

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Abandonment of a line of Railroad
Between BNSF M.P. 77.14 near Antelope
Valley Station, Mercer County, North Dakota and
M.P. 80.50 near Zap, Mercer County,
North Dakota

NOTICE OF EXEMPTION
Docket No. AB-6
(Sub-No. 420X)



210939

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. 77.14 near Antelope Valley Station, in Mercer County, North Dakota and M.P. 80.50 near Zap, in Mercer County, North Dakota, a total distance of 3.36 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.

July 26, 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

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Office of Proceedings**

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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 Antelope Valley Station, North Dakota to Zap, 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 Antelope Valley Station, North Dakota to Zap North Dakota line traverses United States Postal Service Zip codes 58580 and 58523.

- (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 not 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,



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

Date: May 14, 2004

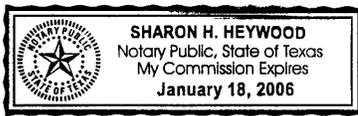
VERIFICATION

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. 420X); 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
Richard A. Batie
Manager, Shortline Development

Subscribed and sworn to before me the 30 day of April, 2004.



Sharon H. Heywood
Notary Public

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
NO. AB-6 (Sub No. 420X)

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 19, 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 29, 2004 in the Hazen Star, 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 14, 2004

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. 77.14 in Antelope Valley
Station, North Dakota and M.P. 80.50
near Zap, North Dakota

Docket No. AB-6
(Sub No. 420X)

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. 77.14 near Antelope Valley Station, Mercer County, North Dakota and M.P. 80.50 near Zap, Mercer County, North Dakota, total distance of 3.36 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 affect 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 exemption will be consistent with existing land use plans. The Mercer County Board of Commissioners was notified by letter dated December 8, 2003. See Exhibit B. As of the date of this report, the Mercer County 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.

BNSF does not believe that prime agriculture will be effected by the proposed abandonment. The Natural Resource Conservation Service was notified by letter dated December 8, 2003. See Exhibit C. As of the date of this report, The Natural Resource Conservation Service has not responded. BNSF will provide the Board copies of any response it may receive.

(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 an alternative public use.

However, the Mercer County Board of Commissioners was notified by letter dated December 8, 2003. See Exhibit B. As of the date of this report, the Mercer County 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 three public crossings and two 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.

The project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. See Exhibit D, response 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 project as defined does not affect state park lands that the North Dakota Department of Parks and Recreation Department manages or Land and Water Conservation Fund recreation projects the Department

coordinates. See Exhibit E, letter from the North Dakota Department of Parks and Recreation. The Bureau of Land Management has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact areas. See Exhibit F, letter from the Bureau of Land Management.

(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 recommends that Best Management Practices be followed during the course of the project to prevent dirt, construction debris and waste material from entering a storm drainage system or water body. See Exhibit G, letter from the North Dakota Department of Health.

(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.

A Section 404 permit is not required. See Exhibit H, letter from the Army Corps of Engineers. The proposed abandonment should not adversely affect any 100-year floodplains. See Exhibit I, letter from the Mercer County Office of Emergency Services. The roadbed along with the drainage culverts and structures will be left in place and if the wood timber bridge within the City of Zap is removed, all components will be removed.

(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.

Permits under Section 402 of the Clean Water Act are not required for the proposed abandonment. Based on the described activity, an NDPDES permit would not be required since there will be little or no grading disturbance. See Exhibit G, letter from the North Dakota Department of Health.

(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
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Phone: (312) 360-6724
Fax: (312) 360-6598

Date: May 14, 2004

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. 77.14 in Antelope Valley
Station, North Dakota and M.P. 80.50
near Zap, North Dakota

Docket No. AB-6
(Sub No. 420X)

HISTORICAL REPORT

The following 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 set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding BNSF's Notice of Exemption to abandon its line of railroad between M.P. 77.14 in Antelope Valley Station, North Dakota to M.P. 80.50 near Zap, North Dakota, a total distance of 3.36 miles.

(1) A U.S.G.S. topographic map (or 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 the railroad structures that are 50 years old or older and are part of the proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the State Historical Society of North Dakota and one copy is being provided to the Surface Transportation Board's Section of the Environmental Analysis upon filing of this Report.

(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 Antelope Valley Station to Zap, North Dakota line connects the railroad stations of Antelope Valley Station and Republic and the town of Zap. Antelope Valley

Station and Republic are railroad stations along the line. The town of Zap has a population of 231 as listed in the North Dakota League of Cities City Directory for 2002 - 2004. Wheat is the main agricultural crop grown along the line, however, there are coal deposits and mines in the general area of the line.

The right of way is 100 feet wide with the exception of station grounds which can vary in width.

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

There are two bridges that are 50 years or older in the immediate area of the abandonment. Photographs of the two bridges are attached to this report. See Exhibit J.

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

The dates of construction of the two bridges are included with the photographs. See Exhibit J.

(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 right of way was acquired by the Western Dakota Railway Company, a predecessor of the Northern Pacific Railway Company (NP). In 1970 the NP merged into the Burlington Northern Railroad (BN). In 1995, BN merged with The Atchison Topeka and Santa Fe Railway to become The Burlington Northern and Santa Fe Railway Company (BNSF).

(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 to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(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 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

The State Historical Society of North Dakota recommends that a Class I Cultural Inventory of the Area of Potential Effect (APE) be prepared and submitted to them for consultations. The State Historical Society of North Dakota also recommends that the two bridges be formally recorded on NDCRS site forms. See Exhibit K, letter from the State Historical Society of North Dakota. . BNSF has commissioned an inventory by a qualified historian. Upon completion of the survey, it will be provided to the North Dakota Historical Society.

(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 archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

Respectfully submitted,

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

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

Date: May 14, 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 19, 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 Paaverud, Jr.
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

Gary Murray
County Commission Chair
Mercer County Board of Commissioners
P.O. Box 39
Mercer County Courthouse
Stanton, ND 58571-0039

Richard Sorenson
Mercer County Emergency Manager
P.O. Box 39
Mercer County Courthouse
Stanton, ND 58571-0039

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

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

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

Natural Resources Conservation Service
Beulah Service Center
1400 Highway 49 N, Suite 101
Beulah, ND 58523-6065

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

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

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

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

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

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

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

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.

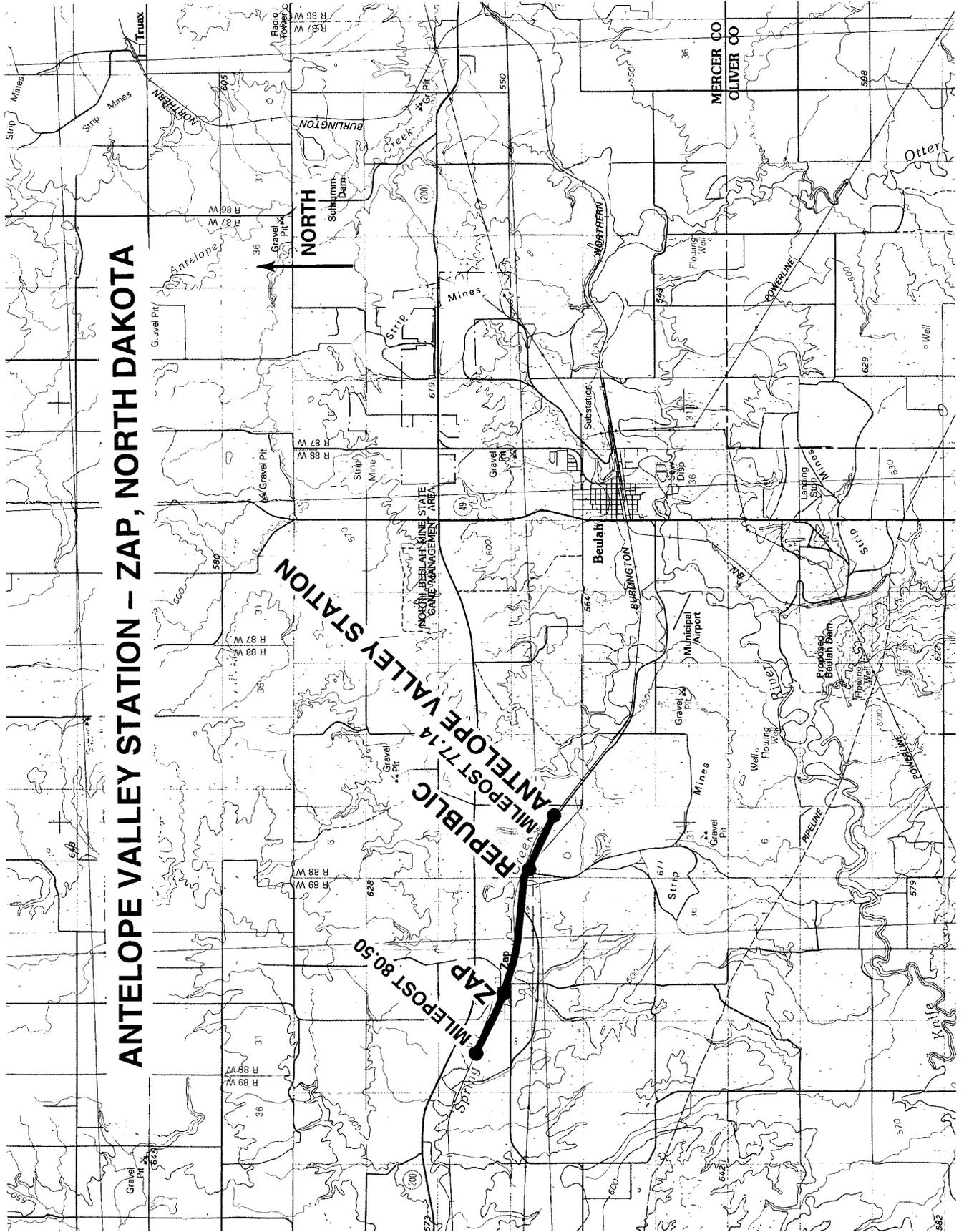


Michael Smith
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Phone: (312) 360-6724
Fax: (312) 360-6598

Date: May 14, 2004

A

ANTELOPE VALLEY STATION - ZAP, NORTH DAKOTA



B

Freeborn & Peters LLP

December 8, 2003

Natural Resources Conservation Service
Beulah Service Center
1400 Highway 49 N, Suite 101
Beulah, ND 58523-6065

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Antelope Valley, North Dakota and Zap, North Dakota***

Dear Sir or Madam:

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

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota.

As part of the environmental report BNSF needs to know whether or not the proposed abandonment will have any effect on prime agricultural lands.

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

Please provide this information by January 8, 2004. Thank you for your cooperation.

Chicago

Springfield

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

c

Freeborn & Peters LLP

December 8, 2003

Gary Murray
County Commission Chair
Mercer County Board of Commissioners
P.O. Box 39
Mercer County Courthouse
Stanton, ND 58571-0039

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Antelope Valley, North Dakota and Zap, North Dakota***

Attorneys at Law

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Tel 312.360.6000

Brian Nettles
Paralegal
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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 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, 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

D

Freeborn & Peters LLP

December 8, 2003

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

Re: *The Burlington Northern and Santa Fe Railway Company Abandonment of Antelope Valley, North Dakota and Zap, North Dakota*

Attorneys at Law

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Tel 312.360.6000

Brian Nettles
Paralegal
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Fax 312.360.6596
bnettl@
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Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota.

As part of the environmental report BNSF needs to know whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges or areas designated as critical habitat adjacent or near the line and if so; what effects the proposed action may have.

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 8, 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.

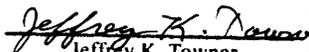
Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

U.S. FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES
ND FIELD OFFICE
Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.
12/15/03 Date
 Jeffrey K. Towner Field Supervisor

Chicago
Springfield

E



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

Phone 701-328-5357
Fax 701-328-5363
E-mail parkrec@state.nd.us
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 Antelope Valley, North Dakota to Zap,
North Dakota

Dear Mr. Nettles:

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above referenced application to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota, Mercer County.

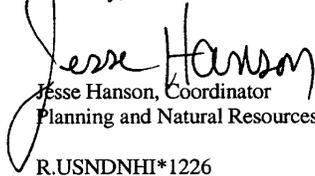
Our agency scope of authority and expertise covers recreation and biological resources (in particular rare species and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

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 Duttonhefner (701-328-5370) of our staff if additional information is needed.

Sincerely,


Jesse Hanson, Coordinator
Planning and Natural Resources Division
R.USNDNHI*1226

.....
Play in our backyard!

F



United States Department of the Interior

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

In Reply To:

2700
LRG

January 5, 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 Antelope Valley, North Dakota and Zap, North Dakota comment due January 8, 2004 AND;

The Burlington Northern and Santa Fe Railway Company Abandonment of Hannah Junction, North Dakota to McCanna, North Dakota comment due January 9, 2004.

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 areas.

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

G



**NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section**

Location:

1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:

701-328-5200

Mailing Address:

P.O. Box 5520
Bismarck, ND 58506-5520

March 3, 2004

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

Re: BNSF Railway Company – Railroad Line Abandonment
Near Zap, North Dakota

Dear Mr. Nettles:

We have reviewed your letter regarding BNSF's plans to abandon a section of railroad line near Zap, North Dakota. As you provided, the proposal may involve the removal of rails and ties but would leave the roadbed intact. Based on the described activity an NDPDES permit would not be required since there will be little or no grading disturbance. Projects disturbing more than one acre are required to have a NDPDES permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover.

Even though a permit may not be required, we do recommend that Best Management Practices be followed during the course of the project to prevent dirt, construction debris and waste material from entering a storm drainage system or water body.

Should you have any questions, please contact me at 701-328-5244.

Sincerely,

Randy Kowalski
Environmental Scientist
Division of Water Quality

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Website: www.health.state.nd.us/ndhd/environ
Printed on recycled paper.

H



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1313 S. 12TH STREET
BISMARCK, NORTH DAKOTA 58504-6640

REPLY TO
ATTENTION OF

December 15, 2003

North Dakota Regulatory Office

[200360617]

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

Dear Mr. Nettles:

This is in reference to your request dated December 8, 2003 on behalf of Burlington Northern Santa Fe Railway Company for a Department of the Army (DA) permit under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. You propose to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota, Mercer 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 above Section 10/404 jurisdictional boundaries and therefore, a Section 10/404 permit would not be required. However, DA authorization may be required should changes be made in your project.

The fact that a Section 10/404 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 contact this office by letter or telephone me at 255-0015, and reference Identification Number 200360617.

Sincerely,

Daniel E. Cucinosi

for James L. Winters
Regulatory Program Manager
North Dakota

Mercer County
Office of Emergency Services

Mercer County Courthouse
P.O. Box 39
Stanton, ND 58571

Phone 701-745-3695
Fax 701-745-3205
rsorenso@state.nd.us

December 22, 2003

Mr. Brian Nettles, Paralegal
Freeborn & Peters
311 South Wacker Drive – Suite 3000
Chicago, Illinois 60606-6677

RE: The Burlington Northern and Santa Fe Railway Company abandonment of Antelope Valley, North Dakota and Zap, North Dakota.

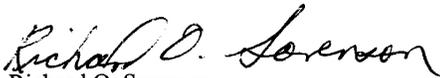
Dear Mr. Nettles:

The abandonment of 3.36 miles of railroad line as shown on the attached location map should not adversely affect any 100-year floodplains provided that:

- The roadbed along with drainage culverts and structures are left in place.
- That if the wood timber bridge spanning Spring Creek within the City of Zap is removed, that all components be removed to ground level above the water line and to the stream bed below the water line. No bridge components should be left in place that may catch ice, debris, or any manner restricts the natural flow of the stream.

If further information is needed, please feel free to contact me.

Sincerely,

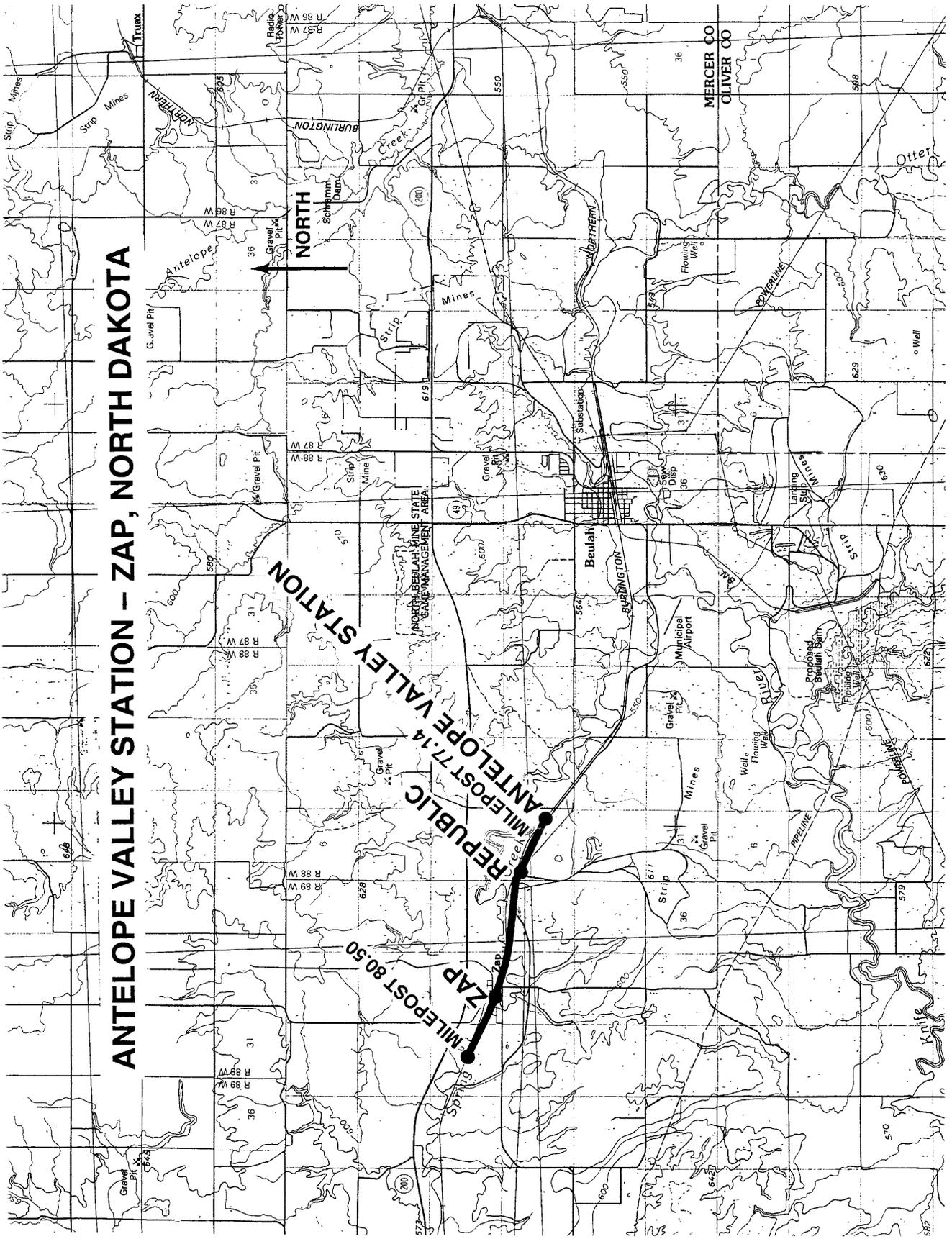


Richard O. Sorenson
Mercer County Emergency Manager/
Mercer County Floodplain Manager

Enclosure: As noted above.

Copy to: Mr. Gary Murray, County Commission Chairman
Mr. Wayne Entze, County Commissioner
Mr. Lyle Latimer, County Commissioner
Mrs. Sandra Bohrer, County Auditor

ANTELOPE VALLEY STATION - ZAP, NORTH DAKOTA



Freeborn & Peters LLP

December 8, 2003

Mercer County Emergency Manager
P.O. Box 39
Mercer County Courthouse
Stanton, ND 58571-0039

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Antelope Valley, North Dakota and Zap, 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 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, 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 8, 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

Chicago

Springfield

J

Abandonment Documentation (M.P. 77.14 to M.P. 80.50)

List of Bridges

Bridge: 79.33	Built: 1930	Length: 230'	Height: 31'	Description: Open Pile Trestle	Obstacle: Spring Creek
Bridge: 80.08	Built: 1947	Length: 231'	Height: 28'	Description: Open Pile Trestle	Obstacle: Spring Creek

Bridge 80.08
LS 303



Bridge 80.08
LS 303



Bridge 79.33
LS 303



Bridge 79.33
LS 303



K



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

John Hoeven
Governor of North Dakota

**North Dakota
State Historical Board**

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Parks and Recreation
Department*

David A. Sprynczynatyk
*Director
Department of Transportation*

John E. Von Rueden
Bismarck

Merlan E. Paaverud, Jr.
Director

*Accredited by the
American Association
of Museums*

January 22, 2004

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

NDSHPO REF.: 04-0221, Proposed BN&SF Railway Co. Abandonment,
Antelope Valley Station to Zap, Mercer County, ND.

Dear Mr. Nettles:

We have reviewed Project: 04-0221, proposed abandonment of the Burlington Northern and Santa Fe Railway Company line between the Antelope Valley Station and Zap, 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 the two bridges be formally recorded on NDCRS site forms. The recording should be completed by a state permitted cultural resource firm/architectural historian, and include preliminary evaluations. We have previously provided your office with a list of state permitted firms.

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)