

# FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive  
Suite 920  
Chicago, Illinois 60606-2832

Phone: (312) 252-1500  
Fax: (312) 252-2400  
www.fletcher-sippel.com

ROBERT A. WIMBISH  
(312) 252-1504  
rwimbish@fletcher-sippel.com

November 14, 2014

237050

**VIA FEDEX**

Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

ENTERED  
Office of Proceedings  
November 14, 2014  
Part of  
Public Record

Re: *Everett Railroad Company and Hollidaysburg and Roaring Spring  
Railroad Company – Intra-Corporate Family Transaction Exemption,  
STB Docket No. FD 35872*

Dear Ms. Brown:

Enclosed on behalf of Alan W. Maples, Everett Railroad Company, and Hollidaysburg and Roaring Spring Railroad Company are an original and eleven copies of a notice of exemption (“Notice”) filed pursuant to 49 C.F.R. § 1180.2(d)(3) for the merger of two commonly-controlled rail carriers. A check in the amount of \$1,800 is enclosed to cover the applicable filing fee.

Please acknowledge filing of this Notice by date stamping the extra copy thereof and returning that copy to me in the envelope provided for that purpose. If there are any questions concerning this filing, please contact me by telephone at (312) 252-1504 or by e-mail at [rwimbish@fletcher-sippel.com](mailto:rwimbish@fletcher-sippel.com).

Sincerely,



Robert A. Wimbish

Enclosures

cc: Alan W. Maples  
J. Benjamin Yeager

FILED  
November 14, 2014  
Surface Transportation Board

FEE RECEIVED  
November 14, 2014  
Surface Transportation Board

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. FD 35872**

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**EVERETT RAILROAD COMPANY AND  
HOLLIDAYSBURG AND ROARING SPRING RAILROAD COMPANY –  
INTRA-CORPORATE FAMILY TRANSACTION EXEMPTION**

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**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1180.2(d)(3)**

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**Robert A. Wimbish  
FLETCHER & SIPPEL LLC  
29 North Wacker Drive  
Suite 920  
Chicago, IL 60606-2832  
Phone: (312) 252-1504  
Fax: (312) 252-2400**

**ATTORNEY FOR ALAN W. MAPLES,  
EVERETT RAILROAD COMPANY, AND  
HOLLIDAYSBURG AND ROARING SPRING  
RAILROAD COMPANY**

**November 14, 2014**

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Everett Railroad Company (“Everett”) and Hollidaysburg and Roaring Spring Railroad Company (“Hollidaysburg”) (collectively, the “Parties”) hereby submit this notice filing pursuant to 49 C.F.R. §1180.2(d)(3), for an exemption from the prior approval and authorization requirements of the Surface Transportation Board (“STB” or “Board”) in connection with a transaction within a corporate family. The subject transaction involves the merger of Everett and Hollidaysburg – both Class III rail common carriers under the control of Alan W. Maples (“Mr. Maples”),<sup>1</sup> an individual – with Everett emerging as the surviving carrier. In support of this notice of exemption and in compliance with 49 C.F.R. § 1180.4(g), the Parties provide the following information:

**49 C.F.R. §1180.6(a)(1)(i) – Description of Transaction and Parties Thereto**

a. Description of Transaction

Mr. Maples has for several years controlled Everett and Hollidaysburg. See Alan W. Maples – Control Exemption – Hollidaysburg and Roaring Spring Railroad Company, 60 FR 37670-03 (July 21, 1995); Hollidaysburg and Roaring Spring Railroad Company – Acquisition and Operation Exemption

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<sup>1</sup> Mr. Maples does not have a controlling interest in any other railroad common carriers aside from Everett and Hollidaysburg.

– Consolidated Rail Corporation, Finance Docket No. 32633 (ICC served Apr. 11, 1995); and Everett Railroad Company; Exemption From 49 U.S.C. 10901 and 11301, 49 FR 24611-03 (June 14, 1984). Again, Everett and Hollidaysburg are the only railroads under Mr. Maples’ control.

Pursuant to 49 C.F.R. § 1180.2(d)(3), the Parties hereby invoke the Board’s class exemption procedures for a transaction within the corporate family involving the merger of Everett and Hollidaysburg, with Everett emerging as the surviving corporate entity. The proposed corporate family transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

b. Names, Addresses, and Phone Numbers of Involved Parties

ALAN W. MAPLES 424 2nd Avenue Duncansville, PA 16635 814-695-9628	EVERETT RAILROAD COMPANY 424 2nd Avenue Duncansville, PA 16635 814-695-9628	HOLLIDAYSBURG AND ROARING SPRING RAILROAD COMPANY 424 2nd Avenue Duncansville, PA 16635 814-695-9628
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c. Name of Counsel to Whom Questions Can Be Addressed

Correspondence with respect to this verified notice of exemption should be addressed to:

Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 920  
Chicago, IL 60606-2832  
Tel: (312) 252-1504  
Fax: (312) 252-2400

**49 C.F.R. §1180.6 (a)(1)(ii) – Consummation Schedule**

The Parties propose to consummate the proposed transaction on or after December 14, 2014.

**49 C.F.R. §1180.6(a)(1)(iii) – Purpose of the Transaction**

The purpose of this transaction is to streamline administration and enhance the financial condition of two railroads that are already largely integrated by consolidating the two into a single

company. The proposed merger will eliminate the need for the preparation of separate tax returns for Everett and Hollidaysburg, and the need for the two companies to maintain separate corporate records. There are also certain operational and other records-keeping advantages that will flow from the proposed merger.

**49 C.F.R. §1180.6(a)(5) – List of States in Which the Parties’ Property is Located**

The railroad lines of both Everett and Hollidaysburg are located in the Commonwealth of Pennsylvania.

**49 C.F.R. §1180.6(a)(6) – Map (Exhibit A)**

A map showing the location of the lines of Everett and Hollidaysburg is attached as Exhibit A.

**49 C.F.R. §1180.6(a)(7)(ii) – Agreement (Exhibit B)**

The proposed merger transaction will be governed by an as-yet-unexecuted agreement. A draft copy of this agreement, the terms of which have not yet been finalized, is attached as Exhibit B.

**49 C.F.R. §1180.4(g)(1)(i) – Level of Labor Protection**

Because the proposed transaction involves only Class III carriers, employee protective conditions may not be imposed as a condition of this exemption. See 49 U.S.C. § 11326(c).

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

The proposed merger agreement between Everett and Hollidaysburg contains no provision that would limit Everett’s interchange of traffic with a third-party connecting carrier after merger consummation. In any event, the post-merger Everett (as is the case today with Everett and Hollidaysburg) will connect to and interchange with only one third-party carrier – Norfolk Southern Railway Company.

**49 C.F.R. §1105.6 through 1105.8 – Environmental and Historic Report**

The Everett-Hollidaysburg merger will not result in material changes to the operations over the rail lines of either carrier. Accordingly, the transaction will not result in significant changes in carrier operation (i.e., changes that exceed the thresholds of 49 C.F.R. § 1105.7(e)(4) or (5)), and the transaction is thus exempt from the requirement to provide environmental documentation pursuant to 49 C.F.R. §1105.6(c)(2) and (4).

Because rail operations will continue, separate Board approval would be required if Everett later were to discontinue operations and/or abandon service. Furthermore, there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. Hence, pursuant to 49 C.F.R. §1105.8(b)(2-3), the transaction is exempt from historic preservation reporting requirements.

Respectfully submitted this 14th day of November, 2014.



Robert A. Wimbish  
FLETCHER & SIPPEL LLC  
29 North Wacker Drive  
Suite 920  
Chicago, IL 60606-2832  
Tel: (312) 252-1504  
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ATTORNEY FOR ALAN W. MAPLES, EVERETT RAILROAD  
COMPANY, AND HOLLIDAYSBURG AND ROARING SPRING  
RAILROAD COMPANY

**VERIFICATION**

Pursuant to 28 U.S.C. § 1746, I, Alan W. Maples, declare under the penalty of perjury that I am authorized to make this verification on behalf of myself, Everett Railroad Company, and Hollidaysburg and Roaring Spring Railroad Company, and that I have read the foregoing intra-corporate family transaction notice of exemption, know the contents thereof, and attest that the same are true and correct to the best of my knowledge, information, and belief.



\_\_\_\_\_  
Alan W. Maples

11-6-2014

\_\_\_\_\_  
Date

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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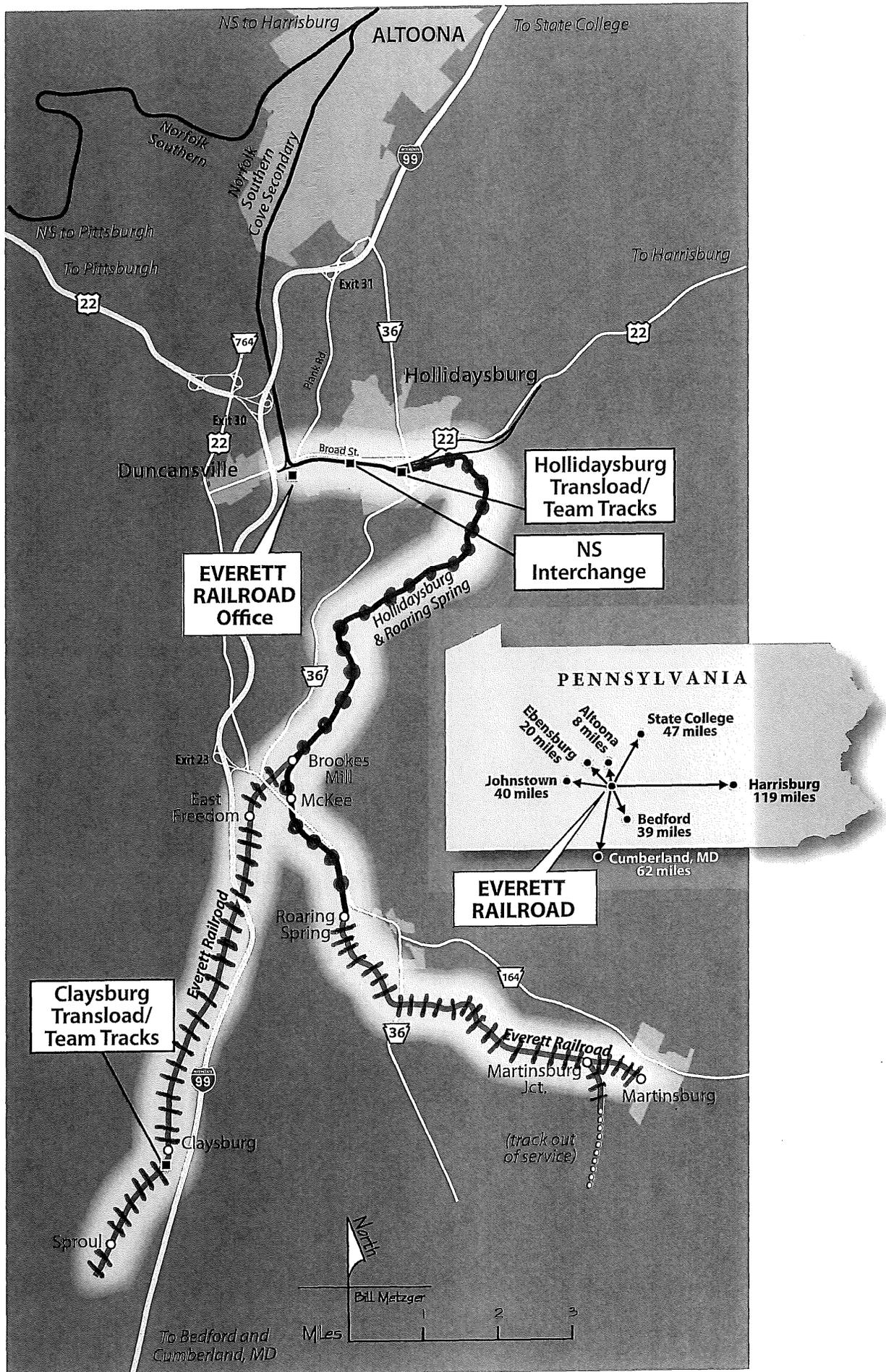
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**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 C.F.R. § 1180.2(d)(3)**

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**EXHIBIT A**

**MAP**



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**EXHIBIT B**

**DRAFT AGREEMENT GOVERNING  
TRANSACTION**

**PLAN AND AGREEMENT OF REORGANIZATION**  
**BY MERGER OF**

**HOLLIDAYSBURG AND ROARING SPRING RAILROAD COMPANY**

**with and into**

**THE EVERETT RAILROAD COMPANY**

This is a Plan and Agreement of Merger between **Hollidaysburg and Roaring Spring Railroad Company (“Hollidaysburg”)**, a Pennsylvania corporation, and **The Everett Railroad Company (“Everett”)**, a Pennsylvania corporation.

ARTICLE 1

PLAN OF REORGANIZATION

Plan Adopted

1.01. A plan of reorganization of **Hollidaysburg** and **Everett**, pursuant to the provisions of Title 15, Sections 1921 through 1930 of the Pennsylvania Business Corporation Law and Section 368(a)(1)(A) of the Internal Revenue Code, is adopted as follows:

- (a) **Hollidaysburg** shall be merged with and into **Everett**, to exist and be governed by the laws of the Commonwealth of Pennsylvania.
- (b) The name of the Surviving Corporation shall be **The Everett Railroad Company**.
- (c) When this Agreement shall become effective, the separate existence of **Hollidaysburg** shall cease and the Surviving Corporation shall succeed, without other transfer, to all the rights and property of **Hollidaysburg** and shall be subject to all the debts and liabilities of the Merging Corporation in the same manner as if the Surviving Corporation had itself incurred them. All rights of creditors and all liens on the property of each constituent corporation shall be preserved unimpaired, limited in lien to the property affected by the liens immediately prior to the merger.
- (d) The Surviving Corporation will carry on business with the assets of **Hollidaysburg**, as well as with the assets of **Everett**.
- (e) The Shareholders of **Hollidaysburg** will surrender all of their shares in the manner hereinafter set forth.
- (f) In exchange for the shares of **Hollidaysburg** surrendered by its Shareholders, the Surviving Corporation will issue and transfer to the Shareholders on the basis set forth in Article 4, below, shares of its stock.

(g) The Shareholders of **Everett** will retain their shares as shares of the Surviving Corporation.

Effective Date

1.02. The Effective Date of the merger shall be the 1<sup>st</sup> day of January, 2015.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES OF CONSTITUENT CORPORATIONS

Nonsurvivor

2.01. As a material inducement to the Surviving Corporation to execute this Agreement and perform its obligations under this Agreement, **Hollidaysburg** represents and warrants to Surviving Corporation as follows:

(a) **Hollidaysburg** is a corporation duly organized, validly existing, and in good standing under the laws of the Commonwealth of Pennsylvania, with corporate power and authority to own property and carry on its business as it is now being conducted.

(b) **Hollidaysburg** has 1,000 shares of common stock, each of \$100.00 par value, of which 70 shares are validly issued and outstanding, fully paid, and nonassessable on the date of this Agreement.

(c) **Hollidaysburg** has furnished Surviving Corporation with the necessary financial statements and Surviving Corporation is satisfied with the financial statements provided for purposes of this merger and organization.

(d) All required Federal, state, and local tax returns of **Hollidaysburg** have been accurately prepared and duly and timely filed, and all Federal, state, and local taxes required to be paid with respect to the periods covered by the returns have been paid. **Hollidaysburg** has not been delinquent in the payment of any tax or assessment.

Survivor

2.02. As a material inducement to **Hollidaysburg** to execute this Agreement and perform its obligations under this Agreement, **Everett** represents and warrants to **Hollidaysburg** as follows:

(a) **Everett** is a corporation duly organized, validly existing, and in good standing under the laws of the Commonwealth of Pennsylvania, with corporate power and authority to own property and carry on is business as it is now being conducted.

(b) **Everett** has \_\_\_\_\_ shares of common stock, each of \$ \_\_\_\_\_ par value, of which \_\_\_\_\_ shares are validly issued and outstanding, fully paid and non-assessable on the date of this Agreement.

### ARTICLE 3

#### COVENANTS, ACTIONS, AND OBLIGATIONS PRIOR TO THE THE EFFECTIVE DATE

##### Interim Conduct of Business; Limitations

3.01. Pending consummation of the merger, each of the constituent corporations will carry on its business in substantially the same manner as before and will use its best efforts to maintain its business organization intact, to retain its present employees, and to maintain its relationships with suppliers and other business contacts.

##### Submission to Shareholders and Filing

3.02. This Agreement shall be submitted separately to the Shareholders of the constituent corporations in the manner provided by the Laws of the Commonwealth of Pennsylvania.

### ARTICLE 4

#### MANNER OF CONVERTING SHARES

##### Manner

4.01. The holders of shares of **Hollidaysburg** shall surrender their shares to the Secretary of **Everett** promptly after the Effective Date, in exchange for shares of the Surviving Corporation to which they are entitled.

##### Basis

4.02. Numbers of shares and price information to be established.

##### Shares of Survivor

4.03. Outstanding shares of Surviving Corporation to be determined.

ARTICLE 5

DIRECTORS AND OFFICERS

Directors and Officers of Survivor

5.01. (a) The present Board of Directors of **Everett** shall continue to serve as the Board of Directors of the Surviving Corporation until the next annual meeting or until their successors have been elected and qualified.

(b) If a vacancy shall exist on the Board of Directors of the Surviving Corporation on the Effective Date of the merger, the vacancy may be filled by the Shareholders as provided in the Bylaws of the Surviving Corporation.

(c) All persons who at the Effective Date of the merger shall be executive or administrative officers of **Everett**, shall remain as officers of the Surviving Corporation until the Board of Directors of the Surviving Corporation shall otherwise determine. The Board of Directors of the Surviving Corporation may elect or appoint additional officers as it deems necessary.

ARTICLE 6

BYLAWS

Bylaws of Survivor

6.01. The Bylaws of **Everett**, as existing on the Effective Date of the merger, shall continue in full force as the Bylaws of the Surviving Corporation until altered, amended, or repealed as provided in the Bylaws or as provided by law.

ARTICLE 7

TERMINATION

Circumstances

7.01. This Agreement may be terminated and the merger may be abandoned at any time prior to the Effective Date by mutual consent of the Board of Directors of the constituent corporations.

ARTICLE 8

INTERPRETATION AND ENFORCEMENT

Notices

8.01. Any notice or other communications required or permitted under this Agreement shall be properly given when deposited in the United States Postal Service for transmittal by certified or registered mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed:

(a) In the case of **Hollidaysburg**, to:

Hollidaysburg Roaring Spring Railroad Company  
c/o Alan W. Maples, President  
424 Second Avenue  
Duncansville, PA 16635

(b) In the case of **Everett**, to:

The Everett Railroad Company  
c/o Alan W. Maples, President  
424 Second Avenue  
Duncansville, PA 16635

Entire Agreements; Counterparts

8.02. This instrument and the exhibits to this Agreement contain the entire agreement between the parties with respect to the contemplated transaction. This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed on original.

Controlling Law

8.03. The validity, interpretation, and performance of this Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Pennsylvania, the state, in which this Agreement is being executed.

***SIGNATURE PAGE TO FOLLOW***

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

NONSURVIVOR:

ATTEST:

HOLLIDAYSBURG AND ROARING SPRING  
RAILROAD COMPANY

\_\_\_\_\_

By: \_\_\_\_\_  
Alan W. Maples, President

SURVIVOR:

ATTEST:

THE EVERETT RAILROAD COMPANY

\_\_\_\_\_

By: \_\_\_\_\_  
Alan W. Maples, President