Application for Use of State-owned Aquatic Lands

Applicant Name: The Burlington Northern and Santa Fe Railway Company
County: Whatcom
Water Body: Bellingham Bay and Chuckanut Bay
Type of Authorization: Lease
Authorization Number: 22-A02140
Term: 30 years
Description: DNR plans to reauthorize a harbor area lease for all or portions of three railroad trestles in Whatcom County.
STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

APPLICATION FOR AUTHORIZATION TO USE STATE-OWNED AQUATIC LANDS

NO WORK CAN BE STARTED ON THE PROJECT AREA UNTIL A USE AUTHORIZATION HAS BEEN GRANTED BY THE DEPARTMENT OF NATURAL RESOURCES

I. SUBMISSION OF APPLICATION

Enclose a $25.00 non-refundable application processing fee with the application. (this fee is not required for local, state, and other government agencies). This application form will be reviewed by the Department of Natural Resources upon receipt at the address given below. Applicants will be notified in writing if the application will be accepted for further review. However, the application may be rejected at any time before signed execution of a use authorization.

Please send the complete application form to your region land manager at:

Department of Natural Resources
[Region/District Address]

II. APPLICANT INFORMATION

Date of Application: 4/1/04

Authorization to be Issued To (how name is to appear in the lease document): The Burlington Northern and Santa Fe Railway Company

Applicant's Representative: Fiona Forkner, The Staubach Company

Relationship to Applicant: Real Estate Provider

Address: 15601 Dallas Parkway, Suite 400
City: Addison
State: TX
Zip Code: 75001

Telephone: 972.361.5000
Fax: 972.361.5910
E-Mail: fiona.forkner@staubach.com

FOR OFFICIAL USE ONLY

Support: Application Fee Received

Date: 1-19-7

Land Manager: New Application; Renewal Application: 22-A02146 Trust 25; County 37; AQR Plate No. 05 NWB030

WA DNR Use Authorization, Long Application
Revised: October 2003
1 of 7
STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
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</tr>
</tbody>
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Land Manager: New Application: [Check box] Renewal Application: [Check box] Land Manager Initials

Land Records: New Application Number: [Blank]; Trust: [Blank]; County: [Blank]; AOR Plate No. [Blank]

Date: 1-19-07

WA DNR Use Authorization, Long Application

1 of 7  Revised: October 2003
II. APPLICANT INFORMATION cont'

Department of Revenue Tax *Registration Number (Unified Business Identifier) is Required: 416034000

Which of the following applies to Applicant (Check One and Attach written authority to sign - bylaws, power of attorney, etc):

<table>
<thead>
<tr>
<th>Corporation</th>
<th>Limited Partnership</th>
<th>General Partnership</th>
</tr>
</thead>
<tbody>
<tr>
<td>State of Registration: Delaware</td>
<td>State of Registration:</td>
<td>State of Registration:</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Sole Proprietorship</th>
<th>Marital Community Spouse</th>
<th>Government Agency</th>
</tr>
</thead>
</table>

Other ☐ (Please Explain:)

Has the site use been authorized before or is it currently under lease? Yes X Lease Number: HA 2140

No ☐ Don't Know ☐

III. LOCATION

The Body of Water on which the state property is located: Fairhaven Tide Lands

County in which the state property is located: Whatcom

Government Lot:

<table>
<thead>
<tr>
<th>Section: 11</th>
<th>Township: 37</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range: 2</td>
<td></td>
</tr>
<tr>
<td>E X or W ☐</td>
<td></td>
</tr>
</tbody>
</table>

Note: A legal property survey including the legal description and other information about the property is required to obtain a use authorization. WA DNR survey requirements are attached to this form. The survey plat will be attached to the lease/easement as Exhibit A. DO NOT HAVE THIS SURVEY CONDUCTED UNTIL YOU HAVE BEEN NOTIFIED IN WRITING THAT THE APPLICATION HAS BEEN ACCEPTED FOR PROCESSING.

Physical description of Project Area (For example, Marsh, Tidel flat adjacent to the Chehalis River, etc.): Harbor Area

Name of Owner(s) of Uplands, Shorelands, and/or Tidelands shoreward and adjacent to the Property:

Address: [ ]

City: [ ] State: [ ] Zip Code: [ ]

Phone Number: [ ] Fax Number [ ] E-mail: [ ]

Note: Except for property located within established Harbor Areas, proof of ownership, or authorization to use the adjacent tidelands, shoreland, or upland property may be required. If the applicant is the owner of the adjacent land, attach a copy of the deed.

County Parcel No(s). for adjacent properties, upland, and/or adjacent tideland properties:
IV. USE OF PROPERTY

Describe, in detail, the proposed use of the Property: Continued Use of Railroad Roadbed and Trestle for Interstate Transportation of Goods By Rail.

Is or will the Property be subleased to another party? Yes ☐ No X
If yes, submit a copy of the sublease agreement.

What are the current and past uses of the site?

Do you have any knowledge of contamination of the site by toxic or hazardous substances, or of past uses or practices that might have lead to contamination by such substances? Yes ☐ No X
If so, please explain:

Do you know if any fill material has been placed on the property in question? Yes ☐ No X
If yes, please explain:

V. IMPROVEMENTS

Physical improvements are structures placed on the land that cannot be removed without damage to the land. Examples of such structures include: pilings, dolphins, piers, wharves, piling-supported buildings, structures built on fill or concrete foundations, buried pipelines and cables, and support structures for bridges.

What physical improvements currently exist on the site? (Photos may be required.)

A Timber Trestle

If there are physical improvements currently on the site, who owns them?

BNSF

If there are physical improvements currently on the site, describe their condition:

Unknown

Which, if any, of the existing physical improvements will be removed, remodeled, or reconstructed?

None

Describe any physical improvements that the applicant is proposing to construct on the site:

None

Has any fill material been placed on the site? Yes ☑ No ☐
If Yes, please describe:

Original fill for Roadbed
VI. **LOCAL, STATE, AND FEDERAL REGULATORY PERMITS**

Copies of all Government Regulatory Permits, or Permit Waivers Are Required Before Issuance of a DNR Use Authorization. Your project may require all or some of the following.

Please include the following permit applications, permits, or waivers with the application:

<table>
<thead>
<tr>
<th>JARPA (Joint Aquatic Resource Permit Application)</th>
<th>- This one form is used to apply for all of the following individual permits:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Section 10 Permit</strong></td>
<td>(Required by the US Army Corps of Engineers for any work in or affecting navigable waters, e.g., floats, docks, piers, dredging, piling, bridges, overhead power lines.)</td>
</tr>
<tr>
<td>2. <strong>Shoreline Substantial Development, Conditional Use, Variance Permit or Exemption</strong></td>
<td>(Issued by Local Government, and is required for work or activity in the 100 year flood plain, or within 200 feet of the Ordinary High Water mark of certain waters; and which included any one of the following: dumping, drilling, dredging, filing, placement or alteration of structures or any activity which substantially interferes with normal public use of the waters.)</td>
</tr>
<tr>
<td>3. <strong>Hydraulic Project Approval</strong></td>
<td>(Required by the Department of Fish and Wildlife if the project includes work that will use, divert, obstruct, or change the natural flow or bed of any fresh or salt water of the state.)</td>
</tr>
<tr>
<td>4. <strong>Section 404 Permit</strong></td>
<td>(Required by the US Army Corps of Engineers if your project will discharge or excavate any dredged or fill material waterward of the Ordinary High Water mark or the Mean Higher High Tide Line in tidal areas.)</td>
</tr>
<tr>
<td>5. <strong>Section 401 Water Quality Certification</strong></td>
<td>(Required by the Department of Ecology if a Section 404 permit is required.)</td>
</tr>
</tbody>
</table>

**NPDES (National Pollutant Discharge Elimination System Permit)** - Required by the Department of Ecology under delegated authority from the Federal Environmental Protection Agency for projects that include the discharge of fluid on or into surface water.

**SEPA (State Environmental Policy Act) Checklist and Environmental Assessments** - When you submit a permit application to any agency, if the project is not exempt, the lead agency will ask you to fill out an environmental checklist. Based on checklist answers and the reviewers knowledge of the project site, agency personnel will determine the types of impacts the project may have on the environment. The agency assessments may be the following forms: Determination of Nonsignificance, Determination of Significance, scoping documents, draft or final Environmental Impact Statements (EIS) or others prepared for the purpose of compliance.

Describe any habitat mitigation required by any of the permitting agencies identified above and identify where such mitigation is proposed to occur:

All answers and statements are true and correct to the best of my knowledge.

**Applicant Name (please print):**
Blaine Bilderback, BNSF

<table>
<thead>
<tr>
<th>Title:</th>
<th>Director, Acquisitions and Development</th>
</tr>
</thead>
</table>

**Applicant or Authorized Signature:**

<table>
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<tr>
<th>Date:</th>
<th>1-24-05</th>
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