

**Edgemoor Association
PO BOX 4023
Bellingham, WA 98227**

April 20, 2005

Ken Iverson, Director of Administration
BNSF Railway
2454 Occidental Ave. South, Suite 1-A
Seattle, WA 98134

Dear Mr. Iverson;

The Board of Directors of Edgemoor Association met on April 13, 2005 and discussed your request for further explanation regarding the increase in annual BNSF Railway power line right-of-way rental fees from \$60 to \$500 per year. The following should give you a better understanding of the conditions which led us to request this increase.

Edgemoor Association was formed in 1954 to acquire title to Tract RESERVE, Block 3, Edgemoor, an Addition to the City of Bellingham, Division No. 2 (hereafter referred to as Reserve Property). The Reserve Property is located on Edgemoor Lagoon as shown in the map (encl. #1). In the early 1950's the Reserve Property contained sandy beaches easily accessed by a trail from Bayside Road where the neighbors often came to swim in the lagoon, bask in the sun and picnic on the beach. In 1967, or thereabouts, Burlington Northern built a rock causeway for the railroad tracks crossing Edgemoor Lagoon. In 1971, a lawsuit was brought against Burlington Northern (encl. #2) and one of the agreements specified that an opening be made in the rock causeway for recreational boating of property owners on the lagoon and for tidal waters to flow in and out of the lagoon, which was becoming stagnant. In response to the lawsuit, an opening was made on the north end of the causeway. It has been almost 30 years since the causeway was built and during that time, the south end of the lagoon has become a mudflat, due to the impeded water flow from the rock causeway. The south end is where the beach property owned by Edgemoor Association is located and, due to the muddy conditions, the neighbors no longer swim in the lagoon, bask in the sun or picnic on the beach. The trail down the hill from Bayside Road has become nothing more than access to railroad tracks. This same trail requires maintenance and upkeep on a regular basis. The rock steps on the trail have become dislodged and are now dangerous to navigate (encl. #3).

The Board of Directors of Edgemoor Association are faced with the following facts:

- There have been increasing concerns about the liability of owning land so near the railroad. Since the property no longer offers any recreational possibilities, it is not covered by the limited liability provisions in RCW4.14.200 & RCW 4.24.210 (encl. #4).

- Fewer members are paying dues to the association each year either because they see no benefit to belong or are concerned that by joining they would be subject to liability due to an injury sustained while using the reserve property.
- Consequently, there are not adequate funds for liability insurance, which will be over \$1,000 per year.
- The City of Bellingham has approached Edgemoor Association to ask for us to grant the Reserve Property to the City so they may add it to their open space requirements. This possibility is being examined, but the Board would like to hold onto the property until all other avenues to improve the property have been exhausted.
- The City has informed us that they will work with us asking BNSF Railway to clean up the lagoon and/or build another opening in the south end of the rock causeway. Evidently the proper permits were never acquired when the causeway was built, which the city feels is grounds for litigation. (encl. #5)
- BNSF Railway asked for a power-line right-of-way in 1971 and an agreement was made to allow the access for \$25 per year. This was increased in 1980 to \$60 per year and has not been increased since that time. Recently a letter was sent to BNSF Railway asking for a rent increase (encl. #6). The new annual fee would be \$500. These funds would pay half the annual liability insurance and help Edgemoor Association to continue to retain ownership of the property.

I hope this letter answers your questions about Edgemoor Association's decision to increase the power line right-of-way rental to \$500 per year. The Board discussed the amount and feels it is a fair request considering the amount has not been increased in \$25 years. If BNSF Railway is not interested in paying the increased amount of \$500 per year, we will consider requesting that BNSF Railway remove the underground power-line from Edgemoor Association property and find an alternate source for power.

Feel free to contact me should you have any other questions or concerns.

Sincerely,

Cassandra Koplowitz, Treasurer
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