

LEONARD  
STREET  
AND  
DEINARD

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ENTERED  
Office of Proceedings  
August 15, 2013  
Part of  
Public Record

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August 15, 2013

Victoria Rutson  
Environmental Analysis Chief  
Surface Transportation Board  
395 E Street SW, Room 1106  
Washington, DC 20423

VIA E-FILING

**Re: *Dakota, Minnesota & Eastern Railroad Corporation - Abandonment of Trackage in Scott County, Iowa***  
***STB Docket No. AB-337 (Sub-No. 7X)***

Dear Ms. Rutson:

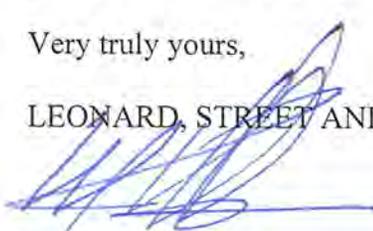
Please find enclosed for filing a copy of Dakota, Minnesota & Eastern Railroad Corporation's Environmental and Historic Reports pursuant to 49 C.F.R. Part 1105. A copy of the transmittal letter pursuant to 49 C.F.R. § 1105.11 is also enclosed.

DM&E anticipates filing a Notice of Exemption seeking authority to abandon the 0.66 mile line of railroad on or about September 6, 2013.

Please contact me if you have any questions.

Very truly yours,

LEONARD, STREET AND DEINARD



W. Karl Hansen

Enclosure

cc: Parties on the Attached Service List

*A Professional Association*

LAW OFFICES IN MINNEAPOLIS • MANKATO • ST. CLOUD • BISMARCK • WASHINGTON, D.C.

WWW.LEONARD.COM

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Appropriate Regional Office(s) of the  
U.S. Environmental Protection Agency

U.S. EPA Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219

U.S. Fish and Wildlife Service

U.S. Fish and Wildlife Service  
1849 C Street NW  
Washington, DC 20240

U.S. Fish and Wildlife Service – Midwest Region

Tom Melius, Regional Director  
U.S. Fish and Wildlife Service, Midwest Region  
5600 American Blvd. West, Suite 990  
Bloomington, MN 55437-1458

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers  
Headquarters  
441 G Street NW  
Washington, DC 20314

U.S. Army Corps of Engineers – Regional Office

U.S. Army Corps of Engineers  
Rock Island District  
Clock Tower Building  
P.O. Box 2004  
Rock Island, IL 61204-2004

The National Park Service

Jon Jarvis, Director  
National Park Service  
1849 C Street NW  
Washington, DC 20240

The National Park Service – Midwest Region

Michael Reynolds, Regional Director  
National Park Service  
U.S. Department of the Interior  
Midwest Region  
601 Riverfront Drive  
Omaha, NE 68102-4226

The U.S. Soil Conservation Service

Jason Weller, Acting Chief  
National Resource Conservation Service  
1400 Independence Ave. SW  
Room 5105-A  
Washington, DC 20250

The National Geodetic Survey (as designated agent for the National Geodetic Survey and the U.S. Geological Survey)

Simon Monroe  
National Oceanic and Atmospheric Administration  
Geodetic Survey, SSMC3 #9202  
1315 East-West Highway  
Silver Spring, MD 20910-3282

State Clearinghouse

Iowa State Clearinghouse  
Office of the Governor  
State Capitol  
1007 East Grand Avenue  
Des Moines, IA 50319

Iowa Department of Transportation

John Hey, Modal Division  
Iowa Department of Transportation  
800 Lincoln Way  
Ames, IA 50010

Iowa Department of Natural Resources

Cal Lundberg, Section Supervisor  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, IA 50319-0034

Iowa Department of Natural Resources – Field Office

Dennis Ostwinkle, Supervisor  
Iowa Department of Natural Resources  
Washington Field Office #6, Southeast Iowa  
1023 West Madison Street  
Washington, IA 52353-1623

Iowa Environmental Protection Commission

DNR Air Quality Building  
7900 Hickman Road  
Windsor Heights, IA 50324

State Historical Preservation Officer

Sarabeth Anderson, Administrator  
State Historical Society of Iowa  
600 East Locust Street  
Des Moines, IA 50319

State Archaeologist

John F. Doershuk, Ph.D.  
Office of the State Archaeologist  
700 South Clinton Street Building  
The University of Iowa  
Iowa City, IA 52242-1030

The U.S. Soil Conservation Service – State Office

Jay Mar  
State Conservationist  
210 Walnut Street, Room 693  
Des Moines, IA 50309

Scott County Board of Supervisors

Larry Minard, Chair  
Scott County Board of Supervisors  
Administrative Center  
600 W. 4th St.  
Davenport, Iowa 52801-1030

County Administrator

Dee F. Bruemmer  
Scott County Administrator  
600 W. 4<sup>th</sup> Street  
Davenport, IA 52801

City of Davenport

Bill Gluba, Mayor  
226 W. 4th Street  
Davenport, IA 52801

Michael Clarke, Public Works Director  
1200 East 46th Street  
Davenport, IA 52807

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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DAKOTA, MINNESOTA & EASTERN	)	
RAILROAD CORPORATION –	)	
ABANDONMENT OF TRACKAGE	)	DOCKET NO. AB-337
LOCATED IN SCOTT COUNTY, IOWA	)	(SUB-NO. 7X)
	)	

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VERIFIED NOTICE OF EXEMPTION TO ABANDON PURSUANT TO 49 C.F.R. § 1152.50  
A 0.66 MILE LINE OF RAILROAD BETWEEN MILEPOST 0.33 +/- AND MILEPOST 0.99  
+/- (BLACKHAWK SPUR) WHICH TRAVERSES THROUGH UNITED STATES POSTAL  
SERVICE ZIP CODE 52802 IN SCOTT COUNTY, IOWA

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ENVIRONMENTAL AND HISTORIC REPORTS  
IN COMPLIANCE WITH  
49 C.F.R. PART 1105

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DAKOTA, MINNESOTA & EASTERN  
RAILROAD CORPORATION  
d/b/a Canadian Pacific

LEONARD, STREET and DEINARD  
Professional Association  
W. Karl Hansen  
150 South Fifth Street, Suite 2300  
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Tel. (612) 335-7088  
Fax. (612) 335-1657

Attorney for Applicant  
Service Date: August 15, 2013

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.**

---

DAKOTA, MINNESOTA & EASTERN	)	
RAILROAD CORPORATION –	)	
ABANDONMENT OF TRackage	)	DOCKET NO. AB-337
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ENVIRONMENTAL AND HISTORIC REPORTS  
IN COMPLIANCE WITH  
49 C.F.R. PART 1105

---

The following information is submitted to the Surface Transportation Board by Dakota, Minnesota & Eastern Railroad Corporation (“DM&E”) d/b/a Canadian Pacific in accordance with the Board’s reporting requirements as set forth in 49 C.F.R. Section 1105.7, for the purpose of assisting the Board in its preparation of an environmental document regarding DM&E’s Verified Notice of Exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903, permitting the abandonment of a 0.66 mile line of railroad between milepost 0.33 +/- and milepost 0.99 +/- (Blackhawk Spur) which traverses through United States Postal Service Zip Code 52802 in Scott County, Iowa.

REQUIREMENTS OF 49 C.F.R. SECTION 1105.7

Section 1105.7(b)(1) – (11) Distribution:

- (b) At least 20 days prior to filing with the Board a notice of exemption, petition for exemption, or an application for abandonment or discontinuance the applicant must serve copies of the Environmental Report on:
- (1) The State Clearinghouse of each State involved (or other state equivalent agency if the State has no clearinghouse);
  - (2) The State Environmental Protection Agency of each State involved;

- (3) The State Coastal Zone Management Agency for any state where the proposed activity would affect land or water uses within that State's coastal zone;
- (4) The head of each county (or comparable political entity including any Indian reservation) through which the line goes;
- (5) The appropriate regional offices of the Environmental Protection Agency;
- (6) The U.S. Fish and Wildlife Service;
- (7) The U.S. Army Corps of Engineers;
- (8) The National Park Service;
- (9) The U.S. Soil Conservation Service;
- (10) The National Geodetic Survey (formerly known as the Coast and Geodetic Survey) as designated agent for the National Geodetic Survey and the U.S. Geological Survey; and;
- (11) Any other agencies that have been consulted in preparing the report.

See List of Parties Consulted and Certificate of Service, attached as Exhibit No. 1.

Section 1105.7(c) Certification of Service of Environmental Report: In its Environmental Report, the applicant must certify that it has sent copies of the Environmental Report to the agencies listed and within the time specified in paragraph (b) of this section and that it has consulted with all appropriate agencies in preparing the report. These consultations should be made far enough in advance to afford those agencies a reasonable opportunity to provide meaningful input.

See List of Parties Consulted and Certificate of Service, attached as Exhibit No. 1.

Section 1105.7(c) Publication of Newspaper Notice of Intent to Abandon: Finally, in every abandonment exemption case, applicant shall certify that it has published in a newspaper of general circulation in each county through which the line passes a notice that alerts the public to the proposed abandonment, to available reuse alternatives, and to how it may participate in the STB proceeding.

The *Quad-City Times* published the Notice for Publication specified at 49 C.F.R. § 1105.12 on July 22, 2013. A copy of the newspaper notice, Certificate of Counsel, and Affidavit of Publication are attached as Exhibit No. 2.

Section 1105.7(d) Documentation: Any written responses received from agencies that were contacted in preparing the Environmental Report shall be attached to the report. Oral responses from such agencies shall be briefly summarized in the report and the names, titles, and telephone numbers of the persons contacted shall be supplied. A copy of, or appropriate citation to, any reference materials relied upon also shall be provided.

All the agencies referenced at 49 C.F.R. Section 1105.7(b) were contacted by letters dated June 10, 2013 and July 11, 2013 to solicit comments. See Exhibit No. 4. Responses received to date have been incorporated along with DM&E's

analysis. Copies of responses are attached as Exhibit No. 3. Subsequent written comments may be received by the OEA and DM&E.

Status of written and oral comments received:

1105.7(b)(1) State Clearinghouse:

The Iowa State Clearinghouse was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(2) State Environmental Protection Agency:

The Iowa Environmental Protection Commission was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(3) State Coastal Zone Management Agency:

N/A -- The subject rail line is not within a designated coastal zone.

1105.7(b)(4) Head of Each County Through Which The Line Goes:

The Scott County Board of Supervisors was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(5) Appropriate Regional Offices of the Environmental Protection Agency:

The U.S. Environmental Protection Agency was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(6) U.S. Fish and Wildlife Services:

The U.S. Fish and Wildlife Service was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(7) U.S. Army Corps of Engineers:

The Rock Island District Office of the U.S. Army Corps of Engineers was contacted by letter on June 10, 2013, and its response is included in Exhibit No. 3.

1105.7(b)(8) National Park Service:

The National Park Service was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(9) U.S. Soil Conservation Service:

The United States Department of Agriculture's Natural Resources Conservation Service was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(10) National Geodetic Survey:

The National Geodetic Survey was contacted by letter on June 10, 2013, but no response has been received to date.

1105.7(b)(11) Other agencies consulted:

The Iowa Department of Transportation was contacted by letter on June 10, 2013, but no response has been received to date.

The Iowa Department of Natural Resources was contacted by letter on June 10, 2013, and its response is included in Exhibit No. 3.

The Iowa State Conservationist was contacted by letter on June 10, 2013, but no response has been received to date.

The State Historical Preservation Officer was contacted by letter on June 10, 2013, and its response is included in Exhibit No. 3.

The Office of the State Archaeologist was contacted by letter on July 11, 2013, but no response has been received to date.

1105.7(e)(3) Local and Regional Planning Activities:

The Scott County Board of Supervisors was contacted by letter on June 10, 2013, but no response has been received to date.

The City of Davenport was contacted by letter on June 10, 2013, but no response has been received to date.

Section 1105.7(e) Content: The Environmental Report shall include all of the information specified in this paragraph, except to the extent that applicant explains why any portion(s) are inapplicable. If an historic report is required under § 1105.8, the Environmental Report should also include the Historic Report required by that section.

The Historic Report pursuant to 49 C.F.R. § 1105.8 is attached as Exhibit No. 5.

Section 1105.7(e)(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.

The proposed action is the abandonment of 0.66 miles of track in Scott County, Iowa. The track has been out of service and no traffic has moved over the line for over two years. Any overhead trackage has already been rerouted over other lines. Following abandonment, any remaining ties and rails will be removed. Ties and rail will be either recycled or disposed of in an appropriate manner. A detailed map of the project is included as Appendix A to the Historic Report attached as Exhibit No. 5.

Section 1105.7(e)(2) Transportation System: Describe the effects 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.

No traffic will be diverted to other transportation systems by the abandonment of this out-of-service line of railroad.

Section 1105.7(e)(3)(i) Land Use: Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

The Scott County Board of Supervisors, the Scott County Administrator, and the City of Davenport were contacted by letter on June 10, 2013. No responses have been received to date. DM&E has no reason to believe that the proposed action would be inconsistent with any existing land use plans.

Section 1105.7(e)(3)(ii): Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The United States Department of Agriculture's Natural Resources Conservation Service and the Iowa State Conservationist were contacted by letter on June 10, 2013, but no responses have been received to date.

Section 1105.7(e)(3)(iii): If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 49 C.F.R. § 1105.9.

The subject rail line is not within a designated coastal zone.

Section 1105.7(e)(3)(iv): If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

The right-of-way may be suitable for alternative public use.

Section 1105.7(e)(4)(i) Energy: Describe the effect of the proposed action on transportation of energy resources.

The proposed abandonment will have no effect on the development and transportation of energy resources, or on the movement and/or recovery of recyclable commodities because no such energy resources or recyclable commodities are presently transported over this line.

Section 1105.7(e)(4)(ii): Describe the effect of the proposed action on recyclable commodities.

No impact is anticipated.

Section 1105.7(e)(4)(iii): State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

No impact is anticipated.

Section 1105.7(e)(4)(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information § 1105.7(e)(4)(iv) is required.

The proposed action will not cause any diversion from rail to motor carriage.

Section 1105.7(e)(5)(i) Air: If the proposed action will result in either:

- A. An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal; or
- B. An increase in rail yard activity of at least 100 percent (measured by carload activity); or
- C. An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

The proposed abandonment:

- A. Will not result in an increase in rail traffic of at least 100 percent or an increase of at least eight trains per day on any segment of rail line affected by the proposed abandonment.
- B. Will not result in an increase in rail yard activity of at least 100 percent (measured by carload activity).
- C. Will not result in an average increase in truck traffic by 10 percent or 50 vehicles per day for any affected road segment.

Section 1105.7(e)(5)(ii): If the proposed action affects a class I or non-attainment area under the Clean Air Act, and will result in either:

- A. An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line;
- B. An increase in rail yard activity of at least 20 percent (measured by carload activity); or
- C. An average increase in truck traffic or more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment:

- A. Will not result in an increase in rail traffic of at least 50 percent or an increase of at least three trains per day on any segment of rail line affected by the proposed abandonment.
- B. Will not result in an increase in rail yard activity of at least 20 percent (measured by carload activity).
- C. Will not result in an average increase in truck traffic by 10 percent or 50 vehicles per day for any affected road segment.

Section 1105.7(e)(5)(iii): If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency or 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.

Transportation of ozone depleting materials are not involved.

Section 1105.7(e)(6) Noise: If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- (i) An incremental increase in noise levels of three decibels Ldn or more; or
- (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

None of the thresholds identified in item (5)(i) of this section will be surpassed.

Section 1105.7(e)(7)(i) Safety: Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

Public health and safety will not be affected adversely by the proposed abandonment.

Section 1105.7(e)(7)(ii): If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

No hazardous materials are currently transported over this line segment.

Section 1105.7(e)(7)(iii): If there are any known hazardous waste sites 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.

In July 2013, a Phase I Environmental Site Assessment ("ESA") identified no current RECs on the right-of-way. The ESA identified an historical REC, groundwater and soil contamination from a diesel fuel release at the closed leak site at the Gene Meyer Oil Company adjacent to the right-of-way. A copy of the ESA will be made available upon request.

Section 1105.7(e)(8)(i) Biological Resources: Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The U.S. Fish and Wildlife Service was contacted by letter on August 13, 2012, but no response has been received to date. No adverse effects are anticipated.

Section 1105.7(e)(8)(ii): State whether wildlife sanctuaries or refuges, National or State parks or forests be affected, and describe any effects.

No sanctuaries, state parks, or refuges will be adversely affected by the proposed abandonment.

Section 1105.7(e)(9)(i) Water: Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

The Iowa Department of Natural Resources was contacted by letter on June 10, 2013, and its response is included in Exhibit 3. DM&E will take proper care during salvage activities to prevent any impact on water quality.

Section 1105.7(e)(9)(ii): Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

The Rock Island District Office of the U.S. Army Corps of Engineers was contacted by letter on June 10, 2013, and its response is included in Exhibit No. 3. No permits under Section 404 of the Clean Water Act are required for the proposed action. No designated wetlands or 100-year flood plains will be adversely affected.

Section 1105.7(e)(9)(iii): State whether permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the State Environmental Protection or Equivalent Agency if they are unsure whether such permits are required).

The Rock Island District Office of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Iowa Department of Natural Resources were contacted by letter on June 10, 2013; responses are included in Exhibit No. 3. Because no in-stream salvage activities are contemplated, it is DM&E's opinion that permits under Section 402 of the Clean Water Act are not required.

Section 1105.7(e)(10) Proposed Mitigation: Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

DM&E does not anticipate any adverse effect to the environment. Accordingly, other than using appropriate care conducting salvage of track, ties and OTM, no mitigation will be necessary.

Section 1105.7(e)(11) Additional Information for Rail Constructions: The following additional information should be included for rail construction proposals (including connecting track construction).

Not applicable.

Section 1105.8 Historic Reports: (a) An applicant proposing an action identified in § 1105.6(a) or (b), or an action in § 1105.6(c) that will result in the lease, transfer, or sale of a railroad's line, sites or structures, must submit (with its application, petition or notice) the Historic Report described in paragraph (d) of this section, unless excepted under paragraph (b) of this section. This report should be combined with the Environmental Report where one is required. The purpose of the Historic Report is to provide the Board with sufficient information to conduct the consultation process required by the National Historic Preservation Act.

The Historic Report is attached as Exhibit No. 5.

Section 1105.9 Coastal Zone Management Act Requirements: If the proposed action affects land or water uses within a State coastal zone designated pursuant to the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) applicant must comply with the following procedures.

The subject rail line is not in a State coastal zone designated pursuant to the Coastal Zone Management Act.

END OF REPORT

Exhibit No. 1

Certificate of Service of Environmental and Historic Report  
and List of Parties Consulted

CERTIFICATE OF SERVICE OF ENVIRONMENTAL AND HISTORIC REPORTS

I hereby certify that on August 15, 2013, I served the Environmental Report and Historic Report relative to STB Docket No. AB-337 (Sub-No. 7X), pursuant to 49 C.F.R. §§ 1152.50; 1105.7(b), (c); and 1105.11, by First Class U.S. Mail properly addressed and with postage prepaid upon the parties listed on the attached List of Parties Consulted.

Dated at Minneapolis, Minnesota this 15 day of August, 2013.

  
\_\_\_\_\_  
W. Karl Hansen

ENVIRONMENTAL & HISTORIC REPORTS  
BLACKHAWK SPUR ABANDONMENT  
STB DOCKET NO. AB-337 (SUB-NO. 7X)  
LIST OF PARTIES CONSULTED

Parties consulted in preparing Environmental and Historic Reports - Dakota, Minnesota & Eastern Railroad Corporation - Abandonment of Line of Railroad running between Milepost 0.33 +/- and Milepost 0.99 +/- (Blackhawk Spur) in Scott County, Iowa (U.S. Postal Zip Code 52802) -- S.T.B. Docket No. AB-337 (Sub No. 7X)

**FEDERAL AGENCIES CONSULTED**

Appropriate Regional Office(s) of the  
U.S. Environmental Protection Agency

U.S. EPA Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219

U.S. Fish and Wildlife Service

U.S. Fish and Wildlife Service  
1849 C Street NW  
Washington, DC 20240

U.S. Fish and Wildlife Service – Midwest Region

Tom Melius, Regional Director  
U.S. Fish and Wildlife Service, Midwest Region  
5600 American Blvd. West, Suite 990  
Bloomington, MN 55437-1458  
Phone: (612) 713-5360

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers  
Headquarters  
441 G Street NW  
Washington, DC 20314

U.S. Army Corps of Engineers – Regional Office

U.S. Army Corps of Engineers  
Rock Island District  
Clock Tower Building  
P.O. Box 2004  
Rock Island, IL 61204-2004

The National Park Service

Jon Jarvis, Director  
National Park Service  
1849 C Street NW  
Washington, DC 20240

The National Park Service – Midwest Region

Michael Reynolds, Regional Director  
National Park Service  
U.S. Department of the Interior  
Midwest Region  
601 Riverfront Drive  
Omaha, NE 68102-4226  
Phone: (402) 661-1736

The U.S. Soil Conservation Service

Jason Weller, Acting Chief  
National Resource Conservation Service  
1400 Independence Ave. SW  
Room 5105-A  
Washington, DC 20250

The National Geodetic Survey (as designated agent for the National Geodetic Survey and the U.S. Geological Survey)

Simon Monroe  
National Oceanic and Atmospheric Administration  
Geodetic Survey, SSMC3 #9202  
1315 East-West Highway  
Silver Spring, MD 20910-3282

## STATE AGENCIES CONSULTED

### State Clearinghouse

Iowa State Clearinghouse  
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State Capitol  
1007 East Grand Avenue  
Des Moines, IA 50319  
Phone: (515) 281-5211

### Iowa Department of Transportation

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Phone: (515) 239-1101

### Iowa Department of Natural Resources

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Phone: (515) 281-5918

### Iowa Department of Natural Resources – Field Office

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Washington, IA 52353-1623  
Phone: (319) 653-2135

### Iowa Environmental Protection Commission

DNR Air Quality Building  
7900 Hickman Road  
Windsor Heights, IA 50324

State Historical Preservation Officer

Sarabeth Anderson, Administrator  
State Historical Society of Iowa  
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Des Moines, IA 50319  
Phone: (515) 281-4657

State Archaeologist

John F. Doershuk, Ph.D.  
Office of the State Archaeologist  
700 South Clinton Street Building  
The University of Iowa  
Iowa City, IA 52242-1030

The U.S. Soil Conservation Service – State Office

Jay Mar  
State Conservationist  
210 Walnut Street, Room 693  
Des Moines, IA 50309  
Phone: (515) 284-6655

Other Political Entities Through Which The Line Runs

Scott County Board of Supervisors

Larry Minard, Chair  
Scott County Board of Supervisors  
Administrative Center  
600 W. 4th St.  
Davenport, Iowa 52801-1030  
(563) 326-8749  
Fax: (563) 328-3285  
board@scottcountyiowa.com

County Administrator

Dee F. Bruemmer  
Scott County Administrator  
600 W. 4<sup>th</sup> Street  
Davenport, IA 52801

City of Davenport

Bill Gluba, Mayor  
226 W. 4th Street  
Davenport, IA 52801

Michael Clarke, Public Works Director  
1200 East 46th Street  
Davenport, IA 52807

Exhibit No. 2

Certification of Publication of Newspaper Notice in Newspapers of General Circulation in  
Counties where Line is Situated and Affidavit of Publication

(49 C.F.R. Section 1105.12)

CERTIFICATE OF PUBLICATION OF PUBLIC NOTICE  
IN NEWSPAPER OF GENERAL CIRCULATION

I hereby certify that relative to STB Docket No. AB-337 (Sub-No. 7X), pursuant to 49 C.F.R. Sections 1152.50 and 1105.12, a public legal notice was published on July 22, 2013 in the *Quad-City Times*, which is a newspaper of general circulation where the subject trackage is located.

Dated at Minneapolis, Minnesota this 15 day of August, 2013.

  
\_\_\_\_\_  
W. Karl Hansen

COPY OF NOTICE

NOTICE

DAKOTA, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific ("DM&E") gives notice that on or about August 15, 2013, it intends to file with the Surface Transportation Board, Washington, DC 20423 a Notice of Exemption under 49 C.F.R. 1152 Subpart F - Exempt Abandonments permitting the abandonment of 0.66 miles +/- of rail line in Davenport, Iowa between milepost 0.33 +/- and milepost 0.99 +/- which traverses through United States Postal Service Zip Code 52002 in Scott County, Iowa. The proceeding will be docketed as No. AB 337 (Sub No. 7X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the Notice of Exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, 395 E Street, S.W. Washington, DC, 20423, or by calling that office at 202 245 0295.

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 Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423, and one copy must be served on applicant's representative. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance Services at 202 245 0238. Copies of any comments or requests for conditions should be served on the applicant's representative, W. Karl Hansen at Leonard, Street and Deindard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, 612-335-1500. Dakota, Minnesota & Eastern Railroad Corporation

AFFIDAVIT OF PUBLICATION

STATE OF IOWA }  
SCOTT COUNTY, } ss.

The undersigned, being first duly sworn, on oath does say that he/she is an authorized employee of THE QUAD-CITY TIMES, morning edition, a daily newspaper printed and published by Lee Enterprises, Incorporated, in the City of Davenport, Scott County, Iowa, and that a notice, a printed copy of which is hereto annexed as Exhibit "A" and made a part of this affidavit, was published in said THE QUAD-CITY TIMES, on the following dates:

7-22-13

The affiant further deposes and says that all of the facts set forth in the foregoing affidavit are true as he/she verily believes.

*Kern Cooperman*

Subscribed and sworn to before me by said affiant this

22<sup>nd</sup>

day of

*July*

*Stephen H Thor* 20/13

**STEPHEN H. THOR**  
Commission Number 168839  
My Commission Expires  
3-24-14

Notary Public in and for Scott County, Iowa

Exhibit No. 3

Responses to Environmental Scoping Correspondence Sent June 10, 2013



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

July 17, 2013

Leonard, Street, and Deinard  
Attn: W. Karl Hansen  
150 South Fifth Street, Suite 2300  
Minneapolis, MN 55402

RE: Environmental Review for Natural Resources  
Proposed Rail Line Abandonment (Black Hawk Spur)  
Scott County  
Section 33, Township 78N, Range 3E

Dear Mr. Hansen,

Thank you for inviting Department comment on the impact of this project. The Department has searched for records of rare species and significant natural communities in the project area and found no site-specific records that would be impacted by this project. However, these records and data are not the result of thorough field surveys. If listed species or rare communities are found during the planning or construction phases, additional studies and/or mitigation may be required. If the construction plans change, the Department should be contacted for another review.

The Department has records of two high risk LUST sites within 1000' of the proposed rail line abandonment stretch. One is in high risk monitoring, the other is conducting over-excavation. Both sites are not immediately adjacent the rail line. There are also two former LUST sites immediately adjacent the line but both received no further action classification. For additional information, please contact Kate Meyer at (515) 242-6491

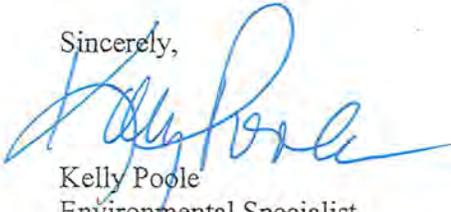
One site was found in the Contaminated Sites database in the area of the proposed rail line abandonment; Gene Meyer Oil, which is located at 2605 Blackhawk Street. For additional site information, please contact the project manager, Matt Culp, at [matt.culp@dnr.iowa.gov](mailto:matt.culp@dnr.iowa.gov) or at (515) 242-5087. Please note that the above comments are based on the information available in the Contaminated Sites database and may not be applicable to other sections/units of the Department. Furthermore, all contaminated sites might not be accounted for through the sections' database or the Departments' records; therefore, number of contaminated sites in our records does not necessarily mean that none exist at or near the rail line.

Please refer to the Department letter dated June 13, 2013 for Air Quality Bureau comments. For additional information, please contact Christine Paulson at (515) 281-5154.

This letter does not constitute a permit. Other permits may be required from the Department or other state or federal agencies before work begins on this project.

If you have questions about this letter or require further information, please contact me at (515) 281-8967.

Sincerely,



Kelly Poole  
Environmental Specialist  
Conservation and Recreation Division

FILE COPY: Kelly Poole

Tracking Number: 9010

CC: Matt Culp, Iowa DNR (email)  
Christine Paulson, Iowa DNR (email)  
Kate Meyer, Iowa DNR (email)  
Jerah Sheets, Iowa DNR (email)



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, ROCK ISLAND DISTRICT  
PO BOX 2004 CLOCK TOWER BUILDING  
ROCK ISLAND, ILLINOIS 61204-2004

July 1, 2013

Operations Division

CEMVR-OD-P-2013-909

W. Karl Hansen  
Leonard, Street and Deinard  
(OBO DM&E)  
150 South 5<sup>th</sup> Street, Suite 2300  
Minneapolis, Minnesota 55402

Dear Mr. Hansen:

Our office reviewed the letter received, June 12, 2013, concerning the proposed Dakota, Minnesota & Eastern Railway Corporation (DM&E) rail line abandonment located between MP 0.33 and MP 0.99 (Blackhawk Spur) in Scott County, Iowa in Section 34, Township 78 North, Range 3 East, in Scott County, Iowa.

We determined the project as proposed does not require a Department of the Army (DA) Section 404 permit. The decision regarding this action is based on information found in the administrative record which documents the District's decision-making process, the basis for the decision, and the final decision. No indication of discharge of dredged or fill material was found to occur in waters of the United States (including wetlands). Therefore, this determination resulted.

Please contact our office if the project plans change and there is a potential for impacts of dredged or fill material into Corps' regulated waters, which will require a Department of the Army 404 permit.

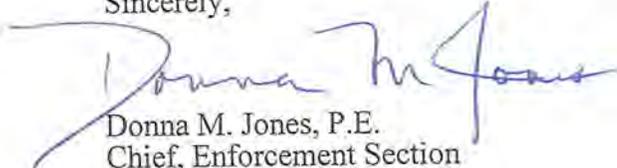
You are advised that this determination for the project is valid for five years from the date of this letter. If the project is not completed within this five-year period or your project plans change, you should contact our office for another determination.

Although an individual DA permit will not be required for the project, this does not eliminate the requirement that you must still acquire other applicable Federal, state, and local permits.

The Rock Island District Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete the attached postcard and return it or go to our Customer Service Survey found on our web site at <http://per2.nwp.usace.army.mil/survey.html>. (Be sure to select "Rock Island District" under the area entitled: Which Corps office did you deal with?)

Should you have any questions, please contact our Regulatory Branch by letter, telephone or email to Mrs. Kirsten Brown at 309/794-5104 or [Kirsten.L.Brown@usace.army.mil](mailto:Kirsten.L.Brown@usace.army.mil).

Sincerely,

  
Donna M. Jones, P.E.  
Chief, Enforcement Section  
Regulatory Branch

Enclosures

Copies Furnished: (w/o enclosures)

Ms. Christine Schwake (3)  
Iowa Department of Natural Resources  
Water Resources Section  
Wallace State Office Building  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319-0034

MARY COWNIE, DIRECTOR  
CHRIS KRAMER, DEPUTY DIRECTOR

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

June 25, 2013

In reply refer to:  
R&C#: 130682044



SARABETH ANDERSON  
ADMINISTRATOR



SUSAN KLEWER  
MUSEUM DIRECTOR



MATTHEW HARRIS  
ADMINISTRATOR

W. Karl Hansen  
Leonard, Street, and Deinard  
150 South Fifth Street Suite 2300  
Minneapolis, Minnesota 55402

RE: STB – SCOTT COUNTY – DAKOTA, MINNESOTA & EASTERN RAILWAY  
CORP.(DM&E) D/B/A/ CANADIAN PACIFIC – STB DOCKET NO. AB-337  
(SUB NO.-7S) – PROPOSED RAIL LINE ABANDONMENT, BLACKHAWK  
SPUR PROJECT – MP.33 TO MILEPOST .99 – SEC. 33, T78N-R3E

Dear Mr. Hansen,

Thank you for providing information to our office concerning the above referenced proposed project. We understand that this project will be a federal undertaking for the Surface Transportation Board (STB) and will need to comply with Section 106 of the National Historic Preservation Act and the National Environmental Policy Act. We make the following recommendations based on our examination of this material and in accordance with Section 106 of the National Historic Preservation Act of 1966 and its implementing regulations, 36 CFR Part 800 (revised, effective August 5, 2004); the Advisory Council on Historic Preservation's Policy Statement on Affordable Housing and Historic Preservation (adopted November 9, 2006); and on The Advisory Council on Historic Preservation recently issued guidance in November 2011 on *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review*.

We can not make any recommendations at this time whether there appears to be any potential that the undertaking will encounter or adversely impact historic properties that may be eligible for listing in the National Register of Historic Places as no information was provided in your documentation. We would like to refer you and the STB to the Advisory Council on Historic Preservation's recently issued guidance in November 2011 on *Meeting the "Reasonable and Good Faith" Identification Standard in Section 106 Review* for guidance on what types of information should be included in the documentation provided for consultation under Section 106 of the National Historic Preservation Act. We encourage you to contact the Office of the State Archaeologist at the University of Iowa to get an archaeological site background check conducted for your undertaking. We also encourage you to provide completed Iowa Site inventory forms or the equivalent information on any railroad bridges, culverts, or associated infrastructure such as signals, depots, etc. that would be older than 50 years in age and would still exist along the line. We will be able to provide recommendations on this undertaking when this information has been provided to our office.

STATE HISTORICAL BUILDING  
600 EAST LORAIN  
DES MOINES, IOWA 50319

T. (515) 281-5111  
F. (515) 242-6498

WWW.CULTURALAFFAIRS.ORG

Please reference the Review and Compliance Number provided above in all future submitted correspondence to our office for this project. We look forward to further consulting with you and the Surface Transportation Board on this project.

We have provided this **technical assistance** according to our responsibility defined by Federal law. It remains the **Federal agency's decision** on how you will proceed from this point for this project.

Sincerely,

A handwritten signature in cursive script that reads "Douglas W. Jones".

Douglas W. Jones, Archaeologist and Review and Compliance Program Manager  
and Interim Deputy State Historic Preservation Officer  
State Historic Preservation Office  
State Historical Society of Iowa  
(515) 281-4358

cc: Ralph Christian, Historian, State Historical Society of Iowa  
Troy Brady, Environmental Protection Specialist, STB



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

June 13, 2013

W. Karl Hansen  
Leonard, Street and Deinard  
150 South Fifth Avenue Suite 2300  
Minneapolis, MN 55402

Dear Mr. Hansen:

The Iowa Department of Natural Resources (DNR) Air Quality Bureau received your letter, dated June 10, 2013, requesting comments on the potential environmental impact of a proposed rail line abandonment located in Scott County, Iowa.

The DNR is the regulatory authority for the air quality programs described below. These programs may or may not apply to the proposed project described in your letter.

- **Construction Permitting Requirements**

DNR issues construction permits for new and modified sources of air pollutants. If the project includes any new air emission units, including portable equipment such as cement batch plants, asphalt plants, or limestone crushing plants, the project may be subject to these construction permitting requirements. Please visit our website at <http://www.iowadnr.gov/InsideDNR/RegulatoryAir/ConstructionPermits.aspx> for more information or contact our permit hotline at 1-877-AIR-IOWA. You may also wish to review the rules for permitting contained in 567 Iowa Administrative Code (IAC) Chapter 22 (455B). The IAC is available on-line at <http://www.legis.iowa.gov/IowaLaw/AdminCode/agencyDocs.aspx>.

- **Asbestos**

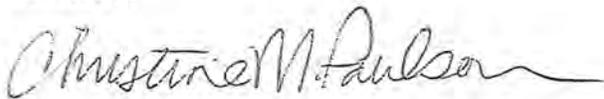
Building renovations, demolitions and training fires are potentially subject to the asbestos release prevention efforts under the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos [40 Code of Federal Regulations (CFR) Part 61, Subpart M]. The DNR has been delegated the authority to administer and enforce this program.

The asbestos NESHAP rules apply **before** renovation or demolition begin, and often require a thorough inspection and lab analysis of suspect asbestos containing material, notification to the DNR and, in some cases, proper removal and disposal. For more information, please visit our website at <http://www.iowadnr.gov/InsideDNR/RegulatoryAir/Asbestos.aspx>. You may also contact the DNR Asbestos NESHAP Coordinator, Tom Wuehr, at 515-494-8212.

- **Open Burning**  
The DNR regulates open burning. "Open burning" is the burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack. In general, open burning is prohibited, except for the specific exemptions listed in the state open burning rules. The open burning requirements are contained in 567 IAC rule 23.2(455B). In addition, there are a number of definitions in 567 Chapter 20 that are applicable to open burning. The IAC is available on-line at <http://www.legis.iowa.gov/IowaLaw/AdminCode/agencyDocs.aspx>.
- **Fugitive Dust**  
The DNR administers regulations that pertain to fugitive dust. In general, owners or operators must take reasonable precautions to prevent fugitive dust from becoming airborne and crossing the property line. These regulations, which may be applicable to this project, are contained in 567 IAC paragraph 23.3(2)"c", and can be found at the website indicated above.
- **Opacity**  
The DNR administers regulations that pertain to opacity (visible emissions). In general, visible emissions in excess of 40 percent opacity are not allowed unless specifically exempted under rule. The rules for opacity, which may pertain to this project, are under paragraph 567 IAC 23.3(2)"d", and are available on-line at the link indicated above.

If you have any questions, please contact me by phone at (515) 242-5154 or by e-mail at [christine.paulson@dnr.iowa.gov](mailto:christine.paulson@dnr.iowa.gov).

Sincerely,



Christine M. Paulson  
Environmental Specialist Senior



# STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR  
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES  
CHUCK GIPP, DIRECTOR

June 13, 2013

W KARL HANSEN  
LEONARD STREET AND DEINARD  
150 S FIFTH ST STE 2300  
MINNEAPOLIS MN 55402

RE: Blackhawk Spur Railroad Track Abandonment  
MP 0.33 +/- to MP 0.99 +/-  
S33, T78N, R3E, Scott County

Dear Mr. Hansen:

This letter is in response to the June 10, 2013 letter concerning the abandonment of railroad track. Thank you for inviting our comments on the impact of the above referenced project.

Waters of the United States (includes wetlands) should not be disturbed if a less environmentally damaging alternative exists. Unavoidable adverse impacts should be minimized to the extent practicable. Any remaining adverse impacts should be compensated for through restoration and creation activities (enhancement and/or preservation may be in addition to the restoration/creation). We would ask that Best Management Practices be used to control erosion and protect water quality near the project.

Any proposed placement of dredged or fill material into waters of the United States (including jurisdictional wetlands) requires Department of the Army authorization. When detailed plans are available, please complete and submit the joint application form to the Rock Island District Corps of Engineers (1 copy) and Iowa Department of Natural Resources (2 copies) for processing. The application form may be obtained at:

<http://www.iowadnr.gov/InsideDNR/RegulatoryWater/WetlandsPermitting.aspx> .

An electronic copy of the application form and instructions may also be obtained on the Corps' website: <http://www.mvr.usace.army.mil/Missions/Regulatory.aspx> .

If you have any questions, please call me at (515)281-6615.

Sincerely,

A handwritten signature in blue ink that reads "Christine M. Schwake".

Christine Schwake  
Environmental Specialist

Exhibit No. 4

Environmental Scoping Correspondence Required By 49 C.F.R. Section 1105.7(b)

LEONARD  
STREET  
AND  
DEINARD

150 SOUTH FIFTH STREET SUITE 2300  
MINNEAPOLIS, MINNESOTA 55402  
612-335-1500 MAIN  
612-335-1657 FAX

W. KARL HANSEN  
612.335.7088 DIRECT  
KARL.HANSEN@LEONARD.COM

June 10, 2013

**VIA U.S. MAIL**

To: Attached List of Parties Consulted

Re: **Request for Comments on Potential Environmental Impact of Proposed Rail Line Abandonment Located between Milepost 0.33 +/- and Milepost 0.99 +/- (Blackhawk Spur) in Scott County, Iowa (U.S. Postal Zip Code 52802) - STB Docket No. AB-337 (Sub-No. 7X)**

Dear Sir/Madam:

Dakota, Minnesota & Eastern Railway Corporation ("DM&E") d/b/a Canadian Pacific on or about August 15, 2013, anticipates filing a Notice of Exemption with the United States Department of Transportation – Surface Transportation Board (STB) to discontinue and abandon all freight rail operations over approximately 0.66 miles of rail line located in Scott County, Iowa. A map of the proposed abandonment is enclosed.

This proposed rail line abandonment notice of exemption requires review by the STB. I will be preparing an Environmental and Historic Report that will provide the basis of the environmental review that the STB's Office of Environmental Analysis (OEA) will conduct for this proceeding. In preparing this report, consultation with agencies or organizations that may have specific interest in or knowledge of the potential environmental impact is essential. This letter is, therefore, intended to solicit your comments regarding the potential environmental impact, if any, of the proposed rail line abandonment.

Your comments on the potential impact of this abandonment will be incorporated into the Environmental Report to be filed on or about July 22, 2013. A copy of this report will be provided to you, after which additional comments can be submitted directly to the OEA.

As shown on the attached map, the line that is proposed to be abandoned is located between Milepost 0.33 +/- and Milepost 0.99 +/- in Scott County, Iowa. It traverses through U.S. Postal Zip Code 52802.

*A Professional Association*

LAW OFFICES IN MINNEAPOLIS • MANKATO • ST. CLOUD • BISMARCK • WASHINGTON, D.C.

WWW.LEONARD.COM

For purposes of evaluating the environmental impact that would result from abandonment of the line, the proposed action includes discontinuing freight service and salvaging equipment and materials that are present on the line.

The rail line is located entirely within the City of Davenport. The proposed action includes the removal of all rails, ties, spikes, plates, railroad-related utilities, and signaling devices. All equipment and materials that are removed from the line would either be reused, sold as scrap, or disposed of in accordance with applicable environmental regulations.

The Environmental Report for the proposed abandonment is being prepared pursuant to STB regulations (49 C.F.R. Chapter X, Part 1105) (copy of which is enclosed), the National Environmental Policy Act, 42 U.S.C. § 4332; the Energy Policy and Conservation Act, 42 U.S.C. § 6362(b); and related laws including the National Historic Preservation Act, 16 U.S.C. § 470f, the Coastal Zone Management Act, 16 U.S.C. § 1451, and the Endangered Species Act, 16 U.S.C. § 1531. Areas of concern that you and other interested parties are invited to address in your comments include any potential impact of the proposed action on the following:

- Local land use
- Existing local and regional transportation systems
- Energy use
- Air emissions and ambient air quality conditions
- Water quality and wetlands
- Biological resources including threatened or endangered species
- Ambient noise levels
- Public health safety
- Historic, cultural, or archaeological sites listed or eligible for inclusion on the National Register of Historic Places
- Socioeconomics, including local and regional employment

We are soliciting your comments with regard to: (1) any permitting/approval authority which your agency has over the proposed action, and (2) any specific concerns which you believe should be addressed in the STB environmental document prepared after our Report is submitted. As required by applicable STB regulations (49 C.F.R., Chapter X, Part 1105.7(e)(9)(iii)) and Part 1105.7(c), we also request that you comment on and describe the effects, if any, of our proposed action on those resources or areas of concern within the authority of your agency.

Specifically, the Board's regulations state that, with respect to the area of concern within the jurisdiction of your agency, DM&E must address the following:

"49 C.F.R. Part 1105.7(e)(4)(i)-(iv) Energy:

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

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

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

(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in Section 1105.7(e)(4)(iii) need not be supplied if the more detailed information in Section 1105.7(e)(4)(iv) is required."

"49 C.F.R. Part 1105.7(e)(5)(ii) Air:

(ii) If the proposed action affects a class I or non-attainment area under the Clean Air Act."

"49 C.F.R. Part 1105.7(e)(6)(ii) Noise:

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed."

"49 C.F.R. Part 1105.7(e)(7)(iii) Safety:

(iii) If there are known hazardous waste sites 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."

"49 C.F.R. Part 1105.7(e)(9)(i), (ii), & (iii) 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.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

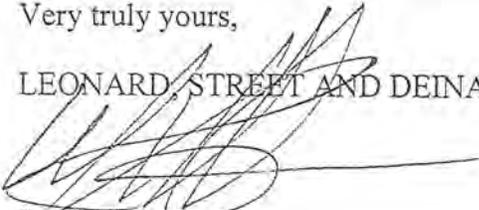
Any written comments should be submitted to the undersigned. They will be appended to the Environmental Report being submitted to the STB if received prior to July 19, 2013. Thereafter, please submit them directly to the Office of Environmental Analysis as follows: Surface Transportation Board, Office of Environmental Analysis, 395 E Street, SW, Washington D.C. 20423-0001, or by calling that office at (202) 245-0454, and forwarding a copy to the undersigned.

Any comments or information that you provide will be included in DM&E's Environmental Report and will be considered by the STB in the preparation of the draft environmental document and in its evaluation of the overall environmental and energy impact of the proposed action. Your cooperation will help ensure that all environmental concerns are thoroughly addressed.

Thank you very much for your assistance.

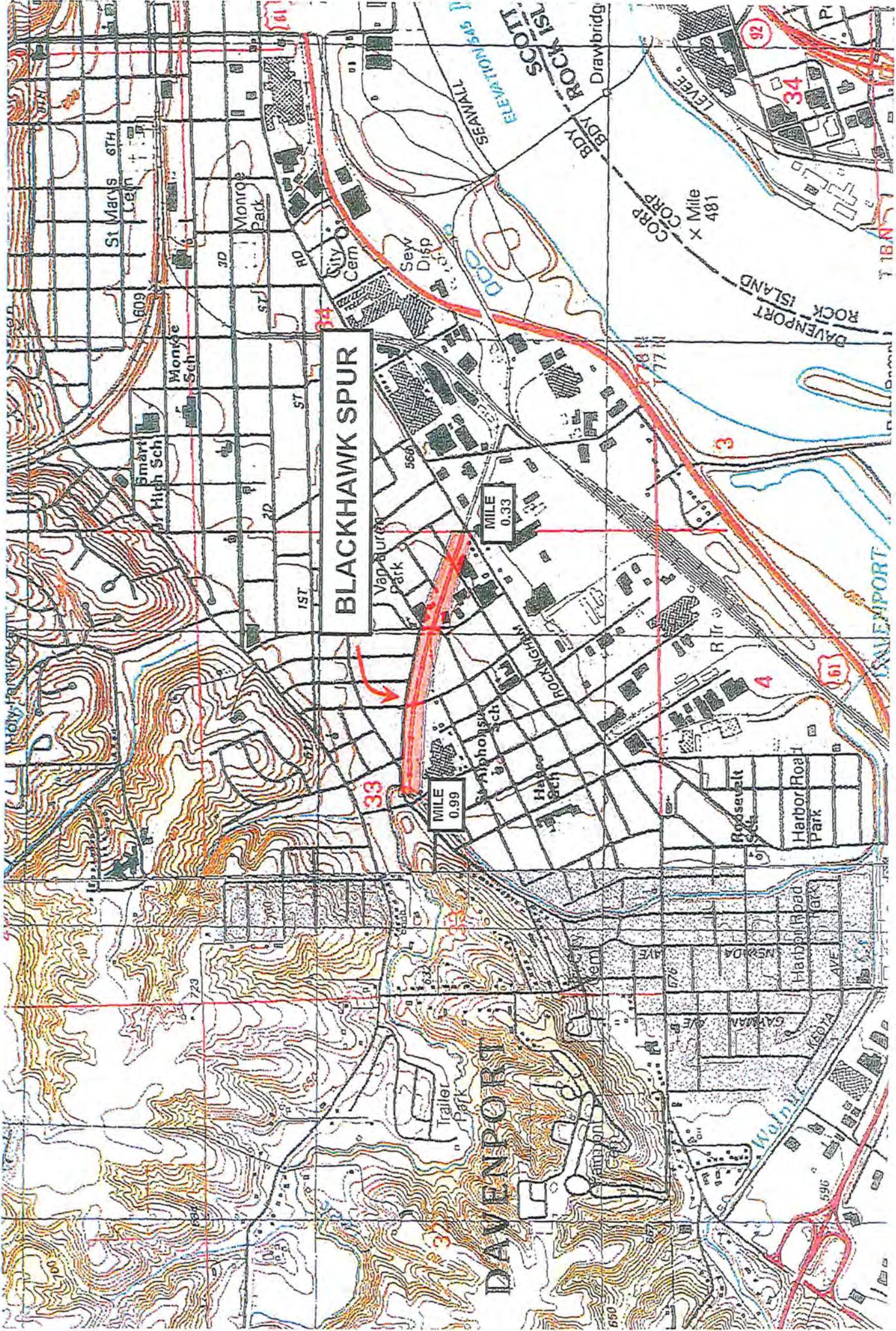
Very truly yours,

LEONARD, STREET AND DEINARD



W. Karl Hansen

Enclosures



I \_\_\_\_\_ (Name) \_\_\_\_\_, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal Benefits, either by court order or by operation of law, pursuant to 21 U.S.C. 862.

[54 FR 48250, Nov. 22, 1989, as amended at 61 FR 52711, Oct. 8, 1996; 64 FR 53268, Oct. 1, 1999; 67 FR 5515, Feb. 6, 2002]

**PART 1105—PROCEDURES FOR IMPLEMENTATION OF ENVIRONMENTAL LAWS**

**Sec.**

- 1105.1 Purpose.
- 1105.2 Responsibility for administration of these rules.
- 1105.3 Information and assistance.
- 1105.4 Definitions.
- 1105.5 Determinative criteria.
- 1105.6 Classification of actions.
- 1105.7 Environmental reports.
- 1105.8 Historic reports.
- 1105.9 Coastal Zone Management Act requirements.
- 1105.10 Board procedures.
- 1105.11 Transmittal letter for Applicant's Report.
- 1105.12 Sample newspaper notices for abandonment exemption cases.

**AUTHORITY:** 16 U.S.C. 470f, 1456, and 1536; 42 U.S.C. 4332 and 6362(b); and 49 U.S.C. 701 note (1995) (Savings Provisions), 721(a), 10502, and 10903-10905.

**SOURCE:** 56 FR 36105, July 31, 1991, unless otherwise noted.

**§ 1105.1 Purpose.**

These rules are designed to assure adequate consideration of environmental and energy factors in the Board's decisionmaking process pursuant to the National Environmental Policy Act, 42 U.S.C. 4332; the Energy Policy and Conservation Act, 42 U.S.C. 6362(b); and related laws, including the National Historic Preservation Act, 16 U.S.C. 470f, the Coastal Zone Management Act, 16 U.S.C. 1451, and the Endangered Species Act, 16 U.S.C. 1531.

**§ 1105.2 Responsibility for administration of these rules.**

The Director of the Office of Economics, Environmental Analysis, and Administration shall have general respon-

sibility for the overall management and functioning of the Section of Environmental Analysis. The Director is delegated the authority to sign, on behalf of the Board, memoranda of agreement entered into pursuant to 36 CFR 800.5(e)(4) regarding historic preservation matters. The Chief of the Section of Environmental Analysis is responsible for the preparation of documents under these rules and is delegated the authority to provide interpretations of the Board's NEPA process, to render initial decisions on requests for waiver or modification of any of these rules for individual proceedings, and to recommend rejection of environmental reports not in compliance with these rules. This delegated authority shall be used only in a manner consistent with Board policy. The Director may further delegate procedural authority to the Chief of the Section of Environmental Analysis as appropriate. Appeals to the Board will be available as a matter of right.

[56 FR 36105, July 31, 1991, as amended at 64 FR 53268, Oct. 1, 1999]

**§ 1105.3 Information and assistance.**

Information and assistance regarding the rules and the Board's environmental and historic review process is available by writing or calling the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423.

[64 FR 53268, Oct. 1, 1999]

**§ 1105.4 Definitions.**

In addition to the definitions contained in the regulations of the Council on Environmental Quality (40 CFR part 1508), the following definitions apply to these regulations:

(a) *Act* means the Interstate Commerce Act, Subtitle IV of Title 49, U.S. Code, as amended.

(b) *Applicant* means any person or entity seeking Board action, whether by application, petition, notice of exemption, or any other means that initiates a formal Board proceeding.

(c) *Board* means the Surface Transportation Board.

(d) *Environmental Assessment* or "EA" means a concise public document for which the Board is responsible that

contains sufficient information for determining whether to prepare an Environmental Impact Statement or to make a finding of no significant environmental impact.

(e) *Environmental documentation* means either an Environmental Impact Statement or an Environmental Assessment.

(f) *Environmental Impact Statement* or "EIS" means the detailed written statement required by the National Environmental Policy Act, 42 U.S.C. 4332(2)(c), for a major Federal action significantly affecting the quality of the human environment.

(g) *Environmental Report* means a document filed by the applicant(s) that:

(1) Provides notice of the proposed action; and

(2) Evaluates its environmental impacts and any reasonable alternatives to the action. An environmental report may be in the form of a proposed draft Environmental Assessment or proposed draft Environmental Impact Statement.

(h) *Filing* means any request for STB authority, whether by application, petition, notice of exemption, or any other means that initiates a formal Board proceeding.

(i) *Section of Environmental Analysis* or "SEA" means the Section that prepares the Board's environmental documents and analyses.

(j) *Third-Party Consultant* means an independent contractor, utilized by the applicant, who works with SEA's approval and under SEA's direction to prepare any necessary environmental documentation. The third party consultant must act on behalf of the Board. The railroad may participate in the selection process, as well as in the subsequent preparation of environmental documents. However, to avoid any impermissible conflict of interest (i.e., essentially any financial or other interest in the outcome of the railroad-sponsored project), the railroad may not be responsible for the selection or control of independent contractors.

[56 FR 36105, July 31, 1991, as amended at 64 FR 53268, Oct. 1, 1999]

#### § 1105.5 Determinative criteria.

(a) In determining whether a "major Federal action" (as that term is de-

finied by the Council on Environmental Quality in 40 CFR 1508.18) has the potential to affect significantly the quality of the human environment, the Board is guided by the definition of "significantly" at 40 CFR 1508.27.

(b) A finding that a service or transaction is not within the STB's jurisdiction does not require an environmental analysis under the National Environmental Policy Act or historic review under the National Historic Preservation Act.

(c) The environmental laws are not triggered where the STB's action is nothing more than a ministerial act, as in:

(1) The processing of abandonments proposed under the Northeast Rail Services Act (45 U.S.C. 744(b)(3));

(2) Statutorily-authorized interim trail use arrangements under 16 U.S.C. 1247(d) [see, 49 CFR 1152.29]; or

(3) Financial assistance arrangements under 49 U.S.C. 10905 (see 49 CFR 1152.27).

Finally, no environmental analysis is necessary for abandonments that are authorized by a bankruptcy court, or transfers of rail lines under plans of reorganization, where our function is merely advisory under 11 U.S.C. 1166, 1170, and 1172.

[56 FR 36105, July 31, 1991; 56 FR 49821, Oct. 1, 1991]

#### § 1105.6 Classification of actions.

(a) Environmental Impact Statements will normally be prepared for rail construction proposals other than those described in paragraph (b)(1) of this section.

(b) Environmental Assessments will normally be prepared for the following proposed actions:

(1) Construction of connecting track within existing rail rights-of-way, or on land owned by the connecting railroads;

(2) Abandonment of a rail line (unless proposed under the Northeast Rail Services Act or the Bankruptcy Act);

(3) Discontinuance of passenger train service or freight service (except for discontinuances of freight service under modified certificates issued under 49 CFR 1150.21 and discontinuances of trackage rights

where the affected line will continue to be operated);

(4) An acquisition, lease or operation under 49 U.S.C. 10901 or 10910, or consolidation, merger or acquisition of control under 49 U.S.C. 11343, if it will result in either

(i) Operational changes that would exceed any of the thresholds established in § 1105.7(e) (4) or (5); or

(ii) An action that would normally require environmental documentation (such as a construction or abandonment);

(5) A rulemaking, policy statement, or legislative proposal that has the potential for significant environmental impacts;

(6) Water carrier licensing under 49 U.S.C. 10922 that:

(i) Involves a new operation (*i.e.*, one that adds a significant number of barges to the inland waterway system requiring the addition of towing capacity, or otherwise significantly alters an existing operation, or introduces service to a new waterway that has had no previous traffic, or involves the commencement of a new service that is not statutorily exempt); or

(ii) Involves the transportation of hazardous materials; and

(7) Any other proceeding not listed in paragraphs (a) or (c) of this section.

(c) No environmental documentation will normally be prepared (although a Historic Report may be required under section 1105.8) for the following actions:

(1) Motor carrier, broker, or freight forwarder licensing and water carrier licensing not included in section 1105.6(b)(6);

(2) Any action that does not result in significant changes in carrier operations (*i.e.*, changes that do not exceed the thresholds established in section 1105.7(e) (4) or (5)), including (but not limited to) all of the following actions that meet this criterion:

(i) An acquisition, lease, or operation under 49 U.S.C. 10901 or 10910, or consolidation, merger, or acquisition of control under 49 U.S.C. 11343 that does not come within subsection (b)(4) of this section.

(ii) Transactions involving corporate changes (such as a change in the ownership or the operator, or the issuance

of securities or reorganization) including grants of authority to hold position as an officer or director;

(iii) Declaratory orders, interpretation or clarification of operating authority, substitution of an applicant, name changes, and waiver of lease and interchange regulations;

(iv) Pooling authorizations, approval of rate bureau agreements, and approval of shipper antitrust immunity;

(v) Approval of motor vehicle rental contracts, and self insurance;

(vi) Determinations of the fact of competition;

(3) Rate, fare, and tariff actions;

(4) Common use of rail terminals and trackage rights;

(5) Discontinuance of rail freight service under a modified certificate issued pursuant to 49 CFR 1150.21;

(6) Discontinuance of trackage rights where the affected line will continue to be operated; and

(7) A rulemaking, policy statement, or legislative proposal that has no potential for significant environmental impacts.

(d) The Board may reclassify or modify these requirements for individual proceedings. For actions that generally require no environmental documentation, the Board may decide that a particular action has the potential for significant environmental impacts and that, therefore, the applicant should provide an environmental report and either an EA or an EIS will be prepared. For actions generally requiring an EA, the Board may prepare a full EIS where the probability of significant impacts from the particular proposal is high enough to warrant an EIS. Alternatively, in a rail construction, an applicant can seek to demonstrate (with supporting information addressing the pertinent aspects of § 1105.7(e)) that an EA, rather than an EIS, will be sufficient because the particular proposal is not likely to have a significant environmental impact. Any request for reclassification must be in writing and, in a rail construction, should be presented with the pre-filing notice required by § 1105.10(a)(1) (or a request to waive that pre-filing notice period).

(e) The classifications in this section apply without regard to whether the

action is proposed by application, petition, notice of exemption, or any other means that initiates a formal Board proceeding.

#### § 1105.7 Environmental reports.

(a) *Filing.* An applicant for an action identified in § 1105.6 (a) or (b) must submit to the Board (with or prior to its application, petition or notice of exemption) except as provided in paragraph (b) for abandonments and discontinuances) an Environmental Report on the proposed action containing the information set forth in paragraph (e) of this section.

(b) At least 20 days prior to the filing with the Board of a notice of exemption, petition for exemption, or an application for abandonment or discontinuance, the applicant must serve copies of the Environmental Report on:

(1) The State Clearinghouse of each State involved (or other State equivalent agency if the State has no clearinghouse);

(2) The State Environmental Protection Agency of each State involved;

(3) The State Coastal Zone Management Agency for any state where the proposed activity would affect land or water uses within that State's coastal zone;

(4) The head of each county (or comparable political entity including any Indian reservation) through which the line goes;

(5) The appropriate regional offices of the Environmental Protection Agency;

(6) The U.S. Fish and Wildlife Service;

(7) The U.S. Army Corps of Engineers;

(8) The National Park Service;

(9) The U.S. Soil Conservation Service;

(10) The National Geodetic Survey (formerly known as the Coast and Geodetic Survey) as designated agent for the National Geodetic Survey and the U.S. Geological Survey; and

(11) Any other agencies that have been consulted in preparing the report. For information regarding the names and addresses of the agencies to be contacted, interested parties may contact SEA at the address and telephone number indicated in § 1105.3.

(c) *Certification.* In its Environmental Report, the applicant must certify that it has sent copies of the Environmental Report to the agencies listed and within the time period specified in paragraph (b) of this section and that it has consulted with all appropriate agencies in preparing the report. These consultations should be made far enough in advance to afford those agencies a reasonable opportunity to provide meaningful input. Finally, in every abandonment exemption case, applicant shall certify that it has published in a newspaper of general circulation in each county through which the line passes a notice that alerts the public to the proposed abandonment, to available reuse alternatives, and to how it may participate in the STB proceeding.

(d) *Documentation.* Any written responses received from agencies that were contacted in preparing the Environmental Report shall be attached to the report. Oral responses from such agencies shall be briefly summarized in the report and the names, titles, and telephone numbers of the persons contacted shall be supplied. A copy of, or appropriate citation to, any reference materials relied upon also shall be provided.

(e) *Content.* The Environmental Report shall include all of the information specified in this paragraph, except to the extent that applicant explains why any portion(s) are inapplicable. If an historic report is required under § 1105.8, the Environmental Report should also include the Historic Report required by that section.

(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.

(2) *Transportation system.* Describe the effects 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.

(3) *Land use.* (i) Based on consultation with local and/or regional planning agencies and/or a 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.

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

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

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

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

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

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

(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in §1105.7(e)(4)(iii) need not be supplied if the more detailed information in §1105.7(e)(4)(iv) is required.

(5) *Air.* (i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

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

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

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

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

(6) *Noise.* If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement

communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

(7) *Safety.* (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites 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.

(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.

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

(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.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environ-

mental protection or equivalent agency if they are unsure whether such permits are required.)

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

(11) *Additional Information for Rail Constructions.* The following additional information should be included for rail construction proposals (including connecting track construction):

(i) Describe the proposed route(s) by State, county, and subdivision, including a plan view, at a scale not to exceed 1:24,000 (7½ minute U.S.G.S. quadrangle map), clearly showing the relationship to the existing transportation network (including the location of all highway and road crossings) and the right-of-way according to ownership and land use requirements.

(ii) Describe any alternative routes considered, and a no-build alternative (or why this would not be applicable), and explain why they were not selected.

(iii) Describe the construction plans, including the effect on the human environment, labor force requirements, the location of borrow pits, if any, and earthwork estimates.

(iv) Describe in detail the rail operations to be conducted upon the line, including estimates of freight (carloads and tonnage) to be transported, the anticipated daily and annual number of train movements, number of cars per train, types of cars, motive power requirements, proposed speeds, labor force, and proposed maintenance-of-way practices.

(v) Describe the effects, including indirect or down-line impacts, of the new or diverted traffic over the line if the thresholds governing energy, noise and air impacts in §§ 1105.7(e)(4), (5), or (6) are met.

(vi) Describe the effects, including impacts on essential public services (e.g., fire, police, ambulance, neighborhood schools), public roads, and adjoining properties, in communities to be traversed by the line.

(vii) Discuss societal impacts, including expected change in employment during and after construction.

(f) *Additional information.* The Board may require applicants to submit additional information regarding the environmental or energy effects of the proposed action.

(g) *Waivers.* The Board may waive or modify, in whole or in part, the provisions of this section where a railroad applicant shows that the information requested is not necessary for the Board to evaluate the environmental impacts of the proposed action.

[56 FR 36105, July 31, 1991; 56 FR 49821, Oct. 1, 1991, as amended at 58 FR 44619, Aug. 24, 1993; 60 FR 32277, June 21, 1995; 61 FR 67883, Dec. 24, 1996; 64 FR 53268, Oct. 1, 1999; 69 FR 58366, Sept. 30, 2004]

#### § 1105.8 Historic Reports.

(a) *Filing.* An applicant proposing an action identified in § 1105.6 (a) or (b), or an action in § 1105.6(c) that will result in the lease, transfer, or sale of a railroad's line, sites or structures, must submit (with its application, petition or notice) the Historic Report described in paragraph (d) of this section, unless excepted under paragraph (b) of this section. This report should be combined with the Environmental Report where one is required. The purpose of the Historic Report is to provide the Board with sufficient information to conduct the consultation process required by the National Historic Preservation Act.

(b) *Exceptions.* The following proposals do not require an historic report:

(1) A sale, lease or transfer of a rail line for the purpose of continued rail operations where further STB approval is required to abandon any service and there are no plans to dispose of or alter properties subject to STB jurisdiction that are 50 years old or older.

(2) A sale, lease, or transfer of property between corporate affiliates where there will be no significant change in operations.

(3) Trackage rights, common use of rail terminals, common control through stock ownership or similar action which will not substantially change the level of maintenance of railroad property.

(4) A rulemaking, policy statement, petition for declaratory order, petition for waiver of procedural requirements,

or proceeding involving transportation rates or classifications.

(c) *Distribution.* The applicant must send the Historic Report to the appropriate State Historic Preservation Officer(s), preferably at least 60 days in advance of filing the application, petition, or notice, but not later than 20 days prior to filing with the Board.

(d) *Content.* The Historic Report should contain the information required by § 1105.7(e)(1) and the following additional historic information:

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

(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;

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

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

(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;

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation

Office, local historical societies or universities);

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e., prehistoric or native American).

(e) Any of these requirements may be waived or modified when the information is not necessary to determine the presence of historic properties and the effect of the proposed action on them.

(f) Historic preservation conditions imposed by the Board in rail abandonment cases generally will not extend beyond the 330-day statutory time period in 49 U.S.C. 10904 for abandonment proceedings.

[56 FR 36105, July 31, 1991, as amended at 61 FR 67883, Dec. 24, 1996]

#### § 1105.9 Coastal Zone Management Act requirements.

(a) If the proposed action affects land or water uses within a State coastal zone designated pursuant to the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*) applicant must comply with the following procedures:

(1) If the proposed action is listed as subject to review in the State's coastal zone management plan, applicant (with, or prior to its filing) must certify (pursuant to 15 CFR 930.57 and 930.58) that the proposed action is consistent with the coastal zone management plan.

(2) If the activity is not listed, applicant (with, or prior to its filing) must certify that actual notice of the proposal was given to the State coastal zone manager at least 40 days before the effective date of the requested action.

(b) If there is consistency review under 15 CFR 930.54, the Board and the applicant will comply with the consistency certification procedures of 15 CFR 930. Also, the Board will withhold a decision, stay the effective date of a decision, or impose a condition delaying consummation of the action, until the applicant has submitted a consistency certification and either the state has concurred in the consistency certification, or an appeal to the Secretary of Commerce (under 15 CFR 930.64(e)) is successful.

#### § 1105.10 Board procedures.

(a) *Environmental Impact Statements—*  
(1) *Prefiling Notice.* Where an environmental impact statement is required or contemplated, the prospective applicant must provide the Section of Environmental Analysis with written notice of its forthcoming proposal at least 6 months prior to filing its application.

(2) *Notice and scope of EIS.* When an Environmental Impact Statement is prepared for a proposed action, the Board will publish in the FEDERAL REGISTER a notice of its intent to prepare an EIS, with a description of the proposed action and a request for written comments on the scope of the EIS. Where appropriate, the scoping process may include a meeting open to interested parties and the public. After considering the comments, the Board will publish a notice of the final scope of the EIS. If the Environmental Impact Statement is to be prepared in cooperation with other agencies, this notice will also indicate which agencies will be responsible for the various parts of the Statement.

(3) *Notice of availability.* The Board will serve copies of both the draft Environmental Impact Statement (or an appropriate summary) and the full final Environmental Impact Statement (or an appropriate summary) on all parties to the proceeding and on appropriate Federal, State, and local agencies. A

notice that these documents are available to the public will be published (normally by the Environmental Protection Agency) in the FEDERAL REGISTER. (Interested persons may obtain copies of the documents by contacting the Section of Environmental Analysis.)

(4) *Comments.* The notice of availability of the draft Environmental Impact Statement will establish the time for submitting written comments, which will normally be 45 days following service of the document. When the Board decides to hold an oral hearing on the merits of a proposal, the draft Environmental Impact Statement will be made available to the public in advance, normally at least 15 days prior to the portion of the hearing relating to the environmental issues. The draft EIS will discuss relevant environmental and historic preservation issues. The final Environmental Impact Statement will discuss the comments received and any changes made in response to them.

(5) *Supplements.* An Environmental Impact Statement may be supplemented where necessary and appropriate to address substantial changes in the proposed action or significant new and relevant circumstances or information. If so, the notice and comment procedures outlined above will be followed to the extent practical.

(b) *Environmental Assessments.* In preparing an Environmental Assessment, the Section of Environmental Analysis will verify and independently analyze the Environmental Report and/or Historic Report and related material submitted by an applicant pursuant to sections 1105.7 and 1105.8. The Environmental Assessment will discuss relevant environmental and historic preservation issues. SEA will serve copies of the Environmental Assessment on all parties to the proceeding and appropriate federal, state, and local agencies, and will announce its availability to the public through a notice in the FEDERAL REGISTER. In the case of abandonment applications processed under 49 U.S.C. 10903, the availability of the Environmental Assessment must be announced in the applicant's Notice of Intent filed under 49 CFR 1152.21. The deadline for submission of comments

on the Environmental Assessment will generally be within 30 days of its service (15 days in the case of a notice of abandonment under 49 CFR 1152.50). The comments received will be addressed in the Board's decision. A supplemental Environmental Assessment may be issued where appropriate.

(c) *Waivers.* (1) The provisions of paragraphs (a)(1) or (a)(4) of this section or any STB-established time frames in paragraph (b) of this section may be waived or modified where appropriate.

(2) Requests for waiver of § 1105.10(a)(1) must describe as completely as possible the anticipated environmental effects of the proposed action, and the timing of the proposed action, and show that all or part of the six month lead period is not appropriate.

(d) *Third-Party Consultants.* Applicants may utilize independent third-party consultants to prepare any necessary environmental documentation, if approved by SEA. The environmental reporting requirements that would otherwise apply will be waived if a railroad hires a consultant, SEA approves the scope of the consultant's work, and the consultant works under SEA's supervision. In such a case, the consultant acts on behalf of the Board, working under SEA's direction to collect the needed environmental information and compile it into a draft EA or draft EIS, which is then submitted to SEA for its review, verification, and approval. We encourage the use of third-party consultants.

(e) *Service of Environmental Pleadings.* Agencies and interested parties sending material on environmental and historic preservation issues directly to the Board should send copies to the applicant. Copies of Board communications to third-parties involving environmental and historic preservation issues also will be sent to the applicant where appropriate.

(f) *Consideration in decisionmaking.* The environmental documentation (generally an EA or an EIS) and the comments and responses thereto concerning environmental, historic preservation, CZMA, and endangered species

issues will be part of the record considered by the Board in the proceeding involved. The Board will decide what, if any, environmental or historic preservation conditions to impose upon the authority it issues based on the environmental record and its substantive responsibilities under the Interstate Commerce Act. The Board will withhold a decision, stay the effective date of an exemption, or impose appropriate conditions upon any authority granted, when an environmental or historic preservation issue has not yet been resolved.

(g) *Finding of No Significant Impact.* In all exemption cases, if no environmental or historic preservation issues are raised by any party or identified by SEA in its independent investigation, the Board will issue a separate decision making a Finding of No Significant Impact ("FONSI") to show that it has formally considered the environmental record.

[56 FR 36105, July 31, 1991 as amended at 56 FR 49821, Oct. 1, 1991; 64 FR 53268, Oct. 1, 1999]

#### § 1105.11 Transmittal letter for Applicant's Report.

A carrier shall send a copy of its Environmental and/or Historic Report to the agencies identified in section 1105.7(b) and/or the appropriate State Historic Preservation Officer(s) and certify to the Board that it has done this. The form letter contained in the Appendix to this section should be used in transmitting the Environmental and/or Historic Reports.

#### APPENDIX TO § 1105.11—TRANSMITTAL LETTER FOR APPLICANT'S REPORT

(Carrier Letterhead)  
(Addresses)

Re: (Brief description of proposed action with STB docket number, if available)  
(Date)

On (date), we are (or expect to be) filing with the Surface Transportation Board a (type of proceeding) seeking authority to ( ) located in (state) (city or town) and (mileposts, if applicable). Attached is an Environmental Report (and/or Historic Report) describing the proposed action and any expected environmental (and/or historic) effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of

the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, telephone [INSERT TELEPHONE NUMBER] and refer to the above *Docket No.* (if available). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is (name) who may be contacted by telephone at (telephone number) or by mail at (address).

(Complimentary close)  
(Name and title of author of letter)

[56 FR 36105, July 31, 1991, as amended at 56 FR 44619, Aug. 24, 1993; 64 FR 53268, Oct. 1, 1999]

#### § 1105.12 Sample newspaper notices for abandonment exemption cases.

In every abandonment exemption case, the applicant shall publish a notice in a newspaper of general circulation in each county in which the line is located and certify to the Board that it has done this by the date its notice of (or petition for) exemption is filed. The notice shall alert the public to the proposed abandonment, to available reuse alternatives, such as trail use and public use, and to how it may participate in a Board proceeding. Sample newspaper notices are provided in the Appendix to this section for guidance to the railroads.

#### APPENDIX TO § 1105.12—SAMPLE NEWSPAPER NOTICES

##### SAMPLE LOCAL NEWSPAPER NOTICE FOR OUT-OF-SERVICE ABANDONMENT EXEMPTIONS

##### NOTICE OF INTENT TO ABANDON OR TO DISCONTINUE RAIL SERVICE

(Name of railroad) gives notice that on or about (insert date notice of exemption will be filed with the Surface Transportation Board), it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the (abandonment of or discontinuance of

service on) a \_\_\_\_\_ mile line of railroad between railroad milepost \_\_\_\_\_, near (station name), which traverses through United States Postal Service ZIP Codes (ZIP Codes) and railroad milepost \_\_\_\_\_, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in \_\_\_\_\_ County(ies), (State). The proceeding will be docketed as No. AB \_\_\_\_\_ (Sub-No. \_\_\_\_\_ X).

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

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 Section of Administration, Office of Proceedings, 395 E Street, SW., 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 Assistance, Governmental Affairs, and Compliance at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests for conditions should be served on the applicant's representative: (Name, address and phone number).

**SAMPLE LOCAL NEWSPAPER NOTICE FOR PETITIONS FOR ABANDONMENT EXEMPTIONS**

**NOTICE OF INTENT TO ABANDON OR TO DISCONTINUE RAIL SERVICE**

(Name of railroad) gives notice that on or about (insert date petition for abandonment exemption will be filed with the Surface Transportation Board) it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, permitting the (abandonment of or discontinuance of service on) a \_\_\_\_\_ mile line of railroad between railroad milepost \_\_\_\_\_, near (station name) which traverses through United

States Postal Service ZIP Codes (ZIP Codes), and railroad milepost \_\_\_\_\_, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in \_\_\_\_\_ County(ies), (State). The proceeding has been docketed as No. AB \_\_\_\_\_ (Sub-No. \_\_\_\_\_ X).

The Board's Section of Environmental Analysis (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 SEA, Surface Transportation Board, Washington, DC 20423 or by calling SEA at [INSERT TELEPHONE NUMBER].

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 Section of Administration, Office of Proceedings, 395 E Street, SW., 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 Assistance, Governmental Affairs, and Compliance at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests for conditions should be served on the applicant's representative (name and address).

[56 FR 36105, July 31, 1991, as amended at 56 FR 49821, Oct. 1, 1991; 58 FR 44619, Aug. 24, 1993; 61 FR 67883, Dec. 24, 1996; 64 FR 53268, Oct. 1, 1999; 69 FR 58366, Sept. 30, 2004; 74 FR 52906, Oct. 15, 2009]

**PART 1106—PROCEDURES FOR SURFACE TRANSPORTATION BOARD CONSIDERATION OF SAFETY INTEGRATION PLANS IN CASES INVOLVING RAILROAD CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL**

Sec.  
1106.1 Purpose.  
1106.2 Definitions.

ENVIRONMENTAL & HISTORIC REPORTS  
RAILROAD ABANDONMENT  
STB DOCKET NO. AB-337 (Sub No. 7X)  
LIST OF PARTIES CONSULTED

Parties consulted in preparing Environmental and Historic Reports – Dakota, Minnesota & Eastern Railroad Corporation - Abandonment of Line of Railroad running between Milepost 0.33 +/- and Milepost 0.99 +/- (Blackhawk Spur) in Scott County, Iowa (U.S. Postal Zip Code 52802) -- S.T.B. Docket No. AB-337 (Sub No. 7X)

FEDERAL AGENCIES CONSULTED

Environmental Protection Agency – Regional Office

U.S. EPA Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219

U.S. Fish and Wildlife Service

U.S. Fish and Wildlife Service  
1849 C Street NW  
Washington, DC 20240

U.S. Fish and Wildlife Service – Midwest Region

Tom Melius, Regional Director  
U.S. Fish and Wildlife Service, Midwest Region  
5600 American Blvd. West, Suite 990  
Bloomington, MN 55437-1458  
Phone: (612) 713-5360

U.S. Army Corps of Engineers

U.S. Army Corps of Engineers  
Headquarters  
441 G Street NW  
Washington, DC 20314

U.S. Army Corps of Engineers – Regional Office

U.S. Army Corps of Engineers  
Rock Island District  
Clock Tower Building  
P.O. Box 2004  
Rock Island, IL 61204-2004

The National Park Service

Jon Jarvis, Director  
National Park Service  
1849 C Street NW  
Washington, DC 20240

The National Park Service – Midwest Region

Michael Reynolds, Regional Director  
National Park Service  
U.S. Department of the Interior  
Midwest Region  
601 Riverfront Drive  
Omaha, NE 68102-4226  
Phone: (402) 661-1736

The U.S. Soil Conservation Service

Jason Weller, Acting Chief  
National Resource Conservation Service  
1400 Independence Ave. SW  
Room 5105-A  
Washington, DC 20250

The National Geodetic Survey (as designated agent for the National Geodetic Survey and the U.S. Geological Survey)

Simon Monroe  
National Oceanic and Atmospheric Administration  
Geodetic Survey, SSMC3 #9202  
1315 East-West Highway  
Silver Spring, MD 20910-3282

## STATE AGENCIES CONSULTED

### State Clearinghouse

Iowa State Clearinghouse  
Office of the Governor  
State Capitol  
1007 East Grand Avenue  
Des Moines, IA 50319  
Phone: (515) 281-5211

### Iowa Department of Transportation

John Hey, Modal Division  
Iowa Department of Transportation  
800 Lincoln Way  
Ames, IA 50010  
Phone: (515) 239-1101

### Iowa Department of Natural Resources

Cal Lundberg, Section Supervisor  
Iowa Department of Natural Resources  
502 East 9<sup>th</sup> Street  
Des Moines, IA 50319-0034  
Phone: (515) 281-5918

### Iowa Department of Natural Resources – Field Office

Dennis Ostwinkle, Supervisor  
Iowa Department of Natural Resources  
Washington Field Office #6, Southeast Iowa  
1023 West Madison Street  
Washington, IA 52353-1623  
Phone: (319) 653-2135

### Iowa Environmental Protection Commission

DNR Air Quality Building  
7900 Hickman Road  
Windsor Heights, IA

State Historical Preservation Officer

Sarabeth Anderson, Administrator  
State Historical Society of Iowa  
600 East Locust Street  
Des Moines, IA 50319  
Phone: (515) 281-4657

The U.S. Soil Conservation Service – State Office

Jay Mar  
State Conservationist  
210 Walnut Street, Room 693  
Des Moines, IA 50309  
Phone: (515) 284-6655

Other Political Entities Through Which The Line Runs

Scott County Board of Supervisors

Larry Minard, Chair  
Scott County Board of Supervisors  
Administrative Center  
600 W. 4th St.  
Davenport, Iowa 52801-1030  
(563) 326-8749  
Fax: (563) 328-3285  
board@scottcountyiowa.com

County Administrator

Dee F. Bruemmer  
Scott County Administrator  
600 W. 4<sup>th</sup> Street  
Davenport, IA 52801

City of Davenport

Bill Gluba, Mayor  
226 W. 4th Street  
Davenport, IA 52801

Michael Clarke, Public Works Director  
1200 East 46th Street  
Davenport, IA 52807

LEONARD  
STREET  
AND  
DEINARD

150 SOUTH FIFTH STREET SUITE 2300  
MINNEAPOLIS, MINNESOTA 55402  
612-335-1500 MAIN  
612-335-1657 FAX

W. KARL HANSEN  
612-335-7088 DIRECT  
KARL.HANSEN@LEONARD.COM

July 11, 2013

VIA U.S. MAIL

John F. Doershuk, Ph.D.  
Office of the State Archaeologist  
700 South Clinton Street Building  
The University of Iowa  
Iowa City, IA 52242-1030

**Re: Request for Comments on Potential Environmental Impact of Proposed Rail Line Abandonment Located between Milepost 0.33 +/- and Milepost 0.99 +/- (Blackhawk Spur) in Scott County, Iowa (U.S. Postal Zip Code 52802) - STB Docket No. AB-337 (Sub-No. 7X)**

Dear Mr. Doershuk:

Dakota, Minnesota & Eastern Railway Corporation ("DM&E") d/b/a Canadian Pacific on or about August 15, 2013, anticipates filing a Notice of Exemption with the United States Department of Transportation – Surface Transportation Board (STB) to discontinue and abandon all freight rail operations over approximately 0.66 miles of rail line located in Scott County, Iowa. A map of the proposed abandonment is enclosed.

This proposed rail line abandonment notice of exemption requires review by the STB. I will be preparing an Environmental and Historic Report that will provide the basis of the environmental review that the STB's Office of Environmental Analysis (OEA) will conduct for this proceeding. In preparing this report, consultation with agencies or organizations that may have specific interest in or knowledge of the potential environmental impact is essential. This letter is, therefore, intended to solicit your comments regarding the potential environmental impact, if any, of the proposed rail line abandonment.

Your comments on the potential impact of this abandonment will be incorporated into the Environmental Report to be filed on or about July 22, 2013. A copy of this report will be provided to you, after which additional comments can be submitted directly to the OEA.

As shown on the attached map, the line that is proposed to be abandoned is located between Milepost 0.33 +/- and Milepost 0.99 +/- in Scott County, Iowa. It traverses through U.S. Postal Zip Code 52802.

*A Professional Association*

LAW OFFICES IN MINNEAPOLIS • MANKATO • ST. CLOUD • BISMARCK • WASHINGTON, D.C.

WWW.LEONARD.COM

9936714v1

For purposes of evaluating the environmental impact that would result from abandonment of the line, the proposed action includes discontinuing freight service and salvaging equipment and materials that are present on the line.

The rail line is located entirely within the City of Davenport. The proposed action includes the removal of all rails, ties, spikes, plates, railroad-related utilities, and signaling devices. All equipment and materials that are removed from the line would either be reused, sold as scrap, or disposed of in accordance with applicable environmental regulations.

The Environmental Report for the proposed abandonment is being prepared pursuant to STB regulations (49 C.F.R. Chapter X, Part 1105) (copy of which is enclosed), the National Environmental Policy Act, 42 U.S.C. § 4332; the Energy Policy and Conservation Act, 42 U.S.C. § 6362(b); and related laws including the National Historic Preservation Act, 16 U.S.C. § 470f, the Coastal Zone Management Act, 16 U.S.C. § 1451, and the Endangered Species Act, 16 U.S.C. § 1531. Areas of concern that you and other interested parties are invited to address in your comments include any potential impact of the proposed action on the following:

- Local land use
- Existing local and regional transportation systems
- Energy use
- Air emissions and ambient air quality conditions
- Water quality and wetlands
- Biological resources including threatened or endangered species
- Ambient noise levels
- Public health safety
- Historic, cultural, or archaeological sites listed or eligible for inclusion on the National Register of Historic Places
- Socioeconomics, including local and regional employment

We are soliciting your comments with regard to: (1) any permitting/approval authority which your agency has over the proposed action, and (2) any specific concerns which you believe should be addressed in the STB environmental document prepared after our Report is submitted. As required by applicable STB regulations (49 C.F.R., Chapter X, Part 1105.7(e)(9)(iii)) and Part 1105.7(c), we also request that you comment on and describe the effects, if any, of our proposed action on those resources or areas of concern within the authority of your agency.

Specifically, the Board's regulations state that, with respect to the area of concern within the jurisdiction of your agency, DM&E must address the following:

"49 C.F.R. Part 1105.7(e)(4)(i)-(iv) Energy:

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

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

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

(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in Section 1105.7(e)(4)(iii) need not be supplied if the more detailed information in Section 1105.7(e)(4)(iv) is required."

"49 C.F.R. Part 1105.7(e)(5)(ii) Air:

(ii) If the proposed action affects a class I or non-attainment area under the Clean Air Act."

"49 C.F.R. Part 1105.7(e)(6)(ii) Noise:

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed."

"49 C.F.R. Part 1105.7(e)(7)(iii) Safety:

(iii) If there are known hazardous waste sites 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."

July 11, 2013

Page 4

“49 C.F.R. Part 1105.7(e)(9)(i), (ii), & (iii) 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.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

Any written comments should be submitted to the undersigned. They will be appended to the Environmental Report being submitted to the STB if received prior to July 19, 2013. Thereafter, please submit them directly to the Office of Environmental Analysis as follows: Surface Transportation Board, Office of Environmental Analysis, 395 E Street, SW, Washington D.C. 20423-0001, or by calling that office at (202) 245-0454, and forwarding a copy to the undersigned.

Any comments or information that you provide will be included in DM&E's Environmental Report and will be considered by the STB in the preparation of the draft environmental document and in its evaluation of the overall environmental and energy impact of the proposed action. Your cooperation will help ensure that all environmental concerns are thoroughly addressed.

Thank you very much for your assistance.

Very truly yours,

LEONARD, STREET AND DEINARD



W. Karl Hansen

Enclosures

Exhibit No. 5  
Historic Report

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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DAKOTA, MINNESOTA & EASTERN	)	
RAILROAD CORPORATION –	)	
ABANDONMENT OF TRACKAGE	)	DOCKET NO. AB-337
LOCATED IN SCOTT COUNTY, IOWA	)	(SUB-NO. 7X)
	)	

---

VERIFIED NOTICE OF EXEMPTION TO ABANDON PURSUANT TO 49 C.F.R. § 1152.50  
A 0.66 MILE LINE OF RAILROAD BETWEEN MILEPOST 0.33 +/- AND MILEPOST 0.99  
+/- (BLACKHAWK SPUR) WHICH TRAVERSES THROUGH UNITED STATES POSTAL  
SERVICE ZIP CODE 52802 IN SCOTT COUNTY, IOWA

---

HISTORIC REPORT  
IN COMPLIANCE WITH  
49 C.F.R. SECTION 1105.8

---

DAKOTA, MINNESOTA & EASTERN  
RAILROAD CORPORATION  
d/b/a Canadian Pacific

LEONARD, STREET and DEINARD  
Professional Association  
W. Karl Hansen  
150 South Fifth Street, Suite 2300  
Minneapolis, Minnesota 55402  
Tel. (612) 335-7088  
Fax. (612) 335-1657

Attorney for Applicant  
Service Date: August 15, 2013

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

---

DAKOTA, MINNESOTA & EASTERN	)	
RAILROAD CORPORATION –	)	
ABANDONMENT OF TRACKAGE	)	DOCKET NO. AB-57
LOCATED IN SCOTT COUNTY, IOWA	)	(SUB-NO. 60X)
	)	

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HISTORIC REPORT

Pursuant to 49 C.F.R. Sections 1105.7(e) and 1105.8, Dakota, Minnesota & Eastern Railroad Corporation (“DM&E”) dba Canadian Pacific hereby submits the following Historic Report regarding the Verified Notice of Exemption to Abandon a 0.66 mile line of railroad between milepost 0.33 +/- and milepost 0.99 +/- (Blackhawk Spur) which traverses through United States Postal Service Zip Code 52802 in Scott County, Iowa..

Section 1105.8(c) Distribution: The applicant must send the Historic Report to the appropriate State Historic Preservation Officer(s), preferably at least 60 days in advance of filing the application, petition, or notice, but not later than 20 days prior to filing with the Board.

See Certificate of Service effecting service on August 15, 2013, attached as Exhibit No. 1 to Environmental Report.

Section 1105.8(d)(1)-(8) Content: The Historic Report should contain the information required by § 1105.7(e)(1) (Environmental Report - See Preceding Report) and the following additional historic information:

Section 1105.8(d)(1) U.S.G.S. Topographic Maps: A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

See Appendix A.

Section 1105.8(d)(2) Right-of-Way: A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

The subject property consists of inactive railroad track and right-of-way with an average width of 30 feet. The subject property is located in a primarily commercial, residential, and industrial area of Davenport, Iowa. The topography is generally flat.

Section 1105.8(d)(3) Photographs: Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

Representative photographs taken on May 8, 2013 are included in Appendix B.

Section 1105.8(d)(4): The dates of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.

It is DM&E's understanding that the Blackhawk Spur is the remaining segment of the Clinton Davenport and Muscatine Railway line from Davenport to Muscatine. This line was originally constructed in 1904 by two independently run railroads, the Iowa Illinois Railway from Clinton to Davenport and the Davenport and Muscatine Railway from Davenport to Muscatine. In 1912, the two rail lines merged and in 1926 became the Clinton Davenport & Muscatine Railway ("CD&M").

Other than routine maintenance, the Blackhawk Spur has not undergone any major alteration since DM&E acquired the property in 2002.

Section 1105.8(d)(5) History: 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 CD&M began as an electric interurban passenger railway, but later moved both passengers and freight. In 1938, due to a decline in both freight and passenger traffic, the Davenport to Muscatine line was abandoned except for the remaining segment within the city of Davenport. DM&E acquired the Blackhawk Spur in 2002 when it purchased the I&M Rail Link and created its operating subsidiary, the Iowa, Chicago and Eastern Railroad. The Blackhawk Spur has been out of service for more than two years and, other than the removal of track and ties, no changes are contemplated as a result of the proposed action.

Section 1105.8(d)(6) Documents: A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.

The carrier's files consist primarily of maps and photos of the line, some engineering drawings, and maintenance records.

Section 1105.8(d)(7) Opinion: 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).

It is DM&E's opinion that the Blackhawk Spur would not meet the criteria for listing in the National Register of Historic Places. The Iowa Historical Society's response to DM&E's June 10, 2013 correspondence is included in Exhibit No. 3. The Office of the State Archaeologist was contacted by letter on July 11, 2013, but no response has been received to date.

Section 1105.8(d)(8) Archaeological Resources: 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.

There are no known ground disturbances or fills other than those which would have occurred during original construction of this line and any subsequent maintenance or rehabilitation. There are no known toxic waste areas within the right-of-way of this railroad line.

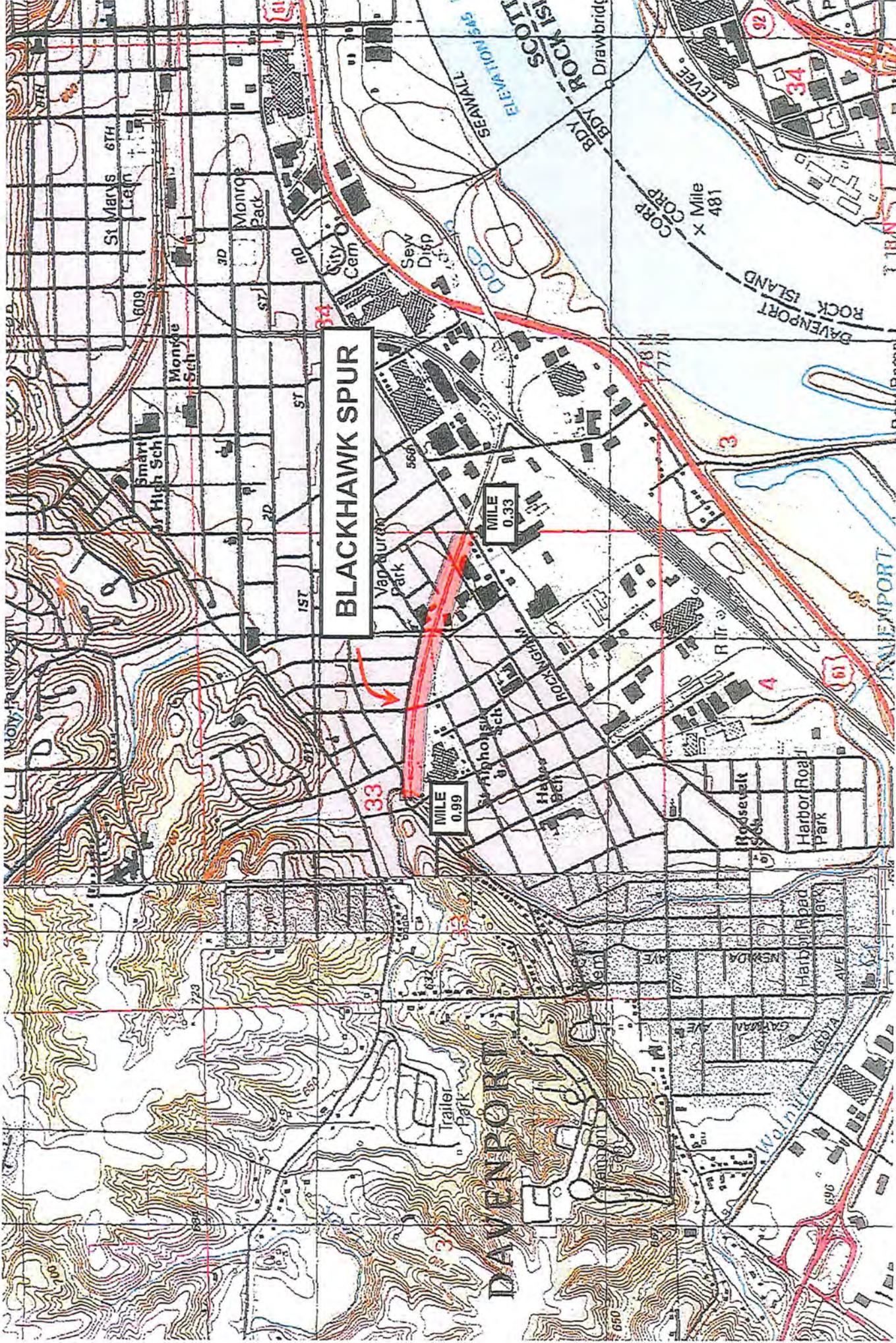
The following excerpt from ICC document *Assessment of Environmental Impacts Associated with Railroad Abandonment Proposals* discusses archeological evaluations:

“Salvaging an abandoned railroad line is normally confined to the limits of the right of way and rarely involves major excavation work. If the right of way is to be leveled at all, only the roadbed built up during actual construction of the line would be affected. It is unlikely that there are any historic track structures under the roadbed since old rails and ties are salvaged during maintenance and rehabilitation operations. Likewise, there is usually neither significant damage to the vegetation found within the right of way nor any effect on land adjacent to the railroad property. By confining salvage operations of a rail line as discussed above, it is not anticipated that any archaeological sites in or immediately adjacent to the right of way, would be affected by the abandonment.”

END OF REPORT

Appendix A

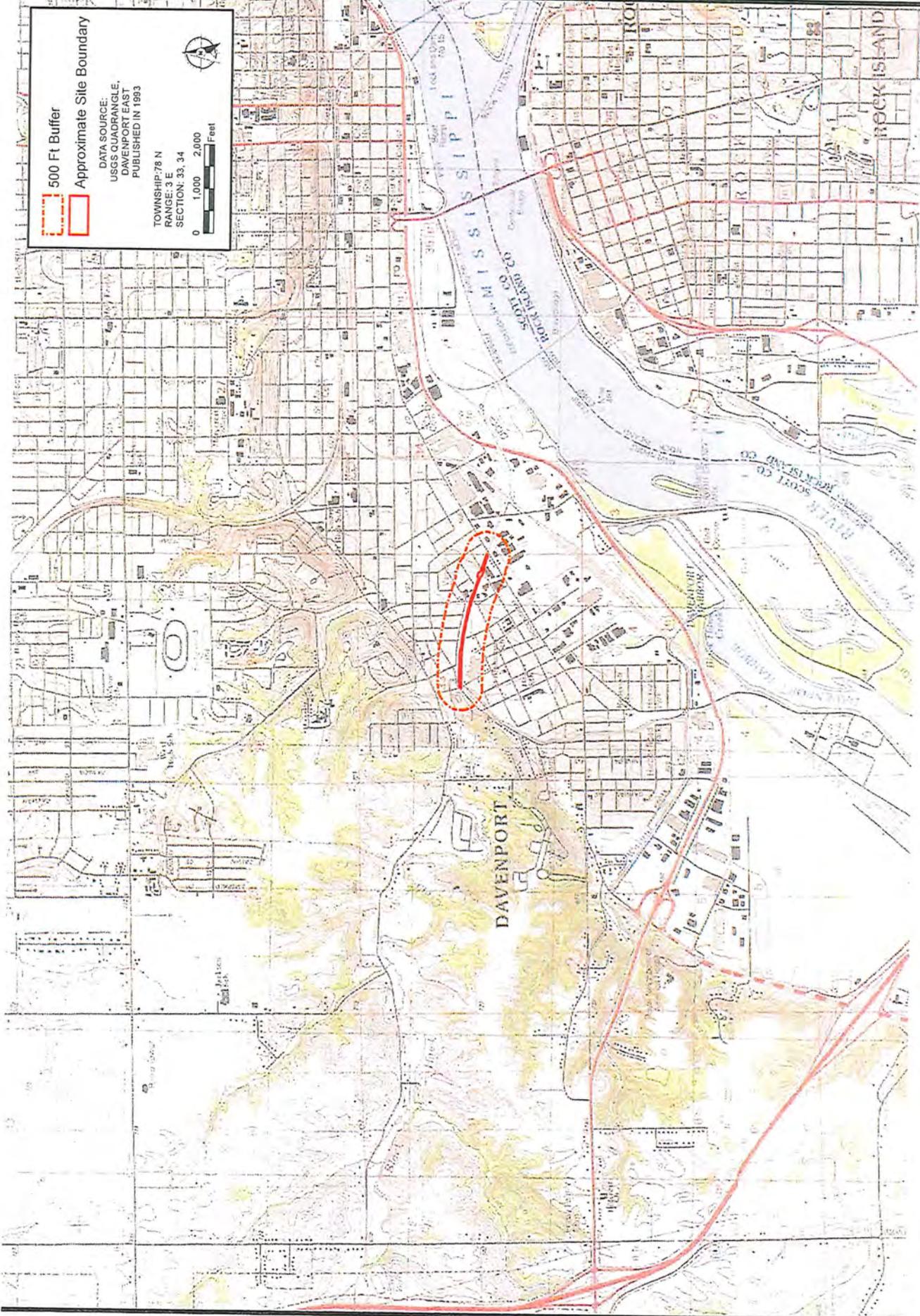
Map of Abandonment Location



Data files provided by:

SITE LOCATION MAP  
 BLACKHAWK SPUR ABANDONMENT  
 ROCKINGHAM ROAD TO CLARK STREET  
 DAVENPORT, IOWA

Project No.	SC-1302318
Drawing No.	1302318_SiteLoc
Scale	1" = 120'
Drawn By	TR-1202
Date Drawn	5/12
Created By	5/12
Last Modified	5/12
Sheet	1 of 1



**500 Ft Buffer**  
**Approximate Site Boundary**

DATA SOURCE:  
 USGS QUADRANGLE,  
 DAVENPORT EAST  
 PUBLISHED IN 1993

TOWNSHIP: 78 N  
 RANGE: 3 E  
 SECTION: 33, 34

0 1,000 2,000 Feet

Appendix B

Photographs of Railroad Structures and the Immediately Surrounding Area



View of the Site, surrounding properties and Rockingham Road, looking southeast.



View of the adjacent Crescent Laundry Services building south of the Site, looking west.



View of the adjacent pallet storage south of the Site, looking west



View of the salt and pallet storage business south of the Site, looking west.



View of the Coors Valley Vending building north of the Site, looking northwest.



View of the Site and adjacent Coors Valley Vending building, looking east.



View of the Site, adjacent buildings and Birchwood Avenue, looking east.



View of the former adjacent Gene Meyer Oil Company located north of the Site, looking northwest.



View of the former adjacent Blackhawk Foundry south of the Site, looking south.



View of the Site, switch, signal battery well and bridge over Blackhawk creek, looking west.



View of the Site tracks and bridge over Blackhawk creek, looking west.



View of groundwater monitoring well on the Site adjacent to former Gene Meyer Oil Company.