SUPERIOR COURT OF STATE OF WASHINGTON IN AND FOR COUNTY OF KING

WILL KNEDLIK, as *qui tam relator*, Plaintiff, v. BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY (dba "BNSF"); CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (dba "SOUND TRANSIT" and dba "RTA"); CITIZEN OVERSIGHT PANEL (dba "COP"); and PARSONS BRINCKERHOFF (dba "PB"), Defendants, and CITY OF EVERETT; COUNTY OF SNOHOMISH; OFFICE OF WASHINGTON STATE AUDITOR; PUGET SOUND REGIONAL COUNCIL; SNOHOMISH COUNTY SUBAREA; UNITED STATES DEPARTMENT OF JUSTICE; UNITED STATES DEPARTMENT OF TRANSPORTATION; UNITED STATES DEPARTMENT OF THE TREASURY; and WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, Interested Parties.	CAUSE NO. COMPLAINT FOR RELIEF UNDER UNIFORM DECLARATORY JUDGMENTS ACT, BY WRIT AND BY INJUNCTION, IF REQUIRED, TO DETERMINE JUDICIALLY THAT (1) COMMUTER-RAIL SERVICE FROM EVERETT TO SEATTLE VIOLATES STATE STATUTORY AUTHORITY; (2) ALL CONTRACTS FOR SUCH "SOUNDER NORTH" OPERATIONS ARE *ULTRA VIRES*, UNLAWFUL AND THUS VOID *AB INITIO* PURSUANT TO CONTROLLNG DECISIONAL LAW OF THIS STATE; (3) ALL MONIES PAID TO OR OTHERWISE EXPENDED ON BEHALF OF DEFENDANT BNSF AND/OR TO OR FOR DEFENDANT PB, FROM ANY SNOHOMISH SUBAREA TAXES, MUST BE REPAID OR REIMBURSED TO SAID SUBAREA (TOGETHER WITH TIME-VALUE OF MONEY THROUGH INTEREST AT THE STATUTORY RATE OR IN SUCH GREATER AMOUNT AS IS OTHERWISE EQUITABLE); (4) A FULL ACCOUNTING BY SUBAREA OF ALL DIRECT-AND-INDIRECT COSTS, OF ALL EXPENDITURES AND OF ALL DATA AS TO COMMUTER-RAIL USAGE IS REQUIRED; (5) AN AMPLE *QUI TAM* AWARD IS INDICATED; AND (6) A RESERVATION OF EVERY LEGAL RIGHT AS TO COMMUTER RAIL OTHER THAN EVERETT-TO-SEATTLE OPERATIONS IS APPROPRIATE, *INTER ALIA*

COMES now Plaintiff WILL KNEDLIK, as *qui tam relator*, and pleads his causes of action:

INTRODUCTION

The purpose of this civil litigation is to obtain judicial relief as necessary and sufficient to rectify intentional violations of our state's central public policy for lawful commuter-rail service, whereby Defendant CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (hereinafter "SOUND TRANSIT" and "RTA") and Defendant BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY (hereinafter "BNSF"), as aided and abetted by Defendant PARSONS BRINCKERHOFF (hereinafter "PB") and by Defendant CITIZEN OVERSIGHT PANEL (hereinafter "COP"), have established commuter-rail operations from Everett to Seattle, unlawfully, to transport approximately 500 regular passengers at a capital cost approaching $1 million for each such "Sounder North" commuter (after eight years of such violations of law), with operating-and-maintenance expenses thereby adding $785,833 more, each month, due to their said illegalities.

The Washington State Legislature's pivotal omnibus High Capacity Transportation Systems Act of 1990 created statutory authority for lawful "commuter rail service" to be funded in our state, through local-option taxes, solely in those factual-and-fiscal situations "where it is deemed to be a reasonable alternative transit mode" (Chapter 43, § 33, Laws of 1990, codified as RCW 81.104.120), which was then defined with greater particularity as a matter of explicit state policy by a legislative amendment, just two years later, as "one whose passenger costs per mile, including costs of trackage, equipment, maintenance, operations, and administration are equal to or less than comparable bus, entrained bus, trolley, or personal rapid transit systems" (Chapter 101, § 24, Laws of 1992).

Through initial gaming of, subsequent disregard for and current defiance toward our state's specific policy limitations by the four above-identified defendants, Sounder North operations from Everett to Seattle involve a capital cost approaching $1 million for each regular user and additional O-and-M expenses of another $18,860, every year, for each one of its said *de minimis* daily ridership

(which, therefore, can neither meet nor better much-lower capital costs of under $6,000 for each of its bus riders and with likewise far smaller annual O-and-M expenses of under $3,200 for each such passenger, and which, thereby, prevents commuter rail from being as cost effective as bus transit).

Because Bus Rapid Transit from Everett to Seattle – operating in High Occupancy Vehicle lanes also authorized by the same omnibus High Capacity Transportation Systems Act of 1990 – is also faster, more-reliable and more-flexible than trains due to greater frequency and more boarding locations, while charging much lower fares, BRT usage is growing even as commuter rail is failing.

The person benefiting most substantially from intentional-and-ongoing violations of state law as documented herein is Defendant BNSF, which has not merely received $258 million in cash from tax collections made within the Snohomish Subarea, but which has also obtained extremely valuable assistance from Defendant SOUND TRANSIT with government permits to expand and to upgrade its inadequate tracks and its defective roadbed, all at the public expense, with a fair market value far beyond all tax dollars thus misallocated for services on its behalf plus the time-value of those funds.

Said misfeasance or such malfeasance, contrary to statutory authority, renders every contract related to Sounder North operations *ultra vires*, unlawful and thus void *ab initio* under our state's jurisprudence as established in *Chemical Bank v. Washington Public Power Supply System*, 101 Wn.2d 200 (1984), so as to necessitate return of Snohomish Subarea taxes through refunds of all cash paid to Defendant BNSF plus interest at the statutory rate (together totaling *circa* $462 million to date and growing at *circa* $2.58 million per month during pendency of this litigation), and through reimbursement of all other funds expended to benefit Defendant BNSF plus time-value as reflected by the statutory interest rate as a base, before *premia*, after a full accounting of all information required to determine all wrongdoing judicially (as well as an ample *qui tam* award indicated by flaunting of our state's law so as to compel litigation to terminate *ultra vires* and other major unlawful misconduct).

JURISDICTION AND VENUE

1. This Honorable Court has valid jurisdiction over this matter pursuant to RCW 7.24 as to all necessary declaratory relief, RCW 7.16 as to any required statutory writs and RCW 7.40 as to every necessary injunction, as well as pursuant to its constitutional authority under Article IV of the Washington State Constitution, together with its inherent common-law and equitable powers.

2. Venue in King County is proper since all named parties reside or conduct business here.

NAMED PARTIES

3. Plaintiff WILL KNEDLIK, a single man, resides in King County and pays local-option sales taxes in Defendant SOUND TRANSIT's Snohomish Subarea, as well as in all of that junior taxing district's other four subareas in King County and in Pierce County, as an individual and as president of Eastside Rail Now! – an unincorporated grassroots rail-advocacy and environmental organization – with interests in a lawful commuter-rail service to connect Everett with Olympia, through Snohomish, Woodinville, Kirkland, Bellevue and Renton, pursuant to its proposal to said Defendant for an initial "pilot project" to test commuter-rail service from Woodinville to Renton.

4. Defendant BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY (dba "BNSF") is a national railroad enterprise as yielded by mergers and by other combinations of 390 rail systems during the last 160 years, which is owned presently and operating today as a wholly owned subsidiary of Berkshire Hathaway Inc., and which conducts business within King County.

5. Defendant CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (dba "SOUND TRANSIT" and dba "RTA") is a junior taxing district authorized by RCW 81.104 and by RCW 81.112, and has maintained its principal place of business in King County since 1993.

6. Defendant CITIZEN OVERSIGHT PANEL (dba "COP") is a nominal oversight body required by Defendant SOUND TRANSIT's ballot-title obligation, pursuant to its Resolution No.

75, to "conduct an annual comprehensive performance audit through independent audit services," and to appoint an "oversight committee [that] is charged with an annual review of the RTA's [annual] performance audit and financial plan and for reporting and recommendations to the Board."

7. Defendant PARSONS BRINCKERHOFF (dba "PB") is an international engineering-and-consulting enterprise founded during 1885, which is owned currently and operating now as a wholly owned subsidiary of Balfour Beatty Group, and which conducts business in King County.

INTERESTED PARTIES

8. The City of Everett is the largest city in the Snohomish Subarea of Defendant SOUND TRANSIT's junior taxing district, and has previously sued that agency for violating core subarea obligations owed to city residents (Snohomish County Superior Court Cause No. 95-2-01609-8).

9. The County of Snohomish is a party to the statutory contract or multiple statutory contracts between Defendant SOUND TRANSIT and King County, Pierce County and Snohomish County – as informed by all terms and all conditions of *The Regional Transit System Master Plan* of that junior taxing district and as approved through Snohomish County Ordinance No. 94-436 on December 14, 1994 – and is the location of all tax collections within the Snohomish Subarea.

10. The Office of the Washington State Auditor, operating under constitutional authority pursuant to Article III of the Washington State Constitution, has formally concluded through the elected constitutional officer serving at present as State Auditor, Honorable Brian Sonntag, that Defendant SOUND TRANSIT has operated since no-later-than November 5, 1996 in direct-and-ongoing violations of its "annual comprehensive performance audit" duties for 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011, as the prime Audit Finding in its initial Performance Audit of that junior taxing district, *i.e.* "Sound Transit has not commissioned annual, independent, comprehensive performance audits limiting its ability to iden-

tify and address budget, schedule and scope issues" (Performance Audit Report No. 1000005, at http://www.sao.wa.gov/auditreports/auditreportfiles/ar1000005.pdf, as issued October 4, 2007); and it has instituted a follow-on performance audit to ascertain acts or omissions by Defendant COP in respect to its duties as to "review of annual performance audits" (pursuant to Resolution No. 75), as well as "**Audit objectives**" commencing with its analysis as to "Has Sound Transit implemented the State Auditor's recommendations from the prior performance audit" and inclusive of examination of data as nominally relied on for "Sounder Commuter Rail" at issue herein.

11. The Puget Sound Regional Council is an agency that has officially incorporated Defendant SOUND TRANSIT's unlawful commuter-rail service into its formal transportation plans, including its current Transportation 2040 Plan adopted by its General Assembly on May 20, 2010, which have been and are being, thereby, greatly distorted by the core wrongdoing at issue herein.

12. The Snohomish County Subarea is a geographical region of the junior taxing district – located within said County – from which local-option taxes have been and are being collected (as is authorized by state statutes); for which such revenues are to be preserved through full "subarea accounting" to ensure fairness for residents of said Subarea (as the primary sources and principal beneficiaries of such local-option taxes); and to which all funds at issue herein are to be returned with interest at the statutory rate (or to be reimbursed with interest plus any *premia* as equitable).

13. The United States Department of Justice is responsible for protecting legal interests of the United States, including those as to major misrepresentations made by Defendant SOUND TRANSIT regarding Sounder North operations to obtain federal funding through its false claims.

14. The United States Department of Transportation is responsible for transportation interests of the United States, inclusive of major misrepresentations made by Defendant SOUND TRANSIT regarding Sounder North operations to obtain federal funding through its false claims.

15. The United States Department of the Treasury is responsible for financial interests of the United States, including with regard to major misrepresentations made by Defendant SOUND TRANSIT regarding Sounder North operations to obtain federal funding, through its false claims, from the United States Treasury (and, thereby, from every American taxpayer over a full decade).

16. The Washington State Department of Transportation is an agency of state government holding real estate that intersects with Sounder North operations (as well as a party defendant with Defendant SOUND TRANSIT respecting an unconstitutional contract entered into between them now at issue in *Freeman v. Gregoire* in Kittitas County Superior Court Cause No. 11-2-00195-7).

FACTS RELEVANT TO CAUSES OF ACTION HEREIN

17. In 1984, the Washington State Supreme Court established our state's jurisprudence at that time, as well as at every point thereafter to this date, with respect to nominal public contracts that are *ultra vires*, unlawful and therefore void *ab initio* pursuant to operations of state law – for situations in which any junior taxing district violates its lawful statutory authority – through its majority in *Chemical Bank v. Washington Public Power Supply System*, 101 Wn.2d 200 (1984).

18. In 1990, the Washington State Legislature established statutory authority for lawful "commuter rail service" as thereby specifically limited solely to factual-and-fiscal circumstances "where it is deemed to be a reasonable alternative transit mode," through its major omnibus High Capacity Transportation Systems Act (Chapter 43, § 33, Laws of 1990), which it defined shortly, as a matter of state policy, to be "one whose passenger costs per mile, including costs of track-age, equipment, maintenance, operations, and administration are equal to or less than comparable bus, entrained bus, trolley, or personal rapid transit systems" (Chapter 101, §24, Laws of 1992).

19. The only substantive difference between *ultra vires* acts and hence-unlawful miscon-duct by cities, junior taxing districts and various other municipalities analyzed in *Chemical Bank*

and misfeasant-or-malfeasant wrongdoing by Defendant SOUND TRANSIT complained of herein is that *ultra vires* and thus-disqualifying acts therein involved a lack of direct statutory authority whereas misconduct herein evidences initial gaming of, subsequent disregard for and current defiance toward direct preclusion of any lawful "commuter rail service" from Everett to Seattle.

20. After omnibus High Capacity Transportation legislation granted authority for lawful "commuter rail service," subject to one bright-line constraint, a Puget Sound Region HCT Expert Review Panel appointed by then-Governor Booth Gardner – "partly in response to a nationwide perception that rail investment forecasts suffer from 'compound optimism'" – prepared 10 official reports identifying significant problem areas for commuter-rail operations herein at issue that each required complete resolution before compliance with our state's statutory law would be possible, including, importantly, the fact that "ridership potential of the commuter rail service is limited by the location of existing freight rail tracks currently shared with Amtrak and which would also be shared with the RTA service," and the need for "north and south [rail] corridors [to] be evaluated separately," given the Everett-to-Seattle rail line's location along Puget Sound, with its taxpaying riders, thus, available only from its eastern side (with quotations taken from HCT Expert Review Panel reports dated, respectively, October 17, 1994, February 22, 1995 and October 14, 1996).

21. Said Expert Review Panel's final report, which is dated October 14, 1996, stated that "the analysis to date meets the requirements of state law" (at its page 7), but that progress-until-then overview immediately follows the formal recommendation, within its preceding paragraph, that "a final choice between alternatives should be made as part of the project planning process."

22. Quintessential steps necessary for full compliance with RCW 81.104.120's principal constraint – as squarely indicated by said Expert Review Panel, on October 14, 1996, as then still unfinished – were never completed with adequate specificities by Defendant SOUND TRANSIT

to fulfill its patent statutory obligations, for reasons of misfeasance or of malfeasance set forth in the paragraphs that follow, before it negotiated a series of nominal contracts through its staff with Defendant BNSF, which are each *ultra vires*, unlawful and therefore void *ab initio*, as matters of state law, pursuant to the applicable jurisprudence as established by the *Chemical Bank* majority.

23. On information and belief, Defendant BNSF knowingly cooperated in all intentional violations of our state's principal public policy limiting commuter-rail service (a) because of its receipt of funds for rail right-of-way easements far in excess of fair market value (due to pressure by then-Honorable Ron Sims, as chairman of its Board of Directors at that time, upon Defendant SOUND TRANSIT's managers to reach agreements with the railroad, without regard to reasonable charges, despite concerns expressed by Joni Earl as the junior taxing district's chief executive officer, and due to willful disregard both for the state authorizing statute's direct limitations and also for ordinary fiduciary obligations); and (b) because, more wrongfully, that regional authority agreed to exploit its status and its powers, as an influential government agency, to obtain permits to expand and to upgrade the railroad's inadequate tracks and defective roadbed located adjacent to Puget Sound and within sensitive associated wetlands that would otherwise have been more difficult, if not impossible, to acquire; further agreed to pay for every environmental, legal and other expense necessary to hand over this colossal commercial coup to Defendant BNSF's now-single shareholder; and yet further agreed to undertake any and all such financial and other liabilities on a completely open-ended basis not merely contrary to normal prudence required for fulfillment of ordinary fiduciary duties by elected officials but also contrary to Article VIII, §7 of the Washington Constitution's prohibition disqualifying, squarely, any junior taxing district from any and all acts whatsoever, after November 11, 1889, that would effectively "give any money, or property, or loan its money, or credit to or in aid of any individual, association, company or cor-

poration, except for the necessary support of the poor and infirm" (in substantial part because of major wrongdoing by railroads and by government officials, then, including gross wrongdoing by elements of Defendant BNSF during the soon-infamous "Octopus" stage of American railroad history, as so identified by Frank Norris, and as being revived herein, today, through cooperation or a conspiracy to violate both our state's Constitution, and also central statutory requirements, in order to benefit economically, thereby, from Defendant SOUND TRANSIT's excessive payments to said company, as well as from that junior taxing district's unconstitutional lending of its credit and other valuable resources to that corporation to advance their said cooperation or conspiracy).

24. For example, Defendant SOUND TRANSIT has agreed with Defendant BNSF to assume responsibility for all financial risks from all environmental issues necessary to upgrade and to expand trackage and roadbed through sensitive Puget Sound wetlands impacted by its railroad operations, on a totally open-ended basis that defies prudence on any reasonable basis, as well as to take responsibility for all tax liabilities of that railway from every contract between the parties, including for all of that railway's financial benefits from said junior taxing district's wrongdoing.

25. These egregious violations of constitutional-and-statutory law by Defendant SOUND TRANSIT and by Defendant BNSF represent the most flagrant acts of misfeasant-or-malfeasant wrongdoing in this state, involving railroads, since misdeeds nearly a century ago that resulted in the United States House of Representative's unanimous vote directing its Judiciary Committee to start an impeachment investigation against then-District Court Judge Cornelius Hanford based on then-Congressman Victor Berger's insistent accusations, as made from the well of the House on June 7, 1912, that "a long series of corrupt and unlawful decisions" issued as Chief Justice of the Washington Territorial Court, initially, and as a Judge of the United States District Court for the Western District of Washington, subsequently, had favored his previous legal clients, including

railroad-and-streetcar operators (which claims were buttressed soon thereafter, on July 20, 1912, when the Judiciary Committee released documentary evidence of the Northern Pacific Railway's sale of land to that federal judge, on favorable terms, shortly after he had rendered a decision that would have afforded a tax saving of over $60,000 for that component of now-Defendant BNSF – but for the Ninth Circuit having overturned his ruling – with that then-Honorable Judge resigning two days later, on July 22, 1912, to prevent a formal recommendation for an impeachment trial).

26. Misfeasant-or-malfeasant wrongdoing by Defendant SOUND TRANSIT and by Defendant BNSF is far worse today, in fact and in law, than that of a then-corrupted judge and of a then-corruptive railway, despite shameful violations of statutory law and of fiduciary obligations, then and now, within a nominally public process despoiled by that same railroad, currently owned by Berkshire Hathaway, Inc., since present violations of the Washington State Constitution have intentionally exploited the public's credit in order to set up an evasion of federal tax liabilities in a fashion that even that lawless railway and an outlaw judge could not achieve, earlier, during the notorious "Octopus" stage of American railroad history underlying Article VIII, §7 (and further provisions of our state's Constitution as impelled, in significant measure, by railway corruption).

27. On information and belief, Defendant PB knowingly co-operated in all intentional violations of our state's principal public policy limiting commuter-rail service because of its receipt of substantial fees for professional services related to unlawful rail operations, which would not have been available to it, either as a publicly traded corporation earlier or as a wholly owned subsidiary of Balfour Beatty Group today, but for such willful violations of our state's statutes.

28. The direct consequences of these acts of unconstitutional-and-unlawful misfeasance or malfeasance – whether through cooperation or a conspiracy – only start with huge waste of tax dollars collected in the Snohomish Subarea to fund commuter-rail service from Everett to Seattle,

unlawfully, to transport approximately 500 daily riders at capital costs approaching $1 million for each such current Sounder North commuter, due to Defendant SOUND TRANSIT's intentional violations both of the *sine qua non* state authorizing statute, as codified at RCW 81.104.120, and also of Article VIII, §7 of the Washington State Constitution, through its additional violations of mandatory fiduciary obligations, as undertaken with Defendant BNSF to further the junior taxing district's intentional railroading over our state's crucial public policy limitation upon "commuter rail service" solely to situations wherein it can be sufficiently cost effective to be thereby lawful.

29. By paying more than fair market value for rail right-of-way easements in violation of constitutional-and-statutory law and in breach of fully patent fiduciary obligations – inclusive of undertaking full responsibility for huge environmental, legal, tax and other costs for Defendant BNSF on a completely open-ended basis constituting an illegal lending-of-credit in defiance for our state Constitution – Defendant SOUND TRANSIT's misfeasant-or-malfeasant wrongdoing has rendered impossible, thereby, the central cost-effectiveness criterion for commuter-rail to be "equal to or less than comparable" transit, so as to degrade not only its own BRT transit program throughout Snohomish County as well as in King County (because that junior taxing district has squandered Snohomish Subarea funds on commuter-rail projects that cannot be cost competitive with "comparable bus" transit and, thereby, denied economies-of-scale that would reduce its own Express Bus expenses but for its violations of our state Constitution, its authorizing statute and its Board members' fiduciary duties in multiple respects), as well as harming Community Transit's bus service thus substantially denied to taxpayers in Snohomish, Seattle-North King County and East King County subareas (so as, thus, to yield significant follow-on injury to transit throughout the region by so undermining pivotal regional-and-local BRT operations of Community Transit, through denial of major costs savings, along with degrading of related Metro Transit operations).

30. Defendant SOUND TRANSIT's unconstitutional-and-unlawful misfeasance or malfeasance with Defendant BNSF and with Defendant PB – as also aided and abetted by Defendant COP's violations of its specific duties pursuant to ballot-title representations to citizens residing in that junior taxing district by means of identifying Resolution No. 75 to its voters in November, 1996 – has through repeated constitutional, statutory and fiduciary violations degraded, thereby, not merely its own Express Bus service in Snohomish County and in King County but also high-capacity-transit bus service and local bus operations by Community Transit (due to that junior taxing district's massive misallocations of limited transit funds through egregiously intentional violations both of its own state authorizing statute and also of the Washington State Constitution).

31. Defendant SOUND TRANSIT's Board of Directors continues to make multimillion-dollar additions, repeatedly, to fully half a billion dollars that its members have squandered thus far in order to advance its nominal-but-unlawful contracts with named defendants that are clearly *ultra vires*, unlawful and therefore void *ab initio*, including the two most recent examples of its multimillion-dollar waste through approval of funds for a Mukilteo Station platform that is now, thereby, budgeted at $11.131 million (pursuant to its Resolution No. R2011-19 as nominally authorized on December 15, 2011), and for "Positive Train Control" in "an amount not to exceed $3,900,000" (pursuant to its Motion No. M2012-03 as nominally approved on January 26, 2012).

32. As demonstrated by Defendant SOUND TRANSIT's multimillion-dollar misdeeds at each of its last two Board meetings, in December, 2011 and in January, 2012, to worsen that junior taxing district's previous squandering of at least half a billion dollars and, perhaps, twice that much or more in local-option taxes collected in its Snohomish Subarea – due to willful violations of its authorizing statute, our state Constitution and key fiduciary duties – that rogue public body will roll over constitutional-and-statutory law until this Court brakes its wastries to a dead stop.

33. On information and belief, misfeasant-or-malfeasant financial wrongdoing on such a huge scale by Defendant SOUND TRANSIT, Defendant BNSF and Defendant PB has been and remains feasible only because nearly all appointees to Defendant COP, as a nominal oversight entity, have acted and continue to act, intentionally, to aid and to abet gargantuan misconduct either by cooperating or else by conspiring with the officers of the junior taxing district, who appointed them, in order to protect massive wrongdoing through willful violations of its explicit ballot-title obligations owed to every taxpayer pursuant to Resolution No. 75 – requiring "conduct [of] an annual comprehensive performance audit through independent audit services" – as a thereunder-appointed "oversight committee [that] is charged with an annual review of the RTA's [annual] performance audit and financial plan and for reporting and recommendations to the Board."

34. Defendant COP's cooperation or conspiracy with Defendant SOUND TRANSIT to aid and to abet flagrant violations of its patently ongoing ballot-title obligations, as created by all terms and all conditions of Resolution No. 75, has been rendered beyond doubt by its continued participation in a cover up of enormous wrongdoing involved in the junior taxing district's overt refusal to "conduct an annual comprehensive performance audit through independent audit services" – for well over a full decade – even after the constitutional officer serving as State Auditor put all Panel appointees on incontrovertible notice of the agency's nonfeasance, or worse, as to a quintessential legal obligation pursuant to ballot-title obligations created by incorporation of that Resolution, therein, through the principal finding from his initial Performance Audit stating that, despite entirely clear requirements of Resolution No. 75, "Sound Transit has not commissioned annual, independent, comprehensive performance audits [thereby] limiting its ability to identify and address budget, schedule and scope issues" (from Performance Audit Report No. 1000005), which is why a half-billion-dollar to $1 billion cover-up is only now coming into view herein.

35. Despite numerous requests over several years for Defendant COP to review hundreds of millions of dollars in excessive costs for commuter-rail operations from Everett to Seattle paid overwhelmingly from Snohomish Subarea taxes – as pleaded for, repeatedly, by Virendra (Vic) Sood, as a Snohomish County representative on that nominal oversight body, throughout the entire period of his panel service, time after time after time after time – it has failed to assess them.

36. After notice of a follow-on Performance Audit of Defendant SOUND TRANSIT to be undertaken by the Office of the Washington State Auditor with specific focus on Defendant COP (attached as Exhibit A), after *The Seattle Times* editorial page's very prominent discussion of gigantically expensive outlays for Sounder North service on January 31, 2012 (attached as Exhibit B) and after a stroke suffered by Mr. Sood in that timeframe (requiring extended hospitalization), that nominal oversight body belatedly appointed a "North Shore Alternatives Task Force," at its meeting on February 2, 2012, nominally to examine "effects of diverting resources from Sounder North to Snohomish Regional Express [bus] routes" and whether it is finally "appropriate to set a timetable for reallocating resources if metrics for Sounder North are not achieved," *inter alia*, so as thereby to identify, potentially, information long required, specifically, by the main constraint of RCW 81.104.120, for more-than-two-full decades, but never to date developed, as indicated to be necessary by the HCT Expert Review Panel's final report, over a decade and a half ago, but as yet never developed (despite Mr. Sood's many requests for study of obvious waste on commuter-rail service from Everett to Seattle, for much of a decade, over and over and over and over again).

37. Defendant COP's cooperation or conspiracy with the major misfeasant-or-malfeasant misconduct identified herein has continued to and beyond commencement of this civil litigation, through service on the day below stated, with its nominal "North Shore Alternatives Task Force" having neither met nor scheduled any meetings up to and through said notice of this legal action.

38. Indeed, when the nominal chairman of that nominal Task Force, Josh Benaloh, asked about plans for beginning the nominal investigation to be nominally headed by him – near the end of Defendant COP's most recent meeting on February 16, 2012 – he was informed by its agency-selected-and-paid staff director, Kathy Elias, that Defendant SOUND TRANSIT's managers and she had not yet decided how and on what schedule that nominal examination is to be conducted.

39. The enormity of Defendant SOUND TRANSIT's colossal waste of tax dollars from its Snohomish Subarea derives as a direct consequence of the long duration of that junior taxing district's unconstitutional-and-unlawful wrongdoing through violations of major fiduciary duties, which, in turn, has been possible only because Defendant COP repeatedly failed – in 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011 – to identify to the agency's Board of Directors its core violation of its wholly explicit ballot-title obligations to "conduct an annual comprehensive performance audit through independent audit services" for 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 and 2011 (including Defendant COP's willful failures to do so, for 2007, 2008, 2009, 2010 and 2011, even after notice of that agency's glaring violations of its legally binding ballot-title obligations from a constitutional officer of our state through his formal Performance Audit Report No. 1000005).

40. Defendant COP's original-and-ongoing cooperation or conspiracy with Defendant SOUND TRANSIT, in furthering its misfeasant-or-malfeasant wrongdoing as to said unlawful commuter-rail operations from Everett to Seattle, has been and is now feasible only because that junior taxing district's officers carefully screen every applicant – for appointment to its nominal oversight body – to ensure that only those persons documentable as likely to lack objectivity are allowed to serve on its so-called "Citizen Oversight Panel" and, to this end, the agency has acted, systematically, to appoint not just agency "promoters," but both former members of its Board (in

order thereby to compromise review of Board misfeasance or malfeasance) and also persons who earlier functioned as consultants to or as contractors for its managers (in order thus to ensure that appointments of such "insiders" would prevent genuine examination of huge waste in contracting, including several hundred million dollars squandered through patently unlawful actions, clearly unconstitutional wrongdoing and totally egregious violations of standard fiduciary obligations).

41. Hence, Defendant COP's nominal "North Shore Alternatives Task Force" is severely compromised by lack of objectivity and absence of diversity among its appointees, except for Mr. Sood; largely corrupted by overwhelming influence of agency-paid staff and of the junior taxing district's senior managers; and further handicapped by Mr. Sood's present medical status.

42. The person benefiting most substantially from all intentional-and-ongoing violations, both of the Washington State Constitution and also of the central state authorizing statute at issue herein, has been and is Defendant BNSF, as a subsidiary of Berkshire Hathaway, Inc., which has not only received $258 million in cash from tax collections within the Snohomish Subarea, but which has also obtained extremely valuable assistance with permitting to expand and to upgrade its inadequate tracks and its defective roadbed from Defendant SOUND TRANSIT, all of it at the public expense, with a fair market value well beyond all tax dollars misappropriated on its behalf (plus the time-value of money at the statutory interest rate that must be recovered to resolve just direct economic costs of funds thus wrongfully exploited before any further *premia* as indicated).

43. Defendant PB has also benefitted substantially from every intentional-and-ongoing violation of the state authorizing statute at issue herein as a subsidiary of Balfour Beatty Group.

44. On information and belief, Defendant BNSF and Defendant PB have – through their respective officers, directors, managers and employees – kicked back or redistributed, otherwise, funds wrongfully received from Defendant SOUND TRANSIT, pursuant to unlawful payments

that violate both our state's Constitution and also its statutes, in order to advance the interests of that junior taxing district by influencing one-or-more tax-authorization elections as conducted on March 14, 1995, November 5, 1996, November 6, 2007 and November 4, 2008, thus contributing thereby to further corruption of our state's politics by unlawful acts of those foreign corporations.

45. Said misfeasance or such malfeasance, contrary to statutory authority, renders every contract related to Sounder North operations *ultra vires*, unlawful and thus void *ab initio* under our state's jurisprudence as established in *Chemical Bank v. Washington Public Power Supply System*, 101 Wn.2d 200 (1984), and requires return of all Snohomish Subarea taxes so wasted.

46. While the full amounts necessitating recovery for the Snohomish Subarea are not yet knowable, now, replevin through this action must include (a) all cash paid by Defendant SOUND TRANSIT to Defendant BNSF plus interest at the statutory rate (together totaling, thus far, *circa* $462 million and increasing at *circa* $2.58 million per month throughout the pendency of this action) and (b) reimbursement of all other taxes expended by the junior taxing district so as to benefit Defendant BNSF in every way, directly and indirectly, plus the time-value of money as in part reflected by the statutory interest rate, as a legal base, with appropriate valuations of those assets with substantially higher financial worths repayable at fair market value net of depreciation, as an equitable ceiling, before any multiplications as imposed as penalties under applicable laws in consequence of wrongdoing (following and pursuant to a full accounting of all information that is essential for reasonably informed judicial determinations of all wrongdoing at issue herein that requires rectification as subject to an ample *qui tam* award as indicated by flaunting of our state's law so as to compel this litigation to terminate *ultra vires* and other major unlawful misconduct).

47. Misfeasant-or-malfeasant wrongdoing in respect to Sounder North operations through Defendant SOUND TRANSIT's violations, both of its authorizing statute's explicit constraint on

"commuter rail service" pursuant to RCW 81.104.120 and also of the Washington State Constitution's Article VIII, §7's prohibition against any lending of credit, has been possible only because of the junior taxing district's intentional violations of its explicit ballot-title obligations undertaken as legal duties to all district taxpayers, as a matter of state law, pursuant to its specific guarantees through its Board Resolution No. 75 both to "conduct an annual comprehensive performance audit through independent audit services," and also to appoint an "oversight committee [that] is charged with an annual review of the RTA's [annual] performance audit and financial Plan" (as aided and abetted by Defendant COP in the guise of the nominal "oversight committee" thus falsely promised in said ballot title, and as furthered by the agency's senior managers).

48. These violations breach the most fundamental duties of ordinary fiduciary obligations and, thereby, constitute the tort of misfeasance in public office, at common law, by each and every Board member of Defendant SOUND TRANSIT, previously and now, by all or most of that junior taxing district's Citizen Oversight Panel appointees except for Mr. Sood, earlier and today, and by all or nearly all of the said agency's senior managers, *ab initio* and at present, *inter alia*.

NOTICE AS TO *QUI TAM* RECOVERY, DAMAGES AND LEGAL FEES

49. *Qui tam* under our state's jurisprudence provides awards for benefits obtained on behalf of citizens and affords valid bases for a substantial *qui tam* award for the recovery of at least half a billion dollars for the Snohomish Subarea, due to unlawful commuter-rail operations, and due to unlawful-and-unconstitutional wrongdoing involving, *inter alia*, misfeasance or malfeasance, negligence, gross negligence or some other form of otherwise legally sanctionable intentional negligence, and violations of fiduciary duties or willful violations of fiduciary obligations, including but not limited to the tort of misfeasance in public office at common law by the junior taxing district's Board members, its COP appointees except for Mr. Sood and its senior managers.

50. Necessary costs and reasonable fees to file and otherwise associated with this litigation are also available, herein, pursuant to statutory provisions and to judicial doctrines, which include but are not limited to the common fund principle, and which are informed herein by flaunting of our state's law so as to compel this litigation to end *ultra vires* and other egregious lawlessness.

51. Notice is hereby given of intent to seek awards on these and other legal bases available through amendments to this pleading or else through motions after necessary data is obtained, as well as through any further litigation required hereafter, pursuant to the Notice as to Reservation of all Rights as to Commuter Rail that follows, and pursuant to every action necessary to recover all monies rightfully recoverable for the Snohomish Subarea from third parties, including but not limited to irresponsible Board members, Citizen Oversight Panel appointees, senior managers of the agency, and insurance companies or other entities legally obligated for all such wrongdoing.

NOTICE AS TO RESERVATION OF ALL RIGHTS AS TO COMMUTER RAIL

52. Defendant SOUND TRANSIT has also failed to comply with central requirements of RCW 81.104.120 as necessary to establish cost effectiveness of its commuter-rail operations from Tacoma to Seattle, of its plans to extend such service from Tacoma to Lakewood, of its purchase of tracks and of rail right-of-way south of Lakewood from Defendant BNSF and of its recent acquisition of a right-of-way easement in the City of Bellevue from the Port of Seattle, *inter alia*, and every legal right as to all such rail operations, plans, purchases and acquisitions, as well as to any and all other rail modalities held herein or found hereinafter to be subject to said duties or to any related statutory cost-effectiveness obligation, is hereby reserved for all purposes whatsoever, including but not limited to recovery of (a) taxes paid within the agency's five subareas both for "passenger rail service operating on freight rail lines" and also for other "passenger rail service on lines other than freight rail lines" pursuant to RCW 81.104.120(3), (b) federal monies subject to

recovery for false claims, and (c) all insurance and other proceeds, *inter alia*, substantively (as well as to amendment of pleadings herein as additional information is developed procedurally).

REQUESTS FOR RELIEF

This Honorable Court is hereby requested to fashion one-or-more orders as necessary and sufficient to declare, to enjoin and to grant relief otherwise consistent with and remedying of all wrongdoing pleaded hereinabove, and consistent with and remedying of any amended pleadings needing to be filed after discovery to identify all unconstitutional, all unlawful and all otherwise wrongful acts pursuant to all applicable provisions of constitutional law, to all applicable statutes and regulations and to all breaches of oaths of office and of fiduciary duties as to prudence and otherwise, *inter alia*, including but not limited to requests for direct judicial determinations that:

1. Commuter-rail service from Everett to Seattle now operated by Defendant SOUND TRANSIT and by Defendant BNSF violates legal authority for lawful "commuter rail service," as established in state statutes, and as codified at RCW 81.104.120;

2. Every contract either for or else related in any way to "Sounder North" operations from Everett to Seattle –between Defendant SOUND TRANSIT and Defendant BNSF, and between that junior taxing district and Defendant PB – is *ultra vires*, is unlawful and is therefore void *ab initio* under controlling decisional law as stated in *Chemical Bank v. Washington Public Power Supply System*, 101 Wn.2d 200 (1984);

3. All monies paid to or otherwise expended on behalf of Defendant BNSF by Defendant SOUND TRANSIT, from all Snohomish County Subarea taxes, must be repaid or otherwise reimbursed to said Subarea (along with time-value of money through interest at the statutory rate or in such greater amount as is found otherwise to be equitable in light of benefits obtained by Defendant BNSF from actions undertaken on its behalf having a worth to it beyond all sums spent to do so, including but not limited to services by the junior taxing district's employees and by its contractors);

4. All monies paid to Defendant PB must be returned with the time-value of money;

5. Jurisdiction over all appointments to and any continued service on Defendant COP is removed to this Honorable Court, for pendency of this action, and is so ordered;

6. A hearing is necessary to determine whether the relationships between Defendant SOUND TRANSIT, Defendant BNSF, Defendant PB and Defendant COP, in fur-

therance of misfeasant-or-malfeasant wrongdoing, constitute either cooperation or a conspiracy; whether such wrongdoing involves misfeasance or malfeasance; and whether Defendant BNSF and Defendant PB are jointly and severally liable for all monies held recoverable herein for the junior taxing district's Snohomish Subarea;

7. A full accounting by subarea of all direct-and-indirect costs, of all expenditures and of all data as to commuter-rail usage, together with such other information as is required for justice herein due to cooperation or a conspiracy to violate the Washington State Constitution and state statutes, is found to be required and is so ordered;

8. An ample *qui tam* award is found to be indicated and is so ordered, as informed by by flaunting of our state's law so as to compel this litigation to terminate *ultra vires* and other major unlawful wrongdoing, with q*ui tam* recovery, damages and legal fees to be granted based on all applicability and all availability herein, including the common fund principle, as documented hereinafter by motion to prove up same;

9. A reservation of every legal right as to present commuter-rail operations from Tacoma to Seattle and as to planned service from Tacoma to Lakewood, from Lakewood south and on right-of-way within Bellevue, along with such other reservations as may hereafter be presented to the Court, as well as leave to amend pleadings and to add parties after discovery, or as otherwise may be indicated before the close of evidence at trial or thereafter under court rule, and/or as necessary to accommodate orderly litigation of every legal-and-equitable issue now or hereafter to become applicable pursuant to any continuing jurisdiction herein, including but not limited to all constitutional, statutory, administrative and other legal interests as reserved hereinabove or otherwise, are found to be appropriate and are so ordered; and

10. Such other and further relief as may hereafter be required, and as the Court may so deem to be just and equitable in all of those premises as stated in all pleadings set out herein or hereinafter, including but not limited to all taxable costs, any otherwise allowable expenses and each reasonable legal fee, or any award made *in lieu* thereof, are indicated and are so ordered as same is, or are, proven up to the Court hereafter.

DATED and SIGNED on this 22nd day of February, 2012.

_____

Will Knedlik, as *tam relator*, *pro se*
Box 99
Kirkland, Washington 98083
425-822-1342

SUPERIOR COURT OF STATE OF WASHINGTON IN AND FOR COUNTY OF KING

WILL KNEDLIK, as *qui tam relator*, Plaintiff, v. BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY (dba "BNSF"); CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (dba "SOUND TRANSIT" and dba "RTA"); CITIZEN OVERSIGHT PANEL (dba "COP"); and PARSONS BRINCKERHOFF (dba "PB"), Defendants, and CITY OF EVERETT; COUNTY OF SNOHOMISH; OFFICE OF WASHINGTON STATE AUDITOR; PUGET SOUND REGIONAL COUNCIL; SNOHOMISH COUNTY SUBAREA; UNITED STATES DEPARTMENT OF JUSTICE; UNITED STATES DEPARTMENT OF TRANSPORTATION; UNITED STATES DEPARTMENT OF THE TREASURY; and WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, Interested Parties.	) CAUSE NO.) SUMMONS AS ISSUED UPON PLAINTIFF'S) COMPLAINT FOR RELIEF UNDER UNIFORM) DECLARATORY JUDGMENTS ACT, BY WRIT) AND BY INJUNCTION, IF REQUIRED, TO DE-) TERMINE JUDICIALLY THAT (1) COMMUTER) RAIL SERVICE FROM EVERETT TO SEATTLE) VIOLATES STATE STATUTORY AUTHORITY;) (2) ALL CONTRACTS FOR SUCH "SOUNDER) NORTH" OPERATIONS ARE *ULTRA VIRES*,) UNLAWFUL AND THUS VOID *AB INITIO*) PURSUANT TO CONTROLLNG DECISIONAL) LAW OF THIS STATE; (3) ALL MONIES PAID) TO OR OTHERWISE EXPENDED ON BEHALF) OF DEFENDANT BNSF AND/OR TO OR FOR) DEFENDANT PB, FROM ANY SNOHOMISH) SUBAREA TAXES, MUST BE REPAID OR RE-) IMBURSED TO SAID SUBAREA (TOGETHER) WITH TIME-VALUE OF MONEY THROUGH) INTEREST AT THE STATUTORY RATE OR IN) SUCH GREATER AMOUNT AS IS OTHERWISE) EQUITABLE); (4) A FULL ACCOUNTING BY) SUBAREA OF ALL DIRECT-AND-INDIRECT) COSTS, OF ALL EXPENDITURES AND OF ALL) DATA AS TO COMMUTER-RAIL USAGE IS) REQUIRED; (5) AN AMPLE *QUI TAM* AWARD) IS INDICATED; AND (6) A RESERVATION OF) EVERY LEGAL RIGHT AS TO COMMUTER) RAIL OTHER THAN EVERETT-TO-SEATTLE) OPERATIONS IS APPROPRIATE, *INTER ALIA*)

TO THE DEFENDANTS:

A lawsuit has been started against you in the above-entitled Superior Court by Plaintiff, who is above identified, and whose legal claims are stated in a written Complaint, a copy of which is served on you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defenses, in writing, and by serving a copy of that pleading on the person signing this Summons within twenty (20) days after the service of this Summons, excluding the day of service, or within sixty (60) days, also excluding the day of service, if said service is made on you outside of the State of Washington, or a default judgment may be entered against you without further notice.

A default judgment is one whereby Plaintiff is entitled to what is being asked for because you have not responded to this Summons and to the attached Complaint. If you serve a notice of appearance on the undersigned person, then you are entitled to further notice before a default judgment may be entered against you.

If this Summons and the attached Complaint have not been filed in the above-entitled Court already, then you may demand that the Plaintiff file this lawsuit with the Court. If you do so, then the demand must be in writing, and it must be served upon the person who signed this Summons. Within fourteen (14) days after you serve such written demand, Plaintiff must either file this lawsuit with the above-entitled Court, or else service on you of this Summons and of the attached Complaint will then become and shall thereafter be legally null and thus void *ab initio*.

If you wish to seek the advice of an attorney respecting this matter, then you should do so promptly so that your written response, if any, may be served on time pursuant to court policies.

This Summons is issued pursuant to Rule 4 of the Superior Court Rules of the State of Washington, and pursuant to R.C.W. 4.28.180.

DATED and SIGNED on this 22nd day of February, 2012.

_____

Will Knedlik, as *tam relator*, *pro se*
Box 99
Kirkland, Washington 98083
425-822-1342

Exhibit A

Exhibit B