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July 10, 2014 236304
236305

VIA OVERNIGHT DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings
July 11, 2014
Part of
Public Record

Re: *Brownsville & Rio Grande International Railway, LLC – Change in Operator Exemption Including Interchange Commitment – Brownsville & Rio Grande International Railroad, STB Docket No. FD 35836*
[INCLUDES CONFIDENTIAL MATERIALS SUPPLIED UNDER SEAL]

And

Patrick D. Broe, OmniTRAX, Inc., and OmniTRAX Holdings, LLC. – Continuation in Control Exemption – Brownsville & Rio Grande International Railway, LLC, STB Docket No. FD 35837

Dear Ms. Brown:

Enclosed are an original and eleven copies each of – (1) a verified notice of exemption for a change of operator under 49 C.F.R. § 1150.31(a)(3), pursuant to which Brownsville & Rio Grande International Railway, LLC (“BRGIR”) will assume operation of railroad lines currently operated by Brownsville & Rio Grande International Railroad (“Change of Operator Notice”); and (2) a verified notice of exemption filed by Patrick D. Broe, OmniTRAX, Inc. and OmniTrax Holdings, LLC, pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of BRGIR at such time as BRGIR becomes a common carrier by railroad (“Continuation in Control Notice”).

Enclosed as part of the Change of Operator Notice is a caption summary required by 49 C.F.R. § 1150.34, along with electronic versions of both exemption notice filings. Also accompanying the Change of Operator Notice are documents offered in connection with the requirements of 49 C.F.R. § 1150.33(h). Certain designated documents responsive to the Board’s disclosure requirements at section 1150.33(h) are to be kept confidential, have been segregated from the balance of the Change of Operator Notice filing, and are submitted under seal in keeping with the aforementioned regulation and 49 C.F.R. § 1104.14(a).

The Continuation in Control Notice includes color copies of maps (as part of Exhibit A to that filing), which are included at the end of the document.

FILED
July 11, 2014
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
July 11, 2014
SURFACE
TRANSPORTATION BOARD

FLETCHER & SIPPEL LLC



Pursuant to 49 C.F.R. §§ 1002.2(f)(14)(ii) and 1002.2(f)(39)(iv), enclosed is a check in the amount of \$3,300 covering the combined filing fee amount due for the Change of Operator Notice (\$1,900.00) and the Continuance in Control Notice (\$1,400).

Please acknowledge receipt and filing of both exemption notice filings by time stamping the eleventh copy of each and returning both to me in the envelope provided. If there are any questions about this matter, please contact me directly, either by telephone: (312) 252-1504 or by email: rwimbish@fletcher-sippel.com.

Respectfully submitted,

Robert A. Wimbish
Attorney for Brownsville & Rio Grande
International Railway, LLC; Patrick D. Broe;
OmniTRAX, Inc. and OmniTRAX Holdings, LLC

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 35837

**PATRICK D. BROE, OMNITRAX, INC. AND OMNITRAX HOLDINGS, LLC
-- CONTINUANCE IN CONTROL EXEMPTION --
BROWNSVILLE & RIO GRANDE INTERNATIONAL RAILWAY, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR § 1180.2(d)(2)**

**Robert A. Wimbish
FLETCHER & SIPPEL LLC
29 North Wacker Drive
Suite 920
Chicago, IL 60606-2832
Phone: (312) 252-1504
Facsimile: (312) 252-2400
Email: rwimbish@fletcher-sippel.com**

**Attorney for Patrick D. Broe and
OmniTRAX, Inc.**

Dated: July 10, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 35837

**PATRICK D. BROE, OMNITRAX, INC. AND OMNITRAX HOLDINGS, LLC
-- CONTINUANCE IN CONTROL EXEMPTION --
BROWNSVILLE & RIO GRANDE INTERNATIONAL RAILWAY, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR § 1180.2(d)(2)**

Come now Patrick D. Broe (“Mr. Broe”), OmniTRAX, Inc. (“OmniTRAX”) and OmniTRAX Holdings, LLC (“Omni Holdings”)¹ and state as follows:

1. Pursuant to the Board’s rules for transactions involving railroad consolidations and acquisitions of control (49 C.F.R. part 1180), Applicants hereby give notice of a transaction qualifying for exemption under section 1180.2(d)(2) of those rules.

2. Mr. Broe is a non-carrier who directly controls OmniTRAX, itself a non-carrier company that, in turn, controls Omni Holdings. Omni Holdings currently controls 11 Class III railroads operating in seven states. In addition to the Omni Holdings short lines, Mr. Broe controls indirectly an additional five Class III railroads operating in eight states.

3. Brownsville & Rio Grande International Railway, LLC (“BRGIR”) is a non-carrier entity established under the control of Omni Holdings for the purposes of becoming a Class III railroad carrier by virtue of its planned operation of various railroad lines within and nearby to the Port of Brownsville, Texas.

¹ Mr. Broe, OmniTRAX and Omni Holdings will be referred to herein collectively as the “Applicants.”

4. BRGIR will obtain operating rights (by way of a franchise agreement) over trackage owned by the Brownsville Navigation District of Cameron County (the “District”), and will secure (by assignment from the Brownsville & Rio Grande International Railroad – “BRG”) operating rights over certain lines owned by the Union Pacific Railroad Company (“UP”). By virtue of these acquisitions of operating rights, BRGIR will replace BRG as the operator of various rail lines within and nearby to the Port of Brownsville. To that end, BRGIR is filing, along with the subject continuance in control notice of exemption, a “change of operator” notice of exemption pursuant to 49 C.F.R. § 1150.31, et seq., in STB Docket No. FD 35836.

5. The rail carrier subsidiaries controlled by Omni Holdings (the “Omni Holdings Railroads”) are as follows: Chicago Rail Link, LLC; Georgia Woodlands Railroad, LLC; Great Western Railway of Colorado, LLC; Manufacturers’ Junction Railway, LLC; Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, LLC; Panhandle Northern Railroad, LLC; Alliance Terminal Railroad, LLC; Fulton County Railway, LLC; Alabama & Tennessee River Railway, LLC; and Kettle Falls International Railway, LLC. Rail carriers indirectly controlled by Mr. Broe by way of BNS Holding, Inc. (“BNS”) are as follows: Nebraska, Kansas and Colorado Railway, LLC; Illinois Railway, LLC; and Georgia & Florida Railway, LLC (collectively, the “BNS Railroads”). Also, Mr. Broe controls Stockton Terminal and Eastern Railroad (“Stockton Terminal”) indirectly, via ST&E Holdings, Inc. Most recently, Mr. Broe acquired indirect control of Sand Springs Railway Company (“Sand Springs”) via Sand Springs Holdings, LLC (“SSH”).

6. None of the Omni Holdings Railroads, BNS Railroads, Stockton Terminal, or Sand Springs interconnects with rail lines to be operated by BRGIR. Moreover, this continuance in control transaction is not a part of a series of anticipated transactions that would result in such

a connection or any new interconnection among the Omni Holdings Railroads, BNS Railroads, Stockton Terminal, or Sand Springs. Nor does this proposed control transaction involve a Class I carrier. Applicants' continuance in control of BRGIR alongside the Omni Holdings Railroads, the BNS Railroads, Stockton Terminal, and Sand Springs at such time as BRGIR becomes a common carrier is, accordingly, exempt under 49 C.F.R. § 1180.2(d)(2).

7. In invoking the subject class exemption, 49 C.F.R. § 1180.4(g) requires that the Applicants submit a verified notice furnishing, among other things, the information requested in sections 1180.6(a)(1)(i)–(iii), 1180.6(a)(5)–(6), and 1180.6(a)(7)(ii) of those rules. That information is provided below as follows:

Summary of Proposed Transaction: 49 CFR § 1180.6(a)(1)(i)

Omni Holdings, a short line holding company under the indirect control of Mr. Broe, has established BRGIR is a non-carrier subsidiary expected to assume railroad operations in and around the Port of Brownsville under arrangements with the District, BRG, and UP as explained in the related change of operator notice of exemption also filed today in STB Docket No. FD 35836. The Applicants have invoked the section 1180.2(d)(2) class exemption to permit them to continue in control of BRGIR at such time as BRGIR replaces BRG as railroad operator in and around the Port of Brownsville and thereby becomes a Board-regulated common carrier.

Applicants' names, addresses, and telephone numbers:

Patrick D. Broe
252 Clayton Street
Fourth Floor
Denver, CO 80206

OmniTRAX, Inc.
252 Clayton Street
Fourth Floor
Denver, CO 80206

OmniTRAX Holdings, LLC
252 Clayton Street
Fourth Floor
Denver, CO 80206

Legal counsel to whom questions should be addressed:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, IL 60606-2832
(312) 252-1500

Schedule for consummation: **49 CFR §1180.6(a)(1)(ii)**

The parties intend to consummate the proposed transaction on or about August 11, 2014.

Purpose to be accomplished by the transaction: **49 CFR §1180.6(a)(1)(iii)**

Applicants seek through the proposed transaction to bring additional resources and management perspective to the provision of rail services in and around the Port of Brownsville as part of a larger port facilities management regime that will be taking effect at about the same time. The Applicants anticipate that port promotion related to the concurrent change of rail operator and change in general port oversight will facilitate increased use of the Port of Brownsville, thereby expanding rail-borne commerce to and from the port facilities. In addition, the Applicants intend through the related change of operator and continuance in control transactions to reduce overhead expenses, coordinate billing, maintenance, mechanical and personnel policies and practices among the affiliated railroads, thereby improving the overall efficiency of rail service provided by these railroads.

State(s) in which the property of each carrier is situated: **49 CFR §1180.6(a)(5)**

Chicago Rail Link, LLC: Illinois

Georgia Woodlands Railroad, LLC: Georgia

Great Western Railway of Colorado, LLC: Colorado

Manufacturers' Junction Railway, LLC: Illinois
Newburgh & South Shore Railroad, LLC: Ohio
Northern Ohio & Western Railway, LLC: Ohio
Panhandle Northern Railroad, LLC: Texas
Alliance Terminal Railroad, LLC: Texas
Fulton County Railway, LLC: Georgia
Alabama & Tennessee River Railway, LLC: Alabama
Kettle Falls International Railway, LLC: Washington (and British Columbia, Canada)
Stockton Terminal and Eastern Railroad: California
Nebraska, Kansas & Colorado Railway, LLC: Nebraska, Kansas, Colorado
Illinois Railway, LLC: Illinois
Georgia & Florida Railway, LLC: Georgia, Florida
Sand Springs Railway Company: Oklahoma
Brownsville & Rio Grande International Railway, LLC (future): Texas

Map: 49 CFR § 1180.6(a)(6)

Maps are attached hereto as Exhibit A. The maps depict, among other things, the location of the lines of the various Omni Holdings Railroads, BNS Railroads, Stockton Terminal, Sand Springs, and those railroad lines that BRGIR proposes to operate.

Copy of Agreement: 49 CFR § 1180.6(a)(7)(ii)

Applicants have not entered into, and do not plan to enter into, any agreement related to their continuance in control of BRGIR.

Interchange Commitments: 49. C.F.R. § 1180.4(g)(4)

The subject continuance in control transaction does not, in and of itself, impose or extend any interchange commitment prohibiting or limiting the interchange of traffic among railroads. However, in the interest of full disclosure, one of the UP-owned lines that BRGIR plans to operate pursuant to the assignment of BRG's leasehold interest (the "Port Lead") is already subject to an interchange commitment in favor of UP. This interchange commitment will be addressed in the FD 35836 change of operator exemption proceeding.

Certification:

Applicants hereby certify that – (1) BRGIR will not connect with any other of the aforementioned Omni Holdings Railroads, BNS Railroads, Stockton Terminal, or Sand Springs; (2) the subject continuance in control proceeding is not a part of a series of anticipated transactions that would connect some or all of these railroads; and (3) the transaction does not involve a Class I carrier.

Environmental and historical considerations:

This proceeding is exempt from environmental review under 49 C.F.R. § 1105.6(c)(2)(i) because the proposed action will not cause any operating changes that exceed the thresholds established in 49 C.F.R. §§ 1105.7(e)(4) or (5). In addition, this proceeding is exempt from historic review under 49 C.F.R. § 1105.8(b)(1) because there are no plans to dispose of or alter properties subject to Board jurisdiction that are at least 50 years old. Accordingly, no environmental or historic report is required.

Labor Protection:

As set forth above, all of the railroads involved in the proposed transaction encompassed by this notice are Class III short line carriers. By statute, labor protection is not applicable to transactions involving only Class III railroads. See 49 U.S.C. § 11326(c).



Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

Attorney for Patrick D. Broe, OmniTRAX, Inc., and
OmniTRAX Holdings, LLC

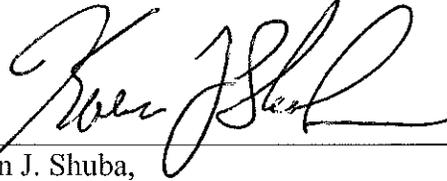
Dated: July 10, 2014

EXHIBIT A

Maps

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that I am authorized to make this verification, and that I have read the foregoing continuance in control notice of exemption, and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.



Kevin J. Shuba,
Manager
OmniTRAX Holdings, LLC

Executed on: July 8, 2014

EXHIBIT A

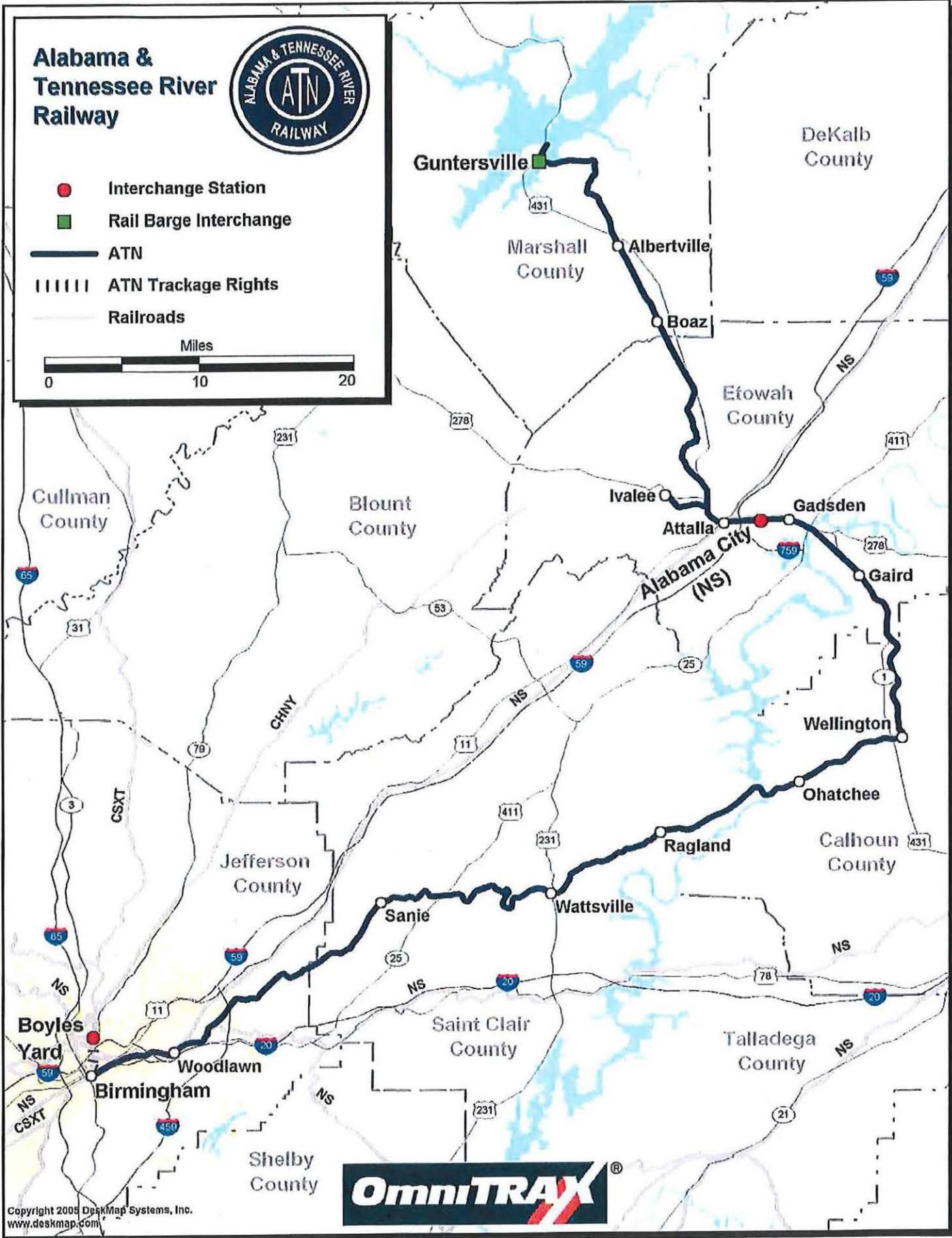
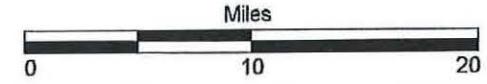
Maps



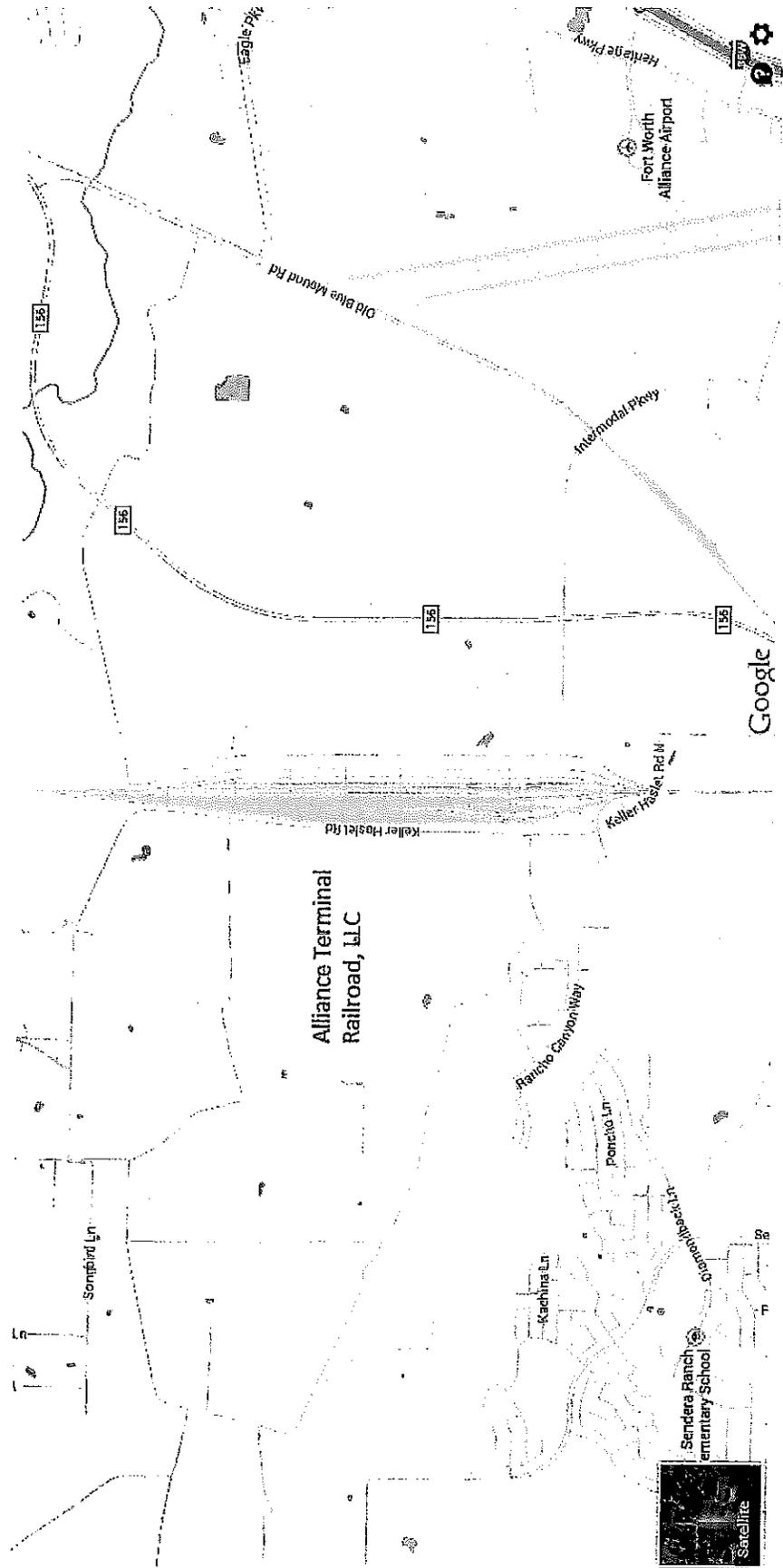
Alabama & Tennessee River Railway



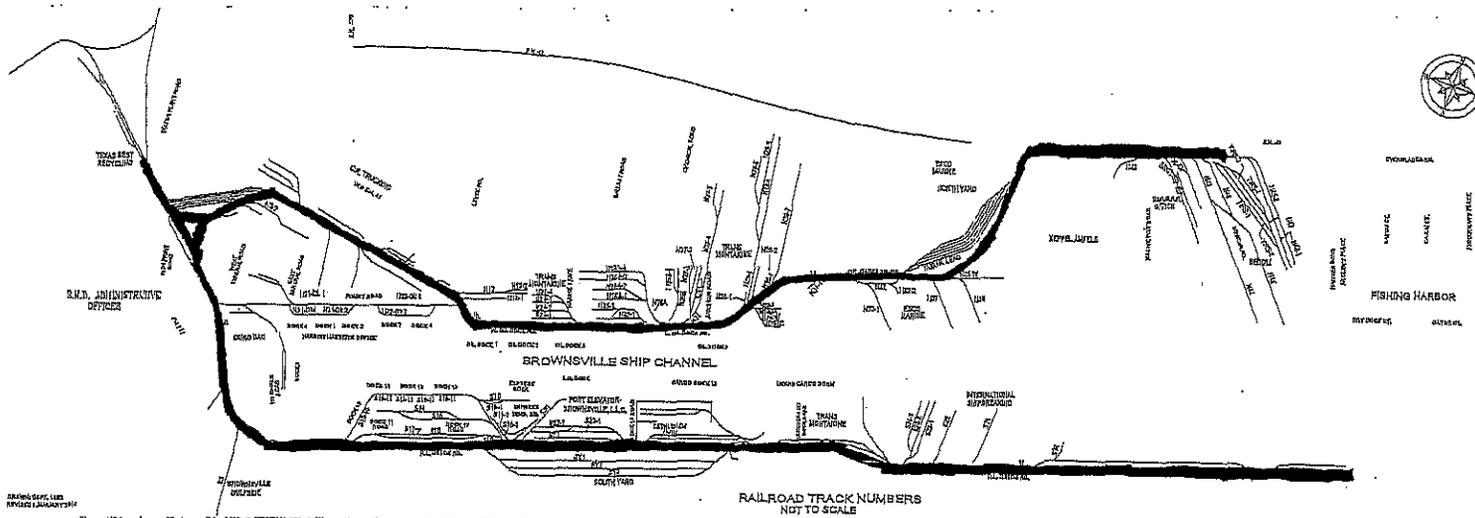
- Interchange Station
- Rail Barge Interchange
- ATN
- |||||** ATN Trackage Rights
- Railroads



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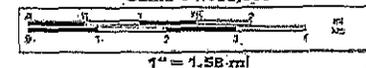
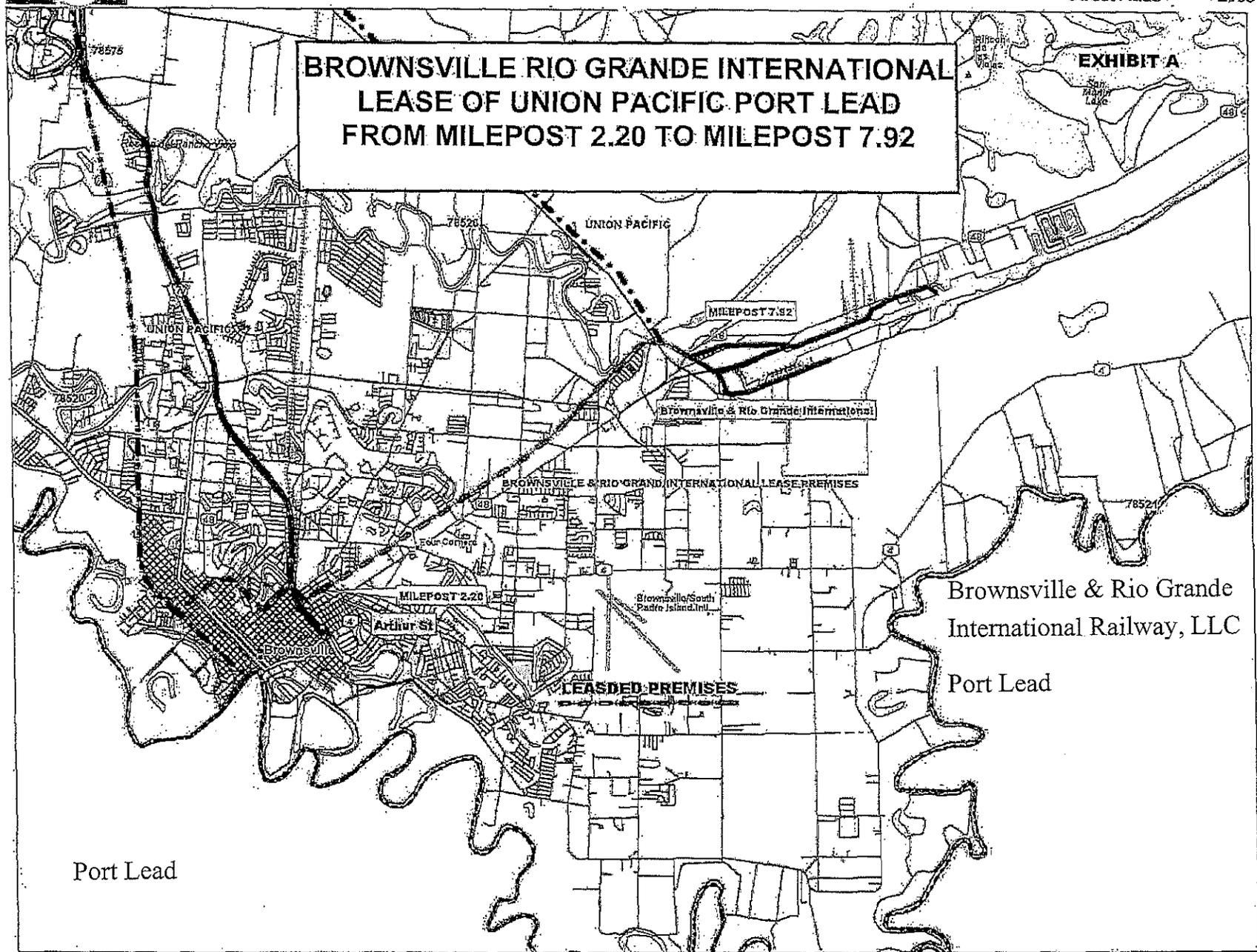
Port of Brownsville Trackage
 STB-Regulated "Main" Track Shown in Bold

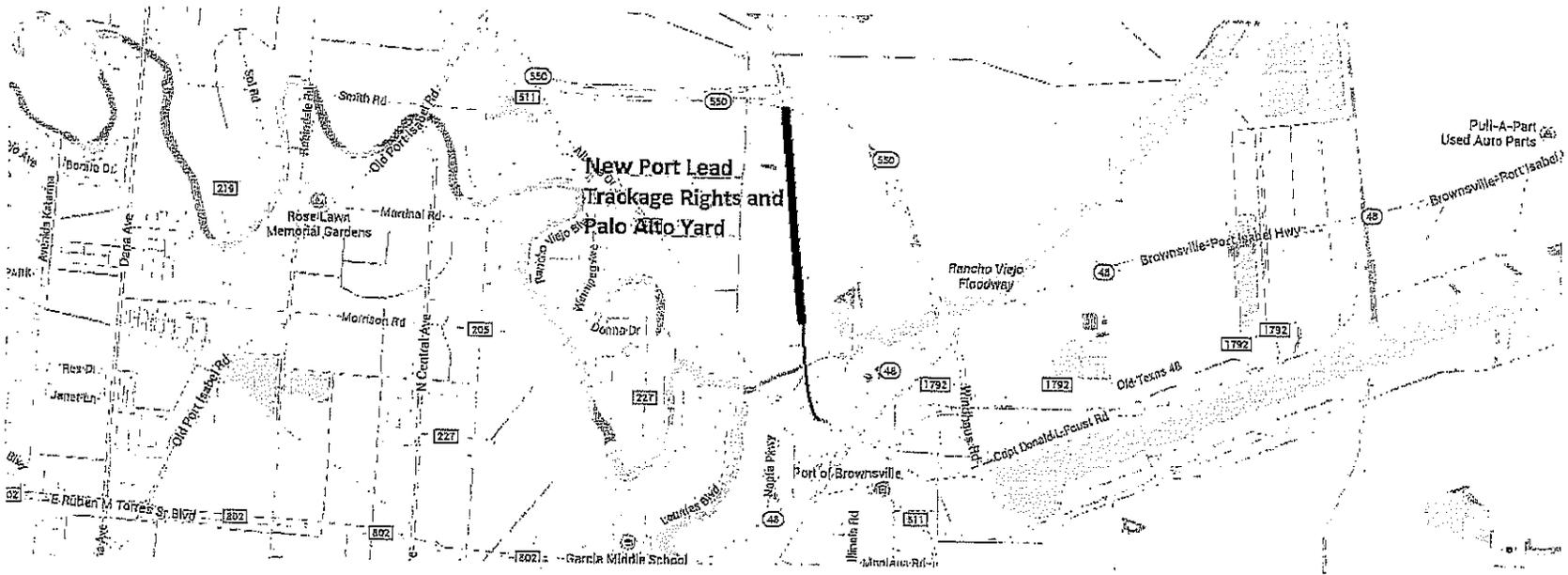


Brownsville & Rio Grande
 International Railway, LLC
 Port Trackage

BROWNSVILLE RIO GRANDE INTERNATIONAL LEASE OF UNION PACIFIC PORT LEAD FROM MILEPOST 2.20 TO MILEPOST 7.92

EXHIBIT A





Brownsville & Rio Grande International Railway, LLC
New Port Lead Trackage Rights and Palo Alto Yard

Chicago Rail Link

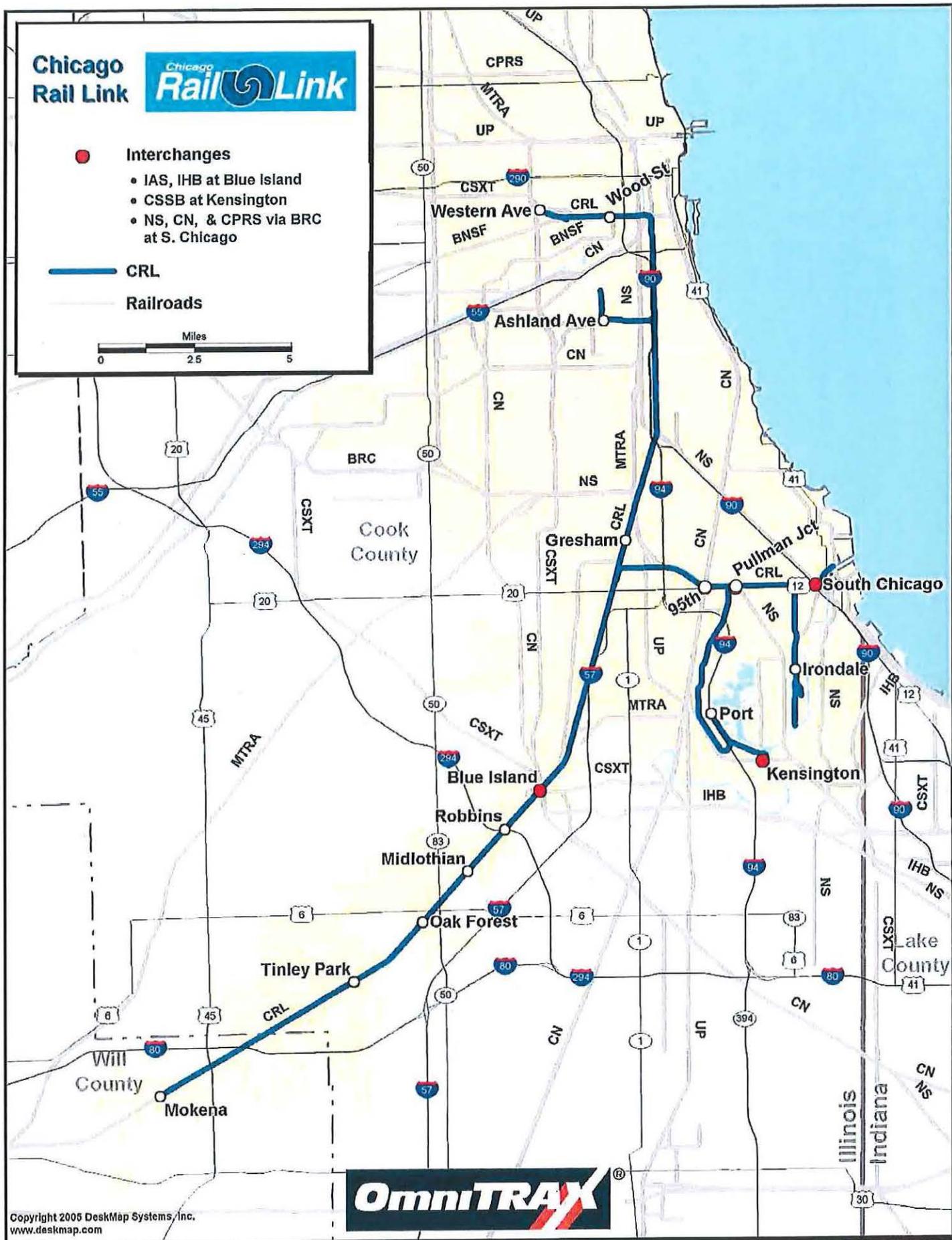


Interchanges

- IAS, IHB at Blue Island
- CSSB at Kensington
- NS, CN, & CPRS via BRC at S. Chicago



Railroads

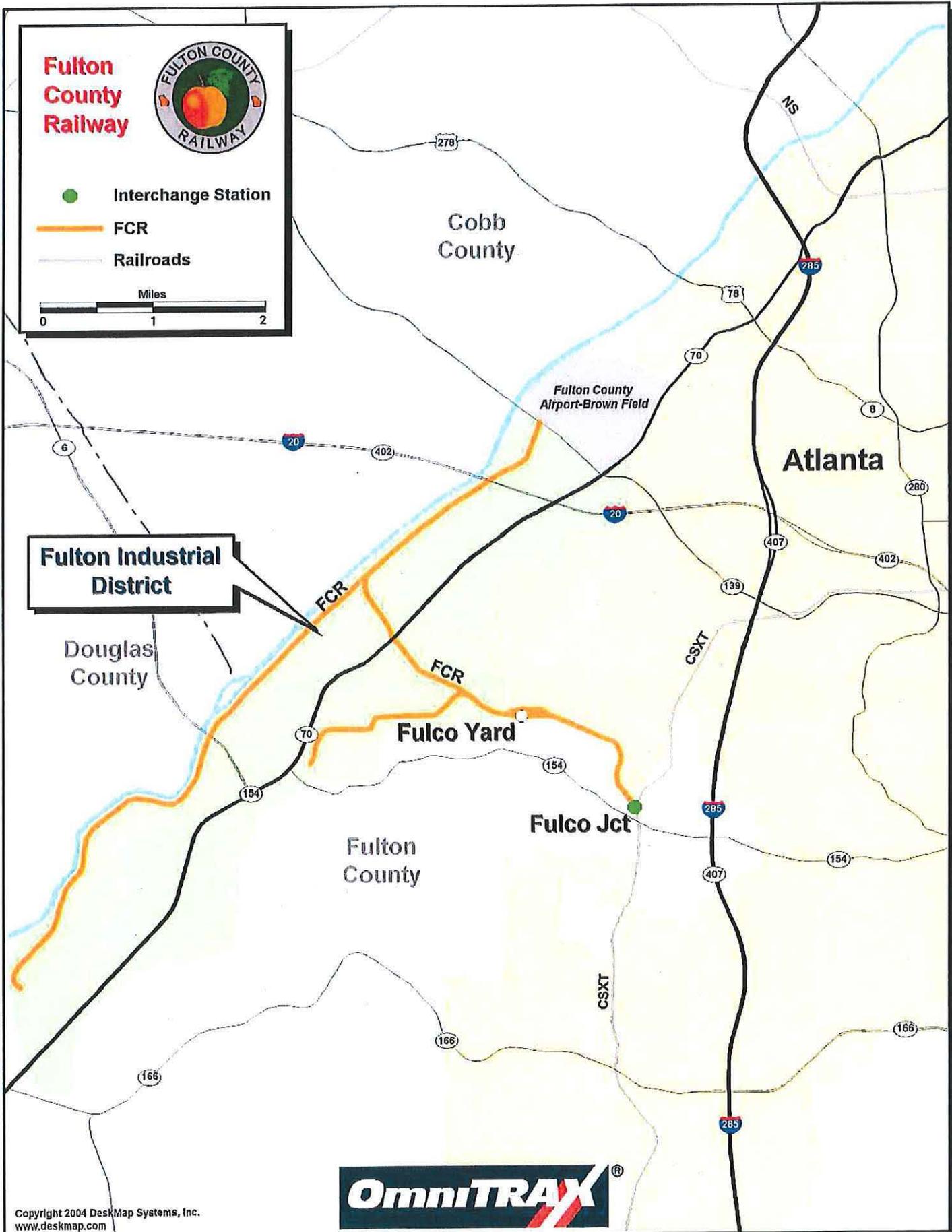


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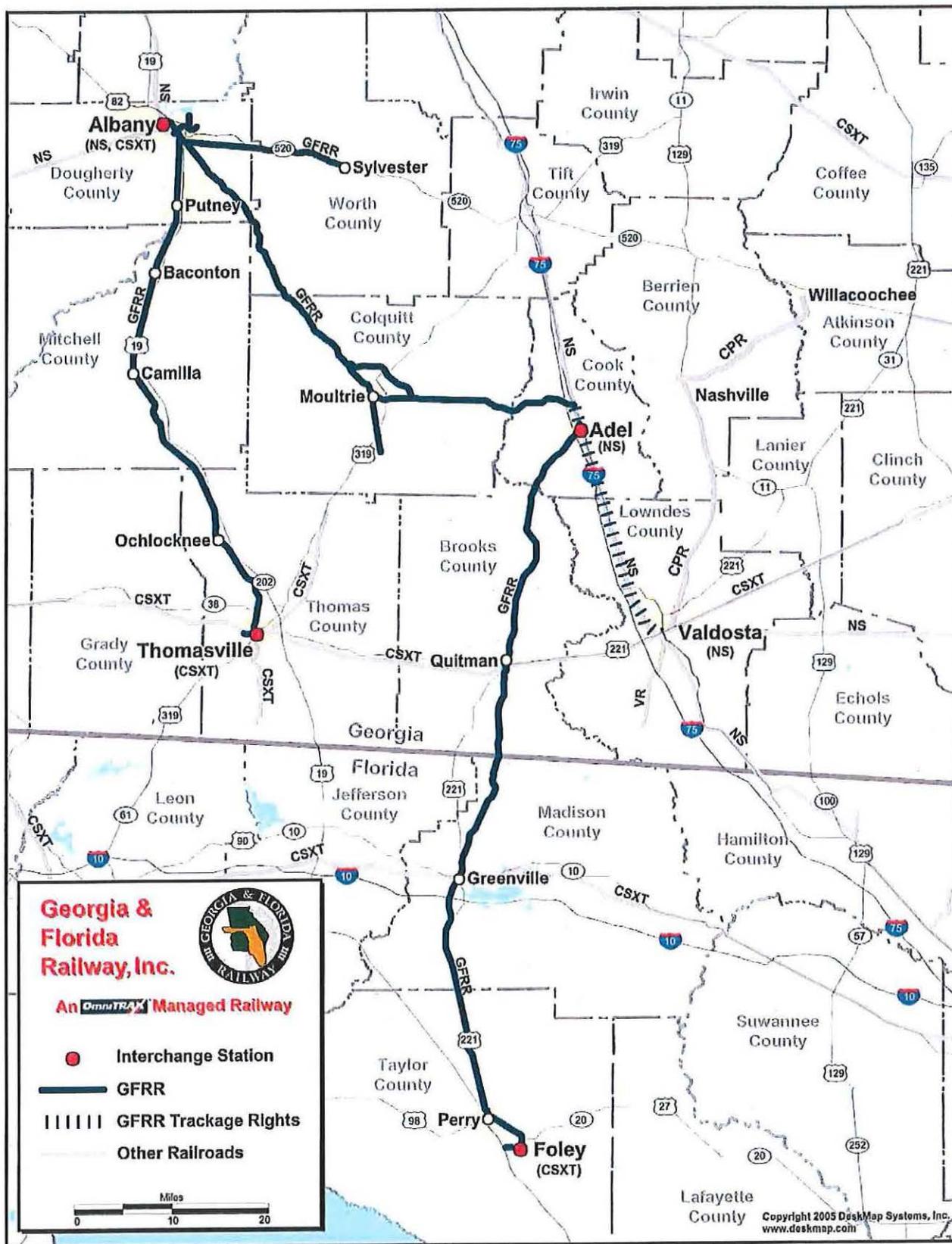
Fulton County Railway



- Interchange Station
- FCR
- Railroads



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Georgia & Florida Railway, Inc.



An **Amtrak** Managed Railway

- Interchange Station
- GFR
- GFR Trackage Rights
- Other Railroads

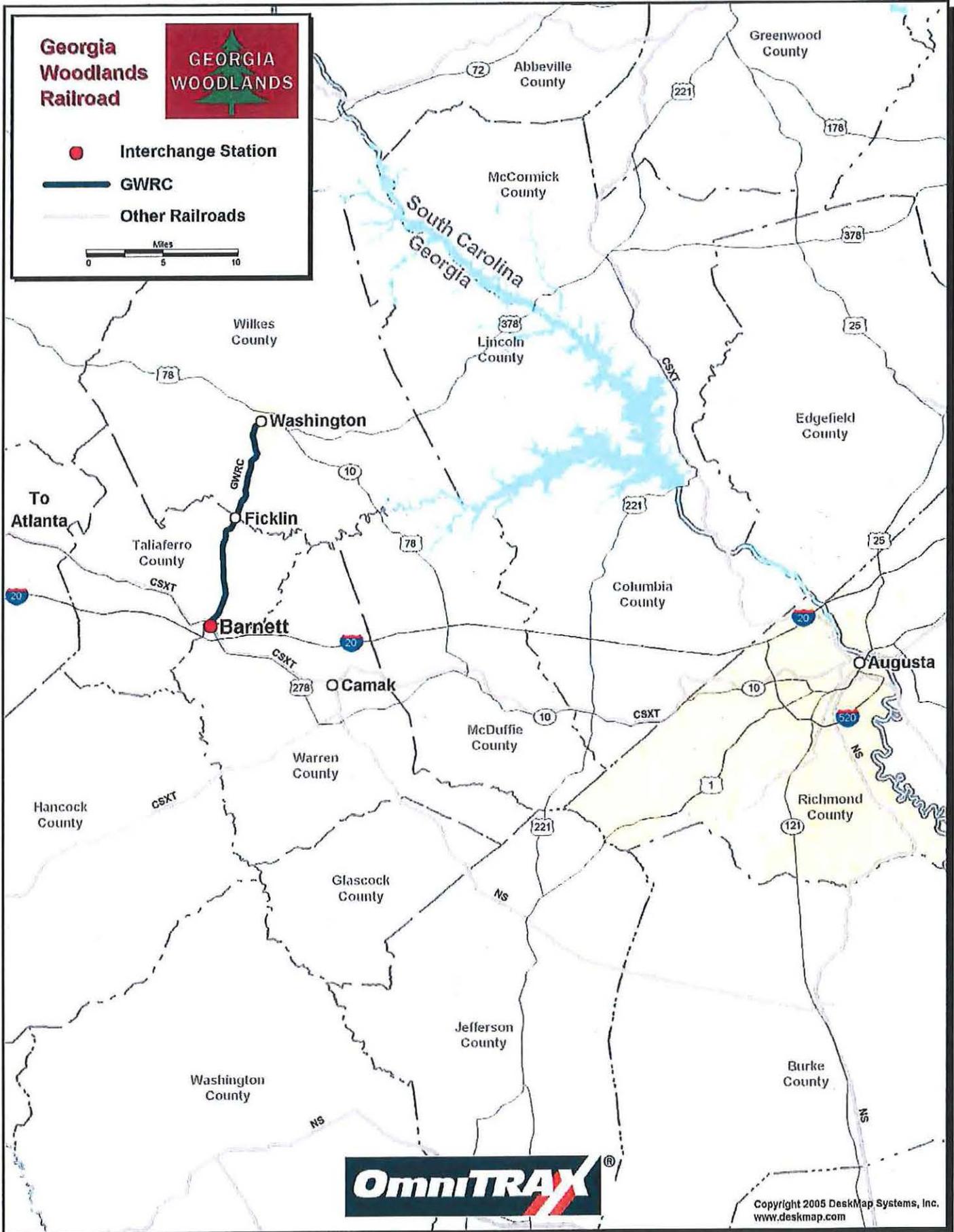


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**Georgia
Woodlands
Railroad**



- Interchange Station
- GWRC
- Other Railroads

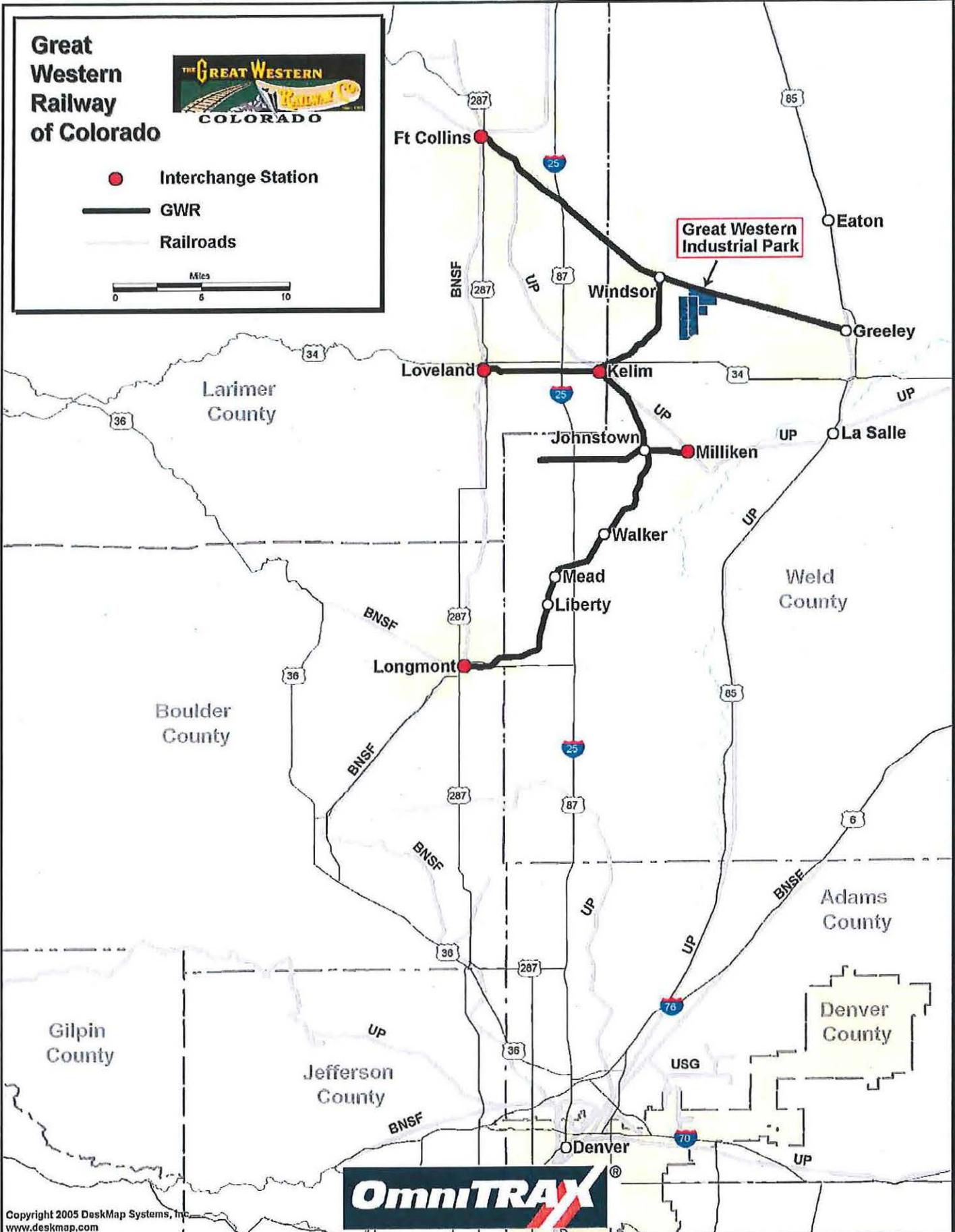


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Great Western Railway of Colorado



- Interchange Station
- GWR
- Railroads



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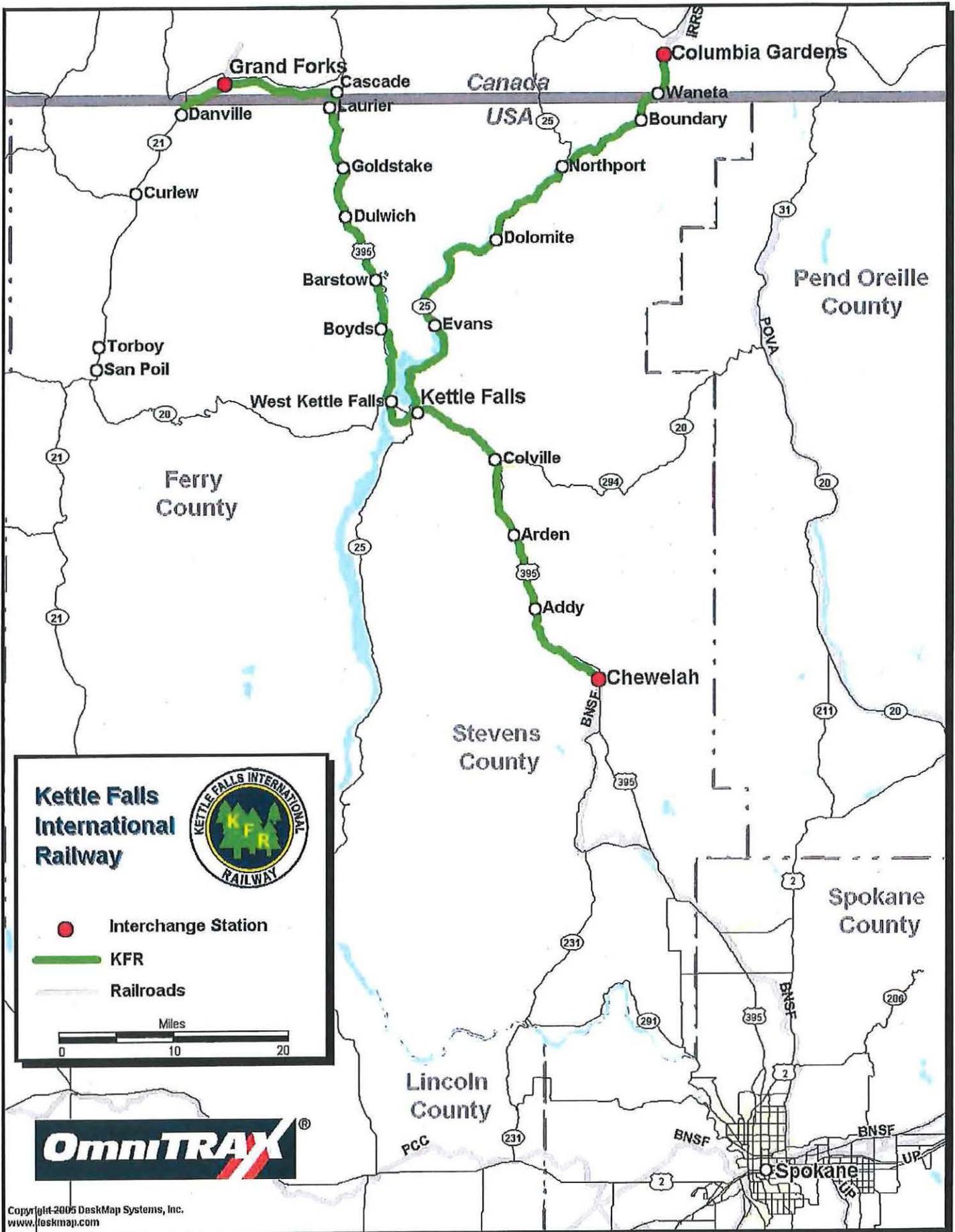
Illinois Railway Inc.

An *OmniTRAX* Managed Railway

- Interchange Station
- IR
- IR Trackage Rights
- Other Railroads

Miles

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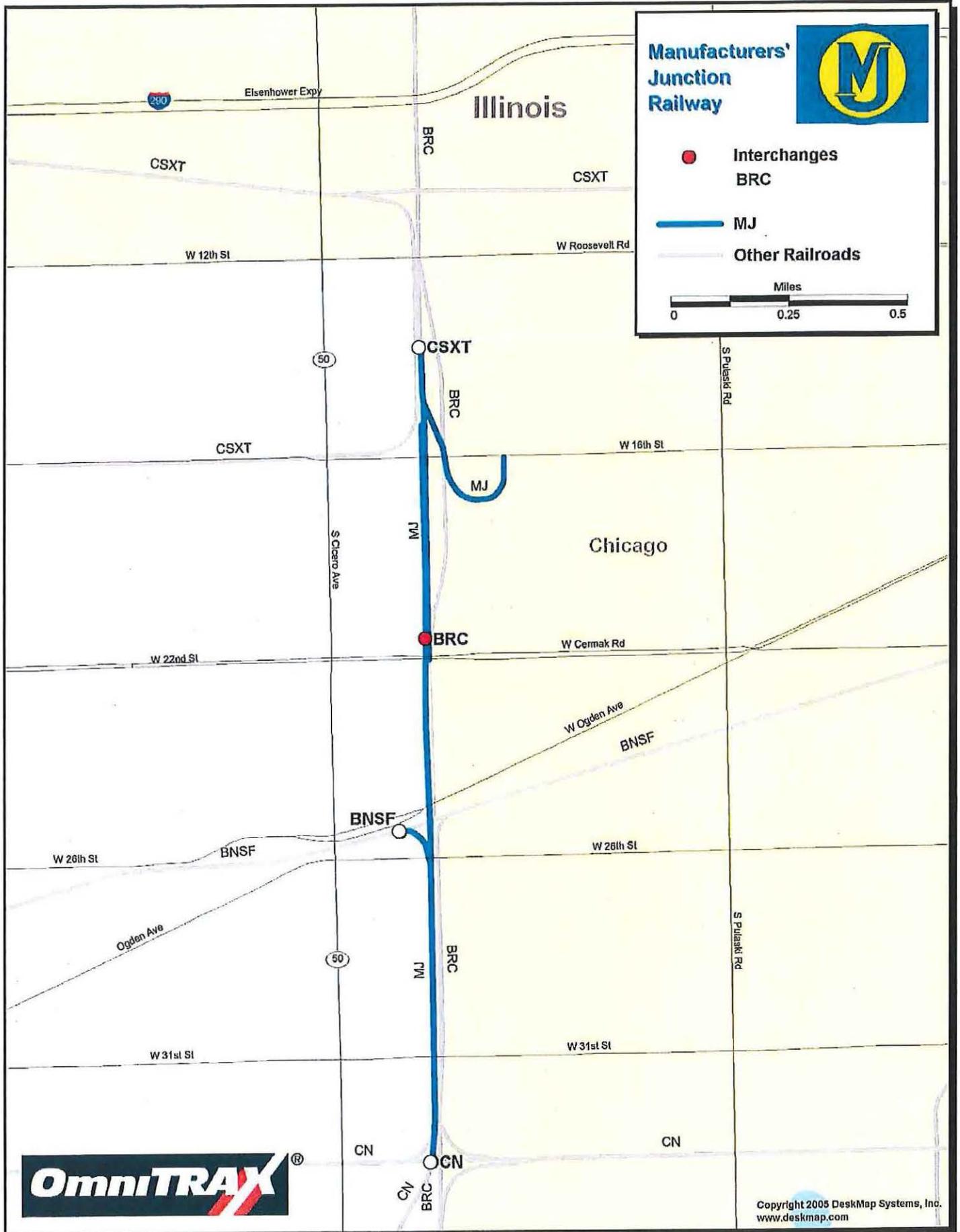
Kettle Falls International Railway

- Interchange Station
- KFR
- Railroads

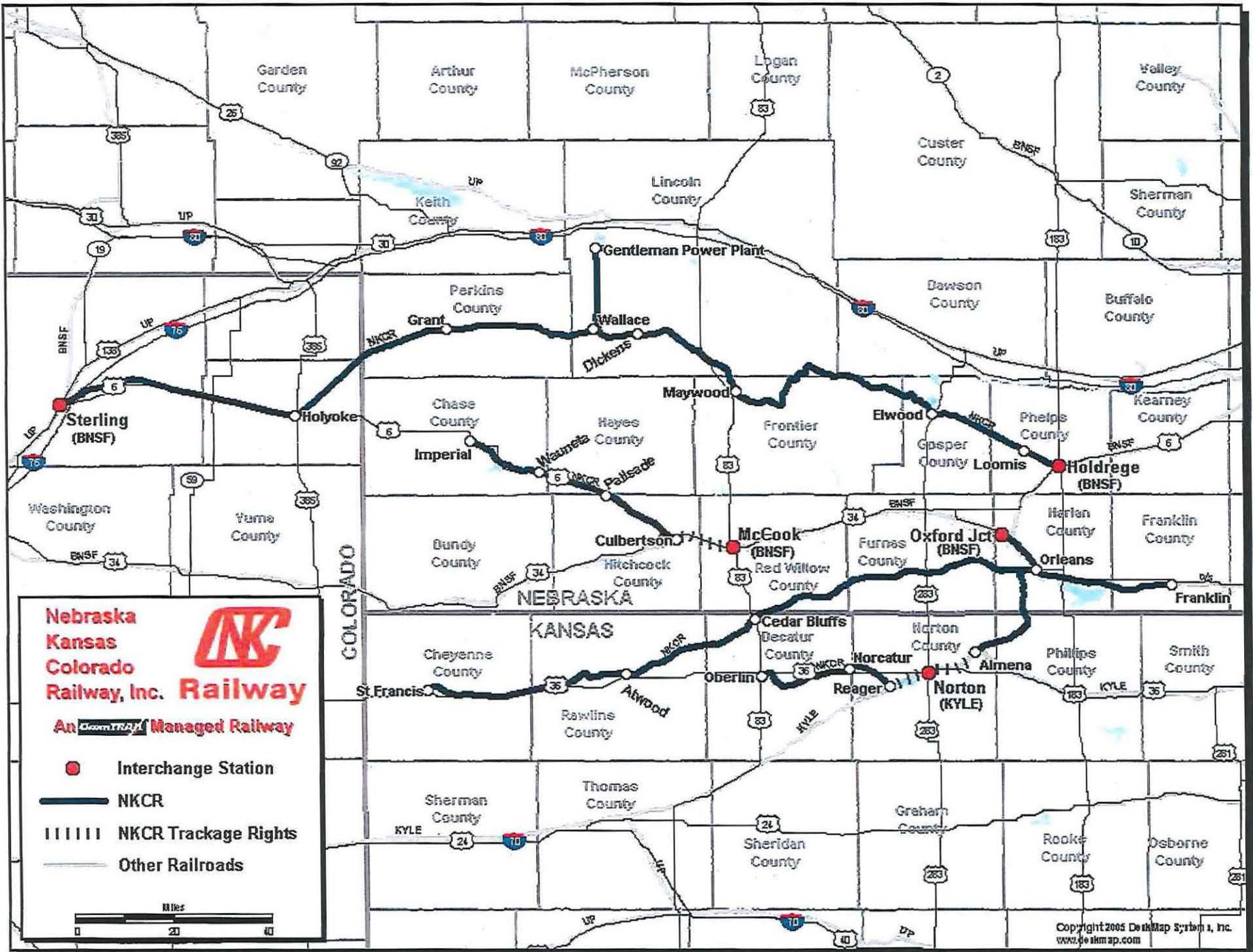
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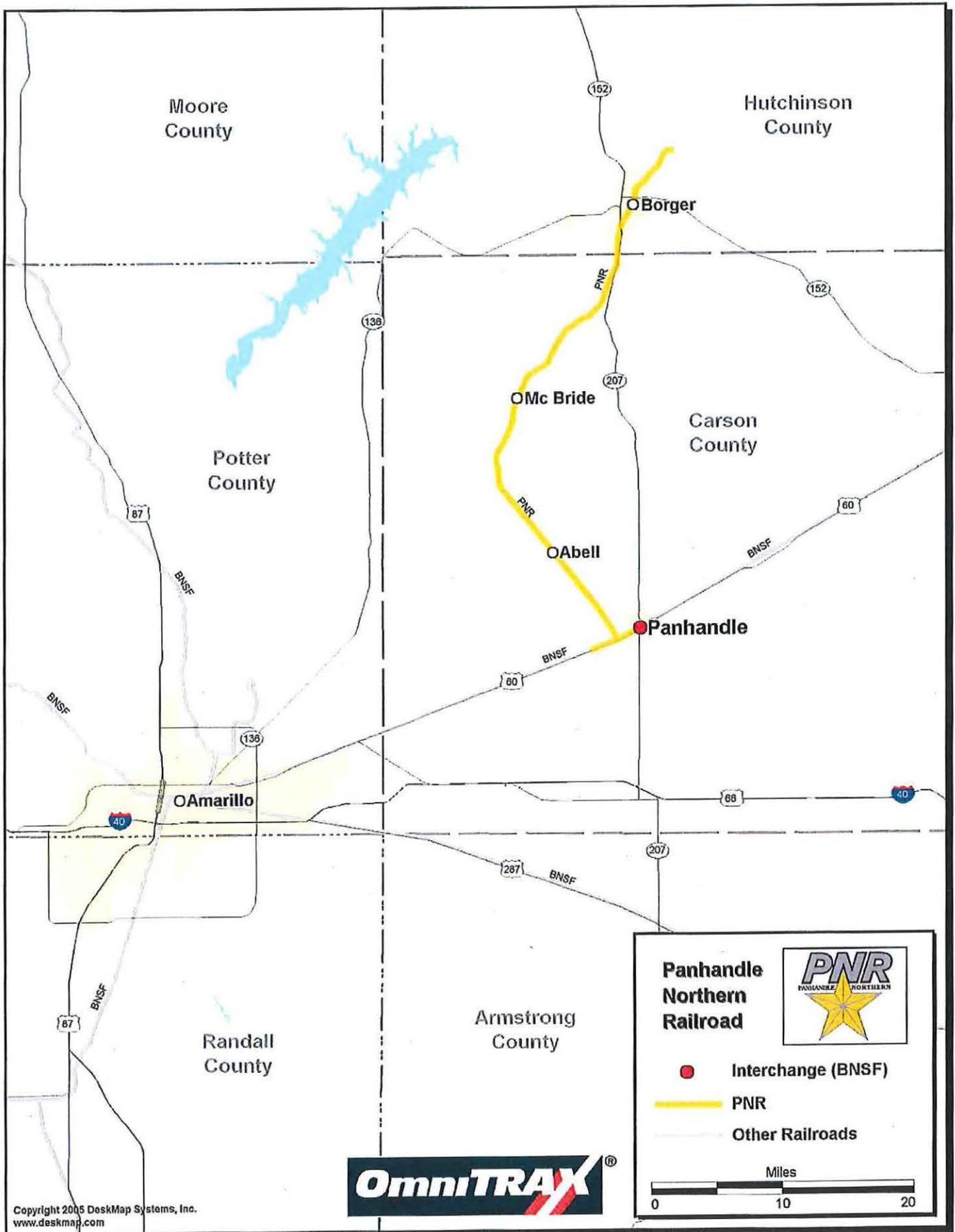
Northern Ohio & Western Railway



- Interchange Station
- NOW
- Other Railroads

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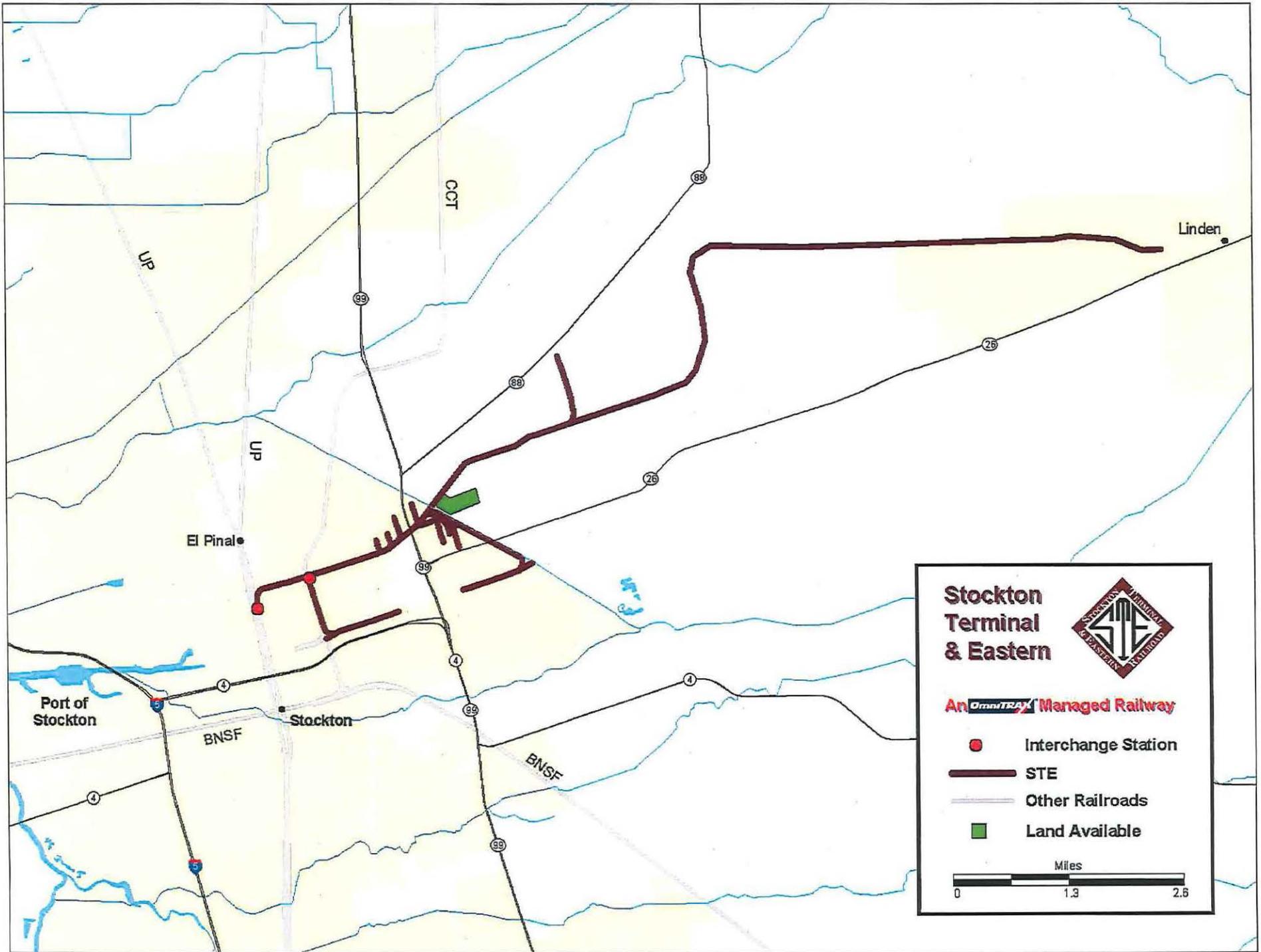


**Panhandle
Northern
Railroad**



- Interchange (BNSF)
- PNR
- Other Railroads





Stockton Terminal & Eastern



An **Omnitrax** Managed Railway

- Interchange Station
- STE
- Other Railroads
- Land Available

