

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Cargill Incorporated**  
**Rail Clearance Variance - Wahpeton, ND**  
**Application**

**Case No. RR-11-81**

**AFFIDAVIT OF SERVICE BY CERTIFIED & REGULAR 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 **7th** day of **April 2011**, he deposited in the United States Mail, Bismarck, North Dakota, **one** envelope with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

**Order Granting Clearance Variance**

The envelope was addressed as follows:

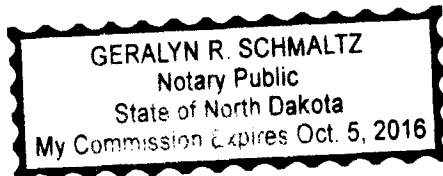
Jesse Ouse  
Cargill Corn Milling  
18049 County Road 8  
Wahpeton, ND 58075-9700

**Cert. No. 7007 0710 0003 6056 9218**

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

Subscribed and sworn to before me  
this **7th** day of **April, 2011**.

SEAL



Handwritten signature of John Hamre in black ink, written over a horizontal line.

Handwritten signature of GERALYN R. SCHMALTZ in black ink, written over a horizontal line.  
Notary Public

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

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**Application**

**Case No. RR-11-81**

**ORDER GRANTING CLEARANCE VARIANCE**

**April 6, 2011**

On March 10, 2011, the Public Service Commission received an application from Cargill Incorporated (Cargill) for a variance from the rail clearance standards prescribed by N.D.C.C § 49-10.1-13(2). The governing statute allows the Commission to grant variances from the prescribed clearance standards. The application included a letter, dated March 9, 2011, from Red River Valley & Western Railroad (RRVW) stating that it was not opposed to the proposed installation.

Cargill is seeking authorization to modify its overhead doors at its Wahpeton, North Dakota facility. The new overhead doors would have an overhead clearance of twenty feet from the top of the rail, less than the twenty-one feet prescribed by state law. Side clearances are not at issue, as they will not change, thereby continuing to meet the requirements of the Century Code.

On March 18, 2011 the Commission sent a letter to the State Director for the United Transportation Union, soliciting rail labor's input on the requested variance. The letter requested a reply by April 1, 2011 and further stated that if no reply was received, it would be assumed that rail labor did not oppose the requested variance.

In a letter, dated March 24, 2011, the United Transportation Union stated that they are in support of the proposed modification, as it should not create a safety hazard to their membership.

We find that granting the application is in the public interest.

We conclude that we have jurisdiction over this matter.

**The Commission orders:**

1. That the application of Cargill Incorporated for a variance from the rail clearance standards prescribed by N.D.C.C § 49-10.1-13(2) is hereby GRANTED.
2. That all entrances to the track area shall be marked on both sides of the track with reflectorized reduced clearance signs.

**PUBLIC SERVICE COMMISSION**

  
Kevin Cramer  
Commissioner

  
Tony Clark  
Chairman

  
Brian P. Kalk  
Commissioner