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August 1, 2012

Ms. Jeannie Summerhays  
Regional Director  
Washington Department of Ecology  
Northwest Regional Office  
3190 160<sup>th</sup> Ave. SE  
Bellingham, WA 98008-5452

RE: Custer Spur Improvements Project

Dear Ms. Summerhays:

Thank you for your letter dated July 9, 2012, concerning the Custer Spur Improvements Project. We likewise appreciated your time on February 29, 2012, to discuss this Project, and BNSF Railway's interest in collaborating with the Washington Department of Ecology ("Ecology") during the development of the Environmental Impact Statement ("EIS") for the Project.

BNSF Railway remains committed to a thorough review of the Custer Spur Improvements Project under the National Environmental Policy Act ("NEPA") and related laws. We agree with Ecology that the EIS under development by the U.S. Army Corps of Engineers, Ecology, and Whatcom County for the Custer Spur Improvements Project and the Gateway Marine Terminal Project can satisfy the requirements of both NEPA and the Washington State Environmental Policy Act ("SEPA"). Both NEPA and SEPA are guided by similar policies and principles regarding the development of an EIS, and as Ecology points out, the requirements of NEPA and SEPA overlap substantially.

BNSF Railway operates under a unique set of federal laws and regulations intended to protect and facilitate interstate commerce. Consequently, we believe it important that the co-lead agencies and BNSF Railway continue to work closely together during the development of the EIS to insure consistency among the various federal and state laws and policies arising in this proceeding. To that end, BNSF Railway believes that it would be appropriate for the co-lead agencies and BNSF Railway to continue to meet on a frequent basis during the development of the draft EIS to discuss issues that may arise during this proceeding.

BNSF Railway stands ready to meet with the co-lead agencies on these matters. Please feel free to contact me at any time if you have any questions.

Sincerely,

F. E. Kalb, Jr.

Director Strategic Development



Cc: Loree' Randall-Ecology  
Brenden McFarland-Ecology  
Laura Watson-ATG