



Alan M. Annis, Director of Taxes
BNSF Railway Company
P.O. Box 961089
Fort Worth, Texas 76161-0089
Tel: (817) 352-3418
Fax: (817) 593-6758
Email: alan.annis@bnsf.com

November 30, 2018

RECEIVED

DEC - 6 2018

COUNTY COUNSEL
MARTINEZ, CALIF.

Via USPS Priority Mail Express (EF 179226350 US)
Return Receipt Requested

RE: CLAIM FOR REFUND OF TAXES AND/OR PENALTIES PAID

Clerk of the Board of Supervisors
County of Contra Costa
651 Pine Street
1st Floor, Room 106
Martinez, CA 94553

To Whom It May Concern:

Attached is a Claim for Refund of Property Tax Payments in accordance with the provisions of Chapter 5, Article I, of the California Revenue and Taxation Code (commencing with Section 5096). I am (we are) herewith filing this claim with the Board of Supervisors of the County of Contra Costa and ask that a refund of taxes and/or penalties be made for the amounts in the attached Claim for Refund of Tax Payment(s).

Should you have any questions concerning this matter, please contact me directly at (817) 352-3418.

Sincerely,

Alan M. Annis
Director of Taxes

enclosure

EXHIBIT "F"

**COUNTY OF CONTRA COSTA
CLAIM FOR REFUND OF TAX PAYMENT(S)**

Claimant's Name: First: BNSF Railway Company Last: _____
 Mailing Address: P. O. Box 961089 City: Fort Worth
 State: Texas Zip: 76161-0089 Contact No.: (817) 352-3418

Account Number: 804
 Property Address: Unitary Property in SBE TRA 000-002 City: N/A Zip: N/A

In accordance with the provisions of Chapter 5, Article I, of the California Revenue and Taxation Code (commencing with Section 5096), I am (we are) herewith filing this claim with the Board of Supervisors of the County of Riverside, and ask that a refund of taxes and/or penalties be made for the following amounts:

Fiscal Year(s) Refund is Claimed	Date(s) Taxes Paid	Amount of Tax Claim	Amount of Penalty Claim	Total Amount
2014	12/11/2014 & 04/06/2015	\$247,719.36		\$247,719.36

I (we) claim that the whole assessment (part of the assessment) for the year(s) as shown is (are) void for the following reasons (use attachments if necessary):
See Attached Exhibit A.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that the taxes and/or penalties sought to be refunded were paid within four years prior to the filing of this claim; that the amounts herein claimed are correct; and no part thereof has been refunded to the claimant or to any other person for claimant's benefit; and if acting on behalf of a legal entity, I am duly authorized to act on behalf and that the title shown below is true and correct.

Date: 11/30/2018 Signature:  Title: VP & General Tax Counsel

Exhibit A

BNSF Railway Company

Factual Reasons the Tax was Illegally Levied and Collected

The tax rates applied to the assessed value of BNSF Railway Company's ("BNSF") property exceed the tax rates applicable to other commercial and industrial property in the various taxing districts within this county. These excessive tax rates violate Section 306(1)(c) of the Railroad Revitalization and Regulatory Reform Act of 1976, codified at 49 U.S.C. Section 11501(b)(3), which prohibits state and local governments from levying or collecting any ad valorem property tax on railroad property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction. To the extent that the tax rates applied to the assessed values of BNSF's property exceed the tax rates as calculated pursuant to the decision of the Ninth Circuit Court of Appeals in *Trailer Train Company v. State Board of Equalization*, 697 F.2d 860 (9th Cir.), cert. denied, 464 U.S. 846 (1983), the levy and collection of the excessive taxes violated Section 306(1)(c).

For similar reasons, the tax rate also violates California law, including but not limited to Article XIII, Section 19 of the California Constitution. This provision requires that railway property such as BNSF's property "be subject to taxation to the same extent and in the same manner as other property." Art XXIII, Section 19. In other words, pursuant to the California Supreme Court's decision in *ITT World Communications, Inc. v. City and County of San Francisco*, 37 Cal.3d 859, 870 (Cal. 1985), Article XIII, Section 19 of the California Constitution requires that BNSF's property must be levied on at the same rate as locally assessed property.

Therefore, the excessive taxes were illegally levied and erroneously and illegally collected, entitling BNSF to a refund of the excessive taxes with interest, costs, and attorney's fees as allowed by law, pursuant to Cal. Rev. & Tax Code Section 5096 et seq. and any other applicable statute, rule, and regulation.

This refund claim is being filed with the Board of Supervisors, the Treasurer/Tax Collector, and the California State Board of Equalization. Please contact Alan Annis at (817) 352-3418 for any further information.

Amount: \$466,397.47 Sequence Number: 9492651746
 Account: [REDACTED] Capture Date: 12/16/2014
 Bank Number: 06111278 Check Number: 15219712

THE ORIGINAL HAS A REFLECTIVE WATERMARK BACK. HOLD AT AN ANGLE TO VIEW THE PAGE OF THIS DOCUMENT HAS A MULTICOLORED BACKGROUND ON WHITE PAPER.

BNSF RAILWAY
 BNSF Railway Company
 P.O. BOX 961284
 FORT WORTH, TX
 76161-0284

84-1278
 811 GA

12/11/2014 0015219712

Pay FOUR HUNDRED SIXTY-SIX THOUSAND THREE HUNDRED NINETY-SEVEN USD AND 47 CENTS \$466,397.47

Pay to the Order of CONTRA COSTA COUNTY TREASURER - TAX COLLECTOR
 CONTRA COSTA COUNTY
 P.O. BOX 631
 MARTINEZ CA 94553-0063
 USA

Paul [Signature]
 Authorized Signature
 Bank of America

⑈00 [REDACTED] ⑆061112788⑆ [REDACTED]⑈

00000368 00000006.TIF 12/10/2014 FDO >4945085850< TAX COLL

12/10/2014 00000368 4

07636728

ENDORSE CHECK HERE

DO NOT WRITE / SIGN / STAMP BELOW THIS LINE

DEPOSITORY BANK ENDORSEMENT

Electronic Endorsements:

Date	Sequence	Bank #	Endrs Type	TRN	RRC	Bank Name
12/16/2014	009492651746	11300016	Pay Bank	N		
12/15/2014	000000287526991	122105278	Rtn Loc/BOFD	Y		WELLS FARGO BANK, NA

Amount: \$536,077.07 Sequence Number: 9792372390
 Account: [REDACTED] Capture Date: 04/16/2015
 Bank Number: 06111278 Check Number: 15237610

THE ORIGINAL HAS A REFLECTIVE WATERMARK BACK, HOLD AT AN ANGLE TO VIEW THE FACE OF THIS DOCUMENT HAS A MULTICOLORED BACKGROUND ON WHITE PAPER.

BNSF
RAILWAY

BNSF Railway Company
P.O. BOX 961284
FORT WORTH, TX
76161-0284

64-1278
811 GA

04/06/2015 0015237610

Pay FIVE HUNDRED THIRTY SIX THOUSAND SEVENTY-SEVEN USD AND 07 CENTS \$536,077.07

Pay to the Order of CONTRA COSTA COUNTY TREASURER - TAX COLLECTOR
CONTRA COSTA COUNTY
P.O. BOX 631
MARTINEZ CA 94553-0063
USA

Paul B...
Authorized Signature
Bank of America

⑈0015237610⑈ ⑆061112788⑆ [REDACTED]

00000438 00000064.TIF 4/10/2015 FDO >4945085850< TAX COLL

04/10/2015 00000438 81

07636101

X ENDORSE CHECK HERE
 DO NOT WRITE / SIGN / STAMP BELOW THIS LINE
 DEPOSITARY BANK ENDORSEMENT

Electronic Endorsements:

Date	Sequence	Bank #	Endrs Type	TRN	RRC	Bank Name
04/15/2015	000000285543323	91000019	Rtn Loc/BOFD	Y		WELLS FARGO BANK, NA
04/16/2015	009792372390	11300016	Pay Bank	N		



CONTRA COSTA COUNTY
RUSSELL V. WATTS, TREASURER-TAX COLLECTOR
RAILROAD PROPERTIES
FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015

ASSESSED TO:

BNSF Railway Company
c/o Burlington Northern Santa Fe
P. O. Box 961089
Fort Worth, TX 76161-0089

Tax Dept.

NOTICE DATE: **October 17, 2014**

ACCOUNT NUMBER: **804**

VALUATION			
Land	Improvements	Personal Property	Total Assessed Value
\$27,415,434	\$22,761,388	\$11,877,126	\$62,053,948
Assessed Value Tax Rate	Total Tax Due	First Installment	Second Installment
1.5032%	\$932,794.94	\$466,397.47	\$466,397.47

This is your notice for **RAILROAD PROPERTY TAX** in Contra Costa County for the fiscal year 2014-2015, as reported by the State Board of Equalization. Pursuant to Section 2503.2 of the Revenue & Taxation Code, all taxpayers making single or aggregate tax payment(s) of FIFTY THOUSAND DOLLARS (\$50,000) or more are required to send payments via electronic funds transfer (EFT) or by wire. If you have any questions, call (925) 957-2828 between 9:00 a.m. and 4:00 p.m. or write to: CCC Tax Collector, ATTN: Danielle Goodbar, 625 Court Street Rm. 100, Martinez, CA 94553-1231.

(KEEP THE TOP PORTION FOR YOUR RECORDS)

ACCOUNT NUMBER: 804	FISCAL YEAR: 2014 – 2015	ISSUE DATE: OCTOBER 17, 2014
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MAKE CHECK PAYABLE TO:

CONTRA COSTA COUNTY
TAX COLLECTOR
 P. O. BOX 631
 MARTINEZ, CA 94553-0063

RAILROAD PROPERTIES
TAX BILL
 (THIS STUB MUST
 ACCOMPANY PAYMENT)

DUE BY FEB. 1, 2015	\$466,397.47
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DELINQUENT AFTER 5:00 P.M. APR. 10, 2015 (INCLUDES 10% PENALTY + \$20 COST)	\$513,057.21
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TO PAY FULL TAX BY DEC. 10, 2014	\$932,794.94
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BNSF Railway Company

2ND

INSTALLMENT

ACCOUNT NUMBER: 804	FISCAL YEAR: 2014 – 2015	ISSUE DATE: OCTOBER 17, 2014
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MAKE CHECK PAYABLE TO:

CONTRA COSTA COUNTY
TAX COLLECTOR
 P. O. BOX 631
 MARTINEZ, CA 94553-0063

RAILROAD PROPERTIES
TAX BILL
 (THIS STUB MUST
 ACCOMPANY PAYMENT)

DUE BY NOV. 1, 2014	\$466,397.47
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DELINQUENT AFTER 5:00 P.M. DEC. 10, 2014 (INCLUDES 10% PENALTY)	\$513,037.21
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TO ENSURE PROPER POSTING & CREDIT OF PAYMENT, PLEASE SEND BACK COUPONS ALONG WITH YOUR PAYMENTS.

BNSF Railway Company

1ST

INSTALLMENT

EXHIBIT "F"