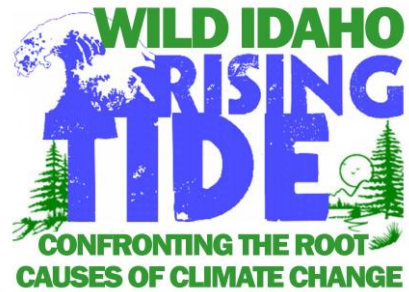


Wild Idaho Rising Tide
301 N First Ave 209B, Sandpoint, ID 83864
Phone: 208-301-8039
Email: wild.idaho.rising.tide@gmail.com
Website: WildIdahoRisingTide.org



June 18, 2023

Jennifer Schwaller, HDR
10450 Holmes Road, Suite 600
Kansas City, MO 64131
Jennifer.Schwaller@HDRInc.com

Christine Heacock, Ronald Repasi, and Deborah Spring
Federal Communications Commission
45 L Street NE
Washington, DC 20554
Christine.Heacock@FCC.gov
OETInfo@FCC.gov
Deborah.Spring@FCC.gov

Sent via email correspondence and duplicate PDF attachment

WIRT Comments on Proposed BNSF Communication Towers & Impacts Sandpoint & Lake Pend Oreille, Idaho

I respectfully offer these written comments on behalf of Wild Idaho Rising Tide (WIRT) and its over 3,200 climate activists, members, friends, supporters, and allies, including north Idaho and Lake Pend Oreille shoreline residents and other U.S. citizens owning property, working, and/or residing in or near Sandpoint and Bonner County, Idaho, and the surrounding watershed, who would be significantly impacted by Burlington Northern Santa Fe (BNSF) Railway's construction and operation of proposed communication towers/"poles" as part of BNSF's Sandpoint Junction Connector project doubling railroad bridges and tracks across downtown Sandpoint, Sand Creek, and almost one mile over Lake Pend Oreille. Since 2015, we continue to oppose and document damages of BNSF's project invasion of the Pend Oreille lake and river ecosystem and its significant, direct and indirect, adverse, cumulative impacts on air, water, land, and scenic qualities, public and environmental health and safety, endangered species and aquatic, resident, and migratory wildlife, navigation, recreation, and tourism, and the north Idaho business community and economy, as described through numerous, previous, public comments and WIRT and allied legal complaints about the socioeconomic and environmental factors insufficiently identified and analyzed by the project's draft and final environmental assessment (EA) and other pertinent government and corporate documents offering limited public information. Furthermore, we incorporate by reference into these remarks the written and oral comments of WIRT and all persons and organizations raising concerns about the Sandpoint

Junction Connector project and associated documents and processes, through all local, state, and federal, public input avenues before, during, and after this too-brief, purported comment period on BNSF's proposed communications towers.

Insufficient Local Notice

The following public notice appeared in the Legals section of the June 8, 2023, Bonner County Daily Bee, a newspaper published daily, except on weekends, in Sandpoint, Idaho.

PUBLIC NOTICE Burlington Northern Santa Fe (BNSF) Railway proposes to install three 50-foot-tall communications poles in their railroad right-of-way in Bonner County at (latitude, longitude) 48.279358, -116.546472; 48.269136, -116.541117; and 48.249761, -116.523306, which will be licensed through the Federal Communications Commission (FCC). As part of its responsibilities assigned by FCC for compliance with the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA), BNSF invites the public to notify BNSF of any effects the placement of [these] tower[s] may have on properties listed or eligible for listing in the National Register of Historic Places, or any concerns the public may have with regard to the potential impact[s] the tower[s] may have on natural and cultural resources subject to NEPA or NHPA review and consideration. Please direct your comments to Jennifer Schwaller at HDR, 10450 Holmes Road, Suite 600, Kansas City, MO 64131 or jennifer.schwaller@hdrinc.com. Comments must be received within 10 days of this notice. Legal#5173 AD#9991 June 8, 2023 [1]

While this BNSF notice of its proposed towers may satisfy FCC requirements for publication in a local newspaper or engagement in the local zoning process, it lacks clearly specified information mandated by the FCC "as part of the environmental notification process for the registration of antenna structures" [2]:

- 1) The Form 854 file number for the proposed construction project;
- 2) The "structure type ...and anticipated lighting for the proposed new or modified structure;
- 3) A statement that interested persons may review the application by going to www.fcc.gov/asr/applications and entering the Form 854 File Number;
- 4) A statement that interested persons may raise environmental concerns about the proposed structure by filing a Request for Environmental Review with the Federal Communications Commission;
- 5) A statement that the Federal Communications Commission requires interested parties to file Requests for Environmental Review online, and that instructions for making such filings can be found at www.fcc.gov/asr/environmentalrequest" [2].

Missing these crucial notification components, the public cannot accurately assess the ecological, aesthetic, historic, social, cumulative, and indirect effects of BNSF's three communications towers, as no BNSF or HDR documents are available through the FCC website to describe tower circumstances, while BNSF essentially directs the public to alert the company itself, through a presumably contracted firm in Missouri, about any foreseen consequences and likely impacts

that could occur from towers imposition. Considering numerous, WIRT-documented, BNSF construction and operation damages to date in the Sandpoint area, we anticipate that these proposed communication towers will additionally risk and harm the local and regional, human and environmental community.

Required Environmental Assessment

As informed by the National Environmental Policy Act (NEPA) and according to publicly published, FCC regulations, “Applicants must prepare environmental assessments (EAs) for actions that may have a significant environmental impact when one or more of the circumstances that are listed in Section 1.1307 apply to a proposed facility” [3-5]. The proposed construction and operation of BNSF’s three communication towers in and around Sandpoint and Lake Pend Oreille, Idaho, could significantly impact several negatively affected entities and situations, including endangered species, migratory birds, a floodplain, historic preservation, radiofrequency emissions, and high intensity lights in residential neighborhoods, as noted in our following perspective as trackside, environmental justice community members.

The most northern of the three proposed BNSF towers, at 48.279358 latitude and -116.546472 longitude, would stand only 100 feet from private residences in a recently constructed, “luxury, waterfront” condominium, the Seasons at Sandpoint Building 8, and 200 feet from the City of Sandpoint lake drinking water intake and treatment plant [6, 7]. It also would loom only 40 feet from the Sand Creek Byway segment of a federal thoroughfare, U.S. Highway 95, which passes between parallel Sand Creek to the west and Lake Pend Oreille on the east, intersecting common, daily, observed flight routes between these water habitats of resident and migratory water fowl like Canada geese. Radiofrequency emissions from this tower could adversely impact the health of nearby human and wildlife dwellers and the electronic operations and water quality of city water purification processes and facilities [8]. The tower’s high intensity lights could distract and degrade the safety of Highway 95 drivers and inflict further light pollution on Seasons at Sandpoint, Sand Creek, and downtown Sandpoint visitors and residents. Surrounding this tower location, intensive archeological excavations occurred during 2005 to 2008, to meet the requirements of state and national historic preservation statutes, before Idaho Transportation Department (ITD) construction of the Sand Creek Byway [9, 10]. During public comment periods and litigation confronting permits for the Byway and BNSF’s Sandpoint Junction Connector three-bridge and doubled-tracks expansion projects, numerous area residents also expressed concerns about the detrimental outcomes of heavy equipment-imposed construction and other rhythmic disruptions, such as ongoing radiofrequency emissions, on the structural integrity of the active, over 100-year-old, Sandpoint, passenger train station listed in the National Register of Historic Places, which persists only 1,010 feet from BNSF’s proposed north tower and a few yards from its new, second set of tracks [11, 12].

The middle, BNSF-planned tower at 48.269136 latitude and -116.541117 longitude would emit electronic radiofrequencies only 75 feet from the federally designated critical habitat of the threatened species bull trout, protected by the Endangered Species Act and already severely, significantly impacted by new, parallel, BNSF rail bridge construction in and across Idaho’s largest, deepest lake, Pend Oreille, and Sand Creek, near its outlet into the lake. This tower site also lies in the path of many resident and migratory bird species frequently observed flying

between their feeding and nesting locations along Lake Pend Oreille and Sand Creek, including Canada geese, osprey, bald eagles, various gulls, and other avian species. Although not as significant a place for historic preservation as the northern, proposed, BNSF tower, this location near the Highway 95 Sandpoint off-ramp was the site of a train derailment in 1989. It now or soon will host new siding tracks and switches that tempt a similar disaster in a more extensive floodplain area than the other two tower sites, where two large wetlands, which would otherwise protect critical highway and railroad infrastructure from lake and creek inundation, have endured extensive vegetation defoliation and nearby deforestation, increases in compacted soils, hardened surfaces, and new structures, and decades of development and pollution abuses from the Sand Creek Byway and BNSF's Sandpoint Junction Connector project. In a similar way as the proposed, north, BNSF communications tower, the radiofrequency emissions and high intensity lights of the middle tower would inflict industrial stimuli overload and environmental and health deterioration on Highway 95 travelers and the residential neighborhood of Condo del Sol, respectively located only 60 and 800 feet from this BNSF tower [13].

The most southern of BNSF's three proposed communication towers at 48.249761 latitude and -116.523306 longitude would occupy lakeside ground within the floodplain of the south shore of Lake Pend Oreille, only 75 feet from the critical habitat of the threatened species bull trout, both protected under the Endangered Species Act (ESA). It would constantly inflict radiofrequency emissions and high intensity lights not only into these federally designated ESA waters, but also on the four closest single-family homes of residents only 775, 800, and 950 feet away, travelers on Bottle Bay Road a mere 170 feet distant, and boaters and their navigation close to shore, avoiding nearby deep waters, only 75 feet from this BNSF tower in a dark, forested, rural neighborhood. These adverse, significant impacts also extend to myriad other terrestrial and aquatic life in this area, which seeks refuge farther from urban environments than around the other two tower sites, including previously stated and other migratory and resident birds.

Furthermore, while BNSF has recklessly pursued its Sandpoint Junction Connector project, constructing second tracks and an almost mile-long rail bridge across Lake Pend Oreille, despite its myriad detrimental impacts on surrounding socioeconomic and ecological conditions, the company has neglected any cultural resources surveys of known archeological sites eligible for historic preservation on the south side of the lake, near and beyond where the BNSF rail bridge meets land. An adjacent landowner and Northwest archaeologist since the 1970s, involved in excavations of the old Sandpoint town site before ITD Sand Creek Byway construction, raised concerns about apparently dismissed survey work and a report by Lorelea Hudson for BNSF, which identified both older historical resources and a prehistoric site buried directly in the main railroad corridor and vicinity of this proposed, southernmost, BNSF communications tower. The area includes a prior, Northern Pacific Railway bridge construction engineers camp and a demolished bridge tender's house, farm, and complex extending over BNSF and private properties with a garden, fruit orchard, water tank, and other major features. Although perhaps beyond the scope of this FCC assessment and determination of the significant impacts of these proposed BNSF towers, but indicative of BNSF's neglect of community concerns about its expansion project that these towers abet, BNSF-contracted, bridge re-construction crews have recently, completely removed and replaced the unique, no-longer-operational, swing span of its 1904 rail bridge that other professionals, such as Matt Root of Rain Shadow in 2008, have suggested was eligible for preservation in the National Register of Historic Places. "That swing

span was the only thru-truss section on the old bridge, and a familiar sight to generations of rail fans, who have photographed trains crossing the lake for more than a century” [14]. Moreover, the new, second, BNSF rail bridge, to the west of this older span, totally blocks the standard viewpoint of the 1904 bridge and thus undermines its historic and scenic values.

Cumulative, Indirect, and Other Effects

BNSF’s three proposed communications towers significantly impact numerous other aesthetic, ecological, and social conditions in cumulative and indirect ways, as they serve as the culminating features of six years of industrial construction onslaughts wrought by BNSF since May 2017, on an otherwise peaceful and pristine environment and community. The towers facilitate the bridge, track, siding, and switch expansions of BNSF’s Sandpoint Junction Connector project between and on the north and south shores of Lake Pend Oreille and Sand Creek and through downtown Sandpoint [15-17]. Federal environmental and historic preservation guidelines deem affected settings as an important issue raised for development effects in natural areas. New BNSF bridges and their accommodating structures, like the three proposed communications towers, have and will continue to significantly impact the scenic and aesthetic qualities, not to mention the environmental health and integrity, of Lake Pend Oreille and its environs, upon which a substantial portion of the Sandpoint and north Idaho community and its recreation, tourism, and hospitality industries rely for not only their economic, but also their spiritual and physical, wellbeing.

Of specific concern to the impacted climate and environmental activists and north Idaho residents of Wild Idaho Rising Tide, the proposed BNSF communications towers, as integral components of the 2.2-mile Sandpoint Junction Connector project doubling tracks and rail bridges over Bridge Street and Sand Creek in downtown Sandpoint and across Lake Pend Oreille, Idaho, would accommodate more rail traffic through the region, which inevitably imposes further railroad-blocked, at-grade intersections with streets, increases train-vehicle collisions at ungated, rural, road-rail crossings, and contributes to the noisy, ugly industrialization of areas sought for their quiet beauty [15-17]. As the publicly unresponsive perpetrator of numerous, significantly disastrous, local, Northwest, and nationwide, hazardous materials train derailments, spills, explosions, fires, and resulting water, air, and land contamination, BNSF currently runs approximately 60 daily trains through the rail line area where these towers would stand and help increase train traffic volumes and inevitable rail catastrophes. Based on vigilant WIRT and allied observing, photographing, documenting, and reporting of regional trains on several pipeline-on-rails frontlines, we estimate that at least half of all Northwest trains carry volatile and toxic fossil fuels and other hazardous materials like coal, oil, ethanol, petroleum coke, and tar sands in the pressurized tank cars or open, content-shedding, hopper cars of unit or mixed freight, manifest trains. These transports, often longer than 100 cars, and their average three to six locomotives spew coal, pet coke, and diesel dust into Lake Pend Oreille water and air sheds and jeopardize threatened bull trout and their critical habitat and regional, surface and aquifer, drinking water.

Without regard for the myriad citizens who officially warned against such destruction, BNSF’s local expansion project, including these communication towers, has loudly driven thousands of temporary, constantly shifting, fish-killing piles into the lake and creek, to anchor its floating,

rail bridge construction barges that noisily bang together and precariously balance towering, half-million-pound, fossil fueled cranes among the wind, waves, and aquatic and endangered species impacted for a half-dozen miles around these horizon-marring sites [15-17]. These barge piles release one hundred-plus years of accumulated, railroad-polluted, lakebed sediment within the BNSF right-of-way/easement and into the Flathead-Clark Fork-Pend Oreille watershed that carries at least 40 percent of the waters of the Columbia River to that confluence. BNSF's Sandpoint Junction Connector project and communication towers would accommodate the riskier, more derailment-vulnerable, bi-directional traffic on lake spans only 50 feet apart of train cars averaging 75 feet long, which typically derail perpendicularly to tracks. Over the last decade of WIRT observations, BNSF has hauled increasingly longer, less maintained trains and insisted on manning them with fewer, less-rested crew members, traversing decreasingly repaired tracks and infrastructure, to support corporate and shareholder profits instead of meeting worker, freight customer, and trackside community demands for safer, healthier, and more effective rail transportation.

Better Community Involvement

Wild Idaho Rising Tide activists and associates appreciate your consideration of these comments expressing collective, ongoing objection to the significant impacts imposed by FCC and other federal and state agency approvals and BNSF implementation of proposed communication towers that accommodate BNSF railroad bridge and track expansions in the Sand Creek and Lake Pend Oreille watersheds of north Idaho. We request that the Federal Communications Commission reject BNSF applications for these three communications towers, as they do not accurately and effectively offer protections of the best public interests of Idaho and American citizens, as required by federal and state rules and laws and the U.S. Constitution. In support of this WIRT letter of resistance, we thoroughly concur with, contribute toward, and incorporate into this input the concerns, testimony, and comments of all BNSF Sandpoint Junction Connector project opponents.

We earnestly encourage the FCC and BNSF to: 1) Make all documents that are part of the official record for BNSF's tower license application publicly available for review, comment, and testimony, 2) Extend this brief and inappropriate comment period to a minimum of 30 days, and re-notify the public according to federal rules, to better involve local and seasonal residents in these FCC permit deliberations and decision, 3) Hold hearings on this BNSF proposal in the most impacted community: Sandpoint, Idaho, 4) Conduct a more community-preferred, scientifically rigorous, independent, unbiased, full environmental assessment (EA) study and statement examining this BNSF infrastructure expansion scheme, 5) Consider surrounding and downstream, significant impacts and advocate for the most practicable design alternative with the least environmental and human damages from this proposed project, and 6) Accept and include these and all of our written remarks, linked documents, and testimony in the public record for these BNSF communication towers and related projects and comment periods.

WIRT expects our federal, state, and local government employees regulating these and other intrusive, railroad industry actions in Idaho to fully utilize every opportunity to protect and defend the safety and health of interior Northwest communities, air, water, and resources, from the significant impacts of railroad infrastructure construction, operation, and facilitated,

hazardous materials and fossil fuels transportation, pollution, and risks already suffered by citizens in north Idaho and around the country. As you review all available, relevant information about this proposed project, drawn from documents, research, statements, and public and court hearings and judgments, to determine its broad scope and effects, please contact us through this email address with any questions or responses to these comments, or for further information that supports these WIRT remarks about the predictable, harmful impacts of these BNSF communication towers on public resources and citizen rights.

Thank you for accepting Wild Idaho Rising Tide's substantive comments on BNSF Railway's construction and operation of three proposed communication towers and their impacts on Sandpoint and Lake Pend Oreille, Idaho, as part of the Sandpoint Junction Connector railroad bridge and track expansion project. Please reply with advice about better procedures for north Idaho community participation in the processes of this important Federal Communications Commission decision.

/s/ Helen Yost, MSEE
Wild Idaho Rising Tide
301 N. First Avenue 209B, Sandpoint, Idaho 83864
wild.idaho.rising.tide@gmail.com
WildIdahoRisingTide.org
Facebook.com/WildIdaho.RisingTide
Twitter.com/WildIdahoRT

Cc and Bcc: Sandpoint Mayor Shelby Rognstad and impacted Sandpoint area residents

[1] *Legals for June 8, 2023: Public Notice Burlington Northern Santa Fe (BNSF) Railway...*, June 8, 2023 Bonner County Daily Bee
<https://bonnercountydailybee.com/news/2023/jun/08/7-legals-for-june-8-2023>

[2] *Environmental Notification Process for the Registration of Antenna Structures - Local and National Notice*, June 24, 2021 Federal Communications Commission
<https://www.fcc.gov/environmental-notification-process-registration-antenna-structures-local-and-national-notice>

[3] *Tower Siting and Construction: National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA)*, December 20, 2022 Federal Communications Commission
<https://www.fcc.gov/enforcement/areas/tower-siting-construction>

[4] *Tower and Antenna Siting*, June 29, 2022 Federal Communications Commission
<https://www.fcc.gov/wireless/bureau-divisions/competition-infrastructure-policy-division/tower-and-antenna-siting>

[5] *NEPA FAQ*, September 26, 2022 Federal Communications Commission
<https://www.fcc.gov/general/nepa-faq>

[6] *Seasons at Sandpoint*, 2023 Seasons at Sandpoint

<https://www.seasons.life>

[7] *City of Sandpoint Drinking Water Consumer Confidence Report for 2020*, 2020 City of Sandpoint

<https://stories.opengov.com/sandpointid/published/wqNdcUWZY>

[8] *Engineering and Technology*, 2023 Federal Communications Commission

<https://www.fcc.gov/engineering-technology>

[9] *History's Byway*, November 19, 2006 Spokesman-Review

<https://www.spokesman.com/stories/2006/nov/19/historys-byway>

[10] *North Idaho Community Action Network v. U.S. Department of Transportation*, October 6, 2008 U.S. Ninth Circuit Court of Appeals

<https://www.leagle.com/decision/infco20081006019>

[11] *Idaho Department of Lands website "BNSF" search*, 2023 Idaho Department of Lands

<https://www.idl.idaho.gov>

[12] *BNSF Railway Bridge, Lake Pend Oreille, Sandpoint, Idaho docket USCG-2018-1085*, February 6, 2019 U.S. Coast Guard

<https://www.regulations.gov/docket/USCG-2018-1085>

[13] *Condo Del Sol*, 2023 Facebook

<https://www.facebook.com/condodelsol>

[14] *Work in Progress to Upgrade BNSF's Old Sandpoint Bridge*, May 23, 2023 Trains Magazine

<https://www.trains.com/trn/news-reviews/news-wire/work-in-progress-to-upgrade-bnsfs-old-sandpoint-bridge>

[15] *Petition to Deny and Revoke Permits for the BNSF Sandpoint Junction Connector Project*, September 30, 2018 Wild Idaho Rising Tide

<https://petitions.moveon.org/sign/petition-to-deny-revoke>

[16] *WIRT v. IDL/Land Board/BNSF*, March 1, 2019 Wild Idaho Rising Tide

<https://wildidahorisingtide.org/2019/03/01/wirt-v-idl-land-board-bnsf>

[17] *Category Archives: BNSF Bridges*, 2023 Wild Idaho Rising Tide

<https://wildidahorisingtide.org/category/issues/bnsf-bridges>