



Kirkpatrick & Lockhart Nicholson Graham LLP

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April 11, 2005

Hand Delivered

ENTERED
Office of Proceedings

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

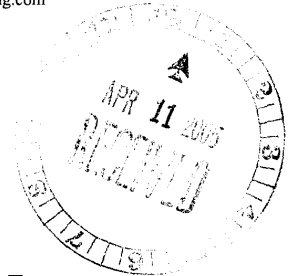
APR 11 2005

Part of
Public Record

1800 Massachusetts Avenue, N.W.
Suite 200
Washington, DC 20036-1221
202.778.9000
Fax 202.778.9100
www.klmg.com

Janie C. I. Sheng

202.778.9855
Fax: 202.778.9100
jsheng@klmg.com



**RE: Docket No. AB-933X
Dakota, Missouri Valley & Western Railroad, Inc. –
Abandonment Exemption –
In Burleigh and Emmons Counties, North Dakota**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice of Exemption** of Dakota, Missouri Valley & Western Railroad, Inc., dated April 11, 2005. A check in the amount of \$3,000, representing the appropriate filing fee for this transaction, is attached. The original copy of the Environmental/Historic Report accompanying the Notice has been provided directly to the Board's Section of Environmental Analysis.

An additional copy of this letter is enclosed for date-stamp and return to our messenger.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

FILED

APR 11 2005

Respectfully submitted

Janie Sheng

Enclosures

cc: Victoria Rutson, Chief

RECEIVED

APR 11 2005

NOT

FILED

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-933X

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
— ABANDONMENT EXEMPTION —
IN BURLEIGH AND EMMONS COUNTIES, NORTH DAKOTA

VERIFIED NOTICE OF EXEMPTION

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APR 11 2005

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APR 11 2005

FILED

FILED

Janie Sheng
Kirkpatrick & Lockhart Nicholson
Graham LLP
1800 Massachusetts Avenue
Washington, DC 20036
(202) 778-9000

ATTORNEY FOR DAKOTA, MISSOURI
VALLEY & WESTERN RAILROAD, INC.

Dated: April 11, 2005

FILED

APR 11 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-933X

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
— ABANDONMENT EXEMPTION —
IN BURLEIGH AND EMMONS COUNTIES, NORTH DAKOTA

VERIFIED NOTICE OF EXEMPTION

Dakota, Missouri Valley & Western Railroad, Inc. ("DMVW") hereby files this Notice of Exemption pursuant to 49 C.F.R. §1152.50 for DMVW to abandon a certain portion of the McKenzie-Linton Line, a total distance of approximately 32.3 route miles between milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota (the "Subject Line"). A map indicating the Subject Line is attached hereto as Exhibit 1. In accordance with 49 C.F.R. §1152.50(d)(2), DMVW submits the following information:

IDENTIFICATION OF PETITIONER: 49 C.F.R. §1152.22(a)(1)-(2)

DMVW acquired by purchase a permanent and exclusive rail service easement over the Subject Line from Burlington Northern Santa Fe Railway Company ("BNSF") on August 19, 1998.¹ See Dakota, Missouri Valley & W. RR., Inc. –

¹ DMVW also acquired BNSF's interest in all railroad tracks, track materials and related track structures and facilities located on the line between milepost 0.0 at McKenzie, North Dakota and milepost 28.7 at Hazelton, North Dakota. BNSF conveyed to Linton Industrial Development Commission ("LIDC") its ownership interest in the line from milepost 0.0 at McKenzie, North Dakota, to milepost 45.3, Linton, North Dakota. BNSF also conveyed to LIDC its interest in railroad tracks, track materials and related track structures and facilities on the line between milepost 28.7, Hazelton, North Dakota, and milepost 45.3, Linton, North Dakota.

Acquisition and Operation Exemption – A Line of the Burlington N. Santa Fe Ry. Co.,

STB Fin. Docket No. 33639. DMVW is a Class III common carrier by rail, and is organized and existing under and by virtue of the laws of the State of North Dakota, and operates rail line in North Dakota and Montana. See Dakota, Missouri Valley & W. RR., Inc. – Lease and Operation Exemption – Soo Line RR. Co., Fin. Docket No. 32825 (STB served Mar. 27, 1996); Dakota, Missouri Valley & W. RR., Inc. – Lease and Operation Exemption – Soo Line RR. Co., Fin. Docket No. 31720 (ICC served Sept. 19, 1990).

The full name and address of the applicant herein is as follows:

Dakota, Missouri Valley & Western Railroad, Inc.
3501 East Rosser Avenue
Bismarck, North Dakota 58501
(701) 223-9282

RELIEF SOUGHT: 49 C.F.R. §1152.22(a)(3)

Pursuant to the Board's class exemption from the abandonment and discontinuance of service over out-of-service rail lines, codified at 49 C.F.R. § 1152.50(b), DMVW seeks to abandon the Subject Line. The total distance of the Subject Line is approximately 32.3 route miles, within Burleigh and Emmons Counties, North Dakota.

DETAILED MAP: 49 C.F.R. §1152.22(a)(4)

A map showing the location of the Subject Line and its relation to other rail lines, highways, water routes and population centers in the area is attached hereto as Exhibit 1.

APPLICANT'S REPRESENTATIVE: 49 C.F.R. §1152.22(a)(7)

Any questions concerning this application should be sent to DMVW's representative at the following address:

Janie Sheng
Kirkpatrick & Lockhart Nicholson Graham LLP
1800 Massachusetts Avenue, NW
Washington, DC 20036

ZIP CODES OF THE SUBJECT LINE: 49 C.F.R. §1152.22(a)(8)

The Subject Line traverses United States Postal Service ZIP codes 58560, 58524, 58544, and 58552.

QUALIFICATION FOR CLASS EXEMPTION: 49 C.F.R. §1152.50(b)

DMVW certifies that no local traffic has moved over the Subject Line for close to the last four (4) years and any overhead traffic on the Subject Line can be rerouted over other lines. In addition, no formal complaint filed by a user of rail service on the Subject Line (or a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Subject Line either is pending with the Board or any United States District Court or has been decided in favor of such complainant during the last two (2) years. See certification of Jeff Wood, attached hereto as Exhibit 2.

PROPOSED CONSUMMATION DATE: 49 C.F.R. §1152.50(d)(2)

DMVW intends to consummate abandonment of the Subject Line soon after this notice becomes effective.

SUITABILITY FOR OTHER PUBLIC PURPOSES: 49 C.F.R. §1152.22(e)(4)

The right-of-way of the Subject Line may be suitable for alternative public use under 49 U.S.C. §10905. However, DMVW does not believe that it would be appropriate to impose a public use condition on the Subject Line. As noted above, DMVW does not own the land underlying the Subject Line, but owns a freight railroad easement that will terminate upon consummation of the proposed abandonment. The Board has declined to impose public use conditions under similar circumstances. See, e.g., Union Pac. RR. Co. – Abandonment and Discontinuance Exemption – In Cook County, IL, AB-33 (Sub-No. 167X)(STB served Aug. 23, 2002).

NOTICE REQUIREMENT: 49 C.F.R. §§1152.50(d)(1) and 1105.11

A certificate that the agencies designated in 49 C.F.R. §1152.50(d)(1) have been served with written pre-filing notice of this abandonment is attached hereto as Exhibit 3. A certificate that the Environmental and Historic Reports accompanying this Notice of Exemption as Exhibit 4 have been served on the agencies designated in 49 C.F.R. §1105.7(b) is attached as Appendix J to that Report.

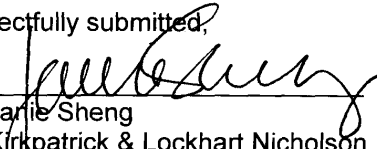
LABOR PROTECTION: 49 C.F.R. §1152.50(d)(2)

The appropriate level of labor protection for the abandonment and discontinuance of service transactions proposed herein is that set forth in Oregon Short Line RR. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

ENVIRONMENTAL AND HISTORIC PRESERVATION DATA: 49 C.F.R. §1105

An Environmental and Historic Report prepared in compliance with the requirements and specifications of 49 C.F.R. §1105 is attached hereto as Exhibit 4. That report concludes that the proposed abandonment and discontinuance, if implemented, will not significantly affect either the quality of the human environment or the conservation of energy resources.

Respectfully submitted,

By: 

Janie Sheng

Kirkpatrick & Lockhart Nicholson
Graham LLP

1800 Massachusetts Avenue, N.W.
Washington, DC 20036
(202) 778-9000

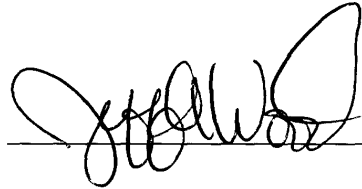
**Attorney for Dakota, Missouri
Valley & Western Railroad, Inc.**

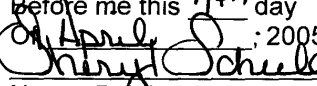
Dated: April 11, 2005

VERIFICATION

State of North Dakota)
)
County of Burleigh) SS:

Jeff Wood, being duly sworn, deposes and says that he is Executive Vice President of Dakota, Missouri Valley & Western Railroad, Inc., that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated, to the best of his knowledge, information and belief.



SUBSCRIBED AND SWORN to
Before me this 7th day
8 April : 2005

Notary Public

My Commission expires:

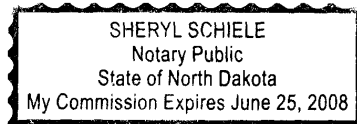


EXHIBIT 1

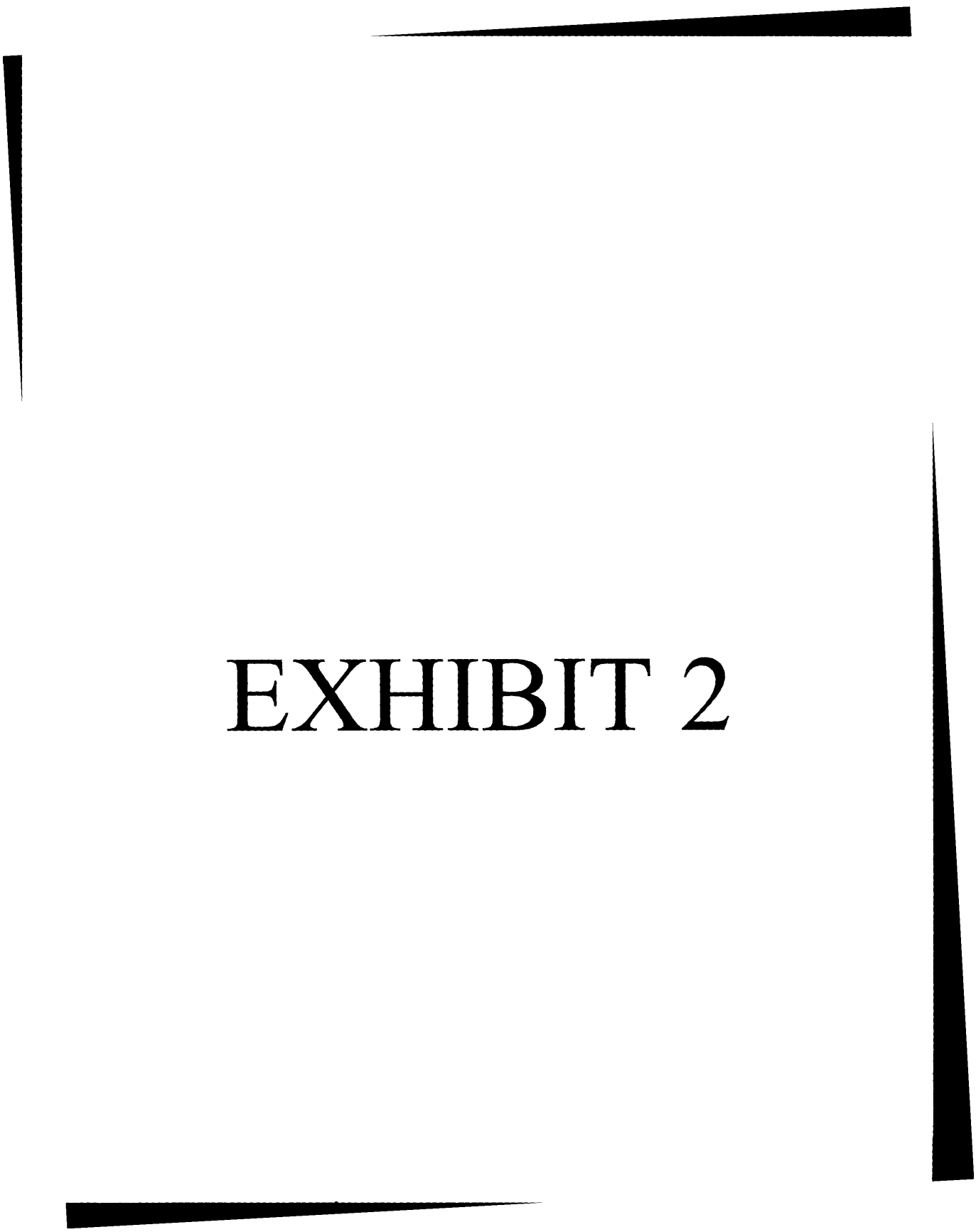


EXHIBIT 2

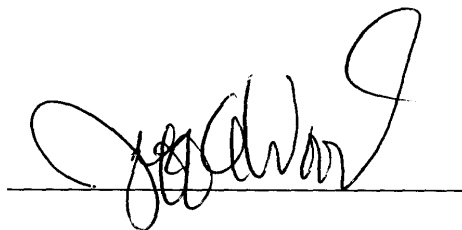
EXHIBIT 2

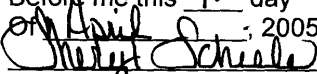
CERTIFICATION

State of North Dakota)
)
County of Burleigh) SS:

Jeff Wood, being duly sworn, deposes and says that he is Executive Vice President of Dakota, Missouri Valley & Western Railroad, Inc., and that to the best of this knowledge, information and belief:

No local freight rail traffic has moved over a certain portion of the McKenzie-Linton Line (the "Subject Line"), a total distance of approximately 32.3 route miles between milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota within the last two (2) years and any overhead traffic can be rerouted over other lines. No formal complaint filed by a user of rail service on the Subject Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court or has been decided in favor of such complainant during the last two (2) years.



SUBSCRIBED AND SWORN to
Before me this 7th day
of April, 2005

Notary Public

My Commission expires:

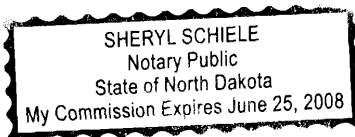




EXHIBIT 3



EXHIBIT 3

CERTIFICATION

I hereby certify: pursuant to 49 C.F.R. § 1105.11, that the Environmental and Historic Reports were submitted to the agencies identified in 49 C.F.R. §1105.7(b) and to the appropriate State Historic Preservation Office (see Exhibit 4); pursuant to 49 C.F.R. § 1105.12, that a notice of intent to abandon rail service was published in *The Bismarck Tribune*, Bismarck, North Dakota, on February 22, 2005 (see Exhibit 5); and that the notice required by 49 C.F.R. § 1152.50(d)(1) was given (see Exhibit 6).

Dated: April 11, 2005

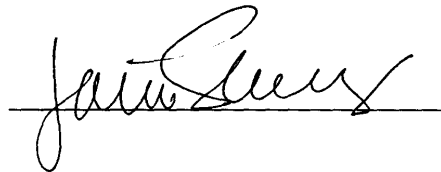




EXHIBIT 4





Kirkpatrick & Lockhart Nicholson Graham LLP

1800 Massachusetts Avenue, N.W.
Suite 200
Washington, DC 20036-1221
202.778.9000
Fax 202.778.9100
www.klmg.com

March 21, 2005

Janie C. I. Sheng

202.778.9855
Fax: 202.778.9100
jsheng@klmg.com

TO: ALL PARTIES ON THE ATTACHED ENVIRONMENTAL CONTACT LIST

RE: Docket No. AB-933X
Dakota, Missouri Valley & Western Railroad, Inc. – Abandonment Exemption –
In Burleigh and Emmons Counties, North Dakota

Dear Sir or Madam:

On behalf of Dakota, Missouri Valley & Western Railroad, Inc., we expect shortly to be filing with the Surface Transportation Board a Notice of Exemption seeking authority to abandon a portion of the McKenzie-Linton Line between approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota (the "Subject Line").¹ The total distance of the Subject Line is approximately 32.3 route miles. 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.

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 Section Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington DC 20423, 202-927-6211, and refer to the above Docket No. AB-933X. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to its representative) would be appreciated within three (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 me at (202) 778-9000 or by mail at:

¹ DMVW acquired by purchase a permanent and exclusive rail service easement over the entire McKenzie-Linton Line from Burlington Northern Santa Fe Railway Company ("BNSF"). DMVW acquired BNSF's ownership interest in the right-of-way between milepost 0.0 at McKenzie, North Dakota and milepost 28.7 at Hazelton, North Dakota. BNSF donated and conveyed to the Linton Industrial Development Corporation its ownership interest in the right-of-way between milepost 28.7 in Hazelton, North Dakota and milepost 45.3 in Linton, North Dakota.



Kirkpatrick & Lockhart Nicholson Graham LLP

March 21, 2005

Page 2

Kirkpatrick & Lockhart Nicholson Graham LLP, 1800 Massachusetts Avenue, NW,
Washington, DC 20036.

Sincerely,

A handwritten signature in black ink, appearing to read 'Janie Sheng', written in a cursive style.

Janie Sheng
**Attorney for Dakota, Missouri
Valley & Western Railroad, Inc.**

Cc: Linton Industrial Development Commission



Kirkpatrick & Lockhart Nicholson Graham LLP

March 21, 2005

Page 3

Environmental and Historic Report
ENVIRONMENTAL CONTACT LSIT

Dakota, Missouri Valley & Western Railroad, Inc. – Abandonment Exemption – in
Burleigh and Emmons Counties, North Dakota
Docket No. AB-933X

FEDERAL AGENCIES CONSULTED:

U.S. Army Corps of Engineers

U.S. Army Engineer District, Omaha
215 N. 17th Street
Omaha, NE 68102-4978

U.S. National Geodetic Survey

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East West Highway
Silver Spring, MD 20910-3282
(301) 713-3245

U.S. Fish and Wildlife Services

Regional Director, Region 6
U.S. Fish & Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

U.S. Environmental Protection Agency

U.S. Environmental Protection Agency, Region 8
999 18th Street
Suite 300
Denver, CO 80202-2466

National Park Service

National Park Service
Midwest Region



Kirkpatrick & Lockhart Nicholson Graham LLP

March 21, 2005

Page 4

1709 Jackson Street, Suite 700
Omaha, NE 68102

STATE AGENCIES CONSULTED:

State Clearinghouse

State Single Point of Contact
Governors Office
600 East Boulevard Avenue
Department 101
Bismarck, ND 58505-3001

State Historic Preservation Office

State Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, ND 58505

State Environmental Protection Agency

North Dakota Environmental Health Section
P.O. Box 5520
Bismarck, ND 58506-5520

State Natural Resource Conservation Service

Natural Resource Conservation Service
220 E. Rosser Avenue
P.O. Box 1458
Bismarck, ND 58502-1458

North Dakota Game and Fish Department

Mr. Dean C. Hildebrand, Director
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501-5095



Kirkpatrick & Lockhart Nicholson Graham LLP

March 21, 2005
Page 5

LOCAL ENTITIES CONSULTED

Burleigh County, North Dakota

Kevin J. Glatt
221 North 5th Street
P.O. Box 5518
Bismarck, North Dakota 58506-5518

Emmons County, North Dakota

Anita Ibach
Clerk
100 Fourth Street NW
Linton, ND 58552

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-933X

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
— ABANDONMENT EXEMPTION —
IN BURLEIGH AND EMMONS COUNTIES, NORTH DAKOTA

ENVIRONMENTAL AND HISTORIC REPORT

Janie Sheng
Kirkpatrick & Lockhart Nicholson
Graham LLP
1800 Massachusetts Avenue
Washington, DC 20036
(202) 778-9000

**ATTORNEY FOR DAKOTA, MISSOURI
VALLEY & WESTERN RAILROAD, INC.**

Dated: March 21, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-933X

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
— ABANDONMENT EXEMPTION —
IN BURLEIGH AND EMMONS COUNTIES, NORTH DAKOTA

ENVIRONMENTAL AND HISTORIC REPORT

Dakota, Missouri Valley & Western Railroad, Inc., ("DMVW" or "Applicant") submits this Environmental and Historic Report (the "Report") in accordance with the reporting requirements of 49 C.F.R. §§ 1105.7 and 1105.8, for the purpose of assisting the Surface Transportation Board (the "Board") in its preparation of an environmental assessment in connection with DMVW's Verified Notice of Exemption pursuant to 49 C.F.R. § 1152.50 for the abandonment of approximately 32.3 route miles of rail line in Burleigh and Emmons Counties, North Dakota. It is the conclusion of this Report that the proposed abandonment, if implemented, will not significantly affect the quality of the human environment, the conservation of energy resources, or historically significant or archaeological sites. Supporting correspondence and certifications are attached.

All representations made herein are to the best of DMVW's knowledge and information otherwise readily available in DMVW's possession on the date of this Report.

Environmental Report - 49 C.F.R. § 1105.7(e)

1. Proposed Action and Alternatives. DMVW expects shortly to file a Notice of Exemption under 49 C.F.R. § 1152.50 from prior Board approval for the abandonment of a certain portion of the McKenzie-Linton Line located between approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota (the "Subject Line"). The Subject Line extends for approximately 32.3 route miles. Upon obtaining Board abandonment authority, DMVW plans to remove the rail and other track materials from a portion of the Subject Line.¹

A map showing the location of the Subject Line is attached hereto as Appendix A.

2. Transportation System. Applicant does not anticipate that existing regional or local transportation systems or patterns will be adversely affected by the proposed abandonment. The proposed abandonment will not cause any diversion of

¹ DMVW acquired by purchase a permanent and exclusive rail service easement over the entire McKenzie-Linton Line (milepost 0.0 to milepost 45.3) from the Burlington Northern and Santa Fe Railroad Company ("BNSF") in 1998. BNSF conveyed to Linton Industrial Development Commission ("LIDC") its ownership interest in the line from milepost 0.0 at McKenzie, North Dakota, to milepost 45.3 at Linton, North Dakota, subject to DMVW's exclusive freight easement. BNSF also conveyed to LIDC its interest in railroad tracks, track materials and related track structures and facilities on the line between milepost 28.7 at Hazelton, North Dakota and milepost 45.3 at Linton, North Dakota. DMVW plans to perform salvage activities only on a portion of the Subject Line from approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota to milepost 28.7 at Hazelton, North Dakota. The remaining track, track materials and structures are owned by LIDC, and any salvage activities would be the responsibility of LIDC. DMVW has provided LIDC with a copy of this report as well as copies of the environmental and historic response letters setting forth the applicable conditions and requirements for salvage activities.

passengers or freight to other transportation systems or modes because no freight rail service has been provided on the Subject Line for close to the last four (4) years.

3. Land Use.

(i) Applicant does not foresee any inconsistencies with regional and/or local land use plans, and has contacted and requested comments from Burleigh County and Emmons County in North Dakota. See correspondence attached hereto as Appendix B. To date, no response has been received. Upon receipt of a response, Applicant will forward the response to the Board.

(ii) Applicant does not foresee that abandonment of the Subject Line will have any adverse impact on prime agricultural land or farmland resources. The North Dakota Natural Resources Conservation Service ("NRCS") has been advised of the proposed abandonment. See correspondence attached hereto as Appendix B. NRCS commented that, to the extent possible, all natural drainage patterns should be maintained and that if the railroad road bed is removed, spoil should not be placed in wetlands or natural watercourses. NRCS stated that erosion control measures should be in effect during all periods of road bed removal activities. NRCS further commented that the proposed abandonment will not convert important farmland, and is expected to have only minimal impacts, and that the proposed abandonment should have no significant impact on existing soil and water conservation practices in the area. See correspondence attached hereto as Appendix C. DMVW plans to satisfy any such applicable requirements and conditions in connection with any planned salvage activities.

(iii) Not applicable. The proposed abandonment would not be undertaken within a designated coastal area. North Dakota does not have an approved state coastal zone management program.

(iv) Applicant believes that portions of the Subject Line may be suitable for alternative public use under 49 U.S.C. § 10906. Burleigh County and Emmons County have been advised of the proposed abandonment. See correspondence attached hereto as Appendix B. To date, no response has been received. Upon receipt of a response, Applicant will forward the response to the Board.

4. Energy.

(i) The proposed abandonment will not have any effect on the transportation of energy resources. No freight rail service has been provided on the Subject Line for close to the last four (4) years. Applicant foresees little possibility that new on-line traffic would develop in the future.

(ii) The movement and/or recovery of recyclable commodities will not be adversely affected by this proposed abandonment. No recyclable commodities have moved over the Subject Line for close to the last four (4) years, and Applicant foresees little possibility that any recyclable commodity traffic would develop in the future.

(iii) The proposed abandonment will not result in an increase or decrease in overall energy efficiency. No freight rail service has been provided on the Subject Line for close to the last four (4) years.

(iv) Not applicable. The abandonment of the Subject Line will not cause the diversion of more than 1,000 rail carloads per year or an average of fifty (50)

rail carloads per mile per year to motor carriers. No freight rail service has been provided on the Subject Line for close to the last four (4) years.

5. Air.

(i) Not applicable. The proposed abandonment will not result in (A) a minimum increase in rail traffic of 100% or eight (8) trains per day on any segment of rail line affected by the proposal, (B) an increase in rail yard activity of at least 100%, or (C) an average increase in truck traffic of more than 10% of the average daily traffic or fifty (50) vehicles per day on any affected road segment.

(ii) Not applicable. The proposed abandonment of the Subject Line will not result in traffic increases which exceed the thresholds specified in 49 C.F.R. § 1105.7 (e) (5) (ii) (A), (B) or (C).

(iii) Not applicable. No ozone depleting materials have been transported over the Subject Line for close to the last four (4) years, and no such shipments will be diverted as a result of the proposed abandonment.

The proposed abandonment will not significantly impact air quality standards, increase ozone precursor emissions or require a general conformity analysis. Applicant has contacted and requested comments from the North Dakota Environmental Health Section, the Natural Resources Conservation Service, and the United States Environmental Protection Agency. See correspondence attached hereto as Appendix B. The Environmental Health Section commented that best management practices should be followed during salvage activities to prevent dirt, construction, debris and waste material from entering storm drainage systems or water bodies. It further commented that any releases of petroleum products, hazardous materials or

chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during salvage operations, must be reported to the Environmental Health Section and projects disturbing one or more acres are required to have a permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover. Also, the Environmental Health Section stated that local storm water management considerations should be checked and addressed. Lastly, the Environmental Health Section stated that the project area overlies part of the McKenzie aquifer, and as such, care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. Spills must be immediately reported to the Environmental Health Section and appropriate remedial actions performed. The Environmental Health Section believes the proposed abandonment is consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota. See correspondence attached hereto as Appendix D. See also correspondence attached hereto as Appendix C and Section 3(ii) above for a summary of comments from the North Dakota Natural Resources Conservation Service. DMVW plans to satisfy any such applicable requirements and conditions set forth by the Environmental Health Section and the Natural Resources Conservation Service in connection with any planned salvage activities. To date, no response has been received from the United States Environmental Protection Agency. Upon receipt of a response, Applicant will forward the response to the Board.

6. Noise. Not applicable. None of the thresholds identified in 49 C.F.R. § 1105.7(e) (5) (i) will be exceeded as a result of the proposed abandonment.

7. Safety.

(i) No freight rail service has been provided on the Subject Line for close to the last four (4) years, and thus the proposed action will have no adverse effect upon public health or safety. During any salvage operations on the Subject Line, precautions will be taken to maintain public safety.

(ii) Not applicable. No hazardous materials are expected to be transported as a result of the proposed abandonment.

(iii) Applicant is not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way of the Subject Line. The United States Environmental Protection Agency, the North Dakota Environmental Health Section, and the Natural Resources Conservation Service have been contacted about this proposed abandonment. See correspondence attached hereto as Appendix B. See also correspondence attached hereto as Appendices C and D and Sections 3(ii) and 5(iii) above for a summary of comments from the Natural Resources Conservation Service and the Environmental Health Section, respectively. To date, no response has been received from the United States Environmental Protection Agency. Upon receipt of a response, Applicant will forward the response to the Board.

8. Biological Resources.

(i) Applicant does not believe that any endangered or threatened species or any critical habitat or other fish or wildlife resources will be adversely affected as a result of the proposed abandonment, particularly because the structures located on the Subject Line will be left in place and salvage operations will be handled within the

right-of-way using existing access routes.² The United States Fish and Wildlife Service ("USFW") has been advised of the proposed abandonment. See correspondence attached hereto as Appendix B. The USFW commented that wetlands are located along portions of the Subject Line; therefore, wetlands under its jurisdiction should be avoided during salvage activities. The USFW also commented that no federally endangered or threatened species and proposed and designated critical habitat are present within the area of the Subject Line. See correspondence attached hereto as Appendix E. DMVW plans to comply with any such applicable requirements and conditions in connection with any planned salvage activities.

(ii) Applicant is not aware of any wildlife sanctuaries or refuges, or national or state parks or forests, located on the Subject Line. Accordingly, none will be adversely affected. Applicant has contacted and requested comments from the Natural Resources Conservation Service, the United States Fish and Wildlife Service, and the National Park Service. See correspondence attached hereto as Appendix B. See also correspondence attached hereto as Appendices C and E and Sections 3(ii) and 8(i) above for a summary of comments from the Natural Resources Conservation Service and United States Fish and Wildlife Service. To date, no response has been received from the National Park Service. Upon receipt of a response, Applicant will forward the response to the Board.

9. Water. Any water quality effects from the proposed abandonment should be minimal. No bridges over water will be removed as part of the proposed abandonment. Therefore, Applicant believes that the proposed abandonment will not

² See infra Historic Report for discussion of the structures located on the Subject Line.

have a significant effect on water quality and is not aware of any inconsistencies with applicable Federal, state and local water quality standards. Comments have been requested from the Natural Resources Conservation Service and the United States Environmental Protection Agency. See correspondence attached hereto as Appendix B. See also correspondence attached hereto as Appendix C and Section 3(ii) above for a summary of the comments from the Natural Resources Conservation Service. To date, no response has been forthcoming from the United States Environmental Protection Agency. Upon receipt of a response, Applicant will forward the response to the Board.

DMVW is unaware of any designated wetlands or 100-year flood plains that would be impacted by the proposed action. DMVW also does not anticipate the need to request permits under Sections 402 and 404 of the Clean Water Act. DMVW has contacted and requested comments from the Natural Resources Conservation Service, the North Dakota Environmental Health Section, the United States Fish and Wildlife Service, and the U.S. Army Corps of Engineers. See correspondence attached hereto as Appendix B. See also correspondence attached hereto as Appendices C, D and E Sections 3(ii), 5(iii) and 8(i) above for a summary of the comments from the Natural Resources Conservation Service, the Environmental Health Section, and the United States Fish and Wildlife Service, respectively.

The U.S. Army Corps of Engineers commented that the project area is located within Zone D of the Flood Insurance Rate Map, as an undetermined, but possible, flood hazard. The Army Corps of Engineers also stated that the possibility may exist for a flood hazard that could result from heavy rainfall, which would produce runoff in excess

of storm sewer and local drainage capabilities, and a detailed definition of the hazards would require a site-specific investigation. See correspondence attached hereto as Appendix F. The Army Corps of Engineers also suggested that DMVW coordinate with the U.S. Environmental Protection Agency, the North Dakota Game and Fish Department, and the North Dakota State Historic Preservation Office. DMVW has contacted the U.S. Environmental Protection Agency. See correspondence attached hereto as Appendix B. To date, no response has been forthcoming. Upon receipt of a response, Applicant will forward the response to the Board. DMVW also has consulted with the North Dakota State Historic Preservation Office, the comments of which are summarized in Section 7 of the Historic Report below. DMVW plans to satisfy any such applicable requirements and conditions in connection with any planned salvage activities. DMVW also has requested comments from the North Dakota Game and Fish Department. See correspondence attached hereto as Appendix K. To date, no correspondence from the Game and Fish Department has been forthcoming. Upon receipt of a response, Applicant will forward the response to the Board.

10. Proposed Mitigation. DMVW does not anticipate any adverse environmental impacts from the proposed abandonment and therefore no mitigation measures are contemplated.

* * * * *

In addition to the agencies referenced above, Applicant has requested comments from the National Oceanic and Atmospheric Administration – National Geodetic Survey (“NOAA”) and the State Clearinghouse (State Single Point of Contact). See correspondence attached hereto as Appendix B. The National Oceanic and

Atmospheric Administration commented and identified 18 geodetic station markers that may be affected by the proposed abandonment. See correspondence attached hereto as Appendix G. The National Oceanic Atmospheric Administration requires 90 days advance notice of any plans to disturb or destroy these markers. DMVW plans to satisfy any applicable requirements and conditions relating to geodetic station markers prior to commencing salvage activities. To date no correspondence from the State Clearinghouse has been forthcoming. Upon receipt of a response, Applicant will forward the response to the Board.

Historic Report - 49 C.F.R. § 1105.8(d)

1. **Map.** A map of the Subject Line is attached hereto as Appendix A.
2. **Description of Line.** The Subject Line proposed for abandonment is located in Burleigh and Emmons Counties, North Dakota. It consists of railroad tracks between approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota. The total distance of the Subject Line is approximately 32.3 route miles and the right-of-way is approximately fifty (50) feet wide, with some sections being approximately two hundred fifty (250) feet wide. The Subject Line is located in a rural and residential area.
3. **Photographs.** Attached as Appendix H are photographs of the bridges and structures located on the Subject Line. None of the bridges and structures appears to have significant structural or historical qualities.
4. **Information on Structures.** To the best of Applicant's knowledge, the following are railroad structures on the Subject Line:

Structure No.	Construction Type	Location
Bridge 44	wooden	MP 44.04
Bridge 43	wooden	MP 43.52
Hazelton tool shed	wooden	MP 28
Bridge 24	wooden	MP 24.69
Bridge 21.1	wooden	MP 21.92
Bridge 21	wooden	MP 21.03
Bridge 18	wooden	MP 18.63
Bridge 17	wooden	MP 17.81
Bridge 15	wooden	MP 15.71

All of the structures listed above are believed to be fifty (50) years old or older; however, exact dates of construction for the structures are unknown based on the information in DMVW's possession and control. Applicant knows of no major alterations to the structures.

5. History of Operations. DMVW acquired by purchase a permanent and exclusive rail service easement over the entire McKenzie-Linton Line (milepost 0.0 to milepost 45.3) from BNSF in 1998. DMVW also acquired BNSF's interest in all railroad tracks, track materials and related track structures and facilities located on the line between milepost 0.0 at McKenzie, North Dakota and milepost 28.7 at Hazelton, North Dakota in 1998. Upon obtaining Board abandonment authority, DMVW plans to remove the rail and other track materials from a portion of the Subject Line between approximately milepost 13.0 and milepost 28.7.

6. Engineering Documents. To the best of DMVW's knowledge, it does not possess any engineering drawings that might be useful in documenting a structure that is found to be historic.

7. Historic Criteria. To the best of DMVW's knowledge, it does not believe that the structures on the Subject Line are of unique character or historical significance or meet the criteria for listing in the National Register of Historic Places (36 C.F.R. § 60.04). DMVW also believes that no culturally significant locations, archaeological sites or unique land forms will be affected by the proposed abandonment. DMVW has contacted and requested comments regarding this abandonment from the State Historical Society of North Dakota in its capacity as the State Historical Preservation Office ("SHPO"). See correspondence attached hereto as Appendix B. SHPO

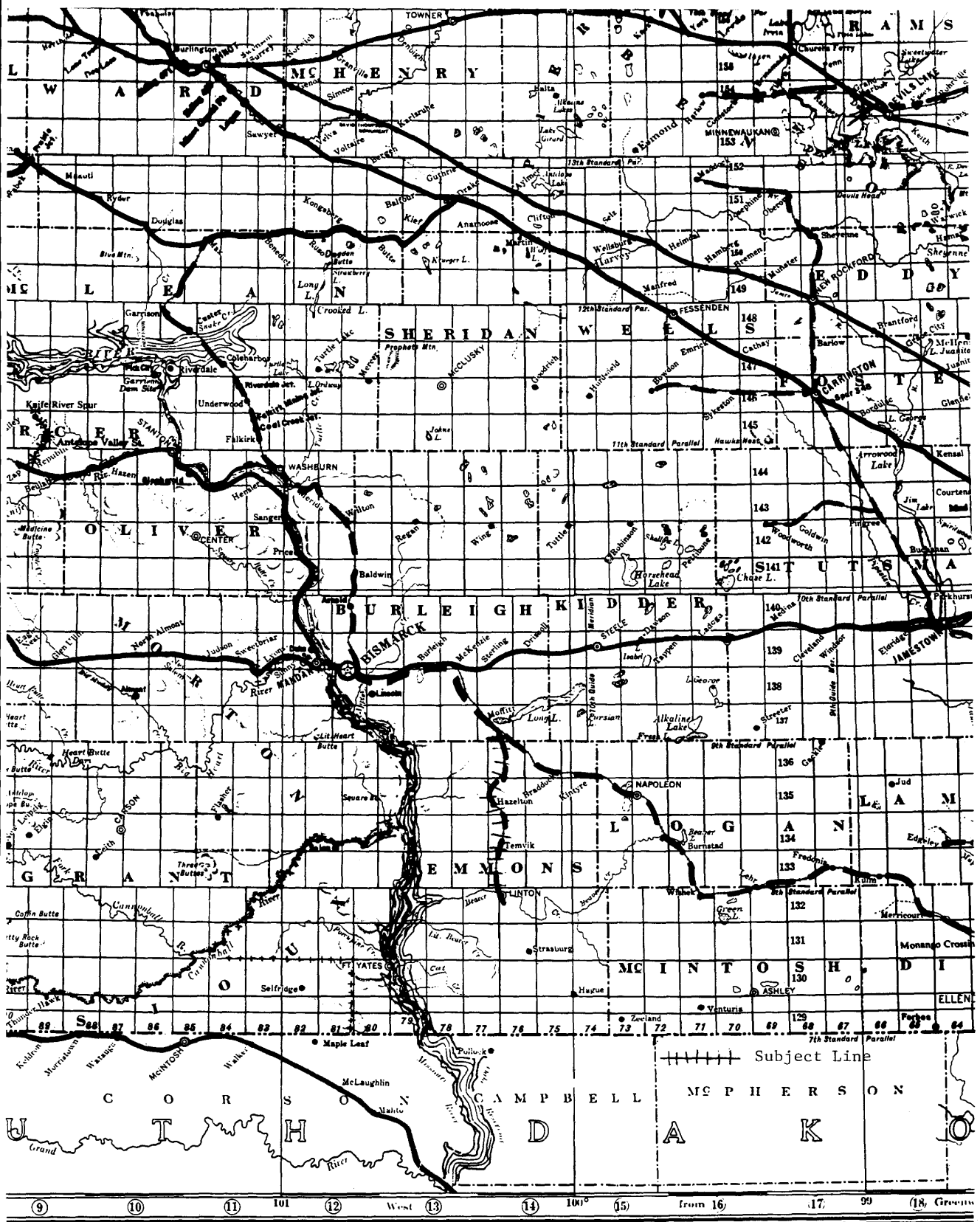
recommends that a Class I Cultural Resources Inventory of the Area of Potential Effect be prepared and submitted to SHPO for consultation. SHPO also recommends that any unrecorded railway bridges and/or stations with standing structures over 50 years of age that are to be abandoned be formally recorded. See correspondence attached hereto as Appendix I. DMVW plans to comply with any applicable requirements and conditions prior to commencing any salvage activities.

8. Ground Disturbance. Based on readily available information in its possession, DMVW is aware of no prior subsurface ground disturbance or fill or environmental conditions (naturally occurring or man-made) that might affect the archeological recovery of resources.

Certification - 49 C.F.R. § 1105.7(c)

A certification in accordance with 49 C.F.R. § 1105.7(c) that the foregoing Report has been served on each of the agencies designated therein and that Applicant has consulted with all appropriate agencies in preparing this Report is attached hereto as Appendix J. The Applicant also has published a public notice in a newspaper of general circulation in the counties in which the Subject Line is located in accordance with 49 C.F.R. § 1105.7(c).

APPENDIX A



APPENDIX B



Kirkpatrick & Lockhart Nicholson Graham LLP

1800 Massachusetts Avenue, N.W.
Suite 200
Washington, DC 20036-1221
202.778.9000
Fax 202.778.9100
www.klmg.com

January 19, 2005

Janie C. I. Sheng
202.778.9855
Fax: 202.778.9100
jsheng@klmg.com

**TO: ALL PARTIES ON THE ATTACHED
ENVIRONMENTAL CONTACT LIST**

**Re: Docket No. AB-933X
Dakota, Missouri Valley & Western Railroad, Inc. –
Abandonment Exemption – In Burleigh and Emmons Counties, North Dakota**

Dear Sir / Madam:

Dakota, Missouri Valley & Western Railroad, Inc. ("DMVW"), expects shortly to file with the Surface Transportation Board ("Board") a notice of exemption from the provisions of 49 U.S.C. § 10903 to abandon a portion of the McKenzie-Linton Line between approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota (the "Subject Line").¹ The total distance of the Subject Line is approximately 32.3 route miles. A map showing the location of the Subject Line is attached for your reference.

In accordance with the Board's environmental regulations, 49 C.F.R. § 1105, we are advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following:

1. Regional or local land use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year flood plains;

¹ DMVW acquired by purchase a permanent and exclusive rail service easement over the entire McKenzie-Linton Line from Burlington Northern Santa Fe Railway Company ("BNSF"). DMVW acquired BNSF's ownership interest in the right-of-way between milepost 0.0 at McKenzie, North Dakota and milepost 28.7 at Hazelton, North Dakota. BNSF donated and conveyed to the Linton Industrial Development Corporation its ownership interest in the right-of-way between milepost 28.7 in Hazelton, North Dakota and milepost 45.3 in Linton, North Dakota.

DC-687345 v1 0950000-0102



Kirkpatrick & Lockhart Nicholson Graham LLP

January 19, 2005

Page 2

7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Existing or potential safety hazards; or
10. Coastal Zone Management Areas.

Please also advise us if permits under Section 402 or 404 of the Clean Water Act (33 U.S.C. §§ 1342, 1344) are required for the proposed abandonment.

We would appreciate your review of the proposed action and provision of any comments you may have in a written response as soon as possible. Any written comments should reference Docket No. AB-933X and be sent to:

Janie C.I. Sheng
Kirkpatrick and Lockhart LLP
1800 Massachusetts Avenue – 2nd Floor
Washington, DC 20036

with a copy to:

Surface Transportation Board
Section of Environmental Analysis
Room 500
1925 K Street, N.W.
Washington, D.C. 20423-0001

In accordance with the Board's regulations, a copy of the Environmental Report prepared in connection with this abandonment will be forwarded to you at least twenty days before the petition for exemption is filed at the Board. If you have any questions or need additional information in the meantime, please feel free to contact me at (202) 778-9855.

Sincerely,

A handwritten signature in black ink, appearing to read 'Janie Sheng', written over a horizontal line.

Janie C. I. Sheng

**Attorney for Dakota, Missouri Valley
& Western Railroad, Inc.**

Enclosure



Kirkpatrick & Lockhart Nicholson Graham LLP

ENVIRONMENTAL CONTACT LIST

– Abandonment Exemption –
In County,
Docket No. AB-933X

FEDERAL AGENCIES CONSULTED:

U.S. Army Corps of Engineers

U.S. Army Engineer District, Omaha
215 N. 17th Street
Omaha, NE 68102-4978

U.S. National Geodetic Survey

National Oceanic and Atmospheric Administration
National Geodetic Survey
1315 East West Highway
Silver Spring, MD 20910-3282
(301) 713-3245

U.S. Fish and Wildlife Services

Regional Director, Region 6
U.S. Fish & Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

U.S. Environmental Protection Agency

U.S. Environmental Protection Agency, Region 8
999 18th Street
Suite 300
Denver, CO 80202-2466

National Park Service

National Park Service
Midwest Region
1709 Jackson Street, Suite 700
Omaha, NE 68102



Kirkpatrick & Lockhart Nicholson Graham LLP

STATE AGENCIES CONSULTED:

State Clearinghouse

State Single Point of Contact
Governors Office
600 East Boulevard Avenue
Department 101
Bismarck, ND 58505-3001

State Historic Preservation Office

State Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, ND 58505

State Environmental Protection Agency

North Dakota Environmental Health Section
P.O. Box 5520
Bismarck, ND 58506-5520

State Natural Resource Conservation Service

Natural Resource Conservation Service
220 E. Rosser Avenue
P.O. Box 1458
Bismarck, ND 58502-1458

APPENDIX

C

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 1458
Bismarck, ND 58502-1458

January 26, 2005

Janie C.I. Sheng
Kirkpatrick and Lockhart LLP
1800 Massachusetts Avenue - 2nd Floor
Washington, DC 20036

RE: Docket No. AB-933X - Dakota, Missouri Valley & Western Railroad, Inc. - Abandonment Exemption - In Burleigh and Emmons Counties, North Dakota

Dear Ms. Sheng:

We have reviewed the information regarding the proposed abandonment of rail lines in Burleigh and Emmons Counties in North Dakota. We offer the following comments based on the information you provided to us for this project:

- 1. To the extent possible, all natural drainage patterns should be maintained. Land use that may be affected during abandonment should be returned to the original land use cover.
- 2. If the railroad road bed is removed, spoil should not be placed in wetlands or natural watercourses. The local Natural Resources Conservation Service district conservationist in each county can provide wetland inventory maps. Erosion control measures should be in effect during all periods of road bed removal activities.
- 3. The proposed abandonment will not convert important farmland. Important farmlands are in the project area but are expected to have minimal impacts.
- 4. This project should have no significant impact on existing soil and water conservation practices in the area.

Thank you for the opportunity to review and comment on this project. Should you require additional information, discussion, or clarification, please contact Doug Van Daalen, Planning Specialist, at (701) 530-2094.

Sincerely,

A handwritten signature in black ink, appearing to read "J.R. Flores".

J.R. FLORES
State Conservationist

cc:

Todd A. Schwagler, ASTC (FO), NRCS, Jamestown, ND
Jay D. Fuhrer, DC, NRCS, Bismarck, ND
Lloyd M. Alveshire, DC, NRCS, Linton, ND
Surface Transportation Board, 1925 K Street NW, Washington, DC

The Natural Resources Conservation Service provides leadership in a partnership effort to help people
Conserve, maintain, and improve our natural resources.

An Equal Opportunity Provider and Employer

APPENDIX D



NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
1200 Missouri Avenue, Bismarck, ND 58504-5264
P.O. Box 5520, Bismarck, ND 58506-5520
701.328.5200 (fax)
www.ndhealth.gov



January 26, 2005

Ms. Janie C. I. Sheng
Kirkpatrick and Lockhart LLP
1800 Massachusetts Ave. - 2nd Floor
Washington, DC 20036

Re: RR Abandonment, Docket No AB-933X
Burleigh and Emmons Counties, N.D.

Dear Ms. Sheng:

This department has reviewed the information concerning the above-referenced project submitted under date of January 19, 2005, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. Follow Best Management Practices during salvage activities to prevent dirt, construction debris, and waste material from entering a storm drainage system or water body.
2. Any releases of petroleum products, hazardous materials, or chemicals that may impact human health or the environment, which are known to have occurred in the past or are discovered in the project area during abandonment and salvage operations, must be reported to the North Dakota Department of Health. The Department's Environmental Emergency Response Contacts List is attached.
3. Projects disturbing one or more acres are required to have a permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover. Also, cities may impose additional requirements and/or specific best management practices for construction affecting their storm drainage system. Check with the local officials to be sure any local storm water management considerations are addressed.
4. The construction project overlies part of the McKenzie aquifer. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this Department and appropriate remedial actions performed.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

Environmental Health
Section Chief's Office
701.328.5150

Air
Quality
701.328.5188

Municipal
Facilities
701.328.5211

Waste
Management
701.328.5166

Water
Quality
701.328.5210

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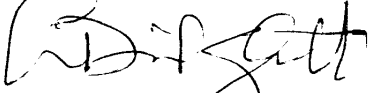
Ms. Janie C. I. Sheng

2.

January 26, 2005

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "L. David Glatt". The signature is stylized with a large, looped initial "L" and a cursive "Glatt".

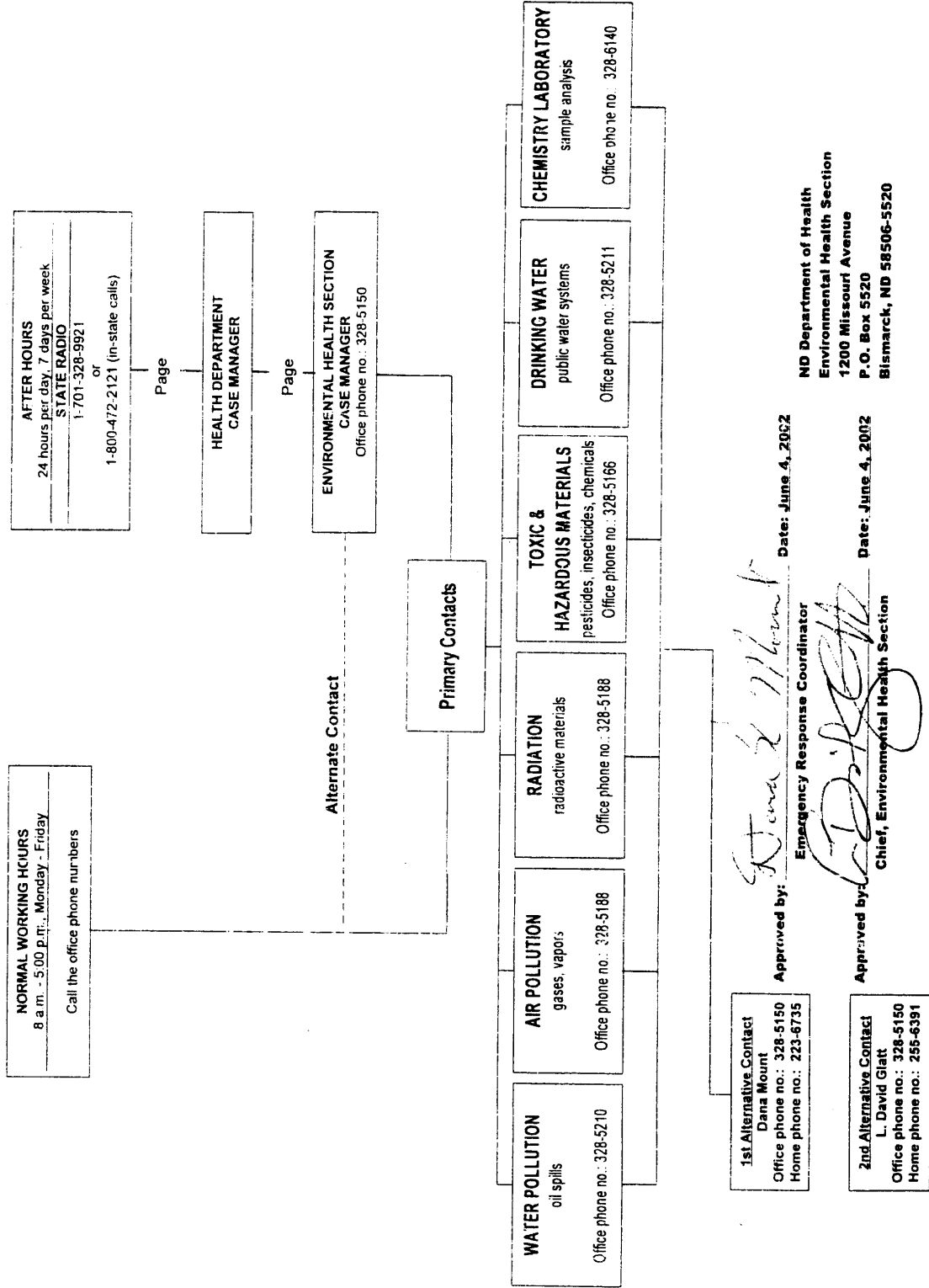
L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc

Attach.

cc: Surface Transportation Board

North Dakota Department of Health Environmental Health Section Environmental Emergency Response Contacts List





NORTH DAKOTA
DEPARTMENT of HEALTH

ENVIRONMENTAL HEALTH SECTION
1200 Missouri Avenue, Bismarck, ND 58504-5264
P.O. Box 5520, Bismarck, ND 58506-5520
701.328.5200 (fax)
www.ndhealth.gov



April 1, 2005

Ms. Janie C. I. Sheng
Kirkpatrick and Lockhart LLP
1800 Massachusetts Ave. - 2nd Floor
Washington, DC 20036

Re: RR Abandonment, Docket No AB-933X
Burleigh and Emmons Counties, N.D.

Dear Ms. Sheng:

This department has reviewed the information concerning the above-referenced project submitted under date of March 21, 2005, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, our comments remain the same as those in our previous letter dated January 26, 2005 (Appendix D of your Environmental and Historic Report).

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc

Environmental Health
Section Chief's Office
701.328.5150

Air
Quality
701.328.5188

Municipal
Facilities
701.328.5211

Waste
Management
701.328.5166

Water
Quality
701.328.5210

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APPENDIX E



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501



Ms. Janie C. I. Sheng
Kirkpatrick & Lockhart Nicholson Graham LLP
1800 Massachusetts Avenue NW, Suite 200
Washington, DC 20036-1221

Dear Ms. Sheng:

This is in response to your letter dated January 19, 2005, regarding Dakota, Missouri Valley & Western Railroad, Inc., proposed abandonment of a portion of the McKenzie-Linton Line in Burleigh and Emmons Counties, North Dakota. The proposed abandonment is for approximately 32 miles of line between Linton, Emmons County, and Moffit, Burleigh County.

The Fish and Wildlife Service (Service) administers the Small Wetlands Acquisition Program, as part of the National Wildlife Refuge System, through much of North Dakota. Under this program, the Service purchases wetland and grassland easements and acquires lands in fee title. I have enclosed a map highlighting the wetland resources and the Service's property interests in the project area. The wetlands located along the rail line in Townships 134-135 North, Range 76 West, Emmons County, south of Hazelton, are protected by easements that prohibit the draining, filling, burning, or leveling of wetland basins on the tract. In addition, a portion of the line in Burleigh County runs adjacent to the Service's Long Lake National Wildlife Refuge.

The Service requires that all wetlands under its jurisdiction be avoided during project activities when possible. Special Use or right-of-way permits will be necessary for any activities resulting in impacts to wetlands protected by easements and/or fee title. The issuance of Special Use or right-of-way permits are subject to the final determination of a refuge compatibility review process. For Burleigh and Emmons Counties, please contact Paul VanNingen, Project Leader, Long Lake National Wildlife Refuge, 12000 353rd Street SE, Moffit, North Dakota 58560-9740, (701) 387-4397, to determine permit requirements. Permits will not be required if activities take place in existing rights-of-way and do not affect nearby wetlands.

No federally endangered or threatened species and proposed and designated critical habitat are present within the proposed project's area of influence.

Thank you for the opportunity to provide comments on the proposed rail line abandonment. If further information is required, please contact Kevin Johnson of my staff at 701-250-4481.

Sincerely,

Jeffrey K. Towner

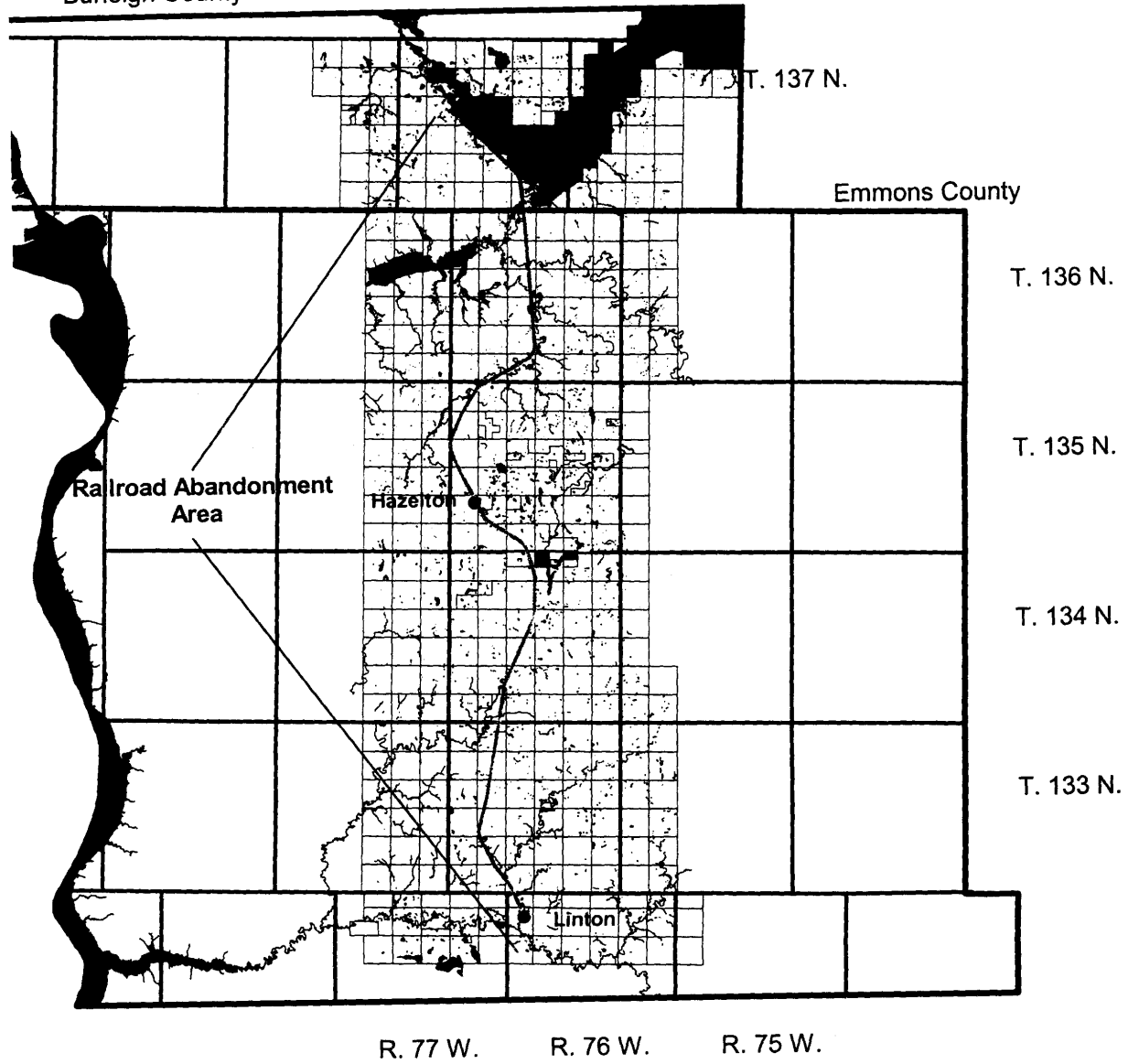
Jeffrey K. Towner
Field Supervisor
North Dakota Field Office

Enclosure

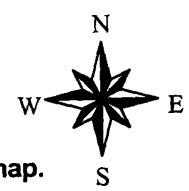
cc/enc: Project Leader, Long Lake NWR

Burleigh County

Emmons County



- National Wildlife Refuge
- Railroad
- Wetland
- Waterfowl Production Area
- Wetland Easement



Not all wetlands or Service interests are represented on this map.

APPENDIX F



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

February 11, 2005

Planning, Programs, and Project Management Division

Ms. Janie C. I. Sheng
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue – 2nd Floor
Washington, DC 20036

Dear Ms. Sheng:

The U.S. Army Corps of Engineers, Omaha District (Corps) has reviewed your letter dated January 19, 2005 regarding the proposed abandonment of a portion of the McKenzie-Linton Line between milepost 13.0 and 45.3 in Emmons and Burleigh County, North Dakota, docket number AB-933X. The Corps offers the following comments.

Emmons County participates in the National Flood Insurance Program. According to the Flood Insurance Rate Map (FIRM), the proposed location for the project is located within Zone D (areas of undetermined, but possible flood hazards). The FIRM is community-panel number 380327 A, dated February 4, 1987. The possibility may exist, however, for a flood hazard that could result from heavy rainfall in the immediate area, which would produce runoff in excess of storm sewer and local drainage way capacities. Detailed definitions of this hazard would require a site-specific investigation.

Your plans should be coordinated with the U.S. Environmental Protection Agency which is currently involved in a program to protect groundwater resources. If you have not already done so, it is recommended you consult with the U.S. Fish and Wildlife Service and the North Dakota Game and Fish Department regarding fish and wildlife resources. In addition, the North Dakota State Historic Preservation Office should be contacted for information and recommendations on potential cultural resources in the project area.

If activities involve any work in waters of the United States, a Section 404 permit may be required. For a detailed review of permit requirements, final project plans should be sent to:

U.S. Army Corps of Engineers
Attention: Bismarck Regulatory Office/Cimarosti
1513 South 12th Street
Bismarck, North Dakota 58504

If you have any questions, please contact Ms. Erin Wilson at (402) 221-4882.

Sincerely,

Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Copy Furnished:
Surface Transportation Board
Section of Environmental Analysis
1925 K Street, N.W., Room 500
Washington, DC 20423-0001



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
106 SOUTH 15TH STREET
OMAHA NE 68102-1618

March 31, 2005

Planning, Programs, and Project Management Division

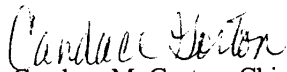
Ms. Janie C. I. Sheng
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue
Washington, DC 20036

Dear Ms. Sheng:

The U.S. Army Corps of Engineers, Omaha District (Corps) reviewed your letter dated January 19, 2005 regarding the proposed abandonment of a portion of the McKenzie-Linton Railroad Line between milepost 13.0 and 45.3 in Emmons and Burleigh County, North Dakota, docket number AB-933X. The Corps offers no further comments on this project from the last correspondence at this time.

If you have questions, please contact Ms. Erin Wilson at (402) 221-4882.

Sincerely,


Candace M. Gorton, Chief
Environmental, Economics, and
Cultural Resources Section
Planning Branch

Copy Furnished:
Surface Transportation Board
Section of Environmental Analysis
1925 K Street, N.W., Room 500
Washington, DC 20423-0001

APPENDIX G



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

JAN 26 2005

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Ms. Rutson:

The area in question on the map with the Environmental and Historic Reports for the proposed rail line abandonment of Dakota, Missouri Valley & Western Railroad, Inc. for approximately 32.3 miles of rail line between approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota, STB Docket No. AB-933X, has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 18 geodetic station markers have been identified that may be affected by the proposed abandonment; a listing of these markers is enclosed. If there are any planned activities which will disturb or destroy these markers, NGS requires not less than 90 days notification in advance of such activities in order to plan for their relocation.

If further information is needed for these geodetic markers, contact Mr. Frank C. Maida. His address is NOAA, N/NGS2, Room 8736, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3198, fax: 301-713-4324, e-mail: Frank.Maida@noaa.gov.

Sincerely,

For

Richard A. Snay
Chief, Spatial Reference System Division

Enclosures

cc: N/NGS1 - G. Mitchell
Janie C. I. Sheng, Kirkpatrick & Lockhart
Nicholson Graham LLP



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DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.

IN BURLEIGH AND EMMONS COUNTIES, NORTH DAKOTA

BETWEEN MOFFITT AND LINTON

DOCKET NO. AB-933X

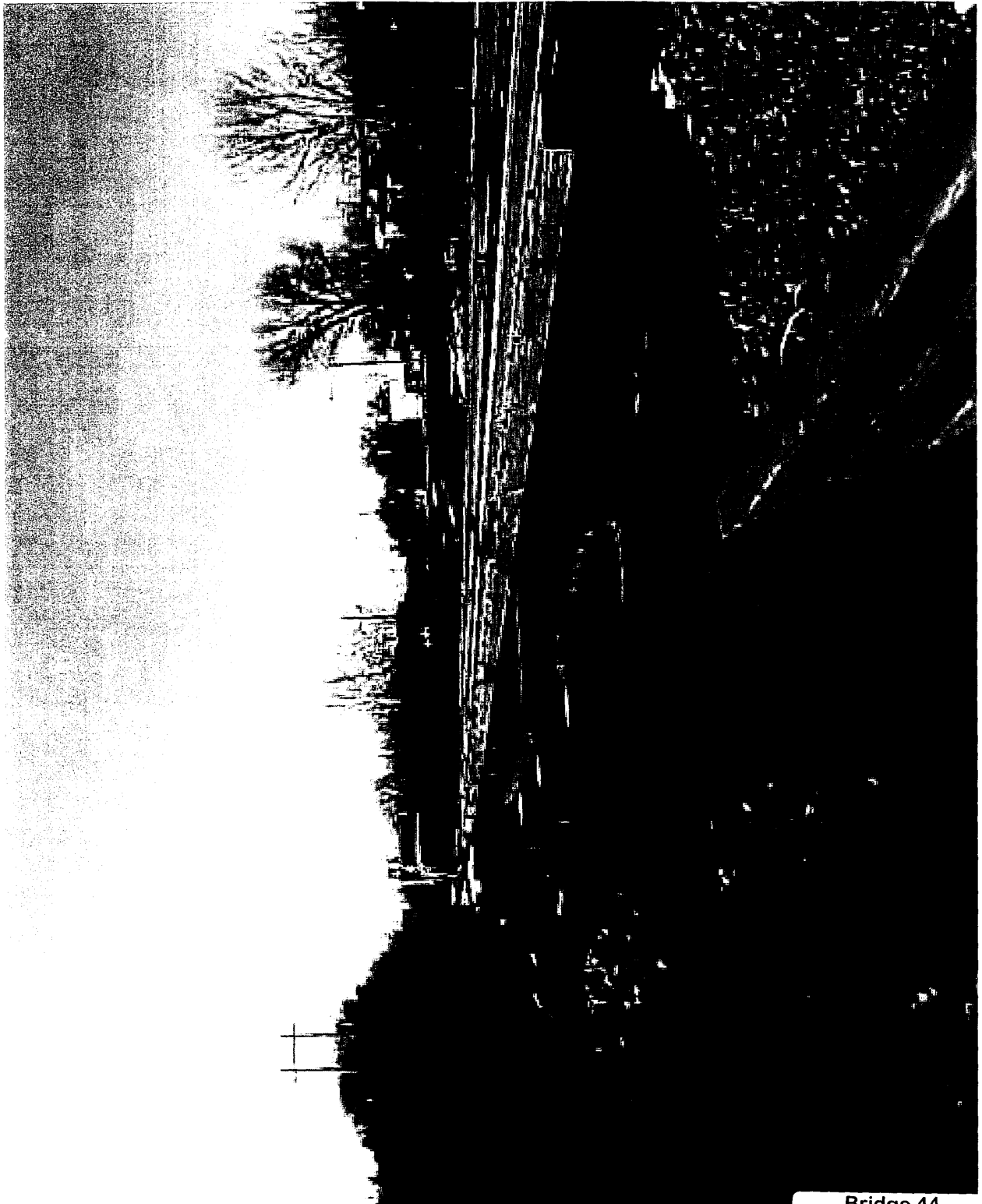
18 GEODETIC CONTROL MARKS IN THE PROPOSED ABANDONMENT AREA

PIDS	DESIGNATION	LATITUDE	LONGITUDE
RR0034	U 42	N464047	W1001748
RR0012	H 10	N464049	W1001720
RR0033	T 42	N464041	W1001733
RR0011	G 10	N464015	W1001628
RR0032	S 42	N464017	W1001628
RR0010	F 10	N463905	W1001443
RR0009	E 10	N463700	W1001422
RR0008	D 10	N463435	W1001402
RR0007	C 10	N463304	W1001513
RR0006	B 10	N463120	W1001724
RR0072	A 10	N462909	W1001633
RR0071	Z 9	N462827	W1001601
RR0070	Y 9	N462644	W1001352
RR0069	X 9	N462436	W1001430
RR0068	W 9	N462210	W1001531
RR0067	V 9	N462034	W1001553
RR0066	U 9	N461821	W1001605
RR0063	S 9	N461547	W1001356

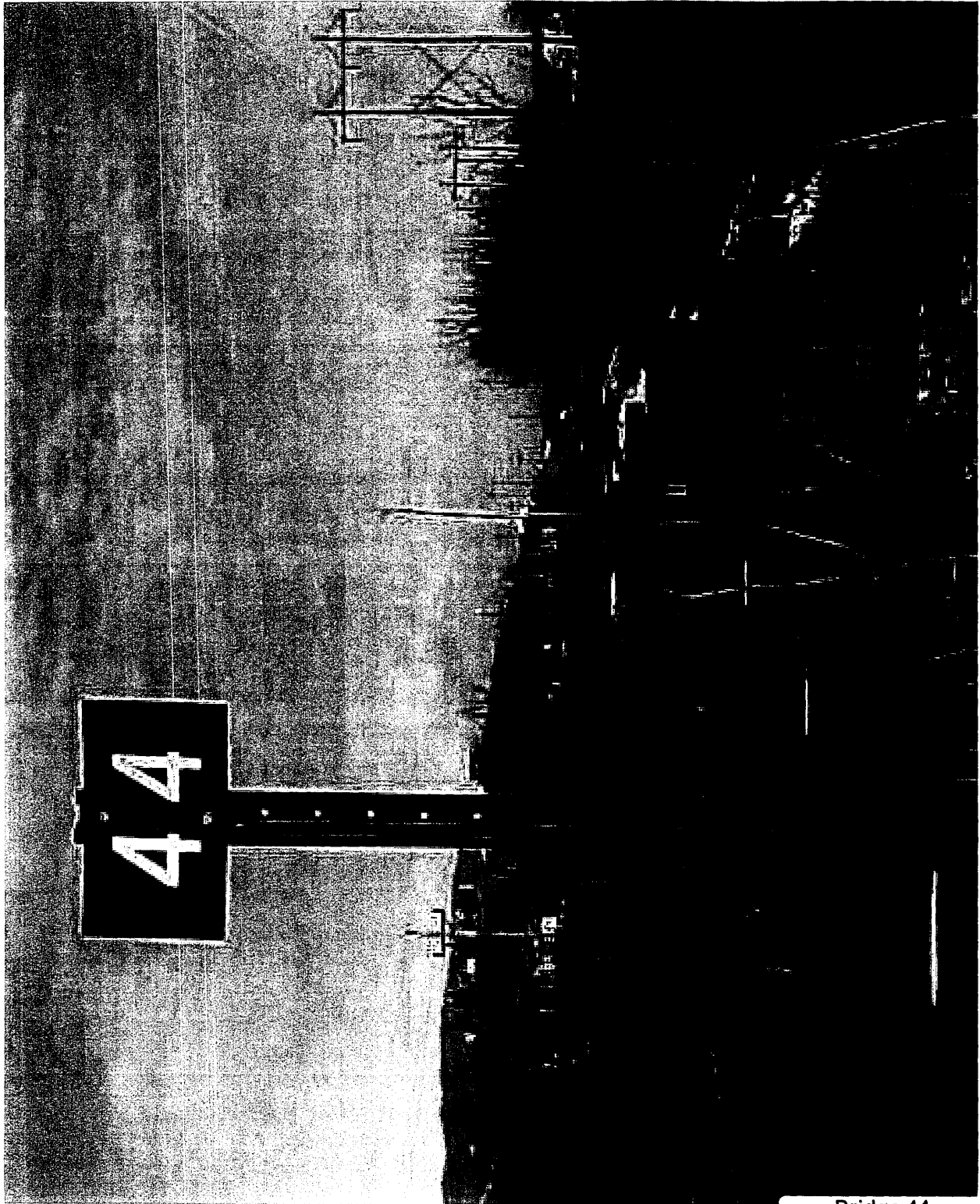
APPENDIX H



Bridge 44



Bridge 44



285

Bridge 44



0995

Bridge 43



5012

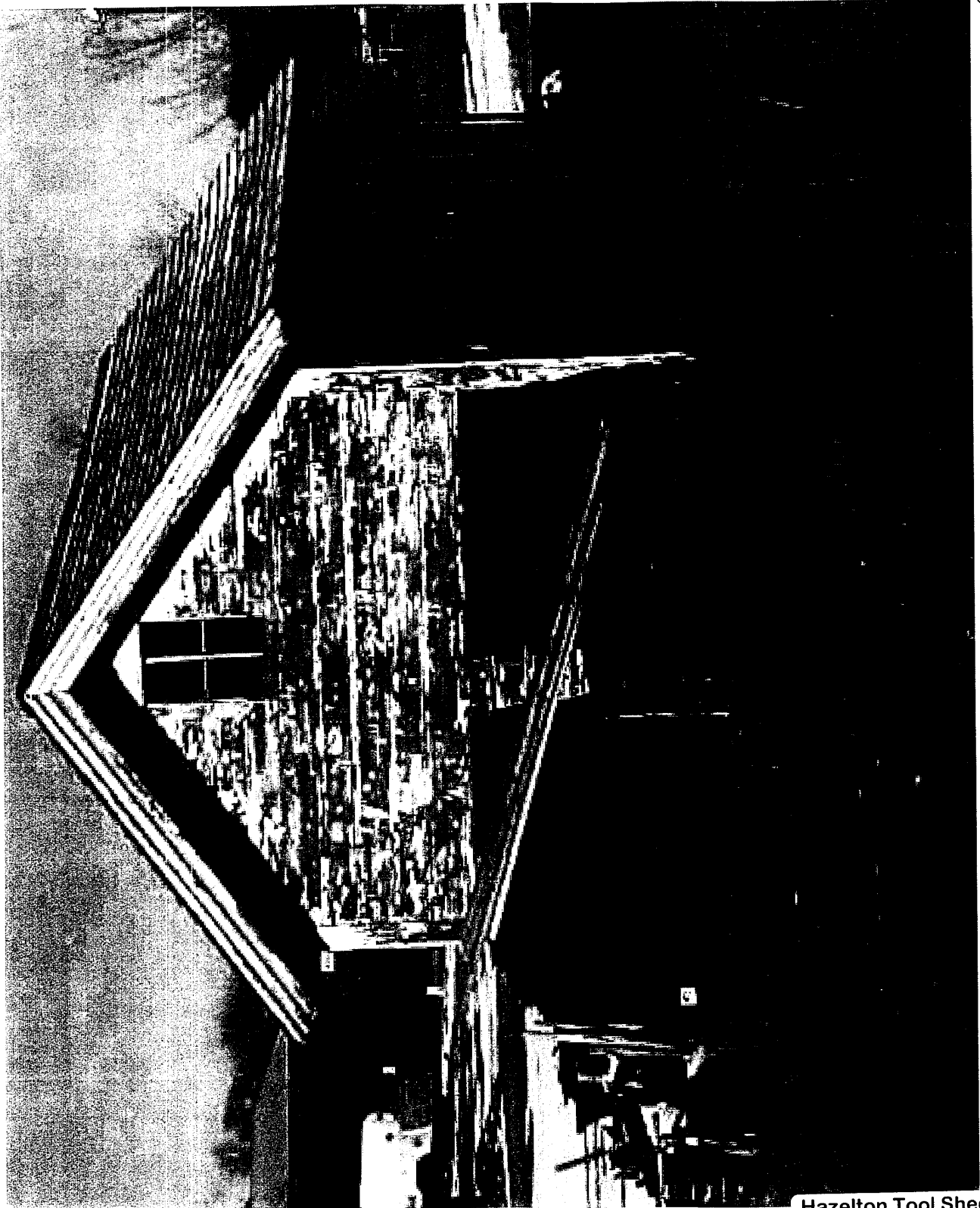
Bridge 43



Bridge 43

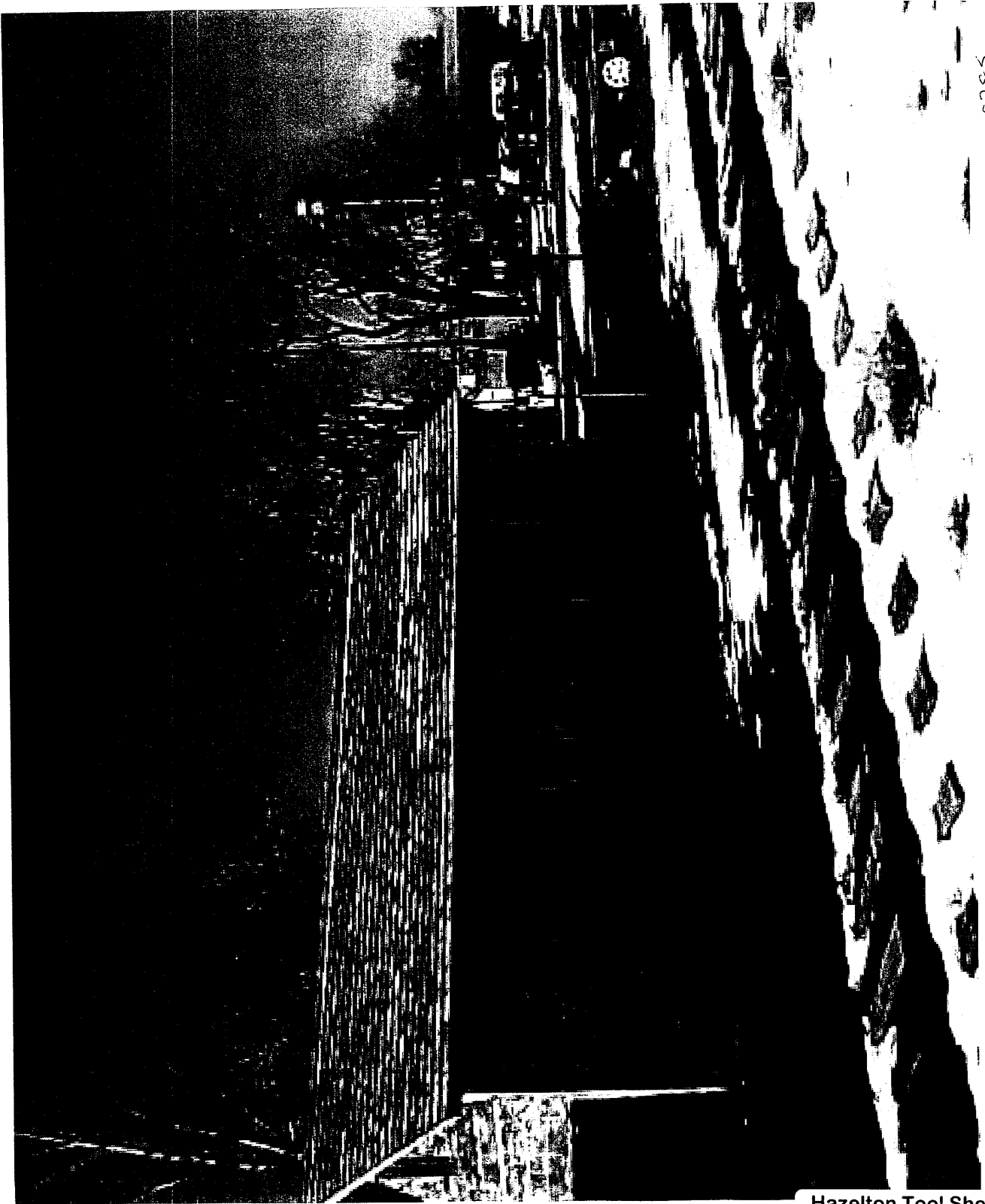


Bridge 43



Hazelton Tool Shed

6273



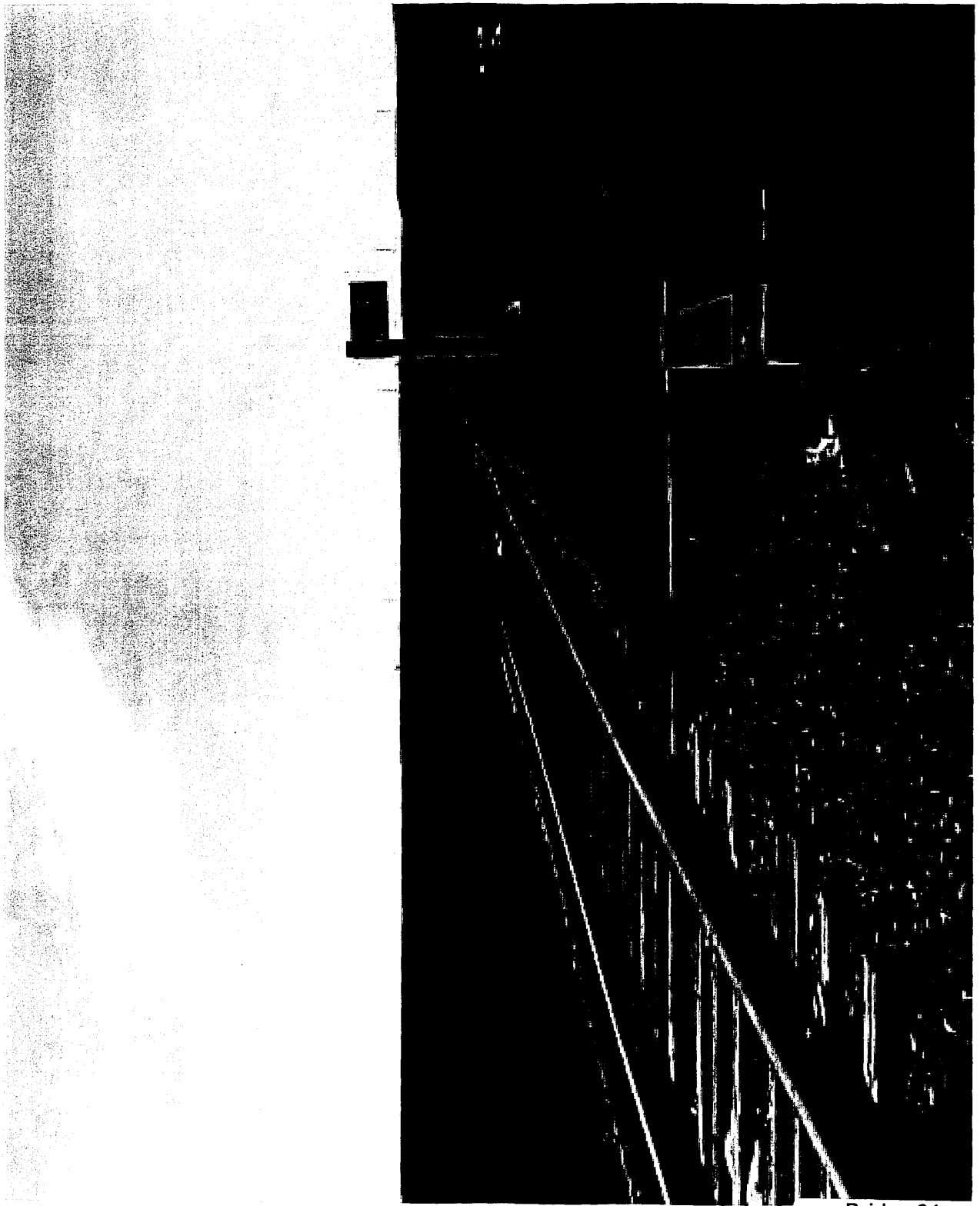
0285

Hazelton Tool Shed



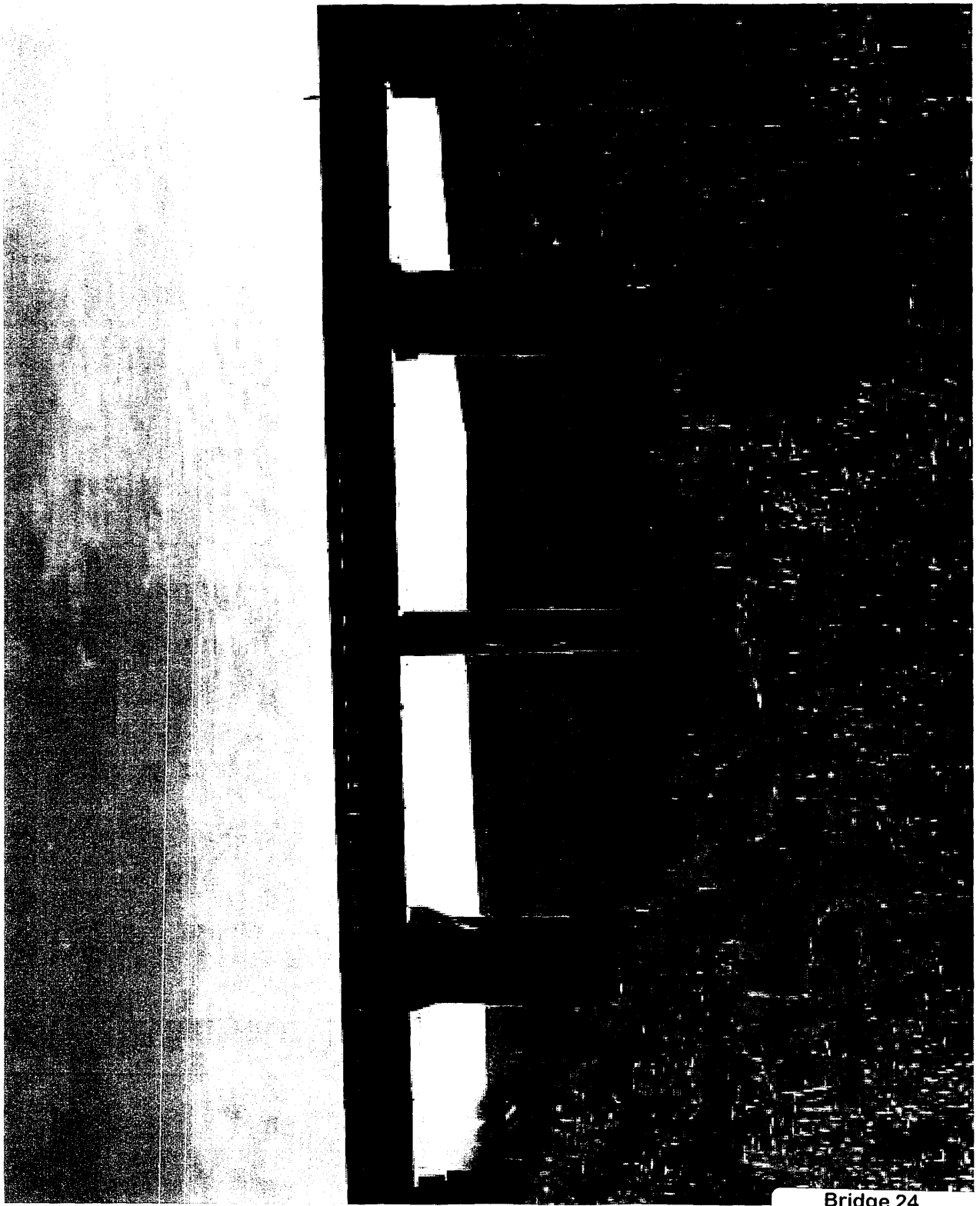
0295

Hazelton Tool Shed



cc 35

Bridge 24



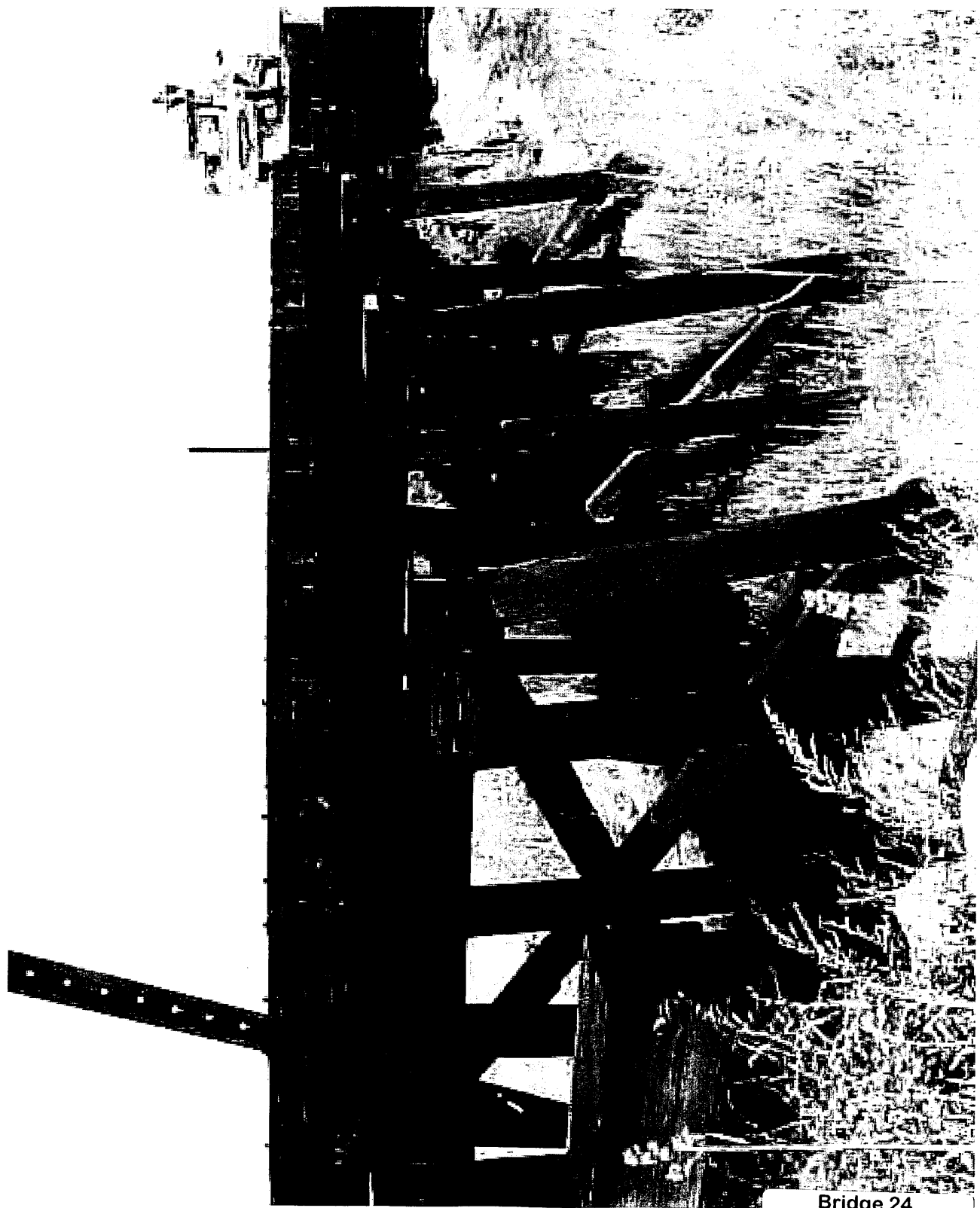
0045

Bridge 24



0655

Bridge 24



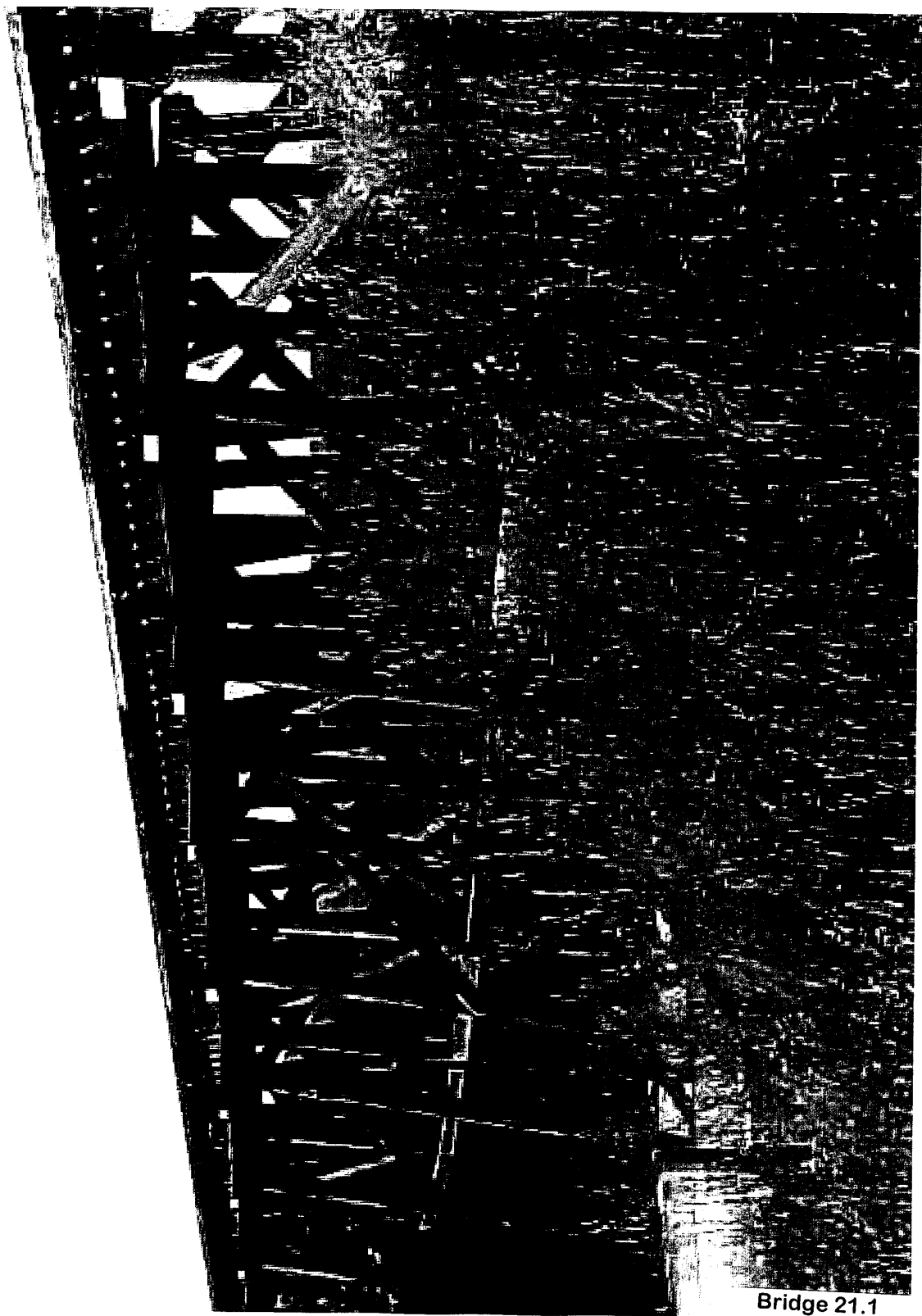
Bridge 24

0065



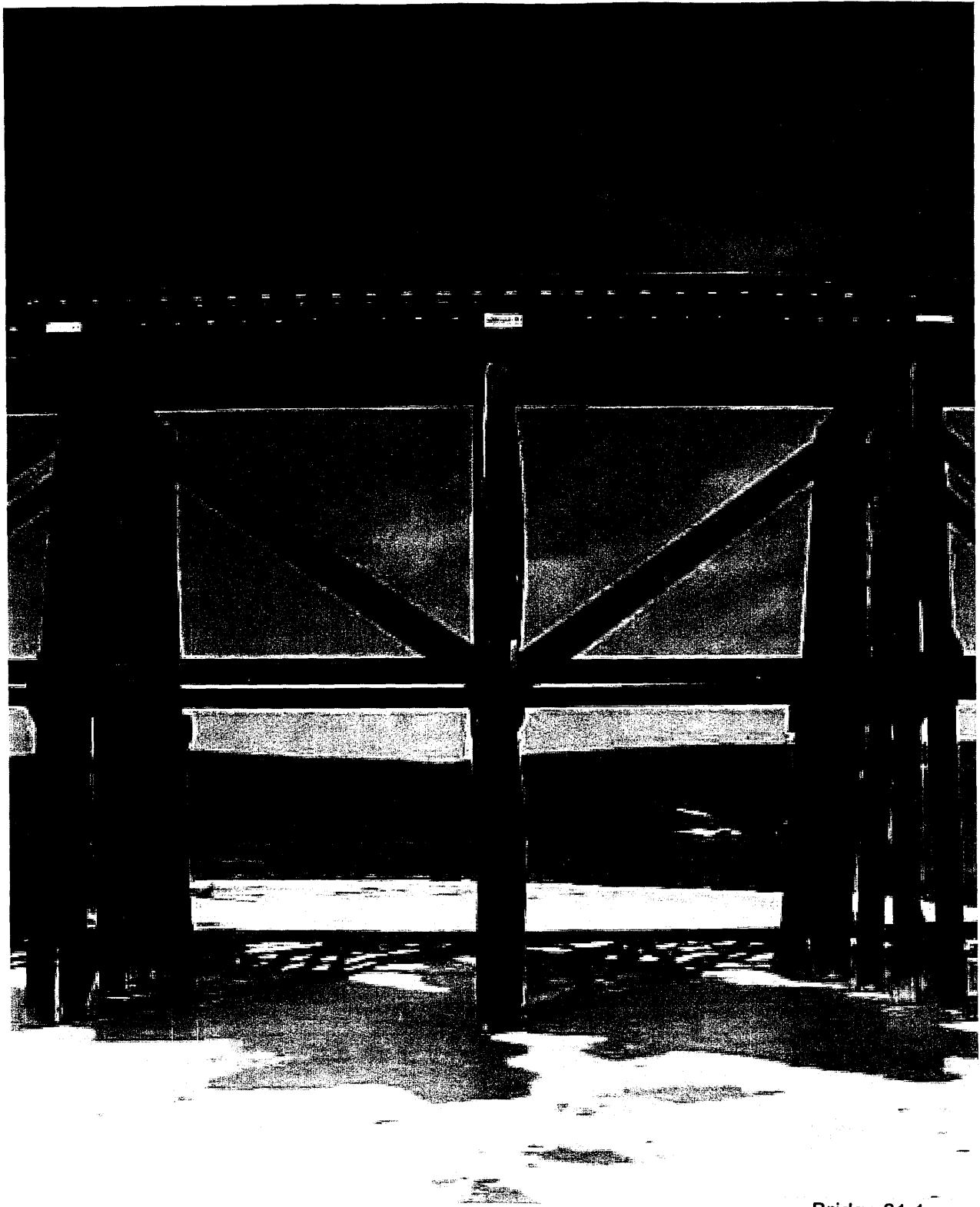
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Bridge 21.1

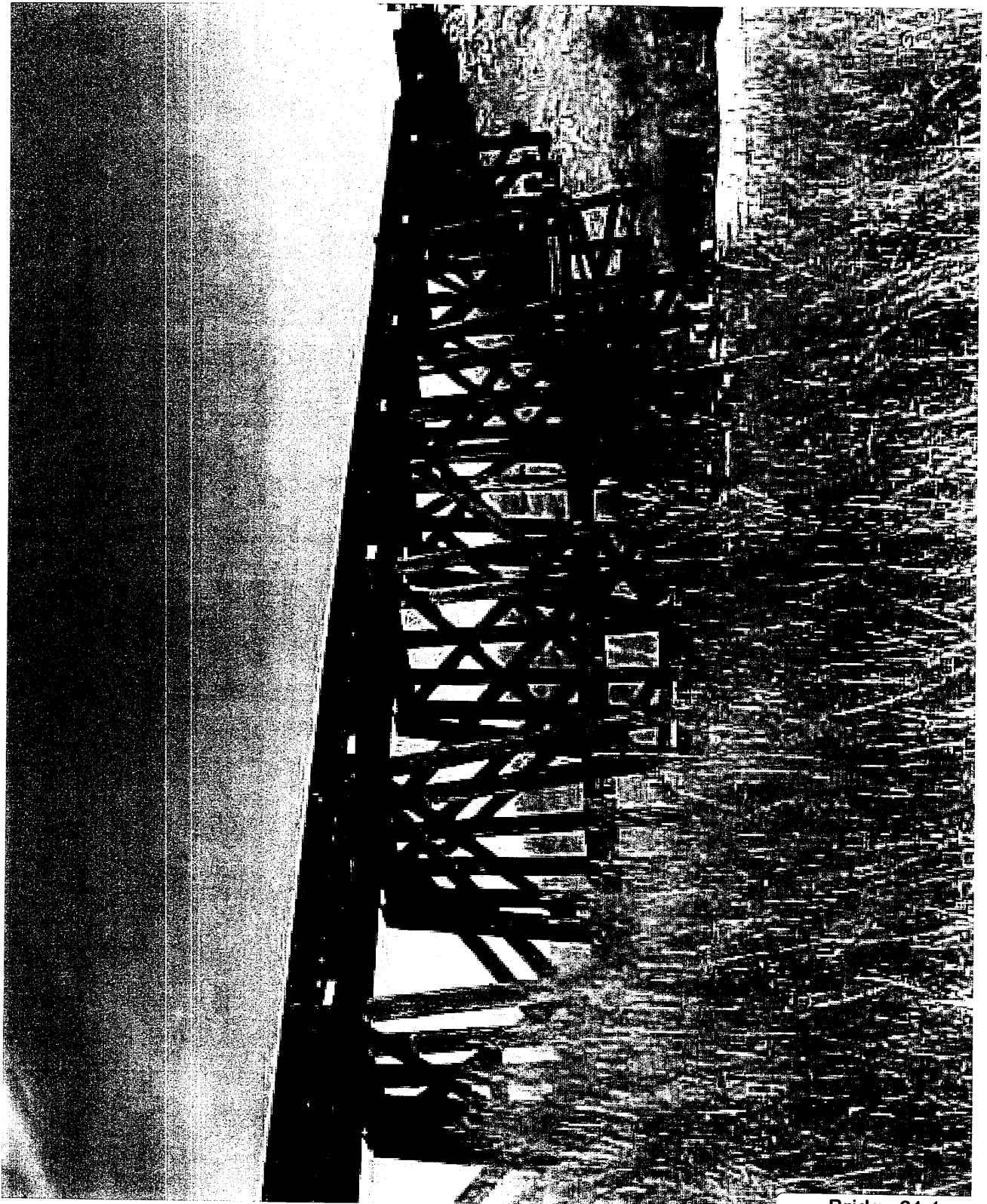


0085

Bridge 21.1

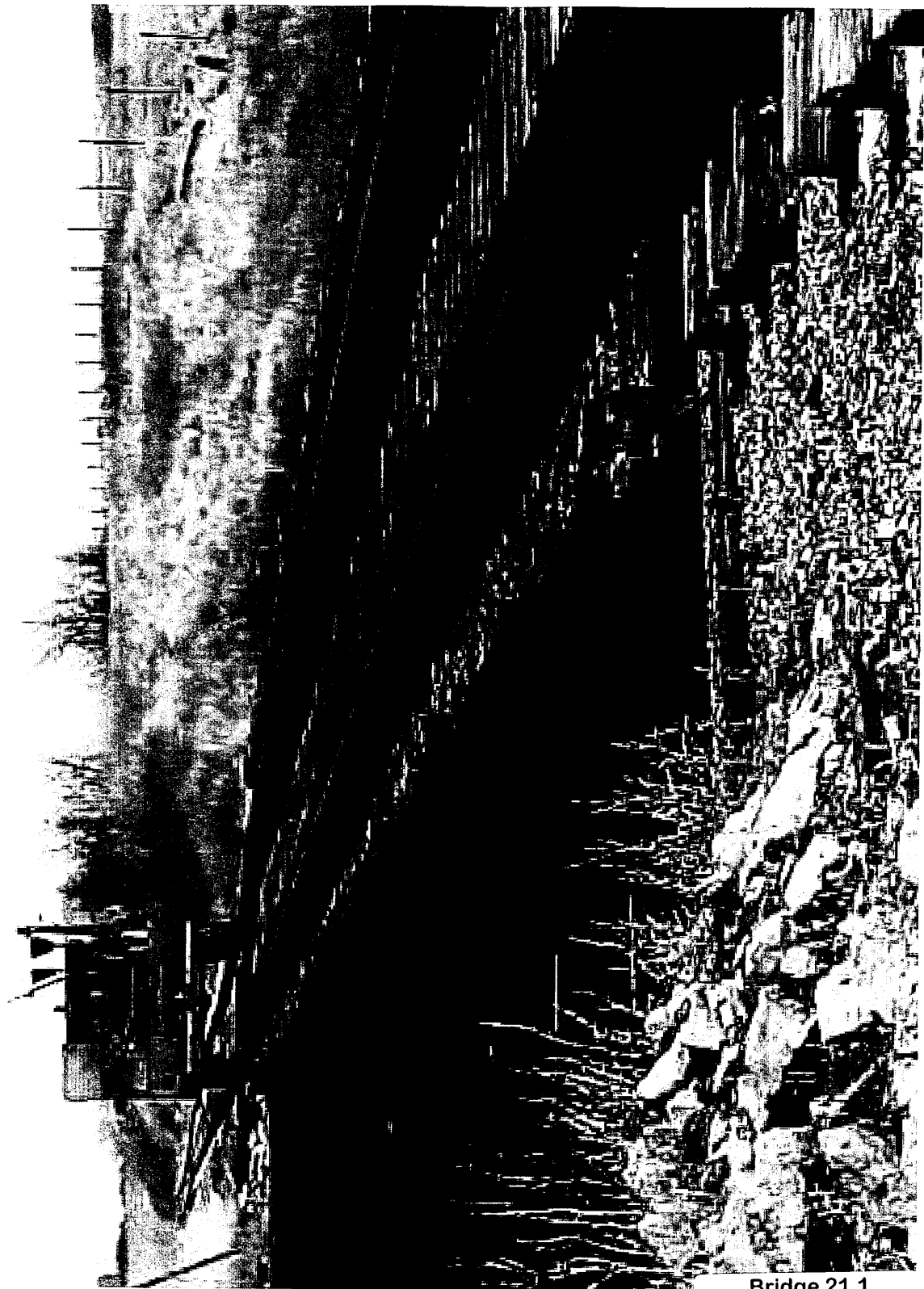


Bridge 21.1



0105

Bridge 21.1



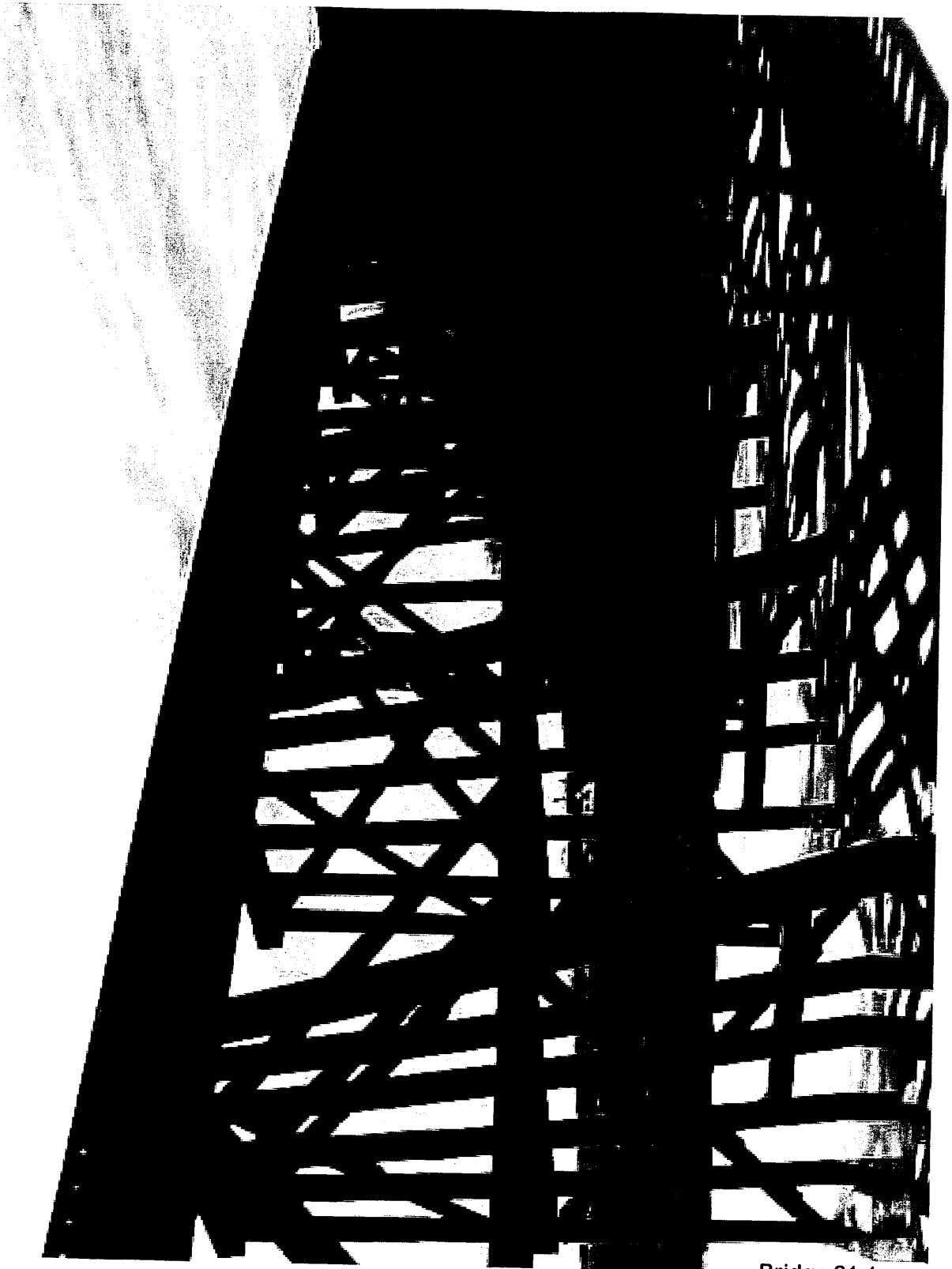
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Bridge 21.1

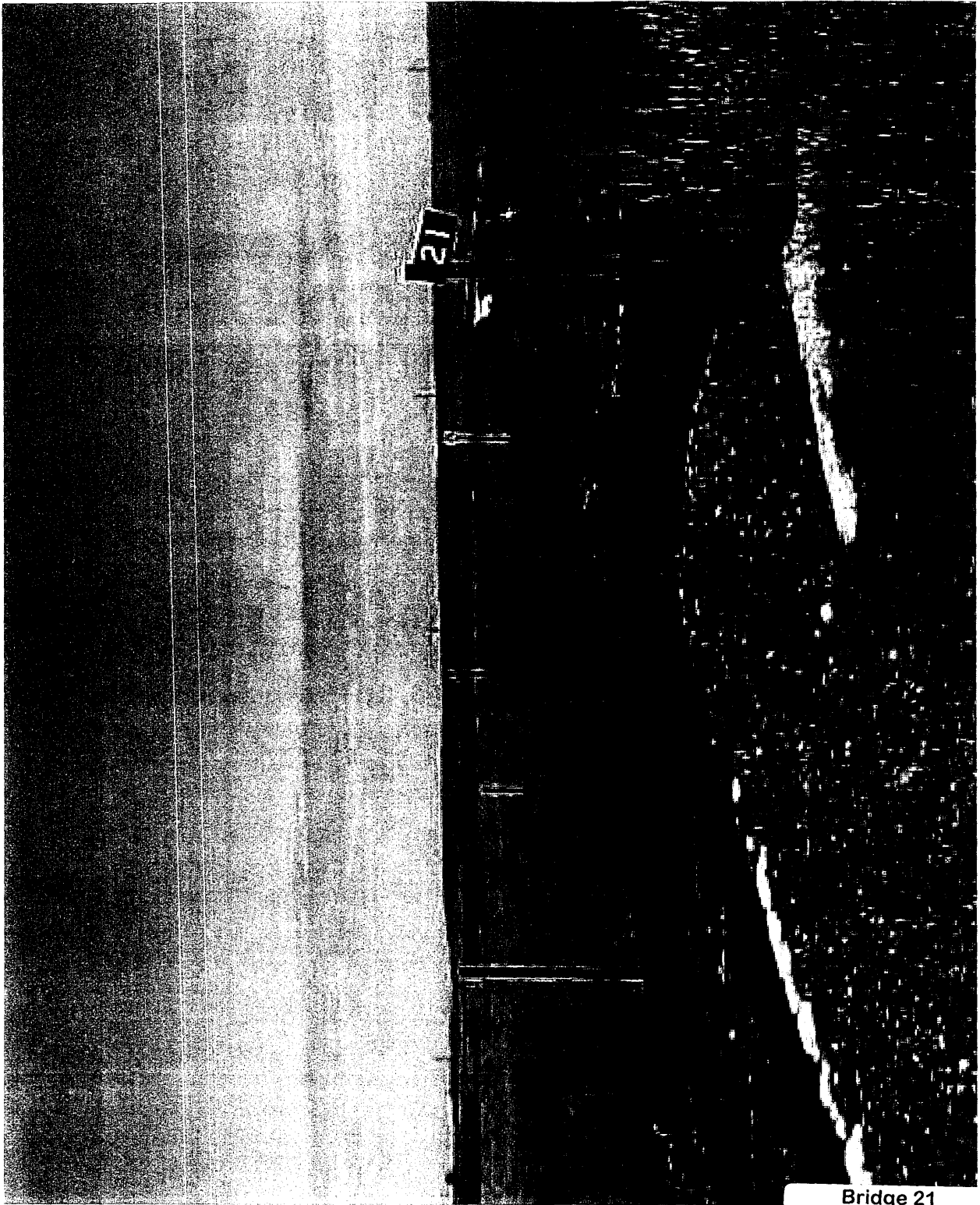
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Bridge 21.1

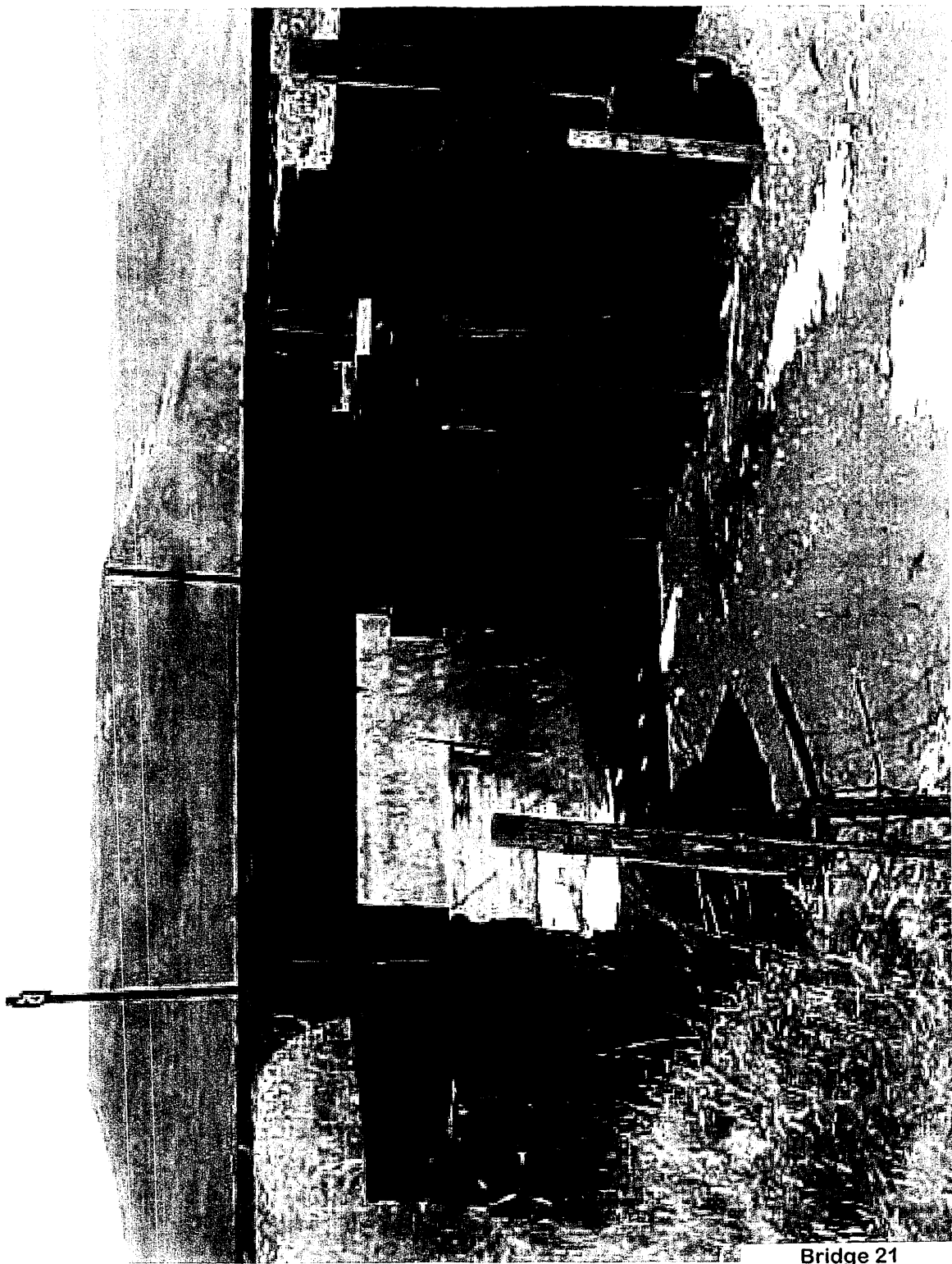


Bridge 21.1



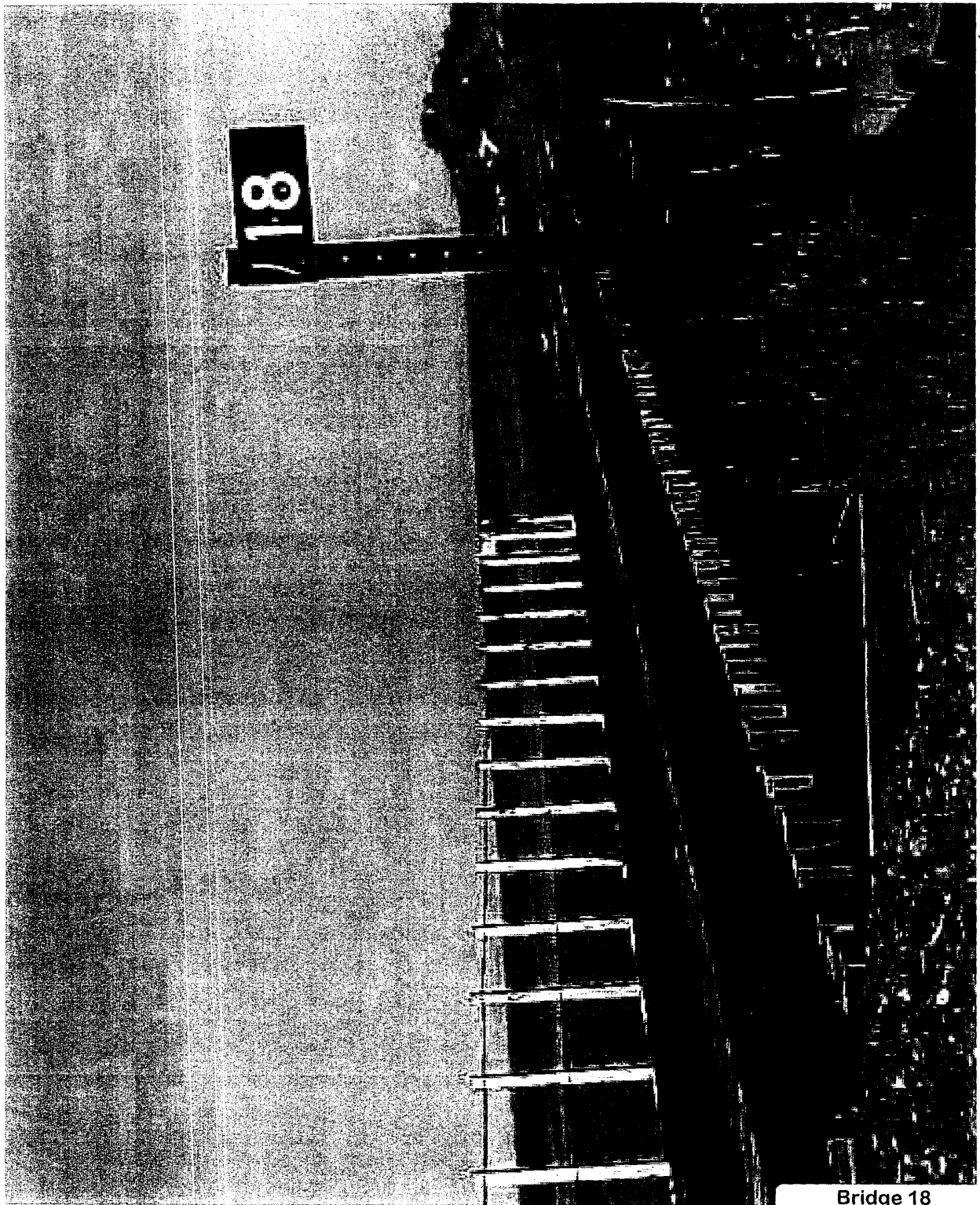
0145

Bridge 21



0155

Bridge 21



0175

Bridge 18

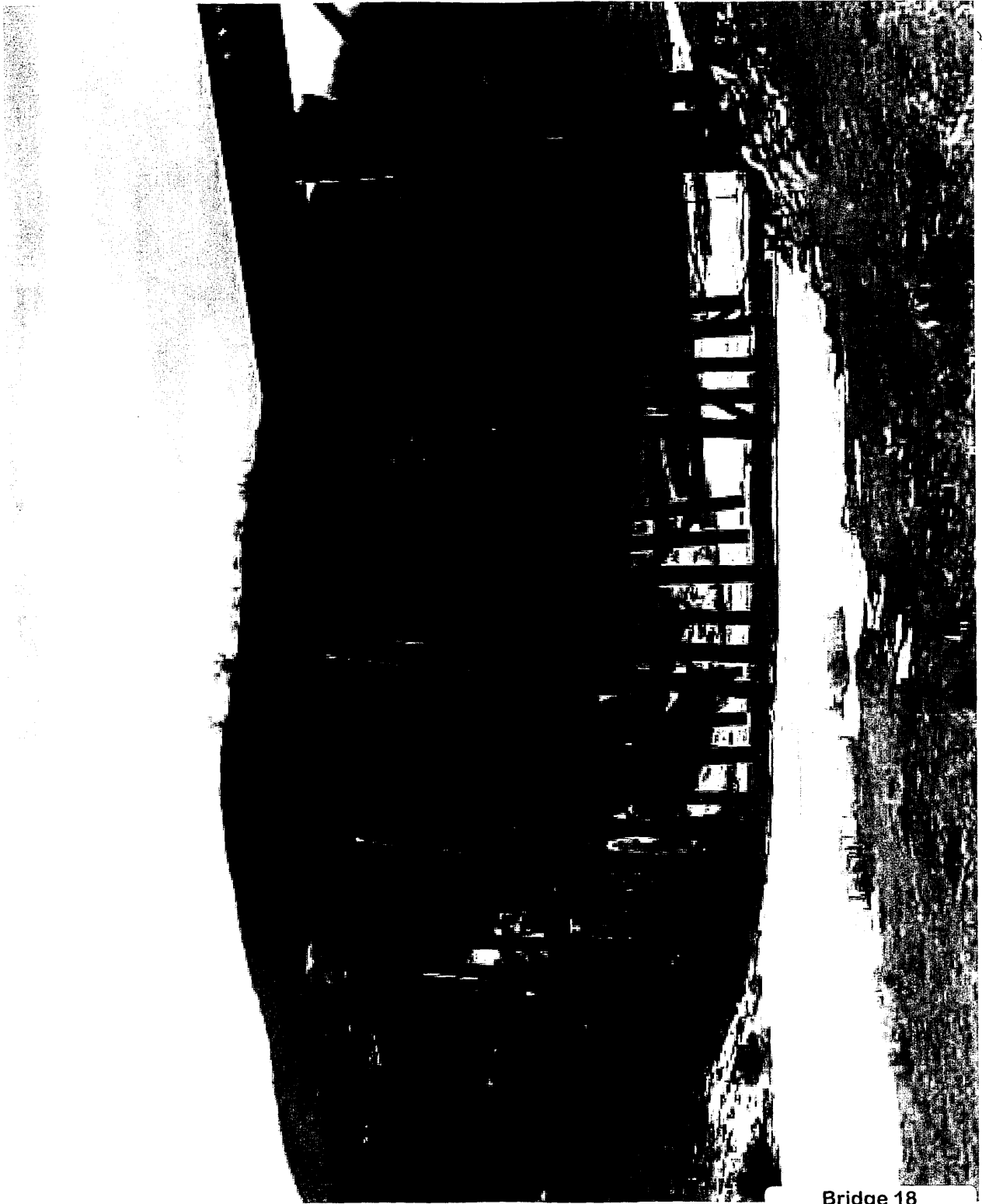


0185

Bridge 18



Bridge 18



0305

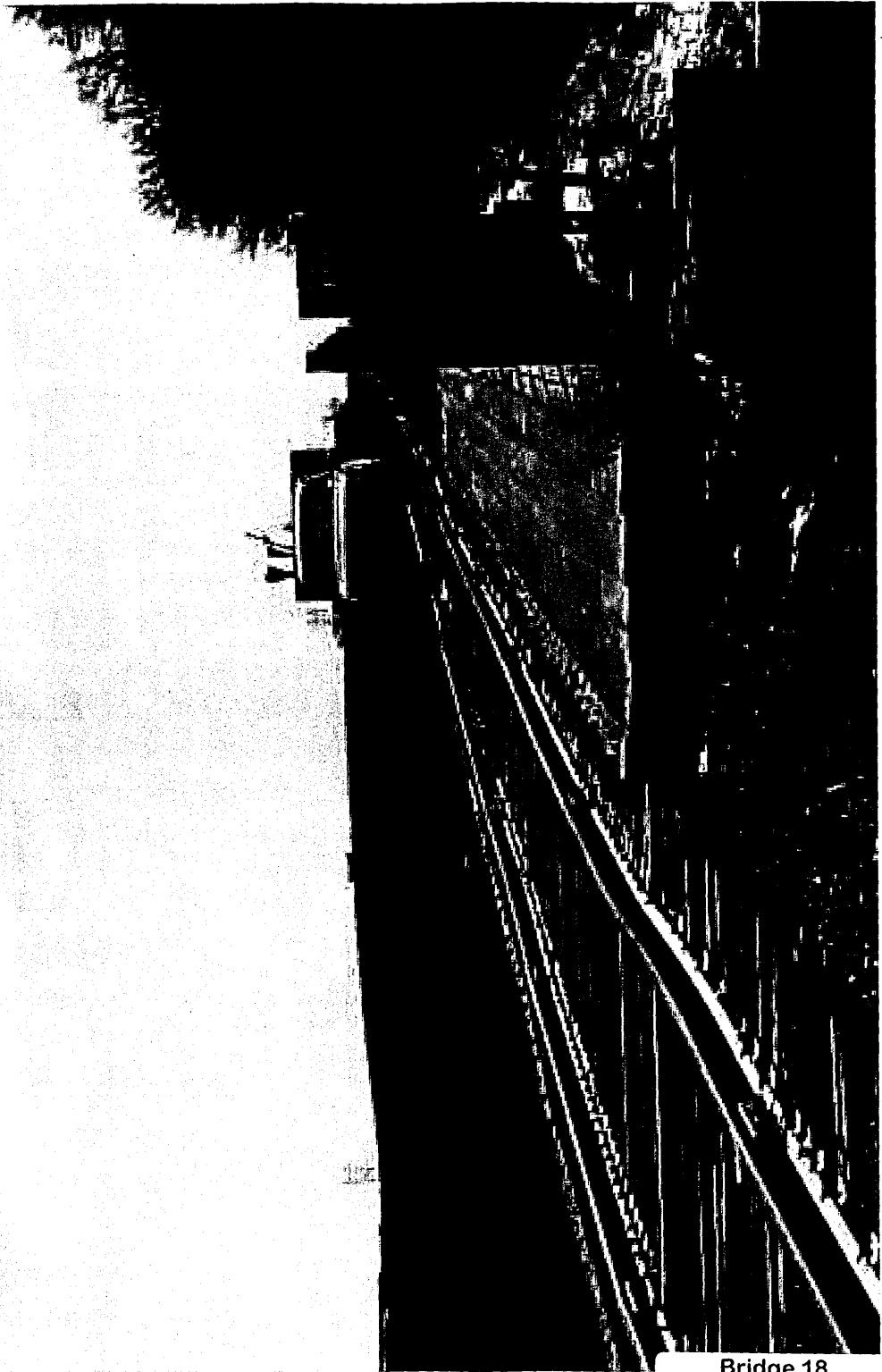
Bridge 18



0815

Bridge 18

0225



Bridge 18



0233

Bridge 17

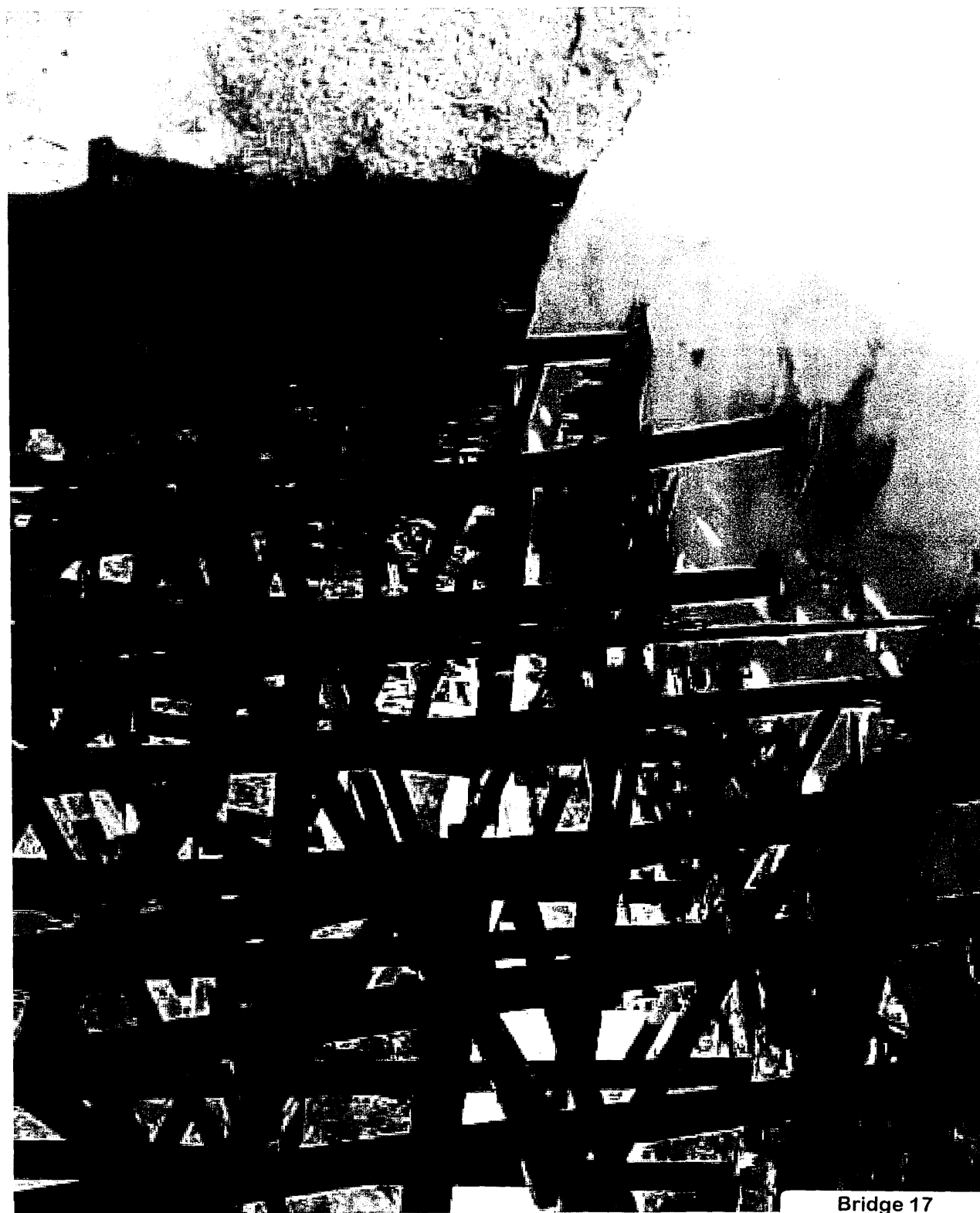
5220



Bridge 17



Bridge 17



0255

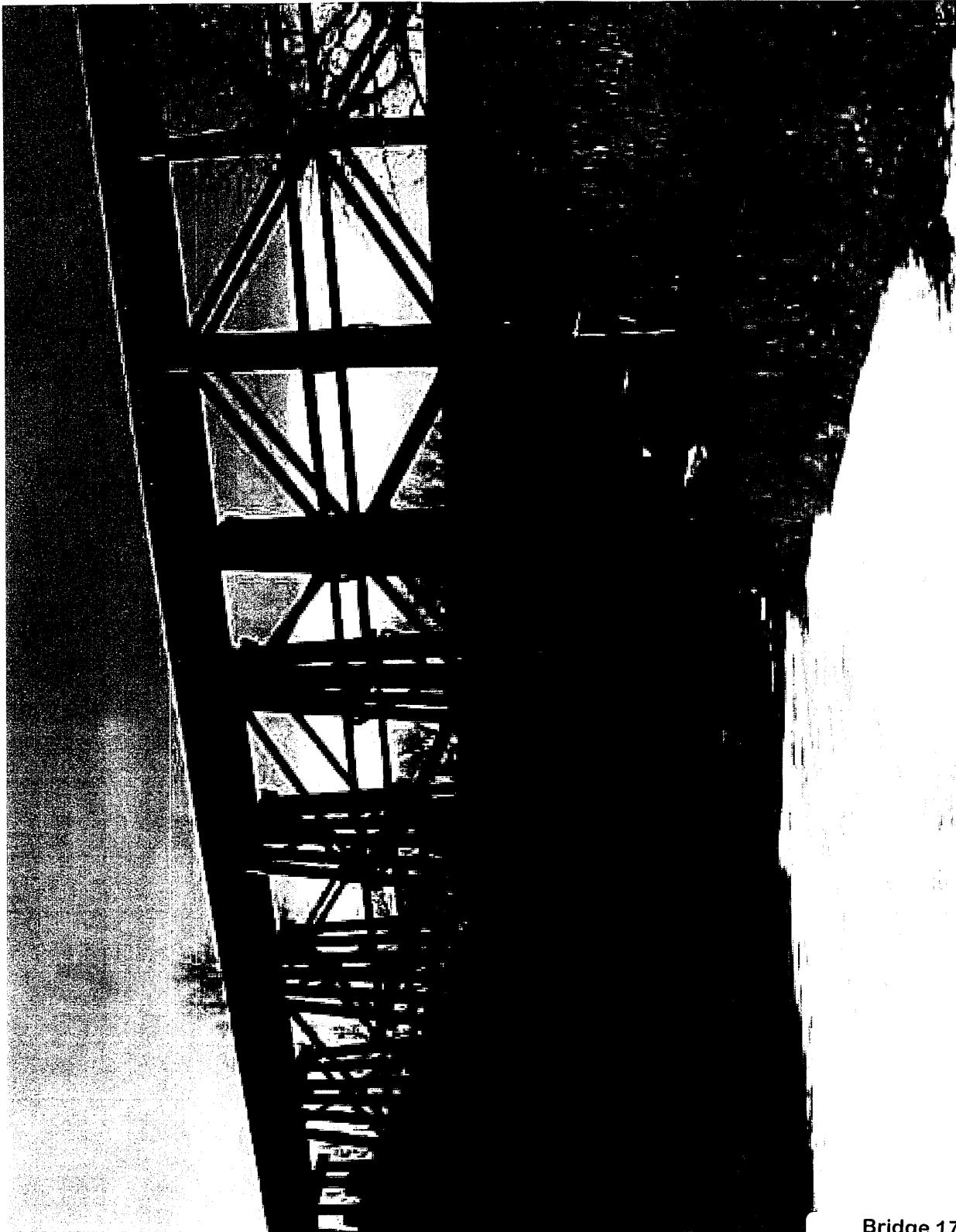
Bridge 17



Bridge 17

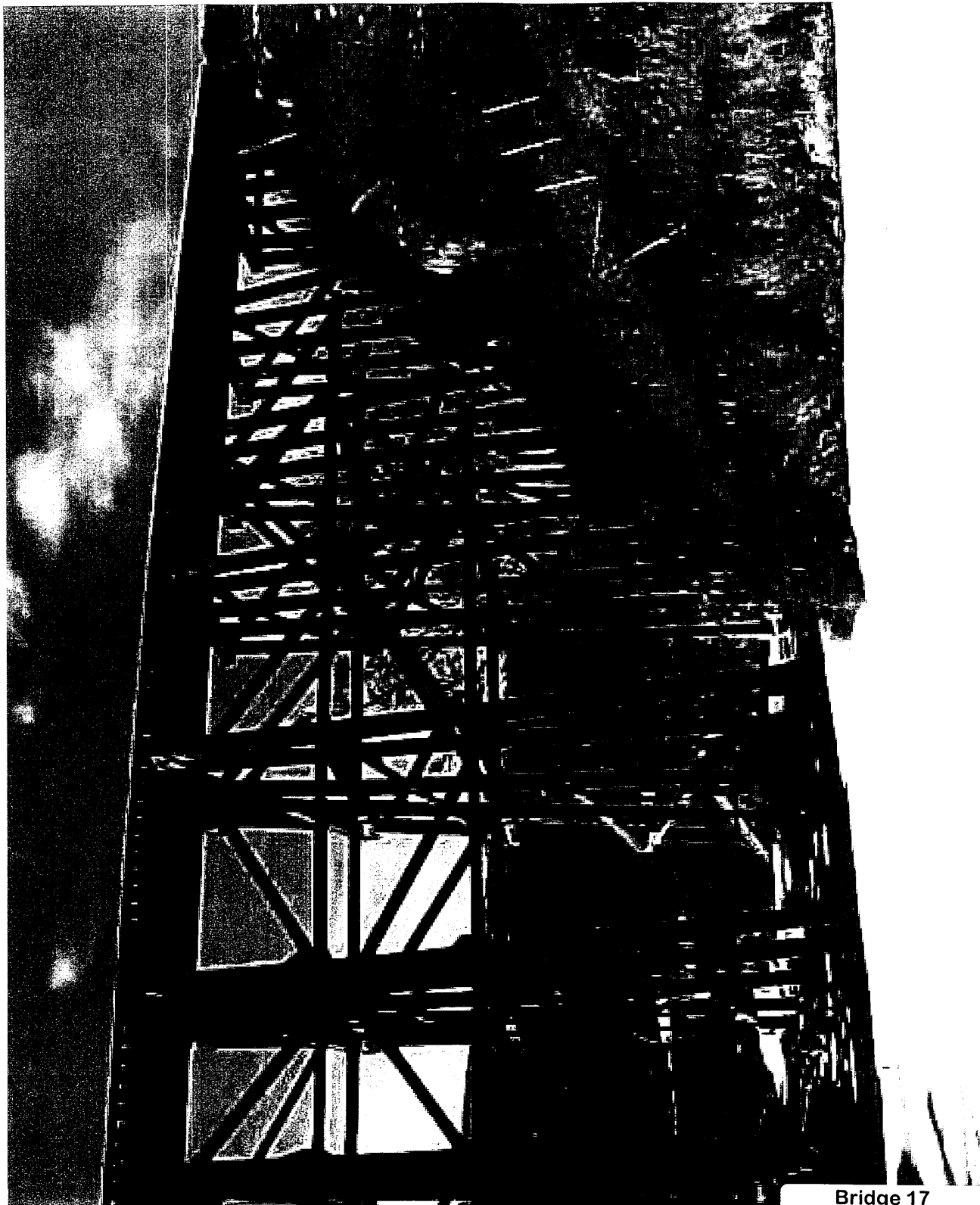


Bridge 17



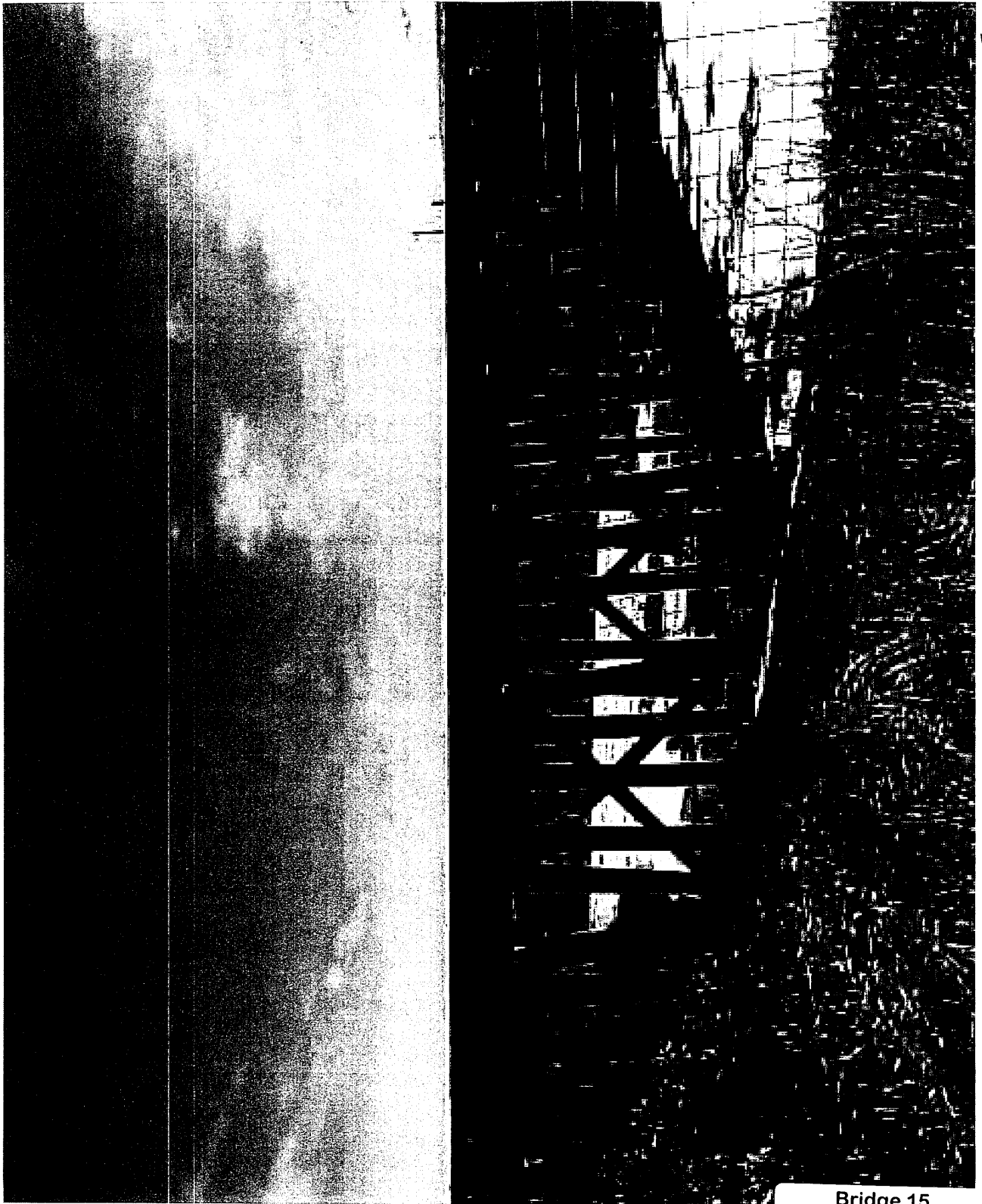
0285

Bridge 17



Bridge 17

0293



0265

Bridge 15



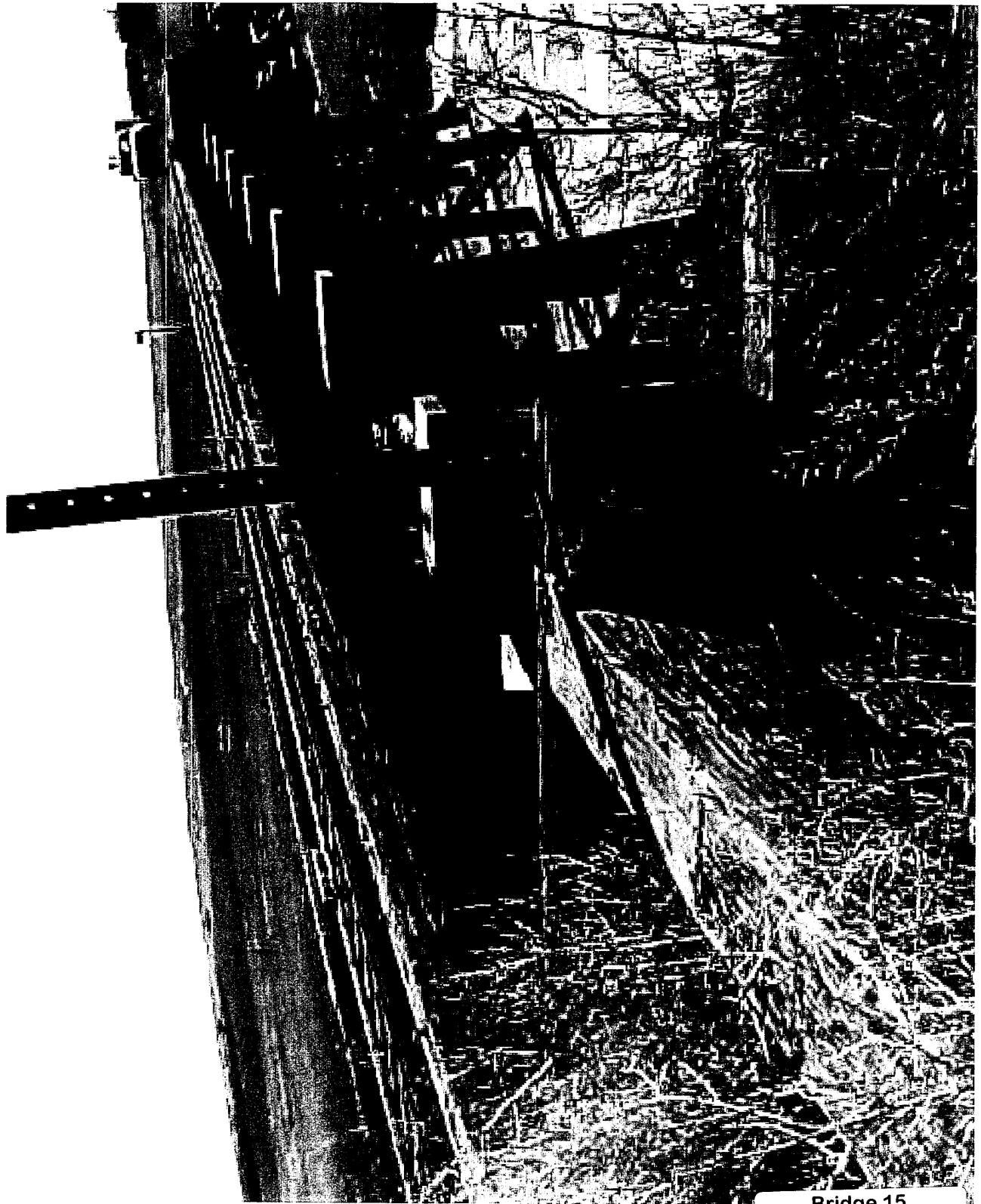
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Bridge 15

S 820

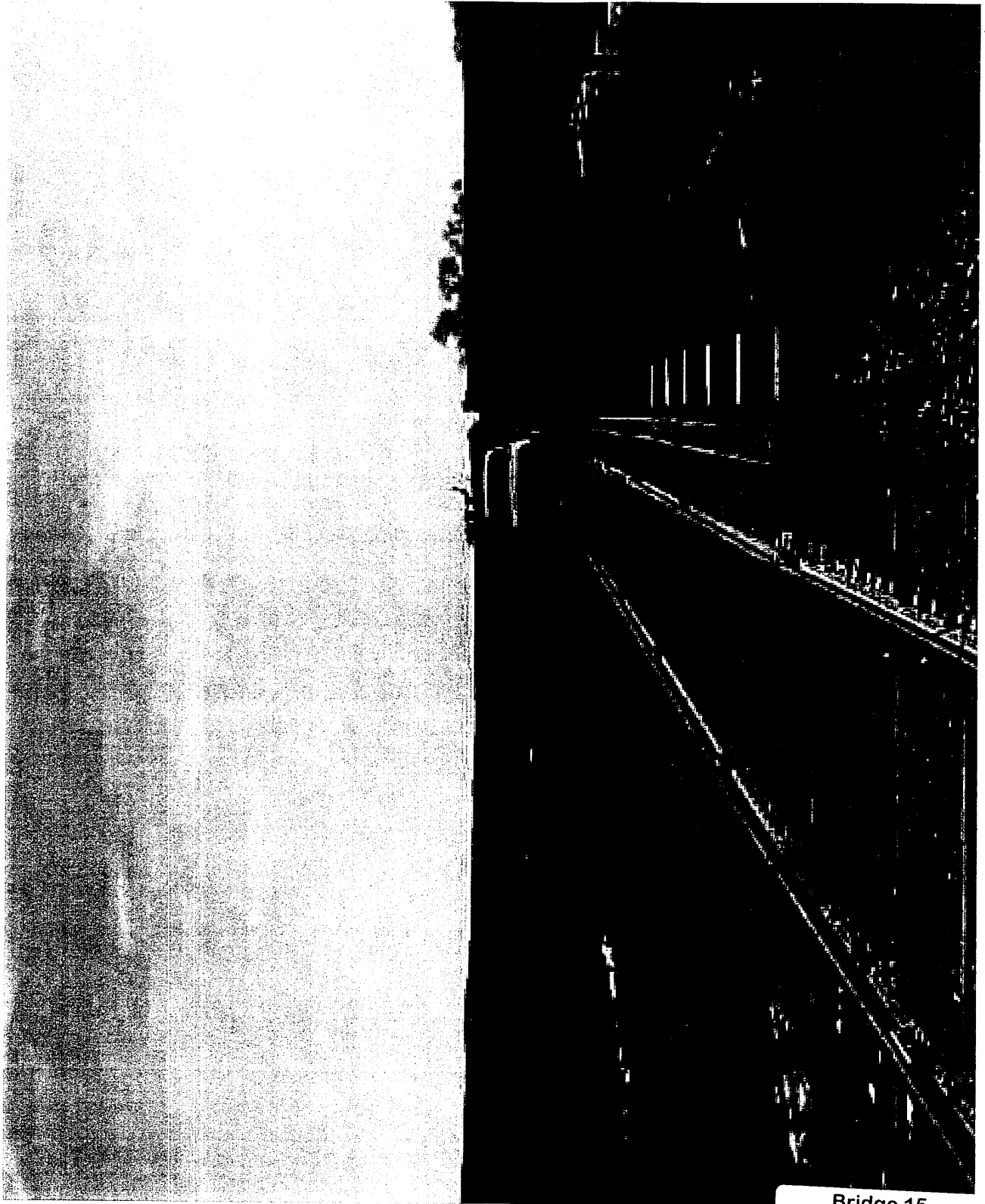


Bridge 15



0065

Bridge 15



Bridge 15

APPENDIX I



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

John Hoeven
Governor of North Dakota

North Dakota
State Historical Board

Diane K. Larson
Bismarck - President

Marvin L. Kaiser
Williston - Vice President

Albert I. Berger
Grand Forks - Secretary

Chester E. Nelson, Jr.
Bismarck

Gerold Gerntholz
Valley City

A. Ruric Todd III
Jamestown

Sara Otte Coleman
*Director
Tourism Division*

Kelly Schmidt
State Treasurer

Alvin A. Jaeger
Secretary of State

Douglass Prchal
*Director
Parks and Recreation
Department*

David A. Sprynczynatyk
*Director
Department of Transportation*

John E. Von Rueden
Bismarck

Merlan E. Paaverud, Jr.
Director

*Accredited by the
American Association
of Museums*

February 2, 2005

Janie C.I. Sheng
Kirkpatrick and Lockhart LLP
1800 Massachusetts Avenue, 2nd Floor
Washington, DC 20036

ND SHPO REF.: 05-0395, Proposed Dakota, Missouri Valley & Western Railroad, Inc.
Abandonment, Burleigh and Emmons Counties, ND. STB Docket AB-933X.

Dear Ms. Sheng:

We have reviewed Project: 05-0395, proposed abandonment of the Dakota, Missouri Valley & Western Railroad, Inc. Rail-line between the Cities of Moffitt and Linton, ND in portions of Burleigh and Emmons Counties, North Dakota.

We recommend that a Class I Cultural Resources Inventory (i.e., files search) of the Area of Potential Effect (APE) be prepared and submitted to our office for consultation. The results of the files search should include a short report detailing all cultural resources (including potential or actual historic properties) in the legal sections of the APE, a table with the APE's legal locations listed, and 7.5' topographic maps with the APE, cultural resources, and previously inventoried areas plotted and identified on them.

We also recommend that any unrecorded railway bridges and/or stations with standing structures over 50 years of age that are to be abandoned be formally recorded on NDCRS site forms. The recording should be completed by a state permitted cultural resource firm, and include recommended evaluations. We are providing a list of state permitted firms.

Thank you for the opportunity to review this project. Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Fern Swenson at (701) 328-3575 or Paul Picha at (701) 328-3574.

Sincerely,

Merlan E. Paaverud, Jr.
State Historic Preservation Officer (North Dakota)
&
Director, State Historical Society of North Dakota

cc: STB, Washington, D.C.

2005 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
Anthropology Research Department of Anthropology University of North Dakota P. O. Box 7094 Grand Forks, ND 58202-7094 Contact: Dr. Dennis Toom Telephone: 701-777-2437 Fax: 701-777-2435 email: dennis_toom@und.nodak.edu (01/2005)	X	X	X
OR			
UNДАР-West P. O. Box 737 Belfield, ND 58622 Contact: Dr. Dennis Toom Telephone: 701-575-4074 (01/2005)	X	X	X
Bear Creek Archeology, Inc. P. O. Box 347 Cresco, Iowa 52136 Contact: David Stanley Telephone: 563-547-4545 (12/2004)	X		
Ethnoscience, Inc. 4140 King Avenue East Billings, MT 59101 Contact: Lynelle Peterson Telephone: 406-252-7945 Fax: 406-252-9483 (12/2004)	X		X
GCM Services, Inc. Box 3047 Butte, MT 59702 Contact: David Ferguson Telephone: 406-723-4387 (12/2004)	X		X

2005 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
Greystone Environmental Consultants, Inc. 5231 South Quebec St. Greenwood Village, CO 80111 Contact: Carl Späth Telephone: 303-850-0930 Fax: 303-721-9298 (01/2005)	X		
Lou Hafermehl 610 North 7th Street #11 Bismarck, ND 58501 Telephone: 701-250-8544 (12/2004)		X	X
Metcalf Archaeological Consultants, Inc. P. O. Box 899 Eagle, CO 81631 Contact: Mike Metcalf Telephone: 970-328-6244 1-800-755-6241 (12/2004)	X		
OR			
Metcalf Archaeological Consultants, Inc. P. O. Box 2154 Bismarck, ND 58502 Contact: Suzanne Nelsen Telephone: 701-258-1215 (12/2004)	X		
Metis Cultural Resource Consultants P. O. Box 792 Belcourt, ND 58316 Contact: Kade M. Ferris Telephone: 701-244-0160 (12/2004)			X

2005 NORTH DAKOTA CULTURAL RESOURCE INVESTIGATION PERMIT HOLDERS

<u>PERMIT HOLDER</u>	<u>EXPERTISE</u>		
	Archeology	Historic Architecture	History
Minnesota State University Moorhead 1104 7 th Avenue South Moorhead, MN 56563 Contact: Dr. Michael Michlovic Telephone: 218-477-2035 (12/2004)	X		
ND Department of Transportation 608 E. Blvd. Ave Bismarck, ND 58505 Contact: Robert Christensen Telephone: 701-328-4539 (01/2005)	X		
Renewable Technologies, Inc. 511 Metals Bank Bldg. Butte, MT 59701 Contact: Kimberly L. Tintinger Telephone: 406-782-0494 Fax: 406-782-3064 (12/2004)	X	X	X
The Louis Berger Group, Inc. 950 50 th Street Marion, IA 52302 Contact: Randall Withrow Telephone: 319-373-3043 Fax: 319-373-3045 (01/2005)	X	X	
TRC Mariah Associates, Inc. 605 Skyline Drive Laramie, WY 82070-8909 Contact: Craig S. Smith Telephone: 307-742-3843 Fax: 307-745-8317 (11/2004)	X		X



**STATE
HISTORICAL
SOCIETY
OF NORTH DAKOTA**

RECEIVED

APR - 6 2005

John Hoeven
Governor of North Dakota

North Dakota
State Historical Board

Diane K. Larson
Bismarck - President

Marvin L. Kaiser
Williston - Vice President

Albert I. Berger
Grand Forks - Secretary

Chester E. Nelson, Jr.
Bismarck

Gerold Gerntholz
Valley City

A. Ruric Todd III
Jamestown

Sara Otte Coleman
Director
Tourism Division

Kelly Schmidt
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Alvin A. Jaeger
Secretary of State

Douglass Prchal
Director
Parks and Recreation
Department

David A. Sprynczynatyk
Director
Department of Transportation

John E. Von Rueden
Bismarck

Merlan E. Paaverud, Jr.
Director

Accredited by the
American Association
of Museums

4 April 2005

Mark William Stockman
Dakota, Missouri Valley & Western Railroad, Inc
3501 East Rosser Ave
Bismarck ND 58501

NDSHPO REF: 05-0395; Moffit to Linton DMVW Railroad abandonment;
STB Docket AB-933X

Dear Mr. Stockman:

Thank you for providing the CD of images of several railroad bridges along the DMVW Railroad between Moffit and Linton. We recommend that Bridges 15, 17, 18, 21, 24, 43, and 44 be recorded on NDCRS (North Dakota Cultural Resources Survey) Site Forms and be submitted to our office. The recording must be completed by a state permitted cultural resource firm. Provided these site forms are acceptably completed for these railroad bridges, we recommend a *no historic properties affected* determination for this undertaking (removal of rails).

In reviewing the file search it appears that the line definitely crosses Appert Lake National Wildlife Refuge near Hazelton and is adjacent to Long Lake National Wildlife Refuge. U.S. Fish and Wildlife Service manages those properties and must be consulted regarding any undertaking on lands they manage.

If you have any questions or need additional information, please feel free to contact Fern Swenson, Deputy State Historic Preservation Officer, at 701-328-3575.

Sincerely,

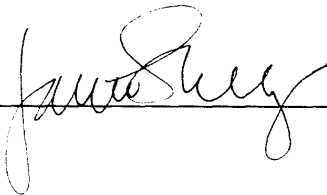
for Merlan E. Paaverud, Jr.
State Historic Preservation Officer
(North Dakota)

APPENDIX J

APPENDIX J
CERTIFICATE OF SERVICE
OF
ENVIRONMENTAL AND HISTORIC REPORT

I hereby certify that on March 21, 2005, I served the Environmental Report and Historic Report for Surface Transportation Board Docket No. AB-933X pursuant to 49 C.F.R. §§ 1152.50, 1105.7(b) and 1105.11 by first-class United States mail, postage prepaid, upon the parties listed on the Environmental Contact List, which were previously consulted by letter dated January 19, 2005. I further certify that on February 22, 2005 a public notice was published in a newspaper of general circulation in the counties in which the Subject Line is located pursuant to 49 C.F.R. §§ 1152.50, 1105.7(c) and 1105.12.

Dated this 21st day of March, 2005.



APPENDIX K



Kirkpatrick & Lockhart Nicholson Graham LLP

1800 Massachusetts Avenue, N.W.
Suite 200
Washington, DC 20036-1221
202.778.9000
Fax 202.778.9100
www.klmg.com

March 18, 2005

Janie C. I. Sheng
202.778.9855
Fax: 202.778.9100
jsheng@klmg.com

Mr. Dean C. Hildebrand
Director
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501-5095

Re: Docket No. AB-933X
Dakota, Missouri Valley & Western Railroad, Inc. –
Abandonment Exemption – In Burleigh and Emmons Counties, North Dakota

Dear Mr. Hildebrand:

Dakota, Missouri Valley & Western Railroad, Inc. ("DMVW"), expects shortly to file with the Surface Transportation Board ("Board") a notice of exemption from the provisions of 49 U.S.C. § 10903 to abandon a portion of the McKenzie-Linton Line between approximately milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota (the "Subject Line").¹ The total distance of the Subject Line is approximately 32.3 route miles. A map showing the location of the Subject Line is attached for your reference.

In accordance with the Board's environmental regulations, 49 C.F.R. § 1105, we are advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following:

1. Regional or local land use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year flood plains;
7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;

¹ DMVW acquired by purchase a permanent and exclusive rail service easement over the entire McKenzie-Linton Line from Burlington Northern Santa Fe Railway Company ("BNSF"). BNSF donated and conveyed to the Linton Industrial Development Corporation its ownership interest in the right-of-way over the entire McKenzie-Linton Line.

DC 702640 v1

BOSTON • DALLAS • HARRISBURG • LONDON • LOS ANGELES • MIAMI • NEWARK • NEW YORK • PITTSBURGH • SAN FRANCISCO • WASHINGTON



Kirkpatrick & Lockhart Nicholson Graham LLP

Mr. Dean C. Hildebrand
March 18, 2005
Page 2

9. Existing or potential safety hazards; or
10. Coastal Zone Management Areas.

Please also advise us if permits under Section 402 or 404 of the Clean Water Act (33 U.S.C. §§ 1342, 1344) are required for the proposed abandonment.

We would appreciate your review of the proposed action and provision of any comments you may have in a written response as soon as possible. Any written comments should reference Docket No. AB-933X and be sent to:

Janie Sheng
Kirkpatrick & Lockhart Nicholson Graham LLP
1800 Massachusetts Avenue
Washington, DC 20036

with a copy to:

Surface Transportation Board
Section of Environmental Analysis
Room 500
1925 K Street, N.W.
Washington, D.C. 20423-0001

In accordance with the Board's regulations, a copy of the Environmental Report prepared in connection with this abandonment will be forwarded to you at least twenty days before the petition for exemption is filed at the Board. If you have any questions or need additional information in the meantime, please feel free to contact me at (202) 778-9855.

Sincerely,

A handwritten signature in black ink, appearing to read 'Janie Sheng', written over a horizontal line.

Janie C. I. Sheng

**Attorney for Dakota, Missouri Valley
& Western Railroad, Inc.**

Enclosure

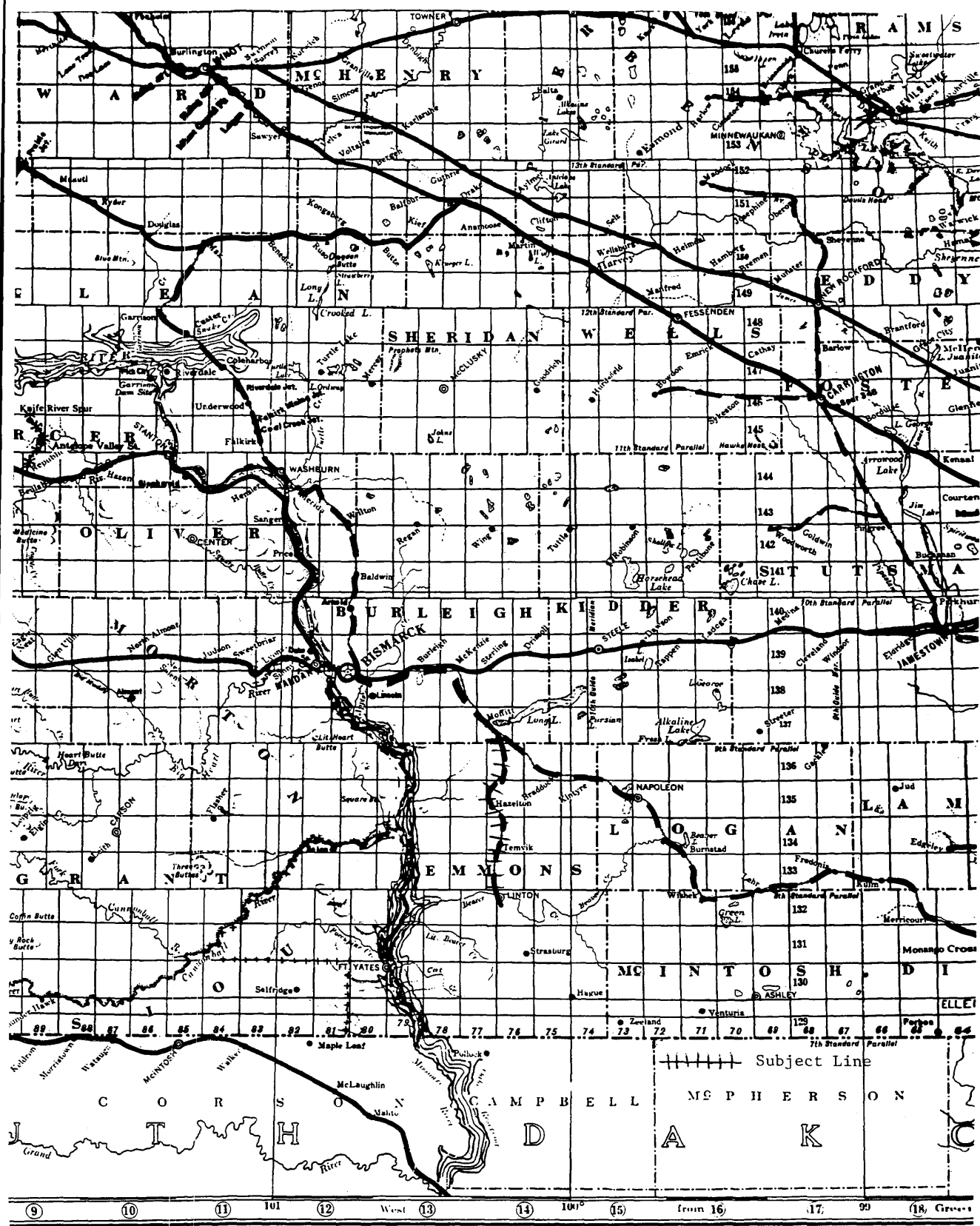


EXHIBIT 5

BISMARCK TRIBUNE

bismarcktribune.com

AFFIDAVIT OF PUBLICATION
STATE OF NORTH DAKOTA } SS
County of Burleigh

BEFORE ME, A NOTARY PUBLIC FOR THE STATE OF NORTH DAKOTA
PERSONALLY APPEARED CB WHO BEING DULY SWORN, DEPOSES AND
SAYS THAT HE (SHE) IS THE CLERK OF BISMARCK TRIBUNE COMPANY,
AND THAT THE ABOVE PUBLICATIONS Bismarck Tribune WERE
MADE THROUGH THE AFORESAID NEWSPAPER AT THE DATES SHOWN
2/22/04 SIGNED Candice Blum
SWORN AND SUBSCRIBED TO BEFORE ME THIS 14th
DAY OF March 20 05

Morgan Doll
Notary Public in and for the State of North Dakota, Residing at Bismarck



Total \$85.00

BEFORE THE SURFACE
TRANSPORTATION BOARD
WASHINGTON, D.C.
Docket No. AB-933X
DAKOTA, MISSOURI VALLEY &
WESTERN RAILROAD, INC.
- ABANDONMENT EXEMPTION -
IN BURLEIGH AND EMMONS
COUNTIES, NORTH DAKOTA
NOTICE OF INTENT TO FILE
Dakota, Missouri Valley & Western Railroad,
Inc. ("DMVV") gives notice that it expects
shortly to file with the Surface
Transportation Board, Washington, D.C.
20423, a notice of exemption under 49 CFR
1152 Subpart F - Exempt Abandonments per-
mitting the abandonment of a approximately
32.3 mile line of railroad located between
approximately milepost 13.0, a point south of
Moffitt, Burleigh County, North Dakota,
which traverses through United States Postal
Service ZIP Code 58560, and milepost 45.3
in Linton, Emons County, North Dakota,
which traverses through United States
Postal Service ZIP Codes 58524, 58544
and 58532. The proceeding will be docketed
as No AB-933X.
The Board's Section of Environmental
Analysis (SEA) 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 Section of Environmental
Analysis (SEA), Surface Transportation Board,
Washington, D.C. 20423 or by calling that
office at 202-927-6211.
Appropriate offers of financial assistance to
continue rail service can be filed with the
Board. Requests for environmental condi-
tions, public use, conditions, or rail
banking/trails use also can be filed with the
Board. An original and 10 copies of any plead-
ing that raises matters other than environ-
mental issues (such as trails use, public use,
and offers of financial assistance) must be
filed directly with the Board's Office of the
Secretary, 1925 K Street, NW, Washington,
D.C. 20423 [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
Congressional and Public Services at 202-
927-7597. Copies of any comments or
requests for conditions should be served on
the applicant's representative: Jane Sheng,
Kirkpatrick & Lockhart LLP, 1800
Massachusetts Avenue, NW, Washington,
D.C. 20036 (202-778-9000).
2/22 - 196993

EXHIBIT 6

CERTIFICATE OF NOTIFICATION

I hereby certify that on or before April 1, 2005, a written notice containing the information specified in 49 C.F.R. § 1152.50(d)(1) was served by first class mail, postage prepaid, upon the following agencies as designated in that section:

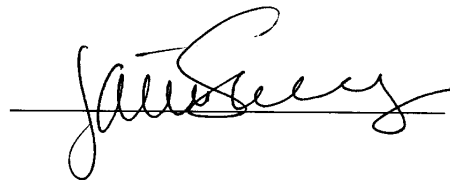
Tony Clark
President
North Dakota Public Service Commission
600 E. Boulevard, Dept.408
Bismarck, ND 58505-0480

SDDCTEA
ATTN: Railroads for National Defense
Mr. William Cooper
Director
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-4537

Mr. Ernie Quintana
Regional Director
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102

Ms. Fran P. Mainella
Director
National Park Service
1849 C Street NW
Washington, DC 20240

U.S.D.A. Forest Service
Chief of the Forest Service
1400 Independence Avenue, SW
Washington, DC 20250-0003

A handwritten signature in dark ink, appearing to read "James S. [unclear]", is written over a horizontal line.

Dated: April 11, 2005



Kirkpatrick & Lockhart Nicholson Graham LLP

1800 Massachusetts Avenue, N.W.
Suite 200
Washington, DC 20036-1221
202.778.9000
Fax 202.778.9100
www.klmg.com

March 31, 2005

Janie C.I. Sheng
(202) 778-9855
(202) 778-9100
jsheng@klmg.com

TO: ALL PARTIES ON THE ATTACHED DISTRIBUTION LIST

RE: Docket No. AB-933X
Dakota, Missouri Valley & Western Railroad, Inc. –
Abandonment Exemption –
In Burleigh and Emmons Counties, North Dakota

Dear Sir or Madam:

Pursuant to 49 C.F.R. 1152.50(d)(1), Dakota, Missouri Valley & Western Railroad, Inc. ("DMVW") hereby gives notice that it expects to file with the Surface Transportation Board a Notice of Exemption from regulation in accordance with the exemption regulations set forth at 49 C.F.R. 1152, subpart F, on or about April 11, 2005. DMVW is seeking authority to abandon a portion of the McKenzie-Linton line between milepost 13.0, a point south of Moffitt, Burleigh County, North Dakota, and milepost 45.3 in Linton, Emmons County, North Dakota, a total distance of approximately 32.3 route miles, which traverses through United States Postal Service ZIP Codes 58560, 58524, 58544 and 58552. No revenue traffic has originated or terminated on the line to be abandoned for more than two years, and any overhead traffic can be rerouted over other lines. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Janie Sheng
**Attorney for Dakota, Missouri Valley
& Western Railroad, Inc.**

cc: Mark Stockman (DMVW)



Kirkpatrick & Lockhart Nicholson Graham LLP

March 31, 2005

Page 2

DISTRIBUTION LIST

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
— ABANDONMENT EXEMPTION —
IN BURLEIGH AND EMMONS COUNTIES, NORTH DAKOTA

Tony Clark
President
North Dakota Public Service Commission
600 E. Boulevard, Dept.408
Bismarck, ND 58505-0480

SDDCTEA
ATTN: Railroads for National Defense
Mr. William Cooper
Director
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-4537

Mr. Ernie Quintana
Regional Director
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102

Ms. Fran P. Mainella
Director
National Park Service
1849 C Street NW
Washington, DC 20240

U.S.D.A. Forest Service
Chief of the Forest Service
1400 Independence Avenue, SW
Washington, DC 20250-0003