

BEFORE THE STATE BOARD OF LAND COMMISSIONERS  
STATE OF IDAHO

In the Matter of:	)	
	)	Case No. PH-2018-PUB-20-001
Encroachment Permit Application	)	
No. L-96-S-0096E	)	<b>NOTICE OF APPOINTMENT OF</b>
	)	<b>HEARING COORDINATOR</b>
BNSF Railway Co.,	)	<b>AND HEARING</b>
Applicant.	)	
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NOTICE IS HEREBY GIVEN that pursuant to the Lake Protection Act, Idaho Code Title 58, Chapter 13 (which may be viewed at <https://legislature.idaho.gov/statutesrules/idstat/Title58/T58CH13/>) and the Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho, IDAPA 20.03.04.000 *et seq.*, (which may be viewed at <https://adminrules.idaho.gov/rules/current/20/0304.pdf>) the Director of the Idaho Department of Lands (“IDL”) has appointed Chris Bromley, Attorney at Law, as “Hearing Coordinator” to conduct a hearing in the above-captioned matter. The hearing will be conducted pursuant to Idaho Code § 58-1306(c). The Hearing Coordinator has the scope of authority delineated by IDAPA 20.01.01.413.01 and by IDAPA 20.03.04.030.05.

The provisions of Idaho Code § 58-1306 and IDAPA 20.03.04.030 apply to the above-captioned matter and require that a hearing on the application be held within ninety (90) days of the application date. Idaho Code § 58-1306(c) and IDAPA 20.03.04.030.05. In order to comply with this deadline, I delegate initial decision-making authority to the Hearing Coordinator pursuant to Idaho Code § 67-5245. The Hearing Coordinator shall submit a preliminary order to the Director of the Idaho Department of Lands, who shall issue a Final Order no more than thirty (30) days after the conclusion of the hearing. As provided in Idaho Code § 67-5240, the contested case provisions of the Administrative Procedure Act do not apply where the legislature has directed the use of alternative procedures. Because the Legislature has enacted specific

alternative procedures in Idaho Code § 58-1306 that require a final order to be issued within 30 days of the hearing, and leave insufficient time to consider petitions for review of the preliminary order, the procedures of Idaho Code § 67-5245 addressing petitions for review of preliminary orders are not applicable.

NOTICE IS HEREBY GIVEN that a public hearing in the above-captioned matter will be conducted in accordance with IDAPA 20.01.01.000 *et seq.* on Wednesday, May 23, 2018. The first session of the hearing will start at 8:00 a.m. Pacific Time at the Ponderay Events Center located at 401 Bonner Mall Way, Suite E, Ponderay, Idaho. The second session of the hearing will start at 6:00 p.m. Pacific Time at the Sandpoint Middle School Gymnasium located at 310 South Division, Sandpoint, Idaho. The Rules of Procedure (IDAPA 20.01.01.000 *et seq.*) may be viewed at <https://adminrules.idaho.gov/rules/current/20/0101.pdf>

The hearing will be conducted in facilities that meet the accessibility requirements of the Americans with Disabilities Act ("ADA"), in accordance with IDAPA 20.01.01.550 and 551. If a person requires assistance of the kind IDL is required to provide under the ADA in order to participate or in order to understand the hearing, IDL will supply the assistance upon request. Documents, pleadings, or requests for ADA assistance, a copy of the Rules of Procedure, or other general requests may be submitted to Amidy Fuson at [afuson@idl.idaho.gov](mailto:afuson@idl.idaho.gov) or at 2550 Highway 2 West, Sandpoint, ID 83864. Any request for ADA assistance must be submitted by noon on Friday, May 18, 2018.

DATED this 14 day of March, 2018.



DAVID GROESCHL  
Deputy Director, Idaho Department of Lands

## CERTIFICATE OF MAILING

I hereby certify that on this 15 day of March, 2018. I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Matthew Keim  
BNSF Railway Co.  
Northtown GOB; 80 – 44<sup>th</sup> Avenue NE  
Minneapolis, MN 55421

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
- Email: Matthew.Keim@BNSF.com



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Margaret Major, Administrative Assistant