

215511

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**

3050 K ST. N.W., SUITE 101  
WASHINGTON, DC 20007-5108  
TELEPHONE: 202-295-4024  
FAX: 202-672-5399

JAN 6 2006  
RECEIVED

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

January 6, 2006

Vernon A. Williams, Secretary  
Surface Transportation Board  
Case Control Unit, Suite 713  
1925 K Street, N.W.  
Washington, DC 20423-0001

**FEE RECEIVED**

JAN - 6 2006

U.S. DEPARTMENT OF  
TRANSPORTATION BOARD

**Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption—in Walsh County, ND**

Dear Mr. Williams:

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

Also enclosed is a check in the amount of \$3,000.00 for the filing fee.

Very truly yours,

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

**FILED**  
JAN 6 - 2006  
U.S. DEPARTMENT OF  
TRANSPORTATION BOARD

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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN WALSH COUNTY, ND

DOCKET NO. AB-6  
(SUB-NO. 432X)

215511

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

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

By: SIDNEY L. STRICKLAND, JR  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W.,  
Suite 101  
Washington, DC 20007  
(202) 295-4024

Attorney for BNSF Railway Company

DATE FILED: January 6, 2006

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JAN 6 2006

TRANSPORTATION BOARD

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN WALSH COUNTY, ND**

**DOCKET NO. AB-6  
(SUB-NO. 432X)**

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

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BNSF RAILWAY COMPANY (BNSF) (“Applicant”) files this Verified Notice of Exemption under 49 C.F.R. 1152 Subpart F- Exempt Abandonments 49 C.F.R. 1152.50) for BNSF to abandon a rail line that extends between BNSF Milepost 144.21 at Grafton, and Milepost 137.09 near Voss, in Walsh County, North Dakota (the “Line”).

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

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

I. *Proposed consummation date for the abandonment.*

The proposed consummation date of this abandonment will be at least 50 days from the filing date of January 6, 2006, which is February 25, 2006.

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

The required certifications are attached hereto as Appendix 2.

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

(a) General

(1) Exact name of Applicant.

BNSF Railway Company (BNSF).

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

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

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

BNSF seeks to use the class exemption from Surface Transportation Board approval authorizing the abandonment of the Walsh County, North Dakota line specified above.

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

See Appendix 1.

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

Sidney L. Strickland, Jr.  
Sidney Strickland And  
Associates, PLLC  
3050 K Street, N.W.  
Suite 101  
Washington, DC 20007  
(202) 295-4024

Attorney for BNSF

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

The Line traverses United States Postal Service Zip Codes 58237 and 58261.

- (e)(4) *Statement of whether the properties proposed to be abandoned are suitable for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission or recreation. If the applicant is aware of any restriction on the title to the property, including any*

*reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.*

The properties of the proposed abandonment appear to be appropriate for other public purposes. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

IV. *Level of Labor Protection.*

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

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

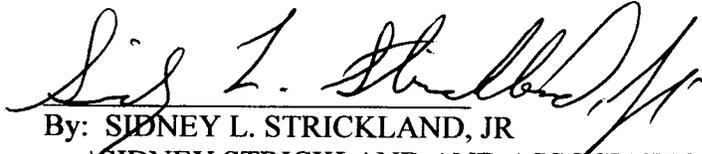
The required certifications are set forth in Appendix 3 to this Notice of Exemption.

VI. *Environmental and Historic Reports.*

A combined Environmental and Historic Report is attached to this Notice of Exemption as Appendix 4. Also attached as Appendix 5 are copies of Transmittal Letters for Environmental and Historic Reports.

Respectfully submitted,

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



By: SIDNEY L. STRICKLAND, JR  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W.,  
Suite 101  
Washington, DC 20007  
(202) 295-4024

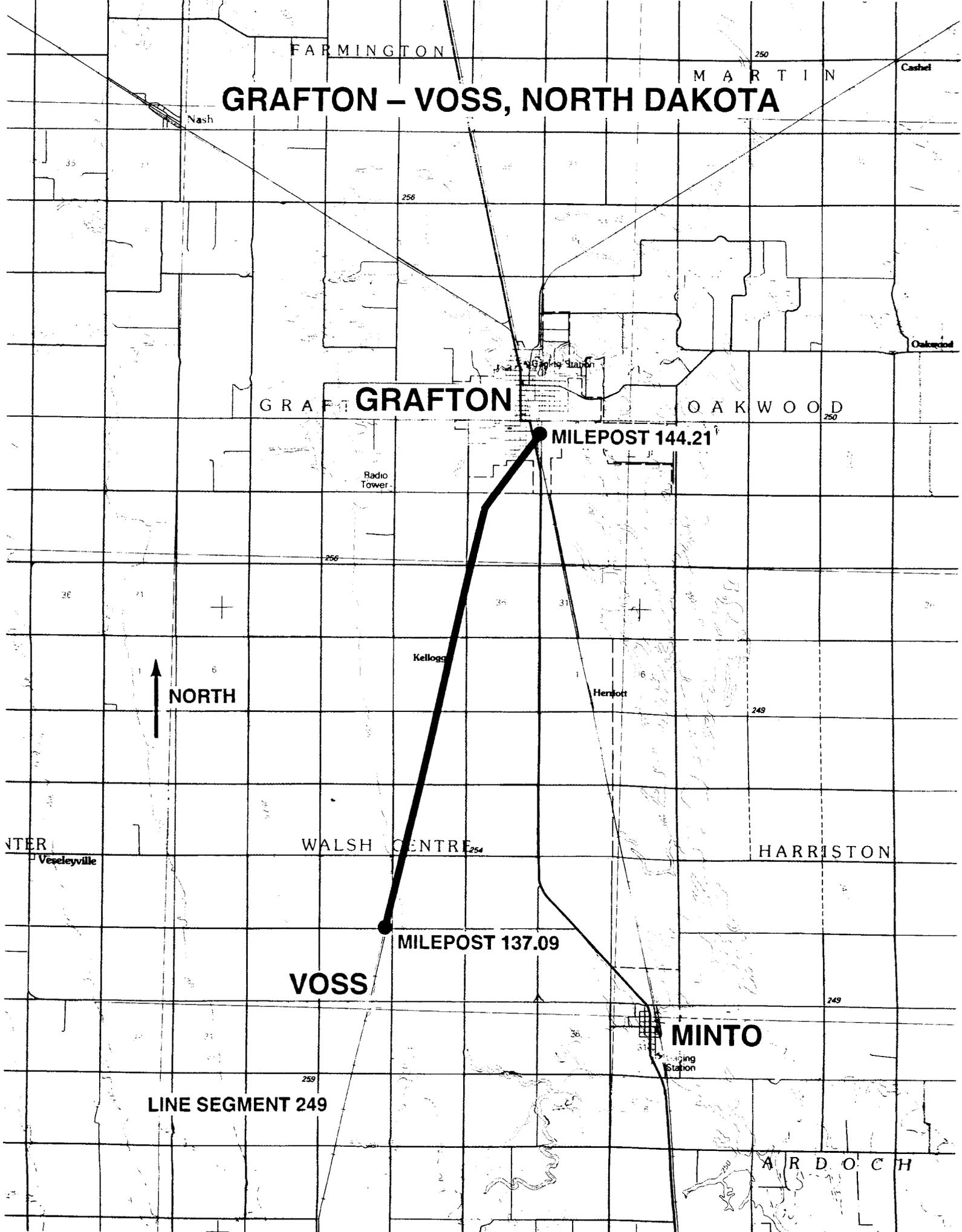
Attorney for BNSF Railway Company

DATE FILED: January 6, 2006

## **APPENDIX 1**

### ***Detailed Map of the Line***

# GRAFTON – VOSS, NORTH DAKOTA



LINE SEGMENT 249

## APPENDIX 2

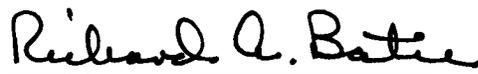
*Certifications Required in 49 C.F.R. § 1152.50(b)*

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

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

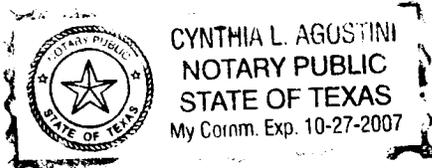
In accordance with 49 C.F.R. § 1152.50(b), I hereby certify that, with respect to the line which is the subject of the Notice of Exemption filed in Docket No. AB-6 (Sub. No. 432X), no local traffic has moved on the line for at least two (2) years prior to the date hereof. Also, there is no overhead traffic handled on the line to be rerouted. Further, no formal complaint filed by a user of rail service on the Line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period.

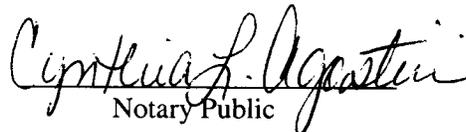
The foregoing certification is made on behalf of BNSF by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned



Richard A. Batie  
Manager, Network Development

Subscribed and sworn to  
before me the 21<sup>st</sup> day of December, 2005.



  
Notary Public

## APPENDIX 3

*Certification that Applicants Have Complied with the Notice  
Requirements of 49 C.F.R. 1152.50(d)(1) and 1105.11*

## CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-6 (Sub. No. 432X) was mailed via first class mail on December 15, 2005 to the following parties:

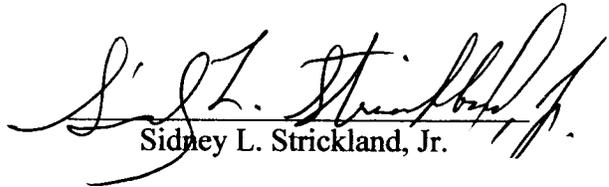
North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480

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

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

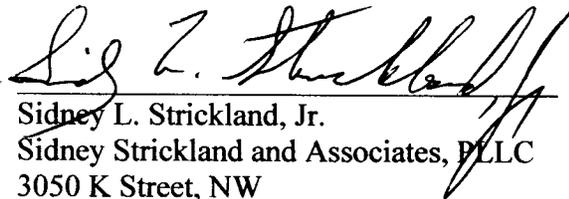
U.S. Department of Agriculture  
Chief of the Forest Service  
4<sup>th</sup> Floor N.W., Yates Building  
201 14<sup>th</sup> Street, SW  
Washington, D.C. 20250

Dated January 6, 2006

  
Sidney L. Strickland, Jr.

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

The undersigned certifies that a "Notice of Intent to Abandon Rail Service" was published in the form prescribed by the Board for out of service abandonment exemptions. The notice was published one time in the following newspaper of general circulation in Walsh County, North Dakota. Publication of notice was accomplished on January 5, 2006 in the *Grand Folk Herald*. An electronic version of the newspaper publication as posted on the newspaper's website is attached.



Sidney L. Strickland, Jr.  
Sidney Strickland and Associates, PLLC  
3050 K Street, NW  
Suite 101  
Washington, DC 2007  
Phone: (202) 295-4024  
Fax: (202) 672-5499



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Classifieds >> Stuff >> Legal & Financial >> Legal/Public Notices >> Ad Detail

## Ad Details

Service Type

---

Business is Established?

---

Business is a Franchise?

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### Description

STB Docket No. AB-6 (Sub. No. 432X) NOTICE OF INTENT TO ABANDON RAIL SERVICE BNSF RAILWAY COMPANY (BNSF) gives notice that on or about January 6, 2006, it intends to file with the Surface Transportation Board (the Board), Washington, DC, 20423, a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments permitting the abandonment of the 7.12 miles of railroad line between Milepost 144.21 at Grafton, and Milepost 137.09 near Voss, in Walsh County, North Dakota. The rail line traverses through United States Postal Service Zip Codes 58237 and 58261. The proceeding will be docketed as STB Docket No. AB-6 (Sub. No. 432X). 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 (SEA), Surface Transportation Board, Washington, DC 20423 or by calling that office 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, N.W., Washington, DC 20423-0001 ^See 49 CFR 1104.1(a) and 1104.3(a), and one copy must be served on applicant's representative ^See 49 CFR 1104.12(a). Questions regarding offers of financial assistance, public use, or trails use may be directed to the Board's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: Sidney Strickland, Sidney Strickland and Associates, PLLC, 3050 K Street, Suite 101, Washington, DC, 20007-5108. (January 5, 2006)

Publication Source Web ID

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

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on December 5, 2005, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Ms. Victoria Ruston  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC, 20423-0001

Linda Gisvold, Realty  
U.S. Bureau of Land Management  
North Dakota Field Office  
2933 Third Avenue West  
Dickinson, ND 58601-2619

North Dakota NRCS State Office  
Natural Resources Conservation Service  
220 East Rosser Ave.  
Federal Building, Room 270  
Bismarck, ND 58501

Jesse Hanson, Coordinator  
North Dakota Parks and Recreation  
Department  
Planning and Natural Resources  
Division  
1600 E. Century Ave., Suite 3  
Bismarck, ND 58503-0649

J.R. Flores, State Conservationist  
Natural Resources Conservation Service  
P.O. Box 1458  
Bismarck, ND 58502-1458

Walsh County Highway Dept., and  
Bev Demers, Walsh County Clerk, and  
Walsh County Commissioners  
Courthouse  
600 Cooper Ave.  
Grafton, ND 58237

State Historical Society of North Dakota  
612 East Boulevard Avenue  
Bismarck, ND 58505-0830

North Dakota State Water Commission  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

U.S. National Park Service  
1849 C Street, NW  
Washington, DC 20240

U.S. Army Engineer District, Omaha  
106 S. 15<sup>th</sup> Street  
Omaha, NE 68102

U.S. Environmental Protection Agency  
1 Interstate Bank Tower at  
Fountain Place  
1445 Ross Avenue, 12th Fl.  
Dallas, TX 75202

William A. May, Project Manager  
Corps of Engineers, Omaha District  
North Dakota Regulatory Office  
1513 South 12<sup>th</sup> Street  
Bismarck, ND 58504-6640

Bob Johnston, Rail Planner  
North Dakota Department of  
Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

Jeffrey K. Towner, Field Supervisor  
Mountain-Prairie Region 6  
U.S. Fish and Wildlife Service  
134 Union Blvd.  
Lakewood, CO 80228

L. David Glatt, P.E.  
North Dakota Department of Health  
Environmental Health Section  
1200 Missouri Ave.  
P.O. Box 5520  
Bismarck, ND 58506-5520

U.S. Environmental Protection Agency  
Region 8  
999 18<sup>th</sup> Street  
Suite 300  
Denver, CO 80202-2466

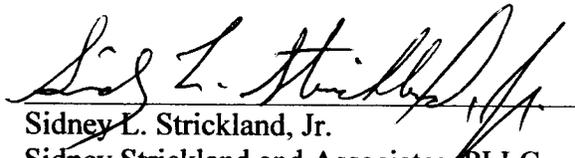
Larry Knudtson and Bruce Lange  
North Dakota State Water Commission  
Flood Plain Department  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

Robert Maydwell  
U.S. National Park Service  
Midwest Region  
1709 Jackson St.  
Omaha, NE 68102

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

Governor's Office  
600 East Boulevard Avenue  
Department 101  
Bismarck, ND 58505-3001

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



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

## APPENDIX 4

### *Environmental and Historic Reports*

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN WALSH COUNTY, ND**

**DOCKET NO. AB-6  
(SUB. NO. 432X)**

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**ENVIRONMENTAL AND HISTORIC REPORTS**

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

By: SIDNEY L. STRICKLAND, JR.  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W.,  
Suite 101  
Washington, DC 20007  
(202) 295-4672

*Attorney for BNSF Railway Company*

DATED: December 5, 2005

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**BNSF RAILWAY COMPANY --  
ABANDONMENT EXEMPTION --  
IN WALSH COUNTY, ND**

**DOCKET NO. AB-6  
(SUB. NO. 432X)**

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

Pursuant to 49 C.F.R. § 1105.7 and § 1105.8, BNSF Railway Company (BNSF) (referred to as “Applicant”) hereby files Environmental and Historic Reports. These Reports constitute Applicant’s assessment of the environmental effects and historic effects of abandonment of rail service on the involved rail line. Persons who review these Reports are entitled to provide comments to the Surface Transportation Board (STB), Section of Environmental Analysis (SEA), 1925 K Street, N.W., Suite 500, Washington, DC 20423. There is no information in the Applicant’s files to indicate that the rail line covered by these Reports contains a federally granted right-of-way. *See* 49 C.F.R. § 1152.60(d). These Reports have been prepared in conjunction with the prospective filing of a Notice for Exemption of abandonment of the involved rail line. STB regulations provide that the Notice of Exemption cannot be filed until at least 20 days after these Reports are submitted.

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

The following information is submitted to the STB by BNSF in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between BNSF Milepost 144.21 at Grafton, and Milepost 137.09 near Voss, in Walsh County, North Dakota (the "Line").

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

BNSF seeks to abandon this Line. The proposed abandonment may include removal of all rails, ties, bridges and structures on the Line. A map of the line is attached as Exhibit A.

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

The proposed abandonment will have no affect on existing transportation systems or patterns as there has been no local traffic on the Line for over two years.

**(3) Land Use:**

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

BNSF believes the proposed abandonment will not be inconsistent with local or regional land use plans. The Walsh County Auditor, in visiting with the County Highway Superintendent, states there is no indication of a change in local land use plans or any alternate public uses for the corridor. See Exhibit B, letter from Sharon Kinsala, Walsh County Auditor. Walsh County Auditor Sharon Kinsala also had several questions concerning roadway maintenance, property ownership, real estate tax responsibility, and the identity of who can sell the property. See Exhibit B1, letter from Sharon Kinsala, Walsh County Auditor. BNSF has communicated with Ms. Kinsala, answered her questions, and left a contact for further questions. The North Dakota Department of Transportation (NDDOT) stated that local land use is not generally within its purview. The NDDOT had no further substantive comments. See Exhibit C, letter from Bob Johnston, Rail Planner, North Dakota Department of Transportation.

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

The proposed abandonment should have no effect on prime agricultural lands. The Natural Resources Conservation Service (formerly known as the U.S. Soil Conservation Service) has no concerns with the project, as there would be no impacts to prime farmlands or wetlands on adjacent agricultural lands. The proposed abandonment will not convert important farmland. Important farmlands are in the project area but are expected to have minimal impacts. The project should have no significant impact on existing soil and water conservation practices in the area. The Natural Resources Conservation Service also

suggested: (1) To the extent possible, all natural drainage patterns should be maintained and that land use that may be affected during abandonment should be returned to the original land use cover; and (2) Even though the rail bed is not being removed, waste material should not be placed in wetlands or natural watercourses. Also, erosion control measures should be in effect during all periods of bridge and track removal activities. See Exhibit D, letter from J.R. Flores, State Conservationist, Natural Resources Conservation Service.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

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

BNSF believes the right-of-way may be suitable for alternative public uses although there are no suggestions for alternative public uses at this time. The Walsh County Auditor, in visiting with the County Highway Superintendent, states there is no indication of a change in local land use plans or any alternate public uses for the corridor. See Exhibit B, letter from Sharon Kinsala, Walsh County Auditor.

**(4) Energy:**

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

There are no known recoverable energy resources along the Line. There has been no local traffic on the line for over two years.

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

This abandonment will not adversely affect movement or recovery of recyclable commodities as there has been no local traffic on the line for over two years.

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

This abandonment will not result in an increase or decrease in overall energy efficiency as there has been no local traffic on the Line for over two years.

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

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

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

There will be no diversions of traffic as there has been no local traffic on the Line for over two years.

**(5) Air:**

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

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

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

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

The action will not result in meeting or exceeding the specified thresholds.

Moreover, the action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment as there has been no local

traffic on the Line for over two years.

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

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

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

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

The action will not result in meeting or exceeding the specified thresholds.

Moreover, the proposed abandonment will not result in an increase of rail or truck traffic as there has been no local traffic on the Line for over two years.

Additionally, the North Dakota Department of Health, Environmental Health

Section, states the proposed activities are consistent with the State

Implementation Plan for the Control of Air Pollution for the State of North

Dakota. See Exhibit E, letter from L. David Glatt, Chief, Environmental Health

Section, North Dakota Department of Health.

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

The proposed abandonment will not affect the transportation of ozone

depleting materials.

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

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

N/A

(ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

**(7) Safety:**

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

This abandonment should have no adverse effect on health or public safety. There are 10 public crossings and seven (7) private crossings on the Line. These crossings may be removed following the proposed abandonment. During salvage operations, if any may be required, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

The proposed abandonment will not affect the transportation of hazardous materials. Indeed, the abandonment will not result in the transportation of

hazardous materials.

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

BNSF is not aware of any evidence of known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way.

**(8) Biological Resources:**

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

The U.S. Fish and Wildlife Service indicates the project will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. See Exhibit F, letter from Jeffrey K. Towner, Field Supervisor, U.S. Fish and Wildlife Service. The North Dakota Parks and Recreation Department (NDPRD) states the North Dakota Natural Heritage Inventory has records for occurrences of six identified species in sections adjacent to the project area; but, NDPRD does not otherwise clearly address whether “the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat” (emphasis added). NDPRD simply speculates that the habitat in the project area may be suited for the six species and recommends that “any impacted areas be revegetated.” See Exhibit G, letter from Jesse Hanson, Coordinator, Planning and Natural Resources Division, North Dakota Parks and Recreation Department.

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

BNSF believes the proposed abandonment will not affect wildlife

sanctuaries or refuges, National or States parks or forests. The Bureau of Land Management has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact areas. See Exhibit H, letter from Linda Gisvold, Realty, Bureau of Land Management, North Dakota Field Office. The North Dakota Parks and Recreation Department indicates the project does not affect state park lands that it manages or Land and Water Conservation Fund recreation projects that it coordinates. See Exhibit G, letter from Jesse Hanson, Coordinator, Planning and Natural Resources Division, North Dakota Parks and Recreation Department. The National Park Service has reviewed the project in relation to any possible conflicts with the Land and Water Conservation Fund and the Urban Park and Recreation Recovery programs and finds there are none. See Exhibit I, letter from Robert Maydwell, Grants Management Assistant, National Park Service, Midwest Region.

**(9) Water:**

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

BNSF believes the proposed exemption will be consistent with applicable Federal, State or local water quality standards. The North Dakota Environmental Health Section indicates the environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. The North Dakota Environmental Health Section has two additional comments: (1) "Follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body;" and (2) "Any releases of petroleum products, hazardous materials,

or chemicals that may impact human health or the environment... must be reported to the Department of Health.” See Exhibit E, letter from L. David Glatt, Chief, Environmental Health Section, North Dakota Department of Health.

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

BNSF believes the proposed abandonment will not require a Section 404 permit. The Army Corps of Engineers speculates the proposed project “could” involve jurisdictional waters of the United States and “may” require a Department of the Army permit “for any construction work, including temporary fills, impacting jurisdictional waters of the United States, including jurisdictional wetlands.” See Exhibit J, letter from William A. May, Project Manager, Army Corps of Engineers, North Dakota Regulatory Office. There will be no construction or temporary fills.

BNSF believes the proposed abandonment will not affect any 100-year flood plains. The Army Corps of Engineers did not specifically indicate whether any 100 year floodplains will be affected. See Exhibit I, letter from William A. May, Project Manager, Army Corps of Engineers, North Dakota Regulatory Office. The North Dakota State Water Commission indicates the project is located in an identified 100-year floodplain and it is believed the project will not affect an identified floodplain. See Exhibit K, letter from Bruce Lange, North Dakota State Water Commission. See also Exhibit K1, letter from Larry Knudtson, Research Analyst, North Dakota State Water Commission.

(iii) State whether permits under Section 402 of the Clean Water Act (33

U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).

BNSF believes a Section 402 permit will not be required for the proposed action. The North Dakota Environmental Health Section believes the environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. See Exhibit E, letter from L. David Glatt, Chief, Environmental Health Section, North Dakota Department of Health.

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

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

## II

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

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

*(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;*

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

*(2) A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;*

The Line is approximately 7.12 miles long and goes from Grafton to near Voss, ND. The adjoining land is generally flat and directed towards rural agricultural production. Major crops in the area include wheat, barely, soybeans, sugar beets and potatoes. The rail corridor is 100 feet in width.

Grafton had a 2000 population of 4,516 and Voss is not an incorporated town.

There are no federally granted rights-of-way involved in this proposed abandonment.

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

Photographs of 12 bridges are attached as Exhibits L1-L12.

Bridge 137.30 is a railroad bridge in or near Voss, ND. It is near Milepost 138.30. This bridge is 30 feet long, four feet high, and is an open deck timber trestle bridge with 2-15' panels. See Exhibit L1.

Bridge 138.10 is a railroad bridge in or near Voss, ND. It is near Milepost 138.10. This bridge is 45 feet long, nine feet high, and is an open deck timber trestle bridge with 3-14' panels. See Exhibit L2.

Bridge 138.90 is a railroad bridge in or near Voss, ND. It is near Milepost 138.90. This bridge is 30 feet long, five feet high, and is an open deck timber trestle bridge with 2-15' panels. See Exhibit L3.

Bridge 139.20 is a railroad bridge in or near Voss, ND. It is near Milepost 139.20. This bridge is 29 feet long, six feet high, and is an open deck timber trestle bridge with 2-14' panels. See Exhibit L4.

Bridge 139.70 is a railroad bridge in or near Voss, ND. It is near Milepost 139.70. This bridge is 15 feet long, five feet high, and is an open deck timber trestle bridge with 1-14' panels. See Exhibit L5.

Bridge 140.20 is a railroad bridge in or near Voss, ND. It is near Milepost 140.20. This bridge is 71 feet long, eight feet high, and is an open deck timber trestle bridge with 5-14' panels. See Exhibit L6. The Bridge burned in 1980 and is no longer useable.

Bridge 141.20 is a railroad bridge in or near Voss, ND. It is near Milepost 141.20. This bridge is 43 feet long, eight feet high, and is an open deck timber trestle bridge with 3-14' panels. See Exhibit L7.

Bridge 143.20 is a railroad bridge in or near Grafton, ND. It is near Milepost 143.20. This bridge is 30 feet long, six feet high, and is an open deck timber trestle bridge with 2-14' panels. See Exhibit L8.

Bridge 143.33 is a railroad bridge in or near Grafton, ND. It is near Milepost 143.33. This bridge is 16 feet long, four feet high, and is an open deck timber trestle bridge with 1-14' panels. See Exhibit L9.

Bridge 143.60 is a railroad bridge in or near Grafton, ND. It is near Milepost 143.60. This bridge is 30 feet long, six feet high, and is an open deck timber trestle bridge with 2-14' panels. See Exhibit L10.

Bridge 143.90A is a railroad bridge in or near Grafton, ND. It is near Milepost 143.90. This bridge is 15 feet long, five feet high, and an open deck timber trestle bridge with 1-14' panels. See Exhibit L11.

Bridge 143.90B is a railroad bridge in or near Grafton, ND. It is near Milepost 143.90. This bridge is 15 feet long, five high, and an open deck timber trestle bridge with 1-14' panels. See Exhibits L12.

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

Bridge 137.30 was built in 1952. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 138.10 was built in 1953. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 138.90 was built in 1953. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 139.20 was built in 1950. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 139.70 was built in 1955. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 140.20 was built in 1975. It is unknown whether or not there has been significant alteration to the bridge structure since that time. The Bridge burned in 1980 and is no longer useable.

Bridge 141.20 was built in 1958. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 143.20 was built in 1958. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 143.33 was built in 1953. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 143.60 was built in 1952. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 143.90A was built in 1953. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

Bridge 143.90B was built in 1951. It is unknown whether or not there has been significant alteration to the bridge structure since that time.

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

The former Northern Pacific Railway (NP) acquired the right-of-way primarily in 1887. In 1970, the NP merged into the Burlington Northern Railroad (BN). In 1995, BN merged with the Atchison, Topeka, Santa Fe Railway Company to form The Burlington Northern and Santa Fe Railway Company (BNSF). In 2005, BNSF changed its name to BNSF Railway.

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

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

*(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the*

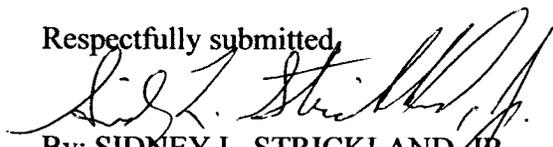
*project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);*

The State Historical Society of North Dakota reviewed the abandonment exemption and concur with the "No Historic Properties Affected" determination provided the project is of the nature specified and takes place in the legal description listed and plotted in correspondence. See Exhibit L, letter from Merlan E. Paaverud, Jr., State Historic Preservation Officer, State Historic Society of North Dakota.

*(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.*

There are no known prior subsurface ground disturbance or fill, environmental conditions that might affect the archeological recovery of resources and the surrounding terrain.

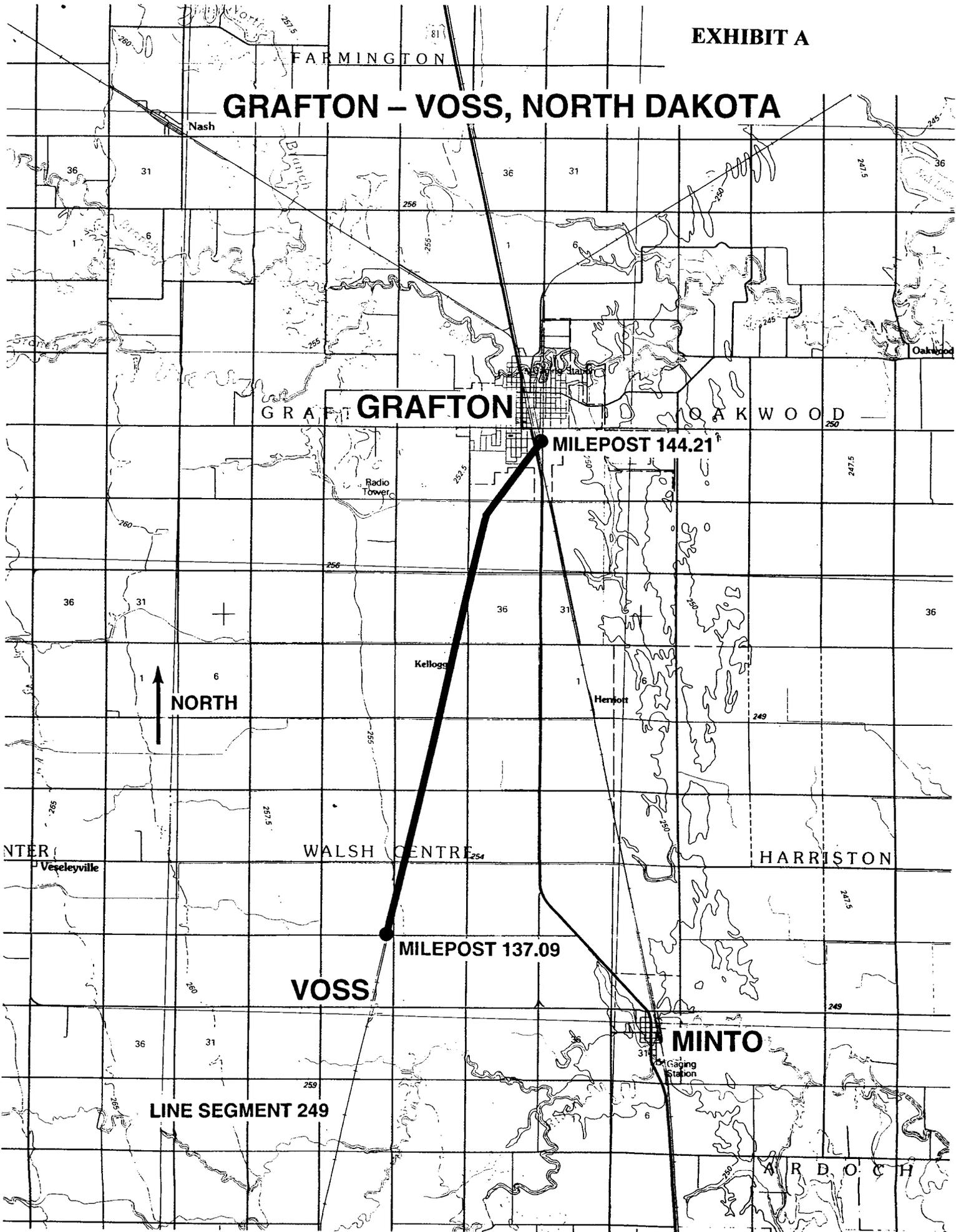
Respectfully submitted,



By: SIDNEY L. STRICKLAND, JR.  
SIDNEY STRICKLAND AND ASSOCIATES  
3050 K Street, N.W., Suite 101  
Washington, DC 20007  
(202) 295-4672  
Attorney for BNSF Railway Company

DATED: December 5, 2005

# GRAFTON - VOSS, NORTH DAKOTA





Home Compose Address Book Options Logout Username: Liz Waite (liz.waite@stricklandplc.com)

Message

- Inbox (24)
- Drafts
- Deleted Items
- Sent
- Scheduled

Delete  Delete permanently

Move to Deleted Items **Go**

From: Sharon Kinsala <skinsala@state.nd.us>

To: liz.waite@stricklandplc.com

Subject: STB Docket No. AB

Date: 21-Nov-05 12:43 PM

Attachments:

< Previous | Next > | Close

I have reviewed your letter and in visiting with the County Highway Superintendent there is no indication of a change in local land use plans or any alternate public uses for the corridor.

If you need written documentation on County stationary please let me know and I will provide that after the County Planning and Zoning Meeting on November 29, 2005.

Sincerely,

Sharon Kinsala

Walsh County Auditor

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Home Compose Address Book Options Logout Username: Liz Waite (liz.waite@stricklandpllc.com)

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Inbox (23) Drafts Deleted Items Sent Scheduled From: Sharon Kinsala <skinsala@state.nd.us> To: liz.waite@stricklandpllc.com Subject: STB Docket No. AB Date: 30-Nov-05 02:32 PM Attachments:

Reply Reply To All Forward InLine Text

Liz

The Walsh County Planning and Zoning Commission met on November 29, 2005 and had several questions regarding your letter of October 20 and the BNSF Abandonment Exemption in Walsh County North Dakota.

Questions are:

- Who is obligated to maintain roadway on abandoned railway? Such as removal of track, etc and weed cutting.
What happens to adjoining property?
Does it belong to the County or other Landowners?
Who pays real estate taxes on the property?
Can the property be sold?

[WebMail] : WebMail

The Planning and Zoning Commission discussed having a meeting sometime in January 2006 and would like a representative to speak to them about this. Would someone be willing to attend a January meeting to answer questions?

Sharon Kinsala

Walsh County Auditor

skinsala@state.nd.us

• 701-352-2851

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(liz.waite@stri

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- Scheduled**

**Message**

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**From:** "Johnston, Robert W." <rjohnsto@state.nd.us>

**To:** Liz Waite <liz.waite@stricklandpllc.com>

**Subject:** RE: Grafton-Voss Abandonment 432X

**Date:** 10-Nov-05 03:36 PM

**Attachments:** Robert\_Johnston\_(rjohnsto@state.nd.us).vcf

**Reply**

**Reply All**

**Forward**

InLine Text

< Previ

Ms. Waite,

We have received your letter regarding the proposed abandonment of 7.12 miles of BNSF rail line between MP 137.09 at Grafton and MP 144.21 near Voss in Walsh county, ND.

In regard to whether the action is consistent with local land use plans, local land use is not generally within the purview of NDDOT.

Bob Johnston  
Rail Planner  
NDDOT  
Phone: 701-328.2675  
Fax: 701.328.0310  
Email: rjohnsto@state.nd.us  
Web: www.state.nd.gov/dot

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

From: Liz Waite [mailto:liz.waite@stricklandpllc.com]  
Sent: Thursday, November 10, 2005 1:55 PM  
To: Johnston, Robert W.  
Cc: liz.waite@stricklandpllc.com  
Subject: Grafton-Voss Abandonment 432X

Mr. Johnston,

I spoke with you on the phone earlier today to confirm that your agency (North Dakota DOT) had received an initial letter regarding a railroad abandonment between Grafton and Voss, ND. You confirmed that you had received the letter dated October 20, 2005. Any response you may have regarding the matter would be appreciated.

Liz Waite  
Sidney Strickland and Associates, PLLC  
(202) 374-2472

**CONFIDENTIALITY NOTICE --**

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient,

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Natural Resources Conservation Service  
P.O. Box 1458  
Bismarck, ND 58502-1458

October 28, 2005

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

RE: BNSF Railway Company – Abandonment Exemption – Walsh County, ND

Dear Mr. Strickland:

We have reviewed the information regarding the proposed abandonment of a rail line in Walsh County in North Dakota. We offer the following comments based on the information you provided to us for this project:

- 1. To the extent possible, all natural drainage patterns should be maintained. Land use that may be affected during abandonment should be returned to the original land use cover.
- 2. Even though the rail bed is not being removed, waste material should not be placed in wetlands or natural watercourses. The local Natural Resources Conservation Service (NRCS) district conservationist in each county can provide wetland inventory maps as needed. Erosion control measures should be in effect during all periods of bridge and track removal activities.
- 3. The proposed abandonment will not convert important farmland. Important farmlands are in the project area but are expected to have minimal impacts.
- 4. This project should have no significant impact on existing soil and water conservation practices in the area.

Thank you for the opportunity to comment on the proposed railroad abandonment by the BNSF Railroad Company. We have no concerns with the project, as there would be no impacts to prime farmlands or wetlands on adjacent agricultural lands. Should you require additional information or discussion, please contact Donald E. Feich, Biologist, at (701) 530-2023.

Sincerely,

  
ACTING

J.R. FLORES  
State Conservationist

cc:

Rita H. Sveen, DC, NRCS, Park River, ND  
Arlen A. Wingenbach, ASTC (FO), NRCS, Devils Lake, ND



October 28, 2005

**EXHIBIT E**

Mr. Sidney L. Strickland, Jr.  
Sidney Strickland & Assoc., PLLC  
3050 K Street NW, Suite 101  
Washington, DC 2007-5108

Re: STB Docket No. AB (Sub No. 432X) BNSF Railway Co.  
Proposed Railroad Abandonment, Walsh County

Dear Mr. Strickland:

This department has reviewed the information concerning the above-referenced project submitted under date of October 20, 2005, 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. Follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body.
2. Any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, must be reported to the North Dakota Department of Health. The Department's Environmental Emergency Response Contacts List is attached.

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

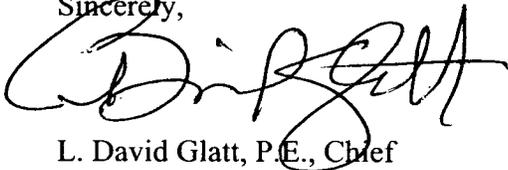
Mr. Sidney L. Strickland, Jr.

2.

October 28, 2005

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "L. David Glatt". The signature is written in a cursive, flowing style with some loops and flourishes.

L. David Glatt, P.E., Chief  
Environmental Health Section

LDG:cc  
Attach.

# North Dakota Department of Health Environmental Health Section Environmental Emergency Response Contacts List

**NORMAL WORKING HOURS**  
8 a.m. - 5:00 p.m., Monday - Friday  
Call the office phone numbers

**AFTER HOURS**  
24 hours per day, 7 days per week  
**STATE RADIO**  
1-701-328-9921  
or  
1-800-472-2121 (in-state calls)

Page

**HEALTH DEPARTMENT  
CASE MANAGER**

Page

**ENVIRONMENTAL HEALTH SECTION  
CASE MANAGER**  
Office phone no.: 328-5150

Alternate Contact

**Primary Contacts**

**WATER POLLUTION**  
oil spills  
Office phone no.: 328-5210

**AIR POLLUTION**  
gases, vapors  
Office phone no.: 328-5188

**RADIATION**  
radioactive materials  
Office phone no.: 328-5188

**TOXIC &  
HAZARDOUS MATERIALS**  
pesticides, insecticides, chemicals  
Office phone no.: 328-5166

**DRINKING WATER**  
public water systems  
Office phone no.: 328-5211

**CHEMISTRY LABORATORY**  
sample analysis  
Office phone no.: 328-6140

**1st Alternative Contact**  
Dana Mount  
Office phone no.: 328-5150  
Home phone no.: 223-6735

**2nd Alternative Contact**  
L. David Giatt  
Office phone no.: 328-5150  
Home phone no.: 255-6391

Approved by: *Dana Mount*  
Emergency Response Coordinator  
Date: June 4, 2002

Approved by: *L. David Giatt*  
Chief, Environmental Health Section  
Date: June 4, 2002

ND Department of Health  
Environmental Health Section  
1200 Missouri Avenue  
P.O. Box 5520  
Bismarck, ND 58506-5520

# SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101  
WASHINGTON, DC 20007-5108  
TELEPHONE: 202-295-4024  
FAX: 202-672-5399

**EXHIBIT F**

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

October 20, 2005

U.S. Fish and Wildlife Service  
Mountain-Prairie Region 6  
134 Union Blvd.  
Lakewood, CO 80228

**Re: STB Docket No. AB (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND**

Dear Sir or Madam:

BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority in the above docket to abandon 7.12 miles of railroad line between Milepost 137.09 at Grafton, and Milepost 144.21 near Voss, in Walsh County, North Dakota.

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

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

For your reference, I have enclosed a map of the above referenced railroad line. Please provide this information to me by November 16, 2005. If you have any questions, please do not hesitate to contact me at (202) 295-4024.

Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.

Enclosure  
SLS/ew

**U.S. FISH AND WILDLIFE SERVICE**

**ECOLOGICAL SERVICES  
ND FIELD OFFICE**

**Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.**

11/14/05 Jeffrey K. Townner  
Date Jeffrey K. Townner  
Field Supervisor



John Hoeven, Governor  
Douglass A. Prchal, Director

1600 East Century Avenue, Suite 3  
Bismarck, ND 58503-0649  
Phone 701-328-5357  
Fax 701-328-5363  
E-mail [parkrec@state.nd.us](mailto:parkrec@state.nd.us)  
[www.parkrec.nd.gov](http://www.parkrec.nd.gov)

November 3, 2005

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

## EXHIBIT G

Re: STB Docket No. AB (Sub. No. 432X) BNSF Railway Company Abandonment Exemption

Dear Mr. Strickland:

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above referenced project submitted by the BNSF Railway Company to abandon 7.12 miles of railroad line between Milepost 137.09 and Milepost 144.21 located in Sections 3, 10, 15, 21, 22, and 28, T156N, R53W; and in Sections 24, 25, 35, and 36, T157N, R53W, Walsh County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare species and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

The North Dakota Natural Heritage Inventory has limited rare species information from the project area. For your information, we do have records for occurrences in sections adjacent to the project area including: *Fraxinus pennsylvanica* – *Ulmus americana* – (*Celtis occidentalis*) forest (Eastern mixed floodplain forest), *Pandion haliaetus* (osprey), *Buteo swainsoni* (Swainson's hawk), *Buteo regalis* (ferruginous hawk), *Caprimulgus vociferous* (whip-poor-will), and *Piranga olivacea* (scarlet tanager). This indicates that the habitat in the project area may be suited for these species or other rare, threatened, sensitive or endangered species.

The NDPRD recommends that any impacted areas be revegetated with species native to the project area.

Thank you for the opportunity to comment on this project. Please contact Kathy Duttonhefner (701-328-5370 or [kgduttonhefner@state.nd.us](mailto:kgduttonhefner@state.nd.us)) of our staff if additional information is needed.

Sincerely,

A handwritten signature in cursive script that reads "Jesse Hanson".

Jesse Hanson, Coordinator  
Planning and Natural Resources Division

R.USNDNHI\*1571

.....  
*Play in our backyard!*

North Dakota Natural Heritage Inventory  
Species of Concern and Significant Ecological Communities

State Scientific Name	State Common Name	Township & Range	Section	TRS Notes	State Rank	Global Rank	Federal Status	Last Observation
FRAXINUS PENNSYLVANICA - (CELTIS OCCIDENTALIS) FOREST	EASTERN MIXED FLOODPLAIN FOREST	157N052W	18	157053 SEC 13 E4NE4	S1S2			1982
PANDION HALIAETUS	OSPREY	157N053W	13		SU	G5		1958-10-05
BUTEO SWAINSONI	SWAINSON'S HAWK	157N053W	13		SU	G5		1929-08-23
BUTEO REGALIS	FERRUGINOUS HAWK	157N053W	13		SU	G4		1920-10-25
CAPRIMULGUS VOCIFERUS	WHIP-POOR-WILL	157N053W	13		SH	G5		1923-06-30
PIRANGA OLIVACEA	SCARLET TANAGER	157N053W	13		SU	G5		1915-06-11

**North Dakota Natural Heritage Inventory Biological and Conservation Data Disclaimer**

The quantity and quality of data collected by the North Dakota Natural Heritage Inventory are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in North Dakota have never been thoroughly surveyed, and new species are still being discovered. For these reasons, the Natural Heritage Inventory cannot provide a definite statement on the presence, absence, or condition of biological elements in any part of North Dakota. Natural Heritage data summarize the existing information known at the time of the request. Our data are continually upgraded and information is continually being added to the database. This data should never be regarded as final statements on the elements or areas that are being considered, nor should they be substituted for on-site surveys.



**United States Department of the Interior**

**BUREAU OF LAND MANAGEMENT**

North Dakota Field Office

2933 3<sup>rd</sup> Ave West

Dickinson, ND 58601

701-227-7700

<http://www.mt.blm.gov/ndfo/>

In Reply To:

LRG

November 10, 2005

Sidney Strickland, Jr.  
Sidney Strickland and Associates, PLLC  
3050 K St. N.W., Suite 101  
Washington, DC 20007-4024

RE: STB Docket No. AB (Sub. No. 432X) BNSF Railway Company---  
Abandonment Exemption – Walsh County, ND comment due November 16, 2005

The Bureau of Land Management (BLM) has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact areas.

Please keep the North Dakota BLM informed as to the continued process. These railroad abandonments depending under which Act they were granted, impact the BLM and do need to be noted to our plats. We appreciate the opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Gisvold". The signature is written in black ink and is positioned above the printed name and title.

Linda Gisvold  
Realty

**EXHIBIT I**

Official Correspondence to be sent via Electronic Mail

NATIONAL PARK SERVICE  
Midwest Region  
601 Riverfront Drive  
Omaha, Nebraska 68102

December 1, 2005

650.2(MWR-P/G)

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

Dear Mr. Strickland:

This is in response to your November 3, 2005 request that the National Park Service (NPS) respond to STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Abandonment Exemption in Walsh County, North Dakota.

We have reviewed this project in relation to any possible conflicts with the Land and Water Conservation Fund and the Urban Park and Recreation Recovery programs and find there are none. Accordingly, we have no additional comments at this time.

You may contact me at (402) 661-1546 if you have questions or need more information.

Sincerely,

/s/Robert Maydwell  
Grants Management Assistant  
Partnerships- Grants



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NORTH DAKOTA REGULATORY OFFICE  
1513 SOUTH 12<sup>TH</sup> STREET  
BISMARCK ND 58504-6640  
November 3, 2005

**EXHIBIT J**

North Dakota Regulatory Office

[200560549]

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

Dear Mr. Strickland:

This is in response to your solicitation letter dated **October 20, 2005**, on behalf of **Burlington Northern & Santa Fe Railroad Company**, for Department of the Army (DA), Corps of Engineers (Corps) comments in accordance with Section 404 of the Clean Water Act. The project consists of the abandonment of 7.12 miles of railroad line between Milepost 137.09 at Grafton, North Dakota and Milepost 144.21 near Voss, North Dakota. The proposed abandonment involves removal of track materials such as rails and ties but the roadbed will be left intact. The project is located within the following townships; Grafton and Walsh Centre Townships, Walsh County, North Dakota.

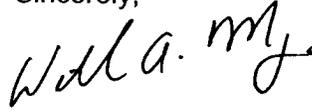
Based on the information provided to this office, it appears that this proposed project could involve jurisdictional waters of the United States, specifically, but not limited to, unnamed drains excavated parallel to several east/west section lines and adjacent wetlands. Therefore, in accordance with 33 C.F.R., 320-330, a Department of the Army permit may be required for any proposed construction work, including temporary fills, impacting jurisdictional waters of the United States, including jurisdictional wetlands.

The Corps' review of the above mentioned project for Section 404 authorization requires the submittal of a complete Corps of Engineers permit application, including a project location map, and wetland impact information. It is essential to identify all impacts to waters of the United States, including temporary impacts, resulting from this proposed project. Should construction activities associated with the proposed project result in impacts to waters of the United States, please complete and submit the enclosed Corps of Engineers permit application to the U. S. Army Corps of Engineers, North Dakota Regulatory Office, 1513 South 12<sup>th</sup> Street, Bismarck, North Dakota 58504.

The Federal Emergency Management Agency (FEMA) is responsible for floodplain maps.

If we can be of further assistance or should you have any questions regarding our program, please do not hesitate to contact this office by letter or phone at (701) 255-0015 and reference project number **200560549**.

Sincerely,

A handwritten signature in black ink that reads "William A. May". The signature is written in a cursive style with a large, stylized "W" and "M".

William A. May  
Project Manager  
North Dakota Regulatory Office

Enclosure

Instructions for Preparing a  
Department of the Army Permit Application

---

**Blocks 1 through 4.** To be completed by Corps of Engineers.

**Block 5. Applicant's Name.** Enter the name of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

**Block 6. Address of Applicant.** Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

**Block 7. Applicant Telephone Number(s).** Please provide the number where you can usually be reached during normal business hours.

**Blocks 8 through 11.** To be completed, if you choose to have an agent.

**Block 8. Authorized Agent's Name and Title.** Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, or any other person or organization. Note: An agent is not required.

**Blocks 9 and 10. Agent's Address and Telephone Number.** Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

**Block 11. Statement of Authorization.** To be completed by applicant, if an agent is to be employed.

**Block 12. Proposed Project Name or Title.** Please provide name identifying the proposed project, *e.g.*, Landmark Plaza, Burned Hills Subdivision, or Edsall Commercial Center.

**Block 13. Name of Waterbody.** Please provide the name of any stream, lake, marsh, or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

**Block 14. Proposed Project Street Address.** If the proposed project is located at a site having a street address (not a box number), please enter it here.

**Block 15. Location of Proposed Project.** Enter the county and state where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

**Block 16. Other Location Descriptions.** If available, provide the Section, Township, and Range of the site and / or the latitude and longitude. You may also provide description of the proposed project location, such as lot numbers, tract numbers, or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known.

**Block 17. Directions to the Site.** Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site.

**Block 18. Nature of Activity.** Describe the overall activity or project. Give appropriate dimensions of structures such as wingwalls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles, or float-supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 18.

**Block 19. Proposed Project Purpose.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

**Block 20. Reasons for Discharge.** If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

**Block 21. Types of Material Being Discharged and the Amount of Each Type in Cubic Yards.** Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

**Block 22. Surface Areas of Wetlands or Other Waters Filled.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked Block 22.

**Block 23. Is Any Portion of the Work Already Complete?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization, if possible.

**Block 24. Names and Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 24.

**Information regarding adjacent landowners is usually available through the office of the tax assessor in the county or counties where the project is to be developed.**

**Block 25. Information about Approvals or Denials by Other Agencies.** You may need the approval of other federal, state, or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 26. Signature of Applicant or Agent.** The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

## DRAWINGS AND ILLUSTRATIONS

### General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on 8½ x 11 inch plain white paper (tracing paper or film may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). **While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.**

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT  
(33 CFR 325)

OMB APPROVAL NO. 0710-0003  
Expires December 31, 2004

The public reporting burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME	8. AUTHORIZED AGENT'S NAME AND TITLE <i>(an agent is not required)</i>
6. APPLICANT'S ADDRESS	9. AGENT'S ADDRESS
7. APPLICANT'S PHONE NUMBERS WITH AREA CODE a. Residence b. Business	10. AGENT'S PHONE NUMBERS WITH AREA CODE a. Residence b. Business

11. STATEMENT OF AUTHORIZATION

I hereby authorize \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE

DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE *(see instructions)*

13. NAME OF WATERBODY, IF KNOWN *(if applicable)*

14. PROJECT STREET ADDRESS *(if applicable)*

15. LOCATION OF PROJECT

COUNTY

STATE

16. OTHER LOCATION DESCRIPTIONS, IF KNOWN *(see instructions)*

17. DIRECTIONS TO THE SITE

18. Nature of Activity (Description of project, include all features)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

**USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED**

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

23. Is Any Portion of the Work Already Complete? Yes \_\_\_\_\_ No \_\_\_\_\_ IF YES, DESCRIBE THE COMPLETED WORK

24. Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

25. List of Other Certifications or Approvals/Denials Received from other Federal, State, or Local Agencies for Work Described in This Application

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED

\*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

\_\_\_\_\_  
SIGNATURE OF APPLICANT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF AGENT

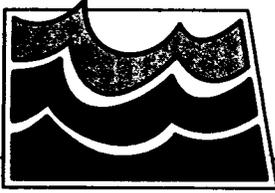
\_\_\_\_\_  
DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up any trick scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.







# North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850 • 701-328-2750  
TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://www.swc.state.nd.us/>

November 17, 2005

**EXHIBIT K-1**

Sidney Strickland & Associates  
3050 K St.NW, Suite 101  
Washington, DC 20007-5108

Dear Mr. Strickland:

This is in response to your request for review of environmental impacts associated with STB Docket No. AB (Sub. No. 432X) BNSF Railway Company – Abandonment Exemption in Walsh County, ND.

State Water Commission staff members have reviewed the proposed project, and the following comments are provided:

The attached partial copies of Grafton's Flood Insurance Rate Map dated March 15, 1994 and Walsh County's Flood Insurance Rate Map dated May 5, 1981 depict the floodplain where the BNSF Railway Company track abandonment is proposed. Prior to construction/demolition in the floodplain BNSF should apply for a non-building floodplain development permit to:

Scott Boura, Bldg Official and  
City of Grafton  
P.O. Box 578  
Grafton, ND 58237  
Tel 701-352-1561

Brent Nelson, DES Director  
Walsh County  
638 Cooper Avenue  
Grafton, ND 58237  
Tel 701-352-2311

- All waste material associated with the project must be disposed of properly and not placed in identified floodway areas.

There are no other concerns associated with this project that affect State Water Commission or State Engineer regulatory responsibilities.

Thank you for the opportunity to provide review comments. If you have any questions, please call me at 328-4969.

Sincerely,

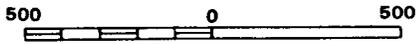
Larry Knudtson  
Research Analyst

LJK:1570  
Enclosures

Determine if flood insurance is available, contact an insurance agent or call the National Flood Insurance Program at (800) 662-6620.



APPROXIMATE SCALE IN FEET



**NATIONAL FLOOD INSURANCE PROGRAM**

**FIRM**  
**FLOOD INSURANCE RATE MAP**

CITY OF  
GRAFTON,  
NORTH DAKOTA  
WALSH COUNTY

**PANEL 3 OF 4**  
(SEE MAP INDEX FOR PANELS NOT PRINTED)

**COMMUNITY-PANEL NUMBER**  
**380137 0003 C**

**MAP REVISED:**  
**MARCH 15, 1994**



Federal Emergency Management Agency

CITY OF CRAFT

**NON-BUILDINGSITUATION**  
**FLOODPLAIN DEVELOPMENT PERMIT APPLICATION**

**SECTION 1: GENERAL INFORMATION**

PERMIT # \_\_\_\_\_ DATE: \_\_\_\_\_

Applicant: \_\_\_\_\_ Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

Location of Proposed Development: \_\_\_\_\_

Legal description: \_\_\_\_\_

Contractor: \_\_\_\_\_ Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

Estimated Cost of project: \_\_\_\_\_ \$

**FLOODPLAIN DETERMINATION (fill-in the appropriate information) :**

Project is located: 100-year floodplain (Flood Fringe): \_\_\_\_\_

Regulatory Floodway: \_\_\_\_\_

Map information: FIRM Date: \_\_\_\_\_

FIRM Zone: \_\_\_\_\_

BFE at Development Site: \_\_\_\_\_ (MSL)

Development will be elevated to: \_\_\_\_\_ (MSL)

**DEVELOPMENT ACTIVITIES: (check all that apply)**

- Fill placement (fill brought in from outside the floodplain)
- Excavation (where subgrade fill is removed from the floodplain)
- Landscaping (cut and fill, fill borrow and placement)
- Construction or maintenance of a dike/levee/floodwall
- Removal of fill, embankment, or dikes
- Watercourse alterations (river, stream, lake - i.e. channel modifications, rip-rap)
- Road, street or bridge construction (new, repair or replacement, realignment)
- Drainage improvements (including culvert work)
- Mining (removal of gravel, rock, fill or other natural materials)
- Installation of utilities [water, sewer, pipeline, gas, electric, communication system(s)]
- Well drilling (i.e. water, oil, natural gas etc.)
- Subdivision (new or expansion)
- Other (please specify) \_\_\_\_\_

**ADDITIONAL INFORMATION REQUIRED (attach additional information as needed):**

- Comments or further explanation of work:
- Copies of project description, plans, blueprints, etc.
- Wetlands - will the activity impact identified wetlands?
- Will the development aggravate flooding elsewhere? Please explain your answer.

**OTHER PERMITS NECESSARY:**

U.S. Army Corps of Engineers?  
Water Resource District?

**ELEVATION INFORMATION:**

Attach information about the completed project elevations(s) with registered professional engineer or registered land surveyor certifications if part of the project:

**SECTION 2: ACTION/APPROVAL:**

The proposed development is in conformance with applicable community floodplain standards.

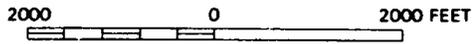
PERMIT IS APPROVED (Conditioned on receiving as-built information/certification)

Signature (Floodplain Administrator): \_\_\_\_\_

Date: \_\_\_\_\_



APPROXIMATE SCALE



**NATIONAL FLOOD INSURANCE PROGRAM**

**FHBM**

FLOOD HAZARD BOUNDARY MAP

**WALSH  
COUNTY,  
NORTH  
DAKOTA  
UNINCORPORATED AREA**

**PANEL 9 OF 15**

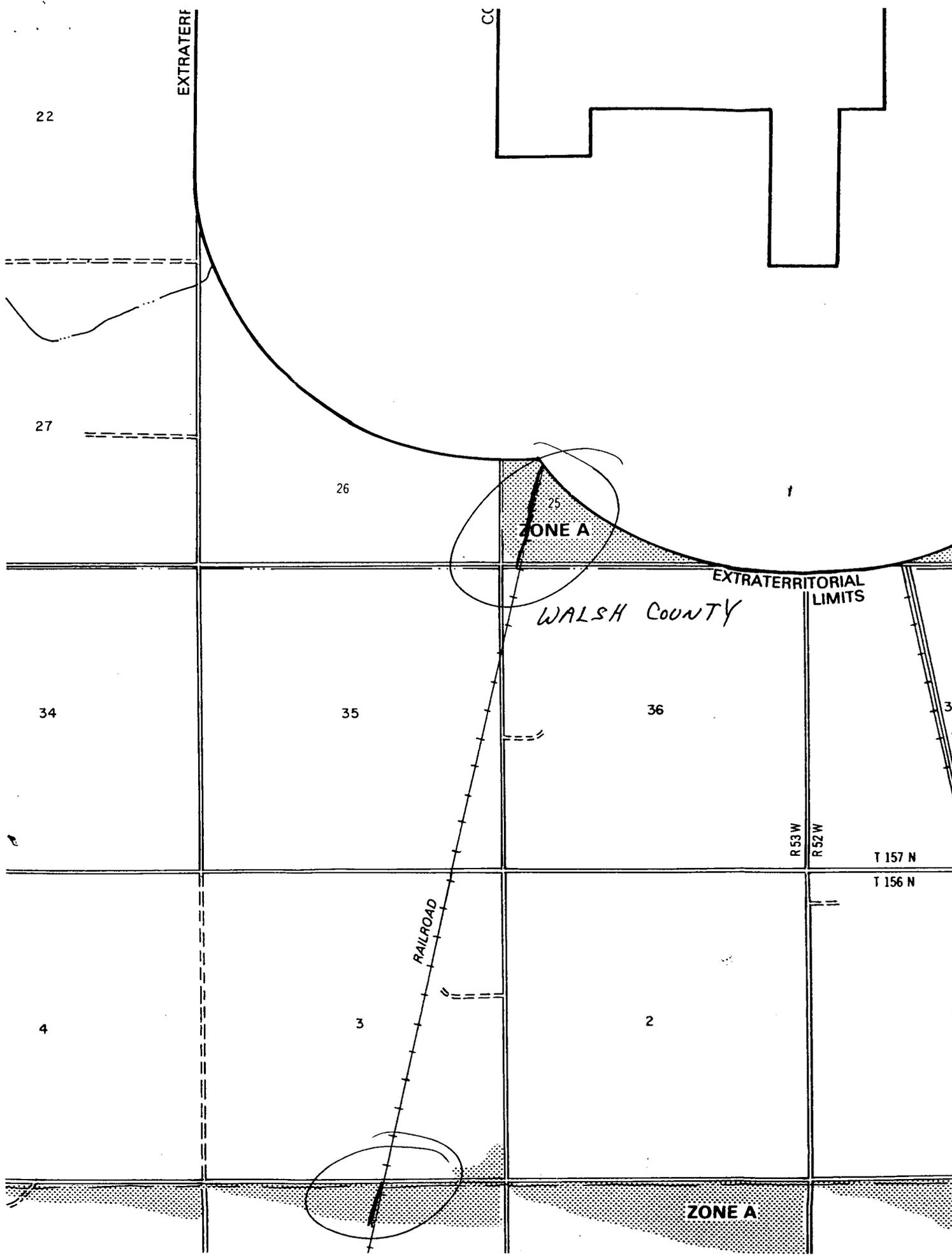
(SEE MAP INDEX FOR PANELS NOT PRINTED)

**COMMUNITY-PANEL NUMBER  
380135 0009 A**

**EFFECTIVE DATE:  
MAY 5, 1981**



**federal emergency management agency  
federal insurance administration**



EXTRATERI

CC

22

27

26

25

ZONE A

EXTRATERRITORIAL LIMITS

WALSH COUNTY

34

35

36

R 53 W

R 52 W

T 157 N

T 156 N

4

3

2

RAILROAD

ZONE A

**NON-BUILDINGSITUATION**  
**FLOODPLAIN DEVELOPMENT PERMIT APPLICATION**

**SECTION 1: GENERAL INFORMATION**

PERMIT # \_\_\_\_\_

DATE: \_\_\_\_\_

Applicant: \_\_\_\_\_

Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

Location of Proposed Development: \_\_\_\_\_

Legal description: \_\_\_\_\_

Contractor: \_\_\_\_\_

Telephone # \_\_\_\_\_

Address: \_\_\_\_\_

Estimated Cost of project: \_\_\_\_\_

\$ \_\_\_\_\_

**FLOODPLAIN DETERMINATION (fill-in the appropriate information) :**

Project is located: 100-year floodplain (Flood Fringe): \_\_\_\_\_

Regulatory Floodway: \_\_\_\_\_

Map information: FIRM Date: \_\_\_\_\_

FIRM Zone: \_\_\_\_\_

BFE at Development Site: \_\_\_\_\_ (MSL)

Development will be elevated to: \_\_\_\_\_ (MSL)

**DEVELOPMENT ACTIVITIES: (check all that apply)**

- Fill placement (fill brought in from outside the floodplain)
- Excavation (where subgrade fill is removed from the floodplain)
- Landscaping (cut and fill, fill borrow and placement)
- Construction or maintenance of a dike/levee/floodwall
- Removal of fill, embankment, or dikes
- Watercourse alterations (river, stream, lake - i.e. channel modifications, rip-rap)
- Road, street or bridge construction (new, repair or replacement, realignment)
- Drainage improvements (including culvert work)
- Mining (removal of gravel, rock, fill or other natural materials)
- Installation of utilities [water, sewer, pipeline, gas, electric, communication system(s)]
- Well drilling (i.e. water, oil, natural gas etc.)
- Subdivision (new or expansion)
- Other (please specify) \_\_\_\_\_

**ADDITIONAL INFORMATION REQUIRED (attach additional information as needed):**

- Comments or further explanation of work:
- Copies of project description, plans, blueprints, etc.
- Wetlands - will the activity impact identified wetlands?
- Will the development aggravate flooding elsewhere? Please explain your answer.

**OTHER PERMITS NECESSARY:**

U.S. Army Corps of Engineers?  
Water Resource District?

**ELEVATION INFORMATION:**

Attach information about the completed project elevations(s) with registered professional engineer or registered land surveyor certifications if part of the project:

**SECTION 2: ACTION/APPROVAL:**

The proposed development is in conformance with applicable community floodplain standards.

PERMIT IS APPROVED (Conditioned on receiving as-built information/certification)

Signature (Floodplain Administrator): \_\_\_\_\_

Date: \_\_\_\_\_



**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

**COPY**

John Hoeven  
*Governor of North Dakota*

November 28, 2005

North Dakota  
State Historical Board

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

Marvin L. Kaiser  
*Williston - President*

Albert I. Berger  
*Grand Forks - Vice President*

Chester E. Nelson, Jr.  
*Bismarck - Secretary*

ND SHPO REF.:05-1464 STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company - Abandonment Exemption, [Grafton - Voss] Walsh County, North Dakota

Gerold Gernholz  
*Valley City*

A. Ruric Todd III  
*Jamestown*

Dear Mr. Strickland:

Diane K. Larson  
*Bismarck*

We reviewed ND SHPO REF.:05-1464 STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company - Abandonment Exemption, Walsh County, North Dakota 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.

John E. Von Rueden  
*Bismarck*

Sara Ottc Coleman  
*Director  
Tourism Division*

Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Susan Quinnell, Review and Compliance Coordinator at (701) 328-3576.

Kelly Schmidt  
*State Treasurer*

Alvin A. Jaeger  
*Secretary of State*

Douglass Prchal  
*Director  
Parks and Recreation  
Department*

Sincerely,

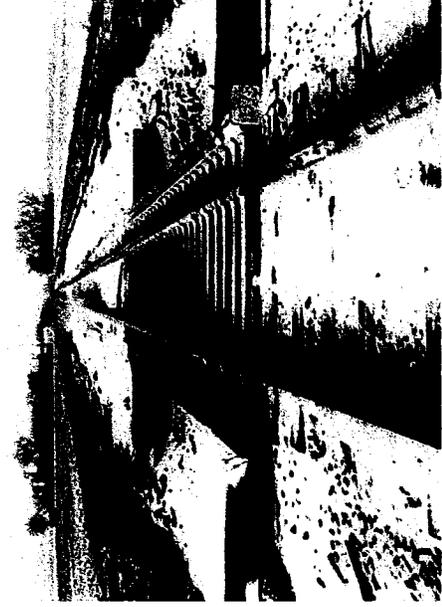
David A. Sprynczynatyk  
*Director  
Department of  
Transportation*

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

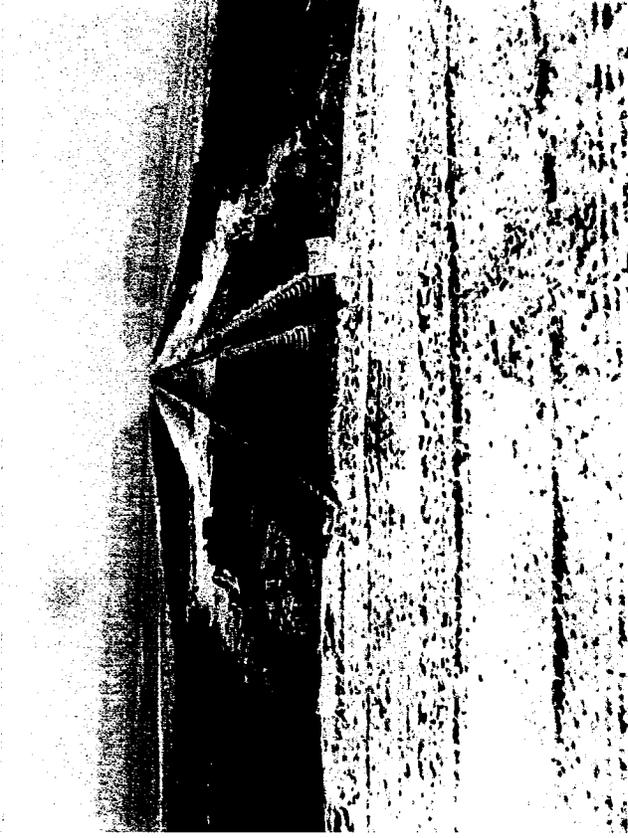
Merlan E. Paaverud, Jr.  
*Director*

*Accredited by the  
American Association  
of Museums*

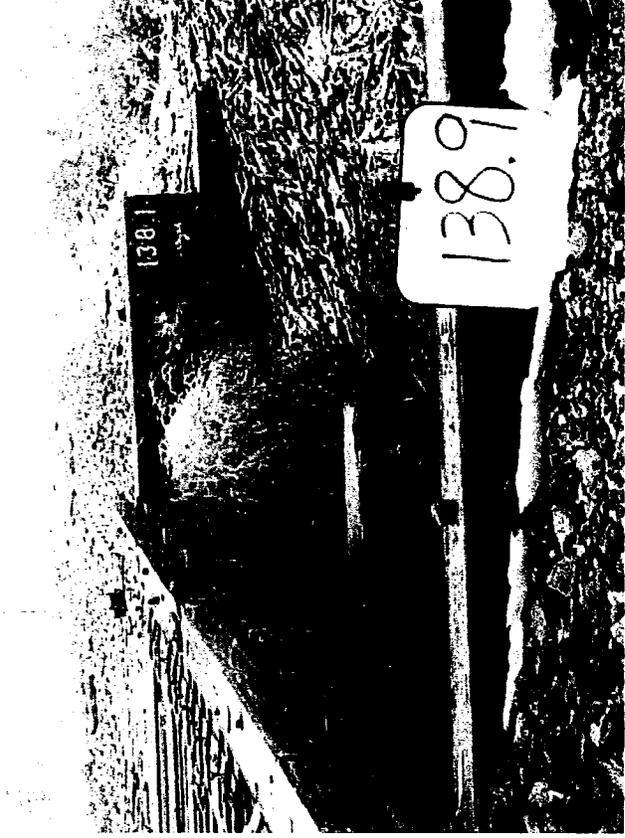
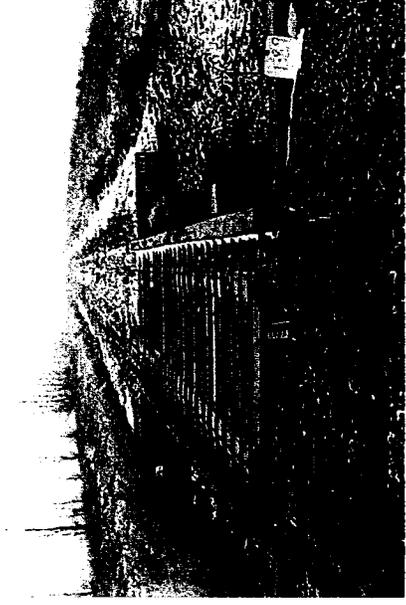
# Mp 137.3 Grafton to Voss



# M.P. 138.1 Grafton to Voss



# M.P. 138.9 Grafton to Voss



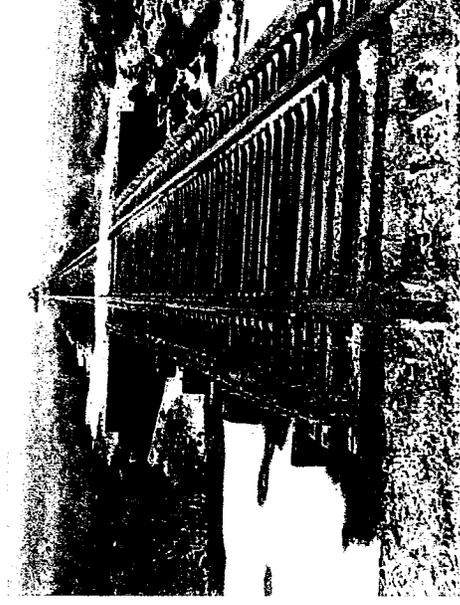
# M.P. 139.2 Grafton to Voss



# M.P. 139.7 Grafton to Voss



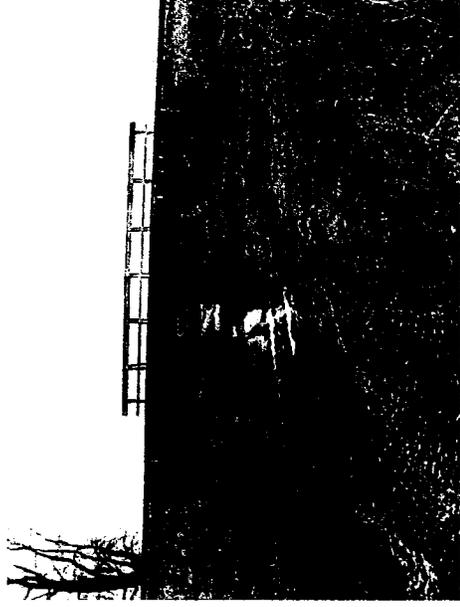
# M.P. 140.2 Grafton to Voss



# M.P. 141.2 Grafton to Voss



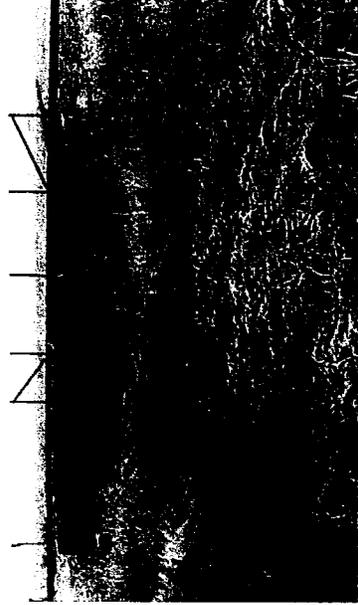
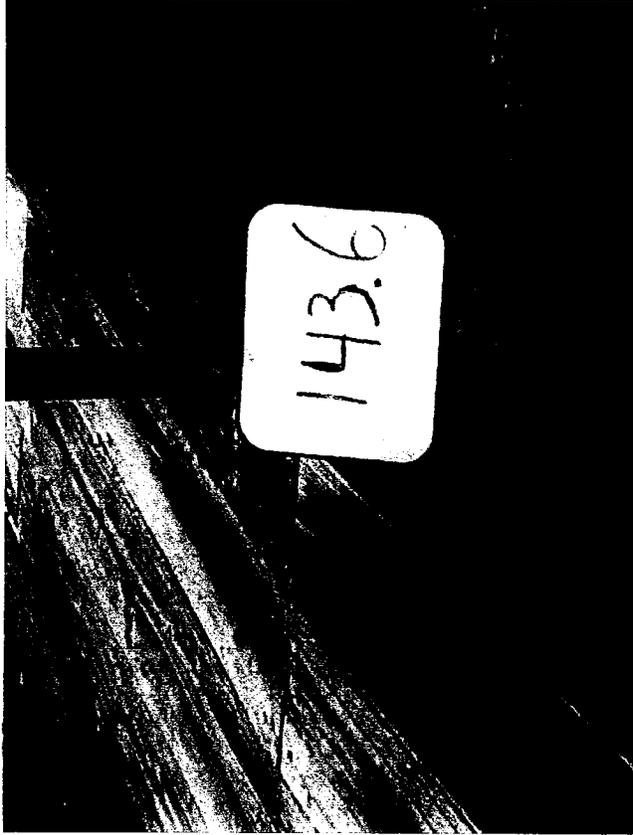
# M.P. 143.2 Grafoton to Voss



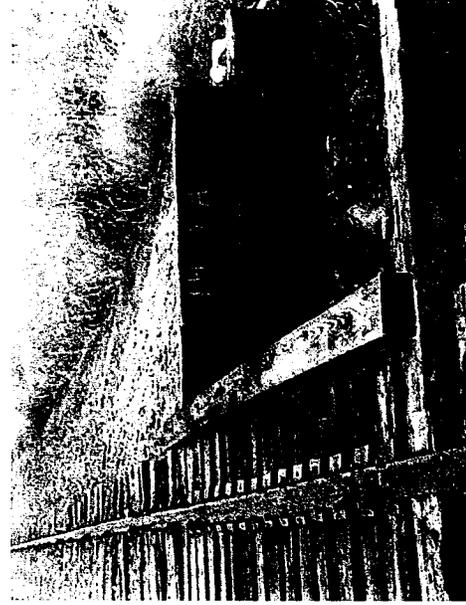
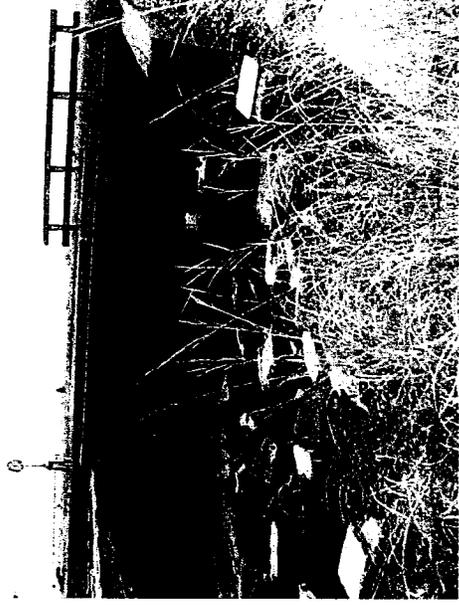
# M.P. 143.3 Grafton to Voss



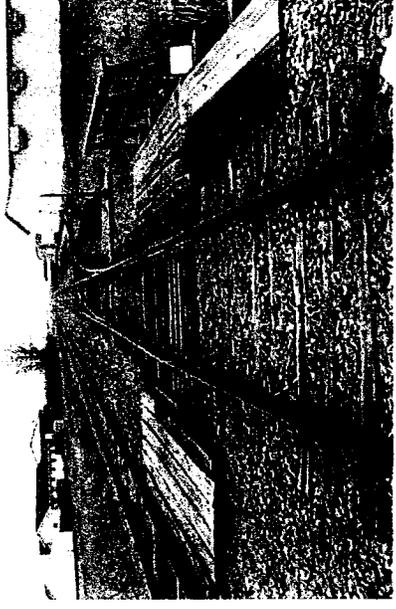
# M.P. 143.6 Grafton to Voss



# M.P. 143.9 A Grafton to Voss



# M.P. 143.9 B Grafton to Voss



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

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on December 5, 2005, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies:

Ms. Victoria Ruston  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC, 20423-0001

Linda Gisvold, Realty  
U.S. Bureau of Land Management  
North Dakota Field Office  
2933 Third Avenue West  
Dickinson, ND 58601-2619

North Dakota NRCS State Office  
Natural Resources Conservation Service  
220 East Rosser Ave.  
Federal Building, Room 270  
Bismarck, ND 58501

Jesse Hanson, Coordinator  
North Dakota Parks and Recreation  
Department  
Planning and Natural Resources  
Division  
1600 E. Century Ave., Suite 3  
Bismarck, ND 58503-0649

J.R. Flores, State Conservationist  
Natural Resources Conservation Service  
P.O. Box 1458  
Bismarck, ND 58502-1458

Walsh County Highway Dept., and  
Bev Demers, Walsh County Clerk, and  
Walsh County Commissioners  
Courthouse  
600 Cooper Ave.  
Grafton, ND 58237

State Historical Society of North Dakota  
612 East Boulevard Avenue  
Bismarck, ND 58505-0830

U.S. National Park Service  
1849 C Street, NW  
Washington, DC 20240

North Dakota State Water Commission  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

U.S. Army Engineer District, Omaha  
106 S. 15<sup>th</sup> Street  
Omaha, NE 68102

U.S. Environmental Protection Agency  
1 Interstate Bank Tower at  
Fountain Place  
1445 Ross Avenue, 12th Fl.  
Dallas, TX 75202

William A. May, Project Manager  
Corps of Engineers, Omaha District  
North Dakota Regulatory Office  
1513 South 12<sup>th</sup> Street  
Bismarck, ND 58504-6640

Bob Johnston, Rail Planner  
North Dakota Department of  
Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

Jeffrey K. Towner, Field Supervisor  
Mountain-Prairie Region 6  
U.S. Fish and Wildlife Service  
134 Union Blvd.  
Lakewood, CO 80228

L. David Glatt, P.E.  
North Dakota Department of Health  
Environmental Health Section  
1200 Missouri Ave.  
P.O. Box 5520  
Bismarck, ND 58506-5520

U.S. Environmental Protection Agency  
Region 8  
999 18<sup>th</sup> Street  
Suite 300  
Denver, CO 80202-2466

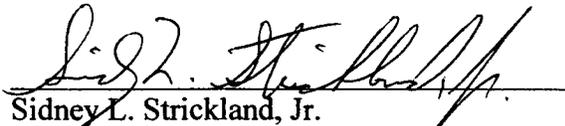
Larry Knudtson and Bruce Lange  
North Dakota State Water Commission  
Flood Plain Department  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

Robert Maydwell  
U.S. National Park Service  
Midwest Region  
1709 Jackson St.  
Omaha, NE 68102

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

Governor's Office  
600 East Boulevard Avenue  
Department 101  
Bismarck, ND 58505-3001

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

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

## APPENDIX 5

*Transmittal Letters for Environmental and Historic Report*

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**  
**3050 K ST. N.W., SUITE 101**  
**WASHINGTON, DC 20007-5108**  
**TELEPHONE: 202-295-4024**  
**FAX: 202-672-5399**

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

December 5, 2005

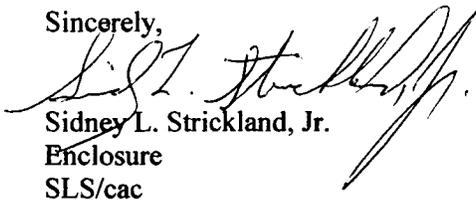
Ms. Victoria Ruston  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC, 20423-0001

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Ms. Ruston:

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Sincerely,

  
Sidney L. Strickland, Jr.  
Enclosure  
SLS/cac

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**3050 K ST. N.W., SUITE 101**  
**WASHINGTON, DC 20007-5108**  
**TELEPHONE: 202-295-4024**  
**FAX: 202-672-5399**

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

December 5, 2005

Beverly Demers  
Walsh County Clerk  
Courthouse  
600 Cooper Ave.  
Grafton, ND 58237

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Ms. Demers:

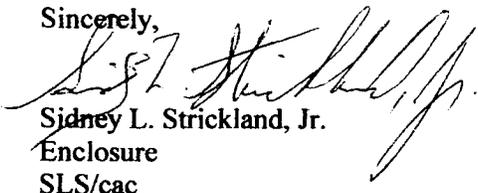
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Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the undersigned by telephone at (202) 295-4024 or by mail at Sidney Strickland and Associates, PLLC, 3050 K Street, N.W., Suite 101, Washington, DC 20007.

Thank you in advance for your cooperation.

Sincerely,

  
Sidney L. Strickland, Jr.  
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCC.COM

December 5, 2005

Walsh County Highway Dept.  
Courthouse  
600 Cooper Ave.  
Grafton, ND 58237

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Sir or Madam:

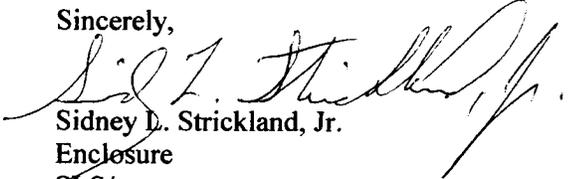
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

Jesse Hanson, Coordinator  
North Dakota Parks and Recreation Department  
Planning and Natural Resources Division  
1600 E. Century Ave., Suite 3  
Bismarck, ND 58503-0649

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. Hanson:

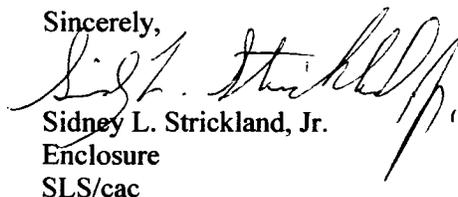
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

Linda Gisvold, Realty  
U.S. Bureau of Land Management  
North Dakota Field Office  
2933 Third Avenue West  
Dickinson, ND 58601-2619

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Ms. Gisvold:

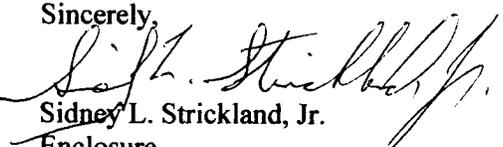
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Sidney L. Strickland, Jr.

Enclosure

SLS/cac

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**WASHINGTON, DC 20007-5108**  
**TELEPHONE: 202-295-4024**  
**FAX: 202-672-5399**

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

December 5, 2005

Jeffrey K. Towner, Field Supervisor  
Mountain-Prairie Region 6  
U.S. Fish and Wildlife Service  
134 Union Blvd.  
Lakewood, CO 80228

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. Towner:

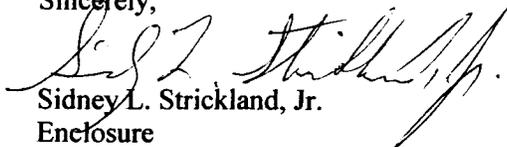
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Enclosure  
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WASHINGTON, DC 20007-5108  
TELEPHONE: 202-295-4024  
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCC.COM

December 5, 2005

William A. May, Project Manager  
Corps of Engineers, Omaha District  
North Dakota Regulatory Office  
1513 South 12<sup>th</sup> Street  
Bismarck, ND 58504-6640

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. May:

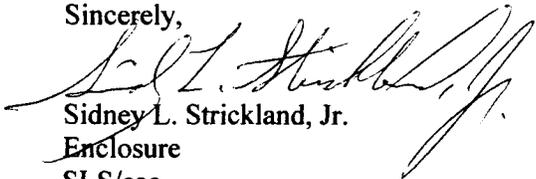
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Enclosure  
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**WASHINGTON, DC 20007-5108**  
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCC.COM

December 5, 2005

North Dakota State Water Commission  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

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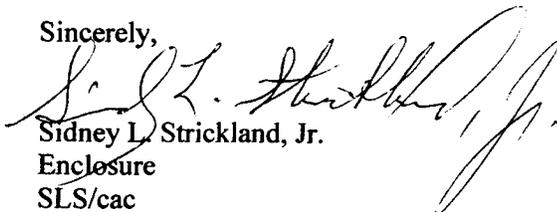
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**3050 K ST. N.W., SUITE 101**  
**WASHINGTON, DC 20007-5108**  
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

State Historical Society of North Dakota  
612 East Boulevard Avenue  
Bismarck, ND 58505-0830

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
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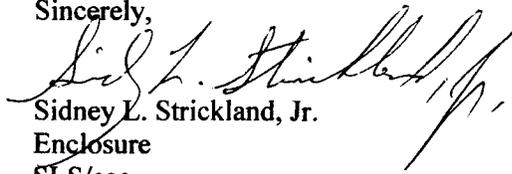
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCCOM

December 5, 2005

J.R. Flores, State Conservationist  
Natural Resources Conservation Service  
P.O. Box 1458  
Bismarck, ND 58502-1458

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. Flores:

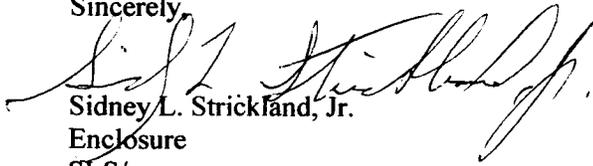
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Thank you in advance for your cooperation.

Sincerely,

  
Sidney L. Strickland, Jr.  
Enclosure  
SLS/cac

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**  
**3050 K ST. N.W., SUITE 101**  
**WASHINGTON, DC 20007-5108**  
**TELEPHONE: 202-295-4024**  
**FAX: 202-672-5399**

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

December 5, 2005

U.S. National Park Service  
1849 C Street, NW  
Washington, DC 20240

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Sir or Madam:

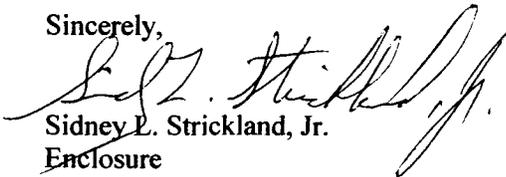
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

Walsh County Commissioners  
Courthouse  
600 Cooper Ave.  
Grafton, ND 58237

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Sir or Madam:

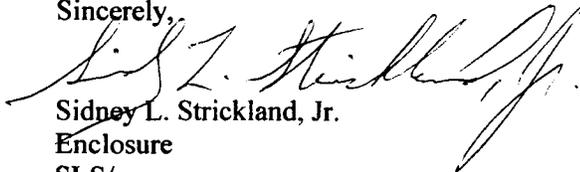
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

U.S. Environmental Protection Agency  
1 Interstate Bank Tower at  
Fountain Place  
1445 Ross Avenue, 12th Fl.  
Dallas, TX 75202

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

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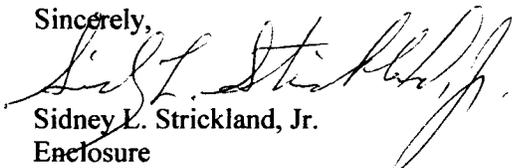
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

U.S. Army Engineer District, Omaha  
106 S. 15<sup>th</sup> Street  
Omaha, NE 68102

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

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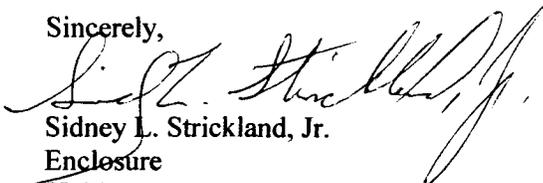
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

North Dakota NRCS State Office  
Natural Resources Conservation Service  
220 East Rosser Ave.  
Federal Building, Room 270  
Bismarck, ND 58501

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Sir or Madam:

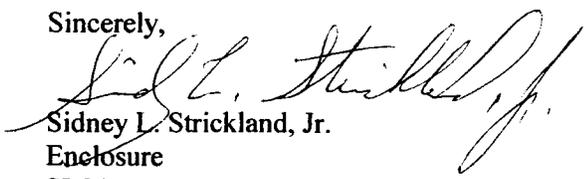
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCCOM

December 5, 2005

Bruce Lange  
North Dakota State Water Commission  
Flood Plain Department  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. Lange:

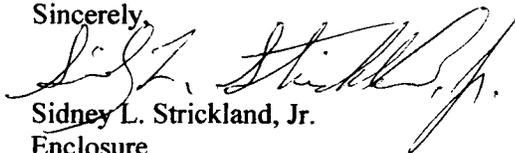
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December 5, 2005

Robert Maydwell  
U.S. National Park Service  
Midwest Region  
1709 Jackson St.  
Omaha, NE 68102

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
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Dear Mr. Maydwell:

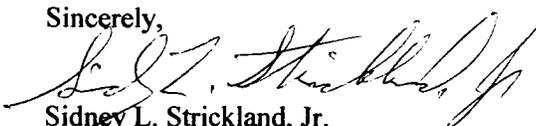
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December 5, 2005

U.S. Environmental Protection Agency  
Region 8  
999 18<sup>th</sup> Street  
Suite 300  
Denver, CO 80202-2466

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
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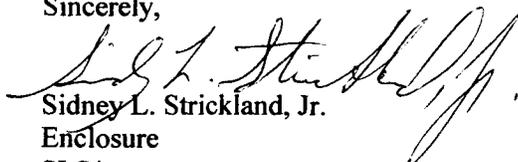
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCCOM

December 5, 2005

Larry Knudtson, Research Analyst  
North Dakota State Water Commission  
Flood Plain Department  
900 East Boulevard Avenue  
Bismarck, ND 58505-0850

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. Knudston:

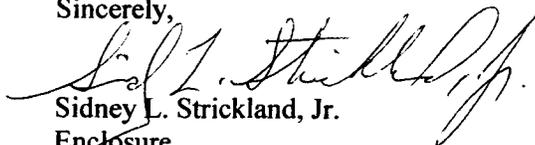
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

L. David Glatt, P.E.  
North Dakota Department of Health  
Environmental Health Section  
1200 Missouri Ave.  
P.O. Box 5520  
Bismarck, ND 58506-5520

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—Abandonment  
Exemption – in Walsh County, ND***

Dear Mr. Glatt:

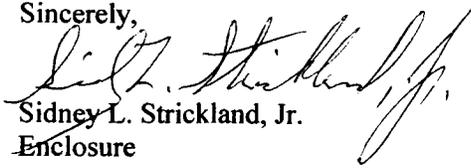
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM

December 5, 2005

Bob Johnston, Rail Planner  
North Dakota Department of Transportation  
608 East Boulevard Avenue  
Bismarck, ND 58505-0700

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Mr. Johnston:

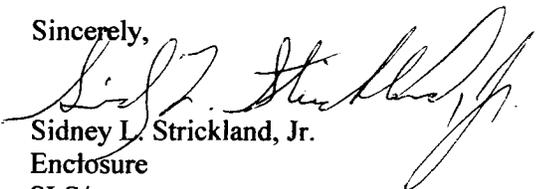
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCCOM

December 5, 2005

Governors Office  
600 East Boulevard Avenue  
Department 101  
Bismarck, ND 58505-3001

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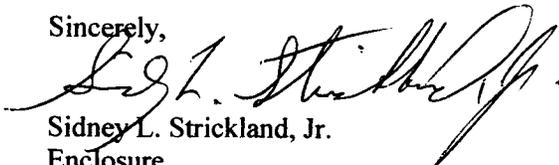
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We are providing these reports so that you may review the information that will form the basis for the STB’s independent environmental and historic analyses of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB’s environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001, Telephone (202) 565-1545, and refer to the above Docket No. AB-6 (Sub. No. 432X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to the undersigned) would be appreciated within 3 weeks.

Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the undersigned by telephone at (202) 295-4024 or by mail at Sidney Strickland and Associates, PLLC, 3050 K Street, N.W., Suite 101, Washington, DC 20007.

Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.  
Enclosure  
SLS/cac

**SIDNEY STRICKLAND AND ASSOCIATES, PLLC**  
3050 K ST. N.W., SUITE 101  
WASHINGTON, DC 20007-5108  
TELEPHONE: 202-295-4024  
FAX: 202-672-5399

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

December 5, 2005

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

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

Dear Sir or Madam:

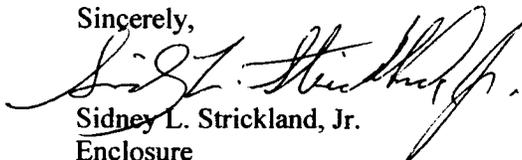
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SIDNEY L. STRICKLAND, JR.  
SIDNEY.STRICKLAND@STRICKLANDPLLCCOM

December 5, 2005

U.S. Army Engineer District, Omaha  
106 S. 15<sup>th</sup> Street  
Omaha, NE 68102

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

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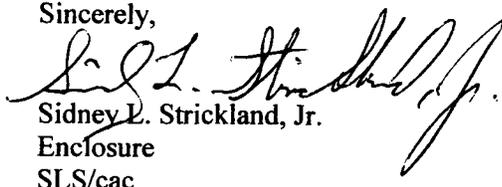
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December 5, 2005

North Dakota NRCS State Office  
Natural Resources Conservation Service  
220 East Rosser Ave.  
Federal Building, Room 270  
Bismarck, ND 58501

***Re: STB Docket No. AB-6 (Sub. No. 432X) BNSF Railway Company—  
Abandonment Exemption – in Walsh County, ND***

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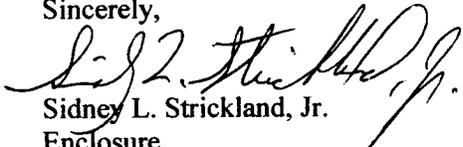
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