



**Shane C. DeGross**  
Manager Environmental  
Remediation

**BNSF Railway Company**  
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Tacoma, WA 98421

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February 5, 2018

Mr. Kyle Parker, Site Manager  
Washington Department of Ecology  
1250 W Alder St.  
Union Gap, Washington 98903

Re: Site Status – Former Crop King/Woods Industries Site  
Site Name: Crop King Woods Industries  
Site Address: 1 E King, Yakima, Yakima County  
Facility/Site ID No.: 460  
Cleanup Site ID No.: 3755

Dear Mr. Parker:

BNSF Railway Company (BNSF) received Washington Department of Ecology's (Ecology's) letters regarding the former Crop King/Woods Industries site ("the site", Facility ID No: 460) dated April 19, 2017 (Ecology 2017) and January 24, 2018 (Ecology 2018). BNSF reviewed available files for the site to evaluate historical remedial and regulatory actions taken and to establish whether the site poses a risk to human health and the environment.

In their April 19, 2017 letter, Ecology stated they have concerns that remaining tetrachloroethylene (PCE) concentrations on-site pose a risk to human health and the environment via the vapor intrusion and/or groundwater transport pathways, specifically identifying concentrations of PCE detected in groundwater samples collected from monitoring well W -8 during four monitoring events conducted between September 2002 and March 2004. PCE concentrations detected in monitoring well W -8 during this time period ranged from 4.8 to 8.8 micrograms per liter ( $\mu\text{g}/\text{L}$ ).

When evaluating potential risks to human health and the environment at the site, BNSF considered current and probable future land uses to establish appropriate site screening levels for groundwater and to address concerns regarding the soil vapor intrusion pathway. The site is currently zoned industrial and has a future land use designation of industrial. There is a single structure on the site, which is not occupied and unused. The northern portion of the property is used as gated employee parking. Based on the current and designated future land use, Model Toxics Control Act Method B screening levels (20.8  $\mu\text{g}/\text{L}$  for groundwater and 22.9  $\mu\text{g}/\text{L}$  for protection of vapor intrusion pathway) are appropriate for and applicable to the site. Groundwater analytical results from 2004 indicate concentrations of PCE in groundwater have never exceeded these thresholds.

Additionally, at EPA's request, BNSF recorded a restrictive covenant (RC) for the site (BNSF 2004) that includes institutional controls limiting groundwater usage and soil excavation, as well as stipulations regarding current and future land use at the site. Section 1 of the RC designates that "No ground water may be taken for domestic, agricultural, commercial, or industrial purposes from any well at the property..." Section 3 of the RC establishes that "Any future use of the property shall be for commercial or industrial purposes..." The limitations to commercial and industrial land use and the restriction on groundwater usage support the utilization of Method B screening levels, as opposed to Method A

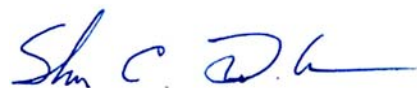
cleanup levels, that are appropriate for sites with unrestricted land use including potential groundwater consumption.

BNSF screened available PCE groundwater analytical data from well W-8, which was referenced in Ecology's letter, against Method B and C screening levels for groundwater and soil vapor intrusion. PCE concentrations in well W-8 are below the relevant screening levels established for the site based on zoning, usage (industrial/parking), and the stipulations of the RC. Additionally, analytical results indicate historical PCE concentrations in groundwater are stable or decreasing at well W-8.

Based on an evaluation of the vapor intrusion and groundwater transport exposure pathways for PCE identified by Ecology as potential concerns, the site does not pose a risk to human health or the environment and further investigation of these two exposure pathways is not warranted.

As BNSF has indicated in prior correspondence with Ecology, while there is PCE in groundwater at this site, as there is across many properties in this part of Yakima's industrial area, there is no credible evidence that this site is a source of PCE. The data supporting this conclusion was collected by BNSF under EPA's supervision and BNSF provided Ecology with this data and analysis in the 1990s. If you need another copy of that data and analysis, please let us know.

Sincerely,



Shane C. DeGross  
Manager Environmental Remediation  
BNSF Railway Co.

cc: Brooke Kuhl, BNSF Railway Co.

**Enclosures:**

Tables

Table 1 - W-8 Groundwater Analytical Data

**Figures**

Figure 1 - Site Map with Former W-8 Location

**Attachments**

Restrictive Covenant, Recording No. 7412917

**References:**

BNSF. 2004. Restrictive Covenant. Former Woods Industries Site. Recording No. 7412917. July 23.  
Ecology. 2017. Re: Site Status. Site Name: Crop King Woods Industries. 1 E King, Yakima. April 19.  
Ecology. 2018. Re: Supplemental Remedial Investigation Crop King Woods Industries. 1 E King, Yakima. January 24.

**Table 1**  
 Well W-8 Groundwater Analytical Data  
 Former Crop King/Woods Industries Site  
 1 E King Street  
 Yakima, Washington 98903

Monitoring Well W-8 Groundwater Analytical Data		
MTCA Groundwater Screening Levels	Method B	20.8 µg/l
	Method C	208 µg/l
MTCA Soil Vapor Screening Levels <sup>1</sup>	Method B	22.9 µg/l
	Method C	229 µg/l
<i>Sample Date</i>	<i>PCE concentrations in µg/l</i>	
September 1991	17.0	
April 1993	10.0	
October 1994	8.0	
October 1997	3.11	
September 2002	6.3	
March 2003	4.8	
September 2003	8.8	
March 2004	5.1	

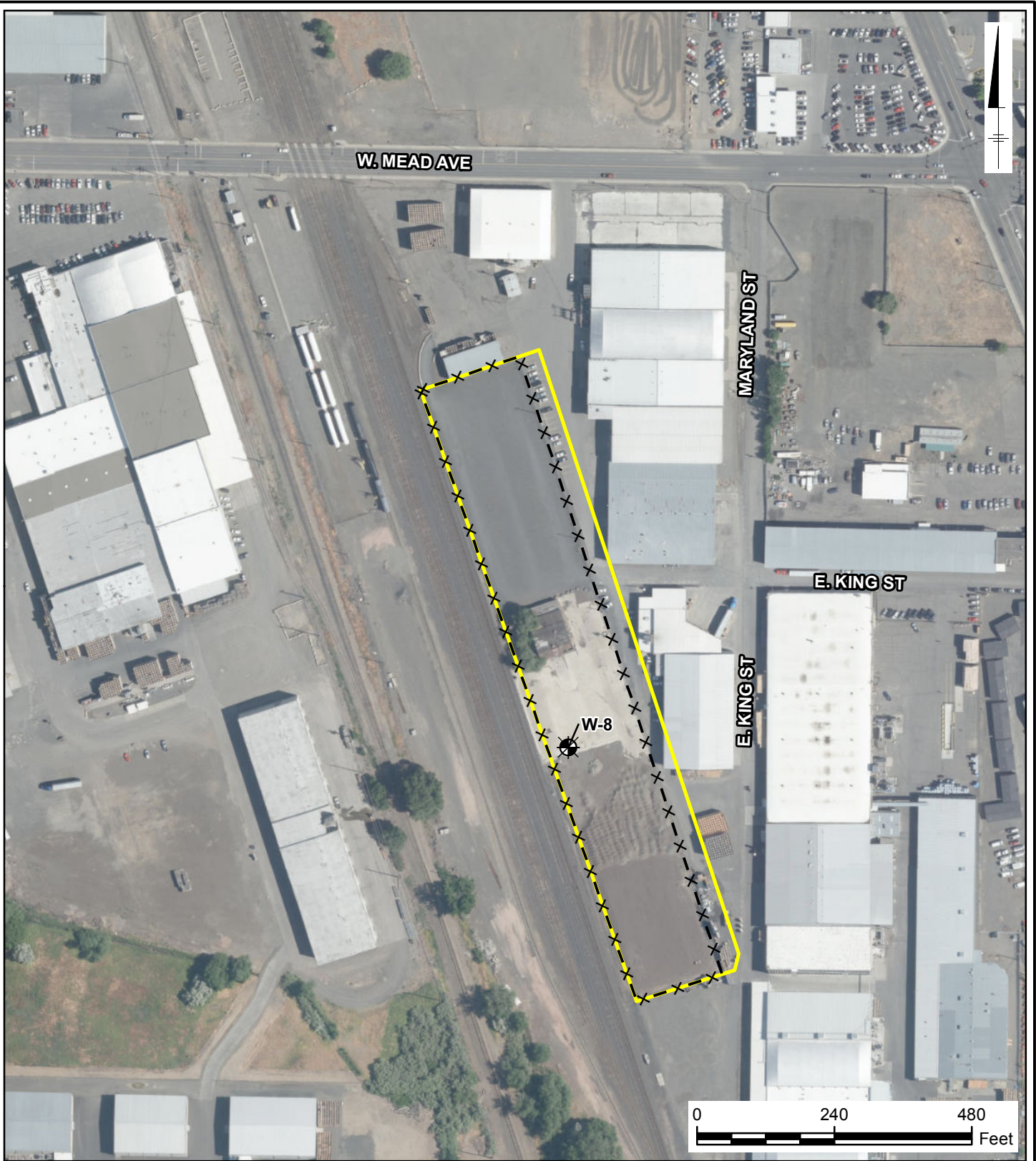
**Notes:**

MTCA = Model Toxics Control Act




PCE = tetrachloroethylene

µg/l = micrograms per liter

1 = 2015 updated screening levels (<https://www.ecy.wa.gov/Regulations-Permits/Guidance-technical-assistance/Vapor-intrusion-overview>)



**Legend**

-  Former Monitoring Well
-  Fenceline
-  Parcel Boundary

Notes:  
 1) All feature locations being shown are approximate.

BNSF RAILWAY COMPANY  
 FORMER CROP KING/WOODS INDUSTRIES SITE  
 YAKIMA, WASHINGTON

**SITE MAP WITH FORMER W-8 LOCATION**



**FIGURE  
1**



**BNSF**



BRUCE A. SHEPPARD  
*Manager Environmental Remediation*

The Burlington Northern  
and Santa Fe Railway Company

2454 Occidental Ave S., Suite 1A  
Seattle, WA 98134-1451  
Phone: (206) 625-6035  
Fax: (206) 625-6007  
E-mail: bruce.sheppard@bnsf.com

August 10, 2004

Ms. Kathleen Johnson  
U.S. EPA Region 10  
HW-113  
1200 Sixth Avenue  
Seattle, WA 98101-3123

Re: Request for Notice of Completion  
Woods Industries Site, Yakima, Washington

Dear Ms. Johnson:

The Burlington Northern and Santa Fe Railway Company ("BNSF") has concluded remediation at the Woods Industries Site in Yakima Washington. We provided to you previously a completion report, summarizing the actions taken to comply with the January 4, 1993, Administrative Order on Consent ("AOC or "Order") between BNSF's predecessor corporation and the U.S. Environmental Protection Agency ("EPA"). We have provided you with our Final Groundwater Monitoring Report (dated December 4, 2003). As you know, we have discussed this report and site conditions with you in a number of conference calls. BNSF requests that EPA issue a Notice of Completion for the site and take other actions, as described below.

BNSF has conducted post-remediation monitoring of ground water at the site. Ground water monitoring results provided to EPA show that the levels of key contaminants identified as site-specific parameters have shown significant reductions over time. EPA has concluded that continued monitoring is not required, but in order to comply with the AOC, a restrictive covenant shall be prepared for the site to restrict future uses of the site and its underlying ground water and to give notice to future owners/users of the property of these restrictions and site conditions. A draft restrictive covenant for the site has been reviewed and discussed by EPA and BNSF, and a final executed and recorded covenant is enclosed.

BNSF requests that EPA issue a Notice of Completion for this site, as required under Paragraph XVII of the Order. The Notice of Completion would indicate that the remedial action required under the Order has been completed and that no further action at the site is required under the terms of the AOC.

Please feel free to contact me if you have any questions or need any additional information.

Sincerely,

A handwritten signature in cursive script that reads "B Sheppard". The signature is written in black ink and is positioned above the printed name.

Bruce Sheppard

Enclosure: Recorded Restrictive Covenant

cc: Bob Hartman, EPA-ORC  
Steve Thiele, Washington Attorney General's Office  
Mike Hutchinson, GeoEngineers  
Craig Trueblood/Tom Backer, Preston Gates & Ellis, LLP

AFTER RECORDING RETURN TO:  
Preston Gates & Ellis LLP  
925 Fourth Avenue, Suite 2900  
Seattle, WA 98104-1158  
Attn: Craig S. Trueblood

RESTRICTIVE COVENANT (B)

GRANTOR: The Burlington Northern and Santa Fe Railway Company

GRANTEE: The State of Washington Department of Ecology

Legal Description:

Abbreviated form: Portion of Burlington Northern and Santa Fe Railway Co.'s 400.00  
ft wide charter ROW located in the NE 1/4 of Section 31, Township  
13 N, Range 19 E, W.M., Yakima County

Additional legal on page: Exhibit A pg 9

Assessor's Tax Parcel ID No(s): N/A



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RESTRICTIVE COVENANT  
Former Woods Industries Site, 1 East King Street  
Yakima, Washington

This Restrictive Covenant is made pursuant to an Administrative Order on Consent for Removal Action re: Woods Industries Site, Yakima Washington, U.S. EPA Docket No. 1087-03-18-106 CERCLA ("AOC"), Revised Code of Washington ("RCW") 70.105D.030(1)(f) and (g) and Washington Administrative Code ("WAC") 173-340-440, this 23<sup>d</sup> day, of July 2004, by The Burlington Northern and Santa Fe Railway Company ("BNSF"), its respective successors and assigns, and the State of Washington Department of Ecology ("Ecology"), its successors and assigns.

The response action undertaken by BNSF under the AOC, was conducted under the authority of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et. seq. and under the direction and oversight of the U.S. EPA. CERCLA requires that removal response actions comply with state or federal applicable or relevant and appropriate requirements ("ARARs") to the extent practicable. RCW 70.105D.030(1)(g) and WAC 173-340-440 have been identified as ARARs for the BNSF removal response action. Therefore, this Restrictive Covenant is intended to comply with that statute and regulation and be enforceable by both Ecology and the United States Environmental Protection ("EPA") against BNSF and any successor(s) in interest of the real property affected by it until such time said Restrictive Covenant is released, according to this covenant's terms or is modified, after approval from EPA or Ecology.

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## RECITALS

A. The Burlington Northern and Santa Fe Railway Company ("BNSF") is the fee owner of the real property located in the City of Yakima, State of Washington, described in the legal description attached hereto (hereinafter, the "Property").

B. The Property has been the subject of response actions under 42 U.S.C. Section 9604, the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"). The response actions at the Property were conducted under and consistent with Administrative Orders on Consent, with EPA Region 10 CERCLA Docket No. 1087-03-18-106 (and attachments to those AOCs, as approved by EPA) between EPA and BNSF's predecessor corporation (collectively "AOCs"). The response actions and remedial activities at the site are hereinafter referred to as "Response Action." The Response Action resulted in removal of pesticide residues and other contaminants from soils at the property.

C. This Restrictive Covenant is required by EPA to further the purposes of those AOCs and because residual concentrations of pesticides and other contaminants remain at the Property. The Response Action resulted in reduction of these substances to levels that do not pose a threat or risk to human health or the environment, so long as the provisions of this Restrictive Covenant are met and property uses consistent with the Response Action are continued.

D. This Restrictive Covenant also complies with the requirements of WAC 173-340-440 for implementation of institutional controls that are required to assure



continued protection of human health and the environment or the integrity of the cleanup action.

#### COVENANTS

BNSF makes the following declarations as to limitations, restrictions, and uses to which the Property may be put, and BNSF specifies that such declarations are intended to constitute covenants that touch and concern the land and run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, including all current and future owners, tenants, easement holders or licensees of any portion of or interest in the Property.

Section 1. No ground water may be taken for domestic, agricultural, commercial, or industrial purposes from any well at the Property, unless EPA or Ecology determines that such ground water meets applicable standards for domestic, agricultural, commercial, or industrial purpose and usage for one or more such purposes is consistent with applicable law.

Section 2. Any activity on the Property that interferes with the Response Action is prohibited, unless approved by the EPA or Ecology. For the purpose of implementing this section, soils may be excavated up to 2 feet below the grade existing at the time this Restrictive Covenant is signed and executed without prior notice to EPA or Ecology. Excavations between 2 and 4 feet below the grade existing at the time this Restrictive Covenant is signed and executed require prior notification to EPA or Ecology, with an opportunity for EPA or Ecology to comment on the proposed excavation within 30 days. All excavations greater than 4 feet below the grade existing at the time this Restrictive



Covenant is signed and executed will require prior notice to EPA or Ecology and implementation of plans or controls that shall be approved by EPA or Ecology before conducting the excavations in order to protect human health and the environment from potentially contaminated soils.

Section 3. Any future use of the property shall be for commercial or industrial purposes that are allowed under the City of Yakima's zoning regulations and other laws applicable to the site.

Section 4. BNSF shall restrict leases to uses and activities consistent with this Restrictive Covenant and shall notify all lessees of the restrictions on the use of the Property.

Section 5. If BNSF or it's lessees wish to use the Property in a manner that is inconsistent with the terms of this Restrictive Covenant, BNSF shall notify and obtain approval from EPA or Ecology prior to such use.

Section 6. BNSF shall allow authorized representatives of EPA and Ecology, the right to enter the Property at reasonable times for the purpose of taking samples related to the Response Action, inspecting the Response Action, and inspecting records that are related to the Response Action or actions on the Property that may affect the Response Action.

Section 7. In the event of a transfer of any interest in the Property, BNSF shall give thirty (30) days advance written notice to EPA and/or Ecology, of the conveyance of any interest in the Property.



Section 8. BNSF agrees to include reference to this Restrictive Covenant (including recording number, date and title) in any instrument conveying title or other recorded interest in or to the Property. Within thirty (30) days following the recording of such document, BNSF shall provide EPA and Ecology with a copy of the recorded instrument, showing its recorded number.

Section 9. BNSF, its assigns and successors, reserve the right to record an instrument that extinguishes some or all of this Restrictive Covenant and terminates some or all of the aforesaid limitation on its use and enjoyment. However, such an instrument may be recorded only with the consent of EPA or Ecology.

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DATED this 23<sup>rd</sup> day of July, 2004.

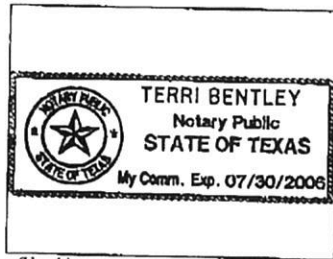
THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY

By *D.P. Schneider*  
Name D. P. Schneider  
Title GENERAL DIRECTOR REAL ESTATE

~~STATE OF WASHINGTON~~ )  
TEXAS ) ss.  
COUNTY OF TARRANT )

I certify that I know or have satisfactory evidence that D. P. SCHNEIDER is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the GENERAL DIRECTOR REAL ESTATE of The Burlington Northern and Santa Fe Railway Company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 7-23-04



(Use this space for notarial stamp/seal)

*Terri Bentley*  
Notary Public  
Print Name TERRI BENTLEY  
My commission expires 7-30-06



## EXHIBIT A

## Property Legal Description

THAT PORTION OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY'S (FORMERLY NORTHERN PACIFIC RAILWAY COMPANY) 400.00 FOOT WIDE CHARTER RIGHT OF WAY, BEING 200.00 FEET WIDE ON EACH SIDE OF SAID RAILWAY COMPANY'S MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED UPON, OVER AND ACROSS THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 13 NORTH, RANGE 19 EAST, W.M., YAKIMA COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING ON THE NORTH LINE OF SAID NORTHEAST QUARTER OF SECTION 31 AND THE CENTERLINE OF SAID MAIN TRACK; THENCE SOUTHEASTERLY ALONG SAID MAIN TRACK CENTERLINE 428.00 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE 19.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE 181.00 FEET TO THE NORTHEASTERLY CHARTER RIGHT OF WAY LINE; THENCE SOUTHEASTERLY ALONG SAID RIGHT OF WAY LINE 1131.00 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE 182.00 FEET TO A POINT 18.00 FEET DISTANCE FROM SAID CENTERLINE; THENCE NORTHWESTERLY PARALLEL WITH SAID CENTERLINE 405.00 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE 5.00 FEET; THENCE NORTHWESTERLY PARALLEL TO SAID CENTERLINE 587.00 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE 6.00 FEET; THENCE NORTHWESTERLY PARALLEL WITH SAID CENTERLINE 139.00 FEET TO THE TRUE POINT OF BEGINNING.

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