

21130

BEFORE THE

SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company Notice of Exemption
to Abandon Its Line of Railroad
Between M.P. 7.00 near Glendive, Montana
and M.P. 50.41 in Circle, in Dawson and
McCone Counties, Montana

ENTERED
Office of Proceedings

MAY 28 2004

Part of
Public Record



Docket No. AB-6
(Sub No. 424X)

ENVIRONMENTAL REPORT

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between M.P. 7.00 near Glendive, Dawson County, Montana and M.P. 50.41 in Circle, McCone County, Montana, total distance of 43.41 miles.

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

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

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

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

(3) Land Use:

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

BNSF believes that the proposed exemption will be consistent with existing land use plans. The Dawson County Board of Commissioners and the McCone County Board of Commissioner were notified by letters dated December 9, 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 agriculture land.

The abandonment will not affect any prime agricultural lands. 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 Dawson County Board of Commissioners and the McCone County Board of Commissioner were notified by letters dated

December 9, 2003. See Exhibits B and C. As of the date of this report, neither has responded directly to the inquiries. BNSF will provide the Board copies of any response it may receive.

(4) Energy:

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

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

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

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

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

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

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

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

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

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

(5) Air:

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

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

No.

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

No.

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

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

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

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

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

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

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

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

This action will have no effect on the transportation of ozone depleting materials as the line is out of service.

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

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

N/A

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

N/A

(7) Safety:

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

This abandonment should have no adverse effect on health or public safety. There are 11 public crossings and 42 private crossings.

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

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

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

Abandonment will not result in transportation of hazardous materials.

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

There is a possible used oil, fuel or fertilizer spill between M.P. 49 and M.P. 50 at Circle, Montana, next to tracks behind a John Deere dealer and Cenex fertilizer.

(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.

Federally-listed species that may be present in the vicinity of the proposed railroad abandonment include the endangered back-footed ferret (*Mustela nigripes*), threatened bald eagle (*Haliaeetus leucocephalus*), and candidate back-tailed prairie dog (*Cynomys ludovicianus*). However, considering the specific scope, nature and location of the proposed abandonment, the U.S. Fish and Wildlife does not anticipate any project related adverse impacts to listed, proposed or candidate species. There is no critical habitat for any listed species designated or proposed in the project area See Exhibit E, letter from the U.S. Fish and Wildlife Services.

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

BNSF believes the proposed abandonment will have no effect on wildlife sanctuaries, refuges, National or State parks or forests. The U.S. Fish and Wildlife Service does not know of any lands administered as part of the National Wildlife Refuge system occurring near the proposed abandonment. See Exhibit E, response from the U.S. Fish and Wildlife Services.

(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. There is a concern about the potential for pollutant (such as disturbed sediment) discharge to nearby surface waters as the railroad appears to be parallel to or crossing over some surface water. See Exhibit F, letter from the Montana Department of Environmental Quality. BNSF will require its salvage contractors to take every measure and precaution to ensure that no pollutant will be discharged into surface waters.

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

A Section 404 permit is not required. See Exhibit G, letter from the U.S. Army Corps of Engineers. BNSF does not believe the proposed abandonment will affect the 100-year floodplain. The Dawson County Disaster and Emergency Services and the McCone County Clerk and

Recorder have been notified by letters dated December 9, 2003. See

Exhibits H and I. As of the date of this report neither has responded.

BNSF will provide the Board copies of any response it may receive.

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

BNSF might be required to obtain a MPDES permit. Coverage under the General MPDES Permit is necessary for storm water discharges if the project is resulting in ground disturbance totaling one or more acres that is part of a larger common plan of development or sale, and if there is storm water discharging pollutant to surface waters. See Exhibit F, letter from the Montana Department of Environmental Quality. BNSF will require its salvage contractors to obtain any necessary stormwater discharge permits.

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

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

Respectfully Submitted,

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 26, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of The
Burlington Northern and Santa Fe
Railway Company Notice of Exemption
to Abandon Its Line of Railroad
Between M.P. 7.00 near Glendive, Montana
and M.P. 50.41 in Circle, in Dawson and
McCone Counties, Montana

Docket No. AB-6
(Sub No. 424X)

HISTORICAL REPORT

The following is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding BNSF's Notice of Exemption to abandon its line of railroad between M.P. 7.00 near Glendive, Montana to M.P. 50.41 in Circle, in Dawson and McCone Counties, Montana, a total distance of 43.41 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 Montana 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 Glendive to Circle, Montana line connects the rural towns of Glendive, Lindsay and Circle. Lindsay is an unincorporated town. The 2000 census populations of Glendive and Circle were 4,729 and 644 respectively. The 2002 estimated populations according to the Montana Census and Economic Information Center at Helena, Montana for Glendive and Circle were 4,687 and 596 respectively. This represents a decline of approximately 2% over the two years. Rail service will be retained at Glendive, Montana.

Much of the adjoining land is flat to rolling. The major crop in the area is wheat with some barley produced. The rail corridor is 100 feet wide with varying width at former stations on the line.

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

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

The dates of construction of the bridges (all between 1948 and 1951) are included with the photographs. See Exhibit J.

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

The corridor was acquired by the Northern Pacific Railway (NP) in 1927. In 1970 the NP merged into the Burlington Northern Railroad (BN). In 1995 the BN merged with

The Atchison Topeka and Santa Fe Railway to become The Burlington Northern and Santa Fe Railway (BNSF).

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

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

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

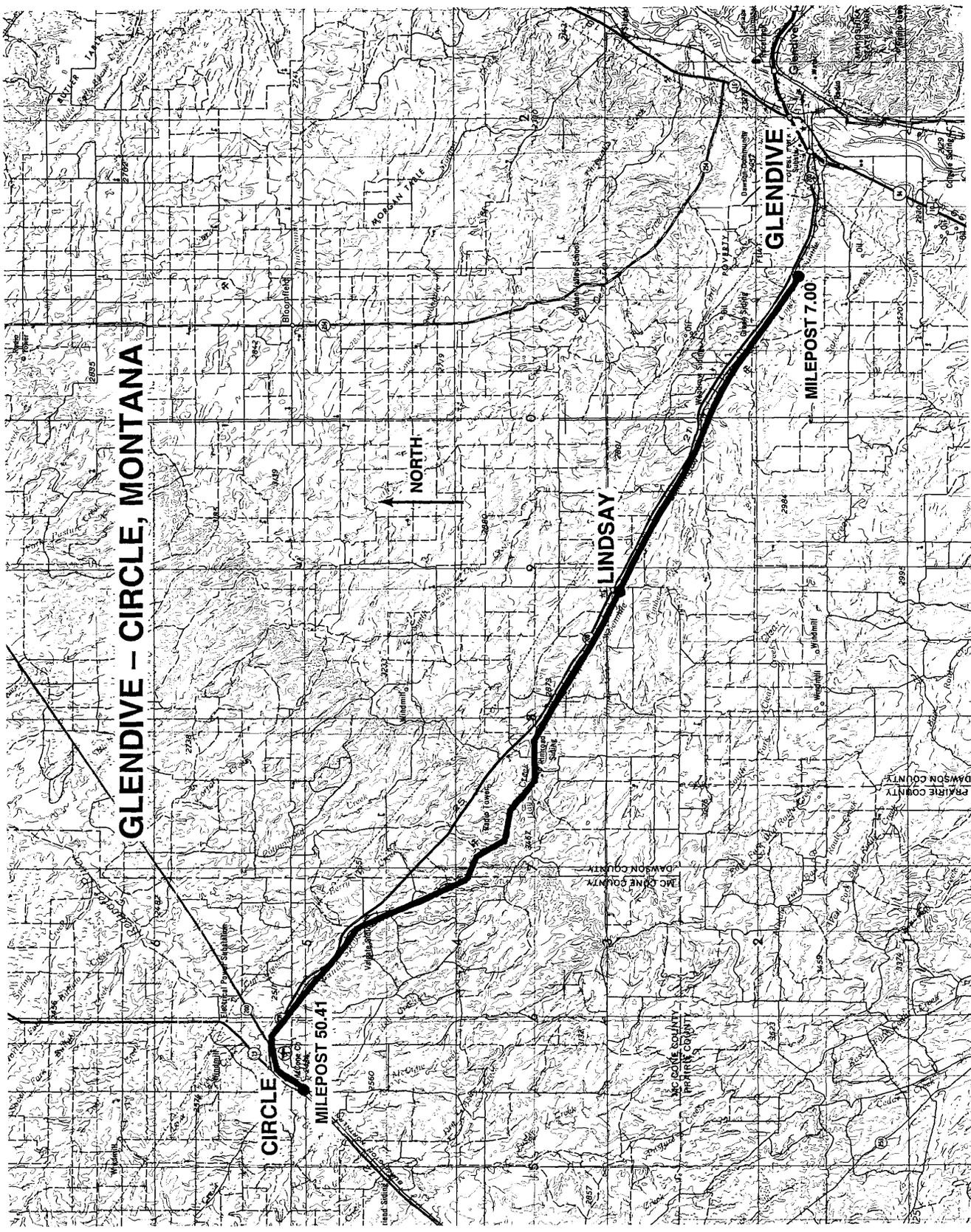
The Montana Historical Society recommends that a cultural resource inventory be conducted, prior to any ground disturbance, in order to determine whether or not sites exist and if they will be impacted. See Exhibit K, letter from the Montana Historical Society. BNSF is retaining a qualified consultant to perform a survey and will provide that information to the Board and the Montana Historical Society as soon as the survey is available.

(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.

A

GLENDIVE - CIRCLE, MONTANA



B

Freeborn & Peters LLP

December 9, 2003

James Deckert
Commissioner, Chair
Dawson County Board of Commissioners
207 W Bell Street
County Courthouse
Glendive, MT 59330-1616

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Glendive, Montana to Circle, Montana***

Attorneys at Law

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

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

Dear Mr. Deckert:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 43.41 miles of railroad line between M.P. 7.00 near Glendive, Montana to M.P. 50.41 in Circle, Montana.

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

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

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

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

Chicago

Springfield

C

Freeborn & Peters LLP

December 9, 2003

Kent Larson
Commissioner, Chair, District 3
McCone County Board of Commissioners
1004 Avenue C
County Courthouse
Circle, MT 59215-0199

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Glendive, Montana to Circle, Montana***

Attorneys at Law

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

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

Chicago

Springfield

Dear Mr. Larson:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 43.41 miles of railroad line between M.P. 7.00 near Glendive, Montana to M.P. 50.41 in Circle, Montana.

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

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

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

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

D

United States Department of Agriculture



Natural Resources Conservation Service
Glendive Field Office
102 Fir Street, FP
Glendive, MT 59330
377-5566, Ext. 114

December 22, 2003

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

Dear Brian Nettles,

This letter is in reply to your letter regarding the abandonment of the Burlington Northern and Santa Fe Railway from Glendive, Montana to Circle, Montana. The abandonment will not affect any prime agricultural lands. The only problem that I see about leaving the roadbed is who will be responsible for taking care of the noxious weeds or the annual weeds problems.

If you need anymore information, please let me know.

Sincerely yours,

A handwritten signature in cursive script that reads "Linda M. Peterson-Lohse".

Linda M. Peterson-Lohse
District Conservationist

E



United States Department of the Interior

FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES
MONTANA FIELD OFFICE
100 NORTH PARK SUITE 320
HELENA, MONTANA 59601
PHONE (406) 449-5225, FAX (406) 449-5339

M.24 ICC (I)

December 18, 2003

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

Dear Mr. Nettles:

This responds to your letter dated December 9, 2003, regarding the Burlington Northern and Santa Fe Railway Company's proposed abandonment of railroad line between Glendive and Circle, Montana. The proposal involves 43.4 miles of line in Dawson and McCone counties, and may entail removal of rails and ties, but the road bed would remain intact. Your letter requested information from the U.S. Fish and Wildlife Service (Service) pertaining to the presence of any threatened or endangered species, critical habitat, or wildlife refuges that may occur near this corridor. The Service has reviewed the information you sent and offers the following comments. These comments have been prepared under the authority of, and in accordance with, the provisions of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*). The Service's Montana Field Office received your letter on December 15, 2003.

Federally-listed species that may be present in the vicinity of the proposed railroad abandonment include the endangered black-footed ferret (*Mustela nigripes*), threatened bald eagle (*Haliaeetus leucocephalus*), and candidate black-tailed prairie dog (*Cynomys ludovicianus*). However, considering the specific scope, nature and location of this proposed project, we do not anticipate any project related adverse impacts to listed, proposed, or candidate species. There is no critical habitat for any listed species designated or proposed in the project area. This office knows of no lands administered as part of the National Wildlife Refuge system occurring near this project's location.

Your letter did not indicate whether wetlands or streams might be impacted by the proposed project. If so, Corps of Engineers (Corps) Section 404 permits may eventually be required. In that event, depending on permit type and other factors, the Service may be required to review permit applications and will recommend any protection or mitigation measures to the Corps as may appear reasonable and prudent based on the information available at that time.

This concludes consultation on this project and no further review under section 7 of the Act is necessary. We appreciate your efforts to consider and conserve fish and wildlife resources as part of your project planning. If you have questions regarding this letter, please contact Mr. Scott Jackson, of my staff, at (406)449-5225, extension 201.

Sincerely,



For R. Mark Wilson
Field Supervisor

Copy to: FWS-ES, Billings Suboffice

F



Montana Department of
ENVIRONMENTAL QUALITY

Judy Martz, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.state.mt.us

December 22, 2003

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

Dear Mr. Nettles,

This letter is in response to your 12/9/03 letter to the Montana Department of Environmental Quality's Storm Water Program about the need for a storm water permit for the BNSF railroad line between Glendive and Circle, Montana.

Storm water discharges are permitted under the Montana Pollutant Discharge Elimination System (MPDES). To assist in considering whether MPDES permit coverage is necessary for storm water discharges associated with construction activity, please refer to the following website:
<http://www.deq.state.mt.us/wqinfo/MPDES/StormwaterConstruction.asp>

On this website, initially refer to the brochure up top. If necessary, further information is available in the Administrative Rules of Montana, Title 17, Chapter 30, Subchapter 11, and the *General Permit for Storm Water Discharges Associated with Construction Activity*. Permitting forms are also available on the website.

Essentially, coverage under the General Permit is necessary for storm water discharges if the project is resulting in ground disturbance totaling one or more acres that is part of a larger common plan of development or sale, and if there is storm water discharging pollutants to surface waters.

The decision on whether to obtain permit coverage is ultimately up to the potential discharger, but based on the limited information provided in your letter, there appears to be the potential to have over one acre of ground disturbance associated with this construction project. You need to calculate the acres of the construction activity's ground disturbance activities such as removing track rails and ties, access, and other support activities (heavy equipment-related disturbance, storage of wastes or materials, etc.). Also, over a 43-mile stretch as indicated on your attached topographic map, there appears to be the potential for pollutant (such as disturbed sediment) discharge to nearby surface waters as the railroad appears to be parallel to or crossing over some surface waters.

We encourage conservatism, and recommend permit coverage be obtained, when parties are unsure if they have over an acre of ground disturbance or whether there is the potential for discharge of pollutants to surface waters.

Feel free to contact me at (406) 444-5310 or email me at bheckenberger@state.mt.us if you have any further questions.

Sincerely,

Brian Heckenberger
Storm Water Program Coordinator
Water Protection Bureau

G



U.S. ARMY CORPS OF ENGINEERS
HELENA REGULATORY OFFICE
10 WEST 15TH STREET, SUITE 2200
HELENA, MONTANA 59626

February 5, 2004

REPLY TO
ATTENTION OF:

Helena Regulatory Office
Phone (406) 441-1375 Fax (406) 441-1380

RE: Removal of Railroad Tracks - Glendive to Circle (Burlington Northern Santa Fe Railway)
Corps File No. 200490004

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

Dear Mr. Nettles:

We have reviewed your letter inquiring if a Section 404 permit would be required for the removal of rails and ties with the abandonment of the railroad line between M.P.7.00 near Glendive, Montana to M.P.50.41 in Circle, Montana.

Under the authority of Section 404 of the Clean Water Act, Department of the Army permits are required for the discharge of fill material into waters of the United States. Waters of the United States include the area below the ordinary high water mark of stream channels and lakes or ponds connected to the tributary system, and wetlands adjacent to these waters.

Based on the information provided that no fill material is anticipated to be placed either temporarily or permanently in any waterway or a wetland of the United States, no Department of the Army permit is required for this project.

Be advised that other federal, state, tribal, or local permits may be required for your project. If you have any questions, please call Bob McNerney of this office at (406) 441-1375, and reference File No. 200490004.

Sincerely,

Allan Steinle
Montana Program Manager

H

Freeborn & Peters LLP

December 9, 2003

Dawson County Disaster & Emergency Services
207 W Bell Street
County Courthouse
Glendive, MT 59330-1616

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Glendive, Montana to Circle, Montana***

Attorneys at Law

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

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

Chicago

Springfield

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 43.41 miles of railroad line between M.P. 7.00 near Glendive, Montana to M.P. 50.41 in Circle, Montana.

As part of the environmental report BNSF needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8 & 1/2 by 11 black and white maps in the area of each designated floodplain if they are available.

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

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by January 9, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

I

Freeborn & Peters LLP

December 9, 2003

Leanne Switzer
County Clerk & Recorder
1004 Avenue C
County Courthouse
Circle, MT 59215-0199

**Re: *The Burlington Northern and Santa Fe Railway Company Abandonment
of Glendive, Montana to Circle, Montana***

Attorneys at Law

311 South Wacker Drive
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Brian Nettles
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Direct 312.360.6336
Fax 312.360.6596
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Dear Ms. Switzer:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 43.41 miles of railroad line between M.P. 7.00 near Glendive, Montana to M.P. 50.41 in Circle, Montana.

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

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

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by January 9, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn
Enclosure

Chicago

Springfield

J

Abandonment Documentation (M.P. 7.00 to M.P. 50.41)

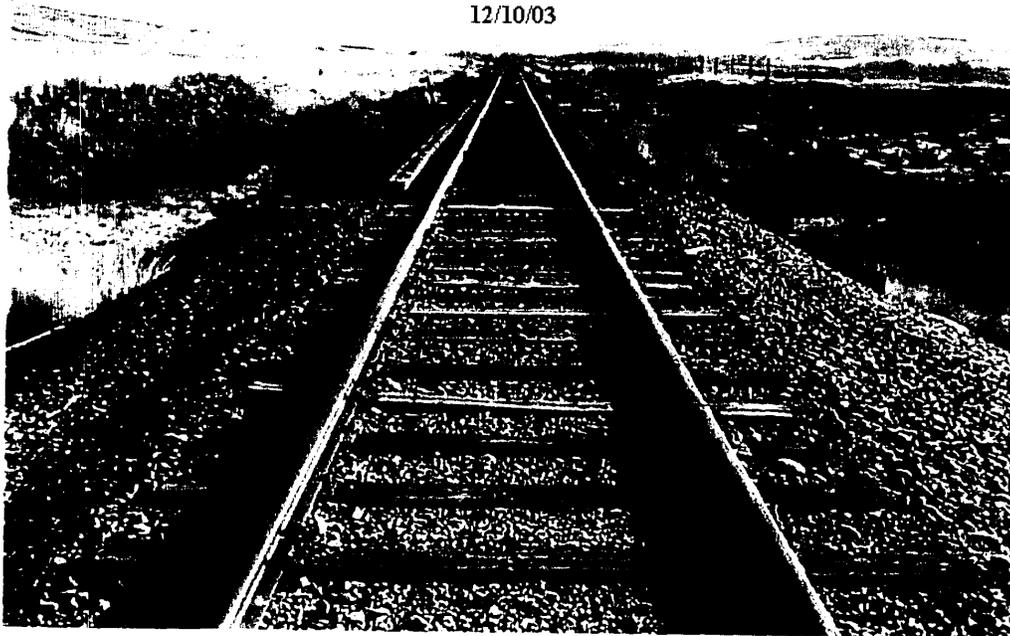
List of Bridges

Bridge:	7.48	Built: 1948	Length: 60'	Height: 6'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	8.14	Built: 1951	Length: 90'	Height: 15'	Description: Open Pile Trestle	Obstacle: Coulee
Bridge:	10.96	Built: 1951	Length: 60'	Height: 8'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	11.56	Built: 1950	Length: 60'	Height: 9'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	12.85	Built: 1949	Length: 120'	Height: 20'	Description: Open Pile Trestle	Obstacle: Upper Seven Mile
Bridge:	15.11	Built: 1950	Length: 135'	Height: 16'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	16.03	Built: 1949	Length: 17'	Height: 6'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	19.43	Built: 1951	Length: 105'	Height: 15'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	19.83	Built: 1949	Length: 90'	Height: 15'	Description: Open Pile Trestle	Obstacle: North Fork Seven
Bridge:	25.12	Built: 1948	Length: 120'	Height: 21'	Description: Open Pile Trestle	Obstacle: Creek
Bridge:	26.39	Built: 1954	Length: 105'	Height: 21'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	27.63	Built: 1951	Length: 165'	Height: 31'	Description: Open Pile Trestle	Obstacle: Hay Creek
Bridge:	45.38	Built: 1950	Length: 280'	Height: 33'	Description: Open Pile Trestle	Obstacle: Buffalo Springs
Bridge:	46.13	Built: 1950	Length: 45'	Height: 9'	Description: Open Pile Trestle	Obstacle: Drainage
Bridge:	49.98	Built: 1951	Length: 590'	Height: 32'	Description: Open Pile Trestle	Obstacle: Redwater River

LS 312
Br. 8.14
View RR North
12/10/03



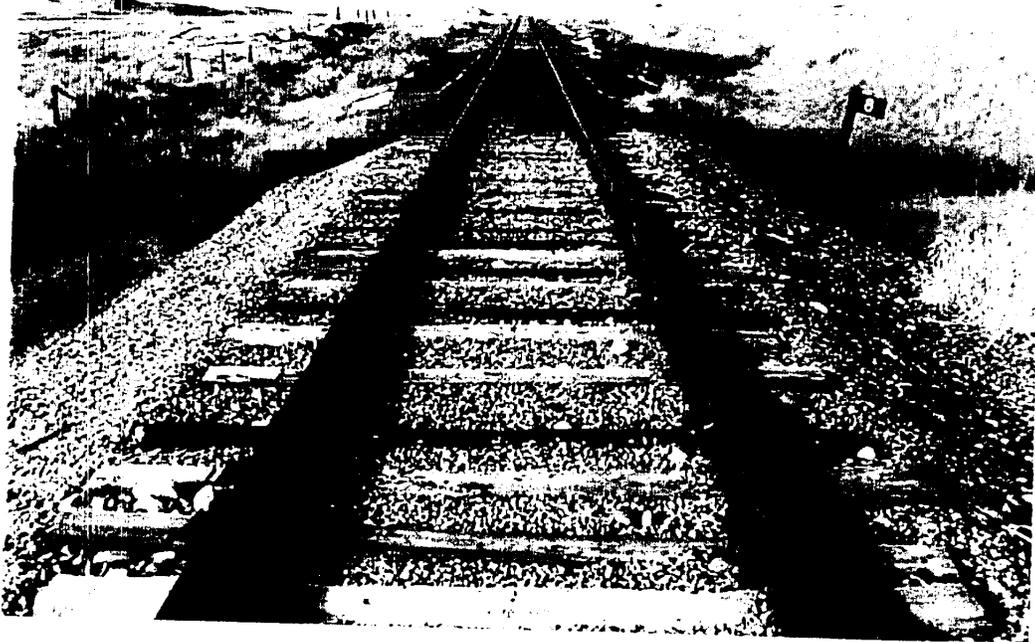
LS 312
Br. 8.14
View RR East
12/10/03



LS 312
Br. 8.14
View RR South
12/10/03



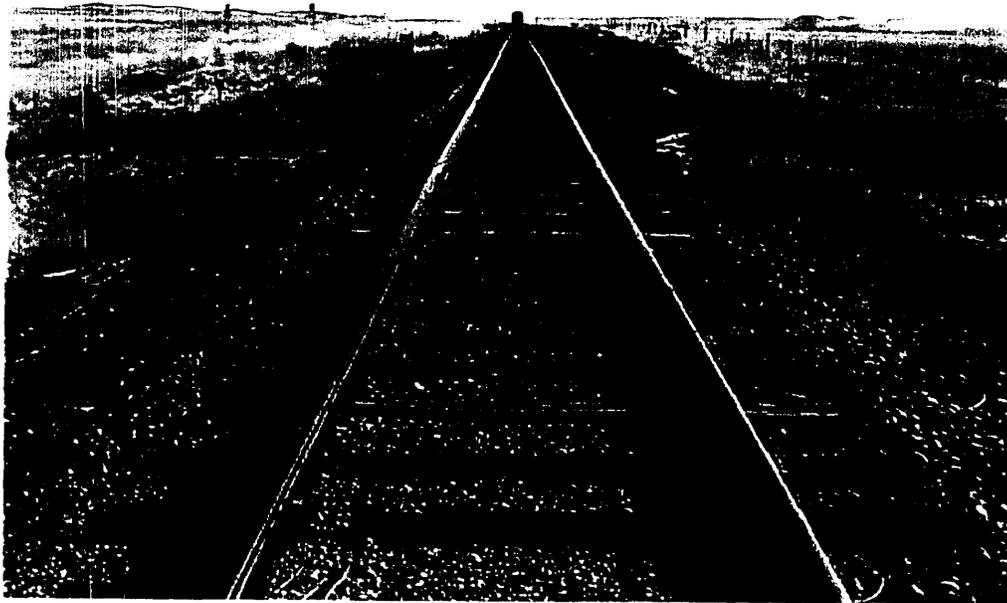
LS 312
Br. 8.14
View RR West
12/10/03



LS 312
Br. 10.96
View RR North
12/10/03



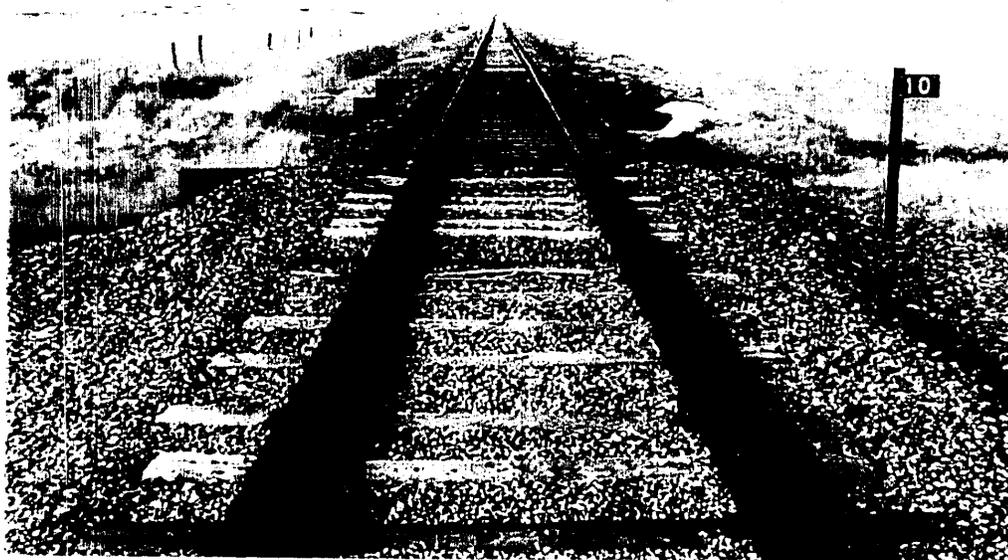
LS 312
Br. 10.96
View RR East
12/10/03



LS 312
Br. 10.96
View RR South
12/10/03



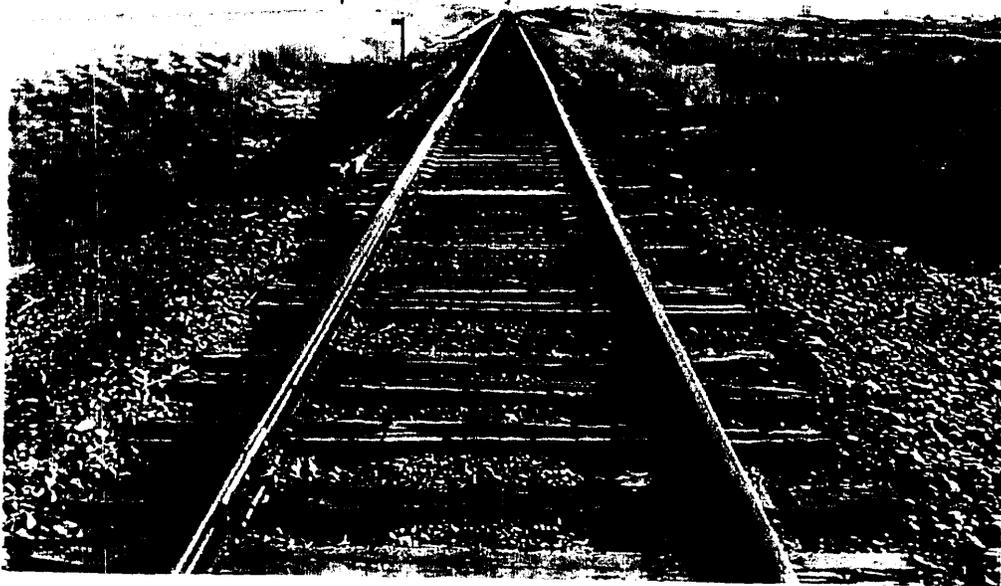
LS 312
Br. 10.96
View RR West
12/10/03



LS 312
Br. 11.56
View RR Northeast
12/10/03



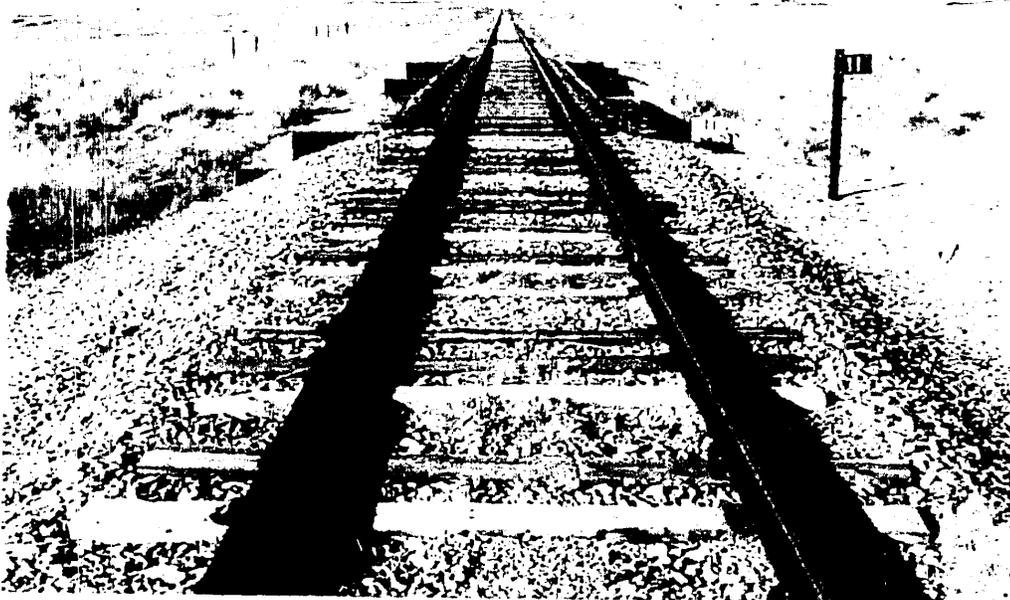
LS 312
Br. 11.56
View RR East
12/10/03



LS 312
Br. 11.56
View RR South
12/10/03



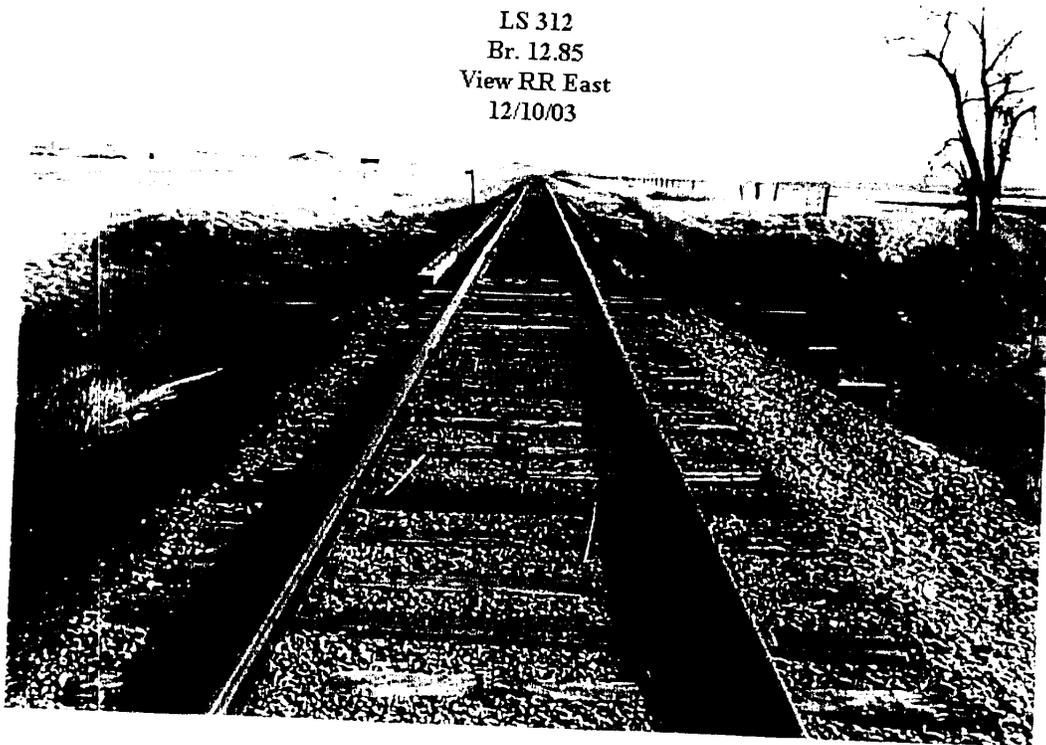
LS 312
Br. 11.15
View RR West
12/10/03



LS 312
Br. 12.85
View RR Northeast
12/10/03



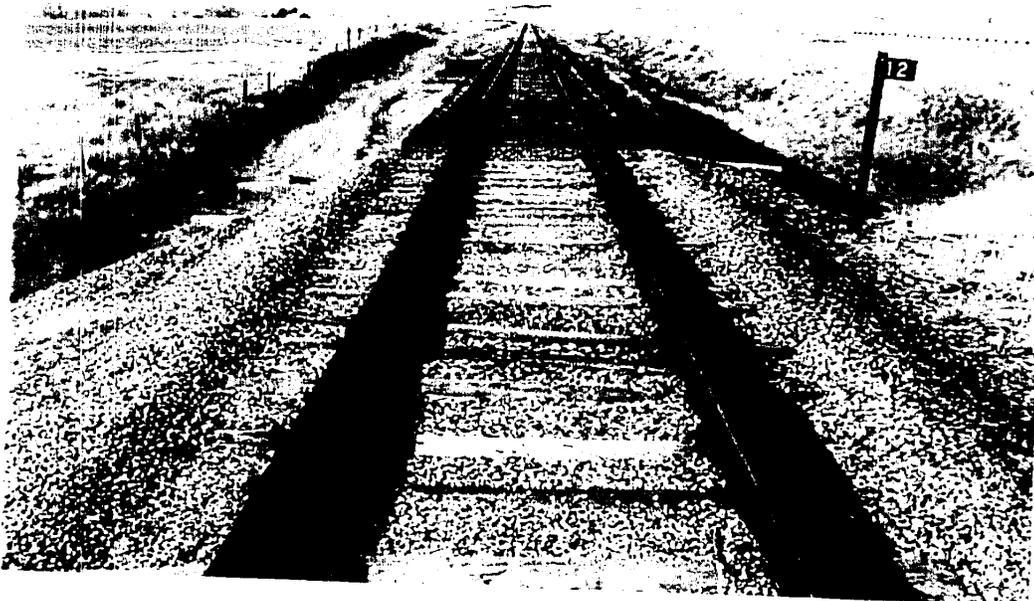
LS 312
Br. 12.85
View RR East
12/10/03



LS 312
Br. 12.85
View RR South
12/10/03



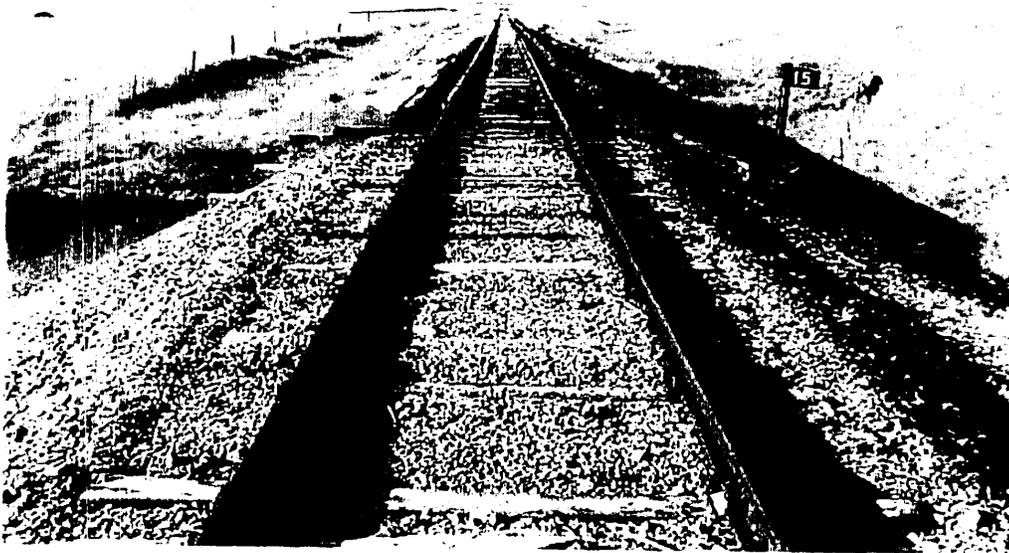
LS 312
Br. 12.85
View RR West
12/10/03



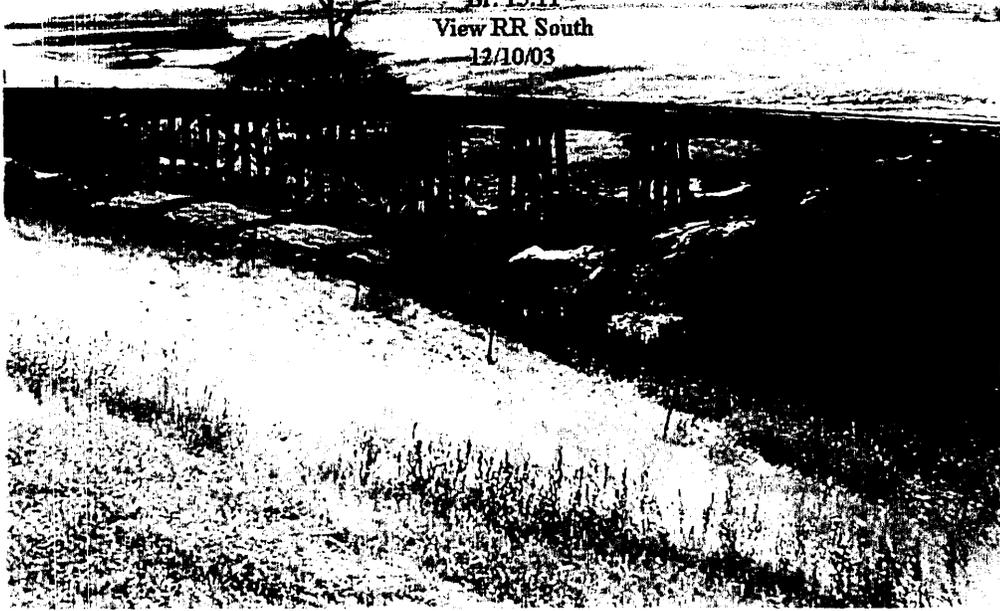
LS 312
Br. 15.11
View RR North
12/10/03



LS 312
Br. 15.11
View RR West
12/10/03



LS 312
Br. 15.11
View RR South
12/10/03



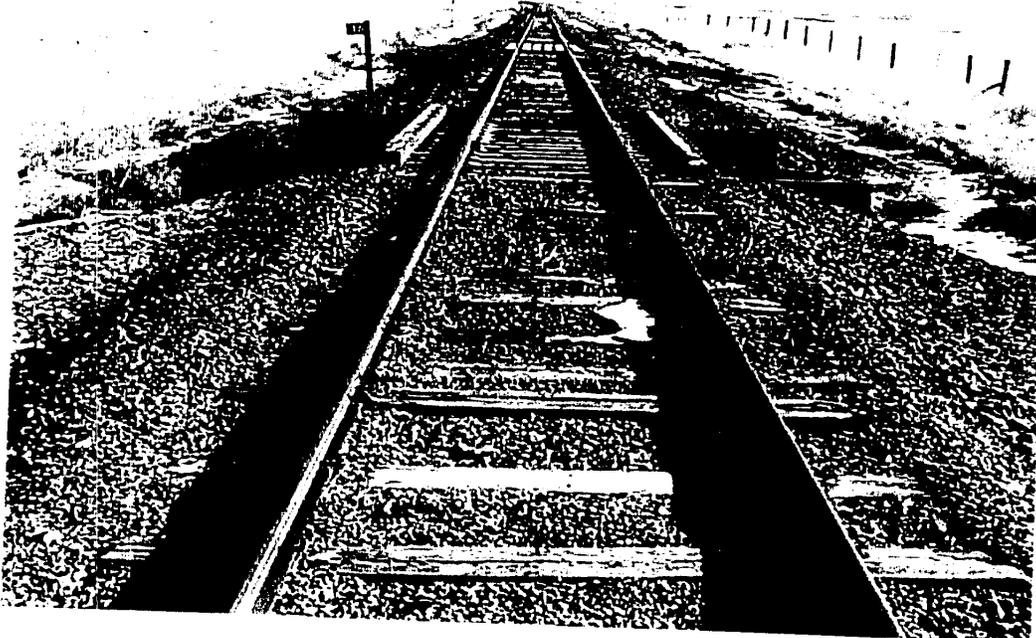
LS 312
Br. 15.11
View RR East
12/10/03



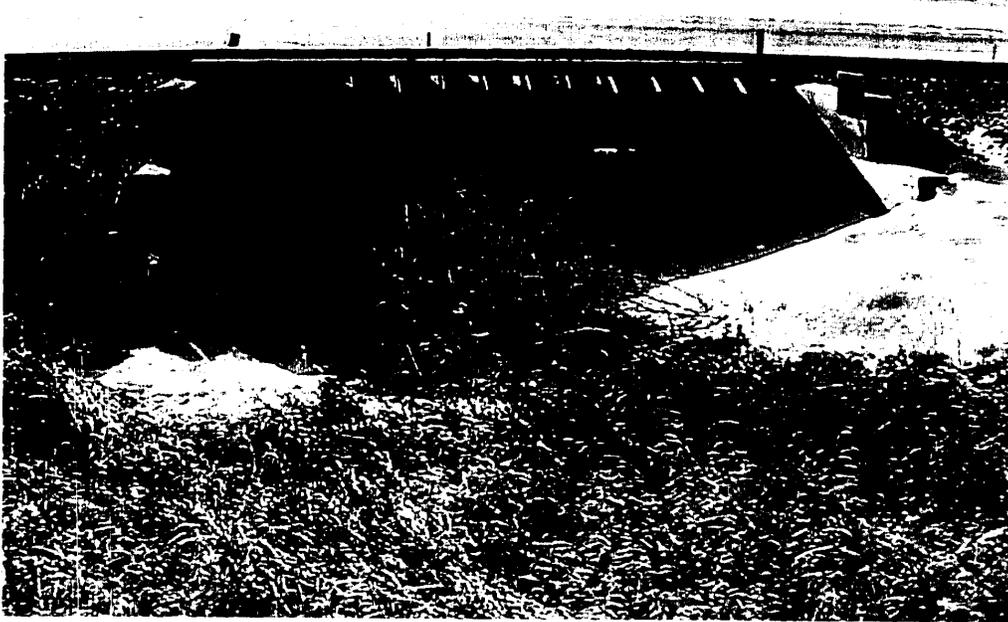
LS 312
Br. 16.03
View RR North
12/10/03



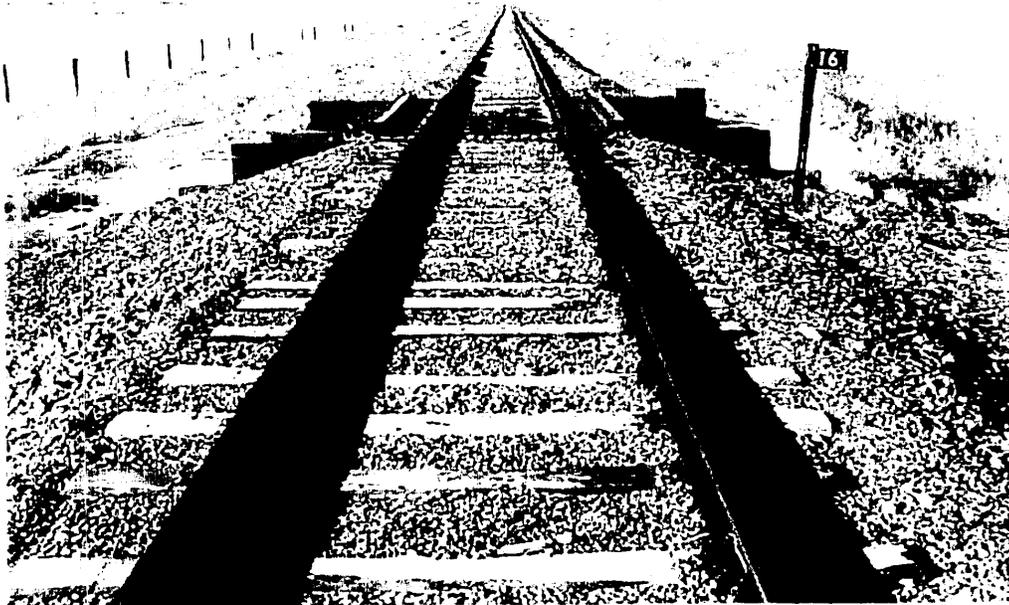
LS 312
Br. 16.03
View RR East
12/10/03



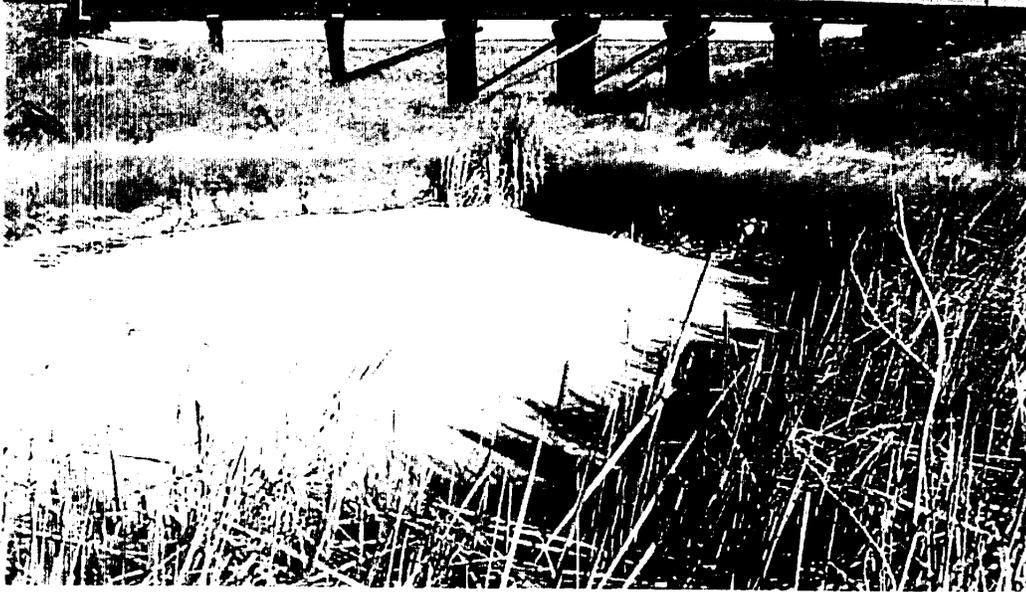
LS 312
Br.16.03
View RR South
12/10/03



LS 312
Br. 16.03
View RR West
12/10/03



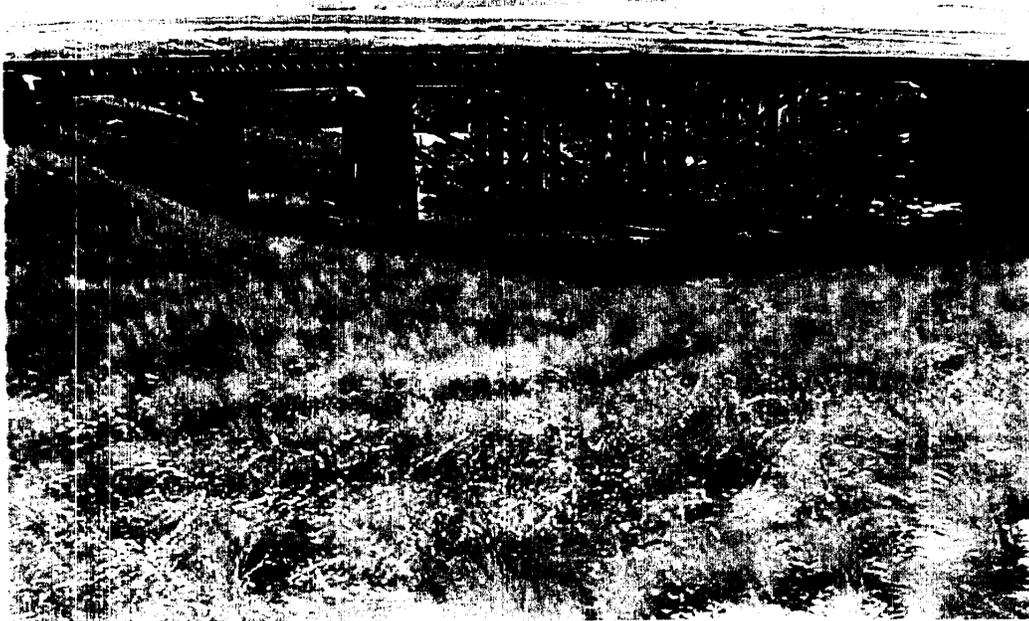
LS 312
Br. 19.43
View RR North
12/10/03



LS 312
Br. 19.43
View RR East
12/10/03



LS 312
Br. 19.43
View RR South
12/10/03



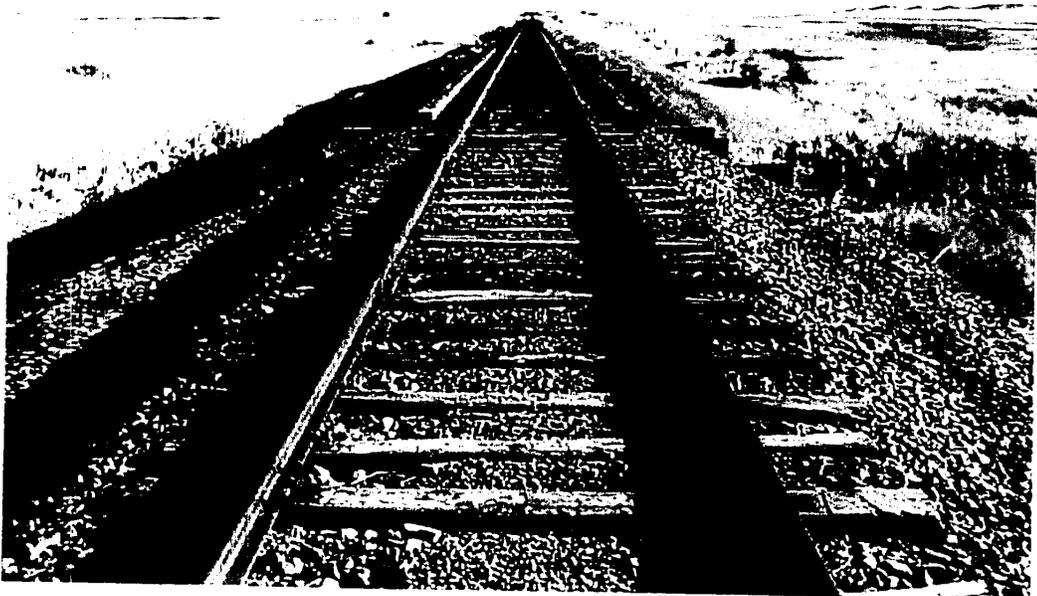
LS 312
Br. 19.43
View RR West
12/10/03



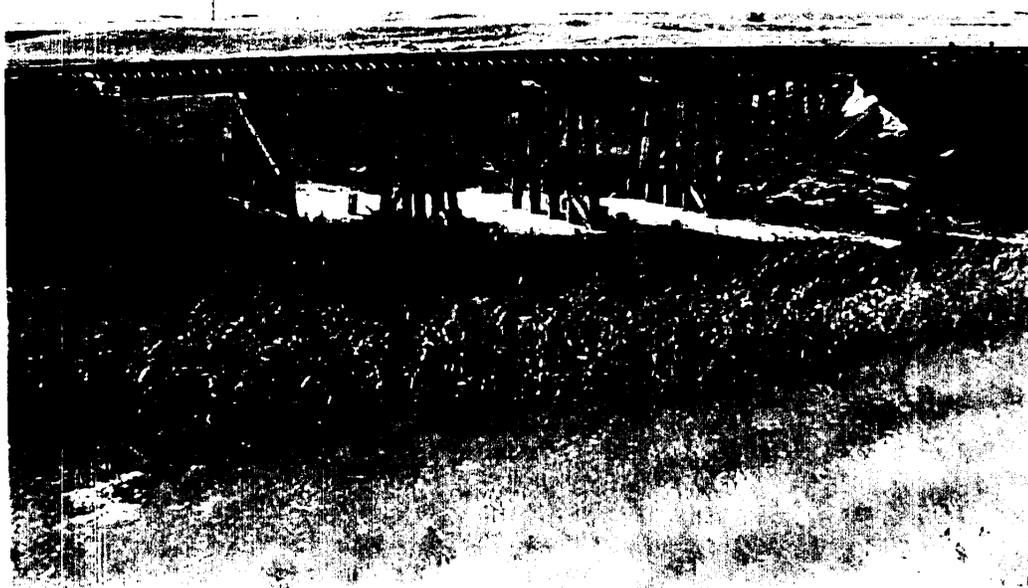
LS 312
Br. 19.83
View RR North
12/10/03



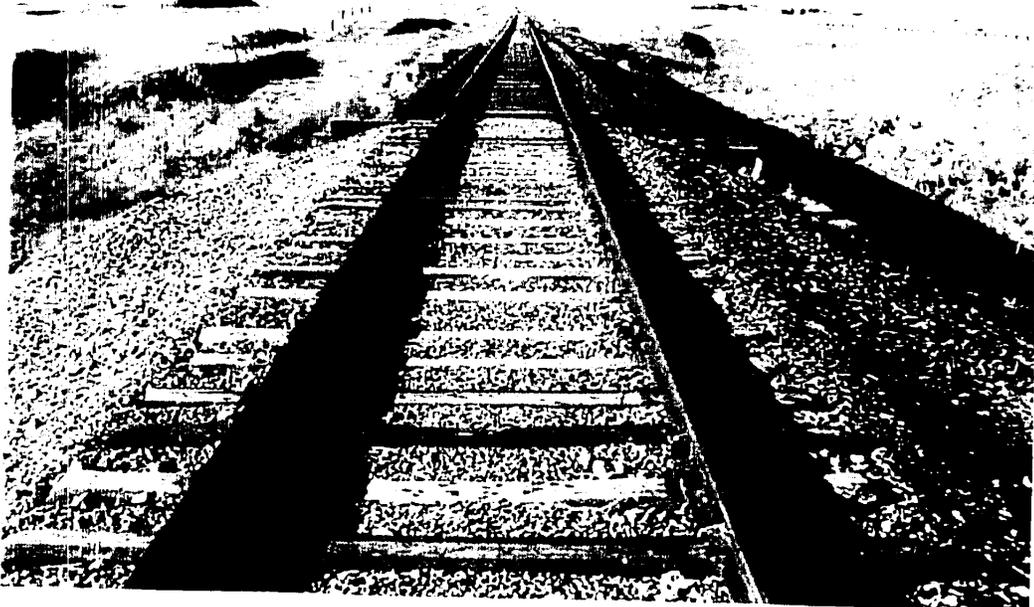
LS 312
Br. 19.83
View RR East
12/10/03



LS 312
Br. 19.83
View RR South
12/10/03

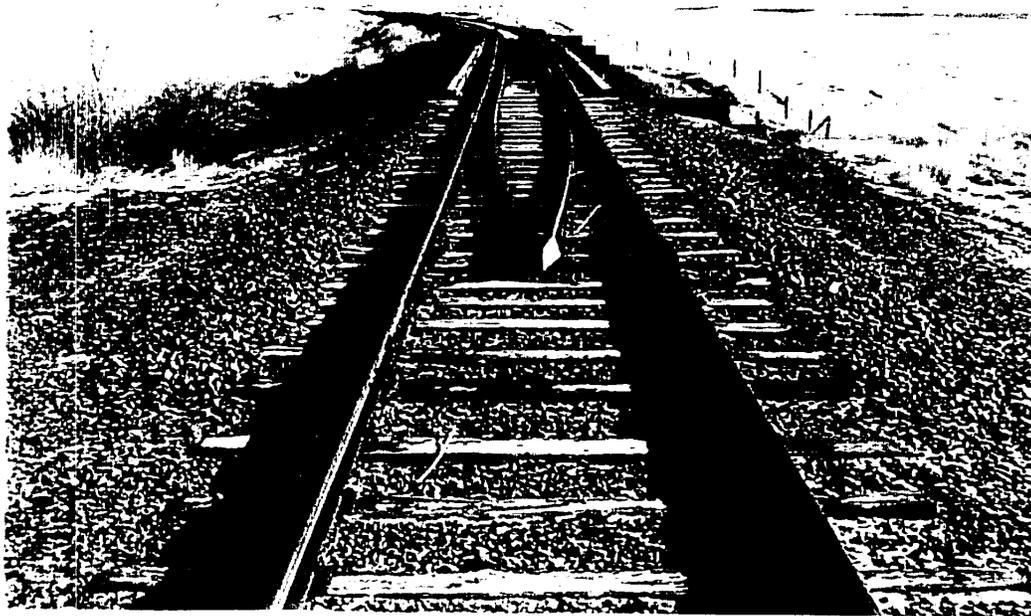


LS 312
Br. 19.83
View RR West
12/10/03





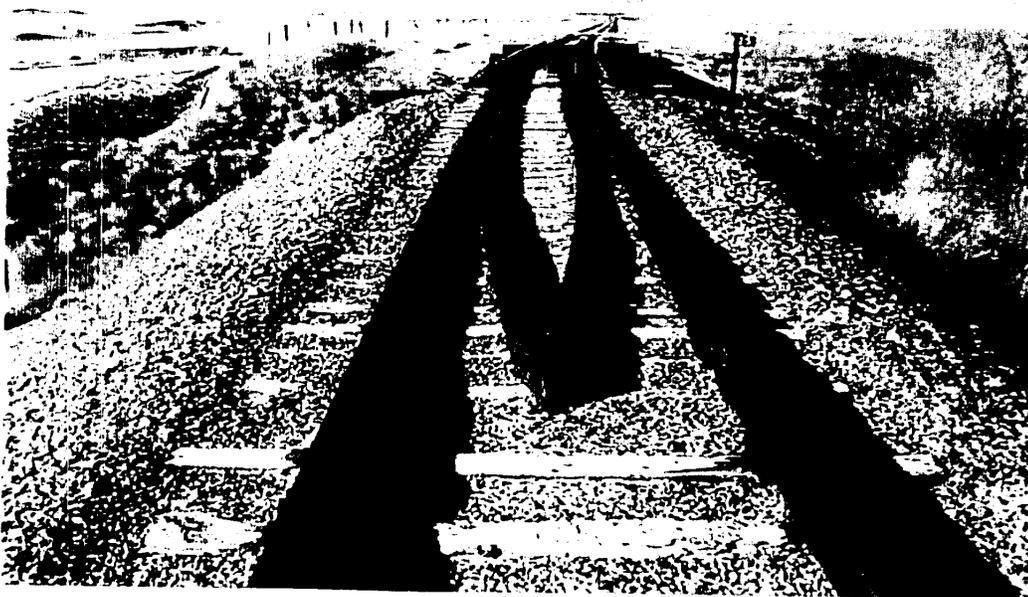
LS 312
Br.25.12
View RR East
12/10/03



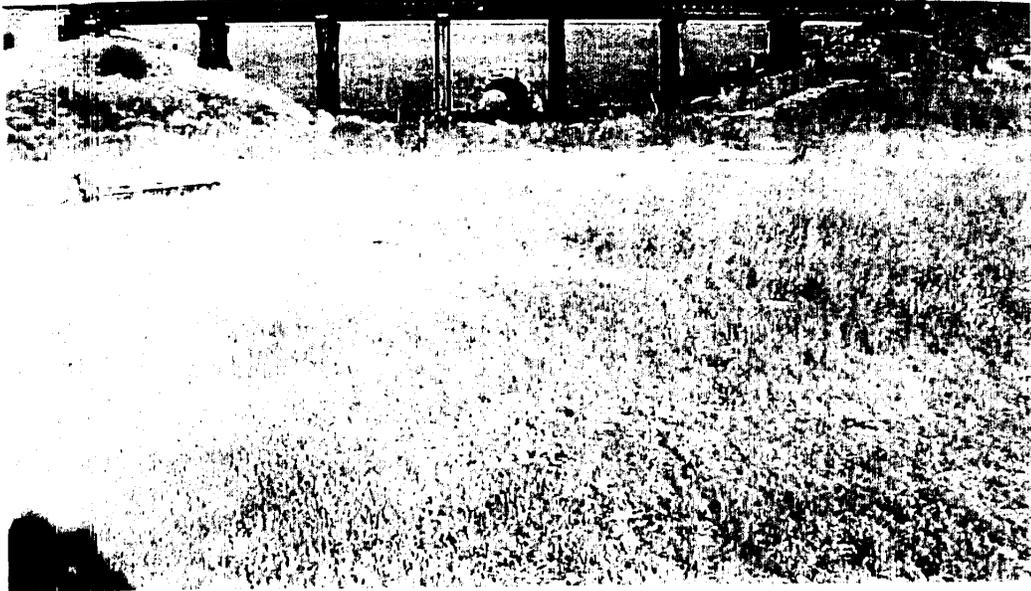
LS 312
Br. 25.12
View RR South
12/10/03



LS 312
Br. 25.12
View RR West
12/10/03



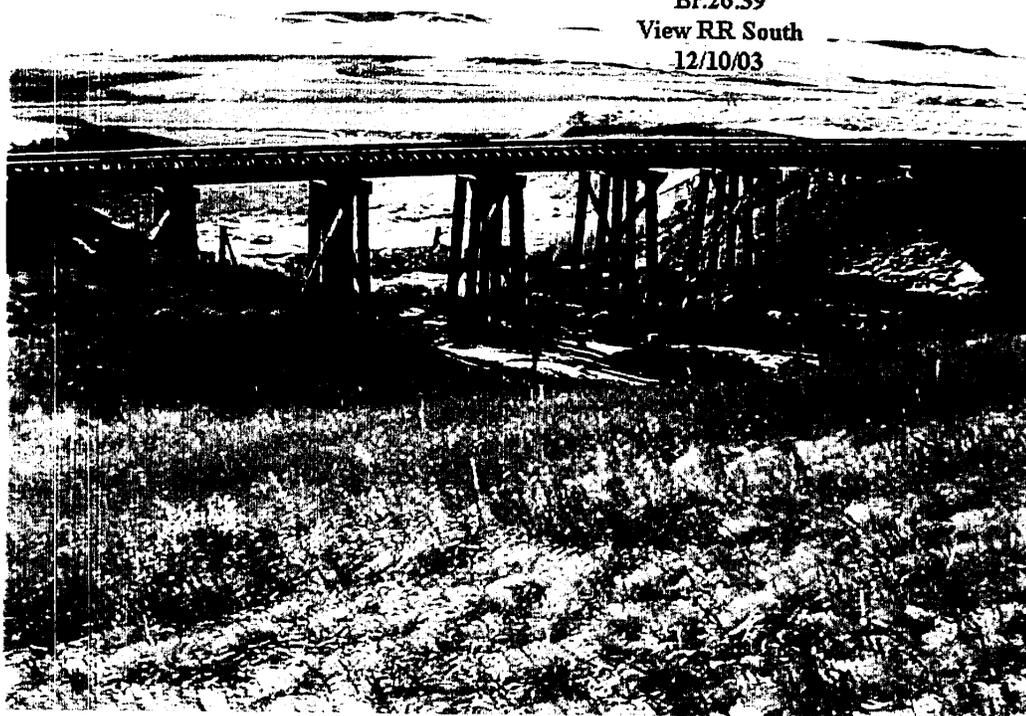
LS 312
Br. 26.39
View RR North
12/10/03



LS 312
Br. 26.39
View RR East
12/10/03



LS 312
Br.26.39
View RR South
12/10/03



LS 312
Br. 26.39
View RR West
12/10/03

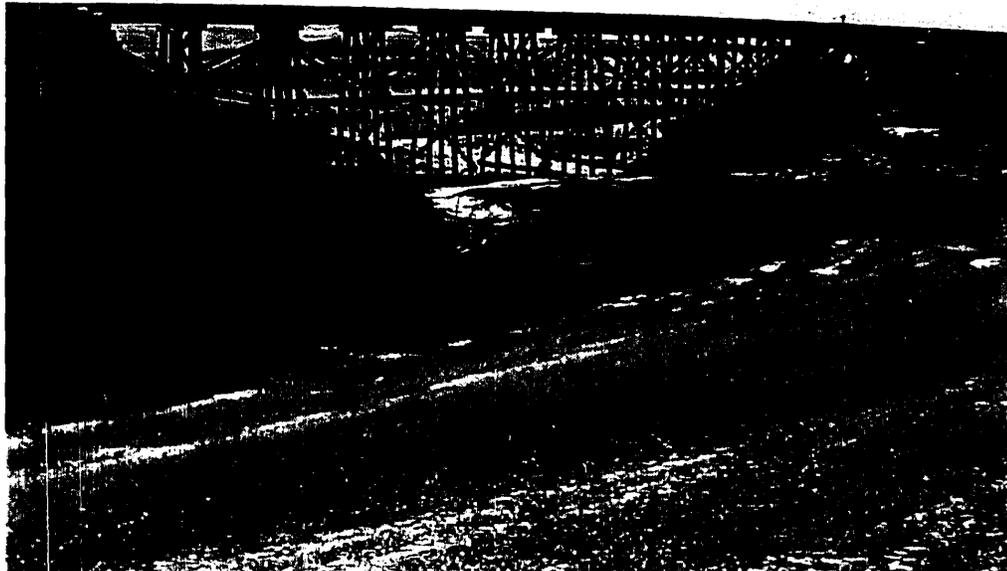




LS 312
Br. 27.63
View RR East
12/10/03



LS 312
Br. 27.63
View RR South
12/10/03



LS 312
Br. 27.63
View RR West
12/10/03



LS 312
Br. 45.38
View RR North
12/10/03



LS 312
Br. 45.38
View RR East
12/10/03



LS 312
Br. 45.38
View RR South West
12/10/03



LS 312
Br. 45.38
View RR West
12/10/03



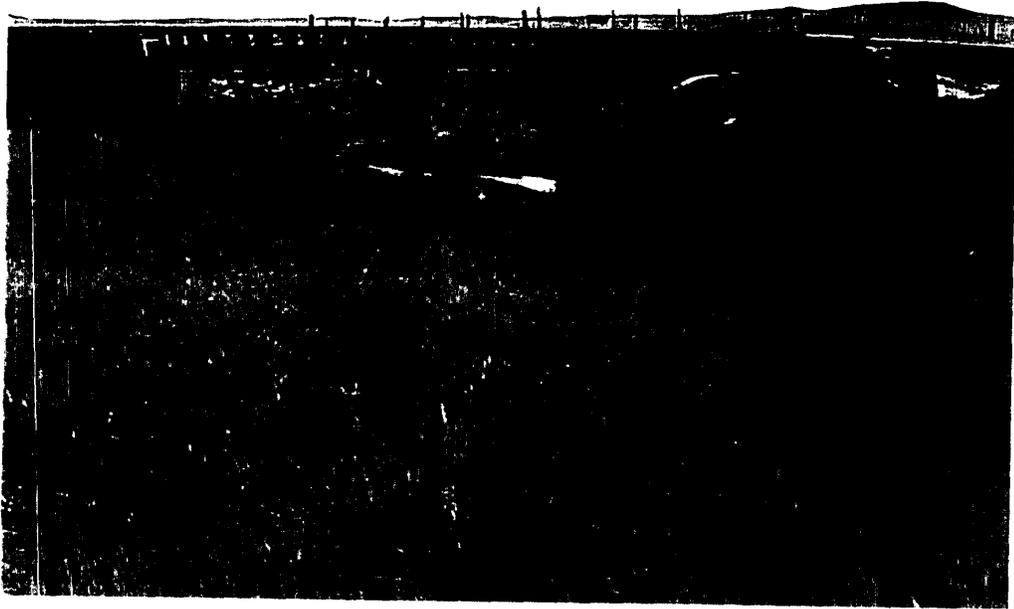
LS 312
Br. 46.13
View RR North
12/10/03



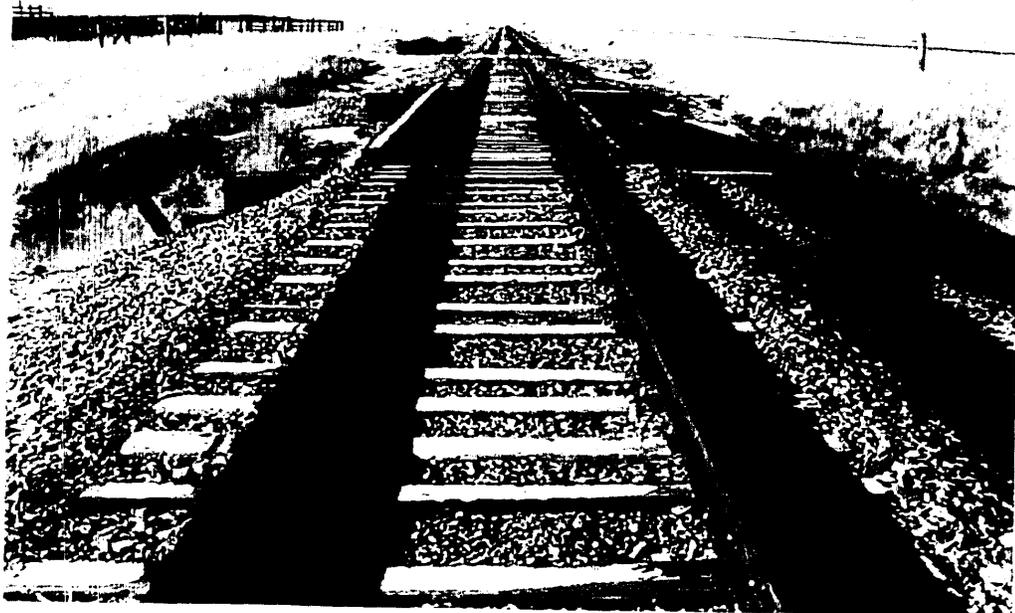
LS 312
Br. 46.13
View RR East
12/10/03



LS 312
Br. 46.13
View RR South
12/10/03



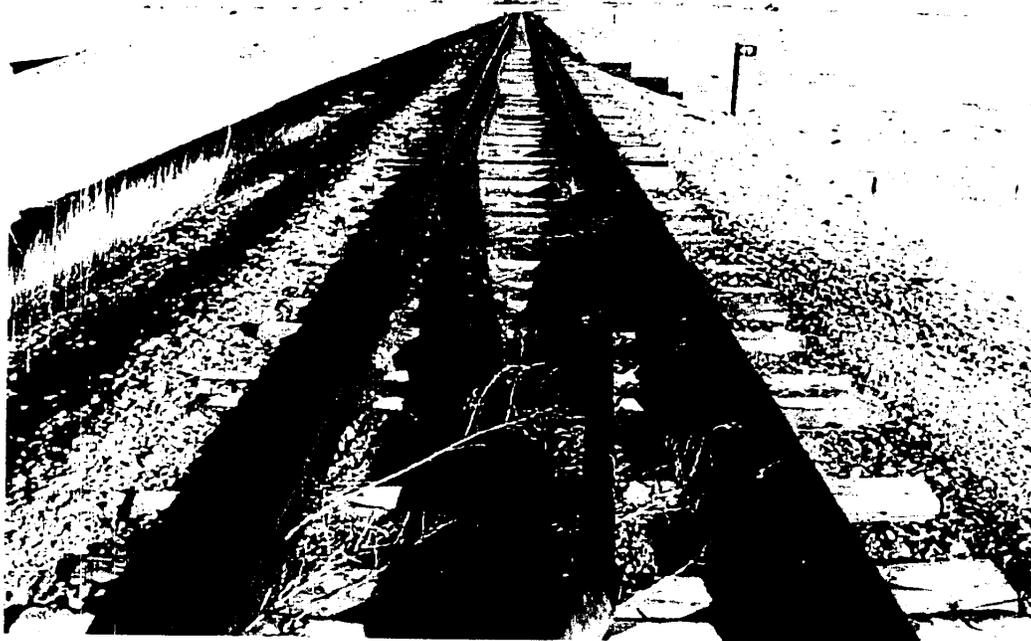
LS 312
Br. 46.13
View RR West
12/10/03



LS 312
Br. 49.98
View RR North
12/10/03



LS 312
Br. 49.98
View RR East
12/10/03



LS 312
Br. 49.98
View RR West
12/10/03



K



MONTANA HISTORICAL SOCIETY

225 North Roberts ♦ P.O. Box 201201 ♦ Helena, MT 59620-1201
♦ (406) 444-2694 ♦ FAX (406) 444-2696 ♦ www.montanahistoricalsociety.org ♦

December 30, 2003

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

RE: THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
ABANDONMENT OF GLENDIVE, MONTANA TO CIRCLE, MONTANA. SHPO
Project #: 2003123002

Dear Mr. Nettles:

I have conducted a cultural resource file search for the above-cited project. According to our records there have been several previously recorded historic or archaeological sites within the designated search locales. In addition to the sites there have been a few previously conducted cultural resource inventories done in the areas. I have attached a list of these sites and reports. If you would like any further information regarding the reports or sites you may contact me at the number listed below.

Any structures over fifty years of age are considered historic and therefore would need to be recorded before any modification take place. The bridges and the railroad would be considered eligible for listing on the National Register of Historic Places. We, therefore, recommend that a cultural resource inventory be conducted, prior to any ground disturbance, in order to determine whether or not sites exist and if they will be impacted. Thank you for consulting with us.

If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at dmurdo@state.mt.us.

Sincerely,

Damon Murdo
Cultural Records Manager

File: STB/2003



STATE HISTORIC PRESERVATION OFFICE ♦ 1410 8th Ave ♦ P.O. Box 201202 ♦ Helena, MT 59620-1202
♦ (406) 444-7715 ♦ FAX (406) 444-6575



STATE HISTORIC PRESERVATION OFFICE

Cultural Resource Information Systems

Report

Report Date:
12/30/2003

Site #	Twp	Rng	Sec	Qs	Site Type1	Site Type 2	Time Period	Owner	NR Status
24DW0426	18 N	50 E	29	Unk	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Other	undetermined
24DW0426	18 N	50 E	33	Unk	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Other	undetermined
24DW0426	18 N	50 E	34	Unk	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Other	undetermined
24DW0426	18 N	50 E	35	Unk	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Other	undetermined
24DW0426	18 N	50 E	36	Unk	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Other	undetermined
24MC0210	19 N	48 E	10	NE	Historic Railroad Stage Route Travel	Historic Vehicular at Foot/Bridge	1930-1939	No Data	undetermined
24MC0213	19 N	48 E	10	NE	Historic Architecture	Historic Residence	Historic Period	Private	undetermined
24MC0168	19 N	48 E	10	SE	Historic Euro- American Site	Null	Historic Period	Private	NR Listed
24MC0284	19 N	48 E	10	SW	Historic Building Foundation	Null	Historic More Than One Decade	Private	undetermined
24MC0214	19 N	48 E	11	NW	Historic Architecture	Historic Residence	Historic Period	Private	undetermined
24MC0256	19 N	48 E	15	Comb	Historic Road/Trail	Null	Historic More Than One Decade	Combination	undetermined
24MC0257	19 N	48 E	15	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	48 E	15	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0288	19 N	48 E	15	NE	Historic Residence	Null	Historic More Than One Decade	Private	undetermined
24MC0255	19 N	48 E	15	NW	Historic School	Historic Church	Historic More Than One Decade	Other	undetermined
24MC0105	19 N	48 E	15	SW	Lithic Scatter	Lithic Scatter	Prehistoric Late Period	Private	undetermined
24MC0256	19 N	48 E	16	Comb	Historic Road/Trail	Null	Historic More Than One Decade	Combination	undetermined
24MC0257	19 N	48 E	16	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	48 E	16	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0253	19 N	48 E	16	SE	Historic Vehicular/Foot Bridge	Null	Historic More Than One Decade	Misc Other	undetermined
24MC0254	19 N	48 E	16	SE	Lithic Scatter	Null	No Indication of Time	State Owned	undetermined
24MC0257	19 N	49 E	7	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	7	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	17	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	17	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	18	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	15	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	20	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	20	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	21	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	21	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	26	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	26	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	27	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	27	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	35	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined
24MC0257	19 N	49 E	35	Comb	Historic Railroad Stage Route Travel	Null	Historic More Than One Decade	Private	undetermined



State Historic Preservation Office
Cultural Resource Annotated Bibliography System
Report

Report Date:
12/30/2003

Township: 16N Range: 53E Section: 10

CLARK GERALD R.
5 6 1977 USGS-MBMG-BLM DRILLING LOCATIONS, DAWSON COUNTY, 1977 (36
LOCATIONS)
CRABS Document Number: DW 2 2358

Township: 16N Range: 53E Section: 12

CLARK GERALD R.
5 6 1977 USGS-MBMG-BLM DRILLING LOCATIONS, DAWSON COUNTY, 1977 (36
LOCATIONS)
CRABS Document Number: DW 2 2358

Township: 16N Range: 53E Section: 13

ANDERSON PAUL
12 1 1987 SELECTED ABANDONED COAL MINE SITES IN THE FORT UNION FORMATION
OF EASTERN MONTANA
CRABS Document Number: ZZ 5 10794

Township: 17N Range: 52E Section: 20

CLARK GERALD R.
5 6 1977 USGS-MBMG-BLM DRILLING LOCATIONS, DAWSON COUNTY, 1977 (36
LOCATIONS)
CRABS Document Number: DW 2 2358

Township: 18N Range: 50E Section: 28

CLARK GERALD R.
10 28 1982 GIBSON PIPELINE
CRABS Document Number: DW 2 8905

Township: 19N Range: 48E Section: 10

MUNDAY FREDERICK C.
7 1981 THE RESULTS OF AN ARCHAEOLOGICAL SURVEY AND SITE TESTING NEAR
CIRCLE, MONTANA
CRABS Document Number: MC 2 5676

Township: 19N Range: 48E Section: 10

BRUMLEY JOHN H.
9 1986 A CULTURAL RESOURCE INVENTORY OF THE CIRCLE - NORTH ROAD
PROJECT
CRABS Document Number: MC 4 5742



State Historic Preservation Office

Cultural Resource Annotated Bibliography System

Report

Report Date:
12/30/2003

Township: 19N Range: 48E Section: 10

BRUMLEY JOHN H.

5 1995 A CULTURAL RESOURCES INVENTORY OF MID RIVERS TELEPHONE
COOPERATIVE INC.'S PROPOSED 1995 CONSTRUCTION LOCATIONS

CRABS Document Number: ML 6 18148

Township: 19N Range: 48E Section: 10

BRUMLEY JOHN H.

5 1 1995 MID RIVERS TELEPHONE COOPERATIVE INC.'S PROPOSED 1995
CONSTRUCTION LOCATIONS

CRABS Document Number: ZZ 6 17315

Township: 19N Range: 48E Section: 11

BRUMLEY JOHN H.

9 1986 A CULTURAL RESOURCE INVENTORY OF THE CIRCLE - NORTH ROAD
PROJECT

CRABS Document Number: MC 4 5742

Township: 19N Range: 48E Section: 12

MUNDAY FREDERICK C.

7 1981 THE RESULTS OF AN ARCHAEOLOGICAL SURVEY AND SITE TESTING NEAR
CIRCLE, MONTANA

CRABS Document Number: MC 2 5676

Township: 19N Range: 48E Section: 15

MCKAY KATHRYN L.

2 9 1998 UPDATE, CIRCLE - SOUTHWEST, MONTANA STATE HIGHWAY 200 MCCONE
COUNTY MONTANA

CRABS Document Number: MC 4 20097

Township: 19N Range: 48E Section: 15

MUNDAY FREDERICK C.

7 1981 THE RESULTS OF AN ARCHAEOLOGICAL SURVEY AND SITE TESTING NEAR
CIRCLE, MONTANA

CRABS Document Number: MC 2 5676

Township: 19N Range: 48E Section: 15

FLOODMAN MERVIN G.

12 13 1988 A CULTURAL RESOURCE INVENTORY OF THE CIRCLE-WEST PROJECT

CRABS Document Number: MC 4 5757



State Historic Preservation Office

Cultural Resource Annotated Bibliography System

Report

Report Date:
12/30/2003

Township: 19N Range: 48E Section: 15
VINCENT WILLIAM B.

9 10 2002 A CLASS III CULTURAL RESOURCE SURVEY OF A DROUGHT RELIEF
PROJECT AT CIRCLE, MONTANA

CRABS Document Number: MC 6 25167

Township: 19N Range: 48E Section: 16
FLOODMAN MERVIN G.

12 13 1988 A CULTURAL RESOURCE INVENTORY OF THE CIRCLE-WEST PROJECT

CRABS Document Number: MC 4 5757

Township: 19N Range: 48E Section: 16
BRUMLEY JOHN H., ET AL.

9 1 1996 A CULTURAL RESOURCE INVENTORY OF THREE BURIED CABLE RIGHT-OF-
WAY SEGMENTS IN THE CIRCLE AND JORDAN AREAS, MONTANA

CRABS Document Number: MC 2 18580

Township: 19N Range: 49E Section: 7
WOOD GARVEY C.

7 26 1987 PRINCE - CIRCLE STAGING AREA WEST

CRABS Document Number: MC 4 5743

Township: 19N Range: 49E Section: 18
MUNDAY FREDERICK C.

7 1981 THE RESULTS OF AN ARCHAEOLOGICAL SURVEY AND SITE TESTING NEAR
CIRCLE, MONTANA

CRABS Document Number: MC 2 5676

Township: 19N Range: 49E Section: 20
MUNDAY FREDERICK C.

7 1981 THE RESULTS OF AN ARCHAEOLOGICAL SURVEY AND SITE TESTING NEAR
CIRCLE, MONTANA

CRABS Document Number: MC 2 5676

Township: 19N Range: 49E Section: 21
MUNDAY FREDERICK C.

7 1981 THE RESULTS OF AN ARCHAEOLOGICAL SURVEY AND SITE TESTING NEAR
CIRCLE, MONTANA

CRABS Document Number: MC 2 5676



State Historic Preservation Office

Cultural Resource Annotated Bibliography System

Report

Report Date:

12/30/2003

Township: 19N Range: 49E Section: 21

PASSMANN DORI, ET AL.

1 2002 2001 NRCS FIELD STAFF NEGATIVE FINDINGS REPORTS IN MCCONE
COUNTY MONTANA

CRABS Document Number: MC 6 25020

Township: 19N Range: 49E Section: 35

PASSMANN DORI, ET AL.

1 2000 1999 NRCS NEGATIVE FINDINGS REPORT FOR MCCONE COUNTY MONTANA

CRABS Document Number: MC 6 23365