



Public Service Commission

State of North Dakota

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Brian P. Kalk

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21 October 2010

Mr. Allen C. Hoberg
Office of Administrative Hearings
1707 North 9th Street, Lower Level
Bismarck, ND 58501

Re: BNSF Railway Company
Review of Fraine Barracks rail crossing
Case No. RR-10-26

Dear Mr. Hoberg:

Enclosed is a request for an Administrative Law Judge in the captioned case. A hearing is scheduled for 29 November 2010 at 1:30 p.m. in the Public Service Commission Hearing Room, 12th Floor, State Capitol, 600 E. Boulevard Ave., Bismarck, North Dakota. A copy of the Notice of Hearing is enclosed.

The Administrative Law Judge will serve as a procedural law judge and the hearing will be electronically recorded.

If you have any questions, please contact me. Thank you.

Best regards,

Illona A. Jeffcoat-Sacco
General Counsel

enclosure

c: w/encl. Stephen Plambeck

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**BNSF Railway Company
Review of Private Railroad Crossing
Application**

Case No. RR-10-26

NOTICE OF HEARING

October 20, 2010

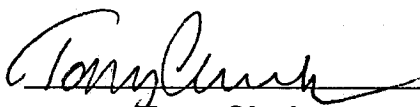
On May 18, 2010, the North Dakota Public Service Commission issued an Order stating that the Fraine Barracks railroad crossing in Bismarck, ND, would be a private crossing after certain modifications were made to the crossing. The Order also stated that audible devices warning of a train's approach should not be sounded at this crossing after the specified modifications to this crossing have been made, unless an exception under North Dakota Century Code Section 49-11-21 applies. The Commission is reopening the record in this case to incorporate relevant evidence regarding the crossing arising subsequent to May 18, 2010.

A **public hearing** on this case is scheduled to begin **November 29, 2010 at 1:30 p.m.** in the **Public Service Commission Hearing Room, 12th Floor, State Capitol, 600 E Boulevard Ave, Bismarck, North Dakota.** The issues to be considered are:

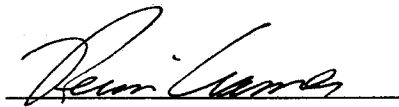
1. What modifications have been made to the Fraine Barracks crossing?
2. Whether modifications made to the Fraine Barracks crossing are sufficient to comply with the Commission's May 18, 2010 Order supporting a determination that the Fraine Barracks crossing is a private crossing?
3. Whether the railroad should discontinue sounding a warning device at the Fraine Barracks crossing, unless an exception under N.D.C.C. Section 49-11-21 applies?

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or 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 the Commission at least 24 hours in advance.

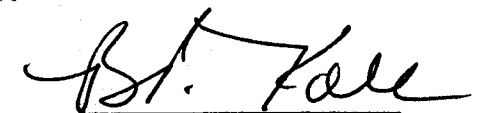
PUBLIC SERVICE COMMISSION



**Tony Clark
Commissioner**



**Kevin Cramer
Chairman**



**Brian P. Kalk
Commissioner**



REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17819 (Rev. 03-2001)

Name of Agency, Board, or Commission
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the BNSF Railway Company Review of Private RR Crossing (Fraine Barracks) - Application,
 Case No. RR-10-26

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in North Dakota Century Code Chapter 49-11 _____ (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:
 The Commission is reopening the record in this case to incorporate relevant evidence regarding the crossing arising subsequent to May 18, 2010.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 54-57-04(6).
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY North Dakota Public Service Commission	Address 600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505	Telephone Number 701-328-2400
Representation Illona A. Jeffcoat-Sacco, General Counsel	Address Same as above	Telephone Number 701-328-2407
PARTY BNSF Railway Company	Address 801 Main Street, Fargo, ND 58102	Telephone Number 701-280-7215
Representation Stephen W. Plambeck	Address Nilles Law Firm, PO Box 2626, Fargo, ND 58108-2626	Telephone Number 701-237-5544
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

Additional Comments
 A public hearing on this case is scheduled to begin November 29, 2010 at 1:30 p.m. in the Public Service Commission
 Hearing Room, 12th Floor, State Capitol, 600 Boulevard Ave, Bismarck, North Dakota.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Illona A. Jeffcoat-Sacco, General Counsel	Date 21 October 2010
Signature of Requesting Person X <i>Illona A. Jeffcoat-Sacco</i>	Telephone Number 701-328-2407