

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 23-144

APPROVING BNSF RAILWAY COMPANY INDUSTRY TRACK AGREEMENT
EXHIBIT SUBSTITUTION AMENDMENT

WHEREAS, Snohomish County owns, and the Snohomish County Solid Waste Division (SWD) oversees, operations in the Everett Intermodal Yard located in the Riverside Business Park in Everett, WA; and

WHEREAS, the Intermodal Yard has a spur track that connects to BNSF Railway Company rail; and

WHEREAS, the SWD utilizes the Intermodal Yard spur track and BNSF Railway Company rail for trans-shipment of solid waste generated in Snohomish County; and

WHEREAS, the BNSF Railway Company requires rail users to enter into an Industry Track Agreement; and

WHEREAS, BNSF and the County entered into an Industry Track Agreement on August 31, 2015; and

WHEREAS, BNSF and the County desire to amend the terms of the existing Industry Track Agreement with a new Exhibit drawing to reflect additional track to be installed on the Intermodal Yard;

NOW, THEREFORE, ON MOTION, the Snohomish County Council approves and authorizes the Snohomish County Executive to execute the BNSF Railway Company Industry Track Agreement Exhibit Substitution Amendment substantially in the form of Exhibit A attached hereto and incorporated herein.

PASSED this 10th day of May, 2023.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Deputy Clerk of the Council

**EXHIBIT SUBSTITUTION AMENDMENT
CONTRACT NO. BF-76122**

THIS EXHIBIT SUBSTITUTION AMENDMENT ("**Amendment**") is made to be effective as of the date of the last signature hereto (the "**Effective Date**"), by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("**Railroad**") and **SNOHOMISH COUNTY**, a Washington State political subdivision ("**Industry**").

RECITALS:

A. Railroad and Industry entered into that certain Industry Track Agreement BF-76122 dated August 31st, 2015 (as amended to date, the "**Original Contract**"), regarding certain track and/or real property located at Everett, County of Snohomish, State of Washington, as more particularly described in the Original Contract.

B. Railroad and Industry desire to amend the terms of the Original Contract to update the Exhibit drawing attached to the Original Contract, as further described below.

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants, premises, and agreements and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Exhibit Replacement. As of the Effective Date, Drawing No. 56002, dated 4/24/2015, originally identified as Exhibit "A" to the Original Contract, is hereby replaced and superseded by Drawing No. 85331, dated 2/15/2023, marked **Exhibit "A"**, attached hereto and incorporated herein by this reference. Effective immediately, any references in the Original Contract to Exhibit "A" or the track and/or real property located thereon shall refer to **Exhibit "A"** attached hereto and the track and/or real property described or depicted thereon.

2. Ratification. Except as amended hereby, all of the terms and provisions of the Original Contract are hereby reaffirmed and remain in full force and effect. In the event there is a conflict between the terms and provisions of the Original Contract and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall control.

3. Miscellaneous. This Amendment (i) shall be binding upon and inure to the benefit of Railroad and Industry and their respective legal representatives, successors and assigns; (ii) may be modified or amended only by a writing signed by each party hereto; and (iii) may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this Amendment may also be exchanged electronically and any electronic version of any party's signature shall be deemed to be an original signature for all purposes.

4. Representative. The parties acknowledge that Jones Lang LaSalle Brokerage, Inc. is acting as representative for BNSF Railway Company.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to be effective as of the Effective Date above.

RAILROAD:

BNSF Railway Company, a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

INDUSTRY:

Snohomish County, a Washington State political subdivision

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"

ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND
SNOHOMISH COUNTY

SCALE: 1 IN = 150 FT
NORTHWEST DIV.
BELLINGHAM SUBDIV. L.S. 0408
DATE: 2/15/2023

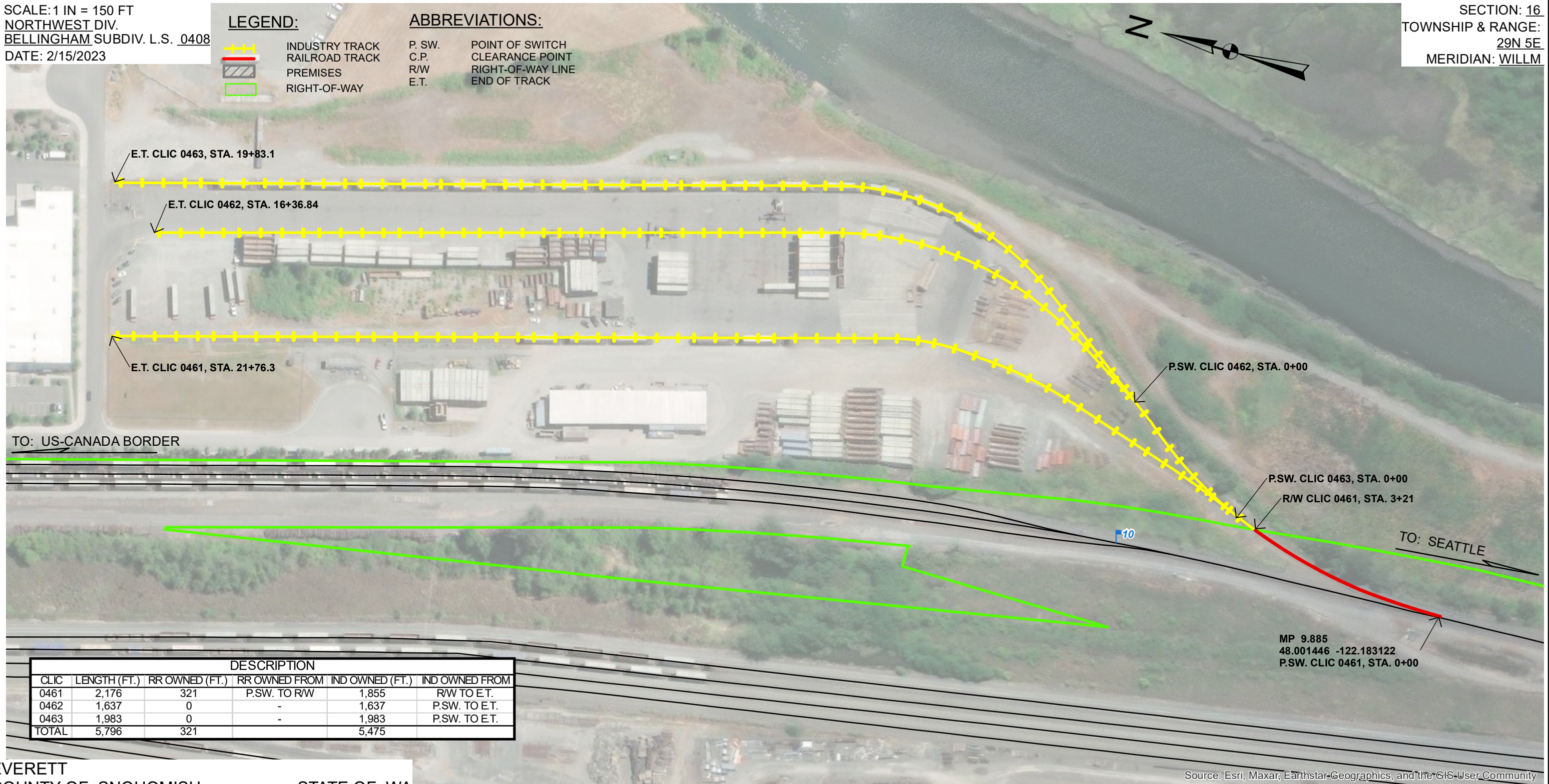
SECTION: 16
TOWNSHIP & RANGE:
29N 5E
MERIDIAN: WILLM

LEGEND:

- + INDUSTRY TRACK
- RAILROAD TRACK
- PREMISES
- RIGHT-OF-WAY

ABBREVIATIONS:

- P. SW. POINT OF SWITCH
- C.P. CLEARANCE POINT
- R/W RIGHT-OF-WAY LINE
- E.T. END OF TRACK



DESCRIPTION					
CLIC	LENGTH (FT.)	RR OWNED (FT.)	RR OWNED FROM	IND OWNED (FT.)	IND OWNED FROM
0461	2,176	321	P.S.W. TO R/W	1,855	R/W TO E.T.
0462	1,637	0	-	1,637	P.S.W. TO E.T.
0463	1,983	0	-	1,983	P.S.W. TO E.T.
TOTAL	5,796	321		5,475	

MP 9.885
48.001446 -122.183122
P.S.W. CLIC 0461, STA. 0+00

EVERETT
COUNTY OF SNOHOMISH STATE OF WA

Source: Esri, Maxar, Earthstar-Geographics, and the GIS-User Community