

February 13, 2015

Secretary Anthony Foxx
U.S. Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

Re: Increased Crude Oil Rail Shipments

Dear Secretary Foxx,

As Mayor of the City of Sandpoint, Idaho, I write to you to convey my deep concern over increased crude by rail transport through my community and the need for strong safety regulations to ensure that the health, safety, and property of my constituents and the health of our local economy and treasured natural landscapes are adequately protected. I applaud your initiative in proposing the Enhanced Tank Car Standards and Operational Controls for High Hazard Flammable Trains and taking important steps to improve crude by rail safety in light of recent increases in rail accidents involving crude spills, fires and explosions that have devastated communities and waterways and have left the victims, in many cases, to shoulder the costs of damages. However, I fear that, with increased crude by rail traffic through my community and at least three to seven year delays in replacing or retrofitting the oldest, most unsafe tank cars, Sandpoint will become another victim of this rampantly growing industry.

Based on my comments below, I respectfully request that you strengthen the proposed rule by: (1) requiring an immediate ban on the use of DOT 111 tank cars for all crude and ethanol service and (2) requiring that railroads notify states, local governments and the public of the numbers and routes of trains carrying crude oil in each state, the nature, type and volume of crude and ethanol carried, and provide emergency preparedness information, including comprehensive oil spill response plans to local officials and emergency responders.

Please see the attached summary of the economic data pertinent to our town. To railroad buffs, Sandpoint is known as "The Funnel". Coming through our town of 7,200 are BNSF, UP and MRL railways. We experience 18-21 Bakken crude unit trains per week and 7-10 tar sand oil unit trains per month. Our community is supported by timber, tourism, government services, small aeronautics industries, food manufacturers, and a variety of other business interests. Our real estate market is concerned about the

nature of transports through our town and the hazards presented. BNSF crosses the access to delivery of emergency services to the north part of town, causing delays in response. We are advocating vigorously for a grade separation at that crossing so our fire fighters, EMS and police can be timely in their lifesaving efforts. Our town sits on a large lake and river, which are parallel to and crossed by the railroads, putting our water quality and public health in jeopardy. If a spill were to happen into either Lake Pend Oreille or the Pend Oreille River, our town would be devastated by the economic loss ensuing.

I. The Surge in Crude by Rail Disasters Calls for a Strong Regulatory Response to Protect Public Health and Safety

Since 1991, the National Transportation Safety Board has warned that DOT 111 tank cars shipping flammable liquids “create an unacceptable public risk” and that “the heads and shells of DOT 111 tank cars ... can almost always be expected to breach in derailments that involve pileups or multiple car-to-car impacts”.¹ DOT 111 tank cars puncture and spill oil in derailments two or more times as often as the tank cars that have been built since 2011. Depending on the option, the proposed new tank car standards would reduce accident severity by 40-51%.² The Department of Transportation’s analysis in the proposed rule projects that 15 mainline rail accidents will spill oil every year if the existing fleet of tank cars remains in place, with the possibility of **at least one disaster on the scale of Lac Megantic or larger every two years**.^{1, 3} Indeed, immediate removal of hazardous tank cars from the rails is the most important action that can be taken in this rulemaking.

The Department of Transportation has a statutory obligation that prioritizes protection of public health and the environment in regulating hazardous materials transport. Specifically, DOT must “protect people and the environment from the risks of hazardous materials transportation.”⁴ Through this mandate, PHMSA must “minimize [] the risks to life and property inherent in transportation in commerce” and “the consequences of an incident should one occur.”⁵ While costs may be a basis for selecting one safety alternative over another where both would fulfill the agency’s safety mandate, the agency’s statutory obligation to protect health and safety is paramount. To date, the Department of Transportation’s actions, including the proposed rule and other emergency orders, have failed to satisfy this mandate. For example, the agency’s recent Safety Advisory 2014-01 amounted to no more than a recommendation to shippers to use the safest tank cars in their fleets to the extent feasible.

II. The Proposed Tank Car Phase-Out Yields to Industry Demands to Double the Crude Rail Fleet Before Removing Hazardous Tank Cars and Runs Afoul of DOT’s Statutory Duty to Prioritize Public Health and Safety

The proposed rule lays out a multiple year phase-out by “packing group” that will not begin until October 2017 and will run until October 2020.⁶ Bakken crude, with its much higher than average volatility, falls within both packing group I and II, and other crude and ethanol generally are packing group II fuels. The proposed packing group phase out encourages reducing Bakken volatility to prolong shipment in dangerous DOT 111 tank cars rather than removing these unsafe tank cars from crude oil transport

¹ In its risk analysis, the proposed rule did not include accident and spill data from 2014 or from Canada. It is also widely understood that spill release information is often underreported by the industry. As such, the projected risk of crude by rail accidents in the proposed rulemaking may be lower than actual risk.

immediately. Consequently, under a rule that phases out DOT 111 tank cars from packing group and I and II transport service by October 2018, DOT would risk approximately 60 oil spills from rail accidents and one to two Lac Megantic scale disasters. I understand the railroads and oil industry are urging DOT to slow the phase out by an additional six months to one year. The slow phase out also is disconcerting in light of Canada's immediate ban on 5,000 of the most unsafe DOT 111 tank cars after the Lac Megantic disaster, and its full phase out of the remaining DOT 111 tank cars for all hazardous fuels by May 2017. This creates an incentive for shippers and the railroads to shift the hazardous tank cars to the U.S. fleet in the immediate future, meaning a higher concentration of the oldest and most unsafe tank cars in use for US-only operations.

The proposed phase out reflects industry plans to grow the crude oil fleet before replacing hazardous tank cars. The current crude oil rail fleet consists of approximately 42,550 tank cars. The industry plans to build an additional 61,000 tank cars to grow the crude oil fleet between now and 2019. However, DOT's statutory mandate to protect safety and prevent incidents requires that new tank cars replace old defective ones before crude-by-rail is expanded further.⁷ Industry's plan to double the oil tank car fleet without removing the oldest, most dangerous cars increases the risk of deadly derailments, spills and fires and is contrary to DOT's statutory duty.

III. DOT Should Implement a Risk-Based Phase-Out that Prioritizes Public Safety Over the Oil Industry's Desires to Grow the Crude Oil Fleet

To protect communities across the country and to satisfy its statutory duty, DOT must immediately ban the unjacketed DOT 111 tank cars for shipping Bakken crude and other Category 3 flammable materials in Packing Groups I, II, and III, and should then adopt a phase out based on the risks of puncture and oil spills posed by the tank cars. Unjacketed DOT 111 tank cars are the most hazardous tank cars on the rails, puncturing in accidents more than half the time according to some industry estimates. DOT 111s with jackets and cars without jackets built to the 2011 industry CPC-1232 standard cut the risk in half of discharging oil in the event of a derailment.

A risk-based phase-out should call for the following:

- (1) Immediate retirement or retrofit of puncture-prone unjacketed DOT 111 tank cars by the end of 2015 at the latest (approximately 22,800 tank cars);
- (2) Followed by retirement or retrofit of other DOT 111 tank cars (approximately 5,500) and unjacketed CPC-1232 tank cars (approximately 14,000) by mid-2016; and
- (3) Retrofit of jacketed CPC-1232 tank cars (approximately 4,850) beginning in 2015 and ending in 2017.

The industry has stated that 55,400 new tank cars are on order, and at least 37,800 new tank cars will be in service by the end of 2015,⁸ demonstrating it has the capability to ramp up new construction that should immediately replace the oldest most unsafe tank cars before expanding the fleet to meet the demand of moving more volatile crude through my community and others across the country. Industry also represents that it can retrofit 22,000 tank cars each year to meet new standards, but the proposed rule does not require retrofits to begin until 2016.⁹ The newly built tank cars and retrofits should be directed at

replacing unjacketed DOT 111 tank cars first so that they will be out of crude rail service by the end of 2015 at the very latest.

The PHMSA proposed tank car design option provides the strongest protections to public health and safety and would provide the greatest reductions in accident severity. To date, DOT's response to the risks posed by DOT 111 tank cars carrying Bakken crude in the form of a voluntary safety advisory and proposed rules that will be completed sometime in 2015 have not adequately addressed the "imminent hazards" to public health and safety posed by these unsafe tank cars. DOT must act with urgency to protect the public from unsafe tank cars carrying volatile hazardous materials.

DOT also must universally enforce reduced speed limits until the benefits of an improved safety rule materialize. Such speed limits must not discriminate based on population given the catastrophic crude by rail accidents that have occurred in areas with populations of far less than 100,000.

IV. DOT must Ensure Broad Notification of Hazardous Crude by Rail Transported through Communities

In addition, the proposed codification of DOT's May 2014 emergency order that requires the railroads to submit notifications to state emergency response centers to disclose the routes and frequency of trains carrying 1 million gallons or more of Bakken crude does not go far enough. Broader, coordinated notification is necessary to protect communities like mine who have little knowledge, training and resources about crude type and risk and the measures needed to minimize risk and damage in the event of an accident. To ensure adequate notification, the final rule must:

- (1) Require notification for all trains shipping crude oil or ethanol;
- (2) Lower the 1 million gallon notification threshold to all trains carrying one tank car of crude or ethanol, or to all High Hazard Flammable Trains; and
- (3) Require notification to the U.S. Department of Transportation so that information is subject to the Freedom of Information Act ("FOIA") and electronic FOIA to foster uniform and proactive public access requirements.

The benefits of knowing the frequency of trains, the types of fuels transported, and necessary emergency response measures far exceed the industry's purported heightened risk of terrorism that would result from broadening notification. Contrary to industry's assertions, it is no mystery to the public or anyone living near or observing the rail lines when a crude train passes through or sits idling just feet from residences and local businesses. Indeed, the knowledge of risks and knowing how to respond is absolutely critical to communities and local first responders who are often first at the scene of an incident.

I also encourage DOT to extend rail routing guidelines to HHFTs and to provide oversight and accountability to the industry's rail routing decisions to ensure that fuels in transport are not misclassified and are shipped in containers and on routes that ensure the highest level of protection for all exposed communities.

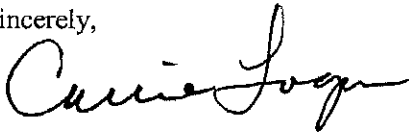
Relatedly, DOT, through its separate oil spill response rulemaking, must require "comprehensive oil spill response plans" for all trains carrying a single tank car of crude or ethanol. Such plans should require worst case spill analysis for a discharge of the entire contents of a fully loaded unit train. That analysis

should be conducted for accidents spilling explosive Bakken crude and for accidents spilling tar sand diluted bitumen. In addition, response plans must be made subject to federal review and approval with consultation from expert federal agencies, such as the U.S. Environmental Protection Agency and the Fish and Wildlife Service, and local and state governments. Moreover, given that railroads often carry insurance of only \$25 million per incident and have gone bankrupt as a result of catastrophic accidents, forcing victims to shoulder the cost of damages that exceed \$1 billion, DOT must require that all shippers carry liability insurance that will cover the costs of a worst case scenario disaster.

In sum, it is imperative that the following information be made publicly available: 1) hazardous material rail routing, train frequencies and fuel classifications for all trains carrying crude or ethanol; 2) comprehensive oil spill response plans for all trains carrying crude and ethanol, including modeling of a worst case scenario accident by each railroad; and 3) the amount of catastrophic insurance coverage carried by each railroad.

Thank you again for taking the critical initial steps to improve crude by rail safety. On behalf of the citizens of Sandpoint, Idaho, and millions of Americans directly threatened by increased crude by rail transport, I urge you to finalize a rule that immediately phases out DOT 111 tank cars from all crude and flammable fuel service and provides for broad and coordinated notification and comprehensive oil spill planning.

Sincerely,



Carrie Logan
Mayor

- c: Kathryn Thomson, General Counsel, U.S. Department of Transportation
- Timothy Butters, Acting Administrator, Pipeline Hazardous Materials Safety Administration
- Vanessa Allen Sutherland, Chief Counsel, Pipeline Hazardous Materials Safety Administration
- Sarah Feinberg, Acting Administrator, Federal Railroad Administration
- Melissa Porter, Chief Counsel, Federal Railroad Administration

¹ NTSB, Derailment CN Freight Train: Cherry Valley, Illinois, June 19, 2009, at 75-76 (adopted Feb. 14, 2012); NTSB Comments on Advance Notice of Proposed Rulemaking, PHMSA 2012-0082, at 1-3 (Dec. 5, 2013).

² 79 Fed. Reg. 45,060 (Aug. 1, 2014)

³ Regulatory Impact Analysis at 4, 7, 9, 23, 35.

⁴ Regulatory Impact Analysis at 12.

⁵ 79 Fed. Reg. at 45,022-23.

⁶ 79 Fed. Reg. at 45,043 (Table 15).

⁷ Regulatory Impact Analysis at 79.

⁸ Regulatory Impact Analysis at 79.

⁹ Regulatory Impact Analysis at 89-90.

Economic Impact of Increased Rail Traffic through Sandpoint, Idaho

Executive Summary

This report will present information to City officials on how traffic wait times, public safety and property values could be economically effected by an increase of rail traffic. Rail and auto traffic are forecasted to increase. Trains have the right of way at at-grade crossings, the increased interaction between local and train traffic at these crossings result in extended wait times for local traffic creating an economic and safety impact to the citizens of Sandpoint.

Introduction

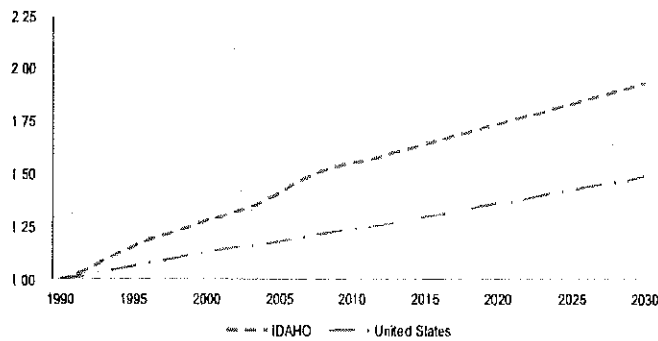
Sandpoint, Idaho often referred to as the funnel sits at the nexus of multiple rail lines. The BNSF mainline segment between Sandpoint and Spokane is the primary mainline between the Pacific Northwest and BNSF's inland rail network. The Northern Corridor and the MRL converge at Sandpoint.

Twelve miles of track pass through and around Sandpoint owned by Montana Rail Link, Union Pacific, Burlington Northern Santa Fe and Pend Oreille Valley Railroad. There are six public railroad crossings within the City of Sandpoint. Four are on the Burlington Northern Santa Fe Railroad; two are on the Union Pacific Railroad. BNSF has proposed completing double track through Sandpoint and building a new rail bridge adjacent to existing as early as 2018.² Double tracking by BNSF will increase at grade crossings by one.

Increased transportation of Bakken Crude Oil is forecasted from 3 unit trains per day in 2014 to as many as 20 per day in 2020. Powder River and Central Basin coal is forecasted to grow from 28 trains per day in 2017 growing to 63 in 2022. BNSF has stated that rail shipped farm commodities have increased by 50% between 2009 to 2013.¹ Idaho Transportation Department is anticipating a 72% increase of tonnage shipped by 2040. In addition to the increase in number of trains, train length averages are increasing from approximately one and one quarter miles to one and one half miles.

According to the 2010 Census, the population within a 30-mile radius of Sandpoint totals an estimated 23,000, and includes portions of Montana and Washington. This number is trending toward increasing and many of these residents travel through and around Sandpoint, for work, school and shopping.

Idaho's Population Growth Compared to U.S., 1970-2030



Source: U.S. Census Bureau (historic and US forecast), and Moody's Analytics' Economy.com (Idaho forecast).

With a predicted increase in train traffic and population growth we will see additional economic impacts to the community due to the at-grade crossing interactions.

Economic Benefits

Train traffic is often credited as helping to found Sandpoint. Historically significant economic benefit was generated due to shipping and transfer of goods and related support services. Today however we find ourselves as a location that is primarily passed through as the trains head to coastal ports. This does not mean that we do not receive some economic benefit from the trains. There are multiple employees of BNSF and UP that live in the greater Sandpoint area. We also receive the benefit of over 6000 yearly visitors passing through via the Amtrak station. Tourism dollars are also generated by RailFans who flock to the area because of the nexus of multiple rail lines. Additionally we receive a State "Operating Property" tax from the railroads that pass through. Operating Property taxes are assessed on utilities, railroads and fleets that operate in Idaho. In 2014 we anticipate receiving \$61,840 in Operating Property tax, which for our area includes power, gas and rail utilities.

Economic benefits of trains to Sandpoint are significantly limited due to the pass through nature of our location. Even if we had a depot the likely benefit would only be the trickle down from a few employees.

Traffic Wait Times

Sandpoint has nine at-grade crossings that create wait times when the crossing is occupied by trains. (Figure 1.) The BNSF line averages 43 trains per day; they travel about 35 mph through town and account for four of the crossings. Each BNSF train occupies the crossing for around six minutes, in total they occupy the crossing for just over four hours daily. The UP line has around four trains per day traveling at 10mph and they account uniquely for five of the crossings. The UP line moves slowly due to a constricted turn between Boyer and Sandcreek. This causes the UP trains to take nearly ten minutes to pass through each crossing, totaling around 40 minutes each day. The Boyer route is the most significantly impacted due to the higher traffic count, Great Northern comes in a close second.

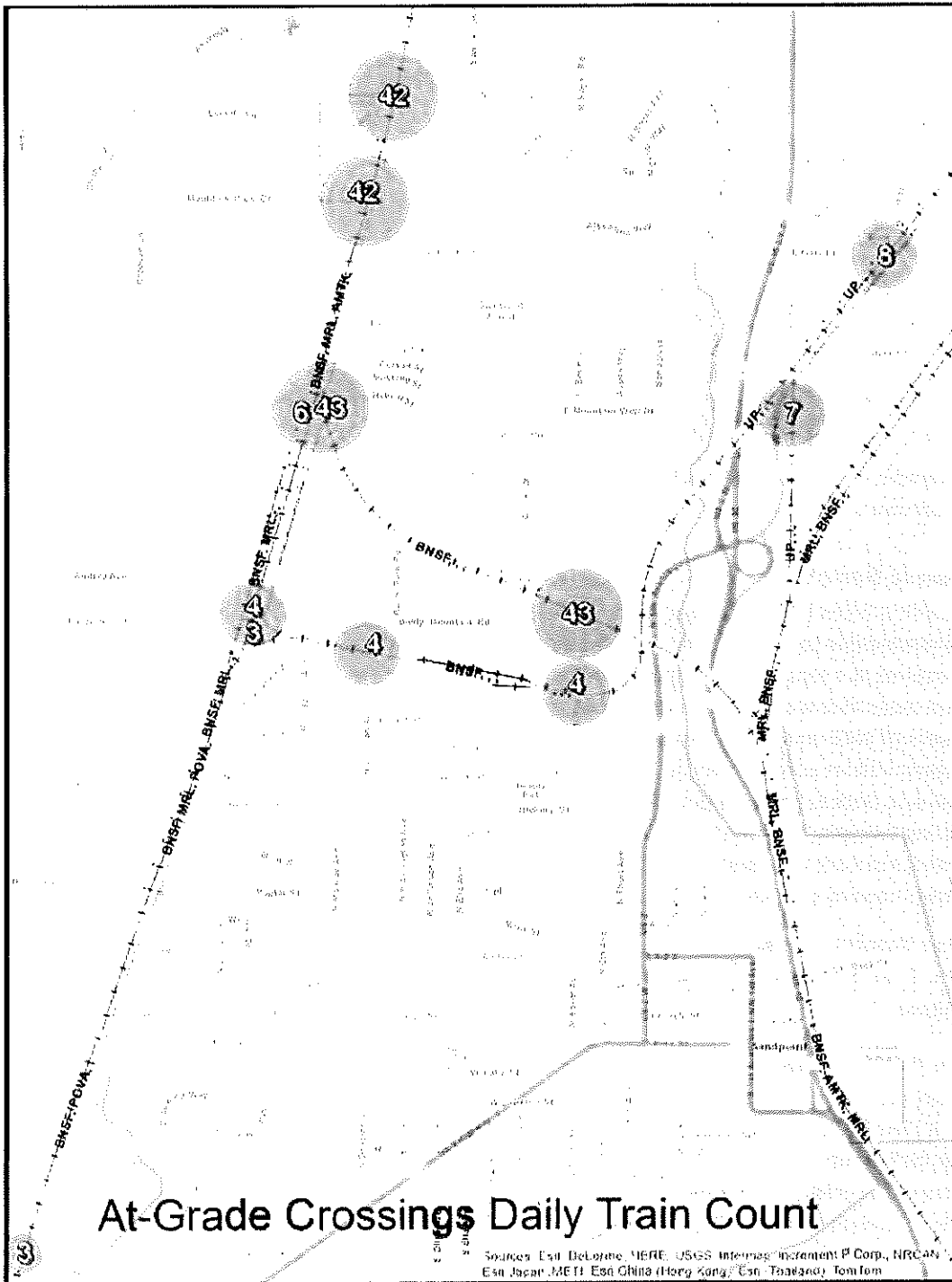


Figure 1. At-grade crossing locations and 2014 crossing counts

Economic loss was calculated for each crossing using 2014 data provided by the Federal Railroad Administration³ (attached) and Guidelines from the US DOT "The Value of Travel Time Savings"⁴. Calculations were premised upon 50% of trains passing through at night which limits the economic impact and using the maximum train speeds at each crossing to calculate wait time. (Table 1)

	Trains	Traffic	Daily value of lost economic time business	Daily value of lost economic time private	Yearly loss in revenue due to travel wait time.	Lane closure
Boyer South track	4	3300	\$ 124.50	\$ 328.63	\$ 45,770.62	0:40
Division	4	730	\$ 11.02	\$ 77.54	\$ 4,098.47	0:40
Baldy BNSF	3	710	\$ 7.96	\$ 18.88	\$ 2,922.62	0:18
Baldy BNSF	4	710	\$ 10.61	\$ 25.17	\$ 3,896.83	0:24
Gooby	6	200	\$ 5.70	\$ 10.28	\$ 2,092.35	0:36
Great Northern	43	160	\$ 46.72	\$ 54.81	\$ 17,107.95	4:18
Mountain View	42	230	\$ 3.28	\$ 95.24	\$ 1,292.43	4:12
Woodland	42	50	\$ 8.56	\$ 18.40	\$ 3,141.51	4:12
Boyer North track	43	3600	\$ 735.85	\$ 1,325.73	\$ 269,912.70	4:18
Boyer North track	60	5500	\$ 1,568.68	\$ 2,826.18	\$ 575,395.29	6:00

Table 1. Economic Impacts of at grade crossings 2014

The crossing that creates the most economic impact is at Boyer and Baldy. Traffic crossings at this intersection were around 3,600 vehicles daily in 2006. We do not have 2015 traffic counts to compare. On average 25-35 cars are held up during each train crossing. The waiting cars and intersection configuration can compound the number of vehicles waiting that did not even intend to cross the tracks, by impeding north bound traffic flow from turning onto Baldy and in some cases impede East bound Baldy traffic from being able to turn South onto Boyer. This crossing is also heavily used by pedestrians and cyclist as it is the main route to access North Sandpoint. Counts of pedestrian and cyclists were not available at the time of this report so they are not included in the economic loss calculations. In 2014 the yearly loss due to travel time impacts at the Boyer Baldy crossing was \$269,912.70. The crossing was occupied by train four hours of the day, two of which are during standard travel times. A forecast for 2020 showed \$575,395 loss due to travel wait times per year. With no change in traffic or train crossings we easily reach well over a million dollar in total loss in four years. Cumulative losses from all crossings total \$1,400,942 over 4 years with no increase in traffic.

Sandpoint is effectively divided by the rail lines. Commercial and Industrial zone traffic flow are separated by the at-grade rail crossings. Industrial workers often generate economic benefit to downtown business by providing food services. With increased wait time workers will not find it as effective to shop downtown and will look for other locations to lunch. Traffic wait time also impacts the flow of goods, since the at-grade crossing intercept the shortest route to the Highway. UPS is located near the airport as are many other businesses that ship and receive goods. As these locations become more isolated by train traffic they will reach a tipping point where it is no longer feasible to do business in the Sandpoint Industrial area.

Wait time currently affects the local economy by roughly \$350,000 a year. Any increase in either vehicle or rail traffic will additionally negatively impact the local economy. At some point without addressing the at-grade crossing issue we will hit a tipping point where the cost of wait time is too high for business to bear and they will migrate away. This will make the Industrial zone significantly less valuable and economically less productive.

Safety

Emergency Medical Services can be impeded by the trains occupying the crossings. This places businesses and residents at a higher level of risk. Sandpoint's Fire Station, Police Station and Ambulance service are all housed south of the train crossings. (Figure 2) With nine at-grade crossing that are currently blocked a total of five hours a day the chances are unfortunately high that an EMS provider may not be able to reach you directly. EMS can reach the airport when unblocked in less than six minutes. If Boyer is blocked by train traffic it takes an additional 6 minutes, 12 minutes total to navigate around via Ponderay. Forecasts for 2020 have the crossings blocked for over six hours of each day. Sandpoint does have mutual aid agreements with surrounding fire districts, so in some cases they may be able to respond faster than Sandpoint. However the closest service Northside fire is primarily volunteer with only 2 full time positions available Monday-Friday for 8 hours a day. None of the surrounding services have the level of training, nor the equipment available to Sandpoint fire department.

There are monitoring devices that can be placed at crossings to inform EMS dispatch as to the status of the crossing. This information could be relayed to first responders to save time. The monitoring devices average around \$100,000 per crossing, approximately \$1,000,000 total for the system. Additionally a Northern area Fire station could be built at approximately \$1,500,000 million and roughly \$1,000,000 million a year for staff and operating expenses.

Additional safety costs could be higher insurance rates and or loss of business due to a concern for the level of service.

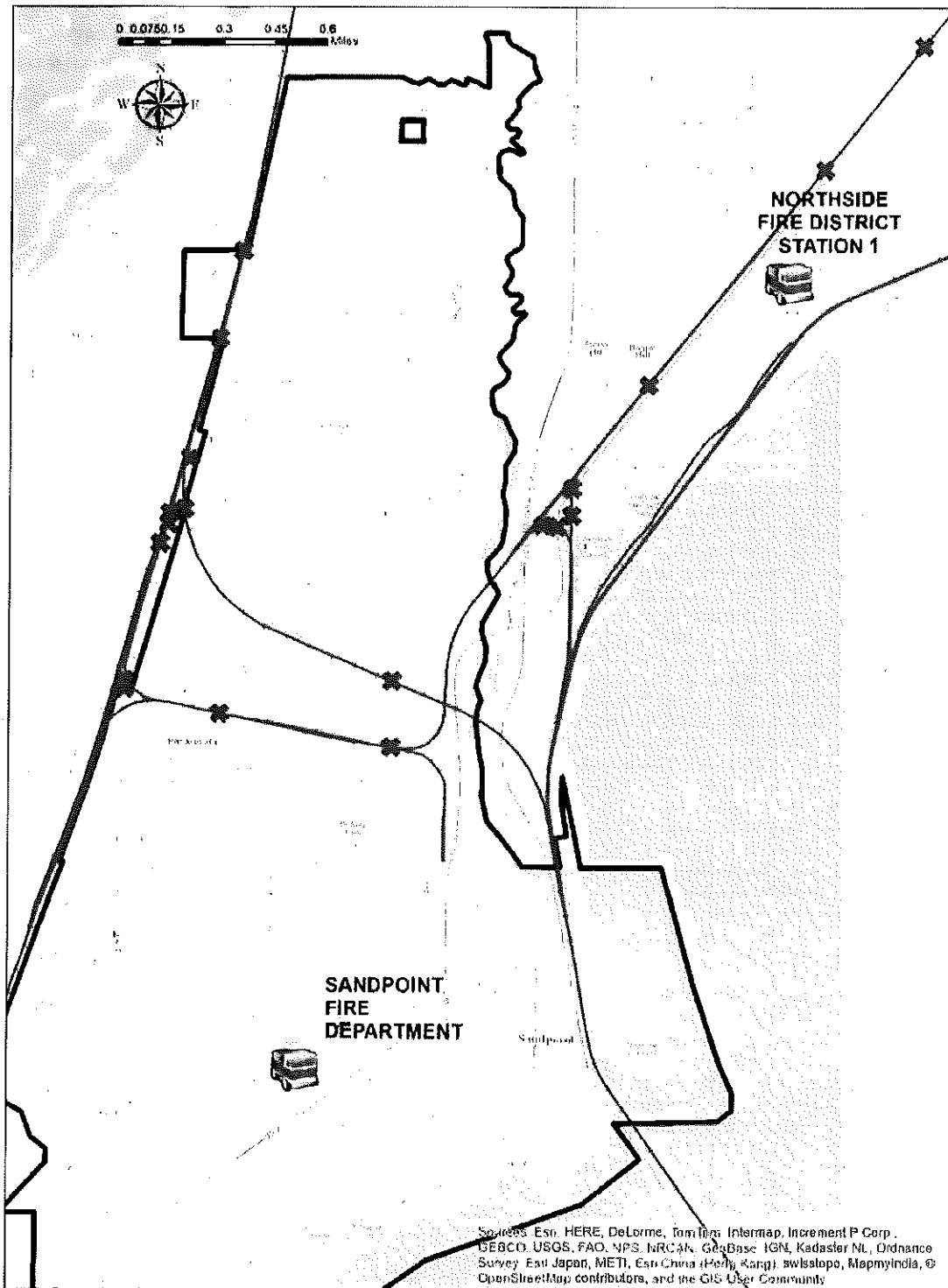


Figure 2. Fire Department locations and blocked routes.

Property Values

Property values between areas near and away from railroad tracks tend to equalize over the long run. However studies have shown that "Significant increases in train traffic can reduce values of residential homes within 750 feet of the track by as much as 5-7%"⁵ Given a significant increase in train traffic as would be generated by development of a location such as the Cherry point Coal Terminal Sandpoint residential properties within the 750 feet buffer could lose on average \$8,000 in home value. This would result in around \$2,000,000 loss of taxable value. (Figure 3) An interesting note about property value is that property values tend to increase with proximity to passenger rail terminals. This means we should see a positive correlation between values of land that are closer to the Amtrak terminal.⁶ Studies have also shown that non-residential properties are not as effected in value by traffic increase. Sandpoint's zoning does place most residential properties away from the tracks.

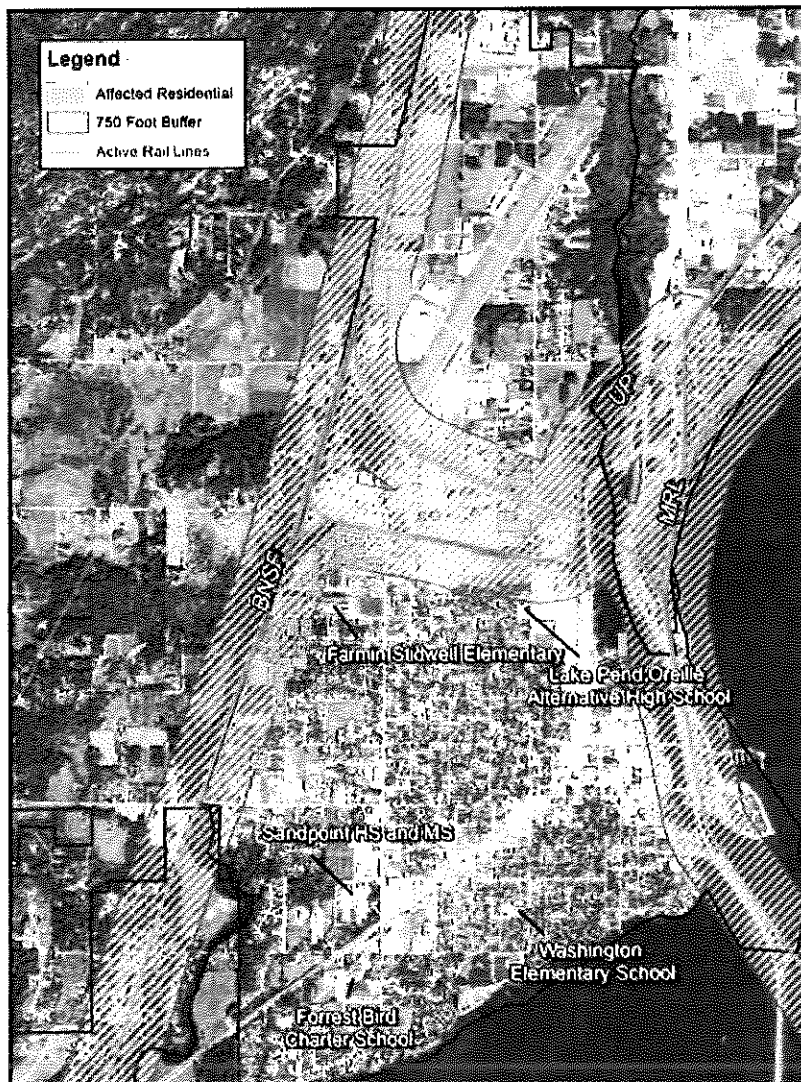


Figure 3. 750 Foot buffer and potentially affected residential properties

Property values adjacent to tracks would likely decrease in Sandpoint if a significant increase in traffic occurs. With the small number of effected homes we would not likely see a huge impact in property value. Several methods for mitigating crossing noise are already being looked into, including directional horns and quiet zones. Directional horns can cost upwards of \$100,000 an installation, pending existing equipment.

Conclusion

Increased train traffic through Sandpoint will have a significantly negative impact on the local economy. Current economic impacts while large are still being absorbed by residents and local businesses. The resulting conflict from competition to occupy the at-grade crossings will only increase as rail and auto traffic grow. At some point in the future the economic costs of occupied time at the crossing will create a tipping point which will impair business growth and safety in North Sandpoint. The most likely resolution of this issue is to systematically replace the at-grade crossings when necessary with under passes starting with the Boyer/Baldy crossing.

References

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5. The effect of freight railroad tracks and train activity on residential property values. By Robert A. Simons & Abdellaziz El Jaouhari | Summer, 2004 Entrepreneur
6. Impacts Of Rail Transit On Property Values Roderick B. Diaz Booz•Allen & Hamilton Inc.Mclean, VA

