



**Office of the City Attorney
City of Yakima**

MEMORANDUM

September 9, 2022

TO: Honorable Mayor and Members of the City Council
Bob Harrison, City Manager

FROM: Sara Watkins, City Attorney

SUBJECT: Correspondence With BNSF Railroad Regarding Trolley Bridge

The City Legal Department was tasked with reaching out to BNSF regarding the proposed pedestrian crossing over the existing trolley bridge. The trolley bridge sits within an easement belonging to BNSF.

BNSF in 1912 (through its predecessor in interest Pacific Railway Company) granted the trolley (through its predecessor in interest the Yakima Valley Transportation Company) a fifty (50) foot easement “to occupy and use for its main line, single or double track railway.”

The Legal Department reached out to BNSF’s representative regarding whether BNSF would agree to allow an additional use in the easement—specifically a pedestrian crossing over the currently-existing trolley bridge. We received the following response from Stephen Semenick, PE, Manager Engineering—NW Division:

If at some point the City would like to discuss a larger scale pedestrian trail project that would utilize the trolley bridge, BNSF will participate. If that proposal includes a long segment of a trail within our ROW, it will not be approved.

Attached to this memo are:

1. Email correspondence between Ryan Bleek and Stephen Semenick; and
2. BNSF Position on At-Grade Trails and Parallel Roadways.

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In response to the William O. Douglas Trail Foundation's assertion that BNSF previously approved the use of the easement as a trail, the Legal Department also asked Mr. Semenick about the previous correspondence regarding fencing in the right of way. As you can read in the attached email, Mr. Semenick provided his opinion regarding whether BNSF had previously approved use of the trolley bridge as a trail during the City's 2008 Grade Crossing Protective Fund grant application. That grant application, made in conjunction with the Yakima Valley Trolleys and BNSF, provided funding for fencing to address unlawful pedestrian use of the BNSF line. As part of the proposal, there was a statement that "a pedestrian pathway is planned to be constructed across the trolley bridge within the next couple of years. Fencing as shown on the attached drawing would deter pedestrians from accessing the railroad bridge."

Even though the 2008 grant application indicates that BNSF personnel supported efforts at the time to channel pedestrians away from its property, Mr. Semenick does not believe that the application provides proof of prior or current BNSF approval for use of the trolley bridge's railway as a pedestrian crossing. A copy of the application is attached for your reference.

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Attachments