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IDAHO PUBLIC
UTILITIES COMMISSION

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

August 11, 2004

The Honorable Vernon Williams
Surface Transportation Board
1925 K Street, N.W., Suite 715
Washington, DC 20423-0001

ATTN: KRISTA DEAN
Case Control Unit

RE: STB Docket No. AB-872X
Great Northwest Railroad, Inc.
Abandonment Exemption in Clearwater County, Idaho

Dear Secretary Williams:

Attached for filing are the original and three (3) copies of the State of Idaho's comments regarding Great Northwest Railroad, Inc.'s Petition for Exemption filed July 14, 2004 under STB Docket No. AB-872X.

Please date-stamp the extra copy of the Comments on Petition for Exemption and return it to us via U.S. Mail in the enclosed, self-addressed, postage-paid envelope.

If I can be of further assistance, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Emily Kane".

EMILY KANE
Deputy Attorney General
Natural Resources Division

Encls.

Via Federal Express

cc: Karl Morell, Counsel for Great Northwest Railroad, Inc.

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BEFORE THE

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SURFACE TRANSPORTATION BOARD

IDAHO PUBLIC
UTILITIES COMMISSION

DOCKET NO. AB-872X

GREAT NORTHWEST RAILROAD, INC.
– ABANDONMENT EXEMPTION –
IN CLEARWATER COUNTY, IDAHO

COMMENTS ON
PETITION FOR EXEMPTION

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Attorneys for: State of Idaho

Dated: August 11, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-872X

GREAT NORTHWEST RAILROAD, INC.
– ABANDONMENT EXEMPTION –
IN CLEARWATER COUNTY, IDAHO

COMMENTS ON
PETITION FOR EXEMPTION

Great Northwest Railroad, Inc. (“GNR”) has filed with the Surface Transportation Board (“STB”) a petition for exemption from the requirements of 29 U.S.C. § 10903 in abandoning 27.5 miles of the Jaype Branch rail line located in Clearwater County, Idaho. Idaho Department of Lands (“IDL”), Idaho Department of Environmental Quality (“IDEQ”), and Idaho Department of Water Resources (“IDWR”), by and through their attorney, Deputy Attorney General Emily Kane, respectfully urges the STB to take into account the following comments and requests in considering GNR’s petition as well as GNR’s Environmental and Historic Reports.

It is IDL’s position that the STB, pursuant to 49 C.F.R. § 1152.50(d)(5), should require GNR to remove any and all bridges, trestles, culverts, rails, ties, abutments, and concrete barriers from that portion of the abandoned right-of-way traversing State land, if and when abandonment is consummated.

It is IDEQ's position that the STB, pursuant to 49 C.F.R. § 1152.50(d)(5), should require GNR to remove any and all bridges, trestles, culverts, rails, ties, abutments, and concrete barriers from the abandoned right-of-way, whether or not such structures are located on land that will revert to the State upon abandonment, if and when abandonment is consummated. IDEQ additionally requests that the STB require GNR to meet all State and federal environmental regulations in the process of salvage and abandonment.

It is IDWR's position that if the salvage effort will affect land below the ordinary high water mark of Orofino Creek or its tributaries, the STB should require GNR to comply with state and federal regulations regarding permitting and protocol.

STATE OF IDAHO'S INTEREST

As set forth in GNR's Petition for Exemption, GNR proposes to abandon a rail line located between milepost 3.5, near Orofino, Idaho, and milepost 31.0, near Jaype, Idaho. The line to be abandoned traverses, in part, land belonging to the State of Idaho and managed by IDL; that portion of the land underlying the rail line will revert to the State of Idaho upon abandonment. Several of the railroad structures are situated in, over, or near Orofino Creek and/or its tributaries, over which IDEQ and IDWR have regulatory authority.

COMMENTS OF IDAHO DEPARTMENT OF LANDS

IDL's functions include management of state lands and protection of Idaho's natural resources. Pursuant to article 9, section 7 of the Idaho Constitution,¹ IDL, on

¹ "The governor, superintendent of public instruction, secretary of state, attorney general and state controller shall constitute the state board of land commissioners, who shall have the direction, control and disposition of the public lands of the state, under such regulations as may be prescribed by law." Idaho Const. art. 9, § 7.

behalf of the State Board of Land Commissioners, is charged with the “direction, control, and disposition of the public lands of the state.” Idaho Code § 58-101.²

The State of Idaho, through IDL, conveyed to GNR’s predecessor, Northern Pacific Railway Company, rights-of-way traversing State land, via deeds dated May 19, 1928, and November 7, 1929. *See* Exhibit A hereto, Right Of Way Deed No. 252; and Exhibit B hereto, Right Of Way Deed No. 267. IDL granted these rights-of-way for the purpose of running the Jaype branch line over State land, pursuant to IDL’s authority under Idaho Code § 58-603.³ (GNR, in its Historic Report, states that “the Line was constructed around 1908.” GNR’s Historic Report at 3. It may be the case that the railroad was constructed on State land prior to the State’s issuance of the rights-of-way, but the 1908 construction date is inaccurate. The branch line was built to move logs from Jaype and Headquarters to the sawmill in Lewiston, which mill was built in the 1920s.)

The land adjacent to this portion of the railroad right-of-way to be abandoned is State land, and management thereof remains the responsibility of IDL. Upon abandonment of the Jaype branch line, the right-of-way will revert to, and be managed by, IDL.

Materials and structures on the right-of-way traversing State land include approximately thirteen (13) trestles and eleven (11) culverts, as well as uncounted rails,

² “The governor, secretary of state, attorney general, state controller, and superintendent of public instruction being constituted a state board of land commissioners by section 7 of article 9, of the Constitution of the state, as such board, have the direction, control and disposition of the public lands of the state. The board shall exercise the said constitutional functions through the instrumentality of a department of lands which is hereby created.” Idaho Code § 58-101.

³ “The state board of land commissioners is hereby empowered to grant, over and upon any land owned or controlled by the state of Idaho, rights of way for railroad . . . lines[.]” Idaho Code § 58-603.

ties, abutments, and concrete barriers. (See Exhibit C hereto, IDL's Orofino-Jaype Railroad Line Structure Location Survey.)

The railroad structures are approximately eighty years old, and throughout their existence have been exposed to the stresses of regular use and constant exposure to often-harsh elements. Most of the trestles and culverts are already in various states of deterioration.

The ongoing weakening of these structures places at risk the integrity of Orofino Creek and the stream tributaries thereto, which have been channeled under trestles and through culverts along the Jaype branch line. Further, given that Orofino Creek has a high volume and steep gradient, in the event of a high water event on Orofino Creek, the trestles could collapse and wash massive amounts of debris downstream, potentially at flood levels. A high water event could also result in the accumulation of water, debris and sediment behind the trestles that, if released downstream, would create dangerous flood conditions. In addition to the threat posed to human health, it is likely that such a flood would cause extensive property damage, and downstream bridges and roads would be put at risk.

These foreseeable dangers, and other unforeseen contingencies, will likely arise if aging railroad structures are allowed to remain on the former railroad easement following conclusion of the salvage effort. Both are hazardous to the health, safety, and well being of the people, property, and natural resources of the State of Idaho.

GNR indicates that it does not intend to remove these structures. GNR's Environmental Report at 8. But should the salvage effort fail to accomplish removal of

all materials and structures on State land, IDL will be left with this task. This is a task for which IDL lacks adequate resources, and for which IDL should not be responsible.

For these reasons, it is the position of IDL that the STB should condition GNR's abandonment exemption upon GNR's removal of any and all trestles, culverts, rails, ties, abutments, and concrete barriers from the abandoned right-of-way traversing State land. Under 49 C.F.R. § 1152.50(d)(5),⁴ the STB does have the authority to subject the exemption to such a condition.

Notwithstanding the foregoing comment, if STB issues a Certificate for Interim Trail Use ("CITU"), pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, the concerns underlying IDL's foregoing comment may be negated, if the interim trail user were to assume full management and maintenance responsibility, and legal liability, for the right-of-way and any structures remaining thereon. For this reason, IDL does not object to issuance of a CITU; nor would IDL persist in its comment if a CITU were issued.

COMMENTS OF IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY

Pursuant to Idaho Code §§ 39-101 *et seq.*, IDEQ is broadly authorized and charged with the protection of human health and the environment within the State of Idaho. IDEQ oversees the development, implementation, and enforcement of environmental programs and regulations to protect air and water quality and to ensure the appropriate handling of solid and hazardous wastes.

⁴ "A notice or decision to all parties will be issued if use of the exemption is made subject to environmental, energy, historic preservation, public use and/or interim trail use and rail banking conditions." 49 C.F.R. § 1152.50(d)(5).

As set forth above, if GNR is permitted to leave in place the railroad structures that span or channel Orofino Creek and its adjoining drainages, those aging structures will probably fail or collapse in the foreseeable future. Given that Orofino Creek has a high volume and steep gradient, the blockage of this watercourse would result in the accumulation of water, debris and sediment, which would be released downstream, potentially at flood levels.

Not only does this situation threaten the health and property of persons downstream, the deposition of such materials into these waters will (1) violate Idaho's Water Quality Standards and Wastewater Treatment Requirements (Idaho Administrative Rules 58.01.02.080.01), and (2) impair the designated beneficial uses of Orofino Creek, which include cold water biota, salmonid spawning, and primary contact recreation (Idaho Administrative Rules 58.01.02.120.08).

Further, leaving in place chemically-treated wood structures, without adequate maintenance to prevent their collapse into the waters of the State, is itself a violation of these water quality requirements. These structures include large quantities of chemically-treated wood and other components which constitute hazardous and deleterious materials (Idaho Administrative Rules 58.01.02.003.23; 58.01.02.003.49; and 58.01.02.800.02). Idaho Administrative Rule 58.01.02.800 specifically prohibits the storage, disposal or accumulation of hazardous and deleterious materials "adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to insure that those materials will not enter state waters as a result of high water, precipitation runoff... or unauthorized third party activities." The failure to either salvage or

maintain these railroad structures, therefore, constitutes a violation of Idaho's water quality standards.

In drafting its Environmental Report, GNR did request IDEQ's assistance in identifying potential effects on applicable water quality standards related to the proposed action. GNR's Environmental Report, Exhibit 7 (April 2, 2004 Letter from GNR Counsel Karl Morell to Division of Environmental Quality [*sic*]). At that time, GNR did not identify any specific activities related to its intended abandonment, nor did it state its intentions regarding the railroad structures within the right-of-way. Accordingly, IDEQ's response to this request was limited to general comments and concerns.

In an April 20, 2004 letter, IDEQ indicated that "additional or different conditions may be specified in connection with [IDEQ] review of specific activities." GNR's Environmental Report, Exhibit 8 (April 20, 2004 Letter from IDEQ Director C. Stephen Allred to Idaho Public Utilities Commission⁵). IDEQ clearly anticipated, and still does anticipate, that GNR would submit specific plans for its salvage effort for further review by IDEQ to ensure compliance with State environmental requirements.

As IDEQ's April 20 letter specified, there do exist State and federal permitting requirements, as well as the need for a "pollution prevention plan for sediment and erosion control." IDEQ has concerns regarding plugged culverts in the absence of

⁵ IDEQ provided its comments to Mr. Morell by way of the Idaho Public Utilities Commission pursuant to Executive Order 2002-7, issued by Governor Dirk Kempthorne on July 1, 2002, which reads, in part, "Now, therefore, I, Dirk Kempthorne, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows: . . . The Public Utilities Commission is designated as the lead agency for railroad matters and shall approve all state agency submissions to the STB prior to transmittal." *See also* Idaho Code § 62-424 ("The Idaho public utilities commission shall continue to intervene in federal surface transportation board abandonment proceedings when necessary to protect the state's interest").

maintenance, potential impacts on the hydrologic sinuosity of stream reaches, and the need for identification and cleanup of tie piles, debris dumps, and contaminated areas.

GNR's Environmental Report, however, fails to substantively address any of these requirements. The Report simply concludes, without analysis, that "GNR is confident that the proposed abandonment will be consistent with applicable water quality standards." GNR's Environmental Report at 7.

Further, the Environmental Report provides no details regarding whether, when, or how GNR will remove rails, track material, crossties, or rail structures. Nor does GNR specify whether, or how, it will review such activities with IDEQ to ensure compliance with State environmental requirements.

For these reasons, it is the position of IDEQ that the STB should condition GNR's abandonment exemption upon GNR's removal of any and all trestles, culverts, rails, ties, abutments, and concrete barriers from the entire abandoned right-of-way, whether or not such structures are located on land that will revert to the State following abandonment. IDEQ additionally requests that the STB condition GNR's exemption upon compliance with all state environmental requirements applicable to any removal or salvage activities of GNR, including those identified in IDEQ's April 20, 2004 letter. Under 49 C.F.R. § 1152.50(d)(5), the STB does have the authority to subject the exemption to such conditions.

Removal of the structures is not necessary in the event the STB issues a CITU – if, pursuant thereto, management and maintenance responsibilities are assumed by a qualified interim trail user. IDEQ does not object to issuance of a CITU.

COMMENTS OF IDAHO DEPARTMENT OF WATER RESOURCES

IDWR's functions include administration of the Idaho Stream Channel Protection Act, Idaho Code §§ 42-3801 *et seq.* This Act seeks to protect "the public health, safety and welfare [by requiring] that the stream channels of the state and their environments be protected against alteration for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality." Idaho Code § 42-3801.

IDWR's Stream Channel Alteration Rules define "alteration" as any act that would "obstruct, diminish, destroy, alter, modify, relocate or change the natural existing shape of the channel or to change the direction of flow of water of any stream channel within or below the mean high water mark." Idaho Administrative Rule 37.03.07.010.01. Alteration includes removal of material from the stream channel (*id.*), and Orofino Creek and its tributaries are stream channels (*see* Rule 37.03.07.010.12). Supporting components of several of the trestles and other such structures along the right-of-way to be abandoned are situated directly in or adjacent to the stream channels.

Further, pursuant to section 303(d) of the Clean Water Act,⁶ the Idaho Department of Environmental Quality has listed Orofino Creek as failing to meet water quality standards. Given that, and given that there are fisheries in Orofino Creek, the time period and circumstances under which any stream channel alteration might take place would likely be limited by State and federal law.

Thus, a salvage effort that would involve: (1) the removal of railroad structures (*e.g.*, trestles) currently situated in Orofino Creek or its tributaries; (2) crossing Orofino

⁶ "Each State shall identify those waters within its boundaries for which the effluent limitations . . . are not stringent enough to implement any water quality standard applicable to such waters. The State shall establish a priority ranking for such waters, taking into account the severity of the pollution and the uses to be made of such waters." 33 U.S.C. § 1313(d)(1)(A).

Creek or its tributaries with equipment; or (3) any activity that may potentially introduce sediments into Orofino Creek or its tributaries will require GNR's compliance with permitting and protocol regulations of IDWR and possibly the U.S. Corps of Engineers under 33 U.S.C.A. § 403.⁷

Notwithstanding IDWR's foregoing comment, if STB issues a CITU, the concerns underlying IDWR's comment may be negated if the interim trail user leaves the structures in place and, therefore, does not alter the stream channel. Regardless, the interim trail user would assume management responsibility and legal liability for the structures remaining on the right-of-way, rather than GNR, or the reversionary owners. For these reasons, IDWR does not object to issuance of a CITU. Nor would IDWR persist in its comment if a CITU were issued, if, under the CITU, the railroad structures situated in Orofino Creek and/or its tributaries would remain in place.

CONCLUSION

IDL respectfully requests that the STB, pursuant to 49 C.F.R. § 1152.50(d)(5), require GNR to remove any and all trestles, culverts, rails, ties, abutments, and concrete barriers from the abandoned right-of-way traversing State land, if and when abandonment is consummated.

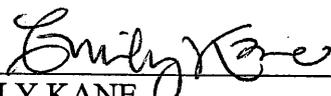
IDEQ respectfully requests that the STB, pursuant to 49 C.F.R. § 1152.50(d)(5), (1) require GNR to remove any and all trestles, culverts, rails, ties, abutments, and concrete barriers from the entire right-of-way, not just that portion traversing State land,

⁷ In part: "[I]t shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, . . . or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army prior to beginning the same."

and (2) require GNR to satisfy the requirements of IDEQ's April 20, 2004 letter and meet all state environmental requirements applicable to any removal or salvage activities.

IDWR respectfully requests that if a salvage effort does proceed, that the STB, pursuant to 49 C.F.R. § 1152.50(d)(5), require GNR to comply with state and federal laws and regulations regarding permitting and protocol for any effects of the salvage on land below the ordinary high water mark of Orofino Creek or its tributaries.

DATED this 11th day of August 2004.

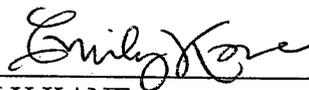


EMILY KANE
Deputy Attorney General
State of Idaho

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of August 2004, I caused to be served a true and correct copy of the foregoing **COMMENTS ON PETITION FOR EXEMPTION**, by placing the same in the United States Mail at Boise, Idaho, postage prepaid, addressed as follows:

Karl Morell, Counsel for Great Northwest Railroad, Inc.
Ball Janik LLP
1455 F Street, N.W., Suite 225
Washington, DC 20005



EMILY KANE
Deputy Attorney General
State of Idaho

EXHIBIT A
To
COMMENTS ON PETITION FOR EXEMPTION

Right of Way Deed No. 252

EXHIBIT A

No. 2022.

RIGHT OF WAY DEED

-- o o o --

THIS DEED, executed the 19th day of May, 1928, by and between the State of Idaho, acting through the State Board of Land Commissioners, as party of the first part, and the Northern Pacific Railway Company, a corporation of the State of Wisconsin, as party of the second part;

WITNESSETH: That for and in consideration of the sum of Eight Hundred Seven and 80/100 Dollars (\$807.80), lawful money of the United States, the receipt whereof is hereby acknowledged; in pursuance of the statutes in such cases made and provided, the party of the first part does hereby grant and convey an easement or right of way for road purposes, unto said Northern Pacific Railway Company, its successors or assigns, over a tract of land containing Eighty and Seventy-eight Hundredths (80.78) acres, described as follows, to-wit:

A strip of land 100 feet wide extending across the S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 4, Township 36 North, Range 3 East, D. M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated, containing 3.01 acres, more or less.

A strip of land 100 feet wide extending across the S $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ Section

5, Township 38 North, Range 3 East, B. M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated, containing 14.43 acres, more or less.

A strip of land 100 feet wide extending across the $S\frac{1}{2}E\frac{1}{2}$ of Section 33, Township 37 North, Range 4 East, B. M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated, containing 9.51 acres, more or less.

A strip of land 100 feet wide extending across the $S\frac{1}{2}SW\frac{1}{4}$ of Section 34, Township 37 North, Range 4 East, B. M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated, containing 4.29 acres, more or less.

A strip of land 100 feet wide extending across the $N\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ of Section 36, Township 37 North, Range 4 East, B. M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated. Also a strip of land

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200 feet wide extending across the N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of said section, said strip being 100 feet wide on each side of said center line of main track, containing 7.28 acres, more or less.

0.2
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1.9
1.0

already abandoned

A strip of land 100 feet wide extending across the SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 35, Township 38 North, Range 5 East, B.M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated.

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3.11

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Also two additional 50 foot strips in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$ of said section, lying one on each side of, immediately adjacent to and parallel with the strip above described and lying between the south line of said section and a line drawn at right angles to said center line of main track at a point therein distant 2405 feet northeasterly from the south line of said section when measured along said center line. Also an additional 20 foot strip in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said section lying on the northerly side of, immediately adjacent to and parallel with the strip first above described and lying between two lines drawn at right angles to said center line of main track at points therein distant respectively 980 feet and 1130 feet westerly from the east line of said section when

same

measured along said center line, containing 19.30 acres, more or less.

Abandoned

A strip of land 150 feet wide extending across Lot 1, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 36, Township 38 North, Range 5 East, S.M., said strip being 90 feet wide on the easterly side and 60 feet wide on the westerly side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated. Also a strip of land 100 feet wide extending across the N $\frac{1}{2}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 36, said strip being 50 feet wide on each side of said center line of main track. Also an additional strip of land 125 feet wide in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and Lot 1 of said section lying on the westerly side of, immediately adjacent to and parallel with the strip first above described, and lying between two lines drawn at right angles to said center line of main track at points therein distant respectively 1227 feet and 1527 feet southerly from the north line of said section, when measured along said center line, containing 22.96 acres, more or less.

same

same

Sec 36
S $\frac{1}{2}$ NW $\frac{1}{4}$ - 5.10
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.12
N $\frac{1}{2}$ SW $\frac{1}{4}$ 4.69
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.89
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.11
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.00
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.00

IN WITNESS WHEREOF, The State Board of Land Commissioners of the State of Idaho has caused these presents to be executed by its President, the Governor of the State

of Idaho, and countersigned by the Secretary of State and the State Land Commissioner, on the 4th day of June, A. D., 1928.

STATE BOARD OF LAND COMMISSIONERS.

By A. C. Baldridge
Governor.

Countersigned:

Fred E. Lawrence
Secretary of State.

J. P. Nash
State Land Commissioner.

STATE OF IDAHO)
) ss.
County of Ada)

On this 4th day of June,
1928, before me, a Notary Public, for the
State of Idaho, personally appeared Honorable
H. C. Baldrige, Governor of the State of
Idaho, Fred E. Lukens, Secretary of State,
and I. H. Nash, State Land Commissioner of
the State of Idaho, known to me to be the
persons whose names are subscribed to the
within instrument, and acknowledged to me
that they executed the same on behalf of the
State of Idaho, acting through the State
Board of Land Commissioners.

IN WITNESS WHEREOF, I have here-
unto set my hand and affixed my official seal
the day and year in this certificate first
above written.

James L. Anderson
Notary Public for the
State of Idaho, residing
at Boise, Idaho.

EXHIBIT B
To
COMMENTS ON PETITION FOR EXEMPTION

Right of Way Deed No. 267

EXHIBIT B

Posted
Plat-Boo
11-27-29
GE

RIGHT OF WAY DEED

-- o o o --

THIS DEED, executed the 7th day of November, 1929, by and between the State of Idaho, acting through the State Board of Land Commissioners, as party of the first part, and the Northern Pacific Railway Company, a corporation of the State of Wisconsin, as party of the second part;

WITNESSETH: That for and in consideration of the sum of One Hundred Forty-two and 60/100 Dollars (\$142.60), lawful money of the United States, the receipt whereof is hereby acknowledged; in pursuance of the statutes in such cases made and provided, the party of the first part does hereby grant and convey an easement or right of way for road purposes, unto said Northern Pacific Railway Company, its successors or assigns, over a tract of land containing Fourteen and Twenty-six Hundredths (14.26) acres, described as follows, to-wit:

A strip of land 100 feet wide extending across Lot 1 of Section 6, Township 38 North, Range 4 East, B. M., said strip being 50 feet wide on each side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated. Also a strip of land 150 feet wide extending across

the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said section, said strip being 50 feet wide on the northwesterly side and 100 feet wide on the southeasterly side of said center line of main track. Also a strip of land 175 feet wide extending across the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said section, said strip being 50 feet wide on the northwesterly side and 125 feet wide on the southeasterly side of said center line of main track, containing in all 8.83 acres, divided as follows:

Lot 1 -----	2.82	acres
SW $\frac{1}{4}$ NE $\frac{1}{4}$ -----	3.52	"
NW $\frac{1}{4}$ SE $\frac{1}{4}$ -----	<u>2.49</u>	"
Total -----	8.83	acres

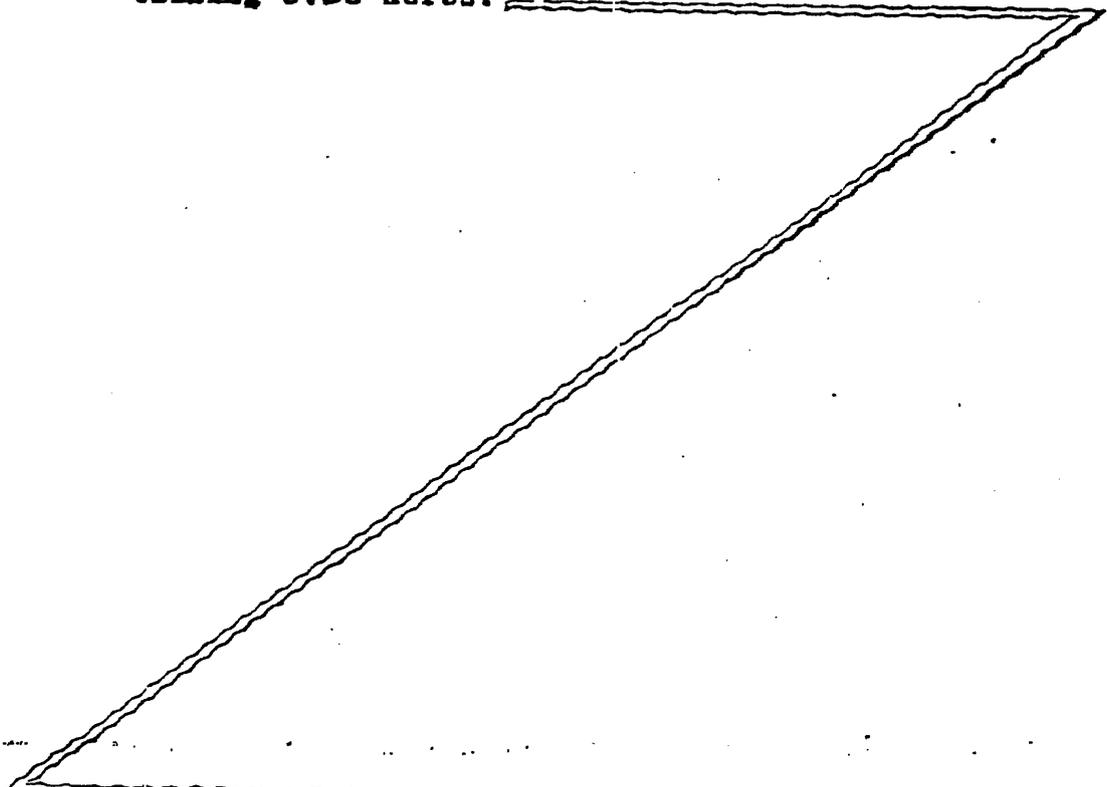
A strip of land 150 feet wide extending across Lot 4 of Section 5, Township 36 North, Range 5 East, B. M., said strip being 100 feet wide on the northerly side and 50 feet wide on the southerly side of the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated. Also an additional 50 foot strip lying on the northerly side of, immediately adjacent to and parallel with the strip above described, and lying between the south and east lines of said Lot 4 and a line drawn at right angles to said center line of main track at a point therein distant 758.8 feet easterly from the west line of said section, when measured

Exchanged

along said center line, containing 5.37 acres.

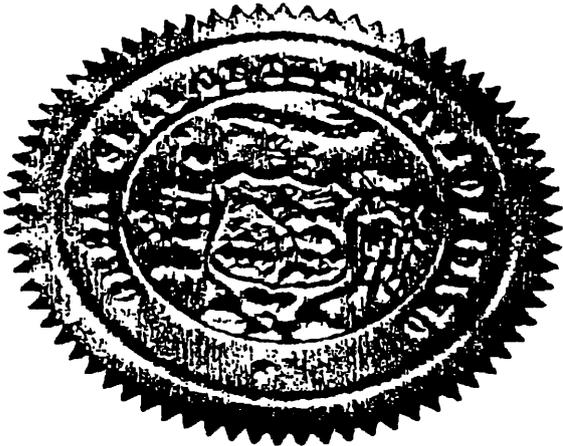
All that portion of the $\frac{W}{2}\frac{SW}{4}\frac{SE}{4}$ of Section 21, Township 37 North, Range 5 East, B. M., lying northeasterly of a line drawn parallel with and distant 50 feet southwesterly, when measured at right angles, from the center line of the main track of the Oro Fino Branch of the Northern Pacific Railway Company as the same is now constructed and operated, containing 0.08 acres.

*Conveyed
upon receipt
P.C. 4/17/92
L. C. land Exch*



IN WITNESS WHEREOF, The State Board of Land Commissioners of the State of Idaho has caused these presents to be executed by its President, the Governor of the State.

of Idaho, and countersigned by the Secretary of State and the
State Land Commissioner, on the 26th day of November,
A. D., 1929.



STATE BOARD OF LAND COMMISSIONERS.

BY H. C. Baldridge
Governor.

Countersigned:

Fred E. Lucas
Secretary of State.

A. Nash
State Land Commissioner.

EXHIBIT C
To
COMMENTS ON PETITION FOR EXEMPTION

IDL'S OROFINO-JAYPE RAILROAD LINE
STRUCTURE LOCATION SURVEY
APRIL 2004

EXHIBIT C

“END OF THE LINE”



OROFINO-JAYPE RAILROAD LINE

STRUCTURE LOCATION SURVEY

APRIL 2004