

226373



Mack H. Shumate, Jr.
Senior General Attorney, Law Department

January 29, 2010

RECEIVED
OFFICE OF THE
ATTORNEY GENERAL
JAN 30 2010
STATE OF IOWA

VIA E-FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W., Room 100
Washington, DC 20423-0001

RE: Exempt Discontinuance of Service over the Ankeny Industrial Lead from Milepost 10.50 in Ankeny to Milepost 10.70 in Ankeny, a distance of .20 miles in Polk County, Iowa; STB Docket AB-33 (Sub-No. 279X)

Dear Ms. Brown:

Pursuant to the Board's exemption procedures for discontinuance of service of rail lines with no local business for at least two years (49 C.F.R. § 1152.50), I am hereby e-filing the Notice of Exemption, including a Certificate of Service and Publication for your reference.

Please file the Notice of Exemption in Docket No. AB-33 (Sub-No. 279X). Enclosed is a credit authorization voucher in the amount of \$3,700.00 for the filing fee.

Sincerely,

Enclosures

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 279X)

UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN POLK COUNTY, IOWA
(ANKENY INDUSTRIAL LEAD)

FILED
Office of the Clerk
JAN 29 2010
Part of
Public Record

Notice of Exemption

FILED

JAN 29 2010

**SURFACE
TRANSPORTATION BOARD**

FEE RECEIVED
JAN 29 2010
SURFACE
TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY
Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

Dated and filed: January 29, 2010

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 279X)

**UNION PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN POLK COUNTY, IOWA
(ANKENY INDUSTRIAL LEAD)**

Notice of Exemption

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 § C.F.R. 1152, Subpart F -- Exempt Abandonments and Discontinuances of Service and Trackage Rights for an exempt abandonment of service on the Ankeny Industrial Lead from Milepost 10.50 in Ankeny to Milepost 10.70 in Ankeny, a distance of .20 miles in Polk County, Iowa (the "Line").

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The abandonment and discontinuance are proposed to be consummated on or after March 20, 2010 (at least 50 days after filing the Notice of Exemption).

Certification: 49 C.F.R. 1152.50(b)

UP certifies that no local or overhead traffic has moved over the Line for at least two years. Therefore, there is no need to reroute any traffic. UP further certifies that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Board or any U.S. District Court, or has been decided in favor of the complainant within the two-year period.

Additional Information Required: 49 C.F.R. 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

(a) General.

(a)(1) The railroad's exact name is Union Pacific Railroad Company.

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

(a)(3) UP intends to abandon the Ankeny Industrial Lead from Milepost 10.50 in Ankeny to Milepost 10.70 in Ankeny, a distance of .20 miles in Polk County, Iowa.

(a)(4) A map showing the location of the Line in relation to other rail lines, highways, and major roads in the area is attached as **Exhibit 1**.

(a)(7) The representative to whom correspondence regarding this abandonment and discontinuance should be sent is:

Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX

(a)(8) ZIP Code. The Line traverses U.S. Postal Service Zip Code 50021.

(e)(4) Rural and Community Impact.

The Line was originally constructed in 1874 by the Des Moines and Minneapolis Railway. The Line is comprised of 100-pound jointed rail put down in 1928, and 112-pound jointed rail installed in 1978.

The property proposed for abandonment is not suitable for public purposes including roads or highways, other forms of mass transportation, conservation, energy

production or transmission, as this area is adequately served by existing roads and utility lines at the present time. The land proposed for abandonment is mostly non-reversionary. The plan for disposition of the non-reversionary land would be to work with any adjacent landowners to the property.

Based upon information in UP's possession, the Line does not contain any federally granted right-of-way. Any documentation in UP's possession will be made available to those requesting it.

After the proposed abandonment, the closest available rail service would continue to be provided by UP at Ankeny. Ankeny lies in the northern portion of the Des Moines metro area, and railroads other than UP serving Des Moines include BNSF, IAIS, and NS. Ankeny lies on U.S. Route 69, and has access to Interstate 35 approximately one mile east and Interstate 80 approximately five miles south.

No local traffic has moved over the Line during the past two years, and there is no overhead traffic or passenger service on the Line. No complaint regarding cessation of service has been filed, is pending, or has been ruled upon in favor of a complainant during the two year period.

A map of the Line is attached as **Exhibit No. 1**.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979).

Certifications

Attached as **Exhibit No. 2** is a Certificate of Service and Publication, pursuant to the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 1105.12.

Environmental and Historic Report

A copy of the Transmittal Letter that accompanied UP's combined Environmental and Historic Report ("EHR"), containing the information required by 49 C.F.R. §§ 1105.7 (e) and 1105.8, and delivered in accordance with 49 C.F.R. 1105.11, is attached as **Exhibit No. 3**. The original was e-filed with Anne K. Quinlan, Acting Secretary, on October 20, 2009. The EHR notes that the proposed abandonment does not involve historic properties.

In addition to the response received by the National Geodetic Survey dated October 14, 2009 and attached to the EHR, UP subsequently received (i) a response from the United States Department of the Interior, Fish and Wildlife Service dated October 23, 2009, which states that they do not have concerns regarding the real estate matters of the subject abandonment, a copy of this response is attached hereto as **Exhibit No. 4** and hereby made a part hereof and (ii) a response from the Department of the Army, Corps of Engineers dated October 16, 2009 which outlines procedures to be followed if the Line is in a wetland. To UP's knowledge, the Line is not in a wetland. The Line is within the paved road areas of downtown Ames, Iowa. A copy of this response is attached as **Exhibit No. 5** and hereby made a part hereof.

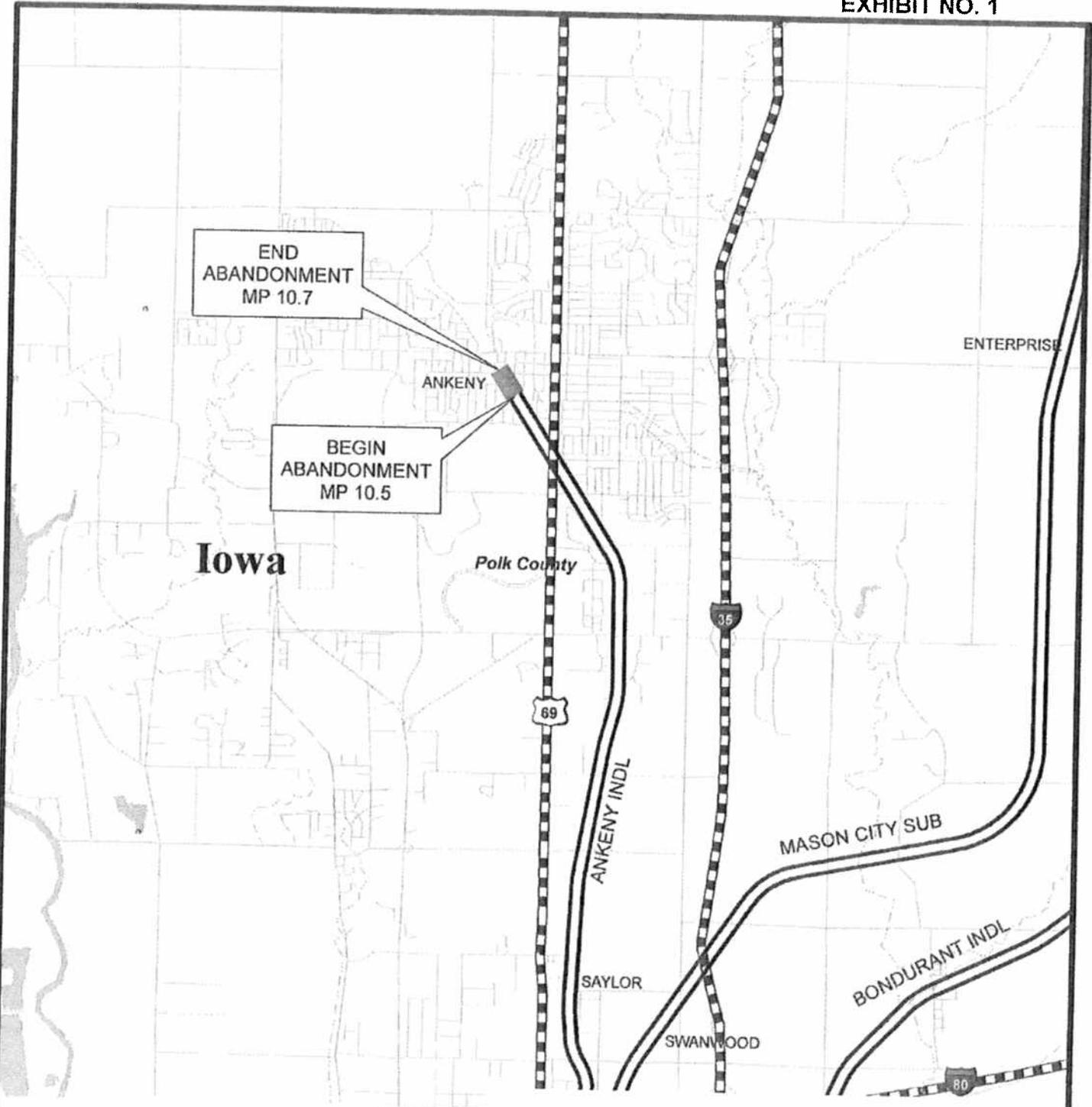
Dated this 29th day of January, 2010.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
(312) 777-2055
(312) 777-2065 FAX



Legend

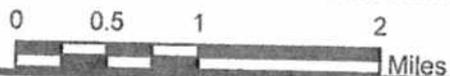
-  UPRR TO BE ABANDONED
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS

ANKENY INDUSTRIAL LEAD

MP 10.5 TO MP 10.7
TOTAL OF 0.2 MILES IN POLK COUNTY
IN IOWA

NOTE : THERE ARE NO 50+ YEAR OLD STRUCTURES
UNION PACIFIC RAILROAD CO.
ANKENY INDUSTRIAL LEAD
IOWA

INCLUDING 50+ YEAR OLD STRUCTURES



DOCKET NO. AB-33 (SUB-NO. 279X)
Ankeny Industrial Lead

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on November 5, 2009 (at least 10 days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to abandon the Ankeny Industrial Lead in Polk County in Ankeny, Iowa in Docket No. AB-33 (Sub-No. 279X). Written notice (a copy of which is attached hereto as Attachment 1) was served on the following:

Iowa Department of Management
Attn: Kathy Mabie
State Capitol Bldg., Room G12
1007 East Grand Avenue
Des Moines, IA 50319

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor, N.W., Auditors Building
14th St. & Independence Ave., S.W.
Washington, DC 20250

Nick Chevance
Environmental Coordinator
Planning & Compliance Office
National Park Service, Midwest Region
601 Riverfront Drive
Omaha, NE 68102

Headquarters
Military Surface Deployment &
Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA
(Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

49 C.F.R. § 1105.11 - Transmittal Letter For Applicant's Report

The undersigned certifies that on October 20, 2009 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served in Docket No. AB-33 (Sub-No. 279X) for abandonment of the Ankeny Industrial Lead in Polk County in Ankeny, Iowa on the following:

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) Head of each County
- (4) U.S. Environmental Protection Agency, Regional Office
- (5) U.S. Fish and Wildlife Service
- (6) U.S. Army Corps of Engineers
- (7) National Park Service
- (8) U.S. Natural Resources Conservation Service
- (9) The National Geodetic Survey
- (10) Other Agencies Consulted (As Listed)
- (11) State Historic Preservation Office

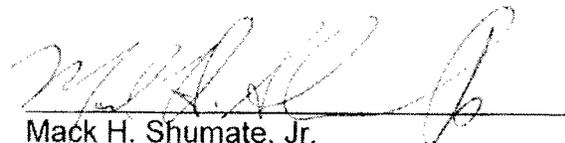
(The Certificate of Service attached to the Combined Environmental and Historic Report listed the names and addresses for the federal, state and local agencies.)

49 C.F.R. § 1105.12 - Newspaper Notice

The undersigned further certifies that a "Notice of Intent to Abandon or to Discontinue Rail Service" was published in the form prescribed by the Board for a Petition for Exemption. The Notice was published one time in a major newspaper in the county in which the Line is located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Polk	<i>Des Moines Register</i>	January 29, 2010

Dated this 29th day of January, 2010.



 Mack H. Shumate, Jr.



Mack H. Shumate, Jr.
Senior General Attorney, Law Department

November 5, 2009

Iowa Department of Management
Attn: Kathy Mabie
State Capitol Bldg., Room G12
1007 East Grand Avenue
Des Moines, IA 50319

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor, N.W., Auditors Building
14th St. & Independence Ave., S.W.
Washington, DC 20250

Nick Chevance
Environmental Coordinator
Planning & Compliance Office
National Park Service, Midwest Region
601 Riverfront Drive
Omaha, NE 68102

Headquarters
Military Surface Deployment & Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA
(Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

RE: Exempt Discontinuance of Service over the Ankeny Industrial Lead from M.P. 10.5 in Ankeny to M.P. 10.7, also in Ankeny, a distance of 0.2 miles in Polk County, Iowa; STB Docket No. AB-33 (Sub-No. 279X)

Dear Sirs:

This is notice that Union Pacific Railroad Company ("UP") expects to be filing with the Surface Transportation Board ("STB") a Notice of Exemption to discontinue service over the Ankeny Industrial Lead from M.P. 10.5 in Ankeny to M.P. 10.7, also in Ankeny, a distance of 0.2 miles in Polk County, Iowa; (the "Line").

The Line traverses U. S. Postal Service Zip Code 50021. The proceeding will be docketed as No. AB-33 (Sub-No. 279X).

The Notice of Exemption procedure will be used to discontinue service over the Line, pursuant to the abandonment regulations of the Surface Transportation Board at 49 C.F.R. Section 1152.50. A Notice of Exemption to discontinue service over the Line will be filed with the Surface Transportation Board on or after November 15, 2009.

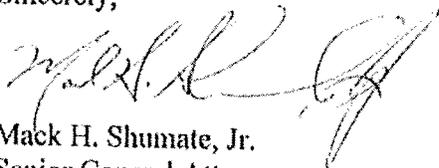
Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in the Railroad's possession will be made available promptly to those requesting it.

November 5, 2009
Page 2

AB-33 (Sub-No. 279X)

No. 1. A map showing the Line to be abandoned is attached, for your information as Attachment

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

Attachment

END
ABANDONMENT
MP 10.7

BEGIN
ABANDONMENT
MP 10.5

Iowa

ANKENY

Polk County

ENTERPRISE

69

ANKENY INDL

MASON CITY SUB

SAYLOR

SWANWOOD

BONDURANT INDL

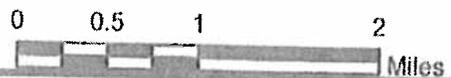
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ANKENY INDUSTRIAL LEAD

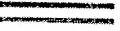
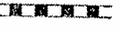
MP 10.5 TO MP 10.7
TOTAL OF 0.2 MILES IN POLK COUNTY
IN IOWA

NOTE : THERE ARE NO 50+ YEAR OLD STRUCTURES
UNION PACIFIC RAILROAD CO.
ANKENY INDUSTRIAL LEAD
IOWA

INCLUDING 50+ YEAR OLD STRUCTURES



Legend

-  UPRR TO BE ABANDONED
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS

November 5, 2009
Page 3

AB-33 (Sub-No. 279X)

bcc: Ray Allamong
Ingrid Schultz
Lynda Prucha
Chuck Saylor
Colleen Graham
Ashley Fast
Michael Dreficharz
Jason Hormann
Darin Bair
Marcia Bovenzo



Mack H. Shumate, Jr.
Senior General Attorney, Law Department

October 20, 2009

VIA E-FILING

Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

RE: Abandonment of the Ankeny Industrial Lead from Milepost 10.5 in Ankeny to Milepost 10.7, also in Ankeny, a total distance of 0.2 miles in Polk County, Iowa; STB Docket No. AB-33 (Sub-No. 279X)

Dear Ms. Quinlan:

Attached for filing in the above-referenced docket is the Combined Environmental and Historic Report prepared pursuant to 49 C.F.R. §1105.7 and §1105.8, with a Certificate of Service, and a transmittal letter pursuant to 49 C.F.R. §1105.11.

Union Pacific anticipates filing a Notice of Exemption to abandon and discontinue service in this matter on or after November 9, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", written over a horizontal line.

Attachment

cc: All Concerned Parties



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056

IN REPLY REFER TO:

FWS/NWRS-RE - General
Railroad Abandonments

October 23, 2009

Mr. Mack H. Shumate, Jr.
Senior General Attorney, Law Department
Union Pacific Railroad
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606-1718

Dear Mr. Shumate:

Thank you for the opportunity to comment on the proposed abandonment of service on .2 miles of railroad line between Milepost 10.5 in Ankeny and Milepost 10.7, also in Ankeny; in Polk County, Iowa, STB Docket No. AB-33 (Sub-No. 279X).

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonments. We do not have any concerns regarding real estate matters in the abandonments.

Sincerely,

Patrick G. Carroll
Senior Realty Officer
Division of Realty

[Faint, illegible text, likely bleed-through from the reverse side of the page]

RECEIVED

OCT 29 2009

LAW DEPARTMENT
UNION PACIFIC RR CO.



DEPARTMENT OF THE ARMY
ROCK ISLAND DISTRICT, CORPS OF ENGINEERS
CLOCK TOWER BUILDING - P.O. BOX 2004
ROCK ISLAND, ILLINOIS 61204-2004

REPLY TO
ATTENTION OF

<http://www.rivr.usace.army.mil>

October 16, 2009

Operations Division

SUBJECT: CEMVR-OD-P-2009-1314

Ms. Colleen Graham
Union Pacific Railroad Company
1400 Douglas Street STOP 1580
Omaha, Nebraska 68179

Dear Ms. Graham:

Our office reviewed your letter, received October 1, 2009, concerning the proposed abandonment of the Ankeny Industrial Lead from Milepost 10.5 in Ankeny to Milepost 10.7, also in Ankeny, a total distance of 0.2 miles in Polk County, Iowa; STB Docket No. AB-33 (Sub-No. 279x) in Section 23, Township 80 North, Range 24 West, Polk County, Iowa and offer the following comments:

- 1) If your project involves the placement of dredged and or fill material in wetlands or waters of the U.S., a DA 404 permit will be required. A permit would also be required if there are any changes or modifications to any streams or rivers.
- 2) To determine if any wetlands are present, you should have a wetland delineation performed for the project area. The wetland delineation should be done in accordance with the Corps 1987 Wetland Delineation Manual and Midwest Regional Supplement.
- 3) If wetlands are present, submit a Joint Application and include the acreages of wetlands to be impacted and a statement as to how wetlands will be avoided and/or minimized.
- 4) You should contact the Iowa DNR regarding the floodplain permit issue.

Should you have any questions, please contact Mr. Albert Frohlich in our Regulatory Branch by letter or telephone at 309/794-5859.

Sincerely,

A handwritten signature in cursive script that reads "Donna M. Jones".

Donna M. Jones, P.E.
Chief, Enforcement Section
Regulatory Branch

Enclosure

Copy Furnished:

Ms. Christine Schwake
Iowa Department of Natural Resources
Water Resources Section-Water Quality
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319-0034