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KARL MORELL



June 23, 2006

216840

BY HAND DELIVERY

The Honorable Vernon Williams  
Surface Transportation Board  
1925 K Street NW  
Suite 715  
Washington, DC 20423-001

**FILED**  
JUN 23 2006  
SURFACE  
TRANSPORTATION BOARD

Re: STB Docket No. AB-994, Kettle Falls International Railway, LLC --  
Abandonment Exemption -- In Ferry County, Washington

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Petition for Exemption under 49 U.S.C. § 10502. Also attached is a check covering the \$5,300 filing fee.

Please time and date stamp the extra copy of the Petition and return it with our messenger.

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Karl Morell".

Karl Morell

ENTERED  
Office of Proceedings

JUN 26 2006

Part of  
Public Record

Enclosures

**FEE RECEIVED**

JUN 23 2006

SURFACE  
TRANSPORTATION BOARD

216840



BEFORE THE  
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-994X

KETTLE FALLS INTERNATIONAL RAILWAY, LLC  
-- ABANDONMENT EXEMPTION --  
IN FERRY COUNTY, WASHINGTON

PETITION FOR EXEMPTION

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Karl Morell  
Of Counsel  
Ball Janik LLP  
1455 F Street, N.W.  
Suite 225  
Washington, D.C. 20005  
(202) 638-3307

**FEE RECEIVED**

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SURFACE  
TRANSPORTATION BOARD

Attorney for:  
Kettle Falls International  
Railway, LLC

Dated: June 23, 2006

BEFORE THE  
SURFACE TRANSPORTATION BOARD



STB DOCKET NO. AB-994X

KETTLE FALLS INTERNATIONAL RAILWAY, LLC  
-- ABANDONMENT EXEMPTION --  
IN FERRY COUNTY, WASHINGTON

PETITION FOR EXEMPTION

Kettle Falls International Railway, LLC ("KFR") petitions the Surface Transportation Board ("STB" or "Board") to exempt, under 49 U.S.C. § 10502, from the prior approval requirements of 49 U.S.C. § 10903, KFR's abandonment of a 28.361-mile rail line located in Ferry County, Washington.

**PROPOSED TRANSACTION**

KFR proposes to abandon its rail line located between milepost 48.779, near Danville, and milepost 77.14, at San Poil, in Perry County, Washington (the "Line"). The Line traverses U.S. Postal Service Zip Codes 99118, 99121 and 99150. A map of the Line is attached as Exhibit A.

Based on information in KFR's possession, the Line does not contain any federally granted rights-of-way. Any documentation in KFR's possession will be made available to those requesting it.

**STATEMENT OF FACTS**

KFR acquired the Line, along with other rail lines, on December 11, 2004 from the BNSF Railway Company ("BNSF"). *See Finance Docket No. 34616, Kettle Falls International*

*Railway, LLC – Acquisition Exemption – The Burlington Northern and Santa Fe Railway Company* (not printed), served December 28, 2004. When the acquisition was consummated, there was only one active rail shipper on the Line: Pope & Talbot Inc. (“P&T”). In October 2005, P&T moved its operation to another KFR rail line and dismantled the facility on the Line. Since the Line is stub-ended, it is not capable of handling overhead traffic. Consequently, the Line has been dormant since October 2005.

The only traffic that moved over the Line since it was acquired by KFR was 1,038 outbound carloads of finished lumber from the P&T facility near Curlew, WA. Since the facility at Curlew was closed in October 2005, no traffic has moved over the Line.

Between January and October 2005, service to P&T was provided an average of five days a week and occasionally on Saturdays. KFR utilized a three-man crew which was stationed in Kettle Falls, WA. The crew would depart 12:30 p.m. and proceed to the P&T facility. The train would start in Kettle Falls and set off traffic for customers in Kettle Falls then proceed to International Reload at Cascade, B.C. to set off traffic for the customer at that location. The train would then proceed to Grand Forks, B.C., and set off cars for customers at Grand Forks and then proceed to Curlew where the crew would make both set offs and pick ups at the P&T facility. On the reverse move, the crew would pick up cars at Grand Forks and Cascade before returning to Kettle Falls. Since the P&T facility was relocated to Grand Forks, KFR no longer needs to operate beyond Grand Forks because there is no longer any traffic moving to or from the Line.

Trains on the Line were powered by two or three GP-38 locomotives depending on the workload. The crew spent approximately 20 percent of their time working on the Line.

## **REVENUE AND COST DATA FOR BASE YEAR<sup>1</sup>**

During the Base Year, KFR generated the following revenues on the Line:

### **Revenue:**

Freight Originating and/or Terminating On-Branch	\$247,044
Bridge Traffic	0
Other Income	<u>65</u>
Total Revenues	\$247,109

### **On-Branch Avoidable Costs:**

KFR's on-branch avoidable costs for the Base Year were as follows:

a. Maintenance-of-Way and Structures	\$170,166
b. Maintenance of Equipment	68,793
c. Transportation	483,217
d. General & Administrative	32,215
e. Freight Car Costs (other than return)	378
f. Property Taxes	<u>0</u>
Total Avoidable costs:	\$754,769
Avoidable (Loss) or Profit:	(\$507,660)

## **REVENUES**

The identified freight revenues generated by KFR during the Base Year were all from traffic originated or terminated on the Line. As previously noted, the gross revenues for the Base Year were all generated from a facility that has been dismantled and not from ongoing operations. The Line is stub-ended and, therefore, not capable of handling overhead traffic. In the Base Year, KFR generated gross revenues of \$247,044 from freight operations and \$65 in other income, from leases along the Line.

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<sup>1</sup> The Base year is from January 1, 2005 through December 31, 2005.

## AVOIDABLE COSTS

Lines b through f under On-Branch Costs represent estimates of the actual on-branch costs incurred by KFR in operating the Line during the Base Year. KFR is utilizing normalized maintenance costs for Maintenance-of-Way and Structure costs (line a).

Maintenance-of-way and Structure costs (line a) equal \$170,166 and are based on normalized maintenance levels necessary to maintain the Line in Class 1 operating conditions. The Board and its predecessor have long recognized the appropriateness of considering normalized maintenance costs in instances of deferred maintenance. *See Chicago and North Western Transp. Co. – Abandonment*, 366 I.C.C. 373, 377 (1982)(“Normalized maintenance is the amount needed for economic and efficient operation over the long term. \*\*\* We have, in the past, applied normalized maintenance calculations to actual maintenance figures and found that costs for normalized maintenance when compared to actual maintenance expenditures are indicative of deferred maintenance and are to be given consideration in determining whether or not the public convenience and necessity permit abandonment of a line.”).

The normalized maintenance costs of \$6,000 per mile being utilized by KFR are conservative and based on the per-mile maintenance costs accepted by the Board and its predecessor in other abandonment proceedings. For example, the Board and its predecessor found as reasonable per-mile normalized maintenance costs of **\$10,943** in STB Docket No. AB-33 (Sub-No. 156), *Union Pacific Railroad Company – Abandonment – In Harris, Fort Bend, Austin, Wharton and Colorado Counties, TX* (not printed), served November 8, 2000; **\$6,957** in STB Docket No. AB-564 *Camas Prairie Railnet, Inc. – Abandonment – In Lewis, Nez Perce, and Idaho Counties, ID* (not printed), served September 13, 2000; **\$6,029** in STB Docket No.

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AB-441 (Sub-No. 2X), *SWKR Operating Co. – Abandonment Exemption in Cochise County, AZ* (not printed), served February 14, 1997, slip op. at 5 (“We know from extensive experience that \$6,000 per mile/per year is a reasonable figure for maintenance by a Class III railroad.”).

Maintenance of Equipment (“MOE”) costs (line b) include wages and fringe benefits associated with locomotive repair and maintenance, locomotive repair costs, and locomotive supplies. System-wide KFR incurred \$343,963 in MOE costs during the Base Year. Since KFR locomotives spent 20 percent of their operating time traversing the Line, KFR is attributing 20 percent of the MOE costs, or \$68,793, to the Line.

Transportation costs (line c) include wages and fringe benefits associated with the freight operations on the Line, locomotive fuel costs, equipment rental, and derailment expenses. System-wide KFR incurred \$2,416,084 in transportation costs during the Base Year. Since the crews and locomotives spent 20 percent of their operating time traversing the Line, KFR is attributing 20 percent of the transportation cost, or \$483,217, to the Line.

General and Administrative expenses (line d) include motor vehicle expense, claims, utilities, telephone, office and general supplies, insurance costs and miscellaneous expenses. System-wide KFR incurred \$585,727 in General and Administrative expenses during the Base Year. The P&T traffic originating on the Line represented approximately 5.5 percent of KFR’s total carloads during the Base Year. KFR is, therefore, attributing 5.5 percent of the total General and Administrative expenses, or \$32,215, to the Line.

Freight Car Costs (other than return) (line e) include the cost of car repair. System-wide KFR incurred \$6,866 in car repair costs during the Base Year. Since the P&T traffic originating on the Line represented approximately 5.5 percent of KFR’s total carloads during the Base Year, KFR is attributing 5.5 percent of the car repair costs, or \$378, to the Line.

KFR incurred but did not pay any Property taxes (line f) during the Base Year. The property taxes for 2005 were paid in 2006.

**FORECAST YEAR<sup>2</sup>**

During the Forecast Year, KFR will generate the following revenues on the Line:

**Revenue:**

Freight Originating and/or		
Terminating On-Branch		\$0
Bridge Traffic		0
Other Income		<u>7,440</u>
Total Revenues		\$7,440

**On-Branch Avoidable Costs:**

KFR’s on-branch costs for the Forecast Year will be as follows:

a. Maintenance-of-Way and Structures		\$170,166
b. Maintenance of Equipment		0
c. Transportation		0
d. General & Administrative		32,215
e. Freight Car Costs (other than return)		0
f. Property Taxes		<u>10,323</u>
Total Avoidable costs:		212,704
 Avoidable (Loss) or Profit:		 (\$205,264)

**REVENUES**

There will be no freight operations on the Line during the Forecast Year. Consequently, KFR will generate no freight revenues. The Line will generate \$7,440 in lease revenues during the Forecast Year.

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<sup>2</sup> KFR is utilizing June 2006 through May 2007 as the Forecast Year.

## **AVOIDABLE COSTS**

Lines b through f under On-Branch Costs represent estimated, actual on-branch avoidable costs KFR would incur for the dormant Line during the Forecast Year if it is not abandoned. KFR is again utilizing normalized maintenance costs for Maintenance-of-Way and Structure costs (line a).

Maintenance-of-Way and Structure costs (line a) equal \$170,166 and are based on normalized maintenance levels necessary to maintain the Line in Class 1 operating conditions. As previously explained, KFR is utilizing \$6,000 per mile as normalized maintenance costs.

Because there will be no freight operations on the Line during the Forecast Year, KFR will not incur any Maintenance of Equipment costs (line b), Transportation costs (line c), or Freight Car Costs (line e) attributable to the Line.

General and Administrative expenses of \$32,215 (line d) are estimated to be the same costs as those incurred during the Base Year.

Property taxes (line k) during the Forecast Year attributable to the Line will total \$10,323.

Accordingly, during the Forecast Year, KFR will incur losses of \$205,264 based on normalized maintenance costs. This amount, however, does not reflect the significant opportunity costs KFR would forego during the Forecast Year if the Line is not abandoned.

## **OPPORTUNITY COSTS**

Opportunity costs reflect the economic loss experienced by KFR from forgoing a more profitable alternative use of the assets associated with the Line. Pursuant to *Abandonment Regulations – Costing*, 3 I.C.C.2d 340 (1987), the opportunity cost of road property is computed on an investment base equal to the sum of: (1) allowable working capital; (2) the net liquidation

value (“NLV”) of the Line; and (3) current income tax benefits (if any) resulting from abandonment.

### **Net Liquidation Value Of The Line**

The Line is comprised of the following rail: 0.141 miles of 90 pound jointed rail, 2.18 miles of 112 pound welded rail, 5.7 miles of 115 pound welded rail, 4.2 miles of 132 pound welded rail and 16.14 miles of 115 pound jointed rail.

KFR has received several salvage bids which are well in excess of \$3 million. The individual bid amounts are the net amount KFR is to receive for the rail, rail materials and ties and does not include the real estate underlying the right-of-way. Although the Net Liquidation Value (“NLV”) for the Line is well over \$3 million, KFR will utilize this significantly lower amount for purposes of calculating opportunity costs so as not to reveal the confidential bids.<sup>3</sup>

<b>Valuation of Property Before Holding Gain</b>	\$3,000,000
Nominal Rate of Return	16.03%
Total Return on Value – Opportunity Cost:	\$480,900 <sup>4</sup>

### **SUMMARY**

During the Base Year, KFR incurred an operating loss of \$507,660 and incurred foregone opportunity costs of approximately \$480,900 for a total economic loss of approximately \$988,560.

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<sup>3</sup> KFR reserves the right to use the actual, much higher NLV in case an offer of financial assistance is filed in this proceeding.

<sup>4</sup> KFR is not making any adjustments for working capital and income tax consequences because the avoidable costs are only estimates and the NLV is significantly below the actual value KFR is to receive. KFR is also not including any Holding Gains or Losses. Given the historically high prices for steel, it is more likely than not that the prices will decline rather than increase during the Forecast Year. Even if the prices continue to increase, such increases will likely be more than offset by the low NLV being utilized to calculate KFR’s opportunity cost.

In the Forecast Year, KFR will incur avoidable losses of \$205,264 and incur foregone opportunity costs of approximately \$480,900 for a total economic loss of approximately \$686,164.

### **EXEMPTION REQUESTED**

KFR seeks an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. § 10903 in order for KFR to abandon this unused 28.361-miles of rail line.

Under 49 U.S.C. § 10502, the STB must exempt a transaction from regulation when it finds that:

- (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and
- (2) either:
  - (a) the transaction is of limited scope; or
  - (b) regulation is not necessary to protect shippers from the abuse of market power.

The legislative history of Section 10502 reveals a clear Congressional intent that the STB should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Act of 1980, Pub. L. No. 96-448, 94 Stat. 1895, Congress encouraged the STB's predecessor to liberally use the expanded exemption authority under former Section 10505:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with

the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R. Rep. No. 1430, 96<sup>th</sup> Cong. 2d Sess. 105 (1980). *See also Exemption From Regulation – Boxcar Traffic*, 367 I.C.C. 424, 428 (1983), *vacated and remanded on other grounds, Brae Corp. v. United States*, 740 F.2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provisions as Section 10502. H.R. Rep. 422, 104<sup>th</sup> Cong., 1<sup>st</sup> Sess. 168-69 (1995).

**A. The Application Of 49 U.S.C. § 10903 Is Not Necessary to Carry Out The Rail Transportation Policy**

Detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy. An exemption would minimize the unnecessary expenses associated with the filing of a formal abandonment application, expedite regulatory decisions and reduce regulatory barriers to exit [49 U.S.C. § 10101(2) and (7)]. *See, e.g., Norfolk & W. Ry. Co. – Abandonment Exem. – Cinn., Hamilton County, OH*, 3 S.T.B. 110 (1998); STB Docket No. AB-367 (Sub-No. 2X), *Georgia Central Railroad, L.P. – Abandonment Exemption – In Chatham County, GA* (not printed), served September 17, 1997 (“*Georgia Central*”). By abandoning the Line, KFR will be able to avoid the out-of-pocket expenses and significant opportunity costs associated with retaining this dormant Line. Granting the exemption will thus foster sound economic conditions and encourage efficient management. 49 U.S.C. § 10101(5) and (9). *See, e.g., STB Docket No. AB-318* (Sub-No. 4X), *Louisiana & Delta Railroad, Inc. – Abandonment Exemption – In Lafourche and Assumption Parishes, LA* (not printed), served August 26, 1997; STB Docket No. AB-497 (Sub-No. 1X), *Minnesota Northern Railroad, Inc. – Abandonment Exemption – In Red Lake and Polk Counties, MN* (not printed), served November 14, 1997. KFR will be able to rid

itself of a line that has not seen traffic in over 8 months and utilize the salvage funds to maintain the tracks on the remainder of KFR's system. Other aspects of the rail transportation policy are not affected adversely. For example, competition and the continuation of a sound rail transportation system are not affected since there are no active shippers on the Line and no need for rail service along the Line.

**B. This Transaction Is Of Limited Scope**

In determining whether a proposed transaction is of limited scope, the Board considers a variety of factors, such as the length of the rail line, the number of shippers on the line and the traffic volume. *See, e.g.,* Docket No. AB-347 (Sub-No. 1X), *Florida West Coast Railroad Company – Abandonment Exemption – Gilchrist and Levy Counties, FL* (not printed), served January 16, 1992; Docket No. AB-6 (Sub No. 349X), *Burlington Northern Railroad Company – Abandonment Exemption – In Greene and Polk Counties, MO* (not printed), served August 27, 1993.

The proposed transaction is clearly of limited scope. KFR is seeking to abandon a 28.361-mile line that traverses a predominantly rural area where there has been no demand for rail service in over 8 months. The shortness of the Line, the limited geographic area involved, and the lack of use all demonstrate the limited scope of the proposed abandonment. *See, e.g.,* Docket No. AB-397 (Sub-No. 3X), *Tulare Valley Railroad Company – Abandonment Exemption – In Tulare And Fresno Counties, CA* (not printed), served February 9, 1995.

**C. This Transaction Will Not Result In An Abuse of Market Power**

There has been no freight traffic on the Line in over 8 months. Therefore, regulation is not necessary to protect shippers from an abuse of market power. *See, e.g.,* STB Docket No. AB-55 (Sub-No. 576) *CSX Transportation, Inc. – Abandonment Exemption – In Guernsey*

*County, OH* (not printed), served November 22, 1999; STB Docket No. AB-55 (Sub-No. 563X),  
*CSX Transportation, Inc. – Abandonment Exemption – In Harrison County, WV* (not printed),  
served September 25, 1998; *Georgia Central*.

### **ENVIRONMENTAL AND HISTORIC REPORTS**

The Environmental Report and the Historic Report containing the information required by 49 C.F.R. §§ 1105.07 and 1105.08 are attached as Exhibit D. The Certificate of Service is attached as Exhibit C.

### **FEDERAL REGISTER NOTICE**

A draft Federal Register notice is attached to this Petition as Exhibit B.

### **LABOR PROTECTION**

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protection conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

## CONCLUSION

Application of the regulatory requirements and procedures of 49 U.S.C. § 10903 is not required to carry out the rail transportation policy set forth in 49 U.S.C. § 10101, as previously described in this Petition. Nor is STB regulation required to protect shippers from the abuse of market power. Moreover, this abandonment is of limited scope. Accordingly, KFR respectfully urges the Board to grant the exemption.

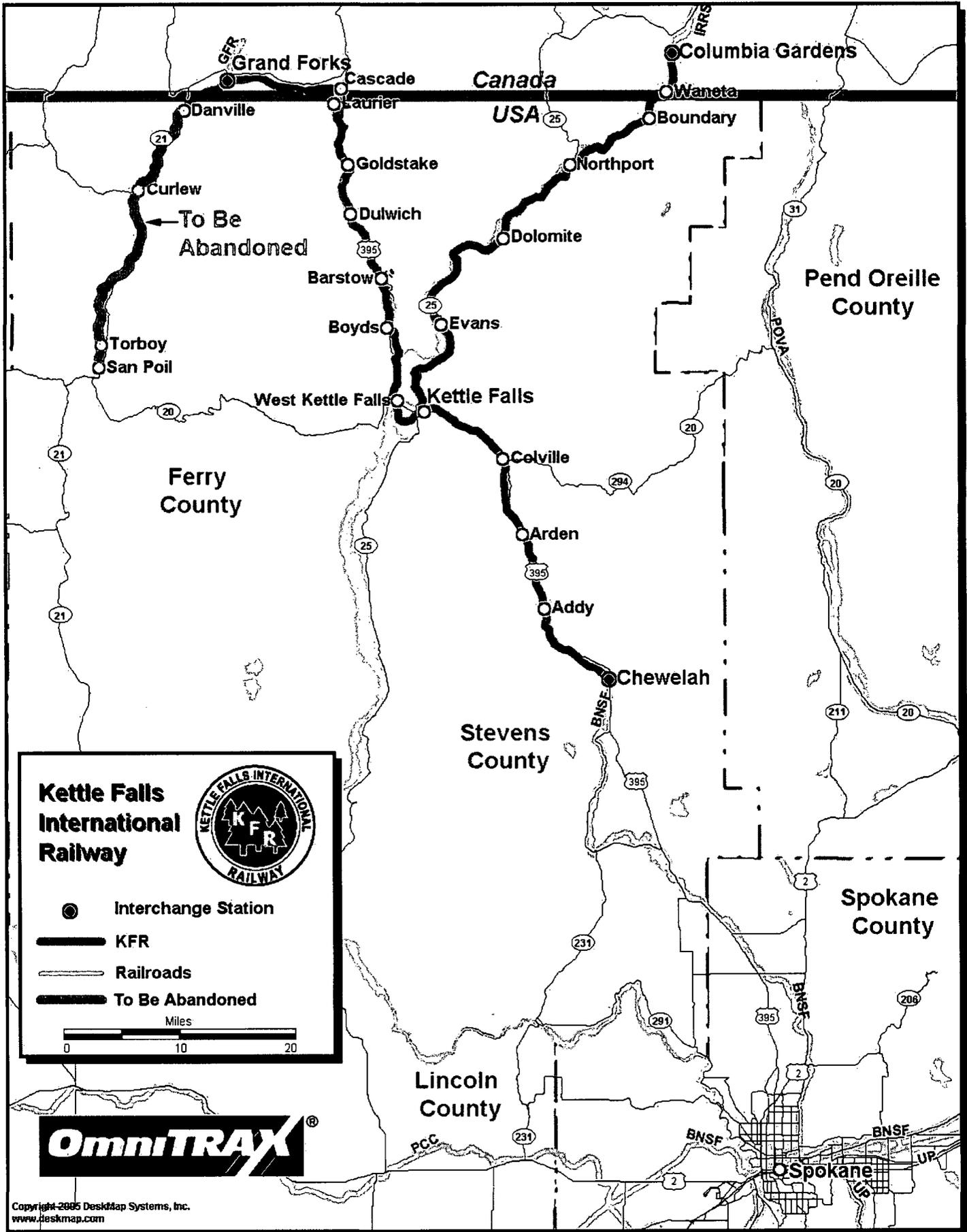
Respectfully submitted,



Karl Morell  
Of Counsel  
Ball Janik LLP  
1455 F Street, N.W.  
Suite 225  
Washington, D.C. 20005  
(202) 638-3307

Dated: June 23, 2006

# Exhibit A



**EXHIBIT B**

**SURFACE TRANSPORTATION BOARD**

**STB DOCKET NO. AB-994X**

**KETTLE FALLS INTERNATIONAL RAILWAY, LLC  
--ABANDONMENT EXEMPTION--  
IN FERRY COUNTY, WASHINGTON**

On June 23, 2006, Kettle Falls International Railway, LLC (KFR) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provision of 49 U.S.C. 10903 for KFR to abandon a line of railroad extending from railroad milepost 48.779, near Danville, WA, to railroad milepost 77.14, in San Poil, WA, which traverses U.S. Postal Service Zip Codes 99118, 99121 and 99150, a distance of 28.361 miles in Ferry County, Washington. There are no stations on the line for which abandonment exemption was filed.

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.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued within 90 days (by September \_\_, 2006).

Any offer of financial assistance under 49 C.F.R. 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1,300. *See* 49 C.F.R. 1002.2(f)(25).

All interested person should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any

request for a public use condition under 49 C.F.R. 1152.28 and any request for trail use/rail banking under 49 C.F.R. 1152.29 will be due no later than 20 days after notice of the filing of the petition for exemption is published in the *Federal Register*. Each trail use request must be accompanied by a \$200 filing fee. See 49 C.F.R. 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-994X and must be sent to: (1) Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001, (2) Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis at (202) 565-1545 [TDD for the hearing impaired is available at (202) 565-1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: \_\_\_\_\_ 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings,  
Vernon A. Williams

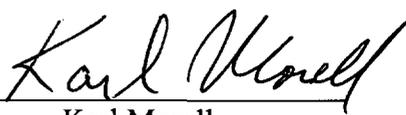
**EXHIBIT C**

**CERTIFICATE OF SERVICE**

Pursuant to 49 C.F.R. § 1152.60(d), the undersigned hereby certifies that the Petition for Exemption in STB Docket No. AB-994X was mailed via first class mail on June 23, 2006, to the following parties:

<p><b>State Public Service Commission</b></p> <p>Washington State Transportation Commission P.O. Box 47308 Olympia, WA 98504</p>	<p><b>National Park Service</b></p> <p>Chief of National Recreation and Trails U.S. Dept. of Interior - Nat'l. Park Service Recreation &amp; Conservation 1849 C Street, NW Washington, DC 20240-0001</p>
<p><b>Military Traffic Management Command</b></p> <p>MTMCTEA ATTN: Railroads for National Defense 720 Thimble Shoals Blvd., Suite 130 Newport News, VA 23606-2574</p>	<p><b>National Park Service</b></p> <p>National Park Service One Jackson Center 1111 Jackson Street, Suite 700 Oakland, CA 94607</p> <p><b>U.S. Department of Agriculture</b></p> <p>U.S. Department of Agriculture Chief of the Forest Service 4th Floor N.W., Auditors' Building 14th St. and Independence Ave., S.W. Washington, DC 20250</p>

Dated: June 23, 2006

  
Karl Morell

## CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in STB Docket No. AB-994X was published on June 22, 2006, in the Republic News Miner, a newspaper of general circulation in Ferry County, Washington as required by 49 C.F.R. § 1105.12.

Dated: June 23, 2006

  
Karl Morell

**ENVIRONMENTAL REPORT  
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Environmental Report in STB Docket No. AB-994X was mailed via first class mail on June 2, 2006, to the following parties:

<p>National Park Service Recreational Resources Assistance Division 1849 C Street, NW Washington, D.C. 20240-0001</p> <p>Washington Transportation Department P.O. Box 47300 Olympia, WA 98504-7300</p> <p>Washington State Transportation Commission P.O. Box 47308 Olympia, WA 98504</p> <p>Mr. Jim Billatty Washington Department of Ecology-Eastern Region 4601 North Monroe Street Spokane, Washington 99205</p> <p>Ms. Laura Eckert Johnson Director, Emergency Committee for Outdoor Recreation State of Washington P.O. Box 40917 Olympia, WA 98504-0917</p> <p>State Conservationist United States Department of Agriculture Natural Resources Conservation Service 316 West Boone Avenue, Suite 450 Spokane, Washington 99201-2348</p> <p>Chief, Regulatory Branch U.S. Army Corps of Engineers P.O. Box 3755 Seattle, Washington 98124-2255</p>	<p>The National Geodetic Survey Department of Commerce/NOAA SSMC3 Station 9356 1315 East West Highway Silver Spring, MD 20910</p> <p>Ms. Allyson Brooks State Historic Preservation Director Archaeology and Historic Preservation Office 1063 South Capital Way, Suite 106 Olympia, Washington 98504-8343</p> <p>Governor Christine O. Gregoire Office of the Governor Insurance Building, 302 14<sup>th</sup> Street, Southwest P.O. Box 40002 Olympia, Washington 98404-4110</p> <p>U.S. Fish and Wildlife Service 911 NE 11<sup>th</sup> Avenue Portland, Oregon 97232-4181</p> <p>Mr. Mike Blankenship Chairman Ferry County Board of Commissioners 290 East Tessie Avenue Republic, WA 99166</p> <p>United States Environmental Protection Agency 1200 Sixth Avenue Seattle, WA 98101</p>
--	---

Dated: June 23, 2006

  
\_\_\_\_\_  
Karl Morell

**HISTORIC REPORT  
CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in STB Docket No. AB-994X was mailed via first class mail on June 2, 2006, to the following party:

Department of Archaeology & Historic Preservation  
1063 S. Capitol Way, Suite 106  
P.O. Box 48343  
Olympia, Washington 98504-8343

Dated: June 23, 2006

  
Karl Morell

ENVIRONMENTAL REPORT  
(49 CFR SECTION 1105.7)

KETTLE FALLS INTERNATIONAL RAILWAY, LLC  
-- ABANDONMENT EXEMPTION --  
IN FERRY COUNTY, WASHINGTON

DOCKET NO. AB-994

**1. *Proposed Actions and Alternatives.* Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in the current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.**

Kettle Falls International Railway, L.L.C. ("KFR") proposes to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.14 near San Poil, Washington (the "Line"). Upon receipt of abandonment authority, KFR intends to remove the rail, track materials, and cross ties. KFR will not remove any bridges.

The one shipper on the Line moved its operation in October, 2005 and dismantled its facility. All the traffic previously handled on the Line is now being handled by KFR on another of its rail lines. Thus, with the relocation of this shipper to another rail line, KFR will continue to have the responsibility for maintaining the Line but without any traffic on it. The only alternative to abandonment would be to not abandon the Line and pass the opportunity costs of retaining the Line to all other KFR customers. Obviously this would not be a prudent use of KFR's resources.

A map of the proposed abandonment is attached as Exhibit 1.

**2. *Transportation System.* Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.**

No freight traffic has moved on the Line since October, 2005, when the only shipper on the Line ceased operations and moved to another KFR rail line. Because the traffic has already shifted to that other KFR line, the proposed abandonment will have no adverse effects on local or regional transportation systems or patterns because the traffic that once moved on the Line has been transferred to another route. In fact, the shipper used to have materials brought to its facility on the Line by truck and that truck traffic no longer

occurs. The materials are transported to the new location by rail. No passenger traffic has ever moved over the Line.

**3. Land Use. (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies. (ii) Based on the consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by §1105.9. (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10905 and explain why.**

(i) KFR is confident that the proposed abandonment will be consistent with local land use plans. KFR has contacted the local government in Ferry County as shown by the letter attached as Exhibit 2. To date, no response to this inquiry has been received. A copy of this Report has been mailed to the appropriate local and state agencies for their information and comment.

(ii) KFR is confident the proposed abandonment will not have any detrimental effect on any prime agricultural land. KFR contacted the U.S. Soil Conservation Service as shown by the letter attached as Exhibit 3. The Service determined that the proposed project will have no effect on prime farm land as is shown by the attached letter marked as Exhibit 3A.

(iii) The Line is not located in a designated coastal zone.

(iv) The right-of-way involved is not suitable for alternative public use under Section 10905 because it is needed for flood control, redesign of a highway interchange, and the development of a green way.

**4. Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show data and methodology used to arrive at the figure given.**

(i) The proposed abandonment will have no effect on the transportation of energy resources.

(ii) The proposed abandonment will have no effect on the transportation of recyclable commodities.

(iii) The proposed abandonment will have no effect on overall energy efficiency. Because the only shipper on the Line has relocated to another KFR line, there will be no increase in energy consumption.

(iv) The proposed abandonment will not meet or exceed these levels.

**5. Air.** (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(a) will apply. (ii) If the proposed action affects a class I or non-attainment area under the Clean Air Act, and will result in either: (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply. (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

(i) The proposed abandonment will not result in meeting or exceeding these thresholds.

(ii) The proposed abandonment will not result in meeting or exceeding these thresholds.

(iii) The proposed abandonment will not effect the transportation of ozone depletion materials.

**6. Noise.** If any of the thresholds identified in item 5(i) of this section are surpassed, state whether the proposed action will cause: (i) An incremental increase in noise levels of three decibels Ldn or more; or (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

Not applicable

**7. Safety.** (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings). (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials. (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

(i) KFR submits there will be little if any impact on public health or safety associated with the proposed abandonment because the traffic has already been relocated to another KFR line. The eventual removal of public and private crossings will, however, have a positive impact on vehicular traffic that will no longer have to deal with the crossings.

(ii) The proposed abandonment will have no effect on the transportation of hazardous materials.

(iii) KFR is unaware of any hazardous waste sites or sites where hazardous spills have occurred on the right-of-way.

**8. Biological Resources.** (i) Based on consultations with the U.S. Fish and Wildlife Service, state whether the proposed action its likely to adversely affect endangered or threatened species or areas designated as critical habitat, and if so, describe the effects. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

(i) KFR is confident that the proposed abandonment will not have any adverse affect on threatened or endangered species or areas designated as a critical habitat. KFR has contacted the U.S. Fish and Wildlife Service as is shown by the letter attached as Exhibit 4. To date, no response to this request has been received. A copy of this report has been supplied to the U.S. Fish and Wildlife Service for its information and comment.

(ii) KFR believes there are no wildlife sanctuaries or refuges or National or State parks that would be adversely affected by the proposed abandonment. KFR has contacted the National Park Service as shown by the letter attached as Exhibit 5. To date, no response to this request has been received. A copy of this report has been supplied to the National Park Service for its information and comment.

**9. Water.** (i) Based on consultation with the State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local

**water quality standards. Describe any inconsistencies. (ii) Based on consultation with the Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects. (iii) State whether permits under section 402 of the Clean Air Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)**

(i) KFR is confident the proposed abandonment will not be inconsistent with applicable water quality standards. KFR contacted the Washington Department of Ecology (“WDE”) as shown by the letter attached as Exhibit 6. To date, no response has been received from WDE. A copy of this report has been supplied to that department for its information and comment.

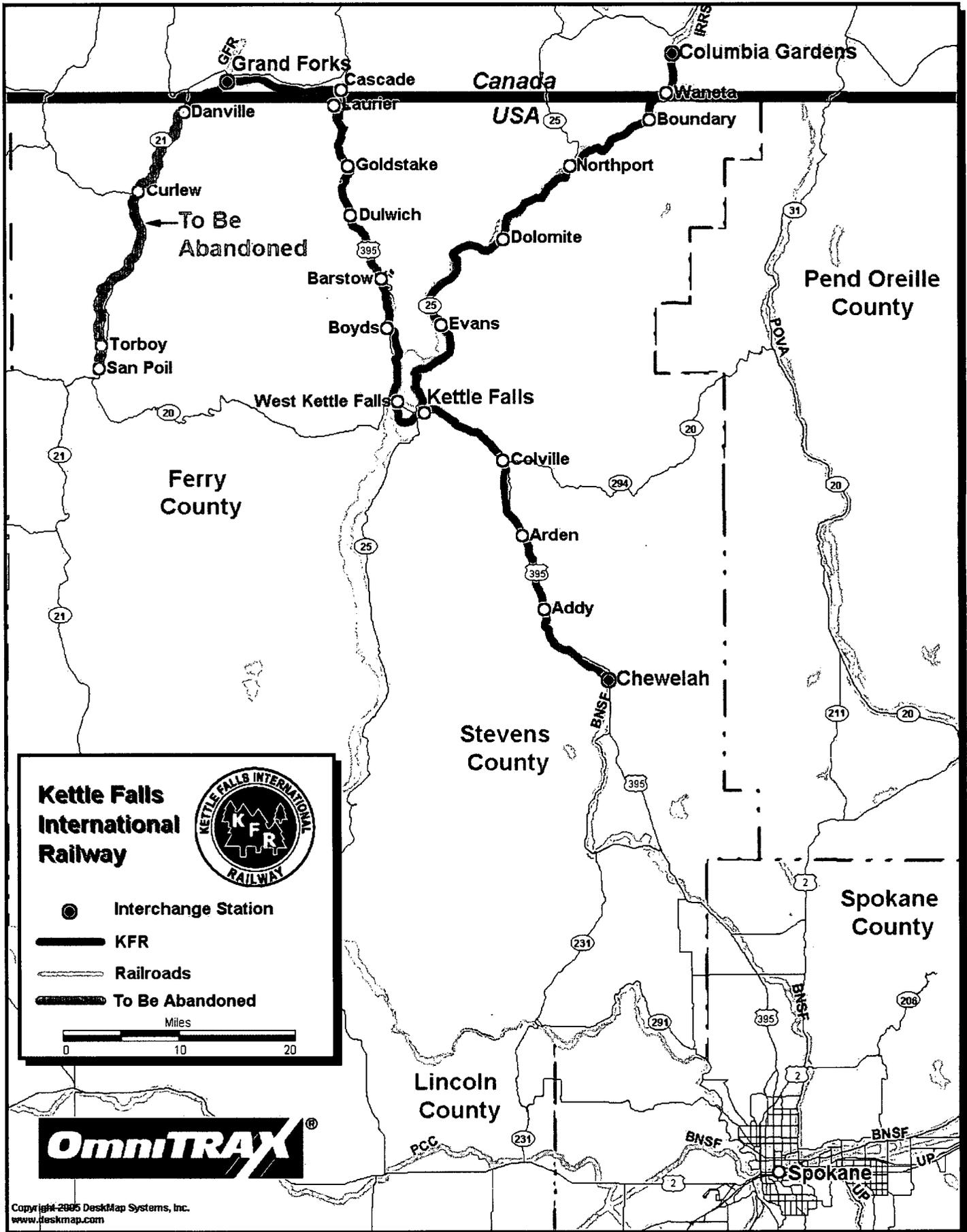
(ii) KFR believes the proposed abandonment will not require the issuance of any permits under Section 404 of the Clean Air Act. KFR contacted the U.S. Army Corps of Engineers as is shown by the letter attached as Exhibit 7. To date, no response to this inquiry has been received. A copy of this report has been supplied to the U.S. Army Corps of Engineers for its information and comment.

(iii) KFR believes the proposed abandonment will not require the issuance of any permits under Section 402 of the Clean Water Act. KFR contacted the U.S. Environmental Protection Agency as shown by the letter attached as Exhibit 8. To date, no response to this inquiry has been received. A copy of this report has been supplied to the U.S. Environmental Agency for its information and comment.

**10. *Proposed Mitigation.* Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.**

KFR does not anticipate any adverse environmental impact from the proposed abandonment nor have the recipients of this report advised of the need for special mitigation.

# Exhibit 1



Grand Forks  
Columbia Gardens  
Canada  
USA  
Pend Oreille County  
Ferry County  
Stevens County  
Lincoln County  
Spokane County

Grand Forks  
Cascade  
Danville  
Laurier  
Goldstake  
Dulwich  
Barstow  
Boyds  
Evans  
Northport  
Dolomite  
Boundary  
Waneta  
Torboy  
San Poil  
West Kettle Falls  
Kettle Falls  
Colville  
Arden  
Addy  
Chewelah  
Spokane

21  
25  
395  
20  
294  
20  
211  
20  
231  
291  
395  
2  
208  
231  
2  
2  
2  
UP  
US

GFR  
IRRS  
PONA  
BNSF  
PCC

To Be Abandoned

## Exhibit 2

### Kettle Falls International Railway, LLC

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com



May 2, 2006

Mr. Mike Blankenship  
Chairman  
Ferry County Board of Commissioners  
290 East Tessie Avenue  
Republic, Washington 99166

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

Dear Chairman Blankenship:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

49 C.F.R. § 1105.7(e)(3)(i) states that, "Based on consultation with local and/or regional planning agencies and/or review of the planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies."

We would appreciate your review of the proposed abandonment as required by this section. Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in cursive script that reads "Mike Ogborn".

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

**EXHIBIT 3**

**Kettle Falls International Railway, LLC**

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com



May 2, 2006

State Conservationist  
United States Department of Agriculture  
Natural Resources Conservation Service  
316 West Boone Avenue, Suite 450  
Spokane, Washington 99201-2348

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

To Whom It May Concern:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

49 C.F.R. § 1105.7(e)(3)(ii) states that, "Based upon consultation with the U.S. Soil Conservation Service, state the effects of the proposed action on any prime agricultural land."

We would appreciate your review of the proposed abandonment as required by this section. Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in black ink that reads "Mike Ogborn".

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

Exhibit 3A

United States Department of Agriculture



Natural Resources Conservation Service  
316 W. Boone Ave. Suite 370  
Spokane, WA 99201-2348

phone 509-343-2265  
fax 509-343-2280  
web site [www.wa.nrcs.usda.gov](http://www.wa.nrcs.usda.gov)

Date: May 8, 2006

Mike Ogborn, Manager  
Kettle Falls International Railway, LLC  
50 South Steele, Suite 250  
Denver, CO 80209

Re: STB Docket No. AB – 994 (Sub-No.1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferry County, Washington

Dear Mr. Ogborn:

Thank you for your request. The rail line that is proposed for abandonment does not contain Prime Farmland. Your request deals specifically with land that has already been converted from agricultural land for use as a railway. Once this conversion has taken place, the Natural Resource Conservation Service (formerly the Soil Conservation Service) no longer considers the land to have a farm classification designation.

Surrounding areas along the corridor may, or may not, be classified as Prime Farmland. However, those designations would have no bearing on the classification of the proposed abandoned railway.

Sincerely,

A handwritten signature in cursive script that reads "Chandra Neils".

Chandra Neils  
Area Resource Soil Scientist  
USDA-NRCS  
316 W. Boone Ave., Ste 370  
Spokane, WA 99201-2348  
(509) 343-2269

Exhibit 4



**Kettle Falls International Railway, LLC**

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com

May 2, 2006

U.S. Fish and Wildlife Service  
911 NE 11<sup>th</sup> Avenue  
Portland, Oregon 97232-4181

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

To Whom It May Concern:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

49 C.F.R. § 1105.7(e)(8)(i) states that, "Based upon consultation the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and, if so, describe the effects."

We would appreciate your review of the proposed abandonment as required by this section. Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in black ink that reads "Mike Ogborn".

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

## Exhibit 5

### Kettle Falls International Railway, LLC

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com



May 2, 2006

National Park Service  
Recreation & Conservation  
1849 C Street, NW  
Washington, D.C. 20240-0001

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

To Whom It May Concern:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

KFR would appreciate your assistance in identifying the existence of any wildlife sanctuaries or refuges, national or state parks or forests in the area of the proposed abandonment as provided for at 49 C.F.R. § 1105.7(e)(8)(ii). Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in cursive script that reads "Mike Ogborn".

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

## Exhibit 6

### Kettle Falls International Railway, LLC

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com



May 2, 2006

Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

To Whom It May Concern:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

49 C.F.R. § 1105.7(e)(9)(i) states, "Based upon consultation the State water quality officials, state whether the proposed action is consistent with applicable Federal, state, or local water quality standards. Describe any inconsistencies."

We would appreciate your review of the proposed abandonment as required by this section. Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in black ink that reads "Mike Ogborn". The signature is fluid and cursive, with the first name "Mike" and last name "Ogborn" clearly distinguishable.

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

## Exhibit 7

### Kettle Falls International Railway, LLC

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com



May 2, 2006

Chief, Regulatory Branch  
U.S. Army Corps of Engineers  
P.O Box 3755  
Seattle, Washington 98124-2255

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

To Whom It May Concern:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

49 C.F.R. § 1105.7(e)(9)(ii) indicates that abandonment applicants should contact your agency to determine if permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and to determine whether any wetlands or 100-year flood plains will be affected.

We would appreciate your review of the proposed abandonment as required by this section and this Act. Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in black ink that reads 'Mike Ogborn'.

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

Exhibit 8

**Kettle Falls International Railway, LLC**

50 South Steele  
Suite 250  
Denver, CO 80209  
Telephone: (303) 398-4500  
Facsimile: (303) 398-4540  
www.omnitrax.com



May 2, 2006

United States Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, Washington 98101

Re: STB Docket No. AB-994 (Sub-No. 1X), Kettle Falls International Railway, LLC –  
Abandonment Exemption – Ferris County, Washington

To Whom It May Concern:

Kettle Falls International Railway, LLC plans to file a Petition for Exemption at the Surface Transportation Board on or about May 15, 2006, to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.381 near San Poil, Washington. A map and a narrative description of the proposed abandonment are attached to this letter.

49 C.F.R. § 1105.7(e)(9)(iii) indicates that the abandonment proponent contact your agency to determine if permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required for this proposed action.

We would appreciate your review of the proposed abandonment as required by this section. Your response will be included in the Environmental Report prepared for this abandonment and a copy of the report will be mailed to you. To facilitate your reply, please find enclosed a return prepaid Federal Express envelope for your use.

Please feel free to contact me at (303) 398-4506 if you have any questions about this matter. Thank you for your attention to this matter.

Sincerely

A handwritten signature in black ink that reads 'Mike Ogborn'.

Mike Ogborn  
Manager  
Kettle Falls International Railway, LLC

# HISTORIC REPORT

(49 CFR SECTION 1105.8)

## KETTLE FALLS INTERNATIONAL RAILWAY, LLC -- ABANDONMENT EXEMPTION -- IN FERRY COUNTY, WASHINGTON

DOCKET NO. AB - 994

**The Historic Report should contain the information required by Section 1105.7(3)(1) of the Environmental Report prepared for the proposed abandonment:**

**Section 1105.7(3)(1) *Proposed Action and Alternatives.* Describe the proposed action, including commodities transported, the planned disposition (if any) of the rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.**

Kettle Falls International Railway, L.L.C. ("KFR") proposes to abandon approximately 28 miles of trackage in Ferry County, Washington located between milepost 48.779 near Danville, Washington and milepost 77.14 near San Poil, Washington (the "Line"). Upon receipt of abandonment authority, KFR intends to remove the rail, track materials, and cross ties. KFR will not remove any bridges.

The one shipper on the Line moved its operation in October, 2005 and dismantled its facility. All the traffic previously handled on the Line is now being handled by KFR on another of its rail lines. Thus, with the relocation of this shipper to another rail line, KFR will continue to have the responsibility for maintaining the Line but without any traffic on it. The only alternative to abandonment would be to not abandon the Line and pass the opportunity costs of retaining the Line to all other KFR customers. Obviously this would not be a prudent use of KFR's resources.

A map of the proposed abandonment is attached as Exhibit 1.

## HISTORIC REPORT

**1. A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years or older and are part of the proposed action.**

A map showing the route of the Line proposed for abandonment is attached as Exhibit 1. The same map was previously supplied to the Washington Department of Archeology and Historic Preservation. The line proposed for abandonment is highlighted on the map. There are two bridges on the Line that are fifty (50) years old or older. Both of these bridges are timber pile or timber frame trestles with open deck and are of ordinary railroad construction. Neither is of historic significance or value. No other buildings or structures on the Line are fifty (50) years old or older.

**2. A written description of the right-of-way (including approximate widths to the extent known) and the topography and urban and/or rural characteristics of the surrounding area.**

The Line proposed for abandonment traverses predominantly rural country. The basic rail corridor right-of-way is 100 feet in width for the entirety of the Line. The Line begins at milepost 77.14 near San Poil, Washington (population unknown) and extends northward through Torboy (population unknown) and Curlew (population 175) to milepost 48.779 near Danville, Washington (population unknown).

**3. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years or older and of the immediate surrounding area.**

Photographs of the bridges are attached as Exhibit 2.

**4. The date(s) of construction of the structure(s), and extent of any major alterations, to the extent such information is known.**

The construction of the bridges, to the extent such information is known, is as follows:

San Poil Subdivision

Bridge Number	Bridge Type	Date of Construction
71.7	Open Deck Timber	1942
69.2	Open Deck Timber Pile	1932

**5. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.**

KFR purchased the Line from BNSF Railway Company in 2005. Until October, 2005, KFR transported freight for Pope & Talbot over the Line. In October, 2005, Pope & Talbot relocated its operations from the San Poil Subdivision to another subdivision on KFR. Since that time, no traffic has moved over the Line and the shipper in fact

dismantled its facility on the Line. There are no other shippers on the Line and there is no overhead or other traffic on it either.

**6. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.**

KFR does not possess any such documents.

**7. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 CFR 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities).**

The Line contains no historic structures and KFR is unaware of any archeological resources or railroad related historic properties along the Line. The bridges are of common railroad design and construction with no historic or architectural significance.

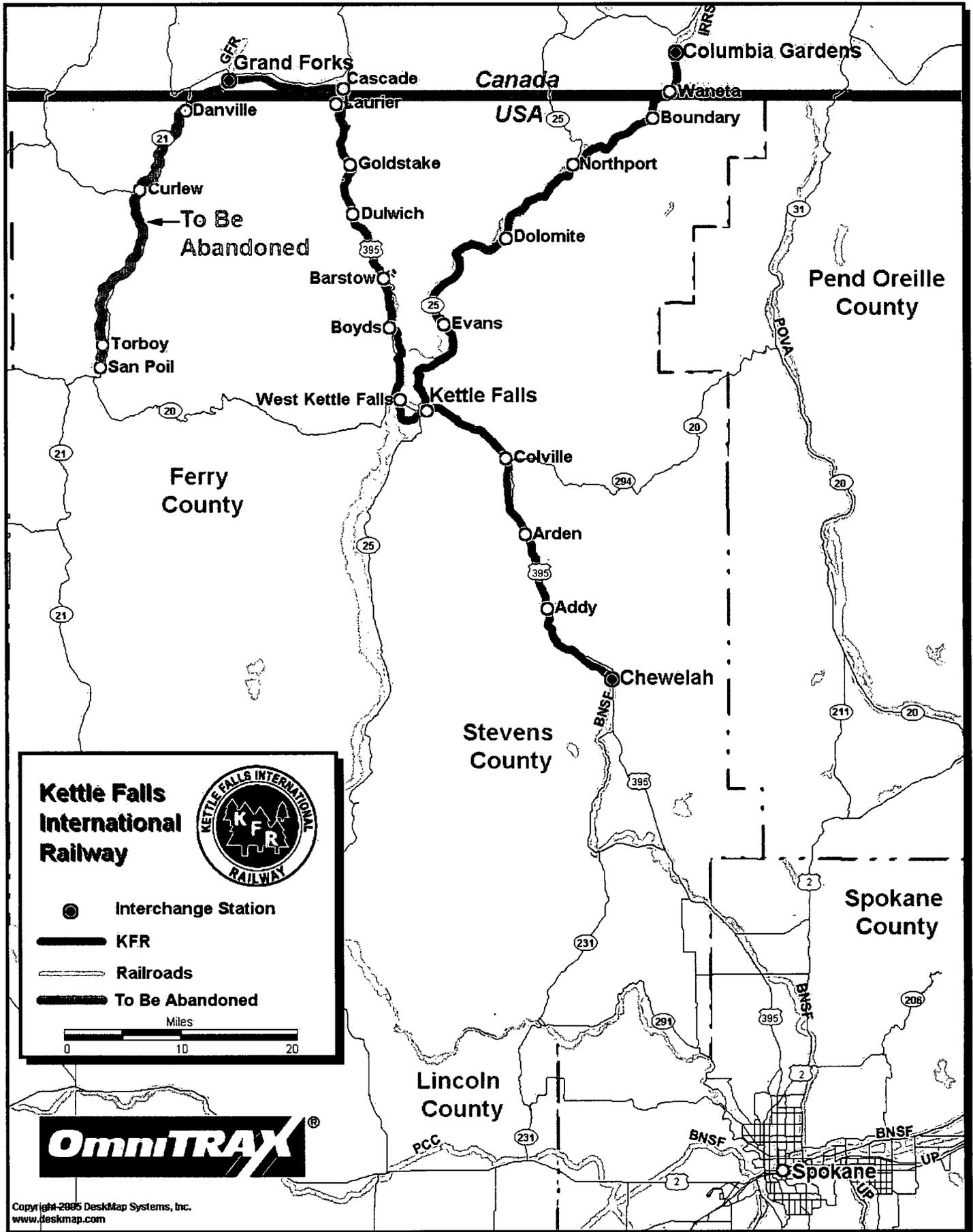
**8. A description (based on readily available information in the railroad's possession) of any known prior sub-surface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.**

KFR does not have any information about any known subsurface ground disturbance or fill or environmental condition that might affect the archeological recovery of any potential resources.

**9. Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified non-railroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e., prehistoric or native American).**

KFR does not foresee the likelihood that any additional information will need to be supplied in association with the proposed line abandonment. If any additional information is requested, KFR will promptly supply it.

# Exhibit 1



# EXHIBIT 2

**DANGER**  
UNAUTHORIZED  
PERSONS MUST  
USE THE BRIDGE

