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**RECEIVED**

January 12, 2010

JAN 13 2010

**PUBLIC SERVICE COMMISSION**

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

Re: BNSF Railway Company - Petition to Review Private Railroad Crossings  
DOT #062517W  
DOT #062518D  
Our File No. 96220.001

Dear Ms. Bendish:

BNSF Railway Company has asked us to submit this petition in the form of a letter request for the Commission to review two additional private railroad crossings and to issue an order determining whether or not audible devices warning of a train's approach will be sounded at these two crossings. The two private railroad crossings are identified as DOT# 062517W and DOT #062518D. Enclosed with this letter is an Affidavit from Lynn Leibfried, P.E., Manager Public Projects for BNSF Railway Company; and attached to that Affidavit as Exhibit 1 and Exhibit 2 are photographs of the two crossings. Her Affidavit indicates the concerns that prompted BNSF Railway Company to bring these two additional private railroad crossings to the Commission's attention.

As you know, Section 49-11-21, N.D.C.C., as amended by H.B. No. 1342, now prohibits railroads from sounding warning devices at private railroad crossings; but authorizes the Commission to order railroads to sound warning devices at private railroad crossings "based on the safety concerns of the public."

1 RR-10-27 Filed 01/13/2010 Pages: 25  
Petition to Review Private RR Crossings – DOT #062517W & DOT #062518D  
BNSF Railway Company  
Stephen Plambeck - Nilles Law Firm

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*Annette Marie Bendish*

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*January 12, 2010*

The enclosed Affidavit identifies two additional private railroad crossings the Commission may wish to review to determine whether or not warning devices should or should not be sounded "based on the safety concerns of the public." BNSF appreciates the Commission's continued assistance in providing direction for the use of horns at private railroad crossings.

Thank you for your consideration.

Yours very truly,

A handwritten signature in black ink that reads "Stephen W. Plambeck". The signature is written in a cursive, flowing style.

Stephen W. Plambeck

SWP/bjb


Enc.




5. We are bringing these two additional private railroad crossings to the Commission's attention to ask that the Commission review them and issue an Order determining whether or not any audible devices warning of a train's approach will be sounded at either crossing.

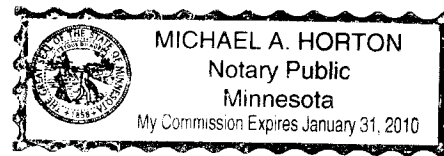
FURTHER YOUR AFFIANT SAYETH NOT.

Dated this 7 day of January, 2010.

  
\_\_\_\_\_  
Lynn Leibfried

Subscribed and sworn to before me this  
7 day of January, 2010.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 1-31-10



**EXHIBIT 1**

**PRIVATE CROSSING**

**DOT # 062517W**









STOP

PROBET  
R X R  
CROSSING  
NO TRAILPASSING











**EXHIBIT 2**

**PRIVATE CROSSING**

**DOT # 062518D**





