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MAR 09 2010

PUBLIC SERVICE COMMISSION

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E. Thomas Conmy, III Retired

March 8, 2010

Annette Marie Bendish
Attorney at Law
North Dakota Public Service Commission
600 E Boulevard Ave., Dept 408
Bismarck, ND 58505

Re: BNSF Railway Company - Case No. RR-10-26
BNSF Railway Company - Case No. RR-10-27
Our File No. 96220.001

Dear Ms. Bendish:

Enclosed herewith is the original and seven copies of BNSF's Waiver of its right to cross-examine and present further evidence with respect to the letter received from Col. Steven A. Tabor after the March 1, 2010 hearing.

Also enclosed are the proposed Findings of Fact, Conclusions of Law and Orders I was directed to draft and submit to the Commission. For your convenience, I am also enclosing seven copies of each draft.

If you have any questions, or there is anything further that I need to submit, please let me know.

Thank you for your consideration.

Sincerely,



Stephen W. Plambeck

SWP/bjb
Enc.

37 RR-10-26 Filed: 3/9/2010 Pages: 2
BNSF's Waiver of its Right to Cross Examine and
Present Further Evidence

BNSF Railway Company

Stephen Plambeck - Nilles Law Firm

NILLES, ILVEDSON, PLAMBECK & SELBO, LTD.

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STATE OF NORTH DAKOTA
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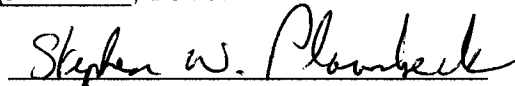
BNSF Railway Company
Review of Private Railroad Crossing
Application

Case No. RR-10-26

WAIVER

BNSF Railway Company, by its attorneys, herewith waives its rights under Chapter 28-32, N.D.C.C., to cross-examine and present further evidence with respect to the letter received from Col. Steven A. Tabor after the March 1, 2010 hearing.

Dated this 8th day of March, 2010.



Stephen W. Plambeck - ND #03240

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ATTORNEY FOR BNSF RAILWAY COMPANY