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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-279 (Sub-No. 6X)

CANADIAN NATIONAL RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN NIAGARA COUNTY, NEW YORK

ENVIRONMENTAL AND HISTORIC REPORT

Theodore K. Kalick
CN
Suite 500 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-3608
(202) 347-7840

David A. Hirsh
James M. Guinivan
HARKINS CUNNINGHAM LLP
1700 K Street, N.W., Suite 400
Washington, D.C. 20006-3804
(202) 973-7600

Counsel for Canadian National Railway Company

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ENVIRONMENTAL AND HISTORIC REPORT

Canadian National Railway Company (“CNR”) submits this Environmental and Historic Report, in compliance with the reporting requirements of 49 C.F.R. §§ 1105.7 and 1105.8, regarding the proposed abandonment of the entire U.S. portion of CNR’s Grimsby Subdivision, between approximately Milepost 0.20 and approximately Milepost 0.35, in the City of Niagara Falls, Niagara County, New York (the “Line”). Attached to this Report are copies of correspondence between CNR and relevant agencies in connection with preparation of the Report.

The greater part of the Line (approximately 0.10 miles) lies on the upper deck of the U.S. portion of Whirlpool Rapids Bridge (the “Bridge”), an international rail/highway bridge which crosses the Niagara River between Niagara Falls, New York, and Niagara Falls, Ontario, and is owned by the bi-national Niagara Falls Bridge Commission (“NFBC”). The Line also includes approximately 0.05 miles of single track on land in Niagara Falls, New York, that extends from the east end of the Bridge to the beginning of

the Niagara Branch of CSX Transportation, Inc. (“CSXT”). The Line lies entirely within the United States Postal Service’s 14305 ZIP Code.

It is the conclusion of this Report that the proposed abandonment, if implemented, would not significantly affect either the quality of the human environment or the conservation of energy resources.

ENVIRONMENTAL REPORT
49 C.F.R. § 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.

CNR seeks to abandon approximately 0.15 miles of single-track line of railroad in Niagara County, New York, extending between the point in the middle of the Bridge (at approximately milepost 0.35) where CNR’s Grimsby Subdivision crosses the international border, and extending to the beginning the CSXT’s Niagara Branch (at approximately milepost 0.20). The portion of the Line between approximately milepost 0.25 and approximately milepost 0.35 lies on the upper deck of the Bridge, which CNR leases from NFBC, while the portion of the Line between approximately milepost 0.20 and approximately milepost 0.25 lies to the east of the Bridge, on a railroad embankment between the Bridge and Whirlpool Street, on a railroad overpass crossing Whirlpool

Street, and on a railroad embankment between Whirlpool Street and the beginning of CSXT's line.¹

To the best of CNR's knowledge, no rail customer has ever been served directly by the Line. (Indeed, no customer could realistically be located on the greater portion of the Line, which lies on the structure of the Bridge.) The Line was previously used by CNR as one of several available routes for through traffic over the international border between Canada and the United States, but CNR has determined that other routes are more efficient for its operations. There has been no regularly scheduled freight service over the Bridge since 2004, and no freight movements of any kind for at least five years. Given its location, there is no reasonable possibility for the development of new rail freight traffic on the Line.

The National Railroad Passenger Corporation ("Amtrak") uses the Line for its "Maple Leaf" service, which it operates twice a day in conjunction with VIA Rail Canada ("VIA"). As discussed below, this service is expected to continue following CNR's abandonment of the Line.

CNR leases the rail deck of the Bridge (including the Canadian portion of the deck) from NFBC, and it expects to execute an agreement with NFBC providing for termination of the lease upon consummation of its abandonment of the Line. To the best of its knowledge, CNR owns the rail, bridge ties, and other track material on the rail deck and on the remainder of the Line, and it is the intention of CNR and Amtrak that CNR will convey any transferrable interest it has in the rail and other track materials on the

¹ CNR understands that NFBC owns the right-of-way between the eastern end of the Bridge and Whirlpool Street, and that the City of Niagara Falls owns the railroad overpass crossing Whirlpool Street.

Line to Amtrak, so that Amtrak may continue to provide rail passenger service. The parties are currently negotiating the terms of a formal agreement to that effect.² If CNR is unable to conclude an agreement with Amtrak for conveyance of its transferrable interest in the Line, then it would be willing to transfer that interest for a nominal price to another interested party, to permit continued rail passenger operations.³ Even if no rail operations are continued over the Line, it is CNR's understanding that NFBC intends not to disturb the rail supporting portion of the Bridge, which will remain in place. Given that there are pedestrian walkways on the lower level of the Bridge, and that the short portion of the Line (approximately 250 feet) to the east of the Bridge is in an urban area adjacent to city streets, CNR believes that state or local parties will have no interest in potential recreational trails use of the Line.

The only alternative that CNR has identified to the proposed abandonment is retention of the Line, although CNR has no use for it (the "No Action Alternative"). This alternative is unrealistic because it would require CNR to continue bearing the costs of maintaining and repairing a line which CNR does not use and from which it derives no value.

Maps showing the location of the Line are attached hereto as Appendix A.

² CNR has reached an agreement in principle with VIA under which CNR will convey to VIA any transferrable interest it may have in the rail and track materials on the Canadian portion, and it expects the parties to execute that agreement in the near future so that rail passenger service may continue.

³ CNR reserves the right, should it fail to reach an agreement with Amtrak or another interested party, to salvage those materials after consummation of the abandonment.

(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.

CNR expects that that existing regional and local transportation systems or patterns would not be affected by the proposed abandonment. Freight service would be unaffected, as neither CNR nor any other freight rail carrier currently uses the Line.

Amtrak currently uses the Line for its Maple Leaf passenger rail service, which Amtrak, in conjunction with VIA, operates once a day in each direction between New York City and Toronto, via Albany, Syracuse, Buffalo, and Niagara Falls. CNR understands that NFBC has reached agreements in principle with Amtrak and with VIA that would allow Amtrak and VIA to use the rail deck of the Bridge and the right-of-way adjacent to the eastern end of the Bridge for continued passenger service.⁴ Additionally, as stated previously, CNR expects to finalize agreements with NFBC and Amtrak, under which CNR's lease of the upper deck of the Bridge would terminate and CNR would convey all its legally transferrable interest in the Line, including any transferrable interest in the rail, bridge ties, and other track materials, to Amtrak for a nominal price for the purpose of continued rail passenger operations. Thus, it is not expected that passenger

⁴ The City of Niagara Falls has informed CNR that it owns the land under the short portion of the Line to the east of Whirlpool Street. The City can reasonably be expected to make its property available for continued rail passenger service, as it has declared its interest in "the long term viability of passenger rail service between New York and Ontario," and in particular in use of the Bridge and the related track to support the current Maple Leaf service. See letter from Craig H. Johnson (Corporation Counsel, City of Niagara Falls), by Thomas M. O'Donnell (Deputy Corporation Counsel), to David A. Hirsh (CNR Counsel) (June 28, 2011) (attached as Appendix C). Moreover, the City is an active participant in plans for development of the Niagara Falls International Railway Station and Intermodal Transportation Center, to be constructed in the vicinity of the Line. This project would include a consolidated railroad intermodal facility that would include Amtrak's new Niagara Falls Station.

traffic would be diverted to other transportation systems or modes as a result of the proposed abandonment.

(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 [now 10905] and explain why.

(i) CNR does not foresee any inconsistency with regional and/or local land use plans. On May 19, 2011, CNR's counsel contacted and requested comments from the City of Niagara Falls Department of Community Development ("DCD") and the Niagara County Department of Economic Development ("DED") on this issue. CNR has not received any response from DCD, and DED has not made substantive comments, but forwarded CNR's counsel's letter to the City of Niagara Falls (see correspondence attached as Appendix B). In a letter dated June 28, 2011, the City's Department of Law noted that the subject property is shown on the City's current land use plans and claimed that "the abandonment would provide significant environmental and economic dislocation." The Department further opined that the abandonment would "jeopardize the long term viability of passenger rail service between New York and Ontario" and would "affect the Niagara Falls Bridge Commission in its function to build and maintain border infrastructure and customs and immigration facilities for the respective federal agencies,

Amtrak and VIA service rely on this bridge and the track thereon to accommodate international passenger rail service known as the Maple Leaf.” (The City Law Department’s letter is reproduced as Appendix C.)

CNR understands that the City now supports CNR’s proposed abandonment. Its original concerns apparently were based on a misunderstanding of the effect of the proposed abandonment on Amtrak and VIA passenger service over the Bridge. CNR’s abandonment of the Line (and its discontinuance, under Canadian law, of operations on the Canadian side of the Bridge) would leave Amtrak and VIA free to make arrangements with NFBC that would permit existing passenger train service on the Line to continue, and CNR understands that they have reached agreements in principle with NFBC regarding such arrangements. In addition, CNR expects to finalize an agreement with Amtrak under which it would convey all its legally transferrable interest in the Line, including any transferrable interest in the rail, bridge ties, and other track materials, to Amtrak for a nominal price for the purpose of continued rail passenger operations.⁵ If CNR is unable to execute an agreement with Amtrak for transfer of its interest in the Line, it would be willing to enter such an agreement, for nominal compensation, with an alternative operator. CNR would only seek to salvage the rail and other track materials in the unlikely event that no such party undertook to continue passenger service. Even after any salvage, because the Bridge structure is owned by NFBC, and the right-of-way east of the Bridge is owned by NFBC and the City, they can, if they wish, maintain the right-of-way intact, so that NFBC, or a third party acting with NFBC’s permission, would be

⁵ CNR expects to execute a similar agreement with VIA in the near future, providing for the conveyance of CNR’s interest in the rails and track materials on the Canadian portion of the Bridge to VIA. *See* note 2, above.

free to install new track if at some future time an operator should become willing to reinstate rail passenger service.

(ii) The Line is located entirely on a bridge over the Niagara River and in an urbanized portion of the City of Niagara Falls, New York. Thus, the potential for impacting agricultural interests as a result of the proposed abandonment is remote. Nonetheless, CNR requested comments from the national and regional offices of the Natural Resources Conservation Service (formerly the Soil Conservation Service) of the United States Department of Agriculture on the proposed abandonment. CNR has not received any reply to its request. See correspondence attached herein as Appendix D.

(iii) CNR has not been able to determine whether the Line lies within a designated Coastal Zone Management Area, but the proposed abandonment will not affect any land or water uses in such an area or result in any coastal impacts. CNR requested comments from the New York State Division of Coastal Resources but has not received any response to its request. See correspondence attached hereto as Appendix E.

(iv) The rail properties involved in the proposed abandonment would be appropriate for use for the public purpose of rail passenger transportation. In fact, as explained above, those properties are currently being used by Amtrak, in conjunction with VIA, for that purpose. CNR expects to execute agreements with NFBC, Amtrak, and VIA that would permit continuation of the current service.⁶ The operator would, however, need to make separate arrangements with NFBC (as owner of the Bridge and

⁶ As also mentioned above, if CNR is ultimately unable to reach agreement with Amtrak regarding transfer of its interest in the Line for continued rail passenger service, it would be willing to transfer that interest, for nominal compensation, to an alternative rail passenger operator.

the land on which the track immediately to the east of the Bridge lies) and with the City of Niagara Falls (as owner of that portion of the Line to the east of Whirlpool Street).

The City, however, has expressed its interest in continuing the current Amtrak service, as noted above, and CNR understands that NFBC is willing to negotiate an agreement with Amtrak that would permit continued passenger operations.

CNR is not aware of any other public use under 49 U.S.C. § 10905 for which the right-of-way of the Line would be suitable. As indicated above, CNR believes that no interest will exist for use of the Line as a recreational trail, because such a trail would be duplicative of existing parallel walkways located on the lower deck of the Bridge, or would be located in an urban area adjacent to city streets and only for a distance of approximately 250 feet.

(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.

(i) The proposed abandonment would have no effect on the transportation of energy resources. No energy resource commodities move on the Line, and CNR foresees little or no possibility that such on-Line traffic would develop in the future.

(ii) The abandonment would have no effect on the movement or recovery of recyclable commodities. No recyclable commodities move on the Line, and CNR foresees little or no possibility that any on-Line recyclable commodity traffic would develop in the future.

(iii) The abandonment of the Line would have little or no impact on overall energy efficiency. No impact would be felt on freight rail transportation, as no rail freight traffic crosses the Bridge today. Passenger operations should also be unaffected, as Amtrak and VIA are expected to make arrangements with NFBC and CNR to continue existing passenger train service on the Line following the abandonment.

(iv) Because the Line is not presently being used for freight rail service, its abandonment would not cause the diversion of more than 1,000 rail carloads per year or an average of 50 rail carloads per mile per year to motor carriers.

(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.

(i) Not applicable. Abandonment would not result in (A) an increase in rail traffic of 100% or eight trains per day on any segment of rail line, (B) any increase in rail yard activity of 100%, or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles per day on any road segment.

(ii) Not applicable. Abandonment of the Line would not result in traffic increases which would exceed the thresholds specified in 49 C.F.R. § 1105.7(e)(5)(ii)(A), (B) or (C).

(iii) Not applicable. No freight traffic has been handled on the Line for at least five years, and CNR has no plans to use it to handle such traffic in the future.

Accordingly, no shipments of ozone depleting materials would be diverted as a result of this abandonment.

(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.

Not applicable. As indicated above, none of the thresholds identified in 49 C.F.R. § 1105.7(e)(5)(i) would be exceeded as a result of the abandonment.

(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.

(i) The proposed action would have no adverse effect upon public health or safety. No freight operations currently exist on the Line, and existing passenger rail service are expected to continue on the Line following the abandonment. In the unlikely event that no operator provides continued passenger service and CNR salvages the rail or other track materials on the Line, CNR would take appropriate precautions to ensure public safety during any salvage operations.

(ii) Not applicable. The proposed abandonment would have no effect on the transportation of hazardous materials. To CNR's knowledge no freight, and thus no

hazardous commodities, has been handled on the Line for at least five years, and CNR does not expect to carry any such commodities on the Line in the future.

(iii) To the best of CNR's knowledge, no known hazardous waste sites or spills are located on the Line.

(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.

(i) CNR does not believe that any endangered or threatened species are present in the area or would be adversely affected. In response to CNR's solicitation of information from the United States Fish and Wildlife Service ("USFWS") regarding endangered and threatened species in the area affected by the proposed abandonment, USFWS referred CNR to its website at <http://www.fws.gov/northeast/nyfo/es/section7.htm>. (See copies of correspondence at Appendix F.) That website's list of Federally Listed Endangered and Threatened Species and Candidate Species for Niagara County includes two species (see Appendix G). The first, the bald eagle (*Haliaeetus leucocephalus*) was formerly listed as an endangered or threatened species, but has been delisted. The second, the Eastern prairie fringed orchid (*Platanthera leucophea*), is listed as a threatened species. It was historically found in Niagara County, but it is not now known or believed to be present in New York State.⁷

⁷ According to USFWS, the Eastern prairie fringed orchid is known to or is believed to occur in Arkansas, Illinois, Indiana, Iowa, Maine, Michigan, Ohio, Oklahoma, Virginia, and Wisconsin. U.S. Fish and Wildlife Service Species Profile:

The proposed abandonment would not affect any areas designated as critical habitat for the Eastern prairie fringed orchid, as no critical habitat rules have been published for this species.⁸ Although the Eastern prairie fringed orchid “occurs in a wide variety of habitats,”⁹ CNR does not believe that the proposed abandonment would affect any habitat for this species, as most of the Line is located on a bridge deck that is not hospitable to vegetation, and CNR has no present plans to alter that portion of the Line found on land owned by NFBC and the City of Niagara Falls adjacent to the U.S. side of the Bridge.

(ii) Although the Niagara Falls State Park is located within two miles of the Line, CNR has no reason to believe that the abandonment will have any impact on the Park.

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

There should be no effect on water quality as a result of the proposed abandonment. Although the Line passes over the Niagara River, the Bridge on which

Eastern Prairie Fringed Orchid (*Platanthera leucophaea*),
<http://ecos.fws.gov/speciesProfile/profile/speciesProfile.action?spcode=Q2GG>.

⁸ *Id.*

⁹ *Id.*

that Line lies would continue in use even after cessation of freight rail operations. In the unlikely event that CNR were to salvage the track materials from the deck of the Bridge (as it would only do in the event that neither Amtrak nor any other party were willing to accept them for the purpose of continuing passenger service over the Bridge), that removal would not affect the River. CNR does not anticipate discharge of any materials into navigable waters that would require permits under Sections 402 and 404 of the Clean Water Act.

(i) CNR requested that the State of New York's Department of Environmental Conservation ("NYSDEC") comment on any inconsistency between the proposed abandonment and federal, state, or local water quality standards. In a letter dated June 22, 2011, NYSDEC replied that, based on the information provided in CNR's letter, "there is no inconsistency between the proposed abandonment and applicable state water quality standards and no permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) or the State Pollutant Discharge Elimination System (SPDES) are required for this proposed abandonment." *See* correspondence attached as Appendix H. In any event, CNR is unaware of such inconsistency and believes that the abandonment should have no impact on the water quality of the Niagara County area.¹⁰

¹⁰ CNR does not expect to make any physical alteration to the Line or the Bridge in connection with the proposed abandonment, but NYSDEC's letter advised that, in the event of any such alteration, all work activities must follow NYSDEC Division of Water Technical and Operational Guidance Series (5.1.5.), Bridge Scraping and Painting, (which incorporates New York State Department of Transportation ("NYSDOT") Engineering Instruction 86-19, "Bridge Cleaning and Painting Environmental Protection," dated 4-9-86), which would, according to NYSDEC, "minimize contravention of water quality of the Niagara River below the Bridge." This directive (which may be found at http://www.dec.ny.gov/docs/water_pdf/togs515.pdf) appears to apply only to cleaning and painting of bridges, and CNR is not planning any such

(ii) In a letter dated July 20, 2011, responding to an inquiry by CNR's counsel, the U.S. Army Corps of Engineers advised that, as the proposed abandonment would not entail work in, over, and/or under the navigable waterway of the Niagara River, the Corps did not have jurisdiction over the proposal, and that no permit was required from the Department of the Army. (The Corps's letter did not specifically address the question whether any designated wetlands or 100-year flood plains would be affected by the proposed abandonment, but CNR believes that no such wetlands or flood plains would be affected.) The Corps further advised, however, that if the proposal were modified to entail a discharge of dredged or fill material into a "Water of the United States," or any work done in, over, and/or under navigable waterways, CNR would be required to contact the Corps's Buffalo District regarding Department of the Army permit requirements. *See* correspondence attached hereto as Appendix I. CNR agrees with the Corps's implicit assumption that CNR's plans for the proposed abandonment do not include the discharge of dredged or fill material or any work in, over, and/or under navigable waterways; should those plans change, CNR would consult with the Corps's Buffalo District as required by applicable law and regulations.

(iii) CNR requested comments from the U.S. Environmental Protection Agency ("EPA") on whether, in EPA's judgment, any permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) and/or any National Pollutant Discharge Elimination System ("NPDES") permits were required for the proposed abandonment. *See*

activities in connection with the abandonment. If, however, CN should carry out any such activity, it will follow the NYSDEC directive to the extent applicable.

correspondence attached hereto as Appendix J. CNR has received no response to its inquiry.

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

As no adverse environmental impact is anticipated, CNR does not propose any mitigation activities.

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

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

Maps of the Line are attached hereto as Appendix A. The first map is based on the United States Geological Survey's 7-1/2 minute quadrangle map for Niagara Falls and shows the location of the Line, its relation to other rail lines in the area, and its relation to highways, water routes, and population centers. The second map is based on an aerial photograph, showing, in larger scale, the Bridge, the overpass across Whirlpool Street, other structures in the vicinity of the Line, and the endpoints of the Line.

(2) A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area[.]

The Line is approximately 0.15 miles in length, of which 0.10 miles are located on the top deck of the Bridge, and 0.05 miles are located on land in the City of Niagara Falls, Niagara County, New York, and on a railroad overpass that crosses Whirlpool Street in the City of Niagara Falls. The Line begins at the international border in the

middle of the Bridge (approximately milepost 0.35 of CNR's Grimsby Subdivision), continues eastward to the eastern end of the Bridge (approximately milepost 0.25), over an embankment to the east of the Bridge that is approximately 55 feet wide, across the railroad overpass (owned by the City) crossing Whirlpool Street, over a right-of-way to the east of Whirlpool Street that is owned by the City,¹¹ and ends at the end of Grimsby Subdivision, at a point about 72 feet east of Whirlpool Street (approximately milepost 0.20), where CNR's track ends and that of CSXT's Niagara Branch begins. This right-of-way is located in an urban area in the City of Niagara Falls. Except for the Niagara River gorge, located under the Bridge, the topography of the surrounding area is relatively level. Color photographs depicting the single-track Line on top of the Bridge are included in Appendix K. The communities of Niagara Falls, New York, and Niagara Falls, Ontario, are located in the immediate vicinity of the Line.

(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[.]

The Bridge and the railroad overpass over Whirlpool Street are the only structures located on the Line. CNR does not anticipate that the abandonment would result in any alterations to the Bridge or the overpass (which are owned by NFBC and the City, respectively, rather than by CNR). The proposed abandonment should therefore not raise any historic preservation issues. Attached as Appendix K are photographs of the Bridge on which the Line rests, of the railroad overpass crossing Whirlpool Street, and of the Line to the east of the Bridge.

¹¹ CNR has been unable to determine the width of this right-of-way, which CNR does not own.

(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[.]

The Bridge first opened to both rail and pedestrian traffic in 1897, when it replaced an earlier bridge at that location. The Bridge is of two-hinged spandrel-braced arch design. To the best of CNR's knowledge, the only alteration to the Bridge since its construction was an upgrade of the traffic and loading capacity of the Bridge in or around 1924, pursuant to an agreement executed in 1919 between the predecessors of CN and NFBC. It is CNR's understanding that the NFBC has no intention of removing the Bridge, which continues to be an important route for vehicular traffic between the United States and Canada.

CNR has no information regarding the data of construction of the railroad overpass crossing Whirlpool Street or about any major alterations to that structure, which is owned by the City of Niagara Falls.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action[.]

The Line has been located on the Bridge or its predecessor continuously since 1897. The CNR's lease with NFBC (pursuant to which CNR operates over the Bridge) predates the construction of the current Bridge. On October 1, 1853, CNR's predecessor, the Great Western Railway Company, entered into the first lease with the NFBC's predecessor, the Niagara Falls International Bridge Company. In recent years, CNR has made little use of the Bridge, retaining its rights solely for use when other bridges in the area are occupied, or for other operational convenience. There has been no regularly scheduled freight service over the Bridge since 2004, and no freight movements of any kind for at least five years. CNR currently maintains the Line, at its own expense, for the

benefit of continued Amtrak operations. (As noted in the Environmental Report, above, one Amtrak train a day operates over the Bridge in each direction.) If the Line is abandoned, CNR intends to convey, at a nominal price, any legally transferrable interest it may have in the rail and other track materials to Amtrak or to another interested party for the purpose of providing continued passenger rail operations, and it is negotiating an agreement to that effect with Amtrak. (As noted above, it expects to execute a similar agreement with VIA providing for conveyance of CNR's interest in rail and track materials on the Canadian portion of the bridge to VIA.) CNR would only salvage the rail and other track materials on the Line if no such party undertakes to continue passenger service. And even in the unlikely event of salvage, NFBC (which owns the Bridge and the right-of-way adjacent to the east end of the Bridge) and the City of Niagara Falls (which owns the Whirlpool Street overpass, and the right-of-way east of that overpass) would be free to maintain the right-of-way intact, if they wish, so that NFBC, or a third party acting with NFBC's permission, could install new track if at some future time an operator should become willing to reinstate rail passenger service.

(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[.]

Upon request, CNR will disclose any document or drawings of the Bridge or the Line that are in CNR's possession and might be useful in documenting those structures.

(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)[.]

CNR has been advised by the New York State Historic Preservation Office (“SHPO”) that the Bridge meets the eligibility criteria for listing in the National Register of Historic Places. *See* correspondence attached at Appendix L. However, the Bridge would not be materially affected by the abandonment. CNR does not own or control the Bridge or the Whirlpool Street overpass, and CNR understands that NFBC and the City would continue to own those structures after the abandonment. It is the opinion of the SHPO that the proposed abandonment would have no adverse effect on cultural resources in or eligible for inclusion in the National Register of Historic Places or the State Register of Historic Places.

(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.

Based on such information as CNR has readily available in its possession, CNR believes that substantial subsurface ground disturbance occurred when the predecessor of the current Bridge was constructed over 150 years ago. (CNR is unaware of any other environmental conditions that might affect the archaeological recovery of resources.)

* * * * *

Accordingly, on the basis of the information reported above, CNR concludes that the proposed abandonment, if implemented, would not significantly affect either the

quality of the human environment or the conservation of energy resources and that it would have no adverse effect on any properties listed or eligible for listing on the National Register of Historic Places, and requests that the Board make a determination to that effect.

Respectfully submitted,



Theodore K. Kalick
CN
Suite 500 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-3608
(202) 347-7840

David A. Hirsh
James M. Guinivan
HARKINS CUNNINGHAM LLP
1700 K Street, N.W., Suite 400
Washington, D.C. 20006-3804
(202) 973-7600

Counsel for Canadian National Railway Company

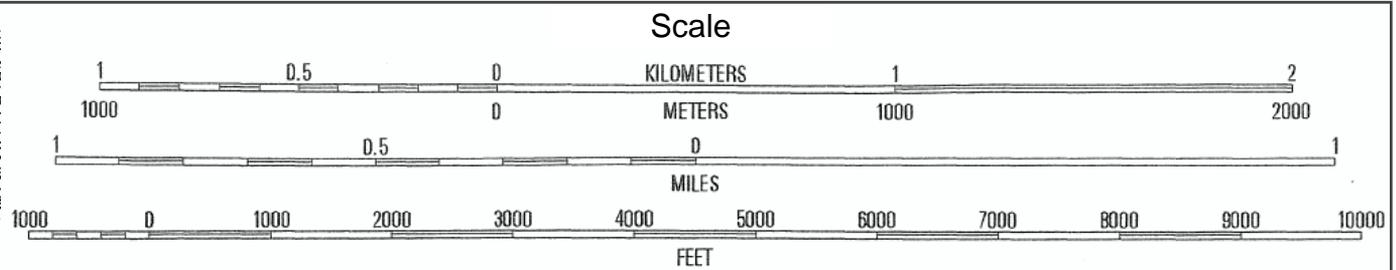
May 2, 2012

APPENDIX A

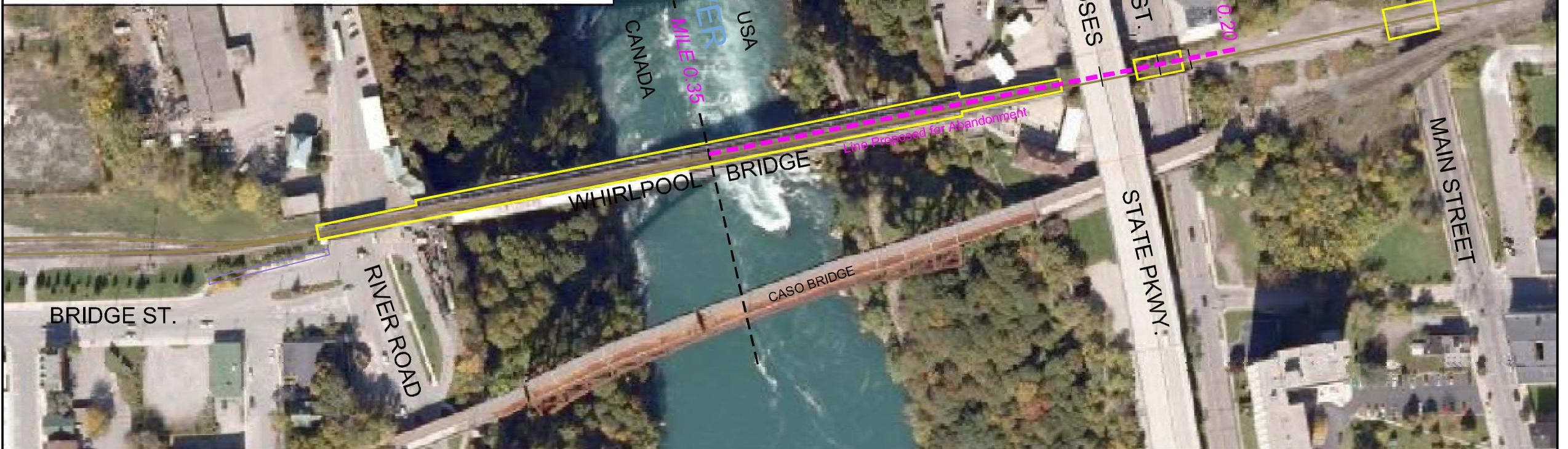
MAPS

Appendix A consists of two maps. Map 1 is based on the United States Geological Survey topographic map for the Niagara Falls Quadrangle. It indicates the general location of the Line. Map 2 is based on an aerial photograph of the Line and is sufficiently detailed to show buildings and other structures in the vicinity of the proposed action. In particular, it shows the location of the Whirlpool Rapids Bridge and the rail overpass across Whirlpool Street, which are the only railroad structures that are 50 years old or older and part of the proposed action.

Appendix A - Map 1



Appendix A - Map 2



DESCRIPTION:

PROPERTY SKETCH

SUBDIVISION:

Grimsby (333)

SPUR / ANTENNE:

N/A

MILEAGE / MILLIAIRE:

As Shown

DATE:

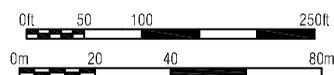
April 18, 2012

SCALE / ÉCHELLE:

1:2000

 **RAIL BRIDGES/OVERPASSES**

 **LINE PROPOSED FOR ABANDONMENT**



THIS IS NOT A PLAN OF SURVEY / CECI N'EST PAS UN PLAN D'ARPENTAGE



APPENDIX B

CORRESPONDENCE WITH CITY OF NIAGARA FALLS DEPARTMENT OF
COMMUNITY DEVELOPMENT AND NIAGARA COUNTY DEPARTMENT OF
ECONOMIC DEVELOPMENT

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Division of Planning and Development
Department of Community Development
City of Niagara Falls
1022 Main Street
Niagara Falls, NY 14301-1112

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara
County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

The abandonment of the Whirlpool Bridge would be consummated by terminating the lease that CN currently has with the Niagara Falls Bridge Commission (“NFBC”), which permits CN to operate its trains on the upper deck of the Whirlpool Bridge, between Niagara Falls, New York, and Niagara Falls, Ontario. The Rail Line is not presently used by CN or other freight carriers, so the abandonment would have no effect on rail freight traffic and would cause no diversion of freight traffic to motor carriers. Although Amtrak has no agreement with CN to do so, Amtrak presently uses the Rail Line to operate, in connection with VIA Rail, a daily roundtrip passenger train between New York City and Toronto. If Amtrak wishes to continue this service, it would need to enter into an agreement with the NFBC for use of the Whirlpool Bridge and with CN for purchase or use of the portion on the Rail Line that is owned by CN. CN would be willing to make such an agreement on reasonable terms.

In connection with the STB’s environmental review of this proposal, CN is required to consult with you in order to determine if the proposed abandonment is consistent with existing land use plans. I would appreciate it if you would let me know whether, in your judgment, there is any inconsistency and, if so, describe that inconsistency.

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and

HARKINS CUNNINGHAM LLP

Attorneys at Law

Division of Planning and Development

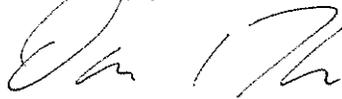
May 19, 2011

Page 2

any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

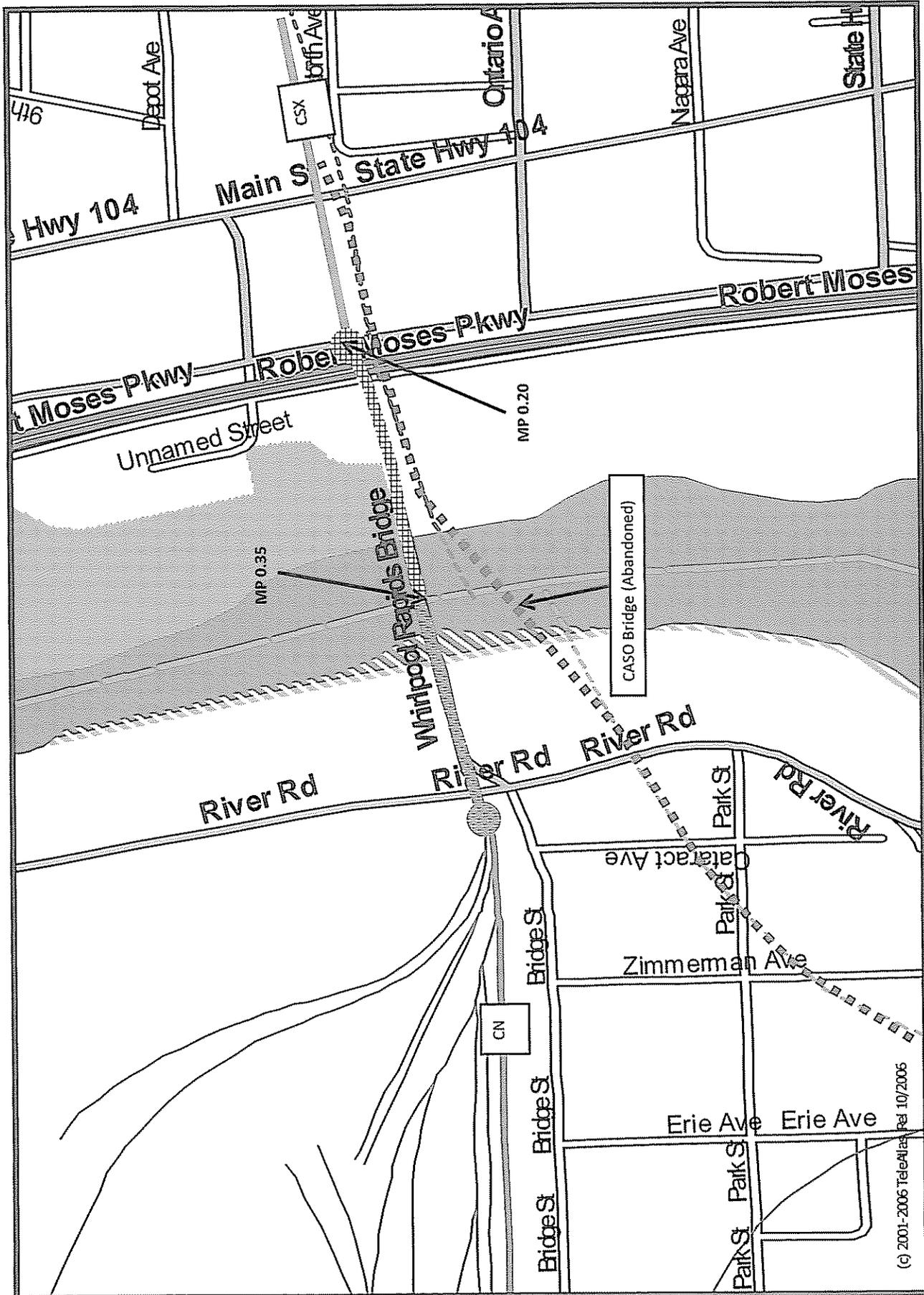
Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hirsh", written over a light blue horizontal line.

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Niagara County Department of Economic Development
Vantage Center, Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara
County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

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HARKINS CUNNINGHAM LLP

Attorneys at Law

Niagara County Department of Economic Development

May 19, 2011

Page 2

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

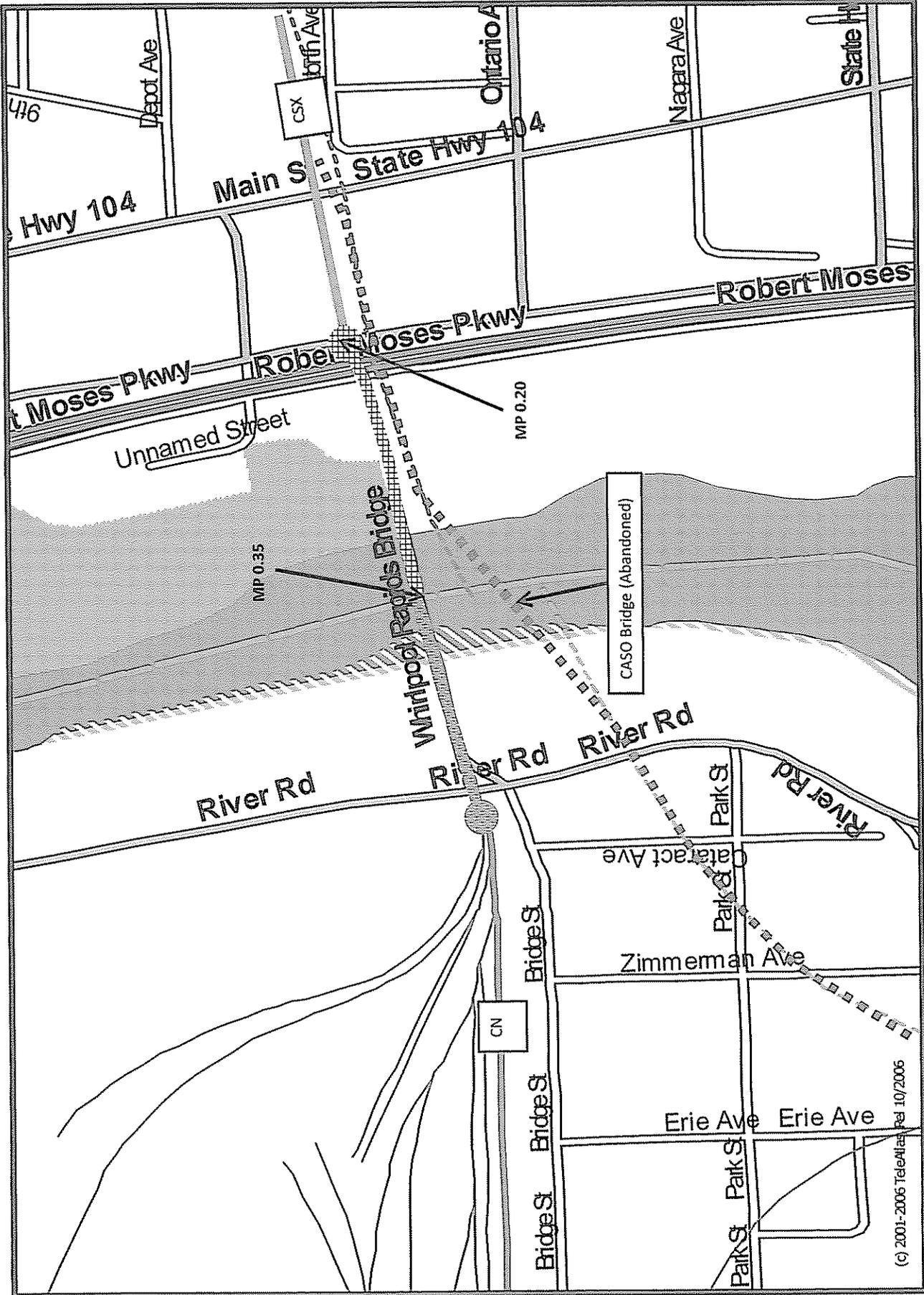
Very truly yours,

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

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



416

Depot Ave

Main St

CSX

Ontario Ave

Nagara Ave

State Hwy

Hwy 104

Main St

State Hwy 104

Robert Moses Pkwy

Robert Moses Pkwy

Robert Moses Pkwy

Unnamed Street

MP 0.20

MP 0.35

Whipcord Rapids Bridge

CASO Bridge (Abandoned)

River Rd

River Rd

River Rd

Park St

River Rd

Cataract Ave

Park St

Zimmerman Ave

CN

Bridge St

Bridge St

Erie Ave

Erie Ave

Park St

(C) 2001-2005 TeleAtlas, Rel. 10/2006

May 23, 2011

David A. Hirsh, Counselor
for Canadian National Railway Company
Harkins Cunningham LLP
Attorneys at Law
1700 K Street, N.W.
Suite 400
Washington, DC 20006-3804

**RE: CANADIAN NATIONAL RAILWAY COMPANY – ABANDONMENT EXEMPTION IN
NIAGARA COUNTY, NEW YORK (DOCKET NO. AB-279) (SUB-NO. 6X))**

Dear Mr. Hirsh:

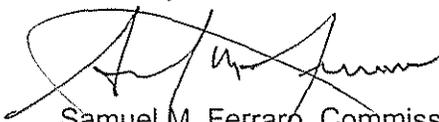
Thank you for your May 19, 2011 letter requesting Niagara County Department of Economic Development's input regarding the proposed abandonment of a section of approximately 0.15 miles of rail line in Niagara Falls, New York.

I have forwarded your letter requesting review and/or comments to the City of Niagara Falls, New York, where the referenced section of rail line is located.

If you have any questions in this regard, please feel free to contact me at (716) 278-8750.

Thank you.

Sincerely,



Samuel M. Ferraro, Commissioner
Niagara County Department of Economic Development

SMF:kja

cc: Paul A. Dyster, Mayor, City of Niagara Falls
Joe Collura, Community Development Director, City of Niagara Falls
Samuel Fruscione, Council President, City of Niagara Falls
Richard A. Marasco, Niagara County Legislature, 1st District
Renaë Kimble, Niagara County Legislature, 2nd District
Kari A. Bullman, Niagara County Legislature, 3rd District
Dennis F. Virtuoso, Niagara County Legislature, 4th District
Vincent M. Sandonato, Niagara County Legislature, 5th District
Richard E. Updegrave, Chair, Niagara County Economic Development Committee

APPENDIX C

LETTER FROM CITY OF NIAGARA FALLS, NEW YORK,
DEPARTMENT OF LAW (June 28, 2011)



City of Niagara Falls, New York

P.O. Box 69, Niagara Falls, NY 14302-0069
DEPARTMENT OF LAW
Telephone: (716) 286-4409

June 28, 2011

Via e-mail and first class mail

David A. Hirsh, Esq.
Harkins Cunningham LLP
1700 K Street, N.W.
Suite 400
Washington, DC 20006-3804

Re: Canadian National Railway Company - Abandonment Exemption
Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

Dear Mr. Hirsh:

Your letter of May 19, 2011 has been referred to me for response.

The City's current land use plans shows this as railroad property and anticipates increased usage and, therefore, abandonment would cause dislocations. In addition, since this is one of only two railroad crossings between the United States and Canada between Detroit and Quebec, its abandonment would provide significant environmental and economic dislocation.

The abandonment of Rail service through the Corridor will jeopardize the long term viability of passenger rail service between New York and Ontario. Both Niagara Falls New York and Niagara Falls Ontario are proceeding with plans for expanded passenger rail service to their respective communities. The two international border-station stops servicing the cross-border passenger rail service are literally separated by the proposed track abandonment. Its abandonment will affect the Niagara Falls Bridge Commission in its function to build and maintain border infrastructure and customs and immigration facilities for the respective federal agencies, Amtrak and Via Rail service rely on this bridge and the track thereon to accommodate international passenger rail service known as the Maple Leaf. Future expansion of GO Transit to the USA would also rely on the existence and use of the track and international crossing being abandoned.

It is in the best interests of both countries and certainly New York and Ontario to pursue a policy that maintains the rail infrastructure in place for the advancement of passenger rail service in the region and across the Maple Leaf and Empire Corridor, which link together the two largest urban concentrations of passenger rail and transit in North America (NYC & Toronto).

Very truly yours,

CRAIG H. JOHNSON
Corporation Counsel

By: THOMAS M. O'DONNELL
Deputy Corporation Counsel

TMO/jt
cc: Thomas J. DeSantis, Sr. Planner



APPENDIX D

CORRESPONDENCE WITH
U.S. NATURAL RESOURCES CONSERVATION SERVICE

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Office of the Chief
Natural Resources Conservation Service
United States Department of Agriculture
1400 Independence Avenue, S.W., Room 5105-A
Washington, DC 20250

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara
County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

The abandonment of the Whirlpool Bridge would be consummated by terminating the lease that CN currently has with the Niagara Falls Bridge Commission (“NFBC”), which permits CN to operate its trains on the upper deck of the Whirlpool Bridge, between Niagara Falls, New York, and Niagara Falls, Ontario. The Rail Line is not presently used by CN or other freight carriers, so the abandonment would have no effect on rail freight traffic and would cause no diversion of freight traffic to motor carriers. Although Amtrak has no agreement with CN to do so, Amtrak presently uses the Rail Line to operate, in connection with VIA Rail, a daily roundtrip passenger train between New York City and Toronto. If Amtrak wishes to continue this service, it would need to enter into an agreement with the NFBC for use of the Whirlpool Bridge and with CN for purchase or use of the portion on the Rail Line that is owned by CN. CN would be willing to make such an agreement on reasonable terms.

In connection with the STB’s environmental review of this proposal, CN is required to consult with you in order to determine what effect the proposed abandonment would have on any prime agricultural land. I would appreciate it if you would let me know whether, in your judgment, there would be any effect on such land and, if so, describe that effect.

HARKINS CUNNINGHAM LLP

Attorneys at Law

Natural Resources Conservation Service

May 19, 2011

Page 2

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

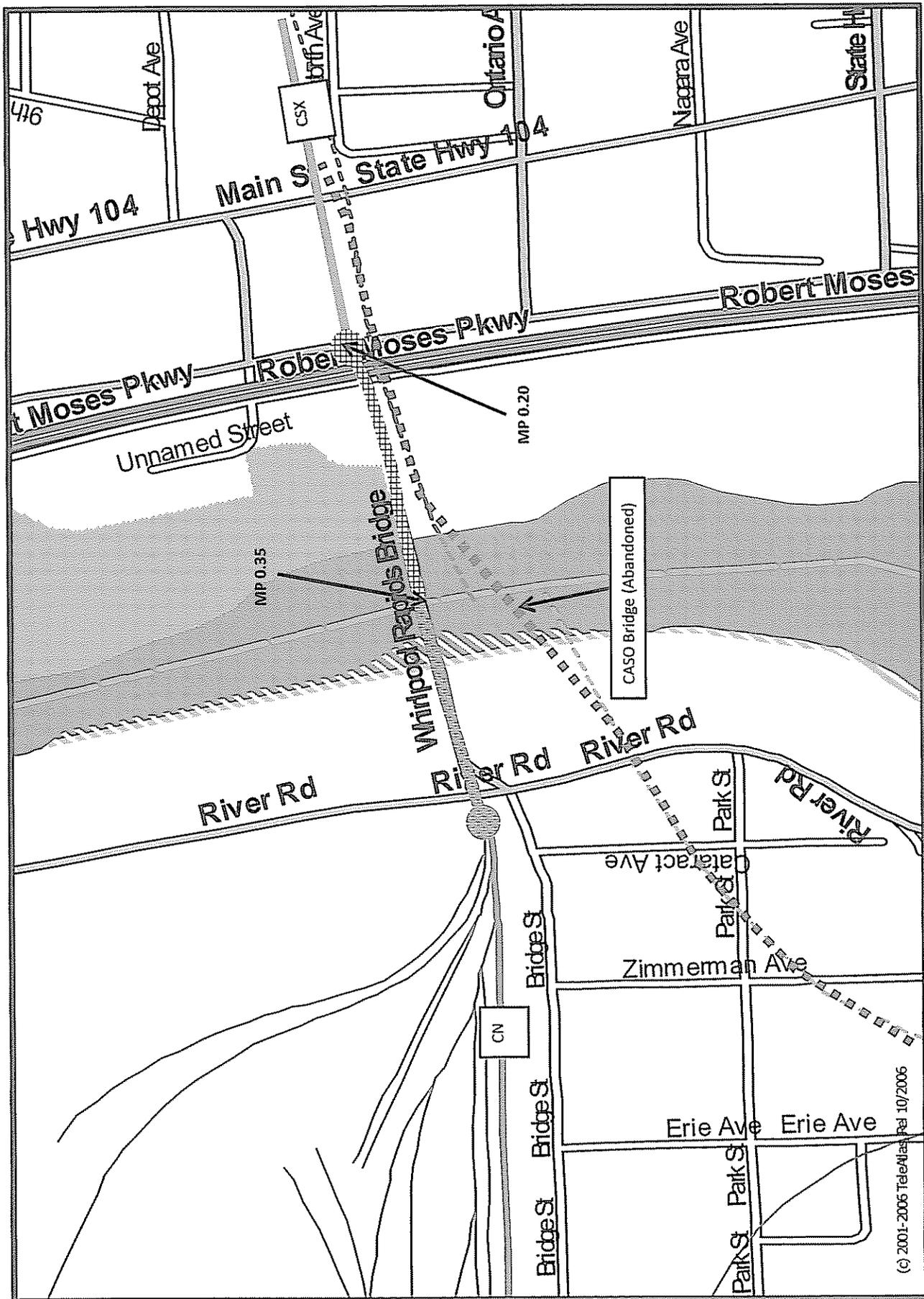
Very truly yours,

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

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Natural Resources Conservation Service
United States Department of Agriculture
441 Salina Street
The Galleries of Syracuse Suite 354
Syracuse, NY 13202

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

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HARKINS CUNNINGHAM LLP

Attorneys at Law

Natural Resources Conservation Service

May 19, 2011

Page 2

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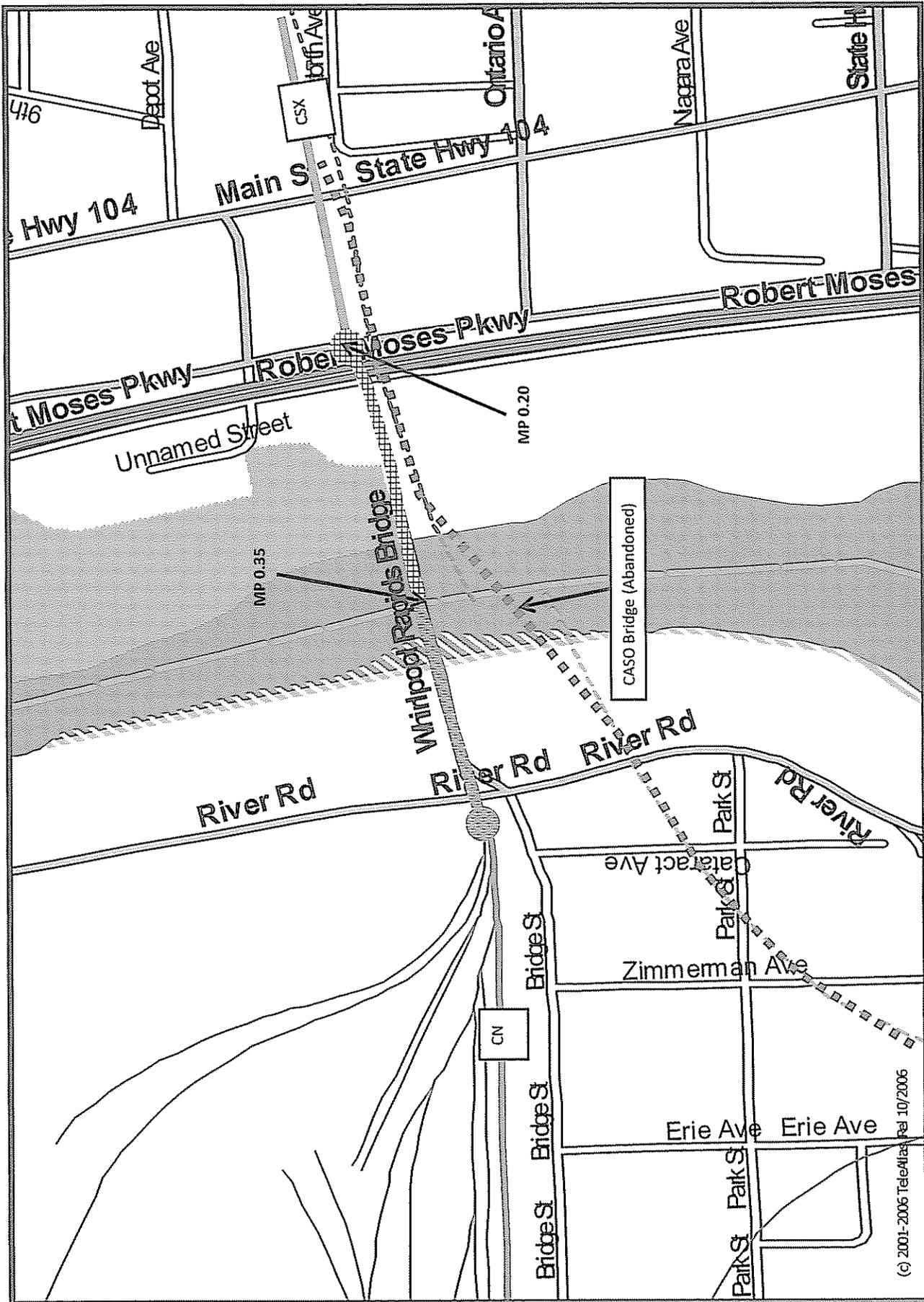
Very truly yours,

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

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



APPENDIX E

CORRESPONDENCE WITH NEW YORK
DIVISION OF COASTAL RESOURCES

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Division of Coastal Resources
New York Department of State
41 State Street
Albany, NY 12231

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

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In connection with the STB’s environmental review of this proposal, CN is required to consult with you in order to determine if the proposed abandonment would be consistent with any applicable coastal zone management plan. I would appreciate it if you would let me know whether, in your judgment, the proposed abandonment is subject to review in New York’s coastal zone management plan, and if so, whether that abandonment would be consistent with

HARKINS CUNNINGHAM LLP

Attorneys at Law

Division of Coastal Resources

May 19, 2011

Page 2

that plan. If you find that the proposal would be both subject to the coastal zone management plan and inconsistent with that plan, please describe any inconsistency.

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

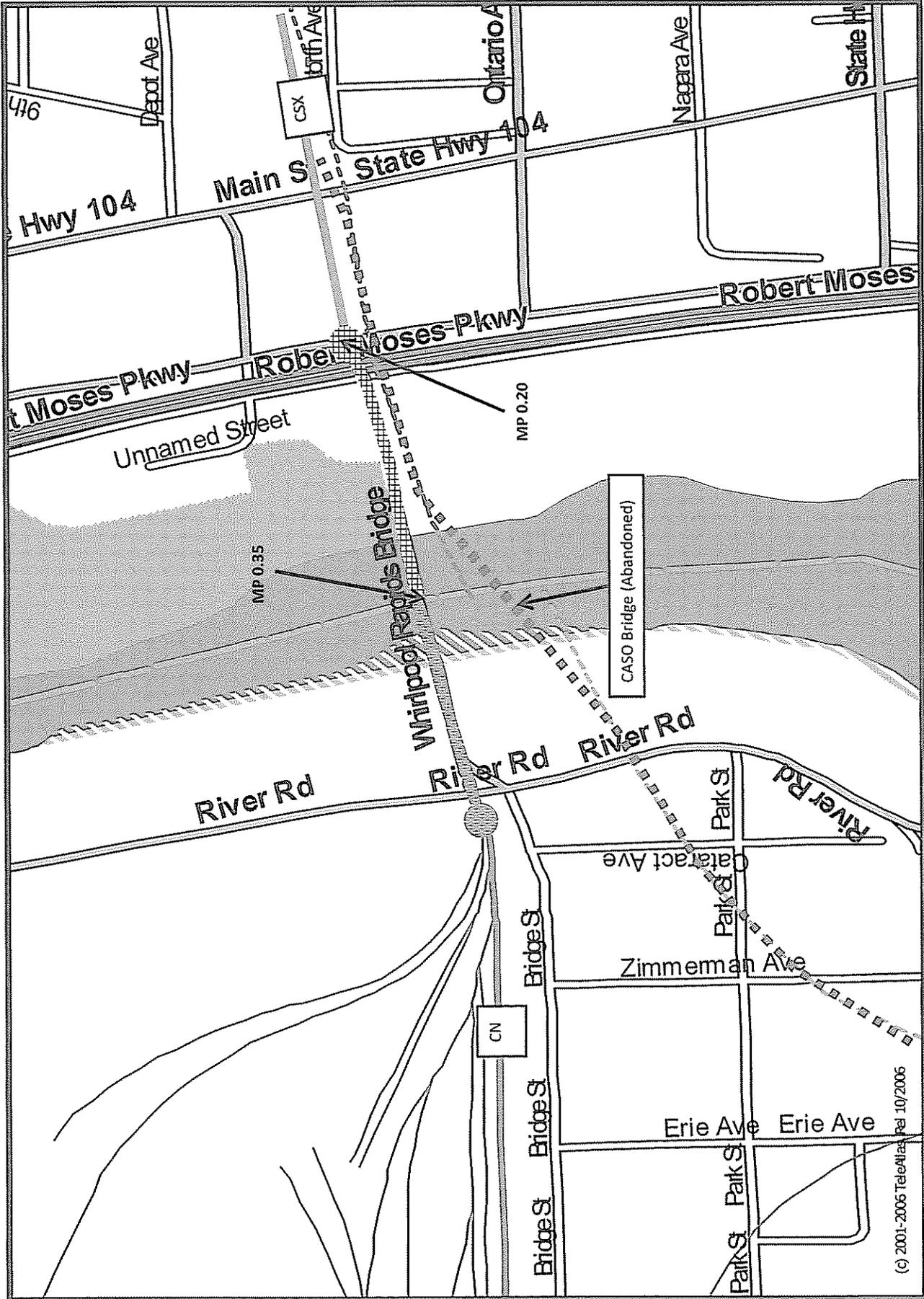
Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hirsh", written in a cursive style.

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



APPENDIX F

CORRESPONDENCE WITH U.S. FISH AND WILDLIFE SERVICE

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Northeast Regional Office
U.S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035-9587

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

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In connection with the STB’s environmental review of this proposal, CN is required to consult with you regarding the potential effect of the proposed abandonment on endangered or threatened species. I would appreciate it if you would let me know whether, in your judgment, the proposal would adversely affect any endangered or threatened species or areas designated as a critical habitat and, if so, describe such effects.

HARKINS CUNNINGHAM LLP

Attorneys at Law

U.S. Fish and Wildlife Service
May 19, 2011
Page 2

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

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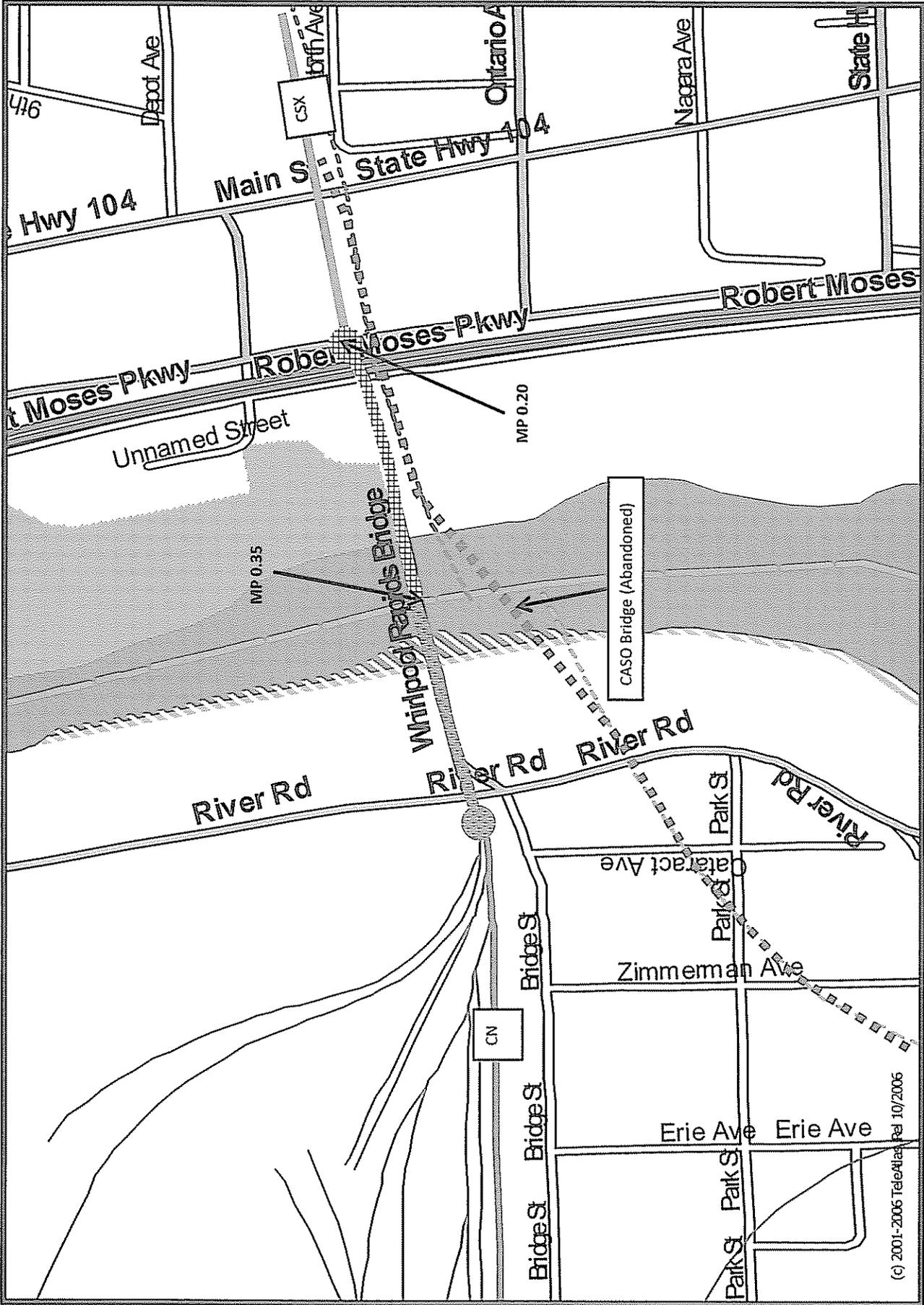
Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hirsh", written over a light blue horizontal line.

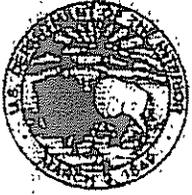
David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



(c) 2001-2006 TeleAtlas, Inc. 10/2006



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New York Field Office
3817 Luker Road
Cortland, NY 13045
Phone: (607) 753-9334 Fax: (607) 753-9699
<http://www.fws.gov/northeast/nyfo>



Project Number: 70337

To: David Hirsh

Date: Jun 6, 2011

Regarding: Canadian National Railway Company, Abandonment MP 0.35 to MP 0.20

Town/County: City of Niagara Falls / Niagara County

We have received your request for information regarding occurrences of Federally-listed threatened and endangered species within the vicinity of the above-referenced project/property. Due to increasing workload and reduction of staff, we are no longer able to reply to endangered species list requests in a timely manner. In an effort to streamline project reviews, we are shifting the majority of species list requests to our website at <http://www.fws.gov/northeast/nyfo/es/section7.htm>. Please go to our website and print the appropriate portions of our county list of endangered, threatened, proposed, and candidate species, and the official list request response. Step-by-step instructions are found on our website.

As a reminder, Section 9 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) prohibits unauthorized taking* of listed species and applies to Federal and non-Federal activities. Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service (Service), to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to "take" any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for "take," or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. If you have any questions or require further assistance regarding threatened or endangered species, please contact the Endangered Species Program at (607) 753-9334. Please refer to the above document control number in any future correspondence.

Endangered Species Biologist: Noelle Rayman

*Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.

APPENDIX G

USFWS WEBSITE PAGE ON ENDANGERED/THREATENED
SPECIES IN NIAGARA COUNTY

**FEDERALLY LISTED ENDANGERED AND THREATENED
SPECIES AND CANDIDATE SPECIES IN NEW YORK (By County)**

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

<u>COUNTY</u>	<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
MONROE			
	Bog turtle (Riga and Sweden Townships)	<i>Clemmys [=Glyptemys] muhlenbergii</i>	T
MONTGOMERY²			
NASSAU			
	Piping plover ⁴	<i>Charadrius melodus</i>	T
	Roseate tern	<i>Sterna dougallii dougallii</i>	E
	Sandplain gerardia	<i>Agalinis acuta</i>	E
	Seabeach amaranth	<i>Amaranthus pumilus</i>	T
	Small whorled pogonia (<i>Historic</i>)	<i>Isotria medeoloides</i>	T
NEW YORK²			
NIAGARA			
	Bald eagle	<i>Haliaeetus leucocephalus</i>	D
	Eastern prairie fringed orchid (<i>Historic</i>)	<i>Platanthera leucophaea</i>	T
ONEIDA			
	Bog turtle (Camden, Florence Townships)	<i>Clemmys [=Glyptemys] muhlenbergii</i>	T
	Indiana bat (S)	<i>Myotis sodalis</i>	E
ONONDAGA			
	American hart's-tongue fern	<i>Asplenium scolopendrium</i> var. <i>americana</i>	T
	Bald eagle	<i>Haliaeetus leucocephalus</i>	D
	Bog turtle	<i>Clemmys [=Glyptemys] muhlenbergii</i>	T
	Eastern massasauga	<i>Sistrurus catenatus catenatus</i>	C
	Eastern prairie fringed orchid (<i>Historic</i>)	<i>Platanthera leucophaea</i>	T
	Indiana bat (W/S)	<i>Myotis sodalis</i>	E
	Small whorled pogonia (<i>Historic</i>)	<i>Isotria medeoloides</i>	T

APPENDIX H

CORRESPONDENCE WITH NEW YORK DEPARTMENT OF ENVIRONMENTAL
CONSERVATION (REGION 9 AND WATER AND WATERSHED)

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Region 9
New York Department of Environmental Conservation
270 Michigan Avenue
Buffalo, NY 14203

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

The abandonment of the Whirlpool Bridge would be consummated by terminating the lease that CN currently has with the Niagara Falls Bridge Commission (“NFBC”), which permits CN to operate its trains on the upper deck of the Whirlpool Bridge, between Niagara Falls, New York, and Niagara Falls, Ontario. The Rail Line is not presently used by CN or other freight carriers, so the abandonment would have no effect on rail freight traffic and would cause no diversion of freight traffic to motor carriers. Although Amtrak has no agreement with CN to do so, Amtrak presently uses the Rail Line to operate, in connection with VIA Rail, a daily roundtrip passenger train between New York City and Toronto. If Amtrak wishes to continue this service, it would need to enter into an agreement with the NFBC for use of the Whirlpool Bridge and with CN for purchase or use of the portion on the Rail Line that is owned by CN. CN would be willing to make such an agreement on reasonable terms.

CN is required by the STB’s regulations to consult with you in preparing an environmental report for submission to the STB in connection with the environmental review of the proposed abandonment. In that connection, I would appreciate it if you would let me know whether, in your judgment, (1) there is any inconsistency between the proposed abandonment and applicable federal, state, or local water quality standards, and (2) any permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) and/or any National Pollutant Discharge

HARKINS CUNNINGHAM LLP

Attorneys at Law

New York Department of Environmental Conservation

May 19, 2011

Page 2

Elimination System ("NPDES") permits are required for the proposed abandonment. If you judge that there is any inconsistency between the proposed abandonment and applicable, federal, state, or local water quality standards, please describe the inconsistency.

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

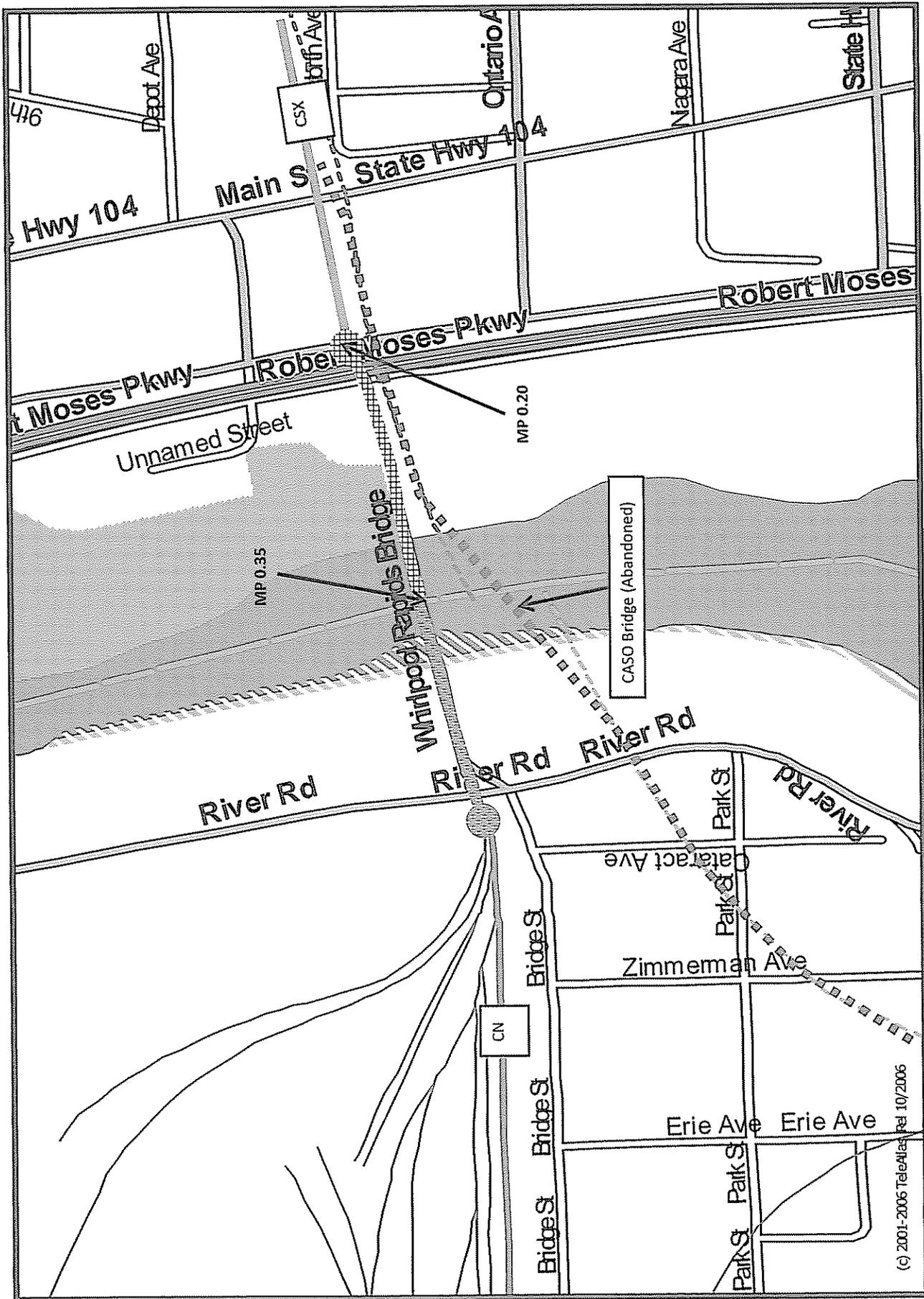
Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hirsh", written in a cursive style.

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



(c) 2001-2006 TeleAtlas. Rd 10/2006

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Mr. James Tierney, Assistant Commissioner
Water and Watershed
New York Department of Environmental Conservation
625 Broadway
Albany, NY 12223-1010

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara
County, New York (Docket No. AB-279 (Sub-No. 6X))

Dear Mr. Tierney:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

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CN is required by the STB’s regulations to consult with you in preparing an environmental report for submission to the STB in connection with the environmental review of the proposed abandonment. In that connection, I would appreciate it if you would let me know whether, in your judgment, (1) there is any inconsistency between the proposed abandonment and applicable federal, state, or local water quality standards, and (2) any permits under section

HARKINS CUNNINGHAM LLP

Attorneys at Law

New York Department of Environmental Conservation

May 19, 2011

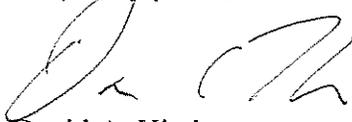
Page 2

402 of the Clean Water Act (33 U.S.C. § 1342) and/or any National Pollutant Discharge Elimination System ("NPDES") permits are required for the proposed abandonment. If you judge that there is any inconsistency between the proposed abandonment and applicable, federal, state, or local water quality standards, please describe the inconsistency.

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

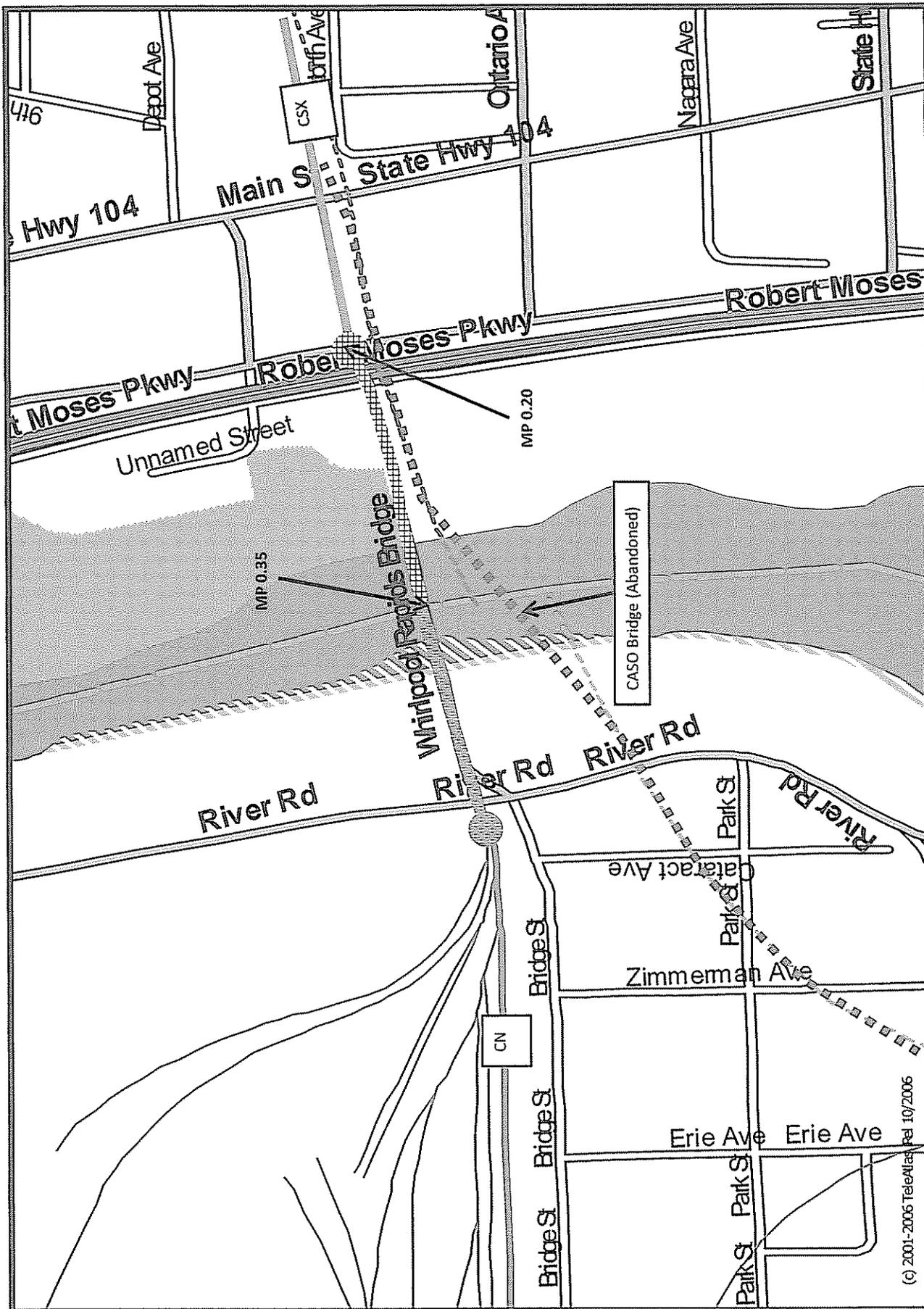
Very truly yours,

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

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



APPENDIX I

CORRESPONDENCE WITH U.S. ARMY CORPS OF ENGINEERS

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

The abandonment of the Whirlpool Bridge would be consummated by terminating the lease that CN currently has with the Niagara Falls Bridge Commission (“NFBC”), which permits CN to operate its trains on the upper deck of the Whirlpool Bridge, between Niagara Falls, New York, and Niagara Falls, Ontario. The Rail Line is not presently used by CN or other freight carriers, so the abandonment would have no effect on rail freight traffic and would cause no diversion of freight traffic to motor carriers. Although Amtrak has no agreement with CN to do so, Amtrak presently uses the Rail Line to operate, in connection with VIA Rail, a daily roundtrip passenger train between New York City and Toronto. If Amtrak wishes to continue this service, it would need to enter into an agreement with the NFBC for use of the Whirlpool Bridge and with CN for purchase or use of the portion on the Rail Line that is owned by CN. CN would be willing to make such an agreement on reasonable terms.

CN is required by the STB’s regulations to consult with you in preparing an environmental report that we must submit to the STB in connection with the environmental review of the proposed abandonment. I would therefore appreciate it if you would let me know whether, in your judgment, any permits for the proposed action are required under section 404 of the Clean Water Act (33 U.S.C. § 1344) and whether any designated wetlands or 100-year flood

HARKINS CUNNINGHAM LLP

Attorneys at Law

U.S. Army Corps of Engineers

May 19, 2011

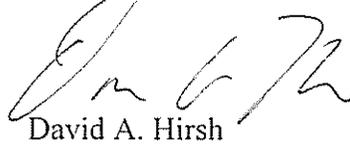
Page 2

plains would be affected. If designated wetland or 100-year flood plains would be affected, please describe the effects.

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

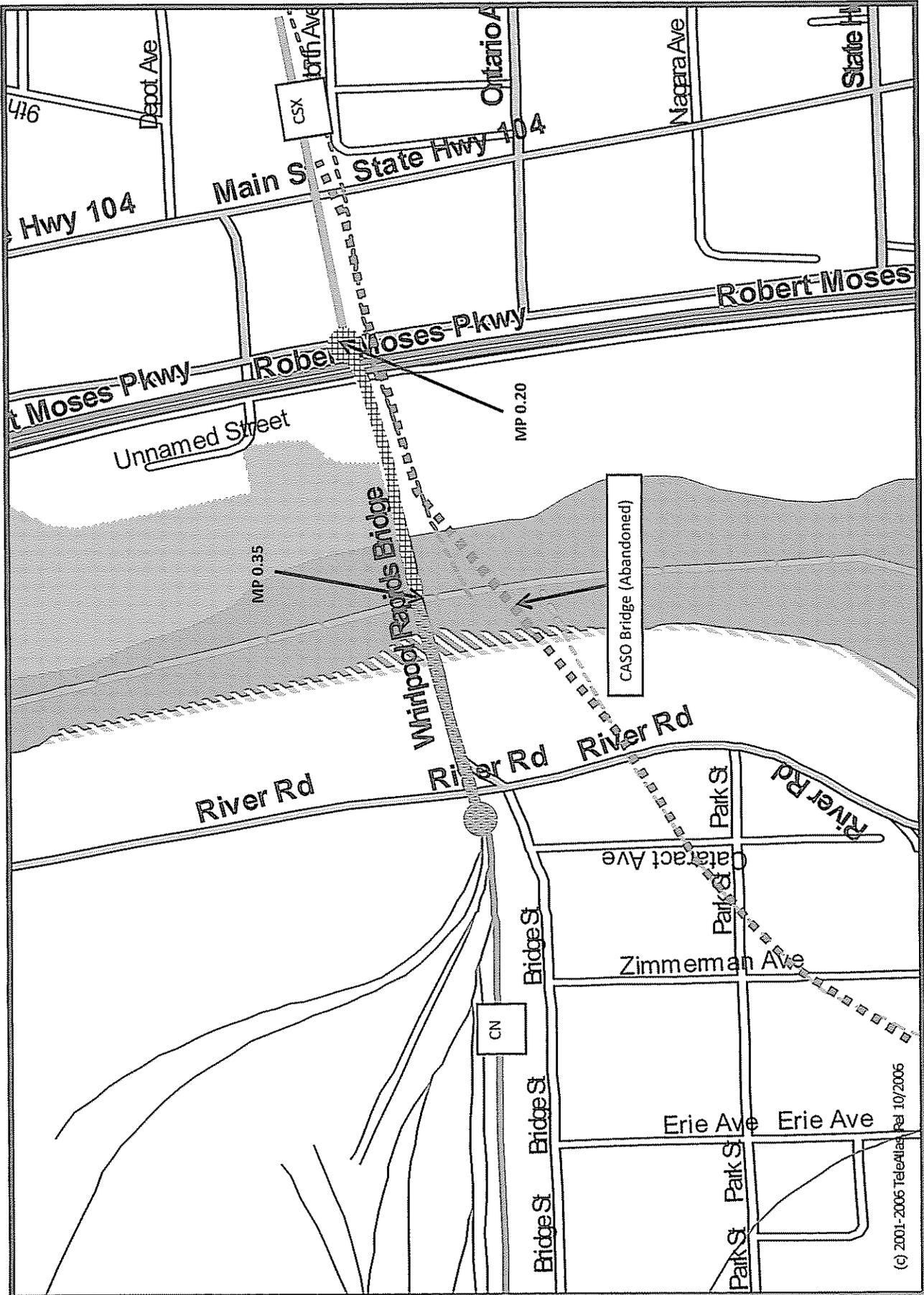
Very truly yours,



David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment





DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO

July 20, 2011

Regulatory Branch

SUBJECT: Determination of No Jurisdiction, Department of Army Application No. 2011-00899

Mr. David A. Hirsh
Counsel for Canadian National
Railway Company
Harkins Cunningham LLP
1700 K Street, Northwest, Suite 400
Washington, D.C. 20006-3804

Dear Mr. Hirsh:

This pertains to the proposal, made by the Canadian National Railway Company, to abandon, in place, about 0.15 mile of existing railroad tracks, over the Niagara River, located at the Whirlpool Bridge, in the City of Niagara Falls, Niagara County, New York.

The Corps of Engineers regulatory responsibilities under Section 404 of the Clean Water Act establishes jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands. In addition, under Section 10 of the Rivers and Harbors Act of 1899, the Corps of Engineers regulates all work done in, over, and/or under navigable waterways.

However, the information which accompanied your application indicates that the proposed work will not involve a discharge of dredged or fill material into "Waters of the United States". In addition, no work will be done in, over, and/or under the navigable waterway of the Niagara River. Therefore, I have determined that we have no jurisdiction over the proposal and a Department of the Army permit is not required.

Should you modify your proposal to entail a discharge of dredged or fill material into a "Water of the United States", or any work done in, over, and/or under navigable waterways, you must contact this office regarding Department of the Army permit requirements.

Although a permit is not required, we request that proper measures be taken to prevent unintentional discharges from entering the waterway and unintentional work from being done at the Niagara River.

Regulatory Branch

SUBJECT: Determination of No Jurisdiction, Department of Army Application No. 2011-00899

You are encouraged to contact the appropriate state and local governmental officials to insure that the proposed work complies with their requirements.

Questions pertaining to this matter should be directed to me at (716) 879-4307, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: mel.r.schroeder@usace.army.mil

Sincerely,

A handwritten signature in cursive script that reads "Mel Schroeder".

Mel Schroeder
Environmental Engineer

Enclosures

79045 79040 79035 79030 79025 79020 79015



Application by:
Canadian National
Railway Company
2011-00899
Sheet 1 of 1

876

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.

Suite 400

Washington, D.C. 20006-3804

Telephone 202.973.7600

Facsimile 202.973.7610

2011 MAY 24 PM 4:27

May 19, 2011

2011-00899

U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

The abandonment of the Whirlpool Bridge would be consummated by terminating the lease that CN currently has with the Niagara Falls Bridge Commission (“NFBC”), which permits CN to operate its trains on the upper deck of the Whirlpool Bridge, between Niagara Falls, New York, and Niagara Falls, Ontario. The Rail Line is not presently used by CN or other freight carriers, so the abandonment would have no effect on rail freight traffic and would cause no diversion of freight traffic to motor carriers. Although Amtrak has no agreement with CN to do so, Amtrak presently uses the Rail Line to operate, in connection with VIA Rail, a daily roundtrip passenger train between New York City and Toronto. If Amtrak wishes to continue this service, it would need to enter into an agreement with the NFBC for use of the Whirlpool Bridge and with CN for purchase or use of the portion on the Rail Line that is owned by CN. CN would be willing to make such an agreement on reasonable terms.

CN is required by the STB’s regulations to consult with you in preparing an environmental report that we must submit to the STB in connection with the environmental review of the proposed abandonment. I would therefore appreciate it if you would let me know whether, in your judgment, any permits for the proposed action are required under section 404 of the Clean Water Act (33 U.S.C. § 1344) and whether any designated wetlands or 100-year flood

HARKINS CUNNINGHAM LLP

Attorneys at Law

U.S. Army Corps of Engineers

May 19, 2011

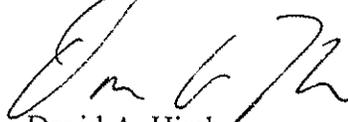
Page 2

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Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

Very truly yours,

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

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment

APPENDIX J

CORRESPONDENCE WITH U.S. ENVIRONMENTAL PROTECTION AGENCY

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Region 2 Office
U.S. Environmental Protection Agency
Jacob K. Javits Federal Building
290 Broadway
New York, NY 10007

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

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CN is required by the STB’s regulations to consult with you in preparing an environmental report that we must submit to the STB in connection with the environmental review of the proposed abandonment. In particular, I would therefore appreciate it if you would let me know whether, in your judgment, any permits under section 402 of the Clean Water Act

HARKINS CUNNINGHAM LLP

Attorneys at Law

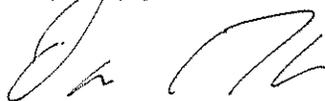
U.S. Environmental Protection Agency
May 19, 2011
Page 2

(33 U.S.C. § 1342) and/or any National Pollutant Discharge Elimination System ("NPDES") permits are required for the proposed abandonment.

Because of the nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. If possible, please reply to me at the above address by June 20, 2011, so that we may include your assessment and any other comments you may have in the environmental report which we expect to file with the STB shortly after that date.

Thank you for your assistance.

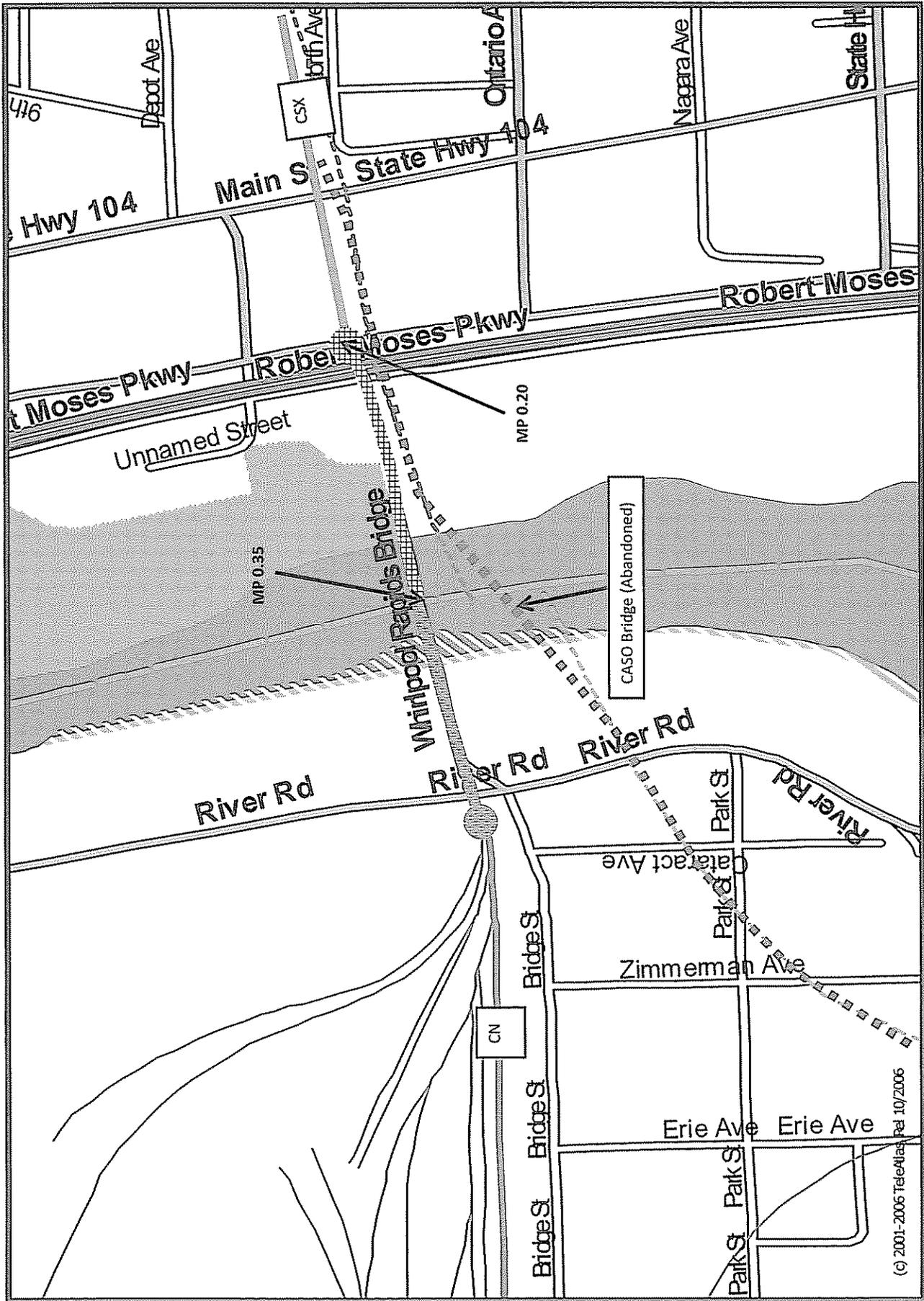
Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Hirsh', written over a horizontal line.

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment



APPENDIX K

COLOR PHOTOGRAPHS OF RAILROAD STRUCTURES AND IMMEDIATELY
SURROUNDING AREA



Whirlpool Bridge, view from U.S. side, looking toward the northwest



Whirlpool Bridge, view from Canadian side, toward the northeast



Upper deck of Whirlpool Bridge, looking westward (toward Canadian side)



View eastward from upper deck of Whirlpool Bridge



View eastward from embankment between Whirlpool Bridge and Whirlpool Street



Westward view of Line, across Whirlpool Street toward Whirlpool Bridge



Railroad overpass crossing Whirlpool Street (view looking north)

APPENDIX L

CORRESPONDENCE WITH NEW YORK STATE
HISTORIC PRESERVATION OFFICER

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

May 19, 2011

Division of Historic Preservation
New York State Parks, Recreation & Historic Preservation
Peebles Island P.O. 189
Waterford, NY 12188-0189

Re: Canadian National Railway Company – Abandonment Exemption – In Niagara
County, New York (Docket No. AB-279 (Sub-No. 6X))

To Whom It May Concern:

Canadian National Railway Company (“CN”) anticipates that it will in the near future seek authority from the Surface Transportation Board (“STB”) for the abandonment of approximately 0.15 miles of rail line in Niagara County, New York, from Milepost 0.35 at the international border in the middle of the Whirlpool Bridge to the end of CN’s track ownership at Milepost 0.20, in Niagara Falls, New York (“Rail Line”). For your reference, we have attached a map identifying the Rail Line proposed for abandonment.

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CN consulted your office in 2006 regarding this proposed abandonment, and we received the attached letter informing us of your office’s opinion that the proposed abandonment would “have No Adverse Effect upon cultural resources in and eligible for inclusion in the State or National Register of Historic Places.”

HARKINS CUNNINGHAM LLP

Attorneys at Law

Division of Historic Preservation

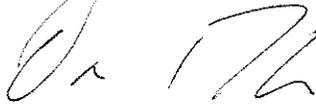
May 19, 2011

Page 2

As CN's plans for abandonment of this facility remain identical to the plans described to you in 2006, I would appreciate it if you could confirm that your office's opinion remains unchanged, so that we may report that fact in the Historic Report that we are required to submit to the STB in connection with this proposal.

Thank you for your assistance.

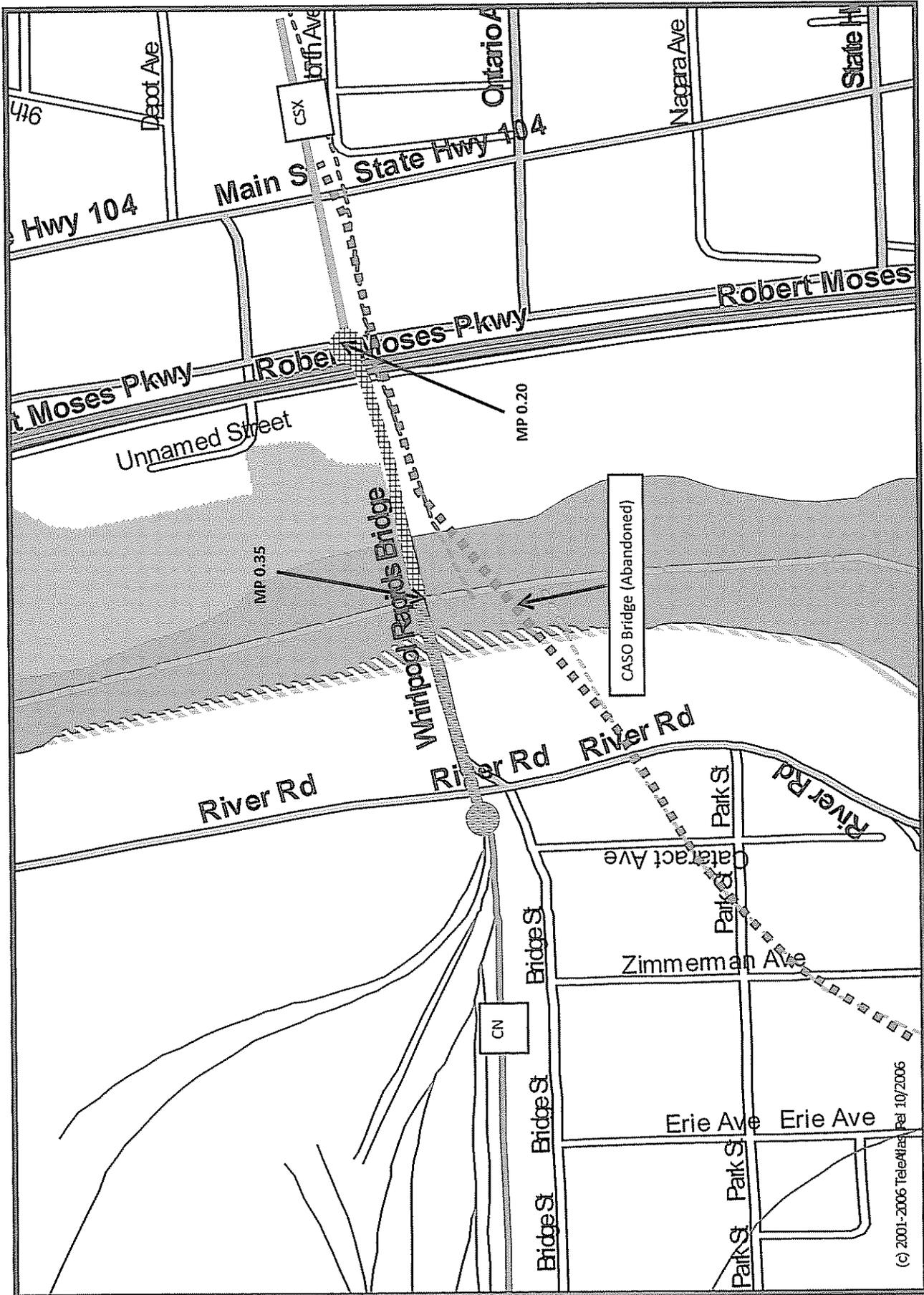
Very truly yours,

A handwritten signature in black ink, appearing to read "D. Hirsh", written over a light blue horizontal line.

David A. Hirsh

Counsel for Canadian National
Railway Company

Attachment





New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

February 09, 2007

Thomas J. Healey
Canadian National Railway
17641 S. Ashland Avenue
Homewood, Illinois 60430-1339

Re: STB
NIAGARA FALLS, Niagara County
07PR00350

Dear Mr. Healey:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). SHPO has reviewed the materials you submitted in accordance with Section 106 of the National Historic Preservation Act of 1966 and relevant implementing regulations.

The proposed work includes the discontinuance of rail operation on .1 mile of the Whirlpool Rapids Bridge. The bridge meets eligibility criteria for listing on the National Register.

Based upon this review, it is the SHPO's opinion that this action will have No Adverse Effect upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places with the following conditions:

SHPO appreciates the opportunity to comment on this project. Should you have questions about this review, please contact me at 518-237-8643 ext 3284 or at marie.sarchiapone@oprhp.state.ny.us . Thank you.

Sincerely,

Marie Sarchiapone
Historic Sites Restoration Coordinator

Cc: MAS chron file



**New York State Office of Parks,
Recreation and Historic Preservation**

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

June 20, 2011

David A. Hirsh
Harkins Cunningham LLP
1700 K Street, N.W. Suite 400
Washington, D.C. 20006-3804

Re: STB
NIAGARA FALLS, Niagara County
07PR00350

Dear Mr. Hirsh:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). SHPO has reviewed the materials you submitted in accordance with Section 106 of the National Historic Preservation Act of 1966 and relevant implementing regulations.

The proposed work includes the discontinuance of rail operation on .1 mile of the Whirlpool Rapids Bridge. The bridge meets eligibility criteria for listing on the National Register.

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Sincerely,

Marie Sarchiapone
Historic Sites Restoration Coordinator

Cc: MAS chron file

CERTIFICATE OF SERVICE

This is to certify that I have, this 2d day of May, 2012, served the preceding Environmental and Historic Report on the following by mailing each a copy, first-class postage prepaid:

Assistant State Clearinghouse Administrator
New York State Clearinghouse
NYS Division of the Budget
State Capital
Albany, NY 12224

Historic Preservation Field Services Bureau
New York State Office of Parks, Recreation and Historic Preservation
Peebles Island P.O. Box 189
Waterford, NY 12188-0189

Mr. James Tierney, Assistant Commissioner for Water Resources
Water and Watershed
New York Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1010

Region 9
New York Department of Environmental Conservation
270 Michigan Avenue
Buffalo, NY 14203

Division of Coastal Resources
New York Department of State
41 State Street
Albany, NY 12231

Jeffrey M. Glatz
County Manager
Niagara County
Philo J. Brooks County Office Building, 2nd Floor
59 Park Avenue
Lockport, NY 14094

The Honorable William L. Ross, Chairman
Niagara County Legislature
Niagara County Courthouse, First Floor
175 Hawley Street
Lockport, NY 14094

Thomas J. DeSantis, Senior Planner
Office of Economic Development
City of Niagara Falls
City Hall – Room 17
745 Main Street
Niagara Falls, NY 14302-0069

Susan K. Sherwood
Wendel
140 John James Audubon Parkway, Suite 201
Buffalo, NY 14228

Region 2 Office
U.S. Environmental Protection Agency
290 Broadway
New York, NY 10007

Northeast Regional Office
U.S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035-9587

U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207

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

Dennis Reidenbach, Regional Director
National Park Service
c/o U.S. Custom House, Fifth Floor
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

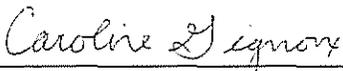
Office of the Chief
Natural Resources Conservation Service
United States Department of Agriculture
1400 Independence Avenue, S.W., Room 5105-A
Washington, DC 20250

Natural Resources Conservation Service
United States Department of Agriculture
The Galleries of Syracuse
441 South Salina Street, Suite 354
Syracuse, NY 13202-2450

Communications and Outreach Branch, NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Niagara County Department of Economic Development
Vantage Center, Suite One
6311 Inducon Corporate Drive
Sanborn, NY 14132

Jared I. Roberts, Esquire
National Railroad Passenger Corporation
60 Massachusetts Avenue, N.E.
Washington, DC 20002



Caroline M. Gignoux