

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
SIDNEY.STRICKLAND@STRICKLANDPLL.COM

March 15, 2007

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

**Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—
Abandonment Exemption – in Swift County, MN**

Dear Secretary Williams:

Enclosed please find an original and 10 copies of the Verified Notice of Exemption under 49 C.F.R. 1152.50 for filing with the Board in the above-referenced matter.

Also enclosed is a check in the amount of \$3,100.00 for the filing fee.

Very truly yours,


Sidney L. Strickland, Jr.
Attorney for BNSF Railway Company

ENTERED
Office of Proceedings

MAR 15 2007

Part of
Public Record

FILED
MAR 15 2007
SURFACE
TRANSPORTATION BOARD

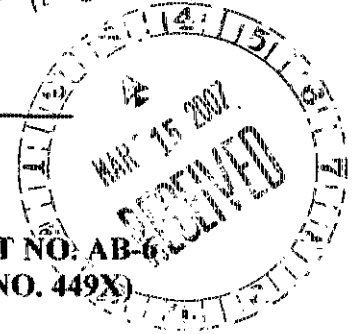
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SURFACE
TRANSPORTATION BOARD

218804

BEFORE THE
SURFACE TRANSPORTATION BOARD

BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN SWIFT COUNTY, MN

DOCKET NO. AB-6
(SUB. NO. 449X)



VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50

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

ENTERED
Office of Proceedings

MAR 15 2007

Part of
Public Record

By: SIDNEY L. STRICKLAND, JR
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W.,
Suite 101
Washington, DC 20007
(202) 338-1325

Attorneys for BNSF Railway Company

FEE RECEIVED

MAR 15 2007

SURFACE
TRANSPORTATION BOARD

DATE FILED: March 15, 2007

FILED

MAR 15 2007

SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN SWIFT COUNTY, MN**

**DOCKET NO. AB-6
(SUB. NO. 449X)**

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50**

BNSF RAILWAY COMPANY (BNSF) ("Applicant") files this Verified Notice of Exemption under 49 C.F.R. 1152 Subpart F- Exempt Abandonments (49 C.F.R. 1152.50) for BNSF to abandon a rail line that extends between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota (the "Line"), a total distance of 0.54 miles.

The Line is depicted in a map that is attached to this Notice as Appendix 1.

Responses to 49 C.F.R. § 1152.50(d)(2):

I. *Proposed consummation date for the abandonment.*

The proposed consummation date of this abandonment will be at least 50 days from the filing date of March 15, 2007, which is May 4, 2007.

II. *Certification required in 49 C.F.R. § 1152.50(b)*

The required certification is attached hereto as Appendix 2.

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

(a) General

(1) Exact name of Applicant.

BNSF Railway Company (BNSF).

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

Applicant is a common carrier by railroad subject to 49 U.S.C.

Subtitle IV, Chapter 105.

- (3) *Relief sought (abandonment of line or discontinuance of service).*

BNSF seeks to use the class exemption from Surface

Transportation Board approval authorizing the abandonment of the

Swift County Line specified above.

- (4) *Detailed map of the subject line.*

See Appendix 1.

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

Sidney L. Strickland, Jr.
Sidney Strickland And
Associates, PLLC
3050 K Street, N.W.
Suite 101
Washington, DC 20007
(202) 338-1325

Attorney for BNSF

- (8) *List of all United States Postal Service ZIP Codes that the line traverses.*

The Line traverses United States Postal Service Zip Code 56208.

- (e)(4) *Statement of whether the properties proposed to be abandoned are suitable for other public purposes, including roads or 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 properties of the proposed abandonment appear to be appropriate for other public purposes. Based on information in our possession, there are no federally granted rights-of-way within the corridor. Any documentation in the railroad's possession will be made available promptly to those requesting it.

IV. *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 set forth in *Oregon Short Line RR Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

V. *Certification that Applicants have complied with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11.*

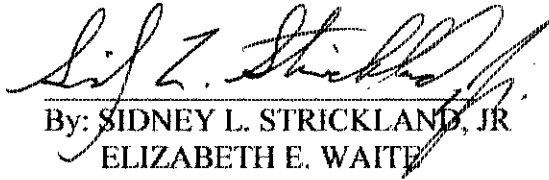
The required certifications are set forth in Appendix 3 to this Notice of Exemption.

VI. *Environmental and Historic Reports.*

A combined Environmental and Historic Report is attached to this Notice of Exemption as Appendix 4.

Respectfully submitted,

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



By: SIDNEY L. STRICKLAND, JR.
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
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(202) 338-1325

Attorneys for BNSF Railway Company

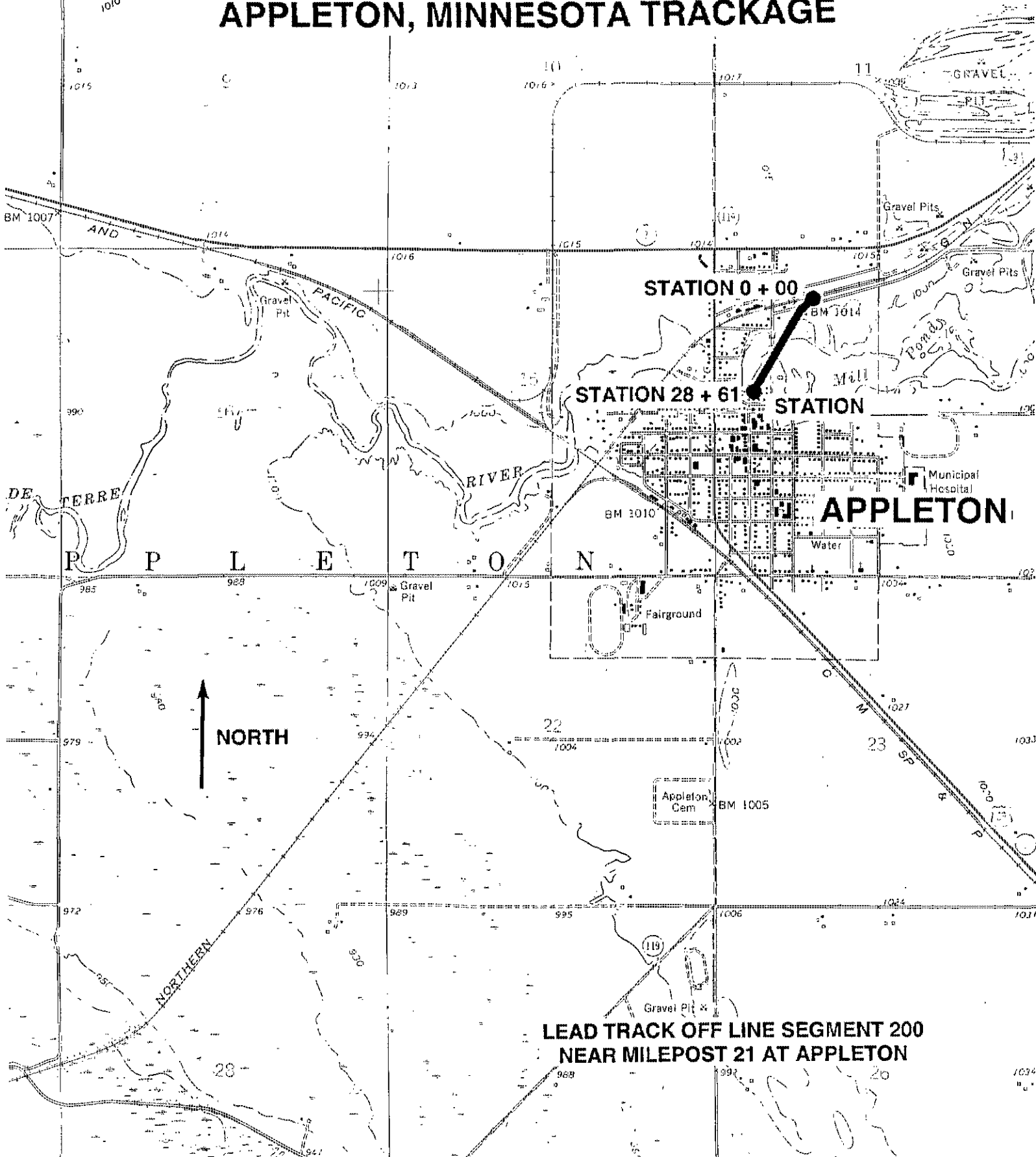
DATE FILED: March 15, 2007

APPENDIX 1

Detailed Map of the Line

APPLETON
AIRPORT

APPLETON, MINNESOTA TRACKAGE



LEAD TRACK OFF LINE SEGMENT 200
NEAR MILEPOST 21 AT APPLETON

APPENDIX 2

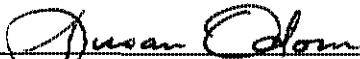
Certification Required in 49 C.F.R. § 1152.50(b)

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

I, Susan Odom, ~~being~~ duly sworn depose and state that, as Manager, Network Strategy in the Network Development department of the BNSF Railway Company ("BNSF"), 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.

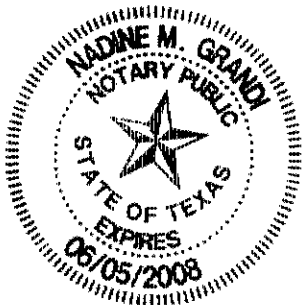
In accordance with 49 C.F.R. § 1152.50(b), I hereby certify that, with respect to the line which is the subject of the Notice of Exemption filed in Docket No. AB-6 (Sub-No. 449X), no local traffic has moved on the line for at least two (2) years prior to the date hereof. Also, any overhead traffic handled on the Line will be rerouted. 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 within the two-year period.

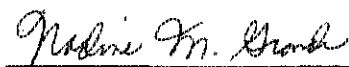
The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned



Susan Odom
Manager, Network Strategy

Subscribed and sworn to
before me the 1st day of MARCH, 2007.





APPENDIX 3

***Certifications that Applicant Has Complied with the Notice
Requirements of 49 C.F.R. 1152.50(d)(1) and 1105.11***

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-6 (Sub. No. 449X) was mailed via first class mail on March 2, 2007 to the following parties:

Minnesota Public Utilities Commission
121 7th Place E., Suite 350
Saint Paul, MN 55101-2147

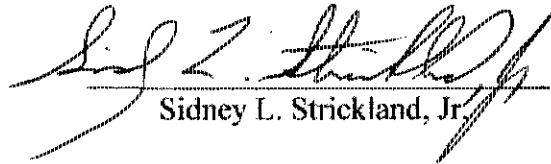
Military Traffic Management Control
Attn: Railroads for National Defense
720 Thimble Shoals Boulevard, #130
Newport News, VA 23606-2574

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

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

Robert J. Rickert
Rail Bank and Abandonment Coordinator
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

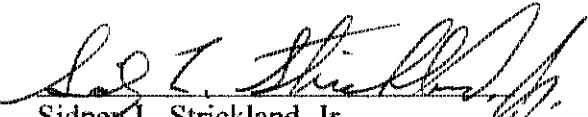
Dated March 15, 2007



Sidney L. Strickland, Jr.

**CERTIFICATION OF COMPLIANCE WITH THE NEWSPAPER
PUBLICATION REQUIREMENTS OF SECTION 49 C.F.R. § 1105.12**

The undersigned certifies that a "Notice of Intent to Abandon Rail Service" was published in the form prescribed by the Board for out of service abandonment exemptions. The notice was published one time in the following newspaper of general circulation in Swift County, Minnesota: *Swift County Monitor-News*. Publication of the notice was accomplished on March 14, 2007. A copy of the publication is attached.


Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC

3050 K Street, NW
Suite 101
Washington, DC 20007
Phone: (202) 338-1325
Fax: (202) 295-3854

NOTICE OF THE ORIGINAL CREDITOR WITHIN THE TIME PROVIDED BY LAW IS NOT AFFECTED BY THIS ACTION.

NOTICE IS HEREBY GIVEN, that default has occurred in conditions of the following described mortgage:

DATE OF MORTGAGE: July 24, 2003
MORTGAGORS: Donald Aagaard and Jeanette Aagaard, husband and wife.
MORTGAGEE: Community First National Bank nka Bank of the West.

DATE AND PLACE OF RECORDING: Recorded July 30, 2003, Swift County Recorder, Document No. 214421.

ASSIGNMENTS OF MORTGAGE: NONE
LEGAL DESCRIPTION OF PROPERTY: Situated in the County of Swift and State of Minnesota All that part of the northeast 1/4 of the northwest 1/4 of section 5, Township 121 north, range 39 west, described as follows: to-wit: commencing at the northwest corner of block numbered 12, Lynn Park Addition to Benson; thence north 23 degrees east 185.2 feet to the point of beginning; thence north twenty-three degrees east 145.2 feet; thence east 23 degrees south 374 feet and 8 inches to the north and south quarter line; thence south along the north and south quarter line 153 feet; thence west 23 degrees north 423 feet and 10 inches to the place of beginning, containing 1.16 acres more or less.

COUNTY IN WHICH PROPERTY IS LOCATED: Swift

ORIGINAL PRINCIPAL AMOUNT OF MORTGAGE: \$25,000.00

AMOUNT DUE AND CLAIMED TO BE DUE AS OF DATE OF NOTICE, INCLUDING TAXES, IF ANY, PAID BY MORTGAGEE: \$20,802.25

That prior to the commencement of this mortgage foreclosure proceeding Mortgagee/Assignee of Mortgage complied with all notice requirements as required by statute. That no action or proceeding has been instituted at law or otherwise to recover the debt secured by said mortgage, or any part thereof.

PURSUANT to the power of sale contained in said mortgage, the above described property will be sold by the Sheriff of said county as follows:

DATE AND TIME OF SALE: April 19, 2007 at 10:00 AM

PLACE OF SALE: Sheriff's Office, Law Enforcement Center, Benson, MN

to pay the debt then secured by said Mortgage, and taxes, if any, on said premises, and the costs and disbursements, including attorneys' fees allowed by law subject to redemption within six (6) months from the date of said sale by the mortgagee(s), their personal representatives or assigns.

MORTGAGOR(S) RELEASED FROM FINANCIAL OBLIGATION ON MORTGAGE: None

THE TIME ALLOWED BY LAW FOR REDEMPTION BY THE MORTGAGOR, THE MORTGAGOR'S PERSONAL REPRESENTATIVES OR ASSIGNS, MAY BE REDUCED TO FIVE WEEKS IF A JUDICIAL ORDER IS ENTERED UNDER MINNESOTA STATUTES, SECTION 582.032, DETERMINING, AMONG OTHER THINGS, THAT THE MORTGAGED PREMISES ARE IMPROVED WITH A RESIDENTIAL DWELLING OF LESS THAN FIVE UNITS, ARE NOT PROPERTY USED IN AGRICULTURAL PRODUCTION, AND ARE ABANDONED.
Dated: 2/23/07

Bank of the West
Mortgagee/Assignee of Mortgage
LUSSET & WEINGARDEN P.L.L.P.
By: Paula A. Weingarden
Attorneys for Mortgagee/Assignee of Mortgage
4800 Park Glen Road #120
Minneapolis, MN 55416
(952) 925-6888
90-684
967-700897
THIS IS A COMMUNICATION FROM A DEBT COLLECTOR.
2-28-0c

PUBLIC NOTICE

Residents of Benson are hereby notified that in accordance with Section 92.43, of the Ordinance Code of Benson all weeds and grass are declared to be a public nuisance if they are allowed to grow to a height of 12 inches or more. The owner shall abate or prevent such nuisance on their property and on the land outside the traveled portion of the street or alley abutting on such property or the City shall cause said weeds or grasses to be destroyed at the expense of the owner and if not paid, the charge for such work will be made a special assessment against the property concerned and collected with the taxes. No further notice to the property owner shall be necessary according to the Ordinance.
Dated: March 7, 2007

/s/ Glen Pederson

03/14/2007 12:26 MVA UNANIONAF.
55/65°C, power transformers, 115 kV to 13.8 kV, 97 kV with LTC and accessories.

The above equipment shall be in accordance with the specifications and proposed form of contract now on file in the City Offices of said City of Benson, Minnesota, by this reference made a part hereof, as though fully set out and incorporated herein.

All bids shall be made on bid forms furnished by the Engineer and shall be accompanied by bid security in the form of a certified check or bid bond, made payable to the City of Benson, in the amount of ten percent (10%) of the bid, which security becomes the property of the City of Benson in the event the successful bidder fails to enter into a contract and post a satisfactory Performance Bond.

Material suppliers desiring a copy of the proposal forms and specifications for individual use may obtain them from the office of DeWald Grant Recker and Associates, Company, Engineers, Rock Rapids, Iowa, telephone (712) 473-2531, fax (712) 472-2710, website www.dgrmat.com, e-mail dgr@dgmat.com, no deposit required.

Payment to the Supplier for the equipment shall be made on the basis of one hundred percent (100%) of the base bid for the equipment, within 30 days of receipt of the equipment in acceptable condition, field testing, test reports, and final drawings as certified by the Engineer, less calculated penalties.

Delivery of the power transformers is desired to be no earlier than January 15, 2008 and no later than January 31, 2008.

The City of Benson reserves the right to defer acceptance of any proposal for a period not to exceed thirty (30) days after the date proposals are received and no proposal may be withdrawn during this period. The City of Benson also reserves the right to reject any or all bids and enter into such contract as it shall deem to be in the best interest of the City of Benson.

/s/ Paul Kinnelson
Mayor
Attest: /s/ Glen Pederson
City Clerk

3-14-10

STB Docket No. AB-6 (Sub. No. 449X) NOTICE OF INTENT TO ABANDON RAIL SERVICE

BNSE RAILWAY COMPANY (BNSE) gives notice that on or about March 13, 2007, it intends to file with the Surface Transportation Board (the Board), Washington, DC, 20423, a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments permitting the abandonment of the 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota. The rail line traverses through United States Postal Service Zip Code 56208. The proceeding will be docketed as STB Docket No. AB-6 (Sub. No. 449X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423 or by calling that office at 202-565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street N.W., Washington, DC 20423-0001 (See 49 CFR 1104.1(a) and 1104.3(a)), and one copy must be served on applicant's representative (See 49 CFR 1104.12(a)). Questions regarding offers of financial assistance, public use, or trails use may be directed to the Board's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street N.W., Suite 101, Washington, DC 20007-8108, (202) 338-1325.

3-14-10

TOWNSHIP OF CAMP LAKE (122) RANGE (38)

Louise Ferry et al - comm at a pt on the N line
Tonya Lamb & Melanie Sorenson - PT SE 1/4 of SE 1/4
Tonya Lamb & Melanie Sorenson - PT SE 1/2 of SE 1/4
Louise Ferry et al - NE 1/4-NE 1/4
Louise Ferry et al - NW 1/4 of NW 1/4
Dwayne John Baker Jr. - PT NE 1/4 of NE 1/4

CASHEL TOWNSHIP 120 RANGE 39

Jerome A. Schafer - PT NE 1/4 of NE 1/4
CLONTARF TOWNSHIP 1212 RANGE 40
Leslie A and Kathryn D. Goff - SE 1/4
Leslie A and Kathryn D. Goff - W 1/2 of NE 1/4
Michael Stieran et al - SE 1/4

TOWNSHIP OF DUBLIN 120 RANGE 38

James D and Dianne J. Marquardt - PT SW 1/4 of SW 1/4
Larry Lindberg - NE 1/4

Jerome and Pamela Schafer - S 1/2 of SE 1/4

TOWNSHIP OF EDISON 120 RANGE 42

James A. Vanderweyde - PT NE 1/4 big at the NW
Mark Sachs - PT SW 1/4 of SW 1/4
Robert C. Moe, Jr. - That pt of the S 1/2 of Sec 20
Eric James Carlson - That pt of the N 1/2 of the SW 1/4
Ernest G. Sorenson, Jr. - Beg at a pt 10 chains

FAIRFIELD TOWNSHIP 122 RANGE 42

Walter Beyer Trust - SE 1/4

Walter Beyer Trust - SW 1/4 of SW 1/4

HEGBERT TOWNSHIP 122 RANGE 43

Walter R and Lorelyn Essig - PT SE 1/4 of SW 1/4

Dennis and Daren Lehne - SE 1/4 of NE 1/4

Dennis and Daren Lehne - NW 1/4

KILDARE TOWNSHIP 121 RANGE 38

John Hooper, Jr. - PT of the S 1/2 of the NE 1/4

Michael Patrick Sennott - E 1/2 of E 1/2 of NW 1/4

SIX MILE GROVE TOWNSHIP 121 RANGE 40

David Berens - PT NE 1/4 of NE 1/4

David Berens - PT NE 1/4 of NE 1/4

David and Jeanette Berens - All that part of the S 1/2-NE 1/4

David and Jeanette Berens - PT SW 1/4 of SE 1/4

David and Jeanette Berens - All that pt of the N 1/2-NE 1/4

Michael Collins - W 1/2-SW 1/4

David and Jeanette Berens - N 1/2 of SE 1/4

Michael A. Collins - S 1/2 of SE 1/4 of SE 1/4

Michael A. Collins - E 1/2-NW 1/4

Todd and Jennifer Collins - SW 1/4 of NW 1/4

Todd Collins - SW 1/4 of NW 1/4

Richard and Mary Lou Johnson -

SWENODA TOWNSHIP 120 RANGE 40

Shella Reinke - PT S 1/2 of NE 1/4

TARA TOWNSHIP 122 RANGE 41

Showalter Farms - PT NW 1/4 comm at NW cor

TORNING TOWNSHIP 121 RANGE 39

Shirley Vanwinkle - PT E 1/2 of SE 1/4

Norin Benson LLC - PT W 1/2 of NW 1/4

Becky Mae Mast - PT NW 1/4 of NW 1/4

Becky Mae Mast - PT W 1/2 of NW 1/4

Triple T Farms - PT NW 1/4 of NW 1/4

Triple T Farms - SW 1/4

WESTBANK TOWNSHIP 120 RANGE 41

Lillian Hagen Bartelheimer - N 1/2 of N 1/2 of SW 1/4

John and Chris Andrews - Comm at SW cor of Sec 34

Lillian Hagen Bartelheimer - PT SE 1/4 of SE 1/4

Lillian Hagen Bartelheimer - PT SE 1/4 of SE 1/4

Kevin and Dawn Remund - PT SE 1/4 of SE 1/4

Lillian Hagen Bartelheimer - PT SE 1/4 of SE 1/4

Lillian Hagen Bartelheimer - E 1/2 of SW 1/4

APPLETON CITY ROBINSONS ADDITION

Ble Veng - PT lots 1 thru 5

Linde Holzheimer - PT lot 37 and 38

Lee-Cer Trust - PT lot 37 and 38

Gregory L and Gile A Robertson - N 1/2 of lot 1 and lot 2

Community Rental Aest Invest - Lot 18 blk 12

Shella M. Peterson - N 25 ft of S 50 ft

Virginia Holland - Lot 10 blk 14

APPLETON CITY ROBINSONS 4TH ADDITION

Duwayne Nohrenberg - N 67 ft of lots 17 thru 20

Alan D. Ronngren - N 55' lots 17 thru 20

Marcia J. Vanbrusen - Beg 112 ft. W of NE cor

Kris Ann Hallie - Lts 13 thru 15 blk 332

A & W ADDITION

Jennifer Langerud - PT lots 10, 11 and 12 blk 1

H & D ADDITION

Robert M Johnson - Lts 1m 4m 5 and 8 blk 1

James and Linda Wannabe - Lt 4 blk 3

Eide Motorcycle Sales - Lt 5 blk 3

Eide Motorcycle Sales - Lt 8 blk 3

Eide Motorcycle Sales - Lt 7 blk 3

Roger and Ronald Monson - S 50' lts 2 and 3 blk 5

Konni L and Robert Rodriguez - W 1/2 of Lt 4 blk 5

Charles A. Larson And - W 45' of Lts 2, 3, 6 and 7, blk 8

Gale O. Torgerson - Lts 13, 16 and 17 blk 14

Gali M. Brekke - Lts 14 and 15, blk 14

Gary Gunbar and Tricia Simpson - Lts 8 and 9 blk 16

William J and Melanie Stegner - Lts 11 and 14 blk 16

PILLSBURY ADDITION

P A and Jodi Neptune - PT blk 8

FA and Jodi Neptune

CERTIFICATION PURSUANT TO 49 C.F.R.1105.7(c) and 8(c)

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on February 21, 2007, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

Robert J. Rickert
Rail Bank and Abandonment Coordinator
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

Minnesota DNR
Division of Lands and Minerals
Attn: Kathy Lewis
500 Lafayette Road
St. Paul, MN 55155-4045

Scott Collins, Director
Swift County Environmental Services
1000 Industrial Drive
P.O. Box 288
Benson, MN 56215

William Lorenzen, Environmental Review/Justice
Coordinator
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
Saint Paul, MN 55101-1854

Patrick G. Carroll, Senior Realty Officer
U.S. Fish and Wildlife Service, Region 3
BHW Federal Building
One Federal Drive
Fort Snelling, MN 55111-4056

Robert J. Whiting
U.S. Army Engineer District, St. Paul
190 Fifth St. East
St. Paul, MN 55101-1683

Marcia Sieckman
U.S. Bureau of Land Management Eastern States
Milwaukee Field Office
626 E. Wisconsin Ave.
Suite 200
Milwaukee, WI 53202-4617

Steve Colvin
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4040

Kenneth Westlake, Chief
U.S. Environmental Protection Agency, Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard
Mailcode: B-19J
Chicago, IL 60604

Robert Maydwell
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Ms. Britta L. Bloomberg
Deputy State Historic Preservation Officer
Minnesota Historical Society
345 W. Kellogg Blvd.
St. Paul, MN 55102-1906

Swift County Board of County Commissioners
301 14th Street North County Courthouse
Benson, MN 56215-1106

Lawrence Zdon
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155-4194

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Springs, MD 20910-3282

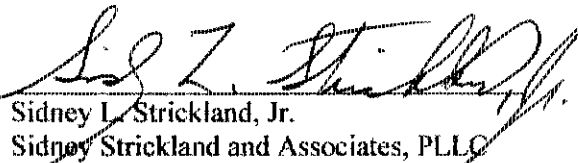
Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Roman A. Fidler, Clerk/Treasurer
City of Appleton
323 West Schlieman Avenue
Appleton, MN 56208

Mike Johnson
Swift County Parks, Drainage and Wetlands
1635 Hoban Avenue, Box 241
Benson, MN 56215

Skip Wright, Area Hydrologist
MN DNR Division of Waters
Box 457
Spicer, MN 56288

The required cover letters (pursuant to 49 C.F.R. 1105.11) are attached hereto. BNSF has consulted with all appropriate agencies in preparing the reports.



Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W.,
Suite 101
Washington, D.C. 20007

APPENDIX 4

Environmental and Historic Reports

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN SWIFT COUNTY, MN**

**DOCKET NO. AB-6
(SUB. NO. 449X)**

ENVIRONMENTAL AND HISTORIC REPORTS

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2650 Lou Menk Drive
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By: SIDNEY L. STRICKLAND, JR.
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W., Suite 101
Washington, DC 20007
(202) 338-1325
Attorneys for BNSF Railway Company

DATED: February 21, 2007

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN SWIFT COUNTY, MN**

**DOCKET NO. AB-6
(SUB. NO. 449X)**

**ENVIRONMENTAL AND HISTORIC REPORTS
(49 C.F.R. 1105.7 AND 49 C.F.R. 1105.8)**

Pursuant to 49 C.F.R. § 1105.7 and § 1105.8, BNSF Railway Company (BNSF) (referred to as "Applicant") hereby files Environmental and Historic Reports. These Reports constitute Applicant's assessment of the environmental effects and historic effects of abandonment of rail service on the involved rail line. Persons who review these Reports are entitled to provide comments to the Surface Transportation Board (STB), Section of Environmental Analysis (SEA), 1925 K Street, N.W., Suite 500, Washington, DC 20423. There is information in the Applicant's files to indicate that the rail line covered by these Reports does not contain any federally granted rights-of-way. *See* 49 C.F.R. § 1152.60(d). These Reports have been prepared in conjunction with the prospective filing of a Notice of Exemption for abandonment of the involved rail line. STB regulations provide that the Notice of Exemption cannot be filed until at least 20 days after these Reports are submitted.

I
ENVIRONMENTAL REPORT
(49 C.F.R. 1105.7)

The following information is submitted to the STB by BNSF in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption seeking authority to abandon 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota (the "Line").

(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 seeks to abandon this Line. The proposed abandonment may include the removal of the rails and ties, including any bridges, structures and crossings. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next the wooden ties will be removed and separated into second hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures will be removed last. Culverts and the rail line embankment will stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings will be pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges will be dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are required not to

place fills or other material in water bodies, including inland waterways.

Contractors are also required to limit their activities to the width of the right-of-way. When the salvage process is complete, waterflows in the area will not be disrupted. In this instance, there is one (1) bridge on the Line and BNSF is not aware of any other structures. A map of the Line is attached as Exhibit A.

(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.

The proposed abandonment will have no effect on existing transportation systems or patterns as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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 abandonment should not be inconsistent with local or regional land use plans. The Minnesota Department of Transportation (“MnDOT”) indicates it has discussed the abandonment with several government officials from Swift County, City of Appleton, the Minnesota Department of Natural Resources and the regional development coordinator. MnDOT further indicates that no alternative public uses will be proposed. See Exhibit B, letter dated September 8, 2006, from Robert R. Rickert, State Rail Bank Program Manager, Minnesota Department of Transportation.

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

The proposed abandonment should have no effect on prime agricultural lands. The Natural Resources Conservation Service ("NRCS") indicates: "The project sponsors are not USDA program benefit recipients, thus the wetland conservation provisions of the 1985 Food Security [A]ct, as amended are not applicable. It should be noted, however, that actions by a non-USDA participant third party (project sponsor) which impact agricultural wetlands owned or operated by USDA participants, may jeopardize the owner/operators USDA eligibility. If such impacts are anticipated, the owner/operator should contact the county Farm Service Agency (FSA) office to consider an application for a third party exemption. Finally, if as a result of your proposal you are affecting agricultural lands, and if any federal monies are involved, it is a requirement that a Farmland Policy Protection Act (FPPA) site assessment be appropriately filed. Since your project will not permanently affect agricultural land, this precludes the need for further action on this project as required by the FPPA." See Exhibit C, letter dated August 28, 2006, from William E. Lorenzen, Environmental Review/Justice Coordinator, Natural Resources Conservation Service.

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

N/A

(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. § 10906 and explain why.

The proposed abandonment should be suitable for alternative public use. However, as indicated above, MnDOT indicates no alternative public uses will be proposed. See Exhibit B, letter dated September 8, 2006, from Robert R. Rickert,

State Rail Bank Program Manager, Minnesota Department of Transportation.

(4) Energy:

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

There are no known recoverable energy resources along the Line. There has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

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

This abandonment will not adversely affect movement or recovery of recyclable commodities as there has been no local traffic on the line for over two years and there is no overhead traffic to be rerouted.

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

This abandonment will not result in an increase or decrease in overall energy efficiency as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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.

There will be no diversions of traffic as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(5) Air:

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

(A) An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any

segment of the line effected by the proposed, or

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

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

The action will not result in meeting or exceeding the specified thresholds.

Moreover, the action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

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

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic of more than 10% of the average daily traffic of 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 in a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The action will not result in meeting or exceeding the specified thresholds.

Moreover, the proposed abandonment will not result in an increase of rail or truck traffic as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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,

N/A

(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 those receptors if the thresholds are surpassed.

N/A

(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 two (2) public crossings and one (1) private crossing on the Line. During salvage operations, if any may be required, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(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 an accidental release of hazardous materials.

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

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

There is no known hazardous waste site or sites where there have been known hazardous materials 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.

The U.S. Fish and Wildlife Service ("FWS") states: "We have researched our ownerships in the vicinity and determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonment. We do not have any concerns regarding real estate matters in the abandonment." See Exhibit D, letter dated August 24, 2006, from Patrick G. Carroll, Senior Realty Officer, U.S. Fish and Wildlife Service.

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

The National Park Service ("Service") indicates: "We have reviewed this project in relation to any possible conflicts with the Land and Water Conservation Fund and the Urban Park and Recreation Recovery programs and find there are none. Accordingly, we have no additional comments at this time." See Exhibit E, letter dated October 2, 2006, from Robert Maydwell, Grants Management Assistant, National Park Service.

The Bureau of Land Management (“BLM”) indicates: “A search of our records shows there are no Federal lands administered by the Bureau of Land Management along the railroad line. However, please be aware that some of the original railroad grants were limited fee rights-of-way and may be subject to the Railroad Right-of-Way Forfeiture and Abandonment Act of March 8, 1922, 43 U.S.C. § 912 (the 1922 Abandonment Act), and the National Trails System Improvement Act of October 4, 1988, Public Law 100-470, 16 U.S.C. § 1248 (c) – (f).” See Exhibit F, letter dated August 28, 2006, from Marcia Sieckman, Supervisor, Lands and Renewable Resources Team, Milwaukee Field Office, Bureau of Land Management-Eastern States. BNSF records indicate there are no Federal Land Grants involved in the proposed abandonment.

(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.

The proposed exemption should be consistent with applicable Federal, State and local water quality standards. The Minnesota Pollution Control Agency (“MPCA”) was notified by a letter dated August 18, 2006. See Exhibit G. As of the date of this report, the MPCA has not responded. BNSF will provide the Board copies of any response it may receive.

(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.

The proposed abandonment should not require a Section 404 permit. The

U.S. Army Corps of Engineers ("CORPS") indicates it reviewed the project and that because the abandonment and salvage operations are not anticipated to result in the placement of dredged or fill material in any waterways, a Department of the Army permit is not required, provided that no dredged or fill material is discharged in any water of the United States, including wetlands. Finally, the Corps notes that information pertaining to the 100-year floodplain can be obtained by contacting the City of Appleton at (320) 289-1363. See Exhibit H, letter dated September 5, 2006, from Robert J. Whiting, Chief, Army Corps of Engineers. As indicated below, BNSF contacted the City of Appleton in preparing this Report.

The proposed abandonment should not affect any 100-year flood plains. The Minnesota Department of Natural Resources ("MDNR") indicates: "A current FIRMette (FEMA flood map) of the site was attached to your August 18, 2006 letter. A portion of the proposed abandonment will extend into a floodplain. Activities in this area will have to comply with floodplain ordinances administered by the City of Appleton." See Exhibit I, electronic correspondence dated October 5, 2006, from Steven Colvin, Environmental Review Supervisor, Minnesota Department of Natural Resources.

BNSF contacted Roman Fidler of the City of Appleton. Mr. Fidler provided copies of the Flood Plain Zoning for the City of Appleton. See Exhibit J, electronic correspondence dated December 4, 2006, from Roman A. Fidler, Clerk/Treasurer, City of Appleton.

(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).

A permit under Section 402 of the Clean Water Act should not be required for the proposed action. The U.S. Environmental Protection Agency ("EPA") indicates it consulted with the MDNR regarding Section 402 permits and the MDNR indicates "work would not require permitting." The EPA further indicates that MDNR also recommended contacting Mike Johnson with Swift County Parks for information on local permits. As mentioned below, Mr. Johnson was consulted in preparing these Reports.

The EPA adds that this abandonment involves a long trestle bridge over the Pomme de Terre River, and recommends that precautions be taken in any dismantling of the bridge. Specifically, the EPA recommends that all present and former pilings be removed, not cut or broken off. The EPA also notes that the river bank wetlands on both sides of the river are designated as a special flood plain and recommends "removal of rail embankment fill material," and "planting appropriate species consistent with adjacent areas."

Finally, the EPA recommends contacting the MPCA regarding Section 402 permitting. As indicated above, we contacted the MPCA in preparing these Reports. See Exhibit K, letter dated January 16, 2007, from Kenneth A. Westlake, Chief, U.S. EPA, Region 5.

As recommended, we contacted Mike Johnson of Swift County Parks. Mr. Johnson indicates that the Pomme de Terre River is a public water and is under the jurisdiction of the MDNR. Mr. Johnson further indicates that he

contacted the MDNR regarding the abandonment. See Exhibit L, electronic correspondence dated January 22, 2007, from Mike Johnson. As mentioned above, BNSF also contacted the MDNR.

The MDNR indicates a Department of Natural Resources (“DNR”) Public Waters Permit is not required provided the original cross-section and bed conditions are restored, and provided that the structure is completely removed, is not located on an officially designated trout stream, and does not function as a water level control device. Finally, MDNR requests a copy of BNSF’s bridge removal and bank restoration plans. See Exhibit M, electronic correspondence dated January 24, 2007, from Skip Wright, Area Hydrologist, Minnesota Department of Natural Resources.

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

The project itself should mitigate the environmental effects of reinstating active rail operations.

II

HISTORIC REPORT (49 C.F.R. 1105.8)

Applicants hereby submit the following information required by

49 C.F.R. § 1105.8(d):

- (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 Appleton, Minnesota Trackage (Engineering Station 0 + 00 – Engineering Station 28 + 61) is approximately 0.54 miles in length and is located within the city limits of Appleton, Minnesota. In 2000, the City of Appleton had a population of 2,871. The right-of-way crosses the Pomme de Terre River and the adjacent land is generally flat. The right-of-way varies from 30 to 50 feet in width. There are no 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;*

Photographs of one (1) bridge are attached as Exhibits N1-N4.

Bridge 21.2 is a railroad bridge in or near Appleton. It is near Milepost 21. This bridge is 235 feet long, 12 feet high, and is an open pile trestle bridge with 14 foot panels.

- (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;*

Bridge 21.2 was built in 1974. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

- (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;*

The right-of-way was acquired by the Great Northern Railway (GN) between 1925 and 1948. The GN merged with other railroads to become part of the Burlington Northern Railroad (BN) in 1970. BN and the Atchison Topeka and Santa Fe Railway merged in 1995 to become The Burlington Northern and Santa Fe Railway Company. In 2005, The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company.

- (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. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

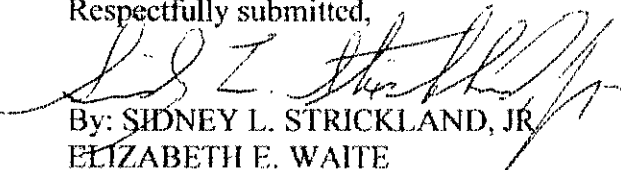
- (7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously 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);*

The Minnesota Historical Society ("MHS") indicates that the project has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36 C.F.R. 800). Based on available information, MHS concludes this project will not affect any properties listed on or eligible for listing on the National Register of Historic Places. See Exhibit N, letter dated November 17, 2006, from Britta L. Bloomberg, Deputy State Historic Preservation Officer, Minnesota Historical Society.

(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.

There are no known prior subsurface ground disturbance or fill, or environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

Respectfully submitted,


By: SIDNEY L. STRICKLAND, JR.
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W., Suite 101
Washington, DC 20007
(202) 338-1325
Attorneys for BNSF Railway Company

DATED: February 21, 2007

**LEAD TRACK OFF LINE SEGMENT 200
NEAR MILEPOST 21 AT APPLETON**



Minnesota Department of Transportation

Office of Freight and Commercial Vehicle Operations

Mail Stop 420
395 John Ireland Boulevard
St. Paul, MN 55155-1899

Tel: 651/215-6330
Fax: 651/215-9684

Exhibit B

September 8, 2006

Mr. Sidney L. Strickland, Jr.
Sidney Strickland & Assoc's. PLLC
3050 K St. N.W. Suite 101
Washington, D.C. 20007-5108

***Re: STB Docket No. AB6 (Sub. No. 449X) BNSF Railway Co.- Abandonment
Exemption- in Swift County, MN***

Dear Sir:

I have discussed this abandonment with several government officials from Swift County, City of Appleton, the Minnesota Department of Natural Resources and the regional development coordinator.

There was some thought given to a business that wishes to locate at the end of the line, but they declined rail service.

Also, there was discussion about the potential for a trail, but egress/ingress across an active rail corridor put that to an end.

Therefore, no alternative public uses will be proposed.

Sincerely,

Robert R. Rickert
State Rail Bank Program Manager
(651) 215-5938

Cc: Keven Anderson- Mn/DOT District 4
Gregg Soupir- DNR Area Supervisor
Dawn Hegland- Upper Mn River Valley Regional Dev. Comm.
Gary Hendrick- Swift Co. Commissioner



Natural Resources Conservation Service
375 Jackson Street, Suite 600
St. Paul, MN 55101-1854

Phone: (651) 602-7900
FAX: (651) 602-7914

File Code: 190-15-13

August 28, 2006

IN REPLY

REFER TO: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company-Abandonment
Exemption – in Swift County, MN

Sidney Strickland & Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

Dear Mr. Strickland:

The Natural Resources Conservation Service (NRCS) has reviewed the above referenced project. The project sponsors are not USDA program benefit recipients, thus the wetland conservation provisions of the 1985 Food Security act, as amended are not applicable. It should be noted, however, that actions by a non-USDA participant third party (project sponsor) which impact agricultural wetlands owned or operated by USDA participants, may jeopardize the owner/operators USDA eligibility. If such impacts are anticipated, the owner/operator should contact the county Farm Service Agency (FSA) office to consider an application for a third party exemption.

The following agencies may have federal or state wetlands, floodplain delineation, cultural resources, water quality, air quality or threatened and endangered species jurisdiction in the proposed project, and should be consulted.

- Army Corps of Engineers (USACOE) – Clean Water Act
- US Fish and Wildlife Service (FWS) – Endangered Species Act
- Board of Water and Soil Resources (BSWR) - Minnesota Wetlands Conservation Act
- Minnesota Department of Natural Resources (MDNR)
- Minnesota Pollution Control Agency (MPCA)
- State Historic Preservation Officer/State Archaeologist (SHPO)

Finally, if as a result of your proposal you are affecting agricultural lands, and if any federal monies are involved, it is a requirement that a Farmland Policy Protection Act (FPPA) site assessment be appropriately filed. Since your project will not permanently affect agricultural land, this precludes the need for further action on this project as required by the FPPA. Our agency appreciates your thorough follow up on the environmental review requirements of this project. We complement your sincere efforts to have complied with all economic, social, and environmental review requirements when federal funds are part of project financing.

Sincerely,

A handwritten signature in black ink, appearing to read "William E. Lorenzen", written over a horizontal line.

WILLIAM E. LORENZEN
Environmental Review/Justice Coordinator

Exhibit Dyur
81
RG-
81

FWS/NWRS-RE - General
Railroad Abandonments

August 24, 2006

Mr. Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St., N.W., Suite 101
Washington, DC 20007-5108

Dear Mr. Strickland:

Thank you for the opportunity to comment on the proposed abandonment of 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61 near Appleton in Swift County, Minnesota; STB Docket No. AB-6 (Sub-No. 449X), BNSF Railway Company.

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonment. We do not have any concerns regarding real estate matters in the abandonment.

Sincerely,

/s/ Patrick G. Carroll

Patrick G. Carroll
Senior Realty Officer
Division of Realty

bcc: Bloomington, MN (ESFO)
ARD-ES (HC)

RE:JWest:jw:08-24-06:RRabandonment/Exemption.doc



United States Department of the Interior

National Park Service

Midwest Region
601 Riverfront Drive
Omaha Nebraska 68102-4226



Exhibit E

650.2(MWR-P/G)

Mr. Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, D.C. 20007-5108

OCT 2 2006

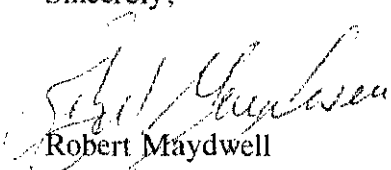
Dear Mr. Strickland:

This is in response to your August 18, 2006, request that the National Park Service respond to STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company Abandonment Exemption in Swift County, Minnesota.

We have reviewed this project in relation to any possible conflicts with the Land and Water Conservation Fund and the Urban Park and Recreation Recovery programs and find there are none. Accordingly, we have no additional comments at this time.

You may contact me at 402-661-1546 if you have questions or need more information.

Sincerely,


Robert Maydwell
Grants Management Assistant
Partnerships- Grants



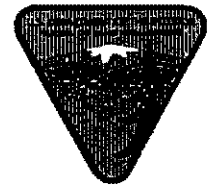
United States Department of the Interior

Bureau of Land Management-Eastern States

Milwaukee Field Office

626 E. Wisconsin Avenue, Suite 200

Milwaukee, Wisconsin 53202-4617



IN REPLY REFER TO:
2000(036)

August 28, 2006

Sidney Strickland and Associates, PLLC
3050 K Street N.W., Suite 101
Washington, DC 20007-5108

RE: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company –
Abandonment Exemption – in Swift County, MN

Dear Mr. Strickland:

This is in response to your letter of August 18, 2006, to our office concerning the proposal by the Burlington Northern and Santa Fe Railway Company (BNSF) to abandon 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota.

A search of our records shows there are no Federal lands administered by the Bureau of Land Management along the railroad line. However, please be aware that some of the original railroad grants were limited fee rights-of-way and may be subject to the Railroad Right-of-Way Forfeiture and Abandonment Act of March 8, 1922, 43 U.S.C. § 912 (the 1922 Abandonment Act), and the National Trails System Improvement Act of October 4, 1988, Public Law 100-470, 16 U.S.C. § 1248 (c) - (f).

Thank you for giving us the opportunity to comment on this proposal. Our office does not have information on the location of wildlife refuges, state or national parks, state or national forests in the immediate vicinity. You must contact the Fish and Wildlife Service, National Park Service, National Forest Service and State offices to obtain this information. If you require additional information, please contact me at (414) 297-4402.

Sincerely,

Marcia Sieckman
Supervisor
Lands and Renewable Resources Team

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5399

Exhibit G

SIDNEY L. STRICKLAND, JR.
SIDNEY.STRICKLAND@STRICKLANDPLL.C.COM

August 18, 2006

Lawrence Zdon
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155-4194

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—
Abandonment Exemption – in Swift County, MN***

Dear Mr. Zdon:

BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority in the above docket to abandon 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota.

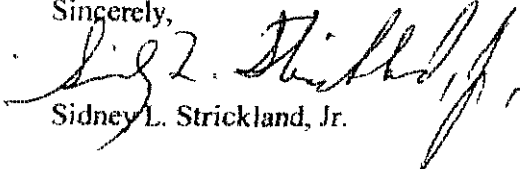
The proposed abandonment may require removal of bridges and structures and the removal of track materials such as rails and ties but the roadbed will be left intact. No placement of dredge or fill material in any inland waterways is anticipated to result from abandonment and/or salvage.

As part of the environmental report, BNSF needs to know whether or not this action will be consistent with Federal, State or local water quality standards. Also, please state whether or not Section 402 and/or National Pollutant Discharge Elimination System ("NPDES") permits are required as a result of the proposed abandonment. BNSF also needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8½ by 11 black and white maps in the area of each designated floodplain if they are available.

For your reference, I have enclosed a map of the above referenced railroad line. Please provide this information to me by September 18, 2006. If you have any questions, do not hesitate to contact me at (202) 338-1325.

Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.

Enclosure
SLS/cew



DEPARTMENT OF THE ARMY
St. Paul District Corps of Engineers
190 Fifth Street East
St. Paul, Minnesota 55101-1683

Exhibit H

SEP 05 2006

REPLY TO
ATTENTION OF
Operations
Regulatory (2006-4875-TMV)

Mr. Sidney Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

Dear Mr. Strickland:

We have reviewed information about the BNSF Railway Company project which involves removing bridges and other structures in conjunction with the abandonment of a 0.54-mile long segment of railroad near Appleton. The project is in the NW ¼ of Section 14, T. 120N., R.43W., Swift County, Minnesota.

You have indicated that abandonment and salvage operations are not anticipated to result in the placement of dredged or fill material in any waterways. Therefore, a Department of the Army permit is not required to do this work, provided that no dredged or fill material is discharged in any water of the United States, including wetlands.

This letter is valid only for the project referenced above. If any change in design, location, or purpose is contemplated, contact this office to avoid doing work that may be in violation of Federal law. PLEASE NOTE THAT THIS CONFIRMATION LETTER DOES NOT ELIMINATE THE NEED FOR STATE, LOCAL, OR OTHER AUTHORIZATIONS, SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY.

The decision regarding this action is based on information found in the administrative record which documents the District's decision-making process, the basis for the decision, and the final decision.

Information pertaining to the 100-year floodplain can be obtained by contacting the City of Appleton at (320) 289-1363. If you have any questions, contact Todd Vesperman in our St. Paul District office at (651) 290-5358. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,

for Robert J. Whiting
Chief, Regulatory Branch



Exhibit I

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(liz.waite@stri

Message

[Inbox \(2\)](#) [Drafts](#) [Deleted Items](#) [Sent](#) [Scheduled](#) [Delete](#)☐ Delete permanentlyMove to [Delete](#)**From:** Steve Colvin <Steve.Colvin@dnr.state.mn.us>**To:** liz.waite@stricklandplc.com**Subject:** Floodplain requests**Date:** 05-Oct-06 10:42 AM**Attachments:** [Reply](#) [Reply All](#) [Forward](#)

InLine Text

< [Prev](#)

STB Docket No. AB-6 (Sub. No. 446X) Beltrami County, MN
 Both the City of Bemidji and the unincorporated portions of the county do not have any mapped flood hazard areas. If you look at the first page in the Community Status Book - at <http://www.fema.gov/cis/MN.pdf> - you'll see an NSFHA under the map date for the county. That stands for "no special flood hazard area."

STB Docket No. AB-6 (Sub. No. 449X) Swift County, MN
 A current FIRMette (FEMA flood map) of the site was attached to your August 18, 2006 letter. A potion of the proposed abandonment will extend into a floodplain. Activities in this area will have to comply with floodplain ordinances administered by the City of Appleton.

Steven Colvin
 Environmental Review Supervisor
 DNR - Ecological Services
 500 Lafayette Rd.
 St. Paul, MN 55155-4025
 (651) 259-5082
 (651) 297-1500 fax

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Username: Ian Thomas

Inbox (26)

Drafts

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From: Liz Waite <liz.waite@stricklandplc.com>

To: Ian Thomas <ian.thomas@stricklandplc.com>

Subject: Fwd: Flood Plains Ordinances

Date: 04-Dec-05 11:46 AM

Reply To All

Journal

Text and

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-----Original Message-----

From: Roman Fidler <roman.56255@hotmail.com>

Sent: 2006-11-30 16:33:27

To: liz.waite@stricklandpllc.com

TO: IZ:ware@sunlightupio.com
Subject: RE: Flood Plains Ordinances

11/30/06 3:30 PM

Dear Ms. Waite:

Here is a copy of the Flood Plain Zoning for the City of Appleton.

Roman A. Fidler, Clerk/Treasurer
City of Appleton, MN.

CHAPTER 152. FLOOD PLAIN ZONING

Section

152.01 Statutory authorization, findings of fact and purpose

152.02 General provisions

152.03 Establishment of zoning districts

152.04 Floodway district (FW)

152.05 Flood fringe district (FF)

152.06 Reserved for future use

152.07 Subdivisions

152.08 Utilities, railroads, roads and bridges
152.09 Manufactured homes/travel trailers and travel vehicles
152.10 Administration
152.11 Nonconforming uses
152.12 Penalties for violation
152.13 Amendments

' 152.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.

(A) Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 104 and M.S. 462.357 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Appleton, Minnesota does ordain as follows:

(B) Findings of Fact.

(1) The flood hazard areas of Appleton, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(C) Statement of Purpose. It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize those losses described in Section 152.01 (B) (1) by provisions contained herein.

' 152.02 GENERAL PROVISIONS

(A) Lands to Which Ordinance Applies. This ordinance shall apply to all lands within the jurisdiction of the Appleton shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.

(B) Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for the City of Appleton prepared by the Federal Insurance Administration dated October 1, 1981, and the Flood Boundary and

Floodway Map dated September 1972 and the Flood Insurance Rate Map dated April 1, 1982 therein. The Official Zoning Map shall be on file in the Office of the Appleton City Clerk and the City of Appleton.

(C) Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(D) Interpretation:

(1) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

(2) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

(E) Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

(F) Warning and Disclaimer of Liability. This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Appleton or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

(G) Severability. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(H) Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

- (1) Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (2) Basement. Means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.
- (3) Conditional Use. Means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:
(a) certain conditions as detailed in the zoning ordinance exist, and (b) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.
- (4) Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- (5) Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- (6) Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (7) Flood Fringe. That portion of the flood plain outside of the floodway.
Flood fringe is synonymous with the term ☐ floodway fringe ☐ used in the Flood Insurance Study for the City of Appleton.
- (8) Flood Plain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- (9) Flood-Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

- (10) Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- (11) Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- (12) Principal Use or Structure. Means all uses or structures that are not accessory uses or structures.
- (13) Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- (14) Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term ☐base flood☐ used in the Flood Insurance Study.
- (15) Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- (16) Structure. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 152.09 (C) (1) of the ordinance and other similar items.
- (17) Variance. Means a modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community²s respective planning and zoning enabling legislation.

152.03 ESTABLISHMENT OF ZONING DISTRICTS

(A) Districts:

(1) Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in Section 152.09 (B).

(2) Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in Section 152.09 (B).

(B) Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations that apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Sections 152.04, 152.05 and 152.06 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

(1) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 152.09;

(2) Modifications, additions, structural alternations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 152.11; and

(3) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance and specifically as stated in Section 152.10 of this Ordinance.

152.04 FLOODWAY DISTRICT

(A) Permitted Uses:

(1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(2) Industrial-commercial loading areas, parking areas, and airport landing strips.

(3) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

(4) Residential lawns, gardens, parking areas, and play areas.

(B) Standards for Floodway Permitted Uses:

(1) The use shall have low flood damage potential.

(2) The use shall be permissible in the underlying zoning district if one exists.

(3) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

(C) Conditional Uses:

(1) Structures accessory to the uses listed in Section 152.04 (A) above and the uses listed in Sections 152.04 (C) (2) □ (C) (8) below.

(2) Extraction and storage of sand, gravel, and other materials.

(3) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(4) Railroads, streets, bridges, utility transmission lines, and pipelines.

(5) Storage yards for equipment, machinery, or materials.

(6) Placement of fill.

(7) Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 152.09 (C) of the Ordinance.

(8) Structural works for flood control such as levees, dikes and floodwalls

constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(D) Standards for Floodway Conditional Uses

(1) All Uses. No structure (temporary or permanent), fill (including fill for roads and levees, deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

(2) All floodway Conditional Uses shall be subject to the procedures and standards contained in Section 152.10 (D) of this ordinance.

(3) The conditional use shall be permissible in the underlying zoning district if one exists.

(4) Fill:

(a) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.

(5) Accessory Structures

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

1. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,
2. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or PF-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

1. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
2. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

(6) Storage of Materials and Equipment

- (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
- (7) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 105, Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
- (8) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

' 152.05 FLOOD FRINGE DISTRICT (FF)

(A) Permitted Uses. Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe ☐ Permitted Uses ☐ listed in Section 152.05 (B) and the standards for all Flood Fringe ☐ Permitted and Conditional Uses ☐ listed in Section 152.05 (E).

(B) Standards for Flood Fringe Permitted Uses

- (1) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
- (2) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Section 152.04 (D) (5).
- (3) The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with Section 152.05 (B) (1) of this Ordinance.
- (4) The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
- (5) The provisions of Section 152.05 (E) of this Ordinance shall apply.
- (C) Conditional Uses. Any structure that is not elevated on fill or flood proofed in accordance with Section 152.05 (B) (1-2) or any use of land that does not comply with the standards in Section 152.05 (B) (3-4) shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in Sections 152.05 (D) ☐ (E) and 152.10 (D) of this Ordinance.

(D) Standards for Flood Fringe Conditional Uses.

(1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

a) the enclosed area grade is above-grade on at least one side of the structure; b) is designed to internally flood and is constructed with flood resistant materials; and c) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(a) Design and Certification ☐ The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(b) Specific Standards for Above-grade, Enclosed Areas ☐ Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

1. The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize

pressures, the bottom of all openings shall be no higher than on foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

2. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

(2) Basements, as defined by Section 152.02 (H) (2) of this Ordinance, shall be subject to the following:

(a) Residential basement construction shall not be allowed below the

Regulatory Flood Protection Elevation.

- (b) Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Section 152.05 (D) (3) of this Ordinance.
- (3) All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 and FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.
- (4) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan must incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
- (5) Storage of Materials and Equipment:
 - (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
- (6) The provisions of Section 152.05 (E) of this shall also apply.
- (E) Standards for All Flood Fringe Uses:

- (1) All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- (2) Commercial Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.
- (3) Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 152.05 (E) (2) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.
- (4) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation ☐ FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (5) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- (6) Standards for travel trailers and travel vehicles are contained in Section 152.09
- (7) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to,

use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

' 152.06 RESERVED FOR FUTURE USE

' 152.07 SUBDIVISIONS

(A) Review Criteria. No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulator Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(B) Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

' 152.08 PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

(A) Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

(B) Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 152.04 and 152.05 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these

transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(C) On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided: 1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems, and 2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

152.09 MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.

(A) New manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by Section 152.07 of this Ordinance.

(B) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 152.05 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 152.05 (E) (1), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

(1) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(C) Travel trailers and travel vehicles that do not meet the exemption

criteria specified in Section 152.09 (C) (1) below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 152.09 (C) (3-4) below.

(1) Exemption. Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 152.09 (C) (2) below and further they meet the following criteria:

(a) Have current licenses required for highway use.

(b) Are highway ready meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

(c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(2) Areas Exempted For Placement of Travel/Recreational Vehicles:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

(3) Travel trailers and travel vehicles exempted in Section 152.09 (C) (1) lose this exemption when development occurs on the parcel exceeding 500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure specified in Sections 152.04 and 152.05 of this Ordinance.

(4) New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 152.05 (E) (1) of this Ordinance. Any fill placed in a

floodway for the purpose of elevating a travel trailer shall be subject to the requirements of Section 152.04.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of Section 152.10 (D) of this Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 152.10 (D) (6) of this Ordinance.

152.10 ADMINISTRATION

(A) Zoning Administrator. A Zoning Administrator designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section 151.16 of this Ordinance.

(B) Permit Requirements.

(1) Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(2) Application for Permit. Application for a Permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(3) State and Federal Permits. Prior to granting a Permit or processing an

application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

(4) Certificate of Zoning Compliance for a New, Altered or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator that the use of the building or land conforms to the requirements of this Ordinance.

(5) Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as Provided by Section 152.12 of this Ordinance.

(6) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

(7) Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alternations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alternations or additions to structures are flood proofed.

(C) Board of Adjustment.

(1) Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

(2) Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Ordinance.

- (3) Variance. The Board may authorize upon appeal in specific cases such as relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation that justified the granting of the variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.
- (4) Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- (5) Decisions. The Board shall arrive at a decision on such appeal or Variance within sixty (60) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 152.10 (D) (6) which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 152.12. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- (6) Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.
- (7) Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for insurance coverage; and b) Such notification

shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(D) Conditional Uses. The Appleton City Council shall hear and decide applications for Conditional Uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Appleton City Council for consideration.

(1) Hearings. Upon filing with the Appleton City Council an application for a Conditional Use Permit, the Appleton City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

(2) Decisions. The Appleton City Council shall arrive at a decision on a Conditional Use within 60 days. In granting a Conditional Use Permit, the Appleton City Council shall prescribe appropriate conditions and safeguards. In addition to those specified in Section 152.10 (D) (6), which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under Section 152.12. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(3) Procedures to be followed by the Appleton City Council in Passing on Conditional Use Permit Applications Within All Flood Plain Districts.

(a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Appleton City Council for determining the suitability of the particular site for the proposed use:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.

2. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(b) Transmit one copy of the information described in subsection (a) to a

designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(c) Based upon the technical evaluation of the designated engineer or expert, the Appleton City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(4) Factors Upon Which the Decision of the Appleton City Council Shall Be Based. In passing upon Conditional Use applications, the Appleton City Council shall consider all relevant factors specified in other sections of this Ordinance, and :

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

- ### 152.11 NONCONFORMING USES

- (A) A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:
- (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
 - (2) Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing

techniques (i.e. FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in 152.11 (A) (3) below.

(3) The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alternations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Section 152.04 or 152.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

(4) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.

(5) If any nonconforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections ? or ? will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

' 152.12 PENALITES FOR VIOLATIONS

(A) Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants or Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(B) Nothing herein contained shall prevent the City of Appleton from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(1) In responding to a suspected ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines,

injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(2) When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the community's plan of action to correct the violation to the degree possible.

(3) The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the zoning Administrator may either: a) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or b) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

(4) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

' 152.13 AMENDMENT

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural

Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption.

>From: "Liz Waite" <liz.waite@stricklandpllc.com>
 >To: roman_56255@hotmail.com
 >CC: Ian Thomas <ian.thomas@stricklandpllc.com>
 >Subject: Flood Plains Ordinances
 >Date: Thu, 30 Nov 2006 11:44:12 -0500
 >MIME-Version: 1.0
 >Received: from colo.webmail.wspisp.net ([64.69.220.15]) by
 >bay0-mc11-f10.bay0.hotmail.com with Microsoft SMTPSVC(6.0.3790.2444); Thu,
 >30 Nov 2006 08:35:28 -0800
 >Received: from mymail.websitepros.com (fisun90v120sm01 [10.10.16.55]) by
 >colo.webmail.wspisp.net (8.13.8/8.13.8) with SMTP id KAUGUBFT000595; Thu, 30
 >Nov 2006 11:30:13 -0500 (EST)
 >X-Message-Info: bxF49IGdW40n7zfGXKZ+YYhHE4t23WAAbySqlmTgc+U>Return-Path:
 liz.waite@stricklandpllc.com
 >X-OriginalArrivalTime: 30 Nov 2006 16:35:29.0101 (UTC)
 >FILETIME=[8BC987D0:01C7149D]
 >
 >Mr. Fidler,
 >
 >As we discussed via phone, BNSF is abandoning a railroad line between
 >Engineering Station 0+00 and Engineering Station 28+61 near Appleton, MN.
 >We contacted the Minnesota DNR to obtain information on impacts to
 >floodplains. The MDNR mentioned that Appleton may have floodplains
 >ordinances. As such, we are contacting you to obtain copies of any
 >floodplains ordinances administered by the City of Appleton. Thank you for
 >your help. Please contact me with any questions.
 >
 >Liz Waite, Attorney
 >Sidney Strickland and Associates
 >(202) 338-1325
 >
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friends module.

[http://clk.atdmt.com/MSN/go/msnkwsp0070000001msn/direct/01/?href=http://spaces.live.com/spacesapi.aspx?
wx_action=create&wx_url=/friends.aspx&mk](http://clk.atdmt.com/MSN/go/msnkwsp0070000001msn/direct/01/?href=http://spaces.live.com/spacesapi.aspx?wx_action=create&wx_url=/friends.aspx&mk)

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 16 2007

Exhibit K

REPLY TO THE ATTENTION OF:

B-19J

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street, N.W. Suite 101
Washington, D.C. 20007-5108

Re: Comments on STB Docket No. AB-6 (Sub. No. 449X): The Proposed Burlington Northern Santa Fe Railway Company Rail Abandonment in Swift County, MN

Dear Mr. Strickland:

The U.S. Environmental Protection Agency (U.S. EPA) Region 5 has received your inquiry letter dated August 18, 2006 concerning the BNSF Railway Company proposed rail line abandonment of 0.54 mile of track located in Appleton, in Swift County, Minnesota. This letter of comment is provided under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

In response to your questions regarding Clean Water Act Section 402 National Pollutant Discharge Elimination System (NPDES) permits, please consult the Minnesota Pollution Control Agency (MNPCA) on these and related permit issues. Their Customer Assistance Center is the their preferred channel to be directed to the appropriate staff at 651-297-2274, at the website www.pca.state.mn.us/water/permits/index.html or:

Minnesota Pollution Control Agency
520 LaFayette Road N.
St. Paul, MN 55755-4194.

In checking with the Minnesota Department of Natural Resources (MDNR), they indicated this work would not require their permitting, but said you should contact Mike Johnson, at

Swift County Parks, Drainage and Wetlands
1635 Hoban Avenue, Box 241
Benson, MN 56215

regarding local permits which might be necessary.

Most of this abandonment involves a long trestle bridge, which was built in the mid-1970's to replace an earlier similar structure for crossing the Pomme de Terre River at that point. The trestle's extensive wood pilings have been reinforced with steel I-beam pilings added on at least the upstream side of the trestle. We understand from Chris Domeier, MDNR Appleton Office, that pilings from the former structure, which were cut and broken-off, are exposed underwater and therefore pose a safety risk. Because this fast moving section of river is heavily used for a variety of recreational activities, we recommend that all present and former pilings should be removed, not cut or broken off, to avoid the possibility of future incidents.

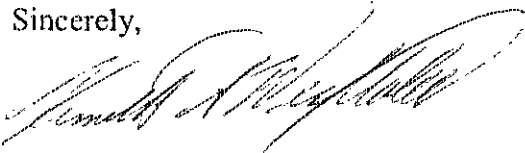
We also note that the riverbank wetlands on both sides of the river are designated as a special flood plain. This section of river annually floods and ice flow pile-ups compound the potential for extended damage. Therefore, we recommend that the two banks be returned to a natural aesthetic and functional state by removal of rail embankment fill material to reestablish a natural grading, followed by planting with appropriate species consistent with adjacent areas.

In keeping with the Federal Insecticide, Fungicide, and Rodenticide Act, the final disposition of crossties and pilings preserved with creosote should be buried in a non-hazardous waste landfill unless otherwise permitted/required by the State of Minnesota. Materials such as rail steel, electrical and signal housings, bridge work and associated structures to be removed from this site should be recycled to the extent possible.

Other environmental resource information for this site is available at the U.S. EPA websites, 1) Envirofacts Data Warehouse, <http://www.epa.gov/enviro/>, which includes capabilities of mapping EPA database information on specified locations, making inquiries about selected topics, and accessing EPA reports, and 2) Surf Your Watershed, <http://www.epa.gov/surf/>, which provides maps locating and identifying watershed information. We encourage your use of these resources in assessing this project's impacts and preparing your Surface Transportation Board (STB) report.

Thank you for the opportunity to provide scoping comments on this project. Should you have further questions of us, please contact Norm West, of my staff, at (312)-353-5692 or by e-mail at west.norman@epa.gov. Please address all future rail line abandonment correspondence to my attention at the above address, including our office mail code B-19J.

Sincerely,



Kenneth A. Westlake, Chief
NEPA Implementation Section

cc: Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K. Street, N.W., Suite 500
Washington, D.C. 20423

Bruce Gerbig, Supervisor
Water Permits Program
Minnesota Department of Natural Resources
500 Lafayette Road, Box 32
St. Paul, MN 55155-4032

Chris Domeier
Fish and Wildlife Service
Minnesota Department of Natural Resources
Appleton Office
3715 Campground Road
Montevideo, MN 56265

Mike Johnson
Swift County Parks, Drainage and Wetlands
1635 Hoban Avenue, Box 241
Benson, MN 56215

Username: Ian Thomas

Sent

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From: Mike Johnson <mike.johnson@co.swift.mn.us>

To: Ian Thomas <ian.thomas@stricklandplc.com>

Subject:Re: Railroad Abandonment near Appleton, MN

Date: 22-Jan-07 02:54 PM

Reply

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Mr. Thomas,
The Pomme De Terre River is a Public Water and is under the jurisdiction of the MN Dept. of Natural Resources. I forwarded your e-mail to:

Skip Wright
Area Hydrologist
MN DNR Division of Waters
Box 457
Spicer, MN 56288
320-796-6272

----- Original Message -----

From: "Ian Thomas" <ian.thomas@stricklandplc.com>

To: <mike.johnson@co.swift.mn.us>

Cc: <liz.waite@stricklandplc.com>

Sent: Monday, January 22, 2007 12:57 PM

Subject: Railroad Abandonment near Appleton, MN

> Mr. Johnson,

> In preparation of a BNSF Railway Company proposed railroad abandonment, my law firm has been in communication with the US EPA regarding potential environmental issues. Kenneth Westlake of the EPA recommended that we contact you regarding "local permits which might be necessary" for the abandonment. Mr. Westlake's letter to us further indicates that you were

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also sent a copy of his letter. We have attached to this email an initial letter to the EPA describing the proposed abandonment. We have also attached a map of the railroad line. Any comments you have regarding "local permits" would be appreciated. Please feel free to call me at 202-338-1325.

- > Thank you,
- >
- > Ian Thomas
- >
- >
- >

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Exhibit M

[Home](#) [Compose](#) [Address Book](#) [Options](#) [Logout](#)Username: **ia**
(ian.thomas@) [Inbox \(10\)](#)
 [Drafts](#)
 [Deleted Items](#)
 [Sent](#)

Message

[Delete](#)☐ Delete permanentlyMove to [D](#)**From:** Skip Wright <Skip.Wright@dnr.state.mn.us>**To:** ian.thomas@stricklandplc.com**Subject:** Appleton Railroad Bridge Removal**Date:** 24-Jan-07 12:15 PM

Attachments:

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< Pre

Dear Mr. Thomas:

A DNR Public Waters Permit is not required provided you meet the following criteria:

(1) the original cross-section and bed conditions are restored insofar as practicable;

(2) the structure is completely removed including any footings, abutments or pilings that obstruct navigation;

(3) the structure is not located on an officially designated trout stream; and

(4) the structure does not function as a water level control device.

Please send me a copy of your brigeremoval amnd bank restoration plans so that I can certify a DNR permit is not needed. Thankyou for your cooperation in protecting our irreplaceable water resources.

Sincerely,

Skip Wright
Area Hydrologist
(320)796-6272
skipwright@dnr.state.mn.us

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Exhibit N1

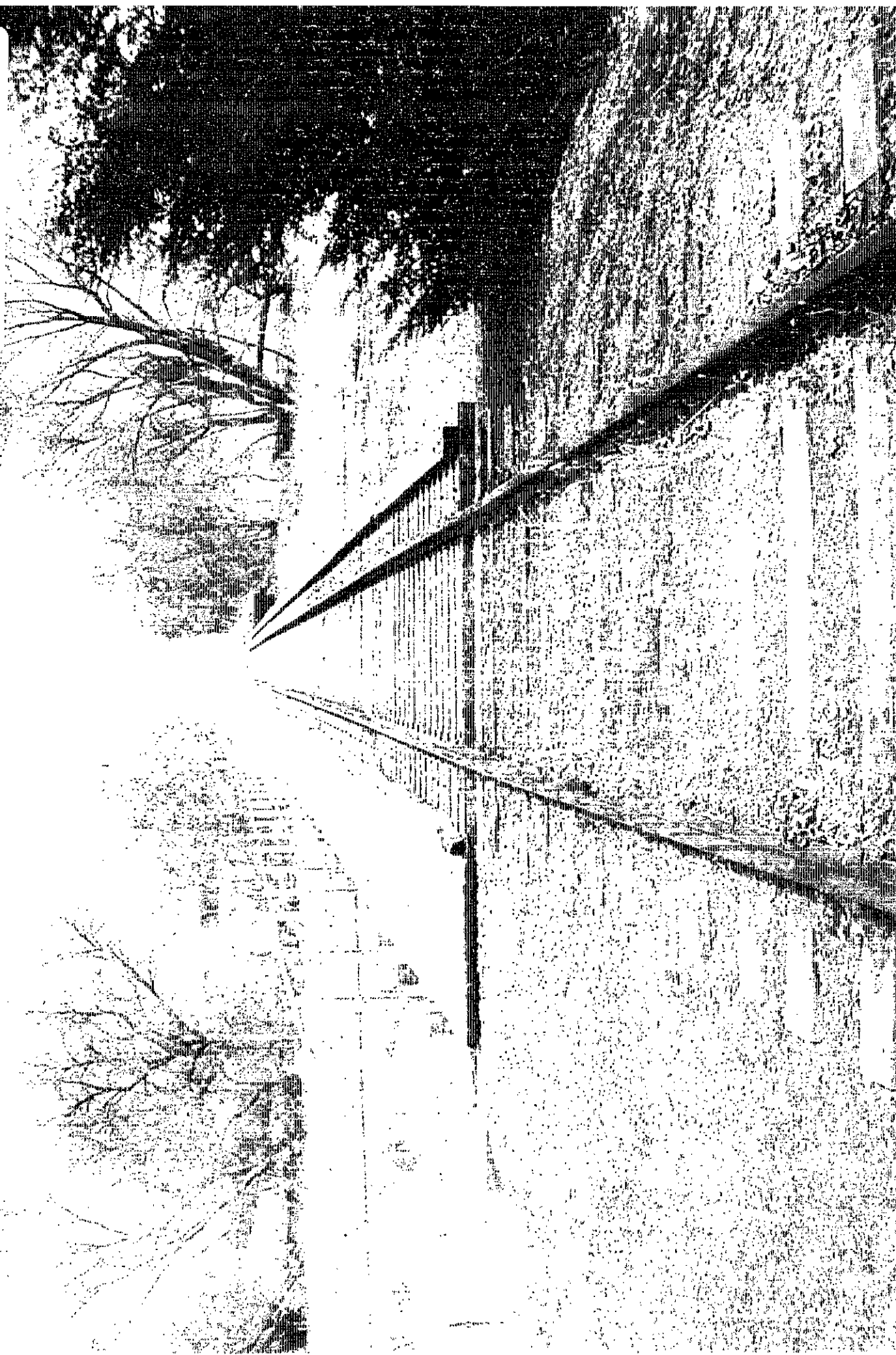


Exhibit N2

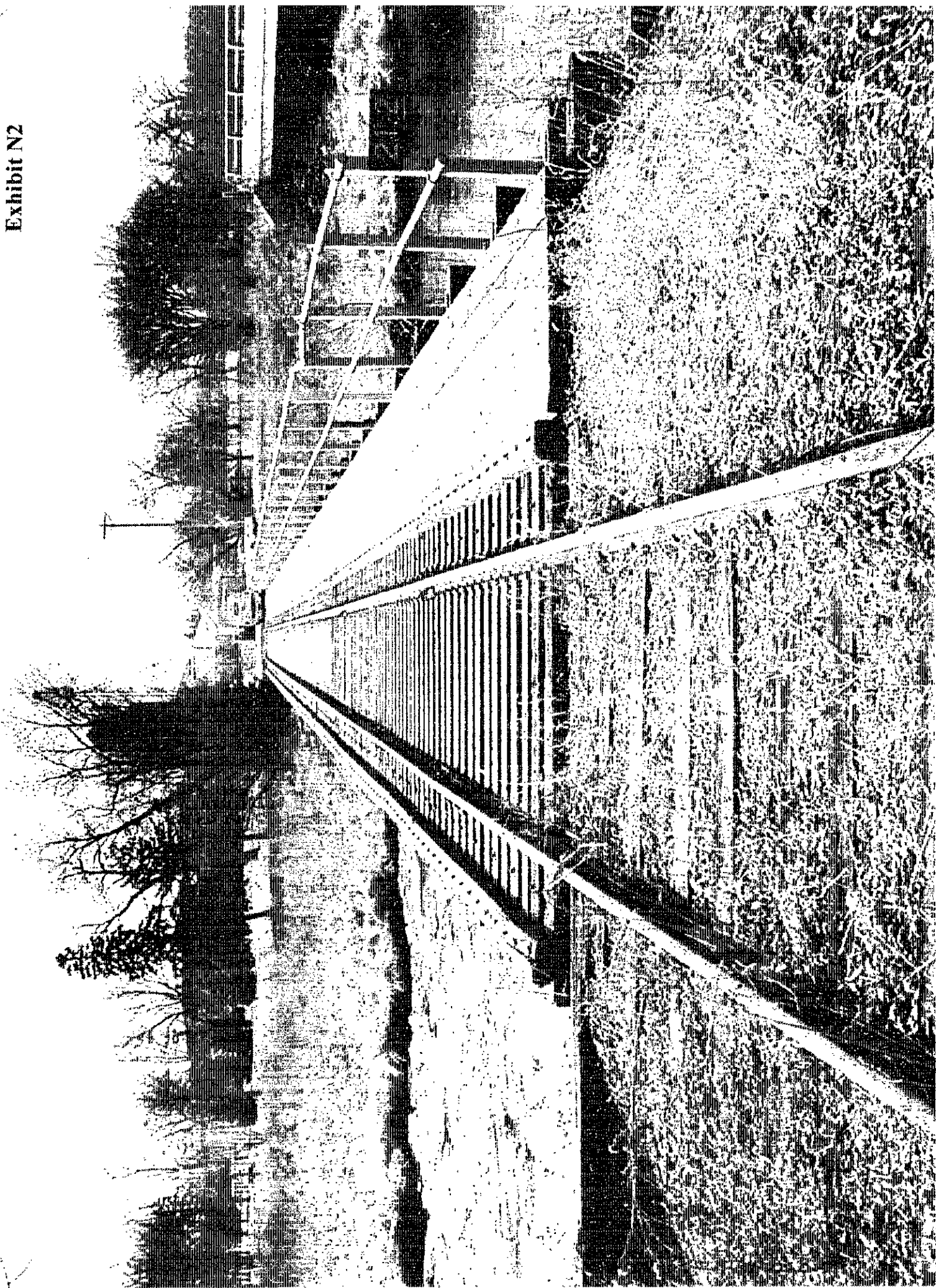


Exhibit N3

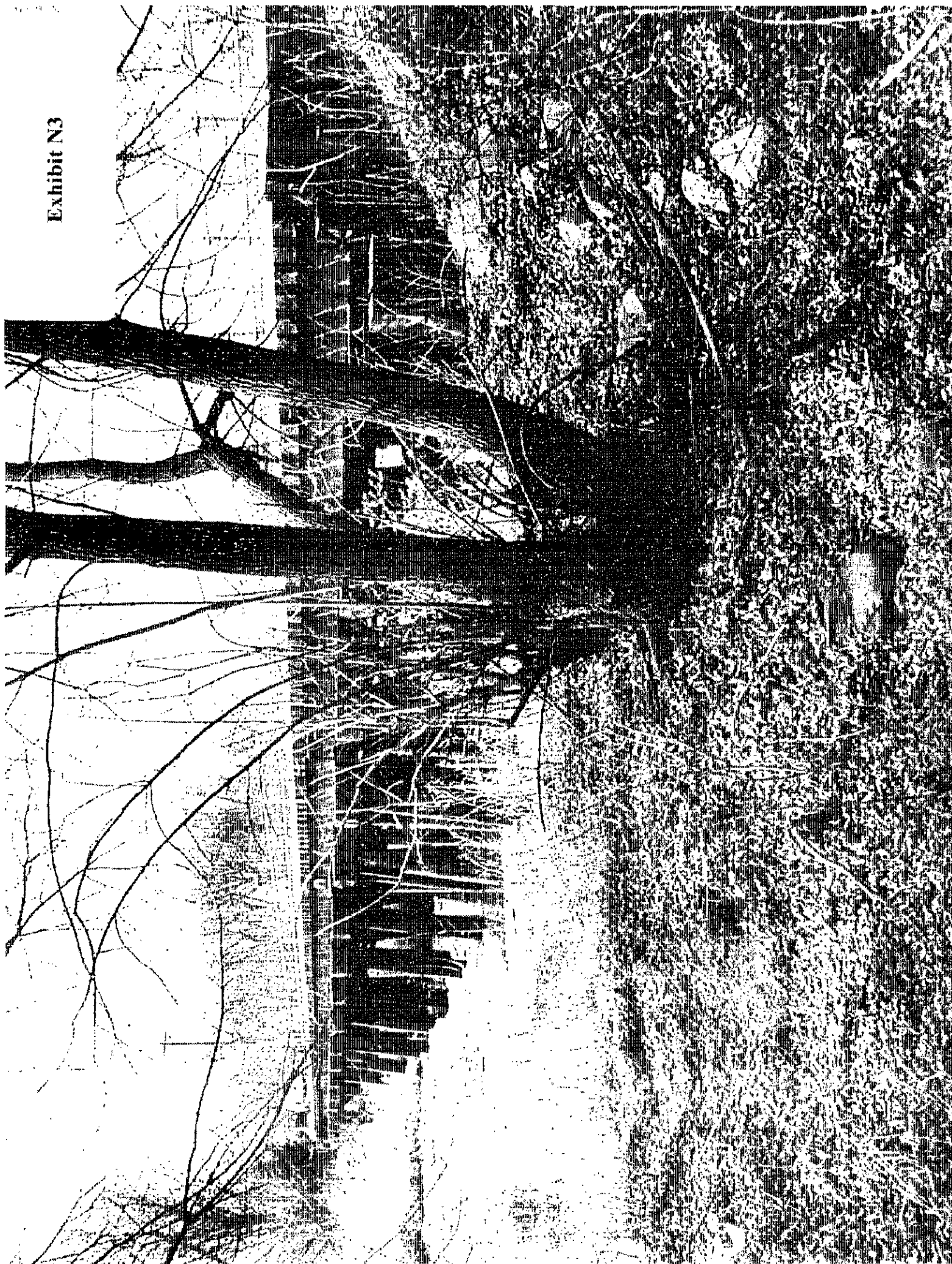


Exhibit N4





MINNESOTA HISTORICAL SOCIETY
STATE HISTORIC PRESERVATION OFFICE

November 17, 2006

Mr. Sidney Strickland
Sidney Strickland & Associates
3050 K Street NW, Suite 101
Washington, D.C. 20007-5108

RE: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company
Abandonment of .54 miles of railroad
Appleton, Swift County
SHPO Number: 2006-3035

Dear Mr. Strickland:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

Based on available information, we conclude that **no properties** listed on or eligible for listing on the National Register of Historic Places will be affected by this project

Please contact our Compliance Section at (651) 296-5462 if you have any questions regarding our review of this project.

Sincerely,

Britta L. Bloomberg
Deputy State Historic Preservation Officer

CERTIFICATION PURSUANT TO 49 C.F.R.1105.7(c) and 8(c)

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on February 21, 2007, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

Robert J. Rickert
Rail Bank and Abandonment Coordinator
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

Minnesota DNR
Division of Lands and Minerals
Attn: Kathy Lewis
500 Lafayette Road
St. Paul, MN 55155-4045

Scott Collins, Director
Swift County Environmental Services
1000 Industrial Drive
P.O. Box 288
Benson, MN 56215

William Lorenzen, Environmental Review/Justice
Coordinator
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
Saint Paul, MN 55101-1854

Patrick G. Carroll, Senior Realty Officer
U.S. Fish and Wildlife Service, Region 3
BHW Federal Building
One Federal Drive
Fort Snelling, MN 55111-4056

Robert J. Whiting
U.S. Army Engineer District, St. Paul
190 Fifth St. East
St. Paul, MN 55101-1683

Marcia Sieckman
U.S. Bureau of Land Management Eastern States
Milwaukee Field Office
626 E. Wisconsin Ave.
Suite 200
Milwaukee, WI 53202-4617

Steve Colvin
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4040

Kenneth Westlake, Chief
U.S. Environmental Protection Agency, Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard
Mailcode: B-19J
Chicago, IL 60604

Robert Maydwell
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Ms. Britta L. Bloomberg
Deputy State Historic Preservation Officer
Minnesota Historical Society
345 W. Kellogg Blvd.
St. Paul, MN 55102-1906

Swift County Board of County Commissioners
301 14th Street North County Courthouse
Benson, MN 56215-1106

Lawrence Zdon
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155-4194

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Springs, MD 20910-3282

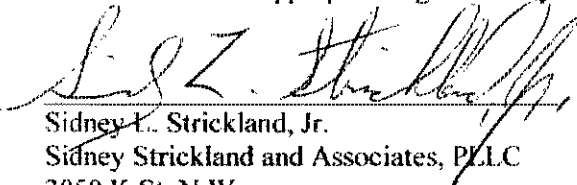
Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

Roman A. Fidler, Clerk/Treasurer
City of Appleton
323 West Schlieman Avenue
Appleton, MN 56208

Mike Johnson
Swift County Parks, Drainage and Wetlands
1635 Hoban Avenue, Box 241
Benson, MN 56215

Skip Wright, Area Hydrologist
MN DNR Division of Waters
Box 457
Spicer, MN 56288

The required cover letters (pursuant to 49 C.F.R. 1105.11) are attached hereto. BNSF has consulted with all appropriate agencies in preparing the reports.



Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W.,
Suite 101
Washington, D.C. 20007

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.

February 21, 2007

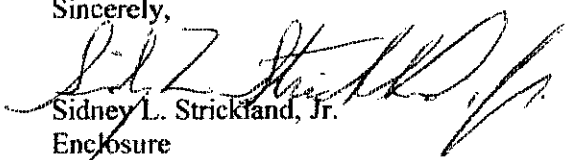
Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Ms. Rutson:

On or about March 13, 2007, BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota (the "Line"). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Sincerely,


Sidney L. Strickland, Jr.
Enclosure
SLS/cew

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SIDNEY L. STRICKLAND, JR.

February 21, 2007

Robert J. Rickert
Rail Bank and Abandonment Coordinator
Minnesota Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155-1899

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Rickert:

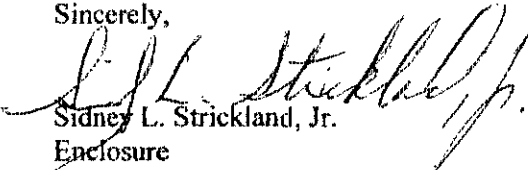
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Thank you in advance for your cooperation.

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Sidney L. Strickland, Jr.

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FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
ATTORNEY AT LAW

February 21, 2007

Minnesota DNR
Division of Lands and Minerals
Attn: Kathy Lewis
500 Lafayette Road
St. Paul, MN 55155-4045

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Ms. Lewis:

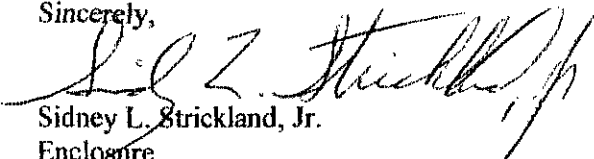
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SIDNEY L. STRICKLAND, JR.

February 21, 2007

Scott Collins, Director
Swift County Environmental Services
1000 Industrial Drive
P.O. Box 288
Benson, MN 56215

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Collins:

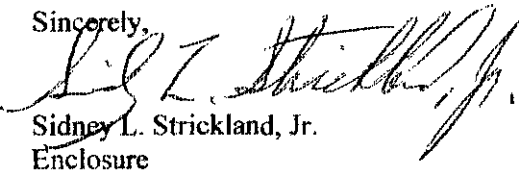
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SIDNEY L. STRICKLAND, JR.

February 21, 2007

William Lorenzen, Environmental Review/Justice Coordinator
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
Saint Paul, MN 55101-1854

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Lorenzen:

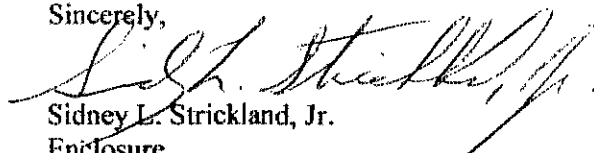
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Sidney L. Strickland, Jr.

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SIDNEY L. STRICKLAND, JR.

February 21, 2007

Patrick G. Carroll, Senior Realty Officer
U.S. Fish and Wildlife Service, Region 3
BHW Federal Building
One Federal Drive
Fort Snelling, MN 55111-4056

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Carroll:

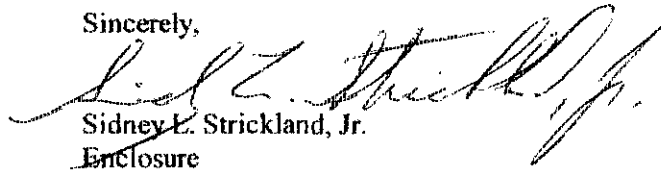
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SIDNEY L. STRICKLAND, JR.
(Signature)

February 21, 2007

Robert J. Whiting
U.S. Army Engineer District, St. Paul
190 Fifth St. East
St. Paul, MN 55101-1683

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Whiting:

On or about March 13, 2007, BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 0.54 miles of railroad line between Engineering Station 0 + 00 and Engineering Station 28 + 61, near Appleton in Swift County, Minnesota (the "Line"). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

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Thank you in advance for your cooperation.

Sincerely,

(Signature)
Sidney L. Strickland, Jr.

Enclosure
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WASHINGTON, DC 20007-5108
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SIDNEY L. STRICKLAND, JR.

February 21, 2007

Marcia Sieckman
U.S. Bureau of Land Management Eastern States
Milwaukee Field Office
626 E. Wisconsin Ave.
Suite 200
Milwaukee, WI 53202-4617

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Ms. Sieckman:

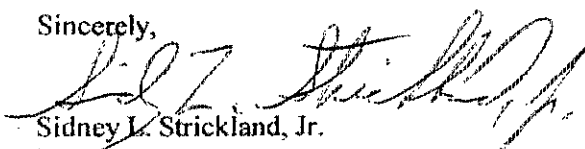
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SIDNEY L. STRICKLAND, JR.

February 21, 2007

Steve Colvin
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4040

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Colvin:

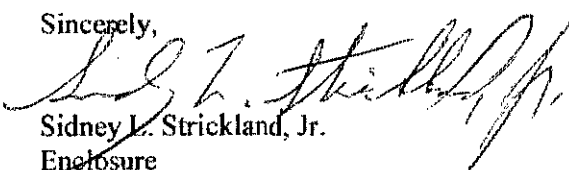
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SIDNEY L. STRICKLAND, JR.

February 21, 2007

Kenneth Westlake, Chief
U.S. Environmental Protection Agency, Region 5
Metcalf Building
Office of Strategic Environmental Analysis
77 West Jackson Boulevard
Mailcode: B-19J
Chicago, IL 60604

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Westlake:

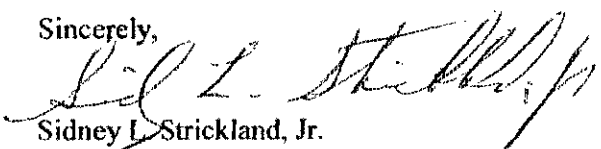
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SIDNEY L. STRICKLAND, JR.
202-338-1325

February 21, 2007

Robert Maydwell
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Maydwell:

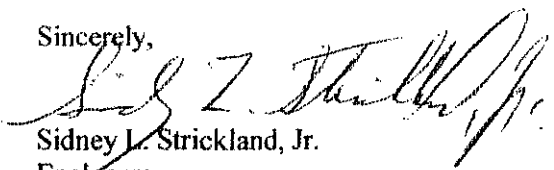
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Sidney L. Strickland, Jr.

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SIDNEY L. STRICKLAND, JR.
202-338-1325

February 21, 2007

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Deputy State Historic Preservation Officer
Minnesota Historical Society
345 W. Kellogg Blvd.
St. Paul, MN 55102-1906

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Dear Ms. Bloomberg:

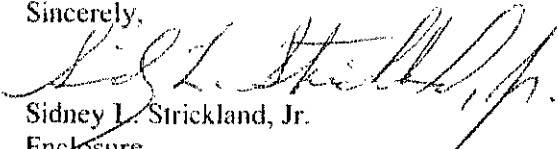
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Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.

Enclosure

SLS/ew

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.

February 21, 2007

Swift County Board of County Commissioners
301 14th Street North County Courthouse
Benson, MN 56215-1106

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Sirs:

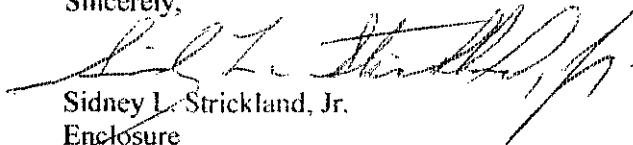
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WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.

February 21, 2007

Lawrence Zdon
Minnesota Pollution Control Agency
520 Lafayette Road N.
St. Paul, MN 55155-4194

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Zdon:

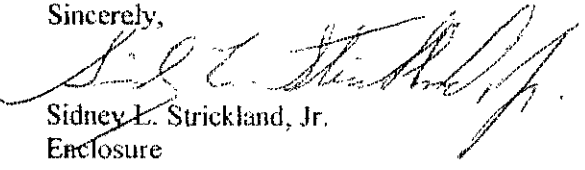
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Enclosure
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3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
SLS/eew

February 21, 2007

Minnesota Board of Water and Soil Resources
520 Lafayette Road North
Saint Paul, MN 55155

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Sir or Madam:

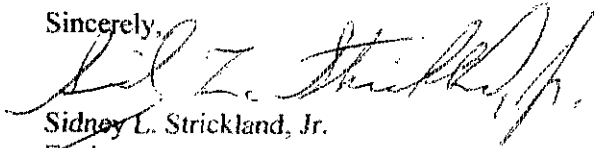
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WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.

February 21, 2007

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Springs, MD 20910-3282

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Sir or Madam:

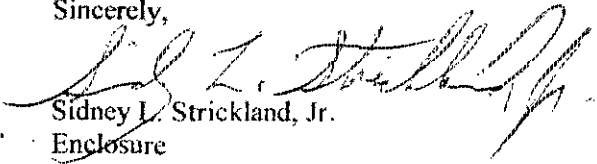
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WASHINGTON, DC 20007-5108
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SIDNEY L. STRICKLAND, JR.
ATTORNEY AT LAW

February 21, 2007

Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

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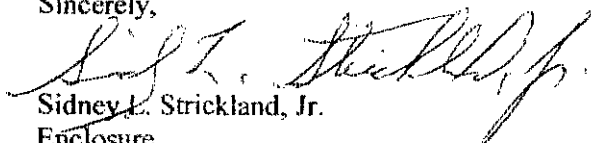
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**3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854**

SIDNEY L. STRICKLAND, JR.
U.S. ATTORNEY GENERAL'S OFFICE, WASHINGTON, D.C. 20540

February 21, 2007

Roman A. Fidler, Clerk/Treasurer
City of Appleton
323 West Schlieman Avenue
Appleton, MN 56208

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Fidler:

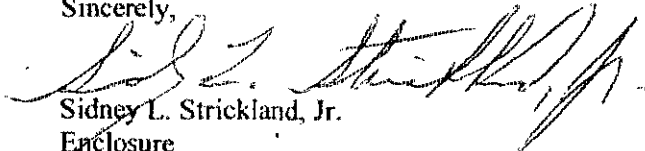
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TELEPHONE: 202-338-1325
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SIDNEY L. STRICKLAND, JR.
[REDACTED]

February 21, 2007

Mike Johnson
Swift County Parks, Drainage and Wetlands
1635 Hoban Avenue, Box 241
Benson, MN 56215

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

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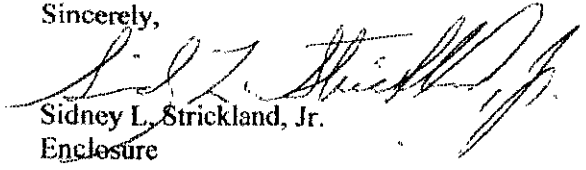
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WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854**

SIDNEY L. STRICKLAND, JR.

February 21, 2007

Skip Wright, Area Hydrologist
MN DNR Division of Waters
Box 457
Spicer, MN 56288

***Re: STB Docket No. AB-6 (Sub. No. 449X) BNSF Railway Company—Abandonment
Exemption – in Swift County, MN***

Dear Mr. Wright:

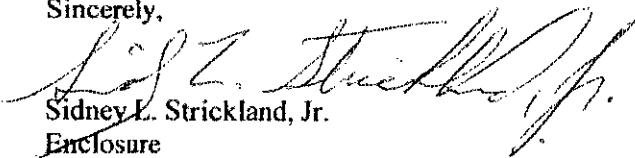
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