

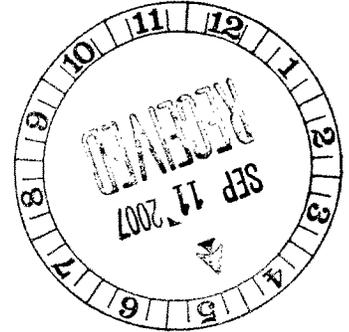
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SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

September 11, 2007



Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

**Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—
Abandonment Exemption – in Logan County, CO**

Dear Secretary Williams:

Enclosed please find an original and ten (10) copies of the Verified Notice of Exemption under 49 C.F.R. 1152.50 for filing with the Board in the above-referenced matter.

Also enclosed is a check in the amount of \$3,200.00 for the filing fee.

Very truly yours,

Sidney L. Strickland, Jr.
Sidney L. Strickland, Jr.
Attorney for BNSF Railway Company

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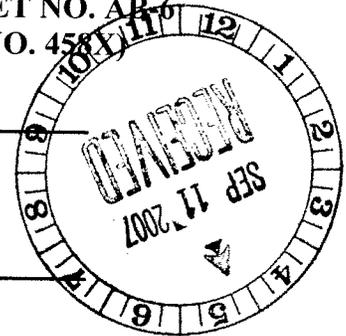
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN LOGAN COUNTY, CO

DOCKET NO. AB-6
(SUB. NO. 458X)

VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50



BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

By: SIDNEY L. STRICKLAND, JR.
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W.
Suite 101
Washington, DC 20007
(202) 338-1325

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SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN LOGAN COUNTY, CO**

**DOCKET NO. AB-6
(SUB. NO. 458X)**

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1152.50**

BNSF RAILWAY COMPANY (“BNSF”) (“Applicant”) files this Verified Notice of Exemption under 49 C.F.R. 1152 Subpart F- Exempt Abandonments (49 C.F.R. 1152.50) for BNSF to abandon a rail line that extends between Milepost 229.66 and Milepost 230.10, near Sterling, Logan County, Colorado (the “Line”), a total distance of 0.44 miles.

The Line is depicted in a map that is attached to this Notice as Appendix 1.

Responses to 49 C.F.R. § 1152.50(d)(2):

I. *Proposed consummation date for the abandonment.*

The proposed consummation date of this abandonment will be at least 50 days from the filing date of September 11, 2007, which is October 31, 2007.

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

The required certification is attached hereto as Appendix 2.

III. *Information required by 49 C.F.R. § 1152.22(a)(1-4), (7) and (8) and (e)(4).*

(a) General

- (1) Exact name of Applicant.

BNSF Railway Company (“BNSF”).

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

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

- (3) *Relief sought (abandonment of line or discontinuance of service).*

BNSF seeks to use the class exemption from Surface Transportation Board approval authorizing the abandonment of the Logan County Line specified above.

- (4) *Detailed map of the subject line.*

See Appendix 1.

- (7) *Name, title and address of representative of applicant to whom correspondence should be sent:*

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street, N.W.
Suite 101
Washington, DC 20007
(202) 338-1325

Attorney for BNSF

- (8) *List of all United States Postal Service ZIP Codes that the line traverses.*

The Line traverses United States Postal Service Zip Code 80751.

- (e)(4) *Statement of whether the properties proposed to be abandoned are suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.*

The properties of the proposed abandonment appear to be appropriate for other public purposes. Based on information in our possession, there are no federally granted rights-of-way within the corridor. Any documentation in the railroad's possession will be made available promptly to those requesting it.

IV. *Level of Labor Protection.*

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions set forth in *Oregon Short Line RR Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

V. *Certification that Applicants have complied with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11.*

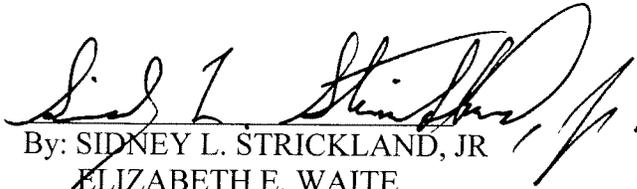
The required certifications are set forth in Appendix 3 to this Notice of Exemption.

VI. *Environmental and Historic Reports.*

A combined Environmental and Historic Report is attached to this Notice of Exemption as Appendix 4.

Respectfully submitted,

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057



By: SIDNEY L. STRICKLAND, JR
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W.
Suite 101
Washington, DC 20007
(202) 338-1325

Attorneys for BNSF Railway Company

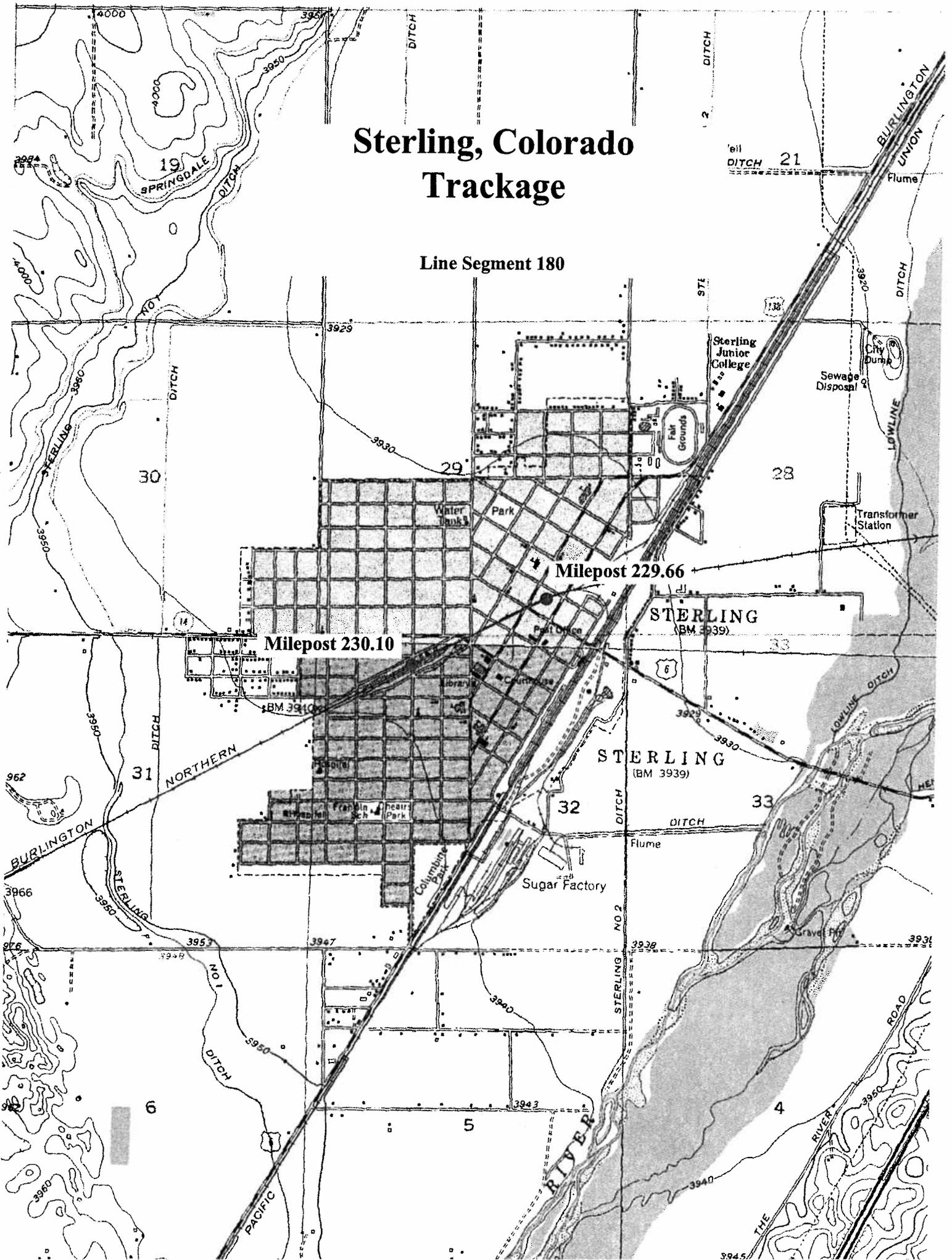
DATE FILED: September 11, 2007

APPENDIX 1

Detailed Map of the Line

Sterling, Colorado Trackage

Line Segment 180



Milepost 230.10

Milepost 229.66

STERLING (BM 3939)

STERLING (BM 3939)

APPENDIX 2

Certification Required in 49 C.F.R. § 1152.50(b)

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

I, Susan Odom, being duly sworn depose and state that, as Manager Network Strategy in the Network Development department of the BNSF Railway Company ("BNSF"), I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

In accordance with 49 C.F.R. § 1152.50(b), I hereby certify that, with respect to the line which is the subject of the Notice of Exemption filed in Docket No. AB-6 (Sub-No. 458X), no local traffic has moved on the line for at least two (2) years prior to the date hereof. Also, there is no overhead traffic handled on the Line to be rerouted. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned



Susan Odom
Manager Network Strategy

Subscribed and sworn to before me the 29th day of AUGUST, 2007.





APPENDIX 3

*Certifications that Applicant Has Complied with the Notice Requirements
of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11*

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-6 (Sub. No. 458X) was mailed via first class mail on August 24, 2007 to the following parties:

Colorado Public Utilities Commission
1580 Logan Street
Office Level 2
Denver, CO 80203

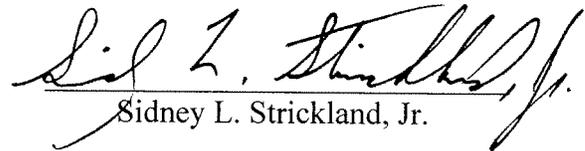
Military Traffic Management Control
Attn: Railroads for National Defense
720 Thimble Shoals Boulevard, #130
Newport News, VA 23606-2574

U.S. Department of the Interior
National Park Service
Recreational Resources Assistance Division
1849 C Street, NW
Washington, D.C. 20240-0001

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Yates Building
201 14th Street, SW
Washington, D.C. 20250

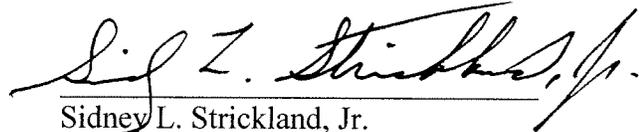
Jennifer Finch
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, CO 80222

Dated September 11, 2007


Sidney L. Strickland, Jr.

**CERTIFICATION OF COMPLIANCE WITH THE NEWSPAPER
PUBLICATION REQUIREMENTS OF SECTION 49 C.F.R. § 1105.12**

The undersigned certifies that a "Notice of Intent to Abandon Rail Service" was published in the form prescribed by the Board for out of service abandonment exemptions. The notice was published one time in the following newspaper of general circulation in Logan County, Colorado: *Sterling Journal Advocate*. Publication of the notice was accomplished on August 31, 2007. An Affidavit of Publication and a copy of the publication are attached.



Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street, NW
Suite 101
Washington, DC 20007
Phone: (202) 338-1325
Fax: (202) 295-3854

CERTIFICATION PURSUANT TO 49 C.F.R. 1105.7(c) and 8(c)

BNSF Railway Company (“BNSF”), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on August 15, 2007, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Tim Carney
District Conservationist
United States Department of Agriculture
Natural Resources Conservation Service
9599 Nelson Road-Suite D
Logan County Fairgrounds
Longmont, CO 80501-8000

Georgianna Contiguglia
State Historic Preservation Officer
Colorado Historical Society
1300 Broadway
Denver, CO 80203

Nathan Moore
Environmental Protection Specialist, Permit Unit
Colorado Department of Public Health
And Environment
4300 Cherry Creek Dr. S.
Denver, CO 80246-1530

Timothy T. Carey
Chief, Denver Regulatory Office
Omaha District
U.S. Army Corps of Engineers
9307 South Wadsworth Boulevard
Littleton, CO 80128-6901

Susan C. Linner
Colorado Field Supervisor
U.S. Fish and Wildlife Service
P.O. Box 24856, DFC (65412)
Denver, Colorado 8022-0486

Roy L. Masinton
U.S. Bureau of Land Management
Royal Gorge Field Office
3170 East Main Street
Cañon City, CO 81212

Logan County Commissioners
315 Main Street
Sterling, CO 80751

Jennifer Finch
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, CO 80222

Cheryl Eckhardt
Intermountain Region
National Park Service
12795 Alameda Parkway
Denver, CO 80225

Gregory Davis
Region 8 Stormwater Coordinator
U.S. Environmental Protection Agency
Mailcode: 8P-W-P
999 18th Street, Suite 300
Denver, CO 80202

Colorado Public Utilities Commission
1580 Logan Street
Office Level 2
Denver, Colorado 80203

National Oceanic and Atmospheric
Administration
National Geodetic Survey
1315 East-West Highway
Silver Springs, MD 20910-3282

Steven H. Gunderson
Colorado Department of Public Health and
Environment
Water Quality Control Commission
OED-OPPI-A5
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Kelly Barlean
City Attorney, City of Sterling
421 N. 4th Street
P.O. Box 4000
Sterling, Colorado 80751

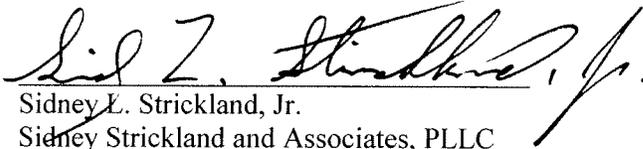
Tom Weber
USDA—Natural Resources Conservation Service
655 Parfet Street, Room E200C
Lakewood, Colorado 80215

Victoria Rutson
Chief, SEA
Surface Transportation Board
395 E. Street SW
Washington DC 20423

Renee Koch
Soil Conservationist
Natural Resources Conservation Service
Sterling Field Office
621 Iris Drive
Sterling, Colorado 80751

Erik Brekke
U.S. Bureau of Land Management
Royal Gorge Field Office
3170 East Main Street
Cañon City, CO 81212

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



Sidney E. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street N.W.
Suite 101
Washington, D.C. 20007

APPENDIX 4

Environmental and Historic Reports

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN LOGAN COUNTY, CO**

**DOCKET NO. AB-6
(SUB. NO. 458X)**

ENVIRONMENTAL AND HISTORIC REPORTS

BNSF RAILWAY COMPANY
2650 Lou Menk Drive
P.O. Box 96157
Fort Worth, TX 76161-0057

By: SIDNEY L. STRICKLAND, JR.
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W.,
Suite 101
Washington, DC 20007
(202) 338-1325

Attorneys for BNSF Railway Company

DATED: August 15, 2007

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN LOGAN COUNTY, CO**

**DOCKET NO. AB-6
(SUB. NO. 458X)**

**ENVIRONMENTAL AND HISTORIC REPORTS
(49 C.F.R. 1105.7 AND 49 C.F.R. 1105.8)**

Pursuant to 49 C.F.R. § 1105.7 and § 1105.8, BNSF Railway Company (BNSF) (referred to as “Applicant”) hereby files Environmental and Historic Reports. These Reports constitute Applicant’s assessment of the environmental effects and historic effects of abandonment of rail service on the involved rail line. Persons who review these Reports are entitled to provide comments to the Surface Transportation Board (STB), Section of Environmental Analysis (SEA), 395 E Street, S.W., Washington, DC 20423. There is information in the Applicant’s files to indicate that the rail line covered by these Reports does not contain any federally granted rights-of-way. *See* 49 C.F.R. § 1152.60(d). These Reports have been prepared in conjunction with the prospective filing of a Notice of Exemption for abandonment of the involved rail line. STB regulations provide that the Notice of Exemption cannot be filed until at least 20 days after these Reports are submitted.

I
ENVIRONMENTAL REPORT
(49 C.F.R. 1105.7)

The following information is submitted to the 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 Notice of Exemption seeking authority to abandon 0.44 miles of railroad line between Milepost 229.66 and Milepost 230.10, near Sterling, Logan County, Colorado (the "Line").

(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 the Line. The proposed abandonment may include the removal of the rails and ties, including any bridges, structures and crossings. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next, the wooden ties will be removed and separated into second-hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures will be removed last. Culverts and the rail line embankment will stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings will be pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges will be dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are not permitted to

place fills or other material in water bodies, including inland waterways.

Contractors are also required to limit their activities to the width of the right-of-way. When the salvage process is complete, waterflows in the area should not be disrupted. In this instance, there are no bridges on the Line and BNSF is not aware of any other structures. A map of the Line is attached as Exhibit A.

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

The proposed abandonment will have no effect on existing transportation systems or patterns as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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.

The proposed abandonment should not be inconsistent with local or regional land use plans. Initially, BNSF intended to abandon 0.40 miles of railroad line between Milepost 229.70 and Milepost 230.10. However, based on the comments submitted by the City of Sterling (“City”), BNSF extended the abandonment by 0.04 miles to include the above stated distance of .44 miles, between Milepost 229.66 and Milepost 230.10.

The City’s first response indicates the City “welcomes BNSF’s abandonment of .40 miles of railroad line between Milepost 229.70 and Milepost 230.1. The proposed abandonment would be consistent with existing city land

use plans.” The City further indicated: “[t]here are no other alternate uses currently under consideration or proposed beyond using the right of way for municipal street purposes.” The City stated it “would respectfully request that BNSF consider extending the abandonment two hundred feet eastward to where there is an alley, as this would be beneficial to the adjacent private land owner.” See Exhibit B, letter dated February 16, 2007, from Kelly Barlean, City Attorney, City of Sterling, Colorado. BNSF subsequently agreed to the 200 foot extension request and issued a new set of initial letters detailing the proposed abandonment.

The City’s second response indicates that the City appreciates BNSF’s willingness to extend the abandonment 200 feet. The City further indicated “city staff has made a recommendation to respectfully ask BNSF to consider an additional abandonment of the subject rail line into the rail yard east of North Second Street.” See Exhibit C, letter dated July 9, 2007, from Kelly Barlean, City Attorney, City of Sterling, Colorado. BNSF did not agree to this request.

Also, Colorado Department of Transportation (“CDOT”) indicates it contacted the Eastern Transportation Planning Region (“TPR”) regarding the proposed abandonment. CDOT further indicates the TPR discussed but took no action on the proposed abandonment during its April 23, 2007 meeting. CDOT also mentions the City of Sterling’s February 16, 2007 letter requesting BNSF abandon an additional 200 feet of rail line, noting “the proposed abandonment would be consistent with existing city land use plans and no alternate uses are currently under consideration beyond using the right of way for municipal street

purposes.” Finally, CDOT notes it has “no objection to another public entity attempting to acquire the rail line or right-of-way at a later date should the property become available.” See Exhibit D, letter dated April 27, 2007, from Jennifer Finch, Director, CDOT Division of Transportation Development.

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

The proposed abandonment should have no effect on prime agricultural lands. The Natural Resources Conservation Service (“NRCS”) (formerly known as the U.S. Soil Conservation Service) indicates: “After reviewing the project area map, and consulting published soil survey information, it is highly unlikely that this proposed action will have any effect on prime agricultural land. The project area is entirely within the City of Sterling, and would not meet the prime farmland if irrigated and drained criteria for the particular soil mapping unit that covers the area.” See Exhibit E, electronic correspondence dated February 12, 2007, from Tom Weber, Assistant State Soil Scientist, Natural Resources Conservation Service, U.S. Department of Agriculture. In an additional response, NRCS indicates: “...concerning the addition of .04 miles to the proposed abandonment in Logan County, Colorado, it has been determined that this action will not have any additional effects on prime agricultural lands.” See Exhibit F, electronic correspondence dated May 7, 2007, from Tom Weber, Assistant State Soil Scientist, USDA-Natural Resources Conservation Service. Finally, NRCS submitted a response from its Logan County office, that indicates the abandonment will have “no effect on the prime agricultural lands in the

abandonment area.” See Exhibit G, letter dated June 14, 2007, from Renee Koch, Soil Conservationist, Natural Resources Conservation Service, Sterling CO Field Office.

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

The proposed abandonment may be suitable for alternative public use. As noted above, the City indicates the proposed abandonment would be consistent with existing city land use plans, including using the right-of-way for municipal street purposes. See Exhibit B, letter dated February 16, 2007, from Kelly Barlean, City Attorney, City of Sterling, Colorado. Also, as stated above, the City indicates it appreciates BNSF’s willingness to extend the abandonment 200 feet, and notes: “city staff has made a recommendation to respectfully ask BNSF to consider an additional abandonment of the subject rail line into the rail yard east of North Second Street to clear two intersections of track for their inclusion in the city trail program.” See Exhibit C, letter dated July 9, 2007, from Kelly Barlean, City Attorney, City of Sterling, Colorado.

Also, as stated above, CDOT notes the City of Sterling’s February 16, 2007 letter requesting BNSF abandon an additional 200 feet of rail line and noting “the proposed abandonment would be consistent with existing city land use plans and no alternate uses are currently under consideration beyond

using the right of way for municipal street purposes.” See Exhibit D, letter dated April 27, 2007, from Jennifer Finch, Director, CDOT Division of Transportation Development.

(4) Energy:

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

There are no known recoverable energy resources along the Line. There has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

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

This abandonment will not adversely affect movement or recovery of recyclable commodities as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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 there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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 as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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

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

(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 result in meeting or exceeding the specified thresholds.

Moreover, 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 there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

(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 trains 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 of 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 action will not result in meeting or exceeding the specified thresholds.

Moreover, the proposed abandonment will not result in an increase of rail or truck

traffic as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

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

The proposed abandonment will not affect the transportation of ozone depleting materials.

(6) Noise: If any of the thresholds identified in item (5) (i) 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 65 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 five (5) public crossings and no private crossings on the Line. During salvage operations, 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.

The abandonment will not result in the 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 no known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way.

(8) Biological Resources:

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

The U.S. Fish and Wildlife Service ("FWS") indicates it does not have any comments. See Exhibit H, electronic correspondence dated March 5, 2007, from Susan C. Linner, Colorado Field Supervisor, U.S. Fish and Wildlife Service, U.S. Department of the Interior. See also Exhibit I, letter dated May 17, 2007, from Susan C. Linner, Colorado Field Supervisor, U.S. Fish and Wildlife Service, U.S. Department of the Interior.

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

The National Park Service ("Service") reviewed the project and "determined that no parks will be affected; therefore, we have no comments." See Exhibit J, letter dated January 31, 2007, from Cheryl Eckhardt, Intermountain Region, National Park Service, U.S. Department of the Interior. See also Exhibit

K, letter dated May 14, 2007, from Cheryl Eckhardt, Intermountain Region, National Park Service, U.S. Department of the Interior.

The Colorado State Parks (“CSP”) indicates there are no State Parks in the proposed project areas. See Exhibit L, electronic correspondence dated February 12, 2007, from Gregory Monroe, Real Estate Program Manager, Colorado State Parks. CSP further indicates: “there are no State Parks within the additional proposed abandonment impact area.” See Exhibit M, electronic correspondence dated May 2, 2007, from Gregory Monroe, Real Estate Program Manager, Colorado State Parks.

The Bureau of Land Management (“BLM”), indicates that the BLM does not manage any public lands in the vicinity of the railroad abandonment project in the Sterling area and does not have any pertinent information at this time. See Exhibit N, letter dated January 24, 2007, from Roy L. Masinton, Field Manager, Royal Gorge Field Office, Bureau of Land Management, U.S. Department of the Interior. BLM further indicates: “We do not have any information on T&E species of other critical habitat in the area since we have no land holdings in the area.” See Exhibit O, electronic correspondence from Erik Brekke, Bureau of Land Management, U.S. Department of the Interior.

(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.

The proposed exemption should be consistent with applicable Federal, State and local water quality standards. The Colorado Department of Public

Health and Environment (“CDPHE”) indicates 402 permitting in Colorado is addressed through the issuance of Colorado Discharge Permit System (“CDPS”) discharge permits. CDPHE further indicates the activity would need a discharge permit for any discharge of storm water meeting the permit criteria described in part B of the attached fact sheet. Finally, CDPHE adds that any other discharged water from the site would likely need a permit and would have to be addressed on a case-by-case basis. See Exhibit P, electronic correspondence dated March 5, 2007, from Nathan T. Moore, Environmental Protection Specialist, Permit Unit, Colorado Department of Public Health and Environment.

The CDPHE also indicates a CDPS permit is required for any discharge of pollutants to state waters. CDPHE includes definitions of “state waters” and “pollutants” in its correspondence. CDPHE notes that discharges of pollutants to storm sewers are included in the universe of those discharges that require permits and discharges of water pumped from excavations and stormwater discharges associated with industrial activities also require permitting. Finally, CDPHE indicates work that requires a 404 permit from the Corps of Engineers may also require certification by the State. See Exhibit Q, letter dated February 14, 2007, from Steven H. Gunderson, Director, Water Quality Control Division, Colorado Department of Public Health and Environment.

(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 flood plains will be affected. Describe the effects.

The proposed abandonment should not require a Section 404 permit. The U.S. Army Corps of Engineers (“CORPS”) indicates a Department of the Army Permit will not be required for this project. See Exhibit R, letter dated January 23, 2007, from Timothy T. Carey, Chief, Denver Regulatory Office, Omaha District, Corps of Engineers, Department of the Army. The CORPS also indicates it reviewed the additional 0.04 miles of abandonment in accordance with Section 404 of the Clean Water Act and determined “a Department of the Army (DA) Permit will not be required for this project. See Exhibit S, letter dated May 10, 2007, from Timothy T. Carey, Chief, Denver Regulatory Office, Omaha District, Corps of Engineers, Department of the Army.

The CDPHE indicates the WQCD does not regulate flood plains. See Exhibit P, electronic correspondence dated March 5, 2007, from Nathan T. Moore, Environmental Protection Specialist, Permit Unit, Colorado Department of Public Health and Environment. Also, CDPHE indicates its Water Quality Control Division (“WQCD”) does not have any jurisdiction over floodplain programs. See Exhibit Q, letter dated February 14, 2007, from Steven H. Gunderson, Director, Water Quality Control Division, Colorado Department of Public Health and Environment.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) 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).

A permit under Section 402 of the Clean Water Act may not be required for the proposed action. As noted above, the CDPHE indicates 402

permitting in Colorado is addressed through the issuance of CDPS permits, which are addressed on a case-by-case basis. See Exhibit P, electronic correspondence dated March 5, 2007, from Nathan T. Moore, Environmental Protection Specialist, Permit Unit, Colorado Department of Public Health and Environment.

Also, as indicated above, CDPHE adds a CDPS permit is required for any discharge of pollutants to state waters. See Exhibit Q, letter dated February 14, 2007, from Steven H. Gunderson, Director, Water Quality Control Division, Colorado Department of Public Health and Environment.

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

The project itself should mitigate the environmental effects of reinstating active rail operations.

II

HISTORIC REPORT (49 C.F.R. 1105.8)

Applicants hereby submit the following information required by 49 C.F.R. § 1105.8(d):

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

The required topographic map is attached to this Report as Exhibit A.

- (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 0.44-mile stretch of track between MP 229.66 and MP 230.10 in Sterling, CO lies just north of the 1.90-mile abandonment between MP 230.10 and MP 232 granted to Burlington Northern Railroad Company on March 21, 1985. The line from Sterling to New Raymer (MP 232 to MP 266.50) was previously abandoned in October of 1977. The trackage is located in the center of the town of Sterling which 2000 census data states a population of 11,360. Sterling is the seat of Logan County, located along the South Platte River at an approximate elevation of 3,900 feet. More than 65 percent of the county's population resides in Sterling. The surrounding land is rural. None of the 100-foot right-of-way was acquired by federal grant.

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

There are no railroad structures on the property that are 50 years old or

older.

(4) The date(s) of construction of the structure(s), 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 rail line from Holdrege, NE to Sterling, CO was built in 1887, by The Colorado and Wyoming Railroad Company. From the beginning of operations the line was leased to Burlington and Missouri River Railroad Company in Nebraska, whose parent company at the time was Chicago, Burlington & Quincy Railroad Company (“CB&Q”). In February of 1908, C&WRR was deeded to CB&Q, nullifying the lease. In 1970, CB&Q merged with Great Northern Railway Company, Northern Pacific Railway Company and Pacific Coast Railroad Company to become Burlington Northern Inc. In 1981, the name was changed to Burlington Northern Railroad Company (“BN”). BN merged with The Atchison, Topeka and Santa Fe Railroad Company in 1996 to become The Burlington Northern and Santa Fe Railroad Company (“BNSF”). BNSF changed its name to BNSF Railway Company in January of 2005.

(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 found 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 CFR 60.4), and whether there is a likelihood of archeological 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);

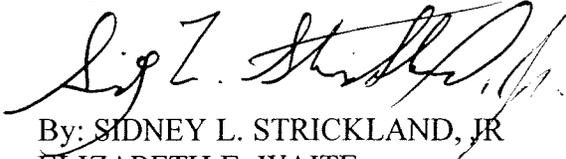
The Colorado Historical Society (“CHS”) indicates the subject trackage has not been surveyed for historic or archaeological resources. The CHS has requested a survey of the 2,112-foot section of track to be removed to determine if any historical/archaeological resources exist. The CHS further indicates it does not “anticipate that any non-railroad structures (such as nearby historic businesses and homes) will be affected by this project.” See Exhibit T, letter dated January 25, 2007, from Mark Wolf for Georgianna Contiguglia, State Historic Preservation Officer, and President, Colorado Historical Society. CHS reiterates, in a subsequent letter, it: “requests that the line be surveyed to determine whether there are any track-related structures and objects...and whether any of these track-related items will be affected by the project.” See Exhibit U, letter dated May 3, 2007, from Mark Wolf for Georgianna Contiguglia, State Historic Preservation Officer, and President, Colorado 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 archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

There are no known prior subsurface ground disturbance or fill, or any environmental conditions that might affect the archeological recovery

of resources and the surrounding terrain.

Respectfully submitted,



By: SIDNEY L. STRICKLAND, JR
ELIZABETH E. WAITE
SIDNEY STRICKLAND AND ASSOCIATES
3050 K Street, N.W., Suite 101
Washington, DC 20007
(202) 338-1325
Attorneys for BNSF Railway Company

DATED: August 15, 2007

EXHIBIT A

Sterling, Colorado Trackage

Line Segment 180

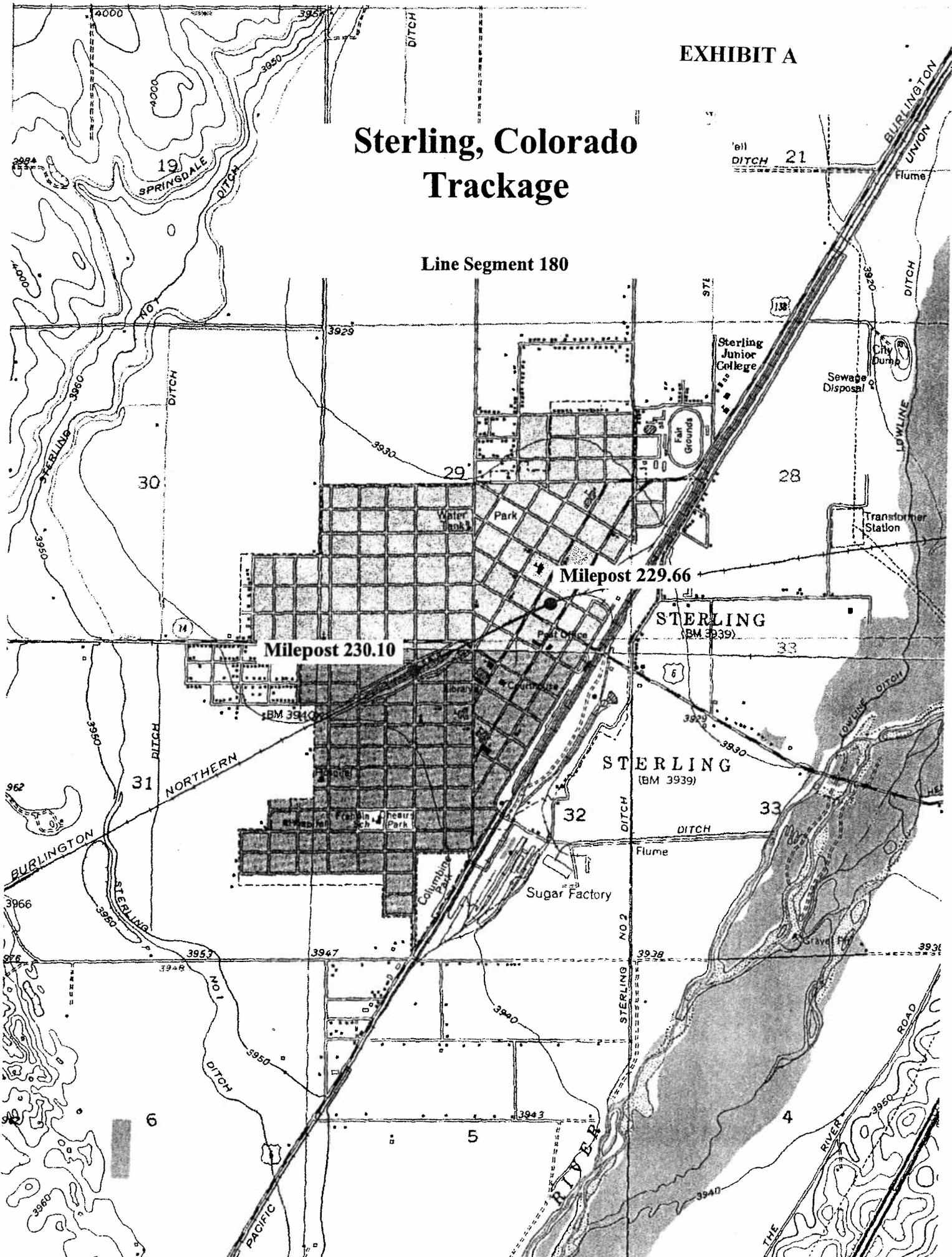




EXHIBIT B

February 16, 2007

VIA FACSIMILE TRANSMISSION (202-295-3854)
AND U.S. MAIL

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

**RE: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company –
Abandonment Exemption – in Logan County, CO.**

Dear Mr. Strickland:

I am in receipt of your letter dated January 18, 2007, regarding the above-indicated matter. The City of Sterling welcomes BNSF's abandonment of .40 miles of railroad line between Milepost 229.70 and Milepost 230.1. The proposed abandonment would be consistent with existing city land use plans. There are no other alternate uses currently under consideration or proposed beyond using the right of way for municipal street purposes. The City would respectfully request that BNSF consider extending the abandonment two hundred feet eastward to where there is an alley, as this would be beneficial to the adjacent private land owner.

Sincerely,

Kelly Barlean
City Attorney, City of Sterling
421 N. 4th Street
P.O. Box 4000
Sterling, CO 80751
(970) 522-9700 - telephone
(970) 521-0632 - fax
barlean@sterlingcolo.com

CITY OF STERLING, CENTENNIAL SQUARE, 421 N. 4TH STREET, P. O. BOX 4000, STERLING, CO 80751-0400

CITY HALL
(970) 522-9700
FAX (970) 521-0632

SERVICE CENTER
(970) 522-2619
FAX (970) 521-7141

FIRE
(970) 522-3823

POLICE
(970) 522-3512
FAX(970) 522-3511

REC CENTER
(970) 522-7882

LIBRARY
(970) 522-2023
FAX (970) 522-2657



EXHIBIT C

July 9, 2007

Sidney Strickland and Associates, PLLC
3050 K Street, NW Suite 101
Washington, DC 20007-5108

RE: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company –
Abandonment Exemption- in Logan County, CO.

Dear Mr. Strickland,

Thank you for assisting the city of Sterling with its previous request to have an additional 200 feet of track abandoned by BNSF. Since our previous request, city staff has made a recommendation to respectfully ask BNSF to consider an additional abandonment of the subject rail line into the rail yard east of North Second Street. This additional abandonment would clear two intersections of track and allow their inclusion into the city trail program. We understand that we should have made this request earlier and that BNSF may require the track for operational purposes, but we do thank you for conveying our request to your client and thank your client for being a good neighbor.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Barlean", written over a horizontal line.

Kelly Barlean
City Attorney

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION
Division of Transportation Development
4201 East Arkansas Avenue
Denver, Colorado 80222
(303) 757-9525



April 27, 2007

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 2007-5108

RE: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company – Abandonment Exemption – in Logan County, CO

Dear Mr. Strickland:

This letter is to inform you that the Colorado Department of Transportation (CDOT) has reviewed the proposed abandonment of 0.40 miles of railroad line between Milepost 229.70 and Milepost 320.10 within the City of Sterling, Colorado, as outlined in your letter of Jan. 18, 2007.

CDOT contacted the Eastern Transportation Planning Region (TPR), a multi-county transportation planning region made up of representatives of a number of cities and counties in northeastern Colorado. The Eastern TPR discussed, but took no action on, the proposed abandonment at its next meeting on April 23. At that meeting, the Eastern TPR heard that Logan County deferred any formal action to Sterling. As you know, Sterling sent a letter to you dated Feb. 16, 2007, seeking abandonment of 200 additional feet east to an alley to benefit a private property owner. The letter noted that the proposed abandonment would be consistent with existing city land use plans and no alternate uses are currently under consideration or proposed beyond using the right of way for municipal street purposes.

According to 43-1-1304, Colorado Revised Statutes, any public entity had 90 days from the Jan. 18 notification date to inform your firm or the railroad in writing of an interest in acquiring the land proposed for abandonment or in preserving rail service. That time has now lapsed, but CDOT has no objection to another public entity attempting to acquire the rail line or right-of-way at a later date should the property become available.

Sincerely,

Jennifer Finch
Director, CDOT Division of Transportation Development

cc: George Gerstle and Kathy Engelson

Assistant State Soil Scientist
USDA-Natural Resources Conservation Service
655 Parfet Street, Room E200C
Lakewood, Colorado
720-544-2818



Search Inbox



Advanced Search



Liz Waite

From: "Weber, Tom - Lakewood, CO" <tom.weber@co.usda.gov>
To: <Sidney.Strickland@stricklandpllc.com>
Cc: "Park, Steve - Lakewood, CO" <steve.park@co.usda.gov>
Sent: Monday, May 07, 2007 10:43 AM
Subject: RE: STB Docket No.AB-6

Mr. Strickland,

In response to your letter dated April 27, 2007 concerning the addition of .04 miles to the proposed abandonment in Logan County, Colorado, it has been determined that this action will not have any additional effects on prime agricultural lands.

Tom Weber
Assistant State Soil Scientist
USDA-Natural Resources Conservation Service
655 Parfet Street, Room E200C
Lakewood, Colorado
720-544-2818



Natural Resources Conservation Service
Sterling Field Office
621 Iris Drive
Sterling, CO 80751

970-522-7440 Ext 3-OFFICE
970-522-3528-FAX
www.co.nrcs.usda.gov

June 14, 2007

Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

Re: STB Docket No. AB-6 (Sub. No.458X) BNSF Railway Company—Abandonment Exemption—in Logan County, CO

Dear Mr. Strickland”

In response to your letter dated April 27, 2007 addressed to Tim Carney, District Conservationist in Longmont, CO our local Logan County, CO NRCS Field Office located in Sterling, CO has reviewed your request for information about the potential effect on prime agricultural land.

The Logan County office has determined that there will be **no effect** on the prime agricultural lands in the abandonment area. We have included a soils map and information regarding the area of abandonment described for your information. If you have any questions, please contact us at (970)522-7440 Extension 3.

Sincerely,

A handwritten signature in cursive script that reads "Renee Koch".

Reneé Koch
Soil Conservationist
Natural Resources Conservation Service
Sterling, CO Field Office

enclosure

SOIL SURVEY OF LOGAN COUNTY, COLORADO

BSFN Railroad Abandonment

MAP LEGEND

- Soil Map Units
- Cities
- Detailed Counties
- Detailed States
- Interstate Highways
- Roads
- Rails
- Water
- Hydrography
- Oceans
- Escarpment, bedrock
- Escarpment, non-bedrock
- Gulley
- Levee
- Slope
- Blowout
- Borrow Pit
- Clay Spot
- Depression, closed
- Eroded Spot
- Gravel Pit
- Gravelly Spot
- Gulley
- Lava Flow
- Landfill
- Marsh or Swamp
- Miscellaneous Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Slide or Slip
- Sinkhole
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Perennial Water
- Wet Spot

MAP INFORMATION

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>

Coordinate System: UTM Zone 13

Soil Survey Area: Logan County, Colorado
 Spatial Version of Data: 2
 Soil Map Compilation Scale: 1:24000

Map comprised of aerial images photographed on these dates:
 1998

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend Summary

Logan County, Colorado

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
82	Nunn clay loam, watertable	2.1	100.0

Prime and other Important Farmlands

Logan County, Colorado

Map symbol	Map unit name	Farmland classification
82	Nunn clay loam, watertable	Prime farmland if irrigated and drained

Prime and other Important Farmlands

This table lists the map units in the survey area that are considered important farmlands. Important farmlands consist of prime farmland, unique farmland, and farmland of statewide or local importance. This list does not constitute a recommendation for a particular land use.

In an effort to identify the extent and location of important farmlands, the Natural Resources Conservation Service, in cooperation with other interested Federal, State, and local government organizations, has inventoried land that can be used for the production of the Nation's food supply.

"Prime farmland" is of major importance in meeting the Nation's short- and long-range needs for food and fiber. Because the supply of high-quality farmland is limited, the U.S. Department of Agriculture recognizes that responsible levels of government, as well as individuals, should encourage and facilitate the wise use of our Nation's prime farmland.

Prime farmland, as defined by the U.S. Department of Agriculture, is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses. It could be cultivated land, pastureland, forestland, or other land, but it is not urban or built-up land or water areas. The soil quality, growing season, and moisture supply are those needed for the soil to economically produce sustained high yields of crops when proper management, including water management, and acceptable farming methods are applied. In general, prime farmland has an adequate and dependable supply of moisture from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, an acceptable salt and sodium content, and few or no rocks. The water supply is dependable and of adequate quality. Prime farmland is permeable to water and air. It is not excessively erodible or saturated with water for long periods, and it either is not frequently flooded during the growing season or is protected from flooding. Slope ranges mainly from 0 to 6 percent. More detailed information about the criteria for prime farmland is available at the local office of the Natural Resources Conservation Service.

For some of the soils identified in the table as prime farmland, measures that overcome a hazard or limitation, such as flooding, wetness, and droughtiness, are needed. Onsite evaluation is needed to determine whether or not the hazard or limitation has been overcome by corrective measures.

A recent trend in land use in some areas has been the loss of some prime farmland to industrial and urban uses. The loss of prime farmland to other uses puts pressure on marginal lands, which generally are more erodible, droughty, and less productive and cannot be easily cultivated.

"Unique farmland" is land other than prime farmland that is used for the production of specific high-value food and fiber crops, such as citrus, tree nuts, olives, cranberries, and other fruits and vegetables. It has the special combination of soil quality, growing season, moisture supply, temperature, humidity, air drainage, elevation, and aspect needed for the soil to economically produce sustainable high yields of these crops when properly managed. The water supply is dependable and of adequate quality. Nearness to markets is an additional consideration. Unique farmland is not based on national criteria. It commonly is in areas where there is a special microclimate, such as the wine country in California.

In some areas, land that does not meet the criteria for prime or unique farmland is considered to be "farmland of statewide importance" for the production of food, feed, fiber, forage, and oilseed crops. The criteria for defining and delineating farmland of statewide importance are determined by the appropriate State agencies. Generally, this land includes areas of soils that nearly meet the requirements for prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some areas may produce as high a yield as prime farmland if conditions are favorable. Farmland of statewide importance may include tracts of land that have been designated for agriculture by State law.

In some areas that are not identified as having national or statewide importance, land is considered to be "farmland of local importance" for the production of food, feed, fiber, forage, and oilseed crops. This farmland is identified by the appropriate local agencies. Farmland of local importance may include tracts of land that have been designated for agriculture by local ordinance.

Hydric Soils

Logan County, Colorado

Map symbol and map unit name	Component	Percent of map unit	Landform	Hydric rating	Hydric criteria
------------------------------	-----------	---------------------	----------	---------------	-----------------

82:

Nunn clay loam, watertable	Aquic Haplustolls	4	Terraces	Yes	2B1
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Explanation of hydric criteria codes:

1. All Histels except for Folistels, and Histosols except for Folists.
2. Soils in Aquic suborders, great groups, or subgroups, Albolls suborder, Historthels great group, Histoturbels great group, Pachic subgroups, or Cumulic subgroups that:
 - A. are somewhat poorly drained and have a water table at the surface (0.0 feet) during the growing season, or
 - B. are poorly drained or very poorly drained and have either:
 - 1.) a water table at the surface (0.0 feet) during the growing season if textures are coarse sand, sand, or fine sand in all layers within a depth of 20 inches, or
 - 2.) a water table at a depth of 0.5 foot or less during the growing season if permeability is equal to or greater than 6.0 in/hr in all layers within a depth of 20 inches, or
 - 3.) a water table at a depth of 1.0 foot or less during the growing season if permeability is less than 6.0 in/hr in any layer within a depth of 20 inches.
3. Soils that are frequently ponded for long or very long duration during the growing season.
4. Soils that are frequently flooded for long or very long duration during the growing season.

JAN 29 2007

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

EXHIBIT H

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

January 18, 2007

Susan C. Linner
Colorado Field Supervisor
U.S. Fish and Wildlife Service
P.O. Box 24856, DFC (65412)
Denver, Colorado 8022-0486

U.S. FISH AND WILDLIFE SERVICE	
<input type="checkbox"/>	CONCUR NO EFFECT
<input type="checkbox"/>	CONCUR NOT LIKELY TO ADVERSELY AFFECT
<input checked="" type="checkbox"/>	NO COMMENT
<i>Susan C. Linner</i> 3/5/07	
COLORADO FIELD SUPERVISOR (DATE)	
Susan C. Linner	

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment Exemption – in Logan County, CO

Dear Ms. Linner:

BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority in the above docket to abandon 0.40 miles of railroad line between Milepost 229.70 and Milepost 230.10, near Sterling in Logan County, Colorado.

The proposed abandonment may include the removal of the rails and ties, including any bridges, structures and crossings. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next the wooden ties are removed and separated into second hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures are removed last. Culverts and the rail line embankment stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings are pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges are dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are required not to place fills or other material in water bodies, including inland waterways. Contractors are also required to limit their activities to the width of the right-of-way. When the salvage process is complete, waterflows in the area should not be disrupted.

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

For your reference, I have enclosed a map of the above referenced railroad line. Please provide this information to me by February 15, 2007. If you have any questions, do not hesitate to contact me at (202) 338-1325. Thank you in advance for your cooperation.

Sincerely,

Sidney L. Strickland, Jr.
Sidney L. Strickland, Jr.

Enclosure
SLS/cac

EXHIBIT I

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

RECEIVED
MAY 11 2007

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

April 27, 2007

Susan C. Linner
Colorado Field Supervisor
U.S. Fish and Wildlife Service
P.O. Box 24856, DFC (65412)
Denver, Colorado 8022-0486

U.S. FISH AND WILDLIFE SERVICE	
<input type="checkbox"/> CONCUR NO EFFECT	
<input type="checkbox"/> CONCUR NOT LIKELY TO ADVERSELY AFFECT	
<input checked="" type="checkbox"/> NO COMMENT	
<i>Susan C. Linner</i> 5/17/07	
COLORADO FIELD SUPERVISOR	(DATE)
Susan C. Linner	

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment Exemption – in Logan County, CO

Dear Ms. Linner:

By letter dated January 18, 2007, you were informed of BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority in the above docket to abandon 0.40 miles of railroad line between Milepost 229.70 and Milepost 230.10, near Sterling in Logan County, Colorado.

Upon further consideration, BNSF has added .04 miles to the proposed abandonment. The abandonment will now extend between Milepost 229.66 and Milepost 230.10, near Sterling in Logan County, Colorado, a total distance of .44 miles.

As previously noted, the proposed abandonment may include the removal of the rails and ties, including any bridges, structures and crossings. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next the wooden ties are removed and separated into second hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures are removed last. Culverts and the rail line embankment stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings are pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges are dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are required not to place fills or other material in water bodies, including inland waterways. Contractors are also required to limit their activities to the width of the right-of-way. When the salvage process is complete, waterflows in the area should not be disrupted.

As part of the environmental report, BNSF needs to know whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges or areas designated as critical habitat adjacent or near the line with the additional .04 miles and if so, what effects the proposed action may have.

For your reference, I have enclosed an updated map of the above referenced railroad line. Please provide this information to me at your earliest convenience. If you have any questions, do not hesitate to contact me at (202) 338-1325. Thank you in advance for your cooperation.

Sincerely,

Sidney L. Strickland, Jr.
Sidney L. Strickland, Jr.

Enclosure
SLS/cac



**UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
ECOLOGICAL SERVICES**



**COLORADO FIELD OFFICE
P.O. BOX 25486, DFC (MS65412)
DENVER, COLORADO 80225-0486**

PHONE: 303-236-4773

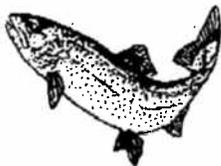
FAX: 303-236-4005

SEND TO: Lois Strickland **PHONE:** - -
FROM: Donna **FAX:** - -

SUBJECT: Logan Co 11 **PAGES (INCLUDING COVER SHEET)**

COMMENTS: resp.

**MAILING ADDRESS:
134 UNION BLVD., STE. 670
LAKEWOOD, CO 80228**



SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

January 18, 2007

Cheryl Eckhardt
Intermountain Region
National Park Service
12795 Alameda Parkway
Denver, CO 80225

***Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, CO***

Dear Ms. Eckhardt:

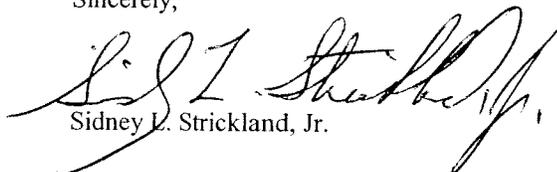
BNSF Railway Company (“BNSF”) plans on filing with the Surface Transportation Board (“STB”) a Notice of Exemption seeking authority in the above docket to abandon 0.40 miles of railroad line between Milepost 229.70 and Milepost 230.10, near Sterling in Logan County, Colorado.

The proposed abandonment may include the removal of the rails and ties, including any bridges, structures and crossings. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next the wooden ties are removed and separated into second hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures are removed last. Culverts and the rail line embankment stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings are pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges are dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are required not to place fills or other material in water bodies, including inland waterways. Contractors are also required to limit their activities to the width of the right-of-way. When the salvage process is complete, waterflows in the area should not be disrupted.

As part of the environmental report, BNSF needs to know whether or not there are any wildlife sanctuaries or refuges, National or State parks or forests in the proposed project impact area and if so, what effects would occur as a result of the abandonment.

For your reference, I have enclosed a map of the above referenced railroad line. Please provide this information to me by February 15, 2007. If you have any questions, do not hesitate to contact me at (202) 338-1325. Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.

Enclosure
SLS/cac



The National Park Service reviewed this project, and determined that no parks will be affected; therefore, we have no comments.

Signed:  Date: 1/31/07

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K St. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

EXHIBIT K

April 27, 2007

Cheryl Eckhardt
Intermountain Region
National Park Service
12795 Alameda Parkway
Denver, CO 80225

**Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment Exemption –
in Logan County, CO**

Dear Ms. Eckhardt:

By letter dated January 18, 2007, you were informed of BNSF Railway Company (“BNSF”) plans on filing with the Surface Transportation Board (“STB”) a Notice of Exemption seeking authority in the above docket to abandon 0.40 miles of railroad line between Milepost 229.70 and Milepost 230.10, near Sterling in Logan County, Colorado.

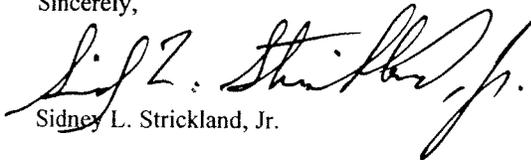
Upon further consideration, BNSF has added .04 miles to the proposed abandonment. The abandonment will now extend between Milepost 229.66 and Milepost 230.10, near Sterling in Logan County, Colorado, a total distance of .44 miles.

As previously noted, the proposed abandonment may include the removal of the rails and ties, including any bridges, structures and crossings. BNSF bids its salvage packages out to independent contractors. The winning bidder will start work with the removal of the rails and metal parts of the track structure. Next the wooden ties are removed and separated into second hand ties, landscape quality ties and scrap ties (which are disposed of at an appropriate site). The bridges and crossings as well as any other structures are removed last. Culverts and the rail line embankment stay intact so as not to alter the prevailing waterflows along the line. Any bridge pilings are pulled out, cut off at ground level or broken off at or below the mud line. Steel bridges are dismantled and removed. If there are concrete abutments or piers involved, they may be left intact. BNSF salvage contractors are required not to place fills or other material in water bodies, including inland waterways. Contractors are also required to limit their activities to the width of the right-of-way. When the salvage process is complete, waterflows in the area should not be disrupted.

As part of the environmental report, BNSF needs to know whether or not there are any wildlife sanctuaries or refuges, National or State parks or forests in the proposed project impact area with the additional .04 miles and if so, what effects would occur as a result of the abandonment.

For your reference, I have enclosed an updated map of the above referenced railroad line. Please provide this information to me at your earliest convenience. If you have any questions, do not hesitate to contact me at (202) 338-1325. Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.

Enclosure
SLS/cac



The National Park Service reviewed this project, and determined that no parks will be affected; therefore, we have no comments.

Signed:  Date: 5/14/07

C. A. Curry

EXHIBIT L

From: Monroe, Greg [Greg.Monroe@state.co.us]

Sent: Monday, February 12, 2007 5:40 PM

To: Sidney.Strickland@stricklandpllc.com

Subject: STB Docket No. AB-6 BNSF abandonment

Pursuant to your inquiry regarding this abandonment, there are no State Parks within the proposed project area.

Gregory Monroe
Real Estate Program Manager
Colorado State Parks
303/894-2585 x11

Liz Waite

From: "Monroe, Greg" <Greg.Monroe@state.co.us>
To: <Sidney.Strickland@stricklandpllc.com>
Sent: Wednesday, May 02, 2007 11:27 AM
Subject: STB Docket No. AB-6 - BNSF Railway abandonment in Logan County, Colorado

Pursuant to your letter dated April 27, 2007, on the above referenced proposed railroad ROW abandonment, there are no State Parks within the additional proposed abandonment impact area.

Gregory Monroe
Real Estate Coordinator
Colorado State Parks
(303) 894-2585 x11



United States Department of the Interior

Bureau of Land Management
3170 East Main Street
Cañon City, Colorado 81212



EXHIBIT N

In Reply Refer to:
6500, (CO-200)EB

January 24, 2007

Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

Dear Mr. Strickland,

We are responding to your request for information concerning STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company-Abandonment Exception-in Logan County, CO. The Bureau of Land Management does not manage any public lands in the vicinity of the railroad abandonment project in the Sterling area. We do not have any pertinent information to pass along to you at this time.

Sincerely,

Roy L. Masinton
Field Manager
Royal Gorge Field Office



Home Compose Address Book Options Logout

Username: Liz
(liz.waite@stri

- Inbox (17)**
- Drafts**
- Deleted Items (2)**
- Sent**
- More MOre MOre Sent**
- More More Sent**
- More Sent**
- Scheduled**

Message

Delete permanently Move to Deleted Item:

From: Sidney Strickland <sidney.strickland@stricklandpllc.com>
To: liz.waite@stricklandpllc.com, Carlton.curry@stricklandpllc.com
Subject: FW: STB Docket No. AB-6 (Sub. No. 458X)
Date: 01-Jun-07 06:55 PM

-----Original Message-----

From: erik_brekke@blm.gov [mailto:erik_brekke@blm.gov]
Sent: Monday, May 07, 2007 3:46 PM
To: sidney.strickland@stricklandpllc.com
Subject: Re: STB Docket No. AB-6 (Sub. No. 458X)

Mr Strickland, we recently received a request for information on T&E species for a rail abandonment near Sterling, Co. The letter was addressed to our Field Office manager Roy Masinton. BLM does not manage any land in the area and the questions you ask lead me to believe that your letter would be better addressed to the US Fish and Wildlife Service or the Colorado Division of Wildlife??? Is there a chance you are confusing BLM with USFWS?? We do not have any information on T&E species or other critical habitat in the area since we have no land holdings in the area. Give me a call if you want to discuss in more detail. Thanks Erik Brekke
 (719) 269-8519.

Search

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From: NATHAN T Moore [mailto:ntmoore@cdphe.state.co.us]
Sent: Monday, March 05, 2007 11:05 AM
To: sidney.strickland@stricklandpllc.com
Cc: brenda.baldwin.white@stricklandpllc.com
Subject: BNSF Rail Abandonment

Mr. Strickland,

The email is in reply to your letter dated January 18, 2007. I apologize for the delay in my response.

402`permitting in Colorado is addressed through the issuance of CDPS discharge permits. The activity you described would need a discharge permit for any discharge of stormwater meeting the permit criteria described in part B of the attached fact sheet. Any other discharge of water (e.g., ground water, other process waters) from the site would likely need a permit under a CDPS permit as well and would have to be addressed on a case-by-case basis depending on the source.

The Colorado Water Quality Control Division does not regulate flood plains, you would need to contact FEMA or a local government agency for guidance on that issue.

Nathan Moore
WQCD
303-692-3555

STORMWATER FACT SHEET – CONSTRUCTION

6/05

Colorado Department of Public Health and Environment
Water Quality Control Division – Stormwater Program
WQCD-Permits-B2
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Phone: (303) 692-3517
Email: cdphe.wqstorm@state.co.us
Web Page: www.cdphe.state.co.us/wq/PermitsUnit

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A. INTRODUCTION



Look for this symbol throughout this guide for brief summaries of the most important information you need to know about stormwater permitting for construction activities. Then read further if you want more details.

In 1992, the State of Colorado stormwater regulation went into effect to control municipal and industrial stormwater discharges, based on EPA regulations. The regulation is meant to reduce the amount of pollutants entering streams, rivers, lakes, and wetlands as a result of runoff from residential, commercial and industrial areas. The State regulation (5 CCR 1002-61) covers discharges from specific types of industries including construction sites, and storm sewer systems for certain municipalities. In Colorado, the program is under the Colorado Department of Public Health & Environment, Water Quality Control Division (the Division). The Colorado program is referred to as the Colorado Discharge Permit System, or CDPS, and regulated stormwater discharges from construction activities are covered under the CDPS general permit for Stormwater Discharges Associated with Construction Activities (the Stormwater Construction Permit).

Construction activities produce many different kinds of pollutants which may cause stormwater contamination problems. The main pollutant of concern at construction sites is sediment. Grading activities remove grass, rocks, pavement and other protective ground covers, resulting in the exposure of underlying soil to the elements. The soil is then easily picked up by wind and/or washed away by rain or snowmelt. For example, sediment runoff rates from construction sites are typically 10 to 20 times greater than those from agricultural lands, and 1,000 to 2,000 times greater than those of forest lands. During a short period of time, construction activity can contribute more sediment to streams than would normally be deposited over several decades, causing physical and biological harm to our State's waters. The added sediment chokes the river channel and covers the areas where fish spawn and plants grow. Excess sediment can cause a number of other problems for waterbodies, such as increased difficulty in filtering drinking water, and clouding the waters which can kill plants growing in the river and suffocate fish. A number of pollutants, such as nutrients, are absorbed onto sediment particles and also are a source of pollution associated with sediment discharged from construction sites.

In addition, construction activities often require the use of toxic or hazardous materials such as fuel, fertilizers, pesticides and herbicides, and building materials such as asphalt, sealants and concrete, which may also pollute stormwater. These materials can be harmful to humans, plants and aquatic life.

This Fact Sheet provides general guidance for compliance with the CDPS permitting requirements for stormwater discharges from construction activities. The Division reserves the right to interpret the permitting requirements on a case-by-case basis, as necessary.

B. OBTAINING REGULATORY COVERAGE FOR CONSTRUCTION SITES



You must obtain permit coverage (or an R-Factor waiver) to discharge stormwater from any construction activity that disturbs at least 1 acre of land (or is part of a larger common plan of development or sale that will disturb at least 1 acre).

The owner or operator must apply for coverage under the Stormwater Construction General Permit at least 10 days prior to the start of construction activities. The application is available from the Division's web page.

1) When do you need to get a Construction Stormwater Permit?

The requirements vary a bit depending on if your project or plan of development will disturb less than 5 acres (Small Construction Site) or 5 acres or more (Large Construction Site). If permit coverage is required, or a waiver applied for, it must be maintained until the site is finally stabilized. (“**Finally Stabilized**” means that all disturbed areas have been either built on, paved, or a uniform vegetative cover has been established with a density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. Re-seeding alone does not qualify.)

Is it part of a larger common plan of development or sale?

“A common plan of development or sale” is a site where multiple separate and distinct construction activities may be taking place at different times on different schedules, but still under a single plan. Examples include: 1) phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contracts or by separate owners (e.g., a project where developed lots are sold to separate builders); 2) a development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and 3) projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility. If the project is part of a common plan of development or sale, the disturbed area of the entire plan must be used in determining permit requirements.

What is the total estimated area of disturbance?

The area of disturbance is the total area at the site where any construction activity is expected to result in disturbance of the ground surface. This includes any activity that could increase the rate of erosion, including, but not limited to, clearing, grading, excavation, and demolition activities, as well as haul roads and areas used for staging where traffic will result in the disturbance of the ground surface. Construction does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility.

If the total area of disturbance, including disturbances from the entire common plan of development or sale, is greater than or equal to 5 acres, the site is considered to be a Large Construction Site (Part a below). If it is at least 1 acre but less than 5 acres, the site is considered to be a Small Construction Site (Part b below).

a) Permitting for Large Construction Sites (greater than or equal to 5 acres of disturbance)

For all Large Construction Sites, the owner or operator must apply for coverage under the Stormwater Construction Permit at least 10 days prior to the start of construction activities. An application, which includes guidance on developing a Stormwater Management Plan (SWMP), is available from the Division. The SWMP must be completed prior to application. See Section C, “Permit Requirements,” for further information. If your application is complete, it will be processed and your permit mailed to you.

The construction permit certification must be inactivated once the site has been finally stabilized, in order to end permit coverage and billing. An inactivation form is supplied with the permit certification.

The options discussed under Parts b.ii and b.iii below are not available for Large Construction Sites.

b) Permitting for Small Construction Sites (at least 1 acre and less than 5 acres of disturbance)

All Small Construction Sites are covered by the stormwater regulations. To be in compliance, the permittee must do one of the following three options, whichever is applicable. (Regardless of which option applies at the State level, all local requirements must still be met as discussed in Section D, below.)

i) Obtain coverage under Colorado’s Stormwater General Permit for Construction Activities

Unless one of the options below applies (ii or iii), the owner or operator must apply for coverage under the Stormwater Construction Permit at least 10 days prior to the start of construction activities. An application, which includes guidance on developing a Stormwater Management Plan (SWMP), is available from the Division. The SWMP must be completed prior to application. See Section C, below, for further information. If your application is complete, it will be processed and your permit mailed to you.

If the Small Construction Site project will be finally stabilized (see definition in Section B.1) within 12 months of the beginning of construction activities, the applicant may elect to apply for 1 to 4 calendar quarters of permit coverage at 25% of the annual fee per quarter, and will not be required to submit an inactivation form. See the permit application for further information. For projects exceeding 12 months, or if the permittee has obtained additional coverage after applying initially for coverage for a set number of quarters, the Stormwater Construction Permit certification must be inactivated once the site has been finally stabilized (in order to end permit coverage and billing). An inactivation form is supplied with the permit certification.

ii) Obtain coverage under a State-designated Qualifying Local Program (Available for Small Construction Sites only)

The Division may designate a local municipality’s stormwater quality control program as a Qualifying Local Program. This means that the local program’s requirements are at least as stringent as the State regulations. In this case, it is not required for the owner or operator to apply for permit coverage under the Stormwater Construction Permit. The local municipality will be responsible for notifying you that you do not need to apply for State coverage, if this is an option. You can also view a list of the few municipalities with Qualifying Local Programs at the Division’s web page (see page 1 for address.)

The local program must have been formally designated by the Division to qualify. Most municipalities have some type of local program and may require permits and fees. However, simply having a local program in place does not necessarily mean that it is a qualifying program and that the Division’s Stormwater Construction Permit application is not required.

iii) Apply for coverage under the R-Factor Waiver (Available for Small Construction Sites only)

The R-Factor waiver allows a site owner or operator to apply for a waiver from Division’s Stormwater Construction Permit requirements during a period when the R-Factor, as calculated using the State-approved method, is less than 5. The R-Factor is a way to measure erosion potential based on the length of the project and time of year. An application with instructions for using the State-approved method is available from the Division’s web page (see page 1 for address).

In general, the only projects that will qualify for the waiver are projects that are completely stabilized within a month or two after the start of construction. That means that projects relying on seeding for revegetation will usually not qualify for the waiver, because the vegetation must be established before the site is considered stabilized. During the spring and summer months, when Colorado experiences the bulk of its rainfall, many projects will not qualify at all for the waiver. In addition, the Division will not grant waivers for construction sites located in areas where snow cover exists at, or up gradient of, the site for extended periods of time, if the construction site will potentially remain active and unstabilized during spring runoff.

This waiver does not relieve the operator or owner from complying with the requirements of local agencies, such as meeting local stormwater quality requirements, including those required by a Qualifying Local Program as discussed in Section B.1.b.ii, above.

2) Who may apply for permit coverage?

The Permit applicant must be a legal entity that meets the definition of the owner and/or operator of the construction site, in order for this application to legally cover the activities occurring at the site. The applicant must have day-to-day supervision and control over activities at the site and implementation of the SWMP. Although it is acceptable for the applicant to meet this requirement through the actions of a contractor, as discussed in the examples below, the applicant remains liable for violations resulting from the actions of their contractor. Examples of acceptable applicants include:

- **Owner or Developer** - An owner or developer who is operating as the site manager or otherwise has supervision and control over the site, either directly or through a contract with an entity such as those listed below.
- **General Contractor or Subcontractor** - A contractor with contractual responsibility and operational control (including SWMP implementation) to address the impacts construction activities may have on stormwater quality.
- **Other Designated Agents/Contractors** - Other agents, such as a consultant acting as construction manager under contract with the owner or developer, with contractual responsibility and operational control (including SWMP implementation) to address the impacts construction activities may have on stormwater quality.

An entity engaged in construction activities may be held liable for operating without the necessary permit coverage if a site does not have a permit certification in place that is issued to an owner and/or operator. For example, if a site, or portion of a site, is sold or contractors change, so that the site's permit certification is then held by a permittee that is no longer either the owner or operator (such as the previous owner or contractor), that permit certification will no longer cover the new operator's activities, and a new certification must be issued, or the current certification transferred. See Section F, below, for additional guidance on scenarios with multiple owners and/or operators.

Utilities, etc.: A separate permit certification is not needed for subcontractors, such as utility service line installers, whose activities result in earth disturbance, and where the permittee or their contractor is identified as having the operational control to address the impacts their activities may have on stormwater quality. Although separate permit coverage may not be needed in some cases, these entities are not exempted from the stormwater regulations for all of their projects and may still be held liable if their activities result in the discharge of pollutants.

Leases: When dealing with leased land or facilities, the lessee shall be considered the "owner" for the purposes of stormwater permitting if they are responsible for the activities occurring at the site.

C. PERMIT REQUIREMENTS



The primary requirement of the Permit is the development and implementation of a Stormwater Management Plan (SWMP). The permit application includes guidance that must be followed for development and implementation of the SWMP. Requirements under the Permit are the same regardless of whether the site is a Small or Large Construction Site.

The Permit requires dischargers to control and eliminate the sources of pollutants in stormwater through the development and implementation of a Stormwater Management Plan (SWMP). One of the most important features of the plan is "Best Management Practices," or BMPs. These can encompass a wide range of options, both structural and non-structural. The purpose of a SWMP is to identify possible pollutant sources to stormwater, and to set out BMPs that, when implemented, will reduce or eliminate any possible water quality impacts. For construction, the most common pollutant sources would be sediment, and possibly fuels and other chemicals/materials stored on site. BMPs include such things as silt fence, sediment ponds, vehicle tracking controls, good housekeeping, inspection and maintenance schedules, and training. (Note that the SWMP is not submitted with the permit application unless requested.)

An up-to-date copy of the SWMP **must be kept on site**, for ready availability to the operator, and so that Division, EPA, or local inspectors can review it during an inspection. If an office location is not available at the site, the SWMP must be managed so that it is available at the site when construction activities are occurring (e.g., by keeping the SWMP in a superintendent's vehicle.)

Further information concerning the contents of the SWMP can be found in Appendix A of the application, "Preparing a Stormwater Management Plan." This document and others can be obtained from the Division's web site or by contacting the Division. Refer to page 1 for the web address and contact information.

D. LOCAL STORMWATER REQUIREMENTS FOR CONSTRUCTION



Where local requirements exist for stormwater management, an owner/operator must comply with both the Division's and the local agency's requirements.

In addition to the requirement to obtain and comply with the Division's Stormwater Construction Permit, it is possible that additional government agencies (i.e., cities, counties, and special districts) may impose local requirements to control the discharge of pollutants from construction activities. An owner or operator of a construction activity must comply with the Stormwater Construction Permit requirements discussed in this Fact Sheet, even if they are also covered by a local program's requirements. (However, in the case of a Qualifying Local Program, as discussed in Section B.1.b.ii, some administrative requirements for the Stormwater Construction Permit may be simplified.)

Likewise, the Stormwater Construction Permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater. Where a local program places additional restrictions on stormwater management at a construction site within its jurisdiction, the owner/operator must comply with those stricter requirements in addition to the Division's permitting requirements. For example, although the Division allows several options for permitting at multiple owner/operator sites, a local authority may restrict these options and require specific procedures to be followed for who maintains permit coverage and authority for stormwater discharges.

MS4 Permits

Many cities, counties, and special districts are covered by a Municipal Separate Storm Sewer System (MS4) permit. These permits require the governmental entity to implement various programs to improve stormwater quality in their jurisdiction. Included in these permits is the requirement to implement a program to manage the discharge of pollutants from construction sites within their jurisdiction. Therefore, if a construction site located within the jurisdiction of one of these government entities does not properly manage stormwater at that site, the government entity may be in violation of their permit in addition to the construction site owner and operator.

E. AMENDING YOUR PERMIT CERTIFICATION



This section is only applicable if the limited information on the construction project submitted in the two-page application form changes. In such case, it may be necessary to provide the Division with revised information.

If the information provided by the permittee in their **two-page application form** is no longer accurate, the permittee must provide the revised information to the Division. This includes such items as the planned total disturbed acreage, and the project legal description or map originally submitted with the application. (Note: it is not necessary to revise the anticipated final stabilization date, since the information provided was only the "anticipated" date, unless you are issued a short-term certification that will expire prior to final stabilization, as discussed in Section B.1.b.i, above.) To revise this information, provide a letter to the Division's Stormwater Program (see the contact information on page 1) that includes the revised information. The Division will not respond to this letter, so you are advised to obtain delivery confirmation from your postal service to confirm receipt.

When the **Stormwater Management Plan** is revised, as required by the Permit, it is not necessary to notify the Water Quality Control Division. When BMPs or other site details discussed in the SWMP are modified, the SWMP must be updated to accurately reflect the actual field conditions. Examples include, but are not limited to, removal of BMPs, addition of BMPs, modification of BMP design specification, and changes in items included in the site map and/or description. However, this information is not submitted to the Division, unless requested.

Local stormwater quality programs may have differing requirements for what actions must occur when permitted areas and/or activities change. Construction site owners and operators must ensure that their actions do not result in violations of local program requirements. Refer to Section D for additional information.

F. PERMITTING FOR DEVELOPMENTS WITH MULTIPLE OWNERS AND/OR OPERATORS



For situations where multiple entities meet the definition of owners and/or operators for different portions of a development (e.g., a single development with multiple lots being owned and operated by separate entities), extra care must be taken to ensure that proper permit coverage is maintained and that stormwater management practices are correctly documented and implemented.

Local stormwater quality programs may have differing requirements for who must maintain permit coverage, and what actions must occur when permitted areas and/or activities change. Construction site owners and operators must ensure that their actions do not result in violations of local program requirements. Refer to Section D for additional information.

1) Permit Coverage for Multiple Owner/Operator Development



When a portion of a permitted site is sold to a new owner, a permit certification must be in place that is held by an entity meeting the definition of owner and/or operator of the sold area (see the discussion in Section B.2, above). This may be accomplished in one of the following ways.

- a) **Coverage Under the Existing Certification** – Activities at the sold area may be covered under an existing permit certification for the project if the current permittee meets the definition of operator for the sold area. To meet the definition of operator, the current permittee must have contractual responsibility and operational control to address the impacts that construction activities at the sold area may have on stormwater runoff (including implementation of the SWMP for the sold area). Therefore, a legally binding agreement must exist assigning this responsibility to the permit holder on behalf of the new owner and/or operator for the sold area. It is not necessary to notify the Division in such case. However, documentation of the agreement must be available upon request and the SWMP must be maintained to include all activities covered by the Permit.

Example: Developer Dan sells a lot to Builder Bob. Developer Dan is currently covered under a permit certification that covers a larger area, which includes the sold lot. Developer Dan and Builder Bob may enter into a contract that assigns the responsibility for permit coverage and stormwater management to Developer Dan for Builder Bob's lot. Developer Dan is also responsible for making sure his SWMP includes the activities on the lot. Developer Dan's permit certification will continue to cover construction activities on Builder Bob's lot.

- b) **New Certification Issued – Reassignment** – A new permit certification may be issued to the new owner and/or operator of the sold area. The existing permittee and the new owner and/or operator must complete the Reassignment Form (available from the Division's web page, see page 1) to remove the sold area from the existing permit certification and cover it under a certification issued to the owner and/or operator of the sold area. Both entities must have SWMPs in place that accurately reflect their current covered areas and activities.

Example: Developer Dan sells a lot to Builder Bob. Developer Dan is currently covered under a permit certification that covers a larger area, which includes the sold lot. For this example, Developer Dan and Builder Bob must jointly submit the Reassignment Form. Builder Bob will be issued a new permit certification for his lot and the lot will be removed from Developer Dan's permit coverage. Prior to submittal of the Reassignment Form, Developer Dan must revise his SWMP to reflect the changes in his covered area and activities, and Builder Bob must develop his own SWMP to cover the area and activities he will obtain coverage for.

- c) **Amend Existing Permit Certifications** – In some cases, both parties (the original owner/operator and the new owner/operator of an area undergoing transfer of ownership or operation) will already be permit holders for their portions of the overall project (i.e., at least two permit certifications are issued for the project and cover both the party wishing to reassign coverage and the party wishing to accept coverage). When an additional area is transferred between the two parties, the permittees may amend their permit certifications instead of completing the Reassignment Form. Both parties must separately complete the procedures discussed in Section E to amend their permit coverage, removing the applicable area(s) from the original owner/operator's permit certification, and adding the area(s) to the new owner/operator's permit certification. The requests **must cite both permit certification numbers**. (Note: this request may be submitted jointly if it is signed by both entities.) This option will likely be used in cases where a developer and an owner have already submitted a Reassignment Form, as discussed in Part b, above, where an initial transfer of lots has occurred, and then additional lots are transferred at a later date. Both entities must have SWMPs in place that accurately reflect their current covered areas and activities.

Example: Developer Dan sells a lot to Builder Bob. Developer Dan is currently covered under a permit certification that covers a larger area, which includes the sold lot. In addition, Builder Bob also holds a permit certification for other portions of the development which he already owns, and Builder Bob wishes to cover his new lot under this certification. Developer Dan submits a request to remove the lot from his permit certification and provides Builder Bob's permit certification number that the lot will now be under which that lot will be covered. Builder Bob also submits a request to modify his permit certification to add the lot, and provides Developer Dan's permit certification number under which the lot was previously covered. Developer Dan and Builder Bob must revise their SWMPs to reflect the changes in their covered area and activities.

2) Permit Compliance for Multiple Owner/Operator Development



As a permittee, the most important concept for projects where multiple entities are involved is: if activities within your permitted area result in pollution of stormwater, you are the entity responsible for ensuring that those pollutants are properly managed.



Permittees are responsible for complying with the Permit requirements for the areas and activities for which they have permit coverage, and for all BMPs they are relying on to comply with the Permit. Properly addressing and documenting the responsibility of various parties at a construction site will help protect an entity from liability in the case where another party's actions result in failure of BMPs.

a) Pollutants from Outside the Permitted Area:



A permittee may be held liable for pollutants that pass into and are then discharged from their permitted area or that result from another entity's activities. Specifically, a permittee may have responsibility to ensure proper implementation of BMPs to control stormwater discharges from their permitted area, even if another entity is contributing pollutants.

The Permit requires the permittee to ensure the implementation of BMPs which will be used to control the pollutants in stormwater discharges associated with construction activity from their permitted area. Therefore, a permittee may be responsible for adequately implementing and maintaining BMPs that are providing treatment for pollutants originating outside of their permitted area or from another entity's activities. An example is when a permittee's property is being used by a separate entity for construction activities (e.g., loading and unloading, site access, materials storage, etc.), or BMPs located on the permittee's property are being relied on to treat stormwater runoff from another site.

This scenario is common when a developer sells off lots to a builder. As a practical matter, what most often occurs is that the developer must allow the builder to use the developer's infrastructure (e.g., roads, storm drains, ponds, etc.) for activities and BMPs that cannot realistically be limited to the builder's property. In this case, the developer remains a liable party (in addition to the builder) to ensure that proper stormwater management occurs for the project. Permit coverage may instead be assigned to the builder for this infrastructure, if the builder has been designated as the operator of the area for stormwater quality purposes (See Section B.2). However, this may not always be practical when multiple builders are operating in an area or when the developer is still performing their own construction activities.

Refer to the Liability and Example sections, below, for further guidance.

b) BMPs Located Outside the Permitted Area:



If a permittee will be relying on BMPs that are outside of the area they own and/or operate, the specific actions listed below must be taken to ensure compliance with the Permit. The permittee is responsible for ensuring the proper management all pollutants from their permitted area. Even if the BMP are implemented by another party, the permittee may still be liable if their pollutants are eventually discharged.

The permittee is responsible for ensuring the operation and maintenance of all BMPs that are used to control pollutants that originate from their activities, even if the BMPs are located outside of the area owned and/or operated by the permittee. For example, a builder may only have ownership of a single lot, but may have to rely

on BMPs that are located off of their lot and on a developer's property to adequately manage stormwater runoff, such as inlet protection that is on the developer's streets. If a permittee will rely on BMPs that are outside the area that they own and/or operate, the following measures must be taken:

- i) Any off-site BMPs must be documented in the permittee's SWMP. This includes structural BMPs (e.g., inlet protection and sediment ponds) and non-structural BMPs (e.g., concrete wash out areas and street sweeping). By including the BMPs in the SWMP, the permittee can effectively include the practices under their permit coverage. In such cases, the same off-site BMPs may actually be included in two or more parties' SWMPs.
- ii) The permittee must have adequate permission from the land and/or BMP owner(s) to utilize the off-site conveyances and BMPs and to ensure proper maintenance and operation. The permittee must be able to provide evidence of this agreement upon request.
- iii) The off-site BMPs must be operated and maintained in accordance with the SWMP(s) and must control the discharge of pollutants. It may be necessary to enter into agreements with other parties to ensure operation and maintenance of these BMPs. Regardless of who actually carries out the operation and maintenance of a BMP, all permittees who make use of the BMP to control pollutants from their construction activities remain liable if the BMP is not adequately operated and maintained.
- iv) All BMPs must be located prior to discharge to surface waters or municipally-owned storm sewer systems.

Liability: In the above examples, to reduce liability, the developer and builder should communicate on stormwater management issues and document who will be responsible for specific BMPs (e.g., who will maintain inlet protection and implement street sweeping). If BMPs are not being adequately implemented by the party defined as responsible, the other party should take the necessary action to ensure pollutants originating from, or passing through, their permitted area are properly controlled. It is recommended that stormwater management responsibilities be addressed in contracts or other legal agreements between applicable owners and operators for construction sites where one party's actions may impact another party's permit compliance. These legal agreements will both help define roles and responsibilities at a multi owner/operator site, and also may be used to seek damages from a contractor if monetary penalties are issued to a permittee for permit violations.

Example: Developer Dan sells a lot to Builder Bob. Following the procedures discussed in Section F.1.b or c, above, Builder Bob obtains separate permit coverage for his new lot, ending at the curb line. Because the site infrastructure is being utilized by several different builders at the project, Developer Dan maintains permit coverage for the streets, storm drain system, and a large retention pond that is designed and implemented as a BMP to manage pollutants from construction activities at the development (including Builder Bob's lot). In addition to the large pond, inlet protection is also being used to protect storm sewer inlets located on Developer Dan's roads, and street sweeping is occurring to control sediment tracked onto Developer Dan's roads.

Builder Bob is relying on the pond, inlet protection, and street sweeping to manage pollutants from his lot, and therefore has included the BMPs in his SWMP, as discussed in Section F.2.b, above. The BMPs are also included in Developer Dan's SWMP because they are being used to control pollutants from property he still maintains control over, as discussed in Section F.2.a, above. In addition, Developer Dan and Builder Bob enter into a contract that clearly defines Developer Dan as being responsible for implementing and maintaining the infrastructure BMPs (i.e., the pond, inlet protection, and street sweeping BMPs), and requires Builder Bob to implement additional BMPs on his lots, such as vehicle tracking control and construction waste management BMPs.

If the infrastructure BMPs are not properly operated and maintained, or discharges of sediment and/or other pollutants from Builder Bob's lot are not properly controlled and overwhelm the infrastructure BMPs, both Developer Dan and Builder Bob may be in violation of their permits. Therefore, Builder Bob and Developer Dan must both remain diligent in ensuring that conditions of their contract are being met and BMPs operated by both parties continue to be implemented in accordance with their SWMPs.

* * *

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.
Denver, Colorado 80246-1530
Phone (303) 692-2000
TDD Line (303) 691-7700
Located in Glendale, Colorado

Laboratory Services Division
8100 Lowry Blvd.
Denver, Colorado 80230-6928
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

February 14, 2007

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W. Suite 101
Washington DC 20007-5108

Dear Mr. Strickland,

We are in receipt of your letter of January 18, 2007 regarding the abandonment of 0.4 miles of railroad line in Sterling, Colorado. You had several questions regarding this abandonment.

Q. Will it be consistent with State water quality standards?

A. There is no reason to believe that the abandonment can not be accomplished in a manner consistent with state water quality standards.

Q. What are the permitting requirements for the proposed abandonment?

A. As required by state law, a Colorado Discharger Permit System ("CDPS") permit is required for any discharge of pollutants to state waters. Please note that state waters are defined as "any and all surface and subsurface waters which are contained in or flow through this state." (see 25-8-103(19)). Pollutants include "dredged spoil, dirt slurry, solid waste, incinerator residue, sewage, sewage sludge, garbage, trash, chemical waste, biological nutrient, biological material, radioactive material, heat, wrecked or discarded equipment, rock, sand, or any industrial municipal or agricultural waste" (see 25-8-103(15)). Discharges of pollutants to storm sewers are included in the universe of those discharges that require permits. Discharges of water pumped from excavations also requires a permit as do stormwater discharges associated with industrial activities. Work that requires a 404 permit from the Corps of Engineers may also require certification by the State.

Q. Where are the designated floodplains?

Page 2
February 14, 2007
Sidney L. Strickland

A. The Water Quality Control Division does not have any jurisdiction over the any floodplain programs and does not have copies of floodplain mapping.

I hope this answers your questions.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steven H. Gunderson", with a long, sweeping horizontal flourish extending to the right.

Steven H. Gunderson, Director
Water Quality Control Division
Colorado Department of Public Health and Environment.



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 S. Wadsworth Boulevard
LITTLETON, COLORADO 80128-6901

January 23, 2007

Mr. Sidney Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

**RE: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company – Abandonment
Exemption
Corps File No. NWO-2007-200-DEN**

Dear Mr. Strickland Jr.:

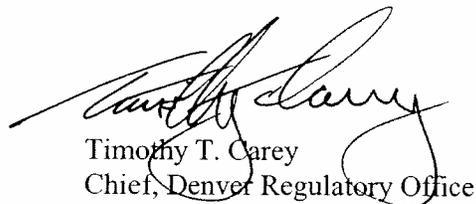
Reference is made to the above-referenced project located in the S ½ of Section 29 and N ½ of Section 32, T8N, R52W, Logan County, Colorado.

This project has been reviewed by Mr. Terry McKee of my office in accordance with Section 404 of the Clean Water Act under which the U.S. Army Corps of Engineers regulates the discharge of dredged and fill material, and any excavation activity associated with a dredge and fill project in waters of the United States.

Based on the information provided, a Department of the Army (DA) Permit will not be required for this project. Although a DA Permit will not be required for the project, this does not eliminate the requirement that other applicable federal, state, and local permits be obtained as needed.

If there are any questions call **Mr. Terry McKee** of my office at **(303) 979-4120** and reference **Corps File No. NWO-2007-200-DEN**.

Sincerely,



Timothy T. Carey
Chief, Denver Regulatory Office



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 S. Wadsworth Boulevard
LITTLETON, COLORADO 80128-6901

May 10, 2007

Mr. Sidney Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St. N.W., Suite 101
Washington, DC 20007-5108

**RE: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company – Abandonment
Exemption
Corps File No. NWO-2007-200-DEN**

Dear Mr. Strickland Jr.:

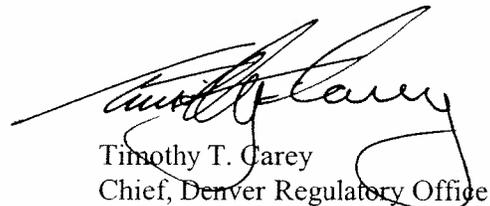
Reference is made to your April 27, 2007 letter to my office, which identifies an additional 0.04 miles to the proposed abandonment located between Milepost 229.66 and Milepost 230.10, near Sterling. This project is located in the S ½ of Section 29 and N ½ of Section 32, T8N, R52W, Logan County, Colorado.

This additional 0.04 mile of abandonment has been reviewed by Mr. Terry McKee of my office in accordance with Section 404 of the Clean Water Act under which the U.S. Army Corps of Engineers regulates the discharge of dredged and fill material, and any excavation activity associated with a dredge and fill project in waters of the United States.

Based on the information provided, a Department of the Army (DA) Permit will not be required for this project. Although a DA Permit will not be required for the project, this does not eliminate the requirement that other applicable federal, state, and local permits be obtained as needed.

If there are any questions call **Mr. Terry McKee** of my office at **(303) 979-4120** and reference **Corps File No. NWO-2007-200-DEN**.

Sincerely,



Timothy T. Carey
Chief, Denver Regulatory Office



COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203-2137

25 January 2007

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street, N.W., Suite 101
Washington, DC 20007-1325

RE: STB Docket No. AB-6 (Sub No. 458X), BNSF Railway Company, Trackage Abandonment,
Sterling, Logan County

Dear Mr. Strickland:

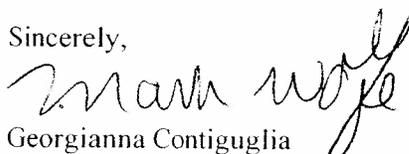
Thank you for your recent correspondence dated 18 January 2007, concerning the proposed removal of trackage along the BNSF corridor between Mileposts 229.70 and 230.10 in Logan County. Our office has reviewed the submitted materials. The section of track to be removed and salvaged runs through the city of Sterling. This portion of the BNSF line has never been surveyed for historic or archaeological resources. It is possible that there are track-related features within the Area of Potential Effect, such as switch boxes, yard control stations (a small switching yard existed in Sterling), track maintenance facilities, signage, and other similar resources.

We are requesting a survey of the 2,112-foot section of track to be removed, so that we can determine whether any of these structures exist. Please submit this information to our office at your earliest convenience. When we have received this additional information we will be able to proceed with our review of the project.

We do not anticipate that any non-railroad structures (such as nearby historic businesses and homes) will be affected by this project.

If you have any questions, please contact Joseph Saldibar, Architectural Services Coordinator, at (303) 866-3741.

Sincerely,

for 
Georgianna Contiguglia
State Historic Preservation Officer, and
President, Colorado Historical Society

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION

303-866-3392 * Fax 303-866-2711 * E-mail: oahp@chs.state.co.us * Internet: www.coloradohistory-oahp.org



COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203-2137

3 May 2007

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K St., NW, Suite 101
Washington, DC 20007-5108

RE: STB Docket AB-6 (458X), Burlington Northern Santa Fe Railway Company, Track
Abandonment, Sterling, Logan County

Dear Mr. Strickland:

Thank you for your recent correspondence dated 27 April 2007, concerning the proposed abandonment of BNSF trackage between Milepost 229.70 and 230.10 near the town of Sterling in Logan County, Colorado. Our office has reviewed the submitted materials. As we noted in our previous letter, we are requesting that the line be surveyed in order to determine whether there are any track-related structures and objects (buildings, structures, culverts, switches, signposts, etc.) and whether any of these track-related items will be affected by the project. When we have this additional information, we will be able to complete our review of the project.

If you have any questions, please contact Joseph Saldibar, Architectural Services Coordinator, at (303) 866-3741.

Sincerely,

for Georgianna Contiguglia
State Historic Preservation Officer, and
President, Colorado Historical Society

CERTIFICATION PURSUANT TO 49 C.F.R. 1105.7(c) and 8(c)

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on August 15, 2007, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Tim Carney
District Conservationist
United States Department of Agriculture
Natural Resources Conservation Service
9599 Nelson Road-Suite D
Logan County Fairgrounds
Longmont, CO 80501-8000

Georgianna Contiguglia
State Historic Preservation Officer
Colorado Historical Society
1300 Broadway
Denver, CO 80203

Nathan Moore
Environmental Protection Specialist, Permit Unit
Colorado Department of Public Health
And Environment
4300 Cherry Creek Dr. S.
Denver, CO 80246-1530

Timothy T. Carey
Chief, Denver Regulatory Office
Omaha District
U.S. Army Corps of Engineers
9307 South Wadsworth Boulevard
Littleton, CO 80128-6901

Susan C. Linner
Colorado Field Supervisor
U.S. Fish and Wildlife Service
P.O. Box 24856, DFC (65412)
Denver, Colorado 8022-0486

Roy L. Masinton
U.S. Bureau of Land Management
Royal Gorge Field Office
3170 East Main Street
Cañon City, CO 81212

Logan County Commissioners
315 Main Street
Sterling, CO 80751

Jennifer Finch
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, CO 80222

Cheryl Eckhardt
Intermountain Region
National Park Service
12795 Alameda Parkway
Denver, CO 80225

Gregory Davis
Region 8 Stormwater Coordinator
U.S. Environmental Protection Agency
Mailcode: 8P-W-P
999 18th Street, Suite 300
Denver, CO 80202

Steven H. Gunderson
Colorado Department of Public Health and
Environment
Water Quality Control Commission
OED-OPPI-A5
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Kelly Barlean
City Attorney, City of Sterling
421 N. 4th Street
P.O. Box 4000
Sterling, Colorado 80751

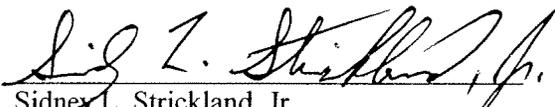
Tom Weber
USDA—Natural Resources Conservation Service
655 Parfet Street, Room E200C
Lakewood, Colorado 80215

Victoria Rutson
Chief, SEA
Surface Transportation Board
395 E. Street SW
Washington DC 20423

Renee Koch
Soil Conservationist
Natural Resources Conservation Service
Sterling Field Office
621 Iris Drive
Sterling, Colorado 80751

Erik Brekke
U.S. Bureau of Land Management
Royal Gorge Field Office
3170 East Main Street
Cañon City, CO 81212

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



Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street N.W.
Suite 101
Washington, D.C. 20007

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

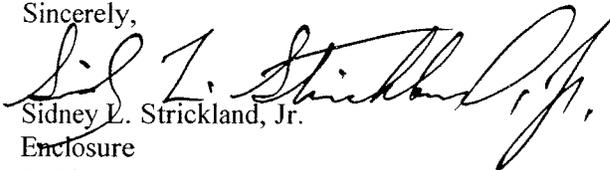
Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
395 E Street, S.W.
Washington D.C. 20423-0001

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Ms. Rutson:

On or about September 4, 2007, BNSF Railway Company (“BNSF”) plans on filing with the Surface Transportation Board (“STB”) a Notice of Exemption seeking authority to abandon 0.44 miles of railroad line between Milepost 229.66 and Milepost 230.10, near Sterling, Logan County, Colorado (the “Line”). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Sincerely,


Sidney L. Strickland, Jr.
Enclosure
SLS/cac

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Tim Carney
District Conservationist
United States Department of Agriculture
Natural Resources Conservation Service
9599 Nelson Road-Suite D
Logan County Fairgrounds
Longmont, CO 80501-8000

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Carney:

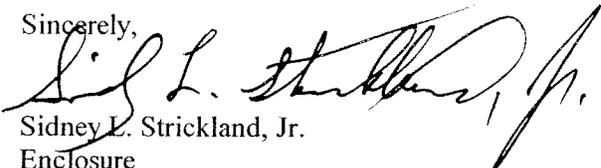
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We are providing these reports so that you may review the information that will form the basis for the STB’s independent environmental and historic analyses of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB’s environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001, Telephone (202) 245-0295, and refer to the above Docket No. AB-6 (Sub. No. 458X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to the undersigned) would be appreciated within three weeks.

Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the undersigned by telephone at (202) 338-1325 or by mail at Sidney Strickland and Associates, PLLC, 3050 K Street, N.W., Suite 101, Washington, DC 20007.

Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.

Enclosure
SLS/cac

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Georgianna Contiguglia
State Historic Preservation Officer
Colorado Historical Society
1300 Broadway
Denver, CO 80203

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Ms. Contiguglia:

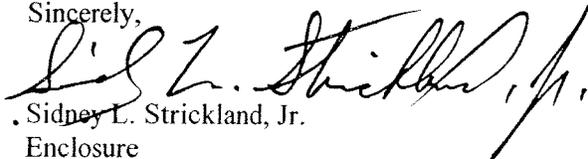
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Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.

Enclosure
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SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Nathan Moore
Environmental Protection Specialist, Permit Unit
Colorado Department of Public Health
And Environment
4300 Cherry Creek Dr. S.
Denver, CO 80246-1530

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Moore:

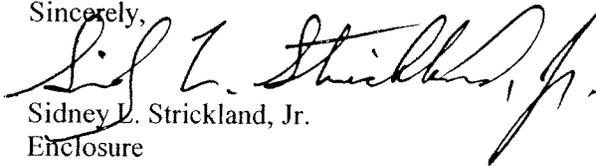
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Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.

Enclosure

SLS/cac

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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Timothy T. Carey
Chief, Denver Regulatory Office
Omaha District
U.S. Army Corps of Engineers
9307 South Wadsworth Boulevard
Littleton, CO 80128-6901

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Carey:

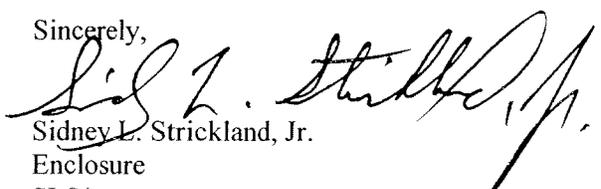
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Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.

Enclosure

SLS/cac

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Susan C. Linner
Colorado Field Supervisor
U.S. Fish and Wildlife Service
P.O. Box 24856, DFC (65412)
Denver, Colorado 8022-0486

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Ms. Linner:

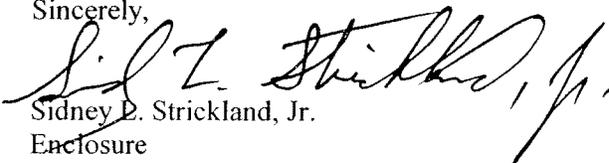
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Roy L. Masinton
U.S. Bureau of Land Management
Royal Gorge Field Office
3170 East Main Street
Cañon City, CO 81212

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Mastinton:

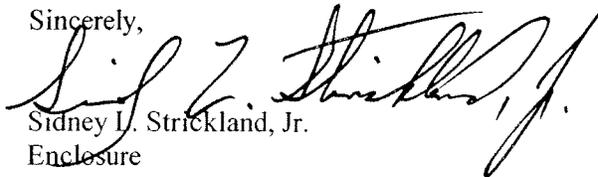
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Gregory Monroe
Colorado Department of Natural Resources
Colorado State Parks
Denver Administrative Office
1313 Sherman Street #618
Denver, CO 80203

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Monroe:

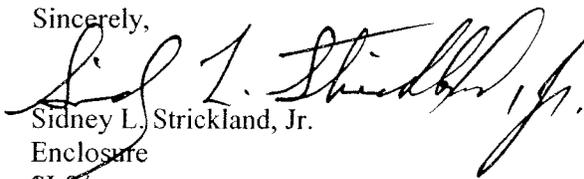
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Public Works Department
City of Sterling
421 N. 4th Street
P.O. Box 4000
Sterling, Colorado 80751-0400

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Sir or Madam:

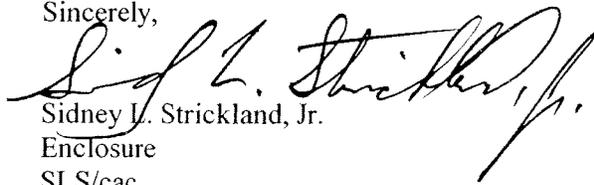
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TELEPHONE: 202-338-1325
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Logan County Commissioners
315 Main Street
Sterling, CO 80751

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Sirs or Madams:

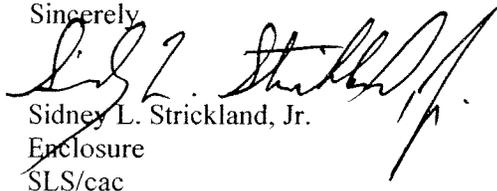
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Jennifer Finch
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, CO 80222

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Ms. Finch:

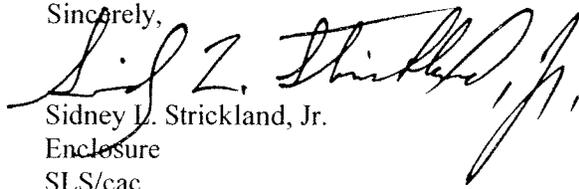
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Cheryl Eckhardt
Intermountain Region
National Park Service
12795 Alameda Parkway
Denver, CO 80225

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Ms. Eckhardt:

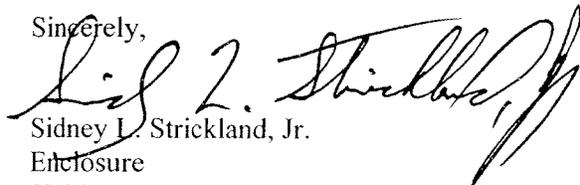
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Gregory Davis
Region 8 Stormwater Coordinator
U.S. Environmental Protection Agency
Mailcode: 8P-W-P
999 18th Street, Suite 300
Denver, CO 80202

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Davis:

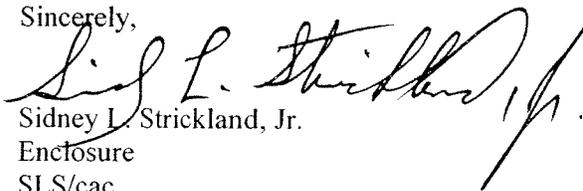
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Steven H. Gunderson
Colorado Department of Public Health and Environment
Water Quality Control Commission
OED-OPPI-A5
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Gunderson:

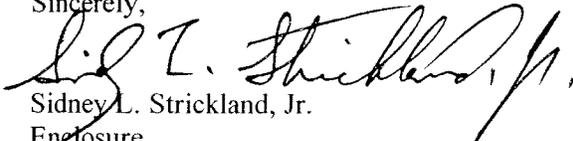
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Kelly Barlean
City Attorney, City of Sterling
421 N. 4th Street
P.O. Box 4000
Sterling, Colorado 80751

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Barlean:

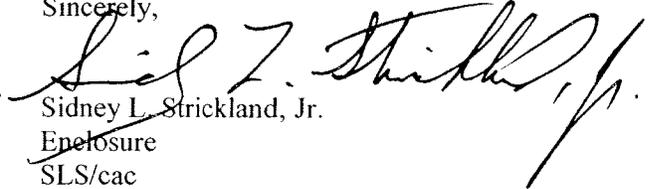
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East-West Highway
Silver Springs, MD 20910-3282

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

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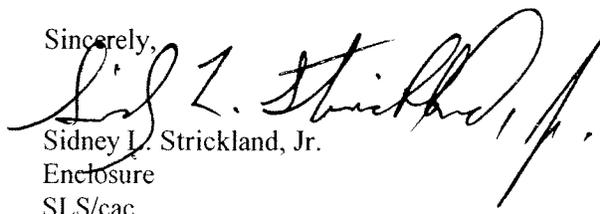
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Tom Weber
USDA—Natural Resources Conservation Service
655 Parfet Street, Room E200C
Lakewood, Colorado 80215

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Weber:

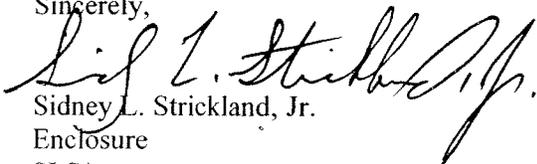
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We are providing these reports so that you may review the information that will form the basis for the STB’s independent environmental and historic analyses of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB’s environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001, Telephone (202) 245-0295, and refer to the above Docket No. AB-6 (Sub. No. 458X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to the undersigned) would be appreciated within three weeks.

Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the undersigned by telephone at (202) 338-1325 or by mail at Sidney Strickland and Associates, PLLC, 3050 K Street, N.W., Suite 101, Washington, DC 20007.

Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.
Enclosure
SLS/cac

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Colorado Public Utilities Commission
1580 Logan Street
Office Level 2
Denver, Colorado 80203

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Sir or Madam:

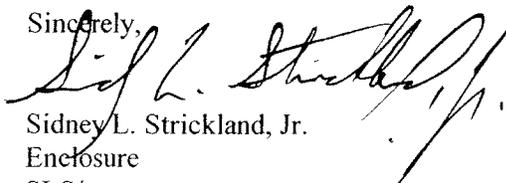
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Renee Koch
Soil Conservationist
Natural Resources Conservation Service
Sterling Field Office
621 Iris Drive
Sterling, Colorado 80751

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Ms. Koch:

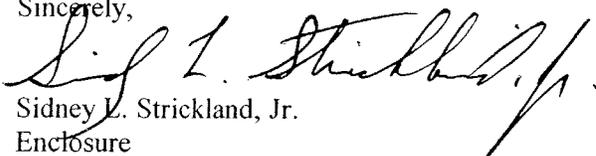
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 15, 2007

Erik Brekke
U.S. Bureau of Land Management
Royal Gorge Field Office
3170 East Main Street
Cañon City, CO 81212

Re: STB Docket No. AB-6 (Sub. No. 458X) BNSF Railway Company—Abandonment
Exemption – in Logan County, Colorado

Dear Mr. Brekke:

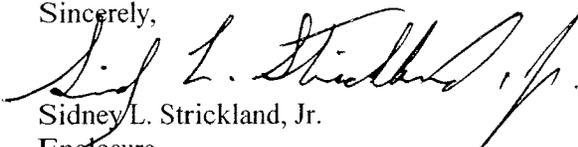
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