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June 24, 2013

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VIA FEDERAL EXPRESS

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

Re: **Finance Docket No. 35731
Ballard Terminal Railroad Company, L.L.C. -- Acquisition
and Operation Exemption -- Woodinville Subdivision**

**Docket No. AB-6 (Sub-No. 465X)
BNSF Railway Company -- Abandonment Exemption --
In King County, WA**

234461
234462
ENTERED
Office of Proceedings
June 25, 2013
Part of Public
Record

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceedings are an original and ten copies of a **Motion for Leave to File Reply to King County, Washington, City of Kirkland, Washington, and Puget Sound Regional Transit Authority's Replies to Motion for Preliminary Injunction**, dated June 24, 2013.

One extra copy of the Motion and this letter also are enclosed. I would request that you date-stamp those items to show receipt of this filing and return them to me in the provided envelope. If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,



Thomas C. Paschalis
Attorney for Ballard Terminal Railroad
Company, L.L.C.

TCP/pj
Enclosures
cc: Parties on Certificate of Service

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35731

BALLARD TERMINAL RAILROAD COMPANY, L.L.C.
-- ACQUISITION AND OPERATION EXEMPTION --
WOODINVILLE SUBDIVISION

DOCKET NO. AB-6 (SUB-NO. 465X)

BNSF RAILWAY COMPANY
-- ABANDONMENT EXEMPTION --
IN KING COUNTY, WA

**BALLARD TERMINAL RAILROAD COMPANY, L.L.C.'S MOTION FOR LEAVE TO
FILE REPLY TO KING COUNTY, WASHINGTON, CITY OF KIRKLAND,
WASHINGTON, AND PUGET SOUND REGIONAL TRANSIT AUTHORITY'S
REPLIES TO MOTION FOR PRELIMINARY INJUNCTION**

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**ATTORNEYS FOR BALLARD TERMINAL
RAILROAD COMPANY, L.L.C.**

Dated: June 24, 2013

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35731

BALLARD TERMINAL RAILROAD COMPANY, L.L.C.
-- ACQUISITION AND OPERATION EXEMPTION --
WOODINVILLE SUBDIVISION

DOCKET NO. AB-6 (SUB-NO. 465X)

BNSF RAILWAY COMPANY
-- ABANDONMENT EXEMPTION --
IN KING COUNTY, WA

**BALLARD TERMINAL RAILROAD COMPANY, L.L.C.'S MOTION FOR LEAVE TO
FILE REPLY TO KING COUNTY, WASHINGTON, CITY OF KIRKLAND,
WASHINGTON, AND PUGET SOUND REGIONAL TRANSIT AUTHORITY'S
REPLIES TO MOTION FOR PRELIMINARY INJUNCTION**

Ballard Terminal Railroad Company, LLC ("Ballard"), by and through counsel and pursuant to 49 C.F.R. § 1114.28, hereby moves the Surface Transportation Board (the "Board") for leave to file a reply to King County, Washington ("King County"), City of Kirkland, Washington ("Kirkland"), and Puget Sound Regional Transit Authority's ("Sound Transit's") replies to Ballard's Motion for Preliminary Injunction. As support for its motion, Ballard states as follows:

1. The Board instituted proceedings in these two dockets on April 1, 2013, upon the filing of two petitions by Ballard. In its petitions, Ballard seeks to acquire reactivation and rights and commence freight operations on an 11.2-mile segment of track on the Woodinville Subdivision extending from MP 23.8 in Woodinville, to MP 12.6 in Bellevue, (hereinafter "the Line"). The Line is currently railbanked with track remaining in place.

2. Ballard filed a Motion for Preliminary Injunction in this matter on May 8, 2013. In its motion, Ballard seeks to enjoin Kirkland from carrying out plans to remove track assets along a 5.75-mile segment of the Line located in Kirkland, Washington, pending the completion of these proceedings.

3. Pursuant to the injunction briefing schedule set by the Board, King County and Sound Transit filed their joint reply to Ballard's Motion for Preliminary Injunction on June 4, 2013. Kirkland filed its reply to Ballard's Motion for Preliminary Injunction that same day.

4. In the time period between Ballard's filing of its Motion for Preliminary Injunction and the date on which King County, Kirkland, and Sound Transit filed their replies, a substantial volume of written and oral discovery were taken by King County, Kirkland, and Sound Transit.

5. Among the discovery taken were four depositions. The deponents were (1) Ballard General Manager Byron Cole, deposed May 24, 2013; (2) Eastside Community Rail, LLC ("Eastside") Managing Director Douglas Engle, deposed May 22, 2013; (3) Wolford Trucking and Demolition, Inc. ("Wolford Trucking") owner Bobby Wolford, deposed May 16, 2013; and (4) CalPortland Company ("CalPortland") Aggregate Sales Manager Michael Skrivan.

6. In their respective reply briefs, King County, Kirkland, and Sound Transit cite heavily to the deposition testimony of the foregoing witnesses to support their contentions that (1) there is no actual shipper support for freight service on the Line; and (2) Ballard is not a bona fide petitioner.

7. In so doing, however, Ballard's opponents have cherry-picked certain testimony which they largely present to the Board in isolation and out of context. The testimony

provided by Ballard's opponents is incomplete, misleading, and does not accurately portray the deposition testimony relevant to the issues before the Board on Ballard's petitions and Ballard's Motion for Preliminary Injunction.

8. Pursuant to 49 C.F.R. § 1114.28, Ballard is entitled to present additional portions of the deposition testimony of Mr. Cole, Mr. Engle, Mr. Wolford, and Mr. Skrivan that is relevant to the issues before the Board in order to complete the record and clarify the facts attested to. Allowing Ballard such an opportunity is particularly imperative in this matter, where deposition testimony only became available after Ballard's Motion for Preliminary Injunction was filed.

9. Accordingly, Ballard hereby seeks leave to file a brief reply to King County, Washington ("King County"), City of Kirkland, Washington ("Kirkland"), and Puget Sound Regional Transit Authority's ("Sound Transit's") Replies to Ballard's Motion for Preliminary Injunction, *instanter*. Ballard's Reply is being filed herewith.

10. In so moving, Ballard seeks to make clear that it does not wish to burden the Board with additional, extensive briefing, nor does Ballard intend to re-hash arguments previously presented in its original motion. In furtherance of this goal, Ballard's Reply will not exhaustively countermand all incomplete and misleading testimony offered by Ballard's opponents in their June 4, 2013, filings.

11. Due to the impending filing of comments on Ballard's petitions and Ballard's reply thereto, such a task is better left for Ballard's reply to comments, which Ballard anticipates filing in late July. At that time, Ballard will provide a comprehensive summary of the testimony and related evidence which countermands the selective testimony relied upon by Ballard's opponents.

12. As the Board is aware, comments on Ballard's petitions will likely be due by the end of this month. Ballard anticipates filing its reply to comments by the end of July.¹ Due to the significant degree of overlap between the briefing schedule pertaining to the injunction and the briefing schedule of the petitions, Ballard believes it would be more practical for the Board to refrain from ruling on the injunction until all filings relating to the petitions are complete in late July. By abstaining from ruling for one additional month, the Board can consider all evidence and legal arguments pertaining to Ballard's likelihood of success on the merits. Further, Kirkland will not be harmed by delaying a decision on the injunction until August or September, as it has already represented that its contract for the removal of rails is being held open through the month of September.²

13. Thus, Ballard suggests that the Board refrain from ruling on the Motion for Preliminary Injunction until all filings relating to Ballard's petitions have been made.

WHEREFORE, Ballard requests that the Board grant it leave to file its Reply to King County, Kirkland, and Sound Transit's replies to Ballard's Motion for Preliminary Injunction in accordance with 49 C.F.R. § 1114.28. Ballard's purpose in doing so is to present certain testimony which demonstrates that the evidence cited by Ballard's opponents is not exhaustive and that it would be more equitable to allow Ballard due time to comprehensively present countervailing testimony and facts in its forthcoming reply to comments on Ballard's petitions. Due to the imminent filing of all comments and replies in these proceedings, the interests of justice would be best served if the Board refrained from ruling on the preliminary

¹ As of the date of this filing, there are no set dates for the filing of comments and replies. The previous date for filing of comments was June 18, while the reply deadline was July 18. However, those deadlines were stayed pending the resolution of a discovery dispute.

² See Exhibit 1 hereto, Declaration of Kirk Triplett in Response to Plaintiff's TRO Motion at ¶ 19 (dated April 29, 2013).

injunction until such time as the comments and Ballard's reply are on file, and all factual and legal arguments are before the Board.

Respectfully submitted,

By:  _____

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**ATTORNEYS FOR BALLARD TERMINAL
RAILROAD COMPANY, L.L.C.**

Dated: June 24, 2013

EXHIBIT 1

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BALLARD TERMINAL RAILROAD
COMPANY, LLC, a Washington limited
liability company,

Plaintiff,

v.

CITY OF KIRKLAND, a Washington
municipal corporation,

Defendant.

No. 2:13-cv-00586 MJP

**DECLARATION OF KURT TRIPLETT
IN RESPONSE TO PLAINTIFF'S
TRO MOTION**

I, Kurt Triplett, declare under penalty of perjury as follows:

1. I hold the office of City Manager for the City of Kirkland ("Kirkland") and have served in this capacity since June 28, 2010. I have personal knowledge of, and am competent to testify to, the following facts.

2. On January 5, 2012, Kirkland and the Port of Seattle (the "Port") entered into a purchase and sale agreement for the Cross Kirkland Corridor ("CKC"), which is a 5.75 mile segment of the 12.55 mile railroad right-of-way running between the cities of Woodinville and Bellevue (the "Line"). Under the terms of the purchase and sale agreement, the Port conveyed to Kirkland its interests in the land comprising the CKC, along with its interests in the rail infrastructure and other personal property and fixtures in the CKC. A true and correct copy of the purchase and sale agreement is attached hereto as **Exhibit 1**.

**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 1**
Case No. 2:13-cv-00586 MJP

1 3. On April 13, 2012, Kirkland closed on its purchase of the CKC for \$5 million. A
2 map depicting the CKC and its relation to the Line and other railroad rights-of-way in the region
3 is attached hereto as **Exhibit 2**.

4 4. The CKC connects eight of Kirkland's 13 neighborhoods and offers a unique
5 opportunity to provide a regional transit corridor and a green pathway through a heavily
6 urbanized area. With this potential in mind, Kirkland acquired the CKC with the plan of
7 developing a multi-modal trail and transit corridor. The first phase of this plan is the
8 development of an interim trail.

9 5. Kirkland officials and managers recognize that under the terms of the railbanking
10 statute, every railbanked right-of-way remains subject to reactivation of freight service. Kirkland
11 believes that there is no realistic demand for rail freight service in Kirkland or Bellevue today, or
12 in the foreseeable future. Kirkland officials and managers further recognize that the Central
13 Puget Sound Regional Transit Authority ("Sound Transit") holds a transit easement over the
14 entire length of the Line and might provide future commuter rail on the Line, alongside a trail.

15 6. Beginning in the spring of 2012, Kirkland staff evaluated various approaches to
16 developing an interim trail, including both removal of the existing rail infrastructure and leaving
17 the tracks and ties in place. Kirkland staff concluded that removing the rails and leaving the rail
18 bed and ballast in place was the best approach, in part, because: (a) no rail operator had come
19 forward with a plan to provide freight service on the Line, since BNSF Railway sold the Line to
20 the Port in 2009; (b) rail removal would make development of interim trail easier and less
21 expensive; (c) Sound Transit does not have a plan in the near term for providing commuter rail
22 service within the CKC; (d) removal would make vegetation and stormwater maintenance within
23 the CKC easier and less expensive than with the rails in place; and (e) grant funding secured for
24 the removal of the rails and development of an interim trail is available only through 2014.

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**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 2**

Case No. 2:13-cv-00586 MJP

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1 7. On August 7, 2012, the Kirkland City Council voted unanimously to approve
2 salvage of the rail infrastructure within the CKC beginning in spring 2013, thus allowing
3 Kirkland residents to begin developing and using the CKC as an interim trail by summer 2013.

4 8. In the fall of 2012, Douglas Engle, a representative of Eastside Community Rail,
5 LLC (“ECR”), contacted me to discuss the possibility of allowing his company to operate an
6 “excursion” train within the CKC and urged me to delay Kirkland’s salvage plans. On
7 November 15, Mr. Engle and I met in person to discuss this proposed use for the CKC. During
8 this meeting, Mr. Engle stated that ECR had acquired the rights and assets of his former
9 company, GNP Railway, Inc., which was in bankruptcy, and would operate freight rail service
10 with Ballard Terminal Railroad Company, LLC (“Ballard”) on the 14 mile freight segment
11 between the cities of Woodinville and Snohomish. In this meeting and in a subsequent email,
12 Mr. Engle stated that ECR and its business partners would forgo reactivation of freight service
13 through Kirkland, if Kirkland would allow ECR and its business partners to operate an excursion
14 train on the Line between the cities of Snohomish and Bellevue. Mr. Engle did not articulate a
15 specific plan for the freight service that ECR and its business partners would forgo. Mr. Engle
16 represented that ECR could run an excursion train alongside a pedestrian-cycling trail and that an
17 individual named “Byron,” who I understand to be Byron Cole of Ballard, was investigating the
18 cost and logistics of improving the rail infrastructure on the Line to support an excursion train.
19 Mr. Engle further requested that Kirkland delay salvage by 90 days. I explained that Kirkland
20 did not plan to commence salvage until late February, which was more than 90 days in the
21 future, and therefore we would continue to pursue Kirkland’s current plans. True and correct
22 copies of my email correspondence with Mr. Engle regarding these issues and our meeting is
23 attached hereto as **Exhibit 3**.

24 9. On December 17, I met again with Mr. Engle regarding his proposal for ECR and
25 its business partners to run an excursion train on the Line. He reiterated that ECR and its
26 business partners would not attempt to operate freight service if Kirkland agreed to allow an

**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF’S TRO MOTION - 3**

Case No. 2:13-cv-00586 MJP

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1 excursion train to run with the CKC. Mr. Engle did not, however, identify any specific plan for
2 freight service that ECR and its business partners would not pursue.

3 10. In a letter dated February 19, 2013, Mr. Engle outlined a proposal, whereby ECR
4 and Wolford Trucking and Demolition and would construct a maintenance of way road for
5 ECR's excursion train alongside the existing tracks within the CKC for a cost of \$2.87 million.
6 ECR proposed that the maintenance of way road could function as a trail when not in use by
7 ECR and that Kirkland would cover the cost of maintaining the road. A true and correct copy of
8 Mr. Engle's February 19 letter is attached hereto as **Exhibit 4**

9 11. In a letter dated February 22, 2013, Mr. Engle renewed ECR's proposal to run an
10 excursion train on the CKC and his proposal for ECR and Wolford Trucking and Demolition to
11 construct a trail alongside the existing rails. In particular, Mr. Engle proposed that ECR and
12 Wolford Demolition and Trucking be allowed to use grant funding secured by Kirkland to
13 develop a trail within the CKC alongside the existing rails. A copy of Mr. Engle's February 22
14 letter is attached hereto as **Exhibit 5**.

15 12. Kirkland staff, its engineering consultants, and I considered ECR's proposals to
16 run an excursion train within the CKC and construct a maintenance of way road alongside the
17 existing rails and concluded they were not financially or environmentally viable for Kirkland.
18 Among other things, the proposals (a) did not include plans for bridge construction and street
19 modifications, (b) contemplated filling in wetlands, (c) called for the trail to be placed at levels
20 uneven with railroad grade in several places, (d) lacked a specific time line for construction, and
21 (e) did not include adequate financing. Kirkland's consultants estimated that ECR's proposed
22 construction would cost more than \$17 million, well above ECR's estimate of \$2.87 million. (A
23 true and correct copy of this evaluation is attached hereto as **Exhibit 6**.) In light of these flaws, I
24 concluded that ECR's excursion train was incompatible with Kirkland's plan for developing an
25 interim trail and with the possibility that Sound Transit might provide commuter rail service in
26 the future.

**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 4**

Case No. 2:13-cv-00586 MJP

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1 13. On February 26, 2013, Kirkland solicited bids for the removal of the rail
2 infrastructure within the CKC. A true and correct copy of Kirkland's Invitation to Bid on the
3 Cross Kirkland Corridor Rail Removal Project is attached hereto as **Exhibit 7**.

4 14. On March 11, 2013, I received a copy of ECR's public business plan from Mr.
5 Engle, along with requests for information about Kirkland's plan to develop an interim trail. A
6 true and correct copy of Mr. Engle's March 11 correspondence and ECR's business plan is
7 attached hereto as **Exhibit 8**. With respect to the prospect of freight service on the Line, ECR's
8 business plan stated: "There are no written plans, agreements or otherwise to move spoils from
9 Bellevue to Snohomish County, although there have been many conversations and some
10 analysis. No other freight has been identified in Bellevue." ECR Business Plan at 7. In
11 addition, ECR's business plan revealed that it did not have the capacity to run an excursion train
12 because of the need to upgrade the existing rail infrastructure to accommodate passenger service.
13 *See* ECR's Business Plan at 2. In light of these statements, I further concluded that it was
14 appropriate to continue with plans for rail salvage and development of an interim trail.

15 15. Bids received were opened by Kirkland staff on March 15, 2013.

16 16. Among the bids received was one from "Bobby Wolford Trucking & Demolition,
17 Inc.," which I understand is the same company that had proposed, along with ECR, to build a
18 maintenance of way road next to the rails. A true and correct copy of Wolford Trucking's bid is
19 attached hereto as **Exhibit 9**.

20 17. After reviewing the bids, Kirkland awarded the salvage contract to A&K Railroad
21 Materials, Inc. ("A&K"). Under the terms of A&K's bid, Kirkland stands to receive an
22 estimated net benefit of \$106,560 for the salvage value of the rails. This estimated benefit takes
23 into account the contract price (\$473,419) and the estimated salvage value of the rails. A&K
24 subsequently executed the contract and returned it to Kirkland on March 29, 2013.

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**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 5**

Case No. 2:13-cv-00586 MJP

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1 18. Kirkland was preparing to enter into the salvage contract with A&K but delayed
2 doing so after Ballard instituted this lawsuit and filed petitions with the STB to reactivate rail
3 service on the Line.

4 19. A&K subsequently agreed to allow Kirkland to enter into the salvage contract and
5 immediately suspend performance, and further agreed to hold the contract open for three to six
6 months, if necessary, but no later than September 2013. To preserve its opportunity to salvage
7 the rails during the 2013 construction season and keep its plan to develop an interim trail on
8 schedule, Kirkland entered into the salvage contract with A&K on April 26, 2013, and
9 immediately suspended performance. A true and correct copy of Kirkland's contract with A&K
10 for rail salvage is attached hereto as **Exhibit 10**.

11 20. If Kirkland is unable to proceed with its plan to salvage the rails during the
12 summer of 2013, it will both lose substantial expected benefits and incur several costs, including:

13 a. *Lost Investment in the CKC.* If Kirkland is unable to salvage the rails
14 during 2013 construction season, its next opportunity to do so will be during the 2014
15 construction season. Interim trail development cannot start until salvage is complete. As
16 a result, Kirkland's intended use of the CKC and the public benefits of an interim trail
17 will be delayed by at least a year. Although it may be difficult to monetize such benefits,
18 Kirkland's acquisition and borrowing costs are known. Kirkland paid \$5 million for the
19 CKC. Kirkland recently borrowed \$35 million with a simple annual interest rate of
20 approximately 3.5 percent. Applying this interest rate to the purchase price, Kirkland
21 will lose at least \$175,000 over the next year on its investment in the CKC.

22 b. *Risk of Lost Contract Value.* If A&K is unable to perform work under the
23 contract within the next six months, Kirkland risks losing its expected payment of
24 \$106,560 for the net salvage value of the rails. The possible future benefit from salvage,
25 if any, is unknown and cannot be known until Kirkland solicits new bids in the spring of
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**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 6**
Case No. 2:13-cv-00586 MJP

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1 2014 because salvage contractors prepare bids at points in time when they can reasonably
2 predict the salvage value of steel.

3 c. *The Cost to Re-Bid the Salvage Contract.* If A&K is unable to salvage the
4 rails within the next six months, Kirkland will have to solicit new salvage bids in the
5 spring of 2014 at an estimated cost of \$1,522.10:

6	WORK/ITEM	Hours	Unit	Rate	Amount
7	Specifications/Plans Update	4		\$174.02	\$696.08
8	Advertising		1	\$182.40	\$182.40
	Bid Document Posting (Builders Ex)		1	\$48.40	\$48.40
9	Bid Opening	1		\$75.00	\$75.00
	Bid Tabulations	1.5		\$59.24	\$88.86
10	Bidder Responsiveness Check	1		\$59.24	\$59.24
	Bidder References Check	1.5		\$95.00	\$142.50
11	Contract Assembly	0.5		\$59.24	\$29.62
	Contract Routing/Review	2		\$100.00	\$200.00
12	TOTAL	11.5			\$1,522.10

13 d. *Increased Maintenance Costs within the CKC.* As the owner of the CKC,
14 Kirkland is responsible for maintaining the right-of-way. In the absence of any rail
15 traffic for several years, much of the vegetation within the CKC is now overgrown and
16 must be removed. In addition, Kirkland must undertake excavation work in drainage
17 ditches, where sediment and vegetation have accumulated, blocking the flow of
18 stormwater. Photographs depicting the accumulation of standing water in some of the
19 drainage ditches are attached hereto as **Exhibit 11**. Kirkland had planned to begin this
20 maintenance work by driving maintenance vehicles and equipment on the gravel rail bed
21 in the right-of-way as A&K completed salvage work. If the rail infrastructure is not
22 salvaged, Kirkland instead will have to use rail-compatible vehicles and equipment to
23 perform maintenance work and forgo the use of other equipment and tools. Photographs
24 depicting the difficulty of using vehicles that are not rail compatible are attached hereto
25 as **Exhibit 12**. Based on price quotes provided by auto mechanics and maintenance
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**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 7**

Case No. 2:13-cv-00586 MJP

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1 equipment rental companies, these requirements will increase Kirkland's maintenances
 2 by an estimated \$211,013.35:

3 WORK/EQUIPMENT	COST-RAILS REMOVED	COST-RAILS IN PLACE	INCREASED COST
4 Vegetation 5 Maintenance Labor	\$12,445	\$71,120	\$58,675
6 Rail-Compatible 7 Vehicle Retrofit	N/A	\$14,860	\$14,860
8 Ditch Excavation Labor & Equipment	\$90,910.40	\$228,388.75	\$137,478.35
9 TOTAL			\$211,013.35

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 12 DATED: April 29, 2013

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 15 KURT TRIPLETT

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**DECLARATION OF KURT TRIPLETT IN
 RESPONSE TO PLAINTIFF'S TRO MOTION - 8**
 Case No. 2:13-cv-00586 MJP

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2013, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following participants:

- **Elizabeth Bryant**
ebryant@fletcher-sippel.com,efinnegan@fletcher-sippel.com
- **Matthew Cohen**
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Dated: April 29, 2013

STOEL RIVES LLP

By: s/Hunter O. Ferguson
Hunter O. Ferguson, WSBA 41485

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**DECLARATION OF KURT TRIPLETT IN
RESPONSE TO PLAINTIFF'S TRO MOTION - 9**

Case No. 2:13-cv-00586 MJP

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of June, 2013, a copy of the foregoing **Motion for Leave to File Reply to King County, Washington, City of Kirkland, Washington, and Puget Sound Regional Transit Authority's Replies to Motion for Preliminary Injunction** was served by electronic mail upon:

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W. Eric Pilsk
Allison I. Fultz
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