


**STINSON
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W. Karl Hansen
612.335.7088 **DIRECT**
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242863

ENTERED
Office of Proceedings
March 28, 2017
Part of
Public Record



VIA OVERNIGHT DELIVERY

March 27, 2017

Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

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

Dear Ms. Brown:

Enclosed please find for filing the unbound original, ten bound copies, and three compact discs containing electronic copies of Dakota, Minnesota & Eastern Railroad Corporation's Petition for Exemption from the requirements of 49 U.S.C. § 10903 for the above-referenced rail line abandonment. I also enclose a check in the amount of \$6,900 as the filing fee pursuant to 49 C.F.R. § 1002.2.

Enclosed please find a duplicate copy of this letter and self-addressed stamped envelope to be stamped with the filing date and returned to the undersigned. Please contact me if you have questions or need additional information.

Sincerely,

Stinson Leonard Street LLP



W. Karl Hansen

Enclosures

**FILED
March 28, 2017
SURFACE
TRANSPORTATION BOARD**

**FEE RECEIVED
March 28, 2017
SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-337 (Sub-No. 8X)



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

PETITION FOR EXEMPTION

DAKOTA, MINNESOTA & EASTERN
RAILROAD CORPORATION
d/b/a Canadian Pacific

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

March 27, 2017

BEFORE THE
SURFACE TRANSPORTATION BOARD



Docket No. AB-337 (Sub-No. 8X)

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION
—ABANDONMENT EXEMPTION—
IN OLNSTED COUNTY, MINNESOTA

PETITION FOR EXEMPTION

Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") d/b/a Canadian Pacific petitions the Surface Transportation Board to exempt, under 49 U.S.C. §10502, DM&E's abandonment of a 2.01-mile rail line in Olmsted County, Minnesota (the "Line") from the prior approval requirements of 49 U.S.C. § 10903.

DM&E is seeking abandonment of the Line because Kruegel Gas Service ("KGS"), the sole remaining shipper on the Line, has determined it no longer requires DM&E to provide common carrier rail service directly to its facility, which will reduce DM&E's operating and maintenance costs for the Line. After abandoning the Line, DM&E will reclassify a segment of the Line as excepted industry track and transfer it to KGS. DM&E has also entered into an agreement with the Parks & Trails Council of Minnesota ("Trails Council") for it to purchase the remaining segment of the Line for use as a recreational trail.

PROPOSED TRANSACTION

DM&E proposes to abandon a 2.01-mile rail line located in Olmsted County, Minnesota from the Line's connection at Milepost 37.9 +/- of DM&E's Waseca Subdivision near Eyota, Minnesota to where the Line ends at or near County Road 9. The Line traverses U.S. Postal Service ZIP Code 55934. A map of the Line is attached as Exhibit A.

Based on information in DM&E's possession, the Line does not contain federally granted rights-of-way. Any documentation in DM&E's possession will be made available to those requesting it. There are no stations on the Line.

BACKGROUND

DM&E owns a stub-ended 2.01-mile rail line between the Waseca Subdivision and County Road 9 in Olmsted County, Minnesota. There has been no overhead traffic on the Line since before 1997 when DM&E abandoned a 13.03-mile segment of the Plainview Branch.¹ There has been no local traffic on the Line for more than two years other than that received and tendered by KGS.

Upon receipt of abandonment authority, DM&E intends to retain the Waseca Subdivision's connection to the Line and reclassify an approximately one-half mile segment as excepted industry track. Pursuant to an executed purchase and sale agreement, DM&E will transfer the remaining approximately 1.5-mile segment to the Trails Council for use as a recreational trail. DM&E has also entered into an agreement to sell the reclassified industry track to KGS, which will use the track for shipping, receiving and storing railcars. Because DM&E will continue to provide service from its Waseca Subdivision up to the industry track, both DM&E and KGS will benefit as a result of the proposed abandonment. KGS will continue to ship and receive rail cars and also be able to tailor use of the privately-owned industry track to its specific needs. DM&E will avoid the costs of operating and maintaining the Line and avoid opportunity costs by transferring the industry track segment to KGS. As no user of rail service on the Line will be harmed, both KGS and the City of Eyota have provided letters of support for the proposed abandonment, which are attached as Exhibit B.

¹ *Dakota, Minn. & E. R.R. Corp.—Abandonment Exemption—In Wabasha and Olmsted Counties, Minn.*, STB Docket No. AB-337 (Sub-No. 5X) (STB served Dec. 16, 1996).

In view of the two purchase and sale agreements whereby KGS will operate on the reclassified industry track and the Trails Council will convert the remainder of the Line to a public recreational trail, DM&E also seeks an exemption from the Offer of Financial Assistance provisions of 49 U.S.C. § 10904 and the public use provisions of 49 U.S.C. § 10905.

EXEMPTION REQUESTED

DM&E seeks an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. § 10903 to permit DM&E to abandon this 2.01-mile rail line.

Under 49 U.S.C. § 10502, the STB must exempt a transaction from regulation when it finds that: (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

The legislative history of Section 10502 reveals a clear Congressional intent that the STB should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Act of 1980, Pub. L. No. 96-448, 94 Stat. 1895, Congress encouraged the STB's predecessor to use liberally the expanded exemption authority under former Section 10505:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R. Rep. No. 1430, 96th Cong., 2d Sess. 105 (1980). *See also Exemption From Regulation—Boxcar Traffic*, 367 I.C.C. 424,428 (1983), *vacated and remanded on other grounds, Brae Corp. v. United States*, 740 F.2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the

conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provisions as Section 10502. H.R. Rep. 422, 104th Cong., 1st Sess. 168-69 (1995).

The Board has previously granted petitions for exemption in similar abandonment proceedings. *See, e.g., CSX Transp., Inc.—Abandonment Exemption—In Ben Hill County, Ga.*, STB Docket No. AB-55 (Sub-No. 747X) (STB served Mar. 18, 2016) ("*CSXT Georgia abandonment*"); *BNSF Ry. Co.—Abandonment Exemption—In Page and Fremont Counties, Iowa*, STB Docket No. AB-6 (Sub-No. 479X) (STB served June 8, 2012) ("*BNSF Iowa abandonment*"); *CSX Transp., Inc.—Abandonment Exemption—In Chesterfield and Darlington Counties, S.C.*, STB Docket No. AB-55 (Sub-No. 703X) (STB served Jan. 19, 2011); *Norfolk S. Ry. Co.—Abandonment Exemption—In Mecklenburg County, N.C.*, STB Docket No. AB-290 (Sub-No. 247X) (STB served Apr. 9, 2004).

A. The Application of 49 U.S.C. § 10903 Is Not Necessary to Carry Out the Rail Transportation Policy.

Detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy. An exemption would minimize the unnecessary expenses associated with the filing of a formal abandonment application, expedite regulatory decisions and reduce regulatory barriers to exit. 49 U.S.C. § 10101(2) and (7); *CSXT Georgia abandonment*, slip op. at 2; *BNSF Iowa abandonment*, slip op. at 2. *See also Norfolk & W. Ry. Co.—Abandonment Exemption—In Cincinnati, Hamilton County, Ohio*, STB Docket No. AB-290 (Sub-No. 184X), 3 S.T.B. 110 (1998); *Ga. Cent. R.R. L.P.—Abandonment Exemption—In Chatham County, Ga.*, STB Docket No. AB-367 (Sub-No. 2X) (STB served Sept. 17, 1997) ("*Georgia Central*").

By abandoning the Line, DM&E will be able to avoid the opportunity costs and out-of-pocket expenses associated with retaining this largely dormant Line. The abandonment will not

deprive any shipper of rail service because the only active portion of the Line will be reclassified as exempt industry track and used by KGS to receive and store railcars. Granting the exemption will thus foster sound economic conditions and encourage efficient management. 49 U.S.C. § 10101(5) and (9); *BNSF Iowa abandonment*, slip op. at 2. See also *Minn. N. R.R., Inc.—Abandonment Exemption—In Red Lake and Polk Counties, Minn.*, STB Docket No. AB-497 (Sub-No. 1X) (STB served Nov. 14, 1997); *La. & Delta R.R., Inc.—Abandonment Exemption—In Lafourche and Assumption Parishes, La.*, STB Docket No. AB-318 (Sub-No. 4X) (STB served Aug. 26, 1997); *Georgia Central*, slip op. at 5.

Other aspects of the rail transportation policy are not adversely affected. For example, competition and the continuation of a sound rail transportation system are not affected because the only customer on the Line, KGS, is purchasing the portion of the Line after it is reclassified as exempt industry track.

B. This Transaction Is of Limited Scope.

In determining whether a proposed transaction is of limited scope, the Board considers a variety of factors, such as the length of the rail line, the number of shippers on the line and the traffic volume. See, e.g., *Burlington N. R.R. Co.—Abandonment Exemption—In Greene and Polk Counties, Mo.*, Docket No. AB-6 (Sub-No. 349X) (ICC served Aug. 27, 1993) (abandonment of 30.4 miles of rail line with only 3 shippers was of limited scope); *Fla. W. Coast R.R. Co.—Abandonment Exemption—Gilchrist and Levy Counties, Fla.*, Docket No. AB-347 (Sub-No. IX) (ICC decided Jan. 16, 1992) (limited scope for abandonment of 9.9 miles of rail line with only 3 shippers).

The proposed transaction is clearly of limited scope. DM&E seeks to abandon a 2.01-mile line traversing rural farmland in southeastern Minnesota that currently serves only one

shipper who will continue to receive rail service after the abandonment. The Line's short length and minimal traffic underscore that the proposed abandonment is of limited scope. *See, e.g., Tulare Valley R.R. Co.—Abandonment Exemption—In Tulare and Fresno Counties, Cal.*, Docket No. AB-397 (Sub-No. 3X) (ICC served Feb. 9, 1995) (abandonment of limited scope for 19-mile line with only 3 shippers).

C. This Transaction Will Not Result in an Abuse of Market Power.

The last remaining shipper on the Line is KGS, which is purchasing the reclassified track and supports this Petition for Exemption. KGS will use the industry track for receiving and storing railcars and will continue to obtain rail service from DM&E via the industry track's connection to the Waseca Subdivision. Regulation is therefore not necessary to protect shippers from an abuse of market power. *See, e.g., CSXT Georgia abandonment*, slip op. at 2; *BNSF Iowa abandonment*, slip op. at 2; *CSX Transp., Inc.—Abandonment Exemption—In Guernsey County, Ohio*, STB Docket No. AB-55 (Sub-No. 576X) (STB served Nov. 22, 1999); *CSX Transp., Inc.—Abandonment Exemption—In Harrison County, W.Va.*, STB Docket No. AB-55 (Sub-No. 563X) (STB served Sept. 25, 1998); *Georgia Central*, slip op. at 5.

D. Exemption from 49 U.S.C. §§ 10904 and 10905 is Appropriate.

DM&E further submits that the circumstances of this proposed abandonment of its common carrier obligation are consistent with prior cases where the Board exempted the proposal from the Offer of Financial Assistance ("OFA") procedures of 49 U.S.C. § 10904 and the public use provisions of § 10905. More specifically, the Board has granted such exemptions where, as here, there has been no need or desire for common carrier rail service in many years, there is no overhead traffic, and where the abandonment of the common carrier obligation will facilitate private use of the track. *CSX Transp., Inc.—Abandonment Exemption—In Genesee County, Mich.*, Docket No. AB-55 (Sub-No. 633X) (STB served July 25, 2007) ("*Genesee*

County abandonment"); *The Cincinnati, New Orleans and Tex. Pac. Ry. Co.—Abandonment Exemption—In Cumberland and Roane Counties, Tenn.*, Docket No. AB-290 (Sub-No. 208X) (STB served Nov. 15, 2000) ("*Cumberland and Roane Counties abandonment*"). In such cases, the Board found that applying the OFA and public use provisions were not necessary to carry out the rail transportation policy, and that an exemption from these provisions served to "minimize federal control over the rail line, expedite the regulatory decision, and reduce regulatory barriers to exit [49 U.S.C. 10101(2) and (7)]." *Genesee County abandonment*, slip op. at 2; *Cumberland and Roane Counties abandonment*, slip op. at 3. DM&E has demonstrated above that regulation of this proposed abandonment is not necessary to protect any shippers from an abuse of market power. DM&E accordingly requests that its proposed abandonment be exempted from 49 U.S.C. §§10904 and 10905.²

ENVIRONMENTAL AND HISTORIC REPORTS

The Environmental and Historic Reports containing the information required by 49 C.F.R. §§ 1105.07 and 1105.08 were served on the appropriate parties and forwarded to the STB's Office of Environmental Analysis on March 6, 2017.

CERTIFICATES OF SERVICE

The Certificate of Service of the Environmental and Historic Reports is attached to the Petition as Exhibit C. The Certificate of Service for this Petition for Exemption is attached as Exhibit D.

CERTIFICATE OF PUBLICATION

The Certificate of Publication is attached as Exhibit E.

² DM&E requests that in the event the Board denies DM&E's requested exemption from the OFA provisions of 49 U.S.C. § 10904, the Board consider the apparent lack of need for the Line by any shipper other than KGS and require any person seeking to file an OFA to provide evidence that there is some shipper other than KGS that would make use of common carrier service. *See CSXT Georgia abandonment*, slip op. at 3 n.3.

FEDERAL REGISTER NOTICE

A draft Federal Register notice is attached to this Petition as Exhibit F.

LABOR PROTECTION

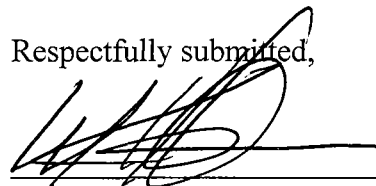
The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protection conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

CONCLUSION

Application of the regulatory requirements and procedures of 49 U.S.C. §§ 10903, 10904, and 10905 are not required to carry out the rail transportation policy set forth in 49 U.S.C. § 10101, nor is STB regulation required to protect shippers from an abuse of market power. Moreover, this abandonment is of limited scope. Accordingly, DM&E respectfully requests that the Board grant this Petition.

Dated: March 27, 2017

Respectfully submitted,



W. Karl Hansen
STINSON LEONARD STREET LLP
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
(612) 335-7088
Attorneys for Dakota, Minnesota & Eastern
Railroad Corporation

VERIFICATION

I, David S. Drach, Director Real Estate U.S. for Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") dba Canadian Pacific, hereby verify that I have carefully examined all of the statements concerning the operations of Dakota, Minnesota & Eastern Railroad Corporation in the Petition for Exemption; that I have knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of my knowledge, information, and belief.

The foregoing is made on behalf of Dakota, Minnesota & Eastern Railroad Corporation by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by Dakota, Minnesota & Eastern Railroad Corporation to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Date: March 20, 2017

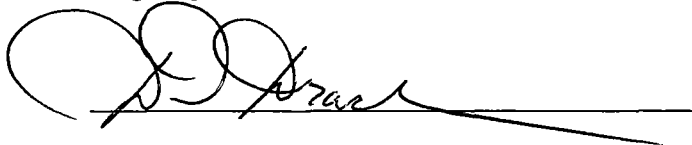
A handwritten signature in black ink, appearing to read "D. S. Drach", is written over a horizontal line.

EXHIBIT A
Map

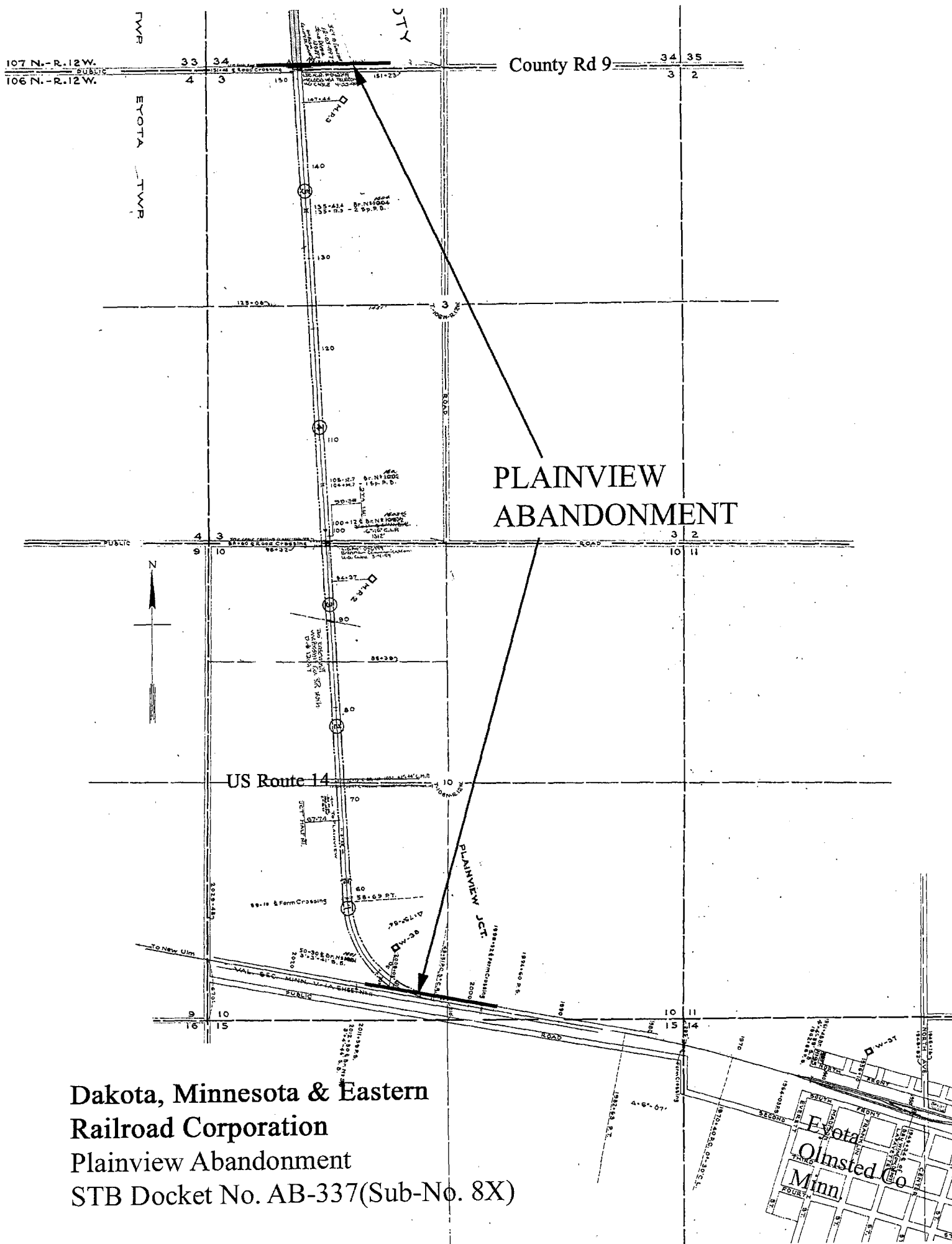


EXHIBIT B
Statements of Support

KRUEGEL GAS SERVICE
420 Pleasant Avenue
Spring Valley, MN 55975
Phone: 800-464-6121

March 16, 2017

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW, Room 100
Washington, DC 20423

Re: DM&E proposed abandonment

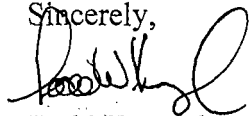
Dear Ms. Brown:

Kruegel Gas Service is a distributor of propane gas. Our headquarters is located in Spring Valley, Minnesota and we operate a receiving and distribution facility in Eyota, MN that is located adjacent to the Plainview Spur, a branch railroad line owned and operated by DM&E. The Eyota facility received an average of 35 loaded cars of propane per year between 2005 and 2013. Between January 2014 and January 2017, we received an average of 81 loaded cars of propane each year.

DM&E notified us that it plans to seek authority from the Surface Transportation Board ("STB") to abandon the Plainview Spur between its connection with the Waseca Subdivision mainline at milepost 37.9 and where the Plainview Spur ends at County Road 9. We understand that after the abandonment, DM&E intends to designate the line adjacent to our facility as exempt industrial trackage. We have entered into an agreement with DM&E to purchase that portion of the line once the abandonment proceeding is completed and we intend to use the tracks for receiving and storing railcars. Because those tracks connect to DM&E's mainline, Kruegel Gas will continue to receive rail service from DM&E after the Plainview Spur is abandoned.

Kruegel Gas strongly supports the proposed abandonment. It will allow us to expand our operations by increasing our receiving and storage tracks without the need for new construction. As a result, abandonment of the Plainview Spur will foster increased economic development by allowing us to provide better and expanded service to our customers in the region.

Sincerely,



Todd Kruegel
President

cc: Wayne Carten

cc: Karl Hansen, Attorney



38 South Front Street SW
P.O. Box 328
Eyota, MN 55934
(507) 545-2135
FAX 545-2235

March 13, 2017

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW, Room 100
Washington, DC 20423

**Re: Proposed railroad abandonment in Olmsted County, Minnesota
STB Docket No. AB-337 (Sub-No. 8X)**

Dear Ms. Brown:

The City of Eyota ("City") provides this letter in support of the proposed abandonment by Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") of approximately 2.01 miles of rail line located on the outskirts of Eyota in Olmsted County.

DM&E has notified the City that it plans to seek Surface Transportation Board authorization to abandon the remainder of its Plainview Branch line from where it connects to DM&E's mainline to the end of the rail line at County Road 9. The City understands that DM&E has entered into an agreement with Kruegel Gas Service ("KGS") to sell approximately one-half mile of the rail line that is connected to DM&E's mainline to KGS after DM&E receives abandonment authority. KGS will use the portion of the line it purchases as private track to store cars and to receive continued rail service from DM&E. The City also understands that DM&E has entered into an agreement to sell the remainder of the line between Highway 14 and County Road 9 to the Parks & Trails Council of Minnesota for use as a recreational trail.

The City supports the proposed abandonment and the subsequent sale to KGS of the track connecting to DM&E's mainline, which will allow KGS to expand its operations and is consistent with the City's vision for increased economic development for the area. Similarly, the Parks & Trails Council's development of the recreational trail between Hwy. 14 and Co. Rd. 9 is consistent with the City's comprehensive plan. For these reasons, the City fully supports the proposed abandonment which will benefit the City and surrounding area.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Marlis Knowlton, City of Eyota Clerk/Treasurer
Representing the wishes of the City of Eyota Council

cc: Wayne Carten

EXHIBIT C
Certificate of Service
Environmental and Historic Reports

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT FOR
ENVIRONMENTAL AND HISTORIC REPORTS

The undersigned hereby certifies that he served the Environmental and Historic Reports in Docket No. AB-337 (Sub-No. 8X) with a transmittal letter conforming to the requirements of 49 C.F.R. § 1105.11 via first class U.S. Mail, on March 6, 2017, as required by 49 C.F.R. § 1105.7(c) and 49 C.F.R. § 1105.8, to the parties listed on the attached Service List.

Dated: March 27, 2017



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



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

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

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
St. 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

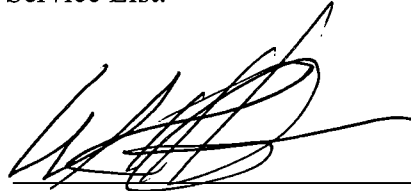
Lief Hughes, Chair
City of Eyota Planning Commission
P.O. Box 328
Eyota, MN 55934

EXHIBIT D
Certificate of Service
Petition for Exemption

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.60(d), the undersigned hereby certifies that the Petition for Exemption in STB Docket No. AB-337 (Sub-No. 8X) was mailed via first class U.S. mail on March 27, 2017 to the parties listed on the attached Service List.

Dated: March 27, 2017



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

Attorneys for Dakota, Minnesota & Eastern
Railroad Corporation

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

Minnesota Public Service Commission (or Equivalent Agency)

Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, MN 55101-2147

U.S. Department of Defense

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

National Park Service, Recreation Resources Assistance Division

Charlie Stockman
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor (Org. Code 2220)
Washington, D.C. 20005

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

U.S. Department of Agriculture, Chief of the Forest Service

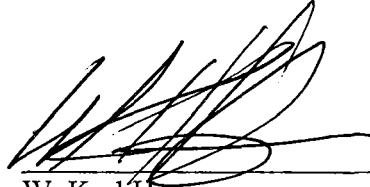
Tom Tidwell, Chief
Forest Service
U. S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250-1111

EXHIBIT E
Certificate of Publication

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB-337 (Sub-No. 8X) was advertised in a newspaper of general circulation in Olmsted County, as required by 49 C.F.R. Section 1105.12. Copies of the Affidavit of Publication and Notice are attached.

Dated: March 27, 2017

A handwritten signature in black ink, appearing to read 'W. Karl Hansen', is written over a horizontal line.

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 ex-
emption under 49 U.S.C.
10502 from the prior ap-
proval requirements of 49
U.S.C. 10903 et seq., per-
mitting 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 Ser-
vice ZIP Code 55934 in Olm-
sted County, Minnesota.
The proceeding has been
docketed as No. AB 337
(Sub No. 8X).
The Board's Office of Envi-
ronmental Analysis (OEA)
will generally prepare an
Environmental Assess-
ment (EA), which will nor-
mally be available 60 days
after the filing of the peti-
tion for abandonment ex-
emption. Comments on
environmental and en-
ergy matters should be filed
no later than 30 days af-
ter the EA becomes avail-
able to the public and will
be addressed in a Board
decision. Interested per-
sons may obtain a copy of
the EA or make inquiries
regarding environmental
matters by writing to the
Office of Environmental
Analysis, Surface Trans-

portation Board, 395 E
Street, S.W., Washington,
DC 20423, or by calling
that office at 202/245-0295.
Appropriate offers of finan-
cial 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 envi-
ronmental issues (such as
trails use, public use, and
offers of financial assis-
tance) must be filed direct-
ly with the Board's Section
of Administration, Office of
Proceedings, 395 E Street,
S.W., Washington, DC
20423-0001. (See 49 CFR
110.41(a) and 110.43(a)),
and none of them should be
served on applicant's rep-
resentative. (See 49 CFR
110.412(a)). Questions
regarding offers of finan-
cial assistance, public use,
or trails use may be direct-
ed to the Board's Office of
Public Assistance, Govern-
mental Affairs, and Com-
pliance at 202/245-0288.
Copies for any comments
or requests for conditions
should be served on the
applicant's representative,
W. Kane Hanson at Sunson
Leonard Street, P.O. Box
2300, Minneapolis, MN
55402 (2/24).

AFFIDAVIT OF PUBLICATION

State of Minnesota, County of Olmsted

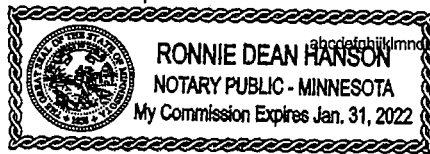
Kristy Mintz, being duly sworn, on oath that she is the publisher or authorized agent and employee of the publisher of the newspaper known as the Post-Bulletin, and has full knowledge of the facts which are stated below:

- (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 F
Draft Federal Register Notice

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

Notice of Petition for Exemption for Abandonment

On March 28, 2017, Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provision of 49 U.S.C. 10903 for DM&E to abandon a 2.01-mile line of railroad extending from railroad milepost 37.9 on the Waseca Subdivision to County Road 9 in Olmsted County, Minnesota (the "Line"). The Line traverses U.S. Postal Service ZIP Code 55934. There are no stations on the Line.

After the DM&E has consummated abandonment authority, a segment of the Line will remain in place and be sold as an industrial track to Kruegel Gas Service ("KGS") for storing and receiving rail cars. The remaining segment of the Line will be sold to the Parks & Trails Council of Minnesota ("Trails Council") for conversion to a recreational trail.

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

DM&E has also requested that it be relieved from the imposition of the Offer of Financial Assistance ("OFA") requirements of 49 U.S.C. § 10904 and the public use provisions of 49 U.S.C. § 10905. In support, DM&E states that an exemption from these provisions is necessary to facilitate the sale of a segment of the Line to KGS, the only rail shipper on the Line, for use as a private industrial track, and the sale of the remaining segment of the Line to the Trails Council for use as a recreational trail.

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co. —Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. §10502(b). A final decision will be issued by [], 2017.

Any offer of financial assistance under 49 C.F.R. 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption.

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

Any request for a public use condition under 49 C.F.R. 1152.28 and any request for trail use/rail banking under 49 C.F.R. 1152.29 will be due no later than 20 days after notice of the filing of the petition for exemption is published in the *Federal Register*.

All filings in response to this notice must refer to STB Docket No. AB-337 (Sub-No. 8X) and must be sent to Surface Transportation Board, 395 E Street, SW, Washington, DC 20423; and W. Karl Hansen, Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402. Replies to the petition for exemption are due on or before [], 2017.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

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

Dated:

By the Board,

Rachel D. Campbell, Director

Office of Proceedings