



Gabriel S. Meyer
Assistant General Attorney

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IDAHO PUBLIC
UTILITIES COMMISSION

January 14, 2009

Via Electronic Filing

The Honorable Anne Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

UPR-R-08-01

Re: Proposed Abandonment of the Coeur d'Alene Industrial Lead from Milepost 7.5 near Gibbs to Milepost 8.79; STB Docket No. AB-33 (Sub-No. 272X)

Dear Secretary Quinlan:

Pursuant to 49 U.S.C. § 10502, Union Pacific Railroad Company ("UP") submits the enclosed Petition for Exemption, with verification, to abandon the above-referenced rail line. A Certificate of Service and Publication pursuant to 49 C.F.R. §1152.60(d) and 49 C.F.R. § 1105.12, and a draft Federal Register notice pursuant to 49 C.F.R. § 1152.60(c) are attached to the Petition. UP is submitting its payment form for the \$6,300 filing fee separately via fax.

Thank you for your time and attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

Gabriel S. Meyer

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-33 (Sub-No. 272X)

**UNION PACIFIC RAILROAD COMPANY
--EXEMPTION--
IN KOOTENAI COUNTY, ID
(COEUR D'ALENE INDUSTRIAL LEAD)**

Petition for Exemption

**UNION PACIFIC RAILROAD COMPANY
Gabriel S. Meyer
Assistant General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-1658
(402) 501-3393 (FAX)**

Dated and filed: January 14, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-33 (Sub-No. 272X)

UNION PACIFIC RAILROAD COMPANY
--EXEMPTION--
IN KOOTENAI COUNTY, ID
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Petition for Exemption

I. Introduction

Union Pacific Railroad Company ("UP") files this petition for exemption from the requirements of 49 U.S.C. § 10903 in accordance with 49 U.S.C. § 10502. The exemption, if granted, will permit UP to abandon a portion of its Coeur d'Alene Industrial Lead, from Milepost 7.5 near Gibbs, to the end of the line at Milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, Idaho (the "Line").

No customers use the Line, nor is there any likelihood of new rail-served customers locating on the Line. UP does not expect that the proposed abandonment will have any negative impact upon existing or future customers.

II. The Proposed Transaction

The proposed action involves UP's abandonment of its Coeur d'Alene Industrial Lead, from Milepost 7.5 near Gibbs, to the end of the line at Milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, Idaho. The abandonment of the Line will have no adverse effect on any shippers, as no traffic currently moves over the

Line and no traffic is expected to use the Line in the future. Only one customer, Stimson Lumber Company ("Stimson"), whose DeArmond Stud Mill was located on the Line, has moved traffic over the Line within the past two years.¹ The last Stimson shipment moved over the Line in May, 2008, at about the time that the DeArmond Stud Mill ceased operations. The facility is being dismantled and the property will be converted for other, non-industrial uses. During the past two years, the only commodity moving to or from the DeArmond Mill via the Line was lumber products (STCC No. 2421184).

As indicated in the attached letter (**Attachment No. 2**) from Stimson's Jeff Webber, Stimson has no objection to UP's proposed abandonment. Additionally, in a December 24, 2008 voicemail message, Stimson's Chief Executive Officer Andrew W. Miller informed UP that Stimson has entered into a contract to sell the property associated with the DeArmond Stud Mill to North Idaho College, which will use the property to expand its nearby campus. Mr. Miller stated that he expects the sale of the property to close in early 2009. Because there will be no industrial or commercial activity on the property, there is no need for future rail service.

There are no reasonable alternatives to UP's abandonment of the Line, as there ~~is no reasonable likelihood that a new industry requiring significant rail service would~~ locate on the Line. As noted above, the Stimson property will not be used for industrial or commercial purposes. Moreover, UP is unaware of any other locations along the

¹ In November 2003, BNSF obtained trackage rights over the Line, pursuant to STB Finance Docket No. 34436. Since then, BNSF has provided haulage service for UP over the Line. In a subsequent filing, BNSF will separately seek an exemption or Board authority to discontinue the trackage rights. Accordingly, the Board should condition exercise of the abandonment exemption requested in this Petition upon BNSF's obtaining authority or an exemption to discontinue its trackage rights on the Line.

Line suitable for establishment of rail-served industries, as the area the Line serves is changing from an industrial orientation, toward commercial, residential, and educational uses.² UP expects that the proposed abandonment will be beneficial to interstate commerce, as it will allow UP to redirect resources away from an unused rail line that has no likelihood of generating future business, and toward rail service on actively used rail lines.

The abandonment, if approved, will not adversely impact transportation options in the area, as the area will continue to be served by BNSF Railway Company, which operates its own line adjacent to the Line proposed for abandonment, as indicated on the **Attachment 1** map. The area is also served by numerous major city streets and highways, including Interstate 90, which runs east/west through the area, and U.S. Highway 95, a north/south route. Additionally, UP will continue to offer rail service at its station, Feeley Spur, located several miles northwest of Coeur d'Alene.

III. The Exemption Standards Have Been Met

Rail line abandonments require authorization and approval of the Board pursuant to 49 U.S.C. § 10903. However, 49 U.S.C. § 10502 requires the Board to exempt ~~transactions where it finds: (1) continued regulation is not necessary to carry out the~~

² UP has received inquiries from a Mr. Peter Cooper of Hayden, ID regarding the possibility of a barge-to-rail transload facility for logs at an unspecified location along the Line. According to Mr. Cooper, this facility would transfer logs received, via barge on the Spokane River, to rail for movement to a UP-served lumber mill in Chilco, ID. UP views this proposal as highly unrealistic. There is currently no barge-to-rail transload facility along the Line. To UP's knowledge, Mr. Cooper has not acquired any property along the Line for such a facility and has no prospect of doing so. In December 2008, UP verified with the property owner of a specific site that Mr. Cooper mentioned as a possible location for his transload facility that the location was not in fact available. Due to the commercial, residential, and educational development of the land along the Line, UP believes that there are no sites suitable for use as the transload facility that Mr. Cooper envisions. Additionally, UP marketing personnel have reviewed Mr. Cooper's proposal and have found it to be infeasible. For example, the UP-served lumber mill at Chilco cannot handle the types and quantities of rail traffic that Mr. Cooper projects.

Rail Transportation Policy of 49 U.S.C. § 10101; and (2) either the transaction is of limited scope or Board regulation is not necessary to protect shippers from an abuse of market power. UP's proposed abandonment clearly satisfies these exemption standards.

Detailed scrutiny by the Board under 49 U.S.C. § 10903 is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101. An exemption will minimize UP's administrative costs and expenses that would otherwise be associated with pursuing the proposed abandonment through a full application proceeding. An exemption will expedite regulatory action and will reduce regulatory barriers to abandonment consistent with Sections 10101(2) and (7). An exemption will also foster sound economic conditions in the transportation industry consistent with Section 10101(5), by allowing UP to abandon a line that is unlikely to be used again by any shipper.

Additionally, the proposed abandonment is a transaction of limited scope. The Line is only 1.29 miles long and does not serve any shippers. Because there are no shippers on the Line, regulation of this abandonment is not needed to protect them from an abuse of market power.

IV. Other Information

a. Line History and Description

The proposed action involves UP's abandonment of its Coeur d'Alene Industrial Lead, from Milepost 7.5 near Gibbs to the end of the line at Milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, Idaho. No overhead traffic or

passenger service operates over the Line. The Line traverses U.S. Postal Service Zip Code 83814.

The Line was originally constructed in 1911 by the Coeur d'Alene and Pend Oreille Railway Company. The majority of the Line is constructed with 112, 131, and 133-pound jointed rail laid secondhand in 1985 and 1998. Approximately one sixth of a mile of the Line contains 72-pound rail.

The Line's right-of-way, which varies from 20 to 100 feet wide, runs through industrial, commercial, and residential areas. The Milepost 8.29 to 8.68 portion of the Line crosses municipally owned land pursuant to an operating easement, while the Milepost 8.68 to 8.79 portion of the Line crosses Stimson's property pursuant to an operating easement. The topography along the Line is generally level.

A map of the Line is attached as **Attachment No. 1**. Other rail lines in the area, principal highways, and other roads are also shown on the map. The Line does not contain any structures that are 50 years old, or older. No stations will be closed as a result of abandonment of the Line.

b. Federal Grant Information and Public Use

Based upon information in UP's possession, the Line does not contain any ~~federally granted right-of-way. Any documentation in UP's possession will be made~~ available to those requesting it. The Line contains some reversionary property. A map of the Line is attached as **Attachment No. 1**.

UP believes that the Line may be suitable for use as a recreational trail. Pursuant to discussions with the City Attorney and a developer, an existing biking/hiking trail along the Spokane River, may be moved 250 feet northeast onto the Line's right of way.

However, the Line does not appear to be suitable for other public purposes including roads or highways, or other forms of mass transportation, as the Line lies in the city of Coeur d'Alene, which is served by numerous local streets and highways, including Interstate 90. Nor does the Line appear suitable for energy transmission lines. Portions of the Line may be suitable for assemblage with adjacent property for industrial, commercial, residential or other new development.

c. Labor.

UP is agreeable to the labor protection conditions imposed in abandonment proceedings, as prescribed in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

d. Environmental and Historic Report

The required environmental and historic information is contained in the combined Environmental and Historic Report (the "EHR"), which was filed on October 30, 2008. A copy of the EHR transmittal letter is attached as **Attachment No. 3**. The original and ten (10) copies of the EHR were sent to Ms. Victoria Rutson, STB Section of Environmental Analysis, on October 28, 2008, for filing.

e. Petitioner Background and Representative

UP has rail operations in the states of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

The name, address, and telephone number of UP's representative is listed below:

Gabriel S. Meyer
Assistant General Attorney
1400 Douglas Street, STOP 1580
Omaha, NE 68179
(402) 544-1658
(402) 501-3393 (FAX)

f. Shipper Information

Stimson Lumber Company's address is as follows:

Stimson Lumber Company
520 S.W. Yamhill Street, Suite 700
Portland, OR 97204

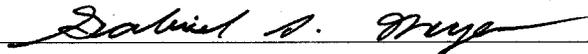
As noted above, during the past two years, the only commodity moving to or from the DeArmond Mill via the Line was lumber products (STCC No. 2421184.)

WHEREFORE, Union Pacific Railroad Company respectfully requests that the Board issue a decision exempting the proposed abandonment from the provisions of 49 U.S.C. § 10903.

Dated this 14th day of January, 2009.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Gabriel S. Meyer
Assistant General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-1658
(402) 501-3393 (FAX)

VERIFICATION

STATE OF NEBRASKA)
) ss:
COUNTY OF DOUGLAS)

I, RAYMOND E. ALLAMONG, JR., Senior Manager Rail Line Planning of Union Pacific Railroad Company, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing document and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of Union Pacific Railroad Company.

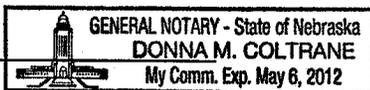
Dated at Omaha, Nebraska, this 14h day of January, 2009.

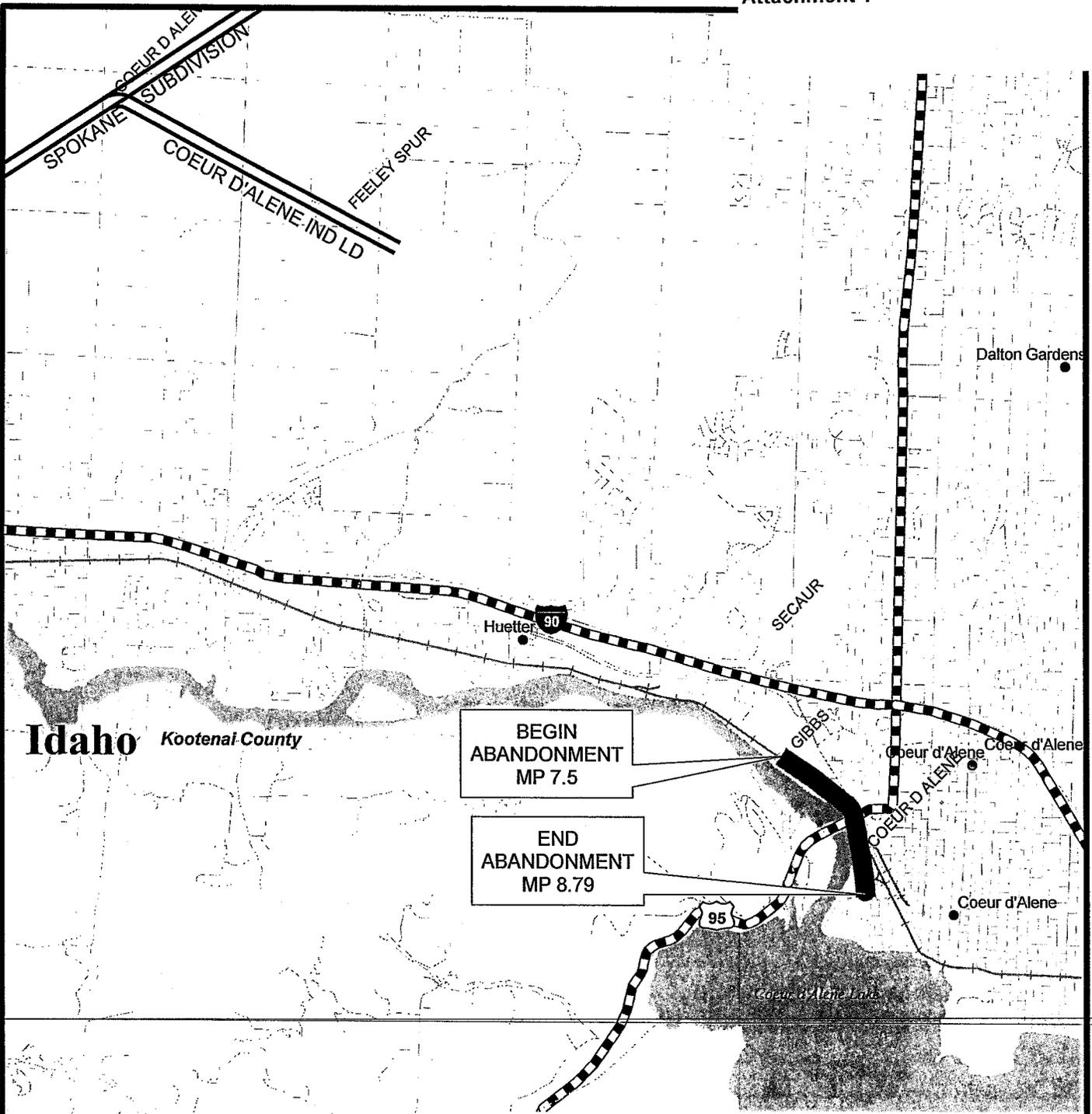

Raymond E. Allamong, Jr.

SUBSCRIBED AND SWORN TO
before me this 14th day of
January, 2009


Notary Public

My Commission expires: _____





Idaho Kootenai County

BEGIN
ABANDONMENT
MP 7.5

END
ABANDONMENT
MP 8.79

NOTE : THERE ARE NO 50+ YEAR OLD STRUCTURES

Legend

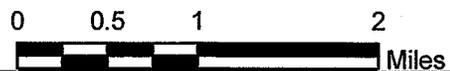
-  UPRR LINES TO BE ABANDONED
-  OTHER UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS

COEUR D'ALENE INDUSTRIAL LEAD

MP 7.50 TO MP 8.79
TOTAL OF 1.29 MILES IN KOOTENAI COUNTY
IN IDAHO

**UNION PACIFIC RAILROAD CO.
COEUR D'ALENE INDUSTRIAL LEAD
IDAHO**

INCLUDING 50+ YEAR OLD STRUCTURES





Stimson Lumber Company
Executive Offices
520 SW Yamhill, Suite 700
Portland, OR 97204
Phone (503) 222-1676
Fax (503) 242-1588

December 17, 2008

Gabe Meyer
Assistant General Attorney
Union Pacific Railroad
Stop 1580
1400 Douglas Street
Omaha, NE 68179

RE: Docket No. AB-33 (Sub-No. 272X)

Dear Mr. Meyer:

Stimson Lumber Company has no objection to Union Pacific Railroad Company's proposed abandonment of its Coeur d'Alene Industrial Lead from milepost 7.5 near Gibbs to the end of the line at milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, Idaho. The abandonment of this line will have no adverse effect on Stimson Lumber Company.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Webber", with a long, sweeping underline.

Jeff Webber

223887



Gabriel S. Meyer
Assistant General Attorney

Attachment 3

October 28, 2008

Via UPS 2nd Day Air

Surface Transportation Board
395 E Street, SW
Washington, DC 20024

ENTERED
Office of Proceedings
OCT 31 2008
Part of
Public Record

Attention: Victoria Rutson

Re: Proposed Abandonment of the Coeur d'Alene Industrial Lead from Milepost 7.5 near Gibbs to Milepost 8.79; STB Docket No. AB-33 (Sub-No. 272X)

Dear Ms. Rutson

Enclosed for filing in the above-referenced matter are the original and ten (10) copies of Union Pacific Railroad Company's Combined Environmental and Historic Report prepared pursuant to 49 C F.R. Sections 1105.7 and 1105.8, with a Certificate of Service and a transmittal letter pursuant to 49 C F R Section 1105.11.

Union Pacific anticipates filing a Petition for Exemption in this matter on or after November 17, 2008. Please do not hesitate to contact me if you have any questions

Sincerely,

Gabriel S. Meyer

Enclosures

DRAFT FEDERAL REGISTER NOTICE
[49 C.F.R. § 1152.60(c)]

STB Docket No. AB-33 (Sub-No. 272X)
Notice of Petition for Exemption to Abandon or
to Discontinue Service

On January 14, 2009, Union Pacific Railroad Company filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of its Coeur d'Alene Industrial Lead, from Milepost 7.5 near Gibbs to the end of the line at Milepost 8.79 near Coeur d'Alene, a distance of 1.29 miles in Kootenai County, Idaho (the "Line"). The Line traverses U.S. Postal Zip Code 83814. There are no shippers on the Line that will be adversely affected by the proposed abandonment. There are no stations or structures that will be adversely affected by the proposed abandonment.

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 interest of railroad employees will be protected as required by 49 U.S.C. 10903(b)(2).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons 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 and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

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 made 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.

CERTIFICATE OF SERVICE AND PUBLICATION

The undersigned hereby certifies that a copy of the foregoing Petition for Exemption in Docket No. AB-33 (Sub-No. 272X) by Union Pacific Railroad Company was served on the date indicated below by mailing a copy, first class mail postage prepaid to the following:

Headquarters - Military Surface Deployment and
Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

Idaho Public Utilities Commission
472 W Washington 83702
Boise, ID 83702

Idaho Transportation Department
3311 W. State Street Á P.O. Box 7129
Boise, ID 83707-1129

National Park Service - Pacific West Region
1111 Jackson Street, Suite 700
Oakland, CA 94607

Stimson Lumber Company
520 S.W. Yamhill Street, Suite 700
Portland, OR 97204

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor NW, Auditors Building
14th Street & Independence Ave., S.W.
Washington, D.C. 20250

Peter Cooper
1671 E. Miles Avenue
Hayden, Idaho 83835

The undersigned further certifies that a notice of the proposed abandonment and discontinuances was published one time in the county where the rail lines are located as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Kootenai	<i>Coeur d'Alene Press</i>	November 15, 2008

The above newspaper is generally circulated in the county where the rail line is located. The Notice as published was in the form prescribed by the Board for a Petition for Exemption at 49 CFR 1105.12.

Dated this 14th day of January, 2009



Colleen K. Graham