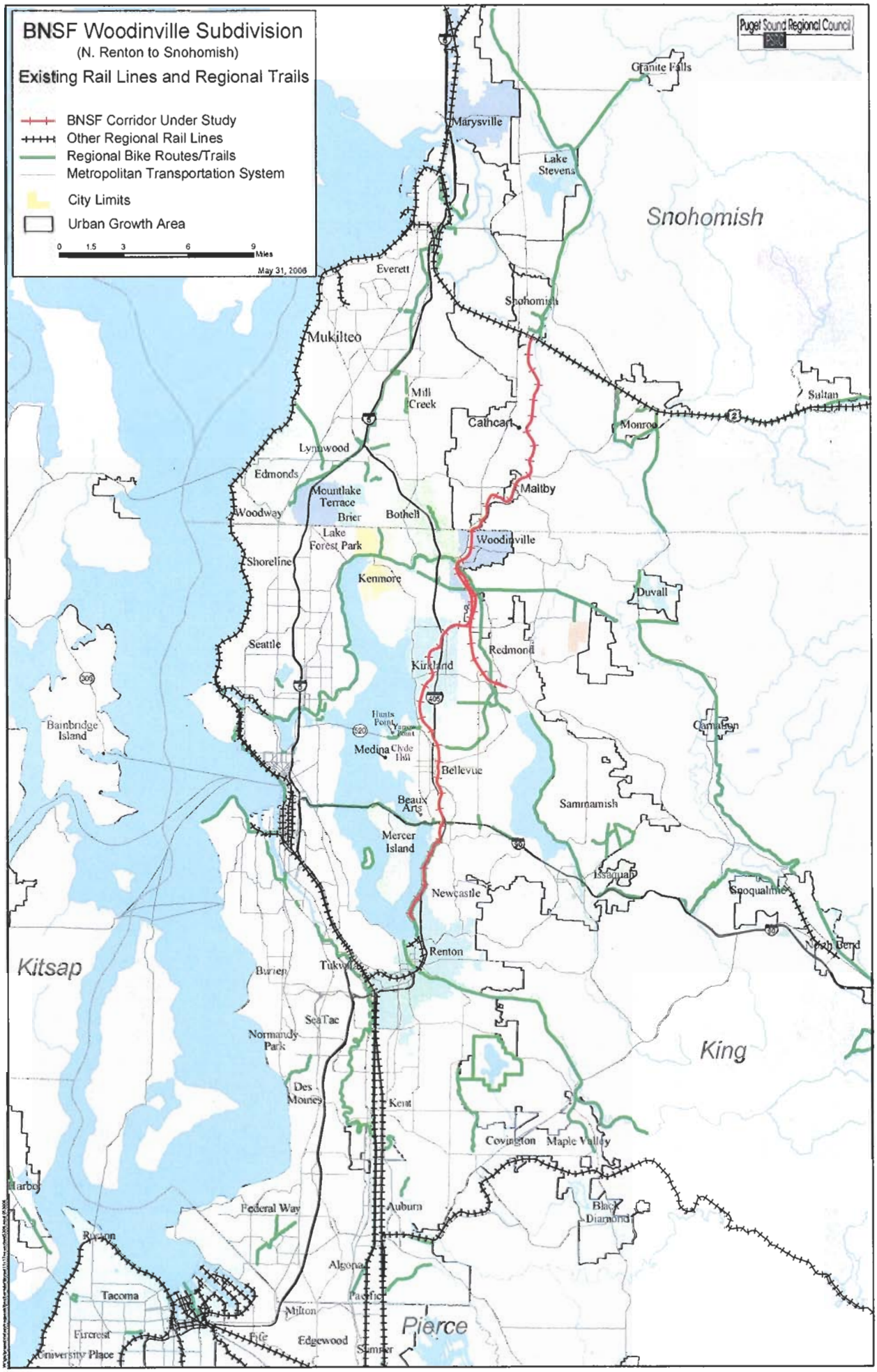
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(N. Renton to Snohomish)
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BNSF Corridor Under Study
Other Regional Rail Lines
Regional Bike Routes/Trails
Metropolitan Transportation System
City Limits
Urban Growth Area
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Puget Sound Regional Council
Granite Falls
Marysville
Lake Stevens
Snohomish
Everett
Mukilteo
Mill Creek
Calhcart
Monroe
Sultan
Lynnwood
Edmonds
Mountlake Terrace
Brier
Bothell
Woodway
Lake Forest Park
Shoreline
Kenmore
Maltby
Woodinville
Duvall
Seattle
Redmond
Kirkland
Bainbridge Island
Hunts Point
Yarrow Point
Medina
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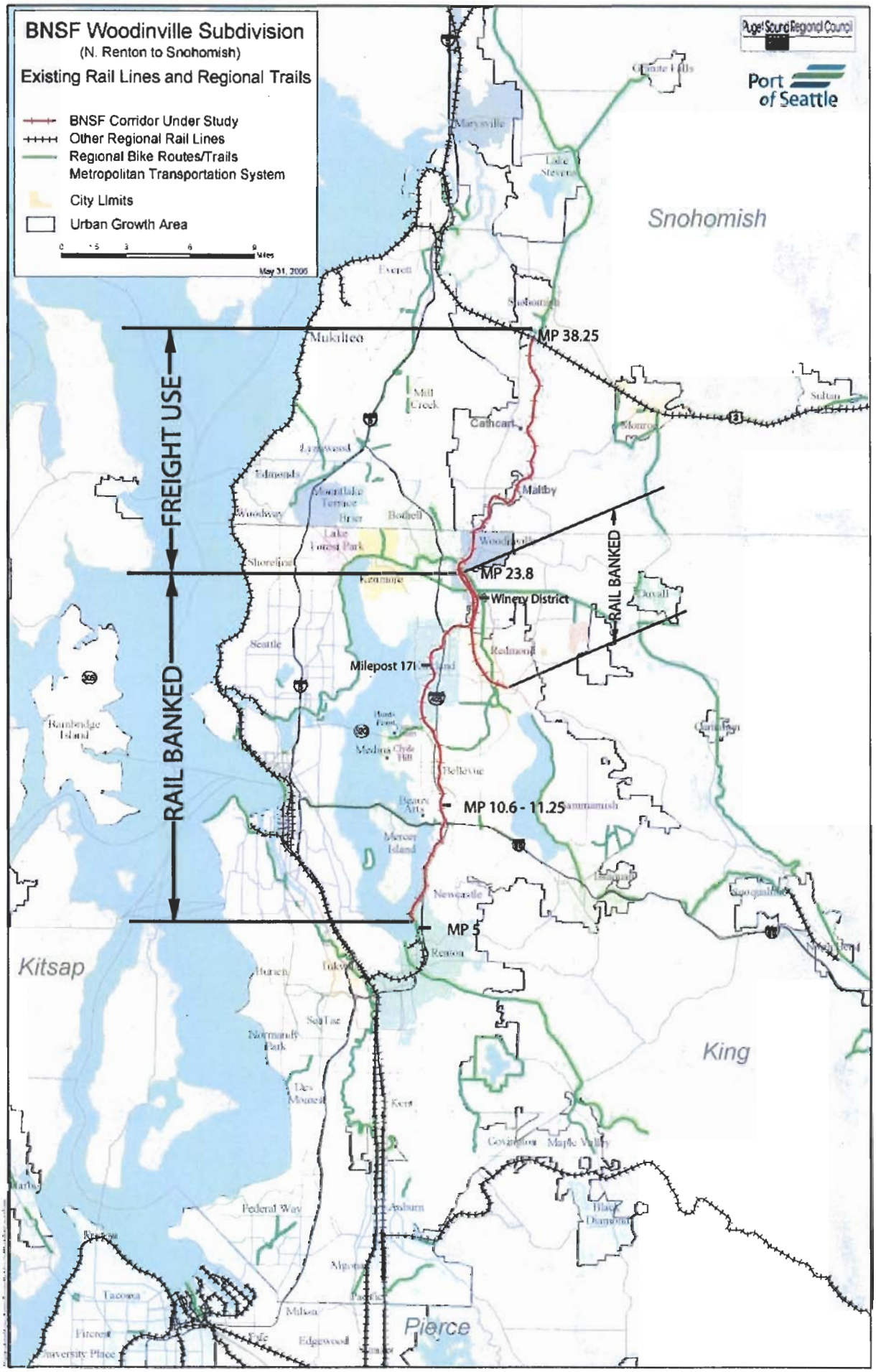
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FREIGHT USE
RAIL BANKED
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Milepost 17
MP 10.6 - 11.25
MP 5
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Everett
Snohomish
Mill Creek
Cathcart
Maltby
Woodinville
Kenmore
Redmond
Bellevue
Renton
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Auburn
Tacoma
Fife
Edgewood
Milton
Pacific
Algona
Federal Way
Des Moines
Normandy Park
Burien
Seattle
Shoreline
Edmonds
Lynnwood
Woodway
Brier
Bothell
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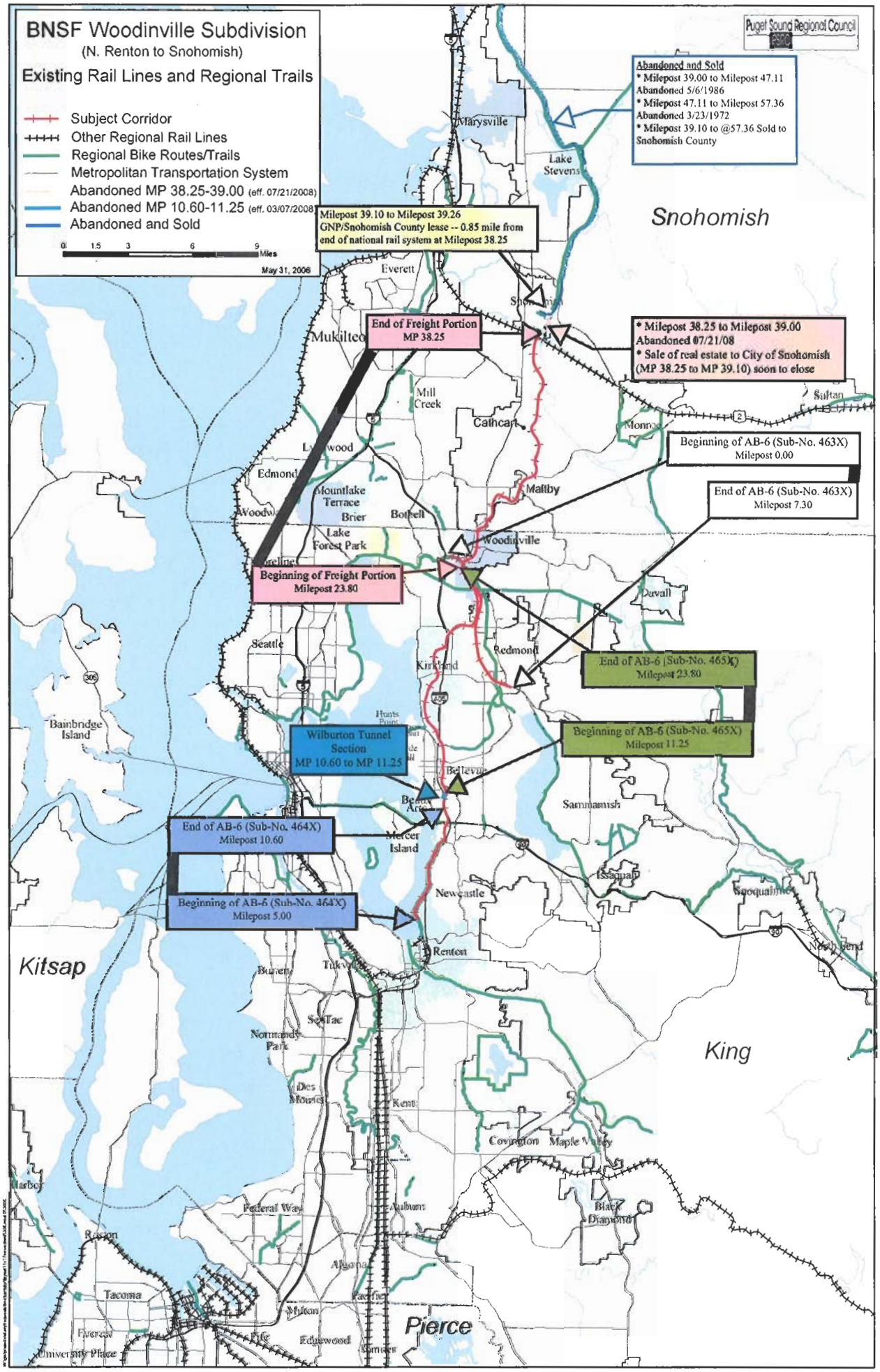
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Abandoned MP 10.60-11.25 (eff. 03/07/2008)
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May 31, 2006
Puget Sound Regional Council
Abandoned and Sold
* Milepost 39.00 to Milepost 47.11
Abandoned 5/6/1986
* Milepost 47.11 to Milepost 57.36
Abandoned 3/23/1972
* Milepost 39.10 to @57.36 Sold to Snohomish County
Milepost 39.10 to Milepost 39.26
GNP/Snohomish County lease -- 0.85 mile from end of national rail system at Milepost 38.25
End of Freight Portion
MP 38.25
* Milepost 38.25 to Milepost 39.00
Abandoned 07/21/08
* Sale of real estate to City of Snohomish (MP 38.25 to MP 39.10) soon to close
Beginning of AB-6 (Sub-No. 463X)
Milepost 0.00
End of AB-6 (Sub-No. 463X)
Milepost 7.30
Beginning of Freight Portion
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Mukilteo
Mill Creek
Cathcart
Monroe
Sultan
Lynnwood
Edmonds
Mountlake Terrace
Brier
Bothell
Maltby
Woodinville
Lake Forest Park
Duvall
Seattle
Redmond
Kirkland
Bainbridge Island
Bellevue
Sammamish
Mercer Island
Issaquah
Snoqualmie
Newcastle
Renton
Burien
Tukwila
SeaTac
Normandy Park
Des Moines
Kent
Covington
Maple Valley
Black Diamond
Federal Way
Auburn
Algona
Tacoma
Milton
Pacific
Fife
Edgewood
Sumner
University Place

BNSF

Track Chart

Woodinville Subdivision

Snohomish Jct West, WA (M.P. 1.2) to Black River, WA (M.P. 9.5)

See each page for latest revised date

To view on the intranet or print this Track Chart go to:
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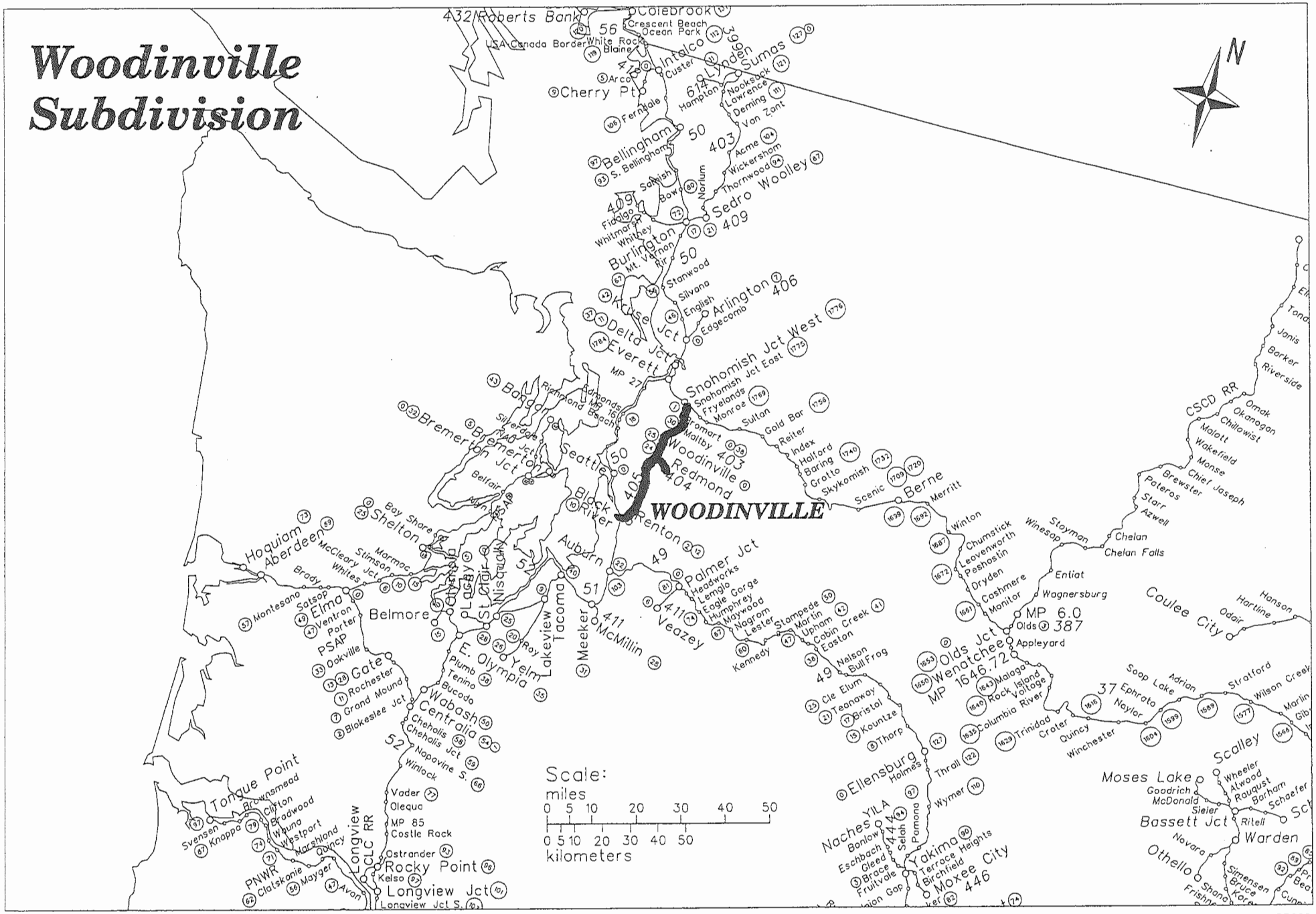

Burlington Northern and Santa Fe Railway Company

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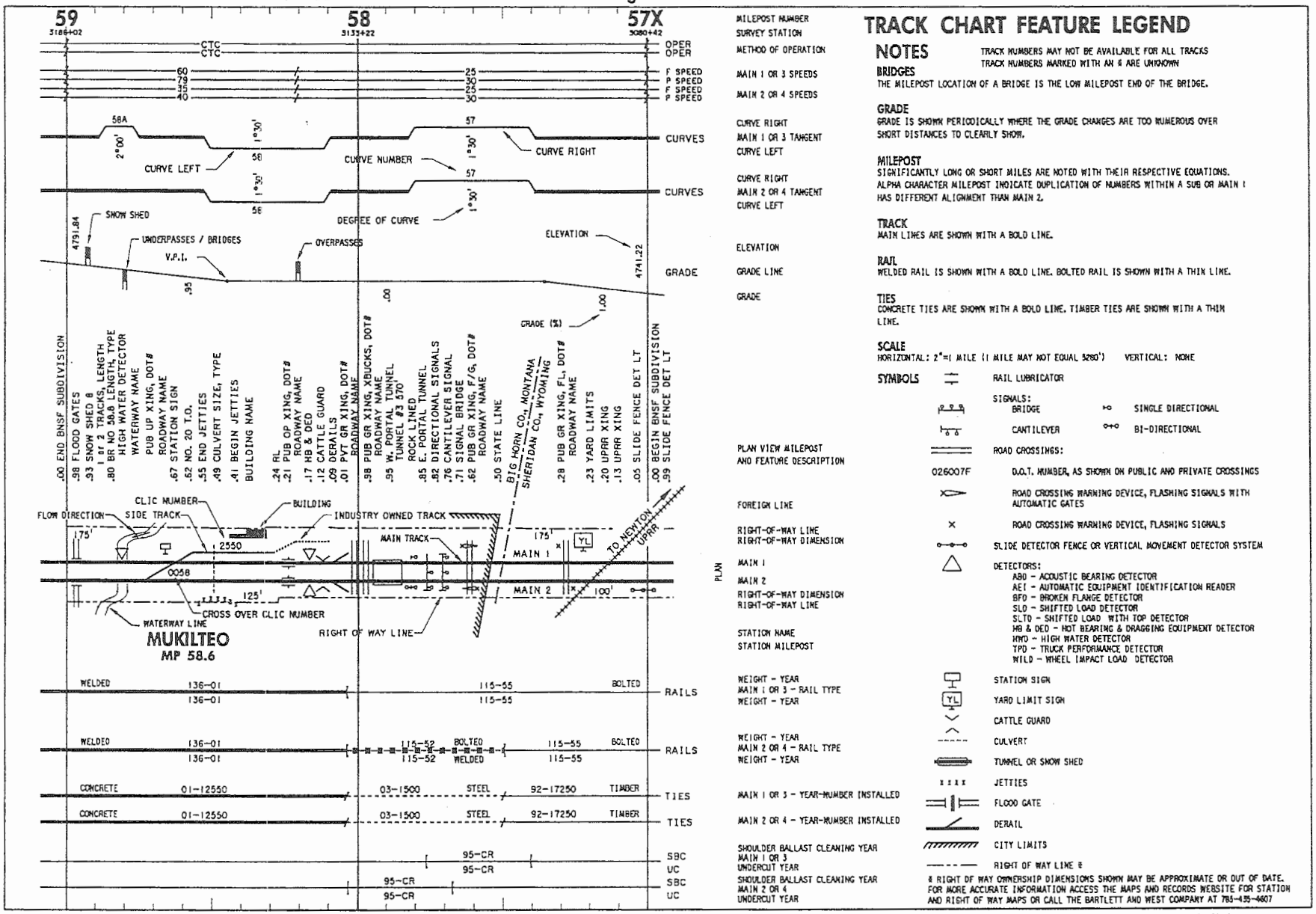
03/31/2000

← Timetable Subdivision Terminus West | Line Segment Number | Timetable Subdivision Terminus East →

Subdivision Sheet Number: 1



TRACK CHART FEATURE LEGEND

NOTES

TRACK NUMBERS MAY NOT BE AVAILABLE FOR ALL TRACKS
TRACK NUMBERS MARKED WITH AN & ARE UNKNOWN

BRIDGES
THE MILEPOST LOCATION OF A BRIDGE IS THE LOW MILEPOST END OF THE BRIDGE.

GRADE
GRADE IS SHOWN PERIODICALLY WHERE THE GRADE CHANGES ARE TOO NUMEROUS OVER SHORT DISTANCES TO CLEARLY SHOW.

MILEPOST
SIGNIFICANTLY LONG OR SHORT MILES ARE NOTED WITH THEIR RESPECTIVE EQUATIONS. ALPHA CHARACTER MILEPOST INDICATE DUPLICATION OF NUMBERS WITHIN A SUB OR MAIN 1 HAS DIFFERENT ALIGNMENT THAN MAIN 2.

TRACK
MAIN LINES ARE SHOWN WITH A BOLD LINE.

RAIL
WELDED RAIL IS SHOWN WITH A BOLD LINE. BOLTED RAIL IS SHOWN WITH A THIN LINE.

TIES
CONCRETE TIES ARE SHOWN WITH A BOLD LINE. TIMBER TIES ARE SHOWN WITH A THIN LINE.

SCALE
HORIZONTAL: 2"=1 MILE (1 MILE MAY NOT EQUAL 5280') VERTICAL: NONE

SYMBOLS

- RAIL LUBRICATOR
- SIGNALS: BRIDGE — SINGLE DIRECTIONAL; CANTILEVER — BI-DIRECTIONAL
- ROAD CROSSINGS:
- 026007F — D.O.T. NUMBER, AS SHOWN ON PUBLIC AND PRIVATE CROSSINGS
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  - AEI - AUTOMATIC EQUIPMENT IDENTIFICATION READER
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  - SLD - SHIFTED LOAD DETECTOR
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  - HB & DED - HOT BEARING & DRAGGING EQUIPMENT DETECTOR
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- CITY LIMITS
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& RIGHT OF WAY OWNERSHIP DIMENSIONS SHOWN MAY BE APPROXIMATE OR OUT OF DATE. FOR MORE ACCURATE INFORMATION ACCESS THE MAPS AND RECORDS WEBSITE FOR STATION AND RIGHT OF WAY MAPS OR CALL THE BARTLETT AND WEST COMPANY AT 785-435-4607

Burlington Northern and Santa Fe Railway Company | Drawing Filename | Revised: 05/02/2003 | Subdivision Name

TRACK CHART ABBREVIATION LEGEND

BRIDGES & CULVERTS

A	ARCH
AB	ABUTMENT
AP	APPROACH
AR	ARCH
ARM TL	ARMCO TUNNEL LINER
B	BOX
BASC	BASCULE
BD	BALLAST DECK
BDPT	BALLAST DECK PILE TRESTLE - WOOD
BR	BRIDGE
BRK	BRICK
BX	BOX
C	CONCRETE
CA	CONCRETE ARCH
CB	CONCRETE BOX
CBG	CONCRETE BOX GIRDER
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CTG	CONCRETE "T" GIRDER
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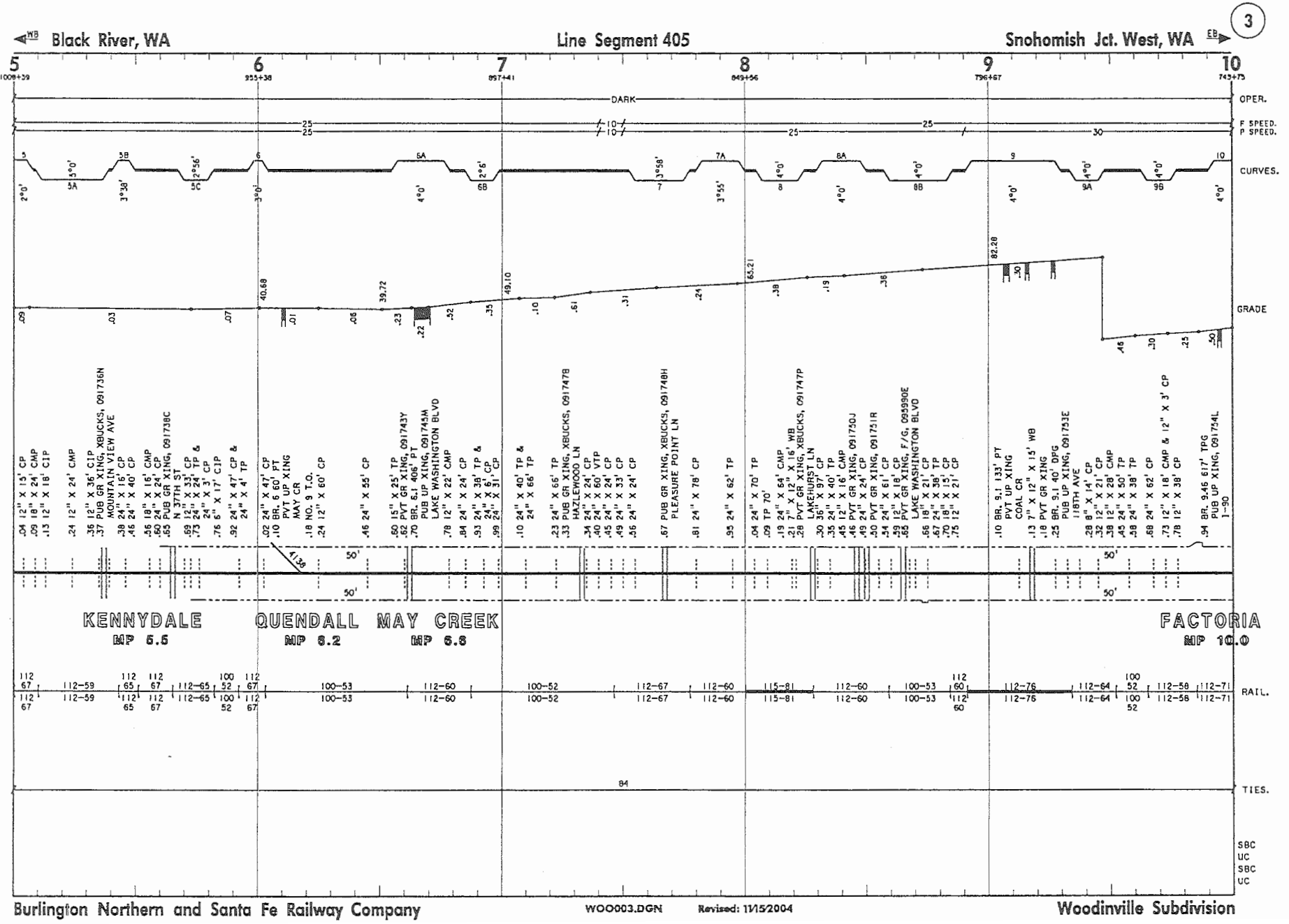
CUL	CULVERT
DBL	DOUBLE
DG	DECK GIRDER
DPG	DECK PLATE GIRDER
DPLG	DECK PLATE LATTICE GIRDER
DPCT	DECK PIN CONNECTED TRUSS
DR SP	DRAW SPAN
DRT	DECK RIVETED TRUSS
DS	SWING SPAN
DT	DECK TRUSS
EXT	EXTENSION
FT	FRAME TRESTLE - WOOD
FTG	FOOTING
GCIP	GALVANIZED CORRUGATED IRON PIPE
GIP	GALVANIZED IRON PIPE
IB	"I" BEAM OR GIRDER BEAM SPAN
I BM	"I" BEAM
LG	LONG
LS	LIFT SPAN
MPP	MULTI-PLATE PIPE
MSY	MASONRY
O	OVAL
OCP	OVAL CONCRETE PIPE
OD	OPEN DECK
OMP	OVAL METAL PIPE
ORCP	OVAL REINFORCED CONCRETE PIPE
PC	PRE-STRESSED CONCRETE
PCMP	PERFORATED CORRUGATED CONCRETE PIPE
PED	PEDESTAL
PRT	PONY RIVETED TRUSS
PT	PILE TRESTLE - WOOD
RCA	REINFORCED CONCRETE ARCH
RCB	REINFORCED CONCRETE BOX
RCP	REINFORCED CONCRETE PIPE
RCT	REINFORCED CONCRETE TRESTLE
RD WD	REDWOOD
RSB	REINFORCED STONE BOX
RTB	RAIL TRACK BOX
RTCB	RAIL TOP CONCRETE BOX
RTSB	RAIL TOP STONE BOX
SA	STEEL ARCH
SBG	STEEL BOX GIRDER
SP	STEEL PIPE
SPP	STEEL PLATE PIPE
SSC	STEEL STRINGERS & CAPS
SSP	STUCTURAL STEEL PIPE
STA	STONE ARCH
STB	STONE BOX
STO	STONE
T	TILE
TBX	TIMBER BOX
TDBX	THRU VOID, DBL. CELL PRES. CONC. BEAM OR GIRDER
TL	TUNNEL LINER
THG	THRU GIRDER
THT	THRU TIMBER TRUSS
TPLG	THRU PLATE LATTICE GIRDER
TP	TILE PIPE
TPCT	THRU PIN CONNECTED TRUSS
TPG	THRU PLATE GIRDER
TR	TREATED
TR	T-RAIL
TPL	TRIPLE
TRT	THRU RIVETED TRUSS
TSBX	THRU VOIDED-SINGLE CELL PRESTRESSED CONCRETE BEAM OR GIRDER
VIT P	VITRIFIED PIPE
VP	VITRIFIED PIPE
VTEE	VOIDED PRESTRESSED CONC. TEE GIRDER
VTP	VITRIFIED TILE PIPE
WB	WOOD BOX
WD	WOOD
WF	WIDE FLANGE BEAM SPAN
WP	WOOD PIPE
WR I P	WROUGHT IRON PIPE

TRACK & SIGNAL

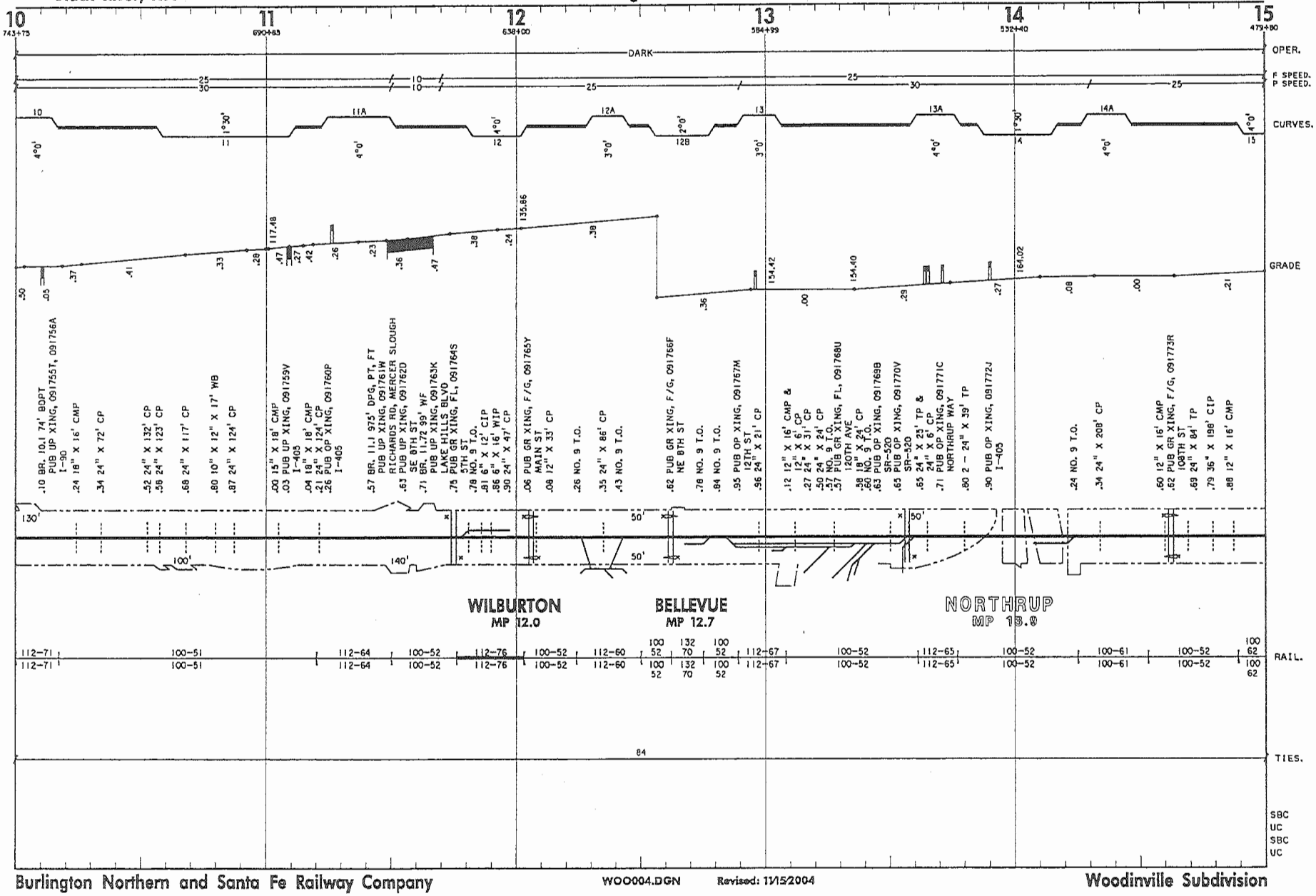
ABS	AUTOMATIC BLOCK SIGNAL SYSTEM
ABD	ACOUSTIC BEARING DETECTOR
AEI	AUTOMATIC EQUIPEMENT IDENIFICATION READER
ATS	AUTOMATIC TRAIN STOPS
BFD	BROKEN FLANGE DETECTOR
BR SIG	BRIDGE SIGNAL
CANT SIG	CANTILEVER SIGNAL
CTC	CENTRALIZED TRAFFIC CONTROL
DED	DRAGGING EQUIPMENT DETECTOR
DESLTD	DRAGGING EQUIP. & SHIFTED LOAD W/TOP DETECTOR
F	FREIGHT (SPEED)
F/G	FLASHING SIGNAL WITH AUTOMATIC GATES
FL	FLASHING SIGNAL
HB & DED	HOT BEARING & DRAGGING EQUIP. DETECTOR
HWD	HIGH WATER DETECTOR
INTLK	INTERLOCKING
I TOWER	INTERLOCKING TOWER
LS	LINE SEGMENT
MP	MILEPOST
NO.	NUMBER
OCS	OCCUPANCY CONTROL SYSTEM
OH	OVERHEAD
OOS	OUT OF SERVICE
P	PASSENGER (SPEED)
RES LIM	RESTRICTED LIMITS
RL	RAIL LUBRICATOR
SIGS	SIGNALS
SBC	SHOULDER BALLAST CLEANING
SLD	SHIFTED LOAD DETECTOR
SLTD	SHIFTED LOAD WITH TOP DETECTOR
S SW	SPRING SWITCH
T.O.	TURNOUT
TRK	TRACK
TWC	TRACK WARRANT CONTROL
UC	UNDERCUT
WILD	WHEEL IMPACT LOAD DETECTOR
YL	YARD LIMIT

MISCELLANEOUS

AVE	AVENUE
BLVD	BOULEVARD
CO	COUNTY
CONN	CONNECTION
CONST	CONSTRUCTED
CR	CREEK OR CRUSHED ROCK
DBL	DOUBLE
DIV	DIVISION
DR	DRIVE
E	EAST
EL	ELEVATION
F LT P	FLOOD LIGHT POLE
F LT T	FLOOD LIGHT TOWER
FRT	FREIGHT
GR	AT GRADE
HO	HOUSE
HWY	HIGHWAY
IND	INDUSTRY
JCT	JUNCTION
JT	JOINT
LT	LEFT
MAX	MAXIMUM
MTCE	MAINTENANCE
NO	NORTH
OH	OVERHEAD
OP	OVERPASS
PED	PEDESTRIAN
PK	PARKWAY
PO	POWER
PSGR	PASSENGER
PUB	PUBLIC
PVT	PRIVATE
RD	ROAD
RESERV	RESERVOIR
RIV	RIVER
RR	RAILROAD
RT	RIGHT
RW	RIGHT-OF-WAY
RY	RAILWAY
SEC	SECTION
SO	SOUTH
ST	STREET
STA	STATION
SUB	SUBDIVISION
TPL	TRIPLE
UP	UNDERPASS
W	WEST
YD	YARD
XBUCKS	CROSSBUCKS
XING	CROSSING

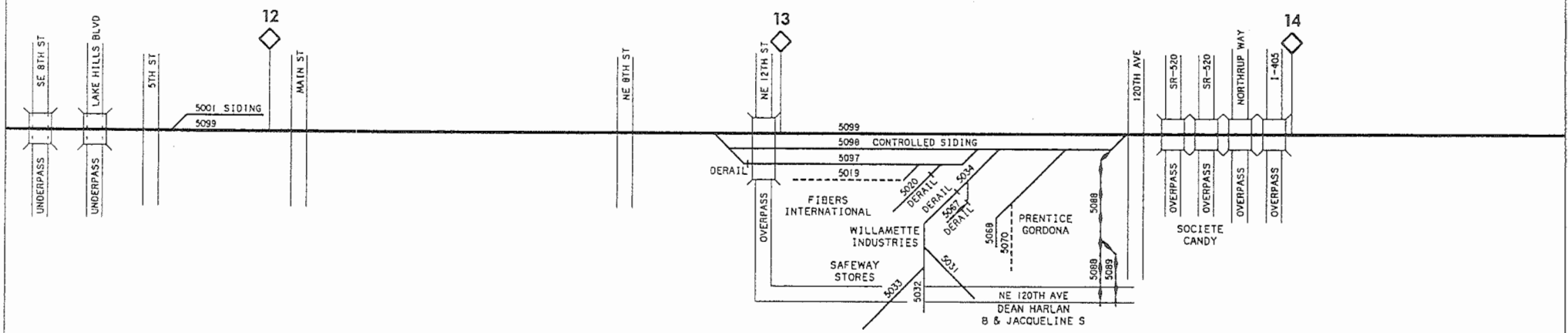

WB Black River, WA
Line Segment 405
Snohomish Jct. West, WA EB
3
5 1008+39
6 955+38
7 897+41
8 849+56
9 796+67
10 743+75
DARK
OPER.
25 25
10 10
25
25
30
F SPEED.
P SPEED.
CURVES.
GRADE
KENNYDALE MP 5.5
QUENDALL MP 6.2
MAY CREEK MP 6.8
FACTORIA MP 10.0
RAIL.
TIES.
84
SBC
UC
SBC
UC
Burlington Northern and Santa Fe Railway Company
WOO003.DGN
Revised: 11/15/2004
Woodinville Subdivision

WB Black River, WA — Line Segment 405 — Snohomish Jct. West, WA EB



Burlington Northern and Santa Fe Railway Company — WOO004.DGN — Revised: 11/15/2004 — Woodinville Subdivision

← Black River, WA | Line Segment 405 | Snohomish Jct. West, WA →



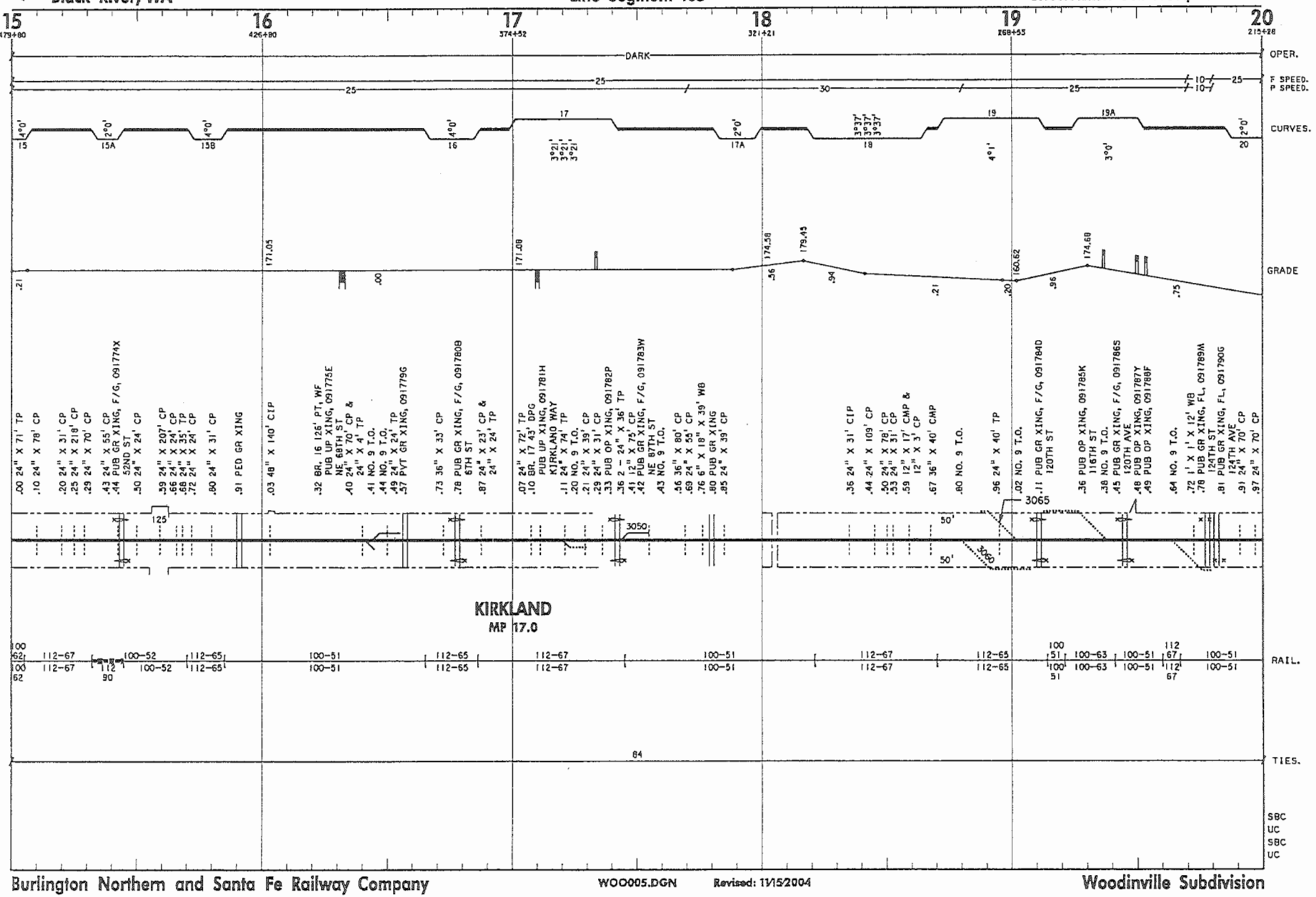
BNSF OWNED & MAINT
INDUSTRY OWNED & BNSF MAINT
IND OWNED & MAINT
LEASE
TRACKAGE RIGHTS
FOREIGN TRACK
JOINT FACILITIES

* UNKNOWN TRACK NUMBER

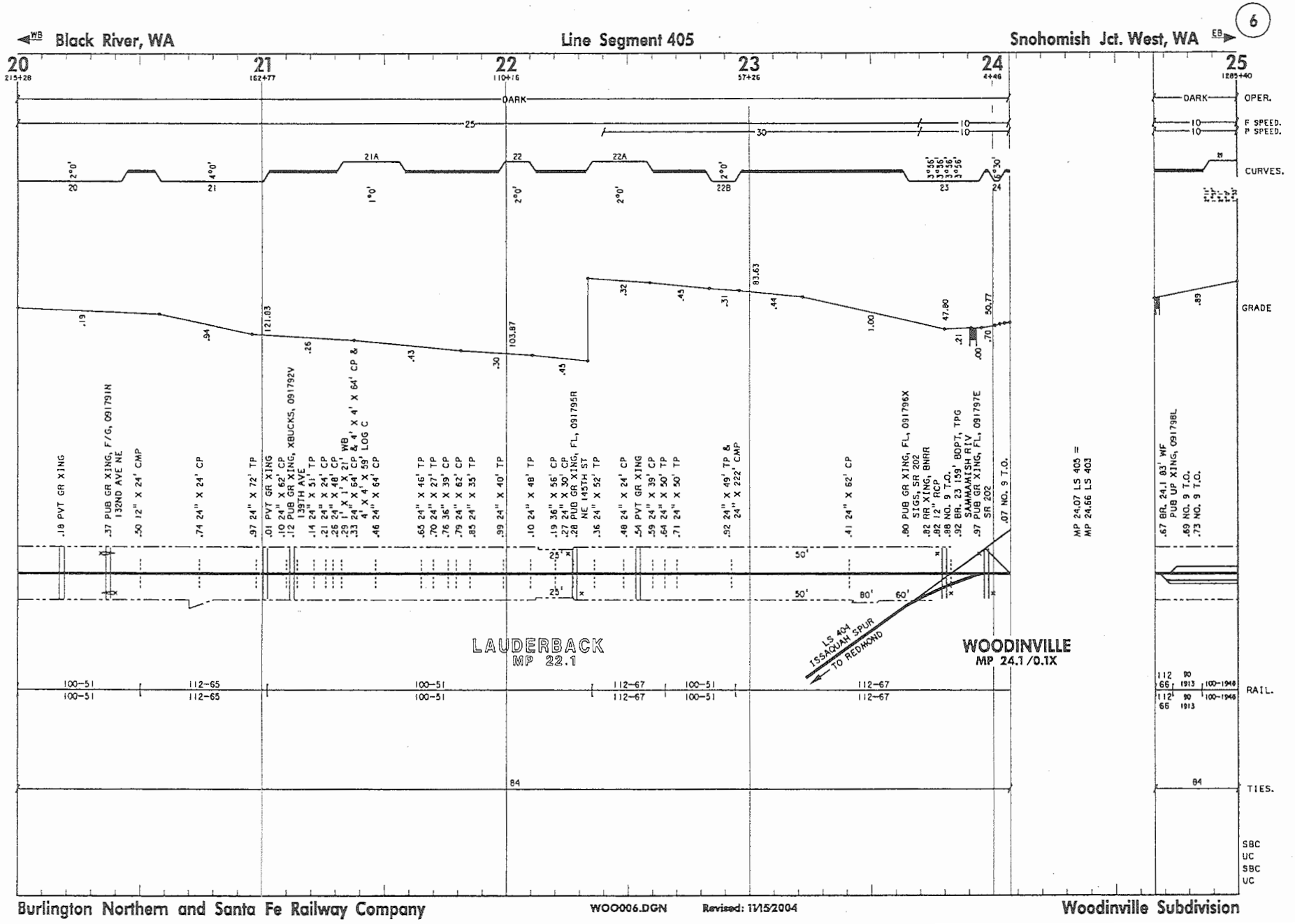
WILBURTON, WA
Woodinville Subdivision

YARD SEGMENT: ####	REVISED: 04/07/2004
STATION ABBR: WILBWA	TRK CHT: WOOOO4A-T.DGN
FSAC: 65627	TEAM:
ZONE: 50	

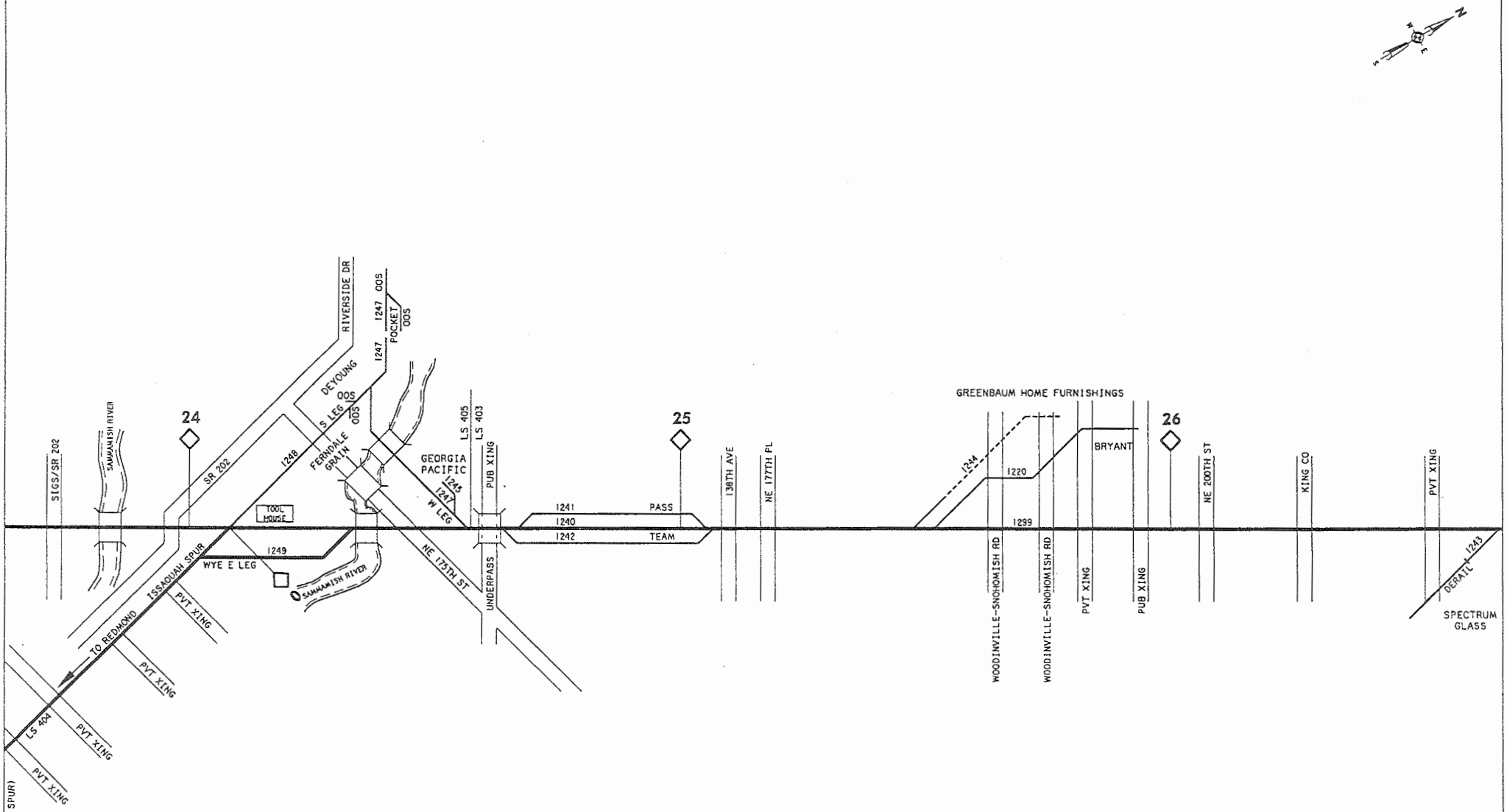
WB Black River, WA — Line Segment 405 — Snohomish Jct. West, WA EB



Burlington Northern and Santa Fe Railway Company — WOO005.DGN — Revised: 11/15/2004 — Woodinville Subdivision


WB Black River, WA
Line Segment 405
Snohomish Jct. West, WA EB
6
20 215+28
21 162+77
22 110+16
23 57+26
24 4+46
25 1285+40
DARK
OPER.
25
30
10
F SPEED.
P SPEED.
CURVES.
GRADE
RAIL.
TIES.
SBC
UC
SBC
UC
.18 PVT GR XING
.37 PUB GR XING, F/G, 091791N 132ND AVE NE
.50 12" X 24' CMP
.74 24" X 24' CP
.97 24" X 72' TP
.01 PVT GR XING
.10 24" X 62' CP
.12 PUB GR XING, XBUCKS, 091792V 139TH AVE
.14 24" X 51' TP
.21 24" X 24' CP
.26 24" X 24' CP
.29 1'-1" X 21' WB
.33 24" X 64' CP & 4' X 4' X 64' CP & 4' X 4' X 59' LOG C
.46 24" X 64' CP
.65 24" X 46' TP
.70 24" X 27' TP
.76 36" X 39' CP
.79 24" X 62' CP
.85 24" X 33' TP
.99 24" X 40' TP
.10 24" X 48' TP
.19 36" X 56' CP
.27 24" X 30' CP
.28 PUB GR XING, FL, 091795R NE 145TH ST
.36 24" X 52' TP
.48 24" X 24' CP
.54 PVT GR XING
.59 24" X 39' CP
.64 24" X 50' TP
.71 24" X 50' TP
.92 24" X 49' TP & 24" X 222' CMP
.41 24" X 62' CP
.80 PUB GR XING, FL, 091796X SIGS, SR 202
.82 RR XING, BNRR
.82 12" RCP
.88 NO. 9 T.O.
.92 BR. 23 159' BDPT, TPG SAMMAMISH RIV
.97 PUB GR XING, FL, 091797E SR 202
.07 NO. 9 T.O.
MP 24.07 LS 405 =
MP 24.66 LS 403
.67 BR. 24.1 83' WF
PUB UP XING, 091798L
.69 NO. 9 T.O.
.73 NO. 9 T.O.
LAUDERBACK
MP 22.1
LS 404
ISSAQUAH SPUR
TO REDMOND
WOODINVILLE
MP 24.1 /0.1X
100-51
112-65
112-67
84
Burlington Northern and Santa Fe Railway Company
WOO006.DGN
Revised: 11/15/2004
Woodinville Subdivision

← Black River, WA | Line Segment 410 | Snohomish Jct. West, WA →



Burlington Northern Santa Fe Railway

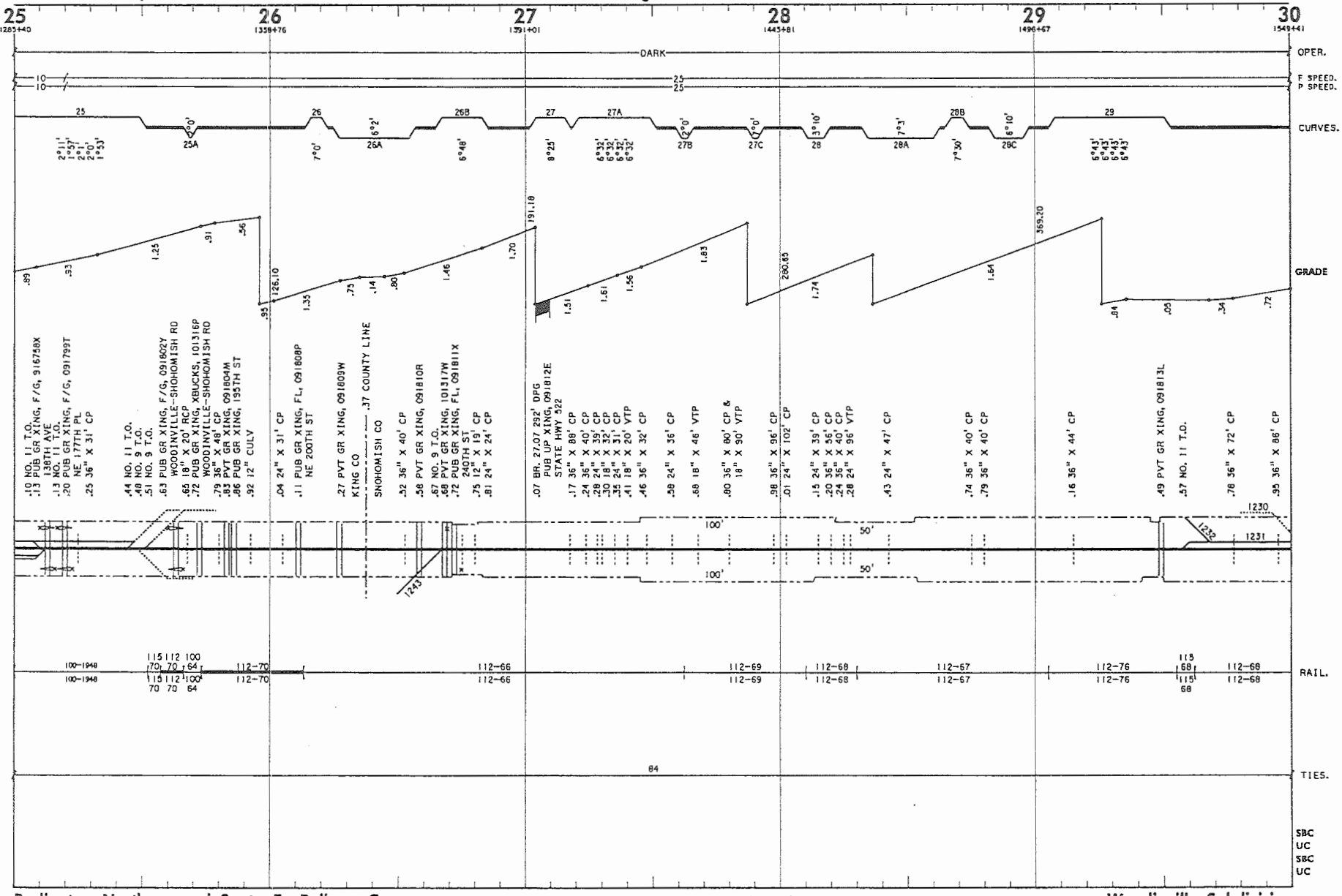
- BNSF OWNED & MAINT
- INDUSTRY OWNED & BNSF MAINT
- IND OWNED & MAINT
- LEASE
- TRACKAGE RIGHTS
- FOREIGN TRACK
- JOINT FACILITIES

* UNKNOWN TRACK NUMBER

WOODINVILLE, WA
Woodinville Subdivision

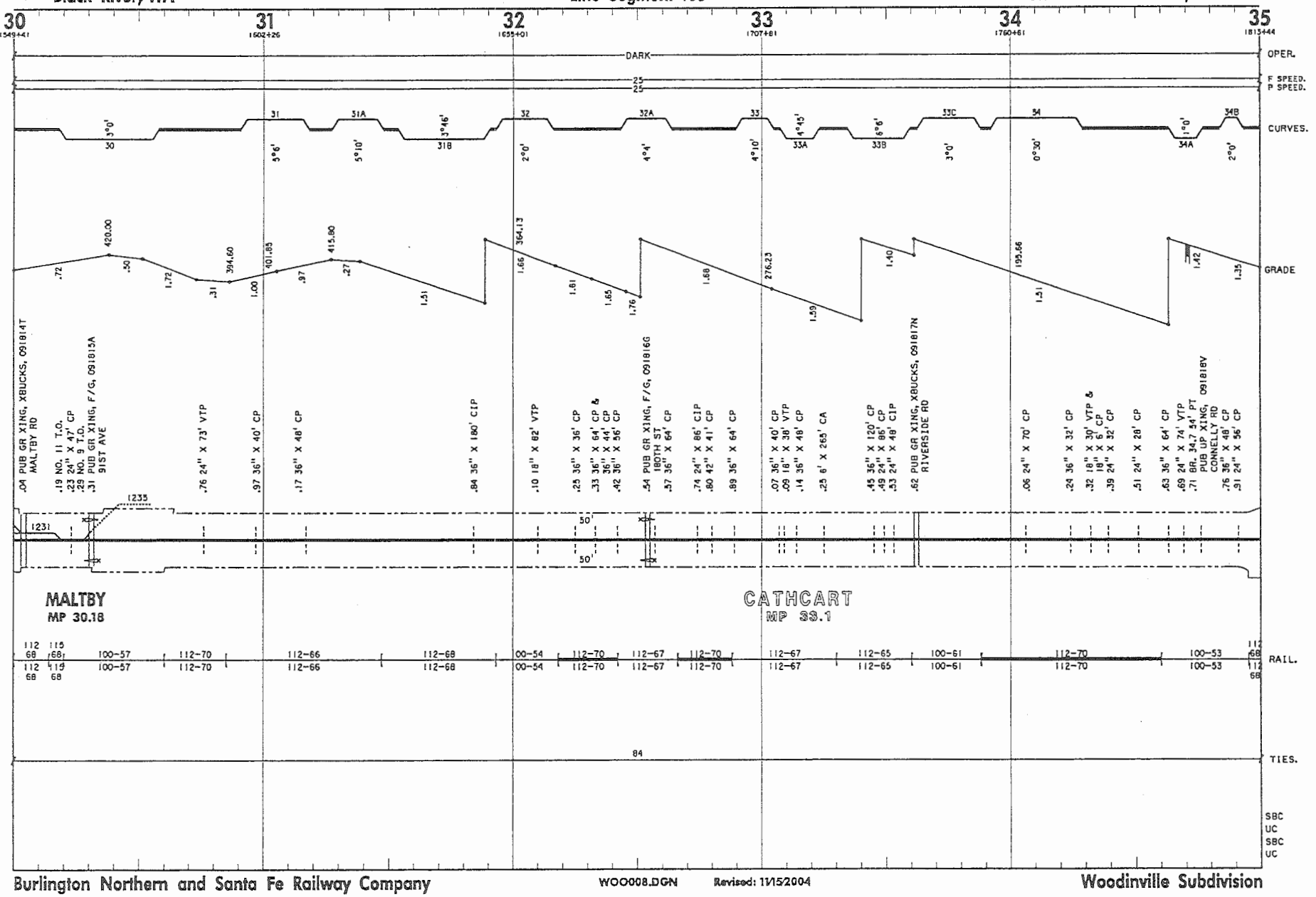
YARD SEGMENT: ####	REVISED: 04/06/2004
STATION ABBR: WOODIN	TRK CHT: WO0006A-T.DGN
FSAC: 65614	TEAM:
ZONE: 12	

WB Black River, WA — Line Segment 403 — Snohomish Jct. West, WA EB



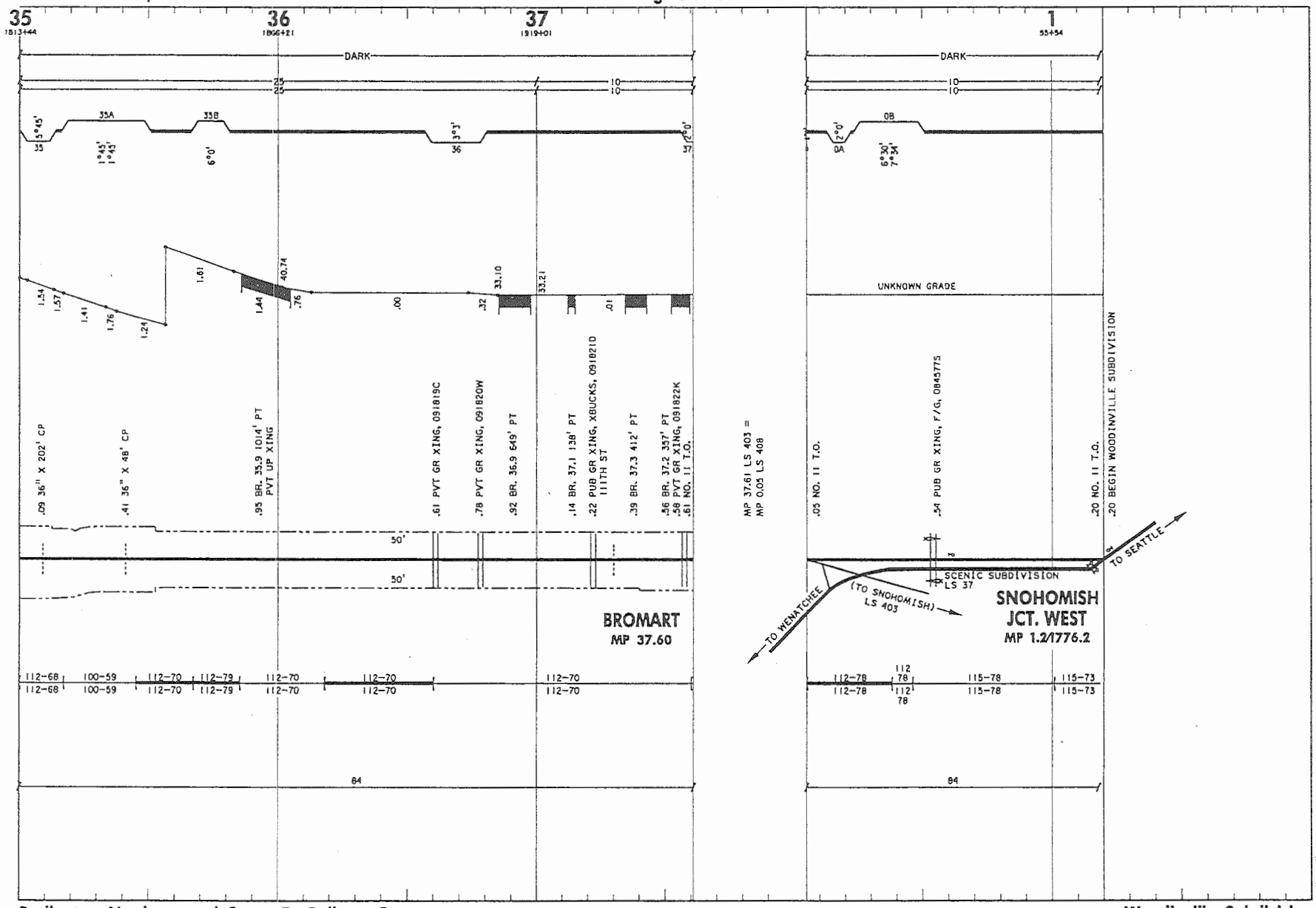
Burlington Northern and Santa Fe Railway Company — WOO007.DGN — Revised: 11/15/2004 — Woodinville Subdivision

WB Black River, WA — Line Segment 403 — Snohomish Jct. West, WA EB



Burlington Northern and Santa Fe Railway Company — WOO008.DGN — Revised: 11/15/2004 — Woodinville Subdivision

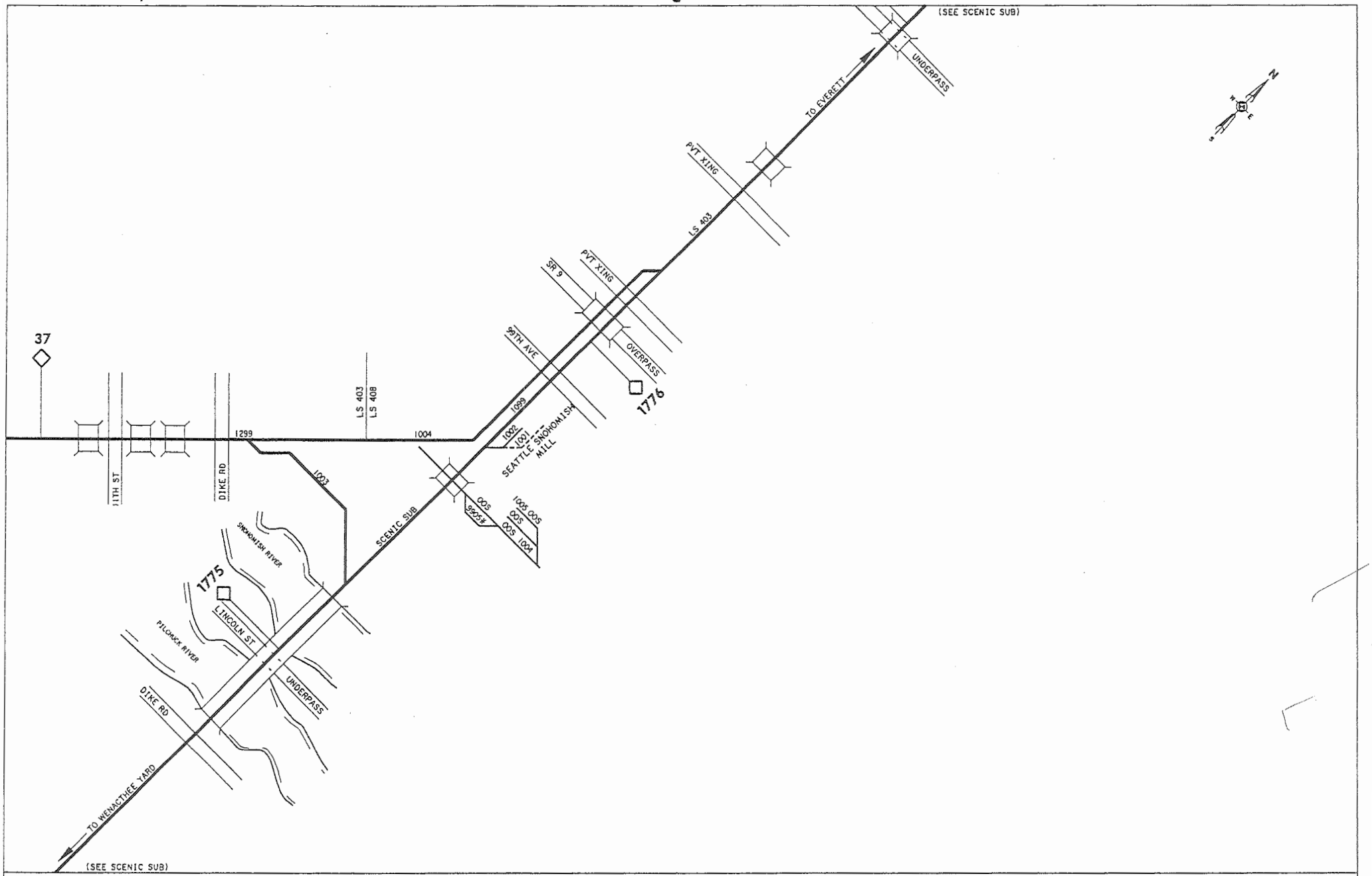
WB Black River, WA — Line Segment 403 — EB



Burlington Northern and Santa Fe Railway Company — WOO009.DGN — Revised: 11/15/2004 — Woodinville Subdivision

← Black River, WA

Line Segment 410



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SNOHOMISH JCT WEST, WA

Woodinville Subdivision

YARD SEGMENT: ####	REVISED: 04/06/2004
STATION ABBR: WOODIN	TRK CHT: W00009A-T.DGN
FSAC: 65614	TEAM:
ZONE: 10, 12	

BNSF

Track Chart

Issaquah Spur

Redmond, WA (M.P. 7.3) to Woodinville, WA (M.P. 0.1)

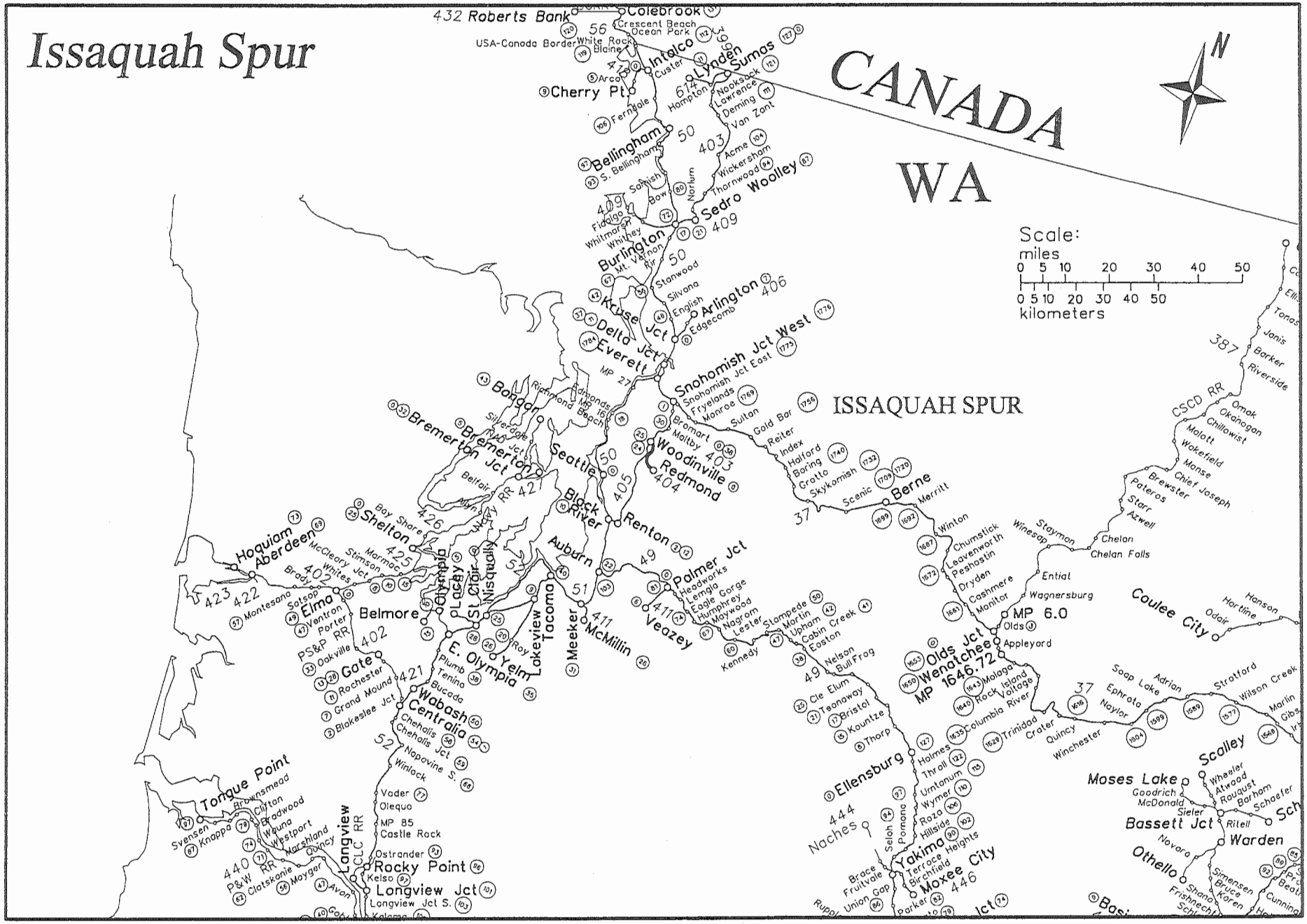
See each page for latest revised date

To view on the intranet or print this Track Chart go to:
http://kcintvpd0001.iss.bnr.com/maprec/mapsrechome.htm

To order this Track Chart in Sourcenet or
Millennium, use: 1363663

If you have any corrections or changes to these pages,
either mail to the Manager of Maps and Records at
4515 Kansas Ave., Kansas City, KS 66106 or FAX to
913-551-4285. Mailing is preferred.

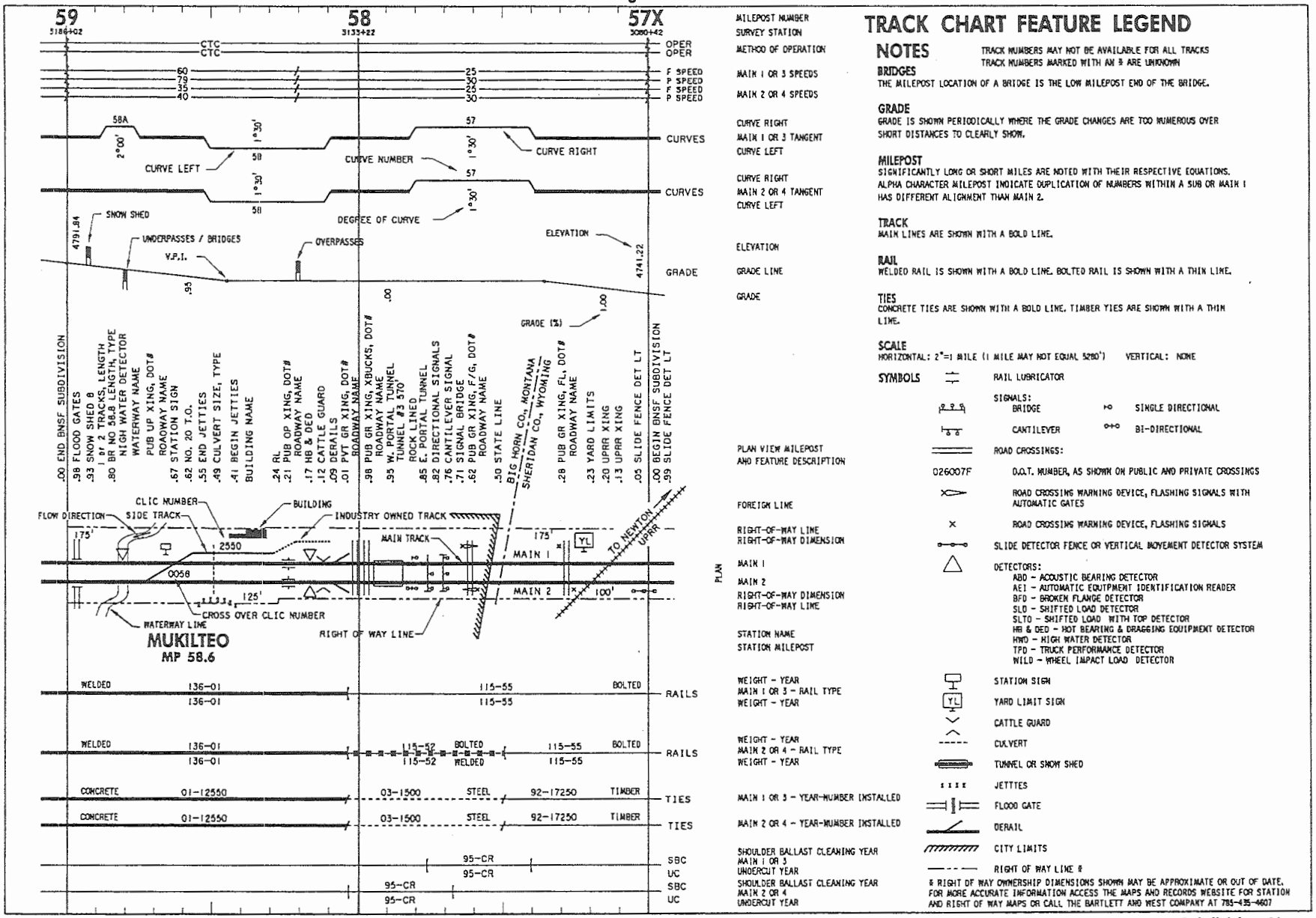
Notes:



Burlington Northern and Santa Fe Railway Company ...\issaquah.dgn 26 APR 99

← Timetable Subdivision Terminus West | Line Segment Number | Timetable Subdivision Terminus East →

Subdivision Sheet Number 1



MILEPOST NUMBER
SURVEY STATION
METHOD OF OPERATION
MAIN 1 OR 3 SPEEDS
MAIN 2 OR 4 SPEEDS
CURVE RIGHT
MAIN 1 OR 3 TANGENT
CURVE LEFT
CURVE RIGHT
MAIN 2 OR 4 TANGENT
CURVE LEFT
ELEVATION
GRADE LINE
GRADE
PLAN VIEW MILEPOST
AND FEATURE DESCRIPTION
FOREIGN LINE
RIGHT-OF-WAY LINE
RIGHT-OF-WAY DIMENSION
MAIN 1
MAIN 2
RIGHT-OF-WAY DIMENSION
RIGHT-OF-WAY LINE
STATION NAME
STATION MILEPOST
WEIGHT - YEAR
MAIN 1 OR 3 - RAIL TYPE
WEIGHT - YEAR
WEIGHT - YEAR
MAIN 2 OR 4 - RAIL TYPE
WEIGHT - YEAR
MAIN 1 OR 3 - YEAR-NUMBER INSTALLED
MAIN 2 OR 4 - YEAR-NUMBER INSTALLED
SHOULDER BALLAST CLEANING YEAR
MAIN 1 OR 3
UNDERCUT YEAR
SHOULDER BALLAST CLEANING YEAR
MAIN 2 OR 4
UNDERCUT YEAR

TRACK CHART FEATURE LEGEND

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Burlington Northern and Santa Fe Railway Company | Drawing Filename | Revised: 05/02/2003 | Subdivision Name

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CP	CONCRETE PIPE
CUL	CULVERT
DBL	DOUBLE
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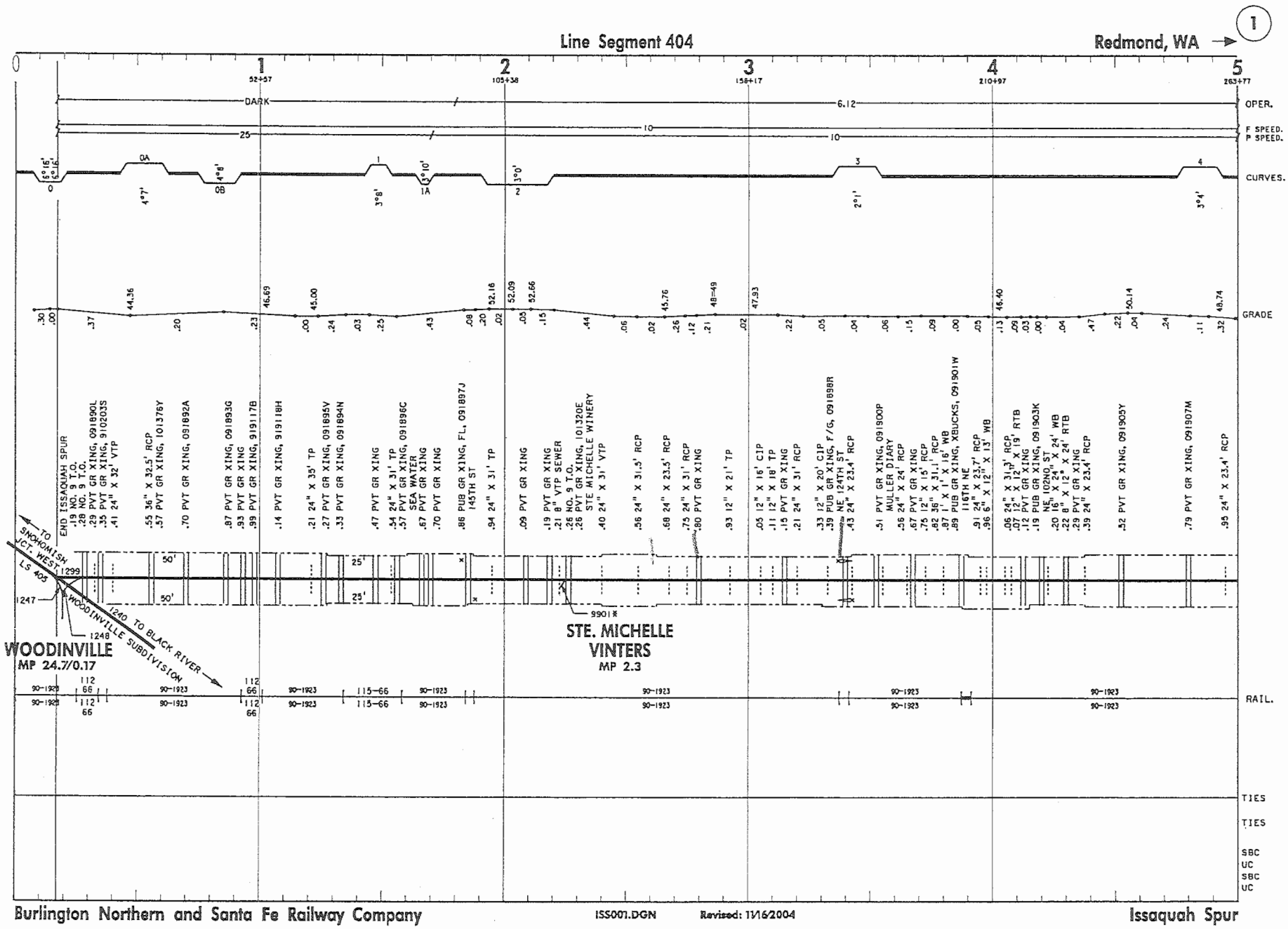
DPG	DECK PLATE GIRDER
DPLG	DECK PLATE LATTICE GIRDER
DPCT	DECK PIN CONNECTED TRUSS
DR SP	DRAW SPAN
DRT	DECK RIVETED TRUSS
DS	SWING SPAN
DT	DECK TRUSS
EXT	EXTENSION
FT	FRAME TRESTLE - WOOD
FTG	FOOTING
GCIP	GALVANIZED CORRUGATED IRON PIPE
GIP	GALVANIZED IRON PIPE
IB	"I" BEAM OR GIRDER BEAM SPAN
I BM	"I" BEAM
LG	LONG
LS	LIFT SPAN
MPP	MULTI-PLATE PIPE
MSY	MASONRY
O	OVAL
OCP	OVAL CONCRETE PIPE
OD	OPEN DECK
OMP	OVAL METAL PIPE
ORCP	OVAL REINFORCED CONCRETE PIPE
PC	PRE-STRESSED CONCRETE
PCMP	PERFORATED CORRUGATED CONCRETE PIPE
PED	PEDESTAL
PRT	PONY RIVETED TRUSS
PT	PILE TRESTLE - WOOD
RCA	REINFORCED CONCRETE ARCH
RCB	REINFORCED CONCRETE BOX
RCP	REINFORCED CONCRETE PIPE
RCT	REINFORCED CONCRETE TRESTLE
RD WO	REDWOOD
RSB	REINFORCED STONE BOX
RTB	RAIL TRACK BOX
RTCB	RAIL TOP CONCRETE BOX
RTSB	RAIL TOP STONE BOX
SA	STEEL ARCH
SBG	STEEL BOX GIRDER
SP	STEEL PIPE
SPP	STEEL PLATE PIPE
SSC	STEEL STRINGERS & CAPS
SSP	STUCTURAL STEEL PIPE
STA	STONE ARCH
STB	STONE BOX
STO	STONE
T	TILE
TBX	TIMBER BOX
TDBX	THRU VOID, DBL. CELL PRES. CONC. BEAM OR GIRDER
TL	TUNNEL LINER
THG	THRU GIRDER
THT	THRU TIMBER TRUSS
TPLG	THRU PLATE LATTICE GIRDER
TP	TILE PIPE
TPCT	THRU PIN CONNECTED TRUSS
TPG	THRU PLATE GIRDER
TR	TREATED
TR	T-RAIL
TPL	TRIPLE
TRT	THRU RIVETED TRUSS
TSBX	THRU VOIDED-SINGLE CELL PRESTRESSED CONCRETE BEAM OR GIRDER
VIT P	VITRIFIED PIPE
VP	VITRIFIED PIPE
VTEE	VOIDED PRESTRESSED CONC. TEE GIRDER
VTP	VITRIFIED TILE PIPE
WB	WOOD BOX
WD	WOOD
WF	WIDE FLANGE BEAM SPAN
WP	WOOD PIPE
WR I P	WROUGHT IRON PIPE

TRACK & SIGNAL

ABS	AUTOMATIC BLOCK SIGNAL SYSTEM
ABD	ACOUSTIC BEARING DETECTOR
AEI	AUTOMATIC EQUIPEMENT IDENIFICATION READER
ATS	AUTOMATIC TRAIN STOPS
BFD	BROKEN FLANGE DETECTOR
BR SIG	BRIDGE SIGNAL
CANT SIG	CANTILEVER SIGNAL
CTC	CENTRALIZED TRAFFIC CONTROL
DED	DRAGGING EQUIPMENT DETECTOR
DESLTD	DRAGGING EQUIP. & SHIFTED LOAD W/TOP DETECTOR
F	FREIGHT (SPEED)
F/G	FLASHING SIGNAL WITH AUTOMATIC GATES
FL	FLASHING SIGNAL
HB & DED	HOT BEARING & DRAGGING EQUIP. DETECTOR
HWD	HIGH WATER DETECTOR
INTLK	INTERLOCKING
I TOWER	INTERLOCKING TOWER
LS	LINE SEGMENT
MP	MILEPOST
NO.	NUMBER
OCS	OCCUPANCY CONTROL SYSTEM
OH	OVERHEAD
OOS	OUT OF SERVICE
P	PASSENGER (SPEED)
RES LIM	RESTRICTED LIMITS
RL	RAIL LUBRICATOR
SIGS	SIGNALS
SBC	SHOULDER BALLAST CLEANING
SLD	SHIFTED LOAD DETECTOR
SLTD	SHIFTED LOAD WITH TOP DETECTOR
S SW	SPRING SWITCH
T.O.	TURNOUT
TRK	TRACK
TWC	TRACK WARRANT CONTROL
UC	UNDERCUT
WILD	WHEEL IMPACT LOAD DETECTOR
YL	YARD LIMIT

MISCELLANEOUS

AVE	AVENUE
BLVD	BOULEVARD
CO	COUNTY
CONN	CONNECTION
CONST	CONSTRUCTED
CR	CREEK OR CRUSHED ROCK
DBL	DOUBLE
DIV	DIVISION
DR	DRIVE
E	EAST
EL	ELEVATION
F LT P	FLOOD LIGHT POLE
F LT T	FLOOD LIGHT TOWER
FRT	FREIGHT
GR	AT GRADE
HO	HOUSE
HWY	HIGHWAY
IND	INDUSTRY
JCT	JUNCTION
JT	JOINT
LT	LEFT
MAX	MAXIMUM
MTCE	MAINTENANCE
NO	NORTH
OH	OVERHEAD
OP	OVERPASS
PED	PEDESTRIAN
PK	PARKWAY
PO	POWER
PSGR	PASSENGER
PUB	PUBLIC
PVT	PRIVATE
RD	ROAD
RESERV	RESERVOIR
RIV	RIVER
RR	RAILROAD
RT	RIGHT
RW	RIGHT-OF-WAY
RY	RAILWAY
SEC	SECTION
SO	SOUTH
ST	STREET
STA	STATION
SUB	SUBDIVISION
TPL	TRIPLE
UP	UNDERPASS
W	WEST
YD	YARD
XBUCKS	CROSSBUCKS
XING	CROSSING



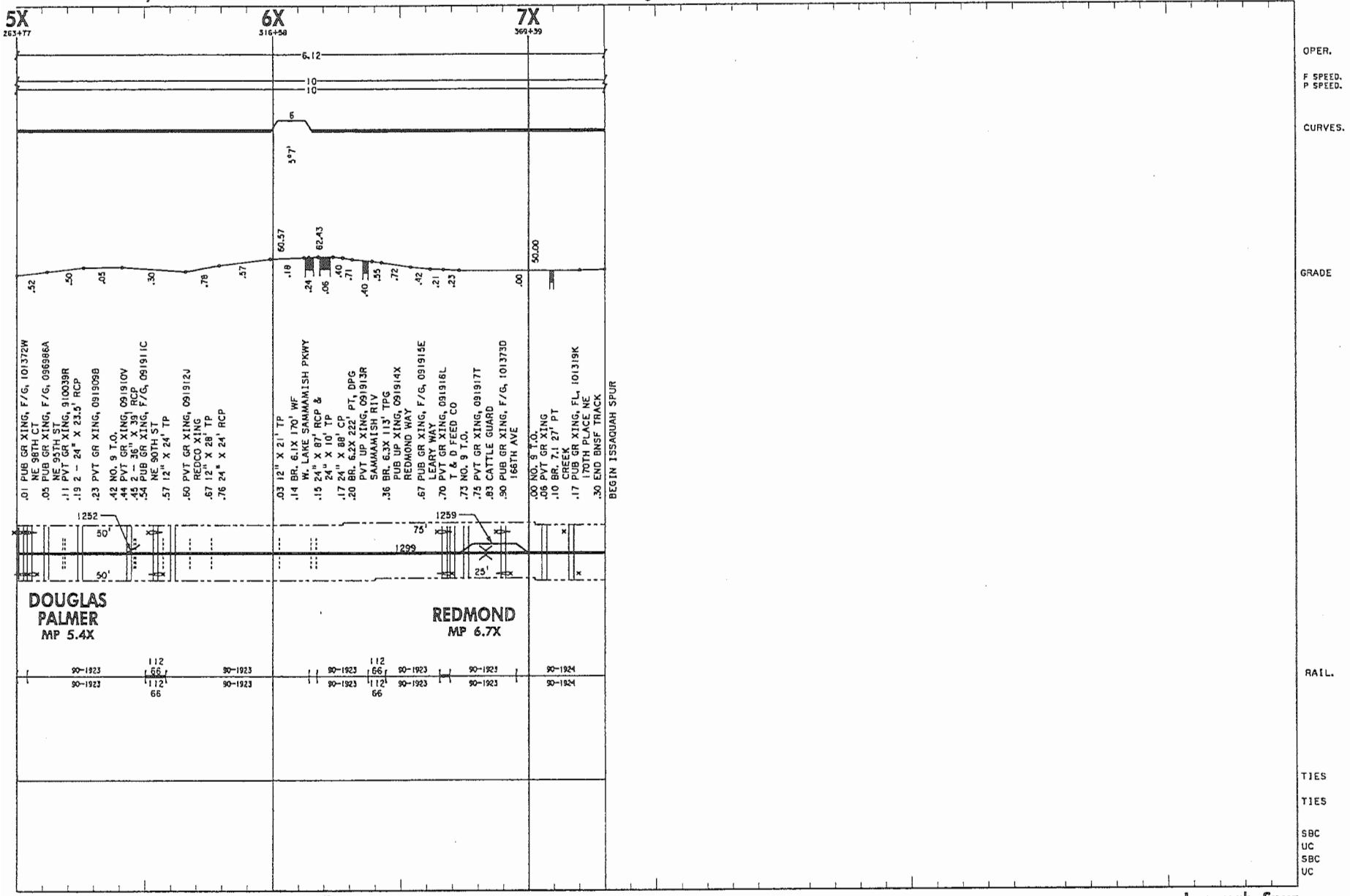
Burlington Northern and Santa Fe Railway Company

ISS001.DGN Revised: 11/16/2004

Issaquah Spur

← Woodinville, WA

Line Segment 404



Burlington Northern and Santa Fe Railway Company

ISS002.DGN Revised: 11/16/2004

Issaquah Spur

1,299,000

125793

23,127.20

No. 4868016 1/15/2009 9:34 AM
Thank you for your payment.
PAT

WHEN RECORDED MAIL TO:

City of Snohomish
116 Union Avenue
Snohomish, WA 98290

200901150103 11 PGS
01/15/2009 9:42am $52.00
SNOHOMISH COUNTY, WASHINGTON

PNWI 1066246

QUITCLAIM DEED
(Washington)

GRANTOR: BNSF RAILWAY COMPANY, a Delaware corporation

GRANTEE: CITY OF SNOHOMISH, a Municipal Corporation of the State of Washington

Abbreviated Legal Description: Ptn. Sec. 7, 18, T28N, R6E, W.M., Snohomish County, WA

Assessor Property Tax Parcel Account Numbers: 009953-000-735-00, 004359-002-021-00, 280618-002-074-00, 005377-007-003-00 and 280618-001-009-00

BNSF RAILWAY COMPANY, a Delaware corporation, (formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", for and in consideration of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, in hand paid, conveys and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **CITY OF SNOHOMISH**, a Municipal Corporation of the State of Washington, of 116 Union Avenue, Snohomish, Washington 98290, hereinafter called "Grantee", all its right, title and interest, if any, in real estate, subject however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in the County of Snohomish, State of Washington, hereinafter called "Property", together with all after acquired title of Grantor therein, additional legal description is on **EXHIBIT "A"**, consisting of four (4) pages attached hereto and made a part hereof.

Grantee covenants and agrees as follows:

(a) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record. Grantor shall have a perpetual easement on the Property for the use of such existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements by Grantor and Grantor's licensees, permittees and customers.

(b) Any improvements constructed or altered on the Property after the date Grantor quitclaims its interest to Grantee shall be constructed or altered in such a manner to provide adequate drainage of water away from any of Grantor's railroad tracks on nearby property.

(c) Grantee acknowledges and affirms that Grantor may not hold fee simple title to the Property, that Grantor's interest in all or part of the Property, if any, may rise only to the level of an easement for railroad purposes. Grantee is willing to accept Grantor's interest in the Property, if any, on this basis and expressly releases Grantor, its successors and assigns from any claims that Grantee or its successors may have as a result of an abandonment of the line of rail running over or adjacent to any portion of the Property. In light of Grantor's disclosure that it may not hold a fee interest in all or part of the Property, Grantee agrees to indemnify, defend and hold Grantor harmless from any suit or claim for damages, punitive or otherwise, expenses, attorneys' fees, or civil penalties that may be imposed on Grantor as the result of any person or entity claiming an interest in any portion of the Property or claiming that Grantor did not have the right to transfer all or part of the Property to Grantee.

(d) Grantee acknowledges that the Property was the subject on an abandonment proceeding with the Surface Transportation Board (STB Docket No. AB-6 (Sub-No.422X) and that Grantor has consummated said abandonment subject to certain conditions relating to salvage of the Track Personal Property. Grantor hereby assigns to Grantee and Grantee hereby assumes from Grantor the following obligations with respect to salvage of the Track Personal Property, and agrees to indemnify, defend, and hold harmless, and waive, release and discharge forever the Indemnitees from any and all claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without

limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, arising out of such obligations:

(1) In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during its salvage activities, Grantee shall immediately cease all work and notify the Surface Transportation Board's Section of Environmental Analysis ("SEA"), interested Federally recognized tribes, and the Washington Office of Archaeology and Historic Preservation ("SHPO"), and then consult with SEA, the SHPO and interested Federally recognized tribes to determine whether any mitigation measures are necessary.

(2) Prior to commencement of any salvage activities, Grantee shall contact the Water Quality Program at the Washington Department of Ecology concerning possible impacts on water quality and regarding the need for a NPDES General Permit for storm water discharges.

(3) Prior to commencement of salvage activities, Grantee shall consult with U.S. Fish and Wildlife Service, Region 1, concerning the effect of salvage on endangered species.

Grantee agrees to provide Grantor with written confirmation of its notification of each said government agency.

(e) Grantee has been allowed to make an inspection of the Property. **GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including, but not limited to the physical condition of the Property (including the physical condition and any dismantling, removal, and disposal costs of any Track Personal Property included in the Property); zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands,

asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property (collectively, the "**Condition of the Property**"). Grantee represents and warrants to Grantor that Grantee has not relied and will not rely on, and Grantor is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Grantor, the manager of the Property, or any real estate broker or agent representing or purporting to represent Grantor, to whomever made or given, directly or indirectly, orally or in writing. Grantee assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Grantee's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor and Grantor's officers, directors, shareholders, employees and agents (collectively, "**Indemnitees**") from any and all present or future claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, which Grantee might have asserted or alleged against Indemnitees arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) Losses for injury or death of any person, and (d) Losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term "**Environmental Law**" means any federal, state or local statute,

regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

The covenants and agreements set forth in paragraphs (a) through (e), above, shall be binding upon Grantee and Grantee's heirs, successors and assigns, and shall be covenants running with the land benefiting Grantor and its heirs, successors and assigns.

TO HAVE AND TO HOLD the Property, together with all the appurtenances thereunto belonging, unto the said Grantee, Grantee's successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 8th day of January, 2009.

BNSF RAILWAY COMPANY

By: _____
Julie A. Piggott
Vice President-Finance

BNSF RAILWAY COMPANY CORPORATE SEAL DELAWARE

ATTEST:

By: _____
Patricia Zbichorski
Assistant Secretary

Unofficial Document

ACCEPTED:

CITY OF SNOHOMISH

By: Larry Bauman

Name: Larry Bauman

Title: City Manager

STATE OF WASHINGTON §
§ ss.
COUNTY OF SNOHOMISH §

On this 12th day of January, 2009, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Larry Bauman to me known to be the City Manager of the **CITY OF SNOHOMISH**, a Municipal Corporation of the State of Washingtonthat accepted the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to accept said instrument for said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

Torchie Corey
Notary Public for the State of Washington

TORCHIE COREY
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
MAY 9 2010

Residing at: Snohomish

My appointment expires: 5/9/10

Unofficial Document

STATE OF TEXAS §
§ ss.
COUNTY OF TARRANT §

On this 8th day of January, 2009, before me, the undersigned, a Notary Public in and for the State of Texas, duly commissioned and sworn, personally appeared Julie A. Piggott and Patricia Zbichorski, to me known to be the Vice President-Finance and Assistant Secretary, respectively, of **BNSF RAILWAY COMPANY**, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.

Rhonda Burton

NOTARY PUBLIC STATE OF TEXAS
RHONDA BURTON
My Commission Expires
September 21, 2012

Notary Public for the State of Texas

Residing at: Carrollton, Texas

My appointment expires: 9/21/2012

FORM APPROVED BY LAW

APPROVED LEGAL	RKN
APPROVED FORM	Rhee
APPROVED	BEW

UNOFFICIAL DOCUMENT

EXHIBIT A

The Burlington Northern Santa Fe Railway Company
Snohomish Trackage Line
December 8, 2008

Legal Description – City of Snohomish Acquisition Offer

BNSF Parcel 16 – Vacated State Avenue
All that portion of West half of State Avenue lying north of Bowen Street (Fourth Street per Plat) as shown on the plat of Mrs. M.L. Packard's First Addition as recorded in Volume 1 of Plats at page 21, records of Snohomish County, Washington, as disclosed in Ordinance No. 1597 and amended by Ordinance No. 1718.

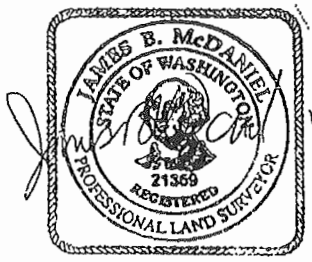
BNSF Parcel 18
Those portions of Lots 4, 5 and 6 in Block 7 of Mrs. M. L. Packard's First Addition, according to plat Recorded in Volume 1 of Plats, Page 21, In Snohomish County, Washington, lying Easterly and Southeasterly of a line drawn concentric with and distant 15.0 feet Westerly, as measured radially from, the Burlington Northern and Santa Fe Railway company's Old Seattle to Sumas, Washington, Main Track Centerline as now located and constructed on the 24th day of February, 1998.

BNSF Parcel 19 & 19A
The Westerly half of Lincoln Street, formerly Railroad Avenue, between Second and Third Streets in the City of Snohomish, State of Washington. (portion of Quit Claim Deed, Auditor's File No. 682911).

ALSO that portion of the South 20 feet of Third Street lying between the produced centerline and the produced West line of the original 80 foot Railroad Avenue, now known as Lincoln Street, vacated per Ordinance No. 694, recorded under Auditor's File No. 684066;

ALSO that portion of the Southwest quarter of the Northeast quarter of Section 18, Township 28 North, Range 6 East, W.M. that lie West of the West marginal line of Railroad Street as the same is shown on the Plat of Mrs. Hogan's Addition to Snohomish, recorded in Volume 2 of Plats at Page 20, Records of Snohomish County, Washington (Right of Way Deed, Volume 18 of Deeds, Page 475, Auditor's File No. 13583).

BNSF Parcels 20 and 21
Those portions of Lots 1 through 8, inclusive, in Block 1 of E.C. Ferguson's First addition to Snohomish, according to plat recorded on Volume 1 of Plats page 15 records of Snohomish County, Washington, lying easterly of a line drawn parallel with and 15 feet distant from, measured at right angles, being westerly from the centerline of the Burlington Northern and Santa Fe Railway company (formerly Northern Pacific Railway Company) main track as located and constructed.



12-8-08

BNSF Parcel 21C
Those portions of Lots 1 through 8, inclusive, in Block 8 of E.C. Ferguson's First Addition to Snohomish, according to plat thereof recorded on Volume 1 of Plats, Page 15 records of Snohomish County, Washington, lying Easterly of a line drawn parallel with and 25 feet measured at right angles Westerly from the centerline of the Burlington Northern and Santa Fe Railway company (formerly Northern Pacific Railway Company) main track as located and constructed.

BNSF Parcel 21D
Those portions of Lots 1 through 8, inclusive, in Block 9 of E.C. Ferguson's First Addition to Snohomish, according to plat thereof recorded on Volume 1 of Plats, page 15 records of Snohomish County, Washington, lying easterly of a line drawn parallel with and 25 feet measured at right angles westerly from the centerline of the Burlington Northern and Santa Fe Railway company (formerly Northern Pacific Railway Company) main track as located and constructed.

BNSF Parcel 22
Those certain rights of way 100 feet in width within the Southwest quarter of the Northwest quarter of the Northeast quarter of Section 18, Township 28 North, Range 6 East, W.M., in Snohomish County, Washington, as conveyed to the Seattle, Lakeshore and Eastern Railway by documents recorded November 27, 1891, under Recording Nos. 13169, 13170, 13171, and 13172 in Volume 20 of Deeds, Pages 18 through 24, Records of Snohomish County, Washington; said rights of way being 50 feet on each side of the centerline as located, staked and established on the dates of said documents.

EXCEPT from said rights of way the Easterly 22.25 feet thereof as conveyed to Cedergreen Foods Corp. by deed recorded August 8, 1974 under Recording No. 2352594.

BNSF Parcel 27
(Volume 7 of Deeds, Page 250) Those portions of Lots 1 and 2, Block 1 of England's Addition to Snohomish according to the map recorded in Volume 1 of Plats at page 38, Records of Snohomish County, Washington, lying within a strip of land 50 feet on each side of the centerline of The Burlington Northern and Santa Fe Railway Company's Main Track, as located and constructed.

BNSF Parcel 28, Portion of
That portion of Block 2 of England's Addition to Snohomish according to the map thereof recorded in Volume 1 of Plats at page 38, Records of Snohomish County, Washington, described as follows:

The Southeasterly 25 feet of a strip of land 50 feet wide, lying Southeasterly of, parallel with, and adjacent to the centerline of Maple Avenue; sidelines of this Southeasterly 25 foot strip are lengthened or shortened as the case may be to provide a full 25 foot width in its entirety from the West side of said Block 2 to the East line thereof;

TOGETHER WITH those portions of Lots 22, 23 and 24, Block 2 of England's Addition to Snohomish according to the map thereof recorded in Volume 1 of Plats at Page 38, Records of Snohomish County, Washington, lying Easterly of said Southeasterly 25 foot wide strip.

12-8-05

BNSF Parcel 31

That portion of the following described strip of land lying East of Maple Street:

A strip of land located in the Sections 7 and 18, Township 28 North, Range 6 East, W.M., said strip of land being sixty six (66) feet in width, and being thirty three (33) feet on either side of the following described centerline:

Beginning at a point on the West line of said Section 7, said point being 1038.5 feet North of the Southwest corner thereof; thence Southeasterly on a curve to the right 102.6 feet; thence on a tangent 2392 feet; thence on a curve to the right 778.3 feet; thence on a tangent 250 feet to the right of way of the Seattle Lake Shore and Eastern Railway, and the end of this centerline description.

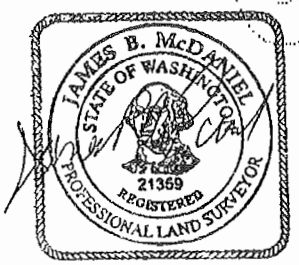
Sidelines of this strip shall be lengthened or shortened as the case may be to provide a full sixty six (66) foot width in its entirety between the west line of said Section 7 and the west line of said Seattle Lake Shore and Eastern Railway right of way, centered on the rail road as it was located and described in the Quit Claim Deed from E.C. Ferguson to Northern Pacific Railway Company by deed recorded in Volume 89 of Deeds at page 615, records of Snohomish County, Washington.

BNSF Parcel 38

(Quit Claim Deed, Auditor's File No. 682911) That portion of vacated Lincoln Street, formerly Railroad Avenue, in the City of Snohomish in the State of Washington, described as follows, to wit:

Commencing at the Northwest corner of Block 1 in the Plat of Mrs. Hogan's Addition to Snohomish as recorded in Volume 2 of Plats at page 20, Records of Snohomish County, Washington; thence South along West line of said Block 1 and along said line produced for 479.27 feet to the TRUE POINT OF BEGINNING; thence N21°48'W for 107.7 feet to an intersection with the North and South centerline of Lincoln Street; thence South 101.25 feet to an intersection with the North line of Second Street, produced West; thence East 40.02 feet along the North line of Second Street to the TRUE POINT OF BEGINNING.

Situate in the County of Snohomish, State of Washington.



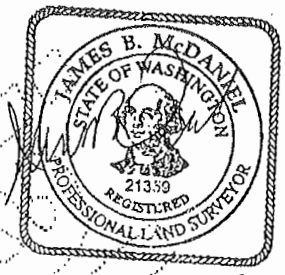
12-3-08

Unofficial Document

BNSF Parcel 16

That portion of those certain rights to appropriate, use and occupy a right of way for railroad purposes conveyed to the Seattle and West Coast Railway by the Board of County Commissioners at the meeting of said Board on August 10, 1887 and as recorded in Volume 2 of Commissioners Records at page 420, lying within the right of way of State Street as shown on the plat of Mrs. M.L. Packard's First Addition, according to plat recorded in Volume 1 of Plats at page 21, and as shown on the Plat of Snohomish City Eastern Part, according to plat recorded in Volume 1 of Plats at page 7, and lying Northerly of the centerline of Commercial Street and lying Westerly of the West line of Lincoln Avenue as shown on said plats.

Situate in the County of Snohomish, State of Washington.



12-15-05

UNOFFICIAL DOCUMENT

Department of Revenue
Washington State

200901205046 1 PG
01/20/2009 8:24am $0.00
SNOHOMISH COUNTY, WASHINGTON

This form is your receipt when stamped by cashier.

PLEASE TYPE OR PRINT

THIS AFFIDAVIT WILL N :E FULLY COMPLETED

125793

☐ Check box if partial sale of property

If multiple owners, list percentage of ownership next to name

1 SELLER GRANTOR
Name: BNSF Railway Company, a Delaware corporation,*
Mailing Address 2500 Lou Menk Drive
City/State/Zip Fort Worth, TX 76131-2830
Phone No. (including area code)

2 BUYER GRANTEE
Name: City of Snohomish, Municiple Corporation of the State of Washington Municipal
Mailing Address 116 Union Avenue
City/State/Zip Snohomish, WA 98290
Phone No.,(including area code)

3 Send all property tax correspondence to: [X] Same as Buyer/Grantee
Name
Street
City/State Zip
Phone No. (including area code)

List all real and personal property tax parcel account numbers-check box if personal property

		List assessed value(s)
009953-000-735-00	☐	242,956.00
004359-002-021-00	☐	170,000.00
280618-002-074-00	☐	190,000.00
005377-007-003-00 **	☐	131,400.00

LC 00735

4 Street address of property: , Snohomish, WA 98290
This property is located in ☐ unincorporated County OR within [X] City of Snohomish
☐ Check box if any of the listed parcels are being segregated from a larger parcel.
Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

See attached Exhibit "A" - Legal Description.

And Tax Acct. #280618-001-009-00

***formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company**

PNWT 10662 46

5 Select Land Use Code(s):
91
enter any additional codes:
(See back of last page of instructions)

	YES	NO
Is this property exempt from property tax per chapter 84.36 RCW (non profit organization)?	☐	[X]

6

	YES	NO
Is this property designated as forest land per chapter 84.33 RCW?	☐	[X]
Is this property classified as current use (open space, farm and agricultural, or timber) land per Chapter 84.34 RCW?	☐	[X]
Is this property receiving special valuation as historical property per Chapter 84.26 RCW?	☐	[X]

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)
NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, you must sign on (3) below. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.
This land ☐ does ☐ does not qualify for continuance.

DEPUTY ASSESSOR DATE

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)
NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) do not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE

PRINT NAME

7 List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:

WAC No. (Section/Subsection)
Reason for exemption:

Type of Document Quit Claim Deed
Date of Document 1-8-09

Gross Selling Price	$	1,299,000.00
*Personal Property (deduct)	$	
Exemption Claimed (deduct)	$	
Taxable Selling Price	$	1,299,000.00
Excise Tax: State	$	16,627.20
Local	$	6,495.00
*Delinquent Interest: State	$	
Local	$	
*Delinquent Penalty	$	
Subtotal	$	23,122.20
*State Technology Fee	$	5.00
*Affidavit Processing Fee	$	
Total Due	$	23,127.20

A MINIMUM OF $10.00 IS DUE IN FEE(S) AND/OR TAX
*SEE INSTRUCTIONS

8 I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Grantor or Grantor's Agent: Rhonda Burton
Name (print): Rhonda Burton, Assoc. Trans. Mgr. RE SGS
Date & city of signing: 1/8/09 Ft Worth, TX

Signature of Grantee or Grantee's Agent: Brandi L. Jensen
Name (print) ~~Larry Baumes~~ Brandi L. Jensen
Date and Place of signing: 1-9-09

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars ($5,000.00), or by both imprisonment and fine (RCW 9A.20.020(1C)).

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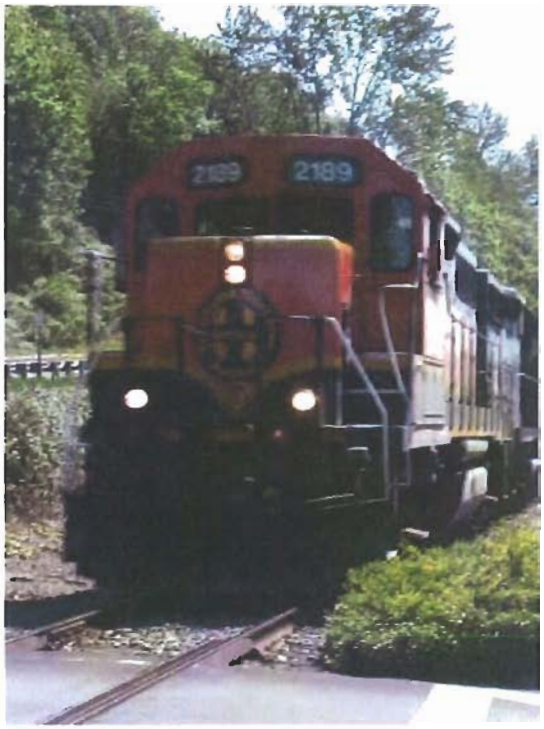
BNSF Corridor Preservation Study

FINAL REPORT

May 2007



Prepared for:
Puget Sound Regional Council
1011 Western Avenue, Suite 500
Seattle, WA 98104

HDR

500 108th Avenue NE
Suite 1200
Bellevue, WA 98004-5549
(425) 450-6200

ACKNOWLEDGEMENTS

STUDY SPONSOR

Puget Sound Regional Council
King Cushman, Regional Strategy Advisor

BNSF CORRIDOR ADVISORY COMMITTEE

Chairperson: Julia Patterson, King County Councilmember

COMMITTEE MEMBERS

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CITY OF KIRKLAND
Councilmember Tom Hodgson

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Mayor Rosemarie Ives

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Jerome Johnson, Assist. VP, Network Dev.

PORT OF SEATTLE
Geri Poor, Regional Transportation Manager, Economic Development

SOUND TRANSIT
Councilmember Mary-Alyce Burleigh (City of Kirkland)

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Eric Temple, President/Owner

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Chris Picard, Manager, Urban Planning Office

♦ BNSF CORRIDOR USERS/BENEFICIARIES ♦

BICYCLE ALLIANCE OF WASHINGTON
Louise McGrody, Trails Program

BOEING COMPANY
Shaunta Hyde, Manager, Local Govemment Relations, Puget Sound

CASCADE BIKE CLUB
Chuck Ayers, Executive Director

CASCADE LAND CONSERVANCY
Chip Nevins, Senior King County Conservation Director

DISCOVERY INSTITUTE
Bruce Agnew, Cascadia Project Director

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Councilmember Kathy Huckabay (City of Sammamish)

PUGET SOUND ENERGY
Susan Hempstead, Local Govt & Community Relations

WEYERHAEUSER COMPANY
Dale King, Manager, Puget Sound Government & Community Affairs

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CONSULTANT STUDY TEAM

PRIME CONSULTANT

HDR Engineering, Inc.
under the direction of Wayne Short, P.E.

Project Manager: Deborah Chase

This study was performed for the Puget Sound Regional Council by the HDR consultant study team, which was made up of the following firms, each providing specific expertise:

Technical Team Coordination, Rail Scenario Development, Cost and Traffic Impact Analysis, Jurisdiction and Interested Party Assessment:	**HDR Engineering**
Environmental Planning and Regulatory Compliance:	**The Resource Group**
Rail Operations & Planning, FRA Regulatory Compliance:	**Transit Safety Management**
Assessment of Future Economic and Community Impacts:	**Berk & Associates**
Advisory Committee Meeting Facilitation:	**Norton-Arnold & Company**

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- *An Introduction to Rails With Trails*
- *How Long will it Take . . . Some Typical Timeframe Considerations for Rail-to-Trail Development Projects*

EXECUTIVE SUMMARY

In the fall of 2003, the Burlington Northern Santa Fe (BNSF) Railway Company indicated its intent to divest roughly 42 miles of railroad corridor in east King and south Snohomish counties from its operational rail lines. The BNSF asked if there was public interest in maintaining/preserving this extensive corridor for transportation purposes.

PSRC took on the question of "public interest" and conducted a series of discussions with the eight jurisdictions along the corridor plus the Washington State Department of Transportation (WSDOT), Sound Transit and several of the regions' environmental/bicycling interests. The resulting recommendation to preserve the corridor for future transportation uses was endorsed by PSRC's Executive Board who unanimously agreed that this regional rail corridor should be preserved for future transportation uses and communicated this regional interest to the BNSF Railway Company in July 2004. The Executive Board also directed that the corridor be further studied to explore several key issues that needed to be resolved if this corridor were to be publicly acquired.

In partnership with WSDOT, PSRC obtained federal grant funds in February 2005 to conduct a technical study to identify desirable potential uses and examine the general impacts, comparative costs of such potential uses, and the legal/institutional issues associated with preserving/acquiring this corridor.

The BNSF rail corridor was studied by PSRC's consultant team throughout 2006 with extensive oversight from PSRC's BNSF Corridor Advisory Committee.

Technical Study Elements

The study covered the rail corridor from the northern vicinity of Gene Coulon Memorial Beach Park in Renton to the City of Snohomish (including an 8 mile spur from Woodinville to Redmond).

The study elements included the following:

- Scenario development for 5 potential future uses of the corridor in each of the 4 segments of the corridor over 3 time frames (short 5–10 years, medium 10–20 years, long 20–40 years).
- Rough order of magnitude cost estimates to identify per-mile costs of each scenario for relative comparative purposes.
- General evaluation criteria for the scenarios by the different time frames and corridor segments.
- Traffic impact/implications at a sampling of key major at-grade crossings.
- General/programmatic assessment of potential future economic and community impacts.

The study examined current and potential future transportation uses for this corridor and the technical elements of the study were substantially complete by December 2006, with BNSF Corridor Advisory Committee deliberations on final recommendations complete by the third week of January 2007.

Recommendations built upon technical analysis were developed from the study and identified the most desirable and feasible uses for subsequent project-level planning and development work to be conducted in the corridor by other parties. The recommendations on potential transportation uses also proposed phased timing for project planning and development over three time periods: short (within next 10 years), mid-term (10-20 years), and long-term (20-40 years).

Scenarios

Five technically distinct BNSF corridor development scenarios were identified by the PSRC for this study.

Scenario 1 - Trail-Only (Common Baseline) assumed removal of rails and ties and reconstruction of the railway bed to accommodate wide paved pathways used by bicyclists and pedestrians (typically 12-14 feet wide in urban areas and no less than 10 feet for rural areas).

Scenario 2 - Trail with Current Rail (includes Dinner Train) assumed adding the regional trail along one side of the existing rail line with a barrier separation between the trail and rail. It would allow continued low-level freight use along with the Spirit of Washington Dinner Train.

Scenario 3 - Trail with Increased Rail, assumed enhancing/improving the existing eastside BNSF rail corridor for redundant or backup/bypass freight rail use. Significant upgrades and reconstruction of the rail track bed, signals, at-grade safety upgrades for unprotected crossings, and potential bridge structural improvements would be required to carry heavier, longer, and more frequent freight trains to correct the corridor's inadequate geometry and infrastructure base.

Scenario 4 - Trail with Commuter Rail assumed the trail as a baseline development along one side of the rail line and the addition of commuter trains much like the Sounder trains being operated by Sound Transit. Commuter trains need higher operating speeds than freight trains: appropriate physical separation between rail and trail and upgraded grade-crossings for safety, signal improvements for higher train volumes, and development of stations would be needed.

Scenario 5 - Trail with High Capacity Transit (HCT) assumes shared trail use with public passenger transport vehicles. The technology would involve one of a number of variations of high capacity transit, from light rail transit (LRT) trains such as Sound Transit's LINK to forms of monorail or other yet-to-be demonstrated "exclusive" guideway HCT options. As long as the BNSF corridor right-of-way is "preserved," opportunities for future HCT consideration will remain viable.

Additional Topics Discussed During the Study

Short Line Rail Operations. The remaining freight related businesses located on the Woodinville Subdivision are small, single carload businesses, primarily building materials with the exception of the Boeing 737 fuselage shipments.

Boeing Plant Access. The Boeing Company has been moving its longer 737-900 stretch fuselages to the Renton plant down this eastside rail line from Everett via Snohomish and east King County to avoid damage to those longer fuselages because of a side clearance constraint at the Cedar River Bridge south of the Boeing plant. If the clearance constraint at the bridge is fixed, only the Sprit of Washington Dinner Train would use the line. WSDOT's expansion plans for I-405 in Renton call for replacement and relocation of the Cedar River Bridge. WSDOT and BNSF are working together to provide a new Cedar River Bridge that will allow Boeing access for all aircraft fuselages from the south/mainline.

Wilburton Crossing Abandonment. During the study BNSF announced their intent to abandon the roughly 0.6 mile segment of rail line between Renton and Bellevue at the I-405 Wilburton Crossing. The State, region and BNSF have the opportunity to consider a long-term abandonment of the Wilburton I-405 crossing once the Cedar River Bridge is replaced, which could save approximately $35 million for the construction expansion of I-405 in the south Bellevue/Wilburton tunnel area. Not having to accommodate operational rail service during construction would account for $10 million of these savings, a portion of which would allow WSDOT to work with BNSF to replace the Cedar River Bridge in Renton.

If the rail crossing was not replaced, an additional $25 million in construction costs could be saved. If rail operations are required in the future, the rail crossing could be reinstated. The abandonment included a request to "rail bank" this section of the corridor to preserve it for potential future rail use.

"Connections for Our Future." In October 2006, King County and the Port of Seattle announced a creative multimodal "deal" to acquire the rail corridor which involves aviation and transcontinental freight rail improvements. This deal involves King County, the Port of Seattle, the Governor's Office/WSDOT, and BNSF.

Utility Crossings. Puget Sound Energy (PSE) currently has over 20 crossings along the corridor that PSE needs to preserve. PSE is also interested in looking at siting overhead electric infrastructure longitudinally along the corridor.

Sound Transit Bus Rapid Transit (BRT) Plans. Sound Transit plans to add 5 more routes to the I-405 Corridor over the next few years and 100,000 additional bus hours by 2027. Sound Transit will consider some form of HCT – most likely commuter or light rail - in future decades as passenger demand may warrant.

Data Gathering

Hy-rail Tour. BNSF staff took the consultant team on a Hy-rail tour along the mainline (Segments A, B, and C) of the corridor to familiarize the team with the corridor and assist in identifying areas with issues such as steep slopes, standing water, wetlands, right-of-way related issues (e.g., encroachments), at-grade crossings, and existing trails. Segment D (the spur running from Woodinville to Redmond) was not included in the tour.

Corridor Maps. Four sets of maps were developed to assist the BNSF Corridor Advisory Committee in its understanding of the corridor. The four sets included:

- Opportunities and Constraints Maps showing the overall geographic context where the BNSF rail corridor runs through the local communities in King and Snohomish counties.
- A Corridor Context Map showing the regional corridor and how it is being studied in four geographic segments (A-D).
- Corridor Segment Maps to show each segment individually in greater detail.
- Corridor Aerial Maps showing the overall geographic context where the BNSF rail corridor runs through the local communities in King and Snohomish counties at an enhanced scale of ½ mile per aerial section.

At the request of the Advisory Committee, two items were added to the maps: right-of-way lines and trail connections.

Interviews. The HDR team met with staff from the eight jurisdictions along the corridor to discuss the three scenarios and how they fit with local plans and visions, to discuss more specific local information about opportunities and constraints, and to assess local comprehensive plan compatibility with the scenarios. The meetings were held with cities of Renton, Bellevue, Kirkland, Redmond, Woodinville, and Snohomish, plus King and Snohomish counties. Meetings were also held with Cascadia Center, Puget Sound Energy, Cascade Bicycle Club and the Bicycle Alliance to discuss their interests and visions related to the corridor and the three scenarios.

A shared interest and vision emerged from the interviews supporting public ownership of the corridor, preservation for future use, rail banking, corridor use for a trail (with or without rail), compatibility with local plans and visions, and establishing a rail corridor trail alignment.

WSDOT Study Information. The Statewide Rail Capacity and Needs Study, which looked at freight rail needs and explored new ideas including consideration of a state partnership role investing with private sector companies to help meet statewide rail capacity needs, was shared with the BNSF Advisory Committee. The WSDOT and PSRC staff, along with the consultant team, using information gained from the statewide study, concluded there is no strategic value to preserving the BNSF corridor as a redundant freight corridor.

Technical Analysis

Technical analyses were conducted to support and inform the work of the BNSF Corridor Advisory Committee, and included the following:

Fact Sheets. Prepared to assist understanding of the requirements for the development, operations and maintenance of each of the five scenarios.

Rail Use Configuration. The line has several potential rail uses, each of which requires a different infrastructure configuration. An infrastructure analysis was conducted using track charts (a schematic representation of the arrangement of the tracks, the curvature, and the grades), and included a review of commuter versus freight traffic, potential siding locations, proposed speed limits, and potential signal and traffic control requirements.

Technical Focus on First 3 Scenarios. Since extensive prior technical analyses had been conducted in the I-405 corridor by the WSDOT and Sound Transit, it was decided to respect those many years of work and their publicly adopted conclusions. The recommendations from those other studies suggested that passenger-rail options in this corridor were not yet technically justified by relatively lower projections of transit travel demand nor financially feasible when comparing to express bus and bus rapid transit (BRT) operations in this corridor that have been approved, funded and are already in partial operation. This meant that the latter two rail-passenger scenarios (#4 & #5) were recommended to be retained for long-term consideration and did not need further technical study for short and medium-term recommendations in this corridor study.

Environmental Assessment

An assessment of existing community and environmental conditions along the corridor was performed via a review of County maps and plans to identify potential issues or concerns which could arise from selection of each scenario. PSRC and King County data of wetland, stream, and flood hazard locations was used to identify possible areas of concern within each segment.

As expected, based on the amount of potential right-of-way necessary for a specific scenario, the potential environmental and community impacts vary significantly.

Scenario 1 – Trail Only. Negative impacts are not expected as a result of this scenario. It is anticipated that conversion of the corridor from rail to trail will create beneficial effects.

Scenario 2 - Trail with Current Rail. Additional right-of-way could be required for Scenario 2, and increased train speeds could disrupt existing activities adjacent to the rail line.

Scenario 3 - Trail with Increased Rail. The most extensive use of right-of-way is required for Scenario 3 for the construction of sidings to allow passing for two-way train traffic.

If the project moves forward, additional environmental reviews would be required for all scenarios in order to fully assess potential site-specific impacts to the natural and built environments.

Economic Impact Assessment

Interviews were held with those likely to be affected by the scenarios, including businesses, bicycle groups, and many of the jurisdictions along the corridor. Research was conducted to

identify previous studies about rail corridor use and reuse, which focused primarily on property values and commercial businesses along other trail corridors across the country, as well as community attitudes towards those trails. The impacts were considered over short, medium, and long term time frames, with impacts categorized as positive or negative and to what degree (small, medium, or large). All scenarios are expected to bring positive impacts to the group of future trail users. The impacts to rail users are expected to be small except for the Dinner Train.

Scenario 1 – Trail Only: Largest positive impacts would be to trail users, and potential positive impacts would benefit property owners and the community as a whole. Negative impacts were seen to the Spirit of Washington Dinner Train, as it would no longer be able to run on its current route.

Scenario 2 – Trail With Current Rail. Impacts to trail users remain positive but may be lessened with dual use. Impacts to residential and business property owners and the surrounding community are expected to remain the same. Negative impacts to the Dinner Train would not occur if the tracks are replaced after I-405 construction.

Scenario 3 – Trail with Increased Rail. Positive impacts are still present for trail users, but are less due to increased use of the rail line. The need for greater space for two-way train operations had the potential for the most negative impacts.

Costs

Relative order of magnitude (ROM) costs for the three scenarios were calculated using information from the BNSF track charts for all segments of the corridor and generic planning level costs presented in the Fact Sheets. As specific engineering estimates were neither planned nor appropriate for this high-level comparative assessment of corridor uses, single "$" signs were used to represent a range of construction costs between roughly $1 million and $25 million. The costs included only specific corridor construction costs and did not include potentially significant ancillary costs such as fencing, mitigation, drainage, trailheads and new local access.

The resulting estimated costs, which were not based on any field investigation and are not engineering estimates, were what one might intuitively expect: Scenario 1 (trail-only) was the least costly and Scenario 3 (increased freight rail) was the most costly.

Traffic Impacts

A traffic impacts analysis study for six (6) major at-grade crossings for Scenarios 1, 2, and 3 was conducted to assess and quantify impacts of trail traffic to roadway traffic at high impact locations. Data for the road network was collected from the four local jurisdictions (cities of Bellevue, Redmond, Kirkland, and Woodinville).

Four distinct types of road and trail intersection crossing configurations were analyzed for the three scenarios:

- Configuration 1 – Trail crosses roadway at-grade, paralleling the existing track.
- Configuration 2 – Trail crosses roadway at-grade but is routed to the nearby adjacent intersection.
- Configuration 3 – Trail crosses over roadway on a grade-separated pre-fabricated bridge.
- Configuration 4 – Trail crosses under roadway in an open air tunnel.

The study used industry methodology, estimating vehicular, intersection, mid-block and railroad crossing delays and the resulting level of service (LOS). The analysis focused on evaluating the configurations of each scenario over the same baseline year, 2030. The four configurations were

evaluated for each of the three scenarios from the perspective of roadway delay, trail user safety and convenience, and cost:

Roadway Delay. The study results suggested that converting the existing BNSF corridor into a bike trail (Scenario 1 – Trail Only) would create the least delay to roadway users. Scenario 2 – Trail with Current Rail, had the potential for moderate growth for in delay. Scenario 3 – Trail with Increased Rail, would cause significantly negative traffic impacts and the highest levels of traffic delay due to more frequent and much longer freight trains.

Trail User Safety and Convenience: The impacts of the trail user crossing configurations did not vary by scenario. For each scenario, Configurations 3 and 4 are the safer solutions for trail users due to physical separation from vehicular traffic. Configuration 1 provides the shortest distance to cross, Configuration 2 is the least convenient, and the grade-separated crossings in Configurations 3 and 4 are more desirable (and minimize traffic impacts the most).

Cost. Configuration 2 would be the least expensive to construct and Configuration 4 would be is the most expensive to build and maintain. The delay costs varied widely by location.

Rails with Trails Reports

Two reports were prepared for the study on the topic of rails and trails. The purpose of the reports was to inform the committee of the potential for dual rail and trail use and to identify the timing of trail development and the requirements of rails with trails.

Committee Deliberations

The BNSF Corridor Advisory Committee was formed in early 2006 and met six times between March 31, 2006, (kick-off meeting) and January 19, 2007. Data provided to the committee, key deliberations and committee actions are listed below by meeting date:

May 12, 2006 - The BNSF Corridor Advisory Committee (CAC) was asked to consider a proposal to recommend the two corridor scenario alternatives that included public transit options (scenarios 4 and 5, described in Chapter 1) be considered only for future long-term (20-40 years) planning consideration. The committee received the fact sheets and an overall corridor map along with four segment maps that showed a preliminary assessment of initial opportunities and constraints in the corridor.

The committee agreed to defer further analysis of Scenario 4 and Scenario 5 and move them into the long-term timeframe for future planning.

July 28, 2006 - The committee was briefed on the Washington Transportation Commission Statewide Rail Capacity & Needs Study, the interim findings from the interviews with local jurisdictions, and local jurisdiction perspectives on the corridor scenario compatibility with local plans. No actions were taken at the July 28, 2006, meeting.

September 29, 2006 - The committee was briefed on the proposed BNSF abandonment of the Wilburton crossing of I-405 and the overview and summary highlights of the corridor scenario options.

The committee agreed to eliminate Scenario 3 – Trail with Increased Rail from further discussion or consideration for the BNSF Corridor. This allows the committee to review the two remaining candidate uses of trail-only and trail-with-rail based upon the needs and opportunities of the individual segments.

December 1, 2006 – A briefing was presented on "Connections for Our Future" by representatives from the King County Executive's Office and the Port of Seattle. The segments and sub-segments were reviewed with the committee, with a discussion of each of the rail

segments. A "straw vote" on preliminary/draft recommendations was taken for later review and reconsideration in early 2007 for potential uses and timing for each of the segments.

January 19, 2007 - The committee was briefed by Sound Transit to clarify the extent of its existing Express Bus service currently operating in the I-405 corridor (as much as 10-minute peak-period frequencies between Renton and Bellevue) and on their future Bus Rapid Transit (BRT) plans for the I-405 Corridor.

The committee agreed to accept the prior recommendations as presented in the straw vote memo, with the exception of striking the term "passenger" from recommendations to allow that either freight or rail trains might be reconsidered in the future.

RECOMMENDATIONS

The final recommendations of the BNSF Corridor Advisory Committee for proposed transportation uses over short, medium and long-term time periods were unanimously approved by PSRC's Transportation Policy Board on February 8, 2007, and also by its Executive Board on February 22. These corridor recommendations were also incorporated as amendments to the region's transportation plan (Destination 2030) at PSRC's General Assembly on April 5, 2007.

The committee's findings and recommendations built upon technical analysis developed for the study that identified the most desirable and feasible uses for subsequent more specific project-level planning and development work to be conducted in the corridor by other parties. The recommendations on potential transportation uses also proposed phased timing for project planning and development over three time periods, short (within next 10 years), mid-term (10-20 years), and long-term (20-40 years).

The committee's findings set the context for the proposed short, medium, and long-term transportation use recommendations of the eastside BNSF corridor. The findings include:

- Preserve this unique corridor.
- Not a strategic regional or state freight rail corridor.
- Preserve freight rail access to Boeing's Renton plant.
- Respect prior regional public transit studies in north-south Eastside corridor.
- "Medium-Term" time frame is needed to achieve long-term passenger rail objectives.
- Optimize cost-effectiveness of trail development:

A summary of the proposed short, medium and long-term transportation use recommendations is presented by County:

King County Rail Corridor Segments (A, B, and D). The candidate project uses for the rail corridor segments from Renton to Woodinville and from Woodinville to Redmond (i.e., most of the King County portions of this BNSF corridor) are recommended as "regional multipurpose trail," identified as an "interim use" and designated as "rail banked" by BNSF for the short-term period (next 10 years).

The regional plan will continue to show these corridors as regional multipurpose trails for medium and long-term but will add the proposed use and designation as potential candidate high capacity transit (HCT) corridors as defined in state law for dedicated rights-of-way to be preserved for rail transportation for the medium and long-term time periods (10-20 years and 20-40 years).

Woodinville to Snohomish Segment (C). The segment between the rail junction in Woodinville and the City of Snohomish city limits on the north side of the Snohomish River is recommended

to show dual "rail-and-trail" uses for short, medium and long-term time periods. Existing freight rail service supporting shippers along this part of the corridor will continue in use as long as those businesses are viable.

Short-Term Issues. Minimizing costs for regional trail construction would require removing the deteriorated tracks that are not currently suitable for modern passenger rail nor expanded/heavier freight rail use. The design of the trail must be carefully planned with affected local communities. BNSF freight operations for Boeing transporting 737 fuselages between Everett and Renton will be able to operate along the Puget Sound mainline rail corridor following the replacement of the Cedar River Bridge in Renton, expected to be com plete by the end of 2007.

Recommendations for transportation uses by corridor segments are presented in detail in Chapter 5.

SOUND TRANSIT

HCT Planning

Sound Transit 2 Planning

BNSF Eastside Corridor Commuter Rail Feasibility Study

Phase II Technical Memorandum: Feasibility Study

Prepared for:
Sound Transit
Puget Sound Regional Council

Prepared by:
Parsons Brinckerhoff

Ridership Forecasts section prepared by:
Puget Sound Regional Council

FINAL

December 31, 2008

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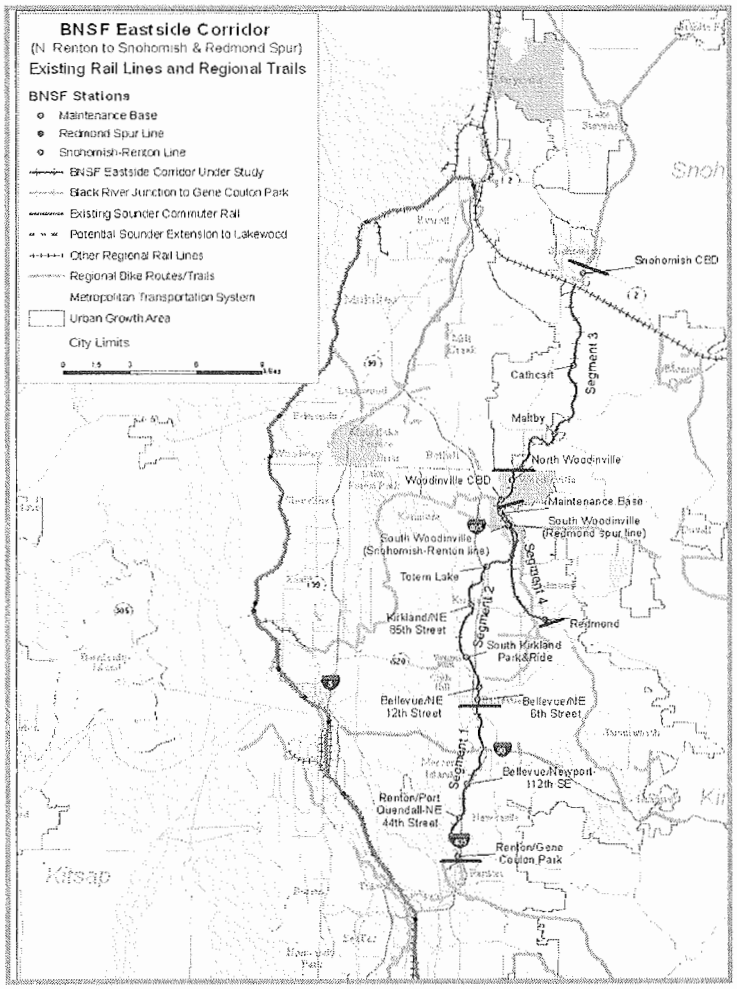
Executive Summary

Background

In 2008, the state legislature passed Substitute House Bill 3224, directing Sound Transit and the Puget Sound Regional Council (PSRC) to complete a feasibility study to "determine whether commuter rail service between eastern Snohomish county and eastern King county … can be a meaningful component of the region's future transportation system" and develop a cost estimate for commuter rail and a concurrent bicycle/pedestrian trail.



The Eastside BNSF corridor extends 34 miles from north Renton, through Bellevue and Woodinville, and on to Snohomish. The corridor also includes a 7-mile spur from Woodinville to Redmond. It is extensively single-tracked, with mostly 100-foot wide right-of-way and includes 24 bridge crossings, 97 curves and 107 at-grade crossings. The railbed area is level but the adjacent right-of-way on either side of the track is often sloped. In some areas, it appears the right of way has been encroached upon by adjacent uses or portions have been sold. The map locates the corridor in relation to other rail lines and trails in the region.

Future use of the corridor has been the topic of discussion among various groups in the region for several years. Burlington Northern Santa Fe (BNSF) is in the process of abandoning the corridor and the Port of Seattle has committed to acquiring it through the federal rail-banking process. Once acquired, King County intends to purchase an easement within the corridor from the Port for a bicycle and pedestrian trail. Potential future uses of the corridor, or certain segments, may include commuter/passenger rail, excursion trains, short haul freight service, and a regional trail. The Port anticipates closing on the acquisition in the first quarter of 2009.

The feasibility study builds on previous studies of commuter/passenger rail on the corridor and augments that base of information by estimating potential future ridership in the corridor, identifying potential station locations, reviewing the suitability of the existing tracks for commuter/passenger rail, estimating the effect commuter/passenger rail service might have on freight rail and tourism in the region, developing cost estimates for commuter/passenger rail and a concurrent parallel bike/pedestrian trail, and identifying the most beneficial and cost-effective segments.

The analysis was guided by the following general assumptions, derived from information about the condition of the rail infrastructure in the corridor and the potential safety issues for commuter/passenger rail operation:

- Upgrades were identified and costs were estimated at permanent commuter/ passenger rail infrastructure standards including full replacement of the track, ties and railbed (a demonstration project and/or a project implemented by private entities could be accomplished differently with potentially lower costs).
- Service could be provided with either *Sounder*-style vehicles (locomotives and bi-level coaches) or diesel multiple units (DMUs)
- Complete signal/communication for train detection and control, centralized train control would be provided
- All public and private grade crossings would be upgraded
- No new grade-separated crossings were included
- No evaluation has been made of the condition of existing bridges
- One small new yard and shops facility, likely located somewhere along the line north of downtown Bellevue
- Average speed, including stops = 24 mph along corridor
- Two-way service, 30 minute headways, 16 hours per day (weekdays only)

The study does not identify the optimal solution, a preferred alternative, or the lowest cost or most cost-effective option. That information would be developed later, in subsequent studies if deemed appropriate. Because only limited conceptual engineering data is available, the cost estimates and ridership forecasts are conservative, meaning it is recognized that the broad assumptions required during conceptual planning and design, such as installing control systems at all public and private grade crossings, may be revised through more detailed study in preliminary engineering/environmental analysis and final design. The capital cost estimates were developed using the methods employed by Sound Transit for its ST2 Plan. As required by State law, those methods were reviewed by the State's independent Expert Review Panel.

Consistent with the directing legislation, the feasibility analysis includes cost estimates and potential ridership information for various segments of the corridor that may have independent utility. Those segments are:

- Renton-to-Bellevue (Gene Coulon Park in north Renton to Bellevue CBD)
- Bellevue CBD to Woodinville

- Woodinville to Snohomish (this segment is outside of the Sound Transit district)
- Redmond to Woodinville spur

The study has been guided by a Steering Committee comprised of representatives of the Port of Seattle, King County, Snohomish County, PSRC and Sound Transit. The Ad Hoc Advisory Committee comprised of jurisdictions potentially affected by commuter/passenger rail service and/or a trail (the cities of Snohomish, Woodinville, Kirkland, Bellevue, Newcastle, Renton, King County and Snohomish County) reviews materials and provides input. The Ad Hoc Advisory Committee has met three times during the feasibility study process. In addition, the meetings are open to the public and feasibility study materials and reports are available on the PSRC website.

Key Findings

- The operation of commuter/passenger rail on the corridor is feasible through a variety of capital improvements to facilitate higher speeds than can be achieved today and to improve the safety of the track, structures, and roadway crossings in the corridor.
- The capital cost estimate for commuter/passenger rail is within the range for other lines that have been implemented across the country, although at the high end of that range. This is due to the neglected condition of the corridor and the lack of safety and communication systems along the line.
- The BNSF Eastside Corridor has the potential for significant transit ridership, connecting the regional growth centers of Renton, Bellevue, Kirkland/Totem Lake and Redmond, with trips as high as 6,070 per day.
- Downtown Bellevue is the key ridership destination along the corridor, due to its concentrations of population, employment and commercial activity.
- Implementation of service along the corridor requires a vehicle storage and maintenance facility, which appears to be located most readily north of downtown Bellevue where there are appropriately-zoned large parcels adjacent to the track.
- A pedestrian/bike trail could also fit within the existing right-of-way throughout much of the corridor. However, in some locations, property acquisition would be required to accommodate commuter/passenger rail and a trail.
- The estimated capital cost for a fully improved pedestrian/bike trail parallel to the rail line ranges from $297 million to $432 million depending on the width of the trail area.

The following capital cost estimates were developed based on a conceptual design and include broad assumptions for track and trackbed, rail bridges, signals/train control/crossings, stations and right-of-way, and soft costs (such as administration, design and environmental review and construction management). The cost estimates include significant contingencies appropriate to the conceptual level of analysis.

Capital costs for commuter/passenger rail (2nd Qtr 2008 Millions$)

Segment 1	North Renton (Coulon Park) - Bellevue	Low	$220
		High	$286
Segment 2	Bellevue - Woodinville	Low	$230
		High	$299
Segment 3	Woodinville - Snohomish	Low	$224
		High	$291
Segment 4	Redmond - Woodinville	Low	$116
		High	$150
Subtotal		**Low**	**$789**
		High	**$1,026**
Yard & Shop		Low	$57
		High	$74
Vehicles (assumes DMU)		Low	$64
		High	$74
Corridor Acquisition(by the Port of Seattle)			$107
TOTAL		**Low**	**$1,017**
		High	**$1,280**

Operating costs for commuter/passenger rail

Operating costs for commuter/passenger rail service are estimated at $24 to $32 million per year (2008$) based on two-way service on the corridor with 30 minute headways for 16 hours per day (weekdays only). The costs include vehicle operations and maintenance, maintenance of way, and overhead and other costs.

Ridership Forecast

	Cumulative Segments	Trips in 2020
Segment 2 11.7 miles	Bellevue-to-Woodinville	1,770
Segment 1+2 19.9 miles	Coulon Park-to-Woodinville	4,580* (2,810)
Segment 1+2+3 32.4 miles	Coulon Park-to-Snohomish	5,015 (435)
Segment 1+2+3+4 39.2 miles	Coulon Park-to-Snohomish with South Woodinville-to-Redmond Spur	6,070* (1,055)
* ridership adjusted for southern terminus at Coulon Park, rather than Renton CBD		

Sound Transit 2

Sound Transit 2, the high capacity transit package of investments approved by voters in November 2008, includes a $50 million capital contribution to a potential passenger rail partnership. If a partnership is not implemented by the end of 2011, the funds will be reprogrammed to further the implementation of HOV BRT service in the I-405 corridor. Sound Transit 2 does not include any additional funds for commuter or passenger rail on the Eastside BNSF corridor.

Appendix C: Track

This report documents a study of the track and track structure on the BNSF Woodinville Subdivision between Renton and Snohomish and the Redmond spur line between Redmond and Woodinville. Presently these rail lines are limited to a track speed of 10 mph. This limited analysis included an inspection, on a sampling basis, to evaluate the condition and size of the rail, ties and ballast for 34 miles of mainline track and one spur track, the Redmond spur. The inspected track was separated into four sections as follows:

- Renton to Bellevue
- Bellevue to Woodinville
- Woodinville to Snohomish
- Woodinville to Redmond (Redmond spur line)

Twelve (12) sample locations were investigated at varying intervals, not exceeding five (5) miles apart. At each location, one-half (1/2) to one (1) mile of track was examined by walking the track. The items noted were only those that were readily observed and included: rail section including year rolled; fastening system (type and size of plates); type of track construction (jointed/welded); tie conditions including size and spacing; ballast conditions and type; cross-level; surface and alignment conditions; drainage; and other miscellaneous conditions.

It is understood that the rail was recently inspected by a Sperry Rail/Star car. The Star car evaluated the track geometry. All defects were reported and marked with spray paint visible during the PB track inspection. A maintenance plan was developed and implemented by the BNSF which included crosstie renewal, minimal ballast, surfacing, lining and regulating work, although no drainage improvements. Due to a lack of funding, rail upgrading and renewal work was not performed. 1000 ties were placed through out the Woodinville Subdivision. Where these new crossties were located, excessive mudding formed around the new ties. There is clear evidence that the ballast section is not properly draining through the track bed. A 10 mph speed restriction has been placed on the railroad.

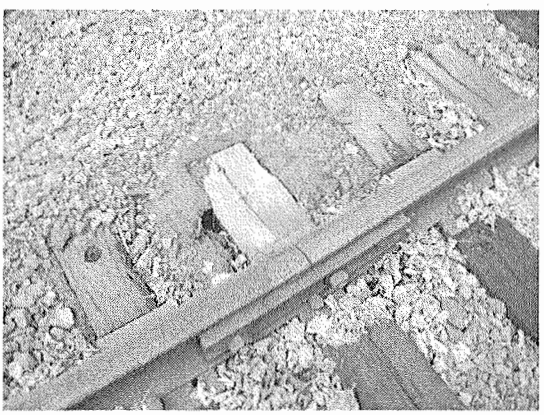


Figure 1: Mudding around a recently installed cross tie

Section 1 – Renton MP 4.10 to Bellevue MP 12.40

A. Beginning at the intersection of Lake Washington Blvd. and Burnett Ave. (Milepost 5.0) - This section of track is comprised of 112# RE jointed rail in good condition. The rail is seated in 7 3/4" x 13" double shouldered tie plates and fastened to wood ties using cut spikes. The rail is anchored and is joined using 6 - hole joint bars. The ties are 7" x 9" x 8' - 6" and are in good condition. The ties are not end plated although a few are s-ironed and are spaced at an average of 20 inches. Approximately 30% of the ties need to be replaced. The ballast is clean and comprised of both river rock and granite. The ballast section is tight and the surface and alignment are good.

B. North of MP 6.0. Two private street crossings and Lake Washington Blvd. then Hazelwood Lane - A station platform is assumed off of Hazelwood lane. This section of track is comprised of 100# RE jointed rail and is in good condition. The rail is seated in 7 3/4" x 13" double shouldered tie plates fastened on wood ties with cut spikes. The rail is anchored and is joined using 6 - hole joint bars. Rail on the low side of the horizontal curves show significant head wear and has been transposed. Ties south of MP 7.0 are spaced at 20" and are in good to excellent condition. Ties north of MP 7.0 continuing past Hazelwood Lane SE crossing are in fair condition. Approximately 27% of the ties need to be replaced. A combination of river rock and granite ballast used in the shoulders and cribs are mostly full. The surface and alignment are good with some gauge rods installed in the spiral curve from Milepost 6.5 through Milepost 6.8.

C. 12th Street Crossing at MP 12.8 - The rail in this section is 100# RE jointed rail and is in fair to poor condition. The rail is chipped and flaking. The rail is seated in 7 3/4" x 13" double shouldered tie plates fastened on wood ties with cut spikes. The rail is missing anchors and is joined using both 4 & 6 - hole joint bars. The ties are 6" x 8" and 7" x 9" x 8' - 6" long, some with s-irons and are in poor condition. Approximately 50% of the ties need to be replaced. The ties are split and hollow and are slewed with the spacing varying between 20 to 24 inches. Some ties have been installed recently and appear to be new timber. The track bed is in fair to poor condition with some vegetation present and some ballast in the cribs and on the shoulders. Ballast is river stone similar to AREMA #5 or #57 gradation. The surface and line along this section is poor with many low joints and kinks.

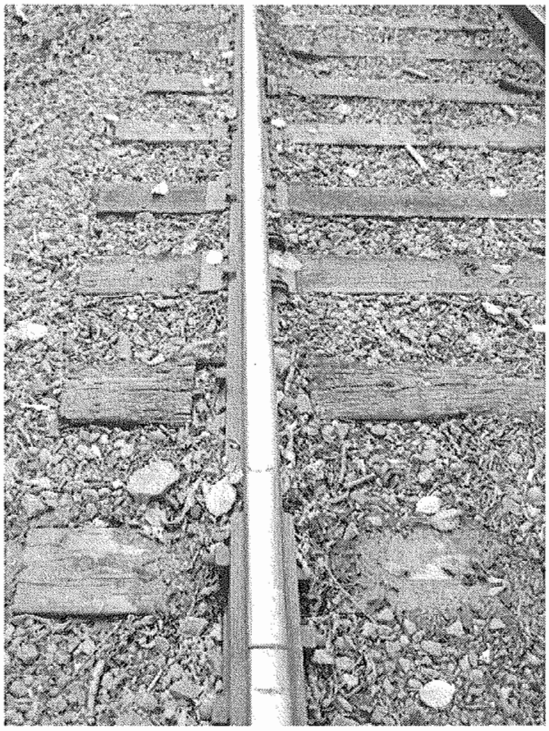


Figure 2: Typical track section

Section 2 – Bellevue MP 12.40 to Woodinville MP 26.37

A. NE 87th Street MP 17.5 - The rail in this section is mainly 100# RE (rolled in 1926) with some 132# RE rail mainly in special track work (Street crossings). The mainline rail is in poor condition with evidence of chipped and lipped rail. Some rail has been transposed. The rail has few anchors and is seated in 7 3/4" x 13" double shouldered tie plates and in some instances the tie plates are missing. The siding tracks are out of service and the No.8 turnouts are in fair to poor condition. The ties are 6" x 8" x 8' - 6" and are in poor condition. Approximately 50% of the ties need to be replaced. The ties are split, hollow and killed in the bearing areas. Ties are slewed with the spacing varying between 20 to 24 inches. The track bed is in poor condition with vegetation present and very little ballast in the cribs and on the shoulders. Ballast present is a mixture of river rock and granite similar to AREMA #5 or #57 gradation. The surface and line along this section are poor with many low joints.

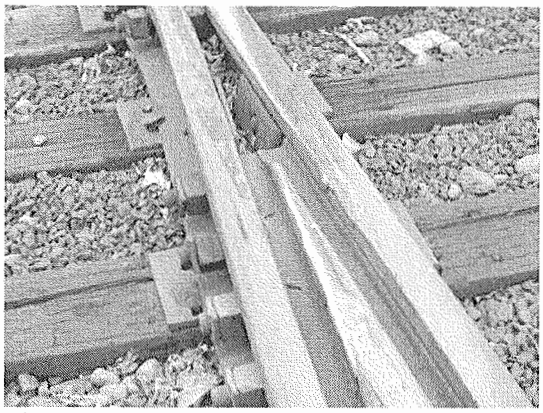


Figure 3: Damage found on turnout

B. NE 145th Street MP 22.3 - The rail in this location is 112# RE. Inspected rail sections were rolled from 1924 to 1944. The jointed rail is in generally satisfactory condition. Sections of the older rail has chipped and lipped. There are shelled spots. The rail is seated in 7" x 10 3/4" double shouldered tie plates fastened on wood ties with cut spikes. The rail has no anchors and is joined using a mixture of 4 & 6 - hole joint bars. The ties are 6" x 8" and 7" x 8" x 8' - 6" long and are in poor condition. Approximately 52% of the ties need to be replaced. The ties are split and hollow and are slewed with the spacing varying between 20 to 24 inches. The track bed is in poor condition with vegetation present and some ballast in the cribs and on the shoulders. Drainage problems are very evident along the alignment. Ballast is a mixture of river rock and granite similar to AREMA #5 or #57 gradation. The surface and line along this section are poor with many low joints and kinks. The track south of the Redmond Spur turnout gradually gets worse with poor drainage conditions and the use of gauge rods on the curves.

Figure 4: Poor drainage

C. State Route 202 MP 24.1 - The rail in this section is a mixture of 90# RE, 100#RE, 112#RE jointed rail. 132# RE rail is used in the special track work (Street crossings). The condition ranges from good to very poor. The rail is seated in 7 1/4" x 13" double shouldered tie plates fastened on wood ties with cut spikes. The rail is missing anchors and is joined using 6 - hole joint bars. The ties are 6" x 8", 7" x 8", and 7" x 9" x

8' - 6" long and are in good condition. Approximately 20% of the ties need replacing in this area. The tie spacing varies between 19 to 21 inches. The track bed is in good condition with full cribs and sufficient shoulders. Ballast is a mixture of river rock and crushed stone similar to AREMA #3 and #57 gradation. The surface and line along this section are good.

Section 3 – Woodinville MP 26.37 to MP 39 (4th Street) in Downtown Snohomish

A. Private Crossing near the Snohomish County Line MP 26.7 - The rail in this section is 112# RE jointed rail with a section of 90# RE rail that was rolled in 1912. The track bed is in poor condition. The rail is chipped and is flaking. The rail is seated in 7" x 10" double shouldered tie plates fastened on wood ties with cut spikes. The rail is missing anchors and is joined using both 4 & 6 - hole joint bars. The ties are 6" x 8" and 7" x 9" x 8' - 6" long with some s-irons found in the cross ties. The cross ties range from good to poor condition. Approximately 50% of the ties need to be replaced. The ties are split and hollow and are slewed with the spacing varying between 20 to 24 inches. Some ties have been recently installed. The track bed is in fair to poor condition with some vegetation present and some ballast in the cribs and on the shoulders. Ballast is a combination of river rock and granite similar to AREMA #5 or #57 gradation. The surface and line along this section are poor with many low joints and kinks.

B. State Highway 522 MP 27.2 - The rail in this section is 112# RE jointed rail and is in fair condition. The rail is seated in 7" x 10 3/4" double shouldered tie plates. The rail is missing anchors and is joined using 6 - hole joint bars. The ties are 6" x 8" x 8' - 6" long and are in fair to poor condition. Approximately 40% of the ties need to be replaced. Many ties are split and hollow and are slewed with the spacing at 24 inches. The track bed is in very poor condition with vegetation present and the ties covered with silt. There is river rock ballast in the cribs and on the shoulders. The surface and line along this section are fair with some low joints and kinks.

C. 91st Ave MP 30.3 - The rail in this section is 112# RE jointed rail and is in fair condition. The rail is seated in 7" x 10 3/4" double shouldered and 7 1/2" x 14" double shouldered tie plates. Some ties are missing tie plates. The rail is missing anchors and is joined using 6 - hole joint bars. Some short sticks of rail, 11'- 4" long, have been installed. The ties are 6" x 8" x 8' - 6" long and are in poor condition. New 6" x 8" ties have recently been installed. Approximately 39% of the ties need to be replaced. The tie spacing varies between 21 to 24 inches. The track bed is "tight", comprised of river rock ballast and is in good condition. The surface, line, and cross-level along this section are fair with some low joints and kinks.

D. 180th Street MP 32.5 - The rail in this section is 112# RE jointed rail and is in fair condition. The rail is seated in 7" x 9", 7" x 11", and 7 1/2" x 10" double shouldered tie plates. The rail is missing anchors and is joined using 6 - hole joint bars. The ties are 6" x 8" x 8' - 6" long and are in fair to good condition. New 6" x 8" ties have recently been installed. Approximately 30% of the ties need to be replaced. The tie spacing varies between 21 to 23 inches. The track bed is "tight", comprised of crushed stone ballast and

is in good condition. The surface, line, and cross-level along this section are poor with many low joints and kinks.

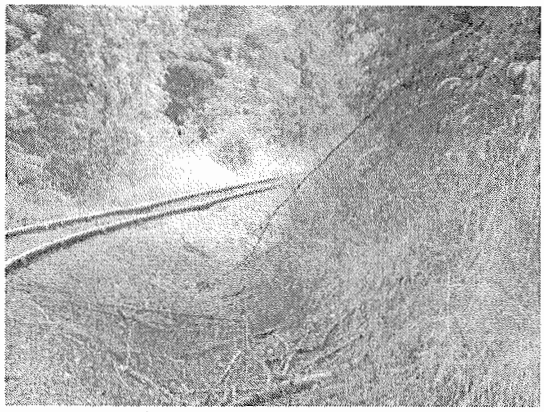


Figure 5: Kinks and low joints along the alignment

E. Private grade crossing MP 37.0 - The rail in this section is a mixture of 112# RE and 132# RE jointed rail and is in fair condition. The 112# rail is lipped and chipped on the gage face and has significant head wear. The rail is seated in 7" x 9" and 7" x 11" double shouldered tie plates. The rail is not anchored and is joined using 6 - hole joint bars. Many of the joints are loose and some joint bars are cracked. The ties are 6" x 8" x 8' - 6" long and are in fair to good condition. New 6" x 8" ties have recently been installed. Approximately 30% of the ties need to be replaced. The tie spacing varies between 18 to 20 inches. The track bed is comprised of river rock ballast and is in good condition. The surface and line along this section is fair with some low joints and kinks. The cross-level is poor and is evident given the wear patterns exhibited on the rail.

Section 4 – Woodinville MP 0.00 to Redmond MP 6.90 (Redmond Spur)

The rail in this section is a combination of 90# RE and 100# RE jointed rail and is in fair to poor condition. The rail is chipped, lipped and has head wear. The rail is seated in 7" x 10" single shouldered tie plates. Some ties are missing tie plates. The rail is missing anchors and is joined using 4 & 6 - hole joint bars. The ties are 6" x 8" x 8' - 6" long and are in extremely poor condition. 100% of the ties need to be replaced. The ties are split and hollow, and many have disintegrated. The ties that are present are slewed with the spacing varying between 22 to 24 inches. The track bed is in very poor condition with significant vegetation present and the ties covered with silt and weeds. Brush cutting is required in this section. There is very little ballast in the cribs and on the shoulders. The surface and line along this section are fair to poor with many low joints and kinks.

Eastside Rail Corridor

Port of Seattle Acquires Rail Corridor from BNSF for $81 million
King County, Sound Transit, other partners will contribute to purchase

Port of Seattle Announces New Partners in Rail Corridor:

King County, Sound Transit, others join in preserving 42-mile line

Signing the agreement from left to right are Stephen Reynolds, CEO, Puget Sound Energy; Kurt Triplett, King County Executive; Tay Yoshitani, CEO, Port of Seattle; and Joni Earl, CEO, Sound Transit

Memorandum of Understanding Regarding Acquisition of the Woodinville Subdivision (43 KB, PDF)

Eastside Rail Corridor Statement - July 1, 2009

Port of Seattle Committed to Preserving BNSF Eastern Rail Corridor for Public Benefit

Options include preserving the corridor for passenger rail, bicycling, walking and recreational uses.

Listen to Eastside Rail Corridor public meetings here.

Short-line Operator Selection Process

September 2008

Read the Press release here.

Why is a short-line operator being chosen?

What is the selection process?

Sign up for Community Events e-mail updates →

Got a Question or Comment?
Contact Us.

Rail Corridor Map

Documents

Surface Transportation Board Decisions (Fall 2008)

- Woodinville to Snohomish
- Redmond Spur
- Renton to Bellevue
- Bellevue to Woodinville

Acquisitions (May 2008)

- Port CEO Signs Agreements for Eastside Rail Corridor: Yoshitani, King County Executive Ron Sims also finalize easement for trail - May 2008
- Donation Agreement - South Segment - May 2008
- Purchase and Sale Agreement - Woodinville Subdivision - North Rail Line - May 2008
- Port - King County Interlocal Agreement May 2008

Amendments (Fall 2008)

- Port, BNSF to Close Rail Corridor Deal in Early 2009
- First Amendment to Purchase & Sale
- Second Amendment to Purchase & Sale
- First Amendment to Donation Agreement
- Second Amendment to Donation Agreement

Presentations

- Eastside Rail Corridor Informational Open Houses Presentation (Port of Seattle)
- Trails: What role King County now plays in the transaction (King County)
- Audio from Eastside Rail Corridor Public Meetings is available here

What about the excursion or dinner train?

Will the operator provide commuter rail service?

Why is a short-line operator being chosen?

The Eastside Rail Corridor has two portions: the northern portion, between Snohomish and Woodinville, and the southern portion, which stretches from Woodinville to Renton and includes the Redmond spur. Under the terms of the acquisition agreement, BNSF agreed to select a third-party operator to maintain the operation. The operator will pay the Port of Seattle for the rights to utilize the land and will provide freight rail service for shippers in Snohomish County.

What is the selection process?

As part of the acquisition process, BNSF issued a request for proposals earlier this year. BN hosted a bidder's conference, with attendees from area shippers, the Port, the City of Snohomish, and Snohomish County. BNSF invited 19 organizations to bid; six companies attended the conference and expressed interest in operating the service. Although two bids were received, one was not responsive to the terms of the RFP.

After consulting with the Port, BNSF chose GNP/Ballard, a partnership between Byron Cole of Ballard Terminal Railroad and Tom Payne of GNP Railway. The Port will begin negotiations with GNP/Ballard shortly.

What about the excursion or dinner train?

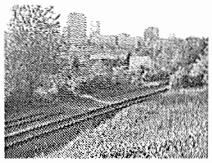
According to the terms of the RFP, any operator applying for a license to run freight service may also operate an excursion train. Initially, the train could run between Snohomish and the wineries (Woodinville area). The Port also asked for proposals for an excursion train that, depending on the outcome of the public process, could eventually travel between Snohomish and farther south than the wineries.

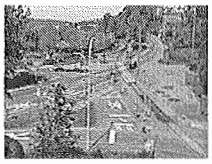
Will the operator provide commuter rail service?

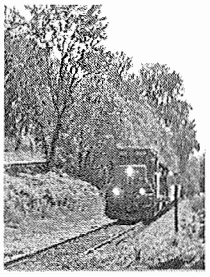
No. Commuter rail is not included in this proposal. King County citizens will have the opportunity to provide feedback on all uses, including commuter rail, during the upcoming public process. In addition, the Puget Sound Regional Council and Sound Transit are conducting a feasibility study for commuter rail service to the Eastside.

The Sound Transit package on the November ballot contains $50 million partnership contribution toward development of commuter rail for the Eastside; the Port expects that one or more parties will come forward with proposals depending on the results of the PSRC/Sound Transit study.

Any agreements for operation of freight rail will require that future commuter rail be accommodated.







Frequently Asked Questions

What is the Eastside Rail Corridor?

Why is BNSF selling the rail line?

Why does the Port want to secure the corridor in public hands?

What are the current uses of the corridor?

Additional links

1) What is the Eastside Rail Corridor?

The Eastside Rail Corridor consists of a 42 mile rail corridor stretching from the city of Renton to the city of Snohomish, with an eight mile rail spur running between the cities of Woodinville and Redmond. The rail corridor passes through the cities of Newcastle, Renton, Bellevue, Kirkland, Woodinville, Maltby, Snohomish and Redmond.

2) Why is BNSF selling the rail line?

BNSF, driven by increasing maintenance costs and declining freight use and revenues, has planned to divest the rail corridor since 2003. The rail line is not economically viable for BNSF to continue to operate it.

3) Why does the Port want to secure the corridor in public hands?

The Port's primary mission is to create economic vitality in the region. This once-in-a-lifetime investment preserves a valuable transportation asset for the region, maintains current freight rail service, and secures the corridor for potential future freight rail use supporting the region's economy.

The Port is also interested in optimizing the use of this corridor for other transportation modes compatible with freight rail.

Without the Port's involvement to secure the corridor, the corridor could have been sold piecemeal to private owners and lost to public use forever.

4) What are the current uses of the corridor?

Parts of the corridor were used in the last century for mining and in transporting timber. In recent years, annual freight car loads on the line have declined dramatically to approximately 900 freight car loads per year. In comparison, Seattle's main line handles 500,000 freight car loads annually. In February, 2008 BNSF ran its last trains to the Boeing plant in Renton before removing one mile of track around the Wilburton Tunnel in South Bellevue, as part of WSDOT's widening of I-405. The widening project is expected to be complete in late 2009.

Freight uses between Bellevue and Woodinville were phased out in November 2008.

Currently, the northern portion, located between Woodinville and the city of Snohomish, is used as a freight corridor. The Puget Sound region is highly dependent on the efficient movement of freight, and this agreement ensures that freight rail use along the northern section will continue. The Port will contract with a third-party short-line operator to continue service on the northern portion of the line; that operator is not yet selected by the BNSF.

Additional links:

- BNSF Railway
- King County
- Puget Sound Regional Council (PSRC)
- Washington State Department of Transportation – Wilburton Tunnel

Sign up for project updates.

September 25, 2008

Port to Begin Negotiations for Freight Rail Operator

BNSF selects GNP/Ballard to serve Snohomish County shippers

The Port of Seattle announced today that it will begin negotiations with GNP/Ballard for freight service operation on the northern portion of the Eastside rail corridor. GNP/Ballard, a partnership between Byron Cole, who operates the Ballard Terminal Railroad, and Tom Payne, owner of GNP Railway, will pay the Port for use of the land, which runs from Snohomish and Woodinville.

The Port of Seattle is acquiring the corridor from BNSF, who selected the short line operator. Any contract between the Port and GNP/Ballard will not be finalized until the transfer of the corridor is complete.

The Port is acquiring the corridor from BNSF for $107 million. King County will contribute $2 million toward the purchase price in return for an easement for trail development on the southern segment of the corridor. The Surface Transportation Board is expected to grant approval in the fall of this year. The Port will then begin a public process to gain input on how King County citizens would like to see the rail corridor used.

Find more information about the Port's purchase of the corridor or the public process that will follow on the Eastside Rail Corridor Web site.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)

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

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)

STB Finance Docket No. 35407

GNP RLY INC. – ACQUISITION AND OPERATION EXEMPTION – REDMOND SPUR AND WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502

VERIFIED STATEMENT OF PAM BISSONNETTE IN SUPPORT OF THE COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC.

I, Pam Bissonnette, do swear and affirm the following to the best of my personal knowledge:

1. I am presently employed as the Executive Project Manager for King County and I have held that position since the beginning of 2010. From April, 2009 to the end of 2009, I was the Assistant Deputy Executive for King County. Between 2007 and 2009, I was self-employed as the principal of Bissonnette Environmental Solutions LLC and engaged as a consultant or contractor on a variety of environmental planning matters and projects in California, Nevada, and Washington. From 1996-2007, I was the Director of the King

County Department of Natural Resources and Parks, and from 1993-1996 I was the Utilities Director for the City of Bellevue. From 1986-1993, I was the Deputy City Manager for Bellevue, and prior to that I was the Drainage Utility Director for the City of Bellevue from 1979-1986.

2. As Assistant Deputy Executive and Executive Project Manager for King County, one of my responsibilities has been to serve as a negotiator and project coordinator in connection with the County's acquisition of property interests in a railroad corridor known as the Eastside Rail Corridor or BNSF corridor ("the Corridor"). The Corridor is a railroad line that runs roughly north-south from Tukwila to Woodinville and on to the City of Snohomish. There is a spur line (the "Redmond Spur") that extends from the Corridor in Woodinville southerly into the City of Redmond. The Corridor and the Spur are "railbanked" south of Woodinville, and the Corridor is actively used for freight from Woodinville north to the City of Snohomish.

3. In my capacity as a negotiator and project manager regarding the Corridor, I regularly and frequently communicate with representatives of numerous other jurisdictions and utilities regarding the Corridor and the Spur, including the Port of Seattle, the City of Redmond, the City of Bellevue, the City of Kirkland, the City of Renton, Sound Transit, Puget Sound Energy ("PSE"), and Cascade Water Alliance ("CWA"). I am also in regular communication with staff and managers from a variety of King County agencies with interests in the Corridor and the Spur, including the County's Department of Natural Resources and Parks, its Parks and Recreation Division, its Wastewater Treatment Division, and King County Department of Transportation. In

addition, I serve as a liaison between the King County Executive and the King County Council regarding matters pertaining to the Corridor and the Spur.

4. In December of 2009 the County, the Port of Seattle, and BNSF Railway Company ("BNSF") executed a real estate transaction through which (a) BNSF sold the Spur and a portion of the Corridor to the Port, and donated the remainder to the Port, and (b) the Port sold a multipurpose public easement to the County. The County signed a trail use agreement with BNSF. Subsequently, the Port sold a portion of the Spur to the City of Redmond. BNSF sold a freight rail easement to GNP Rly, Inc., on the Corridor between Woodinville and Snohomish. The Port, as the owner of the Corridor and the Spur (outside of the City of Redmond), issued a license to GNP, allowing GNP to run excursion trains on the Corridor between Snohomish and Woodinville, and on the Spur between Woodinville and milepost 2.5, in the vicinity of the Chateau Ste. Michelle winery.

5. Just prior to closing, in December, 2009, I learned that GNP was asking the Port to allow GNP to extend its excursion license further south on the Spur to 124th Ave, which is the City of Redmond's northern boundary. As the County's negotiator I consulted with County staff and with others in the King County Executive's Office and the City of Redmond, and I then contacted the Port and told them that as the Interim Trail User for railbanking purposes, King County was disinclined to have excursion trains running south beyond milepost 2.5. As reflected in the executed version of the license, the Port ultimately declined GNP's request to extend the excursion license beyond milepost 2.5. GNP also wanted to extend the term of its excursion license, but as reflected in the executed version of the license, the Port declined to extend the term.

Further, during negotiations with GNP and the Port in December, 2009, I requested that language in the draft excursion license be clarified to better reflect the parties' intent that the license did not authorize GNP to provide any freight service on the Redmond Spur during the term of license, other than the limited head and tail operations allowed between MP 0.0 to MP 1.0. The language in the draft license was revised at that time to read as it now does in the final, executed version of the excursion license, which prohibits freight service on the Spur (other than limited head and tail operations).

6. Since November 2009, the Port, Redmond, Sound Transit, PSE, and CWA have been actively negotiating regarding a second transaction to convey the rights and duties that the Port acquired with regard to the Corridor south of Woodinville, and the Spur. The parties signed a memorandum of understanding ("MOU") that outlines a concept in which the Port would convey a variety of property interests to the other MOU parties. Negotiations are ongoing, and the City of Redmond has already acquired the Port's title to the Spur within the City limits.

7. In early 2010, through my communications and negotiations with the many other agencies and jurisdictions that have interests in the Corridor and the Spur, I learned that GNP representatives were making presentations to local governments regarding a concept to provide "rails with trails" on the Corridor and the Spur. Although GNP appeared to be talking to any city or agency with an interest in the Corridor, GNP had not contacted the County Executive to my knowledge. I called GNP's attorney, Jim Greenfield, and requested that GNP make a presentation to King County staff. We scheduled a meeting for March 4, 2010.

8. Among the people who attended the March 4, 2010 meeting on behalf of GNP were Tom Payne, Doug Engle, Tom Jones, and Jim Greenfield. Doug Engle explained that he lives in Kirkland and highlighted commute issues, saying that he saw the Corridor as part of a solution to traffic on the I-405 corridor. He asked how we could get 10,000 people off I-405 with trail or rail. He said that GNP supported rail and trail but that there were issues that needed to be resolved. He said that GNP was anticipating that Sound Transit would issue a $50 million RFP this summer for commuter rail on the ERC. He said that GNP would be pursuing that and wanted to start with excursion trains and then passenger service to Bellevue.

9. Mr. Engle said that GNP was applying for a $30-$50 million "RRIF" loan from the FRA for passenger service from Bellevue to Snohomish. I understood him to say that a public-private partnership between GNP and the County could get the trail built faster. He said that GNP was willing to construct a base trail at their expense when GNP rehabilitated the tracks. He said that GNP wanted to explore the opportunity to work together, and described how GNP could get "RRIF" money for Woodinville to widen a bridge there to include a trail, and that it was cheaper for GNP to get the money.

10. Tom Payne also spoke on behalf of GNP at the March 4, 2010, meeting with County staff. He said that GNP had submitted an application for $23.5 million in "RRIF" loans, and that he had received notice that GNP was eligible to apply. He said that GNP had received a NEPA exemption from the FRA that would preempt the Washington State Environmental Policy Act ("SEPA") within the right of way. When asked if the exemption was limited to the Corridor north of Woodinville, he said that GNP's RRIF loan application covers the whole line. When I asked him, Mr. Payne made it clear that

GNP's business model assumed immunity from state and local environmental regulation and that not being exempt from those laws, including SEPA, would be a problem for GNP's business model.

11. When asked about freight, Mr. Payne said that freight would only be from Woodinville north, and that GNP was working only inside its current agreement, and that there was no revenue from freight south of Woodinville. With respect to passenger excursion service, Mr. Payne said that GNP hoped to obtain rights to extend excursion service to Redmond, and that GNP wanted to convince Redmond that excursion service would be a good idea. Mr. Payne explained that the next phase for passenger service was for Sound Transit to issue an RFP for commuter service on the Corridor.

12. Mr. Payne also described GNP's incremental spending approach to initiating service and constructing facilities. He explained that GNP couldn't do commuter service without the $50 million Sound Transit contract. With those funds, GNP would replace rails, ballast, and ties as needed to provide 40 MPH passenger service using secondhand locomotives and cars. GNP would not acquire new equipment. I believe his exact words were "doing this on the cheap," and if cities wanted to have more than basic stations they would have to pay for it. Mr. Payne explained that the biggest killer of rail lines is overspecification or building more than needed. He said that GNP would specify modestly to have what he described as a Chevy, not an Eldorado.

13. Mr. Payne also described how GNP could construct a base trail while rehabilitating track by lifting the track, taking out and replacing the ballast, and using the cast-off ballast on the shoulder as a "maintenance of way" road and trail base. He said

GNP could build the trail in this manner using money from the $50 million Sound Transit RFP. He said GNP could use its RRIF loan to build trail amenities. Mr. Payne explained that this would occur only as part of the next phase, and that the first phase was to build maintenance shops.

14. Towards the end of the meeting Mr. Payne said that extending passenger service to Redmond and being exempt from SEPA regulation are key to GNP's business model. He explained that because parking lots could be built in the rail right of way at GNP's proposed stations, he believed parking lot construction would be exempt from NEPA and SEPA.

15. In describing GNP's passenger service, Mr. Payne discussed picking up riders from Monroe, Snohomish, Everett, Lake Stevens, and some in Woodinville. He suggested there might be Microsoft ridership and discussed providing service on a 30-minute schedule. He reiterated that Redmond was key, and that Microsoft would bus people from GNP's Redmond station to its business.

16. After the March 4, 2010, meeting, and to the best of my recollection, I did not have any direct communication with anyone at GNP until August 4, 2010.

17. In mid-summer of 2010, I learned that GNP had again requested that the Port extend the term of its excursion license in order to improve its chances of getting an FRA RRIF loan to subsidize its planned excursion operations. It is my understanding that the Port again declined to extend the term of the license.

18. On August 4, 2010, I attended a meeting between representatives of King County and GNP. Tom Payne, Doug Engle, and Tom Jones attended the meeting on behalf of GNP. They explained that they had heard that there was difficulty financing the "secondary purchase" of rights from the Port. They said that if the Corridor were broken up among owners there would be no control and no decision authority regarding future uses of the corridor. They explained that GNP was ready to move ahead with its RRIF loan and asked again if the County were interested in participating with GNP. They said that their original RRIF loan was for $107 million to purchase the whole corridor, but when the Port stepped forward to purchase it then GNP pulled back the request. They explained their understanding that the RRIF loan could pay for anything on the railroad right of way, independent of reactivation. They said that they intended to work with the County to get a trail into the Corridor, and could add the cost of the maintenance of way road and trail to the loan. They said they could get better terms on the loan and that the interest rate is negotiable and could go lower than three percent (3%) with political support, which I understood to mean support from Washington State Senator Patty Murray. The loan for the property would be paid back by the governments' purchasing the fee ownership through GNP.

19. The GNP representatives explained that their plan was to run freight and passenger service, and that the passenger service would start with weekend and then daily service. They said that this approach would allow them to "reach" into RRIF to finance their work. They said they intended to start freight immediately and excursion service next May (2011).

20. The GNP representatives said GNP was not looking for property rights, but that GNP's objective was to reactivate or un-railbank the Spur from Woodinville to Redmond and the Corridor from milepost 23.8 to milepost 22 ("the Lines"). They asked whether the County would support reactivation, but also told us that GNP was ready to file for reactivation "tomorrow morning." Tom Payne indicated that GNP would be seeking reactivation with or without the County.

21. I am not aware of any substantive negotiations with GNP regarding GNP's proposal to provide freight service on the Redmond Spur or on the Corridor south of milepost 23.8. By letter dated August 6, 2010, Tom Payne again invited the County join GNP in its reactivation petition, but the County did not respond to that letter.

22. On August 18, 2010, I attended a meeting between GNP and representatives of the various parties to the November 2009 MOU, including representatives of the Port, Sound Transit, the City of Redmond, PSE, CWA, and King County, as well as GNP. Tom Payne, Doug Engle, and Tom Jones attended on behalf of GNP. At the meeting Tom Payne said that GNP would reactivate the entire line, starting with Redmond now, then north from Bellevue within five years, and ultimately from Everett to Renton within ten years, and then extending service south to the BNSF main line in Tukwila. Mr. Payne requested that the MOU parties support reactivation. Mr. Payne stated that GNP would keep the corridor from being disjointed.

23. GNP's representatives also said that GNP's STB application was ready to go. Mr. Payne said there would be few obstacles to implementing GNP's plans so long as the

MOU partners realized that GNP was a railway, by which I understood him to mean that GNP's actions would be exempt from most state and local environmental regulation.

24. Mr. Payne said GNP's operations would be financed by freight, excursion, and passenger service, and that capital expenses would be kept down, in part because the land was already paid for and in public hands. Mr. Payne said they had two (2) bids at $5 million to rehabilitate track from Snohomish to Woodinville and that they would need another $3 million to go further into Redmond. He also said that GNP would not need permits from cities to do track rehabilitation.

24. To the best of my knowledge, between August 18, 2010, and August 24, 2010, the County did not meet with or negotiate with GNP regarding GNP's proposal to provide freight service on the Redmond Spur or on the Corridor south of milepost 23.8. On August 24, 2010, my supervisor, King County Government Affairs Director Sung Yang, received via e-mail a copy of a letter from GNP to the County and the Port, in which Tom Payne stated that GNP was filing to reactivate the Lines that day. Mr. Yang forwarded the letter to me via e-mail that same day. On August 25, 2010, Mr. Yang sent an e-mail to Mr. Payne, in which Mr. Yang stated that there was no further need for the County and GNP to meet, given GNP's reactivation petition. On August 26, 2010, Mr. Payne responded with another letter sent via e-mail, in which he again indicated that GNP would welcome a public/private partnership, and which letter Mr. Yang forwarded to me via e-mail; but the County did not respond to that letter.

25. Between December, 2009, when the Port declined GNP's request to expand the area subject to the excursion license, and August 4, 2010, when GNP told the County that

GNP was requesting that the STB reactivate the Lines, I am not aware of any effort by GNP to acquire any additional property or contract rights or other permission to use the Corridor or Spur from the County or the City of Redmond, or, to the best of my knowledge, the Port (other that GNP's July, 2010, request to extend the term of its existing excursion license, which the Port declined).

26. GNP did not make any proposal to King County to restore freight service on the Lines until GNP announced its intentions at the August 4, 2010, meeting. At no time between December, 2009, and August 4, 2010, did King County negotiate with GNP or discuss the possibility of reactivating any part of the Spur, or the Corridor south of milepost 23.8. As the County's negotiator and project manager regarding the Corridor, it would have been my responsibility to participate in or oversee such negotiations or discussions, and I would have expected any staff or other County personnel to report such matters to me. I also would have expected to hear about such discussions or negotiations from other interested parties, such as the Port, or the City of Redmond.

27. To the best of my knowledge, neither the County nor the City of Redmond presently intend to sell any rights to GNP or otherwise approve or support its current proposal for the Lines. I am not aware of any negotiations or discussions between the Port and GNP regarding a sale or other conveyance of further Corridor or Spur-related rights or licenses from the Port to GNP. It is my understanding that GNP did not propose to reactivate freight service on the Lines until after the Port twice declined to extend the term of GNP's excursion license, and after the Port declined to expand GNP's excursion license area.

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

Executed on November 4, 2010

Pam Bissonnette

PAM BISSONNETTE

PURCHASE AND SALE AGREEMENT

(Woodinville Subdivision - North Rail Line)

THIS PURCHASE AND SALE AGREEMENT is made and entered into as of the 12 day of MAY, 2008, by and between BNSF RAILWAY COMPANY ("BNSF"), the PORT OF SEATTLE, a municipal corporation of the State of Washington **("Port")** and KING COUNTY, a political subdivision of the State of Washington **("County").**

RECITALS

A. BNSF owns certain real property (the "Woodinville Subdivision," or "Subdivision") in King County, Washington and Snohomish County, Washington, and operates over such Subdivision, a railroad line from the City of Renton, Washington to the City of Snohomish, Washington.

B. The Port desires to enter into this Agreement for the purchase of a portion of such BNSF property and railroad facilities thereon, subject to a easement for freight operations on the Freight Portion of the Property (defined below) under which at Closing the holder of the easement for freight operations will provide freight rail service and will have the exclusive right and obligation to provide such freight service on the Freight Portion of the Property.

C. BNSF is willing to sell the North Rail Line (defined below) portion of the Subdivision in the manner described in this Agreement.

D. The County desires to use the Railbanked Portion (defined below) for public trail and other transportation purposes following the acquisition of the Woodinville Subdivision by the Port, and, accordingly, the County and BNSF will enter into at Closing an agreement for railbanking and for public space pursuant to and in accordance with 49 C.F.R. 1152.29 and Section 8(d) of the National Trails System Act (also known as the "Rails-to-Trails Act"), 16 U.S.C. 1247(d) (collectively, and as any of the foregoing may be amended or interpreted before Closing by binding judicial or administrative authority, the "Railbanking Legislation").

E. The Port at Closing will grant the County a Public Multipurpose Easement for the County's use of the Railbanked Portion.

F. This Purchase and Sale Agreement concerns the North Rail Line portion of the Subdivision, as defined with greater specificity herein. The South Rail Line portion of the Subdivision, as defined with greater specificity herein, is the subject of a separate Donation Agreement between the Port, County and BNSF, and is not the subject of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Definitions and Exhibits.

1.1 Definitions. For purposes of this Agreement, each of the following terms, when used herein with an initial capital letter, shall have the meaning set forth below:

Agreement. This Purchase and Sale Agreement.

Assignment. The Assignment and Assumption of Leases and Licenses concerning the Property substantially in the form attached hereto as Exhibit E.

Bill of Sale. The Bill of Sale substantially in the form attached hereto as Exhibit I.

Closing. The consummation of the transaction contemplated in this Agreement.

Closing Date. September 30, 2008, provided that BNSF may elect to extend the Closing Date to no later than December 29,2008.

Contract Date. The date upon which this Agreement shall be deemed effective, which shall be the date first above written.

Deeds. The quitclaim deeds substantially in the form attached as Exhibits B-1 and B-2.

Entry Agreement. Collectively, those certain Entry Agreements entered into between BNSF and Port and BNSF and County as originally executed and hereafter amended concerning the entry by Port and County respectively onto the Woodinville Subdivision for purposes of conducting inspections of the Woodinville Subdivision.

Escrow Agent. Pacific Northwest Title Company.

Fiber Optic Agreements. Those Third Party Leases/Licenses concerning fiber optic or other telecommunication facilities located on the Property.

Freight Easement Sale Agreement. An agreement for the conveyance of the Resewed Freight Easement to a third party operator ("TPO) substantially in the form attached hereto as Exhibit H.

Freight Portion. That portion of the Woodinville Subdivision north of milepost 23.8 in Woodinville to milepost 38.4 in Snohomish County, Washington.

North Rail Line. The real and personal property comprising the Woodinville Subdivision north of milepost 23.45 in Woodinville, and the Redmond Spur.

Operations and Maintenance Agreement and Railroad Right of Way License. Agreements to be entered into at Closing between Port and the TPO named in the Freight Easement Sale Agreement, substantially in the form attached as exhibits to the Freight Easement Sale Agreement.

Other Agreements. Means the Entry Agreement, the South Agreement, the Freight Easement Sale Agreement, the Freight Easement, the Operations and Maintenance Agreement, the Railroad Right of Way License, the Snohomish Bridge Easement, the Trail Use Agreement, and the Public Multipurpose Easement.

Property. The tracts or parcels of land situated in the Counties of King and Snohomish, State of Washington, described in Exhibit A attached hereto (the "Land") that makes up the North Rail Line, together with:

> All of BNSF's right, title, and interest in and to the buildings (if any) located on the Land (the "Buildings");
>
> All of BNSF's right, title and interest in any tangible personal property and fixtures of any kind owned by BNSF and attached to or used exclusively in connection with the ownership, maintenance or operation of the Land or the Buildings, if any, and together with the bridge structure and associated improvements for the railroad bridge crossing over BNSF's mainline right of way and over the Snohomish River (the "Personalty"); and

All of BNSF's right, title and interest (subject to the provisions of the Assignment) in and to the Third Party Leases/Licenses other than the Fiber Optic Agreements as of the date of Closing.

Railbanked Portion. The Redmond Spur and that portion of the Property extending from milepost 23.45 to 23.8 in Woodinville.

Redmond Spur. That portion of the Property extending from milepost 0.0 in Woodinville south to milepost 7.3 in Redmond.

Easement Agreement for Snohomish Bridge. An easement in the form attached hereto as Exhibit J whereby BNSF conveys the right to maintain and operate over BNSF's mainline the bridge structure conveyed in the Bill of Sale over the Snohomish River.

South Agreement. That certain agreement dated as of the date hereof between BIVSF, Port and County concerning conveyance by BNSF to Port of the South Rail Line.

Purchase Price. As defined in Section 2.

Resewed Freight Easement. That certain reserved easement for freight operations on the Freight Portion of the Property as described in the Deeds.

Review Period. The period commencing on the Contract Date and ending at 5:00 p.m. on May 15,2008.

South Rail Line. The real and personal property comprising the Woodinville Subdivision from milepost 23.45 in Woodinville south to milepost 5.0 in Renton, and not including the Redmond Spur. The South Rail Line is the subject of the South Agreement, is not the subject of this Agreement, and is not part of the Property as defined herein.

Third Party Leases/Licenses. The existing leases, franchises, occupancy agreements, licenses or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting or relating to, the Property, as listed on Exhibit F attached hereto.

Trail Use Agreement. An agreement substantially in the form attached hereto as Exhibit K to be entered into on or before Closing between BNSF and County concerning the Railbanked Portion.

Woodinville Subdivision. A rail corridor extending from approximately mile post 5.0 in Renton, Washington to and including the bridge structure at milepost 38.25 in Snohomish County, Washington, and including the Redmond Spur.

1.2 Exhibits. Attached hereto and forming an integral part of this Agreement are the following exhibits, all of which are incorporated into this Agreement as fully as if the contents thereof were set out in full herein at each point of reference thereto:

Exhibit A	Legal Description of the Property
Exhibits B-1	Form of Deed for Freight Portion
Exhibit B-2	Form of Deed for Railbanked Portion
Exhibit C	BNSF Disclosures
Exhibit D	Port and County Disclosures
Exhibit E	Form of Assignment of Third Party Leases1 Licenses
Exhibit F	List of Known Third Party Leases/ License

Exhibit G	Form of Exchange Assignment
Exhibit H	Form of Freight Easement Sale Agreement
Exhibit I	Form of Bill of Sale conveying the Personalty
Exhibit J	Form of Easement Agreement for Snohomish Bridge
Exhibit K	Form of Trail Use Agreement
Exhibit L	Form of Public Multipurpose Easement Agreement
Exhibit M	Property Reports

Section 2. Purchase and Sale.

BNSF agrees to sell to Port, and Port agrees to purchase from BNSF, the Property. Port shall pay to BNSF $106,903,000 (ONE HUNDRED SIX MILLION NINE HUNDRED AND THREE THOUSAND DOLLARS) (the "Purchase Price"). The Purchase Price shall be paid as follows:

a. Port shall cause the principal amount of $10,000,000 (Ten Million Dollars) (such sum shall be referred to herein as the "Earnest Money") to be delivered to Escrow Agent, to be held pursuant to the terms of this Agreement. The Earnest Money shall be delivered to Escrow Agent no later than three business days after execution of this Agreement, and Port shall promptly provide evidence of such delivery to BNSF. The Earnest Money will be deposited into an interest bearing escrow account by Escrow Agent at a financial institution approved by BNSF, and half of the interest accruing thereon shall belong to BNSF and shall not be applied to the Purchase Price as consideration for holding the Property available for sale during the Review Period.

b. At Closing (i) County shall pay the Port $1,903,000 (ONE MILLION NINE HUNDRED AND THREE THOUSAND DOLLARS), and (ii) Port shall pay BNSF the balance of the Purchase Price that remains after applying the Earnest Money, the Extension Fee (defined below) if applicable and half of the interest accruing on the Earnest Money to the Purchase Price, subject to prorations and adjustments as set forth in this Agreement.

The Purchase Price shall be paid to BNSF in United States dollars, by Federal Reserve System wire transfer (in accordance with written wire transfer instructions provided by BNSF to Port) or other immediately available funds acceptable to BNSF. Port acknowledges that, except as stated in Sections 4, 8 and 10.2 of this Agreement, the Earnest Money is non-refundable and represents a portion of the consideration for BNSF's holding the Property available for purchase during the Review Period but shall be applied to the Purchase Price at Closing as stated above. The parties agree it is appropriate for BNSF to retain P G P Valuation, Inc., at BNSF's expense, for a fair market appraisal of the Property, which would be available for the use of the parties as needed. To the extent that the fair market value of the Property exceeds the Purchase Price, (i) at Closing BNSF will make a charitable contribution of such excess value of the Property to Port, (ii) Port shall take all actions and execute all documents that may be necessary or helpful to confirm that Port is a qualified donee described in section 170(c)(1) of the Code in connection with BNSF's bargain sale of the Property to Port, and (iii) within 30 days of Closing, based on the fair market value appraisal, BNSF shall prepare and Port shall execute the Donee Acknowledgement section of Internal Revenue Service Form, 8283, Noncash Charitable Contributions.

Section 3. Adjustments.

3.1 Third Party Leases/Licenses. BNSF shall be entitled to all sums due from any Third Party Leases/Licenses (collectively, "Third Party Rents") owing for the month in which the Closing occurs (regardless of when the Third Party Rents are paid) for the portion of the Property to which such Third Party Leases/Licenses relate. BNSF shall not receive a credit for any such Third Party Rents that are due but unpaid as of the Closing Date but Port shall remit to BNSF any such Third Party Rents received by it after such Closing. Port shall be entitled to any Third Party Rents owing for time periods after the month in which the Closing occurs (regardless of when the Third Party Rents are paid) for the portion of the Property to which such Third Party

Leases/Licenses relate and BNSF shall pay to Port any such Third Party Rents received by BNSF, if any. Within 90 days after Closing BNSF shall pay to Port the amount, if any, of all rents under the Leases and all security deposits held by BNSF under the Leases.

3.2 [Intentionally Deleted]

3.3 Taxes and Monetary Liens.

(a) Taxes. There shall be no proration of taxes attributable to the Property. BNSF shall be liable for the payment when due of all taxes and assessments related to the Property, including without limitation real property ad valorem taxes, special benefit assessments and other governmental impositions (collectively, **"Taxes"**), for the time period up to Closing. From and after the Closing, to the extent any Taxes applicable to the Property are due and owing under applicable laws such Taxes shall be paid by Port except to the extent such taxes are paid by a Tenant pursuant to a Third Party Lease/License or applicable law. Each party shall indemnify, defend and hold the other harmless from the obligation to pay Taxes as set forth in this Section 3.3(a).

(b) Monetary Liens. Notwithstanding the provisions of Section 4, Port and County shall not be entitled to object to any monetary lien against BNSF which may appear of record as a monetary lien against the Property. BNSF shall pay such monetary liens asserted against BNSF and the Property, or if BNSF desires to contest such monetary lien, it may take reasonable and diligent steps to challenge the validity or amount of such lien and shall not be required to pay unless and until it is judicially determined to be valid. BNSF hereby indemnifies, defends and holds harmless the Port and County for all loss arising out of BNSF's failure to have a monetary lien so settled and satisfied.

(c) Notwithstanding the foregoing provisions of Section 3.3(b), neither Port nor County shall be entitled to object to the lien of any of BNSF's mortgages. Within one hundred eighty (180) days after the first meeting of BNSF's Board of Directors held after the Closing, BNSF shall deliver to Port, who shall place of record, good and sufficient releases of the liens of any mortgages on the Property securing indebtedness to which BNSF is obligated to pay and provide a copy thereof to County. In the event BNSF shall be unable to obtain said releases for any reason, BNSF shall indemnify, defend and hold harmless Port and County against and from any loss or damage to a maximum of the Purchase Price arising out of any actions taken to foreclose on, or actual foreclosures of such mortgages. The foregoing indemnity shall terminate upon the recording of sufficient releases of the liens of such railroad mortgages.

3.4 Closing Costs. BNSF shall pay one-half of any escrow or closing agent charges in connection with the Closing and the real estate excise tax associated with this transaction up to $2,000,000. Port, County and BNSF shall each pay their own attorneys' fees and costs in connection with the negotiation of this Agreement and the closing hereunder. Port shall pay the following closing costs:

(a) the cost of recording the Deeds;
(b) the cost of any title insurance Port wishes to obtain in connection with the acquisition of the Property;
(c) one-half of any escrow or closing agent charges in connection with the Closing;
(d) all costs of any surveys, reports or other due diligence Port obtains or undertakes in connection with the transactions contemplated herein; and
(e) all costs associated with any loan or other financing obtained by Port in connection with the acquisition of the Property.

Section 4. Inspections.

4.1 Physical/Environmental Inspection.

(a) BNSF, as information only, has provided Port and County access to, or copies of, certain documents including those listed in attached Exhibit M (such documents previously delivered and any additional items to be delivered as contemplated below are collectively referred to as the "Property Reports"). Port and County acknowledge and agree that BNSF does not represent the accuracy or completeness of the Property Reports and that Port and County will rely only on their own due diligence. If BNSF obtains knowledge (as defined in Section 5.3 of this Agreement) of any additional Property Reports in BNSF's possession or the possession of its agents or contractors before the Closing Date that relate to items previously furnished then BNSF will promptly provide Port and County with copies of any such other Property Reports later received or obtained by BNSF relating to the Property. BNSF is not required to provide attorney-client or attorney work product materials or documents to Port or County. BNSF shall provide a description of any materials not provided to Port and County by BNSF because such materials are attorney-client or attorney work product.

(b) Subject to the terms of the Entry Agreement, BNSF will allow Port and County and their agents to have access to the Property for the purpose of conducting environmental due diligence as specified in Section 6 of this Agreement and subject to the requirements of the Entry Agreement. Port and County acknowledge that invasive testing, such as drilling or boring, is not allowed under the Entry Agreement. If Port and/or County desire to perform such testing Port and/or County shall submit a work plan to BNSF for its review and approval, which work plan must reasonably describe its intended testing. BNSF shall not unreasonably withhold, condition or delay its approval of such work plan. Upon BNSF's written approval and provided Port and/or County as applicable has entered into BNSF's standard license agreement for such testing, Port and/or County as applicable may then perform such testing in compliance with the terms of said license and the approved work plan.

(c) BNSF shall cooperate in good faith with Port's and County's due diligence activities and make appropriate employees, agents or contractors available to answer reasonable inquiries from Port and/or County concerning the condition of the Property, subject to the terms of Section 6 of this Agreement. BNSF shall cooperate in good faith to promptly provide additional information requested by the Port provided such information is not attorney-client privileged, attorney work product, confidential or proprietary, provided that sampling reports and data alone shall not be considered attorney-client privileged, attorney work product or confidential or proprietary under this Agreement.

(d) All Property Reports and other environmental studies, reports, plans, and information including, but not limited to, those listed in this Agreement, and delivered by one Party to the other shall be held in confidence by the Parties, their agents, employees, officers, directors and contractors, and will not be disclosed to any third party unless this disclosure is compelled by order of a court or is otherwise legally required to be produced, including under the Washington Public Disclosure Act, RCW ch. 42.56, or if the other Party consents in writing to the production of such materials. The Parties will inform their respective agents and contractors of the requirements of this Section 4.1(d) and shall require such agents and contractors to comply with such requirements.

4.2 Port and County Contingencies.

(a) Port and County shall have until the end of the Review Period to determine in their sole and absolute discretion (i) whether Port has obtained any necessary authorizations from its governing body, and (ii) if there are any physical conditions including, but not limited to, environmental conditions affecting the Property that BNSF is not willing to cure as contemplated herein and that are unacceptable to the Port or County in their sole discretion. If (i) the Port does not obtain the necessary authorizations from its governing body by the end of the Review Period *or* (ii) Port or County identify an existing condition affecting the Property (an "Identified Condition") that is unacceptable to the Port or County in either entity's sole discretion and such Identified Condition is not an Identified Condition that BNSF agrees in writing to Cure

(defined below) pursuant to Section 7 of this Agreement, ***then*** Port and County may terminate this Agreement and the South Agreement together by written notice to BNSF received no later than the expiration of the Review Period. If either (i) both Port and County do so timely terminate this Agreement under this Section 4.2 (a) *or* (ii) the Port does so timely terminate this Agreement under this Section 4.2(a), then subject to Section 4.2(c), this Agreement and the South Agreement shall terminate and Escrow Agent shall refund to Port the Earnest Money and half the interest earned thereon as contemplated in Section 2 of this Agreement and shall pay the other half of such interest to BNSF and none of the parties shall have any further obligation hereunder except those that expressly survive termination.

(b) County shall have until May 15, 2008 to obtain any necessary authorizations from its governing body with respect to the transactions contemplated herein. If County does not obtain such authorizations it may terminate its rights and obligations under this Agreement and the South Agreement together by written notice to BNSF delivered no later than May 15, 2008.

(c) Notwithstanding the provisions of Section 4.2(a) or (b), if the County exercises its right to terminate as stated above or pursuant to Section 4.3 below and the Port does not wish to so terminate then the Port may continue this Agreement in effect by paying to BNSF the additional sum of $2,000,000 (the "Extension Fee") in which case Port shall have until June 15, 2008 (the "Extension Date") to assume on its own or find a third party replacement for the County's obligations contemplated herein and in such case the Earnest Money shall not be refunded to Port as provided above. The Extension Fee shall be non-refundable except in the event BNSF breaches its obligation to Close but shall be applied to the Purchase Price. If the Port does not find such a replacement then Port may terminate this Agreement and the South Agreement together by written notice to BNSF received no later than the Extension Date in which case the Escrow Agent shall refund to Port the Earnest Money and half the interest earned thereon as contemplated in Section 2 of this Agreement and shall pay the other half of such interest to BNSF, BNSF shall retain the Extension Fee and none of the parties shall have any further obligation hereunder except those that expressly survive termination. If this Agreement is not terminated as contemplated in Section 4.2, the parties (except County if County has terminated and Port has not) shall proceed to Closing according to the remaining provisions of this Agreement. Promptly upon BNSF's written request, Port and County shall deliver a copy of any written inspection report, survey or test result received by Port or County. If any of such items reveal any adverse conditions for which BNSF would be responsible for under Section 7 of this Agreement, BNSF may terminate this Agreement by written notice to Port and County by the end of the Review Period and Escrow Agent shall refund the Earnest Money and half the interest earned thereon as contemplated in Section 2 of this Agreement and shall pay the other half of such interest to BNSF and in which case none of the parties shall have any further obligation hereunder except those that expressly survive termination.

4.3 Title/Survey Inspection. Port and County will have until May 15, 2008 to obtain any title reports, title commitments or surveys of the Property, to examine such reports, commitments or surveys, to determine whether Port and County will be able to obtain any title insurance endorsements they desire, and to identify any title or survey concerns it may have. If Port and County are not, for any reason, satisfied with the status of any such reports, commitments or surveys then Port or County may elect, by written notice to BNSF to terminate this Agreement and the South Agreement together by written notice to BNSF delivered no later than May 15, 2008, in which case Escrow Agent shall refund the Earnest Money and half the interest earned thereon as contemplated in Section 2 of this Agreement to Port and pay the other half of such interest to BNSF and none of the parties shall have any further rights or obligations hereunder, except for those which expressly survive any such termination. If Port or County fail to so give BNSF notice of its election by such date, it shall be deemed to have elected to waive any right to object to any title exceptions or defects. Port and County shall have the right at any time prior to their respective election to terminate to waive any objections that it may have made and, thereby, to preserve this Agreement in full force and effect. Port and County shall promptly upon request deliver to BNSF a copy of any such title report, title commitment or survey obtained by Port or County.

4.4 Nature of Title. The Property shall be conveyed with no warranties of title except as stated

below and shall be subject to all matters affecting the Property whether of record or not including but not limited to (i) the lien of unpaid taxes not yet due and payable; (ii) matters which would be disclosed by a current, accurate survey of the Property; and (iii) the rights granted to third parties pursuant to any Third Party Lease/License. Port and County acknowledge and affirm that BNSF may not hold fee simple title to the Property, that BNSF's interest in all or part of the Property, if any, may rise only to the level of an easement for railroad purposes. Port and County are willing to accept the Property on this basis. BNSF does represent and warrant that BNSF's ownership interest in and to the Property, even subject to the Third Party Leases/Licenses, is sufficient to permit railroad operations on the Property, including passenger railroad operations; and to permit BNSF to convey the Property as contemplated in this Agreement and the Other Agreements. Port and County acknowledge that BNSF's predecessor in interest to the Property acquired a railroad right-of-way ownership interest in portions of the Property from the United States of America, pursuant to Section 2 of the General Right-of-way Act of March 3, 1875, and Port and County each agrees to the conditions and limitations imposed by this General Right-of-way Act.

Section 5. Representations and Warranties.

5.1 BNSF. As of the Contract Date and Closing Date, BNSF hereby represents and warrants to Port and County that the following statements are materially true except as may otherwise be disclosed on Exhibit C:

(a) BNSF is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is authorized to do business and in good standing in the State of Washington and has full power and authority to enter into this Agreement and to fulfill its obligations hereunder.

(b) BNSF has taken all corporate action necessary to authorize the execution and delivery by BNSF of this Agreement and the other documents to be delivered by BNSF at Closing and the performance of its obligations hereunder and thereunder.

(c) This Agreement and the other documents to be delivered by BNSF at Closing have been, or before the Closing Date will have been, duly authorized and executed (and acknowledged where necessary) and delivered by BNSF, and all other necessary actions have been, or before the Closing Date will have been, taken, so that this Agreement, and all documents to be executed by BNSF pursuant hereto constitute, or before the Closing Date will constitute the legally valid and binding obligations of BNSF, enforceable against BNSF in accordance with their terms, except as the enforceability of this Agreement may be subject to or limited by bankruptcy, or insolvency or other similar laws relating to or affecting the rights of contracting parties generally.

(d) The execution and performance by BNSF of this Agreement and the other documents to be delivered by BNSF at Closing do not violate or conflict with BNSF's articles of incorporation or bylaws or any law, court order, administrative agency order or regulatory agency order binding upon BNSF or any of its properties.

(e) BNSF has not received any written notice of and BNSF has no knowledge of any actual or pending litigation, proceeding or claim by any organization, person, individual or governmental agency against BNSF (i) that could materially impair BNSF's ability to perform its obligations under this Agreement, or (ii) asserting that BNSF does not have sufficient ownership interest in the Property for conducting railroad operations.

(f) BNSF has not received any written notice of and BNSF has no knowledge of any actual or pending litigation asserting through a claim of adverse possession or other prescriptive rights that BNSF does not own the Property or any portion of the Property.

(g) BNSF is not a "foreign person" as that term is defined in the Internal Revenue Code of 1986, as

amended and the Regulations promulgated pursuant thereto.

(h) BNSF has not received any written notice of and BNSF has no knowledge of any written notice from any governmental authority alleging any uncured existing violation of any applicable governmental laws, statutes, ordinances, rules, codes, regulations or orders, including Environmental Laws, affecting the Property or the conduct of railroad operations on the Property.

(i) Port and County will not, as a result of the execution of this Agreement or conveyance of any of the Property be bound by any labor contracts entered into by BNSF.

(j) BNSF has no knowledge of the existence at any time, whether still occurring or not, of any of the following activities on the Property:

(1) fueling of trains or train related equipment;
(2) treatment of railroad ties;
(3) creosote treating operations;
(4) above ground or underground storage tanks;
(5) transformers; or
(6) repair shops.

(k) To BNSF's actual knowledge, the Property is not subject to any leases, tenancies or rights of persons in possession, franchises, occupying agreements, unrecorded easements or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting the Property (collectively, "Third Party Rights") other than the Third Party Leases/Licenses. However, Port and County acknowledges that BNSF does not warrant beyond its actual knowledge that there are not other Third Party Rights. To BNSF's actual knowledge: the Third Party Leases/Licenses are in full force and effect in accordance with their respective terms, BNSF has not delivered or received a written notice of default that remains uncured under any Third Party Lease/License, or any other existing lease, franchise, easement, occupancy agreement, license or other agreement demising space in, providing for the use or occupancy of, or otherwise similarly affecting or relating to, or affecting the Property, and no tenant thereunder has asserted in writing any claim that remains outstanding for offsets or credits to rent thereunder, except as disclosed in writing to Port.

(l) To BNSF's actual knowledge, the copies of the Third Party Leases/ Licenses, are true and correct copies of originals of such documentation in BNSF's possession.

5.2 Port and County. As of the Contract Date, Port and County individually hereby represent and warrant to BNSF that the following statements are materially true except as may otherwise be disclosed on Exhibit D:

5.2.1 Port:

(a) Port is a municipal corporation of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington, is authorized to do business in the State of Washington, and has full power and authority to enter into this Agreement and to fulfill its obligations hereunder.

(b) Port has taken all corporate action necessary to authorize the execution and delivery by Port of this Agreement and has taken or, before the expiration of the Review Period, will have taken, all corporate action necessary to authorize the execution and delivery of the other documents to be delivered by Port at Closing and the performance of its obligations hereunder and thereunder.

(c) This Agreement and the other documents to be delivered by Port at Closing have been, or

before the Closing Date will have been, duly authorized and executed (and acknowledged where necessary) and delivered by Port, and all other necessary actions have been, or before the Closing Date will have been, taken, so that this Agreement and the other documents to be delivered by Port pursuant hereto constitute, or before the Closing Date will constitute the legally valid and binding obligations of Port, enforceable against Port in accordance with their terms.

(d) The execution and performance by Port of this Agreement and the other documents to be delivered by Port at Closing do not violate or conflict with the Port's charter or code or with any law, court order, administrative agency order or regulatory agency order binding upon Port or any of its properties.

(e) Port has received no written notice of any actual or pending litigation or proceeding by any organization, person, individual or governmental agency against the Port concerning the Property.

(f) Port is a qualified donee as described in Internal Revenue Code Section 170(c)(1).

5.2.2 County:

(a) County is a political subdivision of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington, is authorized to do business in the State of Washington, and has full power and authority to enter into this Agreement and to fulfill its obligations hereunder;

(b) County has taken all corporate action necessary to authorize the execution and delivery by County of this Agreement and has taken, or before May 15, 2008, will have taken, all corporate action necessary to authorize the execution and delivery of the other documents to be delivered by County at Closing and the performance of its obligations hereunder.

(c) This Agreement and the other documents to be delivered by County at Closing have been, or before the Closing Date, will have been duly authorized and executed (and acknowledged where necessary) and delivered by County, and all other necessary actions have been, or before the Closing Date will have been, taken so that this Agreement and the other documents to be delivered by County pursuant hereto constitute, or before the Closing Date will constitute, the legally valid and binding obligations of County, enforceable against County in accordance with their terms.

(d) The execution and performance by County of this Agreement and the other documents to be delivered by County at Closing do no violate or conflict with the County's charter or code or any law, court order, administrative agency order or regulatory agency order binding upon County or any of its properties.

(e) County has received no written notice of any actual or pending litigation or proceeding by any organization, person, individual or governmental agency against County concerning the Property.

(f) County is a qualified donee as described in Internal Revenue Code Section 170(c)(1).

5.3 Miscellaneous. (a) As used in this Agreement, the phrase "BNSF's knowledge" or any derivation thereof shall mean the actual knowledge of the following persons, based on their reasonable inquiry in the file locations where the relevant information would normally be filed of: David P. Schneider, General Director of Real Estate; Bruce Sheppard, Manager Environmental Remediation, Carol Sanders, Regional Manager for Staubach Global Services, which provides property management services to BNSF with regard to the Property, and Jerome M. Johnson, Assistant Vice President, Network Development.

(b) It shall be a condition of the parties' respective obligation to Close that the representations and warranties of the other party contained in this Section 5 are true and correct in all material respects at the Closing

Date as described herein. In the event that BNSF on the one hand or Port or County on the other learns that any of County's or Port's on the one hand or BNSF's on the other representations or warranties becomes inaccurate between the Contract Date and the Closing Date, BNSF or Port or County, as applicable, shall immediately notify the other parties in writing of such change. In the event the party whose representation or warranty becomes inaccurate (BNSF on the one hand or Port or County on the other the **"Representing Party")** cures such inaccuracy prior to the Closing Date this Agreement shall remain in full force and effect. If the Representing Party does not so cure such inaccuracy, the other party may pursue any remedy provided for in Section 10 (i.e., if BNSF's representations are inaccurate then County or Port may pursue such remedy and vice versa) provided, however, if the non-Representing Party closes with knowledge of any such inaccuracy then the representations and warranties of the Representing Party shall be deemed to be amended such that the applicable inaccuracy is an exception to the Representing Party's representations and warranties for all purposes under this Agreement. It shall not be a condition of either the County's or Port's obligations hereunder that the other's representations and warranties to BNSF are accurate, and County and Port shall not have enforcement rights as between each other as to such representations and warranties.

(c) In the event the non-Representing Party first learns after the Closing contemplated in this Agreement that any representations or warranties made by the Representing Party (as may be amended as provided above) were materially inaccurate as of the Closing Date, then the Representing Party shall reimburse the non-Representing Party for all out-of-pocket expenses incurred by the non-Representing Party as a result of such inaccuracy provided that (i) the non-Representing Party notifies the Representing Party in writing within sixty (60) months after the Closing Date of such expenses and inaccuracy, and (ii) the Representing Party shall in no event be responsible for any consequential or punitive damages resulting from such inaccuracy. Notwithstanding anything to the contrary contained in this Agreement, the non-Representing Party shall have no right to recover from, or proceed against, the Representing Party in any manner whether based upon breach of contract, tort or otherwise upon the expiration of such sixty (60) month period except to the extent the non-Representing Party has so notified the Representing Party in accordance with the terms of this Agreement within such sixty (60) month period. Nothing in this Section 5 shall modify any obligations imposed on any of the Parties pursuant to Section 7 of this Agreement or as such obligations are incorporated into the Deeds.

Section 6. Condition of Property. (a) Port and County have been, or by Closing will have been, allowed to make an inspection of the Property. Subject to BNSF's express representations, warranties and obligations under this Agreement and the Deeds, **PORT AND COUNTY ARE PURCHASING THEIR INTERESTS IN THE PROPERTY IN AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, ARE NOT RELYING ON, AND HEREBY WAIVE ANY WARRANTY OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM BNSF WITH RESPECT TO ANY MATTERS CONCERNING THE PROPERTY** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, or under the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the Third Party Leases/Licenses permits, orders, or other agreements, affecting the Property (collectively, the **"Condition of the Property").**

(b) Port and County individually represent and warrant for itself to BNSF that except for BNSF's express representations, warranties and obligations under this Agreement and the Deeds, Port and County each has not relied and will not rely on, and BNSF is not liable for or bound by, any warranties, guaranties,

statements, representations or information pertaining to the Property or relating thereto made or furnished by BNSF, the manager of the Property, or any real estate broker or agent representing or purporting to represent BNSF, to whomever made or given, directly or indirectly, orally or in writing.

(c) Subject to BNSF's express representations, warranties and obligations under this Agreement and the Deeds Port and County assume the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Port's or County's inspection and except to the extent of BNSF's express representations, warranties and obligations under this Agreement and the Deeds, Port and County each waives, releases and discharges forever BNSF and BNSF's officers, directors, shareholders, employees and agents (collectively, "BNSF Parties") from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown (collectively, "Losses"), which Port or County might have asserted or alleged against BNSF Parties arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) Losses for injury or death of any person, and (c) Losses arising under any Environmental Law enacted after transfer. The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Model Toxics Control Act, the Water Pollution Control Act, laws concerning above ground or underground storage tanks, and any similar or comparable state or local law. The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

BNSF, Port and County acknowledge that the compensation to be paid to BNSF for the Property reflects that the Property is being conveyed subject to the provisions of this Section 6 which provisions shall be included in the Deeds and which shall be covenants running with the Land.

Section 7. Environmental Obligations.

(a) Consistent with Section 4.2 of this Agreement, if, prior to the expiration of the Review Period, the Port or County notifies BNSF in writing of an existing condition affecting the Property (an "Identified Condition") that is unacceptable to the Port or County, as determined by the Port and County in their respective sole and absolute discretion, and BNSF does not verify in writing by the earlier of: (i) fifteen (15) business days thereafter or the end of the Review Period, that such Condition is a condition that BNSF is obligated to Cure in a manner acceptable to the identifying Party pursuant to this Section 7, then the Port or County may terminate this Agreement and the South Agreement together, by written notice to BNSF in accordance with the provisions of Section 4.2 of this Agreement. If the Port or County timely notifies BNSF in writing of an Identified Condition, the Port, County and BNSF shall negotiate diligently and in good faith to reach agreement on Curing such condition. If the portion of the Property affected by an Identified Condition can be excluded from the sale without materially interfering with Port's and County's future use of the Property, as determined by the Port and County (as applicable) in their respective sole and absolute discretion, then BNSF may affect Cure prior to Closing by excluding such affected portion of the Property without any price adjustment and to the extent so excluded BNSF shall have satisfied its obligations under this Agreement to Cure the portion of the Property so excluded, provided, however, that any such Cure by exclusion must first be agreed to in writing by the Port (and County, if it relates to the Railbanked Portion.) If Port and County do not terminate this Agreement under Sections 4.2 and 7(a) and proceed to Closing, they shall not be deemed to have waived or released

BNSF from any obligations to Cure set forth in Section 7(c), below.

(b) BNSF shall be responsible to investigate, remediate, respond to or otherwise cure (collectively, "Cure") as and when required by and in accordance with Environmental Laws any Identified Condition that concerns a release of Hazardous Substances on the Property occurring prior to the Closing or a violation of Environmental Laws concerning the Property occurring prior to the Closing to the extent that BNSF has agreed to Cure, and to the standards that BNSF has agreed to satisfy, in writing prior to the expiration of the Review Period. Notwithstanding the preceding sentence, BNSF shall not be responsible to Cure any such Identified Conditions to the extent Port or County or their respective agents, or contractors materially exacerbate such Identified Condition during construction performed by or for Port or County, excluding superficial or *de minimis* activity performed by Port or County. Further, BNSF shall not be responsible to Cure any Identified Condition that was not caused by BNSF or its agents, contractors or invitees. Port and County shall cooperate with BNSF in its efforts to Cure any Identified Condition concerning a release of Hazardous Substances on the Property.

(c) (i) For Hazardous Substances released on the Property that BNSF has not agreed to Cure prior to Closing, whether or not BNSF has been notified under Section 7 (a) that such releases are an Identified Condition, BNSF shall pay to the Port or County the costs to investigate, remediate, respond to or otherwise cure (collectively "Remediate" or "Remediation") any such Hazardous Substance releases, or any violation of Environmental Laws prior to Closing, to the extent occurring as a result of the operations of BNSF or its corporate predecessors, or the agents, employees, invitees or contractors of BNSF or its corporate predecessors. BNSF shall pay to the Port or County such costs to Remediate as and when required by and in accordance with Environmental Laws to standards for the Property that the applicable regulatory agency would apply had the Property continued to be used as a freight railroad, and to standards for other affected properties that the applicable regulatory agency would apply for such properties. BNSF shall not be responsible for (1) any costs of Remediation to the extent the Port or County or their respective agents, contractors or invitees materially exacerbate the released Hazardous Substances during construction performed by or for Port or County (excluding superficial or *de minimis* activity performed by Port or County), or (2) any duplication of efforts by County or Port or their respective agents, contractors or invitees.

(ii) As among BNSF, Port and County, any Remediation for which this Section 7(c) applies would be carried out by the Port or County. BNSF shall cooperate with such Remediation.

(iii) The obligations of BNSF under this Section 7(c) apply only to Remediation ordered or approved by the applicable regulatory agency, provided that for Remediation approved by the applicable regulatory agency BNSF shall have agreed in writing to the Remediation prior to such approval, which agreement by BNSF shall not be unreasonably withheld, conditioned or delayed. The obligations of BNSF, Port and County under this Section 7(c) also apply regardless of which entity is issued an order by the applicable regulatory agency.

(d) Other than BNSF's obligations under this Section 7, as among BNSF, Port and County, Port and County will be responsible for all other costs of Remediation of Hazardous Substances released on or from the Property or violations of Environmental Laws.

(e) The Section 7 obligations running from BNSF to the Port and County, and the Section 7 rights running to BNSF from the Port and the County, will be allocated as between the Port and County in the manner separately agreed to by the Port and the County.

(f) The provisions of this Section 7 shall be included in the Deeds and shall run with the land.

Section 8. Conditions to Closing. The parties' respective obligation to proceed to Closing under this Agreement is subject to the conditions precedent described in this Section 8:

8.1 Surface Transportation Board Apvroval Contingency.

(a) Port shall, at Port's sole expense, apply for any necessary authority or exemption from the Surface Transportation Board ("STB") to complete the transaction contemplated in this Agreement or obtain a ruling from the STB that the acquisition of the Property is not subject to the jurisdiction of the STB. BNSF shall reasonably cooperate with Port in connection with any hearings or submittals required to obtain the necessary authority or a jurisdictional ruling from the STB. Prior to any Port filing with the STB regarding this transaction, Port shall provide a copy of the proposed filing to BNSF for BNSF's review. Port shall make the requisite STB filing within 15 days after the Contract Date.

(b) BNSF will assign and transfer at Closing the retained Freight Easement to the TPO selected by BNSF at the Port's request and approved by the Port ("Freight Easement Designee") and named in the Freight Easement Sale Agreement. The Freight Easement Designee shall, at the Freight Easement Designee's sole expense, apply for the necessary exemption from the STB to permit the transfer of the retained Freight Easement from BNSF to the Freight Easement Designee. BNSF shall reasonably cooperate with the Freight Easement Designee with any hearings or submittals required to obtain the necessary exemption from the STB. The Freight Easement Designee shall file a Notice of Exemption under 49 C.F.R. Part 1150, Subpart D or Subpart E, whichever is applicable, at least 30 days prior to the Closing Date, and shall comply with the requirements of 49 C.F.R. § 1150.32(e) or § 1150.42(e), if either is applicable, at least 60 days prior to the Closing Date.

(c) BNSF shall, at BNSF's sole expense, file one or more appropriate notices and/or petitions with the STB authorizing the abandonment of the Railbanked Portion and shall coordinate with County with respect to such filings. Within the prescribed time periods, County shall file with the STB a trail use/rail banking request for all of the Railbanked Portion of the North Rail Line, and BNSF shall concurrently file a letter concurring in the request. Prior to the Closing Date, County shall file with the STB a request for approval of the transfer from BNSF to County the right and/or obligation to restore rail freight service over the Railbanked Portion. In the event the STB does not approve such transfer to King County then Port shall file with the STB a request for approval of the transfer of such right and/or obligation to the Port or to another entity designated by Port and approved by STB. As part of the Trail Use Agreement to be delivered at Closing, BNSF shall transfer to County, and County shall accept, at Closing the right and/or obligation to the reactivation rights on the Railbanked Portion on the Closing Date.

(d) In the event that the STB does not approve of all of the items contemplated in subsections (a) through (c) above prior to or at the Closing then any Party who has not breached its obligations in (a) through (c) above may extend the Closing Date by delivering notice to the other parties prior to or on the Closing Date in which case the Closing Date shall be extended to a date that is no later than December 29,2008 to give additional time to satisfy the foregoing conditions and the parties shall proceed with the terms of this Agreement except that if the foregoing conditions are not satisfied by such extended Closing Date then this Agreement and the South Agreement shall terminate unless all the Parties agree in writing to a further extension. Upon such termination, Escrow Agent shall return the Earnest Money and half the interest earned thereon to Port and pay the other half of such interest to BNSF, and thereafter none of the parties shall have any further obligation hereunder except those that expressly survive the termination of this Agreement.

8.2 Other Conditions t1 Closing.

(a) Each party's obligation to Close is conditioned upon the other party to this Agreement having performed and satisfied each and all such other party's obligations under this Agreement.

(b) Each party's obligation to Close is conditioned upon the simultaneous Closing on the conveyance of the South Rail Line by BNSF consistent with the terms of the South Agreement.

(c) Port's and BNSF's obligation to Close is conditioned upon the simultaneous closing under the Freight Easement Sale Agreement of BNSF's conveyance of the Retained Freight Easement to a TPO. The TPO shall be one selected by BNSF at the Port's request and approved in writing by the Port, which approval shall not be unreasonably withheld, conditioned or delayed. The parties agree to cooperate together in good faith to pursue such closing.

In the event any of the foregoing conditions in this Section 8.2 are not satisfied prior to or at the Closing then, subject to Section 5.3 hereof, either Party may pursue the remedies set forth in this Agreement or the South Agreement, to the extent applicable.

Section 9. Closing.

9.1 Time and Place. Subject to the terms of this Agreement, the Closing shall take place on the Closing Date at the Pier 69 offices of the Port or such other location as is mutually agreeable to Port and BNSF.

9.2 Closing Deliveries. At the Closing, BNSF, Port and County (as applicable) shall execute and deliver to the appropriate party the following documents (all of which shall be duly executed, and witnessed and/or notarized as necessary):

(a) The Purchase Price

(b) The Deeds conveying the Property.

(c) A Closing Statement in form and substance mutually satisfactory to Port, BNSF and County.

(d) Such transfer tax, certificate of value or other similar documents customarily required of BNSF in the county in which the Property is located.

(e) Such further instructions, documents and information, including, but not limited to a Form 1099-S, as the other party may reasonably request as necessary to consummate the purchase and sale contemplated by this Agreement.

(f) The Assignment.

(g) The Exchange Assignment to the extent requested as described in Section 11 below.

(h) The Bill of Sale.

(i) The Easement Agreement for Snohomish Bridge

(j) The Trail Use Agreement.

(k) The Public Multipurpose Easement, in substantially the form as attached hereto as Exhibit L or as otherwise agreed to by the Port and the County.

Section 10. Default and Remedies.

10.1 Port's or County's Default. Subject to Section 5.3, in the event of a material default by Port or County under the terms of this Agreement or any Other Agreement prior to the Closing that is not cured within any applicable notice and cure periods, BNSF may elect as its exclusive remedy to either (a) terminate this

Agreement and the South Agreement in which case BNSF may retain $5,000,000 (Five Million Dollars) of the Earnest Money and none of the parties shall have any further obligation under this Agreement except those that expressly survive termination, or (b) waive such default and proceed to Closing in accordance with the terms of this Agreement. The parties acknowledge and agree that the damages BNSF would incur for such breach are difficult to ascertain and that such amount retained by BNSF is not a penalty and represents a reasonable estimate of such damages. Subject to Section 5.3 and Section 10.4, nothing in this Agreement shall waive or diminish any right or remedy BNSF may have at law, in equity or in contract for Port's or County's default under any document entered into by Port or County at Closing or under any Other Agreement or Port's or County's default under this Agreement after Closing.

10.2 BNSF's Default. Subject to Section 5.3 in the event of a material default by BNSF under the terms of this Agreement prior to the Closing that is not cured within any applicable notice and cure periods, Port and County together may elect as their exclusive remedy to (a) terminate this Agreement and the South Agreement together in which case the Earnest Money, all the interest earned thereon, and the Extension Fee, if applicable, shall be returned to the Port and none of the parties shall have any further obligation under this Agreement except those that expressly survive termination, (b) obtain specific performance of BNSF's obligations under this Agreement and the South Agreement (and in seeking any equitable remedies, Port and County shall not be required to prove or establish that Port and County do not have an adequate remedy at law and BNSF hereby waives the requirement of any such proof and acknowledges that County would not have an adequate remedy at law in the event of a material default by BNSF), or (c) waive such default and proceed to Closing in accordance with the terms of this Agreement. Subject to Section 5.3 and Section 10.4, nothing in this Agreement shall waive or diminish any right or remedy Port and County may have at law, in equity or in contract for BNSF's default under any document entered into by BNSF at Closing or under any Other Agreement or BNSF's default after Closing under this Agreement.

10.3 Remedies as Between Port and County. As between Port and County, each shall have all remedies available at law or equity against one another for a material default under this Agreement, except as limited by separate written agreement between the Port and County.

10.4 Arbitration.

A. General Provisions. The parties shall use commercially reasonable efforts to prevent or resolve any disputes that may arise after Closing concerning their respective rights and obligations under this Agreement. In the event a dispute arising after Closing concerning the parties' respective rights and obligations under Sections 6 or 7 (but not other Sections) of this Agreement cannot be resolved by the parties, the parties shall submit such dispute to mediation before a mediator acceptable to the parties. If such dispute is not resolved within 45 business days after submission to mediation by the parties then the parties shall submit such dispute to binding arbitration as set forth in this Section 10.4. All such disputes shall be finally resolved by binding arbitration in accordance with the following provisions and the American Arbitration Association ("AAA) Commercial Arbitration Rules (AAA-CAR) in effect at the time arbitration is demanded (even if the matter is not submitted to the AAA). The parties may submit (but shall not be required to submit unless consensus over the selection of the arbitrator(s) is not reached), disputes to the AAA for administrative purposes. In the event that any provisions in this Agreement differ from the AAA-CAR, this Agreement shall govern.

B. Commencement of the Arbitration. Subject to the provisions of Section 10.4(A) above, any party may initiate arbitration by serving a demand at any time. The written demand for arbitration shall include a short and plain statement identifying the provisions of this Agreement which are in dispute, a summary of the facts or circumstances giving rise to the dispute, and describing the relief requested. Any party served with an arbitration demand may respond by serving upon the other party a written answer or a written counterclaim identifying additional claims to be considered in the arbitration, with a short and plain

statement identifying the provisions of this Agreement which are in dispute, a summary of the facts or circumstances giving rise to the dispute, and describing the relief requested.

C. Selection of Arbitrator. The parties agree to submit arbitration disputes to a single arbitrator. The parties shall attempt to select an arbitrator by consensus within ten (10) business days after a demand has been served. In the event consensus is not reached by the parties, the arbitrator shall be selected in accordance with AAA-CAR and this Agreement. The arbitrator must be a retired state or federal judge or magistrate or someone of similar stature with experience in interpreting and enforcing complex commercial contracts involving environmental remediation obligations, or the type of matters at issue in the arbitration.

D. Authority to Grant Comprehensive Relief. The arbitrator shall have all legal and equitable powers necessary to interpret and to enforce the terms of this Agreement, but not to modify or vary its terms. The parties expressly agree that the arbitrator may fashion all necessary and appropriate relief, including money damages and/or injunctive relief, so long as any equitable remedy is consistent with the obligations of the parties under this Agreement

E. Award. Notwithstanding any AAA-CAR to the contrary, the arbitrator's award shall be in writing and include findings of fact and conclusions of law supporting that written decision. Any action to compel arbitration under this Agreement, to enforce an arbitration award, or to vacate an arbitration award must be brought, if jurisdiction exists, in federal court in the Western District of Washington. Otherwise, such actions must be brought in state court in King County, Washington. However, in actions seeking to vacate an award, the standard of review to be applied to the arbitrator's findings of fact and conclusions of law will be the same as that applied by an appellate court reviewing a decision of a trial court sitting without a jury.

F. Payment of Fees and Costs of Arbitrator(s). The parties shall split and pay in equal shares the fees and costs of the arbitrator. Otherwise, the parties expressly reject any fee shifting, and each party shall pay all its own expenses associated with the arbitration, including all fees and costs relating to its own witnesses, exhibits, and counsel.

G. Amendment of Deadlines. The parties may, by mutual stipulation, agree to shorten or extend any of the deadlines set forth in this Section. The arbitrator also may, for good cause shown, alter any of those same deadlines.

10.5 The County enters into this Agreement only as it relates to the Railbanked Portion. The County does not enter into this Agreement in any way or for any purpose related to the Freight Portion, and shall not have any rights or obligations associated therewith.

Section 11. Assignment.

11.1 No Party may assign its rights under this Agreement without the prior written consent of the other except as expressly stated herein. Prior to Closing, BNSF may assign the rights to the Purchase Price and this Agreement to Apex Property & Track Exchange, Inc. ("Apex") or another qualified intermediary within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended, for the purpose of completing a tax-deferred exchange under said Section 1031. BNSF shall bear all expenses associated with the use of Apex, or necessary to qualify this transaction as a tax-deferred exchange, and, except as otherwise provided herein, shall protect, reimburse, indemnify and hold harmless Port from and against any and all reasonable and necessary additional costs, expenses, including attorneys fees, and liabilities which Port may incur as a result of BNSF's use of Apex or other qualified intermediary, or the qualification of this transaction as a tax-deferred transaction pursuant to Section 1031. Upon request Port shall execute and deliver on or before Closing the document attached as Exhibit G (the "Exchange Assignment") and shall cooperate with BNSF with respect to this tax-deferred exchange, and upon BNSF's request, shall execute any other documents as may be reasonably required

to effect this tax-deferred exchange.

11.2 On or before 5:00 pm on July 1, 2008, Port may, subject to King County Council approval, assign to County all of its right and obligations in this Agreement as to the Railbanked Portion only, provided County assumes all such obligations in writing and County and Port notify BNSF in writing of such assignment and assumption before said date.

Section 12. Brokers and Brokers' Commissions. Port, County and BNSF each warrant and represent to the other that each has not employed a real estate broker or agent in connection with the transaction contemplated hereby. Each party agrees to indemnify, defend and hold the others harmless from any loss or cost suffered or incurred by it as a result of the other's representation herein being untrue.

Section 13. Notices.

Except as otherwise expressly provided in this Agreement, all requests, notices, demands, authorizations, directions, consents, waivers or other communications required or permitted under this Agreement shall be in writing and shall either be: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered via facsimile, with confirmation of receipt with an original deposited postage prepaid in the first class mails of the United States. Such notices shall be addressed to Port, County and BNSF at:

Port (if delivered):
Port of Seattle Legal Department
2711 Alaskan Way
Seattle, WA 98121
Attn: General Counsel

Port (if mailed):
Port of Seattle Legal Department
P.O. Box 1209
Seattle, WA 98111
Attn: General Counsel
Fax No. 206 728-3205

County:
King County
701 Fifth Avenue, Suite 3210
Seattle, WA 98104
Attn: Rod Brandon
Fax No.: 206-296-0194

Office of the King County Prosecuting Attorney
Civil Division
400 King County Courthouse
516 Third Avenue
Seattle, WA 98102
ATTN: Peter G. Ramels
Fax No.:206-296-0191

BNSF:
BNSF Railway Company

2500 Lou Menk Drive
Fort Worth, Texas 76131
ATTN: Rick Weicher
Fax No.: 312-850-5677

With additional copy to:

BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, Texas 76131
Attn: David Rankin
Fax No.: 817-352-2398

or to such person and at such other addresses as either party may at any time or from time to time designate for itself by notice in accordance herewith. Each such request, notice, demand, authorization, direction, consent, waiver or other document shall be deemed to be delivered to a party when received at its address set forth or designated as above provided. All notices provided under this Agreement to one party shall be provided to all other parties to this Agreement.

Section 14. Miscellaneous.

14.1 Governing Law; Headings; Rules of Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without reference to the conflicts of laws or choice of law provisions thereof. The titles of sections and subsections herein have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein. All references herein to the singular shall include the plural, and vice versa. The parties agree that this Agreement is the result of negotiation by the parties, each of whom was represented by counsel, and thus, this Agreement shall not be construed against the maker thereof.

14.2 No Waiver. Neither the failure of either party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligations hereunder, nor any custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

14.3 Entire Agreement. Except for the Other Agreements and the agreements and instruments required to be executed under this Agreement, this Agreement contains the entire agreement of the parties hereto with respect to the Property and any other prior understandings or agreements concerning the Property are merged herein; and as between the parties, any representations, inducements, promises or agreements, oral or otherwise, not expressly embodied herein or incorporated herein by express reference, shall be of no force or effect.

14.4 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns (subject to Section 11 above).

14.5 Amendments. No amendment to this Agreement shall be binding on any of the parties hereto unless such amendment is in a single writing executed by the parties to this Agreement.

14.6 Date for Performance. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day. If no time is

indicated for a day on which any action must be undertaken under this agreement, the time shall be 5:00 p.m. All references to time shall be to Pacific time.

14.7 Recording. BNSF, Port and County agree that they will not record this Agreement and that they will not record a short form of this Agreement.

14.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument.

14.9 Time of the Essence. Time is of the essence of this Agreement and each and every term and condition hereof.

14.10 Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any term or provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

14.11 Attorneys' Fees. In the event any party shall bring an action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either party, the prevailing party shall be entitled to recover from the non-prevailing party, as a part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, expert witness fees and court costs, including those incurred upon appeal, as may be fixed by the court or a jury.

14.12 Relationship. Nothing in this Agreement or the Other Agreements shall be deemed or construed by the parties hereto, nor by any other party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

14.13 Publicity. BNSF, Port and County shall discuss and coordinate with respect to any public filing or announcement concerning the purchase and sale contemplated hereunder.

14.14 Survival. The terms of this Agreement shall survive Closing and the delivery of the Deeds.

14.15 Waiver of Trial by Jury, Venue and Personal Jurisdiction. BNSF, PORT AND COUNTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT. King County Superior Court or the Federal District Court for the Western District of Washington, both in King County, Washington, shall be the sole and exclusive venues for any action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either party; and the parties hereby agree to submit to the personal jurisdiction of said courts.

14.16 Condemnation. In the event any portion of the Property becomes subject to condemnation proceedings after the Contract Date and prior to Closing, BNSF will promptly notify Port and County in writing of such fact.

(a) If such condemnation concerns a crossing of the Property by a pipeline, electricity or telecommunication facility or other utility and is valued at less than $25,000 then BNSF shall handle such

condemnation or conveyance in lieu of condemnation in accordance with its normal practice and inform Port and County of the interests conveyed, and Port and County shall not be entitled to any proceeds from such condemnation or conveyance or any reduction in the Purchase Price. Such conveyance shall not however, in any way alter the obligations of BNSF under this Agreement other than BNSF's inability to convey at Closing the interests conveyed by BNSF to a third party under this Section 14.16.

(b) If such condemnation is not subject to the terms of Section 14.16(a), then Port and County together but not separately may elect to terminate this Agreement and the South Agreement together, in which case Escrow Agent shall refund to Port the Earnest Money and half the interest thereon and shall pay BNSF the other half of such interest and none of the parties shall have any further obligation hereunder except those that expressly survive termination.

14.17 Right of First Refusal. County shall have a right of first refusal to purchase that real and personal property constituting BNSF's rail corridor from Milepost 0.0 to Milepost 5.0 (the "**Renton** Corridor") located in King County, Washington as contemplated in this Section. At any time BNSF wishes to sell the **Renton** Corridor to an unaffiliated third party, BNSF shall deliver written notice (the "ROFR Notice") to County setting forth the terms of such proposed sale. County may either elect to purchase the **Renton** Corridor in accordance with the terms set forth in the ROFR Notice or elect to refuse to purchase the **Renton** Corridor in accordance with such terms. If County does elect to purchase the **Renton** Corridor according to the terms set forth in the ROFR Notice, County may do so by notifying BNSF in writing within thirty (30) days after delivery of the ROFR Notice. Within sixty (60) days after such notification by County, County and BNSF shall enter into a sale agreement substantially in the form of this Agreement, as modified to reflect the terms set forth in the ROFR Notice. If County fails to enter into such agreement within such sixty days or if County does not notify BNSF within such thirty days of County's exercise of its right of first refusal, then BNSF may sell the **Renton** Corridor to any party without again complying with the provisions of this Section 14.17 on terms substantially the same as set forth in the ROFR Notice and with a sale price of not less than 90% of the price set forth in the ROFR Notice. Notwithstanding anything to the contrary contained in this Agreement, (a) BNSF shall have the right to encumber the **Renton** Corridor or grant easements, licenses or other use rights affecting the **Renton** Corridor, and (b) County's right of first refusal pursuant to this Section 14.17 shall expire and be of no further force and effect on December 29,2013.

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IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized signatory, effective as of the day and year first above written.

BNSF RAILWAY COMPANY

By: Richard E. Weicher
Name: Richard E. Weicher
Title: Vice President & General Counsel - Regulatory

PORT OF SEATTLE

By:
Name: Tay Yoshitani
Title: Chief Executive Officer

KING COUNTY

By:
Name: Ron Sims
Title: King County Executive

DONATION AGREEMENT
(Woodinville Subdivision - South Rail Line)

THIS DONATION AGREEMENT is made and entered into as of the 12 day of MAY, 2008, by and between BNSF RAILWAY COMPANY ("BNSF"), the PORT OF SEATTLE, a municipal corporation of the State of Washington ("Port") and KING COUNTY, a political subdivision of the State of Washington ("County").

RECITALS

A. BNSF owns certain real property (the "Woodinville Subdivision," or "Subdivision") in King County, Washington and Snohomish County, Washington, and operates over such Subdivision, a railroad line from the City of Renton, Washington to the City of Snohomish, Washington.

B. The Port desires to enter into this Agreement for the acquisition of a portion of such BNSF property and railroad facilities thereon.

C. BNSF is willing to donate the South Rail Line (defined below) portion of the Subdivision in the manner described in this Agreement.

D. The County desires to use the Railbanked Portion (defined below) for public trail and other transportation purposes following the acquisition of the Woodinville Subdivision by the Port, and, accordingly, the County and BNSF will enter into at Closing an agreement for railbanking and for public space pursuant to and in accordance with 49 C.F.R. 1152.29 and Section 8(d) of the National Trails System Act (also known as the "Rails-to-Trails Act"), 16 U.S.C. 1247(d) (collectively, and as any of the foregoing may be amended or interpreted before Closing by binding judicial or administrative authority, the "Railbanking Legislation").

E. The Port at Closing will grant the County a Public Multipurpose Easement for the County's use of the Railbanked and Wilburton Portions.

F. This Agreement concerns the South Rail Line portion of the Subdivision. The North Rail Line portion of the Subdivision, as defined with greater specificity herein, is the subject of a separate Purchase and Sale Agreement between the Port, County and BNSF, and is not the subject of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Definitions and Exhibits.

1.1 Definitions. For purposes of this Agreement, each of the following terms, when used herein with an initial capital letter, shall have the meaning set forth below:

Agreement. This Donation Agreement.

Assignment. The Assignment and Assumption of Leases and Licenses concerning the Property substantially in the form attached hereto as Exhibit E.

Bill of Sale. The Bill of Sale in the form attached hereto as Exhibit H.

Closing. The consummation of the transaction contemplated in this Agreement.

Closing Date. September 30,2008, provided that BNSF may elect to extend the Closing Date to no later than December 29, 2008.

Contract Date. The date upon which this Agreement shall be deemed effective, which shall be the date first above written.

Deed. A quitclaim deed in the form attached as Exhibit B.

Entry Agreement. Collectively, those certain Entry Agreements entered into between BNSF and Port and BNSF and County as originally executed and hereafter amended concerning the entry by Port and County respectively onto the Woodinville Subdivision for purposes of conducting inspections of the Woodinville Subdivision.

Escrow Agent. Pacific Northwest Title Company.

Fiber Optic Agreements. Those Third Party Leases/Licenses concerning fiber optic or other telecommunication facilities located on the Property.

North Agreement. That certain agreement dated as of the date hereof between BNSF, Port and County concerning conveyance by BNSF to Port of the North Rail Line.

North Rail Line. The real and personal property comprising the Woodinville Subdivision north of milepost 23.45 in Woodinville, and the Redmond Spur. The North Rail Line is the subject of the North Agreement, is not the subject of this Agreement, and is not part of the Property as defined herein.

Other Agreements. Means the Entry Agreement, the North Agreement, the Railroad Right of Way License, the Trail Use Agreement, and the Public Multipurpose Easement.

Property. The tracts or parcels of land situated in King County, Washington, described in Exhibit A attached hereto (the "Land") that makes up the South Rail Line, together with:

All of BNSF's right, title, and interest in and to the buildings (if any) located on the Land (the "Buildings");

All of BNSF's right, title and interest in any tangible personal property and fixtures of any kind owned by BNSF and attached to or used exclusively in connection with the ownership, maintenance or operation of the Land or the Buildings, if any (the "Personalty"); and

All of BNSF's right, title and interest (subject to the provisions of the Assignment) in and to the Third Party Leases/Licenses other than the Fiber Optic Agreements as of the date of Closing.

Railbanked Portion. The South Rail Line less and except that portion between mileposts 10.6 and 11.25.

Redmond Spur. That portion of the Property extending from milepost 0.0 in Woodinville south to milepost 7.3 in Redmond.

Review Period. The period commencing on the Contract Date and ending at 5:00 p.m. on May 15,2008.

South Rail Line. The real and personal property comprising the Woodinville Subdivision from milepost 23.45 in Woodinville south to milepost 5.0 in Renton, and not including the Redmond Spur, subject to the provisions of Section 4.5.

Third Party Leases/Licenses. The existing leases, franchises, occupancy agreements, licenses or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting or relating to, the Property, as listed on Exhibit F attached hereto.

Trail Use Agreement. An agreement substantially in the form attached as Exhibit K to the North Agreement and to be entered into on or before Closing between BNSF and County concerning the Railbanked Portion.

Wilburton Portion. That portion of the Property extending from milepost 10.6 north to milepost 11.25.

Woodinville Subdivision. A rail corridor extending from approximately mile post 5.0 in Renton, Washington to and including the bridge structure at milepost 38.25 in Snohomish County, Washington, and including the Redmond Spur.

1.2 Exhibits. Attached hereto and forming an integral part of this Agreement are the following exhibits, all of which are incorporated into this Agreement as fully as if the contents thereof were set out in full herein at each point of reference thereto:

Exhibit A	Legal Description of the Property
Exhibit B	Form of Deed
Exhibit C	BNSF Disclosures
Exhibit D	Port and County Disclosures
Exhibit E	Form of Assignment of Third Party Leases l Licenses
Exhibit F	List of Known Third Party Leases/ License
Exhibit G	[Intentionally Deleted]
Exhibit H	Form of Bill of Sale

Section 2. Conveyance.

BNSF agrees to donate and convey to Port, and Port agrees to accept from BNSF, the Property. The parties agree it is appropriate for BNSF to retain P G P Valuation, Inc., at BNSF's expense, for a fair market appraisal of the Property, which would be available for the use of the parties as needed. At Closing BNSF will make a charitable contribution of the value of the Property to Port, (ii) Port shall take all actions and execute all documents that may be necessary or helpful to confirm that Port is a qualified donee described in section 170(c)(1) of the Code in connection with BNSF's charitable contribution of the Property to Port, and (iii) within 30 days of Closing, based on the fair market value appraisal, BNSF shall prepare and Port shall execute the Donee Acknowledgement section of Internal Revenue Service Form, 8283, Noncash Charitable

Contributions.

Section 3. Adjustments.

3.1 Third Party Leases/Licenses. BNSF shall be entitled to all sums due from any Third Party Leases/Licenses (collectively, "**Third Party** Rents") owing for the month in which the Closing occurs (regardless of when the Third Party Rents are paid) for the portion of the Property to which such Third Party Leases/Licenses relate. BNSF shall not receive a credit for any such Third Party Rents that are due but unpaid as of the Closing Date but Port shall remit to BNSF any such Third Party Rents received by it after such Closing. Port shall be entitled to any Third Party Rents owing for time periods after the month in which the Closing occurs (regardless of when the Third Party Rents are paid) for the portion of the Property to which such Third Party Leases/Licenses relate and BNSF shall pay to Port any such Third Party Rents received by BNSF, if any. Within 90 days after Closing BNSF shall pay to Port the amount, if any, of all rents under the Leases and all security deposits held by BNSF under the Leases.

3.2 [Intentionally Deleted]

3.3 Taxes and Monetary Liens.

(a) Taxes. There shall be no proration of taxes attributable to the Property. BNSF shall be liable for the payment when due of all taxes and assessments related to the Property, including without limitation real property ad valorem taxes, special benefit assessments and other governmental impositions (collectively, "Taxes"), for the time period up to Closing. From and after the Closing, to the extent any Taxes applicable to the Property are due and owing under applicable laws such Taxes shall be paid by Port except to the extent such taxes are paid by a Tenant pursuant to a Third Party Lease/License or applicable law. Each party shall indemnify, defend and hold the other harmless from the obligation to pay Taxes as set forth in this Section 3.3(a).

(b) Monetary Liens. Notwithstanding the provisions of Section 4, Port and County shall not be entitled to object to any monetary lien against BNSF which may appear of record as a monetary lien against the Property. BNSF shall pay such monetary liens asserted against BNSF and the Property, or if BNSF desires to contest such monetary lien, it may take reasonable and diligent steps to challenge the validity or amount of such lien and shall not be required to pay unless and until it is judicially determined to be valid. BNSF hereby indemnifies, defends and holds harmless the Port and County for all loss arising out of BNSF's failure to have a monetary lien so settled and satisfied.

(c) Notwithstanding the foregoing provisions of Section 3.3(b), neither Port nor County shall be entitled to object to the lien of any of BNSF's mortgages. Within one hundred eighty (180) days after the first meeting of BNSF's Board of Directors held after the Closing, BNSF shall deliver to Port, who shall place of record, good and sufficient releases of the liens of any mortgages on the Property securing indebtedness to which BNSF is obligated to pay and provide a copy thereof to County.

3.4 Closing Costs. BNSF shall pay one-half of any escrow or closing agent charges in connection with the Closing. Port, County and BNSF shall each pay their own attorneys' fees and costs in connection with the negotiation of this Agreement and the closing hereunder. Port shall pay the following closing costs:

(a) the cost of recording the Deed;
(b) the cost of any title insurance Port wishes to obtain in connection with the acquisition of the Property;

(c) one-half of any escrow or closing agent charges in connection with the Closing;

(d) all costs of any surveys, reports or other due diligence Port obtains or undertakes in connection with the transactions contemplated herein; and

(e) all costs associated with any loan or other financing obtained by Port in connection with the acquisition of the Property.

Section 4. Inspections.

4.1 Physical/Environmental Inspection.

(a) BNSF, as information only, has provided Port and County access to, or copies of, certain documents including those listed in Exhibit M attached to the North Agreement (such documents previously delivered and any additional items to be delivered as contemplated below are collectively referred to as the **"Property Reports").** Port and County acknowledge and agree that BNSF does not represent the accuracy or completeness of the Property Reports and that Port and County will rely only on their own due diligence. If BNSF obtains knowledge (as defined in Section 5.3 of this Agreement) of any additional Property Reports in BNSF's possession or the possession of its agents or contractors before the Closing Date that relate to items previously furnished then BNSF will promptly provide Port and County with copies of any such other Property Reports later received or obtained by BNSF relating to the Property. BNSF is not required to provide attorney-client or attorney work product materials or documents to Port or County. BNSF shall provide a description of any materials not provided to Port and County by BNSF because such materials are attorney-client or attorney work product.

(b) Subject to the terms of the Entry Agreement, BNSF will allow Port and County and their agents to have access to the Property for the purpose of conducting environmental due diligence as specified in Section 6 of this Agreement and subject to the requirements of the Entry Agreement. Port and County acknowledge that invasive testing, such as drilling or boring, is not allowed under the Entry Agreement. If Port and/or County desire to perform such testing Port and/or County shall submit a work plan to BNSF for its review and approval, which work plan must reasonably describe its intended testing. BNSF shall not unreasonably withhold, condition or delay its approval of such work plan. Upon BNSF's written approval and provided Port and/or County as applicable has entered into BNSF's standard license agreement for such testing, Port and/or County as applicable may then perform such testing in compliance with the terms of said license and the approved work plan.

(c) BNSF shall cooperate in good faith with Port's and County's due diligence activities and make appropriate employees, agents or contractors available to answer reasonable inquiries from Port and/or County concerning the condition of the Property, subject to the terms of Section 6 of this Agreement. BNSF shall cooperate in good faith to promptly provide additional information requested by the Port provided such information is not attorney-client privileged, attorney work product, confidential or proprietary, provided that sampling reports and data alone shall not be considered attorney-client privileged, attorney work product or confidential or proprietary under this Agreement.

(d) All Property Reports and other environmental studies, reports, plans, and information including, but not limited to, those listed in this Agreement, and delivered by one Party to the other shall be held in confidence by the Parties, their agents, employees, officers, directors and contractors, and will not be disclosed to any third party unless this disclosure is compelled by order of a court or is otherwise legally required to be produced, including under the Washington Public Disclosure Act, RCW ch. 42.56, or if the other Party consents in writing to the production of such materials. The Parties will inform their respective agents and contractors of the requirements of this Section 4.1(d) and shall require such agents and contractors

to comply with such requirements.

4.2 Port and County Contingencies.

(a) Port and County shall have until the end of the Review Period to determine in their sole and absolute discretion (i) whether Port has obtained any necessary authorizations from its governing body, and (ii) if there are any physical conditions including, but not limited to, environmental conditions affecting the Property that BNSF is not willing to cure as contemplated herein and that are unacceptable to the Port or County in their sole discretion. If (i) the Port does not obtain the necessary authorizations from its governing body by the end of the Review Period *or* (ii) Port or County identify an existing condition affecting the Property (an "Identified Condition") that is unacceptable to the Port or County in either entity's sole discretion and such Identified Condition is not an Identified Condition that BNSF agrees in writing to Cure (defined below) pursuant to Section 7 of this Agreement, *then* Port and County may terminate this Agreement and the North Agreement together by written notice to BNSF received no later than the expiration of the Review Period. If either (i) both Port and County do so timely terminate this Agreement under this Section 4.2 (a) or (ii) the Port does so timely terminate this Agreement under this Section 4.2(a), then subject to Section 4.2(c) this Agreement and the North Agreement shall terminate and none of the parties shall have any further obligation hereunder except those that expressly survive termination.

(b) County shall have until May 15, 2008 to obtain any necessary authorizations from its governing body with respect to the transactions contemplated herein. If County does not obtain such authorizations it may terminate its rights and obligations under this Agreement and the North Agreement together by written notice to BNSF delivered no later than May 15, 2008.

(c) Notwithstanding the provisions of Section 4.2 (a) or (b), if the County exercises its right to terminate as stated above or pursuant to Section 4.3 below and the Port does not wish to so terminate then the Port may continue this Agreement in effect so long as Port has also elected to continue the North Agreement in effect in compliance with its terms in which case Port shall have until June 15, 2008 (the "Extension Date") to assume on its own or find a third party replacement for the County's obligations contemplated herein. If the Port does not find such a replacement then Port may terminate this Agreement and the North Agreement together by written notice to BNSF received no later than the Extension Date and none of the parties shall have any further obligation hereunder except those that expressly survive termination. If this Agreement is not terminated as contemplated in Section 4.2, the parties (except County if County has terminated and Port has not) shall proceed to Closing according to the remaining provisions of this Agreement. Promptly upon BNSF's written request, Port and County shall deliver a copy of any written inspection report, survey or test result received by Port or County. If any of such items reveal any adverse conditions for which BNSF would be responsible for under Section 7 of this Agreement, BNSF may terminate this Agreement by written notice to Port and County by the end of the Review Period in which case none of the parties shall have any further obligation hereunder except those that expressly survive termination

4.3 Title/Survey Inspection. Port and County will have until May 15, 2008 to obtain any title reports, title commitments or surveys of the Property, to examine such reports, commitments or surveys, to determine whether Port and County will be able to obtain any title insurance endorsements they desire, and to identify any title or survey concerns it may have. If Port and County are not, for any reason, satisfied with the status of any such reports, commitments or surveys then Port or County may elect, by written notice to BNSF to terminate this Agreement and the North Agreement together by written notice to BNSF delivered no later than May 15,2008, in which case none of the parties shall have any further rights or obligations hereunder, except for those which expressly survive any such termination. If Port or County fail to so give BNSF notice of its election by such date, it shall be deemed to have elected to waive any right to object to any title exceptions or defects.

Port and County shall have the right at any time prior to their respective election to terminate to waive any objections that it may have made and, thereby, to preserve this Agreement in full force and effect. Port and County shall promptly upon request deliver to BNSF a copy of any such title report, title commitment or survey obtained by Port or County.

4.4 Nature of Title. The Property shall be conveyed with no warranties of title except as stated below and shall be subject to all matters affecting the Property whether of record or not including but not limited to (i) the lien of unpaid taxes not yet due and payable; (ii) matters which would be disclosed by a current, accurate survey of the Property; and (iii) the rights granted to third parties pursuant to any Third Party Lease/License. Port and County acknowledge and affirm that BNSF may not hold fee simple title to the Property, that BNSF's interest in all or part of the Property, if any, may rise only to the level of an easement for railroad purposes. Port and County are willing to accept the Property on this basis. BNSF does represent and warrant that BNSF's ownership interest in and to the Property, even subject to the Third Party Leases/Licenses, is sufficient to permit railroad operations on the Property, including passenger railroad operations; and to permit BNSF to convey the Property as contemplated in this Agreement and the Other Agreements. Port and County acknowledge that BNSF's predecessor in interest to the Property acquired a railroad right-of-way ownership interest in portions of the Property from the United States of America, pursuant to Section 2 of the General Right-of-way Act of March 3, 1875, and Port and County each agrees to the conditions and limitations imposed by this General Right-of-way Act.

4.5 Modification of Property Description. Port shall have the right to modify the southern ending point of the South Rail Line to a point chosen by Port that is between the originally contemplated ending point at milepost 5.00 in Renton to a point no further north than the northernmost boundary of the parcel on which milepost 6.5 is located. Port may exercise this right by sending written notice of its election and milepost designation to BNSF no later than June 4,2008. If Port timely exercises such right the applicable definitions in this Agreement shall be deemed modified to reflect such ending point designated in compliance with this Section and the parties shall cooperate with each other to appropriately amend any filings with the STB contemplated herein and modify the legal description attached as Exhibit A to reflect such change.

Section 5. Representations and Warranties.

5.1 BNSF. As of the Contract Date and Closing Date, BNSF hereby represents and warrants to Port and County that the following statements are materially true except as may otherwise be disclosed on Exhibit C:

(a) BNSF is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, is authorized to do business and in good standing in the State of Washington and has full power and authority to enter into this Agreement and to fulfill its obligations hereunder.

(b) BNSF has taken all corporate action necessary to authorize the execution and delivery by BNSF of this Agreement and the other documents to be delivered by BNSF at Closing and the performance of its obligations hereunder and thereunder.

(c) This Agreement and the other documents to be delivered by BNSF at Closing have been, or before the Closing Date will have been, duly authorized and executed (and acknowledged where necessary) and delivered by BNSF, and all other necessary actions have been, or before the Closing Date will have been, taken, so that this Agreement and all documents to be executed by BNSF pursuant hereto constitute, or before the Closing Date will constitute the legally valid and binding obligations of BNSF, enforceable against BNSF in accordance with their terms, except as the

enforceability of this Agreement may be subject to or limited by bankruptcy, or insolvency or other similar laws relating to or affecting the rights of contracting parties generally.

(d) The execution and performance by BNSF of this Agreement and the other documents to be delivered by BNSF at Closing do not violate or conflict with BNSF's articles of incorporation or bylaws or any law, court order, administrative agency order or regulatory agency order binding upon BNSF or any of its properties.

(e) BNSF has not received any written notice of and BNSF has no knowledge of any actual or pending litigation, proceeding or claim by any organization, person, individual or governmental agency against BNSF (i) that could materially impair BNSF's ability to perform its obligations under this Agreement, or (ii) asserting that BNSF does not have sufficient ownership interest in the Property for conducting railroad operations.

(f) BNSF has not received any written notice of and BNSF has no knowledge of any actual or pending litigation asserting through a claim of adverse possession or other prescriptive rights that BNSF does not own the Property or any portion of the Property.

(g) BNSF is not a "foreign person" as that term is defined in the Internal Revenue Code of 1986, as amended and the Regulations promulgated pursuant thereto.

(h) BNSF has not received any written notice of and BNSF has no knowledge of any written notice from any governmental authority alleging any uncured existing violation of any applicable governmental laws, statutes, ordinances, rules, codes, regulations or orders, including Environmental Laws, affecting the Property or the conduct of railroad operations on the Property.

(i) Port and County will not, as a result of the execution of this Agreement or conveyance of any of the Property be bound by any labor contracts entered into by BNSF.

(j) BNSF has no knowledge of the existence at any time, whether still occurring or not, of any of the following activities on the Property:

(1) fueling of trains or train related equipment;
(2) treatment of railroad ties;
(3) creosote treating operations;
(4) above ground or underground storage tanks;
(5) transformers; or
(6) repair shops.

(k) To BNSF's actual knowledge, the Property is not subject to any leases, tenancies or rights of persons in possession, franchises, occupying agreements, unrecorded easements or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting the Property (collectively, "Third Party Rights") other than the Third Party Leases/Licenses. However, Port and County acknowledges that BNSF does not warrant beyond its actual knowledge that there are not other Third Party Rights. To BNSF's actual knowledge: the Third Party Leases/Licenses are in full force and effect in accordance with their respective terms, BNSF has not delivered or received a written notice of default that remains uncured under any Third Party Lease/License, or any other existing lease, franchise, easement, occupancy agreement, license or other agreement demising space in, providing for the use or occupancy of, or otherwise similarly affecting or

relating to, or affecting the Property, and no tenant thereunder has asserted in writing any claim that remains outstanding for offsets or credits to rent thereunder, except as disclosed in writing to Port.

(l) To BNSF's actual knowledge, the copies of the Third Party Leases/ Licenses, are true and correct copies of originals of such documentation in BNSF's possession.

5.2 Port and County. As of the Contract Date, Port and County individually hereby represent and warrant to BNSF that the following statements are materially true except as may otherwise be disclosed on Exhibit D:

5.2.1 Port:

(a) Port is a municipal corporation of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington, is authorized to do business in the State of Washington, and has full power and authority to enter into this Agreement and to fulfill its obligations hereunder.

(b) Port has taken all corporate action necessary to authorize the execution and delivery by Port of this Agreement and has taken or, before the expiration of the Review Period, will have taken, all corporate action necessary to authorize the execution and delivery of the other documents to be delivered by Port at Closing and the performance of its obligations hereunder and thereunder.

(c) This Agreement and the other documents to be delivered by Port at Closing have been, or before the Closing Date will have been, duly authorized and executed (and acknowledged where necessary) and delivered by Port, and all other necessary actions have been, or before the Closing Date will have been, taken, so that this Agreement and the other documents to be delivered by Port pursuant hereto constitute, or before the Closing Date will constitute the legally valid and binding obligations of Port, enforceable against Port in accordance with their terms.

(d) The execution and performance by Port of this Agreement and the other documents to be delivered by Port at Closing do not violate or conflict with the Port's charter or code or with any law, court order, administrative agency order or regulatory agency order binding upon Port or any of its properties.

(e) Port has received no written notice of any actual or pending litigation or proceeding by any organization, person, individual or governmental agency against the Port concerning the Property.

(f) Port is a qualified donee as described in Internal Revenue Code Section 170(c)(1).

5.2.2 County:

(a) County is a political subdivision of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington, is authorized to do business in the State of Washington, and has full power and authority to enter into this Agreement and to fulfill its obligations hereunder;

(b) County has taken all corporate action necessary to authorize the execution and delivery by County of this Agreement and has taken, or before May 15, 2008, will have taken, all corporate action necessary to authorize the execution and delivery of the other documents to be

delivered by County at Closing and the performance of its obligations hereunder.

(c) This Agreement and the other documents to be delivered by County at Closing have been, or before the Closing Date, will have been duly authorized and executed (and acknowledged where necessary) and delivered by County, and all other necessary actions have been, or before the Closing Date will have been, taken so that this Agreement and the other documents to be delivered by County pursuant hereto constitute, or before the Closing Date will constitute, the legally valid and binding obligations of County, enforceable against County in accordance with their terms.

(d) The execution and performance by County of this Agreement and the other documents to be delivered by County at Closing do no violate or conflict with the County's charter or code or any law, court order, administrative agency order or regulatory agency order binding upon County or any of its properties.

(e) County has received no written notice of any actual or pending litigation or proceeding by any organization, person, individual or governmental agency against County concerning the Property.

(f) County is a qualified donee as described in Internal Revenue Code Section 170(c)(1).

5.3 Miscellaneous. (a) As used in this Agreement, the phrase "BNSF's knowledge" or any derivation thereof shall mean the actual knowledge of the following persons, based on their reasonable inquiry in the file locations where the relevant information would normally be filed of: David P. Schneider, General Director of Real Estate; Bruce Sheppard, Manager Environmental Remediation, Carol Sanders, Regional Manager for Staubach Global Services, which provides property management services to BNSF with regard to the Property, and Jerome M. Johnson, Assistant Vice President, Network Development.

(b) It shall be a condition of the parties' respective obligation to Close that the representations and warranties of the other party contained in this Section 5 are true and correct in all material respects at the Closing Date as described herein. In the event that BNSF on the one hand or Port or County on the other learns that any of County's or Port's on the one hand or BNSF's on the other representations or warranties becomes inaccurate between the Contract Date and the Closing Date, BNSF or Port or County, as applicable, shall immediately notify the other parties in writing of such change. In the event the party whose representation or warranty becomes inaccurate (BNSF on the one hand or Port or County on the other the "Representing Party") cures such inaccuracy prior to the Closing Date this Agreement shall remain in full force and effect. If the Representing Party does not so cure such inaccuracy, the other party may pursue any remedy provided for in Section 10 (i.e., if BNSF's representations are inaccurate then County or Port may pursue such remedy and vice versa) provided, however, if the non-Representing Party closes with knowledge of any such inaccuracy then the representations and warranties of the Representing Party shall be deemed to be amended such that the applicable inaccuracy is an exception to the Representing Party's representations and warranties for all purposes under this Agreement. It shall not be a condition of either the County's or Port's obligations hereunder that the other's representations and warranties to BNSF are accurate, and County and Port shall not have enforcement rights as between each other as to such representations and warranties.

(c) In the event the non-Representing Party first learns after the Closing contemplated in this Agreement that any representations or warranties made by the Representing Party (as may be amended as provided above) were materially inaccurate as of the Closing Date, then the Representing Party shall reimburse the non-Representing Party for all out-of-pocket expenses incurred by the non-Representing Party as a result of such inaccuracy provided that (i) the non-Representing Party notifies the Representing Party in

writing within sixty (60) months after the Closing Date of such expenses and inaccuracy, and (ii) the Representing Party shall in no event be responsible for any consequential or punitive damages resulting from such inaccuracy. Notwithstanding anything to the contrary contained in this Agreement, the non-Representing Party shall have no right to recover from, or proceed against, the Representing Party in any manner whether based upon breach of contract, tort or otherwise upon the expiration of such sixty (60) month period except to the extent the non-Representing Party has so notified the Representing Party in accordance with the terms of this Agreement within such sixty (60) month period. Nothing in this Section 5 shall modify any obligations imposed on any of the Parties pursuant to Section 7 of this Agreement or as such obligations are incorporated into the Deed.

Section 6. Condition of Property. (a) Port and County have been, or by Closing will have been, allowed to make an inspection of the Property. Subject to BNSF's express representations, warranties and obligations under this Agreement and the Deed, **PORT AND COUNTY ARE PURCHASING THEIR INTERESTS IN THE PROPERTY IN AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, ARE NOT RELYING ON, AND HEREBY WAIVE ANY WARRANTY OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM BNSF WITH RESPECT TO ANY MATTERS CONCERNING THE PROPERTY** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, or under the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the Third Party Leases/Licenses permits, orders, or other agreements, affecting the Property (collectively, the "Condition **of** the Property").

(b) Port and County individually represent and warrant for itself to BNSF that except for BNSF's express representations, warranties and obligations under this Agreement and the Deed, Port and County each has not relied and will not rely on, and BNSF is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto made or furnished by BNSF, the manager of the Property, or any real estate broker or agent representing or purporting to represent BNSF, to whomever made or given, directly or indirectly, orally or in writing.

(c) Subject to BNSF's express representations, warranties and obligations under this Agreement and the Deed Port and County assume the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Port's or County's inspection and except to the extent of BNSF's express representations, warranties and obligations under this Agreement and the Deed, Port and County each waives, releases and discharges forever BNSF and BNSF's officers, directors, shareholders, employees and agents (collectively, "**BNSF** Parties") from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown (collectively, "Losses"), which Port or County might have asserted or alleged against BNSF Parties arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any

Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) Losses for injury or death of any person, and (c) Losses arising under any Environmental Law enacted after transfer. The term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Model Toxics Control Act, the Water Pollution Control Act, laws concerning above ground or underground storage tanks, and any similar or comparable state or local law. The term "Hazardous Substance" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

BNSF, Port and County acknowledge that BNSF's willingness to convey the Property reflects that the Property is being conveyed subject to the provisions of this Section 6 which provisions shall be included in the deed and which shall be covenants running with the Land.

Section 7. Environmental Obligations.

(a) Consistent with Section 4.2 of this Agreement, if, prior to the expiration of the Review Period, the Port or County notifies BNSF in writing of an existing condition affecting the Property (an "Identified Condition") that is unacceptable to the Port or County, as determined by the Port and County in their respective sole and absolute discretion, and BNSF does not verify in writing by the earlier of: (i) fifteen (15) business days thereafter or the end of the Review Period, that such Condition is a condition that BNSF is obligated to Cure in a manner acceptable to the identifying Party pursuant to this Section 7, then the Port or County may terminate this Agreement and the North Agreement together, by written notice to BNSF in accordance with the provisions of Section 4.2 of this Agreement. If the Port or County timely notifies BNSF in writing of an Identified Condition, the Port, County and BNSF shall negotiate diligently and in good faith to reach agreement on Curing such condition. If the portion of the Property affected by an Identified Condition can be excluded from the conveyance without materially interfering with Port's and County's future use of the Property, as determined by the Port and County (as applicable) in their respective sole and absolute discretion, then BNSF may affect Cure prior to Closing by excluding such affected portion of the Property and to the extent so excluded BNSF shall have satisfied its obligations under this Agreement to Cure the portion of the Property so excluded, provided, however, that any such Cure by exclusion must first be agreed to in writing by the Port and County. If Port and County do not terminate this Agreement under Sections 4.2 and 7(a) and proceed to Closing, they shall not be deemed to have waived or released BNSF from any obligations to Cure set forth in Section 7(c), below.

(b) BNSF shall be responsible to investigate, remediate, respond to or otherwise cure (collectively, "Cure") as and when required by and in accordance with Environmental Laws any Identified Condition that concerns a release of Hazardous Substances on the Property occurring prior to the Closing or a violation of Environmental Laws concerning the Property occurring prior to the Closing to the extent that BNSF has agreed to Cure, and to the standards that BNSF has agreed to satisfy, in writing prior to the expiration of the Review Period. Notwithstanding the preceding sentence, BNSF shall not be responsible to Cure any such Identified Conditions to the extent Port or County or their respective agents, or contractors materially exacerbate such Identified Condition during construction performed by or for Port or County, excluding superficial or de *minimis* activity performed by Port or County. Further, BNSF shall not be responsible to Cure any Identified Condition that was not caused by BNSF or its agents, contractors or invitees. Port and County shall cooperate with BNSF in its efforts to Cure any Identified Condition concerning a release of Hazardous Substances on the Property.

(c) (i) For Hazardous Substances released on the Property that BNSF has not agreed to Cure prior to Closing, whether or not BNSF has been notified under Section 7 (a) that such releases are an Identified Condition, BNSF shall pay to the Port or County the costs to investigate, remediate, respond to or otherwise cure (collectively "Remediate" or "Remediation") any such Hazardous Substance releases, or any violation of Environmental Laws prior to Closing, to the extent occurring as a result of the operations of BNSF or its corporate predecessors, or the agents, employees, invitees or contractors of BNSF or its corporate predecessors. BNSF shall pay to the Port or County such costs to Remediate as and when required by and in accordance with Environmental Laws to standards for the Property that the applicable regulatory agency would apply had the Property continued to be used as a freight railroad, and to standards for other affected properties that the applicable regulatory agency would apply for such properties. BNSF shall not be responsible for (1) any costs of Remediation to the extent the Port or County or their respective agents, contractors or invitees materially exacerbate the released Hazardous Substances during construction performed by or for Port or County (excluding superficial or de *minimis* activity performed by Port or County), or (2) any duplication of efforts by County or Port or their respective agents, contractors or invitees.

(ii) As among BNSF, Port and County, any Remediation for which this Section 7(c) applies would be carried out by the Port or County. BNSF shall cooperate with such Remediation.

(iii) The obligations of BNSF under this Section 7(c) apply only to Remediation ordered or approved by the applicable regulatory agency, provided that for Remediation approved by the applicable regulatory agency BNSF shall have agreed in writing to the Remediation prior to such approval, which agreement by BNSF shall not be unreasonably withheld, conditioned or delayed. The obligations of BNSF, Port and County under this Section 7(c) also apply regardless of which entity is issued an order by the applicable regulatory agency.

(d) Other than BNSF's obligations under this Section 7, as among BNSF, Port and County, Port and County will be responsible for all other costs of Remediation of Hazardous Substances released on or from the Property or violations of Environmental Laws.

(e) The Section 7 obligations running from BNSF to the Port and County, and the Section 7 rights running to BNSF from the Port and the County, will be allocated as between the Port and County in the manner separately agreed to by the Port and the County.

(f) The provisions of this Section 7 shall be included in the Deed and shall run with the land.

Section 8. Conditions to Closing. The parties' respective obligation to proceed to Closing under this Agreement is subject to the conditions precedent described in this Section 8:

8.1 Surface Transportation Board Approval Contingency.

(a) BNSF shall, at BNSF's sole expense, file one or more appropriate notices and/or petitions with the STB authorizing the abandonment of the Railbanked Portion and shall coordinate with County with respect to such filings. Within the prescribed time periods, County shall file with the STB a trail use/rail banking request for all of the Railbanked Portion of the South Rail Line, and BNSF shall concurrently file a letter concurring in the request. Prior to the Closing Date, County shall file with the STB a request for approval of the transfer from BNSF to County the right and/or obligation to restore rail freight service over the Railbanked Portion. In the event the STB does not approve such transfer to King County then Port shall file with the STB a request for approval of the transfer of such right and/or obligation to the Port or to another

entity designated by Port and approved by STB. As part of the Trail Use Agreement to be delivered at Closing, BNSF shall transfer to County, and County shall accept, at Closing the right and/or obligation to the reactivation rights on the Railbanked Portion on the Closing Date.

(b) In the event that the STB does not approve of all of the items contemplated in subsection (a) above prior to or at the Closing then any Party who has not breached its obligations in (a) above may extend the Closing Date by delivering notice to the other parties prior to or on the Closing Date in which case the Closing Date shall be extended to a date that is no later than December 29, 2008 to give additional time to satisfy the foregoing conditions and the parties shall proceed with the terms of this Agreement except that if the foregoing conditions are not satisfied by such extended Closing Date then this Agreement and the North Agreement shall terminate unless all the Parties agree in writing to a further extension. Upon such termination, none of the parties shall have any further obligation hereunder except those that expressly survive the termination of this Agreement.

8.2 Other Conditions Precedent to Closing.

(a) Each party's obligation to Close is conditioned upon the other party to this Agreement having performed and satisfied each and all such other party's obligations under this Agreement.

(b) Each party's obligation to Close is conditioned upon the simultaneous Closing on the conveyance of the North Rail Line by BNSF consistent with the terms of the North Agreement.

In the event any of the foregoing conditions in this Section 8.2 are not satisfied prior to or at the Closing then, subject to Section 5.3 hereof, either Party may pursue the remedies set forth in this Agreement or the North Agreement, to the extent applicable.

Section 9. Closing.

9.1 Time and Place. Subject to the terms of this Agreement, the Closing shall take place on the Closing Date at the Pier 69 offices of the Port or such other location as is mutually agreeable to Port and BNSF.

9.2 Closing Deliveries. At the Closing, BNSF, Port and County (as applicable) shall execute and deliver to the appropriate party the following documents (all of which shall be duly executed, and witnessed and/or notarized as necessary):

(a) [Intentionally Deleted]

(b) The Deed conveying the Property.

(c) A Closing Statement in form and substance mutually satisfactory to Port, BNSF and County.

(d) Such transfer tax, certificate of value or other similar documents customarily required of BNSF in the county in which the Property is located.

(e) Such further instructions, documents and information, including, but not limited to a Form 1099-S, as the other party may reasonably request as necessary to consummate the purchase and sale contemplated by this Agreement.

(f) The Assignment.

(g) [Intentionally Deleted.]

(h) The Bill of Sale.

(i) [Intentionally Deleted.]

(j) The Trail Use Agreement.

(k) The Public Multipurpose Easement, in substantially the form as attached as Exhibit L to the North Agreement or as otherwise agreed to by the Port and the County.

Section 10. Default and Remedies.

10.1 Port's or County's Default. Subject to Section 5.3, in the event of a material default by Port or County under the terms of this Agreement or any Other Agreement prior to the Closing that is not cured within any applicable notice and cure periods, BNSF may elect as its exclusive remedy to either (a) terminate this Agreement and the North Agreement in which case none of the parties shall have any further obligation under this Agreement except those that expressly survive termination, or (b) waive such default and proceed to Closing in accordance with the terms of this Agreement. Subject to Section 5.3 and Section 10.4, nothing in this Agreement shall waive or diminish any right or remedy BNSF may have at law, in equity or in contract for Port's or County's default under any document entered into by Port or County at Closing or under any Other Agreement or Port's or County's default under this Agreement after Closing.

10.2 BNSF's Default. Subject to Section 5.3 in the event of a material default by BNSF under the terms of this Agreement prior to the Closing that is not cured within any applicable notice and cure periods, Port and County together may elect as their exclusive remedy to (a) terminate this Agreement and the North Agreement together in which case none of the parties shall have any further obligation under this Agreement except those that expressly survive termination, (b) obtain specific performance of BNSF's obligations under this Agreement and the North Agreement (and in seeking any equitable remedies, Port and County shall not be required to prove or establish that Port and County do not have an adequate remedy at law and BNSF hereby waives the requirement of any such proof and acknowledges that County would not have an adequate remedy at law in the event of a material default by BNSF), or (c) waive such default and proceed to Closing in accordance with the terms of this Agreement. Subject to Section 5.3 and Section 10.4, nothing in this Agreement shall waive or diminish any right or remedy Port and County may have at law, in equity or in contract for BNSF's default under any document entered into by BNSF at Closing or under any Other Agreement or BNSF's default after Closing under this Agreement.

10.3 Remedies as Between Port and County. As between Port and County, each shall have all remedies available at law or equity against one another for a material default under this Agreement, except as limited by separate written agreement between the Port and County.

10.4 Arbitration.

A. General Provisions. The parties shall use commercially reasonable efforts to prevent or resolve any disputes that may arise after Closing concerning their respective rights and obligations under this Agreement. In the event a dispute arising after Closing concerning the parties' respective rights and obligations under Sections 6 or 7 (but not other Sections) of this Agreement cannot be resolved by the parties, the parties shall submit such dispute to mediation before a mediator acceptable to the parties. If such dispute

is not resolved within 45 business days after submission to mediation by the parties then the parties shall submit such dispute to binding arbitration as set forth in this Section 10.4. All such disputes shall be finally resolved by binding arbitration in accordance with the following provisions and the American Arbitration Association ("AAA") Commercial Arbitration Rules (AAA-CAR) in effect at the time arbitration is demanded (even if the matter is not submitted to the AAA). The parties may submit (but shall not be required to submit unless consensus over the selection of the arbitrator(s) is not reached), disputes to the AAA for administrative purposes. In the event that any provisions in this Agreement differ from the AAA-CAR, this Agreement shall govern.

B. Commencement of the Arbitration. Subject to the provisions of Section 10.4(A) above, any party may initiate arbitration by serving a demand at any time. The written demand for arbitration shall include a short and plain statement identifying the provisions of this Agreement which are in dispute, a summary of the facts or circumstances giving rise to the dispute, and describing the relief requested. Any party served with an arbitration demand may respond by serving upon the other party a written answer or a written counterclaim identifying additional claims to be considered in the arbitration, with a short and plain statement identifying the provisions of this Agreement which are in dispute, a summary of the facts or circumstances giving rise to the dispute, and describing the relief requested.

C. Selection of Arbitrator. The parties agree to submit arbitration disputes to a single arbitrator. The parties shall attempt to select an arbitrator by consensus within ten (10) business days after a demand has been served. In the event consensus is not reached by the parties, the arbitrator shall be selected in accordance with AAA-CAR and this Agreement. The arbitrator must be a retired state or federal judge or magistrate or someone of similar stature with experience in interpreting and enforcing complex commercial contracts involving environmental remediation obligations, or the type of matters at issue in the arbitration.

D. Authority to Grant Comprehensive Relief. The arbitrator shall have all legal and equitable powers necessary to interpret and to enforce the terms of this Agreement, but not to modify or vary its terms. The parties expressly agree that the arbitrator may fashion all necessary and appropriate relief, including money damages and/or injunctive relief, so long as any equitable remedy is consistent with the obligations of the parties under this Agreement

E. Award. Notwithstanding any AAA-CAR to the contrary, the arbitrator's award shall be in writing and include findings of fact and conclusions of law supporting that written decision. Any action to compel arbitration under this Agreement, to enforce an arbitration award, or to vacate an arbitration award must be brought, if jurisdiction exists, in federal court in the Western District of Washington. Otherwise, such actions must be brought in state court in King County, Washington. However, in actions seeking to vacate an award, the standard of review to be applied to the arbitrator's findings of fact and conclusions of law will be the same as that applied by an appellate court reviewing a decision of a trial court sitting without a jury.

F. Payment of Fees and Costs of Arbitrator(s). The parties shall split and pay in equal shares the fees and costs of the arbitrator. Otherwise, the parties expressly reject any fee shifting, and each party shall pay all its own expenses associated with the arbitration, including all fees and costs relating to its own witnesses, exhibits, and counsel.

G. Amendment of Deadlines. The parties may, by mutual stipulation, agree to shorten or extend any of the deadlines set forth in this Section. The arbitrator also may, for good cause shown, alter any of those same deadlines.

Section 11. Assignment.

11.1 No Party may assign its rights under this Agreement without the prior written consent of the other except as expressly stated herein.

11.2 On or before 5:00 pm on July 1, 2008 Port may, subject to King County Council approval, assign to County all of its right and obligations in this Agreement as to the portion of the South Rail Line between milepost 5.0 in Renton and milepost 11.8 in Bellevue, provided County assumes all such obligations in writing and County and Port notify BNSF in writing of such assignment and assumption before said date.

Section 12. Brokers and Brokers' Commissions. Port, County and BNSF each warrant and represent to the other that each has not employed a real estate broker or agent in connection with the transaction contemplated hereby. Each party agrees to indemnify, defend and hold the others harmless from any loss or cost suffered or incurred by it as a result of the other's representation herein being untrue.

Section 13. Notices.

Except as otherwise expressly provided in this Agreement, all requests, notices, demands, authorizations, directions, consents, waivers or other communications required or permitted under this Agreement shall be in writing and shall either be: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered via facsimile, with confirmation of receipt with an original deposited postage prepaid in the first class mails of the United States. Such notices shall be addressed to Port, County and BNSF at:

Port (if delivered):
Port of Seattle Legal Department
2711 Alaskan Way
Seattle, WA 98121
Attn: General Counsel

Port (if mailed):
Port of Seattle Legal Department
P.O. Box 1209
Seattle, WA 98111
Attn: General Counsel
Fax No. 206 728-3205

County:
King County
701 Fifth Avenue, Suite 3210
Seattle, WA 98104
Attn: Rod Brandon
Fax No.: 206-296-0194

Office of the King County Prosecuting Attorney
Civil Division
400 King County Courthouse
516 Third Avenue
Seattle, WA 98102
ATTN: Peter G. Ramels
Fax No.:206-296-0191

BNSF:
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, Texas 76131
ATTN: Rick Weicher
Fax No.: 312-850-5677

With additional copy to:

BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, Texas 76131
Attn: David Rankin
Fax No.: 817-352-2398

or to such person and at such other addresses as either party may at any time or from time to time designate for itself by notice in accordance herewith. Each such request, notice, demand, authorization, direction, consent, waiver or other document shall be deemed to be delivered to a party when received at its address set forth or designated as above provided. All notices provided under this Agreement to one party shall be provided to all other parties to this Agreement.

Section 14. Miscellaneous.

14.1 Governing Law; Headings; Rules of Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without reference to the conflicts of laws or choice of law provisions thereof. The titles of sections and subsections herein have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein. All references herein to the singular shall include the plural, and vice versa. The parties agree that this Agreement is the result of negotiation by the parties, each of whom was represented by counsel, and thus, this Agreement shall not be construed against the maker thereof.

14.2 No Waiver. Neither the failure of either party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligations hereunder, nor any custom or practice of

the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

14.3 Entire Agreement. Except for the Other Agreements and the agreements and instruments required to be executed under this Agreement, this Agreement contains the entire agreement of the parties hereto with respect to the Property and any other prior understandings or agreements concerning the Property are merged herein; and as between the parties, any representations, inducements, promises or agreements, oral or otherwise, not expressly embodied herein or incorporated herein by express reference, shall be of no force or effect.

14.4 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns (subject to Section 11 above).

14.5 Amendments. No amendment to this Agreement shall be binding on any of the parties hereto unless such amendment is in a single writing executed by the parties to this Agreement.

14.6 Date for Performance. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day. If no time is indicated for a day on which any action must be undertaken under this agreement, the time shall be 5:00 p.m. All references to time shall be to Pacific time.

14.7 Recording. BNSF, Port and County agree that they will not record this Agreement and that they will not record a short form of this Agreement.

14.8 Countemarts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument.

14.9 Time of the Essence. Time is of the essence of this Agreement and each and every term and condition hereof.

14.10 Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any term or provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

14.11 Attornevs' Fees. In the event any party shall bring an action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either party, the prevailing party shall be entitled to recover from the non-prevailing party, as a part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, expert witness fees and court costs, including those incurred upon appeal, as may be fixed by the court or a jury.

14.12 Relationship. Nothing in this Agreement or the Other Agreements shall be deemed or

construed by the parties hereto, nor by any other party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

14.13 Publicity. BNSF, Port and County shall discuss and coordinate with respect to any public filing or announcement concerning the purchase and sale contemplated hereunder.

14.14 Survival. The terms of this Agreement shall survive Closing and the delivery of the Deed.

14.15 Waiver of Trial by Jury, Venue and Personal Jurisdiction. BNSF, PORT AND COUNTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT. King County Superior Court or the Federal District Court for the Western District of Washington, both in King County, Washington, shall be the sole and exclusive venues for any action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either party; and the parties hereby agree to submit to the personal jurisdiction of said courts.

14.16 Condemnation. In the event any portion of the Property becomes subject to condemnation proceedings after the Contract Date and prior to Closing, BNSF will promptly notify Port and County in writing of such fact.

(a) If such condemnation concerns a crossing of the Property by a pipeline, electricity or telecommunication facility or other utility and is valued at less than *$25,000* then BNSF shall handle such condemnation or conveyance in lieu of condemnation in accordance with its normal practice and inform Port and County of the interests conveyed, and Port and County shall not be entitled to any proceeds from such condemnation or conveyance or any reduction in the Purchase Price. Such conveyance shall not however, in any way alter the obligations of BNSF under this Agreement other than BNSF's inability to convey at Closing the interests conveyed by BNSF to a third party under this Section 14.16.

(b) If such condemnation is not subject to the terms of Section 14.16(a), then Port and County together but not separately may elect to terminate this Agreement and the North Agreement together, in which case none of the parties shall have any further obligation hereunder except those that expressly survive termination.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized signatory, effective as of the day and year first above written.

BNSF RAILWAY COMPANY

By: Richard E. Weicher
Name: Richard E. Weicher
Title: Vice President & General Counsel - Regulatory

PORT OF SEATTLE

By:
Name: Tay Yoshitani
Title: Chief Executive Officer

KING COUNTY

By:
Name: Ron Sims
Title: King County Executive

TRAIL USE AGREEMENT

THIS TRAIL USE AGREEMENT (this "**Agreement**") is made as of December 18, 2009, by and between BNSF Railway Company, a Delaware corporation ("**BNSF**"), and King County, Washington, a political subdivision and body corporate and politic of the State of Washington ("**County**") (each, individually, a "**Party**" and, collectively, the "**Parties**").

RECITALS

WHEREAS, BNSF is the owner of that certain real estate known as the "Woodinville Subdivision", located in King County, Washington, and Snohomish County, Washington (the "**Woodinville Subdivision**" or "**Subdivision**") and conducts rail operations over the Subdivision from the City of Renton, Washington to the City of Snohomish, Washington; and

WHEREAS, the Port of Seattle ("**Port**") has negotiated with BNSF a purchase and sale agreement pursuant to which the Port intends to acquire the Subdivision, and the County is a party to those agreements and has contributed to the purchase price for the purpose of railbanking a portion of the Subdivision; and

WHEREAS, the Port does not desire to take on any rail operating responsibility with respect to the Subdivision, and, accordingly, BNSF sought abandonment of its rail common carrier obligation on three segments of the Subdivision, and will transfer its rail operating responsibility on the remainder to a short line operator; and

WHEREAS, the County desires to convert three segments of the Subdivision to public trail use and potentially other public purposes, and, accordingly, the County and BNSF desire to enter into this Agreement for railbanking and for public space pursuant to and in accordance with 49 C.F.R. 1152.29 and Section 8(d) of the National Trails System Act (also known as the "Rails-to-Trails Act"), 16 U.S.C. 1247(d) (collectively, and as any of the foregoing may hereafter be amended or interpreted by binding judicial or administrative authority, the "**Railbanking Legislation**"); and

WHEREAS, the purpose of this Agreement is to delineate the responsibilities of each of the Parties pursuant to the Railbanking Legislation, as such responsibilities may be appropriately allocated during each phase of the development and use of a trail or other facilities by the County; and

WHEREAS, the Parties acknowledge that any railbanking, trail use or other public purpose proposed by the County, including this Agreement, will be subject to the authorization and jurisdiction of the Surface Transportation Board ("**STB**" or the "**Board**"); and

WHEREAS, the Parties acknowledge that STB authorization has been obtained upon the issuance of a Notice of Interim Trail Use ("**NITU**") for each segment of the Subdivision being abandoned by BNSF in accordance with the Board's rules and procedures; and

WHEREAS, the Parties acknowledge that the County has applied for, obtained and is the holder of the NITUs, and, further, the County acknowledges that, pursuant to the requirements of the Railbanking Legislation, freight service may be reactivated on the three segments of the Subdivision and the County must make the three segments of the Subdivision available for such reactivation of freight service; and

WHEREAS, subject to the request of the Port or other requests for service reactivation, the Parties intend that the County is also obtaining the right and obligation to permit or effect reactivation,

which has been approved by the STB, and pursuant thereto to permit the person requesting reactivation to take such steps as may be required to permit or effect that reactivation; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and the County's contribution to the purchase price of the Subdivision and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BNSF and the County agree as follows:

AGREEMENT

1. RAIL LINES BEING RAILBANKED

The segments of the Subdivision being railbanked are located: (a) between milepost 5 and milepost 10.6; (b) between milepost 11.25 and milepost 23. 90; and (c) between milepost 0.0 and milepost 7.3 of the Redmond Spur (collectively the "**Railbanked Segments**") A map of the Subdivision with an indication of the three Railbanked Segments is attached hereto as **Exhibit B.**

2. RAILBANKING OBLIGATIONS

(a) Unless otherwise defined in this Agreement, terms used herein will have the meanings defined in the Railbanking Legislation.

(b) For the purposes of this Agreement, authorization by the STB of the County's trail use will be referred to herein as the "**NITUs**".

(c) Pursuant to 49 C.F.R. 1152.29, the County assumes the following obligations in respect to the Railbanked Segments in accordance with the Statement of Willingness to Assume Financial Responsibility required as a condition precedent to the issuance of a NITU (the "**SWAFR**"), the form of which is attached to this Agreement as **Exhibit A**, and otherwise in accordance with the Railbanking Legislation: (i) all responsibility for the management of the Railbanked Segments; (ii) all responsibility for all legal liabilities arising out of or relating to the transfer, use, possession, management, operation or control of the Railbanked Segments; and (iii) all other obligations arising under the NITUs, the SWAFR, and/or the Railbanking Legislation as it applies to the Railbanked Segments.

(d) BNSF hereby transfers to the County the right and/or obligation to permit reactivation of the Railbanked Segments for rail service. King County has obtained authorization for the transfer of BNSF's right to restart rail service from the Surface Transportation Board.

(e) The Parties agree that this Agreement will constitute prima facie evidence of a valid and continuing purpose on the part of the County to initiate interim trail use along the Railbanked Segments.

3. TERMINATION OF NITU

It is the understanding and intent of the parties that all right and/or obligation to permit reactivation of the Railbanked Segments for rail service has been transferred by BNSF to County and that BNSF no longer retains any such right or obligation. If notwithstanding this the STB receives a request from BNSF that rail service be restored on all or portion(s) of the Railbanked Segments, the County agrees that it will make its interest in the corresponding portion(s) of the Railbanked Segments available for such restoration and BNSF will compensate the County for such interests and any improvements that have been made by the County on the Railbanked Segments at their then fair market value. If (a) the

County, after the date of this Agreement, has removed any railroad tracks or any railroad equipment or supporting apparatus within the portion(s) of the Railbanked Segments being reactivated pursuant to such a request by BNSF, or (b) any equipment or improvements ("**Post-Railbanking Installations**") installed on the portion(s) of the Railbanked Segments being reactivated pursuant to such a request by BNSF after the date of this Agreement would prevent or otherwise impede the restoration of rail service, then BNSF will either restore any required railroad infrastructure or remove any Post-Railbanking Installations at its sole expense, and will undertake at its sole expense any work necessary to restore rail service on the portion(s) of the Railbanked Segments. In the event of a request to reactivate service on any Railbanked Segment(s) pursuant to such a request by BNSF and of the receipt of any required approvals by the STB, the County will cause the NITUs to be vacated on the subject Railbanked Segment(s), in whole or in part, and will file at the STB any required notice and/or other information as may be necessary at that time.

4. NOTICES

Except as otherwise expressly provided in this Agreement, all requests, notices, demands, authorizations, directions, consents, waivers or other communications required or permitted under this Agreement shall be in writing and shall either be: (i) delivered in person, (ii) deposited postage prepaid in the certified mails of the United States, return receipt requested, (iii) delivered by a nationally recognized overnight or same-day courier service that obtains receipts, or (iv) delivered via facsimile, with confirmation of receipt with an original deposited postage prepaid in the first class mails of the United States. Such notices shall be addressed to County at:

County
King County Office of the Executive
701 Fifth Avenue
Suite 3210
Seattle, WA 98104
ATTN: Chief of Staff

With an additional copy to:

Office of the King County Prosecuting Attorney
Civil Division
400 King County Courthouse
516 Third Avenue
Seattle, WA 98102
ATTN: Chief Civil Deputy

or to BNSF at:

BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, Texas 76131
ATTN: Rick Weicher
Fax No.: 312-850-5677

With an additional copy to:

BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, Texas 76131
Attn: David Rankin

Fax No.: 817-352-2398

or to such person and at such other addresses as either Party may at any time or from time to time designate for itself by notice in accordance herewith. Each such request, notice, demand, authorization, direction, consent, waiver or other document shall be deemed to be delivered to a Party when received at its address set forth or designated as above provided.

5. GENERAL TERMS

(a) Entire Agreement. This Agreement, together with any amendments or exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and may be modified only by a writing executed by the Parties.

(b) No Third Party Beneficiaries. Except as otherwise provided in this Agreement, nothing contained in this Agreement, in any provision or exhibit to this Agreement, or in any agreement or provision included in this Agreement by reference, will operate or be construed as being for the benefit of any third person.

(c) Parties. Wherever used in this Agreement, the terms "BNSF" and "County" shall be construed in the singular or plural as the context may require or admit, and shall include the permitted successors and assigns of such parties.

(d) Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any term or provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

(e) Governing Law; Headings; Rules of Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without reference to the conflicts of laws or choice of law provisions thereof. The titles of sections and subsections herein have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein. All references herein to the singular shall include the plural, and vice versa. The Parties agree that this Agreement is the result of negotiation by the Parties, each of whom was represented by counsel, and thus, this Agreement shall not be construed against the maker thereof.

(f) No Waiver. Neither the failure of either Party to exercise any power given such Party hereunder or to insist upon strict compliance by the other Party with its obligations hereunder, nor any custom or practice of the Parties at variance with the terms hereof shall constitute a waiver of either Party's right to demand exact compliance with the terms hereof.

(g) Assignability. The County may assign this Agreement at its discretion, subject to regulatory requirements for transfer of the NITUs.

(h) Time is of the Essence. Time is of the essence in the performance of each Party's obligations under this Agreement.

(i) Incorporation of Exhibits. All exhibits attached to this Agreement will be incorporated by this reference and made a part of this Agreement for all purposes.

(j) Multiple Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

(k) Waiver of Trial by Jury, Venue and Personal Jurisdiction. BNSF AND THE COUNTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT. King County Superior Court or the Federal District Court for the Western District of Washington, both in King County, Washington, shall be the sole and exclusive venues for any action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either Party; and the Parties hereby agree to submit to the personal jurisdiction of said courts.

(l) Relationship. Nothing in this Agreement shall be deemed or construed by the Parties, nor by any other person, as creating the relationship of principal and agent or of partnership or of joint venture between the Parties.

(m) Authorization. BNSF represents and warrants that it has obtained all necessary corporate approvals authorizing the execution and delivery of this Agreement, and that the execution and delivery of this Agreement will not violate the articles of incorporation or bylaws of such corporation, and will not constitute a material breach of any contract by which such corporation is bound. The County represents and warrants that it has obtained all necessary legislative approvals authorizing the execution and delivery of this Agreement, and that the execution and delivery of this Agreement will not violate the County's Charter or code, and will not constitute a material breach of any contract by which the County is bound.

(n) Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized signatory, effective as of the day and year first above written.

BNSF RAILWAY COMPANY

By: Richard E. Weicher
Name: Richard E Weicher
Title: Vice President & General Counsel - Regulatory

KING COUNTY

By: Dow Constantine
Name: Dow Constantine
Title: King County Executive

EXHIBIT A

To Trail Use Agreement

Form of Statement of Willingness to Assume Financial Responsibility

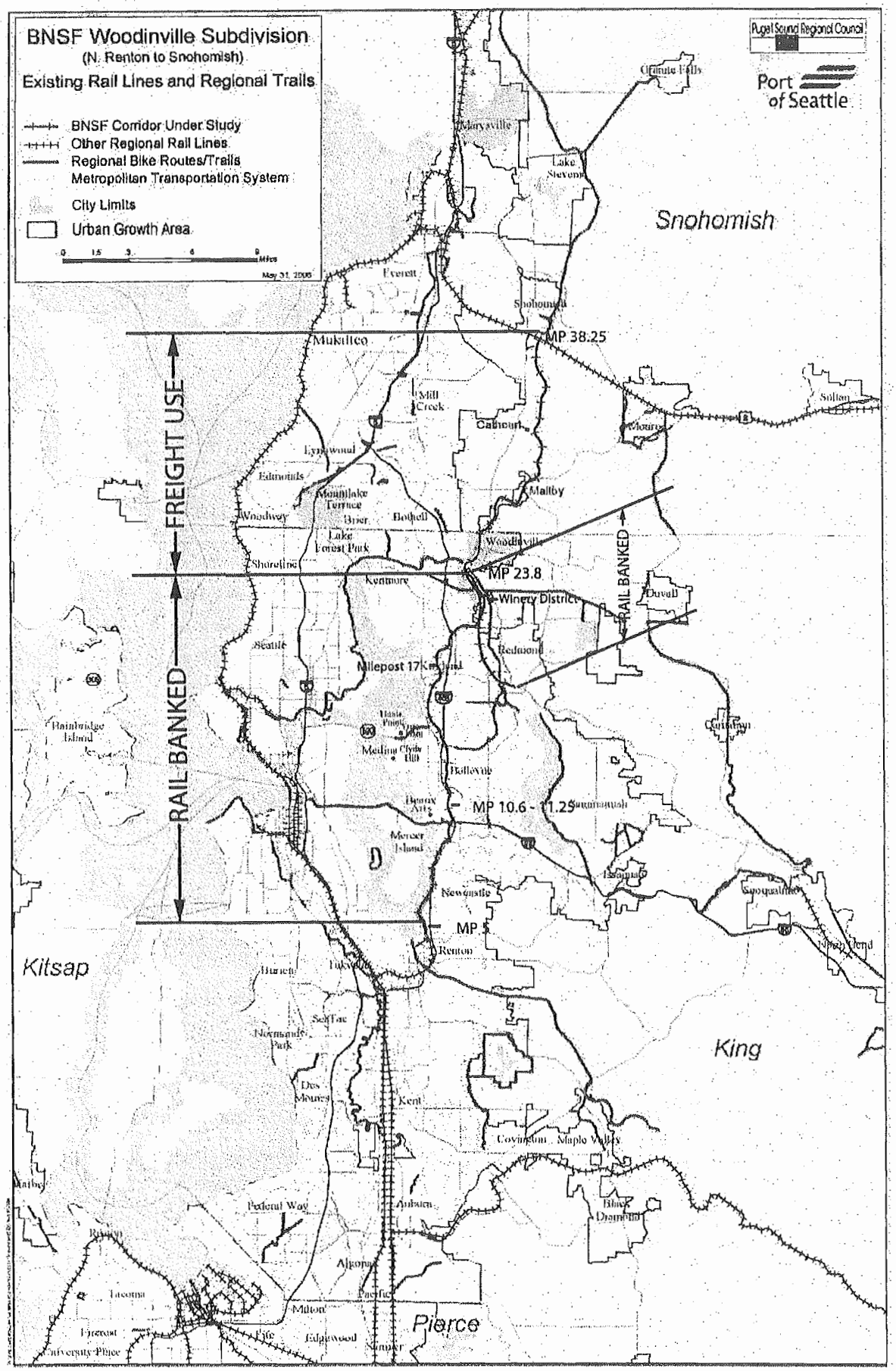
Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, King County, a political subdivision and body corporate and politic of the State of Washington (Interim Trail User) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way. The property extends from: (1) railroad milepost 5.0 on the Woodinville Subdivision near _____ (Station Name), to railroad milepost 10.60, near _____ (Station name), a distance of 5.6 miles in King County, Washington; (2) railroad milepost 11.25 on the Woodinville Subdivision near _____ (Station Name), to railroad milepost 23.8 , near _____ (Station name), a distance of _____ miles in King County, Washington; and (3) railroad milepost 0.0 on the Redmond Spur near _____ (Station Name), to railroad milepost 7.3, near _____ (Station name), a distance of 7.3 miles in King County, Washington. The right-of-way described in item (1) is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub-No. 464X). The right-of-way described in item (2) is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub-No. 465X). The right-of-way described in item (3) is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub-No. 463X).

King County acknowledges that use of the right-of-way is subject to the user continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

EXHIBIT B
To Trail Use Agreement

Map of Three Railbanked Segments
(Attached)


BNSF Woodinville Subdivision
(N. Renton to Snohomish)
Existing Rail Lines and Regional Trails
BNSF Corridor Under Study
Other Regional Rail Lines
Regional Bike Routes/Trails
Metropolitan Transportation System
City Limits
Urban Growth Area
Miles
May 31, 2006
Puget Sound Regional Council
Port of Seattle
Snohomish
Kitsap
King
Pierce
FREIGHT USE
RAIL BANKED
RAIL BANKED
MP 38.25
MP 23.8
MP 10.6 - 11.25
MP 5
Mukilteo
Mill Creek
Cathcart
Mailby
Woodinville
Winery District
Kenmore
Redmond
Milepost 17
Bellevue
Mercer Island
Newcastle
Renton
Kent
Auburn
Algona
Pacific
Milton
Edgewood
Fife
Tacoma
Fircrest
University Place
Bainbridge Island
Sultan
Duvall
Carnation
Snoqualmie
Maple Valley
Black Diamond
Covington
Des Moines
Normandy Park
Burien
Seattle
Shoreline
Woodway
Edmonds
Lynnwood
Mountlake Terrace
Brier
Bothell
Lake Forest Park
Everett
Marysville
Lake Stevens
Snohomish
Orinute Falls
Mouro
Sammamish
Issaquah
Bellevue
Medina
Clyde Hill
Hunts Point
Beaux Arts
Federal Way
Renton
Tukwila
Sea Tac
Maiby
Ruston

Recording Requested By And
When Recorded Return to:

King County
ATTN: Neil DeGoojer
Water and Lands Resources Division
Open Space Acquisitions Section
201 S. Jackson St. Suite 600
Seattle, WA 98104-3855

CONFORMED COPY

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PUBLIC MULTIPURPOSE EASEMENT

Grantor: Port of Seattle
Grantee: King County
Legal Description (abbreviated): Ptns. Secs 9, 15, 16, 22, 27, 28, 32 and 33, T26N, R5E; Ptns. Lake Avenue Addition to Kirkland, Vol. 6, pg 86; ptns, Supplementary Plat to Kirkland, Vol. 8, pg. 5; Ptns. Secs. 8, 17, 20, 21, 28 and 33, T25N, R5E; Ptns. Kirkland Syndicate's First Addition to Kirkland, Washington, Vol. 7, pg. 23; and Kirkland Syndicate's Second Addition to Kirkland, Washington, Vol. 7, pg. 75; Ptns. Strawberry Lawn, Vol. 4, pg. 30½; Ptns. Secs. 9, 16, 17, 20, 29, 31 and 32, T24N, R5E. Additional legal(s) on Pages 22-35.

This easement is granted this 18 day of December, 2009, by the PORT OF SEATTLE a Washington State municipal corporation ("Grantor"), to KING COUNTY, a home rule charter county and political subdivision of the State of Washington ("Grantee").

WITNESSETH

RECITALS

1. Grantor and Grantee executed a Purchase and Sale Agreement and Donation Agreement ("Acquisition Agreements") with BNSF Railway Company ("BNSF"), by and through which BNSF agreed to convey a rail corridor with rails in place, known as the Woodinville Subdivision ("Subdivision"), to Grantor. In the Acquisition Agreements, Grantee received a right of first opportunity to purchase portions of the Subdivision from Grantor.

2. Grantee has been approved as an Interim Trail User by the Surface Transportation Board ("STB") for the purpose of "railbanking" the Property, and Grantee is accordingly subject to certain legal obligations related to the Property, which are referred to herein as the "Railbanking Obligations." The Railbanking Obligations consist of those obligations

imposed through Section 8(d) of the National Trails System Act, also known as the Rails-to-Trails Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29 (collectively, and as any of the foregoing may hereafter be amended or interpreted by binding judicial or administrative authority, the "Railbanking Legislation"), the Notice of Interim Trail Use ("NITU") for the Property issued by the STB; the Trail Use Agreement ("TUA") entered into between BNSF and Grantee for the Property under which Grantee agrees to accept, exercise, and fulfill all of the legal rights, duties, and obligations of an Interim Trail User, and the Statement of Willingness to Accept Financial Responsibility ("SWAFR"). Under the TUA, Grantee has also received BNSF's rail service reactivation rights and/or obligations for the Property as approved by the STB.

3. Grantor desires Grantee to be the Interim Trail User for the Property because Grantee has substantial expertise and experience in acquiring, developing, maintaining and operating public trails, and Grantee is willing to assume this responsibility so long as it has sufficient rights to the Property to serve as the Interim Trail User for purposes of the Railbanking Legislation.

4. Prior to the closing on the Acquisition Agreements ("Closing"), Grantor and Grantee separately entered into an Interlocal Agreement ("Interlocal") regarding their mutual rights and obligations concerning the Property. The Interlocal is premised on the Parties' intent that the Property be used for regional recreational trail and other transportation purposes, including but not limited to rail or other transportation purposes other than interstate freight service ("Transportation Use").

5. It is anticipated that such Transportation Use will be carried out by a Third Party Operator ("TPO") with rights granted by separate agreement affecting or relating to the Property ("TPO Agreements").

6. The Parties intend that if interstate freight service should be reactivated in the future, such service should be able to be integrated with and not necessarily displace the Parties' intended regional trail and Transportation Uses.

7. The Parties agree that acquisition of the Property is of substantial benefit to the region because of its potential for use for regional recreational trail use and Transportation Use, and therefore the Interlocal includes a binding commitment to undertake a formal, multi-agency process to plan and recommend appropriate uses of the Property ("Regional Process").

8. Grantor and Grantee intend that the development of a public trail authorized by this Easement will not prevent Transportation Uses on the Property, but rather will be designed and developed to accommodate Transportation Uses.

NOW, THEREFORE, the PORT OF SEATTLE and KING COUNTY, in consideration of each other's duties and obligations under this Easement, the Acquisition

Agreements, the TUA, and the Interlocal, and all of them, and in exchange for the other good and valuable consideration described therein, the sufficiency of which is hereby acknowledged, do hereby agree as follows:

TERMS AND CONDITIONS

1. Overview of Grantee's Easement Rights

Grantor grants to Grantee, its successors and assigns, a non- exclusive, perpetual easement ("Easement') over, under, through, along and across certain parcels of land situated in King County, Washington, as legally described in Exhibit "A" attached hereto and incorporated herein (the "Property") solely for the following purposes:

1.1 To develop, operate, maintain, repair and improve a public hard- and/or soft-surface regional trail for public pedestrian, bicycle, or other non-motorized uses ("Trail") over a portion of the Property to be designated by Grantor and Grantee in a future amendment to this Easement ("Trail Area"), in accordance with Section 2.1.1 below; and

1.2 To carry out Grantee's Railbanking Obligations over the full width and length of the Property.

1.3 Grantee's Easement rights shall be subject to all preexisting fully executed recorded or unrecorded easements, leases, permits, franchises, occupancy agreements, licenses or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting or relating to the Property in favor of Puget Sound Energy for facilities/utilities that are physically located on or in the Property at the time this Easement is granted ("PSE Instruments"). If any such PSE Instruments are renewed or extended, such renewal or extension shall be subject to this Easement.

1.4. Any TPO Agreement shall be subject to this Easement.

2. Grantee's Trail Use Rights

This Easement gives Grantee the right to, at Grantee's sole cost and expense, develop, operate, maintain, repair and improve a Trail upon commencement of "Trail Development". For purposes of this Easement, "Trail Development" means the initial construction or any substantial re-construction of a Trail. Trail Development shall commence on the date that Grantee specifies to Grantor, in writing, as the date for breaking ground in a particular, identified segment of the Trail Area. In the event Grantee fails to break ground within five (5) days of the specified date, Trail Development shall not be deemed to have commenced until Grantee provides a new date in writing to Grantor, *provided,* if Grantee has broken ground in a segment in accordance with the requirements of Section 2.1.7 but without having provided Grantor written notice of the date, Grantee may cure the lack of notice at any time for such segment such that Trail Development shall be deemed to have commenced for such segment on the date Grantee broke ground as determined by Grantee's construction contracts.

2.1 Scope of Trail Use Upon Commencement of Trail Development

2.1.1 Grantor and Grantee will jointly determine, after the completion of and in consideration of the recommendations of the Regional Process, the appropriate location and size of the Trail Area. Grantee may initiate negotiation of the joint determination through written notice to Grantor no sooner than the earlier of the completion of the Regional Process or one (1) year after Closing. Thereafter the Parties shall negotiate in a good faith and reasonable manner to reach agreement. The joint determination shall be made within eighteen (18) months after the initiation of negotiation. If the joint determination is not made within that time, either Party may start Dispute Resolution under Section 4.3. After the joint determination as to the location and size of the Trail Area is made, Grantor and Grantee shall amend this Easement to incorporate a legal description of the Trail Area, and if thereafter the Trail Area is moved consistent with the terms of this Easement, Grantor and Grantee will further amend this Easement to incorporate a revised legal description of the Trail Area. Grantor and Grantee agree that under generally applicable trail development standards for regional trails, the Trail Area will generally range from 10 feet in width to 30 feet in width depending on the Parties' joint determination as to the uses to be undertaken on the Property, and the physical constraints of the Property. The Parties acknowledges that the Trail Area could be wider than 10 to 30 feet in width where additional width is needed to accommodate all necessary slopes for cuts and fills for the Trail; to install abutments, pilings, or other structural elements of trail bridges or tunnels; to allow grade or other physical separation of the Trail and any active rail lines on the Property; or to install storm water drainage or detention facilities or other facilities required by a permitting agency in support of or as mitigation for the Trail. Grantor and Grantee further agree that the location and size of the Trail Area will accommodate, and not prevent, future Transportation Use of the Property.

2.1.2 At the conclusion of the earlier of the joint determination process or the eighteen (18) month period for negotiating the joint determination as set forth in Section 2.1.1 herein, and prior to commencement of Trail Development but no later than five (5) years after Closing, Grantee may at its sole discretion elect not to proceed with Trail Development and may take action to terminate this agreement and request STB approval to transfer or terminate Grantee's Interim Trail User status and Railbanking Obligations on one-hundred and twenty (120) days written notice to Grantor. In the event of such notice, Grantor may engage a substitute Interim Trail User consistent with all current and future STB requirements, and Grantee shall cooperate fully and as necessary to support such effort. If Grantee fails to exercise this option to terminate within the earlier of five (5) years after Closing or prior to Trail Development, the Grantee's option to terminate under this Section 2.1.2 is forever waived without further action by either party. Upon approval by the STB of the transfer of Grantee's Interim Trail User status and Railbanking Obligations or the termination of Grantee's Interim Trail User status and Railbanking Obligations, the Easement shall, at Grantor's written option, be assigned to a replacement Interim Trail User

or terminated. Upon such assignment or termination, Grantor shall pay Grantee for its Easement rights in the amount of $1,903,000.

2.1.3 Grantor and Grantee will jointly determine, after completion of and in consideration of the Regional Process, the appropriate timeline for the development of the Trail. Grantee may develop the Trail in phases. At the time jointly determined by Grantor and Grantee, but no later than five (5) years after Closing, Grantee shall have the right to commence Trail Development in the Trail Area as to any segment of the Trail Area for which Grantee notifies Grantor in accordance with Section 2 above.

2.1.4 Grantee shall have the right to use the Trail Area for all purposes necessary or incidental to Grantee's installation, construction, ownership, use, operation, maintenance, inspection, repair, replacement, renovation, improvement, removal and enhancement of a Trail, including, but not limited to, the rights of ingress and egress across the surface of the Property, *provided*, such ingress and egress shall not interfere with any Transportation Use on the Property, if any; the right to use motorized vehicles for the improvement, construction, alteration, repair, maintenance and operation of a Trail and for emergency purposes; the right to install, construct, operate, maintain, modify, repair, replace, improve, remove and use the Trail Area for any Trail-related purposes as Grantee may now or hereafter deem appropriate, including the addition, removal or replacement of Trail improvements at Grantee's election, either in whole or in part with either like or different improvements. All Trail-related improvements of any kind that are now or hereafter acquired, constructed or installed by Grantee, at Grantee's sole cost and expense within the Trail Area shall be and shall at all times remain the property of Grantee.

2.1.5 Grantee's rights under this Easement include the further right to temporarily stage equipment and material on the Property in and around the Trail Area as reasonably necessary to construct, operate, maintain, improve, or remove the Trail, *provided,* such temporary staging shall not interfere with any Transportation Use on the Property, if any; *and further provided,* that Grantee shall not commence such temporary staging on the Property until Grantee has prepared a restoration plan for the affected portions of the Property, the surface of which shall be restored, at Grantee's sole cost and expense, as nearly as possible to the condition in which it existed prior to construction, or to such other condition as the Grantor and Grantee may agree.

2.1.6 Grantee may construct, operate, and maintain Trail crossings over, under, or across any railroad tracks or other transportation facilities on the Property, *provided* that such crossings shall be consistent with applicable law, trail or crossing design standards and shall not interfere with any Transportation Uses on the Property, and *provided further* that Grantee shall be responsible for performing and paying for Custodial Activities as defined in this Easement as to any of the crossing improvements, but not to the railroad tracks or other transportation facilities in the area of the crossing.

2.1.7 At least ninety (90) days prior to the commencement of any Trail Development or any other activity related to Trail Development, Grantee shall provide Grantor with (i) a copy of all plans and specifications for such proposed Trail Development and (ii) a plan for coordinating the proposed Trail Development with any then current or reasonably foreseeable Transportation Uses or other uses by Grantor on the Property. Grantee shall not commence any such Trail Development construction, work or activity unless and until Grantor agrees in writing to the proposal, which shall not be unreasonably withheld, conditioned or delayed.

2.1.8 Grantee shall, at its sole cost and expense, comply with all stormwater requirements for Trail Development to the extent any such requirements are applicable to Grantee's Trail Development, including, but not limited to: (i) Grantee shall be the sole applicant for any Washington State construction stormwater general permit for Trail Development, and shall be liable for any fines or other liability that derives from non-compliance with any such permit; (ii) Grantee shall be the applicant for any construction stormwater permits for Trail Development required by any local jurisdiction that the Property is located in, and shall be responsible for any costs associated with drainage review by any such local jurisdiction; (iii) Grantee shall perform its own drainage reviews and pay all drainage review fees required under King County Code for Trail Development for sections of the Property located within Grantee's jurisdiction; (iv) Grantee shall have all maintenance obligations for any drainage facilities it constructs for Trail Development pursuant to this Easement; and (v) Grantee shall provide Grantor with copies of all correspondence between Grantee and Washington State or any local jurisdiction related to construction stormwater permits associated with Grantee's activities under this Easement.

2.1.8.1 Grantee acknowledges and agrees that Grantor is bound under its Municipal Stormwater Permit ("Permit") and that the Property is subject to the Permit terms. Grantee agrees to cooperate with Grantor in Grantor's compliance of its obligations under the Permit including, but not limited to, Grantor's right to inspect the Property, map pipes on the Property, provide stormwater education and enforce Permit provisions.

2.2 Trail Use and Transportation Use of Property

2.2.1 Grantee understands, acknowledges, and agrees that Grantor or a TPO may undertake Transportation Use of the Property outside of the Trail Area. Outside of the Trail Area, and except as set forth in this Easement, Grantee shall not take any action on or in the Property to limit such Transportation Uses or to limit ingress and egress to any part of the Property for such Transportation Use, unless such action is specifically approved in writing by Grantor.

2.2.2 If Grantor or any TPO is required, or may desire at any time, or from time to time to engage in any Transportation Use or to add to or to improve railroad infrastructure or other Transportation Use facilities in the Trail Area, or to change the grade or location of any railroad infrastructure or other Transportation Use facilities in the Trail

Area (collectively "Transportation Infrastructure Change"), and such change would unreasonably interfere with Grantee's then existing or future development of the Trail Area, including but not limited to trail crossings of Transportation Use facilities in the Property in accordance with the rights granted under this Easement, or if Grantee's then existing or future development of the Trail Area would interfere with the Transportation Use related to the Transportation Infrastructure Change, then Grantor or such TPO may make such change in its facilities in the Trail Area, and Grantor and Grantee will jointly determine a new Trail Area location to replace the affected portion of the Trail Area and any Trail or Trail-related improvements. If Grantee elects to replace any Trail or Trail-related improvements in the relocated Trail Area, such replacement shall be at Grantee's sole cost. Any such relocation shall occur within the Property and any affected Trail Area shall be relocated in a location that is consistent with the standards in Section 2.1.1 and that is consistent with Grantee's Railbanking Obligations; *provided,* that if there is no reasonably practicable alternative for such relocation within the Property consistent with Section 2.1.1, then such relocation on the Property may be to standards less than required by Section 2.1.1 so long as the Parties make a good faith effort to allow for a Trail Area no less than ten feet in width and the relocation meets the minimum standards necessary to satisfy Grantee's Railbanking Obligations. Grantee may, at its sole cost, relocate any affected Trail or Trail-related improvements off the Property. At least one hundred twenty (120) days before Grantor may take any action that would require a joint determination under this Section 2.2.2, it shall initiate negotiation of such joint determination through written notice to Grantee accompanied by a detailed description of its proposed action. Thereafter the Parties shall negotiate in a good faith and reasonable manner to reach agreement. The joint determination shall be made within one hundred twenty (120) days after the initiation of negotiation. If the joint determination is not made within that time, either Party may start Dispute Resolution under Section 4.3 to make the joint determination of the new Trail Area location and to seek all available remedies, and Grantor or TPO may make such Transportation Infrastructure Change even if the joint determination has not been made. "Reasonably practicable" as used in this Easement shall mean capable of being implemented in a reliable and effective manner including consideration of cost. When considering cost, an alternative shall not be considered reasonably practicable if the incremental costs of the alternative are substantially disproportionate to the incremental degree of benefits provided by the alternative.

2.2.3 If a portion of the Property is subject to Transportation Use when Grantee commences Trail Development within the Trail Area, then Grantee shall be responsible for installing barriers to separate such portion of the Property from the Trail Area. If Grantor or a TPO commences Transportation Use of a portion of the Property that is adjacent to a portion of Trail Area where Trail Development has commenced, then Grantor or TPO shall be responsible for installing barriers separating such portion of the Property from the Trail Area. Grantee and Grantor (or TPO if designated by Grantor) shall jointly determine the type and scope of barriers (e.g. jersey barriers, fencing, or grade separation) or other measures reasonably needed to separate the Trail Area from the Transportation Use, which barriers shall at a minimum meet any applicable regulatory standards; *provided,* that after initial barrier installation is completed, Grantee shall be

responsible, at Grantee's sole cost and expense, to inspect, maintain and replace any barriers or other measures that will separate the Trail Area from the Transportation Use. Before either Party may take any action that would require a joint determination under this Section 2.2.3, it shall initiate negotiation of such joint determination through written notice to the other Party accompanied by a detailed description of the proposed barriers. Thereafter the Parties shall negotiate in a good faith and reasonable manner to reach agreement. The joint determination shall be made within ninety (90) days after the initiation of negotiation. If the joint determination is not made within that time, either Party may start Dispute Resolution under Section 4.3.

2.3. Grantor's Retained Rights to the Trail Area

2.3.1 Grantor retains the right to use and allow others to use the Trail Area in any manner that does not unreasonably interfere with Grantee's easement rights and is consistent with the terms of this Easement.

2.3.2 Grantor may make improvements in the Trail Area, including surface or subsurface improvements that are not part of, and do not relate to, Grantee's Trail (collectively, "Other Improvements"), *provided,* that Grantor shall coordinate with Grantee to (i) prevent unreasonable interference with Grantee's Easement rights, (ii) ensure reasonable integration of the Trail and Transportation Uses on the Property, (iii) prevent any health or safety risk; (iv) avoid or minimize to the greatest practicable extent any disruption to Trail uses; and (v) restore the Trail Area to a condition substantially similar to that existing prior to the alteration. Such Other Improvements may not cause the Trail Area to be relocated.

2.3.3 Grantee shall reasonably cooperate with PSE to site future PSE facilities authorized under PSE Instruments, or future fully executed instruments in which Grantor grants an interest in the Property to PSE, within the Trail Area if such facilities can reasonably collocate within the Trail Area with Grantee's Trail use.

2.3.4 At least ninety (90) days prior to the commencement of any construction or substantial reconstruction of Other Improvements by Grantor in the Trail Area, Grantor shall provide Grantee with (i) a copy of all plans and specifications for such proposed Other Improvements and (ii) a plan for coordinating the proposed Other Improvements with Grantee's use of the Trail Area. Grantor shall not commence any such construction unless and until Grantee agrees in writing to the proposal, which shall not be unreasonably withheld, conditioned or delayed.

3. Railbanking Obligations On the Property

This Easement gives Grantee the right to carry out all Railbanking Obligations, including Custodial Activities, over the full width and length of the Property.

3.1 Custodial Activities and Transportation Use

3.1.1 "Custodial Activities" are those activities that a Property owner would reasonably take to manage the Property in order to keep the Property in a physical condition suitable for its use, to maintain the physical integrity of the Property, to prevent health and safety hazards, and to manage public access in a manner appropriate for the Property's use, which may range from allowing public access to prohibiting such access, depending on circumstances. Custodial Activities include both "Routine Maintenance" and "Capital Improvements." "Routine Maintenance" includes, but is not limited to, inspecting the property, litter and garbage pick up, brush and hazardous tree trimming or removal, drainage maintenance or repair, and fencing or signage maintenance. "Capital Improvements" includes capital investments in the Property that go beyond Routine Maintenance, including, but not limited to, the installation of fences, barriers, or signs, or the repair of a wash-out on the Property. Custodial Activities do not include any activities related to granting or managing easements, leases, permits, franchises, occupancy agreements, licenses or other agreements demising space in, providing for the use or occupancy of, or otherwise similarly affecting or relating to the Property, which activities shall be the sole responsibility of Grantor.

3.1.2 A Transportation Use is undertaken when Grantor or a TPO begins to use the Property for the operation of a Transportation Use; and a Transportation Use is terminated when such use ceases and (a) the Grantor or a TPO notifies Grantee in writing that such use will not resume for a period of at least ninety (90) days, or (b) when Grantee notifies Grantor in writing that it has determined, in good faith and upon reasonable investigation, that such use will not resume for a period of at least ninety (90) days. Both Grantor and Grantee have a duty to notify each other as in subsections 3.1.2(a) and (b) if they become aware that Transportation Use has terminated.

3.1.3 "Trail-Side Area" means an area between the Trail Area and the Property boundary that is not being used for Transportation Use.

3.2 Custodial Activities Performance and Cost Allocation

Custodial Activities will be performed and paid for in the following manner depending on the uses present on the Property:

3.2.1 In any portion of the Property where Trail Development has not commenced and there is no Transportation Use, Grantee shall be responsible for performing all Custodial Activities. Grantor shall compensate Grantee for the actual cost and expense of performing Routine Maintenance. Should more than Routine Maintenance be needed to carry out Custodial Activities, Grantor and Grantee will jointly decide what Capital Improvements are needed to address any such conditions identified by Grantor or Grantee. Grantor will pay Grantee the actual cost and expense of carrying out such Capital Improvements. Grantee shall make such Capital Improvements. Either Party may initiate negotiation of a joint determination under this Section 3.2.1 through written notice to the

other Party accompanied by a detailed description of the identified condition and proposed Capital Improvements. Thereafter the Parties shall negotiate in a good faith and reasonable manner to reach agreement. The joint determination shall be made within ninety (90) days after the initiation of negotiation. If the joint determination is not made within that time, either Party may start Dispute Resolution under Section 4.3. Either party may start Dispute Resolution earlier if circumstances require a shorter time to make a joint determination in order to prevent or mitigate significant damage to or loss of the Property.

3.2.2 In any portion of the Property where Trail Development has commenced but there is no Transportation Use, Grantee shall be responsible for performing and paying for all Custodial Activities.

3.2.3 In any portion of the Property where Trail Development has commenced and there is Transportation Use, Grantee shall be responsible for performing and paying for all Custodial Activities inside the Trail Area, inside any Trail-Side Area, and inside any portion of the Property used by Grantee under Section 2.1.5 of this Easement. Grantor or the TPO undertaking Transportation Use shall be responsible for performing and paying for all Custodial Activities on the remainder of such Property.

3.2.4 In any portion of the Property where there is Transportation Use but Trail Development has not commenced, Grantor or the TPO undertaking Transportation Use shall be responsible for performing and paying for all Custodial Activities.

3.3 Cost Allocation Framework to be Implemented by Contract

Grantor and Grantee shall separately contract to implement the cost allocation framework set forth in Section 3.2, and such contract may be revised from time to time as the Parties may agree.

3.4 Custodial Activities Following Termination of Transportation Use

If and when Transportation Use is terminated on a segment of the Property consistent with Section 3.1.2 of this Easement, then Grantee shall resume performing Custodial Activities for such segment if requested to do so by Grantor in writing or if Grantee elects do so in written notice to Grantor.

3.5 The Property shall be subject to the Railbanking Obligations. In the event Grantee determines that it is no longer reasonably practicable to carry out Railbanking Obligation because of actions taken by Grantor or any other entity using or claiming ownership of the Property, then Grantee, after unsuccessfully engaging in the dispute resolution process pursuant to Sections 4.3.1 and 4.3.2, may notify the STB that Grantee will no longer serve as the Interim Trail User for all or a portion of the Property, and request that Grantee's Railbanking Obligations be extinguished as to the identified land pursuant to the Railbanking Legislation. If Grantee seeks extinguishment of its Railbanking Obligations

as to all or a portion of the Property, Grantee shall, if requested by Grantor, cooperate to transfer, as to the identified land, its Interim Trail User status and its interest in this Easement to a replacement Interim Trail User. As to any portion of the Property for which Railbanking Obligations are terminated, Grantor or a replacement Interim Trail User may acquire from Grantee its Easement rights in exchange for an amount equal to a pro rata share of the County's payment $1,903,000 to the Port for the Easement, plus compounded annual interest on that amount from the date of the grant of this Easement at a rate equal to three percent per annum.

3.6 The Parties recognize and agree that a portion of the Property between milepost 10.6 and 11.25 ("Wilburton Segment") has not been subject to Interim Trail Use and the Railbanking Obligations, but rather was abandoned with the approval of the STB prior to Grantor's acquisition of the Property. The Wilburton Segment is a critical link in the maintenance of the remainder of the Property in compliance with the Railbanking Obligations. Therefore, the Wilburton Segment is subject to the terms of this Easement and shall be deemed to be and treated under this Easement as if it was subject to Interim Trail Use and the Railbanking Obligations, including specifically, but without limitation, the requirement to keep ownership of the Wilburton Segment intact and available with the remainder of the Property for reactivated interstate freight rail service.

4. Other Terms and Conditions.

4.1. Reactivation of Interstate Rail Service Under the Railbanking Legislation

4.1.1 Grantor and Grantee understand, acknowledge and agree that if the STB receives a request to use all or any portion of the Property for federally regulated interstate freight rail service, then Grantor and Grantee may each be required to, and will if so required, make available some or all of their respective interests in the Property to accommodate reactivated freight rail service.

4.1.2 Grantor and Grantee agree that if the STB receives a request for approval to use the Property for reactivated freight rail service, then Grantor and Grantee will cooperate in order to cause the party making such request, including Grantor or Grantee if either makes the request, (a) to bear all costs to restore or improve the Property for reactivated freight rail service; (b) to bear responsibility to take all steps necessary before the STB and any other regulatory agency, governmental or quasi-governmental body having jurisdiction over such work, to cause the relevant NITU to be vacated; and (c) to compensate Grantor and Grantee for the fair market value of any and all of their respective rights or interests in the Property, or in improvements thereon that may be destroyed, lost, compromised, or otherwise reduced in value or function when the Property or any portion of it is put to use for reactivated freight rail service.

4.1.3 Grantor will indemnify, hold harmless, and defend Grantee, its officers, employees, agents and contractors from all costs or liability arising out of or relating to Grantor's failure to make available its interests in the Property to accommodate reactivated freight rail service in compliance with the Railbanking Obligations.

4.1.4 Grantee will indemnify, hold harmless, and defend Grantor, its officers, employees, agents and contractors from all costs or liability arising out of or relating to Grantee's failure to make available its interests in the Property to accommodate reactivated freight rail service in compliance with the Railbanking Obligations.

4.2 Insurance, Indemnification, and Hazardous Substances

4.2.1 Grantee As Additional Insured for Transportation Use

Grantor shall require any entity utilizing the Property for Transportation Uses to name Grantee as an additional insured on any insurance policy maintained by the entity or required under the applicable TPO Agreement.

4.2.2 Indemnification by Grantor

Without in any way limiting the provisions of Section 4.2.5, and subject to the provisions of Subsection of 4.2.3.1, Grantor will indemnify, hold harmless, and defend Grantee, its officers, employees, agents and contractors from all liability arising out of or relating to the transfer, condition, use, possession, management, operation, or control of the Property, including without limitation public access, the Custodial Activities, Transportation Uses, and challenges to Grantor's authority to acquire or own the Property.

4.2.3 Indemnification by Grantee

4.2.3.1 Without in any way limiting the provisions of Section 4.2.5, Grantee will indemnify, hold harmless and defend Grantor, its officers, employees, agents and contractors from all liability arising out of or relating to Grantee's, its officers, employees, agents or contractors' negligence in the exercise of Grantee's rights and obligations under this Easement.

4.2.3.2 Grantee agrees to defend, indemnify and hold Grantor harmless from any and all claims, causes of action, regulatory demands, changes in permits and/or regulatory requirements for the Property, liabilities, fines, penalties, losses, costs and expenses (including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from stormwater discharges caused by Grantee's exercise of its Trail rights and obligations on the Property under Section 2.1 of this Easement.

4.2.4 Indemnification for Transportation Use

Grantor shall require any entity utilizing the Property for rail-based or fixed guideway Transportation Uses to indemnify, hold harmless and defend Grantee from any and all obligations imposed by Railroad Unemployment Insurance Act (45 U.S.C.A. § 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), common carrier obligations pursuant to 49 U.S.C. Sec. 10101 et. seq., and any Federal rail safety legislation, that arise from such Transportation Use of the Property.

4.2.5 Hazardous Substances

4.2.5.1 The Parties are acquiring their respective interests in the Property through the Acquisition Agreements. Section 6 and 7 of the Acquisition Agreements spells out the obligations of BNSF, Grantor and Grantee with regard to Hazardous Substances and Environmental Laws. These Sections are also included within the Deed for the Property. Section 7(e) says that the Section 7 obligations running from BNSF to Grantor and Grantee, and the Section 7 rights running to BNSF from Grantor and Grantee, will be allocated as between Grantor and Grantee in the manner separately agreed to by Grantor and Grantee. The liability for Hazardous Substances generally and the allocation as between the Grantor and Grantee referenced in Section 7 shall be as follows:

4.2.5.2 Grantor shall be responsible for the Remediation of, and shall indemnify, defend and hold harmless Grantee, its officers, employees, agents and contractors from all liability arising out of the discovery of Hazardous Substances released on the Property before or after Closing, and the Grantor shall be entitled to all rights running from BNSF under Section 7 and shall be subject to all obligations running to BNSF under Section 7, except that:

(a) Grantee shall be responsible for the Remediation of, and shall indemnify, defend and hold harmless Grantor, its officers, employees, agents or contractors from all liability arising out of Hazardous Substances released on the Property by the Grantee, its officers, employees, agents or contractors after Closing, and

(b) Grantee shall be responsible for the Remediation of, and shall indemnify, defend and hold harmless Grantor, its officers, employees, agents and contractors, from all liability arising out of Hazardous Substances released after Closing by third parties within the Trail Area related to the development, operation, maintenance or use of the Trail; and

(c) Grantee shall be entitled to the rights running from BNSF under Section 7 and shall be subject to the obligations running to BNSF under Section 7 to the extent that the Hazardous Substances at issue are discovered within the Trail Area as a result of Grantee's Trail Development on the Property, in which case the Grantee shall be entitled to the pro rata share of any costs paid by BNSF to Remediate such Hazardous Substances within the Trail Area, and shall be responsible for carrying out and bearing the costs of Remediation of such Hazardous Substances within the Trail Area.

4.2.5.3 In the event Hazardous Substances are discovered on the Property, Grantor and Grantee shall promptly give notice to the other Party of such discovery and shall in good faith cooperate with one another to carry out the terms of this Agreement. Each Party shall have the right to enforce directly against BNSF the terms of the Acquisition Agreements relating to Hazardous Substances. To the extent that both Parties seek to enforce those terms, the Grantor and Grantee shall also in good faith cooperate with one another to do so.

4.2.5.4 In the event a dispute arises between the Grantor and Grantee as to the allocation of rights and obligations between each other relating to Section 7 of the Acquisition Agreements and Grantor and Grantee are also in a dispute with BNSF under Section 7, or in the event a dispute arises between Grantee and the Grantor only as to Hazardous Substances under this Easement, but does not involve Section 7 of the Acquisition Agreements, then in either case Grantor and Grantee as between each other shall be bound to resolve the dispute through the Arbitration provisions of Section 10.4 of the Acquisition Agreements.

4.2.6 Each party agrees that its obligations under this Section 4.2 extend to any claim, demand, and/or cause of action brought by or on behalf of any employees, or agents. For this purpose, each party, by mutual negotiation, hereby waives, with respect to the other party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the other party.

4.3 Dispute Resolution

Any claim, dispute or other matter in question arising out of or related to this Easement, including any inability of Grantor and Grantee to make joint determinations called for by this Agreement ("Disputes") shall be exclusively subject to the following alternative dispute resolution procedure as a condition precedent to the institution of legal or equitable proceedings by either party. This requirement cannot be waived except by an explicit written waiver signed by the Parties.

4.3.1 Informal Process

The Parties shall negotiate in good faith and use their best efforts to resolve any Disputes that may develop under this Agreement. The Port's Chief Executive Officer (or his/her designee) and the King County Executive (or his/her designee) along with any staff or technical persons any of the Parties desire, shall meet within seven (7) days after written request from either party and attempt to resolve a Dispute. The Parties may agree to extend the time provided for in this Section for an additional seven (7) days.

4.3.2 Mediation

If a Dispute is not resolved under the procedure set forth in Section 4.3.1, or within such additional time as the Parties mutually agree, then the Parties shall endeavor to resolve a Dispute by mediation with a mediator agreed to by the Parties. A Party shall submit a request for mediation in writing to the other Party. Mediation shall proceed in advance of legal or equitable proceedings. Any contractual or statutory deadlines, including without limitation statutes of limitation, shall be tolled pending mediation for a period of 60 (sixty) days from the date of the mediation request, unless tolled for a longer period by agreement of the parties. Final authority for settlement may be subject to the approval of the Parties' respective legislative bodies.

4.3.3 Right to Litigate Contingent on Prior Effort to Mediate

The Parties shall not commence litigation on a Dispute unless the Dispute has been properly raised and considered in the above mediation procedure. The Parties shall share equally in the costs of the mediation. Any mediation under this Agreement shall be held in King County, Washington. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

4.3.4 Immediate Action

If Grantee or Grantor reasonably determine that circumstances require immediate action to prevent or mitigate significant damage to or loss of the Property, then such Party may pursue any immediate remedy available at law or in equity without having to follow these alternative dispute resolution procedures in this Section, and then pursue such alternative dispute resolution procedures.

4.3.5 Matters Not Subject to Alternative Dispute Resolution

This Section on alternative dispute resolution procedures shall not apply to any dispute between the Parties that also relates to a dispute with BNSF or any dispute between the Parties concerning Hazardous Substances. This Section on alternative dispute resolution shall also only apply to Disputes between the original Grantor and Grantee, and not to their respective heirs, legal representatives, successors and assigns, or TPOs, unless such parties to a Dispute agree to alternative dispute resolution, except that this Section will apply to any Disputes between Grantor and Grantee and their respective heirs, legal representatives, successors and assigns or TPOs (if applicable) related to Sections 2.1.1, 2.2.2, 2.2.3 and 3.2.1.

4.3.6 In addition to the specific remedies set forth in this Easement, and except for the limitations on remedies for Hazardous Substances set forth in Section 4.2.5 of this Easement, Grantor and Grantee, following the alternative dispute resolution procedure called for herein, shall be entitled to all remedies in law or equity. Further, should the Grantor and Grantee be unable to make any joint determination called for by this Agreement and be unable to resolve the Dispute through the alternative dispute resolution procedure called for herein, then Grantor and Grantee agree that a Court shall have the authority to decide the terms of the joint determination in question.

4.4 Litigation Regarding Title; Encroachments

4.4.1 Grantor makes no warranty of title as to the Property or the Easement. If Grantor or Grantee receives any written document or lawsuit challenging or questioning Grantor's title to any portion of the Property, then within ten (10) business days of receipt the receiving Party shall transmit to the other Party a copy of such document. Grantor and

Grantee shall in good faith cooperate and confer with one another as to the appropriate response to any such challenge in order to carry out the Parties' intended uses of the Property as expressed in the Easement.

4.4.2 Should either Party identify an unauthorized encroachment on the Property, such party shall reasonably promptly notify the other in writing, and the Parties shall in good faith cooperate and confer with one another as to the appropriate action to take with regard to the encroachment in order to carry out the Parties' intended uses of the Property as expressed in the Easement.

4.5 Taxes

4.5.1 Grantee shall be solely responsible to pay on a current basis any taxes and assessments related to the Property, if any, including without limitation real property ad valorem taxes, special benefit assessments and other governmental impositions (collectively "Taxes") that may apply to its interests in the Property, its activities upon the Property, or its improvements to the Property, including all stormwater management fees assessed by any jurisdiction in which the Trail Area is located that are triggered by or arising from Grantee's exercise of its Trail rights and obligations on the Property under Section 2.1 of this Easement. Grantor shall be solely responsible to pay on a current basis any Taxes that may apply to its activities upon the Property, or its improvements to the Property, and to require any third party with an interest in the Property or any TPO to pay on a current basis any Taxes that may apply to their respective interests in the Property, activities upon the Property, or improvements to the Property. Nothing contained herein shall modify the Parties' respective rights to contest any such Tax, and neither party shall be deemed to be in default as long as it shall, in good faith, be contesting the validity or amount of any such Taxes.

4.6 Effect of Easement; Assignment

This Easement creates a servitude running with the land that comprises the Property. It conveys an easement that is appurtenant to, for the benefit of, and shall run with Grantee's regional system of trails and parks and all real property and real property interests now owned or hereafter acquired for park or trail purposes by Grantee and its heirs, legal representatives, successors and assigns. The terms and conditions contained in this Easement shall also be deemed covenants running with the land that comprises the Property, and shall bind the Grantor, and its heirs, legal representatives, successors and assigns. The terms "Grantor" and "Grantee" are expressly defined to mean the Port of Seattle and King County, respectively, and their respective heirs, legal representatives, successors and assigns. Grantee may assign its rights in this Easement to another entity so long as such entity is approved by the STB as a replacement Interim Trail User and assumes all Railbanking Obligations associated therewith, and so long as such entity is approved by Grantor, which approval shall not be unreasonably withheld, conditioned or delayed.

4.7 Headings

The headings in this Easement are for convenience only and shall not be deemed to expand, limit, or otherwise affect the substantive terms of the Easement rights and the covenant obligations that it embodies.

4.8 Neutral Authorship

Each party has been represented by counsel in connection with the negotiation, execution and delivery of this Easement. Each of the provisions of this Easement has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Easement in favor of or against the party preparing the same will apply in connection with the construction or interpretation of any of the provisions of this Easement.

4.9 Governing Law; Jurisdiction and Venue; Attorneys' Fees

The laws of the State of Washington shall govern the interpretation and enforcement of this Easement. The parties agree that the Superior Court in King County, Washington, shall be the sole and exclusive venue for any action or legal proceeding for an alleged breach of any of the terms and conditions set forth herein, or to enforce, protect, determine or establish any term, covenant or provision of this Easement or the rights hereunder of either party; and the parties hereby agree to submit to the personal jurisdiction of said court. If either party brings such an action or legal proceeding, the prevailing party shall be entitled to recover from the non-prevailing party, as part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, expert witness fees and court costs, including those incurred upon appeal, as may be fixed by the court.

4.10 Severability

If any provision of this Easement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable unless striking such provision materially alters the intention of the parties. If a court finds that any provision of this Easement is invalid or unenforceable, but that by limiting such provisions it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

4.11 Non-Waiver

The failure of either party to enforce any provision of this Easement shall not be construed as a waiver or limitation of that party's right subsequently to enforce and compel strict compliance with every provision of this Easement.

4.12 Entire Agreement; Relation to Master Agreement and Acquisition Agreements

This Easement, the Acquisition Agreements and the Interlocal set forth the entire agreement between the Parties with respect to the subject matter hereof, and are intended by the Parties to be read in harmony with one another. There are no understandings or agreements between the parties respecting the subject matter hereof, written or oral, other than as set forth in those documents. If, however, there is any conflict between this Easement and the Interlocal, or between this Easement and the Acquisition Agreements, then the terms of this Easement shall control. This Easement may be amended by the mutual written agreement of the Parties.

IN WITNESS WHEREOF, the said Grantor and Grantee have signed this 18 day of December 2009.

GRANTOR

PORT OF SEATTLE
Approved as to Form:

By _____
Deputy General Counsel

By _____
Tay Yoshitani
Chief Executive Officer

KING COUNTY
Approved as to Form:

By _____
Senior Deputy Prosecuting Attorney

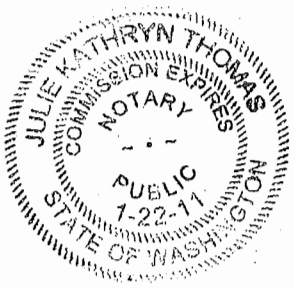
By _____
Dow Constantine
King County Executive

ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 17 day of December, 2009, before me personally appeared Tay Yoshitani, to me known to be the Chief Executive Officer of the Port of Seattle, a entity that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of said Port of Seattle for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of the Port of Seattle.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



Julie Kathryn Thomas
Printed Name Julie Kathryn Thomas
NOTARY PUBLIC in and for the State of Washington, residing at Bothell, Wa
My commission Expires 1-22-11

ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 17th day of December, 2009, before me personally appeared Dow Constantine, to me known to be the King County Executive, an entity that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of said King County for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument on behalf of King County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

MARC A. DAVIES
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
MARCH 03, 2010

Marc A. Davies
Printed Name
NOTARY PUBLIC in and for the State of Washington, residing at Kirkland, WA
My commission Expires 3/03/10

EXHIBIT 1

LEGAL DESCRIPTION FOR THE PROPERTY

Washington Branch Line

12/16/09

All that portion of BNSF Railway Company's (formerly Northern Pacific Railway Company) Woodinville (MP 23.8) to Kennydale (MP 5.0), Washington Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed upon, over and across King County, Washington, more particularly described as follows, to-wit:

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across that portion of the N½SE¼ of Section 9, Township 26 North, Range 5 East, W. M., King County, Washington lying Southerly of the Southwesterly boundary of that certain 100 foot wide tract of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Volume 41 of Deeds, Page 385, records of said County; also,

That certain 4.02 acre tract of land described in deed dated November 13, 1903 from Emanuel Neilsen and Grete Neilsen to Northern Pacific Railway Company recorded November 16, 1903 in Volume 358 of Deeds, Page 543, records of King County, Washington, said 4.02 acre tract being described in said deed for reference as follows:

"A strip of land over and across the south half of the southeast quarter (S/2 of SE/4) of Section nine, Township twenty-six (26) north, Range five (5) east, W.M., consisting of a strip of land one hundred ten (110) feet wide, being fifty (50) feet wide on the southwesterly side of the center line of the proposed Seattle Belt line railroad of the Northern Pacific Railway Company, as the same is surveyed and staked out across said premises, and sixty (60) feet in width on the northeasterly side of said center line; and an additional strip of land twenty (20) feet in width on the northeasterly side of said above described strip from Station 29 of said railroad center line extending to the south line of said Section 9, a distance of 580 feet, said additional strip being 20 feet wide and 580 feet long; containing 4.02 acres, more or less." EXCEPTING THEREFROM, All that portion of the Southwesterly 35.0 feet of Parcels "A" and "B" of Boundary Line Adjustment Number S92L0145R, King County, Washington, according to the recorded plat thereof.

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and

across the NE¼ Section 16, and the W½ Section 15, all in Township 26 North, Range 5 East, W. M., bounded on the North by the North line of said NE¼ Section 16, and bounded on the South by South line of said W½ Section 15; also,

That portion of that certain 50.0 foot wide Branch Line right of way, being 25.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the NE¼NE¼NW¼ and the NW¼NW¼NE¼ Section 22, Township 26 North, Range 5 East, W. M., bounded on the North by the North line of said Section 22, and bounded on the South by South line of said NW¼NW¼NE¼ Section 22; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the E½ Section 22, the NW¼NE¼ and the NE¼NW¼ Section 27, all in Township 26 North, Range 5 East, W. M., bounded on the North by the North line of said E½ Section 22, and bounded on the South by South line of said NE¼NW¼ Section 27; also,

That certain 4.43 acre tract of land described in deed dated April 3, 1903 from Nellie Nelson to Northern Pacific Railway Company recorded April 3, 1903 in Book 342 of Deeds, Page 371, records of King County, Washington, said 4.43 acre tract being described in said deed for record as follows:

"All that portion of the Southeast Quarter (S.E. 1/4) of the Northwest Quarter (N.W. 1/4) of Section 27, Township 26 North, Range 5 East, lying between the easterly line of the present right of way of the Northern Pacific Railway Company, which line is 50 feet distant southeasterly from the center line of the railroad track of said company, as now located and constructed over and across said premises and a line drawn parallel to and 50 feet distant southeasterly from, when measured at right angles to the center line of the proposed railroad track as now staked out and to be constructed, over and across said premises;

"Also all that portion of said Southeast Quarter (S.E. 1/4) of the Northwest Quarter (N.W. 1/4) of Section 27, Township 26, lying within 50 feet of that certain straight line which connects the center line of the present track of the Northern Pacific Railway Company line with the center line of the proposed track of the Northern Pacific Railway Company line and being tangent to the curves of both of said center lines, containing in all 4.43 acres, be the same more or less." **EXCEPTING THEREFROM**, Lot 3, King County Short Plat Number 1078060, recorded under King County Recording Number 8003270855, being a subdivision of: That portion of the southeast quarter of the northwest quarter of Section 27, Township 26 North, Range 5 East, W.M., King County, Washington, lying northerly and westerly of the northerly and westerly right of way of the Northern Pacific Railway Company's "Seattle Belt Line", and south of the southerly right of way line of that road conveyed to King County by deed recorded under Recording Number 2695175 and northeasterly of a line described as follows: Beginning at the northwest corner of the southeast quarter of the northwest quarter of said Section 27; thence south 1°58'24" west along the west line of the southeast quarter of the northwest quarter of said Section 27, a distance of 265 feet; thence

north 65°33'39" east 444.80 feet to the true point of beginning of the following described line; thence south 18°15'21" east, 640 feet, more or less, to the northerly right of way line of said Northern Pacific Railway Company's "Seattle Belt Line", said northerly right of way line being 50' Northeast of the center line of the maintrack as now constructed and the terminus of said line.; also,

That certain 0.05 acre tract of land described in deed dated August 25, 1904 from Otto Weppler et al. to Northern Pacific Railway Company recorded September 7, 1904 in Book 375, Page 507, records of King County, Washington, said 0.05 acre tract being described in said deed for reference as follows:

"All that piece or parcel of land in the southeast quarter of the northwest quarter (SE/4 of NW/4) of Section twenty-seven (27), Township twenty-six (26), Range five (5) east, W. M. which lies northwesterly of the original Seattle Belt Line right of way as described in deed recorded in Volume 116 of Deeds, Page 289, Records of King County, and within fifty (50) feet of the center line of the revised location of the track of the Seattle Belt Line as the same is now surveyed and being constructed over and across said subdivision, containing 5/100 acres, more or less."; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the SW¼NW¼ Section 27 the S½NE¼, NW¼SE¼, SW¼ Section 28, W½NW¼, NW¼SW¼ Section 33, SE¼ Section 32, all in Township 26 North, Range 5 East, W. M., bounded on the East by the East line of said SW¼NW¼ Section 27, and bounded on the South by South line of said SE¼ Section 32, **EXCEPTING THEREFROM,** that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260805, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 30, 1998 as Document No. 9807301468, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260791, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Correction Quitclaim Deed dated January 6, 2000 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded February 11, 2000 as Document No. 20000211000454, records of King County, Washington, ; also,

That portion of that certain 100.0 foot wide Branch Line right of way in the City of Kirkland, Washington, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across Blocks 3, 4, 5, 6, 11, 12, 13, 14, 18, 19, 23, 24, 25 and 26, the vacated alley between Blocks 13 and 14, and vacated Arlington Avenue between Blocks 14 and 19, as said Blocks and Streets are shown on plat of Lake Avenue

Addition to Kirkland as recorded in Volume 6 of Plats, Page 86, Records of said County, together with any right title and interest, if any to those portions of Victoria Avenue, Harrison Avenue, Moreton Avenue; Jefferson Avenue, and Washington Avenue and Maple Street and alleys within said Blocks which lie within said 100.0 foot wide Branch Line right of way, **EXCEPTING THEREFROM,** that portion of Lot 3, Block 5, Lake Avenue Addition to Kirkland, according to the official plat thereof in the office of the Auditor of King County, Washington lying between two lines drawn parallel with and distant, respectively, 34.0 feet and 50.0 feet Westerly of, as measured at right angles from The Burlington Northern and Santa Fe Railway Company's (formerly Northern Pacific Railway) Main Track centerline as now located and constructed upon, over, and across said Block 5; also,

That portion of that certain 100.0 foot wide Branch Line right of way in the City of Kirkland, Washington, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across Blocks 220, 223, 224, 232, 233, 238, and 241 as said Blocks are shown on the Supplementary Plat to Kirkland as filed in Volume 8 of King County Plats, at page 5, together with any right title and interest, if any to those portions of Massachusetts Avenue, Madison Avenue, Michigan Avenue, Olympia Avenue, Piccadilly Avenue, Cascade Avenue, Clarkson Avenue, Fir Street, and alleys within said Blocks which lie within said 100.0 foot wide Branch Line right of way; also,

That portion of Lots 1, 2, 4, 37, and all of Lots 3, 38, and 39, Block 227 as said Lots and Blocks are shown on the Supplementary Plat to Kirkland as filed in Volume 8 of King County Plats, at page 5, which lie Northeasterly of a line parallel with and distant 50 feet Southwesterly from, measured at right angles to said Railway Company's Main Track centerline as now located and constructed and Southwesterly of a line parallel with and distant 50 feet Northeasterly from, measured at right angles to said Railway Company's Main Track centerline as originally located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the, S½SE¼ Section 5, NW¼NE¼, E½NW¼, E½SW¼, Section 8, all in Township 25 North, Range 5 East, W. M., bounded on the North by the South right of way line of Clarkson Avenue, City of Kirkland, Washington, and bounded on the West by the West line of said E½SW¼, Section 8, **EXCEPTING THEREFROM,** that certain tract of land described in Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260787, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Correction Quitclaim Deed dated May 15, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded August 5, 1999 as Document No. 19990805001402, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC

recorded July 28, 1998 as Document No. 9807281544, records of King County, Washington, also;

That certain 0.23 acre tract of land described in deed dated July 15, 1903 from Samuel F. French to Northern Pacific Railway Company recorded August 8, 1903 in Book 361 of Deeds, Page 249, records of King County, Washington, said 0.23 acre tract being described in said deed for reference as follows:

"Commencing at a point in the east line of Lot four (4), Section eight (8), Township twenty-five (25) North, Range five (5) east, W.M., that is 395 feet north of the southeast corner of said lot, and running thence west parallel with the south line of said Lot four (4) 67 feet, more or less, to a point that is 50 feet distant from, when measured at right angles to, the center line of the proposed Seattle Belt Line Branch of the Northern Pacific Railway Company as the same is now located, staked out and to be constructed across said Section eight (8); thence running northeasterly parallel with said railway center line 200 feet; thence westerly at right angles to said railway center line 30 feet; thence northeasterly parallel with said railway center line, and 80 feet distant therefrom, 130 feet, more or less, to the east line of said Lot four (4); thence south along said east line of said Lot four (4) 322 feet, more or less, to the point of beginning; containing 0.23 acres, more or less."; also,

That certain strip of land described in deed dated March 3, 1904 from Seattle and Shanghai Investment Company to Northern Pacific Railway Company recorded March 9, 1904 in Book 387, Page 243, records of King County, Washington, said strip being described in said deed for reference as follows:

"A strip of land Two Hundred twenty-five (225) feet in width across that certain parcel of land designated as Tract "B" in deed from the Kirkland Land and Improvement Company to H. A. Noble, dated July 13, 1899 of record in the Auditor's office of King County, Washington in Volume 245 of Deeds, at page 41, reference thereto being had. Said strip of land hereby conveyed, having for its boundaries two lines that are parallel with and respectively distant One Hundred (100) feet easterly from, and One Hundred Twenty-Five (125) feet westerly from, when measured at right angles to, the center line of the Seattle Belt Line branch of the NORTHERN PACIFIC RAILWAY COMPANY, as the same is now constructed and located across said Tract "B", which said Tract "B" is located in Section 17 of Township 25, North of Range 5 east of the Willamette Meridian"; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across Government Lot 4, Section 8, Government Lots 1, 2, and 3, the E½SW¼ Section 17, and the NE¼NW¼, NE¼ Section 20, all in Township 25 North, Range 5 East, W. M., bounded on the North by the South line of that certain hereinabove described 0.23 acre tract of land described in deed dated July 15, 1903 from Samuel F. French to Northern Pacific Railway Company recorded August 8, 1903 in Book 361 of Deeds, Page 249, records of King County, Washington and the East line of said Government Lot 4, Section 8, and

bounded on the South by the South line of said NE¼ Section 20, together with such additional widths as may be necessary to catch the slope of the fill in the N½ of said Government Lot 2, Section 17 as delineated in the 7th described parcel in deed dated June 20, 1903 from Kirkland Land and Improvement Company to Northern Pacific Railway Company recorded June 26, 1903 in Book 352, Page 582, records of King County, Washington. **EXCEPTING THEREFROM**, that portion of said 100.0 foot wide right of way lying within said hereinabove described parcel of land designated as Tract "B" in deed from the Kirkland Land and Improvement Company to H. A. Noble, dated July 13, 1899 of record in the Auditor's office of King County, Washington in Volume 245 of Deeds, at page 41,; also,

That certain tract of land described in deed dated December 26, 1952 from Alma F. Robinson and William G. Robinson et al. to Northern Pacific Railway Company recorded January 14, 1953 in Book 3220 of Deeds, Page 301, in the records of the Auditor's office of King County, Washington, said tract of land being described in said deed for reference as follows:

"That portion of the south half of the northeast quarter (S½NE¼) of Section 20, Township 25 North, Range 5 East of the Willamette Meridian, described as follows: Commencing at the center of said section; thence north 0 degrees 18 minutes 24 seconds west along the north and south quarter line of said section 738.60 feet to the center of the county road; thence along said road south 77 degrees 7 minutes east 500.00 feet; thence south 71 degrees 54 minutes east 308.27 feet, more or less; thence north 34 degrees 38 minutes east 18.00 feet to a stake in the north margin of said road; thence north 34 degrees 38 minutes east 609.40 feet, more or less, to the southwesterly margin of the Grantee's right of way, said margin being concentric with and distant 50 feet southwesterly, measured radially, from the center line of the main track of the Grantee's Belt Line as now constructed; thence southeasterly along said margin approximately 150 feet to a point distant 50 feet southwesterly, measured along the radius of the curve of said center line, from station 511 plus 50 in said center line (which station is distant 2337.6 feet southeasterly measured along said center line, from the north line of said section), the last-described point being the true point of beginning; thence southeasterly and southerly along said margin to a point distant 50 feet westerly, measured along the radius of said curve, from station 515 plus 60 in said center line; thence northwesterly in a straight line to a point distant 110 feet southwesterly measured along the radius of said curve, from station 514 plus 28 in said center line; thence northwesterly in a straight line to a point distant 110 feet southwesterly, measured along the radius of said curve, from station 513 plus 28 in said center line; thence northerly in a straight line to the true point of beginning.", also,

That portion of that certain 100.0 foot wide Branch Line right of way at said Railway Company's Northrup Station, being 50.0 feet on each side of said Branch Line's Main Track centerline, as originally located and constructed, upon, over and across Blocks 12, 13, 14, 15, 16, 21, 22, 23 and 24, all within Kirkland Syndicate First Addition to Seattle, together with any right title and interest, if any to those portions of Maple Street, Nelson Street,

Bixby Street, Kirkland Avenue, Hawks Avenue and Fransen Avenue which lie within said 100.0 foot wide Branch Line right of way; also,

Those portion of Lots 10, 11, and 12, Block 14, Lots 1, 2, 3, and 4, Block 23 and Lot 10, Block 24, all within Kirkland Syndicate First Addition to Seattle, lying Southwesterly of a line parallel with and distant 50 feet Southwesterly from, measured at right angles to said Railway Company's Main Track centerline as originally located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Railway Company's Main Track centerline, as originally located and constructed, upon, over and across the SE¼SE¼ Section 20, and the SW¼SW¼ Section 21, all in Township 25 North, Range 5 East, W. M., bounded on the North by the North line of said SE¼SE¼ Section 20, and bounded on the South by the South line of said SW¼SW¼ Section 21, together with any right title and interest, if any to those portions of Fransen Avenue, Jordan Avenue, Elkoos Avenue, and Railroad Avenue, which lie within said 100.0 foot wide Branch Line right of way; also,

That portion of Block 7, of Kirkland Syndicate's Second Addition to Kirkland Washington, situate in the SE¼SE¼ Section 20, and that portion of said Railway Company's property situate in the SW¼SW¼ Section 21, and in the NW¼NW¼ Section 28, all in Township 25 North, Range 5 East, W. M., lying Easterly of a line parallel with and distant 50.0 feet Westerly from, measured at right angles and/or radially to said Railway Company's Main Track centerline as now located and constructed and Westerly of a line parallel with and distant 50.0 feet Westerly from, measured at right angles to said Railway Company's Main Track centerline as originally located and constructed, bounded on the West by the West line of said Block 7 and its Northerly prolongation, and bounded on the South by the intersection of said parallel lines, together with any right, title and interest, if any, to Houghton Street and Railroad Avenue of Kirkland Syndicate's Second Addition to Kirkland Washington; also,

That certain 0.63 acre tract of land described in deed dated November 13, 1904 from Nathan P. Dodge Et Ux. to the Northern Pacific Railway Company recorded February 9, 1905 in Volume 408 of Deeds, Page 263, records of King County, Washington, said 0.63 acre being described in said deed for reference as follows:

"That part of southwest quarter of southwest quarter (SW/4 of SW/4), Section twenty-one (21), Township twenty-five (25) north, Range five (5) east, W. M., described by metes and bounds as follows:

"Beginning at a point in the south line of said Section twenty-one (21) fifty (50) feet east from, when measured at right angles to, the original right of way of Seattle Belt Line Branch of the Northern Pacific Railway Company, as conveyed by deed executed by Roscoe Dunn and Ann Dunn his wife, dated Oct. 4th, 1890 and recorded Dec. 4th, 1890 in volume 116 of deeds, page 114, and running thence north 8° 40' west parallel with and 50 feet distant

easterly from said original right of way line a distance of 270 feet to a point of curve; thence northwesterly along a curve to the left having a radius of 716.8 feet, a distance of 492.7 feet; thence north 48° 5' west a distance of 135 feet more or less, to a point on the said easterly line of the original right of way of said railway; thence southeasterly along said original easterly right of way line on a curve to the right having a radius of 859 feet, a distance of 591 feet; thence continuing along said easterly right of way line south 8° 40' east, a distance of 260 feet, more or less, to an intersection of said right of way line with the southern boundary line of said section 21; thence east 50.5 feet, more or less, to point of beginning, containing 0.63 acres, more or less, situated in the County of King, State of Washington."; also,

That certain strip of land described in deed dated August 3, 1904 from John Zwiefelhofer and Aloisia Zwiefelhofer to Northern Pacific Railway Company recorded August 6, 1904 in Book 404 of Deeds, Page 44, records of King County, Washington, said strip of land being described in said deed for reference as follows:

"A strip of land fifty (50) feet wide lying immediately east of the right of way of said Railway Company and extending South from the North line of Section 28, Township 25 North Range 5 East a distance of Six Hundred feet (600) and containing 0.69 acres in the Northwest Quarter of the Northwest quarter (NW¼NW¼) of Section 28 Tp 25 N R 5 E WM.", **EXCEPTING THEREFROM,** that portion of said 50 foot wide strip lying Northerly of a line parallel to and 400.0 feet Southerly of the North line of said NW¼NW¼ of Section 28 ; also,

Parcel 3, of City of Bellevue Short Plat No. 80-16, according to the Short Plat recorded under King County Recording No. 8101239001, **EXCEPTING THEREFROM,** that certain tract of land described in deed dated December 13, 1996 from Burlington Northern Railroad Company to Fibres International, recorded December 13, 1996 as Document No. 9612130870, records of King County, Washington; also,

Tract B, of City of Bellevue Short Plat No. 80-16, according to the Short Plat recorded under King County Recording No. 8101239001; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Railway Company's Main Track centerline, as now located and constructed, upon, over and across the W½W½ Section 28, W½NW¼ Section 33, all in Township 25 North, Range 5 East, W. M., bounded on the North by the North line of said W½W½ Section 28, and bounded on the South by the South line of said W½NW¼ Section 33, **EXCEPTING THEREFROM,** that portion of said 100.0 foot wide right of way lying Easterly of a line parallel with and distant 35 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline as now located and constructed and Northerly of a line parallel to and 400.0 feet Southerly of the North line of said NW¼NW¼ of Section 28, **ALSO EXCEPTING THEREFROM,** that portion of said 100 foot wide Branch Line right of way lying within that certain tract of land described in Special

Warranty Deed dated June 29, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 2000 as Document No. 20000522001155, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805221787, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Correction Special Warranty Deed dated June 8, 2001 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded January 3, 2003 as Document No. 20030103001327, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Correction Special Warranty Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded December 28, 1998 as Document No. 9812282942, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Correction Special Warranty Deed dated March 17, 2000 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded October 4, 2000 as Document No. 20001004000767, records of King County, Washington, , also;

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Lots 1, 2, 3, 4 and 8 of Strawberry Lawn, King County Washington, recorded in Volume 4 of Plats, page 30½, King County, Washington recorder, together with such additional widths as are necessary to catch the slopes of the cuts and fills of the roadbed of said Railway in said Lots 1 and 8 of Strawberry Lawn, King County Washington, as delineated in deed dated August 31, 1903 from Henry Hewitt, Jr. and Rocena L. Hewitt to the Northern Pacific Railway Company, **EXCEPTING THEREFROM,** that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 1998 as Document No. 9805260792, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in Deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 28, 1998 as Document No. 9807281537, records of King County, Washington, also;

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the W½ Section 4, Government Lots 1 and 4, E½W½ Section 9, Government Lot 1, SW¼NW¼, NW¼SW¼ Section 16, Government Lots 4 and 5 Section 17, Government Lots 1, 2, 3 and 4 Section 20, Government Lots 1, 2, 3, 4 and 5 Section 29, all in Township 24 North, Range 5 East, W. M., bounded on the North by the North line of W½ Section 4, and bounded on the South by the South line of said Government Lot 5, Section 29, together with such additional widths or strips of land as are necessary to catch the slopes of the cuts and fills of the roadbed of said Railway in the NW¼NW¼ of said Section 4, which said roadbed is to be constructed having a width at grade of 22 feet and the cuts to have a slope of one to one and the fills to have a slope of one and one half to one, as delineated in deed

dated September 8, 1903 from Lake Washington Land Company to Northern Pacific Railway Company, recorded in Volume 386 of Deeds, Page 147, records of King County, Washington, **EXCEPTING THEREFROM,** that certain tract of land described in Correction Special Warranty Deed dated April 30, 2001 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 2001 as Document No. 20010522000186, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 28, 1998 as Document No. 9807281547, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 28, 1998 as Document No. 9807281545, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 28, 1998 as Document No. 9807281546, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated February 24, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded July 28, 1998 as Document No. 9807281543, records of King County, Washington, **ALSO EXCEPTING THEREFROM** that certain tract of land described in deed dated June 26, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded April 30, 2001 as Document No. 20010430000977, records of King County, Washington, **ALSO EXCEPTING THEREFROM** that certain tract of land described in deed dated June 26, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded December 15, 1998 as Document No. 9812151238, records of King County, Washington; also,

That certain Tract I and that certain Tract II described in deed dated September 19, 1967 from State of Washington to Northern Pacific Railway Company filed for record December 13, 1967 in Book 5023, Page 546, Auditor's No. 6278130, records of King County, Washington, said Tracts being described in said deed for reference as follows:

"Tract I: (Fee)

"All those portion of the Southeast quarter of the Northwest quarter and the Northeast quarter of the Southwest quarter, Section 9, Township 24 North, Range 5 East, W.M., lying Westerly of the existing 100 foot right of way of the Northern Pacific Railway Company and Easterly of a line described as follows: Beginning at a point opposite Station REL. R.R. 737+00 on the Relocated Railroad Center Line (as hereinafter described) and 50 feet Westerly therefrom when measured radially thereto (which point also lies on the Westerly line of said existing railroad right of way); thence Southerly parallel with said relocated railroad center line to a point opposite REL. R.R. 739+00 theteon; thence Southwesterly in a straight line to a point opposite REL. R.R. 740+00 on said relocated railroad center line and 130 feet Westerly therefrom when measured radially thereto; thence Southerly parallel with said relocated railroad center line a distance of 350 feet, more or less, to an intersection with

the Northerly right of way line of State Highway Project entitled Primary State Highway No. 2 (SR 90), East Channel Bridge to Richards Road (as hereinafter described); thence North 84°13'42" East along said Northerly right of way line a distance of 125 feet, more or less to an intersection with said Westerly line of said existing railroad right of way and the end of this line description:

"Tract II: (Fee)

"All those portion of Lots 13 and 14, Block 1, Mercer Addition, according to the plat thereof recorded in Volume 17 of Plats, page 8, records of King County and of the Northeast quarter of the Southwest quarter, Section 9, Township 24 North, Range 5 East, W.M., lying Northwesterly of the existing 100 foot right of way of the Northern Pacific Railway Company and Southeasterly of a line described as follows: Beginning at the Southeast corner of said Lot 13, which point also lies on the Northwesterly line of said existing railroad right of way; thence Northeasterly in a straight line to a point opposite REL. R.R. 753+00 on the Relocated Railroad Center Line (as hereinafter described) and 50 feet Northwesterly therefrom when measured at right angles thereto; thence Northeasterly in a straight line to a point opposite REL. R.R. 752+00 on said relocated railroad center line and 90 feet Northwesterly therefrom when measured at right angles thereto; thence Northeasterly parallel with said relocated railroad center line a distance of 120 feet, more or less, to an intersection with the Southerly right of way line of State Highway Project entitled Primary State Highway No. 2 (SR 90), East Channel Bridge to Richards Road (as hereinafter described); thence South 79°37'46" East a distance of 105 feet, more or less, to an intersection with said Westerly line of said existing railroad right of way and the end of this line description: ...

..."RELOCATED RAILROAD CENTER LINE DESCRIPTION:

"Beginning at Railroad Station 734+80 on the existing main line center line of the Northern Pacific Railway Company's Track in the Southeast quarter of the Northwest quarter, Section 9, Township 24 North, Range 5 East, W.M., in the vicinity of Factoria, Washington, which point equals Relocated Railroad Station (hereinafter referred to as REL. R.R.) 734+80; thence South 20°44'04" East a distance of 21.1 feet to REL. R.R. 735+01.10 T.S.; thence on the arc of an increasing spiral curve to the right having an "A" value of 5 a distance of 80 feet to REL. R.R. 735+81.10 S.C.: thence on the arc of a 4° circular curve to the right thru a central angle of 49°18' a distance of 1232.50 feet to REL. R.R. 748+13.60 C.S.; thence on the arc of a decreasing spiral curve to the right having an "A" value of 5, a distance of 80 feet to R.R. 743+93.60 S.T.; thence South 31°46' West a distance of 683.96 feet to REL. R.R. 755+77.56 T.S.; thence on the arc of an increasing spiral curve to the left having an "A" value of 5 a distance of 80 feet to REL. R.R. 756+57.56 S.C. which point equals Railroad Station 756+91.53 ahead on said existing main line center line of track in the Southeast quarter of the Southwest quarter, Section 9, and the end of this center line description.

"SOUTHERLY RIGHT OF WAY LINE OF PRIMARY STATE HIGHWAY NO. 2 (SR 90), EAST CHANNEL BRIDGE TO RICHARDS ROAD:

"Beginning at the Southwest corner of Lot 21, Block 4, Mercer Addition, according to the plat thereof recorded in Volume 17 of Plats, page 8, records of King County, and running thence North 79°37'46" West a distance of 324.08 feet.

"NORTHERLY RIGHT OF WAY LINE OF PRIMARY STATE HIGHWAY NO. 2 (SR 90), EAST CHANNEL BRIDGE TO RICHARDS ROAD:

"Beginning at REL. R.R. 746+28.83 P.O.C. on the Relocated Railroad Center Line (as above described); thence South 84°03'37" West a distance of 344.01 feet; thence North 5°56'23" West a distance of 212.5 feet; thence North 80°02'48" East a distance of 109.27 feet; thence North 5°56'23" West a distance of 25 feet; thence North 70°51'54" East a distance of 196.18 feet to the true point of beginning of this line description; thence North 84°13'42" East a distance of 294.43 feet."; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across Government Lot 1, Section 32, Township 24 North, Range 5 East, W. M., King County, Washington, bounded on the North and South by the North and South lines of said Government Lot 1; also,

That certain 100.0 foot wide Branch Line right of way, upon, over and across Government Lot 2, Section 32, and Government Lots 3 and 4 Section 31, all in Township 24 North, Range 5 East, W. M., King County, Washington, as described in Deed dated September 8, 1903 from Lake Washington Belt Line Company to Northern Pacific Railway Company, recorded in Volume 386 of Deeds, Page 147, records of King County, Washington. **EXCEPTING THEREFROM,** that certain tract of land described in deed dated September 14, 2001 from The Burlington Northern and Santa Fe Railway Company to Barbee Forest Products, Inc., **ALSO EXCEPTING THEREFROM,** that portion of that certain tract of land described in deed dated March 23, 1936 from Northern Pacific Railway Company to Frank Walloch, lying within said Government Lot 2, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated May 8, 1990 from Burlington Northern Railroad Company to Robert J. Phelps and Nancy C. Phelps, recorded as document 9005101552, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated March 19, 1992 from Burlington Northern Railroad Company to Gilbert A. Schoos and Alice G. Shoos; also, **ALSO EXCEPTING THEREFROM,** that certain tract of land described in deed dated February 1, 1937 from Northern Pacific Railway Company to Carl Jorgensen and Christine Jorgensen, **ALSO EXCEPTING THEREFROM,** that portion of that certain tract of land described in Quitclaim Deed dated February 28, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded April 20, 1999 as Document Number 9904210268, records of King County, Washington, **ALSO EXCEPTING**

THEREFROM, that portion of that certain tract of land described in Correction Deed dated May 26, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000619, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Correction Deed dated May 5, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000620, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Quitclaim Deed dated June 26, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000618, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Correction Deed dated May 6, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000621, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Correction Deed dated May 6, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded February 24, 1998 as Document Number 20001030000428, records of King County, Washington; also,

That certain tract of land described in deed dated March 17, 1904 from The Lake Washington Land Company to Northern Pacific Railway Company, situated in Lot 3, Section 31, Township 24 North, Range 5 East, W. M., King County, Washington, said tract being described in said deed for reference as follows:

"All that portion of said Lot three (3) lying between the eastern line of the right of way of the Northern Pacific Railway Company over and across said lot and a line drawn parallel with and twelve and one-half (12-1/2) feet distant easterly from the center line of said Seattle Belt Line Branch of the Northern Pacific Company as the same is now temporarily located and constructed over and across said lot, and containing on-fourth of an acre, more or less ..." **EXCEPTING THEREFROM**, that portion of that certain tract of land described in Quitclaim Deed dated February 28, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded April 20, 1999 as Document Number 9904210268, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Correction Deed dated May 26, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000619, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Correction Deed dated May 5, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000620, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Quitclaim Deed dated June 26, 1998 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000618, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land

described in Correction Deed dated May 6, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded June 17, 1999 as Document Number 19990617000621, records of King County, Washington, **ALSO EXCEPTING THEREFROM**, that portion of that certain tract of land described in Correction Deed dated May 6, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded February 24, 1998 as Document Number 20001030000428, records of King County, Washington; also,

That portion of said Railway Company's property situated in Government Lot 1, Section 6, Township 23 North, Range 5 East, W. M., King County, Washington, lying Southwesterly of a line parallel with and distant 50.0 feet Northeasterly from, measured at right angles to said Railway Company's Branch Line Main Track centerline as originally located and constructed, and Northeasterly of the Southwesterly boundary of that certain 100 foot strip described in Judgment and decree of Appropriation, No. 40536, dated February 8, 1904 in the Superior Court of the State of Washington in and for the County of King, bounded on the North by the North line of said Lot 1, Section 6, and bounded on the South by a line radial to said Railway Company's Main Track centerline, as now located and constructed at a point distant 65.5 feet Northwesterly of the East line of said Lot 1, Section 6, as measured along said Main Track centerline.

Redmond Spur

All that portion of BNSF Railway Company's (formerly Northern Pacific Railway Company) Redmond Spur Right of Way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed, between Woodinville (Milepost 0.0) to Redmond (Milepost 7.3), King County, Washington, more particularly described as follows, to-wit:

That certain tract of land described in deed dated December 28, 1931 from John DeYoung and Ellen DeYoung to Northern Pacific Railway Company recorded in Volume 1511 of Deeds, Page 495, records of King County, Washington, lying in the N/2 of SE/4 Section 9, Township 26 North, Range 5 East, W. M., **EXCEPTING THEREFROM,** that portion of that certain tract of land described in deed dated November 17, 1998 from The Burlington Northern and Santa Fe Railway Company to Tjossem Properties IV, LLC and Tjossem Properties V, LLC, recorded December 23, 1998 as Instrument No. 9812240021, which lies within said tract described in deed dated December 28, 1931; also,

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E½ Section 9, the NE¼NE¼ Section 16, the NW¼ Section 15, all in Township 26 North, 5 East, W. M., bounded Northerly by a line concentric with and distant

50.0 feet Southwesterly from, measured radially to said Railway Company's Seattle to Sumas Main Track centerline as now located and constructed, and bounded Southerly by the South line of said NW¼ Section 15, **EXCEPTING THEREFROM,** that portion of that certain tract of land described in deed dated November 17, 1998 from The Burlington Northern and Santa Fe Railway Company to Tjossem Properties IV, LLC and Tjossem Properties V, LLC, recorded December 23, 1998 as Instrument No. 9812240021, which lies within said 100.0 foot wide right of way, **ALSO EXCEPTING THEREFROM,** that portion of that certain 100.0 foot wide Seattle Belt Line right of way described in deed dated May 19, 1903 from Mary B. Hansen and Anders Hansen to Northern Pacific Railway Company recorded May 28, 1903 in Volume 361 of Dees, Page 48, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** the Northeasterly 25.0 feet of said 100.0 foot wide Redmond Spur right of way, bounded on the South by the South line of said E½ Section 9 and bounded Northwesterly by a line perpendicular to said Railway Company's Main Track centerline, at a point distant 1,060.0 feet Northwesterly of said South line of the E½ Section 9, as measured along said Main Track centerline, being that certain tract of land described in Deed dated June 29, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded February 11, 2003 as Document No. 20030211000429, records of King County, Washington; also,

That portion of that certain 50.0 foot wide Redmond Spur right of way, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SW¼ Section 15, Township 26 North, 5 East, W. M., bounded Northerly and Easterly by the North and East lines of said SW¼ Section 15; also,

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SW¼SE¼ of Section 15, Township 26 North, 5 East, W. M., bounded Westerly and Southerly by the West and South lines of said SW¼SE¼ of Section 15; also,

That portion of that certain 30.0 foot wide Redmond Spur right of way, being 15.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W½NE¼ Section 22, Township 26 North, 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said W½NE¼ Section 22

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW¼SE¼ of Section 22, W. M., bounded Northerly and Southerly by the North and South lines of said NW¼SE¼ of Section 22; also,

That portion of that certain 50.0 foot wide Redmond Spur right of way, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SW¼SE¼ of Section 22, and the W½NE¼ Section 27, Township 26 North, 5 East, W. M., bounded Northerly by the North line of said SW¼SE¼ of Section 22, and bounded Westerly by the West line of said W½NE¼ Section 27; also,

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE¼SE¼NW¼ Section 27, Township 26 North, 5 East, W. M., bounded Easterly and Southerly by the East and South lines of said SE¼SE¼NW¼ Section 27; also,

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the S½ Section 27, Township 26 North, 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said S½ Section 27; also,

That portion of that certain 50.0 foot wide Redmond Spur right of way, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W½NE¼ of Section 34, Township 26 North, 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said W½NE¼ of Section 34; also,

A 50.0 foot wide strip of land lying immediately adjacent to and Westerly of said Railway Company's 50.0 foot wide right of way in the W½NE¼ of Section 34, Township 26 North, 5 East, W. M., bounded Northerly by the North line of said W½NE¼ of Section 34, and bounded Southerly by a line perpendicular to said Railway Company's Main Track centerline at a point 1400 feet Southerly of the North line of said W½NE¼ Section 34, as measured along said Railway Company's Main Track centerline, as originally located and constructed; also

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W½SE¼ Section 34, Township 26 North, 5 East, W. M., the NE¼ Section 3, SW¼SW¼NW¼, the SW¼, and the SW¼SW¼SE¼ Section 2, all in Township 25 North, 5 East, W. M., bounded Northerly by the North line of said W½SE¼ Section 34, and bounded Southerly by the South line of said Section 2, **EXCEPTING THEREFROM,** the Easterly 25.0 feet of said 100.0 foot wide Redmond Spur right of way, upon, over and across the W½SE¼ of Section 34, Township 26 North, Range 5 East, and the N½NE¼ of Section 3, Township 25 North, Range 5 East, W. M., King County, Washington, lying between two lines drawn parallel and concentric with and distant, respectively, 25.0 feet and 50.0 feet Easterly, as measured at right angles and radially from said Main Track centerline, bounded on the North by the North line of said W½SE¼ of Section 34, Township 26 North, Range 5 East, and bounded on the Southeast by a line drawn parallel with and distant 40.0 feet Northwesterly, as measured at right angles from the centerline of Northeast 98th Court, as now located and constructed upon, over and across the said N½NE¼ of Section 3, Township 25 North, Range 5 East; also,

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 75.0 feet on the Northerly side and 25.0 feet on the Southerly side of said Main Track centerline, as originally located and constructed, upon, over and across the N½NE¼ and the NE¼NW¼

Section 11, and the W½NW¼ Section 12, all in Township 25 North, 5 East, W. M., bounded Northerly by the North line of said Section 11, and bounded Easterly by the East line of said W½NW¼ Section 12, **EXCEPTING THEREFROM,** that portion of said 100.0 foot wide Redmond Spur right of way in the NE¼NE¼ of said Section 11, lying between two lines parallel with and distant, respectively, 25.0 feet and 75.0 feet Northerly, as measured at right angles from said Main Track centerline, as now located and constructed, bounded Easterly by the Southerly extension of the Westerly line of Leary Street, according to the recorded plat thereof, and bounded Westerly by a line parallel with and distant 110.0 feet Westerly, as measured at right angles from said Southerly extension of the Westerly line of Leary Street, **ALSO EXCEPTING THEREFROM,** that portion of said 100.0 foot wide Redmond Spur right of way in the NE¼NE¼ of said Section 11, lying between two lines parallel with and distant, respectively, 25.0 feet and 75.0 feet Northeasterly, as measured at right angles from said Main Track centerline, as now located and constructed, the most Northerly parallel line also being the Southwesterly lines of Block 1 and 2 of the Original Town of Redmond, bounded Northwesterly by the Southwesterly extension of the Easterly line of Leary Street, according to the recorded plat of the City of Redmond, Washington, and bounded Southeasterly by a line perpendicular to said Main Track centerline that extends Northeasterly to the intersection of a line parallel with and distant 75.0 feet Northeasterly, as measured at right angles from said Main Track centerline with the East line of said NE¼NE¼ of said Section 11; also,

A 25.0 foot wide strip of land lying immediately adjacent to and Southerly of said Railway Company's 100.0 foot wide right of way in the NW¼NE¼ Section 11, Township 25 North, 5 East, W. M., lying Northwesterly of a line perpendicular to said Railway Company's Main Track centerline at a point 855 feet Southeasterly of said North line of Section 11, as measured along said Railway Company's Main Track centerline, as originally located and constructed; also

That portion of that certain 100.0 foot wide Redmond Spur right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE¼NW¼ Section 12, Township 25 North, 5 East, W. M., bounded Westerly and Easterly by the West and East lines of said SE¼NW¼ Section 12, **EXCEPTING THEREFROM,** that portion of that certain 100.0 foot wide Redmond Spur right of way in said SE¼NW¼ Section 12, described as follows: Beginning at the intersection of the West line of said SE¼NW¼ Section 12 with the Southerly line of said 100.0 foot wide right of way; Thence North 01°10'44" East, along said West line, 26.55 feet to a point 25 feet Southwesterly of, as measured at right angles from said Main Track centerline; thence South 69°07'30" East, parallel with the centerline of said Main Track centerline, 639.91 feet to the Southerly extension of the Westerly right of way line of 170th Avenue N.E., said right of way being 70 feet in width; thence South 23°37'30" West, along the Southerly extension of the Westerly right of way of 170th Avenue N.E., 25.03 feet to the Southerly right of way line of said 100.0 foot wide right of way; thence North 69°07'30" West, along the Southerly right of way line of said 100.0 foot wide right of way, 629.76 feet to the point of beginning.

226605

No. 5146007 8/31/2009 2:45 PM 1,000.00
Thank you for your payment.
SHELLEY

After Recording Return To:
James Greenfield
Davis Wright Tremaine LLP
1201 Third Avenue
Suite 2200
Seattle, WA 98101

CONFORMED COPY
200912210439 13 PGS
12/21/2009 2:41pm $74.00
SNOHOMISH COUNTY, WASHINGTON

COPY

Quit Claim Deed
Woodinville Freight Easement

PNWT W-20611-9

Grantor: BNSF Railway Company

Grantee: GNP Rly Inc

Abbreviated Legal: 0000000000100 10P

SW1/4 18-28-6
Lot 4 and 5 Block 2 Snohomish City Eastern Part Vol. 1 page 7
Govt Lots 1 and 2, and the NW ¼ of 19-28-6
NE and SE 24-28-5
NE 25-28-5
Govt 1,2,3,5, and 6 of 30-28-6
Govt 3,4,8 and SW1/4 and NW1/4 31-28-6
Pnt Lot 139 Cathcart 9X39
Gvt 4,5,6,7 of 6-27-6
Gvt 1,2,3,4,and the SW ¼ of 7-27-6
Gvt 2,3,4 and NW ¼ of 18-27-6
Gvt 1,2 of 19-27-6
NE of 12-27-5
NE, SW, SE of 24-27-5
Gvt 4 of 31-27-5
NW, SW of 25-27-5
NE, NW, SW of 26-27-5
NW of 35-27-5
NE, SE, SW of 34-27-5
In Snohomish County

After Recording Return To:

James Greenfield
Davis Wright Tremaine LLP
1201 Third Avenue,
Suite 2200
Seattle, WA 98101

PNWT W-20611-9

QUIT CLAIM DEED
Woodinville Freight Easement

Grantor: BNSF RAILWAY COMPANY ("BNSF")

Grantee: GNP Rly Inc ("TPO")

Legal Description: See Exhibit A attached hereto and incorporated herein (the "Property").
Por 10, 24 5 EWM, Por-9-26 5,

WHEREAS, BNSF has conveyed to the Port of Seattle (the "Port") the Property pursuant to that certain Quit Claim Deed dated as of the date hereof and recorded in the real estate records of King County, Washington as instrument number 200912180001536 and in the real estate records of Snohomish County, Washington as instrument number 20091221 ; and

WHEREAS, BNSF reserved in said deed an exclusive easement for freight rail purposes over the Property (the "Reserved Freight Easement").

NOW, THEREFORE, BNSF, for and in consideration of TEN AND NO/100 DOLLARS ($10.00) conveys and quit claims to TPO all of BNSF's right, title and interest in and to the Reserved Freight Easement, together with all after acquired title of BNSF therein.

TPO and BNSF are parties to that certain Freight Easement Sale Agreement dated as of December 18, 2009 concerning the sale of the Reserved Freight Easement in and to the Property. TPO and BNSF for themselves and their respective successors and assigns hereby covenant and agree that the provisions of Sections 6 and 7 of said Agreement attached hereto as Exhibit B, are incorporated herein by reference and shall be covenants running with the land that are enforceable by TPO, BNSF and their respective successors and assigns.

IN WITNESS WHEREOF, BNSF and TPO have executed this Deed as of the 18 day of December, 2009.

BNSF RAILWAY COMPANY

By _____
Its: Senior General Attorney

GNP Rly Inc

By _____, Chairman, C.O.O.
Its: Chairman, C.O.O.
Thomas Payne

Said document(s) were filed for record by Pacific N.W. Title as accommodation only. It has not been examined as to proper execution or as to its effect upon title.

STATE OF Washington)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that ~~Richard E. Weicher~~ David T. Rankin is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the ~~Vice President & General Counsel – Regulatory~~ Senior General Attorney of BNSF Railway Company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12-18-2009

Stephani A. Owens
Notary Public
Print Name Stephani A. Owens
My commission expires 4-29-2013

STEPHANI A. OWENS
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
APRIL 29, 2013

(Use this space for notarial stamp/seal)

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Thomas Payne is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Chairman C.O.O. of GNP Rly Inc to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12-18-09

Stephani A. Owens
Notary Public
Print Name Stephani A. Owens
My commission expires 4-29-2013

STEPHANI A. OWENS
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
APRIL 29, 2013

(Use this space for notarial stamp/seal)

EXHIBIT A

Legal Description of the Property

All that portion of BNSF Railway Company's (formerly Northern Pacific Railway Company) Snohomish (MP 38.25) to Woodinville (MP 23.8), Washington Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as now located and constructed upon, over and across Snohomish County and King County, Washington, more particularly described as follows, to-wit:

SNOHOMISH COUNTY

That portion of that certain 60.0 foot wide Branch Line right of way being 30.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across State Street, as said street is shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington Auditor, lying southerly of the Easterly prolongation of the centerline of vacated Commercial Street, as said Commercial Street is shown on said plat; also

That portion of the Southerly half of vacated Commercial Street as said street is shown on the plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington, vacated by ordinance No. 354 of the City of Snohomish, State of Washington, passed May 16, 1911, described as follows:

Beginning at the northeast corner of Lot 5, Block 2 of said plat of Snohomish City Eastern Part; thence Westerly, along the northerly line of said Lot 5, a distance of 20 feet, more or less, to a point 50 feet distant westerly, when measured at right angles from the centerline of State Street, as said State Street is shown on said plat; thence Northerly, along a line 50 feet westerly from the center line of said State Street, 30 feet, more or less to the centerline of said Commercial Street; thence Easterly, along said centerline of Commercial Street, 20 feet, more or less to the northerly prolongation of the east line of said Lot 5, thence Southerly, along said northerly prolongation, 30 feet, more or less, to Point of Beginning; also,

Lots 4 and 5, of Block 2 as shown on plat of Snohomish City Eastern Part, recorded as Instrument No. 187204125001 in Book 1, Page 7, records of the Snohomish County, Washington; also,

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by the Southwesterly Bank of the Snohomish River, an bounded Southwesterly by a line parallel with and distant 50.0 feet Northeasterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, together with all right, title and interest if any, to accommodate said railway company's facilities and operations over and across the Snohomish River; also

That portion of that certain 50.0 foot wide Branch Line right of way being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and

constructed, and bounded Southerly by the Southerly line of said Government Lot 4; also

A triangular shaped tract of land being that portion of Government Lot 4, Section 18, Township 28 North, Range 6 East, W. M., bounded Northeasterly by a line parallel with and distant 150.0 feet Southwesterly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed, bounded Northwesterly by a line parallel with and distant 25 feet Easterly from, measured at right angles to said Railway Company's Branch Line right of way Main Track centerline as originally located and constructed and bounded Southerly by the Southerly line of said Government Lot 4; also

That certain 0.11 acre strip of land described in deed dated September 9, 1903 from J. H. Shadinger and Hattie E. Shadinger to Northern Pacific Railway Company recorded September 19 in Book 80, Page 296, records of Snohomish County, Washington, said 0.11 acre strip of land being described in said deed for reference as follows:

"A strip of land eighty (80) feet in width across that certain thrity-three (33) foot strip of land in Lot four (4), Section eighteen (18), Township twenty-eight (28) north, Range six (6) east, W.M., which lies immediately south of, parallel with and contiguous to the right of way of the Great Northern Railway Company across said subdivision; said eighty (80) foot strip of land having for its east and west boundaries two lines that are parallel with and respectively distant twenty-six (26) feet on the northeasterly side and fifty-four (54) feet on the southwesterly side of the center line of the proposed track which is to connect the Great Northern Railway with the Northern Pacific Railway as the same is located, staked and constructed over and across said subdivision; containing 0.11 acres, more or less."; also,

That certain 1.94 acre strip of land described in deed dated September 9, 1903 from Kate G. Ford, D. A. Ford, Ruth S. Ford and D. A. Ford as sole executor to Northern Pacific Railway Company recorded September 19 in Book 80, Page 298, records of Snohomish County, Washington, said 1.94 acre strip of land being described in said deed for reference as follows:

"All that portion of Lot four (4), Section eighteen (18) and of Lot one (1) (or the northwest quarter of the northwest quarter) of Section nineteen (19), Township twenty-eight (28) north, Range six (6) east, W.M., lying westerly of the Northern Pacific Railway Company's right of way and southerly of a line drawn parallel with and thirty-three (33) feet distant southerly from the south line of the Great Northern Railway Company's right of way and between lines drawn parallel with and respectively distant twenty-six (26) feet easterly from and fifty-four (54) feet westerly from the center line of the proposed track which is to connect the Northern Pacific Railway with the Great Northern Railway as the same is now located, staked out and to be constructed over and across said premises; said strip of land containing 1.94 acres, more or less.", also;

That certain .08 acre strip of land described in deed dated April 25, 1908 from Robert Henry and Margaret R. Henry to Northern Pacific Railway Company recorded June 1, 1908 in Book 110 of Deeds, Page 509, records of the County Auditor, Snohomish County, Washington, said .08 acre strip of land being described in said deed for reference as follows:

"A strip of land thirty (30) feet wide described as follows: Beginning at a point on the section line between Sections 18 and 19, Township 28 North, Range 6 East, Willamette Meridian, fifty-five (55) feet distant measured at right angles from the center line of the main track of the said Railway Company as the same is now located, constructed, maintained and operated through said sections; thence northeasterly on a line parallel with and fifty-five (55) feet distant from said center line one hundred ten (110) feet, more or less, to the south line of the Tacoma Power Company's right of way; thence southeasterly along the south line of said Tacoma Power Company's right of way thirty (30) feet to the westerly line of the

present right of way of said Northern Pacific Railway Company, which line at that point is twenty-five (25) feet from the center line of the main track of said Railway Company; thence southwesterly along said westerly line of the right of way one hundred ten (110) feet, more or less, to the point where said right of way widens to fifty (50) feet on each side of said center line; thence westerly twenty-five (25) feet to point of intersection with the above described section line; thence west along said section line five (5) feet, more or less, to place of beginning, said strip being situated in Lot four (4) Section eighteen (18) and Lot one (1) Section nineteen (19) all in Township twenty-eight (28) North, Range six (6) East, Willamette Meridian and containing eight hundredths (.08) of an acre, more or less."; also,

That portion of said Railway Company's property in Government Lot 4, Section 18, Township 28 North, Range 6 East, W.M., Snohomish County, Washington, bounded Northeasterly and Southwesterly by two lines drawn parallel with and distant Southwesterly 150.0 feet and 183.0 feet, respectively, from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline as originally located and constructed and bounded Southeasterly and Northwesterly by two lines drawn parallel with and distant Northwesterly 25.0 feet and 50.0 feet, respectively, from, measured at right angles to said Railway Company's Branch Line Main Track centerline as now located and constructed; also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded Northerly by the North line of said Section 19, and bounded Westerly by the West line of said Section 19; also,

That portion of said Railway Company's property in Lots 1 and 2, Section 19, Township 28 North, Range 6 East, W. M., Snohomish County, Washington, bounded as follows: Westerly by a line parallel with and distant 50.0 feet Easterly from, measured at right angles to said Railway Company's Branch Line Main Track centerline as now located and constructed; Northerly by the North line of said Section 19 and Easterly by the following described line:

Beginning at a point on a line parallel with and distant 50.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed, opposite Station 512+68.45, said point of beginning being the point of a curve to the left having a radius of 621.20 feet; thence westerly, along the arc of said curve to the left and consuming a central angle of 90°57'06", an arc distance of 986.10 feet to the point of tangency of said curve, said point of tangency being 125 feet easterly, when measured at right angles from Station 1963+97.51 on said Railway Company's Branch Line Main Track centerline; thence southerly, along a line drawn parallel and/or concentric with and 125 feet easterly, when measured at right angles and/or radially, from said Branch Line Main Track centerline, to a point opposite Station 1956+00 on said Railway Company's Branch Line Main Track centerline; thence westerly, along a line drawn radially with the centerline of said Railway Company's Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 100 feet easterly, when measured radially, from the centerline of said Railway Company's Branch Line Main Track centerline, to a point opposite Station 1953+00 on the centerline of said Railway Company's Branch Line Main Track centerline; thence westerly along a line drawn radially with the centerline of said Railway Company's Branch Line Main Track centerline, a distance of 25 feet; thence southerly, along a line drawn concentric with and 75 feet easterly, when measured radially from said Railway Company's Branch Line Main Track centerline to the west line of said Section 19, also being the terminus of the herein described line.

EXCEPTING THEREFROM, a strip of land 30 feet wide, the center line of which is 435 feet north from and parallel with the East and West centerline of said Section 19, extending from the west line of

said Section 19 to the East boundary of said hereinabove described tract; **ALSO EXCEPTING THEREFROM**, that portion of said hereinabove described tract lying northerly of a line parallel with and distant 150.0 feet Southerly from, measured at right angles to said Railway Company's (formerly Great Northern Railway Company) Everett to Spokane Main Track centerline, as originally located and constructed, also,

That portion of that certain 100.0 foot wide Branch Line right of way, in the Town of Bromart, Snohomish County, Washington, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E½E½ Section 24, the E½NE¼ Section 25, all in Township 28 North, Range 5 East, W. M., bounded Northerly by the East line of said E½E½ Section 24, and bounded Southerly by the East line of said E½NE¼ Section 25; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lots 1, 2, 3, 5, 6, of Section 30, Township 28 North, Range 6 East, W. M., bounded Westerly by the West lines of said Lots 1 an 2 and bounded Southerly by the South line of said Lot 5; also,

That portion of that certain 110.0 foot wide Branch Line right of way, being 60.0 feet Westerly and 50.0 feet Easterly of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 8 of Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly and Southerly by the North and South lines of said Lot 8; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 3, the NE¼SW¼ and the SE¼NW¼, Section 31, Township 28 North, Range 6 East, W. M., bounded Northerly by the North line of said SE¼NW¼ Section 31, and bounded Southerly by the South line of said Government Lot 3 and its easterly prolongation; also,

That certain 2.0 acre tract of land described in deed dated April 13, 1918 from John S. Eby to the Northern Pacific Railway Company, recorded April 20, 1918 in Volume 180 of Deeds, Page 451, records of Snahomish County, Washington, said tract being described in said deed for reference as follows:

"That property of the grantor (being the north nine hundred forty-five and five tenths (945.5) feet, more or less, of the south eleven hundred forty-three and five tenths (1143.5) feet of the north-half of the southwest quarter (N½ of SW ¼) of section thirty-one (31) in Township twenty-eight (28) north of range six (6) east of the Willamette Meridian, west of the present right of way of said Railway Company lying between lines parallel with and distant respectively one hundred (100) and one hundred fifty (150) feet westerly from the center line of the present main track of said Railway Company, as the same is now constructed and operated over and across said section; also that portion of said N½ of SW¼ lying between lines parallel with and distant respectively one hundred fifty (150) and two hundred (200) feet westerly from said above named main track center line and between a line parallel with and distant one hundred ninety-eight (198) feet northerly from the south line of said government subdivision and a line drawn at right angles to said main track center line at a point distant twenty-one hundred thirty-four and eight tenths (2134.8) feet northerly from its point intersection with the south line of said section 31, containing in all two (2) acres, more or less."; also,

That certain 0.35 acre tract of land described in deed dated March 25, 1918 from John Grinier and Alice Grinier to the Northern Pacific Railway Company, recorded April 10, 1918 in Volume 180 of Deeds, Page 401, records of Snohomish County, Washington, said tract being described in said deed for reference as follows:

"A strip of land of the Westerly side of and adjacent to the present two hundred (200) foot right of way of said Railway Company in the south six (6) acres (or the south one hundred ninety-eight (198) feet more or less, of the north-half of the southwest quarter (N½ of SW ¼) of section thirty-one (31) in Township twenty-eight (28) north of range six (6) east of the Willamette Meridian, said strip of land being more particularly described as follows:

"Beginning at a point on the south line of said N½ of SW ¼, one hundred (100) feet distant westerly, measured at right angles, from the present main track of said Railway Company, as the same is now, constructed and operated over and across said section; thence northerly on a line parallel with and one hundred (100) feet distant westerly from said center line to the north line of the property of said grantors (being the north line of the south 198 feet, more or less of the above named government subdivision); thence west along said north line to a point two hundred (200) feet distant westerly, measured at right angles, from said main track center line; thence southeasterly in a straight line to a point on the south line of said above named government subdivision fifty-five (55) feet west of the point of beginning; thence east to the point of beginning, containing thirty-five hundredths (35/100) acres, more or less."; also,

That certain tract of land described in deed dated December 15, 1937 from Ella L. Moulton to the Northern Pacific Railway Company recorded February 19, 1938 in Volume 238 of Deeds, Page 102, records of Snohomish County, Washington, said tract of land being descrbed in said deed for reference as follows:

"That portion of Tract No. 139 as shown on the official plat of CATHCART on file and of record in the office of the Auditor of said County situate within the south half of southwest quarter (S½ of SW¼) of section thirty-one (31) in township twenty-eight (28) north of range six (6) east of the Willamette Meridian, lying easterly of a line parallel with and distant fifty (50) feet westerly measured at right angles, from the center line of the present main track of the Northern Pacific Railway Company as the same is now constructed and operated over and across said section thirty-one."; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across Government Lot 4 in Section 31, Township 28 North, Range 6 East, W. M., Government Lots 4, 5, 6 and 7 in Section 6, Government Lots 1, 2, 3, 4 and the SE¼SW¼ Section 7, Government Lots 2, 3, 4 and the E½NW¼ Section 18, Government Lots 1 and 2 Section 19, all in Township 27 North, Range 6 East, W. M., the E½E½NE¼ Section 12, and the SE¼NE¼ and the NE¼SE¼ Section 24, all in Township 27 North, Range 5 East, W. M., bounded Northerly by the North line of said Government Lot 4 in Section 31, and bounded Southerly the West line of said NE¼SE¼ Section 24; also

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W½SE¼ Section 24, Township 27 North, Range 5 East, W. M., bounded Easterly and Westerly by the East and West lines of said W½SE¼ Section 24, **EXCEPTING THEREFROM**, that portion of said 200.0 foot wide Station Ground property lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as now located and constructed; also

That portion of that certain 100.0 foot wide Maltby Station Ground property, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the E½SW¼ Section 24, Township 27 North, Range 5 East, W. M., bounded Northerly by the East line of said SW¼ Section 24 and bounded Southerly by the South Line of said SW¼ Section 24, **EXCEPTING THEREFROM**, that portion lying Northwesterly of a line concentric with and distant 25.0 feet Northwesterly from, measured radially to said Railway Company's Main Track centerline as originally

located and constructed, bounded Northeasterly by the East line of said SW¼ Section 24, and bounded Southwesterly by the Easterly edge of the travelway of the Street connecting 91st Avenue SE with Yew Way in the City of Maltby, Washington, as now located and constructed in a generally Southerly direction from 91st Avenue SE, and about 100 feet Southwesterly of the North-South quarter line of said Section 24, as measured along said Main Track centerline; also,

That portion of that certain 200.0 foot wide Maltby Station Ground property, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW¼ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Southerly by the North and South lines of said NW¼ Section 25; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW¼NE¼SW¼ Section 25, Township 27 North, Range 5 East, W. M., bounded Northerly and Westerly by the North and West lines of said NW¼NE¼SW¼ Section 25; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the NW¼SW¼ Section 25, the NE¼SE¼ and the NE¼ Section 26, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said NW¼SW¼ Section 25, and bounded on the West by the West line of said NE¼ Section 26; also

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE¼NW¼ and the NW¼NE¼SW¼ Section 26, Township 27 North, Range 5 East, W. M., bounded Easterly by the East line of said SE¼NW¼ Section 26, and bounded Westerly by the West line of said NW¼NE¼SW¼ Section 26; also,

That portion of that certain 200.0 foot wide Branch Line right of way, being 100.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the W½SW¼ Section 26, and the NW¼NW¼ Section 35, all in Township 27 North, Range 5 East, W. M., bounded on the East by the East line of said W½SW¼ Section 26, and bounded on the South by the South line of said NW¼NW¼ Section 35, **EXCEPTING THEREFROM**, that portion lying Westerly of a line parallel and/or concentric with and distant 50.0 feet Westerly from, measured at right angles and/or radially to said Railway Company's Main Track centerline as originally located and constructed, bounded on the North by the North line of said Section 35, and bounded on the South by a line radial to said Main Track centerline at a point 530.0 feet South of the North line of said Section 35, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SW¼NW¼ Section 35, the SE¼SE¼NE¼ and the NE¼SE¼ Section 34, all in Township 27 North, Range 5 East, W. M., bounded on the North by the North line of said SW¼NW¼ Section 35, and bounded on the South by the South line of said NE¼SE¼ Section 34; also,

That portion of that certain 50.0 foot wide Branch Line right of way, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the SE¼SE¼ Section 34, Township 27 North, Range 5 East, W. M., bounded on the North by the North line of said SE¼SE¼ Section 34, and bounded on the South by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE¼SE¼ Section 34, as measured along said Main Track centerline; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the S½SE¼ and the SE¼SW¼ Section 34, Township 27 North, Range 5 East, W. M., bounded on the North by a line radial to said Railway Company's Main Track centerline, as originally located and constructed, at a point distant 600 feet Southwesterly of said North line of said SE¼SE¼ Section 34, as measured along said Main Track centerline, and bounded on the South by the South line of said Section 34, said line also being the South line of Snohomish County Washington.

KING COUNTY

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as now located and constructed, upon, over and across the Lots 2, 3, the S½N½, and the E½SW¼ Section 3, the NW¼ Section 10, all in Township 26 North, Range 5 East, W. M., bounded on the North by the North line of said Section 3, said line also being the North line of King County, Washington, and bounded on the West by the West line of said NW¼ Section 10, **EXCEPTING THEREFROM**, that portion lying Easterly of a line parallel with and distant 20 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline as now located and constructed, bounded on the North by the South line of 8th Street, according to the recorded plat of Bear Creek Addition to Day City, Washington, and bounded on the South by a line perpendicular to said Railway Company's Main Track centerline distant 450.0 feet Southerly from the North line of said E½SW¼ Section 3, as measured along said Main Track centerline; also,

A 100 foot wide strip of land being that portion of that certain 100.0 foot wide strip of land described in deed dated June 8, 1887 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded June 14, 1887 in Book 42 of Deeds, Page 410, records of King County, Washington, that portion of that certain 100.0 foot wide strip of land described in deed dated July 26, 1890 from Ira Woodin and Susan Woodin to Seattle and West Coast Railway, recorded November 10, 1890 in Book 112 of Deeds, Page 556, records of King County, Washington, and that certain 100.0 foot wide strip of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Book 41 of Deeds, Page 385, records of King County, Washington, lying in Section 9, Township 26 North, Range 5 East, W. M., bounded on the East by the East line of said Section 9, and bounded on the West by a line drawn radially to said Railway Company's Main Track centerline, distant 1867.0 feet Easterly of the West line of said Section 9, also being the Easterly boundary of that certain Tract VIII described in deed dated December 19, 1985 from Burlington Northern Railroad Company to King County, recorded in the records of King County, Washington as Instrument No. 198512191094, **EXCEPTING THEREFROM**, that certain tract of land described in Deed dated June 29, 1999 from The Burlington Northern and Santa Fe Railway Company to ANT, LLC recorded May 22, 2000 as Document No. 20000522001158, records of King County, Washington, **ALSO EXCEPTING THEREFROM,** that portion of that certain tract of land described in deed dated November 17, 1998 from The Burlington Northern and Santa Fe Railway Company to Tjossem Properties IV, LLC and Tjossem Properties V, LLC, recorded December 23, 1998 as Instrument No. 9812240021, which lies within said 100.0 foot strip of land; also,

That certain 0.32 acre tract of land described in deed dated July 24, 1903 from Frank A. Woodin and Anna Woodin to Northern Pacific Railway Company recorded July 30, 1903 in Book 370 of Deeds, Page 89, records of King County Washington, said 0.32 acre tract being described in said deed for reference as follows:

"All that portion of the Southeast quarter of the Northeast quarter (SE/4 of NE/4) of Section Nine (9),

Township Twenty-six (26) North, Range Five (5) East, W.M., described by metes and bounds as follows: Beginning at the point where the southeasterly line of the present right of way of the Northern Pacific Railway intersects the south line of the said Southeast quarter of the Northeast quarter (SE/4 of NE/4) and running thence east along the south line of said Southeast quarter of the Northeast quarter (SE/4 of NE/4) a distance of 190 feet, more or less, to a point which is 50 feet distant from, when measured at right angles to, the center line of the proposed Seattle Belt Line Branch of the Northern Pacific Railway as the same is now located, staked out and to be constructed over and across said Government subdivision; thence running northeasterly and parallel with and 50 feet distant from said center line of the Seattle Belt Line Branch a distance of 400 feet, more or less, to a point in the southeasterly line of the present right of way of the Northern Pacific Railway, thence southwesterly along said right of way line to point of beginning; containing 0.32 acres, more or less."

A 100 foot wide strip of land lying in the N/2 of the SE/4 of Section 9, Township 26 North, Range 5 East, W. M., being that certain 1.91 acre tract of land described in deed dated May 19, 1903 from Mary B. Hansen and Anders Hansen to Northern Pacific Railway Company recorded May 28, 1903 in Volume 361 of Dees, Page 48, records of King County, Washington and that certain 0.92 acre tract of land described in deed dated July 1, 1903 from A. J. Milton and Anna Milton to Northern Pacific Railway Company recorded July 10, 1903 in Volume 363 of Deeds, Page 211, records of records of King County, Washington, said 100 foot wide strip being described as follows:

That certain 0.03 acre triangular tract of land described in deed dated June 4, 1923 from Mary B. Hansen and A. Hansen to Northern Pacific Railway Company recorded June 8, 1923 in Volume 1192 of Deeds, Page 539, records of King County, Washington, said 0.03 acre tract being described in said deed for reference as follows:

"That certain triangular portion of the northeast quarter of southeast quarter (NE¼ of SE¼) of section nine (9) in township twenty-six (26) north of range five (5) east of the Willamette Meridian, lying easterly of and between the rights of way of the Northern Pacific Railway Company for its Snoqualmie Branch and its Lake Washington Belt Line and westerly of a line parallel with and distant twenty-five (25) feet easterly, measured at right angles from the center line of the proposed wye track connection between said branch lines as the same is now located, staked out and to be constructed over and across said premises, containing three hundredths (0.03) acres, more or less."; also,

That portion of that certain 100.0 foot wide Branch Line right of way, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across that portion of the N½SE¼ of Section 9, Township 26 North, Range 5 East, W. M., King County, Washington lying Northerly of the Southwesterly boundary of that certain 100 foot wide tract of land described in deed dated June 14, 1887 from Mary B. Jaderholm to Seattle and West Coast Railway, recorded June 14, 1887 in Volume 41 of Deeds, Page 385, records of said County.

EXHIBIT B

Section 6. Condition of Property. (a) TPO has been, or by Closing will have been, allowed to make an inspection of the Freight Portion. Subject to BNSF's express representations, warranties and obligations under this Agreement, **TPO IS PURCHASING THE RESERVED FREIGHT EASEMENT IN THE FREIGHT PORTION IN AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, IS NOT RELYING ON, AND HEREBY WAIVES ANY WARRANTY OF MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM BNSF WITH RESPECT TO ANY MATTERS CONCERNING THE FREIGHT PORTION** including, but not limited to the physical condition of the Freight Portion; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Freight Portion with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Freight Portion; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, or under the Freight Portion; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Freight Portion; the condition of title to the Freight Portion, and the Third Party Leases/Licenses permits, orders, or other agreements, affecting the Freight Portion (collectively, the "**Condition of the Freight Portion**").

(b) TPO represents and warrants to BNSF that except for BNSF's express representations, warranties and obligations under this Agreement, TPO has not relied and will not rely on, and BNSF is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Freight Portion or relating thereto made or furnished by BNSF, the manager of the Freight Portion, or any real estate broker or agent representing or purporting to represent BNSF, to whomever made or given, directly or indirectly, orally or in writing.

(c) Subject to BNSF's express representations, warranties and obligations under this Agreement TPO assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by TPO's inspection and except to the extent of BNSF's express representations, warranties and obligations under this Agreement, TPO waives, releases and discharges forever BNSF and BNSF's officers, directors, shareholders, employees and agents (collectively, "**BNSF Parties**") from any and all present or future claims or demands, and any and all damages, losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, which TPO might have asserted or alleged against BNSF Parties arising from or in any way related to the Condition of the Freight Portion or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Freight Portion. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) losses for injury or death of any person, and (c) losses arising under any Environmental Law enacted after transfer. The term "**Environmental Law**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Model Toxics Control Act, the Water Pollution Control Act, laws concerning above ground or underground storage tanks, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated

under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

BNSF and TPO acknowledge that the compensation to be paid to BNSF for the Reserved Freight Easement reflects that the Reserved Freight Easement is being conveyed subject to the provisions of this Section 6 which provisions shall be included in the Deed and which shall be covenants running with the land.

Section 7. Environmental Obligations.

(a) Consistent with Section 4.2 of this Agreement, if, prior to the expiration of the Review Period, the TPO notifies BNSF in writing of an existing condition affecting the Freight Portion (an "**Identified Condition**") that is unacceptable to the TPO, as determined by the TPO in its sole and absolute discretion, and BNSF does not verify in writing within fifteen (15) business days thereafter that such Condition is a condition that BNSF is obligated to Cure pursuant to this Section 7, then the TPO may terminate this Agreement by written notice to BNSF in accordance with the provisions of Section 4.2 of this Agreement. If the TPO timely notifies BNSF in writing of an Identified Condition, the TPO and BNSF shall negotiate diligently and in good faith to reach agreement on Curing such condition. If the portion of the Freight Portion affected by an Identified Condition can be excluded from the sale of the Reserved Freight Easement without materially interfering with TPO's future use of the Reserved Freight Easement, as determined by the TPO in its sole and absolute discretion, then BNSF may affect Cure prior to Closing by excluding such affected portion of the Freight Portion without any price adjustment and to the extent so excluded BNSF shall have satisfied its obligations under this Agreement to Cure the portion of the Freight Portion excluded from the Reserved Freight Easement, provided, however, that any such Cure by exclusion must first be agreed to in writing by the TPO. If TPO does not terminate this Agreement under Sections 4.2 and 7.1 and proceeds to Closing, it shall be deemed to have waived and released BNSF from any obligations with respect to such Identified Condition.

(b) BNSF shall be responsible to investigate, remediate, respond to or otherwise cure (collectively, "**Cure**") as and when required by and in accordance with Environmental Laws any Identified Condition that concerns a release of Hazardous Substances on the Freight Portion occurring prior to the Closing or a violation of Environmental Laws concerning the Freight Portion occurring prior to the Closing to the extent that BNSF has agreed to Cure, and to the standards that BNSF has agreed to satisfy, in writing prior to the expiration of the Review Period. Notwithstanding the preceding sentence, BNSF shall not be responsible to Cure any such Identified Conditions to the extent TPO, its agents, or contractors materially exacerbate such Identified Condition during construction performed by or for TPO, excluding superficial or *de minimis* activity performed by TPO. Further, BNSF shall not be responsible to Cure any Identified Condition that was not caused by BNSF or its agents, contractors or invitees. TPO shall cooperate with BNFS in its efforts to Cure any Identified Condition concerning a release of Hazardous Substances on the Freight Portion.

(c) The provisions of this Section 7 shall be included in the Deed and shall run with the land.

OPERATIONS AND MAINTENANCE AGREEMENT
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.

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OPERATIONS AND MAINTENANCE AGREEMENT
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.

This Operations and Maintenance Agreement (the "Agreement") is entered into as of the 18 day of DECEMBER, 2009 ("Execution Date"), between the PORT OF SEATTLE, a Washington Municipal Corporation ("Port"), and GNP RLY. INC., a Washington corporation ("TPO").

Recitals

A. Pursuant to the Purchase and Sale Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), dated May 12, 2008, as amended; Port acquired certain rights-of-way from BNSF ("Port Property") and BNSF reserved for itself certain freight easement rights under the Quitclaim Deed ("Deed") to the Port; and

B. BNSF has conveyed its freight easement rights to TPO by quit claim deed dated of even date herewith ("Easement"). The Easement gives TPO the right to operate on a portion of the Port Property (as defined in Section 1.4 below, the "Corridor"), and

C. TPO intends to use the Corridor to provide Freight Rail Service and Excursion Rail Service (defined below); and

D. Pursuant to a Railroad Right-of-Way License Agreement ("License") between Port dated of even date herewith, attached hereto and incorporated herein as **Exhibit A**, TPO intends to use the Excursion Spur (as defined in the License) to provide Excursion Rail Service on the Excursion Spur, which is "railbanked" as set forth more fully in Recital D of the License.

E. The parties desire to set forth in this Agreement their respective rights and obligations with respect to TPO's use of the Corridor and adjacent Port Property for Freight Rail Service and related activities.

F. The TPO has been qualified by the Surface Transportation Board ("STB") and is willing to provide railroad freight transportation service to the public upon the terms and conditions contained herein.

G. The TPO intends to work in partnership with local governments, economic development authorities, shippers and Class 1 railroads to develop innovative and efficient operating and shipping methods and improvements in order to provide competitive rail service for the region's rail shippers.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

SECTION 1. Definitions.

1.1 "Additions and Alterations" means any improvements constructed by or on behalf of either party on the Corridor after the Execution Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 "Automatic Warning Devices" means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 "BNSF" is defined in Recital A.

1.4 "Corridor" means the portion of rail line to which TPO acquired certain rights pursuant to the Easement, located between milepost 23.8 in Woodinville, King County, Washington to milepost 38.25 in Snohomish, Snohomish County, Washington.

1.5 "Deed" is defined in Recital A.

1.6 "Easement" is defined in Recital A.

1.7 "Environmental Laws" means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, licenses, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Corridor, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendments or regulations promulgated thereunder.

1.8 "Excluded Conduct" is defined in Section 7.4.

1.9 "Excursion Rail Service" means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service.

1.10 "Execution Date" means the date on which this Agreement is executed and becomes effective.

1.11 "Facilities" means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), Additions and Alterations, drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, buildings and any other structures or things necessary for the support thereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.12 "FRA" means the Federal Railroad Administration.

1.13 "Freight Rail Service" means only (a)the common carrier freight rail operations conducted by TPO or TPO's tenants or assignees on the Corridor and (b) the head and tail operations associated therewith and conducted on the Excursion Spur in accordance with the License, and no other freight service.

1.14 "Hazardous Materials" means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Corridor and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Corridor causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.15 "Invoice" is defined in Section 9.1.

1.16 "Loss" or "Losses" means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expenses (including, without limitation, costs of investigation, defense expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death of or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Freight Rail Service or Excursion Rail Service on the Corridor.

1.17 "Port" is defined in the preamble.

1.18 "Port Property" means the rights-of-way acquired by Port from BNSF under the Deed that are subject to TPO's rights under this Agreement; provided, that if Port transfers individual parcel(s) to third parties not affiliated with Port, and the transferred parcel(s) do not remain subject to this Agreement as provided in Section 12.12, such individual parcel(s) shall not be deemed "Port Property."

1.19 "Track" means any and all main track, sidings, yards, spurs and other track constructed or to be constructed upon and across the Corridor.

1.20 "TPO" is defined in the preamble.

SECTION 2. Rail Service.

2.1 TPO's Rights and Obligations.

TPO shall have the exclusive right and obligation (subject to TPO's unfettered right to abandon or discontinue Freight Rail Service) to provide, by itself and/or by or through any entity designated by TPO and approved by the Port, Freight Rail Service and/or Excursion Rail Service on and over the Corridor. TPO, and/or its designee, shall also have the right to:

a) Modify, construct, maintain, replace, remove and operate the Tracks upon and across the Corridor in order to fulfill common carrier obligations to existing and prospective shippers and receivers of freight, at the expense of entities other than Port.

b) Perform any work prescribed by any FRA inspector.

c) Use existing Tracks in the Corridor for switching cars to or from industries served by industry tracks, which use includes setting out or picking up cars ; provided, that TPO shall not transport or store on the Corridor or on Port Property any toxic inhalation hazards ("TIHs") or poison inhalation hazards ("PIHs").

d) In the event that construction of any Tracks or TPO's operations requires the construction of new Port Facilities, or modifications to, or relocations of Port's existing Facilities, such construction, modifications and/or relocations shall be at the expense of entities other than Port.

e) The design, construction, modification or removal of any Tracks and any new, modified or relocated Port Facilities necessitated thereby, shall be subject to Port's prior review and approval, which approval shall not be unreasonably withheld, conditioned or delayed.

f) Use existing Tracks in the Corridor for performing Excursion Rail Service described in Sections 1.9 and 5.1. TPO or its designee shall commence Excursion Rail Service on the Corridor no later than six (6) months after the Execution Date, unless TPO and the Port agree, in writing, to a later date.

g) The parties acknowledge that TPO intends to designate Ballard Terminal Railroad Company, LLC. ("Ballard Shortlines") as the entity that will conduct the

Freight Rail Service authorized under this Agreement. Prior to commencement of Freight Rail Service by Ballard Shortlines on the Corridor, TPO shall provide for the Port's approval a copy of the signed agreement between TPO and Ballard Shortlines for such operations. The agreement between TPO and Ballard Shortlines shall incorporate and be subject to all of the terms and provisions of this Agreement.

h) TPO acknowledges and agrees that, consistent with Section 2.2, Port may enter into agreements with one or more third parties for certain non-freight, passenger transportation uses on the Corridor (e.g., commuter rail service) during the term of this Agreement, that are not inconsistent with TPO's rights under this Agreement and do not materially interfere with TPO's right and obligation to operate Freight Rail Service on the Corridor. TPO shall cooperate with those parties authorized by the Port to ensure the accommodation of such passenger transportation uses on the Corridor.

2.2 Port's Rights and Obligations.

a) Port expressly declines to assume any obligation to provide common carrier freight rail service on the Corridor. Neither Port nor any person or entity other than TPO (or its permitted successors or assigns) shall be permitted to provide any type of freight rail service on the Corridor.

b) Port, at Port's election, may perform a semi-annual joint inspection of the Corridor by representatives of the Port upon reasonable advance notice for the first two (2) years, and annual joint inspections thereafter. Appropriate representatives from both Port and the TPO shall participate in and cooperate with the joint inspection(s) via hi-rail or other suitable means of railroad track inspection. The Port may perform more frequent inspections of the Corridor, at its election, at any time during the term of the Agreement so long as the following conditions are met: (1) Port provides advance notice to TPO in accordance with Section 6.1 e); (2) Port complies with all reasonable safety requirements of the TPO or as required by law applicable to the Corridor; (3) Port obtains the appropriate authorizations from TPO to be on the designated portions of the Corridor; (4) TPO will be allowed to participate in any inspection; and (5) the inspections are planned and coordinated with TPO to minimize any interference with TPO's operations on the Corridor. The Port may request, at its sole discretion, that the inspections be performed by an authorized FRA inspector, whose findings shall be binding on the Port and the TPO.

c) In the event the TPO fails to or is unable to perform any work it is required to perform under this Agreement, the Port may perform such work. Any such work by Port shall be performed in accordance with TPO's schedule and design, (as approved by Port under Section 2.1 above, and the reasonable documented out-of-pocket cost thereof shall be reimbursed by TPO to Port in accordance with Section .

d) Port shall have the right to contract with third parties for certain non-freight, passenger transportation uses on the Corridor (e.g., commuter rail service) during the term of this Agreement, and to grant easements, licenses or permits affecting the Corridor as long as such use, easements, licenses or permits do not interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Corridor under the terms of this Agreement.

SECTION 3. Maintenance, Repair and Replacement Obligations.

3.1 General Maintenance, Repair and Replacement Obligations.

a) Except as otherwise provided in this Agreement, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all Tracks and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade crossings, located within the Port Property, including the Corridor, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Corridor.

b) Notwithstanding the provisions of Section 3.1 above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

c) The TPO shall allow the Port to conduct inspections of the Corridor as provided in Section 2.2 b).

3.2 Remedies.

a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this Agreement, and such failure results in an imminent and substantial danger to human health or safety or to property, Port shall promptly notify TPO and the FRA. If TPO fails to perform its maintenance obligations, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below. Port shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

b) In the event that TPO or Port discovers, or receive notice of, any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Duty Officer Telephone No.:_____

TPO Duty Officer Telephone No.:_____

3.3 Grade Crossing Reconstruction.

The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between the tracks used by TPO and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

SECTION 4. Construction of Additions and Alterations.

4.1 Design and Construction Standards.

The design and construction of any Additions and Alterations on the Corridor shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow its customary safety procedures and shall use reasonable efforts to perform work on Additions and Alterations at such times and in such manner as not to materially interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

4.2 Design Review.

In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to . Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

4.3 Grade Separation Projects.

In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

SECTION 5. Operations.

5.1 TPO's Operations.

TPO shall have exclusive authority to manage, direct and control all activities on the Corridor to provide Freight Rail Service, and Excursion Rail Service, including, without limitation, the operations of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Corridor.

SECTION 6. Access.

6.1 Reciprocal Access and Notice Rights.

Subject to the procedures set forth below, and to be in compliance with all applicable rules and regulations of the FRA, the parties shall have the following reciprocal access rights:

a) Port may enter upon the Corridor for the purposes set forth in Sections 2.2 and 3.2.

b) In the event the Port becomes aware of or is notified of an emergency of any kind, Port shall provide immediate notice of such events to TPO's duty officer at the contact number set forth in Section 3.2.

c) Security personnel of either party in pursuit of a criminal suspect may enter upon the Corridor for the purposes of apprehending the suspect.

d) TPO may enter upon the Port Property for the purposes set forth in this Agreement.

e) Except for emergencies when reasonable notice under the circumstances shall be given, Port shall give TPO at least forty-eight (48) hours' prior telephonic notice of any entry onto the Corridor, and shall not enter upon the Corridor until a valid work permit is issued by TPO. If flagging is necessary, no entry shall be made until TPO has made arrangements for flagging.

f) Any entry by Port (or its contractors, invitees or licensees) on any portion of the Corridor within twenty feet (20') of the track center of the Corridor shall be subject to the notice and flagging requirements under subparagraph above, unless the parties agree to an alternative procedure.

g) Hazardous Materials may be brought by TPO onto the Corridor only to the extent necessary for the purposes for which entry is allowed under Section 7.1 , and in all events in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, TPO shall not transport, bring onto, or store on the Corridor or Port Property any THIs or PHIs.

h) In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion), TPO shall give Port prompt notice of such event, and at its sole cost and expense, clean or remediate Port's property to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Corridor. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The

provisions of this Section 6.1 h) are in addition to and not in limitation of the provisions of hereof, and shall survive the termination of this Agreement.

SECTION 7. Liability.

7.1 Hazardous Materials and Environmental Liability.

a) If the performance of this Agreement creates any solid or Hazardous Materials (e.g., the removal of any materials from the trains that require disposal), said Hazardous Materials shall be properly disposed of in accordance with federal, state and local laws, at the expense of the TPO. In no event shall the Port be identified as the generator of the Hazardous Materials. The TPO shall notify the Port of any such Hazardous Materials and the Port shall receive a copy of the results of any tests conducted on the wastes. The TPO shall hold harmless, indemnify and defend the Port from any claims, costs, damages, fines or other penalties arising from the disposal of any Hazardous Materials created by the performance of this Agreement, regardless of the absence of negligence or other malfeasance by TPO. This provision shall survive the termination or expiration of this Agreement.

b) At no time during the term of this Agreement shall the TPO or its designee, without first obtaining the written consent of the Port, maintain, treat, dispose of, store or have on the Corridor and/or Port Property, or permit any other party to have, maintain, treat, dispose of, or store on the Corridor and/or Port Property, anything which is classified by federal, state or local laws as Hazardous Materials or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. This excludes (1) transport or storage of materials by or on rail as long as said transport or storage complies with all Environmental Laws, including the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and Sections 2.1 c) and 6.1 g) of this Agreement, and (2) petroleum products, lubricants, antifreeze and such other materials that may be normally consumed in the daily operations of a railroad. Any permits required in compliance with this provision and all federal, state or local laws shall be obtained at TPO's sole cost.

c) The TPO further agrees to indemnify and hold Port harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from its, or any of its contractors, agents or invitees', treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Corridor and/or Port Property during the term of this Agreement, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The Port agrees to cooperate in the prosecution and collection of all costs, expenses, liabilities, demands, and claims, associated with any treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Corridor and/or Port Property, including, but not limited to, the cost of clean-up, environmental assessments, defense and reasonable attorney's fees, prior to occupancy by the TPO, against any identified responsible party.

d) The provisions of Sections 7.2 through 7.6 shall in no way limit or reduce the application, enforceability or effect of this Section 7.1.

7.2 Assumption of Responsibility.

a) Except as otherwise expressly provided in this , TPO will assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Corridor or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

b) The allocation of responsibility for Losses under this applies only to Losses proximately caused by incidents occurring on or adjacent to the Corridor or Port Property, and arising out of TPO's presence on the Corridor, or on Port Property.

c) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this , including, without limitation, salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

7.3 Allocation of Responsibilities.

a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in Section 7.3 a) i and Section 7.4. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Corridor (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

i. If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

b) Persons Other Than Invitees. Except as provided in Section 7.4, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

c) Unenforceability. If any of the provisions of this Section 7.3 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of a Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 7.3, those provisions shall be deemed to

exclude indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 7.3, if both parties were negligent.

7.4 Excluded Conduct.

"Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, where such conduct is alleged in a properly filed complaint by a plaintiff or plaintiffs as the basis for an award of exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible for and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a party asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

7.5 Scope of Indemnification.

a) In any case where a party is required under the provisions of this to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entities from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto.

b) TPO hereby waives any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

c) TPO shall indemnify, hold harmless and defend Port from any and all Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Corridor and the Port Property.

7.6 Procedure.

a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this , the indemnified party shall, within thirty (30) days after actual notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the

indemnifying party from any liability which it may have to the indemnified party under this except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this without either providing the indemnifying party with a full release with respect to such liability or obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed.

b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this Agreement, the party sued shall give the other party timely written notice of the pendency of such action, and thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this Agreement, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this Agreement. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this Agreement, be bound by the final judgment of the court in such action.

c) Subject to the provisions of Section 7.6 a), on each occasion that the indemnified party is entitled to indemnification or reimbursement under this , the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expenses arising as a result of such proceeding.

d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to of this Agreement.

7.7 Compliance with Laws.

Both parties shall comply with all applicable federal, state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Corridor results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defend (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

7.8 Delay/Interruption of Service.

Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 7.3 i.

7.9 No Limitation on Risk Allocation.

The provisions of this Section 7 shall apply notwithstanding the provisions of Section 8. In no event shall the indemnification provisions of this Section 7 be limited to the insurance coverage required under Section 8.

7.10 Statutory Defenses.

All statutory defenses and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this Agreement.

7.11 Survival.

The provisions of this Section 7 shall survive the termination or expiration of this Agreement.

SECTION 8. Insurance.

8.1 Freight Rail Service Coverage.

TPO shall obtain and maintain freight service general liability insurance written on an "occurrence" basis, with minimum limits of Five Million Dollars ($5,000,000) per occurrence. The Port shall be listed as an additional insured for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed One Million Dollars ($1,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of the Port.

a) The policy required under this Section 8.1 shall include general liability property damage and bodily injury coverage for operation of Freight Rail Service along with any related operation, maintenance, and construction on or about the Corridor and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Corridor and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Five Million Dollars ($ 5,000,000) in the aggregate.

b) The policy required under this Section 8.1 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Five Million Dollars ($5,000,000) in the aggregate.

c) The policy limits required under this Section 8.1 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

8.2 Excursion Rail Service Coverage.

TPO shall obtain and maintain general liability insurance with an excursion/passenger endorsement, and written on an "occurrence" basis, with minimum limits of Twenty-five Million Dollars ($25,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count is 50 or less; and Fifty Million Dollars ($50,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count exceeds 50. The Port shall be listed as an additional insured for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed Five Million Dollars ($5,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of Port.

a) The policy required under this Section 8.2 shall include general liability property damage and bodily injury coverage for operation of Excursion Rail Service along with any related operation, maintenance, and construction, on or about the Corridor and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Corridor and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Six Million Dollars ($ 6,000,000) in the aggregate.

b) The policy required under this Section 8.2 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Six Million Dollars ($6,000,000) in the aggregate.

c) The policy limits required under this Section 8.2 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

8.3 Automobile Coverage.

TPO shall maintain general automobile liability insurance of not less than One Million Dollars ($1,000,000) per occurrence, combined single limit for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). Coverage shall extend to all owned, non-owned, hired, leased, rented, or borrowed vehicles. The policy shall contain a waiver of subrogation in favor of the Port.

8.4 Evidence of Insurance.

Prior to the Execution Date , and annually thereafter, TPO shall forward evidence of insurance as required in this Section including evidence of the Port's status as an additional insured for the Freight Rail Service and Excursion Rail Service policies; and a written copy of the waiver of subrogation for the automobile liability policy. Upon request from the Port, TPO shall forward certified copies, within 30 days of the request from the Port, of any binders, policies, and declarations of insurance that is required by this Agreement.

8.5 No Port Deductible.

No policies obtained by TPO for this Agreement shall contain a deductible obligation for the Port. If the policy is issued with a deductible option, the TPO shall be liable for all deductibles, as well as any applicable allocated loss adjustment expenses if applicable. All costs incurred by a program of self-insurance, including self-insurance as identified in Sections 8.1 and 8.2 are to be borne by TPO.

8.6 Additional Documentation – Self Insurance.

If self-insurance is utilized for a portion of the coverage permitted in Sections 8.1 and 8.2, evidence must be provided to the Port of the TPO's net worth, a copy of the most recent audited financials, and a written description of the self-insurance program. This must be submitted with the other documentation required in Section 8.4.

8.7 Applicability of Workers' Compensation.

TPO is fully responsible for ascertaining the applicability of Title 51 Industrial Insurance, of the Revised Code of Washington, as well any federal laws that pertain to workers compensation coverage for railroad employees and operators, such as the Federal Employers' Liability Act (FELA). TPO shall comply with all required workers compensation requirements whether through purchase of commercial insurance or as a qualified self insurer. In the event FELA is the applicable coverage under this Agreement, TPO shall provide the Port with evidence of coverage. An insurance certificate shall be additionally required to show evidence of other applicable worker compensation coverage.

a) In the event Title 51 of the Revised Code of Washington applies to this Agreement, TPO shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of TPO worker compensation account prior to the Execution Date of this Agreement. TPO shall list here their UBI Number 602-672-764 and their State Worker Compensation Account Number

_____.TPO shall also provide the Port with Washington State Stop Gap employers' liability insurance. This shall be in an amount of One Million Dollars ($1,000,000) per accident and One Million Dollars ($1,000,000) per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary general liability policies identified in Sections 8.1 and 8.2. To the extent applicable, there shall be no exclusions relative to railroad workers or workers covered under the Federal Employers' Liability Act.

8.8 Primary Insurance.

TPO's insurance shall be primary with respect to its obligations under this Agreement and non-contributory with respect to any coverage the Port may have.

8.9 Maintaining Insurance Requirements.

TPO's insurance requirements shall be maintained for the full term of this Agreement and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured, including the Port.

8.10 Statutory Defenses.

All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than the Port, and none are intended to be waived by TPO with respect to parties other than the Port by the acquisition of insurance by TPO or under this Agreement.

8.11 Failure to Maintain Insurance.

A failure of TPO to maintain the insurance required by this Section 8 shall not relieve TPO of any of its liabilities or obligations under this Agreement.

8.12 Waiver of Subrogation.

Every policy of insurance required under this Agreement to be held by TPO shall include a waiver of all rights of subrogation against the Port.

8.13 Other Insurance.

TPO shall require that all of its contractors and sub-subcontractors carry a railroad protective liability policy with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and with an aggregate policy limit of no less than Six Million Dollars ($6,000,000). Said policy shall name the Port as an additional insured.

SECTION 9. Compensation and Billing.

9.1 Invoices.

Any Invoice or Invoices submitted to the parties under this Agreement ("Invoice" or "Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and any reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

9.2 Audit.

So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of this Agreement shall at all reasonable times be open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this Agreement is funded in whole or in part by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

9.3 Supporting Documentation.

Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

9.4 Fees.

9.4 Fees. TPO shall pay the Port:

a) A fee of Ten Thousand Dollars ($10,000.00) payable on the closing of the transaction between the Port and BNSF referenced in Recital A; and

b) A quarterly fee based on the TPO's traffic volume calculated as follows:

$10.00 per loaded freight car; and

$.10 per excursion passenger carried. For purposes of this Section 9.4, the term "excursion passengers" shall include passengers carried by another operator pursuant to a contract with TPO; and

5% of gross miscellaneous revenue, including but not limited to, car storage revenue.

c) Additional Fee: TPO represents and warrants that its written application for RRIF financing, which it has heretofor submitted to the FRA, expressly anticipates using a portion of the RRIF funds to pay the Additional Fee described herein, and that 45 USC §822(b)(1), provides that . RRIF funds may be used to **(A)** acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops; **(B)** refinance outstanding debt incurred for the purposes described in subparagraph (A); or **(C)** develop or establish new intermodal or railroad facilities.". Upon TPO receiving documentation from the FRA acknowledging receipt of any required credit risk premium payment by TPO and approving the disbursement of RRIF loan financing to TPO for the Additional Fee, an additional fee of Nine Hundred Ninety Thousand Dollars ($990,000.00) shall be payable to the Port within thirty (30) days of said disbursement; This fee shall be in addition to the fees and payments required under Section 9.4 b):

d) All fees payable by TPO under Sections 9.4 b) shall be payable at the end of the quarter following the quarter during which the fees accrued. For example, fees for Quarter 1 (January-March) shall be payable at the end of Quarter 2 (April-June), or on June 30th. Notwithstanding the foregoing, any fees owed at the termination or expiration of the Agreement shall be paid to the Port within 30 days of said expiration or termination.

e) When submitting payments to the Port under Sections 9.4 b), TPO shall include a statement of its traffic and passenger volumes, including all car counts and tonnages in support of the amount of the fees.

f) All fees referenced in this Section 9.4 are the same and are not in addition to the fees payable under Section 10.4 of the License.

SECTION 10. Coordination.

10.1 Coordination Committee.

Port and TPO shall establish a Coordination Committee consisting of at least two (2) representatives of each party. The Coordination Committee shall be a forum for the parties to share information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this Agreement. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

SECTION 11. Binding Arbitration.

11.1 Controversies Subject to Arbitration.

Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this Agreement that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

11.2 Selection of Arbitrator.

In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

11.3 Expedited Arbitration Schedule.

a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 11.2, an expedited arbitration procedure as set forth in this Section solely for the purpose of obtaining a provisional remedy that by law or in equity could be imposed in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five (5) day period, each party shall within two (2) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. Otherwise, the two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections 11.1 and 11.2 and; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

11.4 Pending Resolution.

During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this Agreement, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

11.5 Cost of Arbitration.

Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

SECTION 12. Term and Termination.

12.1 Term.

The initial term of this Agreement shall expire on the 10th anniversary of the Execution Date. So long as TPO is not in default with respect to a material term or condition of this Agreement, TPO may elect to continue this Agreement for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. *Notwithstanding* the foregoing, this Agreement shall terminate 60 days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this Agreement, which default has not been cured on or prior to such 60th day.

12.2 Termination for Abandonment.

In the event that TPO, or a permitted successor or assign, lawfully abandons, discontinues or otherwise lawfully ceases to provide Freight Rail Service on the Corridor by obtaining any necessary authority or exemption from the Surface Transportation Board ("STB"), Port may choose to (1) terminate this Agreement upon ninety (90) days written notice to TPO; or

(2) terminate all the rights of TPO, or that of a permitted successor or assign, to provide Freight Rail Service over the Corridor under this Agreement. Notwithstanding the previous sentence, after the termination of this Agreement under this Section, TPO may, with Port's approval, continue to provide Excursion Rail Service over the Corridor. In all events, TPO shall remain liable for all accrued or continuing obligations under this Agreement, and all obligations required upon termination and surrender of the Corridor.

12.3 Offers of Financial Assistance ("OFA").

In the event TPO, or a permitted successor or assign, seeks STB authority (or an exemption therefrom) to abandon any portion or segment of the Corridor, if TPO receives an OFA with respect thereto, TPO shall promptly notify Port, Port (or its designee) shall submit its own OFA and TPO shall accept the OFA submitted by Port (or its designee) for the offer amount of $1.

12.4 Railbanking.

In the event TPO, or a permitted successor or assign, seeks STB authority (or an exemption therefrom) to abandon any portion or segment of the Corridor, if Port, King County ("County"), or the designee of either of them timely files with the STB a Statement of Willingness to Assume Financial Responsibility ("SWAFR") meeting the requirements of the STB's regulations, TPO shall file with the STB: (i) an expression of willingness to enter into a railbanking/trail use agreement; (ii) a statement that TPO and Port, or TPO and County, or TPO and such designee, have entered into such an agreement; and (iii) a request that the STB issue a Notice of Interim Trail Use ("NITU") or a Certificate of Interim Trail Use ("CITU") (as appropriate). Upon the effective date of each such NITU or CITU, TPO shall transfer to Port (or Port's designee) TPO's right to restart freight rail service on the portion of the Corridor that is the subject of the SWAFR.

12.5 Binding Successors; Assignment.

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this Agreement without the prior written consent of Port, which consent may not be unreasonably denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this Agreement freely.

12.6 Notices.

Except as otherwise expressly provided in this Agreement, all notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or (b) at the earlier of actual receipt or the third business day following deposit in the United States mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

Port: Port of Seattle
P. O. Box 1209
Real Estate Division
Seattle, WA 98111
Telephone No. 206-728-3722

If delivered:
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

TPO: GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

12.7 Headings.

The section and subsection headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement.

12.8 Integration, Amendment, and Waiver.

This Agreement controls all the rights and obligations of TPO and Port as to the operation of Freight Rail Service and Excursion Rail Service on the Corridor. (The License controls all the rights and obligations of TPO and Port as to the operation of Excursion Rail Service on the Excursion Spur and Extended Excursion Spur, if applicable). This Agreement is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both of the parties. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

12.9 Counterparts.

This Agreement may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

12.10 Governing Law.

This Agreement shall be construed and interpreted in accordance with the laws of Washington State and/or federal law, where applicable.

12.11 Time of Essence.

Time is of the essence of each and every provision of this Agreement.

12.12 Agreement Runs with Land; Recordation.

This Agreement is made for the benefit of the Corridor and shall run with the land, except that any parcel transferred by the Port to an unaffiliated person or entity for purposes other than rail operations or trail use that does not contain any facilities used in connection with the rail operations intended by this Agreement shall be deemed removed from the Corridor or Port Property as applicable. This Agreement shall bind and inure to the benefit of the parties' respective successors in interest in the Corridor to the extent stated in the prior sentence. This Agreement shall be recorded, and each party, upon request of the other party, agrees to execute a document in recordable form evidencing the removal of any parcel from the Corridor or the Port Property.

12.13 Not for the Benefit of Others.

This Agreement and each and every provision herein is for the exclusive benefit of the parties hereto and not for the benefit of any third party, except that the provisions related to railbanking in Section 12.4 are for the benefit of the County. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties hereto, except for the rights of the County under Section 12.4.

12.14 Attorneys' Fees.

If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding, in addition to any other relief to which it or they may be entitled.

12.15 Regulatory Requirements.

If any governmental agency imposes any requirement on either or both of Port and TPO which Port can reasonably demonstrate would not have been imposed but for TPO's use of the Corridor for TPO's Freight Rail Service or Excursion Rail Service, the entire cost of compliance shall be borne solely by TPO, including, without limitation, costs and expenses for construction and maintenance of improvements, relocation of Facilities, implementation of safety procedures, and the filing of or participation in regulatory proceedings. Both parties shall reasonably cooperate to ensure compliance with all such governmental requirements. Notwithstanding the foregoing sentence, TPO's cooperation shall not include any modification to, or restriction of, its operations in the Corridor; provided, however, that TPO's cooperation may include modifications to the Facilities to the extent such modifications do not restrict TPO's operations, and subject to TPO's obligation to bear all costs and expenses thereof.

12.16 TPO Operating Data.

In the event of termination of TPO's operations, TPO shall, at the Port's request and expense, provide to the Port or the Port's designee all data associated with TPO's operations on the Corridor, including, but not limited to, car tracing, shipper identification and rates, and accounting records. Provided, that in the event TPO's operations terminate as a result of TPO transferring its rights to another operator, with the Port's consent, such operating data shall be transferred by TPO to its successor at TPO's cost or that of TPO's successor.

12.17 Removal of TPO's Property.

Upon termination of this Agreement, TPO shall have ninety days from the date of termination to remove all of TPO's personal property and trade fixtures, so long as such removal does not damage the Corridor or Port Property. If damage results to the Corridor or to Port Property as a result of TPO's activities under this Section 12.17, TPO shall, at its sole expense, restore or reimburse the Port for the cost to restore the Corridor or Port Property to as good condition as they were prior to TPO's removal activities, normal wear and tear excepted. If TPO fails to remove any of the personal property and trade fixtures within the time authorized under this Section, the Port may remove TPO's property at TPO's expense, subject to offset by any net proceeds received by the Port from the sale of TPO's property. TPO's obligation to (i) restore the Port for any damage to the Corridor or Port Property, and (ii) repay the Port for the cost of any property removal shall survive the termination of this Agreement. All other property or improvements placed on the Corridor or Port Property by TPO during the term of the Agreement that do not constitute personal property or trade fixtures, shall become the property of the Port upon termination of this Agreement.

12.18 Encumbrances.

TPO may pledge or otherwise encumber its rights under this Agreement to secure its obligations under any loan agreement or similar or related document; provided, however, that such pledge or other encumbrance shall be subject to and subordinate to the rights of the Port and its assigns under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Execution Date.

PORT OF SEATTLE,
a Washington municipal corporation

By: _____
Name: _____
Title: _____

GNP RLY. INC.,
a Washington corporation

By: Thomas Payne. Chairman & C.O.O
Name: Thomas Payne
Title: Chairman & C.O.O.

STATE OF WASHINGTON)
) **ss.**
COUNTY OF King)

On Dec. 17, 2009, before me, a Notary Public in and for said County and State, personally appeared Jay Yoshitani, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL) JULIE KATHRYN THOMAS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 1-22-11

Julie Kathryn Thomas
Printed Name
Julie Kathryn Thomas
NOTARY PUBLIC in and for the State of Washington, residing at Bothell, Wa
My commission expires 1-22-11

STATE OF WASHINGTON)
) **ss.**
COUNTY OF King)

On 12-18, 2009, before me, a Notary Public in and for said County and State, personally appeared Thomas Pague, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL) STEPHANI A. OWENS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES APRIL 29, 2013

Stephani A. Owens
Printed Name
Stephani A Owens
NOTARY PUBLIC in and for the State of Washington, residing at Everett
My commission expires 4-29-2013

Exhibit A

Railroad Right-Of-Way License Agreement
(Attached)

RAILROAD RIGHT OF WAY LICENSE
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.

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RAILROAD RIGHT OF WAY LICENSE

THIS RAILROAD RIGHT OF WAY LICENSE ("License") is entered into as of the ___ day of _____, 2009 ("Execution Date"), between the Port of Seattle, a Washington municipal corporation ("Port ") and GNP Rly. Inc., a Washington corporation ("TPO").

RECITALS

A. Pursuant to the Purchase and Sale Agreement and the Donation Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), both dated as of May 12, 2008 (together, the "Acquisition Agreements") Port acquired BNSF's right, title and interest in BNSF's railroad right of way (i) from milepost 5.0 in Renton, Washington to and including the railroad bridge at milepost 38.25 in Snohomish County, Washington, and (ii) from milepost 0.0 in Woodinville south to milepost 7.3 in Redmond (the "Redmond Spur") (together, the "Port Property").

B. Port and TPO have entered into an Operations and Maintenance Agreement ("O&M Agreement") setting forth their respective rights and obligations with respect to Freight Rail Service, Excursion Rail Service, and maintenance on portions of the Woodinville Subdivision from milepost 23.8 in Woodinville, King County, Washington north to milepost 38.25 in Snohomish, Snohomish County, Washington ("Corridor"), as described in **Exhibit A** attached hereto and incorporated herein.

C. TPO also desires the right to use and operate the Excursion Spur, a portion of the Woodinville Subdivision and further described below, for Excursion Rail Service (as defined in Section 1.6 below).

D. Upon acquisition of the Corridor by the Port, the Excursion Spur, along with the railroad right of way (i) from milepost 5.0 in Renton, Washington to milepost 23.8 in Woodinville, Washington, and (ii) within the Redmond Spur, was "railbanked." King County ("County") was approved as an Interim Trail User by the Surface Transportation Board ("STB") for the purpose of railbanking, and County is accordingly subject to certain legal obligations related to the Excursion Spur, which are referred to herein as the "Railbanking Obligations." The Railbanking Obligations consist of those obligations imposed through Section 8(d) of the National Trails System Act, also known as the Rails-to-Trails Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29 (collectively, and as any of the foregoing may hereafter be amended or interpreted by binding judicial or administrative authority, the "Railbanking Legislation"), the Notice of Interim Trail Use ("NITU") related to the Excursion Spur issued by the STB and any conditions or requirements imposed related thereto; the Trail Use Agreement ("TUA") entered into between BNSF and County related to the Excursion Spur under which County agreed to accept, exercise, and fulfill all of the legal rights, duties, and obligations of an Interim Trail User, and the Statement of Willingness to Accept Financial Responsibility ("SWAFR"). To carry out the Railbanking Obligations, County has been granted by the Port a Public Multipurpose Easement dated _____ and recorded under recorded number _____, under which County acquired certain rights on the Excursion Spur and the other portions of the Corridor

subject to railbanking, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

E. Port is willing to grant TPO the right to use and operate the Excursion Spur in the manner described in this License.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants in this License and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

Section 1. Definitions.

1.1 Additions and Alterations - Means any improvements constructed by or on behalf of either party on the Excursion Spur after the Execution Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 Automatic Warning Devices - Means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 Corridor is defined in Recital B.

1.4 Environmental Law - Means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, license, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Excursion Spur, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendment or regulations promulgated thereunder.

1.5 Excluded Conduct - Is defined in Section 8.4.

1.6 Excursion Rail Service - Means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service, except for head and tail operations as referred to Section 1.11.

1.7 Excursion Spur - Means that portion of the Redmond Spur from milepost 0.0 in Woodinville south to milepost 2.5 in Woodinville, Washington.

1.8 Execution Date - Means the date on which this License is executed and becomes effective.

1.9 Facilities - Means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, buildings and any other structures or things necessary for the support thereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.10 FRA - Means the Federal Railroad Administration.

1.11 Freight Rail Service - Means only (a) the common carrier freight rail operations conducted by TPO or TPO's tenants or assignees on the Corridor and (b) the head and tail operations associated therewith and conducted on the Excursion Spur in accordance with this License, and no other freight service.

1.12 Hazardous Materials - Means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Excursion Spur and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Excursion Spur causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.13 Invoice - Is defined in Section 10.1.

1.14 Loss or Losses - Means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expense (including, without limitation, costs of investigation, defense, expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Excursion Rail Service on the Excursion Spur.

1.15 Multipurpose Easement - Means that certain easement between Port and King County, a home rule charter county and political subdivision of the State of Washington ("County") pursuant to which the County acquired certain rights on those portions of the Woodinville Subdivision from (i) milepost 23.8 in Woodinville south to milepost 5.0 in Renton, and (ii) the

Redmond Spur, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

1.16 O&M Agreement - Has the meaning set forth in Recital B.

1.17 Port Property - Means the rights-of-way acquired by Port from BNSF under the Deed that are subject to TPO's rights under this Agreement; provided, that if Port transfers individual parcel(s) to third parties not affiliated with Port, and the transferred parcel(s) do not remain subject to this Agreement as provided in Section 13.8, such individual parcel(s) shall not be deemed "Port Property."

1.18 Track - Means any and all main track, sidings, yards, spurs and other track constructed or to be constructed upon and across the Excursion Spur.

Section 2. TPO's Rights and Obligations.

2.1 Subject to transportation uses permitted or performed by the Port as provided in Section 3, TPO shall have the exclusive right and obligation to provide, by itself and/or by or through any entity designated by TPO, Excursion Rail Service on and over the Excursion Spur.

2.2 TPO shall have the exclusive authority to manage, direct and control all activities related to the provision of Excursion Rail Service on the Excursion Spur, including, without limitation, the operation of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Excursion Spur; provided, that TPO shall not transport or store on the Excursion Spur or on Port Property any toxic inhalation hazards ("TIHs") or poison inhalation hazards ("PIHs"). *Notwithstanding* the foregoing, TPO is prohibited from using the Excursion Spur at any time for the purpose of setting out or picking up rail cars.

2.3 TPO shall employ and discharge all personnel required to perform TPO's Excursion Rail Service, shall comply with all governmental laws, rules, regulations and orders applicable to TPO's Excursion Rail Service, and shall pay all real property taxes separately levied on TPO's rights under this License and for all utilities consumed by TPO in carrying out TPO's Excursion Rail Service. All improvements, equipment and materials required for TPO's Excursion Rail Service shall be provided by TPO at the sole cost and expense of entities other than Port except as provided in this License.

2.4 Subject to the rights of and coordination with the Port and those entities that the Port may authorize to provide transportation uses on the Excursion Spur pursuant to Section 3 and with County with regard to any then current or future trail use, and solely at the expense of entities other than the Port, TPO may modify, construct, maintain, replace and remove the Tracks upon and across the Excursion Spur as may be necessary in order to operate in accordance with this License, provided that TPO may not change the location of the Tracks.

a) In the event that construction of any Tracks requires the construction of new Facilities, or modifications to, existing Facilities, such construction or modifications shall be at the expense of entities other than Port.

b) The design, construction, modification or removal of any Tracks and any new, or modified Facilities necessitated thereby, shall not unreasonably interfere with the rights the Port may exercise or grant under Section 3.1 and 3.2 of this License and that the County may exercise with regard to any then current or future trail use, shall result in the location of any modified Facilities being unchanged and the condition of any modified Facilities being of equal or better condition and functionality than such Facilities were prior to the modification, and shall be subject to Port's prior review and written approval.

2.5 TPO acknowledges and agrees that the County is the grantee under the Multipurpose Easement and that this license is subject to and incorporates herein by this reference the terms of the Multipurpose Easement as set forth in Section 1.4 of that Easement. In the event that County acquires from Port additional rights, title and interests in the Excursion Spur, the incorporated terms of the Multipurpose Easement shall survive the expiration or extinguishment of the Multipurpose Easement through the doctrine of merger, provided that (a)if no "Trail Area" has been established under the Multipurpose Easement, then County may designate a Trail Area of sufficient size to accommodate a regional trail under generally applicable trail development standards as described in Section 2.1.1 of the Multipurpose Easement and provided further that (b) TPO shall be the beneficiary of the rights of "TPO" under such Multipurpose Easement that affect the Transportation Use and that apply to TPO's rights and responsibilities under this License. TPO agrees that it shall, at all times, cooperate fully with the County to accommodate any trail uses on the Excursion Spur adjacent to the Excursion Spur Facilities, and shall comply with all Railbanking Obligations.

2.6 TPO or its designee shall have the right to use existing Tracks in the Excursion Spur for performing Excursion Rail Service as described in this Section.

2.7 TPO acknowledges and agrees that, consistent with Section 3, the Port may itself perform or grant rights to or enter into agreements with one or more third parties for certain non-freight, passenger transportation uses on the Excursion Spur (e.g., commuter rail service or other public transportation) during the Term of this License, that are not inconsistent with TPO's rights under this License. TPO shall cooperate with those parties authorized by the Port to ensure the accommodation of such passenger transportation uses on the Excursion Spur.

2.8 In addition to all other rights granted to TPO under this License, TPO shall have the right to utilize the Excursion Spur between milepost 0.0 in Woodinville and milepost 1.0 for all head and tail operations necessary for TPO's Rail Freight Service under the O & M Agreement, but shall have no right to operate other common carrier or contract freight rail service on the Excursion Spur.

Section 3. Port's Rights and Obligations.

3.1 Port shall have the right to use the Excursion Spur and to grant easements, licenses or permits affecting the Excursion Spur as long as such use, easements, licensees or permits do not unreasonably interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License. TPO shall cooperate with any entity granted such easements, licenses or permits to ensure accommodation of the uses authorized by such easements, licenses or permits so long as such uses do not unreasonably interfere with or

create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

3.2 Port shall have the right to itself provide or grant rights to or contract with third parties for certain non-freight, passenger transportation uses on the Excursion Spur (e.g., commuter rail service or other public transportation) during the Term of this License so long as such uses do not unreasonably interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

3.3 Port, at Port's election, may perform a semi-annual joint inspection of the Excursion Spur by representatives of the Port upon reasonable advance notice for the first two (2) years, and annual joint inspections thereafter. Appropriate representatives from both Port and the TPO shall participate in and cooperate with the joint inspection(s) via hi-rail or other suitable means of railroad track inspection. The Port may perform more frequent inspections of the Excursion Spur, at its election, at any time during the term of this License so long as the following conditions are met: (1) Port provides advance notice to TPO in accordance with Section 7.5; (2) Port complies with all reasonable safety requirements of the TPO or as required by law applicable to the Excursion Spur; (3) Port obtains the appropriate authorizations from TPO to be on the designated portions of the Excursion Spur; (4) TPO will be allowed to participate in any inspection; and (5) the inspections are planned and coordinated with TPO to minimize any interference with TPO's operations on the Excursion Spur. The Port may request, at its sole discretion, that the inspections be performed by an authorized FRA inspector, whose findings shall be binding on the Port and the TPO.

3.4 In the event the TPO fails to or is unable to perform any work it is required to perform under this License, the Port may perform such work. Any such work by Port shall be performed in accordance with TPO's schedule and design, and the reasonable documented out-of-pocket cost thereof shall be reimbursed by TPO to Port in accordance with Section 10.1.

Section 4. Maintenance, Repair and Replacement Obligations.

4.1 General Maintenance, Repair and Replacement Obligations.

a) Except as otherwise provided in this License, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all Tracks and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade crossings, located within the Port Property, including the Excursion Spur, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Excursion Spur.

b) Notwithstanding the provisions of subparagraph (a) above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

c) The TPO shall allow the Port to conduct inspections of the Excursion Spur as provided in Section 3.3.

4.2 Remedies.

a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this License, and such failure results in an imminent and substantial danger to human health or safety or to property, Port shall promptly notify TPO and the FRA. If TPO fails to perform its maintenance obligations, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below. Port shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

b) In the event that TPO or Port discovers, or receives notice of, any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Duty Officer Telephone No.:_____

TPO Duty Officer Telephone No.:_____

4.3 Grade Crossing Reconstruction - The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between the tracks used by TPO and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

Section 5. Construction of Additions and Alterations.

5.1 Design and Construction Standards - The design and construction of any Additions and Alterations on the Excursion Spur shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow customary safety procedures in accordance with good practice in the railroad industry and with applicable laws, rules and regulations and shall use reasonable efforts to perform work on Additions and Alterations at such times and in such manner as not to unreasonably interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

5.2 Design Review - In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such

set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to Section 12. Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

5.3 Grade Separation Projects - In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

Section 6. Execution Date and Term of the License.

6.1 The initial term of this License shall expire on the 10th anniversary of the Execution Date. So long as TPO is not in default with respect to a material term or condition of this License, TPO may elect to continue this License for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. ("Term"). *Notwithstanding* the foregoing, this License shall terminate sixty (60) days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this License, which default has not been cured on or prior to such 60th day. In the event the O&M Agreement is terminated under Section 12.2 thereof but Excursion Rail Service is allowed to continue on the Corridor as authorized in Section 12.2, TPO may, with Port's written approval and so long as TPO is not in default under this License or the O & M Agreement, continue to provide Excursion Rail Service over the Excursion Spur.

6.2 TPO may terminate this License by giving Port not less than sixty (60) days' notice of termination. Upon such termination, TPO shall have no further right under this License to use the Excursion Spur.

6.3 TPO or its designee shall commence excursion passenger service as referred to in Section 1.6 of this License on the Excursion Spur no later than two years after the Execution Date. If TPO does not commence excursion passenger service by that time, or if TPO ceases excursion passenger service for more than two years, Port may terminate the right to provide excursion passenger service under this License by giving TPO not less than sixty (60) days notice of such termination. In such case, this License will be limited in scope to allow for only head and tail operations as referred to in Section 1.11.

Section 7. Reciprocal Access and Notice Rights.

7.1 Port and any entity to which it has granted rights in the Excursion Spur consistent with the terms of this license ("Port Grantees") may enter upon the Excursion Spur and/or use the Facilities located on the Excursion Spur, provided that the exercise of such rights by Port shall not unreasonably interfere with Excursion Rail Service of TPO or its designees.

7.2 Port may enter upon the Excursion Spur for the purposes set forth in Sections 3 and 4.

7.3 In the event the Port becomes aware of or is notified of an emergency of any kind, Port shall provide immediate notice of such events to TPO's duty officer at the contact number set forth in Section 4.2.(b).

7.4 Security personnel of either party in pursuit of a criminal suspect may enter upon the Excursion Spur for the purpose of apprehending the suspect.

7.5 Any entry by Port (or its contractors, invitees or licensees) or Port Grantees on any portion of the Excursion Spur within twenty feet (20') of the track center of the Excursion Spur shall, except for (a) scheduled commuter rail or other transit operations, (b) any use related to an existing or planned trail in the Excursion Spur, or emergencies when reasonable notice under the circumstances shall be given, be preceded by at least forty-eight (48) hours prior telephonic notice, and shall not enter upon the Excursion Spur until a valid work permit is issued by TPO and arrangements have been made for flagging.

7.6 Hazardous Materials may be brought by TPO onto the Excursion Spur only to the extent necessary for the operation of trains or when TPO is performing head and tail operations as authorized under Section 8 of this License, and in all events in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, TPO shall not transport, bring onto, or store on the Excursion Spur or Port Property any THIs or PHIs.

7.7 In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion) on the Excursion Spur, TPO shall give Port prompt notice of such event, and at its sole cost and expense, clean or remediate the Excursion Spur to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Excursion Spur. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The provisions of this Section are in addition to and not in limitation of the provisions of hereof, and shall survive the termination of this License.

Section 8. Liability.

8.1 Hazardous Materials and Environmental Liability

a) If the performance of this License creates any solid or Hazardous Materials (e.g., the removal of any materials from the trains that require disposal), said Hazardous Materials shall be properly disposed of in accordance with federal, state and local laws, at the expense of the TPO. In no event shall the Port be identified as the generator of the Hazardous Materials. The TPO shall notify the Port of any such Hazardous Materials and the Port shall receive a copy of the results of any tests conducted on the wastes. The TPO shall hold harmless, indemnify and defend the Port from any claims, costs, damages, fines or other penalties arising from the

disposal of any Hazardous Materials created by the performance of this License, regardless of the absence of negligence or other malfeasance by TPO. This provision shall survive the termination or expiration of this License.

b) At no time during the term of this License shall the TPO or its designee, without first obtaining the written consent of the Port, maintain, treat, dispose of, store or have on the Excursion Spur and/or Port Property, or permit any other party to have, maintain, treat, dispose of, or store on the Excursion Spur and/or Port Property, anything which is classified by federal, state or local laws as Hazardous Materials or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. This excludes (1) transport or storage of materials by or on rail for authorized head and tail operations as long as said transport or storage complies with all Environmental Laws, including the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and Sections and of this License, and (2) petroleum products, lubricants, antifreeze and such other materials that may be normally consumed in the daily operations of a railroad. Any permits required in compliance with this provision and all federal, state or local laws shall be obtained at TPO's sole cost.

c) The TPO further agrees to indemnify and hold Port harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from its, or any of its contractors, agents or invitees', treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Excursion Spur and/or Port Property during the term of this License, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The Port agrees to cooperate in the prosecution and collection of all costs, expenses, liabilities, demands, and claims, associated with any treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Excursion Spur and/or Port Property, including, but not limited to, the cost of clean-up, environmental assessments, defense and reasonable attorney's fees, prior to occupancy by the TPO, against any identified responsible party.

d) The provisions of Sections 8.2 through 8.6 shall in no way limit or reduce the application, enforceability or effect of this Section 8.1.

8.2 Assumption of Responsibility.

a) Except as otherwise expressly provided in this , TPO shall assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Excursion Spur or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

b) The allocation of responsibility for Losses under this applies only to Losses proximately caused by incidents occurring on or adjacent to the Excursion Spur or Port Property, and arising out of TPO's presence on the Excursion Spur, or on Port Property.

c) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this including, without limitation, salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party

engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

8.3 Allocation of Responsibilities.

a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in Section 8.3 a) i. and Section 8.4. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Excursion Spur (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

(i) If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

b) Persons Other Than Invitees. Except as provided in Section 8.4, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by, any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

c) Unenforceability. If any of the provisions of this Section 8.3 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 8.3, those provisions shall be deemed to exclude the indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 8.3 if both parties were negligent.

8.4 Excluded Conduct -"Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, where such conduct is alleged in a properly filed complaint by a plaintiff or plaintiffs as the basis for an award of exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible or and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a part asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

8.5 Scope of Indemnification –

a) In any case where a party is required under the provisions of this to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entitles from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto.

b) TPO hereby waives, as respects the Port only, any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

c) TPO is the rail carrier employer under the Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), and is the entity with responsibility for compliance with the common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Excursion Spur. TPO shall indemnify, hold harmless and defend Port and County from any and all cost, expense, liability, claim, damage or other obligation that is asserted against the Port and/or the County pursuant to the statutes and regulations listed in this Section.

8.6 Procedure.

a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this Section 8, the indemnified party shall, within thirty (30) days after actual notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to the indemnified party under this except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this without either providing the indemnifying party with a full release with respect to such liability or obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed.

b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this License, the party sued shall give the other party timely written notice of the pendency of such action, and

thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this License, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this License. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this License, be bound by the final judgment of the court in such action.

c) Subject to the provisions of Section 8.6a), on each occasion that the indemnified party is entitled to indemnification or reimbursement under this Section 8, the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expense arising as a result of such proceeding.

d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to Section 12 of this License, except if the binding arbitration requirement is no longer in force as provided for in Section 12.1 of this License.

8.7 Compliance With Laws - Both parties shall comply with all applicable federal state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Excursion Spur results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defend (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

8.8 Delay/Interruption of Service - Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 8.3 a) i.

8.9 No Limitation on Risk Allocation - The provisions of this Section 8 shall apply notwithstanding the provisions of Section 9. In no event shall the indemnification provisions of this Section 8 be limited to the insurance coverage required under Section 9.

8.10 Statutory Defenses - All statutory defense and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this License.

8.11 Survival - The provisions of this Section 8 shall survive the termination or expiration of this License.

Section 9. Insurance.

9.1 Freight Rail Service Coverage - TPO shall obtain and maintain freight service general liability insurance written on an "occurrence" basis, with minimum limits of Five Million Dollars ($5,000,000) per occurrence. The Port and the County shall be listed as additional insureds for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed One Million Dollars ($1,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of the Port and County.

a) The policy required under this Section 9.1 shall include general liability property damage and bodily injury coverage for operation of Freight Rail Service, *provided,* that such Freight Rail Service shall be limited to head and tail operations on the Excursion Spur, along with any related operation, maintenance, and construction on or about the Excursion Spur and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Excursion Spur and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port and the County with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Five Million Dollars ($ 5,000,000) in the aggregate.

b) The policy required under this Section 9.1 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Five Million Dollars ($5,000,000) in the aggregate.

c) The policy limits required under this Section 9.1 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

9.2 Excursion Rail Service Coverage - TPO shall obtain and maintain general liability insurance with an excursion/passenger endorsement, and written on an "occurrence" basis, with minimum limits of Twenty-five Million Dollars ($25,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count is 50 or less; and Fifty Million Dollars ($50,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count exceeds 50. The Port and County shall be listed as additional insureds for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed Five Million Dollars ($5,000,000) provided that total coverage limits (self-insurance plus excess liability insurance)

are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of Port and County.

a) The policy required under this Section 9.2 shall include general liability property damage and bodily injury coverage for operation of Excursion Rail Service along with any related operation, maintenance, and construction, on or about the Excursion Spur and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Excursion Spur and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port and County with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Six Million Dollars ($ 6,000,000) in the aggregate.

b) The policy required under this Section 9.2 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Six Million Dollars ($6,000,000) in the aggregate.

c) The policy limits required under this Section 9.2 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

9.3 Automobile Coverage - TPO shall maintain general automobile liability insurance of not less than One Million Dollars ($1,000,000) per occurrence, combined single limit for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). Coverage shall extend to all owned, non-owned, hired, leased, rented, or borrowed vehicles. The policy shall contain a waiver of subrogation in favor of the Port and County.

9.4 Evidence of Insurance - Prior to the Execution Date, and annually thereafter, TPO shall forward evidence of insurance as required in this Section including evidence of the Port's and the County's status as additional insureds for the Freight Rail Service and Excursion Rail Service policies; and a written copy of the waiver of subrogation for the automobile liability policy. Upon request from the Port, TPO shall forward certified copies, within 30 days of the request, of any binders, policies, and declarations of insurance that is required by this License.

9.5 No Port Deductible - No policies obtained by TPO for this License shall contain a deductible obligation for the Port or County. If the policy is issued with a deductible option, the TPO shall be liable for all deductibles, as well as any applicable allocated loss adjustment expenses if applicable. All costs incurred by a program of self-insurance, including self-insurance as identified in Sections 9.1and 9.2 are to be borne by TPO.

9.6 Additional Documentation – Self Insurance - If self-insurance is utilized for a portion of the coverage permitted in Sections 9.1 and 9.2, evidence must be provided to the Port and County of the TPO's net worth, a copy of the most recent audited financials, and a written description of the self-insurance program. This must be submitted with the other documentation required in Section 9.4.

9.7 Applicability of Workers' Compensation - TPO is fully responsible for ascertaining the applicability of Title 51 Industrial Insurance, of the Revised Code of Washington, as well any federal laws that pertain to workers compensation coverage for railroad employees and operators, such as the Federal Employers' Liability Act (FELA). TPO shall comply with all required workers compensation requirements whether through purchase of commercial insurance or as a qualified self insurer. In the event FELA is the applicable coverage under this License, TPO shall provide the Port with evidence of coverage. An insurance certificate shall be additionally required to show evidence of other applicable worker compensation coverage.

a) In the event Title 51 of the Revised Code of Washington applies to this License, TPO shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of TPO worker compensation account prior to the Execution Date of this License. TPO shall list here their UBI Number 602-672-764 and their State Worker Compensation Account Number _____.TPO shall also provide the Port and the County with Washington State Stop Gap employers' liability insurance. This shall be in an amount of One Million Dollars ($1,000,000) per accident and One Million Dollars ($1,000,000) per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary general liability policies identified in Sections 9.1 and 9.2. To the extent applicable, there shall be no exclusions relative to railroad workers or workers covered under the Federal Employers' Liability Act.

9.8 Primary Insurance - TPO's insurance shall be primary with respect to its obligations under this License and with respect to the interests of Port and County as additional insureds. Any other insurance maintained by an additional insured shall be excess of the coverage herein defined as primary and shall not contribute with it. In addition to the specific requirements in this License to name the Port and County as additional insureds on certain types of insurance, TPO shall also include Port and County as additional insureds on any other policy it maintains that provides coverage related to the Excursion Spur.

9.9 Maintaining Insurance Requirements - TPO's insurance requirements shall be maintained for the full term of this License and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured, including the Port and County.

9.10 Statutory Defenses - All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than the Port and the County, and none are intended to be waived by TPO with respect to parties other than the Port and the County by the acquisition of insurance by TPO or under this License.

9.11 Failure to Maintain Insurance - A failure of TPO to maintain the insurance required by this Section 9 shall not relieve TPO of any of its liabilities or obligations under this License.

9.12 Waiver of Subrogation - Every policy of insurance required under this License to be held by TPO shall include a waiver of all rights of subrogation against the Port and the County.

9.13 Other Insurance - TPO shall require that all of its contractors and sub-subcontractors carry a railroad protective liability policy with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and with an aggregate policy limit of no less than Five Million Dollars ($5,000,000). Said policy shall name the Port and County as additional insureds.

Section 10. Compensation and Billing.

10.1 Invoices - Any Invoice or Invoices submitted to the parties under this License ("Invoice or Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and any reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

10.2 Audit - So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of this License shall at all reasonable times by open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this License is funded in whole or in party by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

10.3 Supporting Documentation - Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

10.4 As compensation for the rights granted under this License (as well as for the rights granted under the O&M Agreement), TPO shall pay the Port the fees described in Section 9.4 of the O&M Agreement.

Section 11. Coordination Committee - Port and TPO shall establish a Coordination Committee and shall invite the County to participate. The Coordination Committee shall consist of at least two (2) representatives of each party, and shall be a forum for the parties to share

information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this License. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

Section 12. Binding Arbitration.

12.1 Controversies Subject to Arbitration - Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this License that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section 12. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, the requirement for binding arbitration shall not apply to any dispute wherein the Port and TPO are included, either in the initial complaint or through subsequent pleadings, in a lawsuit brought by a third party. In such case, the dispute may be litigated in court. Further, the requirement for binding arbitration shall not apply if the Port assigns its rights and obligations under this License to the County or conveys its right, title and interest in the Excursion Spur to the County.

12.2 Selection of Arbitrator - In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

12.3 Expedited Arbitration Schedule.

a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 12.2, an expedited arbitration procedure as set forth in this Section 12.3 solely for the purpose of obtaining a provisional remedy that by law or in equity could be imposed in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five (5)

day period, each party shall within two (2) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. Otherwise, the two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections 12.1 and 12.2; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

12.4 Pending Resolution - During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this License, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

12.5 Cost of Arbitration - Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

Section 13. Miscellaneous Provisions.

13.1 Binding Successors; Assignment - This License shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this License without the prior written consent of the Port, which consent may not be unreasonably withheld, denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this License freely. If Port desires to assign its rights and obligations under this License or to convey its right, title and interest in the Excursion Spur, then TPO and the potential assignee or acquiring entity shall negotiate in good faith to revise the terms of this License to address their respective interests.

13.2 Notices - Except as otherwise expressly provided in this License, all notices and other communications under this License shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or (b) at the earlier of actual receipt or the third business day following deposit in the United States

mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

Port:

Port of Seattle
P. O. Box 1209
Real Estate Division
Seattle, WA 98111
Attention: Joe McWilliams
Telephone No. 206-728-3722

If delivered:
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

TPO:

GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

13.3 Headings - The section and subsection headings in this License are for convenience only and shall not be used in its interpretation or considered part of this License.

13.4 Integration, Amendment, and Waiver - This License controls all the rights and obligations of TPO and Port as to the operation of the Excursion Rail Service on the Excursion Spur. The O&M Agreement controls all the rights and obligations of TPO and Port as to the operation of freight rail service and Excursion Rail Service on the Corridor. This License is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this License shall be binding unless executed in writing by both of the parties. No waiver of any provision of this License shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

13.5 Counterparts - This License may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

13.6 Governing Law - This License shall be construed and interpreted in accordance with the laws of Washington State and/or federal law where applicable, and the parties shall be entitled to all remedies in law and equity as provided for thereunder.

13.7 Time of Essence - Time is of the essence of each and every provision of this License.

13.8 Changes to Port Property - Any parcel transferred by the Port to an unaffiliated person or entity for purposes other than rail operations or trail use that does not contain any facilities used in connection with the rail operations intended by this License shall be deemed removed from the Excursion Spur or Port Property as applicable.

13.9 Not for the Benefit of Others - This License and each and every provision herein are for the exclusive benefit of the parties to this License and County and not for the benefit of any third party, except County. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties to this License.

13.10 Attorneys' Fees - If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this License, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this License, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding in addition to any other relief to which it or they may be entitled.

13.11 TPO Operating Data - In the event of termination of TPO's operations, TPO shall, at the Port's request and expense, provide to the Port or the Port's designee all data associated with TPO's operations on the Excursion Spur, including, but not limited to, car tracing, identification and rates, and accounting records. Provided, that in the event TPO's operations terminate as a result of TPO transferring its rights to another operator, with the Port's consent, such operating data shall be transferred by TPO to its successor at TPO's cost or that of TPO's successor.

13.12 Removal of TPO's Property - Upon termination of this License, TPO shall have ninety days from the date of termination to remove all of TPO's personal property and trade fixtures, so long as such removal does not damage the Excursion Spur or Port Property. If damage results to the Excursion Spur or to Port Property as a result of TPO's activities under this Section 13.12, TPO shall, at its sole expense, restore or reimburse the Port for the cost to restore the Excursion Spur or Port Property to as good condition as they were prior to TPO's removal activities, normal wear and tear excepted. If TPO fails to remove any of the personal property and trade fixtures within the time authorized under this Section, the Port may remove TPO's property at TPO's expense, subject to offset by any net proceeds received by the Port from the sale of TPO's property. TPO's obligation to (i) restore the Port for any damage to the Excursion Spur or Port Property, and (ii) repay the Port for the cost of any property removal shall survive the termination of this License. All other property or improvements placed on the Excursion Spur or Port Property by TPO during the term of the License that do not constitute personal property or trade fixtures, shall become the property of the Port upon termination of this License.

13.13 Railbanking Requirements in Event of Abandonment - If TPO or any successor, assignee or designee of TPO (each an "Abandonment Applicant") elects to seek authority from the Surface Transportation Board or any successor agency to abandon or discontinue its freight common carrier obligation over some or all of the Corridor, then such Abandonment Applicant shall consent to a request by any or each of County, the Port, the Central Puget Sound Regional Transit Authority or the successor or designee of any of them (each a "Trail Use Applicant") for the implementation of interim trail use in accordance with Section 8(d) of the National Trails System Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as such provisions may be amended or interpreted by binding judicial or administrative authority. The Abandonment Applicant shall cooperate with any or each Trail Use Applicant in any application for authority to implement interim trail use over all or any portion of the Property on which the Abandonment Applicant seeks authority to abandon or discontinue its freight common carrier obligation. If TPO or any successor, assignee or designee of TPO ceases operations on the Corridor but fails within a reasonable period of time to (a) seek abandonment authority, and (b) respond to inquiries from any potential Trail Use Applicant as to the status of its operations, any Trail Use Applicant may elect to seek authority from the Surface Transportation Board or any successor authority for a third-party abandonment and interim trail use over some or all of the Corridor on which operations have ceased. TPO and any successor, assignee or designee shall not oppose any such action by a Trail Use Applicant.

13.14 Railbanking Conditions - As part of the approvals for railbanking the Excursion Spur, the STB conditioned its approval concerning salvage activities and archaeological remains, which conditions must be complied with by TPO. TPO agrees that:

(a) Prior to beginning any salvage activities,

(i) To consult with Washington Department of Ecology ("WDE") regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with the Clean Water Act's National Pollution Discharge Elimination System ("NPDES") permitting requirements, and

(ii) To consult with the Army Corps of Engineers ("Corps") regarding possible impacts of abandonment activities to water bodies and wetlands, and to ensure compliance with Corps permitting requirements; and

(b) In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, TPO shall immediately cease all work and jointly with Port and County notify the STB's Section of Environmental Analysis ("SEA"), interested Federally recognized tribes and the Washington State Historic Preservation Officer ("SHPO"), pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, TPO, Port and County, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

13.15 Encumbrances - TPO may pledge or otherwise encumber its rights under this license to secure its obligations under any loan agreement or similar or related document; provided, however, that notice of such pledge is provided to Port, and that such pledge or other encumbrance shall be subject to and subordinate to the rights of the Port and its assigns as licensor hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this License effective as of the Execution Date.

PORT OF SEATTLE
a Washington municipal corporation

By: _____
Name: Tay Yoshitani
Title: Chief Executive Officer

GNP RLY. INC.
a Washington corporation

By: _____
Name: _____
Title: _____

STATE OF WASHINGTON)
) **ss.**
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

_____
Printed Name

(SEAL) _____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) **ss.**
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

_____
Printed Name

(SEAL) _____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

EXHIBIT A

Operations and Maintenance Agreement

RAILROAD RIGHT OF WAY LICENSE
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.

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RAILROAD RIGHT OF WAY LICENSE

THIS RAILROAD RIGHT OF WAY LICENSE ("License") is entered into as of the 18 day of DECEMBER, 2009 ("Execution Date"), between the Port of Seattle, a Washington municipal corporation ("Port ") and GNP Rly. Inc., a Washington corporation ("TPO").

RECITALS

A. Pursuant to the Purchase and Sale Agreement and the Donation Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), both dated as of May 12, 2008 (together, the "Acquisition Agreements") Port acquired BNSF's right, title and interest in BNSF's railroad right of way (i) from milepost 5.0 in Renton, Washington to and including the railroad bridge at milepost 38.25 in Snohomish County, Washington, and (ii) from milepost 0.0 in Woodinville south to milepost 7.3 in Redmond (the "Redmond Spur") (together, the "Port Property").

B. Port and TPO have entered into an Operations and Maintenance Agreement ("O&M Agreement") setting forth their respective rights and obligations with respect to Freight Rail Service, Excursion Rail Service, and maintenance on portions of the Woodinville Subdivision from milepost 23.8 in Woodinville, King County, Washington north to milepost 38.25 in Snohomish, Snohomish County, Washington ("Corridor"), as described in **Exhibit A** attached hereto and incorporated herein.

C. TPO also desires the right to use and operate the Excursion Spur, a portion of the Woodinville Subdivision and further described below, for Excursion Rail Service (as defined in Section 1.6 below).

D. Upon acquisition of the Corridor by the Port, the Excursion Spur, along with the railroad right of way (i) from milepost 5.0 in Renton, Washington to milepost 23.8 in Woodinville, Washington, and (ii) within the Redmond Spur, was "railbanked." King County ("County") was approved as an Interim Trail User by the Surface Transportation Board ("STB") for the purpose of railbanking, and County is accordingly subject to certain legal obligations related to the Excursion Spur, which are referred to herein as the "Railbanking Obligations." The Railbanking Obligations consist of those obligations imposed through Section 8(d) of the National Trails System Act, also known as the Rails-to-Trails Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29 (collectively, and as any of the foregoing may hereafter be amended or interpreted by binding judicial or administrative authority, the "Railbanking Legislation"), the Notice of Interim Trail Use ("NITU") related to the Excursion Spur issued by the STB and any conditions or requirements imposed related thereto; the Trail Use Agreement ("TUA") entered into between BNSF and County related to the Excursion Spur under which County agreed to accept, exercise, and fulfill all of the legal rights, duties, and obligations of an Interim Trail User, and the Statement of Willingness to Accept Financial Responsibility ("SWAFR"). To carry out the Railbanking Obligations, County has been granted by the Port a Public Multipurpose Easement dated 12/18/09 and recorded under recorded number 20091218001538 under which County acquired certain rights on the Excursion Spur and the other portions of the Corridor

subject to railbanking, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

E. Port is willing to grant TPO the right to use and operate the Excursion Spur in the manner described in this License.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants in this License and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

Section 1. Definitions.

1.1 Additions and Alterations - Means any improvements constructed by or on behalf of either party on the Excursion Spur after the Execution Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 Automatic Warning Devices - Means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 Corridor is defined in Recital B.

1.4 Environmental Law - Means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, license, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Excursion Spur, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendment or regulations promulgated thereunder.

1.5 Excluded Conduct - Is defined in Section 8.4.

1.6 Excursion Rail Service - Means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service, except for head and tail operations as referred to Section 1.11.

1.7 Excursion Spur - Means that portion of the Redmond Spur from milepost 0.0 in Woodinville south to milepost 2.5 in Woodinville, Washington.

1.8 Execution Date - Means the date on which this License is executed and becomes effective.

1.9 Facilities - Means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, buildings and any other structures or things necessary for the support thereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.10 FRA - Means the Federal Railroad Administration.

1.11 Freight Rail Service - Means only (a) the common carrier freight rail operations conducted by TPO or TPO's tenants or assignees on the Corridor and (b) the head and tail operations associated therewith and conducted on the Excursion Spur in accordance with this License, and no other freight service.

1.12 Hazardous Materials - Means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Excursion Spur and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Excursion Spur causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.13 Invoice - Is defined in Section 10.1.

1.14 Loss or Losses - Means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expense (including, without limitation, costs of investigation, defense, expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Excursion Rail Service on the Excursion Spur.

1.15 Multipurpose Easement - Means that certain easement between Port and King County, a home rule charter county and political subdivision of the State of Washington ("County") pursuant to which the County acquired certain rights on those portions of the Woodinville Subdivision from (i) milepost 23.8 in Woodinville south to milepost 5.0 in Renton, and (ii) the

Redmond Spur, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

1.16 O&M Agreement - Has the meaning set forth in Recital B.

1.17 Port Property - Means the rights-of-way acquired by Port from BNSF under the Deed that are subject to TPO's rights under this Agreement; provided, that if Port transfers individual parcel(s) to third parties not affiliated with Port, and the transferred parcel(s) do not remain subject to this Agreement as provided in Section 13.8, such individual parcel(s) shall not be deemed "Port Property."

1.18 Track - Means any and all main track, sidings, yards, spurs and other track constructed or to be constructed upon and across the Excursion Spur.

Section 2. TPO's Rights and Obligations.

2.1 Subject to transportation uses permitted or performed by the Port as provided in Section 3, TPO shall have the exclusive right and obligation to provide, by itself and/or by or through any entity designated by TPO, Excursion Rail Service on and over the Excursion Spur.

2.2 TPO shall have the exclusive authority to manage, direct and control all activities related to the provision of Excursion Rail Service on the Excursion Spur, including, without limitation, the operation of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Excursion Spur; provided, that TPO shall not transport or store on the Excursion Spur or on Port Property any toxic inhalation hazards ("TIHs") or poison inhalation hazards ("PIHs"). *Notwithstanding* the foregoing, TPO is prohibited from using the Excursion Spur at any time for the purpose of setting out or picking up rail cars.

2.3 TPO shall employ and discharge all personnel required to perform TPO's Excursion Rail Service, shall comply with all governmental laws, rules, regulations and orders applicable to TPO's Excursion Rail Service, and shall pay all real property taxes separately levied on TPO's rights under this License and for all utilities consumed by TPO in carrying out TPO's Excursion Rail Service. All improvements, equipment and materials required for TPO's Excursion Rail Service shall be provided by TPO at the sole cost and expense of entities other than Port except as provided in this License.

2.4 Subject to the rights of and coordination with the Port and those entities that the Port may authorize to provide transportation uses on the Excursion Spur pursuant to Section 3 and with County with regard to any then current or future trail use, and solely at the expense of entities other than the Port, TPO may modify, construct, maintain, replace and remove the Tracks upon and across the Excursion Spur as may be necessary in order to operate in accordance with this License, provided that TPO may not change the location of the Tracks.

a) In the event that construction of any Tracks requires the construction of new Facilities, or modifications to, existing Facilities, such construction or modifications shall be at the expense of entities other than Port.

b) The design, construction, modification or removal of any Tracks and any new, or modified Facilities necessitated thereby, shall not unreasonably interfere with the rights the Port may exercise or grant under Section 3.1 and 3.2 of this License and that the County may exercise with regard to any then current or future trail use, shall result in the location of any modified Facilities being unchanged and the condition of any modified Facilities being of equal or better condition and functionality than such Facilities were prior to the modification, and shall be subject to Port's prior review and written approval.

2.5 TPO acknowledges and agrees that the County is the grantee under the Multipurpose Easement and that this license is subject to and incorporates herein by this reference the terms of the Multipurpose Easement as set forth in Section 1.4 of that Easement. In the event that County acquires from Port additional rights, title and interests in the Excursion Spur, the incorporated terms of the Multipurpose Easement shall survive the expiration or extinguishment of the Multipurpose Easement through the doctrine of merger, provided that (a)if no "Trail Area" has been established under the Multipurpose Easement, then County may designate a Trail Area of sufficient size to accommodate a regional trail under generally applicable trail development standards as described in Section 2.1.1 of the Multipurpose Easement and provided further that (b) TPO shall be the beneficiary of the rights of "TPO" under such Multipurpose Easement that affect the Transportation Use and that apply to TPO's rights and responsibilities under this License. TPO agrees that it shall, at all times, cooperate fully with the County to accommodate any trail uses on the Excursion Spur adjacent to the Excursion Spur Facilities, and shall comply with all Railbanking Obligations.

2.6 TPO or its designee shall have the right to use existing Tracks in the Excursion Spur for performing Excursion Rail Service as described in this Section.

2.7 TPO acknowledges and agrees that, consistent with Section 3, the Port may itself perform or grant rights to or enter into agreements with one or more third parties for certain non-freight, passenger transportation uses on the Excursion Spur (e.g., commuter rail service or other public transportation) during the Term of this License, that are not inconsistent with TPO's rights under this License. TPO shall cooperate with those parties authorized by the Port to ensure the accommodation of such passenger transportation uses on the Excursion Spur.

2.8 In addition to all other rights granted to TPO under this License, TPO shall have the right to utilize the Excursion Spur between milepost 0.0 in Woodinville and milepost 1.0 for all head and tail operations necessary for TPO's Rail Freight Service under the O & M Agreement, but shall have no right to operate other common carrier or contract freight rail service on the Excursion Spur.

Section 3. Port's Rights and Obligations.

3.1 Port shall have the right to use the Excursion Spur and to grant easements, licenses or permits affecting the Excursion Spur as long as such use, easements, licensees or permits do not unreasonably interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License. TPO shall cooperate with any entity granted such easements, licenses or permits to ensure accommodation of the uses authorized by such easements, licenses or permits so long as such uses do not unreasonably interfere with or

create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

3.2 Port shall have the right to itself provide or grant rights to or contract with third parties for certain non-freight, passenger transportation uses on the Excursion Spur (e.g., commuter rail service or other public transportation) during the Term of this License so long as such uses do not unreasonably interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

3.3 Port, at Port's election, may perform a semi-annual joint inspection of the Excursion Spur by representatives of the Port upon reasonable advance notice for the first two (2) years, and annual joint inspections thereafter. Appropriate representatives from both Port and the TPO shall participate in and cooperate with the joint inspection(s) via hi-rail or other suitable means of railroad track inspection. The Port may perform more frequent inspections of the Excursion Spur, at its election, at any time during the term of this License so long as the following conditions are met: (1) Port provides advance notice to TPO in accordance with Section 7.5; (2) Port complies with all reasonable safety requirements of the TPO or as required by law applicable to the Excursion Spur; (3) Port obtains the appropriate authorizations from TPO to be on the designated portions of the Excursion Spur; (4) TPO will be allowed to participate in any inspection; and (5) the inspections are planned and coordinated with TPO to minimize any interference with TPO's operations on the Excursion Spur. The Port may request, at its sole discretion, that the inspections be performed by an authorized FRA inspector, whose findings shall be binding on the Port and the TPO.

3.4 In the event the TPO fails to or is unable to perform any work it is required to perform under this License, the Port may perform such work. Any such work by Port shall be performed in accordance with TPO's schedule and design, and the reasonable documented out-of-pocket cost thereof shall be reimbursed by TPO to Port in accordance with Section 10.1.

Section 4. Maintenance, Repair and Replacement Obligations.

4.1 General Maintenance, Repair and Replacement Obligations.

a) Except as otherwise provided in this License, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all Tracks and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade crossings, located within the Port Property, including the Excursion Spur, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Excursion Spur.

b) Notwithstanding the provisions of subparagraph (a) above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

c) The TPO shall allow the Port to conduct inspections of the Excursion Spur as provided in Section 3.3.

4.2 Remedies.

a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this License, and such failure results in an imminent and substantial danger to human health or safety or to property, Port shall promptly notify TPO and the FRA. If TPO fails to perform its maintenance obligations, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below. Port shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

b) In the event that TPO or Port discovers, or receives notice of, any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Duty Officer Telephone No.:_____

TPO Duty Officer Telephone No.:_____

4.3 Grade Crossing Reconstruction - The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between the tracks used by TPO and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

Section 5. Construction of Additions and Alterations.

5.1 Design and Construction Standards - The design and construction of any Additions and Alterations on the Excursion Spur shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow customary safety procedures in accordance with good practice in the railroad industry and with applicable laws, rules and regulations and shall use reasonable efforts to perform work on Additions and Alterations at such times and in such manner as not to unreasonably interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

5.2 Design Review - In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such

set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to Section 12. Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

5.3 Grade Separation Projects - In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

Section 6. Execution Date and Term of the License.

6.1 The initial term of this License shall expire on the 10th anniversary of the Execution Date. So long as TPO is not in default with respect to a material term or condition of this License, TPO may elect to continue this License for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. ("Term"). *Notwithstanding* the foregoing, this License shall terminate sixty (60) days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this License, which default has not been cured on or prior to such 60th day. In the event the O&M Agreement is terminated under Section 12.2 thereof but Excursion Rail Service is allowed to continue on the Corridor as authorized in Section 12.2, TPO may, with Port's written approval and so long as TPO is not in default under this License or the O & M Agreement, continue to provide Excursion Rail Service over the Excursion Spur.

6.2 TPO may terminate this License by giving Port not less than sixty (60) days' notice of termination. Upon such termination, TPO shall have no further right under this License to use the Excursion Spur.

6.3 TPO or its designee shall commence excursion passenger service as referred to in Section 1.6 of this License on the Excursion Spur no later than two years after the Execution Date. If TPO does not commence excursion passenger service by that time, or if TPO ceases excursion passenger service for more than two years, Port may terminate the right to provide excursion passenger service under this License by giving TPO not less than sixty (60) days notice of such termination. In such case, this License will be limited in scope to allow for only head and tail operations as referred to in Section 1.11.

Section 7. Reciprocal Access and Notice Rights.

7.1 Port and any entity to which it has granted rights in the Excursion Spur consistent with the terms of this license ("Port Grantees") may enter upon the Excursion Spur and/or use the Facilities located on the Excursion Spur, provided that the exercise of such rights by Port shall not unreasonably interfere with Excursion Rail Service of TPO or its designees.

7.2 Port may enter upon the Excursion Spur for the purposes set forth in Sections 3 and 4.

7.3 In the event the Port becomes aware of or is notified of an emergency of any kind, Port shall provide immediate notice of such events to TPO's duty officer at the contact number set forth in Section 4.2.(b).

7.4 Security personnel of either party in pursuit of a criminal suspect may enter upon the Excursion Spur for the purpose of apprehending the suspect.

7.5 Any entry by Port (or its contractors, invitees or licensees) or Port Grantees on any portion of the Excursion Spur within twenty feet (20') of the track center of the Excursion Spur shall, except for (a) scheduled commuter rail or other transit operations, (b) any use related to an existing or planned trail in the Excursion Spur, or emergencies when reasonable notice under the circumstances shall be given, be preceded by at least forty-eight (48) hours prior telephonic notice, and shall not enter upon the Excursion Spur until a valid work permit is issued by TPO and arrangements have been made for flagging.

7.6 Hazardous Materials may be brought by TPO onto the Excursion Spur only to the extent necessary for the operation of trains or when TPO is performing head and tail operations as authorized under Section 8 of this License, and in all events in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, TPO shall not transport, bring onto, or store on the Excursion Spur or Port Property any THIs or PHIs.

7.7 In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion) on the Excursion Spur, TPO shall give Port prompt notice of such event, and at its sole cost and expense, clean or remediate the Excursion Spur to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Excursion Spur. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The provisions of this Section are in addition to and not in limitation of the provisions of hereof, and shall survive the termination of this License.

Section 8. Liability.

8.1 Hazardous Materials and Environmental Liability

a) If the performance of this License creates any solid or Hazardous Materials (e.g., the removal of any materials from the trains that require disposal), said Hazardous Materials shall be properly disposed of in accordance with federal, state and local laws, at the expense of the TPO. In no event shall the Port be identified as the generator of the Hazardous Materials. The TPO shall notify the Port of any such Hazardous Materials and the Port shall receive a copy of the results of any tests conducted on the wastes. The TPO shall hold harmless, indemnify and defend the Port from any claims, costs, damages, fines or other penalties arising from the

disposal of any Hazardous Materials created by the performance of this License, regardless of the absence of negligence or other malfeasance by TPO. This provision shall survive the termination or expiration of this License.

b) At no time during the term of this License shall the TPO or its designee, without first obtaining the written consent of the Port, maintain, treat, dispose of, store or have on the Excursion Spur and/or Port Property, or permit any other party to have, maintain, treat, dispose of, or store on the Excursion Spur and/or Port Property, anything which is classified by federal, state or local laws as Hazardous Materials or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. This excludes (1) transport or storage of materials by or on rail for authorized head and tail operations as long as said transport or storage complies with all Environmental Laws, including the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and Sections and of this License, and (2) petroleum products, lubricants, antifreeze and such other materials that may be normally consumed in the daily operations of a railroad. Any permits required in compliance with this provision and all federal, state or local laws shall be obtained at TPO's sole cost.

c) The TPO further agrees to indemnify and hold Port harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from its, or any of its contractors, agents or invitees', treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Excursion Spur and/or Port Property during the term of this License, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The Port agrees to cooperate in the prosecution and collection of all costs, expenses, liabilities, demands, and claims, associated with any treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Excursion Spur and/or Port Property, including, but not limited to, the cost of clean-up, environmental assessments, defense and reasonable attorney's fees, prior to occupancy by the TPO, against any identified responsible party.

d) The provisions of Sections 8.2 through 8.6 shall in no way limit or reduce the application, enforceability or effect of this Section 8.1.

8.2 Assumption of Responsibility.

a) Except as otherwise expressly provided in this , TPO shall assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Excursion Spur or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

b) The allocation of responsibility for Losses under this applies only to Losses proximately caused by incidents occurring on or adjacent to the Excursion Spur or Port Property, and arising out of TPO's presence on the Excursion Spur, or on Port Property.

c) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this including, without limitation, salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party

engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

8.3 Allocation of Responsibilities.

a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in Section 8.3 a) i. and Section 8.4. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Excursion Spur (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

(i) If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

b) Persons Other Than Invitees. Except as provided in Section 8.4, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by, any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

c) Unenforceability. If any of the provisions of this Section 8.3 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 8.3, those provisions shall be deemed to exclude the indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 8.3 if both parties were negligent.

8.4 Excluded Conduct -"Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, where such conduct is alleged in a properly filed complaint by a plaintiff or plaintiffs as the basis for an award of exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible or and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a part asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

8.5 Scope of Indemnification –

a) In any case where a party is required under the provisions of this to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entitles from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto.

b) TPO hereby waives, as respects the Port only, any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

c) TPO is the rail carrier employer under the Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), and is the entity with responsibility for compliance with the common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Excursion Spur. TPO shall indemnify, hold harmless and defend Port and County from any and all cost, expense, liability, claim, damage or other obligation that is asserted against the Port and/or the County pursuant to the statutes and regulations listed in this Section.

8.6 Procedure.

a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this Section 8, the indemnified party shall, within thirty (30) days after actual notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to the indemnified party under this except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this without either providing the indemnifying party with a full release with respect to such liability or obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed.

b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this License, the party sued shall give the other party timely written notice of the pendency of such action, and

thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this License, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this License. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this License, be bound by the final judgment of the court in such action.

c) Subject to the provisions of Section 8.6a), on each occasion that the indemnified party is entitled to indemnification or reimbursement under this Section 8, the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expense arising as a result of such proceeding.

d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to Section 12 of this License, except if the binding arbitration requirement is no longer in force as provided for in Section 12.1 of this License.

8.7 Compliance With Laws - Both parties shall comply with all applicable federal state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Excursion Spur results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defend (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

8.8 Delay/Interruption of Service - Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 8.3 a) i.

8.9 No Limitation on Risk Allocation - The provisions of this Section 8 shall apply notwithstanding the provisions of Section 9. In no event shall the indemnification provisions of this Section 8 be limited to the insurance coverage required under Section 9.

8.10 Statutory Defenses - All statutory defense and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this License.

8.11 Survival - The provisions of this Section 8 shall survive the termination or expiration of this License.

Section 9. Insurance.

9.1 Freight Rail Service Coverage - TPO shall obtain and maintain freight service general liability insurance written on an "occurrence" basis, with minimum limits of Five Million Dollars ($5,000,000) per occurrence. The Port and the County shall be listed as additional insureds for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed One Million Dollars ($1,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of the Port and County.

a) The policy required under this Section 9.1 shall include general liability property damage and bodily injury coverage for operation of Freight Rail Service, *provided,* that such Freight Rail Service shall be limited to head and tail operations on the Excursion Spur, along with any related operation, maintenance, and construction on or about the Excursion Spur and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Excursion Spur and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port and the County with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Five Million Dollars ($ 5,000,000) in the aggregate.

b) The policy required under this Section 9.1 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Five Million Dollars ($5,000,000) in the aggregate.

c) The policy limits required under this Section 9.1 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

9.2 Excursion Rail Service Coverage - TPO shall obtain and maintain general liability insurance with an excursion/passenger endorsement, and written on an "occurrence" basis, with minimum limits of Twenty-five Million Dollars ($25,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count is 50 or less; and Fifty Million Dollars ($50,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count exceeds 50. The Port and County shall be listed as additional insureds for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed Five Million Dollars ($5,000,000) provided that total coverage limits (self-insurance plus excess liability insurance)

are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of Port and County.

a) The policy required under this Section 9.2 shall include general liability property damage and bodily injury coverage for operation of Excursion Rail Service along with any related operation, maintenance, and construction, on or about the Excursion Spur and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Excursion Spur and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port and County with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Six Million Dollars ($ 6,000,000) in the aggregate.

b) The policy required under this Section 9.2 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Six Million Dollars ($6,000,000) in the aggregate.

c) The policy limits required under this Section 9.2 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

9.3 Automobile Coverage - TPO shall maintain general automobile liability insurance of not less than One Million Dollars ($1,000,000) per occurrence, combined single limit for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). Coverage shall extend to all owned, non-owned, hired, leased, rented, or borrowed vehicles. The policy shall contain a waiver of subrogation in favor of the Port and County.

9.4 Evidence of Insurance - Prior to the Execution Date, and annually thereafter, TPO shall forward evidence of insurance as required in this Section including evidence of the Port's and the County's status as additional insureds for the Freight Rail Service and Excursion Rail Service policies; and a written copy of the waiver of subrogation for the automobile liability policy. Upon request from the Port, TPO shall forward certified copies, within 30 days of the request, of any binders, policies, and declarations of insurance that is required by this License.

9.5 No Port Deductible - No policies obtained by TPO for this License shall contain a deductible obligation for the Port or County. If the policy is issued with a deductible option, the TPO shall be liable for all deductibles, as well as any applicable allocated loss adjustment expenses if applicable. All costs incurred by a program of self-insurance, including self-insurance as identified in Sections 9.1and 9.2 are to be borne by TPO.

9.6 Additional Documentation – Self Insurance - If self-insurance is utilized for a portion of the coverage permitted in Sections 9.1 and 9.2, evidence must be provided to the Port and County of the TPO's net worth, a copy of the most recent audited financials, and a written description of the self-insurance program. This must be submitted with the other documentation required in Section 9.4.

9.7 Applicability of Workers' Compensation - TPO is fully responsible for ascertaining the applicability of Title 51 Industrial Insurance, of the Revised Code of Washington, as well any federal laws that pertain to workers compensation coverage for railroad employees and operators, such as the Federal Employers' Liability Act (FELA). TPO shall comply with all required workers compensation requirements whether through purchase of commercial insurance or as a qualified self insurer. In the event FELA is the applicable coverage under this License, TPO shall provide the Port with evidence of coverage. An insurance certificate shall be additionally required to show evidence of other applicable worker compensation coverage.

a) In the event Title 51 of the Revised Code of Washington applies to this License, TPO shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of TPO worker compensation account prior to the Execution Date of this License. TPO shall list here their UBI Number 602-672-764 and their State Worker Compensation Account Number _____.TPO shall also provide the Port and the County with Washington State Stop Gap employers' liability insurance. This shall be in an amount of One Million Dollars ($1,000,000) per accident and One Million Dollars ($1,000,000) per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary general liability policies identified in Sections 9.1 and 9.2. To the extent applicable, there shall be no exclusions relative to railroad workers or workers covered under the Federal Employers' Liability Act.

9.8 Primary Insurance - TPO's insurance shall be primary with respect to its obligations under this License and with respect to the interests of Port and County as additional insureds. Any other insurance maintained by an additional insured shall be excess of the coverage herein defined as primary and shall not contribute with it. In addition to the specific requirements in this License to name the Port and County as additional insureds on certain types of insurance, TPO shall also include Port and County as additional insureds on any other policy it maintains that provides coverage related to the Excursion Spur.

9.9 Maintaining Insurance Requirements - TPO's insurance requirements shall be maintained for the full term of this License and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured, including the Port and County.

9.10 Statutory Defenses - All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than the Port and the County, and none are intended to be waived by TPO with respect to parties other than the Port and the County by the acquisition of insurance by TPO or under this License.

9.11 Failure to Maintain Insurance - A failure of TPO to maintain the insurance required by this Section 9 shall not relieve TPO of any of its liabilities or obligations under this License.

9.12 Waiver of Subrogation - Every policy of insurance required under this License to be held by TPO shall include a waiver of all rights of subrogation against the Port and the County.

9.13 Other Insurance - TPO shall require that all of its contractors and sub-subcontractors carry a railroad protective liability policy with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and with an aggregate policy limit of no less than Five Million Dollars ($5,000,000). Said policy shall name the Port and County as additional insureds.

Section 10. Compensation and Billing.

10.1 Invoices - Any Invoice or Invoices submitted to the parties under this License ("Invoice or Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and any reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

10.2 Audit - So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of this License shall at all reasonable times by open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this License is funded in whole or in party by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

10.3 Supporting Documentation - Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

10.4 As compensation for the rights granted under this License (as well as for the rights granted under the O&M Agreement), TPO shall pay the Port the fees described in Section 9.4 of the O&M Agreement.

Section 11. Coordination Committee - Port and TPO shall establish a Coordination Committee and shall invite the County to participate. The Coordination Committee shall consist of at least two (2) representatives of each party, and shall be a forum for the parties to share

information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this License. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

Section 12. Binding Arbitration.

12.1 Controversies Subject to Arbitration - Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this License that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section 12. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, the requirement for binding arbitration shall not apply to any dispute wherein the Port and TPO are included, either in the initial complaint or through subsequent pleadings, in a lawsuit brought by a third party. In such case, the dispute may be litigated in court. Further, the requirement for binding arbitration shall not apply if the Port assigns its rights and obligations under this License to the County or conveys its right, title and interest in the Excursion Spur to the County.

12.2 Selection of Arbitrator - In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

12.3 Expedited Arbitration Schedule.

a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 12.2, an expedited arbitration procedure as set forth in this Section 12.3 solely for the purpose of obtaining a provisional remedy that by law or in equity could be imposed in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five (5)

day period, each party shall within two (2) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. Otherwise, the two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections 12.1 and 12.2; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

12.4 Pending Resolution - During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this License, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

12.5 Cost of Arbitration - Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

Section 13. Miscellaneous Provisions.

13.1 Binding Successors; Assignment - This License shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this License without the prior written consent of the Port, which consent may not be unreasonably withheld, denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this License freely. If Port desires to assign its rights and obligations under this License or to convey its right, title and interest in the Excursion Spur, then TPO and the potential assignee or acquiring entity shall negotiate in good faith to revise the terms of this License to address their respective interests.

13.2 Notices - Except as otherwise expressly provided in this License, all notices and other communications under this License shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or (b) at the earlier of actual receipt or the third business day following deposit in the United States

mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

Port: Port of Seattle
P. O. Box 1209
Real Estate Division
Seattle, WA 98111
Attention: Joe McWilliams
Telephone No. 206-728-3722

If delivered:
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

TPO: GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

13.3 Headings - The section and subsection headings in this License are for convenience only and shall not be used in its interpretation or considered part of this License.

13.4 Integration, Amendment, and Waiver - This License controls all the rights and obligations of TPO and Port as to the operation of the Excursion Rail Service on the Excursion Spur. The O&M Agreement controls all the rights and obligations of TPO and Port as to the operation of freight rail service and Excursion Rail Service on the Corridor. This License is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this License shall be binding unless executed in writing by both of the parties. No waiver of any provision of this License shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

13.5 Counterparts - This License may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

13.6 Governing Law - This License shall be construed and interpreted in accordance with the laws of Washington State and/or federal law where applicable, and the parties shall be entitled to all remedies in law and equity as provided for thereunder.

13.7 Time of Essence - Time is of the essence of each and every provision of this License.

13.8 Changes to Port Property - Any parcel transferred by the Port to an unaffiliated person or entity for purposes other than rail operations or trail use that does not contain any facilities used in connection with the rail operations intended by this License shall be deemed removed from the Excursion Spur or Port Property as applicable.

13.9 Not for the Benefit of Others - This License and each and every provision herein are for the exclusive benefit of the parties to this License and County and not for the benefit of any third party, except County. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties to this License.

13.10 Attorneys' Fees - If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this License, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this License, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding in addition to any other relief to which it or they may be entitled.

13.11 TPO Operating Data - In the event of termination of TPO's operations, TPO shall, at the Port's request and expense, provide to the Port or the Port's designee all data associated with TPO's operations on the Excursion Spur, including, but not limited to, car tracing, identification and rates, and accounting records. Provided, that in the event TPO's operations terminate as a result of TPO transferring its rights to another operator, with the Port's consent, such operating data shall be transferred by TPO to its successor at TPO's cost or that of TPO's successor.

13.12 Removal of TPO's Property - Upon termination of this License, TPO shall have ninety days from the date of termination to remove all of TPO's personal property and trade fixtures, so long as such removal does not damage the Excursion Spur or Port Property. If damage results to the Excursion Spur or to Port Property as a result of TPO's activities under this Section 13.12, TPO shall, at its sole expense, restore or reimburse the Port for the cost to restore the Excursion Spur or Port Property to as good condition as they were prior to TPO's removal activities, normal wear and tear excepted. If TPO fails to remove any of the personal property and trade fixtures within the time authorized under this Section, the Port may remove TPO's property at TPO's expense, subject to offset by any net proceeds received by the Port from the sale of TPO's property. TPO's obligation to (i) restore the Port for any damage to the Excursion Spur or Port Property, and (ii) repay the Port for the cost of any property removal shall survive the termination of this License. All other property or improvements placed on the Excursion Spur or Port Property by TPO during the term of the License that do not constitute personal property or trade fixtures, shall become the property of the Port upon termination of this License.

13.13 Railbanking Requirements in Event of Abandonment - If TPO or any successor, assignee or designee of TPO (each an "Abandonment Applicant") elects to seek authority from the Surface Transportation Board or any successor agency to abandon or discontinue its freight common carrier obligation over some or all of the Corridor, then such Abandonment Applicant shall consent to a request by any or each of County, the Port, the Central Puget Sound Regional Transit Authority or the successor or designee of any of them (each a "Trail Use Applicant") for the implementation of interim trail use in accordance with Section 8(d) of the National Trails System Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as such provisions may be amended or interpreted by binding judicial or administrative authority. The Abandonment Applicant shall cooperate with any or each Trail Use Applicant in any application for authority to implement interim trail use over all or any portion of the Property on which the Abandonment Applicant seeks authority to abandon or discontinue its freight common carrier obligation. If TPO or any successor, assignee or designee of TPO ceases operations on the Corridor but fails within a reasonable period of time to (a) seek abandonment authority, and (b) respond to inquiries from any potential Trail Use Applicant as to the status of its operations, any Trail Use Applicant may elect to seek authority from the Surface Transportation Board or any successor authority for a third-party abandonment and interim trail use over some or all of the Corridor on which operations have ceased. TPO and any successor, assignee or designee shall not oppose any such action by a Trail Use Applicant.

13.14 Railbanking Conditions - As part of the approvals for railbanking the Excursion Spur, the STB conditioned its approval concerning salvage activities and archaeological remains, which conditions must be complied with by TPO. TPO agrees that:

(a) Prior to beginning any salvage activities,

(i) To consult with Washington Department of Ecology ("WDE") regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with the Clean Water Act's National Pollution Discharge Elimination System ("NPDES") permitting requirements, and

(ii) To consult with the Army Corps of Engineers ("Corps") regarding possible impacts of abandonment activities to water bodies and wetlands, and to ensure compliance with Corps permitting requirements; and

(b) In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, TPO shall immediately cease all work and jointly with Port and County notify the STB's Section of Environmental Analysis ("SEA"), interested Federally recognized tribes and the Washington State Historic Preservation Officer ("SHPO"), pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, TPO, Port and County, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

13.15 Encumbrances - TPO may pledge or otherwise encumber its rights under this license to secure its obligations under any loan agreement or similar or related document; provided, however, that notice of such pledge is provided to Port, and that such pledge or other encumbrance shall be subject to and subordinate to the rights of the Port and its assigns as licensor hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this License effective as of the Execution Date.

PORT OF SEATTLE
a Washington municipal corporation

By: _____
Name: Tay Yoshitani
Title: Chief Executive Officer

GNP RLY. INC.
a Washington corporation

By: _____
Name: THOMAS PAYNE
Title: CHAIRMAN & C.O.O.

STATE OF WASHINGTON)
) **ss.**
COUNTY OF King)

On Dec. 17, 2009, before me, a Notary Public in and for said County and State, personally appeared Joe Yasutani, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

JULIE KATHRYN THOMAS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 1-22-11

(SEAL)

Julie Kathryn Thomas
Printed Name
Julie Kathryn Thomas
NOTARY PUBLIC in and for the State of Washington, residing at Bothell, Wa
My commission expires 1-22-11

STATE OF WASHINGTON)
) **ss.**
COUNTY OF King)

On 12/8, 2009, before me, a Notary Public in and for said County and State, personally appeared Thomas Pierce, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

STEPHANI A. OWENS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES APRIL 29, 2013

(SEAL)

Stephani A. Owens
Printed Name
Stephani A. Owens
NOTARY PUBLIC in and for the State of Washington, residing at Cosmell
My commission expires 4-29-2013

EXHIBIT A

Operations and Maintenance Agreement

OPERATIONS AND MAINTENANCE AGREEMENT
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.

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OPERATIONS AND MAINTENANCE AGREEMENT
BETWEEN
PORT OF SEATTLE
AND
GNP RLY. INC.

This Operations and Maintenance Agreement (the "Agreement") is entered into as of the ____ day of _____, 200__ ("Execution Date"), between the PORT OF SEATTLE, a Washington Municipal Corporation ("Port"), and GNP RLY. INC., a Washington corporation ("TPO").

Recitals

A. Pursuant to the Purchase and Sale Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), dated May 12, 2008, as amended; Port acquired certain rights-of-way from BNSF ("Port Property") and BNSF reserved for itself certain freight easement rights under the Quitclaim Deed ("Deed") to the Port; and

B. BNSF has conveyed its freight easement rights to TPO by quit claim deed dated of even date herewith ("Easement"). The Easement gives TPO the right to operate on a portion of the Port Property (as defined in Section 1.4 below, the "Corridor"), and

C. TPO intends to use the Corridor to provide Freight Rail Service and Excursion Rail Service (defined below); and

D. Pursuant to a Railroad Right-of-Way License Agreement ("License") between Port dated of even date herewith, attached hereto and incorporated herein as **Exhibit A**, TPO intends to use the Excursion Spur (as defined in the License) to provide Excursion Rail Service on the Excursion Spur, which is "railbanked" as set forth more fully in Recital D of the License.

E. The parties desire to set forth in this Agreement their respective rights and obligations with respect to TPO's use of the Corridor and adjacent Port Property for Freight Rail Service and related activities.

F. The TPO has been qualified by the Surface Transportation Board ("STB") and is willing to provide railroad freight transportation service to the public upon the terms and conditions contained herein.

G. The TPO intends to work in partnership with local governments, economic development authorities, shippers and Class 1 railroads to develop innovative and efficient operating and shipping methods and improvements in order to provide competitive rail service for the region's rail shippers.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

SECTION 1. Definitions.

1.1 "Additions and Alterations" means any improvements constructed by or on behalf of either party on the Corridor after the Execution Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 "Automatic Warning Devices" means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 "BNSF" is defined in Recital A.

1.4 "Corridor" means the portion of rail line to which TPO acquired certain rights pursuant to the Easement, located between milepost 23.8 in Woodinville, King County, Washington to milepost 38.25 in Snohomish, Snohomish County, Washington.

1.5 "Deed" is defined in Recital A.

1.6 "Easement" is defined in Recital A.

1.7 "Environmental Laws" means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, licenses, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Corridor, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendments or regulations promulgated thereunder.

1.8 "Excluded Conduct" is defined in Section 7.4.

1.9 "Excursion Rail Service" means the deployment and operation of trains using the facilities for excursion passenger service and not for commuter rail passenger service or any other service.

1.10 "Execution Date" means the date on which this Agreement is executed and becomes effective.

1.11 "Facilities" means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), Additions and Alterations, drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, buildings and any other structures or things necessary for the support thereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.12 "FRA" means the Federal Railroad Administration.

1.13 "Freight Rail Service" means only (a)the common carrier freight rail operations conducted by TPO or TPO's tenants or assignees on the Corridor and (b) the head and tail operations associated therewith and conducted on the Excursion Spur in accordance with the License, and no other freight service.

1.14 "Hazardous Materials" means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Corridor and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Corridor causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.15 "Invoice" is defined in Section 9.1.

1.16 "Loss" or "Losses" means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expenses (including, without limitation, costs of investigation, defense expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death of or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Freight Rail Service or Excursion Rail Service on the Corridor.

1.17 "Port" is defined in the preamble.

1.18 "Port Property" means the rights-of-way acquired by Port from BNSF under the Deed that are subject to TPO's rights under this Agreement; provided, that if Port transfers individual parcel(s) to third parties not affiliated with Port, and the transferred parcel(s) do not remain subject to this Agreement as provided in Section 12.12, such individual parcel(s) shall not be deemed "Port Property."

1.19 "Track" means any and all main track, sidings, yards, spurs and other track constructed or to be constructed upon and across the Corridor.

1.20 "TPO" is defined in the preamble.

SECTION 2. Rail Service.

2.1 TPO's Rights and Obligations.

TPO shall have the exclusive right and obligation (subject to TPO's unfettered right to abandon or discontinue Freight Rail Service) to provide, by itself and/or by or through any entity designated by TPO and approved by the Port, Freight Rail Service and/or Excursion Rail Service on and over the Corridor. TPO, and/or its designee, shall also have the right to:

a) Modify, construct, maintain, replace, remove and operate the Tracks upon and across the Corridor in order to fulfill common carrier obligations to existing and prospective shippers and receivers of freight, at the expense of entities other than Port.

b) Perform any work prescribed by any FRA inspector.

c) Use existing Tracks in the Corridor for switching cars to or from industries served by industry tracks, which use includes setting out or picking up cars ; provided, that TPO shall not transport or store on the Corridor or on Port Property any toxic inhalation hazards ("TIHs") or poison inhalation hazards ("PIHs").

d) In the event that construction of any Tracks or TPO's operations requires the construction of new Port Facilities, or modifications to, or relocations of Port's existing Facilities, such construction, modifications and/or relocations shall be at the expense of entities other than Port.

e) The design, construction, modification or removal of any Tracks and any new, modified or relocated Port Facilities necessitated thereby, shall be subject to Port's prior review and approval, which approval shall not be unreasonably withheld, conditioned or delayed.

f) Use existing Tracks in the Corridor for performing Excursion Rail Service described in Sections 1.9 and 5.1. TPO or its designee shall commence Excursion Rail Service on the Corridor no later than six (6) months after the Execution Date, unless TPO and the Port agree, in writing, to a later date.

g) The parties acknowledge that TPO intends to designate Ballard Terminal Railroad Company, LLC. ("Ballard Shortlines") as the entity that will conduct the

Freight Rail Service authorized under this Agreement. Prior to commencement of Freight Rail Service by Ballard Shortlines on the Corridor, TPO shall provide for the Port's approval a copy of the signed agreement between TPO and Ballard Shortlines for such operations. The agreement between TPO and Ballard Shortlines shall incorporate and be subject to all of the terms and provisions of this Agreement.

h) TPO acknowledges and agrees that, consistent with Section 2.2, Port may enter into agreements with one or more third parties for certain non-freight, passenger transportation uses on the Corridor (e.g., commuter rail service) during the term of this Agreement, that are not inconsistent with TPO's rights under this Agreement and do not materially interfere with TPO's right and obligation to operate Freight Rail Service on the Corridor. TPO shall cooperate with those parties authorized by the Port to ensure the accommodation of such passenger transportation uses on the Corridor.

2.2 Port's Rights and Obligations.

a) Port expressly declines to assume any obligation to provide common carrier freight rail service on the Corridor. Neither Port nor any person or entity other than TPO (or its permitted successors or assigns) shall be permitted to provide any type of freight rail service on the Corridor.

b) Port, at Port's election, may perform a semi-annual joint inspection of the Corridor by representatives of the Port upon reasonable advance notice for the first two (2) years, and annual joint inspections thereafter. Appropriate representatives from both Port and the TPO shall participate in and cooperate with the joint inspection(s) via hi-rail or other suitable means of railroad track inspection. The Port may perform more frequent inspections of the Corridor, at its election, at any time during the term of the Agreement so long as the following conditions are met: (1) Port provides advance notice to TPO in accordance with Section 6.1 e); (2) Port complies with all reasonable safety requirements of the TPO or as required by law applicable to the Corridor; (3) Port obtains the appropriate authorizations from TPO to be on the designated portions of the Corridor; (4) TPO will be allowed to participate in any inspection; and (5) the inspections are planned and coordinated with TPO to minimize any interference with TPO's operations on the Corridor. The Port may request, at its sole discretion, that the inspections be performed by an authorized FRA inspector, whose findings shall be binding on the Port and the TPO.

c) In the event the TPO fails to or is unable to perform any work it is required to perform under this Agreement, the Port may perform such work. Any such work by Port shall be performed in accordance with TPO's schedule and design, (as approved by Port under Section 2.1 above, and the reasonable documented out-of-pocket cost thereof shall be reimbursed by TPO to Port in accordance with Section .

d) Port shall have the right to contract with third parties for certain non-freight, passenger transportation uses on the Corridor (e.g., commuter rail service) during the term of this Agreement, and to grant easements, licenses or permits affecting the Corridor as long as such use, easements, licenses or permits do not interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Corridor under the terms of this Agreement.

SECTION 3. Maintenance, Repair and Replacement Obligations.

3.1 General Maintenance, Repair and Replacement Obligations.

a) Except as otherwise provided in this Agreement, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all Tracks and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade crossings, located within the Port Property, including the Corridor, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Corridor.

b) Notwithstanding the provisions of Section 3.1 above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

c) The TPO shall allow the Port to conduct inspections of the Corridor as provided in Section 2.2 b).

3.2 Remedies.

a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this Agreement, and such failure results in an imminent and substantial danger to human health or safety or to property, Port shall promptly notify TPO and the FRA. If TPO fails to perform its maintenance obligations, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below. Port shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

b) In the event that TPO or Port discovers, or receive notice of, any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Duty Officer Telephone No.:_____

TPO Duty Officer Telephone No.:_____

3.3 Grade Crossing Reconstruction.

The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between the tracks used by TPO and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

SECTION 4. Construction of Additions and Alterations.

4.1 Design and Construction Standards.

The design and construction of any Additions and Alterations on the Corridor shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow its customary safety procedures and shall use reasonable efforts to perform work on Additions and Alterations at such times and in such manner as not to materially interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

4.2 Design Review.

In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to . Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

4.3 Grade Separation Projects.

In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

SECTION 5. Operations.

5.1 TPO's Operations.

TPO shall have exclusive authority to manage, direct and control all activities on the Corridor to provide Freight Rail Service, and Excursion Rail Service, including, without limitation, the operations of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Corridor.

SECTION 6. Access.

6.1 Reciprocal Access and Notice Rights.

Subject to the procedures set forth below, and to be in compliance with all applicable rules and regulations of the FRA, the parties shall have the following reciprocal access rights:

a) Port may enter upon the Corridor for the purposes set forth in Sections 2.2 and 3.2.

b) In the event the Port becomes aware of or is notified of an emergency of any kind, Port shall provide immediate notice of such events to TPO's duty officer at the contact number set forth in Section 3.2.

c) Security personnel of either party in pursuit of a criminal suspect may enter upon the Corridor for the purposes of apprehending the suspect.

d) TPO may enter upon the Port Property for the purposes set forth in this Agreement.

e) Except for emergencies when reasonable notice under the circumstances shall be given, Port shall give TPO at least forty-eight (48) hours' prior telephonic notice of any entry onto the Corridor, and shall not enter upon the Corridor until a valid work permit is issued by TPO. If flagging is necessary, no entry shall be made until TPO has made arrangements for flagging.

f) Any entry by Port (or its contractors, invitees or licensees) on any portion of the Corridor within twenty feet (20') of the track center of the Corridor shall be subject to the notice and flagging requirements under subparagraph above, unless the parties agree to an alternative procedure.

g) Hazardous Materials may be brought by TPO onto the Corridor only to the extent necessary for the purposes for which entry is allowed under Section 7.1 , and in all events in compliance with all applicable Environmental Laws. Notwithstanding the foregoing, TPO shall not transport, bring onto, or store on the Corridor or Port Property any THIs or PHIs.

h) In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion), TPO shall give Port prompt notice of such event, and at its sole cost and expense, clean or remediate Port's property to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Corridor. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The

provisions of this Section 6.1 are in addition to and not in limitation of the provisions of hereof, and shall survive the termination of this Agreement.

SECTION 7. Liability.

7.1 Hazardous Materials and Environmental Liability.

a) If the performance of this Agreement creates any solid or Hazardous Materials (e.g., the removal of any materials from the trains that require disposal), said Hazardous Materials shall be properly disposed of in accordance with federal, state and local laws, at the expense of the TPO. In no event shall the Port be identified as the generator of the Hazardous Materials. The TPO shall notify the Port of any such Hazardous Materials and the Port shall receive a copy of the results of any tests conducted on the wastes. The TPO shall hold harmless, indemnify and defend the Port from any claims, costs, damages, fines or other penalties arising from the disposal of any Hazardous Materials created by the performance of this Agreement, regardless of the absence of negligence or other malfeasance by TPO. This provision shall survive the termination or expiration of this Agreement.

b) At no time during the term of this Agreement shall the TPO or its designee, without first obtaining the written consent of the Port, maintain, treat, dispose of, store or have on the Corridor and/or Port Property, or permit any other party to have, maintain, treat, dispose of, or store on the Corridor and/or Port Property, anything which is classified by federal, state or local laws as Hazardous Materials or which requires a permit for the storage, treatment, disposal, handling or maintenance of it from any government authority. This excludes (1) transport or storage of materials by or on rail as long as said transport or storage complies with all Environmental Laws, including the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and Sections 2.1 c) and 6.1 g) of this Agreement, and (2) petroleum products, lubricants, antifreeze and such other materials that may be normally consumed in the daily operations of a railroad. Any permits required in compliance with this provision and all federal, state or local laws shall be obtained at TPO's sole cost.

c) The TPO further agrees to indemnify and hold Port harmless from all costs, expenses, liabilities, demands, claims, causes of action at law or in equity whatsoever arising from its, or any of its contractors, agents or invitees', treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Corridor and/or Port Property during the term of this Agreement, including, but not limited to, the cost of clean-up, environmental damage assessments, defense and reasonable attorney's fees. The Port agrees to cooperate in the prosecution and collection of all costs, expenses, liabilities, demands, and claims, associated with any treatment, disposal, storage, maintenance or handling of any Hazardous Materials on the Corridor and/or Port Property, including, but not limited to, the cost of clean-up, environmental assessments, defense and reasonable attorney's fees, prior to occupancy by the TPO, against any identified responsible party.

d) The provisions of Sections 7.2 through 7.6 shall in no way limit or reduce the application, enforceability or effect of this Section 7.1.

7.2 Assumption of Responsibility.

a) Except as otherwise expressly provided in this , TPO will assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Corridor or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

b) The allocation of responsibility for Losses under this applies only to Losses proximately caused by incidents occurring on or adjacent to the Corridor or Port Property, and arising out of TPO's presence on the Corridor, or on Port Property.

c) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this , including, without limitation, salaries or wages and associated benefits of, and out-of-pocket expenses incurred by or with respect to, employees of either party engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

7.3 Allocation of Responsibilities.

a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in Section 7.3 a) i and Section 7.4. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Corridor (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

i. If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

b) Persons Other Than Invitees. Except as provided in Section 7.4, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

c) Unenforceability. If any of the provisions of this Section 7.3 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of a Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 7.3, those provisions shall be deemed to

exclude indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 7.3, if both parties were negligent.

7.4 Excluded Conduct.

"Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, where such conduct is alleged in a properly filed complaint by a plaintiff or plaintiffs as the basis for an award of exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible for and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a party asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

7.5 Scope of Indemnification.

a) In any case where a party is required under the provisions of this to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entities from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto.

b) TPO hereby waives any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

c) TPO shall indemnify, hold harmless and defend Port from any and all Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Corridor and the Port Property.

7.6 Procedure.

a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this , the indemnified party shall, within thirty (30) days after actual notice of such claim or demand, cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the

indemnifying party from any liability which it may have to the indemnified party under this except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this without either providing the indemnifying party with a full release with respect to such liability or obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditioned or delayed.

b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this Agreement, the party sued shall give the other party timely written notice of the pendency of such action, and thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this Agreement, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this Agreement. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this Agreement, be bound by the final judgment of the court in such action.

c) Subject to the provisions of Section 7.6 , on each occasion that the indemnified party is entitled to indemnification or reimbursement under this , the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expenses arising as a result of such proceeding.

d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to of this Agreement.

7.7 Compliance with Laws.

Both parties shall comply with all applicable federal, state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Corridor results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defend (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

7.8 Delay/Interruption of Service.

Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 7.3 i.

7.9 No Limitation on Risk Allocation.

The provisions of this Section 7 shall apply notwithstanding the provisions of Section 8. In no event shall the indemnification provisions of this Section 7 be limited to the insurance coverage required under Section 8.

7.10 Statutory Defenses.

All statutory defenses and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this Agreement.

7.11 Survival.

The provisions of this Section 7 shall survive the termination or expiration of this Agreement.

SECTION 8. Insurance.

8.1 Freight Rail Service Coverage.

TPO shall obtain and maintain freight service general liability insurance written on an "occurrence" basis, with minimum limits of Five Million Dollars ($5,000,000) per occurrence. The Port shall be listed as an additional insured for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed One Million Dollars ($1,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of the Port.

a) The policy required under this Section 8.1 shall include general liability property damage and bodily injury coverage for operation of Freight Rail Service along with any related operation, maintenance, and construction on or about the Corridor and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Corridor and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Five Million Dollars ($ 5,000,000) in the aggregate.

b) The policy required under this Section 8.1 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Five Million Dollars ($5,000,000) in the aggregate.

c) The policy limits required under this Section 8.1 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

8.2 Excursion Rail Service Coverage.

TPO shall obtain and maintain general liability insurance with an excursion/passenger endorsement, and written on an "occurrence" basis, with minimum limits of Twenty-five Million Dollars ($25,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count is 50 or less; and Fifty Million Dollars ($50,000,000) per occurrence and in the aggregate for all Excursion Rail Service in which total passenger and crew count exceeds 50. The Port shall be listed as an additional insured for ongoing and completed operations. Coverage shall include contractual liability coverage with no exclusions relative to rail operation. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current A. M. Best's Insurance Guide Rating of at least "A" or equivalent, and admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insure to an amount not to exceed Five Million Dollars ($5,000,000) provided that total coverage limits (self-insurance plus excess liability insurance) are at least to the amounts stated within this Section; provided further, that this sentence shall not inure to the benefit of TPO's successors or assigns without the reasonable written consent of Port.

a) The policy required under this Section 8.2 shall include general liability property damage and bodily injury coverage for operation of Excursion Rail Service along with any related operation, maintenance, and construction, on or about the Corridor and Port Property by the TPO. If the policy excludes maintenance and construction on or about the Corridor and Port Property, a separate railroad protective liability policy shall be issued in the name of the Port with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and Six Million Dollars ($ 6,000,000) in the aggregate.

b) The policy required under this Section 8.2 shall also include pollution coverage whether incurred during operations or during maintenance or construction. If the general liability policy contains pollution exclusion, a separate pollution policy shall be purchased with minimum limits of Three Million Dollars ($3,000,000) per occurrence, and Six Million Dollars ($6,000,000) in the aggregate.

c) The policy limits required under this Section 8.2 shall be adjusted by the parties every three (3) years to reflect industry standards, liability claim trends and market conditions.

8.3 Automobile Coverage.

TPO shall maintain general automobile liability insurance of not less than One Million Dollars ($1,000,000) per occurrence, combined single limit for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). Coverage shall extend to all owned, non-owned, hired, leased, rented, or borrowed vehicles. The policy shall contain a waiver of subrogation in favor of the Port.

8.4 Evidence of Insurance.

Prior to the Execution Date , and annually thereafter, TPO shall forward evidence of insurance as required in this Section including evidence of the Port's status as an additional insured for the Freight Rail Service and Excursion Rail Service policies; and a written copy of the waiver of subrogation for the automobile liability policy. Upon request from the Port, TPO shall forward certified copies, within 30 days of the request from the Port, of any binders, policies, and declarations of insurance that is required by this Agreement.

8.5 No Port Deductible.

No policies obtained by TPO for this Agreement shall contain a deductible obligation for the Port. If the policy is issued with a deductible option, the TPO shall be liable for all deductibles, as well as any applicable allocated loss adjustment expenses if applicable. All costs incurred by a program of self-insurance, including self-insurance as identified in Sections 8.1 and 8.2 are to be borne by TPO.

8.6 Additional Documentation – Self Insurance.

If self-insurance is utilized for a portion of the coverage permitted in Sections 8.1 and 8.2, evidence must be provided to the Port of the TPO's net worth, a copy of the most recent audited financials, and a written description of the self-insurance program. This must be submitted with the other documentation required in Section 8.4.

8.7 Applicability of Workers' Compensation.

TPO is fully responsible for ascertaining the applicability of Title 51 Industrial Insurance, of the Revised Code of Washington, as well any federal laws that pertain to workers compensation coverage for railroad employees and operators, such as the Federal Employers' Liability Act (FELA). TPO shall comply with all required workers compensation requirements whether through purchase of commercial insurance or as a qualified self insurer. In the event FELA is the applicable coverage under this Agreement, TPO shall provide the Port with evidence of coverage. An insurance certificate shall be additionally required to show evidence of other applicable worker compensation coverage.

a) In the event Title 51 of the Revised Code of Washington applies to this Agreement, TPO shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of TPO worker compensation account prior to the Execution Date of this Agreement. TPO shall list here their UBI Number 602-672-764 and their State Worker Compensation Account Number

_____.TPO shall also provide the Port with Washington State Stop Gap employers' liability insurance. This shall be in an amount of One Million Dollars ($1,000,000) per accident and One Million Dollars ($1,000,000) per disease using ISO CG 04 42 11 03 or equivalent. This coverage may be provided by endorsing the primary general liability policies identified in Sections 8.1 and 8.2. To the extent applicable, there shall be no exclusions relative to railroad workers or workers covered under the Federal Employers' Liability Act.

8.8 Primary Insurance.

TPO's insurance shall be primary with respect to its obligations under this Agreement and non-contributory with respect to any coverage the Port may have.

8.9 Maintaining Insurance Requirements.

TPO's insurance requirements shall be maintained for the full term of this Agreement and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured, including the Port.

8.10 Statutory Defenses.

All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than the Port, and none are intended to be waived by TPO with respect to parties other than the Port by the acquisition of insurance by TPO or under this Agreement.

8.11 Failure to Maintain Insurance.

A failure of TPO to maintain the insurance required by this Section 8 shall not relieve TPO of any of its liabilities or obligations under this Agreement.

8.12 Waiver of Subrogation.

Every policy of insurance required under this Agreement to be held by TPO shall include a waiver of all rights of subrogation against the Port.

8.13 Other Insurance.

TPO shall require that all of its contractors and sub-subcontractors carry a railroad protective liability policy with minimum limits of Two Million Dollars ($ 2,000,000) per occurrence for bodily injury and property damage, and with an aggregate policy limit of no less than Six Million Dollars ($6,000,000). Said policy shall name the Port as an additional insured.

SECTION 9. Compensation and Billing.

9.1 Invoices.

Any Invoice or Invoices submitted to the parties under this Agreement ("Invoice" or "Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and any reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

9.2 Audit.

So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of this Agreement shall at all reasonable times be open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this Agreement is funded in whole or in part by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

9.3 Supporting Documentation.

Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

9.4 Fees.

9.4 Fees. TPO shall pay the Port:

a) A fee of Ten Thousand Dollars ($10,000.00) payable on the closing of the transaction between the Port and BNSF referenced in Recital A; and

b) A quarterly fee based on the TPO's traffic volume calculated as follows:

$10.00 per loaded freight car; and

$.10 per excursion passenger carried. For purposes of this Section 9.4, the term "excursion passengers" shall include passengers carried by another operator pursuant to a contract with TPO; and

5% of gross miscellaneous revenue, including but not limited to, car storage revenue.

c) Additional Fee: TPO represents and warrants that its written application for RRIF financing, which it has heretofor submitted to the FRA, expressly anticipates using a portion of the RRIF funds to pay the Additional Fee described herein, and that 45 USC §822(b)(1), provides that . RRIF funds may be used to **(A)** acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops; **(B)** refinance outstanding debt incurred for the purposes described in subparagraph (A); or **(C)** develop or establish new intermodal or railroad facilities.". Upon TPO receiving documentation from the FRA acknowledging receipt of any required credit risk premium payment by TPO and approving the disbursement of RRIF loan financing to TPO for the Additional Fee, an additional fee of Nine Hundred Ninety Thousand Dollars ($990,000.00) shall be payable to the Port within thirty (30) days of said disbursement; This fee shall be in addition to the fees and payments required under Section 9.4 b):

d) All fees payable by TPO under Sections 9.4 b) shall be payable at the end of the quarter following the quarter during which the fees accrued. For example, fees for Quarter 1 (January-March) shall be payable at the end of Quarter 2 (April-June), or on June 30th. Notwithstanding the foregoing, any fees owed at the termination or expiration of the Agreement shall be paid to the Port within 30 days of said expiration or termination.

e) When submitting payments to the Port under Sections 9.4 b), TPO shall include a statement of its traffic and passenger volumes, including all car counts and tonnages in support of the amount of the fees.

f) All fees referenced in this Section 9.4 are the same and are not in addition to the fees payable under Section 10.4 of the License.

SECTION 10. Coordination.

10.1 Coordination Committee.

Port and TPO shall establish a Coordination Committee consisting of at least two (2) representatives of each party. The Coordination Committee shall be a forum for the parties to share information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this Agreement. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

SECTION 11. Binding Arbitration.

11.1 Controversies Subject to Arbitration.

Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this Agreement that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

11.2 Selection of Arbitrator.

In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

11.3 Expedited Arbitration Schedule.

a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 11.2, an expedited arbitration procedure as set forth in this Section solely for the purpose of obtaining a provisional remedy that by law or in equity could be imposed in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five (5) day period, each party shall within two (2) days thereafter select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. Otherwise, the two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections 11.1 and 11.2 and; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

11.4 Pending Resolution.

During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this Agreement, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

11.5 Cost of Arbitration.

Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

SECTION 12. Term and Termination.

12.1 Term.

The initial term of this Agreement shall expire on the 10th anniversary of the Execution Date. So long as TPO is not in default with respect to a material term or condition of this Agreement, TPO may elect to continue this Agreement for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. *Notwithstanding* the foregoing, this Agreement shall terminate 60 days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this Agreement, which default has not been cured on or prior to such 60th day.

12.2 Termination for Abandonment.

In the event that TPO, or a permitted successor or assign, lawfully abandons, discontinues or otherwise lawfully ceases to provide Freight Rail Service on the Corridor by obtaining any necessary authority or exemption from the Surface Transportation Board ("STB"), Port may choose to (1) terminate this Agreement upon ninety (90) days written notice to TPO; or

(2) terminate all the rights of TPO, or that of a permitted successor or assign, to provide Freight Rail Service over the Corridor under this Agreement. Notwithstanding the previous sentence, after the termination of this Agreement under this Section, TPO may, with Port's approval, continue to provide Excursion Rail Service over the Corridor. In all events, TPO shall remain liable for all accrued or continuing obligations under this Agreement, and all obligations required upon termination and surrender of the Corridor.

12.3 Offers of Financial Assistance ("OFA").

In the event TPO, or a permitted successor or assign, seeks STB authority (or an exemption therefrom) to abandon any portion or segment of the Corridor, if TPO receives an OFA with respect thereto, TPO shall promptly notify Port, Port (or its designee) shall submit its own OFA and TPO shall accept the OFA submitted by Port (or its designee) for the offer amount of $1.

12.4 Railbanking.

In the event TPO, or a permitted successor or assign, seeks STB authority (or an exemption therefrom) to abandon any portion or segment of the Corridor, if Port, King County ("County"), or the designee of either of them timely files with the STB a Statement of Willingness to Assume Financial Responsibility ("SWAFR") meeting the requirements of the STB's regulations, TPO shall file with the STB: (i) an expression of willingness to enter into a railbanking/trail use agreement; (ii) a statement that TPO and Port, or TPO and County, or TPO and such designee, have entered into such an agreement; and (iii) a request that the STB issue a Notice of Interim Trail Use ("NITU") or a Certificate of Interim Trail Use ("CITU") (as appropriate). Upon the effective date of each such NITU or CITU, TPO shall transfer to Port (or Port's designee) TPO's right to restart freight rail service on the portion of the Corridor that is the subject of the SWAFR.

12.5 Binding Successors; Assignment.

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this Agreement without the prior written consent of Port, which consent may not be unreasonably denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this Agreement freely.

12.6 Notices.

Except as otherwise expressly provided in this Agreement, all notices and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or (b) at the earlier of actual receipt or the third business day following deposit in the United States mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

Port: Port of Seattle
P. O. Box 1209
Real Estate Division
Seattle, WA 98111
Telephone No. 206-728-3722

If delivered:
Port of Seattle
2711 Alaskan Way
Seattle, WA 98121

TPO: GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne
Telephone No. 253-459-9702

12.7 Headings.

The section and subsection headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement.

12.8 Integration, Amendment, and Waiver.

This Agreement controls all the rights and obligations of TPO and Port as to the operation of Freight Rail Service and Excursion Rail Service on the Corridor. (The License controls all the rights and obligations of TPO and Port as to the operation of Excursion Rail Service on the Excursion Spur and Extended Excursion Spur, if applicable). This Agreement is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both of the parties. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

12.9 Counterparts.

This Agreement may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

12.10 Governing Law.

This Agreement shall be construed and interpreted in accordance with the laws of Washington State and/or federal law, where applicable.

12.11 Time of Essence.

Time is of the essence of each and every provision of this Agreement.

12.12 Agreement Runs with Land; Recordation.

This Agreement is made for the benefit of the Corridor and shall run with the land, except that any parcel transferred by the Port to an unaffiliated person or entity for purposes other than rail operations or trail use that does not contain any facilities used in connection with the rail operations intended by this Agreement shall be deemed removed from the Corridor or Port Property as applicable. This Agreement shall bind and inure to the benefit of the parties' respective successors in interest in the Corridor to the extent stated in the prior sentence. This Agreement shall be recorded, and each party, upon request of the other party, agrees to execute a document in recordable form evidencing the removal of any parcel from the Corridor or the Port Property.

12.13 Not for the Benefit of Others.

This Agreement and each and every provision herein is for the exclusive benefit of the parties hereto and not for the benefit of any third party, except that the provisions related to railbanking in Section 12.4 are for the benefit of the County. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties hereto, except for the rights of the County under Section 12.4.

12.14 Attorneys' Fees.

If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding, in addition to any other relief to which it or they may be entitled.

12.15 Regulatory Requirements.

If any governmental agency imposes any requirement on either or both of Port and TPO which Port can reasonably demonstrate would not have been imposed but for TPO's use of the Corridor for TPO's Freight Rail Service or Excursion Rail Service, the entire cost of compliance shall be borne solely by TPO, including, without limitation, costs and expenses for construction and maintenance of improvements, relocation of Facilities, implementation of safety procedures, and the filing of or participation in regulatory proceedings. Both parties shall reasonably cooperate to ensure compliance with all such governmental requirements. Notwithstanding the foregoing sentence, TPO's cooperation shall not include any modification to, or restriction of, its operations in the Corridor; provided, however, that TPO's cooperation may include modifications to the Facilities to the extent such modifications do not restrict TPO's operations, and subject to TPO's obligation to bear all costs and expenses thereof.

12.16 TPO Operating Data.

In the event of termination of TPO's operations, TPO shall, at the Port's request and expense, provide to the Port or the Port's designee all data associated with TPO's operations on the Corridor, including, but not limited to, car tracing, shipper identification and rates, and accounting records. Provided, that in the event TPO's operations terminate as a result of TPO transferring its rights to another operator, with the Port's consent, such operating data shall be transferred by TPO to its successor at TPO's cost or that of TPO's successor.

12.17 Removal of TPO's Property.

Upon termination of this Agreement, TPO shall have ninety days from the date of termination to remove all of TPO's personal property and trade fixtures, so long as such removal does not damage the Corridor or Port Property. If damage results to the Corridor or to Port Property as a result of TPO's activities under this Section 12.17, TPO shall, at its sole expense, restore or reimburse the Port for the cost to restore the Corridor or Port Property to as good condition as they were prior to TPO's removal activities, normal wear and tear excepted. If TPO fails to remove any of the personal property and trade fixtures within the time authorized under this Section, the Port may remove TPO's property at TPO's expense, subject to offset by any net proceeds received by the Port from the sale of TPO's property. TPO's obligation to (i) restore the Port for any damage to the Corridor or Port Property, and (ii) repay the Port for the cost of any property removal shall survive the termination of this Agreement. All other property or improvements placed on the Corridor or Port Property by TPO during the term of the Agreement that do not constitute personal property or trade fixtures, shall become the property of the Port upon termination of this Agreement.

12.18 Encumbrances.

TPO may pledge or otherwise encumber its rights under this Agreement to secure its obligations under any loan agreement or similar or related document; provided, however, that such pledge or other encumbrance shall be subject to and subordinate to the rights of the Port and its assigns under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Execution Date.

PORT OF SEATTLE,
a Washington municipal corporation

By:_____
Name:_____
Title:_____

GNP RLY. INC.,
a Washington corporation

By:_____
Name:_____
Title:_____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of the Port of Seattle, a Washington municipal corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

_____
Printed Name

(SEAL)

_____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of GNP Rly. Inc., a Washington corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

_____
Printed Name

(SEAL)

_____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

Exhibit A

Railroad Right-Of-Way License Agreement
(Attached)

SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS SEVENTH AMENDMENT TO PURCHASE AND SALE AGREEMENT is made and entered into as of this 17 day of December 2009, by and between BNSF RAILWAY COMPANY ("BNSF"), the PORT OF SEATTLE, a municipal corporation of the State of Washington ("Port") and KING COUNTY, a political subdivision of the State of Washington ("County").

RECITALS

A. On May 12, 2008, BNSF, the Port and the County entered into: (i) a Purchase and Sale Agreement, as amended, ("North Agreement") whereby the Port agreed to acquire portions of BNSF's property known as the Woodinville Subdivision ("Subdivision"); and (ii) a Donation Agreement, as amended, whereby BNSF agreed to donate to the Port other portions of the Subdivision. The County desires to use the Railbanked Portion of the Subdivision for public trail and other transportation purposes. At Closing, the Port will grant the County a Public Multipurpose Easement for the County's use of the Railbanked and Wilburton Portions of the Subdivision.

B. At the Port's request and pursuant to the First, Second, Third, Fourth, Fifth and Sixth Amendments to Purchase and Sale Agreement and the First, Second, Third, Fourth, Fifth and Sixth Amendments to Donation Agreement, the parties previously extended the Closing Date of the North Agreement and of the Donation Agreement to March 31, 2009, June 30, 2009, July 8, 2009, July 15, 2009, July 22, 2009 and December 15, 2009 respectively.

NOW, THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. The definition of Closing Date in Section 1.1 of the North Agreement is amended to read as follows:

> Closing Date shall be December 18, 2009.

2. The first paragraph of Section 2 of the North Agreement is amended to read as follows:

> BNSF agrees to sell to Port, and Port agrees to purchase from BNSF, the Property. Port shall pay to BNSF $81,449,000 (EIGHTY ONE MILLION FOUR HUNDRED AND FOURTY-NINE THOUSAND DOLLARS) (the "Purchase Price"). The Purchase Price shall be paid as follows:

3. Section 3.4 of the North Agreement is amended by replacing the sum of $2,000,000 with the sum of $1,450,000.

Railbanking Requirements in Event of Abandonment. If the holder of the reserved freight easement or its successor, assignee or designee or other entity carrying out common carrier freight service on the Property (each an "Abandonment Applicant") elects to seek authority from the Surface Transportation Board or any successor agency to abandon or discontinue its freight common carrier obligation over some or all of the Property, then such Abandonment Applicant shall consent to a request by any or each of County, the Port, the Central Puget Sound Regional Transit Authority or the successor or designee of any of them (each a "Trail Use Applicant") for the implementation of interim trail use in accordance with Section 8(d) of the National Trails System Act, codified at 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, as such provisions may be amended or interpreted by binding judicial or administrative authority ("Railbanking Laws"), provided the Trail Use Applicant meets all requirements of the Railbanking Laws, including that the Trail Use Applicant agrees to a trail use agreement as required by the Railbanking Laws. The Abandonment Applicant shall cooperate with any or each Trail Use Applicant in any application for authority to implement interim trail use over all or any portion of the Property on which the Abandonment Applicant seeks authority to abandon or discontinue its freight common carrier obligation. If the holder of the reserved freight easement or its successor, assignee or designee or other entity carrying out common carrier freight service on the Property ceases operations but fails within a reasonable period of time to (a) seek abandonment authority, and (b) respond to inquiries from any potential Trail Use Applicant as to the status of its operations, any Trail Use Applicant may elect to seek authority from the Surface Transportation Board or any successor agency for a third-party abandonment and interim trail use over some or all of the Property on which operations have ceased. The holder of the freight easement or its successor, assignee or designee or other entity carrying out common carrier freight service on the Property shall not oppose any such action by a Trail Use Applicant if the holder has ceased operations.

8. Section 14 of the North Agreement is further amended by adding the following as Section 14.19:

14.19 Port and its successors and assigns agree:

As to the Redmond Spur:

(a) Prior to beginning salvage activities,

(i) To consult with Washington Department of Ecology ("WDE") regarding possible impacts of abandonment activities on wetlands located along the line and to ensure compliance with the Clean Water Act's National Pollution Discharge Elimination System ("NPDES") permitting requirements, and

(ii) To consult with the Army Corps of Engineers ("Corps") regarding possible impacts of abandonment activities to water bodies and wetlands, and to ensure compliance with Corps permitting requirements; and

(b) In the event that any unanticipated archaeological sites, human remains, funerary items or associated artifacts are discovered during salvage activities, Port shall immediately cease all work and notify the STB's Section of Environmental Analysis ("SEA"), interested Federally recognized tribes and the Washington State Historic Preservation Officer ("SHPO"), pursuant to 36 CFR 800.13(b). SEA shall then consult with the SHPO, interested Federally recognized tribes, Port, and any other consulting parties, if any, to determine whether appropriate mitigation measures are necessary.

9. Except as amended herein, all other terms, covenants and conditions of the Agreement shall remain in full force and effect.

10. Counterparts. This Seventh Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have executed this Seventh Amendment to Purchase and Sale Agreement as of the date first written above.

BNSF RAILWAY COMPANY

By: _____
Name: Richard E. Weicher
Title: Vice President & General Counsel – Regulatory

PORT OF SEATTLE

By: _____
Name: Tay Yoshitani
Title: Chief Executive Officer

KING COUNTY

By: _____
Name: Dow Constantine
Title: King County Executive

IN WITNESS WHEREOF, the parties hereto have executed this Seventh Amendment to Purchase and Sale Agreement as of the date first written above.

BNSF RAILWAY COMPANY

By: Richard E. Weicher
Name: Richard E. Weicher
Title: Vice President & General Counsel – Regulatory

PORT OF SEATTLE

By: _____
Name: Tay Yoshitani
Title: Chief Executive Officer

KING COUNTY

By: _____
Name:
Title:

King County

KING COUNTY

Signature Report

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

May 6, 2008

Ordinance 16084

Proposed No. 2008-0226.3 **Sponsors** Patterson, Gossett, Ferguson, Phillips and Constantine

AN ORDINANCE approving and authorizing the county executive to participate with the Port of Seattle in a transaction to acquire the BNSF Eastside Rail Corridor; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. **Findings:**

A. On April 14, 2008, the King County executive transmitted to the King County council an interlocal agreement, a proposed purchase and sale agreement and a proposed donation agreement involving Burlington Northern Santa Fe Railway Company ("BNSF"), the Port of Seattle, and King County. Among other things, these agreements provide that the Port of Seattle at closing will grant the county a Public Multipurpose Easement for the county's use of the railbanked portion of the corridor; and that the county will serve as the "Interim Trail User" in accordance with 49 C.F.R. 1152.29 and Section 8(d) of the National Trails System Act (also known as the "Rails-to-Trails Act").

B. The proposed purchase and sale agreement and the donation agreement require the county to obtain necessary authorization for the transactions from its

governing body by May 15, 2008, or the county may terminate the agreements by written notice given to BNSF by that date. Enactment of this ordinance as an emergency ordinance is necessary to make this authorization legally effective before that date.

C. In 2003, BNSF announced its intent to divest itself of the Woodinville Subdivision and Redmond Spur, which together are referred to as the Eastside Rail Corridor ("ERC"), a one-of-a-kind forty-two-mile corridor vital to the economic future of King County and six separate eastside jurisdictions.

D. On May 16, 2005, the King County executive announced that King County had entered into exclusive negotiations with BNSF to acquire this vital corridor into public ownership for use as a trail and to preserve its potential for additional transportation options in the future.

E. Since 2006, King County councilmembers, the Port of Seattle and the executive have been in discussions to find a collaborative and mutually beneficial way to acquire this vital transportation corridor through a regional partnership.

F. On December 17, 2007, the county council approved Ordinance 15995 by a vote of eight ayes, no nos and one excused, authorizing and requesting the King County executive to negotiate agreements with the Port of Seattle and BNSF that contained the following elements:

1. Waiver of the county's exclusive right to negotiate a purchase and sale agreement with BNSF to allow the Port of Seattle to negotiate a purchase and sale agreement for the ERC with BNSF;

2. The port's execution of a purchase and sale agreement for the ERC by December 31, 2007;

3. A right of first refusal for King County in the event the Port of Seattle determined to sell any or all of the ERC, and a subsequent right of first refusal to any other public agency authorized by Washington state to provide transit, rail services, or trails;

4. Agreement between the Port of Seattle and the county on the principle of dual usage; and

5. Agreement between the port and the county to create a formal multiagency process to plan for dual uses of the corridor.

G. King County recognizes and expresses gratitude to BNSF for its willingness to make a valuable donation to the public of a substantial portion of the ERC, thus enabling this transaction to move forward.

H. King County further recognizes the participating parties' efforts to forge a collaborative approach to protect the interests of the citizens of King County in acquiring the ERC and to provide new transportation options for our region.

I. King County and the Port of Seattle have many mutual interests and shared goals, such as: infrastructure improvements that make the region more globally competitive; improved freight mobility and public transportation; the promotion of tourism and recreational activities in the region; and enhancement of mobility, air quality and healthy lifestyles through development of additional alternative transportation modalities.

J. King County sincerely appreciates the Port of Seattle's efforts to acquire this unique and vital transportation corridor to ensure it is preserved in public ownership, and the Port of Seattle's interest in providing King County the opportunity to develop a public

trail that complements potential future commuter and non-interstate freight rail uses of the corridor.

K. The county desires the railbanked portion to be used for commuter and non-interstate freight rail purposes and a public trail that provides both recreational and alternative transportation uses. Since the proposal was transmitted, the King County council and executive have collaborated with the Port of Seattle's leadership to ensure that the terms of the easement and an interlocal agreement appropriately recognize the value of accommodating both commuter and non-interstate freight rail use and trail use, recognizing that a trail promotes alternative transportation modalities in the corridor.

L. The King County council further appreciates the opportunity to work in a collaborative manner with the Port of Seattle and the King County executive to develop a formal, multiagency Regional Process to recommend appropriate uses of the corridor.

SECTION 2.

A. The King County council hereby approves King County's participation with the Port of Seattle in the transaction to acquire the ERC consistent with agreements in substantially the form of the Interlocal Agreement, the Purchase and Sale Agreement and the Donation Agreement, and their exhibits, all as attached to this ordinance as Attachments A through C to this ordinance.

B. The King County executive is hereby authorized to execute agreements in substantially the form of the Interlocal Agreement, the Purchase and Sale Agreement and the Donation Agreement, all as attached to this ordinance, and to implement the terms of these agreements and to execute any documents necessary to carry out the transaction authorized by these agreements.

C. The Interlocal Agreement and Easement have a number of joint determinations to be made by the port and the county.

D. Agreement between the county and the port on the essential elements of the Regional Process, including its timeframe, participants, and the resources to be provided by each agency for the process, shall be contingent upon authorization by county ordinance. It is the county's intent to negotiate such an agreement and to enact such an ordinance, all no later than July 15, 2008.

E. Agreement with the port on the joint determination of the appropriate location and size of the Trail Area shall be contingent upon authorization by county ordinance.

F. Agreement with the port on the joint determination of the appropriate timeline for development of the trail shall be contingent upon authorization by county ordinance.

G. The King County executive shall provide quarterly reports to the council on any proposed trail relocations or realignments that may be contemplated pursuant to Section 2.2.2 of the Public Multipurpose Easement.

H. Any election by the county under Section 2.1.2 of the Public Multipurpose Easement not to proceed with Trail Development and to take action to terminate this agreement shall be contingent upon authorization by county ordinance.

SECTION 3. It is the intent of King County to consider seeking to renegotiate certain terms of the Multipurpose Public Easement with the Port of Seattle, particularly the terms related to the allocation of costs associated with relocation of the Trail Area under Section 2.2.2 of the easement, and to do so following the conclusion of the joint determination of the appropriate location and size of the trail and prior to commencement of Trail Development, but no later than five years after Closing.

SECTION 4. The council acknowledges that the executive intends to acquire the easement from the Port of Seattle using CFT funds previously appropriated in the 2007 Adopted Budget (Ordinance 15652) for project 315758 (MUL – Eastside Rail Trail). The council wishes to consider other potential funding sources that may not carry the same conditions as CFT, and will explore and consider the use of other funding sources prior to closing. The council requests that the executive cooperate with the council to explore the potential use of other funding sources.

SECTION 5. For the reasons set forth in section 1 of this ordinance, the council finds as a fact that an emergency exists and that this ordinance is necessary for the

immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.

Ordinance 16084 was introduced on 4/14/2008 and passed as amended by the Metropolitan King County Council on 5/5/2008, by the following vote:

Yes: 9 - Ms. Patterson, Mr. Dunn, Mr. Constantine, Ms. Lambert, Mr. von Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Julia Patterson, Chair

ATTEST:

Anne Noris, Clerk of the Council

Attachments A. Interlocal Agreement Between King County and the Port of Seattle Regarding Eastside Rail Corridor, dated May 3, 2008, B. Purchase and Sale Agreement--Woodinville Subdivision - North Rail Line, dated May 2, 2008, C. Donation Agreement--Woodinville Subdivision - South Rail Line, dated May 2, 2008

Unofficial Document

Real Estate Manager
City of Redmond
MS-4NPW
Public Works Department
P.O. Box 97010
Redmond, WA 98073-9710

20100630000559
CHICAGO TITLE QCD 65.00
PAGE-001 OF 004
06/30/2010 10:39
KING COUNTY, WA

E2448329
06/30/2010 10:14
KING COUNTY, WA
TAX $10.00
SALE $0.00
PAGE-001 OF 001

QUIT CLAIM DEED

CHICAGO TITLE INS. CO
REF# 1306610-6W
4pgs

GRANTOR: PORT OF SEATTLE
a municipal corporation of the State of Washington

GRANTEE: CITY OF REDMOND
a municipal corporation of the State of Washington

ABBREVIATED LEGAL DESCRIPTION: Ptn. of Redmond Spur, BNSF Washington Branch Line, AFN #20091218001537
Full legal description on Exhibit A

ASSESSOR'S TAX PARCEL NOS.: Ptn. of 2726059019; 2726059140; 3426059023; 0325059019; 0225059035; 1125059021; 1225059052; 1225059266; 1125059116; 1225059264 and 3426059114

For and in consideration of Ten Dollars ($10.00) and other good and valuable consideration received, the Port of Seattle, a municipal corporation of the State of Washington ("Grantor"), hereby conveys and quit claims to the City of Redmond ("Grantee"), the real property described in Exhibit A attached hereto and incorporated herein by this reference, situated in the County of King, State of Washington, subject to all matters of record.

IN WITNESS WHEREOF, Grantor has executed this Deed as of the 30th day of June, 2010.

PORT OF SEATTLE

By _____
Its CEO

STATE OF WASHINGTON)
) ss.
COUNTY OF King)

I certify that I know or have satisfactory evidence that Tay Yoshitani is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the CEO of the Port of Seattle to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6/24/10

Julie Kathryn Thomas
Notary Public
Print Name Julie Kathryn Thomas
My commission expires 1-22-11

JULIE KATHRYN THOMAS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 1-22-11

(Use this space for notarial stamp/seal)

Unofficial Document

Exhibit A to Deed

Legal Description

That portion of a strip of land, varying in width on each side of the centerline of the originally located and constructed Main Track centerline of the Redmond Spur, BNSF Railway Company's (formerly Northern Pacific Railway Company) Woodinville to Kennydale, Washington Branch Line, according to Quit Claim Deed recorded under King County Recording Number 20091218001537, more particularly described as follows:

COMMENCING at the Northeast corner of the Southwest Quarter of Section 27, Township 26 North, Range 5 East, W.M., thence Westerly along the North line of said Southwest Quarter to its intersection with the centerline of the originally located and constructed Main Track centerline of the Redmond Spur, BNSF Railway Company's (formerly Northern Pacific Railway Company) Woodinville to Kennydale, Washington Branch Line;
Thence Southerly along said centerline to its intersection with the South margin of Northeast 124th Street, extended Westerly, and the **POINT OF BEGINNING;**

A strip of land, 100.0 feet in width, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the South 1/2 of Section 27, Township 26 North, Range 5 East, W.M., bounded on the North by the South margin of Northeast 124th Street extended and on the South by the South line of said South 1/2, the sidelines thereof to be lengthened or shortened as necessary to commence at the South margin of Northeast 124th Street extended and terminate on the South line of the Southwest Quarter of said Section 27;

Together with a strip of land, 50.0 feet in width, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the West 1/2 of the Northeast Quarter of Section 34, Township 26 North, Range 5 East, W.M., bounded on the North by the North line of said West 1/2, and on the South by the South line of said West 1/2, the sidelines thereof to be lengthened or shortened as necessary to commence and terminate on the North and South lines of said West 1/2, Northeast Quarter, Section 34;

Together with a strip of land, 50.0 feet in width, being immediately adjacent to and Westerly of said Main Track 50.0 foot right-of-way in the West 1/2 of the Northeast Quarter of Section 34, Township 26 North, Range 5 East, W.M., bounded on the North by the North line of said West 1/2, and on the South by a line perpendicular to said Main Track centerline at a point 1400 feet Southerly of the North line of said West 1/2, Northeast Quarter, Section 34;

Together with a strip of land, 100.0 feet in width, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the West 1/2 of the Southeast Quarter of Section 34, Township 26 North, Range 5 East, W.M., the Northeast Quarter of Section 3, the Southwest Quarter of the Southwest Quarter of the Northwest Quarter, the Southwest Quarter, and the Southwest Quarter of the Southwest Quarter of the Southeast Quarter, Section 2, all in Township 25 North, Range 5 East, W.M., bounded on the North by the North line of said West 1/2, Southeast Quarter, Section 34 and on the South by the South line of said Section 2, **Excepting Therefrom,** the Easterly 25.0 feet of said 100.0 foot wide Redmond Spur right-of-way, upon, over and across the West 1/2, Southeast Quarter, Section 34, Township 26 North, Range 5 East, W.M., and the North 1/2, Northeast Quarter, Section 3, Township 25 North, Range 5 East, W.M., lying between two lines drawn parallel and concentric with and distant, respectively, 25.0 and 50.0 feet Easterly, as measured at right

angles and radially from said Main Track centerline, bounded on the North by the North line of said West 1/2, Southeast Quarter, Section 34, Township 26 North, Range 5 East, W.M., and bounded on the Southeast by a line drawn parallel with and 40.0 feet Northwesterly, as measured at right angles from the centerline of Northeast 98th Court, as located and constructed upon, over and across said North 1/2, Northeast Quarter, Section 3, Township 25 North, Range 5 East, W.M.;

Together with a strip of land, 100.0 feet in width, being 75.0 feet Northerly of and 25.0 feet Southerly of said Main Track centerline, as originally located and constructed, upon, over and across the North 1/2, Northeast Quarter and the Northeast Quarter of the Northwest Quarter, Section 11, and the West 1/2, Northwest Quarter of Section 12, all in Township 25 North, Range 5 East, W.M., bounded on the North by the North line of said Section 11 and on the East by the East line of said West 1/2, Northwest Quarter, Section 12, **Excepting Therefrom**, that portion of said 100.0 foot wide Redmond Spur right-of-way in the Northeast Quarter of the Northeast Quarter of said Section 11, lying between two lines parallel with and distant, respectively 25.0 feet and 75.0 feet Northerly, as measured at right angles from said Main Track centerline, as located and constructed, bounded on the East by the Southerly extension of the Westerly line of Leary Street, according to the Plat of Redmond recorded in Volume 7 of Plats at Page 74, records of King County, Washington, and bounded on the West by a line parallel with and distant 110.0 feet Westerly, as measured at right angles from said Southerly extension of the Westerly line of Leary Street, Also **Excepting Therefrom**, that portion of said 100.0 foot wide Redmond Spur right-of-way in the Northeast Quarter of the Northeast Quarter of said Section 11, lying between two lines parallel with and distant, respectively 25.0 feet and 75.0 feet Northeasterly, as measured at right angles from said Main Track centerline, as located and constructed, the most Northerly parallel line being also the Southwesterly lines of Block 1 and 2 of said Plat of Redmond, bounded on the Northwest by the Southwesterly extension of the Easterly line of Leary Street, according to said Plat, and bounded on the Southeast by a line perpendicular to said Main Track centerline that extends Northeasterly to the intersection of a line parallel with and distant 75.0 feet Northeasterly, as measured at right angles from said Main Track centerline with the East line of the Northeast Quarter of the Northeast Quarter of said Section 11;

Together with a 25.0 foot strip of land lying immediately adjacent to and Southerly of said Redmond Spur 100.0 foot wide right-of-way in the Northwest Quarter of the Northeast Quarter of Section 11, Township 25 North, Range 5 East, W.M., lying Northwesterly of a line perpendicular to said Main Track centerline at a point 855 feet Southeasterly of the North line of said Section 11, as measured along said Main Track centerline, as originally located and constructed;

Together with a strip of land, 100.0 feet in width, being each side of said Main Track centerline as originally located and constructed, upon, over and across the Southeast Quarter of the Northwest Quarter of Section 12, Township 25 North, Range 5 East, W.M., bounded on the West and East by the West and East lines of said Southeast Quarter, Northwest Quarter, Section 12, terminating on the East line thereof at Milepost 7.3, **Excepting Therefrom** that portion of said 100.0 foot wide Redmond Spur right-of-way in the Southeast Quarter, of the Northwest Quarter of said Section 12, described as follows: Beginning at the intersection of the West line of said Southeast Quarter, Northwest Quarter, Section 12 with the Southerly line of said 100.0 foot wide right-of-way; Thence North 01°10'44" East, along said West line, 26.55 feet to a point 25 feet Southwesterly of, as measured at right angles from said Main Track centerline; Thence South 69°07'30" East, parallel with said Main Track centerline, 639.91 feet to the Southerly extension of the Westerly right-of-way line of 170th Avenue Northeast, said right-of-way being 70 feet in width; Thence South 23°37'30" West, along the Southerly extension of the Westerly right-of-way line of 170th Avenue Northeast, 25.03 feet to the Southerly right-of-way line of said 100.0 foot wide right-of-way; Thence North 69°07'30" West, along the Southerly right-of-way line of said 100.0 foot wide right-of-way, 692.76 feet to the Point of Beginning.

Department of Revenue
Washington State

PLEASE TYPE OR PRINT

REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW - CHAPTER 458-61A WAC

This form is your receipt when stamped by cashier

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED
(See last page for instructions)

☐ Check box if partial sale of property

If multiple owners, list percentage of ownership next to name.

1 SELLER/GRANTOR
Name: PORT OF SEATTLE, A MUNICIPAL CORPORATION OF THE STATE OF WASHINGTON
Mailing Address: P.O. BOX 1209
City/State/Zip: SEATTLE, WA 98111
Phone No. (including area code):

2 BUYER/GRANTEE
Name: CITY OF REDMOND
Mailing Address: P.O. BOX 97010
City/State/Zip: REDMOND, WA 98073-9710
Phone No. (including area code):

3 Send all property tax correspondence to: ☐ Same as Buyer/Grantee
Name: REDMOND, CITY OF M/S 4NFN
Mailing Address: P.O. BOX 97010
City/State/Zip: REDMOND, WA 98073-9710
Phone No. (including area code):

List all real and personal property tax parcel account numbers - check box if personal property

		List assessed value(s)
SEE BELOW AT *	☐	
LEVY CODE	☐	
	☐	
	☐	

4 Street address of property: RR MILEPOST 3.4 - 7.3, REDMOND SPUR; WOODINVILLE TO KENNYDALE WASHINGTON BRANCH LINE

This property is located in ☒ unincorporated KING County ☐ within ☒ city of REDMOND

☐ Check box if any of the listed parcels are being segregated from a larger parcel. HMD

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

* TAX PARCEL NUMBERS: PORTION OF 272605-9019; 272605-9140; 342605-9023; 032505-9019; 022505-9035; 112505-9021; 122505-9052; 122505-9266; 112505-9116; 122505-9264; AND 342605-9114.

LEGAL DESCRIPTION IS ATTACHED HERETO AS EXHIBIT A.

5 Enter Abstract Use Categories:
41.

(See back of last page for instructions)
Seller's Exempt Reg. No.:

	YES	NO
Is this property exempt from property tax per chapter 84.36 RCW (nonprofit organization)?	☐	☒

6

	YES	NO
Is this property designated as forest land per chapter 84.33 RCW?	☐	☒
Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34?	☐	☒
Is this property receiving special valuation as historical property per chapter 84.26 RCW?	☐	☒

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)
NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, f...

E2448329
06/30/2010 10:14
KING COUNTY, WA
TAX $10.00
SALE $0.00

PAGE-001 OF 001

...ASSESSOR DATE

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)
NEW OWNER(S): To continue special valuation as historic property, sign (3) below. If the new owner(s) do not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE

PRINT NAME

7 List all personal property (tangible and intangible) included in selling price.
NONE INCLUDED IN THIS SALE

If claiming an exemption, list WAC number and reason for exemption:

WAC No. (Section/Subsection): 458-61A-205(2)

Reason for exemption: GOVERNMENTAL SELLER

Type of Document: QUIT CLAIM DEED

Date of Document: JUNE 30 2010

Gross Selling Price $	10,000,000.00
*Personal Property (deduct) $	0.00
Exemption Claimed (deduct) $	10,000,000.00
Taxable Selling Price $	0.00
Excise Tax: State $	0.00
Local $	0.00
*Delinquent Interest: State $	0.00
Local $	0.00
*Delinquent Penalty $	0.00
Subtotal $	0.00
*State Technology Fee $	5.00
*Affidavit Processing Fee $	5.00
Total Due $	10.00

A MINIMUM OF $10.00 IS DUE IN FEE(S) AND/OR TAX
*SEE INSTRUCTIONS

8 I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Signature of Grantor or Grantor's Agent: David E. Lawson
Name (print): David E. Lawson, VP Chicago Title
Date & city of signing: 6/28/10 Seattle

Signature of Grantee or Grantee's Agent: John Marchione
Name (print): John Marchione
Date & city of signing: 6/25/10 Redmond

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars ($5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REV 84 0001a (09/01/06) THIS SPACE - TREASURER'S USE ONLY COUNTY TREASURER

TAXAFF1 9/08 KMS

Exhibit A to Deed

Legal Description

That portion of a strip of land, varying in width on each side of the centerline of the originally located and constructed Main Track centerline of the Redmond Spur, BNSF Railway Company's (formerly Northern Pacific Railway Company) Woodinville to Kennydale, Washington Branch Line, according to Quit Claim Deed recorded under King County Recording Number 20091218001537, more particularly described as follows:

COMMENCING at the Northeast corner of the Southwest Quarter of Section 27, Township 26 North, Range 5 East, W.M., thence Westerly along the North line of said Southwest Quarter to its intersection with the centerline of the originally located and constructed Main Track centerline of the Redmond Spur, BNSF Railway Company's (formerly Northern Pacific Railway Company) Woodinville to Kennydale, Washington Branch Line;
Thence Southerly along said centerline to its intersection with the South margin of Northeast 124th Street, extended Westerly, and the **POINT OF BEGINNING;**

A strip of land, 100.0 feet in width, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the South 1/2 of Section 27, Township 26 North, Range 5 East, W.M., bounded on the North by the South margin of Northeast 124th Street extended and on the South by the South line of said South 1/2, the sidelines thereof to be lengthened or shortened as necessary to commence at the South margin of Northeast 124th Street extended and terminate on the South line of the Southwest Quarter of said Section 27;

Together with a strip of land, 50.0 feet in width, being 25.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the West 1/2 of the Northeast Quarter of Section 34, Township 26 North, Range 5 East, W.M., bounded on the North by the North line of said West 1/2, and on the South by the South line of said West 1/2, the sidelines thereof to be lengthened or shortened as necessary to commence and terminate on the North and South lines of said West 1/2, Northeast Quarter, Section 34;

Together with a strip of land, 50.0 feet in width, being immediately adjacent to and Westerly of said Main Track 50.0 foot right-of-way in the West 1/2 of the Northeast Quarter of Section 34, Township 26 North, Range 5 East, W.M., bounded on the North by the North line of said West 1/2, and on the South by a line perpendicular to said Main Track centerline at a point 1400 feet Southerly of the North line of said West 1/2, Northeast Quarter, Section 34;

Together with a strip of land, 100.0 feet in width, being 50.0 feet on each side of said Main Track centerline, as originally located and constructed, upon, over and across the West 1/2 of the Southeast Quarter of Section 34, Township 26 North, Range 5 East, W.M., the Northeast Quarter of Section 3, the Southwest Quarter of the Southwest Quarter of the Northwest Quarter, the Southwest Quarter, and the Southwest Quarter of the Southwest Quarter of the Southeast Quarter, Section 2, all in Township 25 North, Range 5 East, W.M., bounded on the North by the North line of said West 1/2, Southeast Quarter, Section 34 and on the South by the South line of said Section 2, **Excepting Therefrom,** the Easterly 25.0 feet of said 100.0 foot wide Redmond Spur right-of-way, upon, over and across the West 1/2, Southeast Quarter, Section 34, Township 26 North, Range 5 East, W.M., and the North 1/2, Northeast Quarter, Section 3, Township 25 North, Range 5 East, W.M., lying between two lines drawn parallel and concentric with and distant, respectively, 25.0 and 50.0 feet Easterly, as measured at right

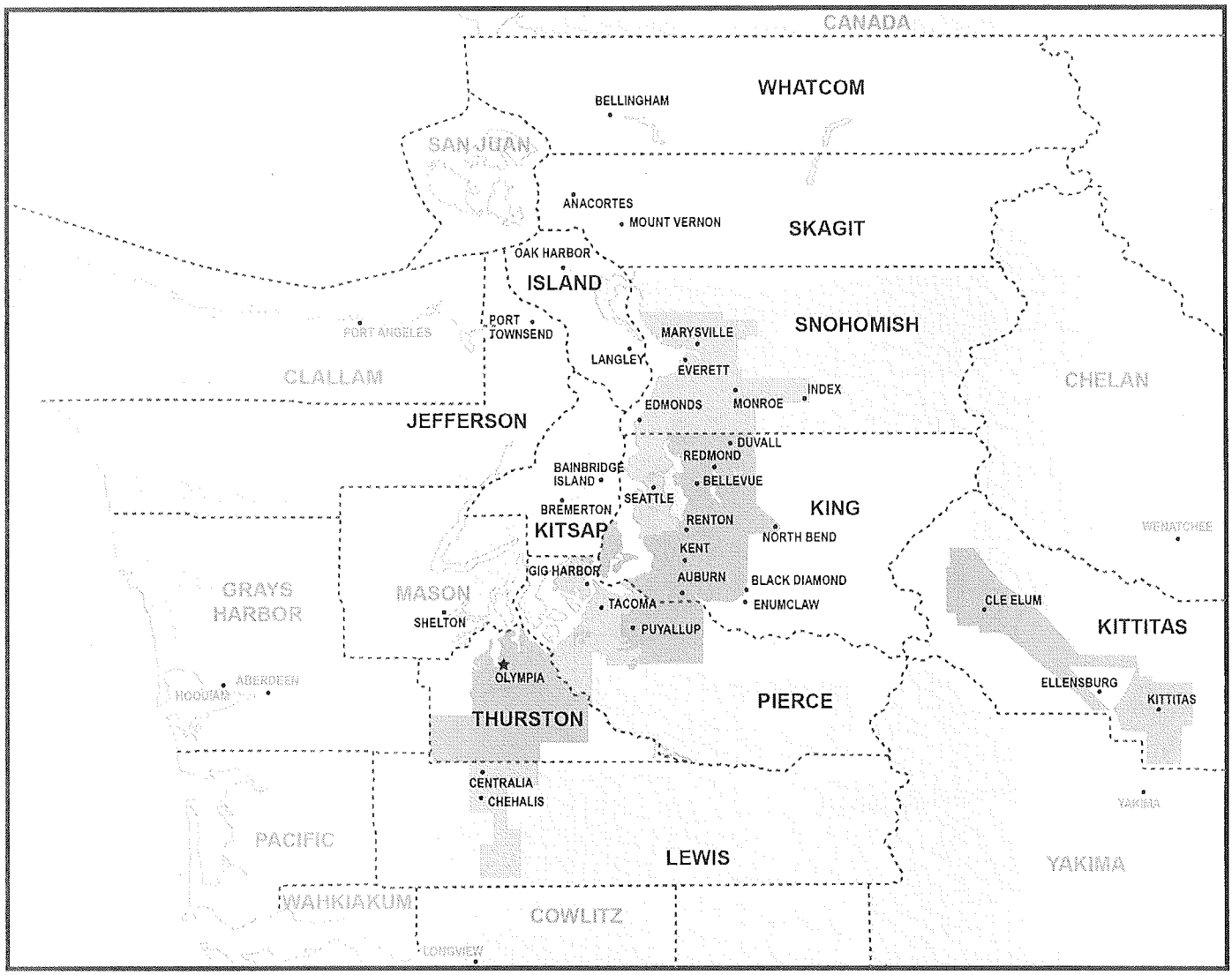
angles and radially from said Main Track centerline, bounded on the North by the North line of said West 1/2, Southeast Quarter, Section 34, Township 26 North, Range 5 East, W.M., and bounded on the Southeast by a line drawn parallel with and 40.0 feet Northwesterly, as measured at right angles from the centerline of Northeast 98th Court, as located and constructed upon, over and across said North 1/2, Northeast Quarter, Section 3, Township 25 North, Range 5 East, W.M.;

Together with a strip of land, 100.0 feet in width, being 75.0 feet Northerly of and 25.0 feet Southerly of said Main Track centerline, as originally located and constructed, upon, over and across the North 1/2, Northeast Quarter and the Northeast Quarter of the Northwest Quarter, Section 11, and the West 1/2, Northwest Quarter of Section 12, all in Township 25 North, Range 5 East, W.M., bounded on the North by the North line of said Section 11 and on the East by the East line of said West 1/2, Northwest Quarter, Section 12, **Excepting Therefrom**, that portion of said 100.0 foot wide Redmond Spur right-of-way in the Northeast Quarter of the Northeast Quarter of said Section 11, lying between two lines parallel with and distant, respectively 25.0 feet and 75.0 feet Northerly, as measured at right angles from said Main Track centerline, as located and constructed, bounded on the East by the Southerly extension of the Westerly line of Leary Street, according to the Plat of Redmond recorded in Volume 7 of Plats at Page 74, records of King County, Washington, and bounded on the West by a line parallel with and distant 110.0 feet Westerly, as measured at right angles from said Southerly extension of the Westerly line of Leary Street, Also **Excepting Therefrom**, that portion of said 100.0 foot wide Redmond Spur right-of-way in the Northeast Quarter of the Northeast Quarter of said Section 11, lying between two lines parallel with and distant, respectively 25.0 feet and 75.0 feet Northeasterly, as measured at right angles from said Main Track centerline, as located and constructed, the most Northerly parallel line being also the Southwesterly lines of Block 1 and 2 of said Plat of Redmond, bounded on the Northwest by the Southwesterly extension of the Easterly line of Leary Street, according to said Plat, and bounded on the Southeast by a line perpendicular to said Main Track centerline that extends Northeasterly to the intersection of a line parallel with and distant 75.0 feet Northeasterly, as measured at right angles from said Main Track centerline with the East line of the Northeast Quarter of the Northeast Quarter of said Section 11;

Together with a 25.0 foot strip of land lying immediately adjacent to and Southerly of said Redmond Spur 100.0 foot wide right-of-way in the Northwest Quarter of the Northeast Quarter of Section 11, Township 25 North, Range 5 East, W.M., lying Northwesterly of a line perpendicular to said Main Track centerline at a point 855 feet Southeasterly of the North line of said Section 11, as measured along said Main Track centerline, as originally located and constructed;

Together with a strip of land, 100.0 feet in width, being each side of said Main Track centerline as originally located and constructed, upon, over and across the Southeast Quarter of the Northwest Quarter of Section 12, Township 25 North, Range 5 East, W.M., bounded on the West and East by the West and East lines of said Southeast Quarter, Northwest Quarter, Section 12, terminating on the East line thereof at Milepost 7.3, **Excepting Therefrom** that portion of said 100.0 foot wide Redmond Spur right-of-way in the Southeast Quarter, of the Northwest Quarter of said Section 12, described as follows: Beginning at the intersection of the West line of said Southeast Quarter, Northwest Quarter, Section 12 with the Southerly line of said 100.0 foot wide right-of-way; Thence North 01°10'44" East, along said West line, 26.55 feet to a point 25 feet Southwesterly of, as measured at right angles from said Main Track centerline; Thence South 69°07'30" East, parallel with said Main Track centerline, 639.91 feet to the Southerly extension of the Westerly right-of-way line of 170th Avenue Northeast, said right-of-way being 70 feet in width; Thence South 23°37'30" West, along the Southerly extension of the Westerly right-of-way line of 170th Avenue Northeast, 25.03 feet to the Southerly right-of-way line of said 100.0 foot wide right-of-way; Thence North 69°07'30" West, along the Southerly right-of-way line of said 100.0 foot wide right-of-way, 692.76 feet to the Point of Beginning.

Puget Sound Energy Service Area



Combined electric and natural gas service

Electric service

Natural gas service

Puget Sound Energy's service area:

Electric Service: all of Island, Kitsap, Skagit, Thurston, and Whatcom counties; parts of Jefferson, King (not Seattle), Kittitas, and Pierce (not Tacoma) counties.

Natural Gas Service: parts of King (not Enumclaw), Kittitas (not Ellensburg), Lewis, Pierce (not Buckley), Snohomish, and Thurston counties.

Washington state's oldest and largest energy utility, with a 6,000-square-mile service area stretching across 11 counties, Puget Sound Energy serves more than 1 million electric customers and nearly 750,000 natural gas customers, primarily in the Puget Sound region of Western Washington. PSE meets the energy needs of its growing customer base through incremental, cost-effective energy efficiency, low-cost procurement of sustainable energy resources, and far-sighted investment in the energy-delivery infrastructure. For more information, visit PSE.com.

PUGET SOUND ENERGY

CASCADE
WATER ALLIANCE

Member Communities & Water Districts

SEARCH

Overview

City of Bellevue

Covington Water District

City of Issaquah

City of Kirkland

City of Redmond

Sammamish Plateau Water & Sewer District

Skyway Water & Sewer District

City of Tukwila

Overview

Cascade's members joined together in 1999 to ensure water supply for the future. Our five cities and three water and sewer districts work to address current and future needs using the water supply efficiently through conservation programs. Collectively, the membership of Cascade serves over 370,000 residents and 22,000 businesses. Membership is open to any public water utility within the region.

©2018 CASCADE WATER ALLIANCE | Serving almost 400,000 residences and more than 22,000 Businesses in east and south King County and the Puget Sound, WA region

11400 SE 6th Street, Suite 440 | Bellevue, Washington 98004 | 425.453.0930 | Email Us >

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CITY OF SNOHOMISH

Founded 1859, Incorporated 1890

116 UNION AVENUE λ SNOHOMISH, WASHINGTON 98290 λ TEL (360) 568-3115 FAX (360) 568-1375

NOTICE OF REGULAR MEETING

RAILS AND TRAILS ADVISORY COMMITTEE (RTAC)

in the
Snohomish Library
311 Maple Avenue

MONDAY
February 23, 2009
4:00-5:30 p.m.

AGENDA

4:00 1. **CALL TO ORDER:** Roll Call – Additions to agenda

2. **DISCUSSION ITEM** – Transit Service Delivery to Snohomish

   a. Community Transit, Sound Transit, Federal Transit Administration
   b. Service delivery options and scenario development
   c. Public Outreach schedule for RTAC

3. **DISCUSSION ITEM** – April Progress Report to City Council

   a. Status report – Eastside Corridor
   b. Issues summary, recommendations, and conclusions
   c. 2009 RTAC Calendar

4. **REPORTS BY COMMITTEE MEMBERS**

   a. TRIMET Tour – Friday in April? (3rd, 10th, 17th?) – George
   b. City outreach report – Ann Stanton

5. **OTHER BUSINESS/INFORMATION ITEMS**

5:30 6. **ADJOURN**

NEXT MEETING: The next regular meeting is scheduled for Monday, March 16, 2009, at 4 p.m., in the Snohomish Library, 311 Maple Avenue.

Continued on Back

ATTACHMENTS:

A. January 26, 2009 RTAC Meeting Summary
B. Draft 2009 Calendar

ATTACHMENT A

City of Snohomish
Rails and Trails Advisory Committee
Meeting Summary

January 26, 2009

Committee Members Present	*Committee Members Absent*	*Citizens Present*
Ann Averill	Liam Dalton	Michael Whitney, Tribune
John First	Colleen Hill, Chair	Peter Camp, Snohomish Co
Karen Guzak	Robert J. Klem	Jeremiah Podleski (RTAC alt)
Tina Hastings		Tom Hamilton, Planning Com
Ted Kitchner	*City Staff Present*	Tom Payne, GNP Railway.
Andy Papadatos	Ann Stanton, Project Manager	Mike Merritt, Port of Seattle
George Swartz		Marc Bardsley, Citizen
Christine Wakefield-Nichols		Val Batey, Sound Transit

AGENDA

1. **CALL TO ORDER** – Roll Call

Ann Stanton reported that Chairperson Colleen Hill was called away to an emergency and was unable to attend today's meeting. The Committee appointed Ann Averill to act as Chair in Ms. Hill's absence. Ms. Stanton also introduced Karen Guzak as the new City Council representative to the Rails and Trails Committee, replacing Melody Clemans who resigned due to time constraints. Ann Averill called the meeting to order at 4:10 p.m.

2. **DISCUSSION ITEM** – Commuter Rail Issues – Eastside Corridor

Val Batey, Senior Transportation Planner for Sound Transit (ST), presented results of the Commuter Rail Feasibility Study recently completed by Puget Sound Regional Council (PSRC) in partnership with Sound Transit. PSRC developed ridership estimates for the various segments of the BNSF Eastside Corridor, and Sound Transit prepared project cost estimates for acquisition, development, and operation of this line. Ridership estimates are high enough to place this corridor among the top ten transit routes in the Puget Sound region, in terms of predicted use.

A Request for Proposals from potential partnerships may be issued by June for the $50 million that Sound Transit has funded for capital improvements along this line.

When asked by Ms. Guzak what Snohomish can do to be most effective in helping the Eastside Commuter Rail project along, Ms. Batey mentioned the importance of communicating support for this project to Sound Transit's Board. The issue of multiple jurisdictions was discussed as a major obstacle to commuter rail. The northern section of the Corridor is outside ST's service area, although it benefits employers within the ST service area. Sound Transit does not include this project in its long range plan at this time. Furthermore, ST does not currently have sufficient funds to develop this corridor.

It was noted that Sound Transit does not directly operate any transit, with the exception of Tacoma Link. METRO will operate the Central Link light rail facilities under contract to Sound Transit, AMTRAK maintains the commuter rail locomotives and cars under contract to Sound Transit, and BNSF operates the Sounder commuter line.

It was suggested that overcoming the multiple jurisdiction issue might best occur at the state legislative level, with leadership by Senators Hobbes and Dunshee. Compared to both highway expansion and light rail, the Eastside Corridor commuter rail option is cheaper. The state legislature could authorize a Request for Proposals with the objective of authorizing a joint venture or public-private partnership to build and begin operating this local system in a relatively short time frame (5-10 years). This new entity could be granted a 50-year operating agreement to permit depreciation schedules to be successfully implemented, etc.

Tom Payne of GNP Railway commented that he is obligated for operation and maintenance of the line and would be delighted to engage with the communities along it.

The need for public subsidy over and above ticket prices, and the relatively high cost of service compared to Portland's TRIMET commuter rail were discussed. Both Sound Transit and GNP Railway estimate annual operating expenses of approximately $20 million (at full build out, Snohomish to Renton and Woodinville to Redmond.)

Mike Merritt updated the committee that March 31 is the target closing date for the acquisition. Only one filing is left to complete; a BNSF and King County Freight Reactivation agreement. There are no obstacles to federal approval of their acquisition. On closing, King County will pay $1.4 million for a trail easement over the Bellevue to Renton segment. Tracks will be maintained throughout the corridor. Port of Seattle intends only to be an interim owner; discussion occurred of ways to contribute to its $107 million outlay. Currently, Port of Seattle is negotiating with King County for maintenance of the corridor where the trail is located.

Tom Payne described his approach to initiating rail service: first freight, then excursion, then commuter. He envisions a low-cost commuter rail start up achievable within 19 months from start of planning. The rail bridge over I-405 would need to be rebuilt and this would require a record of decision (agreement) between STB, FRA, FHWA, WSDOT, and the railway company. The FRA requires commuter rail to be operated by a qualified railway company, (which GNP is). He plans to pursue a federal loan to make necessary improvements to the tracks and infrastructure. Tom also stated that only the Federal Rail Administration and the Surface Transportation Board govern railways, not state or local jurisdictions.

3. OTHER BUSINESS/INFORMATION ITEMS

4. ADJOURN

The meeting adjourned at 5:45 p.m.

ATTACHMENT B

Rails and Trails Advisory Committee Planning Calendar – February 23, 2009

The following agendas are preliminary and subject to change:

February – Public Transit Service Delivery
Commuter Rail Scenario Development, pros, cons, next steps
Community Transit
Transportation Benefit District
WSDOT Highway 9 Corridor Development
Council Progress Report – Discussion

March – Excursion Rail
Council Progress Report – draft
Outreach - Committee Member Reports
Excursion Rail Discussion and Recommendations to Council

April – Trail Issues
King County Parks Department – trail progress report
Snohomish County trails
Centennial Trail Extension – progress report
Outreach - Committee Member Reports – trail issues

May – Public Open House – Commuter Rail
Outreach – Committee Member Reports
Scenario Development, pros, cons, next steps (recommend Council time extension, if needed)

June – Information Review
Outreach – Committee Member Reports
Scenario Development, pros, cons, next steps

MEMORANDUM OF UNDERSTANDING
Regarding Acquisition of the
Woodinville Subdivision

This MEMORANDUM OF UNDERSTANDING is made by and among the Port of Seattle, a Washington municipal corporation ("Port"), Sound Transit, a regional transit authority ("Sound Transit"), King County, a political subdivision of Washington ("King County"), the City of Redmond, a Washington municipal corporation ("Redmond"), the Cascade Water Alliance, a Washington non-profit corporation ("Cascade"), and Puget Sound Energy, Inc., a Washington corporation ("PSE") (collectively, the "Parties") as of the 5th day of November, 2009.

WHEREAS:

(A) BNSF desires to sell in part and donate in part the Woodinville Subdivision, which is a railroad corridor extending from the City of Renton northerly to the City of Snohomish, and including a spur corridor extending from the City of Woodinville to the City of Redmond; and

(B) The Port, King County and BNSF previously executed a purchase and sale agreement and donation agreement for the acquisition and partial railbanking of the Woodinville Subdivision; and

(C) Additional regional partners have been identified to share in the cost of acquiring the Woodinville Subdivision for public ownership; and

(D) The alignments under consideration for Sound Transit's Eastlink light rail project require property rights within the Woodinville Subdivision; and

(E) Sound Transit, Redmond, Cascade and PSE have each expressed an interest in participating in the acquisition and preservation of the Woodinville Subdivision in public ownership for recreational trail use, as well as for use as a public transportation and utility corridor.

(F) It is the express purpose of Sound Transit, King County, and Redmond, that the Woodinville Subdivision be developed and operated to ensure that it is available for the dual purposes of recreational trail and public transportation use; and

(G) Consistent with federal railbanking requirements, King County and Redmond have interests in developing a recreational trail within the Woodinville Subdivision; and

(H) The financial contributions to be made by the Port, King County, Sound Transit and Redmond towards this collective acquisition may not be in proportion to the fair market value of the rights in the Woodinville Subdivision that are expected to be received by these entities and, in all instances, the fair market value of the rights to be received by each governmental entity in the Woodinville Subdivision may materially exceed the amount of such entity's respective financial contribution.

NOW, THEREFORE, the Parties have reached the following understanding:

SECTION 1. Purpose.

The Port intends to close its acquisition of the Woodinville Subdivision in 2009. The Parties have envisioned and are working to complete a future transaction for their mutual benefit and for the benefit of the public. The Parties wish to set forth their understandings in this Memorandum of Understanding ("MOU") with respect to their respective interests in the transaction. This MOU is a non-binding document that creates no rights and imposes no obligations on any Party. While the Parties are committed to working cooperatively, expeditiously and efficiently to document the components of the transaction through binding agreements ("Agreements") using this MOU as a guide, the allocation of interests described in this MOU are tentative and subject to review and modification as the Parties move forward with their discussions.

SECTION 2. Key Acquisition Elements.

The key elements of the proposed transaction are as follows:

2.1 This transaction concerns the portion of the Woodinville Subdivision main line corridor between Renton and Snohomish (approximately mile posts 5.0 and 38.4), and a spur corridor between Woodinville and Redmond (between approximately mile posts 0.0 and 7.3) ("Redmond Spur"). Collectively, the main line corridor and the Redmond Spur constitute the "Woodinville Subdivision." The portion of the Woodinville Subdivision north of mile post 23.8 in Woodinville to milepost 38.4 in Snohomish County is referred to as the "Freight Portion." The portion of the Redmond Spur between approximately mileposts 0.0 and 3.1 is referred to as the "County Portion of the Redmond Spur." The portion of the Redmond Spur between approximately mileposts 3.1 and 7.3 is referred to as the "City Portion of the Redmond Spur." Together, the Freight Portion and the Redmond Spur are referred to as the "Northern Portion." The portion of the Woodinville Subdivision south of Woodinville, excluding the Redmond Spur, is referred to as the "Southern Portion." The specific line segments and designated portions will be further defined in the Agreements.

2.2 The Parties have expressed a desire for the future allocation of interests in the Woodinville Subdivision as follows:

2.2.1 The Port will retain, subject to a freight rail easement granted by BNSF to a freight rail operator, all of the title, interest and obligations in the real and personal property of the Freight Portion.

2.2.2 Sound Transit is interested in acquiring a real property interest in the Southern Portion and the Redmond Spur.

2.2.3 King County is interested in acquiring a real property interest in the Southern Portion and the County Portion of the Redmond Spur.

2.2.4 Redmond is interested in acquiring a real property interest in the City Portion of the Redmond Spur.

2.2.5 Cascade is interested in acquiring a utility easement over the Southern Portion and will have the right to negotiate with the County and Redmond for utility easements over the Redmond Spur.

2.2.6 PSE is interested in acquiring utility easements throughout the entirety of the Woodinville Subdivision, except for the City Portion of the Redmond Spur, for PSE's existing and future facilities and infrastructure. For the City Portion of the Redmond Spur, PSE and Redmond anticipate a value for value exchange of perpetual easements for existing PSE facilities and infrastructure within the Redmond right-of-way and Redmond trail facilities on PSE properties, based on the appraised value of the properties in question. Provided, that PSE's new facilities and infrastructure shall be subject to otherwise applicable public approval, construction and permitting processes.

2.3 The identification of which entities will grant and which entities will receive these interests and the order in which these interests will be acquired will be further defined in the Agreements.

SECTION 3. Proposed Key Future Use Elements.

3.1 Freight rail service subject to the jurisdiction of the Surface Transportation Board ("STB") will continue on the Freight Portion.

3.2 Utility corridor uses by PSE and Cascade.

3.3 Interim trail use ("railbanking") will be established on the Southern Portion and the Redmond Spur under the National Trails Systems Act, 16 U.S.C. 1247(d) as of the closing of the Port's transaction with BNSF. The Parties recognize that for any portion subject to railbanking, future local, regional or national transportation needs may require reconstruction and reactivation of the right-of-way for freight rail service. King County will be the trail sponsor for the Southern Portion and the County Portion of the Redmond Spur. The Agreements will provide that in the event Redmond acquires an interest in the City Portion of the Redmond Spur, King County and Redmond will cooperate in seeking Surface Transportation Board authorization for Redmond to assume the role of trail sponsor for the City Portion of the Redmond Spur.

3.4 The Parties intend that the Agreements will provide that, consistent with railbanking, the Southern Portion and the Redmond Spur will, in addition to public trail use, be available for public transportation uses such as high capacity transit or bus transportation. The Freight Portion may be made available for public transportation purposes and recreational trail purposes to the extent consistent with ongoing freight rail operations. Should the Freight Portion ever be proposed for abandonment, the Parties with an interest in the Freight Portion shall cooperate to allow the Freight Portion to be railbanked.

3.5 Upon consummation of the Agreements, a process will be established for the entities with interests in the Southern Portion and the Redmond Spur to periodically meet in order to consult and coordinate activities related to the development, maintenance and use of those portions of the Woodinville Subdivision. Said entities agree to coordinate planning and development activities to the extent possible to ensure effective use of the Southern Portion and the Redmond Spur for the uses outlined in this MOU, based on the ownership interests acquired by

each, and consistent with the express goal of developing and operating a dual use corridor for recreational trail and transit purposes. The Agreements shall ensure that no party may frustrate dual use of the corridor for both public transportation and recreational trail purposes.

3.6 If the Port ever determines to offer or to agree to transfer any or all of the Freight Portion, then Sound Transit, King County and any other public agency in the State authorized to provide transit, rail services or public trails shall have a right of first refusal to acquire such property.

3.7 If BNSF ever determines to offer or to agree to transfer any or all of that portion of the Woodinville Subdivision between approximately mileposts 0-5.0, King County will have the right of first refusal to acquire that portion of such property. If King County acquires this property, it will make it available to the other Parties on terms similar to their interests in the acquired portions of the Woodinville Subdivision.

SECTION 4. Negotiation, Cooperation, and Timing.

4.1. The Parties shall cooperate to (i) reach agreement on press releases and other public announcements related to the transactions described herein, and (ii) make any filings with the STB to the extent such filings are necessary to effectuate the transactions contemplated by this MOU.

4.2 By no later than December 14,2009, the Parties shall seek any necessary authorizations from their respective boards or legislative bodies to negotiate the transactions contemplated in this MOU.

PORT OF SEATTLE

By: _____
Tay Yoshitani
Chief Executive Officer

KING COUNTY, WASHINGTON

By: _____
Kurt Triplett
County Executive

SOUND TRANSIT

By: _____
Joni Earl
Chief Executive Officer

CITY OF REDMOND, WASHINGTON

By: _____
John Marchione
Mayor

PUGET SOUND ENERGY, INC.

By: _____

Stephen P. Reynolds
President and Chief Executive Officer

CASCADE WATER ALLIANCE

By: _____

Chuck Clarke
Chief Executive Officer

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)

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

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)

STB Finance Docket No. 35407

GNP RLY INC. – ACQUISITION AND OPERATION EXEMPTION – REDMOND SPUR AND WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502

EXHIBITS IN SUPPORT OF COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC.
VOLUME II of II, EXHIBITS 27 – 48

Communications with respect to this pleading should be addressed to:

Charles A. Spitulnik
W. Eric Pilsk
Allison I. Fultz
KAPLAN KIRSCH & ROCKWELL LLP
1001 Connecticut Avenue, N.W.
Suite 800
Washington, DC 20036
(202) 955-5600
E-mail: cspitulnik@kaplankirsch.com
E-mail: epilsk@kaplankirsch.com
E-mail: afultz@kaplankirsch.com

Counsel for King County, Washington

Dated: November 9, 2010

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UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, SAM REED, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

CERTIFICATE OF EXISTENCE/AUTHORIZATION

OF

GNP RLY INC

I FURTHER CERTIFY that the records on file in this office show that the above named Profit Corporation was formed under the laws of the State of WA and was issued a Certificate Of Incorporation in Washington on 11/29/2006.

I FURTHER CERTIFY that as of the date of this certificate, GNP RLY INC remains active and has complied with the filing requirements of this office.

Date: October 5, 2010

UBI: 602-672-764

Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Sam Reed

Sam Reed, Secretary of State

UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

certificate that the attached is a true and correct copy of

ANNUAL REPORT

of

GNP RLY INC

as filed in this office on November 29, 2009.

Date: October 5, 2010

Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Sam Reed, Secretary of State

Secretary of State

RENEW YOUR
Corporation or LLC

Print

GNP RLY INC
UBI: 602 672 764

Thank you for renewing online

Your annual report has been completed and submitted. Please print this receipt for your records and allow 14 days to receive your license document in the mail.

Completed date and time: Nov 29 2009 3:44PM Pacific Time
Transaction number: 2009 333 5163

Your company

Company name:	GNP RLY INC
Unified business ID:	602 672 764
State of incorporation:	Washington
Date of incorporation:	11/29/2006
Expiration date:	11/30/2010

Your fees

Domestic Profit Corporation:	$ 50.00
Renewal application fee:	$ 9.00
Total fees:	$ 59.00
Previous payment:	$ 0.00
Total amount charged:	$ 59.00

Business information

Principal place of business:	403 Garfield St. #20 Tacoma, Washington 98444 United States
Company telephone number:	(253) 459 9702
Company email address:	tompayne@telus.net
Does your company own land, buildings or other real property in Washington?	No

Nature of business

Type:	Transportation and Warehousing

Governing people

THOMAS PAYNE	President Secretary Chairman of the Board Director	403 GARFIELD ST #20 TACOMA, Washington 98444 United States
DOUGLAS ENGLE	Treasurer Director	240 Lombard St. #936 San Francisco, California 94111 United States

Registered agent

Agent type on file:	No agent type on file.

Agent on file:	TOM MONTGOMERY
Agent's office street address on file:	1218 THIRD AVE STE 2700 SEATTLE, Washington 98101 United States
Agent's mailing address on file:	Same as registered office address.
Request agent type change to:	Business
Request agent change to:	TOM MONTGOMERY
Request agent office street address change to:	1218 THIRD AVE STE 2700 SEATTLE, Washington 98101 United States
Request agent mailing address change to:	Same as registered office address.
Registered agent consent:	No change to agent name.

Person completing this renewal

Submitted By:	THOMAS PAYNE
Title:	President, Secretary, Chairman of the Board, Director
Renewal certification:	I am the person listed above and I certify under penalty of perjury that the renewal information submitted is true and correct to the best of my knowledge. I understand that deliberately submitting false information may be punishable as a gross misdemeanor. RCW 43.07.210

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UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, SAM REED, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

CERTIFICATE OF INCORPORATION

to

ALTAC TERMINALS WASHINGTON, INC.

a/an WA Profit Corporation. Charter documents are effective on the date indicated below.

Date: 11/29/2006

UBI Number: 602-672-764

Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Sam Reed

Sam Reed, Secretary of State

UNITED STATES OF AMERICA

The State of Washington

Secretary of State

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby issue this

certificate that the attached is a true and correct copy of

ARTICLES OF INCORPORATION

of

ALTAC TERMINALS WASHINGTON, INC.

as filed in this office on November 29, 2006.

Date: October 5, 2010

Given under my hand and the Seal of the State of Washington at Olympia, the State Capital

Sam Reed, Secretary of State

602 672 764

FILED
SECRETARY OF STATE
SAM REED

NOVEMBER 29, 2006

STATE OF WASHINGTON

ARTICLES OF INCORPORATION
OF
ALTAC TERMINALS WASHINGTON, INC.

11/29/2006 956747
$195.00 Check #6106
Tracking ID: 1205227
Doc No: 956747-001

The undersigned hereby executes the following Articles of Incorporation for the purpose of forming a corporation under the Washington Business Corporation Act (Revised Code of Washington, Title 23B).

ARTICLE I
NAME

The name of this corporation is Altac Terminals Washington, Inc.

ARTICLE II
AUTHORIZED CAPITAL STOCK

This corporation is authorized to issue, in the aggregate, twenty five thousand (25,000) shares of a single class of stock.

ARTICLE III
NO PREEMPTIVE RIGHTS

Shareholders of this corporation shall have no preemptive rights to acquire additional shares issued by the corporation.

ARTICLE IV
DIRECTOR LIABILITY

A director of the corporation shall not be personally liable to the corporation or its shareholders for monetary damages for conduct as a director, except for liability of the director for (i) acts or omissions that involve intentional misconduct or a knowing violation of law by the director, (ii) conduct which violates RCW 23B.08.310 of the Washington Business Corporation Act, pertaining to unpermitted distributions to shareholders or loans to directors, or (iii) any transaction from which the director will personally receive a benefit in money, property or services to which the director is not legally entitled. If the Washington Business Corporation Act is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by the Washington Business Corporation Act, as so amended. Any repeal or modification of the foregoing paragraph by the shareholders of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

ORIGINAL

ARTICLE V
INDEMNIFICATION

The corporation shall indemnify its directors against all liability, damage, or expense resulting from the fact that such person is or was a director, to the maximum extent and under all circumstances permitted by law; except that the corporation shall not indemnify a director against liability, damage, or expense resulting from the director's gross negligence.

ARTICLE VI
AMENDMENT

This corporation reserves the right to amend or repeal any provisions contained in these Articles of Incorporation in any manner now or hereafter permitted by statute. All rights of shareholders of the corporation and all powers of directors of the corporation are granted subject to this reservation.

ARTICLE VII
INITIAL DIRECTORS

The initial Board of Directors of this corporation consists of three(3) directors. The name and address of the directors are as follows:

Thomas Payne
Suite 21 Garfield Center
403 Garfield Center
Tacoma, WA 98444

Darryl Banman
#214, 110-11th Avenue S.W.
Calgary, AB
Canada T2R 0B8

Paul Crane
#214, 110-11th Avenue S.W.
Calgary, AB
Canada T2R 0B8

The initial directors shall serve until the next annual meeting of shareholders or until the election and qualification of their successors. The number of directors constituting the Board of Directors of this corporation may be increased or decreased from time to time in the manner specified in the Bylaws of this corporation.

ARTICLE VIII
REGISTERED OFFICE AND AGENT

The street address of this corporation's initial registered office is c/o Montgomery Scarp, PLLC, 1218 Third Avenue, Suite 2700, Seattle, Washington, 98101.

Tom Montgomery is the corporation's initial registered agent at such office.

ARTICLE IX
INCORPORATOR

The name and address of the incorporator is as follows:

Thomas Payne
430 - East 25th Street, Suite 202M
Tacoma, WA 98421

DATED this 22nd day of November, 2006.

Thomas Payne, Incorporator

CONSENT TO APPOINTMENT AS REGISTERED AGENT

I, Tom Montgomery, hereby consent to serve as registered agent, in the State of Washington, for Altac Terminals Washington, Inc. I understand that as agent for the corporation, it will be my responsibility to accept service of process in the name of the corporation; to forward all mail and license renewals to the appropriate officer(s) of the corporation; and to immediately notify the Office of the Secretary of State of my resignation or of any changes in the address of the registered office of the corporation for which I am agent.

DATED this 25th day of November, 2006.

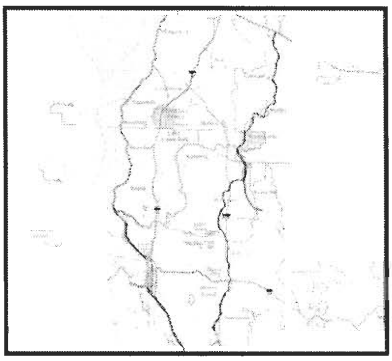
Tom Montgomery, Registered Agent
c/o Montgomery Scarp, PLLC
1218 Third Avenue, Suite 2700
Seattle, Washington, 98101

GNP Rly Inc.

GNP was formed in 2006 to pursue operations on the Eastside Rail Corridor. In 2008, **GNP** was given authority as a federal railroad by the Surface Transportation Board, which gives it direct access to low interest federal loans for rail projects. **GNP** also received a NEPA categorical exclusion for works throughout the entire corridor. In September 2008, BNSF and the Port of Seattle selected **GNP** as the third-party operator for freight. In December 2009, **GNP** purchased a permanent freight easement from BNSF for the north portion of the line from Woodinville to Snohomish. Freight operations began in January 2010.

Today, **GNP** is proud to offer:

- FREIGHT SERVICE



Emergency Call in number **866-924-9093**

General Inquiries, Operations and Maintenance Email info@GNPRail.com

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GNP Rly Inc.

HISTORY
GNP was formed in 2006 to pursue operations on the Eastside Rail Corridor. In 2008, GNP was given authority as a federal railroad by the Surface Transportation Board, which gives it direct access to low interest federal loans for rail projects. GNP also received a NEPA categorical exclusion for works throughout the entire corridor. In September 2008, BNSF and the Port of Seattle selected GNP as the third-party operator for freight. In December 2009, GNP purchased a permanent freight easement from BNSF for the north portion of the line from Woodinville to Snohomish. Freight operations began in January 2010.

MANAGEMENT
GNP's C.O.O., Tom Payne, is a member of the Canadian Railway Hall of Fame and is known as "the founder of the modern short-line railway industry." Mr. Payne's company, Central Western Railway grew to become Canada's third largest railway network and eventually became RaiLink Ltd. Doug Engle is the CFO with financial and marketing credentials in technology, financial and manufacturing companies. His accomplishments include advanced utility-based pricing and forecast models and executive speaking engagements.

FREIGHT
GNP provides shippers the ability to move rail freight cars to and from BNSF's main line in Snohomish. In these short-line operations, Ballard Terminal Railroad is GNP's agent and both companies plan to significantly expand the freight shipping business on the line, although this is the smallest rail opportunity on the line.

EXCURSION SERVICE
Excursion services are expected to begin the summer of 2010. Over 800,000 cruise ship visitors depart from Seattle each season, and eastside communities are coming together to create a tour experience via the railroad. Old town Snohomish, the Woodinville wineries and hopefully Redmond will provide exceptional opportunities for businesses along the Eastside Rail Corridor.

TRAIL
From its inception, GNP has advocated the dual use of the Eastside Rail Corridor for rail services and as a public pathway. When the rails are rehabilitated and new ballast, concrete ties and continuous welded rail are installed; the old ballast and salvageable ties can readily be used to simultaneously construct a gravel maintenance of way road (pathway) near the tracks at minimal additional cost.

PASSENGER and RAIL SERVICES
In November 2008, the public passed an initiative to extend Sound Transit's Link light rail system to the east from Seattle to Bellevue and eventually Redmond. Included in this initiative is $50M for a demonstration project along the corridor. GNP intends on pursuing a public private partnership P3 with local public agencies to expand passenger services along the rail corridor from Everett to Bellevue.

HISTORY

MANAGEMENT

FREIGHT

GNP provides shippers the ability to move rail freight cars to and from BNSF's main line in Snohomish. In these short-line operations, Ballard Terminal Railroad is GNP's agent and both companies plan to significantly expand the freight shipping business on the line, although this is the smallest rail opportunity on the line.

>> Station Adoption Notice
>> General Freight Tariff

EXCURSION SERVICE

TRAIL

PASSENGER and RAIL SERVICES

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GNP Rly Inc.

HISTORY

MANAGEMENT

FREIGHT

EXCURSION SERVICE

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TRAIL

PASSENGER and RAIL SERVICES

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GNP Rly Inc.

HISTORY

MANAGEMENT

FREIGHT

EXCURSION SERVICE

TRAIL

PASSENGER and RAIL SERVICES

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GNP Rly, Inc.

Eastside Rail Corridor

June 24, 2008

Part I

Concept

Introductions

Thomas Payne
Chairman & COO, GNP Rly, Inc.

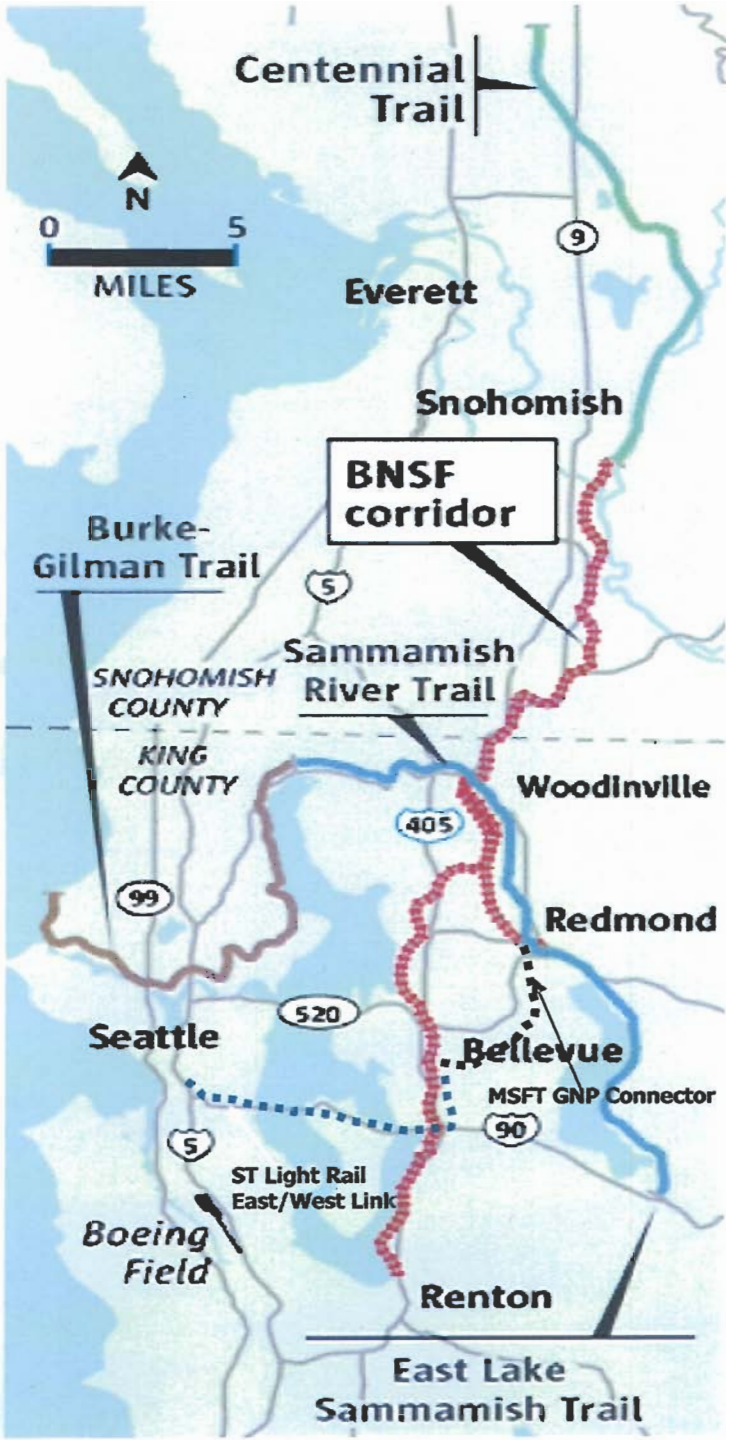
Doug Engle
CFO, GNP Rly, Inc.

Context

- This presentation is about securing freight and commuter rail with a trail for the eastside corridor.
- Abandonment of the rail corridor by BNSF requires rail freight operator status by Fall 2008.
- Public Private Partnership or Interlocal agreement could provide structure for freight, commuter and trail operation in 2009.

Eastside Rail Corridor

- 40 mile corridor connecting Renton to Snohomish
  - 100 feet wide
  - Additional 'blisters' and property available for transit oriented development
  - 57 crossings
- Track conditions – fair to good
  - Supports up to 30 mph rail traffic today
  - Rehab required to allow for 60-80 mph rail traffic
- Trail System (proposed)
  - 10' wide base ready to pave



Background

- History
  - GNP Rly 15 mos. advocating commuter rail service
- Deciding factors
  - Private = action and funding
  - Public Transit = studies and multi-year timeframe
  - Public Private Partnership/Interlocal Agreement = **Commuter and freight rail with trail - Now!**
- Milestones to-date
  - GNP Rly has STB application ready
  - Thorough analysis and funding strategy in process
  - Identified qualified personnel
  - Identified available equipment
- Key decisions/ information
  - FRA RRIF program funding known to be available
  - Confirmed construction estimates
  - Station locations
  - Operate as "green" as possible

Rail Options Currently Proposed

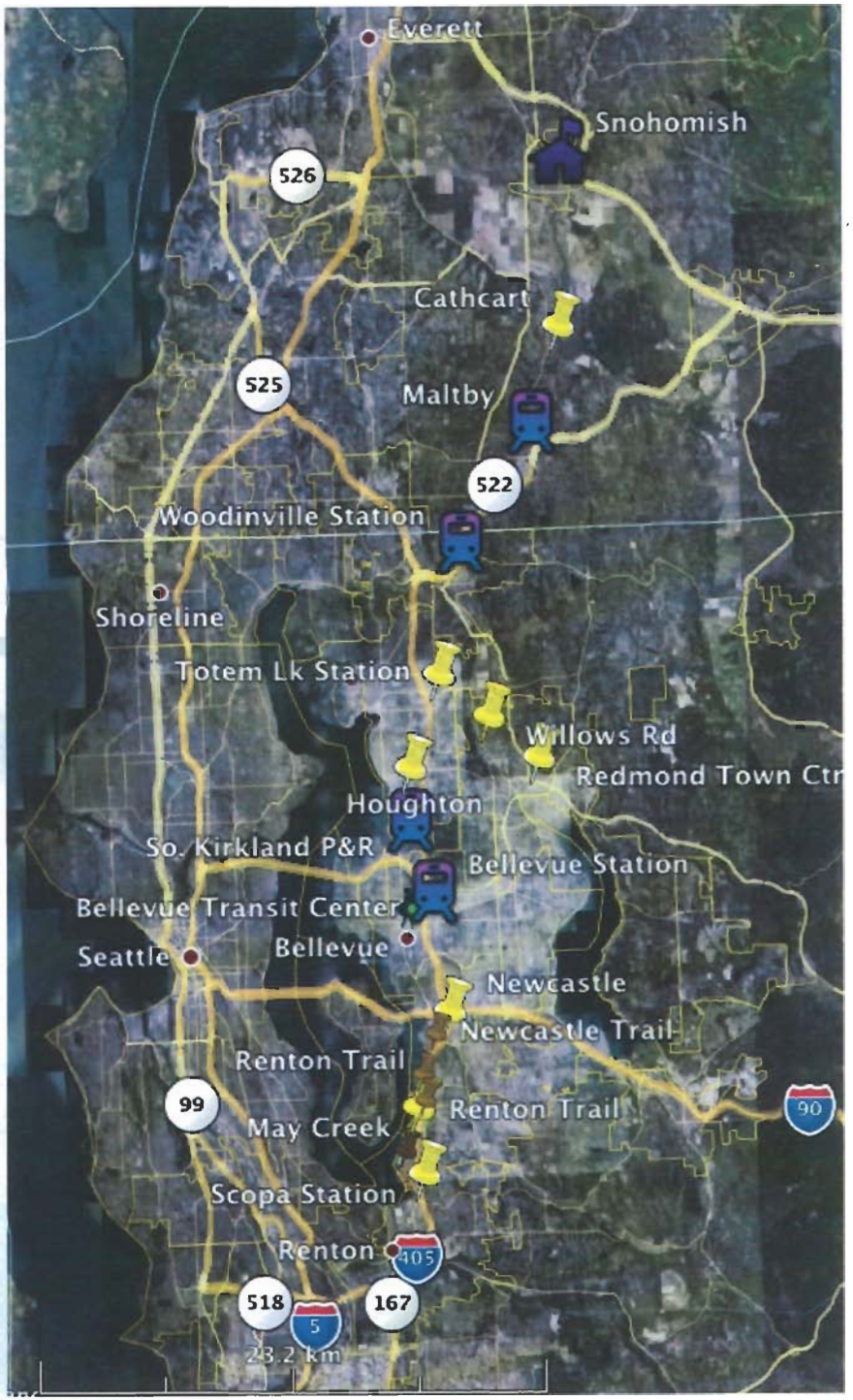
- Commuter rail "*someday*"
- Freight rail only from Woodinville to Snohomish and railbanking of balance of line in September of 2008. Outcome … no transit.
- More studies and process…

or

- We *act* now for rail and trail in whole corridor and initiate service in 2009.
- True *once in a lifetime* opportunity

Proposed Initial GNP Stations

- Snohomish
- Maltby
- Woodinville
- So. Kirkland
- Bellevue



Basic Rail Stations & Parking

inexpensive at $1.5 MM each

Proposal

- Establish Ops HQ on eastside
- Rehabilitate the rail line to support commuter rail traffic between Snohomish and Renton
  - Install new rail and concrete ties along corridor
  - Upgrade crossings where necessary
  - Install sidings where necessary
  - Implement initial five commuter stations
  - Implement trail for bikers and hikers
- Begin commuter service in 2009

Partnership

Public

- Right of way

Private

- GNP with operating qualifications

Working together with appropriate agreements would enable GNP to construct, acquire and operate a railway subject to agreed conditions with the County.

Issues

- Constraints
  - Local government support
  - STB, FRA, and Rails and Trails Act
- Timing (from BNSF abandonment)
  - Federal mandate of 110 days total

Risks

- Ridership
- Parking
- “Connector” transit
- Rail line residents

Consequences

Delay now means NO commuter rail
Consequenses are:

- Harder to find and retain employees
  - *for all Eastside businesses*
- Increased road congestion
  - *wasted productive and quality time*
- Affordable housing is an increasing challenge
  - *sparser and farther out*
- Existing transit system build-out
  - *more decades of study and process*

Benefits

- Cooperative action now provides for best outcomes for all parties.
- Preparatory action now is a "prudent man" response which reduces later risks.
- GNP operates commuter transit from Snohomish to Bellevue in 2009.

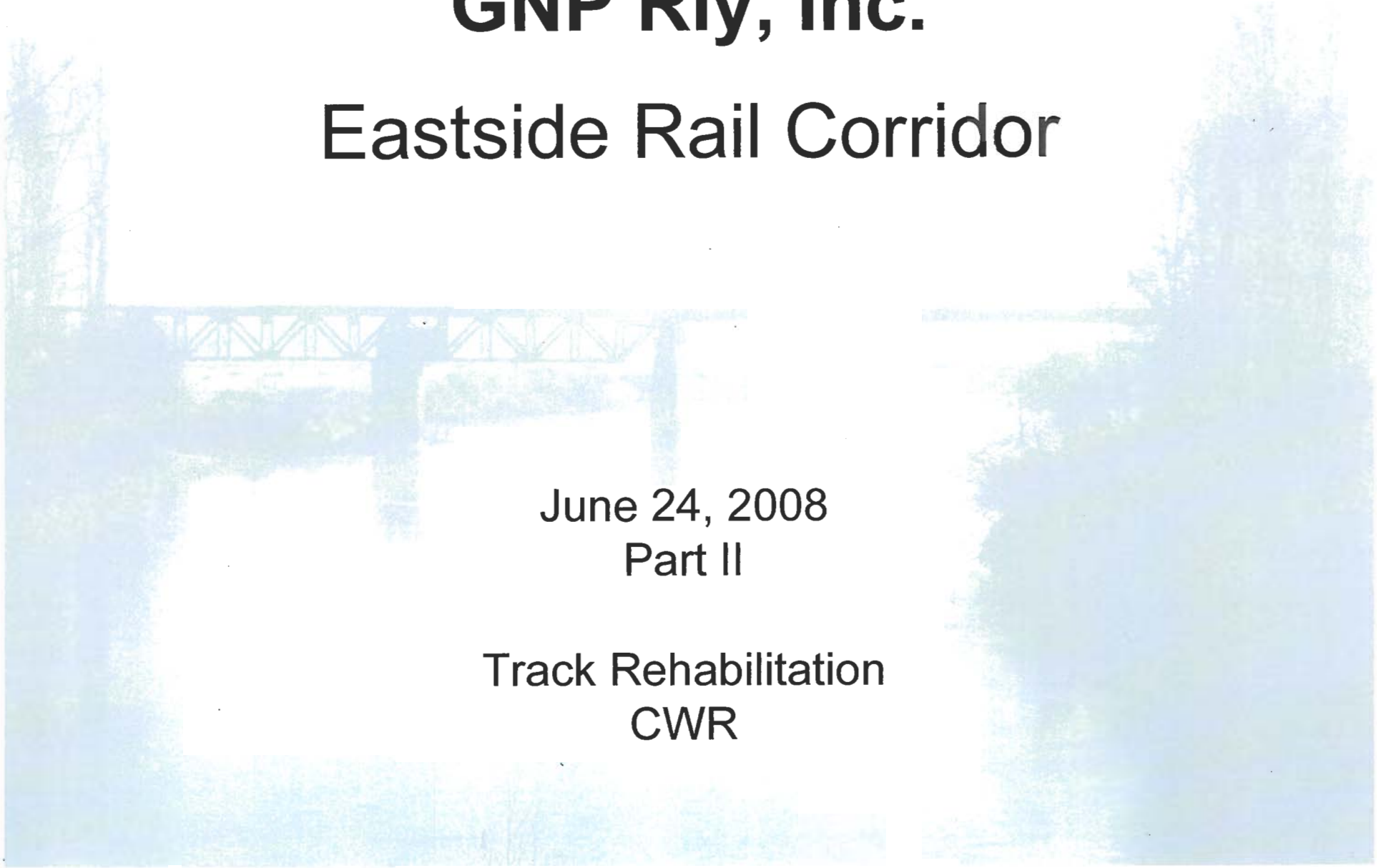
Recommendation:

Execute:

- Non-Disclosure Agreement
- Running Rights Agreement

GNP Rly, Inc.

Eastside Rail Corridor



June 24, 2008
Part II

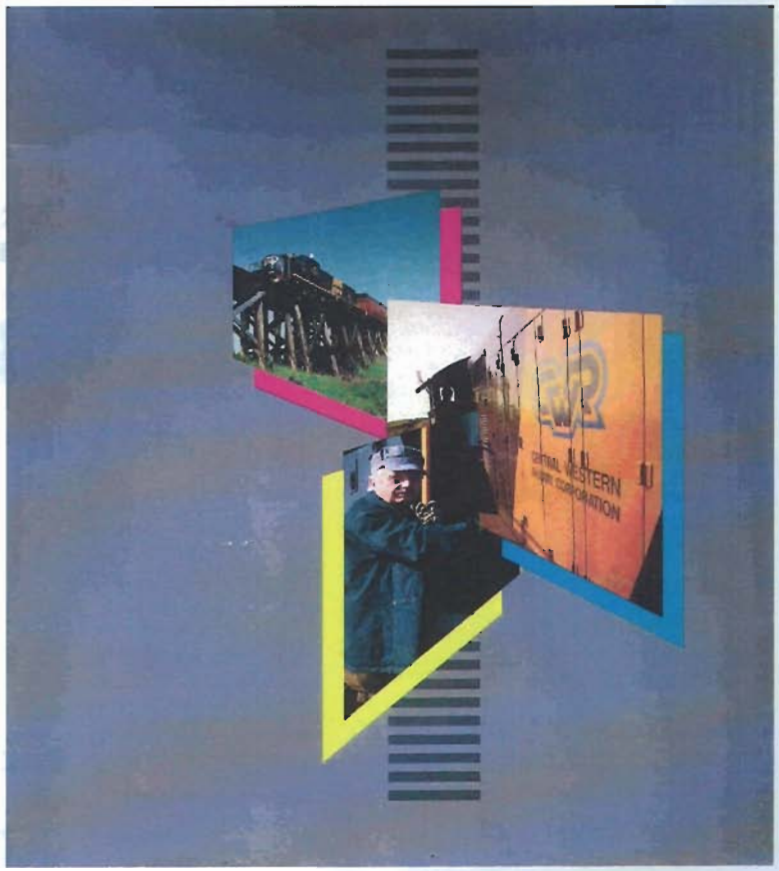
Track Rehabilitation
CWR

Rehabilitation

- Conventional Maintenance of way gang rehabilitation
- Standard practices and equipment
- CWR processes illustrated

The Central Western Railway

- Our people
- Our cars and engines



start with this…

- As it was…

do this…

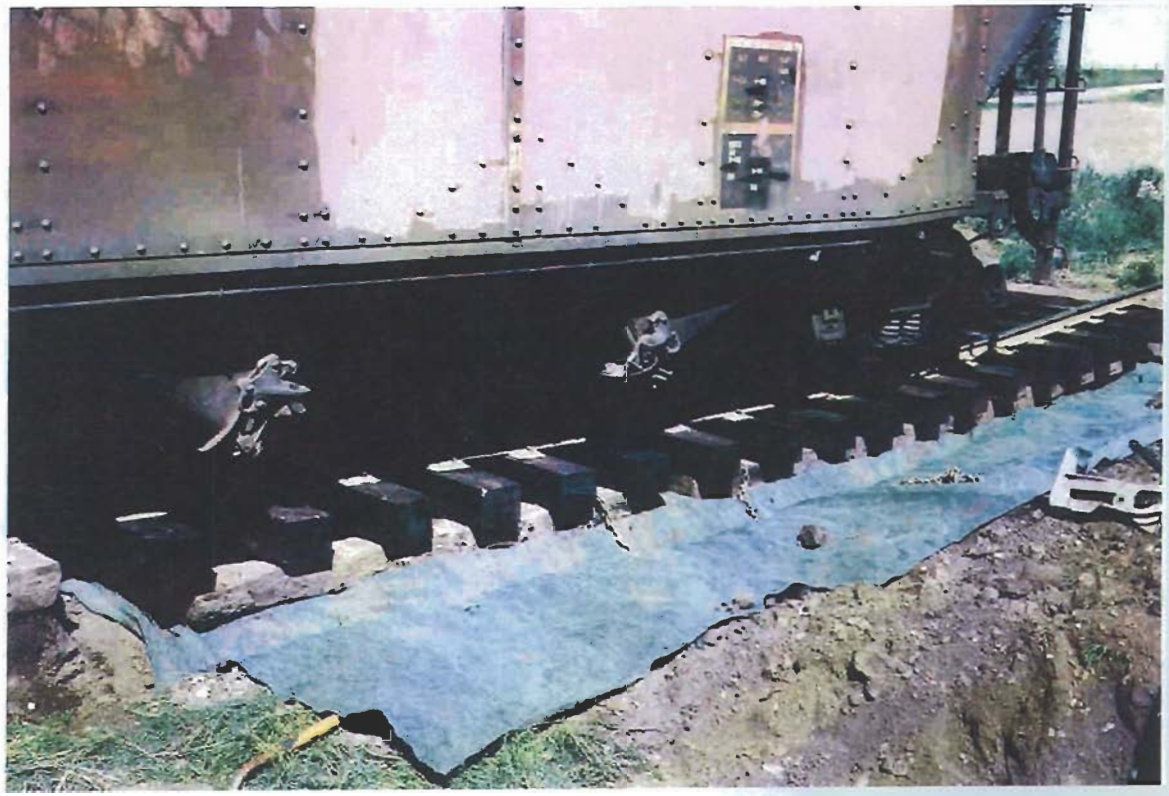
- Jordan spreader profiling the ditches

and this…

- Remove fouled ballast
- Skeleton track ready for ballast

and this…

- Preparing to dump ballast c skeleton track



and this…

- Dump ballast

and this

- Tamping

and this…

- Regulate ballast

and this…

- Align track

and this…

- Rebuild bridge

and this…

- Rebuild bridge

to have this…

- 263,000 lb. engines and cars on wooden trestles

and this.

- Finished track, grade and crossing
- 10,000T train @ 30 mph.

GNP Rly, Inc.

Eastside Rail Corridor

June 24, 2008

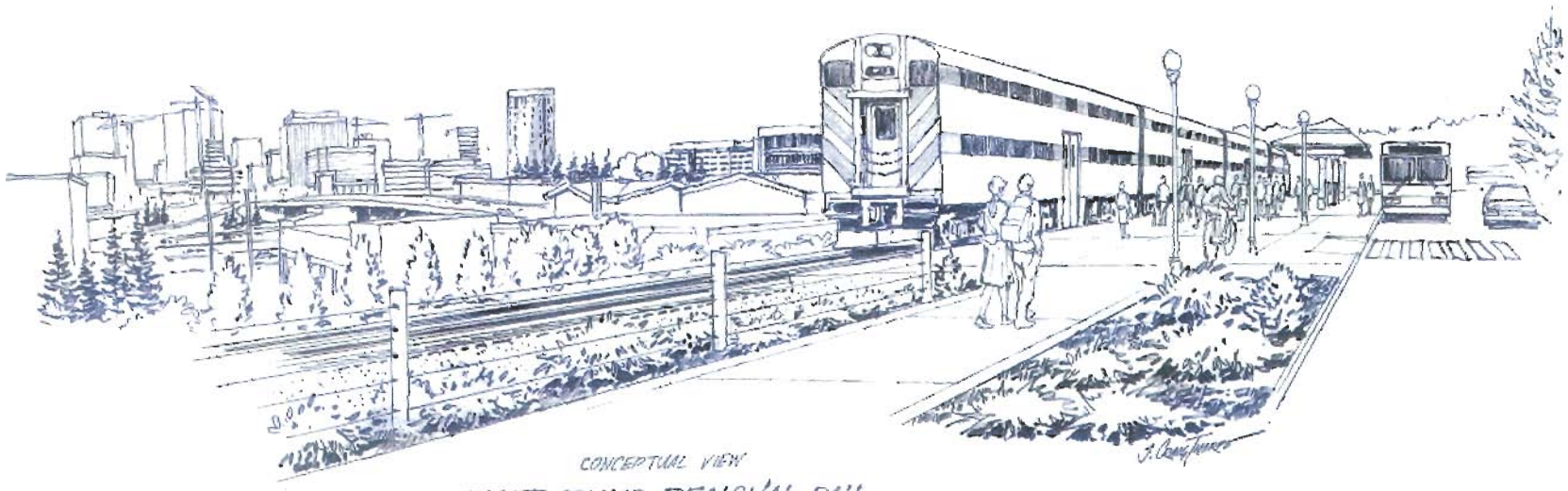
Part III

Outcomes

To Have This:

- A rail and trail…

And Commuter service in 2009.



We need this …

- Modern locomotives are ideal for Eastside commuter service.

And this - typical car…

FRA COMPLIANT CAB CONTROL CAR SPECIFICATIONS
(Typical)

Class	CA3A
Builder & Lot Number	Pullman- Std. 7002A
Date Built	1959-1960
Date Rebuilt	1981-1984
Rebuilding Work	General rehabilitation
Body Construction	LAHT Steel
Exterior Finish	Painted
Weight	127,900 lbs.
End loading	800,000 lbs.
Seating capacity	155
Draft Gear	Waughmat Twin Cushion (WM6DP)
Coupler Type	H
Coupler Yoke	Y65
Brake Schedule	26C Cab Brake valve
Truck Brake Type	WABCO GB 5 ½
Brake Shoe Type	composition
Handbrake Type	Peacock 800 LE
Diaphragm	Two-Fold Cotton/Canvas
Faceplate	Steel Upper Spring - Leaf

GNPR Has:

- Internationally recognised and awarded experienced and capable management.
- Advance Preparation.
- Flexibility of decision making.
- Desire and ability to work in a multi-party 3P/ Interlocal agreement/ cooperative environment.

GNP Rly, Inc.

Eastside Rail Corridor

June 24, 2008

Part IV

Credentials

GNPR Has:

- Internationally recognised and awarded experienced and capable management.
- Prequalified staff is currently working on other national and regional carriers in the district.
- Advance Preparation.
- Flexibility of decision making.
- Desire and ability to work in a multi-party 3P/ Interlocal agreement/ cooperative environment.

CWR's President and C.O.O.

Tom Payne (2002)

Thomas Payne is known as the 'founder of the modern Canadian short-line railway industry.'

Mr. Payne began his career in the railway industry in train service with Canadian Pacific Railway in the early 1970s, and later qualified as a locomotive engineer. In the mid-1980s, after taking a keen interest in short-line railway operations in the United States, Mr. Payne began a three-year quest to operate 'his own' railway company. This quest involved lengthy regulatory work and approvals, obtaining an operating charter from the Alberta government, and finding, financing, and purchasing a suitable railway line segment to operate.

In November 1986,Mr. Payne's dream was realized as the Central Western Railway Corporation began operations of the former Canadian National Railways Stettler Subdivision between Ferlow Junction (south of Camrose) and Morrin, Alberta. Mr. Payne was at the throttle as the first train of grain rolled through the old railway terminal of Big Valley, Alberta, on its way north for interchange with the CN.

Central Western Railway Corporation grew to include an extensive grain-gathering network in central Alberta, and eventually became RaiLink Ltd., which was the third largest railway network in Canada until being purchased by RailAmerica, Inc., in 1999. Mr. Payne retired from the RaiLink group in 1997 to pursue new interests.

His foresight, dedication, and pioneering efforts paved the way for the modern and vibrant short line railway industry that transportation network in Canada enjoys today.

Hall of Fame

Annual Industrial Achievement Award

In recognition of outstanding achievement

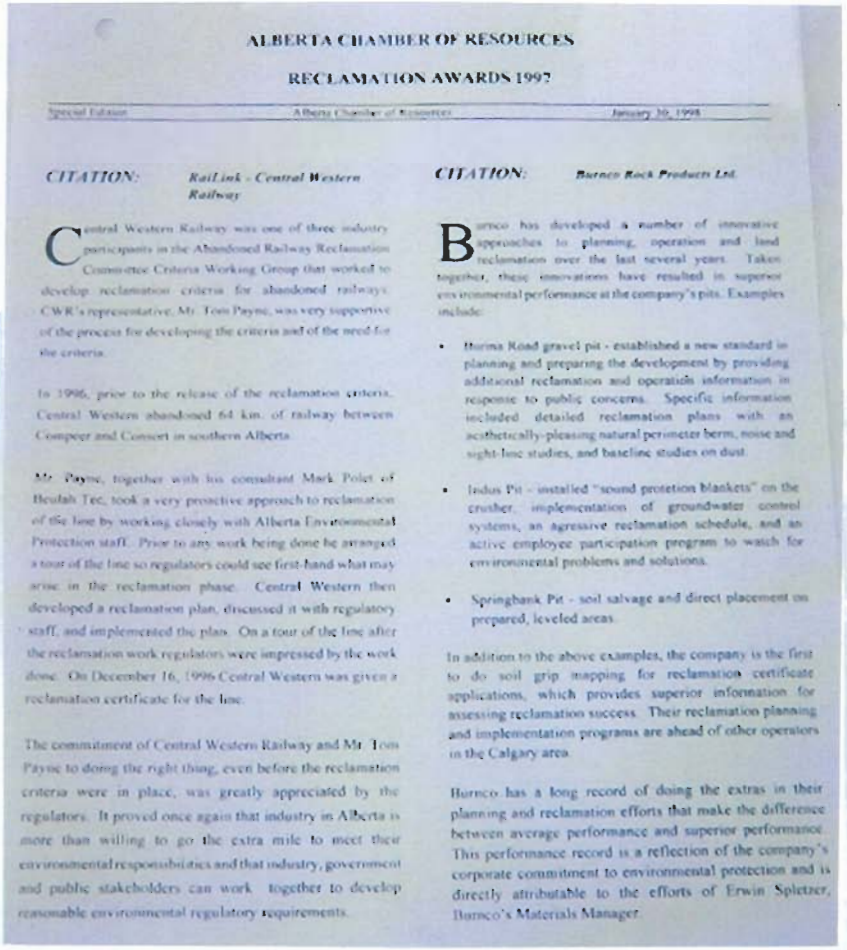
in the Canadian railway industry

Tom Payne

is given this award

in the year two thousand and two.

Province of Alberta Environmental Award



ALBERTA CHAMBER OF RESOURCES

RECLAMATION AWARDS 1997

Special Edition — Alberta Chamber of Resources — January 30, 1998

CITATION: ***RailLink - Central Western Railway***

Central Western Railway was one of three industry participants in the Abandoned Railway Reclamation Committee Criteria Working Group that worked to develop reclamation criteria for abandoned railways. CWR's representative, Mr. Tom Payne, was very supportive of the process for developing the criteria and of the need for the criteria.

In 1996, prior to the release of the reclamation criteria, Central Western abandoned 64 km. of railway between Compeer and Consort in southern Alberta.

Mr. Payne, together with his consultant Mark Polet of Beutah Tec, took a very proactive approach to reclamation of the line by working closely with Alberta Environmental Protection staff. Prior to any work being done he arranged a tour of the line so regulators could see first-hand what may arise in the reclamation phase. Central Western then developed a reclamation plan, discussed it with regulatory staff, and implemented the plan. On a tour of the line after the reclamation work regulators were impressed by the work done. On December 16, 1996 Central Western was given a reclamation certificate for the line.

The commitment of Central Western Railway and Mr. Tom Payne to doing the right thing, even before the reclamation criteria were in place, was greatly appreciated by the regulators. It proved once again that industry in Alberta is more than willing to go the extra mile to meet their environmental responsibilities and that industry, government and public stakeholders can work together to develop reasonable environmental regulatory requirements.

CITATION: ***Burnco Rock Products Ltd.***

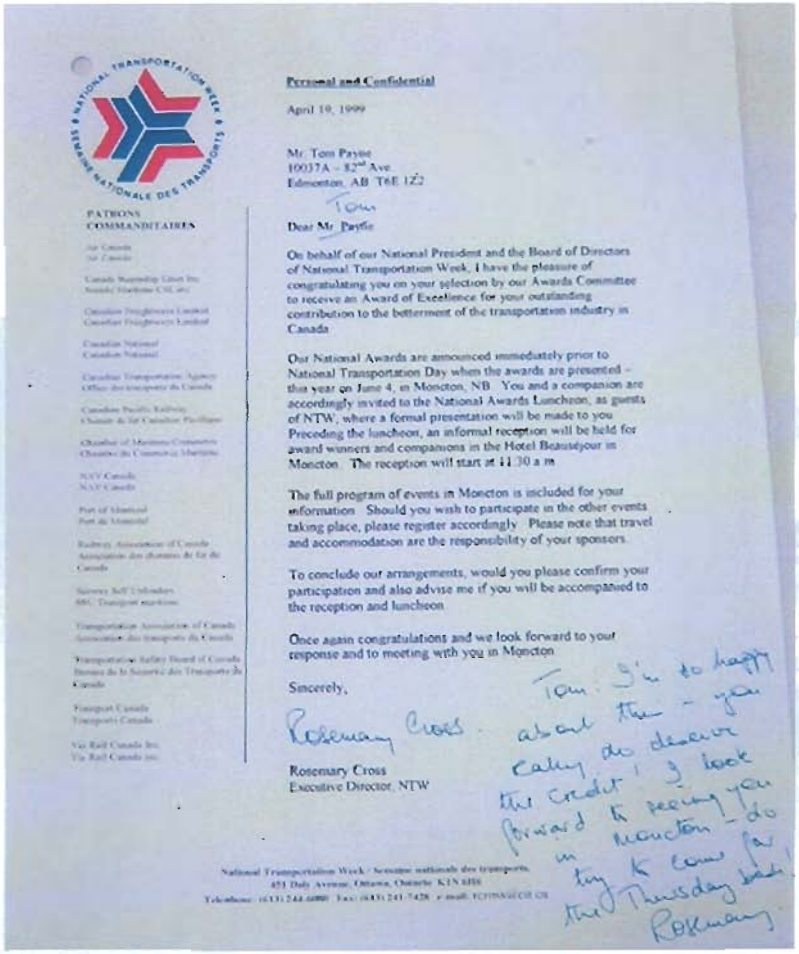
Burnco has developed a number of innovative approaches to planning, operation and land reclamation over the last several years. Taken together, these innovations have resulted in superior environmental performance at the company's pits. Examples include:

- Burma Road gravel pit - established a new standard in planning and preparing the development by providing additional reclamation and operation information in response to public concerns. Specific information included detailed reclamation plans with an aesthetically-pleasing natural perimeter berm, noise and sight-line studies, and baseline studies on dust.
- Indus Pit - installed "sound protetion blankets" on the crusher, implementation of groundwater control systems, an agressive reclamation schedule, and an active employee participation program to watch for environmental problems and solutions.
- Springbank Pit - soil salvage and direct placement on prepared, leveled areas.

In addition to the above examples, the company is the first to do soil grip mapping for reclamation certificate applications, which provides superior information for assessing reclamation success. Their reclamation planning and implementation programs are ahead of other operators in the Calgary area.

Burnco has a long record of doing the extras in their planning and reclamation efforts that make the difference between average performance and superior performance. This performance record is a reflection of the company's corporate commitment to environmental protection and is directly attributable to the efforts of Erwin Spletzer, Burnco's Materials Manager.

National Award of Excellence



PATRONS
COMMANDITAIRES

Personal and Confidential

April 19, 1999

Mr. Tom Payne
10037A - 82nd Ave
Edmonton, AB T6E 1Z2

Tom

Dear Mr. Payne

On behalf of our National President and the Board of Directors of National Transportation Week, I have the pleasure of congratulating you on your selection by our Awards Committee to receive an Award of Excellence for your outstanding contribution to the betterment of the transportation industry in Canada.

Our National Awards are announced immediately prior to National Transportation Day when the awards are presented – this year on June 4, in Moncton, NB. You and a companion are accordingly invited to the National Awards Luncheon, as guests of NTW, where a formal presentation will be made to you. Preceding the luncheon, an informal reception will be held for award winners and companions in the Hotel Beauséjour in Moncton. The reception will start at 11:30 a.m.

The full program of events in Moncton is included for your information. Should you wish to participate in the other events taking place, please register accordingly. Please note that travel and accommodation are the responsibility of your sponsors.

To conclude our arrangements, would you please confirm your participation and also advise me if you will be accompanied to the reception and luncheon.

Once again congratulations and we look forward to your response and to meeting with you in Moncton.

Sincerely,

Rosemary Cross

Rosemary Cross
Executive Director, NTW

Tom. So happy about this - you really do deserve the credit! I look forward to seeing you in Moncton - do try & come for the Thursday bash!
Rosemary

National Transportation Week / Semaine nationale des transports
451 Daly Avenue, Ottawa, Ontario K1N 6H6

GNP Rly Inc.

9 December 2009

Mr. Craig Watson, General Counsel
and
Mr. Joe McWilliams, Managing Director, Real Estate
Port of Seattle
Pier 69
2711 Alaskan Way
Seattle, WA 98121

Re. BNSF Corridor.

Gentlemen;

At our meeting yesterday with the Port and King County, we agreed we would proceed to closing under the present documents if those document were revised to reflect only:

(a) That GNP's scope of operation under the License Agreement (as reflected in the definition of "Excursion Spur" in Section 1.7) would be extended on the Redmond Spur to MP 3.39 (NE 124th St.), and

(b) That GNP shall provide freight service general liability insurance with a minimum limit of $5 million per occurrence (as reflected in Section 9 of the License and Section 8 of the O&M Agreement), and

(c) That the fees payable to the Port and subsequently to the County upon assignment of the License (as reflected in Section 9 of the O&M Agreement and Section 10 of the License) would be adjusted to the levels proposed in our letter of 25 November 2009.

You requested that we provide the Port with GNP's justification of these revisions.

In your e-mail to us of 20 November 2009, the Port advised GNP as follows:

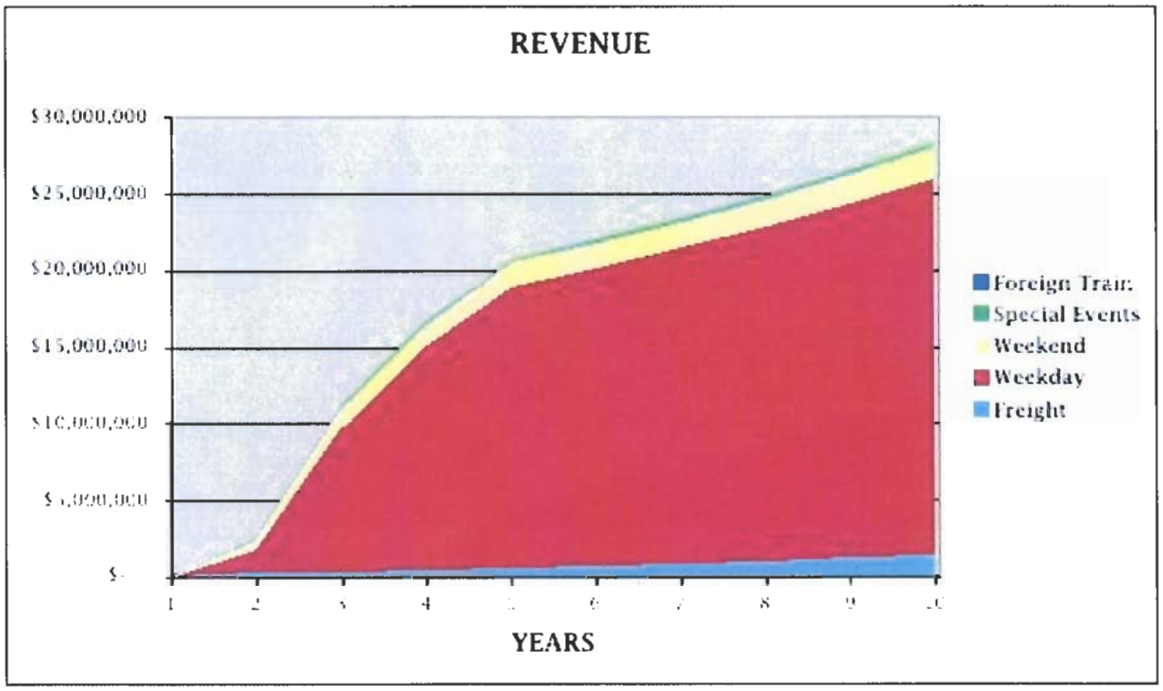
> "You also need to give consideration to the limitations of expansion of excursion train service; given the dynamic nature of the ongoing negotiations with respect to the ultimate ownership of the corridor south of milepost 23.8, the Port will not be in a position to grant excursion service beyond what is already contemplated in the documents."

This advice to GNP led us to conclude that the present discussions between the Port and King County, Cascade Water Alliance, Puget Sound Energy, Sound Transit and the City of Redmond could have material adverse change effects on GNP's business plan. At today's meeting those concerns were proven to have been justified.

The current License agreement contemplates the extension of GNP's rights under the agreement to MP 11.9 in Bellevue, (Expanded Excursion Spur) after suitable public process and

discussion. At our meeting yesterday, King County advised that neither King County nor Sound Transit, as the proposed new owners of certain segments of the Corridor south of M.P. 23.8 in the city of Bellevue, would likely ever grant the extension of those rights to GNP.

When GNP made its proposal in 2008, it reasonably had hoped for an opportunity to work with the Port to gain the right to provide weekday excursion rail service between Bellevue and Snohomish. The new deal structure in which King County and Sound Transit become the fee owners of the corridor south of MP 23.8 makes this substantially less likely. This material adverse change will reduce GNP's revenues by approximately 80%. The following graph showing GNP's projected revenue assuming an opportunity to provide weekday excursion rail service between Bellevue and Snohomish. The projected revenue from weekday excursion rail service is shown in red. Without this opportunity, GNP revenues will be reduced by that substantial amount. Additionally, opportunities to expand the freight business on the line will be limited. This will reduce the amount of revenue from freight (shown in blue) GNP may reasonably expect.



GNP has reconsidered this business opportunity in light this adverse material change made by the Port and the dramatic reduction in reasonably expected revenue. As we said in yesterday's meeting, GNP has concluded that, even with this material adverse change, it will have a viable business operating excursion and freight rail service on the limited line, with the changes we discussed to the scope of the Excursion Spur, the amount of freight insurance and the fees.

With the changes contemplated in the first paragraph of this letter, we look forward to the closing of this transaction and successful GNP operations on the line.

Yours truly,

Thomas Payne
Chairman, Chief Operating Officer

GNP Rly Inc.

29 March 2010

Michelle M. McGehee, CMC
City Clerk
City of Redmond
15670 NE 85th Street
Redmond, WA 98052

Dear Ms. McGehee;

RE: Study Session with the Redmond City Council City Hall Council Chambers, March 30, 2010, 8:45 p.m., additional deliverables.

GNP's counsel received a request from counsel to the City to receive a copy of GNP's NEPA Categorical Exclusion. Categorical Exclusions are issued for categories of actions (i.e. types of railway projects) that the Federal Railroad Administration (FRA) has determined, based on its experience, typically do not individually or cumulatively require either an environmental impact statement or an environmental assessment.

We are pleased to provide a copy of the Categorical Exclusion approval received from the FRA, and it is attached to this letter. The detailed contents of our application to the FRA for RRIF financing is confidential.

Yours truly,

Thomas Payne
Chairman, Chief Operating Officer.

Federal Railroad Administration (FRA)
CATEGORICAL EXCLUSION WORKSHEET

Note: The purpose of this worksheet is to assist proposal sponsors in gathering and organizing materials for environmental analysis required under the National Environmental Policy Act (NEPA), particularly for proposals, which may qualify as Categorical Exclusions and to assist the FRA in evaluating requests from project sponsors for categorical exclusion determinations. Categorical Exclusions are categories of actions (i.e. types of projects) that the FRA has determined, based on its experience, typically do not individually or cumulatively have a significant effect on the human environment and which generally do not require the preparation of either an environmental impact statement or an environmental assessment.

Submission of the worksheet by itself does not meet NEPA requirements. FRA must concur in writing with the proposal sponsor's Categorical Exclusion recommendation for NEPA requirements to be met. Please complete this worksheet using compatible word processing software and submit and transmit the completed form in electronic format.

For Agency Use	*Date Received:*
Reviewed By: Catherine Faulkner *Date:* 3/17/09	*Recommendation for action:* ☒ *Accept* ☐ *Return for Revisions* ☐ *Not Eligible*
Comments:	
Concurrence by Counsel: ☑ *Accept Recommendation* ☐ *Return with Comments*	*Reviewed By:* via telecon *Date:* 3/19/09
Comments:	
Concurrence by Approving Official: [signature]	*Date:* 3/23

I. PROPOSAL DESCRIPTION

Proposal Sponsor GNP Rly Inc.	**Date Submitted**	**FRA Identification Number (if any)**
Proposal Title Woodinville Subdivsion and Redmond Spur Purchase, Equipping and Facilities Construction Project.		
Location (Include Street Address, City or Township, County, and State) Snohomish County, Washington		
Contact Person Thomas Payne	**Phone** 253-459-9702	**E-mail Address** tompayne@telus.net
Note: Fully describe the proposal including specifics that may be of environmental concern such as: widening an embankment to stabilize roadbed; repairing or replacing bridge piers foundations, including adding rip-rap in a waterway; earthwork and altering natural (existing) drainage patterns and creating new water discharge; contaminated water needing treatment; building a new or adding on to a shop building; fueling or collection of fuel or oil and contaminated water; building or extending a siding; and building or adding on to a yard.		

Port of Seattle

P.O. Box 1209
Seattle, WA 98111-1209
Tel: (206) 787-3000

www.portseattle.org

May 18, 2010

GNP Rly. Inc.
403 Garfield Street #20
Tacoma, WA 98444
Attention: Thomas Payne

Re: Excursion Rail Service

Dear Mr. Payne:

As provided in Section 2.1 (f) of the Operations and Maintenance Agreement between Port of Seattle and GNP Rly. Inc. dated December 18, 2009 ("O & M"), the Port and GNP agree that the commencement date of Excursion Rail Service (as that term is defined in Section 1.9 of the O & M) has been extended by agreement of the Port and GNP. The new commencement date for Excursion Rail Service is July 1, 2011.

Please sign below to acknowledge your agreement.

Sincerely

Joe McWilliams
Managing Director
Real Estate Division

Acknowledged and agreed to:

Thomas Payne, C.E.O.

Thomas Payne
Chairman & CEO
GNP Rly. Inc.

GNP Rly Inc.

12 July 2010

Joe McWilliams
Managing Director Real Estate Division
Port of Seattle
Pier 69
P.O. Box 1209
Seattle WA 98111

Joe,

Over the past couple of years, we have discussed the need to extend the term of our franchise agreement to more closely match rail industry standard terms, which better matches rail asset depreciation lives.

The railway asset lives for the works before us are:

- Bridges: 50-60 years
- Track: 60 years
- Ties: 40 years
- Stations: 30-35 years

Additionally, the FRA's RRIF program is challenged to loan money for assets whose lives are substantially longer than the franchise term.

Earlier this year, the FRA conducted a track inspection, which identified 170 repairs which are required under the act. While performing those repairs, we identified further required repairs, major and minor, numbering in the thousands of items. The repairs fall in to the following classifications:

1. Joint maintenance

   To this date we have replaced thousands of broken joint bars, bolts and washers. We have inspected every rail joint and tightened every bolt between MP 23.8 and 37.5. Last week we took delivery of a rail saw, which will allow us to complete remaining bolt replacements.

2. Rail fasteners

   The line needs to be respiked from end to end to remedy high spikes, which are to be found in various clusters. We took delivery of a spiking machine and will be commencing those repairs this week.

3. Bridges

   OSMOSE, the nationally recognized rail bridge firm, has completed an inspection of all the bridges between Snohomish and Woodinville and identified needed repairs and maintenance. A copy of that report was delivered to Mr. Sullivan last week, and we are pleased with the results of the inspection. OSMOSE has a bridge crew working up the west coast

which will reach the northwest in late August. We intend to have them make requisite or necessary repairs at that time, given RRIF financing.

4. Right of way
   Culvert repair, ditch cleaning, drainage improvements and bank widening, which provides for proper track support, is required to remedy soft track conditions in various locations. That work has commenced in the yard in Maltby and will be progressing southwards from there

5. Rail, ties, ballast
   Defective ties in various clusters have to be replaced to correct rail support or gauge deficiencies, and areas of thin ballast have been identified for repair. Additionally, some individual pieces of rail will have to be replaced. RRIF financing will be required to do this work.

Our program to complete these repairs is proceeding nicely with appropriate prioritizing of the various tasks. For obvious safety reasons, of these repairs must be completed before our planned excursion service can begin. Additionally, we have stations to construct, which will also require RRIF financing.

Please recall that the Spirit of Washington Dinner Train was successful for 15 years and only ended when the bridge over I-405 was removed, and GNP's market research identified "overwhelming demand" for an Eastside excursion train.

GNP would request that our franchise agreement be amended to extend the 10-year term to 35-years at your earliest possible convenience, as our RRIF loan is pending. Additionally, as I am sure you will recall, the Port of Seattle will receive an additional $1,000,000 (less the $10,000 paid at closing) when GNP achieves a RRIF loan, which seems reasonable compensation for the extended term.

We are available to discuss this request, answer any question or provide additional information to assist in making this decision. Thank you in advance.

Respectfully submitted,

Douglas Engle
CFO
GNP Rly Inc.
425-891-4223
http://GNPRail.com

GNP Rly Inc.

6 August 2010

Sung Yang
Director of Government Relations
Office of King County Executive
Chinook Building
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818

Mr. Yang,

Thank you for you and your colleague's time this past Wednesday to meet with us in regards to the Eastside Rail Corridor (ERC). To move matters forward, as discussed, we have sent over to Pete Ramels the form of confidentiality agreement, which we have in place with other governments. We would appreciate concluding that document with you early this next business week so that we may have immediate in-depth conversations about GNP's business plan. One of our main concerns regarding confidentially is the anticipated Sound Transit (ST) RFP for their participation in possible commuter rail on the corridor. As we have noted to Mr. Ramels, this does create a delicate situation because the County Executive and three County Council members do sit on the ST Board.

As we noted, the Federal Railroad Administration's Railroad Rehabilitation & Improvement Financing (RRIF) Program is an opportunity to access long-term, low interest loans. Access to those funds requires railway participation. GNP would be pleased to work with King County and other public interests in securing the financing for the secondary purchase of the ERC from the Port of Seattle for approximately $70M and other necessary or requisite improvements, including a possible trail. We look forward to knowing if the County wishes to participate in this financing opportunity.

After the execution of the confidentiality agreement, we shall be pleased to share our current RRIF application with you and answer any questions you may have. I'll personally deliver the document at that time. It would be more convenient if this can be done any time Wednesday, August 11th, 2010, as I must be out of town following week.

As we also indicated at our meeting, GNP would welcome King County joining us in re-activating the Redmond Spur from the federal "railbank" for common carrier freight and passenger service. We noted that the current Port of Seattle/King County agreements provide an orderly mechanism for such a response.

We look forward to having an indication of the County's interest in our proposal by Wednesday, August 18th, 2010.

Respectfully submitted,

Douglas Engle
Chief Financial Officer

GNP Rly Inc.

24 August 2010

Mr. Tay Yoshitani
Chief Executive Officer
Port of Seattle
Pier 69
2711 Alaskan Way
Seattle, WA 98121

Mr. Sung Yang
Director of Government Relations
King County
Chinook Building
401 Fifth Avenue, Suite 800
Seattle, WA 98104-1818

Gentlemen;

Since earlier this summer, and earlier this month, we have been working, respectively, with the City of Redmond and King County with respect to reactivation of the Redmond spur and a portion of the Woodinville subdivision south of MP 23.8. The possibility of reactivation of the railbanked portions of the lines is contemplated in the various STB orders issued prior to closing of the purchase of the line; an orderly process for managing such a request is specifically provided for in the agreements between the Port and King County.

We understand and support the requirement for the Port to reduce its immediate financial exposure in this transaction in the near term and support the multi faceted uses for the corridor contemplated in our agreements. We requested, weeks ago, an indication from King County, as holder of the reactivation rights, as to whether or not they would support our application to reactivate a portion of the line, and that indication has not yet been received. In the absence of that advice, we are filing for reactivation today. GNP does not feel however, that this need change our desire to work with all the existing corridor partners to assist them in achieving their plans within the corridor. We look forward to continuing discussions with all concerned.

Yours truly,

Thomas Payne

Thomas Payne
Chairman, C.O.O.

GNP Rly Inc

26 August 2010

Sung Yang
Director of Government Relations
Office of King County Executive Dow Constantine
Chinook Building
401 Fifth Avenue, Suite 800\
Seattle, WA 98104-1818

Dear Sung,

Thank you for your reply to my e-mail. I regret that I may have misunderstood your call to me on Monday. I understood then that you felt that the partners could not come to a conclusion as to our request for partnering, but that the County would like the Friday meeting on an individual basis with us. I now have heard rumors that the partner agencies may have needed more time to consider and mull over our overtures. I never understood that you all may have needed more time, and that the Friday meeting might have been a continuation of our discussions.

We have always wanted to be involved in deliberations and decisions concerning the corridor. We are sure that federal law places us in a primary role in corridor use, a role never understood or recognized by any of the public entities involved in the corridor.

Given the legal configuration of the transaction, the reactivation process was made inevitable. It was a time sensitive action that was necessary for us to take as a private common carrier needing to achieve a return on our investment. We would rather it had been taken as a joint action supported by all parties and used to achieve as many public use goals as possible.

In that regard, it still could be. At a time when all public revenues are in decline and budgets severely impacted, we would still welcome a true "public/private" relationship that would include GNP in financing and implementing to achieve the majority of desires of all the corridor "partners".

Again, I stress that we remain open to further dialogue. Thank you for the time and consideration that you have provided.

Sincerely,

Thomas Payne
Chairman, Chief Operating Officer.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)

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

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)

STB Finance Docket No. 35407

GNP RLY INC. – ACQUISITION AND OPERATION EXEMPTION – REDMOND SPUR AND WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502

VERIFIED STATEMENT OF SUSAN ODOM

REGARDING PETITIONS OF GNP RLY INC.

I, Susan Odom, do swear and affirm the following to the best of my personal knowledge:

1. I am the Manager of Network Strategies for the BNSF Railway Company. My responsibilities include managing various aspects of railroad acquisitions and dispositions for the Network Strategy team at BNSF. I have been employed by BNSF since January 2007. My work address is BNSF Railway Company, 2500 Lou Menk Drive - AOB3, Fort Worth, TX 76131.

2. I am familiar with the Woodinville Subdivision and the Redmond Spur as a result of my work for BNSF as the Manager of Network Strategies.

3. On or about August 1, 2008, on behalf of Port of Seattle, BNSF prepared and distributed to various short line operators Request for Quote documents to provide common carrier rail freight service and passenger excursion service on the Woodinville Subdivision between Woodinville, WA and Snohomish, WA. A true and correct copy of excerpts from the RFQ for the Eastside Rail Corridor issued by BNSF on August 1, 2008 is attached hereto as Exhibit A.

4. BNSF received two responses to the RFQ. One of the proposals entailed a joint venture between GNP Rly. Inc. (GNP) and Ballard Terminal Railroad LLC (BTR). GNP and BTR proposed that GNP would operate and maintain the rail line, BTR would provide freight service to customers located between Woodinville and Snohomish Junction (located on BNSF's Scenic Subdivision) and GNP and other operators would provide excursion service.

5. According to archived BNSF traffic reports Building Specialties was the last company to receive rail freight service from BNSF on the Redmond Spur. The volume of traffic received by Building Specialties was 290 cars in 2000, seven cars in 2005 and three cars in 2006. The last freight movement on the Redmond Spur was the pick-up of an empty car from Building Specialties on March 21, 2006.

6. In 2003 BNSF analyzed the future business prospects for the Redmond Spur and concluded that the line should be targeted for abandonment when the lone shipper (Building Specialties) no longer ships via rail. The Redmond Spur was targeted for abandonment because freight volumes were low relative to the cost of providing service, and because the area featured high real estate values.

7. BNSF has not entered into any shipper agreements with any customer on the Redmond Spur in order to end service pursuant to BNSF's desire to abandon the line.

8. A true and correct copy of a traffic report for the Redmond Spur covering the period 2000-2006 is attached hereto as Exhibit B.

9. BNSF archived track charts indicate that Building Specialties is located at approximately MP 5.4 on the Redmond Spur. An 800 foot industrial track served Building Specialties from a switch located at MP 5.4. The 1.9 miles of the Redmond Spur between that switch and the south terminus of the line at MP 7.3 traverse an urbanized area with high density residential and commercial development, many grade level street crossings and high real estate values. At the time BNSF filed for permission to abandon the Redmond Spur, there were no known prospective freight customers.

10. At one time the industrial track serving Building Specialties crossed 151st Ave. N.E. in Redmond to serve an additional customer on the east side of 151st, a seafood processing plant owned by Universal Seafoods.

11. In 1978 BNSF predecessor Burlington Northern entered into an Industrial Track Agreement (ITA) with Drywall Supply Inc. (former tenant of the building currently lease by Building Specialties) and Universal Seafoods (which appears to be at the same location as UniSea, Inc.), covering maintenance and operation of the industrial track serving both facilities. A true and correct copy of the ITA is attached hereto as Exhibit C. To the best of my knowledge, Universal Seafoods subsequently dismantled the portion of the industrial track traversing its property to expand a parking lot. BNSF records show no shipments to or from Universal Seafoods between 2000 and 2006. Building Specialties received its last rail car in early 2006 and the final empty car was picked up from Building Specialties on March 21, 2006. On April 23, 2007 BNSF notified both former customers that, pursuant to the terms of the

contract, it was terminating the ITA, effective May 23, 2007. A true and correct copy of those notices is attached hereto as Exhibit D. Neither company protested this decision.

12. The Steeler, Inc. property does not appear to have frontage on the Redmond Spur. BNSF has no record of providing any service to the Steeler, Inc. property. BNSF has no record of an industry track serving this location, and to the best of my knowledge there is currently no industry track in place. Drywall Distributors is located at approximately MP 0.96 of the Redmond Spur. BNSF has no record of providing any service to Drywall Distributors on the Redmond Spur. BNSF has no record of the existence of an industry track serving this location, and to the best of my knowledge there is currently no industry track in place.

13. The standard business practice in the railroad industry is for the shipping customer to pay for installation of any switch device or industry track that is needed to serve its business. BNSF regularly installs switch devices and industry tracks for this purpose. BNSF's current estimated cost to design and construct an industry track turnout with a hand thrown switch is $160,000. Such estimate would include the construction of approximately 160 feet of track necessary to extend beyond the clearance point of the main line servicing the industry track. The clearance point is that point at which two trains can pass without hitting. Additional track beyond the clearance point is necessary to serve the customer, the length of which is based on the customer's needs and available space. BNSF estimates the installation costs of such additional industry track at $300 per track-foot.

14. BNSF has no record of any local traffic serving customers over the 1.8 miles of the Woodinville Subdivision between approximately MP 23.8 and 22. BNSF has no record of any sidetracks along this stretch that would have served customers. A true and correct copy of the track charts showing no sidetracks along this stretch is attached hereto as Exhibit E. To the

best of my knowledge, the section of track between MP 22 and 23.8 was used for moving overhead traffic only.

15. BTR commenced freight service between MP 23.8 and MP 38.25 of the Woodinville Subdivision on January 11, 2010. BTR interchanges cars with BNSF at the Snohomish Junction (near MP 38), where the cars are then hauled on the BNSF Scenic Subdivision line. A true and correct copy of GNP/BNSF interchange records for this stretch of track from January through July, 2010 is attached hereto as Exhibit F.

16. A true and correct copy of BNSF shipping records for the Woodinville Subdivision between Snohomish Junction and Woodinville from January 2008 through October 2009 is attached hereto as Exhibit G.

17. On December 18, 2009 BNSF conveyed to GNP a permanent freight easement over the Woodinville Subdivision between approximately MP 23.8 and 38.25. GNP paid BNSF a nominal consideration of $10 for this easement.

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

Executed on November 5, 2010

Susan Odom

Susan Odom

A

Request for Quote

Project

The Eastside Rail Corridor consists of a 33-mile rail corridor between Renton and Snohomish and a 7-mile rail spur between Woodinville and Renton, Washington. BNSF Railway and the Port of Seattle have entered into a sale and donation agreement in which the Port will purchase the corridor later this year. A portion of the corridor will be railbanked for use as a trail. However, the section between Woodinville and Snohomish will remain in use for freight rail service. Prior to the close of the BNSF/Port transaction, a third party operator (TPO) will be chosen to serve freight customers in an arrangement that would allow the TPO to operate an excursion train as well. Details of the Port's acquisition and future plans can be found on the Port's Web site at http://www.portseattle.org/business/realestate/eastsiderail.shtml.

This Request for Quote will be used by BNSF to select a competent, qualified TPO to provide common carrier rail freight service and passenger excursion train service on the rail line. The successful bidder will be the one who presents the most viable rental package to the Port of Seattle, subject to BNSF's evaluation of the soundness of the bid. (See Selection Process below.)

BNSF Project Contact

Jerry A. Pinkepank
Transport Specialty Group of Washington
jerryp@uptime.org

(206) 324-4650 phone

Schedule

Bid Package Distributed Bidders	Aug 1, 2008
Pre-Bid Forum including Hyrail tour	Aug 13-14, 2008
Bid Preparation / TPO Due Diligence	Aug 15-Sep 14, 2008
Submission Due Date	***5 pm CDT*, Monday, Sep 15, 2008**
Notification of Bid Award	Sep 19, 2008

Submission Requirements

1. **Statement** Provide a statement of your commitment to execute the contracts included in Sections 2-5 of the attached RFQ Fact Book substantially in the form provided, including your willingness to accept the $400 (with escalation provisions) per car compensation outlined on the Freight Easement Sale Agreement cover page. In addition, a statement of your readiness to assume all freight operations no sooner than January 2, 2009 is required. A sample statement is attached. Any substantial reservations to any of the agreements should be stated here.

2. **Experience** Provide a brief summary of your company's experience in freight railroading and/or excursion train operation. Include marketing publications, if available. Please note that experience with both types of operation will carry emphasis in BNSF's selection process (see below).

3. **Business Plan** Provide a business plan, preferably in Excel spreadsheet format, itemizing sources and uses of cash for the 10-year term, projecting operating expenses according to the four customary categories – Maintenance of Way and Structures, Maintenance of Equipment, Transportation and General and Administration.

4. **Staff** Provide a list of key personnel who will be assigned to this operation including qualifications and/or resumes and/or a specific plan for the hiring dates, training period and availability for service of operating personnel. In essence, we will need to see realistic, credible evidence of your ability to begin operations on Jan 2.

5. **Financials** Provide D-U-N-S Number and/or current Dun & Bradstreet Report or current (not less than three months old) certified financial reports prepared by an independent accounting firm.

6. **Insurance** Provide a current sample insurance policy evidencing coverage for the following:
   a. Railroad (General) Liability
   b. Pollution Liability

7. **Safety** Provide FRA Accident/Incident Reports for the past three years.

8. **Equipment List** Provide information on the locomotive(s) to be used in performing freight service and attest to same being equipped with alignment control couplers.

9. **Proposed Fee** Provide a proposed annual license fee to be paid to the Port of Seattle.

Selection Process

Bid packages should be complete, containing all requested information in items 1 thru 9 above. BNSF will review the information presented and select the winning TPO based on the following factors:

1. Experience and expertise with *both* freight and excursion train operations
2. Safety
3. Financial stability and insurability
4. Business plan
5. Statement of willingness to accept terms, as provided, of all associated agreements
6. Proposed license fee

PRIVILEGED AND CONFIDENTIAL

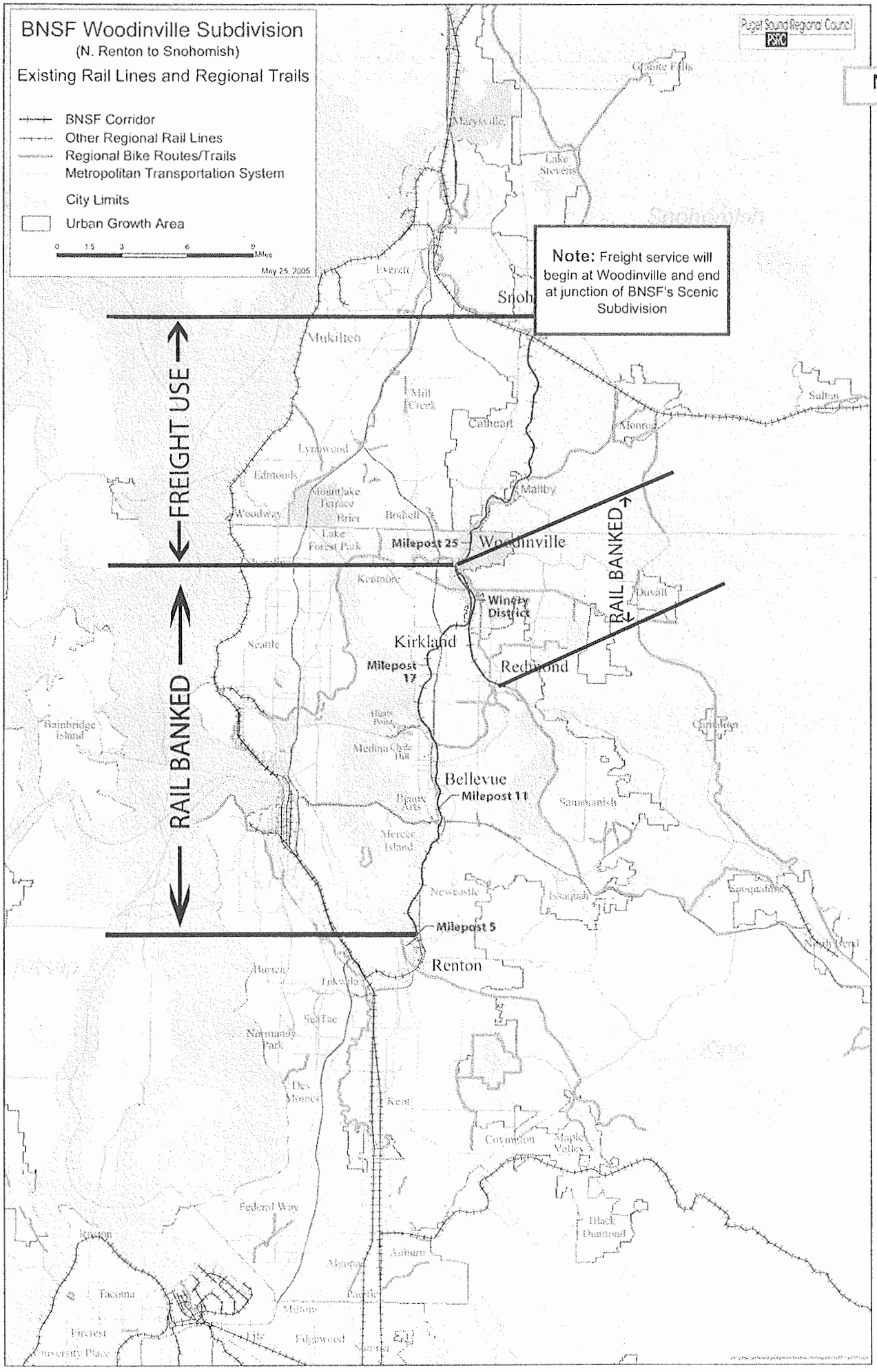
PREPARED IN COOPERATION WITH THE PORT OF SEATTLE, WA

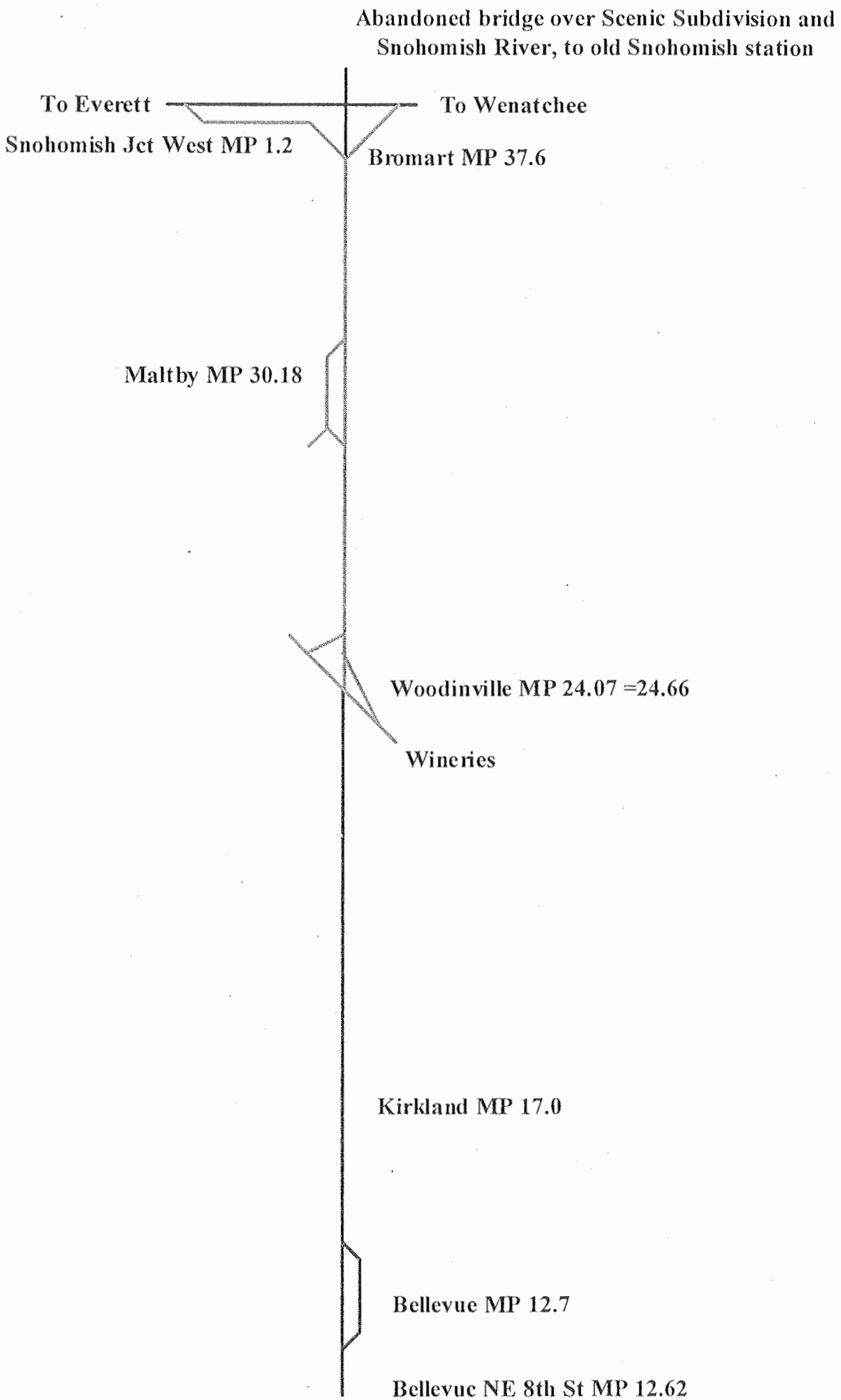
REQUEST FOR PROPOSAL
FACT BOOK
TO PURCHASE BNSF RAILWAY COMPANY'S RAIL FREIGHT EASEMENT BETWEEN WOODINVILLE AND SNOHOMISH, WASHINGTON

Data contained in this booklet is subject to a signed confidentiality agreement and is to be used solely to assist a potential buyer in evaluation of the rail line. BNSF believes this is a fair representation of the proposed sale, but does not warrant the accuracy of the information herein. The buyer should inspect the property, perform their own due diligence, and arrive at their own conclusions concerning the physical condition of the rail line and the future potential of business associated with the rail line.

The actual rights conveyed to the buyer will be governed by the terms of the signed contract.

A copy of the bidder's individual Confidentially and Non-Disclosure Agreement was inserted here.


BNSF Woodinville Subdivision
(N. Renton to Snohomish)
Existing Rail Lines and Regional Trails
BNSF Corridor
Other Regional Rail Lines
Regional Bike Routes/Trails
Metropolitan Transportation System
City Limits
Urban Growth Area
0 1.5 3 6 9 Miles
May 25, 2005
Puget Sound Regional Council
PSRC
Maps
Note: Freight service will begin at Woodinville and end at junction of BNSF's Scenic Subdivision
FREIGHT USE
RAIL BANKED
RAIL BANKED
Milepost 25
Woodinville
Winery District
Kirkland
Milepost 17
Redmond
Bellevue
Milepost 11
Milepost 5
Renton
Snoh
Mukilteo
Everett
Mill Creek
Cathcart
Monroe
Sultan
Lynnwood
Edmonds
Mountlake Terrace
Brier
Woodway
Bothell
Lake Forest Park
Mallby
Kenmore
Duvall
Seattle
Bainbridge Island
Medina
Clyde Hill
Beaux Arts
Mercer Island
Samoanish
Newcastle
Issaquah
Snoqualmie
North Bend
Burien
Tukwila
SeaTac
Normandy Park
Des Moines
Kent
Covington
Maple Valley
Federal Way
Black Diamond
Ruston
Auburn
Algona
Pacific
Tacoma
Milton
Fircrest
Fife
Edgewood
University Place
Sumner


Abandoned bridge over Scenic Subdivision and
Snohomish River, to old Snohomish station
To Everett
To Wenatchee
Snohomish Jct West MP 1.2
Bromart MP 37.6
Maltby MP 30.18
Woodinville MP 24.07 =24.66
Wineries
Kirkland MP 17.0
Bellevue MP 12.7
Bellevue NE 8th St MP 12.62

License

RAILROAD RIGHT OF WAY LICENSE

by and between

THE PORT OF SEATTLE

and

[THIRD PARTY OPERATOR]

_____, 2008

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RAILROAD RIGHT OF WAY LICENSE

THIS RAILROAD RIGHT OF WAY LICENSE ("License") is made this ___ day of _____, 2008 ("Effective Date"), between the PORT OF SEATTLE, a Washington municipal corporation ("Port ") and [THIRD PARTY OPERATOR], a _____ corporation ("TPO").

RECITALS

A. Pursuant to the Purchase and Sale Agreement and the Donation Agreement between Port and BNSF Railway Company, a Delaware corporation ("BNSF"), both dated as of _____, 200__ (the " Acquisition Agreements") Port acquired BNSF's right, title and interest in BNSF's railroad right of way (i) from milepost 5.0 in Renton, Washington to and including the railroad bridge at milepost _____ in Snohomish County, Washington, and (ii) from milepost 0.0 in Woodinville south to milepost 7.3 in Redmond (the "Redmond Spur") (together, the "Woodinville Subdivision"), as shown on and described in **Exhibit A** attached hereto and incorporated herein.

B. Port and TPO have entered into an Operations and Maintenance Agreement (the "O&M Agreement") setting forth their respective rights and obligations with respect to freight rail operations, Excursion Rail Service, and maintenance on portions of the Woodinville Subdivision from milepost 23.8 in Woodinville, King County, Washington north to milepost ____ in Snohomish, Snohomish County, Washington (the "Corridor"), as described in **Exhibit B** attached hereto and incorporated herein.

C. TPO also desires the right to use and operate the Excursion Spur, a portion of the Woodinville Subdivision and further described below, for Excursion Rail Service (as defined in Section 1.4 below).

D. Port is willing to grant TPO the right to use and operate the Excursion Spur in the manner described in this License.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants in this License and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

Section 1. Definitions.

For the purposes of this License, the following terms shall have the following meanings:

1.1 "Additions and Alterations" means any improvements constructed by or on behalf of either party on the Corridor after the Effective Date, including, without limitation, additions, alterations and betterments of any Facilities, and any construction, reconstruction, modifications and renewals thereof or any reconstruction, modification or renewal of additional Facilities, but excluding maintenance items.

1.2 "Automatic Warning Devices" means traffic control devices at railroad-street at-grade crossings and at railroad-pedestrian at-grade crossings, including, without limitation, any combination of flashing light signals, bells, automatic gates, active advance warning devices, highway traffic signals and their associated activation and control devices, control relays and batteries, microprocessor technology, and associated electrical circuitry.

1.3 "Environmental Law" means any and all applicable laws, statutes, regulations, enforceable requirements, orders, decrees, judgments, injunctions, permits, approvals, authorizations, license, permissions or binding agreements issued, promulgated or entered into by any governmental agency having jurisdiction over the environmental condition of the Excursion Spur, relating to the environment, to preservation or reclamation of natural resources, or to the management, release or threatened release of contaminants or noxious odors, including, without limitation, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments of 1984, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, the Clean Air Act of 1970, as amended by the Clean Air Act Amendments of 1990, the Toxic Substances Control Act of 1976, and any similar or implementing state law, and all amendment or regulations promulgated thereunder.

1.4 "Excursion Rail Service" means the deployment and operation of trains using the facilities for purposes other than hauling common carrier freight or in service other than freight rail operations over and on the Excursion Spur. This could include but not be limited to dinner train operations.

1.5 "Excursion Spur" means (i) that portion of the Woodinville Subdivision from milepost 23.8 in Woodinville south to milepost 11.9 in Bellevue and (ii) that portion of the Redmond Spur from milepost 0.0 in Woodinville south to milepost 1.86 in Woodinville, Washington.

1.6 "Facilities" means all rails, fastenings, switches, switch mechanisms and frogs with associated materials, ties, ballast, signals and communications devices (and associated equipment), drainage facilities, Automatic Warning Devices, traction power substations, overhead catenary systems, bumpers, roadbed, embankments, bridges, trestles, culverts, and any other structures or things necessary for the support hereof and, if any portion thereof is located in a thoroughfare, the term includes pavement, crossing planks and other similar materials or facilities used in lieu of pavement or other street surfacing materials at vehicular and pedestrian crossings of tracks, and any and all structures and facilities required by lawful authority in connection with the construction, renewal, maintenance and operation of any of the foregoing.

1.7 "Hazardous Materials" means any material or substance: (a) the presence of which requires investigation or remediation under any Environmental Law; or (b) which is defined as a "hazardous waste," "hazardous substance," "pollutant" or "contaminant" under any Environmental Law; or (c) the presence of which on, under or over adjacent properties constitutes a trespass by the owners of the Excursion Spur and poses a hazard to the health or safety of persons on adjacent properties; or (d) the presence of which on, under, or over the Excursion Spur causes a nuisance on adjacent properties and poses a hazard to the health or safety of persons on adjacent properties.

1.8 "Invoice" is defined in Section 10.1.

1.9 "Loss" or "Losses" means all losses, damages, claims, demands, costs, liabilities, judgments, fines, fees (including, without limitation, reasonable attorneys' fees) and expense (including, without limitation, costs of investigation, defense, expenses at arbitration, trial or appeal and without institution of arbitration or suit, and, with respect to damage or destruction of property, cleanup, repair and replacement expenses) of any nature arising from or in connection with death or injury to persons, including, without limitation, employees or tenants of the parties, or damage to or destruction of property, including, without limitation, property owned by either of the parties or their tenants, in connection with Excursion Rail Service on the Excursion Spur.

1.10 "Multipurpose Easement" means that certain easement between Port and King County, a home rule charter county and political subdivision of the State of Washington ("County") pursuant to which the County acquired certain rights on those portions of the Woodinville Subdivision from (i) milepost 23.8 in Woodinville south to milepost 5.0 in Renton, and (ii) the Redmond Spur, including the right to develop, construct and operate a recreational trail consistent with rail or other transportation uses thereon.

1.11 "O&M Agreement" has the meaning set forth in Recital B.

1.12 "Purchase Agreement" has the meaning set forth in Recital A.

1.13 "Term" has the meaning set forth in Section 6.

Section 2. TPO's Rights and Obligations.

2.1 Subject to transportation uses permitted by the Port as provided in Section 2.5, TPO shall have the exclusive right and obligation to provide, by itself and/or by or through any entity designated by TPO, Excursion Rail Service on and over the Excursion Spur.

2.2 TPO shall have the exclusive authority to manage, direct and control all activities related to the provision of Excursion Rail Service on the Excursion Spur, including, without limitation, the operation of all trains, locomotives, rail cars and rail equipment, and the movement and speed of the same on the Excursion Spur.

TPO shall employ and discharge all personnel required to perform TPO's Excursion Rail Service, shall comply with all governmental laws, rules, regulations and orders applicable to TPO's Excursion Rail Service, and shall pay all real property taxes separately levied on TPO's rights under this License and for all utilities consumed by TPO in carrying out TPO's Excursion Rail Service. All equipment and materials required for TPO's Excursion Rail Service shall be provided by TPO at the sole cost and expense of entities other than Port except as provided in this License.

2.3 TPO acknowledges and agrees that the County is the grantee under the Multipurpose Easement. TPO agrees that it shall, at all times, cooperate fully with the County to accommodate any trail uses on the Excursion Spur adjacent to the Excursion Spur Facilities.

2.4 TPO or its designee shall have the right to use existing trackage in the Excursion Spur for performing Excursion Rail Service as described in this Section.

2.5 TPO acknowledges and agrees that, consistent with Section 3, the Port may permit certain transportation uses on the Excursion Spur (e.g.commuter rail service) during the Term that are not inconsistent with TPO's rights under this License. TPO shall cooperate with the Port's permitted transportation users to ensure the accommodation of such uses on the Excursion Spur.

2.6 In addition to all other rights granted to TPO under this License, TPO shall have the right to utilize the Excursion Spur between milepost 0.0 in Woodinville and milepost ___ for all head and tail operations necessary for TPO's freight rail operations under the O & M Agreement

Section 3. Port's Rights and Obligations.

3.1 Port shall have the right to use the Excursion Spur and to grant easements, licenses or permits affecting the Excursion Spur as long as such use, easements, licensees or permits do not interfere with or create safety hazards for TPO's continuous and uninterrupted use of the Excursion Spur under the terms of this License.

Section 4. Maintenance, Repair and Replacement Obligations.

4.1 General Maintenance, Repair and Replacement Obligations.

(a) Except as otherwise provided in this License, TPO shall provide general maintenance and maintenance of way services, including without limitation, inspection, maintenance, repair, installation, alteration and replacement (as necessary) of all rail traction electrification, signal systems, trackage, properties and Facilities, including without limitation, Automatic Warning Devices and grade crossings (including embankments, crossing panels or planking, pavement and curbing) to the extent the same are subject to governmental requirements in connection with grade

crossings, located within the Excursion Spur, in accordance with all applicable laws, rules and regulations, and in a condition reasonably suitable for TPO's intended use of the Excursion Spur.

(b) Notwithstanding the provisions of subparagraph (a) above, any damage to or destruction of Facilities caused by a party or its employees, contractors, invitees or licensees shall be repaired or replaced at the sole cost of such party.

4.2 Remedies.

(a) In the event that TPO, as the responsible party for maintenance, repair and replacement of any item, fails to perform its maintenance obligations under this License, and such failure results in an imminent and substantial danger to human health or safety or to property, Port may perform such obligations immediately upon notifying TPO by telephone at the number set forth below, and shall be entitled to full reimbursement from TPO within thirty (30) days after submission of a written Invoice therefor.

(b) In the event that TPO or Port discovers any malfunction of, or damage to, Automatic Warning Devices, the discovering party shall promptly notify the other party by telephone at the telephone number set forth below, and TPO shall follow its usual response practices in the event of any malfunction of, or damage to, Automatic Warning Devices.

Port Telephone Contact: _____ Telephone No. _____

TPO Telephone Contact: _____ Telephone No. _____

4.3 Grade Crossing Reconstruction. The parties acknowledge that certain maintenance procedures may cause an increase in the surface elevation of grade crossings, and that TPO may, from time to time, need to perform additional maintenance or reconstruction work in order to prevent unsafe elevation differentials between TPO's tracks and other tracks. TPO will be responsible for any such maintenance and reconstruction work of any such grade crossings.

Section 5. Construction of Additions and Alterations.

5.1 Design and Construction Standards. The design and construction of any Additions and Alterations on the Excursion Spur shall comply with all applicable laws, rules and regulations. The party constructing Additions and Alterations shall follow its customary safety procedures and shall use reasonable efforts to perform work on Additions and Alterations at such times in such manner as not to materially interfere with, delay or endanger the equipment, Facilities or other facilities of the other party.

5.2 Design Review. In the course of designing Additions and Alterations, the constructing party shall reasonably notify and consult with the other party with

respect to the design and construction of the Additions and Alterations. If requested by the other party, the constructing party shall deliver to the other party for review and comment copies of each set of plans for Additions and Alterations during the planning and design process. The other party shall notify the constructing party in writing within fifteen (15) days after its receipt of the plans as to whether it wishes to comment on the plans. If so, then the other party shall have the right to provide the constructing party, within thirty (30) days after the other party's receipt of any such set of plans, written comments and suggestions regarding such plans. If the other party timely disapproves such plans, the parties shall meet within fifteen (15) days after disapproval to negotiate in good faith to develop plans acceptable to both. If the parties are unable to agree upon changes to the plans, either party may submit the matter to arbitration pursuant to Section 13.9. Upon completion of final plans, the constructing party shall give a copy of the final plans to the other party for review to ensure the incorporation of all agreed-upon changes to the plans.

5.3 Grade Separation Projects. In the event of a public grade separation project, TPO shall be solely responsible for any costs assessed thereunder. If TPO determines that a proposed grade separation project is desirable and is not feasible unless TPO contributes more than the costs that would be assessed to TPO under applicable laws, then Port agrees to consider in good faith the desirability of the proposed project and whether TPO's additional contribution should be reimbursed by Port; provided, however, that Port shall have no obligation to reimburse TPO for such additional contribution except to consider it in good faith as provided above.

Section 6. Effective Date and Term of the License.

6.1 The initial term of this License shall expire on the 10th anniversary of the Effective Date. So long as TPO is not in default with respect to a material term or condition of this License, TPO may elect to continue this License for one (1) additional renewal term of ten (10) years by giving Port written notice of such intent at least one (1) year prior to the expiration of the initial term. (the "Term"). Notwithstanding the foregoing, this License shall terminate sixty (60) days after written notice by Port to TPO that TPO is in default with respect to a material term or condition of this License, which default has not been cured on or prior to such 60th day. In the event the O&M Agreement is terminated under Section 12.2 thereof, TPO may, with Port's written approval and so long as TPO is not in default under this License or the O & M Agreement, continue to provide Excursion Rail Service over the Corridor and the Excursion Spur. In such event, this License will be amended to include the Corridor in the expanded Excursion Spur.

6.2 TPO may terminate this License by giving Port not less than sixty (60) days' notice of termination. Upon such termination, TPO shall have no further right under this License to use the Excursion Spur.

Section 7. Access.

7.1 Port may enter upon the Excursion Spur and/or use the Facilities located on the Excursion Spur, provided that the exercise of such rights by Port shall not materially interfere with Excursion Rail Service of TPO or its designees.

7.2 Reciprocal Access and Notice Rights. Subject to the procedures set forth below, and to be in compliance with all applicable rules and regulations of the Federal Railroad Administration where applicable, the parties shall have the following reciprocal access rights:

(a) In addition to its access rights under Section 7.1, Port may enter upon the Excursion Spur for the purposes set forth in Sections 4.1 and 4.2.

(b) In the event of an emergency of any kind, Port may enter upon the Excursion Spur (i) to warn TPO's trains by any reasonable means, including, without limitation, use of flaggers or placement of torpedoes upon TPO's tracks, or (ii) in the event of a wreck or derailment of train or equipment, to clear the train, equipment or other debris from TPO's tracks. Port shall provide immediate notice of such events to TPO's dispatcher by radiotelephone.

(c) Security personnel of either party in pursuit of a criminal suspect may enter upon the Excursion Spur for the purpose of apprehending the suspect.

(d) TPO may enter upon the Woodinville Subdivision for the purposes set forth in Section 2 and Section 4.

(e) Except for emergencies when reasonable notice under the circumstances shall be given, Port shall give TPO at least forty-eight (48) hours prior telephonic notice of any entry onto the Excursion Spur, and shall not enter upon the Excursion Spur until a valid work permit is issued by TPO. If flagging is necessary, no entry shall be made until TPO has made arrangements for flagging.

(f) Any entry by Port (or its contractors, invitees or licensees) on any portion of the Excursion Spur within twenty feet (20') of the track center of the Excursion Spur shall be subject to the notice and flagging requirements under subparagraph (e) above, unless the parties agree to an alternative procedure.

(g) No Hazardous Materials may be brought by TPO on to the Excursion Spur.

(h) In the event of leakage, spillage, release, discharge or disposal of any Hazardous Materials by TPO (including, without limitation, by explosion) on the Excursion Spur, TPO shall give Port prompt notice of such event,

and at its sole cost and expense, clean or remediate the Excursion Spur and any affected portion of the Woodinville Subdivision to the standards required by law or by any governmental agency or public body having jurisdiction in the matter. Should any such leakage, spillage, release, discharge or disposal result in a fine, penalty, cost, or charge, TPO shall promptly and fully pay such fine, penalty, cost or charge. TPO shall be responsible for any such leakage, spillage, release, discharge or disposal by any third party it admits to the Excursion Spur. TPO shall indemnify, protect, defend, and hold harmless Port, its trustees, directors, officers, employees, agents, contractors, parent corporations and subsidiaries from and against any and all liabilities or claims for all loss, damage, injury, and death arising as a result of any such leakage, spillage, release, discharge or disposal. The provisions of this Section 7.2(h) are in addition to and not in limitation of the provisions of Section 8 hereof, except that the provisions of Sections 8.2(a) and (b) shall govern Losses with respect to personal injury (including bodily injury and death).

Section 8. Liability.

8.1 Assumption of Responsibility.

(a) Except as otherwise expressly provided in this Section 8, TPO shall assume all Losses and will indemnify Port for all Losses which arise from TPO's presence on the Excursion Spur, or on Port Property without regard to fault, failure, negligence, misconduct, malfeasance, or misfeasance of TPO or its employees, agents or servants.

(b) TPO shall indemnify, hold harmless and defend Port from any and all Railroad Unemployment Insurance Act (45 U.S.C.A. §§ 351 et seq.), Railroad Retirement Act (45 U.S.C. §231 et seq.), Railway Labor Act (45 U.S.C. Sec. 151 et. seq.), Federal Employers Liability Act (45 U.S.C. Sec 51 et. seq.), common carrier obligations pursuant to (49 U.S.C. Sec. 10101 et. seq.), and any Federal rail safety legislation, that arise from TPO's use of the Port Property, including the Excursion Spur.

(c) The allocation of responsibility for Losses under this Section 8 applies only to Losses proximately caused by incidents occurring on or adjacent to the Excursion Spur or the Woodinville Subdivision, and arising out of TPO's presence on the Excursion Spur, or on the Woodinville Subdivision.

(d) All costs and expenses incurred in connection with the investigation, adjustment and defense of any claim or suit shall be included as part of the Loss for which responsibility is assumed under the terms of this Section 8 including, without limitation, salaries or wages and associated benefits of,

and out-of-pocket expenses incurred by or with respect to, employees of either part engaged directly in such work and a reasonable amount of allocated salaries and wages of employees providing support services to the employees so engaged directly in such work.

8.2 Allocation of Responsibilities.

(a) Invitees. Losses arising out of personal injury (including bodily injury and death) to, or property damage suffered by, an invitee of either party shall be the responsibility of and borne and paid solely by TPO, except as otherwise provided in subsection (a)(i) or Section 8.3. Consultants and contractors of TPO, and any person who is on, or has property on, a train or other rolling stock operated by or for the account of TPO or admitted to operate on the Excursion Spur (other than an employee of TPO engaged in performing duties for TPO), shall rebuttably be presumed to be an invitee of TPO.

(i) If an invitee of Port is negligent and causes Losses to TPO or Port, Port will be responsible for such Losses and will indemnify TPO.

(b) Persons Other Than Invitees. Except as provided in Section 8.3, Losses arising out of personal injury (including bodily injury and death) to, or property damage directly suffered by any person who is not an invitee of Port or TPO (including, without limitation, Port, TPO, employees of Port or TPO while engaged in the performance of their duties as an employee, persons in adjacent public streets (including public sidewalks), and trespassers), shall be the responsibility of and borne and paid exclusively by TPO.

(c) Unenforceability. If any of the provisions of this Section 8.2 would otherwise be prohibited by or unenforceable under the laws of Washington State (including a determination by a final judgment of a Washington State court with jurisdiction that indemnification under the circumstances involved is against the public policy of Washington State), the indemnity provided by such provision shall be deemed to be limited to and operative only to the maximum extent permitted by law. Without limitation, if it is determined by a final judgment of Washington State court with jurisdiction that any law or public policy of Washington State prohibits the indemnification of a party for its own sole negligence in any instance covered by the provisions of this Section 8.2, those provisions shall be deemed to exclude the indemnification for such party's sole negligence but to permit full indemnification, as specified in this Section 8.2 if both parties were negligent.

8.3 Excluded Conduct. "Excluded Conduct" shall mean conduct by a supervisory level or higher employee of one of the parties, which such conduct is alleged in a properly field complaint by a plaintiff or plaintiffs as the basis for an award of

exemplary or punitive damages under Washington State law, and actually results in an award of exemplary or punitive damages by a jury after trial of the issues and exhaustion of judicial appeals which would permit the award of exemplary or punitive damages. Neither party shall be indemnified for any Loss resulting from its own Excluded Conduct, and in any such case such party shall be responsible or and bear the Loss in proportion to its relative degree of fault and be responsible for and bear all exemplary or punitive damages, if any, resulting from its Excluded Conduct. If a part asserts that the other was guilty of Excluded Conduct and denies liability for indemnification of the other party based thereon, the party asserting such Excluded Conduct shall have the burden of proof in establishing such conduct.

8.4 Scope of Indemnification. In any case where a party is required under the provisions of this Section 8 to bear a Loss, it shall pay, satisfy and discharge such Loss and all judgments that may be rendered by reason thereof and all costs, charges and expenses incident thereto, and such party shall forever indemnify, defend and hold harmless the other party and its commissioners, trustees, directors, officers, agents, employees, shareholders, parent corporations, subsidiaries and affiliated companies, or governmental entitles from, against and with respect to any and all Losses which arise out of or result from the incident giving rise thereto. TPO hereby waives any immunity TPO may have under applicable workers' compensation benefit or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent TPO from asserting such immunity against any other person or entities. TPO AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

8.5 Procedure.

(a) If any claim or demand (short of a lawsuit) shall be made by any person against an indemnified party under this Section 8, the indemnified party shall, within thirty (3) days after actual notice of such claim or demand cause written notice thereof to be given to the indemnifying party, provided that failure to notify the indemnifying party shall not relieve the indemnifying party from any liability which it may have to the indemnified party under this Section 8 except to the extent that the rights of the indemnifying party are in fact prejudiced by such failure. The indemnifying party shall have the right, at its sole cost and expense, to control (including the selection of counsel reasonably satisfactory to the indemnified party) or to participate in the defense of, negotiate or settle, any such claim or demand, and the parties agree to cooperate fully with each other in connection with any such defense, negotiation or settlement. In any event, the indemnified party shall not make any settlement of any claims or demands which might give rise to liability on the part of the indemnifying party under this Section 8 without either providing the indemnifying party with a full release with respect to such liability or

obtaining the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld, conditions or delayed.

(b) In the event any lawsuit is commenced against either party for or on account of any Loss for which the other party may be solely or jointly liable under this License, the party sued shall give the other party timely written notice of the pendency of such action, and thereupon the party so notified may assume or join in the defense thereof. If the party so notified is liable therefor under this License, then, to the extent of such liability, such party shall defend, indemnify and save harmless the party so sued from Losses in accordance with the liability allocations set forth in this License. Neither party shall be bound by any judgment against the other party unless it shall have been so notified and shall have had reasonable opportunity to assume or join in the defense of the action. When so notified and the opportunity to assume or join in the defense of the action has been afforded, the party so notified shall, to the extent of its liability under this License, by bound by the final judgment of the court in such action.

(c) Subject to the provisions of Section 8.5(a), on each occasion that the indemnified party is entitled to indemnification or reimbursement under this Section 8, the indemnifying party shall, at each such time, promptly pay the amount of such indemnification or reimbursement. If the indemnified party is entitled to indemnification under this Section 8 and the indemnifying party does not elect to control any legal proceeding in connection therewith, the indemnifying party shall pay to the indemnified party an amount equal to the indemnified party's reasonable legal fees and other costs and expense arising as a result of such proceeding.

(d) Any dispute between the parties as to the right to indemnification or the amount to which it is entitled pursuant to such right with respect to any matter shall be submitted to arbitration pursuant to Section 12 of this License.

8.6 Compliance With Laws. Both parties shall comply with all applicable federal state and local laws and regulations, and all applicable rules, regulations or orders promulgated by any court, agency, municipality, board or commission. If any failure of either party to comply with such laws, regulations, rules or orders in respect to that party's use of the Excursion Spur results in any fine, penalty, cost or charge being assessed against the other party, or any Loss, the party which failed to comply agrees to reimburse promptly and indemnify, protect, defense (with counsel reasonably acceptable to the indemnified party) and hold harmless the other party for such amount.

8.7 Delay/Interruption of Service. Port shall not be held liable for any delay or interruption to the trains, locomotives or cars of TPO unless due to Excluded Conduct or except as otherwise provided for in Section 8.2(a)(i).

8.8 No Limitation on Risk Allocation. The provisions of this Section 8 shall apply notwithstanding the provisions of Section 9. In no event shall the indemnification provisions of this Section 8 be limited to the insurance coverage required under Section 9.

8.9 Statutory Defenses. All statutory defense and limitations applicable to Port shall be retained by Port with respect to parties other than TPO, and none are intended to be waived with respect to parties other than TPO by Port under this License.

Section 9. Insurance.

9.1 TPO Insurance.

(a) TPO shall obtain and maintain general liability insurance written on an "occurrence" basis, with minimum limits of [_____] Dollars ($_____) per occurrence. Coverage for punitive damages shall be included to the extent such coverage is permitted under Washington State law. Insurance shall be placed with a company having a current Best's Insurance Guide Rating of at least A, or equivalent, and which is a carrier admitted as an insurer by the Washington State Office of the Insurance Commissioner. TPO may self-insurance to an amount not to exceed [_____] Dollars ($_____), provided that total coverage limits (self-insurance plus excess liability insurance) are at least [_____] Dollars ($_____) per occurrence, provided, however, that this sentence shall not inure to the benefit of TPO's successors or assigns absent the reasonable written consent of Port. In the event Port does not reasonably consent to self-insurance by a successor or assign of TPO, the self-insured amount for such successor or assign shall not exceed [_____] Dollars ($_____). The foregoing policy limits shall be adjusted by the parties every three (3) years to reflect industry standards liability claim trends and market conditions. In any event, however, the total coverage (self-insurance plus excess liability) shall not be less than [_____] Dollars ($_____). The foregoing self-insurance limit shall not exceed ___ percent (__%) of the total coverage limits (self-insurance plus excess liability insurance) maintained by TPO; provided, however, that the foregoing self-insurance limit may be increased by up to an additional ___ percent (___%) of the total coverage limits if TPO provides adequate security acceptable to and approved by Port for the increased self-insurance amount over and above the initial ___ percent (___%) limit.

(b) TPO's insurance shall be primary with respect to its obligations under this License and with respect to the interests of Port and County as additional insureds. TPO shall provide Port with evidence that it has named the Port and County as additional insureds under TPO's policy. Any other insurance maintained by an additional insured shall be excess of the coverage herein defined as primary and shall not contribute with it.

(c) TPO's insurance shall be maintained for the full term of this License and shall not be permitted to expire or be canceled or materially changed. Each such insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits except after thirty (30) days' prior written notice has been given to each insured and additional insured.

(d) Prior to the Effective Date, TPO shall provide Port with certified copies of its policies, as well as certificates of insurance and endorsements evidencing the insurance required by this Section. Certificates of insurance shall be issued on the ACORD or equivalent form.

(e) All statutory defenses and limitations applicable to TPO shall be retained by TPO with respect to parties other than Port, and none are intended to be waived with respect to parties other than Port by TPO by the acquisition of insurance by TPO or under this License.

9.2 Failure to Maintain Insurance. A failure of TPO to maintain the insurance required by this Section 9 shall not relieve TPO of any of its liabilities or obligations under this License.

9.3 Waiver of Subrogation. Every policy of insurance required under this Section 9 to be held by TPO shall include a waiver of all rights of subrogation against Port.

Section 10. Compensation and Billing.

10.1 Invoices. Any Invoice or Invoices submitted to the parties under this License ("Invoice or Invoices") must be itemized with a detailed description of the work performed, the date of such work, the person performing such work, the time expended and the associated hourly billing rate or charge for such work, and nay reimbursable expenses (including, without limitation, the cost of materials used) incurred in the performance of the work. The party requesting reimbursement shall certify that it has actually incurred the expenses set out in its Invoice. Invoices for reimbursable expenses may not exceed the out-of-pocket expense for such items. Invoices shall be paid within thirty (30) days after receipt thereof by the payor. If a party disputes any items on an Invoice, that party may deduct the disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deductions, if any, shall be documented to the other party within thirty (30) days after receipt of the Invoice. Once documentation is given for the disputed amounts, and accepted by the paying party, the disputed amounts shall be paid by the paying party with fifteen (15) days after receipt of the documentation. No Invoice shall be submitted later than one hundred twenty (120) days after the last day of the calendar month in which the reimbursable expense or cost covered thereby is incurred.

10.2 Audit. So much of the books, accounts and records (except for privileged or confidential records) of each party hereto as are related to the subject matter of

this License shall at all reasonable times by open to inspection and audit by the authorized representatives and agents of the parties. All accounting records and other supporting papers shall be maintained for a minimum of three (3) years from the date thereof. If work relating to this License is funded in whole or in party by a federal grant, the Comptroller General of the United States and authorized representatives of the federal agency furnishing the grant shall have the right to examine and audit such books, accounts, and records in accordance with applicable federal laws and regulations.

10.3 Supporting Documentation. Upon request, a party disputing the accuracy of any Invoice shall be entitled to receive from the invoicing party copies of such supporting documentation and/or records as are kept in the ordinary course of the invoicing party's business and which are reasonably necessary to verify the accuracy of the Invoice as rendered.

10.4 Fees. TPO shall pay Port $____ in compensation for use of the Excursion Spur. This amount shall escalate _____.

Section 11. Coordination.

11.1 Coordination Committee. Port and TPO shall establish a Coordination Committee consisting of at least two (2) representatives of each party. The Coordination Committee shall be a forum for the parties to share information, discuss matters submitted by one party to the other party for review and/or approval, and seek resolution of any issues between the parties with respect to this License. The Coordination Committee shall meet regularly (in person or telephonically) and also as necessary to address issues between the parties that require prompt resolution.

Section 12. Binding Arbitration.

12.1 Controversies Subject to Arbitration. Any and all claims, disputes or controversies between Port and TPO arising out of or concerning the interpretation, application, or implementation of this License that cannot be resolved by the parties through the Coordination Committee or by negotiations shall be submitted to binding arbitration administered by the American Arbitration Association ("AAA") under its Commercial Arbitration Rules, except as otherwise provided in this Section 12. If the AAA discontinues promulgation of the Commercial Arbitration Rules, the parties shall use the AAA's designated successor rules, and if the AAA does not designate successor rules, the parties shall agree on other rules. The judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

12.2 Selection of Arbitrator. In the event a claim, dispute or controversy arises, either party may serve a written demand for arbitration upon the other party. If the claim, dispute or controversy is not resolved by the parties within thirty (30) days after the service of the demand, the matter shall be deemed submitted to

arbitration. If within forty (40) days after service of the demand, the parties have not selected a single arbitrator, each party shall within an additional ten (10) days thereafter select an arbitrator. (In such case, if either party has not selected an arbitrator within ten (10) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy.) The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within ten (10) days of the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

12.3 Expedited Arbitration Schedule.

(a) In the event either party reasonably finds that the issues of any claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety, either party may request, in the arbitration demand delivered pursuant to Section 12.2, an expedited arbitration procedure as set forth in this Section 12.3 solely for the purpose of obtaining a provisional remedy that by law or in equity could be imported in a court proceeding against a rail carrier subject to the jurisdiction of the Surface Transportation Board (e.g., temporary restraining order, preliminary injunction or injunction).

(b) Within five (5) days after service of a demand for expedited arbitration, the parties shall agree on an arbitrator. If the parties fail to agree on an arbitrator within such five-day period, each party shall within two (2) days select an arbitrator. In such case, if either party has not selected an arbitrator within two (2) days after receipt of notice that the other party has selected an arbitrator, the arbitrator selected by the other party shall arbitrate the claim, dispute or controversy. The two selected arbitrators shall select a third arbitrator. If the two arbitrators are unable to agree upon the third arbitrator within two (2) days of the deadline for the selection of the two selected arbitrators, the AAA shall select the third arbitrator. The arbitrator(s) shall be disinterested.

(c) The expedited arbitration hearing shall commence no later than ten (10) days after service of a demand for expedited arbitration and shall be concluded on the same day. The arbitration decision shall be rendered by the arbitrator(s) in writing on or before the day following the arbitration hearing.

(d) Prior to rendering any decision, the arbitrator must find that the issues of the claim, dispute or controversy are likely to directly, imminently, materially and adversely affect human health or safety. In the event the arbitrator finds that the foregoing criteria have not been met, the proceeding shall be dismissed without prejudice and the parties shall proceed with the arbitration procedure and schedule set forth in Sections

12.1 and 12.2; provided, however, that no new demand for arbitration need be served by the party demanding arbitration.

12.4 Pending Resolution. During the pendency of such arbitration proceedings, the business and the operations to be conducted, and compensation for service under this License, to the extent that they are the subject of such controversy, shall continue to be transacted, used and paid in the manner and form existing prior to the arising of such controversy, unless the arbitrator shall make a preliminary ruling to the contrary.

12.5 Cost of Arbitration. Each party solely shall bear the attorneys' fees, costs and expenses incurred by it in connection with such arbitration; provided, however, the arbitrator shall have the power to award attorneys' fees and costs to either party if the arbitrator determines in its reasonable discretion that the position of the other party to the arbitration was frivolous.

Section 13. Miscellaneous Provisions.

13.1 Binding Successors; Assignment. This License shall be binding upon, and inure to the benefit of, the parties hereto and their respective permitted successors and assigns, except that TPO may not assign its rights and obligations under this License without the prior written consent of the Port, which consent may not be unreasonably withheld, denied, delayed or conditioned. Any assignment, encumbrance or other transfer in violation of the foregoing shall be void. Port may assign its rights and obligations under this License freely.

13.2 Notices. Except as otherwise expressly provided in this License, all notices and other communications under this License shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered personally to the party to whom notice is given, or if made by telecopy directed to the applicable telecopy number listed below and the transmission is confirmed by mail as provided under (b) below which is deposited on the first business day after the transmission, or (c) at the earlier of actual receipt or the third business day following deposit in the United States mail, postage prepaid. Notices and other communications shall be directed to the parties at the addresses shown below. A party may change its person designated to receive notice, its telecopy number or its address from time to time by giving notice to the other party in accordance with the procedures set forth in this Section.

POS: PORT OF SEATTLE
[ADDRESS]
Telephone No. _____
Telecopy:_____

TPO: [THIRD PARTY OPERATOR]
[ADDRESS]
Telephone No. _____

Telecopy:_____

13.3 Headings. The section and subsection headings in this License are for convenience only and shall not be used in its interpretation or considered part of this License.

13.4 Integration, Amendment, and Waiver. This License controls all the rights and obligations of TPO and Port as to the operation of the Excursion Rail Service on the Excursion Spur. The O&M Agreement controls all the rights and obligations of TPO and Port as to the operation of freight rail service and Excursion Rail Service on the Corridor. This License is the entire agreement, and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties concerning the subject matter hereof. No supplement, modification, or amendment of this License shall be binding unless executed in writing by both of the parties. No waiver of any provision of this License shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

13.5 Counterparts. This License may be executed in any number of counterparts, and by different parties in separate counterparts, each of which, when executed and delivered, shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Facsimile signatures shall be deemed original for all purposes.

13.6 Governing Law. This License shall be construed and interpreted in accordance with the laws of Washington State.

13.7 Time of Essence. Time is of the essence of each and every provision of this License.

13.8 Not for the Benefit of Others. This License and each and every provision herein are for the exclusive benefit of the parties to this License and not for the benefit of any third party. Nothing herein shall be construed to create or increase any right in any third party to recover by way of damages or otherwise against either of the parties to this License.

13.9 Attorneys' Fees. If any legal action or any arbitration or other proceeding is brought for the enforcement or interpretation of this License, or because of any alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this License, the prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs in connection with that action or proceeding in addition to any other relief to which it or they may be entitled.

(Signatures on following page)

IN WITNESS WHEREOF, the parties hereto have executed this License effective as of the Effective Date.

PORT OF SEATTLE
a Washington Municipal Corporation

By: _____
Name: Tay Yoshitani
Title: Chief Executive Officer

[THIRD PARTY OPERATOR],
a _____ corporation

By: _____
Name: _____
Title: _____

STATE OF WASHINGTON)
) **ss.**
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of the PORT OF SEATTLE, a Washington Municipal Corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public

(SEAL)

STATE OF WASHINGTON)
) **ss.**
COUNTY OF _____)

On _____, 200__, before me, a Notary Public in and for said County and State, personally appeared _____, of [THIRD PARTY OPERATOR], a _____ corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

_____
Notary Public

(SEAL)

Exhibit A

Purchase and Sale Agreement

Exhibit B

Operations and Maintenance Agreement

Maltby and Woodinville, WA Traffic
July, 2006 through June, 2007
July, 2007 through June, 2008

Sum of Units					Year	
Station	Customer	STCC Description	STCC Code	Originated or Terminated	July, 2006 - June, 2007	July, 2007 - June, 2008
MALTBY, WA (065608)	BLUELINX CORP	ORINTD STR	2499110	Terminated		2
	BLUELINX CORP Total					2
	BOISE CASCADE CORP	FC,PNL,CST	3271945	Terminated	1	44
		LBR TIMBER	2421184	Terminated		2
		ORINTD STR	2499110	Terminated	95	123
		PLASTIC LU	3071906	Terminated	24	25
	BOISE CASCADE CORP Total				120	194
	DUNNLBR	PLASTIC LU	3071906	Terminated	1	5
	DUNNLBR Total				1	5
	FOREST CITY TRADING GROUP	ORINTD STR	2499110	Terminated		3
	FOREST CITY TRADING GROUP Total					3
	LUMBERMENS MERCHANDISING C	ORINTD STR	2499110	Terminated		1
	LUMBERMENS MERCHANDISING C Total					1
	MATHEULBR	PLASTIC LU	3071906	Terminated		2
	MATHEULBR Total					2
	PLYWOOSUPPLY	BIRCH LUMB	2421130	Terminated	1	
		BMS,ETC,OT	2439120	Terminated	9	3
		ORINTD STR	2499110	Terminated	19	8
		PLASTIC LU	3071906	Terminated	2	4
	PLYWOOSUPPLY Total				31	15
	RICHMOINTFP	ORINTD STR	2499110	Terminated		1
	RICHMOINTFP Total					1
	WELCO LUMBER COMPANY INC	LBR TIMBER	2421184	Terminated	1	
	WELCO LUMBER COMPANY INC Total				1	
MALTBY, WA (065608) Total					**153**	**223**

Traffic/Revenue

Maltby and Woodinville, WA Traffic
July, 2006 through June, 2007
July, 2007 through June, 2008

WOODINVILLE, WA (065614)	AFA FOREST PRODUCTS INC	ORINTD STR	2499110	Terminated		1
	AFA FOREST PRODUCTS INC Total					1
	BLUELINX CORP	BOARDS,FLA	2429948	Terminated	1	
		CNCR COP W	3271940	Terminated		11
		LBR TIMBER	2421184	Terminated	22	19
		ORINTD STR	2499110	Terminated	79	36
		PLYWOOD	2432158	Terminated	11	11
		ROOFING PP	2952190	Terminated		5
		SIDING,EXT	2499906	Terminated	3	
	BLUELINX CORP Total				116	82
	BNSF Ry / Boeing	CARS, RAIL	3742214	Originated		1
	BNSF Ry / Boeing Total					1
	BOISE CASCADE CORP	BDS PNLS O	3271941	Terminated		4
		FC,PNL,CST	3271945	Terminated	1	9
		GYPSUM WAL	3275440	Terminated	2	
		LBR TIMBER	2421184	Terminated		2
		ORINTD STR	2499110	Terminated	27	21
		PLASTIC LU	3071906	Terminated	1	1
		POLES FBRG	3071967	Terminated	2	
	BOISE CASCADE CORP Total				33	37
	FOREST CITY TRADING GROUP	ORINTD STR	2499110	Terminated	11	3
	FOREST CITY TRADING GROUP Total				11	3
	LUMBERMENS MERCHANDISING C	ORINTD STR	2499110	Terminated		8
	LUMBERMENS MERCHANDISING C Total					8
	MATHEULBR	ORINTD STR	2499110	Terminated	34	
	MATHEULBR Total				34	
	PLYWOOSUPPLY	BIRCH LUMB	2421130	Terminated	2	
		BMS,ETC,OT	2439120	Terminated	3	6
	PLYWOOSUPPLY Total				5	6
	SPECTRGLASS	SAND,INDUS	1441315	Terminated	90	88
		SDM CARBON	2812322	Terminated	35	34
	SPECTRGLASS Total				125	122
	VANDERMEER FOREST PRODUCTS	ORINTD STR	2499110	Terminated	1	
	VANDERMEER FOREST PRODUCTS Total				1	
	WOODINLBR	ORINTD STR	2499110	Terminated	67	22
	WOODINLBR Total				67	22
	WOODTOINDUSA	BMS,ETC,OT	2439120	Terminated		1
	WOODTOINDUSA Total					1
WOODINVILLE, WA (065614) Total					**392**	**283**
Grand Total					**545**	**506**

B

units	trm_yr	trm_mo	CMDTY_DESC	Move Type	Station	State	CARR_AB	OFCL_333_ORIG	OFCL_S	CARR_AB	ICR_CITY_333	CARR_A	OFCL_DEST_333	OFCL_S	Customer	SHIPPER_NAME	RECEIVER_NAME	TARE	LADG_T	LD_GRS	TOI	CYCLE_MI	Sub_Forecast_Name	Forecast_Group_Name	Business_Unit_Name	Business_Group_Name
1	2000	8	BOARDS,SLD	TERM	REDMOND	WA	BNSF	GALESBURG	IL		GALESBURG	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	100	326832	2476	INSULATION/SIDING	MANUFACTURED PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	BOARDS,SLD	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299904	2343	INSULATION/SIDING	MANUFACTURED PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	319404	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299904	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	97	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	95	315087	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	319404	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	96	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	96	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	95	294568	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	66	255360	1995	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	340080	2616	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	35	96	285056	2176	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	96	272768	2131	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	312051	2419	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	275028	2132	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2336	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299904	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	96	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	257355	1995	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	323830	2491	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	319404	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	274899	2131	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	293632	2294	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	319404	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	338109	2621	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	97	306933	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	340340	2618	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	96	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM,WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	98	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS

1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	96	315087	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	96	337464	2616	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	96	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	98	306933	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	99	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	96	314452	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	93	290532	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	96	299904	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	283010	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299520	2340	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	309084	2396	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	96	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	334110	2590	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	96	296926	2335	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	96	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	35	96	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	0	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	320049	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	340730	2621	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	35	96	279161	2131	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	320049	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	98	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	340080	2616	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	321339	2491	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	99	324356	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	95	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	316050	2450	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	96	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	320049	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	334110	2590	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	280704	2176	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	318500	2450	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS

1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	99	306540	2340	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299904	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	304590	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	288990	2223	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	96	334110	2590	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	99	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	322530	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	95	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	97	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	301602	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	316928	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	340340	2618	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	33	98	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	317568	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	9	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299520	2340	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	5	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299264	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	320049	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	100	285187	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319275	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319275	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	34	96	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319275	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	97	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319791	2479	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	99	283010	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	33	98	306278	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	95	314325	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	340080	2616	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	96	332232	2616	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	279240	2148	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319404	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	277092	2148	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	109	346640	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319275	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	33	98	324225	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	96	296926	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	337335	2615	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319275	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	33	98	324225	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	33	98	324225	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	97	316928	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	283010	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319275	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	97	316928	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	283010	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	97	274944	2148	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	95	272796	2148	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	96	314452	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	319404	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	96	316800	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	303940	2338	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS

1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321880	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	96	316928	2476	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	97	334720	2615	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	300950	2315	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA		BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	31	98	280833	2177	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BUILDING SPECIALTY INC	UNITED STATES GYPSUM CO	BUILDING SPECIALTY INC	32	98	321750	2475	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2000	3	DIST MASH,	TERM	REDMOND	WA	BNSF	BENSON	MN		BENSON	BNSF	REDMOND	WA	PARRISHEINBE	CHIPPEWA VALLEY ETHANOL CO	PARRISHEINBE	32	75	194526	1818	DISTILLERS	FEEDS	GRAIN PRODUCTS	AG PRODUCTS GROUP
1	2000	5	BARLEY	TERM	REDMOND	WA	BNSF	VALIER	MT		VALIER	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	30	96	130536	1036	BARLEY	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	6	BARLEY	TERM	REDMOND	WA	BNSF	LEWISTOWN	MT		LEWISTOWN	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	30	90	130080	1084	BARLEY	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	8	BARLEY	TERM	REDMOND	WA	BNSF	HAVRE	MT		HAVRE	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	30	95	120750	966	BARLEY	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	3	BARLEY	TERM	REDMOND	WA	BNSF	HAVRE	MT		HAVRE	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	33	99	127512	966	BARLEY	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	2	CORN,NT SH	TERM	REDMOND	WA	BNSF	LOUISBURG	MN		LOUISBURG	BNSF	REDMOND	WA	TDFEED	FARMERS ELEVATOR CO	TDFEED	31	103	216578	1617	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	1	CORN,NT SH	TERM	REDMOND	WA	BNSF	LOUISBURG	MN		LOUISBURG	BNSF	REDMOND	WA	TDFEED	FARMERS ELEVATOR CO	TDFEED	31	103	271216	2024	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	6	CORN,NT SH	TERM	REDMOND	WA	BNSF	LOUISBURG	MN		LOUISBURG	BNSF	REDMOND	WA	TDFEED	FARMERS ELEVATOR CO	TDFEED	31	103	218554	1631	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	8	CORN, SHEL	TERM	REDMOND	WA	BNSF	APPLETON	MN		APPLETON	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	30	99	248970	1930	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	6	CORN, SHEL	TERM	REDMOND	WA	BNSF	WENTWORTH	SD		WENTWORTH	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	32	101	231287	1739	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	9	CORN, SHEL	TERM	REDMOND	WA	CPRS	WYNDMERE	ND	CPRS	MINOT	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	31	93	156116	1259	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	12	CORN, SHEL	TERM	REDMOND	WA	BNSF	REDFIELD	SD	DME	REDFIELD	BNSF	REDMOND	WA	TDFEED	SOUTH DAKOTA WHEAT GROWER	TDFEED	33	99	236412	1791	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	5	CORN, SHEL	TERM	REDMOND	WA	BNSF	LOUISBURG	MN		LOUISBURG	BNSF	REDMOND	WA	TDFEED	FARMERS ELEVATOR CO	TDFEED	31	102	216923	1631	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	8	CORN, SHEL	TERM	REDMOND	WA	BNSF	KINDRED	ND	RRVW	KINDRED	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	32	103	227880	1688	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	11	CORN, SHEL	TERM	REDMOND	WA	BNSF	MELLETTE	SD		MELLETTE	BNSF	REDMOND	WA	TDFEED	SOUTH DAKOTA WHEAT GROWER	TDFEED	30	102	233904	1772	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	1	CORN, SHEL	TERM	REDMOND	WA	BNSF	SELBY	SD		SELBY	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	32	99	187068	1428	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	3	CORN, SHEL	TERM	REDMOND	WA	BNSF	VIENNA	SD		VIENNA	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	33	99	248424	1882	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	4	CORN, SHEL	TERM	REDMOND	WA	BNSF	LAMOURE	ND	RRVW	LAMOURE	BNSF	REDMOND	WA	TDFEED	LARSON GRAIN CO	TDFEED	30	101	245756	1876	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	2	CORN, SHEL	TERM	REDMOND	WA	BNSF	LAMOURE	ND	RRVW	LAMOURE	BNSF	REDMOND	WA	TDFEED	CENEX HARVEST STATES	TDFEED	32	102	232088	1732	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	4	CORN, SHEL	TERM	REDMOND	WA	BNSF	WILLAKE	SD		WILLAKE	BNSF	REDMOND	WA	TDFEED	SOUTH DAKOTA WHEAT GROWER	TDFEED	30	102	250140	1895	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2000	9	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	31	93	18476	149	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	8	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	30	84	17100	150	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	3	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	31	88	17493	147	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	4	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	30	70	85000	850	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	12	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	30	80	16060	146	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	6	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	31	90	17787	147	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	2	OATS	TERM	REDMOND	WA	BNSF	VANCOUVER	BC	BCOL	VANCOUVER	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	30	51	11016	136	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	10	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	32	89	17666	146	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	1	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	32	90	16958	139	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2000	4	WT GRNML F	TERM	REDMOND	WA	BNSF	PORTLAND	OR		PORTLAND	BNSF	REDMOND	WA	TDFEED	ADM MILLING CO	TDFEED	30	44	20276	274	OTHER FEEDS	FEEDS	GRAIN PRODUCTS	AG PRODUCTS GROUP
1	2000	2	WT GRNML F	TERM	REDMOND	WA	BNSF	PORTLAND	OR	UP	PORTLAND	BNSF	REDMOND	WA	TDFEED	A D M GRAIN CO	TDFEED	32	44	19000	250	OTHER FEEDS	FEEDS	GRAIN PRODUCTS	AG PRODUCTS GROUP
1	2000	3	WT GRNML F	TERM	REDMOND	WA	BNSF	PORTLAND	OR	UP	PORTLAND	BNSF	REDMOND	WA	TDFEED	A D M GRAIN CO	TDFEED	32	44	19000	250	OTHER FEEDS	FEEDS	GRAIN PRODUCTS	AG PRODUCTS GROUP
1	2000	2	SOYBN CK,M	TERM	REDMOND	WA	DME	VOLGA	SD	DME	HURON	BNSF	REDMOND	WA	TDFEED	SOUTH DAKOTA SOYBEAN PROCE	TDFEED	32	111	226226	1582	SOYBEAN MEAL	OIL SEEDS/MEALS	GRAIN PRODUCTS	AG PRODUCTS GROUP
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1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	CENTEXAMEGYP	BLDGSPECIALT	32	91	264327	2149	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	12	GYPSUM WAL	TERM	REDMOND	WA	UP	GYPSUM	CO	UP	SEATTLE	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	100	8565	65	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	98	312650	2405	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	317568	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	340992	2664	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	CENTEXAMEGYP	BLDGSPECIALT	41	96	280165	2045	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	96	307840	2405	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	33	98	283329	2163	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERO	NM		ALBUQUERO	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	96	274740	2146	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	320049	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	317568	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	11	GYPSUM WAL	TERM	REDMOND	WA	UP	GYPSUM	CO	UP	SEATTLE	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	40	84	8107	65	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERO	NM		ALBUQUERO	BNSF	REDMOND	WA	BLDGSPECIALT	CENTEXAMEGYP	BLDGSPECIALT	32	91	262728	2136	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	299904	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	98	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	DUKE	OK	HE	DUKE	BNSF	REDMOND	WA	BLDGSPECIALT	REPUBLGYPSUM	BLDGSPECIALT	31	102	369208	2776	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	302247	2343	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	32	97	338238	2622	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	CENTEXAMEGYP	BLDGSPECIALT	33	97	281710	2167	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BURLINGTO	IA	BJRY	BURLINGTO	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	31	97	317568	2481	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	9	TRNSFORMRS	TERM	REDMOND	WA	BNSF	SEATTLE	WA	UP	SEATTLE	BNSF	REDMOND	WA	PUGETSOUENER	WORLDWIDE FREIGHT SYSTEMS	PUGETSOUENER	40	110	4644	31	GENERATORS/TRANS	GOVERNMENT & MACHINERY	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	1	CORN, SHEL	TERM	REDMOND	WA	BNSF	GREBNER	SD		GREBNER	BNSF	REDMOND	WA	TDFEED	SOUTH DAKOTA WHEAT GROWER	TDFEED	32	104	204000	1500	CORN	CORN	GRAINS	AG PRODUCTS GROUP
1	2001	1	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	32	70	14892	146	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2001	2	OATS	TERM	REDMOND	WA	BCOL	DAWCREEK	BC	BCOL	NVANCOUVE	BNSF	REDMOND	WA	TDFEED	PARRISH & HEIMBECKER LTD	TDFEED	32	84	16936	146	OATS	BARLEY/OATS/RYE	GRAINS	AG PRODUCTS GROUP
1	2001	11	TRNSFORMRS	ORIG	REDMOND	WA	BNSF	REDMOND	WA		REDMOND	BNSF	SEATTLE	WA	WORLDWIDE FREIGHT SYSTEM	WORLDWIDE FREIGHT SYSTEMS	MANSON CONSTRUCTION & ENG	40	110	0	0	GENERATORS/TRANS	GOVERNMENT & MACHINERY	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2001	10	TRNSFORMRS	ORIG	REDMOND	WA	BNSF	REDMOND	WA		REDMOND	BNSF	SEATTLE	WA	WORLDWIDE FREIGHT SYSTEM	WORLDWIDE FREIGHT SYSTEMS	MANSON CONSTRUCTION & ENG	40	110	0	0	GENERATORS/TRANS	GOVERNMENT & MACHINERY	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
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1	2002	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	DUKE	OK	HE	DUKE	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	42	91	305140	2302	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	DUKE	OK	HE	DUKE	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	32	102	315813	2357	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	31	97	288201	2252	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	31	100	294957	2252	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	33	57	193620	2151	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	31	100	294957	2252	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	32	94	269000	2135	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS

1	2002	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	RAINIER	OR	PNWR	RAINIER	BNSF	REDMOND	WA	265BLDGSPECI	U S GYPSUM	265BLDGSPECI	31	108	33503	241	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	RAINIER	OR	PNWR	RAINIER	BNSF	REDMOND	WA	265BLDGSPECI	U S GYPSUM	265BLDGSPECI	35	93	30851	241	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	11	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	30	96	271056	2151	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	12	GYPSUM WAL	TERM	REDMOND	WA	BNSF	DUKE	OK	HE	DUKE	BNSF	REDMOND	WA	265BLDGSPECI	AMERICAN GYP	265BLDGSPECI	30	101	308737	2357	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	11	GYPSUM CON	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	462BLDGSPECI	U S GYPSUM	462BLDGSPECI	37	92	308203	2389	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	98	282812	2192	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	110	259526	1841	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	98	290454	2252	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	96	274740	2146	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	33	96	276889	2146	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	33	96	276889	2146	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	110	269241	1910	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	96	273298	2135	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	3	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	98	282812	2192	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	96	298717	2336	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	33	96	273096	2117	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	12	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	U S GYPSUM	U S GYPSUM	U S GYPSUM	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2002	12	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	U S GYPSUM	U S GYPSUM	U S GYPSUM	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
25																									
1	2003	2	GYPSUM CON	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	38	87	298650	2389	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	3	GYPSUM CON	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	35	92	303425	2389	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	5	GYPSUM CON	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	91	305816	2389	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	4	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	94	309581	2381	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	10	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	38	88	328739	2609	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	10	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	84	286148	2381	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	1	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	92	357358	2770	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	12	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	94	355905	2717	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	10	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	43	84	6843	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	8	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	94	318376	2449	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	6	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	3	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	35	94	308202	2389	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	5	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	94	311961	2381	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	4	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	35	89	284887	2297	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	11	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	68	273607	2631	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	11	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	96	377910	2841	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	100	290587	2219	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	ALBUQUERQ	NM		ALBUQUERQ	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	40	83	473426	3849	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	8	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	100	294956	2252	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	10	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	98	279672	2151	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	98	292706	2252	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	4	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	33	98	281823	2151	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	98	277522	2151	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	12	GYPSUM WAL	TERM	REDMOND	WA	UP	GYPSUM	CO	UP	SEATTLE	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	101	7166	54	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	2	GYPSUM WAL	TERM	REDMOND	WA	BNSF	DUKE	OK	HE	DUKE	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	30	98	347955	2718	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	5	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	STEFFEROBKIR	UNITED STATES GYPSUM CO	STEFFEROBKIR	41	84	6735	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	1	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	6	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	5	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	42	84	6789	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	5	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	36	99	10907	81	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	4	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2003	4	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	UNITED STATES GYPSUM CO	36	99	7273	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
32																									
1	2004	12	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	94	346976	2669	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	11	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	94	365639	2791	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	12	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	41	78	300159	2522	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	5	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	38	95	355086	2670	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	5	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	78	324573	2822	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	9	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	98	332953	2522	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	3	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	95	388945	2969	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	8	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	96	356512	2681	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	1	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	96	354982	2669	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	33	102	323996	2400	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2004	1	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	31	103	288279	2151	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
11																									
1	2005	2	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	39	94	367308	2762	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2005	3	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	97	337912	2522	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2005	2	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	38	83	305207	2522	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2005	9	PLASTER CA	TERM	REDMOND	WA	UP	FTDODGE	IA	UP	SEATTLE	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	39	95	7221	54	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2005	11	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	34	96	347467	2673	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2005	7	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	32	82	376952	3307	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
1	2005	6	GYPSUM WAL	TERM	REDMOND	WA	BNSF	BERNALILL	NM		BERNALILL	BNSF	REDMOND	WA	BLDGSPECIALT	AMERICAN GYPSUM CO	BLDGSPECIALT	40	77	318338	2721	GYPSUM WALLBOARD	PANEL PRODUCTS	BUILDING PRODUCTS	INDUSTRIAL PRODUCTS
7																									
1	2006	2	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	96	412827	3127	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2006	2	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	37	96	415956	3127	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
1	2006	3	PLASTER CA	TERM	REDMOND	WA	BNSF	SOUTHARD	OK	GNBC	SOUTHARD	BNSF	REDMOND	WA	BLDGSPECIALT	UNITED STATES GYPSUM CO	BLDGSPECIALT	36	96	352312	2669	GYPSUM	CEMENT/GYPSUM/LIME	CONSTRUCTION PRODUCTS	INDUSTRIAL PRODUCTS
3																									

C

BURLINGTON NORTHERN

THIS FORM TO BE COMPLETED IN DUPLICATE

SECRETARY'S DOCKET NO. 8N8650

DATE March 2, 1978

TO:

SECRETARY'S OFFICE, BURLINGTON NORTHERN INC., ST. PAUL, MINNESOTA.

Herewith for filing is original agreement between Burlington Northern Inc., ~~xxx~~ Drywall Supply, Inc. and Universal Seafoods, Ltd.

dated January 13, 1978 covering the maintenance and operation of trackage

(Type of contract, i.e., spur track, highway, joint facility, etc. If the agreement is a supplement or termination, please refer to original contract or docket number and date of original contract.)

at Redmond, Washington
LOCATION (City, State)

Contract expiration or term: _____

SUBMITTED BY:

Ind. Dev. & Property Management
DEPARTMENT

Manager-Contracts
TITLE

COPIES TO:

Vice President, Operations
Vice President & Controller (3)
Vice President, Industrial Development & Property Management
Vice President, Marketing
Vice President-Law
Vice President Seattle Region
Assistant Vice President Seattle Region
Division Superintendent Pacific Division (2)
Assistant Vice President, Engineering (2)
Director-Engineering, Seattle Region
Manager-Industrial Development, Seattle
Director-Property Taxes, Seattle Region

DIRECTOR ENGINEERING B. N., INC., SEATTLE

ATTACH FILE ☐	NOTE	HANDLE	SEE ME ..... MAR 28 1978	NOTE	HANDLE	FILE PAPERS
CFI						DFB
HEM						RWC
KDK						WBB
TCN						LBK
LLG						CFW
GEH						WAR
WJZ						EEG
JEL						ALF
HMS						ABM
DEP						MJB
VKS						
WAG						

NOTE: Enclose sufficient supply of exhibit prints for use in distribution of contract.

FORM 13009 11-75

If said track is used for the receiving, forwarding or storing of hazardous commodities, Industry agrees to comply with Railroad's requirements and the requirements of any statute, order, rule or regulation of any public authority having jurisdiction with respect thereto as the same may be modified, supplemented and amended from time to time.

Definition of Cost

Section 3. "Cost" for the purpose of this agreement shall be actual labor and material costs including all assignable additives. Material and supplies shall be charged at current value where used.

Right of Railroad to Use

Section 4. Railroad shall have the right to use and extend said track and construct spur tracks therefrom for the accommodation of the business of Railroad or the business of other parties, provided such use or extension does not unduly interfere with the use of said track by Industry.

Clearances

Section 5. Neither Drywall nor Universal, each for itself and not one for the other, shall place or permit to be placed, or to remain, any material, structure, pole or other obstruction within 8-1/2 feet laterally of the center or within 23 feet vertically from the top of the rail of said track; provided that if by statute or order of competent public authority greater clearances shall be required than those provided for in this Section 5, then Drywall and Universal, each for itself and not one for the other, shall strictly comply with such statute or order. However, vertical or lateral clearances which are less than those hereinbefore required to be observed but are in compliance with statutory requirements will not be or be deemed to be a violation of this Section. Drywall and Universal, each for itself and not one for the other, agree to indemnify Railroad and save it harmless from and against any and all claims, demands, expenses, costs and judgments arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of any breach of the foregoing or any other covenant contained in this agreement.

Should either, or both, the lateral and vertical clearances hereinbefore required to be observed be permitted to be reduced by order of competent public authority, Drywall and Universal, each for itself and not one for the other, hereby agree to strictly comply with the terms of any such order and indemnify and hold harmless Railroad from and against any and all claims, demands, expenses, costs and judgments arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of or as a result of any such reduced clearance.

Railroad's operations over the track with the knowledge of an unauthorized reduced clearance shall not be or be deemed to be a waiver of the foregoing covenants of Drywall and Universal contained in this Section 5 or of Railroad's right to recover for such damages to property or injury to or death of persons that may result therefrom.

Public Assessments

Section 6. Industry shall pay all compensation and assessments required at any time by a municipality, public authority, corporation or person for the privilege of maintaining and operating said track and crossing.

Liability

Section 7. Drywall and Universal, each for itself and not one for the other, agree to indemnify and hold harmless Railroad for loss, damage, injury or death from any act or omission of itself, its employees, or agents, to the person or property of the parties hereto and their employees, and to the person or property of any other person or corporation, while on or near said track and crossing, and if any claim or liability shall arise from the joint or concurring negligence of two or more of the parties hereto it shall be borne by them equally. Notwithstanding anything herein contained to the contrary, nothing herein is to be construed as an indemnification against the sole negligence of Railroad, its officers, employees and agents.

In the event Drywall or Universal, each for itself and not one for the other, permits a party or parties, hereinafter called Permittee, other than Railroad to use said track for receiving, forwarding or storing shipments, Railroad hereby consents to such use, and in such case Drywall or Universal hereby agree to indemnify and hold harmless Railroad from and against any and all loss, damage, injury or death, resulting from or arising out of any act or omission

of Permittee, its employees or agents, to the person or property of the parties hereto and said Permittee, and to the person or property of any person or corporation while on or near said track and crossing.

Assignment

Section 8. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; however, Industry shall not assign this agreement without the written consent of Railroad, and for any departure in this respect Railroad may terminate this agreement.

Right to Disconnect Track

Section 9. Railroad shall be privileged to terminate this agreement and discontinue the maintenance and operation of said track, and to remove its ownership, in the event of any of the following contingencies, viz.:

(a) Industry ceases for a continuous period of one (1) year the doing of business in an active and substantial way at the industry or establishment served.

(b) Railroad is authorized by competent public authority to abandon its line to which track is connected.

(c) Industry shall fail to keep and perform any obligation or stipulation stated in or resulting under this agreement.

No recourse or claim will exist in favor of or be asserted by Industry because of the discontinuance of operation and removal of the metal and fastenings as provided in this Section of this agreement.

Removal of Track

Section 10. Railroad agrees, upon discontinuance of the use of the track, to remove from its right of way that part of the track owned by Industry and to pay to Industry the salvage value of the usable material so removed, less cost of recovering it. If the cost of removing or recovering said track exceeds the salvage value thereof, Industry shall pay Railroad the difference.

Joint Use by Other Railroads

Section 11. This agreement is also made for the benefit of such other railroads which, either by prior understandings or agreements with the Railroad have the right to use the track, or which shall be admitted in the future to the use of the track by Railroad, all of which railroads shall be deemed the "Railroad" within the meaning hereof.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

BURLINGTON NORTHERN INC.

By _____
Vice President

DRYWALL SUPPLY, INC.

By _____
Title:

UNIVERSAL SEAFOODS, LTD.

By _____
Title: Pres.

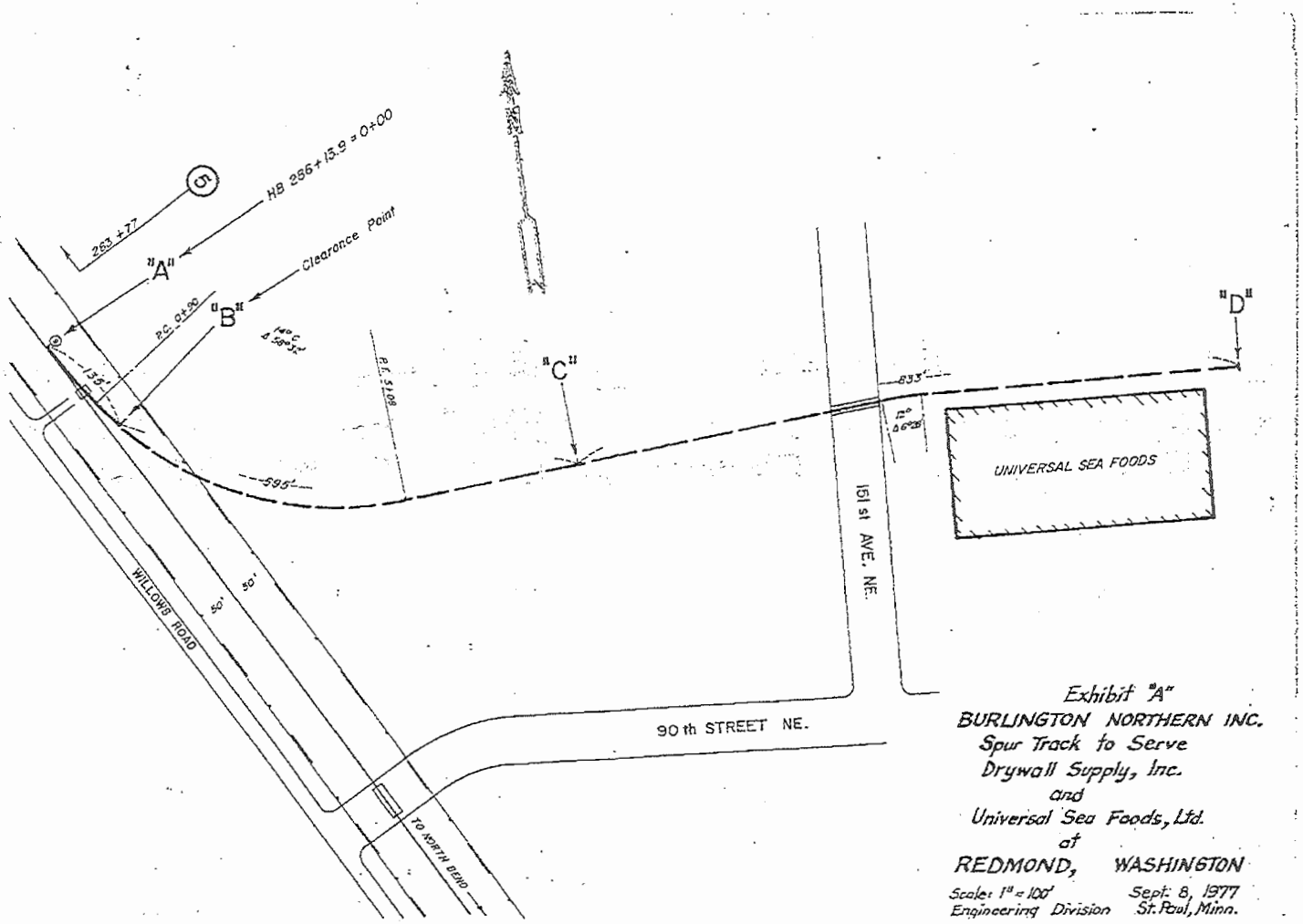

Exhibit "A"
BURLINGTON NORTHERN INC.
Spur Track to Serve
Drywall Supply, Inc.
and
Universal Sea Foods, Ltd.
at
REDMOND, WASHINGTON
Scale: 1" = 100' Sept: 8, 1977
Engineering Division St. Paul, Minn.

D

STAUBACH

A World of Real Estate Knowledge

April 23, 2007

Certified Mail
7006 0810 0002 0912 7609

Drywall Supply, Inc.
P.O. Box 407
Redmond, WA 98052

Re: Cancellation of BN 8650 in Redmond, Washington

Dear Industry:

Presently in effect between Burlington Northern Inc., predecessor to The BNSF Railway Company and Drywall Supply, Inc. is Contract No. BN 8650 dated January 13, 1978 covering maintenance and operation of trackage at Redmond, Washington.

The BNSF Railway Company is exercising its option to terminate this Agreement under Section 9 (a). This letter is your notice that BN 8650 dated January 13, 1978 will be canceled and terminated effective May 23, 2007.

Questions should be directed to your local railroad representative. The Staubach Company is acting as agent for The BNSF Railway Company.

Sincerely,

Shelley Wylie
Associate Transaction Manager

File: BN 8650 – Drywall Supply, Inc.

cc: Reeve Geary – Staubach Economic Development Specialist

3017 Lou Menk Drive Suite 100
Fort Worth, Texas 76131
(817) 230-2660 Fax (817) 306-5521
www.staubach.com

The Staubach Company
provides global coverage through
DTZ Staubach Tie Leung.

STAUBACH

A World of Real Estate Knowledge

April 23, 2007

Certified Mail
7006 0810 0002 0912 7593

Universal Seafoods, LTD.
P.O. Box 94
Redmond, WA 98052

Re: Cancellation of BN 8650 in Redmond, Washington

Dear Industry:

Presently in effect between Burlington Northern Inc., predecessor to The BNSF Railway Company and Universal Seafoods, LTD. is Contract No. BN 8650 dated January 13, 1978 covering maintenance and operation of trackage at Redmond, Washington.

The BNSF Railway Company is exercising its option to terminate this Agreement under Section 9 (a). This letter is your notice that BN 8650 dated January 13, 1978 will be canceled and terminated effective May 23, 2007.

Questions should be directed to your local railroad representative. The Staubach Company is acting as agent for BNSF Railway Company.

Sincerely,

Shelley Wylie
Associate Transaction Manager

File: BN 8650 – Universal Seafoods, LTD.

cc: Reeve Geary – Staubach Economic Development Specialist

3017 Lou Menk Drive Suite 100
Fort Worth, Texas 76131
(817) 230-2660 Fax (817) 306-5521
www.staubach.com

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provides global coverage through
DTZ Staubach Tie Leung.

E

Sum of SUM Units	
Termination Month	Total
1	16
2	18
3	23
4	21
5	29
6	13
7	26
Grand Total	146

Termination	Termination	On Junctio	Off Junctio	Waybill Origin City 333	Waybill Ori	Waybill Destination 333	Waybill De	Shipper Name	Receiver Name	Care of 633 Name	SUM Units	STCC Code	STCC Description	Waybill Date
2010	3		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	3/18/2010
2010	2	CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BLUELINX CORP	BLUELINX	1	2499110	ORINTD STR	1/26/2010
2010	4		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	4/6/2010
2010	5	CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	4/23/2010
2010	5	DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BLUELINX CORP		1	2499110	ORINTD STR	4/16/2010
2010	5	DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BOISE CASCADE LLC	BOISEBLDSOLU	1	2499110	ORINTD STR	4/19/2010
2010	5		GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/22/2010
2010	2		GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	2/16/2010
2010	5	CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	4/28/2010
2010	6		GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	6/7/2010
2010	4	DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BOISE CASCADE LLC		1	2499110	ORINTD STR	3/19/2010
2010	7		GNPR	EXETER	BC	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	LUMBERMENS MERCHANDISING C	QMSDIVWOODTO	1	2499110	ORINTD STR	7/12/2010
2010	1		GNPR	BIRMINGHA	AL	WOODINVIL	WA	NYK LOGISTICS	BLUELINX CORP		1	2499906	SIDING,EXT	12/30/2009
2010	2	CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	2/15/2010
2010	3		GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	2/26/2010
2010	7		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	6/25/2010
2010	3		GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	2/27/2010
2010	5	DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BLUELINX CORP		1	2499110	ORINTD STR	4/9/2010
2010	4		GNPR	FERNLEY	NV	WOODINVIL	WA	TREX COMPANY INC	BOISE CASCADE LLC		1	3071906	PLASTIC LU	3/27/2010
2010	4		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	3/25/2010
2010	5		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	5/18/2010
2010	4		GNPR	EXETER	BC	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE WHITE PAPER LLC	BOISECASLLC	1	2499110	ORINTD STR	4/8/2010
2010	7		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	7/22/2010
2010	5	DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BLUELINX CORP		1	2499110	ORINTD STR	4/23/2010
2010	1		GNPR	FERNLEY	NV	MALTBY	WA	TREX COMPANY INC	BOISE CASCADE LLC		2	3071906	PLASTIC LU	12/29/2009
2010	5	BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	4/30/2010
2010	6		GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	6/15/2010
2010	2	BDW	GNPR	BONNEVILL	WY	SNOJCTEAS	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	2/11/2010
2010	7	CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	7/7/2010
2010	4		GNPR	FERNLEY	NV	WOODINVIL	WA	TREX COMPANY INC	BOISE CASCADE LLC		1	3071906	PLASTIC LU	3/8/2010
2010	2		GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	2/4/2010
2010	2	CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	2/9/2010
2010	7		GNPR	EXETER	BC	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	7/13/2010
2010	2		GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	2/8/2010
2010	1		GNPR	FERNLEY	NV	MALTBY	WA	TREX COMPANY INC	BOISE CASCADE LLC		1	3071906	PLASTIC LU	12/20/2009
2010	2		GNPR	NORSPUR	MN	SNOJCTEAS	WA	NORBORD MINNESOTA	LUMBERMENS MERCHANDISING C	BLUELINX	2	2499110	ORINTD STR	2/8/2010
2010	6	CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	BLUELINX CORP	BLUELINX	1	2499110	ORINTD STR	6/4/2010
2010	3	BDW	GNPR	BONNEVILL	WY	SNOJCTEAS	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	3/1/2010
2010	6		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	6/15/2010
2010	7	BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	7/16/2010
2010	3	CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/1/2010
2010	4	CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE WHITE PAPER LLC	BOISECASLLC	1	2499110	ORINTD STR	4/5/2010
2010	4		GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	4/12/2010
2010	6		GNPR	EXETER	BC	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/25/2010
2010	4	BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	4/1/2010
2010	6	CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	6/4/2010
2010	5		GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/10/2010
2010	7		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	7/15/2010
2010	6	AM	GNPR	ROGERS	AR	SNOJCTEAS	WA	ADVANCED ENVIRONMENTAL REC	SEATTLWSG		1	2429948	BOARDS,FLA	5/24/2010
2010	6	CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/31/2010
2010	3		GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	3/11/2010
2010	5	CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	BLUELINX CORP	BLUELINX	1	2499110	ORINTD STR	4/26/2010
2010	5		GNPR	EXETER	BC	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/21/2010

2010	3	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/4/2010
2010	3 CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	2/23/2010
2010	4 BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	3/19/2010
2010	4 CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	LUMBERMENS MERCHANDISING C	BLUELINX	1	2499110	ORINTD STR	3/15/2010
2010	1	GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	1/19/2010
2010	5	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	4/27/2010
2010	7	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	7/11/2010
2010	5 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/5/2010
2010	4	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	4/14/2010
2010	5	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/2/2010
2010	4 CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	BLUELINX CORP	BLUELINX	1	2499110	ORINTD STR	4/5/2010
2010	1	GNPR	FERNLEY	NV	MALTBY	WA	TREX COMPANY INC	BOISE CASCADE LLC		2	3071906	PLASTIC LU	12/27/2009
2010	3	GNPR	NORSPUR	MN	SNOJCTEAS	WA	NORBORD MINNESOTA	LUMBERMENS MERCHANDISING C	QMSDIVWOODTO	1	2499110	ORINTD STR	2/14/2010
2010	4 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/16/2010
2010	6	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	6/1/2010
2010	6	GNPR	BIRMINGHA	AL	WOODINVIL	WA	NYK LOGISTICS (AMERICAS) I	BLUELINX CORP		1	2499906	SIDING,EXT	6/4/2010
2010	5	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CORP	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/16/2010
2010	7	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	6/22/2010
2010	5	GNPR	FERNLEY	NV	WOODINVIL	WA	TREX COMPANY INC	BOISE CASCADE LLC		1	3071906	PLASTIC LU	4/21/2010
2010	5 CPRS	GNPR	EDMONTON	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/6/2010
2010	7	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	AFAFORPROINC	BLUELINX	1	2499110	ORINTD STR	7/2/2010
2010	7 UP	GNPR	CORRIGAN	TX	SNOJCTEAS	WA	GEORGIA-PACIFIC LLC	BLUELINX CORP		1	2432158	PLYWOOD	6/29/2010
2010	4 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE WHITE PAPER LLC	BOISECASLLC	1	2499110	ORINTD STR	4/12/2010
2010	5 BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	4/16/2010
2010	7	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	AFAFORPROINC	BLUELINX	2	2499110	ORINTD STR	7/4/2010
2010	5	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	4/27/2010
2010	3	GNPR	NORSPUR	MN	SNOJCTEAS	WA	NORBORD MINNESOTA	LUMBERMENS MERCHANDISING C	BLUELINX	1	2499110	ORINTD STR	2/5/2010
2010	5	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	4/17/2010
2010	7	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	7/6/2010
2010	2 BDW	GNPR	BONNEVILL	WY	SNOJCTEAS	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	1/22/2010
2010	2 CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	1/21/2010
2010	3 DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BLUELINX CORP		1	2499110	ORINTD STR	3/2/2010
2010	3	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/9/2010
2010	1	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	1/11/2010
2010	2	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	1/22/2010
2010	3 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/8/2010
2010	2 DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BLUELINX CORP		1	2499110	ORINTD STR	1/21/2010
2010	1 CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	1/7/2010
2010	3 CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	LUMBERMENS MERCHANDISING C	BLUELINX	2	2499110	ORINTD STR	3/12/2010
2010	7 CPRS	GNPR	EDMONTON	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	6/11/2010
2010	5 CN	GNPR	EEDMONTON	AB	MALTBY	WA	TOLKO MARKETING & SALES LT	BOISE CASCADE LLC		1	2499110	ORINTD STR	4/21/2010
2010	1	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	1/12/2010
2010	5	GNPR	DAWCREEK	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	5/13/2010
2010	3	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	3/2/2010
2010	7	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	7/8/2010
2010	1 CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	1/11/2010
2010	7 DQE	GNPR	BROBOW	OK	SNOJCTEAS	WA	HUBER ENGINEERED WOODS LLC	BOISE CASCADE LLC	BOISEBLDSOLU	1	2499110	ORINTD STR	7/2/2010
2010	5	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	4/20/2010
2010	2 CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	1/26/2010
2010	7 BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	7/6/2010
2010	4	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/25/2010
2010	3 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	RICHMOND INTERNATIONAL FOR	BOISECASLLC	1	2499110	ORINTD STR	3/8/2010
2010	7	GNPR	NORSPUR	MN	WOODINVIL	WA	NORBORD MINNESOTA	LUMBERMENS MERCHANDISING C	BLUELINX	3	2499110	ORINTD STR	6/19/2010
2010	7 CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	BLUELINX CORP	BLUELINX	1	2499110	ORINTD STR	6/28/2010

2010	5	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	4/24/2010
2010	2 CN	GNPR	GRAPRAIRI	AB	SNOJCTEAS	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	2/12/2010
2010	4	GNPR	FERNLEY	NV	WOODINVIL	WA	TREX COMPANY INC	BOISE CASCADE LLC		1	3071906	PLASTIC LU	3/16/2010
2010	1	GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	1/12/2010
2010	2	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	2/1/2010
2010	5 CN	GNPR	EEDMONTON	AB	MALTBY	WA	TOLKO MARKETING & SALES LT	BOISE CASCADE LLC		1	2499110	ORINTD STR	4/28/2010
2010	5	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	5/11/2010
2010	1 BDW	GNPR	BONNEVILL	WY	SNOJCTEAS	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	1/7/2010
2010	5	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	5/4/2010
2010	4 CN	GNPR	GRAPRAIRI	AB	WOODINVIL	WA	AINSWORTH ENGINEERED CANAD	BLUELINX CORP	BLUELINX	1	2499110	ORINTD STR	3/24/2010
2010	3	GNPR	NORSPUR	MN	SNOJCTEAS	WA	NORBORD MINNESOTA	LUMBERMENS MERCHANDISING C	BLUELINX	2	2499110	ORINTD STR	2/7/2010
2010	3	GNPR	BIRMINGHA	AL	SNOJCTEAS	WA	NYK LOGISTICS (AMERICAS) I	BLUELINX CORP		1	2499906	SIDING,EXT	1/21/2010
2010	1	GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	1/5/2010
2010	2	GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	1/26/2010
2010	4 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/24/2010
2010	2 UP	GNPR	CORRIGAN	TX	SNOJCTEAS	WA	GEORGIA-PACIFIC LLC	BLUELINX CORP		1	2432158	PLYWOOD	1/27/2010
2010	3	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	2/24/2010
2010	5 BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	5/14/2010
2010	6	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	6/8/2010
2010	1	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	1/8/2010
2010	4	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	3/30/2010
2010	1 CN	GNPR	GRAPRAIRI	AB	MALTBY	WA	AINSWORTH ENGINEERED CANAD	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	12/30/2009
2010	7	GNPR	BIRMINGHA	AL	WOODINVIL	WA	NYK LOGISTICS (AMERICAS) I	BLUELINX CORP		1	2499906	SIDING,EXT	6/21/2010
2010	7	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	7/18/2010
2010	6 BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	5/29/2010
2010	3	GNPR	VALLEY	WA	SNOJCTEAS	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	2/23/2010
2010	4	GNPR	FTSTJOHN	BC	WOODINVIL	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASLLC	1	2499110	ORINTD STR	3/16/2010
2010	6	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	5/25/2010
2010	7	GNPR	VALLEY	WA	WOODINVIL	WA	LANE MOUNTAIN SILICA CO	SPECTRUM GLASS COMPANY INC		1	1441315	SAND,INDUS	6/22/2010
2010	7 BDW	GNPR	BONNEVILL	WY	WOODINVIL	WA	SOLVAY CHEMICALS INC	SPECTRUM GLASS COMPANY INC		1	2812322	SDM CARBON	6/18/2010
2010	3	GNPR	FTSTJOHN	BC	SNOJCTEAS	WA	LOUISIANA-PACIFIC CANADA L	BOISE CASCADE LLC	BOISECASCADE	1	2499110	ORINTD STR	2/22/2010

F

TRAFFIC FROM OR TO BROMART, MALTBY AND WOODINVILLE, WASHINGTON
FULL YEAR 2008 AND JANUARY THROUGH OCTOBER, 2009

UNITS			YEAR		
CITY	CUSTOMER	STCC	2008	2009	Grand Total
		2499906	1		1
Total			**1**		**1**
MALTBY	AINSWORTH LUMBER COMPANY L	2499110		37	37
	BLUELINX CORP	2499110	2		2
	BOISE CASCADE CORP	2421184	2		2
		2499110	134	14	148
		3071906	21		21
		3271945	7		7
	DUNNLBR	3071906	5		5
	JM HUBER CORP	2499110		5	5
	LOUISIANA PACIFIC CORP	2499110		29	29
	LUMBERMENS MERCHANDISING C	2499110	4		4
	MATHEULBR	3071906	2		2
	MOUNTAIN VIEW RELOAD INC	2499110		1	1
	PLYWOOSUPPLY	2439120	2		2
		2499110	1		1
		3071906	4	2	6
	TOLKO MARKETING & SALES LT	2499110		3	3
	WOODTOINDUSA	2439120	1		1
MALTBY Total			**185**	**91**	**276**
WOODINVIL	ADVANCED ENVIROMENTAL RECY	2429948		1	1
	AFA FOREST PRODUCTS INC	2499110	1		1
	AINSWORTH LUMBER COMPANY L	2499110		17	17
	ALSAL FREIGHT FORWARDING	3271940		1	1
	BLUELINX CORP	2421184	5		5
		2432158	7	1	8
		2499110	12	1	13
		2499330	1		1
		2952190	3		3
		3271940	21		21
	BOISE CASCADE CORP	2499110	5		5
	GEORGIA-PACIFIC CORP	2432158		4	4
	JM HUBER CORP	2499110		1	1
	LANE MOUNTAIN SILICA CO	1441315		12	12
	LAREDO TRANSPORT STORAGE	3271940		2	2
	LUMBERMENS MERCHANDISING C	2499110	17	1	18
	NYK LOGISTICS	2499906		5	5
	PLYWOOSUPPLY	2439120	3		3
	SOLVAY CHEMICALS INC	2812322		11	11
	SPECTRGLASS	1441315	74	6	80
		2812322	29	3	32
	SPECTRUM GLASS COMPANY INC	1441315		15	15
	TOLKO MARKETING & SALES LT	2499110		2	2
	WOODTOINDUSA	2439120	1		1
WOODINVIL Total			**179**	**83**	**262**
Grand Total			**365**	**174**	**539**

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iMAP

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Date: 10/28/2010 Source: King County iMAP - Property Information (http://www.metrokc.gov/GIS/iMAP)

King County

iMAP

Legend

- Highlighted Feature
- County Boundary
- Mountain Peaks
- Highways
- Forest Production District Boundary
- Agricultural Production District Boundary
- Urban Growth Area Line
- Incorporated Area
- Streets
  - Highway
  - Arterials
  - Local
- Lakes and Large Rivers
- Streams
- Tribal Lands
- Parcels
- Parks
- Unincorporated KC Zoning
  - A-10 - Agricultural, one DU per 10 acres
  - A-35 - Agricultural, one DU per 35 acres
  - F - Forest
  - M - Mineral
  - RA-2.5 - Rural Area, one DU per 5 acres
  - RA-5 - Rural Area, one DU per 5 acres
  - RA-10 - Rural Area, one DU per 10 acres
  - UR - Urban Reserve, one DU per 5 acres
  - R-1 - Residential, one DU per acre
  - R-4 - Residential, 4 DU per acre
  - R-6 - Residential, 6 DU per acre
- (cont)
  - R-8 - Residential, 8 DU per acre
  - R-12 - Residential, 12 DU per acre
  - R-18 - Residential, 18 DU per acre
  - R-24 - Residential, 24 DU per acre
  - R-48 - Residential, 48 DU per acre
  - NB - Neighborhood Business
  - CB - Community Business
  - RB - Regional Business
  - O - Office
  - I - Industrial
  - Other
- 2007 Color Aerial Photos (6in)
- 2007 Color Aerial Photos (12in)

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  - UR - Urban Reserve, one DU per 5 acres
  - R-1 - Residential, one DU per acre
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(cont)

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King County

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Volunteers tidy up city

Doug Ramsay photo

Ray Burton of Snohomish waters a freshly planted flower in front of the Arts of Snohomish Gallery at the Carnegie Library during the annual Snohomish city spring cleanup day April 24. Volunteers spent much of the day weeding, planting flowers and laying landscaping bark at city parks and buildings throughout town.

Funding delays tourist train arrival
Rail company now hopes to begin service next fall

SNOHOMISH - The train is coming, but not by June.

The time line to bring a tourist train to Snohomish is now scheduled for next fall, GNP Railway chief financial officer Doug Engle said.

Engle apologized to an audience of more than 90 people last week as he explained GNP's plans.

"We're not going to be able to do a full-fledged excursion service in June," he said.

The reason for the delay is funding. GNP is applying for a $23 million federal railroad loan. Because of new regulations put on loans by the Obama administration, the time line has been pushed back, Engle said.

The federal loan is not expected to be completed until September. Train service could start shortly afterward, Engle said.

GNP also must get a $10 million loan to fix up the Snohomish River Bridge so the train can cross the river into the city. The city and GNP are working together on an agreement to let the train cross into town. Once an agreement is reached, GNP can apply for that loan, Engle said.

When the train comes, it will stop south of First Street with a platform that extends toward the bridge. The railway is still working with the city on going past First Street, but Engle praised the view riders will have next to the Snohomish River.

In the meantime, GNP may run a small train between Woodinville and Harvey Field aimed at bicyclists wanting to ride on the Centennial Trail. That train could start in June.

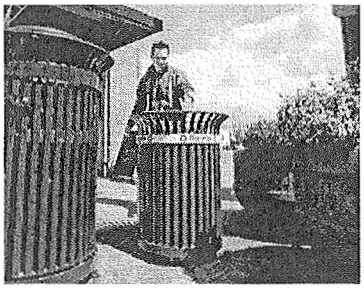
GNP has to run some sort of tourist train by June to fulfill its contract to run on the line.

GNP plans on running two tourist trains. One would start next fall and focus on the history of Snohomish. The other would start next year called "The Tasting Train" and feature local food and wine, Engle said. The railway

has big plans for The Tasting Train including launching a national marketing campaign next year.
GNP also is courting the city of Redmond to have the two tourist trains extend to that city, as well. The original plan was a Woodinville-Snohomish train. Woodinville wineries are OK with the plan to run a nonstop train to Redmond, Engle said.
"The feedback from wineries is to be part of the tasting experience, not get people on and off the train (in Woodinville)," Engle said.
Going to Redmond also will complement long-term plans for southbound commuter service from Harvey Field. The company also eyes a line south of Snohomish to Everett Station for commuter service. That line would connect to Sound Transit's Sounder trains that go to Seattle.
GNP's trains will be diesel. GNP CEO Tom Payne owns one of the four largest steam engines in North America, but that train might only be used for special occasions, Engle said.
Historic Downtown Snohomish president Kimberly McIlrath said HDS is "naturally ... a little disappointed by the delay," but sees promise in GNP's plans.
"We are pleased that GNP plans to take the steps needed to fully develop the level of service they envision and that we in downtown Snohomish have some additional time to prepare an exceptional and unforgettable experience for our visitors when they arrive in our city," McIlrath said.
The meeting was held at the Waltz Building and run jointly by the Snohomish Historical Society and HDS. GNP already has freight service in place and runs up to eight trains a day south of the Snohomish River.

By MICHAEL WHITNEY
Published April 28, 2010

Recycling now an option downtown



Doug Ramsay photo

Evan Westenberger of Mukilteo places an empty plastic water bottle into a recycle bin as he walks by on Hewitt Avenue near Comcast Arena in downtown Everett last week.
With the help of grant money and business sponsorships, the city of Everett installed 10 recycling bins at different street locations.
Now people can recycle their tin, aluminum, glass and plastic drink bottles instead of throwing them in the trash.
For more information or to become a sponsor, call Jack Harris with the city at 425-257-8988 or jharris@ci.everett.wa.us.

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Entrepreneur wheels, deals for Eastside rail

A former locomotive engineer who transformed a failing rail line into Canada's third-largest railroad wants to start a privately operated...

By Keith Ervin
Seattle Times staff reporter

A former locomotive engineer who transformed a failing rail line into Canada's third-largest railroad wants to start a privately operated commuter rail service from Bellevue to Snohomish.

Tom Payne, founder of RaiLink, says "if everybody put the shoulder to the wheel," diesel trains could be carrying passengers by next summer. After replacement of a bridge, trains could continue from Bellevue to Renton, he said.

For months Payne has worked behind the scenes with save-the-rail group All Aboard Washington to put a deal together for privately funded passenger service on the old freight line the Port of Seattle is planning to buy.

Now Payne, who keeps his old engineer's hat and coveralls at the ready, has emerged as the most colorful figure in the movement to save the Eastside rail line. With his full gray beard and plain-spoken manner, he comes across more like a man who worked his way up from brakeman to engineer than the successful entrepreneur he became.

"My whole focus in this," he said, "is let's do the conventional. Nothing extraordinary here. The simpler the better. Conventional stuff on conventional track."

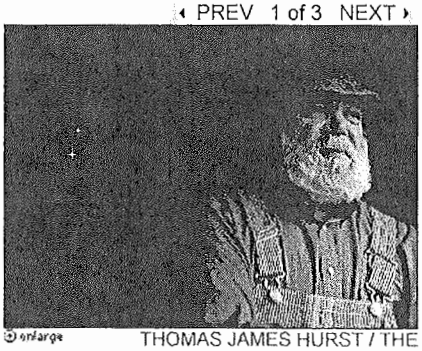
Ordinary diesel engines would pull two-level passenger cars, as on Sound Transit's Sounder trains to Seattle.

Payne and All Aboard Washington are working out the details to present to the Port next month. Until the proposal is complete, they aren't giving a total cost.

But Payne has some estimates.

Building simple stations with open shelters and putting used diesel trains on the existing tracks with modest improvements would cost "in the range of $40 million," Payne said. Replacing the tracks to increase train speeds from 30 mph to 40 mph would cost about $40 million more, he estimates.

‹ PREV 1 of 3 NEXT ›

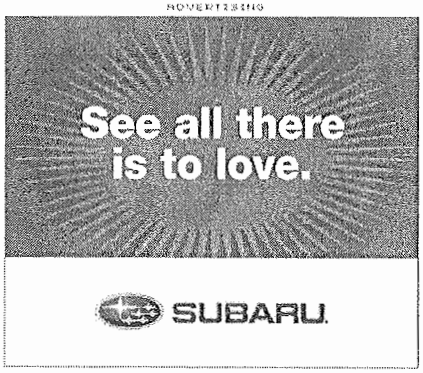


enlarge

THOMAS JAMES HURST / THE SEATTLE TIMES

Former engineer and railway owner Tom Payne says diesel passenger service could start by next summer.

More Eastside News

ADVERTISING


Video

Inside the 787 flight simulator
Boeing instructor pilot Gregg Pointon demonstrates the new Dreamliner flight simulator. The simulator will be used to train new pilots to fly the 787.

Skyline's Kasen Williams

Owners of the Seattle Storm

Seal pup returned to Grays Harbor

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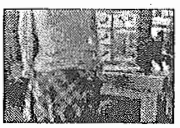
Marketplace

shopping


Shopping
Test your good fortune at Momo's semi-annual sale
More minding the store

events for Friday, Aug. 27

9th Annual Wayzgoose and Letterpress Marketpl...
Fashion's Night Out at The Bravern
Good Fortune Sale at Momo
Camelion Design Anniversary Sale
More shopping events

editors' picks

Garden furnishings
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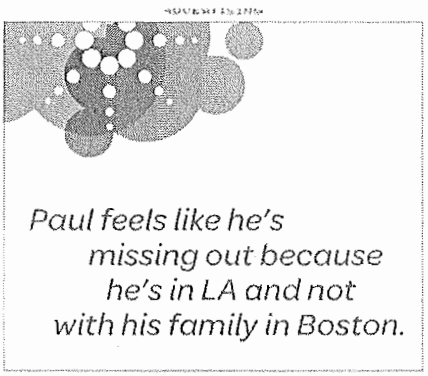
Neighborhood shopping
Pioneer Square shopping
More shopping guides

To start, six trains would run from Snohomish to Bellevue in the morning, and six trains would run the opposite direction in the evening.

Doug Engle, a consultant to Payne's newest corporation, GNP Railway, said the plan is to replace the existing track and, at the same time, install a hiking and biking trail.

"Our proposal is to provide the granddaddy of all trails, paved from end to end, in 2008," he said, borrowing King County Executive Ron Sims' description of the trail.



Port Commission President John Creighton called Payne's concept "intriguing." Metropolitan King County Councilmember Kathy Lambert said, "People will be excited to see a solution that's inexpensive and won't take 20 years to do."

Payne, 58, was an engineer for the Canadian Pacific Railway when he founded his own company, Central Western Railway, to buy an underperforming rural branch line in Alberta from Canadian National Railways in 1986.

He built up the grain-hauling business on the line, which had been in danger of closing. Over the next decade, he bought more lines until he had more than 2,500 miles of track in five provinces — making it Canada's third-largest railroad in track miles.

Payne's company, renamed RaiLink, went public and in 1999 was bought out by RailAmerica for $50 million in cash and $20 million in assumed debt. As 8-percent owner of RaiLink, he walked away with enough money to form his own holding company.

"For a company that started from zero in 1986 with me mortgaging my house and pledging my kids and turning it into a multimillion-dollar company in 10 to 12 years, that's not bad," he said.

Payne was inducted into the Canadian Railway Hall of Fame in 2002 and moved to Tacoma in 2005 to open a tourist rail line the following year. His train, pulled by a steam locomotive, carried passengers from Freighthouse Square to Frederickson.

Tacoma's city-owned Tacoma Rail didn't renew Payne's contract after the first year and signed a deal this year with the Spirit of Washington Dinner Train, which had been kicked off BNSF's Eastside line. The dinner train began service in Tacoma in August and shut down in October.

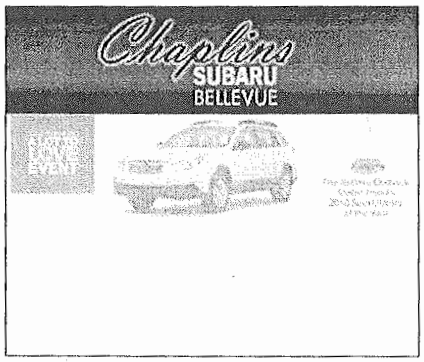
"He's been looking for something to sink his teeth into," Engle said of Payne.

Spirit of Washington Dinner Train owner Eric Temple said Payne's cost estimates seem "completely reasonable" and the track is in good shape.

When All Aboard Washington pitched the idea of commuter rail to Sims' advisers earlier this year, Chief of Staff Kurt Triplett was unimpressed.

Now, as the Port works to sign a final deal to buy the track from BNSF, Triplett said, "The challenge will be: What's your solution, how will you pay for it and how do you get approval from all the entities that matter?"

Payne's next tasks are to complete a ridership study and business plan, strike a deal with the Port, and pull together a financing package that could top $100 million. He also will have to figure out how to add passenger service from Renton to Bellevue after the Wilburton Tunnel bridge is removed for Interstate 405 construction.



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To skeptics who question whether commuters would take a train from Snohomish to Bellevue, Payne lays it out, "Maybe you don't want to do that. Maybe you'd rather drive down Highway 9 at 17 mph. Fine, go do it, but if it was me, I'd be delighted to park at Harvey Field, go get my cup of coffee at the station, get on the train, have Internet access on the train and sit on my cushions all the way down to Bellevue, where I walk across the bridge across 405 to my office."

Keith Ervin: 206-464-2105

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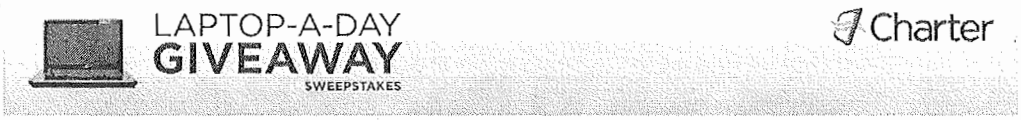

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Eastside rail & trail a great plan

Last updated May 5, 2008 4:54 p.m. PT

By DOUGLAS ENGLE
GUEST COLUMNIST

We're very disappointed that guest columnist Anthony Cresci has resorted to an argumentum ad hominem attack on GNP Railway founder Tom Payne (Thursday).

GNP Railway's efforts have been open and transparent for the highest and best use of this corridor, which are public transit and a trail.

Rails and trails peacefully coexist around the world and in our state. What we don't need is more years of analysis and studies. Let's make up our minds this year and get moving.

Payne received the government of Alberta Reclamation Award in 1997 for the extraordinary environmental job he did rehabilitating a rail line in Canada. That's just part of the reason he is in the Canadian Railway Hall of Fame. But shame on him for being a capitalist and being asked to this party by All Aboard Washington to see if this was feasible.

We've offered to meet with anyone any time, and we've been at many meetings to listen and present. At last report, local governments or representatives are the appropriate body to which any party should make representations. GNP has followed that honorable course and has not resorted to private pressure tactics.

Contrary to suggestion, GNP's plan is thorough, comprehensive and considers all the public interest elements that have been raised in the past year. Public scrutiny of GNP's financial analysis and plans is unwarranted; after all, we are a private firm.

GNP plans to put $24 million for a maintenance-of-way road, a "base"

paved trail within the rail corridor, that King County can enhance and finish out along the "pinch points."

The railway has been operating along this corridor since 1903 and people who bought homes along the tracks did so with eyes wide open. The Eastside Rail Corridor passes a quarter-mile of my home on two sides. Two of my children attend an elementary school next to the tracks. My wife and I each own two bicycles and look forward to the paved trail. Yes, safety is an issue, but one that can be reasonably managed.

Most NIMBYs don't consider global warming an issue, but we do. Getting 10,000 people a day off our roads and onto trains in five years is a nice step toward lowering CO2 emissions in our region. Didn't the state just pass a law to reduce vehicle miles driven? Yes, bicycles are a small part of the commuter solution.

Eastside companies are losing employees who are fed up with the commute. Congestion is a major issue, which is why Washington State Department of Transportation had to make it a priority in 2007 and Microsoft started its own bus service.

We're adding 18,000 jobs in Bellevue this year with no plan to alleviate the congestion. GNP is willing to take the $200 million risk to bring a Bellevue-Snohomish transit solution. How many commuter rail lines make a profit in North America? Just a few, so this won't be easy or without risk.

GNP's position is simple -- rails and trails *now*. No more years of study and process. Let's sort this out in 2008 and get on with it.

Douglas Engle of Kirkland is CFO of GNP Railway Inc.

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The Seattle Times

Thursday, February 4, 2010 - Page updated at 04:26 PM

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Eastside commuter rail and bike trail could be built fast, some say

Katherine Long

Three members of the Bellevue City Council were all ears Wednesday night when a California rails-and-trails advocacy group told how they mustered voter support for a 70-mile commuter rail line through Marin and Sonoma counties -- complete with a bike trail along the entire route.

Why are rails-with-trails so interesting to Eastsiders? Because the Port of Seattle last year purchased the BNSF Railwayrail corridor, which runs through the Eastside from Renton to Woodinville, and on to the town of Snohomish in Snohomish County.

There's a $50 million chunk of voter-approved money in the Sound Transit budget that could be used in partnership with a private firm to help get a commuter train running on the BNSF corridor.

And there are some aggressive players who want to see a commuter rail line brought to this area, fast.

On Wednesday, the Cascadia Center of the Discovery Institute organized a bus tour along the rail line. (The center is a public policy think thank that's been advocating rail options.) Newly-elected councilman Kevin Wallace went along for the bus ride (he could be heard talking up the benefits of the Vision Line alignment for East Link light rail with a councilman in a neighboring city). For dinner, Mayor Don Davidson and Councilwoman Claudia Balducci joined the group, along with council members from Redmond, Newcastle, Woodinville and elsewhere.

About that $50 million. Sound Transit is likely to issue a request for proposals, possibly later this year, to try to find companies that would be interested in partnering with the agency to bring some kind of commuter rail to the Eastside, using the BNSF line, said Joni Earl, Sound Transit chief executive officer.

Who would be interested? Doug Engle, the chief financial officer of GNP Railway Inc.,laid out an aggressive, ambitious plan to convert portions of the rail line into a commuter service line in years, rather than decades. A special rail-fixing machine could be used to repair and renovate the line while simultaneously removing the old rocks, or ballast, from underneath the rails and creating a gravel pathway next to the line -- the base layer for a new bikeway. And Engle claimed the company could do the renovations for one-tenth the cost a public agency would pay, renovating a mile of track a day.

That raised a few eyebrows in the room.Earl wanted to know why GNP could do the work without jumping through all the environmental hoops that would be required of a state agency. Engle's answer: GNP recently won federal government recognition as a federal railway.

"The beautiful part of being a federal railway," said Engle, "is the state has no jurisdiction over us."

In other words, GNP wouldn't have to jump through environmental regulations because it's a recognized railway, using an existing rail line that was very recently used for trains. The fixes to the rail line, and yes, even building the bike lane, would amount to maintenance work, Engle said.

Even Cascade Bicycle Club president Chuck Ayers, also at the meeting, seemed intrigued by the idea of simultaneously building a commuter rail and a bike trail in the corridor, and doing it fast.

But Shawn Etchevers, a member of the steering committee for Eastside Trail Advocates, said his group is leery of the idea of running a rail line through the entire corridor.

In the Houghton neighborhood of Kirkland, the railway is narrow and houses back up right next to the line. Etchevers' group's mission is to create pedestrian and biking trails along the corridor. The entire line would make a great walking and biking trail, he said. But in some narrow places, Etchevers says, a rail line just doesn't fit.

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Published: Sunday, August 2, 2009

Is Snohomish rail project on the right track?

The man proposing a tourist train for the city has had success and failure in past ventures

By Debra Smith
Herald Writer

SNOHOMISH — Tom Payne has an offer Snohomish doesn't want to refuse.

The railroad operator wants to bring a train into the heart of downtown.

A shiny steam engine would deliver hundreds of tourists and their dollars every weekend to downtown shops and restaurants — an economic booster shot right when and where the city needs it.

Payne already has secured running rights on a stretch of track from Woodinville to Snohomish. What he doesn't have is the OK from city leaders to bring that train across the Snohomish River and into the city.

The question is: Should the city let him?

Payne, a 60-year-old former railroad engineer from Canada, has a history of great success and at least one dismal failure in rail operations.

His most recent operation in Tacoma, Golden Pacific Railroad, broke down under crippling debt and lawsuits. Snohomish officials say they know some of the story, but acknowledge they haven't delved deep.

Payne said he understands why his business record might raise questions. He has answers, he said.

"Any controversy over the business affairs of GPRR is inevitable, in that the corporation failed," he wrote in a letter to The Herald. "Both successes and failures are part of business life."

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Most of what people seem to know about Tom Payne is what happened in Canada.

There, Payne, a native Canadian, did something extraordinary. After a years-long legal battle that went all the way to the Canadian Supreme Court, Payne convinced the Canadian federal government to let him run a small regional railroad freight operation in Alberta.

Until then, a few mega rail companies had monopolized the rail system in Canada. Payne turned his regional operation into a money-maker, and sold it for millions in 1999. That earned him a spot in the Canadian Railway Hall of Fame.

He also started an excursion train operation in Alberta that is still running today under different ownership.

What's less known about Payne is what happened later in Tacoma.

In 2005, he helped form a company called Golden Pacific Railroad Inc. That company planned to set up an excursion train with Tacoma Rail, a city-owned railroad operated by Tacoma Public Utilities. The train would take passengers on a 14-mile ride to Fredrickson, also in Pierce County.

The venture ended badly after a single season of operation.

Investors in the company, including Payne, lost hundreds of thousands of dollars. One Canadian investor lost more than $1 million.

Golden Pacific often paid its bills late and still owes about $12,000 to Tacoma Rail.

The company left a trail of unpaid bills with the people it did business with. At least three companies filed suit seeking payment.

Payne said he stopped running the company before things went bad.

Others closely involved with the company tell a different story.

"We all share some blame," said Mike Pierce, a former officer of the company. "But our biggest mistake was not reining Tom in fast enough."

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In 2008, some city leaders got excited when they learned a railroad operator wanted to bring a train to Snohomish.

Some in the city predicted a train could bring as many as 60,000 tourists to

Snohomish every year.

Burlington Northern Sante Fe owns a stretch of track that runs from Woodinville to Snohomish. When the rail company wanted to sell the track, the Port of Seattle decided to buy it to keep the corridor in use as a rail line. The worry was that a new buyer might rip out the tracks and a transportation link would be lost.

The port, along with BNSF, chose Payne and his company to operate freight along the line. As part of the agreement, GNP Railway has to start a tourist train, too.

The port's purchase of the corridor is on hold until the bond market improves. Port officials have said they are committed to buying it.

The City Council set up an advisory committee. In a year of meetings, the committee researched things such as train station options, parking and traffic.

What the committee didn't do was look into Payne's business plan or background. That wasn't the committee's purpose, said Karen Guzak, a city councilwoman who sat on the committee.

City staff did vet Payne's background but not deeply, said city manager Larry Bauman.

They do know about Golden Pacific's failure in Tacoma, and they don't have any major concerns about what they've found, he said.

In its background check, the city became convinced that Payne wasn't primarily responsible for the company's failure, and he even went above and beyond to repay debts he wasn't responsible for paying, Bauman said.

Bauman said he had not heard about some of the lawsuits and unpaid bills involving Golden Pacific.

"We understood the project fell apart," he said.

The city worker who conducted those checks was on vacation and couldn't comment for this story.

City leaders entered into a confidentiality agreement with GNP Railway. The city agreed not to discuss any proprietary information GNP might provide. However, the city has received scant information that could be considered proprietary from GNP Railway, Bauman said.

In a public meeting in May, concerned Snohomish residents questioned Payne

about his business background and plans for Snohomish. They asked if he had completed a marketing study or a business plan.

Payne told them that the details of his business are private and he couldn't conduct a marketing study until he had firmer plans on where the tourist train would let off passengers.

It's important to note that the city didn't choose Tom Payne or his company, Bauman said. The Port of Seattle and Burlington Northern Sante Fe Railway were in charge of that.

The only trump card Snohomish holds is the ability to give Payne access to a city-owned rail corridor that stretches from the Snohomish River north along the route of the Centennial Trail, bisecting residential neighborhoods and busy city streets.

Snohomish officials want to proceed cautiously, Bauman said. That's one of the reasons they plan to hire an attorney with experience in federal railway law, an area of law that he characterized as fairly complex and arcane.

City leaders are worried that once they cede the corridor, they might have little control over what happens along it.

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Tom Payne said he's not responsible for the failure of Golden Pacific Railroad and that there is no connection between the Tacoma venture and his new company, GNP Railway.

In a four-page letter to The Herald, Payne blamed the failure of Golden Pacific on "undercapitalization and the failure of that corporation to complete its long-term finance of the business."

Payne said his Canadian company, Tom Payne Holdings Inc., lost more than a half-million dollars in the venture. He severed all ties with Golden Pacific in 2007 and has no knowledge or responsibility for any unpaid debts Golden Pacific may not have settled, he said.

He also said his immigration status limited his ability to manage Golden Pacific and he stepped out of the picture before things went wrong.

He resigned as president in February 2006 and instead began serving as secretary and director of Golden Pacific. As an alien worker, his authority to serve as director of Golden Pacific was limited. That burden fell on his U.S. partners, he said.

At least one former business Payne worked with, Coast Engine and Equipment Corp. of Tacoma, concurs that Payne didn't appear to be responsible for the lion's share of the decision-making.

The president of that company, David Swanson, said two U.S. officers seemed to call the shots.

"If Tom was in the picture, he was in the background," he said.

When Swanson dealt with Payne's other company, which owned the locomotive, bills were paid fully and on time. He said he considered Payne a "responsible businessman."

Swanson's company is still owed thousands by Golden Pacific for repairs, and that's not Payne's fault, he said.

Golden Pacific appeared to be in trouble before Payne stepped aside, Swanson said. The company had already missed a season because the locomotive wasn't ready. A company can only sustain delays so long, he said.

The U.S. partners said Payne bears some responsibility.

The venture in Tacoma failed after a series of bad decisions and unanticipated problems cost the business hundreds of thousands of dollars more than expected, said Pierce, the former Golden Pacific vice president.

Pierce pinned most of the blame on Payne.

Pierce, who owns an Oregon tour bus company, met Payne through a railroad brokerage firm. Pierce wanted to start an excursion train and Payne had access to a steam locomotive in Canada. It seemed like a good business partnership.

Problems emerged almost immediately, starting with Payne's attempt to move the steam locomotive across the border to the United States. A lien against the locomotive delayed the move.

When the locomotive did arrive, it required a quarter-million dollars of work. It didn't have enough oomph to climb a steep railroad grade.

Another officer in the company had six passenger cars moved to Tacoma that turned out to need substantial work, too.

By 2006, "everyone was coughing in dollars," Pierce said.

Sometimes Payne made decisions and spent money without clearing it with the board first, he said.

"All these bills were coming due and we didn't know anything about it," Pierce said.

Lou Schillinger, who took over as president of Golden Pacific when Payne resigned, said the company was in trouble before he took over and Payne's immigration status "had nothing to do with anything."

Schillinger originally got involved with Golden Pacific as an investor. He runs a Midwest insurance company and knows nothing about the day-to-day operations of running a railroad. That was supposed to be Payne's job, he said.

"He was the de facto decision maker," Schillinger said. "He was the only qualified railroad operator in the group. The rest of us were white-collar businessmen."

He said he ended up paying thousands of dollars more than expected and took over running the company to protect his initial investment. He is now trying to pay back some of the company's debts.

In retrospect, Payne's business plan didn't address some things it should have, such as potential interest in a tourist train in Tacoma, Schillinger said. It was assumed that if they brought the train, customers would come.

Almost immediately, Payne had trouble getting along with the management at Tacoma Rail. Miscommunication with Tacoma Rail also led to more expenses.

For instance, Schillinger said Payne told him that Tacoma Rail agreed to a certain price for storing rail equipment. Tacoma Rail wanted to charge 10 times more.

"I think he means what he says, but he overpromises," Schillinger said.

Debra Smith: 425-339-3197, dsmith@heraldnet.com.
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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-6 (Sub-No. 463X)

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Redmond Spur, MP 0.00 to MP 7.30)

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

BNSF RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN KING COUNTY, WASHINGTON
(Woodinville Subdivision, MP 11.25 to MP 23.80)

STB Finance Docket No. 35407

GNP RLY INC. – ACQUISITION AND OPERATION EXEMPTION – REDMOND SPUR AND WOODINVILLE SUBDIVISION – VERIFIED PETITION FOR EXEMPTION PURSUANT TO 49 U.S.C. § 10502

VERIFIED STATEMENT OF TERESA POTTER IN SUPPORT OF THE COMMENTS OF KING COUNTY, WASHINGTON REGARDING PETITIONS OF GNP RLY INC.

I, Teresa Potter, do swear and affirm the following to the best of my personal knowledge:

1. I am presently employed as a paralegal and office supervisor in the King County Prosecuting Attorney's Office (KCPAO). I have been a KCPAO office supervisor for nearly ten years and a paralegal for more than twelve years. Prior to that I was employed as a legal secretary for the KCPAO (1997-1998), and from 1995 to 1997 I was employed in various capacities in the private law firm of Jerome R. Cronk, P.S., including as a legal file secretary and office manager/paralegal.

2. In my work over the past fifteen years, I have sometimes been asked to transcribe recordings such as voice mail messages, tape recordings, or video recordings. This is not a task I perform on a regular or daily basis but it is one that I perform from time to time, and it is a duty I have performed on occasion over many years, both as a paralegal and in my prior work as a legal secretary.

3. In October 2010, and in connection with the preparation of King County's comments on the above-captioned matters, I reviewed video recordings of portions of the following city council and commission meetings:

- January 19, 2010 meeting of the Redmond City Council;
- March 9, 2010 meeting of the Woodinville City Council;
- March 24, 2010 meeting of the City of Kirkland Transportation Commission;
- March 30, 2010 meeting of the Redmond City Council; and
- April 28, 2010 meeting of the City of Kirkland Transportation Commission.

4. Video recordings of the meetings listed in paragraph 3 are available online at the following websites or uniform resource locators (URLs):

- City of Kirkland Transportation Commission (meeting agendas and minutes indexed by date):

  http://www.ci.kirkland.wa.us/depart/Public_Works/Committees___Commissions/Transportation_Commission.htm

  Video of the Commission's March 24, 2010, meeting is available online at:

  http://kirkland.granicus.com/mediaplayer.php?view_id=13&clip_id=1801

  Video of the Commission's April 28, 2010, meeting is available online at:

  http://kirkland.granicus.com/MediaPlayer.php?view_id=13&clip_id=1828

- Redmond City Council meetings (agendas, minutes, video indexed by date): *http://www.redmond.gov/insidecityhall/citycouncil/meetings.asp*
- Woodinville City Council meetings (agendas, minutes, video indexed by date): *http://woodinville.granicus.com/ViewPublisher.php?view_id=2*

5. Upon reviewing the video recordings listed in paragraph 3, I transcribed, to the best of my ability, portions of certain statements or presentations made by the following individuals:

- January 19, 2010, meeting of the Redmond City Council: Doug Engle
- March 9, 2010, meeting of the Woodinville City Council: Tom Jones
- March 24, 2010, meeting of the City of Kirkland Transportation Commission: Tom Jones
- March 30, 2010, meeting of the Redmond City Council: Doug Engle, Tom Jones, Tom Payne
- April 28, 2010, meeting of the City of Kirkland Transportation Commission: Doug Engle

6. My transcriptions are set forth in paragraphs 8-12 below. Although I am not a certified court reporter or stenographer, I used my best efforts to carefully listen to each person's statement or presentation and to write down what I heard and, in some instances, to briefly describe what I saw on the video recording, where I thought that it might be helpful in adding context to the statement or presentation.

7. I reviewed each recording multiple times in order to doublecheck the accuracy of my transcriptions, and to note the approximate video "running time" at which each speaker

made the comments that I transcribed. This is my usual and ordinary practice when I transcribe lengthy video recordings.

8. Upon viewing the video recording of the January 19, 2010, meeting of the Redmond City Council, I understood Doug Engle to say (approximate video running times shown in bold **like this**):

7:22 – 9:58:

"We are planning to initiate excursion service on the corridor some time after Memorial Day this summer. This service would be primarily on weekends but we can envision some possible weekday service should the demand warrant. That service would be passenger rides between the City of Snohomish and as far south as what's known as milepost two point five – essentially northeast 124th street right along JB, uh, Turf farm property."

"We anticipate return stops at the, uh, north Woodinville wine district in near Chateau Ste Michelle. This excursion train will allow riders to enjoy the restaurants, antiques, art shops and seasonal events in Snohomish but will also promote the wine-tasting industry and their events in Woodinville and concerts at Ste Michelle and the Redhook movies. We anticipate that other services and events will evolve. We also desire to help develop methods to handle purchases by our riders and retailers to in assisting the passengers to get their purchases back to the train and back down to their cars or their vehicles."

"We understand that the city of Redmond is finalizing the purchase of the BNSF corridor that lies within your city limits from the Port of Seattle. We appreciate that the track in downtown is an eyesore and a physical partition that can better serve the citizens of Redmond and it needs to be improved."

"From the very beginning GNP has supported rail and trail. We are looking for other ways to bring our excursion trains the remaining four point eight miles from Chateau Ste Michelle to downtown Redmond. All that would take is the Port and the City of Redmond's invitation. We believe the passengers will enjoy their experience more by spending more time in the originating destination in downtown Redmond versus the field—originating their trip from the field up at JB Farms."

"The business for restaurants, hotels, shops and events in downtown Redmond could all benefit and we would initially be willing to try this service at no cost to the track, taxpayers of Redmond. We'd like to thank, I'd like to thank you for the chance to present these remarks. I am willing to answer your questions right now or at your invitation, return for a meeting or presentation at any of your study sessions."

15:08 – 15:55:

"We've got eight hundred and fifty thousand people a year that come in to the, uh, to the, for the cruise ships, and they're constantly looking for new activities, etcetera. And we think, personally I believe the best origination would be to get them here to Redmond and then bring them up to Snohomish, stop at the wineries on the way back, and then have them disembark here in Redmond. And I can't think of a better spot than Redmond Town Center because they can go to either side and, again, we can [gestures quotation marks] package up the experience that we want to have out of this. If we could get thirty-thousand riders, which is just over five percent of the, uh, uh, cruise ship total, I think we would have a very successful business to grow from."

18:07 – 19:17:

"Basically, I think what you're, what you see with Cascadia—and Tom Jones is here tonight—um, we have both been, uh, working diligently for the past two-and-a-half years to make sure that, number one – the rail was kept in public hands that that was the most important thing we needed to get done. Finally that is done. And then number two—how do we maximize the public utility, the public benefit of holding that together. And as a federally regulated railway there is, there is a lot that we can do to help, uh, local communities and anyone along the track who wants to work with us. We have access to federal railway association money—administration money—excuse me, uh, low interest presently it's at four percent and that can go down from there to help finance these activities so we're very interested in what Cascadia is doing and at the same time I think mostly what you're seeing here is that our interests are parallel like the rain tra...the rail tracks are right now."

9. Upon viewing the video recording of the March 9, 2010, meeting of the Woodinville City Council, I understood Tom Jones to say (approximate video running times shown in bold **like this**):

33:45 – 34:24:

"They [GNP] have a plan to approach the, um, uh, uh, ocean liner industry, down at the port, the few, the Alaska ships, to bring people out to Redmond – stay in the hotels in Redmond, uh, the—the day before or after your trip and take, go up to visit the wine country, go on up to Snohomish, visit the antique shops, the galleries, come back down, maybe stop again spend the night in Redmond, uh, uh, a lot of restaurants within walking distance. And, so, there would be two stops [gestures with both hands] here on that excursion train and one uh, ending up in downtown Redmond."

34:36 – 35:28:

"Um, they [GNP] have a couple of different ideas they're kicking around. One is to put a baggage car on the train and the baggage car would serve two purposes. The front half would be converted to some kind of a bistro where, uh, a winery, a brewery, a candy shop could go in and

for the day, would be their day, to sell or, uh, give away their wares, in that, in that half. The back half is for bicycles. Put your bicycle on the train down in Redmond to go up to Snohomish and ride back or vice versa. Um, you could also, one thing that the wine people told them is the past train, when the dinner train was operating, people would get off at Columbia and walk in and buy a couple bottles of wine and get back [gestures with both hands as if carrying bottles], and get back on the train because that's all they could carry. Buy a case, we'll load it in the baggage car for you. When you get to the end of the line we'll unload it and take it to your car. The wineries liked that idea. They thought that was a pretty good idea."

40:48 – 41:43:

They [GNP] have access—this is the other thing—uh, they have—the railroad has access to a federal—I always get it wrong—a federal pot of money that's called R-R-I-F: Railroad reconstruction and infrastructure financing. It's a 35 billion dollar program, 35 year money, at the federal rate of interest, which is one or two percent. So, they [GNP] can, they can act as the agent for anybody. One thing they [GNP] have talked about is, I understand you may want something done with this bridge down here. They [GNP]—they could, uh, lengthen the bridge, they could be your agent, they could do that and borrow the money, the only thing would be, you pay back—uh, you, you pick up the yearly tab at a 35 year [term] at one or two percent interest. You can't—nobody—no public agency can borrow money at that rate. And they're willing to do that.

41:45 – 42:19:

"I probably should mention they [GNP] have received a categorical exclusion. This—the antennaes will go up on your environmental people. Uh, the federal government has given them [GNP] an exclusion from NEPA. Any works they do on the corridor for rehabilitating the corridor, as long as they stay within the right of way of the corridor, they don't have to do NEPA or environmental analysis. It's like repaving a road to them; you—you do the analysis if you had to build a new road, but to repave it or maintain it, you don't. And that's what the exclusion is about. So they can get it done quicker, cheaper."

10. Upon viewing the video recording of the March 24, 2010, meeting of the City of Kirkland Transportation Commission, I understood Tom Jones to say (approximate video running times shown in bold **like this**):

55:45 – 57:33:

"They [GNP], um, are delivering freight. If you go up to the junction where the Sammamish River trail goes across the railroad tracks, you will see there fenced in – it says it looks like it's in prison – their red locomotive and their caboose and there's a high-railer and a, a office there

now. Uh, they [GNP] are delivering freight from the City of Snohomish down to that point in Woodinville. The Burlington Northern offloads freight cars up in Snohomish and two/three times a week they pick 'em up and deliver them along the line and their experience since January is it's picking up. The freight's picking up. They [GNP] have announced their intention to, uh, provide excursion service on the line. Uh, think dinner train only different. They're gonna run from the City of Snohomish down to the Ste Michelle winery and they have gone in, unannounced, to the City of, uh, Redmond and asked the council 'can we come, would you invite us to come all the way down in to Redmond to Town Center and we would start and end on various trips, the excursion train, from the City of Redmond, uh, to Snohomish.' Uh, we have all been invited in to the Redmond city council to make a presentation and talk about that with them and I understand there is a lot of interest in that. There's a lot of interest from Town Center with all the restaurants and shopping and theaters. Uh, on the other end of the line, the wine industry in Woodinville, uh, there is a unanimous, uh, council, um resolution coming from Woodinville in support of doing, uh, rail and trail in the corridor. And, we're trying to get that from the City of Redmond at this point. Uh, their [GNP's] intention is to do that and they said once we've done this excursion and put excursion in, it's very, uh, easy for us to put commuter rail on that corridor."

1:08:02 – 1:10:20:

"We think of, this could be done very utilitarian—both the rail and the trail. And, one, the, the, the rail would be done with DMUs which are self-propelled, um, European-style rail cars. [Showing Powerpoint slide] And the, wu, the, one at the top is done in Portland. The one in the middle opened Monday in Austin, Texas. The one at the bottom is the one that, uh, Siemens is proposing for, uh, the Sonoma Marin system. So, we could talk about DMUs. We could talk about the County process. We could talk about Sound Transit's fifty million dollars. We could talk about your process. Your process is the most important one as far as I'm concerned. You gotta decide – you're right in the middle of the corridor.

"You've got citizens who make a very good case for putting a trail in there. I understand your question [points to someone off camera]. They don't at this point. There's no money for this trail. You don't have money to buy part of this corridor. I hear today that the County may not have the money to buy their part. The railroad has access to long-term, low-interest, federal railroad money to rehabilitate the corridor. They have said that they would build a base trail where on the, in the, where it's easy along the corridor. They take out the ballast, grade it off to the side. I have a couple pictures of that that we've been able to find in the country. But I want to just..." [using computer]

"You know, we haven't focused on how you do the trail, but we did a little bit this week. We went up and we started looking at this. This is how you add a trail to existing bridges. You cantilever it off to the side. Those are six-inch, six-foot timbers off to the side. They can easily be ten-foot, the structural engineers tell us. And then what happens with that? Well, what happens after you get that, is you get—that [shows Powerpoint slide]. They put that on there for an access road for their maintenance people or an access pathway for their maintenance people. You take those timbers out to ten feet. You put a really substantial rail on the outside. You put a

rail on the inside. You put a metal grating down on top of that, and you've got the trails, you know, built on an existing railway structure."

1:14:35 – 1:15:35:

"If you guys [City of Kirkland] go to build a new road, you gotta do a NEPA process if you're going to put in a new highway or road, and it's fresh road. If you're going to repave that road, you don't. If you're going to put a, I, I—I don't think the city does any NEPA process for repaving, do you?" [Answer: "No."] What's the difference between putting down, uh, ties, new ballast, ties and rail? They're repaving the railroad so they have a categorical exclusion from the federal government. That's exactly the, the rationale and to do that, to put down new ballast, ties and rail and to rebuild any of the structures, they have that in hand from the federal government. So they can rehabilitate that corridor, uh, without having to do any NEPA analysis on it.

[Question: "So one question on that. That rehabilitation then, wouldn't, by definition, not include building a trail then, right?"]

"It wouldn't. No, wait a minute. I'm going to take that back. Anything they do within the right of way on that corridor is within that exclusion."

11. Upon viewing the video recording of the March 30, 2010, meeting of the Redmond City Council, I understood Tom Jones, Tom Payne, and Doug Engle to say (approximate video running times and individual speaker shown in bold **like this**):

1:28:38 – 1:30:50: Tom Jones:

"You take out, you have a pedestrian bridge on the steel trestle that goes by, uh, Kentucky Fried Chicken. It's, it's one path wide but it's built on to the steel trestle. That's much easier to do. This is how you do it on a, on a wood trestle. [Pulls up Powerpoint slide.] You take out about every sixth tie and you put a longer tie in. Let me go to the next picture. And you get what looks like—that [shows slide]. Ok? Now, these only stick out six feet. They could go out ten feet. The reason they stick out, they only want a maintenance path for their maintenance people if they're out on the bridge and a train comes. But you go to, let me just show you what happens at the end. You go to—that [shows slide]. Now take a look at the ends of those eight-by-eights that are sticking out there. You take 'em out ten feet. You put another four courses of timber down. You put down, uh, metal grating and a better fence, uh, right exactly down the center of the picture is the envelope of the train, a fence there and a fence on the outside and there's your crossing, uh, for the wooden trestles. This won't apply everywhere, but it could apply in several of the places along the track. This could be done on the old Wilberton trestle."

"Now, um, I, I should mention that the alternative that Bellevue is talking about, that they have identified as their preferred alternative that the Sound Transit Board is going to consider, would

allow DMUs to go right into the center of Bellevue—wouldn't have to rebuild the Wilberton tunnel. They could both use that alignment. There's a way to do that if the region wanted to do it but this is, this is just one way that you could address that. There are, every time there's a trestle, if there's a trail you're going to want to get down to the street level so people can get up on to the trail and down so you're going to have to build ramps. I'm going to let the railroad talk about that because, um, I don't want to steal their thunder but you can build what's called a maintenance away road for their service vehicles and, uh, that's going to be pretty much a lot of the trail."

1:33:58 – 1:34:19: Doug Engle:

"You can put the bikes on one side and the trail on the other. So what we advocate, and we have advocated from the very beginning, is rail and trail. And from what we can tell, the solution when it comes to, uh, bridges is readily available. It's really not a problem."

1:40:18 – 1:41:10: Tom Payne:

"In anticipation the Port's acquisition of the corridor, we concluded an agreement with Snohomish County for the pro—provision of freight and passenger services pursuant to these federal laws. For a piece of corridor that Snohomish County owned at the northern end of the corridor that enabled us to get our certificate of public convenience and necessity. At the end of the process, um, there was a third party operator selection. It was, it was publicly bid. We were the successful bidder and, uh, we've purchased the Burlington Northern Santa Fe's rights, which is a permanent easement attached to the land, uh, we purchased their rights to acquire and operate the freight line on the corridor so anything runs on top of us from Woodinville north."

1:41:12 – 1:42:15: Tom Payne:

"I know that, um, there's a lot of controversy about how come, uh, it seems that, uh, environmental rules don't apply to railways. We're a different leopard. We're a black leopard. The other leopards have spots. It's a different legislative creature from transit. It's a completely separate act with respect to transit. So, uh, we are under the National Environmental Policy Act as administered by the Federal Railway Administration. It's not administered by the Environment Department. So when we get the authority to acquire, operate a line we can maintain it, improve it, and keep it in an operable condition. While initial construction for the rail line requires authority from the STB, improvement to existing lines does not require an additional license or environmental review which is necessary to remedy wear and tear and meet the changing needs in the market for services."

1:42:57 – 1:44:06: Tom Payne:

The Federal Railroad Administration has the ability to "issue a categorical exclusion to railways under the National Environmental Policy Act, which, uh, we've received. So, uh, I brought a copy of our categorical exclusion approval with a little letter for you as asked for by your

council. So we're pleased to, uh, uh, provide it. So, uh, what that means is that all of the environmental issues that surround us in the course of rehabilitating the track, uh, building our stations, building our shops, operating the railway have gone through all of the requisite or necessary environmental approval processes, and they've issued our categorical exclusion, which is a great document because we can start doing the work anytime as soon, and we shall, as soon as our, um, loan's approved."

1:44:10 – 1:45:12: Tom Payne:

"The line from Redmond to Woodinville, quite plainly, needs a lot of work. It needs ties, uh, interestingly enough, the steel, uh, the joints can be welded quite simply, uh, so you could have, uh, uh, an operable service to Woodinville with, uh, ties and ballast and some joint-welding, uh, on the five miles from Ste Michelle, uh, winery south to Woodinville. Uh, [someone off-camera corrects Mr. Payne], to Redmond. Sorry. Woodinville to Redmond. You could put this in service, uh, typically, uh, rail, steel and tie gangs do a—hmmm ... if you were completely replacing the track, concrete ties, new ballast, welded rail—do a mile-and-a-half a week. A manual gang would do a mile every three days, four days for light maintenance and tie insertion and tidy up and [inaudible] which I think presents, uh, uh, you with an extraordinary opportunity."

1:51:30 – 1:54:51: Doug Engle:

"What the recommendation back to us was the name of the Bounty of Washington, the tasting train. And the trays, tasting train playing off of, not only the wineries we have here in the area but also the natural foods, etcetera, the, uh, fresh flavors we have out of the Puget Sound in the way of our fish, etcetera. Such that that's what we would want to promote nationally in 2011."

"This year what we're looking at is how do we begin. What we have said all along from our inception is an incremental approach. And that is one of, let's get started. We don't have to wait until every light in town is green before we start moving through the traffic lights. When the one in front of us is green, we're going to move, and we'll just keep right on moving. And we've run across parties that say, 'Oh no, it can't be done.' Fine, we just keep moving. And that's really what GNP is all about. We're not trying to create 20 million dollar stations. We're about creating 2 million dollar stations so that we can get started with this."

"Some of the feedback that we've got is that, (A) [gestures quotation marks], it needs to be first class. But we also need to be able to accommodate families. So as we're looking at the over four hundred thousand people that come to the Puget Sound area for cruise ships, we also need to be able to look at our local families and their ability to get on and enjoy this. And I know from my family's side, that the pumpkin routine up in Snohomish is a bless—is a positive and I also know that going up there and getting a Christmas tree is a positive. And to that end, what we've thought about in the way of the excursion train is having a baggage car and a baggage handler that can actually accommodate the tree and the pumpkins and making it easy for local folks to go up, get on the train, go up and back, enjoy it."

"One of the biggest failings of the dinner train as it relates to Ste, uh, Chateau Ste Michelle where it did a stop was it didn't stay long enough, Chateau Ste Michelle had to pay overtime for their people to work there, and then people could only walk out [gestures with both hands as if carrying bottles] with two hands. So to overcome that, what we propose to do is to be able to take cases of wine or cases of, uh, whatever, or, um [claps hands together] antique furniture, whatever the case may be. But bring that to the baggage car and help the passengers bring that down and get that to their vehicle so that we're not just [gestures with both hands as if carrying bottles] stuck to two hands. That has been an overwhelming favorable response from everybody up and down the line."

1:55:48 – 1:57:01: Doug Engle:

"We also anticipate being able to have, uh, an espresso stand, etcetera, on the train in the baggage car so that people – we say [gestures quotation marks with fingers] baggage car but it'll look very much the same front to end—um, so that people can come in, get an espresso, a cup of coffee, whatever, and enjoy the ride fro—hopefully, from Redmond all the way up to Woodinville. Be able to get out spend a couple of hours there and then come back down. Well, one thing that we have learned in talking to the various cruise ship lines is that people are looking to not only spend that time, but they also want to be able to come down and spend their time the weekend before or after. Would you like them to spend the weekend before or after in Redmond or Seattle? Because you have hotels here. You have restaurants. You have shopping. There is every possibility to get people to come and spend that time here. And we believe, based on the interviews that we've done, that that's a very viable possibility."

1:57:33 – 1:59:08: Doug Engle:

"So, one of the things that gets down to this whole matter is how the hell do you pay for it? Because this is a substantial undertaking. We have organized ourselves from the very beginning to qualify under the federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Program. There are 35 billion dollars in that program. They have lent out less than a billion dollars. Lots of money left. What we have done is make sure that we have met the criteria necessary to be able to get that funding. Our loan application is currently in front of the FRA. They have expressed a willingness to collaborate with us to come up with a solution that works. Because there is a mix of collateral, if you will, to the amount of money you want to borrow, etcetera. So we're very enthused about that. That is long-term money that we can get from anywhere from 20 years to 35 years that we could get from four plus percent interest and with a little help from, uh, a senator of ours in DC we might be able to get that down to the intergovernmental rate of a half a percent."

1:59:59 – 2:01:02 Doug Engle:

[chuckling] "We realize that having a raised rail bed through the middle of your town is, uh, not desirable. And what we would like to do is to be able to lower that down and be able to make that a little bit more park-like. I spend about 25 percent of my time in San Francisco, and you'll find the trolley cars, the cable cars, the muni-cars all running at grade level, and we can find a good way to do this for passengers and pedestrians to work together. So we've suggested is that in twenty-eleven is that we come up with a joint plan and at GNP's expense that we implement

that plan. So we think we agree that it can be park-like; we agree that it can be rail and trail; and what we're hopeful of is that we can work together."

2:01:05 – 2:02:10:

"So to let me close this, my statement down, is that, number one, we do have confidentiality agreements in place with some, uh, municipalities, uh, local, governances, and relative to our RRIF application. Uh, so we can't, uh, disclose everything that we would like to, ah, as we go forward. But we do want you to recognize that we are a federal railroad. We're not big brother railroad, that we're here to work with you and to help come up with a better civic solution than what may be otherwise possible, and to lend our borrowing capacity to the city to come up with, if you will, the, the best, uh, conveyance of rail and trail inside of Redmond."

12. Upon viewing the video recording of the April 28, 2010, meeting of the City of Kirkland Transportation Commission, I understood Doug Engle to say (approximate video running times shown in bold **like this**):

3:48 – 7:54:

"One of the things that, uh, we've done here in the last, this year is we went out and hired a marketing firm, uh, to do some research and they've talked to over two dozen partners. They've talked to dozens of people about what they would like to see in the way of the excursion service and we've come to that it's going to be called the Bounty of Washington—the tasting train. And so versus being, serving dinner, if you will, like the dinner train was doing what we're going to focus on is showcasing local food, uh, uh, local foods, beverages, etcetera. And someone will coordinate all of that activity and the train would run from end-to-end and probably have a ninety-minute, two-hour layover in Snohomish, if you will, and head back down to the other end."

"With over four hundred thousand cruise ship passengers a year, uh, coming into Seattle, we thought it would be a good idea if we could see if we could figure out how to get them over to the eastside. Get things going. Uh, this notion is we thought that the Woodinville wine country would like this. We took it to them, they liked it. They took it to the Washington Wine Commission and the Washington Wine Commission would like us to be able to showcase across the state. So, you know, we're getting from a partnering standpoint and the reception we're getting it's been overwhelmingly positive. Uh, strong look at economic development, uh, so our focus as we said through this whole thing is on the businesses that are along the corridor and what we can do to create a win-win."

"Uh, the bottom line in this, from the excursion train is we are simply the vehicle. We're just the bus, if you will, that's going to get you from A to B and yes we can make these coaches and we've already identified, uh, the coaches we'd like to get. They're nice. They're going to need

some work. Uh, we're going to have to repaint 'em. One looks like a—light brown leather, uh, with a bar down at the one end and so that you've got lengthwise bench seating, if you will, and then it's got some ta—some tables, and then there are two articulated train sets or coaches that will each seat about a hundred and twenty people and it would be set up more like a dining table for four people, if you will, at a location."

"Um, one of the other things that came out from this was that our primary target audience is going to be the pre-organized group? So, like, Gray Line bus tours that may pick up people off of the, uh, cruise ships; uh, in talking to the Tulalip casino they have bus tours that come down from Canada and during the week, they're kind of at, uh, 'okay we need something for [chuckles] these people to do.' The buses are already sitting there. We could take them to Snohomish. They could get on the train in Snohomish right down to Redmond Town Center, spend the day there and then come back. So we're looking at a number of, you know, trying to come up with some creative ideas."

"We have different flavors of the tasting train as well. Um, the other flavor that we'd be looking at is something more down the line of a heritage train. And the heritage train would be more, more family-oriented, probably run on Sundays, be a little lower priced, and go from there. We've discussed, uh, we've made no decisions on these different tiers, but we've also discussed having a centennial trail train until the whole trail situation's reconciled. Take people and their bikes up to Snohomish and let 'em hop off there and go ride the centennial trail and, you know, [he looks at his watch] 'the train's leaving every two hours, so hit one of those.' So, that's what we're doing on the excursion side. Um, we're making steady progress."

8:18 – 8:28:

"All of our money at this standpoint is going into getting this excursion service up and going and getting the track maintenance, uh, done that needs to be done."

8:54 – 9:22:

"The direction that the FRA is going is more towards public/private partnerships. They're going, they're looking now at more passenger rail kinds of services where traditionally the FRA has looked, you know, very hard at, um, freight and freight only, so we're actually going in the direction that the FRA is going, but the policies are changing so we're trying to hit this target at the same time with our, our, loan application."

11:02 – 12:21:

"We do hope to, we do intend to get to a passenger day train. As you're well aware, uh, the voters approved in November, 2008, with the ST2 initiative, 50 million dollars in fixed assets for the corridor, uh, which can be used for engineering design, the purchase of capital equipment and real estate that can either be sold or used on Sound Transit's existing transportation system and this has all gotta be done by the end of next year. Um, what our belief is, is that if we're already running down to Redmond, you know, if somebody asked us to run during the week, we would probably do that. Uh, but going after the Sound Transit 2 money is what's going to enable the

track to be rehabilitated. So what rehabilitation is, is it's you're basically replacing the ballast—I'm going to move this forward [he moves the microphone closer]—you're replacing the ballast, you're replacing the ties, and you're putting down new continuous weld rail. In that process, you take the old ballast out; well, that can very easily become the base of a trail."

16:44 – 17:17:

"Our notion would be to take the Sound Transit money and use that to rehabilitate the track between Woodinville and Bellevue. Now you gotta little bit of a complication in Bellevue because you still have Sound Transit and Bellevue trying to figure out what that's going to a look like. So if today I had to tell you what we were going to do, we'd probably get down to south Kirkland park and ride and call it good [gestures a right-handed thumbs-up]. Uh, basically wanting to stay out of the way, uh, until that is all figured out."

20:43 – 2:47:

"Our focus is on Redmond and getting excursion started today."

32:57 – 33:15:

"We don't have any intentions of running freight south of Woodinville other than there are some lumber yards that are just immediately south, what, about half a mile. Whatever. You know, if they want our business we probably would be open to that."

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

Executed on November 5, 2010

TERESA POTTER

Federal Railroad Administration (FRA)
CATEGORICAL EXCLUSION WORKSHEET

Note: The purpose of this worksheet is to assist proposal sponsors in gathering and organizing materials for environmental analysis required under the National Environmental Policy Act (NEPA), particularly for proposals, which may qualify as Categorical Exclusions and to assist the FRA in evaluating requests from project sponsors for categorical exclusion determinations. Categorical Exclusions are categories of actions (i.e. types of projects) that the FRA has determined, based on its experience, typically do not individually or cumulatively have a significant effect on the human environment and which generally do not require the preparation of either an environmental impact statement or an environmental assessment.

Submission of the worksheet by itself does not meet NEPA requirements. FRA must concur in writing with the proposal sponsor's Categorical Exclusion recommendation for NEPA requirements to be met. Please complete this worksheet using compatible word processing software and submit and transmit the completed form in electronic format.

For Agency Use	*Date Received:*	
Reviewed By: *Date:*	*Recommendation for action:* ☐ *Accept* ☐ *Return for Revisions* ☐ *Not Eligible*	
Comments:		
Concurrence by Counsel: ☐ *Accept Recommendation* ☐ *Return with Comments*	*Reviewed By:* *Date:*	
Comments:		
Concurrence by Approving Official:	*Date:*	

I. PROPOSAL DESCRIPTION

Proposal Sponsor	**Date Submitted**	**FRA Identification Number (if any)**
Proposal Title		
Location (Include Street Address, City or Township, County, and State)		
Contact Person	**Phone**	**E-mail Address**
Note: Fully describe the proposal including specifics that may be of environmental concern such as: widening an embankment to stabilize roadbed; repairing or replacing bridge piers foundations, including adding rip-rap in a waterway; earthwork and altering natural (existing) drainage patterns and creating new water discharge; contaminated water needing treatment; building a new or adding on to a shop building; fueling or collection of fuel or oil and contaminated water; building or extending a siding; and building or adding on to a yard.		
Description of Proposal		
Purpose and Need of Proposal		

II. NEPA CLASS OF ACTION

Answer the following questions to determine the proposal's potential class of action.

A. Will the proposal substantially impact the natural, social and / or human environment?

☐ YES (Contact FRA) ☐ NO (Continue)

Actions that will significantly impact the environment require preparation of an Environmental Impact Statement. These proposals typically include construction or extension of rail lines or rail facilities including

passenger, high speed, or freight rail activities.

B. **Is the significance of the proposal's social, economic or environmental impacts unknown?**
☐ YES (Contact FRA) ☐ NO (Continue)

C. **Does Section 4(f) of the Department of Transportation Act apply?** (i.e. proposal requires the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance, as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site.)
☐ YES (Contact FRA) ☐ NO (Continue)

D. **Is the proposal likely to require detailed evaluation of more than a few potential impacts?**
☐ YES (Contact FRA) ☐ NO (Continue)

E. **Is the proposal likely to generate intense public discussion or concern, even though it may be limited to a relatively small subset of the community?**
☐ YES (Contact FRA) ☐ NO (Continue)

F. **Is the proposal inconsistent with any Federal, State, or local law, regulation, ordinance, or Judicial or administrative determination relating to environmental protection?**
☐ YES (Contact FRA) ☐ NO (Continue)

G. **Is the proposal an integral part of a program of current Federally supported actions which, when considered separately, would not be classified as major actions, but when considered together may result in substantial impacts?**
☐ YES (Contact FRA) ☐ NO (Continue)

If the answer to any of the questions B through G is "YES", contact the FRA to determine whether the proposal requires preparation of an Environmental Assessment.

H. **Is the proposal consistent with one of the following potential Categorical Exclusions?** FRA Procedures for Considering Environmental Impacts, 64 FR 28545 (May 26, 1999)
☐ YES (Mark category and continue as indicated) ☐ NO (Contact FRA)

☐ Financial assistance or procurements solely for planning or design activities that do not commit the FRA or its applicants to a particular course of action affecting the environment. *(stop and submit to FRA)*

☐ State rail assistance grants for acquisition. *(Continue to Part III)*

☐ Operating assistance to a railroad to continue existing service or to increase service to meet demand, where the assistance will not result in a change in the effect on the environment. *(stop and submit to FRA)*

☐ Acquisition of existing railroad equipment, track and bridge structures, electrification, communication, signaling or security facilities, stations, maintenance of way and maintenance of equipment bases, and other existing railroad facilities or the right to use such facilities, for the purpose of conducting operations of a nature and at a level of use similar to those presently or previously existing on the subject properties. *(Complete Part III, Sections H, I, U, & V and submit to FRA)*

☐ Research, development and/or demonstration of advances in signal, communication and/or train control systems on existing rail lines provided that such research, development and/or demonstrations do not require the acquisition of substantial amounts of right-of-way, and do not substantially alter the traffic density [or operational] characteristics of the existing rail line. *(Continue to Part III)*

☐ Temporary replacement of an essential rail facility if repairs are commenced immediately after the occurrence of a natural disaster or catastrophic failure. *(Continue to Part III)*

☐ Changes in plans for a proposal for which an environmental document has been prepared, where the changes would not alter the environmental impacts of the action. *(Continue to Part III describing the full*

consequences of the changes only)

☐ Maintenance of: existing railroad equipment; track and bridge structures; electrification, communication, signaling, or security facilities; stations; maintenance-of-way and maintenance-of-equipment bases; and other existing railroad-related facilities. ("Maintenance" means work, normally provided on a periodic basis, which does not change the existing character of the facility, and may include work characterized by other terms under specific FRA programs) *(Continue to Part III)*

☐ Financial assistance for the construction of minor loading and unloading facilities, provided that proposals are consistent with local zoning, do not involve the acquisition of a significant amount of land, and do not significantly alter the traffic density characteristics of existing rail or highway facilities. *(Continue to Part III)*

☐ Minor rail line additions including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards, provided that such additions are consistent with existing zoning, do not involve acquisition of a significant amount of right of way, and do not substantially alter the traffic density characteristics of the existing rail lines or rail facilities. *(Continue to Part III)*

☐ Improvements to existing facilities to service, inspect, or maintain rail passenger equipment, including expansion of existing buildings, the construction of new buildings and outdoor facilities, and the reconfiguration of yard tracks. *(Continue to Part III)*

☐ Environmental remediation through improvements to existing and former railroad track, infrastructure, stations and facilities, for the purpose of preventing or correcting environmental pollution of soil, air or water. *(Continue to Part III)*

☐ Replacement, reconstruction, or rehabilitation of an existing railroad bridge, including replacement with a culvert, that does not require the acquisition of a significant amount of right-of-way. *(Continue to Part III)*

III. PROPOSAL INFORMATION FOR CATEGORICAL EXCLUSIONS

Complete Part III unless indicated otherwise in Part II and submit to FRA.

For work to fixed facilities, maps displaying the following, as applicable, are required to be attached for FRA review:

- Proposal vicinity
- Proposal Site Plan indicating the USGS Quadrangle and Section
- Other Information as necessary to complete Part III

A. Describe how the proposal satisfies the purpose and need identified in Part I:

B. Location & Land Use: *For fixed facilities, attach a map or diagram, at an appropriate scale, identifying the location of the proposal site and if applicable, the surrounding land uses and zoning of the site and surrounding properties. If the proposal would require many pages of maps or diagrams, include only a location map and contact FRA to determine if additional information is required. A map or diagram that identifies locations of critical resource areas, wetlands, potential historic sites, or sensitive noise receptors such as schools, hospitals, and residences should be included if there is the potential for impacts to these resources.*

Briefly describe the existing land use of the proposal site and surrounding properties and resources.

C. Historic Resources: *If any cultural, historic, or archaeological resources are located in the immediate vicinity of the proposal, check and describe the resource(s) and then describe any potential effect of the proposal on the resource(s). Consultation with the SHPO is necessary when these resources are potentially affected.*

☐ Cultural:

☐ Historical:

☐ Archaeological:

Has consultation with the State Historic Preservation Officer occurred? If so, describe and attach relevant correspondence.

☐ Consultation with SHPO:

D. **Public Notification:** *Briefly describe any public outreach efforts undertaken on behalf of the proposal, if any. Indicate opportunities the public has had to comment on the proposal (e.g., Board meetings, open houses, special hearings).*

Indicate prominent concerns expressed by agencies or the public regarding the proposal, if any.

E. **Transportation:** *Would the proposal have a detrimental effect on other railway operations or impact road traffic, or increase demand for parking?*
☐ No (continue) ☐ Yes, describe potential transportation, traffic, and parking impacts, and address capacity constraints and potential impacts to existing railroad and highway operations. Include maps or diagrams indicating any impacts and any proposed modifications to existing railways or roadways or parking facilities. Also, summarize any consultation that has occurred with other railroads or highway authorities whose operations this project will impact.

F. **Noise and Vibration:** *Are permanent noise or vibration impacts likely?*
☐ No (continue) ☐ Yes, describe how the proposal will involve noise impacts. If the proposal will result in a change in noise sources (number or speed of trains, stationary sources, etc.) and sensitive receptors (residences, hospitals, schools, parks, etc.) are present, apply screening distances for noise and vibration assessment found in FRA noise impact assessment guidance manual (and FTA's manual as needed) and compare proposal location with nearest receptor(s). If the screening distance is not achieved, attach a "General Noise and/or Vibration Assessment."

Noise ☐ Vibration ☐

As a result of the general assessment(s) are there noise or vibration impacts?

☐ No (continue) ☐ Yes (Describe and provide map identifying sensitive receptors):

G. **Air Quality:** *Does the proposal have the potential to increase concentrations of ambient criteria pollutants to levels that exceed the NAAQS, lead to the establishment of a new non-attainment area, or delay achievement of attainment?*
☐ No (continue) ☐ Yes, attach an emissions analysis for General Conformity regarding Carbon Monoxide (CO), Ozone (O_3), Particulate Matter (PM_{10}), Nitrous Oxides (NO_x), and Carbon Dioxide (CO_2), and include a hot spot analysis if indicated. Describe any substantial impacts from the proposal.

Is the proposal located in a Non-Attainment or Maintenance area?
☐ No (continue) ☐ Yes, for which of the following pollutants:

☐ Carbon Monoxide (CO) ☐ Ozone (O_3) ☐ Particulate Matter (PM_{10})

H. **Hazardous Materials**: *Does the proposal involve the use or handling of hazardous materials?*
☐ No (continue) ☐ Yes, describe use and measures that will mitigate any potential for release and contamination.

I. **Hazardous Waste:** *If the proposal site is in a developed area or was previously developed or used for industrial or agricultural production, is it likely that hazardous materials will be encountered by undertaking the proposal?* (Prior to acquiring land or a facility with FRA funds, FRA must be consulted regarding the potential presence of hazardous materials)

☐ No, explain why not and describe the steps taken to determine that hazardous materials are not present on the proposal site and then continue to question I.

☐ Yes, complete a Phase I site assessment and attach.

If a Phase I survey was completed, is a Phase II site assessment recommended?
☐ No (continue) ☐ Yes, describe the mitigation and clean-up measures that will be taken to remediate any hazardous materials present and what steps will be taken to ensure that the local community is protected from contamination during construction and operation of the proposal.

J. **Property Acquisition:** *Is property acquisition needed for the proposal?*
☐ No (continue) ☐ Yes, indicate whether the acquisition will result in relocation of businesses or individuals. **Note:** *To ensure eligibility for Federal participation, grantees may not acquire property with either local matching or Federal funds prior to completing the NEPA process and receiving written FRA concurrence in both the NEPA recommendation and property appraisals.*

K. **Community Disruption and Environmental Justice:** *Does the proposal present potentially disruptive impacts to adjacent communities?*
☐ No (continue) ☐ Yes, provide a socio-economic profile of the affected community. Indicate whether the proposal will have a disproportionately high and adverse effect on minority or low-income populations. Describe any potential adverse effects and any community resources likely to be impacted. Describe outreach efforts targeted specifically at minority or low-income populations.

L. **Impacts On Wetlands:** *Does the proposal temporarily or permanently impact wetlands or require alterations to streams or waterways?*
☐ No (continue) ☐ Yes, show wetlands and waters on the site map and classification. Describe the proposal's potential impact to on-site and adjacent wetlands and waters and attach any coordination with the State and US Army Corps of Engineers.

M. **Floodplain Impacts:** *Is the proposal located within the 100-year floodplain or are regulated floodways affected?*
☐ No (continue) ☐ Yes, describe the potential for impacts due to changes in floodplain capacity or water flow, if any. If impacts are likely, attach scale maps describing potential impacts and describe any coordination with regulatory entities.

N. **Water Quality:** *Are protected waters of special quality or concern, essential fish habitats, or protected drinking water resources present at or directly adjacent to the proposal site?*
☐ No (continue) ☐ Yes, describe water resource and the potential for impact from the proposal, and any coordination with regulatory entities.

O. **Navigable Waterways:** *Does the proposal cross or have effect on a navigable waterway?*
☐ No (continue) ☐ Yes, describe potential for impact and any coordination with US Coast Guard.

P. **Coastal Zones:** *Is the proposal in a designated coastal zone?*
☐ No (continue) ☐ Yes, describe coordination with the State regarding consistency with the coastal zone management plan and attach the State finding if available.

Q. **Prime and Unique Farmlands:** *Does the proposal involve the use of any prime or unique farmlands?*
☐ No (continue) ☐ Yes, describe potential for impact and any coordination with the Soil Conservation Service of the US Department of Agriculture.

R. **Ecologically Sensitive Areas And Endangered Species:** *Are any ecologically sensitive natural areas, designated wildlife or waterfowl refuges, or designated critical habitat areas (woodlands, prairies, wetlands, rivers, lakes, streams, and geological formations determined to be essential for the survival of a threatened or endangered species) within or directly adjacent to the proposal site?*
☐ No (continue) ☐ Yes, describe them and the potential for impact. Describe any consultation with the State and the US Fish and Wildlife Service about the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected. If required prepare a biological assessment and attach.

S. **Safety And Security:** *Are there safety or security concerns about the proposal?*
☐ No (continue) ☐ Yes, describe the safety or security concerns and the measures that would need to be taken to provide for the safe and secure operation of the proposal after its construction.

T. **Construction Impacts:** *Are major construction period impacts likely?*
☐ No (continue) ☐ Yes, describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, and address air and water quality impacts, safety and security issues, and disruptions of traffic and access to property and attach scale maps as necessary.

U. **Cumulative Impacts:** *Are cumulative impacts likely?*
A "cumulative impact" is the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts may include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or resulting from smaller actions that individually have no significant impact. Determining the cumulative environmental consequences of an action requires delineating the cause-and-effect relationships between the multiple actions and the resources, ecosystems, and human communities of concern.

☐ No (continue) ☐ Yes, describe the reasonably foreseeable:
(a) Direct impacts, which are caused by the action and occur at the same time and place.

(b) Indirect impacts, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

V. **Related Federal, State, or Local Actions:** *Indicate whether the proposal requires any of the following actions (e.g., permits) by other Agencies and attach copies of relevant correspondence.* It is not necessary to attach voluminous permit applications if a single cover Agency transmittal will indicate that a permit has been granted. Permitting issues can be described in the relevant resource discussion in sections B-S above.

☐ **Section 106** *Historic and Culturally Significant Properties*

☐ **Section 401/404** *Wetlands and Water*

☐ **USCG 404** *Navigable Waterways*

☐ **Executive Orders** *Wetlands, Floodplains, Environmental Justice*

☐ **Clean Air Act** *Air Quality*

☐ **Endangered Species Act** *Threatened and Endangered Biological Resources*

☐ **Magnuson-Stevens Fishery Conservation and Management Act** *Essential Fish Habitat*

☐ **Safe Drinking Water Act**

☐ **Other State or Local Requirements** (Describe)

X. **Mitigation:** Describe mitigation measures which address identified impacts and have been incorporated into the proposal, if any.

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35407
GNP RLY INC.
-ACQUISITION AND
EXEMPTION-
REDMOND SPUR AND WOODINVILLE SUBDIVISION

STP DOCKET NO. AB-6 (SUB. NO. 463X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA

STP DOCKET NO. AB-6 (SUB NO. 465X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA

DEPOSITION OF RANDY MANN

Taken October 26, 2010
600 University Street, Suite 3600
Seattle, Washington

Reported by:
MARK HOVILA

APPEARANCES

For GNP RLY INC.:

LORI M. BEMIS
Attorney at Law
McGavick Graves, P.S.
1102 Broadway, Suite 500
Tacoma, WA 98402
(253) 627-1181

For the City of Redmond:

JOHN E. GLOWNEY and
HUNTER FERGUSON
Attorneys at Law
600 University Street, Suite 3600
Seattle, WA 98101
(206) 624-0900

For King County:

ANDREW MARCUSE
Senior Deputy Prosecuting Attorney
W400 King County Courthouse
516 Third Avenue
Seattle, WA 98104
(206) 296-9015

Also in attendance:

CAROLYN J. HOPE
City of Redmond

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SEATTLE, WASHINGTON; TUESDAY, OCTOBER 26, 2010
9:00 A.M.

RANDY MANN,
having been first duly sworn, was examined and testified as follows:

EXAMINATION
BY MR. GLOWNEY:

Q. Good morning, Mr. Mann.
A. Morning.
Q. Could you state and spell your full name for the court reporter, please?
A. R-A-N-D-Y, M-A-N-N.
Q. My name's John Glowney. And I represent the City of Redmond in this matter. I'm going to be asking you a number of questions this morning. If at any time you don't understand a question, ask me to repeat it so that your answer and my question are clear on the record. You need to answer audibly so he can take down an answer. Nodding your head won't work for the court reporter. I will try very hard not to talk over your answers, give you a chance to finish it. I'll ask you to try to let me finish my question before you answer. If you need to take a restroom

break at any time, let me know, and as long as it's not in the middle of a question or a series of questions, we'll arrange that as quickly as we can. Do you have any questions about that?
A. No.
Q. Have you ever had your deposition taken before, Mr. Mann?
A. Yes.
Q. Could you just briefly describe the circumstances?
A. It was over an EIFS problem.
Q. An EIFS problem. I'm not sure what that is.
A. Exterior insulated finish system. Stucco, Dryvit.
Q. So it was a business dispute?
A. Yeah.
Q. About how long ago was that?
A. Ten plus years.
Q. What is your position with Building Specialties?
A. I'm the center manager.
Q. How long have you been center manager?
A. Five years, I believe.
Q. So about sometime around 2005?
A. Yeah, somewhere around there.

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Q. Give or take?
A. Give or take a couple years.
Q. Okay. And were you employed in any other positions at Building Specialties before that?
A. Yes, I was a salesman. And I was an operations supervisor.
Q. Were you in the role of salesman before you became center manager?
A. Yes.
Q. How long were you a salesman?
A. Probably five years.
Q. And were you working at the same location as you are now?
A. Yes.
Q. And then before that you were an operations supervisor?
A. Yes.
Q. And how long were you in that position at Building Specialties?
A. Well, you have to kind of take a break in there, because I transferred to Colorado for three years.
Q. Still working for Building Specialties or --
A. Yes.
Q. -- a different --

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A. Yes.
Q. So you were three years in Colorado before you were the salesman here?
A. I was actually a salesman here, went to Colorado for three years, was a center manager there, came back here as a salesman, and then moved to the manager.
Q. Okay. And how long were you an operations supervisor?
A. Probably five years.
Q. So how many years in total have you been with Building Specialties?
A. 30 plus.
Q. So I take it you held some other positions before you were an operations supervisor?
A. Yes.
Q. Can you just list those for me?
A. I was a truck driver and a warehouseman.
Q. For approximately 12 to 15 years?
A. I was probably an operations supervisor longer than what I said. I think don't remember. It was so long ago.
Q. Right. Okay. As center manager, what were your job responsibilities? What are they, I guess is the correct way to phrase it.

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A. Making sure that inventory is correct, making sure that we have material we need, running the sales force, safety, making sure that everything that the auditors want done gets done. I mean, it's just a whole gamut of different things.
Q. Okay. I'm sorry, let me back up just for a second. Can you briefly describe your educational background?
A. High school and two years of community college.
Q. Okay. Where did you go to community college?
A. One year at Shoreline and a bit at Bellevue Community.
Q. So can you describe for me what Building Specialties does? What's the nature of the business?
A. We sell drywall, steel studs, acoustical tile and grid, Dryvit, and all the accessories that go with all those things.
Q. And you're a material supplier, then, not a -- you don't install? Or you do install?
A. No, we're just a materials supplier.
Q. And can you describe your customer base?
A. Customer base is primarily drywall and acoustical subcontractors.

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Q. Is it mostly for large projects, medium project, small projects?
A. All projects.
Q. All projects? By all projects that would include single residences?
A. Single residence, remodels, high rises, multifamily. I mean, whatever gets built, we try to be involved in it.
Q. If you had to break it down by percentages, would you say that most of your business is commercial, most residential?
A. At this particular time?
Q. I guess now, sure.
A. I would say that probably 60, 65 percent is commercial. The balance is residential.
Q. Has that always been the case?
A. We actually kind of like a 50-50. But with residential being what it is, it's kind of go where the work is.
Q. Right. Have you achieved your 50-50 goal roughly, or, in the past?
A. I think at one time, probably, only because residential was so strong and commercial was weaker. I mean, we are definitely commercial focused. There's more things to sell. I mean here you've got tile,

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steel studs, drywall, insulation, whereas in a house basically all you got is the wallboard and accessories to go with it.
Q. Okay. So presently how many people work for you?
A. 17.
Q. And can you give me a breakdown as to what their job descriptions are, in large categories?
A. Certainly. Two salespeople, one acoustical manager, one accountant, one inside sales, and 11 delivery people. Is that 17?
Q. 16. 16.
A. You know what? And one tint guy.
Q. One --
A. Tint.
Q. Tint?
A. Yes.
Q. What's the tint guy do?
A. The tint guy matches colors for the Dryvit.
Q. And what does the inside salesman do as compared to the other two salesmen?
A. He works the front counter. People walk in, they either know what they want, and then it's pretty easy, if they don't know what they want, like if they're looking for tile and they've got a piece of

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tile, he'll match the tile up, whereas the outside sales guys are, you know, out trying to find new customers and, you know, see a job, find out who's doing it and chase it that way.
Q. And has that been about the amount, number of employees you've had working for you for the five years you've been center manager, or has that changed?
A. No, that's down considerably from two years ago.
Q. How much down is it?
A. We probably had another five or six hourly employees and one more salesman. And one more accountant, now that I think about that.
Q. What's the management structure, then, for -- these people report to you, correct?
A. Correct.
Q. Then you must report to someone?
A. Yeah. I report to a manager of center operations.
Q. And who is that?
A. His name is Chad Pompa.
Q. Can you spell that?
A. P-O-M-P-A.
Q. Where is he located?
A. Portland. Tigard specifically, but --

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Q. Okay. Do you know who he reports to?
A. He reports to the general manager.
Q. And who's that?
A. Tom Wheatley.
Q. Where is he located?
A. Utah.
Q. Where is Building Specialties' sort of corporate center?
A. Chicago.
Q. Chicago?
A. Building Specialties is a dba. The parent company is L&W Supply. L&W Supply is a subsidiary of United States Gypsum.
Q. Was Building Specialties once known as Drywall Supply?
A. No. It was once known as Cascade Drywall Supply.
Q. As a dba?
A. Yes. We combined the acoustical and the drywall together, and so -- neither of the two names kind of like covered the broad span, so we changed to Building Specialties, which is the most prevalent name that L&W has.
Q. And how long have you been operating as Building Specialties here, if you can recall?

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A. Ten to 12 years. More than ten years.
Q. And what was the dba for the acoustical side of it?
A. Northwest Acoustical Supply.
Q. Now, Building Specialties is not a manufacturer, is that correct?
A. Correct.
Q. And I take it they ship goods out to job sites?
A. Correct.
Q. Do they ship goods other than to job sites?
A. We ship to freight forwarders to go to Alaska, Far East.
Q. And you're talking about out of your location, correct?
A. Correct.
Q. Other than that, any other types of shipments going out?
A. You know, just LTLs to some of our other locations, sometimes customers' warehouses,
Q. What's LTL mean?
A. That's a five dollar question. It's basically not a full-time semi load of material. A couple pallets.
(Exhibit 1 marked)

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Q. Mr. Mann, the court reporter's handed you what's been marked as Exhibit 1 to your deposition. Take a look at that document and tell me if you recognize it.
A. Yes.
Q. Do you recognize that as the subpoena we sent to you to come in here and testify this morning?
A. Yep.
Q. The subpoena listed on the third page, which was labeled attachment A, if I can direct your attention to that. It asks you to bring various documents. Did you read that?
A. Yes.
Q. Let me go down that list. There are seven items. Or seven paragraphs, anyway. The first one asks for certain correspondence between you or other folks with Building Specialties and representatives of GNP Railway. Do you see that?
A. Yes.
Q. Did you bring any of those documents here?
A. No.
Q. And did you do a search to check and see if there were any such documents that existed?
A. Yes.
Q. What did you do for that search?

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A. First of all, I was the one who was talking to them. And everything was verbal, except for they wanted me to write a letter, which I did, and I gave it to them, so I don't have a copy of it.
Q. So your testimony is that there weren't any other emails, correct?
A. Correct.
Q. Okay. Or faxes?
A. Correct.
Q. Who did you speak with at GNP?
A. You know, I spoke to two gentlemen, and I can't even remember their name. I mean, this isn't top priority on my plate.
Q. I take it two different gentlemen at different times?
A. At different times.
Q. Okay. Now, let me turn your attention, direct your attention to the second paragraph in attachment A. Did GNP give you any written proposals or agreements for rail service?
A. No.
Q. If you would look at number 3, it's a slightly different question about the method of operations. Did they provide any of those documents to you?

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A. No. Now, we lease our property. And so the first thing I told them is, you know, I don't know about the spur that we have, you'll have to talk to the landlord. So what they may have done there, I have no idea.
Q. So did they discuss with you how they were going to physically do this?
A. What do you mean by that?
Q. Let me ask a better question. Did they give you any written materials or discuss with you whether or not they gave you written materials about how they were going to provide rail service to your location?
A. Written, no.
Q. They discussed it with you, I take it?
A. Well, they said what they kind of had -- what they were planning on doing.
Q. And what did they tell you?
A. Just, you know, reactivating the rail line.
Q. Was it any more detailed than that as to how they were going to go about doing that?
A. Other than, you know, some kind of form and -- that they were filling out with the federal government, you know. Beyond that, no.
Q. And when did you have these discussions with them, do you recall?

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A. Couple months back.
Q. It would have been before you wrote a letter that they asked you to write?
A. Yes.
Q. How much time before you wrote that letter did they contact you?
A. A month, probably. Could be more.
Q. Let's just -- so you have it in front of you, let's mark this.
(Exhibit 2 marked)
Q. Mr. Mann, the court reporter has handed you what's been marked as Exhibit 2 to your deposition. Can you look at that document and tell me if you can identify it, please?
A. Yeah, it's a letter that was written to GNP about the possibility of using the rail service.
Q. So the date of that letter, as I read it, is July 8th, 2010. Do you see that?
A. Correct.
Q. And is that the date on which you signed this letter?
A. I do believe so.
Q. So you think -- I think from your earlier testimony you indicated you thought it was about a month or so before this that you were contacted?

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A. Yes.
Q. And did you contact GNP or did they contact you?
A. They contacted us.
Q. They contacted you personally or somebody else?
A. Me personally. I mean, you know, obviously they went through the front counter first, but once they found the right person to talk to, they talked to me.
Q. This is by telephone call or an in person visit?
A. In person.
Q. And this was one representative, two representatives?
A. One.
Q. Do you remember who that was?
A. No, I don't.
Q. If I could direct your attention back to Exhibit 2, just to help me understand, the letter gives your address as 14980 Northeast 90th Street, is that correct?
A. That's correct.
Q. Where is 14960, if you know?
A. I don't know, unless it's part of our whole

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property. Our property is pretty large. You've got pictures of it there, so if it encompasses that, that's a possibility. But I don't know.
Q. Are you familiar with that street address for any purpose that you know of?
A. No.
Q. Let's --
A. Unless somebody couldn't read my writing.
Q. Possibly.
(Exhibit 3 marked)
Q. Mr. Mann, the court reporter has handed you what's been marked as Exhibit 3 to your deposition. Can you take a look at that and tell me what that is?
A. It is a picture of our property and warehouses, office building, and yard.
Q. Okay. Appears to be an aerial taken of your --
A. It's an aerial photograph, yes.
Q. So on that photograph, where would 14860 Northeast 90th be, if it exists, or do you know?
A. You know, the only place where I can assume it to be would be where the new office building is, which is the red covered roof building to the left side of the picture.
Q. When you say the new office buildings --

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A. Yeah. Because if you go down, the picture's kind of broken in half, okay? And right where it says "Specialties" there's a brown roofed building. There used to be another building connected to that, and our offices were in that, but they became uninhabitable, so we built a new office building up here. So that could be the address you're talking about. But we just -- that was always our address forever, was that, so it remained that. That's another question for the landlord. I have no idea.
Q. Okay. When did you build the new office building?
A. About 11 or 12 years ago. Won an award for the City of Redmond. Whoa.
Q. Okay. Am I correct that Building Specialties last used rail service to this location in 2006?
A. Five years ago. That's probably close. I'm not sure.
Q. Approximately 2006?
A. It sounds -- it sounds reasonable.
Q. Okay. Now, since that time you've gotten all your deliveries by truck, is that correct?
A. Correct.
Q. And where do those, if you can tell me,

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where do those truck deliveries come from?
A. The majority of the truck drivers come from Rainier, Oregon.
Q. Okay. And why Rainier, Oregon?
A. Pardon me?
Q. Why Rainier, Oregon?
A. That's where the closest USG plant is located.
Q. So they're manufacturing --
A. Correct.
Q. -- drywall?
A. Yes.
Q. And then they're trucking it up to you?
A. Correct.
Q. Again, a question of clarification. I direct your attention to the second page of Exhibit 2. And there's a sentence in the middle of that sort of first full paragraph which says, "Currently, Building Specialties uses motor carrier and intermodal transload service from the Rainier, Oregon, area to handle this traffic." Did I read that correctly?
A. Correct.
Q. Would you explain to me what intermodal transload service means?
A. That just means they load the trucks at the

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plant and ship them to us.
Q. And is that different than using motor carrier?
A. Same.
Q. So when you say that, you simply mean that you're getting goods delivered by truck?
A. Correct.
Q. So is U.S. Gypsum your largest supplier?
A. Yes.
Q. And what percentage of your goods are supplied by U.S. Gypsum?
A. Probably somewhere 70, 75 percent.
Q. And that all comes out of Rainier, Oregon?
A. No.
Q. Okay. How much comes out of Rainier, Oregon?
A. Oh, probably -- well, I would say probably historically, 60 percent.
Q. And then U.S. Gypsum also provides supplies from other locations?
A. Correct.
Q. What are those other locations?
A. Cloquet, Minnesota.
Q. And this is someone that currently you're receiving goods from this location?

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A. (Nods head)
Q. Okay.
A. Auburn, Washington. Trying to remember the city in California. Just blanking on that. Somewhere in Southern California, anyways.
Q. And they're all providing drywall materials?
A. Or acoustical ceilings in grid. The last two is where those come from. I think the last two.
Q. Auburn and the city in southern Cal provide acoustic materials?
A. No. Auburn is joint compound. So --
Q. So the city in southern Cal is acoustical --
A. Yes.
Q. And then Cloquet, Minnesota, is --
A. Acoustical as well.
Q. Acoustical, okay.
A. And then occasionally we get trucks out of Sweetwater, Texas. Plaster City, California.
Q. I'm sorry, which city?
A. Plaster City.
Q. And you say those are just occasional deliveries?
A. Yes.
Q. Those are U.S. Gypsum goods, but --
A. Yes.

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Q. Okay.
A. And then we also get a lot of trucks out of Pittsburg, California.
Q. What are they delivering?
A. Steel studs.
Q. And who is your supplier in that?
A. A company called Cemco.
Q. S-I --
A. C-E-M-C-O.
Q. C-E-M-C-O?
A. California Expanded Metal Company.
Q. And any other suppliers?
A. Oh, we get some steel out of Telling Industries out of Arizona. We get some steel framing materials out of Western Materials out of Northern California. We get joint compound out of Woodland.
Q. Woodland --
A. I think it's Washington.
Q. Okay.
A. And there's probably a few others that I'm just not thinking of.
Q. Does that list comprise the substantial majority of your suppliers?
A. Yeah. The only other one I can think of is Dryvit out of California as well.

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Q. Now, do you receive any goods that arrive by train into Rainier, Oregon, and then are transferred to truck and delivered up to you?
A. Yes.
Q. Can you describe what suppliers? Can you describe which suppliers provide supplies in that manner to you?
A. It's just material coming by rail from other USG plants to Rainier.
Q. So is that, to your knowledge, is that USG's central staging area for drywall deliveries on the West Coast out of Rainier?
A. For the West Coast, no.
Q. For some --
A. For Washington, Oregon, and British Columbia, yes.
Q. Is it your understanding that in the time period approximately the year 2000 to approximately 2006, that the number of railcar deliveries to your location declined substantially?
A. I would say yes.
Q. And do you have an understanding of how much that decline was?
A. You know, I can't remember exactly when the Rainier plant opened, but when the Rainier plant

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opened, we started receiving most of our wallboard by truck. So I'm pretty sure that plant's been open for ten years, which would fit into that time frame. We still receive some railcars of our products, but the majority of all wallboard was then coming by truck.
Q. And prior to the opening of the Rainier plant, you had more railcar deliveries coming from other locations from U.S. Gypsum?
A. Correct.
Q. And what were those locations?
A. Sperry, Iowa. Empire, Nevada. And there's one more, but let me think about this. There was another USG plant back East.
Q. And do you have any business or accounting records that would show the number of deliveries that you received from the time frame of 2000-2006?
A. No.
Q. Do you keep records of those types of deliveries?
A. For a certain period of time, yeah.
Q. I take it that period is under five years?
A. I would say that it's probably no more than three, would be my guess.
Q. To your knowledge, would the railroads have records of the number of deliveries they made to

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Building Specialties?
A. I would think that Burlington Northern would know how many of railcars they delivered to us.
Q. Do you have any reason to doubt the accuracy of their records?
A. No.
Q. Can you tell me why, if you know, Building Specialties stopped using rail service?
A. One of the good reasons was rail service just kind of -- at one time rail service was daily, and then it went to like three days a week and then I think it went to two days a week. So, you know, that put a definite pressure on us because of demurrage rules, trying to unload several cars in a matter of a couple three days. It just wasn't working for us.
Q. Can you describe -- I don't quite understand what that means, the difficulty. Why was that a difficulty?
A. You have, I believe it is 48 hours to unload a railcar. We're going back, so I could be wrong. 48 hours. And after that 48 hours, they then start charging you demurrage, which is simply rent.
Q. For letting --
A. For letting the car being there.
Q. Letting it sit there while you're -- okay.

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And it was difficult to unload the --
A. Well, when you would get five railcars on Friday and they come back again on Tuesday, that's a lot of railcars to be unloading in that amount of time when you're trying to do everything else. So it put a lot of pressure, you know, on us to not have demurrage, because it's graduated. It's $40, you know, the first day or two and then it goes up and up and up.
Q. You did you at some point have a dedicated employee or two whose job it was to unload railcars?
A. Yes.
Q. But even that with that, it was difficult to --
A. Even with that it was difficult, because you've got other incoming freight as well. So especially when it comes in by truck, they're not going to sit there and wait for hours. So you've got to do them first. Because the railcars are just going to sit there, so --
Q. Was the opening of the Rainier USG plant a factor as well?
A. I would say definitely, because when they first opened it, they didn't have rail, which they do now. But at that time they didn't. So it was a huge

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factor. Just doing trucks is simpler than when you only get rail service a couple times a week.
Q. Is there any -- to your knowledge, would you ship anything from Rainier Oregon on rail to your location?
A. The option is there to ship railcars from Rainier to us.
Q. How would that work?
A. They load a lot of railcars there, send them up into British Columbia. They just load them and send them to us in Redmond instead of British Columbia. They have the capability to do it. Whether it would be a cost savings for them or us, I haven't broached that subject, because there isn't much point if you don't have rail, and at this moment we don't, so -- we do have other suppliers about the only way we can get material is by rail.
Q. Who is that?
A. American Gypsum.
Q. And where are they located?
A. Albuquerque, New Mexico, and Gypsum, Colorado.
Q. And are you receiving goods from them presently?
A. No.

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Q. You have in the past?
A. We have in the past, yes.
Q. How much?
A. Maybe a railcar a week.
Q. And when did you discontinue that?
A. Probably about the -- probably ten years ago, maybe the or when rail service became kind of non-existent. I don't remember when we kind of like quit getting it from American Gypsum.
Q. What other suppliers?
A. Pabco Gypsum.
Q. Where are they located?
A. California.
Q. And how much did you get from them?
A. You know, we didn't get anything from them because they were only able to ship on the UP and we were on the BN and the cost to switch was cost prohibitive.
Q. And the UP is?
A. Union Pacific.
Q. Union Pacific, okay.
A. Though our Tacoma branch brought in quite a bit from Pabco, because they're on the UP.
Q. And American Gypsum was able to ship on the --

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A. They were able to ship on the BN, and then somewhere along the line it changed and then we had the same problem with the BN and UP. So again we brought it into our Tacoma facility.
Q. What was the -- you say the same problem. Which problem are you referring to?
A. Being that there was a cost to switch from the UP to the BN which took away the savings that the railcar provided us.
Q. So you hit that same problem with American Gypsum?
A. Yeah.
Q. Okay.
A. At the end.
Q. And the end being?
A. You know, five, ten years ago.
Q. Any other suppliers?
A. By rail, no.
Q. I'm just curious, you're a subsidiary of U.S. Gypsum?
A. Correct.
Q. But you were getting gypsum products from other companies?
A. Correct.
Q. Did U.S. Gypsum have a problem with that? I

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don't understand how your business works, so --
A. Well, at one time I can tell you we were probably 20 percent USG and 80 percent other manufacturers. There was a time where we bought all the wallboard we could from USG. It still wasn't enough, so we bought from others. In today's world, if we buy other than USG, probably going to get a phone call. Not to say it's not done around the country, because we have to -- we have to buy X amount of USG board. And we're allowed to buy X amount of other people's board. But being that we have so many centers, that some of the other centers totally rely on those other manufacturers, thus we can't do it where we're at. But it just -- you know, things change. You know, it gets busy in one spot and slow in another, so word will come from one plant to another and so, you never know. It's not like written in stone and will never change.
Q. But I take it, if I understood your earlier testimony, right now you get all or most, almost all of your gypsum out of the Rainier plant in Oregon, correct?
A. Yeah. The largest percentage, yes.
Q. So prior to the time that you -- well, let me direct your attention to Exhibit 2. And on the

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second page, that first full paragraph, the second sentence says, "Prior to the cessation of Burlington Northern service we were averaging two to five carloads of material per day to our facility." Did I read that correct?
A. Correct.
Q. Now, I think in fact towards the end, i.e. around 2005-2006, you weren't averaging two to five per day at that time, were you?
A. Correct. It was probably one to two cars a month, maybe.
Q. Is the two to five carloads of material would be maybe ten or more years ago when you were averaging that much?
A. I would say yes.
Q. And the two carloads a month you were averaging around the time of 2005-2006, what were those?
A. They were flooring material.
Q. And who was that from?
A. That was from United States Gypsum.
Q. And that's a different product than I think you've mentioned thus far. Is that a different product, or is that some of the same --
A. It is a different product.

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Q. And do you still receive that product?
A. No.
Q. Is it a discontinued line for you?
A. We were basically -- we warehoused USG's product for them. We unloaded the railcars, trucks would come in, we'd reload the trucks and they'd go wherever they went.
Q. Okay. So what you're saying is you provided a facility basically to warehouse their goods?
A. Correct.
Q. You weren't really involved in the sale of it?
A. Correct.
Q. It was simply you provided space to them to --
A. Correct.
Q. -- to warehouse. And you don't do that any longer?
A. No.
Q. When did that end?
A. Not soon enough. Probably, I don't know, five years ago. Just guessing. You know.
Q. Again, approximately?
A. Yeah.
Q. Something like that? Okay.

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A. No less than five years ago. No less or no more?
Q. At least five years ago?
A. At least five years ago.
Q. Maybe longer?
A. Yeah.
Q. So other than these flooring materials that you were warehousing for U.S. Gypsum, I take it at that point you weren't even receiving any goods for rail for your own use?
A. You know, I think we probably got a few cars from Plaster City, California.
Q. And again, what was that product?
A. That was just a specialized wallboard product.
Q. And when you say a few cars, once a month? Once every three months?
A. Somewhere in between there would be my guess.
Q. And do you still obtain that specialty wallboard product from Plaster City?
A. Now, sometimes it comes in in full truckloads, but generally it goes into the Rainier facility by rail and then goes out amongst the different people who buy it.

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Q. So I take it there's a smaller market for it because it's a specialty type of product?
A. Yeah.
Q. So you don't have a great demand in your business for it?
A. Well, it's like shaft wall material, which goes inside your elevators that you can't see that provides a fire rating. So, if you take this building, figure out how much is on the walls versus in your elevators, it's a way smaller amount. So --
Q. It's specifically for elevators?
A. That and vents through the building. It's a small portion of what goes into a building.
Q. Okay. And at this point in time it's shipped into Rainier and then comes up to you by truck?
A. Correct.
Q. Other than those two items in the time frame of around 2005-2006 or earlier, were you receiving anything else by rail?
A. No. Not that I recall.
Q. And was that the case going back into the year 2000?
A. I would say that more than likely it was the same.

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Q. You've already described for me the sort of decline in the gypsum deliveries, or the drywall deliveries, as I understand it, because of the opening of the Rainier plant?
A. Correct.
Q. If I can direct your attention to Exhibit 3, which is the aerial photograph, where would you have warehoused the material U.S. Gypsum? Which building?
A. It would be the white building in the far right bottom of the picture. Away from the rail line.
Q. Is that a warehouse building?
A. Yes.
Q. Entirely?
A. Entirely.
Q. Could you just write on there, if you wouldn't mind, just write the word "warehouse" just on that building so we'll know that's which one you're referring to?
A. Well, they're all warehouses, pretty much.
Q. Okay. Well, we're going to go through them, so maybe --
A. Left hand pen doesn't work.
Q. Anybody got a pen that works better on that material?
MR. FERGUSON: If you put it on top of

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some paper, it might flow a little better.
A. There we go.
Q. Okay. Now, you indicated -- so it looks like there's an older, maybe, but there's a red building sort of in the center of the --
A. Correct.
Q. And is that a warehouse as well?
A. Correct.
Q. And then the new building for which you received an award was --
A. Office warehouse space.
Q. Office warehouse space. Okay. Is that all the buildings on the --
A. That's warehouse as well. So there's a total of four buildings.
Q. Got it.
A. Three of them are strictly warehouse. One is an office warehouse.
Q. And the new one is the office warehouse?
A. Correct.
Q. Snag my pen back. Now, turning your attention back to Exhibit 2, your letter, and on the second page you indicate that you write a sentence which says, "We would expect to receive Forty per year (a mixture of closed boxcar and/or flatcar center

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support freight cars) starting as soon as the service is available." Did I read that correctly?
A. Yes.
Q. And how did you calculate the 40 per year?
A. Just kind of like figured out major material that we move, how much space we have to hold it, and came up with 40. I mean, basically that's one a week.
Q. Exactly what did you see as being in those 40 box cars?
A. Meaning --
Q. What product? What product would be?
A. Gypsum wallboard.
Q. And where would it originate from?
A. Well, it could originate from possibly other than USG manufacturers. It all depends on pricing. It could come out of the Rainier plant as well. And it could come out of some of the other plants that already ship into Rainier then reload on truck and come to us.
Q. Now, I'm going to take each of those. So you thought about gypsum from sources other than USG, correct?
A. Correct.
Q. And as I understood it, you had a limited amount, maybe one railcar per week from American

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Gypsum before the Rainier plant opened?
A. Correct.
Q. So is it your testimony that you would again begin receiving that, even though the Rainier plant was opened?
A. There's that possibility. Again, pricing has a lot to do with everything. I mean, if it's the same price I'm using USG. It's a better product, so I'm going to use USG. But if it's cheaper, then I could put it out on job sites.
Q. Have you done any investigation of the comparative prices between the USG and the American Gypsum?
A. Well, being -- I mean, I have not, but our Tacoma location has bought American Gypsum. So I know that, you know, it's generally cheaper. I know our Napa, Idaho, buys from them and it's cheaper.
Q. And would U.S. Gypsum allow you to buy quantities from American Gypsum?
A. They allowed our Tacoma branch to buy some. So, you know, the question is for how long. I mean, I can always place a couple orders and then get in trouble and then I have to stop, so -- one doesn't know the answer to that.
Q. But you would agree that U.S. Gypsum

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wouldn't be in favor of it, correct?
A. I would say that's correct, at this present time.
Q. And have you calculated what the price differential would have to be to make it make economic sense for you?
A. Kind of like boils down to the price difference per thousand square feet. Let's just say it was 10 dollars a thousand and then typically the rail people give you an unloading allowance. Okay? And that's the real -- if 10 dollars a thousand, that's good, but if they don't give you an unloading factor, then that 10 dollars a thousand isn't good, because it probably costs 3 to 6 dollars a thousand to unload a railcar, just because of -- it's not really the word I want to use, but make it simple and easy, the mess it creates. The packaging. Whereas the truck has, you know, it's got a tarp and they take that tarp with them, so there isn't any real mess. And they do offer unloading allowance, and sometimes it makes sense.
Q. Who is "they"?
A. The manufacturers.
Q. And do you know whether American Gypsum offers a --

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A. I know American Gypsum does.
Q. Do you know what it is currently?
A. I know that some people it's 6 and I know other people have negotiated 10. So --
Q. Have you actually talked to American Gypsum to find out what their actual numbers are?
A. No. Because we don't have rail, so what's the point.
Q. Then you indicated that you thought you could ship some from the Rainier plant by rail?
A. They have offered that before, a few years back.
Q. Who is "they"?
A. U.S. Gypsum out of Rainier. So I know it's possible, but again, we don't have rail, so I don't need to spend a lot of time on what ifs. I mean --
Q. What did U.S. Gypsum offer you -- when you say a few years back, how long ago was a few years back?
A. Three, four years.
Q. And did they provide you with cost estimates?
A. Yes. And I didn't think it was worth it that time. So again, you know, we don't have rail, so I don't spend a lot of time.

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Q. And I take it you haven't gone back to them since writing this letter to find out what their --
A. No.
Q. -- current cost estimates might be?
A. No.
Q. But when they did give them to you three or four years ago you looked at them and decided they weren't --
A. Well, it was a push. Maybe a little savings. Just not a great enough savings to deal with railcars at that time.
Q. Because there's a certain kind of mess or hassle factor that comes with dealing with railcars?
A. Well, I mean there are some positives with railcars. Railcars just sit there. When you want to unload them, you unload them. And then at that time, I mean if you look at this picture --
Q. You're referring to Exhibit 3?
A. Yes. If you look at the top kind of like middle where the white line runs through and you can see like a bunch of stuff laying right beside where the spur comes down.
Q. Uh-huh.
A. That's all prepackaged steel studs for jobs. And we were extremely busy at that time and so would

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have had to deal with that, putting it somewhere else. So it just, you know, it was an easy way out not to do it.
Q. And then the other supplier, I guess, that made up your estimate of 40 a year would be from other gypsum plants, U.S. Gypsum plants?
A. Yes.
Q. And that would be the Empire, Nevada, Sperry?
A. Yeah, or Plaster City. I mean, they have -- we've got quite a few different plants. And all the materials are not made in one specific plant. So a lot of it again goes by rail, goes into Rainier and goes to us. And depending on building activity, we can go through a full railcar of specialty products in a month.
Q. And currently those are coming up by truck from Rainier?
A. Correct.
Q. Before I come to that, let me go back. Why would you, if you're receiving your drywall and gypsum materials from the Rainier plant, why would you want to receive some from Sperry?
A. Again, the Rainier plant does not make every material that we use. It's made at other plants. So

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if we could get rail, we could order a full railcar, and I'm sure there would be savings because, then it wouldn't be going into Rainier being unloaded, reloaded and shipped to us.
Q. Have you done an actual investigation to determine what those actual costs are?
A. No.
Q. So would it be correct to say that you have not contacted U.S. Gypsum as a supplier from Empire, Nevada, and asked them what they charge you to ship rail into --
A. I have not.
Q. -- Building Specialties?
A. I have not.
Q. In your last sentence in that full paragraph on the second page of Exhibit 2 you say, "We have will" -- I think you mean "We will be asking our suppliers to quote us rates on this traffic and await their response." Did I read that correctly?
A. Yes.
Q. And have you asked your suppliers to quote you rates on --
A. I have talked to our salesmen from USG about the possibility of getting railcars out of Rainier.
Q. Okay. When you say you talked, you mean

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your salesmen?
A. Salesmen, the USG salesmen.
Q. And who did you talk to?
A. I talked to Eric Eshbaugh.
Q. Would you spell that last name?
A. No, I cannot.
Q. Eshlaugh?
A. Eshbaugh.
Q. Eshbaugh? Okay. Where is he located?
A. Auburn.
Q. And when did you talk to Eric?
A. Probably a month, two months ago.
Q. And what did he tell you?
A. He would look into it.
Q. Has he contacted you again?
A. No, we haven't talked about it.
Q. Other than talking to Mr. Eshbaugh, did you speak with any other suppliers to get --
A. No.
Q. -- quotes on rates for traffic?
A. No.
Q. So is it fair to say sitting here today you don't know what it would cost to ship drywall out of Empire, Nevada? Correct?
A. That is correct.

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Q. You don't know what it would cost to ship it out of Sperry, Iowa, correct?
A. Correct.
Q. And you don't know what it would cost to ship it out of Gypsum, Colorado, correct?
A. I have a good idea. Because again, our Tacoma yard purchases from them. So I know what those numbers are.
Q. What are those numbers?
A. Less than USG's.
Q. Significantly less?
A. I guess that's all relative.
Q. I mean, can you tell me what the numbers are?
A. They're probably 15 dollars a thousand less.
Q. How does that compare to receiving the goods from Rainier by truck?
A. You mean how would that pencil out as a savings?
Q. Uh-huh.
A. Probably somewhere around 10 dollars a thousand. So a couple 300 a truckload.
Q. Have you actually done that calculation on paper anyplace?
A. No, but I mean, I can pretty much easily do

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it in my head. It's 10 bucks. There's 27,000 feet on a truck. That's 270 bucks.
Q. And how do you reach the $10 savings?
A. We get $5 allowance fee and then they're $10 a thousand less, so the $5 gets eaten up in the unloading of the car, and then the $10 is just a flat savings.
Q. So you're assuming it's $5 unloading fee?
A. I believe that's what Tacoma has gotten.
Q. But you don't know if that's what you would get?
A. I would assume that it would be the same. Wouldn't believe it would be any different.
Q. And this would be for maybe one shipment a week?
A. Correct.
Q. But you haven't yet, or I guess you haven't actually asked for actual quotes from any of these other suppliers?
A. Correct.
Q. So that's your best supposition, would that be fair?
A. Correct.
Q. Any other suppliers that you would -- you gave me three for gypsum. Was that the entire group

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of suppliers that you think you would try to use to supply you when you made your estimate for your verified statement?
A. Yes.
Q. For your verified statement, which is Exhibit 2? Now, are you familiar with, I think it's called an industrial track agreement related to the spur there by your offices?
A. No.
Q. Are you aware that that was terminated by BNSF?
A. I believe so.
Q. And when did that occur?
A. I don't know. About three years ago, five years ago.
Q. Someplace in that --
A. Someplace in that time. Because I know there was -- the county was buying this and the railroad was giving this and --
Q. So you're aware that they terminated the industrial track agreement?
A. Yeah.
Q. Did you object or complain, or did Building Specialties object or complain when that happened?
A. I believe we did.

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Q. And who did that?
A. You know, I don't know. It wasn't me. It was somebody else. Who that was, I couldn't tell you if it was Brad Hamilton who was the MCO at that time or if -- who it was. The landlord? I don't know.
Q. And how did they object?
A. I don't know if it was written or verbal or what. Again, I wasn't involved in that.
Q. Do you know what the objection was?
A. That we wouldn't be able to receive rail if we so desired.
Q. And when BNSF proposed to abandon rail service in 2008, did Building Specialties object to that?
A. I believe so. Again, that was, you know, that was somebody else dealing with that.
Q. And who was that?
A. I believe it was Brad Hamilton was the MCO at that time.
Q. Still the MCO?
A. No.
Q. Where is Mr. Hamilton these days?
A. He no longer works for the company.
Q. Do you know where he is?
A. I believe he works for Steeler.

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Q. Who's Steeler?
A. A steel manufacturer here in Seattle.
Q. Who is the current MCO for you folks?
A. Chad Pompa. You have that on your front page.
Q. Okay. Right. Was Mr. Pompa involved in any of that?
A. Negative.
Q. Did you, to your knowledge, enter into any agreements, written or oral, with BNSF at the time they abandoned their service?
A. I did not.
Q. Are you aware of any?
A. No.
Q. Going back to Exhibit 2, which is your letter, it indicates that presently four truckloads of material arrive at our facility daily. Is that correct?
A. You know, it varies. I mean, I would say that sometimes it's seven, sometimes it's two, today it's one. It varies, but on an average that's probably real close.
Q. Okay. And what happens? The material comes in and gets unloaded directly into warehouses?
A. Sometimes it goes directly off the semis

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onto our trucks. But probably most of it goes into the warehouse.
Q. And how does a -- I guess maybe you can explain the conversion. How much can a truck carry compared to a boxcar, if you know?
A. Typically, a railcar is three truckloads.
Q. And I noticed in your letter you referred to a mix of closed boxcar and/or flatcar center support. Is there a difference in how much those type of boxcars or those type of railcars carry?
A. You know, they make a couple of different sizes of railcars. And that could change it from three to four truckloads per railcar.
Q. Depending on the size?
A. Depending on the size.
Q. But your rough rule of thumb is about three --
A. Yes.
Q. -- three truckloads equals a railcar?
A. Yes.
Q. Could be a little bit more? Okay. And then do you have the same size trucks as the ones that come in for delivery?
A. No.
Q. Smaller?

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A. Smaller.
Q. And you indicated that at least some of the time you might unload directly off a truck coming onto one of your delivery trucks?
A. Correct. But the whole truck's not going to go onto our truck. I mean, for example, a truckload of five-eighths twelves is 572 pieces. Our typical truck and trailer is 364 pieces. So some of it, you know, there could be another truck and it could go onto that or it could go into the warehouse. But we don't haul as much as they haul.
Q. How many delivery trucks do you have?
A. Four boom trucks, two flatbeds and a curtain van. Sound like a Christmas --
Q. And on average, how many of your trucks go out per day for deliveries?
A. What do you mean?
Q. Do all the trucks go out every day, full loads delivering?
A. I would say that four trucks minimum per day go out. Each one of those trucks will come back to the yard multiple times during the day.
Q. So when you say four trucks --
A. Four trucks leave in the morning, and then, say, 10 o'clock they start coming back into the yard,

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then they go back out, and then they may come back in and go back out again.
Q. So that would be eight to 12 truckloads going out?
A. Yeah.
Q. On average?
A. But I mean you don't -- you know. Sometimes the truck doesn't have 364 pieces, sometimes it's got 40 on it, and it's got to come all the way to here. So, you know, not always are they full.
Q. Right.
A. Not always do they have drywall on them. So -- you never know.
Q. Just depends on what jobs are ordering and what the materials are and the amount?
A. Right. Sometimes we'll do four deliveries and quickly equal the same amount as 20 deliveries. So -- you just never know.
Q. Now, let's go back to when you were receiving rail deliveries. How did it work? Just sort of, can you walk me through the process of when you were receiving a boxcar of goods?
A. Typically they were flatcars. The majority is flatcars.
Q. Okay. Which means they're open?

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A. Correct.
Q. Okay. And would you receive one, two, three?
A. Typically it was, I would say, when we had full rail service, it was usually two to three cars.
Q. The engine would back them in there? Pull them in?
A. They'd back them in.
Q. Directing your attention to Exhibit 3, where would they rest?
A. They would rest where -- I was pointing out the steel packages before. One car would be there and then the rest of the cars, just depending on how many there were, would work their way back towards the Redmond spur. So back in this direction.
Q. Could you unload at all three -- is there only one unloading location, or how did you --
A. There's only room to unload one car at a time, but looking at this picture, if you look to the right you can see the rail continues, so the empties would go down and past our warehouse, and depending on how many we had, would even go further into the -- it's not the neighbor's property, but into that area.
Q. Past that sort of that --
A. The white line.

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Q. The white line into the northwest, what's now labeled Northwest Art Glass?
A. Correct.
Q. When the rails ran out that far. So the empties would just get pushed out further?
A. Correct.
Q. But the only unloading location was there where those white steel -- I forget what you call them, materials are --
A. The metal studs, yeah.
Q. Metal stud materials, okay. And how exactly would that be unloaded from the flatcar to the warehouse?
A. You mean, by forklift you mean?
Q. Was it forklift?
A. Yeah.
Q. And then so the forklift would, what, take them to one of the four, three or four buildings, depending on what was available?
A. Typically, it would have been one of the two buildings on the right-hand side of the property.
Q. Can you point those out for me?
A. That's the warehouse we talked about before and the warehouse above it.
Q. Okay.

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A. Those are both wallboard warehouses.
Q. So you'd have to run a forklift from that location on the rail over to either the white one -- the white roofed warehouse or the gray roofed warehouse that's directly --
A. North of it.
Q. I guess it's north of it?
A. North of it, correct.
Q. So how long would it take to unload a boxcar?
A. If you're uninterrupted?
Q. Uninterrupted.
A. Probably about two hours.
Q. One guy?
A. One guy. That's to unload it.
Q. Just to unload it?
A. Just to unload it.
Q. So presently, when you're receiving the gypsum by truck, what do they do, do they pull up to a loading dock at the warehouse?
A. No. If you look at that picture, that's a semi located right there under where it says 90th Street.
Q. So right --
A. So right there.

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Q. That's a semi parked there?
A. That's a semi parked there. Looks like it's -- I can't tell, but it looks like it's empty. They park there and then we forklift it from there to one of those two warehouses.
Q. Can you be unloading more than one semi truck at a time?
A. We can. But typically we only unload one at a time, because if you go farther north in the picture, there's room for another semi there. And we have been known to do that, but generally we don't, because then when our trucks come back in, they can't get loaded. And since we pay our drivers and we don't pay the guys in the semis --
Q. You want your guy out driving?
A. We want our guys out on the road.
Q. And how long does it take to unload a truckload?
A. Just to unload it?
Q. Just to unload it.
A. Five minutes. Maybe ten.
Q. That would suggest it's -- okay. Flat car being maybe equal to three truckloads?
A. Correct.
Q. But it takes lot a lot less time to unload a

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truckload than it would the flatcar? Am I understanding that correctly?
A. Correct.
Q. Do you know why that is?
A. It's the way that the trucks are loaded, whereas you go to the truck, you take off three units, which is the max the forklift can carry. Go to the other side, same part, you do that four times, and then you've got a little bit on the back end, and you do that and you're done, whereas a railcar is typically seven high. So you take your three, your three and you've got to go back and get the one. And you can mess it around on the car so you're taking one, putting it on top of one, taking the two, putting it on top of three. So it just takes longer. Plus it's farther to go. But --
Q. You mean it's farther from the warehouse to the point of unloading?
A. Correct. That, and it's awfully tight on the back side of the railcar where we unload it, so -- there is a creek back there and we don't like to like fall in the creek. So we're pretty careful back there.
Q. You mean the forklift operator has to go across the tracks?

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A. Correct.
Q. And go on the other side of the railcar to unload it on that side?
A. Correct.
Q. And is there a reason why he doesn't unload it on this side?
A. Typically, they're A-frames, which means that the board is stacked against metal that, so there's no way to get it all from one side, so you have to get to the back side. And even then, our forklifts aren't set up to pick up eight feet of material. They're only set up four feet.
Q. So it sounds like unloading with the semis is a little easier than unloading the boxcars.
A. Well, other than the fact, like I said, you get these semi drivers starting to back up on you, they're yelling for you to get going, our truck's coming in the yard, they're getting loaded. So that railcar doesn't yell. It just sits there. The railcar doesn't yell at you.
Q. And then after it's unloaded and sits as an empty here, how would it get picked up? Does BNSF bring an engine in there and pick them up?
A. Yes.
Q. Now, and you may have covered this, so I

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apologize, but when you receive products by rail, who negotiates the shipping rates with the railroads?
A. Typically the manufacturer.
Q. So when they give you a quote to you, do they include the shipping cost as part of the quote?
A. Meaning if it's a line item? It's not a line item. Their price is a per thousand square foot price for the material, and that includes freight. We have no idea what they're paying for freight.
Q. So they don't break it out for you?
A. They don't break it out.
Q. So you just get a number?
A. We just get a number.
Q. Per thousand square feet?
A. Yes.
Q. So you just get 10 bucks a square foot. You don't know if a dollar of that is freight or three dollars?
A. Correct. Have no idea.
Q. Is it possible to find out what the shipping rates are?
A. I don't know the answer to that. I mean, I have no clue whether they divulge that information or not. Same thing with trucks. I don't know what the freight charge is on that. The only thing I know is

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when we get a surcharge because of the price of diesel. That's the only thing I see different on an invoice.
Q. But they quote to you, you're telling me the same way --
A. Everything is FOB my warehouse.
Q. Right. And then you might get a surcharge from the truckers for fuel, did you say?
A. Correct.
Q. What is that? Can you describe that for me a little bit?
A. Well, and usually that comes from the manufacturer. It's on their invoice, and it's just a set amount per truckload.
Q. Additional freight, in effect, right?
A. Correct.
Q. But that's broken out for you for some reason?
A. Because it's a surcharge.
Q. When you say surcharge, what do you mean? It's different than what they've quoted you or it's in addition to what they've quoted you?
A. It's in addition to what we're quoted.
Q. Just so I'm clear, you've not obtained any quotes from any of your suppliers, is that correct?

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A. That would be correct.
Q. Now, what costs would you incur to resume rail freight service?
A. To my knowledge, I know of no costs. Because if it cost anything, then I probably wouldn't want to do it.
Q. Is the siding, the rail spur ready to go right today?
A. I believe so.
Q. How do you know that?
A. Just because it hasn't changed in ten years.
Q. Does it need any maintenance?
A. Not to my knowledge, but I'm -- I don't know much about the railway. So that would be somebody else's --
Q. Did you ask anybody about the cost of getting the siding ready to go?
A. I mentioned it to the GNP and they, it sounded like to me that there was no cost. But then again, that was just generalized talk, what ifs, so --
Q. I think your letter states that GNP has leased that siding, is that correct?
A. Leased --
Q. The siding.
A. They very well could have. Again, it's not

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ours, that's the landlord's. So I don't know.
Q. Let me turn your attention to the front page of Exhibit 2. If you look at that second full paragraph, the fourth line starts with, "We understand that GNP" --
A. Correct.
Q. -- "has secured a lease of the siding."
A. And that's what they told me they did with the landlord. But that's only them telling me they've taken care of that.
Q. Have you ever seen the lease?
A. I have not seen the lease.
Q. And your understanding is they leased it from whom?
A. Our landlord. Which is Wallace Properties.
Q. Now, let me focus your attention on Exhibit 2 for a minute. How did this letter come into existence?
A. They asked me to write a letter. I asked them if they could provide me some kind of guidelines. And they did.
Q. When you say they provided guidelines, what did they provide you?
A. They provided me what -- pretty much like what they would prefer to see in the letter. And

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basically what I needed to do was kind of like fill in the blanks, for lack of better terms.
Q. Okay. So somebody delivered to you a form of a letter with some blanks in it, is that correct?
A. Actually, it was emailed to me.
Q. And it was in the form that I'm looking at in Exhibit 2?
A. Pretty much. I changed some things.
Q. Let's take a moment and let's go through Exhibit 2 and have you point out what you changed.
A. You know, off the top of my head I can't tell you exactly what I changed. Again, you know, this is several months ago. This is not a top priority on things that I have to get done. So I can't exactly tell you what it was that I changed.
Q. Well, it looks to me at least looking at the copy that I have is there are some blanks, there is a single blank on the first page? And it looks to be in that second paragraph where it says, "For the past 7 years I've been employed," it looks like 7 was a blank, is that correct?
A. I do believe so.
Q. Were there any other blanks for you to fill in on the first page of this document that you can recall?

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A. You know, I do believe I had to fill in our address, zip code. They asked me where the material would be coming from.
Q. Are you looking at the second page now?
A. Correct.
Q. And you filled in those blanks?
A. Correct.
Q. On the second page in the middle of the sort of first full paragraph?
A. Correct. And then how many truckloads of material.
Q. Anything else?
A. I'm sure there was a couple other things in there, but I don't recall what they were.
Q. And with the exception of those couple other things, the rest of this letter was emailed to you pretty much in the form that I see it here in Exhibit 2?
A. Pretty much, yes.
Q. Do you still have a copy of that email?
A. No, I don't.
Q. What did you do with it?
A. I deleted it.
Q. Why did you delete it?
A. So I wouldn't fill up my memory so -- I

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probably delete 80 percent of all emails I receive.
Q. Did you receive any other emails from whoever sent you this form of letter?
A. I don't believe I recall any others.
Q. Did you, when you responded to the subpoena, go back and look into your email to see if you could see any other emails from them?
A. Yes, and I didn't see any.
Q. Did you go into your recycle bin or deleted bin to see if you could find any there?
A. No, I did not.
Q. Would you mind doing that?
A. I can try, yes.
Q. And relative to the date of July 8th, which appears on the front of the letter, when did you think you received this form of a letter from them? Within a week, a month?
A. Probably somewhere in the last two weeks of June, I'm guessing.
Q. And then after you received it did you have any discussions with anybody about completing it?
A. What do you mean?
Q. Well, you got a copy of this by email, correct?
A. Correct.

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Q. And it had some blanks in it?
A. Correct.
Q. And you opened it up and looked at it?
A. Correct.
Q. And did you discuss with anyone about how to complete the letter?
A. No.
Q. So what did you do? You sat down in your office and looked at it?
A. Sat down in my office and added and changed and printed and left it for them to come and pick it up.
Q. Now, before you got the letter, you, I think indicated you had at least one visit from representatives of GNP?
A. I talked to one gentleman one day and another gentleman another day. And maybe one of the gentlemen I talked to again. I mean, I might have talked to them a few times. But I know I talked a minimum of two times.
Q. When was the first contact?
A. May, June. Not sure.
Q. Did you contact them or did they contact you?
A. They contacted us.

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Q. Was that a telephone conversation?
A. No, it was an in person.
Q. And somebody, or two people, I think you said?
A. I've only talked to two different gentlemen.
Q. Well, in this first visit somebody actually came to your front desk in the red building, right?
A. Yes. Correct.
Q. And asked for you?
A. Well, asked who was the manager, and that led to me and I came downstairs and talked to the gentleman and he went away and I went back to work.
Q. So only one person visited at that time?
A. Correct.
Q. And you stood at the counter and talked or went up to your office and talked?
A. No, stood at the counter and talked.
Q. How long did that conversation last?
A. I don't know. Five, ten minutes.
Q. What did this gentleman tell you when they he --
A. That they were trying to reactivate the rail line.
Q. What else did he tell you?
A. He said that if they could reactivate the

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rail line they could, you know, bring in freight for us if we so desired. Asked if that was something we would be looking at. And I said it's an option to always look at it.
Q. What else was said in that conversation, as best you can recall?
A. Mainly just about, you know, opening up the rail spur, and the different people who were interested in having rail.
Q. The different people who were interested? What do you mean by that?
A. Between Redmond and wherever their starting point in Snohomish or Woodinville or something. He was just saying so-and-so and so-and-so and so-and-so, they're interested in it as well.
Q. Do you remember the names he gave you?
A. The only name that I remember was Drywall Distributors.
Q. Do you know who they are?
A. Yes.
Q. Are they a competitor of yours?
A. Yes.
Q. You indicated he gave you other names as well?
A. Yeah, but they didn't have anything to do

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with my business, so I don't know who they are, so I didn't ask who they were.
Q. And what else did he tell you in that meeting?
A. That was pretty much it.
Q. Did you tell him anything about your business?
A. Not really. I mean, it was -- you know, just about the rail and the spur and the other people who were interested in -- I don't know, it was mainly other people who were involved, and that was pretty much it.
Q. Do you remember who else he named that was involved?
A. I don't know. Just people who are involved in GNP.
Q. You mean other individuals in the business?
A. Yes.
Q. Do you remember the names he gave you?
A. No.
Q. And at this meeting did he ask you how much service you would be using?
A. I said, you know, it depends. It depends. I mean, it's an option. You know, we used to get several railcars a day, and then we went to, you know,

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having a railcar a week, and then less than that, and then zero, so, you know, who knows what that number is going to be. You never know if USG decided to close down the Rainier plant and ship everything out of the Empire, the Sperry plant, then we would be -- you know, if we had rail, we'd be 100 percent rail again. So you just never know.
Q. Is that something you're saying you said to him in that conversation?
A. No, I'm just saying that we don't know if railcar service would be one a week, five a week, or what. I mean, I don't know what that number could be, because times change. You never, you know, you never know. I mean, I've seen us go from trucks to rail back to trucks over, you know, my 30-year career. I've seen, you know, all kinds of changes. So you just never know.
Q. Let me focus you, though. Did you say to him in that meeting your rail use had declined from a couple carloads a week to one a week to virtually nothing?
A. I would imagine we talked about it, but I don't recall it precisely.
Q. And you indicated this was a short conversation, five or ten minutes duration?

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A. Yes.
Q. Do you recall anything else he said to you?
A. No.
Q. How did the conversation get left? Was he going to do something further with you?
A. He was going to come back and talk some more. I think it was more of a, you know, fact-finding mission on his part more than anything.
Q. Did he subsequently contact you again?
A. Yes.
Q. Same person?
A. Actually, another gentleman came in before he came back. He came back another time.
Q. And this other gentleman who came in, when did that occur relative to this first meeting?
A. Maybe a month after the first meeting.
Q. The first contact was maybe in May?
A. Yeah, it could have been. I mean, again, I don't know. I didn't write it down.
Q. I take it it wasn't a meeting that was calendered on your day schedule?
A. No. Never had a scheduled meeting with them.
Q. So what happened when the second gentleman appeared?

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A. Talked a little bit more about, you know, the people who were board again. I can't tell you the names other than Drywall Distributors. The guy asked me if I was willing to write a letter, and I said, "Sure, I'll write you a letter." And then that was about it. I mean, it was 60 second conversation.
Q. And was this a telephone call, or --
A. No, it was in person.
Q. Did he simply appear at the counter again? It wasn't a planned meeting, I take it?
A. It wasn't a planned meeting.
Q. So this gentleman just appeared at the counter again and asked for you?
A. Correct.
Q. And you came down from the office again?
A. Or I was already down there. I don't recall.
Q. Now this you described as about a 60 --
A. It wasn't a very long meeting, that's all I can tell you.
Q. Shorter than the first one?
A. Correct.
Q. And this gentleman told you that other people were on board?
A. Well, meaning that they were -- they wanted

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the railway to be reopened.
Q. And he gave you specific names, but you just don't recall them?
A. Well, as in company names.
Q. Right. That's what I mean.
A. Yeah. And like again, the only name that stuck to me was Drywall Distributors.
Q. And this gentleman asked you if you would write a letter?
A. Correct.
Q. And did he tell you what was to be said in the letter?
A. No.
Q. Did he ask you to sit down and write it and give it to him?
A. Not really.
Q. So what was your understanding from that meeting as to what you were to do --
A. I think I was rather busy at that time, so I was just kind of, "Yeah, I can do it, but I got to go" type thing.
Q. Did you discuss anything else with this gentleman at the second meeting?
A. Not that I recall.
Q. And following that meeting you had another

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meeting with the first gentleman again?
A. I believe it was the first gentleman.
Q. When did that meeting occur relative to this meeting?
A. A couple three weeks after the last meeting.
Q. And how did that meeting come to be?
A. That's where he said -- that's when the letter came up again, and I asked him if he could give me, you know, some kind of form that he was looking for. And then he sent me this.
Q. Was this a scheduled meeting again?
A. I don't believe so, no.
Q. Did he show up in person?
A. He just showed up.
Q. And how long did this meeting last?
A. A few minutes at best. I don't recall.
Q. And what was said to you at that meeting by this gentleman?
A. Just said he would just get me the letter, like they'd like to see it, and I said, "Great, email it me," and I gave him my email address and that was about the extent of that.
Q. Any further discussion about the people who were on board?
A. I don't recall.

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Q. Did he discuss with you who was to be the recipient of the letter?
A. I don't -- I don't believe so. I mean, I knew who it was once I saw the form letter, but yeah.
Q. And did you, before you received the form letter, did you talk about the contents of the letter?
A. We talked about like how many railcars we thought that we possibly could use, how many truckloads of board we typically go through in a day, whether business was very good, you know, just kind of like some general stuff like that.
Q. Did he ask you to show him some records or evidence to support your estimates of how many carloads could you use?
A. No.
Q. What did you tell him in that meeting?
A. I told him that, you know, I could see that we could possibly use you know, one car a week, possibly.
Q. And that was based upon what calculations that you had done?
A. Well, being that we go through probably 10 trucks a week of just five-eighths twelves alone, a railcar would be easy to come in and be put away, and so I could see one car a week as working easily.

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Q. Assuming that you had a shipper who could ship it to you?
A. Correct.
Q. Assuming that it didn't offend U.S. Gypsum's rules for you folks?
A. Well, it might be USG that's shipping it to us.
Q. And assuming they wanted to ship to you from some source other than Rainier?
A. Well, again, they don't make all the products they sell at Rainier. So there's always full railcars of those products.
Q. So after this third meeting, again how long did the third one last?
A. A few minutes.
Q. And then shortly after that I take it -- well, I guess when after that did you receive the form letter, if that's the next thing that happened?
A. Probably within a couple days.
Q. Did you receive any telephone calls about it, or --
A. I got a telephone call probably a few days after that, asking me it was if it was done, I said, "Yeah, it's done, sitting at the front counter for you. Come and get it."

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Q. And I forget, maybe you told me this already. Did you have discussions with anyone about when you made your changes to the letter or did you just fill it in and sign it and put it at the front desk?
A. What do you mean, discussions with --
Q. I apologize. Because you may have answered this already. You got the email. Did you look at it? It had some blanks. Did you discuss that with anybody, make any changes or corrections or additions to it?
A. No.
Q. You just made those?
A. I just made them. I just made them to what was accurate to what I figured.
Q. And then somebody came and picked up the letter?
A. Yes.
Q. Did you talk to anybody when they picked it up?
A. I don't recall. I believe I was there, but I'm not sure. Because I do a lot of typical, not like for the railroad, but a lot of writing stuff for customers and submittals and such, and I leave them at the front counter, and sometimes I happen to be there

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and I talk to the person and sometimes not.
Q. You just don't remember with this one?
A. I just don't remember.
Q. Don't recall any specific conversation on this?
A. No.
Q. Did you have any contact with anybody from GNP after that?
A. Yeah, I believe they came in and said that they were going to start working on some work on the railway.
Q. Who is the "they" in that sentence? Who came in?
A. Again, I don't recall the gentleman's name.
Q. Same gentleman that came in before?
A. Yeah. One of the two gentlemen, yeah.
Q. Okay.
A. And said they were going to start working on -- they had turned their paperwork in and that they were going to start working on, you know, cleaning up the railroad, railway, or however you want to look at it.
Q. When did this meeting take place?
A. Probably three weeks ago, maybe. Four weeks ago. It was before -- before this. So --

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Q. Before you got subpoena from us?
A. Before the subpoena, yes.
Q. Again was this a planned meeting?
A. No. No.
Q. They just appeared on your doorstep again?
A. Yes.
Q. And how long did this meeting last?
A. Again, a couple minutes.
Q. And they told you that they were going to start cleaning up the railroad?
A. Correct.
Q. What else did they tell you?
A. That was about it.
Q. Did you ask them what they meant by that?
A. Well, I said, "You mean like chopping down the weeds I see?" And he goes, "Yeah, stuff like that." Didn't talk any kind of large specific whatsoever.
Q. Now, after that meeting have you had any contact with anybody from GNP?
A. Telephone call about this.
Q. "About this" being the subpoena?
A. Correct.
Q. Which is Exhibit 1 here.
A. Correct.

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Q. And when did you receive that telephone call?
A. I believe it was last week.
Q. Who called you?
A. Again, I don't remember the guy's name.
Q. One of the same people?
A. It was one of the same people, yes.
Q. What did you discuss with him?
A. He wanted to know if I wanted an attorney.
Q. What did you tell him?
A. I said no.
Q. What else did you discuss with him?
A. That was pretty much it.
Q. How long did this conversation last?
A. Less than a minute. I was in my car. I don't usually talk very long when I'm in my car.
Q. Called you on your cell phone?
A. Correct.
Q. Had you ever spoken to him before on your cell phone?
A. Not that I can ever remember.
Q. Did you discuss Exhibit 2 with anyone else at Building Specialties?
A. No.
Q. So you didn't go to somebody -- I forget

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who -- Mr. Pompa, is it?
A. At that time he was not my MCO.
Q. So that's been a very recent change?
A. Correct.
Q. Mr. Hamilton was the --
A. No, at that time we didn't have one.
Q. Who did you report to?
A. I reported to a guy by the name of Mike Bortnick. And he was in the process of transferring. So, I basically really didn't report to anybody for a period of time.
Q. What period of time would that have been?
A. Probably from June to August 1st.
Q. So you didn't discuss this letter with anybody?
A. Correct.
Q. Higher up the --
A. Correct.
Q. -- command chain? You just on your own decided to sign the letter?
A. Correct.
Q. After you signed it did you report that to anybody up the --
A. No.
Q. -- higher up at --

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A. No.
Q. Okay. Who would make the decision about receiving materials by rail or by truck? Would that be a decision you'd make?
A. Yes.
Q. Would it have to be approved by upper management?
A. No. I don't believe so. Wouldn't surprise me, but typically that's not what they're involved in.
Q. Now, you may have told me this, but I want to be clear that as I understand your testimony, you've not done an express calculation of the differences and comparative costs to you between getting goods by rail versus getting goods by truck. Is that correct?
A. Well, like I said, I can figure out what $10 a thousand means per truck. That's 270 some dollars times three or three and a half or four, depending on the railcar. I mean, you know, you don't need an Excel spreadsheet to do that.
Q. And you've not done any sort of written -- you've not talked to suppliers about those costs or anyone, you've simply done that in your head and said, I'm assuming a $10 savings, $10 charge difference, then this is what my savings would be?

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A. Correct.
Q. And when you estimated the 40 carloads, I take it that was not assuming that all deliveries would be by rail, is that correct?
A. That would be correct.
Q. You'd still be receiving a substantial amount by truck?
A. Correct.
Q. Why don't we take a break for about ten minutes and I'll see if I have further questions, and then other counsel may have questions.
(Recess)
BY MR. GLOWNEY:
Q. Just a few follow-up questions here. Let me turn your attention back to Exhibit 3, which is the map. Do I correctly understand that the railroad ties and line no longer are on the ground beyond where it's shown in yellow? Would that be correct?
A. That would be incorrect.
Q. That would be incorrect. So the lines are still there?
A. Correct.
Q. All the way out to, or at least some part of the distance?
A. Some part of the distance, yes.

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Q. Do you know how far?
A. No.
Q. So they're partly taken out and partly still there?
A. They could go all the way. I just don't know.
Q. You just don't know.
A. I just don't know.
Q. But you think they go past where --
A. They go past our property, that much I know.
Q. That you're pretty sure?
A. Yes.
Q. How recently have you checked it?
A. I walked the end of the property just the other day.
Q. Okay.
A. And I saw railroad tracks.
Q. Saw railroad tracks. All right. Now, who at your office did you tell you were coming to this deposition today?
A. I told Patty, I told Scott, I told Ron. That's about it. I may have told Steve, but I'm not sure.
Q. Are those folks all who work for you?
A. Yes.

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Q. Anybody else you tell you were coming here?
A. I told a customer I was coming here.
Q. Did you tell Mr. -- I'm sorry, Mr. --
A. No.
Q. Mr. Pompa?
A. Pompa.
Q. Pompa?
A. No.
Q. Did you give a copy of this letter to Mr. Pompa?
A. No.
Q. Does Mr. Pompa if know you wrote the letter, to your knowledge?
A. To my knowledge, no.
Q. Okay. Now, let me just come back. I'm going to jump around here on topics. I'll try to direct your attention back. When you were getting rail service, you might get two or three cars in at a time, I think is what you told me?
A. Correct.
Q. And then you'd unload them and push the empties further down the track?
A. Correct.
Q. Do you get charged demurrage on the empties sitting there?

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A. No, because typically they would come -- they have to come and they grab the empty ones.
Q. But if they don't come within the time frame --
A. We don't get charged demurrage. I mean, they're going to come -- you have a certain amount of time, and if they don't come for four days and your time is only two days, they're not charging you for two days, because you call in and let them know when your cars are empty, and so then you wouldn't be charged demurrage, even though they don't come and grab them. That's up to them to do.
Q. So as long as you call them within the time frame, then it's up to them to come pick them up?
A. Correct. That's how it used to be.
Q. But you don't know how it is today?
A. No. I would assume it works pretty much the same.
Q. Now, the materials, to your knowledge anyway, that come into the Rainier, I take it you have some raw materials that come in there? Or U.S. Gypsum has raw materials coming in there to process at that plant? Would that be correct?
A. That would be correct.
Q. And then they also receive finished goods

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there as well?
A. Correct.
Q. So it's a little of both, to your knowledge? Or a lot of both, maybe?
A. Well, it's a lot raw material.
Q. And some finished material?
A. And some finished material, correct.
Q. And that comes in on a BN line or a Union Pacific line?
A. I have no idea.
Q. You don't know?
A. I don't know.
Q. And then you've indicated that they -- well, then there's rail service from Rainier going up to Vancouver, is that correct?
A. That's correct.
Q. When did that rail service initiate?
A. I don't know.
Q. Do you know whose rail service? Is it BN line or Union Pacific line?
A. No clue.
Q. Would that make a difference in the cost of shipping goods from Rainier up to here?
A. I have no idea. I mean, I know that there used to be a charge to switch from one railroad to

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another. Whether there still is today, I don't know.
Q. Would that make a difference to you when you figure out cost savings?
A. Well, it doesn't make any difference to me, but it makes a difference to the manufacturer, because they're the ones who pay that. So I would, you know --
Q. So they might charge their flat rate to you, their one number to you might be larger or smaller, depending on if they have to include that as a --
A. Correct. I would definitely think so.
Q. Okay. Just a follow-up question. I failed to ask you early on when I was asking about BS's corporate structure. Is Building Specialties a union shop?
A. No.
Q. Other than asking you to search in your email records to see if you can find a copy of the email that you indicated you'd deleted, but which may still be on your computer, I don't have any further questions right now. Thank you, sir. Some of the other lawyers may have questions.

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EXAMINATION
BY MS. BEMIS:
Q. I have a couple. Looking at what's previously been marked as Exhibit 3, can you tell me a little bit about the neighborhood that your business is located?
A. It's primarily an industrial warehouse office area.
Q. Start at approximately noon on the picture. Could you just go around clockwise and tell me what businesses are located around you by their rooftops, starting with the large gray square?
A. The large gray square at the top there is several different businesses. I'm not sure exactly who's in there. I believe that Arena Sports is in there. I believe there's some kind of car parts company in there and a few others which I'm not familiar with. Moving to the right, I'm not sure if they're still there, but at one time Nuprecon Demolition Company was there, and I think they took both buildings, but I'm not positive on that. Dropping down, Northwest Arts and Glass shares that building with Stoneway Roofing. And then there's ours. If you go across the street, the building closest to Willows Road was some kind of sheet steel

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company. They vacated out of there. So that now is vacant. The next building over is several businesses, which I don't know what they are. And I believe it's the same with the building to the far right.
Q. There was some discussion about how this letter was created. Do you recall that?
A. Yes.
Q. Exhibit 2? Although you didn't generate this content from scratch, you did review it prior to signing the letter, is that correct?
A. Correct.
Q. And is it fair to say that the representations about your business and where you received your supplies and shipments and the anticipated usage of railway is accurate?
A. Yes.
Q. In the full first full photograph on page 2, the sentence a little more than halfway down starting "We would prefer," do you see that?
A. Yes.
Q. There are some reasons there talking about, it looks to me, like the benefits of using rail, or possible benefits. Are those accurate reflections of the decision making process to use rail versus intermodal transportation?

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A. To my knowledge, they don't have fuel surcharges on the railway. Then again, I don't know for sure how that works, because all I see is a landed number. But I do know on truckloads can have a surcharge, and that's on a per truckload basis, and with some people it's just whatever they kind of want to charge. I mean, it's not an exorbitant amount, but it adds up. It could be 20 to a hundred dollars. Some people have graduated amounts due to the price of diesel. So I mean, I've seen it quite high before when we paid a lot for diesel. It affected our business as well. We actually charged a surcharge per truckload. So being able to switch to rail definitely has a benefit, if you have to deal with those kind of things.
Q. And is it your experience that from time to time you do have to deal with fuel prices affecting the cost of shipments?
A. It was bad a couple years ago, might be more than a couple years ago, but it was really bad. And I know presently we're paying a surcharge. It's a minor surcharge, but still we're paying it. So, I mean, it all adds up.
Q. And the second reason there, the convenience, is that an accurate statement?

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A. Well, it's convenient to the fact that if we're only talking one railcar a week, where we have two days to offload it, it's easy to do, it can sit there while we're doing other things and then we can go back to it, so it's very convenient that way.
Q. And then the last reason, that your suppliers are set up to use rail, is that an accurate statement?
A. Yeah, because some of them -- if they're not local, so within a few hundred miles, it's much more advantageous for them to ship it by rail. Putting it on a truck just adds way too much cost to the product.
Q. The Tacoma facility is presently using rail service for some of their shipments?
A. Yes.
Q. Does that inform your opinion about the availability of using rail service at the Redmond location?
A. Yes.
Q. How so?
A. Because their price, barring any kind of surcharges from switching from one railroad to another that I don't know about, but, I mean, that could ruin the deal, but if there wasn't anything like that, what they're paying is what I could expect to pay. I

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wouldn't have to pay any more. Just because we're a little farther north really doesn't make any difference.
Q. Is it fair to infer that Tacoma wouldn't be receiving deliveries via rail if it wasn't economically advantageous to them?
MR. GLOWNEY: Before you answer, objection, leading.
Q. That's just for the record. You can answer if you understand.
A. I would say if they're getting rail, it's definitely advantageous to them.
Q. Okay. How is your business doing right now? Is this an up time or a --
A. It starts with an S. Business is not near what it was two years ago. Three years ago.
Q. Do you expect that your business will recover?
A. I would say yes.
Q. And --
A. Or we're all in trouble.
Q. Does the economics and options available to you for shipping play a role in planning for that recovery?
A. Not to a great degree, no.

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Q. Are your predictions in this letter modest, conservative, or something else?
A. You know, that's really hard to say. Because again, things change. So it could go from you know, one car, one car a week to several cars a week. It could be that it's not advantageous at all. So it could be zero. So I mean, you know, anywhere across that board. Because I don't know the final answer to that. Again, you know, I like the option of having, you know, rail. It opens up lots of possibilities.
Q. And it's worked for your business in the past?
A. Correct.
Q. That's all I have.
A. I only take questions from left-handed people.
MR. GLOWNEY: Anything down there?
MR. MARCUSE: No questions.

FURTHER EXAMINATION
BY MR. GLOWNEY:
Q. Did you say there was a minor diesel surcharge now? Diesel surcharge?
A. Correct. And it might be might be stated fuel surcharge.

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Q. How much is that?
A. I think it's like $10 a truckload. It could be different. Again, I don't pay attention to that. Because that comes out of -- I mean, we pay it, but we don't pay it on -- you know, it's not something that I have to add into a purchase order, it just kind of gets taken care of through the discount of the material. So I don't have to deal with it, so I don't pay attention to it.
Q. Okay. And I take when you made your estimates in this letter, in the letter which is Exhibit 2, you didn't actually sit down and study your Tacoma facility's cost and pricing structures?
A. No, I did not.
Q. I don't have any further questions. Thank you very much for taking the time. Let me, just since you don't have a lawyer here, we will be getting a transcript of this. You can do one of two things. You can waive signature -- I'll tell you what that means in a second -- or you can ask to review it and then sign it. That usually means that you want to review it to make sure that the court reporter took down your words accurately so they reflect what you actually said here and make any other corrections that you think are necessary. I would tell you that since

you don't have someone here, you probably don't want to waive signature. You probably want a chance to look at it. And if it's copied, they'll send you a copy and you can look at it and make any corrections. But it's up to you.

A. No, I'd like to see a copy of it.

Q. And then there will be a time period in which you can make corrections, and so you should review it. He's a very good court reporter, but if he missed something, didn't get something correct, then you can catch that on the copy of it.

A. Okay.

Q. So you don't want to waive signature?

A. Correct. I want to --

Q. You want to look at it, yeah. I think that's it.

(Deposition concluded at 11:49 a.m.)

(The witness reserved signature)

SIGNATURE

I declare under penalty of perjury under the laws of the State of Washington that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the CHANGE SHEET flyleaf page hereof. Signed in _____ on the _____ day of _____, _____.

_____

RANDY MANN

Taken: October 26, 2010

Mark Hovila, CCR

CERTIFICATE

STATE OF WASHINGTON)

COUNTY OF KING)

I, the undersigned Certified Court Reporter and an officer of the Court under my commission as a Notary Public for the State of Washington, hereby certify that the foregoing deposition upon oral examination of RANDY MANN was taken before me on October 26, 2010, and transcribed under my direction;

That the witness was duly sworn by me to pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of November, 2010.

_____

Mark Hovila

Washington Certified Court Reporter No. 2599

License expires October 4, 2011

DATE:

Randy Mann
Building Specialties
14980 NE 90th Street
Redmond, WA 98052
Redmond, WA 98052

NOTICE OF READINESS FOR SIGNATURE

Case Name: GNP RLY INC. ACQUISITION AND EXEMPTION
Venue: SURFACE TRANSPORTATION BOARD
Docket No.: 35407
Witness: RANDY MANN
Taken: October 26, 2010
Enclosed is a copy of your deposition transcript.

Please read the deposition transcript, record any changes on the Change Sheet, and sign (1) the Change Sheet and (2) the Original Signature Page.
Please return the Change Sheet and the Original Signature Page to this office within 30 days so they may be filed with the original transcript.

Mark Hovila, CCR
Seattle Deposition Reporters
(206) 622-6661

cc: File
John E. Glowney
Lori M. Bemis
Andrew Marcuse
Enclosure (envelope)

CHANGE SHEET

PLEASE MAKE ALL CHANGES OR CORRECTIONS ON THIS SHEET, SHOWING PAGE, LINE AND REASON.

PAGE LINE CORRECTION AND REASON

RANDY MANN
Taken: October 26, 2010
Re: GNP RLY INC.
Mark Hovila, CCR

DATE FILED:

John E. Glowney
Stoel Rives LLP
600 University St., Suite 3600
Seattle, WA 98101

NOTICE RE FILING OF ORIGINAL DEPOSITION
Case Name: GNP RLY INC. ACQUISITION AND EXEMPTION
Venue: SURFACE TRANSPORTATION BOARD
Docket No.: 35407
Witness: RANDY MANN
Taken: October 26, 2010

Enclosed is the original sealed transcript of the deposition of RANDY MANN. The original signature page and changes, if any, received by this office will be forwarded to all counsel.

Mark Hovila, CCR
Seattle Deposition Reporters

cc: File
Andrew Marcuse
Lori M. Bemis

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35407
GNP RLY INC.
-ACQUISITION AND EXEMPTION-
REDMOND SPUR AND WOODINVILLE SUBDIVISION

STP DOCKET NO. AB-6 (SUB. NO. 463X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA
STP DOCKET NO. AB-6 (SUB NO. 465X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA

Original Signature Page and Change Sheet to the Deposition Upon Oral Examination of
RANDY MANN

Taken October 26, 2010
600 University Street, Suite 3600
Seattle, Washington

Reported by:
MARK HOVILA
CCR No. 2599

Date filed:

John E. Glowney
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

NOTICE RE CHANGES TO ORIGINAL DEPOSITION

Case Name: GNP RLY INC. ACQUISITION AND EXEMPTION
Venue: SURFACE TRANSPORTATION BOARD
Docket No.: 35407
Witness: RANDY MANN
Taken: October 26, 2010

Enclosed is a copy of the Signature Page and Change Sheet, if any, to the above-referenced original deposition transcript.

Mark Hovila, CCR
Seattle Deposition Reporters

cc: File
Andrew Marcuse
Lori Bemis

APPEARANCES: (FOR FILING PURPOSES)

Lori M. Bemis
McGavick Graves, P.S.
1102 Broadway, Suite 500
Tacoma, WA 98402

Andrew Marcuse
Senior Deputy Prosecuting Attorney
W400 King County Courthouse
516 Third Avenue
Seattle, WA 98104

John E. Glowney and
Hunter Ferguson
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

C E R T I F I C A T E

STATE OF WASHINGTON)

COUNTY OF KING)

I, the undersigned Certified Court Reporter and an officer of the Court under my commission as a Notary Public for the State of Washington, hereby certify that the foregoing deposition upon oral examination of RANDY MANN was taken before me on October 26, 2010, and transcribed under my direction;

That the witness was duly sworn by me to pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of November, 2010.

Mark Hovila

Washington Certified Court Reporter No. 2599

License expires October 4, 2011

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35407
GNP RLY INC.
-ACQUISITION AND EXEMPTION-
REDMOND SPUR AND WOODINVILLE SUBDIVISION

STP DOCKET NO. AB-6 (SUB. NO. 463X)
BNSF RAILWAY COMPANY
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IN KING COUNTY, WA

STP DOCKET NO. AB-6 (SUB NO. 465X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA

DEPOSITION OF SCOTT McDONALD

Taken October 26, 2010
600 University Street, Suite 3600
Seattle, Washington

Reported by:
MARK HOVILA
CCR No. 2599

APPEARANCES

For GNP RLY INC.:
LORI M. BEMIS
Attorney at Law
McGavick Graves, P.S.
1102 Broadway, Suite 500
Tacoma, WA 98402
(253) 627-1181

For the City of Redmond:
JOHN E. GLOWNEY and
HUNTER FERGUSON
Attorneys at Law
600 University Street, Suite 3600
Seattle, WA 98101
(206) 624-0900

For King County:
ANDREW MARCUSE
Senior Deputy Prosecuting Attorney
W400 King County Courthouse
516 Third Avenue
Seattle, WA 98104
(206) 296-9015

Also in attendance:
CAROLYN J. HOPE
City of Redmond

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SEATTLE, WASHINGTON; TUESDAY, OCTOBER 26, 2010
2:00 P.M.

SCOTT McDONALD,
having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GLOWNEY:

Q. Good afternoon, Mr. McDonald.

A. Good afternoon, sir.

Q. Would you please state and spell your name for the court reporter?

A. Scott McDonald, S-C-O-T-T, M-C capital D-O-N-A-L-D.

Q. My name is John Glowney, and I represent the City of Redmond in these proceedings. This afternoon I'm going to be asking you a series of questions. I'd ask that you answer all questions audibly. He can't take down a head nod. I will endeavor not to speak over your answer if I can. I'll try to let you finish my question before you answer it. If at any time you don't understand a question, it's not clear to you, ask me to repeat it so that the end result will be that your answers and my questions are clear on the

record.

A. Okay.

Q. If you need a bathroom break, just let me know, and as long as it's not in the middle of a question, we can make that arrangement.

A. Okay.

Q. Have you ever had your deposition taken before?

A. No.

Q. And what's your current position?

A. I'm the owner of Drywall Distributors.

Q. Are you the sole owner?

A. 90 percent owner.

Q. And who is the other 10 percent?

A. John T. Snow.

Q. John T. Snow?

A. Yes.

Q. S-N-O-W?

A. Yes.

Q. And how long have you owned 90 percent of Drywall Distributors?

A. I purchased 100 percent of Drywall Distributors in 2001, July, and subsequently I've been selling 10 percent of it for the last two or three years.

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Q. To Mr. Snow?
A. Yes.
Q. Drywall is a corporation, is that correct?
A. Yes.
Q. And how long have you -- who owned Drywall before you purchased it?
A. John Snow, Jr.
Q. So that's who you purchased it from?
A. (Nods head)
Q. And he owned 100 percent then, so he sold 100 percent to you, now you're selling 10 percent back to his father?
A. To his son.
Q. So his son. Okay. How long have you worked at Drywall Distributors?
A. Since July -- August -- July-August 2001.
Q. And briefly, before I forget, can you briefly describe your educational background?
A. Three or four years at Lutheran Bible Institute, multiple junior colleges, and failed to complete at the University of Washington.
Q. What did you study there?
A. Everything.
Q. Everything? Okay.
A. General classes. I was going to be a

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missionary early, kind of got burned out on school.
Q. So you did not take a degree, even though it sounds like you spent a lot of time in college?
A. Correct.
Q. Sounds like you started working at Drywall about the same time you purchased it, correct?
A. Correct.
Q. And what prompted you to purchase Drywall?
A. Well, I worked in the manufacturing of gypsum materials since 1983 up and down the coast and in Canada. And Drywall Distributors had been a customer, and he was looking for an exit plan and I was looking to take a chance.
Q. And Drywall Distributors is not a manufacturer, is that correct?
A. Correct.
Q. And if you can, you've indicated that you worked in gypsum materials since 1983. Can you briefly summarize what that involved?
A. I started with Domtar Gypsum in 1983 through 1996. They were purchased by Georgia-Pacific in 1996. I took a two-week paycheck and also worked for a company then called James Hardie Gypsum in Seattle.
Q. And then from '96 on you did --
A. '96 to 2001 I worked for James Hardie

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Gypsum.
Q. And these are two manufacturing concerns?
A. Uh-huh.
Q. Okay.
(Exhibit 1 marked)
Q. Mr. McDonald, the court reporter has handed you what's been marked as Exhibit 1 to your deposition. Take a look at that and tell me if you can identify it, please.
A. That is Drywall Distributors and Woodinville Lumber and Matthews Lumber.
Q. Does that look like an aerial photo of the --
A. Yes.
Q. Is this facility that we see here in Exhibit 1, is this the only facility for Drywall Distributors?
A. Yes, it is.
Q. How long has it been there, to your knowledge?
A. I think John Snow bought this property in the mid-'90s.
Q. They own the property, I take it?
A. Yes.
Q. Is there any business connections with Woodinville Lumber?

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A. Zero.
Q. They're just another business concern that happens to be close to you?
A. Yes.
Q. No joint ownership or anything like that?
A. Zero.
Q. What is it that Drywall Distributors does at this facility?
A. We purchase and sell gypsum, steel studs, insulation, sometime a little lumber, from manufacturers or other distributors, and then resell to general contractors, subcontractors, and a little bit at retail.
Q. Looking at Exhibit 1, there is in the southeast corner a building.
A. This is where you're talking?
Q. Yes. What is that building used for?
A. It's warehousing gypsum materials.
Q. And then to the north of that building there's, it looks like another one or two buildings --
A. This here?
Q. -- another building with the same color roof. Yes, here. What is that used for?
A. The newer roof is for gypsum materials. The rusted roof kind of right adjoining it is my

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mechanic's area and the rusted roof to the left of it we leave our -- we have our joint compounds, and so on, accessories.
Q. Okay. And then, I guess to the south there's a long building with a white roof? Or to the west rather, excuse me.
A. It would hold more of our inventory. Gypsum and screws and other accessories.
Q. And the office is where? Is there an office in this --
A. The office is on the top left-hand corner of the diagram where there's some cars parked. There's a cedar building up there on the top. Correct.
Q. Up there? Got it. Okay. And then is that a parking lot between the office building and the long white building?
A. This here?
Q. Yeah. Is that a parking lot?
A. No, this is not parking, this is steel studs. There's a rack here, there's a rack here and there's racking here. And this is all for inventory.
Q. And that's permanent there?
A. Huh.
Q. That's permanent there, it's not just by accident of the day?

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A. It's always there.
Q. It's always there? Okay. So is the parking, then, even further to the west of that?
A. The parking is all up front by the office. Parking would be here and here.
Q. Okay. Now, do you sell, is it residential, large jobs -- commercial?
A. In 2007 we would have been 80 percent residential, 20 percent commercial. Today we're the opposite.
Q. That stark a change, you think? So it's now closer to 20 percent residential --
A. It's pretty tough.
Q. And 80 percent commercial?
A. Yes.
Q. How many employees do you have there?
A. You know, today probably 20, probably to 25.
Q. Did you have more two years ago?
A. We would have had up to 40, 45.
Q. And can you give me just a rough breakdown of the job descriptions for those 20 to 25?
A. We have a dispatcher, we have a customer service person, we have a bookkeeper. Myself and John operate both sales and operations, and then the balance of the people would be warehouse and delivery

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people. And then one mechanic.
Q. How many vehicles do you have? Round numbers.
A. Round numbers? Eight boom trucks and trailers, another five or six trucks, and then pickups.
Q. And if I can direct your attention -- I can I guess you're still on Exhibit 1 there. There's a red line marked around your facility there. Does that appear to you to correctly indicate the property boundaries of that property?
A. Yes, it does.
Q. I think there's an alley between you and Woodinville Lumber?
A. You know, there's a gate. Oh, you mean here?
Q. Yeah, there's that. Is there an alley there?
A. I don't think so. We used to have a gate in here, but I think that has been -- I don't know if there's a gate there anymore. I think it's all enclosed now. And there's nothing here. And Woodinville Lumber has a traffic pattern, they've changed their traffic pattern. I think this is an outgoing lane now.

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Q. Which is the outgoing lane?
A. I think this is an outgoing lane here now.
Q. Okay. So there might have been an alley there at one time, but --
A. You know --
Q. You're not even sure about that?
A. I can't be sure of that, because they put in this new building. And I don't know what their traffic pattern -- we never went over on that side.
Q. Okay. And there's nothing running north-south here?
A. Zero.
Q. Zero there?
A. Zero.
Q. Now, at the northwest corner of the property there's an access road, is that correct?
A. Show me.
Q. The corner?
A. Yes.
Q. Who owns that, if you know?
A. I have no idea. I think that must be Woodinville Lumber's. We have large trucks that use it, but that's an outgoing lane and we try to stay away from it. But once in a while we'll have a truck load up or unload in our place and he'll -- he'll load

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up in here and sometimes he'll curtail around here like this and park over here and tarp up or whatever.
Q. And then I meant to also ask you about this driveway, or this road piece here.
A. Yes.
Q. Who owns that?
A. You know, I don't know who's has ownership. That's the primary in and out, though.
Q. For you?
A. For Drywall Distributors.
Q. Your property ends right about where that red line is?
A. Probably. I assume so. I've never looked at it.
Q. So you don't know who owns that property there?
A. No.
(Exhibit 2 marked)
Q. Mr. McDonald, the court reporter has handed you what's been marked as Exhibit 2 to your deposition. Ask you to take a look at that document and tell me if you can identify it, please.
A. Yes. I provided this letter.
Q. And did you sign it on or about the date of July 1st, 2010? Just so you know, I'm looking at the

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top of the first page there.
A. Yes.
Q. Does that seem right to you?
A. Yes.
Q. I want to direct your attention to the second full paragraph on the first page and the sentence that says, "We are located directly in back of, and contiguous to the Redmond spur that has serviced our facility in the past." Do you see where I'm reading?
A. Yes. That spur has never serviced the operation. I think in the back here the spur that we have used is the team track in Woodinville.
Q. Okay. So you don't mean that -- there's been no direct service directly from the railroad right to the facility, correct?
A. Correct. Correct.
Q. You're saying there's been service at some other location?
A. Correct.
Q. And that some other place is someplace in Woodinville?
A. Yeah. It was before my time.
Q. Before I mark either of these, does either one help you?

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A. No, not this.
Q. That's not doing it for you?
A. In general, if I can speculate --
Q. Go ahead.
A. If I can speculate, I think there's a team track in here or in here. And that is what it was used in either the mid-'80s or the mid-'90s, was rail service. Team track service, rail service.
Q. And if I'm understanding what you're saying, you're saying that the rail service was prior to your ownership of the business?
A. Correct.
Q. Okay. And you think it was at what time periods?
A. Mid-'90s-- I would say early to mid-'90s.
Q. And how did you come to learn about its existence?
A. From John Snow.
Q. So you think that Drywall used it for --
A. Unloading of gypsum cars.
Q. For a time period limited to the '90s?
A. I believe so.
Q. So for four or five years, maybe?
A. Yes.
Q. Four, six years?

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A. Yeah. Nothing greater than that.
Q. And that ended someplace in the mid-'90s? To your knowledge?
A. To my knowledge.
Q. And how much, to your knowledge, how many carloads did they ship in there?
A. You know, I don't know. I know that product was on allocation and he would have tried to acquire product from out of state.
Q. What --
A. Local sources were sold out, and so he would have acquired some product from out of state being wherever they had excess product or willing to sell product. Does that make sense?
Q. I think so. I think your understanding is that because they couldn't secure enough product from the local sources, as apparently they did --
A. Correct.
Q. -- prior to that --
A. Yes.
Q. -- they started using, trying to secure some from out of state.
A. Correct.
Q. And when you say allocation issue, you mean allocation by local providers?

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A. Yes.
Q. And that lasted four to six years?
A. Potentially.
Q. Potentially? Do you know how many carloads --
A. No, I do not.
Q. And this was all for gypsum product?
A. Correct.
Q. Which would be drywall?
A. Drywall.
Q. And do you know why that came to an end?
A. Product supply loosened up swiftly. My assumption.
Q. And these are assumptions based upon at least some conversations with Mr. Snow?
A. And understanding the gypsum marketplace on the West Coast during that time period.
Q. Okay. Let's mark this.
(Exhibit 3 marked)
Q. Mr. McDonald, the court reporter's handed you what has been marked as Exhibit 3 to your deposition. This is a map of some kind, at least, of Woodinville, is that correct?
A. Correct.
Q. When I asked you a few minutes ago, you felt

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at least comfortable tentatively identifying where you thought the rail service was here in Woodinville, is that correct?
A. Correct.
Q. Would you mind taking your pen and sort of circling that spot on Exhibit 3, the spot where you thought the service was?
A. I will mark two spots where it conceivably could have been.
Q. Okay.
A. It's marked.
Q. Thank you. Okay. Now, turning your attention back to Exhibit 2, which is your July 1st letter.
A. Mm-hmm.
Q. In that second paragraph on the first page again, it says, "In the past we have taken product off trains approximately three miles north and the multiple siding site in downtown Woodinville."
A. Correct. That is --
Q. Is that what you've just --
A. That is what I've just identified. And "we" being the company Drywall Distributors.
Q. So "in the past" refers again to this time period in the early 90s when local gypsum supplies

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were --
A. Correct.
Q. -- fairly tight?
A. Correct.
Q. Now, in the year 2010 have you received any supplies by rail freight?
A. No.
Q. What was the last year, to your knowledge, that Drywall Distributors received any --
A. It would be the period of time that we spoke about earlier.
Q. So early to mid-1990s?
A. Yes.
Q. Have you used rail to ship any product anywhere?
A. No, we have not.
Q. Have you, at least while you have owned Drywall Distributors for the past nine years, have you made any inquiries of BNSF about receiving rail service at your facility?
A. No, I have not.
Q. And have you ever heard your predecessor, Mr. Snow, tell you that he made inquiries about receiving rail service?
A. No, I have not.

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Q. Now let me turn your attention to page 2 of Exhibit 2. And about midway down that paragraph it says, "Currently, Drywall Distributors uses motor carrier and intermodal transload service both nationally and from the Seattle area to handle this traffic."
A. Uh-huh.
Q. And can you tell me what intermodal transload service is?
A. I wish I could. I don't know. All of our freight comes in via semi truck. It comes in from California, comes in from Longview, Longview area of, I guess that would be southern, southern Washington, Tacoma, and Seattle and a little bit of other product out of Oregon.
Q. That's where your incoming --
A. Yes.
Q. -- materials come from?
A. Yes.
Q. California, Longview, Washington, Tacoma, Washington, Seattle, Washington, and --
A. A little bit out of Oregon.
Q. A little bit out of Oregon. Do you have suppliers anyplace in the United States?
A. We have suppliers that have multiple

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locations. Wyoming, Texas, Arizona, and the Dakotas, I believe.
Q. And you when you say you have your suppliers have multiple locations, what do you mean by that?
A. The manufacturers that we purchase from have different facilities throughout the U.S. and Canada. And during peak supply times we take products from other areas than just Washington, excuse me, Seattle and Tacoma and California.
Q. So you have suppliers, for example, in California, but they may also have other locations in the other states you named?
A. Correct.
Q. And so when you said peak supply times you may take deliveries from not just from their California facility, but from a facility located someplace else?
A. Arizona or Texas or Wyoming. Vancouver, Canada.
Q. Let me get you to talk in specifics here. When you mention these other locations, who are you talking about?
A. Georgia Pacific and what is now called CertainTeed Gypsum.
Q. And where is their facility that you

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usually --
A. CertainTeed is in Seattle, and Georgia Pacific is in Tacoma. National Gypsum is, which I didn't just mention, but National Gypsum is in California and Arizona.
Q. Does one of these three have a facility up in Vancouver, Canada?
A. CertainTeed and Georgia Pacific.
Q. Both have Vancouver, Canada?
A. Yes.
Q. And then I think you said somebody had a facility in Texas?
A. National Gypsum, Georgia Pacific, USG.
Q. Who has it in Arizona? National?
A. National Gypsum.
Q. Has Arizona. Okay. Have I missed anybody?
A. Not really.
Q. So what is peak supply time? What does that mean?
A. Peak supply would be when we -- when we need product and we can sell as much as product as we can get our hands on. And much like, you know, '06, '07, '08, we could not access enough product locally. We were put on allocation. And, you know, as an example, one of my competitors could take rail and Georgia

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Pacific, I think it's out of Lovell, Wyoming, would ship him railcars into the marketplace, where I couldn't get extra product type thing.
Q. Who was that competitor?
A. Kent Gypsum.
Q. Kent Gypsum?
A. Uh-huh.
Q. And what was the last time you thought you had a peak supply?
A. '06, '07, and '08.
Q. You haven't had it since because of the recession?
A. Correct.
Q. So when you have gotten peak supply, are you saying that you in fact did get deliveries by truck from other locations? Or you wanted it? I'm not clear.
A. I wanted it, and I would get a little bit, primarily out of Canada, because Vancouver is only two or three hours away. I would get a little bit of specialty product out of Edmonton. Specialty product meaning not half-inch or five-eighths wallboard. What would happen is the manufacturers would ship you some product from a faraway location if their margins were high enough and they couldn't sell it elsewhere and

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you'd bring that product in and then and then buy more of a commodity type product.
Q. Okay. But then I understand most of your deliveries -- all your deliveries are by truck, correct?
A. Correct.
Q. And most of it is from the four or five locations you identified?
A. Correct.
Q. Seattle, Tacoma, Portland?
A. Correct.
Q. When you were receiving material that was not from those locations, what percentage of your deliveries was it?
A. It was pretty small, because everybody's really busy. Maybe 4 or 5 percent.
Q. Annually, or for a month or something?
A. Actually, probably.
Q. So in '05, '06, '07, I guess '06, '07, '08, maybe 4 to 5 percent?
A. Correct. Off the top of my head.
Q. Would you have records that would address that?
A. No.
Q. Because it's too old? Or you wouldn't be

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able to break it down by firm?
A. I wouldn't be able to break it down by shipped from.
Q. Now, currently how much material do you get delivered on average to your facility, in truckload?
A. You know it changes drastically. We're having a year similar to last year. A truckload of material is 30,000 square feet of wallboard. So you know, to answer that question I'd need a calculator and divide it by 19 million feet and I would tell you probably three to four loads. Anybody have a calculator?
Q. What you're saying is annually it's 19 million feet?
A. Yes.
Q. So you're just kind of saying, hey, it's 19 million feet --
A. Divided by 30,000 feet.
Q. Kind of tells you how many truckloads on average?
A. On average per year, and then I would just back it off on 12 months and 21 days.
Q. So your letter -- I'm turning your attention back to Exhibit 2 -- stated that "Presently, four truckloads of material arrive at our facility daily."

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A. That would be close.
Q. But that's how you would have come to that estimate?
A. Yeah, but that was written in July.
Q. Okay.
A. In today's marketplace it's probably three.
Q. It's weaker?
A. Weaker. We're hoping that Rossi can improve that.
Q. Sure. Now, how many of those truckloads would you anticipate receiving by rail?
A. You know, when I put in those numbers, I looked at what I felt was an average good year, decent year. And railcar, to me, represents about 100,000 feet of wallboard. So I felt that when these guys came to us and, to me, and said what's the likelihood, I felt pretty comfortable that I could do 40 cars, which would be you know, roughly 15, 20 percent of my business. In a great year it would be 10 percent. Thank you.
Q. And the 19 million square feet is on average, or that's what you're doing on --
A. That's what we're doing last year and this year. The numbers that I shared with you, I don't know if you put an exhibit on it, 2007 was a great

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year. We did 39 million feet.
Q. Let's mark that, just because it may be easier for you to talk about it.
(Exhibit 4 marked)
Q. Mr. McDonald, the court reporter's handed you what's been marked as Exhibit 4 to your deposition. Can you look at that document and tell me what it is, please?
A. Yeah. This represents what we've purchased since 2006, all gypsums, all gypsum products that we've purchased since 2006 on a monthly and quarterly basis up until the end of the third quarter of 2010. And their volumes per thousand square feet of gypsum board.
Q. And these are taken directly from your records, I take it?
A. Correct.
Q. They're not estimates or anything, they're picked right out of your accounting records?
A. Out of our system, yeah.
Q. So you estimated, then, that you could do 40 cars per year, correct?
A. Uh-huh.
Q. And I'm sorry, tell me again how you came up with that estimate.

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A. 40 cars, to me, represents around 4, 4 and a half million feet of wallboard. And where we're at this year and last year, that would represent 20 percent, 25 percent of our business. Where we're at in a typical good year, just looking at it, this probably represents between -- less of a percentage. And I felt comfortable that that was possible.
Q. Now, who would the suppliers be for that?
A. You know, it would be Georgia Pacific, it would be CertainTeed, it would be National Gypsum. And USG.
Q. Now, where does Georgia Pacific currently supply you from?
A. Tacoma.
Q. And where does CertainTeed supply you from?
A. Seattle.
Q. And National Gypsum?
A. Northern California.
Q. And USG?
A. They have a plant down in Longview.
Q. And how much, percentagewise, do you currently get from GP? Georgia Pacific?
A. Georgia Pacific and CertainTeed are 95 percent of my product.
Q. And how much from National Gypsum?

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A. Three to four.
Q. And how about USG?
A. The balance.
Q. The balance? Okay. 1 percent, maybe? Okay. And where would you propose that you would be taking -- from where, from what manufacturing plant would GP be providing to you instead of from Tacoma?
A. I think their plant is in Lovell, Wyoming. Lovell, Wyoming.
Q. Lovell, Wyoming?
A. I believe CertainTeed and GP both have plants in Wyoming.
Q. Wyoming. And how about National Gypsum?
A. National Gypsum is putting a new plant, and they're interested in rail service out of, just outside of Phoenix.
Q. When would that be going into production, to your knowledge?
A. As soon as the economy is good.
Q. And you think they built the facility?
A. I think the facility -- I think the groundwork is there and I think the equipment is there. All they have to do is start it up, potentially.
Q. But they need to have a better economy to

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make it work?
A. Yes.
Q. How about USG?
A. You know, I had to buy some product from those folks for a big commercial job this last spring. And they wanted to ship me rail out of the Carolinas. I couldn't take a rail, or didn't take a rail. They shipped that rail into the Longview area and then trucked it to me.
Q. Now, have you made a comparison of the cost of the goods to you, including freight, for GP between Tacoma and getting it from Lovell, Wyoming?
A. They have a landed price, and they also have -- they have a landed -- they would give me a landed price and an unload allowance. With GP, the issue would have been just being able to access the product in a tight supply situation.
Q. Okay.
A. With National Gypsum, I have not negotiated with them what our price could be or would be out of a new Arizona plant.
Q. You have negotiated what the price would be?
A. I have not.
Q. With National Gypsum?
A. Correct.

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Q. Turning your attention back to Georgia Pacific, have you negotiated a price with them?
A. I have not.
Q. Have you calculated what the price would be from Lovell, Wyoming?
A. No, I have not.
Q. Do you have reason to believe it would be less expensive than getting it from Tacoma?
A. No. I have no reason to believe that. I have reason to believe that I could have -- I can access product easier in the future if they get in a sold out position again in the Northwest. And they would ship product to me from a different location.
Q. So you would continue to ship 95 percent of your product from Tacoma in ordinary times, non-peak times?
A. Potentially.
Q. Potentially. And then if you had a peak time you would try to get additional product because you may be on allocation with GP here in Tacoma and the others?
A. Yes.
Q. You would get additional product, then, from GP in Lovell, and you'd want to do that by rail?
A. Correct.

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Q. Would that same be true with CertainTeed?
A. Yes.
Q. Same logic?
A. Same logic.
Q. And then National Gypsum --
A. I might be able to improve my business.
Q. But since they have haven't opened up the plant, you don't know quite what that involves, is that correct?
A. Correct. Excuse me, can I take a quick restroom break?
Q. Sure.
(Recess)
BY MR. GLOWNEY:
Q. Other than gypsum, would you anticipate receiving any other types of materials by rail?
A. I don't think so.
Q. And then again turning back to Exhibit 2, in the second page, you indicate that in the first sentence there, "Drywall Distributors is prepared to use that line to meet many of its incoming and possibly outgoing transportation needs." What possible outgoing transportation needs are you referring to there?
A. Can I ask a question first?

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Q. Sure.
A. You subpoenaed, I assume, my competition, potentially. Is any of this information public or is this -- how do I -- does that make sense?
Q. Yes. We don't have a protective order here, do we have, of any kind? I think the answer is probably it can be, probably can be accessed by the public. I don't know that they would easily do it, but I'm not sure that they would be prohibited from doing it.
A. Because something like this is proprietary for us. That question -- we have an opportunity, I guess I can answer it, we have an opportunity to sell other users of gypsum material via rail if we chose.
Q. To sell gypsum to other users and deliver by rail?
A. Correct.
Q. Okay. And you're concerned about discussing the terms of that because you don't want competitors to know about it?
A. Correct.
Q. Let me see if I can ask around that. I'll try to respect your concerns without -- let's see if I can get my questions answered. Is that an anticipated use that would occur within the next year or two?

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A. If we had a rail spur, I would pursue the needs of one or two customers and their likelihood to accept that via rail within the next year or two.
Q. But sitting here today, you don't know whether they'd accept it or not?
A. Correct.
Q. So it's a business possibility?
A. Correct.
Q. And if you can, explain to me why they would purchase from you using rail versus purchasing from you using delivery trucks.
A. Because the location is -- the locations would be out of the geographic market area, and the freight -- freight with diesel is prohibitive. Frankly, I'm assuming that I could ship a longer distance with a better net back to me because of cost in diesel versus rail service.
Q. And are there no competitors who also provide gypsum who are located closer to those potential customers?
A. Sure.
Q. That would provide it for less cost than you?
A. Maybe not. Or maybe we have a relationship with a user that they are comfortable dealing with us

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versus somebody else.
Q. And do you know whether or not there are surcharges for fuel when you use railroad shipping?
A. I have no idea.
Q. Would that make a difference in your planning?
A. I would have to look at the fuel -- I would have to look at the -- I would have to look at the net cost to the end location to determine what would be the best avenue for Drywall Distributors to ship their product.
Q. And how much, in this somewhat hypothetical scenario you're driving here, how much would be shipping to this?
A. It would be included in that 40 cars, incoming and outgoing.
Q. In your calculations how many out of the 40 were part of this possible outgoing?
A. I really didn't put a number to it.
Q. Half of it?
A. No.
Q. Ten cars? Five cars?
A. Let's say five to ten cars.
Q. Annually?
A. Annually.

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Q. So your rough estimate of incoming would be --
A. Would drop by five to ten.
Q. Five to ten, okay. This is not a customer you've served in the past, correct?
A. It is a customer I serve.
Q. It is a customer you're presently serving? And you're shipping it by --
A. Truck.
Q. Truck? And how much are you shipping to them?
A. I'd rather not say. Out of respect, I don't know how far this information goes.
Q. I get that, and I'm just trying to find a way to get what I need without stepping on your interests.
MR. FERGUSON: Can we go off the record for a second?
MR. GLOWNEY: Let's take a little break.
(Recess)
BY MR. GLOWNEY:
Q. Is it more or less than the five or ten cars now?
A. More.

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Q. You should be more now? So if this customer can get rail service, why don't they just buy directly from the supplier? Why go through a middleman like you? Why not get just get it directly from the supplier and it would be less expensive without your costs added into it?
A. I'm a great guy.
Q. Okay. And for how many years have you been doing business with this customer?
A. The company's probably been doing business for 15 years.
Q. This predates even your --
A. Uh-huh.
Q. All right. Now, let's go back to the map there, Exhibit 1. You've indicated that, I think in your letter that you wanted to put a siding in front of your facility, is that correct?
A. Yes.
Q. Can you show me on that map where you would be putting that?
A. People from the railroad company came out, and in one visit, and one visit only, walked through our territory, and it appears that there can be something put in in this vicinity.
Q. Okay, and this was a result of GNP

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representatives coming out and talking to you about that?
A. Yes.
Q. And when was that discussion?
A. You know, that was prior to July 1st. Very informal. Two gentlemen, I can't even remember their names. I have their business cards at home, or I mean at the office. I think one was the owner and one was an agent for the person. And in general terms they talked about, you know, a spur coming off in here somehow and a siding in here somehow.
Q. Can you indicate with your pen where the spur was indicated to start from what they told you?
A. If I remember right, the spur would come across this road. Whether it came from here or here, I'm pretty vague on that. But I assume that the spur would come like that and then out this way.
Q. And what would that do to your parking lot?
A. I have lots of parking here. I park a semi here sometimes. It would give me parking from here and over in here. Depending upon when the rail service or if we were getting railcars, that would limit my parking there.
Q. And how long did this visit in which this was discussed last?

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A. 20 to 30 minutes.
Q. Did you talk about any sort of land use issues related to it?
A. No.
Q. Do you know if it's feasible or not?
A. They promoted the idea.
Q. They promoted the idea to you?
A. Yes. That this is where it could go.
Q. Did you ask them about putting a spur there, or siding there?
A. You know, I can't remember how the discussion came out. But the discussion revolved around this is probably the best spot for it.
Q. Had you ever discussed with anyone putting a siding --
A. Zero.
Q. So when it came up, it came up on this visit? That's the first time --
A. Of the siding location?
Q. The siding.
A. Yes.
Q. Well, the very idea of putting a siding anyplace near your facility, is this the first time it came up?
A. Yes.

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Q. And had these gentlemen or any of them visited your location before this?
A. One other time, one other time to introduce themselves. I think it was the agent. I think his name is Tom Jones. That they were -- he was representing a railroad and that they wanted to put a railroad down here, and if we would be interested in a spur.
Q. So he introduced the idea of a siding or a spur for you?
A. Correct.
Q. And when was that meeting, or contact?
A. The first contact, maybe 60 days or so before the letter was produced to you guys on July 1st.
Q. So around early May, late April?
A. Yeah, ballpark. Springtime.
Q. Springtime? Okay. And this was a personal visit to your facility? Telephone call?
A. I can't recall.
Q. And how long a conversation was it?
A. It was short. I can't recall.
Q. Under 15 minutes?
A. Oh, yeah.
Q. Under ten minutes?

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A. Under 15 minutes.
Q. Under 15 minutes. And do you remember whether it was in person or over the phone?
A. No.
Q. And they introduced themselves as the railroad?
A. As the G something railroad company.
Q. Okay. GNP Railroad Company?
A. Correct.
Q. And what did they tell you in that first conversation?
A. It was probably an introduction that they were pursuing to open up this track, and would we have some interest.
Q. And what did you tell them?
A. Basically, I told them that I wasn't the owner of the property, that I thought that it would create value for the property owner, and it would -- I would also be interested as the tenant.
Q. And what did they have say to that?
A. "Great. We're talking to other people."
Q. Anything else discussed in that first conversation?
A. No.
Q. Any details about --

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A. Zero.
Q. Nothing else? Okay. And then this conversation which you identified relating to locating a siding there, is that the second contact you had with them?
A. That would have been the second contact, and that contact was also at the same time that I was asked to produce a letter that they could pursue, I assume, this board here. And, we spent 20 minutes to a half-hour looking at this site.
Q. When did that meeting take place relative to the first one you've described?
A. Relative to the first one, it would be easier to answer to say it happened within, within a couple weeks of when this letter was written.
Q. So closer to the letter?
A. Yes.
Q. Mid-June?
A. Yes.
Q. Okay. The two gentlemen, did they make arrangements to meet you or did they just appear at your doorstep?
A. The first time they appeared at the doorstep. Second time they called and said are you going to be around. And I also had the owner of the

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company there. Excuse me. The owner of the facility. The land. John Snow.
Q. Okay.
A. Does that make sense?
Q. I'm not quite sure. The owner of the land is John Snow?
A. Yes. The person I bought the business from, John Snow, still -- he is my landlord. He owns the property.
Q. So when you bought the business --
A. I didn't buy the property.
Q. -- you didn't buy the underlying land?
A. Correct.
Q. Got it, okay. So you have a long-term lease, or a lease?
A. Yes.
Q. What's the term of your lease?
A. It's five-year.
Q. And so at the second meeting Mr. Snow was present?
A. Correct.
Q. So it's the two of you, you and Mr. Snow and two gentlemen from the railroad?
A. Correct.
Q. And they asked whether you would provide a

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letter of support or a letter of something?
A. Correct.
Q. How much time did you spend discussing the letter?
A. Very little. I said I'm not a great letter writer, and they provided a letter, a template close to this, and I changed some stuff and put in my information in my letterhead.
Q. Did they give you the template at this meeting?
A. No.
Q. And subsequent --
A. Yes.
Q. -- emailed it to you?
A. I don't think so they emailed it. I think them faxed it to us.
Q. Okay. So at this meeting you talk a little bit about a letter and then you went out to look at where you could put the --
A. We talked about the location and then we talked a little bit about the letter.
Q. Okay, the reverse order. Okay.
A. Yeah.
Q. Did you talk about how long the siding would be?

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A. No.
Q. Did you think it would cross your driveway there, I guess?
A. That's the only way I can really see it happen.
Q. Is that what they described to you?
A. I believe so. But I can't remember.
Q. Okay. And then where would it exit? Would it cross over the driveway there for Woodinville Lumber?
A. I have no idea. I don't know if they have Woodinville Lumber and Matthews Lumber interested in any of this or not.
Q. And when you had your discussion there, was it not clear to you where the exit point would be?
A. Correct.
Q. And do you know whether the siding would have switches at one end or both ends?
A. I have no idea.
Q. Did you have a loading platform out there?
A. No, I specifically said that we would need center beams and be able to access it from both sides. A-frame.
Q. And what did they say to that?
A. Not a problem.

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Q. Why do you need to access both sides?
A. Just the manufacturers ship product on A-frames. An A-frame car has a frame in the middle of it and you have to be able to get to both sides with your forklift to take the material off the truck. Off the rail.
Q. How much room between the siding and the main track would be needed to do that?
A. Oh, I think you'd probably need, the variance or whatever the variance is here, you'd need 14 feet.
Q. And where did you come up with that information? From whom?
A. Well, for me, I mean, typical material is no bigger than 12 feet long. And I would need to get a railcar in here and be in a safety factor if another rail car came by there. And a couple feet would be enough for me.
Q. Do you know if there's any railroad regulations about how close --
A. I have no idea. I have no idea.
Q. Did they discuss it with you?
A. Zero.
Q. So you would offload using what?
A. Forklifts.

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Q. Forklifts? Any other way of doing it? Or is that it?
A. We, you know, if pinch came to shove and we had a forklift problem we could use our boom trucks. But it would be forklifts.
Q. Forklifts would be the primary --
A. The primary, yeah.
Q. And who would pay for the building of the siding?
A. There was no discussion on that.
Q. Is your company prepared to pay for any of the cost of it?
A. My company isn't.
Q. Is the landowner prepared to pay any of the cost of it?
A. I can't speak for the landowner. Excuse me. Back up a little bit. I would be interested in paying a portion, depending upon the feasibility and the cost -- the cost advantages I could get or supply advantages I could get from my manufacturers. But that would have to be determined.
Q. Have you done any calculations to determine what that would be?
A. Zero. Zero.
Q. And then how would you deliver materials

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from the siding to your warehouses?
A. I would run the product through here and down our drive and into our yard.
Q. You're running on a forklift?
A. Mm-hmm.
Q. What is the other traffic pattern through those areas?
A. The only traffic pattern is our large trucks. We have a will call sign here for our customers and our customers will park here, order the their material and bring a car into here. Or a truck.
Q. Do your warehouse facilities have loading docks on them?
A. No.
Q. So when they deliver materials off the trucks, the --
A. Semis.
Q. The forklifts just drive it right into the warehouse?
A. Yeah. It's -- typically it would be unloaded just like a railcar. The semis come in, they're, you know, unsided semis, they're flatbeds, and we just pick it up with a forklift and put it into our warehouse.
Q. The forklift just turns around and drives

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it?
A. Yeah.
Q. So I take it, then, GNP didn't offer to build the siding for you?
A. No discussion on who would pay for it.
Q. Do you have any idea what the estimated cost would be?
A. I have no idea.
Q. Would that make a difference to you?
A. It would make a difference to me depending upon the cost of the -- the cost, how much of it I had to bear and what my cost savings would be from sourcing product from different locations and having excess product -- extra product in a tight time.
Q. And have you done any of that calculation?
A. Zero.
Q. So I take it there would be scenarios under which this doesn't make any sense for you at all, right?
A. Correct.
Q. And has GNP provided any information to allow you to make those calculations?
A. Zero.
Q. Have you made any effort on your own to learn that kind of information to make that

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determination?
A. Zero.
Q. So without having that information, can you state conclusively one way or another whether you would be in favor of having a siding there and having rail freight delivered?
A. One way or the other, I would love to have the opportunity for rail freight. It gives me added flexibility, potentially.
Q. I guess my question is, if you don't know what the cost of it, and the cost turns out to be prohibitive, then you'd say no, correct?
A. Correct.
Q. And that's a calculation between -- because you'd still be getting 90 to 95 percent of your freight from your local suppliers, correct?
A. Until National Gypsum started something up in Arizona.
Q. So you might get 1 percent or 2 percent from National Gypsum?
A. Or I could change that to 25 percent, depending upon where their -- what their landed cost would be to me, their landed sale price to me from Arizona via rail.
Q. And do you know what that is?

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A. I would -- before I made that determination, I would. It's important to us to support the local manufacturers. And one of the things of this become public information and the reason I haven't called National Gypsum or Temple Inland in Texas and said, hey, give me a rail rate, and I'm interested, is that I have allegiances and relationships with the local manufacturing. Word gets out like that, they could hurt me, cost-wise.
Q. You may have anticipated a question I was going to get to. Your letter indicates that we will be asking our suppliers to quote us rates on this traffic and are awaiting their response.
A. I have not done it yet.
Q. You haven't asked any suppliers for that information, correct?
A. Correct.
Q. So without knowing that, you're not in a position to say whether or not you can really support this or not, can you? Because if it turns out the costs don't meet what you need at the time, then you wouldn't support it, correct?
A. Correct. Can I say something to that?
Q. Sure.
A. In my time as a manufacturer of gypsum

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materials up and down the coast and in Canada, oftentimes I had to deal with a customer communicating that he could have XYZ savings dealing with a location from a long ways away by freight. And so I know about those potential possibilities.
Q. Now, I think your letter also indicates that "many of our suppliers are set up to use rail and would prefer that we accept shipments that way." Do you recall that from your letter?
A. And when I said that, clearly National Gypsum is looking for customers when they put their plant together in Arizona, and Georgia Pacific and CertainTeed when supply -- when demand overstrips supply in this marketplace, they would love -- they would -- the only way I can get product from them is by rail.
Q. But the 90 to 95 percent is local and it's trucked in, correct?
A. And they would want us to truck, continue to truck.
Q. Have you done any calculations to compare your sort of internal costs of unloading, what might be your costs from unloading from the siding, assuming it was built, versus unloading from trucks the way you do it now?

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A. Gypsum manufacturers normally give an unloading allowance, which takes care of some of the waste off the car and also some of the burden of having to wait seven days or 14 days for your product. And inventory needs. And your inventory costs go up if you're going to handle rail. So they typically offer an unloading allowance that takes care of the waste and of the burden of carrying heavier inventories. There is no -- the actual unloading the product, if it's here the way GNP said, there wouldn't be any extra cost for me to unload it.
Q. And do you have an understanding of what that unloading allowance is? Or how it's calculated? I mean, again, per thousand square feet or --
A. It's per thousand square feet and it's usually a marketing decision.
Q. By the supplier? Do you know what the range of the numbers are?
A. Not today.
Q. Did you know at one time?
A. 10 to 15 dollars per thousand.
Q. And that's based upon what time frame?
A. '90s.
Q. From your experience back in the '90s? So you don't know what it is now? You don't know if it's

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10 or 15?
A. (Shakes head)
Q. He can't --
A. No, you asked me what it was in the past. And I told you 10 to 15 bucks. What it is today -- I've been out of manufacturing since 2001. I have not asked that question.
Q. So what information would you need to sort of analyze the comparative cost of rail versus truck?
A. I'd need to know what the cost of my -- cost of the siding would be. I would need to know the landed cost of a railcar, the time frame that -- the billing time or lag, and I would need to calculate the value of my relationships today and future new relationships and put a cost to that.
Q. Do you have that information now?
A. No, I do not.
Q. So I take it you haven't done that analysis?
A. Correct.
Q. You've indicated, I think, two meetings with some folks from GNP, correct? An initial one and then this one to discuss the location of the siding. Did you have any other contacts with GNP folks?
A. Tom Jones came into my office I think Thursday or Friday last week and asked if I wanted

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legal counsel.
Q. What did you tell him?
A. No.
Q. Any other discussion with him at that point?
A. Zero.
Q. And then you think they faxed a template of this letter to you?
A. I believe so.
Q. Before I come back to the letter, any other contacts with GNP? Telephone calls, letters, emails?
A. There was one other contact. The owner of the company called me and said why didn't you do something with the letter that they were supposed to fax to me. And I responded that I hadn't gotten it to the owner, and called Tom Jones and told him that I hadn't received it, and that I didn't appreciate him calling the business owner. He should have contacted me directly. That was the last conversation I had with him until last week, Thursday or Friday.
Q. Thursday or Friday. Okay. I didn't quite get the context of that.
A. The context was, he had faxed this letter.
Q. The template, okay.
A. The template. He didn't get it back in a timely fashion. He called John Snow, asked where it

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was, John Snow called me and said, "Why haven't you done anything with this?" And my response was, "I didn't get it." And then I called Tom Jones and said, "You know, I don't do business like this. If you want something from me, call me. And I didn't receive it." And he sent it to me again. That was the last contact I had with him prior to Thursday.
Q. So that was sometime between the middle of June and the day of the letter, I take it?
A. Yeah. It would have been prior to the letter, yeah.
Q. Okay. Now, the template they sent to you, how did it -- if you can look at Exhibit 2.
A. You know --
Q. Can you identify what you added to the letter there?
A. I think I added who we were.
Q. That's in paragraph 1?
A. Probably. Really, you know, I added the information in the second to last paragraph prior to the "in conclusion."
Q. I'm sorry, where? Second to last paragraph --
A. On the second page.
Q. Second page, okay.

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A. On the second page, the second to the last paragraph. I added the center support flatcars.
Q. Uh-huh.
A. And I added the potential for 40 cars. And I added incoming and outgoing potential. Without really -- I think that's about it. I probably added in our company name and address. But everything else --
Q. You think everything else came in the template that was sent to you?
A. Probably.
Q. So you say it was faxed to you. So did you retype it up?
A. Yeah, I had one of my ladies type it and put a -- should have had a company letterhead on it, I think. So she would have retyped it for me and put our letterhead on it.
Q. Would you have retained a copy of the template?
A. I can ask. I don't know.
Q. Let me ask you to do that, and if you do find it, would you mind sending it to me?
A. Not a problem.
Q. Thank you. Let me take you back to the second page of the letter.

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A. Yes.
Q. It says, "We would prefer to use rail because increasing diesel fuel costs are passed along in the wholesale price to us." You see that?
A. Uh-huh.
Q. Are you referring to diesel fuel prices for trucking?
A. Uh-huh.
Q. And do you know whether or not rail will pass along any increased diesel fuel prices to you?
A. You know, my assumption is there would be surcharges.
Q. For rail as well?
A. Yeah. But my assumption also is, and what I hear on the, you know, on CNBC and what I pick up offhand is that the trucking is becoming more and more expensive, I know that myself from fuel costs, and rail is going to be more and more an opportunity for a company like myself.
Q. Again, you, because of the short distances involved you'd still get 90 to 95 percent from your local suppliers?
A. Unless I changed our relationships.
Q. But if there's going to be surcharges over the much greater distances, if you're not getting the

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product from local, then isn't that possibly a large increase in your freight costs?
A. Potentially, but it's also potentially a decrease. Not a lot, you know, there's not a lot of building going on in Lovell, Wyoming or Sweetwater, Texas. And manufacturers sometimes have built plant -- oftentimes manufacturers build plants where 70, 80 percent of their product goes out on rail. Distances. That's their marketing plan. So I think that opportunity will always be there for us.
Q. Well, I guess my only question was, just thinking about it, that if I've got a diesel surcharge on a truck for 30 miles from Tacoma, it's likely to be less than a diesel surcharge on a railroad car coming 1500 miles from someplace in Wyoming.
A. Not necessarily.
Q. You think it think it might be different?
A. Sure.
Q. Have you investigated that to determine --
A. No, but it really depends upon the usage of the product, right, the usage, your fuel usage for 30,000 feet versus your fuel usage on one car for 100,000 feet. I haven't done those calculations. My assumption is Warren Buffett thinks that rail is going to be good.

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Q. Maybe good for Mr. Buffett.
A. Maybe.
Q. Okay. But you've not done that calculation?
A. No, I haven't.
Q. You say it is more convenient to offload from the tracks directly in front of our facility. Correct? I'm looking at the second page. The second half of the sentence. I was asking about the diesel fuel, which is about the third sentence from the end of that first paragraph.
A. It's more convenient to offload on those tracks in front of us than using a team track, as in the past.
Q. Is it more convenient than using trucks to unload to your warehouses?
A. It's equal.
Q. And since you've not actually done any offloading there, you don't know what the actual problems might be, correct?
A. Correct statement.
Q. It may or may not turn to be easy once you --
A. It may turn out to be a whole lot easier.
Q. But it would be fair to say at this point you really don't know whether it's going to be more

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convenient or not?
A. You're correct, sir.
Q. And I take it that was a sentence that was just simply contained in the template, correct?
A. Could have been.
Q. I didn't recall that you identified that as a sentence that you added when I was asking you earlier.
A. Yes. And, you know, my memory of the template isn't --
Q. Isn't exact?
A. Yeah.
Q. Okay. All right. Now, did you review this letter after you signed it or before you signed it with Mr. Snow?
A. Which Snow?
Q. Well, who's the owner of the property?
A. I did not review it with him.
Q. So he came out -- this is the Mr. Snow, is it Mr. Snow, Senior?
A. Yes. Well, his actual -- it is actually John Snow Jr., but he is the senior --
Q. The senior of the two that we're talking about?
A. Yes. He did not receive a copy of this

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letter from me, and the only time we met and talked about this project was the really the first visit, when we looked at the spur potential.
Q. That one time?
A. Yes.
Q. And you've not discussed this prospect with him other than that?
A. No. No.
Q. And you used the phrase, I just I want to make sure I understand it, called landed cost. Landed price to you?
A. Mm-hmm.
Q. Can you tell me what you mean by that?
A. When we look at cost of material, different manufacturers come to market in different ways. Some have an FOB price from their location and then you have to calculate the freight to get it to you, whether they handle the freight or you handle the freight. What matters to me is what the product costs after it's unloaded and put in my warehouse.
Q. Freight, product cost, everything to you to get it there sitting in your warehouse?
A. Time, invoicing, everything.
Q. Everything. Okay and that's what you call -- that's for you what you call your landed cost?

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A. My landed cost.
Q. Okay.
A. For me.
Q. Just take a ten-minute break and then see if I have anything to finish up on. I may be close.
(Recess)
BY MR. GLOWNEY:
Q. A couple areas of questioning I wanted to come back to or touch on, Mr. McDonald. First, is there a slope to your driveway going from where this siding would be located to your warehouse? Is any of that ground sloped? I have an understanding where that is, but maybe I'm incorrect.
A. No, not really. This is all pretty flat. Are you talking about this?
Q. Is there a slope coming from here in? Is that what you're saying?
A. Just real gradual.
Q. Real gradual?
A. Yeah.
Q. So do you foresee any difficulty driving forklifts with loads of --
A. Not at all.
Q. -- gypsum over that?
A. No.

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Q. You don't think that would be a problem?
A. Not at all.
Q. Now, I'm sorry let me come back. You recalled the name of at least one of the people you met was Mr. Tom Jones, is that correct?
A. Uh-huh.
Q. And what was your understanding of who he was?
A. He was kind of like an agent. He wasn't the man, an agent or something for the owner, or what I perceived as the owner of this GNP.
Q. But he was the person who you had the first contact with --
A. Yes.
Q. -- who inquired about your interest --
A. Yes.
Q. -- in the first meeting?
A. Yes.
Q. And then is he the one who sent you the template?
A. Yes.
Q. And then he's the one you called back to say don't go talk to Mr. Snow, if you've got a problem with what I'm doing, give me a call --
A. Correct.

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Q. -- and deal with me?
A. Yeah. Seemed kind of weird, you know, a guy is looking to do some business with you.
Q. Okay. Let me just try to make sure I understand your thinking on this. If I understand you correctly, correct me if I'm misstating this, that for you to do rail service here, it would be contingent on the cost of doing so, would that be fair to say?
A. Mm-hmm.
Q. And that you'd be willing to put in some cost, maybe, to the cost of putting a siding in, correct?
A. Correct.
Q. But that might depend upon whether or not you're actually going to be able to make use of it, correct?
A. Well, it depends on the landowner, you know, everything from what the future lease would be, to you know, if he wants to do something on it. But it would directly be a reflection upon what kind of money I could make off the situation.
Q. And that in turn, if I understood you correctly to say, you would have to make a business decision and make a calculation about how obtaining gypsum by rail would affect your relationships with

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your local suppliers?
A. Uh-huh.
Q. Correct?
A. Uh-huh.
Q. And it would also turn on, if I understood you correctly, when or if, was it National got the Phoenix plant up and running?
A. Uh-huh.
Q. That would be another contingency? And that hasn't happened yet, correct?
A. Correct.
Q. And then would it also turn on your ability, if I understood you are correctly, to ship five to ten a year carloads to a customer --
A. No. Determining whether or not I brought -- needed a rail -- having the opportunity cost effectively, and I'm projecting that I think I can reduce my costs by bringing in rail product. Whether or not I could sell rail product would not be a determining factor. It would be a determining factor of how inexpensive I could get the product brought in. An added benefit would be if I could sell the product by rail out.
Q. Okay.
A. Does that make sense?

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Q. I think so.
A. When I view the spur, I -- when I view rail, my thought pattern is accessing product, not selling product.
Q. But your 40 cars estimate in your letter included five to ten of outgoing, correct?
A. Yeah, but that's -- you know, I hadn't given -- I haven't given a lot of thought to that. And you asked for a number. Again, it's a speculative number. So, yeah.
Q. And then in the past you've indicated that your use for rail was directly related to sort of peak time demand --
A. Uh-huh.
Q. -- when you were put on allocation by your local suppliers.
A. Correct.
Q. So you don't have peak time demand now, correct?
A. Correct.
Q. Haven't had it for a couple years?
A. Correct.
Q. The likelihood of that returning to peak time demand is predictably a few years off? Would that be fair to say?

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A. Probably have to talk to the politicians.
Q. Do you, in your own mind, have an estimate? Do you think if the politicians change that they'll immediately change to peak times?
A. I have no idea.
Q. Would it be fair to say that peak times, perhaps, for that demand for residential drywall will be a few years off?
A. Very well could be.
Q. And you don't know when or if the Phoenix plan for National will be up and running to provide supply, correct?
A. Correct.
Q. And even if so, you still have to make a business decision and a cost decision about whether you're going to continue some of your local business relationships, correct?
A. Correct.
Q. And sitting here today, you're not in a position to make any of those decisions, correct?
A. I have not done the analysis.
Q. Well, I think in your letter, if you go back to Exhibit 2 in front of you, looking at the second page --
A. I'm asking suppliers to quote. I have not

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done that.
Q. But I wanted to direct your attention to the fourth line. You said you'd expect to receive 40 cars a year, starting as soon as service is available, hopefully fall 2010. Do you see that?
A. Uh-huh.
Q. We're now into fall 2010, correct? And as I think you testified earlier, your actual demand has actually fallen a little bit.
A. My demand is similar to 2009, which is way off from 2006, '7 and '08.
Q. And I think you indicated that, you know, when you said four truckloads you thought right now it's a little closer to three.
A. Yes, I ran the numbers. Yes.
Q. And the plant in Phoenix is not up and running, correct?
A. Correct.
Q. And you don't have peak time demand, and you may not have it?
A. Correct.
Q. So you don't have any immediate need or ability to use rail service now, correct?
A. Correct.
Q. And you may not have it for a number of

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years, correct?
A. Number being two to -- zero to two, zero to five, yes, correct.
Q. I don't think I have any further questions now. Counsel may have some.

EXAMINATION

BY MS. BEMIS:
Q. I just have a couple. Looking at the map that's been marked as Exhibit 1, could you tell me who your neighbors are in this area? Let's start with the business to the south of you.
A. South being -- that would be Woodinville Lumber.
Q. Okay.
A. And then Matthews Lumber.
Q. And who is to the north of you?
A. You know it's a business park. This used to be an insulation company there. There is a tile and marble company, there is one of my customers is in there. Fastenal is there. Multiple.
Q. And then going across Woodinville Redmond road Northeast, what's the southernmost business with the white boxes?
A. Here?

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MR. GLOWNEY: Are you looking at the bottom of the page?
Q. Sorry, the northernmost.
A. Northernmost, that is a Honey Bucket plant or whatever you -- facility.
Q. Do they store units or service units?
A. I think they do both.
Q. And south, what's the next business there?
A. In the front it used to be a Vespa dealer. I think it again now is -- it's been multiple things. I think it's a car repair shop. And behind it that might be part of -- I don't know. That still might be part of the Honey Bucket.
Q. Okay. And then continuing south, what's the next business?
A. That's an office building.
Q. I think that's all the businesses I'm seeing on there. Did we miss any? How would you characterize this area? Industrial, residential?
A. Yeah, it's industrial. North -- north to the main intersection, lighted intersection is all commercial, and then south to probably a quarter of a mile down a half mile down is the first winery, is Januik Winery. And then it becomes more winery --
Q. Moving to Exhibit 4, which I understand are

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calculations, or sales figures for the business from '06 to 2010, is that correct?
A. Uh-huh.
Q. My understanding of your testimony is that during '06, '07, and most of '08, if you had had more supply available you would have been able to sell it?
A. I would have been able to sell it and I would have been able to make more money.
Q. And --
A. And strengthen my business going forward.
Q. And you have identified where that extra supply would have to -- how it would get to you, is that correct, during the peak supply times?
A. It needs to come from faraway locations and from locations outside of the general market, and that is usually best serviced by rail.
Q. So in addition to the demand that you think you would have during peak times, you've identified another possible use for rail service, which would be shipments from your facility, is that correct?
A. Correct.
Q. And I understand that your assessment of use of rail is dependent on a couple of other factors. Is that correct?
A. Yes.

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Q. However, based on your experience in the industry and your experience owning this company, how would you characterize the likelihood or feasibility of the scenarios that you talked about today in terms of receiving shipments via rail and sending shipments via rail? You've been in the gypsum industry for --
A. No, I'm just thinking about your question, and I want to be fair to myself and fair to -- that's a pretty loaded question, because I have long established relationships. So I'm really going at the question, other than accessing product during the peak times to open up new relationships. Okay? So I would say city or King County or whoever's doing this says yeah, put a rail in, I would think there's a likelihood of 30 or 40 percent that I would access the product -- use the rail in the short-term and non-peak times. Is that what you're asking?
Q. Somewhat. In your conclusions for the use of the rail, I guess I'm trying to drill down on how you're experiencing the industry and your ownership of the company informs your predictions of what use you might make of a rail.
A. My job as the owner of the company is to look at short-term and long-term profits and take care of customers. If I had a rail, I could access

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products from National Gypsum more cost effectively, and I believe I can access products today from -- if their -- when their facility is open, then I believe I can access product today from my local source. And I would have to make a decision, business decision, short-term and long term the value of those relationships locally.
Q. Is it fair to say that those conclusions are based on your experience running the company, your familiarity with your supply sources, your years in the gypsum industry?
A. Correct.
Q. So they're not from thin air, it's --
A. Correct.
Q. -- based on your day-to-day experience in the industry?
A. Correct.
Q. Those are my questions.
A. Can I --
MR. GLOWNEY: Wait a second.
MR. MARCUSE: Let me him ask his question.
MR. GLOWNEY: Go ahead.
A. I don't know who -- why I'm here, frankly. I don't know who's a proponent and who is an opponent.

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I just can't figure out why somebody also -- and this is just a statement -- why somebody would want to put a walking path or some type of nature path, because that is the rumor in the Redmond-Woodinville area, on that river track, when we have such a nice Burke-Gilman Trail and there is so much traffic, industrial traffic, in this area. So that's just a statement.

FURTHER EXAMINATION
BY MR. GLOWNEY:
Q. Let me finish up here, and I appreciate that, but I've got a couple follow-ups to the questions.
A. Cool.
Q. I think you just testified that you thought it would be more cost effective to get product from the National Gypsum plant in Phoenix, I think is what you're referring to --
A. Uh-huh.
Q. -- than getting it from your local suppliers.
A. Yes.
Q. What calculations have you done to determine that?

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A. Through my time in the gypsum business. Gypsum manufacturers either put gypsum mills at the marketplace or in a remote site where the rock source is. And anytime you put a -- so if it's at the marketplace, and very, very seldom is there a gypsum deposit next to a major city. So a gypsum manufacturer has the cost, if his plant is in Seattle, to ship his rock out of Mexico via barge all the way up here. Store it, dry it out, manufacture, and then pay freight from, example, Seattle, to Woodinville. Gypsum manufacturers that have a rock base location where their gypsum, raw gypsum is organic or recycled, you know, flue, when they are next to their source, their landed cost to the marketplace is usually much better. And if the marketplace is, for example, Phoenix to Seattle, their landed cost, not my landed cost, but their landed cost, the manufacturer's landed cost is going to be substantially better than Seattle, CertainTeed, or -- than Seattle CertainTeed's costs, landed costs to me.
Q. Are you speaking because you've done these calculations, or are you speaking generally?
A. I'm speaking because --
Q. First, let me just make -- have you actually done these calculations? That's what I would like to

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be clear.
A. These plants?
Q. With these plants.
A. Today? No.
Q. Today.
A. No.
Q. So -- and you were last on the manufacturing side in 2001, correct?
A. Correct.
Q. Nine years ago. And you've never received product by railroad, correct?
A. Correct.
Q. And all those items would be factors in determining the actual cost to you of getting product from Phoenix, correct?
A. Correct.
Q. So when you talk generally from your experience, that's simply general observation, not a specific one relating to what you actually would incur from Phoenix, correct? Because you told me you haven't done the calculations.
A. Correct.
Q. So where those numbers actually come out is something that you don't know at this point?
A. Correct.

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Q. So maybe it's more cost effective, maybe it's not, correct? You don't know until you actually have an opportunity to actually run the figures and determine all the costs that might be involved? Correct?
A. Maybe it's better and maybe it's not.
Q. Let me come back to the questions on Exhibit 4, which is your total numbers here. In, for example, 2007, I think you indicated, look, if you could have gotten more gypsum, peak year, you could have sold more, correct?
A. Correct.
Q. But as I understood your testimony, you could have gotten more gypsum by truck, even if you couldn't get it by rail. Correct?
A. No. That's wrong.
Q. So you could only get it by rail, but you could you not get it by truck from any other source other than your immediate sources?
A. I couldn't buy any more wallboard via truck than I got. I looked at all kinds of sources.
Q. But you could have gotten it by rail from someplace outside?
A. Correct.
Q. So they won't ship it by truck, but they

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will only ship it by rail?
A. Correct.
Q. So could they have shipped it by rail to a place where you could have picked it up by truck?
A. Potentially.
Q. Did you look into that?
A. I didn't think it would be cost effective.
Q. So when you say that if you had more, you could have sold more and made more money, that's not entirely correct? The fact was that if you had to ship it by truck, you don't think it was cost effective, you wouldn't have made more money?
A. Repeat your question? Or statement?
MR. GLOWNEY: Can you just read it back?
(Record read back)
A. I disagree. There is a -- there is a factor -- there is a -- how do I explain that? I, during the downside, had to buy some product from brokers, okay, at a huge cost to me, to supply my customers. Okay?
Q. Because you were already committed to providing it to them?
A. I'm committed --
Q. Or you chose to?
A. I chose to, to meet their needs. And there

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is a point of diminishing -- how much work you want to do to make X amount of dollars. So labor was tight, my trucks were all busy. I could have called and said send me four truckloads, or semis to the team track in Woodinville, if it's still there. And they would have shipped it to me. They would have given me a loading allowance. But frankly, the cost of running all my equipment down there to unload it and running all my equipment back and wearing out my people versus having the rail siding at my location, you hit the balance of cost. So I disagree with your statement.
Q. Sure.
A. But that's what I had to determine.
Q. Okay. Sure. Okay. I don't think I have any further questions.
MS. BEMIS: No.

EXAMINATION
BY MR. FERGUSON:
Q. I've got some questions. My name's Hunter Ferguson. I wasn't here earlier when everyone met, but I'm a colleague of John Glowney's, and I think I've actually left messages at your residence. I have a question about the past decade. Is it correct that you have owned and operated Drywall Distributors for

the past nine years?
A. True.
Q. Okay. In that time, do you know whether any railroad company has operated service on the tracks running in front of Drywall Distributors?
A. Yeah. We've seen the product go -- in my timeline we saw the Dinner Train, we've seen the product go by to Building Specialties in Redmond, Washington.
Q. Okay. So is it correct, then, that you saw freight service running past Drywall Distributors --
A. Correct.
Q. -- in the past decade or during the time that you've owned the business?
A. Yes, I believe so, yeah.
Q. And if I understand you correctly, that beginning in 2006, in 2007 and 2008, you experienced a supply shortage on your end?
A. Yes.
Q. At any point during either 2006, 2007 or 2008, did you make inquiries about receiving freight rail service directly to your facility?
A. I don't have a siding.
Q. So you did not make any inquiries?
A. No, I don't -- I wouldn't. I don't have a

siding to unload it.
Q. But would you have been able to at least partially solve your supply problem had you been able to receive freight rail deliveries?
A. Sure.
Q. Thank you.
A. Okay.
MR. GLOWNEY: Any follow-up? Mr. McDonald, thank you so much for your time. Let me just tell you you can -- you have an opportunity to review a copy of the transcript. That's to make sure -- our court reporter is very good, but you should review it and see if you think an answer is incorrectly taken down. You can choose to waive that. I usually advise my clients not to waive it. Just if you want to look at the transcript and make sure it says what it says.
THE WITNESS: Sure.
MR. GLOWNEY: It's up to you.
THE WITNESS: Do I get a copy of it?
MR. GLOWNEY: You would get a copy of it. It would be sent to you. You have a time period to look at it make any corrections and send it back in.
THE WITNESS: I'll review it at that

time.
MR. GLOWNEY: Okay. And we'll be ordering it promptly, so you'll probably see it fairly soon. Great. Other than that, I think we're finished. And off the record.
(Deposition concluded at 4:20 p.m.)
(The witness reserved signature.)

SIGNATURE

I declare under penalty of perjury under the laws of the State of Washington that I have read my within deposition, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the CHANGE SHEET flyleaf page hereof. Signed in _____ on the _____ day of _____, _____.

_____
SCOTT McDONALD
Taken: October 26, 2010

Mark Hovila, CCR

CERTIFICATE

STATE OF WASHINGTON)
COUNTY OF KING)

I, the undersigned Certified Court Reporter and an officer of the Court under my commission as a Notary Public for the State of Washington, hereby certify that the foregoing deposition upon oral examination of SCOTT McDONALD was taken before me on October 26, 2010, and transcribed under my direction;

That the witness was duly sworn by me to pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of November, 2010.

_____
Mark Hovila
Washington Certified Court Reporter No. 2599
License expires October 4, 2011

DATE:

Scott McDonald
Drywall Distributors
P.O. Box 14
16026 Wood-Red Road
Woodinville, WA 98072-0014

NOTICE OF READINESS FOR SIGNATURE

Case Name: GNP RLY INC. ACQUISITION AND EXEMPTION
Venue: SURFACE TRANSPORTATION BOARD
Docket No.: 35407
Witness: SCOTT McDONALD
Taken: October 26, 2010
Enclosed is a copy of your deposition transcript.

Please read the deposition transcript, record any changes on the Change Sheet, and sign (1) the Change Sheet and (2) the Original Signature Page.
Please return the Change Sheet and the Original Signature Page to this office within 30 days so they may be filed with the original transcript.

Mark Hovila, CCR
Seattle Deposition Reporters
(206) 622-6661

cc: File
John E. Glowney
Lori M. Bemis
Andrew Marcuse
Enclosure (envelope)

CHANGE SHEET

PLEASE MAKE ALL CHANGES OR CORRECTIONS ON THIS SHEET, SHOWING PAGE, LINE AND REASON.

_____

PAGE LINE CORRECTION AND REASON

_____
SCOTT McDONALD
Taken: October 26, 2010
Re: GNP RLY INC.
Mark Hovila, CCR

DATE FILED:

John E. Glowney
Stoel Rives LLP
600 University St., Suite 3600
Seattle, WA 98101

NOTICE RE FILING OF ORIGINAL DEPOSITION
Case Name: GNP RLY INC. ACQUISITION AND EXEMPTION
Venue: SURFACE TRANSPORTATION BOARD
Docket No.: 35407
Witness: SCOTT McDONALD
Taken: October 26, 2010

Enclosed is the original sealed transcript of the deposition of SCOTT McDONALD. The original signature page and changes, if any, received by this office will be forwarded to all counsel.

Mark Hovila, CCR
Seattle Deposition Reporters

cc: File
Andrew Marcuse
Lori M. Bemis

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BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35407
GNP RLY INC.
-ACQUISITION AND EXEMPTION-
REDMOND SPUR AND WOODINVILLE SUBDIVISION

STP DOCKET NO. AB-6 (SUB. NO. 463X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA
STP DOCKET NO. AB-6 (SUB NO. 465X)
BNSF RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN KING COUNTY, WA

Original Signature Page and Change Sheet to the Deposition Upon Oral Examination of
SCOTT McDONALD

Taken October 26, 2010
600 University Street, Suite 3600
Seattle, Washington

Reported by:
MARK HOVILA
CCR No. 2599

Page 91

Date filed:

John E. Glowney
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

NOTICE RE CHANGES TO ORIGINAL DEPOSITION

Case Name: GNP RLY INC. ACQUISITION AND EXEMPTION
Venue: SURFACE TRANSPORTATION BOARD
Docket No.: 35407
Witness: SCOTT McDONALD
Taken: October 26, 2010

Enclosed is a copy of the Signature Page and Change Sheet, if any, to the above-referenced original deposition transcript.

Mark Hovila, CCR
Seattle Deposition Reporters

cc: File
Andrew Marcuse
Lori Bemis

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APPEARANCES: (FOR FILING PURPOSES)

Lori M. Bemis
McGavick Graves, P.S.
1102 Broadway, Suite 500
Tacoma, WA 98402

Andrew Marcuse
Senior Deputy Prosecuting Attorney
W400 King County Courthouse
516 Third Avenue
Seattle, WA 98104

John E. Glowney and
Hunter Ferguson
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

C E R T I F I C A T E

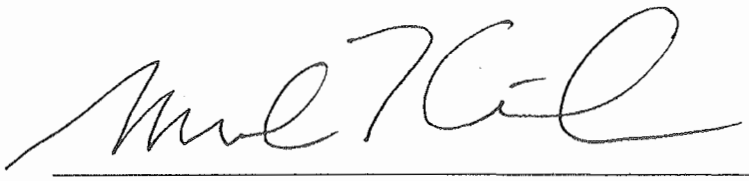
STATE OF WASHINGTON)

COUNTY OF KING)

I, the undersigned Certified Court Reporter and an officer of the Court under my commission as a Notary Public for the State of Washington, hereby certify that the foregoing deposition upon oral examination of SCOTT McDONALD was taken before me on October 26, 2010, and transcribed under my direction;

That the witness was duly sworn by me to pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for, nor a relative or employee of, any of the parties to the action or any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 3rd day of November, 2010.



Mark Hovila

Washington Certified Court Reporter No. 2599

License expires October 4, 2011

DE 87-125

THE CITY OF REDMOND
PLANNING DEPARTMENT

September 11, 1989

Mr. Robert Harthorne
Harthorne/Hagen Architects
1500 Westlake Ave. N.
Seattle, Washington 98109

SUBJECT: SPR-89-28, Unisea Processing Addition and Office Building

Dear Mr. Harthorne:

The City of Redmond Technical Committee has approved your Site Plan Review application for the Unisea processing addition and office building, subject to the conditions noted in the enclosed Development Checklist.

The Part I of the Development Checklist requires a lot line revision and a right-of-way vacation. The lot line revision shall incorporate parcel A and parcel B into a single parcel. The right-of-way vacation is required to eliminate the boundary irregularity in the southeast corner of the site. Both the lot line revision and the right-of-way vacation must be completed before a building permit can be issued for the subject project.

This approval shall expire one year from the date of this letter unless significant construction activity has started and remains in progress.

This approval shall not waive compliance with future City of Redmond codes, policies or standards relative to this development. Administrative decisions of the Technical Committee may be appealed to the City Council pursuant to the Redmond Community Development Guide by filing written notice with the Planning Department within 14 days of the date of this letter.

If you have any questions, please contact Sarah Stiteler, Planner, at 882-6449.

Sincerely,

Gregory Moore

GREGORY MOORE, AICP
Acting Director of Planning
and Community Development

Carol Osborne

CAROL OSBORNE, Director
Department of Public Works

SS/kvt

Attachment

c:\SS\TC\@KUnisea

Project: Unisea, Inc.
Location: NE 90th St @ 154th Ave NE
Plan Date: September 6, 1989
Pre-Application: _____
Preliminary _____
Final X

CITY OF REDMOND
DEVELOPMENT CHECKLIST
PART II - STREETS, SIDEWALKS, UTILITIES, TRANSPORTATION

GENERAL

X A. Engineering plans and street improvement plans for the site shall be prepared by a registered engineer and shall include:

Plan size - 22"x34" (no substitutions accepted)

Scale - Standard engineering scale(s)

All information necessary for inspection by the Engineering Dept.

Review for approval by the Director of Public Works

(Please note: The site plan shall be approved by the Engineering Dept. and be included as part of engineering construction plans. Plans approved by the Director of Public Works take precedence over all other plans).

X B. A copy of all recorded easements pertaining to the property is required.

TRANSPORTATION

X A. All existing driveways and intersections within 200' of the site property (both sides of the street) shall be shown on the site plan.

X B. Other off-site improvements for traffic control devices (signs, markings, and traffic signals) are required as follows:

In 151st Avenue N.E. right-of-way fix railroad crossing (remove tracks and repair roadway to City standards as crossing is being abandoned for use of railroad.

subject to an easement for railroad spur over the north 8.50 feet as measured at right angles to the north line thereof.

SUBJECT TO an easement for ingress and egress and utilities, for the benefit of grantor's remaining property lying easterly and southerly of the property hereby conveyed, over that portion of the west half of Section 2, Township 25 North, Range 5 East, W.M., King County, Washington, described as follows:

Beginning at the southwest corner of the northwest quarter of said Section; thence S 88° 15' 45" E along the east-west centerline of said Section 766.85 feet to the TRUE POINT OF BEGINNING; thence S 46° 41' 20" W 70.65 feet; thence N 88° 15' 45" W 233.65 feet; thence 78.82 feet along the arc of a circular curve to the left, the center of which bears S 1° 44' 15" W (Δ = 35° 1' 55", R = 128.92 feet); thence S 56° 42' 20" W 50.44 feet to the northeasterly margin of the Northern Pacific Railroad right-of-way; thence N 33° 17' 40" W along said northeasterly margin 60.00 feet; thence N 56° 42' 20" E 50.44 feet; thence 259.50 feet along the arc of a circular curve to the right, the center of which bears S 33° 17' 40" E (Δ = 35° 1' 55", R = 409.70 feet); thence S 88° 15' 45" E 232.75 feet; thence 47.97 feet along the arc of a circular curve to the left, the center of which bears N 1° 44' 15" E (Δ = 91° 36' 48", R = 30.00 feet); thence N 0° 7' 27" E 1170.23 feet; thence 46.21 feet along the arc of a circular curve to the left the center of which bears N 89° 52' 33 W (Δ = 88° 15' 46", R = 30 feet); thence N 88° 8' 19" W, 197.61 feet; thence N 0° 3' 35" W 40.01 feet; thence S 88° 8' 19" E 656.19 feet; thence S 0° 7' 27" W 40.01 feet; thence N 88° 8' 19" W 339.08 feet; thence 48.03 feet along the arc of a circular curve to the left the center of which bears S 1° 51' 41" W (Δ = 91° 44' 14", R = 30.00 feet); thence S 0° 7' 27" W 369.06 feet; thence N 88° 10' 46" W 30.01 feet; thence S 0° 7' 27" W 880.04 feet; thence N 88° 15' 45" W 138.19 feet to the TRUE POINT OF BEGINNING of this easement.

ALSO SUBJECT TO an easement for railroad spur being 17 feet in width, the centerline of which is described as follows:

Beginning at the southwest corner of the southwest quarter of the northwest quarter of said Section 2; thence S 88° 15' 45" E 905.04 feet; thence N 0° 7' 27" E 367.48 feet to the TRUE POINT OF BEGINNING of this easement description; thence S 81° 47' 32" W 443.19 feet; thence S 86° 20' 00" W 184.98 feet; thence 201.10 feet along the arc of a circular curve to the right, the center of which bears N 3° 40' 00" W (Δ = 32° 4' 16", R = 359.27 feet) to the northeasterly margin of the Northern Pacific Railroad right-of-way and the end of this easement description which is for the use and benefit of the property first described as conveyed hereby and for the benefit of said excepted tract and for the benefit of grantor's remaining property lying easterly and southerly of the property hereby conveyed.

TOGETHER WITH an easement for ingress and egress and utilities over that portion of the southwest quarter of the northwest quarter of Section 2, Township 25 North, Range 5 East, W. M., King County, Washington described as follows:

Beginning at the southwest corner of said subdivision; thence S 88° 15' 45" E along the south line of said subdivision 905.04 feet; to the TRUE POINT OF BEGINNING of this easement

JUN 17 1966