

EXHIBIT E
APPLICABLE SUBSTANTIVE REQUIREMENTS

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3 The applicable substantive requirements of the following exempt permits or approvals (as
4 identified at the time of entry of this Decree) will be more particularly identified as necessary
during each phase of the cleanup action.

- 5 • King County Board of Health Permit for a Temporary Septic Drainfield (K.C.B.O.H.
6 Title 13)
- 7 • Hydraulic Project Approval (RCW 77.55.021)
- 8 • State Water Quality Protection Requirements, including requirements for an
9 Underground Injection Permit (Chapter 173-218 WAC) and Discharge of Industrial
10 Wastewater to Groundwater (Chapter 173-216 WAC)
- 11 • Stormwater construction requirements
- 12 • Town of Skykomish Requirements. BNSF must submit the engineering design
documents and draft construction plans and specifications specified in Exhibit C of the
Consent Decree to the Town at the same time these documents are submitted to
Ecology. The Town requirements are as follows and/or as may be later identified:

13 Town municipal codes and permit requirements that apply to the remedial actions performed
14 by Burlington Northern Santa Fe during the cleanup process are listed below. Included are a
sampling of appropriate excerpts from the code and descriptions of requirements.

15 **Chapter 8.05 Noise Regulations**

16 **8.05.020** The town of Skykomish hereby adopts the most current King County Noise
17 Ordinance, KCC Title 12, Chapters 12.86 through 12.99 KCC by reference, a copy of which
will be kept on file at Skykomish Town Hall.

18 **8.05.030(3)** The following sounds may, depending upon location, be public disturbance noises
19 in violation of this chapter:

20 (h) Sounds originating from construction sites, including but not limited to sounds from
21 construction equipment, power tools and hammering between the hours of 9:00 p.m. and 7:00
22 a.m. on weekdays and 9:00 p.m. and 9:00 a.m. on weekends;

23 (i) Sounds originating from residential property relating to temporary projects for the
24 maintenance or repair of homes, grounds and appurtenances, including but not limited to
25 sounds from lawnmowers, power hand tools, snow removal equipment and composters
26 between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and 9:00 p.m. and 9:00 a.m. on
weekends.

(4) Exclusion. This chapter shall not apply to the following:

(b) Construction or maintenance activities in the town's right-of-way that have been approved
by the mayor or mayor's designee to minimize the impact on adjacent property owners

25 **8.05.050 Variance.**

26 The mayor or mayor's designee, may, upon written application filed with the town clerk, grant
a variance from the provisions of this chapter and authorize the issuance of a special permit for

1 an activity when it finds that such a variance is in the public interest, or when it finds the
2 activity will have substantial public participation.

3 **Chapter 12.10 Protection and Preservation of Public Rights-of-Way**

4 **12.10.030(2)** The town council of Skykomish hereby adopts the most current road standards of
5 King County published by King County department of public works.

6 **12.10.040 Applicability.**

7 (2)(b) Any land development abutting and impacting existing roads shall improve the frontage
8 of those roads in accordance with these standards. The extent of improvements shall be based
9 on an assessment of the impacts of the proposed land development.

10 (2)(e) Any major disruption of the current road surfaces and right-of-way facilities shall be
11 repaired to the current King County road standards. (Ord. 332 § 4, 2003)

12 **12.10.050 Application, permit and fees.**

13 (1) Any construction, repair, installation or use within, upon, above or below any public rights-
14 of-way within the town of Skykomish shall be covered by a street use agreement issued by the
15 town of Skykomish. This agreement is valid for 60 days from date of issue, unless otherwise
16 specified.

17 (4) All fees shall be paid in advance of the commencement of work. For a fee schedule see the
18 latest town of Skykomish resolution relating to such fees. (Ord. 332 § 5, 2003)

19 **15.05 Codes adopted.**

20 The following codes are adopted by reference:

21 (1) The International Building Code, 2003 Edition, published by the International Code
22 Council, and as amended as set forth in Chapter 51-50 WAC, and adopted by the State
23 Building Code Council;

24 (2) The International Residential Code, 2003 Edition, published by the International Code
25 Council, and as amended as set forth in Chapter 51-51 WAC, and adopted by the State
26 Building Code Council;

(3) The 2003 Edition of the Uniform Plumbing Code, as published by the International
Association of Plumbing and Mechanical Officials, as amended and adopted by the State
Building Code Council;

(4) The International Mechanical Code, 2003 Edition, published by the International Code
Council, and as amended as set forth in Chapter 51-52 WAC, and adopted by the State
Building Code Council, except that the standards for handling liquefied petroleum gas
installations shall be NFPA 58, "Storage and Handling of Liquefied Petroleum Gases" and
ANSI Z223.1/NFPA 54, "National Fuel Gas Code," and excluding Chapter 1,
"Administration";

(5) The International Fire Code, 2003 Edition, published by the International Code Council,
and as amended as set forth in Chapter 51-54 WAC, and adopted by the State Building Code
Council;

(6) The 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings, as
published by the International Conference of Building Officials;

(7) The 2003 Washington State Energy Code, as amended as set forth in Chapter 51-11 WAC,
and adopted by the State Building Code Council;

(8) The 2003 Washington State Ventilation and Indoor Air Quality Code, as amended as set
forth in Chapter 51-13 WAC, and as adopted by the State Building Code Council;

- 1 (9) The 1997 Edition of the Uniform Administrative Code, as published by the International
Conference of Building Officials;
2 (10) The 2003 International Fuel Gas Code as published by the International Code Council;
3 (11) The 1997 Uniform Building Code, Table I-A only, as published by the International
Conference of Building Officials.

4 **Chapter 15.10 Regulation of Mobile Homes, Trailers, and Motor Homes**

5 **15.10.040 Permit required.**

All mobile homes must obtain a permit before being placed on property within the town.

6 **15.10.050 Compliance.**

7 All owners of said mobile homes shall comply with the town code regarding septic tanks,
8 electrical and other building or fire codes. No cesspools or dry wells will be permitted. (Ord.
128 § 5, 1977)

9 **15.10.060 Water and garbage accounts.**

10 There shall be a water shutoff provided for each mobile home and the occupants must pay
11 residential rates for water and garbage, and further, that the property and owner shall be
responsible for all water and garbage accounts. (Ord. 128 § 6, 1977)

12 **Chapter 15.15 Landmarks Protection and Perpetuation**

13 **15.15.020 Design review board.**

14 (1) There is created a town of Skykomish design review board which shall advise town council
and operate within the framework of the design guidelines for Skykomish, Washington,
Chapter 18.90 SMC

15 **Chapter 18.90 Design Guidelines**

16 **18.90.010 Preface.**

17 (3) A formal design review is mandatory for all exterior projects in the historic commercial
18 district, and for all projects affecting landmark properties. For properties in residential use,
19 compliance with the findings of the design review board is voluntary on the part of the
applicant. For properties in commercial or public use, and for all landmarks compliance is
required.

20 **Clearing and Grading Permits**

21 *Clearing and Grading Permits* are required for vegetation clearing and earthwork activities
including, but not limited to: contouring, excavation, filling, or creation of impervious surfaces
that are proposed apart from similar activities included in building permits. (chapter 15.20)

22 **Conditional Use Permits**

23 The Skykomish zoning ordinance identifies allowed *Conditional Uses* in each zoning district if
24 such uses do not introduce incompatible, detrimental, or hazardous conditions at their proposed
25 locations. Conditional Uses are deemed unique due to factors such as size, technological
26 processes, equipment, or location with respect to surroundings, streets, existing improvements,
or demands on public facilities.

1 Conditional Uses will be subject to review by the Town resulting in approval of *Conditional*
2 *Use Permits*. Conditional Use Permit requirements are described in Chapter 18.70 of the
3 Skykomish Municipal Code.

3 **Critical Area Reasonable Use Exceptions**

4 *Reasonable Use Exceptions* may be granted in cases where strict application of the critical area
5 regulations would deprive a property of privileges enjoyed by other properties with similar
6 characteristics because of special features or constraints unique to the property involved. They
7 are intended only to relieve hardship in special cases and not to avoid compliance with the
8 intent of the regulations. A reasonable use exception may relax the applicable critical
9 regulation requirements with respect to the use of the property. Exceptions address the
10 physical aspects of site improvements and are not intended to circumvent restrictions on land
11 use. Reasonable use exceptions are described in Chapter 16.15 of the Skykomish Municipal
12 Code.

8 **Flood Damage Prevention Permits**

9 *Flood Damage Prevention Permits* may be granted in cases where development is proposed on
10 property within a flood hazard area as identified in Chapter 16.10 of the Skykomish Municipal
11 Code. These permits may be consolidated with building permits or clearing and grading
12 permits, depending upon the type of development proposed.

11 **Shoreline Conditional Use Permits**

12 *Shoreline Conditional Use Permits* are required for projects which propose uses that are
13 designated by the SMP as *Conditional* for the Shoreline Environment in which they are
14 proposed. Conditional uses are those which, due to their nature and potential impacts, could
15 not be allowed outright but may be found to be appropriate on a case by case basis. **Only uses
16 designated as conditional uses for a given Shoreline Environment may be so permitted.**

15 Shorelines within the Town of Skykomish are designated as either Suburban Environment or
16 Rural Environment. The boundaries of these Environments are described and mapped in
17 Chapter 7 of the SMP.

17 The SMP designates the following as **permitted uses**:

18 Suburban Environment

18 Agriculture
19 Water Dependent Recreation
20 Water Related Recreation
21 Single Family Residential
22 Transportation
23 Utilities - Primary

18 Rural Environment

18 Agriculture
19 Water Dependent Recreation
20 Single Family Residential
21 Utilities - Primary

22 The SMP designates the following as **conditional uses**:

23 Suburban Environment

23 Aquaculture in Man-Made Ponds
24 Flood Hazard Management
25 Mining
26 Non-Water Related Recreation

23 Rural Environment

23 Aquaculture in Man-Made Ponds
24 Flood Hazard Management
25 Mining

26 Definitions, policies, and regulations for each use are listed in Chapters 1, 2, and 5 of the SMP.

1 **Shoreline Substantial Development Permits**

2 *Shoreline Substantial Development Permits* are required for any project or activity within the
3 Town's shoreline management jurisdiction including:

4 **Any use or activity consisting of:**

- 5 · Construction or exterior alteration of structures
- 6 · Dredging
- 7 · Drilling
- 8 · Dumping or filling
- 9 · Removal of sand, gravel, or minerals
- 10 · Bulkheading
- 11 · Driving of piles
- 12 · Placing of obstructions

Or:

Any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlaying lands subject to the Shoreline Master Program at any state of water level.

9 **Which:**

10 Has a total cost or fair market value in
11 excess of two thousand five hundred
12 dollars (\$2500).

Or:

13 Materially interferes with the normal
14 public use of the waters or shorelines of
15 the Town.

12 **Shoreline Variances**

13 *Shoreline Variances* are required for any project which proposes to deviate from the
14 performance standards set forth in the SMP. **Variances are granted only in extraordinary
15 cases where strict implementation of the SMP would impose unnecessary hardships on
16 the applicant.** Variances apply only to deviations from performance standards -- requests for
17 types of use other than those permitted outright in the SMP require Conditional Use Permits.

16 **Zoning Variances**

17 *Zoning Variances* may be granted in cases where strict application of the zoning code would
18 deprive a property of privileges enjoyed by other properties in the same zone because of
19 special features or constraints unique to the property involved. They are intended only to
20 relieve hardship in special cases and not to avoid compliance with the intent of the zoning
21 ordinance. A variance may relax the zoning code's requirements with respect to size, location,
22 height, coverage or other performance standards which regulate structures or signs. Variances
23 address the physical aspects of structures or site improvements and are not intended to
24 circumvent restrictions on use. Zoning variances are described in Chapter 18.65 of the
25 Skykomish Municipal Code.
26