



September 26, 2016

VIA ELECTRONIC MAIL AND U.S. MAIL

Angie Brewer
Wasco County Planning and Development Office
2705 East Second Street
The Dalles, OR 97058
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**Re: Supplemental Comments on Union Pacific Railroad's Application for Rail
Extension Application Number: PLASAR-15-01-0004**

Dear Ms. Brewer:

This is intended to supplement the Confederated Tribes and Bands of the Yakama Nation's ("Yakama Nation") previous comments on the above-referenced matter, dated September 13, 2016 ("Comments").

We have been asked to specify whether Yakama Nation's Comments pertained to the Application only, or to both the Application and Wasco County Staff's Recommendation and Conditions of Approval ("Conditions of Approval"), and further to specify whether those Conditions of Approval mitigate the adverse impacts to Yakama Nation's Treaty rights that will result from the proposed rail expansion.

First, the Comments did address both the Application and the Conditions of Approval.

Second, Yakama Nation does not bargain its Treaty rights. We have no word for "mitigation" in our language, and see attempts to mitigate violations of our Treaty rights as the equivalent of bargaining away rights secured to our people by our ancestors 161 years ago, and leaving those who have yet to come with diminished rights. That is unacceptable.

That being said, to address whether the specific Conditions of Approval negate or neutralize the adverse impacts to Treaty rights threatened by the rail expansion project—they do not. Specifically, for example, we understand one condition on the rail expansion project being considered is to limit the number of trains utilizing the expanded tracks to roughly the current number of trains presently running through that area on a daily basis. But Yakama Nation questions how this condition, among others, will be enforced, and whether it can be enforced. We understand that Union Pacific Railroad specifically denies that this condition can be enforced. Accordingly, because the Applicant has already signaled that this specific condition is unenforceable, the significant impacts to Yakama Nation's Treaty rights that will result from rail expansion and the potential for increased rail traffic—which is promised by a number of current

and ongoing proposals to traffic fossil fuels through Yakama ancestral lands by rail, among other means of conveyance—are not reduced in any meaningful way. Accordingly, the proposed Conditions of Approval will not bring the project to a level where there are no adverse impacts to Yakama Nation’s Treaty rights. The Yakama Nation urges the Wasco County Planning Commission (“Commission”) to reject Union Pacific Railroad’s Application.

Thank you for your time and consideration. Unfortunately, Yakama Nation Tribal Leaders are otherwise committed today during the deliberation on this matter before the Commission. Notwithstanding, the Yakama Nation stands prepared to help provide any information the Commission may need in making its decision through its staff and attorney on this matter. If you have any questions, please contact Yakama Nation through our attorney, Joe Sexton who may be reached directly at joe@galandabroadman.com, or our Environmental Manager, Elizabeth Sanchez at esanche@yakama.com

Sincerely,


JoDe L. Goudy, Chairman
Yakama Nation Tribal Council