

210798

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

Abandonment of a line of Railroad  
Between BNSF M.P. 52.00 near Souris  
Bottineau County, North Dakota and  
M.P. 67.50 near Westhope, Bottineau County,  
North Dakota

NOTICE OF EXEMPTION  
Docket No. AB-6  
(Sub-No. 416X)



TO THE SURFACE TRANSPORTATION BOARD:

The Burlington Northern and Santa Fe Railway (BNSF) hereby notifies the Board that it intends to abandon its line of railroad between BNSF M.P. 52.00 near Souris, in Bottineau County, North Dakota and M.P. 67.50 near Westhope, in Bottineau County, North Dakota, a total distance of 15.50 miles, pursuant to the Board's Exemption of Out of Service Rail Lines, 49 C.F.R. § 1152.50 and in support of the Notice, respectfully provides the following information:

- I. Proposed consummation date for the abandonment.

June 29, 2004

- II. Certification required in 49 C.F.R. § 1152.50(b)

The attached Certification of Michael Smith certifies that no formal complaint filed by a user of rail service on this line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the last two years. The attached Verification of Richard A. Batie certifies that no local

ENTERED  
Office of Proceedings

MAY 05 2004

Part of  
Public Record

**FILED**

MAY 05 2004

**TRANSPORTATION BOARD**

**FILE RECEIVED**

MAY 05 2004

1  
**SURFACE  
TRANSPORTATION BOARD**

traffic has moved over this line for at least two (2) years and any overhead traffic on the line can be rerouted over other lines.

III. Information required by C.F.R. § 1152.22(a)(1-4), (7), (8) and (e)(4).

(a) General

- (1) Exact name of Applicant.

The Burlington Northern and Santa Fe Railway  
Company

- (2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

Applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

- (3) Relief sought.

BNSF seeks an exemption from Surface Transportation Board approval authorizing the abandonment and discontinuance of service of Souris, North Dakota to Westhope, North Dakota line specified above.

- (4) Detailed map of the subject line.

See Exhibit A.

- (5) Name, title and address of representative of applicant to whom correspondence should be sent.

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

- (6) List of all United State Postal Service ZIP Codes that the line traverses.

The Souris, North Dakota to Westhope, North Dakota line traverses United States Postal Service Zip codes 58783 and 58793.

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

The right of way may be suitable for use for other public purposes such as a trail. On part of the properties involved, title considerations may affect the conveyance of the land for use other than railroad purposes. Based on information in our possession, the line does contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

IV. Level of protection.

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

- V. Certification that the notice requirements of §§ 1152.50(d)(1) and 1105.11 have been met is attached.

Respectfully submitted,



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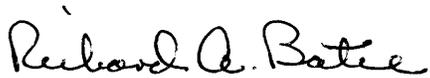
Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: May 4, 2004

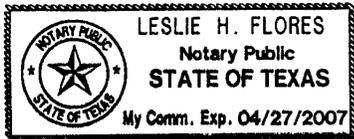
**VERIFICATION**

STATE OF TEXAS            )  
  )ss  
COUNTY OF TARRANT    )

Richard A. Batie makes oath and says he is Manager, Shortline Development in the Network Development department of The Burlington Northern and Santa Fe Railway Company; that he has been authorized by the Applicant to verify and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-6 (Sub-No. 416X ); that he affirms that the line has had no local traffic in the prior two (2) years and that there is no overhead traffic to be rerouted; that he has carefully examined all of the statements in the Notice; that he has knowledge of the facts and matters relied upon in the Notice; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.

  
Richard A. Batie  
Manager, Shortline Development

Subscribed and sworn to before me the 30<sup>th</sup> day of April, 2004.



  
Notary Public

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY  
NO. AB-6 (Sub No. 416X )

**CERTIFICATION**

I hereby certify that (1) no formal complaint filed by a user of rail service on this line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is pending with the Board or any U.S. District Court or has been decided in favor of a complainant within the last two (2) years; (2) service of notice upon the U.S. Department of the Interior, National Park Service, Recreation Park Service, Land Resource Division; the Department of Defense, Military Traffic Management Command; the North Dakota Public Service Commission; the North Dakota Department of Transportation; and the Chief Forest Service, U.S. Department of Agriculture was accomplished by mailing a copy thereof on April 19, 2004; (3) the environmental and historic reports were serviced upon the agencies identified in 49 C.F.R. § 1105.7(b) and the State Historic Preservation Offices on April 12, 2004; (4) service of notice upon the State Clearinghouses was accomplished by mailing a copy thereof on April 19, 2004; and (5) the publication requirements of 49 C.F.R. § 1105.12 have been complied with, to wit: publication of notice was accomplished on April 27, 2004 in the Bottineau Courant, affidavit of publication is attached.



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

Date: May 4, 2004

# Affidavit of Publication

**NOTICE OF INTENT TO ABANDON**

The Burlington Northern and Santa Fe Railway Company gives notice that on or after May 3, 2004, it intends to file with the Surface Transportation Board, Washington, D.C. 20423, an abandonment notice of exemption under 49 CFR 1152 Subpart F -- Exempt Abandonments permitting the abandonment of or discontinuance of service of 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota, which traverses through United States Postal ZIP Codes 58783 and 58793 in Bottineau County, North Dakota. The proceeding will be docketed as No. AB-6 (Sub No. 416X). Section of Environmental Analyses (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington, D.C. 20423-0001 or by calling that office at 202-565-1538.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative Michael Smith, Freeborn & Peters, 311 S. Wacker Drive, Suite 3000, Chicago, Illinois 60606-6677 - telephone (312) 360-6724.

4-27



STATE OF NORTH DAKOTA )  
 County of Bottineau ) ss

I, Wanda Hawseth being first duly sworn, on my oath, say that I am the bookkeeper of The Bottineau Courant, a weekly newspaper of general circulation, published in the City of Bottineau, in said county and state, and that the advertisement headed:

Abandon Railway

a printed copy of which is here annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement,

for one consecutive week 4-27-04 to wit:

|                       |            |   |
|-----------------------|------------|---|
| Straight Matter Lines | <u>53</u>  | _____ , 20 _____                          |
| First Time Line Rate  | <u>.63</u> | <u>\$33.39</u> <u>4-27</u> , 20 <u>04</u> |
| Subsequent Line Rates | _____      | _____ , 20 _____                          |
| Tabulated Lines       | _____      | _____ , 20 _____                          |
| First Time Line Rate  | _____      | _____ , 20 _____                          |
| Subsequent Line Rates | _____      | _____ , 20 _____                          |
| Column Inches         | _____      | _____ , 20 _____                          |
| First Time Inch Rate  | _____      | _____ , 20 _____                          |
| Subsequent Inch Rates | _____      | _____ , 20 _____                          |

Notary Fee \_\_\_\_\_ Total Cost of Legal, \$ 33.39

Wanda Hawseth

Subscribed and sworn to me before this 28 day of April

A.D. 20 04

(Seal) Denise Hagen

Notary Public, State of North Dakota

My Commission expires 11-22, 20 08

BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company Notice of Exemption  
to Abandon Its Line of Railroad  
Between M.P. 52.00 near Souris, Bottineau  
County, North Dakota and M.P. 67.50  
Near Westhope, Bottineau County, North Dakota

Docket No. AB-6  
(Sub No. 416X)

**ENVIRONMENTAL REPORT**

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between M.P. 52.00 near Souris, Bottineau County, North Dakota and M.P. 67.50 near Westhope, Bottineau County, North Dakota, total distance of 15.50 miles.

**(1) Proposed action and Alternatives:** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon and discontinue service of the line. A map of the line is attached as Exhibit A.

**(2) Transportation system:** Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no effect on existing transportation systems or patterns as the line is out of service.

**(3) Land Use:**

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

BNSF believes that the proposed should be consistent with local or regional land use plans. The Bottineau County Board of Commissioners were notified by letter dated December 10, 2003. See Exhibit B, letter to the Bottineau County Board of Commissioners. As of the date of this report, the Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

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

Prime farmlands are in the project area but the abandonment activity is expected to have minimal impact on the prime farmland. See Exhibit C, letter from the Natural Resources Conservation Service.

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

N/A

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

The right of way may be suitable for alternative public use. The Bottineau County Board of Commissioners were notified by letter dated

December 10, 2003. See Exhibit B, letter to the Bottineau County Board of Commissioners. As of the date of this report, the Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

**(4) Energy:**

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

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

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

This abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as the line is out of service.

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

This abandonment will not result in an increase or decrease in overall energy efficiency as the line is out of service.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of traffic because the line is out of service.

**(5) Air:**

(i) If the proposed action will result in either:

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

No.

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

No.

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

The action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment as the line is out of service.

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

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

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

(C) An average increase in truck traffic or more than 10-% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

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

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

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

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

N/A

(ii) An increase to a noise level of 76 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

**(7) Safety:**

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

This abandonment should have no adverse effect on health or public safety. There are 16 public crossings and 11 private crossings.

During salvage operations on the line, if any may be required, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety

practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

Abandonment will not result in transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

BNSF is not aware of any evidence of known hazardous waste site or sites where there have been known hazardous materials spills on the right of way.

**(8) Biological resources:**

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

BNSF believes the proposed abandonment will have no adverse impacts to fish and wildlife resources. The U.S. Fish and Wildlife Service does not object to the project as proposed provided that their recommendations are incorporated into the project plan. See Exhibit D, letter from the U.S. Fish and Wildlife Service.

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

The Bureau of Land Management advises it does not have any wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area. See Exhibit E, letter from Bureau of Land Management. The project as defined does not affect state park lands that the North Dakota Parks and Recreation Department manages or Land and Water Conservation Fund recreation projects that the Department

coordinates. See Exhibit F, letter from the North Dakota Parks and Recreation Department. Approximately 1.8 miles of the line crosses J. Clark Salyer National Wildlife Refuge (NWR). See Exhibit D, letter from the U.S. Fish and Wildlife Service.

**(9) Water:**

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

BNSF believes that the proposed exemption will be consistent with applicable Federal, State or local water quality standards. The North Dakota Department of Health was notified by letter dated December 10, 2003. See Exhibit G. As of the date of this report, the North Dakota Department of Health has not responded. BNSF will provide the Board copies of any response it may receive.

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

Permits under 404 of the Clean Water Act are not required for the proposed abandonment. See Exhibit H, letter from the Army Corps of Engineers. BNSF believes the proposed exemption will not affect the 100-year floodplain. Bottineau County Emergency Management was notified by letter dated December 10, 2003. See Exhibit I, letter to the Bottineau County Emergency Management. As of the date of this report, the Bottineau County Emergency Management has not responded. BNSF will provide the Board copies of any response it may receive.

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

Based on previous experience with out of service abandonments, BNSF believes that permits under Section 402 of the Clean Water Act are not required for the proposed abandonment. The North Dakota Department of Health was notified by letter dated December 10, 2003. See Exhibit G. As of the date of this report, the North Dakota Department of Health has not responded. BNSF will provide the Board copies of any response it may receive.

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

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

Respectfully Submitted,



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

Date: May 4, 2004

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

The Burlington Northern and Santa Fe Railway Company ("BNSF") by and through its authorized representative, Michael Smith, certifies that on April 12, 2004, BNSF sent copies of the foregoing Environmental and Historical Reports by first class mail to the following agencies:

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

Merlan Paarveruud  
State Historic Preservation Officer  
State Historical Society of North Dakota  
612 East Boulevard Avenue  
Bismarck, ND 58505-0830

Linda Gisvold  
Bureau of Land Management  
North Dakota Field Office  
2933 3rd Avenue West  
Dickinson, North Dakota 58601-2619

Jesse Hanson  
Planning and Natural Resources Division  
North Dakota Parks & Recreation  
Department  
1600 E. Century Avenue, Suite 3  
Bismarck, ND 58503-0649

Jeffery Towner  
Field Supervisor  
U. S. Fish and Wildlife Service  
North Dakota Field Office  
3425 Miriam Avenue  
Bismarck, North Dakota 58501-7926

Verdean Kveum  
County Commissioner, Chair  
Bottineau County Board of Commissioners  
314 West 5th Street W  
County Courthouse  
Bottineau, ND 58318-1204

North Dakota Game and Fish Department  
100 N. Bismarck Expressway  
Bismarck, ND 58501-5095

Bottineau County Emergency Management  
314 5th Street W  
Bottineau, ND 58318-1204

Cynthia Roth  
District Conservationist  
Natural Resources Conservation Service  
Bottineau Service Center  
117 5th Street W  
Bottineau, ND 58318-1228

James Winters  
Regulatory Program Manager  
U.S. Army Corps of Engineers  
Bismarck Regulatory Office  
1513 South 12<sup>th</sup> Street  
Bismarck, ND 58504

North Dakota Department of Health  
Water Quality Division  
1200 Missouri Ave.  
P.O. Box 5520  
Bismarck, ND 58506-5520

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

U.S. Environmental Protection Agency  
Region 8  
999-18th Street, Suite 300  
Denver, CO 80202-2466

Thomas E. Coleman  
Acting State Conservationist  
Natural Resources Conservation Service  
220 East Rosser Avenue  
P.O. Box 1458  
Bismarck, ND 58502-1458

U.S. Fish & Wildlife Service  
Region 6  
Regional Director  
P.O. Box 25486  
Denver, CO 80025

North Dakota Dept. of Transportation  
608 East Boulevard Ave.  
Bismarck, ND 58505-0700

North Dakota Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

Richard Snay  
National Geodetic Survey  
NOAA - SSMC3  
1315 East-West Highway  
Silver Spring, MD 20910

The required cover letters (pursuant to 49 C.F.R. 1105.11) are attached hereto. BNSF has consulted with all appropriate agencies in preparing the reports.

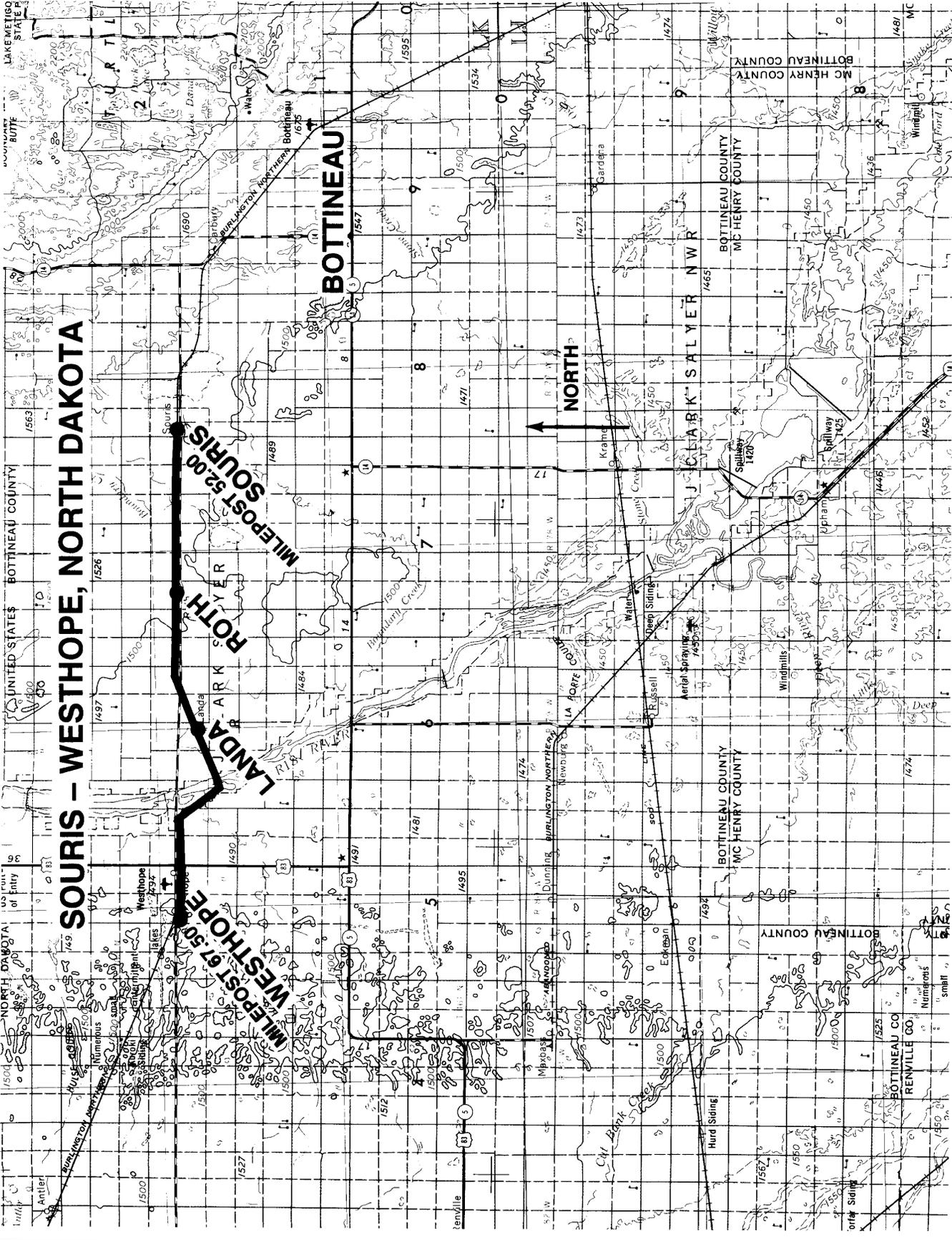


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Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: May 4, 2004

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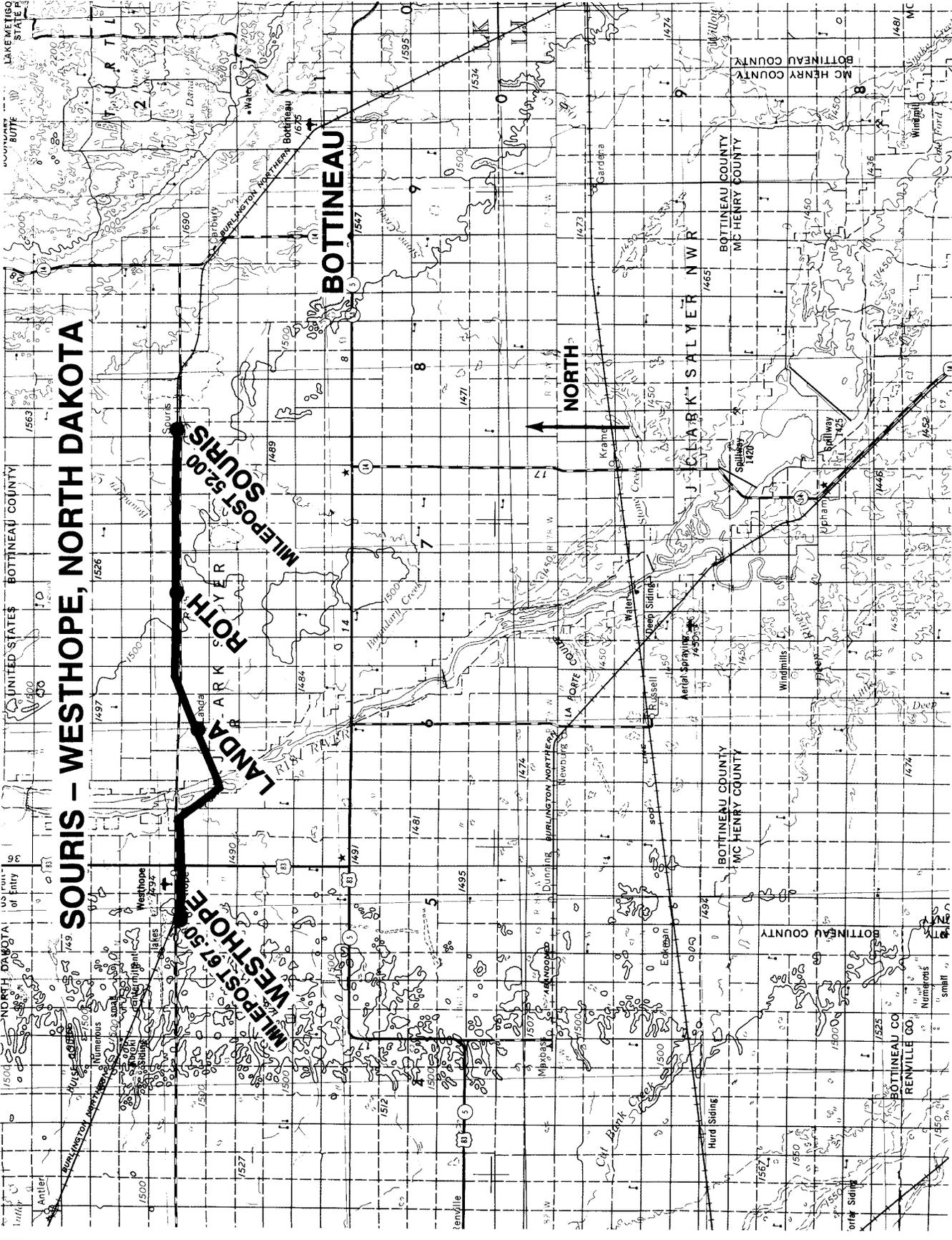


# SOURIS - WESTHOPE, NORTH DAKOTA

LANDARK SALSLEYER  
MILEPOST 67.50 WESTHOPE

MILEPOST 32.00 SOURSIS

NORTH



# SOURIS - WESTHOPE, NORTH DAKOTA

LANDARK SALSLEYER  
MILEPOST 67.50 WESTHOPE

MILEPOST 32.00 SOURSIS

NORTH

**B**

Freeborn & Peters LLP

December 10, 2003

Verdean Kveum  
County Commissioner, Chair  
Bottineau County Board of Commissioners  
314 West 5th Street W  
County Courthouse  
Bottineau, ND 58318-1204

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Souris, North Dakota to Westhope, North Dakota***

*Attorneys at Law*

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

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

Dear Mr. Kveum:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota.

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

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

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

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

*Chicago*

*Springfield*

C



United States  
Department of  
Agriculture

Natural Resources  
Conservation  
Service

Bottineau Field Office  
117 West 5<sup>th</sup> St.  
Bottineau, ND 58318

January 8, 2004

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

RE: The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope, North Dakota

Dear Mr. Nettles:

I have reviewed the information you sent regarding proposed abandonment of 15.5 miles of railroad line between M.P. 52.00 in Souris and M.P. 67.50 in Westhope. Your letter indicated that the old roadbed will be left intact. An AD 1006 Farmland Conversion Impact Rating, will not need to be filled out regarding impact on prime farmland, unless there will be disturbance outside the Railroad Right of Way. If there will be disturbance outside the Railroad Right of Way, let me know where and we will process the AD 1006. Prime farmlands are in the project area but area expected to have minimal impact.

Thank you for the opportunity to review and comment on this project. Should you require additional information or discussion, please contact me at 701-228-3611 Ext. 3.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia Roth".

Cynthia Roth  
District Conservationist

The Natural Resources Conservation Service works hand in hand with the American people to conserve natural resources on private lands.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation, or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

D



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Ecological Services  
3425 Miriam Avenue  
Bismarck, North Dakota 58501



DEC 17 2003

Mr. Brian Nettles  
Freeborn and Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606

RE: BNSF Railroad Abandonment, Souris to  
Westhope, North Dakota

Dear Mr. Nettles:

In response to your December 10, 2003, letter, the U.S. Fish and Wildlife Service (Service) has reviewed the plan submitted by Burlington Northern Sante Fe Railway Company to abandon 15.5 miles of railroad line between M.P. 52.00 in Souris, North Dakota, and M.P. 67.5 in Westhope, North Dakota. Approximately 1.8 miles of the line crosses J. Clark Salyer National Wildlife Refuge (NWR). We request that the track material such as the rails and ties be removed from this portion of the line. T. 163 N., R. 79 W., Section 31 and T. 162 N., R. 79 W., Sections 5 and 6 will be affected. I have included a map depicting refuge boundaries. If further guidance is needed in determining the refuge boundary in Section 5, please contact Gary Erickson of J. Clark Salyer NWR at 701-768-2548.

The Service does not object to the project as proposed provided our recommendations are incorporated into the project plan. Thank you for the opportunity to provide comments. If further information is required, please contact Ms. Kelly McDermott of my staff at 701-250-4402, or at the letterhead address.

Sincerely,

Jeffrey K. Towner  
Field Supervisor  
North Dakota Field Office

Enclosure

cc: Project Leader, J. Clark Salyer WMD



# BNSF Railroad Abandonment Souris to Westhope, North Dakota



- Railroad
- Wetlands/Riverine
- J. Clark Salyer National Wildlife Refuge Boundary



E



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
North Dakota Field Office  
2933 3<sup>rd</sup> Ave West  
Dickinson, ND 58601  
701-227-7700  
<http://www.mt.blm.gov/ndfo/>

In Reply To:

2700  
LRG

January 6, 2004

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

RE: The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope, North Dakota

Dear Mr. Nettles:

The Bureau of Land Management (BLM) has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area.

However, please keep the BLM informed as to the continued process. These railroad abandonments depending under which Act they were granted, impact the BLM. We appreciate the opportunity to comment.

Sincerely,

Linda Gisvold  
Realty

F



• 1600 East Century Avenue, Suite 3  
Bismarck, ND 58503-0649

Phone 701-328-5357  
Fax 701-328-5363  
E-mail [parkrec@state.nd.us](mailto:parkrec@state.nd.us)  
[www.NDparks.com](http://www.NDparks.com)

December 18, 2003

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

Re: The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope,  
North Dakota

Dear Mr. Nettles:

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above referenced application to abandon 15.5 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota, Bottineau County.

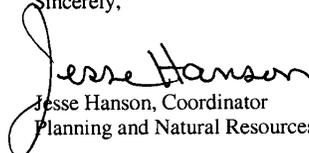
Our agency scope of authority and expertise covers recreation and biological resources (in particular rare species and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

The North Dakota Natural Heritage Inventory has limited rare species information from the project area. Due to the lack of available survey data we cannot give an accurate assessment as to potential impacts to rare species and associated habitats.

The NDPRD recommends that any impacted areas be revegetated with species native to the project area.

Thank you for the opportunity to comment on this project. Please contact Kathy Duttenehner (701-328-5370) of our staff if additional information is needed.

Sincerely,

  
Jesse Hanson, Coordinator  
Planning and Natural Resources Division

R.USNDNHI\*1225

• • • • •  
*Play in our backyard!*

G

Freeborn & Peters LLP

December 10, 2003

North Dakota Department of Health  
Water Quality Division  
1200 Missouri Ave.  
P.O. Box 5520  
Bismarck, ND 58506-5520

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope, North Dakota***

*Attorneys at Law*

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

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

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota.

As part of the environmental report BNSF needs to know whether or not this action will be consistent, with Federal, State or local water quality standards. Also, please state whether or not Section 402 and/or NPDES permits are required as a result of the proposed abandonment.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact. No placement of dredge or fill material in any inland waterways is anticipated to result from abandonment and/or salvage.

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

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

*Chicago*

*Springfield*

H



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NORTH DAKOTA REGULATORY OFFICE  
1513 SOUTH 12<sup>TH</sup> STREET  
BISMARCK ND 58504-6640  
December 23, 2003

North Dakota Regulatory Office

[200360621]

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

Dear Mr. Nettles:

This is in reference to your solicitation letter, on behalf of the **Burlington Northern and Santa Fe Railway Company**, for a Department of the Army (DA) review in accordance with Section 404 of the Clean Water Act. You are proposing to abandon 15.50 miles of railroad line between Souris, North Dakota and Westhope, North Dakota. The legal description numerous sections in Townships 162 and 163, Ranges 77, 78, 79, and 80, Bottineau County, North Dakota.

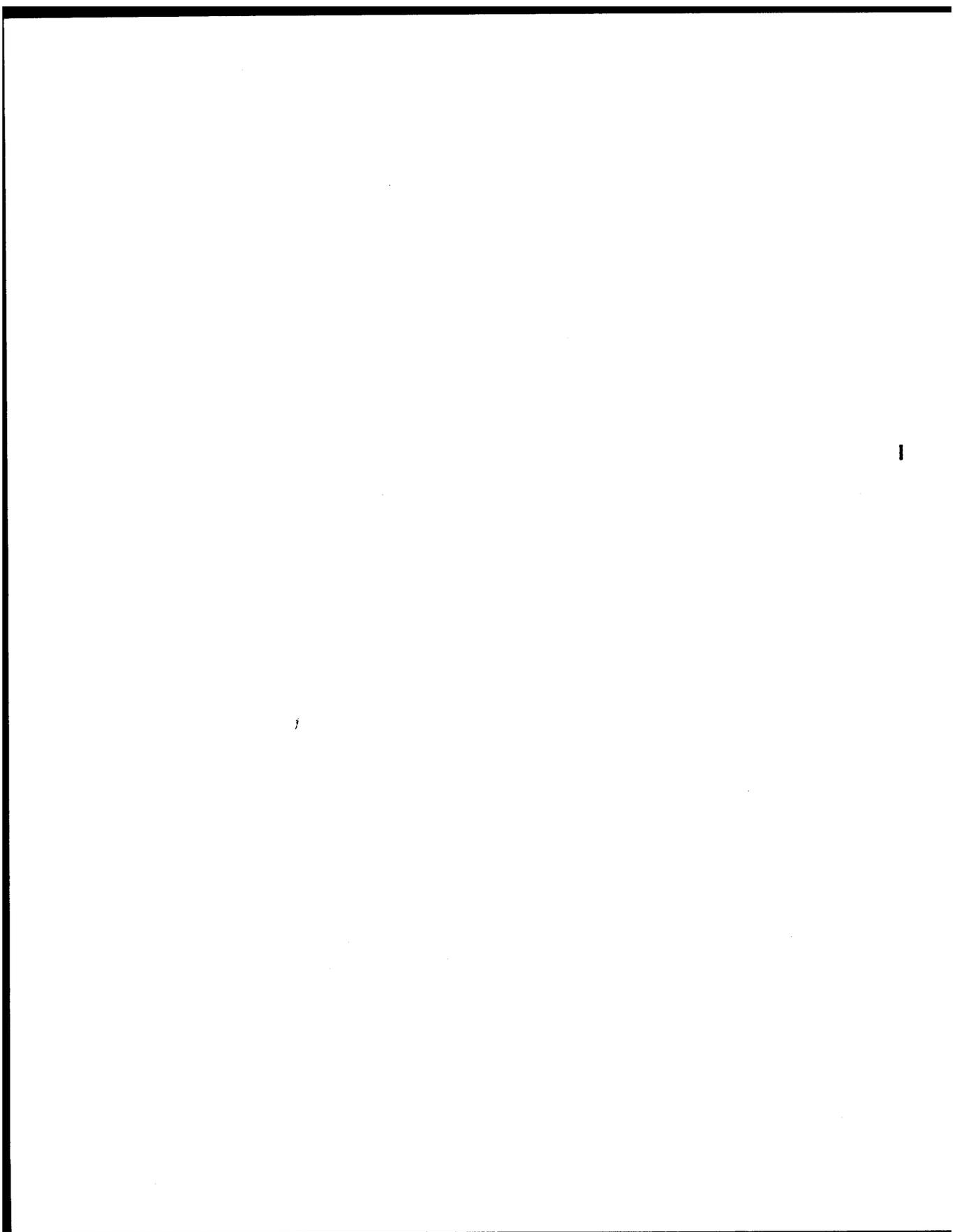
Based on the information provided to this office, it has been determined that your proposed project, as presently designed, would be accomplished without discharging in a jurisdictional area and therefore, a Section 404 permit would not be required. However, DA authorization may be required should changes be made in your project.

The fact that a Section 404 permit is not required does not relieve you of the obligation to obtain required approvals from other agencies that may have regulatory jurisdiction over your project.

If you have any questions concerning this determination, please do not hesitate to contact this office by letter or telephone (701) 255-0015 and reference project number **200360621**.

Sincerely,

  
for James L. Winters  
Regulatory Program Manager  
North Dakota



Freeborn & Peters LLP

December 10, 2003

Bottineau County Emergency Management  
314 5th Street W  
Bottineau, ND 58318-1204

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Souris, North Dakota to Westhope, North Dakota***

*Attorneys at Law*

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

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

*Chicago*

*Springfield*

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota.

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

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

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by January 10, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

J



**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

John Hoeven  
*Governor of North Dakota*

**North Dakota  
State Historical Board**

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Department*

David A. Sprynczynatyk  
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Department of Transportation*

John E. Von Rueden  
*Bismarck*

Merlan E. Paaverud, Jr.  
*Director*

*Accredited by the  
American Association  
of Museums*

February 19, 2004

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

**NDSHPO REF.: 04-0288**, Proposed BN&SF Railway Co. Abandonment, Souris  
to Westhope, Bottineau County, ND.

Dear Mr. Nettles:

We have reviewed Project: 04-0288, proposed abandonment of the Burlington  
Northern and Santa Fe Railway Company line between the Cities of Souris  
and Westhope, North Dakota.

We recommend that a Class I Cultural Resources Inventory (i.e., files search) of  
the Area of Potential Effect (APE) be prepared and submitted to our office for  
consultation. The results of the files search should include a short report detailing  
all cultural resources (including potential or actual historic properties) in the legal  
sections of the APE and 7.5' topographic maps with the cultural resource locations  
and previously inventoried areas plotted and marked on it.

We also recommend that any previously unrecorded and unevaluated abandoned  
or to-be-abandoned stations over 50 years of age along the railway line (i.e., in the  
Cities of Westhope, Landa, Roth, and Souris, and any other stations) be recorded  
and preliminarily evaluated by a state-permitted cultural resource firm.

Thank you for the opportunity to review this project. Please include the ND  
SHPO Reference number listed above in any further correspondence for this  
specific project. If you have any questions please contact Duane Klinner at (701)  
328-3576.

Sincerely,

Merlan E. Paaverud, Jr.  
State Historic Preservation Officer  
(North Dakota)