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ORIGINAL



May 4, 2007

219233

VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423-0001

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Office of Proceedings

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MAY 13 2007

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U.S. DEPARTMENT OF
Public Railroad

U.S. DEPARTMENT OF
TRANSPORTATION

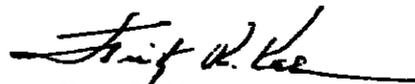
Dear Secretary Williams:

I enclosed for filing in STB Docket No. AB-988 (Sub-No. 1X), Nebkota Railway, Inc. Abandonment Exemption- In Dawes and Sheridan Counties, NE, are the original and ten copies of the Verified Petition for Exemption of Nebkota Railway, Inc

The railroad's check for \$5,300 in payment of the filing fee is attached.

Additional copies of this letter and of the Petition are enclosed for you to stamp to acknowledge your receipt of them and to return to me via the messenger.

Sincerely yours,


Fritz R. Kahn

enc

STAMPED RECEIPT
MAY 13 2007
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

ORIGINAL

STB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC.
-- ABANDONMENT EXEMPTION --
IN DAWES AND SHERIDAN COUNTIES, NE



VERIFIED PETITION OF EXEMPTION
OF
NEBKOTA RAILWAY, INC.

Fritz R. Kahn
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Attorney for

NEBKOTA RAILWAY, INC.

Dated. May 4, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.



STB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC
-- ABANDONMENT EXEMPTION --
IN DAWES AND SHERIDAN COUNTIES, NE

VERIFIED PETITION OF EXEMPTION
OF
NEBKOTA RAILWAY, INC.

Nebkota Railway, Inc. of Chadron, Nebraska ("NRI"), pursuant to 49 U.S.C. 10502 and 49 C.F.R. 1121.1, et seq., petitions the Board to exempt the proposed abandonment of a 30.3-mile segment of its line from the prior approval requirements of 49 U.S.C. 10903 and 49 C.F.R. 1152.1, et seq.

A

PROPOSED TRANSACTION

NRI is a rail carrier subject to the Board's jurisdiction, having acquired its railroad line in northwestern Nebraska between Chadron and Merriman, with incidental overhead trackage rights between Chadron and Crawford, pursuant to the Decision of the Interstate Commerce Commission in Finance Docket No. 32442, Nebkota Railway, Inc. - Acquisition and Operation Exemption - Line of Chicago and North Western Transportation Company, served February 4, 1994. The railroad line acquired by NRI was a part of what had been The Cowboy Trail of the

Chicago and North Western Transportation Company, mostly abandoned pursuant to the Decision of the Interstate Commerce Commission in Docket No. AB-1 (Sub-No. 249X). Chicago and North Western Transportation Company—Abandonment Exemption—Between Norfolk and Merriman, NE, served June 2, 1994.

NRI's line is an agrarian railroad line, serving country grain elevators situated along its right-of-way. The grain elevators lack the capacity to amass 100-car or even 50-car unit train loads to be interlined with the Class I railroads, which increasingly are insistent that their short line connections tender them grain shipments in no lesser quantities. This has placed NRI at a competitive disadvantage and has contributed to a decline in the traffic handled by it. The east end of the railroad sustained the greatest losses, and, pursuant to the Board's Decision in STB Docket No. AB-988X, Nebraska Railway Inc. Abandonment Exemption—In Sheridan and Cherry Counties, NE, served March 21, 2006, NRI abandoned its railroad line between Rushville and Merriman.

It has become evident to NRI that it must abandon more of its railroad line, namely, the 30.3 mile segment between Chadron and Rushville. Only two shippers have been situated on that segment, Farmers Co-op Elevator Company of Hay Springs and West Plains Grain, Inc., the owner of NRI and the operator of elevators at Chadron and Rushville, as well as a transloading facility at Rushville, which has received some of the grain which would have been shipped on the line between Rushville and Merriman, now abandoned. Over the past three years, 2004-2006, there has been not a single inbound shipment consigned to either of the two shippers, and their combined outbound shipments have averaged 336 carloads a year, or about 11 carloads per mile per year. That is far too little traffic to generate sufficient revenue to maintain and operate the

30.3-mile railroad line, and there is no realistic likelihood that the situation will improve in the foreseeable future. A chart detailing the traffic data for the Chadron-to-Rushville railroad line is attached as Exhibit A. That chart also summarizes the revenue/cost data for the line segment and shows that NRI has sustained a loss each year, for a staggering total of \$140,653.49 for the three-year period. A chart with the profit and loss statements for each of the years 2004, 2005 and 2006 is attached as Exhibit B.

NRI, accordingly, seeks the Board's authorization to abandon its railroad line extending between Milepost 404.3 near Chadron 69337 and the end of the line at Milepost 374 at Rushville 69360, a distance of 30.3 miles in Dawes and Sheridan Counties, Nebraska.

The line traverses U.S. Postal Zones 69337, 69347 and 69360. The stations on the line are Chadron, Bordeaux, Hay Springs and Rushville.

Based on information in NRI's possession, the railroad line proposed for abandonment contains no Federally granted right-of-way. Any document in NRI's possession will be made available promptly to those requesting it.

In support of the request that the Board exempt the abandonment of the railroad line there are attached, as Exhibit C, a schematic map of the railroad line, as Exhibit D, the Environmental and Historic Report, as Exhibit E, the proposed Federal Register notice, as Exhibit F, the affidavits of newspaper publication, as Exhibit G, the certificate of publication, and as Exhibit H, the Verification.

B.

ARGUMENT SUPPORTING THE EXEMPTION

As the Board declared in its recent Decision in SIB Docket No. AB-33 (Sub-No. 236X), Union Pacific Railroad Company—Abandonment Exemption—In Bexar County, TX, served April 4, 2007:

Under 49 U.S.C. 10903, a rail line may not be abandoned or service discontinued without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

The instant petition fully satisfies the foregoing requirements.

Rail transportation policy. As already noted, the railroad line proposed to be abandoned for each of the past three years has had an average of only eleven revenue carloads of freight per mile per year, altogether insufficient traffic to generate the revenue required to maintain and operate the 30.3-mile railroad line. No significant increase in the traffic on the line reasonably can be anticipated within the foreseeable future. Detailed scrutiny of the proposed abandonment is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of the application, the requested exemption will reduce regulatory barriers to exit, in furtherance of 49 U.S.C. 10101(7). Moreover, the requested exemption will foster sound economic conditions and encourage efficient management by relieving NRI from the expense of maintaining and operating a line that generates insufficient traffic and by allowing NRI to apply its assets more productively in operating the railroad at Chadron and between Chadron and Crawford, in furtherance of 49 U.S.C. 10101(5) and (9). Other aspects of the rail transportation policy will not be adversely affected.

Limited scope of transaction. As previously noted, only two shippers heretofore have been served by the railroad line proposed for abandonment, and in each of the past three years they together have tendered only 336 carloads of revenue freight annually, or about 11 carloads per mile per year. The proposed abandonment of the railroad line between Chadron and Rushville, accordingly, would have an effect on relatively little traffic. The transaction, therefore, would be of limited scope.

Absence of abuse of market power. The two shippers which heretofore have been served by the railroad line proposed for abandonment would be able to continue to receive railroad service via NRI at Chadron and between Chadron and Crawford. Moreover, the railroad line is paralleled by U.S. Highway 20, and, thus, trucking alternatives are readily available. Neither of the shippers opposes the proposed abandonment. Regulation of the proposed transaction, hence, is not necessary to protect shippers from the abuse of market power.

C

EMPLOYEE PROTECTION

The interests of NRI's employees will be protected by the conditions of Oregon Short Line R. Co.--Abandonment Goshen, 360 I.C.C. 91 (1979).

WHEREFORE, Nebkota Railway, Inc . asks that, pursuant to 49 U.S.C. 10502 and 49 C.F.R. 1121.1, et seq., the Board exempt the proposed abandonment of the 30.3-mile railroad line between Chadron and Rushville from the prior approval requirements of 49 U.S.C 10903 and 49 C.F.R.1152.1, et seq.

Respectfully submitted.

NEBKOTA RAILWAY, INC.

By its attorney.



Fritz R. Kahn

Fritz R. Kahn, P.C

1920 N Street, NW (8th fl.)

Washington, DC 20036-1601

Tel : (202) 263-4152

Dated: May 4, 2007

EXHIBIT A

NEBKOTA RAILWAY, INC.

Chadron-to-Rushville Line

TRAFFIC DATA

	Bordeaux	Hay Springs	Rushville
<u>2004</u>			
Outbound carloads	0	0	172
Inbound carloads	0	0	0
<u>2005</u>			
Outbound carloads	0	11	338
Inbound carloads	0	0	0
<u>2006</u>			
Outbound carloads	0	28	459
Inbound carloads	0	0	0

REVENUE/COST DATA

	<u>Income</u>	<u>Expenses</u>	<u>Net income</u>
<u>2004</u>	\$177,046.68	\$264,412.81	(\$87,366.13)
<u>2005</u>	\$331,236.25	\$348,647.94	(\$17,411.69)
<u>2006</u>	\$466,857.24	\$502,732.91	(\$35,875.67)

EXHIBIT B

NEBKOTA Railway, Inc.
Profit & Loss
January-December 2004

Income	
4850-05 Freight Sales	\$ 137,741.91
6100-10 CarHire Earnings	\$ 11,577.82
6100-12 Rent Income	\$ 300.00
6100-20 Other Income	\$ 23,575.42
8520-05 Interest Income	\$ 257.27
Car Storage Reimbursement	\$ 3,584.26
Total Income	\$ 177,046.68

Expenses

5750-20 Locomotive Expense	\$ 175.39
5750-21 Non-Highway Fuel	\$ 20,864.74
5750-22 Locomotive Fuel	\$ 2,452.04
6100-06 Freight Paid	\$ 238.22
6999 Uncategorized Expenses	\$ 27,410.92
7040-05 Payroll Exp-Wages	\$ 9,828.55
7050-05 Health Insurance	\$ 150.00
7180-05 Ads	\$ 1,101.09
7180-06 Donations	\$ (11,291.42)
7190-06 Car Hire	\$ 7,814.63
7190-07 Car repair-Expense	\$ 241.18
7250-05 Bank Charges	\$ 4,597.46
7350-05 Telephone	\$ 24,471.83
7450-05 Insurance	\$ 259.16
7490-05 Licenses & Govt	\$ 224.72
7550-05 Postage	\$ (1,473.75)
7570-05 Legal Fees	\$ 12,366.63
7570-10 Prof. Services	\$ (1,171.56)
7620-05 Lease Payments	\$ 29,649.86
7620-10 Rent Paid	\$ 14,700.00
7620-11 Locomotive Rent Paid	\$ 103.78
7650-05 Repairs	\$ 1,648.57
7650-11 Vehicle Repair	\$ 2,347.06
7670-05 Dues	\$

NEBKOTA Railway, Inc.
Profit & Loss
January-December 2005

Income	
4850-05 Freight Sales	\$250,159.02
6100-10 CarHire Earnings	\$ 8,274.43
6100-11 Customer Car Hire	\$ 2,250.00
6100-12 Rent Income	\$ 50.00
6100-20 Other Income	\$ 32,059.74
8520-05 Interest Income	\$ 113.06
Car Storage Income	\$ 38,330.00
Total Income	\$331,236.25

Expenses

5750-20 Locomotive Expense	\$ 11,844.78
5750-21 Non-Highway Fuel	\$ 8,513.30
5750-22 Locomotive Fuel	\$ 23,761.19
5750-23 TractMach. Fuel	\$ 135.71
6100-06 Freight Paid	\$ 15,801.74
7040-05 Payroll Exp-Wages	\$ 22,020.48
7050-05 Health Insurance	\$ (1,279.62)
7180-05 Ads	\$ 391.35
7180-06 Donations	\$ 550.00
7190-06 Car Hire	\$ (3,417.47)
7250-05 Bank Charges	\$ 557.49
7350-05 Telephone	\$ 3,608.16
7450-05 Insurance	\$ 32,777.49
7490-05 Licenses & Govt	\$ 123.68
7550-05 Postage	\$ 172.38
7570-05 Legal Fees	\$ 1,666.62
7570-10 Prof. Services	\$ 28,569.41
7620-05 Lease Payments	\$ (22,691.97)
7620-10 Rent Paid	\$ 45,543.27
7620-11 Locomotive Rent Paid	\$ 1,649.96
7650-05 Repairs	\$ 466.90
7650-11 Vehicle Repair	\$ 2,204.35
7670-05 Dues	\$ 2,790.32

NEBKOTA Railway, Inc.
Profit & Loss
January-December 2006

Income	
4850-05 Freight Sales	\$ 466,327.36
6100-10 CarHire Earnings	\$
6100-11 Customer Car Hire	\$ 405.00
6100-12 Rent Income	\$
8520-05 Interest Income	\$ 124.88
Car Storage Income	\$
Total Income	\$ 466,857.24

Expenses

5750-20 Locomotive Expense	\$ 19,227.01
8700-04 Interest	\$ 7,759.82
5750-21 Non-Highway Fuel	\$ 117.67
5750-22 Locomotive Fuel	\$ 79,588.46
5750-23 TractMach. Fuel	\$ 407.20
5800-05 Rail Car	\$ 153.00
6100-08 Freight Paid	\$ 13,953.40
7040-05 Payroll Exp-Wages	\$ 46,710.93
7050-05 Health Insurance	\$ 1,254.35
7180-05 Ads	\$ 397.95
7180-06 Donations	\$ 466.34
7190-06 Car Hire	\$ 1,531.53
7190-07 Car Repair Expense	\$ 13,556.05
7190-10 Lounge Car	\$ 8,978.65
7250-05 Bank Charges	\$ 415.32
7250-10 Credit Card Fees	\$ 1,214.85
7350-05 Telephone	\$ 3,342.86
7450-05 Insurance	\$ 38,489.39
7490-05 Licenses & Govt	\$ 797.33
7550-05 Postage	\$ 284.85
7570-05 Legal Fees	\$ 4,536.39
7570-10 Prof. Services	\$ 37,090.57
7570-08 A&D Testing	\$ 500.00
7570-15 Management Fee	\$ 2,550.00

7670-10 Subscriptions	\$ -	7670-10 Subscriptions	\$ 377.48	7620-10 Rent Paid	\$ 1,600.00
7680-05 Office	\$ 784.18	7680-05 Office	\$ 1,157.46	7650-05 Repairs	\$ 255.53
7680-10 Tools	\$ 1,627.40	7680-10 Tools	\$ 1,625.40	7650-10 Vehicle	\$ 3,519.92
7680-15 Track Machinery	\$ 56.99	7680-15 Track Machinery	\$ 239.85	7650-11 Vehicle Repair	\$ 2,347.94
7680-20 Track Material	\$ 4,751.83	7680-20 Track Material	\$ 14,965.72	7650-20 Equipment Misc.	\$ 688.50
7680-25 Trackage Rights	\$ (5,189.90)	7680-25 Trackage Rights	\$ 383.64	7670-05 Dues	\$ 2,998.03
7690-05 Tax	\$ 2,989.71	7690-05 Tax	\$ 61,103.43	7670-10 Subscriptions	\$ 282.37
7690-06 RRR Company PR Tax:	\$ 14,645.36	7690-06 RRR Company PR Tax:	\$ 13,076.17	7680-05 Office	\$ 6,311.33
7710-05 Utilities	\$ 4,762.47	7710-05 Utilities	\$ 6,696.70	7680-06 Supplies	\$ 31.94
8700-05 Int Paid	\$ 958.24	8700-05 Int Paid	\$ 3,372.13	7680-08 Drug Kits	\$ 97.41
8700-06 Late Fees	\$ 270.33	8700-06 Late Fees	\$ 46.49	7680-10 Tools	\$ 1,196.37
8700-05 Expense to be Reimbu	\$ 30,412.33	8760-05 Expense to be Reimbu	\$ (9,906.38)	7680-15 Track Machinery	\$ 1,537.74
7190-05 Vehicle Fuel	\$ 3,956.36	7190-05 Vehicle Fuel	\$ 5,123.12	7680-20 Track Material	\$ 24,077.65
Loan Payment	\$ 5,403.80	Loan Payment	\$ 1,446.20	7680-25 Trackage Rights	\$ 1,235.90
7020-05 Gross Salary	\$ 36,730.81	7020-05 Gross Salary	\$ 38,000.04	7690-05 Tax	\$ 10,855.63
Publications	\$ (207.00)	Publications	\$ 299.00	7690-06 RRR Company PR Tax:	\$ 16,850.58
Registration	\$ 26.00	Publications	\$ 299.00	7710-05 Utilities	\$ 3,456.93
Total Expense	\$ 248,687.99	Total Expense	\$ 313,765.97	8700-05 Int Paid	\$ 11,368.61
Net Operating Income	\$ (71,641.31)	Net Operating Income	\$ 17,470.28	8700-06 Late Fees	\$ 31.95
Other Expenses		Other Expenses		8760-05 Expense to be Reimbu	\$ 3,249.71
8740-05 Depreciation	\$ 15,724.82	8740-05 Depreciation	\$ 34,581.57	7190-05 Vehicle Fuel	\$ 5,747.86
Total Other Expenses	\$ 15,724.82	8760-06 Misc. Expense	\$ 300.40	Meals	\$ 77.66
Net Other Income	\$ (15,724.82)	Total Other Expenses	\$ 34,881.97	7020-05 Gross Salary	\$ 89,633.32
Net Income	\$ (87,366.13)	Net Other Income	\$ (34,881.97)	7700-05 Meals & Entertainment	\$ 130.70
		Net Income	\$ (17,411.69)	7700-10 Lodging	\$ 2,216.27
				Total Expense	\$ 473,003.97
				Net Operating Income	\$ (6,146.73)
				Other Expenses	
				8740-05 Depreciation	\$ 29,763.22
				8760-06 Misc Expense	\$ (34.28)
				Total Other Expenses	\$ 29,728.94
				Net Other Income	\$ (29,728.94)
				Net Income	\$ (35,875.67)

EXHIBIT C

2020 10/20/20 10:20:00 AM

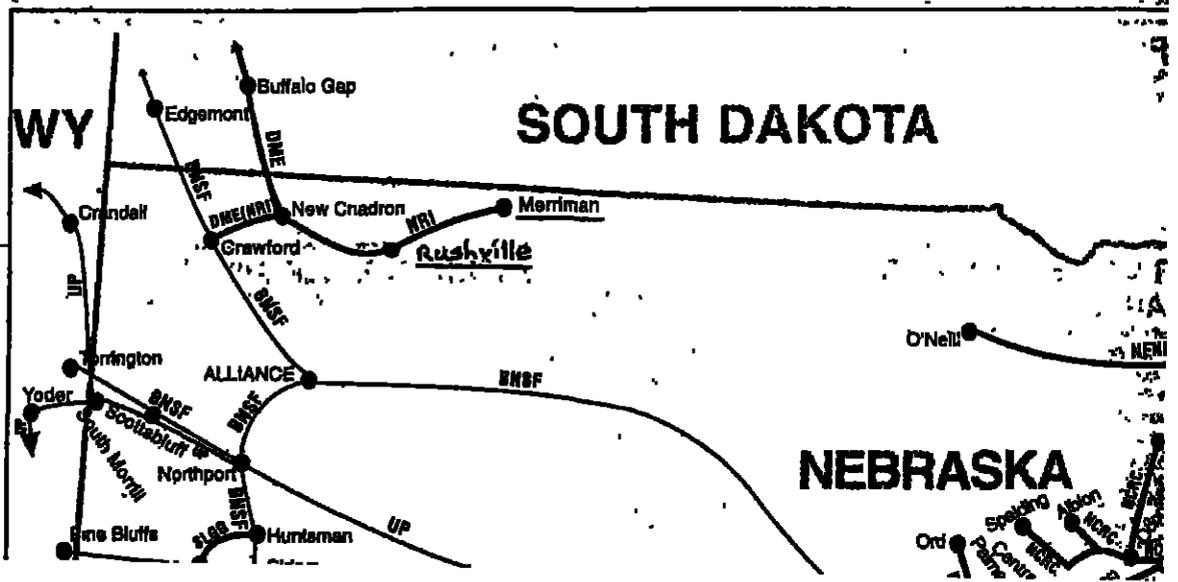


EXHIBIT D

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

STB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC.
-- ABANDONMENT EXEMPTION --
IN DAWES AND SHERIDAN COUNTIES, NE.

ENVIRONMENTAL AND HISTORIC REPORT
OF
NEBKOTA RAILWAY, INC.

Nebkota Railway, Inc. of Chadron, NE ("NRI"), pursuant to 49 C.F.R. 1105.7 and 1105.8, submits this Environmental and Historic Report in support of its Petition for Exemption.

1. Proposed action and alternatives. The railroad line which NRI proposes to abandon extends between Milepost 404.3 near Chadron 69337 and the end of the line at Milepost 374 at Rushville 69360, a distance of 30.3 miles in Dawes and Sheridan Counties, Nebraska. The line in rural northwest Nebraska has been used largely to serve the grain elevators at Hay Springs and Rushville. Rushville also has been the site of the transloading from truck of grain which formerly was shipped by rail from Gordon and Merriman, Nebraska, on a line of the NRI abandoned pursuant to the Board's Decision in STB Docket No. AB-988X, Nebkota Railway, Inc. -Abandonment Exemption-In Sheridan and Cherry Counties, NE. served March 21, 2006.

The volume of traffic of traffic on the line proposed to be abandoned has averaged about 11 revenue carloads per mile per year for the past three years, 2004-2006, and has generated insufficient revenues to cover the expenses incurred in rendering service on the line.

The loss for the three year period, 2004-2006, totaled \$140,653.49, and by abandoning the line and salvaging the rails, ties and other track materials. NRI hopes to be able stem the losses the railroad has suffered and to continue to render service at Chadron and between Chadron and Crawford, Nebraska, operated via trackage rights on the Dakota, Minnesota and Eastern Railroad Company ("DM&E"). Neither of the shippers which heretofore have used the line, Farmers Co-op Elevator Company of Hay Springs, and West Plains Grain, Inc., the owner of the NRI, with a grain elevators at Chadron and Rushville, opposes the proposed abandonment. Accordingly, there is no practicable alternative to the line's abandonment, the authorization for which NRI herein seeks. The Nebraska Single Point of Contact, Nebraska Public Service Commission ("NPUCC"), by letters from NRI's representative, dated February 1 and 26, 2007, was notified of the proposed actions of NRI, and in the meantime no written response have been received from it. In an earlier telephone conversation with a spokesperson of the NPUCC, NRI's representative was advised that the absence of a written response indicates that the proposed abandonment is of no concern to the NPUCC.

2. Transportation systems. The line proposed for abandonment has handled an average of about 11 revenue carloads per mile per year for the past three years, 2004-2006. The revenues have failed to cover the expenses incurred in rendering service on the line, with the loss for the three year period, 2004- 2006, totaling \$140,653.49. As already noted, by abandoning the line and salvaging the tracks, ties and other track materials, NRI hopes to be able to stem the losses

the railroad has suffered and to operate the remainder of the railroad at Chadron and between Chadron and Crawford, via the trackage rights over the DM&E. By letters dated February 1 and 26, 2007, the Nebraska Single Point of Contact, the Nebraska Public Service Commission, was notified of the proposed abandonment, and it has not sent a reply in the meantime. In an earlier telephone conversation with a spokesperson for the NPUC, NRI's representative was advised that the absence of a written response indicates that the proposed abandonment is of no concern to the NPUC.

3. Land use. The proposed abandonment will affect no presently pending land use plans for Dawes and/or Sheridan Counties of which NRI is aware. By letters, dated February 1 and 26, 2007, NRI's representative wrote to the State Conservationist of the U. S. Department of Agriculture's Natural Resources Conservation Service to apprise the office of the proposed action of NRI. Attached is a copy of the State Conservationist's response, dated March 14, 2007, stating that the proposed abandonment was cleared of Farmland Protection Policy Act concerns.

4. Energy. No significant increase in energy consumption will result from the proposed abandonment. It is estimated that the proposed abandonment on average will add only two trucks a day on the busily traveled U. S. Highway 20, which parallels the railroad line. The abandonment certainly will affect far fewer than an average of 50 carloads per mile per year, and, therefore, the Verified Petition for Exemption, if granted, will have no material effect on energy consumption. Neither are recyclable commodities affected by the proposed abandonment. By letters, dated February 1 and 26, 2007, the representative of NRI notified the regional office of the U. S. Environmental Protection Agency and the Nebraska Department of Environmental Quality of the proposed abandonment. Copies of their respective responses, dated February 27

and March 16, 2007, are attached, and neither agency expressed any concern about the proposed abandonment

5. Air. No significant pollution of the air is expected to occur as a result of the proposed abandonment. It is estimated that the proposed abandonment on average will add only two trucks a day to the heavily traveled U.S. Highway 20, which parallels the railroad line. Accordingly, no significant increase in emissions will follow if the Verified Petition for Exemption were approved. By letters dated February 1 and 26, 2007, NRI's representative wrote to the regional office of the U. S. Environmental Protection Agency and the Nebraska Department of Environmental Quality to advise them of the proposed abandonment. Copies of their respective responses, dated February 27 and March 16, 2007, are attached, and neither agency expressed any concern about the proposed abandonment.

6. Noise. Little or no increase in the level of noise is expected to occur as a result of NRI's proposed abandonment. It is estimated that the proposed abandonment on average will add only two truck a day to the heavily traveled U S. Highway 20, which parallels the railroad line. Thus, there will not be an increase of truck traffic of more than ten percent of the average daily traffic or fifty vehicles a day on any affected road segment, and, therefore, no significant increase in noise will result if the Verified Petition for Exemption were approved. As already noted, the representative of NRI, by letters dated February 1 and 26, 2007, alerted the regional office of the U. S. Environmental Protection Agency and the Nebraska Department of Environmental Quality to the abandonment proposal. Attached are the respective responses of the agencies, dated February 27 and March 16, 2007, and neither one expressed any concern about NRI's proposed abandonment

7. Safety. The proposed abandonment of the line will result in no significant increase in highway traffic, estimated to be on average no more than two trucks a day on busily traveled U.S. Highway 20, which parallels the railroad line, and, therefore, will not jeopardize the safety of the traveling public. Nevertheless, in accordance with the Board's rules, by letters dated February 1 and 26, 2007, the Nebraska Single Point of Contact, the Nebraska Public Service Commission, was notified of the abandonment proposal, but no response has been received from the agency in the meantime. In an earlier telephone conversation with a spokesperson for the NPUC, NRI's representative was advised that the lack of a written response indicates that the proposed abandonment is of no concern to the NPUC. The abandonment, moreover, will affect neither the transportation nor the dumping of hazardous materials or substances.

8. Biological resources. The proposed abandonment of the line segment will not adversely affect endangered or threatened species or areas designated as critical habitat, as far as NRI is aware. By letters dated February 1 and 26, 2007, the representative of NRI notified the Regional Office of the U. S. Fish and Wildlife Service, the Nebraska Department of Environmental Quality and the regional office of the U. S. Environmental Protection Agency of the proposed abandonment. Their respective responses, dated March 2, February 27 and March 16, 2007, are attached. None of the agencies expressed any concern about the NRI's proposed abandonment.

9. Water. The proposed abandonment of the line segment will have no effect upon Federal, State or local water quality standards of which NRI is aware. The representative of NRI, by letters dated February 1 and 26, 2007, advised the District Office of the U. S. Army Corps of Engineers of the proposed action. A copy of the Corps' response, dated March 1, 2007,

is attached. It asks that a permit be sought if the proposed abandonment will involve filling activity in waters. None is contemplated.

10. Mitigation. Since NRI is unaware of any significant adverse environmental impact that the proposed abandonment would occasion, it perceives of no need for mitigating measures. Nevertheless, in accordance with the Board's regulations, in addition to the Federal and State of Nebraska agencies previously identified, the representative of NRI, by letters dated February 1 and 26, 2007 wrote to the Recreational Resources Assistance Division, National Park Service of the U.S. Department of Interior and the Nebraska Public Service Commission to advise them of the abandonment proposal, but to date NPUC has not responded. In an earlier telephone conversation with a spokesperson for NPUC, NRI's representative was informed that the fact that NPUC had not responded indicated that the agency had no concern about the proposed abandonment. A copy of the response of the Regional Environmental Coordinator of the Midwest Regional Office of the National Park Service, dated February 12, 2007, offering no comments on NRI'S proposed abandonment, is attached. The representative of NRI, by letters, dated February 1 and 26, also wrote to the National Geodetic Survey of the National Oceanic and Atmospheric Administration. A copy of the agency's response, dated March 12, 2007, is attached. It notes the location of geodetic survey marks in the area of the proposed abandonment and asks that the agency be given 90 days' advance notice of any salvage activities likely to disturb the marks. NRI, of course, will comply.

Historical Effects.

1. Map. A map of the line proposed for abandonment is attached
2. Description. The railroad line segment which NRI proposes to abandon extends

between Milepost 404.3 near Chadron 69337 and the end of the line at Milepost 374 at Rushville, a distance of 30.3 miles in Dawes and Sheridan Counties, Nebraska..

3. Photographs. NRI knows of no structure along the line proposed for abandonment which is 50 years old or older which would be dismantled or removed as a result of the abandonment. If the abandonment were authorized, the tracks, ties and other metallic track materials would be salvaged so as to permit the NRI to continue to render service at Chadron and between Chadron and Crawford, via trackage rights over the DM&E.. No trestles, bridges or other structures along the line, regardless of their ages, will be dismantled or removed and no ballast salvaged, since the right-of-way is expected to be used as a trail by the Nebraska Game and Parks Commission

4. Dates. NRI knows of no structure along the line proposed for abandonment which is 50 years old or older which would be dismantled or removed as a result of the abandonment. No trestles, bridges or other structures along the line, regardless of their ages, will be dismantled or removed and no ballast salvaged, since the right-of-way is expected to be used as a trail by the Nebraska Game and Park Commission

5. History. The line proposed for abandonment formerly was owned and operated by the Chicago and North Western Transportation Company.

6. Documents. NRI has no documents in its possession that confirm the dates of construction of the line. Such documents, if still in existence, are likely to be in the possession of the Union Pacific Railway Company, whose predecessor, the Chicago and North Western Transportation Company, had owned and operated the line

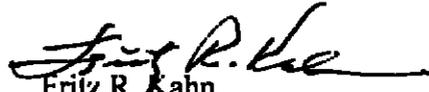
7. Opinion. NRI believes that there is no structures threatened with dismantling or removal as a result of the proposed abandonment on the railroad line segment which warrants

being listed in the Register of Historic Places. Similarly, NRI is unaware of any archeological resources or any other previously unknown historic properties in the area. Notice of the proposed abandonment was given the Nebraska State Historic Preservation Officer by letter from the representative of the NRI, dated February 1, 2007. A copy of the reply of the Nebraska State Historical Society, dated February 20, 2007, stating that in the agency's opinion there will be no historic properties affected by the proposed abandonment, is attached.

Respectfully submitted,

NEBKOTA RAILWAY, INC.

By its attorney,



Fritz R. Kahn

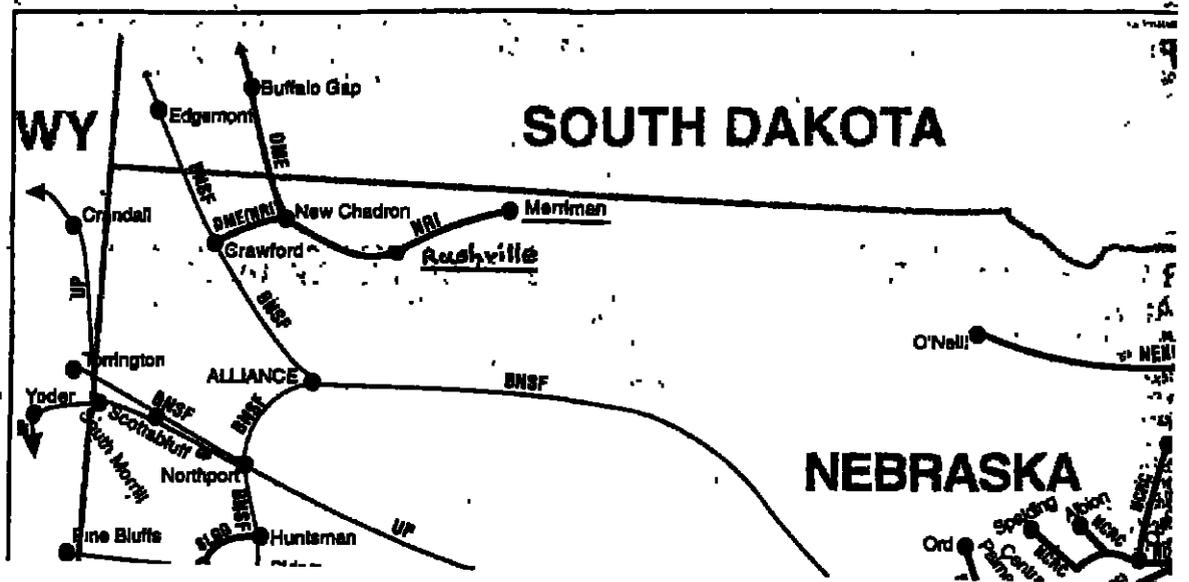
Fritz R. Kahn, P.C.

1920 N Street, NW (8th fl)

Washington, DC 20036-1601

Tel.: (202) 263-4152

Dated May 4, 2007



LAW OFFICES
FRITZ R. KAHN, P.C.
EIGHTH FLOOR
1920 N STREET, N.W.
WASHINGTON, DC 20036-1601
(202) 263-4152
FAX (202) 331-8330
e-mail: frk@worldnet.att.net

Project as described is cleared of Farmland Protection
Policy Act (FPPA) concerns.
Stephen K. C...
State Conservationist
MAR 14 2007
Date

February 1, 2007

USDA Natural Resources Conservation Service
100 Centennial Mall (#152)
Lincoln, NE 68508-3866

Dear Sir/Madam

Nebkota Railway, Inc. (NRI) anticipates on or about March 15, 2007, filing a Petition for Exemption with the Surface Transportation Board ("STB") for authority to abandon the railroad between Milepost 374 at Rushville 69360 and Milepost 404.3 near Chadron 69337, a distance of 30.3 miles in Sheridan and Dawes Counties, Nebraska. A map is enclosed

NRI is required to prepare an environmental and historic report, pursuant 49 U.S.C. 4332, et seq., and 49 C.F.R. 1105.1, et seq., a copy of which will be provided you at the time of NRI's STB filing. The report must include an expression of your views as to the effects, if any, of the proposed abandonment on the programs administered by your office.

Insufficient traffic has moved over the line to permit its continued operation, and, hence, the effect of the proposed abandonment on the environment, in the view of NRI, would be insignificant. NRI, however, needs to hear from you, and a prompt reply would be greatly appreciated.

If you require additional data or have any question concerning the STB's environmental review process, you will be able to contact me or the STB's Section of Environmental Analysis, 1925 K St., NW, Washington, DC 20423, tel. (202) 565-1545, referring to Docket No. AB-988 Sub-No. 1X).

Sincerely yours,

Fritz R. Kahn
Fritz R. Kahn

cc: Victoria J. Rutson, Esq



[Print] [Close]

From: Cothern.Joe@epamail.epa.gov
 To: xiccg@worldnet.att.net
 Subject: Pproposed rail line abandonment from Milepost 374 (Rushville) to Milepost 404.3 (near Chadron) in Sheridan and Dawes Counties, Nebraska STB Docket No. AB-988 Sub-No. 1X)
 Date: Tue, 27 Feb 2007 16:56:17 +0000

Dear Mr. Kann,

This e-mail responds to your February 1, 2007 consultation request regarding the proposed rail line abandonment from Milepost 374 (Rushville) to Milepost 404.3 (near Chadron) in Sheridan and Dawes Counties, Nebraska.

In evaluating this action, I referred to EPA Region 7's Geographic Information Systems for spatial relationships of environmentally regulated facilities and remediation sites. In this evaluation, regulatory or remedial activity was found to be within the rail alignment that would influence the abandonment proposal.

Thank you for including EPA in your coordination efforts.

Sincerely,

Joseph E. Cothern
 NEPA Team Leader
 U.S. Environmental Protection Agency
 Region 7 - Kansas City
 (913) 551-7148
 cothern.joe@epa.gov

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Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Michael J. Linder
Director
Suite 400 The Atrium
1200 'N' Street
P.O. Box 98922
Lincoln, Nebraska 68509 8922
Phone (402) 471 2186
FAX (402) 471 2909
web-site www.deq.state.ne.us

March 16, 2007

Fritz Kahn
Fritz R Kahn Law Offices
Eighth Floor
1920 N Street, N.W.
Washington, D C. 20036-1601

RE. Nebkota Railway, Inc. – Petition to Abandon the Railroad Between Milepost 374 at
Rushville and Milepost 404.3 near Chadron

Dear Mr. Kahn:

The Nebraska Department of Environmental Quality (NDEQ) has reviewed the above referenced project. We have no comments regarding this project that would fall under the jurisdiction of our programs.

If you have questions about the permitting process, or any other questions, feel free to contact me at (402) 471-8697

Sincerely,

A handwritten signature in black ink, appearing to read "Hugh Stirts".

Hugh Stirts, PhD
NEPA Coordinator



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Nebraska Field Office
203 West Second Street
Grand Island, Nebraska 68801

March 2, 2007

FWS: 2007-250

Fritz R. Kahn
Law Offices of Fritz R. Kahn, P.C.
Eight Floor
1920 N. Street, N.W.
Washington, D.C. 20036-1601

RE: Proposed Nebkota Railway, Inc. Railroad Abandonment Between Milepost 374 at Rushville 69360 and Milepost 404.3 near Chadron 69337, Sheridan and Dawes Counties, Nebraska (Docket No. AB-988 Sub-No. 1X)

Dear Mr. Kahn

This responds to your February 1, 2007, request for comments and concurrence from the U.S. Fish and Wildlife Service (Service) regarding the subject project. The Service has responsibility, under a number of authorities, for conservation and management of fish and wildlife resources. Chief among the federal statutes with which our office deals with are the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), Fish and Wildlife Coordination Act (FWCA) (488 Stat. 401; 16 U.S.C. 661 *et seq.*), Bald and Golden Eagle Protection Act (BGEPA) (16 U.S.C. 688-688d, as amended), and Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712, as amended). Compliance with all of these statutes and regulations are required for compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347). In addition to these statutes, the Service has authority under several other legislative, regulatory, and executive mandates to promote the conservation of fish and wildlife resources for the benefit of the American public.

Please note that the Service's position on a project under the authorities of ESA, BGEPA, MBTA, and NEPA cannot be assumed without our official written response. Pursuant to the "take" provisions under section 9 of ESA; 16 U.S.C. 688 (a and b) of BGEPA; and 16 U.S.C. 703 of MBTA, the project proponent is responsible for compliance with these federal laws regardless of whether the Service is able to respond within your requested time frame.

Endangered Species Act (ESA)

Section 9 of ESA prohibits the taking of any federally listed endangered or threatened species. Section 3(18) of ESA defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Our regulations (50 CFR 17.3) define harm to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. The ESA provides for civil and criminal

penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways through interagency consultation for projects with federal involvement pursuant to section 7 or through the issuance of an incidental take permit under section 10(a)(1)(B) of ESA

The following "X" determination applies to the proposed project regarding ESA.

 X Based on the activities anticipated to be conducted and location of the proposed project site, it is unlikely that any of the federally listed species identified on our web site (<http://mountain-prairie.fws.gov/endspp/CountyLists/NEBRASKA.htm>) would be affected by the proposed project. We concur that the proposed project will not adversely affect federally listed threatened and endangered species, or their designated critical habitat. No further section 7 consultation with the Service is necessary unless project plans change or new information becomes available.

_____ In accordance with section 7(c) of ESA, the Service does not concur with the project proponent that the proposed project will not have an adverse impact to federally listed species. A letter discussing our concerns will be forthcoming.

Highway Construction Debris Use and Disposal

The Service also understands that contractors salvage highway and bridge construction debris material resulting from construction activities (e.g., bridge demolition) back into the project's limits of construction and are encouraged to recycle as much material as practicable. However, in most circumstances, the contractor takes ownership of the remaining construction debris and the material is then disposed of at the discretion of the construction contractor. Should it be determined that such spoil material (dredged material, stockpiles, broken concrete, etc.) will at any time be utilized outside the project's scope, and not placed in a Service-reviewed disposal area or recycled for use in the project construction, the Service should be contacted for further section 7 consultation prior to the placement of the materials to assure that adverse impacts do not occur to federal trust fish and wildlife resources, including federally listed species and federally designated critical habitat.

Bald and Golden Eagle Protection Act (BGEPA)

The BGEPA provides for the protection of the bald and golden eagle (*Aquila chrysaetos*) by prohibition, except under certain specific conditions, the taking, possession, and commercial use of such birds. **The following "X" determination applies to the proposed project regarding BGEPA.**

 X Based on the activities anticipated to be conducted and location of the proposed project site, it is unlikely that either the bald or golden eagle would be affected by the proposed project.

_____ In accordance with 16 U.S.C. 688 (a and b) of BGEPA, the Service does not concur with the project proponent that the proposed project will not have an adverse impact to the bald or golden eagle. A letter discussing our concerns and recommendations will be forthcoming.

Migratory Bird Treaty Act (MBTA)

Under the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703-712· Ch. 128 *as amended*) construction activities in grassland, wetland, stream, and woodland habitats, and those that occur on bridges (e.g., which may affect swallow nests on bridge girders) that would otherwise result in the taking of migratory birds, eggs, young, and/or active nests should be avoided. Although the provisions of MBTA are applicable year-round, most migratory bird nesting activity in Nebraska occurs during the period of April 1 to July 15. However, some migratory birds are known to nest outside of the aforementioned primary nesting season period. For example, raptors can be expected to nest in woodland habitats during February 1 through July 15, whereas sedge wrens which occur in some wetland habitats normally nest from July 15 to September 10. If the proposed construction project is planned to occur during the primary nesting season or at any other time which may result in the take of nesting migratory birds, the Service recommends that the project proponent (or construction contractor) arrange to have a qualified biologist conduct a field survey of the affected habitats and structures to determine the absence or presence of nesting migratory birds. Surveys must be conducted during the nesting season. The Service further recommends that field surveys for nesting birds, along with information regarding the qualifications of the biologist(s) performing the surveys, be thoroughly documented and that such documentation be maintained on file by the project proponent (and/or construction contractor) until such time as construction on the proposed project has been completed.

The Service requests that the following be provided to this office prior to construction proceeding at the proposed project site if the above conditions occur. The purpose of the request is to assist the project proponent to avoid the unnecessary take of migratory birds and the possible need for law enforcement action:

- a) A copy of any survey(s) for migratory birds done in conjunction with this proposed project, if any. The survey should provide detail in regards to survey methods, date and time of survey, species observed/heard, and location of species observed relative to the proposed project site.
- b) Written description of any avoidance measures implemented at the proposed project site to avoid the take of migratory birds.
- c) Written description of any circumstances where it has been determined by the project proponent that one or more active bird nests cannot be avoided by the planned construction activities.

Fish and Wildlife Coordination Act (FWCA)

The FWCA requires that fish and wildlife resources be given equal consideration in the planning, implementation, and operation of federal and federally funded, permitted, or licensed water resource developments. The comments in this letter are provided as technical assistance and predevelopment consultation and do not constitute a Service report under the authority of FWCA on any required federal environmental review or permit.

Wetlands, Streams, and Riparian Habitats

If wetlands or streams will be impacted by the proposed project, a Department of the Army permit from the U.S. Corps of Engineers may be needed. The Service recommends that impacts to wetlands, streams, and riparian areas be avoided or minimized. If unavoidable

impacts are to occur to aquatic habitats, the Service recommends that compensation (i.e., restoration of a degraded wetland or creation) occur for like wetland type at a ratio of 2:1 (acres of wetlands restored/created to acres of wetlands impacted). For unavoidable impacts to streams, the Service recommends that stream pattern, profile, and dimension be mitigated at a ratio of no less than 1:1 (stream length and number, pattern, and length of meanders created/restored versus stream length and number, pattern, and length of meanders impacted, sequence and number of pools and riffles created/restored versus sequence and number of pools and riffles impacted). Additionally, compensation for impacts to riparian habitats should occur at a minimum ratio of 3:1 (i.e., acres of riparian habitat replaces for acres of riparian habitat impacted). The 3:1 ratio is based on the loss of the habitat and the amount of time that will be required for planted trees to reach maturity.

National Wildlife Refuges

In Nebraska, the Service manages six refuges and one wetland management district under the National Wildlife Refuge System. Based on the information provided, the Service has determined that the proposed project does not appear to impact any of these seven wildlife areas.

Due to budget deficits and reduced staffing in our office, it has become necessary for us to modify the manner in which we respond to formal requests (i.e., received in the mail via the U.S. Postal Service) for information or concurrences regarding the effects of proposed projects on federal trust fish and wildlife resources. If you cannot submit such request to our office electronically, but must send it to us in the form of a letter, please include a return E-mail address in your letter so that we can provide an electronic response to it. Unless requested otherwise due to special circumstances, we no longer intend to reply on paper, but only through electronic means in order to reduce our costs for postage, mail handling, and clerical support. In the future, if you are requesting information or concurrence from the Service regarding a proposed project, please submit your request electronically to the attention of Mr. John Cochnar within our office at the following E-mail address: John_Cochnar@fws.gov. Your cooperation and understanding regarding this matter is greatly appreciated.

We appreciate the opportunity to review and comment on the referenced project proposal. If you have any questions regarding our comments, please contact Mr. Cochnar at the above E-mail address or telephone number (308)382-6468, extension 20.

Sincerely,



Steve Anschutz
Nebraska Field Supervisor

cc. NGPC; Lincoln, NE (Attn: Kristal Stoner)



REPLY TO
ATTENTION OF

**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE - KEARNEY
1430 CENTRAL AVENUE, SUITE 4
KEARNEY, NEBRASKA 68847-6556**

<https://www.nwo.usace.army.mil/html/od-me/nehome.html>

March 1, 2007

Mr. Fritz Kahn
1920 N Street, Northwest, Eighth Floor
Washington, D C 20036-1601

RE: 2007-376-KEA

Dear Mr Kahn:

I am writing in regard to Nebkota Railway's proposed abandonment of railroad between Milepost 374 and Milepost 404.3 in Sheridan County and Dawes County, Nebraska. The U.S Army Corps of Engineers regulates filling activities in waters of the United States, under the authority of Section 404 of the Clean Water Act. If Nebkota Railway proposes filling activities in waters of the United States, then the railway must apply for and receive a Department of the Army permit for any such work. If you have any questions, please call me at 308-234-1403.

Sincerely,

A handwritten signature in cursive script that reads "Keith Tillotson".

Keith Tillotson
Senior Project Manager

Environmental Coordinator
National Park Service
Midwest Regional Office
601 Riverfront Drive
Omaha, NE 68102



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\$00.240
03/12/2007
Mailed From 68102
US POSTAGE

Fritz R. Kahn, P.C.
1920 N Street, N.W.
Washington, D.C. 20036-1601



Re: Nebraska Railway, Inc Petition for Exemption with Surface Transportation Board, Abandonment

We have received your letter of February 1, 2007 concerning the above referenced project

We have no comment on your proposed action.

These comments have been provided as early technical assistance and do not necessarily indicate the NPS' or the Department of the Interior's response to future environmental documents prepared in association with the project. Due to limited staff and the number of requests we receive for early coordination, we ask that companies/agencies assume we will have no comments on projects if they have not heard from us within 30 days of our receipt of the request.

Thank you,

Regional Environmental Coordinator



[Print] [Close]

From: Simon Monroe <Simon.Monroe@noaa.gov>
 To: xicccg@att.net
 Surface Transportation Board <sea@stb.dot.gov>, National Society of
 Professional Surveyors <pat.canfield@acsm.net>, Gilbert Mitchell
 Cc: <Gilbert.Mitchell@noaa.gov>, James Richardson
 <James.Richardson@noaa.gov>
 Subject: [Fwd: [Fwd: NGS Response, STB Docket AB-988(SUB NO. 01X)]]
 Date: Mon, 12 Mar 2007 19:14:36 +0000

--

Thank you for sharing your railroad abandonment environmental report for Sheridan and Dawes Counties, Rushville Nebraska.

Approximately 44 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requires 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

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Dist	PID...	H V	Vert	Source	Approx.	Approx..	Stab	Designation
.....	NP0231	1	88	ADJUSTED	N424957	W1030000	C...	A 4
.....	NP0230	1	88	ADJUSTED	N424951	W1025916	B...	S 352
.....	NP0225	1	88	ADJUSTED	N424929	W1025542	C...	M 348
.....	NP0226	1	88	ADJUSTED	N424939	W1025635	D...	N 348
.....	NP0228	1	83	ADJUSTED	N424948	W1025744	B...	P 346
.....	NP0227	1	88	ADJUSTED	N424938	W1025636	C...	Z 3
.....	NP0224	1	88	ADJUSTED	N424910	W1025434	C...	L 343

|....|NP0223|. 1|88/ADJUSTED|N424852|W1025335|B...|K 352
|....|NP0221|. 1|88/ADJUSTED|N424754|W1025155|D...|J 348
|....|NP0222|. 1|88/ADJUSTED|N424836|W1025257|C...|K 348
|....|NP0219|. 1|88/ADJUSTED|N424701|W1025000|D...|G 348
|....|NP0220|. 1|88/ADJUSTED|N424727|W1025041|D...|H 348
|....|NP0217|. 1|88/ADJUSTED|N424600|W1024845|B...|F 348
|....|NP0218|. 1|88/ADJUSTED|N424635|W1024922|B...|Q 352
|....|NP0219|. 1|88/ADJUSTED|N424701|W1025000|D...|G 3-8
|....|NP0215|. 1|88/ADJUSTED|N424439|W1024656|D...|D 348
|....|NP0216|. 1|88/ADJUSTED|N424518|W1024752|C...|E 348
|....|NP0214|. 1|88/ADJUSTED|N424354|W1024603|C...|C 348
|....|NP0676|2|. |29/VERT ANG|N424321|W1024604|....|GARY
|....|NP0212|. 1|88/ADJUSTED|N424312|W1024504|D...|S 353
|....|NP0213|. 1|88/ADJUSTED|N424332|W1024513|B...|T 352
|....|NP0210|2|. 1|88/ADJUSTED|N424158|W1024351|C...|Q 353
|....|NP0211|. 1|88/ADJUSTED|N424238|W1024444|C...|R 353
|....|NP0209|. 1|88/ADJUSTED|N424126|W1024252|C...|P 353
|....|NP0200|. 1|88/ADJUSTED|N424110|W1023937|C...|F 353
|....|NP0199|B|. 1|88/ADJUSTED|N424124|W1023831|C...|G 353
|....|NP0674|2|. |29/VERT ANG|N424108|W1024043|....|HAY
|....|NP0197|. 1|88/ADJUSTED|N424135|W1023718|C...|H 353
|....|NP0664|2|. |29/VERT ANG|N424134|W1023728|....|REBAR 145
|....|NP0195|. 1|88/ADJUSTED|N424154|W1023620|C...|Z 351

|....|NP0196|. 3|88/RESET... N424154 W1023621|C...|Z 351 RESET

|....|NP0192|. 1|88/ADJUSTED|N424211|W1023504|B...|J 352

|....|NP0193|. 3|88/RESET...|N424211|W1023504|C...|J 351 RESET

|.... NP0663|2 ..29/VERT ANG N424205|W1023534|....|OWL

|....|NP0190|. 1|88/ADJUSTED|N424221|W1023358|C...|Y 351

|....|NP0191|. 3|88/RESET...|N424221|W1023358|C...|Y 351 RESET

|....|NP0186|. 1|88/ADJUSTED|N424240|W1023145|C...|W 351

|....|NP0187|. 1|88/ADJUSTED|N424230|W1023257|C...|X 351

|....|NP0188|. 3|88/RESET...|N424230|W1023257|C...|X 351 RESET

|....|NE0050|2 1|88/ADJUSTED|N424259|W1022918|B...|D 352

|....|NP0185|. 1 88/ADJUSTED|N424250|W1023023|C...|N 352

|....|NP0048|. 1|88/ADJUSTED|N424318|W1022748|B...|A 352

|....|NP0049|. 1 88/ADJUSTED|N424309|W1022815|B...|J 353

|....|NE00518|. 1|88/ADJUSTED...|N424311|W1022802|....|V 3



NEBRASKA STATE HISTORICAL SOCIETY
 1500 R STREET, PO BOX 82554, LINCOLN, NE 68501 2554
 (402) 471-3270 Fax (402) 471 3100 1-800 833 6747 www.nebraskahistory.org
 Michael J. Smith, Director/CFO

COPY

February 20, 2007

Fritz R. Kahn
 STB
 1925 K Street, NW
 Washington, DC 20423

RE:

0702-008-01	RAILROAD ABANDONMENT BET MP 374 & MP 404 3 (RUSHVILLE TO CHADRON) 30 3 MI	AB-988(1X)
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Dear Mr. Kahn:

Thank you for submitting the referenced project proposal for our review and comment. Our comment on this project and its potential to affect historic properties is required by Section 106 of the National Historic Preservation Act of 1966, as amended, and implementing regulations 36 CFR Part 800

Given the information provided, in our opinion there will be no historic properties affected by the project as proposed. Therefore, in accordance with 36 CFR 800.4(d)(1), you may proceed with the project as planned. Should any changes in the project be made or in the type of funding or assistance provided through federal or state agencies, please notify this office of the changes before further project planning continues.

There is always the possibility that previously unsuspected archaeological remains may be uncovered during the process of project construction. We request that this office be notified immediately under such circumstances so that an evaluation of the remains may be made, along with recommendations for future action.

Please retain this correspondence and your documented finding in order to show compliance with Section 106 of the National Historic Preservation act, as amended. If you have any questions, please do not hesitate to contact Greg Miller at 402/471-4775.

Sincerely,

L. Robert Puschendorf
 Deputy State Historic Preservation Officer
 Nebraska State Historic Preservation Office

EXHIBIT F

FEDERAL REGISTER NOTICE

STB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC.
--ABANDON EXEMPTION--
IN DAWES AND SHERIDAN COUNTIES

On May 4, 2007, Nebkota Railway, Inc. ("NRI") filed with the Surface Transportation Board, Washington, DC 20423, a Verified Petition for Exemption under 49 U.S.C. 10502 for exemption of the provisions of 49 U.S.C. 10903 to abandon its railroad line between Milepost 404.3 near Chadron 69337 and the end of the line at Milepost 374 at Rushville 69360, a distance of 30.3 miles in Dawes and Sheridan Counties, Nebraska. The railroad line traverses U.S. Postal Service Zip Codes 69337, 69347 and 69360. The stations on the line proposed to be abandoned are Chadron, Bordeaux, Hay Springs and Rushville.

The line does not contain Federally granted rights-of-way. Any documentation in NRI's possession will be made available promptly to those requesting it.

The interests of NRI's employees will be protected by the conditions of Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued no later than 120 days after the notice of the filing of the petition is published in the Federal Register.

Any offer of financial assistance under 49 C.F.R. 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,300 filing fee. See 49 C.F.R. 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition under 49 C.F.R. 1152.28 or for trail use/rail banking under 49 C.F.R. 1152.29 will be due no later than 20 days after the notice of the filing of the petition is published in the Federal Register. Each trail use request must be accompanied by a \$200 filing fee. See 49 C.F.R. 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-988 (Sub-No. 1X), and must be sent to: (1) Surface Transportation Board, 395 E. Street, SW, Washington, DC 20423-0001; and (2) Fritz R. Kahn, Esq., Fritz R. Kahn, P.C., 1920 N Street, NW (8th fl.), Washington, DC 20036. Replies to the petition are due no later than 20 days after the notice of

the filing of the petition is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Service at (202) 245-0230 or refer to the text of the discontinuance and abandonment regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EA's in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our web site at <http://www.stb.dot.gov>.

EXHIBIT F

**PROOF OF PUBLICATION
STATE OF NEBRASKA
COUNTY OF DAWES**

I, George Ledbetter, publisher/editor of the Chadron Record, being first duly sworn, on my oath, depose and say that the Chadron Record is a weekly legal newspaper for the publication of legal and other official notices, printed and published at Chadron, in Dawes County, Nebraska in the English language and having a bonafide circulation of at least three hundred copies weekly and which said Chadron Record has been published within said county of Dawes County for more than fifty-two successive weeks prior to the publication of the attached notice, and printed in an office maintained in Chadron, the place of publication, and that I have personal knowledge of the fact of the publication of said notice as hereafter specified

That a legal notice of which the annexed is a printed copy, cut from the said Chadron Record and to which reference is hereby made as part of this affidavit was regularly published in said weekly newspaper once each week for 1 successive weeks, the first of said weekly publications having been so made in said newspaper on the 18 day of Jan, 2007; and the last of said weekly publications having been so made in said newspaper on the _____ day of _____, 20____; that the said notice was published in the regular and entire issue of every number of said newspapers during the time of publication, and that said published in the newspaper, and not in the supplement.

Subscribed in my presence and sworn to before me this 18 day of Jan, A.D., 2007

Rae Lynn Nuno Notary Public

Printer's Fee \$ 28.00

Paid by _____



OFFICIAL NOTICE

Nebkota Railway, Inc., gives notice that on or about May 3, 2007, it intends to file with the Surface Transportation Board, Washington, DC 20423, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq. permitting the abandonment of a 30.3 mile line of railroad between railroad milepost 404.3 near Chadron, which traverses through United States Postal Service ZIP Code 69337, and railroad milepost 374, near Rushville, which traverses through United States Postal Service ZIP Code 69380 in Dawes and Sherman Counties, Nebraska. The proceeding has been docketed as No. AB-07-0001 (SubNo. 1X). The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment. Exemption Comments on environmental and energy matters should be filed no later than 30 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 SEA, Surface Transportation Board, Washington, DC 20423 or by calling SEA at (202) 245-0295. 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, 395 E Street, SW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' 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) 245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative Fritz R. Kahn, Esq., Fritz R. Kahn PC, 1920 N Street, NW (8th fl.), Washington, DC 20036. Publish Apr 18, 2007

AFFIDAVIT OF PUBLICATION

The Sheridan County Journal Star, Gordon, Nebraska

OFFICIAL NOTICE

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THE STATE OF NEBRASKA }
Sheridan County } ss.

Tom Shaal, Publisher, on oath, being duly sworn, deposes and says that he is the editor and printer of THE SHERIDAN COUNTY JOURNAL STAR a weekly newspaper published once each week in Gordon, Sheridan County, Nebraska, and of general circulation in said county and state, and that the annexed notice was published in said paper for 1 successive weeks, the first publication having been made on the 18 day of April, 2007 and the last on the 18 day of April, 2007 and that said SHERIDAN COUNTY JOURNAL STAR was a legal newspaper under the statutes of the State of Nebraska at the times and during the period that said notice was published.

Tom Shaal

Subscribed and sworn to before me this 18 day of April, 2007

FEES \$ 26.40

Ivy L. Johansen

66 lines, 1 issues

Notary Public

the Board's Office of the Secretary, 395 H Street, SW, Washington, DC 20423 [See 49 CFR 1104.1(a) and 1104.3, (a)], and one copy must be served on applicants' 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) 245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative Fritz R. Kahn, Esq., Fritz R. Kahn, P.C., 1920 N Street, NW (8th fl), Washington, DC 20036. Publish: April 18, 2007

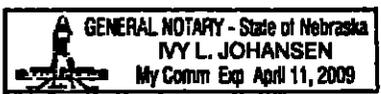


EXHIBIT G

CERTIFICATE OF PUBLICATION

NRI, by its attorney, certifies that, pursuant to 49 C.F.R. 1105.7(b) and 49 C.F.R. 1105.8(e), by letters in the format prescribed in 49 C.F.R. 1105.11, dated April 12, 2007, it served copies of the combined Environmental and Historic Report upon each of the Federal and Nebraska agencies consulted in preparing the Report and that this day copies of the Verified Petition of Exemption will be mailed by prepaid first-class mail to each of the Federal and Nebraska agencies consulted in preparing the Report

NRI, by its attorney, further certifies that, pursuant to 49 C.F.R. 1152.50(d), by letters, dated April 24, 2007, it notified the specified agencies of the anticipated filing of the Verified Petition for Exemption.


Fritz R. Kahn

EXHIBIT H

VERIFICATION

I, Bryce Wells, President and CEO of Nebkota Railway, Inc. declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Verified Petition for Exemption and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Nebkota Railway, Inc. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Kansas City, MO, this 31st day of April 2007.



Bryce Wells

CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Verified Petition for Exemption upon each of the Federal and Nebraska agencies consulted in preparing the Environmental and Historic Report and upon each of the shippers heretofore served by the railroad line proposed for abandonment, Farmers Co-op Elevator Company of Hay Springs and West Plains Grains, Inc.

Dated at Washington, DC, this 4th day of May 2007


Fritz R. Kahn