

211003

May 20, 2004

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



**Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 421X);
The Burlington Northern and Santa Fe Railway Company
Abandonment of Brainerd, Minnesota**

Attorneys at Law

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Chicago, Illinois
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Michael A. Smith
Senior Counsel
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Dear Ms. Rutson:

On or after June 10, 2004, we are filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 1.60 miles of railroad line between M.P. 0.00 to M.P. 1.60 in and near Brainerd, Minnesota, which traverses through United States Postal ZIP Code 56401 in Crow Wing County, Minnesota. Attached are ten copies plus the original of the Environmental and Historic Report describing the proposed action and any expected environmental or historic effects, as well as a map of the affected area.

Sincerely,

Michael A. Smith

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Part of
Public Report

Chicago

Springfield

Enclosures

MAP TO BE
SCANNED
LATER

211003

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company Abandonment and
Discontinuance of Service Exemption Between
M.P. 0.00 and M.P. 1.60 near Brainerd,
Minnesota and in and through Crow Wing
County, Minnesota



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Part of
Public Report

Docket No. AB-6
(Sub No. 421X)

ENVIRONMENTAL REPORT

The Burlington Northern and Santa Fe Railway Company (BNSF) proposes to file a petition under 49 U.S.C. § 10502 (a) for an exemption from 49 U.S.C. § 10903 for abandonment and discontinuance between M.P. 0.00 and M.P. in 1.60 Brainerd, Crow Wing County, Minnesota, a total distance of approximately 1.60 miles. The following information is submitted to the Surface Transportation Board ("Board" or "STB") by 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 proposed Petition for Exemption.

(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 exemption will have a minimal effect on regional or local transportation systems and patterns. In recent years, the only shipper along the line has been Ferrellgas. However, Ferrellgas relocated and is no longer served from this rail line. Ferrellgas will continue to receive propane by rail at its new location.

(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.

To the best of its knowledge, BNSF believes that the proposed exemption will be consistent with local or regional land use plans. The City of Brainerd and the Board of Commissioners of Crow Wing County were notified by letters dated May 13, 2003. See Exhibits B and C. As of the date of this report, neither has 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 agricultural land.

The proposed exemption will minimal effect on any existing or potential farmland along the rail route. See Exhibit D, 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.

BNSF does not know whether the right-of-way is suitable for alternative public uses. The City of Brainerd and the Board of Commissioners of Crow Wing County were notified by letters dated May 13, 2003. See Exhibits B and C. As of the date of this report, neither has responded directly to that inquiry. 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.

The proposed abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as this 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.

In 2002, the 1.6 mile line had a total of 58 cars (36.25 cars per mile), which does not affect either threshold in subsections (A) or (B) above.

(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 ("ADT") or 50 vehicles a day ("VPD") 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% ADT or 50 VPD on any affected road segment as the only shipper with traffic tributary to this line in recent years has been relocated to another rail site in the area. Even when the line was in service, abandonment would not have resulted in truck traffic increases by more than 10% of ADT or 50 VPD.

(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. Moreover, this area of proposed action is not within a Class I or non-attainment area under the Clean Air Act.

(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.

This action will have no effect on the transportation of ozone-depleting materials as the line is out of service. Moreover, this line has not traditionally accommodated shipments of ozone depleting materials.

(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 proposed abandonment and discontinuance shall have no adverse affect on public health or public safety. There is one public crossing and no private crossings. During salvage operations on the line, 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 and discontinuance 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.

To the best of BNSF's knowledge, it is not aware of any known hazardous waste site or sites where there have been known hazardous materials spills on the right of way. However, a portion of the right of way is adjacent to a former tie treating plant that is currently on both the state and federal Superfund list.

(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 that the proposed exemption will have no adverse affect on endangered or threatened species or areas designated as critical habitat. Blanding's Turtles (*Emydoidea blandingii*), a state-listed threatened species, are reported from the vicinity of the project's area. See Exhibit E, letter from the Minnesota Department of Natural Resources. BNSF proposes to advise contractors involved in salvage to consult with the Minnesota Department of Natural Resources in the event any Blandings Turtles are sighted in the project area.

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

The proposed exemption should not affect wildlife sanctuaries or refuges, nor National or State parks or forests. There are no Federal lands administered by the Bureau of Land Management along the proposed impact area. See Exhibit F, letter from the Bureau of Land Management. There are no Forest Service administered lands in the proposed impact area. See Exhibit G, letter from the United States Department of Agriculture, Forest 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 Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources have been notified by a letters dated May 13, 2003. See Exhibit H and I. As of the date of this report neither 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 exemption. See Exhibit J, letter from the Army Corps of Engineers.

BNSF does not believe that the proposed exemption will affect any designated wetlands or 100-year flood plains. The proposed abandonment does not cross the 100 year flood plain. See Exhibits K, w-mal from the Minnesota Department of Natural Resources.

(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.

BNSF believes that permits under 402 of the Clean Water Act are not required for the proposed exemption. The Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources have been notified by a letters dated May 13, 2003. See Exhibits H and I. As of the

date of this report, neither 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 historical or archaeological significance. The project itself should mitigate the environmental effects of reinstating active rail operations in the area.

Respectfully Submitted,



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

Dated: May 13, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company Abandonment and
Discontinuance of Service Exemption Between
M.P. 0.00 and M.P. 1.60 near Brainerd,
Minnesota and in and through Crow Wing
County, Minnesota

Docket No. AB-6
(Sub No. 421X)

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 Petition for Exemption for abandonment of its line between M.P. 0.00 and M.P. 1.60 in Brainerd, Crow Wing County, Minnesota, total distance of 1.60 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 Minnesota State Historical Society 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 Brainerd, MN Trackage proposed abandonment is located on the west side of Brainerd, MN and as the trackage exits the city, it turns northward through an adjoining rural area. Brainerd's population for the year of 2000 was 13,178. The area north of Brainerd is rural and filled with recreational homes, lakes, forested areas and some agricultural uses. The rail line corridor is 100 feet 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 no bridges or structures that are 50 years old or older in the immediate vicinity of the right of way.

(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;

N/A

(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 Brainerd and Northern Minnesota Railway in approximately 1894. The Brainerd and Northern Minnesota was acquired by the Minnesota and International Railway Company in 1901. The Minnesota and International Railway Company was acquired by the Northern Pacific (NP). In 1970, the NP merged with other railroads to become part of the Burlington Northern Railroad (BN). In 1995 BN and the Atchison Topeka and Santa Fe Railway (ATSF) merged to become The Burlington Northern and Santa Fe Railway (BNSF).

This line is now out of service and the track materials will be removed by a qualified salvage contractor following abandonment authorization from the STB.

(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);

To the best of BNSF's knowledge, the proposed abandonment should have no appreciable effects on any known sites or properties listed, or eligible for listing in the National Register of Historic Places. The abandonment should have no adverse effect on the overall line's historical characteristics. See Exhibit L, letter from the Minnesota 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,

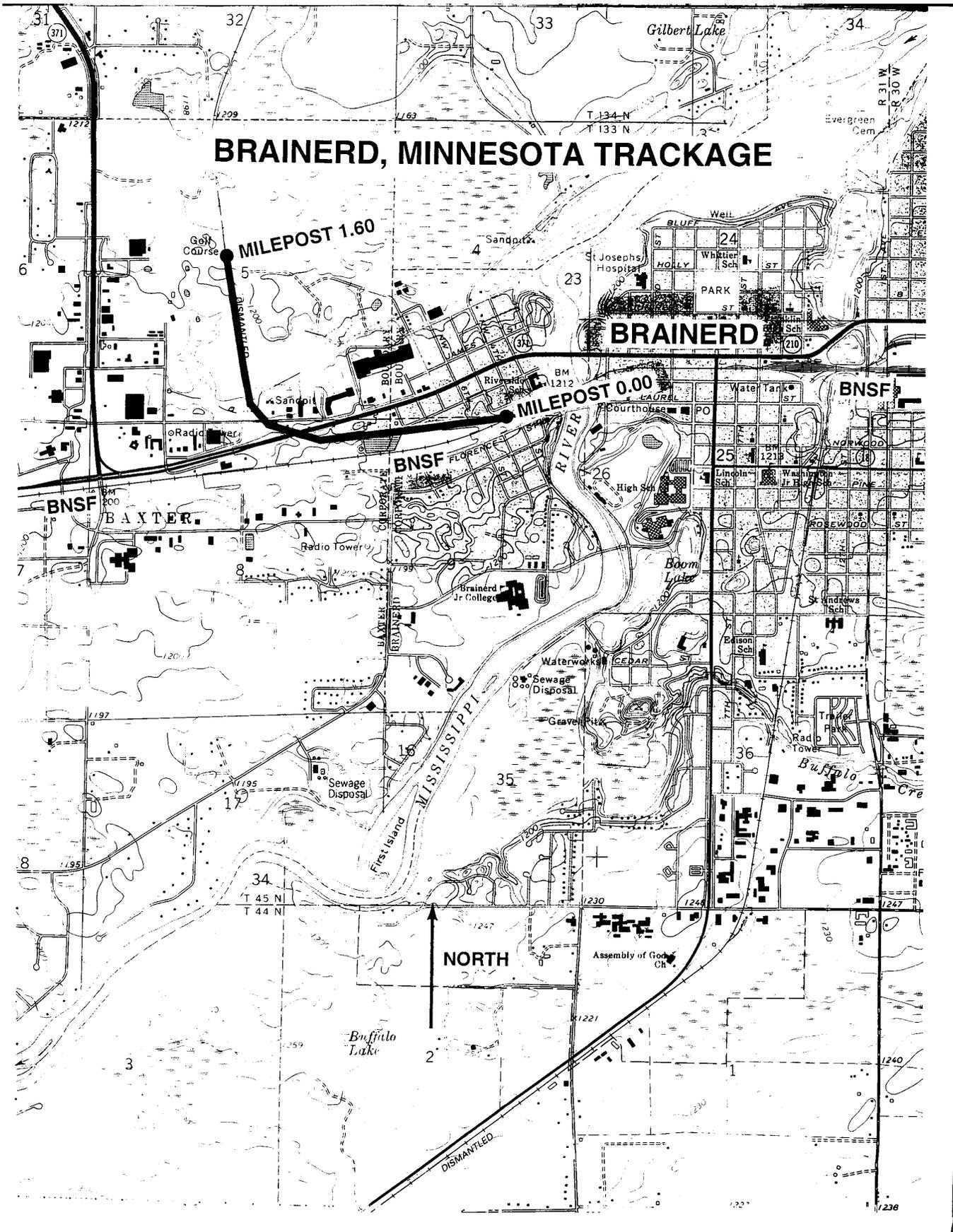
A handwritten signature in black ink, appearing to read "Michael Smith", with a long horizontal flourish extending to the right.

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

Date: May 13, 2004

A

BRAINERD, MINNESOTA TRackage



B

Freeborn & Peters

May 13, 2003

Dewayne Tautges
Commissioner, Chair, District 1
Crow Wing County Board of
Commissioners
326 Laurel Street
County Courthouse
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**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Brainerd, Minnesota***

Dear Mr. Tautges:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition to Abandon seeking authority to abandon 1.60 miles of railroad line between Milepost 0.00 and Milepost 1.60 in Brainerd, Minnesota.

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. Please provide this information by June 15, 2003. 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

Freeborn & Peters

May 13, 2003

Daniel Vogt
City Administrator
Brainerd City Hall
501 Laurel Street
Brainerd, MN 56401

Attorneys at Law

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Re: *The Burlington Northern and Santa Fe Railway Company Abandonment of Brainerd, Minnesota*

Dear Mr. Vogt:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition to Abandon seeking authority to abandon 1.60 miles of railroad line between Milepost 0.00 and Milepost 1.60 in Brainerd, Minnesota.

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. Please provide this information by June 15, 2003. 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



1004 Frontier Rd.
Fergus Falls, MN 56537

Phone: (218) 736-5445
FAX: (218) 736-7215



December 8, 2003

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

Re: The BN and Santa Fe Railway Co. abandonment of line in Brainerd, Mn and the Farmland Protection Policy Act PL97-98

Dear Mr. Nettles:

I was forwarded information concerning the above action being planned for the existing railbed in the City Brainerd, Mn by our Crow Wing County Field Office in Brainerd, Mn. I have reviewed the plans per your letter addressed to our Agency dated November 24, 2003.

Based on the information contained in above said correspondence, it appears the planned activity or railroad abandonment will be limited to removing railroad ties, rails and other track materials. Very little grading or leveling will be completed. As you state the railroad grade will remain intact. I am assuming culverts and waterways will remain also. Based on this information the abandoning process should have minimal effect on any existing or potential farmland along the rail route.

I am including with this letter a copy of the Public Law 97-98 The Farmland Protection Policy Act for your information and reference.

This letter will address any FPPA issues that may have been raised with this activity. If you have any questions about this response or the scope of the abandonment activity changes greatly feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Mike Lieser".

Mike Lieser
Area Resource Soil Specialist

Enclosures

Cc: Mary Jane Reetz, DC, NRCS, Brainerd, MN
File

TITLE 7--AGRICULTURE

CHAPTER VI--NATURAL RESOURCES CONSERVATION SERVICE,
DEPARTMENT OF AGRICULTURE

PART 658--FARMLAND PROTECTION POLICY ACT--Table of Contents

Sec. 658.1 Purpose.

This part sets out the criteria developed by the Secretary of Agriculture, in cooperation with other Federal agencies, pursuant to section 1541(a) of the Farmland Protection Policy Act (FPPA or the Act) 7 U.S.C. 4202(a). As required by section 1541(b) of the Act, 7 U.S.C. 4202(b), Federal agencies are (a) to use the criteria to identify and take into account the adverse effects of their programs on the preservation of farmland, (b) to consider alternative actions, as appropriate, that could lessen adverse effects, and (c) to ensure that their programs, to the extent practicable, are compatible with State and units of local government and private programs and policies to protect farmland. Guidelines to assist agencies in using the criteria are included in this part. The Department of Agriculture (hereinafter USDA) may make available to States, units of local government, individuals, organizations, and other units of the Federal Government, information useful in restoring, maintaining, and improving the quantity and quality of farmland.

Sec. 658.2 Definitions.

(a) Farmland means prime or unique farmlands as defined in section 1540(c)(1) of the Act or farmland that is determined by the appropriate state or unit of local government agency or agencies with concurrence of the Secretary to be farmland of statewide or local importance. "Farmland" does not include land already in or committed to urban development or water storage. Farmland "already in" urban development or water storage includes all such land with a density of 30 structures per 40-acre area. Farmland already in urban development also includes lands identified as "urbanized area" (UA) on the Census Bureau Map, or as urban area mapped with a "tint overprint" on the USGS topographical maps, or as "urban-built-up" on the USDA Important Farmland Maps. Areas shown as white on the USDA Important Farmland Maps are not "farmland" and, therefore, are not subject to the Act. Farmland "committed to urban development or water storage" includes all such land that receives a combined score of 160 points or less from the land evaluation and site assessment criteria.

(b) Federal agency means a department, agency, independent commission, or other unit of the Federal Government.

(c) Federal program means those activities or responsibilities of a Federal agency that involve undertaking, financing, or assisting construction or improvement projects or acquiring, managing, or disposing of Federal lands and facilities.

(1) The term "Federal program" does not include:

(i) Federal permitting, licensing, or rate approval programs for activities on private or non-Federal lands; and

(ii) Construction or improvement projects that were beyond the planning stage and were in either the active design or construction state on August 4, 1984.

2. For the purposes of this section, a project is considered to be "beyond the planning stage and in either the active design or construction state on August 4, 1984" if, on or before that date, actual construction of the project had commenced or:

(i) Acquisition of land or easements for the project had occurred or all required Federal agency planning documents and steps were completed and accepted, endorsed, or approved by the appropriate agency;

(ii) A final environmental impact statement was filed with the Environmental Protection Agency or an environmental assessment was completed and a finding of no significant impact was executed by the appropriate agency official; and

(iii) The engineering or architectural design had begun or such services had been secured by contract. The phrase "undertaking, financing, or assisting construction or improvement projects" includes providing loan guarantees or loan insurance for such projects and includes the acquisition, management and disposal of land or facilities that a Federal agency obtains as the result of foreclosure or other actions taken under a loan or other financial assistance provided by the agency directly and specifically for that property. For the purposes of this section, the

phrase "acquiring, managing, or disposing of Federal lands and facilities" refers to lands and facilities that are acquired, managed, or used by a Federal agency specifically in support of a Federal activity or program, such as national parks, national forests, or military bases, and does not refer to lands and facilities that are acquired by a Federal agency as the incidental result of actions by the agency that give the agency temporary custody or ownership of the lands or facilities, such as acquisition pursuant to a lien for delinquent taxes, the exercise of conservatorship or receivership authority, or the exercise of civil or criminal law enforcement forfeiture or seizure authority.

(d) State or local government policies or programs to protect farmland include: Zoning to protect farmland; agricultural land protection provisions of a comprehensive land use plan which has been adopted or reviewed in its entirety by the unit of local government in whose jurisdiction it is operative within 10 years preceding proposed implementation of the particular Federal program; completed purchase or acquisition of development rights; completed purchase or acquisition of conservation easements; prescribed procedures for assessing agricultural viability of sites proposed for conversion; completed agricultural districting and capital investments to protect farmland.

(e) Private programs to protect farmland means programs for the protection of farmland which are pursuant to and consistent with State and local government policies or programs to protect farmland of the affected State and unit of local government, but which are operated by a nonprofit corporation, foundation, association, conservancy, district, or other not-for-profit organization existing under State or Federal laws. Private programs to protect farmland may include: (1) Acquiring and holding development rights in farmland and (2) facilitating the transfer of development rights of farmland.

(f) Site means the location(s) that would be converted by the proposed action(s).

(g) Unit of local government means the government of a county, municipality, town, township, village, or other unit of general government below the State level, or a combination of units of local government acting through an areawide agency under a State law or an agreement for the formulation of regional development policies and plans.

Sec. 658.3 Applicability and exemptions.

(a) Section 1540(b) of the Act, 7 U.S.C. 4201(b), states that the purpose of the Act is to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses. Conversion of farmland to nonagricultural uses does not include the construction of on-farm structures necessary for farm operations. Federal agencies can obtain assistance from USDA in determining whether a proposed location or site meets the Act's definition of farmland. The USDA Natural Resources Conservation Service (NRCS) field office serving the area will provide the assistance. Many State or local government planning offices can also provide this assistance.

(b) Acquisition or use of farmland by a Federal agency for national defense purposes is exempted by section 1547(b) of the Act, 7 U.S.C. 4208(b).

(c) The Act and these regulations do not authorize the Federal Government in any way to regulate the use of private or non-Federal land, or in any way affect the property rights of owners of such land. In cases where either a private party or a non-Federal unit of government applies for Federal assistance to convert farmland to a nonagricultural use, the Federal agency should use the criteria set forth in this part to identify and take into account any adverse effects on farmland of the assistance requested and develop alternative actions that would avoid or mitigate such adverse effects. If, after consideration of the adverse effects and suggested alternatives, the landowners want to proceed with conversion, the Federal agency, on the basis of the analysis set forth in Sec. 658.4 and any agency policies or procedures for implementing the Act, may provide or deny the requested assistance. Only assistance and actions that would convert farmland to nonagricultural uses are subject to this Act. Assistance and actions related to the purchase, maintenance, renovation, or replacement of existing structures and sites converted prior to the time of an application for assistance from a Federal agency, including assistance and actions related to the construction of minor new ancillary structures (such as garages or sheds), are not subject to the Act.

(d) Section 1548 of the Act, as amended, 7 U.S.C. 4209, states that the Act shall not be deemed to provide a basis for any action, either legal or equitable, by any person or class of persons challenging a Federal project, program, or other activity that may affect farmland. Neither the Act nor this rule, therefore, shall afford any basis for such an action. However, as further provided in section 1548, the governor of an affected state, where a state policy or program exists to protect farmland, may bring an action in the Federal district court of the district where a Federal program is proposed to enforce the requirements of section 1541 of the Act, 7 U.S.C. 4202, and regulations issued pursuant to that section.

Sec. 658.4 Guidelines for use of criteria.

As stated above and as provided in the Act, each Federal agency shall use the criteria provided in Sec. 658.5 to identify and take into account the adverse effects of Federal programs on the protection of farmland. The agencies are to consider alternative actions, as appropriate, that could lessen such adverse effects, and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government and private programs and policies to protect farmland. The following are guidelines to assist the agencies in these tasks:

(a) An agency may determine whether or not a site is farmland as defined in Sec. 658.2(a) or the agency may request that NRCS make such a determination. If an agency elects not to make its own determination, it should make a request to NRCS on Form AD-1006, the Farmland Conversion Impact Rating Form, available at NRCS offices, for determination of whether the site is farmland subject to the Act. If neither the entire site nor any part of it are subject to the Act, then the Act will not apply and NRCS will so notify the agency. If the site is determined by NRCS to be subject to the Act, then NRCS will measure the relative value of the site as farmland on a scale of 0 to 100 according to the information sources listed in Sec. 658.5(a). NRCS will respond to these requests within 10 working days of their receipt except that in cases where a site visit or land evaluation system design is needed, NRCS will respond in 30 working days. In the event that NRCS fails to complete its response within the required period, if further delay would interfere with construction activities, the agency should proceed as though the site were not farmland.

(b) The Form AD 1006, returned to the agency by NRCS will also include the following incidental information: The total amount of farmable land (the land in the unit of local government's jurisdiction that is capable of producing the commonly grown crop); the percentage of the jurisdiction that is farmland covered by the Act; the percentage of farmland in the jurisdiction that the project would convert; and the percentage of farmland in the local government's jurisdiction with the same or higher relative value than the land that the project would convert. These statistics will not be part of the criteria scoring process, but are intended simply to furnish additional background information to Federal agencies to aid them in considering the effects of their projects on farmland.

(c) After the agency receives from NRCS the score of a site's relative value as described in Sec. 658.4(a) and then applies the site assessment criteria which are set forth in Sec. 658.5 (b) and (c), the agency will assign to the site a combined score of up to 260 points, composed of up to 100 points for relative value and up to 160 points for the site assessment. With this score the agency will be able to identify the effect of its programs on farmland, and make a determination as to the suitability of the site for protection as farmland. Once this score is computed, USDA recommends:

(1) Sites with the highest combined scores be regarded as most suitable for protection under these criteria and sites with the lowest scores, as least suitable.

(2) Sites receiving a total score of less than 160 need not be given further consideration for protection and no additional sites need to be evaluated.

(3) Sites receiving scores totaling 160 or more be given increasingly higher levels of consideration for protection.

(4) When making decisions on proposed actions for sites receiving scores totaling 160 or more, agency personnel consider:

(i) Use of land that is not farmland or use of existing structures;

(ii) Alternative sites, locations and designs that would serve the proposed purpose but convert either fewer acres of farmland or other farmland that has a lower relative value;

(iii) Special siting requirements of the proposed project and the extent to which an alternative site fails to satisfy the special siting requirements as well as the originally selected site.

(d) Federal agencies may elect to assign the site assessment criteria relative weightings other than those shown in Sec. 658.5 (b) and (c). If an agency elects to do so, USDA recommends that the agency adopt its alternative weighting system (1) through rulemaking in consultation with USDA, and (2) as a system to be used uniformly throughout the agency. USDA recommends that the weightings stated in Sec. 658.5 (b) and (c) be used until an agency issues a final rule to change the weightings.

(e) It is advisable that evaluations and analyses of prospective farmland conversion impacts be made early in the planning process before a site or design is selected, and that, where possible, agencies make the FPPA evaluations part of the National Environmental Policy Act (NEPA) process. Under the agency's own NEPA regulations, some categories of projects may be excluded from NEPA which may still be covered under the FPPA. Section 1540(c)(4) of the Act exempts projects that were beyond the planning stage and were in either the active design or construction

state on the effective date of the Act. Section 1547(b) exempts acquisition or use of farmland for national defense purposes. There are no other exemptions of projects by category in the Act.

(f) Numerous States and units of local government are developing and adopting Land Evaluation and Site assessment (LESA) systems to evaluate the productivity of agricultural land and its suitability for conversion to nonagricultural use. Therefore, States and units of local government may have already performed an evaluation using criteria similar to those contained in this rule applicable to Federal agencies. USDA recommends that where sites are to be evaluated within a jurisdiction having a State or local LESA system that has been approved by the governing body of such jurisdiction and has been placed on the NRCS State conservationist's list as one which meets the purpose of the FPPA in balance with other public policy objectives, Federal agencies use that system to make the evaluation.

(g) To meet reporting requirements of section 1546 of the Act, 7 and for data collection purposes, after the agency has made a final decision on a project in which one or more of the alternative sites contain farmland subject to the FPPA, the agency is requested to return a copy of the Form AD-1006, which indicates the final decision of the agency, to the NRCS field office.

(h) Once a Federal agency has performed an analysis under the FPPA for the conversion of a site, that agency's, or a second Federal agency's determination with regard to additional assistance or actions on the same site do not require additional redundant FPPA analysis.

Sec. 658.5 Criteria.

This section states the criteria required by section 1541(a) of the Act, 7 U.S.C. 4202(a). The criteria were developed by the Secretary of Agriculture in cooperation with other Federal agencies. They are in two parts, (1) the land evaluation criterion, relative value, for which NRCS will provide the rating or score, and (2) the site assessment criteria, for which each Federal agency must develop its own ratings or scores.

The criteria are as follows:

(a) Land Evaluation Criterion--Relative Value. The land evaluation criterion is based on information from several sources including national cooperative soil surveys or other acceptable soil surveys, NRCS field office technical guides, soil potential ratings or soil productivity ratings, land capability classifications, and important farmland determinations. Based on this information, groups of soils within a local government's jurisdiction will be evaluated and assigned a score between 0 to 100, representing the relative value, for agricultural production, of the farmland to be converted by the project compared to other farmland in the same local government jurisdiction. This score will be the Relative Value Rating on Form AD 1006.

(b) Site Assessment Criteria. Federal agencies are to use the following criteria to assess the suitability of each proposed site or design alternative for protection as farmland along with the score from the land evaluation criterion described in Sec. 658.5(a). Each criterion will be given a score on a scale of 0 to the maximum points shown. Conditions suggesting top, intermediate and bottom scores are indicated for each criterion. The agency would make scoring decisions in the context of each proposed site or alternative action by examining the site, the surrounding area, and the programs and policies of the State or local unit of government in which the site is located. Where one given location has more than one design alternative, each design should be considered as an alternative site. The site assessment criteria are:

(1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?

More than 90 percent--15 points
90 to 20 percent--14 to 1 point(s)
Less than 20 percent--0 points

(2) How much of the perimeter of the site borders on land in nonurban use?

More than 90 percent--10 points
90 to 20 percent--9 to 1 point(s)
Less than 20 percent--0 points

(3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than 5 of the last 10 years?

More than 90 percent--20 points

90 to 20 percent--19 to 1 points(s)
Less than 20 percent--0 points

(4) Is the site subject to State or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

Site is protected--20 points
Site is not protected--0 points

(5) How close is the site to an urban built-up area?

The site is 2 miles or more from an urban built-up area--15 points
The site is more than 1 mile but less than 2 miles from an urban built-up area--10 points
The site is less than 1 mile from, but is not adjacent to an urban built-up area--5 points
The site is adjacent to an urban built-up area--0 points

(6) How close is the site to water lines, sewer lines and/or other local facilities and services whose capacities and design would promote nonagricultural use?

None of the services exist nearer than 3 miles from the site--15 points
Some of the services exist more than 1 but less than 3 miles from the site--10 points
All of the services exist within $\frac{1}{2}$ mile of the site--0 points

(7) Is the farm unit(s) containing the site (before the project) as large as the average-size farming unit in the county? (Average farm sizes in each county are available from the NRCS field offices in each State. Data are from the latest available Census of Agriculture, Acreage of Farm Units in Operation with \$1,000 or more in sales.)

As large or larger--10 points
Below average--deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average--9 to 0 points

(8) If this site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acreage equal to more than 25 percent of acres directly converted by the project--10 points
Acreage equal to between 25 and 5 percent of the acres directly converted by the project--9 to 1 point(s)
Acreage equal to less than 5 percent of the acres directly converted by the project--0 points

(9) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available--5 points
Some required services are available--4 to 1 point(s)
No required services are available--0 points

(10) Does the site have substantial and well-maintained on-farm investments such as barns, other storage buildings, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment--20 points
Moderate amount of on-farm investment--19 to 1 point(s)
No on-farm investment--0 points

(11) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted--10 points
Some reduction in demand for support services if the site is converted--9 to 1 point(s)
No significant reduction in demand for support services if the site is converted--0 points

(12) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible with existing agricultural use of surrounding farmland--10 points
Proposed project is tolerable to existing agricultural use of surrounding farmland--9 to 1 point(s)
Proposed project is fully compatible with existing agricultural use of surrounding farmland--0 points

(c) Corridor-type Site Assessment Criteria. The following criteria are to be used for projects that have a linear or corridor-type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor-type site or design alternative for protection as farmland along with the land evaluation information described in Sec. 658.4(a). All criteria for corridor-type sites will be scored as shown in Sec. 658.5(b) for other sites, except as noted below:

- (1) Criteria 5 and 6 will not be considered.
- (2) Criterion 8 will be scored on a scale of 0 to 25 points, and criterion 11 will be scored on a scale of 0 to 25 points.

Sec. 658.6 Technical assistance.

(a) Section 1543 of the Act, 7 U.S.C. 4204 states, "The Secretary is encouraged to provide technical assistance to any State or unit of local government, or any nonprofit organization, as determined by the Secretary, that desires to develop programs or policies to limit the conversion of productive farmland to nonagricultural uses." In Sec. 2.62, of 7 CFR part 2, subtitle A, NRCS is delegated leadership responsibility within USDA for the activities treated in this part.

(b) In providing assistance to States, local units of government, and nonprofit organizations, USDA will make available maps and other soils information from the national cooperative soil survey through NRCS field offices.

(c) Additional assistance, within available resources, may be obtained from local offices of other USDA agencies. The Agricultural Stabilization and Conservation Service and the Forest Service can provide aerial photographs, crop history data, and related information. A reasonable fee may be charged. In many States, the Cooperative Extension Service can provide help in understanding and identifying farmland protection issues and problems, resolving conflicts, developing alternatives, deciding on appropriate actions, and implementing those decisions.

(d) Officials of State agencies, local units of government, nonprofit organizations, or regional, area, State-level, or field offices of Federal agencies may obtain assistance by contacting the office of the NRCS State conservationist. A list of Natural Resources Conservation Service State office locations appears in Appendix A, Sec. 661.6 of this title. If further assistance is needed, requests should be made to the Assistant Secretary for Natural Resources and Environment, Office of the Secretary, Department of Agriculture, Washington, DC 20250.

Sec. 658.7 USDA assistance with Federal agencies' reviews of policies and procedures.

(a) Section 1542(a) of the Act, 7 U.S.C. 4203, states, "Each department, agency, independent commission or other unit of the Federal Government, with the assistance of the Department of Agriculture, shall review current provisions of law, administrative rules and regulations, and policies and procedures applicable to it to determine whether any provision thereof will prevent such unit of the Federal Government from taking appropriate action to comply fully with the provisions of this subtitle."

(b) Section 1542(b) of the Act, 7 U.S.C. 4203, requires, as appropriate, each department, agency, independent commission, or other unit of the Federal Government, with the assistance of the Department of Agriculture, to develop proposals for action to bring its programs, authorities, and administrative activities into conformity with the purpose and policy of the Act.

(c) USDA will provide certain assistance to other Federal agencies for the purposes specified in section 1542 of the Act, 7 U.S.C. 4203. If a Federal agency identifies or suggests changes in laws, administrative rules and regulations, policies, or procedures that may affect the agency's compliance with the Act, USDA can advise the agency of the probable effects of the changes on the protection of farmland. To request this assistance, officials of Federal agencies should correspond with the Chief, Natural Resources Conservation Service, P.O. Box 2890, Washington, DC 20013.

(d) To meet the reporting requirements of section 1546 of the Act, 7 U.S.C. 4207, and for data collection purposes, each Federal agency is requested to report to the Chief of the Natural Resources Conservation Service by November 15th of each year on progress made during the prior fiscal year to implement sections 1542 (a) and (b) of the Act, 7 U.S.C. 4203 (a) and (b). Until an agency fully implements those sections, the agency should continue to make the annual report, but may omit the report upon full implementation. However, an agency is requested to file an annual report for any future year in which the agency has substantially changed its process for compliance with the Act.

[49 FR 27724, July 5, 1984, as amended at 59 FR 31118, June 17, 1994]

E



Minnesota Department of Natural Resources

Natural Heritage and Nongame Research Program, Box 25

500 Lafayette Road

St. Paul, Minnesota 55155-40__

Phone: (651) 296-7863 Fax: (651) 296-1811 E-mail: sarah.hoffmann@dnr.state.mn.us

June 17, 2003

Brian Nettles
Freeborn & Peters
311 S. Wacker Drive
Chicago, IL 60606-6677

Re: Request for Natural Heritage information for vicinity of proposed Brainerd Railroad Abandonment
T133N R28W Sections 5, 8 & 9, Crow Wing County
NHNRP Contact #: ERDB 20031085

Dear Mr. Nettles,

The Minnesota Natural Heritage database has been reviewed to determine if any rare plant or animal species or other significant natural features are known to occur within an approximate one-mile radius of the area indicated on the map enclosed with your information request. Based on this review, there are 12 known occurrences of rare species or natural communities in the area searched (for details, see enclosed database printout and explanation of selected fields). Following are specific comments for **only those elements that may be impacted** by the proposed project. Rare feature occurrences not listed below are not anticipated to be affected by the proposed project.

- Blanding's Turtles (*Emydoidea blandingii*), a state-listed threatened species, are reported from the vicinity of the project area. For your information, I have attached a fact sheet and a flyer about the Blanding's Turtle. The fact sheet is intended to provide you with background information regarding habitat use, life history, and reasons for the species' decline, as well as recommendations for avoiding and minimizing impacts to this rare turtle. As you will note, there are two lists of recommendations. The first list contains recommendations to prevent harm to turtles during construction work, and is relative to all areas inhabited by Blanding's Turtles. Please refer to this first list of recommendations for your project. The second column expands on the first column, and contains greater protective measures to be considered for areas known to be of state-wide importance to Blanding's Turtles, or any area where greater protection for turtles is desired. Your project area is not within one of these priority areas. The flyer, which should be given to all contractors working in the area, contains an illustration and description of the Blanding's Turtle, as well as a summary of the recommendations provided in the fact sheet.

The Natural Heritage database is maintained by the Natural Heritage and Nongame Research Program, a unit within the Division of Ecological Services, Department of Natural Resources. It is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, natural communities, and other natural features. Its purpose is to foster better understanding and protection of these features.

Because our information is not based on a comprehensive inventory, there may be rare or otherwise significant natural features in the state that are not represented in the database. A county-by-county survey of rare natural features is now underway, and is in progress for Crow Wing County. Our

DNR Information: 651-296-6157 • 1-888-646-6367 • TTY: 651-296-5484 • 1-800-657-3929

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Minnesota Natural Heritage Database
Element Occurrence Records

BRAINERD RAILROAD ABANDONMENT
T133N R28W SEC. 5, 8 & 9, CROW WING COUNTY
MnDNR, Natural Heritage and Mongoose Research Program

14:09 Tuesday, JUNE 17, 2003
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MANAGED AREA

ELEMENT and OCCURRENCE NUMBER

| TWP | RNG | PRIMARY SECTION | FED STATUS | MN STATUS | S RANK | ELEMENT and OCCURRENCE NUMBER |
|-------|------|-----------------|------------|-----------|--------|---|
| T045N | R31W | 25 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #184 |
| T133N | R28W | 04 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #190 |
| T133N | R28W | 04 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #532 |
| T133N | R28W | 04 | LT | SPC | | HALIAEETUS LEUCOCEPHALUS (BALD EAGLE) #2048 |
| T133N | R28W | 05 | | | SZ | JACK PINE BARRENS #1 |
| T133N | R28W | 09 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #574 |
| T133N | R28W | 17 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #962 |
| T133N | R28W | 18 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #396 |
| T133N | R28W | 18 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #655 |
| T134N | R28W | 32 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #857 |
| T134N | R28W | 33 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #825 |
| T134N | R28W | 33 | | THR | | EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #826 |

PAUL BUNYAN ARBORETUM

Minnesota Natural Heritage Database
Element Occurrence Records

BRAINERD RAILROAD ABANDONMENT
T133N R28W SEC. 5, 8 & 9, CROW WING COUNTY
MNDNR, Natural Heritage and Nongame Research Program

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T045N R31W SWS25 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #184
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: BRAINERD 26

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: WHITEMAN, G. (1995 BLANDING'S TURTLE REPORT)

1987: 1 TURTLE, MEASURING 9.25 BY 6.75 INCHES OBSERVED BY SCHWENINGER WALKING ACROSS ROAD BTWN BOOM LAKE AND MISSISSIPPI RIV, 50 FEET NORTH OF BRIDGE. AREA HAS SANDY SOIL BUT NO OBVIOUS SAND BANKS FOR NESTING. RELATIVELY HIGH TRAFFIC AND PEOPLE USE OF AREA. KIWANIS PARK IS LOCATED ON BOOM LAKE, WEST OF HIGHWAY 371 IN BRAINERD. 1995: 1 FEMALE, 10" X 7" FOUND IN BRAINERD HIGH SCHOOL SWIMMING POOL & RELEASED ALONG BEAVER DAM RD, NORTH OF BRAINERD.

Last Observed Date: 03 May 1995

DNR Region: 3

Wildlife Area: 301

Forestry District: 311

Quad Map: BRAINERD (M13C)

Latitude: 46 20' 52" Long: 94 12' 18"

Precision: within 0.25 mile, confirmed

Voucher:

Verification: sight or sound rec.

T133N R28W NWN04 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #190
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: EAST BAXTER 4

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: LANG, J. (BLANDING'S TURTLE IN THE BRAINERD/BAKTER REGION); HEIKKENEN, R. 1987: 1 TURTLE, SIZE UNKNOWN, OBSERVED ON BEAVER DAM ROAD OFF OF RIVERSIDE DRIVE, NEAR BRAINERD. 1998: 1 FEMALE TURTLE (OPV) CAPTURED, MEASURED, MARKED & RELEASED ON 4 JUNE.

Last Observed Date: 04 June 1998

DNR Region: 3

Wildlife Area: 301

Forestry District: 311

Quad Map: BRAINERD (M13C)

Latitude: 46 22' 3" Long: 94 12' 36"

Precision: within 0.25 mile, confirmed

Voucher:

Verification: sight or sound rec.

T133N R28W SENW04 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #532
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: EAST BAXTER 4

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: WOIZESCHKE, K. DNR

ONE FEMALE BLANDING'S TURTLE WAS BROUGHT TO DNR OFFICE BY TRAILS AND WATERWAY CREW. SHELL LENGTH WAS 10 INCHES. TURTLE WAS FOUND CROSSING ROAD FROM WETLAND TO UPLAND NEAR THE WHISKEY CREEK WATERFOWL IMPOUNDMENT. THIS AREA CONTAINS A LOT OF FLOATING BOG AND ALDER. THE TURTLE WAS TRAVELLING TOWARDS THE MISSISSIPPI R FLOODPLAIN. K. WOIZESCHKE RETURNED THE TURTLE TO LOCATION WHERE IT HAD BEEN FOUND. THE DATE: 7/8/79 AND THE NAME: L. VAN WINKLE WERE CARVED IN THE SHELL.

Last Observed Date: 23 May 1990

DNR Region: 3

Wildlife Area: 301

Forestry District: 311

Quad Map: BRAINERD (M13C)

Latitude: 46 21' 46" Long: 94 12' 53"

Precision: within 0.25 mile, confirmed

Voucher:

Verification: sight or sound rec.

T133N R28W NWN04 CROW WING COUNTY, MN

Element: HALIAETUS LEUCOCEPHALUS (BALD EAGLE) #2048
State Status: SPECIAL CONCERN

EO Size: EO Rank: Current Status: Intended Status:

Site: EAST BAXTER 4

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: WOIZESCHKE, K. (DNR)

NESTING AREA, WHISKEY CREEK.

Last Observed Date: 2000

DNR Region: 3

Wildlife Area: 301

Forestry District: 311

Quad Map: BRAINERD (M13C)

Latitude: 46 22' 8" Long: 94 13' 4"

Precision: within 0.25 mile, confirmed

Voucher: CR -048

Verification: verified

Minnesota Natural Heritage Database
Element Occurrence Records

BRAINERD RAILROAD ABANDONMENT
T133N R28W SEC. 5, 8 & 9, CROW WING COUNTY
MNDNR, Natural Heritage and Nongame Research Program

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3

T133N R28W SHW18 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #655
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: EAST BAXTER 18

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: BRASTRUP, T. (1993 BLANDING'S TURTLE SURVEY)

1992: ONE TURTLE WITH 1.5 X 2.5 PLASTRON OBSERVED ON ROAD BY T. KEE. 3 RINGS COUNTED. HOLE IN PLASTRON IN FRONT OF HIND LEG, BB PELLET-SIZED. SLIDES TAKEN.
(1992 TURTLE REPORT). 1993: 1 LARGE FEMALE TURTLE FOUND DEAD ON HWY 48, 100 YDS EAST OF INTERSECTION.

Last Observed Date: 20 June 1993

Quad Map: BAXTER (M12D)

Latitude: 46 20' 2" Long: 94 15' 45"

Precision: within 0.25 mile, confirmed

Voucher: Verification: photo rec.

DNR Region: 3
Wildlife Area: 301
Forestry District: 311

T134N R28W SEW32 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #857
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: NORTH LONG LAKE 32

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: LAND, J. (BLANDING'S TURTLE IN THE BRAINERD/BAXTER REGION)

1 FEMALE TURTLE (LP) CAPTURED, MEASURED, MARKED AND RELEASED.

Last Observed Date: 01 July 1997

Quad Map: BRAINERD (M13C)

Latitude: 46 22' 11" Long: 94 14' 15"

Precision: within 0.25 mile, confirmed

Voucher: Verification: sight or sound rec.

DNR Region: 3
Wildlife Area: 301
Forestry District: 311

T134N R28W NENW33 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #825
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: NORTH LONG LAKE 33

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: PADGETT, J. (1995 BLANDING'S TURTLE REPORT)

5/12: 2 TURTLES (ONE-7X6 INCHES, OTHER 4.25X4.75 INCHES) OBSERVED IN BOG AREA NEAR CULVERT. PART OF GILBERT LAKE CHAIN. PHOTOS TO BE SENT TO BRAINERD DNR.
4/29: 1 TURTLE (8-9 INCHES) OBSERVED CROSSING BEAVER DAM ROAD. OBSERVER TOOK PHOTOS & HELPED TURTLE ACROSS RD. 7/25: 1 LARGE TURTLE OBSERVED COMING OUT OF SWAMP & CROSSING DAL-MAR DRIVE.

Last Observed Date: 25 July 1995

Quad Map: MERRIFIELD (M13B)

Latitude: 46 22' 51" Long: 94 13' 9"

Precision: within 0.25 mile, confirmed

Voucher: Verification: sight or sound rec.

DNR Region: 3
Wildlife Area: 301
Forestry District: 311

T134N R28W NENW33 CROW WING COUNTY, MN

Element: EMYDOIDEA BLANDINGII (BLANDING'S TURTLE) #826
State Status: THREATENED

EO Size: EO Rank: Current Status: Intended Status:

Site: NORTH LONG LAKE 33

Ownership: Owner unknown

Managed Area(s): not managed or no record

Source: PADGETT, J. (1996 BLANDING'S TURTLE REPORT)

1 LARGE TURTLE OBSERVED CROSSING FROM MARSHY AREA TO SANDY PINE TREE GROVE.

Last Observed Date: 07 June 1996

Quad Map: MERRIFIELD (M13B)

Latitude: 46 23' 2" Long: 94 12' 53"

Precision: within 0.25 mile, confirmed

Voucher: Verification: sight or sound rec.

DNR Region: 3
Wildlife Area: 301
Forestry District: 311

Environmental Review Fact Sheet Series

Endangered, Threatened, and Special Concern Species of Minnesota

Blanding's Turtle (*Emydoidea blandingii*)

Minnesota Status: Threatened
Federal Status: none

State Rank¹: S2
Global Rank¹: G4

HABITAT USE

Blanding's turtles need both wetland and upland habitats to complete their life cycle. The types of wetlands used include ponds, marshes, shrub swamps, bogs, and ditches and streams with slow-moving water. In Minnesota, Blanding's turtles are primarily marsh and pond inhabitants. Calm, shallow water bodies (Type 1-3 wetlands) with mud bottoms and abundant aquatic vegetation (cattails, water lilies, etc.) are preferred, and extensive marshes bordering rivers provide excellent habitat. Small temporary wetlands (those that dry up in the late summer or fall) are frequently used in spring and summer -- these fishless pools are amphibian and invertebrate breeding habitat, which provides an important food source for Blanding's turtles. Also, the warmer water of these shallower areas probably aids in the development of eggs within the female turtle. Nesting occurs in open (grassy or brushy) sandy uplands, often some distance from water bodies. Frequently, nesting occurs in traditional nesting grounds on undeveloped land. Blanding's turtles have also been known to nest successfully on residential property (especially in low density housing situations), and to utilize disturbed areas such as farm fields, gardens, under power lines, and road shoulders (especially of dirt roads). Although Blanding's turtles may travel through woodlots during their seasonal movements, shady areas (including forests and lawns with shade trees) are not used for nesting. Wetlands with deeper water are needed in times of drought, and during the winter. Blanding's turtles overwinter in the muddy bottoms of deeper marshes and ponds, or other water bodies where they are protected from freezing.

LIFE HISTORY

Individuals emerge from overwintering and begin basking in late March or early April on warm, sunny days. The increase in body temperature which occurs during basking is necessary for egg development within the female turtle. Nesting in Minnesota typically occurs during June, and females are most active in late afternoon and at dusk. Nesting can occur as much as a mile from wetlands. The nest is dug by the female in an open sandy area and 6-15 eggs are laid. The female turtle returns to the marsh within 24 hours of laying eggs. After a development period of approximately two months, hatchlings leave the nest from mid-August through early-October. Nesting females and hatchlings are often at risk of being killed while crossing roads between wetlands and nesting areas. In addition to movements associated with nesting, all ages and both sexes move between wetlands from April through November. These movements peak in June and July and again in September and October as turtles move to and from overwintering sites. In late autumn (typically November), Blanding's turtles bury themselves in the substrate (the mud at the bottom) of deeper wetlands to overwinter.

IMPACTS / THREATS / CAUSES OF DECLINE

- loss of wetland habitat through drainage or flooding (converting wetlands into ponds or lakes)
- loss of upland habitat through development or conversion to agriculture
- human disturbance, including collection for the pet trade* and road kills during seasonal movements
- increase in predator populations (skunks, racoons, etc.) which prey on nests and young

*It is illegal to possess this threatened species.

RECOMMENDATIONS FOR AVOIDING AND MINIMIZING IMPACTS

These recommendations apply to typical construction projects and general land use within Blanding's turtle habitat, and are provided to help local governments, developers, contractors, and homeowners minimize or avoid detrimental impacts to Blanding's turtle populations. **List 1** describes minimum measures which we recommend to prevent harm to Blanding's turtles during construction or other work within Blanding's turtle habitat. **List 2** contains recommendations which offer even greater protection for Blanding's turtles populations; this list should be used *in addition to the first list* in areas which are known to be of state-wide importance to Blanding's turtles (contact the DNR's Natural Heritage and Nongame Research Program if you wish to determine if your project or home is in one of these areas), or in any other area where greater protection for Blanding's turtles is desired.

| List 1. Recommendations for all areas inhabited by Blanding's turtles. | List 2. Additional recommendations for areas known to be of state-wide importance to Blanding's turtles. |
|---|---|
| GENERAL | |
| A flyer with an illustration of a Blanding's turtle should be given to all contractors working in the area. Homeowners should also be informed of the presence of Blanding's turtles in the area. | Turtle crossing signs can be installed adjacent to road-crossing areas used by Blanding's turtles to increase public awareness and reduce road kills. |
| Turtles which are in imminent danger should be moved, by hand, out of harm's way. Turtles which are not in imminent danger should be left undisturbed. | Workers in the area should be aware that Blanding's turtles nest in June, generally after 4pm, and should be advised to minimize disturbance if turtles are seen. |
| If a Blanding's turtle nests in your yard, do not disturb the nest. | If you would like to provide more protection for a Blanding's turtle nest on your property, see "Protecting Blanding's Turtle Nests" on page 3 of this fact sheet. |
| Silt fencing should be set up to keep turtles out of construction areas. It is <u>critical</u> that silt fencing be removed after the area has been revegetated. | Construction in potential nesting areas should be limited to the period between September 15 and June 1 (this is the time when activity of adults and hatchlings in upland areas is at a minimum). |
| WETLANDS | |
| Small, vegetated temporary wetlands (Types 2 & 3) should not be dredged, deepened, filled, or converted to storm water retention basins (these wetlands provide important habitat during spring and summer). | Shallow portions of wetlands should not be disturbed during prime basking time (mid morning to mid-afternoon in May and June). A wide buffer should be left along the shore to minimize human activity near wetlands (basking Blanding's turtles are more easily disturbed than other turtle species). |
| Wetlands should be protected from pollution; use of fertilizers and pesticides should be avoided, and run-off from lawns and streets should be controlled. Erosion should be prevented to keep sediment from reaching wetlands and lakes. | Wetlands should be protected from road, lawn, and other chemical run-off by a vegetated buffer strip at least 50' wide. This area should be left unmowed and in a natural condition. |
| ROADS | |
| Roads should be kept to minimum standards on widths and lanes (this reduces road kills by slowing traffic and reducing the distance turtles need to cross). | Tunnels should be considered in areas with concentrations of turtle crossings (more than 10 turtles per year per 100 meters of road), and in areas of lower density if the level of road use would make a safe crossing impossible for turtles. Contact your DNR Regional Nongame Specialist for further information on wildlife tunnels. |
| Roads should be ditched, not curbed or below grade. If curbs must be used, 4 inch high curbs at a 3:1 slope are preferred (Blanding's turtles have great difficulty climbing traditional curbs; curbs and below grade roads trap turtles on the road and can cause road kills). | Roads should be ditched, not curbed or below grade. |

| ROADS cont. | |
|---|---|
| Culverts between wetland areas, or between wetland areas and nesting areas, should be 36 inches or greater in diameter, and elliptical or flat-bottomed. | Road placement should avoid separating wetlands from adjacent upland nesting sites, or these roads should be fenced to prevent turtles from attempting to cross them (contact your DNR Nongame Specialist for details). |
| Wetland crossings should be bridged, or include raised roadways with culverts which are 36 in or greater in diameter and flat-bottomed or elliptical (raised roadways discourage turtles from leaving the wetland to bask on roads). | Road placement should avoid bisecting wetlands, or these roads should be fenced to prevent turtles from attempting to cross them (contact your DNR Nongame Specialist for details). This is especially important for roads with more than 2 lanes. |
| Culverts under roads crossing streams should be oversized (at least twice as wide as the normal width of open water) and flat-bottomed or elliptical. | Roads crossing streams should be bridged. |
| UTILITIES | |
| Utility access and maintenance roads should be kept to a minimum (this reduces road-kill potential). | |
| Below-ground utility construction sites should be returned to original grade (trenches can trap turtles). | |
| LANDSCAPING AND VEGETATION MANAGEMENT | |
| Terrain should be left with as much natural contour as possible. | As much natural landscape as possible should be preserved (installation of sod or wood chips, paving, and planting of trees within nesting habitat can make that habitat unusable to nesting Blanding's turtles). |
| Graded areas should be revegetated with native grasses and forbs (some non-natives form dense patches through which it is difficult for turtles to travel). | Open space should include some areas at higher elevations for nesting. These areas should be retained in native vegetation, and should be connected to wetlands by a wide corridor of native vegetation. |
| Vegetation management in infrequently mowed areas -- such as in ditches, along utility access roads, and under power lines -- should be done mechanically (chemicals should not be used). Work should occur fall through spring (after October 1 st and before June 1 st). | Ditches and utility access roads should not be mowed or managed through use of chemicals. If vegetation management is required, it should be done mechanically, as infrequently as possible, and fall through spring (mowing can kill turtles present during mowing, and makes it easier for predators to locate turtles crossing roads). |

Protecting Blanding's Turtle Nests: Most predation on turtle nests occurs within 48 hours after the eggs are laid. After this time, the scent is gone from the nest and it is more difficult for predators to locate the nest. Nests more than a week old probably do not need additional protection, unless they are in a particularly vulnerable spot, such as a yard where pets may disturb the nest. Turtle nests can be protected from predators and other disturbance by covering them with a piece of wire fencing (such as chicken wire), secured to the ground with stakes or rocks. The piece of fencing should measure at least 2 ft. x 2 ft., and should be of medium sized mesh (openings should be about 2 in. x 2 in.). It is *very important* that the fencing be **removed before August 1st** so the young turtles can escape from the nest when they hatch!

REFERENCES

- ¹Association for Biodiversity Information. "Heritage Status: Global, National, and Subnational Conservation Status Ranks." NatureServe. Version 1.3 (9 April 2001). <http://www.natureserve.org/ranking.htm> (15 April 2001).
- Coffin, B., and L. Pfanmueller. 1988. Minnesota's Endangered Flora and Fauna. University of Minnesota Press, Minneapolis, 473 pp.

REFERENCES cont.

- Moriarty, J. J., and M. Linck. 1994. Suggested guidelines for projects occurring in Blanding's turtle habitat. Unpublished report to the Minnesota DNR. 8 pp.
- Oldfield, B., and J. J. Moriarty. 1994. Amphibians and Reptiles Native to Minnesota. University of Minnesota Press, Minneapolis, 237 pp.
- Sajwaj, T. D., and J. W. Lang. 2000. Thermal ecology of Blanding's turtle in central Minnesota. *Chelonian Conservation and Biology* 3(4):626-636.

Rare Features Database Print-outs: An Explanation of Fields

The Rare Features database is part of the Natural Heritage Information System, and is maintained by the Natural Heritage and Nongame Research Program, a unit within the Division of Ecological Services, Minnesota Department of Natural Resources (DNR).

Please note that the print-outs are copyrighted and may not be reproduced without permission

Field Name: [Full (non-abbreviated) field name, if different]. Further explanation of field.

-C-

CBS Site: [County Biological Survey site number]. In each county, the numbering system begins with 1.

CLASS: A code which classifies features by broad taxonomic group: NC = natural community; SA = special animal; SP = special plant; GP = geologic process; GT = geologic time; OT = other (e.g. colonial waterbird colonies, bat hibernacula).

City: [County]. Minnesota counties (ordered alphabetically) are numbered from 1 (Aitkin) to 87 (Yellow Medicine).

CURRENT STATUS: Present protection status, from 0 (owner is not aware of record) to 9 (dedicated as a Scientific and Natural Area).

-D-

DNR Region: 1=NW, 2=NE, 3=E Central, 4=SW, 5=SE, 6= Minneapolis/St. Paul Metro.

DNR Quad: [DNR Quadrangle code]. DNR-assigned code of the U.S. Geologic Survey topographic map on which the rare feature occurs.

-E-

ELEMENT or **Element:** See "Element Name (Common Name)"

Element Name (Common Name): The name of the rare feature. For plant and animal species records, this field holds the scientific name, followed by the common name in parentheses; for all other elements (such as plant communities, which have no scientific name) it is solely the element name.

EO RANK: [Element Occurrence Rank]. An evaluation of the quality and condition of natural communities from A (highest) to D (lowest).

EO Size: [Element Occurrence Size]. The size in acres (often estimated) of natural communities.

-F-

FED STATUS: [Federal Status]. Status of species under the Federal Endangered Species Law: LE=endangered, LT=threatened, C=species which have been proposed for federal listing.

Federal Status: See "FED STATUS"

Forestry District: The Minnesota DNR's Division of Forestry district number.

-G-

GLOBAL RANK: The abundance of an element globally, from G1 (critically imperiled due to extreme rarity on a world-wide basis) to G5 (demonstrably secure, though perhaps rare in parts of its range). Global ranks are determined by the Conservation Science Division of The Nature Conservancy.

-I-

INTENDED STATUS: Desired protection status. See also "CURRENT STATUS." If a complete list of protection status codes is needed, please contact the Natural Heritage Program.

-L-

LAST OBSERVED or **Last Observed Date** or **Last Observation:** Date of the most recent record of the element at the location.

Latitude: The location at which the occurrence is mapped on Natural Heritage Program maps. NOTE: There are various levels of precision in the original information, but this is not reflected in the latitude/longitude data. For some of the data, particularly historical records, it was not possible to determine exactly where the original observation was made (e.g. "Fort Snelling", or "the south shore of Lake Owasso"). Thus the latitude/longitude reflect the mapped location, and not necessarily the observation location.

Legal: Township, range and section numbers.

Long: [Longitude]. See NOTE under "Latitude"

-M-

MANAGED AREA or **Managed Area(s):** Name of the federally, state, locally, or privately managed park, forest, preserve, etc., containing the occurrence, if any. If this field is blank, the element probably occurs on private land. If "(STATUTORY BOUNDARY)" occurs after the name of a managed area, the location may be a private inholding within the statutory boundary of a state forest or park.

Map Sym: [Map Symbol].

MN STATUS: [Minnesota Status]. Legal status of plant and animal species under the Minnesota endangered species law:

END=endangered, THR=threatened, SPC=special concern, NON=no legal status, but tracked. This field is blank for natural communities and colonial waterbird nesting sites, which have no legal status in Minnesota, but are tracked by the database.

-N-

NC Rank: [Natural Community Rank].

-O-

Occ #: [Occurrence Number]. The occurrence number, in combination with the element name, uniquely identifies each record.

OCCURRENCE NUMBER: See "Occ #"

OF OCCURS: The number of records existing in the database for each element within the area searched.

Ownership: Indicates whether the site is publicly or privately owned; for publicly owned land, the agency with management responsibility is listed.

-P-

Precision: Precision of locational information of occurrence: C (confirmed) = known within 1/4 mile radius, U (unconfirmed) = known within 1/2 mile, N (non-specific) = known within 1 mile, G (general) = occurs within the general region, X (unmappable)=location is unmappable on USGS topographic quadrangles (often known only to the nearest county), O (obscure/gone)=element no longer exists at the location.

PS: [Primary Section]. The section containing all or the greatest part of the occurrence.

-Q-

Quad Map: See "DNR Quad"

-R-

Rec #: [Record number].

RNG or Rng: [Range number].

-S-

SECTION or Section: [Section number(s)]. Some records are given only to the nearest section (s), but most are given to the nearest quarter-section or quarter-quarter-section (e.g., SWNW32 denotes the SW1/4 of the NW1/4 of section 32). A "0" is used as a place holder when a half-section is specified (e.g., ON03 refers to the north 1/2 of section 3). When an occurrence crosses section boundaries, both sections are listed, without punctuation (e.g., the NE1/4 of section 19 and NW1/4 of section 20 is displayed as "NE19NW20").

Site: A name which refers to the geographic area within which the occurrence lies. If no name for the area exists (a locally used name, for example), one is assigned by the County Biological Survey or the Natural Heritage Program.

Source: The collector or observer of the rare feature occurrence.

S RANK: [State Rank]. A rank assigned to the natural community type which reflects the known extent and condition of that community in Minnesota. Ranks range from 1 (in greatest need of conservation action in the state) to 5 (secure under present conditions). A "?" following a rank indicates little information is available to rank the community. Communities for which information is especially scarce are given a "U", for "rank undetermined". The ranks do not represent a legal status. They are used by the Minnesota Department of Natural Resources to set priorities for research, inventory and conservation planning. The state ranks are updated as inventory information becomes available.

State Status: See "MN STATUS"

-T-

TWP or Twp: [Township number].

-V-

Verification: A reflection of the reliability of the information on which the record is based. The highest level of reliability is "verified," which usually indicates a collection was made or, in the case of bird records, nesting was observed. Plant records based on collections made before 1970 are unverified.

Voucher: The museum or herbarium where specimens are maintained, and the accession number assigned by the repository. In the case of bald eagles, this is the breeding area number.

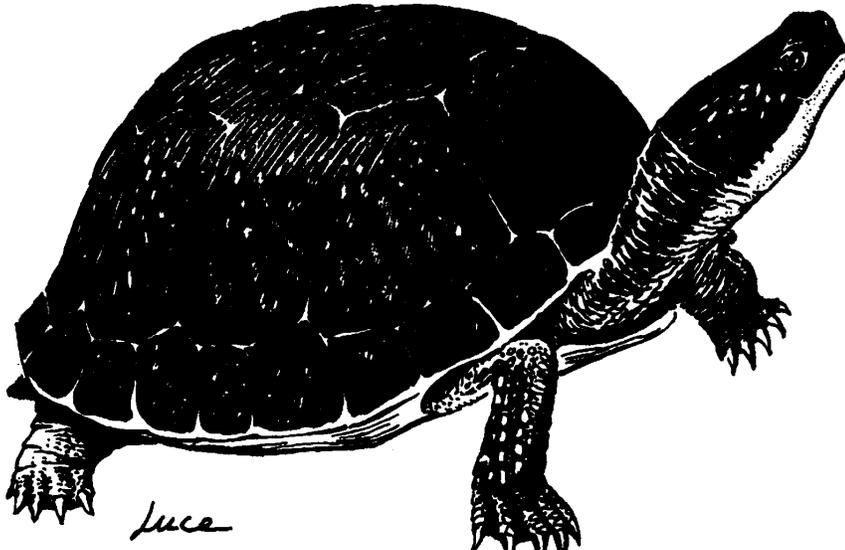
-W-

Wildlife Area: The Minnesota DNR's Division of Wildlife administrative number.

Data Security

Locations of some rare features must be treated as sensitive information because widespread knowledge of these locations could result in harm to the rare features. For example, wildflowers such as orchids and economically valuable plants such as ginseng are vulnerable to exploitation by collectors; other species, such as bald eagles, are sensitive to disturbance by observers. For this reason, we prefer that publications not identify the precise locations of vulnerable species. We suggest describing the location only to the nearest section. If this is not acceptable for your purposes, please call and discuss this issue with the Environmental Review Specialist for the Natural Heritage and Nongame Research Program at 651/296-7863.

CAUTION



BLANDING'S TURTLES MAY BE ENCOUNTERED IN THIS AREA

The unique and rare Blanding's turtle has been found in this area. Blanding's turtles are a State Threatened species and are protected under Minnesota Statute 84.095, Protection of Threatened and Endangered Species. Please be careful of turtles on roads and in construction sites. For additional information on turtles, or to report a Blanding's turtle sighting, contact the DNR Nongame Specialist nearest you: Bemidji (218-755-2976); Brainerd (218-828-2228); New Ulm (507-359-6033); Rochester (507-280-5070); or St. Paul (651-297-2277).

DESCRIPTION: The Blanding's turtle is a medium to large turtle (5 to 10 inches) with a black or dark blue, dome-shaped shell with muted yellow spots and bars. The bottom of the shell is hinged across the front third, enabling the turtle to pull the front edge of the lower shell firmly against the top shell to provide additional protection when threatened. The head, legs, and tail are dark brown or blue-gray with small dots of light brown or yellow. A distinctive field mark is the bright yellow chin and neck.

Illustration by Don Luce, from Turtles in Minnesota, Natural History Leaflet No. 9, June 1989, James Ford Bell Museum of Natural History

**SUMMARY OF RECOMMENDATIONS
FOR AVOIDING AND MINIMIZING IMPACTS
TO BLANDING'S TURTLE POPULATIONS**

(see Environmental Review Fact Sheet Series for full recommendations)

- A flyer with an illustration of an adult Blanding's turtle should be given to all contractors working in the area. Homeowners should also be informed of the presence of Blanding's turtles in the area.
- Turtles which are in imminent danger should be moved, by hand, out of harm's way. Turtles which are not in imminent danger should be left undisturbed to continue their travel among wetlands and/or nest sites.
- If a Blanding's turtle nests in your yard, do not disturb the nest, and do not allow pets near the nest.
- Blanding's turtles do not make good pets. It is illegal to keep this threatened species in captivity.
- Silt fencing should be set up to keep turtles out of construction areas. It is critical that silt fencing be removed after the area has been revegetated.
- Small, vegetated temporary wetlands should not be dredged, deepened, or filled.
- All wetlands should be protected from pollution; use of fertilizers and pesticides should be avoided, and run-off from lawns and streets should be controlled. Erosion should be prevented to keep sediment from reaching wetlands and lakes.
- Roads should be kept to minimum standards on widths and lanes.
- Roads should be ditched, not curbed or below grade. If curbs must be used, 4" high curbs at a 3:1 slope are preferred.
- Culverts under roads crossing wetland areas, between wetland areas, or between wetland and nesting areas should be at least 36 in. diameter and flat-bottomed or elliptical.
- Culverts under roads crossing streams should be oversized (at least twice as wide as the normal width of open water) and flat-bottomed or elliptical.
- Utility access and maintenance roads should be kept to a minimum.
- Below-ground utility construction sites should be returned to original grade.
- Terrain should be left with as much natural contour as possible.
- Graded areas should be revegetated with native grasses and forbs.
- Vegetation management in infrequently mowed areas -- such as in ditches, along utility access roads, and under power lines -- should be done mechanically (chemicals should not be used). Work should occur fall through spring (after October 1st and before June 1st).

F



United States Department of the Interior

**Bureau of Land Management
Milwaukee Field Office
310 W. Wisconsin Ave., Suite 450
Milwaukee, Wisconsin 53203**



IN REPLY REFER TO:
2000(030)

May 28, 2003

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

Dear Mr. Nettles:

This is in response to your letters of May 13 and 19, 2003, to James Dryden concerning two separate proposals by the Burlington Northern and Santa Fe Railway Company (BNSF). The May 13th letter addressed BNSF's plan to file with the Surface Transportation Board a "Petition to Abandon" seeking authority to abandon 1.60 miles of railroad line between Milepost 0.00 and Milepost 1.60 in Brainerd, Minnesota. The May 19th addresses BSNF's plan to file with the Surface Transportation Board a "Notice of Exemption" seeking authority to abandon 0.99 miles of railroad line between Milepost 11.81 and Milepost 12.80 in Stillwater, Minnesota.

A search of our records shows there are no Federal lands administered by the Bureau of Land Management along either railroad line. However, please be aware that some of the original railroad grants were limited fee rights-of-way and may be subject to the Railroad Right-of-way Forfeiture and Abandonment Act of March 8, 1922, 43 U.S.C. § 912 (the 1922 Abandonment Act), and the National Trails System Improvement Act of October 4, 1988, Public Law 100-470, 16 U.S.C. § 1248 (c) - (f).

Thank you for giving us the opportunity to comment on this proposal. Our office does not have information on the location of wildlife refuges, state or national parks, and state or national forests in the immediate vicinity. You must contact the Fish and Wildlife Service, National Park Service, National Forest Service and State offices to obtain this information. If you require additional information, please contact Marcia Sieckman at (414) 297-4402.

Sincerely,

Chris Hanson
Assistant Field Office Manager
Division of Lands and Renewable Resources

G



United States
Department of
Agriculture

Forest
Service

Eastern Region

310 West Wisconsin Ave.
Suite 580
Milwaukee, WI 53203

File Code: 2700

Date: June 16, 2003

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

Re: The Burlington Northern and Santa Fe Railway Company Abandonment of Stillwater and Brainerd, Minnesota

Dear Attorney Nettles:

There are no Forest Service-administered lands in the proposed project impact area for the following miles of railroad line:

- 0.99 miles of railroad line between Milepost 11.81 and Milepost 12.80 in Stillwater, MN.
- 1.60 miles of railroad line between Milepost 0.00 and Milepost 1.60 in Brainerd, MN.

You may want to contact the U.S. Department of the Interior, National Park Service, regarding possible impacts to the St. Croix National Scenic Riverway, which is in the vicinity of Stillwater, Minnesota.

If I may be of any further assistance, please contact me at (414) 297-3696 or pstockinger@fs.fed.us.

Sincerely,



PAUL M. STOCKINGER
Director, Air, Water, Lands, Soil & Minerals



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H

Freeborn & Peters

May 13, 2003

Jennifer Olson
Division Regional Environmental
Management Section Operations &
Environmental Review
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

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

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Brainerd, Minnesota***

Dear Ms. Olson:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition to Abandon seeking authority to abandon 1.60 miles of railroad line between Milepost 0.00 and Milepost 1.60 in Brainerd, Minnesota.

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 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

I

Freeborn & Peters

May 13, 2003

Joe Oschwald
Environmental Review Coordinator
Minnesota Department of Natural Resources
500 Lafayette Road
St. Paul, MN 55155-4040

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

Re: *The Burlington Northern and Santa Fe Railway Company Abandonment of Brainerd, Minnesota*

Dear Mr. Oschwald:

BNSF plans on filing with the Surface Transportation Board ("STB") a Petition to Abandon seeking authority to abandon 1.60 miles of railroad line between Milepost 0.00 and Milepost 1.60 in Brainerd, Minnesota.

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 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

J



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

May 23, 2003

Construction-Operations
Regulatory (03-05461-JAK)

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

Dear Mr. Nettles:

We have reviewed information about a project of Burlington Northern and Santa Fe Railway Company to abandon 1.6 miles of railroad line between Milepost 0.00 and Milepost 1.60. The project site is in Sec. 5, 8, and 9, T. 133N, R. 28W, Crow Wing County, Minnesota.

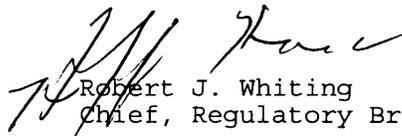
The work proposed at the location stated is not within the regulatory jurisdiction of the Corps of Engineers. No work will be done in a navigable water of the United States, and no dredged or fill material will be discharged in any water of the United States, including wetlands. Therefore, a Department of the Army permit is not required to do this work provided none of the abandoned material is placed in any Waters of the U.S., including wetlands.

This letter is valid only for the project referenced above. If any change in design, location, or purpose is contemplated, contact this office to avoid doing work that may be in violation of Federal law. PLEASE NOTE THAT THIS CONFIRMATION LETTER DOES NOT ELIMINATE THE NEED FOR STATE, LOCAL, OR OTHER AUTHORIZATIONS, SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY.

The decision regarding this action is based on information found in the administrative record which documents the District's decision-making process, the basis for the decision, and the final decision.

If you have any questions, contact Jeff Koschak in our Brainerd office at (218) 829-2711. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,



Robert J. Whiting
Chief, Regulatory Branch

K

Nettles, Brian

From: Ceil Strauss [Ceil.Strauss@dnr.state.mn.us]
Sent: Monday, February 23, 2004 4:38 PM
To: bnettles@freebornpeters.com
Cc: Ron Morreim
Subject: Burlington No & Santa Fe RR - Brainerd, MN

Mr. Nettles,

I am replying to a 2/20/04 letter to Ogbazghi Sium about whether a RR site to be abandoned is in the 100-year floodplain so you can complete an environmental report. I am attaching a portion of the FEMA Flood Insurance Rate Map (as a pdf) that includes the area you have indicated. It shows the 100-year flood areas (dark shaded areas). Note that north is to the left! I am also attaching some instructions on how to make a "FIRMette" yourself for future reference, or in case I misinterpreted the area you needed. FIRMettes are intended to be considered legal copies of smaller portions of the FEMA floodplain maps. This is an 8-1/2 x 11 size document.

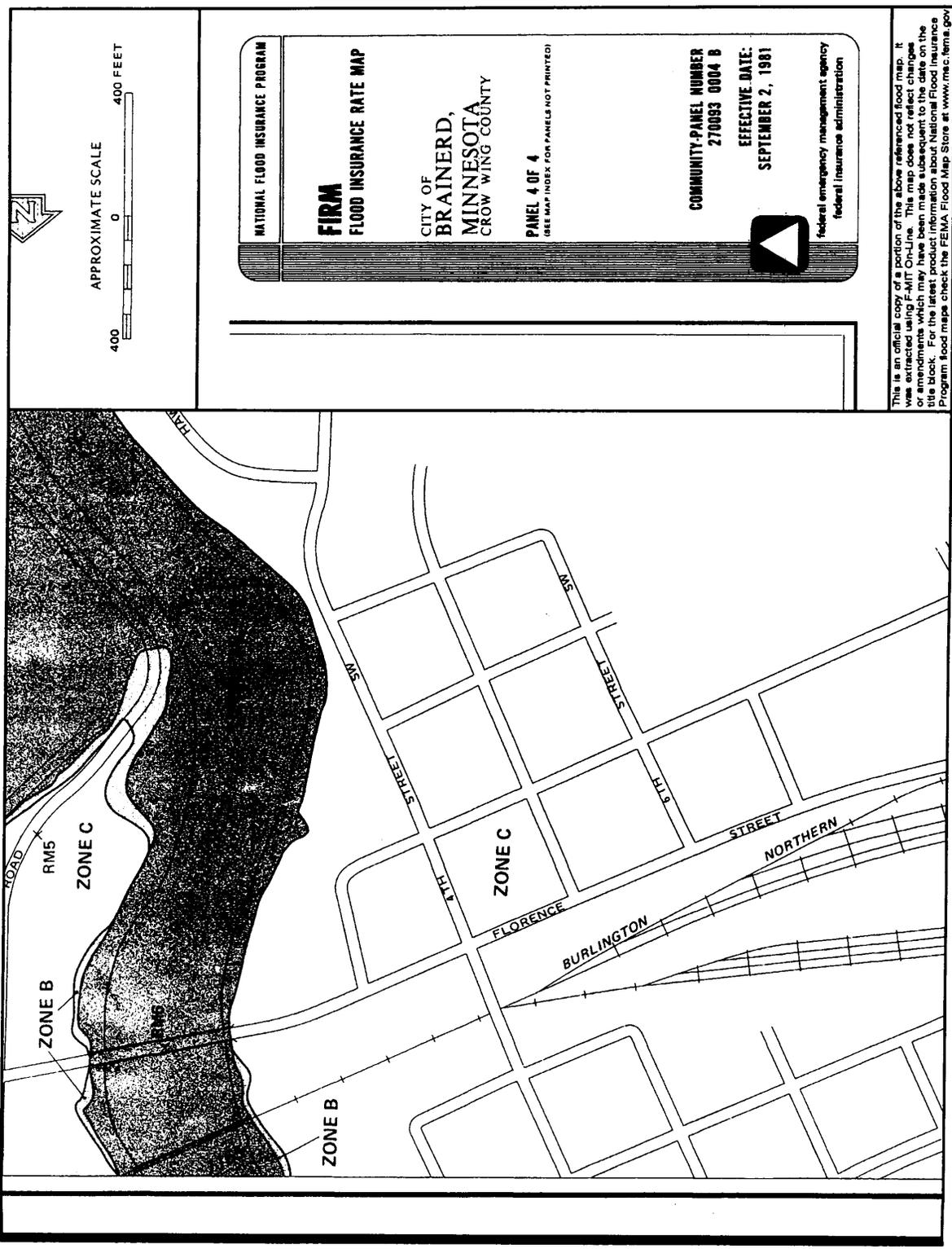
If you have further questions about water-related state regulations for this site, contact the DNR Area Hydrologist - Ron Morreim (copied on this) at 218-828-2605.

If you have trouble with the attachments, please let me know.

Ceil Strauss
Floodplain "Community Assistance
Program" Hydrologist
DNR Waters
500 Lafayette Road
St. Paul, MN 55155-4032

(651) 296-4801 - phone
(651) 296-0445 - fax

2/23/2004



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MINNESOTA HISTORICAL SOCIETY

March 30, 2004

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

Re: Burlington Northern and Santa Fe Railway Company railroad line abandonment
from milepost 0.00 to milepost 1.60 in and near Brainerd
Crow Wing County
SHPO Number: 2004-1053

Dear Mr. Nettles:

Thank you for the opportunity to review and comment on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

This stretch of line to be abandoned was constructed as part of the Brainerd and Northern Minnesota Railway Company, built in 1894. In 1901 it became the Minnesota and International Railway Company, and later part of the Northern Pacific.

Other portions of this line have been found to meet National Register criteria, and this section could qualify as well. It appears that the 1.6 miles to be abandoned are at the southern end of this line. Given the fact that the abandoned segment is short in length and is located within the city of Brainerd, we conclude that the abandonment will have no adverse effect on the overall line's historical characteristics.

Contact us at 651-296-5462 with questions or concerns.

Sincerely,

Dennis A. Gimmestad
Government Programs & Compliance Officer

cc: Tom Cinadr, SHPO