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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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ENTERED  
Office of Proceedings  
January 17, 2014  
Part of  
Public Record

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

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

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**STB Finance Docket No. 35731**

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

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**MOTION OF THE CITY OF KIRKLAND, WASHINGTON, KING COUNTY,  
WASHINGTON, AND CENTRAL PUGET SOUND REGIONAL TRANSIT  
AUTHORITY TO (1) ISSUE SUBPOENAS ON THIRD PARTIES, (2) ENTER A  
MODIFIED PROCEDURAL SCHEDULE, AND (3) GIVE THIS MOTION EXPEDITED  
CONSIDERATION**

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Communications with respect to this pleading should be addressed to:

Matthew Cohen  
Hunter Ferguson  
STOEL RIVES LLP  
600 University Street, Suite 3600  
Seattle, WA 98101  
Telephone: (206) 624-0900  
Fax: (206) 386-7500  
Email: mcohen@stoel.com  
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Charles A. Spitulnik  
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Allison I. Fultz  
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E-mail: epilsk@kaplankirsch.com  
E-mail: afultz@kaplankirsch.com

Counsel for City of Kirkland, Washington

Counsel for King County, Washington and  
Central Puget Sound Regional Transit Authority

Dated: January 17, 2014

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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

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

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**STB Finance Docket No. 35731**

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

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**MOTION OF THE CITY OF KIRKLAND, WASHINGTON, KING COUNTY,  
WASHINGTON, AND CENTRAL PUGET SOUND REGIONAL TRANSIT  
AUTHORITY TO (1) ISSUE SUBPOENAS ON THIRD PARTIES, (2) ENTER A  
MODIFIED PROCEDURAL SCHEDULE, AND (3) GIVE THIS MOTION EXPEDITED  
CONSIDERATION**

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Pursuant to 49 U.S.C. § 721(d) and 49 C.F.R. § 1117.1, the City of Kirkland,  
Washington, King County, Washington, and Central Puget Sound Regional Transit Authority  
(collectively, “the Regional Parties”), respectfully request the Surface Transportation Board  
 (“Board”) to:

1. Issue subpoenas to several third-parties identified below;
2. Enter a modified Procedural Schedule to require responses to the Subpoenas Duces Tecum to third-parties and Requests to Produce Documents to Ballard Terminal Railroad Co., LLC by January 29, 2014 , in advance of depositions to be taken in early February, and
3. Give this Motion expedited consideration in light of the short period of time the Board has allowed for further discovery in this matter.

In support of their Motion, the Regional Parties state as follows:

## BACKGROUND

This proceeding involves the requests of Ballard Terminal Railroad Company, L.L.C. (“BTR”) to (1) obtain an exemption from 49 U.S.C § 10902 to acquire the residual common carrier rights and obligations relating to an 11.2-mile portion of a railbanked line of railroad between Woodinville, Washington and Bellevue Washington (the “Line”), and (2) to vacate the NITU on that portion of the Line. On December 6, 2013, BTR filed its Reply to Comments submitted by the Regional Parties. In its Reply, BTR produced letters from so-called “shippers” that BTR argues demonstrate shipper demand for rail service on the Line. BTR also produced for the first time letters purporting to demonstrate that BTR has the financial resources to initiate and carry out service on the Line.

On January 15, 2014, the Board issued an Order acknowledging that BTR’s submission of new evidence in its Reply to Comments was “in contravention of 49 C.F.R. § 1121.3(a).” Order at 3. Rather than terminating the matter and allowing BTR to file new Petitions with its new evidence, the Board decided to reinstitute a procedural schedule to allow the Regional Parties the opportunity to take discovery on BTR’s new evidence. Accordingly, the Board ordered that discovery be completed by February 14, 2014.

The Regional Parties have reviewed BTR’s December 6 Reply and believe that further discovery is warranted, including discovery from several of the third-parties BTR identified in its Reply. *See Ballard Terminal Railroad Company, L.L.C. – Acquisition and Operation Exemption – Woodinville Subdivision*, Docket No. FD 35731, slip op. at 3-4 (STB served May 17, 2013) (issuing deposition and document subpoena in this proceeding to third party). A copy of this Motion, including the proposed Subpoenas, has been served on the parties and third-parties in the most expeditious manner possible, as noted on the Certificate of Service.

## ARGUMENT

### MOTION FOR SUBPOENAS

Pursuant to 49 U.S.C. § 721(d), parties may take discovery from third-parties, but only the Board itself has the authority to issue subpoenas. *See East West Resort Transp., LLC, et al.—Petition for Declaratory Order—Motor Carrier Transp. of Passengers in Co. (East West)*, MCF 21008, slip op. at 2 (STB served June 1, 2005). Because of the limited time available for discovery, there is not time to contact each third-party to see if each will consent to appear at a deposition and produce documents.<sup>1</sup> Accordingly the Regional Parties ask the Board to issue subpoenas to the following third-parties:

American West Bank (documents only)

Aggregates West, Inc.

Coastal Community Bank (documents only)

CT Sales, Inc.

Daniel T. Behr (EB5 Capital Partners.us, LLC)

Doug Engle

Paul Nerdrum

RJB Wholesale, Inc.

WATCO Companies, L.L.C.

A copy of the proposed subpoena to each entity is attached hereto as collective Exhibit 1. Please note that each subpoena sets a time and place for the deposition, but that such time and place is subject to modification upon agreement by the parties, including the deponent.

Each of those third parties was identified in BTR's Reply as either being a potential shipper on the Line or being able to provide financial support for BTR's proposed venture.

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<sup>1</sup> The Regional Parties have served a copy of this Motion on each of the third-parties.

Pursuant to the Board's January 15, Order, the Regional parties need to obtain discovery from those entities to better understand the bases for BTR's statements in its Reply.

### **MOTION FOR REVISED PROCEDURAL SCHEDULE**

Because of the short time available for discovery, and the relatively large number of depositions the Regional Parties will need to take before February 14, 2014, the Regional Parties request the Board to set a deadline of January 29, 2014 for BTR to produce documents requested in the Requests for Production attached hereto as Exhibit 2 and for each of the third parties to produce documents requested in the subpoenas. Further, the Regional Parties request that the Board set a deadline of January 23, 2013 for any third party to note objections to the subpoena. Having the documents in hand before the depositions will make the depositions proceed more efficiently. Moreover, it is possible that a review of documents will demonstrate that it is not necessary to take the deposition.

As is demonstrated by Exhibit A to each subpoena, the document requests have been framed very narrowly to avoid imposing an undue burden on any entity and to keep discovery focused on the issues raised in BTR's Reply and the new letters of support attached thereto. Locating and producing responsive documents should not be burdensome. The Regional Parties have also offered to enter into a protective order with the third-parties to preserve any responsive confidential material.

Similarly, the document requests for BTR are narrowly framed to seek only new information relating to issues raised in its Reply and the letters of support. Moreover, the requests to BTR seek information that BTR should have produced in response to prior discovery requests, either in direct response or under BTR's duty to supplement. *See* 49 C.F.R. § 1114.29. Accordingly, responsive documents should not be difficult to locate and produce by January 29,

2014. Under these circumstances, the approximately 10 days between the filing of this Motion and January 29 is a reasonable amount of time, consistent with the time allowed to respond to a request for production pursuant to 14 C.F.R. § 1114.30(b).

### **MOTION FOR EXPEDITED CONSIDERATION**

Because of the limited time the Board has allowed for discovery, the need to coordinate with a number of entities to produce and review documents and to schedule depositions, the Regional Parties respectfully request that the Board give expedited consideration to this Motion. Specifically, the Regional Parties ask that the Board require BTR and any third party to respond to this Motion by January 23, 2014, and that the Board schedule a telephonic hearing for January 24, 2014 to resolve any objections raised by BTR or any of the third parties. Expedited consideration of this Motion will allow the Regional Parties to initiate discovery in a prompt manner in order to meet the Board's expedited discovery schedule. To facilitate expedited consideration, the Regional Parties will undertake to serve or deliver to the third parties listed above an order setting an expedited schedule for ruling on these requests, as it has done with this motion and the form of subpoenas attached hereto.

### **CONCLUSION**

For the foregoing reasons, the Regional Parties respectfully request the Board to (1) issue the subpoenas attached as Exhibit 1; (2) enter a modified procedural schedule to require the third parties to object to subpoenas by January 23, 2014 and to require BTR and the third-parties to produce the requested documents by January 29, 2014; and, (3) to give this motion expedited consideration and to require any opposition to the motion to be filed on or before January 23, 2014 and to schedule a tentative telephonic hearing on this motion for January 24, 2014, if necessary.

Respectfully submitted,



Matthew Cohen  
Hunter Ferguson  
STOEL RIVES LLP  
600 University Street, Suite 3600  
Seattle, WA 98101  
Telephone: (206) 624-0900  
Fax: (206) 386-7500  
Email: mcohen@stoel.com  
Email: hoferguson@stoel.com

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

Counsel for City of Kirkland, Washington

Counsel for King County, Washington and  
Central Puget Sound Regional Transit Authority

Dated: January 17, 2014

**EXHIBIT 1**

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO AMERICANWEST  
BANK TO PRODUCE DOCUMENTS  
IN A PROCEEDING BEFORE THE  
SURFACE TRANSPORTATION  
BOARD**

**DATE TO PRODUCE  
DOCUMENTS:  
January 29, 2014**

To: AmericanWest Bank  
c/o Corporation Service Company,  
Registered Agent  
300 Deschutes Way SW, Suite 304  
Tumwater, WA 98501

AmericanWest Bank  
Attn: Nathan Engman  
2237 NW 57th Street  
Seattle, WA 98107  
Phone: (206) 784-2200  
Fax: (206) 784-6650

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, YOU ARE HEREBY COMMANDED to produce the items described in Attachment A at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”) by 9:00 a.m. on **JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232  
[mcohen@stoel.com](mailto:mcohen@stoel.com)  
Hunter Ferguson, WSBA No. 41485  
[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications and correspondence between AmericanWest Bank (including Nathan Engman and any other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. ("Ballard"), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard's proposal to reinstate rail service on the section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA, including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard's proposal to reinstate rail service on the section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA, including without limitation any analyses of Ballard's proposal and any document upon which Nathan Engman or anyone else for AmericanWest Bank relied in drafting the letter to Cynthia Brown dated November 22, 2013, a copy of which is attached hereto (but not including documents relating AmericanWest's assets or capital).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| <b>Individual or Entity Served</b>   | <b>Method of Service or Delivery</b>   |
|--|--|
| AmericanWest Bank<br>c/o Corporation Service Company,<br>Registered Agent<br>300 Deschutes Way SW, Suite 304<br>Tumwater, WA 98501                                 | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| AmericanWest Bank<br>Attn: Nathan Engman<br>2237 NW 57th Street<br>Seattle, WA 98107<br>Phone: (206) 784-2200<br>Fax: (206) 784-6650                               | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>                           | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue                           | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |  |
|---|--|
| <p>Seattle, WA 98104<br/><i>Attorneys for King County</i></p>   |  |
| <p>Charles A. Spitulnik<br/>W. Eric Pilsk<br/>Allison Fultz<br/>Kaplan Kirsch &amp; Rockwell LLP<br/>1001 Connecticut Avenue, NW, Suite 800<br/>Washington, DC 20036<br/><i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/>Jennifer Belk<br/>Central Puget Sound Regional<br/>Transit Authority<br/>401 S. Jackson Street<br/>Seattle, WA 98104<br/><i>Attorneys for Central Puget Sound Regional<br/>Transit Authority</i></p>       | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO COASTAL  
COMMUNITY BANK TO  
PRODUCE DOCUMENTS IN A  
PROCEEDING BEFORE THE  
SURFACE TRANSPORTATION  
BOARD**

**DATE TO PRODUCE  
DOCUMENTS:  
January 29, 2014**

To: Coastal Community Bank  
c/o Greg Starup  
Colby Branch  
2817 Colby Avenue  
Everett, WA 98201  
Phone: (425) 258-5299  
Fax: (425) 257-0521

Administrative Office  
c/o Director or Greg Starup  
10520 19th Ave SE  
Everett, WA 98208

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, YOU ARE HEREBY COMMANDED to produce the items described in Attachment A at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”) by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232  
[mcohen@stoel.com](mailto:mcohen@stoel.com)  
Hunter Ferguson, WSBA No. 41485  
[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications and correspondence between Coastal Community Bank (including Greg Starup and any other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on the section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA., including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard’s proposal to reinstate rail service on section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA, including without limitation any analyses of Ballard’s proposal upon which Greg Starup or anyone else for Coastal Community Bank relied in drafting the letter to Cynthia Brown dated November 21, 2013, a copy of which is attached hereto (but not including documents relating Coastal Community’s assets or capital).

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| Individual or Entity Served  | Method of Service or Delivery  |
|--|--|
| Coastal Community Bank<br>c/o Greg Starup<br>Colby Branch<br>2817 Colby Avenue<br>Everett, WA 98201<br>Phone: (425) 258-5299<br>Fax: (425) 257-0521                | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input checked="" type="checkbox"/> Facsimile |
| Coastal Community Bank/Administrative Office<br>c/o Director or Greg Starup<br>10520 19th Ave SE<br>Everett, WA 98208  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile            |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>                           | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil Division<br>W400 King County Courthouse<br>516 Third Avenue                              | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |  |
|---|--|
| <p>Seattle, WA 98104<br/><i>Attorneys for King County</i></p>   |  |
| <p>Charles A. Spitulnik<br/>W. Eric Pilsk<br/>Allison Fultz<br/>Kaplan Kirsch &amp; Rockwell LLP<br/>1001 Connecticut Avenue, NW, Suite 800<br/>Washington, DC 20036<br/><i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/>Jennifer Belk<br/>Central Puget Sound Regional<br/>Transit Authority<br/>401 S. Jackson Street<br/>Seattle, WA 98104<br/><i>Attorneys for Central Puget Sound Regional<br/>Transit Authority</i></p>       | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO AGGREGATES  
WEST, INC. TO TESTIFY IN A  
DEPOSITION AND PRODUCE  
DOCUMENTS IN A PROCEEDING  
BEFORE THE SURFACE  
TRANSPORTATION BOARD**

**DATE TO PRODUCE  
DOCUMENTS:**

**January 27, 2014**

**DATE OF DEPOSITION:**

**February 4, 2014 at 9:00 a.m.**

To: Aggregates West, Inc.  
c/o BS&G Inc.,  
Registered Agent  
1191 2nd Ave, Suite 1800  
Seattle, WA 98101

Aggregates West, Inc.  
c/o Scott Day  
9151 Van Buren Road  
Everson, WA 98247  
Phone: (360) 966-3641  
Fax: (360) 966-3841

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, SCOTT DAY OR AN AUTHORIZED SPEAKING AGENT IS HEREBY COMMANDED to appear at the offices of STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, Washington, 98101, at **9:00 a.m. on FEBRUARY 4, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the “Line”) and to partially vacate the NITU Order issued for the Line. Your testimony shall be subject to continuance or

adjournment from time to time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by 9:00 a.m. on **JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

---

Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications and correspondence between Aggregates West, Inc. (including Scott Day or any other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on the section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard’s proposal to reinstate rail service on the Line, including without limitation any analyses of Ballard’s proposal upon which Scott Day or anyone else for Aggregates West relied in drafting the letter to Cynthia Brown dated October 8, 2013, a copy of which is attached hereto.
3. All communications and correspondence with any of your customers or potential customers regarding the possibility of shipping product to them by rail.
4. All documents relating to estimates of the volume of material you estimate shipping on the Line, including all back-up or supporting material.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| Individual or Entity Served  | Method of Service or Delivery  |
|--|--|
| Aggregates West, Inc.<br>c/o BS&G Inc.,<br>Registered Agent<br>1191 2nd Ave, Suite 1800<br>Seattle, WA 98101   | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile            |
| Aggregates West, Inc.<br>c/o Scott Day<br>9151 Van Buren Road<br>Everson, WA 98247<br>Phone: (360) 966-3641<br>Fax: (360) 966-3841                                 | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input checked="" type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>                           | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue<br>Seattle, WA 98104      | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |   |
|---|---|
| <i>Attorneys for King County</i>  |   |
| <p>Charles A. Spitulnik<br/> W. Eric Pilsk<br/> Allison Fultz<br/> Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p>      | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO C. T. SALES, INC.  
TO TESTIFY IN A DEPOSITION  
AND PRODUCE DOCUMENTS IN  
A PROCEEDING BEFORE THE  
SURFACE TRANSPORTATION  
BOARD**

**DATE TO PRODUCE**

**DOCUMENTS:**

**January 29, 2014**

**DATE OF DEPOSITION:**

**February 4, 2014 at 9:00 a.m.**

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To: C. T. Sales, Inc.  
c/o James A. House,  
Registered Agent  
7227 W. Bostian Road  
Woodinville, WA 98072-6008  
Phone: (425) 483-0101  
Fax: (425) 485-9131

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, JAMES A. HOUSE OR A SPEAKING AGENT FOR C.T. SALES, INC. IS HEREBY COMMANDED to appear at the offices of STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, Washington, 98101, at **9:00 a.m. on FEBRUARY 4, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the

“Line”) and to partially vacate the NITU Order issued for the Line. Your testimony shall be subject to continuance or adjournment from time to time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard’s petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications and correspondence between C.T. Sales, Inc. (including James A. House or any of its other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard’s proposal to reinstate rail service on the Line, including without limitation any analyses of Ballard’s proposal upon which James A. House or anyone else for C.T. Sales relied in drafting the letter to Cynthia Brown dated October 8, 2013, a copy of which is attached hereto.
3. All communications and correspondence with Cascade Steel Rolling Mills or other entities regarding the possibility of shipping product directly to you by rail.
4. All communications and correspondence with any of your customers or potential customers regarding the possibility of shipping product to them by rail.
5. All documents relating to estimates of the volume of material you estimate shipping on the Line, including all back-up or supporting material.
6. Any and all cost estimates or feasibility studies for construction of a rail spur connecting C. T. Sales’ facility to the Woodinville Subdivision.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| Individual or Entity Served   | Method of Service or Delivery  |
|---|--|
| C. T. Sales, Inc.<br>c/o James A. House,<br>Registered Agent<br>7227 W. Bostian Road<br>Woodinville, WA 98072-6008<br>Phone: (425) 483-0101<br>Fax: (425) 485-9131                                | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input checked="" type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i>                                | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue<br>Seattle, WA 98104<br><i>Attorneys for King County</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Charles A. Spitulnik<br>W. Eric Pilsk<br>Allison Fultz  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email                                       |

|  |   |
|--|---|
| <p>Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p>  | <p><input type="checkbox"/> Facsimile</p>   |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO EB5 CAPITAL  
PARTNERS.US, LLC TO TESTIFY  
IN A DEPOSITION AND PRODUCE  
DOCUMENTS IN A PROCEEDING  
BEFORE THE SURFACE  
TRANSPORTATION BOARD**

**DATE TO PRODUCE  
DOCUMENTS:**

**January 27, 2014**

**DATE OF DEPOSITION:**

**February 10, 2014 at 9:00 a.m.**

To: EB5 Capital Partners.us, LLC  
c/o The Company Corporation,  
Registered Agent  
2711 Centerville Road, Suite 400  
Wilmington, DE 19808

Daniel T. Behr  
EB5 Capital Partners.us, LLC  
3145 Cherry Lane  
Northbrook, IL 60062  
Phone: (847) 951-7245  
[dtb@eb5capitalpartner.us](mailto:dtb@eb5capitalpartner.us)

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, DANIEL T. BEHR OR A SPEAKING AGENT IS HEREBY COMMANDED to appear at the offices of KATTEN MUCHIN ROSENMAN LLP, 525 W. Monroe Street, Chicago, IL 60661-3693, at **9:00 a.m. on FEBRUARY 10, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the “Line”) and to partially vacate the NITU Order issued for the Line. Your testimony shall be subject to continuance or adjournment from time to

time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications, correspondence, other documents exchanged between EB5 Capital Partners.us, LLC (including Daniel T. Behr and any of its other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on a section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All contracts or other agreements between EB5 Capital Partners.us, LLC and Ballard.
3. All documents related to your analysis of Ballard’s proposal to reinstate rail service on the Line, including material you gathered or created in connection with your inspections of the Line and analysis of existing and emerging rail traffic opportunities.
4. All documents regarding Ballard’s proposal to reinstate rail service on the Line, including without limitation any analyses of Ballard’s proposal upon which Daniel T. Behr or anyone else for EB5 Capital Partners.us, LLC relied in drafting the letter to Cynthia Brown dated August 21, 2013, a copy of which is attached hereto.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| Individual or Entity Served   | Method of Service or Delivery  |
|---|--|
| EB5 Capital Partners.us, LLC<br>c/o The Company Corporation,<br>Registered Agent<br>2711 Centerville Road, Suite 400<br>Wilmington, DE 19808  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile            |
| Daniel T. Behr<br>EB5 Capital Partners.us, LLC<br>3145 Cherry Lane<br>Northbrook, IL 60062<br>Phone: (847) 951-7245<br><a href="mailto:dtb@eb5captialpartner.us">dtb@eb5captialpartner.us</a> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i>                            | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue<br>Seattle, WA 98104                                 | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |   |
|---|---|
| <i>Attorneys for King County</i>  |   |
| <p>Charles A. Spitulnik<br/> W. Eric Pilsk<br/> Allison Fultz<br/> Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p>      | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO DOUGLAS ENGLE  
TO TESTIFY IN A DEPOSITION  
AND PRODUCE DOCUMENTS IN  
A PROCEEDING BEFORE THE  
SURFACE TRANSPORTATION  
BOARD**

DATE TO PRODUCE DOCUMENTS:  
**January 27, 2014**

DATE OF DEPOSITION:  
**February 13, 2014 at 9:00 a.m.**

To: Douglas Engle  
c/o Tom Montgomery  
Montgomery Scarp PLLC  
1218 Third Avenue, Suite 2700  
Seattle, WA 98101  
Phone: (206) 625-1801  
Fax: (206) 625-1807  
tom@montgomeryscarp.com

Douglas Engle  
c/o Myles L. Tobin, Esq.  
Thomas J. Litwiler  
Thomas C. Paschalis  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, IL 60606-2832  
Phone: (312) 252-1502  
[mtobin@fletcher-sippel.com](mailto:mtobin@fletcher-sippel.com)

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, YOU ARE HEREBY COMMANDED to appear at the offices of STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, Washington, 98101, at **9:00 a.m. on FEBRUARY 13, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the “Line”) and to partially vacate the NITU Order issued for the Line.

Your testimony shall be subject to continuance or adjournment from time to time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. To the extent not already produced, all communications, correspondence, other documents exchanged between you or persons for Eastside Community Rail, L.L.C. (“ECR”) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”) or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on a section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. To the extent not already produced, all documents regarding Ballard’s and ECR’s proposals to reinstate rail service on the Line, including without limitation any analyses of these proposals upon which you or anyone else for ECR relied in drafting the letter to Cynthia Brown dated November 27, 2013, a copy of which is attached hereto.
3. To the extent not already produced, all written communications and correspondence (including emails) and other documents relating to any demand for freight rail service on the Line.
4. To the extent not already produced, all documents relating to the financial capability of Ballard or ECR to reinstate rail service on the Line.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| Individual or Entity Served   | Method of Service or Delivery  |
|---|--|
| Douglas Engle<br>c/o Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 Third Avenue, Suite 2700<br>Seattle, WA 98101<br>Phone: (206) 625-1801<br>Fax: (206) 625-1807<br>tom@montgomeryscarp.com | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Douglas Engle<br>c/o Myles L. Tobin, Esq.<br>Thomas J. Litwiler<br>Thomas C. Paschalis<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832               | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i>                            | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division   | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |   |
|---|---|
| <p>W400 King County Courthouse<br/> 516 Third Avenue<br/> Seattle, WA 98104<br/> <i>Attorneys for King County</i></p>   |   |
| <p>Charles A. Spitulnik<br/> W. Eric Pilsk<br/> Allison Fultz<br/> Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p>      | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO PAUL NERDRUM  
TO TESTIFY IN A DEPOSITION  
AND PRODUCE DOCUMENTS IN  
A PROCEEDING BEFORE THE  
SURFACE TRANSPORTATION  
BOARD**

DATE TO PRODUCE DOCUMENTS:  
**January 27, 2014**

DATE OF DEPOSITION:  
**February 11, 2014 at 9:00 a.m.**

To: Paul Nerdrum  
1040 NW 178th Street  
Seattle, WA 98177  
Phone: (206) 542-9694

Paul Nerdrum  
5228 Shilshole Ave NW  
Seattle, WA 98107  
Phone: (206) 784-1234  
Fax: (206) 781-0984

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, YOU ARE HEREBY COMMANDED to appear at the offices of STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, Washington, 98101, at **9:00 a.m. on FEBRUARY 11, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the “Line”) and to partially vacate the NITU Order issued for the Line. Your testimony shall be subject to continuance or adjournment from time to time or place to

place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications, correspondence, other documents exchanged between you or any person for Salmon Bay Sand & Gravel, Co. and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C. (“ECR”), or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on a section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard’s proposal to reinstate rail service on the Line, including without limitation any analyses of Ballard’s proposal upon which you or anyone else for Salmon Bay Sand & Gravel Co. or Ballard relied in drafting the letter to Cynthia Brown dated June 15, 2013, a copy of which is attached hereto.
3. All documents relating to demand for freight rail service on the Line.
4. All documents relating to the financial capability of Ballard or ECR to reinstate rail service on the Line.
5. All contracts or other agreements between you or Salmon Bay Sand & Gravel Co. and Ballard, including any commitments to provide financing or investment in Ballard.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| <b>Individual or Entity Served</b>  | <b>Method of Service or Delivery</b>   |
|---|--|
| Paul Nerdrum<br>1040 NW 178th Street<br>Seattle, WA 98177<br>Phone: (206) 542-9694  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile            |
| Paul Nerdrum<br>5228 Shilshole Ave NW<br>Seattle, WA 98107<br>Phone: (206) 784-1234<br>Fax: (206) 781-0984  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input checked="" type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i>                                | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue<br>Seattle, WA 98104<br><i>Attorneys for King County</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |   |
|---|---|
| <p>Charles A. Spitulnik<br/> W. Eric Pilsk<br/> Allison Fultz<br/> Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p>      | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

Before the Surface Transportation Board

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO RJB WHOLESALE,  
INC. TO TESTIFY IN A  
DEPOSITION AND PRODUCE  
DOCUMENTS IN A PROCEEDING  
BEFORE THE SURFACE  
TRANSPORTATION BOARD**

**DATE TO PRODUCE**

**DOCUMENTS:**

**January 29, 2014**

**DATE OF DEPOSITION:**

**February 5, 2014 at 9:00 a.m.**

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To: RJB Wholesale, Inc.  
c/o Nick Beck, Registered Agent  
12418 NE 124th Street  
Kirkland, WA 98034  
Phone: (425) 823-1414  
Fax: (425) 821-7353

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, NICK BECK OR A SPEAKING AGENT FOR RJB WHOLESALE, INC. IS HEREBY COMMANDED to appear at the offices of STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, Washington, 98101, at **9:00 a.m. on FEBRUARY 5, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the “Line”) and to partially vacate the NITU Order issued for the Line. Your testimony shall be

subject to continuance or adjournment from time to time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

---

Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications and correspondence between RJB Wholesale, Inc. (including Nick Beck or any of its other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard’s proposal to reinstate rail service on the Line, including without limitation any analyses of Ballard’s proposal upon which Nick Beck or anyone else for RJB Wholesale relied in drafting the letters to Cynthia Brown dated June 17 and August 20, 2013, copies of which are attached hereto.
3. All communications and correspondence with entities regarding the possibility of shipping product directly to you by rail.
4. All communications and correspondence with any of your customers or potential customers regarding the possibility of shipping product to them by rail.
5. All documents relating to estimates of the volume of material you estimate shipping on the Line, including all back-up or supporting material.
6. Any and all cost estimates or feasibility studies or plans for construction of a rail spur connecting RJB Wholesale, Inc.’s facility to the Line.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| <b>Individual or Entity Served</b>  | <b>Method of Service or Delivery</b>   |
|---|--|
| RJB Wholesale, Inc.<br>c/o Nick Beck, Registered Agent<br>12418 NE 124th Street<br>Kirkland, WA 98034<br>Phone: (425) 823-1414<br>Fax: (425) 821-7353   | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input checked="" type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i>                                | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue<br>Seattle, WA 98104<br><i>Attorneys for King County</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Charles A. Spitulnik<br>W. Eric Pilsk<br>Allison Fultz<br>Kaplan Kirsch & Rockwell LLP  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|  |   |
|--|---|
| <p>1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p>  |   |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO WATCO  
COMPANIES L.L.C. TO TESTIFY  
IN A DEPOSITION AND PRODUCE  
DOCUMENTS IN A PROCEEDING  
BEFORE THE SURFACE  
TRANSPORTATION BOARD**

**DATE TO PRODUCE**

**DOCUMENTS:**

**January 29, 2014**

**DATE OF DEPOSITION:**

**February 7, 2014 at 9:00 a.m.**

To: WATCO Companies, L.L.C.  
c/o Corporation Service Company,  
Registered Agent  
2900 SW Wanamaker Drive, Suite 204  
Topeka, KS 66614

WATCO Companies, L.L.C.  
c/o Corporation Service Company,  
Registered Agent  
300 Deschutes Way SW, Suite 304  
Tumwater, WA 98501

WATCO Companies, L.L.C.  
c/o Mark Blazer  
1900 N. Main, Suite 13  
Helena, MT 59601  
Phone: 406-495-1096  
Fax: 406-495-1098  
[mblazer@watcocompanies.com](mailto:mblazer@watcocompanies.com)

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, YOU ARE HEREBY COMMANDED to appear at THE WINGATE HOTEL, 2007 NORTH OAKS, HELENA, MT 59601, at **9:00 a.m. on FEBRUARY 7, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal

Railroad Company, L.L.C.'s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the "Line") and to partially vacate the NITU Order issued for the Line. Your testimony shall be subject to continuance or adjournment from time to time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

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Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications, correspondence, other documents exchanged between WATCO Companies, L.L.C. (including Mark Blazer or any of its other employees, officers, agents or representatives) and Ballard Terminal Railroad Company, L.L.C. (“Ballard”), Eastside Community Rail, L.L.C., or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on a section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All documents regarding Ballard’s proposal to reinstate rail service on the Line, including without limitation any analyses of Ballard’s proposal upon which Mark Blazer or anyone else for WATCO relied in drafting the letter to Cynthia Brown dated November 25, 2013, a copy of which is attached hereto.
3. All contracts or other agreements between WATCO and Ballard.
4. All documents relating to your analysis of Ballard’s proposal to reinstate rail service on the Line, including documents regarding potential demand for service on the Line and Ballard’s financial condition.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| <b>Individual or Entity Served</b>   | <b>Method of Service or Delivery</b>  |
|--|---|
| WATCO Companies, L.L.C.<br>c/o Corporation Service Company,<br>Registered Agent<br>2900 SW Wanamaker Drive, Suite 204<br>Topeka, KS 66614  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile                       |
| WATCO Companies, L.L.C.<br>c/o Mark Blazer<br>1900 N. Main, Suite 13<br>Helena, MT 59601<br>Phone: 406-495-1096<br>Fax: 406-495-1098<br><a href="mailto:mblazer@watcocompanies.com">mblazer@watcocompanies.com</a> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input checked="" type="checkbox"/> Facsimile |
| WATCO Companies, L.L.C.<br>c/o Corporation Service Company,<br>Registered Agent<br>300 Deschutes Way SW, Suite 304<br>Tumwater, WA 98501   | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile                       |
| WATCO Companies, L.L.C.<br>c/o Corporation Service Company,<br>Registered Agent<br>2711 Centerville Road, Suite 400<br>Wilmington, DE 19808  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile                       |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>   | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile            |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger   |

|   |  |
|---|--|
| <p>29 North Wacker Drive<br/>Suite 920<br/>Chicago, IL 60606-2832<br/><i>Attorneys for Ballard Terminal Railway LLC</i></p>   | <p><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p>  |
| <p>Pete Ramels<br/>Andrew Marcuse<br/>Office of the Prosecuting Attorney—Civil<br/>Division<br/>W400 King County Courthouse<br/>516 Third Avenue<br/>Seattle, WA 98104<br/><i>Attorneys for King County</i></p>                 | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |
| <p>Charles A. Spitulnik<br/>W. Eric Pilsk<br/>Allison Fultz<br/>Kaplan Kirsch &amp; Rockwell LLP<br/>1001 Connecticut Avenue, NW, Suite 800<br/>Washington, DC 20036<br/><i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/>Jennifer Belk<br/>Central Puget Sound Regional<br/>Transit Authority<br/>401 S. Jackson Street<br/>Seattle, WA 98104<br/><i>Attorneys for Central Puget Sound Regional<br/>Transit Authority</i></p>       | <p><input checked="" type="checkbox"/> U.S. Mail<br/><input type="checkbox"/> Hand Delivery/Messenger<br/><input checked="" type="checkbox"/> Email<br/><input type="checkbox"/> Facsimile</p> |

BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

**SUBPOENA TO KATHY COX TO  
TESTIFY IN A DEPOSITION AND  
PRODUCE DOCUMENTS IN A  
PROCEEDING BEFORE THE  
SURFACE TRANSPORTATION  
BOARD**

**DATE TO PRODUCE  
DOCUMENTS:**

**January 29, 2014**

**DATE OF DEPOSITION:**

**February 13, 2014 at 9:00 a.m.**

To: Kathy Cox  
1204 Kirkland Avenue  
Kirkland, WA 98033-6323  
Phone: (425) 827-3311  
Phone: (425) 822-3925

Kathy Cox  
Marketing Philharmonic  
218 Main Street  
Kirkland, WA 98033  
Phone: (425) 822-3925  
kathy@marketingphilharmonic.com  
kathy.com@escrail.org

Pursuant to 49 U.S.C. § 721(d), 49 C.F.R. § 1121.2, and 49 C.F.R. part 1114, subpart B, YOU ARE HEREBY COMMANDED to appear at the offices of STOEL RIVES LLP, 600 University Street, Suite 3600, Seattle, Washington, 98101, at **9:00 a.m. on FEBRUARY 13, 2014**, or such other place and time as the parties may agree, then and there to testify at the request of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority (collectively, “the Regional Parties”), in the above-entitled matter, and there to remain in attendance until discharged, and to provide testimony in a deposition to be conducted by the Regional Parties’ attorneys concerning matters regarding the petitions of Ballard Terminal Railroad Company, L.L.C.’s for exemption from regulation under 49 U.S.C. § 10902 to reactivate rail service on the Woodinville-Bellevue segment of the Woodinville Subdivision (the “Line”) and to partially vacate the NITU Order issued for the Line.

Your testimony shall be subject to continuance or adjournment from time to time or place to place until completed and is to be taken for the reason that you will give evidence relevant to Ballard's petitions. Your testimony will be recorded by verbatim transcript.

YOUR ARE ALSO COMMANDED to produce the items described in Attachment A by **9:00 a.m. on JANUARY 29, 2014** to the offices of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, or at such other time and place as the attorneys for the Regional Parties and you agree.

DATED: January \_\_, 2014.

STOEL RIVES LLP

---

Matthew Cohen, WSBA No. 11232

[mcohen@stoel.com](mailto:mcohen@stoel.com)

Hunter Ferguson, WSBA No. 41485

[hoferguson@stoel.com](mailto:hoferguson@stoel.com)

Attorneys for the City of Kirkland, Washington

## ATTACHMENT A

1. All communications and correspondence between you and representatives of Ballard Terminal Railroad Company, L.L.C. (“Ballard”), or any other entity or person purporting to represent Ballard relating to Ballard’s proposal to reinstate rail service on a section of the former BNSF Woodinville Subdivision between Woodinville, WA and Bellevue, WA (the “Line”), including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard representatives.
2. All communications and correspondence between you and representatives of Eastside Community Rail, L.L.C. (“ECR”), relating to Ballard’s and ECR’s proposal to reinstate rail service on the Line, including: email, letters, faxes, and any attachments thereto; and any notes from conversations with Ballard or ECR representatives.
3. All communications and correspondence between you and any potential shipper on the Line.
4. All documents, studies, plans, or analyses relating Ballard’s and ECR’s proposals to reactivate rail service on the Line.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing SUBPOENA was served on the undersigned persons on January \_\_, 2014 in the manner noted below.

DATED at Seattle, WA this 17th day of January 2014.

\_\_\_\_\_  
Leslie Lomax, Stoel Rives LLP, Practice Assistant

| Individual or Entity Served  | Method of Service or Delivery  |
|--|--|
| Kathy Cox<br>1204 Kirkland Avenue<br>Kirkland, WA 98033-6323<br>Phone: (425) 827-3311<br>Phone: (425) 822-3925   | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input type="checkbox"/> Email<br><input type="checkbox"/> Facsimile            |
| Kathy Cox<br>Marketing Philharmonic<br>218 Main Street<br>Kirkland, WA 98033<br>Phone: (425) 822-3925<br>kathy@marketingphilharmonic.com<br>kathy.com@escrail.org  | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal Railway LLC</i>                           | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Myles L. Tobin, Esq.<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal Railway LLC</i> | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |
| Pete Ramels<br>Andrew Marcuse<br>Office of the Prosecuting Attorney—Civil<br>Division<br>W400 King County Courthouse<br>516 Third Avenue                           | <input checked="" type="checkbox"/> U.S. Mail<br><input type="checkbox"/> Hand Delivery/Messenger<br><input checked="" type="checkbox"/> Email<br><input type="checkbox"/> Facsimile |

|   |   |
|---|---|
| <p>Seattle, WA 98104<br/> <i>Attorneys for King County</i></p>  |   |
| <p>Charles A. Spitulnik<br/> W. Eric Pilsk<br/> Allison Fultz<br/> Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW, Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County and Sound Transit</i></p> | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |
| <p>Jordan Wagner<br/> Jennifer Belk<br/> Central Puget Sound Regional<br/> Transit Authority<br/> 401 S. Jackson Street<br/> Seattle, WA 98104<br/> <i>Attorneys for Central Puget Sound Regional<br/> Transit Authority</i></p>      | <p><input checked="" type="checkbox"/> U.S. Mail<br/> <input type="checkbox"/> Hand Delivery/Messenger<br/> <input checked="" type="checkbox"/> Email<br/> <input type="checkbox"/> Facsimile</p> |

**EXHIBIT 2**

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BEFORE THE SURFACE TRANSPORTATION BOARD

**STB FINANCE DOCKET NO. 35731  
BALLARD TERMINAL  
RAILROAD COMPANY, L.L.C.  
—ACQUISITION AND EXEMPTION—  
WOODINVILLE SUBDIVISION**

**THE CITY OF KIRKLAND’S  
SECOND SET OF REQUESTS FOR  
PRODUCTION TO BALLARD  
TERMINAL RAILROAD  
COMPANY, LLC**

**STB DOCKET NO. AB-6 (SUB. NO. 465X)  
BNSF RAILWAY COMPANY  
—ABANDONMENT EXEMPTION—  
IN KING COUNTY, WA**

16 TO: Petitioner Ballard Terminal Railroad Company, LLC (“Ballard”)  
17 AND TO: Myles L. Tobin and Tom Montgomery, counsel for Ballard Terminal Railroad  
18 Company, LLC

19 Pursuant to the rules of the Surface Transportation Board (“STB”) governing discovery,  
20 *see* 49 C.F.R. 1121.2 and 49 C.F.R. part 1114, subpart B, the City of Kirkland, Washington  
21 (“Kirkland”), submits the following requests for production of documents and electronically  
22 stored information (collectively, “Discovery Requests”) to Petitioner Ballard Terminal Railroad  
23 Company, LLC. (“Ballard”). These discovery requests must be answered in writing and under  
24 by January 29, 2014 as requested in the motion served herewith but in no event later than 15  
25 days after the date of service hereof, pursuant to 49 C.F.R. §§ 1114.26(a), .27(a), and .30(b). If  
26 Ballard cannot produce copies of the Documents and Electronically Stored Information (as those

**KIRKLAND’S SECOND SET OF  
REQUESTS FOR PRODUCTION TO BALLARD - 1**

1 terms are defined below) as requested herein, Ballard is requested to produce such Documents  
2 and Electronically Stored Information for inspection and copying by 9:00 a.m. on January 27,  
3 2013, at the office of Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, Washington  
4 98101, or at such other place as mutually agreed upon by counsel. Inspection and copying will  
5 be conducted by counsel for Kirkland or its agents from time to time until completion. These  
6 discovery requests, along with Kirkland's First Interrogatories and Requests for Production, are  
7 continuing in nature and should be supplemented if information or material is discovered after  
8 the service of your responses to these requests.

### 9 DEFINITIONS

10 1. Consistent with both the STB rules, 49 C.F.R. § 1114.30(a)(1) and the Federal  
11 Rules of Civil Procedure, "Document and Electronically Stored Information" shall mean the  
12 original, all copies, and all translations of any writing, drawings, graphs, charts, photographs,  
13 phonograph records, tapes, video recordings, sound recordings, images, and other data or data  
14 compilations stored in any medium (paper or other tangible format, as well as any electronic  
15 format) from which information can be obtained. "Document and Electronically-Stored  
16 Information" includes, for example (and not by way of limitation), email, paper documents,  
17 photographs, microfilm, microfiche, computer tapes, computer printouts, spreadsheets,  
18 calendars, appointment books, lists, tabulations, surveys, all other records kept by electronic,  
19 photographic, or mechanical means, and things similar to the foregoing, however denominated.  
20 "Document," as used herein, shall also mean any tape or audible recording, any photograph or  
21 motion picture or videotape and any non-identical copy of any document as previously defined  
22 (*e.g.*, any copy of a document as previously defined which differs from any other copy thereof  
23 either by virtue of other material appearing thereon, such as handwriting or typewriting, or  
24 otherwise). "Electronically Stored Information" includes without limitation email, voicemail,  
25 documents, spreadsheets, calendars, and any other information existing in any electronic format  
26 (*e.g.*, Word, Excel, Outlook, .pdf, HTML, .tif, .jpeg, .wav).

### KIRKLAND'S SECOND SET OF REQUESTS FOR PRODUCTION TO BALLARD - 2

1           2.       “Communication” shall mean any information transmitted from one person or  
2 entity to another person or entity and includes, but is not limited to, email or letters and any  
3 attachments or enclosures thereto, oral conversations and recordings thereof, voicemail, notes  
4 from oral conversations, and materials comprising a presentation, application, proposal, offer, or  
5 acceptance. To “communicate” means to transmit such information, in any medium.

6           3.       “Person” shall mean any natural person, firm, association, partnership, limited  
7 liability partnership, proprietorship, corporation, company, limited liability company, or any  
8 other business or legal entity, and includes any and all of such person’s directors, officers,  
9 employees, agents, attorneys, accountants, consultants, and/or other representatives.

10          4.       Each of the terms “refer to,” “relate to,” “relating to,” or “regarding” shall mean  
11 and include any logical or factual connection with the matter identified or discussed. These  
12 terms include all matters or things that in any way discuss, concern, are connected to, arise from,  
13 reflect, summarize, evaluate, comment on, evidence, suggest, indicate, and/or otherwise tend to  
14 prove or disprove the subject or object of the particular Discovery Request in which any of these  
15 terms is used.

16          5.       “Identify.”

17          a.       “Identify,” when used in the context of identifying a natural person, means to  
18 state the person’s (i) full name, (ii) present or last known business and residence addresses, (iii)  
19 present or last known business, residence, and cellular telephone numbers, and (iv) present or  
20 last known employer, job title or (if the job title is unknown to you) the nature or description of  
21 the position occupied by the person.

22          b.       “Identify,” when used in the context of identifying an entity, association,  
23 partnership, or other organization (*e.g.*, a Person – as that term is defined herein – other than a  
24 natural person) means to state (i) the organization’s full name, (ii) the address and telephone  
25 number of its primary place of business; (iii) each address where the organization is located  
26 where you have had contact with it that is or may be material to this matter; (iv) each telephone

**KIRKLAND’S SECOND SET OF  
REQUESTS FOR PRODUCTION TO BALLARD - 3**

1 number you have used to contact the organization; (v) the state of the organization's formation,  
2 and (vi) all known natural persons who own, operate, and/or control the organization to the best  
3 of your knowledge, information, and belief and, with respect to each natural person with whom  
4 either of you has had contact, the person's (A) full name, (B) present or last known business and  
5 residence addresses, (C) present or last known business, residence, and cellular telephone  
6 numbers, and (D) present or last known employer, job title or (if the job title is unknown to you)  
7 the nature or description of the position occupied by the person.

8 c. "Identify," when used in the context of identifying a document, means to provide  
9 sufficient information to permit unambiguous identification of the document, including, without  
10 limitation, the document's (i) form (i.e., letter, memorandum, handwritten notes, typewritten  
11 notes, report, analysis, etc.), (ii) title (if any), (iii) date, (iv) author, and (v) addressee or intended  
12 recipient, if any, and (vi) current location.

13 d. "Identify," when used in the context of identifying a communication, means to  
14 provide sufficient information to permit unambiguous identification of the communication,  
15 including without limitation (i) the date of the communication, (ii) the manner in which the  
16 communication took place (i.e., whether the communication took place through a meeting,  
17 telephone conversation, letter, email, or other form of communication, the form of which you are  
18 to specify), (iii) the location of the communication if the communication was in the form of a  
19 telephone conversation or meeting, (iv) all parties or persons present at the time of such  
20 communication or who participated, overheard, or may have overheard the communication if it  
21 was oral, or who have seen or may have seen the communication if it was in writing, and (v) the  
22 subject matter and substance of the communication.

23 6. "You," "your," or "Ballard" means and includes Ballard Terminal Railroad  
24 Company, LLC. and all agents, related entities, owners, affiliates, representatives, attorneys and  
25 any other person who, or entity that, is affiliated with, has acted, and/or is acting for or on behalf  
26 of Ballard.

**KIRKLAND'S SECOND SET OF  
REQUESTS FOR PRODUCTION TO BALLARD - 4**



1 h. No. 15 (5/1/2013 email between Doug Engle, Myles Tobin, Byron Cole, Tom  
2 Montgomery, Kathy Cox, and Ernie Wilson).

3 **RESPONSE:**

4  
5 **RFP NO. 24:** Consistent with the Board's Order of August 22, 2013 in this proceeding,  
6 please produce a summary of your revenue, expenses, and costs for the year 2013 for rail  
7 operations on the Freight Segment.

8 **RESPONSE:**

9  
10 **RFP NO. 25:** Please produce all Documents and Electronically-Stored Information  
11 reflecting the number of rail cars you moved for customers on the Freight Segment in 2013.

12 **RESPONSE:**

13  
14 **RFP NO. 26:** Please produce all Documents and Electronically Stored Information and  
15 all Communications that refer or relate to arbitration with the Port of Seattle over your  
16 compliance with the O&M and License agreements for the provision of rail service, including all  
17 communications with the Port over the need for or scheduling of arbitration proceedings.

18 **RESPONSE:**

19  
20 **RFP NO. 27:** To the extent not previously produced, please produce all  
21 Communications regarding rail service on the Line between any business you believe to be a  
22 potential shipper and you or your representatives or surrogates (including but not limited to your  
23 attorneys, Douglas Engle, Kathy Cox, Ernie Wilson, and Eastside Community Rail, LLC).

24 **RESPONSE:**

25  
26  
**KIRKLAND'S SECOND SET OF  
REQUESTS FOR PRODUCTION TO BALLARD - 6**

1           **RFP NO. 28:** Please produce all Communications regarding rail service and financing  
2 between WATCO Companies, L.L.C. and you or your representatives or surrogates (including  
3 but not limited to your attorneys, Douglas Engle, Kathy Cox, Ernie Wilson, and Eastside  
4 Community Rail, LLC).

5           **RESPONSE:**

6  
7           **RFP NO. 29:** Please produce all Communications regarding financing of the rail  
8 reactivation plan at issue in this proceeding between AmericanWest Bank and you or your  
9 representatives or surrogates (including but not limited to your attorneys, Douglas Engle, Kathy  
10 Cox, Ernie Wilson, and Eastside Community Rail, LLC).

11          **RESPONSE:**

12  
13          **RFP NO. 30:** Please produce all Communications regarding financing of the rail  
14 reactivation plan at issue in this proceeding between Coastal Community Bank and you or your  
15 representatives or surrogates (including but not limited to your attorneys, Douglas Engle, Kathy  
16 Cox, Ernie Wilson, and Eastside Community Rail, LLC).

17          **RESPONSE:**

18  
19          **RFP NO. 34:** Please produce all Communications regarding rail service or financing of  
20 Ballard operations (including excursion trains) between EB5 Capital Partners.us, LLC and you or  
21 your representatives or surrogates (including but not limited to your attorneys, Douglas Engle,  
22 Kathy Cox, Ernie Wilson, and Eastside Community Rail, LLC).

23          **RESPONSE:**

1           **RFP NO. 35:** Please produce all Communications regarding rail service between General  
2 Mills and you or your representatives or surrogates (including but not limited to your attorneys,  
3 Douglas Engle, Kathy Cox, Ernie Wilson, and Eastside Community Rail, LLC).

4           **RESPONSE:**

5  
6           **RFP NO. 36:** Please produce all Communications regarding rail service between CT  
7 Sales, Inc. and you or your representatives or surrogates (including but not limited to your  
8 attorneys, Douglas Engle, Kathy Cox, Ernie Wilson, and Eastside Community Rail, LLC).\

9           **RESPONSE:**

10  
11           **RFP NO. 37:** Please produce all Communications regarding rail service between RJB  
12 Wholesale, Inc. and you or your representatives or surrogates (including but not limited to your  
13 attorneys, Douglas Engle, Kathy Cox, Ernie Wilson, and Eastside Community Rail, LLC).

14           **RESPONSE:**

15  
16           **RFP NO. 38:** Please produce all Communications regarding rail service between  
17 Aggregates West and you or your representatives or surrogates (including but not limited to your  
18 attorneys, Douglas Engle, Kathy Cox, Ernie Wilson, and Eastside Community Rail, LLC).

19           **RESPONSE:**

20  
21           **RFP NO. 39:** Please produce all Documents and Electronically-Stored Information and  
22 Communications reflecting a demand or request for rail service on the Line not encompassed  
23 within your response to another document request.

24           **RESPONSE:**

25

26

1           **RFP NO. 40:** Please produce all Documents and Electronically-Stored Information and  
2 Communications regarding any plan, study, or analysis for the construction of siding or switch  
3 tracks to provide rail service on the Line.

4           **RESPONSE:**

5  
6           **RFP NO. 41:** To the extent not encompassed in your response to another document  
7 request, please produce all Documents and Electronically-Stored Information and  
8 Communications reflecting a commitment or promise to provide financing in support of Your  
9 plan to provide rail service on the Eastside Rail Corridor, including any loan agreements,  
10 promissory notes, joint venture agreements, or instruments reflecting the conveyance or  
11 acquisition of an equity or debt position in Ballard.

12           **RESPONSE:**

13  
14           **RFP NO. 42:** Please produce all Documents and Electronically-Stored Information and  
15 Communications reflecting any valuation of the property rights to the Line necessary to carry out  
16 your rail service plan at issue in this proceeding.

17           **RESPONSE:**

18  
19           **RFP NO. 43:** To the extent not encompassed in your response to another document  
20 request, please produce all Documents and Electronically-Stored Information and  
21 Communications reflecting a commitment or promise to provide financing to acquire the  
22 property rights to the Line necessary to carry out your rail service plan at issue in this  
23 proceeding.

24           **RESPONSE:**

25  
26  
**KIRKLAND'S SECOND SET OF  
REQUESTS FOR PRODUCTION TO BALLARD - 9**



1 **ANSWERS & RESPONSES**

2 DATED: \_\_\_\_\_ BY: \_\_\_\_\_

3 ITS: \_\_\_\_\_ LOCATION: \_\_\_\_\_

4  
5 \_\_\_\_\_, being first duly sworn, on oath deposes and says:

6 That \_\_\_ is the \_\_\_\_\_ of Ballard Terminal Railroad Company LLC, in the  
7 above cause of action; has read the foregoing Interrogatories and Requests for Production of  
8 Documents and the Answers and Responses thereto and has reviewed the documents produced,  
9 knows the contents thereof, and believes the answers to the Interrogatories and responses to the  
10 Requests to be true and the documents produced complete.

11 \_\_\_\_\_  
Signature

12 \_\_\_\_\_  
Print Name

13 SUBSCRIBED AND SWORN TO before me this \_\_\_ day of \_\_\_\_\_, 2013.

14 Signature: \_\_\_\_\_

15 Name (Print): \_\_\_\_\_

16 NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_

17 My appointment expires: \_\_\_\_\_

18 **STATEMENT OF ATTORNEY**

19 The undersigned hereby states that he is the attorney for the party answering the above  
20 propounded Interrogatories and responding to the Request for Production of Documents, and that  
21 all objections, if any, set forth in response to said Interrogatories and Requests were made by the  
undersigned and that a motion for protective order was filed with the STB as required by 49  
C.F.R. § 1114.21(c).

22 DATED this \_\_\_ day of \_\_\_\_\_, 2013.

23  
24 \_\_\_\_\_, counsel for  
25 Petitioner Ballard Terminal Railroad Company LLC  
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a copy of the foregoing DISCOVERY REQUESTS were served on  
3 Counsel of Record in this proceeding by First Class Mail and Email on January 17, 2014:

4 DATED at Seattle, WA this 17th day of January 2013

5   
6 Hunter Ferguson

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**CERTIFICATE OF SERVICE**

I hereby certify that I am providing a copy of the of the foregoing Motion of the City of Kirkland, Washington, King County, Washington, and Central Puget Sound Regional Transit Authority to (1) Issue Subpoenas on Third Parties, (2) Enter a Modified Procedural Schedule, and (3) Give This Motion Expedited Consideration upon the following parties of record and other interested persons by email on January 17, 2014, or as otherwise indicated below:

|   |   |
|---|---|
| Jordan Wagner<br>Jennifer Belk<br>Central Puget Sound Regional<br>Transit Authority<br>401 S. Jackson Street<br>Seattle, WA 98104<br><i>Attorneys for Central Puget Sound<br/>Regional Transit Authority</i>        | Service by:<br><input type="checkbox"/> hand delivery via messenger<br><input checked="" type="checkbox"/> mailing with postage prepaid<br><input checked="" type="checkbox"/> copy via email<br><input type="checkbox"/> facsimile |
| Myles L. Tobin, Esq.<br>Thomas J. Litwiler<br>Thomas C. Paschalis<br>Fletcher & Sippel LLC<br>29 North Wacker Drive<br>Suite 920<br>Chicago, IL 60606-2832<br><i>Attorneys for Ballard Terminal<br/>Railway LLC</i> | Service by:<br><input type="checkbox"/> hand delivery via messenger<br><input checked="" type="checkbox"/> mailing with postage prepaid<br><input checked="" type="checkbox"/> copy via email<br><input type="checkbox"/> facsimile |
| Tom Montgomery<br>Montgomery Scarp PLLC<br>1218 3rd Ave # 2700<br>Seattle, WA 98101<br><i>Attorneys for Ballard Terminal<br/>Railway LLC</i>  | Service by:<br><input type="checkbox"/> hand delivery via messenger<br><input checked="" type="checkbox"/> mailing with postage prepaid<br><input checked="" type="checkbox"/> copy via email<br><input type="checkbox"/> facsimile |

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|--|--|
| <p>Pete Ramels<br/> Andrew Marcuse<br/> Office of the Prosecuting<br/> Attorney—Civil Division<br/> W400 King County Courthouse<br/> 516 Third Avenue<br/> Seattle, WA 98104<br/> <i>Attorneys for King County</i></p>   | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p> |
| <p>Charles A. Spitulnik<br/> W. Eric Pilsk<br/> Allison Fultz<br/> Kaplan Kirsch &amp; Rockwell LLP<br/> 1001 Connecticut Avenue, NW,<br/> Suite 800<br/> Washington, DC 20036<br/> <i>Attorneys for King County</i></p> | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p> |
| <p>AmericanWest Bank<br/> c/o Corporation Service Company,<br/> Registered Agent<br/> 300 Deschutes Way SW, Suite 304<br/> Tumwater, WA 98501</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>AmericanWest Bank<br/> c/o Nathan Engman<br/> 2237 NW 57th Street<br/> Seattle, WA 98107<br/> Phone: (206) 784-2200<br/> Fax: (206) 784-6650</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p> |
| <p>Coastal Community Bank<br/> c/o Greg Starup<br/> Colby Branch<br/> 2817 Colby Avenue<br/> Everett, WA 98201<br/> Phone: (425) 258-5299<br/> Fax: (425) 257-0521</p>   | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p> |
| <p>Coastal Community<br/> Bank/Administrative Office<br/> c/o Director or Greg Starup<br/> 10520 19th Ave SE<br/> Everett, WA 98208</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |

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| <p>Aggregates West, Inc.<br/> c/o BS&amp;G Inc.,<br/> Registered Agent<br/> 1191 2nd Ave, Suite 1800<br/> Seattle, WA 98101</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>Aggregates West, Inc.<br/> c/o Scott Day<br/> 9151 Van Buren Road<br/> Everson, WA 98247<br/> Phone: (360) 966-3641<br/> Fax: (360) 966-3841</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p> |
| <p>C. T. Sales, Inc.<br/> c/o James A. House,<br/> Registered Agent<br/> 7227 W. Bostian Road<br/> Woodinville, WA 98072-6008<br/> Phone: (425) 483-0101<br/> Fax: (425) 485-9131</p>                              | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p> |
| <p>EB5 Capital Partners.us, LLC<br/> c/o The Company Corporation,<br/> Registered Agent<br/> 2711 Centerville Road, Suite 400<br/> Wilmington, DE 19808</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>Daniel T. Behr<br/> EB5 Capital Partners.us, LLC<br/> 3145 Cherry Lane<br/> Northbrook, IL 60062<br/> Phone: (847) 951-7245<br/> <a href="mailto:dtb@eb5capiatpartner.us">dtb@eb5capiatpartner.us</a></p>       | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p> |
| <p>Douglas Engle<br/> c/o Tom Montgomery<br/> Montgomery Scarp PLLC<br/> 1218 Third Avenue, Suite 2700<br/> Seattle, WA 98101<br/> Phone: (206) 625-1801<br/> Fax: (206) 625-1807<br/> tom@montgomeryscarp.com</p> | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p> |

|   |   |
|---|---|
| <p>Douglas Engle<br/> c/o Myles L. Tobin, Esq.<br/> Thomas J. Litwiler<br/> Thomas C. Paschalis<br/> Fletcher &amp; Sippel LLC<br/> 29 North Wacker Drive<br/> Suite 920<br/> Chicago, IL 60606-2832</p>                              | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>Paul Nerdrum<br/> 1040 NW 178th Street<br/> Seattle, WA 98177<br/> Phone: (206) 542-9694</p>   | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>                       |
| <p>Paul Nerdrum<br/> 5228 Shilshole Ave NW<br/> Seattle, WA 98107<br/> Phone: (206) 784-1234<br/> Fax: (206) 781-0984</p>   | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p>            |
| <p>RJB Wholesale, Inc.<br/> c/o Nick Beck, Registered Agent<br/> 12418 NE 124th Street<br/> Kirkland, WA 98034<br/> Phone: (425) 823-1414<br/> Fax: (425) 821-7353</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p>            |
| <p>WATCO Companies, L.L.C.<br/> c/o Corporation Service Company,<br/> Registered Agent<br/> 2900 SW Wanamaker Drive, Suite<br/> 204<br/> Topeka, KS 66614</p>   | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>                       |
| <p>WATCO Companies, L.L.C.<br/> c/o Mark Blazer<br/> 1900 N. Main, Suite 13<br/> Helena, MT 59601<br/> Phone: 406-495-1096<br/> Fax: 406-495-1098<br/> <a href="mailto:mblazer@watcocompanies.com">mblazer@watcocompanies.com</a></p> | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input checked="" type="checkbox"/> facsimile</p> |

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| <p>WATCO Companies, L.L.C.<br/> c/o Corporation Service Company,<br/> Registered Agent<br/> 300 Deschutes Way SW, Suite 304<br/> Tumwater, WA 98501</p>                              | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>WATCO Companies, L.L.C.<br/> c/o Corporation Service Company,<br/> Registered Agent<br/> 2711 Centerville Road, Suite 400<br/> Wilmington, DE 19808</p>                           | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>Kathy Cox<br/> 1204 Kirkland Avenue<br/> Kirkland, WA 98033-6323<br/> Phone: (425) 827-3311<br/> Phone: (425) 822-3925</p>  | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p>            |
| <p>Kathy Cox<br/> Marketing Philharmonic<br/> 218 Main Street<br/> Kirkland, WA 98033<br/> Phone: (425) 822-3925<br/> kathy@marketingphilharmonic.com<br/> kathy.com@escrail.org</p> | <p>Service by:<br/> <input type="checkbox"/> hand delivery via messenger<br/> <input checked="" type="checkbox"/> mailing with postage prepaid<br/> <input checked="" type="checkbox"/> copy via email<br/> <input type="checkbox"/> facsimile</p> |

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

Dated this 17th day of January, 2014