

Alan M. Annis, Director of Taxes **BNSF Railway Company** P.O. Box 961089 Fort Worth, Texas 76161-0089

Tel: Fax: Email: (817) 352-3418 (817) 593-6758 alan.annis@bnsf.com

November 30, 2018

DEC - 6 2018

COUNTY COUNSEL MARTINEZ, CALIF.

<u>Via USPS Priority Mail Express (EF 179226350 US)</u> <u>Return Receipt Requested</u>

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

alan M. armo

enclosure

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

	rst: BNSF Railway Co	Last:			
Mailing Address: P. O. Box 961089 State: Texas Zip: 76161-0089 Cor			City: <u>Fort Worth</u> ntact No.: <u>(817) 352-3418</u>		
Account Number: <u>80</u> Property Address: <u>Un</u>		E TRA 000-002 Ci	ty: <u>N/A</u>	Zip: <u>N/A</u>	
(commencing with Sec	tion 5096), I am (we	are) herewith filing	g this claim with the	enue and Taxation Code Board of Supervisors of made for the following	
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 w the following reasons (See Attached Exhibit A	use attachments if r		nt) for the year(s) as	s shown is (are) void for	
see Attached Exhibit A					
true and correct; that t to the filing of this cla	he taxes and/or pen im; that the amoun nt or to any other p	alties sought to be its herein claimed erson for claimant	refunded were paid are correct; and no 's benefit; and if act	nia that the foregoing is if within four years prior part thereof has been ting on behalf of a legal e and correct.	
Date: 11/30/2018	Signature:	mbfuns	Title: VP & Ge	neral 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:

PAS 250 TECH

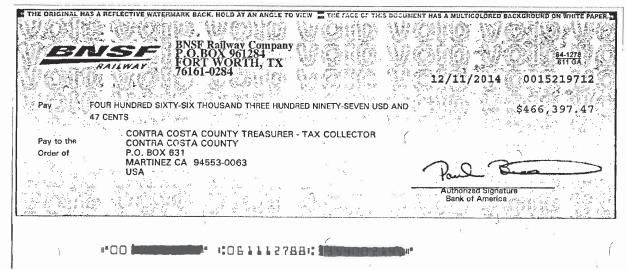
Capture Date:

12/16/2014

Bank Number: 06111278

Check Number:

15219712



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

12/10/2014 00000359 4

07636728

Electronic Endorsements:

Sequence Bank # Endrs Type TRN RRC Bank Name

12/16/2014 009492651746 11300016 Pay Bank

12/15/2014 000000287526991 122105278 Rtn Loc/BOFD Y WELLS FARGO BANK, NA ENDORSE CHECK I

HERE

Amount:

\$536,077.07

Sequence Number: 9792372390

Account:

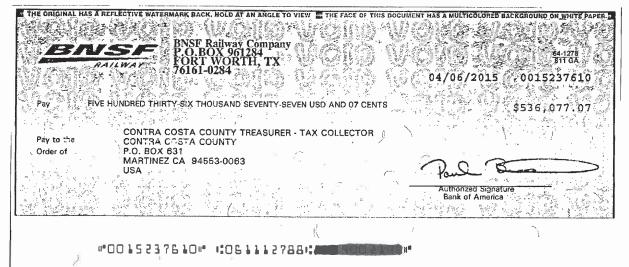
Capture Date:

04/16/2015

Bank Number: 06111278

Check Number:

15237610



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

04/10/2015 00000438 81

07636101

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

ENDORSE CHECK F

8

DEPOSITORY



BNSF Railway Company

Fort Worth, TX 76161-0089

P. O. Box 961089

CONTRA COSTA COUNTY RUSSELL V. WATTS, TREASURER-TAX COLLECTOR

RAILROAD PROPERTIES FISCAL YEAR JULY 1, 2014 TO JUNE 30, 2015

ASSESSED TO:

NOTICE DATE:

October 17, 2014

c/o Burlington Northern Santa Fe

ACCOUNT NUMBER: 804

Tax Dept.

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

MAKE CHECK PAYABLE TO:

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

BNSF Railway Company

RAILROAD PROPERTIES TAX BILL

(THIS STUB MUST ACCOMPANY PAYMENT)

INSTALLMENT

DUE BY \$466,397.47 FEB. 1, 2015

DELINQUENT \$513,057.21 AFTER 5:00 P.M. APR. 10, 2015

(INCLUDES 10% PENALTY + \$20 COST)

TO PAY FULL TAX BY DEC. 10, 2014

\$932,794.94

ACCOUNT NUMBER: 804 FISCAL YEAR: 2014 - 2015 ISSUE DATE: OCTOBER 17, 2014

MAKE CHECK PAYABLE TO:

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

BNSF Railway Company

RAILROAD PROPERTIES TAX BILL (THIS STUB MUST ACCOMPANY PAYMENT)

INSTALLMENT

DUE BY \$466,397.47 NOV. 1, 2014

DELINQUENT AFTER 5:00 P.M. DEC. 10, 2014

\$513,037,21

(INCLUDES 10% PENALTY)

TO ENSURE PROPER POSTING & CREDIT OF PAYMENT, PLEASE SEND BACK COUPONS ALONG WITH YOUR PAYMENTS.

EXHIBIT "F"