

204339

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CYNTHIA G. SWANN
MICHAEL S. WALDRON
HARVEY E. WEINER
ROSE-MICHELE WEINRYB
*NOT ADMITTED IN D.C.

January 7, 2002



BY HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Docket No. AB-391 (Sub-No. 9X), Red River Valley & Western Railroad Company – Abandonment Exemption – Lamoure and Barnes Counties, North Dakota

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are an original and 10 copies of the Verified Notice of Exemption of Red River Valley & Western Railroad Company, pursuant to 49 C.F.R. § 1152.50. Also enclosed is our check in the amount of \$2,600 to cover the filing fee for this proceeding.

Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

FEE RECEIVED

JAN 07 2002

Very truly yours

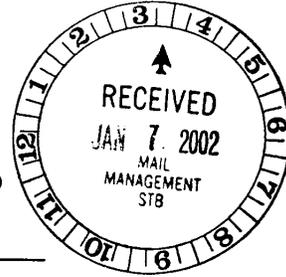
Troy W. Garris

Enclosures SURFACE TRANSPORTATION BOARD
Part of Public Record
JAN - 8 2002
Office of the Secretary

FILED
JAN 8 2002
SURFACE TRANSPORTATION BOARD

204330

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

VERIFIED NOTICE OF EXEMPTION

**RED RIVER VALLEY & WESTERN
RAILROAD COMPANY**

By its attorneys:

**Troy W. Garris
Weiner Brodsky Sidman Kider PC
1300 19th Street, N.W.
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000**

Dated: January 7, 2002

204330

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

VERIFIED NOTICE OF EXEMPTION

Pursuant to the Surface Transportation Board's (the "Board's") regulations at 49 CFR § 1152.50, Red River Valley & Western Railroad Company ("RRVW") files this Verified Notice of Exemption ("Notice") from the prior approval requirements of 49 U.S.C. § 10903, for the abandonment of approximately 32.9 miles of a branch rail line located in LaMoure and Barnes Counties, North Dakota (the "Subject Line"). The Subject Line runs from approximately milepost 27.4 (in or near Lucca, ND) proceeding generally west to approximately milepost 60.3 (in or near Marion, ND), the end of the line. Maps of the Subject Line are attached hereto as Exhibit A.

In accordance with the Board's regulations at 49 CFR § 1152.50(d), RRVW provides the following:

1. *Proposed Consummation Date.*

The abandonment by RRVW of the Subject Line is expected to be consummated on or after February 26, 2002.

2. *Certification Required in 49 CFR § 1152.50(b).*

The required certification is provided as Exhibit B to this Notice.

3. *Information Required in 49 CFR §1152.22 (a)(1) - (4), (7) and (8), and e(4).*

(a)(1) *Name of Applicant.*

Red River Valley & Western Railroad Company

(a)(2) *Common Carrier Status.*

RRVW is a class III common carrier by railroad, subject to 49 U.S.C. Subtitle IV, chapter 105.

(a)(3) *Relief Sought.*

RRVW seeks exemption from the Board's regulations to abandon the Subject Line.

(a)(4) *Map of Subject Line.*

Maps showing the location of the Subject Line are attached hereto as Exhibit A.

(a)(7) *Representative of Applicant.*

Troy W. Garris, Esq.
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

(a)(8) *Postal Service Zip Codes.*

The Subject Line runs through United States Postal ZIP Codes 58049, 58466 and 58461.

(e)(4) *Suitability for Public Purposes.*

The right-of-way may be suitable for other public purposes.

4. *Labor Protection.*

This class exemption does not relieve RRVW of its obligation to protect the interests of its employees. No employees will be adversely affected as a result of the abandonment; however, RRVW anticipates that the Board will impose the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen

Branch, 360 I.C.C. 91 (1979), for the benefit of any carrier employee who may be adversely affected by the proposed abandonment.

5. *Environmental and Historic Report.*

On September 19, 2001, RRVW sent a notice of proposed abandonment to appropriate federal and state agencies and county commissioners (the "Agencies"). A sample of the letter is attached hereto as Exhibit C. On December 5, 2001, RRVW sent its Environmental and Historic Report (the "Report") to the Agencies. A sample cover letter and the Report are attached hereto as Exhibit D. The Report included correspondence received from the Agencies prior to December 5, 2001. Subsequent to that date, RRVW received further correspondence as follows.

By letter dated December 10, 2001, the North Dakota State Historic Preservation Officer (the "SHPO") stated it has reviewed the proposed abandonment and finds that "No Historic Properties [will be] Affected." See Exhibit E.

By letter dated December 13, 2001, Candace Gorton, Chief, Environmental, Economics and Cultural Resources Section Planning Branch of the U.S. Army Corps of Engineers stated that all necessary Agencies have been contacted and the only pertinent information that is missing is a reply from the North Dakota State Historic Preservation Officer. See Exhibit F. As noted immediately above, however, the SHPO has now added its input by letter of December 10, 2001.

6. *Notice Requirements.*

A Certification of Service and Publication is attached as Exhibit G.

Respectfully submitted,



Troy W. Garris
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

Attorneys for:

Red River Valley & Western
Railroad Company

Dated: January 7, 2002

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

EXHIBIT A

MAPS OF SUBJECT LINE

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 7)]

Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services--2001 Update

AGENCY: Surface Transportation Board.

ACTION: Final Rules.

SUMMARY: The Board adopts its 2001 User Fee Update and revises its fee schedule at this time to recover the costs associated with the January 2001 Government salary increases.

EFFECTIVE DATE: These rules are effective March 22, 2001.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 565-1551, or Anne Quinlan, (202) 565-1727. [TDD for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations in 49 CFR 1002.3 require the Board's user fee schedule to be updated annually. The Board's regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. The Board's fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). Also, in some previous years, selected fees were modified to reflect new cost study data or changes in agency fee policy.

Because Board employees received a salary increase of 3.81% in January 2001, we are updating our user fees to recover the increased personnel costs. With certain

exceptions, all fees will be updated based on our cost formula contained in 49 CFR 1002.3(d).

The fee increases involved here result only from the mechanical application of the update formula in 49 CFR 1002.3(d), which was adopted through notice and comment procedures in Regulations Governing Fees for Services-1987 Update, 4 I.C.C.2d 137 (1987). In addition, no new fees are being proposed in this proceeding. Therefore, we find that notice and comment are unnecessary for this proceeding. See Regulations Governing Fees For Services-1990 Update, 7 I.C.C.2d 3 (1990); Regulations Governing Fees For Services-1991 Update, 8 I.C.C.2d 13 (1991); and Regulations Governing Fees For Services-1993 Update, 9 I.C.C.2d 855 (1993).

We conclude that the fee changes adopted here will not have a significant economic impact on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

Additional information is contained in the Board's decision. To obtain a copy of the full decision, write, call, or pick up in person from Da-to-Da Office Solutions, Suite 405, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. Telephone: (202) 466-5530. [Assistance for the hearing impaired is available through TDD services 1-800-877-8339.]

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

STB Ex Parte No. 542 (Sub-No. 7)

Decided: February 12, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner
Burkes.

Vernon A. Williams

Secretary

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

Part 1002 - FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

2. Section 1002.1 is amended by revising paragraphs (b), (c), and (e)(1) and the chart in paragraph (f)(6) to read as follows:

§1002.1 Fees for record search, review, copying, certification, and related services.

* * * * *

(a) * * *

* * * * *

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of \$29.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of \$20.00 per hour.

* * * * *

(d) * * *

* * * * *

(e) * * *

(1) A fee of \$51.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

* * * * *

(f) * * *

(6) * * *

Grade	Rate	Grade	Rate
GS-1	\$ 8.52	GS-9	\$19.90
GS-2	9.28	GS-10	21.92
GS-3	10.46	GS-11	24.08
GS-4	11.74	GS-12	28.87
GS-5	13.14	GS-13	34.33
GS-6	14.64	GS-14	40.56
GS-7	16.27	GS-15 and	47.71
GS-8	18.02	over	

2. In §1002.2, paragraph (f) is amended as follows:

§ 1002.2 Filing fees.

(a) * * *

(f) Schedule of filing fees.

Type of Proceeding		Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:		
(1)	An application for the pooling or division of traffic . . .	\$3,000.
(2)	An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303	\$1,400.
(3)	An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703.	\$19,100.

STB Ex Parte No. 542 (Sub-No. 7)

(4)	An application for approval of an amendment to a non-rail rate association agreement:	
	(i) Significant amendment	\$3,200.
	(ii) Minor amendment	\$70.
(5)	An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	\$300.
(6)	A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family	\$1,200.
(7)-(10) [Reserved]		

PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:		
(11)	(i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	\$5,000.
	(ii) Notice of exemption under 49 CFR 1150.31-1150.35	\$1,300.
	(iii) Petition for exemption under 49 U.S.C. 10502 ...	\$8,700.

(12)	(i) An application involving the construction of a rail line	\$51,500.
	(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	\$1,300.
	(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	\$51,500.
(13)	A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	\$2,600.
(14)	(i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	\$4,300.
	(ii) Notice of exemption under 49 CFR 1150.41 - 1150.45	\$1,300.
	(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902	\$4,600.
(15)	A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21-1150.24	\$1,200.
(16)-(20) [Reserved]		

PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
--	--

(21) (i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97-35], bankrupt railroads, or exempt abandonments)	\$15,300.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	\$2,600.
(iii) A petition for exemption under 49 U.S.C. 10502 .	\$4,400.
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	\$300.
(23) Abandonments filed by bankrupt railroads	\$1,300.
(24) A request for waiver of filing requirements for abandonment application proceedings	\$1,200.
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment	\$1,000.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	\$15,600.

STB Ex Parte No. 542 (Sub-No. 7)

(27) A request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d)	\$150.
(28)-(35) [Reserved]	

PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102	\$13,100.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	\$7,100.
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	\$1,030,000.
(ii) Significant transaction	\$206,000.
(iii) Minor transaction	\$5,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,200.
(v) Responsive application	\$5,500.

STB Ex Parte No. 542 (Sub-No. 7)

(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$6,500.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,030,000.
(ii) Significant transaction	\$206,000.
(iii) Minor transaction	\$5,500.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	\$950.
(v) Responsive application	\$5,500.
(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$6,500.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	\$1,030,000.
(ii) Significant transaction	\$206,000.
(iii) Minor transaction	\$5,500.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$850.
(v) Responsive application	\$5,500.
(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$6,500.

STB Ex Parte No. 542 (Sub-No. 7)

(41)	An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
	(i) Major transaction	\$1,030,000.
	(ii) Significant transaction	\$206,000.
	(iii) Minor transaction	\$5,500.
	(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,000.
	(v) Responsive application	\$5,500.
	(vi) Petition for exemption under 49 U.S.C. 10502 ...	\$4,600.
(42)	Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	\$1,700.
(43)	An application for approval of a rail rate association agreement. 49 U.S.C. 10706	\$48,200.
(44)	An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
	(i) Significant amendment	\$8,900.
	(ii) Minor amendment	\$70.
(45)	An application for authority to hold a position as officer or director under 49 U.S.C. 11328	\$500.

STB Ex Parte No. 542 (Sub-No. 7)

(46)	A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered	\$5,500.
(47)	National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	\$150.
(48)	National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act	\$150.
(49)-(55) [Reserved]		

PART V: Formal Proceedings:		
(56)	A formal complaint alleging unlawful rates or practices of carriers:	
	(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	\$57,500.
	(ii) All other formal complaints (except competitive access complaints	\$5,700.
	(iii) Competitive access complaints	\$150.

STB Ex Parte No. 542 (Sub-No. 7)

(57)	A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705	\$5,800.
(58)	A petition for declaratory order:	
	(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding	\$1,000.
	(ii) All other petitions for declaratory order	\$1,400.
(59)	An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	\$4,900.
(60)	Labor arbitration proceedings	\$150.
(61)	Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d)	\$150.
(62)	Motor carrier undercharge proceedings	\$150.
(63)-(75) [Reserved]		

PART VI: Informal Proceedings:		
(76)	An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706	\$850.
(77)	An application for special permission for short notice or the waiver of other tariff publishing requirements	\$90.

STB Ex Parte No. 542 (Sub-No. 7)

(78) (i) The filing of tariffs, including supplements, or contract summaries	\$1 per page. (\$17 minimum charge.)
(ii) Tariffs transmitted by fax	\$1 per page.
(79) Special docket applications from rail and water carriers:	
(i) Applications involving \$25,000 or less	\$50.
(ii) Applications involving over \$25,000	\$100.
(80) Informal complaint about rail rate applications	\$400.
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving \$25,000 or less	\$50.
(ii) Petitions involving over \$25,000	\$100.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3)	\$150.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c)	\$28 per document.
(84) Informal opinions about rate applications (all modes) ..	\$150.
(85) A railroad accounting interpretation	\$750.
(86) An operational interpretation	\$1,000.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	\$75.

STB Ex Parte No. 542 (Sub-No. 7)

(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(iii) Third Party Complaint	\$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	\$150.
(88)-(95) [Reserved]	

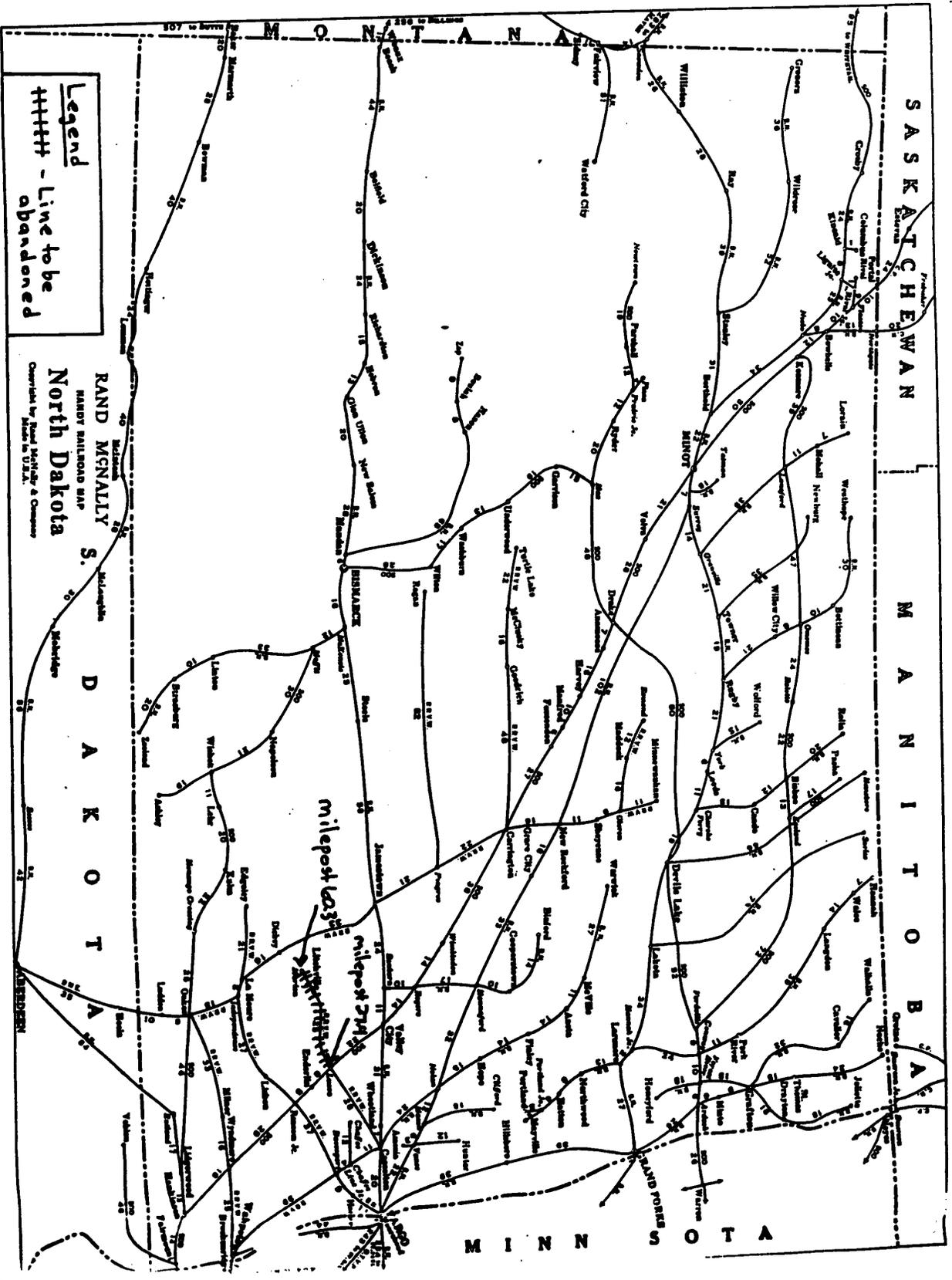
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	\$22 per delivery.
(97) Request for service or pleading list for proceedings ...	\$16 per list.
(98) (i) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that does not require a <u>Federal Register</u> notice	\$200.
(ii) Processing the paperwork related to a request for Carload Waybill Sample to be used for reasons other than a Surface Transportation Board or State proceeding that requires a <u>Federal Register</u> notice	\$450.

STB Ex Parte No. 542 (Sub-No. 7)

(99)	(i) Application fee for the Surface Transportation Board's Practitioners' Exam	\$100.
	(ii) Practitioners' Exam Information Package	\$25.
(100)	Uniform Railroad Costing System (URCS) software and information:	
	(i) Initial PC version URCS Phase III software program and manual	\$50.
	(ii) Updated URCS PC version Phase III cost file, if computer disk provided by requestor	\$10.
	(iii) Updated URCS PC version Phase III cost file, if computer disk provided by the Board	\$20.
	(iv) Public requests for <u>Source Codes</u> to the PC version URCS Phase III	\$500.
	(v) PC version or mainframe version URCS Phase II ..	\$400.
	(vi) PC version or mainframe version Updated Phase II databases	\$50.
	(vii) Public requests for <u>Source Codes</u> to PC version URCS Phase II	\$1,500.
(101)	Carload Waybill Sample data on recordable compact disk (R-CD):	
	(i) Requests for Public Use File on R-CD -First Year ..	\$450.

STB Ex Parte No. 542 (Sub-No. 7)

(ii) Requests for Public Use File on R-CD Each Additional Year	\$150.
(iii) Waybill - Surface Transportation Board or State proceedings on R-CD - First Year	\$650.
(iv) Waybill - Surface Transportation Board or State proceedings on R-CD - Second Year on same R-CD ..	\$450.
(v) Waybill - Surface Transportation Board of State proceeding on R-CD - Second Year on different R-CD	\$500.
(vi) User Guide for latest available Carload Waybill Sample	\$50.



Legend
 ----- Line to be
 abandoned

RAND McNALLY S.
North Dakota
 RAND McNALLY S. NORTH DAKOTA RAILROAD MAP
 Copyright by Rand McNally & Company
 Made in U.S.A.

Milepost 623 1/2
 Milepost 274 1/2

SASKATCHEWAN

MANITOWA

MINN

MON

BRANDEN

GRAND FORKS

WILLISTON

MINOT

BISMARCK

FARGO

GRAND FORKS

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

EXHIBIT B

CERTIFICATION REQUIRED BY 49 CFR § 1152.50(b)

CERTIFICATION REQUIRED BY 49 CFR § 1152.50(b)

In accordance with 49 CFR § 1152.50(b), I, William F. Drusch, President of Red River Valley & Western Railroad Company, hereby certify that, with respect to the rail line subject to this Verified Notice of Exemption in Docket No. AB-391 (Sub-No. 9X): (1) no local traffic has moved over the line for at least two years prior to the date hereof; (2) overhead traffic, if any, can be rerouted over other lines; and (3) 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 Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period preceding the date hereof. The foregoing certification is made on behalf of Red River Valley & Western Railroad Company by the undersigned after due and careful investigation of the matters herein certified and is based upon the knowledge, information and belief of the undersigned.



William F. Drusch

Dated: January 7, 2002

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

EXHIBIT C

SAMPLE NOTICE OF PROPOSED ABANDONMENT

WEINER BRODSKY SIDMAN KIDER PC

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

RICHARD J. ANDREANO, JR.
JAMES A. BRODSKY
DONALD C. BROWN, JR.
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DAVID M. SOUDERS
CYNTHIA G. SWANN
MICHAEL S. WALDRON
HARVEY E. WEINER
ROSE-MICHELE WEINRYB

* NOT ADMITTED IN D.C.

September 19, 2001

BY MAIL

Department of Commerce – NOAA
National Geodetic Survey; N/NGS2
1315 East West Highway; Station 8813
Silver Spring, MD 20910
Attn: Edward J. McKay, Chief-Spatial
Reference Division

Re: Surface Transportation Board Docket No. AB-391 (Sub-No. 9X);
Red River Valley & Western Railroad Co. – Abandonment Exemption – in
LaMoure and Barnes Counties, ND

Dear Mr. McKay:

On or after November 8, 2001, Red River Valley & Western Railroad Co. ("RRVW") will submit a filing with the Surface Transportation Board ("Board"), seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 32.9 miles of a branch rail line located in LaMoure and Barnes Counties, North Dakota (the "Subject Line"). The Subject Line runs from approximately milepost 27.4 (in or near Lucca, ND) proceeding generally west to approximately milepost 60.3 (in or near Marion, ND), the end of the line. The Subject Line runs through United States Postal Zip Codes 58049, 58466 and 58461. A map of the line is attached hereto as Exhibit A.

No shipper located on the Subject Line has either shipped or received any carloads by rail over the line for more than two years. As the Subject Line is a branch line only (terminating without connection in or near Marion) no overhead traffic travels over the line. Based on information in its possession, RRVW believes the Subject Line does not contain federally granted rights-of-way. Any documentation in RRVW's possession regarding this issue will be made available promptly to those requesting it. RRVW is not aware of any buildings or structures on the Subject Line that are more than 50 years old, except for one bridge (ca. 1951) near milepost 40.7. As many as 58 at-grade crossings on the line will be eliminated by the abandonment. The proceeding will be docketed at the Surface Transportation Board as STB Docket No. AB-391 (Sub-No. 9X).

WEINER BRODSKY SIDMAN KIDER PC

September 19, 2001

Page Two

Pursuant to 49 C.F.R. Part 1105, along with its filing, RRVW must file with the Board an environmental and historic report (the "Report") assessing the transaction. The environmental portion of the Report must address, among other things, the issues listed below, some of which may be of interest to your agency:

- The effect of the abandonment on endangered or threatened species or critical habitats.
- The effect of the abandonment on wildlife sanctuaries or national or state parks or forests.
- Whether designated wetlands, 100-year flood plains or designated coastal zone areas will be affected by the abandonment.

The historic portion of the Report must address, among other things, the following:

- Whether any structures located on the Subject Line, or the area on which the line is located, should be listed on the National Register of Historic Places.
- Whether any environmental condition exists that could impede archaeological activities.

The purpose of this letter is to alert you to the proposed abandonment, and to request that you contact us with any information, comments or questions regarding these or other issues which your agency may regulate. If it is your opinion that the above-described abandonment does not raise any concerns from the standpoint of your agency, please send us a letter to that effect. A copy of your letter will be attached to RRVW's Report to ensure the Board is fully apprised of your views. We would appreciate a response to this letter by October 19, 2001 so that your response can be properly incorporated into the Report, which we intend to send out on or after that date.

Thank you for your attention to this matter.

Very truly yours,



Troy W. Garris

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

EXHIBIT D

**SAMPLE COVER LETTER AND
THE ENVIRONMENTAL AND HISTORIC REPORT**

WEINER BRODSKY SIDMAN KIDER PC

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

December 5, 2001

BY MAIL

North Dakota Dept. of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505
Attn: Director

Re: Red River Valley & Western Railroad Company – Abandonment
Exemption – in LaMoure and Barnes Counties, ND; Surface
Transportation Board Docket No. AB-391 (Sub-No. 9X)

Dear Sir or Madam:

On or after December 25, 2001, Red River Valley & Western Railroad Company (“RRVW”) will file with the Surface Transportation Board (“Board”), a notice of exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 32.9 miles of a branch rail line located in LaMoure and Barnes Counties, North Dakota (the “Subject Line”). The Subject Line runs from approximately milepost 27.4 (in or near Lucca, ND) proceeding generally south to approximately milepost 60.3 (in or near Marion, ND), the end of the line. The Subject Line runs through United States Postal Zip Codes 58049, 58466 and 58461. Attached is an Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as maps of the affected area.

RRVW is providing this report so that you may review the information that will form the basis for the Board’s independent environmental analysis 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 Board’s environmental review process, please contact the Section of Environmental Analysis (“SEA”), Suite 500, Surface Transportation Board, 1925 K Street, N.W., Washington, D.C. 20423-0001, (202) 565-1545, and refer to Docket No. AB-391 (Sub-No. 9X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to RRVW’s representative) would be appreciated within 3 weeks.

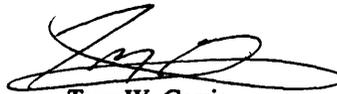
WEINER BRODSKY SIDMAN KIDER PC

December 5, 2001

Page Two

Your comments will be considered by the Board in evaluating the environmental and historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact RRVW's representative directly. RRVW's representative in this matter is Troy W. Garris who may be contacted by telephone at (202) 628-2000, or by mail at Weiner Brodsky Sidman Kider PC, 1300 19th Street, N.W., Fifth Floor, Washington, D.C. 20036-1609.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Troy W. Garris', written over a horizontal line.

Troy W. Garris

Enclosure

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

Red River Valley & Western Railroad Company (the "Company") will submit a filing with the Surface Transportation Board ("Board"), seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon rail service over approximately 32.9 miles of a branch rail line located in LaMoure and Barnes Counties, North Dakota (the "Subject Line"). The Subject Line runs from approximately milepost 27.4 (in or near Lucca, ND) proceeding generally west to approximately milepost 60.3 (in or near Marion, ND), the end of the line. The Subject Line runs through U.S. Postal Zip Codes 58049, 58466 and 58461. Maps of the Subject Line are attached to this Environmental and Historic Report (the "Report") as Attachment 1. This Report has been prepared pursuant to 49 CFR §§ 1105.7 and 1105.8.

By letter dated September 19, 2001, the Company advised the federal and state agencies and county commissioners listed in the service list at the end of this Report (the "Agencies"), as required by 49 CFR §§ 1105.7(b) and 1105.8(c), about the proposed abandonment of service over the Subject Line. Attached are written responses the Company has received from the Agencies. All representations made herein are to the best of the Company's knowledge and are based upon the written responses and/or oral conversations with the Agencies (the "Responses"), and information otherwise readily available in the Company's possession on the date of this

Report. The Company reserves its right to challenge the applicability of any law, rule or regulation on any basis.

ENVIRONMENTAL REPORT

1. *Proposed Action and Alternatives.* (§ 1105.7(e)(1))

The Company seeks authority to abandon service primarily because no shipper has moved any traffic over the Subject Line in over two years. The Subject Line is a stub-ended branch line and consequently there is no overhead traffic. The commodities most recently transported were urea and grains. It is intended that permanent cessation of common carrier rail service over the Subject Line will result in the elimination of a number of grade crossings (up to 58 in all) and the associated risks of automobile-train and pedestrian-train accidents.

In addition to ceasing service, the Company plans to hire a contractor to remove the rail and other track materials from the Subject Line and perform related cleanup. The Company intends to recycle materials, where possible, by using them on other parts of its system. The Company anticipates that the contractor will purchase the unusable materials, appropriately disposing of them. It is intended that any bridges, culverts or other support structures along the right-of-way will be left in place.

2. *Transportation System.* (§ 1105.7(e)(2))

Because there has been no traffic over the Subject Line in over two years, existing regional or local transportation systems or patterns would not be adversely affected by the proposed abandonment.

3. *Land Use.* (§ 1105.7(e)(3))

The Company has advised the Agencies of its intention to abandon the Subject Line, and has received no Responses that the abandonment is inconsistent with existing land use plans.

The Agencies advised included the U.S. Department of Agriculture's Natural Resources Conservation Service. The Company has received no Responses indicating the proposed abandonment would have an adverse effect on prime agricultural lands.

The Agencies advised also included the U.S. Environmental Protection Agency. The Company has received no Responses indicating that the proposed abandonment would adversely affect a coastal zone management area.

The Department of the Army, St. Paul District, Corps of Engineers (the "Corps-St. Paul") has informed the Company, by letter dated September 28, 2001, that no St. Paul District real estate or current projects would be affected by the abandonment and simple abandonment would have no floodplain impacts. *See* Attachment 2.

The United States Department of Commerce, National Oceanic and Atmospheric Administration ("NOAA") has informed the Company, by letter dated October 5, 2001, that the abandonment of the Subject Line may affect 20 geodetic station markers, and requested prior notification in the event the Company plans activities that will disturb or destroy these markers. *See* Attachment 3 at 1. In the event the Company plans such activities, it intends to notify NOAA as requested.

The North Dakota Department of Health, Environmental Health Section ("ND-Health"), by letter dated October 2, 2001, stated that it owns no land on or adjacent to the Subject Line and has no projects scheduled in the area. *See* Attachment 4 at 1.

Other than the possible disturbance of geodetic markers, the Company is unaware of any reason why the abandonment would be inconsistent with regional and/or local land use plans.

The right-of-way may be suitable for alternative public use.

4. *Energy.* (§ 1105.7(e)(4))

Because there has been no traffic over the Subject Line for more than two years, the proposed abandonment would not cause diversion of traffic from rail to motor carriers in excess of applicable thresholds in 49 CFR § 1105.7(e)(4) or affect recyclable commodities or the transportation of energy resources, or result in any change in overall energy efficiency.

5. *Air.* (§ 1105.7(e)(5))

Because there has been no traffic over the Subject Line for more than two years, the abandonment of the Subject Line would not cause effects in excess of any applicable thresholds in 49 CFR § 1105.7(e)(5).

ND-Health stated that the proposed abandonment is “consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.” See Attachment 4 at 1.

6. *Noise.* (§ 1105.7(e)(6))

Because the abandonment would not cause effects in excess of any threshold levels in 49 CFR § 1105.7(e)(5)(i), this issue is not applicable.

7. *Safety.* (§ 1105.7(e)(7))

The Company is unaware of any adverse effect of the abandonment to the public health or safety. On the contrary, the abandonment would improve the public health and safety by, among other things, allowing the Company to terminate common carrier rail service over as many as 58

grade crossings, reducing the likelihood of vehicle delay and the risks of automobile-train and pedestrian-train accidents.

The Company is unaware of any known hazardous waste sites or sites where there have been known hazardous materials spills on the Subject Line's right-of-way.

8. *Biological Resources.* (§ 1105.7(e)(8))

The Company has received no Responses indicating that the proposed abandonment would adversely affect endangered or threatened species or critical habitat areas. The Company is unaware of any wildlife sanctuaries or refuges or national or state parks or forests that would be adversely affected by the abandonment.

The Department of the Army, Corps of Engineers, Omaha District (the "Corps-Omaha"), by letter dated October 5, 2001, recommended the Company contact the U.S. Fish & Wildlife Service and the North Dakota Game & Fish Department, regarding fish and wildlife concerns. *See Attachment 5.* The Company has contacted these Agencies.

North Dakota Game & Fish Department ("NDGF"), by letter dated October 15, 2001, stated it does not believe the abandonment will have any significant adverse effects on wildlife or wildlife habitat, including endangered species. *See Attachment 6.* NDGF noted the Subject Line borders and bisects a portion of a wildlife management area and that NDGF may be interested in purchasing the adjacent property if marketed.

9. *Water.* (§ 1105.7(e)(9))

The Company has not received any Responses from the Agencies that the proposed abandonment is inconsistent with applicable federal, state or local water quality standards.

The Corps-St. Paul stated that simple abandonment would have no floodplain impacts, but recommended contacting the Corps of Engineers' Bismarck Regulatory Office (the "ND

Regulatory Office”), regarding Section 404 permitting. *See* Attachment 2. As discussed below in this section, the Company has advised the ND Regulatory Office of the proposed abandonment, and was informed that no permits are necessary for the project as planned.

The U.S. Fish and Wildlife Service, Ecological Services, ND Field Office, by Response dated October 17, 2001, stated the project as described will have no significant impact on fish and wildlife resources, and that no endangered or threatened species are known to occupy the project area. *See* Attachment 7.

Similarly, the Corps-Omaha stated some of the construction could occur in regulated waters and that certain activities might require a Section 404 permit. The Corps-Omaha also suggested contacting the ND Regulatory Office in this regard. *See* Attachment 5. As discussed immediately below, the Company has advised the ND Regulatory Office of the proposed abandonment, and was informed that no permits are necessary for the project as planned.

William May of the ND Regulatory Office (701) 255-0015, in telephone conversations with the Company’s counsel on October 9 and 15, 2001, stated there was a possibility the Subject Line crosses jurisdictional waters and – if regulated activities, such as significant movements of fill, were planned – the Company should contact that office for any necessary permit. By letter dated October 17, 2001, that office clarified that, if the Company removes the rail and ties, but no work occurs on the grade bed, culverts or bridges, “it has been determined that your proposed project would be accomplished without discharging in jurisdictional waters.” *See* Attachment 8. The letter stated that authorization might be required if the plans for the project changed. Thus, the Company will seek any required Section 404 permit if it changes its plans to include performing work on the grade bed, culverts or bridges.

ND-Health stated that any environmental impacts from the abandonment would be “minor,” controllable by proper construction methods. *See* Attachment 4 at 1. The Agency noted that proper care should be taken during activities near State waters to minimize adverse effects, and that it is possible a storm water permit might be required if the activities would disturb more than five acres of soil. *Id.* ND-Health further stated that the Corps might require a water quality certification from ND-Health if the project is subject to the Corps’ section 404 permitting process. As indicated above, the ND Regulatory Office has indicated no section 404 permit is required for the project as currently planned. The Company intends to obtain any Section 404 permit and water quality certification required if the Company changes its plans to include performing work on the grade bed, culverts or bridges.

The North Dakota State Engineer’s office, by letter dated October 5, 2001, noted a concern regarding maintenance of culvert crossings in the embankment. *See* Attachment 9. After abandonment, the owner of the property will be responsible for culvert crossings under any applicable state or local maintenance requirements.

10. *Proposed Mitigation.* (§ 1105.7(e)(10))

In the event substantive concerns arise regarding adverse environmental impacts, the Company will work with the appropriate agency, as required, to mitigate any adverse impacts the abandonment and salvage activities have on the environment.

HISTORIC REPORT

1. *Maps.* (§ 1105.8(d)(1))

Maps showing the location of the proposed abandonment are attached to this Report as Attachment 1.

2. *Right-of-Way.* (§ 1105.8(d)(2))

The towns through which the Subject Line runs are sparsely populated. The area generally consists of rolling hills, used primarily for agricultural or ranching purposes. The width of the right-of-way varies between approximately 100 and 400 feet.

3. *Photographs.* (§ 1105.8(d)(3))

Original photographs of the structures described in paragraph "4" below that may be more than 50 years old are being forwarded to the Board's Section of Environmental Analysis ("SEA"). See Attachment 10.

4. *Description of Structures.* (§ 1105.8(d)(4))

There are five bridges on the Subject Line: three at or near milepost 40.7, one at or near milepost 47.3 and one at or near milepost 60.3. One of the bridges, RRVW Bridge No. 42 at or near milepost 40.7, is believed to be more than 50 years old, and to have been built in approximately 1951 and repaired in 1986. It is believed all the bridges probably replaced prior bridges.

Along the Subject Line, there are four grain elevators, portions of which may be more than 50 years old. However, these structures are served by truck or are no longer in use, and therefore will be unaffected by the abandonment.

5. *History of Operations.* (§ 1105.8(d)(5))

The Company began operations of the Subject Line in or around 1987, after acquiring rights from the Burlington Northern Railroad. See Railroad Acquisition; Red River Valley & Western Railroad Co.; Acquisition and Operation Exemption; Certain Lines of Burlington Northern Railroad Co., ICC Finance Docket No. 31071 (served July 22, 1987). The Company is uncertain exactly when the Subject Line was constructed, but records indicate it may have been

in or around 1900. As noted above, upon abandonment, the Company anticipates hiring a contractor to remove the track materials from portions of the Subject Line for reuse, where possible, on other parts of the Company's system. The contractor is expected to purchase and dispose of the unusable track materials removed, and perform related clean-up. It is intended that any bridges, culverts or other support structures along the right-of-way will be left intact.

6. *Documents.* (§ 1105.8(d)(6))

The Company does not have copies of engineering plans or drawings for the structures referred to above.

7. *National Register of Historic Places.* (§ 1105.8(d)(7))

As described in paragraph "4" of this Historic Report, one bridge may be 50 years old. Four elevators may have portions over 50 years old, but they will be unaffected by the abandonment, as they receive service by truck or no longer are in use. The Company is not aware of any archaeological resources or previously unknown historic property on the Subject Line.

The Corps-St. Paul and the Corps-Omaha both recommended the Company contact the appropriate State Historic Preservation Office. See Attachments 2 and 5. The Company has contacted that office.

8. *Environmental Conditions.* (§ 1105.8(d)(8))

The Company is not aware of any prior subsurface ground disturbance or fill, or any other environmental condition (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain. The roadbed is unstable at certain points on the right-of-way.

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

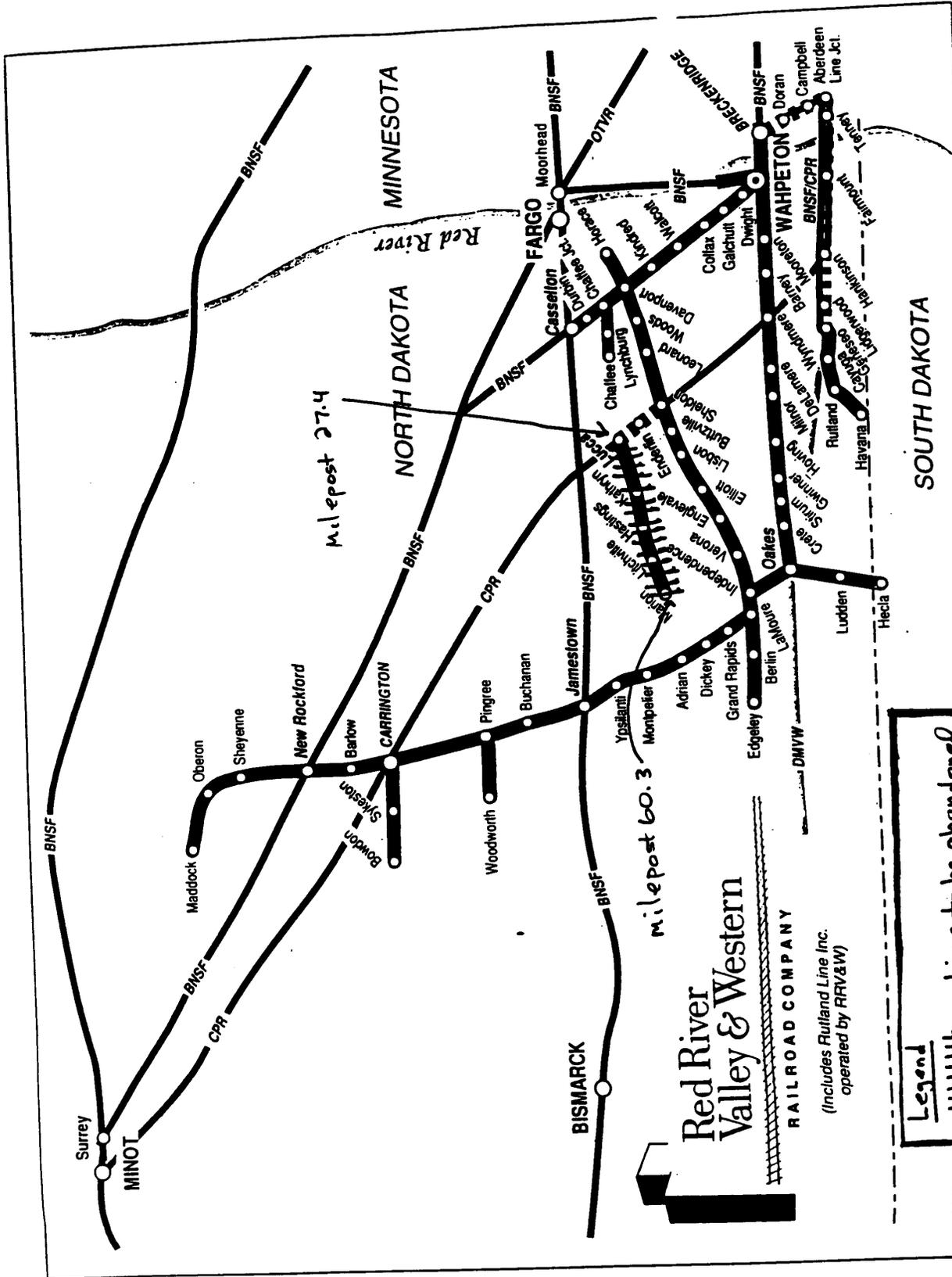
ENVIRONMENTAL AND HISTORIC REPORT

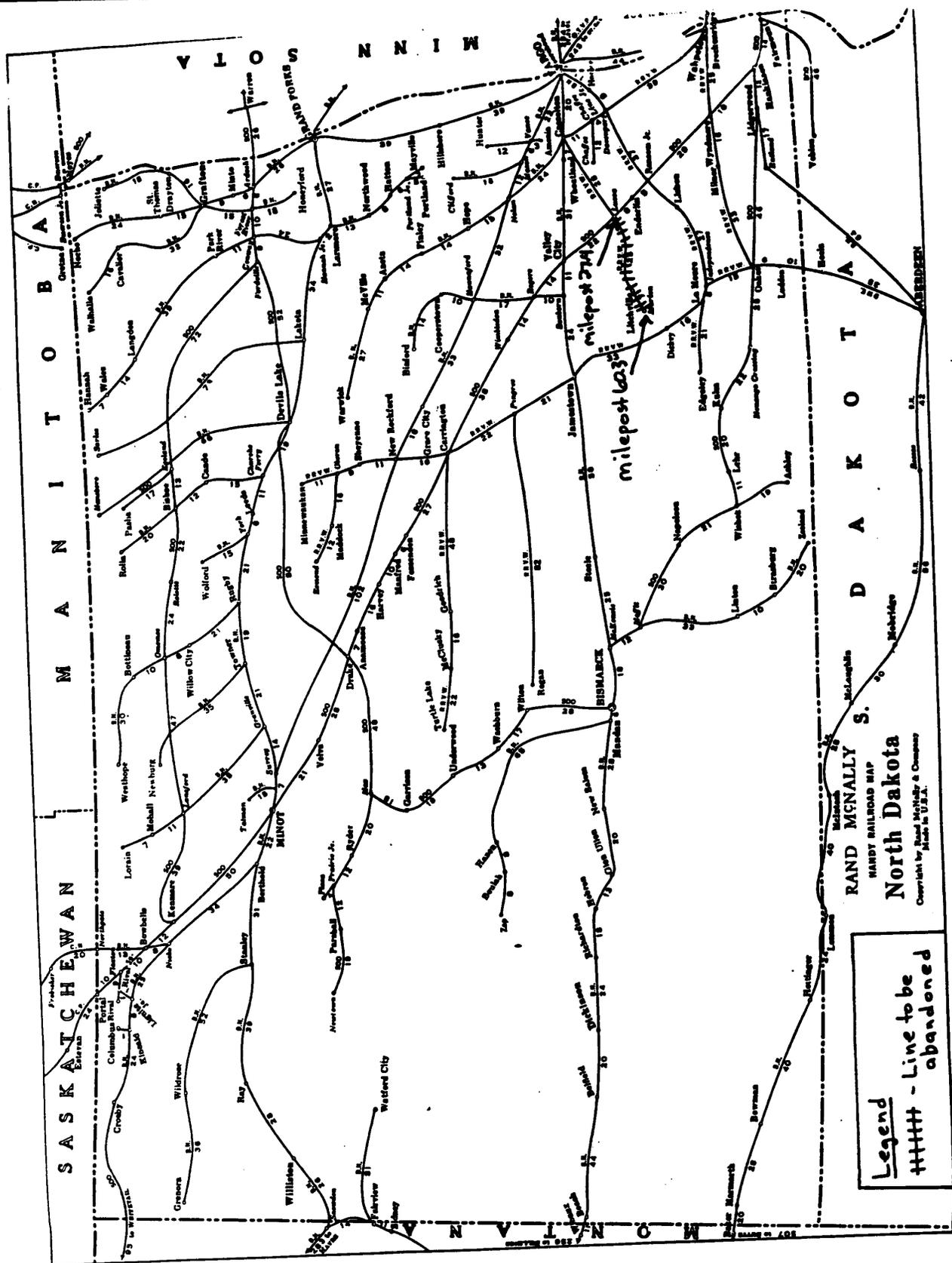
MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 1

MAPS OF SUBJECT LINE





RAND McNALLY S. HARDY RAILROAD MAP
North Dakota
 Copyright by Rand McNally & Company
 Made in U.S.A.

Legend
 +++++ - Line to be abandoned

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 2

**LETTER FROM
DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS**



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

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

September 28, 2001

RECEIVED
WBSK

Project Management and Development Branch
Planning, Programs and Project Management Division

SUBJECT: Surface Transportation Board Docket No. AB-391 (Sub-No. 9X); Red River Valley
& Western Railroad Co. – Abandonment Exemption – in LaMoure and Barnes Counties, ND

Mr. Troy W. Garris
Weiner Brodsky Sidman Kider PC
1300 Nineteenth Street NW, Fifth Floor
Washington, D.C. 20036-1609

Dear Mr. Garris:

We are responding to your letter of September 19, 2001, which requested comments on the proposed abandonment of a rail line that extends from milepost 27.4 near Lucca, North Dakota, to milepost 60.3 near Marion, North Dakota. The Red River Valley & Western Railroad Co. is seeking to abandon the 32.9 miles of branch rail line located in LaMoure and Barnes Counties, North Dakota.

No St. Paul District real estate or current projects would be affected by the proposed action. Simple abandonment of the rail line will have no floodplain impacts.

The Railroad Company should contact the Historic Preservation Division of the State Historical Society of North Dakota about the bridge near milepost 40.7. Otherwise, there should be no effects on historic properties.

Although this project is within the St. Paul District's civil works boundaries, the project area is within the Omaha District's regulatory boundaries. You should coordinate with Mr. Jim Winters at the Bismarck Regulatory Office, Corps of Engineers, 1513 South 12th Street, Bismarck, North Dakota 58504, concerning permit requirements.

Sincerely,

Charles P. Spitzack
Chief, Project Management and
Development Branch

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 3

**LETTER FROM
UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

October 5, 2001

RECEIVED
2001
WBSK

Ms. Victoria J. Rutson
Acting Chief, Section of
Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Ms. Rutson:

The area in question on the map attached to a letter dated September 19, 2001 (enclosed), concerning the proposed rail line abandonment by the Red River Valley & Western Railroad Co. (RRVW), of 32.9 miles of a branch line from milepost 27.4, in or near Lucca, to milepost 60.3, in or near Marion, the end of the line, in LaMoure and Barnes Counties, North Dakota, STB Docket No. AB-391 (Sub-No. 9X), has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 20 geodetic station markers have been identified that could be affected by the proposed abandonment; a listing of these markers is enclosed. Additional information about these station markers can be obtained via the Internet or NGS CD-ROM. A fact sheet for these two data retrieval methods is enclosed. If there are any planned activities which could disturb or destroy these markers, NGS requires not less than 90 days' notification in advance of such activities in order to plan for their relocation.

If further information is needed for these geodetic station markers, my address is NOAA, N/NGS2, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3191, fax: 301-713-4324, e-mail: Ed.McKay@noaa.gov.

Sincerely,

Edward J. McKay
Chief, Spatial Reference
System Division

Enclosures

cc: ~~T. Garris - RRVW~~



Received: 9/21/01
Egm

WEINER BRODSKY SIDMAN KIDER PC

RICHARD J. ANDREANO, JR.
JAMES A. BRODSKY
DONALD C. BROWN, JR.
ANDREW N. CLINE*
JO A. DeROCHE*
TROY W. GARRIS
CYNTHIA L. GILMAN
KAREN R. GUSTAVSON
DON J. HALPERN
MITCHEL H. KIDER
SUSAN L. KORYTKOWSKI

SHERRI L. LEDNER
JAMES M. MILANO
SUZANNE DE ARMOND MUCCHETTI*
LEAH SCHMULEWITZ GETLAN
MARK H. SIDMAN
JOHN D. SOCKNAT
DAVID M. SOUDERS
CYNTHIA G. SWANN
MICHAEL S. WALDRON
HARVEY E. WEINER
ROSE-MICHELE WEINRYB

*NOT ADMITTED IN D.C.

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

North Dakota

September 19, 2001

BY MAIL

Department of Commerce – NOAA
National Geodetic Survey; N/NGS2
1315 East West Highway; Station 8813
Silver Spring, MD 20910
Attn: Edward J. McKay, Chief-Spatial
Reference Division

Re: Surface Transportation Board Docket No. AB-391 (Sub-No. 9X);
Red River Valley & Western Railroad Co. – Abandonment Exemption – in
LaMoure and Barnes Counties, ND

Dear Mr. McKay:

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No shipper located on the Subject Line has either shipped or received any carloads by rail over the line for more than two years. As the Subject Line is a branch line only (terminating without connection in or near Marion) no overhead traffic travels over the line. Based on information in its possession, RRVW believes the Subject Line does not contain federally granted rights-of-way. Any documentation in RRVW's possession regarding this issue will be made available promptly to those requesting it. RRVW is not aware of any buildings or structures on the Subject Line that are more than 50 years old, except for one bridge (ca. 1951) near milepost 40.7. As many as 58 at-grade crossings on the line will be eliminated by the abandonment. The proceeding will be docketed at the Surface Transportation Board as STB Docket No. AB-391 (Sub-No. 9X).

WEINER BRODSKY SIDMAN KIDER PC

September 19, 2001

Page Two

Pursuant to 49 C.F.R. Part 1105, along with its filing, RRVW must file with the Board an environmental and historic report (the "Report") assessing the transaction. The environmental portion of the Report must address, among other things, the issues listed below, some of which may be of interest to your agency:

- The effect of the abandonment on endangered or threatened species or critical habitats.
- The effect of the abandonment on wildlife sanctuaries or national or state parks or forests.
- Whether designated wetlands, 100-year flood plains or designated coastal zone areas will be affected by the abandonment.

The historic portion of the Report must address, among other things, the following:

- Whether any structures located on the Subject Line, or the area on which the line is located, should be listed on the National Register of Historic Places.
- Whether any environmental condition exists that could impede archaeological activities.

The purpose of this letter is to alert you to the proposed abandonment, and to request that you contact us with any information, comments or questions regarding these or other issues which your agency may regulate. If it is your opinion that the above-described abandonment does not raise any concerns from the standpoint of your agency, please send us a letter to that effect. A copy of your letter will be attached to RRVW's Report to ensure the Board is fully apprised of your views. We would appreciate a response to this letter by October 19, 2001 so that your response can be properly incorporated into the Report, which we intend to send out on or after that date.

Thank you for your attention to this matter.

Very truly yours,



Troy W. Garris

RED RIVER VALLEY & WESTERN RAILROAD CO.

LAMOURE AND BARNES COUNTIES, NORTH DAKOTA

STB DOCKET NO. AB-391 (SUB-NO. 9X)

20 GEODETIC CONTROL MARKS IN THE PROPOSED ABANDONMENT AREA

PID	DESIGNATION	LATITUDE	LONGITUDE
RP0547	W 28	N464221	W0974315
RP0569	Y 45	N464218	W0974318
RP0568	X 45	N464149	W0974442
RP0567	W 45	N464116	W0974622
RP0565	U 45	N464002	W0975100
RP0564	T 45	N463923	W0975343
RP0563	S 45	N463937	W0975513
RP0561	Q 45	N464051	W0975811
RQ0057	P 45	N464146	W0980039
RQ0056	N 45	N464106	W0980337
RQ0055	M 45	N464058	W0980539
RQ0054	L 45	N464025	W0980726
RQ0053	K 45	N464001	W0980841
RQ0605	LITCHVILLE	N463936	W0980841
RQ0052	J 45	N463907	W0981137
RQ0051	H 45	N463828	W0981342
RQ0050	G 45	N463803	W0981458
RQ0049	F 45	N463718	W0981725
RQ0048	E 45	N463659	W0981821
RQ0047	D 45	N463629	W0981958



**NATIONAL GEODETIC SURVEY
NEWS FLASH**



LOOK FOR US ON THE WORLD WIDE WEB

Just point your Web browser to: <http://www.ngs.noaa.gov>

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- *Information on technical workshops and advisory services,*
- *A directory for contacting NGS personnel, and*
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- *There is no access fee (other than the phone call).*

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Systems Operator: Andre Harrison
Phone: (301) 713-3257
Fax: (301) 713-4176

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Bits: 8; Parity: N
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1315 East-West Highway, Station 09202

Silver Spring, MD 20910

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD CO.
- ABANDONMENT EXEMPTION -
IN LAMOURE AND BARNES COUNTIES, ND**

EXHIBIT A

Map

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 4

**LETTER FROM
NORTH DAKOTA DEPARTMENT OF HEALTH**



**NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section**

Location:
1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:
701-328-5200

Mailing Address:
P.O. Box 5520
Bismarck, ND 58506-5520

October 2, 2001

RECEIVED
WBSK

Troy W. Garris
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW, Fifth Floor
Washington, D.C. 20036

Re: Railroad Abandonment, Docket No. AB-391 (Sub No. 9X)
LaMoure and Barnes Counties

Dear Mr. Garris:

This department has reviewed the information concerning the above-referenced project submitted under date of September 19, 2001, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. Care is to be taken during construction activity near any water of the state to minimize adverse effects on the receiving water. This includes minimal disturbance of banks and stream beds to prevent excess siltation, and the replacement and revegetation of the disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance, and/or the handling of fuels on the site. If the project will disturb more than five acres of soil, a stormwater permit may need to be obtained before construction begins.
2. Attached are requirements for minimizing or preventing any environmental degradation to a waterway as a result of construction activities at a site.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

These comments are based on the information provided about the project in the above-referenced submittal. The U.S. Army Corps of Engineers may require a water quality certification from this department for the project if the project is subject to their Section 404 permitting process. Any additional information which may be required by the U.S. Army Corps of Engineers under the

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

Website: www.health.state.nd.us/ndhd/environ
Printed on recycled paper.

Troy W. Garris

2

October 2, 2001

process will be considered by this department in our determination regarding the issuance of such a certification.

If you have any questions please feel free to contact me.

Sincerely,



Francis J. Schwindt, Chief
Environmental Health Section

FJS:cc
Attach.



NORTH DAKOTA DEPARTMENT OF HEALTH
Environmental Health Section

Location:
1200 Missouri Avenue
Bismarck, ND 58504-5264

Fax #:
701-328-5200

Mailing Address:
P.O. Box 5520
Bismarck, ND 58506-5520

December 2000

Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

Environmental Health
Section Chief's Office
701-328-5150

Air
Quality
701-328-5188

Municipal
Facilities
701-328-5211

Waste
Management
701-328-5166

Water
Quality
701-328-5210

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 5

**LETTER FROM
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT**



REPLY TO
ATTENTION OF

Planning, Programs and Project Management Division

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
215 NORTH 17TH STREET
OMAHA, NEBRASKA 68102-4978
October 5, 2001

RECEIVED
19 2001
WBSK

Mr. Troy W. Garris
Weiner, Brodsky, Sidman, Kider PC
1300 Nineteenth Street NW
Fifth Floor
Washington, DC 20036-1609

Dear Mr. Garris:

We have reviewed your letter dated 19 September 2001 regarding abandonment of a branch rail line located in LaMoure and Barnes Counties, North Dakota, reference Surface Transportation Board Docket No. AB-391 (Sub-No. 9X), and we offer the following comments.

If you have not already done so, we recommend that you consult with the U.S. Fish and Wildlife Service and the North Dakota Game and Fish Department regarding fish and wildlife resources. In addition, the North Dakota Historic Preservation Office should be contacted for information and recommendations on potential cultural resources in the project area.

It appears that some of the construction could take place in waterways or wetlands which are classified as waters of the United States and are therefore regulated under Section 404 of the Clean Water Act. If construction activities involve any work in waters of the United States, a Section 404 permit may be required. For a detailed review of permit requirements, project plans should be sent to:

Mr. Jim Winters
U.S. Army Corps of Engineers
Bismarck Regulatory Office
1513 South 12th. Street
Bismarck, North Dakota 58504

If you have any questions, please contact Lauren Deane of our staff at (402) 221-4598. Thank you for the opportunity to review this proposal.

Sincerely,

Candace Gorton
Candace Gorton
Chief, Environmental, Economics and Cultural
Resources Section
Planning, Programs and Project
Management Division

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 6

**LETTER FROM
NORTH DAKOTA GAME & FISH DEPARTMENT**



"VARIETY IN HUNTING AND FISHING"

NORTH DAKOTA GAME AND FISH DEPARTMENT

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5095 PHONE 701-328-6300 FAX 701-328-6352

October 15, 2001

RECEIVED
WBSK

Troy W. Garris
Wiener Brodsky Sidman Kider PC
1300 19th Street NW
Fifth Floor
Washington, DC 20036-1609

Dear Mr. Garris:

RE: Red River Valley & Western Railroad Abandonment Exception
LaMoure & Barnes Counties, ND

The North Dakota Game and Fish Department has reviewed this project for wildlife concerns. We do not believe the abandonment will have any significant adverse effects on wildlife or wildlife habitat, including endangered species. The line in question does border and bisect a portion of the Clausen Springs Wildlife Management Area in sections 17 & 18, T137N / R58W. We would possibly be interested in this property should it be marketed.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael G. McKenna".

Michael G. McKenna
Chief
Conservation & Communication Division

js

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 7

**LETTER FROM
U.S. FISH AND WILDLIFE SERVICES**

WEINER BRODSKY SIDMAN KIDER PC

RICHARD J. ANDREANO, JR.
JAMES A. BRODSKY
DONALD C. BROWN, JR.
ANDREW N. CLINE*
JO A. DeROCHE
TROY W. GARRIS
CYNTHIA L. GILMAN
KAREN R. GUSTAVSON
DON J. HALPERN
MITCHEL H. KIDER
SUSAN L. KORYTKOWSKI

SHERRI L. LEDNER
JAMES M. MILANO
SUZANNE DE ARMOND MUCCHETTI*
LEAH SCHMULEWITZ GETLAN
MARK H. SIDMAN
JOHN D. SOCKNAT
DAVID M. SOUDERS
CYNTHIA G. SWANN
MICHAEL S. WALDRON
HARVEY E. WEINER
ROSE-MICHELE WEINRYB

*NOT ADMITTED IN D.C.

September 19, 2001

1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

BY MAIL

U.S. Fish & Wildlife Service, ND Office
Field Supervisor for Ecological Services
3425 Miriam Avenue
Bismarck, ND 58501
Attn: Allyn J. Sapa



Re: Surface Transportation Board Docket No. AB-391 (Sub-No. 9X);
Red River Valley & Western Railroad Co. – Abandonment Exemption – in
LaMoure and Barnes Counties, ND

Dear Mr. Sapa:

On or after November 8, 2001, Red River Valley & Western Railroad Co. ("RRVW") will submit a filing with the Surface Transportation Board ("Board"), seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 32.9 miles of a branch rail line located in LaMoure and Barnes Counties, North Dakota (the "Subject Line"). The Subject Line runs from approximately milepost 27.4 (in or near Lucca, ND) proceeding generally west to approximately milepost 60.3 (in or near Marion, ND), the end of the line. The Subject Line runs through United States Postal Zip Codes 58049, 58466 and 58461. A map of the line is attached hereto as Exhibit A.

No shipper located on the Subject Line has either shipped or received any carloads by rail over the line for more than two years. As the Subject Line is a branch line only (terminating without connection in or near Marion) no overhead traffic travels over the line. Based on information in its possession, RRVW believes the Subject Line does not contain federally granted rights-of-way. Any documentation in RRVW's possession regarding this issue will be made available promptly to those requesting it. RRVW is not aware of any buildings or structures on the Subject Line that are more than 50 years old, except for one bridge (ca. 1951) near milepost 40.7. As many as 58 at-grade crossings on the line will be eliminated by the abandonment. The proceeding will be docketed at the Surface Transportation Board as STB Docket No. AB-391 (Sub-No. 9X).

WEINER BRODSKY SIDMAN KIDER PC

September 19, 2001

Page Two

Pursuant to 49 C.F.R. Part 1105, along with its filing, RRVW must file with the Board an environmental and historic report (the "Report") assessing the transaction. The environmental portion of the Report must address, among other things, the issues listed below, some of which may be of interest to your agency:

- The effect of the abandonment on endangered or threatened species or critical habitats.
- The effect of the abandonment on wildlife sanctuaries or national or state parks or forests.
- Whether designated wetlands, 100-year flood plains or designated coastal zone areas will be affected by the abandonment.

The historic portion of the Report must address, among other things, the following:

- Whether any structures located on the Subject Line, or the area on which the line is located, should be listed on the National Register of Historic Places.
- Whether any environmental condition exists that could impede archaeological activities.

The purpose of this letter is to alert you to the proposed abandonment, and to request that you contact us with any information, comments or questions regarding these or other issues which your agency may regulate. If it is your opinion that the above-described abandonment does not raise any concerns from the standpoint of your agency, please send us a letter to that effect. A copy of your letter will be attached to RRVW's Report to ensure the Board is fully apprised of your views. We would appreciate a response to this letter by October 19, 2001 so that your response can be properly incorporated into the Report, which we intend to send out on or after that date.

Thank you for your attention to this matter.

Very truly yours,



Troy W. Garris

M:\79714\Marion\twg3111et marion abandon envtl notice.doc

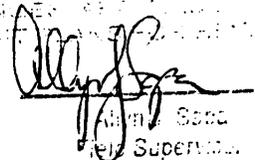
U.S. FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES
IND FIELD OFFICE

ject as described will have no
icant impact on the species listed
sured. The applicant has
ained approval from the
by the project. The project
REGION CHAIRMAN, REGIONAL
PLEASE SUBMIT AN ENVIRONMENTAL

10/17/01

Date



Alan Sosa
Field Supervisor

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 8

**LETTER FROM
THE CORPS' ND REGULATORY OFFICE**



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 S. 12TH STREET
BISMARCK, NORTH DAKOTA 58504-6640

REPLY TO
ATTENTION OF

October 17, 2001

North Dakota Regulatory Office

[200160438]

Weiner Brodsky Sidman Kider PC
Mr. Troy W. Garris
1300 Nineteenth Street NW
Fifth Floor
Washington, DC 20036 1609

RECEIVED
WBSK

Dear Mr. Garris:

This is in response to your request for Department of the Army (DA), Corps of Engineers comments on the **Red River Valley & Western Railroad Company (RRVW)** abandonment of 32.9 miles of a branch rail line located in LaMoure and Barnes Counties, North Dakota. The RRVW proposes to remove the steel rails and wood ties, but leaves the grade bed and all culverts and bridges in place. The legal description is numerous sections in Townships 137 North, Ranges 56, 57, 58, 59, and 60 West, Barnes County, and numerous sections in Township 136 North, Ranges 60 and 61 West, LaMoure County, North Dakota.

Based on the information provided to this office, specifically that the Red River Valley & Western Railroad Company intends to remove the steel rails and wood ties, but no work will occur on the grade bed or on any culverts or bridges, it has been determined that your proposed project would be accomplished without discharging in jurisdictional waters of the United States. However, DA authorization may be required should changes be made in your project.

The fact that a Section 404 permit is not required does not relieve you of the obligation to obtain required approvals from other agencies that may have regulatory jurisdiction over your project.

If you have any questions concerning this determination, please contact this office by letter or telephone me, or Mr. William A. May of my staff, at 255-0015, and reference project number 200160438.

Sincerely,



James L. Winters
Regulatory Program Manager
North Dakota

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

ATTACHMENT 9

**LETTER FROM
NORTH DAKOTA STATE ENGINEER**



Office of the State Engineer

RECEIVED
WBSK

October 5, 2001

Troy W. Garris
Weiner, Brodsky, Sidman, Kider, PC
1300 19th Street NW, Fifth floor
Washington, DC 20036-1609

Dear Mr. Garris:

We received your letter of September 19, 2001, regarding the abandonment of a branch line in LaMoure County and Barnes County, North Dakota. The letter asked that we provide any comments or issues of concern.

One concern that comes to mind is the fate of the culvert crossings in the embankment. Will the embankment remain in place, and if so, who will be responsible for maintenance of the culvert crossings? If the crossings are not maintained, they could result in flooding impacts to private property. It may be desirable to remove the culverts and slope the area of the embankment at a 3:1 slope on either side of the culvert location so culvert degradation will not affect adjacent landowners.

Thank you for the opportunity to comment.

Sincerely,


Dwight Comfort, PE
Water Resource Engineer

DC:cg/1129-1054

RED RIVER VALLEY & WESTERN RAILROAD COMPANY

ENVIRONMENTAL AND HISTORIC REPORT

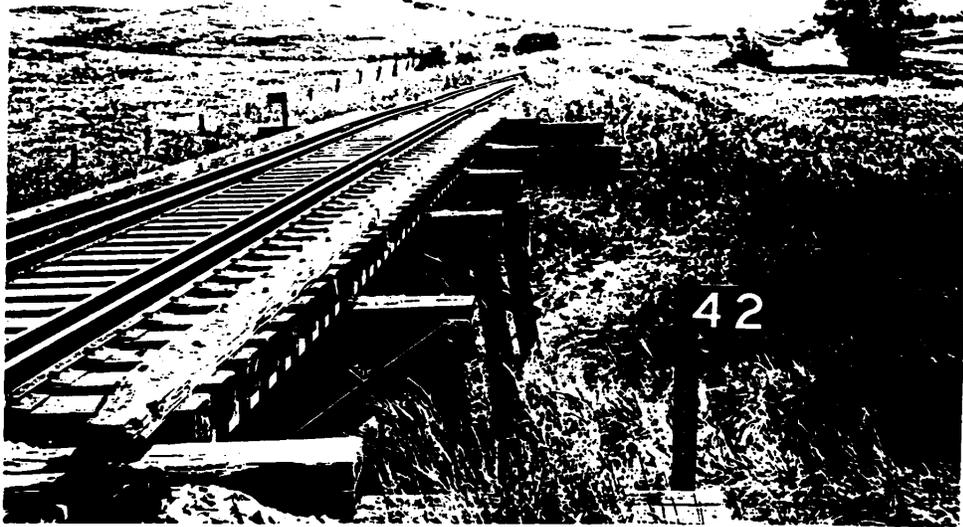
MADE PURSUANT TO 49 CFR §§ 1105.7 AND 1105.8

DOCKET NO. AB-391 (Sub-No. 9X)

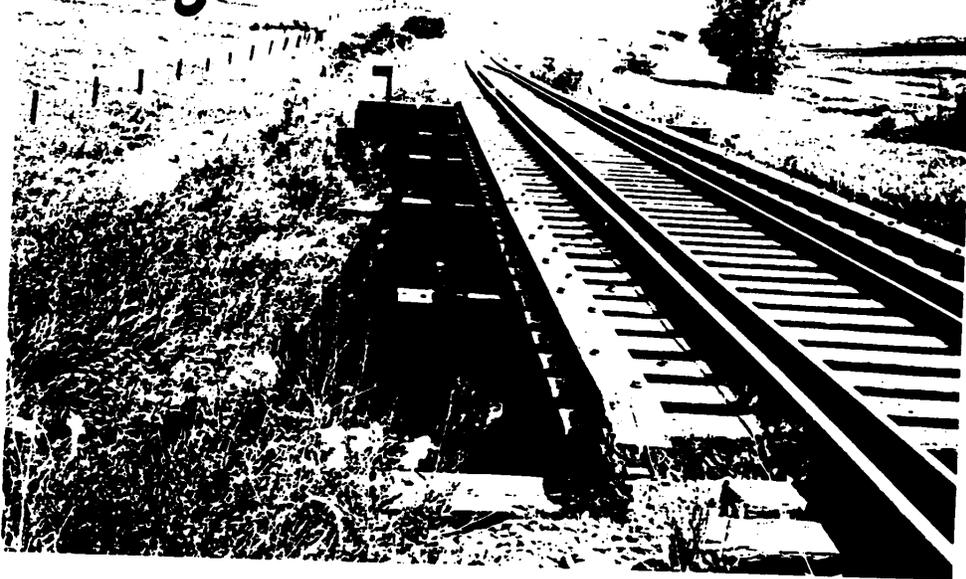
ATTACHMENT 10

PHOTOGRAPHS

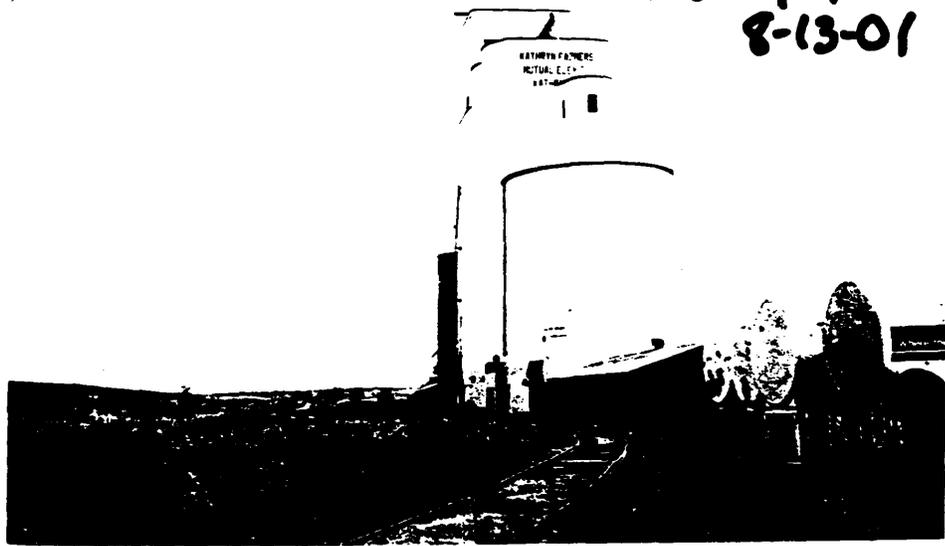
Bridge 42.0



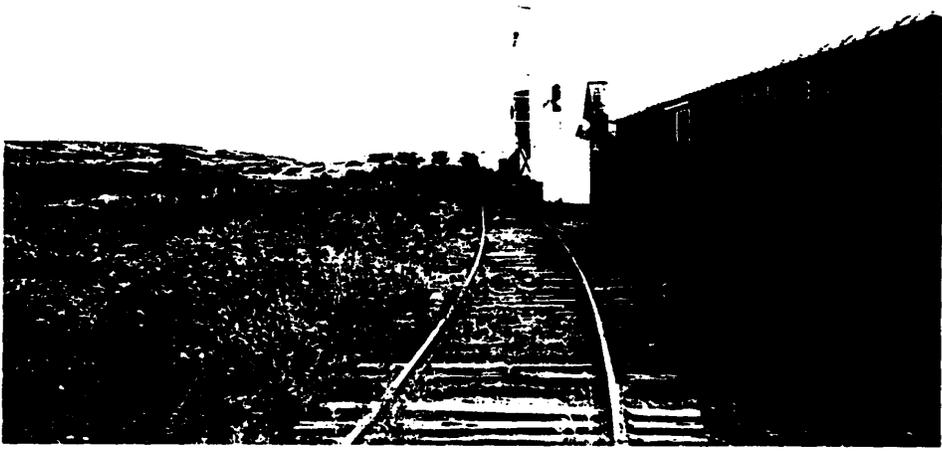
Bridge 42.0

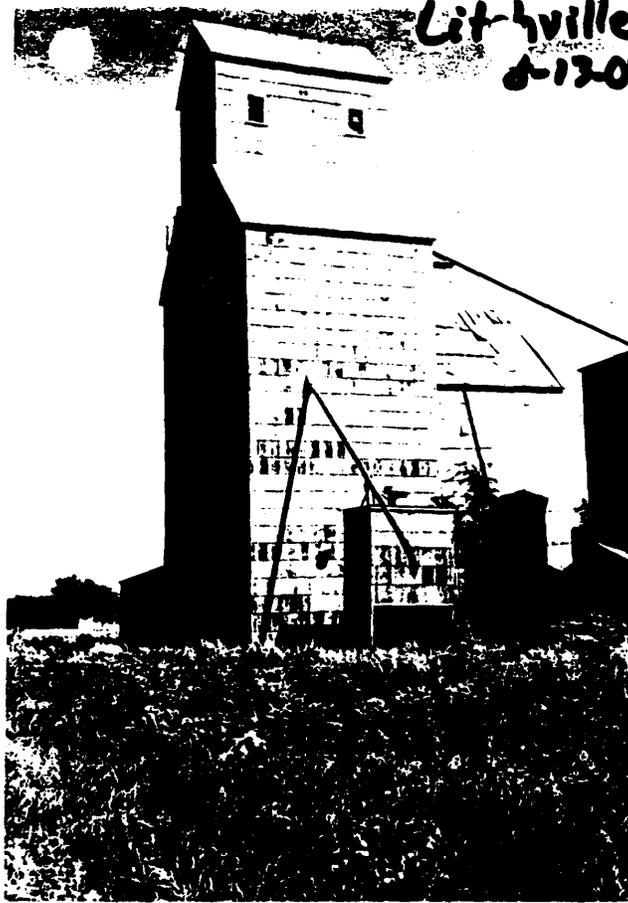


Kathryn, ND
8-13-01



Kathryn, ND
8-13-01





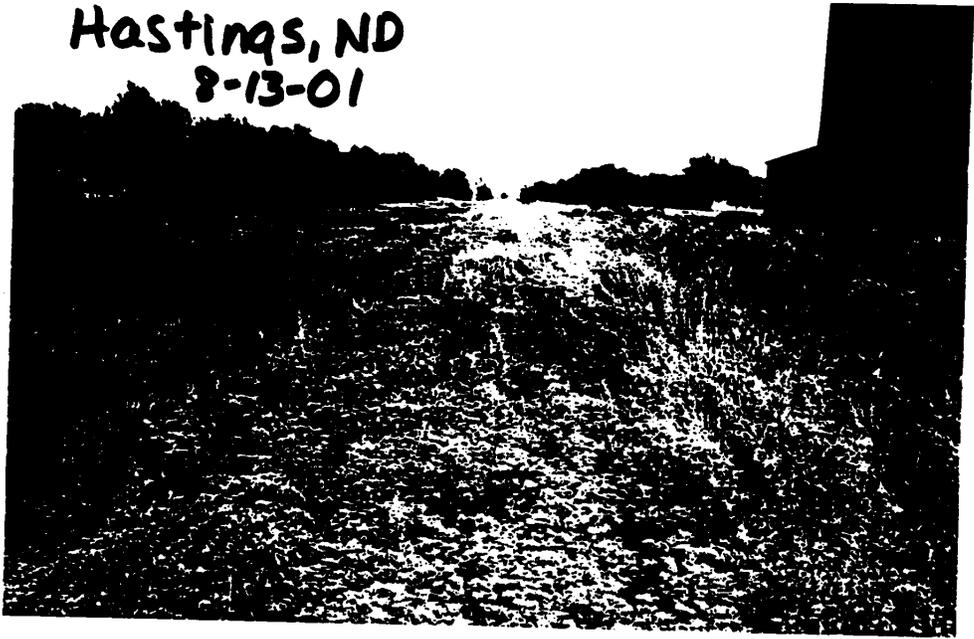


Marion, NO





Hastings, ND
8-13-01



Hastings, ND
8-13-01

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Environmental and Historic Report was served on
December 5, 2001, by first-class mail, postage pre-paid, on the following parties:

Richard Aberle, Commissioner
LaMoure County
1100 6th Avenue W
Edgeley, ND 58433

Jarel Skattum, Commissioner
LaMoure County
8681 57th Street SE
Adrian, ND 58472-9519

Orville Ogren, Commissioner
LaMoure County
P.O. Box 311
Kulm, ND 58456-0311

Dean Haberman, Commissioner
LaMoure County
122 Main Street SW
LaMoure, ND 58458

Curtis Smedshammer, Commissioner
LaMoure County
RRI, Box 97
Litchville, ND 58461-9508

Cindy Schwehr, Commissioner
979 Central Avenue North
Valley City, ND 58072

Rhiny Weber, Commissioner
250 College Street SE
Valley City, ND 58072

Brad Cruff, Commissioner
Barnes County
Box 330
Valley City, ND 58072

Palmer Paulson, Commissioner
Barnes County
2909 R River Road
Valley City, ND 58072

Roger Berntson, Commissioner
Barnes County
10642 40 R Street SE
Sanborn, ND 58480

U.S. Department of Agriculture
Forest Service
P.O. Box 96090
Washington, D.C. 20250-6090
Attn: Chief of Forest Service

U.S. Department of Agriculture
Natural Resources Conservation Service
U.S. Soil Conservation Service
North Dakota Office
P.O. Box 1458
Bismarck, ND 58502-1458
Attn: Thomas Jewett, State Conservationist

Department of Commerce – NOAA
National Geodetic Survey; N/NGS2
1315 East West Highway; Station 8813
Silver Spring, MD 20910
Attn: Edward J. McKay, Chief-Spatial
Reference Division

Office of Counsel
Headquarters
U.S. Army Corps of Engineers
441 G Street, NW
Washington, D.C. 20314-0018
Attn: Counsel

U.S. Army Corps of Engineers
North Dakota Regulatory Office
1513 South 12th Street
Bismarck, ND 58504
Attn: Jim Winters, State Program Manager

U.S. Army Corps of Engineers
District Office, St. Paul
190 5th Street East
St. Paul, MN 55101

U.S. Army Corps of Engineers
CENWO-PM-AE
215 North 17th Street
Omaha, NE 68102
Attn: Candy Gorton
Chief of Environmental & Economics

U.S. Environmental Protection Agency
Region No. 8
999 18th Street, Suite 300
Denver, CO 80202 -2466

U.S. Fish & Wildlife Service, ND Office
Field Supervisor for Ecological Services
3425 Miriam Avenue
Bismarck, ND 58501
Attn: Allyn J. Sapa

Regional Director's Office
U.S. Fish & Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

Department of Interior
National Park Service
National Center for Recreation and
Conservation
1849 C Street, NW, Room 3606
Washington, D.C. 20240
Attn: Tom Ross

Department of Interior
National Park Service
Land Resources Division
1849 C Street, NW, Room 2444
Washington, D.C. 20240
Attn: Bill Shaddox

MTMCTEA
Railroads for National Defense Program
720 Thimble Shoals Boulevard, Ste. 130
Newport News, VA 23606
Attn: Director MTE-SA

North Dakota Department of Agriculture
600 East Boulevard Avenue, Dept. 602
Bismarck, ND 58505-4754
Attn: Roger Johnson, Commissioner

North Dakota Forest Service
307 First Street East
Bottineau, ND 58318-1100
Attn: Larry Kotchman

North Dakota Game & Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501-5095
Attn: Dean C. Hildebrand, Director

North Dakota Department of Health
Environmental Health Section
P.O. Box 5520
1200 Missouri Avenue
Bismarck, ND 58506-5520
Attn: Francis Schwandt, Chief

State Historical Society Preservation Office
612 East Boulevard Avenue
Bismarck, ND 58505-0830
Attn: Mike Simonson

North Dakota Public Service Commission
12th Floor, State Capitol
Bismarck, ND 58505-0480
Attn: John Mielke

State Single Point of Contact
North Dakota Division of Community Services
600 East Boulevard Avenue
14th Floor, State Capitol
Bismarck, ND 58505-0170
Attn: Jim Boyd

North Dakota State Water Commission
900 East Boulevard Avenue
Bismarck, ND 58505-0850
Attn: Milton Lindvig, Director of
Appropriations

North Dakota Dept. of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505
Attn: Director


Troy W. Garris

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

EXHIBIT E

**LETTER FROM NORTH DAKOTA
STATE HISTORIC PRESERVATION OFFICER**



State
Historical
Society of
North Dakota

Since 1895

RECEIVED

December 10, 2001 WBSK

John H. Hoeven
Governor of North Dakota

North Dakota
State Historical Board

Appointed Members:

John E. Von Rueden
Bismarck - President

Diane K. Larson
Bismarck - Vice President

Marvin L. Kaiser
Williston - Secretary

Albert I. Berger
Grand Forks

Chester Nelson
Bismarck

Lydia S. Sage-Chase
New Town

A. Ruric Todd, III
Jamestown

Ex-Officio Members:

Kathi Gilmore
State Treasurer

Alvin A. Jaeger
Secretary of State

Douglass Prchal
Director
Parks and Recreation Department

David A. Sprynczynatyk
Director
Department of Transportation

Allan M. Stenehjem
Director
Tourism Department

Accredited by the
American Association
of Museums

Ms. Victoria J. Rutson
Acting Chief, Section of Environmental Analysis
Surface Transportation Board
Suite 500
1925 K Street, NW
Washington, D.C. 20423-0001

ND SHPO Ref.: 02-0200, Red River Valley & Western Railroad Company
Abandonment in LaMoure and Barnes Counties. STB No. AB-391 (Sub No.
9X).

Ms. Rutson,

We have reviewed Project: 02-0200, Red River Valley & Western Railroad
Company abandonment of 32.9 miles of branch rail line in LaMoure and
Barnes Counties. STB No. AB-391 (Sub No. 9X).

We concur with "No Historic Properties Affected" determination provided the
project is of the nature specified and takes place in the legal description listed
and plotted in the correspondence.

We thank your department, and the Red River Valley & Western Railroad
Company, for the opportunity to review this project. Please include the ND
SHPO Reference number listed above in any further correspondence for this
specific project. If you have any questions please contact Duane Kliner at
(701) 328-3576.

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer
(North Dakota)

cc: Troy W. Garris - Weiner Brodsky Sidman Kider PC

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-391 (Sub-No. 9X)

**RED RIVER VALLEY & WESTERN RAILROAD COMPANY
- ABANDONMENT EXEMPTION -
LAMOURE AND BARNES COUNTIES, NORTH DAKOTA**

EXHIBIT F

**LETTER FROM
U.S. ARMY CORPS OF ENGINEERS
ENVIRONMENTAL, ECONOMICS AND CULTURAL RESOURCES SECTION**

December 13, 2001

Planning, Programs, and Project Management

Section of Environmental Analysis (SEA)
Surface Transportation Board, Suite 500
1925 K Street, North West
Washington, D.C. 20423-0001



Dear Sirs:

We have received and reviewed the information sent in the correspondence of December 5, 2001 regarding the Red River Valley & Western Railroad Company – Abandonment Exemption – in LaMoure and Barnes Counties, North Dakota; Surface Transportation Board Docket No. AB-391 (Sub-No. 9X).

All necessary Federal agencies and State offices have been contacted allowing the Surface Transportation Board to proceed with its independent environmental analysis for this action. The only pertinent information that is missing is a reply from the appropriate State Historic Preservation Office (SHPO). The description of the structures on page eight of the report states “one of the bridges, RRVW Bridge No. 42, at or near milepost 40.7, is believed to be more than 50 years old, and to have been built in approximately 1951 and repaired in 1986”. Is it on the National Register of Historic Places or are there any mitigating measures that must be done before the project can proceed? A response from SHPO expressing its approval with the proposed project should be included in the final environmental analysis.

If you have any questions, please contact Mrs. Patsy Freeman of my staff at (402) 221-3803.

Sincerely,

Candace M. Gorton
Chief, Environmental, Economics and
Cultural Resources Section
Planning Branch

Copy Furnished:
Mr. Troy W. Garris
Weiner Brodsky Sidman Kider PC
1300 19th Street, North West, Fifth Floor
Washington, D.C. 20036-1609

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EXHIBIT G

CERTIFICATE OF SERVICE AND PUBLICATION

CERTIFICATE OF SERVICE AND PUBLICATION

Based on the attached affidavits, I hereby certify to the following: (1) a newspaper notice alerting the public to the proposed abandonment of the Subject Line was published on October 3, 10 and 17, 2001, in the LaMoure Chronicle (a newspaper of general circulation, published in the city of LaMoure, in LaMoure County, South Dakota), and on October 4, 11 and 18, 2001, in the Valley City Times-Record (a newspaper of general circulation, published in the city of Valley City, in Barnes County, North Dakota), (affidavits of publication are attached hereto as Attachment 1); (2) on September 19, 2001, notice of the proposed abandonment was deposited in the mail for sending by first-class mail, postage prepaid to the state and federal agencies and county commissioners listed on the service list attached hereto as Attachment 2; (3) on December 5, 2001, a copy of RRVW's Environmental and Historic Report was deposited in the mail for sending by first-class mail, postage prepaid, to the same state and federal agencies and county commissioners; and (4) on January 7, 2002, a copy of this Notice of Exemption was deposited in the mail for sending by first-class mail, postage prepaid, to the same state and federal agencies and county commissioners.


Troy W. Garris, Esq.

ATTACHMENT 1
AFFIDAVITS OF PUBLICATION

AFFIDAVIT OF PUBLICATION

000145

STATE OF NORTH DAKOTA } ss.
County of Barnes

Vicky Lovell of said
County and State, being first duly sworn, on oath
says: that the VALLEY CITY TIMES-RECORD, a
division of American Publishing Company, is a
daily newspaper of general circulation printed and
published in the City of Valley City in said County
and State by the American Publishing Company
and that I am the clerk of the publisher of the
VALLEY CITY TIMES-RECORD and during all of
such time covering the publication of this notice
have occupied such position on said newspaper,
and have personal knowledge of all the facts stat-
ed in this affidavit; and that the advertisement
headed:

Notice of Abandonment

a printed copy of which is hereunto attached, was
printed and published in said newspaper

3 times to-wit:
10/4, 10/11, 10/18

(Signed) Vicky Lovell

Subscribed and sworn to before me this
22 day of Oct, 2001

Brenda Tompt
BRENDA TOMPT
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires JUNE 19, 2004
My commission expires _____ 20____

Publication Fee 203 Lines X 55¢ = 111.65
Notary Fee\$.....
Total\$.....

AFFIDAVIT OF PUBLICATION
STATE OF NORTH DAKOTA

ss.

County of LaMoure
Julie Ballinger being duly sworn, deposes
and says that the annexed printed copy of notice entitled:
Notice of Intent

was printed in the LaMoure Chronicle, a weekly newspaper of general circulation printed and published at the City of LaMoure, in said County and State of North Dakota, the whole time of publication of said notice. That the said notice was published in said newspaper on the following dates and at the following rates:

<u>Oct 3, 2001</u>	_____	<u>35.50</u>
<u>Oct 10, 2001</u>	_____	<u>35.50</u>
<u>Oct 17, 2001</u>	_____	<u>35.50</u>

Total Publication Fee 106.50

in each and every issue of the full number thereof, commencing on the 3rd day of Oct, 2001, and ending on the 17th day of Oct, 2001.

Subscribed and sworn to before me this 18 day of October, 2001.

Gerald P. Harris
Notary Public, LaMoure County, North Dakota



GERALD P. HARRIS
Notary Public
state of North Dakota
My Commission Expires June 23, 2006

**NOTICE OF INTENT
TO ABANDON
RAIL SERVICE**

Red River Valley & Western Railroad Company ("RRVW") gives notice that on or after November 8, 2001, it intends to file with the Surface Transportation Board, Washington DC 20423, a notice of exemption under 49 C.F.R. 1152 Subpart F - Exempt Abandonments permitting the abandonment of an approximately 32.9-mile line of railroad between approximate railroad milepost 27.4, in or near Lucca, in Barnes County, North Dakota, and approximate railroad milepost 60.3, in or near Marion, in LaMoure County, North Dakota (the "Subject Line"). The Subject Line traverses through United States Postal Service Zip Codes 58049, 58466 and 58461. The abandonment proceeding will be docketed as No. AB-391 (Sub-No. 9X).

The Board's Section of Environmental Analysis ("SEA") will generally prepare an Environmental Assessment ("EA"), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, Washington DC 20423, or by calling SEA at (202) 565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of the Secretary, 1925 K Street NW, Washington DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on RRVW's representative at the address below [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at (202) 565-1592. Copies of any comments or requests for conditions should be served on RRVW's representative: Troy W. Garris, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th Street, Fifth Floor, Washington DC 20036-1609, (202) 628-2000.

ATTACHMENT 2
AGENCY SERVICE LIST

AGENCY SERVICE LIST

Richard Aberle, Commissioner
LaMoure County
1100 6th Avenue W
Edgeley, ND 58433

Jarel Skattum, Commissioner
LaMoure County
8681 57th Street SE
Adrian, ND 58472-9519

Orville Ogren, Commissioner
LaMoure County
P.O. Box 311
Kulm, ND 58456-0311

Dean Haberman, Commissioner
LaMoure County
122 Main Street SW
LaMoure, ND 58458

Curtis Smedshammer, Commissioner
LaMoure County
RRI, Box 97
Litchville, ND 58461-9508

Cindy Schwehr, Commissioner
979 Central Avenue North
Valley City, ND 58072

Rhiny Weber, Commissioner
250 College Street SE
Valley City, ND 58072

Brad Cruff, Commissioner
Barnes County
Box 330
Valley City, ND 58072

Palmer Paulson, Commissioner
Barnes County
2909 R River Road
Valley City, ND 58072

Roger Berntson, Commissioner
Barnes County
10642 40 R Street SE
Sanborn, ND 58480

U.S. Department of Agriculture
Forest Service
P.O. Box 96090
Washington, D.C. 20250-6090
Attn: Chief of Forest Service

U.S. Department of Agriculture
Natural Resources Conservation Service
U.S. Soil Conservation Service
North Dakota Office
P.O. Box 1458
Bismarck, ND 58502-1458
Attn: Thomas Jewett, State Conservationist

Department of Commerce – NOAA
National Geodetic Survey; N/NGS2
1315 East West Highway; Station 8813
Silver Spring, MD 20910
Attn: Edward J. McKay, Chief-Spatial
Reference Division

U.S. Army Corps of Engineers
North Dakota Regulatory Office
1513 South 12th Street
Bismarck, ND 58504
Attn: Jim Winters, State Program Manager

U.S. Army Corps of Engineers
CENWO-PM-AE
215 North 17th Street
Omaha, NE 68102
Attn: Candy Gorton
Chief of Environmental & Economics

U.S. Fish & Wildlife Service, ND Office
Field Supervisor for Ecological Services
3425 Miriam Avenue
Bismarck, ND 58501
Attn: Allyn J. Sapa

Department of Interior
National Park Service
National Center for Recreation and
Conservation
1849 C Street, NW, Room 3606
Washington, D.C. 20240
Attn: Tom Ross
MTMCTEA
Railroads for National Defense Program
720 Thimble Shoals Boulevard, Ste. 130
Newport News, VA 23606
Attn: Director MTE-SA

Office of Counsel
Headquarters
U.S. Army Corps of Engineers
441 G Street, NW
Washington, D.C. 20314-0018
Attn: Counsel

U.S. Army Corps of Engineers
District Office, St. Paul
190 5th Street East
St. Paul, MN 55101

U.S. Environmental Protection Agency
Region No. 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Regional Director's Office
U.S. Fish & Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

Department of Interior
National Park Service
Land Resources Division
1849 C Street, NW, Room 2444
Washington, D.C. 20240
Attn: Bill Shaddox

North Dakota Department of Agriculture
600 East Boulevard Avenue, Dept. 602
Bismarck, ND 58505-4754
Attn: Roger Johnson, Commissioner

North Dakota Forest Service
307 First Street East
Bottineau, ND 58318-1100
Attn: Larry Kotchman

North Dakota Game & Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501-5095
Attn: Dean C. Hildebrand, Director

North Dakota Department of Health
Environmental Health Section
P.O. Box 5520
1200 Missouri Avenue
Bismarck, ND 58506-5520
Attn: Francis Schwindt, Chief

State Historical Society Preservation Office
612 East Boulevard Avenue
Bismarck, ND 58505-0830
Attn: Mike Simonson

North Dakota Public Service Commission
12th Floor, State Capitol
Bismarck, ND 58505-0480
Attn: John Mielke

State Single Point of Contact
North Dakota Division of Community Services
600 East Boulevard Avenue
14th Floor, State Capitol
Bismarck, ND 58505-0170
Attn: Jim Boyd

North Dakota State Water Commission
900 East Boulevard Avenue
Bismarck, ND 58505-0850
Attn: Milton Lindvig, Director of
Appropriations

North Dakota Dept. of Transportation
608 East Boulevard Avenue
Bismarck, ND 58505
Attn: Director

VERIFICATION

I, William F. Drusch, declare and verify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to file this Verification.



William F. Drusch
President
Red River Valley & Western
Railroad Company

Dated: January 7, 2002