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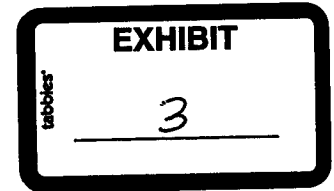
E. Thomas Conmy, III Retired

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."

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Petition to Review Private RR Crossings – DOT #062517W & DOT #062518D
BNSF Railway Company
Stephen Plambeck - Nilles Law Firm

NILLES, ILVEDSON, PLAMBECK
Williston Office: 3-4th Street East, Suite 206, P.O. Box 1525, Will

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Exhibit 3 – Letter from Stephen W. Plambeck dated
1-12-2010

BNSF Railway Company

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 style with a large, prominent initial 'S'.

Stephen W. Plambeck

SWP/bjb

Enc.