



Public Service Commission

State of North Dakota

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April 23, 2008

Pat Yauney, Roadmaster
BNSF Railway
Car Shop Building
300 1st Street S.W.
Mandan, ND 58554

Re: Ten day Notice to Construct a Railroad Crossing Pursuant to Section 49-11-17 of the North Dakota Century Code.

Dear Mr. Yauney:

On March 24, 2008, the North Dakota Public Service Commission ("Commission") received an application from David Wisdom ("Applicant") for a railroad crossing pursuant to the provisions of N.D.C.C. § 49-11-17. The law provides:

49-11-17. Railroad crossing over land owned on both sides by one person - Penalty for failure to provide. When any person owns land on both sides of any railroad and contiguous to the railway, the corporation or individual owning or operating such railway shall make and keep in good repair a proper cattle guard and causeway or other adequate means of crossing such railway at such reasonable place as may be designated by the landowner or the landowner's agent, upon at least ten days' written notice by the commission to the railroad corporation provided an adequate crossing is not otherwise accessible. The type of all cattle guards required by law to be constructed in this state before being installed shall be approved by the commission. The owner or person in possession of the land through which the railroad passes may recover twenty-five dollars for every thirty days of default on the part of the person or corporation operating the railroad after at least a ten-day notice served on an officer, roadmaster, or section foreman of the operating company has designated the place for the erection of the cattle-guarded crossings or the road crossing, requested and a like penalty for failure to keep such cattle guards or road crossings in good repair after at least a ten-day written notice has been served upon the operating company that such repairs are necessary.

The Applicant states that he owns land on both sides of and contiguous to the BNSF Railway ("BNSF") right-of-way in Sections 1 and 2, Township 138 North, Range 83 West, Morton County, North Dakota. Applicant states that the railroad right-of-way separates the lands owned by the Applicant with the result that Applicant does not have access to an adequate crossing across the railroad right-of-way between his land

located south of the right-of-way and his land located north of the right-of-way. Applicant states that the nearest crossing lies to the east of his properties, but that crossing is not accessible to him either by public road or by recorded easement.

Applicant states that he has communicated with BNSF personnel regarding his request for placement of an adequate railroad crossing, and that he has designated a reasonable place for the crossing. He has indicated his willingness to accept an alternate location for the crossing as suggest by a BNSF representative. Applicant further states that he has expressed a willingness to help with his own equipment in the construction of a railroad crossing.


Applicant states that he has been unable to secure a commitment from BNSF for placement of a railroad crossing as designated by the Applicant or an alternative location as suggested by a BNSF representative.

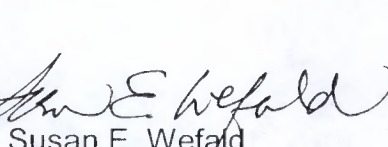
On April 11, 2008, the Applicant filed additional information including maps showing the location of the applicable land, the location of the railroad right-of-way and suggestions for location of a crossing.

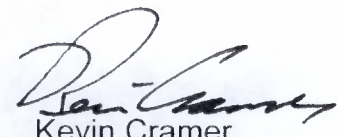
Information provided by the Applicant confirms that there is no adequate crossing across BNSF's right-of-way for the Applicant to access his lands on either side of BNSF's .

YOU ARE HEREBY NOTIFIED, that this letter constitutes a ten (10) day notice under N.D.C.C. § 49-11-17 to BNSF Railway to construct a railroad crossing in Sections 1 and 2, Township 138 North, Range 83 West, Morton County, North Dakota at the location designated by the Applicant or an acceptable alternative location to provide the Applicant, David Wisdom, an adequate railroad crossing between his lands described herein.

Enclosed is a copy of the Application filed by David Wisdom together with subsequent information including maps provided by the Applicant. Please contact our office if you have any questions.


Tony Clark
Commissioner


Susan E. Wefald
President


Kevin Cramer
Commissioner

Enclosure:

cc: Brian Sweeney
Steven Plambeck
Casey Chapman