

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BNSF Railway Company
Review of Private RR Crossings
Application

Case No. RR-10-26

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

John Hamre deposes and says that:

he is over the age of 18 years and not a party to this action and, on the **26th** day of **March, 2010**, he deposited in the United States Mail, at Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing photocopy of:

Notice of Intent to Consider Information Not Presented at a Hearing

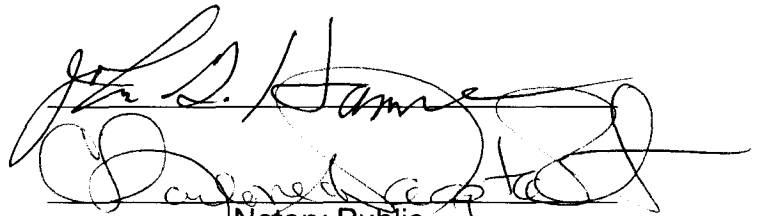
The envelope was addressed as follows:

Stephen W. Plambeck
Nilles Law Firm
PO Box 2626
Fargo, ND 58108-2626

Cert. No. 7007 0710 0003 6055 1831

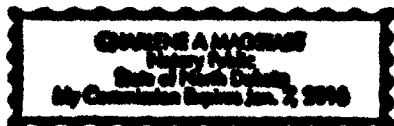
The address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me
this **26th** day of **March, 2010**



Notary Public

SEAL



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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Case No. RR-10-26

NOTICE OF INTENT TO CONSIDER INFORMATION NOT PRESENTED AT A HEARING

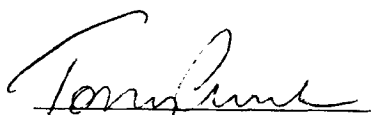
March 24, 2010

Under North Dakota Century Code section 28-32-25, the Public Service Commission gives notice that it intends to consider information in its possession that was not presented as evidence at a hearing and that has been filed in this proceeding by Colonel Steven Tabor, North Dakota National Guard, docket number 40. The information in docket number 40 is identified as a letter stating that limiting Fraine Barracks to one access point would impose restrictions on the North Dakota National Guard's ability to operate. A copy of docket number 40 is attached.

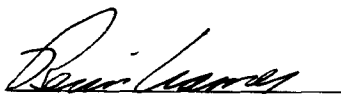
You are hereby advised that you have the right, upon written request, to examine the information or evidence and to present your own information or evidence and to cross-examine the person furnishing the information or evidence. Any such written request must be filed within ten (10) days of the date of this Notice.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; of Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials, please notify Darrell Nitschke, Executive Secretary at least 24 hours in advance.

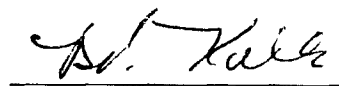
PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
President



Brian P. Kalk
Commissioner

**JOINT FORCE HEADQUARTERS
DIVISION OF FACILITIES ENGINEERING
NORTH DAKOTA NATIONAL GUARD
PO BOX 5511, BISMARCK, ND 58506-5511**

March 2, 2010

RECEIVED

MAR 02 2010

PUBLIC SERVICE COMMISSION

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

Subject: Fraine Barracks Railway Crossing

Dear Ms. Bendish.:

The Office of the Adjutant General would like to submit the following additional information regarding the Fraine Barracks railroad crossing.

Limiting Fraine Barracks to one access point will impose severe restrictions on our ability to operate. Any type of street construction or underground utility improvements in the vicinity of our main entrance could eliminate access for the duration of the project. When this type of construction has occurred in the past, the rear gate is manned and becomes the primary and only available access point to Fraine Barracks.

If you have any questions regarding this issue, please feel free to contact me at (701) 333-2075.

Sincerely,



Steven A. Tabor
Colonel, North Dakota National Guard
Director of Facilities Engineering

40 RR-10-26 Filed: 3/2/2010 Pages: 1
Additional Information Regarding Fraine Barracks
RR Crossing

Joint Force Headquarters, North Dakota National Guard

Steve A. Tabor, AIA