

BEFORE THE STATE BOARD OF LAND COMMISSIONERS  
STATE OF IDAHO

In the Matter of: )  
 )  
Encroachment Permit ) Case No.  
Application No. L-96-S-0096E ) PH-2018-PUB-20-001  
 )  
BNSF Railway Co., )  
Applicant. )  
\_\_\_\_\_ )

PUBLIC HEARING

SANDPOINT, IDAHO

MAY 23, 2018

6:00 P.M.

HEARING COORDINATOR

CHRIS M. BROMLEY

REPORTED BY:

PATRICIA L. PULLO, CSR  
Notary Public

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P R O C E E D I N G S

TAKEN MAY 23, 2018, AT 6:00 P.M.

HEARING OFFICER BROMLEY: Good evening. This is the time and place for a hearing -- public comment hearing in the matter of encroachment permit application No. L-96-S-0096E. The applicant is the BNSF Railway Company.

My name is Chris Bromley. I am a private attorney serving today as the hearing coordinator in this proceeding. Today is Wednesday, May 23rd, 2018. We're located in the Sandpoint Middle School gymnasium located in Sandpoint, Idaho, and the time is shortly after 6 p.m.

This evening I'm facilitating a hearing involving BNSF's application to construct a second train bridge adjacent to and west of the existing bridge across Lake Pend Oreille and Sand Creek. The Idaho Department of Lands is responsible for administering the Lake Protection Act, which may be found at Idaho Code 58-1301, and Idaho Administrative Procedures Act 20.03.04.

Consistent with the Lake Protection Act and in order to build the second train bridge, BNSF must obtain an encroachment permit from the Department as well as

1 other agencies who you will -- some of whom you will  
2 hear from tonight. And that will be a separate  
3 proceeding. And I want to underscore that -- that what  
4 we're talking about tonight is the Department of Lands'  
5 responsibility under the Lake Protection Act. And there  
6 are other requirements for other agencies, the federal  
7 requirements for the Army Corps of Engineers and the  
8 United States Coast Guard which may conduct separate  
9 proceedings. And I just want to underscore that for  
10 everybody involved here today to understand that we're  
11 talking about the Lake Protection Act under Idaho Code.

12 My responsibility is to consider the  
13 application and the written record, take public comment  
14 and determine whether or not the application meets  
15 Idaho's regulatory, statutory and case law standards for  
16 approving an encroachment under the Lake Protection Act.  
17 I am then tasked by the Department with issuing a  
18 preliminary order which will be reviewed by the director  
19 of the Department of Lands who will then issue a final  
20 order no more than 30 days after conclusion of this  
21 hearing.

22 While not part of the written record, I have  
23 reviewed BNSF's most recent encroachment permit numbered  
24 ERL-96-S-96D issued by the Department in June of 2009.  
25 As a record of the Department I'm taking notice of this

1 permit and incorporating this permit into the record by  
2 reference. A copy of this permit may be obtained from  
3 the Department of Lands.

4 While there may be other local, state and  
5 federal regulatory requirements for BNSF to address, the  
6 purpose of this hearing, again, is to take comment  
7 regarding the application before me as to Idaho's Lake  
8 Protection Act and the BNSF encroachment application  
9 filed with the Idaho Department of Lands.

10 Because this is a relatively larger hearing  
11 with many concerned interests, I would like to establish  
12 some ground rules first. Primarily we're limited in the  
13 amount of time we can be here. We have to be completely  
14 cleaned up and out of this building by 11:00 p.m. That  
15 means everything has to be broken down. So I'm going to  
16 try and push this all through to be done by 10:30 in  
17 order to be able to break down tables, put chairs away,  
18 put down computers, speakers and everything like that.  
19 So I hope you will all understand that.

20 Second, in order to provide some  
21 predictability to the flow of this proceeding and  
22 recognizing the limit in our time, I will first ask for  
23 comments from the United States Coast Guard then the  
24 United States Army Corps of Engineers. And I encourage  
25 the Guard and Corps to limit their comments to no more

1 than ten minutes. And I would also encourage the Guard  
2 and the Corps to address federal requirements such as  
3 EAs and EISs that may or may not be reviewed. This is  
4 something that I'm not associated with, but I think it's  
5 fair to let everybody here understand that there are  
6 separate requirements that you may or may not be  
7 reviewing.

8           Following comments from those agencies, I will  
9 take comment in this order: The applicant, BNSF, will  
10 provide an overview of the application and offer any  
11 comments it wishes to make. And I encourage BNSF to  
12 limit these comments to 15 minutes. After comment from  
13 BNSF, I will provide an opportunity for any other public  
14 agencies other than the Department of Lands to provide  
15 comments. I encourage these public agents to limit  
16 their comments to no more than five minutes.

17           After comments from those public agencies, I  
18 will provide an opportunity for the Department of Lands  
19 to provide its comments. After comments from the  
20 Department of Lands, I will provide an opportunity to  
21 the general public, and that's the vast majority of  
22 everybody in here I think, to provide your comments. I  
23 encourage each person in this room who wishes to provide  
24 comment to limit your comment to no more than five  
25 minutes. If you wish to comment and have not signed in,

1 please do so. We can only take comment from people who  
2 have signed in.

3 I'll also note a couple of things different  
4 from this morning's hearing. First, I've been asked  
5 that signs need to stay outside. Waving of signs, I  
6 strongly discourage that and hope we don't see that. I  
7 also would strongly advise in order to maintain  
8 cordiality with everyone in here to please keep  
9 clapping, verbal comments like that to a minimum. I'd  
10 really appreciate it if you didn't make them. Everybody  
11 is here to provide comment. And we want to be cordial  
12 and courteous to everybody in this room.

13 Anyone who provided comment this morning --  
14 and I've seen a few of you who have come back in -- I  
15 strongly encourage you to please think whether you need  
16 to provide comment again. We've already taken the  
17 record from this morning's hearing. We have a lot of  
18 people here who may or may not want to provide comment.  
19 Because of that if you truly feel the need to provide  
20 additional comment I'm happy to take it. But let's let  
21 everybody else who hasn't had an opportunity get his or  
22 her comments into the record. If there's then time at  
23 the end then if you provided comment in the morning and  
24 you really feel the need to make that comment again, I'm  
25 happy to take it. But, again, your comment is in the

1 record. It will be considered. And please keep that in  
2 mind.

3           After we've taken comment from basically all  
4 of you, then I'll provide BNSF an opportunity to provide  
5 any reply and would request BNSF limit that reply to no  
6 more than ten minutes. Because this is a public hearing  
7 in which I'm taking comment, this is not an adversarial  
8 proceeding, this is not an opportunity to ask questions  
9 and probe and cross-examine. This is simply an  
10 opportunity to provide your opinions, your comments  
11 about a project that is probably near and dear for many  
12 reasons to this public. If I have questions, I may ask  
13 them. But that's something that I may decide to do as  
14 the hearing officer. And I just want you to be aware of  
15 that.

16           For everyone who will be speaking, please know  
17 that this meeting is being recorded and transcribed by a  
18 reporter. So we have a court reporter here who types  
19 out the written word with her fingers. We also have a  
20 tape that's taking the audio of this. But in order for  
21 her to get everything down and to maintain a good  
22 record, which is one of the things I'm responsible for  
23 and I actually want to make sure that we accomplish, we  
24 want to get everybody's words down on her transcription.  
25 And the only way she can do that is if you speak slowly.

1 So if I hear anybody who I think is going too fast,  
2 speaking too fast, which is something I have a habit of  
3 doing myself, I will let you know to please slow down.  
4 And it's not because I'm -- that there's a problem with  
5 what you're saying. It's just simply that we want to  
6 transcribe what's being said.

7 The other piece about being a court reporter  
8 is she can't transcribe mm-hmm, mm-mm, (gesturing)  
9 pointing. So if you want to say yes, say yes. If you  
10 want to say no, say no. If you're pointing to something  
11 that's up on a PowerPoint or on one of the boards  
12 behind, describe what it is you're pointing to. That's  
13 the only way we can maintain a good solid record so when  
14 somebody goes back to figure out what it was that was  
15 being said they can read it and understand it.

16 I'll just highlight again. Please remember to  
17 be courteous and respectful of everybody in this room.  
18 Again, it's an important project to everybody here,  
19 again, for various reasons. And that's why we're here  
20 today to take comment. So with these ground rules in  
21 place, I'd like to open the comment period and ask for  
22 the United States Coast Guard and the United States Army  
23 Corps of Engineers to start us off. Thank you.

24 MS. SUGARMAN: Good evening, Mr. Hearing  
25 Officer. I am Shelly Sugarman, S-h-e-l-l-y



1 S-u-g-a-r-m-a-n. I'm chief of bridge permitting and  
2 policy for the United States Coast Guard.

3 I want to thank the Idaho Department of Lands  
4 for allowing the Coast Guard to participate in this  
5 public hearing. Under the authority of Section 9 of the  
6 Rivers and Harbors Act of 1899 and the General Bridge  
7 Act of 1946, the Coast Guard permits the location and  
8 plans of bridges and causeways across navigable waters  
9 of the United States. We have jurisdiction over roughly  
10 20,000 bridges nationwide.

11 As part of our permit process, we evaluate the  
12 navigational and environmental impacts of each proposed  
13 project. The Coast Guard has jurisdiction over Lake  
14 Pend Oreille because it is a navigable waterway of the  
15 United States. We are presently reviewing the  
16 application from BNSF to add a second railroad bridge  
17 across Lake Pend Oreille and Sand Creek. In April we  
18 received a preliminary draft environmental assessment  
19 for review as part of BNSF's bridge permit application.  
20 The Coast Guard is the lead federal agency under the  
21 National Environmental Policy Act and all other federal  
22 environmental control laws for this project.

23 The Corps of Engineers will be a cooperating  
24 agency for us. To better form our decision as to  
25 whether the environmental document should be an

1 environmental assessment or an environmental impact  
2 statement, we have been reviewing the draft  
3 environmental assessment and all public comments  
4 submitted to the Corps of Engineers and the Idaho  
5 Department of Lands in response to their recent public  
6 notices. By early June we expect to decide whether the  
7 environmental document will be an environmental  
8 assessment or an environmental impact statement. Once  
9 drafted, the environmental document will be made  
10 available for public review and comment through the  
11 Federal Register at [www.regulations.gov](http://www.regulations.gov). Comments  
12 submitted through that website will be available for  
13 everyone to view.

14 The Coast Guard will also hold one or more  
15 public meetings here in Idaho during the comment period.  
16 We will also provide public notices via U.S. mail to  
17 announce that environmental documents are available for  
18 review and to provide public meeting details.

19 If you have any questions, I will be available  
20 throughout the hearing. Thank you very much.

21 HEARING OFFICER BROMLEY: Ms. Sugarman, just  
22 to be clear, so there will be another opportunity for  
23 the public to address EIS or EA concerns with your  
24 agency?

25 MS. SUGARMAN: We will issue a draft

1 environmental document, whether it's EA or EIS, and  
2 during that time they will have an opportunity to  
3 comment on the document.

4 HEARING OFFICER BROMLEY: And then did I hear  
5 you correctly to say that you will have a public hearing  
6 after that, and you'll be providing notice?

7 MS. SUGARMAN: During the comment period we  
8 will have a public meeting, yes.

9 HEARING OFFICER BROMLEY: Okay. Thank you.

10 MR. SLATE: Hello, Mr. Hearing Officer. My  
11 name is Shane Slate. S-h-a-n-e S-l-a-t-e. And I'm with  
12 the U.S. Army Corps of Engineers, Walla Walla District,  
13 Regulatory Division.

14 The Corps of Engineers is here today to  
15 support the State's public process for the Burlington  
16 Northern proposed Sandpoint Connector Project. The  
17 Corps received an application for the project in  
18 February of 2018, which we determined to be complete for  
19 the purposes of issuing a public notice for the project.  
20 The Corps released its public notice for the project on  
21 May 5th, 2018, for a 30-day comment period. After  
22 receiving requests, the Corps extended its public notice  
23 comment period for an additional 30 days, which  
24 concluded on April 30th, 2018.

25 The Corps is currently evaluating the project

1 pursuant to our authorities under Section 404 of the  
2 Clean Water Act and Section 10 of the Rivers and Harbors  
3 Act associated with the proposed discharges of fill  
4 material into Lake Pend Oreille and Sand Creek at the  
5 north and south ends of both bridges and in the wetland  
6 areas between the two bridges. This is detailed in the  
7 Corps' March 5th, 2018, public notice, which I have a  
8 copy available if you would like.

9 As a cooperating federal agency, the Corps  
10 intends to coordinate closely with the U.S. Coast  
11 Guard's evaluation of the project under the National  
12 Environmental Policy Act and under Section 106 of the  
13 National Historic Preservation Act and Section 7 of the  
14 Endangered Species Act.

15 Mr. Hearing Officer, thank you for your time.  
16 Do you have any questions of me regarding the Corps'  
17 role or authorities for this project?

18 HEARING OFFICER BROMLEY: So, Mr. Slate,  
19 again, what I think I heard you to say was that you're a  
20 cooperating agency with the Coast Guard, and the Coast  
21 Guard is the lead. And so then hearings as to federal  
22 requirements would be as addressed by Ms. Sugarman?

23 MR. SLATE: Correct. And the Corps would  
24 participate as a cooperating agency.

25 HEARING OFFICER BROMLEY: Okay. Thank you

1 very much. All right. So that concludes with the Corps  
2 and the Coast Guard. Are there other public agencies  
3 other than the Department of Lands who would like to  
4 provide comment? Mr. Jones. It's good to see you.

5 MR. JONES: Good evening. I'm Doug Jones.  
6 D-o-u-g J-o-n-e-s. I am the regional manager for the  
7 Idaho Department of Water Resources.

8 THE PUBLIC: We can't hear you.

9 THE PUBLIC: We can't hear you and we can't  
10 see you. Why can't you turn around so we can see you?

11 MR. JONES: My apologies --

12 HEARING OFFICER BROMLEY: Sir, let me address  
13 the question in the back. And I'm having a hard time  
14 seeing who that came from. But the comments are being  
15 directed toward me as the hearing officer, just to be  
16 clear. He's not providing comment -- we have a  
17 microphone so that people can hear. So if you can't  
18 hear, please say that. But the reason that he's  
19 addressing me is I am the hearing coordinator. So if we  
20 can turn the microphone up for Mr. Jones that would be  
21 helpful. Thank you.

22 THE PUBLIC: Can we turn the podium around a  
23 little bit so we could see him also?

24 HEARING OFFICER BROMLEY: We could shift it a  
25 little bit if that would be helpful. I'm happy to do

1 it. But, again, he's going to be addressing me.

2 (Brief pause.)

3 MR. JONES: My name is Douglas Jones. I'm the  
4 northern regional manager for the Idaho Department of  
5 Water Resources in Coeur d'Alene.

6 IDWR has no position for or against this  
7 process or the permit. We stand ready to work with  
8 Department of Lands or any other agency or group to  
9 understand any cross-jurisdictional issues that might  
10 arise. That's all I have to say.

11 HEARING OFFICER BROMLEY: Thank you,  
12 Mr. Jones. Any other public agencies who would like to  
13 provide comment? Yes, sir. If you'd please state and  
14 spell your name for the record.

15 MR. ROGNSTAD: Shelby Rognstad, mayor of  
16 Sandpoint, Idaho. S-h-e-l-b-y R-o-g-n-s-t-a-d.

17 I, along with the Sandpoint City Council,  
18 submitted written comments this past month. And I will  
19 just highlight a few of those primary points in that we  
20 are primarily concerned as a community of the impact on  
21 water quality, the impact on -- of additional train  
22 traffic through our communities which has a direct  
23 impact on our emergency response, as we have numerous  
24 train crossings through our town that have caused  
25 regular delays of emergency response vehicles as well as

1 regular commercial and residential traffic through our  
2 town. And then, of course, the impact of the -- of a  
3 potential derailling is a primary concern for our  
4 community. And so the fear is that with double the  
5 tracks, we have increased overall traffic which  
6 increases the likelihood of a derailment which could be  
7 catastrophic for this community environmentally,  
8 economically and in terms of the quality of life that we  
9 enjoy here.

10 Thank you for hearing these comments.

11 HEARING OFFICER BROMLEY: Thank you, Mayor.  
12 Any other public entities? Sir.

13 MR. BAILEY: Mr. Hearing Officer, my name is  
14 Glen Bailey. That's G-l-e-n B-a-i-l-e-y. I am  
15 currently the Bonner County commissioner for District 1.  
16 As a County commissioner I have reviewed all of the  
17 information and the plans put forth by BNSF in their  
18 proposal to build a second rail bridge over Lake Pend  
19 Oreille. And I am here today to voice my full support  
20 for this project.

21 I am here knowing the importance of trade to  
22 this part of the country. It is the lifeblood that  
23 drives our economy and the businesses here in the  
24 northwest. Our rail system is a key part of that trade.  
25 Hundreds of industries, including our local timber

1 products and manufacturing plants, use rail to serve  
2 their customers. The addition of a second track across  
3 the lake will reduce congestion and the bottlenecks that  
4 are already existing in that crossing. It will help  
5 move freight and future products more efficiently. An  
6 investment by BNSF and more efficient transportation  
7 means businesses will be more efficient and reducing the  
8 cost to consumers.

9 Project opponents have demanded an  
10 environmental impact statement before the environmental  
11 assessment has even been released. This is premature  
12 and unnecessary to ask the lead agency to change at this  
13 date before there has been a single significant impact  
14 found. That would be inappropriate and unacceptable  
15 under the National Environmental Policy Act.

16 Additionally, when trains sit idle at this  
17 bridge bottleneck, it can cause traffic delays on our  
18 local roadways as well. With a second bridge and fewer  
19 parked trains, local drivers can see shorter wait times  
20 on nearby roads that cross the tracks. The proposed  
21 Sandpoint project is just the kind of investment that  
22 will provide needed improvements to guarantee the  
23 effective transportation of goods well into the future.

24 I thank you for reviewing this proposal. And  
25 I urge you to grant swift approval for this project as



1 it undergoes the permitting process. Thank you.

2 HEARING OFFICER BROMLEY: Thank you,  
3 Mr. Bailey.

4 MR. MCDONALD: My name's Dan McDonald. That's  
5 D-a-n M-c-D-o-n-a-l-d. And I, too, am a Bonner County  
6 Commissioner, District 3. I represent the people of  
7 Bonner County.

8 In addition to being a local resident, I also  
9 understand the importance of maintaining the integrity  
10 and the beauty of the natural resource that we have here  
11 in the county. All that being said, I want to voice my  
12 strong support for the construction of the second rail  
13 bridge over Lake Pend Oreille known as the Sandpoint  
14 Junction Connector Project.

15 Idaho's economy is heavily dependent upon  
16 trade, and critical to our success is rail  
17 infrastructure. It moves people and goods efficiently.  
18 In fact, the cars we drove in here tonight, the clothes  
19 on your back, the food you eat, your cell phones, your  
20 purses, your wallets, chances are they were all brought  
21 in by rail. However, the current system we have is  
22 falling behind.

23 The bottleneck in Sandpoint, where three rail  
24 lines come together into a single track, has been a  
25 consistent problem for years now. Not only does it

1 create a lineup of freight and passenger and rail  
2 traffic, but it also causes delays on community roads in  
3 the rail crossings. And as a commissioner, when we do  
4 have those trains sitting on the tracks and they're  
5 blocking roadways, our phones start ringing. Now, to  
6 BNSF's credit, we make one phone call they are quick to  
7 remedy the situation. I want to thank them, first of  
8 all, for the great service they provide. They're a good  
9 neighbor to the County.

10           Thankfully there's a proposal on the table to  
11 upgrade the section of rail network to improve the  
12 process, the Sandpoint Junction Connector. BNSF is  
13 willing to invest millions of dollars in the  
14 construction of the second line to run adjacent to the  
15 current track. Investing in their own business not only  
16 benefits BNSF, but it benefits all of us as well. Not  
17 only will goods get there quicker but streamlined train  
18 traffic will lower the impact on surrounding communities  
19 and result in shorter wait times on nearby roads. This  
20 is an infusion of private investment to improve our  
21 state's infrastructure and to simply -- and is simply  
22 something the people of Idaho can't afford to pass up at  
23 this point.

24           Now, there have been demands for environmental  
25 impact statements, otherwise known as EIS. While

1 there's actually an EA, environmental assessment,  
2 currently going underway, this is a predetermined  
3 process that must be allowed to be completed. That is  
4 precisely why we at Bonner County Commissioners' office  
5 chose not to weigh in on the recommendation to call for  
6 an EIS.

7 I want to thank everybody for my time and the  
8 opportunity to speak on this important topic. Again,  
9 I'd like to voice my full support, my strong support for  
10 this project and urge you to allow the construction of  
11 the Sandpoint Connector Project to move forward without  
12 delay.

13 HEARING OFFICER BROMLEY: Thank you,  
14 Mr. McDonald. Any other public entities? Hearing none,  
15 BNSF have an opportunity to provide comment.

16 MS. WALLACE: Thank you, Mr. Hearing Examiner.  
17 And thank you so much for having us out tonight. We  
18 appreciate the opportunity to speak on this project.

19 My name is Courtney Wallace. That's  
20 C-o-u-r-t-n-e-y W-a-l-l-a-c-e. I am the regional  
21 director of public affairs for the northwest. We have a  
22 presentation that myself and my colleague, Pierre, will  
23 go through tonight, if I could get the technology to  
24 work.

25 All right. Just a little bit about the BNSF.

1 We are a Class 1 railroad which essentially means we are  
2 a long-haul railroad. We operate 28 states and three  
3 Canadian provinces. And at any given time we move  
4 one-fourth of the nation's freight rail, and we move  
5 about 1800 freight trains a day. We also have passenger  
6 rail running on our line, that includes Amtrak, Sound  
7 Transit in Seattle, Metra in Chicago and other places.  
8 And unlike other forms of transportation, we are  
9 privately funded.

10 This project is privately funded. It is not  
11 taking taxpayer dollars. And we are looking at  
12 investing upwards of a hundred million dollars in  
13 private investment for world class infrastructure.

14 A little about us in here in Idaho. We have  
15 almost 340 employees, and we operate in the northern  
16 part of the state. These employees live in Bonners  
17 Ferry. They live in Sandpoint. They live in Coeur  
18 d'Alene and all points in between. And we have roughly  
19 106 miles of track in north Idaho. And our payroll is  
20 about \$24 million a year.

21 We also pay property tax and other taxes in  
22 the state of Idaho. And we deliver the goods that we  
23 all use every day, from the food we eat to the clothes  
24 that we wear, the cars that we buy. In fact, about 25  
25 percent of what moved in Idaho last year on the BNSF

1 were agricultural products. And about 50 percent of  
2 what we move on an annual basis are consumer goods.  
3 Again, that's 50 percent of what we normally move on an  
4 annual basis are consumer products, iPads, iPhones,  
5 stereos, TVs, everything that we use to make our lives  
6 better. And this project is about moving our goods that  
7 we are moving today more efficiently. The need is for  
8 today.

9 We are proposing doing a new parallel bridge  
10 over Lake Pend Oreille as well as new structures at Sand  
11 Creek and over Bridge Street. And this would help  
12 improve the flow of traffic both for Amtrak as well as  
13 freight. And, again, 25 percent of what moved last year  
14 were agricultural goods. And, again, 50 percent of what  
15 we move are consumer goods. And we take those --  
16 everything that we move, we take great care in doing  
17 that.

18 We move all of our products from A to Z, from  
19 point A to point B, 99.99 percent without any incidents.  
20 And that is a record we're always striving to improve.  
21 But safety is key for us. And this project not only  
22 will help make sure that freight is moving more  
23 efficiently, it also will help reduce delays at grade  
24 crossings.

25 So, again, when trains are moving, it's more

1 efficient. They get to the consumers, which are all of  
2 us, as well as our shippers. And when a train is  
3 holding, it takes a lot for that train to get up and  
4 moving again. So if a train is holding, as that train  
5 goes over a bridge, it doesn't automatically turn the  
6 switch and it goes. It takes a lot for the train crews  
7 have to go through all the right processes to get that  
8 train moving. So, again, it takes a long time for those  
9 trains get up and moving again.

10 We do have a short video I would like to play,  
11 if that's okay.

12 HEARING OFFICER BROMLEY: Yes.

13 (Whereupon the following is the transcription  
14 of a video which was played.)

15 Population growth across the United States and  
16 northern Idaho is driving demand for more building  
17 materials, energy, consumer goods and agricultural  
18 products which all move by rail. Rail traffic moves on  
19 single, double and even triple track across the Pacific  
20 Northwest. BNSF Railway meets up with Montana Rail Link  
21 at Sandpoint, Idaho. There, rail traffic from both  
22 railroads merge together to travel over Lake Pend  
23 Oreille on a single track bridge.

24 Soon BNSF will have double track stretching to  
25 Hauser, Idaho. This improves service to customers while

1 keeping freight moving safely through the Pacific  
2 Northwest, Montana and the rest of the northern United  
3 States.

4 As you can imagine, much like a highway,  
5 delays can happen when you merge multiple lanes down to  
6 one lane. And if you have a two- or three-lane highway  
7 that merges to one lane shared by both directions of  
8 traffic, you will see backups on either side that can  
9 extend for many miles.

10 This single track bridge over Lake Pend  
11 Oreille funnels rail traffic down to one lane shared by  
12 both directions. It slows trains as they come to  
13 Sandpoint but also has an impact all the way into  
14 Washington and Montana. By building a second main line  
15 bridge over the lake, trains will move across the lake  
16 in both directions at the same time reducing the time  
17 trains must wait for other trains to cross the bridge.  
18 Freight will be able to continue to move and get through  
19 the area much more efficiently, which is important not  
20 only to producers and shippers but the consumers who use  
21 their goods every day.

22 The second rail bridge over Lake Pend Oreille  
23 will provide immediate benefits by relieving a  
24 bottleneck. But it will also keep both passenger and  
25 freight trains moving safely across the northern United

1 States now and well into the future.

2 (Which concludes the video.)

3 MS. WALLACE: Thank you. And at this time I'd  
4 like to turn it over to my colleague, Pierre.

5 MR. BORDENAVE: My name is Pierre Bordenave.  
6 That's P-i-e-r-r-e B-o-r-d-e-n-a-v-e. I'm with Jacobs  
7 Engineering, Environmental Services Group here in  
8 Sandpoint, Idaho.

9 I want to touch on the existing conditions, a  
10 quick overview. I'd like to acknowledge the team that  
11 has helped put this together; of course BNSF, the  
12 railway of course, and then Hansen Professional Services  
13 who have provided all the structural and civil design, a  
14 group that worked with us closely to develop a really  
15 good project here. The Jacobs Engineering,  
16 Environmental Group is local biologists and  
17 environmental specialists that are right here in  
18 Sandpoint. We're not experts from afar. Even though  
19 we've done over 500 rail projects throughout the United  
20 States over the last 20 years, we're here. We're people  
21 the community knows. People that boat and fish and swim  
22 and play and enjoy the reasons why we live here.

23 I've lived in Sandpoint for 35 years. And I  
24 know that doesn't qualify me as a local yet. I think my  
25 grandchildren may be able to claim that. However, it



1 does give me a perspective. When I moved here I was  
2 aware, just like anybody that moves here, that there  
3 seemed to be a lot of trains in Sandpoint. At the time  
4 there were about 30, 35 trains on the BNSF lines, then  
5 known as Burlington Northern, and another five to ten on  
6 the Union Pacific. Even at that time Sandpoint was  
7 known by train buffs around the country as "the funnel."  
8 This is where one could take great pictures of various  
9 types in a wide range of settings. It's where several  
10 rail lines that connect the United States come together.  
11 One is the Great Northern, which is the BNSF line, that  
12 comes on this map from north to south and includes the  
13 bridge. The other is the Northern Pacific, which is  
14 Montana Rail Link, which comes up along Highway 200  
15 along the north side and joins in Sandpoint. And then  
16 the Union Pacific which comes out from the north, comes  
17 down through here and through Sandpoint and crosses over  
18 BNSF line. It also is along Highway 200.

19 Every decade there are more people in the  
20 world. There are more people in the United States, in  
21 Idaho, in Bonner County. And, of course, every decade  
22 I've lived here there are more trains. More trains  
23 coming through Sandpoint carrying goods required by that  
24 growth. And that will continue. Which leads me to our  
25 project need.

1           This project, the process that we went through  
2 working with the BNSF, working with the design group,  
3 it's -- it is the anatomy of how things should go --  
4 should be done. I'm sure you've heard -- many of you  
5 have heard or read the claims that by building this  
6 connector it's somehow going to double the number of  
7 trains. And, of course, that -- there's no basis to  
8 that claim. I've already said before, yes, there's --  
9 there has every decade been more trains, but it doesn't  
10 double trains. There's absolutely no basis to that  
11 assumption. That -- that then becomes the foundation of  
12 speculation and conjecture and then that leads to  
13 projections and conclusions. You got three levels of  
14 misunderstanding there.

15           This is not a case of Field of Dreams; if you  
16 build it, they will come. The project is not based on  
17 speculation. In fact, granting a permit cannot be based  
18 on speculation, just as a denial of a permit should not  
19 be based on speculation. This project does not create a  
20 demand. What it does is it addresses an existing  
21 defined need.

22           Step 2 is evaluate the condition. Our team is  
23 local and has had years of -- even decades of intimate  
24 knowledge of the area, the site-specific conditions and  
25 worked with BNSF and the design engineers to follow the

1 required processes of avoiding impacts where possible,  
2 minimize where it cannot be avoided and develop  
3 mitigation options for unavoidable impacts.

4           The proposed action overview, the second slide  
5 here, is just to identify what already was pretty much  
6 put up there, the north end, the second track, signal,  
7 switches, support infrastructure from milepost 2.9,  
8 which is the junction of MRL and BNSF, to the south end  
9 south of the bridge at milepost 5.1.

10           It includes three bridges, Bridge 3.0 over  
11 Bridge Street, 3.1 over Sand Creek and 3.9 over Lake  
12 Pend Oreille. The north end of Sandpoint junction  
13 connectors is the connection of two rail lines, BNSF and  
14 MRL, which are the old Great Northern and Northern  
15 Pacific lines.

16           The Amtrak depot -- this second main line will  
17 result in no alterations of the renovated depot  
18 building. Reconfiguration upgrades to the platform and  
19 parking will occur but nothing happens to the building  
20 itself.

21           Bridge Street. The new bridge adjacent west  
22 of the existing bridge will have greater vertical and  
23 horizontal clearance than the existing bridge, a larger  
24 opening. Construction plans and timing were developed  
25 to minimize traffic impacts and ensure continuous

1 access. BNSF will work with City of Sandpoint on making  
2 sure that happens.

3 Sand Creek. Design and construction approach  
4 was developed to minimize in-water jurisdictional and  
5 navigational impacts. I have more slides on that later.

6 Lake Pend Oreille, Bridge 3.9. Again, the  
7 design and construction approach was developed to  
8 minimize in-water jurisdiction and navigational impacts.  
9 It would essentially have half the number of piers and  
10 spans as the existing bridge. At the south end the  
11 Sandpoint connector is the connection to the existing  
12 Algoma double track so that the entire thing will be  
13 double track.

14 Let's touch on jurisdictional impacts. We  
15 have jurisdictional impacts throughout the project of  
16 1.54 acres. Originally this was about five acres in the  
17 desire to figure out how to make this work. Working  
18 closely with the design engineers and BNSF, we were able  
19 to work that down to about three acres. Then as we got  
20 a little more innovative and a little more creative, we  
21 were able to reduce this down to 1.54 acres. Again,  
22 this is supposed -- this is how it's supposed to be  
23 done. You work closely with the owner, the design team  
24 and environmental team to find those ways to avoid and  
25 minimize.

1           So the nearshore impacts, the areas near the  
2 shore below the ordinary high water mark, are combined  
3 of 1.26 acres of both permanent and temporary impact and  
4 then a wetland impact of -- a wetland fill of 0.28  
5 acres. And we'll kind of do a little overview of Sand  
6 Creek, the area there, the existing bridge that's  
7 through there, the proposed bridge on the screen, a  
8 construction bridge adjacent to that, the wetland fill  
9 at the south end and the small amount of area fills  
10 within the -- within the waterway itself. We have the  
11 close-up of that as the north detail. 0.05 acres of  
12 temporary nearshore fill is assumed because of the steep  
13 slopes and the need for safe access for workers during  
14 construction. This was reduced from the original  
15 proposed fill of the entire area out to the water -- out  
16 to the right of way line. The south end has 0.01 acres  
17 of permanent nearshore fill and 0.28 acres of wetland  
18 fill between the multiuse path and BNSF rail line.

19           The bridge at -- the bridge over Lake Pend  
20 Oreille, the north end, there is proposed of 0.3 acres  
21 of temporary nearshore fill, which is significantly  
22 reduced by about a half, and 0.57 acres of nearshore  
23 fill for the structure itself. And the temporary is for  
24 the access to the construction bridge and then there is  
25 a temporary construction bridge involved with this and a

1 permanent new bridge. At the south end, the  
2 jurisdictional impacts on Lake Pend -- for the 3.9 is  
3 the 0.03 acres of temporary nearshore. Again,  
4 significantly reduced from the original plan; 0.1 acres  
5 of permanent nearshore fill. And that's to address the  
6 scour area and protect the abutment. It's also the  
7 temporary construction bridge lands at this point as  
8 well as the new -- permanent new bridge lands at this  
9 upland landing area.

10           The connection at the Algoma main line double  
11 track has 0.29 acres. This was originally a half an  
12 acre. It was reduced down. The reason for this is  
13 primarily for safety and that is because the -- putting  
14 the track on the opposite side or trying to shift that  
15 over would require significant blasting on the east side  
16 below Bottle Bay Road. And that has already occurred in  
17 the past, and there's not a whole lot more room left  
18 there.

19           Construction staging and access. Primarily  
20 the overview on this is that it's the existing access --  
21 the access exists. Existing staging areas on BNSF right  
22 of way exist. At the north end there's upland staging  
23 on the BNSF right of way north of depot -- north of the  
24 depot. Existing accesses from the north and Bridge  
25 Street. Existing upland staging and access in --

1 between Bridge 3.1 and 3.9 is from the highway, and  
2 there's an existing staging area there. Want to  
3 emphasize that the multiuse pathway remains open at all  
4 times. The construction staging at the south end of the  
5 long bridge or the 3.9 bridge. There's an existing  
6 upland staging area there and existing access from  
7 Bottle Bay Road.

8           The Sand Creek -- let's move on to navigation.  
9 Sand Creek navigation. The plan is for wider and higher  
10 permanent spans. There will be no navigation impairing  
11 work during high water. There will be -- the  
12 construction bridge itself, the navigation spans and the  
13 pilings would be removed during the boating season.  
14 Essentially that's, you know, somewhere between April --  
15 mid to late April to October, early, mid. Basically the  
16 spans 8, 9 and 10 and the piers would be removed if the  
17 work could not be constructed -- completed in the winter  
18 months. And this is a profile of that -- of that span  
19 identifying that the red is the existing span -- or  
20 existing piers in the water. And these would be the  
21 new -- would be the larger -- the wider span outside of  
22 that. That sets up for a future -- if the other bridge  
23 can be replaced in the future, then you actually  
24 increase the navigational width of that -- of that area.

25           This is a simplified, on 3.9, a very

1 simplified representation. We have quite a bit of --  
2 quite a bit of maps and representations and plans in our  
3 navigational report which is online. But I wanted to  
4 emphasize that each and every single span was addressed  
5 to detail and perform the iterations, the multiple times  
6 of plans developed in the engineering design to minimize  
7 environmental and navigational impacts.

8           We have a temporary work bridge and a  
9 permanent work bridge. The design and construction  
10 planned for year-round work. Get it done. Get it in.  
11 Get it done. Navigation will be maintained during  
12 construction. Any vessel that can pass under the  
13 highway bridge, it will be able to clear both the  
14 construction and the new rail bridge at all times.

15           So the key take-aways. The project is to meet  
16 an existing need. The project impacts avoided and  
17 minimized to the greatest feasible those -- those  
18 jurisdictional impacts. The project will maintain  
19 navigation, vertical and horizontal clearances, for the  
20 majority of the bridge spans during construction and  
21 will not be the governing restrictive clearance  
22 structure after construction. Work is on BNSF property.  
23 Work is privately funded. There are no State or federal  
24 dollars. Access and staging is planned to minimize  
25 local impacts.



1           The existing conditions that are out there  
2 right now is the end sections were -- were  
3 reconstructed, of the existing bridge, were  
4 reconstructed about ten years ago. I was involved in  
5 that -- the permitting on both of those end structural  
6 projects. The majority of the bridge dates from the  
7 1950s. It's the sections that are on concrete piers. I  
8 wasn't born at that time, so I didn't get involved in  
9 the permitting for that. But the nine spans and piers  
10 structures from the -- are from the early 1900s.

11           So just to kind of put that in perspective, I  
12 have a closing thought on this. Let's imagine there's a  
13 single lane highway bridge as the only way to get to or  
14 from Sandpoint for a hundred miles. Now let's say that  
15 all goods and services for this entire region pass over  
16 that bridge. Now let's say that the bridge is still  
17 serviceable and it's safe, but it was built when most  
18 vehicles on the bridge were horses and buggies. Because  
19 it's a one-lane bridge, only a hundred cars and trucks  
20 can pass over that bridge in each direction at a time  
21 and those hundred-vehicle groupings are required to wait  
22 their turn to cross. Meeting the present needs and  
23 providing redundancy would dictate that a second bridge  
24 is not just a good idea but a critical necessity. By  
25 that same token, that exact same need for redundancy,

1 meeting existing demands and critical and necessary  
2 infrastructure are the conditions that now exist for why  
3 the BNSF Sandpoint Junction Connector Project needs to  
4 be permitted and built.

5 With that thank you. And do you have any  
6 questions?

7 HEARING OFFICER BROMLEY: No, I do not. Thank  
8 you, Mr. Bordenave. Idaho Department of Lands, your  
9 comments, please.

10 MS. FRENCH: So good evening, Mr. Bromley.

11 HEARING OFFICER BROMLEY: Good evening.

12 MS. FRENCH: For the record, my name is Diane  
13 French. That is spelled D-i-a-n-e, last name  
14 F-r-e-n-c-h. I am the division administrator of lands  
15 and waterways for the Idaho Department of Lands.

16 The Idaho Department of Lands, herein called  
17 IDL or the Department, would like to offer testimony on  
18 the joint application for permits, that we reference as  
19 joint application, received from Burlington Northern  
20 Santa Fe Railway Company, BNSF. And this is  
21 specifically related to the IDL non-navigational  
22 encroachment permit portion of the application. And  
23 this is concerning a new Bridge 3.1 over Sand Creek and  
24 the new Bridge 3.9 over Lake Pend Oreille as well as  
25 several fills in Sand Creek and Lake Pend Oreille.

1           This testimony is intended to provide you with  
2           specifics on the application process, the right of way  
3           owned by BNSF, pertinent authorities or standards that  
4           IDL believes are relevant to the decision of this  
5           portion of the application, and then IDL's opinion on  
6           how the application does or does not meet the applicable  
7           standards.

8           So first I'd like to talk about the  
9           application processing. IDL received the joint  
10          application on February 22nd of 2018. The Department  
11          sent notification of the application to eleven different  
12          parties consisting of federal, state and local  
13          government agencies as well as non-governmental  
14          organizations. IDL also sent notifications to seven  
15          adjacent littoral landowners. While 12 adjacent  
16          landowners are actually listed in the joint application,  
17          eight of those owners are adjacent to the total project  
18          area but not the specific portions of the project that  
19          are over navigable waters. In addition, while four  
20          adjacent littoral owners were listed in the joint  
21          application, IDL identified three additional littoral  
22          owners that could also be affected or impacted by the  
23          proposed project which brought the total number of  
24          adjacent littoral owners notified by IDL to seven.

25          In addition, IDL caused a notification of the

1 application receipt by the Department to be published in  
2 the Bonner County daily Bee for two consecutive weeks,  
3 on February 28th and March 7th. All notifications and  
4 publications stated that the application ERL-96-S-0096E,  
5 BNSF Railway Company, was for installation of a second  
6 railway bridge across Sand Creek and Lake Pend Oreille  
7 and that a copy of the application could be obtained  
8 from the IDL public website and requested that  
9 submittal of all written public comments be received by  
10 March 30th.

11 On or about March 12th, the Department posted  
12 the application related documents and comments received  
13 to date on our public website. And IDL has periodically  
14 updated the website with all public comments as  
15 received.

16 On March 14th our IDL acting director, David  
17 Groeschl, issued a notice of appointment of hearing  
18 coordinator and hearing for the hearings conducted  
19 today. IDL caused a notification of the hearings to be  
20 published in the Bonner County Daily Bee for two  
21 consecutive weeks, on March 20th and March 27th. The  
22 publication stated that IDL would accept written  
23 comments through close of this hearing, this evening, on  
24 May 23rd. All public and agency comments were posted to  
25 IDL's website as quickly as possible. As of this

1 afternoon, we have received roughly 1,150 comments that  
2 have been submitted. And the IDL web page was updated  
3 on the periodic basis. And we also acknowledge a time  
4 delay in posting of comments due to the number of  
5 comments received.

6 To ensure ample time given for receipt of  
7 public comment, the Department has accepted comments on  
8 this application for nearly 90 days, from February 26th  
9 through May 23rd, extending well beyond the 30-day  
10 requirement under Idaho Code 58-1306(c) and IDAPA  
11 20.03.04.030. All notification of publication  
12 requirements were met for processing of this application  
13 as outlined in IDAPA 20.03.04.030. Written public  
14 comments are due today at the closing of this hearing  
15 this evening. I will also add that the Department today  
16 received this morning a copy of the draft 401 Water  
17 Quality Certification from the Idaho Department of  
18 Environmental Quality. This has been added to our  
19 overall comments for your review.

20 I would also now like to talk a little bit  
21 about the BNSF Railway Company right of way. So upon  
22 statehood in 1890, the State of Idaho obtained title to  
23 the beds and banks of navigable lakes and rivers within  
24 Idaho. It is the express policy in the State of Idaho  
25 that the public health, interest, safety, and welfare

1 requires that all encroachments upon, in or above the  
2 beds of waters of navigable lakes of this state be  
3 regulated in order that the protection of property,  
4 navigation, fish and wildlife habitat, aquatic life,  
5 recreation, aesthetic beauty, and water quality be given  
6 due consideration and weighed against the navigational  
7 or economic necessity or justification for or benefit to  
8 be derived from the proposed encroachment. Moreover, it  
9 is the responsibility of the State Board of Land  
10 Commissioners to regulate and control the use or  
11 disposition of State-owned lake beds to provide for  
12 their commercial, navigational, recreational or other  
13 public use. And this is per IDAPA 20.03.04.012.

14           During the initial review of the joint  
15 application, the Department requested from BNSF a copy  
16 of the BNSF right of way referenced in block 23 of the  
17 joint application. A copy of that right of way document  
18 is attached to our testimony. This document states that  
19 in 1864, the United States granted a right of way to  
20 Northern Pacific Railway Company, a predecessor in  
21 interest to BNSF. The right of way was therefore  
22 granted prior to statehood in 1890 when the State of  
23 Idaho obtained title to the beds and banks of navigable  
24 lakes and rivers within Idaho. An 1890 Rand McNally map  
25 of the right of way is also attached that shows the

1 railway crossing over Lake Pend Oreille near Sand Point.

2           The State of Idaho does not claim ownership of  
3 the lake bed within the BNSF railway right of way as  
4 this is privately owned submerged lands. In addition,  
5 no State easements exist for the current railway bridge  
6 over Sand Creek or Lake Pend Oreille, and no State  
7 easement would be required for the two proposed railway  
8 bridges or fills covered under this permit application  
9 and placed within the existing railway right of way. As  
10 I will discuss further, an encroachment permit will be  
11 required from the Department pursuant to the Lake  
12 Protection Act.

13           Now to talk briefly about the IDL authorities  
14 and standards. The Lake Protection Act under Idaho Code  
15 58-1301 requires the State to review and approve an  
16 application before any encroachment can be placed on, in  
17 or above the beds and waters of any navigable lakes.  
18 Lake Pend Oreille is a navigable lake as established by  
19 the Idaho Supreme Court, Gasman versus Wilcox, 1934.

20           Bridge 3.0 shown in the application is over  
21 Bridge Street and does not require an encroachment  
22 permit from the Department. Bridge 3.9 and associated  
23 fills, as well as the fill for the East Algoma turnout,  
24 shown in the application are subject to the Lake  
25 Protection Act.

1 IDL has issued encroachment permits for work  
2 on the existing bridge in the past. The lake also  
3 extends up the mouth of Sand Creek which makes Bridge  
4 3.1, the temporary bridge and associated fills as shown  
5 in the application subject to the Lake Protection Act.  
6 IDL has issued encroachment permits for docks and other  
7 structures placed in the Sand Creek slew. This includes  
8 the bridge and associated fills for the Highway 95 Sand  
9 Creek byway.

10 Privately owned submerged lands are still  
11 subject to the Lake Protection Act and associated  
12 administrative rules as affirmed by the Idaho Supreme  
13 Court in State versus Hudson, 2017. IDAPA  
14 20.03.04.030.02 states encroachments not in aid of  
15 navigation in navigable lakes will normally not be  
16 approved by the Department and will be considered only  
17 in cases involving major environmental, economic or  
18 social benefits to the general public. Approval under  
19 these circumstances is authorized only when consistent  
20 with the Public Trust Doctrine and when there is no  
21 other feasible alternative of less impact on public  
22 trust values. In addition, IDAPA 20.03.04.030.10 states  
23 in part, In recognition of continuing private property  
24 ownership of lands lying beneath the natural or ordinary  
25 high water mark and the artificial high water mark, if



1 present, the Department shall consider unreasonable  
2 adverse effects upon adjacent property and undue  
3 interference with navigation the most important factors  
4 to be considered in granting or denying an application  
5 for either a non-navigational encroachment or a  
6 commercial navigational encroachment not extending below  
7 the natural or ordinary high water mark. While this  
8 does not exactly describe the BNSF bridge application,  
9 due to BNSF's right of way ownership below both the  
10 artificial and ordinary high water marks, it is good  
11 guidance for review for this application. These two  
12 rule subsections IDAPA 20.03.04.030.02 and  
13 20.03.04.030.10 are the primary guidance for review of  
14 this permit application under the Idaho Lake Protection  
15 Act and associated IDAPA rules.

16 So to talk a little on our IDL analysis, per  
17 the joint application submitted by BNSF, all permanent  
18 fill structures would occur within the authorized BNSF  
19 right of way. About 250 feet of the temporary bridge  
20 and a few square feet of the temporary fill on the north  
21 side of the Sand Creek bridge area would be outside the  
22 right of way. IDL considers this a temporary impact to  
23 the area between the Sand Creek shoreline and the  
24 existing Highway 95 bridge, and it is not expected to  
25 impact the adjacent property managed by the Idaho

1 Transportation Department for Highway 95. No other  
2 adjacent properties are expected to be impacted by the  
3 proposed project due to the width of the BNSF right of  
4 way.

5 The existing bridge across Sand Creek has a  
6 42-foot span for boat navigation, and the proposed new  
7 bridge would have a 72-foot span. This is not likely to  
8 hinder navigation. The proposed permanent nearshore  
9 fill is only 0.01 acres on the south abutment, and is  
10 not likely to impact navigation. The proposed bridge  
11 across Lake Pend Oreille is designed to have wider boat  
12 traffic spans than the existing railroad bridge. BNSF  
13 has proposed an alignment of the boat traffic spans  
14 between the existing bridge and the proposed bridge. As  
15 a result, IDL does not expect navigation hindrance by  
16 the proposed bridge.

17 The proposed permanent nearshore fills  
18 associated with the new bridge across Lake Pend Oreille  
19 are also not likely to hinder navigation. The proposed  
20 fill on the north end is the largest one proposed at  
21 0.57 acres, but it is between the existing railway  
22 bridge and the Highway 95 bridge in shallow water. The  
23 proposed fill on the south end is only 0.01 acres and  
24 extends about 15 feet into a very shallow portion of the  
25 lake.

1           The proposed fill for the Algoma turnout  
2 covers about 0.29 acres and only extends about 40 feet  
3 into the lake. The existing shoreline is already  
4 dominated by the BNSF tracks, so navigation along this  
5 500 feet of shoreline is likely minimal. The impact of  
6 this fill on navigation is therefore also likely  
7 minimal.

8           In summary, IDL has processed this  
9 encroachment permit application in accordance with IDAPA  
10 20.03.04.030 and has deemed the application complete.  
11 Permanent encroachments in the proposed project fall  
12 within the privately owned submerged lands of the BNSF  
13 right of way that was granted 26 years prior to  
14 statehood. Consistent with the standards in IDAPA  
15 20.03.04.030.10 for privately owned submerged lands, the  
16 proposed project does not appear to have unreasonable  
17 adverse effects to the adjacent littoral landowners or  
18 interfere with navigation. The proposed project also  
19 appears to meet the standards for non-navigational  
20 encroachments in IDAPA 20.03.04.030.02 by providing  
21 economic and social benefits to the general public.

22           IDL believes that the hearing record shows  
23 that the additional bridge would potentially relieve  
24 rail freight bottleneck and improve interstate commerce.  
25 I appreciate this opportunity to provide testimony on

1 behalf the Idaho Department of Lands. Thank you.

2 HEARING OFFICER BROMLEY: Thank you,  
3 Ms. French. Okay. That concludes then the public  
4 agencies entities, the BNSF presentation. And at this  
5 point then I would open the floor to any public comment.  
6 And, again, if you spoke this morning please be  
7 courteous of the other people who are here. And if you  
8 still wish to repeat your comments I'll take those at  
9 the end.

10 Again, please spell and state your name so  
11 that we can transcribe that into the record. And I  
12 would ask you, again, to also consider limiting your  
13 comments to no more than five minutes. Sir.

14 And then in order to be orderly, let's take a  
15 hand when somebody wants to speak and then I'll address  
16 you so that we can come up one at a time.

17 MR. LOCKWOOD: I am Steve Lockwood, S-t-e-v-e  
18 L-o-c-k-w-o-o-d. I would ask that the -- well, first  
19 let me state there are two bridges currently, one, the  
20 BNSF bridge, and the second the Union Pacific bridge  
21 near Dover. I would think it would be in the public  
22 interest for both bridges to be considered. The UP  
23 bridge is far less utilized than the BNSF bridge, and I  
24 suspect could handle the traffic for sometime to come.  
25 Thank you.

1 HEARING OFFICER BROMLEY: Thank you,  
2 Mr. Lockwood. Ma'am in the yellow shirt.

3 MS. WACHOWIAK: Monica Wachowiak,  
4 W-a-c-h-o-w-i-a-k. I came all the way in from Spokane,  
5 Washington, because you might think this affects just  
6 here in Idaho, but it actually affects Washington as  
7 well. I also ride the Amtrak. I've taken it cross-  
8 country a few times. And when we get stuck waiting for  
9 a train to move, it's very frustrating.

10 We are -- this whole area is booming, and we  
11 are all train dependent. And to think that the  
12 infrastructure we have now is enough is just mind  
13 boggling. And you can't rule with emotion. You have to  
14 rule with rationale.

15 I wrote a whole thing, but you're going to  
16 hear numbers and stats all night and to think we should  
17 stop the trains, slow them down or just have more trucks  
18 on the road, that's actually against the environment.  
19 And if you say you're for the environment, another  
20 bridge is going to put less diesel engines just sitting,  
21 putting more emissions in the air. If you're thinking  
22 about safety, a second bridge is going to make it safer  
23 because there's going to be less wear and tear on the  
24 bridge we already have.

25 Everything that you -- you think you're -- is

1 the right thing right now to have just one bridge, stop  
2 and look at it and take three steps back. Think of it  
3 as a picture. Look at that bridge. It's there. It's  
4 been there for so long. We need a second one to make it  
5 more safe. BNSF has done the math, has done the  
6 science. They didn't just wake up one morning and say,  
7 oh, let's make another bridge. They've done everything  
8 they do. Let them build it right, build it safe, create  
9 more jobs. Thank you.

10 HEARING OFFICER BROMLEY: Thank you,  
11 Ms. Wachowiak. All right. Ma'am in the red shirt,  
12 right in the front row. Thank you.

13 MS. HOLLAND: Good evening. My name is  
14 Rebecca Holland, R-e-b-e-c-c-a H-o-l-l-a-n-d. I live on  
15 20 acres in Selle Valley next to the Pack River.

16 My husband and I moved here in 1975, that's 43  
17 years ago, primarily to raise a family with the benefits  
18 of the pristine lake between two beautiful mountain  
19 chains. Our three sons grew up fishing and boating on  
20 Lake Pend Oreille, and now as adults have built a  
21 successful water sport business here in Sandpoint.

22 The water quality of LPO is of extreme  
23 importance to us. The constant message given in our  
24 home was risk versus reward. Anytime the boys ventured  
25 into a bold event, the activity -- they were cautioned

1 to gauge the risk they were taking against the thrill of  
2 accomplishing some gutsy experience. I'd like to  
3 mention, to characterize the extent of their escapades,  
4 one of my sons is a three-time snowboard winner  
5 Olympian.

6 We drive into town on Highway 200 parallel to  
7 railroad tracks and have seen increased numbers of long  
8 coal trains over the last couple years. Recently it's  
9 been very worrisome that there had been numerous  
10 derailments in our area, including one on the east  
11 shoreline near Hope. Fortunately the overturned cars  
12 there did not contain dirty oil or crude -- dirty coal  
13 or crude oil or dump any other hazardous contaminants  
14 into our lake. But this is a red flag.

15 Our family employs you to call for an  
16 environmental impact statement to assess the risk  
17 regarding this proposed second rail bridge over LPO. We  
18 do not know the projected number of increased trains  
19 that this project could bring across our lake or into  
20 our community. It is only prudent to operate with an  
21 understanding of risk versus reward in this situation  
22 that involves a good size population of people working  
23 here in a recreationally based economy here in Bonner  
24 County.

25 Thank you for your consideration.

1 HEARING OFFICER BROMLEY: Thank you,  
2 Ms. Holland. Ma'am in the black shirt up front. And  
3 then sir right after that.

4 MS. GIANTVALLEY: Thank you for the  
5 opportunity to speak this evening. My name is Ann  
6 Giantvalley. A-n-n. Giantvalley is G-i-a-n-t-  
7 v-a-l-l-e-y.

8 I oppose the installation of and have great  
9 concern regarding Burlington Northern Santa Fe Company's  
10 proposal to build a second 2.2-mile-long railroad bridge  
11 in Sandpoint, Idaho, over Lake Pend Oreille. My  
12 concerns are many. Currently 37 to 58 trains travel  
13 through Sandpoint daily onto Spokane and then along the  
14 Columbia River and back to either Longview or Cherry  
15 Point in Washington. Much of the cargo on these trains  
16 is the highly volatile oil from the Bakken fields of  
17 North Dakota or coal from the Powder River Basin in  
18 Wyoming. Fifty-four million tons of goods go to those  
19 ports. Forty-eight million tons of the goods are coal  
20 bound for foreign ports, primarily China.

21 China is currently building one new coal-fired  
22 power plant per week. They do not have the same air  
23 pollution regulations that most developed nations  
24 practice, hence air currents bring that air pollution to  
25 the western coast of North America.



1 HEARING OFFICER BROMLEY: Ms. Giantvalley, if  
2 I could just ask you to slow down a little bit.

3 MS. GIANTVALLEY: Sorry.

4 HEARING OFFICER BROMLEY: Thank you. Our  
5 transcriber would really appreciate it.

6 MS. GIANTVALLEY: Okay.

7 HEARING OFFICER BROMLEY: Thank you very much.

8 MS. GIANTVALLEY: Each train loses up to 31  
9 tons of coal and coal dust en route. Eighteen trains  
10 equals 205,000 tons of coal dust per year. Coal dust  
11 contains arsenic and mercury. Both elements cause  
12 pulmonary issues affecting people with asthma, COPD,  
13 often leading to lung cancer. My ongoing concern is the  
14 inevitable increase of trains that will come through  
15 Sandpoint carrying the undesirable cargo of oil and coal  
16 bound for China.

17 Another concern with building a second track  
18 is the additional traffic snarls that will happen in  
19 Sandpoint and our surrounding communities. Currently  
20 daily road closures near Sandpoint and the funnel spend  
21 from one hour 47 minutes to four hours per day. If BNSF  
22 builds the additional tracks, as train traffic  
23 increases, more stoppage will occur particularly for  
24 automobiles, many of which come to our area to enjoy and  
25 recreate in its beauty which will be polluted by diesel

1 particulates from trains, coal dust from uncovered coal  
2 cargo, noise pollution including effects on fish and  
3 wildlife near our lake. The possibility of affecting  
4 first responders stopped by trains especially as train  
5 traffic increases is also of grave concern.

6           Accidents are another concern. In December  
7 2013, 2400 people needed to be evacuated in Casselton,  
8 North Dakota, due to a train wreck with oil. July 2013  
9 saw the deaths of 47 people in Quebec from a runaway oil  
10 train. Northern Idaho had two derailments in 2017.  
11 Luckily neither of those were coal or oil spills. But  
12 will the next derailment be coal or oil?

13           Infrastructure costs are passed onto the  
14 taxpayers. Many of our residents barely make it as it  
15 is and to add additional taxes for the greed of others  
16 just does not set well with many of our values. Chief  
17 Seattle said many years ago, We must plan for seven  
18 generations into the future. The owners of the oil and  
19 coal companies and perhaps BNSF are thinking only in the  
20 present, filling their coffers, pleasing their  
21 investors.

22           We have only one precious planet. Please  
23 consider thoughtfully the full import of your  
24 decisions -- I do -- on the second rail going over our  
25 lake or through our town and surrounding community,

1 travelling over our aquifers and water resources.  
2 Environmental impact studies are crucial. Thank you for  
3 making the right decision. No second bridge. Thank  
4 you.

5 HEARING OFFICER BROMLEY: Thank you,  
6 Ms. Giantvalley. The sir with the black shirt in the  
7 back.

8 MR. CRONENBERG: Good evening, Director. My  
9 name is Bill Cronenberg. B-i-l-l C-r-o-n-e-n-b-e-r-g.  
10 I'm coming tonight to -- I'm here in favor of the second  
11 bridge. I am personally a rail enthusiast, and I enjoy  
12 coming here to Sandpoint to do my photography and also  
13 research on the history and the past of -- for  
14 railroads. And I travel all over the entire western  
15 United States doing my photography and historical  
16 research.

17 What I wanted to point out to you tonight was  
18 in addition to the presentation by BNSF, I would like to  
19 point out that the BNSF railroad, amongst all the other  
20 Class 1 railroads that operate in the United States, is  
21 very friendly and very conscious of the people who live  
22 in or around the railroad track that they operate on.  
23 And I'd like to point out an example of something that  
24 recently happened in history that took place down in New  
25 Mexico.

1           Down in New Mexico after the merger of BN and  
2 Santa Fe, they made the BNSF railroad. They were -- the  
3 issue that came up with them was exactly the same issue  
4 that we have here today where they had a giant  
5 bottleneck that occurred in what's called the Abo Canyon  
6 near Belen, New Mexico.

7           So shortly after the merger they began the  
8 process of planning for building a second main line  
9 through this canyon area. The planning process was  
10 started in 2004. And in that planning process they  
11 brought in construction contractors and consultants and  
12 studied the canyon very closely. And this canyon was  
13 very historical to the history and to the people of New  
14 Mexico at the time because this was a walkway, a pathway  
15 that was taken by Native Americans and missionaries  
16 going all the way back to the 16th century. And so  
17 there were concerns about the archaeological aspect of  
18 Abo Canyon at the time.

19           And so BNSF and their consultants and  
20 construction contractors worked very closely during the  
21 permitting process to ensure that there would be as  
22 little environmental impact on the Native American  
23 tribe's land that was to the north of the track and to  
24 the ranchers track (sic) to the south. And there were  
25 times when they did surveys where they looked at all of

1 the areas where there were potential archaeological  
2 sites and they discovered several. And including one  
3 area where there are ancient Indian cave drawings that  
4 were painted on the caves and the walls of the canyon  
5 themselves that date back to the 15th century. And so  
6 during the planning process, BNSF intentionally avoided  
7 those areas to avoid any conflict and also to be  
8 respectful the Native American tribes who still live  
9 there and call that area their home.

10 So in 2008 the construction began, and BNSF  
11 did everything possible and worked very hard to mitigate  
12 dust and any environmental impacts of erosion --  
13 potential erosion through the (unintelligible) that --  
14 during rain storms and flooding and made sure that the  
15 migrating animals were taken care of as well as making  
16 sure, again, that the Native Americans weren't impacted.

17 The ranchers who lived in the area, they  
18 rented land -- BNSF rented the land locally to take care  
19 of the spoil from some of the construction process that  
20 was taking place. And after the construction was  
21 completed, the land was cleaned up and it looked the  
22 same as it was prior to construction.

23 That project was completed between 2008 and  
24 2011. And it is fully functional and working at this  
25 time. And I would just like to point out to you that I

1 appreciated what BNSF did. They are very concerned  
2 about the local people who live there and the rights of  
3 the Native Americans, even so much so that they limit  
4 land access to that area for people like myself who  
5 enjoy going and visiting and watching the trains just  
6 strictly because they understand the needs of the people  
7 that live there and want to make sure that the impact to  
8 their land is not being affected by people like myself  
9 who like to go there for visits. That's how much they  
10 will -- they work so hard to do that.

11 I am very confident here today during your  
12 permitting process that during the construction of our  
13 second bridge that BNSF will do everything possible to  
14 limit the amount of, you know, even dust and dirt  
15 contamination in the waterway and any potential damage  
16 that may be occurred to the navigable waterways through  
17 here during construction phase of the bridge. That's  
18 all I have to say. Thank you.

19 HEARING OFFICER BROMLEY: Thank you,  
20 Mr. Cronenberg. The gentleman with the hand up in the  
21 second row.

22 MR. PIETZ: My name is Dave Pietz. D-a-v-e  
23 P-i-e-t-z. My wife, Lynn, and I have been residents of  
24 Bonner County for approximately ten years. We have  
25 enjoyed our time in the community, but I wish to speak

1 to particularly the Burlington Northern railroad for my  
2 concerns about the shipments particularly of hazardous  
3 material out of North Dakota, the Bakken oil fields,  
4 that I've been aware of for sometime.

5 My background is in handling hazardous  
6 material shipments. I worked with industry, and I  
7 worked with the government. I know something about  
8 that. I'm not totally up to date on where the railroad  
9 stands with a couple issues. I know that they were  
10 required to update -- upgrade their tank cars a year or  
11 so ago, and they -- there was a delay. They were  
12 allowed some more time, I believe, to get that -- that  
13 done so that the tank cars would be better able to  
14 handle this mixture of oil and flammable liquids that  
15 are in those cars that come through our town.

16 Also, there was an independent study by an  
17 organization that looked at railroads' track situations,  
18 roadbed, all of that, all over the U S. and made a  
19 report. It was in the Federal Register or some other  
20 places that there's a lot of areas where the track  
21 conditions are not good and they need to be upgraded.  
22 This contributes to more risk when you're shipping  
23 flammable liquids and other types of hazardous  
24 materials.

25 This afternoon my wife, Lynn, and I were

1 sitting out at the crossing into our neighborhood. And  
2 I saw, as I have many times, tank cars with particularly  
3 I would mention to you the number 1267, which is for  
4 flammable liquids. And every one of those cars, if  
5 it's -- if it's got what it -- that the placard says has  
6 got flammable liquid in it.

7 Now, I know that, you know, in the oil fields  
8 they've mixed the flammable liquids with the oil and  
9 they've been able to get by with it. This has been  
10 going on for a while. The business (unintelligible) is  
11 down. I know that. But this is a hazard. I don't care  
12 if we have one bridge, two bridge or ten bridges. As  
13 long as there's flammable liquids coming through this  
14 town, there's going to be a risk for a spill and  
15 environmental damage, fires, other types of problems  
16 with people that are anywheres near these tracks.

17 I know the fire department has emergency  
18 response information and is prepared for helping people.  
19 But, frankly, there should be something done to improve  
20 the situation. The industry that's shipping these and  
21 the industries and the -- the shippers, they have a  
22 responsibility to make -- they can separate the  
23 flammable liquids from the oil. That's one thing they  
24 could do. Or there should be a way where these  
25 shipments could be made safely. I do know that the



1 railroads have to take what they're given as long as the  
2 shipments are prepared properly. But I don't think this  
3 is a very good situation for this community.

4           So I hope that I -- I hear all of the comments  
5 about building a new bridge and whatever else is going  
6 to happen here, but I hope those shipments are prepared  
7 so that they can be safer for the people that live  
8 around this community. That's all I have to say.

9           HEARING OFFICER BROMLEY: Thank you,  
10 Mr. Pietz. There was a woman in the back with a black-  
11 and-white striped shirt. And I saw your hand right  
12 before his. So let's go to you please.

13           And maybe that's a blue-and-white striped  
14 shirt. Was that right?

15           MS. BUTLER: It's black.

16           HEARING OFFICER BROMLEY: Black. Okay. I'm  
17 having a hard time. Thank you.

18           MS. BUTLER: My name is Judy, J-u-d-y, Butler,  
19 B-u-t-l-e-r. I'm from Hope, Idaho. I've always loved  
20 railroads. The trains went from Hope to paradise and  
21 now I live in Hope. But times have changed. The trains  
22 are longer, faster, carrying more volatile oil and coal  
23 and run by fewer actual people.

24           Small towns like Hope and Sandpoint were built  
25 by the railroads. But now these towns are recreational

1 hubs. Can you imagine double track going into City  
2 Beach? Now the railroad wants us to carry the risk with  
3 no reward. I speak for the health of Lake Pend Oreille,  
4 the creatures and the peoples who live here. Can  
5 Burlington Northern build a double track over the  
6 biggest fresh water lake in the northwest? Yes, of  
7 course, they can build it. And I have great faith in  
8 the engineers. The question is can they operate it  
9 cleanly and safely? We need an environmental impact  
10 statement to answer that question.

11 Lake Pend Oreille is also a significant  
12 recharger of the sole-source aquifer serving the  
13 Rathdrum Prairie and Spokane. It is Sandpoint's  
14 principal resource. Are we being asked to carry the  
15 risk and no reward? Why aren't the Bakken oils refined  
16 before being carried long distances over rail? If an  
17 explosion were to occur, I heard the Sandpoint fire  
18 chief say he would have to wait for equipment from  
19 Spokane. Why isn't the railroad required to provide  
20 emergency personnel and equipment to handle fires? The  
21 money the railroad spent on all these beautiful -- and  
22 they're beautiful pictures of Lake Pend Oreille -- full  
23 page ads in the Spokesman-Review supporting the new  
24 bridge would have been better spent on new equipment and  
25 given better publicity.

1           We need the railroads. We love the railroads.  
2 We want clean water and safe, safe neighborhoods. In  
3 the last few years fire has been our biggest fear.  
4 Danger has been extremely high. Last August it was a  
5 stage 3 fire danger when a train derailment occurred  
6 near Heron, Montana, just up the road from me. Heavy  
7 equipment appeared to clear the lines quickly, pick up  
8 the rail cars, et cetera. But the risk of spontaneous  
9 combustion from wet coal required the Heron people to  
10 monitor that coal for months before the railroad finally  
11 cleaned it up. How long would Sandpoint be willing to  
12 wait for a clean-up?

13           Are citizens being asked to carry all the risk  
14 and not reap the rewards? Is it the shareholders of  
15 Berkshire Hathaway who will profit from this?  
16 Construction is expected to last, I heard, three years.  
17 This is a big project. We need an environmental impact  
18 statement for all our sakes. Thank you.

19           HEARING OFFICER BROMLEY: Thank you,  
20 Ms. Butler. Gentleman in the green shirt right up here  
21 in the second row. And maybe it's really blue.

22           MR. NYKIEL: My name is Matt Nykiel, M-a-t-t  
23 N-y-k-i-e-l. And I'm here on behalf of the Idaho  
24 Conservation League. We represent over 30,000 members  
25 across the state of Idaho, many of whom live in the

1 northern part of the state. And our mission is to  
2 protect the air you breathe, the water you drink and the  
3 land you love. And I appreciate everyone's time here to  
4 hold the hearing. Some of my comments are directed  
5 towards the hearing coordinator as well as towards the  
6 U.S. Army Corps of Engineers and the U.S. Coast Guard.  
7 So take them as they come.

8 I think the main part -- the main idea in my  
9 comment is that as a representative of members across  
10 the state, we just hope that BNSF is a good corporate  
11 neighbor. We recognize that traffic by rail can be a  
12 very good thing. But as it was stated in the comment  
13 before, rail traffic has changed over the years. There  
14 are over -- as identified in our geographic response --  
15 in Bonner County 24 unit trains -- oil trains pass  
16 through Sandpoint every week. And that's often glossed  
17 over, as we saw in the presentation. And I agree that  
18 we get a lot of goods, iPhones and iPads. And as a  
19 millennial many think that I'm super attached to my  
20 iPhone, as I clearly am today, but I would give that up  
21 in a heartbeat to protect the lake and the way -- our  
22 way of life here in Sandpoint.

23 I would ask that IDL examine and analyze  
24 whether or not there are direct benefits to the city of  
25 Sandpoint and Bonner County, direct economic benefits.

1           It's been claimed by BNSF that this proposal  
2 would reduce traffic congestion and crossing delays.  
3 But those are all claims at this point. And the company  
4 has yet to actually conduct an analysis showing that the  
5 bridge would reduce congestion and reduce traffic delays  
6 at crossings. Stopped trains can delay people but so  
7 can moving trains. And if the bridge adds capacity to  
8 our rail infrastructure and allows more trains to be  
9 moving through our community, that's going to delay  
10 people too. And I think we need to analyze that and  
11 actually know are there going to be benefits to us or  
12 not or is this just a claim, sort of, guessed at by  
13 BNSF.

14           I also think both the federal and State  
15 agencies should analyze this project in concert with  
16 other double tracking projects that are going on in this  
17 region. I think the environmental analysis that has  
18 been conducted so far has been done improperly because  
19 it's been segmented. These proposals by BNSF are part  
20 of a larger regional project and they should be analyzed  
21 as such. BNSF has claimed regional impacts and many of  
22 the commenters have touted the regional benefits of  
23 these projects. And so I think the project should be  
24 analyzed as part of a whole. And we should understand  
25 the cumulative impacts of what happens when we double

1 track through Sandpoint but also next to Lake Cocolalla  
2 and also through Hauser and into Spokane. We need to  
3 understand how that impacts everyone up and down the  
4 rail. That hasn't been done yet. And I think for that  
5 reason that's why an environmental impact statement is  
6 so important. And I don't think it's really asking too  
7 much that a project that's garnered over 2,500 comments,  
8 I don't think it's too much to ask that we have a high  
9 bar of environmental review. And it's not improper that  
10 we ask that now. That was incorrect by commenters  
11 before me to say that it is incorrect to be asking for  
12 an EIS now. BNSF could of their own accord say we will  
13 as a good corporate neighbor agree to conduct an  
14 environmental impact statement so that we can assure the  
15 people who we are neighbors to that this project will be  
16 safe and proper and actually benefit the community.

17 I heard BNSF say that they pay their fair  
18 share of taxes. I don't think that's entirely true in  
19 my view. We often bear the cost of BNSF infrastructure.  
20 They may pay for the bridge itself, but we have to pay  
21 for the emergency response. We have to pay for the  
22 capability to respond. We don't have year-round access  
23 to the lake as it is with boats if an accident were to  
24 happen. We don't have the necessary boom in every  
25 sensitive location to respond to an oil spill if it were

1 to happen. We would have to get a lot of response  
2 materials from throughout the region. And so those  
3 costs are on us. And BNSF is asking us to bear them.  
4 So I'd ask IDL and the federal agencies to really  
5 consider that in context of an EIS as well.

6 I was also a little alarmed that one of the  
7 reasons for this project is redundancy. Because I think  
8 we should be sure that the rail bridge, whenever it's  
9 being operated, whether it's old or new, is always and  
10 at all times safe. And if there is thought that there  
11 may be a problem or a failure with the current rail  
12 bridge, that should be addressed now rather than  
13 building a redundancy.

14 I would also ask that the agencies review what  
15 actions were taken after the recent derailments last  
16 year in Cocolalla, above the Moyie River, in Kootenai,  
17 near Heron, Montana. BNSF -- and I realize that that  
18 wasn't -- those accidents weren't all by BNSF but some  
19 were. And we have yet to see reviews of the studies of  
20 what caused those problems and what specific actions  
21 BNSF has taken to avoid and prevent a similar one. I  
22 think before we add more rail infrastructure we should  
23 be sure that BNSF and other railroads can operate the  
24 current railroad infrastructure safely.

25 And with that I appreciate the agencies' time

1 here and listening to our comments. I've submitted  
2 several comments ahead of this. These are just -- my  
3 comments now were just to emphasize those. Thank you.

4 HEARING OFFICER BROMLEY: Thank you,  
5 Mr. Nykiel. The gentleman in the orange shirt in the  
6 second row.

7 MR. HINKLE: My name is Gabe Hinkle. G-a-b-e  
8 H-i-n-k-l-e. I am a locomotive engineer for BNSF.

9 One point I'd like to bring up is everybody in  
10 this room probably agrees that Highway 95 was redone --  
11 redone and expanded for to meet a demand and a purpose.  
12 And that is the exact same reason that this bridge needs  
13 to be done. Me personally, I know the trains I've been  
14 on have taken me from Hauser, Idaho, to Sandpoint in  
15 five hours. Okay. What this bridge is going to do --  
16 it's not going to double train traffic. It's going to  
17 reduce by half the amount of time the trains are sitting  
18 in front of your houses making noise, emissions, all  
19 that type of thing and having you get from getting to  
20 work or the store or anything else and also for  
21 emergency crews to access areas that they need to  
22 access.

23 So all over the modern world freight trains  
24 are known to be the most safe -- safest, efficient and  
25 most environmentally responsible way of transporting



1 freight. Contrary to what many people say or want to  
2 believe, they're not going to go away. We need them  
3 just like any other demand that we have. So instead of  
4 running them on reduced rail and aging infrastructure,  
5 let's build something that's going to be advantageous  
6 for all of us. Thank you.

7 HEARING OFFICER BROMLEY: Thank you,  
8 Mr. Hinkle. Ma'am in the green shirt right there in the  
9 second row.

10 MS. FRITZ: Thank you.

11 HEARING OFFICER BROMLEY: Thank you.

12 MS. FRITZ: My name is Jane Fritz. J-a-n-e  
13 F-r-i-t-z. I have lived in the Sandpoint/Bonner County  
14 area for 39 years now. And I'm here to speak on a few  
15 issues that haven't been brought up yet. And I just  
16 want to echo two things I have heard. One is that I  
17 really think hazardous shipments are a great concern.  
18 And I don't think an environmental assessment would  
19 adequately address those things. And I also am an  
20 Amtrak traveler. It's my preferred way to travel. So I  
21 really appreciate that Sandpoint is the only station in  
22 Idaho where you can take an Amtrak train somewhere. And  
23 I've circumnavigated the country a couple of times.

24 So I also, though -- the gentleman who spoke  
25 about the New Mexico situation is just a perfect lead-in

1 for one of the things I wanted to say. Because this is  
2 a State agency hearing, and we've heard from state  
3 officials and county officials and city officials, we  
4 have not heard from any tribal officials.

5 For almost 30 years now I have worked with the  
6 tribes as executive director of the Idaho Mythweaver.  
7 And we work with tribes in the region, particularly the  
8 Kalispell tribe who have lived here along our lake  
9 shores, at City Beach, Bottle Bay, for 10,000 years. So  
10 it is interesting to me that no mention of notification  
11 to tribes. I don't see any tribal representatives here.  
12 I do not speak for them. Let me be very clear about  
13 that. But I have worked on cultural issues for almost  
14 30 years, and 15 or better of those years with the  
15 Kalispell tribe. Including two years ago we took boat  
16 tours from Sandpoint City Beach on the lake along Sand  
17 Creek and learned of cultural sites, traditional sites  
18 that were thousands of years old. And these tours were  
19 sponsored by our organization but had tribal members on  
20 board including our tour guide, Hannah Armstrong, who is  
21 the education director for the tribe, including the  
22 chairman of the Kalispell tribe. I learned a lot. All  
23 the people who attended those boat tours, and we did  
24 actually four of them, learned a lot.

25 So there's been no mention of tribal impacts,

1 cultural impacts. You don't have to pay attention as a  
2 state agency. But as a federal agency, the Coast Guard  
3 and the Army Corps of Engineers, do if an EIS is brought  
4 in. And that would allow the tribes to comment. Not  
5 just the Kalispell tribe but the Confederated Salish and  
6 Kootenai Tribes of the Flathead who use this corridor  
7 along Lake Pend Oreille for traveling to other  
8 reservations. And they've been doing it for thousands  
9 of years as well.

10           There's just a lot that could be brought up  
11 that you don't know. I've seen one document that was  
12 done around the bypass. It's about this thick  
13 (indicating) just on Kalispell. So there's a lot there.

14           Okay. I've already used four minutes.

15           So that's one of my hats is I just encourage  
16 an EIS because the tribes then would be involved.  
17 Another agency that would be involved with an EIS is the  
18 U.S. Fish and Wildlife Service. We have migratory birds  
19 that live along our lake, along Sand Creek. I happen to  
20 be a lover of osprey. I was out with an osprey  
21 biologist recently, couple weeks ago, identifying sites.  
22 We have a nest that's at our Memorial Field that's  
23 watched by people from dawn to way past dusk of an  
24 osprey cam. It's a species that's a migratory bird and  
25 protected by federal law. However, last year when BNSF

1 started exploring this idea, didn't tell anybody really,  
2 just brought a crane out at our dog beach and started  
3 digging for pilings. There were nesting birds. They  
4 did no notification to U.S. Fish and Wildlife Service.  
5 And I know this because I called. And he said they did  
6 this before when they did repair on the old structure.  
7 So that's not good corporate partnership. An EIS would  
8 address some of those things. And we have eagles that  
9 nest. We have a boat, the Lake Pend Oreille Cruises,  
10 that takes tours to see just eagle nests and osprey  
11 nests. Her business would be severely impacted by this  
12 construction.

13           So I'm already over my five minutes. I  
14 apologize. But I wrote the book about Lake Pend Oreille  
15 called "Legendary Lake Pend Oreille" and spent four and  
16 a half years on that book. I learned a lot. We have an  
17 incredible resource here that could be impacted.

18           I'd like to echo Mr. Lockwood's statement  
19 about looking to a western route if this really has to  
20 happen. I happen to live in Dover. And the river --  
21 you know the Indians crossed the river at Seneacquoteen.  
22 When they wanted to go to Spokane that's where they  
23 went. And then they came this way. So a western route  
24 ought to be explored. And an EIS would slow things  
25 down, and that's what we need. This is too serious of

1 an issue to try to, you know, steam roll.

2 So thank you very much for your listening, and  
3 I appreciate being able to make comments.

4 HEARING OFFICER BROMLEY: Thank you, Ms.  
5 Fritz. Gentleman in the hat.

6 MR. KRECH: Hello. My name is Timothy Krech.  
7 T-i-m-o-t-h-y K-r-e-c-h. I've been -- thank you for  
8 having this hearing, sir.

9 HEARING OFFICER BROMLEY: Thank you for being  
10 here.

11 MR. KRECH: You're welcome. I've been a  
12 resident of Bonner County since 2000. And I'm -- to  
13 full disclosure, I'm also on the board of Rock Creek  
14 Alliance.

15 Ironically last year I went to the family  
16 reunion in St. Paul, Minnesota, and found out that my  
17 great-great-grandfather actually built the railroad that  
18 runs along the Pend Oreille River. I'm here not to  
19 inadequately oppose the second bridge but to say that  
20 there are a lot of things missing in the process that  
21 we've got to today. And I'm echoing those coherent  
22 remarks of others before me about an environmental  
23 assessment is inadequate to the amount of work that  
24 would happen and the -- the impact of so many more  
25 trains or, even if it's not more trains, just more

1 movement of trains across the lake.

2 I'm a contractor. I know that there are  
3 potential catastrophes in construction. I was just  
4 looking at a website that showed that BNSF has had 15  
5 major accidents in the last 12 years which included many  
6 people being killed, including a lot of BNSF railroad  
7 workers.

8 I credit BNSF with great work. I appreciate  
9 the kind of work that you're trying to do on a daily  
10 basis to maintain your railways on the one hand. On the  
11 other hand, as another person said, at the Lakes  
12 Commission meeting that I went to last year, I talked to  
13 the fire chief here and to a BNSF vice president about  
14 what would happen if we had a major spill on one -- on  
15 the bridge of oil. And the chief said that he's got a  
16 mobile boom trailer parked at dog beach, or near it, and  
17 he could get that out in the wintertime. But the other  
18 mobile piece is a half an hour away by BNSF. And the  
19 two of them together would be insufficient to stop any  
20 kind of pollution from an oil train catastrophe on the  
21 bridge going down river in anything less than two hours.  
22 They could not actually get the equipment there or move  
23 the gear into place to stop the oil from going down  
24 river.

25 What would happen to the dam? What would

1 happen to the ecosystem down river? I'm just advocating  
2 for a more thorough and thoughtful environmental  
3 assessment.

4 In the '70s I worked on a commission to give  
5 the federal government a -- I was a student -- to give  
6 the federal government an opinion about a master plan  
7 for Yosemite National Park. We spent thousands of  
8 hours. We traveled to many places across the country.  
9 And we came up with a draft master plan that was  
10 actually implemented, but it was never given any teeth.  
11 So I don't come here with hope that BNSF or IDL or the  
12 other -- the Coast Guard -- I'm a Coast Guard veteran --  
13 would come to this project with their capacities. I  
14 don't want to come with hope. But I want to come with  
15 some teeth to it. And I think the teeth could be  
16 addressed in an environmental impact assessment or  
17 statement that is not just an assessment but is actually  
18 providing the opportunities Jane just said for other  
19 opportunities -- for other -- well, like the tribe, for  
20 other invested people to have an opinion and be heard  
21 clearly.

22 I'm curious as to the -- sort of the weight of  
23 the 2,000 people who have sent in written responses and,  
24 you know, obviously there's a majority of people here  
25 who are against this or at least against it where it

1 stands today. I mean, I think it's not unreasonable to  
2 ask for a complete environmental review and assessment  
3 and statement that actually considers all these issues  
4 that are pending before us.

5 So thank you for your time. And I appreciate  
6 everybody that's showing up too.

7 HEARING OFFICER BROMLEY: Thank you,  
8 Mr. Krech. Woman in the back with the sunglasses.  
9 Thank you.

10 MS. MARCOCCIO: Hi. My name is Andrea  
11 Marcoccio, A-n-d-r-e-a M-a-r-c-o-c-c-i-o. I'm a new  
12 business owner in town and a homeowner.

13 We decided to open our business here because  
14 of the quality of life which includes our wonderful lake  
15 and outdoor and ride and recreation that we are so lucky  
16 to have. I came tonight to raise my concern for public  
17 health and safety related to our water quality and air  
18 quality and the increased risk for derailments while  
19 crossing the lake and the impact that could have on our  
20 customers.

21 Our actual business model includes the use of  
22 clean water. And so the impact it could have on our  
23 economic success, as well as our collective quality of  
24 life as a community. So I stand in support of a full  
25 and final environmental impact statement because that's



1 something still left to be done. And I think that's the  
2 least we could do if we're working together as good  
3 corporate partners and citizens.

4 And just wanted to flag that in the  
5 presentation from BNSF, they talked about 50 percent of  
6 their rail carries commerce and 25 percent carries  
7 agricultural but they left out the last 25 percent. And  
8 so I'd just like to call the question of what that is so  
9 that we understand what the plan is for what will be  
10 traveling across our lake. And I think that would  
11 become evident in our full and final environmental  
12 impact statement. Thank you.

13 HEARING OFFICER BROMLEY: Thank you,  
14 Ms. Marcoccio. Gentleman in the back with the blazer.

15 MR. KEIM: Thank you, sir. For the record my  
16 name is Pat Keim. That's spelled P-a-t K-e-i-m. I came  
17 here today out of Helena, Montana. I'm here as a  
18 private citizen, but for full disclosure I am a retiree  
19 of Burlington Northern Santa Fe or BNSF Railway.

20 I had 48 years of experience. Most of that  
21 experience was in operations and quite a bit of it was  
22 in government relations as well. At one point in my  
23 career I had operational responsibility over the Spokane  
24 terminals and that operational responsibility included  
25 responsibilities into the Sandpoint area from that

1 direction. Subsequently in my career I was based as a  
2 division superintendent in Montana with operational  
3 responsibilities from the east into Sandpoint. So I am  
4 quite familiar with the operations and the trackage and  
5 the layout here in Sandpoint. And I'm familiar with the  
6 bottleneck problem here in Sandpoint. After those  
7 assignments in Montana, I became director of government  
8 relations for the Pacific Northwest space. And so I've  
9 worked with the governments and legislative and  
10 regulatory requirements throughout the Pacific  
11 Northwest.

12 I can tell you from an operational point of  
13 view that the situation with the bottleneck here in  
14 Sandpoint is a serious problem. If you look at the map  
15 of BNSF it's like an hourglass. It all comes down to  
16 one spot here and that's the bridge. And that is a  
17 significant operational bottleneck. You see it here  
18 every day, those of you that live here, the trains  
19 backed up stopped, stopped on your crossings, stopped  
20 over in front of your homes waiting to come across the  
21 bridge.

22 Now, I've heard it said for several times --  
23 I've been involved with this project. I was actually  
24 consulting with it at the initial inception of the  
25 project. And I heard it said several times that the

1 addition of a second bridge across Pend Oreille Lake  
2 will result in more trains through this area. That is  
3 simply not true. Those trains are here now and those  
4 trains are coming whether that second bridge is built or  
5 not. The question is how are you going to safely,  
6 efficiently and environmentally soundly move them  
7 through this area?

8 Are you going to maintain to have the one  
9 bridge and let these trains continue to sit here and  
10 idle and back up further and further, or are you going  
11 to resolve the bottleneck issue? And that's really what  
12 we're here about today.

13 I can tell you from my experience in the  
14 railroad that a moving train is safer than a standing  
15 train because it creates less congestion in the  
16 community, it gets through your community faster and a  
17 moving train is safer because it's when you slow down  
18 trains and speed up trains that they're at their most  
19 unsafe point.

20 So I urge you to move forward with this  
21 project. Solving this bottleneck here in Sandpoint is  
22 crucial to transportation throughout the northwest.  
23 It's crucial to the safety and the efficiency of this  
24 area. I can tell you from 48 years of experience with  
25 BNSF and its predecessor companies that this company is

1 committed to safety. It is committed to efficiency.  
2 It's committed to good corporate responsibility and  
3 citizenship. And it's committed to the environment.  
4 Thank you for your time.

5 HEARING OFFICER BROMLEY: Thank you, Mr. Keim.  
6 The woman in the fifth or sixth row there. Yes, you.  
7 Thank you.

8 MS. NEWTON: Helen Newton. H-e-l-e-n  
9 N-e-w-t-o-n. 423 South Huron, Sandpoint.

10 I grew up here in Bonner County on a 240-acre  
11 dairy farm, ten miles northeast of Sandpoint out near  
12 where Northside School is now. And 59 years ago this  
13 week I graduated from high school in this room. I'm  
14 probably the oldest person in the room. And that's just  
15 fine. You'll all get here some day.

16 I literally have heard trains travel through  
17 Bonner County my entire life, every day. There were  
18 many years when the trains traveled through town along  
19 Fifth Avenue and then out along Highway 2. I was city  
20 clerk in 1982 when Sally (unintelligible), the first  
21 woman mayor of Sandpoint got the call from Senator  
22 Simms' office in Washington, D.C., that money had been  
23 allocated to remove that through-town track. She was  
24 just squealing with delight. We were so excited. I was  
25 still city clerk 15 years later when the work began to

1 remove the track. David Sawyer was mayor then.

2 I heard two County commissioners tonight give  
3 strong support for this project. And I heard a mayor  
4 say that he and the Council were opposed to it. I'm  
5 sure there are people in this room who are constituents  
6 of all three of those gentlemen who disagree with their  
7 position.

8 When I was very young, I was afraid when we  
9 crossed the wooden bridge for vehicles across the river.  
10 It was a very scary proposition for me. I was sure  
11 those railings, which were about this high (indicating)  
12 and very flimsy, were not going to hold the car if we  
13 went off. That bridge would be a one-way bridge now  
14 because vehicles are so much larger and there's so much  
15 more weight. We have had three new vehicular traffic  
16 bridges since then, yet we are still using a  
17 100-year-old railroad bridge.

18 I would ask you to imagine all of the products  
19 that are carried by the railroad. If the trains didn't  
20 carry them, they'd be on the highways. There's a risk  
21 there too. And I think the risks to our environment and  
22 to our safety are reduced by this second bridge. Thank  
23 you.

24 HEARING OFFICER BROMLEY: Thank you,  
25 Ms. Newton. The gentleman in the back with the green

1 shirt.

2 MR. HALL: I'm David Hall, H-a-l-l, from  
3 Moscow and outside of Sagle. Thank you for holding the  
4 hearing here tonight. I generally share the  
5 environmental concerns of the (unintelligible) tonight,  
6 but I won't go -- repeat those, belabor them.

7 I'm opposed to the construction of an  
8 additional bridge or bridges over any part of Lake Pend  
9 Oreille or nearby waterways. There definitely needs to  
10 be an environmental impact statement not a lesser  
11 environmental assessment. It must address the real  
12 dangers of derailment, including more infrastructure to  
13 maintain. Further, the effects of the temporary pilings  
14 and their removal must be considered carefully. Heavy  
15 metal laden coal and other toxic substances that are  
16 getting hauled over the existing bridge with much no  
17 doubt in the sediments.

18 The Idaho Department of Water Resources is  
19 currently studying the hazards created by disturbing  
20 bottom sediments in Lake Coeur d'Alene -- I believe  
21 that's the agency -- and finding worrisome preliminary  
22 results. At the very minimum there will be lots of  
23 turbidity in removing of the temporary piles. And just  
24 again I'd like to ask that an EIS be done. Thank you.

25 HEARING OFFICER BROMLEY: Thank you, Mr. Hall.

1 Others? Yes, ma'am.

2 MS. ACKERMAN: My name is Laura Ackerman.

3 L-a-u-r-a A-c-k-e-r-m-a-n. Good evening. Thank you for  
4 having this hearing. I'm the energy director at the  
5 Lands Council in Spokane, Washington. And I am here --  
6 and especially after listening to all of these comments  
7 on both sides -- to support a full environmental impact  
8 statement for the Sandpoint Connector Project.

9 HEARING OFFICER BROMLEY: Ms. Ackerman, if you  
10 could --

11 MS. ACKERMAN: Am I reading too -- too --

12 HEARING OFFICER BROMLEY: -- if you could just  
13 please slow down a little bit. Thank you.

14 MS. ACKERMAN: Sorry. I apologize.

15 HEARING OFFICER BROMLEY: Thank you very much.

16 MS. ACKERMAN: I have read the Lake Pend  
17 Oreille geographic response plan. A couple things I  
18 want to mention out of it. I notice somebody -- I don't  
19 know who did this (indicating), but some of these --  
20 some of the comments that I am going to read are similar  
21 to these. But I had no part of this.

22 Just want you to know that railroad accidents  
23 in Bonner County are common, page 30 you can read the  
24 details in the plan. Pages 26 and 27, 52 percent of the  
25 hazardous material transported in the -- in -- here in

1 the county are Bakken crude. Nineteen public registered  
2 water systems of surface water and 11 of them come  
3 straight from the lake, page 61.

4 The one thing that I really want to point out  
5 is on page 98, Lake Pend Oreille is a part of the  
6 Rathdrum Prairie aquifer. The DEQ classifies it as a  
7 sensitive resource. It serves a hundred thousand people  
8 in Kootenai County and another 400,000 in Spokane  
9 County. And it's critically important to protect it.  
10 Those are not my words. They are in the plan.

11 Remediating an underground spill is more  
12 complex than an above-ground spill. And in 2017 the  
13 vulnerabilities of the lake were identified in the plan.  
14 Briefly they are training, equipment, geographic and  
15 evacuation and procedural vulnerabilities. I think  
16 somebody already stated that half of Sandpoint would be  
17 required to evacuate if there is a fire. So the  
18 geographic response plan is --

19 HEARING OFFICER BROMLEY: Ms. Ackerman, if you  
20 could just slow down a little bit.

21 MS. ACKERMAN: Slow down. Sorry.

22 HEARING OFFICER BROMLEY: Thank you.

23 MS. ACKERMAN: It's -- it's -- they are good  
24 that these exist. And they exist all over the United  
25 States, not just for here. And they're important but



1 they're not enough. So schools and nursing homes, for  
2 example, have to have evacuation plans. So I think it's  
3 reasonable that Class 1 railroads -- so this would also  
4 include UP -- should have to have oil spill contingency  
5 plans in the state of Idaho.

6 Think of the geographic response plan as like  
7 the outside of a sandwich. It's the bread, but the  
8 contingency plan is what's on the inside. And it's more  
9 detailed and it's more important. And Class 1 railroads  
10 in Washington state and California are required to have  
11 oil spill contingency plans or C plans. And I have  
12 provided to Mr. Bromley the WACs for this in Washington  
13 state because BNSF has done one in Washington state.  
14 And it's been approved by the Washington State  
15 Department of Ecology. And they have to be consistent  
16 with the northwest area contingency plan, as does the  
17 Lake Pend Oreille geographic response plan. And so this  
18 is really important because it adds an extra layer of  
19 safety, and we need more details of how potential oil  
20 spills would be cleaned up.

21 And I think an EIS could also thoroughly look  
22 more at insurance, that railroads would be required to  
23 show that they have a level of insurance in case of a  
24 derailment, a spill or a fire. And in Washington state  
25 that's at 700 million. It won't necessarily be required

1 to cover all the expense of clean-up since it's based on  
2 a reasonable worst-case spill and not an absolute one.  
3 But I think that is important for Idaho residents and  
4 for Washington state residents because we get part of  
5 the drinking water.

6 We also have a quarterly report in Washington  
7 state about the movement of crude oil by rail and  
8 pipeline. The latest one ended March 31st of this year.  
9 And so the oil in Spokane, it comes through Sandpoint  
10 first. And it mostly comes from Alberta, North Dakota  
11 and Saskatchewan. And most of it was light crude from  
12 North Dakota, 91 percent of it. In Spokane County, from  
13 January to March of this year, 19,604 oil cars came  
14 through. So that's a lot of oil to not seriously  
15 consider having an in-depth look via an EIS for this --  
16 for this project. That's also in the packet.

17 A couple of things BNSF, and UP for that  
18 matter, should all be using Tier 4 engines. They are  
19 the cleanest diesel burning engines. If people really  
20 care about air quality, that's -- and BNSF -- BNSF says  
21 they do, that's what they should be doing. They should  
22 also be pushing North Dakota to stabilize the oil.  
23 Texas does this. They require it. And I think North  
24 Dakota can do that. If they need a little push from  
25 railroads, that's a good idea. I agree with what --

1 overall what Matt Nykiel said and -- and Judy Butler and  
2 I also agree with Jane Fritz. We should have a Section  
3 106 under the National Historic Preservation Act. And  
4 the U.S. Forest Service -- the Fish and Wildlife Service  
5 should be involved with this.

6           Also, this isn't just about the fire. It's  
7 about the rail communities down rail, Spokane and the  
8 thousands of other communities between here and the  
9 Bakken. And if you want to talk to a very conservative  
10 city, the city councilors, go talk to the city of  
11 Spokane Valley who have grave concerns about traffic.  
12 They actually were publicly against the proposed  
13 Vancouver energy project at the port of Vancouver being  
14 proposed by Tesoro Savage now (unintelligible) and they  
15 just sold out to another oil company, Marathon, I  
16 believe. But they were against it. And they're not  
17 anti-commerce. And they were not anti-oil. But the  
18 fact that they have to pay -- most of the upgrades that  
19 you have to pay in the city of Spokane, you're going to  
20 pay for them as taxpayers. It's not Burlington Northern  
21 Santa Fe or UP. And you can talk to Terry Whiteside  
22 of -- read "Heavy Traffic Still Ahead" if you want to  
23 know the details of that.

24           So I think it's really important to have an  
25 EIS to talk about all of this because it's not -- the

1 public process is really important. We need to go  
2 through scoping. We need to have a draft environmental  
3 impact statement, and then we need to have another  
4 public hearing. And that's under the National  
5 Environmental -- Environmental Policy Act. That's  
6 really important because it fulfills the  
7 responsibilities of each generation as trustee of the  
8 environment for succeeding generations. So we owe that  
9 to not only people in Sandpoint but people below  
10 Sandpoint and above Sandpoint.

11 Thank you for having this hearing. And thank  
12 you for the opportunity to comment. I appreciate it.

13 HEARING OFFICER BROMLEY: Thank you,  
14 Ms. Ackerman. The gentleman with the hat in the front  
15 row.

16 MR. SPANGLER: I'm Tim Spangler. I'm from  
17 Superior, Montana.

18 HEARING OFFICER BROMLEY: Mr. Spangler, if you  
19 would please spell your last name.

20 MR. SPANGLER: Timothy, T-i-m-o-t-h-y,  
21 Spangler, S-p-a-n-g-l-e-r. I've lived in Superior,  
22 which is on the Clark Fork up the river. Next to the  
23 trains the Milwaukee used to go through and the NP  
24 changed to Burlington Northern. My family has been  
25 there for -- since the 1890s. So, I mean, I'm familiar

1 with the trains. I used to ride them. I used to ride  
2 the Milwaukee into Portland.

3           What I've seen in the last ten years has  
4 convinced me that what BNSF is saying about their  
5 environmental consciousness is -- is totally false.  
6 BNSF is mainlining carbon big time. They're mainlining  
7 carbon and we're all going to suffer for it. And nobody  
8 talks about the world. They talk about Sandpoint. They  
9 talk about Spokane. What about the rest of the world?  
10 What about the rest of the world?

11           I don't have a lot more to say, but I don't  
12 believe them. I don't believe BNSF. They are not  
13 environmentally conscious, period.

14           HEARING OFFICER BROMLEY: Thank you,  
15 Mr. Spangler.

16           MR. SPANGLER: Thank you.

17           HEARING OFFICER BROMLEY: Anyone else?

18           (Brief pause.)

19           HEARING OFFICER BROMLEY: All right. As I  
20 stated at the beginning then, after the general public  
21 comment had concluded then I was going to ask for BNSF  
22 to provide any reply that it may wish to provide. So  
23 with that, I would encourage BNSF to speak if it so  
24 chooses.

25           MR. JONES: Good evening. This is Matt Jones

1 with BNSF. J-o-n-e-s. And thank you for the  
2 opportunity to respond, but we have nothing further to  
3 add at this time. So thank you.

4 HEARING OFFICER BROMLEY: Thank you,  
5 Mr. Jones. All right. With that we will conclude the  
6 hearing. I thank everybody for attending and providing  
7 comment. At this point then the record is closed. And  
8 let's go off the record. Thank you.

9 (Whereupon, the public hearing was  
10 concluded at 8:15 p.m.)

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REPORTER'S CERTIFICATE

I, Patricia L. Pullo, Certified Shorthand Reporter, do hereby certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time any witnesses were placed under oath;

That the testimony and all objections made were recorded stenographically by me and were thereafter transcribed by me or under my direction;

That the foregoing is a true and correct record of all testimony given, to the best of my ability;

That I am not a relative or employee of any attorney or of any of the parties, nor am I financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 4th day of June, 2018.

\_\_\_\_\_  
PATRICIA L. PULLO, C.S.R. #697  
Notary Public  
816 Sherman Avenue, Suite 7  
Coeur d'Alene, ID 83814

My Commission Expires 11/13/2018.

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