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Office of Air, Rail & Transit**

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SEP 15 2004

**SURFACE  
TRANSPORTATION BOARD**

September 10, 2004

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Office of Proceedings

SEP 15 2004

Part of  
Public Record



Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, DC 20423-0001

Re: **Finance Docket No. ~~29110~~ (Sub-No. 1) --  
D&I Railroad Company -- Termination of  
Modified Certificate and Notice of Interim Trail Use**

Dear Secretary Williams:

Pursuant to 49 C.F.R. § 1152.29, the South Dakota Department of Transportation ("SDDOT") hereby requests issuance of a Notice of Interim Trail Use ("NITU") with respect to a rail line in Sioux Falls, South Dakota (the "Sioux Falls segment") owned by the State of South Dakota and operated by D&I Railroad Company ("D&I") under a modified certificate of public convenience and necessity. D&I is submitting concurrently herewith a notice pursuant to 49 C.F.R. 1150.24 to terminate service on the Sioux Falls segment. The Board and its predecessor have held that an NITU may be issued in a proceeding such as this involving the termination of operations under a modified certificate. See, e.g., Sammamish Transportation Company -- Notice of Interim Trail Use and Termination of Modified Certificate, Finance Docket No. 33398 (Sub-No. 1) (STB served February 26, 1998); Wisconsin and Calumet Railroad Company, Inc. -- Notice of Interim Trail Use and Termination of Modified Certificate, Finance Docket No. 30724 (Sub-No. 1) (ICC served August 8, 1989).

In support of its trails use request, SDDOT states as follows:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY**

In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, SDDOT is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way described

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herein owned by the State of South Dakota and operated by D&I Railroad Company. The property extends from milepost 70.1 (near East 11<sup>th</sup> Street) to milepost 71.48 (East Junction) in Sioux Falls, Minnehaha County, South Dakota, a distance of approximately 1.38 miles. The right-of-way is part of a lien of railroad proposed for abandonment pursuant to termination of a modified certificate of public convenience and necessity in Finance Docket No. 29110 (Sub-No. 1).

A map of the property depicting the right-of-way is attached.

SDDOT acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad on the same date it is being served on the Board.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce Lindholm", written in a cursive style.

Bruce Lindholm

Attachment

cc: D&I Railroad Company

# EXHIBIT A - Sioux Falls Abandonment

The map illustrates the proposed abandonment of the BNSF mainline and the construction of a new DRR mainline in Sioux Falls, SD. The BNSF mainline is shown as a solid line, and the DRR mainline is shown as a dashed line. The map includes the following features:

- Streets:** E. 17th St., E. 14th St., E. 11th St., E. 10th St., 6th St., 4th St., 5th Ave., Maple St., and Dell Rapids Rd.
- Mileposts:** Milepost 70.1, Milepost 71.48, and Milepost 74.075.
- Track Schematics:** L.S. 147, L.S. 145, L.S. 144, L.S. 143, L.S. 142, L.S. 141, L.S. 140, L.S. 139, L.S. 138, L.S. 137, L.S. 136, L.S. 135, L.S. 134, L.S. 133, L.S. 132, L.S. 131, L.S. 130, L.S. 129, L.S. 128, L.S. 127, L.S. 126, L.S. 125, L.S. 124, L.S. 123, L.S. 122, L.S. 121, L.S. 120, L.S. 119, L.S. 118, L.S. 117, L.S. 116, L.S. 115, L.S. 114, L.S. 113, L.S. 112, L.S. 111, L.S. 110, L.S. 109, L.S. 108, L.S. 107, L.S. 106, L.S. 105, L.S. 104, L.S. 103, L.S. 102, L.S. 101, L.S. 100, L.S. 99, L.S. 98, L.S. 97, L.S. 96, L.S. 95, L.S. 94, L.S. 93, L.S. 92, L.S. 91, L.S. 90, L.S. 89, L.S. 88, L.S. 87, L.S. 86, L.S. 85, L.S. 84, L.S. 83, L.S. 82, L.S. 81, L.S. 80, L.S. 79, L.S. 78, L.S. 77, L.S. 76, L.S. 75, L.S. 74, L.S. 73, L.S. 72, L.S. 71, L.S. 70, L.S. 69, L.S. 68, L.S. 67, L.S. 66, L.S. 65, L.S. 64, L.S. 63, L.S. 62, L.S. 61, L.S. 60, L.S. 59, L.S. 58, L.S. 57, L.S. 56, L.S. 55, L.S. 54, L.S. 53, L.S. 52, L.S. 51, L.S. 50, L.S. 49, L.S. 48, L.S. 47, L.S. 46, L.S. 45, L.S. 44, L.S. 43, L.S. 42, L.S. 41, L.S. 40, L.S. 39, L.S. 38, L.S. 37, L.S. 36, L.S. 35, L.S. 34, L.S. 33, L.S. 32, L.S. 31, L.S. 30, L.S. 29, L.S. 28, L.S. 27, L.S. 26, L.S. 25, L.S. 24, L.S. 23, L.S. 22, L.S. 21, L.S. 20, L.S. 19, L.S. 18, L.S. 17, L.S. 16, L.S. 15, L.S. 14, L.S. 13, L.S. 12, L.S. 11, L.S. 10, L.S. 9, L.S. 8, L.S. 7, L.S. 6, L.S. 5, L.S. 4, L.S. 3, L.S. 2, L.S. 1, L.S. 0.
- Other Features:** A north arrow pointing towards the top right, a scale bar indicating 1 inch equals 1 mile, and a legend for track types (BNSF, DRR, and other).

Sioux Falls, SD  
M.P. 0.0 / 145.7  
TRACK SCHEMATIC  
(NOT TO SCALE)

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