



W. Karl Hansen
612.335.7088 **DIRECT**
karl.hansen@stinson.com

242744

ENTERED
Office of Proceedings
March 6, 2017
Part of
Public Record

March 6, 2017

Victoria Rutson
Environmental Analysis Chief
Surface Transportation Board
395 E Street SW, Room 1106
Washington, DC 20423

VIA E-FILE

Re: *Dakota, Minnesota & Eastern Railroad Corporation-Abandonment Exemption-In*
Olmsted County, Minnesota
STB Docket No. AB-337 (Sub-No. 8X)

Dear Ms. Rutson:

Please find enclosed for filing a copy of Dakota, Minnesota & Eastern Railroad Corporation's Environmental and Historic Reports pursuant to 49 C.F.R. Part 1105. A copy of the transmittal letter pursuant to 49 C.F.R. § 1105.11 is also enclosed.

DM&E anticipates filing a Petition for Exemption seeking authority to abandon the 2.01-mile line of railroad on or about March 27, 2017.

Please contact me if you have any questions.

Sincerely,

Stinson Leonard Street LLP

A handwritten signature in blue ink, appearing to read 'W. Karl Hansen', written over the typed name.

W. Karl Hansen

Enclosure

cc: Parties on the Attached Service List

March 6, 2017

To: Persons on the attached Service List

Re: *Dakota, Minnesota & Eastern Railroad Corporation-Abandonment Exemption-In*
Olmsted County, Minnesota
STB Docket No. AB-337 (Sub-No. 8X)

Dear Sir/Madam:

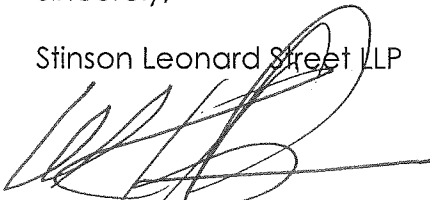
On or about March 27, 2017, Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") expects to file with the Surface Transportation Board ("STB") a Petition for Exemption seeking authority to abandon approximately 2.01 miles of rail line (the "Line") located in Olmsted County, Minnesota and between the Line's connection to DM&E's Waseca Subdivision at Milepost 37.9 +/- near Eyota, Minnesota and where the Line ends at or near County Road 9. Attached are an Environmental Report and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

DM&E is providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Office of Environmental Analysis (OEA), Surface Transportation Board, 395 E Street, SW, Washington D.C. 20423, telephone (202) 245-0454 and refer to the above Docket No. AB-337 (Sub No. 8X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to OEA (with a copy to the undersigned) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact the undersigned directly.

Sincerely,

Stinson Leonard Street LLP



W. Karl Hansen

Enclosure

SERVICE LIST
ENVIRONMENTAL AND HISTORIC REPORTS
Dakota, Minnesota & Eastern Railroad Corporation-Abandonment Exemption-In
Olmsted County, Minnesota
STB Docket No. AB-337 (Sub-No. 8X)

Appropriate Regional Office(s) of the
U.S. Environmental Protection Agency

U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604- 3590

U.S. Fish and Wildlife Service

Tom Melius
Regional Director
U.S. Fish and Wildlife Service
5600 American Blvd. West
Suite 990
Bloomington, MN 55437-1458

U.S. Army Corps of Engineers - St. Paul, MN District Office

U.S. Army Corps of Engineers
180 Fifth East Street
Suite 700
St. Paul, MN 55101-1678

National Park Service

Cam Sholly
Regional Director
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

U.S. Soil and Conservation Service

Cathee Pullman
State Conservationist
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
St. Paul, MN 55101

National Geodetic Survey and U.S. Geological Survey

National Geodetic Survey
SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282

State Clearinghouse

Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
Saint Paul, MN 55155

State Department of Transportation for Minnesota

Charles A. Zelle
Commissioner
Minnesota Department of Transportation
395 John Ireland Boulevard
M.S. 100
St. Paul, MN 55155

Minnesota Department of Transportation
Office of Freight & Commercial Vehicle Operations
Mail Stop 470
395 John Ireland Boulevard
St. Paul, MN 55155

State Environmental Protection Agency for Minnesota

John Linc Stine
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

State Water Quality Official

Glenn Skuta
Section Manager
Surface Water Monitoring Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

State Historic Preservation Office for Minnesota

Amy Spong
Deputy State Historic Preservation Officer
Minnesota State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Blvd. W.
St. Paul, MN 55102-1903

State Coastal Zone Management Agency

N/A

Olmsted County

Richard Devlin
County Administrator
Olmsted County Government Center
151 4th Street SE
Rochester, MN 55904-3710

Regional Railroad Authority

Olmsted County Regional Railroad Authority
Board of Commissioners
151 4th St SE
Rochester, MN 55904

City of Eyota - Land Use Planning

Lief Hughes, Chair
City of Eyota Planning Commission
P.O. Box 328
Eyota, MN 55934

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION–
ABANDONMENT EXEMPTION–IN
OLMSTED COUNTY, MINNESOTA

)
)
)
)
)

DOCKET NO. AB-337
(SUB-NO. 8X)

PETITION FOR EXEMPTION TO ABANDON PURSUANT TO 49 U.S.C. § 10502 FROM
THE PRIOR APPROVAL REQUIREMENTS OF 49 U.S.C. § 10903, A 2.01 MILE LINE OF
RAILROAD BETWEEN THE CONNECTION AT MILEPOST 37.9 +/- OF THE WASECA
SUBDIVISION AND THE END OF THE RAIL LINE AT OR NEAR COUNTY ROAD 9
WHICH TRAVERSES THROUGH UNITED STATES POSTAL SERVICE ZIP CODE 55934
IN OLMSTED COUNTY, MINNESOTA

ENVIRONMENTAL AND HISTORIC REPORTS
IN COMPLIANCE WITH
49 C.F.R. PART 1105

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

STINSON LEONARD STREET LLP
W. Karl Hansen
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402
Tel. (612) 335-7088
Fax. (612) 335-1657

Attorneys for Dakota, Minnesota & Eastern
Railroad Corporation

Service Date: March 6, 2017

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DAKOTA, MINNESOTA & EASTERN)
RAILROAD CORPORATION-)
ABANDONMENT EXEMPTION-IN)
OLMSTED COUNTY, MINNESOTA)

DOCKET NO. AB-337
(SUB-NO. 8X)

PETITION FOR EXEMPTION TO ABANDON PURSUANT TO 49 U.S.C. § 10502 FROM THE PRIOR APPROVAL REQUIREMENTS OF 49 U.S.C. § 10903, A 2.01 MILE LINE OF RAILROAD BETWEEN THE CONNECTION AT MILEPOST 37.9 +/- OF THE WASECA SUBDIVISION AND THE END OF THE RAIL LINE AT OR NEAR COUNTY ROAD 9 WHICH TRAVERSES THROUGH UNITED STATES POSTAL SERVICE ZIP CODE 55934 IN OLMSTED COUNTY, MINNESOTA

ENVIRONMENTAL AND HISTORIC REPORTS
IN COMPLIANCE WITH
49 C.F.R. PART 1105

The following information is submitted to the Surface Transportation Board by Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") d/b/a Canadian Pacific in accordance with the Board's reporting requirements as set forth in 49 C.F.R. Section 1105.7 to assist the Board in its preparation of an environmental document regarding DM&E's Petition for Exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903, permitting the abandonment of a 2.01 mile line of railroad between its connection at milepost 37.9 +/- of DM&E's Waseca Subdivision near Eyota, Minnesota and the end of the rail line at or near County Road 9 (the "Line") which traverses through United States Postal Service ZIP Code 55934 in Olmsted County, Minnesota.

REQUIREMENTS OF 49 C.F.R. SECTION 1105.7

Section 1105.7(b)(1) – (11) Distribution:

(b) At least 20 days prior to filing with the Board a notice of exemption, petition for exemption, or an application for abandonment or discontinuance the applicant must serve copies of the Environmental Report on:

- (1) The State Clearinghouse of each State involved (or other state equivalent agency if the State has no clearinghouse);
- (2) The State Environmental Protection Agency of each State involved;

- (3) The State Coastal Zone Management Agency for any state where the proposed activity would affect land or water uses within that State's coastal zone;
- (4) The head of each county (or comparable political entity including any Indian reservation) through which the line goes;
- (5) The appropriate regional offices of the Environmental Protection Agency;
- (6) The U.S. Fish and Wildlife Service;
- (7) The U.S. Army Corps of Engineers;
- (8) The National Park Service;
- (9) The U.S. Soil Conservation Service;
- (10) The National Geodetic Survey (formerly known as the Coast and Geodetic Survey) as designated agent for the National Geodetic Survey and the U.S. Geological Survey; and;
- (11) Any other agencies that have been consulted in preparing the report.

See List of Parties Consulted and Certificate of Service, attached as Exhibit No. 1.

Section 1105.7(c) Certification of Service of Environmental Report: In its Environmental Report, the applicant must certify that it has sent copies of the Environmental Report to the agencies listed and within the time specified in paragraph (b) of this section and that it has consulted with all appropriate agencies in preparing the report. These consultations should be made far enough in advance to afford those agencies a reasonable opportunity to provide meaningful input.

See List of Parties Consulted and Certificate of Service, attached as Exhibit No. 1.

Section 1105.7(c) Publication of Newspaper Notice of Intent to Abandon: Finally, in every abandonment exemption case, applicant shall certify that it has published in a newspaper of general circulation in each county through which the line passes a notice that alerts the public to the proposed abandonment, to available reuse alternatives, and to how it may participate in the STB proceeding.

The *Rochester Post Bulletin* published the Notice for Publication specified at 49 C.F.R. § 1105.12 on February 24, 2017. A copy of the newspaper notice, Certificate of Counsel, and Affidavit of Publication are attached as Exhibit No. 2.

Section 1105.7(d) Documentation: Any written responses received from agencies that were contacted in preparing the Environmental Report shall be attached to the report. Oral responses from such agencies shall be briefly summarized in the report and the names, titles, and telephone numbers of the persons contacted shall be supplied. A copy of, or appropriate citation to, any reference materials relied upon also shall be provided.

All the agencies referenced at 49 C.F.R. Section 1105.7(b) were contacted by letters dated March 16, 2015 and February 13, 2017 to solicit comments. See Exhibit No. 4. Responses received to date have been incorporated along with

DM&E's analysis. Copies of responses are attached as Exhibit No. 3. Subsequent written comments may be received by the OEA and DM&E.

Status of written and oral comments received:

1105.7(b)(1) State Clearinghouse:

The Minnesota Department of Administration was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(b)(2) State Environmental Protection Agency:

The Minnesota Environmental Protection Agency was contacted by letter on March 16, 2015 and February 13, 2017 and its response is included in Exhibit No. 3.

1105.7(b)(3) State Coastal Zone Management Agency:

N/A -- The subject rail line is not within a designated coastal zone.

1105.7(b)(4) Head of Each County Through Which The Line Goes:

The Olmstead County Administrator was contacted by letter on March 16, 2015 and February 13, 2017. Although no response has been received from the County Administrator, the March 19, 2015 response from the Olmsted County Public Works Department is included in Exhibit No. 3.

1105.7(b)(5) Appropriate Regional Offices of the Environmental Protection Agency:

The U.S. Environmental Protection Agency was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(b)(6) U.S. Fish and Wildlife Services:

The U.S. Fish and Wildlife Service was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(b)(7) U.S. Army Corps of Engineers:

The Saint Paul, MN District Office of the U.S. Army Corps of Engineers was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(b)(8) National Park Service:

The National Park Service was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(b)(9) U.S. Soil Conservation Service:

The United States Department of Agriculture's Natural Resources Conservation Service was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(b)(10) National Geodetic Survey:

The National Geodetic Survey was contacted by letter on March 16, 2015, and February 13, 2017 and its March 27, 2015 response is included in Exhibit No. 3.

1105.7(b)(11) Other agencies consulted:

The Minnesota Department of Transportation was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

The Deputy State Historical Preservation Officer was contacted by letter on March 16, 2015 and February 13, 2017, and its April 17, 2015 response is included in Exhibit No. 3.

The Olmsted County Regional Railroad Authority was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

1105.7(e)(3) Local and Regional Planning Agencies

The Olmsted County Administrator was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

The City of Eyota Planning Commission was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date.

Section 1105.7(e) Content: The Environmental Report shall include all of the information specified in this paragraph, except to the extent that applicant explains why any portion(s) are inapplicable. If an historic report is required under § 1105.8, the Environmental Report should also include the Historic Report required by that section.

The Historic Report pursuant to 49 C.F.R. § 1105.8 is attached as Exhibit No. 5.

Section 1105.7(e)(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.

The proposed action is the abandonment of 2.01 miles of rail line in Olmsted County, Minnesota. There has been no overhead traffic on the Line for many years since DM&E abandoned a 13.03 mile segment of the Plainview Branch in 1997 and no local traffic on the Line except for that received and tendered by Kruegel Gas Service ("KGS"), a propane storage and distribution facility and the only remaining shipper on the Line. A detailed map of the Line is included as Appendix A to the Historic Report attached as Exhibit No. 5.

DM&E intends to exercise the abandonment authority and convert an approximately one half mile long segment of the Line from the retained connection to the Waseca Subdivision at Milepost 37.9 to excepted industry track. DM&E has entered into an agreement with KGS, whereby KGS will purchase the industry track to use for receiving and storing railcars. KGS supports the abandonment of the Line.

DM&E has also entered into an agreement with the Parks & Trails Council of Minnesota ("Council") for it to purchase the remaining portion of the Line with the rail, ballast, and track materials left in place for use as a recreational trail. A box culvert, small trestle bridge, and stormwater culverts are located on the Line; none of these structures are anticipated to be altered following abandonment. Following the sale to the Council, it is anticipated that the Council will remove the remaining ties and rails, which it will either recycle or dispose of in an appropriate manner.

Section 1105.7(e)(2) Transportation System: Describe the effects 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.

Due to the planned conversion of the active portion of the Line to industry track and subsequent sale of the same to KGS (as described above) no traffic will be diverted to other transportation systems by the abandonment of this line of railroad.

Section 1105.7(e)(3)(i) Land Use: Based on consultation with local and/or regional planning agencies and/or a 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 Olmsted County Administrator and the City of Eyota Planning Commission were contacted by letter on March 16, 2015 and February 13, 2017. A response dated March 19, 2015 from the Olmsted County Public Works Department is included in Exhibit No. 3. No response has from the City of Eyota Planning

Commission has been received to date. DM&E has no reason to believe that the proposed action would be inconsistent with any existing land use plans.

Section 1105.7(e)(3)(ii): Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

The United States Department of Agriculture's Natural Resources Conservation Service and the Minnesota State Conservationist were contacted by letter on March 16, 2015 and February 13, 2017, but no responses have been received to date.

Section 1105.7(e)(3)(iii): If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 49 C.F.R. § 1105.9.

The Line is not within a designated coastal zone.

Section 1105.7(e)(3)(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 right-of-way may be suitable for alternative public use.

Section 1105.7(e)(4)(i) Energy: Describe the effect of the proposed action on transportation of energy resources.

DM&E believes the proposed abandonment will have no effect on the development and transportation of energy resources, or on the movement and/or recovery of recyclable commodities because KGS will continue to receive freight rail service after the abandonment.

Section 1105.7(e)(4)(ii): Describe the effect of the proposed action on recyclable commodities.

No impact is anticipated.

Section 1105.7(e)(4)(iii): State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

No impact is anticipated.

Section 1105.7(e)(4)(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive

data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information § 1105.7(e)(4)(iv) is required.

The proposed action will not cause any diversion from rail to motor carriage.

Section 1105.7(e)(5)(i) Air: If the proposed action will result in either:

- A. An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal; or
- B. An increase in rail yard activity of at least 100 percent (measured by carload activity); or
- C. An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

The proposed abandonment:

- A. Will not result in an increase in rail traffic of at least 100 percent or an increase of at least eight trains per day on any segment of rail line affected by the proposed abandonment.
- B. Will not result in an increase in rail yard activity of at least 100 percent (measured by carload activity).
- C. Will not result in an average increase in truck traffic by 10 percent or 50 vehicles per day for any affected road segment.

Section 1105.7(e)(5)(ii): If the proposed action affects a class I or non-attainment area under the Clean Air Act, and will result in either:

- A. An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line;
- B. An increase in rail yard activity of at least 20 percent (measured by carload activity); or
- C. An average increase in truck traffic or more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a

case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment:

- A. Will not result in an increase in rail traffic of at least 50 percent or an increase of at least three trains per day on any segment of rail line affected by the proposed abandonment.
- B. Will not result in an increase in rail yard activity of at least 20 percent (measured by carload activity).
- C. Will not result in an average increase in truck traffic by 10 percent or 50 vehicles per day for any affected road segment.

Section 1105.7(e)(5)(iii): If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency or 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.

Transportation of ozone depleting materials is not involved.

Section 1105.7(e)(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; or
- (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 these receptors if the thresholds are surpassed.

None of the thresholds identified in item (5)(i) of this section will be surpassed.

Section 1105.7(e)(7)(i) Safety: Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

Public health and safety will not be affected adversely by the proposed abandonment.

Section 1105.7(e)(7)(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 an accidental release of hazardous materials.

Other than KGS's continued receipt of propane gas, no hazardous materials are expected to be transported following abandonment.

Section 1105.7(e)(7)(iii): If there are any known hazardous waste sites 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.

In March 2015, a Phase I Environmental Site Assessment ("ESA") identified the Magellan Pipeline Terminal as a recognized environmental condition ("REC"). The terminal is located off-site adjacent to the Line's right-of-way. At least one release of hazardous substances has been documented at the terminal and groundwater contamination was noted. The subject leak received closure from the Minnesota Pollution Control Agency in 1999. Due to the storage and distribution of petroleum hydrocarbon products in close proximity to the Line's right-of-way, the existence and long term use of an underground petroleum pipeline crossing the Line's right-of-way, and the documented release of petroleum products, the Magellan Pipeline Terminal is considered an REC.

Section 1105.7(e)(8)(i) Biological Resources: 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 was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date. No adverse effects are anticipated.

Section 1105.7(e)(8)(ii): State whether wildlife sanctuaries or refuges, National or State parks or forests be affected, and describe any effects.

No sanctuaries, state parks, or refuges will be adversely affected by the proposed abandonment.

Section 1105.7(e)(9)(i) Water: 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 Minnesota Department of Natural Resources was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date. DM&E will take proper care during salvage activities to prevent any impact on water quality.

Section 1105.7(e)(9)(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 St. Paul, MN District Office of the U.S. Army Corps of Engineers was contacted by letter on March 16, 2015 and February 13, 2017, but no response has been received to date. No permits under Section 404 of the Clean Water Act are required for the proposed action. No designated wetlands or 100-year flood plains will be adversely affected.

Section 1105.7(e)(9)(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).

The St. Paul, MN District Office of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the Minnesota Department of Natural Resources, and the Minnesota Environmental Protection Agency were contacted by letter on March 16, 2015 and February 13, 2017. The response of the Minnesota Environmental Protection Agency is included in Exhibit No. 3. Because no in-stream salvage activities are contemplated, it is DM&E's opinion that permits under Section 402 of the Clean Water Act are not required.

Section 1105.7(e)(10) Proposed Mitigation: Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

DM&E does not anticipate any adverse effect to the environment. Accordingly, other than the Council's appropriate care during removal of the track, ties and other track materials, no mitigation will be necessary.

Section 1105.7(e)(11) Additional Information for Rail Constructions: The following additional information should be included for rail construction proposals (including connecting track construction).

Not applicable.

Section 1105.8 Historic Reports: (a) An applicant proposing an action identified in § 1105.6(a) or (b), or an action in § 1105.6(c) that will result in the lease, transfer, or sale of a railroad's line, sites or structures, must submit (with its application, petition or notice) the Historic Report described in paragraph (d) of this section, unless excepted under paragraph (b) of this section. This report should be combined with the Environmental Report where one is required. The purpose of the Historic Report is to provide the Board with sufficient information to conduct the consultation process required by the National Historic Preservation Act.

The Historic Report is attached as Exhibit No. 5.

Section 1105.9 Coastal Zone Management Act Requirements: If the proposed action affects land or water uses within a State coastal zone designated pursuant to the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) applicant must comply with the following procedures.

The Line is not in a State coastal zone designated pursuant to the Coastal Zone Management Act.

END OF REPORT

Exhibit No. 1

Certificate of Service of Environmental and Historic Reports
and List of Parties Consulted

CERTIFICATE OF SERVICE OF ENVIRONMENTAL AND HISTORIC REPORTS

I hereby certify that on March 6, 2017, I served the Environmental Report and Historic Report relative to STB Docket No. AB-337 (Sub-No. 8X), pursuant to 49 C.F.R. §§ 1152.50; 1105.7(b), (c); and 1105.11, by First Class U.S. Mail properly addressed and with postage prepaid upon the parties listed on the attached Service List.

Dated at Minneapolis, Minnesota this 6 day of March, 2017.



W. Karl Hansen

ENVIRONMENTAL & HISTORICAL REPORTS
Dakota, Minnesota & Eastern Railroad Corporation—Abandonment Exemption—
in Olmsted County, Minnesota

SERVICE LIST

Parties consulted in preparing Dakota, Minnesota & Eastern Railroad Corporation's
Environmental and Historical Reports for STB Docket No. AB-337 (Sub-No. 8X):

FEDERAL AGENCIES CONSULTED

Appropriate Regional Office(s) of the
U.S. Environmental Protection Agency

U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604- 3590

U.S. Fish and Wildlife Service

Tom Melius
Regional Director
U.S. Fish and Wildlife Service
5600 American Blvd. West
Suite 990
Bloomington, MN 55437-1458

U.S. Army Corps of Engineers - St. Paul, MN District Office

U.S. Army Corps of Engineers
180 Fifth East Street
Suite 700
St. Paul, MN 55101-1678

National Park Service

Cam Sholly
Regional Director
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

U.S. Soil and Conservation Service

Cathee Pullman
State Conservationist
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
St. Paul, MN 55101

National Geodetic Survey and U.S. Geological Survey

National Geodetic Survey
SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282

STATE AGENCIES CONSULTED

State Clearinghouse

Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
Saint Paul, MN 55155

State Department of Transportation for Minnesota

Charles A. Zelle
Commissioner
Minnesota Department of Transportation
395 John Ireland Boulevard
M.S. 100
St. Paul, MN 55155

Minnesota Department of Transportation
Office of Freight & Commercial Vehicle Operations
Mail Stop 470
395 John Ireland Boulevard
St. Paul, MN 55155

State Environmental Protection Agency for Minnesota

John Linc Stine
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

State Water Quality Official

Glenn Skuta
Section Manager
Surface Water Monitoring Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

State Historic Preservation Office for Minnesota

Amy Spong
Deputy State Historic Preservation Officer
Minnesota State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Blvd. W.
St. Paul, MN 55102-1903

State Coastal Zone Management Agency

N/A

Other Political Entities and/or Indian Reservations through which the line runs

Olmsted County

Richard Devlin
County Administrator
Olmsted County Government Center
151 4th Street SE
Rochester, MN 55904-3710

Regional Railroad Authority

Olmsted County Regional Railroad Authority
Board of Commissioners
151 4th St SE
Rochester, MN 55904

City of Eyota - Land Use Planning

Lief Hughes, Chair
City of Eyota Planning Commission
P.O. Box 328
Eyota, MN 55934

Exhibit No. 2

Certification of Publication of Newspaper Notice in Newspapers of General Circulation in the
County where Line is Situated and Affidavit of Publication

(49 C.F.R. Section 1105.12)

CERTIFICATE OF PUBLICATION OF PUBLIC NOTICE
IN NEWSPAPER OF GENERAL CIRCULATION

I hereby certify that relative to STB Docket No. AB-337 (Sub-No. 8X), pursuant to 49 C.F.R. Sections 1152.50 and 1105.12, a public legal notice was published on February 24, 2017 in the *Rochester Post Bulletin*, which is a newspaper of general circulation where the Line is located.

Dated at Minneapolis, Minnesota this 6 day of March 2017.



W. Karl Hansen

TO ABANDON RAIL SERVICE
Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific ("DM&E") gives notice that on or about March 24, 2017, 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 2.01 mile line of railroad between the connection at railroad milepost 37.9+ on the Waseca Subdivision and the end of the rail line at or about County Road 9 near Eyota, Minnesota which traverses through United States Postal Service ZIP Code 55934 in Olmsted County, Minnesota. The proceeding has been docketed as No. AB 337 (Sub No. 8X). The Board's Office of Environmental Analysis (OEA) 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 the Office of Environmental Analysis, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423, or by calling that office 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 Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202 245 0238. Copies of any comments or requests for conditions should be served on the applicant's representative, W. Karl Hansen at Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402. (2/24)

portation Board, 395 E Street, S.W., Washington, DC 20423, or by calling that office 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 Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202 245 0238. Copies of any comments or requests for conditions should be served on the applicant's representative, W. Karl Hansen at Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402. (2/24)

AFFIDAVIT OF PUBLICATION

State of Minnesota, County of Olmsted

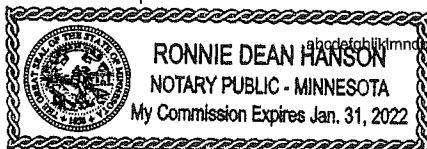
Kristy Mintz, being duly sworn, on oath that she is the publisher or authorized agent and employee of the publisher of the newspaper known as the Post-Bulletin, and has full knowledge of the facts which are stated below:

- (A) The newspaper has complied with all the requirements constituting qualifications as a legal newspaper, as provided by Minnesota Statute 331A.02, 331A.07 and other applicable laws, as amended.
- (B) The printed notice

Which is attached was cut from the columns of said newspaper, and was printed and published 1 time(s); it was printed and published on the following dates:

PB 02/24/2017
IPB 02/24/2017

Printed below is a copy of the lower case alphabet from a to z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:



POST-BULLETIN COMPANY L.L.C.

BY: Kristy Mintz

TITLE: Media Sales Manager

Subscribed and sworn to me on

This 24 day of Feb, 2017

Notary Public

RATE INFORMATION

- | | |
|---|---------------------------------|
| 1) Lowest classified rate paid by commercial user | \$21.95 |
| For comparable space | (per inch/per day/display rate) |
| 2) Publication Fee | \$209.52 |

Ad # 200478: NOTICE OF INTENT TO ABANDON RAIL SER

Exhibit No. 3

Responses to Environmental Scoping Correspondence



Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

March 2, 2017

Mr. W. Karl Hanson
Stinson, Leonard, Street
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402

Re: Rail Line Abandonment Located between Milepost 37.9 and County Road 9 (Plainview Spur)

Dear Mr. Hanson:

The Minnesota Pollution Control Agency (MPCA) Environmental Review Unit has reviewed the information in the letter and attachment dated February 13, 2017, regarding the removal of the rail line in the city of Eyota, Minnesota. Based on the limited information provided, and regarding matters for which the MPCA has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

- If the total project area will disturb a total of one acre or more of land, a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Construction Stormwater Permit (CSW Permit) is required from the MPCA. The owner and operator (usually the general contractor) are jointly responsible for obtaining and complying with the conditions of the CSW Permit. A detailed Stormwater Pollution Prevention Plan (SWPPP), containing stormwater management requirements both during and post construction, as well as erosion control and sediment control requirements during construction, must be prepared prior to submitting a CSW Permit application. CSW Permit coverage is required prior to commencing land disturbing activities (i.e., clearing, grading, filling, or excavating) relating to the project. For an overview of this permit and program, please refer to the following factsheet: <http://www.pca.state.mn.us/publications/wq-strm2-05.pdf>. Questions regarding CSW Permit requirements should be directed to Roberta Getman at 507-206-2629.
- It is not uncommon for projects to encounter contamination, especially petroleum-contaminated soil from nearby storage tanks or spills. Efforts should be made to determine if and where any petroleum or other contamination is likely to be encountered during the project. Utilization of the MPCA's database and mapping tool, *What's In My Neighborhood?* can be helpful in evaluating the project area or areas for potential contamination. This mapping tool can be found at: <http://www.pca.state.mn.us/udgx680>. It is the responsibility of the project sponsor to complete the project safely through any areas of contamination and to properly manage any contaminated soil that is encountered during the project. The fact sheet, *Managing Petroleum Contaminated Soil at Public Works Projects*, is available to assist with this process, including how to identify potential sources of contamination. The fact sheet can be found at: <http://www.pca.state.mn.us/publications/c-prp5-01.pdf>. If contamination is found, it must be reported immediately to the State Duty Officer at 651-649-5451 or 800-422-0798.

- Please be aware that the Whitewater River, South Fork is listed on the MPCA Inventory of Impaired Waters located on the MPCA website at <http://www.pca.state.mn.us/water/tmdl/tmdl-303dlist.html>. We recommend you utilize the MPCA Special Waters and Impaired Waters Search mapping tool to identify special or impaired waters located near proposed projects.

The mapping tool is located on the MPCA website at: <http://pca-gis02.pca.state.mn.us/CSW/index.html>. The Whitewater River, South Fork is listed as impaired for turbidity and fecal coliform. The impairment will dictate additional increased stormwater treatment during construction and require additional increased permanent treatment post construction. These requirements will be included in the NPDES/SDS CSW Permit. The project proposer should determine that compliance with these increased stormwater water quality treatments can be achieved on the project site or elsewhere. Information regarding the MPCA's Construction Stormwater Program can be found on the MPCA's website at <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>. Questions regarding CSW Permit requirements should be directed to Roberta Getman at 507-206-2629.

In addition, any project that will result in over 50 acres of disturbed area and has a discharge point within one mile of a special or impaired water is required to submit their SWPPP to the MPCA for a review at least 30 days prior to the commencement of land disturbing activities. If the SWPPP is found to be out of compliance with the terms and conditions of the General Permit, further delay may occur. The MPCA encourages the project proposer to meet with staff at preliminary points to avoid this situation. Questions regarding SWPPPs should be directed to Todd Smith at 651-757-2732.

- Please note that solid waste, including the rail ties, should be properly disposed of in a licensed and permitted landfill. The MPCA recommends the iron rails and associated parts of the track be recycled. Given a general history of railroad use, curve grease designed to lubricate rail track curves was likely used. Additionally, herbicides are sprayed around the tracks to minimize plant growth. Therefore, it's possible the ballast and soil beneath the ballast and surrounding the tracks may be impacted with contaminants such as petroleum products and herbicides, as well as polynuclear aromatic hydrocarbons, and heavy metals from the railroad ties. Because of the potential for contamination, Dakota, Minnesota & Eastern Railway Corporation may want to seek assistance from the MPCA Voluntary Investigation and Cleanup (VIC) Program to receive necessary technical assistance in investigating and managing contamination. A Phase II Environmental Site Assessment should be conducted in the former track area to determine whether contaminated soil and groundwater are present. Soil conditions should meet either MPCA's Residential Soil References Values or Industrial Soil Reference Values depending on the proposed land use. If contamination is found, it must be reported immediately to the state duty officer at 651-649-5451 or 800-422-0798.

Mr. W. Karl Hanson

Page 3

March 2, 2017

We appreciate the opportunity to review this project. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this project, please contact me via email at Karen.kromar@state.mn.us or via telephone at 651-757-2508.

Sincerely,



Karen Kromar
Planner Principal
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA, St. Paul
Roberta Getman, MPCA, Rochester
Todd Smith, MPCA, St. Paul
Wayne Cords, MPCA, Mankato

STATE HISTORIC PRESERVATION OFFICE

April 17, 2015

W. Karl Hansen
Stinson Leonard Street LLP
150 South 5th Street, Suite 2300
Minneapolis, MN 55402

RE: STB Docket No. AB-337 (Sub-No. 8X)
Dakota, Minnesota & Eastern Railway/Canadian Pacific Proposed Rail Line Abandonment
Located between MP 37.9 +/- and the end of the Rail Line at or about County Road 9 (Plainview Spur)
Olmsted County
SHPO Number: 2015-1520

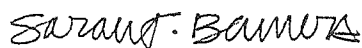
Dear Mr. Hansen:

We have reviewed the *Request for Comments on Potential Environmental Impact of Proposed Rail Line Abandonment Located between Milepost 37.9 +/- and the end of the Rail Line at or about County Road 9 (Plainview Spur) in Olmsted County, Minnesota (U.S. Postal Zip Code 55934) – STB Docket No. AB-337 (Sub-No. 8X)* which was received in our office on March 18, 2015.

It is our understanding that the Dakota, Minnesota & Eastern Railway Corporation is requesting to discontinue and abandon a segment of rail line and will be filing a Petition for Exemption with the Surface Transportation Board (STB). Our participation in the federal review process is limited to responsibilities given the State Historic Preservation Office pursuant to Section 106 of the National Historic Preservation Act, as amended, and the regulations at 36 CFR Part 800 *Protection of Historic Properties*. Therefore, pursuant to 36 CFR 800.3, we will participate in consultation upon initiation of the Section 106 process by the federal agency.

Please feel free to contact me if you have any questions or concerns regarding this comment letter. I can be reached at 651-259-3456 or by e-mail at sarah.beimers@mnhs.org.

Sincerely,



Sarah J. Beimers, Manager
Government Programs and Compliance

Hansen, Karl

From: Simon Monroe <simon.monroe@noaa.gov>
Sent: Friday, March 27, 2015 3:04 PM
To: Hansen, Karl
Cc: Surface Transportation Board; dave.zenk@noaa.gov; Lucy Hall - NOAA Federal; Simon Monroe
Subject: NGS Response, STB Docket AB-337 (SUB NO. 008X)

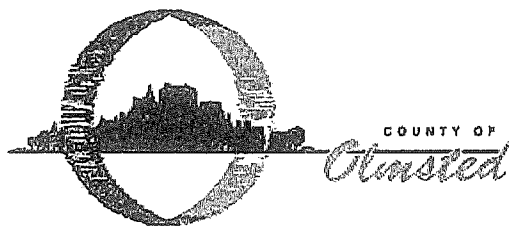
Thank you for sharing your railroad abandonment environmental report for
EYOTA, Olmsted County, MINNESOTA.

Approximately 00 geodetic survey marks may be located in the area described. These marks may or may not be disturbed.

If marks will be disturbed by the abandonment, [THE RAILROAD] shall
consult with the National Geodetic Survey (NGS) at least 90 days prior to
beginning salvage activities that will disturb, or destroy any geodetic station
marks are described on the attached file. Additional advice is provided at
<http://geodesy.noaa.gov/marks/railroads/>

|---|---|
-|-----|-----|-----|---|-----

No Stations Found.



PUBLIC WORKS DEPARTMENT
2122 CAMPUS DR SE - SUITE 200
ROCHESTER MN 55904-4744
www.olmstedpublicworks.com
507.328.7070

March 19, 2015

W. Karl Hansen
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
Karl.hansen@stinsonleonard.com

Re: Request for Comments on Potential Environmental Impact of Proposed Rail Line Abandonment Located between Milepost 37.9 +/- and the end of the Rail Line at or about County Road 9 (Plainview Spur) in Olmsted County, Minnesota (U.S. Postal Zip Code 55934) – STB Docket No. AB-337 (Sub-No.8X)

Dear Mr. Hansen:

Olmsted County Public Works Department has reviewed the Potential Environmental Impact of Proposed Rail Line Abandonment and has the following comments:

No Comments

Sincerely,

Michael Sheehan
Director of Public Works

MTS/lc

cc: Planning



AN EQUAL OPPORTUNITY EMPLOYER

Administration Building Maintenance Surveying and Mapping Engineering Highway Maintenance Parks & Agriculture Solid Waste

Exhibit No. 4

Environmental Scoping Correspondence Required By 49 C.F.R. Section 1105.7(b)



W. Karl Hansen
612.335.7088 **DIRECT**
612.335.1657 **DIRECT FAX**
karl.hansen@stinson.com

February 13, 2017

To: Attached List of Parties Consulted

VIA U.S. MAIL

Re: Request for Comments on Potential Environmental Impact of Proposed Rail Line Abandonment Located between Milepost 37.9 +/- and the end of the Rail Line at or about County Road 9 (Plainview Spur) in Olmsted County, Minnesota (U.S. Postal Zip Code 55934) - STB Docket No. AB-337 (Sub-No. 8X)

Our File No: 2061322-0026

Dear Sir/Madam:

Dakota, Minnesota & Eastern Railway Corporation ("DM&E") d/b/a Canadian Pacific on or about March 24, 2017, anticipates filing a Petition for Exemption with the United States Department of Transportation – Surface Transportation Board (STB) to discontinue and abandon all freight rail operations over approximately 2.01 miles of rail line located in Olmsted County, Minnesota. A map of the proposed abandonment is enclosed.

This proposed rail line abandonment petition for exemption requires review by the STB. I will be preparing an Environmental and Historic Report that will provide the basis of the environmental review that the STB's Office of Environmental Analysis (OEA) will conduct for this proceeding. In preparing this report, consultation with agencies or organizations that may have specific interest in or knowledge of the potential environmental impact is essential. This letter is, therefore, intended to solicit your comments regarding the potential environmental impact, if any, of the proposed rail line abandonment.

Your comments on the potential impact of this abandonment will be incorporated into the Environmental Report to be filed on or about March 3, 2017. A copy of this report will be provided to you, after which additional comments can be submitted directly to the OEA.

As shown on the attached map, the line that is proposed to be abandoned is located between its connection with DM&E's Waseca Subdivision at Milepost 37.9 +/- near Eyota, Minnesota and where the line ends at or about County Road 9. It traverses through U.S. Postal Zip Code 55934 in Olmsted County, Minnesota.

For purposes of evaluating the environmental impact that would result from abandonment of the line, the proposed action includes discontinuing freight service and salvaging equipment and materials that are present on the line.

The rail line is located entirely within Olmsted County, northwest of the City of Eyota. The proposed action includes the removal of all rails, ties, spikes, plates, railroad-related utilities, and signaling devices. All equipment and materials that are removed from the line would either be reused, sold as scrap, or disposed of in accordance with applicable environmental regulations.

The Environmental Report for the proposed abandonment is being prepared pursuant to STB regulations (49 C.F.R. Chapter X, Part 1105) (copy of which is enclosed), the National Environmental Policy Act, 42 U.S.C. § 4332; the Energy Policy and Conservation Act, 42 U.S.C. § 6362(b); and related laws including the National Historic Preservation Act, 16 U.S.C. § 470f, the Coastal Zone Management Act, 16 U.S.C. § 1451, and the Endangered Species Act, 16 U.S.C. § 1531. Areas of concern that you and other interested parties are invited to address in your comments include any potential impact of the proposed action on the following:

- Local land use
- Existing local and regional transportation systems
- Energy use
- Air emissions and ambient air quality conditions
- Water quality and wetlands
- Biological resources including threatened or endangered species
- Ambient noise levels
- Public health safety
- Historic, cultural, or archaeological sites listed or eligible for inclusion on the National Register of Historic Places
- Socioeconomics, including local and regional employment

We are soliciting your comments with regard to: (1) any permitting/approval authority which your agency has over the proposed action, and (2) any specific concerns which you believe should be addressed in the STB environmental document prepared after our Report is submitted. As required by applicable STB regulations (49 C.F.R., Chapter X, Part 1105.7(e)(9)(iii)) and Part 1105.7(c), we also request that you comment on and

describe the effects, if any, of our proposed action on those resources or areas of concern within the authority of your agency.

Specifically, the Board's regulations state that, with respect to the area of concern within the jurisdiction of your agency, DM&E must address the following:

"49 C.F.R. Part 1105.7(e)(4)(i)-(iv) Energy:

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

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

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

(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in Section 1105.7(e)(4)(iii) need not be supplied if the more detailed information in Section 1105.7(e)(4)(iv) is required."

"49 C.F.R. Part 1105.7(e)(5)(ii) Air:

(ii) If the proposed action affects a class I or non-attainment area under the Clean Air Act."

"49 C.F.R. Part 1105.7(e)(6)(ii) Noise:

(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 these receptors if the thresholds are surpassed."

"49 C.F.R. Part 1105.7(e)(7)(iii) Safety:

(iii) If there are known hazardous waste sites 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."

"49 C.F.R. Part 1105.7(e)(9)(i), (ii), & (iii) 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.

(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.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

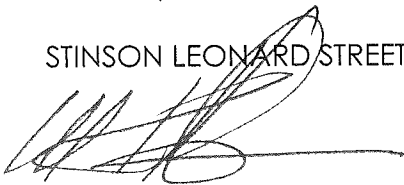
Any written comments should be submitted to the undersigned. They will be appended to the Environmental Report being submitted to the STB if received prior to March 3, 2017. Thereafter, please submit them directly to the Office of Environmental Analysis as follows: Surface Transportation Board, Office of Environmental Analysis, 395 E Street, SW, Washington D.C. 20423-0001, or by calling that office at (202) 245-0454, and forwarding a copy to the undersigned.

Any comments or information that you provide will be included in DM&E's Environmental Report and will be considered by the STB in the preparation of the draft environmental document and in its evaluation of the overall environmental and energy impact of the proposed action. Your cooperation will help ensure that all environmental concerns are thoroughly addressed.

Thank you very much for your assistance.

Sincerely,

STINSON LEONARD STREET LLP



W. Karl Hansen

Enclosures

ENVIRONMENTAL & HISTORICAL REPORT
PLAINVIEW BRANCH ABANDONMENT
S.T.B. DOCKET NO. AB-337 (Sub-No. 8X)
LIST OF PARTIES CONSULTED

Parties consulted in preparing Environmental and Historical Reports - Dakota, Minnesota & Eastern Railroad Corporation - Abandonment of Line of Railroad running from Milepost 37.9 near Eyota, Minnesota and where the rail line ends at or about County Road 9 in Olmsted County, Minnesota, State of Minnesota which traverses through United States Postal Service Zip Code 55934, (total length: approximately 2.01 miles)

FEDERAL AGENCIES CONSULTED

Appropriate Regional Office(s) of the
U.S. Environmental Protection Agency

U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604- 3590

U.S. Fish and Wildlife Service

Tom Melius
Regional Director
U.S. Fish and Wildlife Service
5600 American Blvd. West
Suite 990
Bloomington, MN 55437-1458

U.S. Army Corps of Engineers - St. Paul, MN District Office

U.S. Army Corps of Engineers
180 Fifth East Street
Suite 700
St. Paul, MN 55101-1678

National Park Service

Cam Sholly
Regional Director
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226

U.S. Soil and Conservation Service

Cathee Pullman
State Conservationist
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
St. Paul, MN 55101

National Geodetic Survey and U.S. Geological Survey

National Geodetic Survey
SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282

STATE AGENCIES CONSULTED

State Clearinghouse

Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
Saint Paul, MN 55155

State Department of Transportation for Minnesota

Charles A. Zelle
Commissioner
Minnesota Department of Transportation
395 John Ireland Boulevard
M.S. 100
St. Paul, MN 55155

Minnesota Department of Transportation
Office of Freight & Commercial Vehicle Operations
Mail Stop 470
395 John Ireland Boulevard
St. Paul, MN 55155

State Environmental Protection Agency for Minnesota

John Linc Stine
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194

State Water Quality Official

Glenn Skuta
Section Manager
Surface Water Monitoring Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

State Historic Preservation Office for Minnesota

Amy Spong
Deputy State Historic Preservation Officer
Minnesota State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Blvd. W.
St. Paul, MN 55102-1903

State Coastal Zone Management Agency

N/A

Other Political Entities and/or Indian Reservations through which the line runs

Olmsted County

Richard Devlin
County Administrator
Olmsted County Government Center
151 4th Street SE
Rochester, MN 55904-3710

Regional Railroad Authority

Olmsted County Regional Railroad Authority
Board of Commissioners
151 4th St SE
Rochester, MN 55904

City of Eyota - Land Use Planning

Lief Hughes, Chair
City of Eyota Planning Commission
P.O. Box 328
Eyota, MN 55934

§ 1104.13

the other parties, but if email is not acceptable to the receiving party and personal service is not feasible, service of a paper copy should be by first-class or express mail. When a party is represented by a practitioner or attorney, service upon the practitioner is deemed to be service upon the party. If a document is filed with the Board through the e-filing process, a copy of the e-filed document should be emailed to other parties, or a paper copy of the document should be personally served on the other parties, but if neither email nor personal service is feasible, service of a paper copy should be by first-class or express mail.

(b) *Exceptions.* Copies of letters to the Board relating to oral argument under part 1116, and subpoenas under § 1113.2, need not be served on other parties of the proceeding. Service of comments in rulemaking proceedings is not required, unless specifically directed by the Board.

(c) *Sample Certificate of Service.*

I certify that I have this day served copies of document upon all parties of record in this proceeding, by (here state the method of making service which must be consistent with this part).

Signature	Date
-----------	------

(49 U.S.C. 721, 5 U.S.C. 553)

[47 FR 49554, Nov. 1, 1982, as amended at 48 FR 44827, Sept. 30, 1983; 61 FR 52711, Oct. 8, 1996; 69 FR 18499, Apr. 8, 2004; 81 FR 8853, Feb. 23, 2016]

§ 1104.13 Replies and motions.

(a) *Time.* A party may file a reply or motion addressed to any pleading within 20 days after the pleading is filed with the Board, unless otherwise provided.

(b) *Number of copies.* The original of a reply or motion should be accompanied by the same number of copies required to be filed with the pleading to which the reply or motion is addressed.

(c) *Reply to a Reply.* A reply to a reply is not permitted.

[47 FR 49554, Nov. 1, 1982, as amended at 61 FR 52711, Oct. 8, 1996]

49 CFR Ch. X (10-1-16 Edition)

§ 1104.14 Protective orders to maintain confidentiality.

(a) *Segregation of confidential material.* A party submitting materials which it believes are entitled to be kept confidential and not made part of the public docket should submit these materials as a separate package, clearly marked on the outside "Confidential materials subject to a request for a protective order." When confidential documents are filed, redacted versions must also be filed.

(b) *Requests for protective orders.* A request that materials submitted to the Board be kept confidential should be submitted as a separate pleading and clearly headed "Motion for protective order."

[48 FR 44827, Sept. 30, 1983, as amended at 61 FR 52711, Oct. 8, 1996; 81 FR 8853, Feb. 23, 2016]

§ 1104.15 Certification of eligibility for Federal benefits under 21 U.S.C. 862.

(a) An individual who is applying in his or her name for a certificate, license or permit to operate as a rail carrier must complete the certification set forth in paragraph (b) of this section. This certification is required if the transferee in a finance proceeding under 49 U.S.C. 11323 and 11324 is an individual. The certification also is required if an individual applies for authorization to acquire, to construct, to extend, or to operate a rail line.

(b) *Certification:*

I _____ (Name) _____, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal Benefits, either by court order or by operation of law, pursuant to 21 U.S.C. 862.

[54 FR 48250, Nov. 22, 1989, as amended at 61 FR 52711, Oct. 8, 1996; 64 FR 53268, Oct. 1, 1999; 67 FR 5515, Feb. 6, 2002]

PART 1105—PROCEDURES FOR IMPLEMENTATION OF ENVIRONMENTAL LAWS

Sec.
1105.1 Purpose.

Surface Transportation Board

§ 1105.4

- 1105.2 Responsibility for administration of these rules.
- 1105.3 Information and assistance.
- 1105.4 Definitions.
- 1105.5 Determinative criteria.
- 1105.6 Classification of actions.
- 1105.7 Environmental reports.
- 1105.8 Historic reports.
- 1105.9 Coastal Zone Management Act requirements.
- 1105.10 Board procedures.
- 1105.11 Transmittal letter for Applicant's Report.
- 1105.12 Sample newspaper notices for abandonment exemption cases.

AUTHORITY: 16 U.S.C. 1456 and 1536; 42 U.S.C. 4332 and 6362(b); 49 U.S.C. 701 note (1995) (Savings Provisions), 721(a), 10502, and 10903-10905; 54 U.S.C. 306108.

SOURCE: 56 FR 36105, July 31, 1991, unless otherwise noted.

§ 1105.1 Purpose.

These rules are designed to assure adequate consideration of environmental and energy factors in the Board's decisionmaking process pursuant to the National Environmental Policy Act, 42 U.S.C. 4332; the Energy Policy and Conservation Act, 42 U.S.C. 6362(b); and related laws, including the National Historic Preservation Act, 16 U.S.C. 470f, the Coastal Zone Management Act, 16 U.S.C. 1451, and the Endangered Species Act, 16 U.S.C. 1531.

§ 1105.2 Responsibility for administration of these rules.

The Director of the Office of Environmental Analysis is delegated the authority to sign, on behalf of the Board, memoranda of agreement entered into pursuant to 36 CFR 800.5(e)(4) regarding historic preservation matters. The Director of the Office of Environmental Analysis is responsible for the preparation of documents under these rules and is delegated the authority to provide interpretations of the Board's National Environmental Policy Act (NEPA) process, to render initial decisions on requests for waiver or modification of any of these rules for individual proceedings, and to recommend rejection of environmental reports not in compliance with these rules. This delegated authority shall be used only in a manner consistent with Board pol-

icy. Appeals to the Board will be available as a matter of right.

[81 FR 8853, Feb. 23, 2016]

§ 1105.3 Information and assistance.

Information and assistance regarding the rules and the Board's environmental and historic review process is available by writing or calling the Office of Environmental Analysis.

[81 FR 8853, Feb. 23, 2016]

§ 1105.4 Definitions.

In addition to the definitions contained in the regulations of the Council on Environmental Quality (40 CFR part 1508), the following definitions apply to these regulations:

(a) *Act* means the Interstate Commerce Act, Subtitle IV of Title 49, U.S. Code, as amended.

(b) *Applicant* means any person or entity seeking Board action, whether by application, petition, notice of exemption, or any other means that initiates a formal Board proceeding.

(c) *Board* means the Surface Transportation Board.

(d) *Environmental Assessment* or "EA" means a concise public document for which the Board is responsible that contains sufficient information for determining whether to prepare an Environmental Impact Statement or to make a finding of no significant environmental impact.

(e) *Environmental documentation* means either an Environmental Impact Statement or an Environmental Assessment.

(f) *Environmental Impact Statement* or "EIS" means the detailed written statement required by the National Environmental Policy Act, 42 U.S.C. 4332(2)(c), for a major Federal action significantly affecting the quality of the human environment.

(g) *Environmental Report* means a document filed by the applicant(s) that:

(1) Provides notice of the proposed action; and

(2) Evaluates its environmental impacts and any reasonable alternatives to the action. An environmental report may be in the form of a proposed draft Environmental Assessment or proposed draft Environmental Impact Statement.

§ 1105.5

(h) *Filing* means any request for STB authority, whether by application, petition, notice of exemption, or any other means that initiates a formal Board proceeding.

(i) *Office of Environmental Analysis* or "OEA" means the Office that prepares the Board's environmental documents and analyses.

(j) *Third-Party Consultant* means an independent contractor, utilized by the applicant, who works with OEA's approval and under OEA's direction to prepare any necessary environmental documentation. The third party consultant must act on behalf of the Board. The railroad may participate in the selection process, as well as in the subsequent preparation of environmental documents. However, to avoid any impermissible conflict of interest (*i.e.*, essentially any financial or other interest in the outcome of the railroad-sponsored project), the railroad may not be responsible for the selection or control of independent contractors.

[56 FR 36105, July 31, 1991, as amended at 64 FR 53268, Oct. 1, 1999; 81 FR 8853, Feb. 23, 2016]

§ 1105.5 Determinative criteria.

(a) In determining whether a "major Federal action" (as that term is defined by the Council on Environmental Quality in 40 CFR 1508.18) has the potential to affect significantly the quality of the human environment, the Board is guided by the definition of "significantly" at 40 CFR 1508.27.

(b) A finding that a service or transaction is not within the STB's jurisdiction does not require an environmental analysis under the National Environmental Policy Act or historic review under the National Historic Preservation Act.

(c) The environmental laws are not triggered where the STB's action is nothing more than a ministerial act, as in:

(1) The processing of abandonments proposed under the Northeast Rail Services Act (45 U.S.C. 744(b)(3));

(2) Statutorily-authorized interim trail use arrangements under 16 U.S.C. 1247(d) [see, 49 CFR 1152.29]; or

(3) Financial assistance arrangements under 49 U.S.C. 10904 (see 49 CFR 1152.27).

49 CFR Ch. X (10-1-16 Edition)

Finally, no environmental analysis is necessary for abandonments that are authorized by a bankruptcy court, or transfers of rail lines under plans of reorganization, where our function is merely advisory under 11 U.S.C. 1166, 1170, and 1172.

[56 FR 36105, July 31, 1991; 56 FR 49821, Oct. 1, 1991; 81 FR 8853, Feb. 23, 2016]

§ 1105.6 Classification of actions.

(a) Environmental Impact Statements will normally be prepared for rail construction proposals other than those described in paragraph (b)(1) of this section.

(b) Environmental Assessments will normally be prepared for the following proposed actions:

(1) Construction of connecting track within existing rail rights-of-way, or on land owned by the connecting railroads;

(2) Abandonment of a rail line (unless proposed under the Northeast Rail Services Act or the Bankruptcy Act);

(3) Discontinuance of passenger train service or freight service (except for discontinuances of freight service under modified certificates issued under 49 CFR 1150.21 and discontinuances of trackage rights where the affected line will continue to be operated);

(4) An acquisition, lease or operation under 49 U.S.C. 10901, 10902, or 10907, or consolidation, merger or acquisition of control under 49 U.S.C. 11323 and 14303, if it will result in either

(i) Operational changes that would exceed any of the thresholds established in § 1105.7(e) (4) or (5); or

(ii) An action that would normally require environmental documentation (such as a construction or abandonment);

(5) A rulemaking, policy statement, or legislative proposal that has the potential for significant environmental impacts; and

(6) Any other proceeding not listed in paragraphs (a) or (c) of this section.

(c) No environmental documentation will normally be prepared (although a Historic Report may be required under section 1105.8) for the following actions:

Surface Transportation Board

§ 1105.7

(1) Any action that does not result in significant changes in carrier operations (*i.e.*, changes that do not exceed the thresholds established in section 1105.7(e) (4) or (5)), including (but not limited to) all of the following actions that meet this criterion:

(i) An acquisition, lease, or operation under 49 U.S.C. 10901, 10902, or 10907, or consolidation, merger, or acquisition of control under 49 U.S.C. 11323 and 14303 that does not come within subsection (b)(4) of this section.

(ii) Transactions involving corporate changes (such as a change in the ownership or the operator, or the issuance of securities or reorganization) including grants of authority to hold position as an officer or director;

(iii) Declaratory orders, interpretation or clarification of operating authority, substitution of an applicant, name changes, and waiver of lease and interchange regulations;

(iv) Pooling authorizations, approval of rate bureau agreements, and approval of shipper antitrust immunity;

(v) Determinations of the fact of competition;

(2) Rate, fare, and tariff actions;

(3) Common use of rail terminals and trackage rights;

(4) Discontinuance of rail freight service under a modified certificate issued pursuant to 49 CFR 1150.21;

(5) Discontinuance of trackage rights where the affected line will continue to be operated; and

(6) A rulemaking, policy statement, or legislative proposal that has no potential for significant environmental impacts.

(d) The Board may reclassify or modify these requirements for individual proceedings. For actions that generally require no environmental documentation, the Board may decide that a particular action has the potential for significant environmental impacts and that, therefore, the applicant should provide an environmental report and either an EA or an EIS will be prepared. For actions generally requiring an EA, the Board may prepare a full EIS where the probability of significant impacts from the particular proposal is high enough to warrant an EIS. Alternatively, in a rail construction, an applicant can seek to demonstrate

(with supporting information addressing the pertinent aspects of § 1105.7(e)) that an EA, rather than an EIS, will be sufficient because the particular proposal is not likely to have a significant environmental impact. Any request for reclassification must be in writing and, in a rail construction, should be presented with the prefiling notice required by § 1105.10(a)(1) (or a request to waive that prefiling notice period).

(e) The classifications in this section apply without regard to whether the action is proposed by application, petition, notice of exemption, or any other means that initiates a formal Board proceeding.

[56 FR 36105, July 31, 1991, as amended at 81 FR 8853, Feb. 23, 2016]

§ 1105.7 Environmental reports.

(a) *Filing.* An applicant for an action identified in § 1105.6 (a) or (b) must submit to the Board (with or prior to its application, petition or notice of exemption) except as provided in paragraph (b) for abandonments and discontinuances) an Environmental Report on the proposed action containing the information set forth in paragraph (e) of this section. The Environmental Report may be filed with the Board electronically.

(b) At least 20 days prior to the filing with the Board of a notice of exemption, petition for exemption, or an application for abandonment or discontinuance, the applicant must serve copies of the Environmental Report on:

(1) The State Clearinghouse of each State involved (or other State equivalent agency if the State has no clearinghouse);

(2) The State Environmental Protection Agency of each State involved;

(3) The State Coastal Zone Management Agency for any state where the proposed activity would affect land or water uses within that State's coastal zone;

(4) The head of each county (or comparable political entity including any Indian reservation) through which the line goes;

(5) The appropriate regional offices of the Environmental Protection Agency;

(6) The U.S. Fish and Wildlife Service;

(7) The U.S. Army Corps of Engineers;

(8) The National Park Service;

(9) The U.S. Soil Conservation Service;

(10) The National Geodetic Survey (formerly known as the Coast and Geodetic Survey) as designated agent for the National Geodetic Survey and the U.S. Geological Survey; and

(11) Any other agencies that have been consulted in preparing the report. For information regarding the names and addresses of the agencies to be contacted, interested parties may contact SEA at the address and telephone number indicated in § 1105.3.

(c) *Certification.* In its Environmental Report, the applicant must certify that it has sent copies of the Environmental Report to the agencies listed and within the time period specified in paragraph (b) of this section and that it has consulted with all appropriate agencies in preparing the report. These consultations should be made far enough in advance to afford those agencies a reasonable opportunity to provide meaningful input. Finally, in every abandonment exemption case, applicant shall certify that it has published in a newspaper of general circulation in each county through which the line passes a notice that alerts the public to the proposed abandonment, to available reuse alternatives, and to how it may participate in the STB proceeding.

(d) *Documentation.* Any written responses received from agencies that were contacted in preparing the Environmental Report shall be attached to the report. Oral responses from such agencies shall be briefly summarized in the report and the names, titles, and telephone numbers of the persons contacted shall be supplied. A copy of, or appropriate citation to, any reference materials relied upon also shall be provided.

(e) *Content.* The Environmental Report shall include all of the information specified in this paragraph, except to the extent that applicant explains why any portion(s) are inapplicable. If an historic report is required under § 1105.8, the Environmental Report should also include the Historic Report required by that section.

(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.

(2) *Transportation system.* Describe the effects 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.

(3) *Land use.* (i) Based on consultation with local and/or regional planning agencies and/or a 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.

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

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

(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. 10905 and explain why.

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

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

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

(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 energy consumption and show the data and methodology used to

Surface Transportation Board

§ 1105.7

arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information in § 1105.7(e)(4)(iv) is required.

(5) *Air.* (i) If the proposed action will result in either:

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

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

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.

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

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

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

(iii) If 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.

(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; or

(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 these receptors if the thresholds are surpassed.

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

(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 an accidental release of hazardous materials.

(iii) If there are any known hazardous waste sites 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.

(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.

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

(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.

(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.

(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.)

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

(11) *Additional Information for Rail Constructions.* The following additional information should be included for rail construction proposals (including connecting track construction):

(i) Describe the proposed route(s) by State, county, and subdivision, including a plan view, at a scale not to exceed 1:24,000 (7½ minute U.S.G.S. quadrangle map), clearly showing the relationship to the existing transportation network (including the location of all highway and road crossings) and the right-of-way according to ownership and land use requirements.

(ii) Describe any alternative routes considered, and a no-build alternative (or why this would not be applicable), and explain why they were not selected.

(iii) Describe the construction plans, including the effect on the human environment, labor force requirements, the location of borrow pits, if any, and earthwork estimates.

(iv) Describe in detail the rail operations to be conducted upon the line, including estimates of freight (carloads and tonnage) to be transported, the anticipated daily and annual number of train movements, number of cars per train, types of cars, motive power requirements, proposed speeds, labor force, and proposed maintenance-of-way practices.

(v) Describe the effects, including indirect or down-line impacts, of the new or diverted traffic over the line if the thresholds governing energy, noise and air impacts in §§ 1105.7(e)(4), (5), or (6) are met.

(vi) Describe the effects, including impacts on essential public services (e.g., fire, police, ambulance, neighborhood schools), public roads, and adjoining properties, in communities to be traversed by the line.

(vii) Discuss societal impacts, including expected change in employment during and after construction.

(f) *Additional information.* The Board may require applicants to submit additional information regarding the environmental or energy effects of the proposed action.

(g) *Waivers.* The Board may waive or modify, in whole or in part, the provisions of this section where a railroad applicant shows that the information requested is not necessary for the Board to evaluate the environmental impacts of the proposed action.

[56 FR 36105, July 31, 1991; 56 FR 49821, Oct. 1, 1991, as amended at 58 FR 44619, Aug. 24, 1993; 60 FR 32277, June 21, 1995; 61 FR 67883, Dec. 24, 1996; 64 FR 53268, Oct. 1, 1999; 69 FR 58366, Sept. 30, 2004; 81 FR 8854, Feb. 23, 2016]

§ 1105.8 Historic Reports.

(a) *Filing.* An applicant proposing an action identified in § 1105.6 (a) or (b), or an action in § 1105.6(c) that will result in the lease, transfer, or sale of a railroad's line, sites or structures, must submit (with its application, petition or notice) the Historic Report described in paragraph (d) of this section, unless excepted under paragraph (b) of this section. This report should be combined with the Environmental Report where one is required. The purpose of the Historic Report is to provide the Board with sufficient information to conduct the consultation process required by the National Historic Preservation Act. The Historic Report may be filed with the Board electronically.

(b) *Exceptions.* The following proposals do not require an historic report:

(1) A sale, lease or transfer of a rail line for the purpose of continued rail operations where further STB approval is required to abandon any service and

there are no plans to dispose of or alter properties subject to STB jurisdiction that are 50 years old or older.

(2) A sale, lease, or transfer of property between corporate affiliates where there will be no significant change in operations.

(3) Trackage rights, common use of rail terminals, common control through stock ownership or similar action which will not substantially change the level of maintenance of railroad property.

(4) A rulemaking, policy statement, petition for declaratory order, petition for waiver of procedural requirements, or proceeding involving transportation rates or classifications.

(c) *Distribution.* The applicant must send the Historic Report to the appropriate State Historic Preservation Officer(s), preferably at least 60 days in advance of filing the application, petition, or notice, but not later than 20 days prior to filing with the Board.

(d) *Content.* The Historic Report should contain the information required by § 1105.7(e)(1) and the following additional historic information:

(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;

(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;

(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;

(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;

(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;

(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;

(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);

(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.

(9) Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (*i.e.*, prehistoric or native American).

(e) Any of these requirements may be waived or modified when the information is not necessary to determine the presence of historic properties and the effect of the proposed action on them.

(f) Historic preservation conditions imposed by the Board in rail abandonment cases generally will not extend beyond the 330-day statutory time period in 49 U.S.C. 10904 for abandonment proceedings.

[56 FR 36105, July 31, 1991, as amended at 61 FR 67883, Dec. 24, 1996; 81 FR 8854, Feb. 23, 2016]

§ 1105.9

49 CFR Ch. X (10–1–16 Edition)

§ 1105.9 Coastal Zone Management Act requirements.

(a) If the proposed action affects land or water uses within a State coastal zone designated pursuant to the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*) applicant must comply with the following procedures:

(1) If the proposed action is listed as subject to review in the State's coastal zone management plan, applicant (with, or prior to its filing) must certify (pursuant to 15 CFR 930.57 and 930.58) that the proposed action is consistent with the coastal zone management plan.

(2) If the activity is not listed, applicant (with, or prior to its filing) must certify that actual notice of the proposal was given to the State coastal zone manager at least 40 days before the effective date of the requested action.

(b) If there is consistency review under 15 CFR 930.54, the Board and the applicant will comply with the consistency certification procedures of 15 CFR 930. Also, the Board will withhold a decision, stay the effective date of a decision, or impose a condition delaying consummation of the action, until the applicant has submitted a consistency certification and either the state has concurred in the consistency certification, or an appeal to the Secretary of Commerce (under 15 CFR 930.64(e)) is successful.

§ 1105.10 Board procedures.

(a) *Environmental Impact Statements—*

(1) *Prefiling Notice.* Where an environmental impact statement is required or contemplated, the prospective applicant must provide the Section of Environmental Analysis with written notice of its forthcoming proposal at least 6 months prior to filing its application.

(2) *Notice and scope of EIS.* When an Environmental Impact Statement is prepared for a proposed action, the Board will publish in the FEDERAL REGISTER a notice of its intent to prepare an EIS, with a description of the proposed action and a request for written comments on the scope of the EIS. Where appropriate, the scoping process may include a meeting open to interested parties and the public. After con-

sidering the comments, the Board will publish a notice of the final scope of the EIS. If the Environmental Impact Statement is to be prepared in cooperation with other agencies, this notice will also indicate which agencies will be responsible for the various parts of the Statement.

(3) *Notice of availability.* The Board will serve copies of both the draft Environmental Impact Statement (or an appropriate summary) and the full final Environmental Impact Statement (or an appropriate summary) on all parties to the proceeding and on appropriate Federal, State, and local agencies. A notice that these documents are available to the public will be published (normally by the Environmental Protection Agency) in the FEDERAL REGISTER. (Interested persons may obtain copies of the documents by contacting the Section of Environmental Analysis.)

(4) *Comments.* The notice of availability of the draft Environmental Impact Statement will establish the time for submitting written comments, which will normally be 45 days following service of the document. When the Board decides to hold an oral hearing on the merits of a proposal, the draft Environmental Impact Statement will be made available to the public in advance, normally at least 15 days prior to the portion of the hearing relating to the environmental issues. The draft EIS will discuss relevant environmental and historic preservation issues. The final Environmental Impact Statement will discuss the comments received and any changes made in response to them.

(5) *Supplements.* An Environmental Impact Statement may be supplemented where necessary and appropriate to address substantial changes in the proposed action or significant new and relevant circumstances or information. If so, the notice and comment procedures outlined above will be followed to the extent practical.

(b) *Environmental Assessments.* In preparing an Environmental Assessment, the Section of Environmental Analysis will verify and independently analyze

the Environmental Report and/or Historic Report and related material submitted by an applicant pursuant to sections 1105.7 and 1105.8. The Environmental Assessment will discuss relevant environmental and historic preservation issues. OEA will serve copies of the Environmental Assessment on all parties to the proceeding and appropriate federal, state, and local agencies, and will announce its availability to the public through a notice in the FEDERAL REGISTER. In the case of abandonment applications processed under 49 U.S.C. 10903, the availability of the Environmental Assessment must be announced in the applicant's Notice of Intent filed under 49 CFR 1152.21. The deadline for submission of comments on the Environmental Assessment will generally be within 30 days of its service (15 days in the case of a notice of abandonment under 49 CFR 1152.50). The comments received will be addressed in the Board's decision. A supplemental Environmental Assessment may be issued where appropriate.

(c) *Waivers.* (1) The provisions of paragraphs (a)(1) or (a)(4) of this section or any STB-established time frames in paragraph (b) of this section may be waived or modified where appropriate.

(2) Requests for waiver of § 1105.10(a)(1) must describe as completely as possible the anticipated environmental effects of the proposed action, and the timing of the proposed action, and show that all or part of the six month lead period is not appropriate.

(d) *Third-Party Consultants.* Applicants may utilize independent third-party consultants to prepare any necessary environmental documentation, if approved by OEA. The environmental reporting requirements that would otherwise apply will be waived if a railroad hires a consultant, OEA approves the scope of the consultant's work, and the consultant works under OEA's supervision. In such a case, the consultant acts on behalf of the Board, working under OEA's direction to collect the needed environmental information and compile it into a draft EA or draft EIS, which is then submitted to OEA for its review, verification, and ap-

proval. We encourage the use of third-party consultants.

(e) *Service of Environmental Pleadings.* Agencies and interested parties sending material on environmental and historic preservation issues directly to the Board should send copies to the applicant. Copies of Board communications to third-parties involving environmental and historic preservation issues also will be sent to the applicant where appropriate.

(f) *Consideration in decisionmaking.* The environmental documentation (generally an EA or an EIS) and the comments and responses thereto concerning environmental, historic preservation, Coastal Zone Management Act, and endangered species issues will be part of the record considered by the Board in the proceeding involved. The Board will decide what, if any, environmental or historic preservation conditions to impose upon the authority it issues based on the environmental record and its substantive responsibilities under the Interstate Commerce Act. The Board will withhold a decision, stay the effective date of an exemption, or impose appropriate conditions upon any authority granted, when an environmental or historic preservation issue has not yet been resolved.

(g) *Finding of No Significant Impact.* In all exemption cases, if no environmental or historic preservation issues are raised by any party or identified by SEA in its independent investigation, the Board will issue a separate decision making a Finding of No Significant Impact ("FONSI") to show that it has formally considered the environmental record.

[56 FR 36105, July 31, 1991, as amended at 56 FR 49821, Oct. 1, 1991; 64 FR 53268, Oct. 1, 1999; 81 FR 8854, Feb. 23, 2016]

§ 1105.11 Transmittal letter for Applicant's Report.

A carrier shall send a copy of its Environmental and/or Historic Report to the agencies identified in section 1105.7(b) and/or the appropriate State Historic Preservation Officer(s) and certify to the Board that it has done this. The form letter contained in the Appendix to this section should be used

§ 1105.12

in transmitting the Environmental and/or Historic Reports.

APPENDIX TO § 1105.11—TRANSMITTAL LETTER FOR APPLICANT'S REPORT

(Carrier Letterhead)

(Addresses)

Re: (Brief description of proposed action with STB docket number, if available)

(Date)

On (date), we are (or expect to be) filing with the Surface Transportation Board a (type of proceeding) seeking authority to () located in (state) (city or town) and (mileposts, if applicable). Attached is an Environmental Report (and/or Historic Report) describing the proposed action and any expected environmental (and/or historic) effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC, telephone [INSERT TELEPHONE NUMBER] and refer to the above Docket No. (if available). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is (name) who may be contacted by telephone at (telephone number) or by mail at (address).

(Complimentary close)

(Name and title of author of letter)

[56 FR 36105, July 31, 1991, as amended at 58 FR 44619, Aug. 24, 1993; 64 FR 53268, Oct. 1, 1999; 81 FR 8854, Feb. 23, 2016]

§ 1105.12 Sample newspaper notices for abandonment exemption cases.

In every abandonment exemption case, the applicant shall publish a notice in a newspaper of general circulation in each county in which the line is located and certify to the Board that it has done this by the date its notice of (or petition for) exemption is filed. The notice shall alert the public to the proposed abandonment, to available reuse alternatives, such as trail use and pub-

49 CFR Ch. X (10-1-16 Edition)

lic use, and to how it may participate in a Board proceeding. Sample newspaper notices are provided in the Appendix to this section for guidance to the railroads.

APPENDIX TO § 1105.12—SAMPLE NEWSPAPER NOTICES

SAMPLE LOCAL NEWSPAPER NOTICE FOR OUT- OF-SERVICE ABANDONMENT EXEMPTIONS

NOTICE OF INTENT TO ABANDON OR TO DISCONTINUE RAIL SERVICE

(Name of railroad) gives notice that on or about (insert date notice of exemption will be filed with the Surface Transportation Board), it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the (abandonment of or discontinuance of service on) a ___ mile line of railroad between railroad milepost ___, near (station name), which traverses through United States Postal Service ZIP Codes (ZIP Codes) and railroad milepost ___, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in ___ County(ies), (State). The proceeding will be docketed as No. AB___(Sub-No. ___X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC or by calling that office at [INSERT TELEPHONE NUMBER].

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 Proceedings, Washington, DC [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 Public Assistance, Governmental Affairs, and Compliance at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests

Surface Transportation Board

§ 1106.2

for conditions should be served on the applicant's representative: (Name, address and phone number).

SAMPLE LOCAL NEWSPAPER NOTICE FOR PETITIONS FOR ABANDONMENT EXEMPTIONS

NOTICE OF INTENT TO ABANDON OR TO DISCONTINUE RAIL SERVICE

(Name of railroad) gives notice that on or about (insert date petition for abandonment exemption will be filed with the Surface Transportation Board) it intends to file with the Surface Transportation Board, Washington, DC, 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 or discontinuance of service on) a _____ mile line of railroad between railroad milepost _____, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes), and railroad milepost _____, near (station name) which traverses through United States Postal Service ZIP Codes (ZIP Codes) in _____ County(ies), (State). The proceeding has been docketed as No. AB _____ (Sub-No. _____X).

The Board's Office of Environmental Analysis (OEA) 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 or by calling SEA at [INSERT TELEPHONE NUMBER].

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 Proceedings, Washington, DC [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 Public Assistance, Governmental Affairs, and Compliance at [INSERT TELEPHONE NUMBER]. Copies of any comments or requests

for conditions should be served on the applicant's representative (name and address).

[56 FR 36105, July 31, 1991, as amended at 56 FR 49821, Oct. 1, 1991; 58 FR 44619, Aug. 24, 1993; 61 FR 67883, Dec. 24, 1996; 64 FR 53268, Oct. 1, 1999; 69 FR 58366, Sept. 30, 2004; 74 FR 52906, Oct. 15, 2009; 81 FR 8854, Feb. 23, 2016]

PART 1106—PROCEDURES FOR SURFACE TRANSPORTATION BOARD CONSIDERATION OF SAFETY INTEGRATION PLANS IN CASES INVOLVING RAILROAD CONSOLIDATIONS, MERGERS, AND ACQUISITIONS OF CONTROL

Sec.

- 1106.1 Purpose.
- 1106.2 Definitions.
- 1106.3 Actions for which Safety Integration Plan is Required.
- 1106.4 The Safety Integration Plan Process.
- 1106.5 Waiver.
- 1106.6 Reservation of jurisdiction.

AUTHORITY: 5 U.S.C. 553; 5 U.S.C. 559; 49 U.S.C. 721; 49 U.S.C. 10101; 49 U.S.C. 11323-11325; 42 U.S.C. 4332.

SOURCE: 67 FR 11607, Mar. 15, 2002, unless otherwise noted.

§ 1106.1 Purpose.

This part is designed to ensure adequate and coordinated consideration of safety integration issues, by both the Board and the Federal Railroad Administration, the agency within the Department of Transportation responsible for the enforcement of railroad safety, in the implementation of rail transactions subject to the Board's jurisdiction. It establishes the procedures by which the Board will consider safety integration plans in connection with its approval and authorization of transactions for which the Board has concluded such consideration is required.

§ 1106.2 Definitions.

The following definitions apply to this part:

Act means the ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803 (1995).

Amalgamation of operations, as defined by the Federal Railroad Administration at 49 CFR 244.9, means the migration, combination, or unification of one set of railroad operations with another

March 16, 2015

To: Attached List of Parties Consulted

VIA U.S. MAIL

Re: Request for Comments on Potential Environmental Impact of Proposed Rail Line Abandonment Located between Milepost 37.9 +/- and the end of the Rail Line at or about County Road 9 (Plainview Spur) in Olmsted County, Minnesota (U.S. Postal Zip Code 55934) - STB Docket No. AB-337 (Sub-No. 8X)

Our File No: 2061322-0026

Dear Sir/Madam:

Dakota, Minnesota & Eastern Railway Corporation ("DM&E") d/b/a Canadian Pacific on or about May 15, 2015, anticipates filing a Petition for Exemption with the United States Department of Transportation – Surface Transportation Board (STB) to discontinue and abandon all freight rail operations over approximately 2.01 miles of rail line located in Olmsted County, Minnesota. A map of the proposed abandonment is enclosed.

This proposed rail line abandonment petition for exemption requires review by the STB. I will be preparing an Environmental and Historic Report that will provide the basis of the environmental review that the STB's Office of Environmental Analysis (OEA) will conduct for this proceeding. In preparing this report, consultation with agencies or organizations that may have specific interest in or knowledge of the potential environmental impact is essential. This letter is, therefore, intended to solicit your comments regarding the potential environmental impact, if any, of the proposed rail line abandonment.

Your comments on the potential impact of this abandonment will be incorporated into the Environmental Report to be filed on or about April 15, 2015. A copy of this report will be provided to you, after which additional comments can be submitted directly to the OEA.

As shown on the attached map, the line that is proposed to be abandoned is located between Milepost 37.9 +/- and the end of the Rail Line at or about County Road 9 in Olmsted County, Minnesota. It traverses through U.S. Postal Zip Code 55934.

For purposes of evaluating the environmental impact that would result from abandonment of the line, the proposed action includes discontinuing freight service and salvaging equipment and materials that are present on the line.

The rail line is located entirely within Olmsted County, northwest of the City of Eyota. The proposed action includes the removal of all rails, ties, spikes, plates, railroad-related utilities, and signaling devices. All equipment and materials that are removed from the line would either be reused, sold as scrap, or disposed of in accordance with applicable environmental regulations.

The Environmental Report for the proposed abandonment is being prepared pursuant to STB regulations (49 C.F.R. Chapter X, Part 1105) (copy of which is enclosed), the National Environmental Policy Act, 42 U.S.C. § 4332; the Energy Policy and Conservation Act, 42 U.S.C. § 6362(b); and related laws including the National Historic Preservation Act, 16 U.S.C. § 470f, the Coastal Zone Management Act, 16 U.S.C. § 1451, and the Endangered Species Act, 16 U.S.C. § 1531. Areas of concern that you and other interested parties are invited to address in your comments include any potential impact of the proposed action on the following:

- Local land use
- Existing local and regional transportation systems
- Energy use
- Air emissions and ambient air quality conditions
- Water quality and wetlands
- Biological resources including threatened or endangered species
- Ambient noise levels
- Public health safety
- Historic, cultural, or archaeological sites listed or eligible for inclusion on the National Register of Historic Places
- Socioeconomics, including local and regional employment

We are soliciting your comments with regard to: (1) any permitting/approval authority which your agency has over the proposed action, and (2) any specific concerns which you believe should be addressed in the STB environmental document prepared after our Report is submitted. As required by applicable STB regulations (49 C.F.R., Chapter X, Part 1105.7(e)(9)(iii)) and Part 1105.7(c), we also request that you comment on and describe the effects, if any, of our proposed action on those resources or areas of concern within the authority of your agency.

Specifically, the Board's regulations state that, with respect to the area of concern within the jurisdiction of your agency, DM&E must address the following:

"49 C.F.R. Part 1105.7(e)(4)(i)-(iv) Energy:

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

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

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

(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 energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in Section 1105.7(e)(4)(iii) need not be supplied if the more detailed information in Section 1105.7(e)(4)(iv) is required."

"49 C.F.R. Part 1105.7(e)(5)(ii) Air:

(ii) If the proposed action affects a class I or non-attainment area under the Clean Air Act."

"49 C.F.R. Part 1105.7(e)(6)(ii) Noise:

(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 these receptors if the thresholds are surpassed."

"49 C.F.R. Part 1105.7(e)(7)(iii) Safety:

(iii) If there are known hazardous waste sites 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."

"49 C.F.R. Part 1105.7(e)(9)(i), (ii), & (iii) 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.

(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.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

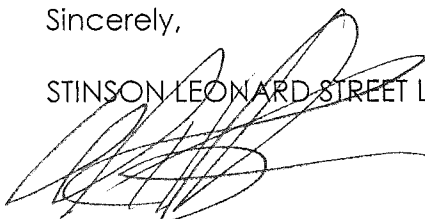
Any written comments should be submitted to the undersigned. They will be appended to the Environmental Report being submitted to the STB if received prior to April 15, 2015. Thereafter, please submit them directly to the Office of Environmental Analysis as follows: Surface Transportation Board, Office of Environmental Analysis, 395 E Street, SW, Washington D.C. 20423-0001, or by calling that office at (202) 245-0454, and forwarding a copy to the undersigned.

Any comments or information that you provide will be included in DM&E's Environmental Report and will be considered by the STB in the preparation of the draft environmental document and in its evaluation of the overall environmental and energy impact of the proposed action. Your cooperation will help ensure that all environmental concerns are thoroughly addressed.

Thank you very much for your assistance.

Sincerely,

STINSON LEONARD STREET LLP

A handwritten signature in black ink, appearing to read 'W. Karl Hansen', is written over the printed name and firm name.

W. Karl Hansen

Enclosures

Plainview Branch
Olmsted County
Zip Code 55934
AB-337 (Sub-No. 8X)

ENVIRONMENTAL & HISTORICAL REPORT
PLAINVIEW BRANCH ABANDONMENT
S.T.B. DOCKET NO. AB-337 (Sub-No. 8X)
LIST OF PARTIES CONSULTED

Parties consulted in preparing Environmental and Historical Reports - Dakota, Minnesota & Eastern Railroad Corporation - Abandonment of Line of Railroad running from Milepost 37.9 near Eyota, Minnesota and where the rail line ends at or about County Road 9 in Olmsted County, Minnesota, State of Minnesota which traverses through United States Postal Service Zip Code 55934, (total length: approximately 2.01 miles) -- S.T.B. Docket No. AB-337 (Sub-No. 8X)

FEDERAL AGENCIES CONSULTED

Appropriate Regional Office(s) of the
U.S. Environmental Protection Agency

U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604- 3590
(312) 353-2000

U.S. Fish and Wildlife Service

Tom Melius
Regional Director
U.S. Fish and Wildlife Service
5600 American Blvd. West
Suite 990
Bloomington, MN 55437-1458
(651) 713-5360

U.S. Army Corps of Engineers - St. Paul, MN District Office

U.S. Army Corps of Engineers
180 Fifth East Street
Suite 700
St. Paul, MN 55101-1678
(651) 290-5807

National Park Service

Patty Trapp
Acting Regional Director
National Park Service
601 Riverfront Drive
Omaha, NE 68102-4226
(402) 661-1736

U.S. Soil and Conservation Service

Walter Albarran
Acting State Conservationist
USDA Natural Resources Conservation Service
375 Jackson Street, Suite 600
St. Paul, MN 55101
(651) 602-7900

National Geodetic Survey and U.S. Geological Survey

National Geodetic Survey
SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282
Tel. (301) 713-3242

STATE AGENCIES CONSULTED

State Clearinghouse

Minnesota Department of Administration
200 Administration Building
50 Sherburne Avenue
Saint Paul, MN 55155
(651)201-2555

State Department of Transportation for Minnesota

Charles A. Zelle
Commissioner
Minnesota Department of Transportation
395 John Ireland Boulevard
M.S. 100
St. Paul, MN 55155
(651)366-4800

Minnesota Department of Transportation
Office of Freight & Commercial Vehicle Operations
Mail Stop 470
395 John Ireland Boulevard
St. Paul, MN 55155

State Environmental Protection Agency for Minnesota

John Linc Stine
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, MN 55155-4194
(651) 296-6300

State Water Quality Official

Mr. Glenn Skuta
Section Manager
Surface Water Monitoring Section
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194
Tel. (651) 757-2730

State Historic Preservation Office for Minnesota

Barbara Mitchell Howard
Deputy State Historic Preservation Officer
Minnesota State Historic Preservation Office
Minnesota Historical Society
345 Kellogg Blvd. W.
St. Paul, MN 55102-1903
(651) 259-3450

State Coastal Zone Management Agency

N/A

Other Political Entities and/or Indian Reservations through which the line runs

Olmsted County

Richard Devlin
County Administrator
Olmsted County Government Center
151 4th Street SE
Rochester, MN 55904-3710
507-328-6001

Regional Railroad Authority

Olmsted County Regional Railroad Authority
Board of Commissioners
151 4th St SE
Rochester, MN 55904
507 328-6001

City of Eyota - Land Use Planning

Barry Karsjens
Chair - Planning Commission
P.O. Box 328
Eyota, MN 55934
507-545-2135

End Abandonment

Begin Abandonment



Exhibit No. 5
Historic Report

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION-
ABANDONMENT EXEMPTION-IN
OLMSTED COUNTY, MINNESOTA

)
)
)
)
)

DOCKET NO. AB-337
(SUB-NO. 8X)

PETITION FOR EXEMPTION TO ABANDON PURSUANT TO 49 U.S.C. § 10502 FROM
THE PRIOR APPROVAL REQUIREMENTS OF 49 U.S.C. § 10903, A 2.01 MILE LINE OF
RAILROAD BETWEEN THE CONNECTION AT MILEPOST 37.9 +/- OF THE WASECA
SUBDIVISION AND THE END OF THE RAIL LINE AT OR NEAR COUNTY ROAD 9
WHICH TRAVERSES THROUGH UNITED STATES POSTAL SERVICE ZIP CODE 55934
IN OLMSTED COUNTY, MINNESOTA

HISTORIC REPORT
IN COMPLIANCE WITH
49 C.F.R. SECTION 1105.8

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION

STINSON LEONARD STREET LLP
W. Karl Hansen
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402
Tel. (612) 335-7088
Fax. (612) 335-1657

Attorneys for Dakota, Minnesota & Eastern
Railroad Corporation

Service Date: March 6, 2017

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DAKOTA, MINNESOTA & EASTERN	)	
RAILROAD CORPORATION-	)	DOCKET NO. AB-337
ABANDONMENT EXEMPTION-IN	)	(SUB-NO. 8X)
OLMSTED COUNTY, MINNESOTA	)	
	)	

HISTORIC REPORT

Pursuant to 49 C.F.R. Sections 1105.7(e) and 1105.8, Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") d/b/a Canadian Pacific hereby submits the following Historic Report regarding the Petition for Exemption to Abandon a 2.01 mile line of railroad between its connection at milepost 37.9 +/- of DM&E's Waseca Subdivision and the end of the rail line at County Road 9 (the "Line") which traverses through United States Postal Service Zip Code 55934 in Olmsted County, Minnesota.

Section 1105.8(c) Distribution: The applicant must send the Historic Report to the appropriate State Historic Preservation Officer(s), preferably at least 60 days in advance of filing the application, petition, or notice, but not later than 20 days prior to filing with the Board.

See Certificate of Service effecting service on March 6, 2017, attached as Exhibit No. 1 to Environmental Report.

Section 1105.8(d)(1)-(8) Content: The Historic Report should contain the information required by § 1105.7(e)(1) (Environmental Report - See Preceding Report) and the following additional historic information:

Section 1105.8(d)(1) U.S.G.S. Topographic Maps: 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;

See Appendix A.

Section 1105.8(d)(2) Right-of-Way: 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 subject property consists of railroad track and right-of-way with a width of approximately 100 feet. The subject property is located in a primarily agricultural area west of Eyota, Minnesota. The topography in the subject property generally slopes from east to west.

Section 1105.8(d)(3) Photographs: 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;

Representative photographs of the Line and immediately surrounding area taken on March 4, 2015 are included in Appendix B. To DM&E's knowledge, except for the track, ties and other track materials, there are no railroad structures on the property that are 50 years old or older.

Section 1105.8(d)(4): The dates of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.

It is DM&E's understanding that the Line is the remaining segment of the Plainview Branch line from Eyota to Plainview, Minnesota. Other than routine maintenance, the only alteration to the Line since DM&E acquired the property in 1986 was the removal of the road crossings at Highway 14, 10th Street SE, and Highway 9.

Section 1105.8(d)(5) History: 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 Plainview Branch line was constructed in 1878 by the Plainview Railway Company, which was subsequently purchased by the Winona and St. Peter Railroad, a subsidiary of Chicago and North Western Railway ("CNW"). The Plainview Branch line conducted passenger and freight operations between Eyota and Plainview. No passenger service had been conducted for many years when DM&E acquired the Plainview Branch from the CNW in 1986. In 1997, DM&E abandoned the northern segment of the Line from Plainview Junction to Plainview pursuant to the authority granted in STB Docket No. AB-337 (Sub-No. 5X) (STB served December 16, 1996).

Following receipt of abandonment authority, DM&E plans to convert approximately one-half mile of the Line to excepted industry track and has entered into an agreement to sell that portion to Kruegel Gas Service ("KGS"), a propane storage and distribution facility on the Line. KGS will use the industry track to continue to receive and store railcars. DM&E has entered into an agreement to sell the remaining portion of the Line to the Parks & Trails Council of Minnesota ("Council") for use as a recreational trail. Other than the Council's anticipated removal of track and ties, no changes are contemplated as a result of the proposed action.

Section 1105.8(d)(6) Documents: 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.

The carrier's files consist primarily maps and photos of the Line, some engineering drawings, and maintenance records.

Section 1105.8(d)(7) Opinion: 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 C.F.R. § 60.4), and whether there is a likelihood of archaeological 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).

It is DM&E's opinion that the Line would not meet the criteria for listing in the National Register of Historic Places. In its correspondence dated April 17, 2015, the Minnesota Historical Society indicates that it intends to "participate in consultation upon initiation of the Section 106 process by the federal agency."

Section 1105.8(d)(8) Archaeological Resources: 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 archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

There are no known ground disturbances or fills other than those which would have occurred during original construction of this Line and any subsequent maintenance or rehabilitation. There are no known toxic waste areas within the right-of-way of the Line.

The following excerpt from ICC document *Assessment of Environmental Impacts Associated with Railroad Abandonment Proposals* discusses archeological evaluations:

"Salvaging an abandoned railroad line is normally confined to the limits of the right of way and rarely involves major excavation work. If the right of way is to be leveled at all, only the roadbed built up during actual construction of the line would be affected. It is unlikely that there are any historic track structures under the roadbed since old rails and ties are salvaged during maintenance and rehabilitation operations. Likewise, there is usually neither significant damage to the vegetation found within the right of way nor any effect on land adjacent to the railroad property. By confining salvage operations of a rail line as discussed above, it is not anticipated that any archaeological sites in or immediately adjacent to the right of way, would be affected by the abandonment."

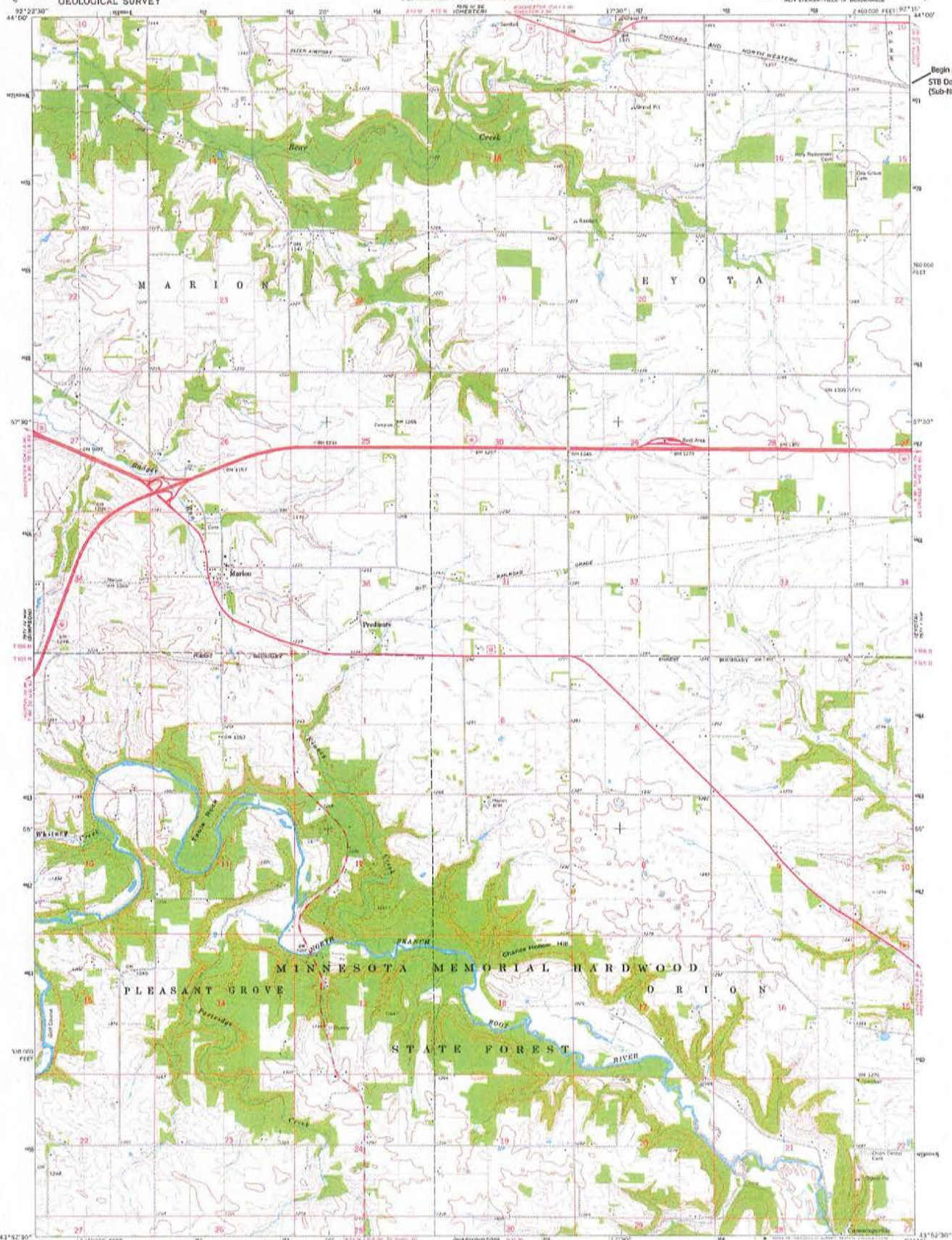
END OF REPORT

Appendix A
Map of Abandonment Location

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION

MARION QUADRANGLE
MINNESOTA-OLMSTED CO.
7.5 MINUTE SERIES (TOPOGRAPHIC)
NEW STURTEVILLE 12 QUADRANGLE



Begin abandonment
STB Docket No. AB-337
(Sub-No. IX)

Maped, edited, and published by the Geological Survey
Control by USGS, NOS/NOAA, and Minnesota Highway Department
Topography by photogrammetric methods from aerial
photographs taken 1974. Field checked 1974
Projection and 10,000-foot grid based on Minnesota coordinate
system, south zone (Lambert conformal cone)
1000-meter Universal Transverse Mercator grid 1803,
zone 15, shown in blue. 1927 North American datum.
Fine red dashed lines indicate selected fence and field lines where
generally visible on aerial photographs. This information is unclassified.



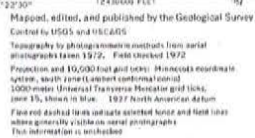
ROAD CLASSIFICATION
Primary highway, light-duty roads hard or improved surface
Secondary highway, hard surface
Unimproved road
Interstate Route
U.S. Route
State Route

USGS
Historical File
Topographic Division
MARION, MINN.
NEW STURTEVILLE 12 QUADRANGLE
N4352.5--W9218.75
1974
AGE 1511 BY THE-SERIES 1972

THIS MAP COMPLEYS WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY REGIONAL OFFICES
A FOLDER REFERRING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

2850

CHESTER QUADRANGLE
MINNESOTA
7.5 MINUTE SERIES (TOPOGRAPHIC)



CONTOUR INTERVAL 20 FEET
ORIGIN IS MEAN SEA LEVEL.

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U.S. GEOLOGICAL SURVEY, RESTON, VIRGINIA 22092
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

ROAD CLASSIFICATION

Primary highway, hard surface _____ Light duty road, hard or improved surface _____

Secondary highway, hard surface _____ Unimproved road _____

☐ Interstate Route ☐ U. S. Route ☐ State Route

AIR AND PHOTO LIBRARY

CHESTER, MINN.
504 E. UNIVERSITY ST.
CHESTER, MINN. 55901

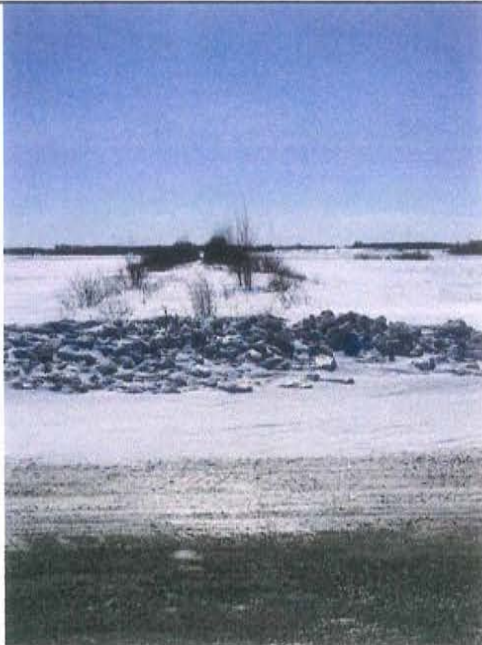
MAY 2 1975

1972

Appendix B

Photographs of Railroad Structures and the Immediately Surrounding Area

	DATE: March 4, 2015		
DIRECTION: South	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of northern extent of Property looking south from County Road 9. Ground surface covered with snow. Farm fields to the east and west of Property.			

	DATE: March 4, 2015		
DIRECTION: South	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of Property looking south from 10 th Street SE. Ground surface covered with snow. Farm fields to the east and west of Property.			

	DATE: March 4, 2015		
DIRECTION: East	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of natural gas pipeline markers and aboveground valves. Located along eastern perimeter of Property and adjacent farm field.			

	DATE: March 4, 2015		
DIRECTION: East	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of west side of Magellan Pipeline Terminal facility from Property.			

	DATE: March 4, 2015		
DIRECTION: Northwest	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of underground petroleum pipeline marker on the Property to the west of the railroad tracks. Marker generally due west of the Magellan Pipeline Terminal.			

	DATE: March 4, 2015		
DIRECTION: North	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of south side of Magellan Pipeline Terminal facility from 10 th Street SE. Note covered roll-off containers around the petroleum storage tanks.			

	DATE: March 4, 2015		
DIRECTION: West	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of the entrance to the Magellan Pipeline Terminal facility from Highway 42.			

	DATE: March 4, 2015		
DIRECTION: North	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of portion of corridor from Highway 14 toward 10th Street SE. Brush and small trees typical of observed ground covering throughout the corridor. Snow cover typical of levels observed throughout the corridor.			

1	DATE: March 4, 2015		
DIRECTION: Northwest	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of large culvert and location of former signal shack immediately north of Highway 14 on east side of railroad tracks. Note remnants of electrical service used to power signal shack.			

	DATE: March 4, 2015		
DIRECTION: South	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of southern portion of corridor from Highway 14 looking south. Ballast piled on northern end of this section of railroad tracks to demarcate end of the active portion of the spur. Farm fields located to the east and west.			

	DATE: March 4, 2015		
DIRECTION: South	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of active portion of spur. Siding track used to service Kruegel Gas Services to the east of the mainline. Note elevated off-loading platform to the east of siding track.			

	DATE: March 4, 2015		
DIRECTION: East	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of propane off-loading platform adjacent to siding track. Large propane tanks associated with the Kruegel Gas Services facility in background.			

	DATE: March 4, 2015		
DIRECTION: North	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of active portion of Plainview spur and siding track used to service Kruegel Gas Services. Magellan Pipeline Terminal in background (across Highway 14).			

	DATE: March 4, 2015		
DIRECTION: Northeast	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of box culvert beneath railroad tracks near southern terminus of the Plainview Spur.			

	DATE: March 4, 2015		
DIRECTION: Southeast	SITE LOCATION: Eyota, MN		
DESCRIPTION: View of southern terminus of Plainview Spur where the spur connects to the Waseca Subdivision.			