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<p>Facsimile Transmission Sheet</p>	<p>SIDNEY STRICKLAND AND ASSOCIATES, PLLC 3050 K ST. N.W., SUITE 101 WASHINGTON, DC 20007-5108 TELEPHONE: 202-338-1325 FAX: 202-295-3854</p> <p>13 pages</p>
<p>To: Ken Blodgett Fax Number: (202) 245-0454</p>	<p>From: Liz Waite (202) 338-1325, liz.waite@stricklandpllc.com</p>
<p>Date: 7/23/07</p>	<p>Comments: As we discussed via telephone, attached are responses from various government agencies addressing the STB imposed environmental conditions re STB Docket No. AB-6 (Sub. NO. 448X) (Abandonment in Thurston County, WA). Please call me if you have any questions at 202 338-1325. Thank you.</p> <p>Liz Waite</p>



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Username: Ian Thomas (ian.thomas@stricklandpllc.com)

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From: Liz Waite <liz.waite@stricklandpllc.com>
 To: Ian Thomas, <ian.thomas@stricklandpllc.com>
 Subject: Fwd: Railroad Abandonment in Olympia
 Date: 08-May-07 01:08 PM

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-----Original Message-----

From: Villa.Clifford@epamail.epa.gov
 Sent: 2007-04-26 12:35:31
 To: Liz Waite <liz.waite@stricklandpllc.com>
 Subject: Re: Railroad Abandonment in Olympia

WDOE is authorized to carry out the program under Section 402 of the Clean Water Act (National Pollutant Discharge Elimination System [NPDES]). Consultation with WDOE on issues related to the 402 program will satisfy any concerns of the U.S. EPA, consistent with your email below.

Cliff Villa
 Assistant Regional Counsel
 U.S. EPA Region 10

"Liz Waite"
 <liz.waite@stric
 klandpllc.com> To
 Clifford.Villa/R10/USEPA/US@EPA
 04/26/2007 09:37 cc
 AM
 Subject

Railroad Abandonment in Olympia

Mr. Villa,

As we discussed via telephone conversation regarding STB Docket No. AB-6 (Sub. No. 448X)--BNSF Railway Company--AbandonmentExemption--In Thurston County, WA, the Surface Transportation Board ("STB") requires that BNSF contact the USEPA prior to commencement of salvage activities to ensure CWA requirements are met. You mentioned that the Washington Department of Ecology ("WDOE") regulates CWA for the state, and that as long as BNSF consults with WDOE, the CWA requirements should be satisfied.

Please let me know if I have accurately reflected our telephone conversation.
Thanks in advance for your help.

Liz Walte
Attorney, Sidney Strickland and Associates, PLLC
(202) 338-1325

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(liz.waite@stri

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Message

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From: "Cornett, Deborah (ECY)" <DCOR461@ecy.wa.gov>
To: liz.waite@stricklandpllc.com
Subject: FW: Olympia, WA Railroad Abandonment
Date: 11-Jul-07 09:48 AM

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Hi Liz- Hi Liz- On 3/6/07, I sent the following email explaining that an NPDES permit will not be required for the project if proper Best Management Practices (BMPs) are installed and the area of disturbed ground is under one acre. If there is a water quality discharge in violation of RCW 90.48, then Ecology can require the NPDES permit to protect water quality and ensure that BNSF is in compliance with state water quality laws. However, if this project is under the one acre threshold, we expect that BNSF will be able to install appropriate BMPs to prevent unpermitted discharges from occurring. As an example of a BMP: all debris such as railroad ties will be removed from the area and disposed of according to local and state regulations, and not allowed to enter or to potentially enter the waters of the state.

Please call me if you have questions about this. You can reach me at 360-407-7269. Thanks!!

Email sent 3/6/07:

"Hi Liz- I do not make 402 determinations, but I will forward your email to Lori Ochoa, who will make that assessment. She will let you know if any other permit of that type is required.

As to other water quality permits, as long as BMPs are in place, the site is under one acre, and there is no discharge of materials to the waters of the state, I am not aware of any additional state water quality permit that should be required. If there is a discharge, or the site is over one acre, or BMPs are not installed or are ineffective, an NPDES permit may be required, or other action taken to ensure compliance with water quality laws and regulations. "

-----Original Message-----

From: Ochoa, Lori (ECY)
Sent: Monday, July 09, 2007 11:18 AM
To: 'Liz Waite'
Cc: Cornett, Deborah (ECY)
Subject: RE: Olympia, WA Railroad Abandonment

Hi Liz,
 We have discussed this issue before, and I do not handle NPDES (Section 402) permits. They are managed in Ecology's Southwest Regional Office by Deb Cornett's group. I am responsible for Section 401 Water Quality Certifications only.

Lori Ochoa
Federal Permit Coordinator
Shorelands & Environmental Assistance Program
Southwest Regional Office
(360) 407-6926

-----Original Message-----

From: Liz Waite [mailto:liz.waite@stricklandpllc.com]
Sent: Wednesday, June 27, 2007 8:30 AM
To: Ochoa, Lori (ECY)
Subject: Olympia, WA Railroad Abandonment

Ms. Ochoa,

I left a voicemail for you several weeks ago regarding NPDES requirements for the BNSF railroad line abandonment along West Bay in Olympia, WA. BNSF recently abandoned a different segment of railroad line adjacent to the current abandonemnt, and no NPDES permits were required. I am trying to find out whether a similar determination can be made on the segment of line currently being abandoned. If you could please call or email me to discuss this project, I would really appreciate it. Thank you.

Liz Waite
Attorney, Sidney Strickland and Associates, PLLC
(202) 338-1325

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(liz.waite@stri

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From: "Farrell, Kevin (ECY)" <KFAR461@ecy.wa.gov>

To: Liz Waite <liz.waite@stricklandpllc.com>

Subject: RE: Olympia Railroad Abandonment

Date: 03-Apr-07 03:23 PM

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Ms. Waite:

Thank you for your phone call regarding the BNSF Railway Company Abandonment Exemption in Thurston County, Washington (STB Docket No. AB-6 (Sub-No. 448X). As I indicated in our telephone conversation the Washington State Department of Ecology is the Governors appointed agency handling issues related to the National Flood Insurance Program (NFIP) in Washington State. That being said, the NFIP is a locally driven insurance program which requires local governments to regulate development within FEMA identified floodplains. Our agency does not deal specifically with the permitting aspect of the NFIP as this is handled by local government, in this case the City of Olympia. You had indicated that you had a specific contact at the City with whom you had been working with. I would direct you to continue working with the City on the permitting requirements for this project.

Should you desire additional clarification on our role here in the State of Washington please don't hesitate to contact me at (360) 407-7253.

Regards,

Kevin Farrell
Floodplain Management Program
Washington State Department of Ecology

-----Original Message-----

From: Liz Waite [mailto:liz.waite@stricklandpllc.com]

Sent: Tuesday, April 03, 2007 12:48 PM

To: Farrell, Kevin (ECY)

Subject: Olympia Railroad Abandonment

Mr. Farrell,

This email is to confirm our telephone conversation from this afternoon. You indicated that although the Surface Transportation Board's Section of Environmental Analysis recommends BNSF contact the WDOE, to ensure that BNSF comply with the reasonable requirements of the National Flood Insurance Program ("Program"), the WDOE does not regulate the Program. The Program is locally driven, and therefore the City of Olympia should be contacted for compliance related issues.

Please call me with any questions at (202) 338-1325. Thanks in advance for your help.

Liz Waite
Sidney Strickland and Associates, PLLC

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(liz.waite@stricklandpllc.com)

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From: Key McMurry <mcmmurkim@DFW.WA.GOV>
To: liz.waite@stricklandpllc.com
Subject: Re: BNSF Railroad Abandonment
Date: 14-Jun-07 07:02 PM

Attachments:

This looks good. WDFW can not stress the importance of removing any creosote treated wood. So whom ever the contract goes to for salvage should be aware that the agencies would like it to be removed. Thanks Key

>>> "Liz Waite" <liz.waite@stricklandpllc.com> 06/14/07 2:05 PM >>>
Ms. McMurry,

As discussed during our phone conversation, I wanted to verify the following information regarding STB Docket No. AB-6 (Sub-No. 448X), Abandonment Exemption--in Thurston County, WA:

BNSF Railway Company (BNSF) can avoid adverse impacts to any endangered or threatened species and improve water quality and preexisting impacts by taking several precautions. Should BNSF salvage the railroad line: (1) any fill located in Bay areas should be removed; (2) creosote wood pilings and timber need to be removed, and; (3) BNSF should seek Hydraulic Project Approval (HPA) and Joint Aquatic Resource Project Approval (JRPA).

Please let me know if I have reflected our conversation accurately. Thank you.

Liz Waite
(202) 338-1325

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From: John Grettenberger@fws.gov
 To: Liz Waite <liz.waite@stricklandpllc.com>
 Subject: Re: Railroad Abandonment in Olympia, WA
 Date: 11-Apr-07 08:12 PM

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Dear Ms. Waite,

To clarify, you should obtain site specific information from WDFW, and that will enable you to evaluate your effects on listed species which may be present.

John Grettenberger
 Supervisor, Transportation Planning Branch
 Western Washington Fish and Wildlife Office
 U.S. Fish and Wildlife Service
 510 Desmond Dr. SE, Suite 102
 Lacey, Washington 98503
 Phone # (360) 753-6044
 Http://westernwashington.fws.gov

"Liz Waite"
 <liz.waite@stricklandpllc.com> To
 john.grettenberger@fws.gov
 04/11/2007 12:27 cc
 PM Carlton Curry
 <carlton.curry@stricklandpllc.com>
 Subject



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
TTY 711 or 800-833-6388 (for the speech or hearing impaired)

May 25, 2007

Ms. Elizabeth E. Waite
Sidney Strickland and Associates
Suite 101
3050 K Street
Washington DC 20007-5108

RE: Federal Consistency — Burlington Northern Santa Fe Railroad Company (BNSF)
STB Docket No. AB-6 (Sub. No. 448x) Olympia Abandonment

Dear Ms. Waite:

The Department of Ecology, Shorelands and Environmental Assistance Program received your request for concurrency with Washington's Coastal Zone Management Program to abandon 0.86-mile line of railroad between BNSF Engineering Station 476+09 and BNSF Engineering Station 521 + 42 in Olympia, Thurston County, Washington.

Ecology agrees that the abandonment of this rail line is consistent with Washington's Coastal Zone Management Program.

If you have any questions regarding this letter, please contact Penny Keys at (360) 407-6927.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

Brenden McFarland
Environmental Review and Transportation Section Manager
Shorelands and Environmental Assistance Program

cc: Penny Keys, Ecology

