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3 October 2008  
by express service

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E St., SW  
Washington, D.C. 20024

Re: NEBKOTA Railway, Inc. - Abandonment Exemption -  
In Sheridan and Cherry Counties, NE,  
AB-988X; 223727

NEBKOTA Railway, Inc. - Abandonment Exemption -  
In Dawes and Sheridan Counties, NE,  
AB-988 (Sub-no. 1X) 223728

Confirmation of Railbanking

Dear Madam Secretary:

This letter, for filing on behalf of Nebraska Game and Parks Commission (NGPC), relates to the 73.5 mile rail line acquired by NEBKOTA Railway, Inc. from Chicago & North Western Transportation Company (CNW) in Finance Docket 32442, ICC served Feb. 4, 1994. It is part of CNW's former "Cowboy Line," most of which had been acquired by the State of Nebraska through NGPC in a railbanking arrangement (i.e., application of 16 U.S.C. 1247(d)) arising out of CNW - Abandonment Exemption - Norfolk to Merriman, NE, AB-1 (Sub-no. 249X), ICC served June 2, 1994.

This is to confirm that NGPC reached "railbanking" and interim trail use agreements with NEBKOTA Railway, Inc. in connection with AB 998X and AB 998 (Sub 1X) in the "reference" line above the salutation of this letter.

The entirety of the line of railroad in AB-988X has been "railbanked." The line of railroad in AB-988 (Sub-no. 1X) extended from MP 404.3 near Chadron to MP 374 near Rushville. NGPC completed "railbanking" of the portion of that segment from MP 400 near Chadron to MP 374 near Rushville. NEBKOTA has

retained ownership of the portion from MP 400 to MP 404.3 as a continued "line of railroad" and is operating the same for railroad purposes.

This Board originally authorized interim trail use or abandonment in AB-988 (Sub-no. 1X) in a decision and Notice of Interim Trail Use (NITU) served October 1, 2007. This NITU was subsequently extended through May 28, 2008, by which point NGPC and NEBKOTA completed their railbanking arrangements for MP 374 to MP 400. Pursuant to 49 C.F.R. 1152.29(e)(2), the period for filing a consummation notice for any abandonment from MP 400 to 404.3 has now automatically lapsed.<sup>2</sup> NEBKOTA must apply for abandonment authority should it seek to abandon that portion of the line. Under a 1994 contract with NEBKOTA and CNW, NGPC at NGPC's option may acquire that line segment for interim trail use and railbanking purposes should NEBKOTA elect to file another abandonment proceeding for it in the future. NGPC remains interested in completing preservation of the "Cowboy Line" as the "Cowboy Trail" should this line segment become available.

A summary of the legal descriptions in the quitclaim deeds delivered by NEBKOTA to NGPC is attached.

Respectfully submitted,



Charles H. Montange  
for NGPC

Of counsel for NGPC:

Katie Spohn, Esq.  
Chief, Agriculture, Environment  
and Natural Resources Section  
Nebraska Attorney General's Office

Att.

cc. Fritz Kahn, Esq. (for NEBKOTA) (w/att) (U.S. Mail, postage pre-paid, first class, deposit 3 Oct. 08)

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<sup>2</sup> In particular, more than one year has lapsed since abandonment authority was granted, and more than 60 days has lapsed since the last legal or regulatory impediment to consummation of abandonment was removed. Thus, abandonment authority automatically expired pursuant to the referenced regulation.

**The Cowboy Trail Quit Claim Deeds were filed in two different sections**

**First Section to be turned over to NGPC, AB-988 X,**

***Merriman to Rushville – Mile Post 331 to Mile Post 374***

START - Cherry County, Merriman NE (mile post 331)  
Township 34 North, Range 37 West of the Sixth Principal Meridian, Section 16

END - Sheridan County, Rushville NE (mile post 374)  
Township 32 North, Range 44 West of the Sixth Principal Meridian, Section 26

**Second Section to be turned over to NGPC, ABB-988 (Sub-No.1x)**

***Rushville to 4.5 miles East of Chadron***

START – Sheridan County, Rushville NE (mile post 374)  
Township 32 North, Range 44 West of the Sixth Principal Meridian, Section 26

END – Dawes County, 4.5 East of Chadron, NE (mile post 400)  
Township 33 North, Range 47 West of the Sixth Principal Meridian, Section 29