

# REEVES, KAHN, HENNESSY & ELKINS

ATTORNEYS · AT · LAW

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\*Also Admitted in Washington


December 9, 2016

To Whom It May Concern:

As you may be aware, Wasco County denied Union Pacific's Mosier area double tracking application based on violations of the Yakama Nation's sovereign treaty rights. In addition, the County denied the appeal filed by Friends of the Columbia Gorge, Columbia Riverkeeper, and Oregon Physicians for Social Responsibility. Although we would not normally file an appeal of a denied permit in such a circumstance, we are doing so in the event the Applicant files an appeal and this proceeding continues. If the Applicant does not file an appeal, we intend to dismiss our appeal.

REEVES, KAHN, HENNESSY & ELKINS

FRIENDS OF THE COLUMBIA GORGE, INC.

  
Steven D. McCoy  
for



Gary K. Kahn  
Attorney for Friends of the Columbia Gorge,  
Columbia Riverkeeper, and Oregon  
Physicians for Social Responsibility

Steven D. McCoy  
Attorney for Friends of the Columbia Gorge

Enclosure

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Friends of the Columbia Gorge, )  
Columbia Riverkeeper, ) CRGC No. \_\_\_\_\_  
Oregon Physicians for Social )  
Responsibility, ) NOTICE OF APPEAL  
)  
Appellants, )  
)  
vs. )  
)  
Wasco County, )  
)  
Respondent, )  
)  
and )  
)  
Union Pacific Railroad, )  
)  
Respondent (Applicant). )

I.

Notice is hereby given that Friends of the Columbia Gorge, Columbia Riverkeeper, and Oregon Physicians for Social Responsibility (collectively “Appellants”) appeal that land use decision of respondent identified by the title IN THE MATTER OF THE WASCO COUNTY BOARD OF COMMISSIONERS LAND USE PLANNING CASE PLASAR-15-01-0004 order number 16-067, which became final on November 10, 2016 and which proposes to expand an existing railroad siding on either side of Mosier, Oregon to create a new second mainline track and realign existing track; replace equipment shelters; install drainage structures including ditches and culverts, a retaining wall, new lighting and signage, and wireless communication poles; modify existing utilities, temporary landing zones for construction; construct temporary and permanent access roads; and perform off-site wetland mitigation.

ADR STATEMENT: Appellants are not willing to attempt to resolve the case through alternative dispute resolution.

SHORTENED RECORD: Appellants are willing to consider a shortened record as allowed by Commission Rule 350-60-060(f).

EMAIL SERVICE: Appellants are willing to receive documents electronically to [gkahn@rke-law.com](mailto:gkahn@rke-law.com) and [steve@gorgefriends.org](mailto:steve@gorgefriends.org)

II.

Appellant Friends of the Columbia Gorge has as its contact information: Steven D. McCoy, Friends of the Columbia Gorge, 333 SW Fifth Ave, Ste 300, Portland, OR 97204; [steve@gorgefriends.org](mailto:steve@gorgefriends.org); 503-634-2032.

Appellant Columbia Riverkeeper has as its contact information: Lauren Goldberg, Columbia Riverkeeper, 111 Third St., Hood River, OR 97031; lauren@columbiariverkeeper.org; 541-965-0985.

Appellant Oregon Physicians for Social Responsibility has as its contact information: Regna Merritt, PA, Oregon Physicians for Social Responsibility, 1020 SW Taylor St, Suite 275, Portland, OR 97205; Regna@oregonpsr.org; 971-235-7643.

Appellants are represented by: Gary Kahn, Reeves Kahn Hennessy & Elkins, PO Box 86100, Portland, OR 97286; gkahn@rke-law.com; 503-777-5473.

Appellant, Friends of the Columbia Gorge, is also represented by: Steven D. McCoy, Friends of the Columbia Gorge, 333 SW Fifth Ave, Ste 300, Portland, OR 97204; steve@gorgefriends.org; 503-634-2032.

Respondent, Wasco County, has as its contact information: 511 Washington Street, The Dalles, OR 97058; KathyW@co.wasco.or.us; 541-506-2520.

Respondent, Wasco County, has as its legal counsel: Kristen Campbell, Timmons Law PC, PO Box 2350, The Dalles, OR 97058; kristen@timmonslaw.com; 541-296-9900.

Applicant, Union Pacific Railroad, has as its contact information: Union Pacific Railroad, Attn: Luke Baatz, 1400 Douglas St, Stop 0910, Omaha, NE 68179; lmbaatz@up.com; 402-544-3527.

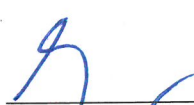
Applicant, Union Pacific Railroad, was represented in the proceeding below by: Ty K. Wyman, Dunn Carney Allen Higgins & Tongue, LLC, 851 SW 6<sup>th</sup> Ave, Ste 1500, Portland, OR 97204; twyman@dunncarney.com; 503-417-5478.

### III.

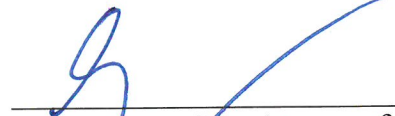
Other persons mailed written notice of the land use decision by Wasco County, as indicated by its records in this matter, include those indicated on Attachment I. Other persons emailed notice of the land use decision by Wasco County, as indicated by its records in this matter, include those indicated on Attachment II.

#### NOTICE:

Anyone designated in paragraph III of this Notice who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding within 14 days of the date of this Notice, as required by Commission Rule 350-60-160. Anyone that desires to present oral argument to the Commission must intervene and file a brief as required by Commission Rule 350-60-120(1).

  
\_\_\_\_\_  
Gary Kahn, Attorney for Appellants

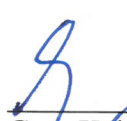
Steven D. McCoy  
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\_\_\_\_\_  
Steven D. McCoy, Attorney for Friends  
of the Columbia Gorge

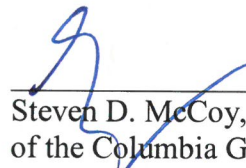
CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2016, I served a true and correct copy of this Notice of Appeal by first class mail on Wasco County and Kristen Campbell, its legal counsel below; on Union Pacific Railroad and Ty K. Wyman, its legal counsel below; and on the persons listed on Attachment I. I hereby certify that on December 9, 2016, I served a true and correct copy of this Notice of Appeal by email on the persons listed on Attachment II.

Dated: December 9, 2016

  
\_\_\_\_\_  
Gary Kahn, Attorney for Appellants

Steven D. McCoy  
for

  
\_\_\_\_\_  
Steven D. McCoy, Attorney for Friends  
of the Columbia Gorge

Attachment I

Name	Street	City	State	ZIP
Allie Smith	1513 NE 91st Ave	Vancouver	WA	98664
Barbara Miller	PO Box 416	White Salmon	WA	98672
Carolyn Gerould	3307 SW Dosch Rd	Portland	OR	97239
Darya Minovi	127 SE 12th Ave	Portland	OR	97214
Gary Lindemyer	105 Kingdon Ave	The Dalles	OR	97058
Holly Bard	PO Box 1010	Vancouver	WA	98666-1010
James Fuller	3670 W. Bellewood Pl	Tucson	AZ	85741
Jennifer Ouzounian	305 Prospect Ave	Hood River	OR	97031
John Cornelison & Kim Farrell	10506 SW 132nd Pl	Vashon	WA	98070
John Mooney	264 El Camino Real	White Salmon	WA	98672
Judy Chilton	4 Knoll Ridge Road	Lyle	WA	98635
Karen Messerschmidt	1218 SE 121st Ave	Vancouver	WA	98682-6239
Kathleen Patton	1645 24th Avenue	Longview	WA	98632
Kristin Bowling	8847 N Burrage Ave	Portland	OR	97217
Laurie & Dave King	8728 N Edison	Portland	OR	97203
Linda Browning	12000 SW 49th Ave	Portland	OR	97219
Lisa Vollins	33233 NE Mershon Rd	Corbett	OR	97019
Lori Bennis	4240 SE 79th Ave	Portland	OR	97206
Lothar F. Warneke	716 Dennis Street SE	Tumwater	WA	98501
Micael Parker	6825 N. Fenwick Ave	Portland	OR	97217
Michael Eng	#3 Mosier Place	Mosier	OR	97040
Peter Christ	28818 NE Hancock Road	Camas	WA	98607
Phil Swaim	3300 Vensel Road	Mosier	OR	97040
Sandra Kice (Ed & Ned)	6618 Mill Creek Rd	The Dalles	OR	97058
Sheila Dooley	3300 Vensel Road	Mosier	OR	97040
Susan Conklin	1890 Paradise Ridge Road	Mosier	OR	97040
Susan Froehlich	PO Box 312	Mosier	OR	97040
STRANZ JEFFREY & MARY RUTH	PO BOX 243	MOSIER	OR	97040
WILSON GRANT E & DONITA M	PO BOX 246	MOSIER	OR	97040
OREGON DEPT OF TRANSPORTATION	4040 FAIRVIEW INDUSTRIAL DR SE	SALEM	OR	97302-1142
STATE OF OREGON	725 SUMMER ST NE STE C	SALEM	OR	97301
STATE HIGHWAY COMMISSION	4040 FAIRVIEW INDUSTRIAL DR SE	SALEM	OR	97302-1142
WASCO COUNTY	511 WASHINGTON ST	THE DALLES	OR	97058
O W R & N CO	1700 FARNAM ST 10TH FLOOR S	OMAHA	NE	68102-2010



# Attachment I

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THE NATURE CONSERVANCY	821 SE 14TH AVE	PORTLAND	OR	97214
ORCHARD VIEW LLC	9760 SW FREEMAN DR	WILSONVILLE	OR	97070-9221
BALDWIN STEVEN E	PO BOX 364	THE DALLES	OR	97058
UNITED STATES OF AMERICA	902 WASCO AVE #200	HOOD RIVER	OR	97031
FRIENDS OF THE COL GORGE LAND TRUST	205 OAK ST STE 17	HOOD RIVER	OR	97031
UNITED STATES OF AMERICA	902 WASCO AVE #200	HOOD RIVER	OR	97031
SCHACHT SKYLAR & KATHLEEN	PO BOX 1485	THE DALLES	OR	97058
Dufur School District 29	801 NE 5th Street	Dufur	OR	97021
Columbia Volunteer Rural Protection District - Mike Kelly	6535 Freebridge Rd	The Dalles	OR	97058
The Dalles Irrigation District	3502 Olney Road	The Dalles	OR	97058

Attachment II

**Name**  
 Karen Edwards  
 Sandra Smith  
 Sarah Atkins  
 Alice Suter  
 Alys Kennedy  
 Alea Kent  
 Alex Prentiss  
 Alice Shapiro  
 Pamela Allee  
 Teresa Allen  
 Alona Steinke  
 Tascha Babitch  
 Annie Walsh  
 Ann Littlewood  
 Anthony Lyon  
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 Thomas Hopkins  
 Barb Jackson  
 Greg Martin  
 Barbara Amen  
 Barb Richardson  
 Barbara Branham  
 Brett Baylor  
 Barbara Baker  
 Bruce Barnum  
 William Fowle  
 Wm. Fowle  
 Barbara Nelson  
 Carrie Nobles  
 Beth Hartwell  
 Kistine Beam  
 Ben Ignatowski  
 Benno Lyon  
 Benjamin Ward  
 Robbie Moller  
 Barbara Giesy  
 Patricia Orlinski  
 Julie Blenn  
 Rebecca Clark  
 Barbara Tomblason  
 Maxine Schwartz  
 Blaine Ackley  
 Megan Ferrell  
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 J. Robert Gush  
 Robert Sullivan  
 Robert Bachman  
 Teresa McGrath  
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 Chris Bekemeier  
 C Bradley  
 Laurie Kruzcek  
 Gayle Janzen  
 Helen Chadsey  
 Charles Pace  
 Beatriz Marino  
 Cheryl Riegler  
 Matthew Barmann  
 Chris Smith  
 Christine Underwood  
 Christine Sahn  
 Christine Oriet  
 Christopher Williams  
 Carol Jagliello  
 Corinne McWilliams  
 Caroline Bridges  
 Colla Ash  
 Barbara Coleman  
 Sandy Wood  
 Corey Hiseiler  
 Susan Miller  
 Cory Johnston  
 Sammy Low  
 Christine Yun  
 Crissy Trask  
 Helen Curtis  
 Craig Loftin  
 Don Steinke  
 Charlotte Sahnow  
 Carol Sword  
 Valoree Hummel  
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 Katjeleen Frei  
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 David Shaw  
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 Brooke Jacobson  
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 Susan Dornfeld  
 Ruth Darden  
 Daniel Jaffee  
 Duane Ray  
 Grant Fujii  
 Betsy Schaffer  
 Eugene Sakai  
 Liz Trojan  
 Emily Meyer  
 Elizabeth Taylor  
 David Milholland  
 Evelyn Rhodes  
 Ernie Loreen  
 Sigrid Asmus  
 William White  
 Faye Brehm  
 Francis Lenski  
 John Cornelison  
 Greg Thompson  
 George Chokas  
 George Cummings  
 Gary Bushman  
 George Keefe  
 Gina Fuller  
 Gisela Ray  
 Carole Beauclerk  
 Gloria Ladum  
 Katelin Stuart  
 Kaitlin Grammer  
 Gretchen Randolph  
 Gretchen Olsen  
 Heather Chapin  
 Heather Dennett  
 Heide Smith  
 Heidi Venture  
 Enriqueta Mattson  
 Bernhard Masterson  
 Craig Heverly  
 Craig Heverly  
 Hal Glidden  
 Helen Jaskoski  
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 Judith Angell  
 Jan Leininger  
 Jan Simon  
 Linda Jansen  
 John Morris  
 James Davis  
 Julie DeSmith  
 James Loacker  
 Jayne Elken  
 Jenny Holmes  
 Jennifer Coughlin  
 Jerry Zaret  
 Jessi Snow  
 John Hall  
 Jill and Charles Barker  
 Joel Kay  
 Jason Knopp  
 John Kirkland  
 John Russ  
 Joeli Ellis  
 Joseph Leitschuh  
 Judy Jordan  
 John Omer  
 Jonnel Covault  
 Sandra Joos  
 Josh Bickley  
 Jack Platner  
 Jack West  
 James Hipp  
 John Rogers  
 Joanna Smith  
 Jeff Stookey  
 Jean Teach  
 Judith Nappe  
 Judy Todd  
 Judy Romano  
 Judith Eda  
 Judy Henderson  
 Julie Stream  
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Attachment II



Attachment II

Attachment II

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 Kimber Nelson  
 Gregg Kleiner  
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 Kyna Rubin  
 Kathleen Shelman  
 Kurt Smith  
 Laurie and Dave King  
 Lani Roberts  
 Larry Keister  
 Larry Peterson  
 Laurel Hagner  
 Laurie Fisher  
 Linda Avinger  
 Lisa Brice  
 Leo Pillifant  
 Erin Bradshaw  
 Linda Wheelin  
 Lynda Byers  
 Underwood  
 M. Lee Zucker  
 Lev Tsypin  
 Linda Browning  
 Leni Horst  
 Ilene le Vee  
 Lisa Grant  
 Lisa Hull  
 Lisa Hull  
 Diana Richardson  
 Ted Light  
 Jamie Caya  
 Linda Sawaya  
 Linda Schmoldt  
 Lindsay Wright  
 Lisa Orstein  
 Lisa Jean Hoefner  
 Michael Litt  
 Liz Terhaar  
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 Lois Bancroft  
 Loreley Drach  
 Lydia Deems  
 Lynda Cunningham  
 Majia Wells  
 Marcus Denison  
 Marcus Cohn  
 Margaret Welling  
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