



JIA02  
BNSF

Rob McKenna  
**ATTORNEY GENERAL OF WASHINGTON**

Ecology Division  
2425 Bristol Court SW 2nd Floor • Olympia WA 98502  
PO Box 40117 • Olympia WA 98504-0117 • (360) 586-6770

October 30, 2008

Craig Trueblood  
K & L Gates LLP  
925 4<sup>th</sup> Avenue, Suite 2900  
Seattle, WA 98104-1158

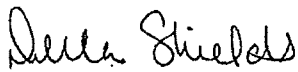
**RE: Ecology v. BNSF Railway Company**  
**King County No. 07-2-33672-9**

Dear Mr. Trueblood,

Enclosed are copies of the signed and conformed Joint Motion for Entry of First Amendment to Consent Decree, and the Order Entering First Amendment to Consent Decree. Also enclosed is an original of the First Amendment to Consent Decree as requested by BNSF.

If you have any questions about the enclosed please give me a call at 360-586-5119 or contact Kristie Carevich at 360-586-6762. Thank you.

Sincerely,

  
DELLA SHIELDS  
Legal Assistant to  
KRISTIE CAREVICH  
Assistant Attorney General  
(360) 586-6762

dds  
Enclosures

cc: Brian Sato



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9018

**CONFIRM AND RETURN**

**RECEIVED**

OCT 24 2008

DEPARTMENT OF  
JUDICIAL ADMINISTRATION

STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

BNSF RAILWAY COMPANY,

Defendant.

NO. 07-2-33672-9 SEA

JOINT MOTION FOR ENTRY OF  
FIRST AMENDMENT TO CONSENT  
DECREE

Plaintiff, State of Washington, Department of Ecology, and Defendant, BNSF Railway Company (collectively "the Parties"), bring this motion seeking entry of the attached First Amendment to the Consent Decree (Decree) regarding BNSF's Former Maintenance and Fueling Facility in Skykomish, Washington (Site). This amendment is necessary to reflect Ecology's transfer of regional management responsibility for the Site to Ecology's Northwest Regional Office, which requires a change to the Section Manager reference for deciding disputes under Section XIV.A.3 (Resolution of Disputes) of the Decree. Warren Declaration (Warren Decl.) ¶ 3. Ecology has determined this First Amendment is not a substantial change to the Consent Decree that would require public notice under WAC 173-340-600. Warren Decl. ¶ 4.

The Parties request that the Court approve and enter the First Amendment to Consent Decree, pursuant to the Consent Decree Section XV (Amendment to Decree). The parties also

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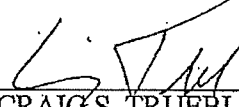
1 request that the Court retain jurisdiction over this action until the work required by the Consent  
2 Decree is completed and the Parties request a dismissal of this action.

3 DATED this 22 day of September, 2008.

4 ROBERT M. MCKENNA  
5 Attorney General

K&L GATES LLP

6   
7 KRISTIE E. CAREVICH, WSBA #28018  
8 Assistant Attorney General

  
CRAIG S. TRUEBLOOD, WSBA #18357  
Attorney for Defendant

9 Attorneys for Plaintiff  
10 State of Washington,  
11 Department of Ecology  
12 (360) 586-6762

BNSF Railway Company  
(206) 623-7580

1 **RECEIVED**

2 OCT 24 2008

3 DEPARTMENT OF  
4 JUDICIAL ADMINISTRATION

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7 **STATE OF WASHINGTON**  
8 **KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,  
10 DEPARTMENT OF ECOLOGY,

11 Plaintiff,

12 v.

13 BNSF RAILWAY COMPANY,

14 Defendant.

NO. 07-2-33672-9 SEA

**FIRST AMENDMENT TO CONSENT  
DECREE RE: BNSF FORMER  
MAINTENANCE AND FUELING  
FACILITY**

15  
16 Pursuant to Section XV of the Consent Decree Re: BNSF Former Maintenance and  
17 Fueling Facility in Skykomish, Washington (Site), entered by this Court on October 19, 2007,  
18 Plaintiff, State of Washington, Department of Ecology (Ecology), and Defendant BNSF  
19 Railway Company, hereby stipulate to amend the Consent Decree as follows: The  
20 "Northwest Regional Section Manager (Section Manager)" shall replace the "Manager of the  
21 Land and Aquatics Cleanup Section (Section Manager) at Ecology's Headquarters Office" in  
22 Section XIV.A.3 (Resolution of Disputes).

23 ///

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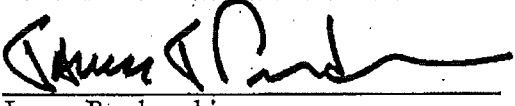
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1 Except as set forth above, all other provisions of the Consent Decree remain in full  
2 force and effect, unchanged by this First Amendment.

3  
4 STATE OF WASHINGTON  
5 DEPARTMENT OF ECOLOGY

ROBERT M. MCKENNA,  
ATTORNEY GENERAL

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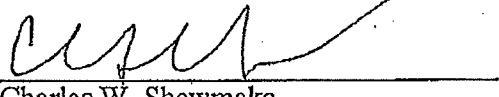
7 James Pendowski  
8 Program Manager  
9 Toxics Cleanup Program  
10 (360) 407-7177

Kristle E. Carevich, WSBA No. 28018  
Assistant Attorney General  
(360) 586-6762

11 Date: 9/10/08

Date: 9/15/08

12 BNSF RAILWAY COMPANY

13 

14 Charles W. Shewmake  
15 Vice President and General Counsel

16 Date: 9/4/08

17  
18 ENTERED this \_\_\_\_\_ day of OCT 17 2008, 2008.

19  
20 DEAN S. LUM  
21 JUDGE  
22 King County Superior Court  
23  
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FILED

2008 OCT 24 AM 10:28

KING COUNTY  
SUPERIOR COURT CLERK  
SEATTLE, WA

**CERTIFIED  
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**EXPO2**

STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

BNSF RAILWAY COMPANY,

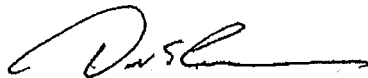
Defendant.

NO. 07-2-33672-9 SEA

ORDER ENTERING FIRST  
AMENDMENT TO CONSENT  
DECREE [~~Proposed~~]

Having reviewed the Joint Motion for Entry of the First Amendment to the Consent Decree, it is hereby ORDERED AND ADJUDGED that the First Amendment in this matter is entered and that the Court shall retain jurisdiction over the Consent Decree to enforce its terms.

DATED this 17 day of Oct, 2008.




Superior Court Judge/Commissioner

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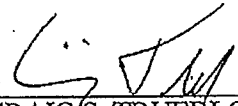
Presented by:

ROBERT M. MCKENNA  
Attorney General

  
KRISTIE E. CAREVICH, WSBA #28018  
Assistant Attorney General

Attorneys for Plaintiff  
State of Washington,  
Department of Ecology  
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CRAIG S. TRUEBLOOD, WSBA #18357  
Attorney for Defendant

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