

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Cargill Incorporated
Rail Clearance Variance - Wahpeton, ND
Application

Case No. RR-12-746

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 **25th** day of **October 2012**, he deposited in the United States Mail, Bismarck, North Dakota, **one** envelope by regular mail, with postage fully prepaid, securely sealed and containing a photocopy of:

Order Granting Clearance Variance

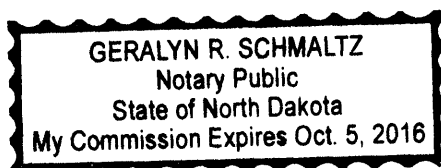
The envelope was addressed as follows:

Anne Stav
Cargill Corn Milling
18049 County Road 8 East
Wahpeton, ND 58075-9700

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

Subscribed and sworn to before me
this **25th** day of **October, 2012**.

SEAL



John B. Hamre

Gerald R. Schmalz

Notary Public

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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Rail Clearance Variance – Wahpeton, ND
Application

Case No. RR-12-746

ORDER GRANTING CLEARANCE VARIANCE

October 24, 2012

On September 21, 2012, Cargill Incorporated (Cargill) filed an application for a variance from the rail clearance standards prescribed by N.D.C.C § 49-10.1-13(2). The application included a letter, dated September 16, 2012, from Red River Valley & Western Railroad stating that it was not opposed to the application. The governing statute allows the Commission to grant variances from the prescribed clearance standards.

Cargill is seeking authorization due to improvements to the rail track with respect to the overhead walkway. The rail was raised during track improvements and as a result there is 16'10" between the top of the rails and the bottom of the overhead walkway at its Wahpeton, North Dakota facility. Close Clearance signs are already posted on each side of the walkway.

On September 28, 2012, 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 October 11, 2012, 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 October 10, 2012, 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.

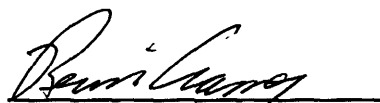
We find that granting the application is in the public interest. We conclude that we have jurisdiction over this matter.

The Commission orders:

1. 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 GRANTED.

2. All entrances to the track area must be marked on both sides of the track with reflectorized reduced clearance signs.

PUBLIC SERVICE COMMISSION



**Kevin Cramer
Commissioner**



**Brian P. Kalk
Chairman**



**Bonny M. Fetch
Commissioner**