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8 March 2005

Hon. Vernon Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

ENTERED  
Office of Proceedings

MAR -9 2005  
Part of  
Public Record

Re: AB 6 (Sub-no. 335X) *213507*  
AB 6 (Sub-no. 346X) *213508*  
Burlington Northern RR -- Abandonment  
Exemption -- Klickitat County

submission of original statements;  
errata

Sirs:

On behalf of Washington State Parks and Recreation Commission, Rails to Trails Conservancy, and Klickitat Trail Conservancy (hereinafter "Trail Owners"), I enclose herewith the original declarations of Jim Harris (Washington State Parks and Recreation) and Ron Nelson (Klickitat Land Title). Copies of fax or email versions were previously submitted in Trail Owners' Reply in Opposition to the out-of-time petition to reopen filed in the above-captioned proceeding by Zoller, et al. That Reply was filed on February 28, 2005, and appears on the STB e-Library website under "filings."

Errata

Trail Owners also wish to make two corrections to their aforementioned Reply:

p. 11, 12th line: "to the west side" rather than "to the east side"

p. 20, five lines from bottom: add the words "is necessary" between "to operating rail lines" and "is a question."

By my signature herein, I certify service of this letter by U.S. Mail, postage pre-paid first class, on the date above to counsel as indicated below.

Respectfully submitted,



Charles H. Montange  
for Trail Owners

Encl. (2 originals)

cc. Sydney Strickland, Esq. (BNSF)  
Cecilia Fex, Esq. (Zoller)  
Barbara Herman, Esq. (State AG's office)  
Andrea Ferster, Esq. (RTC)  
(w/encls.--copies)



# Klickitat County Title Company

129 West Main Street, Goldendale, Washington 98620  
1-800-962-9970 ★ 509-773-5804 ★ FAX 509-773-3515

February 23, 2005

Charles H. Montange, Esq.  
426 NW 162nd Street  
Seattle, WA 98177

Counsel for Rail to Trails Conservancy

Re: Zoller Petition for Reconsideration

Dear Charles:

I am the Manager of Klickitat Title Company in Goldendale, the county seat for Klickitat County. I have been in the land title business for forty years. Because of uncertainties inherent in titles involving railroad parcels (e.g., Acts of Congress, Indian filings, and so forth) in Washington State, our office in general will not insure title in rights of way. However, we from time to time do examine title and I am familiar with the Goldendale Branch, which has been a regular topic for the years I have been in Goldendale.

I do not have adequate time to conduct title searches on all parcels potentially relevant in this proceeding. However, I have reviewed material relevant to the Trummel Declaration, attached to the pending Zoller Petition as Exhibit C. Based on what I have reviewed to date concerning parcels south of Route 14 in Lyle, I do not believe that the Trummel Declaration contains sufficient information to show that the railroad has sold off parcels severing the Goldendale Branch right of way. All the information I state below is based on my research to date. I reserve the right to correct it should further information become available. In other words this represents my best efforts in the time available, but further research is necessary for a definitive and binding answer as to who owns what south of highway 14. Based on my research to date, I can say as follows:

First, the quitclaim deed (Auditor's No. 1008065, which is Attachment 5 to the Trummel Declaration), on which the petitioners rely for the proposition that BNSF conveyed its property to Greg Colt Land Brokers, Inc. does not apply to the Goldendale Branch. The deed applies to the SE4SW4 of Section 34. The Goldendale Branch is in the SW4SE4 of Section 34. Some of the original deeds for the BNSF mainline along the Columbia River conveyed a 400 foot right of way. The deed in question related to the mainline, and limits BNSF's mainline claim to 100 feet in the SE4SW4 of Section 34. I am aware at this time of no other deed purporting to convey property in the Goldendale Branch to Greg Colt Land Brokers, Inc. Trummel does not present any such deed in his Declaration. Incidentally, the survey that is page 5 of Trummel's attachment 5 is not part of the deed that is the first four pages, and relates to another deed.

Second, based on my research so far, it appears BNSF has conveyed out its interests in portions of the Goldendale Branch south of Highway 14 as described in the Survey by Taylor Engineering recorded Feb. 15, 2005, as Auditor's No. 1051704. But that survey indicates that BNSF has retained a corridor in the Goldendale Branch that is no less than 28 feet wide south of highway 14 adjacent to the Greg Colt Land Brokers, Inc. property.

Third, based on the information available to me at this time, the assessor's maps on which the Trummel Declaration relies do not appear to be accurate, at least as to the ownership of property in the former Goldendale Branch south of Highway 14 in Lyle.

Fourth, in any event, Klickitat Trail Conservancy has recorded an open space easement over Greg Colt Land Broker, Inc. property east of a line drawn parallel to and 25 feet at right angles to the western edge of the Goldendale Branch.

I realize that you wish to use this information in a proceeding before the Surface Transportation Board. Subject to the limitations in the second paragraph of this letter, I declare under penalty of perjury that the foregoing is true and correct.

Very truly yours,

Ron Nelson  
Manager

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Docket No. Ab-6; Sub Nos. 346X and 335X**

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BURLINGTON NORTHERN RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN KLICKITAT COUNTY, WA, (Sub-No. 346X)  
and,  
BURLINGTON NORTHERN RAILROAD COMPANY – ABANDONMENT EXEMPTION –  
BETWEEN KLICKITAT AND GOLDENDALE, WA,  
(Sub No. 335X)

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**DECLARATION OF JIM HARRIS**

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I, Jim Harris, make this Declaration on behalf of the Washington State Parks and Recreation Commission (State Parks) in opposition to the Petition to Reopen filed by Zoller, et al., in the above-captioned proceedings.

1. I am the Region Manager for the Eastern Region of State Parks. In that position, I am responsible for management of the Klickitat Trail. State Parks has installed informational signing, public safety features, and fencing at the request of adjacent land owners and has also improved fish habitat through capital expenditures. State Parks has an agreement with Klickitat Trail Conservancy (KTC) by which KTC provides basic cleanup, weed control, sanitation, and

DECLARATION OF JIM HARRIS

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PO Box 40100  
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other services for the Trail, mainly through local volunteers. We have been very pleased with KTC's performance under the agreement.

2. State Parks has taken no action to dispose of any portion of the Klickitat Trail as acquired from Rails to Trails Conservancy pursuant to deed and a modified Notice of Interim Trail Use.

3. State Parks is run by a seven member citizen's Commission. The Commission is very supportive of preserving and developing the Klickitat Trail for recreational use by the public. The Commission's directive to staff in a nutshell is to preserve the trail and to keep it open to the public.

4. State Parks has publicly supported and encouraged National Recreational Trail designation for the Klickitat Trail.

5. The Commission believes that the Trail is an asset to the State of Washington and in effect has rejected efforts by trail opponents to stop the use of the trail.

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

DATED this 25 day of February 2005, at Wenatchee, Washington.

  
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Jim Harris, Eastern Region Manager  
Washington State Parks and Recreation Commission