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March 29, 2011

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

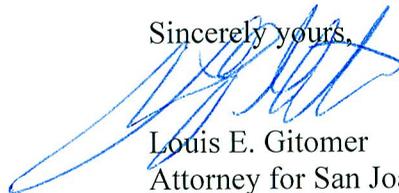
RE: Finance Docket No. 35475, *Port of Ivory, LLC—Operation
Exemption-Line of Railroad in Tulare County, CAL.*

Dear Ms. Brown:

Enclosed for e-filing by San Joaquin Valley Railroad Company is a Petition to
Reject the Notice of Exemption filed by the Port of Ivory.

If you have any questions please call or email me.

Sincerely yours,



Louis E. Gitomer
Attorney for San Joaquin Valley Railroad Company

Enclosures

THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35475

PORT OF IVORY, LLC—OPERATION EXEMPTION—LINE OF RAILROAD IN TULARE
COUNTY, CAL.

PETITION TO REJECT NOTICE OF EXEMPTION AS VOID *AB INITIO*

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Attorneys for San Joaquin Valley Railroad
Company

Dated: March 29, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35475

PORT OF IVORY, LLC—OPERATION EXEMPTION—LINE OF RAILROAD IN TULARE
COUNTY, CAL.

PETITION TO REJECT NOTICE OF EXEMPTION AS VOID *AB INITIO*

Pursuant to 49 C.F.R. § 1150.32(b), the San Joaquin Valley Railroad Company (“SJVR”) petitions the Surface Transportation Board to reject the Notice of Exemption (the “Notice”) filed by the Port of Ivory, LLC (the “Port”) on March 4, 2011. As is apparent on the face of the Notice and from the discovery provided to SJVR by the Port, the Notice contains significant false and misleading information rendering it void *ab initio*.

SJVR will discuss each item that is false or misleading.

Environmental Review. The Port claims that “the proposed transaction is exempt from environmental review under 49 CFR 1105[.6](c)(2)(i)”. Notice at 7. This is a false and misleading statement. The track is located in Tulare County, CA. In order to verify the Port’s statement, SJVR went to the Environmental Protection Agency’s (the “EPA”) web site and searched for nonattainment area. The search lead to the EPA Green Book which contains the map attached hereto in Exhibit 1. By comparing the EPA’s map to a map of California with the counties identified, it could be determined that Tulare County was on the EPA map for “Counties Designated ‘Nonattainment.’” According to the Environmental Protection Agency, Tulare County is a nonattainment area for three NAAQS Pollutants. See Exhibit A, obtained on March 25, 2011 from <http://www.epa.gov/oaqps001/greenbk/map/mapnpoll.pdf>.

As a nonattainment area, the exception from environmental reporting is governed by

49 C.F.R. § 1105.7(e)(5)(ii). However, the Port did not even disclose that Tulare County, CA is a nonattainment area. Exhibit 2 is the redacted response to discovery provided by the Port. Interrogatory No. 6 asked “Is the railroad track that PORT currently operates in a class I or nonattainment area under the Clean Air Act as that term is used in 49 C.F.R. § 1105.7(e)(5)(ii)?” The response was “Not to the PORT’s knowledge.” Without knowing or inquiring into whether the track the Port proposed to operate is a nonattainment area, the Port could not verify, as it did in the Notice, that “the proposed transaction is exempt from environmental review.” Indeed, based on the volumes of traffic provided in the Notice consisting of current carloads of about 3,000 (page 4 of the Notice) and future carloads of about 5,000 to 8,000 (page 4 of the notice), the volume of traffic will increase by between 60% and 133%, both exceeding the threshold of 50% in 49 C.F.R. § 1105.7(e)(5)(ii)(A).

On page 3 of the Notice the Port indicates that it operates “a multimodal rail-to-truck and truck-to-rail transload facility.” In other words, the Port states that it operates a rail yard.¹ An increase in rail yard activity of 20% in a nonattainment area requires an Environmental Report. See 49 C.F.R. § 1105.7(e)(5)(ii)(B). The traffic increase noted above far exceeds the 20% threshold.

The Port has provided the Board with false and misleading information as far as the need for an Environmental Report for the proposed transaction. Such oversight is more egregious since the Port failed to even determine whether Tulare County, CA was a nonattainment area.

Map. Port is required to provide “A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States” under 49 C.F.R. § 1150.33(f). The map provided in Exhibit A to the Notice is misleading at best. It does not show the existing track. Indeed, the map submitted by the Port includes track that does not exist today; it does not

¹ The Port’s representation that it operates an outbound truck-to-rail transloading operation is not accurate in that it only transloads inbound rail-to-truck currently.

identify the existing track that the Port proposes to operate. The map attached hereto in Exhibit 3 was obtained by SJVR in discovery and shows a completely different set of the track to be operated by the Port than was shown on the map in Exhibit A to the Notice.

The map filed by the Port is false and misleading because it does not identify the track to be operated by the Port, it identifies the track that is going to be built by ADM as a result of negotiations between SJVR and ADM.

Summary of the proposed transaction. Pursuant to 49 C.F.R. § 1150.33(e), Port must provide a “summary of the proposed transaction, including: (1) The name and address of the railroad transferring the subject property, ... (4) The total route miles being acquired”.

Port states that it “owns the property upon which it desires to initiate common carrier rail service.” Notice at 4. In discovery, the Port provided an Industry Track Contract Articles of Agreement dated as of January 14, 2011 (the “Agreement”) between SJVR and Richard Best Transfer Inc. (“RBT”). See Exhibit 4. Contrary to the preceding statement is the language of the Agreement. The Agreement provides:

Article 3. OWNERSHIP OF THE TRACK.

- A. A. The Railroad [SJVR] shall own the following portions of the Track:
 - Track “A” approximately 143 feet of track
 - Track “B” approximately 143 feet of track to the north and 143 feet of track to the south.
- B. The Industry [RBT] shall own the following portions of the Track:
 - Track “A” 630 feet of track
 - Track “B” 1,489 feet of track

As noted above, assignment of the “Track” (as that term is used in the Agreement) requires SJVR’s prior consent. SJVR has not given such consent. Based on the statement in the Agreement (executed January 14, 2011) that the track is owned by SJVR and RBT, and the lack

of consent to assignment from SJVR, the Port's statement that it "owns the property" is false and misleading.²

The Port claims that the track it will operate is about "1500 track feet." Notice at 5. Based on the Agreement and the map in Exhibit 3, it appears that Port is seeking to operate 2,548 feet of track, leading to the conclusion that Port's description of the length of the track is false and misleading.

Agreement. Pursuant to 49 C.F.R. § 1150.33(c), Port is required to state whether "an agreement has been reached or details about when an agreement will be reached." Port states "N.A. Port Ivory already owns the track and underlying right of way."

The Agreement grants RBT the right to operate over the tracks subject to the Agreement. The tracks subject to the Agreement consist of (1) two tracks owned by RBT, one 630 feet long and the other 1,489 feet long; and (2) three tracks owned by SJVR, each 143 feet long and which serve to connect the RBT track to the SJVR main line. The map in Exhibit 3 clearly shows these two lines that the Port proposes to operate, instead of the misleading map accompanying the Notice. The Agreement covers the same track that the Port seeks to operate over.

The Port has no right to operate over any of the tracks identified in the Agreement. Indeed, assignment of the Agreement requires "prior consent" from SJVR, which has not been given. The Port provided the Board with false information when it stated that it "owns the track and underlying right of way."

The Port will continue to provide private service, not common carrier service. In response to Interrogatories 4 and 5, the Port described current billing and the billing process it intends to follow if it becomes a common carrier. Instead of providing a publicly available tariff, the Port proposes to bill its users and "continue to provide services to its users which will be

² There is no indication in the Notice that the Port is an affiliate of RBT. Moreover, neither the Port nor RBT has notified SJVR of an assignment under the Agreement from RBT to the Port.

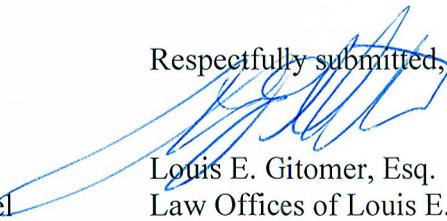
incorporated in their monthly lease rates.” At best the Port will provide contract service, but it appears likely to only be continuing to provide the same service to limited shippers instead of serving the public at large. It seems that the Port will be tying together the requirement that a new shipper lease a facility from the Port and include the transportation rates charged to the new shipper in the land lease as a prerequisite to receiving rail service..

Conclusion. The Notice contains numerous examples of false and misleading statements, which render it void *ab initio*. The exemption notice may be treated as void *ab initio* and rejected if it contains false or misleading information. See *Class Exemption — Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C.2d 810, 812 (1985), *aff’d sub nom. Illinois Commerce Comm’n v. ICC*, 817 F.2d 145 (D.C. Cir. 1987). The Board is rightfully protective of its expedited exemption process to prevent abuse of that process. In order to protect the process, the Board has rejected improper notices of exemption. *Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway—Acquisition and Operation Exemption—Line Owned by Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway*, Docket No. FD 35133 (served June 16, 2010).

SJVR respectfully requests the Board to reject the Notice filed by the Port because of all of the false and misleading statements that it contains.

Respectfully submitted,

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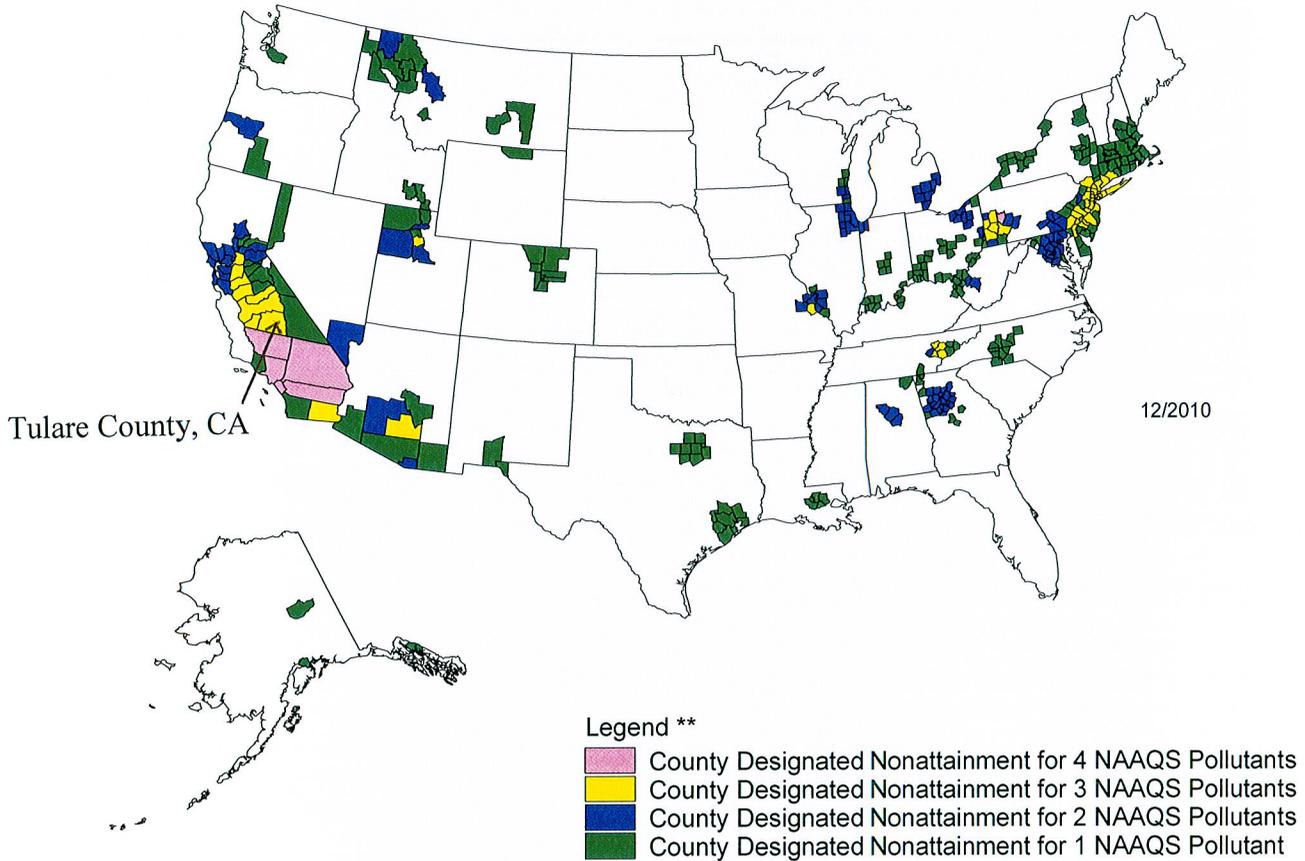
Attorneys for San Joaquin Valley Railroad
Company

Dated: March 29, 2011

EXHIBIT 1-MAP OF NONATTAINMENT AREAS

Counties Designated "Nonattainment"

for Clean Air Act's National Ambient Air Quality Standards (NAAQS) *



Guam - Piti and Tanguisson Counties are designated nonattainment for the SO₂ NAAQS

* The National Ambient Air Quality Standards are health standards for lead, carbon monoxide, sulfur dioxide, ground level 8-hr ozone, and particulate matter (PM-10 and PM_{2.5}). There are no nitrogen dioxide nonattainment areas.

** Partial counties, those with part of the county designated nonattainment and part attainment, are shown as full counties on the map.

The following multi-state nonattainment area, Chicago-Gary-Lake County, IL-IN 8-hr Ozone area, has some states in the area that have been redesignated, but it is not considered a maintenance area until all states in the area are redesignated. The counties for this area are displayed as nonattainment areas:

EXHIBIT 2-DISCOVERY RESPONSES REDACTED

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35475

PORT OF IVORY, LLC—OPERATION EXEMPTION—
LINE OF RAILROAD IN TULARE COUNTY, CA

RESPONSE OF PORT OF IVORY, LLC
TO FIRST SET OF DISCOVERY
OF
SAN JOAQUIN VALLEY RAILROAD COMPANY

Submitted by

John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
202-296-3334

Dated: March 23, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 35475

PORT OF IVORY, LLC—OPERATION EXEMPTION—
LINE OF RAILROAD IN TULARE COUNTY, CA

RESPONSE OF PORT OF IVORY, LLC
TO FIRST SET OF DISCOVERY
OF
SAN JOAQUIN VALLEY RAILROAD COMPANY

Port of Ivory hereby responds to the First Set of Discovery served by San Joaquin Valley Railroad Company (“SJVR”) in connection with the Notice of Exemption (the “Notice”) filed by the Port of Ivory, LLC (“The PORT”) on March 4, 2011.

GENERAL RESPONSES

1. PORT’s responses herein are made pursuant to information reasonably available to PORT through reasonable investigation to the date of these responses, and PORT reserves the right to supplement its responses, if necessary, in accordance with the rules of the Surface Transportation Board (“Board”).

2. Responses to interrogatories and document requests do not necessarily imply that they are relevant to this proceeding, and are not to be construed as waiving any applicable objection.

INTERROGATORIES

Interrogatory No. 1. Identify the volume of railroad traffic handled by PORT in 2010.

Response:

Interrogatory No. 2. Identify the parties that use PORT's current services.

Response:

Richard Best Transfer, Inc. ("RBT"), Sierra Feeds, ALW, Miramonte Sanitation, and Dinuba Energy

Interrogatory No. 3. Describe the current service that PORT provides to the shippers along its railroad track.

Response:

The PORT (contracting thru RBT) receives over 3000 railcars per year, mostly for offloading of various agricultural commodities. It then stores, inventories, warehouses, and even containerizes this product in some instances. RBT loads the product into trucks and then the product is shipped directly to end users. Containers are shipped to California Coastal Ports.

Interrogatory No. 4. Describe the billing process that PORT uses to be compensated for the current service it provides.

Response:

The PORT bills or invoices monthly to users. These users have monthly lease payments which incorporate services in their monthly lease payments.

Interrogatory No. 5. Describe the billing process that PORT proposes to use to be compensated for the common carrier service it proposes to provide in the event the Notice becomes effective.

Response:

The PORT will continue to provide services to its users which will be incorporated in their monthly lease rates.

Interrogatory No. 6. Is the railroad track that PORT currently operates in a class I or nonattainment area under the Clean Air Act as that term is used in 49 C.F.R. 1105.7(e)(5)(ii)?

Response:

Not to the PORT's knowledge. The entire Port area is zoned M-2 - Heavy industry and currently has a 13 Mega-watt co-gen facility located on the adjacent property which the PORT provides water and scales services to.

Interrogatory No. 7. Identify the volume of railroad traffic that the PORT expects to handle for the common carrier service it proposes to provide in the event the Notice becomes effective.

Response:

At least the same amount of railcars handled the previous year. The PORT would like to grow this railcar volume to eventually exceed 5000 to 6000 railcars annually.

Interrogatory No. 8. Identify the employee of SJVR who provided the information to PORT, which provides the basis for PORT's statement on page 4 of the Notice that: "SJVR has orally indicated that it has no objection to Port's initiation of common carrier rail service." Identify the date that the information was provided.

Response:

Randy Perry, GM of the SJVR, had a conversation with Richard Best of Richard Best Transfer, who is also one of the owners of the Port of Ivory. This conversation took place approximately 45-days ago and it was Mr. Best explaining to Mr. Perry the reasons for the application. Also, Chuck Littlefield wrote a letter to Mr. Perry and Mr. Larry Gomez, VP Marketing RA, informing them of our application and reasons behind it and received no opposition to it. To this date,

neither Mr. Perry nor Mr. Gomez has indicated, in any way, that they oppose our application and our reasoning. *See* the attached affidavit of Charles Littlefield dated March 21, 2011.

Interrogatory No. 9. Describe the operations that the PORT proposes to conduct in order to provide “numerous rail moves a day” to RBT Inc., as described in the support letter from RBT Inc. in Exhibit F attached to the Notice.

Response:

The PORT plans to receive 100-car unit trains for ADM that will be coming to RBT for offloading. The PORT will then switch the loaded railcars from the storage rail tracks to the unloading tracks. RBT will then unload the railcars. Once the railcars are unloaded, they will then be switched back to the storage tracks and released to the SJVR for pick-up and further handling back to the Class I railroad.

DOCUMENT REQUESTS

Request for Production No. 1. Produce a map of the railroad track currently operated by PORT, without all of the auxiliary tracks that have not been constructed that appear in Exhibit A attached to the Notice.

Response:

Attached hereto.

Request for Production No. 2. Produce all 12 pages of the document containing the map contained in Exhibit A attached to the Notice.

Response:

The document containing one page marked “12” is the last page of a six page excerpt from SJVR’s employee timetable. It is a pdf document identified as “Port of Ivory SJVR Exeter Sub.”

Request for Production No. 3. Please produce all documents identified in PORT’s Answers to SJVR’s Interrogatories or Admission Requests or used to prepare those answers.

Response:

Attached hereto.

REQUESTS FOR ADMISSIONS

Admission No. 1. Admit or deny that PORT has filed a request for authority with the STB for the construction referred to in the Notice on pages 3-4.

Response:

Deny. PORT admits that it would operate the existing trackage identified in the map submitted hereto and would construct additional trackage. Under longstanding agency precedent no regulatory authority is required for the construction of such additional trackage where that trackage is merely in the nature of an improvement of rail facilities and does not entail any sort of extension that penetrates or invades a new market. *See, e.g., Texas & Pac. Ry. v. Gulf, Etc., Ry.*, 270 U.S. 266, 278 (1925) and *City of Detroit v. Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208, 1216 (1993), *aff’d sub nom. Detroit/Wayne County Port Authority v. ICC*, 59 F.3d 1314 (D.C. Cir. 1995).

Admission No. 2. Admit or deny that PORT has entered an agreement with SJVR to enter SJVR’s property at the location identified as “New Track 1” on the map attached to the Notice as Exhibit A.

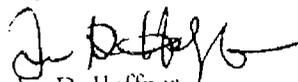
Response:

Deny. RBT (as contracted by the Port of Ivory) is currently providing the switching services and RBT has an Industry Track Agreement with the SJVR. PORT does not intend to switch any cars on SJVR property and will make all movements within its own facility unless a different arrangement is negotiated with the SJVR.

Admission No. 3. Admit or deny that the Charles Littlefield who executed the Certification in Exhibit C attached to the Notice is the same person who signed the letter from RBT Inc. in Exhibit F attached to the Notice.

Response: Admit.

Respectfully submitted,


John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
202-296-3334

Dated: March 23, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served electronically on counsel for San Joaquin Valley Railroad Company this 23rd day of March 2011.


John D. Heffner

EXHIBIT 3-MAP

EXHIBIT 4-AGREEMENT

INDUSTRY TRACK CONTRACT
ARTICLES OF AGREEMENT

THIS AGREEMENT is made and entered into as of the 14th day of January, 2011, by and between **SAN JOAQUIN VALLEY RAILROAD CO.**, a California corporation, to be addressed at 221 North F Street, Exeter, California 93221 (hereinafter the "Railroad"), and **RICHARD BEST TRANSFER INC.**, a California corporation, to be addressed at 1630 E. Manning #312, Reedley, CA 93654 (hereinafter the "Industry").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. **CONTINUED USE OF TRACK**

The Industry desires the continued maintenance, operation and use of Track "A" consisting of approximately 773 feet of track, 630 feet of track owned by the Industry and approximately 143 feet of track owned by the SJVR; and Track "B" consisting of approximately 1,632 feet of track, 1,489 feet of track owned by the Industry and approximately 143 feet of track owned by the SJVR, (hereinafter the "Track"), at or near Ivory, CA, as shown on the print, marked **Exhibit A**, hereto attached and hereby made a part hereof. The Track shall not be used for the storage and handling of cars containing hazardous materials.

Article 2. **TRACK IDENTIFICATION MARKERS**

For the purpose of this Agreement, the following segments of the Track shall be identified as follows:

1. the initial switch connection or sometimes referred to as the point of switch. The switch connection referred to in this agreement is shown on Exhibit "A" for Track "A" consisting of 143 feet of track; Track "B" consisting of two (2) switches with the north switch consisting of 143 feet of track and the south switch consisting of 143 feet of track.
2. the initial clearance point of the Track. It is the point on the Track where a rail car either being moved or stored on the Track will not interfere with the movement of other rail cars on adjacent main, branch or lead trackage owned by the Railroad. The clearance point to the end of Industry track referred to in this agreement is shown on Exhibit "A" for Track "A" consisting of 630 feet of track and Track "B" consisting of 1,489 feet of track.

Article 3. **OWNERSHIP OF THE TRACK**

- A. The Railroad shall own the following portions of the Track:

Track "A" approximately 143 feet of track
Track "B" approximately 143 feet of track to the north and 143 feet of track to the south.

B. The Industry shall own the following portions of the Track:

Track "A" 630 feet of track
Track "B" 1,489 feet of track

Article 4. RIGHT OF WAY AND PRIVILEGE

The Industry shall procure any needed right-of-way, public authority or permission for construction, maintenance and operation of the Track outside the limits of the Railroad's right-of-way. The Industry shall pay any fees or costs imposed by any public authority or person for the privilege of constructing, maintaining and operating the Track

Article 5. GRANT OF RIGHT AND USE AND OPERATION OF THE TRACK

(a) Subject to the terms and conditions set forth in this Agreement, the Railroad hereby grants to Industry the right to use, operate, maintain, repair and reconstruct the portion of the Track located on Railroad's right of way.

(b) The Railroad, at its own risk, shall operate the Track subject to any applicable tariffs or rail transportation contracts and the terms of this Agreement, but the Railroad shall not be obligated to operate or maintain the Track (and the Industry shall not have any claim against the Railroad) if the Railroad is prevented or hindered from doing so by the Industry's breach or by acts of God, public authority, strikes, riots, labor disputes, or other cause beyond its control. The Railroad shall have the right to use the Track when not to the detriment of the Industry. If the parties cannot agree as to the responsibility, then the SJVR is not liable for any interruption in service until the issue is resolved.

(c) The use and operation of the Track shall also be in accordance with the terms and conditions set forth in **Exhibit B**, hereto attached and hereby made a part hereof.

Article 6. MAINTENANCE OF THE TRACK STRUCTURE,
(RAIL, TIES, BALLAST, OTHER TRACK MATERIAL)

- A. The Railroad, at its expense with the exception of Article 13, shall maintain the portion of the Track located from the point of switch.
- B. The Industry shall maintain the portion of the Track from the gate to the end-of-track.

Article 7. MAINTENANCE OF RIGHT OF WAY AND TRACK APPURTENANCES

- A. The Railroad, at its expense with the exception of Article 13, shall maintain the portion of the Track from the switch connection to the clearance point. The Railroad, at Industry's expense, shall also maintain any automatic signal system activated by rail operations on the Track.
- B. The Industry, at its expense, shall perform the following maintenance from the clearance point to the end of the Track:
 - 1. Remove snow, ice, sand and other substances and maintain drainage and grading as needed to permit safe operation over the Track.
 - 2. Maintain all appurtenances to the Track (other than an automatic signal system), including without limitation, gates, fences, bridges, under track unloading pits, loading or unloading devices and warning signs above, below or beside the Track.

Article 8. MAINTENANCE BY INDUSTRY TO CONFORM TO RAILROAD STANDARDS, OTHER PROVISIONS PERTAINING TO MAINTENANCE

- A. Maintenance and repairs and also any track construction performed by the Industry shall conform to the Railroad's standards. If, in the judgment of the Railroad, any portion of the Track is non-conforming and/or unsafe for railroad operations, the Railroad shall not be obligated to operate over the Track.
- B. The Railroad (at the Industry's expense) shall have the right (but not be required) to perform maintenance and repairs on the portion of the Track (if any) owned by the Industry when requested by the Industry or when necessary to operate the Track safely.

Article 9. TERM

This Agreement shall take effect as of the date of this Agreement and shall continue in full force and effect until terminated as provided in **Exhibit B**.

Article 10. CONSENT OF THE RAILROAD TO CERTAIN FACILITIES OR OPERATIONS

NOT APPLICABLE

Article 11. INSURANCE

- A. The Industry, at its expense, shall obtain the insurance described in **Exhibit C** hereto attached and hereby made a part hereof, and provide a certificate or certificates of insurance certifying to the effectiveness of such insurance to the person named in Paragraph C below.

B. If the Industry will be using the Track to store and/or handle hazardous materials, the Industry, in addition to the other endorsements to be obtained by Industry as provided in **Exhibit C**, must also ensure that the Commercial General Liability insurance policy contains a Designated Premises Pollution Coverage (CG00-39) endorsement. Evidence of the endorsement must also be indicated on the certificate of insurance that is provided to Railroad.

C. All insurance certificates and correspondence shall be addressed and sent to:

SAN JOAQUIN VALLEY RAILROAD
RailAmerica, Inc.
Real Estate Department
7411 Fullerton Street, Suite 110
Jacksonville, Florida 32256

Article 12. MULTIPLE SHIPPER TRACK RIGHTS

NOT APPLICABLE

Article 13. SWITCH MAINTENANCE FEE

For the purposes of this Agreement, the parties hereto agree that the doing of business in an active and substantial manner over the Track shall require the Railroad to perform inspections and maintenance of the switch and switch connection. The switch connection consists of that portion of the Track from the point of switch to the clearance point. The Maintenance Fee in the amount of \$2,500.00 per switch shall be paid annually in advance, beginning with the commencement date of any applicable respective Twelve-Month Period and shall continue to be paid in advance for any subsequent Twelve-Month Period by the Industry for each annual term of this Agreement. The aforesaid Maintenance Fee is the Railroad's current system wide minimum charge and the Railroad may adjust it at twelve-month (or greater) intervals to reflect the Railroad's then-current rate used system wide. *NOTE: RBT has three (3) switches but the SJVR has agreed to only charge for one (1) switch until otherwise agreed upon by both parties at a later date.

Article 14. ADMINISTRATIVE HANDLING CHARGE

Upon execution and delivery of this Agreement, the Industry shall pay to the Railroad an administrative handling charge of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00). The SJVR has agreed to waive this charge.

Article 15. TERMINATION OF PRIOR AGREEMENT

NOT APPLICABLE

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

SAN JOAQUIN VALLEY RAILROAD CO

By: Michael Bayley

Title: AVP Real Estate

Date: 2/1/11

RICHARGE BEST TRANSFER INC.

By: Chuck Littlefield

Print Name: Chuck Littlefield

Title: Chief Operating Officer

Date: January 14, 2011

EXHIBIT B

Section 1. SAFETY.

(a) Clearances/Impairments. The Industry shall not permit or maintain any building, platform, fence, gate, vehicle, or other structure, obstruction or material of any kind, closer to the Track than the standard clearances of the Railroad without the prior written consent of the Railroad. The standard clearances of the Railroad are (i) horizontally, nine feet from the centerline of the Track, and (ii) vertically, twenty-seven feet above the top of the rail of the Track. For any portion of the Track that is curved, the standard horizontal clearance shall be increased one and one-half inches for each degree of curvature. All doors, windows and gates shall be of the sliding type or open away from the Track if opening them toward the Track would impair clearances. Any moveable appliance, including, but not limited to, dock plates and loading or unloading spouts or equipment, that impairs the standard clearances only when in use, shall be securely stored or fastened by the Industry when not in use so as to not impair such clearances. If greater clearances are required by the National Electrical Safety Code or by statute, regulation or other competent public authority, the Industry shall comply therewith and shall obtain any necessary public authority and Railroad consent to impair clearances before creating an impairment. Any structure, material or other obstruction (whether in use or not) which is closer to the Track than the Railroad's standard clearances or applicable public authority, whichever distance is greater, shall be considered an impairment, whether or not consented to or permitted by the Railroad or public authority.

(b) Facilities. The Industry shall not construct, locate, maintain or permit the construction or erection of any pits, loadout facilities, buildings, private crossings, beams, pipes, wires, or other obstructions or installations of any kind or character (hereinafter "Facilities") over or under the Track without the prior written consent of the Railroad.

(c) Walkways. The Industry, at its expense, shall provide and maintain a clear and safe pathway for Railroad employees along both sides of the Track beyond the clearance point. If walkways are required by statute or regulation, the Industry, at its expense, shall ensure that walkways are built and maintained to conform with such statute or regulation.

(d) Industry to Train and Oversee Employees. The Industry shall have a non-delegable duty and responsibility to train and oversee its employees and agents as to proper and safe working practices while performing any work in connection with this Agreement, or any work associated with the Railroad serving the Industry over the Track.

(e) Intraplant Switching. The Railroad hereby consents to the performance by the Industry of intra plant switching. Intraplant switching means the movement of rail cars on the Track by the Industry by any method and includes the Industry's capacity to move rail cars, whether before, during or after any such movement.

(f) Standards. The Industry shall comply with all applicable ordinances, regulations, statutes, rules, decisions and orders including, but not limited to, safety, zoning, air and water quality, noise, hazardous substances and hazardous wastes (hereinafter "Standards") issued by any federal, state or local governmental body or agency (hereinafter "Authority"). If the Industry is not in full compliance with any Standards issued by any authorized Authority, the Railroad, after notifying the Industry of its noncompliance and the Industry's failure within twenty days of such notice to correct such noncompliance, may elect to take whatever action is necessary to bring the Track and any Railroad property into compliance with such Standards; PROVIDED, HOWEVER, that if Industry's failure to comply with Standards interferes with, obstructs or endangers Railroad

mainline or yard operations in any way, Railroad may initiate compliance action immediately. The Industry shall reimburse the Railroad for all costs (including, but not limited to, consulting, engineering, clean-up, disposal, legal costs and attorneys' fees, fines and penalties) incurred by the Railroad in complying with, abating a violation of, or defending any claim of violation of such Standards. A waiver by the Railroad of the breach by the Industry of any covenant or condition of this Agreement shall not impair the right of the Railroad to avail itself of any remedy for any subsequent breach thereof.

(g) Railcars Containing Hazardous Materials. If the Industry uses the Track for the purpose of shipping, receiving or storing railcars containing hazardous materials, as defined by the Department of Transportation (the "DOT"), the Industry will comply with and abide by all DOT regulations as set out in 49 Code of Federal Regulations, Parts 100-199, inclusive, as amended from time to time, and provisions contained in applicable Circular's of the Bureau of Explosives, Association of American Railroads, including any and all amendments and supplements thereto. The term "Standards" defined in Section 1(f) shall include (but is not limited to) regulations referenced in this subsection (g).

(h) Telecommunications and Fiber Optic Cable Systems. Telecommunications and Fiber optic cable systems may be buried on the Railroad's property. Industry shall determine if telecommunications or fiber optic cable are buried anywhere on the Railroad's premises to be used by the Industry. If it is, Industry will telephone the telecommunication company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the cable and will commence no work on Railroad's property until all such protection or relocation has been accomplished.

(i) Fire Precautions. Industry shall not permit, place, pile, store, or stack any flammable material within 10 feet of centerline of the Track. Industry shall remove or otherwise control vegetation adjacent to the Track so that it does not constitute a fire hazard. Industry shall ensure that suitable firefighting equipment is available and in working order.

(j) Notice and Flagging. Prior to entering Railroad's right of way or other property for the purpose of performing any maintenance, repair, or reconstruction of the Track as set forth in this Agreement, and/or constructing additional track segments connecting to the Track, the Industry and/or its contractors are required to first notify the Railroad's local Manager of Track Maintenance at least ten (10) working days in advance of such work so that the Railroad can determine if flagging and/or other protection is needed. If Railroad deems that flagging and/or other protection is needed, no work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicles(s), or thing(s) shall be located, operated, placed, or stored within 25 feet of the Track or any other track of Railroad at any time, for any reason, unless and until a Railroad flagman is provided to watch for trains. If flagging or other special protective or safety measures are performed by the Railroad, such services will be provided at Industry's expense with the understanding that if the Railroad provides any flagging or other services, the Industry shall not be relieved of any of its responsibilities or liabilities set forth herein. Industry shall promptly pay to Railroad all charges connected with such services within 30 days after presentation of a bill. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight hour day for the class of flagman used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and Unemployment Compensation, supplemental pension, Employer's Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect on the day that the flagging is provided. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays; two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Railroad and its employees, and may be retroactive as a result of negotiations or a ruling of an

authorized Governmental Agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, the Industry shall pay on the basis of the new rates and charges. Reimbursement to the Railroad will be required covering the full eight hour day during which any flagman is furnished, unless the flagman can be assigned to other Railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Railroad work. Reimbursement will also be required for any day not actually worked by said flagman following the flagman assignment to work on the project for which the Railroad is required to pay the flagman and which could not reasonably be avoided by the Railroad by assignment of such flagman to other work, even though the Industry and/or Industry's contractors may not be working during such time. When it becomes necessary for the Railroad to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Industry or Industry's contractors must provide the Railroad a minimum of five (5) days notice prior to the cessation of the need for a flagman. If five (5) days notice of cessation is not given, the Industry will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days notice must then be given to the Railroad if flagging services are needed again after such five (5) day cessation notice has been given Railroad.

SECTION 2. LIABILITY.

(A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "RAILROAD": SAN JOAQUIN VALLEY RAILROAD CO.

(2) "INDUSTRY": RICHARD BEST TRANSFER INC.

(3) "PARTY": THE RAILROAD OR THE INDUSTRY.

(4) "THIRD PERSON": ANY INDIVIDUAL, CORPORATION OR ENTITY OTHER THAN THE RAILROAD OR THE INDUSTRY.

(5) "LOSS" MEANS LOSS OF OR DAMAGE TO THE PROPERTY OF ANY THIRD PERSON OR PARTY AND/OR INJURY TO OR DEATH OF ANY THIRD PERSON OR PARTY. "LOSS" SHALL ALSO INCLUDE, WITHOUT LIMITATION, THE FOLLOWING ASSOCIATED EXPENSES INCURRED BY A PARTY: COSTS, EXPENSES, THE COST OF DEFENDING LITIGATION, ATTORNEYS' FEES, EXPERT WITNESS FEES, COURT COSTS, THE AMOUNTS PAID IN SETTLEMENT, THE AMOUNT OF THE JUDGMENT, AND PRE-JUDGMENT AND POST-JUDGMENT INTEREST AND EXPENSES ARISING FROM ANALYSIS AND CLEANUP OF ANY INCIDENT INVOLVING THE RELEASE OF HAZARDOUS SUBSTANCES OR HAZARDOUS WASTES.

(B) EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, ALL LOSS RELATED TO THE CONSTRUCTION, OPERATION, MAINTENANCE, USE, PRESENCE OR REMOVAL OF THE TRACK SHALL BE ALLOCATED AS FOLLOWS:

(1) THE RAILROAD SHALL INDEMNIFY INDUSTRY FROM AND AGAINST LOSS ARISING FROM OR GROWING OUT OF THE NEGLIGENT ACTS OR OMISSIONS OF THE RAILROAD.

(2) THE INDUSTRY SHALL INDEMNIFY RAILROAD FROM AND AGAINST LOSS ARISING FROM OR GROWING OUT OF THE NEGLIGENT ACTS OR OMISSIONS OF THE INDUSTRY OR ARISING FROM:

(I) ANY IMPAIRMENT OF THE TRACK BY INDUSTRY AS DESCRIBED IN SECTION 1 (A);

(II) THE INDUSTRY'S FAILURE TO CONSTRUCT OR ADEQUATELY MAINTAIN PATHWAYS OR WALKWAYS AS REQUIRED BY SECTION 1 (C);

(III) INTRAPLANT SWITCHING AS DEFINED BY SECTION 1 (E);

(IV) THE INDUSTRY'S FAILURE TO COMPLY WITH STANDARDS, AS REQUIRED BY SECTION 1 (F); OR

(V) ANY EXPLOSION OR LEAKAGE OR EVAPORATION OF HAZARDOUS SUBSTANCES OR HAZARDOUS WASTES SHIPPED, RECEIVED OR STORED BY INDUSTRY RESULTING FROM INDUSTRY'S FAILURE TO COMPLY WITH DOT AND OTHER APPLICABLE REGULATIONS AS SET FORTH IN SECTIONS 1(F) AND 1(G) OF EXHIBIT B.

(3) SUBSECTION 2(B)(2), SUBPARAGRAPHS (I) THROUGH (V), APPLY REGARDLESS OF WHETHER THE RAILROAD HAD NOTICE OF, CONSENTED TO, OR PERMITTED THE AFORESAID IMPAIRMENTS, FAILURES, NON-COMPLIANCE WITH STANDARDS, WASTES OR SUBSTANCES, AND WHETHER OR NOT THE RAILROAD OR A THIRD PERSON CONTRIBUTES TO CAUSE THE LOSS.

(4) EXCEPT AS OTHERWISE MORE SPECIFICALLY PROVIDED IN THIS AGREEMENT, RAILROAD AND INDUSTRY SHALL PAY EQUAL PARTS OF THE LOSS THAT ARISES OUT OF THE JOINT OR CONCURRING NEGLIGENCE OF THE RAILROAD AND THE INDUSTRY, WHETHER OR NOT THE ACTS OR OMISSIONS OF A THIRD PERSON CONTRIBUTE TO CAUSE THE LOSS; PROVIDED, HOWEVER, THAT NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS IMPAIRING THE RIGHT OF EITHER PARTY TO SEEK CONTRIBUTION OR INDEMNIFICATION FROM A THIRD PERSON.

(5) INDUSTRY EXPRESSLY AND SPECIFICALLY ASSUMES POTENTIAL LIABILITY UNDER THIS SUBSECTION (B) FOR CLAIMS OR ACTIONS BROUGHT BY INDUSTRY'S OWN EMPLOYEES. INDUSTRY WAIVES ANY IMMUNITY IT MAY HAVE UNDER WORKER'S COMPENSATION OR INDUSTRIAL INSURANCE ACTS TO INDEMNIFY RAILROAD UNDER THIS SUBSECTION (B). INDUSTRY ACKNOWLEDGES THAT THIS WAIVER WAS MUTUALLY NEGOTIATED BY THE PARTIES HERETO.

(6) NO COURT OR JURY FINDINGS IN ANY EMPLOYEE'S SUIT PURSUANT TO ANY WORKER'S COMPENSATION ACT OR THE FEDERAL EMPLOYER'S LIABILITY ACT AGAINST A PARTY TO THIS AGREEMENT MAY BE RELIED UPON

OR USED BY INDUSTRY IN ANY ATTEMPT TO ASSERT LIABILITY AGAINST RAILROAD.

Section 3. REARRANGEMENT OF TRACK; ADDITIONAL TRACKAGE.

(a) The Railroad may rearrange or reconstruct the Track or modify its elevation in order to develop or change nearby Railroad property or tracks, provided that the Industry shall continue to have similar trackage without additional cost to the Industry. If, however, the change in the Track, or its appurtenances, is required by or as a result of any law, ordinance, regulation, or other contingency over which the Railroad has no control, the Industry shall bear the cost of the change.

(b) All references in this Agreement to Track shall apply to the Track as constructed, even if it differs or varies from its depiction on Exhibit A. References in this Agreement to Track shall also apply to rearrangements, reconstructions, extensions or additions to the Track.

Section 4. PAYMENT OF BILLS; ASSIGNABLE COSTS.

(a) Bills for expenses properly chargeable to the Industry pursuant to this Agreement shall be paid by the Industry within thirty days after presentation by the Railroad except as otherwise provided. Bills not paid within thirty days shall be subject to interest at the then current rate charged by the Railroad.

(b) "Cost" or "expense" for the purpose of this Agreement shall be all assignable costs and expenses including all current Railroad cost additives. Material shall be charged at its current value when and where used. Assignable costs are any costs incurred by the Railroad that are directly or indirectly attributable to the construction, maintenance or operation of the Track that the Railroad has not specifically agreed to pay under the terms of this Agreement.

Section 5. GOVERNMENTAL RESTRICTIONS.

This Agreement is made subject to all applicable laws, rules and regulations of the United States Government or any state, municipal, or local governmental authority now or hereafter in effect.

Section 6. TERMINATION.

(a) If the Industry does not use the Track in an active and substantial way for the movement of a minimum of ten (10) cars within any twelve (12) month period to or from the track, yielding road haul revenue to the Railroad, or if the Industry continues in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Railroad to the Industry specifying such default, the Railroad may, at its option, forthwith terminate this Agreement and all rights of the Industry hereunder; PROVIDED, however, that if a default by the Industry is deemed by the Railroad to be unusually dangerous or hazardous, the Railroad may immediately suspend its performance under this Agreement during the thirty day default cure period and terminate this Agreement at the end of such period if there is no cure. No further notice of such termination or declaration of forfeiture shall be required and the Railroad may at once reenter upon the premises and repossess itself thereof and remove all persons therefrom or may resort to an action of forcible entry and detainer, or any other action, to recover the same (including, without limitation, removal of the Track owned by the Railroad). The Railroad will continue to live up to its common carrier obligations required by applicable laws.

(b) Notwithstanding subparagraph (a) above, this Agreement may be terminated by either party on thirty (30) days' written notice to the other party at that party's last known address.

(c) Termination of this Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liabilities, accrued or otherwise, which may have arisen prior thereto.

Section 7. SURRENDER UPON TERMINATION.

Upon termination of this Agreement howsoever, the Industry shall vacate and surrender the quiet and peaceable possession of any right-of-way or other property owned, leased or controlled by the Railroad upon which the Track is located. The Railroad shall have the right to remove the portion of the Track it owns. Not later than the last day of the term of this Agreement, the Industry, at its sole cost and expense, shall (a) remove from the Railroad's right-of-way or other property all (i) portions of the Track owned by the Industry, (ii) obstructions, (iii) contamination caused by or arising from the use of the Track for purposes of the Industry, Facilities (as defined in Section 1(b)) and other property not belonging to the Railroad or a third party, located thereon and (b) restore the Railroad's right-of-way to as good a condition as the same was in before the date of this Agreement. If the Industry fails to perform such removal and restoration, or if the work performed by the Industry is not satisfactory to the Railroad, the Railroad may perform the work at Industry's expense. Any portion of the Track owned by Industry and not removed as provided herein may, at Railroad's election, be deemed abandoned and Railroad, at Industry's sole cost and expense, may remove such portion(s) of the Track from Railroad's property and dispose of same and restore Railroad's property. If Railroad performs such track removal and/or disposal, the Industry agrees to reimburse the Railroad, within thirty (30) days of its receipt of billing from the Railroad, for all costs and expenses incurred by Railroad (less any resulting salvage value) in connection therewith.

Section 8. NOTICES.

(a) Any notice, consent or approval that either party hereto desires or is required to give to the other party under this Agreement shall be in writing. The notice, consent or approval shall be deemed to have been given to the Industry by serving the Industry personally or by mailing the same, postage prepaid, to the Industry at the last address known to the Railroad. Notice may be given to the Railroad by mailing the same, postage prepaid to RailAmerica, Inc., Real Estate Department, 7411 Fullerton Street, Suite 110, Jacksonville, Florida 32259.

(b) Notices involving a notice of default or termination shall be by certified mail, return receipt requested, and such notice shall be deemed given on the date deposited with the United States Postal Service.

Section 9. ASSIGNMENT; USE BY THIRD PARTIES.

The Industry shall not assign this Agreement or permit use of the Track by anyone other than the Industry without the prior written consent of the Railroad. The Industry shall notify the Railroad in writing of any assignment to an affiliate prior to the effective date of the assignment. For any departure from the terms of this Section, the Railroad may terminate this Agreement. The Railroad shall not unreasonably withhold its consent to an assignment of this Agreement.

Section 10. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 9, the rights and obligations contained in this Agreement shall pass to and be binding upon the heirs, executors, administrators, successors and assigns of the parties to this Agreement.

EXHIBIT C

**SAN JOAQUIN VALLEY RAILROAD CO
CONTRACT INSURANCE REQUIREMENTS**

Industrial Track

Industry shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. **Commercial General Liability** insurance. This insurance shall contain broad form contractual liability with a single limit of at least \$3,000,000 each occurrence or claim and an aggregate limit of at least \$3,000,000. Coverage must be purchased on a post 1998 ISO or equivalent form, including, but not limited to, coverage for the following:

- Bodily injury including death and personal injury
- Property damage
- Fire legal liability (Not less than the replacement value of the portion of the premises occupied)
- Products and completed operations

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- "For purposes of this insurance, Railroad or Union Pacific Railroad payments related to the Federal Employers Liability Act or a Railroad or Union Pacific Railroad Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers' Compensation, disability benefits, or unemployment compensation law or similar law."
- The exclusions for railroads and explosion, collapse and underground hazard shall be removed.
- Coverage for Railroad's employees shall not be excluded
- Waiver of subrogation

B. **Business Automobile Coverage** insurance. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence or claim, including, but not limited to, coverage for the following:

- Bodily injury and property damage

- Any and all motor vehicles including owned, hired and non-owned

The policy shall also contain the following endorsements **which shall be indicated on the certificate of insurance:**

- "For purposes of this insurance, Railroad or Union Pacific Railroad payments related to the Federal Employers Liability Act or a Railroad or Union Pacific Railroad Wage Continuation Program or similar programs are deemed not to be either payments made or obligations assumed under any Workers' Compensation, disability benefits, or unemployment compensation law or similar law."
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90)

C. **Workers Compensation and Employers Liability** insurance including but not limited to:

- Industry's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit, \$500,000 each employee

If Workers' Compensation insurance will not cover the liability of Industry in states that require participation in state workers' compensation fund, Industry shall comply with the laws of such states. If Industry is self-insured, evidence of state approval must be provided along with evidence of excess workers compensation coverage. Coverage shall include liability arising out of the U.S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if application. The policy shall also contain endorsement **which shall be indicated on the certificate of insurance:**

- Alternate Employer Endorsement

D. **Umbrella or Excess Policies** in the event Industry utilizes Umbrella or excess policies, these policies shall "follow form" and afford not less coverage than the primary policy.

Other Requirements

E. Punitive damage exclusion must be deleted, **which deletion shall be indicated on the certificate of insurance.**

F. Industry agrees to waive its right of recovery, and its insurers, through policy endorsement, agree to waive their right of subrogation against Railroad. Industry further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under its care, custody and control. Industry's insurance shall be primary with respect to any insurance carried by Railroad. All waivers of subrogation **shall be indicated on the certificate of insurance.**

G. All policy(ies) required above (excluding Workers' Compensation) shall provide severability of interests and shall name Railroad as an additional insured. **Severability of interest and naming Railroad and Union Pacific Railroad as additional insureds shall be indicated on the certificate of insurance.**

H. Industry shall furnish to Railroad original certificate(s) of insurance evidencing the required coverage,

endorsements, and amendments, and reference the contract audit/folder number if available. The certificate(s) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing of any cancellation or material alteration. **Upon request from Railroad, a certified duplicate original of any required policy shall be furnished.**

I. Any insurance policy shall be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state in which the Track is located.

J. Industry **WARRANTS** that this Agreement has been thoroughly reviewed by Industry's insurance agent(s)/broker(s), who have been instructed by Industry to procure the insurance coverage required by this Agreement and acknowledges that Industry's insurance coverage will be primary.

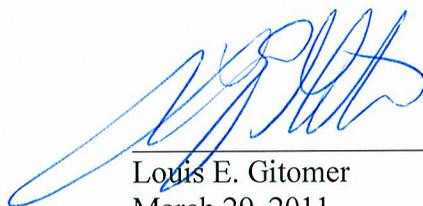
K. If Industry fails to procure and maintain insurance as required, Railroad may elect to do so at the cost of Industry plus a 25% administration fee.

L. The fact that insurance is obtained by Industry or Railroad on behalf of Industry shall not be deemed to release or diminish the liability of Industry, including, without limitation, liability under the indemnify provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of this Petition to Reject Notice of Exemption as Void *Ab Initio* upon the following representative of the Port of Ivory, LLC by electronic delivery.

John D. Heffner, Esq.
Law Offices of John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, DC 20006



Louis E. Gitomer
March 29, 2011