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RECEIVED

OCT 17 2011

October 11, 2011

Karl Morell
Of Counsel

kmorell@balljanik.com

PUBLIC SERVICE COMMISSION

North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

**Re: STB Docket No. AB-6 (Sub-No. 478X) - BNSF Railway Company -
Abandonment Exemption - in Cass County, North Dakota**

Dear Sir or Madam:

In approximately three weeks BNSF will be filing with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon 7.40 miles of rail line located in Cass County, North Dakota, between Milepost 68.10 in Arthur and the end of the line at Milepost 75.50 in Hunter. The line traverses United States Postal ZIP Codes 58006 and 58048. Enclosed are environmental and historic reports describing the proposed action and any expected environmental or historic effects, as well as a map of the affected area.

We are providing these reports so that you may review the information that will form the basis for the STB's independent environmental and historic analyses of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the Office of Environmental Analysis (OEA), Surface Transportation Board, 395 E Street S.W., Washington, D.C. 20423-0001, telephone (202) 245-0295, and refer to the above docket number. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to OEA, with a copy to BNSF, would be appreciated within three weeks.

Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning these reports, please contact John Sims at 817-352-2376 or john.sims@bnsf.com or me at 202-638-3307 or kmorell@balljanik.com.

Sincerely,

Karl Morell
Of Counsel

KM:mjl
Enclosure

1 RR-11-665 Filed: 10/17/2011 Pages: 52
Environmental and historic reports re rail
abandonment

Portland, Oregon | Bend, Oregon

BNSF Railway Company

Karl Morell, Ball Janik, L.L.P.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

BNSF RAILWAY COMPANY)	
ABANDONMENT EXEMPTION)	DOCKET NO. AB-6
IN CASS COUNTY,)	(SUB-NO. 478X)
NORTH DAKOTA		

ENVIRONMENTAL AND HISTORIC REPORTS

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
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(202) 638-3307

Service Date: October 11, 2011

ENVIRONMENTAL REPORT

(49 C.F.R. § 1105.7)

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF Railway Company (“BNSF”) proposes to abandon the 7.40-mile rail line located between Milepost 68.10, at Arthur, and Milepost 75.50, at Hunter, in Cass County, North Dakota (the “Line”). A map of the project area is attached as **Exhibit A**.

BNSF's salvage process as it relates to this project is as follows:

The proposed abandonment will include the removal of the rails, ties, and bridges. The railroad right-of-way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit

their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis (“OEA”) and imposed by the Surface Transportation Board (“STB”) in the final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

The Line has had no local traffic since prior to October, 2005. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Because of the lack of traffic on the Line, only very limited maintenance has been performed on the Line for some time. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

(2) Transportation System Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger

or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

There will be no passenger or freight traffic diverted to other transportation systems as a result of the proposed abandonment. There has been no local or overhead traffic on this line since prior to October, 2005 and the line has been embargoed since that time.

(3) Land Use

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

The proposed action is consistent with existing land use plans. BNSF contacted the City of Arthur, Community Hall, the Hunter City Hall, and the Cass County, Planning Office.

Mr. Steven Perry, Mayor of the City of Arthur, ND, replied in an e-mail dated September 13, 2011, stating that the City of Arthur has no objections to the abandonment. A copy of the e-mail is attached as **Exhibit B**. Mr. Tim Solberg, Cass County Planner, replied in a letter dated September 9, 2011, stating that the proposed abandonment is consistent with the adopted 2005 Cass County Comprehensive Plan. A copy of the letter is attached as **Exhibit C**. Hunter City Hall has not commented as of the date of this report. A copy of the letter is attached as **Exhibit D**.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

BNSF does not believe that the proposed abandonment will have an adverse effect on prime agriculture land. BNSF sent a letter to the North Dakota NRCS State

Office, Natural Resources Conservation Service. Mr. Jerome M. Schaar, State Soil Scientist/MO 7 Leader, replied in a letter dated August 30, 2011, stating “Your proposed project appears to be within the existing railroad right-of-way; therefore, FPPA (Farmland Protection Policy Act) has previously been addressed and no further action is required.” A copy of the letter is attached as **Exhibit E**.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

Not applicable.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.

The proposed abandonment may be suitable for alternative public use. BNSF contacted the City of Arthur, Community Hall, the Hunter City Hall, and the Cass County, Planning Office. BNSF currently intends to railbank the Line.

(4) Energy

(i) Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on the transportation of energy resources.

(ii) Describe the effect of the proposed action on recyclable commodities.

The proposed abandonment will not adversely affect the movement or recovery of recyclable commodities.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

The proposed action will not result in an increase or decrease in overall energy efficiency as there has been no traffic on the line since prior to October, 2005.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

The proposed abandonment will not result in a diversion of rail to motor carriage.

(5) Air

(i) If the proposed action will result in either:

(A) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line affected by the proposal, or

(B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The proposed action will not result in meeting or exceeding the specified thresholds for increased rail or truck traffic as outlined in (i) (A), (B) or (C) above.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) an increase in rail yard activity of at least 20 percent (measured

by carload activity), or

(C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed action will not result in meeting or exceeding the specified thresholds in (ii) (A), (B) or (C) above.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and Freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not affect the transportation of ozone depleting materials.

(6) Noise *If any of the thresholds identified in item (5) (i) of this section are surpassed, state whether the proposed action will cause:*

(i) an incremental increase in noise levels of three decibels Ldn or more; or

(ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable.

(7) Safety

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety.

There are three (3) private at-grade crossings and thirteen (13) public at-grade crossings on the Line.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

The abandonment will not result in the transportation of hazardous materials.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

There are no known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way.

(8) Biological Resources

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

BNSF does not believe that the proposed abandonment will have an adverse effect on endangered or threatened species or areas designated as a critical habitat.

BNSF contacted the U.S. Fish and Wildlife Service, Mountain-Prairie Region, in reference to this proposed abandonment. Mr. Jeffrey K. Towner, Field

Supervisor, replied on August 30, 2011, that the project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. A copy of the letter is attached as **Exhibit F**.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

BNSF does not believe that any wildlife sanctuaries or refuges, National or State parks or forests will be adversely affected by the proposed abandonment. By letters dated August 18, 2011, BNSF contacted the U.S. Department of the Interior, Bureau of Land Management (North Dakota Field Office), and the U.S. Department of the Interior, National Park Service in reference to the proposed abandonment. As of the date of this Environmental Report, neither agency has responded to our inquiries. Copies of the letters are attached as **Exhibit G**.

(9) Water

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

By letter dated August 18, 2011, BNSF contacted the North Dakota State Water Commission (“NDSWC”). Mr. Larry Knudtson, Research Analyst for NDSWC replied on September 23, 2011. According to Mr. Knudtson the proposed action will not affect an identified floodplain, all waste material associated with the project must be disposed of properly, and no sole-source aquifers have been designated in North Dakota. A copy of the reply is attached as **Exhibit H**. By e-mail dated September 1, 2011, Emilio Llamozas, with the U.S. Environmental

Protection Agency, Region 8, responded that a Section 402 permit would be required if stormwater discharges from construction activities disturb one or more acres. The e-mail is attached as **Exhibit I**.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

BNSF is confident that no designated wetlands or 100-year flood plains will be adversely affected by the proposed abandonment. By letter dated August 18, 2011, BNSF contacted the St. Paul District of the U.S. Army Corps of Engineers in reference to the proposed abandonment. As of the date of this Environmental Report, the Corps has not responded to our inquiry. A copy of the letter is attached as **Exhibit J**. According to Mr. Knudtson of NDSWC, the Line is not located in a floodplain. See **Exhibit H**.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).

According to Mr. Knudtson of NDSWC, all waste material associated with the project must be disposed of properly and no sole-source aquifers have been designated in North Dakota. A copy of the reply is attached as **Exhibit H**. By e-mail dated September 1, 2011, Emilio Llamozas, with the U.S. Environmental Protection Agency, Region 8, responded that a Section 402 permit would be required if stormwater discharges from construction activities disturb one or more acres. The e-mail is attached as **Exhibit I**.

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

BNSF does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. BNSF will, of course, consult (as required) with any recipients of this Environmental Report regarding appropriate mitigation actions and will comply with those mitigation actions required by the Board.

HISTORIC REPORT

(49 C.F.R. § 1105.8)

(1) Proposed Action and Alternatives. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF Railway Company (“BNSF”) proposes to abandon the 7.40-mile rail line located between Milepost 68.10 at Arthur and Milepost 75.50 at Hunter in Cass County, North Dakota (the “Line”).

BNSF's salvage process as it relates to this project is as follows:

The proposed abandonment will include the removal of the rails, ties, and bridges. The railroad right-of-way, ballast and culverts will remain in place.

The salvage process begins with the unbolting of the track materials or rails. With the use of specialized machinery placed on the railroad right-of-way, the rails and related steel (angle bars, tie plates, spikes, switches and any other metal parts) are removed. Next the wooden ties are raised from the ballast with a tool designed for minimum disruption of ground material. The ties are separated into three groups as follows: (1) good quality ties that will be re-used in rail service, (2) landscape-quality ties that will be sold to lumber dealers for landscaping and (3) scrap ties. Scrap ties are loaded into railcars and shipped by BNSF to an EPA-approved disposal site.

The culverts, ballast and right-of-way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit

their activities to the width of the right-of-way and not to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

BNSF salvage work for abandonments is always performed by experienced rail material salvagers and is generally bid on the open market. Each salvage contract includes detailed information on any environmental or historical conditions recommended by the Office of Environmental Analysis (“OEA”) and imposed by the Surface Transportation Board (“STB”) in the final decision. Completed work is independently inspected by a BNSF roadmaster (or equal representative) to ensure compliance with BNSF standards of quality and all contractual obligations, including STB-imposed conditions, if applicable.

The Line has had no local traffic since prior to October, 2005. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Because of the lack of traffic on the Line, only very limited maintenance has been performed on the Line for some time. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

HISTORIC REPORT

1. *A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.*

The required topographic map is attached to this Report as **Exhibit A**.

2. *A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area*

The subject Line extends approximately 7.40 miles from Milepost 68.10 at Arthur to Milepost 75.50 at Hunter in Cass County, North Dakota. The average width of the right-of-way is generally 100 feet across, 50 feet on each side of the centerline of the Line, in rural areas and widens to 200 feet in station grounds. There are federally granted rights of way involved.

3. *Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.*

There are three bridges on the Line. They are as follows:

- 1) Milepost 70.00 – 28' long, 6' high, open pile trestle, built in 1955 (drainage ditch)
- 2) Milepost 73.60 – 28' long, 6' high, open pile trestle, built in 1945 (drainage ditch)
- 3) Milepost 74.80 – 152' long, 18' high, open pile trestle, built in 1955 (Elm River)

See **Exhibit K**, attached photographs.

4. *The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.*

There are three bridges on the Line. They are as follows:

- 1) Milepost 70.00 – 28' long, 6' high, open pile trestle, built in 1955 (drainage ditch)
- 2) Milepost 73.60 – 28' long, 6' high, open pile trestle, built in 1945 (drainage ditch)
- 3) Milepost 74.80 – 152' long, 18' high, open pile trestle, built in 1955 (Elm River)

See **Exhibit K**, attached photographs.

5. ***A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.***

On May 23, 1879, the St. Paul, Minneapolis and Manitoba Railway Company (“SPMM”) was incorporated by Special Act of Minnesota Legislature. On November 1, 1907, SPMM sold the Line to the Great Northern Railway Company (“GN”). In 1970, GN merged with Northern Pacific Railway Company, Pacific Coast Railroad Company and Chicago, Burlington & Quincy Railroad Company to become Burlington Northern Inc. The latter changed its name to Burlington Northern Railroad Company (“BNRR”) in 1981. BNRR merged with The Atchison, Topeka and Santa Fe Railway Company in 1996 to become The Burlington Northern and Santa Fe Railway Company, which name was changed to BNSF Railway Company in 2005.

6. ***A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.***

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. These documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

7. ***An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).***

BNSF contacted the State Historical Society of North Dakota (“SHPO”) in reference to the proposed abandonment. By letter dated August 25, 2011, Merlan E. Paaverud, Jr., State Historic Preservation Officer (North Dakota) stated, “We do not know of any structures eligible for listing in the National Register of Historic Places along this segment.” The letter is attached as **Exhibit L**.

8. *A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

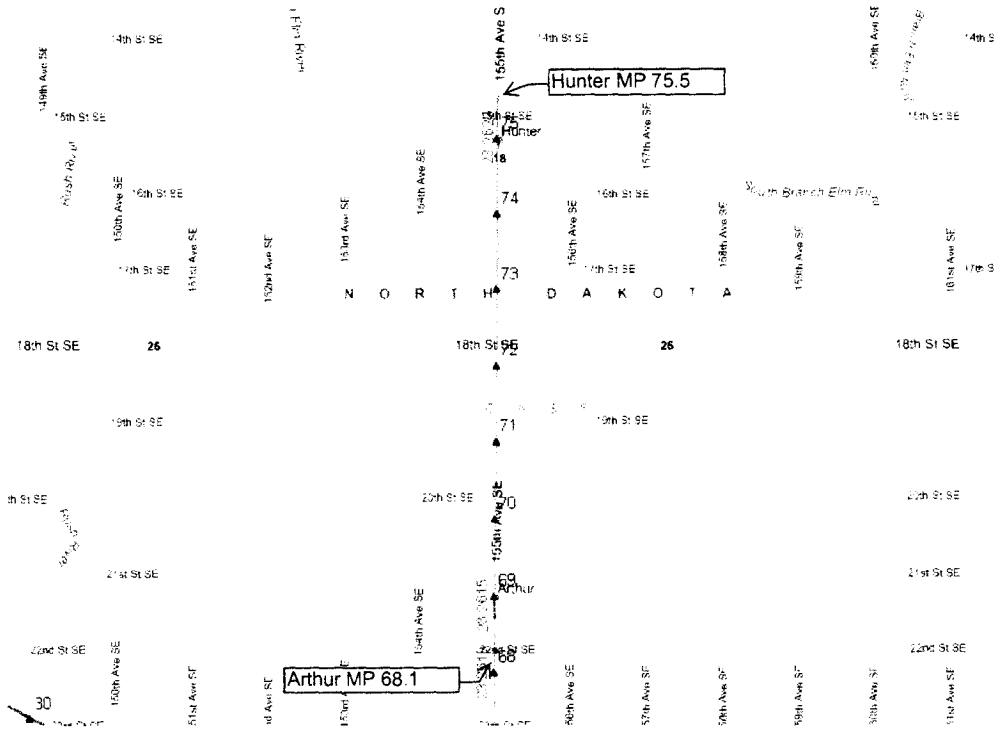
The Line was disturbed during original construction by cuts and fill and any archaeological resources that may have been located in the proposed project area would have been affected at that time. Our records do not indicate any environmental conditions that might affect the archaeological recovery of resources.

9. *Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specific non railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e. prehistoric or native American).*

If any additional information is requested, BNSF will promptly supply the necessary information.

A

Arthur - Hunter, ND



Sims, John A

From: Steven Perry <sperry@arthurcompanies.com>
Sent: Tuesday, September 13, 2011 7:50 AM
To: Sims, John A
Subject: Railroad abandonment in Arthur, ND

Dear Mr. Sims:

The City of Arthur has no objections to the abandonment. The City was wondering what will happen to the ownership of the abandon line. If you could let us know that would be appreciated.

Thank you for informing us on this matter.

Sincerely

Steven Perry

Mayor
City of Arthur,ND
701-371-5413



Highway Department

Jason Benson
County Engineer

Richard S. Sieg
Superintendent

Thomas B. Soucy, PE.
Design and Construction
Engineer

September 9, 2011

John A. Sims, CP
BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828

SUBJECT: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway
Company – Abandonment Exemption – in Cass County, North Dakota

Dear Mr. Sims:

In response to the above referenced letter from your office dated August 18, 2011 the proposed abandonment is consistent with the adopted 2005 Cass County Comprehensive Plan. I would however note that in discussions with the North Dakota Department of Transportation (ND DOT) Fargo District Office Engineer, Mr. Bob Walton, it was brought up that the State Highway adjacent to this proposed abandonment does not have adequate right of way to accommodate proper drainage. Therefore I would recommend that discussions with the ND DOT take place prior to the abandonment process.

Furthermore, in consequence of this letter, I have been contacted by a local group that is interested in options that may exist for developing this rail line into a trail. They are in the process of researching these options and would like that to be known at this time.

Thank you for the opportunity to comment, if you have any further questions please feel free to contact me at 701-298-2375 or solbergt@casscountynd.gov.

Sincerely,

Tim Solberg
Cass County Planner

1201 Main Avenue West
West Fargo, North Dakota
58078-1301

701-298-2370
Fax: 701-298-2395

cc: Ola Andersson, Arthur Park Board; Jason Benson, Cass County Engineer; Bob Walton, ND DOT Fargo District Engineer

D

v



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2628
tel 817-352-2376
fax 817-352-2397
Email - john.sims@bnsf.com

August 18, 2011

Hunter City Hall
116 Main St
Hunter, ND 58048

**Re: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway Company –
Abandonment Exemption – in Cass County, North Dakota**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 7.40 miles of rail line in Cass County, North Dakota, beginning at Milepost 68.10 in Arthur and ending at the end of the line at Milepost 75.50 in Hunter.

As part of the environmental report, BNSF is required to contact you to determine if the proposed abandonment is consistent with existing land use plans. If applicable, please describe any inconsistencies.

Your assessment and comments are respectfully requested. For your reference a map of the subject railroad line is enclosed. Please provide your response to me at the address above, if at all possible, by September 16, 2011. You may contact me by email or phone with any questions or concerns. Thank you in advance for your time and contribution.

Sincerely,

John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF mark.norton@bnsf.com

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 1458
Bismarck, ND 58502-1458

August 30, 2011

John A. Sims
BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828

RE: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway Company
Abandonment Exemption – in Cass County, North Dakota

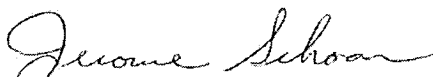
Dear Mr. Sims:

The Natural Resources Conservation Service (NRCS) has reviewed your letter dated August 18, 2011, regarding abandoning 7.40 miles of rail line in Cass County, North Dakota.

NRCS has a major responsibility with the Farmland Protection Policy Act (FPPA) in documenting conversion of farmland (i.e., prime, statewide, and local importance) to non-agricultural use when federal funding is used. Your proposed project appears to be within the existing railroad right-of-way; therefore, FPPA has previously been addressed and no further action is required.

If you have additional questions pertaining to FPPA, please contact Steve Sieler, State Soil Liaison, at (701) 530-2019.

Sincerely,


JEROME M. SCHAAR
State Soil Scientist/MO 7 Leader

Helping People Help the Land

An Equal Opportunity Provider and Employer

F



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email - john.sims@bnsf.com

August 18, 2011

U.S. Fish and Wildlife Service
Mountain-Prairie Region
134 Union Blvd.
Lakewood, CO 80228

**Re: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway Company –
Abandonment Exemption – in Cass County, North Dakota**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 7.40 miles of rail line in Cass County, North Dakota, beginning at Milepost 68.10 in Arthur and ending at the end of the line at Milepost 75.50 in Hunter.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges, or areas designated as critical habitat adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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The culverts and right of way will remain intact so as not to alter the prevailing waterflows along the line. In addition, BNSF salvage contractors are required to limit their activities to the width of the right of way and **not** to place fills or other material in water bodies, including inland waterways. When the salvage process is complete, waterflows in the area should not be disrupted.

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Please provide your assessment and comments to me at the address above, if at all possible, by September 16, 2011. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

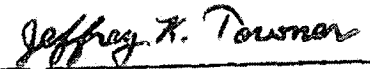
cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com

U.S. FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES
ND FIELD OFFICE

Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.

8/30/11
Date



Jeffrey K. Towner
Field Supervisor



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

August 18, 2011

U.S. Department of the Interior
Bureau of Land Management
North Dakota Field Office
99 23rd Avenue West, Suite A
Dickinson, ND 58601

**Re: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway Company –
Abandonment Exemption – in Cass County, North Dakota**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 7.40 miles of rail line in Cass County, North Dakota, beginning at Milepost 68.10 in Arthur and ending at the end of the line at Milepost 75.50 in Hunter.

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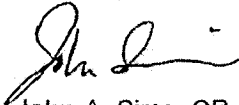
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Please provide your assessment and comments to me at the address above, if at all possible, by September 16, 2011. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email - john.sims@bnsf.com

August 18, 2011

Mr. Ernie Quintana, Regional Director
U.S. Department of the Interior
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

**Re: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway Company –
Abandonment Exemption – in Cass County, North Dakota**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 7.40 miles of rail line in Cass County, North Dakota, beginning at Milepost 68.10 in Arthur and ending at the end of the line at Milepost 75.50 in Hunter.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not there are any wildlife sanctuaries or National or State parks or forests adjacent to or near the line, and 2) if so, what effects the proposed action may have on same.

For your reference I have enclosed a map of the subject railroad line. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

The proposed abandonment will include the removal of the rails, ties and bridges; however, the railroad right of way, ballast and culverts will remain in place.

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Thank you in advance for your time and contribution.

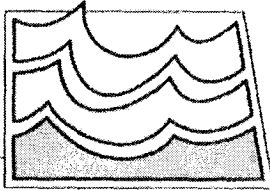
Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>

September 23, 2011

John Sims
BNSF Railway
2500 Lou Menk Drive – AOB-3
Fort Worth, TX 76131-2828

Dear Mr. Sims:

This is in response to your request for review of environmental impacts associated with the STB Docket No. AB-6 (Sub-No 478X) BNSF Railway Company, Abandonment Exemption – Cass County, ND.

The proposed project has been reviewed by State Water Commission staff and the following comments are provided:

- The property is not located in an identified floodplain and it is believed the project will not affect an identified floodplain.
- It is the responsibility of the project sponsor to ensure that local, state and federal agencies are contacted for any required approvals, permits, and easements.
- All waste material associated with the project must be disposed of properly and not placed in identified floodway areas.
- No sole-source aquifers have been designated in ND.

There are no other concerns associated with this project that affect State Water Commission or State Engineer regulatory responsibilities.

Thank you for the opportunity to provide review comments. If you have any questions, please call me at 328-4969.

Sincerely,

Larry Knudtson
Research Analyst

LJK:dp/1570



Sims, John A

From: Llamozas.Emilio@epamail.epa.gov
Sent: Thursday, September 01, 2011 12:56 PM
To: Sims, John A
Cc: Bracht, Gary D.; Oconnor.Darcy@epamail.epa.gov; Clark.Amy@epamail.epa.gov
Subject: Re: STB Docket No AB-6 (Sub-No. 478X) BNSF Railway Company - Abandonment Exemption - in Cass County, North Dakota
Attachments: Document.pdf

John,

Per our telephone conversation on August 31, 2011, I am writing to answer the question in your letter received by EPA Region 8 on August 24, 2011. In your letter you ask whether or not a Section 402 National Pollutant Discharge Elimination System (NPDES) permit is required for performance of railroad salvage activity by BNSF Railway Company in Cass County, North Dakota.

Stormwater discharges from construction activities (such as clearing, grading, excavating, and stockpiling) that disturb one or more acres, or smaller sites that are part of a larger common plan of development or sale, are regulated under the National Pollutant Discharge Elimination System (NPDES) stormwater program. Prior to discharging stormwater, construction operators must obtain coverage under a NPDES Stormwater Construction General Permit (CGP). The CGP requires compliance with effluent limits and other permit requirements, such as the development of a stormwater pollution prevention plan (SWPPP). Construction operators intending to seek coverage under a CGP must submit a Notice of Intent (NOI) certifying that they have met the permit's eligibility conditions and that they will comply with the permit's effluent limits and other requirements. To submit the NOI, the operator should contact the appropriate permitting authority which in this case, is the State of North Dakota Department of Health.

The NPDES Program Manager for North Dakota Department of Health is Gary Bracht. He can be reached at 701-328-5227 or by email at gbracht@nd.gov.

The address for North Dakota Department of Health is:

918 E. Divide Ave., 4th floor
Bismarck, ND 58501

I am cc: Gary Bracht in this email and attaching a copy of your letter.

Please feel free to give me a call if you have additional questions.

Thanks,

Emilio Llamozas
(303) 312-6407 phone
(303) 312-7202 fax

To report an environmental violation, please visit EPA's website at
<http://www.epa.gov/compliance/complaints/index.html>

4

J



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive – AOB-3
Fort Worth, Texas 76131-2828
tel 817-352-2376
fax 817-352-2397
Email – john.sims@bnsf.com

August 18, 2011

U.S. Army Corps of Engineers
St. Paul District
180 5th St. East
Suite 700
St. Paul, MN 55101-1678

**Re: STB Docket No. AB-6 (Sub-No. 478X) BNSF Railway Company –
Abandonment Exemption – in Cass County, North Dakota**

BNSF Railway Company ("BNSF") anticipates filing in a few weeks a Notice of Exemption seeking Surface Transportation Board ("STB") authority in the above-referenced docket to abandon 7.40 miles of rail line in Cass County, North Dakota, beginning at Milepost 68.10 in Arthur and ending at the end of the line at Milepost 75.50 in Hunter.

As part of the requisite environmental report, BNSF needs to know: 1) whether or not Section 404 permits will be required for the performance of salvage activity, and 2) if the proposed abandonment will affect any 100-year floodplains or any designated wetlands. Your assessment and comments are respectfully requested. In addition, if it is your determination that floodplains will be affected please furnish, if available, 8½" x 11" black and white maps of each designated floodplain area. Please note: **BNSF does not anticipate any potential impacts to waters of the U.S. as a result of the proposed abandonment.**

For your reference a map of the subject railroad line is enclosed. Following is information on BNSF's salvage process as it relates to this project that should also be of use:

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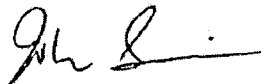
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Please provide your assessment and comments to me at the address above, if at all possible, by September 16, 2011. You may contact me by email or phone with any questions or concerns.

Thank you in advance for your time and contribution.

Sincerely,



John A. Sims, CP
Paralegal

Enclosure as stated

cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com

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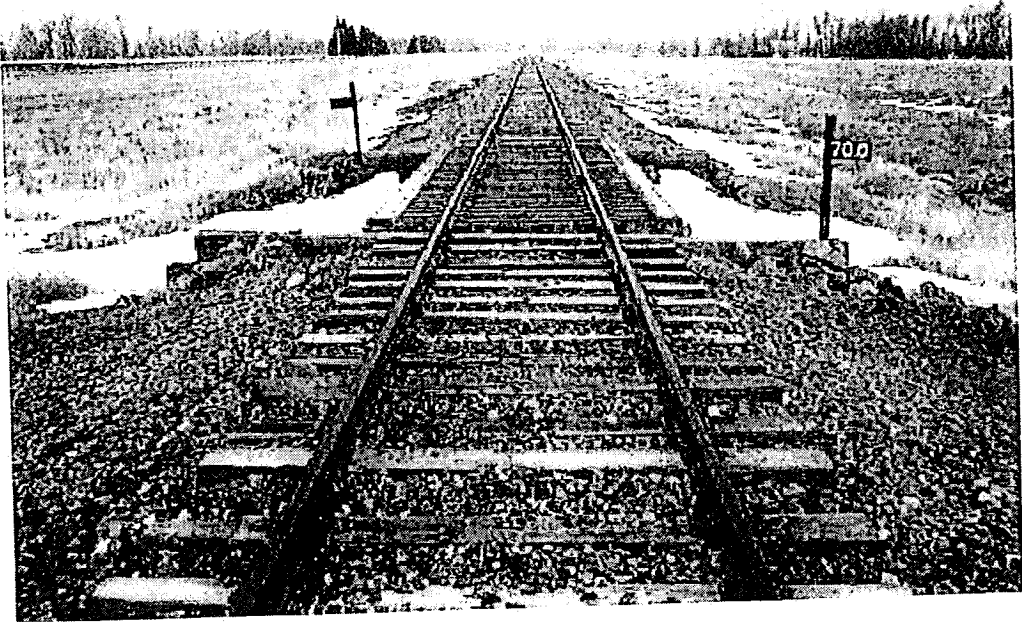
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View Map

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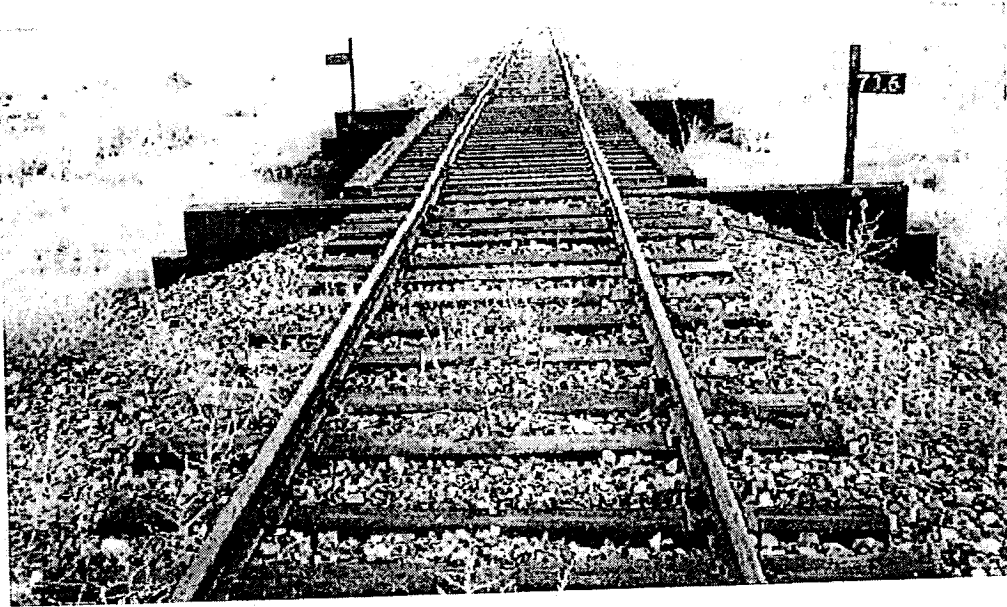


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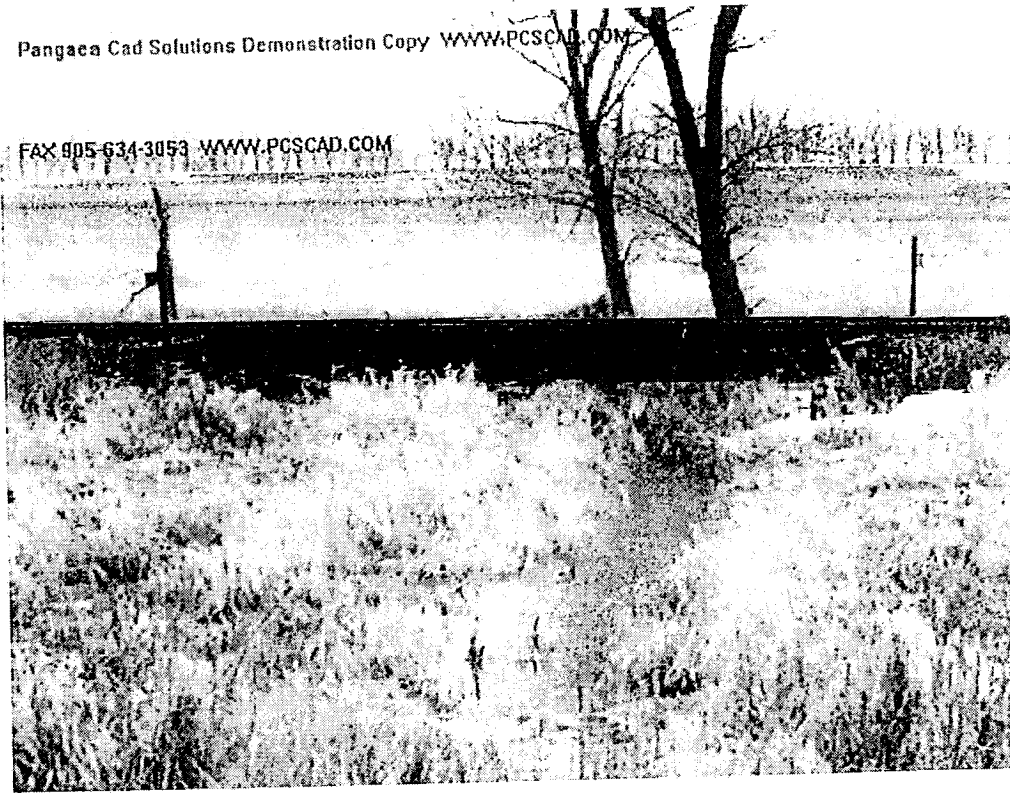


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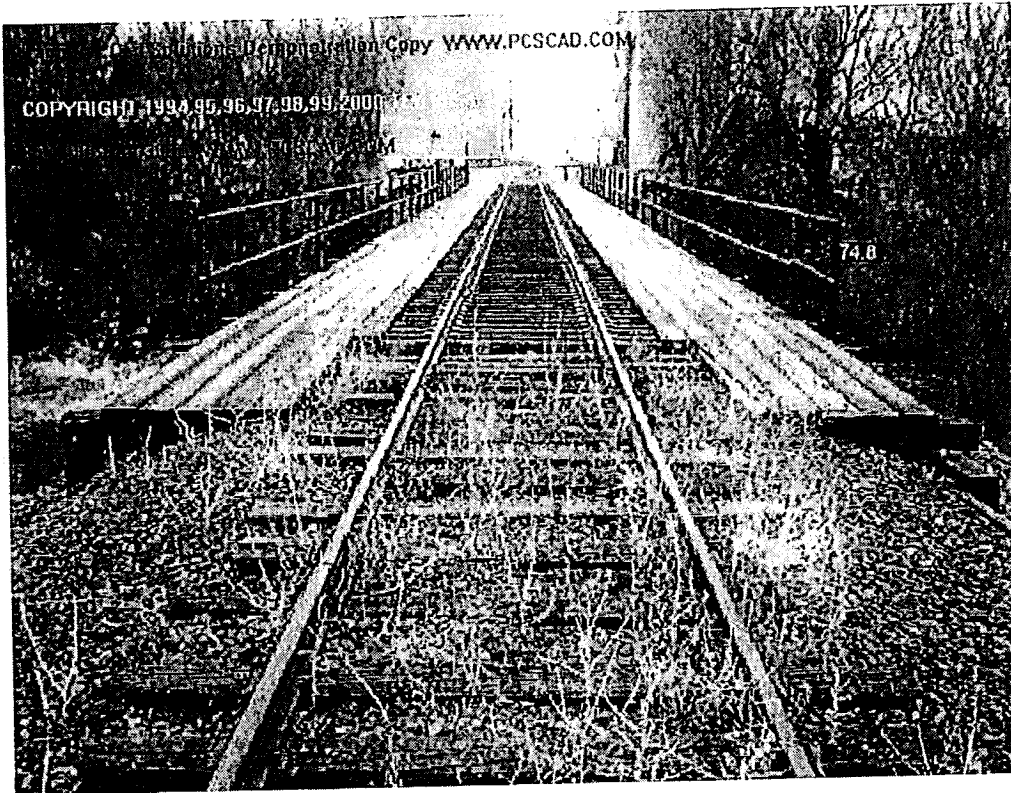
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FAX 905-634-3053 WWW.PCSCAD.COM







STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA

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Governor of North Dakota

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State Historical Board

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Department

Francis Ziegler
Director
Department of Transportation

Merlan E. Paaverud, Jr.
Director

Accredited by the
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of Museums since 1986

August 25, 2011

Mr. John A Sims CP
BNSF Railway Company
2500 Lou Menk Drive - AOB-3
Fort Worth TX 76131-2828

ND SHPO Ref.:11-2496 STB Docket No. AB-6 (Sub No. 478X) BNSF
Railway Company Abandonment Exemption Hunter to Arthur, MP 75.50 to
68.10 in portions of [T143N R52W Sections 13, 14, 23-26, 35, 36 and T142N
R52W Sections 1, 2, 11-14, 23-26] Cass County, North Dakota

Dear Mr. Sims,

We received ND SHPO Ref.:11-2496 STB Docket No. AB-6 (Sub No. 478X)
BNSF Railway Company Abandonment Exemption Hunter to Arthur, MP
75.50 to 68.10 in portions of [T143N R52W Sections 13, 14, 23-26, 35, 36 and
T142N R52W Sections 1, 2, 11-14, 23-26] Cass County, North Dakota. We do
not know of any structures eligible for listing in the National Register of Historic
Places along this segment.

Thank you for the opportunity to review this action to date. We look forward to
review of the historic report on this action. Please include the ND SHPO
Reference number listed above in further correspondence for this specific
project. If you have any questions please contact Susan Quinnell at (701) 328-
3576, or squinnell@nd.gov

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer
(North Dakota)

and

Director, State Historical Society of North Dakota