

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
February 28, 2022
Part of
Public Record

FD 36593

OPSEU PENSION PLAN TRUST FUND, JAGUAR TRANSPORT HOLDINGS, LLC, AND
JAGUAR RAIL HOLDINGS, LLC
-- CONTINUANCE IN CONTROL EXEMPTION --
CHARLOTTE WESTERN RAILROAD, LLC

**VERIFIED NOTICE OF EXEMPTION OF OPSEU PENSION PLAN TRUST FUND,
JAGUAR TRANSPORT HOLDINGS, LLC, AND
JAGUAR RAIL HOLDINGS, LLC PURSUANT TO 49 C.F.R. § 1180.2(d)(2)**

Robert A. Wimbish
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR OPSEU PENSION PLAN
TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL
HOLDINGS, LLC**

Dated: February 28, 2022

FILED
February 28, 2022
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
February 28, 2022
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36593

OPSEU PENSION PLAN TRUST FUND, JAGUAR TRANSPORT HOLDINGS, LLC, AND
JAGUAR RAIL HOLDINGS, LLC
-- CONTINUANCE IN CONTROL EXEMPTION --
CHARLOTTE WESTERN RAILROAD, LLC

**VERIFIED NOTICE OF EXEMPTION OF OPSEU PENSION PLAN TRUST FUND,
JAGUAR TRANSPORT HOLDINGS, LLC, AND
JAGUAR RAIL HOLDINGS, LLC PURSUANT TO 49 C.F.R. § 1180.2(d)(2)**

OPSEU Pension Plan Trust Fund (“OPTrust”), Jaguar Transport Holdings, LLC (“JTH”), and Jaguar Rail Holdings, LLC (“JRH,” and collectively with OPTrust and JTH, “Jaguar”), each a non-carrier, hereby file this notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Charlotte Western Railroad, LLC (“CWRR”), a non-carrier established by Jaguar to assume an existing lease of track in North Carolina from North Carolina Department of Transportation (“NCDOT”), a non-carrier.¹

In accordance with the requirements of 49 C.F.R. § 1180.4(g), Jaguar submits the following information:

Description of Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)

OPTrust, JTH and JRH are non-carriers. OPTrust indirectly controls JTH, which, in turn, directly controls JRH. JTH currently controls, indirectly, seven Class III railroads. Of the seven railroads currently under JTH’s indirect control, four – Southwestern Railroad, Inc. (“SWRR”), Texas & Eastern Railroad, LLC (“TERR”), Wyoming and Colorado Railroad, Inc.

¹ *Charlotte Western Railroad, LLC – Change in Operator Exemption – Line in Gaston County, NC (“CWRR-Notice”),* FD 36592.

(“WYCO” – which also does business under the name “Oregon Eastern Railroad”), and Missouri Eastern Railroad, LLC (“MER”) – are controlled directly by JRH. Currently, JRH also indirectly controls two other railroads – Cimarron Valley Railroad, L.C. (“CVRR”) and Washington Eastern Railroad, LLC (“WERR”) – through WYCO.² JTH has indirect control of West Memphis Base Railroad, L.L.C. (“WMBR”) through Jaguar Transport, LLC, a separate JTH subsidiary that is affiliated with JRH.³ WMBR, SWRR, TERR, WYCO, CVRR, WERR, and MER are collectively referred to herein as the “Jaguar Railroads.” CWRR is a directly-controlled non-carrier holding of JRH, and CWRR will become a railroad common carrier upon the consummation of the transaction encompassed by the concurrently-filed *CWRR Notice*.

CWRR will assume an existing Lease and Operating Agreement that became effective on May 10, 2017 (the “Lease”), to be assigned to CWRR by the current leasehold operator, Piedmont and Northern Railroad LLC (“PNRW”), with the consent of the non-carrier track owner, NCDOT. The Lease covers 13.04 miles of track (the “Line”), extending from milepost SFC 11.39 at Mt. Holly to milepost SFC 23.0 at Gastonia, including the Belmont Spur extending from milepost SFF 0.13 at Mt. Holly (milepost SFC 13.6 on the Mt. Holly-Gastonia line) to milepost SFF 1.56 at or near Belmont, a total distance of approximately 13.04 miles in Gaston County, North Carolina. Jaguar will remain in control of CWRR upon CWRR becoming a railroad common carrier.

² See *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC – Continuance in Control Exemption – Missouri Eastern Railroad, LLC*, FD 36551 (STB served Nov. 16, 2020) (“*Jaguar Control*”).

³ *Id.*

The full names and addresses of the Applicants are as follows:

OPSEU Pension Plan Trust Fund
1 Adelaide St. East
Suite 1200
Toronto, Ontario M5C 3A7
Canada
(416) 681-6181

Jaguar Transport Holdings, LLC
1027 South Main Street
Suite 403
(417) 622 0384

Jaguar Rail Holdings, LLC
c/o Jaguar Transport Holdings, LLC
1027 South Main Street
Suite 403
(417) 622 0384

Jaguar's control of CWRR upon CWRR becoming a rail common carrier is not a transaction where: (a) CWRR would connect with any of the Jaguar Railroads (none of which connect to each other); (b) Jaguar plans through the continuance of control of CWRR once CWRR becomes a common carrier to connect CWRR to any of the Jaguar Railroads, or to connect any of the Jaguar Railroads to one another; or (c) a Class I carrier is involved. Accordingly, the proposed transaction satisfies the class exemption criteria at 49 C.F.R. § 1180.2(d)(2).

Any questions concerning this Notice should be sent to Jaguar's representative at the following address:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1504

Proposed Schedule for Consummation: 49 C.F.R. § 1180.6(a)(1)(ii)

Jaguar intends to consummate the proposed transaction and continue its control of CWRR upon CWRR's commencement of common carrier operations, expected to occur on or after March 30, 2022.

Purpose Sought to Be Accomplished: 49 C.F.R. § 1180.6(a)(1)(iii)

The transaction will promote Jaguar's investment objectives, and sustain the Jaguar Railroads' efficiency, financial strength, and ability to meet the needs of shippers.

States in Which Property of Applicants is Located: 49 C.F.R. § 1180.6(a)(5)

Each of the Jaguar parties is a non-carrier, and the business address of each non-carrier Jaguar entity is supplied above. WMBR's lines are located in Arkansas. CVRR's lines are located in Kansas, Colorado, and Oklahoma. SWRR's lines are located in New Mexico, Texas and Oklahoma. TERR's lines are located in Texas.⁴ WERR's lines are located in Washington. WYCO's lines are located in Oregon. MER's lines are located in Missouri. CWRR's lines would be located in North Carolina.

Maps - Exhibit A: 49 C.F.R. § 1180.6(a)(6)

Maps showing generally the location of CWRR and each of the Jaguar Railroads (showing WYCO's line under its Oregon Eastern Railroad business name) are attached hereto as Exhibit A.

⁴ Although Jaguar understands that its filing in *Jaguar Control* correctly lists the location of the lines of each of the Jaguar Railroads (by state), the Board-issued exemption notice in that proceeding inadvertently omits reference to Texas.

Agreement: 49 C.F.R. § 1180.6(a)(7)(ii)

Jaguar (through JRH) already controls CWRR, currently a non-carrier. No agreement is contemplated or necessary for Jaguar to continue in control of CWRR once it becomes a railroad common carrier.

Labor Protective Conditions: 49 C.F.R. § 1180.4(g)(1)(i)

The proposed transaction involves the control of one new Class III rail carrier, and involves no Class I or II rail carriers. Accordingly, this transaction is not subject to the imposition of labor protection conditions. *See* 49 U.S.C. § 11326(c).

Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)

Under 49 C.F.R. § 1105.6(c)(2)(i) and (ii), the proposed control transaction is exempt from environmental reporting requirements. Jaguar's continuance of control of CWRR once CWRR becomes a common carrier 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)(3), the proposed control transaction also is exempt from historic preservation reporting requirements. The proposed transaction will not substantially change the level of maintenance of any railroad property.

Interchange Commitments: 49 C.F.R. § 1180.4(g)(4)

The proposed control transaction does not involve the acquisition or operation of a rail line, and, thus, the provisions of 49 C.F.R. § 1180.4(g)(4) are not inapplicable. In any event, the agreements governing the transaction that is the subject of the *CWRR Notice* proceeding do not include any provision restricting CWRR's interchange of traffic with a third-party connecting carrier.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

Robert A. Wimbish
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR OPSEU PENSION PLAN
TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL
HOLDINGS, LLC**

Dated: February 28, 2022

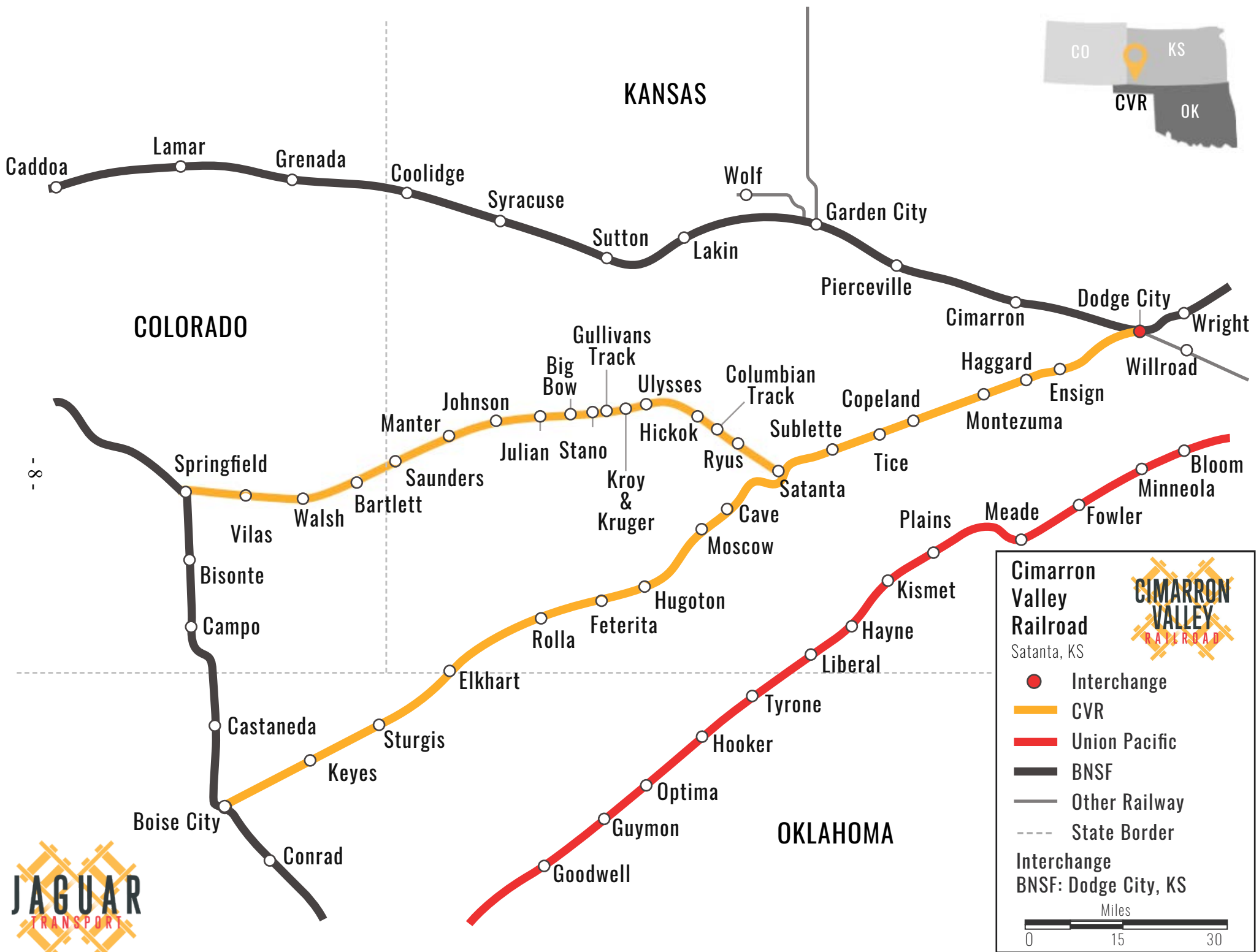
BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36593

**OPSEU PENSION PLAN TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL HOLDINGS, LLC
-- CONTINUANCE IN CONTROL EXEMPTION --
CHARLOTTE WESTERN RAILROAD, LLC**

EXHIBIT A

**MAPS OF THE JAGUAR RAILROADS AND
CHARLOTTE WESTERN RAILROAD, LLC**



Missouri Eastern Railroad

St. Louis, MO



● Interchange Station

— MERR

— Union Pacific

— BNSF

----- TRRA

— Highway

— Trackage Rights

Interchange

TRRA (UP, BNSF, NS, CSX, KCS, CN):

St. Louis, MO

Miles



- 6 -



Southwestern
Railroad

Deming, NM

Interchange Station

SWRR

Union Pacific

BNSF

Highway

Interchange

BNSF: Rincon, NM

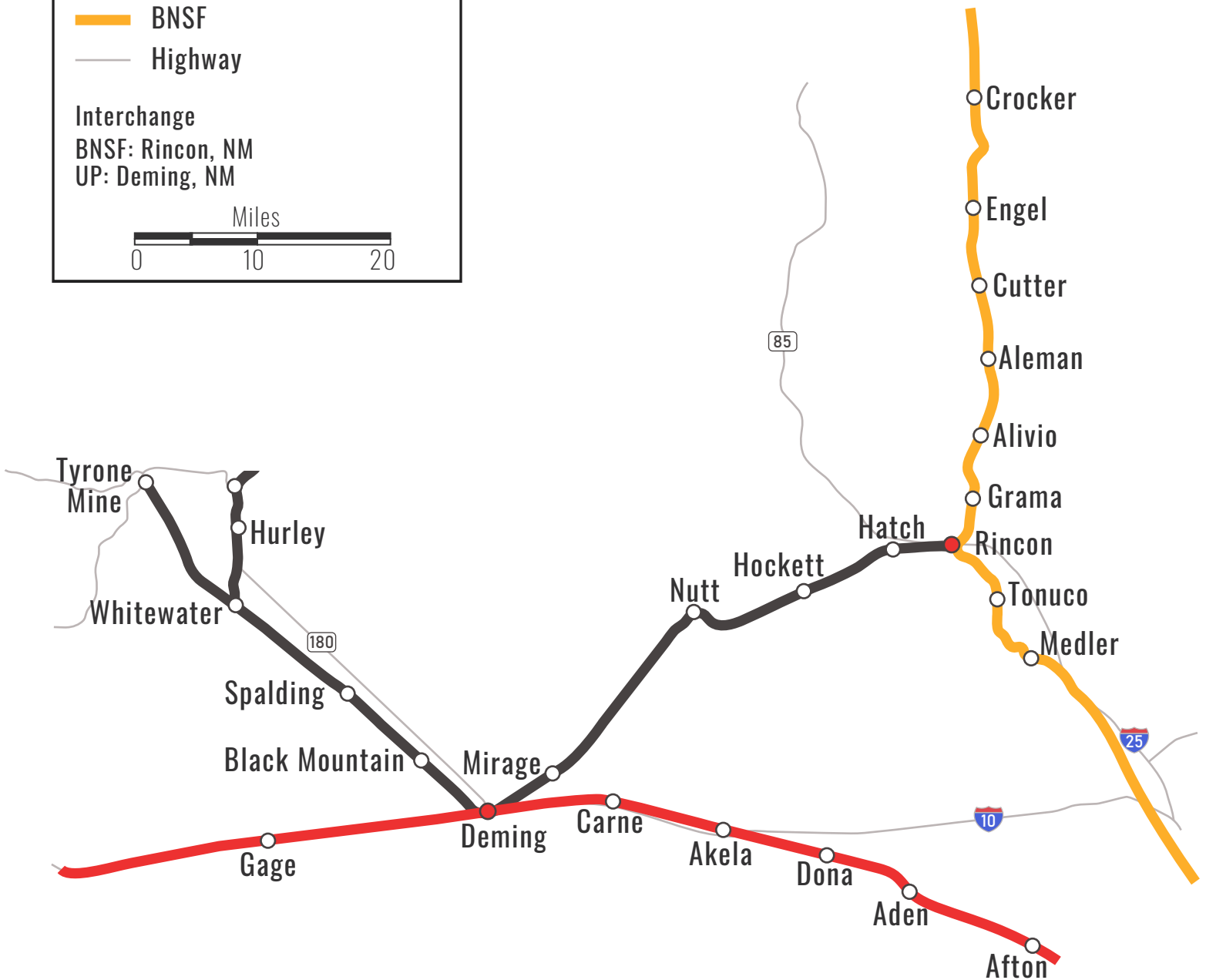
UP: Deming, NM

Miles

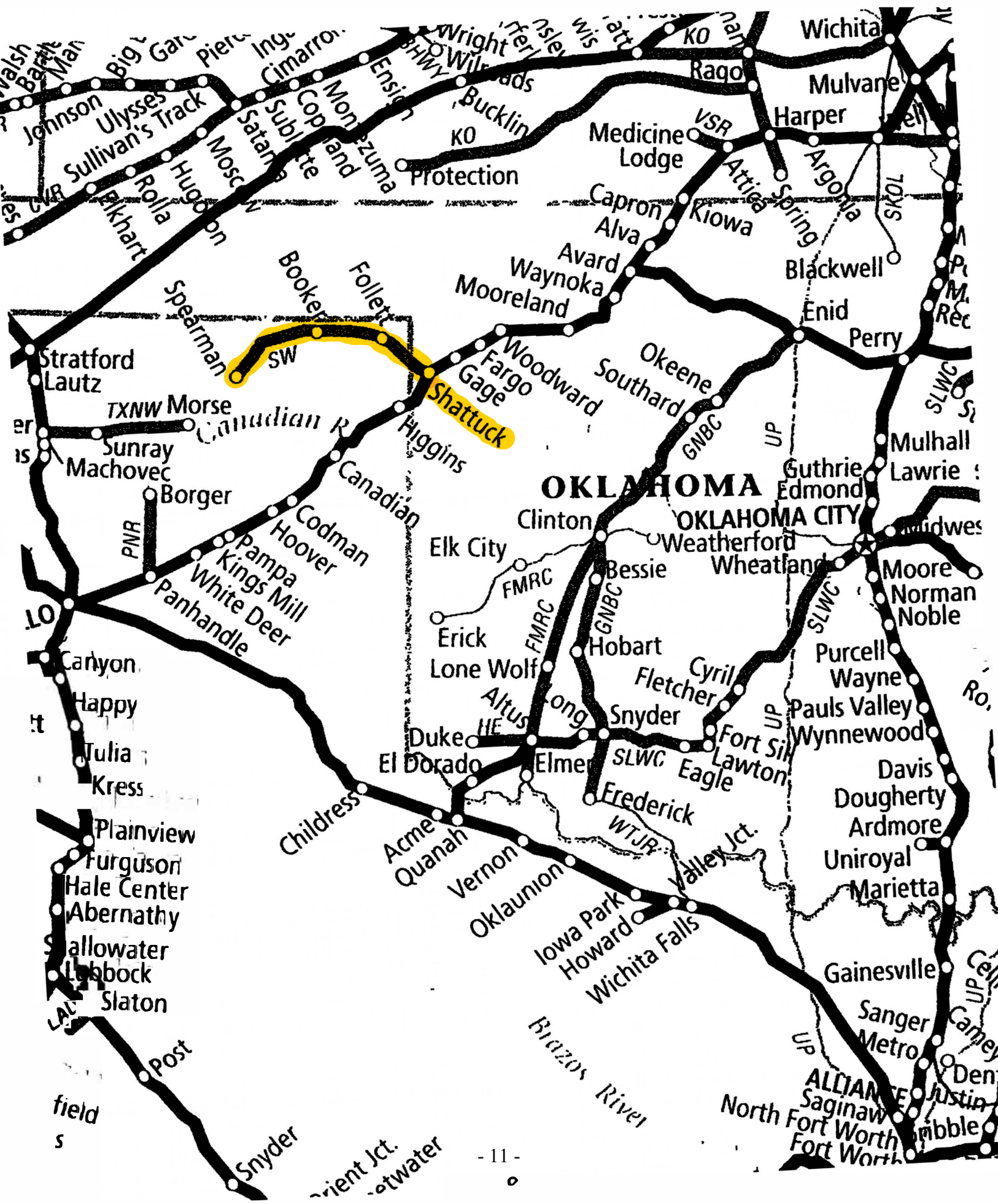
0

10

20



SOUTHWESTERN RAILROAD, INC. - SHATTUCK SUBDIVISION



Oregon
Eastern
Railroad
Vale, OR

Interchange Station

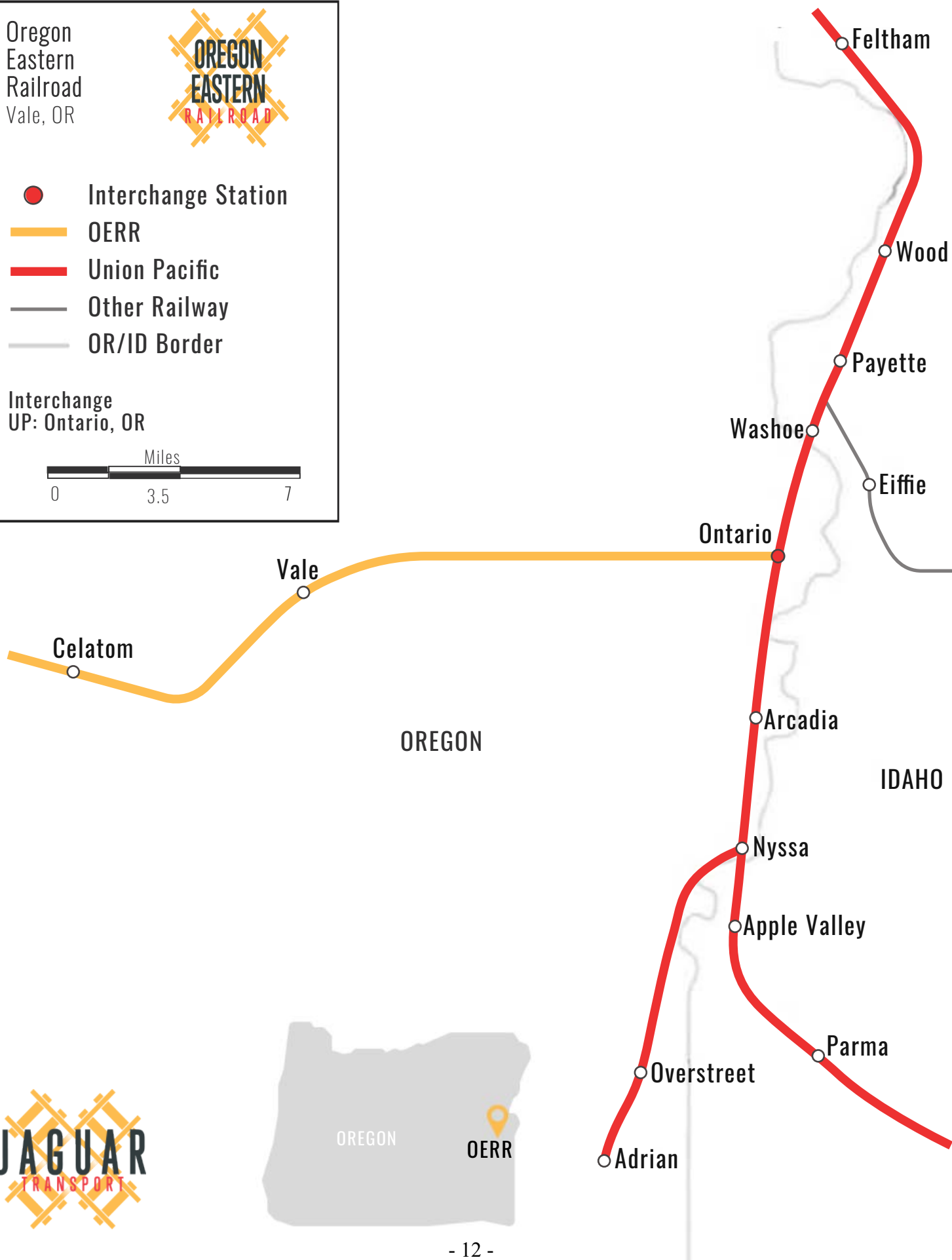
OERR

Union Pacific

Other Railway

OR/ID Border

Interchange
UP: Ontario, OR





Washington
Eastern Railroad
Medical Lake, WA



 Interchange Station

 WERR

 Union Pacific

 BNSF

 Highway

Interchange
BNSF: Cheney, WA

Miles

0

9

18

The map illustrates the Washington Eastern Railroad (WERR) route, highlighted in orange, connecting Medical Lake, WA to Cheney, WA. The route includes the following stations from west to east: Cement City, Coulee City, Odair, Hartline, Hanson, Almira, Govao, Wilbur, Creston, Rocklyn, Davenport, Mondovi, Reardan, Hite, Medical Lake, and Cheney. The route is shown as a continuous orange line with small white circles at each station. The map also displays major highways: US-155, US-174, US-21, US-25, US-28, US-23, US-231, US-291, US-195, and I-90. Other transportation lines are shown in black (BNSF) and red (Union Pacific). A legend in the top right corner defines the symbols for interchange stations, WERR, Union Pacific, BNSF, and highways. A scale bar indicates distances in miles (0, 9, 18). An inset map in the top left shows the location of WERR within the state of Washington. The Jaguar Transport logo is in the bottom left corner.

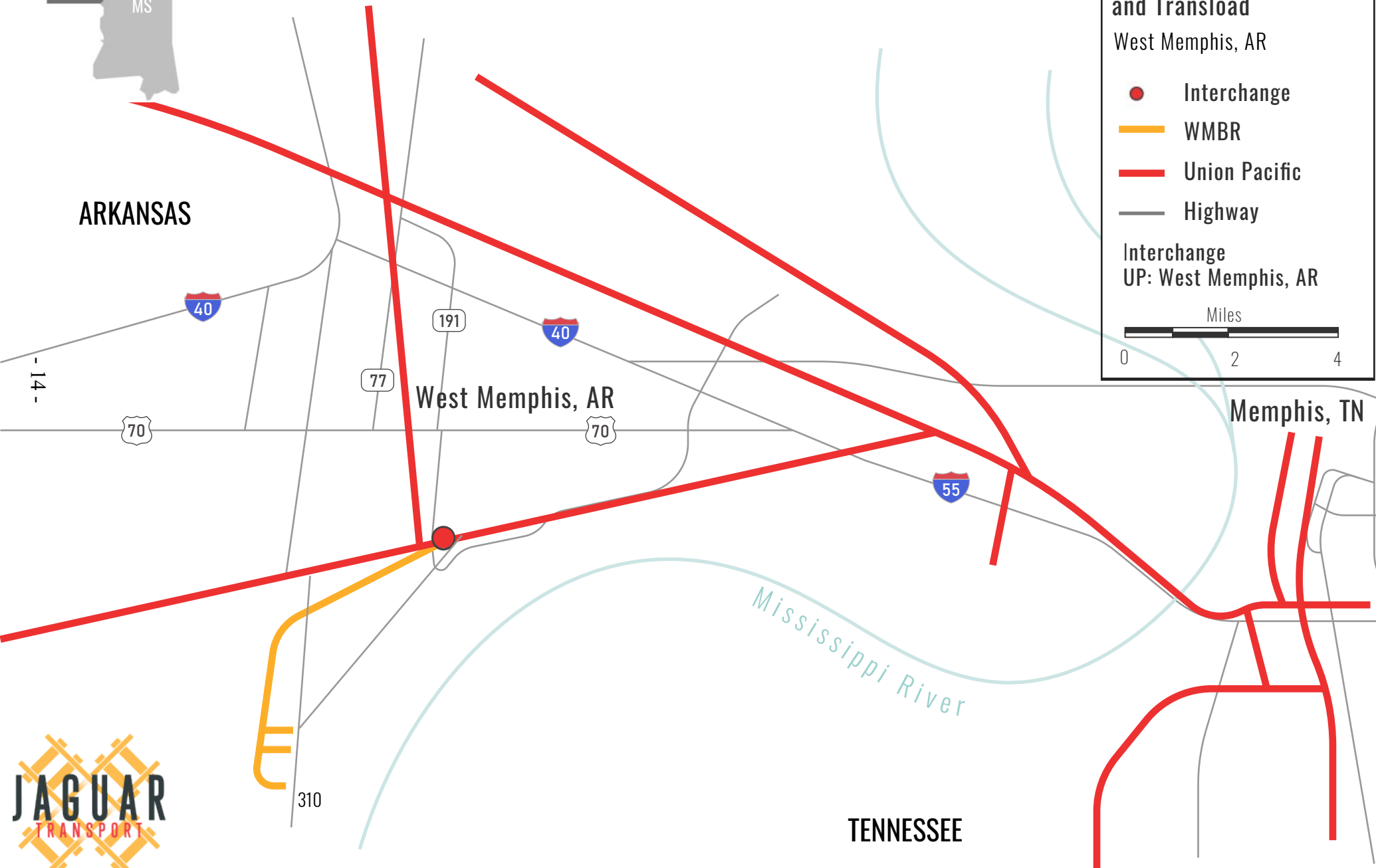


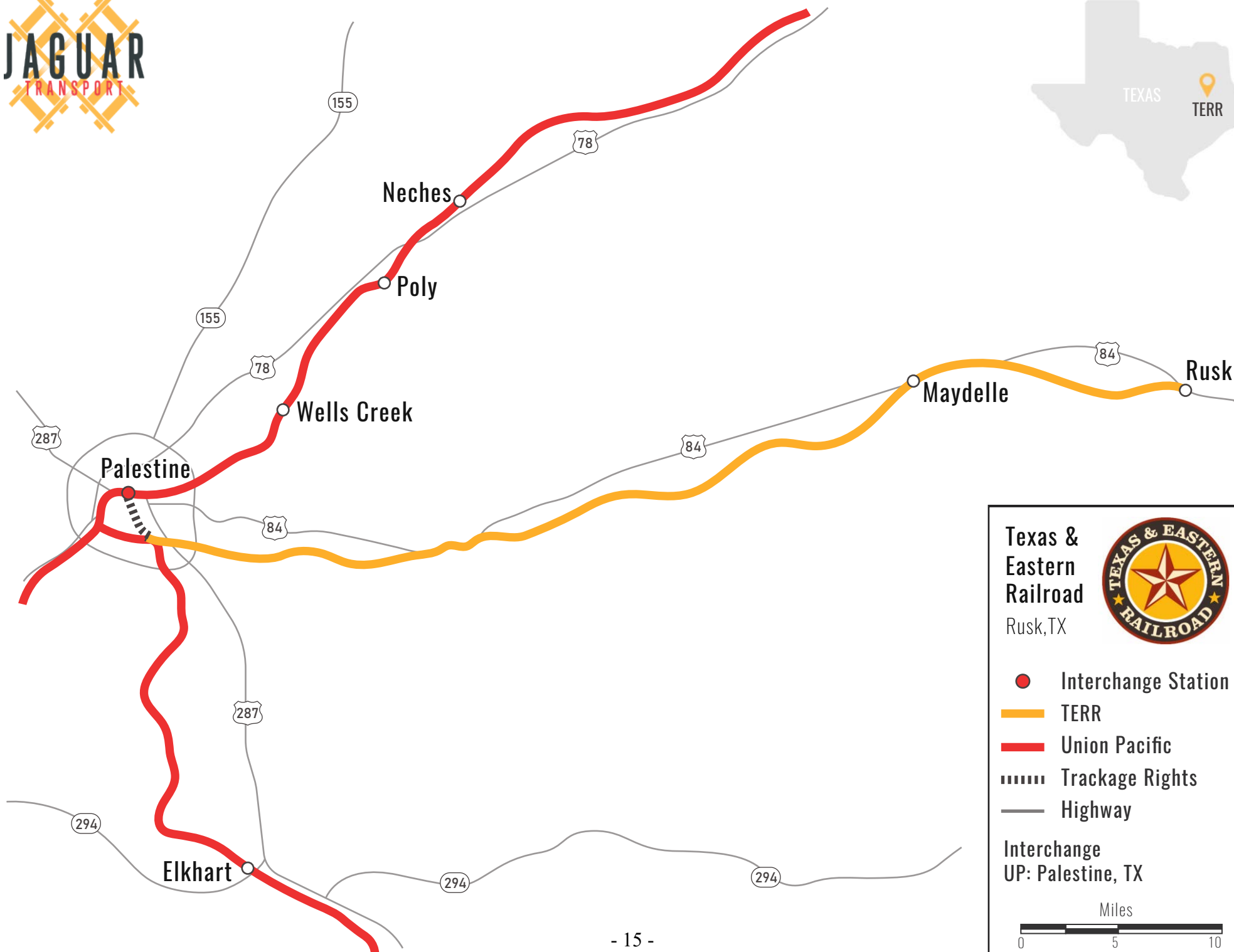
West Memphis Base Railroad and Transload
West Memphis, AR

 Interchange
 WMBR
 Union Pacific
 Highway

Interchange
UP: West Memphis, AR


Miles
0 2 4



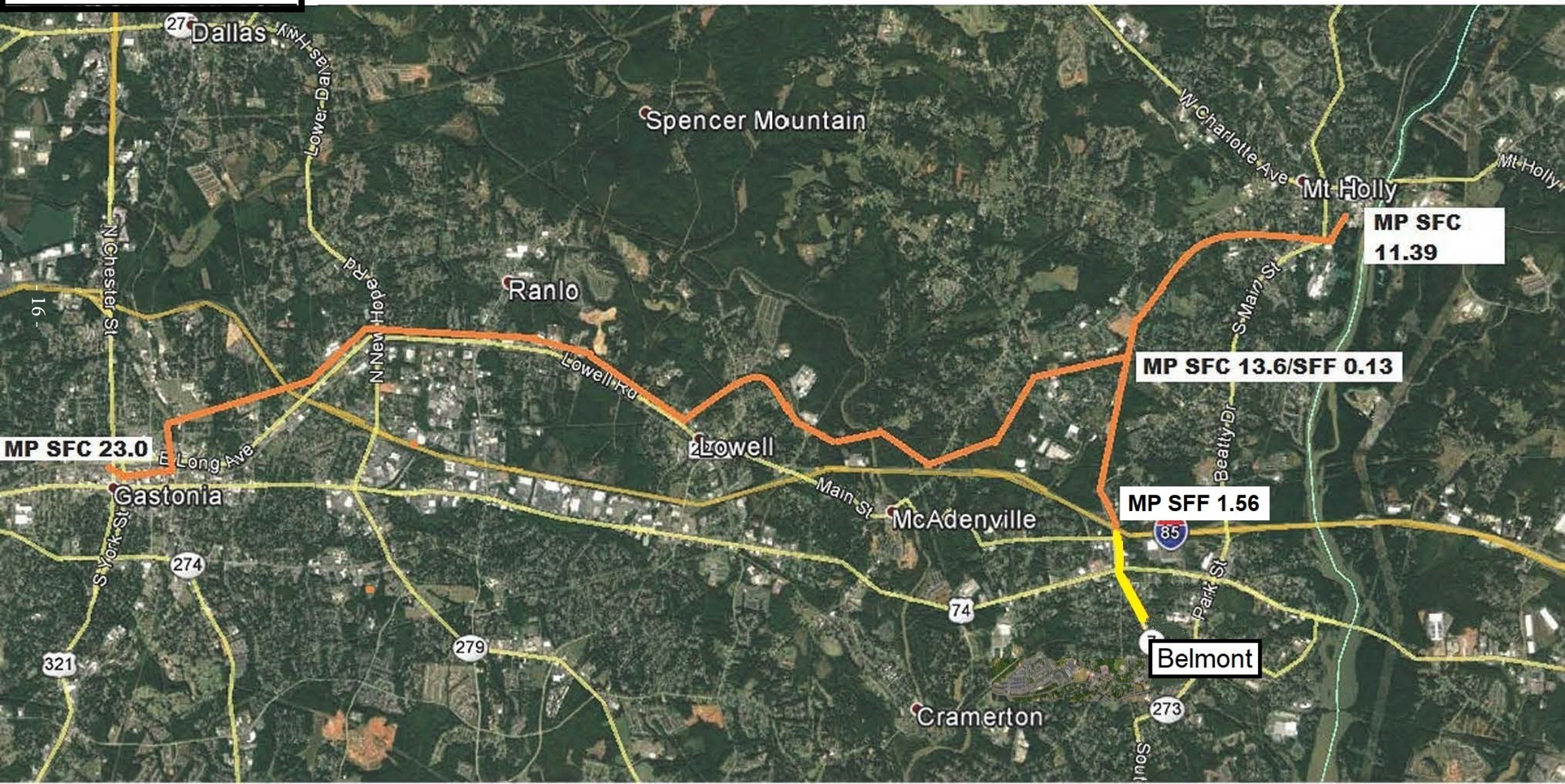


Key

-  = Lease Track
-  = Abandoned by CSXT; not Included in Lease

Charlotte Western Railroad, LLC

Gaston County, North Carolina



BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36593

**OPSEU PENSION PLAN TRUST FUND, JAGUAR TRANSPORT
HOLDINGS, LLC, AND JAGUAR RAIL HOLDINGS, LLC
-- CONTINUANCE IN CONTROL EXEMPTION --
CHARLOTTE WESTERN RAILROAD, LLC**

VERIFICATIONS

VERIFICATION

I, Gavin Ingram, hereby verify under penalty of perjury under the laws of the United States that I am the Co-Head Private Markets Group, Managing Director and Global Head of Infrastructure of OPSEU Pension Plan Trust Fund (“OPTrust”), and that I am an officer duly designated to verify this Notice of Exemption on behalf of OPTrust. I have knowledge of the matters contained herein as they pertain to OPTrust, and the statements made herein with respect to OPTrust are true and correct to the best of my knowledge, information and belief.



Gavin Ingram
Co-Head Private Markets Group, Managing
Director and Global Head of Infrastructure of
OPSEU Pension Plan Trust Fund

Dated: February 28, 2022

VERIFICATION

I, J. Stuart Towner, hereby verify under penalty of perjury that I am the Chief Executive Officer of Jaguar Transport Holdings, LLC (“JTH”), and am President of Jaguar Rail Holdings, LLC (“JRH”), and that I am an officer duly designated to verify this Notice of Exemption on behalf of JTH and JRH. I have knowledge of the matters contained herein as they pertain to JTH and JRH, and the statements made herein with respect to JTH and JRH are true and correct to the best of my knowledge, information and belief.



J. Stuart Towner
Chief Executive Officer of
Jaguar Transport Holdings, LLC
and
President of Jaguar Rail Holdings, LLC

Dated: February 28, 2022