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Admitted to Practice
DC & New Jersey

ENTERED
Office of Proceedings
February 6, 2023
Part of
Public Record

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February 6, 2023

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

VIA ELECTRONIC FILING

RE: Docket No. FD 36668 CWW LLC dba Columbia Rail--Change in Operator
Exemption—Port of Benton County, WA

Dear Ms. Brown:

Pursuant to the Board's electronic filing Rules, attached for filing is an original **Verified Notice of Exemption** of applicant **CWW, LLC** submitted under **49 C.F.R. § 1150.41** in the above-captioned proceeding. Applicant has separately submitted the \$2,200 filing fee per 49 C.F.R. § 1002.2(f)(14)(ii).

Pay.gov Tracking ID: 273QJIGL
 Agency Tracking ID: 76364249594

Please contact the undersigned by telephone at (908) 361-7097 or by email to jsavagelaw@aim.com with any questions regarding this filing.

Respectfully submitted,

/s/James H. M. Savage
 [By electronic signature]
 James H.M. Savage
 Counsel for CWW LLC

Enc.

FILED
February 6, 2023
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
February 6, 2023
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 36668

**CWW LLC DBA COLUMBIA RAIL
-- CHANGE IN OPERATOR EXEMPTION—
PORT OF BENTON COUNTY, WA**

VERIFIED NOTICE OF EXEMPTION

PURSUANT TO 49 C.F.R. § 1150.41

Submitted By:

/s/James H. M. Savage
[By electronic signature]

James H.M. Savage
22 Rockingham Court
Germantown, MD 20874
(908) 361-7097
jsavagelaw@aim.com

Counsel for Applicant
CWW LLC

Dated: February 6, 2023

INFORMATION REQUIRED BY 49 C.F.R. 1150.41(c)

Pursuant to 49 U.S.C. § 10902 and 49 C.F.R. § 1150.41, et seq., CWW LLC dba Columbia Rail (“CWW”), an existing Class III common carrier,¹ hereby files this Verified Notice of Exemption to non-exclusively Lease and assume operation of approximately 16 route miles of interconnected railroad line owned by the Port of Benton County, WA (“Port”) located between MP 18.84 at Richland Junction to MP 29.73 at Richland, WA (the “Rail Line”). Based on projected combined revenues from its existing operations and those that would result from the proposed transaction, CWW expects to remain a Class III rail carrier.

In accordance with the requirements of 49 C.F.R. § 1150.43, CWW supplies the following information:

Name and Address of Applicant:

49 C.F.R. § 1150.43(a)

CWW LLC dba Columbia Rail
709 N. 10th Ave.
Walla Walla, WA 99362

Applicant’s Representative:

49 C.F.R. § 1150.43(b)

Applicant’s representative to whom correspondence regarding this transaction should be sent as follows:

James H. M. Savage
22 Rockingham Court
Germantown, MD 20874
(908) 361-7097

Statement Concerning Agreement:

49 C.F.R. § 1150.43(c)

The Rail Line (“the Line”) extends nearly 11 miles of main track, approximately 16 miles including sidings and connecting spur tracks, from MP 18.84 at Richland Junction to MP 29.73

¹ See: Finance Docket No. 36044, CWW LLC-Lease and Operation Exemption-Port of Columbia, Wash. (Service Date: July 15, 2016).

at Richland, WA. The Line was constructed in 1947 by the Atomic Energy Commission (“AEC”) to provide rail service to the Hanford Nuclear Reservation. The AEC granted predecessors of BNSF Railway Company (“BNSF”) and Union Pacific Railroad Company (“UP”) “equal joint” operating rights to serve that facility and other customers that would locate on the Line. The Port acquired the Line from the U.S. Department of Energy (“DOE”) in 1998 with BNSF and UP remaining as operating carriers.² Tri-City Railroad Company, LLC (“TCR”) began operating over the Line pursuant to a Lease Agreement with Port on August 1, 2002. In 2019 the Board granted Port’s petition for adverse discontinuance of TCR’s operating authority on the Line.³

Operator of the Property:

49 C.F.R. § 1150.43(d)

As anticipated by this Notice, and as described in the transaction summary provided below, CWW will be the operator of the Line.

Brief Summary of Transaction:

49 C.F.R. § 1150.43(e)

This exemption involves a change in operator by CWW, an existing Class III short line railroad carrier, upon this exemption taking effect, of certain Rail Lines owned by Port and which are and will continue to also be served by BNSF and UP. As noted, the Line had previously been leased to and operated by TCR.

(1) Name and address of incumbent railroad. The Port adversely discontinued TCR’s operating rights in 2019. Accordingly, there is no incumbent.

² Port of Benton--Acquisition and Operation Exemption--U.S. Department of Energy Rail Line in Richland, WA, FD 33653 (STB served Oct. 6, 1998).

³ Port of Benton Cty., Wash.-- Adverse Discontinuance of Rail Serv.--Tri-City R.R. AB 1270 (STB served Oct. 31, 2019).

(2) Proposed time schedule for consummation of transaction. CWW plans to commence operations on or after March 6, 2023, more than thirty days after the filing of this Notice.

(3) Mileposts of the subject property. CWW intends to assume operation of the Rail Line owned by Port located between MP 18.84 at Richland Junction and MP 29.73 at Richland, WA, a total of 10.89 linear route miles.

(4) Total Route Miles. CWW intends to assume operation of rail property comprising a total of 16 miles of tracks, including sidings and connecting spur tracks.

Map of Area to be Served:

49 C.F.R. § 1150.43(f)

A map clearly indicating the area to be served, including origins, termini, stations, cities, and states, is attached as Exhibit A to this Notice.

Certificate of Carrier Classification:

49 C.F.R. § 1150.43(g)

A certificate complying with the provisions of 49 C.F.R. 1150.43(g) is attached as Exhibit B to this Notice. Accordingly, the advance notice requirements of 49 C.F.R. 1150.42(e) are not applicable to this transaction.

Transactions Imposing Interchange Commitments:

49 C.F.R. § 1150.43(h)

CWW expects to interchange with BNSF and UP on the same or similar basis as had the former operator, TCR. However, no interchange commitments are contemplated.

Caption Summary:

49 C.F.R. § 1150.44

A caption summary in prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data:

49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, i.e., changes exceeding the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 49 C.F.R. § 1105.8(b)(1). The proposed Lease is for the purpose of continued rail operations, further Board approval would be required to abandon or discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Respectfully submitted,

/s/James H. M. Savage
[By electronic signature]
James H.M. Savage
Counsel for CWW LLC

Dated: February 6, 2023

[illegible]

See attached PDF

Exhibit B Verification & Certification of Carrier Classification 49 C.F.R. § 1150.41(c)

I, Paul Didelius, certify that I am the owner of CWW LLC dba Columbia Rail and that applicant's projected annual revenues would not exceed \$5 million and will not result in the creation of a Class II or Class I rail carrier under the provisions of 49 C.F.R. § 1150.43(g).

I also verify that the Change in Operator Exemption Notice is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to cause this Verified Notice of Exemption to be filed.

/s/ Paul Didelius
[By electronic signature]

Paul Didelius, owner
CWW LLC

SURFACE TRANSPORTATION BOARD***Verified Notice of Exemption*****FINANCE DOCKET NO. 36668****CWW LLC DBA COLUMBIA RAIL
-- CHANGE IN OPERATOR EXEMPTION --
PORT OF BENTON COUNTY, WA**

CWW LLC (“CWW”) has filed a Verified Notice of Exemption under 49 C.F.R. § 1150.41 to non-exclusively Lease and assume operation of railroad property owned by the Port of Benton County, WA (“Port”) located MP 18.84 at Richland Junction to MP 29.73 at Richland, WA. The Lease Agreement between CWW and Port contains no interchange commitment. CWW expects to consummate the proposed transaction on or shortly after the effective date of this notice of exemption.

Comments must be filed with the Board and served on Applicant’s representative, James H. M. Savage, 22 Rockingham Court, Germantown, MD 20874. The telephone number of Applicant’s representative is (908) 361-7097.

This notice is filed under 49 C.F.R. § 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: _____

By the Board

CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify this 6th day of February 2023:

In accord Steven.Salzman@bnsf.com with 49 C.F.R. § 1104.12(c), I have served by electronic mail a true copy of the within pleading upon the following persons and entities:

David Billetdeaux,
General Counsel
Port of Benton
3250 Port of Benton Blvd
Richland, WA 99354
dBilletdeaux@portofbenton.com

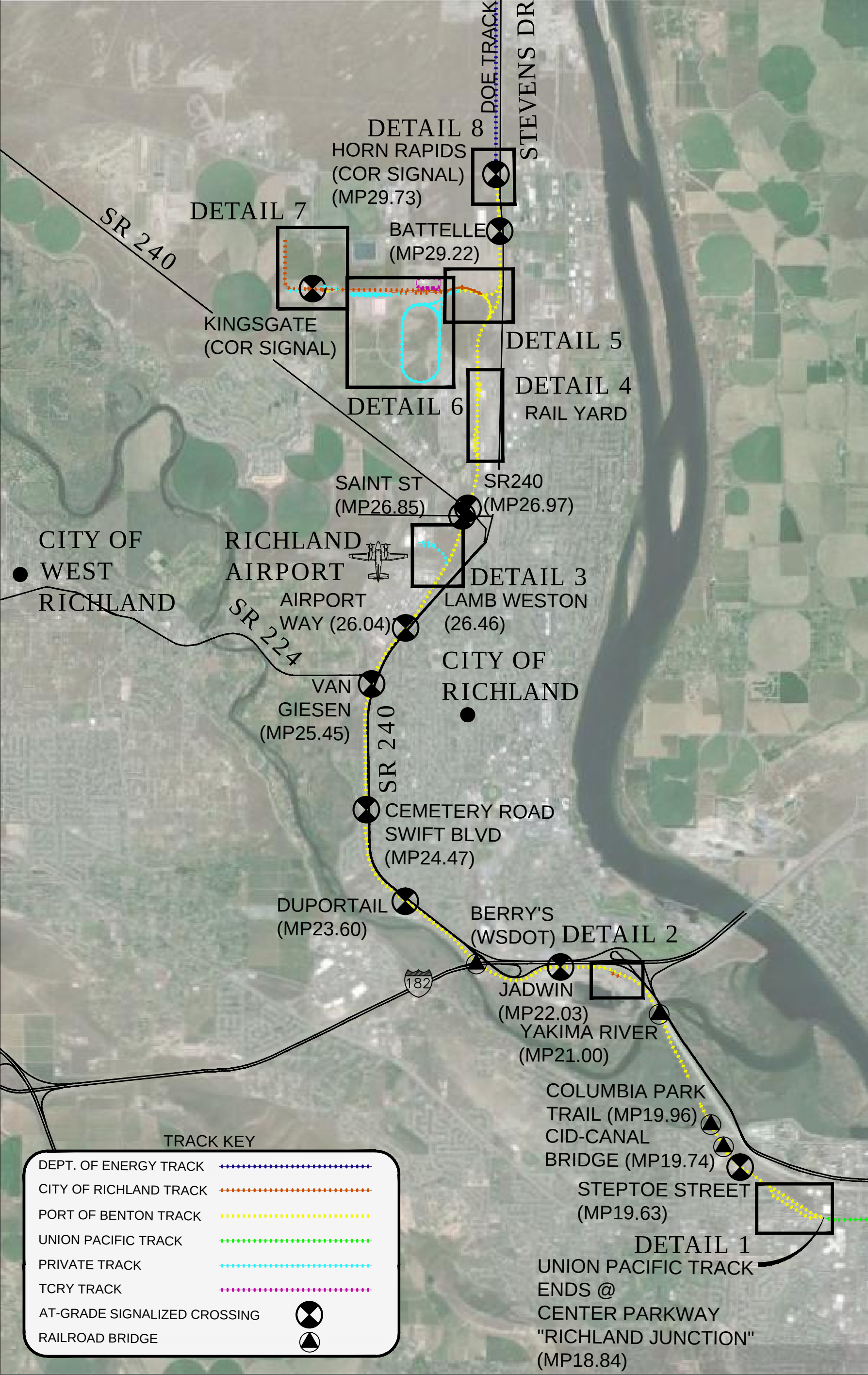
Steven W. Salzman
Director- Shortline Development
BNSF Railway
2650 Lou Menk Dr.
Fort Worth, TX 76131
Steven.Salzman@bnsf.com

Jared York
Contract and Joint Facilities
BNSF Railway
2650 Lou Menk Dr.
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Justin Barager
Union Pacific Railroad Company
1400 Douglas Street MS 1580
Omaha, NE 68179
jbarager@up.com

/s/ James H. M. Savage
[by electronic signature]
James H. M. Savage
Attorney for CWW LLC

SYSTEM MAP-PORT OF BENTON TRACK



SYSTEM MAP-PORT OF BENTON TRACK
DETAIL SHEET 1 OF 4

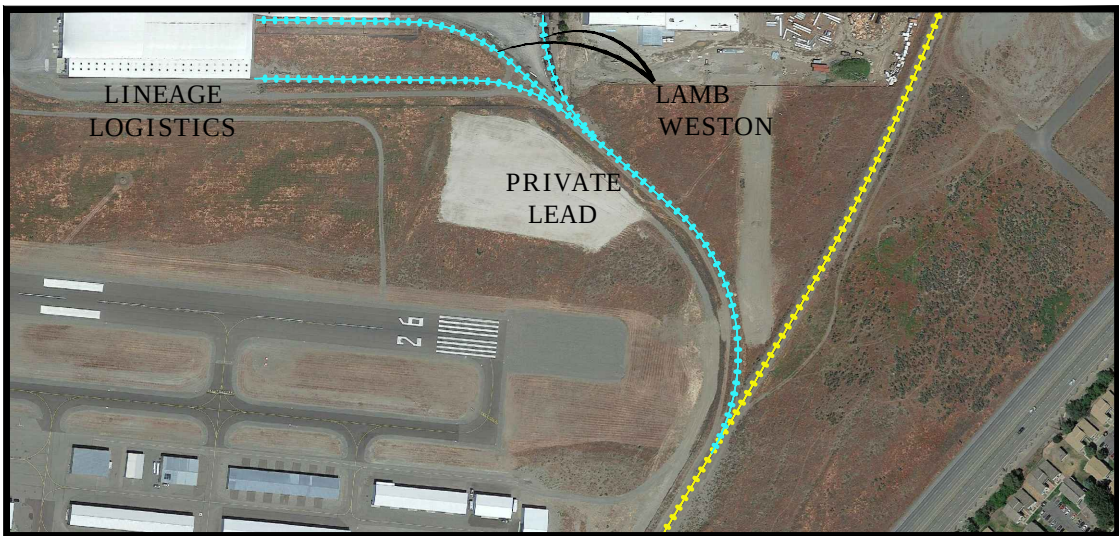
① RICHLAND JUNCTION PASSING TRACK
(GOVERNMENT SIDING)



② COR LOADING DOCK & SPUR



③ LAMB WESTON / LINEAGE LOGISTICS
PRIVATE SPUR

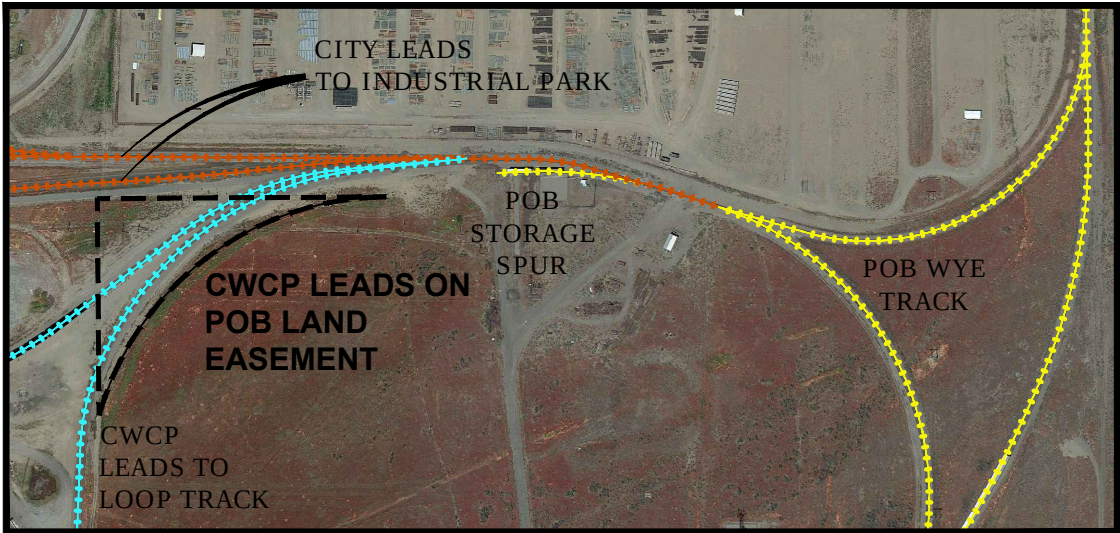


SYSTEM MAP-PORT OF BENTON TRACK
DETAIL SHEET 2 OF 4

④ RAIL YARD

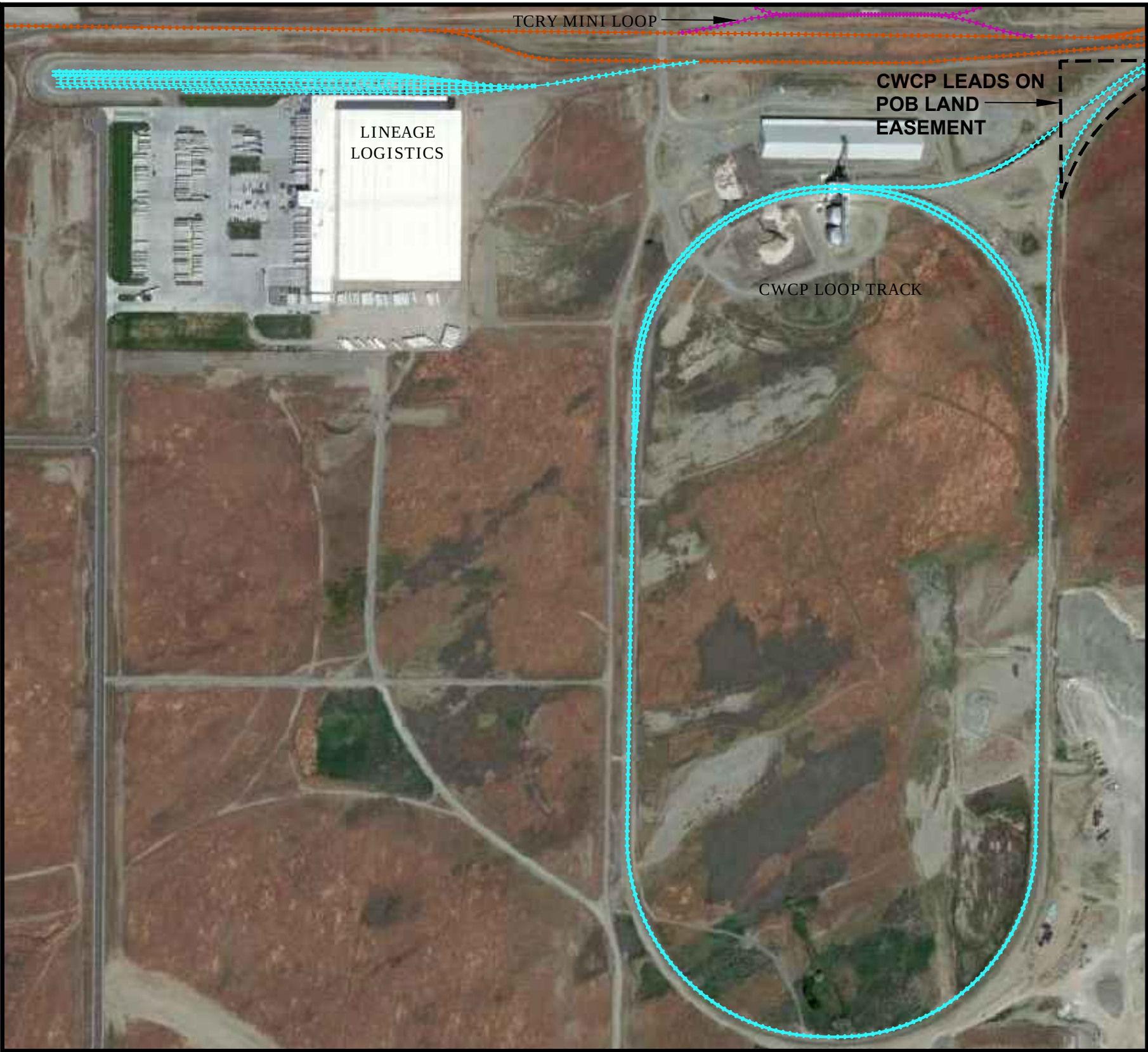


⑤ WYE & HORN RAPIDS INDUSTRIAL SPUR



SYSTEM MAP-PORT OF BENTON TRACK
DETAIL SHEET 3 OF 4

⑥ COR SPUR & PRIVATE RAIL LOOP



⑦ KINGSGATE SPURS



SYSTEM MAP-PORT OF BENTON TRACK
DETAIL SHEET 4 OF 4

⑧ DOE RAIL @ HORN RAPIDS R/W

