

# CLARK HILL

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ENTERED  
Office of Proceedings  
May 27, 2014  
Part of  
Public Record

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May 23, 2014

## VIA OVERNIGHT MAIL

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20024



Re: Grainbelt Corporation  
- Trackage Rights Exemption -  
BNSF Railway Company and Stillwater Central Railway, LLC  
STB Docket No. FD 35831  
(Color Map Included)

Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a Notice of Exemption under 49 CFR 1180.2(d)(7) being filed on behalf of Grainbelt Corporation ("GNBC"), together with an additional 20 copies of the map. The filing fee of \$1200 for this Notice is included in the enclosed check.

Also enclosed for filing are the original and 10 copies of each of the following:

- (1) Motion of GNBC for Protective Order (expedited consideration requested).
- (2) Highly Confidential Version of Amendment to Trackage Rights Agreement between GNBC and BNSF Railway Company (filed under seal in a separate envelope).
- (3) Petition of GNBC for Partial Revocation (Sub-No. 1). The filing fee of \$250 for this Petition is included in the enclosed check.

FILED  
May 27, 2014  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
May 27, 2014  
SURFACE  
TRANSPORTATION BOARD

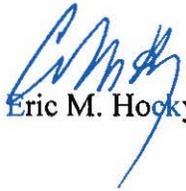
Cynthia T. Brown  
May 23, 2014  
Page 2

Please time stamp the extra copy of this letter to indicate receipt of all of the foregoing, and return it to me in the stamped, self-addressed envelope provided for your convenience.

Please let me know if there are any questions regarding this filing.

Very truly yours,

CLARK HILL PLC

  
Eric M. Hocky

EMH/dml  
Encls.

Before the  
**SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 35831

**GRAINBELT CORPORATION**  
**- TRACKAGE RIGHTS EXEMPTION -**  
**BNSF RAILWAY COMPANY AND**  
**STILLWATER CENTRAL RAILROAD, LLC**



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**NOTICE OF EXEMPTION**

ERIC M. HOCKY  
CLARK HILL, PLC  
One Commerce Square  
2005 Market Street, Suite 1000  
Philadelphia, PA 19103  
(215) 640-8500

Attorneys for Grainbelt Corporation

Dated: May 23, 2014

Before the  
**SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 35831

**GRAINBELT CORPORATION  
- TRACKAGE RIGHTS EXEMPTION -  
BNSF RAILWAY COMPANY AND  
STILLWATER CENTRAL RAILROAD, LLC**

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**NOTICE OF EXEMPTION**

Grainbelt Corporation (“GNBC”), a Class III railroad, files this Notice of Exemption pursuant to 49 C.F.R. §1180.2(d)(7) to exempt from the provisions of 49 U.S.C. §11323, the grants of amended trackage rights by BNSF Railway Company (“BNSF”) and Stillwater Central Railroad, LLC f/k/a Stillwater Central Railroad, Inc. (“SLWC”) that together will allow GNBC to provide local service to a grain shuttle facility in Eldorado, Oklahoma, in addition to its current rights to provide service between Snyder, Oklahoma, and Quanah, Texas. The amended trackage rights are based on written agreements and are not being filed or sought in a responsive application.

This filing is related to the Petition for Partial Revocation to Permit Expiration of Amended Trackage Rights being filed simultaneously in Sub-No. 1 in this docket which seeks to permit the proposed trackage rights to expire automatically at the time of expiration of the previous amendment to the trackage rights as set forth in *Grainbelt Corporation - Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad Company*, STB Docket No. FD 35719 (Sub-No. 1) (served May 22, 2013).

### **Required Information**

In accordance with the provisions of 49 C.F.R. §1180.4(g), GNBC provides the following information as required by 49 C.F.R. §1180.6(a)(1)(i)-(iii), (a)(5), (a)(6), and (a)(7)(ii):

(a)(1)(i) GNBC already holds overhead trackage rights granted by the predecessor of BNSF between Snyder Yard, milepost 664.00 and Quanah, Texas, milepost 723.30 (the “original trackage rights”), under which GNBC has the right to interchange at Quanah with BNSF and with Union Pacific Railroad (as the successor to Southern Pacific Railroad). BNSF subsequently sold a portion of the subject trackage to SLWC. The original trackage rights were supplemented in 2009 to allow GNBC to operate between Snyder and Altus, Oklahoma, with the right to perform limited local service at Long, Oklahoma. *See Grainbelt Corporation – Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad Company*, STB Finance Docket No. 35332 (served December 17, 2009). The trackage rights were further amended in 2013 to allow GNBC to provide local grain service to a shuttle facility at Headrick, Oklahoma. *See Grainbelt Corporation – Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad Company*, STB Docket No. FD 35719 (served March 15, 2013).

The parties are now amending the trackage rights further to allow GNBC to provide local service to a grain shuttle facility at Eldorado, Oklahoma (between Altus, Oklahoma and Quanah, Texas). The existing trackage rights will not be affected by the amended trackage rights that are the subject of this proceeding.

To accomplish this, BNSF is amending the existing trackage rights to allow GNBC to perform local service at Eldorado. Additionally, SLWC is amending the overhead trackage rights over the 4.73-mile line between Snyder Yard, milepost 664.00, and its connection with BNSF east of Long, milepost 668.73, to allow GNBC to use the overhead trackage rights for

traffic that may move to Eldorado. The trackage rights lines are shown on the map attached as Exhibit A.

The name, business address and telephone number of Applicant are: Grainbelt Corporation, 1601 Gary Blvd., PO Box 1750, Clinton, OK 73601-1750; (580) 323-1234.

The name, business address and telephone number of counsel to whom questions regarding the transaction can be addressed are: Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103; (215) 640-8500.

(a)(1)(ii) GNBC intends to commence operations under the trackage rights on or after June 25, 2014 (thirty days after filing).

(a)(1)(iii) The amended trackage rights will allow GNBC to provide local service between the grain shippers located on GNBC, and its affiliate Farmrail Corporation, via their interchange at Altus, and the grain shuttle facility located at Eldorado in single system service.

(a)(5) GNBC currently operates in the State of Oklahoma, and the affected trackage rights lines are also located in the State of Oklahoma.

(a)(6) A map showing the trackage rights lines is attached as Exhibit A. Twenty extra copies of the map are also included.

(a)(7)(ii) A redacted public version of the BNSF amendment to trackage rights is attached as Exhibit B-1. (Applicant has filed a Motion for a Protective Order to protect the confidentiality of the commercial terms of the BNSF amendment. Copies of the highly confidential version of the BNSF amendment are being filed separately under seal.) A copy of the SLWC amendment to trackage rights is attached as Exhibit B-2.

### **Labor Protection**

Applicant understands that any employees adversely affected by the trackage rights are entitled to protection under the conditions imposed in *Norfolk and Western Railway Company - Trackage Rights - Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Railway, Inc. - Lease and Operate - California Western Railroad*, 360 I.C.C. 653 (1980).

### **Environmental and Historic Reports**

Under 49 C.F.R. §1105.6(c)(4) and 49 C.F.R. §1105.8(b)(3), no environmental or historic documentation is required.

### **Caption Summary**

Attached as Exhibit C is the caption summary required by 49 C.F.R. §1180.4(g)(2)(i).

### **Conclusion**

Based on the information provided above, GNBC requests that the Board issue a notice of exemption for the amended trackage rights that are the subject of this notice.

Respectfully submitted,



ERIC M. HOCKY  
CLARK HILL, PLC  
One Commerce Square  
2005 Market Street, Suite 1000  
Philadelphia, PA 19103  
(215) 640-8500

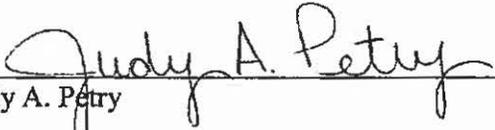
Attorneys for Grainbelt Corporation

Dated: May 23, 2014

**VERIFICATION**

I, Judy A. Petry, President and General Manager of Grainbelt Corporation, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

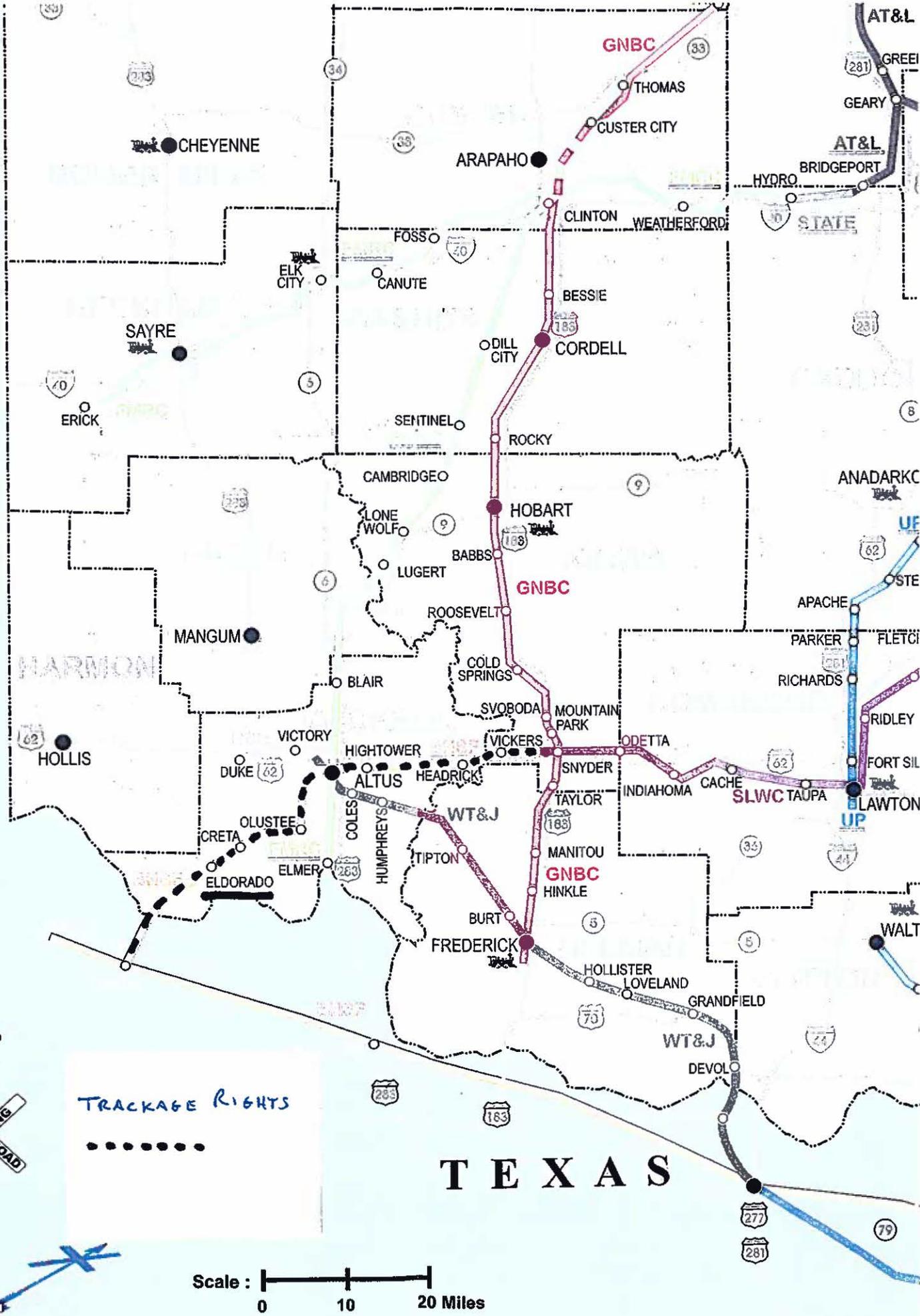
Executed on May 22, 2014.

  
\_\_\_\_\_  
Judy A. Petry

**EXHIBIT A**

**MAP**

# TEXAS



TRACKAGE RIGHTS  
.....

Scale : 0 10 20 Miles

This map, printed by University of Oklahoma Printing Services, is issued by the Oklahoma Department of Transportation as authorized by the Director of Transportation. 10,000 copies have been printed and distributed at a cost of approximately \$0.4295 per copy.

**EXHIBIT B-1**  
**BNSF AMENDMENT TO TRACKAGE RIGHTS AGREEMENT**  
**(“PUBLIC” VERSION)**

**AMENDMENT NO. 3 TO TRACKAGE RIGHTS AGREEMENT  
BETWEEN LONG, OK AND QUANAH, TX**

This Amendment is entered into as of April 1, 2014, by and between BNSF RAILWAY COMPANY, a Delaware corporation, ("BNSF") and GRAINBELT CORPORATION, a Delaware corporation ("GNBC").

**WITNESSETH:**

**WHEREAS**, BNSF and GNBC entered into a Trackage Rights Agreement dated August 20, 1987 (the "**Original Trackage Rights Agreement**"), whereby BNSF granted trackage rights to GNBC between Snyder, OK (approximate MP 664.0) and Quanah, TX (approximate MP 723.3);

**WHEREAS**, pursuant to a decision served August 23, 1995 in Finance Docket No. 32549, *Burlington Northern Inc. and Burlington Northern Railroad Company – Control and Merger – Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company*, BNSF and GNBC entered into an amendment of the Original Trackage Rights Agreement dated February 15, 1996 (the "**Amendment No. 1**"), whereby BNSF granted trackage rights to GNBC to allow interchange with Union Pacific Railroad ("UP") at Quanah, TX;

**WHEREAS**, BNSF sold the track between Snyder, OK and Long, OK (approximate MP 668.73) to Stillwater Central Railroad, Inc. ("SLWC"), and partially assigned the Original Trackage Rights Agreement and Amendment No. 1 to SLWC;

**WHEREAS**, BNSF and GNBC entered into a supplement of the Original Trackage Rights Agreement, as amended, dated October 9, 2009 (the "**Supplemental Agreement**"), whereby BNSF granted supplemental trackage rights to GNBC between Long, OK (approximate MP 668.73) and Quanah, TX (approximate MP 723.3) (hereinafter referred to as "**Joint Facilities**") to allow GNBC to originate freight at the existing quarry at Long, OK and to interchange with BNSF and Farmrail Corporation ("FMRC") at Altus, OK; and

**WHEREAS**, BNSF and GNBC entered into a second amendment of the Original Trackage Rights Agreement, as amended, dated February 1, 2013 (the "**Amendment No. 2**") to allow certain local service to Headrick, OK, clarify the operation and establish new rates (the Original Trackage Rights Agreement, Amendment No. 1, Supplemental Agreement and Amendment No. 2 are referred to collectively as the "**Trackage Rights Agreement**");

**WHEREAS**, BNSF and GNBC wish to further amend the Trackage Rights Agreement as set forth below;

**NOW THEREFORE**, in consideration of the covenants and conditions herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

**I.** BNSF and GNBC hereby agree to amend the Original Trackage Rights Agreement by adding the following Sections I.8:

1.8 Notwithstanding any provision to the contrary, GNBC shall be allowed to deliver inbound single car grain cars to the existing grain shuttle facility at Eldorado, OK. For clarification, the grain cars may originate on GNBC or on FMRC and be interchanged to GNBC at Altus, OK.

**II.** BNSF and GNBC hereby agree to amend Section 4.5 and 7.3 of Amendment No. 2 in their entirety and replace them with the following:

4.5 Notwithstanding anything in Section 4.2 above, GNBC shall be restricted to no more than two (2) trains per day total in each direction moving between (a) points on GNBC or FMRC and (b) (1) the existing grain shuttle facility near Milepost 680.5 at Headrick, OK; (2) the quarry near Milepost 669.4 at Long, OK; (3) the existing grain shuttle facility near Milepost 709.5 at Eldorado, OK or (4) interchange with BNSF. GNBC trains shall be restricted to 110 cars and must have adequate locomotive power to operate at BNSF timetable speed. Additional trains may be requested by GNBC and subject to written approval by BNSF operating officers at BNSF's sole discretion, BNSF may allow additional trains to operate pursuant to this Agreement.

7.3 In lieu of the Trackage Rights Fee, GNBC shall remit to BNSF [REDACTED] delivered to the existing grain facility at Headrick, OK or the existing grain facility at Eldorado, OK as permitted in Section 4.5 of this Agreement.

**III.** Except as provided herein, the Trackage Rights Agreement shall remain in full force and effect, and nothing herein is intended to alter or supplement any rights or obligations of any party other than BNSF and GNBC.

**IV.** This Amendment shall be effective upon the Effective Date as defined in Section V below, and shall remain in effect for a period coterminous with Amendment No. 2.

**V.** GNBC shall be responsible for filing with the Surface Transportation Board ("STB") a notice of exemption approving the terms of this Amendment No. 3 pursuant to 49 CFR 1180.2(d)(7) and a petition for partial revocation of the trackage rights class exemption so that the trackage rights set forth herein automatically expire ten (10) years from the effective date of Amendment No. 2. The terms herein shall be subject to and conditioned upon and shall not become effective until the later of i) the effective date of the notice of exemption; or ii) the filing of the petition for partial revocation of the trackage rights exemption. Additionally, the rights set forth herein shall not become

effective if the STB imposes conditions upon the trackage rights which are not acceptable to either party unless the parties agree otherwise.

IN WITNESS WHEREOF, the parties have executed this Amendment effective as of the day and year first written above.

**BNSF RAILWAY COMPANY, a Delaware Corporation**

By: *R. C. Ebel*

Name: R C Ebel

Title: ATP Shortline Development

**GRAINBELT CORPORATION, a Delaware Corporation**

By: *Judy Petry*

Name: Judy Petry

Title: President & General Manager

**EXHIBIT B-2**

**SLWC AMENDMENT TO TRACKAGE RIGHTS AGREEMENT**

**AMENDMENT NO. 2  
TO SUPPLEMENTAL  
TRackage RIGHTS  
AGREEMENT**

**THIS SUPPLEMENTAL AGREEMENT**, entered into as of the <sup>21<sup>st</sup></sup> day of May, 2014, by and between STILLWATER CENTRAL RAILROAD, L.L.C. f/k/a STILLWATER CENTRAL RAILROAD, INC. ("SLWC") and GRAINBELT CORPORATION ("GNBC" or "User").

**WITNESSETH:**

**WHEREAS**, BNSF Railway Company ("BNSF") and GNBC entered into a Trackage Rights Agreement, dated August 20, 1987, as amended by Amendment Agreement No. 1 dated February 15, 1996 (the "Original Agreement") covering trackage rights between Snyder, Oklahoma, and Quanah, Texas; and

**WHEREAS**, SLWC purchased, *inter alia*, a 4.73-mile section of track that begins at Milepost 664.0 near Snyder, Oklahoma, and ends at Milepost 668.73 near the Martin Marietta rock quarry at Long, Oklahoma, that is part of the Joint Facilities subject to the Original Agreement; and

**WHEREAS**, in October 2009, BNSF granted GNBC supplemental trackage rights to allow for certain additional service rights under the Original Agreement as it relates to the Joint Facilities between Long, Oklahoma, and Altus, Oklahoma; and

**WHEREAS**, SLWC granted GNBC supplemental trackage rights from Snyder to Long to coordinate with the BNSF supplemental trackage rights under a Supplemental Trackage Rights Agreement between SLWC and GNBC dated November 1, 2009 (the "SLWC Supplemental Trackage Rights Agreement"); and

**WHEREAS**, SLWC and GNBC entered into an amendment of the Supplemental Trackage Rights Agreement dated February 1, 2013 (Amendment No. 1) to allow GNBC to provide additional local grain services in conjunction with a grant from BNSF to GNBC of additional service rights over the Joint Facilities between Long, Oklahoma and Altus, Oklahoma; and

**WHEREAS**, BNSF is now granting GNBC certain additional service rights over the portion of the Joint Facilities between Long, Oklahoma, and Altus, Oklahoma; and

**WHEREAS**, SLWC is willing to amend GNBC's trackage rights over the portion of the Joint Facilities between Snyder, Oklahoma, and Long, Oklahoma, to cover such additional service rights as GNBC is obtaining from BNSF; and

**WHEREAS**, SLWC and GNBC agree that the GNBC trackage rights, over the 4.73-

mile section of track between Snyder, Oklahoma, and Long, Oklahoma, as previously amended and supplemented, shall be further amended as set forth in this Agreement;

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

#### **SECTION A. AMENDED GRANT OF TRACKAGE RIGHTS**

Section 1 of the SLWC Supplemental Trackage Rights Agreement, as amended, shall be further amended and replaced in its entirety by the following:

1 (a) Subject to the terms and conditions herein provided, SLWC hereby grants to GNBC the right to operate its trains, locomotives, cars and equipment with its own crews (hereinafter referred to as the "Supplemental Trackage Rights") over the following segment of railroad (hereinafter referred to as the "Subject Trackage"):

Local trackage rights between milepost 664.0, at or near Snyder, Oklahoma, and milepost 668.73, at or near Long, Oklahoma.

The term "local trackage rights," as used above, includes: (1) the right to operate trains over the line described for the purpose of originating carloads of rock from the Martin Marietta rock quarry to be transported over SLWC for the sole purpose of terminating the rock at any point on GNBC or FMRC. GNBC may not bridge rock to any other rail carrier, except FMRC, without the expressed written consent of SLWC; and (2) the right to operate trains over the line to reach BNSF's connecting line between Long, Oklahoma, and Altus, Oklahoma, for (i) grain traffic to the shuttle facility located in Headrick, Oklahoma, (ii) grain traffic to the shuttle facility located in Eldorado, Oklahoma, and (iii) traffic to be interchanged between GNBC and either BNSF or FMRC at Altus.

(b) Except as expressly provided herein for traffic moving under the local trackage rights granted hereunder, all other terms of the Original Agreement, as amended and supplemented, shall remain in full force and effect and govern the parties to the Original Agreement and their successors and assigns, with respect to all other traffic that moves under the Original Agreement.

#### **SECTION B. TERMINATION**

This Agreement, and the amended trackage rights granted hereunder, shall terminate upon the later of (a) expiration of Amendment No. 1, or (b) the expiration of the associated amended and supplemented trackage rights agreement between GNBC and BNSF ("Termination Date").

#### **SECTION C. GENERAL PROVISIONS**

(1) All other terms of the SLWC Supplemental Trackage Rights Agreement shall continue in full force and effect. 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.

(2) All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

(3) 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.

(4) All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the laws of the State of Oklahoma without regard to principles of conflicts of law.

(5) This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. Execution and delivery of this Agreement by facsimile or electronic transmission shall be deemed for all purposes to be due execution and delivery by the undersigned.

#### **SECTION D. SUCCESSORS AND ASSIGNS**

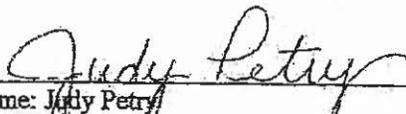
This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that User shall not transfer or assign this Agreement, or any of its rights, interests or obligations hereunder to any person, firm or corporation without obtaining the prior written consent of SLWC, which consent will not be unreasonably withheld, except that the rights and obligations under this Agreement shall pass to the respective successor of substantially all of the property of User or any subsequent owner of the Subject Trackage.

#### **SECTION E. COMMENCEMENT AND TERMINATION**

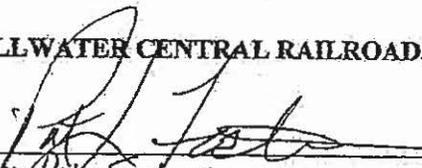
GNBC shall be responsible for filing with the Surface Transportation Board ("STB") a notice of exemption approving the terms of this Agreement pursuant 49 CFR 1180.2(d)(7) and a petition for partial revocation of the trackage rights class exemption so that the trackage rights set forth herein automatically expire as set forth in Section B hereof. The terms herein shall be subject to and conditioned upon and shall not become effective until the later of (i) the effective date of the notice of exemption; or (ii) the filing of the petition for partial revocation of the trackage rights class exemption. Additionally, unless the parties agree otherwise, the rights set forth herein shall not become effective if the STB imposes conditions upon the trackage rights which are not acceptable to either party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**GRAINBELT CORPORATION**

  
Name: Judy Petry  
Title: President and General Manager

**STILLWATER CENTRAL RAILROAD, L.L.C.**

  
Name: Pat Foster  
Title: General Manager

**EXHIBIT C**  
**CAPTION SUMMARY**

**SURFACE TRANSPORTATION BOARD**

**NOTICE OF EXEMPTION**

**STB DOCKET NO. FD 35831**

**GRAINBELT CORPORATION  
- TRACKAGE RIGHTS EXEMPTION -  
BNSF RAILWAY COMPANY AND  
STILLWATER CENTRAL RAILROAD, LLC**

BNSF Railway Company (“BNSF”) and Stillwater Central Railroad, LLC f/n/a Stillwater Central Railroad, Inc. (“SLWC”) have each agreed to amend their trackage rights agreements with Grainbelt Corporation (“GNBC”), which together will allow GNBC to provide local service to the grain shuttle facility at Eldorado, Oklahoma. SLWC is amending its trackage rights with GNBC between Snyder Yard, Oklahoma, milepost 664.00 and the connection with BNSF east of Long, Oklahoma, milepost 668.73. BNSF is amending its trackage rights with GNBC over the connecting line between the connection with SLWC east of Long, Oklahoma, milepost 668.73 and Quanah, Texas, milepost 723.30. The amended trackage rights will become effective on June 25, 2014 (30 days after the notice is filed).

The Notice is filed under 49 C.F.R. §1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board,

Rachel D. Campbell, Director, Office of Proceedings