

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

In the Matter of the Remedial Action at:)
)
Burlington Northern Santa Fe Railway Company)
Former Maintenance and Fueling Facility)
Skykomish, Washington)

**ADDENDUM No. 1
AGREED ORDER
No. DE 01TCPNR-2800**

TO: Burlington Northern Santa Fe Railway Company
Law Department
P.O. Box 961039
2500 Lou Menke Drive, 3rd Floor
Fort Worth, Texas 76131-2828

I.

Jurisdiction

This Addendum No. 1 to Agreed Order ("Addendum") is issued pursuant to the authority of RCW 70.105D.050(I). This Addendum supplements BNSF's obligations under Agreed Order No. DE 01TCPNR-2800. This Addendum does not affect the rights and obligations of the parties under Agreed Order DE 91TC-N213.

II.

Addendum Work

In response to public comments on Agreed Order No. DE 01TCPNR-2800, BNSF and Ecology agree that the following revisions will be made to/included in the Final Basis for Design Report under the Order, and as a result will become an enforceable part of the Order:

1. Sections 2.1.1 and 3.0: These sections will be revised to reflect that the selected method to construct the barrier wall will be a cement/bentonite slurry.
2. Section 2.2 and Appendix A: Memorandum from Mike Riley, SSPA, to Halah Voges, ThermoRetec, dated May 10, 2001 will be added to Appendix A.
3. Sections 2.3.4 and 2.5 will be revised to list sidewalks, utilities & septic systems as infrastructure and will specify that such infrastructure must be restored to pre-construction conditions in the event they are damaged during construction. [2.b.i]

4. Section 2.6 will be revised to include repair or replacement of septic systems as a possible contingency in the event they fail due to changes in hydrology from the barrier wall. This section will also specify that contingency measures will be implemented as soon as possible after the situation becomes known. [2.b.i. and 2.b.ii.].
5. Section 2.5 will be revised to include interior, as well as exterior, inspection/videotaping of structures located within 40 feet of the barrier wall alignment, survey control point installation and monitoring for the levee, utility poles and structures located within 40 feet of the wall, and real-time control points. [2.b.iii. & 13.j].
6. Sections 2.5 and 4 will be updated to specify replacement of sidewalks and resurfacing of the roadway during Phase 2. [2.c.ii.].
7. Section 2.5 will be updated to include collection of two soil samples from the road base for PCBs analysis. [2.c.iv.].
8. Figures 2-1 and 2-6 will be updated to show the staging area in the school yard. A technical memorandum describing the septic system locate work that has been completed will be included in the appendices. [5.b. and 11.c.].
9. The decision criteria for determining whether recovery wells will be connected to the recovery system will be added to Section 4. [6.b.].
10. Section 3 will be updated to specify that "At a minimum, the Contractor should anticipate testing for wall permeability and strength once every 25 lineal feet or twice per work-shift, whichever is greater. [6.f.].
11. Section 2.6 will be revised to state that "the appropriate contingency measures will be implemented after consulting with the affected property owner." [9.g.].
12. Section 2.5 will be revised to specify allowable work hours requested by the school district in the event construction continues beyond September 3, 2001. [9.h.].
13. Section 3 – The Contractor Request for Proposal (RFP) will be attached as an appendix to the final BOD. Section 3 will be updated to state "BNSF will comply with the dangerous waste regulations as an applicable requirement under the Agreed Order." [9.j.].
14. Section 1.3., p. 1-2, first paragraph, last sentence. Boulders will be included in the lithology description. [10.f.].

15. Page 2-7, top line. The acronym "CB" will be defined (i.e., Portland cement and bentonite clay). [10.k].
16. Page 3-2, first sub-bullet under first bullet will be revised to clarify that all recovery wells (Phase 1) and piping (Phase 2) will be installed within the right-of-way. [10.m.].
17. Section 6.1, page 6-1. The word "month" will be inserted after 12. [10.n.].
18. Section 6 will reference the sampling methods specified in the 1993 Sampling and Analysis Plan for the site. [10.o.].
19. Report formatting will be corrected for the final BOD. [10. p].
20. Trench stability calculations will be added as an appendix to the final BOD. Section 3 will be revised to include slurry elevation requirements. [11.a].
21. Sections 2.6 and 3.0 will be revised to specify groundwater table conditions under which work would be stopped. [11.b.].
22. Section 1.2 will be revised to state: "The Skykomish River is home to endangered species such as bull trout and Chinook salmon." [11.h.].
23. The Health and Safety Plan will be attached to the final BOD as an appendix. [11.j].
24. Section 2.1.4 and 4 will be revised to state that 8-inch diameter wells will be considered for recovery.

III.

Enforcement

Pursuant to RCW 70.105D.050, this Addendum may be enforced as follows:

- A. The Attorney General may bring an action to enforce this Addendum in a state or federal court.
- B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
- C. In the event BNSF refuses, without sufficient cause, to comply with any term of this Addendum, BNSF will be liable for:

(1) up to three times the amount of any costs incurred by the State of Washington as a result of its refusal to comply;

(2) civil penalties of up to \$25,000 per day for each day BNSF refuses to comply; and

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under 70.105D.060 RCW.

Effective date of this Addendum: _____

**THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY**

**STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY**

By _____

By _____

Its: _____

Its: Section Supervisor, TCP

Date _____

Date _____