



Norfolk Southern Corporation
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Norfolk, Virginia 23510-9241

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Aarthy S. Thamodaran
Assistant General Attorney

240569

April 27, 2016

ENTERED
Office of Proceedings
April 28, 2016
Part of
Public Record

VIA OVERNIGHT MAIL

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

Re: STB Finance Docket No. 36020
Norfolk Southern Railway Company – Trackage Rights Exemption – Southern
Electric Railroad Company

Supplemental Filing – Fully Executed Trackage Rights Agreement

Dear Ms. Brown:

On April 11, 2016, Norfolk Southern Railway Company (“NS”) filed a Verified Notice of Exemption in Finance Docket No. 36020 with the Surface Transportation Board (“STB”). A copy of the filed stamped letter confirming this filing is attached.

A redacted copy of the draft written trackage rights agreement (“Agreement”) was attached to the Verified Notice of Exemption as Exhibit 2. NS and Southern Electric Railroad Company fully executed the Agreement on April 21, 2016. As such, NS submits a redacted copy of the fully executed Agreement pursuant to 49 C.F.R. § 1180.6(a)(7)(ii). An original as well as ten copies of the fully executed Agreement are enclosed.

If there are any questions about this matter, please contact me directly using the contact information listed above.

Respectfully submitted,

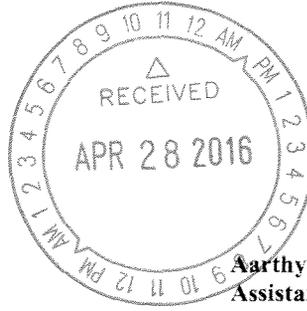
Aarthy Thamodaran
Assistant for Norfolk Southern Railway Company

Enclosures



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 Law Department
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 Norfolk, Virginia 23510-9241

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Aarthy S. Thamodaran
 Assistant General Attorney

240455
 ENTERED
 Office of Proceedings
 April 11, 2016
 Part of
 Public Record

April 8, 2016

VIA OVERNIGHT MAIL

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



Re: STB Finance Docket No. 36020
Norfolk Southern Railway Company – Trackage Rights Exemption – Southern Electric Railroad Company

Dear Ms. Brown:

For filing in STB Finance Docket No. 36020, please find enclosed the original as well as ten copies of the Verified Notice of Exemption, with exhibits, pursuant to the provisions of 49 C.F.R. § 1180.2(d)(7) relating to the trackage rights arrangement between Norfolk Southern Railway Company and Southern Electric Railroad Company. Also enclosed is credit card payment information for the amount of \$1,200 to cover the filing fee.

If there are any questions about this matter, please contact me directly using the contact information listed above.

Respectfully submitted,

Aarthy S. Thamodaran
 Attorney for Norfolk Southern Railway Company

FEE RECEIVED
 April 11, 2016
 SURFACE
 TRANSPORTATION BOARD

Enclosures

FILED
 April 11, 2016
 SURFACE
 TRANSPORTATION BOARD



TRACKAGE RIGHTS AGREEMENT

THIS AGREEMENT, entered into as of the 16TH day of March, 2016, by and between **SOUTHERN ELECTRIC RAILROAD COMPANY** (hereinafter referred to as "Owner") and **NORFOLK SOUTHERN RAILWAY COMPANY**, including its subsidiaries and affiliates, (hereinafter referred to as "User").

WITNESSETH:

WHEREAS, Owner owns and holds operating authority on a line of railroad between the User's mainline at Owner Milepost 0.0 and the connection with Alabama Power Company's ("APC") plant lead track to its James H. Miller, Jr. Electric Generating Plant at Milepost 3.96 ("SERC Mainline");

WHEREAS, User has requested and Owner is agreeable to granting User limited trackage rights for the movement of traffic over a portion of the SERC Mainline to access APC's four private storage tracks ("APC Storage Yard") from the SERC Mainline; and

WHEREAS, by this Agreement, the parties hereto shall memorialize the terms and conditions pursuant to which Owner shall grant such trackage rights to User.

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1.0 GRANT AND DESCRIPTION OF TRACKAGE RIGHTS

- 1.1 Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate its trains, locomotives, cars, and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over certain trackage owned by Owner (hereinafter referred to as the "Subject Trackage"), as shown on the plan attached hereto as Exhibit A and made a part hereof, described as:
 - (a) Owner's SERC Mainline extending between Milepost 0.0 and approximately Milepost 0.6, near the north turnout to the APC Storage Yard, a distance of approximately 0.6 miles.
- 1.2 Such Trackage Rights include rights to operate (1) over all SERC sidings, yard tracks, and yard leads now existent or hereafter constructed along the Subject Trackage as well as the right-of-way for the Subject Trackage, and (2) signals, interlocking devices and plants, telegraph and telephone lines, and other appurtenances necessary to the use hereunder of the Subject Trackage by the parties hereto.

SECTION 2.0 USE OF SUBJECT TRACKAGE

- 2.1 User's use of the Subject Trackage shall be in common with Owner and any other authorized user of the Subject Trackage, and Owner's right to use the Subject Trackage shall not be diminished by this Agreement. Owner shall retain the exclusive right to grant to other persons rights of any nature in the Subject Trackage.

SECTION 6.0 MAINTENANCE OF SUBJECT TRACKAGE

6.1 Owner shall maintain, repair, and renew the Subject Trackage at its own expense and with its own supervision and labor. Owner shall keep and maintain the Subject Trackage for speeds consistent with a standard of FRA Class 2. Owner shall take reasonable steps to ensure that any interruptions in User's use of the Subject Trackage will be kept to a minimum and shall use its good faith efforts to avoid such interruptions. If User requests additional maintenance or a higher FRA Class for the Subject Trackage, Owner shall perform such work at User's expense pursuant to such additional terms and conditions as agreed to by the parties.

SECTION 7.0 CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

7.1 Existing connections or facilities which are jointly used by the parties hereto under existing agreements or practices shall continue to be maintained, repaired, and renewed by and at the expense of the party or parties responsible for such maintenance, repair, and renewal under such existing agreements or practices.

7.2 User's request and design for any new or upgraded connections or other upgrades, including but not limited to switches, power switches, signals, communications, etc., to the Subject Trackage shall be subject to the Owner's approval. If Owner approves of User's request and design, Owner shall furnish the labor and materials, at its sole cost and expense, and shall be responsible for any construction located on its right-of-way, unless the parties otherwise agree.

SECTION 8.0 ADDITIONS, RETIREMENTS AND ALTERATIONS

8.1 Owner, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to, and retirements from the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction, provided however, that Owner shall not eliminate any connections between the Subject Trackage and the lines owned or operated by User. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

SECTION 9.0 MANAGEMENT AND OPERATIONS

9.1 Owner will provide a Designated Contact for day-to-day management and operations (hereinafter referred to as "Designated Contact").

9.2 User shall ensure that locomotives are fueled to a capacity that enables User's trains to traverse the Subject Trackage without having to be fueled.

- 9.3 User's crews when entering the Subject Trackage must have sufficient time in which to traverse the Subject Trackage without having to recrew. If User's train needs to be recrewed, then User's crew will notify Owner's Designated Contact prior to expiring on their hours of service so that Owner can plan accordingly, and User will arrange to have a recrew meet the train in order to cause minimum amount of delay.
- 9.4 When operating over the Subject Trackage, User's locomotives and crews will communicate with Owner's Designated Contact by phone in directing train movements on the Subject Trackage.
- 9.5 Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each carrier. Movement of trains, locomotives, cars and equipment on the Subject Trackage will be dispatched by Owner's Designated Contact.
- 9.6 Before User enters onto the Subject Trackage with its trains, User shall provide notice to the Owner's Designated Contact, and User shall receive permission from the same, with respect to User's train movements over the Subject Trackage that are destined to or from the APC Storage Yard. Operating limits for Owner's Designated Contact and User will be separated by a physical delineation point, as shown on the plan attached hereto as Exhibit A, and the parties agree that (a) User's operations south of such point will require special permission from the Designated Contact, provided that such permission shall not be unreasonably withheld if User needs to operate south of such point for the limited purpose of running around the APC Storage Yard and returning to User's Mainline and (b) the Designated Contact will not be permitted to operate north of such point except for the limited and sole purpose of switching the APC Storage Yard.
- 9.7 Each party shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Acts, as amended, and all other federal and state laws, regulations, and rules respecting the operation, condition, inspection, and safety of its trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. Each party shall indemnify, protect, defend, and save harmless the other party and its parent corporation, subsidiaries, and affiliates, and all of their respective directors, officers, agents, employees, and partners from and against all claims, demands, costs, expenses, obligations, fines, penalties, and liabilities (including reasonable attorneys' fees and expenses and court and litigation costs) imposed upon the other party or its parent corporation, subsidiaries, and affiliates, and all of their respective directors, officers, agents, employees, or partners under such laws, rules, and regulations by any public authority or court having jurisdiction, when attributable to the failure of that party to comply with its obligations set forth in this Section 9.7.
- 9.8 User in its use of the Subject Trackage shall comply in all respects with its own safety and general conduct rules, equipment operation and train handling rules, and hazardous materials instructions. While using the Subject Trackage, User shall comply in all respects with its own operating rules, timetables, and special instructions, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage

shall at all times be subject to the orders of User's transportation officers; provided, however, that such operating rules, timetables, and special instructions and orders of User's transportation officers shall not unjustly discriminate between the parties. User's trains shall not include locomotives, cars, or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage, and User's trains shall be powered to permit operation at posted speeds and shall not contain any locomotives, cars or equipment which require speed restrictions or other movement restrictions which would not permit operation of User's trains at posted speeds. The parties shall make proper accommodation for exceptions, should that be reasonable, necessary, and practicable.

- 9.9 As discussed in Section 9.8, User's operations over the Subject Trackage shall be governed by User's operating rules and timetable, provided that User's timetable will show the SERC branch with instructions for contacting Owner's Designated Contact for permission to enter the Subject Trackage.
- 9.10 If any employee of User shall neglect, refuse, or fail to abide by Owner's rules, instructions, and restrictions governing the operation on or along Owner's property, such employee shall, upon written request of Owner, be prohibited by Owner from working on Owner's property. If any party shall deem it necessary to hold a formal investigation to establish such neglect, refusal, or failure on the part of any employee of User, then upon such notice presented in writing, User shall promptly hold an investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses, and employees. Notice of such investigations to User's employees shall be given by User's officers, and such investigation shall be conducted in accordance with the terms and conditions of schedule agreements between User and its employees. If the result of such investigation warrants, such employee shall, upon written request by Owner, be withdrawn by User from service on Owner's property, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal.
- 9.11 The trains, locomotives, cars, and equipment of User, Owner, and any other present or future party on the Subject Trackage or any portion thereof, shall be operated without prejudice or partiality to any party and in such manner as will afford the most economical and efficient movement of all traffic.
- 9.12 In the event that (i) a train of User shall be forced to stop on the Subject Trackage, due to mechanical failure of User's equipment, or any other cause not resulting from an accident or derailment, and such train is unable to proceed, or (ii) a train of User fails to maintain the speed required by Owner on the Subject Trackage, or (iii) in emergencies, crippled or otherwise defective cars are set out of User's trains on the Subject Trackage, Owner shall have the option to furnish motive power or such other assistance as may be necessary to haul, help, or push such trains, locomotives, or cars, or to properly move the disabled equipment off the Subject Trackage, and User shall reimburse Owner for the reasonable cost of rendering any such assistance.

- 9.13 If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in a train of a party hereto in order to move them off the Subject Trackage, such work shall be done by that party or its agent or contractors.

SECTION 10.0 MILEAGE AND CAR HIRE

- 10.1 All mileage and car hire charges accruing on cars in User's trains on the Subject Trackage shall be assumed by User and reported and paid by it directly to the owner(s) of such cars.

SECTION 11.0 CLEARING OF WRECKS

- 11.1 Whenever User's use of the Subject Trackage requires rerailling, wrecking service, or wrecking train service, User shall perform such service, excluding the repair and restoration of roadbed, track, and structures which shall be performed by Owner at User's expense. The cost, liability, and expense thereof, including without limitation loss of, damage to, and destruction of any property whatsoever and injury to or death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Section 12 hereof. Unless otherwise agreed by the parties hereto, all locomotives, cars, and equipment and salvage so picked up and removed in accordance with this Section 11.1 that are owned by, in the account of, or under the management and control of a party hereto at the time of such wreck shall be promptly delivered to that party.

SECTION 12.0 LIABILITY

- 12.1 The responsibility and liability between the parties for: (i) any personal injury or death of any person (including employees of the parties and third parties), (ii) any real or personal property damage of any person (including property of the parties and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife, and vegetation), and (iv) all cleanup and remedial expenses, court costs, settlements, claims, judgments, litigation expenses, and attorneys' fees resulting from the use of the Subject Trackage by either party to this Agreement or by third party users, all of which are collectively referred to as a "Loss", will be divided as follows:
- (a) If a Loss (including without limitation damage to the environment) results from the use of the Subject Trackage solely by the trains, cars, locomotives, and equipment of one of the parties to this Agreement, then that using party shall be solely responsible for the Loss, even if caused partially or completely by the other party.
 - (b) If a Loss results from the use of the Subject Trackage by the trains, cars locomotives, and equipment of both Owner and User, then: (i) each of Owner and User is solely responsible for any Loss to its own employees, trains, cars, locomotives, and equipment in its own account including lading and (ii) Owner and User are

responsible for any Loss to the Subject Trackage and Loss sustained by third parties, in proportional responsibility between them as to the cause of the Loss.

If any damage to the environment, including without limitation land, air, water wildlife, and vegetation, that occurs with both Owner's and User's traffic or trains, cars, locomotives, and equipment being involved, then as between themselves, (i) Owner shall be solely responsible for any damage or destruction to the environment and to third parties that results solely from a release of a substance from Owner's trains, cars, locomotives, or equipment, (ii) User shall be solely responsible for any damage or destruction to the environment and to third parties that results solely from a release of a substance from User's trains, cars, locomotives, or equipment, and (iii) responsibility for damage or destruction to the environment and to third parties that results from releases of substances transported in cars or equipment in revenue waybill and car hire accounts or locomotives of both Owner and User, to the extent not allocable under subclauses (i) and (ii) above, shall be shared by the parties by calculating the respective proportion of cars or equipment in the revenue waybill and car hire account of each party or locomotives of each party from which there was such a release, out of the total number of cars, equipment and locomotives of both Owner and User from which there was such a release.

- (c) If a Loss results from the use of the Subject Trackage by the trains, cars, locomotives, and equipment of both User and any other third party user of the Subject Trackage not a party to this Agreement, then User's responsibility for the Loss shall be apportioned in the manner specified in Subsection (b) with the other third party user being considered Owner for the purpose of determining User's share of that portion of the Loss that it must assume.
- (d) Whenever any liability, cost, or expense is assumed by or apportioned to any party to this Agreement hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its subsidiaries, and affiliates, and all of its respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees.
- (e) In every case of death or injury suffered by an employee of either Owner or User, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employer's liability, or other law, and either of said parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

- (f) For purposes of determining liability, in the event that any pilots are furnished by Owner to User pursuant to this Agreement, such pilots shall be considered as the employees of User while such employees are on board or getting on or off trains of User.
- (g) If any suit or action shall be brought against User or Owner for damages which under the provisions of the Agreement are in whole or in part the responsibility of the other party, said other party shall be notified in writing by the party sued, and the party so notified shall be obligated to take part in the defense of such suit and shall pay a proportionate part of the judgment and cost, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.
- (h) In the event of a Loss as set out herein, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the AAR as to the handling of any claims for the loss or damage to lading.
- (i) Notwithstanding any and all of the forgoing provisions of this Section 12, in the event a Loss occurs while the Subject Trackage is being used by Owner and/or User, and such Loss is attributable solely to the willful or wanton negligence of only one of the parties to this Agreement, then such party that was so willfully or wantonly negligent shall be solely responsible for such Loss.

SECTION 13.0 INSURANCE

- 13.1 Owner shall procure and maintain in effect during the life of this Agreement a policy or policies of insurance covering the liability to which it is or may be subject pursuant to this Agreement. Such insurance shall provide minimum limits of fifteen million dollars (\$15,000,000) per occurrence but may be subject to a deductible of two hundred thousand dollars (\$200,000). The insurance procured pursuant to this Agreement must include coverage for contractual liability and must provide coverage for punitive and exemplary damages, where permitted by law, and must not exclude coverage based on proximity to a railroad right of way. The insurer must be rated A- or better by A.M. Best Company, Inc. and said policy or policies shall name User as an additional insured.
- 13.2 If the insurance provided under this Section 13 takes the form of a Claims Made Policy, Owner shall purchase whatever supplemental coverage may be necessary to provide continuous coverage of its potential liability under this Agreement, with annual occurrence and annual aggregate limits no less than those required by Section 13.1, for a period of time lasting at least five (5) years following the termination or expiration of this Agreement. Owner shall immediately give written notice to the Director Risk Management, Norfolk Southern Corporation, Three Commercial Place, Norfolk, Virginia 23510, of any claim or notice of incident or notice of potential claim that is required to be reported to its liability insurance company.
- 13.3 Subject to User's approval, Owner may self-insure its obligations as required by this Agreement.

- 13.4 On or before each tenth anniversary of this Agreement from its Commencement Date, User may require an increase in the amount of insurance coverage required by this Section, or changes in the terms and conditions of the policy, provided the amount of the increase does not exceed five million dollars (\$5,000,000).
- 13.5 Owner will endeavor to give User at least sixty (60) days' notice, in writing, of any proposed policy cancellation and of any material modification of the terms and conditions of the policy.
- 13.6 Prior to the Commencement Date of this Agreement, Owner will furnish to User's Director Risk Management a certificate of insurance which evidences coverage as required by this Agreement. Compliance with this requirement will not relieve Owner of any other obligation under this Agreement and will in no way limit or modify Owner's obligation to provide the specific insurance coverage required by this Agreement.
- 13.7 User undertakes to act and will continue to act as a self-insurer of its liabilities, if any, and will pay all sums which it shall become legally obligated to pay in connection with this Agreement. User further certifies that it maintains insurance coverage above its self-insured retention.

SECTION 14.0 INVESTIGATION AND CLAIMS

- 14.1 Except as provided in Section 14.2 hereof, all claims, injuries, deaths, property damages, and losses arising out of or connected with this Agreement shall be investigated, adjusted, and defended by the party bearing the liability, cost, and expense therefor under the provisions of this Agreement.
- 14.2 Each party will investigate, adjust, and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and 49 C.F.R. Section 1005 (or any revised or substitute regulations adopted to modify, supplement or supersede the regulations herein provided), or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.
- 14.3 In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust, or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment, and defense of such claim or suit.
- 14.4 All costs and expenses in connection with the investigation, adjustment, and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time employees, including claim agents, attorneys, and other employees of either party engaged directly or indirectly in such work shall be borne by such party.

Owner for Owner's review, prior to filing, and Owner will assist and support efforts of User to meet the requirements of this Section 16.

- 16.2 In the event the Agreement is terminated under Section 21, User at its own cost and expense will initiate and thereafter diligently pursue an appropriate application or petition to secure such approval of the discontinuance of its operations over the Subject Trackage. User shall provide a draft of any such application and petition to Owner for Owner's review, prior to filing, and Owner will assist efforts of User to meet the requirements of this Section 16.

SECTION 17.0 FORCE MAJEURE

- 17.1 Neither party to this Agreement shall be responsible to the other party hereto for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, intrusions from space, including, but not limited to, solar flares, asteroids, meteors, or magnetic disturbances, acts of public enemy, war, blockade, insurrection, vandalism or sabotage; fire, accident, wreck, derailment, washout or explosion; strike, lockout or labor disputes experienced by the parties hereto; embargoes or AAR service orders; Federal Railroad Administration ("FRA") orders; or governmental laws, orders or regulations, provided that, the party declaring *force majeure* shall use commercially reasonable efforts to continue to meet its obligations under this Contract during the *force majeure* condition and to remedy the cause thereof. The party declaring *force majeure* shall promptly notify the non-declaring party in writing when the *force majeure* begins, and shall further notify the non-declaring party in writing of the nature of the *force majeure*, commercially reasonable efforts taken to continue to meet its obligations under this Contract during the *force majeure* and to remedy the cause thereof, and when the *force majeure* is terminated.

SECTION 18.0 GENERAL PROVISIONS

- 18.1 This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against either of the parties hereto.
- 18.2 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- 18.3 This Agreement contains the entire agreement of the parties hereto and supersede any and all oral understandings between the parties.
- 18.4 No term or provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.

- 18.5 As used in this Agreement, whenever reference is made to the trains, locomotives, cars, or equipment of, or in the account of, one of the parties hereto such expression means the trains, locomotives, cars, or equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars, or equipment which are owned by, leased to, or in the account of such party. Whenever such locomotives, cars or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other party to this Agreement, such locomotives, cars, and equipment shall be considered those of the other party under this Agreement.
- 18.6 Except as otherwise expressly set forth in this Agreement, all words, terms, and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry.
- 18.7 This Agreement is the result of mutual negotiations of the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.
- 18.8 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, no party hereto may disclose the provisions of this Agreement or any commercial information to which access is provided or obtained hereunder to any party, excluding Owner's and User's affiliates and the respective officers, employees, and attorneys of those affiliates, without the prior written approval of the other party.

SECTION 19.0 SUCCESSORS AND ASSIGNS

- 19.1 This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that Owner shall not transfer nor assign this Agreement, or any of its rights, interests, or obligations hereunder, by merger or otherwise, to any person, firm, or corporation without obtaining the prior written consent of User.

SECTION 20.0 NOTICE

- 20.1 Any notice required or permitted to be given by one party to the other under this Agreement shall be transmitted by certified mail or by overnight delivery service, or by such other means as the parties may mutually agree, and shall be addressed as follows:

If to Owner:

c/o Vice President & General Manager
Southern Electric Railroad Company
P.O. Box 10266
Birmingham, AL 35202

If to User:

c/o Director-Joint Facilities
Norfolk Southern Railway Company
1200 Peachtree St NE
Atlanta, GA 30309

- 20.2 Any party may provide changes in the above addresses to the other parties in accordance with the provisions in this Section 20. All notice will be deemed effective on the third business day following the date of certified mailing, or on the first business day following the date sent via overnight delivery service, or as otherwise agreed to by the parties.

SECTION 21.0 COMMENCEMENT, TERM, AND TERMINATION

- 21.1 This Agreement shall be effective on the date first written above. User's trackage rights shall commence and take effect on the date mutually agreed upon in writing between Owner and User ("Commencement Date"), which shall not occur until the effective date of any required STB or other regulatory authorization or exemption of User's trackage rights granted by this Agreement (including compliance with any condition(s) imposed by the STB in connection with such authorization or exemption) or January 1, 2016, whichever is later.
- 21.2 Except as otherwise provided in this Agreement, this Agreement will continue in full force and effect until mutually terminated in writing by Owner and User, provided that User shall have the unilateral right to terminate this Agreement for any reason upon sixty (60) days prior written notice to Owner.
- 21.3 Termination of this Agreement shall not relieve or release either party hereto from any obligations assumed by, or from any liability imposed on, such party under the terms of this Agreement prior to the termination hereof.

SECTION 22.0 CHOICE OF LAW

- 22.1 The laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and duties arising hereunder, without regard to the laws that might otherwise govern under the applicable principles of conflicts of law thereof.

SECTION 23.0 EXTENT OF WAIVER AND INDEMNIFICATION

- 23.1 As part of the consideration hereof, all of the waiver and indemnification commitments of each party contained herein in favor of the other party shall also extend to and constitute a waiver or indemnification, as applicable, to the other party's parent, subsidiaries, affiliated entities and its and their respective officers, directors, agents and employees.

SECTION 24.0 SEVERABILITY

24.1 If any part of this Agreement is determined to be invalid, illegal, or unenforceable, such determination will not affect the validity, legality, or enforceability of any other part of this Agreement and the remaining parts of this Agreement will be enforced as if such invalid, illegal, or unenforceable part were not contained herein.

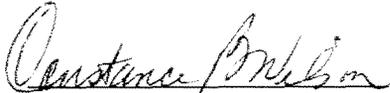
SECTION 25.0 EXECUTION OF COUNTERPARTS

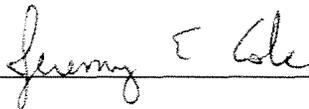
25.1 This Agreement may be executed in several counterparts, each of which will be deemed an original, and such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year first hereinabove written.

WITNESS

**SOUTHERN ELECTRIC RAILROAD
COMPANY**



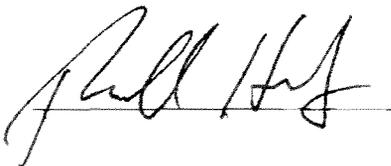
By: 

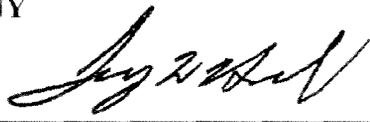
Title: VICE PRESIDENT

Date: 3/16/16

WITNESS

**NORFOLK SOUTHERN RAILWAY
COMPANY**



By: 

Title: VP - Network + Service Management

Date: 4/21/16

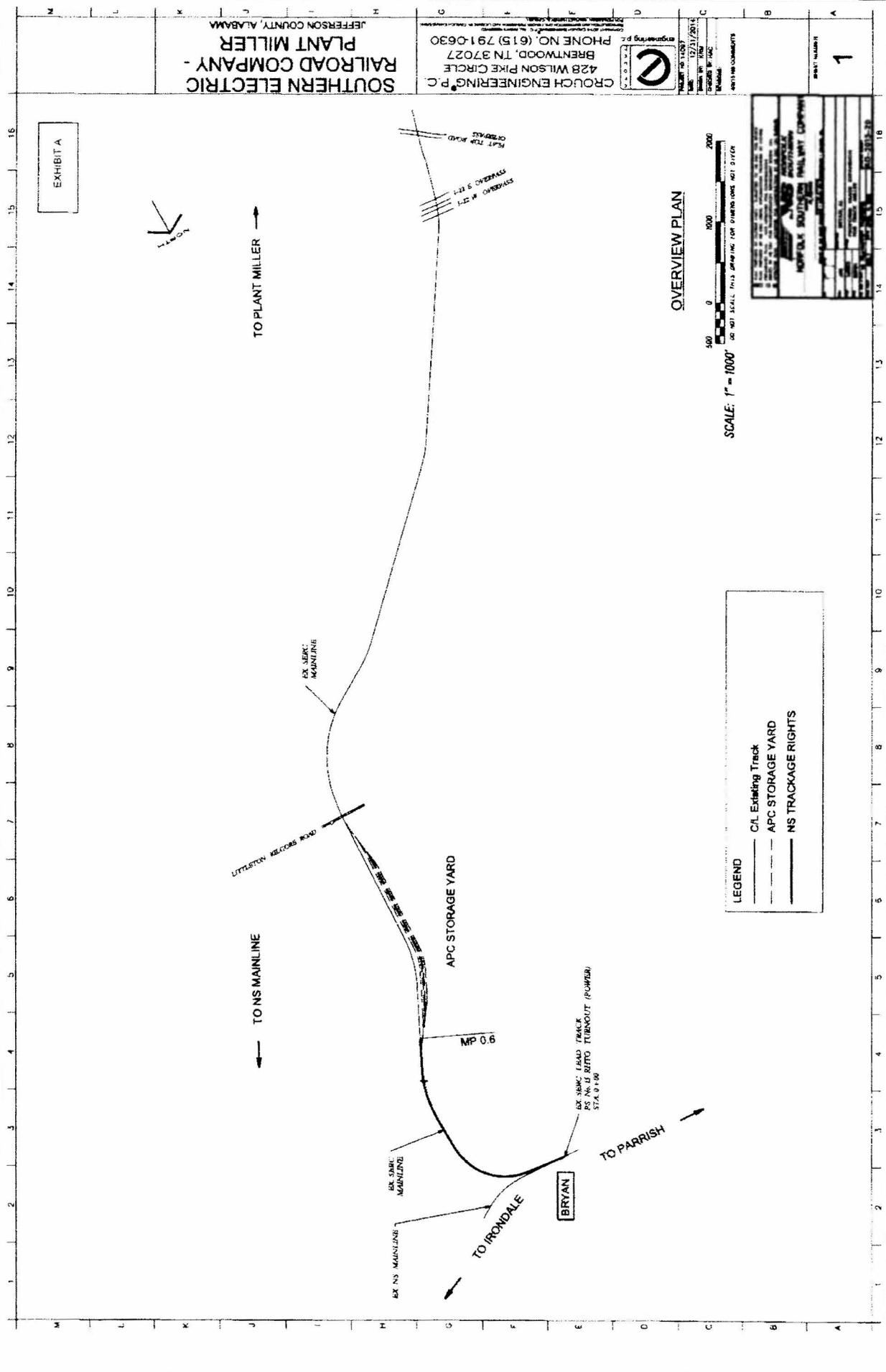


EXHIBIT A



TO PLANT MILLER →

← TO NS MAINLINE

TO PARRISH →

TO IRONDALE →

EX NS MAINLINE

EX NSC MAINLINE

OVERVIEW PLAN



SCALE: 1" = 1000'

LEGEND

- Existing Track
- APC STORAGE YARD
- NS TRACKAGE RIGHTS

SOUTHERN ELECTRIC
RAILROAD COMPANY -
PLANT MILLER
JEFFERSON COUNTY, ALABAMA

CROUCH ENGINEERING P.C.
428 WILSON PIKE CIRCLE
BRENTWOOD, TN 37027
PHONE NO. (615) 791-0630



PROJECT NO.	12/31/2014
DATE	12/31/2014
DESIGNER	W. J. W.
CHECKER	W. J. W.
SCALE	AS SHOWN
<p>NO. 101 SERIAL THIS DRAWING FOR OTHERS USE NOT PERMITTED</p>	

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