

228533



General Railway Corporation
dba

ENTERED
Office of Proceedings

SEP 05 2008

Part of
Public Record

Iowa Northwestern Railroad

4814 Douglas St. Omaha, NE 68132
V (402) 558-0553 Cell (712) 574-9800
john@ianwrr.com

4 Sept 2008
VIA: Fed Ex

FEE RECEIVED

SEP 05 2008

SURFACE TRANSPORTATION BOARD

Ms. Anne Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20024

Re: General Railway Corporation, dba Iowa Northwestern Railroad
Abandonment Exemption in Osceola and Dickinson Counties, Iowa
STB Docket No. AB-1067 (2X)

Dear Secretary Quinlan:

Enclosed for filing are the original and ten copies of a Notice for Exemption for abandonment in the afore-mentioned proceeding and our check in the amount of \$3,700 representing the filing fee. Also enclosed is a computer diskette with the notice, environmental report and historic report.

Please time-stamp the extra copy of this letter to indicate receipt and return it to me in the stamped, self-addressed envelope provided for your convenience

Respectfully


John F. Larkin
President

Enclosures

cc: All Parties on Service List (w/enclosure)

FILED

SEP 05 2008

SURFACE TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

Docket No. AB 1076 (2X)



**IOWA NORTHWESTERN RAILROAD - ABANDONMENT EXEMPTION
IN OSCEOLA AND DICKINSON COUNTIES, IOWA**

NOTICE OF EXEMPTION

General Railway Corporation, doing business as the Iowa Northwestern Railroad ("IANW") files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. part 1152.50 for IANW to abandon approximately 36.9 miles of track between Milepost 215.4, west of Mackenzie Junction, IA and Milepost 252.3 west of Braaksma, IA, located in Dickinson and Osceola Counties, Iowa.

1. **Proposed Consummation Date.** On or soon after the date this notice of exemption becomes Effective, IANW will take steps to consummate its abandonment of the line or enter into trail use negotiations.
2. **Certificate required by 49 C.F.R. part 1152.50(b).** See Exhibit A.
3. **Information required by 49.C.F.R. part 1152.22(a)(1) through (4), (7), and (8), and (e)(4).**

(a) General:

(1) Exact name of applicant. General Railway Corporation doing business as the Iowa Northwestern Railroad.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105. IANW is a common carrier by railroad.

(3) Relief sought. IANW seeks to use the class exemption at 49 C.F.R. part 1152.50 to abandon the track between milepost 215.40 (E.S. 546+52) west of Mackenzie Junction, IA and milepost 252.3 (E.S. 886+81) west of Braaksma (formerly

Allendorf), IA. There has been no local traffic on the segment from MP 246.0 (Ocheyedan) to MP 252.3 (Braaksma) since the line was purchased by IANW in 2001. There has been no local traffic on the remainder of the line segment since December 2003. There has been no overhead traffic on the line since the mid-1990's. The line has been subject to a series of embargoes by Union Pacific Railroad since 5 December 2003.

No formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the past 2 years. Coop Elevator Association at Ocheyedan, IA (CEA) filed a complaint in the United States District Court for the Northern District of Iowa, Western Division, in July 2004 to force IANW to abandon a portion of the track that previously served their facility. This suit was later dismissed by the court. Prior to the dismissal, however, IANW filed for abandonment authority with the STB in December 2005. This abandonment was not permitted due to an oversight by IANW in requesting authority from the Board to purchase the line. This was corrected when IANW filed a Notice of Exemption on 21 December 2005. CEA objected to the initial abandonment request by IANW and also made other arguments about IANW's acquisition and operation authority that were rejected by the Board.

CEA has most recently filed a lawsuit in the State District Court in Sibley, IA asking the court to direct IANW into filing an abandonment exemption notice with the Board. This action remains pending

(4) Map. See Exhibit B.

(5) Name, title and address of representative to whom correspondence should be

sent: John F. Larkin, President, Iowa Northwestern Railroad, 4814 Douglas St.,
Omaha, NE 68132.

(6) List of all United States Postal Service ZIP codes that the line proposed for abandonment traverses. The line traverses ZIP codes 51249, 51347, 51345, 51354, 51360 and 51363.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of the property for other than rail purposes, this shall be disclosed.

The line traverses a predominantly rural area through three small towns. A state highway parallels the railroad to provide service to these towns. There is no reasonable expectation that the line could be used for mass transportation, roads or highways. While windmills or power transmission lines could conceivably use the right of way, the best use is as a conservation / recreation trail. The west end of the line is separated by less than ½ mile from an existing trail. In Spirit Lake, IA, a trail runs directly next to the right of way using a portion of the right of way that was dedicated to a trail many years ago. A major trail crossing is under separate negotiation here. The line runs through some of the more scenic areas of the counties and is approximately 1/4 to ½ mile from the parallel highway. IANW has had ongoing discussion with the Iowa Trails Council about conveying the right of way to them as a native prairie / recreational trail.

- 4. The level of labor protection. Existing railroad employees (one) will continue to work on the remaining 0.4 miles of track owned by IANW and not included in this abandonment notice.**
- 5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. part 1152.50(d)(1) and 1105.11 are attached as Exhibit C.**
- 6. Environmental Report. See Exhibit D. The line does not contain any federally granted rights-of-way. Any relevant documentation in the railroad's possession will be made available promptly to those requesting it.**

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No AB-1067 (Sub-No 2X) was advertised on 27 Aug 2008 in the Osceola County Gazette-Tribune, a newspaper of general circulation in Osceola County, IA, as required by 49 C.F.R. § 1105.12.

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1067 (Sub-No 2X) was advertised on 3 September 2008 in the Dickinson County News, a newspaper of general circulation in Dickinson County, IA as required by 49 C.F.R. § 1105.12.



John F. Larkin, President, Iowa Northwestern Railroad

EXHIBIT B

IOWA NORTHWESTERN RAILROAD

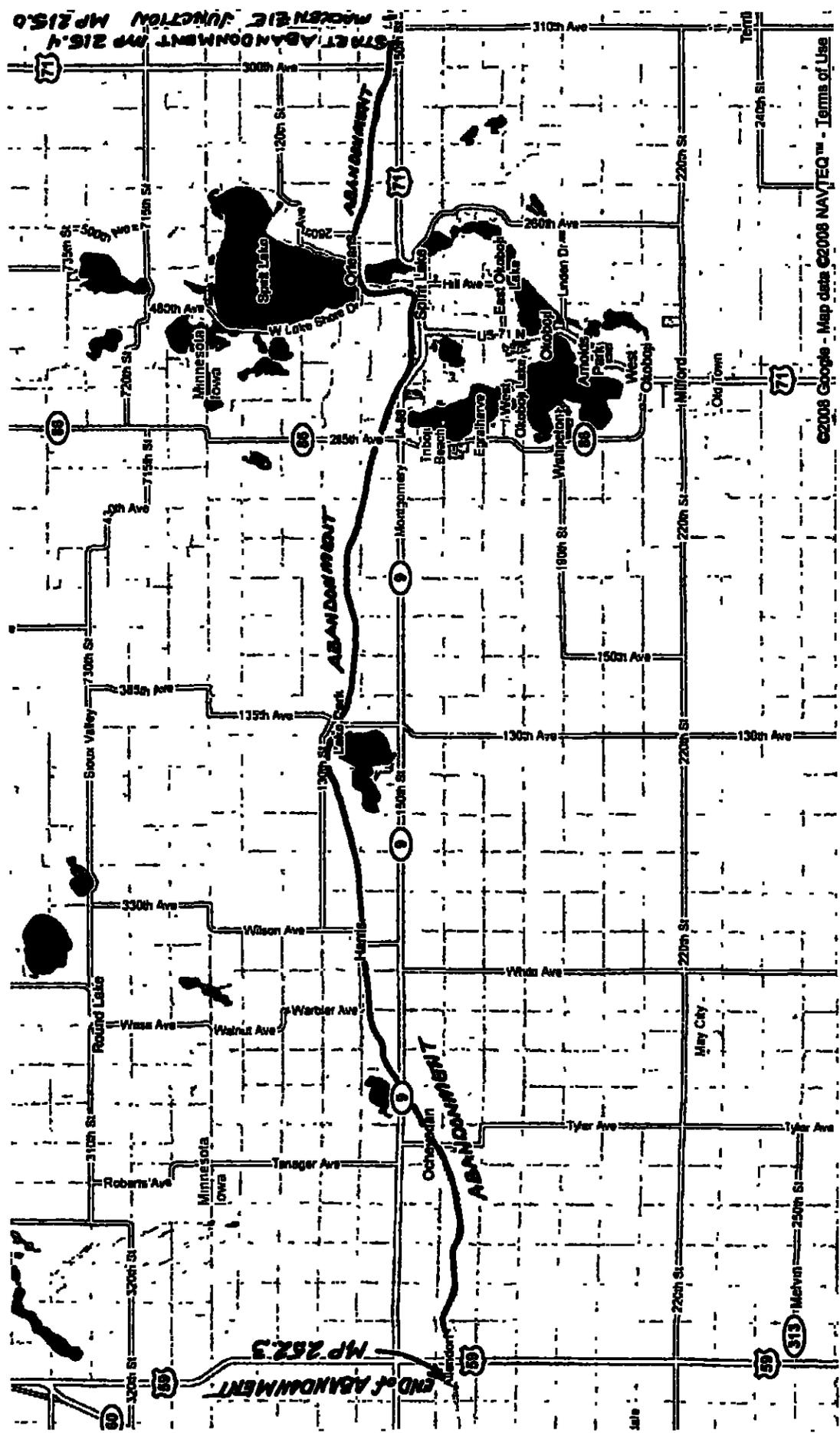


EXHIBIT B

IOWA NORTHWESTERN RAILROAD

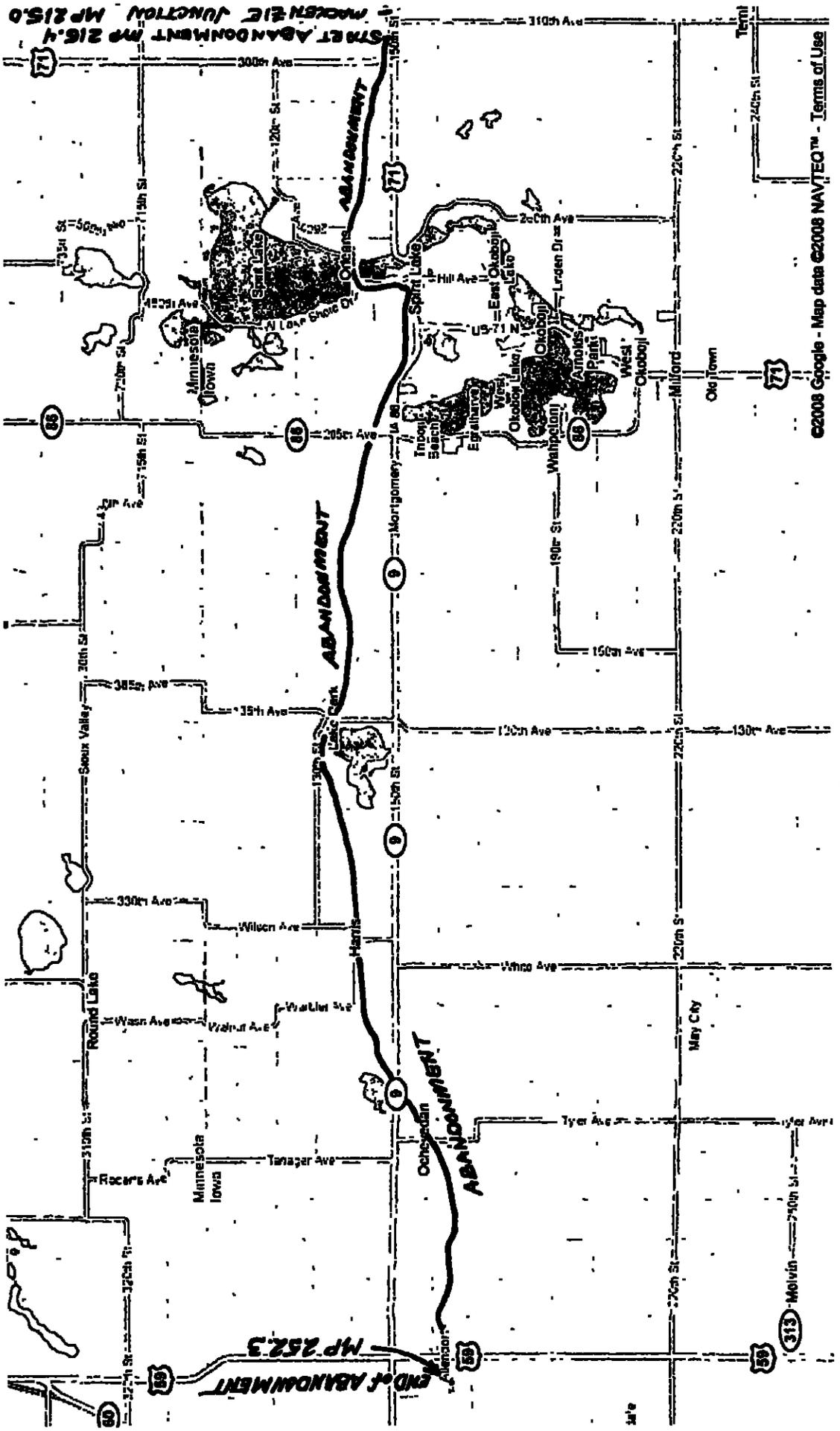


EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to the requirements of 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1067 (Sub-No 2X) was mailed via U.S. Postal Service Express Mail on 4 September 2008 to the following parties:

State Public Service Commission

**Peggy Baer
Office of Rail Transportation
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010**

**Iowa State Clearinghouse
Division for Community Progress
Iowa Department of Economic Development
200 East Grand Ave.
Des Moines, IA 50309**

Military Surface Deployment and Distribution Command

**SDDCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574**

National Park Service

**U.S. Department of Interior
National Park Service
1849 C Street, NW
Washington, DC 20240-0001**

**Mr. Rick Potts, Program Chief
Rivers, Trails and Conservation Assistance Program
1849 C Street NW
20240-0001**

U.S. Department of Agriculture

**U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors Building
14th Street and Independence Avenue S.W.
Washington, DC 20250**



John F. Larkin, President
Date: 4 September 2008

Exhibit D

ENVIRONMENTAL REPORT

**IOWA NORTHWESTERN RAILROAD
DOCKET AB-1067 (SUB-NO 2X)**



The following information is submitted to provide the information required under Title 49 CFR § 1105.7(e).

1. *Proposed Action.* The Iowa Northwestern Railroad is proposing the abandonment of approximately 36.9 miles of the railroad from Milepost 251.3 near Allendorf, Iowa to Milepost 215.4, west of railroad station Mackenzie Junction, Iowa. There has been no freight activity since a Union Pacific Railroad embargo ended inbound fertilizer traffic on the 5th of December 2003, with the last empty freight cars returned to interchange on 21 December 2003. Freight activity consisted of fewer than 300 cars per year on this stretch of track from 2001 through 2003. Freight consisted of outbound soybean and corn and inbound dry fertilizer. There been no freight activity since 2003 on this line.

The rail, usable ties and other track material will be removed from the right of way. The trackbed will be graded and remain intact and all steel bridges and culverts will remain. It is the intent of the Iowa Northwestern Railroad to preserve the right of way for future railroad use by transferring the right of way to a trails group that will use it for a hiking and biking trail with no motorized traffic allowed, other than that required for trail maintenance.

Highway crossings will be removed and all highway crossing areas will be graded or paved as appropriate. Crossing signals will be removed. All crossbuck signs at unsignaled crossings will be removed.

2. *Transportation System.* The abandonment of this portion of the line will have no effects on regional local transportation systems or patterns. There is no freight activity remaining and there will be no diversion to other modes.

3. *Land use.*

(i) The abandonment will not change existing land use.

(ii) Over 95% of the right of way runs through rural farm and pasture land and consists of native prairie stands with encroaching weeds and trees in some sections. In some sections, local farmers have encroached onto the right of way to plant corn and soybean crops. It is the desire of the Iowa Northwestern Railroad that a trails group will assume ownership of the right of way and will convert at least part of the right of way back to native prairie.

This was reviewed with the Osceola County Conservation Board (Mr. Ron Spangler on 24 February 2005) and the U.S. Soil Conservation Service (Mr. John Vogel on 24 February 2005) and they were unaware of any possible adverse impact that abandonment would create.

(iii) There is no coastal zone affected by the abandonment. This section is not applicable.

(iv) The right of way is suitable for use as a trail and the Iowa Northwestern Railroad has taken an active position to contact interested groups to acquire the right of way for use as a trail. The Osceola County Conservation Board has a 5 mile trail west of the Iowa Northwestern Railroad that runs between Allendorf and Sibley. They were notified on the 24th of February 2005 that we would be willing to work with them to see a trail established.

They in turn referred us to the Iowa Trails Council who has been provided with a copy of the valuation maps for the right of way.

4. Energy

(i) There has been no transport of energy resources on the line since acquisition and to the best of our knowledge, none in the past twenty years or more. This abandonment will have no effect on the transportation of energy resources.

(ii) There has been no transport of recyclable commodities on the line since acquisition and to the best of our knowledge, none in the past twenty years or more. This abandonment will have no effect on the transportation of recyclable commodities.

(iii) With no diversion of freight traffic to trucks remaining there will be no decrease in energy efficiency.

(iv) The freight traffic on this line was well under the thresholds identified in section (iv).

5. Air. The freight traffic on this line was well under the thresholds identified in Item (5)(i).

6. Noise. The traffic on this line was well under the thresholds identified in Item (5)(i).

7. Safety. (i) The proposed action will result in the closing of two signaled and 11 unsignaled crossings. This will reduce the potential for grade crossing accidents.

(ii) There has been no hazardous material transported over the line since the IANW purchased it in April 2001. This section is not applicable.

(iii) There are no known hazardous waste sites on the right of way.

8. *Biological Resources.*

(i) To the best of our knowledge the proposed action will not affect any endangered or threatened species. There are no areas designated as a critical habitat that would be affected. IANW intends to remove only the track material. We do not believe that any federally endangered or threatened species will be negatively affected or critical habitats modified if the line is abandoned.

(ii) There will be no affect on any wildlife sanctuaries or refuges. The right of way is currently primarily composed of native grasses, with areas where trees and shrubs have invaded over a period of years. It is expected that the right of way will be transferred for use as a trail with provisions requiring the trail operation to restore native prairie habitat where farming has encroached on the right of way, enhancing the value of the right of way for wildlife.

9. *Water.* (i) The action will not result in any change in water usage, drainage or quality and this proposed action is consistent with all applicable Federal, Iowa and local water quality standards. The underlying roadbed will not be disturbed by any removal actions.

(ii) Discussions with the U.S. Army Corp of Engineers indicated that no permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are expected to be required. There will be no change in wetlands or flood plains associated with this action.

(iii) There will be no changes in water flow, usage, wetlands, flood plains or other potential water issues and no permits will be required.

10. *Proposed Mitigation.* IANW does not believe that there any environmental impacts associated with this proposed action and will comply with State and Federal regulations and obtain any necessary permits required.

HISTORICAL REPORT

Iowa Northwestern Railroad Proposed Abandonment

In addition to the Environmental Report attached, the following information is submitted to provide the information required under Title 49 Part 1105.8.

1. The requirement for topographic maps or equivalent is not necessary because there are no historic structures of record for this line 50 or more years old.
2. The line consists of a 100' right of way through rural countryside, with narrower sections of right of way remaining in Allendorf, Harris, Montgomery, Spirit Lake and Orleans. The railroad line was acquired from Union Pacific Railroad in 2001. Prior to the purchase, the predecessor railroads of the Union Pacific sold all right of way extending more than 50' from the centerline of track to other companies, with most of these sales occurring during the late 1960's. The line travels through rolling hills and consists primarily of grass with very few trees. *Within the segment of track proposed for abandonment there are no structures built by the railroad or it's predecessors that are over 50 years old. All depots, water tanks, etc., were demolished many years ago including the original Harris depot.*
3. The line was purchased from Union Pacific Railroad with no structures of any type except five railroad bridges, one of which was totally rebuilt as a steel piling bridge in 1987. One other bridge, a short 26'-long two pile trestle has had renewed pile trestles within the past 40 years according to information received from former Rock Island railroaders who have visited the railroad and was planned to be replaced by a culvert. No pictures are required of these.

While not a structure of historic record for this railroad, a former Milwaukee Railroad depot was relocated to the line at Harris, Iowa from Fostoria, Iowa by the Iowa Northwestern Railroad in May, 2004. The structure is in fair condition and was modified by the addition of a storage shed after its use by the Milwaukee Railroad in the late 1970's. Current plans are to sell or donate this structure. The structure will not be torn down or destroyed as a result of the proposed abandonment.

- 4. There are no structures of historic record to the line remaining.**
- 5. The line was a former branch line of the Rock Island Railroad, built in 1884. The section from Allendorf to Sibley was abandoned in 1993 and all track taken up except a short stretch west of Allendorf that is owned by the Allendorf Coop. The rest of the abandoned section is now a trail over relatively level ground. Railroad operations during the past 10 years consisted of grain trains from Ocheyedon ranging from 1500 cars a year in the mid-90's to fewer than 350 cars per year in the 2000's and fewer than 90 inbound fertilizer cars to Ocheyedon. During the past 10 years all traffic was served from the east, through Estherville, Iowa with trains originating at Eagle Grove, Iowa. All freight traffic ended in December 2003 when Union Pacific Railroad imposed an embargo on the railroad. A recent embargo states that the reason for the embargo is "threatened congestion" to the Union Pacific Railroad from lack of interchange facilities – with less than 100 cars a year of traffic remaining. Because there is no freight traffic remaining on the line, the proposed abandonment will result in no changes in operations.**
- 6. There are copies of railroad valuation maps in our possession that show the sites of former structures, and in some cases document the year of removal.**
- 7. There are no structures of historic record for this railroad remaining and the railroad right of way does not meet the criteria for listing on the National Register of Historic Places. There is no known likelihood that any archeological or other previously unknown historic properties are**

in the project area. The basis for this opinion is the total lack of historic structures on the line and the fact that most land directly adjacent to the right of way has been extensively plowed and cultivated for over 100 years with no known discoveries of any relevant nature uncovered..

- 8. A new concrete pad was poured over the previous site of the Harris depot. The original depot had no basement and the only evidence of it's prior existence was a concrete chunk that may have been a base for a train order semaphore in prior years.**
- 9. While we believe they may exist we have been unable to locate any photographs of the demolished structures on the railroad.**