CITY OF Burlington
SKAGIT COUNTY, WASHINGTON INCORPORATED 1902

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SUBJECT: Scoping Comments for Environmental Impact Statement; Gateway Pacific Terminal Project and the BNSF Custer Spur Modifications Project.

Greetings:

Please accept for consideration the attached comments, which are submitted as part of the Environmental Impact Statement ("EIS") scoping process for the Gateway Pacific Terminal dry bulk commodities export/import facility and the Burlington Northern Santa Fe ("BNSF") Railway Custer Spur line located at Cherry Point in Whatcom County (referred to hereinafter as the Cherry Point Proposal.) It is our understanding that the EIS will be jointly prepared by the United States Army, Corps of Engineers Seattle District Regulatory Branch (the "Corps"); Whatcom County Planning and Development Services Department (the "County") and the Washington State Department of Ecology (the "DOE"), in accordance with the provisions of the National Environmental policy Act ("NEPA") and the Washington State Environmental Policy Act ("SEPA.") As such, our comments are submitted in accordance with 40 C.F.R. §§ 1501.7, and WAC 197-11-408.

The City observes that in addition to meeting the requirements specified in 40 C.F.R. § 1508.25, the Corps must also determine "the significant issues to be analyzed in depth" as part of this process. *Id.*, § 1501.7(a)(2). And of course in determining the scope of an EIS, the Corps must consider the direct, indirect and cumulative impacts of the project, and a sufficient range of alternatives that could achieve the purpose of the proposed project. *Id.* §§ 1508.25(a)-(c). These impacts include the "worldwide and long-range character of environmental problems." 42 U.S.C. § 4332(F). Actions include connected actions,

cumulative actions, and similar actions. 40 C.F.R. §§ 1508.25(a)(1)-(3). In this regard we believe the following two points should be kept in mind with respect to the project.

First, we believe it appropriate that the Corps, the County, and DOE prepare a comprehensive, programmatic environmental impact statement to examine the Cherry Point Proposal, and other proposed terminals. We understand that the Cherry Point Proposal is expected to have a build-out export volume of approximately 50M tons/year, requiring nine additional trains each day (18 trains, round trip), with each train over a mile and a half long. This volume of product by itself is significant, and likely to have adverse impacts on air and water quality, and both the natural and built environment. However, we further understand that other facilities are proposed to be constructed in Washington and Oregon, resulting in a total of approximately 157M tons of additional capacity. Taken together, these quantities will have a significant impact. As the United States Supreme Court has previously said, "when several proposals for coal-related actions that will have a cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together. Only through comprehensive consideration of pending proposals can the agency evaluate different courses of action." *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976).

Secondly, we believe it appropriate for the DOE to conduct a thorough and comprehensive SEPA analysis. SEPA is required for the project because federal actions must be consistent with the Coastal Zone Management Act (CZMA). Washington State's CZMA has identified SEPA as a state policy. As such, our position is that project impacts proximal to the action must be analyzed. Proximal impacts include those associated with transporting coal to the Cherry Point site, including transportation impacts along the BNSF mainline tracks. Proximal impacts will be experienced by many communities throughout the state through which the Burlington Northern Santa Fe rail lines pass, including Burlington. A comprehensive analysis under SEPA and the CZMA by the DOE will prevent a patchwork of local regulation from unreasonably interfering with interstate commerce, and still meet the requirements of the CZMA.

Again, thank you for taking into consideration the City of Burlington's scoping comments on this important project. We look forward to participating more fully as this project develops.

Sincerely,

Mayor Steve Sexton

cc: Ted Sturdevant, DOE
Paula Hammond, WSDOT

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City of Burlington Comments
Environmental Impact Statement Scoping
Gateway Pacific Terminal

I. INTRODUCTION

The City of Burlington appreciates this opportunity to submit comments on the proposed Gateway Pacific Terminal at Cherry Point, pursuant to WAC 197-11-408.

The City of Burlington is a community of 8,500 residents, situated in Skagit County, Washington. The BNSF rail line bisects the City and separates the City's eastern residential area from the business core; the City's emergency services, including its police and fire stations, are located westerly from the BNSF tracks, while other residential areas and the hospital serving the region is situated easterly of the BNSF tracks. There are 5 crossings of the BNSF tracks in the City. With the exception of the Whitmarsh Road – a roadway that is in the extreme southern portion of the City and constructed in part on the water ward side of levees that protect the community from Skagit River floods, and which is itself periodically made impassable due to flooding events – all crossings of the BNSF tracks are at grade level. State Route 20, a major east-west corridor over the Cascade Mountains is one such at-grade crossing.

The following comments are focused on ensuring that the EIS recognizes and accounts for the significant impacts that will occur.

II. SUBSTANTIVE COMMENTS

A. TRAFFIC AND PARKING/TRANSIT AND PEDESTRIANS

1. **Description of Adverse Impact.** The Project Information Document submitted for the Gateway Pacific Project states that at full capacity, 9 loaded trains/day will serve the Project terminal, and 9 additional empty trains will leave the site. GATEWAY PACIFIC PROJECT INFORMATION DOCUMENT, § 4.5.3 and Table 4-5 (February 28, 2011). The Project Information Document does not establish a maximum number of trains that could serve the site, and additional trains are possible in the future if export capacities are increased. Each train may be 8,500 feet in length, or approximately 1.61 miles. As such, with trains travelling at 35 miles per hour the time taken to clear a crossing would be in the range of 5.6 minutes. The 18 trains each day would thus result in a coal train every 1.3 hours if trains were equally spaced over a 24 hour period, in addition to already-existing traffic on the rail line. Furthermore, if the train is 8,500 feet long, it will block all four at-grade railway crossings in the City at the same time.

To understand the magnitude of this impact to the City of Burlington, the City's traffic consultant conducted an initial review of the impact of the train operation during a typical PM peak period in the 2025 time horizon. The 2025 time horizon was selected as it was used in a recent comprehensive planning study conducted by the City. The analysis employed the 2025 PM peak hour traffic volume forecast developed in concert with anticipated 2025

population and employment estimates developed by the City. Synchro and Sim Traffic were the analysis tools used to estimate the impact of train operations at three of the four railway crossings. The results of that initial review follow.

2. **Description of how the impact relates to the City of Burlington.** The City's preliminary traffic assessment concluded that train operation is expected to have a significant impact on daily and peak period traffic circulation in the City. Train impacts during the PM peak hour are expected to create extensive queuing at railway crossings. Based on traffic flow conditions, the significant queues are anticipated in the west bound direction with the longest queue expected at the Greenleaf Avenue crossing. It is expected these queues will block Anacortes Street, a major north south street in the City, approximately 31 percent of the time.

Although the queues aren't as long, the blocking time is expected to be longer at the Fairhaven Avenue and Avon Avenue crossings. The highest average queue at Fairhaven is approximately 384 feet whereas the 95 percentile queue is 424 feet resulting in a blocking of the Cherry Street intersection 53 percent of the time. At Avon Avenue, the highest average queue is approximately 526 feet and the 95 percentile queue is 614 feet resulting in a blocking of Cherry Street approximately 59 percent of the time. In the east bound direction, the queues at Fairhaven Avenue will block Spruce Street approximately 28 percent of the time and at Avon Avenue queues will block Spruce Street 31 percent of the time.

3. **Suggested Analysis.** Based on the results of the preliminary assessment, it is recommended that a traffic analysis of train delay within the City of Burlington be included in the development of the draft EIS as follows:

a. Study Area. Study area to be defined by I-5 on the west; city limits on the east; Skagit River on the south; and city limits on the north.

b. Documentation of Existing Conditions to Include:

- Average Weekday Traffic Volumes on all north/south and east/west arterials within the study area to include:

  - Burlington Boulevard s/o George Hopper
  - Burlington Boulevard n/o Pease Road
  - Burlington Boulevard s/o Rio Vista
  - Burlington Boulevard s/o Avon Avenue
  - Avon Avenue e/o Burlington Boulevard
  - Avon Avenue e/o Anacortes Street
  - Fairhaven Avenue e/o Burlington Boulevard
  - Fairhaven Avenue w/o Anacortes Street
  - Greenleaf Avenue w/o Anacortes Street
  - Spruce Street s/o Rio Vista
  - Anacortes Street s/o Avon Avenue
  - Anacortes Street s/o Rio Vista
  - Rio Vista w/o Burlington Boulevard

- AM/PM peak hour traffic volumes (determined from peak period turning movement counts) at the following intersections:

  - Burlington Boulevard/E Market Street
  - Burlington Boulevard/George Hopper Road
  - Burlington Boulevard/Pease Road
  - Burlington Boulevard/Gilkey Road
  - Burlington Boulevard/Rio Vista (SR 20)
  - Burlington Boulevard/Fairhaven Avenue
  - Burlington Boulevard/Avon Avenue (SR 20)
  - Avon Avenue (SR 20)/Spruce Street
  - Avon Avenue (SR 20)/Cherry Street
  - Avon Avenue (SR 20)/Anacortes Street
  - Avon Avenue (SR 20)/Regent Street
  - Fairhaven Avenue/Spruce Street
  - Fairhaven Avenue/Cherry Street
  - Fairhaven Avenue/Anacortes Street
  - Fairhaven Avenue/Regent Street
  - Greenleaf Avenue/Spruce Street
  - Greenleaf Avenue/Anacortes Street
  - Spruce Street/Rio Vista
  - Spruce Street/Gilkey Road
  - Anacortes Street/Rio Vista
  - Rio Vista/I-5 NB/SB Ramps

- Existing AM and PM peak hour level of service at the 22 intersections identified above;

- Existing Crash History at the 22 intersections identified above;

- Assessment of Crash Potential at each of the four railway crossings in the city using the FRA crash forecasting model;

- Existing school bus operations; routing and times;

- Existing Emergency Service; routing and times;

- Existing rail activity; volume and time;

- Impact of existing rail traffic on current traffic volumes in terms of delay and queuing;

- Identification of existing transportation system deficiencies – including rail, motor vehicle, pedestrian, bicycle, school, and emergency services;

- o Identification of proposed rail, vehicle, pedestrian and bicycle improvements; 6 year and 20 year (2025 time horizon).

4. **Deliverables.** The following analysis should be incorporated into the DEIS:

   a. Forecast of AWDT Volumes at the same locations identified above for the typical volume scenario with the proposed project. The forecast should use advanced traffic simulation models to accurately project the impact of the delays associated with the increased train trips and 8500 foot long trains;

   b. Forecast average condition AM and PM peak hour turning movement volumes at the 22 analysis intersections identified above. Forecasts should be based on population and employment forecasts approved by the City and should represent the impact of the increased system delay associated with the additional train trips through the City;

   c. Determination of peak hour level of service at each of the 22 intersections for the average volume condition using advanced traffic simulation models and analysis tools;

   d. Forecast daily and peak hour train volumes at the four crossings in the City. The forecast should include AMTRAK, future freight rail, and the proposed 18 trains per day;

   e. Estimate train/vehicle crashes at the four railway crossings within the City using the FRA crash forecasting model;

   f. Provide an assessment of the impact of the proposed project on railway operations within the city. The assessment should identify the need for additional spur lines or other capacity enhancement improvements to address the impacts of the proposed project on the City;

   g. Formulate a capital improvement program necessary to address the transportation related impacts of the proposed project;

   h. Provide an assessment of the impact of a train related blocking incident on the four railway crossings. The analysis should evaluate the impact on vehicular circulation through the City, the impact on emergency response services, and the impact on school bussing operations. The analysis should include a traffic simulation using advanced traffic simulation models to evaluate the impact of traffic diversion created by the incident. An evaluation of level of service at the impacted intersections should be performed for the AM and PM peak hour 2026 traffic flow conditions.

5. **Alternatives/Mitigation Strategies for Traffic.** The EIS should develop traffic mitigation alternatives to address the impacts of the proposed action on the city of Burlington transportation system. The plan should address the impacts on all modes of travel and include major improvements such as grade separation of the four crossings. The plan should

include a methodology to insure the mitigation measures are in place to accommodate the proposed project in the 2026 Horizon Year. Mitigation strategies, or alternatives, should include traffic conflict avoidance in the form of overpasses and/or underpasses within the City. In particular, an overpass or underpass installed at the SR 20 crossing should be included as an alternative.

B. Public (Primarily Emergency) Services.

1. **Description of Impact.**

   a. In 2012 the Burlington Police Department responded to 8,691 calls for service, including 294 "Priority 1" calls; these types of calls are in progress domestic violence, robbery, weapons offenses, and similar incidents of a high priority. In 2012, the City's average response time was three minutes and twenty-three seconds (3:23). With a 5.6 minute train delay, the response time for a significant urban area of the City could easily triple in these life-or-death situations.

      Similarly, police officer backup may be significantly delayed. Of the 294 Priority 1 calls, 48 were domestic violence calls and 39 were fights in progress. These are the types of calls in which police officers are most likely to be injured, and backup support is essential.

   b. The Burlington Fire Department will be similarly impacted. The fire department responded to approximately 804 priority responses in the zones that would be impacted for responses due to a train delay. Of those, 23 responses were delayed or at least logged as a delay by a train (but we are unable to determine the exact time frame of the delay).

   c. The number of students with life-threatening health conditions within the Burlington-Edison School District is 164. Schools, as well as residential areas, are separated from paramedics and EMT's stationed at the Burlington Fire Station by the BNSF tracks. In addition, students diagnosed with asthma and similar breathing difficulties may be further impacted by coal dust and/or diesel particulates. Again, emergency response to assist these students will be delayed.

   d. A train 8,500 feet long will block all four railway crossings in the City at the same time. If a train were to derail or otherwise be disabled such that the train blocked all crossings, there would be no ready alternative for east-west travel through the City. This would have a significant impact on emergency response service, school bus routing, and all other traffic circulation through the City, including traffic on SR 20.

2. **Suggested Analysis.** Based on the results of the preliminary traffic assessment, it is recommended that the assessment described in Section A(3) above be included in the development of the draft environmental impact statement.

3. **Alternatives/Mitigation Strategies for Impacts to Emergency Services.** The EIS should develop mitigation alternatives to address the impacts of the proposed action on the city of Burlington public safety system. If services are significantly impacted, the EIS should study the possibility of a satellite emergency services station easterly of the BNSF tracks, to house fire and law enforcement personnel.

C. SKAGIT RIVER BRIDGE

1. **Description of Impact.** The existing BNSF Bridge over the Skagit River is a dated and failing structure. In 1995, the bridge was damaged in the November freshet to the extent that the bridge was unusable for train traffic. *See*, Exhibit "A". The bridge serves as a vital rail link between the Puget Sound region and the Canadian border. Failure of the bridge structure would result in indirect economic losses resulting from time lost to traffic delays and delays in the transportation of goods vital to the economy of the northwest region. In addition, for many shippers trucking would be utilized for the movement of goods, resulting in transportation bottlenecks and gridlock.

2. **Suggested Analysis.** Based on the results of the preliminary traffic assessment, it is recommended that the EIS include an economic assessment of the loss of the Skagit River BNSF Bridge.

3. **Alternatives/Mitigation Strategies.** The EIS should include an analysis of the replacement of the Skagit River Bridge.

D. ECONOMIC IMPACTS

1. **Description of Impact.** In December, 2006, the Washington State Transportation Commission completed its Statewide Rail Capacity & System Needs Study. The Study concluded that, in general, the state's rail system was at or nearing physical capacity. Specific to the Gateway Pacific Project, the Study concluded that both the Everett – Burlington and the Burlington – Ferndale rail lines would exceed practical capacity in 2015, and in 2025. RAIL CAPACITY STUDY at 27, Table 2. Furthermore, the Rail Capacity Study concluded that a "choke point" currently exists between Bow and Ferndale. *Id.* at 24, Fig. 4. This condition is attributable to the single trackage between Bow and Ferndale, which limits the line to a single train on that track at one time. The Rail Capacity Study concluded that this rail segment had a capacity of 14 train trips per day. *Id.* at 22, Fig. 3.

In 2008, the federal government forecast that congestion on the nation's mainline railroad network would spread significantly by 2035. United States Department of Transportation, Federal Highway Administration, Freight Story 2008, figures 13 and 14. The Washington State Transportation Commission in its Statewide Rail Capacity & System Needs Study observed that, to manage demand, railroads were using pricing to turn away lower profit freight in favor of intermodal and coal traffic. Rail Capacity Study at 28. The Study went on to note that in some markets and rail corridors, international intermodal traffic was squeezing out industrial and low-density agricultural traffic. *Id.* at 29. Locally, businesses in Skagit County observe that rail service has already been impacted with increasing coal shipments to

Canada and the ever growing numbers of oil tanker railcars into the four Northwest refineries from the Bakken Oil Fields.

Moreover, railroading is a capital intensive business, and investment in fixed assets is risky. Ongoing competition between the BNSF and the UPRR for lucrative markets, primarily in Southern California, has made investment in infrastructure in areas where such competition does not exist much more limited. *Id.*

Congestion in the transportation system causes freight dependant businesses to alter their business model to satisfy consumer demands under uncertain operational conditions. Responses from freight dependant businesses indicate that consumers would likely pay 60 to 80% of the increased cost of congestion. Ultimately, this means that consumers will pay higher prices for freight dependant goods and freight dependant businesses will spend more to provide those goods. *See,* THE ECONOMIC IMPACT OF INCREASED CONGESTION FOR FREIGHT DEPENDANT BUSINESSES IN WASHINGTON STATE – TECHNICAL REPORT, Washington State Department of Transportation, et. al., (2012), pg. 1.

2. **Description of how the impact relates directly to City of Burlington.**

   a. Agriculture is the top industry in Skagit County. According to the Washington State University, local farmers produce about $300 million worth of crops, livestock, and dairy products on approximately 100,000 acres of land. Over 90 different crops are grown in the County, including blueberries, raspberries, strawberries, tulips, daffodils, pickling cucumbers, specialty potatoes, Jonagold apples, green peas, and vegetable seed. More tulip, iris, and daffodil bulbs are produced in Skagit County than in any other county in the U.S. Ninety-five percent of the red potatoes grown in the state of Washington are from Skagit County. Agriculture-dependent industries, including resource providers such as fertilizer and seed, agricultural equipment, and related businesses will also be impacted resulting from the loss of rail availability. In addition to food and fiber products, agriculture provides habitat for swans, snow geese, and dabbling ducks.

   b. Access to rail transportation is vital to the regions' businesses, and their ability to employ workers. Burlington is home to manufacturers and other industries that rely on rail to receive raw materials and ship product, including lumber and other building materials. One local building materials manufacturer reports that it ships 7 to 10 railcars per week on average, which is a significant portion of its business. As sales expand, much of that growth will be dependent on rail shipments. Without rail access or service, this manufacturer would have to substantially reduce running hours as it would not be competitive in many North American markets.

   c. Congestion results in enormous costs to shippers, carriers, and the overall economy. Increasing costs has the practical effect of discouraging economic development, while encouraging existing businesses to relocate out of Skagit County. In addition, increased costs encourage the transformation of land to

uses other than agriculture, leading to a decline of the agriculture industry and decreased habitat for species that rely on agricultural lands.

d. The City of Burlington's solid waste stream is transported out of Skagit County by rail. The costs of rail congestion will increase the costs of solid waste disposal, which will impact all Burlington residents and businesses (as well as all businesses and residents located throughout Skagit County.) Rising costs in solid waste disposal frequently results in residents adopting alternative means to dispose of waste, usually through illegal dumping.

3. Suggested Analysis. NEPA requires that where several actions have a cumulative . . . environmental effect, this consequence must be considered in an EIS." Te-Moak Tribe of W. Shoshone of Nev. v. U.S. Dep't of Interior, 608 F.3d 592, 602 (9th Cir. 2010) (citation and internal quotation marks omitted). An economic analysis of the indirect costs of the Project should be performed that includes a hard look at the consequences of increased transportation costs for local businesses resulting from the Project, and a determination of who will bear those costs. The EIS should estimate the net new job gain or loss in Skagit County, the gain or loss of tax revenue, and the future economic activity that may not occur due to the impact).

4. **Alternatives/Mitigation Strategies.** Two alternatives have been identified. The first is to double-track the mainline in Skagit County, which would allow trains to pass on one track while servicing local businesses on the other. The second alternative would be for the BNSF to build a rail spur loop in Burlington's industrial park, which would allow servicing trains to pull off of the main line to service local industries with limited disruptions.

E. SOCIO-ECONOMIC CONDITIONS AND ENVIRONMENTAL JUSTICE

1. Executive Order 12898. Executive Order 12898 and its accompanying memorandum have the primary purpose of ensuring that "each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations ..." The Executive Order also explicitly called for the application of equal consideration for Native American programs. To meet these goals, the Order specified that each agency develop an agency-wide environmental justice strategy.

2. Description of Impact. Older trains spew high amounts of carcinogenic diesel particulates, and there is no guarantee that newer trains would be used in the Northwest. That could harm people living or working close to the tracks, which tend to run through poorer neighborhoods. In addition, noise and traffic impacts will lead to particular impacts on low income residents whose homes are situated adjacent to train tracks.

3. Suggested Analysis. The EIS should examine the particular impacts on low income populations, including health effects and impacts on property values.

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Exhibit "A"

BNSF Skagit River Bridge, November, 1995

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