

Karl Morell & Associates

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April 30, 2018

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245607

BY HAND DELIVERY

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

ENTERED
Office of Proceedings
April 30, 2018
Part of
Public Record

**Re: Docket No. AB 6 (Sub-No. 496X), BNSF Railway Company –
Abandonment Exemption – in the City of Des Moines, Polk County, Iowa**

**Docket No. AB 290 (Sub-No. 400X), Norfolk Southern Railway Company – Discontinuance of
Service Exemption – in the City of Des Moines, Polk County, Iowa**

Dear Ms. Brown:

Enclosed for filing are the original and ten copies of the Joint Notice of Exemption under 49 C.F.R. § 1152.50 filed by BNSF Railway Company and Norfolk Southern Railway Company. Also enclosed are two checks covering the \$8,200 filing fee.

If you have any questions, please call me.

Sincerely,

Karl Morell

Enclosures

FILED
April 30, 2018
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
April 30, 2018
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Docket No. AB 6 (Sub-No. 496X), *BNSF Railway Company – Abandonment Exemption – in the City of Des Moines, Polk County, Iowa*

Docket No. AB 290 (Sub-No. 400X) *Norfolk Southern Railway Company – Discontinuance of Service Exemption – in the City of Des Moines, Polk County, Iowa*

JOINT NOTICE OF EXEMPTION

Crystal M. Zorbaugh
Baker & Miller PLLC
2401 Pennsylvania Ave, NW
Suite 300
Washington, DC 20037

Jill Rugema
Assistant General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828

**Attorney for Norfolk Southern
Railway Company**

Karl Morell
Karl Morell & Associates
440 1st Street, N.W.
Suite 440
Washington, D.C. 20001
(202) 595-9045

**Attorneys for BNSF Railway
Company**

Dated: April 30, 2018

BEFORE THE
SURFACE TRANSPORTATION BOARD



**Docket No. AB 6 (Sub-No. 496X), BNSF Railway Company – Abandonment Exemption – in
the City of Des Moines, Polk County, Iowa**

**Docket No. AB 290 (Sub-No. 400X) Norfolk Southern Railway Company – Discontinuance of
Service Exemption – in the City of Des Moines, Polk County, Iowa**

JOINT VERIFIED NOTICE OF EXEMPTION

BNSF Railway Company ("**BNSF**") and Norfolk Southern Railway Company ("NS") jointly file this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for BNSF to abandon and for NS to discontinue operations over approximately 0.45 miles of rail line located between Milepost 67.38 and Milepost 66.93 in the City of Des Moines, Polk County, Iowa.

1. *Proposed consummation date.*

The proposed consummation date is 50 days after the date of filing this Joint Notice of Exemption.

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

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

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

(a) ***General.***

(1) ***Exact name of applicants.***

BNSF Railway Company

Norfolk Southern Railway Company

(2) ***Whether applicants are common carriers by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.***

Both BNSF and NS are common carriers by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

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

BNSF seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon 0.45 miles of rail line located between Milepost 67.38 and Milepost 66.93 in the City of Des Moines, Polk County, Iowa (the “Line”).¹ NS seeks to use the class exemption to discontinue operations over the Line. No local or overhead freight rail traffic has traveled over the Line in over two years.

Map.

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

(7) ***Name, title and address of the representatives of applicants to whom correspondence should be sent.***

Karl Morell
Karl Morell & Associates
440 1st Street, N.W.
Suite 440
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(202) 595-9045

¹ In the Environmental and Historic Reports filed with the Board on October 11, 2017, BNSF incorrectly identified the ending milepost as 66.90. The correct ending milepost is 66.93. See Exhibit B.

Attorney for BNSF Railway Company

Crystal M. Zorbaugh
Baker & Miller PLLC
2401 Pennsylvania Ave., NW Suite 300
Washington, D.C. 20037
(202) 663-7820

Attorney for Norfolk Southern Railway Company

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

The Line traverses U.S. ZIP Code 50309.

- (e) ***Rural and community impact.***
- (4) ***Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.***

The Line may be suitable for alternative public use.

4. ***The level of labor protection.***

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

5. ***Certification.***

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

6. ***Environmental Report.***

The Environmental Report containing information required by 49 C.F.R. § 1105.7(e) was submitted to the Board on October 11, 2017. Based on information in BNSF's possession, the Line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

7. *Historic Report.*

The Historic Report containing information required by 49 C.F.R. § 1105.8 was submitted to the Board on October 11, 2017.

Respectfully submitted,



Crystal M. Zorbaugh
Baker & Miller PLLC
2401 Pennsylvania Ave, NW
Suite 300
Washington, DC 20037

Jill Rugema
Assistant General Attorney
BNSF Railway Company
2500 Lou Menk Drive, AOB-3
Fort Worth, Texas 76131-2828

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440 1st Street, N.W.
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Washington, D.C. 20001
(202) 595-9045

Dated: April 30, 2018

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

STATE OF TEXAS)
)
) ss.
TARRANT COUNTY)

I hereby certify that no local traffic has been handled to or from any customer over the rail line located between Milepost 67.38 and Milepost 66.93 in the City of Des Moines, Polk County, Iowa ("the Line") in over two years. Also, no overhead traffic has been handled on the Line in over two years. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

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

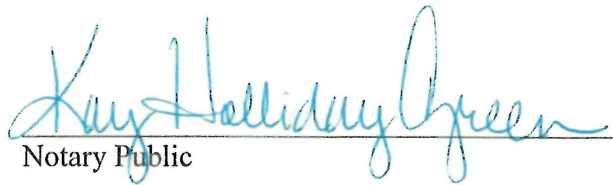


John Sims
Manager, Network Strategy

SUBSCRIBED AND SWORN TO before me this 21st day of March, 2018.

My Commission Expires: 04.29.2021




Notary Public

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

STATE OF VIRGINIA)
) **ss.**
CITY OF NORFOLK)

I, John Friedmann, being duly sworn depose and state that I am Vice President Strategic Planning for Norfolk Southern Railway Company ("NS"), that I am authorized to make this verification and that I have read the foregoing Joint Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information and belief.

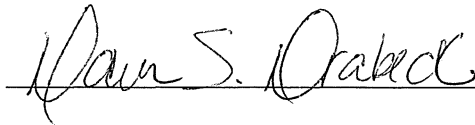
I hereby certify that no local traffic has been handled to or from any customer over the rail line located between Milepost 67.38 and Milepost 66.93 in the City of Des Moines, Polk County, Iowa (the "Line") in over two years. Also, no overhead traffic has been handled on the Line in over two years. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

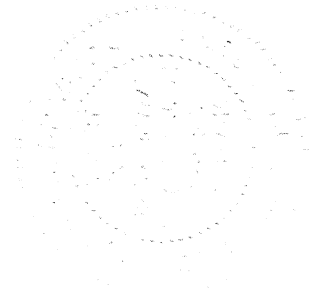
The foregoing certification is made on behalf of NS by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information and belief of the undersigned.



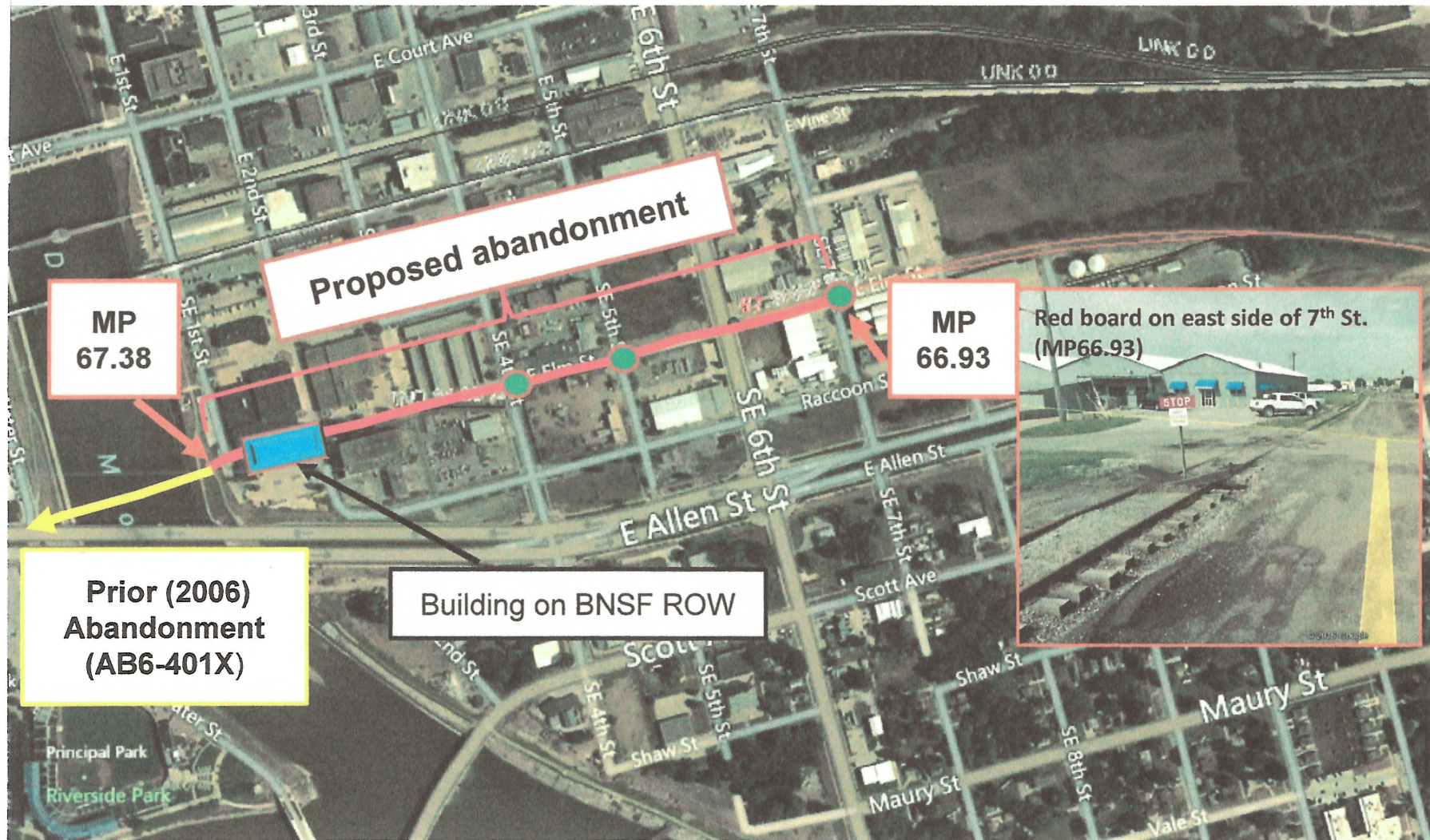
SUBSCRIBED AND SWORN TO before me this 28th day of March, 2018.

My Commission Expires: 11-30-18

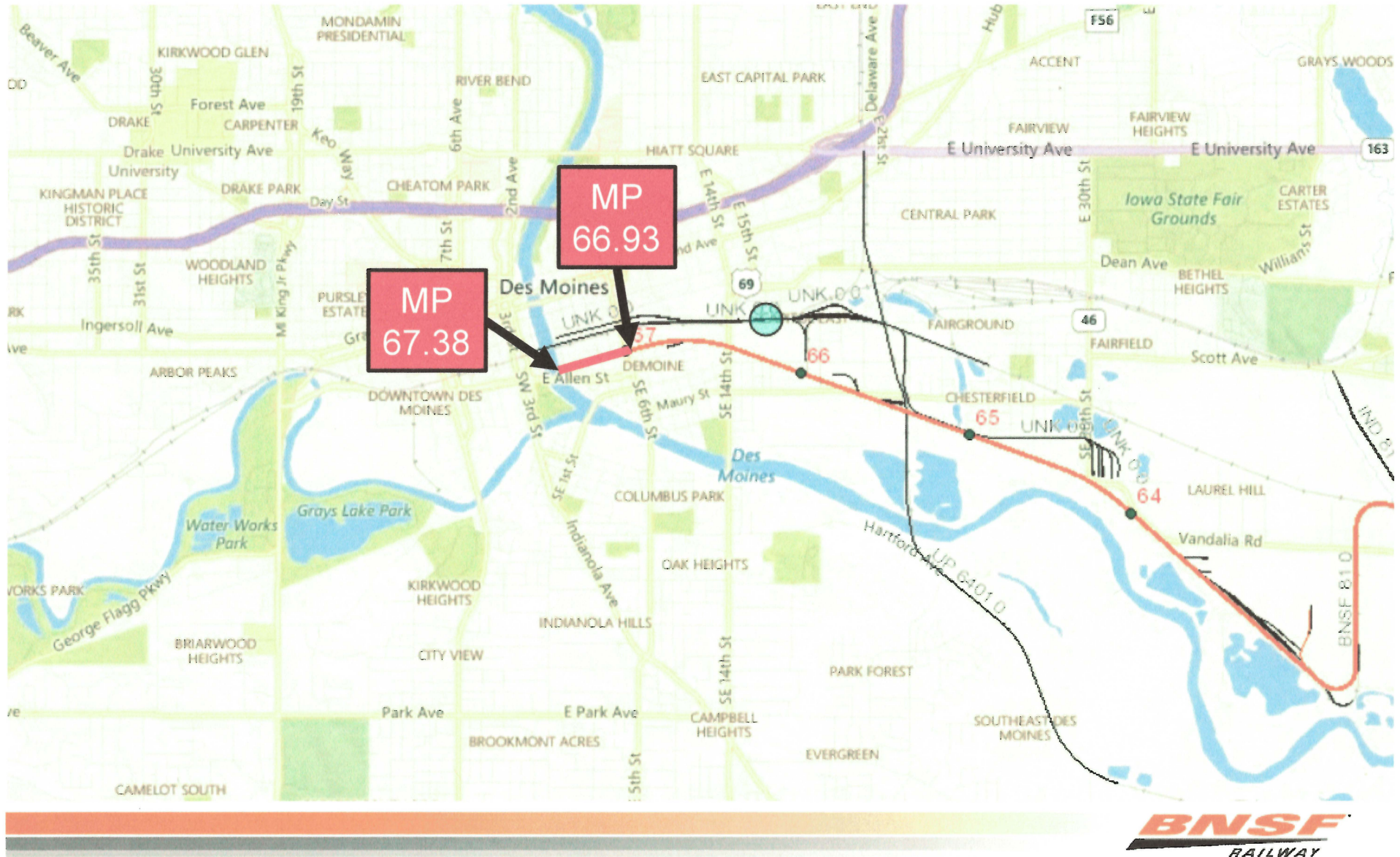




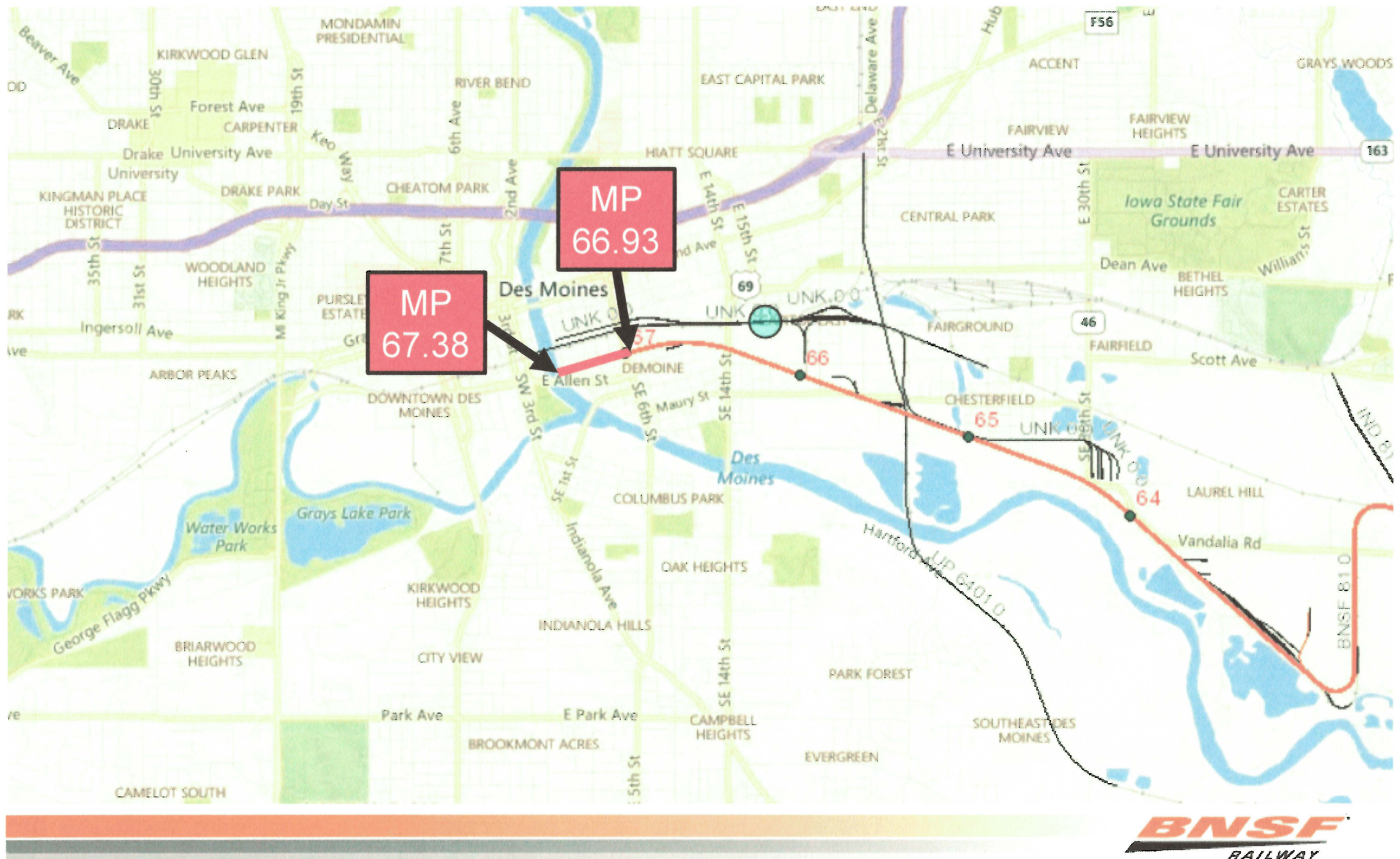
Des Moines, IA Abandonment Map



Des Moines, IA – Abandonment Map



Des Moines, IA – Abandonment Map



Des Moines, IA Abandonment Map



EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB 6 (Sub-No. 496X) and discontinuance of service in Docket No. AB 290 (Sub-No. 400X) was mailed via first class mail on February 22, 2018, to the following parties:

State Public Service Commission

Iowa DOT, Office of Rail Transportation
800 Lincoln Way
Ames, IA 50010

Military Traffic Management Command

Military Surface Deployment and Distribution Command Transportation
Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225-5006

National Park Service

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

Sue Masica, Regional Director
National Park Service
12795 Alameda Parkway
Denver, CO 80225

U.S. Department of Agriculture

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

Dated: April 30, 2018



Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB 6 (Sub-No. 496X) and the discontinuance of service in Docket No. AB 290 (Sub-No. 400X) was published on April 27, 2018, in the Des Moines Register, a newspaper of general circulation in Polk County, Iowa as required by 49 C.F.R. § 1105.12.

Dated: April 30, 2018

A handwritten signature in cursive script that reads "Karl Morell". The signature is written in black ink and is positioned above a horizontal line.

Karl Morell

**CERTIFICATE OF SERVICE
ENVIRONMENTAL AND HISTORIC REPORTS**

The undersigned hereby certifies that, in Docket No. AB 6 (Sub-No. 496X) the transmittal letter required by 49 C.F.R § 1105.11, was mailed to all agencies listed in 49 C.F.R. § 1105.7(b), as well as the additional agencies listed below via first class mail on October 12, 2017.

Pursuant to the requirements of 49 C.F.R. § 1105.7 and 1105.8, the undersigned hereby certifies that copies of the Environmental and Historic Reports were mailed via first class mail on October 12, 2017 to the following agencies:

Kathleen Vanderpool
Deputy City Attorney
Second Floor
400 E Court Ave
Des Moines, IA 50309

Joe Griffin
Iowa Department of Natural Resources
502 E. 9th Street
Des Moines, IA 50319

David Lynch
General Counsel
Iowa Utilities Board
Des Moines, IA 50319-0069

US EPA Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219

Veronica Starcevich
U.S. Fish and Wildlife Service
Illinois and Iowa ES Field Office
1511 47th Avenue
Moline, IL 61265

U.S. National Park Service
Attn: Cam Sholly, Regional Director
601 Riverfront Drive
Omaha, NE 68102-4226

Michael Ludwig, AICP
Planning Administrator
City of Des Moines
602 Robert D Ray Drive, 1st Floor
Des Moines, IA 50309

Iowa Historic Preservation Office
State Historical Building – 3rd Floor East
600 E. Locust St.
Des Moines, IA 50319

Department of the Army
Rock Island District, Corps of Engineers
P.O. Box 2004 Clock Tower Building
Rock Island, Illinois 61204-2004
Regulatory File No. CEMVR-OD-P 2017-0770

Iowa Department of Public Health, Bureau
of Environmental Health Services
321 E. 12 Street
Des Moines, IA 50319-0075

U.S. Department of the Interior
Bureau of Land Management Eastern States
Office
20 M Street SE, Suite 950
Washington, DC 20003

Polk County Planning and Development
5885 NE 14th Street
Des Moines, IA 50313

Karl Morell

Dated: April 30, 2018

Karl Morell