

## TESTIMONY OF CITY OF BISMARCK


North Dakota Public Service Commission  
Case # RR-10-26 – Fraine Barracks Railroad crossing  
March 1, 2010 at 1:30 pm

The North Dakota Public Service Commission will consider whether the Fraine Barracks railroad crossing (DOT#087680P) is a public or a private railroad crossing, and, if a private crossing, whether or not the railroad should sound a warning device when approaching said crossing pursuant to NDCC Chapter 49-11;

The City of Bismarck offers the following facts regarding the Fraine Barracks railroad crossing:

1. The Fraine Barracks crossing is located on a two lane unnamed asphalt trail that originates as an extension of Schafer Street on the campus of Bismarck State College and terminates at the north (rear) gate of Fraine Barracks. The land north of the crossing is owned by the City of Bismarck. The attached aerial map accurately depicts the area.
2. To the best of the City's knowledge, the unnamed asphalt trail was not constructed by the city and was in place north of Fraine Barracks when the City obtained the property. The unnamed asphalt trail is not built to City roadway standards and has never been held out to be open for public travel.
3. City right-of-way records do not contain any reservation or dedication of land for the roadway in question.
4. The City of Bismarck does minimum maintenance on and plows snow from the unnamed asphalt trail from the Bismarck State College Energy Center parking lot south to a makeshift cul-de-sac north of the Fraine Barracks crossing. This allows a turnaround for snow removal equipment and access to critical City and MDU utilities. The snow plowing and road maintenance does not extend to the railroad crossing.
5. Upon past inquiry, the Burlington Northern Santa Fe Railroad has consistently represented to the city and others that the crossing in question is a private crossing.
6. The North Dakota Department of Transportation and the Federal Railway Administration both list this crossing as a private crossing.

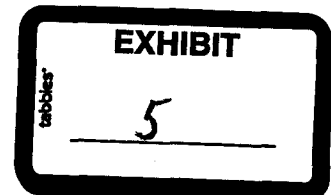
Submitted this 23rd day of February, 2010



W. C. Wocken  
Bismarck City Administrator

29 RR-10-26 Filed: 3/4/2010 Pages: 2  
Exhibit 5 – Testimony of City of Bismarck by W.C.  
Wocken dated 2-23-2010

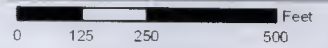
W.C. Wocken



# Fraine Barracks Railroad Crossing



**Legend**  Parcels  Railways



February 2010

