

Project Overview

- Approximately 6 Miles of Paved Shared-Use Trail
- Open to Equestrian Traffic, Closed to Motorized Traffic
- Conversion from abandoned BNSF Railroad to Shared-Use Trail
- 3 Existing Bridges, 7 At Grade Street or Highway Crossings
- Project Organized by Hunter/Arthur JPA Park Board







Driveway Crossing

Street Crossing With Overhead Utilities

Culvert

Overhead Utility Crossing

Electrical Substation

Trail Head

Driveway Crossing

155TH AVE SE

19TH ST SE

155TH AVE SE

18

18TH ST SE

155T

Culvert

Culvert

Street Crossing

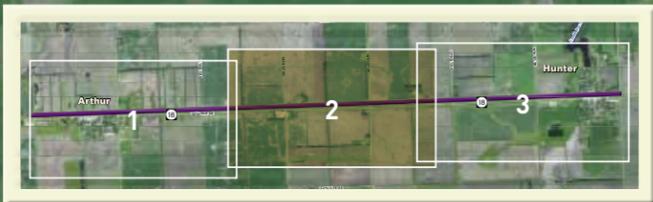
Culvert

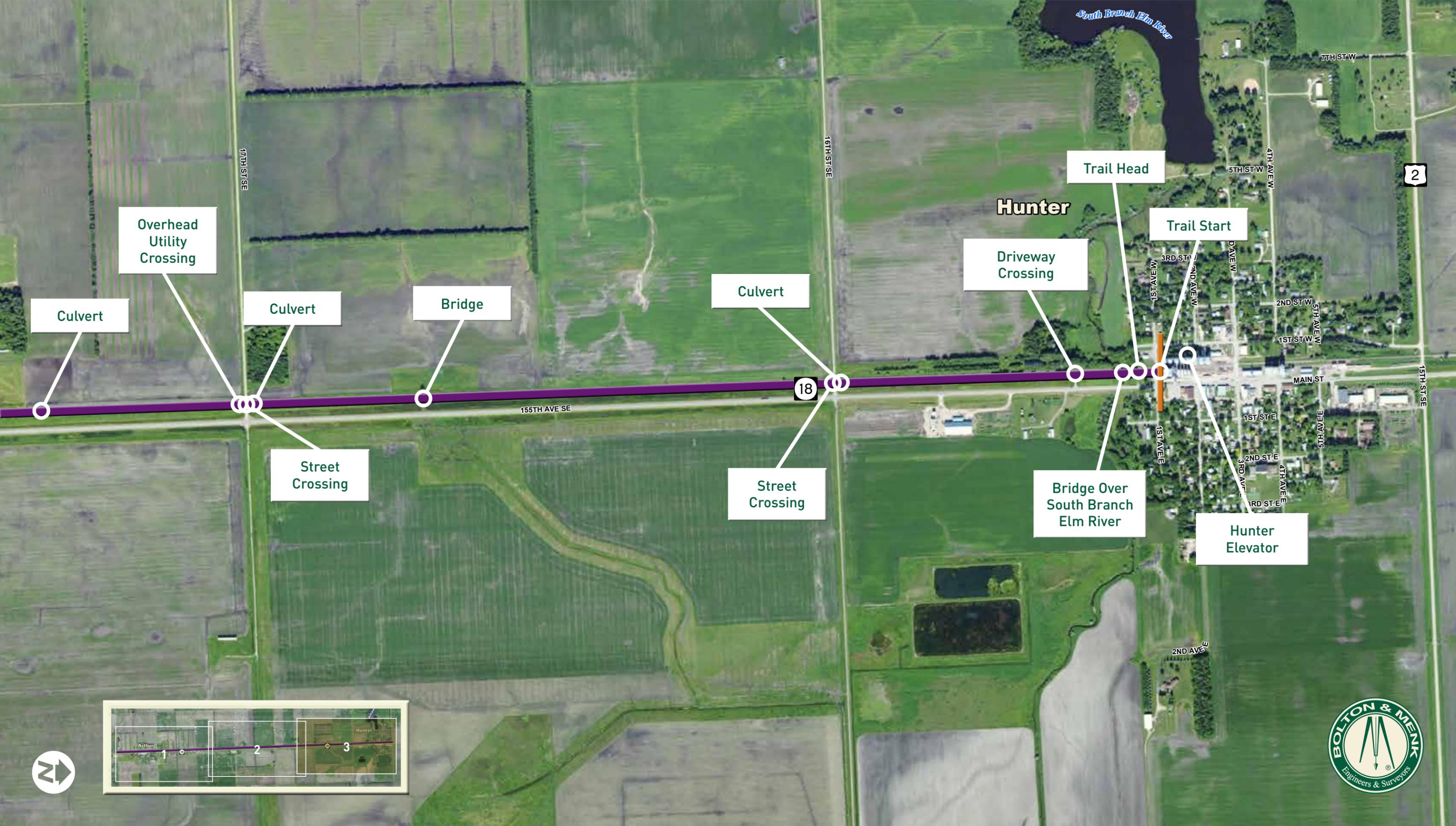
Culvert

26

18TH ST SE

To Northern Cass Public School





QUIT CLAIM DEED

WHEN RECORDED MAIL TO:

Joint Arthur and Hunter Park District
P.O. Box 98
Arthur, North Dakota 58006

QUITCLAIM DEED

THIS QUITCLAIM DEED, made this 26th day of September, 2013, by and between **BNSF RAILWAY COMPANY**, a Delaware corporation, with its principal office at 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830 ("BNSF"), and **JOINT ARTHUR AND HUNTER PARK DISTRICT**, a North Dakota 501(c) 3 organization, with its principal office at P.O. Box 98, Arthur, North Dakota 58006 ("**Grantee**").

WITNESSETH: That BNSF, for THIRTY EIGHT THOUSAND AND NO/100 DOLLARS (\$38,000.00) and other good and valuable consideration, to it in hand paid, the receipt of which is hereby acknowledged, does hereby REMISE, RELEASE and FOREVER QUITCLAIM, without any covenants of warranty whatsoever and without recourse to BNSF, its successors and assigns, unto Grantee, its successors and assigns, all of its right, title and interest, if any, in real estate and its rights under any leases related to such real estate, if any, subject however to all existing interests, including but not limited to all reservations, rights-of-way, leases, easements and other encumbrances, of record or otherwise, located in the County of Cass, State of North Dakota, more particularly described on the attached **EXHIBIT "A"**, pages 1-3 of 3, which is fully incorporated herein by reference (the "**Property**").

SUBJECT, to the terms of that certain Railbanking and Sale Contract, dated September 26, 2013 ("**Contract**"), which terms shall be incorporated herein, this quitclaim is dependent upon and pursuant to the issuance of a Notice of Interim Trail Use ("**NITU**") in Surface Transportation Board ("**STB**") Docket No. AB-6 (Sub-No. 478X), BNSF Railway Company – Abandonment Exemption in Cass County, North Dakota, in accordance with 16 U.S.C. Section 1247(d), the STB's rules and regulations pertaining to interim trails use, and other applicable authorities, all as amended from time to time;

SUBJECT, to interpretation pursuant to and in conformity with Section 8(d) of the National Trails Systems Act, 16 U.S.C. Section 1247(d), and the rules and regulations of the STB related thereto, all as may be amended from time to time. Grantee shall assume, indemnify, defend, and hold harmless BNSF from all financial, managerial and legal responsibility for the Property, including without limitation any liabilities and responsibilities assumed by or placed upon Grantee pursuant to and in accordance with the NITU, Grantee's Statement of Willingness to Assume Financial Responsibility filed with the STB, any applicable STB orders related to this quitclaim and any leases affecting the Property. Grantee acknowledges that any interim trail use by Grantee or its assigns shall be subject to the possibility of future restoration of rail service and/or BNSF's retained interests pursuant to the Contract and/or federal law. Grantee shall take all steps necessary, at no expense to BNSF, to comply with any and all state and federal requirements relating to such interim trail use and/or restoration. **Grantor shall not be liable for any penalties or direct, indirect, or consequential damages or costs, losses, or expenses arising out of the reactivation and restoration of rail service on the Property;**

SUBJECT, to Grantee's obligation that interim trail use by Grantee shall not impair future restoration of rail service pursuant to the National Trails Systems Act, as amended.

RESERVING, unto BNSF, all rail, ties, spikes, tie plates, rail anchors, ballast, signaling and communications equipment, crossings and crossing equipment, signage, roundhouses, depots, and other support facilities, track materials and supplies, whether or not same are deemed affixed to the Property ("Salvage Materials"). BNSF shall have a continuing right of entry on the Property for a period of 365 days from the date of Closing ("Salvage Period") in order to allow BNSF and its contractors to salvage said Salvage Materials. BNSF shall have the right, but not the obligation, to salvage all or a part of said Salvage Materials. Any Salvage Materials remaining on the Property after the Salvage Period shall be deemed abandoned and relinquished unto Grantee; provided, however, to the extent any such Salvage Materials remaining are owned by any third party (e.g., crossing equipment owned in whole or in part by a governmental authority), said interests shall not be quitclaimed unto Grantee.

ALSO RESERVING, unto BNSF, the right to reactivate and restore rail service on the Property. Should BNSF or any such assignee of BNSF exercise this right at any time, Grantee or its assignee shall allow reactivation of rail service on the terms and conditions set forth in the Contract. Upon BNSF's notice of intent to restore rail service, Grantee shall reconvey the Property to BNSF free and clear of any encumbrances or liens not in effect prior to the date of this Deed at no cost to BNSF except to the extent expressly provided otherwise in the Contract.

ALSO RESERVING, unto BNSF, BNSF's licensees, permittees and other third parties, all rights and interests in and to all existing utilities, fiber optic lines, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by BNSF, BNSF's licensees, permittees or other third parties and whether or not of public record. BNSF shall have a perpetual easement on the Property for the use of such existing utilities, fiber optic lines, wires and easements by BNSF and BNSF's licensees, permittees and customers. BNSF shall have a non-exclusive easement for the construction, maintenance and operation of one or more fiber optic lines and any and all communications facilities as may be located in the future on the Property within 60 feet of the center line of any main track on or adjacent to the Property and as may be presently located on the Property.

Grantee has been allowed to make an inspection of the Property and has knowledge as to the past use of the Property. Based upon this inspection and knowledge, Grantee is aware of the condition of the Property and **GRANTEE SPECIFICALLY ACKNOWLEDGES THAT THE PROPERTY IS BEING QUITCLAIMED ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM BNSF AS TO ANY MATTERS CONCERNING THE PROPERTY**, including, without limitation, the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property; and any leases, easements, reservations, permits, orders, licenses, or other rights or agreements, affecting the Property. **BNSF EXPRESSLY DISCLAIMS ANY WARRANTIES FOR THE**

PROPERTY OR APPURTENANCES THERETO, INCLUDING, WITHOUT LIMITATION, WARRANTIES AS TO TITLE, MERCHANTABILITY, HABITABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR CONFORMITY OF THE PROPERTY TO ITS INTENDED USE.

Grantee acknowledges and represents to BNSF that Grantee is aware of the risk that Hazardous Substances may be present on, under, in or about the Property and that Grantee has conducted such investigations of the Property, including but not limited to, the physical and environmental conditions thereof, that Grantee deemed necessary to satisfy itself as to the condition of the Property and will rely solely upon same and not upon any information provided by or on behalf of BNSF or its agents or employees with respect thereto. **GRANTEE ASSUMES THE RISK THAT ADVERSE MATTERS MAY NOT HAVE BEEN REVEALED BY GRANTEE'S INVESTIGATIONS, AND GRANTEE SHALL INDEMNIFY, HOLD HARMLESS AND HEREBY WAIVES, RELEASES AND DISCHARGES FOREVER BNSF (AND BNSF'S AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, LICENSEES AND INVITEES) FROM ANY AND ALL PRESENT OR FUTURE, KNOWN OR UNKNOWN, CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING, BUT NOT LIMITED TO, THOSE IN CONTRACT, TORT AND STRICT LIABILITY), DAMAGES (INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL AND PUNITIVE), LOSSES, INJURIES, LIABILITIES, COSTS (INCLUDING, BUT NOT LIMITED TO, FINES, PENALTIES, COURT COSTS AND ATTORNEYS' FEES) ARISING FROM OR IN ANY WAY RELATED TO (I) ANY LATENT OR PATENT CONDITIONS OF THE PROPERTY, (II) ANY BODILY INJURY OR DEATH OR LOSS OR DAMAGE TO THE PROPERTY OF ANY PERSON OR PERSONS WHOMEVER, INCLUDING THE PARTIES HERETO, IN ANY MANNER ARISING FROM OR GROWING OUT OF THE ACTS OR OMISSIONS, NEGLIGENT OR OTHERWISE, OF GRANTEE OR ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, LICENSEES AND INVITEES IN CONNECTION WITH THE ENTRY UPON, OCCUPATION OR USE OF THE PROPERTY, AND/OR (III) ANY ALLEGED OR ACTUAL PRESENCE, USE, STORAGE, GENERATION, MANUFACTURE, TRANSPORT, RELEASE, LEAK, SPILL, DISPOSAL OR OTHER HANDLING OF ANY HAZARDOUS SUBSTANCES IN, ON, UNDER OR ABOUT THE PROPERTY.** As used herein, the term "Environmental Law" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health, occupational safety, natural resources, plant or animal life or the environment, including without limitation, principles of common law and equity, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. As used herein, the term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material, contaminant or waste as defined, listed or regulated under any Environmental Law, and includes without limitation, petroleum oil and any of its fractions.

If any of the terms under this quitclaim deed shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, or (b) any other statutory or common law rules imposing like or similar time limits, then such terms shall continue only for the period of twenty-one (21) years after the death of the last survivor of the lineal descendants of Elizabeth II, Queen of England, living as of the date hereof.

Grantee acknowledges that, according to BNSF's records, BNSF's interest in the Property may be subject to reversion upon abandonment of use for railroad purposes or cessation of interim trail use, and that this Deed releases and quitclaims only BNSF's interest, if any, it may have in the Property.

Grantee also acknowledges that a material consideration for this quitclaim, without which it would not be made, is the agreement by Grantee, for itself and for its successors and assigns, that BNSF, its predecessors, successors, and assigns shall be in no manner responsible to Grantee, any subsequent owner, purchaser, or any person for any claims, demands, damages, causes of action, including loss of access, or suits regarding the quiet and peaceable possession of the Property, title thereto, or condition thereof.

The covenants and agreements set forth herein above, shall be binding upon Grantee and its heirs, successors and assigns, and shall be covenants running with the land benefiting Grantor and its heirs, successors and assigns.

TO HAVE AND TO HOLD the Property unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the said BNSF has caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the day and year first above written.

BNSF:

BNSF RAILWAY COMPANY,
a Delaware corporation

By: *Kurt Geringer*
Kurt Geringer
Its: General Director Real Estate

STATE OF TEXAS

§
§ ss.
§

COUNTY OF TARRANT

On this 21th day of September, 2013, before me, Rhonda Burton, a Notary Public in and for said County and State, personally appeared Kurt Geringer, to me known to be the General Director Real Estate of **BNSF RAILWAY COMPANY**, a Delaware corporation, the corporation that is described in and that executed the foregoing instrument and acknowledged to me that such corporation executed the same.



Rhonda L. Burton
Notary Public
My commission expires: 9/21/2016

Accepted:

GRANTEE:

JOINT ARTHUR AND HUNTER PARK DISTRICT,
a North Dakota 501(c) 3 organization

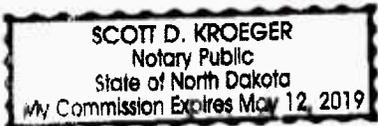
By: *OLA ANDERSON*
Print Name: OLA ANDERSON
Title: President

I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is for one of the transactions exempted by subdivision i as it relates to quitclaim deeds, if the subsection 7 of N.D. Cent. Code, § 11-8-02.2(1999).

Signed: *OLA ANDERSON* Date: 10-22-13
Grantee or Agent

STATE OF NORTH DAKOTA §
§ ss.
COUNTY OF CASS §

On this 22 day of October, 2013, before me, Scott KROEGER, a Notary Public in and for said County and State, personally appeared OLA ANDERSON to me known to be the President of **JOINT ARTHUR AND HUNTER PARK DISTRICT**, a North Dakota 501(c) 3 organization that is described in and that accepted the foregoing instrument and acknowledged to me that such organization accepted the same.



SCOTT KROEGER
Notary Public

My commission expires: 5-12-19

This Instrument Prepared by:

BNSF Railway Company
LAW Department
2500 Lou Monk Drive, AOB 3
Fort Worth, Texas 76131-2830

EXHIBIT "A"
(Property)

Nine tracts of land in the County of Cass, State of North Dakota, being that portion of BNSF Railway Company's (formerly Great Northern Railway Company) Arthur (MP 68.1) to Hunter (MP 74.91), North Dakota Branch Line right of way, varying in width on each side of said Railway Company's Main Track centerline, as originally located and constructed, described as follows:

Tract 1

That portion of said Railway Company's 150.0 foot wide Branch Line right of way, being 100.0 foot wide on the Easterly side and 50.0 feet wide on the Westerly side of said Main Track centerline upon, over and across the $W\frac{1}{2}NW\frac{1}{4}$ of Section 25, and the $E\frac{1}{2}NE\frac{1}{4}$ of Section 26, Township 142 North, Range 52 West, Fifth Principal Meridian, bounded Southerly by a line perpendicular to said Main Track centerline, distant 1313 feet Southerly of the North line of said Section 25, as measured along said Main Track centerline, and bounded Northerly by the North lines of said Section 25 and said Section 26;

Tract 2

That portion of said Railway Company's 150.0 foot wide Branch Line right of way, being 50.0 foot wide on the Easterly side and 100.0 feet wide on the Westerly side of said Main Track centerline upon, over and across the $W\frac{1}{2}SW\frac{1}{4}$ of Section 24, and the $E\frac{1}{2}SE\frac{1}{4}$ of Section 23, Township 142 North, Range 52 West, Fifth Principal Meridian, bounded on the North and South by the North and South lines of said $W\frac{1}{2}SW\frac{1}{4}$ of Section 24 and said $E\frac{1}{2}SE\frac{1}{4}$ of Section 23;

Tract 3

That portion of said Railway Company's 160.0 foot wide Arthur, North Dakota Station Ground property, being 60.0 foot wide on the Easterly side and 100.0 foot wide on the Westerly side of said Main Track centerline upon, over and across the $W\frac{1}{2}NW\frac{1}{4}$ of Section 24 and the $E\frac{1}{2}NE\frac{1}{4}$ of Section 23, Township 142 North, Range 52 West, Fifth Principal Meridian, bounded on the North and South by the North and South lines of said $W\frac{1}{2}NW\frac{1}{4}$ of Section 24 and said $E\frac{1}{2}NE\frac{1}{4}$ of Section 23. **EXCEPTING THEREFROM**, that portion of said 160.0 foot wide Arthur Station Ground property lying Westerly of a line parallel with and distant 25.0 feet Westerly from, measured at right angles to said Railway Company's Main Track centerline as now located and constructed, and Southerly of a line perpendicular to said Main Track centerline, distant 2000 feet Northerly of the South line of said $W\frac{1}{2}NW\frac{1}{4}$ of Section 24, as measured along said Main Track centerline.

Tract 4

That portion of said Railway Company's 200.0 foot wide Branch Line right of way, being 100.0 foot wide on each side of said Main Track centerline upon, over and across the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 13 and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 14, Township 142 North, Range 52 West, Fifth Principal Meridian, bounded on the North and South by the North and South lines of said W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 13 and said E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 14;

Tract 5

That portion of said Railway Company's Branch Line right of way, upon, over and across the W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 13, Township 142 North, Range 52 West, Fifth Principal Meridian, bounded as follows:

On the North by the North line of said Section 13; On the East by a line parallel with and distant 100.0 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline as originally located and constructed; On the South by the South line of said W $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 13, and on the West by the West line of said Section 13.

Tract 6

That portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 foot wide on each side of said Main Track centerline upon, over and across the W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 12, Township 142 North, Range 52 West, Fifth Principal Meridian, bounded on the North and South by the North and South lines of said Section 12.

Tract 7

That portion of said Railway Company's 200.0 foot wide right of way, being 100.0 foot wide on each side of said Main Track centerline upon, over and across the W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 1, Township 142 North, Range 52 West, the W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 36, and the W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 25, Township 143 North, Range 52 West, Fifth Principal Meridian bounded on the North by the North line of said Section 25, and bounded on the South by the South line of said Section 1;

Tract 8

That portion of said Railway Company's 150.0 foot wide Branch Line right of way, being 50.0 foot wide on the Easterly side and 100.0 foot wide on the Westerly side of said Main Track centerline upon, over and across the $W\frac{1}{2}SW\frac{1}{4}$ of Section 24 and the $E\frac{1}{2}SE\frac{1}{4}$ of Section 23, Township 143 North, Range 52 West, Fifth Principal Meridian, bounded on the North and South by the North and South lines of said $W\frac{1}{2}SW\frac{1}{4}$ of Section 24 and of $E\frac{1}{2}SE\frac{1}{4}$ of Section 23;

Tract 9

That portion of said Railway Company's Hunter, North Dakota Station Ground property, upon, over and across the $SW\frac{1}{4}NW\frac{1}{4}$ of Section 24, Township 143 North, Range 52 West, Fifth Principal Meridian, bounded as follows:

On the North by the North line of 1st Avenue West, in the City of Hunter, North Dakota; On the East by a line parallel with and distant 150.0 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline as originally located and constructed; On the South by the South line of said $SW\frac{1}{4}NW\frac{1}{4}$ of Section 24, and on the West by the West line of said $SW\frac{1}{4}NW\frac{1}{4}$ of Section 24;

EXCEPTING THEREFROM, that certain tract or parcel of land described in deed dated July 22, 1959 from Great Northern Railway Company to Carl Haugen and Venadis H. Haugen, said tract or parcel being described as that portion of said Station Ground property lying Southerly of a line perpendicular to said Main Track centerline, distant 170.0 feet Northerly from said South line of the $SW\frac{1}{4}NW\frac{1}{4}$ of Section 24, as measured along said Main Track centerline, and Easterly of a line parallel with and distant 50.0 feet Easterly from, measured at right angles to said Railway Company's Main Track centerline, as now located and constructed.

**"THE LEGAL DESCRIPTION WAS PREPARED BY JONES LANG LASALLE, 4300 AMON
CARTER BLVD., SUITE 100, FORT WORTH, TEXAS 76155-2685"**



Board of County Commissioners

Scott Wagner
Fargo, North Dakota

April 16, 2012

Vern Bennett
Fargo, North Dakota

Ken Pawluk
Fargo, North Dakota

Shari Murray, President
Hunter Park Board
PO Box 301
Hunter ND 58048-0301

Dale Shields, President
Arthur Park Board
PO Box 72
Arthur ND 58006-0072

Darrell W. Vanyo
West Fargo, North Dakota

Robyn Sorum
Horace, North Dakota

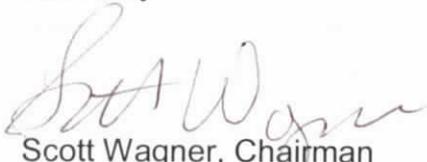
RE: Rails to Trails Project

Dear Ms. Murray and Mr. Shields:

The Cass County Park Board met on April 2, 2012, and heard a presentation from Bridgette Readel regarding the Rails to Trails project being pursued by your park boards.

The county applauds your efforts to improve your city parks with the addition of a recreational trail. The Cass County Commission and Cass County Park Board support the Hunter Park Board and Arthur Park Board in your pursuit of this opportunity.

Sincerely,



Scott Wagner, Chairman
Cass County Commission



Chad Peterson, Chairman
Cass County Park Board

Heather Worden
Commission Assistant

Box 2806
211 Ninth Street South
Fargo, North Dakota 58108

701-241-5609
Fax 701-241-5728
www.casscountynd.gov



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>

201605

October 7, 2015

Kevin Stankiewicz
ND Parks and Rec
INSIDE MAIL

Dear Mr. Stankiewicz:

This is in response to your request for review of environmental impacts associated with the Recreational Trail Program's project, Northern Cass Pass, located in Cass County, ND. The project is located in Township 142, Range 52, Section 24, Latitude: 47.1047, Longitude: 97.2167.

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

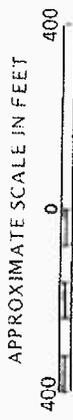
- There are floodplains identified and/or mapped where the proposed project is to take place. The areas are designated to be in Zone AE. North Dakota has no formal "permitting" authority as a state entity in National Flood Insurance Program (NFIP) identified floodplain areas. The permitting is always done by the local entity, which has jurisdiction in the area in question. Please work closely with the City Floodplain Administrator. The Floodplain Administrator for Arthur is: Mark Sorvaag; PO Box 161; Arthur, ND 58006; 701-967-8327. The NFIP map used to make this determination is: Panel #3801560001B, Date 9/30/1993. The Floodplain Administrator for Hunter is: Tracy Bender; PO Box 56; Hunter, ND 58048; 701-306-0289. The NFIP map used to make this determination is: Panel 3801810001A, Date 12/4/1979. The NFIP maps are enclosed.
- 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.

Thank you for the opportunity to provide review comments. If you have any questions, please call me at 701-328-4967.

Sincerely,

Linda Weispfenning
Water Resource Planner

LW:dm/1570
Encls.



NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

CITY OF
ARTHUR,
NORTH DAKOTA
CASS COUNTY

ONLY PANEL PRINTED

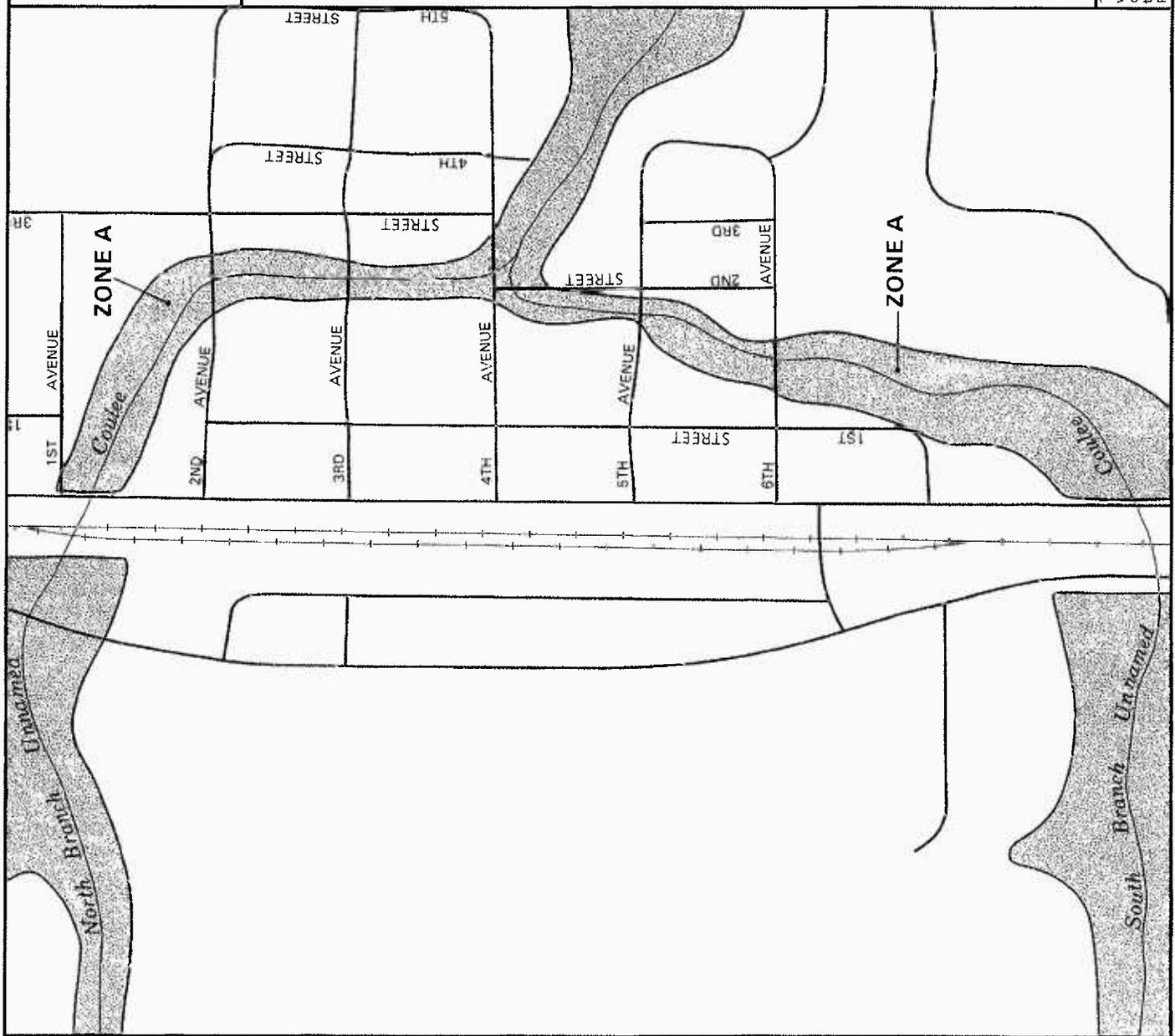
COMMUNITY-PANEL NUMBER
380156 0001 B

MAP REVISED:
SEPTEMBER 30, 1993



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



2015/10/05

Natural Resources
Conservation
Service

October 5, 2015

PO Box 1458
Bismarck, ND
58502-1458
Voice 701.530.2000
Fax 855-813-7556

Kevin Stankiewicz
Recreation and Trails Grant Coordinator
North Dakota Parks and Recreation
1600 East Century Avenue, Suite 3
Bismarck, North Dakota 58503-0649

RE: Northern Cass Pass
Cass County

Dear Mr. Stankiewicz:

The Natural Resources Conservation Service (NRCS) has reviewed your letter dated September 21, 2015, concerning a proposal with the North Dakota Parks and Recreation Department, in cooperation with the Federal Highway Administration, for a Recreational Trail Program Project for: Northern Cass Pass.

Farmland Protection Policy Act

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

Wetlands

The Wetland Conservation Provisions of the 1985 Food Security Act, as amended, provide that if a USDA participant converts a wetland for the purpose or to have the effect of making agricultural production possible, loss of USDA benefits could occur. Your proposed project appears to be within the existing road right of way; therefore, wetland conversion that will make production possible is not anticipated.

If construction of your project impacts adjacent wetlands, be advised of the following. The Natural Resource Conservation Service has developed guidelines to help avoid impacts to wetlands and possible loss of USDA benefits for producers. If these guidelines are followed the impacts to the wetland will be considered minimal allowing USDA participants to continue to receive USDA benefits. Following are the requirements:

- Disturbance to the wetland must be temporary.

- No drainage of wetland is allowed (temporary or permanent).
- Mechanized landscaping necessary for installation is kept to a minimum and preconstruction contours are maintained.
- Temporary side cast material must be placed in such a manner not to be dispersed in the wetland.
- All trenches in a wetland must be backfilled to the original elevation.

NRCS recommends that impacts to wetlands be avoided. If you have additional questions pertaining to FPPA, please contact Steve Sieler, Liaison Soil Scientist, NRCS, Bismarck, ND at 701-530-2019.

Sincerely,



WADE D. BOTT
State Soil Scientist

Barry Johnson

From: Stankiewicz, Kevin M. <kstankiewicz@nd.gov>
Sent: Monday, November 30, 2015 9:10 AM
To: Barry Johnson
Cc: bmreadel@dow.com
Subject: RE: RTP #201605 Hunter Arthur

Excellent, thank you for the clear and concise response.

Sincerely,

Kevin Stankiewicz

*North Dakota Parks and Recreation Department
Recreation & Trails Grant Coordinator
Scenic Byway Program Coordinator
Ph:701-328-5364
Fax:701-328-5363
Web: www.parkrec.nd.gov*

From: Barry Johnson [mailto:barryjo@bolton-menk.com]
Sent: Monday, November 30, 2015 9:00 AM
To: Stankiewicz, Kevin M.
Cc: bmreadel@dow.com
Subject: RTP #201605 Hunter Arthur

Mr. Stankiewicz,

Please accept this email as the formal response to your email addressed to Ms. Bridgette Readel on November 25, 2015.

ND State Water Commission Letter

- The Hunter Arthur Joint Park Board JPA and myself concur with the October 7, 2015 ND State Water Commission letter as signed by Ms. Linda Weispenning.
- The proposed RTP project entails only paving (and seeding) of the existing corridor and no soil disturbances outside of the existing ballast section will occur.

USDA Letter

- The Hunter Arthur Joint Park Board JPA and myself concur with the October 5, 2015 USDA letter as signed by Mr. Wade D. Bott.
- The proposed RTP project entails only paving (and seeding) of the existing corridor and no soil disturbances outside of the existing ballast section will occur.

In regards to your additional questions:

- **Whooping Cranes:** There are no adjustments of any utility lines along the length of the corridor, nor are there any new installations of utilities along the corridor for this project.
- **Northern Long-Eared Bat:** There are no removals of trees or buildings as part of this project. There is no work on any bridge structures as part of this project.

Thank you for your comments and assistance in this project. Please feel free to contact me or members of the Hunter Arthur JPA if you have any additional questions, concerns or comments.

Barry D. Johnson, P.E.
Senior Project Manager
Bolton & Menk, Inc.
Consulting Engineers & Surveyors
3168 41st Street South
Suite 2
Fargo, ND 58104
P: (701) 566.5339
M: (701) 936.3695
F: (701) 566.5348
email: barryjo@bolton-menk.com
www.bolton-menk.com

DESIGNING FOR A BETTER TOMORROW

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CITY OF HUNTER

P.O. BOX 56 • HUNTER, NORTH DAKOTA 58048

March 31, 2014

North Dakota Industrial Commission
Outdoor Heritage Fund
State Capitol 14th Floor
600 E. Boulevard Ave. Dept. 405
Bismarck, ND 58505-0840

RE: Outdoor Heritage Fund Grant Application
Northern Cass Pass

Dear Sir/Madam:

On behalf of the City of Hunter, ND, please accept this letter as our support for the Northern Cass Pass Rails to Trails project. The improvement of this corridor will provide unique recreational opportunities for the citizens of Hunter and surrounding areas. Not only will the trail provide a safe pedestrian corridor between the communities of Arthur and Hunter, it will preserve the natural environment that has been developed over the past 100 years with the Railway Right of Way.

Again, please accept this letter as whole hearted endorsement of the Northern Cass Pass project.

Thank you.

Sincerely,



Mayor Ben Olson
City of Hunter, ND

JOINT POWERS AGREEMENT

THIS JOINT POWERS AGREEMENT, made and entered into this 17th day of April, 2013 (hereinafter referred to as the “effective date”) by and between the Park District of the City of Arthur, North Dakota, whose post office address is c/o Jennifer Degerness, PO Box 161, Arthur, ND 58006 (hereinafter referred to as “Arthur”), and the Park District of the City of Hunter, North Dakota, whose post office address is PO Box 301 Hunter, ND 58048 (hereinafter referred to as “Hunter”).

WHEREAS, The Arthur Park Board and the Hunter Park Board have jointly applied to the U.S. Surface Transportation Board to use abandoned railroad right of way to build a bike trail to go approximately 6.81 miles from milepost 68.1 near Arthur to milepost 74.91 near Hunter;

Whereas, Arthur and Hunter require the joint exercise of powers in order to provide for the building of the bike trail and the future maintenance and repair of the bike trail and desire to form a separate joint powers entity to construct and maintain the bike trail.

Whereas, Arthur and Hunter require donations in order to complete the improvements and need a method to receive donations for the trail;

WHEREAS, Arthur and Hunter are interested in working in a cooperative manner to undertake the bike trail project pursuant to the terms and conditions of this Joint Powers Agreement.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

Now therefore, upon approval by their respective governing bodies, the Arthur and Hunter hereby enter into this Joint Powers Agreement for the following purposes and upon the following terms:

1. The purpose of the Joint Powers Agreement is to facilitate the funding for and undertake the construction of a bike trail as described above between Arthur and Hunter.
2. The term of this Agreement shall be perpetual, but may be amended by parties to this Agreement at any time as provided herein.
3. The new bike trail (hereinafter the “Project”) will generally consist of a paved trail a distance of 6.81 miles from milepost 68.1 near Arthur to milepost 74.91 near Hunter.
4. The construction of the Project will be undertaken and managed by the Joint Arthur and Hunter Park District (hereinafter “District”), a municipal corporation under the laws of the State of North Dakota, address PO Box 161, Arthur, ND 58006, which shall be created pursuant to this Agreement and shall consist of the following six members:

3 members of the Arthur Park Board appointed by the Arthur Park Board;

3 members of the Hunter Park Board appointed by the Hunter Park Board;

One of the members shall be the Chairman of the Joint Arthur and Hunter Park District;

In the event that a Board member serving on the District ceases to serve as an elected Board member, the respective Board shall designate another member of its body to fill that position on the District.

4. The Project will be constructed at the location described above. Upon the completion of construction if not before, the Project will be the property of the Joint Arthur and Hunter Park District and this municipal entity will have the responsibility for ongoing operation, maintenance and insurance of the Facility. Should the Joint Arthur and Hunter Park District cease to exist or become dissolved, the property shall revert as follows: the northern one half of the trail to the Park District of the City of Hunter and the southern one-half of the bike trail to the Park District of the City of Arthur.

5. The District shall have the authority to:

- a) Retain architects, engineers and/or construction managers;
- b) Approve plans and specifications;
- c) Advertise for bids, approves bonds and award contracts;
- d) Approve change orders and payments;
- e) To apply for federal or state aid or funds from other public or private sources (including contributions in exchange for naming rights) and to accept gifts and grants and other assistance for the project;
- f) To provide for insurance on the Project during construction; and
- g) To do any other necessary and proper matters in fulfillment of the purposes of this Agreement.

The District shall not have the authority to enact ordinances, levy taxes or exercise the right of eminent domain.

6. The District shall determine the manner in which the parties to this agreement will finance the project and establish and maintain a budget for the project. The parties to this agreement may expend funds pursuant to this agreement, use unexpended balances of their respective current funds, accumulate funds from year to year and otherwise share or contribute funds in accordance with this agreement. The parties may also provide personnel, equipment and property to the project. The preliminary budget for the project and the expected sources of funds are as follows:

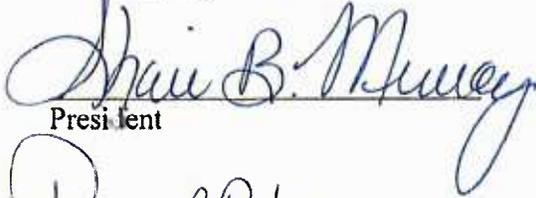
Estimated costs:

Sources of funds:

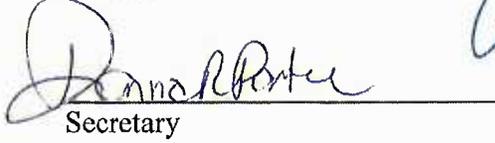
7. This agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.
8. **Written Amendment Required.** No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Limited Joint Powers Agreement.
9. **Grammatical Construction.** Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other genders where appropriate.
10. **Severability Clause.** Each provision, section, sentence, clause, phrase, and word of this Limited Joint Powers Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Limited Joint Powers Agreement.
11. **Agreement Binding on Successors.** This Limited Joint Powers Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.
12. **North Dakota Law Applies.** This Limited Joint Powers Agreement shall be controlled by the laws of the State of North Dakota, and any action brought as a result of any claim, demand or cause of action arising under the terms of this Limited Joint Powers Agreement shall be brought in an appropriate venue in the State of North Dakota.
13. **Execution in Counterparts.** This Limited Joint Powers Agreement may be executed in counterparts with both City and Township having a fully-executed counterpart.

Adopted and Approved by the parties

Park District of the City of Hunter
date 4-17-13

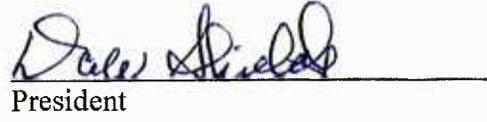


President

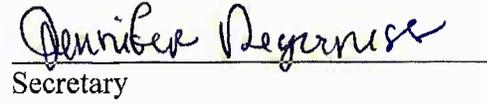


Secretary

Park District of the City of Arthur
date 5-29-13



President



Secretary

March 31, 2014

North Dakota Industrial Commission
Outdoor Heritage Fund
State Capitol 14th Floor
600 E. Boulevard Ave. Dept. 405
Bismarck, ND 58505-0840

RE: Outdoor Heritage Fund Grant Application
Northern Cass Pass

Dear Sir/Madam:

On behalf of the City of Hunter, ND, please accept this letter as our support for the Northern Cass Pass Rails to Trails project. The improvement of this corridor will provide unique recreational opportunities for the citizens of Hunter and surrounding areas. Not only will the trail provide a safe pedestrian corridor between the communities of Arthur and Hunter, it will preserve the natural environment that has been developed over the past 100 years with the Railway Right of Way.

Again, please accept this letter as whole hearted endorsement of the Northern Cass Pass project.

Thank you.

Sincerely,

Mayor Ben Olson
City of Hunter, ND

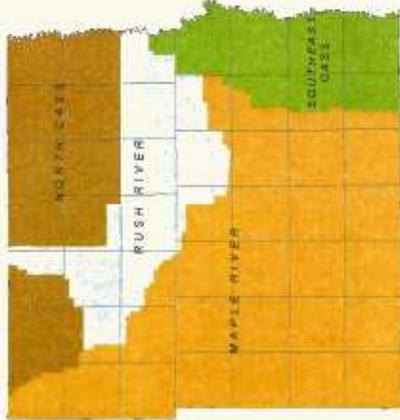
Cass County

North Dakota

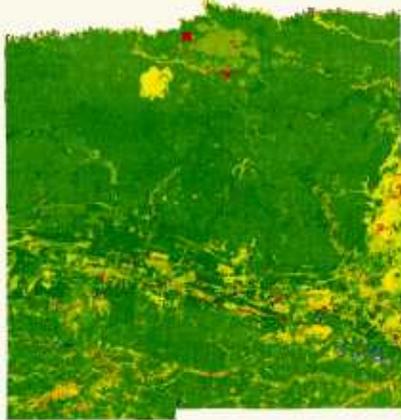
Official Highway Map

- Interstates
- US Routes
- State
- County Roads
- Villages
- Exit Ramp
- City Limits
- Fargo
- West Fargo
- Paved
- Gravel
- Drain/Coulee/Ditch
- Intermittent Stream
- Perennial Stream
- Lake
- Bridge

Water Resource Districts



Soil Productivity



- Low
- High

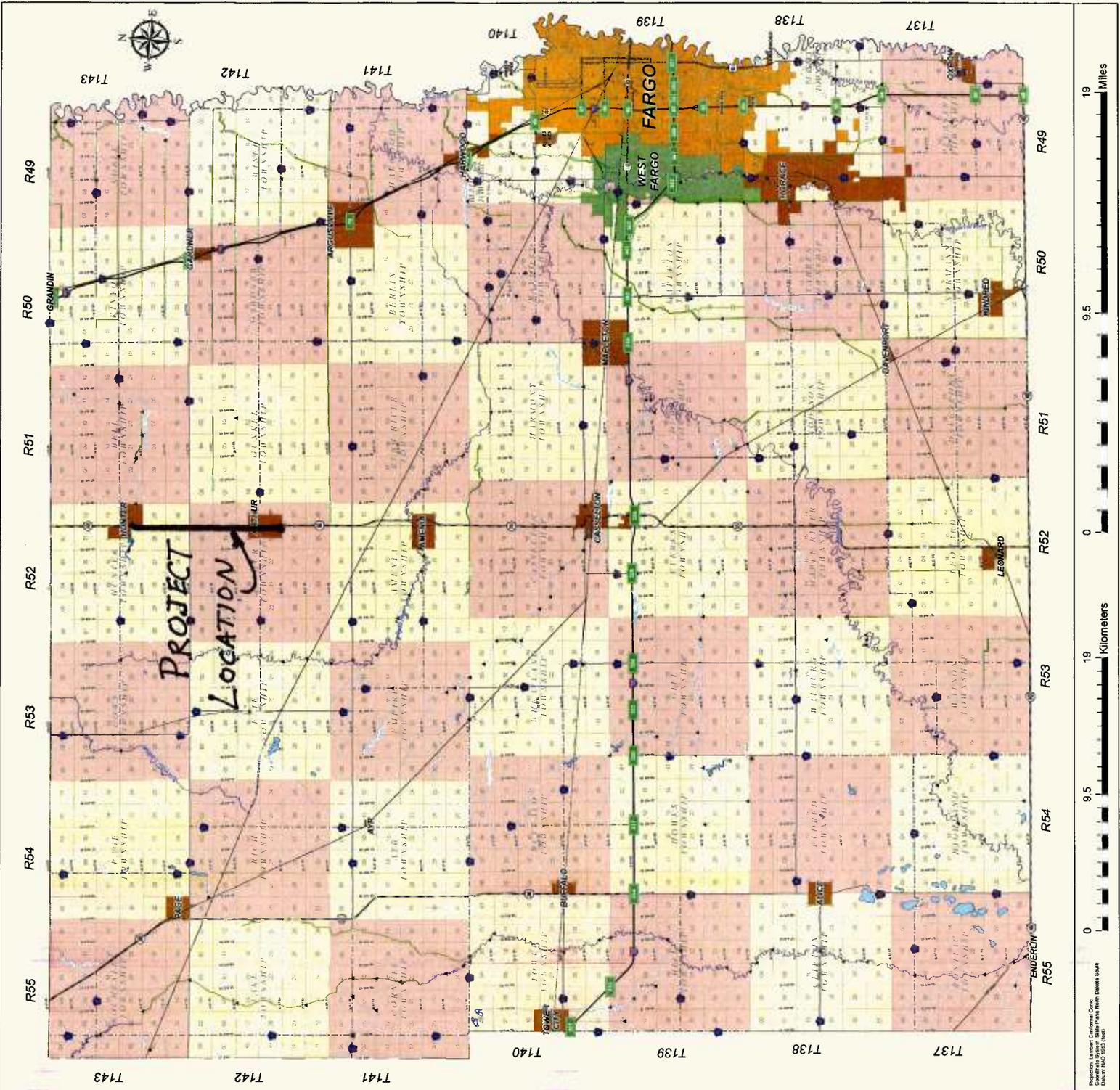
Jason Benson
County Engineer, P.E.



Cass County Hwy. Dept.
2800 1st Ave. S.
West Fargo, ND 58078
(701) 296-2370
Web: <http://www.casscountynod.gov>
Email: highways@casscountynod.gov

Date: 9/22/2015

Disclaimer: As with all public information derived from available sources, this data may contain errors or omissions. Therefore, Cass County does not provide any warranty, express or implied, as to the accuracy or reliability of the data. The user assumes all responsibility for the use of this information and agrees to hold Cass County harmless from any and all claims, damages, or liabilities that may arise from the use of this information. This map is not a substitute for an accurate field survey.



0 9.5 19 Miles

0 9.5 19 Kilometers

Projection: Lambert Conformal Conic
Coordinate System: StatePlane North Dakota North
Datum: NAD 1983
Units: Meter



655 Fifteenth Street, NW Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307
f 202.783.6947

231227

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STB

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Office of Proceedings

NOV 2 - 2011

Part of
Public Record

November 2, 2011

Karl Morell
Of Counsel

kmorell@balljanik.com

BY HAND DELIVERY

Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

FILED

NOV 2 - 2011

**SURFACE
TRANSPORTATION BOARD**

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

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Notice of
Exemption under 49 C.F.R. § 1152.50. Also attached is a check
covering the \$3,600 filing fee.

If you have any questions, please call me.

Sincerely,

Karl Morell
Of Counsel

FEE RECEIVED

NOV 2 - 2011

**SURFACE
TRANSPORTATION BOARD**

Enclosures

231227

BEFORE THE
SURFACE TRANSPORTATION BOARD

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STB

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

FILED

NOTICE OF EXEMPTION

NOV 2 - 2011

SURFACE
TRANSPORTATION BOARD

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Office of Proceedings

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SURFACE
TRANSPORTATION BOARD

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

Courtney Biery Estes
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street
Washington, D.C. 20005
(202) 638-3307

Dated: November 2, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

RECEIVED
NOV 2 2011
MANAGEMENT
STB

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

NOTICE OF EXEMPTION

ENTERED
Office of Proceedings
NOV 2 -- 2011
Part of
Public Record

BNSF Railway Company ("**BNSF**") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to abandon 7.40 miles of rail line located between Milepost 68.10 at Arthur and Milepost 75.50 at Hunter in Cass County, North Dakota (the "**Line**").

1. *Proposed consummation date.*

The proposed consummation date is December 22, 2011.

2. *Certification required by 49 C.F.R. § 1152.50(b).*

The required certification is attached hereto as **Exhibit A**.

3. *Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7) and (8) and (e)(4).*

(a) *General.*

(1) *Exact name of applicant.*

BNSF Railway Company

FEE RECEIVED

NOV 2 - 2011

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TRANSPORTATION BOARD**

FILED

NOV 2 - 2011

**SURFACE
TRANSPORTATION BOARD**

- (2) ***Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.***

BNSF is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

- (3) ***Relief sought.***

BNSF seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon 7.40 miles of rail line located between Milepost 68.10 at Arthur and Milepost 75.50 at Hunter, in Cass County, North Dakota. There has been no local freight rail traffic on the Line since October, 2005. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Arthur and Hunter are the only stations on the Line.

- (4) ***Map.***

A map of the Line is attached as **Exhibit B**.

- (7) ***Name, title and address of representative of applicant to whom correspondence should be sent.***

Karl Morell
Ball Janik LLP
655 Fifteenth Street
Suite 225
Washington, D.C. 20005

- (8) ***List of all United States Postal Service ZIP codes that the line proposed for abandonment traverses.***

The Line traverses U.S. ZIP codes: 58006 and 58048.

- (e) ***Rural and community impact.***

- (4) ***Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation,***

conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

The Line traverses predominantly suburban/urban areas with more than adequate road and highway networks, therefore, there is little or no likelihood that the rail corridor is needed for transit purposes. The right-of-way, however, is suitable for recreational trails. Some of the property underlying the right-of-way is reversionary, which would affect the transfer of the property for other than rail or rail-banking purposes.

4. *The level of labor protection.*

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

5. *Certification.*

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 1105.12 are attached as **Exhibit C**.

6. ***Environmental Report.***

The Environmental Report containing information required by 49 C.F. R. § 1105.7(e) is attached hereto as **Exhibit D**. Based on information in our possession, the Line does contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

7. ***Historic Report.***

The Historic Report containing information required by 49 C.F.R. § 1105.8 is attached hereto as **Exhibit D**.

Respectfully submitted,



Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street
Washington, D.C. 20005
(202) 638-3307

Courtney Biery Estes
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131

Dated: November 2, 2011

EXHIBIT A

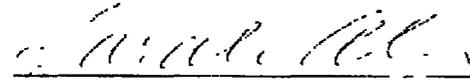
**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF TEXAS)
) **ss.**
TARRANT COUNTY)

I, Farah Ali, being duly sworn depose and state that I am Manager Network Studies for BNSF Railway Company ("**BNSF**"), that I am authorized to make this verification and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information and belief.

I hereby certify that no local traffic has been handled to or from any customer over the rail line located between Milepost 68.10 at Arthur and Milepost 75.50 at Hunter, in Cass County, North Dakota ("the **Line**") since October, 2005. The Line is stub-ended and, therefore, not capable of handling overhead traffic. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant since October, 2005.

The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information and belief of the undersigned.

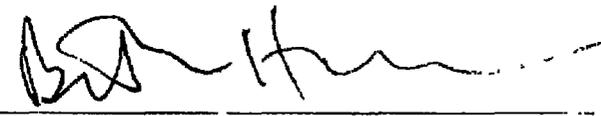


Parah Ali
Manager Network Studies

SUBSCRIBED AND SWORN TO before me this 1st day of November, 2011.

My Commission Expires: _____





Notary Public

Arthur - Hunter, ND

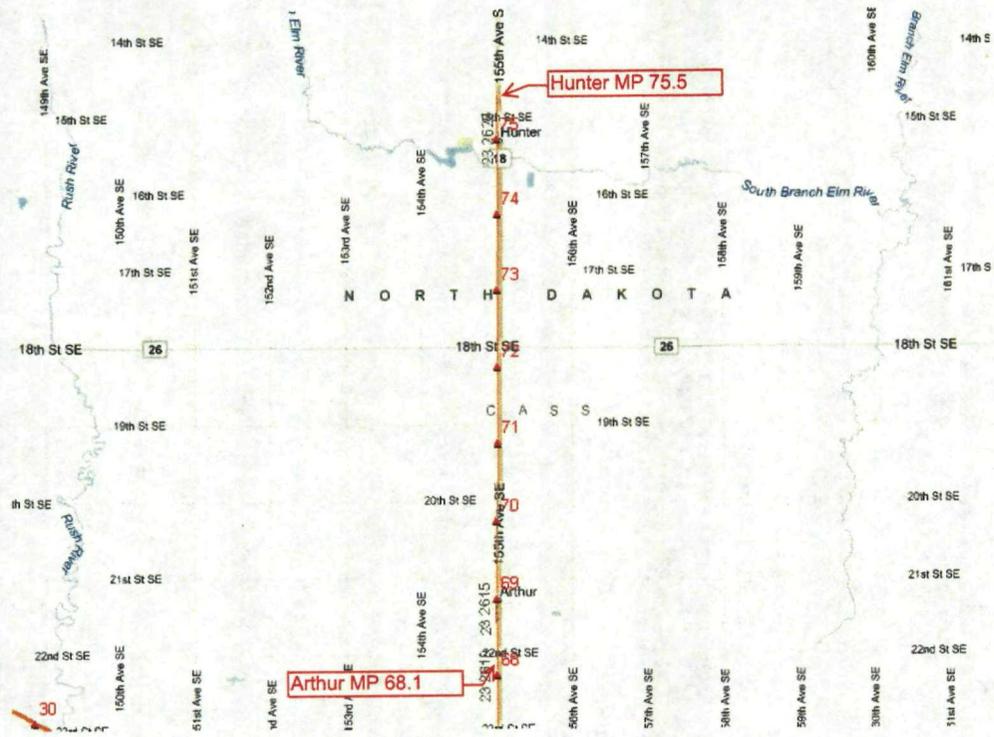


EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB-6 (Sub-No. 478X) was mailed via first class mail on October 18, 2011, to the following parties:

State Public Service Commission

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

State Single Point of Contact
Governor's Office
600 East Boulevard, Dept 101
Bismark, ND 58505-3001

Military Traffic Management Command

MTMCCTEA
ATTN: SDTE-SE
Railroads for National Defense
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

National Park Service

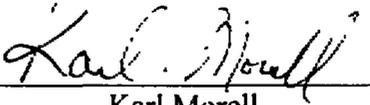
U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Division
1849 C Street, NW
Washington, DC 20240-0001

National Park Service
RTCA Program
601 Riverfront Drive
Omaha, NE 68102-4226

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Yates Building
201 14th Street. SW
Washington, DC 20250

Dated: November 2, 2011


Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB-6 (Sub-No. 478X) was published on October 19, 2011, in the Cass County Reporter, a newspaper published weekly in Cass County, North Dakota as required by 49 C.F.R. § 1105.12.

Dated: November 2, 2011



Karl Morell

**CERTIFICATE OF SERVICE
ENVIRONMENTAL AND HISTORIC REPORTS**

The undersigned hereby certifies that, in STB Docket No. AB-6 (Sub-No. 474X), the transmittal letter required by 49 C.F.R. § 1105.11, was mailed to all agencies listed in 49 C.F.R. § 1105.7(b), via first class mail on October 11, 2011.

Pursuant to the requirements of 49 C.F.R. § 1105.7 and 1105.8, the undersigned hereby certifies that copies of the foregoing Environmental and Historic Reports were mailed via first class mail on October 11, 2011 to the following agencies:

Ms. Victoria Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

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

Mr. Tim Solberg
Cass County Planner
Planning Office
1201 Main Avenue West
West Fargo, ND 58078

Honorable Steven Perry
Mayor City of Arthur
Community Hall
Main Street
Arthur, ND 58006

Hunter City Hall
116 Main St
Hunter, ND 58048

The National Geodetic Survey
Department of Commerce/NOAA
SSMC3
Station 9356
1315 East West Highway
Silver Spring, MD 20910

Mr. Larry Knudtson
North Dakota State Water Commission
900 East Boulevard Avenue, Dept. 770
Bismarck, ND 58505-0850

Mr. Emilio Llamozas
U.S. Environmental Protection Agency
Region 8
1595 Wynkoop St.
Denver, CO 80202-1129

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

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

Mr. Jerome M. Schaar
Natural Resources Conservation Service
P.O. Box 1458
Bismarck, ND 58502-2828

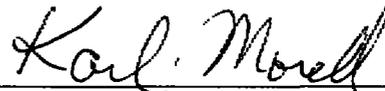
Mr. Merlan E. Paaverud, Jr.
State Historical Society of North Dakota
612 East Boulevard Ave.
Bismarck, ND 58505

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

North Dakota Department of Transportation
ATTN: Rail Planner
608 East Boulevard Avenue
Bismarck, ND 58505-0700

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

Date: November 2, 2011



Karl Morell

**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
P.O. Box 96157
Fort Worth, TX 76161-0057

Courtney Biery Estes
General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(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).***

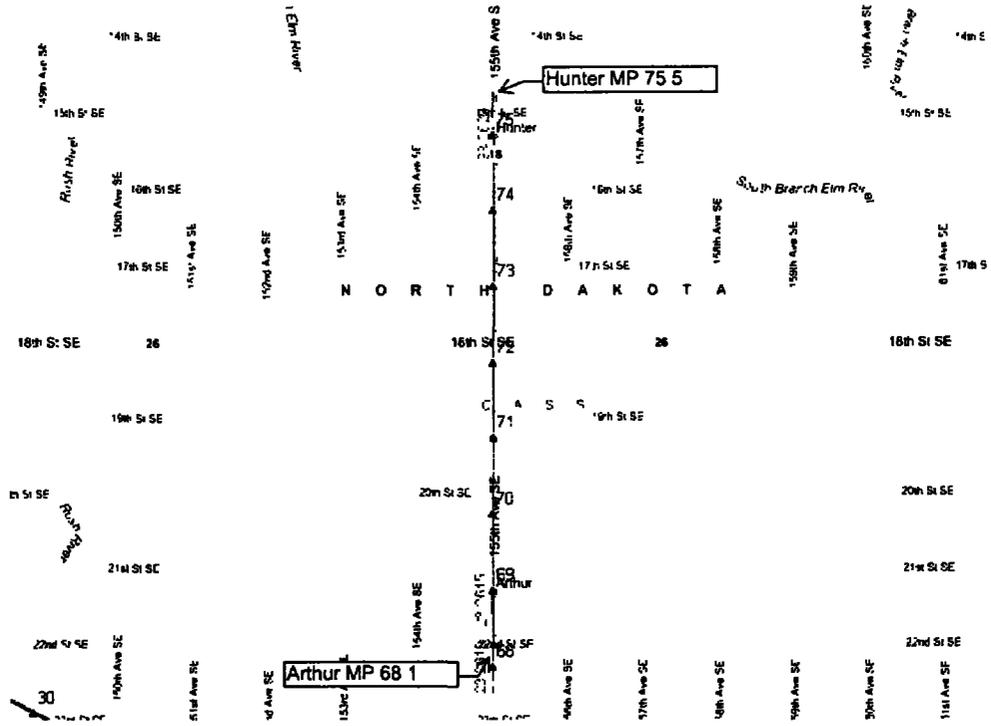
If any additional information is requested, BNSF will promptly supply the necessary information.

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Arthur - Hunter, ND



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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.

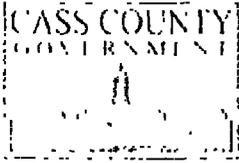
Sincerely

Steven Perry

Mayor
City of Arthur,ND
701-371-5413

C

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September 9, 2011

Highway
Department

Lisa Jensen
Commuter

Richard S. Stutz
Superintendent

Thomas B. Solberg, PE
Design and Construction
Engineer

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
58078-1501

701-298-2370
Fax: 701-298-2305

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 76131-2828
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 – Bail Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com

E

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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

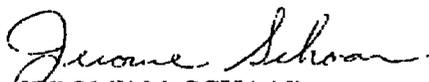
Dear Mr. Sims:

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

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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:

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.

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 among 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 re-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 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 and imposed by the Surface Transportation Board in their 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.

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

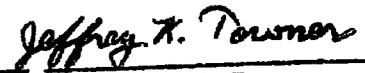
cc via email: Courtney Estes – BNSF – courtney.estes@bnsf.com
Karl Morell – Ball Janik LLP – kmorell@bjllp.com
Susan Odom – BNSF susan.odom@bnsf.com
Mark Norton – BNSF – mark.norton@bnsf.com

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 Merk Drive – AOB-3
Fort Worth, Texas 76131-2626
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.

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:

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.

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 among 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 re-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.

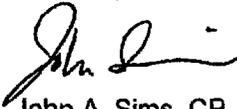
Finally, road crossings are removed and remediated, then repaved with gravel, asphalt or concrete, as required by governing authority. Any signals are also dismantled and removed.

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 and imposed by the Surface Transportation Board in their 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.

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.

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 among 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 re-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 and imposed by the Surface Transportation Board in their 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.

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.

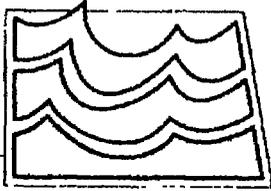
Sincerely,



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



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 3896 • 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>



John A. Sims, CP
Paralegal
Law Department

BNSF Railway Company
2500 Lou Menk Drive - AOB-3
Ft 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:

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.

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 among 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 re-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.

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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.

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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
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Mark Norton – BNSF – mark.norton@bnsf.com

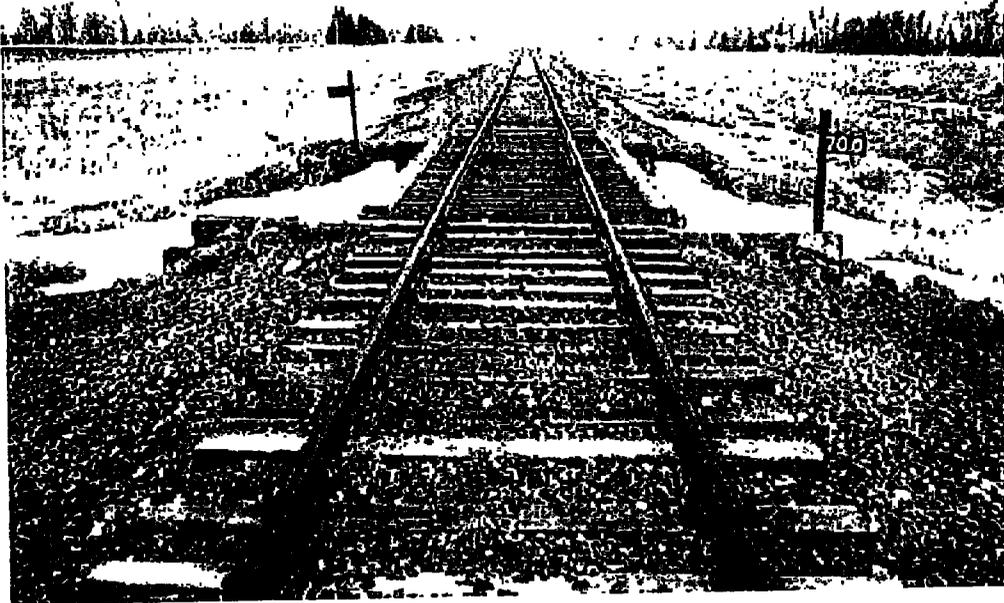
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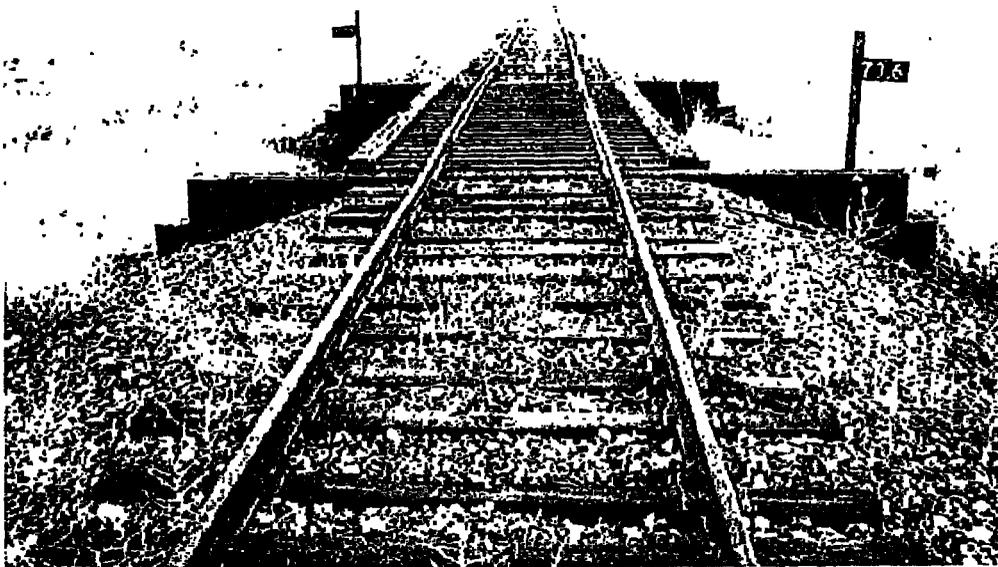


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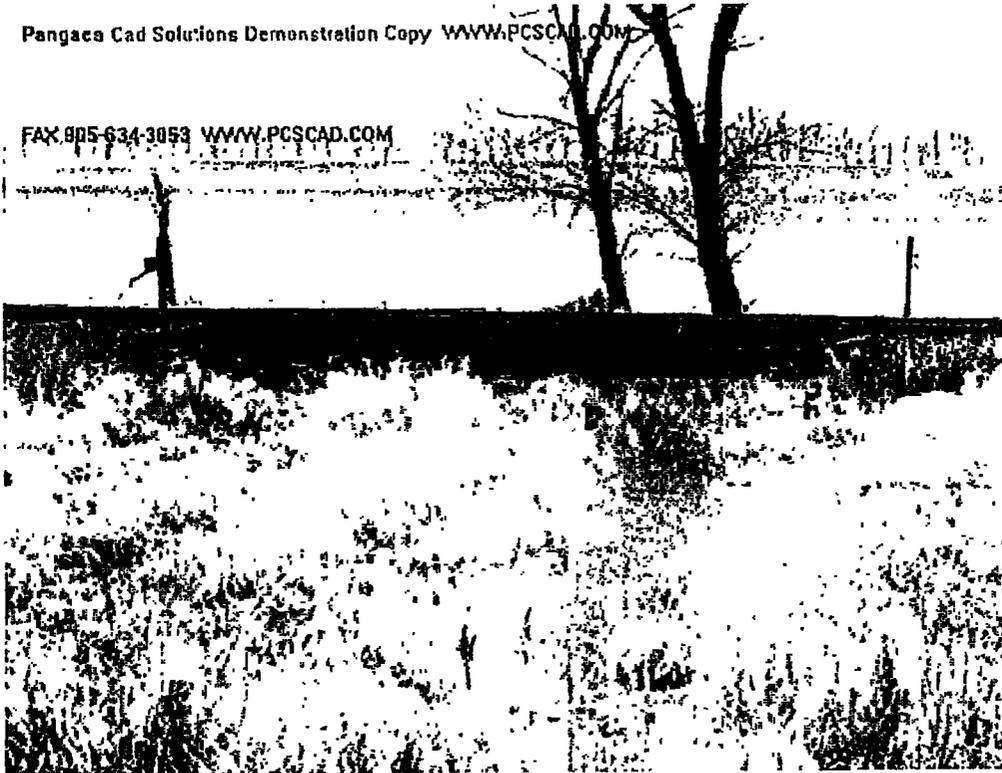


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**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

Jack Dalrymple
Governor of North Dakota

August 25, 2011

North Dakota
State Historical Board

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

Gerald Gertholz
Valley City - President

Calvin Grinnell
New Town - Vice President

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

A. Ruric Todd III
Jamestown - Secretary

Albert I. Berger
Grand Forks

Richard Kloubec
Fargo

Dear Mr. Sims,

Diane K. Larson
Bismarck

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.

Chester E. Nelson, Jr.
Bismarck

Sam Otte Coleman
Director
Tourism Division

Kelly Schmidt
State Treasurer

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.

Alvin A. Jaeger
Secretary of State

Mark Zimmerman
Director
Parks and Recreation
Department

Sincerely,

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

Francis Ziegler
Director
Department of Transportation

and

Director, State Historical Society of North Dakota

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Association
of Museums since 1986

As the authorized certifying official, I hereby certify that the above specified certifications are true and that all information in this application is accurate to the best of my knowledge:

Budjetta Leadel

Responsible Official's Signature

Hunter/Arthur Joint Park Board JPA

Political Subdivision (Project Sponsor)

Secretary

Responsible Official's Title

01/29/2016

Date

Please submit one electronic copy by 1:00 P.M. CST on January 29, 2016 to:

Electronic Copy:

If you have any questions, please contact Kevin Stankiewicz at 701-328-5364 or kstankiewicz@nd.gov

ATTACHMENTS

- * A legible copy of the Warranty Deed (project sponsor must have clear title to the project lands through Warranty Deed).
- * Project location map. NOTE: Map should be an aerial view that allows project site and its location to be easily identified. Include street names, entrance site, marked trail and mile markers (use Google Maps).
- * Site Development Plans.
- * Written assurances/leases that confirm the project will be open for public use.
- * If applicable, recent past cultural review letters or documents.
- * If applicable, written confirmation of MPO approval.

To attach documents to this file, here is how to do it!

With this document open, click on View, then go down to Comment, and go over to Annotations. The Annotations will open up on the right hand side. Click on the Paperclip Picture. Then left click below somewhere on this page and a Tack Pin will show up. Left click and the "Add Attachment" window will open up and here is where you will locate the file you would like to attach to this document. Double click on the file. A File Attachment Properties will pop up. Leave the appearance as a Blue Paperclip and click OK. To add another document, repeat this process.

When finished filling out form and attaching documents, please click on the gray "Press to submit by e-mail" button above.