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May 1, 2025  
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Public Record

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FD 34693 (SUB-NO. 1)

KAW RIVER RAILROAD, LLC  
— LEASE EXEMPTION WITH INTERCHANGE COMMITMENT —  
BNSF RAILWAY COMPANY

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**VERIFIED NOTICE OF EXEMPTION OF KAW RIVER RAILROAD, LLC  
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

**PUBLIC VERSION**

Stephen J. Foland  
Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive, Suite 800  
Chicago, Illinois 60606-3208  
*sfoland@fletcher-sippel.com*  
*rwimbish@fletcher-sippel.com*  
(312) 252-1500

**ATTORNEYS FOR KAW RIVER  
RAILROAD, LLC**

Dated: May 1, 2025.  
**FILED**  
May 1, 2025  
SURFACE  
TRANSPORTATION BOARD

**FEE RECEIVED**  
May 1, 2025  
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**VERIFIED NOTICE OF EXEMPTION OF KAW RIVER RAILROAD, LLC  
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Kaw River Railroad, LLC (“KAW”), a Class III rail carrier, files this Verified Notice of Exemption (“Notice”) pursuant to 49 C.F.R. part 1150, subpart E, to authorize KAW’s (1) updated and continued lease from BNSF Railway Company (“BNSF”), and operation of, approximately 15.69 miles of railroad line between milepost 199.86 at Kearney, and milepost 215.55 near Birmingham; (2) updated and continued lease and operation of certain tracks in BNSF’s Birmingham Yard, including Tracks 1501, 1502, 1503, 1504, 1547, 1550, 1555, 1560, 9955, and 9956, and the Ladder Track between Tracks 1504 and 1599; (3) continued exercise of incidental overhead trackage rights over BNSF’s Track 1599, between milepost 216.18 and milepost 216.76 of BNSF’s Kearney Subdivision; and (4) continued exercise of incidental overhead trackage rights over BNSF’s line between milepost 215.55 and 216.18, near Birmingham (collectively, the “Kearney Lines”), all of which are located between the towns of Birmingham and Kearney, in Clay County, Missouri.

Pursuant to 49 C.F.R. § 1150.43, KAW submits the following information:

**Name and Address of Applicant: 49 C.F.R. § 1150.43(a)**

Kaw River Railroad, LLC  
315 West Third Street  
Pittsburg, KS 66762

**Applicant's Representative: 49 C.F.R. § 1150.43(b)**

Stephen J. Foland, Esq.  
Fletcher & Sippel LLC  
29 North Wacker Drive, Suite 800  
Chicago, IL 60606  
sfoland@fletcher-sippel.com  
(312) 252-1500

**Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)**

KAW and BNSF have concluded a Lease of Rail Operations and Real and Personal Property between BNSF Railway Company and Kaw River Railroad, LLC, dated December 20, 2020, and a First Amendment, dated August 1, 2024 (collectively, the “Agreement”), updating and extending their current and long-standing arrangement for KAW’s lease and operation of the Kearney Lines, and providing for KAW’s continued exercise of trackage rights incidental to the lease transaction. The Agreement will take effect upon appropriate Board authorization.

**Operator of the Property: 49 C.F.R. § 1150.43(d)**

KAW will continue to provide common carrier railroad freight service to all freight customers located along the Kearney Lines.

**Background and Summary of the Transaction: 49 C.F.R. § 1150.43(e)**

The Kearney Lines are located in Clay County, Missouri, and include parts of BNSF’s Birmingham Yard and a branch line extending generally north-northeast to the town of

Kearney. KAW will continue to lease and operate approximately 15.69 miles of railroad line between milepost 199.86, at Kearney, and milepost 215.55, at Birmingham, and certain tracks in BNSF's Birmingham Yard, including Tracks 1501, 1502, 1503, 1504, 1547, 1550, 1555, 1560, 9955, and 9956, and the Ladder Track between Tracks 1504 and 1599. KAW will also retain incidental overhead trackage rights over approximately 1.21 miles of line, including over Track 1599, between milepost 216.18 and milepost 216.76 on BNSF's Kearney Subdivision; and between BNSF mileposts 215.55 and 216.18, near Birmingham.

KAW has leased the Kearney Lines from BNSF since 2005. *See Kaw River R.R., Inc. – Lease Exemption – BNSF Ry. Co.*, FD 34693 (STB served May 12, 2005). KAW converted from a corporation into a limited-liability company in 2011. KAW and BNSF have more recently agreed to updated terms to govern KAW's continued operation of the Kearney Lines and KAW's exercise of incidental trackage rights. KAW intends to consummate the proposed transaction upon the effectiveness of the subject class exemption.

The name and address of the railroad leasing the Kearney Lines to KAW is:

BNSF Railway Company  
2650 Lou Menk Drive  
Fort Worth, Texas 76131

**Map: 49 C.F.R. § 1150.43(f)**

A map showing the Kearney Lines and incidental trackage rights is attached hereto as Exhibit A.

**Certification of Eligibility: 49 C.F.R. § 1150.43(g)**

See the attached Certification and Verification page.

**Interchange Commitments: 49 C.F.R. § 1150.43(h)(1)**

(i) The Kearney Lines connect only to contiguous BNSF lines and do not connect with the lines of any third-party carrier. Accordingly, the interchange commitment does not affect any third-party carrier.

(ii) A true and correct copy of the Agreement has been filed under seal and is attached hereto as Confidential Exhibit B.

(iii) A list of shippers located on the Kearney Lines which have used KAW's rail service during the past two calendar years includes Paris Brothers, Inc.; Ply Gem Industries, Inc.; Water.International LLC; and WestRock Company.

(iv) The confidential aggregate total of carloads originated or terminated on the Kearney Lines during the past two calendar years by the shippers enumerated above is [xxx] cars for calendar year 2023 and [xxx] cars for calendar year 2024.

(v) KAW certifies it has provided notice of the proposed transaction and interchange commitment to the shippers enumerated above via United States Mail.

(vi) As noted above, there are no third-party carriers that could physically interchange with KAW on the Kearney Lines.

(vii) BNSF informed KAW that it would not lease the Kearney Lines to KAW without an interchange commitment. However, as noted above, there are no physical connections between the Kearney Lines and the lines of any third-party carrier. Accordingly, the value of this interchange commitment cannot be estimated.

(viii) The caption indicates the presence of an interchange commitment. Accordingly, there is no change to the caption to be made.

**Advance Labor Notice: 49 C.F.R. § 1150.42(e)**

KAW's annual revenues are projected to exceed \$5 million, therefore triggering the sixty (60)-day labor notice requirement of 49 C.F.R. § 1150.42(e). However, concurrent with this Notice, KAW has filed a petition for a waiver of the present Labor Notice requirements, considering KAW's continuous and exclusive operation of the Kearney Lines for more than nineteen (19) years.

**Environmental and Historical 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 that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), KAW's lease of the Kearney Lines also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Additional Board approval would be required to 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.

**Caption Summary: 49 C.F.R. § 1150.42(a)**

A caption summary in appropriate form is attached as Exhibit C.

Respectfully submitted,

By: /s/*Stephen J. Foland*

Stephen J. Foland

Robert A. Wimbish

Fletcher & Sippel LLC

29 North Wacker Drive, Suite 800

Chicago, Illinois 60606-3208

*rwimbish@fletcher-sippel.com*

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(312) 252-1500

**ATTORNEYS FOR KAW RIVER  
RAILROAD, LLC**

Dated: May 1, 2025.

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SURFACE TRANSPORTATION BOARD

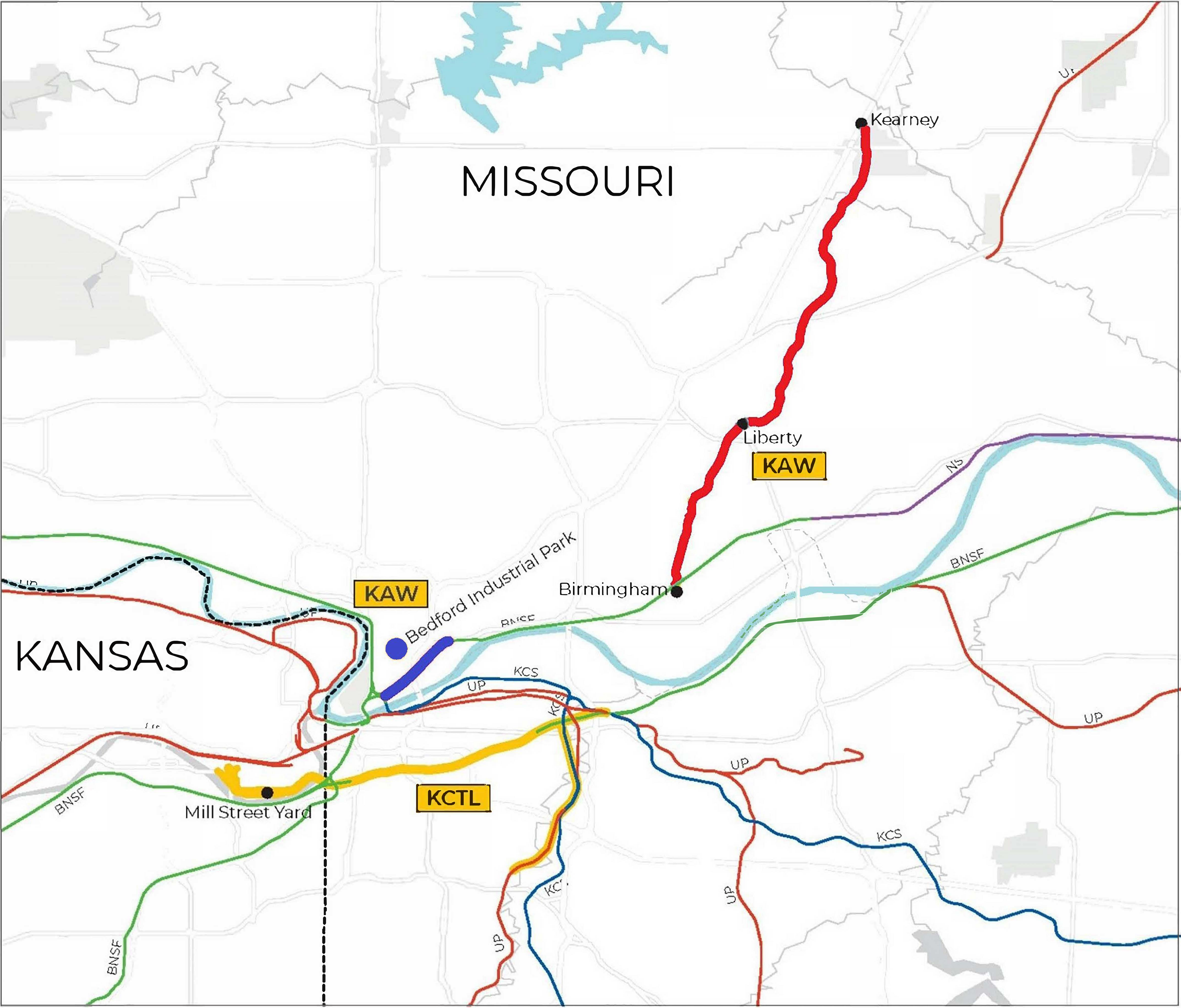
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**EXHIBIT A**  
**MAP**



**LEGEND**

KCTL

Bedford Line

Kearney Line

BNSF

CPKC

NS

UP

Switching

**Interchanges**

Kansas City, KS (KCTL) - BNSF

Kansas City, MO (KCTL) - BNSF, CPKC, NS,

Birmingham, MO (KAW) - BNSF

North Kansas City, MO (KAW) - BNSF

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# **HIGHLY CONFIDENTIAL EXHIBIT B LEASE AGREEMENT**

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# **EXHIBIT C**

## **CAPTION SUMMARY**

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Comments must be filed with the Board and served on: Stephen J. Foland, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208, (312) 252-1500, [sfoland@fletcher-sippel.com](mailto:sfoland@fletcher-sippel.com).

This Notice has been filed pursuant to 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 stay the transaction automatically.

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## **CERTIFICATION AND VERIFICATION**

**CERTIFICATION AND VERIFICATION**

I, Rick D. Baden, hereby certify and verify the following under penalty of perjury:

1. I am the Executive Vice President and Chief Financial Officer of Kaw River Railroad, LLC ("KAW");
2. I am authorized to execute this certification and verification on KAW's behalf;
3. KAW's annual operating revenues, although projected to exceed \$5 million, have not and will not exceed the threshold of a Class I or Class II rail carrier;
4. I have read the foregoing Verified Notice of Exemption, and know the facts stated therein to be true and correct to the best of my knowledge and belief.

By: /s/

A handwritten signature in blue ink, appearing to read "Rick D. Baden", is written over a horizontal line.

Dated: May 1, 2025