

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

THOMAS F. MCFARLAND

October 16, 2017

By e-mail to vicki.rutson@stb.gov

Ms. Victoria Rutson, Director
Director, Office of Environmental Analysis
and Federal Preservation Officer
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: Docket No. AB-1106X, *ABE Fairmont, LLC -- Abandonment Exemption -- in Fillmore County, NE*

Docket No. AB-6 (Sub-No. 488X), *BNSF Railway Company -- Discontinuance of Service Exemption -- in Fillmore County, NE*

Dear Ms. Rutson:

Hereby forwarded is a copy of an environmental comment in the above proceeding by the U.S. Army Corps of Engineers, dated October 3, 2017.

Very truly yours,



Thomas F. McFarland
Attorney for ABE Fairmont, LLC

TMcf:mg\1562-C\lr1\R3

cc: *(by e-mail)*

Thomas Wilcox, Esq., *twilcox@gkglaw.com*
William Mullins, Esq., *wmullins@bakerandmiller.com*
Karl Morell, Esq., *karlm@karlmorell.com*
Tyler White, Esq., *Tyler.White2@BNSF.com*
Jill Rugema, Esq., *Jill.Rugema@BNSF.com*
Kim Boatright, Esq., *kim.boatright@fhr.com*
Crystal Zorbaugh, Esq., *czorbaugh@bakerandmiller.com*
Mr. Richard Peterson, *richard.peterson@advancedbioenergy.com*



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NEBRASKA REGULATORY OFFICE
8901 SOUTH 154TH STREET, SUITE 1
OMAHA, NEBRASKA 68138-3635

<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Nebraska.aspx>

October 3, 2017

ABE Fairmont, LLC
1214 County Road G
Fairmont, Nebraska 68354

RE: NWO-2017-01734-WEH Request for Review – ABE Fairmont, LLC and Burlington Northern Santa Fe Railway Co., Abandonment, Fillmore County; Docket Nos. AB-1106X and AB-6 (Sub-No. 488X)

Dear ABE Fairmont, LLC:

We have reviewed the preliminary information received in this office on September 18, 2017, concerning Department of Army (DA) authorization requirements to abandon operations over approximately 2.77 miles of rail line near Fairmont, Nebraska. The project is located at approximately 40.63497° North, -97.604856° West, in Section 25, Township 8 North, Range 3 West, in Fillmore County, Nebraska.

The U.S. Army Corps of Engineers (Corps) is responsible for administering federal laws that regulate certain activities in the waters of the United States (WOUS). The authority applicable to this responsibility is Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344), which prohibits the discharge of dredged or fill material into lakes, streams, or wetlands without authorization in the form of a Department of the Army (DA) permit, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Regarding your request for comment relative to environmental impacts, this office will assess project impacts to WOUS and environmental impacts, after receipt of detailed, site specific information required under the Section 404 permit application review process.

If, in the future, you plan to place fill material in any WOUS, please provide this office with an application for review for possible permit requirements. Enclosed is a permit application for your use. You may obtain additional information about the Section 404 program and permitting process from our website shown at the top of this letter.

The Omaha District, Regulatory Branch is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey on our website at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. If you do not have internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

If you have any questions regarding this determination, please contact Ms. Catherine Blackwell at the above address or call (402) 896-0896 and refer to file number NWO-2017-01734-WEH.

Sincerely,

A handwritten signature in black ink, appearing to read "John Moeschen". The signature is fluid and cursive, with the first name "John" and last name "Moeschen" clearly distinguishable.

John L. Moeschen
Nebraska State Program Manager

Enclosure

cc:

Thomas F. McFarland
Thomas F. McFarland, P.C.
208 South LaSalle Street, Suite 1890
Chicago, Illinois 60604-1112