

DD# 0102030001

BALL JANIK LLP

A T T O R N E Y S

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

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TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

ORIGINAL

21,2

206194

KARL MORELL

kmorell@dc.bjllp.com

September 13, 2002

BY HAND DELIVERY

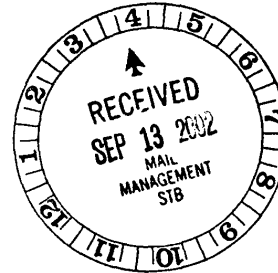
The Honorable Vernon Williams
Surface Transportation Board
1925 K Street NW
Suite 715
Washington, DC 20423-001

ENTERED
Office of Proceedings

SEP 13 2002

Part of
Public Record

AB 839-1x



Re: STB Docket No. 839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company -- Abandonment Exemption -- In Barber
County, KS

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Notice of Exemption under 49 C.F.R. 1152.50. Also attached is a check covering the \$2,700 filing fee.

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

If you have any questions, please call me.

Sincerely,

Karl Morell

Enclosures

FEE RECEIVED

SEP 13 2002

**SURFACE
TRANSPORTATION BOARD**

PORTLAND, OREGON WASHINGTON, D.C. BEND, OREGON

FILED

SEP 13 2002

**SURFACE
TRANSPORTATION BOARD**

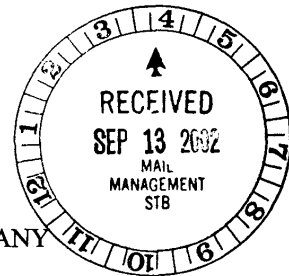
ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-839 (SUB-NO. 1X)

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN BARBER COUNTY, KANSAS

NOTICE OF EXEMPTION



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

Attorney for:
KIOWA, HARDTNER AND PACIFIC
RAILROAD COMPANY

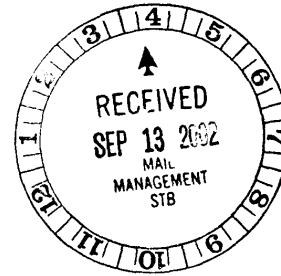
Dated: September 13, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-839 (SUB-NO. 1X)

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
-- ABANDONMENT EXEMPTION --
IN BARBER COUNTY, KANSAS

NOTICE OF EXEMPTION



Kiowa, Hardtner and Pacific Railroad Company ("KHP"), files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 to abandon its 9.93-mile rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, Kansas (the "Line").

1. Proposed consummation date.

The proposed consummation date is November 2, 2002.

2. Certification required by 49 C.F.R. § 1152.50(b).

The required certification is attached hereto as Exhibit A.

3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

- (1) Exact name of applicant.

Kiowa, Hardtner and Pacific Railroad Company

- (2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

KHP is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

- (3) Relief sought.

KHP seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon its 9.93-mile rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. There has been no local traffic on the Line in over two years. The Line is stub-ended and, therefore, not capable of handling overhead traffic.

- (4) Map.

A map depicting the trackage covered by the proposed abandonment is attached as Exhibit B.

- (7) Name, title, and address of representative of applicant to whom correspondence should be sent.

Karl Morell
Ball Janik LLP
1455 F St., N.W., Suite 225
Washington, DC 20005
(202) 638-3307

- (8) List of all United States Postal Service ZIP Codes that the line proposed for abandonment traverses.

The Line traverses ZIP Codes 67070 and 67057.

- (e) Rural and community impact.

- (4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

The Line traverses a predominately rural area that has adequate road and highway networks. Therefore, there is little or no likelihood that the rail corridor is needed for a transit or highway corridor. The right-of-way may be suitable for a recreational trail. To the best of KHP's knowledge the property underlying the right-of-way is reversionary, which would affect the transfer of the property for other than rail purposes or interim trail use.

4. The level of labor protection.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect employee interests. The Board and its predecessor agency, the Interstate Commerce Commission, however, declined, except in unusual circumstances, to impose labor conditions where a carrier abandons service over its entire line. KHP proposes to abandon the entire rail line it owns and go out of business thereafter. Also, no corporate affiliate of KHP will continue substantially similar rail operations and there is no corporate parent that would benefit from the proposed abandonment. *See Northampton and Bath R. Co. – Abandonment*, 354 I.C.C. 784 (1978); *Wellsville, Addison & Galetton R. Corp. – Abandonment*, 354 I.C.C. 744 (1978); Docket No. AB-403X, *Willamette Valley Railroad Company – Abandonment Exemption – In Polk County, OR* (not printed), served April 5, 1996.

5. Certification.

Certificates of compliance with the notice requirements of 49 C.F.R. §§
1152.50(d)(1) and 1105.11 are attached as Exhibit C.

6. Environmental Report.

The Environmental Report containing information required by 49 C.F.R.
§ 1105.7(e) is attached hereto as Exhibit D. Based on information in our possession, 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.

7. Historic Report.

The Historic Report containing information required by 49 C.F.R. § 1105.8 is attached
hereto as Exhibit E.

Respectfully submitted,



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

Attorney for:
KIOWA, HARDTNER AND PACIFIC
RAILROAD COMPANY

Dated: September 13, 2002

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

I hereby certify that no local traffic has been handled to or from any customer over KHP's rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, Kansas for at least two (2) years prior to the date hereof. The rail line is stub-ended and, therefore, not capable of handling overhead traffic. Further, no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of KHP by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.

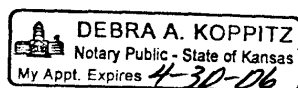
J. W. Platt

J.W. Platt

SUBSCRIBED AND SWORN TO before me this 3rd day of September, 2002.

My Commission Expires: 4-30-06

Notary Public



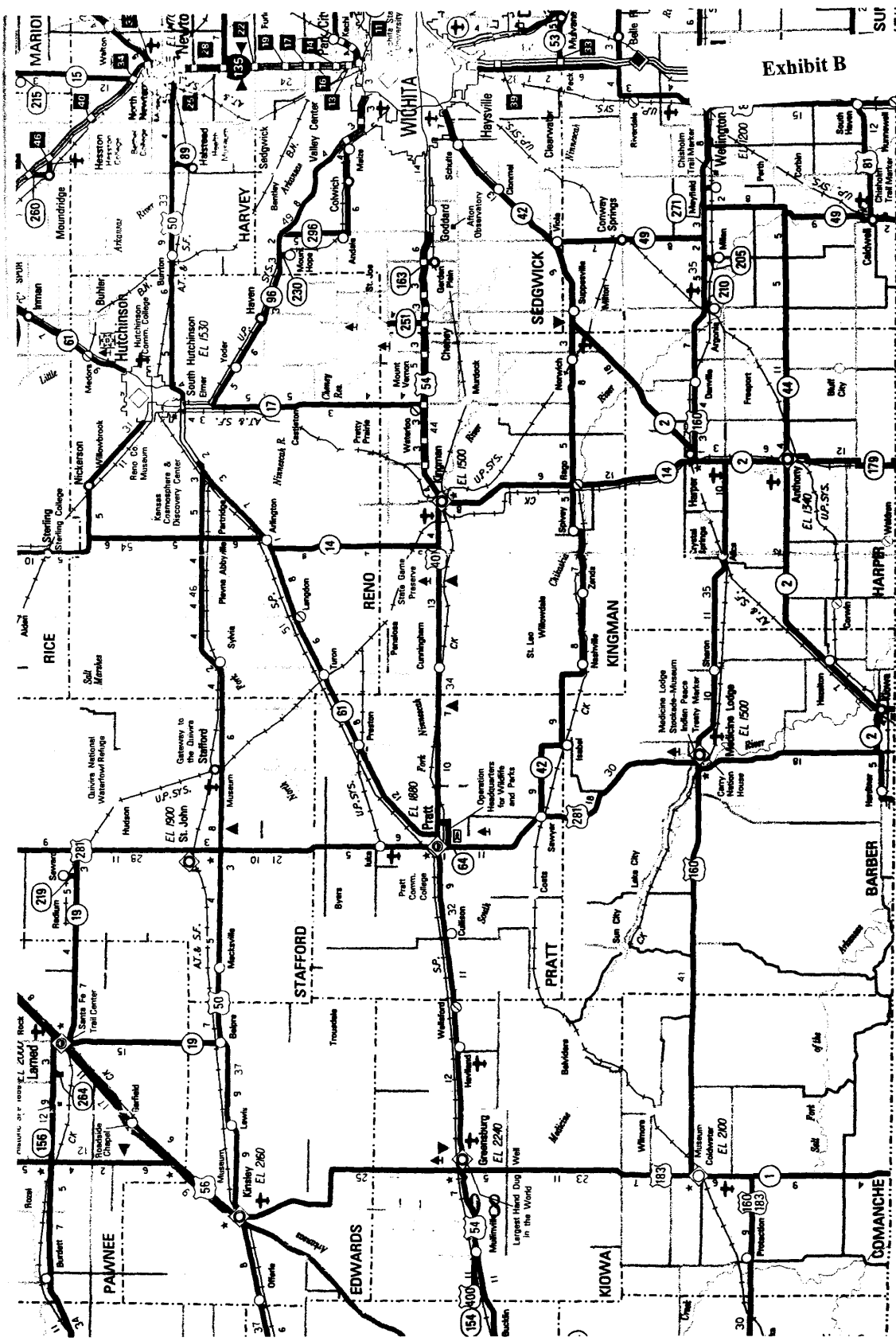


Exhibit B

EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-839 (Sub-No. 1X) was mailed via first class mail on August 29, 2002 to the following parties:

State Public Service Commission

Dept. of Transportation
Room 800 N
Docking State Office Bldg.
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Military Traffic Management Command

MTMCTEA
ATTN: Railroads for National Defense
720 Thimble Shoals Blvd.
Suite 130
Newport News, VA 23606-2574

National Park Service

Mr. Tom Ross
Chief of National Recreation and Trails
U.S. Department of Interior - National Park Service
Recreation Resources Assistance Division
P.O. Box 37127
Washington, DC 20013-7127

National Park Service

U.S. Department of Interior
National Park Service
Land Resources Division
800 North Capitol St., N.E.
Room 540
Washington, DC 20002

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th Street and Independence Avenue, S.W.
Washington, DC 20250

Dated: September 13, 2002


Karl Morell

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-839 (Sub-No. 1X) was advertised on September 5, 2002 in the Kiowa News, a newspaper of general circulation in Barber County, Kansas as required by 49 C.F.R. § 1105.12.

Dated: September 13, 2002


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 Docket No. AB-839 (Sub-No. 1X) was mailed via first class mail on August 23, 2002, to the following parties:

Department of Transportation
Room 800 N
Docking State Office Bldg.
Topeka, KS 66612

Kansas Corporation Commission
1500 SW Arrowhead Road
Topeka, KS 66604

Board of County Commissioners
Barber County
205 West Central, 4th Floor
El Dorado, KS 67042

State Conservationist
USDA Soil Conservation Service
760 South Broadway
Salina, KS 67401

U.S. Fish and Wildlife Service
P.O. Box 25486, Denver Federal Center
Denver, CO 80225

National Park Service
Recreational Resources Assistance Division
P.O. Box 37127
Washington, D.C. 20013-7127

Department of Health and Environment
Division of Environment
Landon State Office Building
901 S.W. Jackson Street
Topeka, KS 66612

U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, KS 66101

U.S. Army Engineer District, Kansas City
2710 N.E. Shady Creek Access Road
El Dorado, Kansas 67042

The National Geodetic Survey
Department of Commerce/NOAA
SSMC3
Station 9356
1315 E. West Highway
Silver Spring, MD 20910

Date: September 13, 2002


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 Docket No. AB-839 (Sub-No. 1X) was mailed via first class mail on August 23, 2002, to the following party:

Kansas State Historical Society
6425 S.W. 6th Avenue
Topeka, KS 66615-1099

Date: September 13, 2002


Karl Morell

EXHIBIT D

ENVIRONMENTAL REPORT

(49 C.F.R. 1105.7)

Docket No. AB-839 (Sub-No. 1X)

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY

--ABANDONMENT EXEMPTION--

IN BARBER COUNTY, KANSAS

(1) Proposed Action 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 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.

Kiowa, Hardtner and Pacific Railroad Company ("KHP"), proposes to abandon its 9.93-mile rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas (the "Line"). Upon receipt of abandonment authority, KHP intends to remove the rail, track material, and crossties. There are currently no plans to remove any of the bridge structures along the Line.

The proposed abandonment will not change rail freight operations or maintenance practices on the Line. No local traffic has been handled on the Line for several years. There currently are no active rail shippers located on the Line. The Line is stub-ended and, therefore, not capable of handling overhead traffic.

The only alternative to abandonment would be not to abandon the Line thereby forcing KHP to absorb the opportunity costs of retaining this inactive Line. This would not be a prudent use of carrier resources. The Line is in poor condition and in need of substantial repair.

A map of the proposed abandonment is attached hereto 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 passenger or freight traffic will be diverted to other modes as a result of the proposed abandonment. No local traffic has been handled on the Line for several years and the Line has no overhead traffic. Since the Line no longer handles rail traffic, the proposed abandonment will have no adverse effects on regional or local transportation systems and patterns.

(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 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) KHP does not consider the proposed abandonment to be inconsistent with existing land use plans. KHP contacted the Barber Board of County Commissioners. See 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) KHP notified the State Conservationist of the proposed abandonment and requested assistance in identifying any potential effects on prime agricultural land. See Exhibit 3. The Natural Resources Conservation Service determined that the proposed abandonment should have no negative impacts to important farmland. See Exhibit 4. A copy of this Report is being supplied to the Natural Resources Conservation Service for its information and further comment.

(iii) The Line does not pass through a designated coastal zone.

(iv) The Line traverses a predominately rural area that has adequate road and highway networks. The Line essentially parallels State Highway 2 and U.S. Highway 281. Therefore, there is little or no likelihood that the rail corridor is needed for a transit or highway corridor.

(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 the 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 as no local traffic has been handled on the Line for several years and no overhead traffic can be handled on the Line.

(iv) The proposed abandonment will not cause any diversions of rail traffic to motor carriage, since no local traffic has been handled on the Line for several years and no overhead traffic can be handled on the Line.

(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 § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in sub-section (5)(i)(A) will apply. (ii) If the proposed action affects a class I or nonattainment 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 reinstitution 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 the specified thresholds.

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

(iii) The proposed abandonment will not affect the transportation of ozone depleting 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 grade 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 any 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) The proposed abandonment will have no detrimental effects on public health and safety. The removal of grade crossings and the associated signs and structures will enhance public safety by eliminating distractions to vehicular traffic crossing the Line.

(ii) The proposed abandonment will not affect the transportation of hazardous materials.

(iii) There are no known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the rail corridor of the Line.

(8) Biological Resources. (i) Based on consultation with 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. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

(i) KHP is confident that the proposed abandonment will not have an adverse affect on endangered or threatened species or areas designated as a critical habitat. KHP notified the U.S. Fish and Wildlife Service of the proposed abandonment and requested assistance in determining

whether endangered or threatened species or areas designated as a critical habitat are likely to be adversely affected. See Exhibit 5. To date, no response has been received from the U.S. Fish and Wildlife Service. A copy of this Report is being supplied to the U.S. Fish and Wildlife Service for its information and comment.

(ii) KHP does not believe that any wildlife sanctuaries or refuges, National or State parks or forests would be adversely affected by the proposed abandonment. KHP notified the National Parks Service of the proposed abandonment and requested assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests. See Exhibit 6. To date, no response to this request has been received. A copy of this Report is being supplied to the National Park Service for its information and comment.

(9) Water. (i) Based on consultation with 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 U.S. 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 Water Act (33 U.S.C. § 1342) are required for the proposed action.

(i) KHP is confident that the proposed abandonment will be consistent with applicable water quality standards. KHP contacted the Kansas Department of Health and Environment and the U.S. Environmental Protection Agency concerning this matter requesting assistance in determining whether the proposed abandonment is consistent with applicable Federal, State, or local water quality standards. See Exhibit 7. To date, no response to these requests has been received. A copy of this Report is being supplied to the U.S. Environmental Protection Agency and the Kansas Department of Health and Environment for their information and comment.

(ii) KHP is confident that no designated wetlands or 100-year flood plains will be adversely affected by the proposed abandonment. KHP contacted the Corps of Engineers concerning these matters. See Exhibit 8. The Corps has determined that a Department of the Army permit is not required for the proposed project. See Exhibit 9. A copy of this Report is being supplied to the U.S. Army Corps of Engineers for its information and comment.

(iii) KHP contacted the U.S. Environmental Protection Agency concerning this matter and requested assistance in identifying any potential effects on applicable water quality standards and determining whether the proposed abandonment is consistent with applicable Federal, State, or local water quality standards. See Exhibit 7. To date, no response to this request has been received. A copy of this Report is being supplied to the U.S. Environmental Protection 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.

KHP does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. KHP will, of course, adhere to any remedial actions suggested by the recipients of this Report and required by the Board.

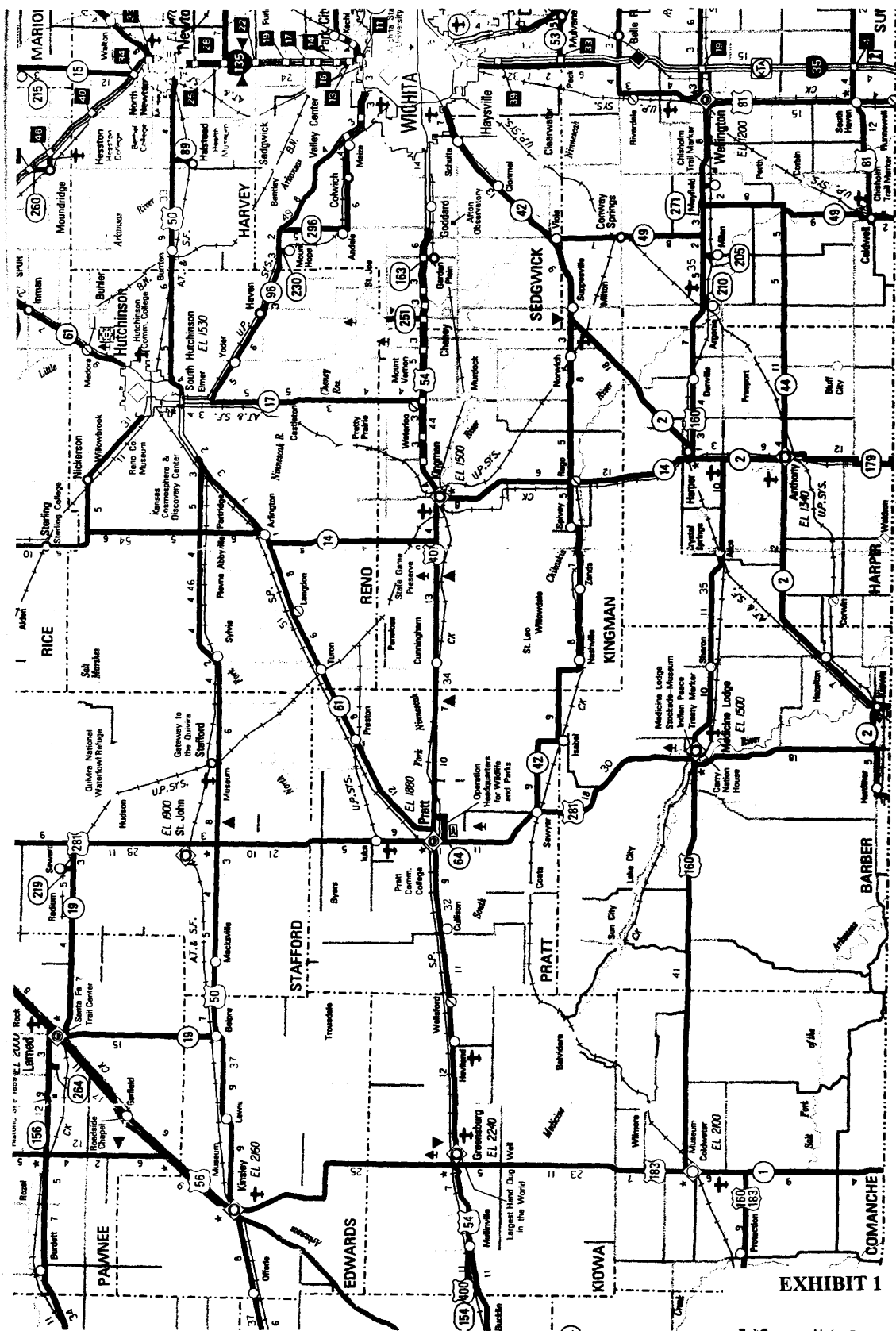


EXHIBIT 1

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
P.O. Box 26421
SALT LAKE CITY, UT 84126
(801) 977-6343 • (801) 977-9387 FAX

July 30, 2002

Board of County Commissioners
Barber County
205 West Central, 4th Floor
El Dorado, KS 67042

**RE: Docket No. AB-839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company -- Abandonment Exemption--In Barber County,
Kansas**

Dear Sir/Madam:

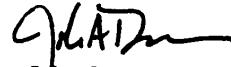
The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on existing land use plans. We must determine whether the proposed abandonment is inconsistent with existing land use plans.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,


John Doane

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
P.O. Box 26421
SALT LAKE CITY, UT 84126
(801) 977-6343 • (801) 977-9387 FAX

July 30, 2002

State Conservationist
USDA Soil Conservation Service
760 South Broadway
Salina, KS 67401

**RE: Docket No. AB-839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company -- Abandonment Exemption--In Barber County,
Kansas**

Dear Sir/Madam:

The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on prime agricultural land.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane



**United States Department of Agriculture
Natural Resources Conservation Service**

9 West 28th
Hutchinson, KS 67502-3453

Phone: 620-663-3501
FAX: 620-663-3866
www.ks.nrcs.usda.gov

August 8, 2002

John Doanne
Kiowa, Hardtner and Pacific Railroad Co.
P.O. Box 26421
Salt Lake City, UT 84126

Dear Mr. Doanne:

Thank you for the opportunity to review the plans "Docket No. AB-839 (Sub-No. IX)", to abandon 0.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas.

Because the project is on land already owned by the railroad, and no new property is being added, there are no negative impacts to important farmland as defined by the Farmland Protection Policy Act. I see no adverse environmental effects for which the Natural Resources Conservation Service is responsible for evaluating.

Sincerely,

A handwritten signature in cursive script, reading "Jess F. Crockford".

JESS F. CROCKFORD
Assistant State Conservationist

cc:

Harold L. Klaege, State Conservationist, NRCS, Salina, Kansas
Rodney D. Egbarts, Soil Conservationist, NRCS, Salina, Kansas
Harold E. Kline, District Conservationist, NRCS, Medicine Lodge, Kansas

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
P.O. Box 26421
SALT LAKE CITY, UT 84126
(801) 977-6343 • (801) 977-9387 FAX

July 30, 2002

U.S. Fish and Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

**RE: Docket No. AB 839 - (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company -- Abandonment Exemption--In Barber County,
Kansas**

Dear Sir/Madam:

The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in determining whether it is likely to adversely affect endangered or threatened species or areas designated as a critical habitat.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
P.O. Box 26421
SALT LAKE CITY, UT 84126
(801) 977-6343 • (801) 977-9387 FAX

July 30, 2002

National Park Service
Recreational Resources Assistance Division
P.O. Box 37127
Washington, D.C. 20013-7127

**RE: Docket No. AB-839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company – Abandonment Exemption—In Barber County,
Kansas**

Dear Sir/Madam:

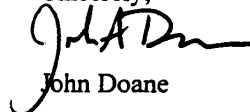
The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,


John Doane

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY

P.O. Box 26421

SALT LAKE CITY, UT 84126

(801) 977-6343 • (801) 977-9387 FAX

Exhibit 7

July 30, 2002

Department of Health and Environment
Division of Environment
Landon State Office Building
901 S.W. Jackson Street
Topeka, KS 66612

**RE: Docket No. AB-839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company-- Abandonment Exemption--In Barber County,
Kansas**

Dear Sir/Madam:

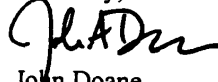
The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on applicable water quality standards. We also seek your assistance in determining whether the proposed abandonment is consistent with applicable Federal, State or local water quality standards. KHP does not believe any permits under Section 402 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
P.O. Box 26421
SALT LAKE CITY, UT 84126
(801) 977-6343 • (801) 977-9387 FAX

July 30, 2002

U.S. Environmental Protection Agency
Region 7
901 N. 5th Street
Kansas City, KS 66101

**RE: Docket No. AB 839-(Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company-- Abandonment Exemption--In Barber County,
Kansas**

Dear Sir/Madam:

The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on applicable water quality standards. We also seek your assistance in determining whether the proposed abandonment is consistent with applicable Federal, State or local water quality standards. KHP does not believe any permits under Section 402 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,


John Doane

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY

P.O. Box 26421

SALT LAKE CITY, UT 84126

(801) 977-6343 • (801) 977-9387 FAX

Exhibit 8

July 30, 2002

U.S. Army Engineer District, Kansas City
2710 N.E. Shady Creek Access Road
El Dorado, Kansas 67042

**RE: Docket No. AB 839 - (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company – Abandonment Exemption—In Barber County,
Kansas**

Dear Sir/Madam:

The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa and milepost 581.78, at Hardtner, in Barber County, Kansas. A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R., Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on designated wetlands or 100-year flood plains. KHP does not believe any permits under Section 404 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Sincerely,



John Doane



DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
STATE REGULATORY PROGRAM OFFICE - KANSAS
2710 N.E. SHADY CREEK ACCESS ROAD
EL DORADO, KANSAS 67042

Exhibit 9

REPLY TO
ATTENTION OF:

August 20, 2002

Kansas State Regulatory Office
(200202006)
(Barber, KS, NPR)

Mr. John Doane
Kiowa, Hardtner and Pacific Railroad
Post Office Box 26421
Salt Lake City, Utah 84126

Dear Mr. Doane:

This is in response to your letter received on August 9, 2002, requesting a Department of the Army (DA) permit determination concerning the abandonment of approximately 9.93 miles of rail line including crossings over tributaries of Driftwood Creek and Mule Creek. The project is located in Sections 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17, Township 35 south, Range 12 west, and Sections 7, 8, 9, 10, 11, 14, 15, 16, 17, and 18 Township 35 south, Range 11 west, Barber County, Kansas.

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320-330.

The enclosed Jurisdictional Determination (JD) form describes the extent of waters of the United States on the project site. Also, the enclosed Notification of Administrative Appeal Options and Process and Request for Appeal form (FORM) describes your options in Section B of the FORM.

We have reviewed the information furnished and have determined that the proposed activity will not involve the discharge of dredged or fill material in waters of the United States. Therefore, Department of the Army permit authorization is not required. Other Federal, state and/or local permits may be required, however, and you should verify this yourself.

Ms. Sarah Reznicek, Regulatory Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Ms. Reznicek at 316-322-8247 (FAX 316-322-8259).

-2-

Enclosures

Copies Furnished:

Environmental Protection Agency,
Water Resources Protection Branch wo/enclosure

Kansas Department of Wildlife
and Parks wo/enclosure

Kansas Department of Agriculture wo/enclosure

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers, Kansas City District

APPLICANT: Kiowa, Hardtner And Pacific Railroad NUMBER: 200202006

LOCATION/WATERWAY: Barber County, KS/ Tributaries to Driftwood Creek and Mule Creek

PROJECT REVIEW COMPLETE: ☒ Office ☐ Field

JURISDICTIONAL DETERMINATION (JD):

- ☒ Preliminary JD -- Based on available information, there appear to be no waters of the U.S. on the project site. A preliminary JD is not appealable.
☐ Approved JD -- There are no waters of the United States on the project site. An approved JD is an appealable action.

BASIS FOR JURISDICTIONAL DETERMINATION:

- ☒ There are no jurisdictional waters of the U.S. present on the project site.
☐ The presence of waters which are currently used, or were used in the past, or may be susceptible for use to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide (i.e., navigable waters of the U.S).
☐ The presence of interstate waters (including interstate wetlands).
☐ The presence of a tributary to an interstate water or other water of the U.S.
☐ Impoundments of interstate or other waters of the U.S. or their tributaries.
☐ The presence of territorial seas.
☐ The presence of wetlands adjacent² to interstate or other waters of the U.S., except for those wetlands adjacent to other wetlands.
☐ The presence of an isolated water (i.e., intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).
☐ The site is used by interstate or foreign travelers for recreational purposes.
☐ The site has fish or shellfish that are taken and sold in interstate or foreign commerce.
☐ The site is used for industrial purposes by industries in interstate commerce.
☐ Other: _____

Rationale for Basis (applies to any boxes checked above): Driftwood Creek and Mule Creek are tributaries of the Arkansas River.

Lateral Extent of Jurisdiction (33 CFR 328 and 329):

- ☐ Ordinary High Water Mark indicated by:
☐ clear, natural line impressed on the bank
☐ the presence of litter and debris
☐ changes in the character of soil
☐ destruction of terrestrial vegetation
☐ shelving
☐ other (hydrologic study, etc.): _____
- ☐ High Tide Line indicated by:
☐ oil or scum line along shore objects
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tide gages
☐ other: _____
- ☐ Mean High Water Mark indicated by:
☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types
- ☐ In ocean or coastal area, site is in a zone three geographic (nautical) miles seaward of the baseline³
- ☐ Wetland, as shown on the attached wetland delineation map, and/or in a jurisdictional report prepared by _____, and dated _____
- ☐ Additional supporting information attached.

Preparer: Regulatory Specialist, Sarah M. Reznicek Date: 20 August 2002

¹ Wetlands are identified and delineated using the methods and criteria established in the 1987 Corps of Engineers Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology). Processes for determining wetlands on agricultural lands may vary from methods described in the 87 Manual.

² The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

³ Baseline is the line on the shore reached by the ordinary low tides from which the distance of three miles is measured.

NOTIFICATION OF ADMINISTRATIVE APPEAL DECISION AND PROCESS AND PROFFERED PERMIT		
Applicant: Kiowa, Hardtner and Pacific Railroad		File Number: 200202006
Date: 20 Aug 2002		
Attached is:		See Section below
☐	A. INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
☐	B. PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
☐	C. PERMIT DENIAL	C
☐	D. APPROVED JURISDICTIONAL DETERMINATION	D
☒	E. PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I: The following identifies your rights and options regarding a modification, reconsideration, or administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/eng/funcs/cw/cecarez/corp/regulations/33-CFR-Part-331>.

A: INITIAL PROFFERED PERMIT: You may accept or request modification of the permit.

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- REQUEST MODIFICATION:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the District Engineer. Your objections must be received by the District Engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the District Engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit.

- ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer (address on page 2). This form must be received by the Division Engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer (address on page 2). This form must be received by the Division Engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept the approved JD, appeal the approved JD, or submit new information and request reconsideration of the approved JD.

- ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer (address on page 2). This form must be received by the Division Engineer within 60 days of the date of this notice.
- RECONSIDERATION BASED ON NEW INFORMATION:** You may submit new information to the District Engineer for reconsideration of an approved JD. You must submit the information within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - Fill out this section and return this form to the appropriate office only if submitting a request for modification or reconsideration to the District Engineer, or if submitting a request for Administrative Appeal to the Division Engineer. All such submittals must be made within 60 days of the date of this notice.

Submit the following requests to the District Engineer:

- A. Modification of an INITIAL PROFFERED PERMIT (Item A)
- D. Reconsideration of an APPROVED JURISDICTIONAL DETERMINATION based on NEW INFORMATION (Item D RECONSIDERATION)

Submit the following requests to the Division Engineer:

- B. Administrative Appeal of a PROFFERED PERMIT (Item B)
- C. Administrative Appeal of a PERMIT DENIAL (Item C)
- D. Administrative Appeal of an APPROVED JURISDICTIONAL DETERMINATION (Item D APPEAL) (for reasons other than reconsideration of an approved JD based on new information)

(Note: Preliminary Jurisdictional Determinations (Item E) are not appealable. If you have concerns regarding a preliminary Jurisdictional Determination, you can request an approved Jurisdictional Determination.)

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

SUBMITTAL OF NEW OR ADDITIONAL INFORMATION: The District Engineer may accept and consider new information if you request a modification to an initial proffered permit (Part A), or a reconsideration of an approved JD (Part D). An administrative appeal to the Division Engineer is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the administrative record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER

Attn: Joseph Hughes

Chief Regulatory Branch

U.S. Army Engineer District, Kansas City

601 East 12th Street, Room 706

Kansas City, MO 64106-2896

Telephone: 816-983-3990

(Use this address for submittals to the District Engineer)

If you wish to submit an appeal or have questions regarding the appeal process you may contact:

DIVISION ENGINEER

Attn: Mores V. Bergman

Appeal Review Officer

U.S. Army Engineer Division, Northwestern Division

12565 West Center Road

Omaha, NE 68144-3869

Telephone: 402-697-2533

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

EXHIBIT E

HISTORIC REPORT
(49 C.F.R. 1105.8)
Docket No. AB-839 (Sub-No. 1X)
KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
--ABANDONMENT EXEMPTION--
IN BARBER COUNTY, KANSAS

The Historic Report should contain the information required by 1105.7(e)(1) of the Environmental Report. The following is excerpted from the Environmental Report prepared for the proposed abandonment:

Proposed Action 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 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.

Kiowa, Hardtner and Pacific Railroad Company ("KHP"), proposes to abandon its 9.93-mile rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas (the "Line"). Upon receipt of abandonment authority, KHP intends to remove the rail, track material, and crossties. There are currently no plans to remove any of the bridge structures along the Line.

The proposed abandonment will not change rail freight operations or maintenance practices on the Line. No local traffic has been handled on the Line for several years. There currently are no active rail shippers located on the Line. The Line is stub-ended and, therefore, not capable of handling overhead traffic.

The only alternative to abandonment would be not to abandon the Line thereby forcing KHP to absorb the opportunity costs of retaining this inactive Line. This would not be a prudent use of carrier resources. The Line is in poor condition and in need of substantial repair.

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

HISTORIC REPORT

1. A U.S.G.S. topographic map (or 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 old or older and are part of the proposed action;

Maps and the identification of all structures on the Line that are 50 years old or older have been supplied to the Kansas State Historical Society ("KSHS"). See Exhibit 2.

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 right-of-way is predominately 100 feet in width. The 9.93-mile line traverses a predominately flat rural area in Barber County, beginning at milepost 571.78, at Kiowa, and extending generally in a westerly direction through the community of Stubbs to milepost 581.78 at Hardtner. The Line was constructed in 1910.

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

The only structures on the Line associated with the proposed abandonment that are potentially 50 years old or older are 11 bridges. Photographs of the bridges have been supplied to the KSHS. See Exhibit 2.

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

The dates of construction of the 11 bridges are unknown but presumably they are all 50 years old or older. KHP is not in possession of any engineering documents regarding the maintenance or repairs of these bridges.

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;

The Line was originally constructed in 1910 in order to connect the community of Hardtner to the main line of the St. Louis, Fort Scott & Wichita Railroad at Kiowa. No traffic has moved over the Line for several years. The Line passes through a predominately rural area with sparse industrial activity. Since the Line is not being used, no change to current transportation patterns is anticipated once the Line is abandoned.

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;

There are no available individual drawings for the 11 bridges on the Line. Each of the bridges is quite common in design and construction and is of no historical significance. They are typical of many bridges found throughout North America.

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 C.F.R. 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 11 bridges are quite common in design and construction. None has any historical significance as to the history of railroad construction or operation. These are common structures found on numerous railroads throughout North America. KHP is not aware of any archeological

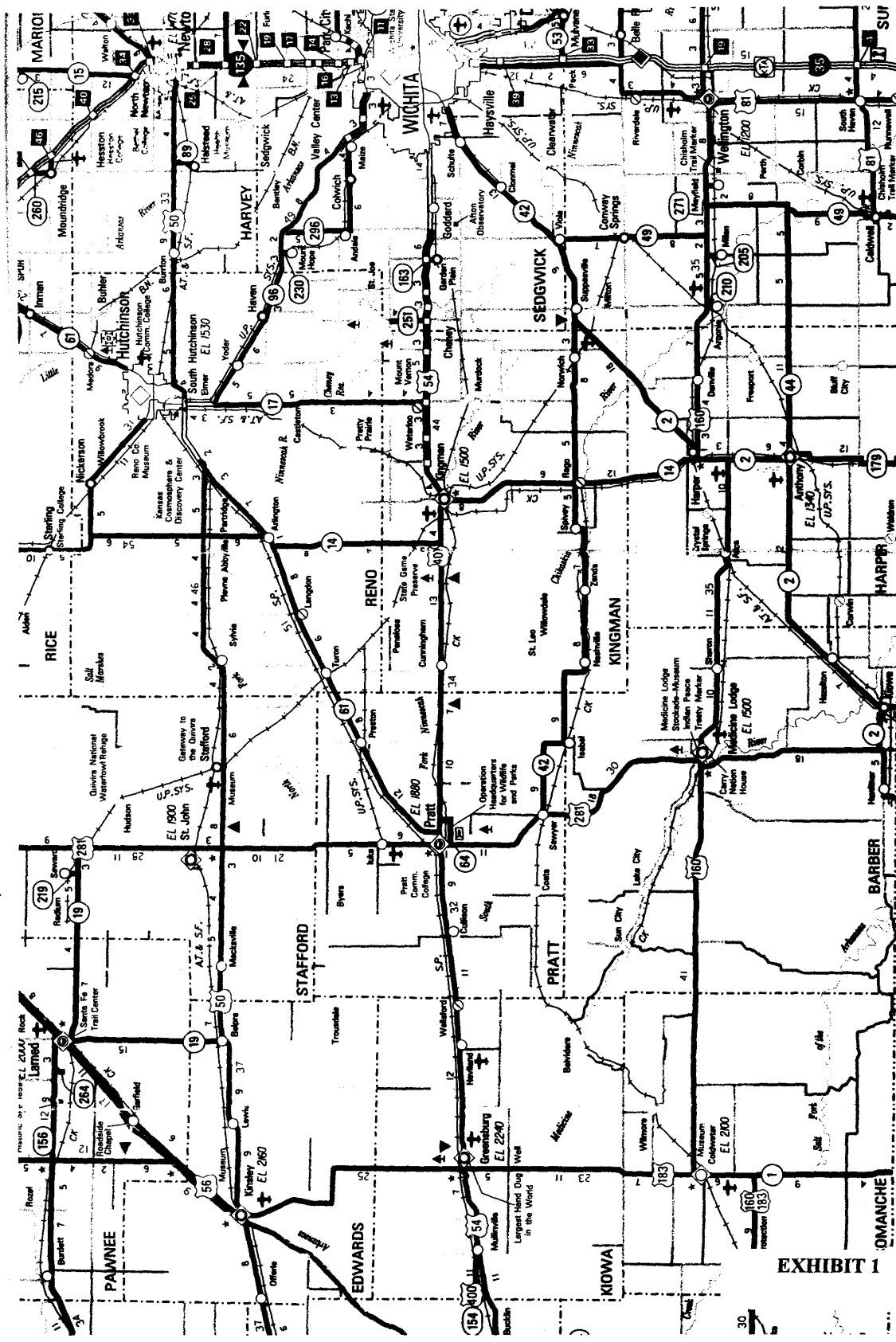
resources or railroad related historic properties in the project area. Attached as Exhibit 3 is the response from the KSHS. According to the KSHS, the proposed abandonment will not affect any property on the National Register of Historic Places or otherwise having historical significance.

8. A description (based on readily available information in the railroad's possession) of any known prior subsurface 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 waste), and the surrounding terrain.

There are no existing records as to the nature of 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 specific 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).

KHP does not foresee the likelihood that any additional information will need to be supplied in association with the proposed line abandonment other than previously submitted. If additional information is requested, KHP will promptly supply the necessary information.



KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY

P.O. Box 26421

SALT LAKE CITY, UT 84126

(801) 977-6343 • (801) 977-9387 FAX

EXHIBIT 2

July 30, 2002

Kansas State Historical Society
6425 S.W. 6th Avenue
Topeka, KS 66615-1099

**RE: Docket No. AB-839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company-- Abandonment Exemption--In Barber County,
Kansas**

Dear Sir/Madam:

The Kiowa, Hardtner and Pacific Railroad Company, ("KHP") is planning to file a Notice of Exemption with the Surface Transportation Board ("STB"), on or about September 13, 2002, for KHP to abandon approximately 9.93 miles of rail line located between milepost 571.85, at Kiowa, and milepost 581.78, at Hardtner, in Barber County, Kansas. United States Geological Survey maps of the proposed abandonment are attached.

Enclosed is a map depicting the area where the rail line is located. The proposed abandonment will involve the removal of the rail, track material, and crossties; however, there are currently no plans to remove any existing structures along the track.

The rail line segment KHP seeks to abandon is located in the State of Kansas. The 9.93 mile line lies in Barber County. That line begins at milepost 571.85, at Kiowa, and extends generally in a westerly direction to milepost 581.78, at Hardtner. The line crosses through predominately flat, rural areas.

There are 11 bridges, all of which are unknown in age, on the rail line between Kiowa and Hardtner. Descriptions of the bridges and their milepost locations are attached. Photographs of each structure will also be sent to your Department within the next ten days. These bridges are quite common in design and construction and in KHP's view have no historical significance.

We will send you a copy of the Historic Report as soon as it is completed. If I can of further assistance regarding this matter, please call me at (801) 977-6343.

Sincerely,



John Doane

KIOWA, HARDTNER AND PACIFIC RAILROAD COMPANY
P.O. Box 26421
SALT LAKE CITY, UT 84126
(801) 977-6343 • (801) 977-9387 FAX

August 9, 2002

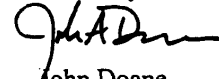
Dick Pankratz
Director
Kansas State Historical Society
6425 S.W. 6th Avenue
Topeka, KS 66615-1099

**RE: Docket No. AB-839 (Sub-No. 1X), Kiowa, Hardtner and Pacific
Railroad Company -- Abandonment Exemption--In Barber County,
Kansas**

Dear Mr. Pankratz:

Please find enclosed, eleven (11) color photographs of the bridges on the Kiowa, Hardtner and Pacific Railroad. I have also included a picture of a small building located in Hardtner, Kansas that may or may not be more than fifty years old. If you have any questions regarding this matter, please call me on my direct line at (801) 977-6343.

Sincerely,


John Doane



**KANSAS
STATE
HISTORICAL
SOCIETY**

◆
Cultural Resources Division
Extension 240

◆
6425 S.W. 6th Avenue
Topeka, Kansas
66615-1099
PHONE# (785) 272-8681
FAX# (785) 272-8682
TTY# (785) 272-8683

◆
KANSAS HISTORY CENTER

Administration
Center for Historical Research
Cultural Resources
Education / Outreach
Historic Sites
Kansas Museum of History
Library & Archives

HISTORIC SITES

John Brown Cabin
Constitution Hall
Cottonwood Ranch
First Territorial Capitol
Fort Hays
Goodnow House
Grinter Place
Hollenberg Station
Kaw Mission
Marais des Cygnes Massacre
Mine Creek Battlefield
Native American Heritage Museum
Pawnee Indian Village
Pawnee Rock
Shawnee Indian Mission
William Allen White House

KSR&C No. 02-08-036

EXHIBIT 3

August 13, 2002

John Doane
Kiowa Hardtner & Pacific Railroad Co
PO Box 26421
Salt Lake City UT 84126

Re: Abandon 9.93 Miles of Track Between Kiowa and Hardtner
Barber County

Dear Mr. Doane:

We have reviewed the project identified above and have determined that it should not affect any property listed on the National Register of Historic Places or otherwise identified in our files as having historical significance. This office has no objection to implementation of the project.

Sincerely yours,

Mary R. Allman
State Historic Preservation Officer


Richard Pankratz, Director
Cultural Resources Division

clg