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BEFORE THE
SURFACE TRANSPORTATION BOARD

FEE RECEIVED

NOV 12 2003

THE BURLINGTON NORTHERN AND)
SANTA FE RAILWAY COMPANY --)
ABANDONMENT AND DISCONTINUANCE)
OF SERVICE EXEMPTION BETWEEN)
PAWNEE AND ENDICOTT, IN)
JEFFERSON, GAGE AND PAWNEE)
COUNTIES, NEBRASKA)

SURFACE
DOCKET NO. 2003-10-0000
AB-6 (Sub No 405X)

ENTERED
Office of Proceedings

NOV 12 2003

Part of
Public Record

PETITION FOR EXEMPTION

THE BURLINGTON NORTHERN AND SANTA
FE RAILWAY COMPANY
2500 Lou Menk Drive
Fort Worth, TX

Petitioner

Michael Smith
Freeborn & Peters LLP
311 S. Wacker Drive, Suite 3000
Chicago, IL 60606-6677

Attorney for Petitioner

DATE FILED: November 6, 2003

FILED

NOV 12 2003

TRANSPORTATION BOARD

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BEFORE THE
SURFACE TRANSPORTATION BOARD

THE BURLINGTON NORTHERN AND	)	
SANTA FE RAILWAY COMPANY --	)	DOCKET NO.
ABANDONMENT AND DISCONTINUANCE	)	AB-6 (Sub No 405X
OF SERVICE EXEMPTION BETWEEN	)	
PAWNEE AND ENDICOTT, IN	)	
JEFFERSON, GAGE AND PAWNEE	)	
COUNTIES, NEBRASKA	)	

PETITION FOR EXEMPTION

INTRODUCTION

Pursuant to 49 U.S.C. § 10502(a) and C.F.R. § 1121.1, et seq., THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY (BNSF) hereby petitions for an exemption from the requirements of 49 U.S.C. § 10903 for abandonment of its rail and discontinuance of rail service between Milepost 57.80 near Pawnee, Nebraska and Milepost 117.03 near Endicott, Nebraska, a distance of 59.23 miles.

SUBJECT RAIL LINE

BNSF proposes to the abandon 59.23 miles of rail line from milepost 57.80 near Pawnee, Nebraska and milepost 117.03 near Endicott, Nebraska (the "Line"). The Line traverses United States Postal Service ZIP Codes 68420, 68323, 68381, 68466, 68310, 68415, 68342, 68352 and 68350. A map of the Line is attached as Exhibit 1.

Based on information in BNSF's possession, the Line does not contain federally granted right-of-way. The right of way was acquired between 1880 and 1889 by the Republican Valley Railroad, a predecessor to the BNSF.

Due to excessive rain in June 2003, the Line suffered severe damage and washouts. The damage was so severe that the entire Line east of Endicott has been out of service since June 2003. See Exhibit 2, the Verified Statement of Richard A. Batie.

REASONS FOR THE ABANDONMENT

An exemption is sought for abandonment and discontinuance of rail service on the Line because (1) operation of the Line is unprofitable; (2) the Line requires substantial track maintenance and rehabilitation; and (3) all active rail customers on the Line have feasible transportation alternatives and do not oppose the proposed abandonment.

1. Unprofitability and Costly Rehabilitation Requirements

The rail traffic and revenues on the Line have declined significantly, and the traffic levels on the Line do not justify its continued operation and maintenance. The revenues currently generated by the Line do not cover the cost of maintenance and rehabilitation.

In 1980, the former BN handled 1,785 cars on the Pawnee to Endicott line compared with the 417 handled in 2002. See Exhibit 2, the Verified Statement of Richard A. Batie. This is a 77 percent decline in traffic since 1980. The traffic has declined by 15 percent from 2001 to 2002 and by 16 percent from 2000 to 2002. The revenue has declined by 11 percent from 2001 to 2002 and by 8.27 percent from 2000 to 2002. In the first three quarters of 2003, only 337 cars used the track. This is a decline of 8.49 percent from 2001 and 9.77 percent from 2000.

Declining revenues generated on the line do not justify incurring the projected costs of operating the Pawnee-Endicott line, i.e. the cost to maintain the track and bridges on the 59.23

miles between Pawnee and Endicott and restoring the track to normal operating conditions. Due to flooding in June 2003, an expenditure estimated at a minimum of \$135,000 is required to rehabilitate the Pawnee-Endicott line to restore the line to FRA Class I track safety. See Exhibit 2, the Verified Statement of Richard A. Batie. This rehabilitation cost along with continued operating costs incurred on the line would place an undue burden on BNSF and interstate commerce.

(2) Shippers have feasible transportation alternatives and Support the Proposed Abandonment

There would be little adverse effect on local interests from abandonment because shippers on the Line have feasible transportation alternatives, as shown in the Verified Statement of Richard A. Batie (Exhibit 2) and in Exhibits 3 to 7. All active shippers on the Line have indicated that they support the abandonment.

THE EXEMPTION STANDARDS HAVE BEEN MET

Under 49 U.S.C. §10903, a rail line cannot be abandoned without the prior approval of the Board. However, under 49 U.S.C. § 10502, the Board must exempt a rail transaction from regulation when it finds that (1) application of the pertinent statutory provisions is not necessary to carry out the rail transportation policy of 49 U.S.C. §10101; and (2) either the transaction is of limited scope or regulation is unnecessary to protect shippers from the abuse of market power. The abandonment proposed by BNSF here clearly falls within the statutory standards requiring exemption under 10502.

The national rail transportation policy as enumerated in 49 U.S.C. §10101 obviates the need for detailed scrutiny by the Board in 49 U.S.C. §10903 in this instance. The need for federal regulatory control of the rail transportation system is minimized in this context in the form of a

simple exemption for abandonment of the subject line. See 49 U.S.C. §10101(2). Specifically, by minimizing the regulatory expense and delay inherent in a full abandonment application, exemption will expedite regulatory decisions and reduce regulatory barriers to exit. See 49 U.S.C. §§10101(2) and (7). Furthermore, BNSF will avert significant avoidable costs in the future if it is permitted to abandon the Line that is significantly deteriorated. An exemption by the STB in this instance will allow BNSF to compete more effectively, foster sound economic conditions, and encourage efficient management in accordance with the national rail transportation policy. See 49 U.S.C. §§10101(4), (5), and (9). See, e.g., STB Docket No. AB-43 (Sub-No. 172X), *Illinois Central Railroad Company-Abandonment Exemption-In Adams County, MS*, Served March 20, 2002; STB Docket No. AB-55 (Sub-No. 601X), *CSX Transportation Inc. – Abandonment Exemption – In Lenoir County, NC*, Served March 8, 2002; STB Docket No. AB-497 (Sub No. 1X), *Minnesota Northern Railroad, Inc. – Abandonment Exemption – In Red Lake and Polk Counties, MN* (not printed), served November 14, 1997); STB Docket No. AB-318 (Sub-No 4X), *Louisiana & Delta Railroad, Inc. – Abandonment Exemption – In Lafourche and Assumption Parishes, LA* (not printed), served August 26, 1997.

This transaction will not result in an abuse of market power. Most shippers that have formerly used this Line have switched to motor carrier service. The area surrounding the Line has an adequate network of roadway and federal and state highways capable of handling truck traffic for limited shipments that originate or terminate along the Line. Only Endicott Clay still uses rail. As explained in the Verified Statement of Richard A. Batie (Exhibit 2), once abandonment and discontinuance is approved, BNSF plans to convey track to Endicott Clay so that it can connect to Union Pacific's main line for continued rail service. In fact all known active shippers on the Line have been contacted regarding the proposed abandonment and each

shipper supports the proposed abandonment. See Exhibits 3 to 7. Because the on the Line shippers support the proposed abandonment have adequate transportation alternatives that they are already using, application of 49 U.S.C. § 10903 to the proposed abandonment and discontinuance is not necessary to protect shippers from an abuse of market power. *See, e.g.,* STB Docket No. AB-850X, *St. Croix Valley Railroad Company–Abandonment and Discontinuance Of Service Exemption–In Pine and Kanabec Counties, MN*, Served July 7, 2003; STB Docket No. AB-468 (Sub-No. 5X), *Paducah & Louisville Railway, Inc.–Abandonment Exemption–In McCracken County, KY*, Served June 18, 2003; STB Docket No. AB-55 (Sub-No. 615X), *CSX Transportation, Inc.-Discontinuance Exemption-(Between East Of Memphis And Cordova) In Shelby County, TN*, Served July 17, 2002. In light of that finding of no abuse of market power, the Board need not determine whether the proposed transaction is of limited scope.

Because the evidence warrants the finding required by 49 U.S.C. § 10502(a), the board should grant the proposed exemption.

ENVIRONMENTAL AND HISTORICAL REPORTS

The Environmental Report required by 49 C.F.R. §1105.7 and the Historic Report required by 49 C.F.R. §1105.8 were previously served on the STB and the required parties and are attached here as Exhibit 8, respectively, to this Petition for Exemption. The certificate of Service evidencing BNSF's compliance with 49 C.F.R. §1105.11 is attached to the corresponding reports.

LABOR STANDARDS

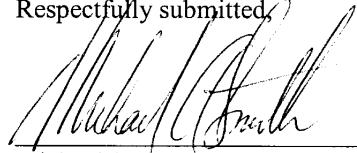
The interest of railroad employees will be protected by the conditions imposed *in Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

DRAFT FEDERAL REGISTER NOTICE

The draft Federal Register notice is attached to this Petition as Exhibit 9.

WHEREFORE, BNSF respectfully requests that the Board issue a decision exempting the proposed abandonment from the provisions of 49 U.S.C. §10903 and direct that the exemption be effective on the date of the Board's decision.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Michael Smith", is written over a horizontal line.

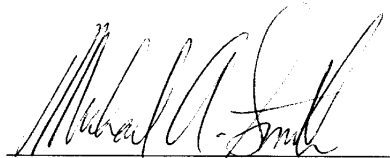
Michael Smith
Freeborn & Peters LLP
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Dated: November 6, 2003

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
NO. AB-6 (Sub No. 404X)

CERTIFICATION

I hereby certify that (1) service of notice upon the U.S. Department of the Interior, National Park Service, Recreation Park Service, Land Resource Division; the Department of Defense, Military Traffic Management Command; the Nebraska Public Service Commission; the Nebraska Department of Roads; and the Chief Forest Service, U.S. Department of Agriculture was accomplished by mailing a copy thereof on July 15, 2003; (2) the environmental and historic reports were serviced upon the agencies identified in 49 C.F.R. § 1105.7(b) and the State Historic Preservation Offices on July 15, 2003; (3) service of notice upon the State Clearinghouses was accomplished by mailing a copy thereof on July 15, 2003; and (4) the publication requirements of 49 C.F.R. § 1105.12 have been complied with, to wit: publication of notice was accomplished on July 24, 2003 in the Pawnee Republican, on July 24 in the Fairbury Journal-News and on July 19, 2003 in the Beatrice Daily Sun, affidavits of publication are attached.



Michael Smith
Freeborn & Peters
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Date: November 6, 2003

AFFIDAVIT OF PUBLICATION

NOTICE OF INTENT TO ABANDON

The Burlington Northern and Santa Fe Railway Company gives notice that on or after August 4, 2003, it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10502(a) and 49 C.F.R. § 11121, *et seq.*, from the requirements of 49 U.S.C. 10903, for abandonment permitting the abandonment of 69.01 miles of railroad line between railroad Milepost 57.80 near Pawnee, Pawnee County, Nebraska and Milepost 117.03 near Endicott, Jefferson County, Nebraska, which line segment traverses through United States Postal Zip Codes 68420, 68323, 68381, 68466, 68310, 68415, 68342, 68352 and 68350. The proceeding will be docketed as No. AB-6 (Sub No. 405X).

The Board's Section of Environmental Analyses (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 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, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001 or by calling that office at 202-565-1538.

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 applicants' 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 Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative Michael Smith, Freeborn & Peters, 311 S. Wacker Drive, Suite 3000, Chicago, Illinois 60606-6677 - telephone (312) 360-6724.
(July 24)

The State of Nebraska, County of Pawnee, ss.

Beverly J. Puhalla or Ronald J. Puhalla, being first duly sworn on oath, deposes and says: That they are the publishers of The Pawnee Republican, a legal weekly newspaper printed and published in said County of Pawnee, and of general circulation therein; that said newspaper is printed in the English language and has a bona fide circulation of more than three hundred copies weekly; that said newspaper has been published at Pawnee City, in Pawnee County, in the State of Nebraska, for more than fifty-two successive weeks immediately prior to the date of the first publication of the foregoing notice and during all of said time said newspaper has been printed in whole or in part in an office maintained at the said place of publication; and that the foregoing notice was published in the said newspaper for 1 consecutive weeks, as follows: 7/24

Publication Fee 28.96

Copies 1

Subscribed and sworn to before me this 24th day of July 2003

GENERAL NOTARY PUBLIC



Kimberly J. Doster

My Comm. Exp. 12/31/04

Ronald J. Puhalla

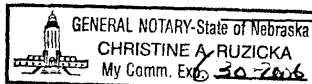
Kimberly J. Doster
Notary Public

PROOF OF PUBLICATION
THE FAIRBURY JOURNAL-NEWS.

STATE OF NEBRASKA, Jefferson County, ss.

F. A. Arnold being first sworn on oath deposes and says that he is **Publisher** of **THE FAIRBURY JOURNAL-NEWS** that he has actual knowledge of the facts hereinafter set forth; that the printed notice hereto attached was published in *The Fairbury Journal-News* once ~~each week,~~ successive weeks on the same day of each week; that ~~the first publication was on~~ July 18, 2003; and the last publication was on July 18, 2003; that said *The Fairbury Journal-News* is printed and published and has a general circulation in Jefferson County, Nebraska; that it has a bona fide circulation in excess of 300 copies weekly and has been published within said county for 52 successive weeks prior to the publication of this notice; and that it is a legal newspaper under the statutes of the State of Nebraska.

Subscribed and sworn to before me this 24 day of July, 2003.



Christine A. Ruzicka
Notary Public

My commission expires June 30, 2006.

Publication fee 70 lines of 8 point type 1 times
31.50

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July 19, 2003

AFFIDAVIT OF PUBLICATION

STATE OF NEBRASKA }SS.
GAGE COUNTY

Kari Janssen, being first
duly sworn on oath, says that she
he/she is the Chief Clerk
of the Beatrice Daily Sun, a legal daily newspaper printed
& published in Gage County, Nebraska, and having a
bonafide circulation of more than 300 copies of each issue;
that the notice, a true copy of which is hereto attached was
published in each and every Saturday issue
of said newspaper for 1 consecutive weeks,
the first publication being on the 19th day of
July, 2003; and the last
publication being on the 19th day of
July, 2003; that said
newspaper had been published in whole or in part in the
office of said county from which distribution took place,
for more than 52 consecutive weeks prior to the
publication of said notice

Subscribed in my presence and sworn to before me this

19th day of July, 2003.

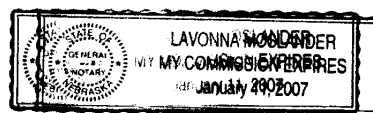
Lavonna M. Janssen
Notary Public

My commission expires 01/11/07

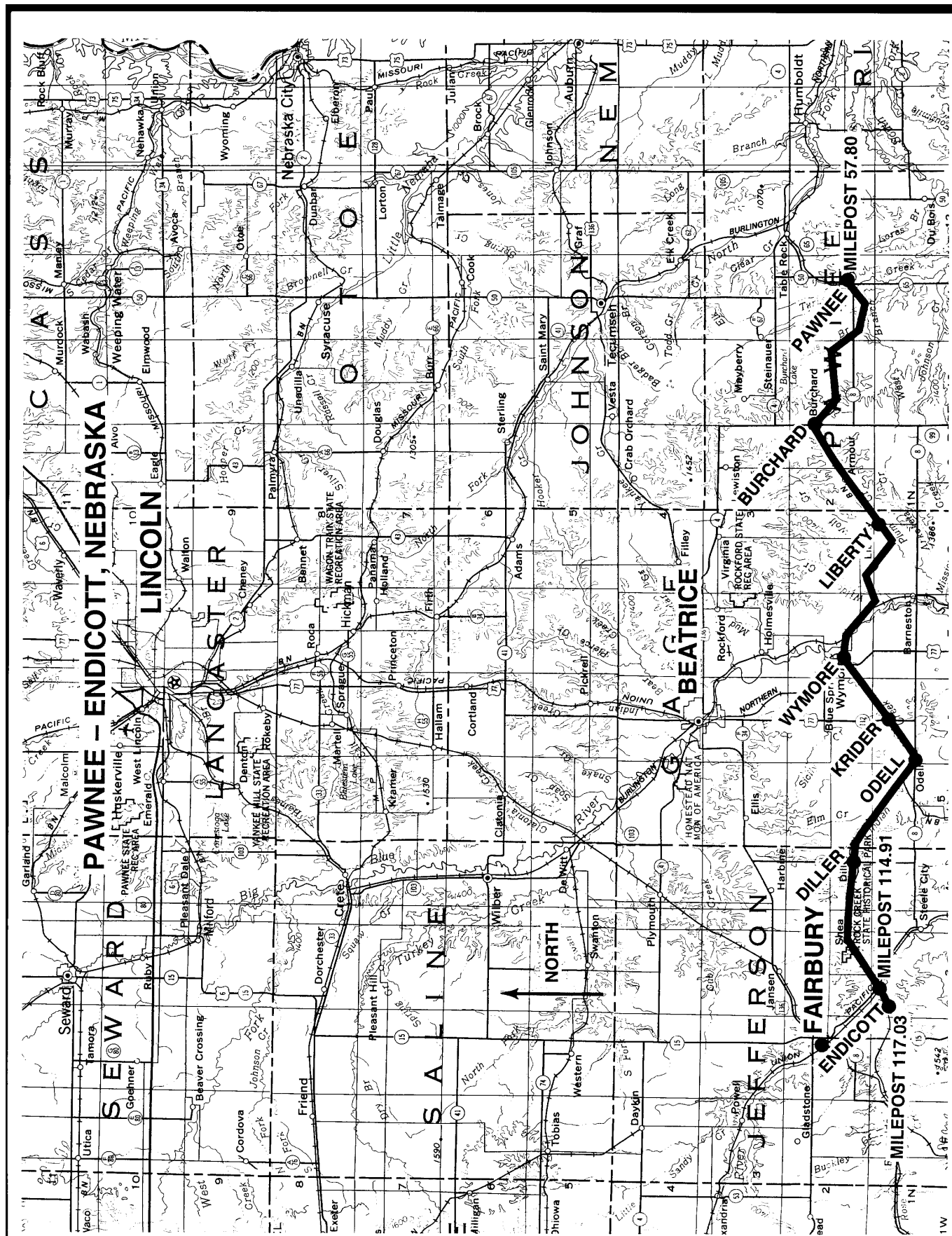
First week..... \$ 36.00

Subsequent weeks..... \$

Total..... \$ 36.00



1



2

VERIFIED STATEMENT OF RICHARD A. BATIE

During the month of June, 2003, southeastern Nebraska received substantial rains which resulted in several washouts on BNSF trackage. The estimated damage that flooding caused on the Pawnee to Endicott line is at least \$135,000. The flooding and washouts resulted in the discontinuance of service to most of the line between Pawnee and Endicott. The stations of Burchard, Liberty, Wymore, Krider, Odell and Diller are no longer receiving rail service.

Immediately following the flooding conditions, BNSF and Union Pacific Railroad (UP) made arrangements whereby BNSF was able to detour over the UP from Hastings to Endicott in order to serve Endicott Clay Products at Endicott. This arrangement was in effect from the time of the flooding up until November 3, 2003 when further arrangements were made between BNSF and UP which would allow UP to act as BNSF's agent in order to serve Endicott Clay Products until the proposed abandonment is completed. Under this arrangement, UP hauls Endicott Clay Products traffic between Endicott and Kansas City as BNSF's agent.

Following the abandonment of the Pawnee to Endicott line approximately 2.12 miles of BNSF trackage at Endicott will be conveyed to Endicott Clay Products as private industrial track which will allow Endicott Clay Products to connect with the UP and receive uninterrupted rail service from the UP following the abandonment.

I have contacted representatives from each of the five customers who have used the Pawnee to Endicott line during the past three years. Each of the five customers have furnished BNSF a letter of support for the proposed abandonment.

In 1980, the former Burlington Northern Railroad (BN) handled 1,785 cars on the Pawnee to Endicott line. This compares to the 419 cars handled in 2002, the last full calendar

year that the line was in operation. Traffic on the line during 2000, 2001, 2002 and the first nine months of 2003 is attached as Exhibit A.

Southeast Nebraska Coop (SNC) owns a grain elevator and fertilizer business at Burchard and received two cars of fertilizer in 2000, two cars of fertilizer in 2001, three cars of fertilizer in 2002 and 2 cars of fertilizer in the first nine months of 2003. SNC trucks its grain to its elevator at Beatrice. In the future, SNC plans to truck its fertilizer shipments to the Burchard facility.

Wymore Fertilizer owns and operates a fertilizer facility at Wymore. Wymore Fertilizer received one car of fertilizer in 2000, 1 car of fertilizer in 2001, 9 cars of fertilizer in 2002 and no cars of fertilizer in 2003. In the future, Wymore Fertilizer plans to receive its fertilizer shipments by truck.

Farmers Coop has a grain elevator and fertilizer facility at Odell and shipped 145 cars of grain in 2000, 181 cars of grain in 2001, 109 cars of grain in 2002 and 38 cars of grain in the first nine months of 2003. In addition, Farmers Coop received two cars of fertilizer in 2000, two cars of fertilizer in 2001, no cars of fertilizer in 2002 and no cars of fertilizer in the first nine months of 2003. Farmers Coop at Odell plans to use truck shipments on its grain and fertilizer shipments in the future.

Firth Coop of Firth, Nebraska owns a grain elevator at Diller on the line proposed for abandonment. Firth Coop shipped four cars of grain in 2000, two cars of grain in 2001 and nothing in 2002 and nothing in the first nine months of 2003. Firth Coop plans to use trucks on its grain shipments in the future.

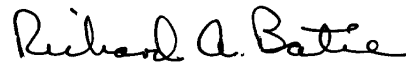
Endicott Clay Products (ECP) operates a brick factory approximately a mile west of Endicott, Nebraska. ECP shipped 333 cars of brick in 2000, 293 cars of bricks in 2001, 292 cars of bricks in 2002 and 227 cars of bricks in the first nine months of 2003. Also, ECP received 11

cars of lignin liquor in 2000, 10 cars of lignin liquor in 2001, 6 cars of lignin liquor in 2002 and 9 cars of lignin liquor in the first nine months of 2003. Throughout the damaging rains of 2003, BNSF has been able to continue to provide rail service to ECP. With cooperation from the UP, ECP is receiving regular rail service throughout the abandonment proceedings. Following the proposed abandonment, ECP will be able to receive rail service from the UP on an industrial classified track that connects to the UP mainline at Endicott. The conveyance of 2.12 miles of former BNSF trackage at Endicott to ECP following the proposed abandonment of the Pawnee to Endicott line will allow ECP to access distant rail markets on an uninterrupted basis and allow ECP to grow their business in the future as well as help reduce the amount of additional truck traffic on the nation's highways.

VERIFICATION

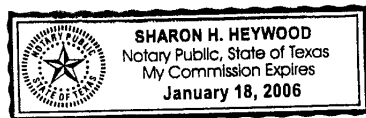
STATE OF TEXAS)
)ss
COUNTY OF TARRANT)

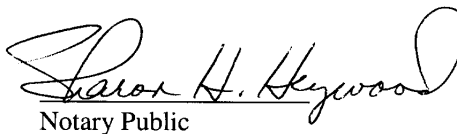
Richard A. Batie makes oath and says he is Manager, Shortline Development in the Network Development department of The Burlington Northern and Santa Fe Railway Company; that he has been authorized by the Applicant to verify and file with the Surface Transportation Board the foregoing Petition of Exemption in AB-6 (Sub-No. 405X); that he affirms that he has carefully examined all of the statements in the Petition; that he has knowledge of the facts and matters relied upon in the Petition; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.



Richard A. Batie
Manager, Shortline Development

Subscribed and sworn to before me the 4th day of November 2003.




Notary Public

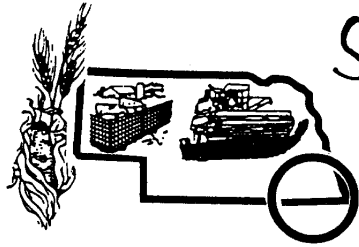
A

PAWNEE – ENDICOTT, NEBRASKA LINE
2000, 2001, 2002 and 1st Nine Months 2003 Traffic

		<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>9 Mos 2003</u>
<u>Burchard:</u>					
SE Nebraska Coop	Fertilizer (rec)	2	2	3	2
<u>Wymore:</u>					
Wymore Fertilizer	Fertilizer (rec)	1	1	9	0
<u>Odell:</u>					
Farmers Coop	Grain (fwd)	145	181	109	0
	Fertilizer (rec)	2	2	0	0
<u>Diller:</u>					
Firth Coop	Fertilizer (rec)	4	2	0	0
<u>Endicott:</u>					
Endicott Clay Products	Bricks (fwd)	333	293	292	227
	Lignin Liquor (rec)	11	10	6	9
	Total	498	491	419	337

Note: fwd is forwarded traffic, rec is received traffic

3



Southeast Nebraska Cooperative Co.

P. O. Box 247 • 403 South 3rd • Beatrice, NE 68310 • Phone (402) 228-3458

August 7, 2003

Richard Batie, Manager
Shortline Development
The Burlington Northern & Santa Fe Railway
2500 Lou Menk Drive, 3rd Floor
Forth Worth, Texas 76131

RE: Docket AB-6, Sub No. 405X

Dear Richard,

This refers to the proposed abandonment BNSF's 59.23 mile Pawnee (Milepost 57.80) to Endicott (Milepost 117.03), Nebraska line which will be filed with the Surface Transportation Board (STB) in Docket AB-6, Sub No. 405X shortly.

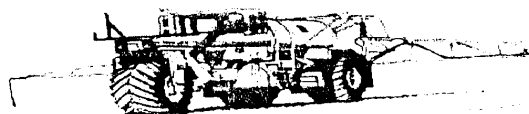
Southeast Nebraska Cooperative is a customer that has utilized the Pawnee to Endicott, NE line during 2001 and 2002 and supports the proposed abandonment of the line. Southeast Nebraska Cooperative further requests that the STB expedite the abandonment process to allow an early abandonment.

Sincerely,

Monty Johnson, General Manager
Southeast Nebraska Cooperative Co.
P O Box 247, 403 South 3rd Street
Beatrice, Nebraska 68310
Phone 402-228-3458



4



WYMORE FERTILIZER CO.

4TH & G

Wymore, NE 68466

Rush Beekman, Owner

Phone: 402-645-3958

July 28, 2003

Richard Batie, Manager
Shortline Development
The Burlington Northern & Santa Fe Railway
2500 Lou Menk Drive, 3rd Floor
Fort Worth, Texas 76131

RE: Docket AB-6, Sub No. 405X

Dear Richard,

This refers to the proposed abandonment BNSF's 59.23 mile Pawnee (Milepost 57.80) to Endicott (Milepost 117.03), Nebraska line which will be filed with the Surface Transportation Board (STB) in Docket AB-6, Sub No. 405X shortly.

Wymore Fertilizer has been a customer that has utilized the Pawnee to Endicott, NE line during the past two years and supports the proposed abandonment of the line. Wymore Fertilizer further requests that the STB expedite the abandonment process to allow an early abandonment.

Sincerely,

Rush Beekman, Owner
Wymore Fertilizer
4th and G Streets
Wymore, Nebraska 68466
Phone 402-645-3958

5



Nebraska Tire & Energy L.L.C.

208 West 3rd St., P.O. Box 278

Firth, NE 68358

402-791-5862 • 800-234-5242 • Fax 402-791-5151



July 28, 2003

Richard Batie, Manager
Shortline Development
The Burlington Northern & Santa Fe Railway
2500 Lou Menk Drive, 3rd Floor
Fort Worth, Texas 76131

RE: Docket AB-6, Sub No. 405X

Dear Richard,

This refers to the proposed abandonment BNSF's 59.23 mile Pawnee (Milepost 57.80) to Endicott (Milepost 117.03), Nebraska line which will be filed with the Surface Transportation Board (STB) in Docket AB-6, Sub No. 405X shortly.

Firth Cooperative has been a customer that has utilized the Pawnee to Endicott, NE line during the past two years and supports the proposed abandonment of the line. Firth Cooperative further requests that the STB expedite the abandonment process to allow an early abandonment.

Sincerely,

A handwritten signature in cursive script that reads "Ronald Preston".

Ronald Preston, President
Firth Cooperative
P O Box 278, 208 West 3rd Street
Firth, Nebraska 68358
Phone 402-791-5837

"Reaching for the Future;
Quality Performance Today;
Committed to Excellence...Always!"

6

Endicott Clay Products Co

July 30, 2003

Richard Batie, Manager
Shortline Development
The Burlington Northern & Santa Fe Railway
2500 Lou Menk Drive, 3rd Floor
Fort Worth, Texas 76131

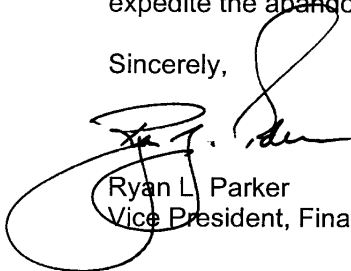
RE: Docket AB-6, Sub No. 405X

Dear Richard:

This refers to the proposed abandonment of BNSF's 59.23 mile Pawnee (Milepost 57.80) to Endicott (Milepost 117.03), the Nebraska line which will be filed with the Surface Transportation Board (STB) in Docket AB-6, Sub No. 405X shortly.

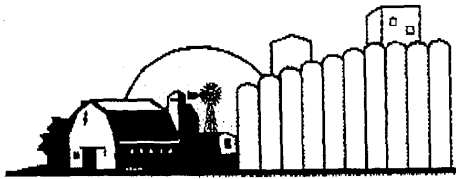
Endicott Clay Products Co. is a customer that has utilized the Pawnee to Endicott, NE line during the past two years and supports the proposed abandonment of the line. Endicott Clay Products further requests that the STB expedite the abandonment process to allow an early abandonment.

Sincerely,



Ryan L. Parker
Vice President, Finance

7



FARMERS COOPERATIVE

P.O. Box 263 • 208 W Depot
Dorchester, Nebraska 68343-0263
Phone: 946-2211

Toll Free: 1-800-642-6439 Fax: 1-402-946-2062

August 29, 2003

Richard Batie, Manager
Shortline Development
The Burlington Northern & Santa Fe Railway
2500 Lou Menk Drive, 3rd Floor
Fort Worth, Texas 76131

RE: Docket AB-6, Sub No. 405X

Dear Richard,

This refers to the proposed abandonment BNSF's 59.23 mile Pawnee (milepost 57.80) to Endicott (Milepost 117.03), Nebraska line which will be filed with the Surface Transportation Board (STB) in Docket AB-6, Sub No. 405X shortly.

Farmers Cooperative has been a customer that has utilized the Pawnee to Endicott, NE line during the past two years and supports the proposed abandonment of the line. Farmers Cooperative further requests that the STB expedite the abandonment process to allow an early abandonment.

Sincerely,

Ron Velder

Ron Velder
President/CEO
Farmers Cooperative
P. O. Box 263, 208 West Depot
Dorchester, NE 68343-0263

8

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company Abandonment and
Discontinuance of Service Exemption Between
M.P. 57.80 near Pawnee, Nebraska
and M.P. 117.03 near Endicott, Nebraska
in and through Jefferson, Gage and
Pawnee Counties, Nebraska

Docket No. AB-6
(Sub No. 405X)

ENVIRONMENTAL REPORT

The Burlington Northern and Santa Fe Railway Company (BNSF) proposes to file a petition under 49 U.S.C. § 10502 (a) for an exemption from 49 U.S.C. § 10903 for abandonment and discontinuance between M.P. 57.80 near Pawnee, Pawnee County, Nebraska and M.P. 117.03 near Endicott, Jefferson County, Nebraska, a total distance of approximately 59.23 miles. The following information is submitted to the Surface Transportation Board ("Board" or "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 proposed Petition for Exemption.

(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 and discontinue service of the line. 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 exemption will have a minimal effect on regional or local transportation systems and patterns. Shippers along the line used to include Southeast Nebraska Coop at Burchard, Wymore Fertilizer at Wymore, Farmers Coop of Odell, Firth Coop at Diller and Endicott Clay Products ("Endicott") at Endicott. Due to June, 2003 heavy rains which resulted in washouts near Wymore and Diller, the line east of Endicott was embargoed. As a result, those shippers other than Endicott have been and will continue to utilize alternative transportation arrangements. More recent heavy rains and additional washouts discussed below also took place in late June of 2003 that resulted in washouts east of Endicott. BNSF is temporarily detouring trains over the Union Pacific Railroad's ("UP") line between Hastings and Endicott in order to serve Endicott Clay Products and is also working with the UP in order to provide alternate service permanently to Endicott Clay Products. Following abandonment of the line, Endicott Clay Products will continue to receive UP service via part of the trackage proposed for abandonment and discontinuance. However, that portion of trackage will be designated as industrial trackage.

(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.

To the best of its knowledge, BNSF believes that the proposed exemption will be consistent with local or regional land use plans. See

Exhibit B, letter from the Jefferson County Attorney. The Board of Commissioners of Pawnee and Gage Counties were notified by letters dated April 30, 2003. See Exhibits C and D. As of the date of this report, neither has responded. BNSF will provide the Board copies of any response it may receive.

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

The abandonment will have no effect on prime agricultural land along the rail line. See Exhibit E, letter from the Natural Resources Conservation Service, Fairbury Field Office. As long as the roadbed remains intact, there will be no adverse effect to prime agricultural farmland in Pawnee County, Nebraska. See Exhibit F, e-mail from the Natural Resources Conservation Service, Pawnee City Field Office.

(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 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 is consistent with local land use plans. See Exhibit B, letter from the Jefferson County Attorney. The Board of Commissioners of Pawnee and Gage Counties were notified by letters dated April 30, 2003. See Exhibits C and D. As of the date of this report, neither has responded. The right of way may be suitable for alternative

public use; however title considerations could potentially affect suitability for such purposes, depending on the circumstances.

(4) Energy:

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

To the best of BNSF's knowledge there are no undeveloped energy resources such as oil, natural gas or coal in the vicinity of this line.

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

The proposed abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as this line is out of service.

(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 the line is out of service.

(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.

Since the track is currently out of service, no diversions would result. In 2002, the line had a total of 419 cars, which does not affect wither threshold in subsections (A) or (B) above.

(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

No.

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

No.

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

The action will not involve an increase in truck traffic of more than 10% ADT or 50 VPD on any affected road segment as the line is out of service. Even when the line was in service, abandonment would not have resulted in truck traffic increases by more than 10% of ADT or 50 VPD.

(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 train 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 or 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 proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service. Moreover, this area of proposed action is not within a Class I or non-attainment area under the Clean Air Act.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and from) 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.

This action will have no effect on the transportation of ozone-depleting materials as the line is out of service. Moreover, this line has not traditionally accommodated shipment of ozone depleting materials.

(6) Noise: If any of the thresholds identified in item (5)(c) 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 76 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 proposed abandonment and discontinuance is not expected to adversely effect health or public safety. There are 82 public crossings and

46 private crossings. During salvage operations on the line, 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 and accidental release of hazardous materials.

Abandonment and discontinuance will not result in 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.

Diesel fuel contamination from locomotive fueling in Wymore, Nebraska is likely to have occurred. Wymore was formerly a division point with a roadhouse at one time. However, there have been no environmental assessments done at this location. BNSF is not aware of any other 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.

BNSF is not aware of any endangered or threatened species or areas designated as critical habitat which would be adversely affected. No federally listed or proposed threatened or endangered species are expected

to occur within the project area. See Exhibit G, letter from the 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 proposed exemption should not affect wildlife sanctuaries or refuges, nor National or State parks or forests. The proposed project does not appear to impact federal fish and wildlife management facilities. See Exhibit G, letter from the Fish and Wildlife Service. The proposed abandonment will not affect any public lands administered by the Bureau of Land Management. See Exhibit H, e-mail from the Bureau of Land Management. The Rock Glen Wildlife Management Area (WMA), Rock Creek Station State Historical Park (SHP) and the Rock Creek State Recreation Area (SRA) are located near the proposed abandonment near Endicott, Nebraska. See Exhibit I, letter from the Nebraska Game and Parks Commission. The Rock Glen/Rock Creek Station complex has a number of 19th Century historical features and biological attributes, which lie adjacent to the proposed abandonment. During salvage operations on the line, precautions will be taken to ensure that any historical features or biological attributes located adjacent to the proposed abandonment will not be affected.

(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.

BNSF believes that the proposed exemption will be consistent with applicable Federal, State or local water quality standards. Simply removing tracks and ties without grading the right-of-way would not trigger the need for an NPDES permit. See Exhibit J, letter from the Nebraska Department of Environmental Quality, Wastewater Section.

(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 floodplains will be affected. Describe the effects.

Permits under 404 of the Clean Water Act are not required for the proposed exemption. See Exhibits K. letter from the Army Corps of Engineers.

BNSF does not believe that the proposed exemption will affect any designated wetlands or 100-year flood plains. The proposed abandonment will not affect the 100 year floodplains in Jefferson County. See Exhibit B, letter from the Jefferson County Attorney. The officials for Gage County and Pawnee County were notified by letters dated April 30, 2003. See Exhibits L and M. As of the date of this report, neither has responded.

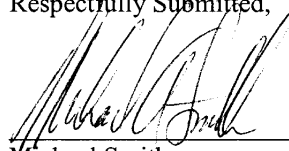
(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.

Permits under 402 of the Clean Water Act are not required for the proposed exemption. See Exhibit J, letter from the Nebraska Department of Environmental Quality, Wastewater Section.

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

Any salvage operations that may result will be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of historical or archaeological significance. The project itself should mitigate the environmental effects of reinstating active rail operations in the area.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael Smith", written over a horizontal line.

Michael Smith
Freeborn & Peters LLP
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Dated: November 6, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company Abandonment and
Discontinuance of Service Exemption Between
M.P. 57.80 near Pawnee, Nebraska
and M.P. 117.03 near Endicott, Nebraska
in and through Jefferson, Gage and
Pawnee Counties, Nebraska

Docket No. AB-6
(Sub No. 405X)

HISTORICAL REPORT

The following is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding BNSF's proposed Petition for Exemption for abandonment and discontinuance of its line between M.P 57.80 near Pawnee, Pawnee County, Nebraska and M.P. 117.03 near Endicott, Jefferson County, Nebraska, total distance of 59.23 miles, in and through Jefferson, Gage and Pawnee Counties, Nebraska.

(1) A U.S.G.S. topographic map (or 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 the railroad structures that are 50 years old or older and are part of the proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the Nebraska State Historical Society and one copy is being provided to the Surface Transportation Board's Section of the Environmental Analysis upon filing of this Report.

(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 right of way is rural in nature. Major crops grown in this area include corn, wheat, soybeans and milo. The adjacent land is generally flat to rolling. Small rural towns are located at intervals along the line.

The towns along the line include Burchard, Liberty, Wymore, Odell, Diller and Endicott. During the ten years between the 1990 census and the 2000 US census, the combined population of these six communities increased from 2,609 to 2,616, an increase of 0.3%. Wymore is the largest community along the line with a 2000 population of 1,656 followed by Odell with 345, Diller with 287, Endicott with 139, Burchard with 103 and Liberty with 86. There is a very good two lane highway network with a light amount of traffic in the vicinity of the line.

The right of way is generally 100 feet wide except for station grounds at stations located along the line and other rural locations where the right of way is wider.

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

There are no railroad structures that are 50 years or older in the immediate area of the line other than certain identified bridges. Photographs and descriptions of the thirty-three bridges that are 50 years or older are attached to this report. See Exhibit N.

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

See Exhibit N.

(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 rail line was completed by the Republican Valley Railroad Company in 1881. In 1882 The Republican Valley Railroad Company merged into Chicago Burlington and Quincy Railroad Company (CBQ). The majority of the right of way was acquired by various deeds from 1880 thorough 1890. In 1970 the CBQ merged with Northern Pacific Railway Company and Great Northern Railway Company to become The Burlington Northern Railroad Company (BN). In 1995 The Atchison Topeka and Santa Fe Railway merged with BN to become The Burlington Northern and Santa Fe Railway Company.

Since the line is out of service, no significant changes in carrier operations are expected.

(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 to be historic;

Typical documents in BNSF's possession concerning this abandonment may but do not necessarily 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 C.F.R. § 60.4), and whether there is a likelihood of archaeological 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);

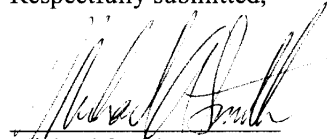
To the best of BNSF's knowledge, the proposed abandonment should have no appreciable effects on any known sites or properties listed, or eligible for listing in the National Register of Historic Places. BNSF is not aware of any unique sites or structures with significant historical associations located within the right of way. The Nebraska

Game and Parks Commission has noted the existence of the Rock Creek Station Historical Park complex near Endicott. See Exhibit I, letter from the Nebraska Department of Game and Parks. There will be no historic properties affected by the proposed project. See Exhibit O, letter from the Nebraska State 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 archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Smith', is written over a horizontal line.

Michael Smith
Freeborn & Peters LLP
311 S. Wacker Dr. Suite 3000
Chicago, Illinois 60606-6677
Phone: (312) 360-6724
Fax: (312) 360-6598

Date: November 6, 2003

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

The Burlington Northern and Santa Fe Railway Company ("BNSF") by and through its authorized representative, Michael Smith, certifies that on July 15, 2003, copies of the foregoing Environmental and Historical Reports were sent by first class mail to the following agencies:

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

L. Robert Puschendorf
Deputy State Historic Preservation Officer
State Historic Preservation Office
Nebraska State Historical Society
P.O. Box 82554
Lincoln, NE 68501-2554

U.S. Department of the Interior
National Park Service
Land Resource Division
1849 C Street, N.W.
Washington, DC 20240

Bill Carson
Reality Specialist
Bureau of Land Management
Newcastle Field Office
1101 Washington Blvd.
Newcastle, WY 82701

Michael Rabbe
U.S. Army Corps of Engineers
Omaha District
Nebraska Regulatory Office – Kearney
1430 Central Avenue, Suite 4
Kearney, NE 68847-6856

Jim Fuller
Parks Division
Nebraska Game and Parks Commission
2200 N. 33rd Street
Lincoln, NE 68503

Bruce Sackett
Nebraska Game and Parks Commission
2200 North 33rd Street
Lincoln, NE 68503

Richard Niemeier
Jefferson County Commissioner
411 4th Street
Fairbury, NE 68352-2536

Sandra Stelling
Jefferson County Clerk
411 4th Street
Fairbury, NE 68352

David T. Anderson
Chairman
Gage County Board of Supervisors
P.O. Box 429
County Courthouse
Beatrice, NE 68310-0429

Sandra Eltiste
Gage County Clerk
612 Grant Street, P.O. Box 429
Beatrice, NE 68310

Pawnee County Board of Commissioners
P.O. Box 431
County Courthouse
Pawnee County, NE 68420-0431

Carol Young
Pawnee County Clerk
P.O. Box 431
County Courthouse
Pawnee City, NE 68420-0431

Natural Resources Conservation Service
Beatrice Service Center
200 N 24th St
Beatrice, NE 68310-3427

U.S. Fish & Wildlife Service
Regional Director
P.O. Box 25486
Denver, CO 80025

Nebraska Public Service Commission
300 The Atrium
1200 N Street
P.O. Box 94927
Lincoln, NE 68509-4927

Jim Yeggy
NPDES Permits Unit
Water Quality Division
Nebraska Department of
Environmental Quality
1200 "N" Street, Suite 400
PO Box 98922
Lincoln, Nebraska 68509-8822

Edward McKay
National Geodetic Survey
NOAA - SSMC3
1315 East-West Highway
Silver Spring, MD 20914

John Mayberger
Resource Conservationist
Natural Resources Conservation Service
Fairbury Service Center
305 5th Street
Fairbury, NE 68352-2530

Natural Resources Conservation Service
Pawnee City Service Center
601 F St.
Pawnee City, NE 68420-3046

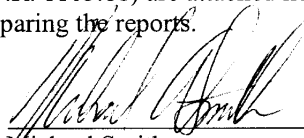
Dan Rosenthal
Public Transportation Engineer
Nebraska Department of Roads
PO Box 94759
Lincoln NE 68509

Steve Anschutz
Nebraska Field Supervisor
U.S. Fish & Wildlife Service
Ecological Services
203 West Second Street
Grand Island, NE 68801

Steve Chick
State Conservationist
Natural Resources Conservation Service
Federal Building, 100 Centennial Mall No.
Lincoln, NE 68508-3866

U.S. Environmental Protection Agency
Region 7
901 North 5th St.
Kansas City, KS 66101

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.



Michael Smith

Freeborn & Peters

311 S. Wacker Dr. Suite 3000

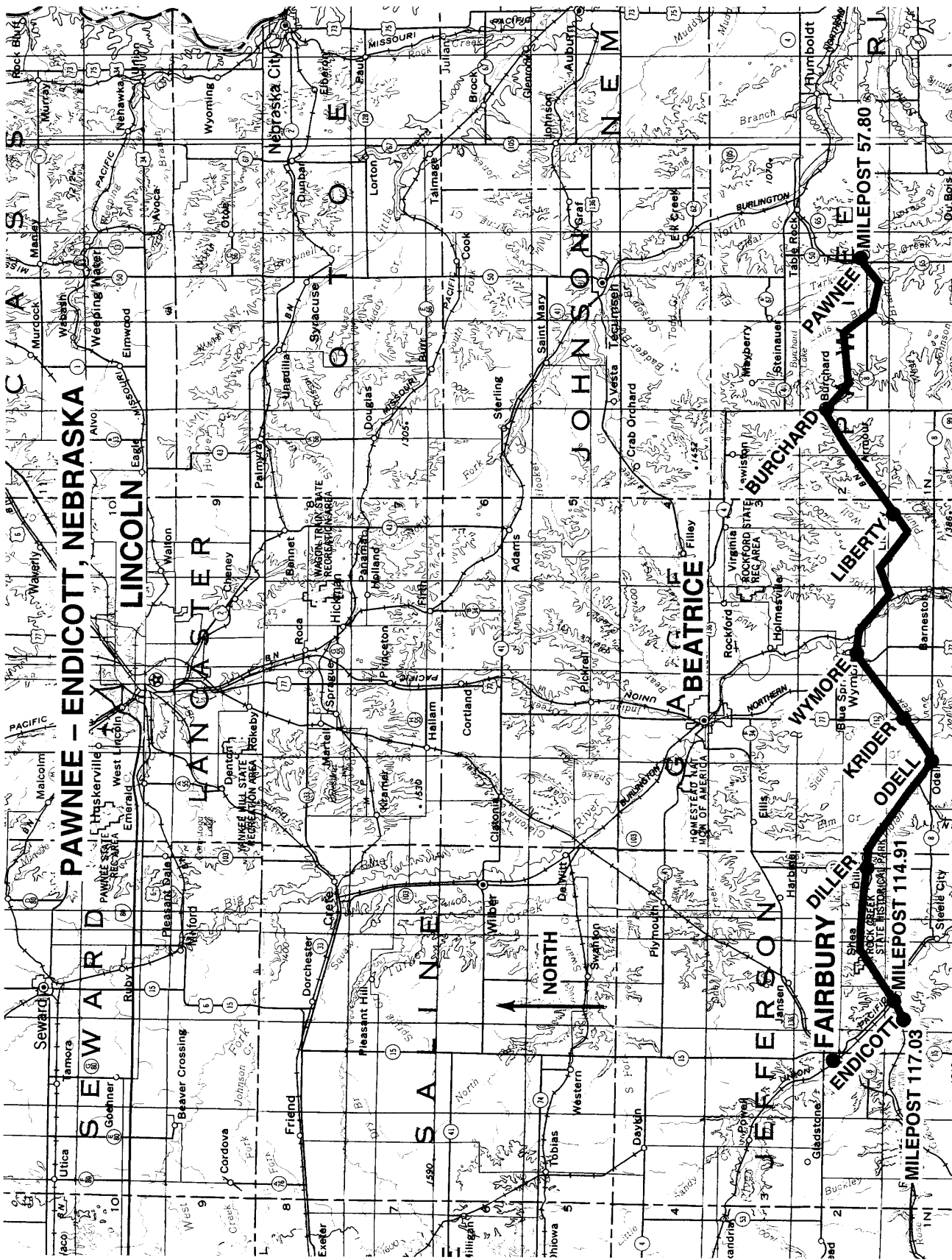
Chicago, Illinois 60606-6677

Phone: (312) 360-6724

Fax: (312) 360-6598

Date: November 6, 2003

A



B

Linda A. Bauer
JEFFERSON COUNTY ATTORNEY
411 4TH Street
Fairbury, NE 68352
(402) 729-2584
email: jeffersoncoatty@alltel.net

June 2, 2003

Brian Nettles
Freeborn & Peters
311 South Wacker Drive
Suite 3000
Chicago, IL 60606-6677

RE: Abandonment of Burlington Northern railroad line
in Jefferson County, Nebraska

Dear Mr. Nettles:

As a follow up to our phone conversation last week, this letter will confirm that the proposed abandonment of railroad line will not affect any 100-year floodplains in our County provided the roadbed is left intact. This will further confirm that the proposed action is consistent with local land use plans.

Please feel free to contact me if you require further information.

Very truly yours,



Linda A. Bauer

LAB:s

C

Freeborn & Peters

April 30, 2003

Don Luedders
Commissioner, Chair
Pawnee County Board of Commissioners
P.O. Box 431
County Courthouse
Pawnee City, NE 68420-0431

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Chicago

Springfield

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Table Rock, Nebraska to Endicott, Nebraska***

Dear Mr. Luedders:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition for Exemption seeking authority to abandon 69.01 miles of railroad line between Milepost 48.02 in Table Rock, Nebraska and Milepost 117.03 in Endicott, Nebraska.

As part of the environmental report BNSF needs to know whether or not the proposed action is consistent with local land use plans and if there are any alternate public uses for the corridor such as a recreational trail.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

D

Freeborn & Peters

April 30, 2003

David Anderson
Chairman
Gage County Board of Supervisors
P.O. Box 429
County Courthouse
Beatrice, NE 68310-0429

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Chicago

Springfield

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Table Rock, Nebraska to Endicott, Nebraska***

Dear Mr. Anderson:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition for Exemption seeking authority to abandon 69.01 miles of railroad line between Milepost 48.02 in Table Rock, Nebraska and Milepost 117.03 in Endicott, Nebraska.

As part of the environmental report BNSF needs to know whether or not the proposed action is consistent with local land use plans and if there are any alternate public uses for the corridor such as a recreational trail.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

E

United States Department of Agriculture



Fairbury Field Office
305 Fifth Street
Fairbury, NE 68352

<http://www.ne.nrcs.usda.gov>

May 6, 2003

Freeborn & Peters
311 South Wacker Drive
Suite 3000
Chicago, IL 60606-6677

***Re: The Burlington Northern and Santa Fe Railway Company Abandonment
of Table Rock, Nebraska to Endicott, Nebraska***

Dear Mr. Nettles:

The abandonment of the BNSF railroad line between Milepost 48.02 in Table Rock, NE and Milepost 117.03 in Endicott, NE, as described in the April 30, 2003 letter sent to our office, will have no effect on the prime agricultural lands along the rail line.

If you have further questions on this matter please contact our office.

Sincerely,

John Mayberger
Resource Conservationist

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

F

Nettles, Brian

From: Terry Newell [terrance.newell@ne.usda.gov]
Sent: Monday, May 19, 2003 10:53 AM
To: bnettles@freebornpeters.com
Cc: wesley pope
Subject: Railway Abandonment

Brian,

I have reviewed your company's request to abandon railroad line near Table Rock, Nebraska. As I understand your request, your company is considering removing rails and ties but will keep the roadbed intact. I see no adverse effect to prime farmland as long as the roadbed remains intact.

Questions that I do have is, who will maintain ownership of this roadbed? Will your company revert the ownership back to the current landowner or will your company maintain full ownership? As I've stated, as long as the roadbed remains intact I see no adverse effect to prime agricultural farmland here in Pawnee County, Nebraska.

Thank you for allowing me to comment on your intentions.

Terry Newell, Resource Conservationist
NRCS, Pawnee City Field Office

G



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Nebraska Field Office
203 West Second Street
Grand Island, Nebraska 68801

May 7, 2003

Mr. Brian Nettles
Freeborn & Peters
311 South Wacker Drive
Suite 3000
Chicago, IL 60606-6677

Dear Mr. Nettles:

This responds to your April 30, 2003, letter requesting comments from the U.S. Fish and Wildlife Service on a proposal by the Burlington Northern and Santa Fe Railway Company to abandon 69.01 miles of railroad line between Milepost 48.02 in Table Rock, Nebraska and Milepost 117.03 in Endicott, Nebraska. These comments are provided as technical assistance and predevelopment consultation and do not constitute a Service report under authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) on any required Federal environmental review or permit.

The Service has responsibility, under a number of authorities, for conservation and management of fish and wildlife resources. Chief among the federal statutes with which our office deals are the Coordination Act, Endangered Species Act of 1973, and the National Environmental Policy Act. The Coordination Act requires that fish and wildlife resources be given equal consideration in the planning, implementation, and operation of Federal and federally funded, permitted, or licensed water resource developments. Section 7 of the Endangered Species Act of 1973 outlines procedures for interagency consultations on the effects of Federal actions on federally listed threatened and endangered species. The Service participates in scoping and review of actions significantly affecting the quality of the environment under authority of the National Environmental Policy Act. In addition to these statutes, the Service has authority under several other legislative, regulatory, and executive mandates to promote conservation of fish and wildlife resources for the benefit of the public.

In Nebraska, the Service has special concerns for migratory birds, endangered and threatened species, and other important fish and wildlife resources. We also are concerned about any impacts on Federal and State wildlife refuges and management areas and other public lands, as well as to other areas that support sensitive habitats. Habitats frequently used by important fish and wildlife resources are wetlands, streams, and riparian (streamside) woodlands. Special attention is given to proposed developments that include modification of wetlands, or stream alteration, or contamination of important habitats. The Service recommends ways to avoid, minimize, rectify, reduce, or compensate for damaging impacts to important fish and wildlife resources and their habitats that may be attributed to land and water resource development proposals.

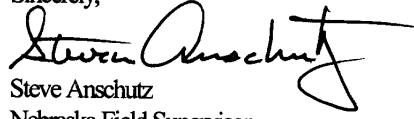
We have reviewed the plans for the proposed project and offer the following comments:

- a. The proposed project does not appear to impact federal fish and wildlife management facilities.
- b. No federally listed or proposed threatened or endangered species are expected to occur within the project area.

Based upon the submitted information, we have no objection to the proposal as currently planned. However, should the plans be modified, we recommend that you reinitiate coordination with this office.

Should you have any further questions, please contact Mr. Wally Jobman within our office at (308)382-6468, extension 16. Thank you for the opportunity to offer comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Anschutz", with a stylized flourish at the end.

Steve Anschutz
Nebraska Field Supervisor

cc: NGPC; Lincoln, NE (Attn: Julie Godberson)

H

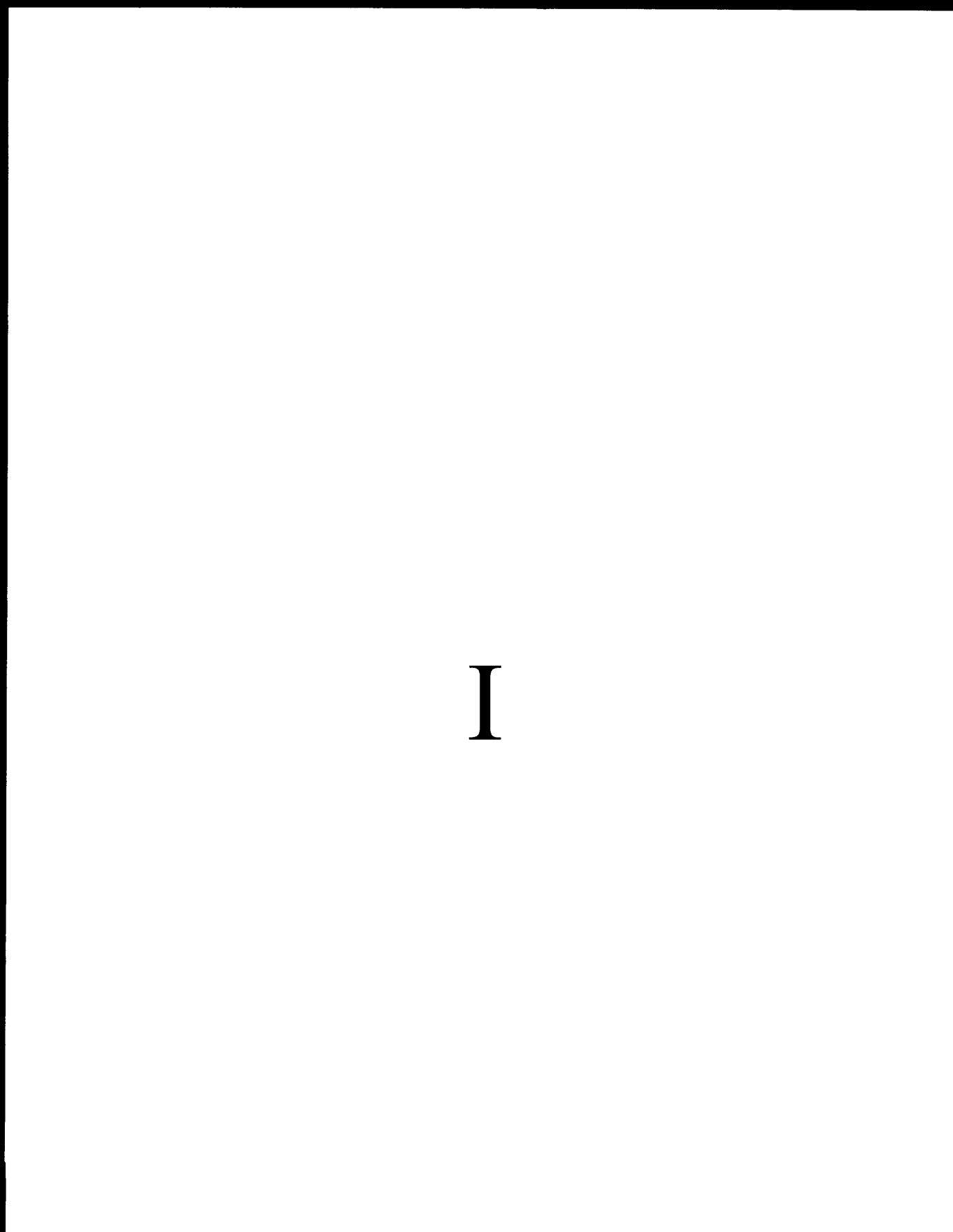
Nettles, Brian

From: Bill_Carson@blm.gov
Sent: Monday, May 12, 2003 2:55 PM
To: bnettles@freebornpeters.com
Subject: BNSF Abandonment - Table Rock, NE to Endicott, NE

We have analyzed the proposed railroad abandonment and found that it will not affect any public lands (Federal lands) administered by the Bureau of Land Management.

Bill Carson
Realty Specialist
Bureau of Land Management
Newcastle Field Office
1101 Washington Blvd
Newcastle, WY 82701

307-746-6607



I



Nebraska Game and Parks Commission

2200 N. 33rd St. / P.O. Box 30370 / Lincoln, NE 68503-0370

Phone: 402-471-0641 / Fax: 402-471-5528 / <http://www.ngpc.state.ne.us/>

May 29, 2003

Brian Nettles
Project Coordinator
Freeborn & Peters
Attorneys-at-Law
311 South Wacker Dr., Ste. 3000
Chicago, IL 60606-6677

RE: Petition to abandon 69.01 miles of Burlington Santa Fe railroad: M.P. 48.02 at Table Rock (Pawnee County) to M.P. 117.03 at Endicott (Jefferson County) in southeastern Nebraska.

Dear Mr. Nettles,

This is in response to your request for the Nebraska Game & Parks Commission staff to review and comment on the proposed action identified above. The principal concerns we wish to point out are associated with the Rock Glen Wildlife Management Area (WMA), Rock Creek Station State Historical Park, (SHP) and the Rock Creek State Recreation Area (SRA), all of which are located near Endicott, as shown on the enclosed aerial photograph based on a 1999 G.I.S. imagery. The Rock Glen/Rock Creek Station complex has a number of 19th Century historical features and biological attributes, which lie adjacent to the proposed abandonment. We will not try to provide details about the historical and natural resources values of the area at this time. We have enclosed brief general publications about the area, which give some high points you may want to note in your review.

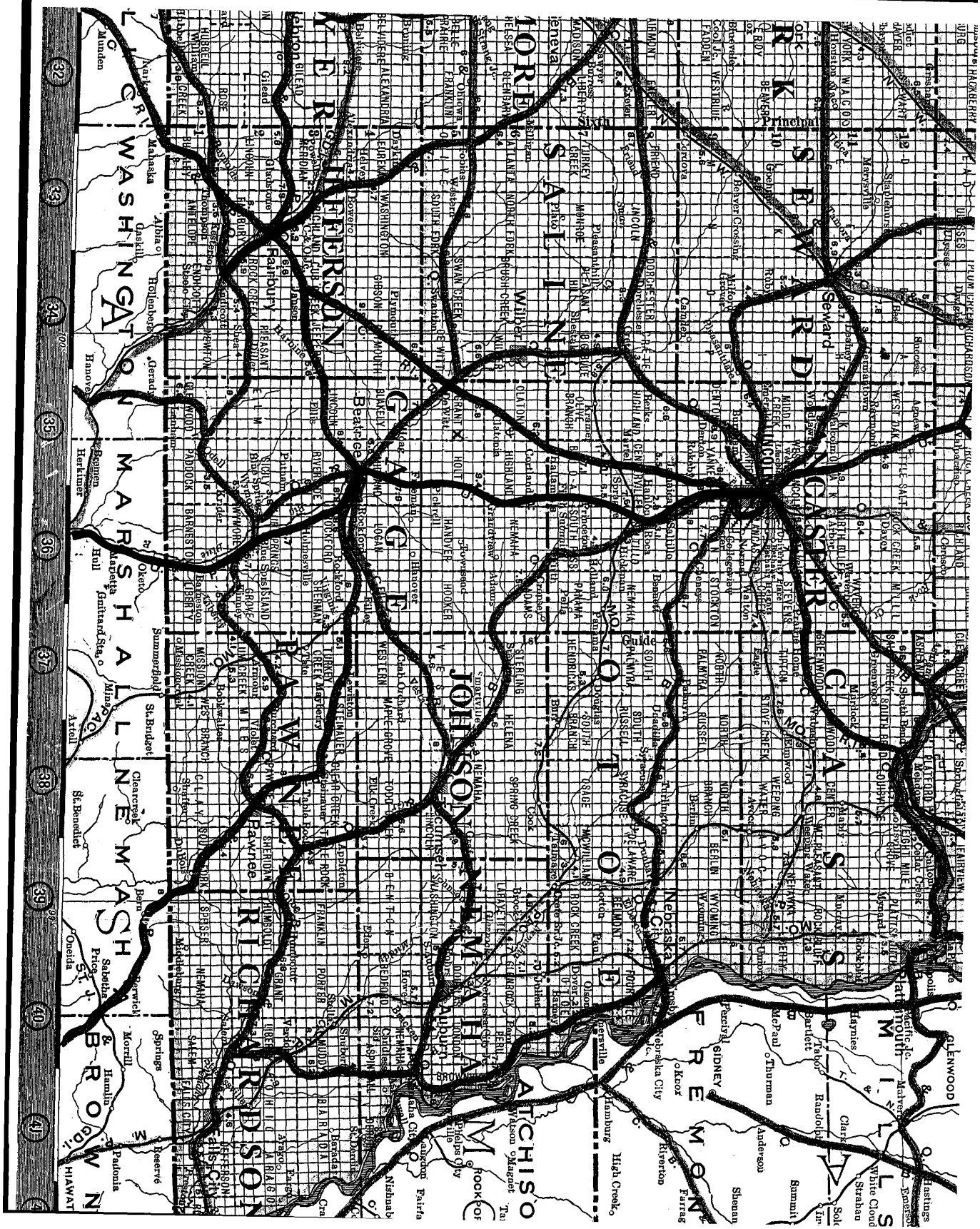
Please advise if further review and/or additional details will be needed at this time. We appreciate the opportunity to review the proposed activity and to provide our agency's comments.

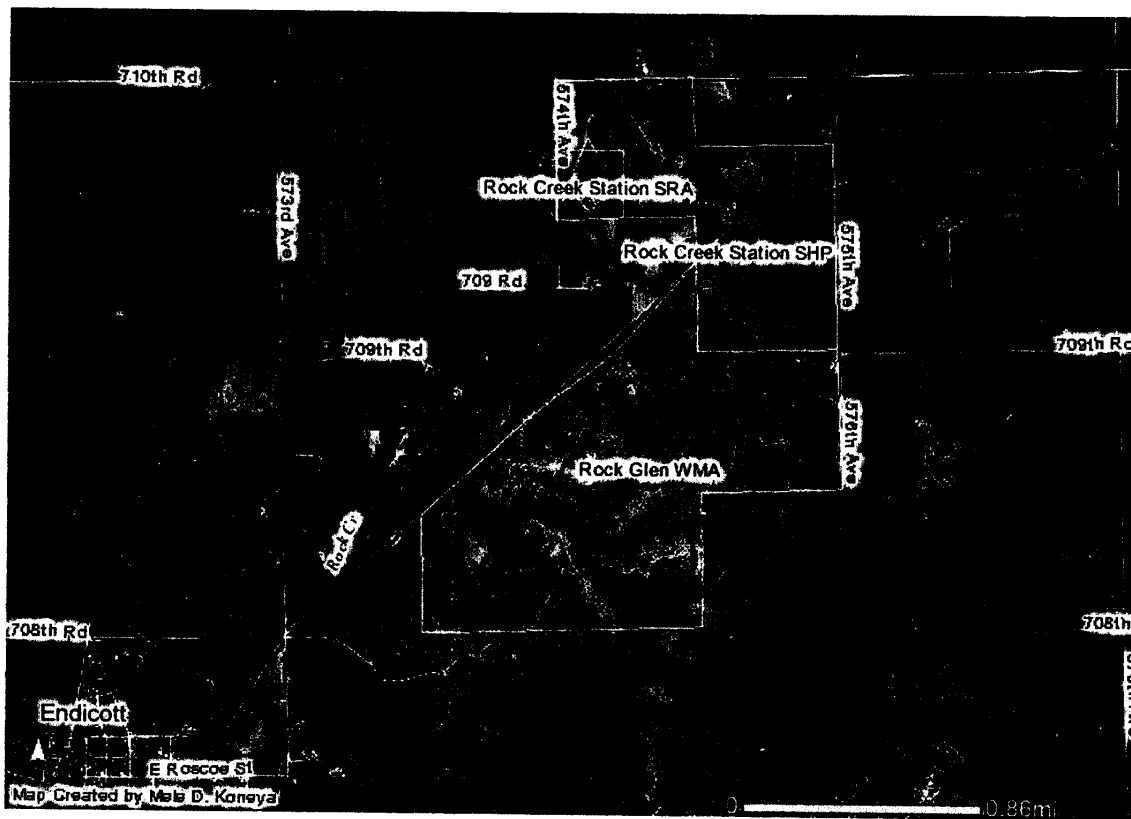
Sincerely,

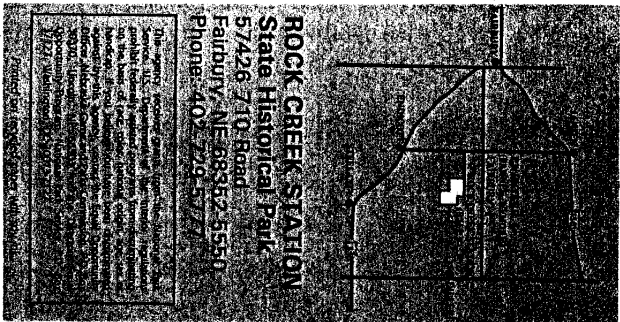
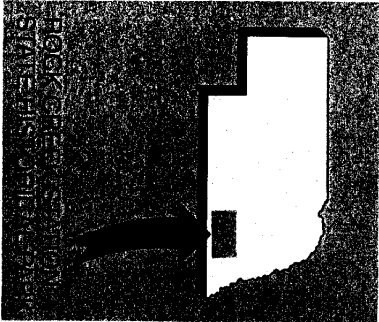

Bruce K. Sackett
Division Administrator
Realty & Environmental Services Division

Cc: Wayne Brandt NGPC Parks Division
Brad Seitz NGPC Wildlife Division
Frank Albrecht NGPC Realty & Environmental Services Division

Encl: * NGPC publication
* Aerial photo (1999 G.I.S. coverage)







Rock Creek Station

Rock Creek Station might have faded into obscurity, like so many other stage and Pony Express stations, except for one fateful day in 1861. On that July afternoon, one James Butler Hickok killed David McCandles there and began his bloody career as a gunfighter.

Today, Rock Creek is a state historical park, being developed by the Nebraska Game and Parks Commission. It encompasses some 350 acres of prairie hilltops, timber-studded creek bottoms, and rugged ravines and draws about 6 miles southeast of Fairbury, off of Nebraska Highway 8. Deep ruts, carved by the many wagons that traveled the Oregon Trail, are plainly visible there. They bear mute testimony to the rich history of the area.

Established in 1857 by S. C. Glenn, Rock Creek Station evolved from a small cabin with a lean-to and barn, situated on the west side of Rock Creek. This road ranch catered to stages, freight lines, and emigrant traffic on the Oregon Trail. The lean-to was set up as a primitive store, where hay, grain, and supplies could be bought, sold, or traded.

In the spring of 1859, Dave McCandles was on his way to the Colorado gold fields. He became discouraged as he met returning miners and heard their tales of disappointment. He decided to take up road ranching instead and bought Rock Creek Station. That summer and fall, he built a log cabin and dug a good well on the east side of Rock Creek. Later, he built a toll bridge across the creek, eliminating the crude rock ford. His normal fee ranged from 10 to 50 cents, depending on a person's ability to pay.

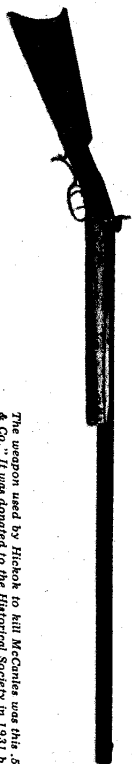
The following year, he rented the East Ranch to Russell, Majors and Waddell, owners of the Overland Stage Company and founders of the Pony Express. Rock Creek was used as a stage station, as well as a swing station where Pony Express riders could quickly change their mounts. Overland used its own men to run the station... Horace Wellman as company agent/station keeper and Dock (sic) Brink as stock tender. Early in 1861, James Butler Hickok was hired as stable hand.

Later, Overland bought the East Ranch from McCandles, apparently making a cash down pay-

Clorified by Harper's Magazine, Wild Bill Hickok was addicted to cards. He was gunned down by Jack McCall at Saloon No. 10 in Deadwood, South Dakota, on August 2, 1876. He held two pair - aces and eights - the now famous "Dead man's hand". He was 39 years old.



Courtesy of Nebraska State Historical Society



The weapon used by Hickok to kill McCandles was this .56 caliber percussion rifle marked only "Bey-Nelson & Co." It was donated to the Historical Society in 1901 by a person who got it from the McCandles family.

ment, with the remainder in installments. The company fell behind on payments, and Wellman went to Brownville for supplies and to get the money due McCandles. He was accompanied by Monroe McCandles, David's 12-year-old son. When they returned, Monroe saw his father's horse at a neighboring ranch and went to greet him, while Wellman went on to the station. The date was July 12, 1861.

Monroe then accompanied his father and two hired men, James Woods and James Gordon, to the station to ask Wellman about the payments. At the house, McCandles was confronted by Mrs. Wellman and then by Hickok. Wellman did not come out of the cabin. After talking with Hickok, McCandles went to another door. Hickok shot him from ambush, as he entered the doorway... ironically with McCandles' own rifle. He had left the gun for Wellman to use to defend the station.

When they heard the shot, Woods and Gordon came running from the barn to the house. Hickok stepped into the doorway and wounded both men with a handgun.

Woods ran around to the north side of the house, where he fell and was killed with a grub hoe, presumably wielded by Wellman. Although wounded, Gordon tried to escape in the brush of Rock Creek but was tracked down and killed with a load of buckshot. Monroe dodged a blow from the grub hoe and escaped death by fleeing into a ravine.

Wellman, Brink, and Hickok were arrested and tried for murder in Beatrice, but they were all acquitted after pleading self-defense. Monroe stoutly claimed that his father and the other two men were unarmed, but he was not allowed to testify.

No one really knows why Hickok fired the shots that began this bloody and seemingly one-sided fight. Many explanations have been offered, including romantic versions of love, hate, thirst, and even the conflict between the North and the South. Probably the best known version of the story was written by Col. Ward Nichols and published in the February 1867 issue of Harpers Magazine. His story glamorized Hickok, now dubbed "Wild Bill", as a fighting frontier hero. In

Nichols' account, Hickok single-handedly fought and killed 10 men with a gun and Bowie knife. "The McKandless Gang... reckless, blood-thirsty devils who would fight as long as they had strength to pull a trigger." Although supposedly carrying 11 buckshot and 13 knife wounds, Hickok emerged the victor.

Nichols' story, along with others by such writers as Ned Buntline and J. W. Buel, glorified Hickok to the exclusion of the facts. Hickok became a western legend, and the true story of the fight at Rock Creek Station faded from memory.

After the killings the Pony Express rode its last ride and the East Ranch was operated as a home station for the Bent-Holladay Stage Line. The West Ranch was owned by Wolf and Hagersten, who were also involved in Overland Trail traffic. In 1865, D.C. Jenkins set up the second post office in Jefferson County on the West Ranch and ran the toll bridge. Holladay sold his East Ranch holdings to the Wells Fargo Stage Line in 1866. Within a

*Some historical sources spell this name as "Holladay".

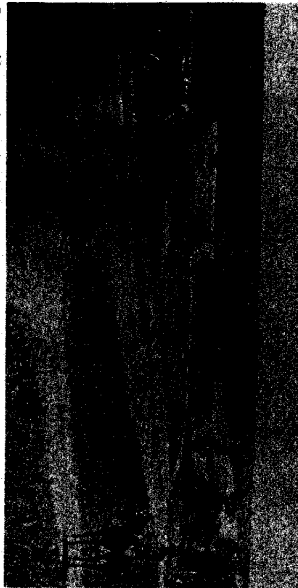
year, traffic on the Oregon Trail tapered off as the railroad pushed westward.

Development of Rock Creek Station as a state historical park began in 1980. Archaeologists investigated and excavated sites at both ranches to determine building sites and to recover period artifacts. Development is still under way on the reconstruction of the buildings and corrals on both the East and West ranches. However, visitors will find an excellent interpretive center, picnic and playground areas, hiking and nature trails as well as a modern campground on an adjoining tract. Rock Creek Station is open year-round.

James Butler "Wild Bill" Hickok was a real "dandy". He was born in LaSalle County, Ill., on May 27, 1837.



Courtesy of California State Library, Sacramento



Rare, old-time photo shows cabin, station, and stable, looking toward the northwest. Barely visible in the top right is the West Ranch.



Rock Creek Station served one of the many feeder trails that came out of Kansas and Missouri to merge near Fort Kearny as the Oregon or Overland Trail.

J

STATE OF NEBRASKA



Mike Johanns
Governor

May 22, 2003

DEPARTMENT OF ENVIRONMENTAL QUALITY

Michael J. Linder
Director
Suite 400, The Atrium
1200 'N' Street
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Phone (402) 471-2186
FAX (402) 471-2909
web site : www.deq.state.ne.us

Brian Nettles
Freeborn & Peters
311 South Wacker Drive
Chicago, IL 60606-6677

RE: NPDES permitting requirements for railroad line abandonment to be carried-out by the Burlington Northern and Santa Fe Railway Company

Dear Mr. Nettles:

From the description provided in your letter of April 30, 2003, it appears that an NPDES permit will not be required for track and tie removal from the 69.01- mile segment of railroad line being abandoned.

NPDES permit coverage is required for storm water discharges from construction sites where 1 or more acres of land are graded or disturbed. However, simply removing tracks and ties without grading the right-of-way would not trigger the need for an NPDES permit pursuant to these requirements.

If you have any questions, please contact me at 402/471-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Yeggy".

Jim Yeggy, Program Specialist
Wastewater Section

c: NPDES construction storm water file NPDES NER100059

K



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE - KEARNEY
1430 CENTRAL AVENUE SUITE 4
KEARNEY, NE 68847-6856

REPLY TO
ATTENTION OF:

June 19, 2003

Mr. Brian Nettles
Freeborn & Peters
311 South Wacker Drive, Suite 300
Chicago, Illinois 60606-6677

Dear Mr. Nettles:

This letter pertains to the proposal of the Burlington Northern and Santa Fe Railway for a track abandonment extending from Milepost 48.02 in Table Rock, Nebraska to Milepost 117.03 in Endicott, Nebraska.

After reviewing the materials you provided, the project will not require a Department of the Army permit.

If, in the future, you plan to place fill material in any waters of the United States please provide this office with an application for review for possible permit requirements.

Although a Department of the Army permit pursuant to Section 404 of the Clean Water Act and/or Section 10 of the River and Harbor Act is not required for this project, this does not eliminate the requirement that you obtain other applicable Federal, State, Tribal and/or Local permits as required.

If you have any questions regarding this matter, please feel free to contact me at the above address or call (308) 234-1403 and refer to file number NE 03-10591.

Sincerely,

A handwritten signature in black ink, reading "Keith Tillotson", is positioned above the typed name.

Keith Tillotson
Senior Project Manager

L

Freeborn & Peters

April 30, 2003

Sandra Eltiste
Gage County Clerk
612 Grant St.
P.O. Box 429
Beatrice, NE 68310

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Table Rock, Nebraska to Endicott, Nebraska***

Dear Ms. Eltiste:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition for Exemption seeking authority to abandon 69.01 miles of railroad line between Milepost 48.02 in Table Rock, Nebraska and Milepost 117.03 in Endicott, Nebraska.

As part of the environmental report BNSF needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8 & ½ by 11 black and white maps in the area of each designated floodplain if they are available.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by June 1, 2003. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

Chicago

Springfield

M

Freeborn & Peters

April 30, 2003

Carol Young
Pawnee County Clerk
P.O. Box 431
County Courthouse
Pawnee City, NE 68420-0431

Attorneys at Law

311 South Wacker Drive
Suite 3000
Chicago, Illinois
60606-6677
Tel 312.360.6000

Brian Nettles
Paralegal
Direct 312.360.6336
Fax 312.360.6596
bnettl@
freebornpeters.com

Chicago

Springfield

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Table Rock, Nebraska to Endicott, Nebraska***

Dear Ms. Young:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition for Exemption seeking authority to abandon 69.01 miles of railroad line between Milepost 48.02 in Table Rock, Nebraska and Milepost 117.03 in Endicott, Nebraska.

As part of the environmental report BNSF needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8 & ½ by 11 black and white maps in the area of each designated floodplain if they are available.

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Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

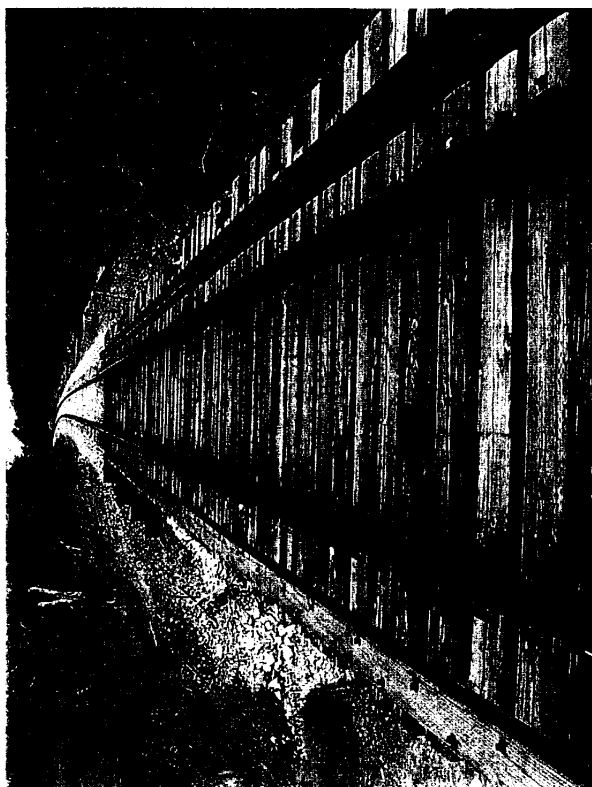
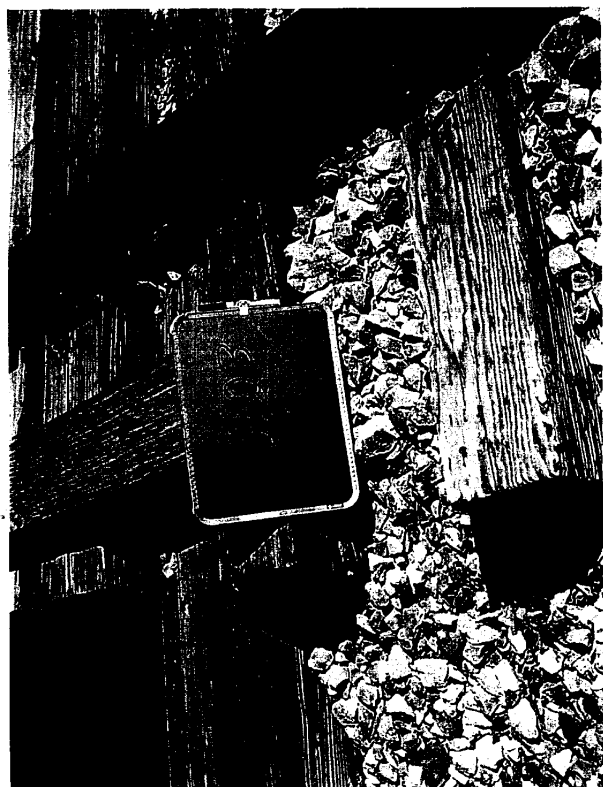
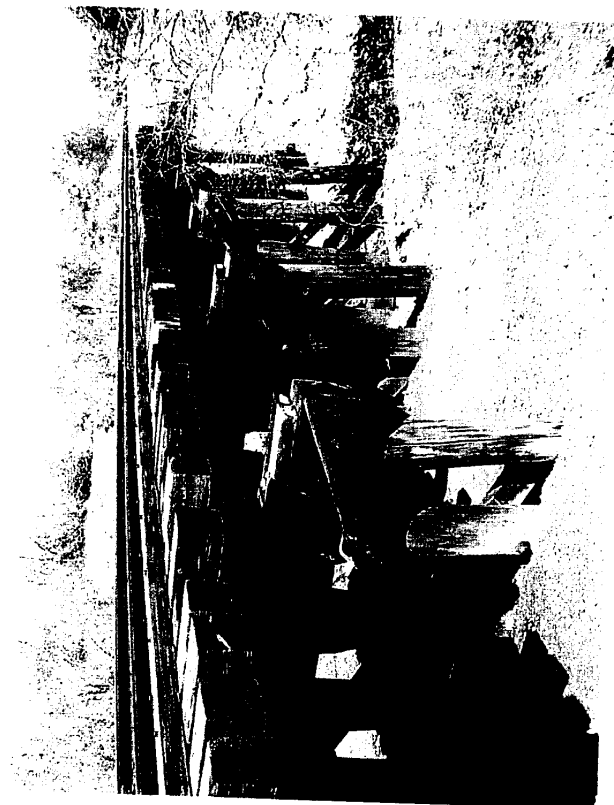
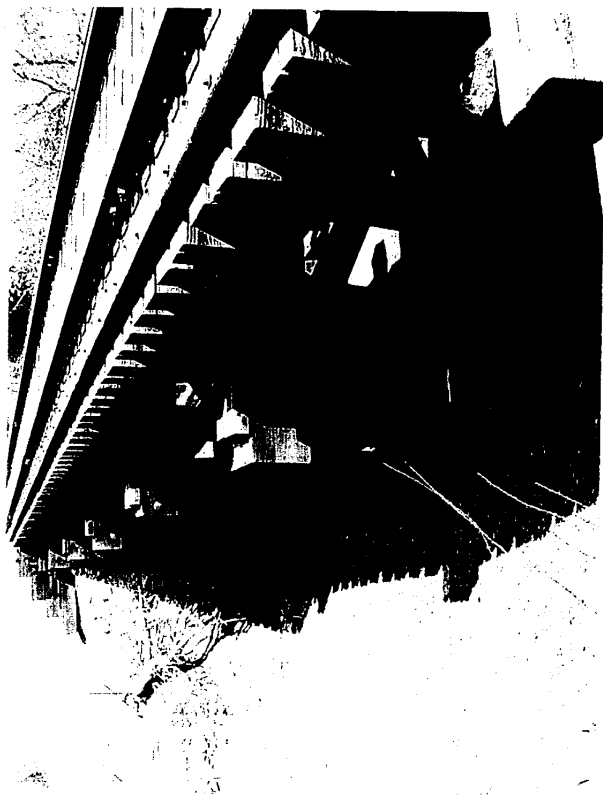
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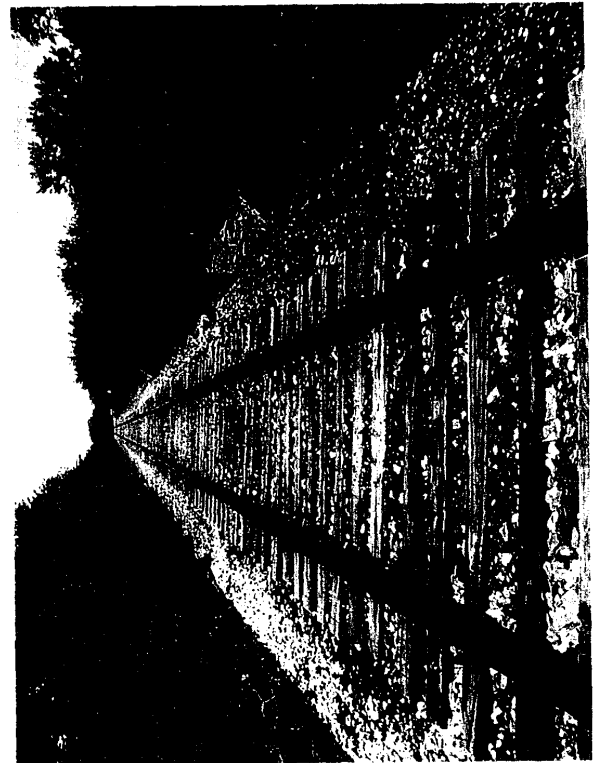
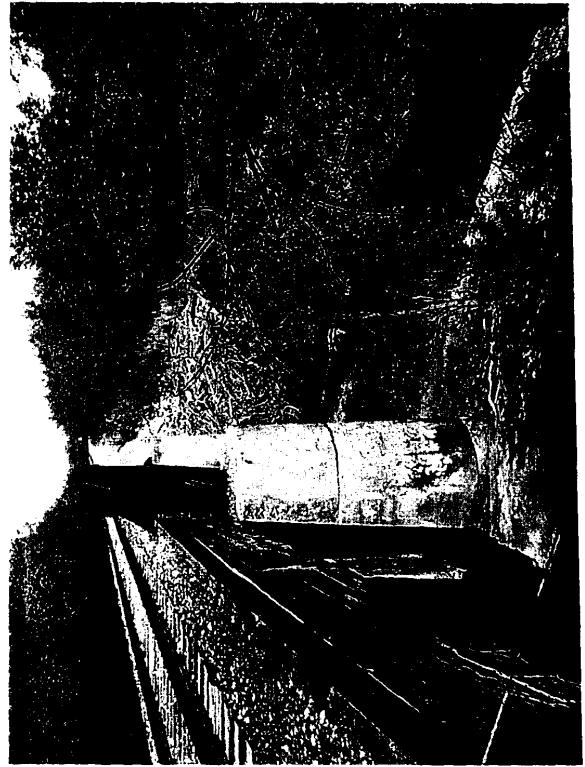
Abandonment Documentation (M.P. 57.80 to M.P. 117.03)

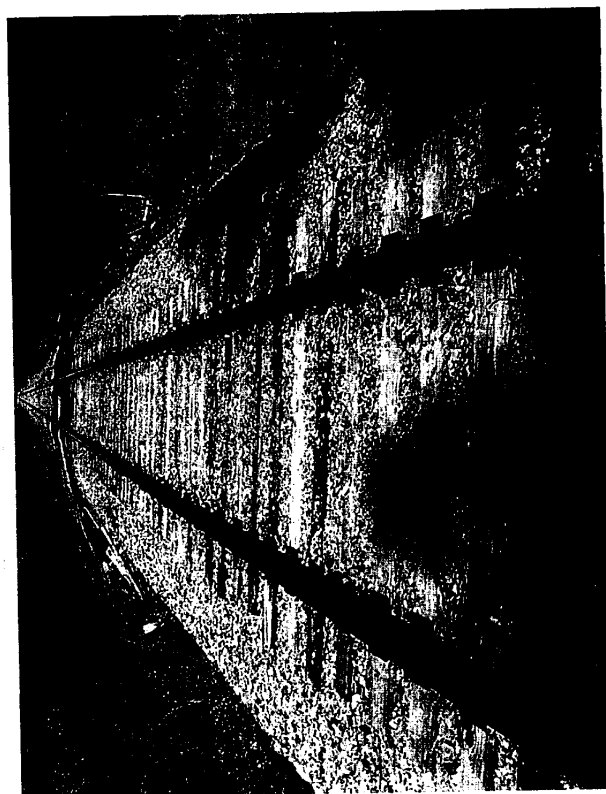
List of Bridges

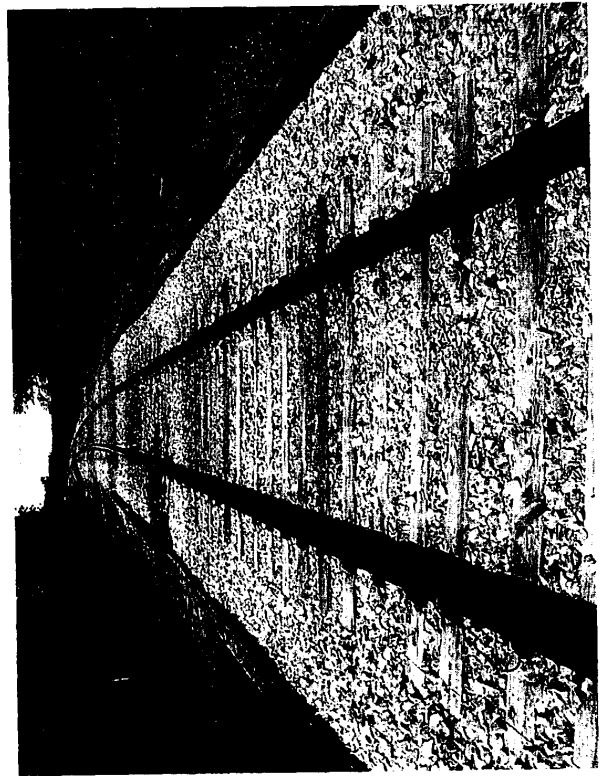
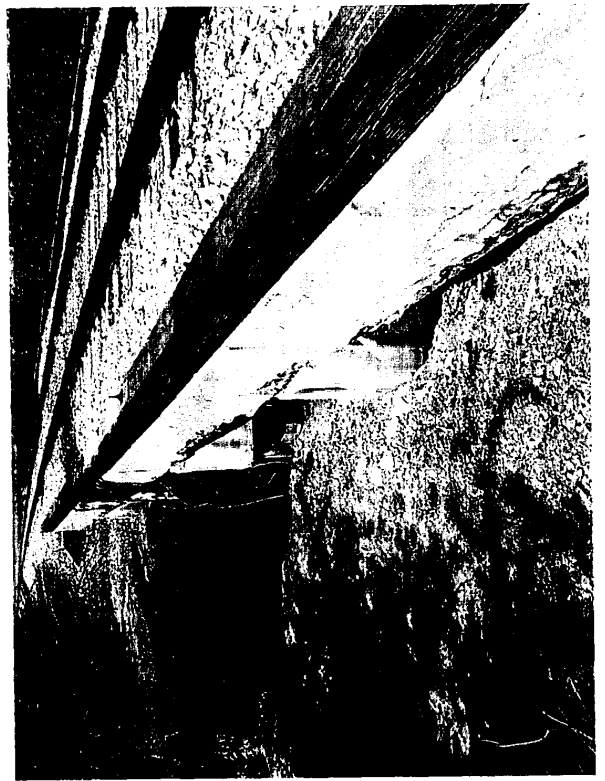
Bridge: 59.31	Built: 1910	Length: 141'	Height: 26'	Description: Steel and Concrete	Obstacle: Water
Bridge: 66.23	Built: 1924	Length: 83'	Height: 15'	Description: Wood	Obstacle: Water
Bridge: 66.81	Built: 1923	Length: 80'	Height: 13'	Description: Concrete	Obstacle: Water
Bridge: 67.79	Built: 1914	Length: 80'	Height: 16'	Description: Concrete	Obstacle: Water
Bridge: 68.53	Built: 1912	Length: 121'	Height: 26'	Description: Steel and Concrete	Obstacle: Water
Bridge: 69.09	Built: 1918	Length: 105'	Height: 23'	Description: Concrete	Obstacle: Water
Bridge: 70.05	Built: 1917	Length: 80'	Height: 16'	Description: Concrete	Obstacle: Water
Bridge: 73.45	Built: 1921	Length: 109'	Height: 13'	Description: Steel and Concrete	Obstacle: Water
Bridge: 73.71	Built: 1910	Length: 80'	Height: 13'	Description: Concrete	Obstacle: Water
Bridge: 75.50	Built: 1921	Length: 117'	Height: 22'	Description: Concrete	Obstacle: Water
Bridge: 76.69	Built: 1920	Length: 70'	Height: 13'	Description: Concrete	Obstacle: Water
Bridge: 81.24	Built: 1907	Length: 164'	Height: 22'	Description: Steel and Concrete	Obstacle: Water
Bridge: 83.29	Built: 1926	Length: 43'	Height: 14'	Description: Wood	Obstacle: Water
Bridge: 83.74	Built: 1917	Length: 100'	Height: 19'	Description: Concrete	Obstacle: Water
Bridge: 84.86	Built: 1941	Length: 123'	Height: 7'	Description: Wood	Obstacle: Water
Bridge: 86.28	Built: 1914	Length: 574'	Height: 38'	Description: Steel and Concrete	Obstacle: Water
Bridge: 88.27	Built: 1904	Length: 240'	Height: 24'	Description: Steel	Obstacle: Water
Bridge: 89.54	Built: 1944	Length: 116'	Height: 24'	Description: Steel and Wood	Obstacle: Water
Bridge: 94.46	Built: 1923	Length: 96'	Height: 15'	Description: Concrete	Obstacle: Water
Bridge: 94.93	Built: 1923	Length: 100'	Height: 17'	Description: Concrete	Obstacle: Water
Bridge: 95.28	Built: 1905	Length: 155'	Height: 24'	Description: Steel	Obstacle: Water
Bridge: 99.39	Built: 1915	Length: 144'	Height: 20'	Description: Concrete	Obstacle: Water
Bridge: 99.87	Built: 1899	Length: 116'	Height: 26'	Description: Steel	Obstacle: Water
Bridge: 103.43	Built: 1923	Length: 134'	Height: 25'	Description: Concrete	Obstacle: Water
Bridge: 104.76	Built: 1912	Length: 148'	Height: 28'	Description: Steel and Concrete	Obstacle: Water
Bridge: 105.46	Built: 1914	Length: 166'	Height: 22'	Description: Steel and Concrete	Obstacle: Water
Bridge: 106.28	Built: 1921	Length: 105'	Height: 19'	Description: Concrete	Obstacle: Water
Bridge: 114.16	Built: 1911	Length: 125'	Height: 23'	Description: Steel and Concrete	Obstacle: Water

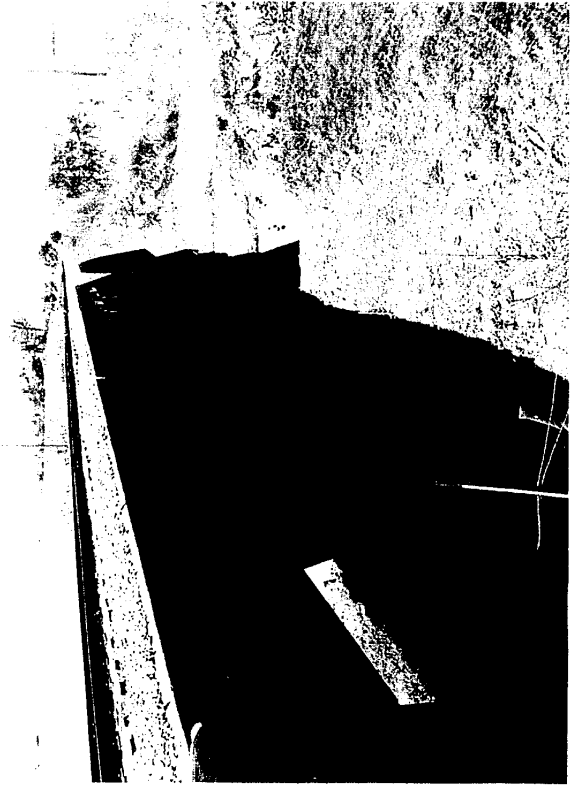
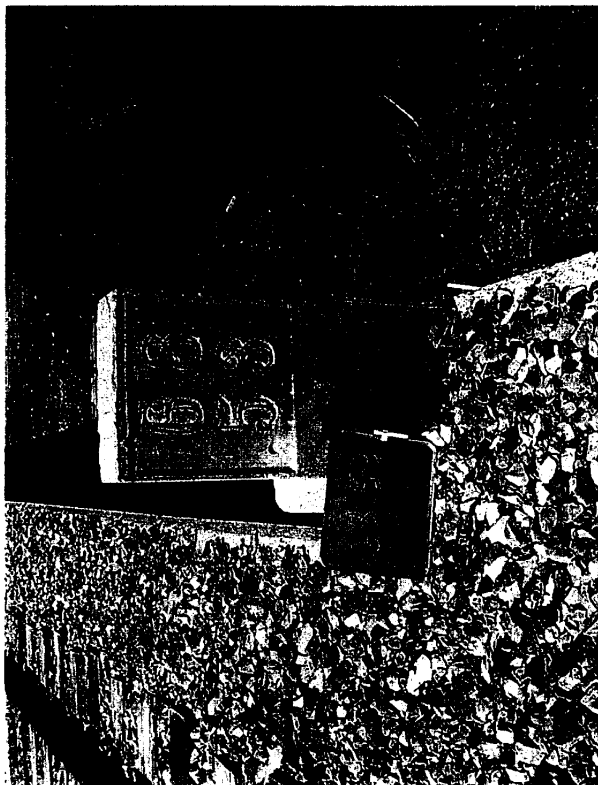
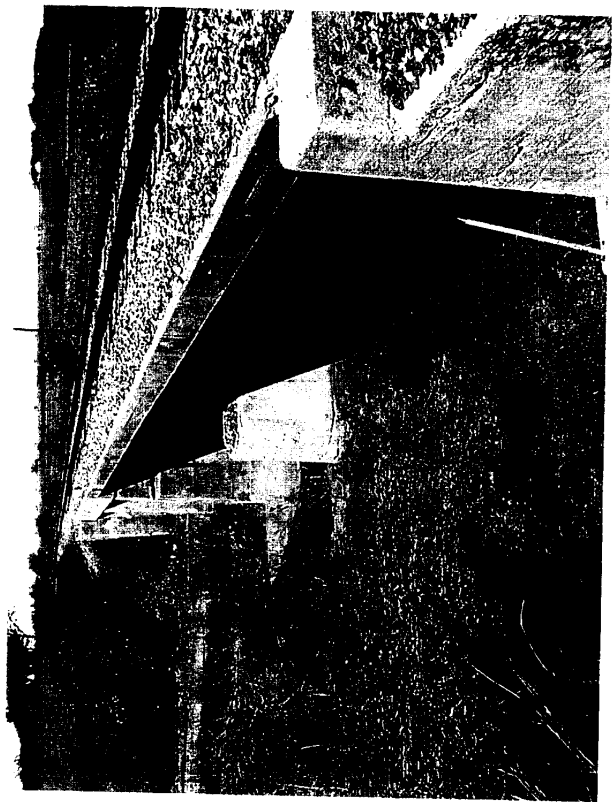
Bridge: 115.24	Built: 1919	Length: 244'	Height: 17'	Description: Concrete	Obstacle: Water
Bridge: 115.53	Built: 1916	Length: 200'	Height: 15'	Description: Concrete	Obstacle: Water
Bridge: 115.92	Built: 1920	Length: 669'	Height: 25'	Description: Steel and Concrete	Obstacle: Water
Bridge: 117.03	Built: 1904	Length: 184'	Height: 26'	Description: Steel	Obstacle: Water

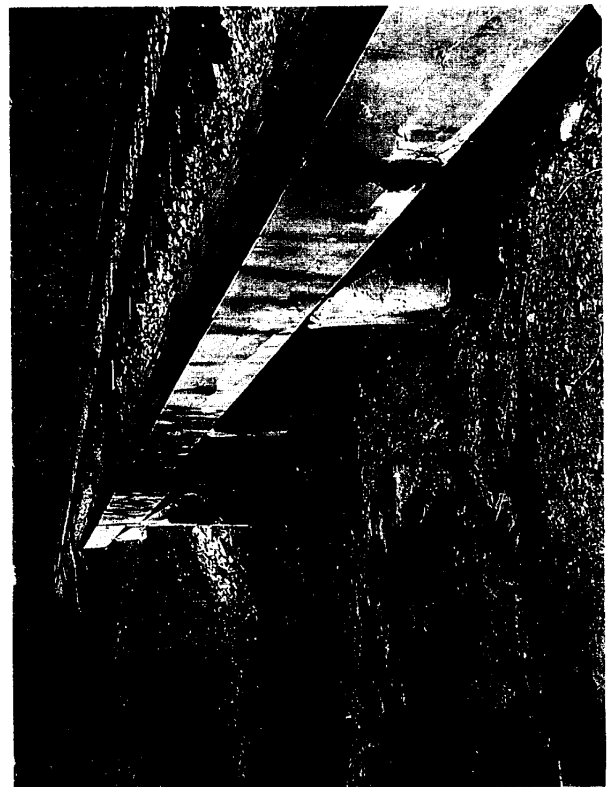
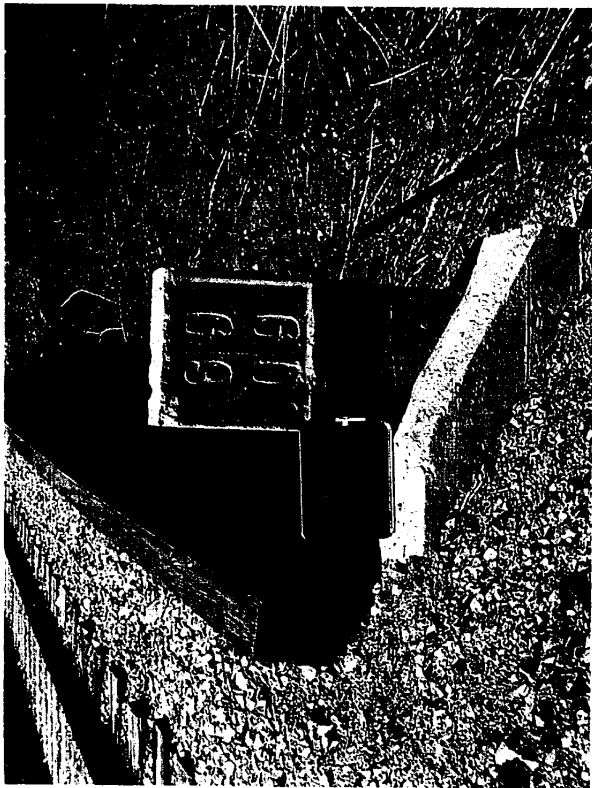
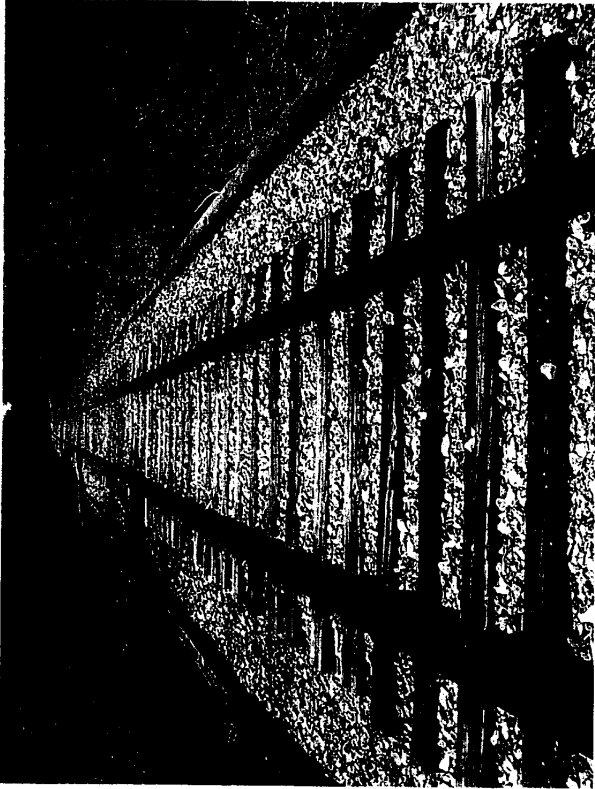


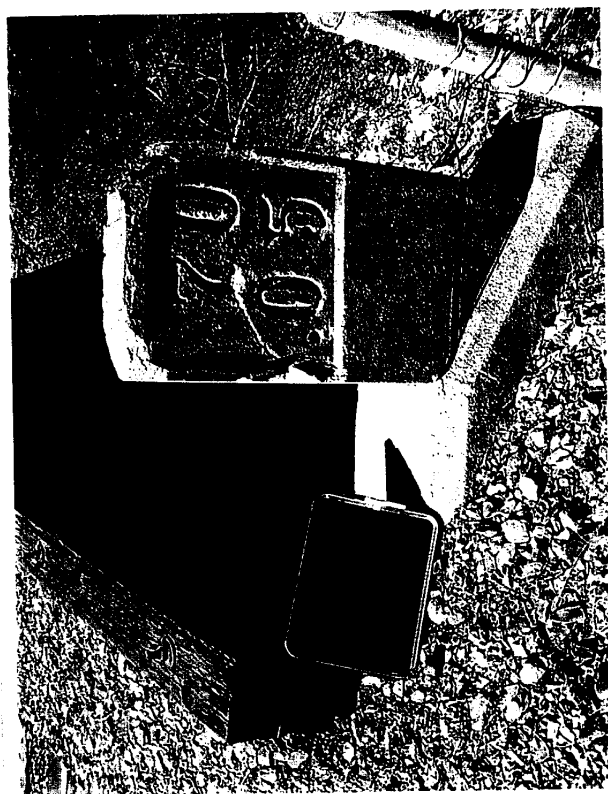
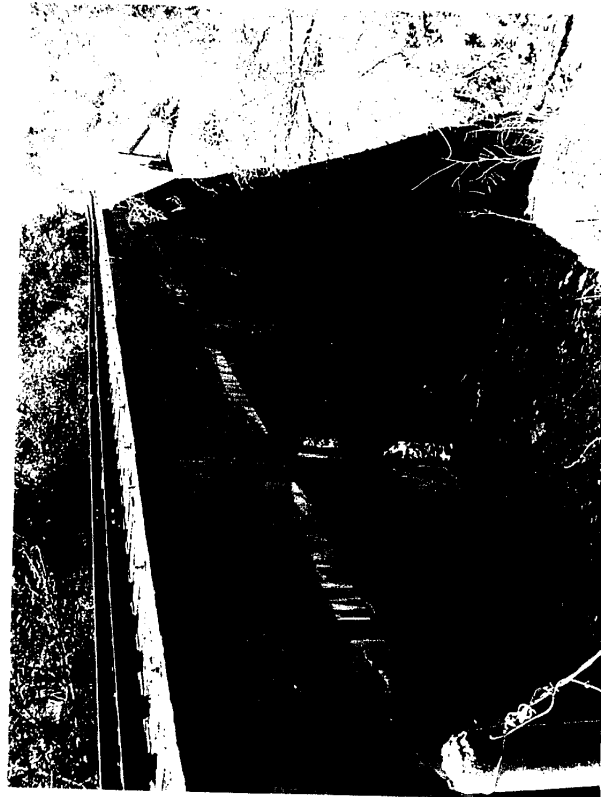
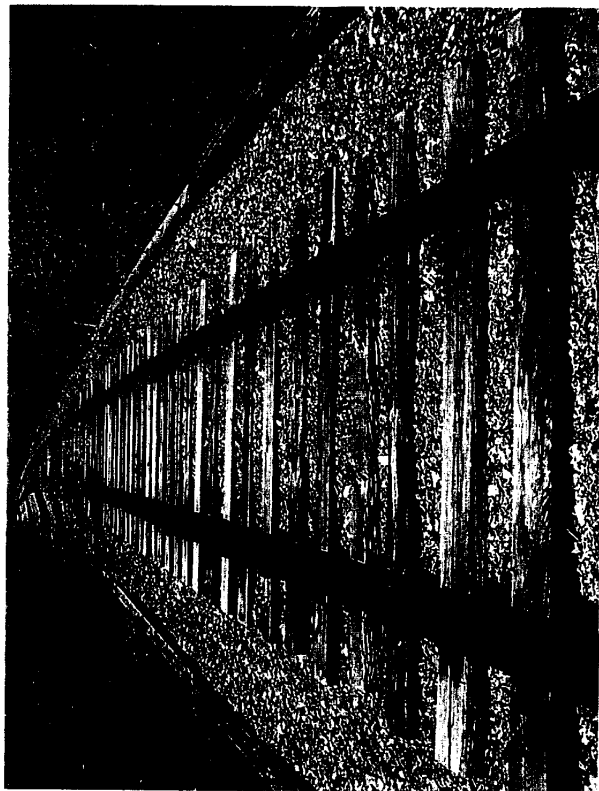


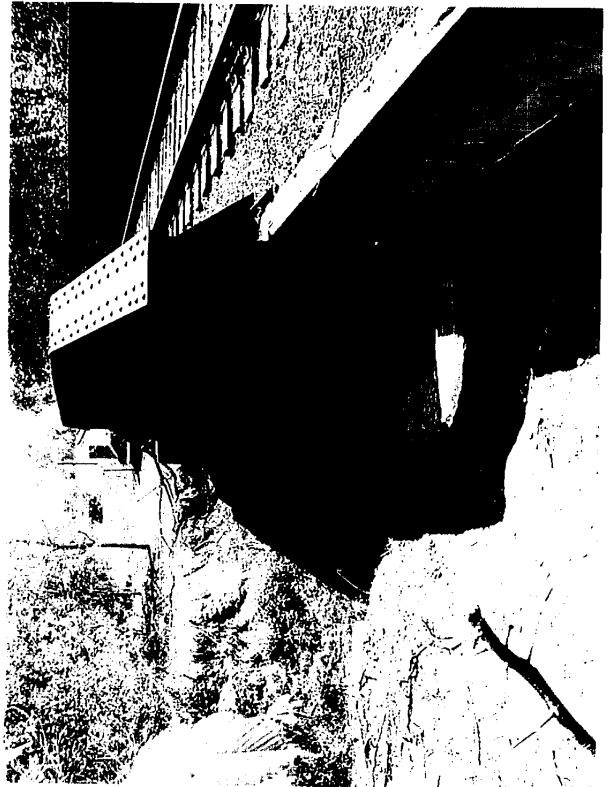


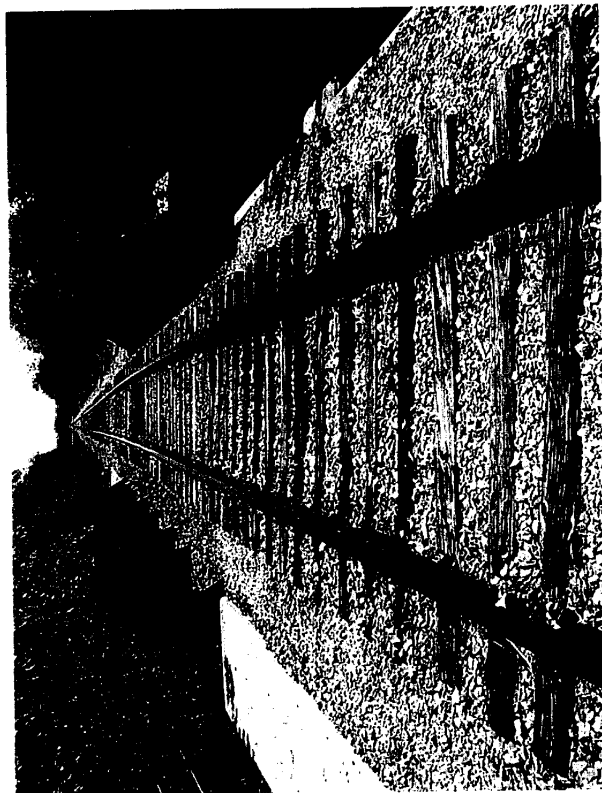


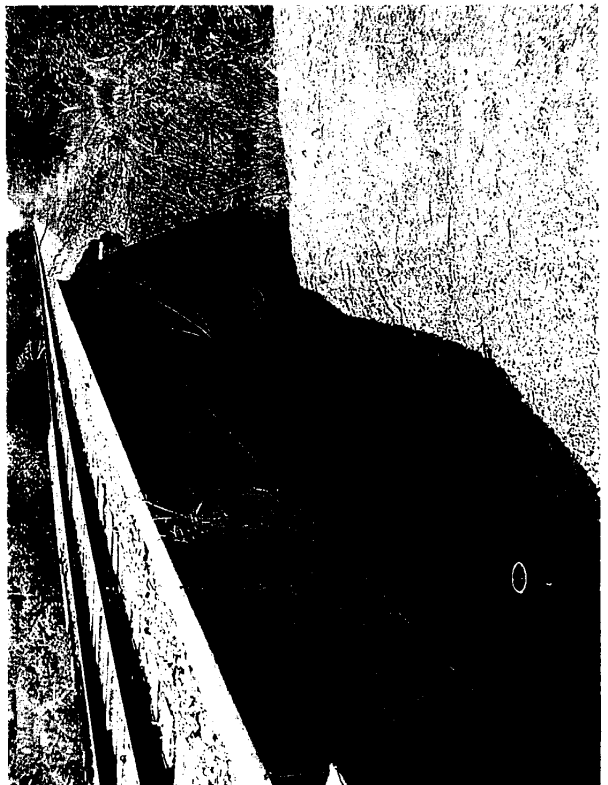
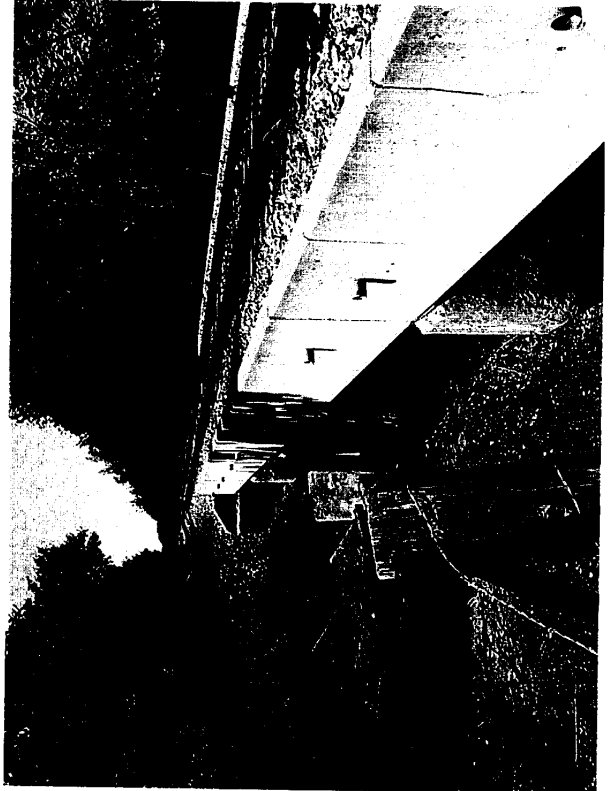
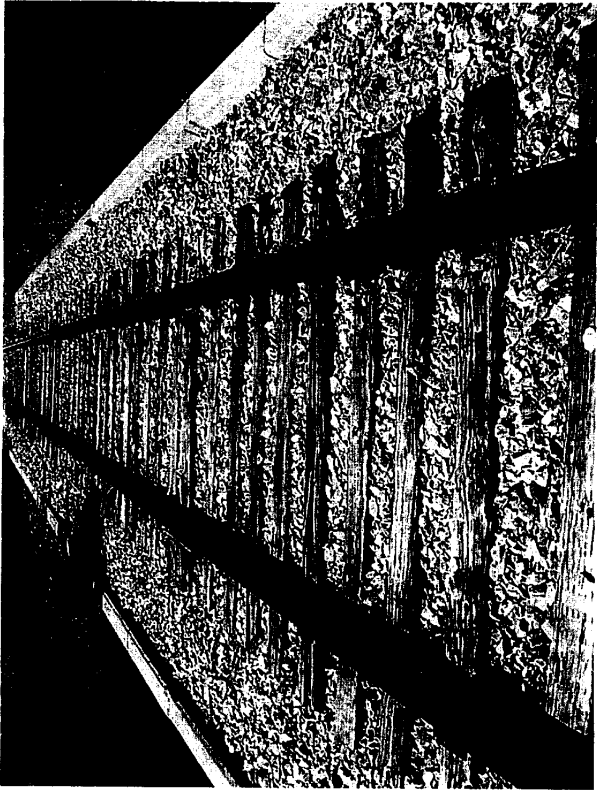


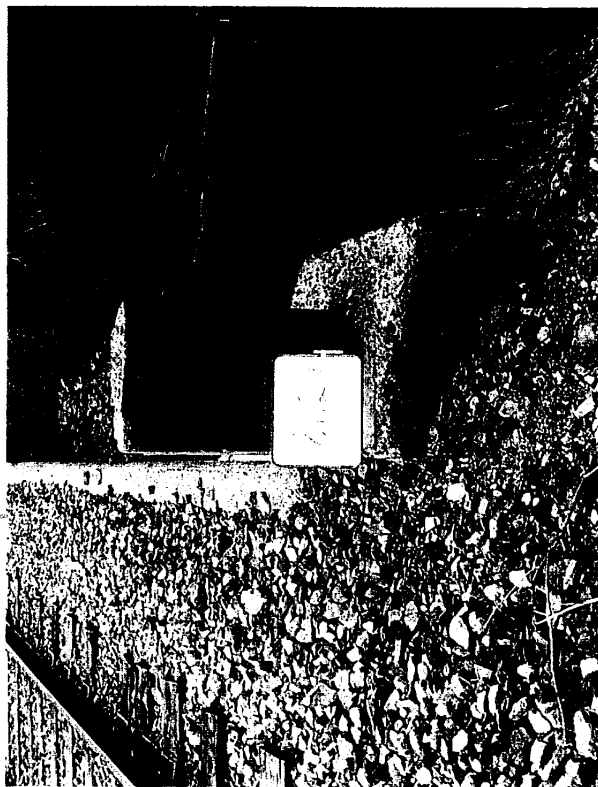
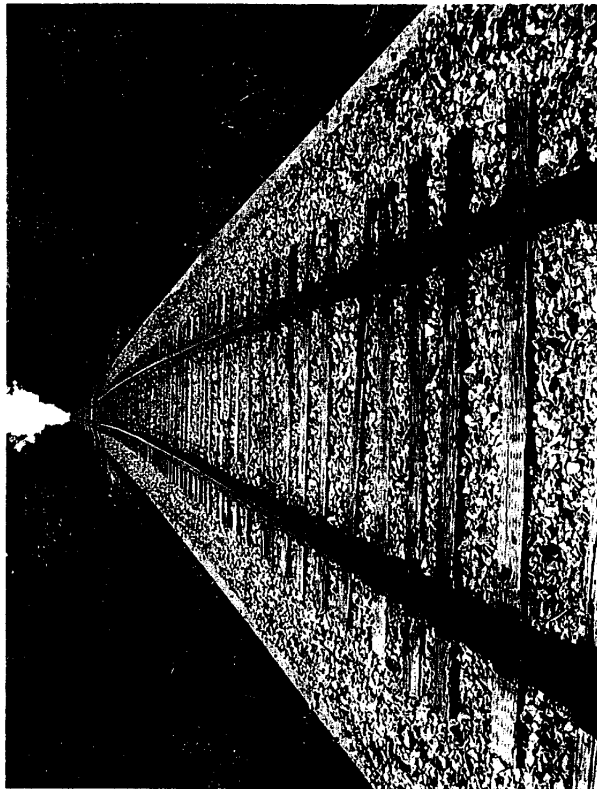


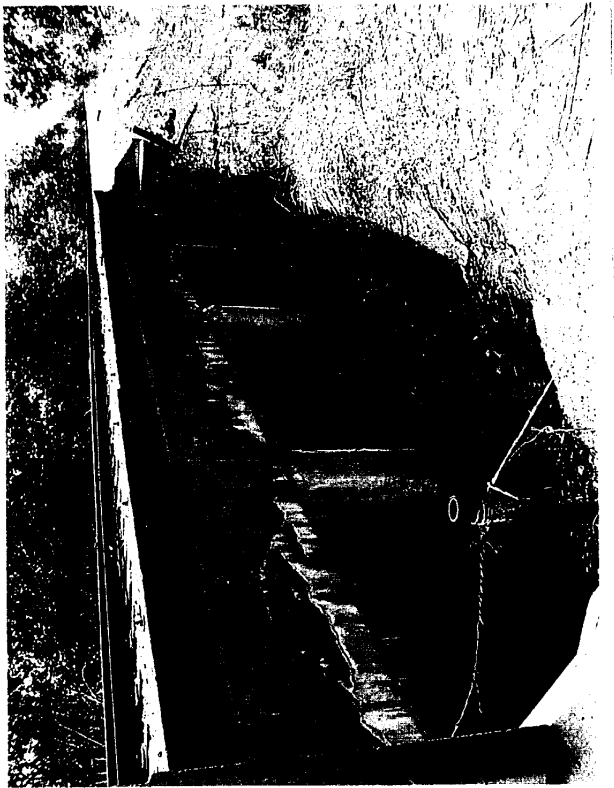
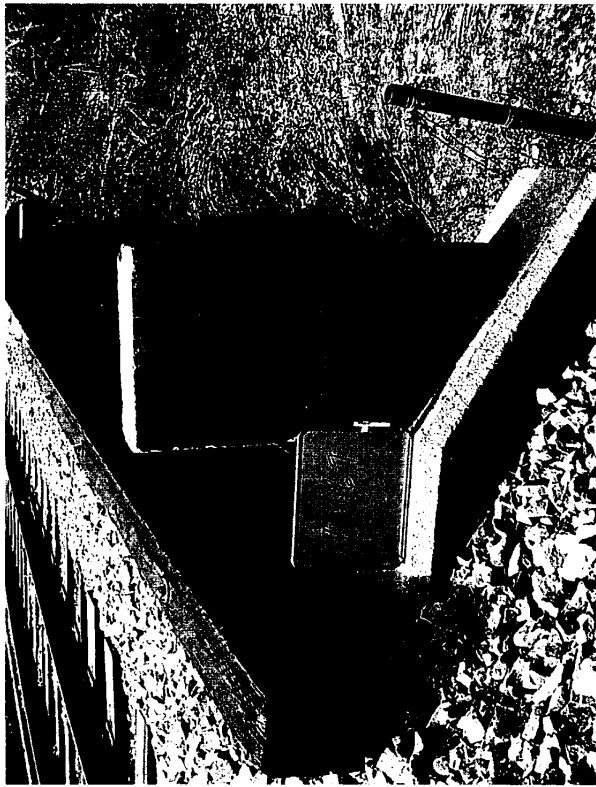
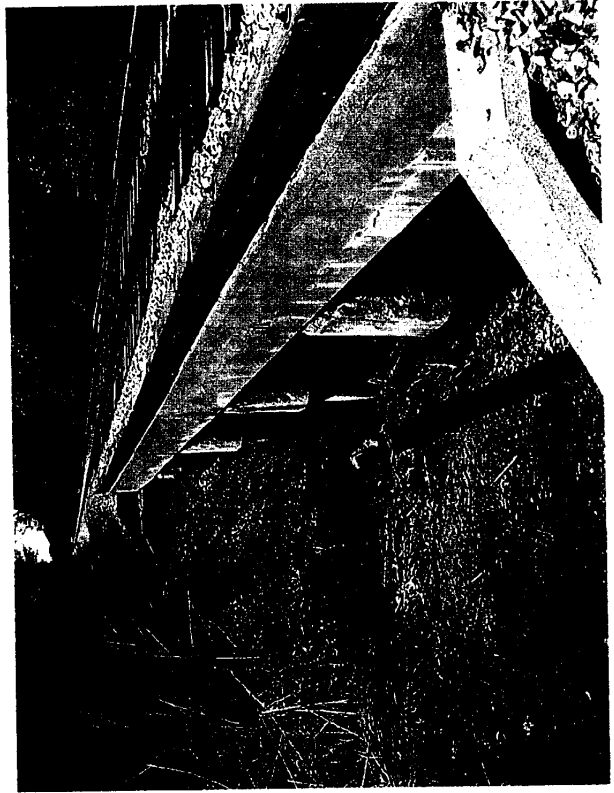
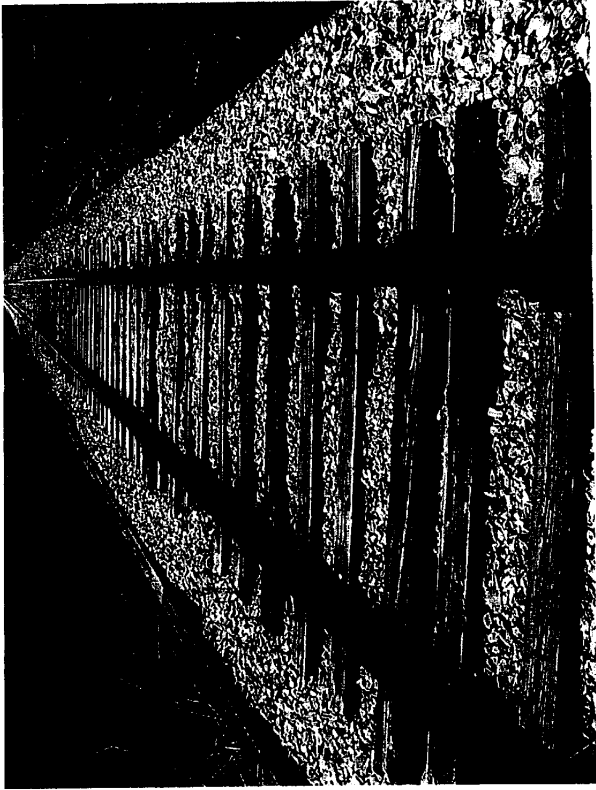


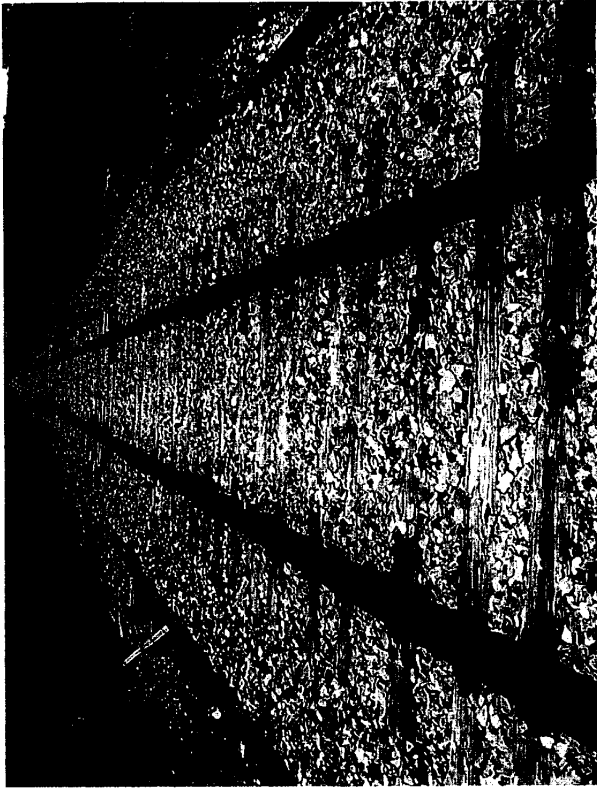


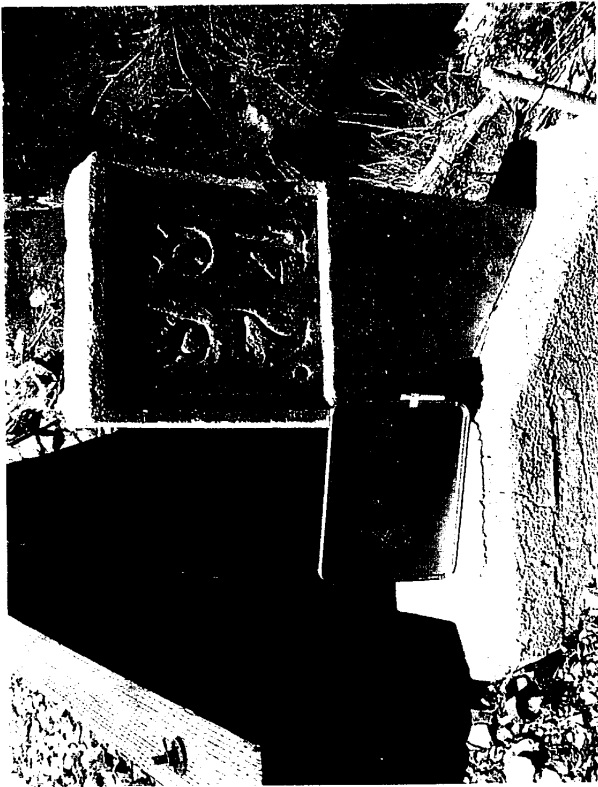
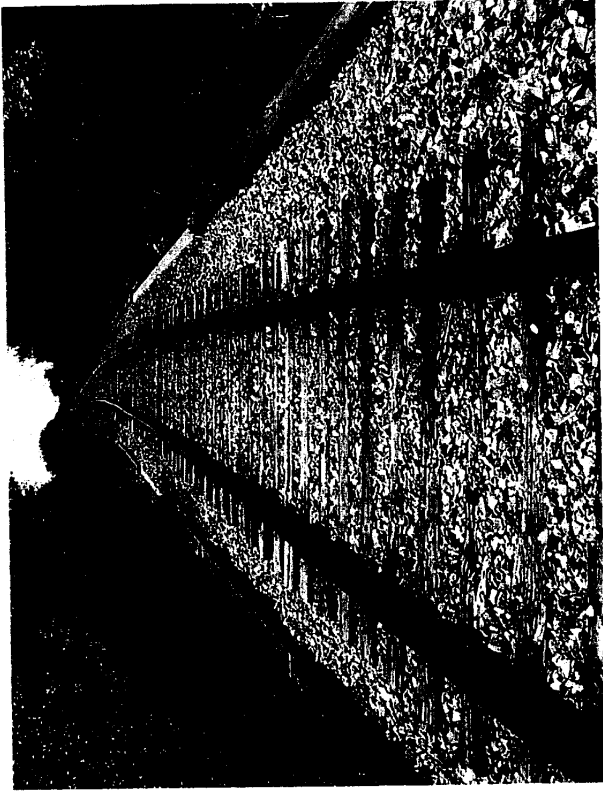




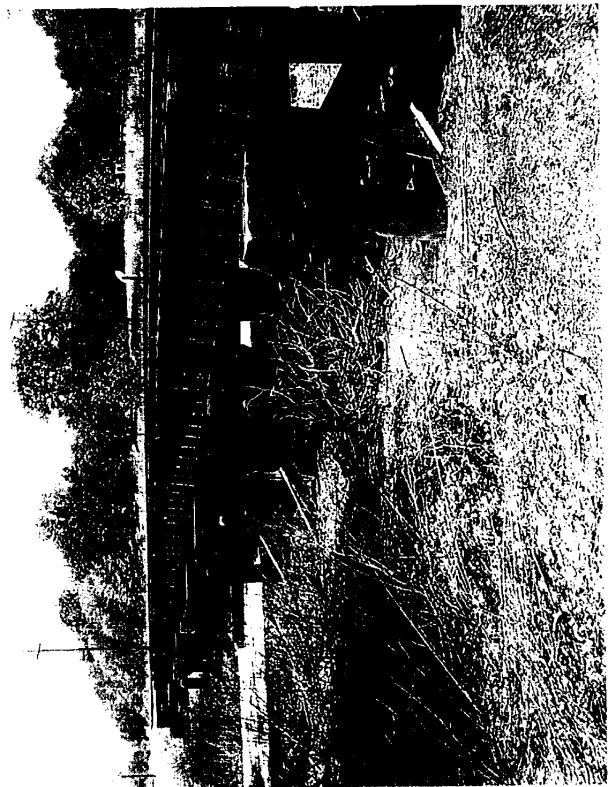
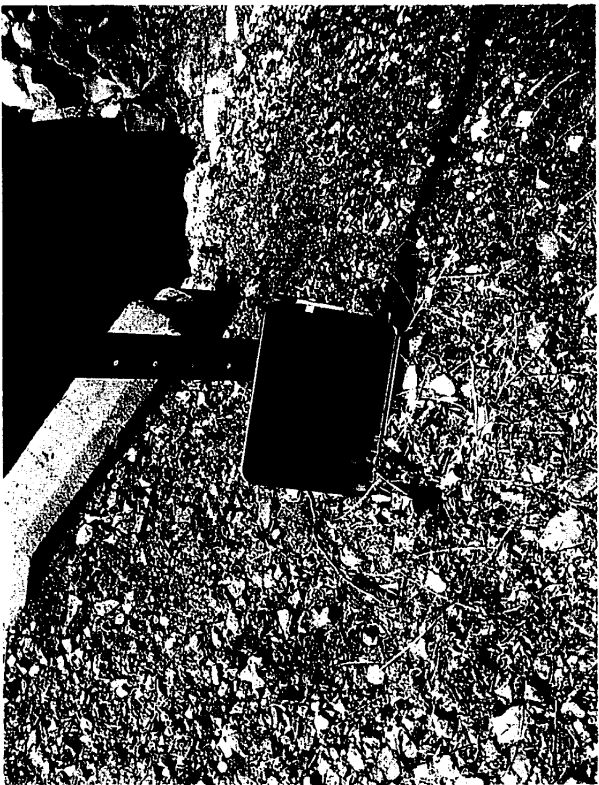


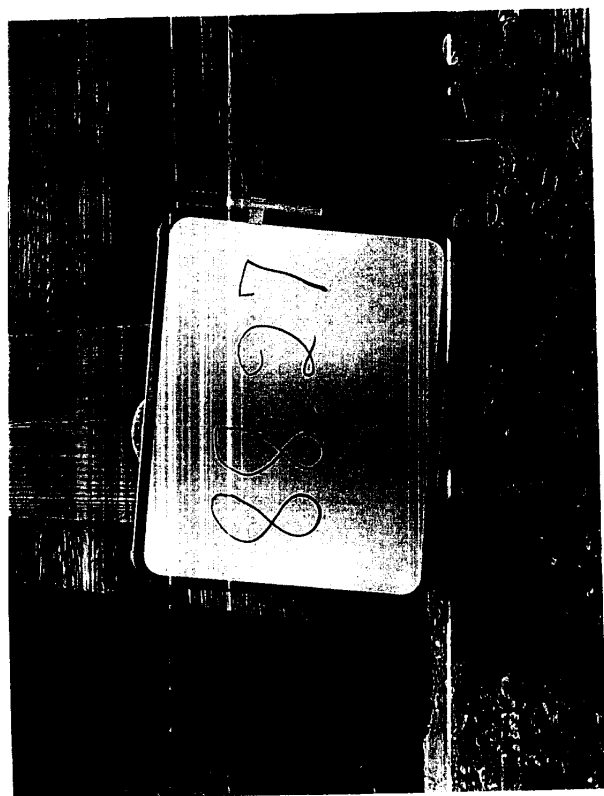


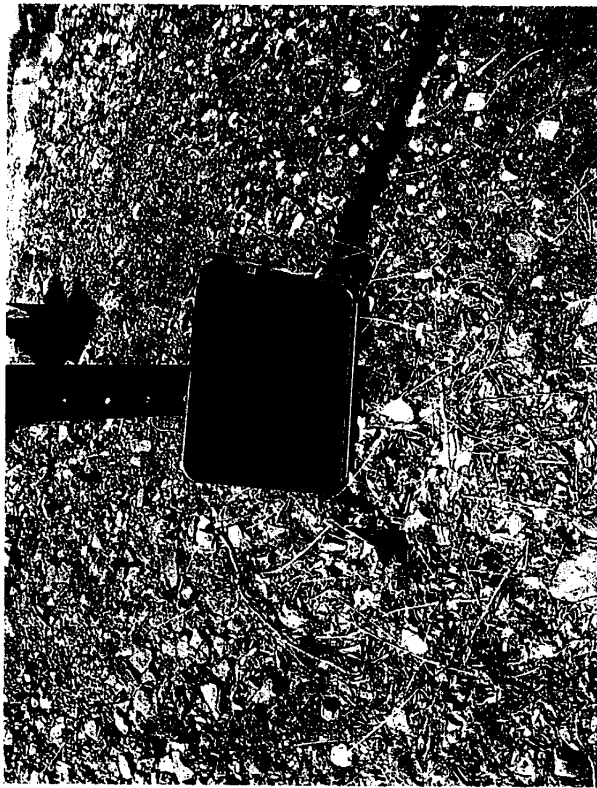






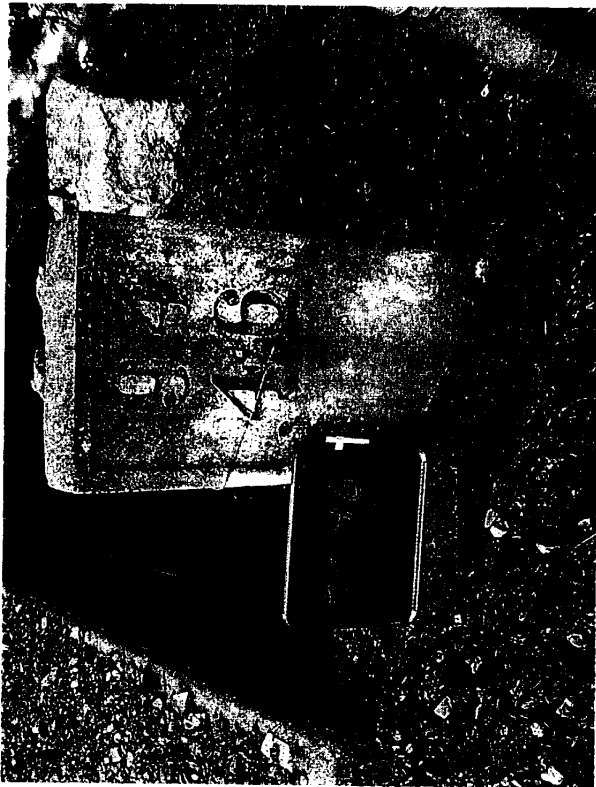






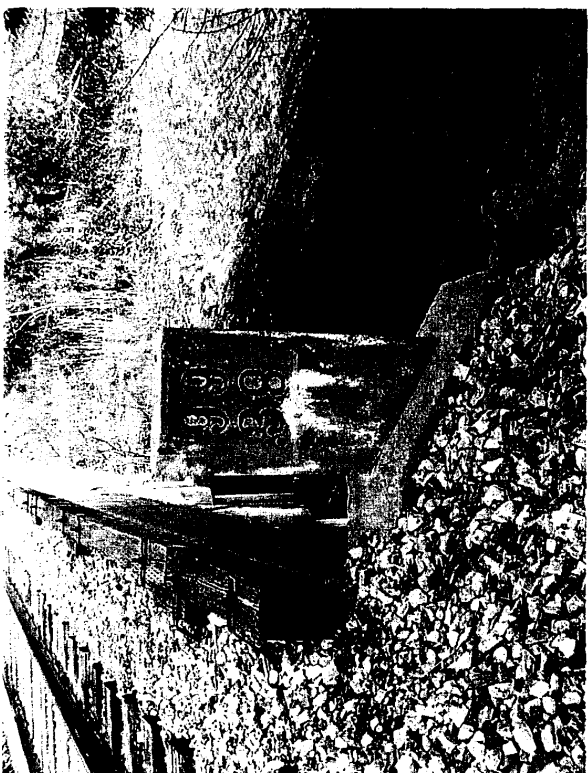
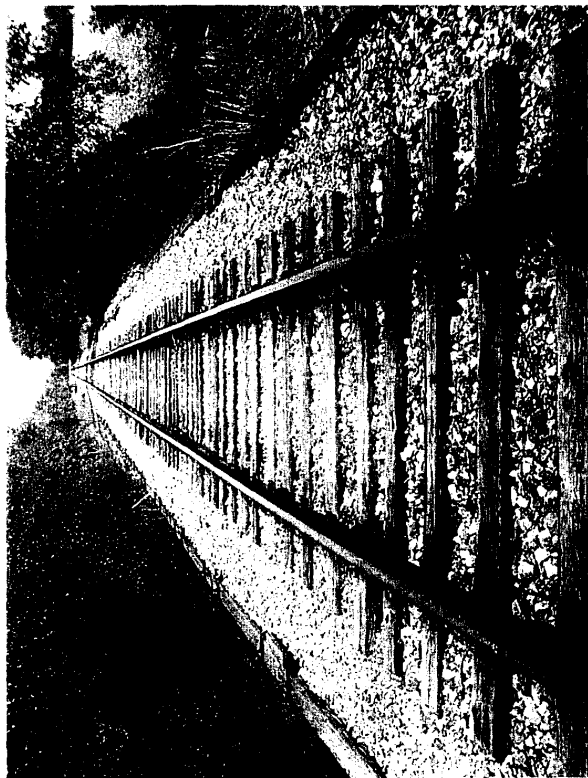


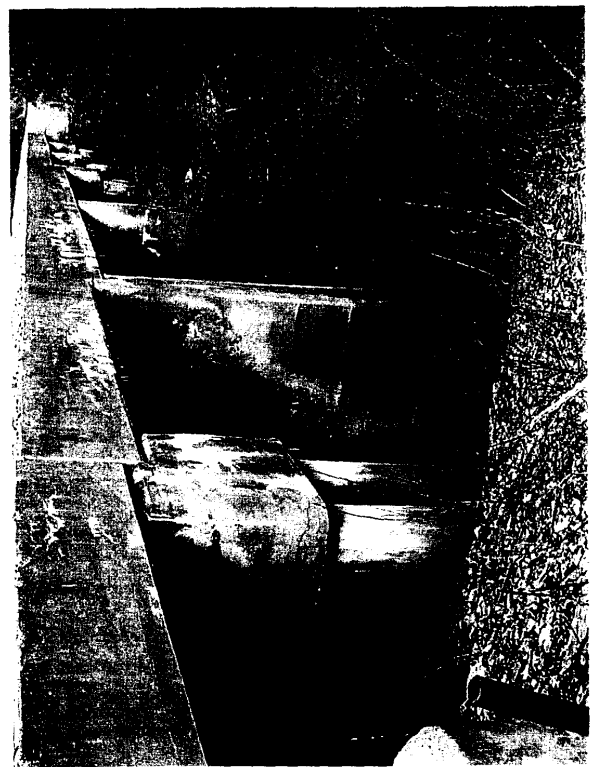
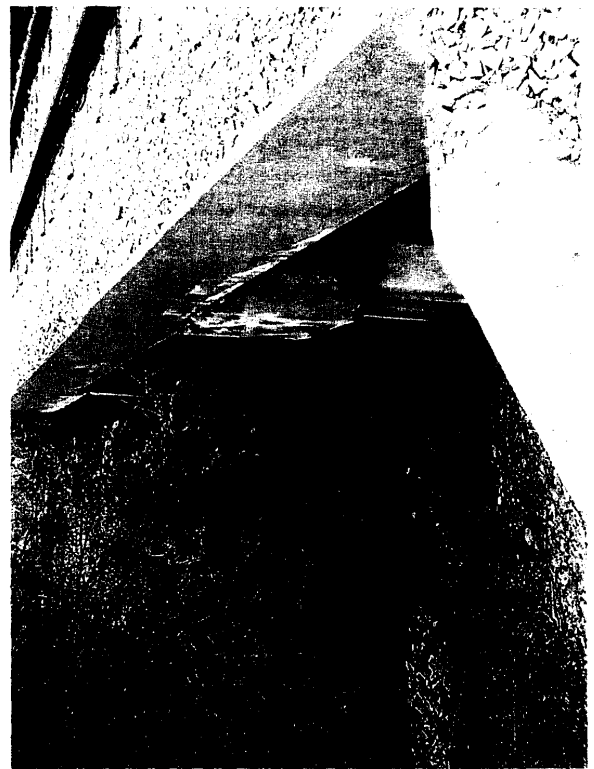
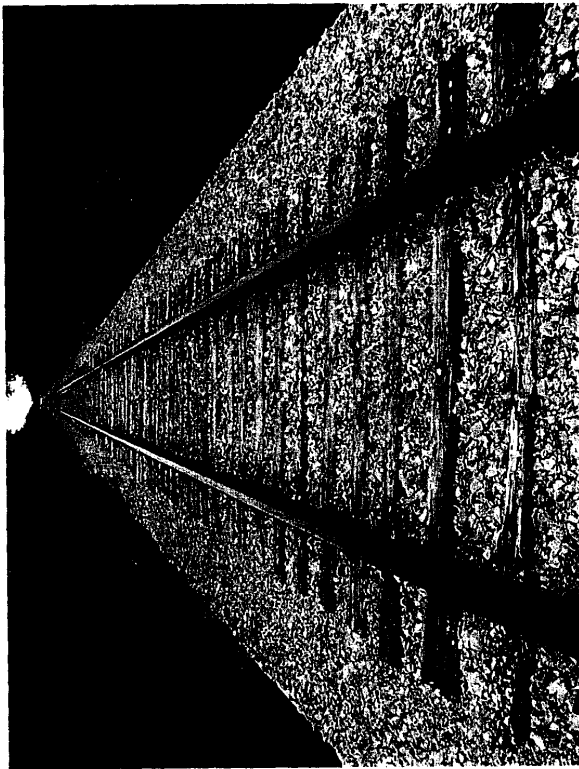


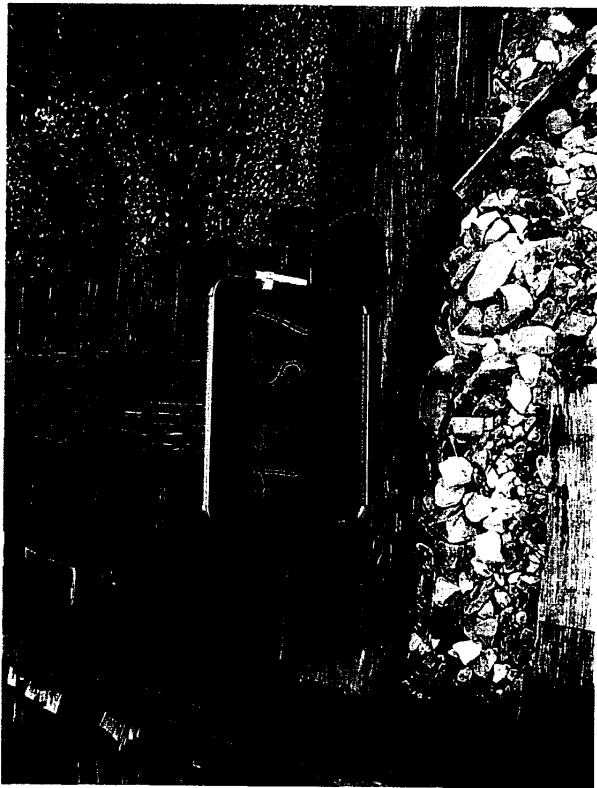


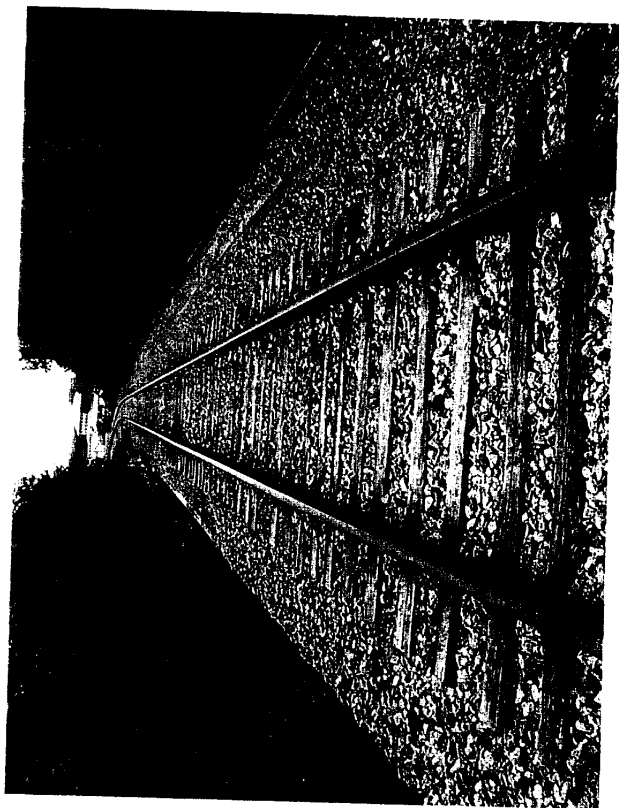


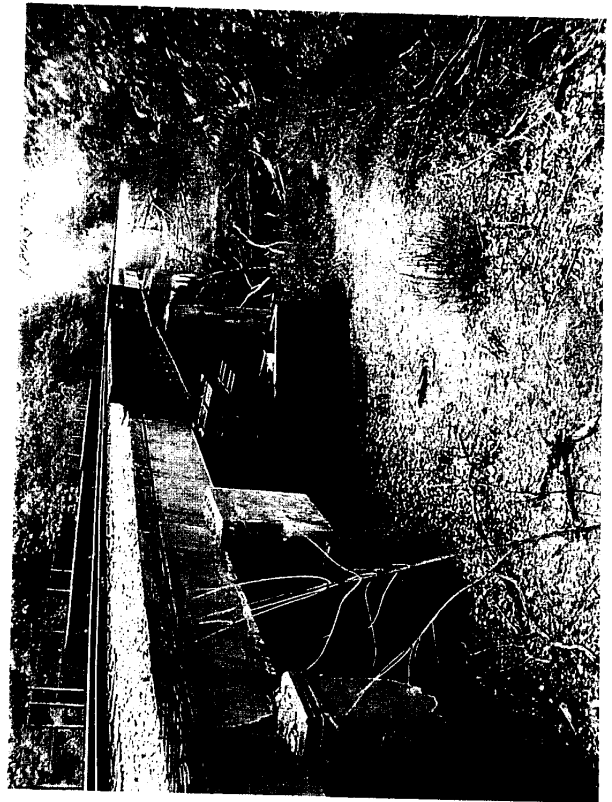


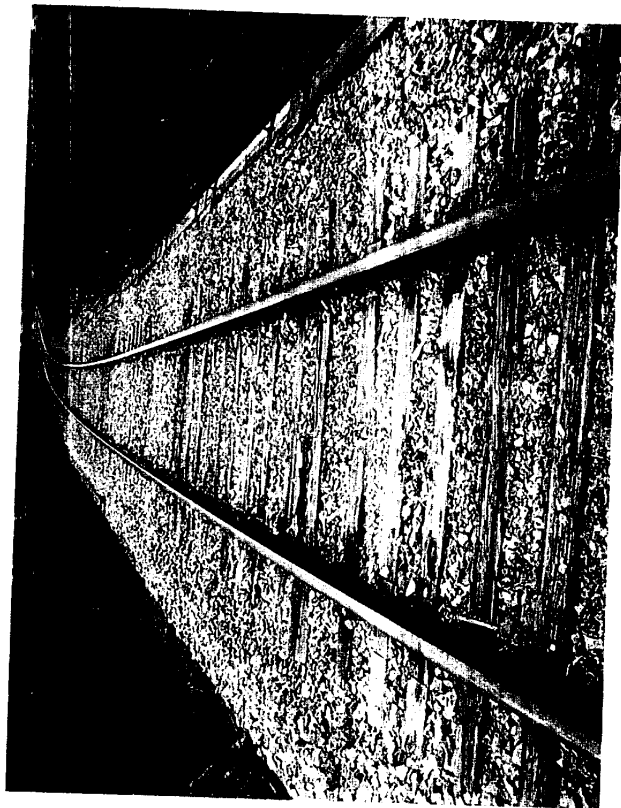


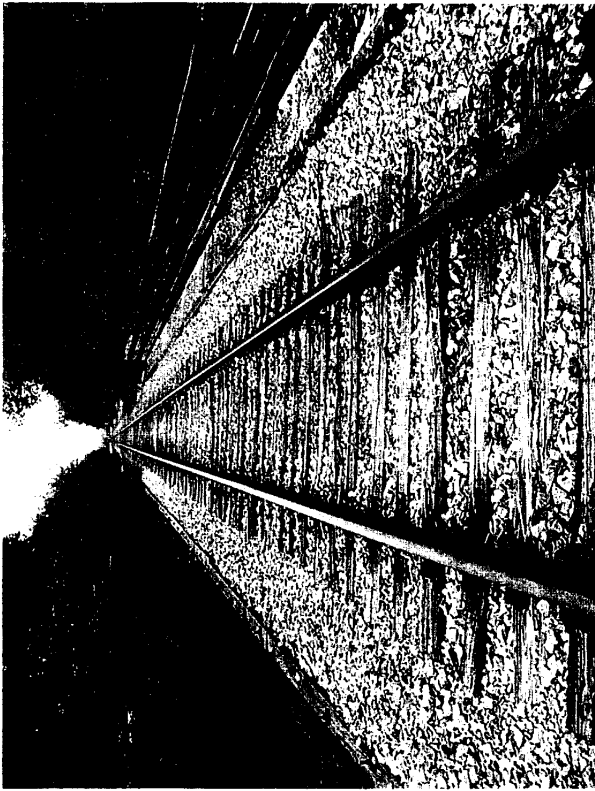


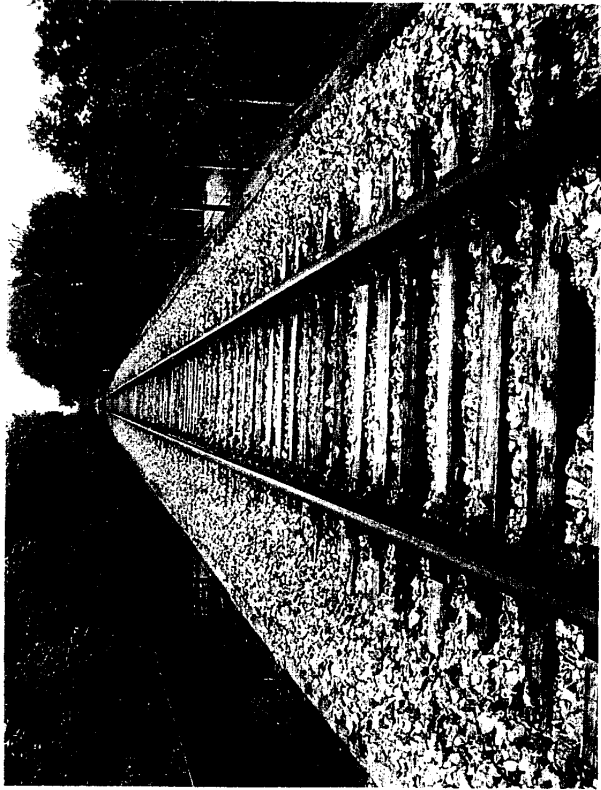


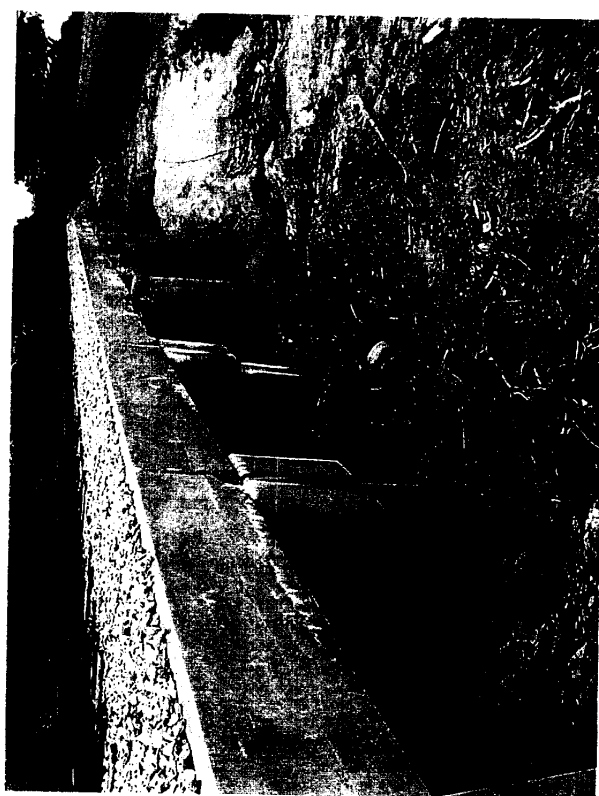
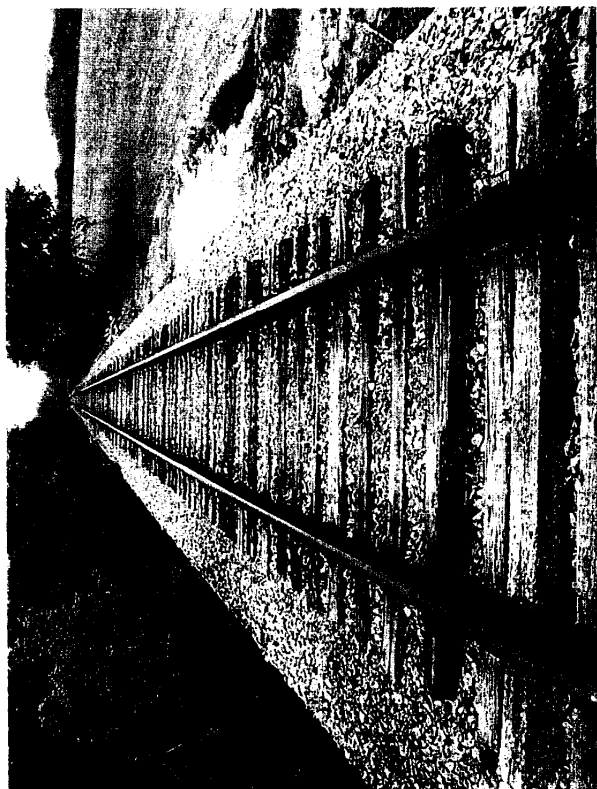


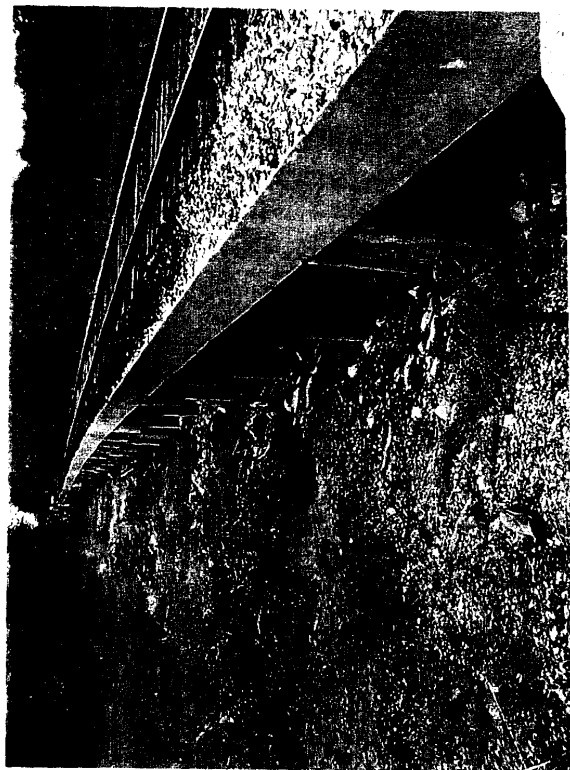














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NEBRASKA STATE HISTORICAL SOCIETY

1500 R STREET, P.O. BOX 82554, LINCOLN, NE 68501-2554
(402) 471-3270 Fax: (402) 471-3100 1-800-833-6747 www.nebraskahistory.org

July 7, 2003

Mr. Brian Nettles
Freeborn & Peters
311 South Wacker Drive, Suite 3000
Chicago, IL 60606-6677

RE: Burlington Northern & Santa Fe Railway Company Abandonment
of Pawnee City to Endicott (Nebraska)
HP #0306-061-01

Dear Mr. Nettles:

Thank you for submitting the referenced project proposal for our review and comment. Our comment on this project and its potential to affect historic properties is required by Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations 36 CFR Part 800.

Given the information provided, in our opinion there will be no historic properties affected by the project as proposed. Therefore, in accordance with 36 CFR 800.4(d)(1), you may proceed with the project as planned. Should any changes in the project be made or in the type of funding or assistance provided through federal or state agencies, please notify this office of the changes before further project planning continues.

Please retain this correspondence and your documented finding in order to show compliance with Section 106 of the National Historic Preservation act, as amended. If you have any questions, please do not hesitate to call Greg Miller at 402/471-4775.

Sincerely,

L. Robert Puschendorf
Deputy State Historic Preservation Officer
Nebraska State Historic Preservation Office



NEBRASKA STATE HISTORICAL SOCIETY

1500 R STREET, P.O.BOX 82554, LINCOLN, NE 68501-2554
(402) 471-3270 Fax: (402) 471-3100 Museum Fax: (402) 471-3314

August 13, 2003

Mr. Michael Smith
Freeborn & Peters
311 S. Wacker Dr., Suite 3000
Chicago, IL 60606-6677

RE: Burlington Northern & Santa Fe Railway Company Abandonment
Of Pawnee City to Endicott (Nebraska)
HP #0306-061-01

Dear Mr. Smith:

Thank you for submitting the referenced project proposal for our review and comment. Our comment on this project and its potential to affect historic properties is required by Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations 36 CFR Part 800.

Given the information provided we have enclosed a list of sites that are on or near the proposed abandonment. In our opinion, if there is no new ground disturbance in or on the sites, there will not be an adverse effect on an historic property. Therefore, in accordance with 36 CFR 800.4(d)(1), you may proceed with project as planned. Should any changes in the project be made please notify this office of the changes before further project planning continues.

If you have any questions please contact Greg Miller at (402) 471-4775. Thank you for your cooperation.

Sincerely,

L. Robert Puschendorf
Deputy State Historic Preservation Officer

Enc.

SITENO	CONTEXT	NATREG	TWN	RNG	SECT	QUARTER
GA 7	EA-ICE	UNK	T 1N	R 8E	S10	NE4NE4
GA 18	SS-OTO	UNK	T 1N	R 6E	S 2	NW4
GA 19	CP	UNK	T 1N	R 6E	S 2	N2NE4
GA 22	AR	UNK	T 2N	R 7E	S30	SW4NE4
GA 25	CP AR	UNK	T 2N	R 6E	S36	SW4SW4
GA 40	EA-FAR	ELN	T 2N	R 6E	S25	NE4SW4SE4
GA 40	EA-FAR	ELN	T 2N	R 6E	S25	S2SE4SE4
GA 48	UNP	ELN	T 2N	R 6E	S36	NE4NE4NE4
GA 48	UNP	ELN	T 2N	R 6E	S25	SE4SE4SE4
JF 11	UNP	UNK	T 2N	R 4E	S26	SE4SE4
JF 17	EA-TRR	UNK	T 2N	R 3E	S26	SW4NE4
JF 17	EA-TRR	UNK	T 2N	R 3E	S26	NW4SE4
JF 17	EA-TRR	UNK	T 2N	R 3E	S26	NE4SW4
JF 17	EA-TRR	UNK	T 2N	R 3E	S26	SE4NW4
JF508	EA-ICE	UNK	T 1N	R 3E		
PW 21	EA-URB	UNK	T 2N	R 9E	S21	SE4SW4

CODES FOR SITE RECORDS AND SURVEY REPORTS

SITENO (Archaeological Site Number)

GA = Gage
JF = Jefferson
PW = Pawnee

CONTEXT (Site Cultural Affiliation)

CP = Central Plains Villagers
CP-UPR = Central Plains Villagers, Upper Republican Phase
CP-ITS = Central Plains Villagers, Itskari (Loup River) Phase
CP-NEB = Central Plains Villagers, Nebraska Phase
CP-STH = Central Plains Villagers, St. Helena Phase
WD = Plains Woodland
AR = Archaic
NSC = Non-Specific Ceramic
EA = European/American
EA-TRR = European/American, Transportation Routes
EA-FAR = European/American, Farm/Ranch
EA-ICE = European/American, Industrial/Commercial Enterprises
EA-URB = European/American, Urban
UNP = Unknown Prehistoric
UNH = Unknown Historic
UNK = Unknown
CD-PAW = Pawnee
CO-RED = Coalescent Villagers, Redbird Phase
WN-DIS = Western Nebraska Protohistoric, Dismal River Complex
SS-OTO = Oto

NATREG (National Register Status)

UNK = Unknown/Unevaluated
PEL = Evaluated by Professional Archaeologist as Potentially Eligible for National Register
ONR = Listed on National Register of Historic Places
ELE = Determined as Eligible for the National Register by State Historic Preservation Officer
ELN = Determined as Not Eligible for the National Register by State Historic Preservation Officer

SURNO (Record Control Number)

TYPE (Type of Cultural Resource Survey)

I = Intensive Survey Conducted By a Patterned Search
R = Reconnaissance Survey Conducted By an Unpatterned Search

SIZE (of Surveyed Area)

Expressed in Acres

OTHER

NHAP-PSS = Nebraska Highway Archeology Program - Project Survey Summary

9

DRAFT FEDERAL REGISTER NOTICE PER 49 C.F.R. 1152.60(c)

STB No. AB-6 (Sub No. 405X)

Notice of Petition for Exemption to Abandon and Discontinue Service

On _____, 2003, The Burlington Northern and Santa Fe Railway Company (BNSF) filed with the Surface Transportation Board, Washington, DC 20423, a petition for exemption for abandonment of its rail freight easement and discontinuance of rail service between Milepost No. 57.80 near Pawnee and Milepost 117.03 near Endicott, a distance of 59.23 miles in Pawnee, Gage and Jefferson Counties, Nebraska. Stations on the line are located at points have the following USPS ZIP codes: Burchard (68323), Liberty (68381), Wymore (68466), Krider (68415), Odell (68415) and Diller (68342).

There are no federally granted rights of way.

The interest of railroad employees will be protected by the conditions imposed in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service