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January 17, 2013

GPT/BNSF Custer Spur EIS Co-Lead Agencies
c/o CH2M HILL
1100 112th Avenue NE, Suite 400
Bellevue, WA 98004

SENT VIA EMAIL

RE: Comments on Proposed Gateway Pacific Terminal and Custer Spur Projects

Dear Madam or Sir:

These comments are submitted on behalf of the Center for Justice. The Center for Justice is a non-profit advocacy organization located in Spokane, Washington. The Center for Justice houses the Spokane Riverkeeper program, which has been active in reviewing issues related to the coal transport issues in the Northwest. The Center's Spokane Riverkeeper Bart Mihailovich submitted oral testimony at the Seattle hearing on this matter. These comments are intended to supplement those oral comments.

The Center for Justice has the following comments that should be addressed by the co-lead agencies as this matter moves forward:

1. **Problems with Public Participation Process**

The public process for obtaining comments in this matter has been problematic.

First, during several of the hearings, proponents of the project paid people to stand at the beginning of the line resulting in a significant number of "pro" coal terminal/coal train comments.[1] This certainly did not reflect the audience that was present to be heard. In Spokane, more than 75% of the attendees were supportive of an Environmental Impact Statement that broadly analyzes impacts of this project. Moreover, only a limited amount of testimony was taken. Both these limited to scope and breadth of public testimony entered into the record.

Second, your email system for receiving public comments was not working for a number of days. During that time, we heard from many members of the public who were unable to submit comments and/or were unable to include attachments on the web-based submission page. While we have been informing people that the problem is resolved and the web-based form can now take pdf attachments, time is short to spread the message and ensure that those who were denied an opportunity to comment can do so.

For these reasons, the Center for Justice and The Lands Council previously requested that the comment period for scoping be extended 30 days to allow for additional comments. No action has been taken on this request.

[1] See article outlining this at http://www.spokesman.com/stories/2012/dec/04/shipping-of-coal-topic-of-hearing.

Given the problems that existed with the system for submitting comments and that this problem was not related to any action of the public, the Center for Justice specifically requests that additional public comment opportunities be granted to our community. Specifically, the Center for Justice requests that a public hearing occur in Spokane to receive comment on the draft Environmental Impact Statement when it is completed.

2. Impacts on Train Transportation System: Local Spokane Impacts

The co-lead agencies should consider, analyze, and mitigate the impacts of this project on transportation systems in the Spokane area. Specifically, the impacts that increased train traffic will have on local utilization of the rail system.

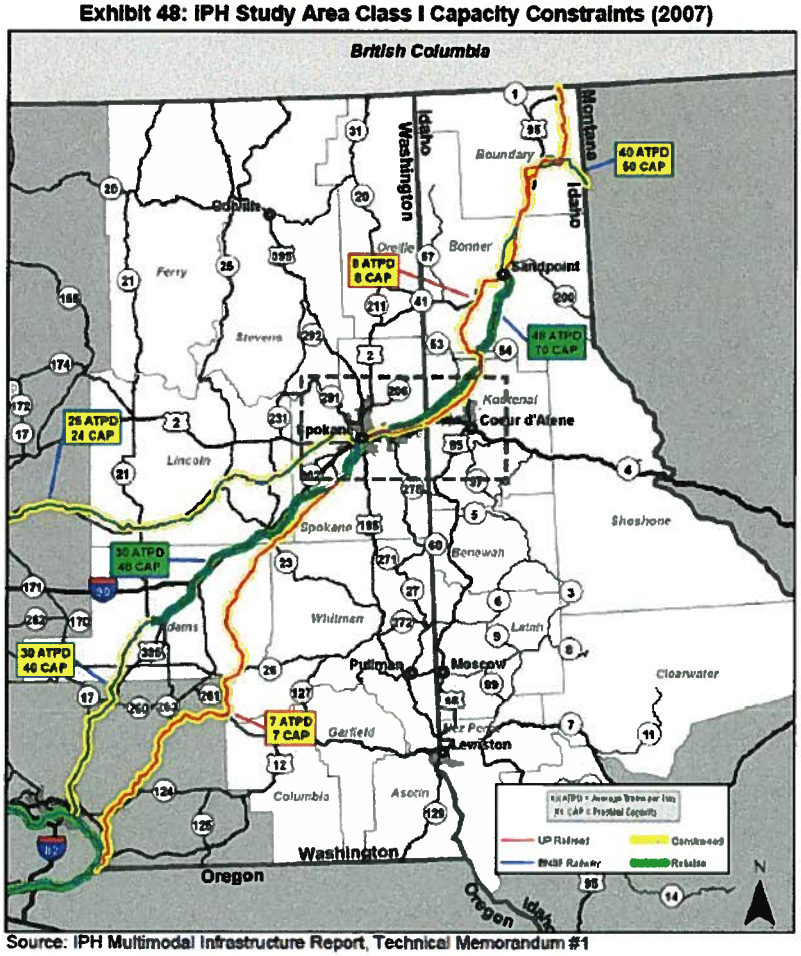
Recent analysis completed by the Inland Pacific Hub (IPH) process indicates that train lines in and near Spokane are often at capacity. The added coal trains were not factored into IPH project. Because the trains would presumably be passing through our community without stopping, Spokane would bear all of the impacts of reduced capacity on our rail lines, sharp rises in freight related congestion air quality and safety problems and receive no economic benefit locally. Increased coal train traffic resulting from the approval of this project will adversely impact local businesses and farms by making low cost rail unavailable.

The IPH Modal Issues paper (copy included with comments) states:

> The BNSF typically serves 50 to 60 trains per day (sometimes up to 70 during harvest season, which is capacity) in "the funnel," and the UP/SI route typically serves up to eight trains daily. The BNSF mainline across Stampede Pass serves about five trains daily, the Columbia River route, about 35 trains daily and Stevens Pass route handles about 16 trains per day. The UP route to the Tri- Cities serves about seven trains daily.
>
> The BNSF Auburn-Pasco line across Stampede Pass cannot be used to relieve congestion on the Columbia River route or over Stevens Pass – This is because of ceiling of the Stampede Tunnel is not high enough to handle double stack containers. Another constraint is the 2.2 percent grade between the rail stations of Easton and Martin. Helper units (Additional locomotive power unit) must be used to accommodate heavy train over this section of track. The addition and removal of the helper units requires additional time over this line.
>
> The BNSF operates under constrained conditions on its Everett-Spokane line, as well as between Pasco and Lind and between Sandpoint and Montana. From Lind to Sandpoint, including the Spokane vicinity, the BNSF operates under reliable conditions. The UP operates under constrained conditions on its entire run through the Inland Pacific Hub, from Hinkle to Eastport.

Capacity of these two rail lines is currently about 78 trains per day. The coal terminal proponents have set the expectations in the range of 20-60 additional trains per day. If this range of expectation is accurate this would regularly put our rail lines between 20-70% over capacity. The attached figure from the IPH demonstrates shows that the Union Pacific line is at capacity and the BNSF line is near capacity.

Exhibit 48: IPH Study Area Class I Capacity Constraints (2007)



Source: IPH Multimodal Infrastructure Report, Technical Memorandum #1

As discussed in the attached Regional Freight Profile:

> The percentage of through-freight that moves across the region places demands on the capacity and preservation of the regional highway and rail transportation system, but aside from jobs related to transportation support services (truck stops, lodging, freight transfer terminals, etc.) through-freight which does not stop does not create significant industry in the IPH study area. Through freight is less connected to the region's economic activity than inbound or outbound freight which supports jobs at factories, stores and other businesses.

As the Regional Freight Profile affirms, coal is a pass through commodity. Currently 52.6% of all freight by volume (tonnage) just passes through our region. 54.1% of the freight by value is through traffic. Rail carries 42.8% of the total freight by volume and 20.3% by value. 81.5% of rail freight is through traffic. This gives Spokane little room to accommodate additional coal train traffic.

Additional coal trains do not transport any commodities from Spokane, provide no jobs to anyone in Spokane, and only threaten to gobble up rail capacity to the detriment of Spokane. Given this, the Environmental Impact Statement for this project must analyze impacts to our community associated with increase coal trains. For example, agriculture is Spokane County's number one export. What will the

impacts be to agricultural freight mobility? What will additional traffic at railroad crossings do to local jobs and local freight mobility?

3. Coal Dust

The co-lead agencies should consider, analyze, and mitigate the impacts of this project on the deposition of coal dust in the Spokane area and along the entire transportation corridor.

Documents from BNSF and Union Pacific (attached) filed with the Surface Transportation Board (STB) specifically indicate that coal dust can have significant impacts when transporting by rail. Both BNSF and Union Pacific provided detailed argument, evidence, and expert declaration detailing the significant loss of coal from its trains and the impacts of that loss on its lines in STB Case No. FD-35305-0 titled *Arkansas Electric Cooperative Corporation.*

In a 2010 filing with the STB, BNSF recognized the loss of coal dust from its trains, stating:

> Coal dust emitted from moving coal trains is pervasive along the rail lines in the [Powder River Basin].Coal dust deposits are visible between the rails, between the sets of tracks, along bridge abutments **and in creek beds**. ... Even in areas that appear to be free of coal dust, coal accumulations are found just beneath the surface. ... When a coal train passes, it is usually necessary to avert your face or roll up your car window to avoid being pelted with coal dust flying off the coal cars. A parked car left near the rail lines will be covered with black coal dust by the end of the day.
>
> Coal dust is a serious contaminant of rail ballast and therefore presents a serious problem for railroad operations, as rail ballast is critical to the integrity of a railroad's track structure

(Emphasis added).

Likewise, Union Pacific filed a document in 2010 with the STB, stating:

> Falling or blowing coal from the top of open cars as a result of wind erosion is the primary source of coal loss, although coal loss also occurs due to improper car sealing or defective bottom dump cars. (Muleski VS at 2. 4.) Coal dust fouls die ballast and is harmful because the coal dust foulants "reduce the shear strength and thus load-bearing capacity of the ballast." (Connell VS at 13.) As a result, the ballast may not be able to perform its function of distributing the load to the sub-ballast between cross ties, rails or ties may become unstable, and the possibility of derailments increases.
> ...
>
> [C]oal dust continues to accumulate on coal routes despite ongoing and extensive efforts by BNSF and Union Pacific to remove it through undercutting and other maintenance activities.

Given the railroads own admission of the loss of coal dust associated with coal transport, the co-lead agencies must review the record in the STB proceeding, including the railroads own filings, and fully analyze the impacts of the coal dust and the effectiveness along the entirety of the line of dust mitigation measures.

Given the significance of the impacts associated with the project and its cumulative impacts, the Center for Justice recommends that a full environmental analysis and suite of mitigation measures be developed to minimize and eliminate impacts of this proposal.

Please include these comments and attachment into the record for this matter and please keep me on the service list for this action. My address is 35 West Main, Suite 300, Spokane, WA 99201. Email is ricke@cforjustice.org.

Sincerely,

CENTER FOR JUSTICE

Rick Eichstaedt
Executive Director