

November 28, 2005

Freeborn & Peters LLP

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

215217



**Re: *Surface Transportation Board Docket No. AB-6 (Sub-No. 434X);
The BNSF Railway Company Abandonment of Moore, Montana to
Lewiston, Montana***

Attorneys at Law

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Chicago, Illinois
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Dear Secretary Williams:

Enclosed please find the following: (1) a check for \$3,000 for the filing fee, (2) ten copies plus the original affidavit of publication from the *Lewistown News-Argus*, and (3) ten copies plus the original recent response from the U.S. Fish and Wildlife Service.

Sincerely,

A handwritten signature in black ink, appearing to be "Brian Nettles".

Brian Nettles

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Springfield

/bn
Enclosures



AFFIDAVIT OF PUBLICATION

State of Montana, }
COUNTY OF FERGUS }

Oron L. Jacobs, being duly sworn deposes and says: That he is the Publisher of the Lewistown News-Argus, a newspaper of general circulation, printed and published in Lewistown, Fergus County, Montana, and that the notice hereunto annexed:

NOTICE OF INTENT TO ABANDON

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The BNSF Railway Company gives notice that on or after November 17, 2005, it intends to file with the Surface Transportation Board, Washington, DC 20423, an abandonment notice of exemption under 49 CFR 1152 Subpart F -- Exempt Abandonments permitting the abandonment of or discontinuance of service on 21.25 miles of railroad line between railroad milepost M.P. 9.50 near Moore, Montana to M.P. 28.35 near Lewistown, Montana and the 1.30 mile Berg Lumber Spur (Milepost 0.00 - Milepost 1.30) and the Heath Spur (Milepost 0.00 - Milepost 1.10, which line segment traverses through United States Postal Zip Codes 59457 and 59464 in Fergus County, Montana. The proceeding will be docketed as No. AB-6 (Sub-No. 434X). The Board's Section of Environmental Analyses (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001 or by calling that office at 202-565-1538.

has been published in regular and entire issues of every number of said paper once a week for 1 consecutive weeks, commencing on the 9 day of NOVEMBER, 2005 and ending on the 9 day of NOVEMBER, 2005.

Oron L. Jacobs

SUBSCRIBED AND SWORN TO before me this 9 day of NOVEMBER, 2005.

James A. Jaller
Notary Public for the State of Montana, residing at Lewistown.

My Commission expires August 15, 2006

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

Publish: (November 9, 2005)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES

MONTANA FIELD OFFICE

100 N. PARK, SUITE 320

HELENA, MONTANA 59601

PHONE (406) 449-5225, FAX (406) 449-5339



File: M29 (I)

November 15, 2005

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

Dear Mr. Smith:

This is in response to your request dated October 27, 2005 for information from the U.S. Fish and Wildlife Service (Service) on federally listed threatened and endangered species that may occur in the vicinity of the BNSF Railway Company Abandonment of Moore, Montana to Lewiston, Montana in Fergus County, Montana. These comments have been prepared under the authority of and in accordance with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.) and the Endangered Species Act (16 U.S.C. 1531 et. seq.).

Considering the location of the proposed action, the Service does not anticipate the occurrence of any federally listed threatened, endangered, candidate or proposed species. There may be state species of concern in the vicinity of the project and we recommend contacting the Montana Department of Fish, Wildlife and Parks at 1420 East Sixth Ave., P.O. Box 200701, Helena, MT 59620-0701, 406-444-2535 or the Montana Natural Heritage Program, 1515 East 6th Avenue, Box 201800, Helena, MT 59620-1800, 406-444-5354.

If wetlands are impacted by this proposal, Corps of Engineers Section 404 permits may be required. The Service suggests any proposed or future project be designed to avoid and minimize impacts to wetland areas, stream channels and surrounding vegetation to the greatest extent possible. Direct, indirect and cumulative impacts, along with future activities required to maintain these improvements, should be analyzed.

The Service appreciates your efforts to incorporate fish and wildlife resource concerns, including threatened and endangered species, into your project planning. If you have questions or comments related to this issue, please contact Katrina Dixon at 406-449-5225 extension 222.

Sincerely,

R. Mark Wilson
Field Supervisor