

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

ENTERED
Office of Proceedings
December 4, 2013
Part of the Public Record

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

NOTICE OF EXEMPT ABANDONMENT OF TRACKAGE LOCATED BETWEEN
MILEPOST 0.33 +/- AND MILEPOST 0.99 +/- (BLACKHAWK SPUR) WHICH
TRAVERSES THROUGH UNITED STATES POSTAL SERVICE ZIP CODE 52802 IN
SCOTT COUNTY, IOWA

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. SECTION 10502 AND 49 C.F.R. PART 1152

CLASS EXEMPTION FROM THE REQUIREMENTS
OF 49 U.S.C. SECTION 10903

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

December 3, 2013
FILED
December 4, 2013
Surface Transportation Board

FEE RECEIVED
December 4, 2013
Surface Transportation Board

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SURFACE TRANSPORTATION BOARD
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PURSUANT TO 49 U.S.C. SECTION 10502 AND 49 C.F.R. PART 1152

CLASS EXEMPTION FROM THE REQUIREMENTS
OF 49 U.S.C. SECTION 10903

Dakota, Minnesota & Eastern Railroad Corporation (“DM&E”) d/b/a Canadian Pacific files this Verified Notice of Exemption pursuant to 49 U.S.C. § 10502 and the Board’s regulations at 49 C.F.R. Section 1152.50. This Verified Notice of Exemption is for DM&E’s 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.

No local traffic has moved over the line for at least two years and all overhead traffic has been routed over other lines.

In accordance with the requirements of 49 C.F.R. Section 1152.50, DM&E submits the following:

1. WRITTEN NOTIFICATION OF FILING FOR ABANDONMENT EXEMPTION – 49 C.F.R. SECTION 1152.50(d)(1).

Said notification was served on the appropriate parties on August 21, 2013, at least ten (10) days prior to the filing date of this exemption. *See* Exhibit No. 2.

2. PROPOSED CONSUMMATION DATE - 49 C.F.R. SECTION 1152.50(d)(2).

DM&E intends to consummate the proposed abandonment of its trackage on or after January 24, 2014.

3. CARRIER CERTIFICATION REGARDING LOCAL AND OVERHEAD TRAFFIC AND STATUS OF NO COMPLAINTS REQUIRED BY 49 C.F.R. SECTIONS 1152.50(b) and (d)(2).

The required Certification is attached as Exhibit No. 3.

4. INFORMATION REQUIRED BY 49 C.F.R. SECTIONS 1152.22(a)(1)-(4), (7) and (8) and (e)(4) (INCORPORATED BY REFERENCE IN 49 C.F.R. SECTION 1152.50(d)(2)):

(a) SECTION 1152.22(a)(1) EXACT NAME OF APPLICANT.

Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific.

(b) SECTION 1152.22(a)(2) WHETHER THE APPLICANT IS A COMMON CARRIER BY RAILROAD SUBJECT TO 49 U.S.C. Subtitle IV, chapter 105.

DM&E is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

(c) SECTION 1152.22(a)(3) RELIEF SOUGHT (ABANDONMENT OF LINE OR DISCONTINUANCE OF SERVICE).

DM&E seeks authority to abandon a 0.66+/- mile line of railroad in Scott County, Iowa.

(d) SECTION 1152.22(a)(4) DETAILED MAP

See Exhibit No. 1.

- (e) SECTION 1152.22(a)(7) NAME, TITLE AND ADDRESS OF REPRESENTATIVE OF APPLICANT TO WHOM CORRESPONDENCE SHOULD BE SENT.

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

- (f) SECTION 1152.22(a)(8) LIST OF ALL UNITED STATES POSTAL ZIP CODES THAT THE LINE PROPOSED FOR ABANDONMENT TRAVERSES:

United States Postal Zip Code 52802.

- (g) SECTION 1152.22(e)(4) STATEMENT OF WHETHER THE PROPERTIES PROPOSED TO BE ABANDONED ARE SUITABLE FOR USE FOR OTHER PUBLIC PURPOSES, INCLUDING ROADS OR HIGHWAYS, OTHER FORMS OF MASS TRANSPORTATION, CONSERVATION, ENERGY PRODUCTION OR TRANSMISSION, OR RECREATION. IF THE APPLICANT IS AWARE OF ANY RESTRICTION ON TITLE TO THE PROPERTY, INCLUDING ANY REVERSIONARY INTEREST, WHICH WOULD AFFECT THE TRANSFER OF TITLE OR THE USE OF THE PROPERTY FOR OTHER THAN RAIL PURPOSES, THIS SHALL BE DISCLOSED.

The property proposed to be abandoned may be suitable for other public uses. DM&E is not currently aware of any restriction on title to the property, including any reversionary interest, which would affect the transfer of title or the use of the property for other than rail purposes.

5. SECTION 1152.50(d)(2) THE LEVEL OF LABOR PROTECTION.

DM&E understands that in granting an exemption for the proposed abandonment, the Board does not relieve a carrier of its statutory obligation to protect the interests of employees. Accordingly, while DM&E anticipates that no adverse effect to its employees will occur as the result of this abandonment, it understands that the Board will likely impose the conditions set forth in *Oregon Short Line Railroad Company - Abandonment – Goshen*, 360 I.C.C. 91 (1979), for the benefit of any carrier employee who may be adversely affected by the proposed abandonment.

6. SECTION 1105.7(c) CERTIFICATE OF SERVICE OF ENVIRONMENTAL REPORT AND HISTORIC REPORT.

An Environmental Report and Historic Report was prepared in accordance with 49 C.F.R. Sections 1105.7 and 1105.8 and served on the Board and all relevant parties on August 15, 2013, pursuant to 49 C.F.R. Section 1105.7(b). Applicant's certification pursuant to 49 C.F.R. Section 1105.7(c) is attached as Exhibit No. 4.

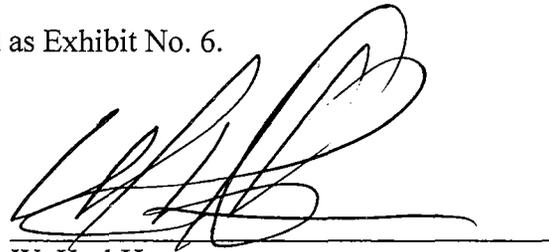
7. SECTION 1105.12 PUBLICATION OF NEWSPAPER NOTICE.

A notice in accordance with Section 1105.12 was published in a newspaper of general circulation in Scott County, Iowa on July 22, 2013. A copy of said notice with the required Certification are attached as Exhibit No. 5.

8. VERIFICATION.

The required Verification is attached as Exhibit No. 6.

Dated: December 3, 2013



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

Counsel for Dakota, Minnesota & Eastern
Railroad Corporation

Exhibit No. 1

Detailed Exhibit Map for Verified Notice of Exemption

49 C.F.R. Sections 1152.50(d)(2) and 1152.22 (a)(4)

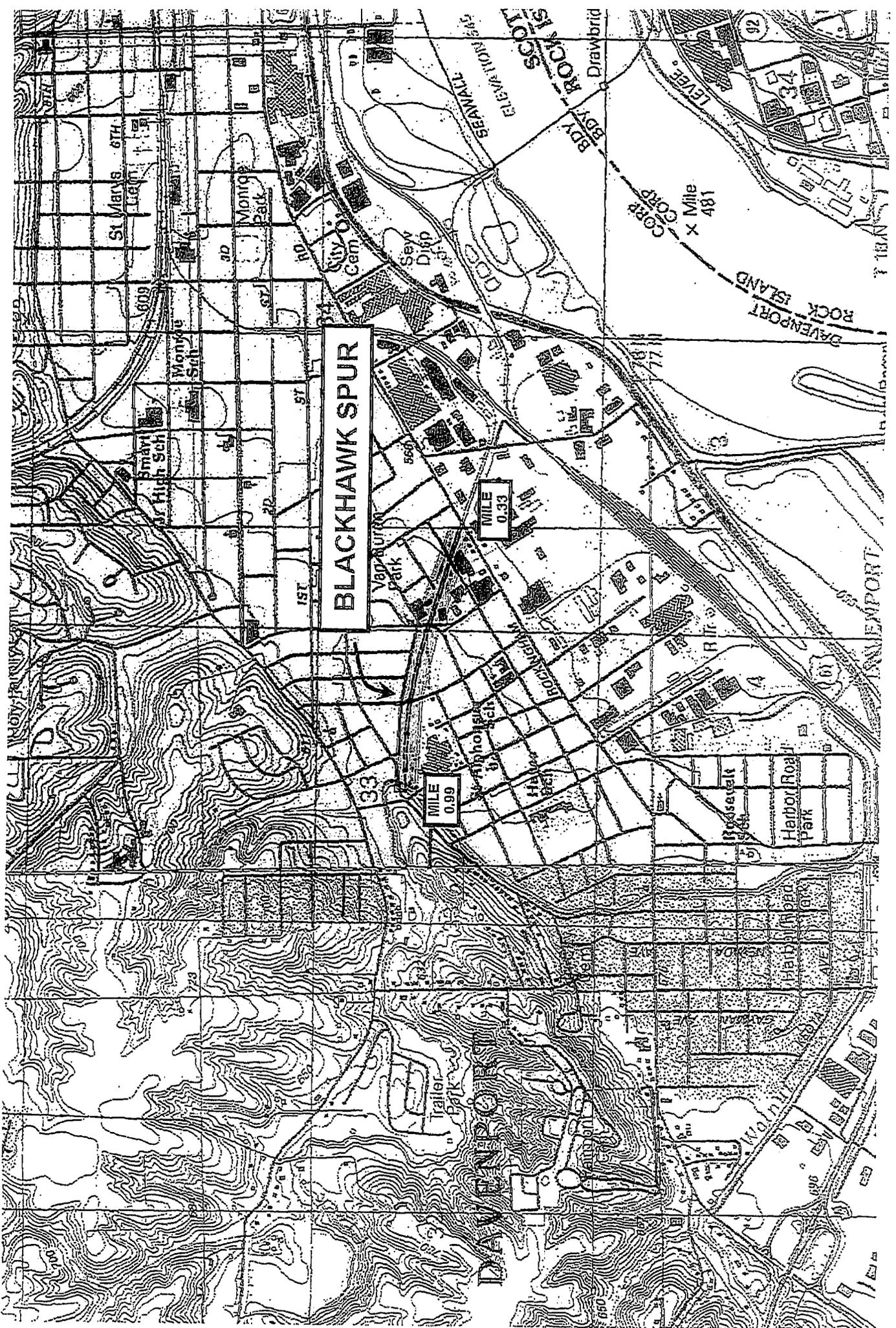


Exhibit No. 2

Certification of Proper Service of Written
Notice of Intent to Abandon under the Exemption Process

49 C.F.R. Section 1152.50(d)(1)

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT FOR
NOTIFICATION OF INTENT TO FILE EXEMPTION ABANDONMENT

The undersigned hereby certifies that he served the Notice of Intent to File Verified Notice of Exemption for the proposed abandonment in Docket No. AB-337 (Sub-No. 7X) via first class U.S. Mail on August 21, 2013, as required by 49 C.F.R. Section 1152.50(d)(1), to the parties listed on the attached Service List.

Dated: December 3, 2013



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

Counsel for Dakota, Minnesota & Eastern
Railroad Corporation

SERVICE LIST
NOTICE OF INTENT TO FILE EXEMPT ABANDONMENT
Dakota, Minnesota & Eastern Railroad Corporation – Abandonment of
Trackage Located in Scott County, Iowa
STB Docket No. AB-337 (Sub-No. 7X)

IOWA PUBLIC SERVICE COMMISSION (OR EQUIVALENT AGENCY)

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

U.S. DEPARTMENT OF DEFENSE

Office of Special Assistant for Transportation Engineering
Surface Deployment and Distribution Command
Transportation Engineering Agency
Railroads for National Defense Program
709 Ward Drive, Building 1990
Scott AFB, IL 62225

NATIONAL PARK SERVICE, RECREATION RESOURCES ASSISTANCE DIVISION

National Center for Recreation and Conservation
U.S. Department of the Interior
National Park Service
1849 C Street N.W.
Org. Code 2220
Washington, DC 20240

U.S. DEPARTMENT OF AGRICULTURE, CHIEF OF THE FOREST SERVICE

Tom Tidwell, Chief
Forest Service
U. S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street, S.W.
Washington, DC 20024

Exhibit No. 3

Carrier Certification of Out-of-Service Status/Local
Traffic/Overhead Traffic/No Complaints

49 C.F.R. Section 1152.50(b)

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

I, David S. Drach, Director Real Estate U.S. for Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") dba Canadian Pacific, hereby certify that with respect to the trackage that is the subject of this Verified Notice of Exemption in Docket AB-337 (Sub-No. 7X), DM&E has had no movements over the subject trackage in at least two years. No local traffic has been handled to or from any customer for at least two (2) years prior to the date hereof and any overhead traffic routed over this line can be and has been rerouted over other lines. Further, I certify that no formal complaint has been filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line segment and that no such complaint is either pending with the Commission or any U.S. District Court or has been decided in favor of a complainant within the two-year period immediately preceding the filing of this Notice.

The foregoing Certification is made on behalf of Dakota, Minnesota & Eastern Railroad Corporation and Canadian Pacific by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by Dakota, Minnesota & Eastern Railroad Corporation to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Dated: November 27, 2013



Exhibit No. 4

Certification of Proper Service of
Environmental and Historic Reports

49 C.F.R. Section 1105.7(c)

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT FOR
ENVIRONMENTAL AND HISTORIC REPORTS

The undersigned hereby certifies that he served the Environmental and Historic Reports in Docket No. AB-337 (Sub-No. 7X) with a transmittal letter conforming to the requirements of 49 C.F.R. § 1105.11 via first class U.S. Mail, on August 15, 2013, as required by 49 C.F.R. § 1105.7(c) and 49 C.F.R. § 1105.8, to the parties listed on the attached Service List.

Dated: December 3, 2013



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

SERVICE LIST
ENVIRONMENTAL AND HISTORIC REPORTS
Dakota, Minnesota & Eastern Railroad Corporation – Abandonment of
Trackage Located in Scott County, Iowa
STB Docket No. AB-337 (Sub-No. 7X)

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 9th 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. 4th 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. 5

Certificate of Publication of
Newspaper Notice

49 C.F.R. Section 1105.12

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

22nd

day of

July

Stephen N. Thor 20/13

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

Notary Public in and for Scott County, Iowa

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-337 (Sub-No. 60X) was advertised in a newspaper of general circulation in all counties through which the line which is the subject of this Notice runs, as required by 49 C.F.R. Section 1105.12. Copies of the Affidavit of Publication and Notice are attached.

Dated:

December 3, 2013



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

Exhibit No. 6
Verification Regarding
Facts of Verified Notice of Exemption

VERIFICATION

I, David S. Drach, Director Real Estate U.S. for Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") dba Canadian Pacific, hereby verify that I have carefully examined all of the statements concerning the operations of DM&E in the Verified Notice of Exemption, including the map attached as Exhibit No. 1 to the Notice; that I have knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of my knowledge, information, and belief.

The foregoing is made on behalf of Dakota, Minnesota & Eastern Railroad Corporation by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by Dakota, Minnesota & Eastern Railroad Corporation to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Date: November 27, 2013

