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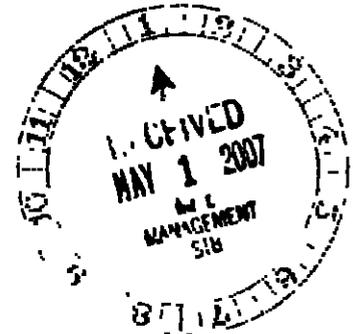
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May 1, 2007

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SURFACE
TRANSPORTATION BOARD



The Honorable Vernon Williams
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: STB Docket No. AB-1009X, Mission Mountain Railroad, Inc. –
Discontinuance of Service Exemption – In Flathead County,
Montana

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Notice of Exemption under 49 C.F.R. 1152.50. Also attached is a check covering the \$3,100 filing fee.

Mission Mountain Railroad, Inc. ("MMT") consulted with the Section of Environmental Analysis ("SEA") and was informed by SEA that they had no objection to MMT's use in this proceeding of the Environmental and Historic Reports filed by BNSF Railway Company in STB Docket No. AB-6 (Sub-No. 444X).

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions, please call me.

ENTERED
Office of Proceedings

Sincerely,

MAY 3 2007

Part of
Public Record

Karl Morell

RECEIVED

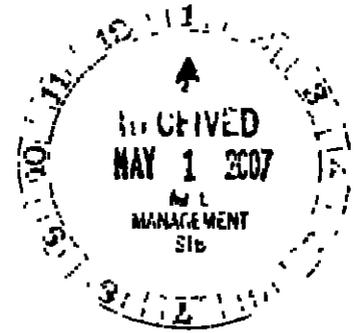
Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-1009X

**MISSION MOUNTAIN RAILROAD, INC.
-- DISCONTINUANCE OF SERVICE EXEMPTION --
IN FLATHEAD COUNTY, MONTANA**

NOTICE OF EXEMPTION



**Karl Morell
Of Counsel
Ball Janik LLP
1455 F St., N.W.
Suite 225
Washington, D.C. 20005
(202) 638-3307**

**Attorney for:
MISSION MOUNTAIN RAILROAD, INC.**

Dated: May 1, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-1009X

MISSION MOUNTAIN RAILROAD, INC.
-- DISCONTINUANCE OF SERVICE EXEMPTION --
IN FLATHEAD COUNTY, MONTANA



NOTICE OF EXEMPTION

Mission Mountain Railroad, Inc. ("MMT") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to discontinue service over the 0.42-mile rail line located between Engineering Station 189 + 36 and Engineering Station 167 + 00, near Kalispell in Flathead County Montana (the "Line").

1. Proposed consummation date.

The proposed consummation date is June 20, 2007.

2. Certification required by 49 C.F.R. § 1152.50(b).

The required certification is attached hereto as Exhibit A.

3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (c)(4).

- (a) General.

- (1) Exact name of applicant.

Mission Mountain Railroad, Inc.

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

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

(3) Relief sought.

MMT seeks to use the class exemption at 49 C.F.R. § 1152.50 to discontinue its lease operations over the 0.42-mile rail line located between Engineering Station 189 - 36 and Engineering Station 167 + 00 in Flathead County, Montana.¹ There has been no local or overhead traffic on the Line in over two years. The Line is stub-ended and not capable of handling overhead traffic. BNSF Railway Company ("BNSF"), the owner of the Line, obtained authority to abandon the Line in STB Docket No. AB-6 (Sub-No. 444X), *BNSF Railway Company – Abandonment Exemption – In Flathead County, MN* (not printed), served September 28, 2006.

(4) Map.

A Map depicting the trackage covered by the proposed discontinuance is attached as Exhibit B.

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

Karl Morell
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Washington, DC 20005
(202) 638-3307

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses.

The Line traverses ZIP Code 59901.

¹ MMT leased the Line and began operations in December 2004. See STB Finance Docket No. 34634, *Mission Mountain Railroad, Inc. – Acquisition and Lease Exemption – The Burlington Northern And Santa Fe Railway Company* (not printed), served January 19, 2005.

- (e) Rural and community impact.
- (4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and 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 right-of-way may be suitable for use for other public purposes.

Based on information in BNSF's possession, the Line does not contain federally granted rights-of-way. Any documentation in MMT's possession will be made available promptly to those requesting it.

4. The level of labor protection.

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

5. Certification.

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.12 are attached as Exhibit C.

6. Environmental Report.

The Environmental Report containing information required by 49 C.F.R. § 1105.7(e) was prepared by BNSF and is contained in the Notice filed September 8, 2006 in STB Docket No. AB-6 (Sub-No. 444X) proceeding. A copy of that Report and the Board's Environmental Assessment is attached as Exhibit D.

7. Historic Report.

The Historic Report containing information required by 49 C.F.R. § 1105.8(d) was prepared by BNSF and is contained in the Notice filed September 8, 2006 in STB Docket No. AB-6 (Sub-No 444X) proceeding. A copy of that Report is attached as Exhibit D.

Respectfully submitted,



Karl Morell
Of Counsel
Ball Janik LLP
1455 F St., N.W., Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorney for:
MISSION MOUNTAIN RAILROAD, INC.

Dated: May 1, 2007

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

STATE OF KANSAS)
) ss.
COUNTY OF CRAWFORD)

I, Arthur E. McKechnie III, being duly sworn depose and state that I am Assistant Secretary of Mission Mountain Railroad, Inc ("MMI"), 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.

I hereby certify that no local traffic has been handled to or from any customer over the rail line located between Engineering Station 189 + 36 and Engineering Station 167 + 00, near Kalispell in Flathead County, Montana (the "Line") for at least two (2) years prior to the date hereof. Also, no overhead traffic has been handled on the Line for at least two (2) years prior to the date hereof. The Line is stub-ended and, therefore, not capable of handling overhead traffic. 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.

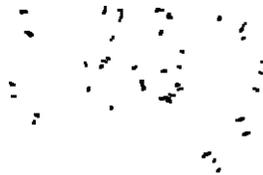
The foregoing certification is made on behalf of MMT by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.

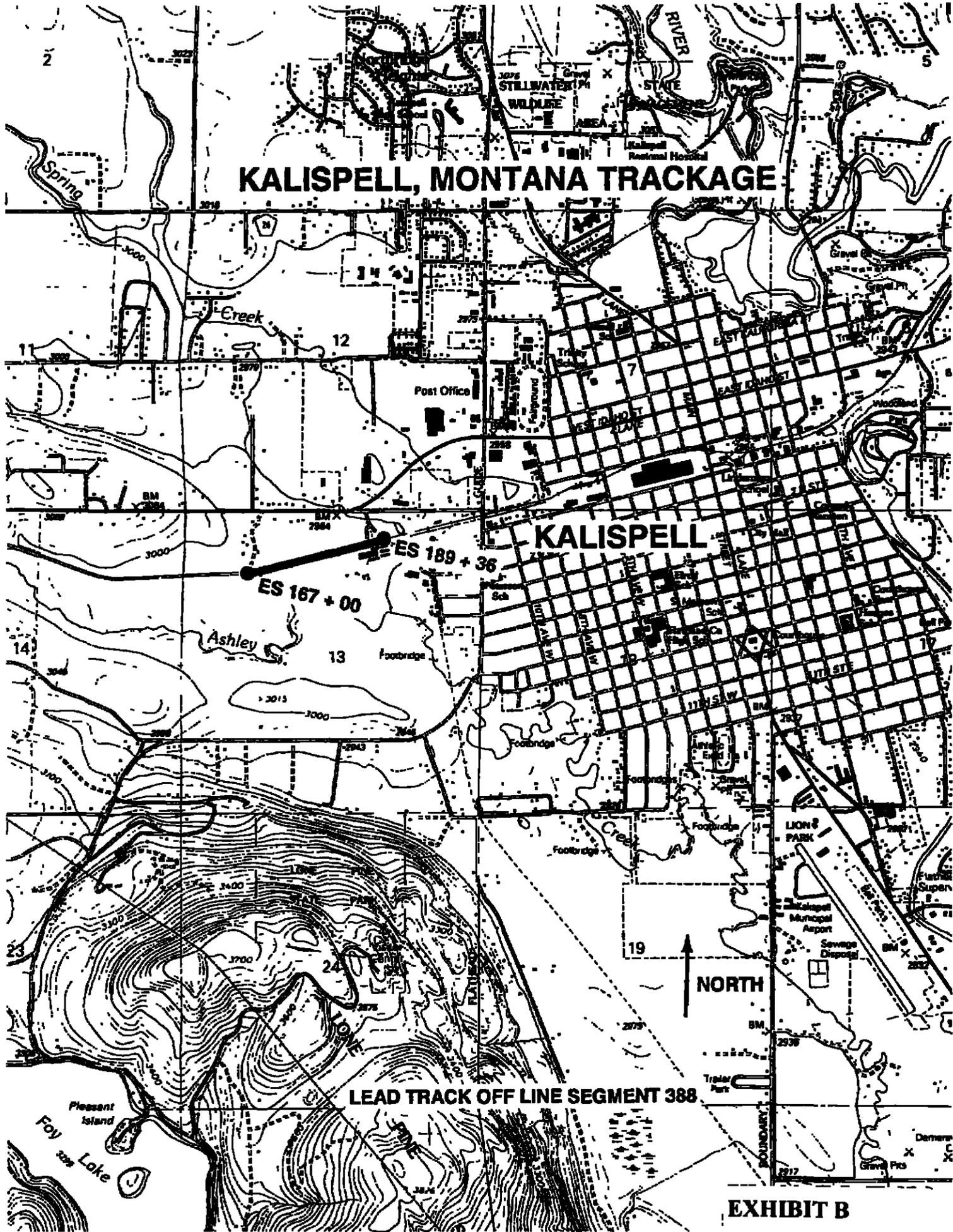
Arthur E. McKechnie III
Arthur E. McKechnie III

SUBSCRIBED AND SWORN TO before me this 27 day of April, 2007.

My Commission Expires: 2/12/09

Kara Mitchell
Notary Public





KALISPELL, MONTANA TRACKAGE

KALISPELL

LEAD TRACK OFF LINE SEGMENT 388

EXHIBIT B

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed discontinuance of lease operations in STB Docket No. AB-1009X was mailed via first class mail on April 19, 2007 to the following parties:

State Public Service Commission

State of Montana
Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001

Military Traffic Management Command

MTMC/TEA
ATTN: Railroads for National Defense
720 Thimble Shoals Blvd.
Suite 130
Newport News, VA 23606-2574

National Park Service

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

National Park Service
12795 W. Alameda Parkway
Lakewood, CO 80228

U.S. Department of Agriculture

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

Dated: May 1, 2007

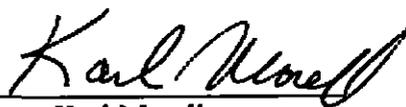

Karl Morell



CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed discontinuance of lease operations in STB Docket No. AB-1009X was published on April 25, 2007 in the Daily Inter Lake, a newspaper of general circulation in Flathead County, Montana as required by 49 C.F.R. § 1105.12.

Dated: May 1, 2007



Karl Morell

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN FLATHEAD COUNTY, MT**

**DOCKET NO. AB-6
(SUB. NO. 444X)**

**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 information in the Applicant's files to indicate that the rail line covered by these Reports does not contain 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 of Exemption for abandonment of the involved rail line. STB regulations provide that the Notice of Exemption cannot be filed until at least 20 days after these Reports are submitted.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**BNSF RAILWAY COMPANY --
ABANDONMENT EXEMPTION --
IN FLATHEAD COUNTY, MT**

**DOCKET NO. AB-6
(SUB. NO. 444X)**

ENVIRONMENTAL AND HISTORIC REPORTS

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

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

Attorneys for BNSF Railway Company

DATED August 14, 2006

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

The following information is submitted to the STB by BNSF in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption seeking authority to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 +00, near Kalispell in Flathead County, Montana (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 and ties, including all bridges and structures. There are no bridges on the Line and BNSF is not aware of any other structures. A map of the Line is attached as Exhibit A.

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

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

(3) Land Use:

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

any inconsistencies.

The proposed abandonment should not be inconsistent with local or regional land use plans. The City of Kalispell ("City") indicates the right-of-way is suitable for railbanking. The City further indicates there is an existing bike trail within an easement on the land proposed for abandonment and "this existing bike trail provides a connection between existing and future bike trails planned within the City and areas to the west and outside the city." Finally, based on the above stated information, the City requests: "To obtain the land being abandoned ..for the continued use of an existing city trail. The City of Kalispell acknowledges the fact that a future highway bypass will most likely require the majority of the land within the proposed abandonment, however the City is requesting those lands outside the highway right-of-way be turned over to the City." The City indicates it is "willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way..." See Exhibit B, letter from Thomas R. Jentz, Planning Director, on behalf of the City of Kalispell.

Also, Tom Stayert of the Montana Department of Transportation ("MDOT") was contacted regarding land use plans and indicates that the MDOT has no comments at this time. Mr. Stayert can be contacted at (406) 444-7646.

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

The proposed abandonment should have no effect on prime agricultural lands. The Natural Resources Conservation Service ("NRCS") (formerly known

as the U.S. Soil Conservation Service) states, "The proposed abandonment and associated removal of bridges, structures, ties, and rails will have no impact on important farmland since this land is considered to be previously converted farmland and the roadbed is to be left intact following abandonment." See Exhibit C, letter from Dave White, State Conservationist, Natural Resource 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.

The proposed abandonment may be suitable for alternative public use. As noted above, the City indicates it is interested in obtaining the land proposed for abandonment for trails use. See Exhibit B, letter from Thomas R. Jentz, Planning Director, on behalf of the City of Kalispell.

Also, Tom Stayert of the MDOT was contacted regarding alternative public uses and indicates that the MDOT has no comments at this time. Mr. Stayert can be contacted at (406) 444-7646.

(4) Energy:

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

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

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

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

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

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

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

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

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

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

(5) Air:

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

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

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

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

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

Moreover, the action will not involve an increase in truck traffic of more than

10% or 50 vehicles a day on any affected road segment as there has been no local traffic on the Line for over two years and there is no overhead traffic to be rerouted.

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

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

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

(C) An average increase in truck traffic 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 and there is no overhead traffic to be rerouted.

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

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

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

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

N/A

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

N/A

(7) Safety:

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

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

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

The abandonment will not result in the transportation of hazardous materials.

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

There is no known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way.

(8) Biological Resources:

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

The U.S. Fish and Wildlife Service ("FWS") indicates there are no endangered species issues associated with this project area and thus the proposal should have no effect on such resources. The FWS further indicates, "Of the endangered and threatened species known to occur in the state of Montana, there are no known occurrences in this project location. Likewise, there is no designated or proposed critical habitat, and there are no wildlife refuges or similar sanctuaries under U.S. Fish and Wildlife Service jurisdiction." Finally, FWS advises that Ashley Creek is located in proximity to the south of the project area and recommend that BNSF take appropriate measures if necessary to avoid or minimize impacts." See Exhibit D, electronic correspondence from Ben Conrad, U.S. Fish and Wildlife Service.

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

The National Park Service ("Service") reviewed the project and determined that no parks will be affected. The Service has no further comments. See Exhibit E, letter from Cheryl Eckhardt, National Park Service.

The Bureau of Land Management ("BLM") states that the BLM does not have surface jurisdiction in the proposed project area, but recommends that BNSF contact Ben Conrad at the FWS. See Exhibit F, electronic correspondence from Jim Sparks, Wildlife Biologist, Missoula Field Office, Bureau of Land Management. As indicated above, we contacted Ben Conrad in preparing these Reports.

Finally, Montana Fish, Wildlife, and Parks indicates ("MFWP") via phone call from Gael Bissell, Wildlife Biologist, that there is one (1) state park one (1) mile from the proposed abandonment but is not considered to be in the immediate area. MFWP further indicates there are no refuges in the immediate area. Finally, MFWP states that the only species in the area are likely to be bald eagles along Ashley Creek but there is likely to be no nesting. Ms. Bissell can be contacted at: Montana Fish, Wildlife, and Parks, 490 N. Meridian Road, Kalispell, MT, 59901, (406) 715-4580.

(9) Water:

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

The proposed exemption should be consistent with applicable Federal, State or local water quality standards. The Montana Department of Environmental Quality ("MDEQ") indicates that a typical permit that may be required for an abandonment is a state 318 authorization that addresses in-stream or bank disturbances that create turbidity. See Exhibit G, electronic correspondence from Jamesa L. Dodd, Water Protection Bureau, Montana Department of Environmental Quality. The MDEQ further indicates it is required under Section 75-5-402 of the Montana Water Quality Act to examine plans and other information to determine whether a permit is required, but is unable to determine what permits are necessary for the project. The MDEQ provided a fact sheet that describes water quality related permits for construction activities. Finally, MDEQ indicates that facilities which operate under an MPDES or Montana Ground Water Pollution Control System (MGWPCS) permit have

specific notification requirements. See Exhibit H, letter from Jamesa L. Dodd, Water Protection Bureau, Montana Department of Environmental Quality.

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

The proposed abandonment will not require a Section 404 permit. The U.S. Army Corps of Engineers ("CORPS") indicates, via telephone call from Jean Ramer, Project Manager for the Helena Regulatory Office, that a 404 permit will not be required because the project does not require placing fill materials into any aquatic areas. Ms. Ramer can be contacted at: U.S. Army Corps of Engineers, Helena Regulatory Office, 10 West 15th Street, Suite 2200, Helena, Montana, 59626, (406) 441-1376.

In regard to designated wetlands, the Corps indicates that based on National Wetlands Inventory (NWI) maps, it does not appear that any wetlands exist within the project area. See Exhibit I, electronic correspondence from Jean Ramer, Project Manager, Helena Regulatory Office, Army Corps of Engineers.

The proposed abandonment should not affect any 100-year flood plains. The Flathead County Planning and Zoning Office provided a flood insurance map for the proposed abandonment area but did not make a specific flood plain determination. See Exhibit J, fax transmission and map from George Smith, Flathead County Planning and Zoning Office, 1035 1st Avenue West, Kalispell, MT, 59901.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection

or equivalent agency if they are unsure whether such permits are required).

A permit under Section 402 of the Clean Water Act may be required for the proposed action. As stated above, the MDEQ indicates it is unable to determine which permits are necessary for the project, but it provided a fact sheet that describes water quality related permits for construction activities. See Exhibit H, letter from Jamesa L. Dodd, Water Protection Bureau, Montana Department of Environmental Quality.

Also, the U.S. Environmental Protection Agency ("EPA") indicates via phone conversation with Kurt McCormick that the state EPA program should be contacted in regards to Section 402 permits. Mr. McCormick can be contacted at: U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466, (303) 312-6377.

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

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

II

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

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

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

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

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

The 0.42 mile Kalispell, MT Trackage is located on the west side of Kalispell, MT, a city in northern Montana with a population of 14,223 residents in the year 2000. The land in the area of the Line is generally flat and rural in nature. Much of the surrounding area is forested. The right of way is 100 feet in width.

There are no federally granted rights of way involved.

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

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

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

N/A

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

The right of way was acquired by the Great Northern Railway (GN) in 1891. The GN was merged into The Burlington Northern Railroad (BN) in 1970. BN and The Atchison Topeka & Santa Fe Railway merged in 1995 to become The Burlington Northern & Santa Fe Railway Company (BNSF). In 2005, BNSF changed its name to BNSF Railway Company.

- (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).*

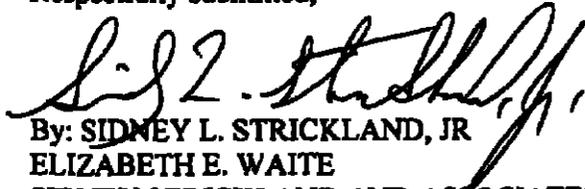
The Montana Historical Society ("MHS") initially indicated it conducted a file search for the project and found that site 24FH0350 is the historic Great Northern Railroad and is eligible for listing on the National Register of Historic Places and concluded that the abandonment and removal of track materials may

have an adverse effect on the historic site. Finally, MHS recommends that we contact the Section 106 Compliance officer, Josef Warhank, regarding any concerns he may have. See Exhibit K, letter from Damon Murdo, Cultural Records Manager, Montana Historical Society. We contacted Mr. Warhank via telephone conversation, and he indicated that the next step is to provide MHS with a clear and detailed description of the undertaking. Mr. Warhank can be reached at: (406) 444-0388. However, in a supplemental correspondence between the MDOT and the Montana State Historic Preservation Office ("MSHPO"), Mr. Warhank indicates that the MSHPO concurs with the MDOT's finding that the abandonment will have "No Adverse Effect" to the property. See Exhibit L, letter from Jon Axline, Historian, Environmental Services, Montana Department of Transportation.

(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.

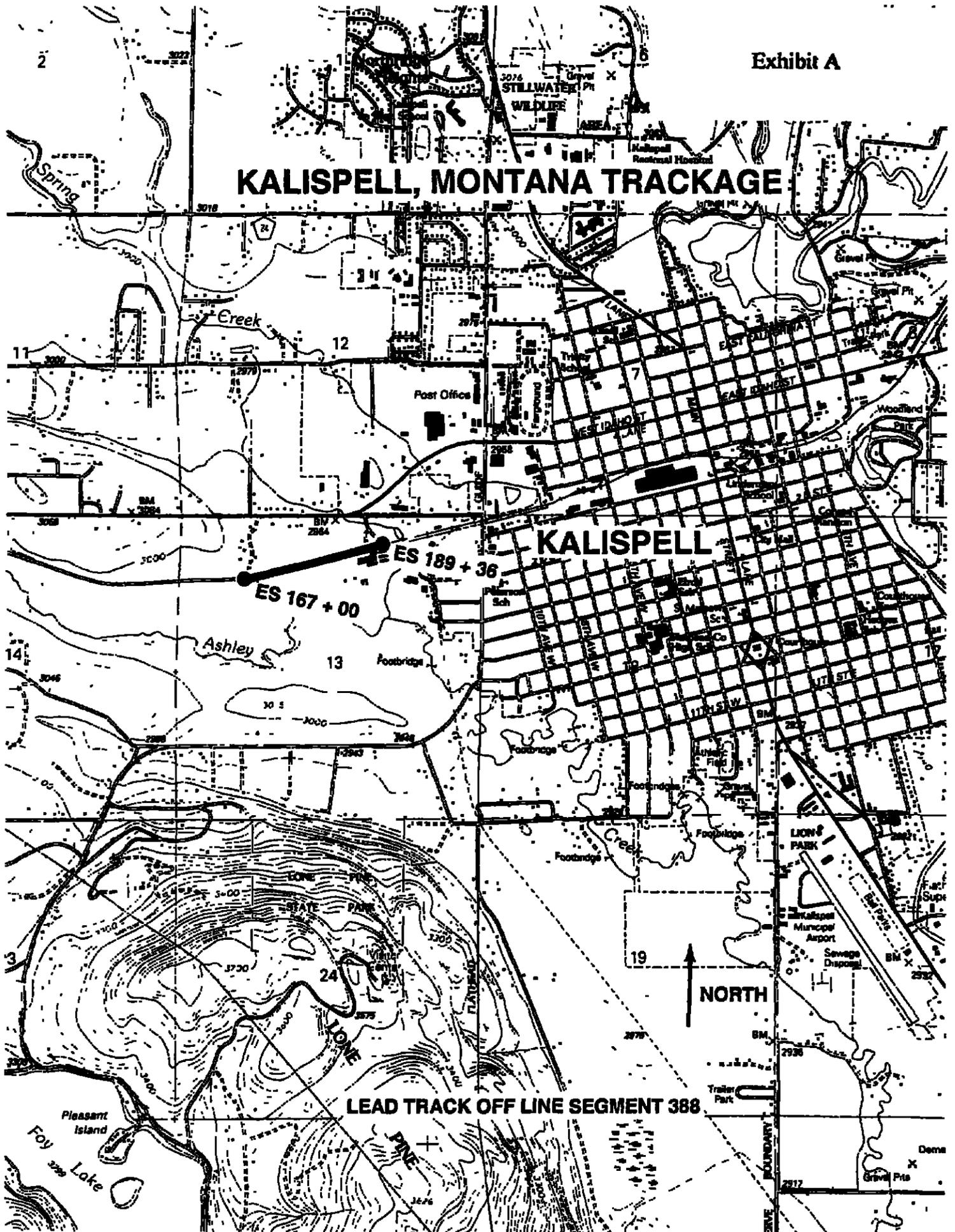
Respectfully submitted,



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

DATED: August 14, 2006

KALISPELL, MONTANA TRACKAGE



LEAD TRACK OFF LINE SEGMENT 388

Exhibit B



City of Kalispell
Planning Department

17 - 2nd Street East, Suite 211, Kalispell, Montana 59901

Telephone: (406) 751-1850
Fax: (406) 751-1858
Website: kalispellplanning.com

May 12, 2006

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW, Rm 711
Washington, DC 20423

**Re: BNSF Railway Company - Abandonment - Flathead County, Montana STB
Docket No. AB-6 (Sub. No. 444X)**

Dear Mr. Williams:

This comment should be treated as a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of Kalispell which is an incorporated city in the state of Montana which is hereinafter referred to as 'Commenter'.

The railroad right-of-way in this proceeding proposed for abandonment is suitable for railbanking. An existing bike trail is located within an easement on the land proposed for abandonment. Furthermore, this existing bike trail provides a connection between existing and future bike trails planned within the City and areas to the west outside the City. Therefore, Commenter is making the following request:

To obtain the land being abandoned as described in STB Docket No. AB-6 (Sub. No. 444X) for the continued use of an existing city trail. The City of Kalispell acknowledges the fact that a future highway bypass will most likely require the majority of the land within the proposed abandonment however the City is requesting -those lands outside of the highway right-of-way be turned over to the City.

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the City of Kalispell is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by the BNSF Railway Company and operated by the BNSG Railway Company.

The property extends from engineering station 189 +36 to engineering station 167 + 00 a distance of 0.42 miles near Kalispell in Flathead County, Montana. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-6 (Sub. No. 444X)

A map depicting the right-of-way is attached.

The City of Kalispell acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon BNSF Railway Company, 2600 Lou Menk Drive, Fort Worth, TX 76161 by U.S. Mail, postage prepaid, first class, this day of 2006.

Respectfully Submitted,


Thomas R. Jentz, Planning Director

On behalf of the City of Kalispell

C: Flathead County Planning & Zoning



Natural Resources Conservation Service
Federal Building, Room 443
10 East Babcock
Bozeman, MT 59715

Office: (406) 587-6811
FAX: (406) 587-6761

June 21, 2006

Sidney Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street, NW, Suite 101
Washington, D.C. 20007-5108

Dear Mr. Strickland:

I am responding to your letter inviting comments from the NRCS relative to potential impacts associated with the BNSF Railway Company's Notice of Exemption to abandon a section of railroad line in Kalispell, Flathead County, Montana (STB Docket No. AB-6 (Sub. No. 444X)). As you have noted in your correspondence, the provisions of the National Environmental Policy Act and the Federal Farmland Protection Policy Act (FPPA), require evaluation of important farmland status (prime farmland, farmland of statewide importance, or locally important farmland), when the actions or assistance of a federal agency irreversibly converts (directly or indirectly) farmland.

The proposed abandonment and associated removal of bridges, structures, ties and rails will have no impact on important farmland since this land is considered to be previously converted farmland and the roadbed is to be left intact following abandonment. Therefore, the proposed action does not involve the FPPA. No further action is necessary relative to the FPPA. NRCS has no other comments regarding the proposed abandonment.

A handwritten signature in black ink that reads "Dave White acting for".

DAVE WHITE
State Conservationist

Enclosures:

cc w/encl (Strickland Letter and Project Map):
Angel Rosario, District Conservationist, NRCS, Kalispell, MT

cc w/o encl:
Ronald Nadwornick, State Resource Conservationist, NRCS, Bozeman, MT
Craig Engelhard, Assistant State Conservationist for Field Operations, NRCS, Missoula, MT

Carlton Curry

From: Ben_Conard@fws.gov
Sent: Monday, May 22, 2006 4:55 PM
To: sidney.strickland@stricklandplc.com
Cc: Tim_Bodurtha@fws.gov; Heidi_VanDuyn@fws.gov; Ben_Conard@fws.gov
Subject: Reply to May 11, 2006, information request

May 22, 2006

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

Dear Mr. Strickland,

This is in response to your May 11, 2006, written request for information regarding the STB Docket No. AB-6 (Sub. No. 444X), BNSF Railway Company - Abandonment Exemption - in Flathead County, Montana. The proposal involves abandoning a portion of railway described in your letter and possible removal of bridges and structures and removal of track materials. We received your letter on May 18, 2006, and you requested a reply by May 26, 2006. Under the circumstances, please accept this email message as our official reply.

Specifically, you needed 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."

The U.S. Fish and Wildlife Service has determined there are no endangered species issues associated with this project area and thus your proposal should have no effect upon such resources. Of the endangered and threatened species known to occur in the state of Montana, there are no known occurrences in this project location. Likewise, there is no designated or proposed critical habitat, and there are no wildlife refuges or similar sanctuaries under U.S. Fish and Wildlife Service jurisdiction.

As you know, Ashley Creek is located in close proximity (to the south) of your project area. Ashley Creek ultimately flows into the Flathead River and Flathead Lake. Without additional details of your proposal, we cannot judge what effect, if any, your proposal would have on Ashley Creek. We trust you are aware of this resource concern and will take appropriate measures if necessary to avoid or minimize your impacts.

We value your effort that seeks to minimize impacts to listed species and aid their recovery. If you have further questions about this email message or your responsibilities under the Endangered Species Act, please contact Ben Conard at 406-758-6878 or Tim Bodurtha at 406-758-6882. Please acknowledge receipt of this message. Thank you.

Sincerely,

Ben Conard
U.S. Fish and Wildlife Service
780 Creston Hatchery Road
Kalispell, MT 59901
phone: 406-758-6878 email: Ben_Conard@fws.gov
visit our website: <montanafie1doffice.fws.gov>

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

Exhibit B

3060 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-8389

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

April 28, 2006

U.S. National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80228

**Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—
Abandonment Exemption – in Flathead County, MT**

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 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 + 00, in Kalispell in Flathead County, Montana.

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 wildlife sanctuaries or refuges, National or State parks or forests in the proposed project impact area and if so, what effects would occur as a result of the abandonment.

For your reference, I have enclosed a map of the above referenced railroad line. Please provide this information to me by May 26, 2006. If you have any questions, please do not hesitate to contact me at (202) 338-1325.

Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.



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

Signed:  Date: 5/16/06

Enclosure
SLS/cew

Carlton Curry

From: James_R_Sparks@blm.gov
Sent: Tuesday, May 09, 2006 3:26 PM
To: Sidney Strickland@stricklandpic.com
Subject: BNSF Railway Company Abandonment Exemption - Flathead County, MT

The BLM does not have surface jurisdiction in the proposed project area. I am also unfamiliar with the area. Please contact Ben Conrad at the Kalispell, MT Suboffice of the U.S. Fish and Wildlife Service. Ben's phone number is: (406) 758-6878.

Jim Sparks
Wildlife Biologist
Missoula Field Office,
Bureau of Land Management



Home | Compose | Address Book | Calendar | Mail | News | Settings | Username: Liz Waite (liz.waite@stricklandplc.com)

Inbox (26)

Drafts

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Sent

Scheduled



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From: "Lovelace, Bonnie" <blovelace@mt.gov>

To: Liz Waite <liz_waite@stricklandplc.com>

Subject: FW: strickland053006

Date: 07-Jul-06 04:19 PM

Attachments: strickland053006.doc

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Reply To All

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< Previous | Next > Close

Message

Liz Here's the letter response you were expecting It was sent May 31. However, I will add detail as we discussed. The most typical/likely discharge you would face in abandonment is one of three types of permits. Two MPDES (402) permits would be possible--1) construction dewatering if discharging from construction that has water in it or 2) storm water construction if disturbing more than an acre and discharging is likely. The third is a 318 authorization, a state permit, that addresses in-stream or bank disturbances that create turbidity.

Original Message

From: Dodd, Jamesa

Sent: Friday, July 07, 2006 1 51 PM

To Lovelace, Bonnie

Subject: strickland053008

<<strickland053006.doc>>

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**Montana Department of
ENVIRONMENTAL QUALITY**

Exhibit H

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.mt.gov

August 3, 2006

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

RE: Environmental Report regarding BNSF's plans for filing a Notice of Exemption for the railroad line in Kalispell, MT.

Dear Mr. Strickland:

The Department is in receipt of your April 28, 2006, letter requesting that the Department identify any permitting requirements or other issues that may be necessary for the above referenced project. I am sorry to be so late in responding. Your letter was misplaced and only found last week.

Pursuant to Section 75-5-402 of the Montana Water Quality Act (WQA), the Department is required to examine plans and other information to determine whether a permit is necessary. In order for the Department to complete this review, the proponent must complete the applicable discharge permit application forms for the proposed activity, provide the information required by the applicable rule and submit the necessary application fees. Alternatively, the applicant may submit detailed plans and specifications on the proposed activity along with a description of the volume and nature of the wastes to be discharged. In accordance with ARM 17.30.201; the fee for review of plans and specifications is one-half of the application fee. Bureau staff is available to assist you in determining the appropriate application requirements.

Based on the information submitted, the Department is unable to determine what permits are necessary for the proposed project. For your convenience I have enclosed a fact sheet that describes water quality related permits for construction activities. Discharge of storm water from: industrial facilities as defined in ARM 17.30.1102(29) and (30); from construction activities as defined in ARM 17.30.1002(28); and from municipal separate storm sewer systems (MS4) as defined in ARM 17.30.1102(23), are subject to the permitting requirement of the Montana Pollutant Discharge Elimination System (MPDES).

In general, the Montana WQA prohibits the discharge of sewage, industrial or other wastes, including sediment, to state waters without a current permit from the Department. The definition of state waters includes any body of water on the surface or

Mr. Strckland
August 3, 2006
Page 2 of 2

underground (ground water) and includes irrigation systems, ephemeral and intermittent drainage systems, lake, ponds or other waterways. Discharge of wastes to state surface water is regulated under the Montana Pollutant Discharge Elimination System (MPDES) program; a discharge, or potential discharge, to state ground water are regulated under the Montana Ground Water Pollution Control System. The WQA also prohibits the construction, operation or use of an outlet that is used to discharge waters to state water [75-5-605(2), MCA] without a current permit from the Department.

In addition to the general requirements of the WQA, facilities which operate under an MPDES or Montana Ground Water Pollution Control System (MGWPCS) permit have specific notification requirements that are identified in Part III and IV of their permit. The permittee must notify the Bureau in advance of any of the following activities: physical alteration of the treatment system, sludge removal, introduction of non-domestic waste streams, and the modification, addition or relocation of any discharge structure or location. Failure to do so may result in noncompliance with the permit.

Additional information on permitting requirements may be obtained by contacting the Water Protection Bureau at (406) 444-3080 or on the Department's Website at: www.deq.mt.gov.

Sincerely,



Jamesa L. Dodd
Permit Technician
Compliance and Technical Support Section
Water Protection Bureau
Phone: (406) 444-5349 Fax: (406) 444-1374
jdodd@mt.gov



Username: Ian Thomas
(ian.thomas@stricklandpllc.com)

- [Inbox \(8\)](#)
- [Drafts](#)
- [Deleted Items](#)
- [Sent](#)

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Message

Delete permanently

From: 'Ramer, Jean L NWO' <Jean.L.Ramer@nwo02.usace.army.mil>
To: Ian Thomas <ian.thomas@stricklandpllc.com>
Subject: RE: Kalispell Map
Date: 12-Jun-06 04:54 PM

Reply To All
 InLine Text

< Previous | Next > | Close

Dear Ian,
 I looked up this area on our National Wetlands Inventory (NWI) maps and it does not appear that any wetlands exist within the project area. If bridges or culverts are going to be removed from unnamed tributaries or ditches, please ensure that no material is placed either temporarily or permanently in any wetlands or other waters of the US

Jean Ramer
 Project Manager
 US Army Corps of Engineers
 Helena Regulatory Office
 10 West 15th Street, Suite 2200
 Helena, Montana 59626
 Phone (406) 441-1378
 Fax (406) 441-1380

-----Original Message-----
From: Ian Thomas (mailto:ian.thomas@stricklandpllc.com)
Sent: Monday, June 12, 2006 12:59 PM
To: Ramer, Jean L NWO
Subject: Kalispell Map

Ms. Ramer,

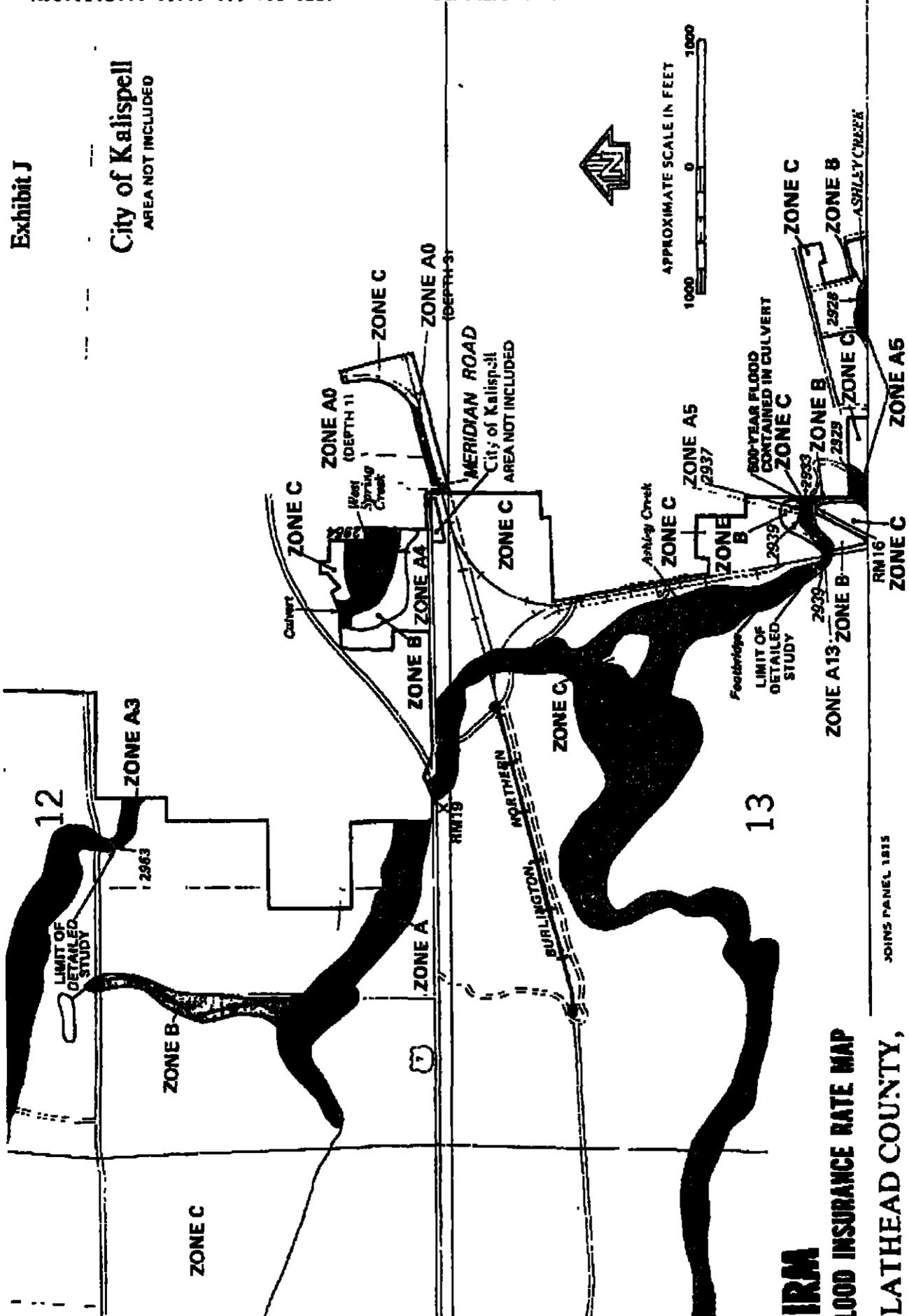
Attached is the map for the Kalispell, MT abandonment. Thank you for your cooperation

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Exhibit J

City of Kalispell
AREA NOT INCLUDED



IRM
FLOOD INSURANCE RATE MAP
LATHEAD COUNTY,
MONTANA
 (INCORPORATED AREAS)
COMMUNITY-PANEL NUMBER

JOINS PANEL 1815



MONTANA HISTORICAL SOCIETY

225 North Roberts ♦ P.O. Box 201201 ♦ Helena, MT 59620-1201
♦ (406) 444-2694 ♦ FAX (406) 444-2696 ♦ www.montanahistoricalsociety.org ♦

May 8, 2006

Exhibit K

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

RE: STB DOCKET NO. AB-6 (SUB. NO. 444X), BNSF RAILWAY COMPANY -
ABANDONMENT EXEMPTION - IN FLATHEAD COUNTY MT. SHPO Project #:
2006050801

Dear Sidney.

I have conducted a cultural resource file search for the above-cited project located in Section 13, T28N R22W. According to our records there has been one previously recorded site within the designated search locale. Site 24FH0350 is the historic Great Northern railroad. This railroad is eligible for listing on the National Register of Historic Places. The absence of more cultural properties in the area does not mean that they do not exist but rather may reflect the absence of any previous cultural resource inventories in the area, as our records indicated none.

We feel that the abandonment and removal of the track materials may have an adverse effect on this historic site. We would ask that you contact our Section 106 Compliance officer, Josef Warhank, for any concerns that he may have. He may be reached at 406-444-0388. Thank you for consulting with us.

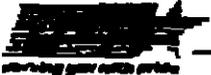
If you have any further questions or comments you may contact me at (406) 444-7767 or by e-mail at dmurdo@mt.gov.

Sincerely,


Damon Murdo
Cultural Records Manager

File: STB/2006

2006



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

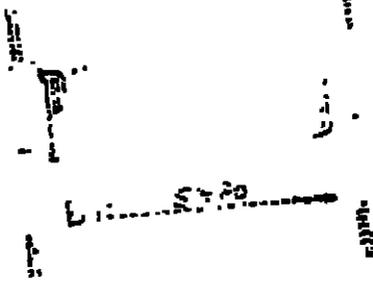
RECEIVED Governor

JUL 24 2006

ENVIRONMENTAL

July 12, 2006

Mark Baumler, Ph.D.
State Historic Preservation Office
1410 8th Avenue
P O Box 201202
Helena, MT 59620-1202



MTD
Kalispell Bypass
GREAT N RAILWAY
EFFECT

Subject: NH-MT 5-3(59)109F
Kalispell Bypass
Control No. 2038

CONCUR
MONTANA SHPO

DATE 7/24/06 SIGNED *[Signature]*

Dear Mark:

Enclosed is the Determination of Effect for a section of the Great Northern Railway's Somers - Kalispell Line (24FH350) We have determined that the abandonment of a 2,236± section of the line west of the "wye" would have No Adverse Effect to the property for the reasons specified in the document. We request your concurrence.

If you have any questions, please contact me at 444-6258.

[Signature]
Jan Axline, Historian
Environmental Services

Enclosure

cc: Dwane Kailey, P.E., Missoula District Administrator
Tom Martin, P.E., Consultant Design
Bonnie Steg, Resources Section

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

BNSF Railway Company ("BNSF"), by and through its authorized representative, Sidney L. Strickland, Jr., certifies that on August 14, 2006, BNSF sent copies of the foregoing Environmental and Historic Reports by first class mail to the following agencies.

**Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001**

**Dave White
USDA Natural Resource Conservation Service
443 Federal Building
10 East Babcock Street
Bozeman, MT 59715**

**Damon Murdo
Montana Historical Society
225 North Roberts
P.O. Box 201202
Helena, MT 59620-1202**

**Josef Warhank
State Historic Preservation Office
1410 8th Avenue
P.O. Box 201202
Helena, MT 59620-1202**

**U.S. Army Corps of Engineers
Seattle District
P.O. Box 3755
Seattle, WA 98124-3755**

**U.S. Fish and Wildlife Service
Region 6
P.O. Box 25486
Denver Federal Center
Denver, CO 80225**

**Jamesa L. Dodd
Water Protection Bureau
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620**

**Jean Ramer
U.S. Army Corps of Engineers
Helena Regulatory Office
10 West 15th Street, Suite 2200
Helena, MT 59626**

**Jim Sparks, Wildlife Biologist
Bureau of Land Management
Missoula Field Office
3255 Fort Missoula Road
Missoula, Montana 59801**

**Montana Fish, Wildlife & Parks
1420 E. 6th Ave.
P.O. Box 200701
Helena, MT 59620-0701**

**Tom Jentz
City of Kalispell Planning Department
17-2nd Street East, Suite 211
Kalispell, MT 59001**

**Kurt McCormick
U.S. Environmental Protection Agency
Region 8
999 18th Street
Suite 300
Denver, CO 80202-2466**

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5399

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

August 14, 2006

Ms. Victoria Rutson
Chief, SEA
Surface Transportation Board
1925 K Street, N.W.
Washington D.C. 20423-0001

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Ms. Rutson:

On or about September 5, 2006, BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 + 00, in Kalispell in Flathead County, Montana (the "Line"). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Sincerely,


Sidney L. Strickland, Jr
Enclosure
SLS/ccw

**Flathead County Commissioners Office
800 South Main
Kalispell, MT 59901**

**Tom Stayert
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001**

**Cheryl Eckhardt
U.S. National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80228**

**Ben Conrad
U.S. Fish and Wildlife Service, Region 6
Kalispell Ecological Services Sub-Office
780 Creston Hatchery Road
Kalispell, MT 59901-8239**

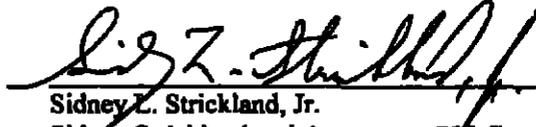
**Gael Bissell, Wildlife Biologist
Montana Fish, Wildlife, and Parks
490 N. Meridian Road
Kalispell, MT 59901**

**George Smith
Flathead County Planning and Zoning Office
1035 1st Avenue West
Kalispell, MT 59901**

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

**Jon Axline
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001**

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**

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5399

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

August 14, 2006

Dave White
USDA Natural Resource Conservation Service
443 Federal Building
10 East Babcock Street
Bozeman, MT 59715

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Mr. White:

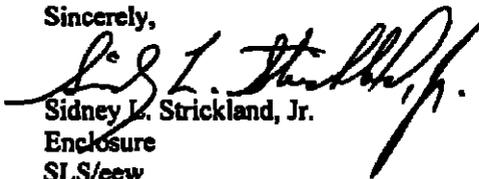
On or about September 5, 2006, BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 + 00, in Kalispell in Flathead County, Montana (the "Line"). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

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. 444X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to the undersigned) would be appreciated within three weeks.

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

Thank you in advance for your cooperation.

Sincerely,


Sidney L. Strickland, Jr.

Enclosure
SLS/cew

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5399

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

August 14, 2006

Damon Murdo
Montana Historical Society
225 North Roberts
P.O. Box 201202
Helena, MT 59620-1202

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Mr. Murdo:

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Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.

Enclosure

SLS/cew

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5399

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

August 14, 2006

Josef Warhank
State Historic Preservation Office
1410 8th Avenue
P.O. Box 201202
Helena, MT 59620-1202

Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment Exemption – in Flathead County, MT

Dear Mr. Warhank:

On or about September 5, 2006, BNSF Railway Company ("BNSF") plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 0.42 miles of railroad line between Engineering Station 189 + 36 and Engineering Station 167 + 00, in Kalispell in Flathead County, Montana (the "Line"). Attached are Environmental and Historic Reports describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

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

August 14, 2006

U.S. Army Corps of Engineers
Seattle District
P O Box 3755
Seattle, WA 98124-3755

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

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

August 14, 2006

U.S. Fish and Wildlife Service
Region 6
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Sir or Madam:

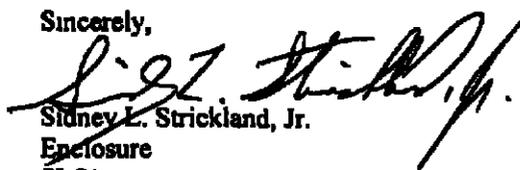
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TELEPHONE: 202-338-1325
FAX: 202-672-5399

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

August 14, 2006

Jamesa L. Dodd
Water Protection Bureau
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Ms. Dodd:

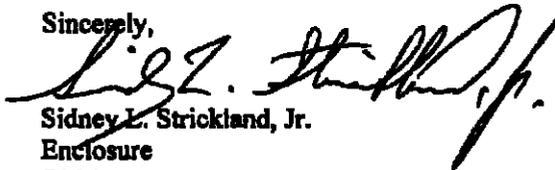
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SIDNEY STRICKLAND AND ASSOCIATES, PLLC
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WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Jean Ramer
U S. Army Corps of Engineers
Helena Regulatory Office
10 West 15th Street, Suite 2200
Helena, MT 59626

Army Corps Tracking # 200690495

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Ms. Ramer:

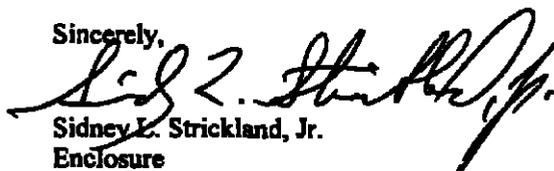
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Sidney L. Strickland, Jr.
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SIDNEY STRICKLAND AND ASSOCIATES, PLLC
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WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandllc.com

August 14, 2006

Jim Sparks, Wildlife Biologist
Bureau of Land Management
Missoula Field Office
3255 Fort Missoula Road
Missoula, Montana 59801

Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment Exemption – in Flathead County, MT

Dear Mr. Sparks:

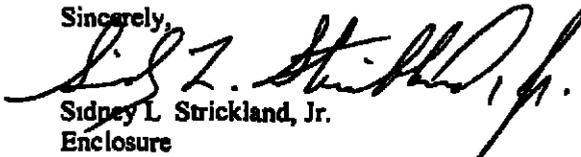
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Montana Fish, Wildlife & Parks
1420 E. 6th Ave.
P.O. Box 200701
Helena, MT 59620-0701

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Sir or Madam

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WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5389

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

August 14, 2006

Tom Jentz
City of Kalispell Planning Department
17-2nd Street East, Suite 211
Kalispell, MT 59001

Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment Exemption – in Flathead County, MT

Dear Mr. Jentz:

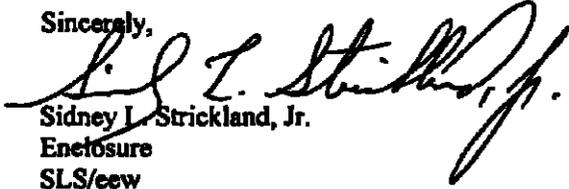
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Kurt McCormick
U.S. Environmental Protection Agency
Region 8
999 18th Street
Suite 300
Denver, CO 80202-2466

*Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT*

Dear Mr. McCormick:

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

August 14, 2006

Flathead County Commissioners Office
800 South Main
Kalispell, MT 59901

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
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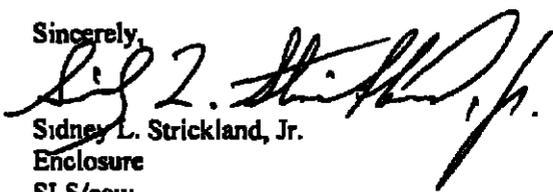
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Tom Stayert
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001

Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment Exemption – in Flathead County, MT

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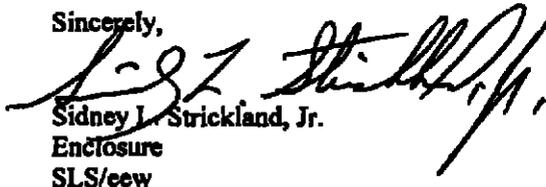
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Cheryl Eckhardt
U.S National Park Service
Intermountain Region
12795 Alameda Parkway
Denver, CO 80228

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Ms. Eckhardt:

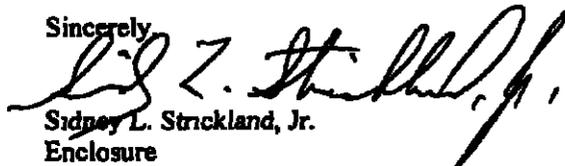
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Ben Conrad
U.S. Fish and Wildlife Service, Region 6
Kalispell Ecological Services Sub-Office
780 Creston Hatchery Road
Kalispell, MT 59901-8239

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Mr. Conrad:

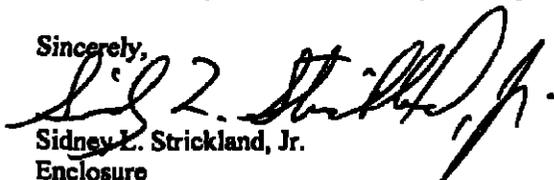
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We are providing these reports so that you may review the information that will form the basis for the STB's independent environmental and historic analyses of this proceeding. If any of the information is misleading or incorrect, if you believe that 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 444X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to the undersigned) would be appreciated within three weeks.

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

Thank you in advance for your cooperation.

Sincerely,



Sidney L. Strickland, Jr.

Enclosure
SLS/eew

SIDNEY STRICKLAND AND ASSOCIATES, PLLC
3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-672-5399

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

August 14, 2006

Gael Bissell, Wildlife Biologist
Montana Fish, Wildlife, and Parks
490 N. Meridian Road
Kalispell, MT 59901

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Ms. Bissell:

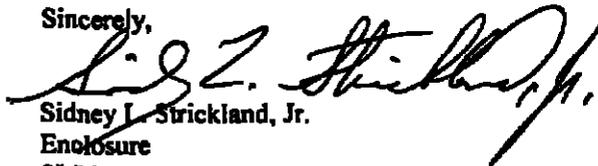
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TELEPHONE: 202-338-1325
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SIDNEY L. STRICKLAND, JR
Sidney.Strickland@stricklandolc.com

August 14, 2006

George Smith
Flathead County Planning and Zoning Office
1035 1st Avenue West
Kalispell, MT 59901

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Mr. Smith:

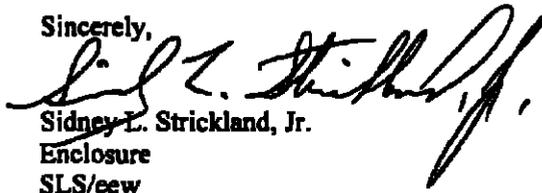
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Sidney L. Strickland, Jr.
Enclosure
SLS/ew

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

August 14, 2006

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. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Sir or Madam:

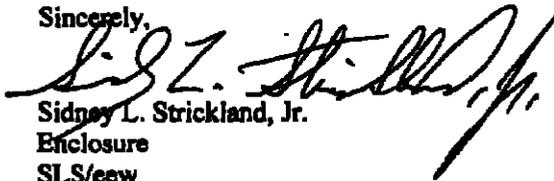
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Sidney L. Strickland, Jr.
Enclosure
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TELEPHONE: 202-338-1325
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SIDNEY L. STRICKLAND, JR.
Sidney.Strickland@stricklandpllc.com

August 14, 2006

Jon Axline
Montana Department of Transportation
2701 Prospect Avenue
P.O. Box 201001
Helena, MT 59620-1001

***Re: STB Docket No. AB-6 (Sub. No. 444X) BNSF Railway Company—Abandonment
Exemption – in Flathead County, MT***

Dear Mr. Axline:

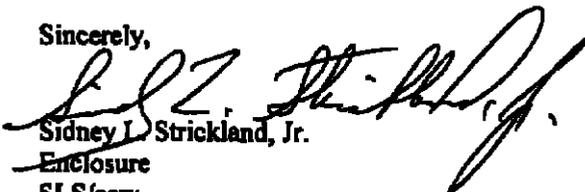
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Sincerely,


Sidney L. Strickland, Jr.
Enclosure
SLS/ecw

37346
SEA

SERVICE DATE - OCTOBER 3, 2006

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 444X)

BNSF Railway Company - Abandonment Exemption - in Flathead County, MT

BACKGROUND

In this proceeding, BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 for BNSF to abandon approximately 0.42 miles of rail line located between Engineering Station 189-36 and Engineering Station 167-00, near Kalispell, in Flathead County, Montana. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, BNSF will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to BNSF, the right-of-way was acquired by the Great Northern Railway (GN) in 1891. The GN was merged into The Burlington Northern Railroad (BN) in 1970. BN and The Atchison Topeka & Santa Fe Railway merged in 1995 to become The Burlington Northern & Santa Fe Railway Company, which changed its name to BNSF Railway Company in 2005.

Based on information in BNSF's possession, the line proposed for abandonment does not contain Federally granted right-of-way. The right-of-way is 100 feet in width. The land in the area of the line is generally flat and rural in nature. Much of the surrounding area is forested. BNSF indicates that there are no railroad structures on the property that are 50 years old or older.

BNSF states that no local traffic has moved over the line for at least two years and there is no overhead traffic on the line to be rerouted. Thus, no rail traffic will be diverted to truck traffic as a result of the proposed abandonment. Therefore, the Board's thresholds for conducting more detailed air quality and noise analysis (an increase of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment) will not be exceeded.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. BNSF served the

environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board's) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding

BNSF indicates that there are no public or private crossings on the line. During salvage operations, BNSF states that precautions would be taken to ensure public safety, and contractors would be required to satisfy all applicable health and safety laws and regulations. BNSF is not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way.

The United States National Park Service reviewed the proposed project and determined that no National parks would be affected. The United States Bureau of Land Management, Missoula Field Office (BLM), has indicated that BLM does not have surface jurisdiction in the proposed project area. The National Geodetic Survey (NGS) has advised SEA that no geodetic station markers have been identified that may be affected by the proposed abandonment

The City of Kalispell (City) has indicated that there is an existing bike trail within an easement on the right-of-way which provides a connection between existing and future bike trails planned within the City and areas to the west and outside the City. The City requests to obtain the land from BNSF for the continued use of the existing bike trail

The United States Department of Agriculture, Natural Resources Conservation Service in Bozeman, Montana, has indicated that the proposed abandonment would have no impact on important farmland since the land is considered to be previously converted farmland and the roadbed would be left intact following abandonment.

The United States Fish and Wildlife Service (USFWS) in Kalispell, Montana, has determined that there are no endangered species issues associated with the proposed project area and that the proposal would have no effect upon such resources. Of the endangered and threatened species known to occur in the state of Montana, there are no known occurrences in the project location. Likewise, there is no designated or proposed critical habitat, and there are no wildlife refuges or similar sanctuaries under USFWS jurisdiction.

The Montana Department of Fish, Wildlife and Parks - Region One (MTFWP) has indicated that there should not be any significant negative biological or recreational effects associated with the proposed abandonment. MTFWP supports the efforts by the City of Kalispell and others in their pursuit of rail banking or acquisition of the right-of-way for a bike/pedestrian trail.

The United States Department of the Army, Corps of Engineers, Helena Regulatory Office (Corps) has indicated by telephone to BNSF that the abandonment and subsequent removal of rails, crossties, etc would not require a Department of the Army Section 404 permit because the project does not require the placement of dredged or fill material into waters of the United States.

The Corps further indicated that, based on National Wetlands Inventory maps, it does not appear that any wetlands exist within the project area. Therefore, Corps authorization is not required for the project under Section 404 of the Clean Water Act.

The Flathead County Planning and Zoning Office provided BNSF with a flood insurance map for the area of the proposed abandonment. Based on the map provided, it does not appear that the proposed abandonment would affect any 100-year flood plains.

The Montana Department of Environmental Quality, Water Protection Bureau (MDEQ) has indicated that, based on the information provided, MDEQ is unable to determine what, if any, permits are necessary for the proposed abandonment. In general, the Montana Water Quality Act prohibits the discharge of sewage, industrial or other wastes, including sediment, to state waters without a current permit from MDEQ. The definition of state waters includes any body of water on the surface or underground (ground water) and includes irrigation systems, ephemeral and intermittent drainage systems, lakes, ponds or other waterways. Discharge of wastes to state surface water is regulated under the Montana Pollutant Discharge Elimination System program. Discharges, or potential discharges, to state ground water are regulated under the Montana Ground Water Pollution Control System. Accordingly, we will recommend a condition requiring that BNSF contact MDEQ prior to beginning salvage regarding MDEQ's requirements under the Montana Water Quality Act.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Montana Historical Society (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the proposed abandonment would have no adverse effect on historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(e), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/naed/ to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, the Confederated Salish & Kootenai Tribes of the Flathead Reservation, and the Fort Belknap Indian Community of the Fort Belknap Reservation

may have an interest in the proposed abandonment. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

SEA recommends that the following environmental condition be placed on any decision granting abandonment authority:

BNSF Railway Company (BNSF) shall consult with the Montana Department of Environmental Quality, Water Protection Bureau (MDEQ) prior to commencement of any salvage activities to address MDEQ's requirements under the Montana Water Quality Act.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the class exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or

mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, the environmental contact for this case. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub-No. 444X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Kenneth Blodgett by phone at (202) 565-1554, fax at (202) 565-9000, or e-mail at blodgett@stb.dot.gov.

Date made available to the public: October 3, 2006.

Comment due date: October 18, 2006.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment