

HON. JOHN C. COUGHENOUR

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

SIERRA CLUB, a California nonprofit corporation;  
PUGET SOUNDKEEPER ALLIANCE, a  
Washington nonprofit corporation; RE SOURCES  
FOR SUSTAINABLE COMMUNITIES, a  
Washington nonprofit corporation; COLUMBIA  
RIVERKEEPER, a Washington nonprofit  
corporation; FRIENDS OF THE COLUMBIA  
GORGE, INC., dba FRIENDS OF THE COLUMBIA  
GORGE, an Oregon nonprofit corporation;  
SPOKANE RIVERKEEPER; NATURAL  
RESOURCES DEFENSE COUNCIL, a New York  
nonprofit corporation,

Plaintiffs,

v.

BNSF RAILWAY COMPANY, a Delaware  
corporation,

Defendants.

CIVIL No. 2:13-cv-00967-JCC

DECLARATION OF  
MATTHEW RYAN IN SUPPORT  
OF PLAINTIFFS' OPPOSITION  
TO DEFENDANT'S MOTION TO  
DISMISS

1 I, Matthew Ryan, hereby declare:

- 2 1. I am over the age of 18, have personal knowledge of the following, and could  
3 competently testify if called as a witness in this legal action.
- 4 2. I reside at 9372 Cook-Underwood Road, Underwood, Washington, 98651, and have lived  
5 there for 21 years.
- 6 3. I am a member of Friends of the Columbia Gorge and of Columbia Riverkeeper because  
7 those organizations share my interest in protecting and restoring the natural and scenic  
8 values of the Columbia River and surrounding Columbia Gorge area. Friends of the  
9 Columbia Gorge (Friends) was initially founded to protect the Columbia River Gorge as  
10 a national scenic area, and now works to protect and preserve it. Friends accomplishes its  
11 mission through education and advocacy efforts, which include a focus on the quality of  
12 the Columbia River and its tributaries. Columbia Riverkeeper was founded to focus on  
13 the entire Columbia River, both upriver and downriver, and actively seeks to engage  
14 citizens in its conservation and environmental protection efforts. I support these groups  
15 because of their efforts to protect the Gorge waterways and scenic areas I love so much.
- 16 4. I understand that Friends of the Columbia Gorge, Columbia Riverkeeper, and other  
17 parties have filed a civil action asserting that Burlington Northern Santa Fe (BNSF) has  
18 discharged and is discharging coal and/or petroleum coke (petcoke) and their byproducts  
19 into Washington waterways without a permit.
- 20 5. I make this declaration in support of that action because it furthers my personal interests  
21 in the health and quality of the Columbia River, its tributaries, the Columbia River  
22 Gorge, and the communities and wildlife that depend on clean water in Washington state.
- 23  
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1 6. I believe that coal and petcoke contamination from BNSF coal trains threatens the health  
2 of the Columbia Gorge and other waterbodies in which it is deposited. I know that coal  
3 contains some toxic chemicals, and it should not be allowed to fly out of the train cars  
4 into the Columbia River and other waterways. One of the reasons that I have lived in the  
5 Columbia River Gorge area for so many years is that it is a great place for outdoor  
6 recreation. But the continued discharges of coal and petcoke pollution significantly  
7 affects my ability, and that of my friends and family, to engage in recreational activities  
8 outdoors without fear of exposure to coal toxins. BNSF's coal pollution is negatively  
9 impacting my quality of life.

10 7. My concerns stem, in part, from my recreational interests in Columbia Gorge-area  
11 waterbodies, including the Columbia River, White Salmon River, Little White Salmon  
12 River/Drano Lake, Wind River, Spring Creek and the "Hatch," and the Klickitat River.

13 8. I enjoy canoeing, kayaking and paddleboarding, and engage in each of these activities  
14 four to five times per year (seasonally). I have a woodstrip canoe that I like to take out  
15 on the Columbia River, and I paddleboard there as well. I like to kayak on the Klickitat  
16 and White Salmon Rivers.

17 9. I also like to hike and ride my bicycle along roads and paths that follow Gorge  
18 waterways. I hike a couple of times per month. Falls Creek, a tributary of the Wind  
19 River, is one of my favorite hikes, and I hike there often. I ride my bicycle almost daily  
20 on roads that follow the White Salmon or the Klickitat, and I often see BNSF's coal train  
21 as I ride along Highway 14, which is right next to the Columbia River.

- 1 10. My favorite recreational activities are kiteboarding and windsurfing, and the Columbia  
2 River Gorge is filled with great places to board and surf. This July, I was out  
3 windsurfing or kiteboarding twenty-eight out of thirty-one days, and over the course of a  
4 year, I probably windsurf and kiteboard between seventy-five and one hundred times.  
5 Some of my favorite spots are the “Hatch,” next to its namesake Spring Creek Fish  
6 Hatchery, Swell City, Cheap Beach, and Doug’s Beach. The mouth of the Klickitat River  
7 and mouth of the White Salmon River are also great places to windsurf and kiteboard.
- 8 11. I am growing increasingly concerned with the coal and petcoke contamination in Gorge  
9 waterbodies and my exposure to this pollution when I recreate in and around those  
10 waterbodies. I worry for my own health, the health of the fish and wildlife that depend  
11 on these waters, and the health of my fellow windsurfers, kiteboarders, and other Gorge  
12 recreationists. I am concerned about the general degradation of the waterways and the  
13 impact that pollution has on the quality of life of residents in the area.
- 14 12. I have frequently seen thousands of little BB-like pieces of coal within a couple hundred  
15 yard stretch in depressions between the gravel and the white fog line on the west side of  
16 the White Salmon near Highway 14. The coal bits appear to have been polished from  
17 tumbling around with the rocks. I have found coin-sized chunks of coal and small pellet-  
18 like pieces of coal on the railroad causeway on the south side of Drano Lake. I have also  
19 personally been pelted with coal chunks flying off of a passing coal train as I stood near  
20 my vehicle on Highway 14. Given the number of the BB- and pellet-size pieces that I  
21 have seen on the road, and the size and speed at which the coal chunks exit the train cars,  
22 I am very concerned that similar coal and petcoke chunks are being deposited directly  
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1 into the Gorge waters as the coal trains pass over bridges and causeways through the  
2 Gorge.

3 13. My enjoyment of the recreational activities described above has been negatively  
4 impacted by my knowledge of the presence of coal and petcoke pollution, and if this  
5 pollution continues to degrade Gorge waters, my enjoyment will be further diminished. I  
6 hope that this lawsuit is successful in eliminating and cleaning up the coal pollution;  
7 otherwise, I may have to curtail or relocate the recreational activities that I enjoy so much  
8 and would like to continue.

9 14. If BNSF is required to cease contaminating Columbia Gorge waterways with the coal and  
10 petcoke pollution, then scenic, natural, and recreational values of the Columbia River  
11 Gorge area will be protected, in accordance with my personal interests and that of Friends  
12 of the Columbia Gorge and Columbia Riverkeeper. The Columbia Gorge ecosystem,  
13 including especially aquatic life, will become healthier, communities along the Gorge  
14 will be healthier, and outdoor enthusiasts like me will be able to fully enjoy our  
15 recreational pursuits.

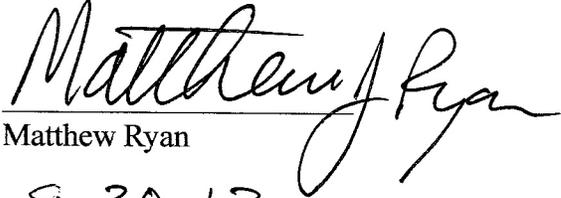
16 15. In my personal opinion, coal and petcoke do not belong in the Gorge. They are not  
17 naturally occurring here. BNSF railroad and various coal companies are adding to their  
18 prior contamination of our waterways by transporting more coal, petcoke and related  
19 pollutants. The coal and petcoke pollution from the BNSF trains must not be allowed to  
20 continue.

21 16. If BNSF were required to cease its pollution of Columbia Gorge waters, my concerns  
22 about the negative effects of coal and petcoke pollution in Gorge waters would be  
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1 lessened, and I would be able to enjoy the recreational activities described above without  
2 fear of exposure to toxic contaminants from BNSF trains.

3  
4 I declare under penalty of perjury that all of the forgoing is true and correct.

5 Executed in Underwood, Washington this 30th day of August, 2013.

6   
7 Matthew Ryan  
8 8.30.13

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

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s/ Sarah Matsumoto  
Sarah Matsumoto, *an employee of*  
Law Offices of Charles M. Tebbutt, P.C.

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IN THE UNITED STATES DISTRICT COURT  
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SIERRA CLUB, a California nonprofit corporation;  
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FOR SUSTAINABLE COMMUNITIES, a  
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RIVERKEEPER, a Washington nonprofit  
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GORGE, an Oregon nonprofit corporation;  
SPOKANE RIVERKEEPER; NATURAL  
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BNSF RAILWAY COMPANY, a Delaware  
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Defendants.

CIVIL No. 2:13-cv-00967-JCC

DECLARATION OF  
JEREMY BECHTEL IN SUPPORT  
OF PLAINTIFFS' OPPOSITION  
TO DEFENDANT'S MOTION TO  
DISMISS

I, Jeremy Bechtel, hereby declare:

1. I am over the age of 18, have personal knowledge of the following, and could competently testify if called as a witness in this legal action.
2. I live at 2001 Salmon Falls Road, Washougal, Washington, 98671, and have lived there for about ten years.
3. I work as a sales representative for a beverage distributor based in Vancouver, Washington. My sales territory includes the Columbia River Gorge, so I travel daily on

1 highways in the Gorge. I drive on Highway 14 between Lyle and Vancouver at least  
2 once per week.

3 4. I understand that Friends of the Columbia Gorge and other parties have filed a civil  
4 action asserting that Burlington Northern Santa Fe (BNSF) has discharged and is  
5 discharging coal and/or petroleum coke (petcoke) and their byproducts into Washington  
6 waterways without a permit.

7 5. I have been a member of Friends of the Columbia Gorge on and off since approximately  
8 2008. Friends of the Columbia Gorge represents the scenic, natural, and recreational  
9 interest I have in the Columbia River Gorge area. Friends of the Columbia Gorge is the  
10 only non-profit organization I am aware of that is dedicated entirely to protecting the  
11 Columbia River Gorge.

12 6. I first became aware, and subsequently very concerned, about coal and petcoke  
13 contamination of Columbia River Gorge waters after an incident last August in which my  
14 vehicle, along with several others, was pelted with coal chunks up to the size of baseballs  
15 flying off of a BNSF coal train as I drove west on Highway 14 alongside the Columbia  
16 River. The incident is described in greater detail in a statement that I prepared shortly  
17 after the incident. A true and correct copy of the statement that I prepared is attached to  
18 this declaration as Exhibit 1. I prepared the statement to record my recollections of what  
19 occurred. The incident is most frightening experience that I have had during all of my  
20 years driving on Highway 14. I was surprised and relieved that a multi-vehicle accident  
21 did not occur. After this event, I began to research the issue of coal spilling from BNSF's  
22 trains and learned more about the potential consequences of the coal pollution.

1 7. I began learning about other instances of coal and petcoke deposits coming from BNSF  
2 coal trains, and started noticing coal chunks along the side of the road on Highway 14. I  
3 have seen some coal bits approximately the size of peas and pencil erasers. Once I  
4 became aware of these deposits, I started to notice them more and more, and have  
5 observed that the sides of the tracks appear to be getting darker because of the coal  
6 deposit buildup. Seeing all of the coal deposits alongside the tracks, so close to Gorge  
7 waters, makes me very concerned that the coal is polluting the Columbia River and other  
8 waterbodies in the Gorge area.

9 8. My concerns stem, in part, from my recreational interests in Columbia Gorge-area  
10 waterbodies, including the Columbia River, White Salmon River, Little White Salmon  
11 River, Klickitat River, and Wind River.

12 9. I love rafting on the Columbia Gorge waters, and raft about 5-6 times per year.  
13 Currently, I am preparing for a trip to raft the length of the White Salmon River coming  
14 up the second weekend in September. I also enjoy fishing in these waters, specifically  
15 the Wind River, and fish approximately 2-3 times per year, although when the Steelhead  
16 population was healthier, I fished more often. It is important to me that the waters where  
17 I fish and raft are free of pollution. Knowing that BNSF's coal and petcoke discharges  
18 are polluting Gorge waters causes me to enjoy these activities less. I intend to continue  
19 rafting and fishing, but would like to do so without concern of exposure to toxic coal  
20 pollutants.

21 10. I also really enjoy birdwatching, and especially like to watch the eagles at the Klickitat  
22 River on a sandspit. I am concerned about the fact that these birds are feeding in the  
23 water right underneath the train trestle, and worry about the effects that the coal  
24

1 contamination might have on them and on the osprey and other birds that nest or feed in  
2 that area. I want to continue to observe the birds and other species in the Columbia  
3 Gorge region, but would like to do so without worrying that they are exposed to or  
4 ingesting coal pollution.

5 11. I like to forage and berry-pick, and have found some great places in the Gorge area to  
6 forage for mushrooms. There is a creek just east of Stevenson, near the train tracks, that  
7 tends to be a good place to find chanterelles in the fall. I also like to forage for them  
8 along the Wind River. I enjoy picking berries, and just picked some huckleberries a few  
9 weeks ago. I forage about 15-20 times during a season, and berry-pick about 3 or 4 times  
10 per season. Since the mushrooms and berries that I gather will ultimately be eaten by me  
11 or my family and friends, it is important to me that they are sourced from clean,  
12 pollution-free areas. My knowledge of the presence of coal pollution in areas where I  
13 gather food gives me great concern. I would like to be able to engage in these activities  
14 without fear that I am exposing myself to coal contamination.

15 12. My enjoyment of the recreational activities I listed above is already diminished by my  
16 knowledge of the presence of coal, petcoke and related pollution in the Gorge waterways,  
17 and if this pollution continues to degrade Gorge waters, my enjoyment will be further  
18 diminished.

19 13. I am very interested in pursuing kiteboarding and stand-up paddling as recreational  
20 activities. These activities are popular recreational pastimes in the Columbia Gorge and  
21 appear to be very enjoyable. However, I am reluctant to engage in these activities  
22 because of my knowledge that the Columbia River and its tributaries are being polluted  
23 with coal and petcoke from BNSF coal trains. Since kiteboarding and stand-up paddling  
24

1 brings people into direct contact with the water, I am worried about the possible  
2 increased exposure to coal toxins. If I knew that BNSF was no longer discharging coal  
3 and petcoke into Gorge waters, I would engage in one or both of these activities.

4 14. If, as a result of this lawsuit, BNSF is required to cease contaminating Columbia Gorge  
5 waterways with the coal and petcoke pollution, then my recreational and scenic interests  
6 and the interests of Friends of the Columbia Gorge will be protected.

7 15. In addition to the concerns that I have over the current coal pollution to waters of the  
8 Columbia River Gorge as the trains pass through the region, I am also worried about the  
9 possibility of a train derailment. I have noticed the buildup of coal particles on the tracks  
10 and in the ballasts, and am concerned that if this buildup continues, it could eventually  
11 lead to a train derailment. A derailment in this area would be disastrous—it could cause  
12 serious injuries to people on or near the train, block access to emergency or other  
13 essential services and utilities, and dump massive quantities of coal and petcoke into  
14 nearby waters. With the possibility of increased coal train traffic, the buildup on the  
15 tracks will likely increase as well, making the threat of a derailment very real.

16 16. In my opinion, coal and petcoke do not belong in the waters of the Gorge. They are not  
17 naturally occurring here. I am very concerned about the effect that these pollutants have  
18 on the Columbia River, its tributaries, the species that depend on clean water, and the  
19 health and recreational interests of me and my family and friends. If BNSF were required  
20 to stop discharging coal pollutants into Columbia River Gorge waters, my concerns in  
21 these areas would lessen and I would be able to once again engage in the recreational  
22 activities described above with greater peace of mind and heightened enjoyment.

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1 I declare under penalty of perjury that all of the forgoing is true and correct.

2 Executed in Washougal, Wash. this 29th day of August, 2013.

3   
4 Jeremy Bechtel

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DECL. OF JEREMY BECHTEL - 6

Andres K. Rodgers Harris  
WSBA #38683  
Of Counsel, Western Environmental Law Center  
2907 S. Adams Street  
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Tel: 206-696-2851

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Daniel M. Galpern, *pro hac vice*  
Law Offices of Charles M. Tebbutt, P.C.  
941 Lawrence St.  
Eugene, OR 97401  
Tel: 541-344-3505

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

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s/ Sarah Matsumoto  
Sarah Matsumoto, *an employee of*  
Law Offices of Charles M. Tebbutt, P.C.

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Declaration of Jeremy Bechtel  
Exhibit 1

# August 22, 2012

Compiled by: Friends of the Columbia Gorge (FoCG)

As told by: Jeremy Bechtel, husband of a FoCG staff member (Full Disclosure)

## [A COAL TRAIN INCIDENT ON WA HIGHWAY 14]

While driving in a line of traffic on WA Highway 14 in the Columbia Gorge, Jeremy Bechtel was pelted with chunks of coal and coal dust from a coal train traveling close to the highway. This almost resulted in a multi-car accident. Click on the aerial photo below to open a Google Map showing where this incident took place.



1 STATE OF WASHINGTON  
2 COUNTY OF SKAMANIA  
3

DECLARATION OF JEREMY  
BECHTEL

4 I, JEREMY BECHTEL, make this declaration based upon my personal knowledge and  
5 belief and declare as follows:  
6

7 1. I am a resident of Skamania County, Washington.

8 2. I am currently a member and supporter of Friends of the Columbia Gorge. I  
9 support Friends of the Columbia Gorge because it advocates for my interest in protecting the  
10 scenic, natural, cultural, and recreational resources of the Columbia River Gorge and surrounding  
11 landscapes.

12 3. I live at 2001 Salmon Falls Road, Washougal, WA 98671 which is located  
13 approximately 20 miles west of where the coal train incident I describe below took place. I have  
14 lived at this address for 9.5 years.

15 4. I work as a sales representative for Stein Distributing, a distributor of beer, wine  
16 and natural beverages located in Vancouver, Washington. My job involves daily travel on  
17 highways in the Columbia Gorge.  
18

19 5. In addition to driving through the Columbia Gorge for work, my family and I  
20 drive through the Columbia Gorge for daily household trips, such as shopping for groceries. We  
21 also recreate in the Gorge and use Highway 14 to access numerous recreation sites.  
22

23 6. A large increase in the number of coal trains traveling along the Burlington  
24 Northern Santa Fe (BNSF) railroad, which closely parallels Washington State Highway 14 in the  
25 Columbia Gorge, would increase the likelihood of dangerous incidents resulting from coal dust  
26

1 | blow-offs, such as an incident I recently experienced that nearly resulted in a multi-vehicle  
2 | accident, as described below.

3 |         7.       I am regularly exposed to coal dust from trains on the BNSF railroad when I travel  
4 | Highway 14 in the Columbia Gorge.

5 |         8.       On August 22, 2012 at approximately 4:00 p.m., I was driving back from a sales  
6 | call, headed west on Highway 14 near milepost 51 in a line of traffic. In front of me was a semi-  
7 | truck followed by one car. Behind me was another car that was tailgating (following too close to)  
8 | my vehicle. On the train tracks paralleling the highway, approximately 15 feet from our vehicles,  
9 | a coal train was keeping pace with us as we traveled westward. The train suddenly rounded a  
10 | sharp bend in the tracks, which exposed the railcars to a strong westerly wind (I estimate it at 30  
11 | mph). Coal from at least four of the railcars blew in a northeast direction off the top of the cars  
12 | and bombarded the line of vehicles I was in. Coal chunks as big as baseballs collided with my  
13 | vehicle's windshield, and it was only because the coal was soft and broke up upon impact that the  
14 | coal did not puncture or break my windshield.. The coal chunks left tar marks on my vehicle.  
15 |

16 |         9.       The semi-truck, being the first vehicle in the line-up, was hit by the most coal dust  
17 | and coal chunks. The semi-truck driver suddenly slammed on his brakes causing a chain reaction.  
18 | The car ahead of me had to slam on its brakes to avoid an accident. In turn, I also had to brake,  
19 | but I was concerned about being hit by the car tailgating me, so I steered to the right into the road  
20 | gravel in order to create space for the car behind me to slow down. . I was very concerned about  
21 | getting rear-ended by the car behind me, but fortunately the semi-truck passed through the worst  
22 | of the coal bombardment and started accelerating again, which allowed all of us to put more  
23 | space between our vehicles.  
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10. I was shaken by this incident and consider it the closest near-accident I have had in all my years of driving in the Columbia Gorge, including winter-time driving. For the sake of my family and my business driving, I do not want to see an increase of coal trains traveling through the Columbia Gorge.

11. The cover page of this declaration shows photographs of the location of the August 22, 2012 coal train incident and an aerial photo from Google Maps identifying where this took place.

12. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge, information, and belief.

Executed in Washougal, Washington this 31st day of October, 2012.

  
Jeremy Bechtel

HON. JOHN C. COUGHENOUR

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

SIERRA CLUB, a California nonprofit corporation;  
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GORGE, an Oregon nonprofit corporation;  
SPOKANE RIVERKEEPER; NATURAL  
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nonprofit corporation,

Plaintiffs,

v.

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corporation,

Defendants.

CIVIL No. 2:13-cv-00967-JCC

DECLARATION OF  
DAVID BERGER IN SUPPORT  
OF PLAINTIFFS' OPPOSITION  
TO DEFENDANT'S MOTION TO  
DISMISS

I, David Berger, hereby declare:

1. I am over the age of 18, have personal knowledge of the following, and could  
competently testify if called as a witness in this legal action. I am aware that Columbia

DECL. OF DAVID BERGER - 1

Andrea K. Rodgers Harris  
WSBA #38683  
Of Counsel, Western Environmental Law Center  
2907 S. Adams Street  
Seattle, WA 98108  
Tel: 206-696-2851

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Daniel M. Galpern, *pro hac vice*  
Law Offices of Charles M. Tebbutt, P.C.  
941 Lawrence St.  
Eugene, OR 97401  
Tel: 541-344-3505

1 Riverkeeper and other parties have filed a civil action asserting that Burlington Northern  
2 Santa Fe (BNSF) has discharged and is discharging coal, coal dust and/or petroleum coke  
3 (petcoke) and their byproducts into Washington waters without a permit in violation of  
4 the Clean Water Act. Columbia Riverkeeper represents my interests in this lawsuit.

- 5 2. I make this declaration in support of this litigation because I believe it is necessary to  
6 protect the water quality of the Columbia River watershed, where I live and recreate. I  
7 also believe this litigation is necessary to protect the safety of my small community from  
8 the danger associated with coal and coal dust being deposited into the water and on the  
9 railroad tracks.
- 10 3. I reside at 728 7<sup>th</sup> Street, Lyle, Washington 98635. Lyle is a small town located in  
11 Klickitat County, along the shore of the Columbia River in Washington state. I have  
12 lived in Lyle for approximately eight years.
- 13 4. Prior to residing in Lyle, I received my Bachelor's of Science degree in mechanical  
14 engineering. I also obtained a Master's Degree in environmental engineering in water,  
15 wastewater treatment and water quality modeling from Manhattan College in New York  
16 City in 1974. After receiving my Master's, I worked for the Environmental Protection  
17 Agency in both New York City and Portland, Oregon. At EPA, my work duties included  
18 administering grants for sewage treatment facilities, and inspecting industries for  
19 compliance with air quality and hazardous waste regulations. Between the two EPA jobs,  
20 I worked for Hydrosience Inc., a private consulting company, as a water quality  
21 computer modeling engineer. I have also worked for Oregon Department of  
22 Environmental Quality where my work duties included reviewing permits and inspecting  
23 industries for compliance with water and air quality regulations. I also served as a  
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1 contractor for the City of Portland on special industrial waste treatment projects, and an  
2 air quality study. In 1980, I created a part of a civil/mechanical engineering program at  
3 Portland Community College teaching classes to engineering students on water, air,  
4 hazardous waste and ground water pollution control. I taught these classes and other  
5 engineering math, and chemistry classes for approximately 24 years and then moved to  
6 Lyle, Washington, where I now consider myself to be retired.

7 5. I am an active member and supporter of Columbia Riverkeeper, and I have been an active  
8 volunteer with Columbia Riverkeeper for the last eight years. Columbia Riverkeeper is a  
9 non-profit organization that works to protect the Columbia River watershed. I enjoy  
10 working with and contributing to Columbia Riverkeeper because they do a lot of the  
11 water quality monitoring work that government agencies like Oregon Department of  
12 Environmental Quality used to do. As an environmental engineer, I believe that water  
13 quality monitoring is an important part of protecting and restoring the Columbia River.

14 6. I submit an annual donation to support the work of Columbia Riverkeeper and have  
15 volunteered as a water quality sampler for the previous seven years. I have not been able  
16 to do any water quality monitoring this year. As volunteers, we took water samples at  
17 Doug's Beach on the Columbia River and an unnamed public park on the Klickitat River,  
18 about one mile above the confluence with the Columbia River. We sampled and  
19 recorded data for dissolved oxygen, pH, turbidity, temperature, and conductivity.

20 Columbia Riverkeeper routinely monitors the quality of the waterways in the Columbia  
21 River watershed as part of its advocacy and education work.

22 7. I have also been engaged in other activities on behalf of Columbia Riverkeeper. As a  
23 volunteer, I have collected names and contact information of individuals interested in

1 supporting the organization, and have attended public meetings as a member of Columbia  
2 Riverkeeper, and on my own behalf on environmental issues related to the water quality  
3 of the Columbia River, including but not limited to wetland protection, a coal burning  
4 power plant, coal transport, Hanford Nuclear Reservation, and land use. On my own  
5 behalf, I have written letters to the editors of newspapers about coal and its impact on the  
6 environment.

7 8. In addition to being a member of Columbia Riverkeeper, I am also a member of Friends  
8 of Columbia Gorge, a former Board member for the Klickitat Trail Conservancy and a  
9 former Board member of the Oregon Conservancy Foundation.

10 9. I believe that the burning and transportation of coal is one of the most significant  
11 problems that the Columbia River faces today. I am concerned about the presence of  
12 coal, coal dust and petcoke in the Columbia River and the waters that feed the Columbia  
13 River because I believe the presence of coal in the water pollutes the water and creates a  
14 threat to public safety because of the heavy metals contained in the coal. In addition, the  
15 ultimate burning of the coal emits mercury into the atmosphere, which studies have  
16 shown can end up in the Columbia River Basin, regardless of where the coal is ultimately  
17 burned.

18 10. I believe that the transportation of coal in the uncovered coal cars used by BNSF  
19 constitutes a threat to the public safety of the community of Lyle. Lyle is a small town,  
20 with only a volunteer fire department. It is my understanding that the deposition of coal  
21 and coal dust on the tracks that spill out of the rail cars can lead to more frequent train  
22 derailments, accidents, and fires. The small community of Lyle would be ill equipped to  
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1 deal with the aftermath of any kind of coal-related derailment, whether on the land or in  
2 the waterways.

3 11. I live and own my own home approximately one mile away from the Columbia River. I  
4 see the Columbia River everyday, regularly observe and photograph the wildlife that  
5 reside and depend upon the Columbia River, regularly swim in the River during the  
6 summer months, and whitewater and flat water kayak in the Columbia River and its  
7 tributaries.

8 12. I am aware that there are plans to build more coal transport terminals in Washington,  
9 which increases the likelihood that additional coal-carrying trains will travel over and  
10 adjacent to the Columbia River, depositing more coal and coal dust into the watershed.  
11 For me, this will diminish the aesthetic value of living in Lyle. I also think this could  
12 indirectly affect the economic value of my own property. Lyle is such a small  
13 community that, even though the train does not pass adjacent to my property and thus  
14 does not spill chunks of coal onto my property to my knowledge, the economic impact on  
15 other properties that are alongside the rails would necessarily affect the value of my own  
16 property.

17 13. My recreational interests and activities revolve around a number of rivers and lakes in the  
18 Columbia River watershed that I have visited frequently, and that I intend to visit again  
19 on at least an annual basis. In terms of the transportation of coal on railways by BNSF, I  
20 am particularly concerned about the Columbia River, Klickitat River, White Salmon  
21 River, Rowland Lake, Spearfish Lake, Horsethief Lake, and Major Creek. Many of the  
22 foregoing waterways that I visit and use are impacted by coal and coal dust pollution  
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1 from the BNSF coal trains because the coal trains pass adjacent and/or directly over  
2 them.

3 14. I regularly engage in open-water swimming, whitewater and flat water kayaking, hiking,  
4 bird watching, nature study, photography, cycling, and picnicking on or along the banks  
5 of the water bodies listed above. The presence of coal in the water detracts from my  
6 enjoyment of all of these activities in that it will impact the food chain, have deleterious  
7 affects on wildlife, harm visibility, and damage water quality.

8 15. As an open-water swimmer, I believe that the presence of coal in the water constitutes a  
9 threat to my health. The toxins that I am aware of in coal include heavy metals, which are  
10 known to be harmful in even small doses. Fortunately, when I am swimming, I only take  
11 in a small amount of water, but the levels of heavy metals in the water will only increase  
12 with more coal spilled into the waters in which I swim.

13 16. I am also concerned for others who engage in other forms of recreation, such as  
14 windsurfing, that requires the participants to take in much more water. While I do not  
15 personally eat fish caught from the Columbia River, I am concerned for the Tribal  
16 fishermen whose way of life depends upon fish caught and eaten from the waters of the  
17 Columbia River watershed. The Tribal fishermen serve a vital role in the local economy  
18 and coal in the water necessarily detracts from this historically and culturally significant  
19 part of the Columbia River economy.

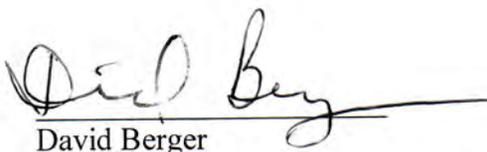
20 17. Because I live so close to and recreate on the Columbia River, I also enjoy looking at the  
21 water. The Columbia River is a sight to behold. The presence of coal and coal dust in  
22 the water degrades this recreational experience and contributes to the water quality  
23 problems of the Columbia River.

1 18. I have personally seen coal collected by staff or volunteers for Friends of the Gorge along  
2 the north side of the Columbia River, adjacent to the BNSF train tracks at Columbia Hills  
3 State Park. I believe that there is coal in the waters of the Columbia River that is not  
4 visible from the surface since the trains pass directly over and adjacent to the River in  
5 many places on the route from Eastern Washington to Portland, Oregon. In fact, the train  
6 passes directly over the water at one of my favorite swimming spots, Horsethief Lake.  
7 Horsethief Lake is adjacent to the Columbia River and is only separated from the River  
8 by the berm for the railroad tracks. Therefore, coal spilling into the river at this point  
9 directly affects my ability to swim at Horsethief Lake.

10 19. I believe that BNSF's deposition of coal, coal dust and petcoke into the Columbia River  
11 watershed has harmed me because coal in the water negatively affects my ability to  
12 engage in recreational activities that I enjoy and threatens the community in which I live.  
13 I believe that if the court were to issue a decision requiring BNSF to operate in a manner  
14 that ensures that no coal or coal dust is deposited into the Columbia River watershed, my  
15 interests in preserving my way of life and protecting the environment in my community  
16 would be protected.

17 I declare under penalty of perjury that all of the forgoing is true and correct.

18 Executed in Lyle, Washington, on August 30, 2013.

19  
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22 David Berger

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

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s/ Sarah Matsumoto  
Sarah Matsumoto, *an employee of*  
Law Offices of Charles M. Tebbutt, P.C.

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HON. JOHN C. COUGHENOUR

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

SIERRA CLUB, a California nonprofit corporation;  
PUGET SOUNDKEEPER ALLIANCE, a  
Washington nonprofit corporation; RE SOURCES  
FOR SUSTAINABLE COMMUNITIES, a  
Washington nonprofit corporation; COLUMBIA  
RIVERKEEPER, a Washington nonprofit  
corporation; FRIENDS OF THE COLUMBIA  
GORGE, INC., dba FRIENDS OF THE COLUMBIA  
GORGE, an Oregon nonprofit corporation;  
SPOKANE RIVERKEEPER; NATURAL  
RESOURCES DEFENSE COUNCIL, a New York  
nonprofit corporation,

Plaintiffs,

v.

BNSF RAILWAY COMPANY, a Delaware  
corporation.

Defendants.

CIVIL No. 2:13-cv-00967-JCC

DECLARATION OF  
PETER CORNELISON IN  
SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANT'S  
MOTION TO DISMISS

I, Peter Cornelison, hereby declare:

- 1 1. I am over the age of 18, have personal knowledge of the following, and could  
2 competently testify if called as a witness in this legal action.
- 3 2. My principal place of business is the office of Friends of the Columbia Gorge located at  
4 205 Oak Street, #17, Hood River, OR 97031. I serve as Field Representative for the  
5 organization.
- 6 3. I understand that Friends of the Columbia Gorge and other parties have filed a civil  
7 action asserting that Burlington Northern Santa Fe (BNSF) has discharged and is  
8 discharging coal and/or petroleum coke (petcoke) and their byproducts into Washington  
9 waterways without a permit.
- 10 4. In light of my personal and professional concern about the health of the Columbia Gorge,  
11 I am please to offer my declaration.
- 12 5. Friends of Columbia Gorge was founded in 1980 to seek federal protection for the  
13 Columbia River Gorge as a national scenic area. Friends of the Columbia Gorge is the  
14 only non-profit organization dedicated entirely to protecting the Columbia River Gorge.  
15 I am a member of Friends of the Columbia Gorge, and have been since 2003. As well, I  
16 have served as the organization's field representative since 2003, in which capacity I am  
17 responsible for building support and activism among Gorge residents for protecting the  
18 Columbia Gorge.
- 19 6. I am also a Hood River resident and have been active in a number of local conservation  
20 causes.
- 21 7. Contamination of Washington waterways with coal and petcoke from BNSF threatens the  
22 health of the Columbia Gorge.

1 8. I live and own property just a mile away from the Columbia River, travel by it everyday,  
2 and work in Friends' offices in the city of Hood River just five blocks from the  
3 confluence of the Hood and Columbia Rivers.

4 9. My concerns stem, in part, from my recreational interests in Columbia Gorge-area  
5 waterbodies, including the Columbia River, White Salmon River, Little White Salmon  
6 River, Wind River, Rock Creek and the Klickitat River. The BNSF rail road train tracks  
7 are very close proximity, either next to these rivers or the tracks cross over these rivers.  
8 In these rivers, on at least an annual basis, I engage in kayaking (about 5-7 times per  
9 year), windsurfing (about 3-4 times per year), rafting (2-3 times per year), swimming (5-6  
10 times per year), fishing (3-4 times per year) and, at least weekly outside of winter  
11 months, engage in hiking, stream-walking, and photography. I know all of these rivers  
12 from at least one of these activities. For example, this month (August 2013) I rafted  
13 down the White Salmon River. I hope to continue these activities in these waterways,  
14 and expect within the next year also to take up kite-boarding and standup paddle boarding  
15 in the Columbia Gorge.

16 10. However, I am increasingly concerned about contact with water that is contaminated by  
17 coal and petcoke, and with the increasing degree to which the quality of the waterways is  
18 degraded by the coal and petcoke discharges from the trains. If the contamination of  
19 Columbia Gorge waterways by the coal and petcoke trains is not stopped by this civil  
20 action, then a central feature of our organization's mission and my personal and  
21 professional goal to protect the Gorge will be undermined. As well, I will face a  
22 continuing risk of damaged health if I continue to pursue water-contact activities in the  
23 face of mounting pollution from BSNF's offending trains. Accordingly, I anticipate that  
24

1 I will need to curtail or cease engaging in them, unless through this litigation the coal  
2 train contamination is halted and the coal in the rivers cleaned up. Right now, I try to  
3 avoid areas where I know that excessive coal is present.

4 11. My enjoyment of the recreational activities I listed above is already diminished by my  
5 knowledge of the presence of coal, petcoke and related pollution in the Gorge waterways,  
6 and if this pollution continues to degrade Gorge waters, my enjoyment will be further  
7 diminished.

8 12. On the other hand, if by this lawsuit BNSF is required to cease contaminating Columbia  
9 Gorge waterways with the coal and petcoke pollution, then the Gorge ecosystem,  
10 including especially aquatic life, will become healthier, communities along the Gorge  
11 will be healthier, the mission of Friends of the Columbia Gorge will be supported, and I  
12 and others concerned about the present pollution will be able to breathe easier while  
13 pursuing our profession and personal interests.

14 13. In key respects, my recreational interests intersect with and bolster my professional work.  
15 Some of the activities in which I regularly engage in the Gorge area aim to increase  
16 member and public commitment to protection of the Columbia Gorge. Accordingly, I  
17 help lead a number of hikes and picnics each year to introduce, share and reconnect  
18 members and supporters of Friends with the beauty and grandeur of the Columbia Gorge  
19 area. However, the increased contamination from BNSF's coal and petcoke trains is  
20 diminishing my enjoyment of and the beauty of these hikes and picnics. I would like to  
21 be able to lead members and supporters of Friends in these activities without fear of  
22 exposure to coal, petcoke and related pollution.

1 14. In my professional opinion, coal and petcoke do not belong in the Gorge. They are not  
2 naturally occurring here. Accordingly, BNSF Railway Company is introducing a foreign  
3 substance by its injection of coal and petcoke into Gorge waterways. Coal, petcoke and  
4 related materials are pollutants, and such contaminated water may impose both physical  
5 and chemical harm to juvenile salmon, other fish, and other aquatic life. My concern in  
6 this regard was amplified by a recent article from Sightline Research Institute titled "How  
7 Coal Affects Water Quality: State of the Science." BNSF railroad and various coal  
8 companies are compounding their prior contamination of our waterways with more coal,  
9 petcoke and related pollutants.

10 15. I have personally observed how the coal, petcoke and related pollutants caused by the  
11 trains deposit large quantities of chunks and dust onto steep slopes immediately adjacent  
12 to and over these waterways. I have seen this at the confluences of the Columbia River  
13 and the White Salmon River, Little White Salmon River, Wind River and Rock Creek  
14 and an unnamed creek in Murdock, WA. I have also seen this by boat along a section of  
15 elevated railroad track at Horsethief Lake, WA.

16 16. Coal and petcoke are already polluting the Columbia Gorge and have accumulated to a  
17 depth of two to six inches at a number of places on land and at numerous places where  
18 the tracks are near water (although the dust is dispersed in water). This is from just one to  
19 four coal and petcoke trains per day. Present coal terminal proposals, if built, could lead  
20 to the increase of this train traffic up to 20 to 30 coal and petcoke trains per day.

21 17. The coal and petcoke pollution from the BNSF trains must not be allowed to continue  
22 and further pollute the unique geologic, cultural and scenic treasure that is the Columbia  
23 Gorge National Scenic Area.

24

1 I declare under penalty of perjury that all of the forgoing is true and correct.

2 Executed in Hood River, Oregon this 2<sup>nd</sup> day of September, 2013.

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4 Peter Cornelison

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s/ Sarah Matsumoto  
Sarah Matsumoto, *an employee of*  
Law Offices of Charles M. Tebbutt, P.C.

HON. JOHN C. COUGHENOUR

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

SIERRA CLUB, a California nonprofit corporation;  
PUGET SOUNDKEEPER ALLIANCE, a  
Washington nonprofit corporation; RE SOURCES  
FOR SUSTAINABLE COMMUNITIES, a  
Washington nonprofit corporation; COLUMBIA  
RIVERKEEPER, a Washington nonprofit  
corporation; FRIENDS OF THE COLUMBIA  
GORGE, INC., dba FRIENDS OF THE COLUMBIA  
GORGE, an Oregon nonprofit corporation;  
SPOKANE RIVERKEEPER; NATURAL  
RESOURCES DEFENSE COUNCIL, a New York  
nonprofit corporation,

Plaintiffs,

v.

BNSF RAILWAY COMPANY,

Defendant.

CIVIL No. 2:13-cv-00967-JCC

DECLARATION OF  
MICHAEL LANG IN SUPPORT  
OF PLAINTIFFS' OPPOSITION  
TO DEFENDANT'S MOTION TO  
DISMISS

I, Michael J. Lang hereby declare:

- I am over the age of 18, have personal knowledge of the following, and could competently testify if called as a witness in this legal action.

- 1 2. My principal place of business is the office of Friends of the Columbia Gorge located at  
2 522 S.W. 5<sup>th</sup> Ave, #720, Portland, OR 97204. I serve as Conservation Director for the  
3 organization.
- 4 3. Friends of the Columbia Gorge and other parties have filed an action under the Clean  
5 Water Act against Burlington Northern Santa Fe (BNSF) for its unpermitted discharges  
6 of coal and petroleum coke (petcoke) and their byproducts into Washington waterways,  
7 including the Columbia River.
- 8 4. I make this declaration in support of that action.
- 9 5. Friends of Columbia Gorge was founded to protect the Columbia River Gorge as a  
10 national scenic area and now works to protect its natural and scenic values. We work to  
11 achieve our mission by educating the public about the outstanding resources of the Gorge  
12 and advocating for protection of those resources – including the quality of the Columbia  
13 River and its tributaries – by the enforcement of critical environmental laws.
- 14 6. I am a member of Friends of the Columbia Gorge.
- 15 7. I have served as the organization’s Conservation Director since 1997, in which capacity I  
16 oversee all aspects of our monitoring and litigation program, policy development and  
17 advocacy, coalition building, public education and media work, and lobbying efforts.
- 18 8. I am personally and professionally concerned about coal contamination of Washington  
19 waterways stemming from BNSF coal trains.
- 20 9. The Columbia River Gorge was designated by Congress as a national scenic area in  
21 recognition of its natural beauty and environmental integrity. The large quantities of coal  
22 and petcoke discharged from BNSF trains undermine those values. Friends of the  
23 Columbia Gorge’s primary mission is to protect the Gorge. Accordingly, it is imperative  
24

1 to my organization that BNSF be made to cease its discharges of coal and petcoke into  
2 Washington waterways.

3 10. My concern also stems from my personal activities in Columbia Gorge-area waterbodies.

4 I am an avid recreational fisherman, and fish for steelhead and trout on the tributaries of  
5 the Columbia -- including in the Sandy River, Deschutes River and the Klickitat River.

6 The BNSF coal and petcoke discharges threaten both the health of the species that I fish  
7 for and the health of people who consume these fish.

8 11. I also regularly hike -- at least once per year -- along many Washington tributaries that  
9 feed into the Columbia River, including Catherine Creek, Gibbons Creek, Duncan Creek,  
10 Woodard Creek, Hardy Creek, Hamilton Creek, Greenleaf Creek, the Little White  
11 Salmon River, the White Salmon River, the Wind River, and the Klickitat River. BNSF's  
12 trains cross these tributaries. As well, I hike along the Columbia River. When hiking, I  
13 engage in bird-watching, wildlife observation, plant identification and photography.  
14 Often these hikes include my family, and the outings often include picnics.

15 12. Through my work and in recreation I have occasion to travel along the Columbia River,  
16 often on its north side. I have frequently seen coal contamination from the BNSF. In  
17 particular, I have witnessed coal contamination at the mouth of the Little White Salmon  
18 River and on the banks of the Columbia River. I have also witnessed the coal  
19 contamination at Columbia Hills State Park along the banks of the Columbia River and  
20 within the river. The presence of coal and petcoke contamination of these banks means  
21 that coal and petcoke were and are directly discharged by BNSF into the Columbia River.

22 13. My concerns about this contamination are several. First, I am concerned about impacts to  
23 human health, since I and people in communities throughout the Columbia Gorge  
24

1 consume Columbia River fish and, because the contamination is cumulative, the fish  
2 increasingly are contaminated with coal and petcoke and their by-products discharged by  
3 the BNSF trains. Accordingly, I am concerned that these toxins will find their way into  
4 the bodies of persons living in communities up and down the Columbia, and in fact  
5 wherever the fish are consumed - including by my family and me.

6 14. Second, I am concerned about the health of the fish populations and other organisms that  
7 are confronted with degraded habitat, as their habitats are critical to their lifecycles. I am  
8 also concerned about other waterfowl and mammals that use the Columbia River and its  
9 tributaries, and so feed on the salmon, other fish, and other river organisms. These  
10 include Columbia River sturgeon, otter, beaver, bald eagle, osprey, cormorants and other  
11 birds of prey.

12 15. Third, I am concerned about the impact of the water quality degradation on the future of  
13 the Columbia Gorge region itself. In particular, I fear that the increasingly degraded  
14 water quality, and the widespread knowledge of that adverse development, will diminish  
15 the quality of life and quality of the experience for those living or visiting the Gorge. My  
16 enjoyment of the Gorge, for instance, is impaired by my understanding that Gorge  
17 waterbodies are under nearly constant assault by the BNSF coal and petcoke trains.

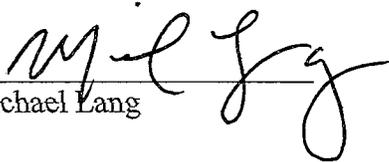
18 16. I believe that our action to enforce the CWA, if successful, will stem that degradation and  
19 remediate at least some of the damage.

20 17. The Columbia Gorge itself, and the Friends of the Columbia Gorge as an organization,  
21 face enough challenges even in the absence of the BNSF discharges. The unpermitted  
22 coal and petcoke discharges by the BNSF trains into Washington waterways must be  
23 brought to a close if we are to fulfill our mission to protect the Gorge.

24

1 I declare under penalty of perjury that all of the forgoing is true and correct.

2 Executed in Portland, Oregon this second day of September, 2013.

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Michael Lang

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**CERTIFICATE OF SERVICE**

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s/ Sarah Matsumoto  
Sarah Matsumoto, *an employee of*  
Law Offices of Charles M. Tebbutt, P.C.

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HON. JOHN C. COUGHENOUR

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

SIERRA CLUB, a California nonprofit corporation;  
PUGET SOUNDKEEPER ALLIANCE, a  
Washington nonprofit corporation; RE SOURCES  
FOR SUSTAINABLE COMMUNITIES, a  
Washington nonprofit corporation; COLUMBIA  
RIVERKEEPER, a Washington nonprofit  
corporation; FRIENDS OF THE COLUMBIA  
GORGE, INC., dba FRIENDS OF THE COLUMBIA  
GORGE, an Oregon nonprofit corporation;  
SPOKANE RIVERKEEPER; NATURAL  
RESOURCES DEFENSE COUNCIL, a New York  
nonprofit corporation,

Plaintiffs,

v.

BNSF RAILWAY COMPANY, a Delaware  
corporation,

Defendants.

CIVIL No. 2:13-cv-00967-JCC

DECLARATION OF  
POLLY WOOD IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANT'S MOTION TO  
DISMISS

I, Polly Wood, hereby declare:

- 1 1. I am over the age of 18, have personal knowledge of the following, and could  
2 competently testify if called as a witness in this legal action. I am aware that Columbia  
3 Riverkeeper, Friends of the Columbia Gorge, and other parties have filed a civil action  
4 asserting that Burlington Northern Santa Fe (BNSF) has discharged and is discharging  
5 coal, coal dust and/or petroleum coke (petcoke) and their byproducts into Washington  
6 waters without a permit in violation of the Clean Water Act. Columbia Riverkeeper and  
7 Friends of Columbia Gorge represent my interests in this lawsuit.
- 8 2. I make this declaration in support of this litigation because I believe it is necessary to  
9 protect the water quality of the Columbia River watershed, where I live and recreate with  
10 my family, my husband and eight year old daughter.
- 11 3. I reside at 525 Highline Road, Hood River, OR, 97031 in Hood River County. I have  
12 lived in Hood River for approximately 11 years.
- 13 4. I am a retired pastry chef and former business owner of Polly's Cakes and now spend my  
14 time volunteering for several organizations in addition to raising my eight-year-old  
15 daughter. I am President of the Board of the Hood River Valley Residents Committee, a  
16 local land use advocacy organization that works to protect farm and forest land and to  
17 promote livability of the Hood River community by upholding the Oregon Land Use  
18 laws. I am a Board Member of Friends of the Columbia Gorge. I also work with the  
19 Hood River Library Foundation to put on an annual fundraiser for the local library.
- 20 5. I am and have been an active member and supporter of Columbia Riverkeeper for nine  
21 years, and have donated annually since 2004. On behalf of Columbia Riverkeeper, I  
22 provide annual financial support, attend functions, such as fundraising events, participate  
23 in letter-writing campaigns, and respond to various electronic action alerts on matters  
24 affecting the environmental health of the Columbia River ecosystem.
6. Columbia Riverkeeper is a non-profit organization that serves as the "watch dog" for the  
Columbia River. The organization looks after the health of our river, monitors its water

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1 quality, advocates for its protection, and serves as an advocate to prevent activities that  
2 threaten the health of our river. As part of its education mission, Columbia Riverkeeper  
3 also sponsors trips and outings for those interested in learning more about the river and  
4 the wildlife that depend upon the river.

- 5 7. I believe that the burning and transportation of coal is one of the most significant  
6 environmental problems that our community faces today. I am aware of and support  
7 Columbia Riverkeeper's advocacy work on coal. I am aware that Columbia Riverkeeper  
8 staff and/or volunteers have worked to gather coal in the river that has been deposited by  
9 passing coal trains.
- 10 8. I am concerned about the presence of coal, coal dust and petcoke in the Columbia River  
11 and the waters that feed the Columbia River because I believe the presence of coal in the  
12 water pollutes the water. I also believe that the coal contains contaminants that pose a  
13 threat to the health of the species that use and depend upon the Columbia River.
- 14 9. I live and own my own home approximately one mile away from the Columbia River. I  
15 have a view of the river from my home. I can also see and hear the coal trains as they  
16 pass along the river.
- 17 10. I believe the presence of coal in our waterways degrades the value of living in this special  
18 place. People largely come to visit and live in this community to engage in recreation  
19 activities on the water, whether it be swimming, fishing, wind surfing, kite surfing,  
20 paddle boarding, or boating. I believe that the presence of coal in the water would make  
21 Hood River a much less desirable place to live and visit if the water continues to be  
22 contaminated by coal. This in turn will negatively affect the value of my property as well  
23 as the quality of my life in Hood River.
- 24 11. My recreational interests and activities primarily take place on or around the Columbia  
River. I visit the river frequently and intend to visit and use the river on a regular basis.  
In terms of the transportation of coal on railways by BNSF, I am particularly concerned

1 about the coal that is deposited into the Columbia River, Klickitat River, White Salmon  
2 River, Coburg Beach, Rock Creek, the mouth of the Hood River and Wells Island. Many  
3 of the foregoing waterways are places that I visit and use and are impacted by coal and  
4 coal dust pollution from the BNSF coal trains because the coal trains pass adjacent and/or  
5 directly over them.

6 12. I regularly engage in bird watching at the mouth of the Klickitat River where it meets the  
7 Columbia River. Particularly, my family and I visit this area in January to view the  
8 eagles. The presence of coal in the water or on the beach in this area would greatly  
9 diminish my enjoyment of this activity and we likely would refrain from coming at all.

10 13. My husband and I own an Adirondack guide boat that we regularly use on the Columbia  
11 River. We usually use it for day trips on the river and will travel from Hood River to  
12 other sites along the Columbia River. We frequently travel up the mouth of the White  
13 Salmon River, around Koberg Beach, Rock Creek, and Wells Island on the Oregon side.  
14 We also intend to visit other areas in the future. When we get to our destination, we pull  
15 our boat up onto the shore and thus our enjoyment of this activity would be adversely  
16 affected by the presence of coal in the water or on the shore because it would detract  
17 from the natural beauty of the area in which we are recreating and pollute the area as  
18 well. My family has no desire to recreate in waters polluted with coal.

19 14. I frequently bicycle along paths that are adjacent to the Columbia River, in The Dalles  
20 and along the Hood River waterfront. One of the reasons I enjoy bicycling this route is to  
21 enjoy the views of the River. I would be less inclined to participate in this activity if  
22 there is coal in or alongside the river where I bicycle.

23 15. While I do not personally go fishing, my family consumes fish caught in the Columbia  
24 River by Tribal fishermen as a way to support our local economy. The coal in the water,  
and the heavy metals that come from the coal, will contaminate the fish, thereby harming  
our local economy and the health of my family. I am especially concerned about the

1 health of my daughter, as she is young and her system is more susceptible to  
2 contamination from heavy metals. Consuming fish caught from the Columbia River is a  
3 treasured part of the culture and history of our community, which is being degraded by  
4 the coal deposited into the water by BNSF.

- 5 16. My family and I regularly hike and picnic in several places adjacent and around the  
6 Columbia River. The viewshed surrounding the Columbia River is astounding and the  
7 presence of spilled coal in and alongside the river negatively affects the beautiful views  
8 that this region has to offer. This negatively affects me as well as our local economy, as  
9 many people travel to this area to view the Mighty Columbia and would be less inclined  
10 to do so if the river is polluted with coal. Water-based recreational activities, including  
11 but not limited to boating, kayaking, swimming, kite surfing, wind surfing, and paddle  
12 boarding, are the basis for the Hood River economy and thus the economic health and  
13 vitality of my community is especially vulnerable to activities that pollute the water, such  
14 as transporting coal in a manner that allows the coal to spill into the river.
- 15 17. Studying the wildlife, especially salmonids, is an activity that my family and I regularly  
16 do in the Columbia River area. Specifically, we frequently take my daughter to the Rock  
17 Creek area to view salmonids swimming up and down the river as they have done for  
18 thousands of years. We assist the salmon if they ever get stuck in low water. This is an  
19 important circle of life that my daughter is able to witness and this activity is put in  
20 jeopardy by the deposition of coal into the Columbia River.
- 21 18. My family, especially my daughter, enjoys swimming in the Columbia River. We  
22 frequently swim at the waterfront park in Hood River and wherever we park our boat on  
23 our trips up and down the River. As a mother, it makes me very uncomfortable to think  
24 that my daughter is endangering her health by engaging in a healthy activity such as  
swimming in her own backyard.

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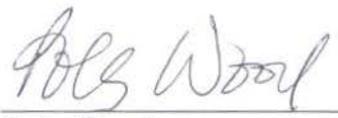
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1 19. In early April 2013, I personally saw coal on the side of the railroad tracks near the  
2 mouth of the White Salmon River. I have also seen coal on the side of the tracks and in  
3 the Columbia River near the confluence with the Wind River in June 2013. I did not  
4 collect or take photographs of the coal, but it was disturbing to me to see how much coal  
5 was spilled into our River.

6 20. I believe that BNSF's deposition of coal, coal dust and petcoke into the Columbia River  
7 watershed has harmed me because coal in the water negatively affects my ability to  
8 engage in recreational activities that I enjoy and threatens the health and economic  
9 welfare of the community in which I live. I believe that if the court were to issue a  
10 decision requiring BNSF to operate in a manner that ensures that no coal or coal dust is  
11 deposited into the Columbia River watershed, my interests in preserving my way of life  
12 and protecting the environment in my community would be protected.

I declare under penalty of perjury that all of the forgoing is true and correct.

13 Executed in Hood River, Oregon, on August 30, 2013.

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15 \_\_\_\_\_  
16 Polly Wood

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to the following:

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