

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35491



SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION -
PETITION FOR DECLARATORY ORDER

_____ 229139

EXPEDITED CONSIDERATION REQUESTED

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**SURFACE
TRANSPORTATION BOARD**

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**SURFACE
TRANSPORTATION BOARD**

Dated: April 7, 2011

Attorneys for Santa Cruz County
Regional Transportation Commission

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 35491

**SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION –
PETITION FOR DECLARATORY ORDER**

The Santa Cruz County Regional Transportation Commission (“SCCRTC”) requests that the Board exercise its discretion under 49 USC §721 and 5 USC §554(e) to remove uncertainty, and declare that the transactions described herein among SCCRTC, Union Pacific Railroad Company (“UP”) and Sierra Northern Railway (“SERA”) are not subject to the Board’s regulatory authority, and that SCCRTC will not be subject to the Board’s regulatory authority as a carrier, under the Board’s precedents under *State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad*, 8 ICC 2d 835 (1991) (“*State of Maine*”) and its progeny.¹

BACKGROUND

SCCRTC is a public agency created under the laws of the State of California. California Government Code Sections 67940-67941. It is not a carrier, and does not wish to become a carrier. Among its purposes, SCCRTC was established to set priorities for major capital improvements to Santa Cruz County's transportation infrastructure, including highways, major roads, rail and alternative transportation facilities, to plan for future projects and programs to improve the regional transportation system while improving the region's quality of life, and to pursue and allocate funding for all elements of the region’s transportation system. SCCRTC has identified this UP corridor for freight rail preservation, and to allow the development of tourist

¹ SCCRTC recognizes that the Board would still have authority over the railroad line, and over the operator of the line as the freight common carrier. See *Friends of the Aquifer*, STB Finance Docket No. 33966 (served August 15, 2001), slip op. at 4.

excursions and other possible public uses. Discussions regarding the possible acquisition and operation of the corridor have been taking place for over 10 years. The project has now been approved by the California Transportation Commission, and State funds have been allocated for the acquisition.

SCCRTC proposes to acquire ownership of the physical assets comprising the UP line of railroad between the Santa Cruz Branch Milepost 0.433 (east boundary of Salinas Road) and Milepost 31.39 (250 feet north of the Highway 1 crossing at Davenport) in Santa Cruz County, California (the “Line”), but to leave the residual common carrier obligations with UP, and then SERA. A map of the Line is attached as Attachment 1. The acquisition will be made pursuant to a Purchase and Sale Agreement (“PSA”) between SCCRTC and UP, as amended. See Attachment 2 (PSA) and Attachment 3 (First Amendment to PSA). The Line is currently leased by UP to SERA. See *Sierra Northern Railway—Lease and Operation Exemption—Union Pacific Railroad Company*, STB Docket No. FD 35331 (served December 17, 2010). Under the PSA, UP would retain a perpetual, exclusive freight easement and all common carrier obligations with respect to the line.² PSA, §§ 2.2.1, 5.1, Ex. D. SCCRTC will not be acquiring the right to conduct any freight rail operations on the line, and will not hold itself out as ready or willing to do so.

At the closing, UP will assign its freight easement to SERA. PSA, §§6.8, 9.7. A draft of the assignment to be entered into by UP and SERA is attached hereto as Attachment 4. SERA has filed a separate notice with the Board to acquire the freight easement in STB Docket No. FD

² There is another carrier, Santa Cruz, Big Trees & Pacific Railway (“Big Trees”) that has trackage rights to operate over a portion of the Line. The trackage rights agreement is being assigned to SERA (see ACL AGREEMENT, note following Ex. C), and Big Trees will continue to have rights to operate over the Line as previously.

35490 (filed April 5, 2011). SERA will continue to provide all common carrier freight rail service after closing.

SERA and SCCRTC have entered into an Administration, Coordination and License Agreement (“ACL Agreement”) that will govern the relationship between SCCRTC and SERA as owner of the physical assets and operator, respectively. *See* Attachment 5. Under the retained freight easement and the ACL Agreement, SERA will have sufficient access and rights to fulfill its common carrier obligations.

A condition of closing under the PSA is the obtaining of a decision from the Board that the transactions to which SCCRTC is a party do not conflict with *State of Maine*, that the acquisitions by SCCRTC are not subject to the Board’s regulatory authority, and that SCCRTC will not become a carrier subject to the Board’s jurisdiction upon the consummation of the transactions. PSA §6.8.2. This Petition seeks such a ruling from the Board.

DISCUSSION

A. *State of Maine* Standards

The decision of the Interstate Commerce Commission in *State of Maine*, 8 ICC 2d at 836-37, generally provides that authorization is not required when only the physical assets will be conveyed, and the common carrier rights and obligations that attach to the line will not be transferred to the purchaser. The Board has recently reaffirmed this interpretation of 49 USC 10901 in a case involving the acquisition of the physical assets and associated right of way by the Florida Department of Transportation (“FDOT”) from CSX Transportation, Inc. (“CSXT”):

Under *State of Maine*, the key question is whether the terms and conditions governing FDOT’s acquisition of the Orlando Line assets and CSXT’s reservation of a freight easement meet the Board’s requirements for assuring that common carrier freight rail service can continue to be provided on these rail assets without interference.

Florida Department of Transportation – Acquisition Exemption – Certain Assets of CSX Transportation, Inc., STB Docket No. FD 35110 (served December 15, 2010), slip op. at 11. See also *Massachusetts Department of Transportation – Acquisition Exemption – Certain Assets of CSX Transportation, Inc.*, STB Docket No. FD 35312 (served May 3, 2009) (“*MassDOT*”).

Transactions in which the existing carrier transfers the physical assets to one party and the common carrier rights and obligations to another also qualify for *State of Maine* treatment. *Wisconsin Department of Transportation – Petition for Declaratory Order – Rail Line in Sheboygan County, WI*, STB Docket No. FD 35195 (served April 20, 2009) (“*WisDOT*”) at 3. See also, *The Port of Seattle – Acquisition Exemption – Certain Assets of BNSF Railway Company*, STB Docket No. FD 35128 (served October 27, 2008) at 3-4 (“[A]s long as the transferor retains, or the third-party transferee obtains, the common carrier rights and obligations along with sufficient contractual rights to meet those obligations, the acquisition of the right-of-way is not a transaction requiring Board authorization”).

The Board examines the facts of each proceeding on a case by case basis to determine whether the freight operator will have sufficient access to conduct existing and reasonably foreseeable freight operations to satisfy its common carrier obligations. *WisDOT* at 3. The operator’s rights do not need to be absolute. It is thus instructive to examine the types of restrictions that the Board and ICC have permitted.

The Board and ICC have approved over 60 transactions under the *State of Maine* standards and have permitted restrictions such as a role for the owner in approving transfer to another carrier because Board approval would be required, freight operating windows, the assumption by the owner of responsibility for maintenance and dispatching if operating procedures are reasonable. See *MassDOT* at 9-10, n. 22 -24. Term limits are acceptable so long

as the operator needs Board authorization to abandon or discontinue service (*Port of Seattle*, at 4-5 (permitting 10 year initial term; 10 year renewal)), as is a reserved right to consent to assignment. *MassDOT* at 14-15. Use of the property for other than freight service is also acceptable so long as the uses will not unduly interfere with the provision of freight service. *See FDOT* (commuter service in operating windows permitted); *Port of Seattle*, at 4-5 (future commuter service).

There are policy reasons why SCCRTC cannot, and is not willing to, act as a common carrier. *MassDOT* at 7. As discussed more fully in Section B below, any restrictions in the PSA and ACL Agreement will not interfere with the ability of SERA to continue to satisfy its common carrier freight rail operations on and over the Line. Further, allowing SCCRTC to acquire the physical assets relating to the Line as proposed will promote the oft stated public policy “to remove obstacles which might inhibit [governmental entities] from acquiring lines so that service can be continued.” *MassDOT* at 7 (citing *State of Maine and Common Carrier Status of States*, 363 ICC 132, 135 (1980), *aff’d sub nom. Simmons v. ICC*, 697 F.2d 326 (DC Cir 1982)).

B. The proposed transactions will not interfere with the provision of common carrier freight rail service on the Line.

SCCRTC is acquiring the Line to preserve freight rail service and to allow for the development of tourist excursions and other public uses of the property. It is clear from the PSA that UP is not transferring its common carrier rights or obligations to SCCRTC; UP is retaining an exclusive, perpetual rail freight easement by which it will continue to have the duties and the rights of a rail common carrier on the Line.³ SCCRTC will not hold itself out as willing or able

³ The form of deed with retained unrestricted freight easement is similar to those approved in other transactions. *See* PSA, Ex. D.

to perform the common carrier performing freight service. The exclusive freight easement reserved by UP will immediately be assigned to SERA, which is currently the common carrier lessee of the Line.⁴

The ACL Agreement acknowledges that SERA will be the sole provider of freight rail service on the Line. ACL Agreement, §2.1. SERA will have the full power to manage, direct and control all operations on the Line. SCCRTC has no authority to conduct or allow any other entity to conduct freight rail service over the Line.

While the ACL Agreement governs such issues as maintenance and property management, it does not allow for any interference with the ability of SERA to conduct its common carrier freight operations. Although SCCRTC will perform some initial rehabilitation to improve the Line (ACL Agreement, §5.1), SERA will be responsible for all maintenance. And while SCCRTC has reserved the right to make use of the property, it is clear that all such uses must be subordinate to the use of the property for freight service. ACL Agreement, §3.1. Further, SCCRTC can move or relocate the tracks to facilitate other uses, but it cannot materially interfere with SERA's ability to perform freight service. ACL Agreement, §§6.1, 6.2.

The ACL Agreement contemplates that there will be tourist excursion service provided on the Line. Initially, SERA will be given the opportunity to provide such service. ACL Agreement, §2.3.1. By providing such service, SERA clearly has the ability to make sure that the service will not interfere with its freight service obligations. Additionally, if SCCRTC were to grant additional tourist excursion service rights, such rights must be subordinate to SERA's freight service. ACL Agreement, §2.3.2. There are no tourist excursion or other windows created by the ACL Agreement that would limit SERA's freight operations.

⁴ As noted above, although SERA has authority to lease and operate the Line, it will be filing a new notice to acquire the freight easement.

The ACL Agreement provides for a term of ten years, and allows SCCRTC to terminate for certain defaults if not cured. ACL Agreement, §§8.1, 8.2. However, termination of service cannot take place until the STB has granted authorization for abandonment or discontinuance. ACL Agreement, §8.3.

None of the “restrictions” set forth in the ACL Agreement are any more restrictive than provisions previously approved by the Board and the ICC. *See* Section A above. Accordingly, the Board should find that SERA will have sufficient access to the Line to conduct its freight operations, and that no Board authorization is required for SCCRTC’s purchase of the physical assets comprising the Line.

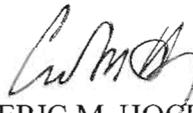
REQUESTED RELIEF

Based on the foregoing, SCCRTC hereby requests that the Board declare that the transactions described herein between SCCRTC on the one hand, and UP and SERA on the other, are not subject to the Board’s regulatory authority, and that SCCRTC will not be subject to the Board’s regulatory authority as a carrier, under the Board’s precedents under *State of Maine*.

EXPEDITED CONSIDERATION REQUESTED

SCCRTC is relying upon public funding in the form of grants from the California Transportation Commission. The funding has been approved and is currently available. Because of the vagaries of public funding and budgets, the parties wish to close the transactions as soon as possible. SERA's acquisition authority will be effective on May 5, 2011, and the parties seek to close when SERA's authority becomes effective, or as soon thereafter as possible.

Respectfully submitted,



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trost@motlaw.com
chrisman@motlaw.com

Dated: April 7, 2011

Attorneys for Santa Cruz County
Regional Transportation Commission

VERIFICATION

I, George Dondero, Executive Director of Santa Cruz County Regional Transportation Commission, verify under penalty of perjury that statements contained in the foregoing Petition for Declaratory Order are true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this Verification.

Executed on April 7, 2011.


George Dondero

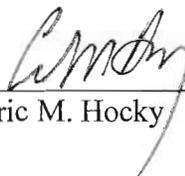
CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, I caused a copy of the foregoing Petition for Declaratory Order to be served electronically on Union Pacific Railroad Company and Sierra Northern Railway as follows:

David Magaw, President
Sierra Northern Railway
341 Industrial Way
Woodland, CA 95776
davemagaw@gmail.com

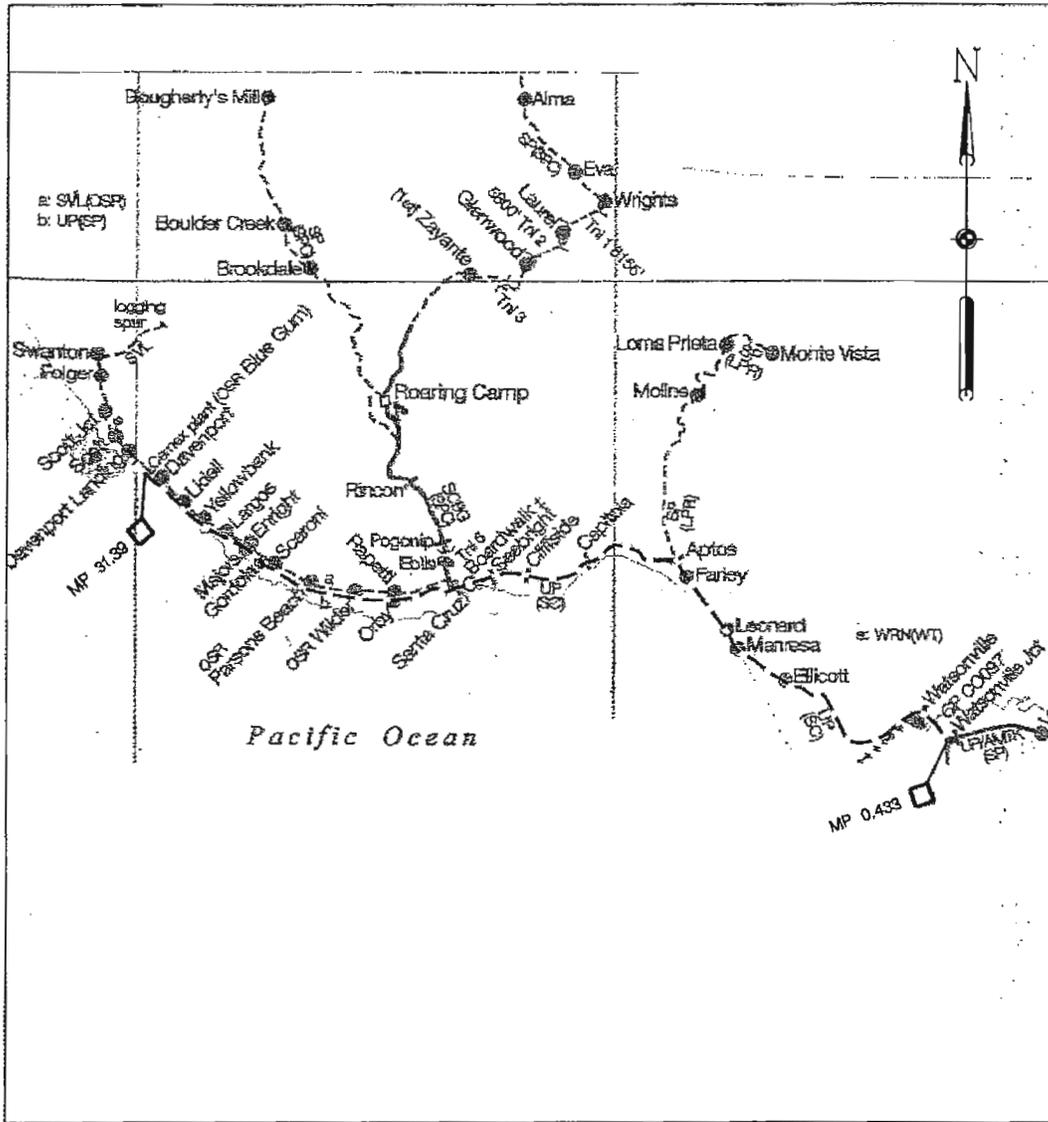
Mack H. Shumate, Jr.
Law Department
Union Pacific Railroad Company
101 North Wacker Drive
Suite 1920
Chicago, Illinois 60606
mackshumate@up.com

Dated: April 7, 2011


Eric M. Hocky

ATTACHMENT 1

MAP



NOT TO SCALE

LEGEND

MP 0.433 - 31.39

EXHIBIT "A"

UNION PACIFIC RAILROAD CO.

TO ACCOMPANY AGREEMENT WITH
 SIERRA NORTHERN RAILWAY
 WATSONVILLE JCT - DAVENPORT, CA.
 M.P. 0.433 - 31.39+ - SANTA CRUZ SUB.
 SP CA V72 /1-6 & V89 /1-7
 REAL ESTATE DEPARTMENT OMAHA NE.
 FILE #1728-03 DATE: 11-2-2009 T.D.A.

ATTACHMENT 2

PURCHASE AND SALE AGREEMENT

First American Title Company (“Escrow Holder”)
100 Spear Street, Suite 1600
San Francisco, California 94105
Attention: Kimberleigh Toci
Telephone: (415) 837-2251
Facsimile: (415) 398-1750

Escrow No. NCS-138073-SF

Date of Opening of
Escrow: _____

**PURCHASE AND SALE AGREEMENT
AND ESCROW INSTRUCTIONS**

THIS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the “**Agreement**”) is made as of August 20, 2010 (“**Execution Date**”), by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (“**Seller**”), and SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law (“**Buyer**”).

ARTICLE I – DEFINITIONS

The following capitalized terms are used in this Agreement with the following meanings:

“**Agreement**” is defined in the introductory paragraph above.

“**Assignment and Assumption Agreement**” is defined in Section 8.3.2.

“**Buyer**” means the Santa Cruz County Regional Transportation Commission.

“**Buyer’s Title Notice**” is defined in Section 6.1.

“**Close of Escrow**” is defined Section 8.2.1.

“**Closing**” is defined in Section 8.2.1.

“**Closing Date**” is defined in Section 8.2.1.

“**Confidentiality Agreement**” is defined in Section 12.22.

“**Condition of the Property**” is defined in Section 4.1.1.

“**Cost of Cancellation of Escrow**” is defined in Section 6.1.2.

“**Deed**” is defined in Section 5.1.

“**Disapproved Items**” is defined in Section 6.1.1.

“**Environmental Remediation**” is defined in Section 4.1.3.

**PURCHASE AND SALE AGREEMENT
AND ESCROW INSTRUCTIONS**

Between

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

SELLER

and

**SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION,
a public agency created under California law**

BUYER

RECORDED
AUG 05 2010
SOUR

First American Title Company ("Escrow Holder")
100 Spear Street, Suite 1600
San Francisco, California 94105
Attention: Kimberleigh Toci
Telephone: (415) 837-2251
Facsimile: (415) 398-1750

Escrow No. NCS-138073-SF
Date of Opening of
Escrow: _____

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "Agreement") is made as of May 6, 2010 ("Execution Date"), by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Seller"), and SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law ("Buyer").

ARTICLE I – DEFINITIONS

The following capitalized terms are used in this Agreement with the following meanings:

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"Buyer's Title Notice" is defined in Section 6.1.

"Close of Escrow" is defined Section 8.2.1.

"Closing" is defined in Section 8.2.1.

"Closing Date" is defined in Section 8.2.1.

"Confidentiality Agreement" is defined in Section 12.22.

"Condition of the Property" is defined in Section 4.1.1.

"Cost of Cancellation of Escrow" is defined in Section 6.1.2.

"Deed" is defined in Section 5.1.

"Disapproved Items" is defined in Section 6.1.1.

"Environmental Remediation" is defined in Section 4.1.3.

“**Escrow Holder**” means First American Title Company.

“**Execution Date**” is defined in the introductory paragraph on page 1 above.

“**Feasibility Review Period**” is defined in Section 6.2.

“**Governmental Requirements**” is defined in Section 8.7.

“**Grantee**” is defined in Exhibit D.

“**Grantor**” is defined in Exhibit D.

“**Leases and Other Agreements**” means those leases, licenses and other agreements described in Schedule 2 of Exhibit E.

“**Line**” is defined in Section 2.1.

“**Notices**” is defined in Section 12.9.

“**Opening of Escrow**” is defined in Section 8.1.

“**Permitted Exceptions**” is defined in Section 5.1.

“**Property**” is defined in Section 2.3.

“**Property Materials**” is defined in Section 4.1.1.

“**Purchase Price**” is defined in Section 3.1.

“**Rail Improvements**” is defined in Section 2.3.

“**Retained Rights**” is defined in Section 2.1.

“**Seller**” means Union Pacific Railroad Company.

“**Seller’s Affiliates**” is defined in Section 4.1.2.

“**Seller’s Cure Period**” is defined in Section 6.1.1.

“**Short Line Operator**” means the short line railroad operator selected by Seller and approved by Buyer to provide freight rail service to customers on the Line.

“**STB**” means the Surface Transportation Board.

“**Surviving Obligations**” is defined in Section 6.1.2.

"Title Contingency Date" is defined in Section 6.1.1.

"Title Company" means First American Title Company.

"Title Policy" is defined in Section 5.1.

"Title Report" is defined in Section 6.1.1.

ARTICLE II – PROPERTY

2.1 Agreement to Sell and Purchase. Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller all of Seller's right, title and interest in and to Seller's railroad right-of-way in Santa Cruz and Monterey Counties, California, extending from Santa Cruz Branch Milepost 0.433 (east boundary of Salinas Road) to Milepost 31.39, located two hundred fifty feet (250') north of the Highway 1 crossing at Davenport, all as shown on **Exhibit A** attached hereto (the "**Line**"), subject to the terms and conditions in this Agreement, any and all applicable federal, state and local laws, orders, rules and regulations, any and all outstanding rights of record or open and obvious on the ground, and all Permitted Exceptions as defined in Section 5.1, including, without limitation, the reservations described in Section 2.2 (the "**Retained Rights**").

2.2 Retained Rights. In the Deed (as defined in Section 5.1), Seller will except and reserve to itself and its successors and assigns, forever (except as otherwise provided in the easement reserved for freight railroad purposes), the following:

2.2.1 Freight Easement. An easement for freight railroad purposes upon, over, under, and across, the Line, as more particularly set forth in the Deed;

2.2.2 Strong Agreements.

(a) The existing eight inch (8") sanitary sewer pipeline and appurtenant facilities referred to in the following sentence, whether owned by Seller or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing eight inch (8") sanitary sewer pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the eight inch (8") sanitary sewer pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Seller's rights under the foregoing reservation of easement, Buyer, for itself, its successors and assigns, hereby covenants and agrees that Buyer shall not interfere with the rights of Seller's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Seller) and Holcomb Corporation dated July 27, 1990, identified in the records of Seller as Audit Number S211235,

and granting certain rights to said Licensee to use a portion of the Line for eight inch (8") sanitary sewer pipeline purposes. This reserved right is intended solely to permit Seller to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

(b) The existing eight inch (8") sanitary sewer pipeline and appurtenant facilities referred to in the following sentence, whether owned by Seller or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing eight inch (8") sanitary sewer pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the eight inch (8") sanitary sewer pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Seller's rights under the foregoing reservation of easement, Buyer, for itself, its successors and assigns, hereby covenants and agrees that Buyer shall not interfere with the rights of Seller's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Seller) and Holcomb Corporation dated July 27, 1990, identified in the records of Seller as Audit Number S211236, and granting certain rights to said Licensee to use a portion of the Line for eight inch (8") sanitary sewer pipeline purposes. This reserved right is intended solely to permit Seller to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

(c) The existing four inch (4") VCP sewer and four inch (4") copper water pipelines and appurtenant facilities referred to in the following sentence, whether owned by Seller or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing four inch (4") VCP sewer and four inch (4") copper water pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the four inch (4") VCP sewer and four inch (4") copper water pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Seller's rights under the foregoing reservation of easement, Buyer, for itself, its successors and assigns, hereby covenants and agrees that Buyer shall not interfere with the rights of Seller's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Seller) and James G. Speth dated March 19, 1980, identified in the records of Seller as Audit Number S204567, and granting certain rights to said Licensee to use a portion of the Line for four inch (4") VCP sewer and four inch (4") copper water pipeline purposes. This reserved right is intended solely to permit Seller to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

(d) The existing twenty-four inch (24") storm drain pipelines and appurtenant facilities referred to in the following sentence, whether owned by Seller or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing twenty-four inch (24") storm drain pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the twenty-four inch (24") storm drain pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Seller's rights under the foregoing reservation of easement, Buyer, for itself, its successors and assigns, hereby covenants and agrees that Buyer shall not interfere with the rights of Seller's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Seller) and Phillips Driscopipe, Inc. dated April 20, 1995, identified in the records of Seller as Audit Number S715469, and granting certain rights to said Licensee to use a portion of the Line for twenty-four inch (24") storm drain pipeline purposes. This reserved right is intended solely to permit Seller to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

2.3 Ownership of Rail Improvements. Ownership of all rail improvements on the Line that are owned by Seller, including without limitation, rails, ties, ballast, signals, switches and trestles and other rail appurtenances to the Line, if any ("**Rail Improvements**"), will be transferred to Buyer at the Closing by Bill of Sale in the form attached to this Agreement as **Exhibit B**. The Line and the Rail Improvements are collectively called the "**Property**".

2.4 Acquisition Under Threat of Condemnation. Buyer deems that it is necessary and proper, pursuant to California law, to acquire the Property for public purposes. Buyer represents that it is authorized and empowered to initiate proceedings under its power of eminent domain if necessary to acquire the Property for public purposes. The parties agree that in lieu of such proceedings, and to avoid the cost and uncertainty of litigation, the Property will be acquired by Buyer pursuant to the terms and conditions of this Agreement.

ARTICLE III – PURCHASE PRICE

3.1 Purchase Price. The purchase price for the Property is FOURTEEN MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$14,200,000.00) (the "**Purchase Price**").

3.2 Payment of Purchase Price. At least one business day prior to the Closing Date (as defined in Section 8.2.1), Buyer shall deliver to Escrow Holder a sum equal to the Purchase Price, together with Buyer's share of prorations and costs of Escrow as provided in Sections 8.6 through 8.8. Buyer shall pay such sum by confirmed wire transfer of U.S. funds for immediate credit.

3.3 Structural Rehabilitation Work. Prior to the Closing Date, Buyer will request its funding agencies to program and allocate, and use Buyer's best efforts to effect such

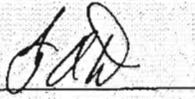
programming and allocating by the funding agencies, the sum of Five Million Dollars (\$5,000,000.00) to perform the rehabilitation work listed in **Exhibit I** attached hereto and incorporated herein by reference (the "**Rehabilitation Work**"). Following the Close of Escrow, Buyer shall continue to use its best efforts to obtain such programming and allocating by its funding agencies, and shall perform the Rehabilitation Work up to the amount programmed and allocated for such Rehabilitation Work by Buyer's funding agencies. If Buyer completes all of the Rehabilitation Work for less than the amounts programmed and allocated for such Rehabilitation Work, Buyer may use any remaining amounts to perform additional repair and maintenance work on the Line for the benefit of the freight rail operations on the Line, or to purchase certain property of Seller located north of the Line, subject to Buyer and Seller reaching agreement on the terms of any such purchase and sale, at each party's sole discretion. Notwithstanding any other provision in this Agreement to the contrary, Buyer's obligations under this Section shall not be deemed satisfied or waived by the occurrence of the Close of Escrow but instead shall survive the Close of Escrow. As used in this Section, the term "costs" means all hard and soft costs related to the Rehabilitation Work, including without limitation, the costs for Buyer's consultants and/or staff to monitor, manage, and audit the Rehabilitation Work.

ARTICLE IV – "AS IS" SALE; RELEASE; INSPECTION; ALLOCATION OF ENVIRONMENTAL RESPONSIBILITY

4.1 As Is Sale and Release.

4.1.1 **"As Is" Sale.** Buyer and its representatives, during the Feasibility Review Period, will have been afforded the opportunity to make such inspections of the Property and matters related thereto as Buyer and its representatives desire, including, without limitation, governmental laws and regulations to which the Property is subject. Buyer shall accept the Property upon the basis of its review and determination of the applicability and effect of such laws and regulations. Buyer acknowledges and agrees that, except for the Granite Construction Contamination (as defined in Section 4.1.4, below), the Property is to be sold and conveyed to and accepted by Buyer in an "as is" condition with all faults, and that the Property has been used for, among other things, railroad purposes. Buyer further acknowledges that Buyer has received and reviewed, and/or is knowledgeable of all of the matters described in **Exhibit C** to be attached hereto by Seller on or before August 13, 2010 and made a part hereof (collectively, the "**Property Materials**"). Seller makes no representation or warranty as to the accuracy or completeness of said Property Materials. Except as expressly set forth in this Agreement, Seller does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property or any of such related matters; in particular, but without limitation, Seller makes no representations or warranties with respect to the use, condition, title, occupation or management of the Property, compliance with applicable statutes, laws, codes, ordinances, regulations or requirements relating to leasing, zoning, subdivision, planning, building, fire, safety, health or environmental matters, compliance with covenants, conditions and restrictions (whether or not of record), other local, municipal, regional, state or federal requirements, or other statutes, laws, codes, ordinances, regulations or requirements (collectively, "**Condition of the Property**"). Buyer acknowledges that it is entering into this Agreement on the basis of Buyer's own investigation of the physical and environmental conditions of the Property, including the subsurface conditions and Buyer assumes the risk that adverse physical and environmental conditions may not have been revealed by its investigation.

4.1.2 RELEASE. EXCEPT FOR ANY BREACH OF SELLER'S EXPRESS OBLIGATIONS UNDER SECTIONS 9.4.1, 9.4.2., 9.4.3., OR ANY BREACH OF SELLER'S EXPRESS REPRESENTATIONS AND WARRANTIES IN SECTIONS 4.3 OR 9.1, BUYER, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, HEREBY WAIVES, RELEASES, REMISES, ACQUITS AND FOREVER DISCHARGES SELLER, ANY CORPORATION WHICH DIRECTLY OR INDIRECTLY CONTROLS OR IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH SELLER, AND THEIR RESPECTIVE EMPLOYEES, AGENTS, OFFICERS, DIRECTORS, SHAREHOLDERS, SERVANTS, SUCCESSORS AND ASSIGNS, (COLLECTIVELY "SELLER'S AFFILIATES") OF AND FROM ANY CLAIMS, ACTIONS, CAUSES OF ACTION, DEMANDS, RIGHTS, DAMAGES, COSTS, EXPENSES, PENALTIES, FINES OR COMPENSATION WHATSOEVER, DIRECT OR INDIRECT, WHICH BUYER NOW HAS OR WHICH BUYER MAY HAVE IN THE FUTURE ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE KNOWN OR UNKNOWN PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO.

SELLER: BUYER: 

4.1.3 General Allocation of Environmental Responsibility. From and after Closing, Buyer, at no cost to Seller, is responsible for conducting any investigation, monitoring, remediation, removal, response or other action required by any governmental agency, court order, law or regulation with respect to any existing or future environmental contamination of the Property (collectively, "**Environmental Remediation**"). The provisions of this Section shall survive the Close of Escrow.

4.1.4 Granite Construction Contamination. Provided, however, notwithstanding the provisions set forth in Sections 4.1.1 and 4.1.2 above, Seller acknowledges that Buyer has not waived, released, remised, acquitted or discharged Seller or Seller's Affiliates from claims, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation, if any, on account of or in any way arising out of or in connection with any contamination in, under and emanating from the drainage ditch west of and adjacent to the Granite Construction facility in Watsonville, California, to the extent such contamination is located on the Property on the date of Closing (the "**Granite Construction Contamination**"). Provided, further, notwithstanding the provisions of Section 4.1.3 above, Buyer shall not be responsible to Seller to complete the Environmental Remediation of the Granite Construction Contamination. If during the Feasibility Review Period, either party determines in such party's sole discretion, the costs associated with any potential Environmental Remediation of the Granite Construction Contamination are unacceptable, the party may terminate this Agreement upon written notice to the other. After Closing, Seller shall use commercially reasonable efforts to cause Granite Construction to complete any Environmental Remediation that may be required by federal, state or local regulatory agencies of the Granite Construction Contamination and to obtain the applicable agency's written acknowledgment that the required Environmental Remediation has been completed. Provided, however, Seller's commercially reasonable efforts to cause Granite Construction to complete any such Environmental Remediation shall be limited to the Property, and Seller shall have no obligation to use any efforts to cause Granite

Construction to complete any remediation on, or take any other action with respect to, any property other than the Property. Concurrently with the Closing, Buyer shall grant to Seller a license to access the Property in order for Seller or (if Seller assigns such license to such owner) the owner of such Granite Construction facility to complete any required Environmental Remediation of the Granite Construction Contamination. The license will be in a form reasonably acceptable to both parties and, among other things, will not unreasonably interfere with the use of the Property as an industrial railway corridor. If Granite Construction has not completed such Environmental Remediation by December 31, 2011, Seller shall, within a reasonable time thereafter, commence and work diligently to complete such Environmental Remediation and shall obtain the applicable regulatory agency's written acknowledgment that the required Environmental Remediation has been completed. Also, Buyer and Seller acknowledge that any Environmental Remediation of the Granite Construction Contamination on the Property by Seller shall be proposed to be based on the use of the Property as an industrial railway corridor, and Buyer shall restrict the use of, or accept a use restriction on, the applicable area of the Property accordingly in order to obtain agency approval of any such proposed remediation plan and then to obtain such written acknowledgment following cleanup to a standard acceptable for such use. If Buyer later elects to use the Property for some other purpose, which requires further remediation of the Property, then Buyer, and not Seller, shall have responsibility for such further remediation. Absent Buyer's subsequent change in use of the Property, Buyer assumes no responsibility for the Granite Construction Contamination other than accepting a restriction on the use of the subject portion of the Property, as needed to obtain the regulatory agency's written acknowledgment that the required Environmental Remediation has been completed. Provided, however, at such time as Seller or Granite Construction has obtained such written acknowledgment that the required Environmental Remediation has been completed, Seller shall be deemed to have performed all its obligations under this Section 4.1.4. Provided, however, Seller shall have no responsibility to obtain such written acknowledgment for any property other than the Property. The provisions of this Section shall survive the Close of Escrow.

4.2 Inspection.

4.2.1 Prior to the Execution Date and during the term of the Feasibility Review Period (as defined in Section 6.2), Buyer and its representatives (including architects and engineers) have had and will have the right to enter upon and inspect the Property and conduct such boundary and topographic surveys, soil and engineering tests and environmental assessments with engineers or consultants licensed in the State of California as Buyer may reasonably require; provided that such inspections and tests must not materially damage the Property in any respect; provided, further, that such tests and inspections are conducted in accordance with standards customarily employed in the industry and in compliance with all governmental laws, rules and regulations; provided, still further, that Buyer notifies Seller in writing at least forty-eight (48) hours prior to the date that each and every of such testing or inspections are to be conducted on the Property and provides evidence, satisfactory to Seller, of the availability of adequate public liability and other insurance, which insurance must name Seller as an additional insured. Following each entry by Buyer on the Property, Buyer shall promptly restore the Property to its original condition as existed prior to any such inspections and/or tests. If Buyer, its agents, representatives or employees undertakes any boring or other

disturbance of the soil, the soil so disturbed must be recompact to the original condition of the Property. Buyer agrees to indemnify, hold harmless and defend (with counsel acceptable to Seller) Seller and Seller's affiliates ("Seller's affiliates" means any corporation which directly or indirectly controls or is controlled by or is under common control with Seller), its and their officers, agents, servants and employees against and from any and all liability, loss, cost, damage or expense (including reasonable attorneys' fees) of whatsoever nature growing out of or in connection with personal injury to or death of persons whomsoever (including, without limitation, exposure to hazardous or toxic substances), or loss or destruction of or damage to property whatsoever (including, without limitation, contamination by hazardous or toxic substances and any required testing, removal or cleanup thereof), where such personal injury, death, loss, destruction or damage arises in any way in connection with or incident to the occupation or use of the Property by, or the presence thereon of, Buyer, its officers, agents or employees and occurs from any such cause; provided, however, that this indemnity expressly excludes (i) any loss due to the diminution in value of the Property due to the discovery of any hazardous materials or conditions during the inspection of the Property by Buyer, its officers, agents or employees, and (ii) any liability arising from the exposure of any existing hazardous materials on the Property to the extent such exposure occurs in the course of inspection activities by Buyer, its officers, agents or employees, except to the extent such liability is caused by the negligence or willful misconduct of Buyer, its officers, agents or employees. If Buyer discovers any hydrocarbon substances or any other hazardous or toxic substances, asbestos or asbestos-bearing materials, waste or materials subject to legal requirements or corrective action, Buyer shall immediately notify Seller of the same. The indemnity obligations of Buyer under this Section will survive any termination of this Agreement or the Close of Escrow. As a material consideration for Seller entering into this Agreement, Buyer shall, upon request by Seller, promptly deliver to Seller, without charge therefor, the results and copies of any and all surveys, reports, tests, studies or assessments made by or for Buyer, development approvals and correspondence with governmental entities with respect to the Property.

4.2.2 Mechanics' Liens. Buyer agrees to pay in full for all materials joined or affixed to the Property and to pay in full all persons who perform labor upon the Property, and not to permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the Property, for any work done or materials furnished thereon at the instance or request or on behalf of Buyer; and Buyer agrees to indemnify, hold harmless and defend (with counsel acceptable to Seller) Seller and Seller's affiliates, its and their officers, agents, servants and employees against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed or materials furnished prior to Closing.

4.3 Seller's Deliveries. Seller represents and warrants that Seller has delivered to Buyer copies of all agreements covering the Property that are disclosed by Seller's Standard Real Estate Search. Seller's Standard Real Estate Search means the following procedure: Seller's Real Estate Department (i) determines the location of the property in question and converts the information into a data base inquiry which is run against Seller's Real Estate Management System data base of over 300,000 agreements to generate a list of documents affecting the property in question as revealed by the data base, and (ii) searches for the listed documents in the Real Estate Department records in Omaha, Nebraska, which location is where documents in

Seller's Real Estate Management System data base are stored and maintained in the ordinary course of Seller's business. Seller makes no representations or warranties with respect to the accuracy or completeness of the list of agreements generated by Seller's Standard Real Estate Search.

ARTICLE V – TITLE TO LINE

5.1 Closing. At the Closing (as defined in Section 8.2.1), Seller shall execute and deliver to Buyer a Quitclaim Deed (the “Deed”) to the Line in the form of **Exhibit D** attached hereto. Title must be evidenced by the issuance by First American Title Company (the “Title Company”), at Buyer’s cost, of a CLTA owner’s policy of title insurance in the full amount of the Purchase Price (the “Title Policy”), insuring sufficient title to the Line in Buyer to allow the use of the Line for rail operations and other transportation purposes, subject only to the following (the “Permitted Exceptions”):

5.1.1 a lien to secure payment of real property taxes and assessments, not delinquent;

5.1.2 matters affecting the condition of title created by, or permitted to be created by or with the written consent of, Buyer;

5.1.3 those Property Materials identified in **Exhibit C** attached hereto, except for the environmental documents listed in part I thereof;

5.1.4 standard exceptions in the Title Policy, and exceptions which are disclosed by the Title Report described in Section 6.1 or any supplementary report and which are approved or deemed approved by Buyer in accordance with Section 6.1;

5.1.5 matters which would be disclosed by a survey of the Line;

5.1.6 all of the licenses, permits, easements and agreements affecting the Property that have been disclosed in writing to Buyer pursuant to this Agreement, including without limitation, the agreements listed on **Exhibit E** attached hereto; and

5.1.7 the Retained Rights.

ARTICLE VI – BUYER’S CONDITIONS TO CLOSING

The following are conditions precedent to Buyer’s obligation to purchase the Property:

6.1 Approval of Title.

6.1.1 Buyer acknowledges receipt of a preliminary title report on the Property issued by Title Company, dated as of January 9, 2005, Order No. NCS138073-SC, as supplemented March 8, 2005, and September 1, 2009 (“Title Report”), together with copies of the documents underlying the exceptions contained therein. On or before forty-five (45) days prior to Closing (“Title Contingency Date”), Buyer shall have the right to obtain an update or supplement to the Title Report and then deliver written notice to Seller (“Buyer’s Title Notice”)

of all matters of title to the Property, which are shown on the update or supplement to the Title Report and not shown on the Title Report and which are disapproved by Buyer ("**Disapproved Items**"). Buyer's failure to deliver Buyer's Title Notice by the Title Contingency Date will be deemed to be Buyer's approval of the legal description and all existing title matters as shown in all updates to the Title Report. (Buyer acknowledges its approval of the matters of Title to the Property disclosed on the Title Report, except for the right of first refusal referenced in Section 6.10, below.) If Buyer timely notifies Seller of Disapproved Items and all or some of the Disapproved Items (except for those Disapproved Items, if any, which will be removed upon the Close of Escrow in accordance with the terms of this Agreement) are not cured or deleted as exceptions to title on or before twenty (20) days prior to Closing ("**Seller's Cure Period**"), Buyer will have the option of either waiving its disapproval of such Disapproved Items and proceeding to the Close of Escrow or terminating this Agreement, in which event the provisions of Section 6.1.3 will govern. In the event Buyer elects to terminate this Agreement pursuant to this Section 6.1, Buyer shall notify Seller of its election by written notice on or before Closing. Buyer's failure to timely deliver written notice to Seller of its election will be deemed to be Buyer's election to waive its disapproval of such Disapproved Items. In no event will Seller's failure to cure or delete as exceptions to the Title Policy any Disapproved Items be deemed to be a breach of this Agreement by Seller or entitle Buyer to any offset against the Purchase Price.

6.1.2 Title Company's willingness to issue a CLTA title insurance policy in the amount of the Purchase Price, subject only to such exceptions to title as have been approved by Buyer as provided in Section 6.1.1, above, shall be a condition precedent to Buyer's obligation to purchase the Property.

6.1.3 If this Agreement is terminated pursuant to Section 6.1, Buyer shall pay one-half of the Cost of Cancellation of the Escrow, and neither party will have any further rights or obligations under this Agreement other than the obligations of and indemnity by Buyer in Section 4.2, the confidentiality provisions of Section 12.22 and the provisions of Sections 8.2.3, 9.4 and 12.21 (collectively, the "**Surviving Obligations**"). The term "**Cost of Cancellation of the Escrow**", as used herein shall be limited to the costs accrued and charged by Escrow Holder and the Title Company for the cancellation of Escrow.

6.2 Feasibility Review. Buyer will have approved on or before October 15, 2010, ("**Feasibility Review Period**"), the condition of the Property and the feasibility of Buyer's plan therefor. Buyer's feasibility review pertains to Buyer's review of and satisfaction with the following:

- (i) Buyer's engineering studies, soils investigations, environmental assessments, surveys and physical inspection of the Property; and
- (ii) all other matters Buyer determines necessary to evaluate the Property.

Buyer may elect, no later than the expiration of the Feasibility Review Period, to terminate this Agreement as a result of Buyer's disapproval of any of the foregoing matters; provided, however, that if Buyer fails to notify Seller and Escrow Holder of Buyer's disapproval by written notice delivered to Seller no later 5:00 p.m. Pacific Time on the date three (3)

business days after expiration of the Feasibility Review Period, Buyer will be deemed to have approved its evaluation of the Property and this condition will be deemed satisfied. If this Agreement is terminated pursuant to the foregoing provisions of this Section 6.2, Buyer shall pay one-half of the Cost of Cancellation of the Escrow, and neither party will have any further rights or obligations under this Agreement (except for the Surviving Obligations). If Buyer identifies the existence of hazardous materials on or under the Property that were not previously disclosed to Buyer in writing and that have a material and adverse effect on Buyer's valuation of the Property, then Buyer shall deliver to Seller detailed information regarding such findings, but Buyer shall otherwise hold such information in confidence in accordance with the terms of the Right of Entry Agreement.

6.3 Compliance by Seller. Seller will have substantially complied with each and every condition and material covenant of this Agreement to be kept or complied with by Seller.

6.4 Approval. Buyer will have approved the condition of the Property and the feasibility of Buyer's plan therefor in accordance with Section 6.2 on or before the end of the Feasibility Review Period.

6.5 Buyer's Approval of Settlement Statement. Buyer will have approved the Buyer's settlement statement.

6.6 Financing. Buyer will have received funding from the California Transportation Commission and other funding agencies sufficient to meet its financial obligations under this Agreement.

6.7 Labor Notice. Seller, not fewer than sixty (60) days before the Closing Date, will have given to the Brotherhood of Maintenance of Way Workers notice of the sale of the Line and the transfer of Seller's freight common carrier obligations to the Short Line Operator.

6.8 Short Line Operator.

6.8.1 On or before the Closing, (a) Buyer will have entered into an Administration and Coordination Agreement with the Short Line Operator, which Administration and Coordination Agreement shall provide, notwithstanding its other provisions, that in the event that Buyer does not (i) secure funding of Five Million Dollars (\$5,000,000.00) to perform the Rehabilitation Work by February 1, 2011 or (ii) complete all Rehabilitation Work by March 1, 2013, then in either event Buyer acknowledges the Short Line Operator, or its successors and assigns, shall have the right, but not the obligation, to request at any time from the STB authority (or an exemption therefrom) to discontinue or abandon freight common carrier obligations on the Line or any portion thereof, and further that in the event Short Line Operator makes such a request to discontinue or abandon to the STB, Buyer shall not make any objection to the STB related to Short Line Operator's request or otherwise make any filing with the STB which could delay Short Line Operator's obtaining the requested relief from the STB, and further that Short Line Operator shall be released from any obligation under the Administration and Coordination Agreement with respect to or in any way arising out of the physical condition of the Line; and (b) Seller and the Short Line Operator will have entered into (i) an Interchange Agreement covering the interchange of freight car equipment at Watsonville Junction, (ii) a

Cooperative Marketing Agreement covering allocation of routing, rates and tariffs for rail shipments over the Line, (iii) an agreement approved by Buyer by which Seller transfers its retained easement for freight railroad purposes to the Short Line Operator, and (iv) a track lease (the "**Track Lease**") on Seller's customary form of track lease covering any and all trackage owned by Seller north of the Property that Short Line Operator requires in order to provide freight rail service to the property adjacent to such trackage and served over such trackage. The Track Lease shall provide that, beginning on January 1, 2011, if Short Line Operator does not provide at least [150] rail carloads of freight rail service to or from such property in any twelve (12) month period, which provide road haul revenue, then Seller shall have the right to terminate the Track Lease. The Track Lease shall further provide that it shall be assigned to any successor Short Line Operator designated by the Buyer and approved by the STB to be the freight rail operator on the Line, provided that the Track Lease is then still in effect. The Interchange Agreement and the Cooperative Marketing Agreement between Seller and the Short Line Operator shall be confidential and shall not be assignable by the Short Line Operator or disclosed to any other person without the prior written consent of Seller, which consent could be withheld by Seller in its sole discretion.

6.8.2 Buyer shall file with the Surface Transportation Board ("**STB**") either a Petition for declaratory order that Buyer's proposed acquisition of the assets of the Property does not require STB authorization under 49 U.S.C. 10901 because the transaction comports with Maine, DOT - Acq. Exemption, ME Central R. Co., 8 I.C.C.2d 835 (1991) and its progeny or a Notice or Petition seeking an exemption for the approval of the Buyer's purchase of the Property with a Motion to Dismiss requesting that the STB confirm the Buyer will not, upon Closing, be a "**Rail Carrier**" as that term is defined in 49 U.S.C. Section 10102(5) on the Line, provided that the Short Line Operator shall file its Notice or Petition for Exemption under 49 U.S.C. 10502 with the STB seeking an exemption from 49 U.S.C. 10902 permitting the Short Line Operator to acquire and operate the permanent exclusive freight operating easement. The Closing hereunder is also to be conditioned upon the Buyer, the Short Line Operator and/or the Seller, as applicable, obtaining from the STB all decisions necessary for the Short Line Operator to acquire and operate the freight operating easement on the Line, and for Seller to be satisfied that Seller has no further freight common carrier obligation on the Line or on Seller's trackage north of the Line, whether through abandonment or change of the status of Seller's trackage north of the Line from mainline to spur trackage, and for the Buyer that consummation of the transactions contemplated by this Agreement shall not make Buyer a Rail Carrier on the Line. Buyer and Seller shall cooperate with any reasonable request made by Buyer, Seller or Short Line Operator in connection with the filings to be made with the STB in connection with this transaction. If any person objects at the STB to any or all of the filings made by the parties hereto or the decisions of the STB related to such filings, Buyer and Seller shall coordinate with the Short Line Operator and undertake commercially reasonable efforts to satisfy and overcome any and all such objections of any such persons in order to obtain the above-referenced decisions sought by the parties from the STB. If applicable, Buyer shall not file a Statement of Willingness to Assume Financial Responsibility or make an Offer of Financial Assistance in connection with Seller's abandonment of, or change in status of, such trackage north of the Property, and any transaction between Buyer and Seller for Seller's property north of the Property shall be an arms length transaction outside of STB jurisdiction or proceedings.

6.8.3 In the event the STB determines prior to the Closing Date that it has jurisdiction over the transactions contemplated by this Agreement and imposes a material adverse condition (such as labor protection) on Seller, and Buyer does not agree to meet such condition or to indemnify Seller for the costs and expenses of meeting such condition (or does not reasonably demonstrate its ability to meet such condition(s) or to indemnify Seller), then Seller shall have the right to terminate this Agreement by providing written notice thereof to Buyer prior to Closing. In the event of such termination by Seller, neither party shall have any further rights or obligations under this Agreement, except for the Surviving Obligations.

6.9 No Litigation. No court or agency shall have issued a legally binding order restraining the consummation of the transactions contemplated by this Agreement, and no litigation materially affecting the Property shall have been commenced.

6.10 Satisfaction or Waiver of Right of First Refusal. Seller shall have satisfied the requirements of the right of first refusal held by Santa Cruz Big Trees & Pacific Railway Company ("Big Trees"), which right of first refusal is memorialized in the Memorandum of Right of First Refusal Agreement, recorded in the Official Records of Santa Cruz County in Book 3877, Page 97. Big Trees either shall have failed to exercise its right to acquire the Property, or shall have expressly waived its right of first refusal. Satisfaction or waiver of said right of first refusal shall be evidenced by the Title Company's issuance of a title insurance policy pursuant to Section 6.1.2 that does not include said right of first refusal as an exception to title.

6.11 Hazardous Materials Insurance. Buyer shall have obtained a commitment for hazardous materials insurance coverage acceptable to Buyer.

ARTICLE VII – SELLER'S CONDITIONS TO CLOSING

The following are conditions precedent to Seller's obligation to sell the Property:

7.1 Seller's Management Approval. The terms and conditions of this transaction will have been approved in accordance with Seller's Management Policy Statement. Notice of approval or disapproval shall be given by Seller to Buyer on or before ten (10) business days after the execution of this Agreement by both parties and failure to give such notice within said time period will be deemed notice of disapproval. In the event, within said time period, the terms of this Agreement are not approved in accordance with Seller's Management Policy Statement for any reason whatsoever (except for Buyer's default or a termination of this Agreement by Buyer), this Agreement will be deemed terminated forthwith. If this Agreement is terminated pursuant to the foregoing provisions of this Section 7.1, Seller will pay the Cost of Cancellation of the Escrow, and neither party will have any further rights or obligations under this Agreement (except for the Surviving Obligations).

7.2 Compliance by Buyer. Buyer will have complied with each and every condition and material covenant of this Agreement to be kept or complied with by Buyer.

7.3 Seller's Approval of Settlement Statement. Seller will have approved Seller's settlement statement.

7.4 Short Line Operator. The conditions of Section 6.8 of this Agreement shall have been satisfied.

7.5 Financing. The conditions of Section 6.6 of this Agreement shall have been satisfied.

7.6 Labor Issues. Seller will have assured itself, in its sole discretion, that the sale of the Line to Buyer will not result in a work stoppage on Seller or any of its affiliate's lines of railroad, and that there are no other labor issues which might jeopardize the anticipated benefits to Seller of the sale of the Line.

7.7 No Litigation. No court or agency shall have issued a legally binding order restraining the consummation of the transactions contemplated by this Agreement, and no litigation materially affecting the Property shall have been commenced.

7.8 Satisfaction or Waiver of Right of First Refusal. The conditions of Section 6.10 of this Agreement shall have been satisfied.

ARTICLE VIII – OPENING AND CLOSING OF ESCROW

8.1 Opening of Escrow and Escrow Instructions. Upon execution of this Agreement, the parties shall deposit one executed counterpart of this Agreement with Escrow Holder and this instrument will serve as the instructions to Escrow Holder for consummation of the purchase and sale contemplated hereby, including Escrow Holder's general provisions which are contained in **Exhibit F** attached hereto to the extent said general provisions do not conflict with the provisions contained in this Agreement. Escrow Holder shall insert the date of the Opening of Escrow on the upper right hand corner of the first page of this Agreement on each counterpart. The "**Opening of Escrow**" is the date upon which Escrow Holder has received executed counterparts of this Agreement from both Buyer and Seller. Escrow Holder is only responsible for undertaking such matters in connection with the Closing as are specifically provided for herein or in any additional or supplementary escrow instructions delivered by the parties. If the Opening of Escrow has not occurred within five (5) business days after the Execution Date, this Agreement, and the terms and conditions contained herein, will be null and void and of no further force and effect.

8.2 Closing.

8.2.1 Closing Date. The consummation of the transaction contemplated by this Agreement and recording of the Deed (the "**Closing**" or "**Close of Escrow**") will occur and delivery of all items to be made at the Closing under the terms of this Agreement will be made on or before November 12, 2010 (the "**Closing Date**").

8.2.2 Preclosing Conditions. Neither party will have any obligation to Close on the Property unless each and every condition set forth in Sections 8.3 and 8.4 below has occurred on or before the Closing Date. Provided that (a) Escrow Holder can comply with these

instructions, (b) Escrow Holder has received the deliveries described in Sections 8.3 and 8.4 below, (c) Escrow Holder has not received prior written notice from a party that any condition to such party's obligations has not been fulfilled, (d) Buyer has not elected to terminate its rights and obligations hereunder pursuant to Article IV or Article VI, (e) Seller has not elected to terminate its rights and obligations hereunder pursuant to Article IV or Article VII, and (f) the Title Company has issued or is unconditionally prepared to issue to Buyer, as of the Closing Date, the Title Policy, then Escrow Holder is authorized and instructed to: (i) record the Deed, (ii) deliver the Purchase Price to Seller, as adjusted pursuant to the approved settlement statements, (iii) deliver a conformed copy of the recorded Deed and fully executed counterparts of all other closing documents to Buyer and Seller, and (iv) deliver the settlement statements to Buyer and Seller in accordance with Section 8.2.4 below.

8.2.3 Failure to Close. If the Closing does not occur on or before the Closing Date, then either party not then in default may elect to terminate this Agreement and cancel Escrow by giving written notice of such termination and cancellation to the other party and to Escrow Holder. In the event of such termination and cancellation, neither party will have any further obligations hereunder (other than the Surviving Obligations) and all documents and other instruments must be returned to the party depositing the same into Escrow. In the event neither party is in default, then Buyer and Seller shall share equally the Cost of Cancellation of the Escrow. In the event only one of the parties hereto is in default or if this Agreement expressly so provides, then such defaulting party shall pay for the entire Cost of Cancellation of the Escrow. The termination of this Agreement and cancellation of Escrow, as provided herein, will be without prejudice to whatever legal rights, as said rights may be limited by the terms contained in this Agreement, that Buyer or Seller may have against each other arising out of this Agreement and the Escrow. If neither party so elects to terminate this Agreement and cancel Escrow, Escrow Holder shall close the Escrow as soon as possible.

8.2.4 Notification; Settlement Statements. If Escrow Holder cannot comply with the instructions herein and to be provided, Escrow Holder is not authorized to cause the recording of the Deed or close this Escrow. If Escrow Holder is unable to cause the recording of the Deed, Escrow Holder shall notify Rick Gooch at (415) 439-5345 and Luis Mendez at (831) 460-3212, without delay. If Escrow Holder is able to comply with the instructions herein and to be provided, at the Closing Escrow Holder shall deliver to Seller a true, correct and complete copy of the Seller's settlement statement, and shall deliver to Buyer at the Closing a true, correct and complete copy of Buyer's settlement statement.

8.3 Deliveries by Seller. Not later than one business day prior to the Closing Date, Seller shall deposit with Escrow Holder the following items:

8.3.1 Deed. The Deed in the form of **Exhibit D** duly executed and acknowledged by Seller;

8.3.2 Assignment. The Assignment and Assumption Agreement in the form of **Exhibit E** duly executed by Seller, whereby Seller assigns to Buyer, and Buyer assumes, the Leases and Other Agreements (to the extent noted in **Exhibit E**);

8.3.3 Non-Foreign Status Certificate. A Non-Foreign Status Certificate pursuant to Internal Revenue Code Section 1445 duly executed by Seller in the form of **Exhibit G**;

8.3.4 California Form 593-C. California Form 593-C duly executed by Seller in the form of **Exhibit H**;

8.3.5 Bill of Sale. The Bill of Sale duly executed by Seller in the form of **Exhibit B** attached hereto; and

8.3.6 Other Documents. Any other documents, instruments, data, records, correspondence or agreements reasonably necessary for the Closing which have not previously been delivered.

8.4 Deliveries by Buyer. Not later than one business day prior to the Closing Date, Buyer shall deposit with Escrow Holder the following items:

8.4.1 Purchase Price. Immediately available funds in an amount sufficient to satisfy Buyer's obligations under this Agreement, including payment of the Purchase Price, payment of those costs described in Sections 8.6, 8.7 and 8.8 below, and any other amounts included in Buyer's approved settlement statement;

8.4.2 Deed. An executed acceptance of the Deed;

8.4.3 Assignment. The Assignment and Assumption Agreement described in Section 8.3.2 above, duly executed by Buyer;

8.4.4 Tax Letter. A threat of condemnation letter in the form attached hereto as **Exhibit J**; and

8.4.5 Other Documents. Any other documents, instruments, data, records, correspondence or agreements reasonably necessary for the Closing which have not been previously delivered.

8.5 Other Instruments. Seller and Buyer shall each deposit such other instruments and take such other actions as are reasonably required by Escrow Holder or otherwise required to close the Escrow and consummate the purchase of the Property in accordance with the terms of this Agreement.

8.6 Prorations. All revenues and expenses of the Property, including, without limitation, real property taxes, special taxes, assessments and utility fees and/or deposits, and rentals under the Lease(s), will be prorated and apportioned between Buyer and Seller as of the Closing Date, so that Seller bears all expenses with respect to the Property and has the benefit of all income with respect to the Property through and including the Closing Date. Seller and Buyer agree that any of the aforesaid prorations which cannot be calculated accurately as of the Closing Date will be prorated on the basis of the parties' reasonable estimates.

8.7 Special Taxes, Bonds or Assessments. If, at the time of Closing, any portion of the Property is affected by an assessment or other charge, whether for taxes or bonds, or interest thereon, which is or may become payable in installments, and an installment payment of such assessment is then a lien, then such installment will be prorated as the Closing Date. All installments not then yet due whether or not the same have been prepaid will not be prorated and Buyer shall assume such bonds or assessments. Any prepaid assessments made in advance of its due date will be credited to Seller. In addition, Buyer shall assume any and all future bonds, assessments, special taxes, fees or charges applicable to the Property for liabilities now or hereafter imposed by any governmental authority (collectively referred to as "**Governmental Requirements**") including, without limitation, any such Governmental Requirements imposed by Santa Cruz County or any municipality with jurisdiction over a portion of the Property, and those for (a) common area improvements, whether or not specifically set forth in this Agreement, (b) local assessment or improvement districts, (c) any special tax assessments, (d) traffic mitigation improvements (e) park and recreation fees, and/or (f) any other public facility infrastructure or traffic mitigation required or imposed by Santa Cruz County or any municipality with jurisdiction over a portion of the Property. Buyer shall assume all such bonds or future assessments without offset or adjustment.

8.8 Costs and Expenses. Notwithstanding any other allocation of costs and expenses set forth in this Agreement that applies in the event the Closing does not occur, the costs and expenses of Escrow upon Close of Escrow will be allocated as follows: Buyer shall pay the premium for the Title Policy and the cost of any documentary or other transfer taxes applicable to the sale. Buyer shall pay all other closing costs, except that Buyer and Seller shall share equally the charges of the Escrow Holder.

8.9 Disbursement of Funds. On the Close of Escrow, Escrow Holder shall disburse the full amount due to Seller pursuant to the settlement statement in immediately available funds, and, unless otherwise instructed by Seller, Escrow Holder shall cause such funds to be sent by wire transfer as follows:

US Bank
Omaha, Nebraska 68102
ABA Routing #104000029
For Credit Union Pacific Railroad Company
Account No. 148744571164

Such funds are to be wired on or before 11:00 a.m. Central Daylight Time on such date in order that such funds may be received by Seller on the Close of Escrow; provided, however, that if such funds cannot be wired to Seller on the Close of Escrow, Escrow Holder shall, unless otherwise directed in writing by Seller, invest the funds overnight in an interest-bearing account.

8.10 Delivery of Documents. Upon the Close of Escrow, Escrow Holder shall promptly deliver all instruments and documents to such party's attorney specified in Section 12.9. Escrow Holder shall promptly deliver to the party entitled thereto the recorded originals of such instruments or documents upon Escrow Holder's receipt of the same.

ARTICLE IX – REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 Representations and Warranties of Seller. Seller hereby represents and warrants to Buyer as of the date of this Agreement, as follows:

9.1.1 Organization. Seller is a corporation duly organized, validly existing and in good standing under the laws of the state of Delaware and qualified to do business in California and has the authority to own and convey the Property.

9.1.2 Enforceability. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Closing are intended, provided Buyer has duly executed those documents requiring Buyer's signature, to be legal, valid, and binding obligations of Seller, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

9.1.3 Litigation; Condemnation. Except as disclosed on Exhibit C or noted in Section 9.1.5 below, Seller has no actual, current knowledge of receiving any written notice of any pending actions, suits, proceedings, governmental investigations (including environmental investigations) or claims, or of any judgments, orders or decrees entered in any lawsuits or governmental proceedings against or involving the Property (including, without limitation, any condemnation or eminent domain proceedings).

9.1.4 Senior Rights. To Seller's actual knowledge, no tenant or other third party has any agreement or right granted by Seller to purchase all or any part of the Property that is senior to Buyer's rights hereunder, except for the right of first refusal granted to Big Trees (as evidenced by that certain Memorandum of Right of First Refusal Agreement, recorded in the Official Records of Santa Cruz County in Book 3877, Page 97).

9.1.5 Violations of Law. Except as set forth in the following sentence or disclosed on Exhibit C, Seller has no actual knowledge that Seller has received any written notice from any governmental entity or representative thereof of any violation of any applicable law, ordinance, rule, regulation or requirement of any governmental agency relating to the Property. There is petroleum contamination on the Property originating from Granite Construction's facility located at 580 W. Beach St., Watsonville, CA. Seller has notified Granite Construction of the contamination by letter dated October 23, 2009. Buyer acknowledges its receipt of a copy of said letter.

9.1.6 Hazardous Materials. Except as stated in Sections 4.1 and 9.1.5 of this Agreement, Seller has no actual knowledge of (a) any material release of a Hazardous Material, as defined below, on or beneath the Property; (b) receipt of any written governmental notice that any of the Property is in violation, in any material respect, under any law, or other governmental or judicial requirement, relating to Hazardous Materials; (c) any existing, pending or threatened investigation by any governmental authority under or in connection with any law, or other governmental or judicial requirement, relating to Hazardous Materials; or (d) environmental assessment reports concerning the Property other than those prepared by Buyer.

As used in this Section 9.1, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste regulated by or subject to any local governmental authority, any agency of the State of California, or any other agency of the United States Government, including, without limitation, any material or substance which is (A) defined as a "hazardous waste", "extremely hazardous waste", "restricted hazardous waste", "hazardous substance", "hazardous material", "toxic material" or "toxic substance" under any federal, state or local governmental rule, regulation, ordinance, statute or act; (B) petroleum and any petroleum by-products; (C) asbestos; (D) urea-formaldehyde foam insulation; or (E) polychlorinated biphenol.

9.1.7 No Material Noncompliance with Leases and Other Agreements. To Seller's actual knowledge, except as disclosed in the Property Materials, there is no outstanding material noncompliance with Seller's obligations under the Leases and Other Agreements.

9.1.8 Seller's Knowledge. The term "Seller's actual knowledge" as used in this Section 9.1 means and is limited to the actual (not constructive) knowledge of Richard L. Gooch, Director-Special Properties, Jerry Wilmoth, General Manager-Network Infrastructure, James Levy, Program Manager-Site Remediation of Seller, Chris Goble, General Director - Real Estate, James Diel, Manager Environmental Site Remediation, and Tanya Spratt, Manager - Real Estate Sales, without any duty to make any investigation or inquiry.

9.2 Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as of the date of this Agreement, as follows:

9.2.1 Organization. Buyer is a public agency, duly organized, validly existing and in good standing under the laws of the State of California, with full power and authority to enter into and comply with the terms of this Agreement.

9.2.2 Enforceability. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are intended, provided Seller has duly executed those documents requiring Seller's signature, to be legal, valid, and binding obligations of Buyer, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Buyer is a party or to which it is subject.

9.3 Survival. The foregoing representations and warranties of Seller and Buyer shall survive the Close of Escrow.

9.4 Covenants of Seller.

9.4.1 No Compensation Claims. Seller acknowledges and agrees that it has offered to sell the Property to Buyer and that it is not entitled to any claims related to the acquisition and development of real property by a governmental agency, including without limitation, just compensation claims, takings claims, constitutional claims, nor claims for assistance under the provisions of the Uniform Relocation Assistance and Real Easement Property Acquisition Policies Act (42 U.S.C. § 4601, *et seq.*), the California Relocation Assistance Act (California Government Code § 7260, *et seq.*) or any other federal, state or local law, ordinance or regulation requiring the provision of relocation assistance to persons displaced

by action of public agencies by reason of the transactions contemplated by this Agreement (collectively, "**Compensation Claims**"). Seller further acknowledges and agrees that the transaction contemplated by this Agreement is intended to settle all Compensation Claims for this transaction.

9.4.2 Leases, Licenses, and Other Agreements. Prior to the Closing Date, Seller shall not enter into any new lease, license, or other agreement affecting the Property, or modify any existing such lease, license, or other agreement, in any material way adverse to Buyer's intended use of the Property without Buyer's prior written consent, which consent shall not be unreasonably withheld.

9.4.3 Encumbrances. Prior to the Closing Date, Seller shall not encumber any part of the Property, or otherwise materially impair (except as otherwise contemplated by or permitted under this Agreement) the state of title to the Property.

9.4.4 Cooperative Marketing Agreement and Interchange Agreement. If requested by Buyer, Seller will enter into a Cooperative Marketing Agreement and Interchange Agreement with Buyer or Buyer's designee. The terms and conditions of such Cooperative Marketing Agreement and Interchange Agreement shall be in accordance with the then standard Seller form of such agreements and shall follow all then applicable laws, regulations and standards including, but not limited to, all applicable FRA, STB and AAR laws, regulations and standards, provided, however, that commercial terms covering division of revenues and expenses for serving shippers on the Line ("Commercial Terms") shall be substantially equivalent to the Commercial Terms that would then be applicable to the Short Line Operator if the Short Line Operator continued to operate on the Line.

9.5 Accuracy of Representations and Warranties as of Closing. All representations and warranties by the respective parties contained herein are intended to remain true and correct as of the Closing, and are deemed to be restated at Closing except with respect to variances of which written notice are given as provided below in this Section. If a party (or Seller's Representative(s), in the case of the representations limited to the knowledge of such persons) has knowledge that a representation and warranty in this Article IX is no longer true, such party shall immediately give the other party written notice of such variance. The party benefited by the representation and warranty may elect to terminate this Agreement, or may waive the variance by giving the other party written notice of such election (i) within ten (10) days after such written notice of variance is given or (ii) prior to Closing in the event such notice is given within ten (10) days of Closing. If the benefited party does not give timely notice of termination or waiver, then the benefited party will be deemed to have waived the variance. If this Agreement is terminated pursuant to this Section, neither party shall have any further rights or obligations under this Agreement except for the Surviving Obligations.

9.6 Mutual Representations and Covenants, Brokers and Finders. Each party is responsible for all broker's fees or other commissions payable to any broker or any other person engaged by it in connection with the transaction contemplated hereby. No broker's fee, finder's fee, commission or similar compensation will be paid to principals of Buyer or Seller in connection with this Agreement. In the event of a claim for broker's fee, finder's fee,

commission or other similar compensation in connection herewith other than as set forth above, Buyer, if such claim is based upon any agreement alleged to have been made by Buyer, agrees to indemnify and hold Seller harmless against any and all liability, loss, cost, damage or expense (including reasonable attorneys' fees and costs) which Seller may sustain or incur by reason of such claim; and Seller, if such claim is based upon any agreement alleged to have been made by Seller, agrees to indemnify and hold Buyer harmless against any and all liability, loss, cost, damage or expense (including reasonable attorneys' fees and costs) which Buyer may sustain or incur by reason of such claim. The provisions of this section will survive the Close of Escrow or termination of this Agreement.

9.7 Freight Operations. At Closing, Seller will transfer the freight rail operations on the Line to the Short Line Operator.

ARTICLE X – CONDEMNATION AND CASUALTY

10.1 Condemnation. If, prior to the Close of Escrow, a governmental agency other than Buyer commences or imminently threatens in writing to commence any eminent domain proceedings to take any material portion of the Property that would adversely affect Buyer's ability to use the Property for rail operations or other transportation purposes, Buyer and Seller each will have the unilateral right, exercisable by giving notice of such decision to the other party within thirty (30) days after receiving written notice of such actual or threatened condemnation proceedings (but before the Closing Date), to terminate this Agreement, in which case Buyer and Seller each shall pay one-half of the Cost of Cancellation of the Escrow and neither party will have any further rights or obligations under this Agreement (other than the Surviving Obligations). If neither party elects to terminate pursuant to this Section 10.1, the net proceeds of condemnation awards payable to Seller by reason of such condemnation will be paid or assigned to Buyer upon the Close of Escrow.

10.2 Casualty. If, before the Close of Escrow, the Property is damaged by fire, flood, earthquake or other insured casualty to a material degree, that is, if the cost of restoration of the damaged Property exceeds One Hundred Thousand Dollars (\$100,000), Buyer will have the option either to (a) elect not to acquire the Property, in which case this Agreement will terminate, and the parties will be relieved of all further rights and obligations with respect thereto or (b) acquire the Property, subject to such casualty, without adjustment in the Purchase Price and otherwise in accordance with the terms and provisions of this Agreement, but Buyer will be entitled to all insurance proceeds paid by an insurer on account of such casualty which would otherwise accrue to Seller as compensation for losses to the Property. Buyer shall give written notice to Seller of any election pursuant to this Section 10.2 within thirty (30) business days following receipt by Buyer of any written notice of such casualty. Failure of Buyer to make such election within said period will be deemed an election to proceed to purchase the Property pursuant to clause (b) above. If, before the Close of Escrow, the Property suffers a casualty other than to an extent entitling Buyer to elect not to acquire the Property pursuant to this Section 10.2, Buyer shall Close the transaction contemplated by this Agreement in accordance with the terms hereof as though such casualty had not occurred, except that Seller shall, at Closing, pay or assign to Buyer any net insurance proceeds paid or payable to Seller in respect thereof. Risk of physical loss to the Property on and after the Closing shall be borne by Buyer.

ARTICLE XI – LABOR PROTECTION

11.1 Seller's Responsibilities. Seller is solely responsible for all of its obligations to its employees, whether represented or not represented, including such obligations arising out of any federal or state labor law or regulation and all collective bargaining agreements between Seller and any third party. Seller is solely responsible, at its expense, for resolution of any claims or grievances asserted against it and Buyer with respect to Seller's employees, whether represented or not represented, including claims or grievances asserted pursuant to collective bargaining agreements or otherwise. Buyer does not assume any obligation to Seller's employees or any obligation arising from any collective bargaining agreements between Seller and any third party.

11.2 Buyer's Responsibilities. Buyer is solely responsible for all of its obligations to its employees, whether represented or not represented, including such obligations arising out of any federal or state labor law or regulation and all collective bargaining agreements between Buyer and any third party. Buyer is solely responsible, at its expense, for resolution of any claims or grievances asserted against it and Seller with respect to Buyer's employees, whether represented or not represented, including claims or grievances asserted pursuant to collective bargaining agreements or otherwise. Seller does not assume any obligation to Buyer's employees or any obligation arising from any collective bargaining agreements between Buyer and any third party.

11.3 Indemnity. Each party shall indemnify, defend and hold harmless the other party from and against any and all claims, losses, fines, assessments and other damages suffered by the other party arising from obligations assumed by the indemnifying party pursuant to this Article XI.

ARTICLE XII – MISCELLANEOUS

12.1 Agreement Expenses. The parties agree to bear their respective expenses, incurred or to be incurred in negotiating and preparing this Agreement and in closing and carrying out the transactions contemplated by this Agreement.

12.2 Satisfaction or Waiver of Contingencies. The consummation of the Closing will be conclusive evidence that the contingencies and conditions to Closing have been fully satisfied or waived.

12.3 Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. Buyer's interest under this Agreement may not be assigned, encumbered or otherwise transferred, whether voluntarily, involuntarily, by operation of law or otherwise. Any assignment, encumbrance or other transfer in violation of the foregoing will be void and Buyer will be deemed in default hereunder.

12.4 Parties in Interest. Except as expressly provided in this Agreement, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the

obligation or liability of any third persons to any party to this Agreement, nor will any provision give any third persons any right to subrogation or action against any party to this Agreement.

12.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior or contemporaneous oral or written agreements, representations, statements, documents, or understandings of the parties.

12.6 Amendment. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by the party to be bound.

12.7 Waiver. No waiver of any of the provisions of this Agreement will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

12.8 Timeliness. Seller and Buyer acknowledge and agree that time is of the essence with respect to each and every term, condition, obligation and provision of this Agreement.

12.9 Notices. Any notice or other communication required or permitted to be given under this Agreement ("Notices") must be in writing and must be (a) personally delivered; (b) delivered by a reputable overnight courier; or (c) delivered by certified mail, return receipt requested and deposited in the U.S. Mail, postage prepaid. Telecopy notices are valid only to the extent they are (i) actually received by the individual to whom addressed and (ii) followed by delivery of actual notice in the manner described above within three business days thereafter. Notices will be deemed received at the earlier of actual receipt or (a) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (b) three business days following deposit in the U.S. Mail, as evidenced by a return receipt. Notices must be directed to the parties at their respective addresses shown below, or such other address as either party may, from time to time, specify in writing to the other in the manner described above:

If to Seller:	UNION PACIFIC RAILROAD COMPANY ATTN: Richard L. Gooch 50 California Street, Suite 1563 San Francisco, CA 94111 Telephone: 415-439-5345 Facsimile: 402-997-3014
with copy to:	UNION PACIFIC RAILROAD COMPANY ATTN: Patrick McGill, Senior Counsel-Real Estate 1400 Douglas Street, Mail Stop 1580 Omaha, Nebraska 68179 Telephone: (402) 544-5761 Facsimile: (402) 997-3603

If to Buyer: SANTA CRUZ COUNTY REGIONAL TRANSPORTATION
COMMISSION
Attn: Luis Mendez
1523 Pacific Avenue
Santa Cruz, CA 95060
Telephone: (831) 460-3212
Facsimile: (831) 460-3215

with copy to: MILLER, OWEN & TROST
Attn: Kirk E. Trost
428 J Street, Suite 400
Sacramento, CA 95814
Telephone: (916) 447-7933
Facsimile: (916) 447-5195

12.10 Governing Law and Venue. This Agreement is to be construed in accordance with, and governed by, the laws of the State of California and any action or proceeding, including arbitration, brought by any party, shall be brought in Santa Cruz County, CA, or in an adjacent county.

12.11 Effect of Headings. The headings of the paragraphs of this Agreement are included for purposes of convenience only, and will not affect the construction or interpretation of any of its provisions.

12.12 Intentionally Omitted.

12.13 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

12.14 Number and Gender. When required by the context of this Agreement, each number (singular and plural) will include all numbers, and each gender will include all genders.

12.15 Joint and Several Liability. In the event either party hereto now or hereafter consists of more than one person, firm, or corporation, then and in such event, all such persons, firms, or corporations will be jointly and severally liable as parties under this Agreement.

12.16 Recording. Neither party may record this Agreement or any memorandum thereof.

12.17 Further Assurances. Each party to this Agreement agrees to execute, acknowledge, and deliver such further instruments as may be necessary or desirable to accomplish the intent and purpose of this Agreement, provided that the party requesting such further action bears all costs and expenses related thereto.

12.18 Advice of Professionals. Each party has had the opportunity to be advised by legal counsel and other professionals in connection with this Agreement, and each party has obtained such advice as each party deems appropriate.

12.19 Negotiated Terms. The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement will not be construed in favor of or against any party by reason of the extent to which any party or its professionals participated in the preparation of this Agreement.

12.20 Recitals and Exhibits. The recitals and contents of all Exhibits to this Agreement are incorporated by reference and constitute a material part of this Agreement.

12.21 Professional Fees and Costs. If any legal or equitable action, arbitration, bankruptcy, reorganization, or other proceeding, whether on the merits, application, or motion, are brought or undertaken, or an attorney retained, to enforce this Agreement or any closing document, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement or any closing document, then the successful or prevailing party or parties in such undertaking (or the party that would prevail if an action were brought) will be entitled to recover reasonable attorneys' and other professional fees, expert witness fees, court costs and other expenses incurred in such action, proceeding, or discussions, in addition to any other relief to which such party may be entitled. The parties intend this provision to be given the most liberal construction possible and to apply to any circumstances in which such party reasonably incurs expenses. The provisions of this Section will survive the Close of Escrow or the termination of this Agreement.

12.22 Confidentiality. The Parties hereby incorporate by reference the confidentiality provisions of the following agreements between the parties: (a) Right of Entry Agreement dated January 17, 2005, as amended on January 5, 2006, as amended on December 15, 2008, as amended on February 23, 2009, and March 25, 2009; and (b) Confidentiality Agreement dated June 1, 2005.

12.23 Not an Offer. The submission of this Agreement to Buyer for review or signature does not constitute an offer to sell the Property to Buyer or the granting of an option or other rights with respect to the Property to Buyer. No agreement with respect to the purchase and sale of the Property will exist, and this writing will have no binding force or effect, until executed and delivered by both Seller and Buyer.

12.24 Severability. Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable will be invalid or unenforceable only to the extent of such determination, which will not invalidate or otherwise render ineffective any other provision of this Agreement.

12.25 Merger/Survival. Except as otherwise expressly provided herein, the covenants, representations and warranties of Buyer and Seller herein will merge into the Deed to be delivered by Seller to Buyer at Closing and will not survive the Close of Escrow. The following provisions will survive the Close of Escrow: Section 3.3, Article IV, Article IX, Article XI and 12.22.

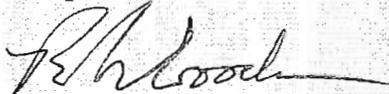
12.26 Tax-Deferred Exchange. Seller may arrange for the exchange upon the Closing of Escrow of one or more parcels of property for the Property in order to effect a tax-deferred exchange within the meaning of Section 1031 of the Internal Revenue Code of 1986, as

amended, and comparable provisions of state statutes. Buyer agrees, at no cost to Buyer, to cooperate with Seller in connection with any such exchange. Such cooperation by Buyer shall include, but is not limited to, executing documents as reasonably may be required by Seller.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the Execution Date.

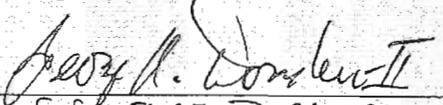
SELLER:

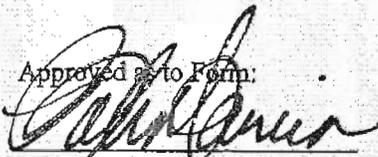
**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By: 
Title: DIRECTOR
SPECIAL PROPERTIES

BUYER:

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION,
a public agency created under California law**

By: 
Title: EXECUTIVE DIRECTOR

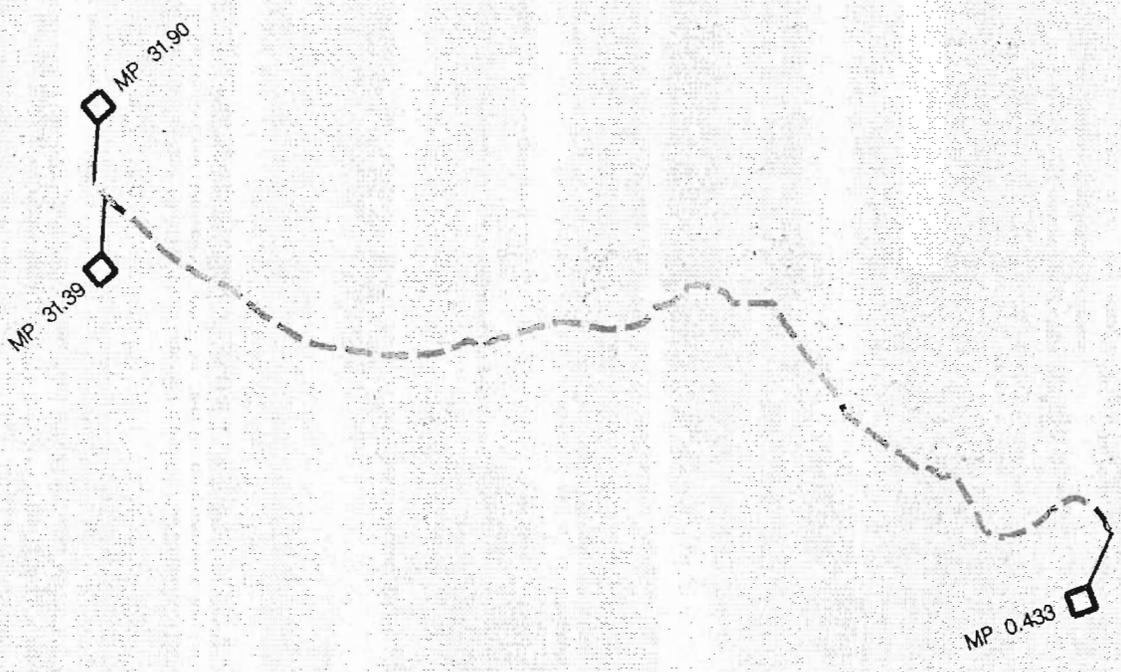
Approved as to Form:

Counsel

THE UNDERSIGNED ESCROW HOLDER ACKNOWLEDGES ITS RECEIPT OF ONE EXECUTED COPY OF THIS AGREEMENT AND AGREES TO ACT IN ACCORDANCE THEREWITH.

ESCROW HOLDER:

FIRST AMERICAN TITLE COMPANY

By: _____
Kimberleigh Toci, Escrow Officer



NOT TO SCALE

LEGEND

LINE SALE SHOWN
MP 0.433 - 31.39

RIGHT OF WAY LICENSE
MP 31.39 - 31.90

EXHIBIT "A"

UNION PACIFIC RAILROAD CO.

TO ACCOMPANY AGREEMENT WITH

WATSONVILLE JCT - DAVENPORT, CA.
M.P. 0.433 - 31.90+- SANTA CRUZ SUB.
SP CA V72 /1-6 & V89 /1-7
REAL ESTATE DEPARTMENT OMAHA NE.
FILE #1728-03 DATE: 11-2-2009 T.D.A.

EXHIBIT B

BILL OF SALE

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Seller"), for and in consideration of One Dollar (\$1.00) and other valuable consideration, does hereby sell, transfer and deliver to SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law ("Buyer"), its successors and assigns, all of Seller's right, title and interest in and to the following described personal property ("**Personal Property**"):

All rail improvements on the real property described in Schedule 1 attached hereto and hereby made a part hereof, including without limitation, rails, ties, ballast, signals, switches and trestles and other rail appurtenances.

SELLER, BY THIS INSTRUMENT, MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND FURTHER MAKES NO WARRANTY AS TO THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IT BEING UNDERSTOOD THAT THE BUYER IS PURCHASING THE PERSONAL PROPERTY IN AN "AS IS" AND "WHERE IS" CONDITION WITH ALL FAULTS. BUYER AND SELLER AGREE TO SIGN SCHEDULE 2 HERETO ATTACHED AND HEREBY MADE A PART HEREOF.

IN WITNESS WHEREOF, Seller and Buyer have each duly executed this instrument as of the _____ day of _____, 2010.

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By _____
Title: _____

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION, a public
agency created under California law**

By _____
Title: _____

SCHEDULE 1 TO EXHIBIT B

LEGAL DESCRIPTION OF REAL PROPERTY



SCHEDULE 2 TO EXHIBIT B

1. The attached **Attachment 1** contains consumer information concerning the proper handling and distribution of creosote pressure-treated wood.
2. Buyer shall provide information on the safe and proper handling of chemically treated ties to each person or company to whom it sells or otherwise conveys ties purchased hereunder. Such information shall include, but not be limited to, delivery to each and every worker and to all persons and companies of a copy of the MSDS Data Sheet Creosote PressureTreated Wood that is attached hereto and marked Attachment 1, in such translations and along with such other information as may be necessary, to allow such workers, persons and companies to understand and employ safe and proper methods of use, handling and disposal.
3. In addition to providing information, Buyer shall dispose of (and/or store if ties are removed and stored) any and all ties purchased hereunder in a safe manner and in accordance with all applicable federal, state and local laws and regulations and the lawful requirements of responsible government agencies.
4. Buyer shall require the same commitments by contract with any person or company to which it sells ties for resale which are purchased hereunder.

Dated this _____ day of _____, 2010.

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By: _____
Title: _____

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION,
a public agency created under California law**

By: _____
Title: _____

MSDS DATA

**CHEMICAL: Creosote Treated Wood
UP-05323**

General Information

File Name: UP-05323.msd

Prepared to U. S. OSHA, CMA, ANSI, and Canadian WHMIS Standards (1)

- (1) NOTE: all WHMIS required information is included. It is located in appropriate sections based on the ANSI Z400.1-1993 format.

Information contained in this MSDS refers only to the specific material designated and does not relate to any process or to use with any other materials. This information is furnished free of charge and is based on data believed to be reliable as of the date hereof. It is intended for use by persons possessing technical knowledge at their own discretion and risk. Since actual use is beyond our control, no guarantee, expressed or implied, and no liability is assumed by J.H. Baxter in conjunction with the use of this information. Nothing herein is to be construed as a recommendation to infringe any patents.

PART I: What is the material and what do I need to know in an emergency?**1. PRODUCT IDENTIFICATION**

TRADE NAME IS (as labeled): Creosote Treated Wood

CHEMICAL CLASS: Treated Wood

MANUFACTURER'S NAME: J.H. Baxter
ADDRESS: 1700 South El Camino Real
San Mateo, CA 94401-0902

EMERGENCY PHONE: CHEMTREC: 1-800-424-9300

BUSINESS PHONE: 1-415-349-0201

DATE OF PREPARATION: June 14, 1994

2. COMPOSITION & INFORMATION ON INGREDIENTS

Chemical Name	CAS#	% w/w	Exposure Limits in Air	
			ACGIH TLV mg/m3	STEL mg/m3
Creosote	8001-58-9	<15	NE	NE
Wood	Not Applicable	>85	1 (hardwood)	10 (softwood)

Chemical Name	CAS #	% w/w	Exposure Limits in Air			
			OSHA PEL mg/m3	OSHA STEL mg/m3	OSHA IDLH	OTHER
Creosote			NE	NE	NE	NIOSH REL: TWA 1 mg/m3
Wood		2.5 (Western Red Cedar)	10 (All woods except Western Red Cedar)	NE	NE	
		5 (All other)				

NE = Not Established

3. HAZARD IDENTIFICATION

EMERGENCY OVERVIEW:

This product consists of dark brown to black lumber or wood poles. It presents limited hazards in an emergency situation. Dusts from this product can be irritating to exposed tissue. It is a combustible material, which will decompose to produce acrid smoke and toxic gases (i.e. carbon monoxide and carbon dioxide).

HAZARDOUS MATERIAL INFORMATION SYSTEM:

HEALTH (BLUE)	1
FLAMMABILITY (RED)	1
REACTIVITY (YELLOW)	0
PROTECTIVE EQUIPMENT	
EYES	
RESPIRATORY:	SEE SECTION 8
HANDS	
BODY:	SEE SECTION 8

For machining wood products.

SYMPTOMS OF OVER EXPOSURE BY ROUTE OF EXPOSURE:

INHALATION:

Inhalation of finely divided dusts of this product may cause irritation of the nose, throat, and other tissues of the respiratory system.

CONTACT WITH SKIN OR EYES:

Dusts which may contaminate the eyes can cause irritation and scratching of eye tissues. Prolonged and/or repeated skin contact can cause mild irritation which

disappears after exposure ends. Coal tar products, such as the creosote, can react with sunlight to produce compounds which promote sunburns.

SKIN ABSORPTION:

There is currently no evidence that any component of this product absorbs into the skin.

INGESTION:

Ingestion of this product can irritate the mouth, throat, stomach, and other tissues of the digestive system. Symptoms of ingestion may include nausea, vomiting, and irritation.

INJECTION:

The only way injection of this material could occur is by wood splinters puncturing the skin. The main symptoms associated with such an exposure would be redness and irritation at the point of injection.

HEALTH EFFECTS OR RISKS FROM EXPOSURE:

An Explanation in Lay Terms.

ACUTE:

The main health hazard presented by this product would be irritation of contaminated tissues — especially the skin and eyes.

CHRONIC:

The symptoms of long-term exposure would be similar to those for acute exposure, described above. Additionally, some individuals can become sensitized to wood dusts and develop allergy-like symptoms upon repeated exposures. Studies have been conducted focusing on employees who routinely work with wood products. The International Agency for Research on Cancer reports that there is sufficient evidence that exposure to wood dust from hardwood species may lead to an increased risk of nasal/paranasal sinus cancer.

PART II: What should I do if a hazardous situation occurs?

4. FIRST-AID MEASURES

SKIN EXPOSURE:

Immediately begin cleansing affected area with running water. Remove exposure or contaminated clothing, taking care to not irritate the eyes.

Explosion Sensitivity to Mechanical Impact:
Explosion Sensitivity to Static Discharge:

Not applicable.
Not applicable.

SPECIAL FIRE FIGHTING PROCEDURES:

Incipient fire responders should wear eye protection. Structural fire fighters must wear self-contained breathing apparatus and full protective equipment.

6. ACCIDENTAL RELEASE MEASURES

SPILL AND LEAK RESPONSE:

This product can not spill or leak because the chemicals are fixed in the wood. In the event of a release of dust or chips of this product, safety goggles, mechanically-resistant gloves, and coveralls should be worn by clean-up personnel. In particularly dusty areas, use a MSHA/NIOSH approved dustmask. Sweep-up or vacuum dust and chips. If necessary, rinse the area with soap and water.

PART III: How can I prevent hazardous situations from occurring?

7. HANDLING & STORAGE

WORK PRACTICES AND HYGIENE PRACTICES:

Avoid getting dusts ON YOU or IN YOU. Wash hands after handling this product. If work generates significant amounts of dust, shower and change clothes at the end of such operations. Do not eat or drink in areas where there are dusts of this product. Individuals prone to sunburns should wear sun screen (protection factor 15 or higher) when handling large quantities of this product or working in areas where there are significant quantities of product dust.

STORAGE AND HANDLING PRACTICES:

Keep in cool, dry place away from open flame. Avoid contaminating food, feed, and water with dusts of this product. Always, use this product in areas where adequate ventilation is provided.

PROTECTIVE PRACTICES DURING MAINTENANCE OF CONTAMINATED EQUIPMENT:

Follow practices indicated in Section 6 (Accidental Release Measures).

8. EXPOSURE CONTROLS - PERSONAL PROTECTION

VENTILATION AND ENGINEERING CONTROLS:

Use with adequate ventilation. Use a mechanical fan or vent area to outside.

RESPIRATORY PROTECTION:

If it is anticipated that the exposure limits for dust may be exceeded during work with this product, wear a MSHA/NIOSH approved dustmask.

EYE PROTECTION:

Splash goggles or safety glasses.

HAND PROTECTION:

Mechanically resistant gloves.

BODY PROTECTION:

Use body protection appropriate for task (i.e. coveralls).

9. PHYSICAL & CHEMICAL PROPERTIES

VAPOR DENSITY:

Not applicable.

SPECIFIC GRAVITY:

Not available.

SOLUBILITY IN WATER:

Insoluble.

VAPOR PRESSURE:

mm Hg @ 20 Deg. C: Not applicable.

EVAPORATION RATE:

(water=1): Not applicable.

MELTING POINT or RANGE:

Not applicable.

BOILING POINT:

Not applicable.

pH:

Not applicable.

APPEARANCE AND COLOR:

Dark brown to black lumber or wood poles with tar-like odor.

HOW TO DETECT THIS SUBSTANCE:

(warning properties): There are no unusual warning properties associated with this product besides the tar-like odor.

10. STABILITY & REACTIVITY

STABILITY:

Stable.

DECOMPOSITION PRODUCTS:

Carbon monoxide, carbon dioxide and other toxic compounds will be released upon combustion of this product.

MATERIALS WITH WHICH SUBSTANCE IS INCOMPATIBLE:

This product is incompatible with strong oxidizing agents.

HAZARDOUS POLYMERIZATION:

Will not occur.

CONDITIONS TO AVOID:

Avoid contact with open flame and other sources of extreme high temperatures.
Avoid contact with incompatible materials.

PART IV: Is there any other useful information about this material?

11. TOXICOLOGICAL INFORMATION

TOXICITY DATA:

There is currently no toxicology information available on this product. The following information is available on creosote:

TDL_o (oral, rat) = 52416 mg/kg; reproductive effects
TDL_o (skin, mouse) = 99 g/kg; carcinogenic effects
LD₅₀ (oral, rat) 755 mg/kg
LD₅₀ (oral, mouse) = 433 mg/kg
LDL_o (oral, dog) = 600 mg/kg
LDL_o (oral, cat) = 600 mg/kg
LDL_o (oral, rabbit) = 600 mg/kg

SUSPECTED CANCER AGENT:

Creosote is listed in the NTP Fifth Annual Report on Carcinogens and as an IARC Group 2A Compound (probably carcinogenic to humans).

IRRITANCY OF PRODUCT:

This product is slightly irritating to contaminated tissue.

REPRODUCTIVE TOXICITY INFORMATION:

Listed below is information concerning the effects of this product and its components on the human reproductive system.

Mutagenicity:

While no data exists for the product, it is not expected to cause any fetal toxicity problems related to mutagenicity. Animal studies indicate some experimental mutagenic effects for creosote at relatively high doses.

Teratogenicity:

While no data exists for the product, it is not expected to cause any fetal toxicity problems related to teratogenicity.

Reproductive Toxicity:

While no data exists for the product, it is not expected to have an adverse effect on the male or female reproductive system or to cause any fetal toxicity problems. Animal studies indicate some experimental reproductive effects for creosote at relatively high doses.

MEDICAL CONDITIONS AGGRAVATED BY EXPOSURE:

Disorders involving the skin, eyes, liver, or respiratory tracts may be aggravated by occupational exposures to dusts of this product.

RECOMMENDATIONS TO PHYSICIANS:

Treat symptoms.

12. ECOLOGICAL INFORMATION

ENVIRONMENTAL STABILITY:

This product is treated so it will not decompose.

EFFECT OF MATERIAL ON PLANTS OR ANIMALS:

Do not use treated wood under circumstances where the preservative may become a component of food or animal feed. Examples of such sites would be structure or containers for storing silage of food.

EFFECT OF CHEMICAL ON AQUATIC LIFE:

There is currently no information available on this product's effects on aquatic life; however, it is anticipated that if large enough quantities of product dusts contaminate a water system, exposed aquatic life may experience adverse health effects.

13. DISPOSAL CONSIDERATIONS

PREPARING WASTES FOR DISPOSAL:

Waste disposal must be in accordance with appropriate Federal, State, and local regulations. Waste disposal must be done in accordance with Federal, State and local regulations.

EPA WASTE NUMBER:

Not applicable for wastes consisting only of this product.

14. TRANSPORTATION INFORMATION

THIS MATERIAL IS NOT HAZARDOUS as defined by 49 CFR 172.101 by the U.S. Department of Transportation.

PROPER SHIPPING NAME:

Not applicable.

HAZARD CLASS NUMBER & DESCRIPTION:

Not applicable.

UNIDENTIFICATION NUMBER:

Not applicable.

PACKING GROUP:

Not applicable.

DOT LABEL(S) REQUIRED:

Not applicable.

EMERGENCY RESPONSE GUIDE NUMBER:

Not applicable.

MARINE POLLUTANT:

Creosote is defined as a marine pollutant under 49 CFR 172.101, Appendix B; however, the creosote treated wood is not so defined.

CTC DANGEROUS GOODS SHIPPING REGULATIONS:

THIS MATERIAL IS NOT CONSIDERED AS DANGEROUS GOODS.

15. REGULATORY INFORMATION (+++)

NOTE: The regulatory information is provided on this sheet is for the creosote component contained in the treated wood. Chemical components of the treated wood are fixed into the wood and are not reportable under SARA or CERCLA.

SARA REPORTING REQUIREMENTS:

Creosote solution is subject to the reporting requirements of Section 313 of Title III of the Superfund Amendments and Reauthorization Act; however, the creosote treated wood is not.

TSCA INVENTORY STATUS:

The chemical in this product are listed on the TSCA Inventory.

CERCLA REPORTABLE QUANTITY

(RQ): Creosote = 1 pound.

STATE REGULATORY INFORMATION:

Chemicals in this product are covered under specific State regulations, as denoted below:

<u>Alaska</u> -	Designated Toxic and Hazardous Substances: None.
<u>California</u> -	Permissible Exposure Limits for Chemical Contaminants: None.
<u>Florida</u> -	Substance List: Creosote.
<u>Illinois</u> -	Toxic Substance List: None.
<u>Kansas</u> -	Section 302/313 List: None
<u>Massachusetts</u> -	Substance List: Creosote.
<u>Minnesota</u> -	List of Hazardous Substances: None.
<u>Missouri</u> -	Employer Information/Toxic Substance List: None.
<u>New Jersey</u> -	Right to Know Hazardous Substance List: None.
<u>North Dakota</u> -	List of Hazardous Chemicals, Reportable Quantities: Creosote.
<u>Pennsylvania</u> -	Hazardous Substance List: Creosote.
<u>Rhode Island</u> -	Hazardous Substance List: None.
<u>Texas</u> -	Hazardous Substance List: None.
<u>West Virginia</u> -	Hazardous Substance List: None.
<u>Wisconsin</u> -	Toxic and Hazardous Substances: None.

CALIFORNIA PROPOSITION 65:

Creosote is on the California Proposition 65 lists as a chemical known to the State of California to cause cancer.

LABELING (Precautionary Statements):

CAUTION! Dusts of this product can irritate the skin, eyes, nose, throat, on other tissues of the respiratory system. Dusts can also scratch the eyes, and splinters of this product can puncture the skin. Avoid contact with skin and eyes. Avoid breathing dust.

TARGET ORGANS:

(For Dusts of Product) Skin, Eyes, Respiratory System.

WHMIS SYMBOL:

Not applicable.

16. **OTHER INFORMATION**

PREPARED BY: CHEMICAL SAFETY ASSOCIATES, Inc.
9163 Chesapeake Drive, San Diego, CA 92123-1002
619/565-0302

DISTRIBUTED BY: Pennington Crossarm Co., Po Box 2236, Eugene, Or 97402

MATERIAL SAFETY DATA SHEET
Chemical: Pentachlorophenol Treated Wood

GENERAL INFORMATION

Chemical Name / Synonym / Trade Name:
Pentachlorophenol Treated Wood
Pentachlorophenol Treated Wood (063191)

Manufacturer Name:
KOPPERS INDUSTRIES, INC.
Chemical Family Name:
CAS Number:
DOT Classification:
NA Number:
UN Number:

MATERIAL SAFETY DATA SHEET
KOPPERS INDUSTRIES, INC.
436 SEVENTH AVENUE
PITTSBURGH, PA. 15219-1800

MEDICAL EMERGENCIES:
1 800 553-5631

OUTSIDE U.S.A.:
412 227-2001

GENERAL INFORMATION:
412 227-2884

CHEMTREC ASSISTANCE
1 800 424-9300

CANUTEC:
1 613 996-6666

Prepared By:
Occupational Health and Product Safety Department

REVISION DATE:
06/91

SPECIFICATION SHEET NUMBER:

COMMODITY NUMBER:
00000034

CODE NUMBER:
WPR00097JU9109

REPLACES SHEET:
WPR00097JL8908

SUPPLIER INFORMATION:
Same as manufacturer.

NOTICE:

While the information and recommendations set forth herein are believed to be accurate as of the date hereof, Koppers Industries makes no warranty with respect thereto and disclaims all liability from reliance thereon.

SECTION I — PRODUCT IDENTIFICATION

PRODUCT NAME: Pentachlorophenol Treated Wood

COMMODITY NUMBER: 00000034

SYNONYM: None

PRODUCT USE: Treated Wood

CHEMICAL FAMILY: NA

FORMULA: Preserved Wood

CAS NUMBER: None

DOT PROPER SHIPPING NAME: None

DOT HAZARD CLASS: None

UN/NA NUMBER: None

CANADIAN PRODUCT CLASSIFICATION: Exempted - wood product

SECTION II — HEALTH/SAFETY ALERT

CAUTION:

Handling may cause splinters.
Preservative treatment may cause eye and skin irritation.
Observe good hygiene and safety practices when handling this product.
Do not use this product until MSDS has been read and understood.

WARNING:

This product contains a chemical known to the state of California to cause cancer.
Do not burn in open fires, stoves, fireplace or residential boilers.

SECTION III - HEALTH HAZARD INFORMATION

EYE: Treated or untreated wood dust or preservative may cause irritation.

SKIN: Prolonged and/or repeated direct contact with treated or untreated wood may cause mild, transient irritation. See Section XII for additional information.

INHALATION:

Finely divided wood dust, treated or untreated, may cause nose, throat or lung irritation and other respiratory effects. Preservative vapor may cause respiratory tract irritation. If exposed in a closed space, vapors may produce headache, drowsiness, and possible weakness and incoordination. See Section XII - COMMENTS.

INGESTION:

Eating treated sawdust may cause mouth, throat and stomach irritation. Nausea, vomiting and diarrhea can occur.

SECTION IV - EMERGENCY AND FIRST AID PROCEDURES

EYE CONTACT:

Gently flush any particles from the eye with large amounts of cold water. **DO NOT RUB EYES.** Flush with clean, cool water for 15 minutes.

SKIN CONTACT:

Rinse skin free of material with water to avoid abrasion of skin. **DO NOT RUB** until skin is free of material then wash thoroughly with soap and water.

INHALATION:

Remove from exposure. If breathing has stopped or is difficult, administer artificial respiration or oxygen as indicated. Seek medical aid.

INGESTION:

Wipe material from mouth and lips. If symptoms appear, seek medical aid.

NOTE TO PHYSICIAN:

There is no specific antidote for effects from overexposure to this material. Treatment should be directed at the control of symptoms and the clinical condition.

SECTION V — FIRE AND EXPLOSION HAZARD INFORMATION

FLASH POINT & METHOD:

NA

AUTOIGNITION TEMP:

NA

FLAMMABLE LIMITS (% BY VOLUME/AIR):

LOWER: NA
UPPER: NA

TDG FLAMMABILITY CLASSIFICATION: None

EXTINGUISHING MEDIA: Use water stream/spray/fog.

FIRE-FIGHTING PROCEDURES:

Wear complete fire service protective equipment, including full-face MSHA/NIOSH approved self-contained breathing apparatus. Use water to cool fire-exposed container/structure/protect personnel.

FIRE AND EXPLOSION HAZARDS:

Dust (powder) may form explosive mixture in air. When heated (fire conditions), vapors/decomposition products may be released forming flammable/explosive mixtures in air.

SENSITIVITY TO MECHANICAL IMPACT: ND

SENSITIVITY TO STATIC DISCHARGE: ND

SECTION VI - SPILL, LEAK AND DISPOSAL INFORMATION

SPILL OR LEAK PROCEDURES (PRODUCT): Not applicable

WASTE DISPOSAL:

Dispose of treated wood by ordinary trash collection or burial. Treated wood should not be burned in open fires or in stoves, fireplaces or residential boilers because toxic chemicals may be produced as part of the smoke and ashes. Treated wood from commercial or industrial use (e.g., construction sites) may be burned only in commercial or industrial incinerators or boilers in accordance with state and federal regulations.

SECTION VII - RECOMMENDED EXPOSURE LIMIT/HAZARDOUS INGRED. EXPOSURE LIMIT (PRODUCT):

(*) (hard wood dust)

(**) (soft wood dust)

(***) Based on treatment at a level of 0.6 lbs/ft³ and wood density of 36 lbs/ft³ actual percentage may vary due to differences in wood stock treatment.

HAZARDOUS INGREDIENTS	CAS NUMBER	%BY WT.	EXPOSURE LIMIT (PPM;MG/M3)
Pentachlorophenol	87-86-5	<0.01	ACGIH-TWA - 0.5skin OSHA-PEL - 0.5skin OSHA-TWA - 0.5

Fuel Oil	68476-34-6	<0.02	ACGIH-TWA -	5
			ACGIH-STEL -	10
Wood		>99.9	ACGIH-TWA -	1(*)
			-	5(**)
			ACGIH-STEL -	10(**)

SARA TITLE III SECTION 313 CHEMICALS
(SEE SECTION VII FOR CAS NUMBERS AND PERCENTAGES)
Pentachlorophenol

SECTION VIII - PERSONAL PROTECTION INFORMATION

EYE PROTECTION:

Industrial safety glasses, minimum. As necessary to comply with 29 CFR 1910.133 and work area conditions: use side shields, goggles or face shield. When power-sawing and machining, wear goggles.

SKIN PROTECTION:

Industrial resistant heavy duty-type flexible gloves required for prolonged or frequent contact. For dusty operations (areas) wear necessary resistant protective apparel to include required head, hand and safety-type footwear items. Wear tightly woven coveralls or long sleeved shirts and long pants.

RESPIRATORY PROTECTION:

When existing conditions, OSHA regulations, and manufacturer "Instructions" and "Warnings" permit, Organic vapor/acid gas cartridges or canisters may be used. When sawing or machining treated wood, wear a MSHA/NIOSH approved dustmask (TC-21C).

VENTILATION:

Provide sufficient general/local exhaust ventilation in pattern/volume to control inhalation exposures below current exposure limits and areas below explosive dust concentrations.

SECTION IX - PERSONAL HANDLING INSTRUCTIONS

HANDLING:

Avoid prolonged or repeated contact with skin or breathing of dusts. Observe good personal hygiene practices and recommended procedures. Avoid prolonged or repeated contact with skin or eyes. Do not wear contaminated clothing. Launder separately from household clothing before reuse, or discard.

STORAGE: No special storage is required.

OTHER:

Showering and clothing change recommended at the end of each shift. If oily preservatives/sawdust soil clothes, launder before reuse. Urethane, shellac, latex epoxy enamel, and varnish are acceptable sealers for pentachlorophenol-treated wood. Whenever possible, sawing/machining treated wood should be performed outdoors to avoid accumulations of airborne treated wood sawdust.

SECTION X — REACTIVITY DATA

CONDITIONS CONTRIBUTING TO INSTABILITY:

Stable under normal conditions.

INCOMPATIBILITY:

Open flame.

HAZARDOUS REACTIONS/DECOMPOSITION/COMBUSTION PRODUCTS:

Combustion of this product may produce/release chlorinated dibenzodioxins and dibenzofurans.

CONDITIONS CONTRIBUTING TO HAZARDOUS POLYMERIZATION:

None

SECTION XI — PHYSICAL DATA

BOILING POINT:	NA
MELTING POINT:	NA
VAPOR PRESSURE:	NA
VAPOR DENSITY (AIR=1):	NA
SOLUBILITY (WATER):	NA
VOC:	ND
COEFFICIENT OF WATER/OIL DISTRIBUTION:	ND
APPEARANCE/ODOR:	Light tan to brown wood with fuel oil odor.
SPECIFIC GRAVITY:	NA
% VOLATILE BY VOL:	NA

EVAPORATION RATE (ETHER=1):	NA
VISCOSITY:	NA
pH:	NA

SECTION XII — COMMENTS

Persons with pre-existing disease in or a history of ailments involving the skin, liver, eye, respiratory tract may be at a greater than normal risk of developing adverse health effects from woodworking operations with this product.

UNTREATED WOOD DUST OR SAWDUST:

The principal health effects reported from occupational exposure to sawdust or wood dust generated from untreated wood are dermatitis, rhinitis, conjunctivitis reduced or suppressed mucociliary clearance rates, chronic obstructive lung changes, and nasal sinus cancer. Skin and respiratory sensitization have been reported from exposure to hardwood dust.

Epidemiological studies have been reported on carcinogenic risks of employment in the furniture-making industry, the carpentry industry, and the lumber and sawmill industry. IARC has reviewed these studies and reports that there is sufficient evidence that nasal carcinomas have been caused by employment in the furniture-making industry where the excess risk is associated with exposure to untreated wood dust or sawdust from hardwood species. IARC concluded that epidemiological data are not sufficient to make a definite assessment of the carcinogenic risks of employment as a carpenter or worker in a lumbermill or sawmill.

PENTACHLOROPHENOL PRESERVATIVE:

Volume 41 of the IARC Monographs states that there is limited evidence for the carcinogenicity of occupational exposure to chlorophenols including pentachlorophenol. Pentachlorophenol is fetotoxic, causing delay in the development of laboratory animal embryos and reducing litter size. Pentachlorophenol appears in OSHA Subpart Z Table but not in the NTP Annual Report on Carcinogens. Pentachlorophenol may contain as contaminants other chlorinated phenols and chlorinated dibenzofurans and dibenzodioxins. Fuel oil has been shown to produce tumor formation in laboratory animals following long-term application. Epidemiological studies of workers in the woodtreating industry have shown no significant health effects due to occupational exposure to pentachlorophenol preservative.

May be absorbed through the skin including mucous membranes and eye either by airborne mist, or more particularly, by direct contact. Skin contact should be avoided. To the extent necessary, the use of gloves, coveralls, goggles or other

appropriate personal protective equipment, engineering controls or work practices should be utilized to prevent or reduce skin absorption.

No known ingredients which occur at greater than 0.1%, other than those listed above, are listed as a carcinogen in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans, the NTP Annual Report on Carcinogens or OSHA 29 CFR 1910.1001-1047 subpart Z Toxic and Hazardous Substances (Specifically Regulated Substances).

SKIN PROTECTION (protective material):

Permeation/degradation values of chemical mixtures cannot be predicted from pure components or chemical classes. Thus, these materials are normally best estimates based on available pure component data. A significant difference in chemical breakthrough time has been reported for generically similar gloves from different manufacturers (AIHA J., 48, 941-947 1987).

Do not use until Consumer Information Sheet is read and understood. Wash exposed areas promptly and thoroughly after skin contact from working with this product and before eating, drinking, using tobacco products or rest rooms.

Do not wear contact lens without proper eye protection when using this product.

MSDS DATA
CHEMICAL: Wood Dust
UP-03046

General Information

Chemical Name / Synonym / Trade Name:
Wood Dust

Manufacturer Name:
Timber Products Company

CAS Number:

Address:
Post Office Box 269, Springfield, Oregon 97477-0055

Phone:
503/747-3321

TRADE NAME: Wood Dust
SYNONYMS: None
CAS. NO.: None
DESCRIPTION: Particles generated by any manual or mechanical cutting or abrasion process performed on wood.

PHYSICAL DATA

Boiling Point:	Not Applicable
Specific Gravity:	Variable (Dependent on wood species and moisture content).
Vapor Density:	Not Applicable
% Volatiles of Volume:	Not Applicable
Melting Point:	Not Applicable
Vapor Pressure:	Not Applicable
Solubility in H(2)O (% by wt.):	Insoluble
Evaporation Rate (Butyl Acetate =1):	Not Applicable
pH:	Not Applicable
Appearance & Odor:	Light to dark colored granular solid Color and odor are dependent on the wood species and time since dust was generated.

FIRE & EXPLOSION DATA

Flash Point:	Not Applicable
Autoignition Temperature:	Variable (typically 400-500 F)
Explosive Limits in Air:	40 grams M(3) (LEL)
Extinguishing Media:	Water, CO(2), Sand
Special Fire Fighting Procedures:	Wet down with water Wet down wood dust to reduce the likelihood of ignition or dispersion of dust into the air. Remove burned or wet dust to open area after fire is extinguished.

Unusual Fire & Explosion Hazard:

Strong to severe explosion hazard (if wood dust "cloud" contacts an ignition source.)

HEALTH EFFECTS DATA

Exposure Limit:

ACGIH TLV (R): TWA-5.0 mg/m(3); STEL (15 min.)-10 mg/m(3)
(softwood) TWP-1.0 mg/m(3) (certain hardwoods such as beech and oak)
OSHA PEL -No current PEL

Skin & Eye Contact:

Eye Irritation & Allergic Contact Dermatitis (Wood Dust can cause eye irritation. Various species of wood dust can elicit allergic contact dermatitis in sensitized individuals)

Ingestion:

Not Applicable

Skin Absorption:

Not known to occur

Inhalation:

May cause:

nasal dryness, irritation & obstruction. Coughing, wheezing, & sneezing; sinusitis & prolonged colds have also been reported.

Chronic Effects:

May cause:

Wood dust, depending on species, may cause dermatitis on prolonged, repetitive contact; may cause respiratory sensitization and/or irritation. Prolonged exposure to wood dust has been reported by some observers to be associated with nasal cancer. Wood dust is not listed as a carcinogen by IARC, NTP, ACGIH or OSHA.

REACTIVE DATA

Conditions Contributing to Instability: Stable under normal conditions

Incompatibility:

Avoid contact with: oxidizing agents, drying oils & flame. Product may ignite at temperatures in excess of 400 F.

Hazardous Decomposition Products:

Thermal-oxidative degradation of wood produces: irritating & toxic fumes & gases, including CO, aldehydes and inorganic acids.

Conditions contributing to Polymerization:

Not Applicable

PRECAUTIONS & SAFE HANDLING

Eye Contact: Avoid:

Skin Contact:

Avoid:

repeated or prolonged contact with skin. Careful bathing & clean clothes are indicated after exposure

Inhalation:

Avoid:

repeated or prolonged breathing of wood dust in air. Oxidizing Agents & Drying Oils.

Open Flame:
Avoid:

GENERALLY APPLICABLE CONTROL MEASURES

Ventilation:

Provide:

adequate general & local exhaust ventilation to maintain healthful working conditions

Safety Equipment:

Provide & Wear: goggles or safety glasses. Other protective equipment such as gloves & approved dust respirators may be needed depending upon dust conditions.

EMERGENCY & FIRST AID PROCEDURES

Eyes:

Flush with water to remove dust particles. If irritation persists, get medical attention.

Skin:

Get medical advice if a rash or persistent irritation or dermatitis occur, and before returning to work where wood dust is present.

Inhalation:

Remove to fresh air & get medical advice if persistent irritation, severe coughing, breathing difficulties occur, before returning to work where wood dust is present.

Ingestion: Not Applicable

SPILL/LEAK CLEAN-UP PROCEDURES

Recovery or disposal:

Clean-up:

Sweep or vacuum spills for recovery or disposal; avoid creating dust conditions. Provide good ventilation where dust conditions may occur. Place recovered wood dust in a container for proper disposal.

IMPORTANT:

The information and data herein are believed to be accurate and have been compiled from sources believed to be reliable. It is offered for your consideration, investigation and verification. There is no warranty of any kind, express or implied, concerning the accuracy or completeness of the information and data herein.

GENERAL INFORMATION
ACZA Treated Wood

Filename: UP-06032.msd

(1) NOTE: all WHMIS required information is included. It is located in appropriate sections based on the ANSI Z400.1-1993 format.

PART I What is the material and what do I need to know in an emergency?

PART II What should I do if a hazardous situation occurs?

PART III How can I prevent hazardous situations from occurring?

PART IV Is there any other useful information about this material?

ACZA TREATED WOOD

Information contained in this MSDS refers only to the specific material designated and does not relate to any process or to use with any other materials. This information is furnished free of charge and is based on data believed to be reliable as of the date hereof. It is intended for use by persons processing technical knowledge at their own discretion and risk. Since actual use is beyond our control, no guarantee, expressed or implied, and no liability is assured by J.H. Baxter in conjunction with the use of this information. Nothing herein is to be construed as a recommendation to infringe any patents.

1. PRODUCT IDENTIFICATION

TRADE NAME (AS LABELED):

ACZA TREATED WOOD

Ammoniacal Copper Zinc Arsenate Treated Wood

CHEMICAL CLASS:

Treated Wood

MANUFACTURER'S NAME:

J.H. Baxter

ADDRESS:

1700 South El Camino Real

San Mateo, CA 94401-0902

EMERGENCY PHONE:

CHEMTREC: 1-800-424-9300

BUSINESS PHONE:

1-415-349-0201

DATE OF PREPARATION

October 26, 1995

2. COMPOSITION and INFORMATION OF INGREDIENTS

This product consists of lumber treated with a preservative containing the components listed in the table below. This product is treated with differing strengths of the preservative. The treated wood, based on the strength of preservative treatment, retains the following amounts of preservative per cubic foot of wood:

0.25 lbs preservative/cu ft

1.00 lbs preservative/cu ft

0.40 lbs preservative/cu ft

2.50 lbs preservative/cu ft

0.60 preservative lbs/cu ft

For the amount of preservative in a particular product, refer to product label. The information presented in this document is applicable for all preservative strengths.

CHEMICAL NAME	CAS #	% w/w (Based on total weight of the retained preservative)	EXPOSURE LIMITS IN AIR ACGIH	
			TLV mg/m3	STEL mg/m3
Arsenic Compounds	Not applicable	2.5	0.01 (as Arsenic)	NE

Copper Compounds	Not applicable	50	NE	NE
Zinc Compounds	Not applicable	25	NE	NE

CHEMICAL EXPOSURE LIMITS IN AIR

NAME	PEL	OSHA STEL	IDLH	OTHER
	mg/m3	mg/m3		
Arsenic Compounds	0.01 (Cancer Hazard)	NE	NE	NIOSH REL: C 2 micrograms/g Arsenic/m3/15M
Copper Compounds	NE	NE	NE	NE
Zinc Compounds	NE	NE	NE	NE

NE = Not Established
C = Ceiling Level

The table below presents the exposure limits for the wood.

CHEMICAL NAME	CAS #	% w/w	EXPOSURE LIMITS IN AIR ACGIH	
			TLV mg/m3	STEL mg/m3
Wood	Not applicable	Entire Non-preservative Component	1 (hard wood) 5 (soft wood)	10 (soft wood)

CHEMICAL NAME	EXPOSURE LIMITS IN AIR OSHA			
	PEL	STEL	IDLH	OTHER
	mg/m3	mg/m3		
Wood	2.5 (Western Red Cedar) 5 (All other)	10 (All woods except Western Red Cedar)	NE	NE

NE = Not Established
C = Ceiling Level

3. HAZARD IDENTIFICATION

EMERGENCY OVERVIEW:

This product consists of light green to brown lumber or wood poles. It presents limited hazards in an emergency situation. Dusts from this product can be irritating to exposed tissue. It is a combustible material, which will decompose to produce acrid smoke and toxic gases (i.e. arsenic oxides, carbon monoxide, and fumes containing copper and zinc).

SYMPTOMS OF OVER EXPOSURE BY ROUTE OR EXPOSURE:

INHALATION:

Inhalation of finely divided dusts of this product may cause irritation of the nose, throat, and other tissues of the respiratory system.

CONTACT WITH SKIN or EYES:

Dusts can cause eye irritation and scratching of eye tissue. Prolonged or repeated skin contact can cause mild irritation which disappears after exposure ends.

SKIN ABSORPTION:

Arsenical compounds may be absorbed through skin, causing numbness or irritation of affected area.

INGESTION:

Ingestion of large quantities this product can irritate the mouth, throat, stomach, and other tissues of the digestive system. Symptoms of ingestion may include nausea, vomiting, and irritation, and blood in vomit, stools, or urine.

INJECTION:

The only way injection of this material could occur is by wood splinters puncturing the skin. The main symptoms associated with such an exposure would be redness and irritation at the point of injection.

HEALTH EFFECTS OR RISKS FROM EXPOSURE:

An Explanation in Lay Terms.

ACUTE:

The main health hazard presented by this product would be irritation of contaminated tissues -- especially the skin and eyes.

CHRONIC:

The symptoms of long-term exposure would be similar to those for acute exposure, described above. Additionally, some individuals can become sensitized to wood dusts and develop allergy-like symptoms upon repeated exposures. Studies have been conducted focusing on employees who routinely work with wood products. The International Agency for Research on Cancer reports that there is sufficient evidence exposure to wood dust from hardwood species may lead to an increased risk of nasal/paranasal sinus cancer. Arsenic Acid is a confirmed human carcinogen.

HAZARDOUS MATERIAL INFORMATION SYSTEM

HEALTH	(BLUE)	2
FLAMMABILITY	(RED)	1
REACTIVITY	(YELLOW)	0

PROTECTIVE EQUIPMENT

EYES

RESPIRATORY

SEE SECTION 8

HANDS

BODY

For routine industrial applications

4. FIRST-AID MEASURES

SKIN EXPOSURE:

Immediately begin cleansing the area with running water. Remove exposed or contaminated clothing, taking care to not to irritate the eyes.

EYE EXPOSURE:

Open victim's eyes while under gentle running water. Use sufficient force to open eye lids. Have victim "roll" eyes. Minimum flushing is for 15 minutes. Victims with wood splinters in the eye must receive medical attention.

INHALATION:

Remove victim to fresh air. If necessary, use artificial respiration to support vital functions. Remove or cover gross contamination to avoid exposure to rescuers.

INGESTION:

CALL PHYSICIAN OR POISON CONTROL CENTER FOR MOST CURRENT INFORMATION. If professional advice is not available, do not induce vomiting. Victims of chemical exposure must be taken for medical attention if signs of irritation or other symptoms develop. Rescuers should be taken for medical attention, if necessary. Take copy of label and MSDS to physician or health professional with victim.

5. FIRE-FIGHTING MEASURES**FLASH POINT, Deg. (method):**

Not Applicable.

AUTOIGNITION TEMPERATURE, Deg. C:

200 - 270 Deg. C

FLAMMABLE LIMITS (in air by volume, %):

Lower: Not available.

Upper: Not available.

NFPA RANKING

FLAMMABILITY 2

HEALTH 1

REACTIVITY 0.

OTHER

FIRE EXTINGUISHING MATERIALS:

Water Spray: YES

Dry Chemical: YES

Carbon Dioxide: YES

Halon: NO

Foam: YES

Other: Any "A" Class.

UNUSUAL FIRE AND EXPLOSION HAZARDS:

This product is combustible. When involved in a fire, this material may decompose and produce irritating fumes and toxic gases (copper and zinc fumes, carbon monoxide and carbon dioxide, arsenic compounds).

Explosion Sensitivity to Mechanical Impact: Not applicable.

Explosion Sensitivity to Static Discharge: Not applicable.

SPECIAL FIRE FIGHTING PROCEDURES:

Incipient fire responders should wear eye protection. Structural fire fighters must wear self-contained breathing apparatus and full protective equipment.

6. ACCIDENTAL RELEASE MEASURES**SPILL AND LEAK RESPONSE:**

This product can not spill or leak because the chemicals are fixed in the wood. In the event of a release of dust or chips this product, safety goggles, mechanically-resistant gloves, and coveralls should be worn by clean-up personnel. In particularly dusty areas, use a MSHA/NIOSH approved dustmask. Sweep-up or vacuum dust and chips. If necessary, rinse the area with soap and water.

7. HANDLING and STORAGE**WORK PRACTICES AND HYGIENE PRACTICES:**

Avoid getting dusts ON YOU or IN YOU. Wash hands after handling this product. Do not eat or drink in areas where there are dusts of this product.

STORAGE AND HANDLING PRACTICES:

Keep in cool, dry place away from open flame. Avoid contaminating food, feed, and water with dusts of this product. Always use product in areas where adequate ventilation is provided.

PROTECTIVE PRACTICES DURING MAINTENANCE OF CONTAMINATED EQUIPMENT:
Follow practices indicated in Section 6 (Accidental Release Measures).

**8. EXPOSURE CONTROLS - PERSONAL PROTECTION
VENTILATION AND ENGINEERING CONTROLS:**

Use with adequate ventilation. Use a mechanical fan or vent area to outside.

RESPIRATORY PROTECTION:

If it is anticipated that the exposure limits for dust may be exceeded during work with this product, wear a MSHA/NIOSH approved dustmask.

EYE PROTECTION:

Splash goggles or safety glasses.

HAND PROTECTION:

Mechanically resistant gloves.

BODY PROTECTION:

Use body protection appropriate for task (i.e. coveralls).

9. PHYSICAL and CHEMICAL PROPERTIES

VAPOR DENSITY:

Not applicable.

SPECIFIC GRAVITY:

Not available.

SOLUBILITY IN WATER:

Insoluble.

VAPOR PRESSURE, mm Hg @ 20 Deg. C:

Not applicable.

EVAPORATION RATE (water=1):

Not applicable.

MELTING POINT or RANGE:

Not applicable.

BOILING POINT:

Not applicable.

pH:

Not applicable.

APPEARANCE AND COLOR:

Light tan to brown lumber or wood poles.

HOW TO DETECT THIS SUBSTANCE (warning properties):

There are no unusual warning properties associated with this product.

10. STABILITY and REACTIVITY

STABILITY:

Stable.

DECOMPOSITION PRODUCTS:

Carbon monoxide, carbon dioxide, zinc oxide, ammonia, copper oxides, and arsenic compounds will be released upon combustion of this product.

MATERIALS WITH WHICH SUBSTANCE IS INCOMPATIBLE:

This product is incompatible with strong oxidizing agents.

HAZARDOUS POLYMERIZATION:

Will not occur.

CONDITIONS TO AVOID:

Avoid contact with open flame and other sources of extreme high temperatures. Avoid contact with incompatible materials.

11. TOXICOLOGICAL INFORMATION

TOXICITY DATA:

There is currently no toxicology information available on this product.

SUSPECTED CANCER AGENT:

This product's ingredients are found on the following lists:

COMPOUND	FEDERAL	OSHA Z LIST	IARC	NTP	CAL/OSHA
Arsenic/Arsenic Compounds	Yes		Yes	Yes	Yes
Wood Dust	No		Yes	No	No

Wood Dust listed as a "Human Carcinogen" (Group 1) by IARC. This classification is based primarily on IARC's evaluation of increased risk in the occurrence of adenocarcinomas of the nasal cavities and paranasal sinuses associated with exposure to wood dust. Neither wood, nor wood dust are considered carcinogenic by the Federal OSHA, NTP, or CAL/OSHA.

IRRITANCY OF PRODUCT:

This product is slightly irritating to contaminated tissue.

REPRODUCTIVE TOXICITY INFORMATION:

Listed below is information concerning the effects of this product and its components on the human reproductive system.

Mutagenicity:

While no data exist for the product, it is not expected to cause any fetal toxicity problems related to mutagenicity.

Teratogenicity:

While no data exist for the product, it is not expected to cause any fetal toxicity problems related to teratogenicity. Animal studies indicate some experimental teratogenic effects for arsenic acid and zinc oxide at relatively high doses.

Reproductive Toxicity:

While no data exist for the product, it is not expected to have an adverse effect on the male or female reproductive system or to cause any fetal toxicity problems. Animal studies indicate some experimental reproductive effects for zinc oxide and copper oxides at relatively high doses.

MEDICAL CONDITIONS AGGRAVATED BY EXPOSURE:

Disorders involving the skin, eyes, liver, or respiratory tracts may be aggravated by occupational exposures to dusts of this product.

RECOMMENDATIONS TO PHYSICIANS:

Treat symptoms. 12. ECOLOGICAL INFORMATION

ENVIRONMENTAL STABILITY:

This product is treated so it will not decompose. Arsenic, copper, and zinc compounds may slowly be released into the environment and will be transported or degraded based on pH, soil type, and salinity.

EFFECT OF MATERIAL ON PLANTS or ANIMALS:

Do not use treated wood under circumstances where the preservative may become a component of food or animal feed. Examples of such sites would be structures or containers for storing silage of food.

EFFECT OF CHEMICAL ON AQUATIC LIFE:

There is currently no information available on this product's effects on aquatic life; however, it is anticipated that if large enough quantities of product dusts contaminate a water system, exposed aquatic life may experience adverse health effects.

13. DISPOSAL CONSIDERATIONS

PREPARING WASTES FOR DISPOSAL:

Waste disposal must be in accordance with appropriate Federal, State, and local regulations.

EPA WASTE NUMBER:

Not applicable for wastes consisting only of this product.

14. TRANSPORTATION INFORMATION

THIS MATERIAL IS NOT A HAZARDOUS MATERIAL (49 CFR 172.101 BY THE U.S. DEPT. OF TRANSPORTATION.

PROPER SHIPPING NAME:

Not applicable.

HAZARD CLASS NUMBER and DESCRIPTION:

Not applicable.

UN IDENTIFICATION NUMBER:

Not applicable.

PACKING GROUP:

Not applicable.

DOT LABEL(S) REQUIRED:

Not applicable.

EMERGENCY RESPONSE GUIDE NUMBER:

Not applicable.

MARINE POLLUTANT:

The product is not defined as a marine pollutant, 49 CFR 172.101 Appendix B.

CTC DANGEROUS GOODS SHIPPING REGULATIONS:

THIS MATERIAL IS NOT CONSIDERED AS DANGEROUS GOODS.

15. REGULATORY INFORMATION (+++)

NOTE: The regulatory information is provided on this sheet is for the preservative solutions and is not applicable to preservative components contained in the treated wood. Chemical components of the treated wood are fixed into the wood and are not reportable under SARA or CERCLA.

SARA REPORTING REQUIREMENTS:

Arsenic compounds, Copper and its compounds, and Zinc compounds are subject to the reporting requirements of Section 313 of Title III of the Superfund Amendments and Reauthorization Act. This treated wood product is not subject to these requirements.

TSCA INVENTORY STATUS:

The chemicals in this product are listed on the TSCA Inventory.

CERCLA REPORTABLE QUANTITY (RQ):

Arsenic = 1 pound; Copper = 5000 pounds; Zinc = 1000 pounds.
The treated wood product is not subject to these requirements.

STATE REGULATORY INFORMATION:

Chemicals in this product are covered under specific State regulations, as denoted below:

Alaska - Designated Toxic and Hazardous Substance:

None

California - Permissible Exposure Limits for Chemical Contaminants:

Arsenic Compounds, Copper (Salts, Dusts, Mists)

Florida - Substance List:

Arsenic

Illinois - Toxic Substance List:

Arsenic Compounds, Copper Compounds

Kansas - Section 302/313 List:

Copper and Compounds

Massachusetts - Substance List:

Arsenic Compounds

Minnesota - List of Hazardous Substances:

Arsenic Compounds, Copper (Dusts and Mists)

Missouri - Employer Information/Toxic Substance List:

Arsenic Acid, Zinc Oxide

New Jersey - Right to Know Hazardous Substance List:

Arsenic Acid, Inorganic Copper Compounds, Zinc Oxide

North Dakota - List of Hazardous Chemicals, Reportable Quantities:

Arsenic, Copper and Compounds, Zinc and Compounds

Pennsylvania - Hazardous Substance List:

Arsenic Compounds, Copper, Zinc Oxide

Rhode Island - Hazardous Substance List:

Zinc Oxide

Texas - Hazardous Substance List:

None

West Virginia - Hazardous Substance List:

None

Wisconsin - Toxic and Hazardous Substances:

None

CALIFORNIA PROPOSITION 65:

Inorganic Arsenic Compounds (i.e. Arsenic Acid) is on the California Proposition 65 lists as being known to the State of California to cause cancer.

LABELING (Precautionary Statements):

CAUTION! Dusts of this product can irritate the skin, eyes, nose, throat, on other tissues of the respiratory system. Dusts can also scratch the eyes, and splinters of this product can puncture the skin. Avoid contact with skin and eyes. Avoid breathing dust.

TARGET ORGANS:

(For Dusts of Product) Skin, Eyes, Respiratory System.

WHMIS SYMBOL:

Not applicable.

Heading: 16. OTHER INFORMATION

PREPARED BY: CHEMICAL SAFETY ASSOCIATES, Inc. 9163 Chesapeake Drive, San Diego, CA 9163
Chesapeake Drive, San Diego, CA 92123-1002 619/565-0302

EXHIBIT C**PROPERTY MATERIALS**

1. Revised Limited Subsurface Soil and Groundwater Investigation Work Plan
GRANITE CONSTRUCTION – WATSONVILLE FACILITY
Watsonville, California
WKA No. 8780.01
Prepared by: Wallace Kuhl & Associates Inc.
Dated: April 27, 2010
2. Response to Revised Limited Subsurface Soil and Groundwater Investigation
Work Plan, Granite Construction – Watsonville Facility, Union Pacific Railroad
Branch Line (milepost 2.32), Watsonville, California
From: John B. Gerbrandt, Site Mitigation
County of Santa Cruz
Health Services Agency
Dated: June 11, 2010
3. E-Mail dated June 29, 2010
From: Candice Longnecker, LEED AP, Environmental Coordinator,
Granite Construction Company
To: James E. Diel, Union Pacific Railroad Company
Subject: 2005 and 2009 AMEC Reports
4. E-Mail dated June 30, 2010
From: James E. Diel, Manager of Environmental Site Remediation,
Union Pacific Railroad Company
To: Richard L. Gooch
cc: Candice Longnecker, Robert C. Bylsma
Subject: Watsonville, CA – Granite Construction Issue: 2005 and 2009 AMEC Reports
5. E-Mail dated July 13, 2010
From: James E. Diel, Manager of Environmental Site Remediation,
Union Pacific Railroad Company
To: Richard L. Gooch
cc: Candice Longnecker
Subject: Watsonville, CA – Granite Construction Issue: 2005 and 2009 AMEC Reports
6. E-Mail dated July 13, 2010
From: Candice Longnecker, LEED AP, Environmental Coordinator,
Granite Construction Company
To: James E. Diel
Subject: Watsonville, CA – Granite Construction Issue: 2005 and 2009 AMEC Reports

7. E-Mail dated July 13, 2010
From: James E. Diel, Manager of Environmental Site Remediation,
Union Pacific Railroad Company
To: Candice Longnecker
cc: Richard L. Gooch, Lee Hammond
Subject: Watsonville, CA – Granite Construction Issue: Investigation status

8. E-Mail dated July 14, 2010
From: Candice Longnecker, LEED AP, Environmental Coordinator,
Granite Construction Company
To: James E. Diel
Subject: Watsonville, CA – Granite Construction Issue: Investigation status

9. E-Mail dated July 16, 2010
From: James E. Diel, Manager of Environmental Site Remediation,
Union Pacific Railroad Company
To: Candice Longnecker
cc: Robert C. Bylsma, Lee Hammond, Richard L. Gooch
Subject: Watsonville, CA – Granite Construction Issue: Investigation status

EXHIBIT D**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION

_____, California _____

Attn: _____

MAIL TAX STATEMENTS TO:

SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION

_____, California _____

Attn: _____

THIS INSTRUMENT IS EXEMPT FROM RECORDING FEES (GOVERNMENT CODE §6103) AND FROM DOCUMENTARY TRANSFER TAX (REVENUE AND TAXATION CODE §11922).

(Space above line for Recorder's use only)

QUITCLAIM DEED

FOR VALUE RECEIVED, UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Grantor"), REMISES, RELEASES and QUITCLAIMS to SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law ("Grantee"), all of Grantor's rights, title, and interest in and to that certain real property (the "Property") in the County of [Santa Cruz/Monterey, as applicable], State of California, described on Schedule 1 attached hereto and incorporated by reference.

EXCEPTING from this quitclaim and RESERVING unto Grantor, its successors and assigns, forever (except as otherwise provided in the easement reserved for freight railroad purposes), the following:

(a) Subject to the terms and conditions below, Grantor excepts from the Property hereby quitclaimed and reserves unto itself, its successors and assigns, forever, an easement upon, over, under and across the Property, extending ten (10) feet on either side of the center line of the existing tracks and including rights of access along the length thereof, for purposes of conducting freight rail operations and otherwise to fulfill Grantor's rights and obligations as a common carrier freight railroad under applicable federal laws and regulations, including the right to use the Property to provide freight rail service to all customers on or served from the Property, and to operate, use, construct, reconstruct, maintain, repair, relocate and/or remove existing and/or future railroad, rail and railroad-related equipment, facilities and

transportation systems necessary for and related to freight rail operations (the "**Freight Easement**");

(i) This Freight Easement is made subject to the unrecorded Administration and Coordination Agreement between Grantee and Sierra Northern Railway ("Short Line Operator"), dated as of [____], 2010, as the same may be amended from time to time. The Administration and Coordination Agreement includes terms and conditions governing the following, without limitation: maintenance, repair and replacement of the Freight Easement and improvements thereon; allocation of liability; reasonable restrictions on rail car storage and use of lay down space; tourist rail service; future modifications and improvements to the Property, including the Freight Easement; reservations of rights by the Grantee; and expiration and termination of the Administration and Coordination Agreement.

(ii) Abandonment of all or part of the Property. Grantor may at any time, for any reason, and in its sole discretion, seek STB authority (or an exemption therefrom) to abandon freight service, over all of, or any segment of, the Property. Grantee agrees to cooperate with, and not to directly or indirectly oppose, Grantor's abandonment efforts. If Grantee timely files with the STB a Statement of Willingness to Assume Financial Responsibility meeting the requirements of the STB's regulations, Grantor shall file with the STB: (A) an expression of willingness to enter into a rail banking/trail use agreement; (B) a statement that Grantee and Grantor have entered into such an agreement; and (C) a request that the STB issue a Notice of Interim Trail Use (NITU) or Certificate of Interim Trail Use (CITU), as appropriate. Upon the effective date of each such NITU or CITU, or upon Grantor's abandonment of freight service over all of, or any segment of, the Property, (X) Grantor shall execute and deliver to Grantee an option to acquire Grantor's right to restart freight rail service on the subject segment of the Property in the form attached hereto as **Schedule 2**; and (Y) Grantor's freight easement, and the Administration and Coordination Agreement between the Short Line Operator and Grantee, shall automatically terminate with respect to such segment without any further liability thereunder to Grantee on the part of Grantor and the Short Line Operator, unless the Administration and Coordination Agreement specifically provides otherwise. After such automatic termination, upon Grantee's request and at Grantee's expense, Grantor shall execute a quitclaim of such freight easement as to such segment. Grantor may withdraw any abandonment in its sole discretion.

(iii) Offers of Financial Assistance. If Grantor seeks abandonment of any segment of the Property and Grantor receives an Offer of Financial Assistance ("OFA") with respect thereto, Grantor shall promptly notify Grantee in writing. Grantee (or its designee) may, at its option, submit its own OFA in the amount of \$1.00 and Grantor shall accept the OFA submitted by Grantee (or its designee).

(iv) Nonuse of Freight Easement Property; Default under Administration and Coordination Agreement. If any segment of the Property subject to this Freight Easement is not regularly used (as defined in the Administration and Coordination Agreement) for freight rail purposes for a period of one (1) year, or a material default occurs under the Administration and Coordination Agreement without being cured under the terms and conditions thereof, Grantor shall, at Grantee's request, enter into a rail banking/trail use

agreement and otherwise comply with the provisions of paragraph (ii), or cooperate with an application by Grantee, or its designee, to commence common carrier freight service on the Property.

(v) Successors and Permitted Assigns. All of the terms and conditions of this Freight Easement shall be binding upon, and inure to the benefit of, and be enforceable by, the parties hereto and their respective successors and permitted assigns. Grantor may not assign this Freight Easement except as provided in the Administration and Coordination Agreement. Any assignment of this Freight Easement shall be conditioned upon the assignee assuming all obligations set forth herein and in the Administration and Coordination Agreement. Grantee hereby consents to the assignment of this Freight Easement to Short Line Operator. Upon Union Pacific Railroad Company's assignment of its rights and interest under this Freight Easement to Short Line Operator, Union Pacific Railroad Company shall be released and discharged from any further obligation or liability under this Freight Easement and references to "Grantor" hereunder shall then refer to Short Line Operator or any successor to Short Line Operator, as applicable.

(b) The existing eight inch (8") sanitary sewer pipeline and appurtenant facilities referred to in the following sentence, whether owned by Grantor or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing eight inch (8") sanitary sewer pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the eight inch (8") sanitary sewer pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Grantor's rights under the foregoing reservation of easement, Grantee, for itself, its successors and assigns, hereby covenants and agrees that Grantee shall not interfere with the rights of Grantor's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Grantor) and Holcomb Corporation dated July 27, 1990, identified in the records of Grantor as Audit Number S211235, and granting certain rights to said Licensee to use a portion of the Line for eight inch (8") sanitary sewer pipeline purposes. This reserved right is intended solely to permit Grantor to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

(c) The existing eight inch (8") sanitary sewer pipelines and appurtenant facilities referred to in the following sentence, whether owned by Grantor or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing eight inch (8") sanitary sewer pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the eight inch (8") sanitary sewer pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to

and not in limitation of Grantor's rights under the foregoing reservation of easement, Grantee, for itself, its successors and assigns, hereby covenants and agrees that Grantee shall not interfere with the rights of Grantor's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Grantor) and Holcomb Corporation dated July 27, 1990, identified in the records of Grantor as Audit Number S211236, and granting certain rights to said Licensee to use a portion of the Line for eight inch (8") sanitary sewer pipeline purposes. This reserved right is intended solely to permit Grantor to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

(d) The existing four inch (4") VCP sewer and four inch (4") copper water pipelines and appurtenant facilities referred to in the following sentence, whether owned by Grantor or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing four inch (4") VCP sewer and four inch (4") copper water pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the four inch (4") VCP sewer and four inch (4") copper water pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Grantor's rights under the foregoing reservation of easement, Grantee, for itself, its successors and assigns, hereby covenants and agrees that Grantee shall not interfere with the rights of Grantor's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Grantor) and James G. Speth dated March 19, 1980, identified in the records of Grantor as Audit Number S204567, and granting certain rights to said Licensee to use a portion of the Line for four inch (4") VCP sewer and four inch (4") copper water pipeline purposes. This reserved right is intended solely to permit Grantor to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

(e) The existing twenty-four inch (24") storm drain pipelines and appurtenant facilities referred to in the following sentence, whether owned by Grantor or any third party, and a perpetual easement upon, over, along, under and across the portion of the Line that lies five feet (5') on each side of the centerline of such existing twenty-four inch (24") storm drain pipeline and appurtenant facilities (the "Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing the twenty-four inch (24") storm drain pipeline and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (a) the right of ingress and egress to and from the Easement Area, and (b) the right to collect the rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Grantor's rights under the foregoing reservation of easement, Grantee, for itself, its successors and assigns, hereby covenants and agrees that Grantee shall not interfere with the rights of Grantor's Licensee under that certain License Agreement between Southern Pacific Transportation Company (predecessor in interest to Grantor) and Phillips Driscopipe, Inc. dated April 20, 1995, identified in the records of Grantor as Audit Number S715469, and granting certain rights to said Licensee to use a portion of the Line for twenty-four

inch (24") storm drain pipeline purposes. This reserved right is intended solely to permit Grantor to honor its obligations under said License Agreement and does not constitute a reservation of rights for any other purpose.

IN WITNESS WHEREOF, the undersigned have executed this Quitclaim Deed as of _____, 2010.

Attest:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

Assistant Secretary

(SEAL)

By: _____

Title: _____

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION, a public
agency created under California law**

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

Counsel

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS)

On _____, 2010, before me, a Notary Public in and for said County and State, personally appeared _____ and _____, who are the _____ and the Assistant Secretary, respectively, of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

(SEAL)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CRUZ)

On _____, 2010, before me, _____, a Notary Public in and for said County and State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

(Notary Seal)

SCHEDULE 1 TO QUITCLAIM DEED

LEGAL DESCRIPTION OF PROPERTY

SCHEDULE 2 TO QUITCLAIM DEED**FORM OF OPTION
[To Be Executed in Recordable Form]**

1. The portion of the Property between milepost [] and milepost [] (the "Railbanked Property") is subject to the effective orders of the Surface Transportation Board ("STB") applying Section 8(d) of the National Trails System Act, 16 U.S.C. Section 1247(d). The Railbanked Property shall remain under the jurisdiction of the STB (or its successor agency) pursuant to applicable regulations of said agency for reactivation of freight rail service and for interim trail use. In the event Grantee shall apply to the STB (or its successor agency) to cease railbanking all or any portion of the Railbanked Property, Grantor shall not object to such application.

2. Grantor hereby grants to Grantee an option for a period of 99 years after the date of this Option to acquire Grantor's residual right to reactivate freight rail service on all or any portion of the Railbanked Property. Such option (i) shall be exercisable upon 10 days prior written notice to Grantor after Grantee has obtained regulatory authority to acquire such residual right, and upon tender of \$10 as additional consideration, or (ii) may be waived by Grantee upon written notice to Grantor.

3. If Grantor reactivates freight rail service on any portion of the Railbanked Property, Grantor (i) shall reimburse Grantee for the amount Grantee has paid for the portion of the Railbanked Property in question, including all improvements subsequently constructed thereon, or the then-current market value of the portion of the Railbanked Property in question, whichever is greater, and (ii) shall be solely responsible for the restoration of tracks, ties and other structures necessary for freight rail service.

**CERTIFICATE OF ACCEPTANCE
(Pursuant to Government Code §27281)**

This is to certify that the interest in real property transferred by Quitclaim Deed as of _____, 2010, from Union Pacific Railroad Company, a Delaware corporation, to the SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law ("Grantee"), is hereby accepted by the undersigned officer pursuant to authority conferred by Resolution No. ____ of Grantee's Commission, adopted _____, 2010, and Grantee consents to recordation thereof by its duly authorized representative.

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION**

Date: _____, 2010

By: _____
Title: _____

APPROVED AS TO FORM:

Counsel

EXHIBIT E**ASSIGNMENT AND ASSUMPTION AGREEMENT**

FOR VALUE RECEIVED, UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Assignor"), ASSIGNS AND TRANSFERS to SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law ("Assignee"), its successors and assigns, all of Assignor's right, title and interest in and to the leases and licenses (collectively, "Licenses") to the extent the Licenses affect the real property ("Property") described on **Schedule 1**, which Licenses are listed on **Schedule 2**.

Assignee agrees to (a) perform all of the obligations of Assignor pursuant to the Licenses as they relate to the Property accruing after the date hereof, and (b) indemnify, defend and hold Assignor harmless from and against any and all claims, causes of actions and expenses (including reasonable attorney's fees) incurred by Assignor and arising out of (1) Assignee's failure to comply with terms of the Licenses as they relate to the Property after the date hereof, and (2) claims under the Licenses as they relate to the Property by the licensees named in the Licenses accruing after the date hereof as they relate to the Property.

This assignment is made and accepted without recourse against Assignor as to the performance by any party under such Licenses.

All Schedules attached to this Agreement are incorporated herein for all purposes.

Dated the ____ day of _____, 2010.

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By: _____
Title: _____

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION, a public
agency created under California law**

By: _____
Title: _____

SCHEDULE 1 TO EXHIBIT E

**LEGAL DESCRIPTION OF PROPERTY
TO BE ATTACHED**

EXHIBIT "A"
 U.P.R.R. REAL ESTATE DEPARTMENT
 PROPOSED OF LAND
 CITY OF SANTA CRUZ, CA
 MILE POST NO. 0.483
 FOLDER NO. 0172803

PROJECT	AUDIT	FOLDER	FILENET	LEG STAT	PARTY NAME	PURPOSE	MANAGER	COUNTY	CITY	ST	SURDV	MP START	ANNUAL AMT	DISPOSITION	CONTAINED	IMAGE
186878	207416	158035	85264492	Active	CITY OF WATSONVILLE	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	WATSONVILLE	CA	Mojave	107.62	\$0	Assigned	Totally	
187446	205624	158841	83497065	Active	MARTINELLI, S. & CO	Crossing Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SANTA CRUZ BRANCH	0.23	\$0	Assigned	Totally	
198488	201562	158870	81731255	Active	PACIFIC GAS & ELECTRIC COMPANY	Easement - Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	Santa Cruz Sub.	102.85	\$0	Assigned	Totally	
189620	201184	160218	81434187	Active	PACIFIC GAS & ELECTRIC COMPANY	Easement - Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SANTA CRUZ BRANCH	102.47	\$0	Assigned	Totally	
190837	202098	161195	81639173	Active	SANTA CRUZ CITY OF	Warning Devices - Public Roadway	Paul G. Farrell	Santa Cruz	WATSONVILLE	CA	SANTA CRUZ BRANCH	119.4	\$0	Assigned	Totally	
194440	207356	164695	87918254	Active	COUNTIES, THOMAS	Easement - Pip, Wire, Roadway, Drainage	Lita Burnside	Santa Cruz	CAPITOLA	CA		112.91	\$0	Assigned	Totally	
195254	204400	165344	82407222	Active	SOQUEL CREEK WATER DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	SANTA CRUZ BRANCH	112.91	\$0	Assigned	Totally	
195255	203832	165545	82480131	Active	SOQUEL CREEK WATER DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	SANTA CRUZ	83.2	\$0	Assigned	Totally	
195598	205499	165899	83331007	Active	GRANTIE ROCK COMPANY	Crossing Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SANTA CRUZ	103.09	\$0	Assigned	Totally	
199669	207591	170858	86041616	Active	PROPERTIES, LLC	Crossing - W/line	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	Santa Cruz	111.04	\$0	Assigned	Totally	
200143	1515932	138604731	Active	APTOS SEASCAPE CORP	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	112.8	\$0	Assigned	Totally	
200144	1515680	77976309	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Pipeline	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	110.5	\$0	Assigned	Totally	
200153	1516739	77976317	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	112.8	\$0	Assigned	Totally	
200159	1517230	90819096	Active	PACIFIC TELE & TELE	Wire	Paul G. Farrell	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	111.23	\$0	Assigned	Totally	
200154	1517723	138597466	Active	SANTA CLARA COUNTY OF	Crossing - Public Roadway	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	113.7	\$0	Assigned	Totally	
200155	1516067	138596729	Active	SANTA CRUZ COUNTY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	108	\$0	Assigned	Totally	
200156	15156717	138597266	Active	SANTA CRUZ COUNTY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	112.02	\$0	Assigned	Totally	
200157	1517786	138597471	Active	SANTA CRUZ COUNTY OF	Pipeline	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	111.79	\$0	Assigned	Totally	
200158	1517979	138597475	Active	SANTA CRUZ COUNTY OF	Pipeline	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	111.04	\$0	Assigned	Totally	
200159	1516292	138596747	Active	SOQUEL CREEK COUNTY WATER DIST	Pipeline	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	116.48	\$0	Assigned	Totally	
200160	15156810	138597274	Active	SOQUEL CREEK COUNTY WATER DIST	Pipeline	Joan M. Preble	Santa Cruz	APTOS	APTOS	CA	SP Route Code EC	118.1	\$0	Assigned	Totally	
200654	15155770	138604515	Active	CAPITOLA CITY OF	Pipeline	Joan M. Preble	Santa Cruz	CAPITOLA	CAPITOLA	CA	SP Route Code EC	90.6	\$0	Assigned	Partially	
200767	15162501	78026889	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	CLIFFSIDE	CLIFFSIDE	CA	SP Route Code EC	81.4	\$0	Assigned	Totally	
201006	15138659	77975849	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Paul G. Farrell	Santa Cruz	DAVENPORT	DAVENPORT	CA	SP Route Code EL	83.5	\$0	Assigned	Totally	
203028	1518150	138596793	Active	SANTA CRUZ CITY OF	Crossing - Public Roadway	Joan M. Preble	Santa Cruz	FORBY	FORBY	CA	SP Route Code EL	85.5	\$0	Assigned	Totally	
203739	15160702	90225212	Active	BARGIACCHI LEO	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	119.57	\$0	Assigned	Totally	
203737	15160646	78017907	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	81	\$0	Assigned	Totally	
203738	15161659	77977522	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EC	81.64	\$0	Assigned	Totally	
203739	15162056	77977949	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	119.25	\$0	Assigned	Totally	
203740	15162884	78026937	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	81.63	\$0	Assigned	Totally	
203741	15162229	90017745	Active	PACIFIC GAS & ELECTRIC COMPANY	Attachments Wire/Pipeline/Antennas	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EC	84.44	\$0	Assigned	Totally	
203742	15162897	138596938	Active	PACIFIC TELE & TELE	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	119.2	\$0	Assigned	Totally	
203743	15159048	90319517	Active	PREFFER BROS RANCH	Pipeline	Lita Burnside	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	81.66	\$0	Assigned	Totally	
203744	15159068	90232465	Active	SANTA CRUZ CITY OF	Lease of Land for Beautification, Parks,	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EC	81.63	\$0	Assigned	Totally	
203745	15157341	138597320	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	119.09	\$0	Assigned	Totally	
203746	15162246	90082306	Active	TELEPROMPTER CABLE TV	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	SANTA CRUZ	CA	SP Route Code EL	102.9	\$0	Assigned	Totally	
203789	15163007	138596941	Active	SANTA CRUZ PORT DISTRI	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	SEABRIGHT	SEABRIGHT	CA	SP Route Code EC	102	\$0	Assigned	Totally	
204471	15157211	77976400	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	WATSONVILLE	CA	SP Route Code EC	102	\$0	Assigned	Totally	
204473	15169753	138595932	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	WATSONVILLE	CA	SP Route Code EC		\$0	Assigned	Totally	

EXHIBIT "A"	APN	STATUS	PROJECT/DESCRIPTION	OWNER	TYPE	DATE	STATUS	APPLICANT	CITY	ROUTE CODE	AMOUNT	STATUS	TOTAL
205767	5198875	Active	CAPITOLA CITY OF	JOHN M. PREBLE	PIPELINE	136597930	Active	JOHN M. PREBLE	SANTA CRUZ	CA SP ROUTE CODE EC	116.2	\$0	Assigned
205987	5015384	Active	CHINOOK MANUFACTURING CO	DAN L. ZACK	TRACK	74463147	Active	DAN L. ZACK	SANTA CRUZ	CA SP ROUTE CODE EL	80.7	\$0	Assigned
206269	5022513	Active	COUGH DISTRIBUTING CO INC	DAN L. ZACK	TRACK	72875530	Active	DAN L. ZACK	WATSONVILLE	CA SP ROUTE CODE EC	103.1	\$0	Assigned
208017	5027248	Active	JOSEPH GEORGE DIST	DAN L. ZACK	TRACK	73553929	Active	DAN L. ZACK	SANTA CRUZ	CA SP ROUTE CODE EC	118.1	\$0	Assigned
208855	5030329	Active	MONDO BROS INC	DAN L. ZACK	TRACK	74806637	Active	DAN L. ZACK	SANTA CRUZ	CA SP ROUTE CODE EL	80.6	\$0	Assigned
210400	5199707	Active	GRWRS ASSN	DAN L. ZACK	TRACK	74584532	Active	DAN L. ZACK	SANTA CRUZ	CA SP ROUTE CODE EL	80.7	\$0	Assigned
210403	5196862	Active	SANTA CRUZ CITY OF	JOHN M. PREBLE	PIPELINE	138608557	Active	JOHN M. PREBLE	SANTA CRUZ	CA SP ROUTE CODE EC	119.65	\$0	Assigned
210404	5184560	Active	SANTA CRUZ COUNTY FLOOD CONTROL & WATER CONTROL DIST.	JOHN M. PREBLE	PIPELINE	138608395	Active	JOHN M. PREBLE	CLIFFSIDE	CA SP ROUTE CODE EC	117.18	\$0	Assigned
210405	5196592	Active	SANTA CRUZ COUNTY FLOOD CONTROL DIST.	JOHN M. PREBLE	PIPELINE	138597732	Active	JOHN M. PREBLE	CAPITOLA	CA SP ROUTE CODE EC	116.7	\$0	Assigned
210408	5189267	Active	SANTA CRUZ COUNTY OF	JOHN M. PREBLE	CROSSING - PRIVATE ROADWAY	138608562	Active	JOHN M. PREBLE	CLIFFSIDE	CA SP ROUTE CODE EC	118.1	\$0	Assigned
210409	5164485	Active	SANTA CRUZ COUNTY SANITATION DIST	JOHN M. PREBLE	PIPELINE	138608389	Active	JOHN M. PREBLE	CLIFFSIDE	CA SP ROUTE CODE EC	118.1	\$0	Assigned
210410	5191422	Active	SANTA CRUZ COUNTY SANITATION DIST	JOHN M. PREBLE	PIPELINE	138608725	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	110.02	\$0	Assigned
211004	5194565	Active	SOUTHWESTERN BELL TEL CO	JOHN M. PREBLE	WIRE	88226405	Active	JOHN M. PREBLE	WATSONVILLE	CA SP ROUTE CODE EC	102.93	\$0	Assigned
211518	5012360	Active	TDBEY'S B&S SERVICE INC	DAN L. ZACK	TRACK	73553929	Active	DAN L. ZACK	SANTA CRUZ	CA SP ROUTE CODE EL	80.7	\$0	Assigned
211562	5190768	Active	TRESTLE BEACH ASSOCIATES	LISA BURMANDE	PIPELINE	138608717	Active	LISA BURMANDE	APTOS	CA SP ROUTE CODE EC	109.62	\$0	Assigned
211563	5191454	Active	TRESTLE BEACH ASSOCIATES	LISA BURMANDE	LEASE OF LAND and/or RR OWNED BUILDINGS	88309090	Active	LISA BURMANDE	APTOS	CA SP ROUTE CODE EC	109.56	\$0	Assigned
212021	5199719	Active	WATSONVILLE CITY OF	JOHN M. PREBLE	PIPELINE	138598378	Active	JOHN M. PREBLE	WATSONVILLE	CA SP ROUTE CODE EC	102.62	\$0	Assigned
218477	5094700	Active	SANTA CRUZ CITY OF	JOHN M. PREBLE	PIPELINE	87133186	Active	JOHN M. PREBLE	SANTA CRUZ	CA SP ROUTE CODE EC	119.67	\$0	Assigned
218317	5190092	Active	APTOS STATION DEVELOPMENT	JOHN M. PREBLE	LEASE OF LAND FOR BEAUTIFICATION, PARKS,	88368793	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	112.8	\$0	Assigned
218318	5193091	Active	APTOS STATION DEVELOPMENT	LISA BURMANDE	LEASE OF LAND FOR BEAUTIFICATION, PARKS,	88268077	Active	LISA BURMANDE	APTOS	CA SP ROUTE CODE EC	112.8	\$157.41	Assigned
218844	5204551	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	JOHN M. PREBLE	WIRE	78027765	Active	JOHN M. PREBLE	SANTA CRUZ	CA SP ROUTE CODE EC	112.71	\$0	Assigned
219372	5715345	Active	SOQUEL CREEK COUNTY WATER DIST	JOHN M. PREBLE	PIPELINE	86174758	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	114.12	\$0	Assigned
219415	5193987	Active	SOQUEL CREEK COUNTY WATER DIST	JOHN M. PREBLE	PIPELINE	88247467	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	112.81	\$0	Assigned
219416	5209823	Active	SOQUEL CREEK COUNTY WATER DIST	JOHN M. PREBLE	PIPELINE	138598478	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	114.12	\$0	Assigned
219417	5210429	Active	SOQUEL CREEK COUNTY WATER DIST	JOHN M. PREBLE	PIPELINE	87012551	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	115.32	\$0	Assigned
219418	5211311	Active	SOQUEL CREEK COUNTY WATER DIST	JOHN M. PREBLE	PIPELINE	88887095	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	110.5	\$0	Assigned
219419	5211512	Active	SOQUEL CREEK COUNTY WATER DIST	JOHN M. PREBLE	PIPELINE	86687118	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	110.22	\$0	Assigned
220587	5211207	Active	TQ CABLEVISION OF SANTA CRUZ CNTY	JOHN M. PREBLE	WIRE	86877798	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	111	\$0	Assigned
222153	5110652	Active	WASHINGTON, ALICE	LISA BURMANDE	LEASE OF LAND FOR AGRICULTURAL PURPOSES	11641540	Active	LISA BURMANDE	CAPITOLA	CA SP ROUTE CODE EC	116.6	\$5	Assigned
222216	5167028	Active	CALIFORNIA, STATE OF	JOHN M. PREBLE	PIPELINE	138595941	Active	JOHN M. PREBLE	CAPITOLA	CA SP ROUTE CODE EC	115.01	\$0	Assigned
231276	5187360	Active	SOQUEL CREEK PROPERTIES	LISA BURMANDE	LEASE OF LAND FOR PUBLIC/Private Parking	88542834	Active	LISA BURMANDE	CAPITOLA	CA SP ROUTE CODE EC	116.12	\$6,000	Assigned
231279	5181635	Active	SANTA CRUZ SEASIDE CO	JOHN M. PREBLE	WIRE	138596632	Active	JOHN M. PREBLE	SANTA CRUZ	CA SP ROUTE CODE EC	120	\$0	Assigned
231292	5194780	Active	RESETAR, ANTHONY P / PILO, MARY	JOHN M. PREBLE	CROSSING - PRIVATE ROADWAY	88201370	Active	JOHN M. PREBLE	WATSONVILLE	CA SP ROUTE CODE EC	102	\$0	Assigned
232380	5169604	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	JOHN M. PREBLE	WIRE	87275119	Active	JOHN M. PREBLE	CAPITOLA	CA SP ROUTE CODE EC	117.28	\$0	Assigned
232023	5018043	Active	MOORE, JIM (MRS)	DAN L. ZACK	TRACK	74205556	Active	DAN L. ZACK	SANTA CRUZ	CA SP ROUTE CODE EL	80.7	\$0	Assigned
232288	5166237	Active	PACIFIC TEL & TEL CO	JOHN M. PREBLE	WIRE	89915748	Active	JOHN M. PREBLE	SEABRIGHT	CA SP ROUTE CODE EC	119.14	\$0	Assigned
235923	5191872	Active	TRESTLE BEACH ASSOCIATES	JOHN M. PREBLE	CROSSING - PRIVATE ROADWAY	138609734	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	109.6	\$0	Assigned
235949	5170058	Active	PACIFIC GAS & ELECTRIC COMPANY	JOHN M. PREBLE	WIRE	78086446	Active	JOHN M. PREBLE	SANTA CRUZ	CA SP ROUTE CODE EC	120.35	\$0	Assigned
235853	5170628	Active	PACIFIC GAS & ELECTRIC COMPANY	JOHN M. PREBLE	WIRE	78066611	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	112.06	\$0	Assigned
235654	5170715	Active	PACIFIC GAS & ELECTRIC COMPANY	JOHN M. PREBLE	WIRE	78068631	Active	JOHN M. PREBLE	APTOS	CA SP ROUTE CODE EC	112.62	\$0	Assigned
237228	5182846	Active	ANCTO, J & COMPANY	JOHN M. PREBLE	PIPELINE	89018126	Active	JOHN M. PREBLE	DAVENPORT	CA SP ROUTE CODE EL	87.75	\$0	Assigned
237483	5176372	Active	JOHNSON, M	JOHN M. PREBLE	PIPELINE	138596066	Active	JOHN M. PREBLE	CLIFFSIDE	CA SP ROUTE CODE EC	118.34	\$0	Assigned

EXHIBIT "A"	78029070	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	101.9	\$0	Assigned	Totally
237871	5713437		PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	101.9	\$0	Assigned	Totally
238083	512920	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	116.98	\$0	Assigned	Totally
238086	5124288	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	117.45	\$0	Assigned	Totally
238111	5201254	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Monterey	WATSONVILLE	CA	SP Route Code EC	101.9	\$0	Assigned	Totally
238112	5203015	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	108.9	\$0	Assigned	Totally
238113	5204242	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	112.02	\$0	Assigned	Totally
238119	5178592	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	102.05	\$0	Assigned	Totally
238144	5192012	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Monterey	WATSONVILLE	CA	SP Route Code EC	100.97	\$0	Assigned	Totally
238147	5182018	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	81.82	\$0	Assigned	Totally
238163	5186211	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	114.12	\$0	Assigned	Totally
238169	5187511	Active	PACIFIC GAS & ELECTRIC COMPANY	Crossing Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	Santa Cruz Sub.	102.84	\$0	Assigned	Totally
238174	5187575	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	111.39	\$0	Assigned	Totally
238175	5187577	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	102.62	\$0	Assigned	Totally
238191	5189400	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	102	\$0	Assigned	Totally
238197	5190754	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	115.56	\$0	Assigned	Totally
238204	5191424	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Pipeline	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	109.64	\$0	Assigned	Totally
238205	5191429	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	109.54	\$0	Assigned	Totally
238211	5193090	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	112.87	\$0	Assigned	Totally
238216	5199129	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	116.12	\$0	Assigned	Totally
238218	5194019	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	81.4	\$0	Assigned	Totally
238233	5196609	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	DAVENPORT	CA	SP Route Code EC	101.9	\$0	Assigned	Totally
238263	5204241	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	111.37	\$0	Assigned	Totally
238757	5182045	Active	CALIFORNIA UNIVERSITY REGENTS	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	ORBY	CA	SP Route Code EC	81.8	\$10	Assigned	Totally
239770	5161499	Active	SULLIVAN, R. & A.	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	109.07	\$10	Assigned	Totally
239975	5085860	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	114.11	\$0	Assigned	Totally
239976	5085861	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	NEW BRIGHTON	CA	SP Route Code EC	115.06	\$0	Assigned	Totally
240222	5108207	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	108.9	\$0	Assigned	Totally
240289	5112201	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Pipeline	Joan M. Preble	Santa Cruz	GORDOLA	CA	Santa Cruz	87.82	\$0	Assigned	Totally
240308	5113477	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	GORDOLA	CA	SP Route Code EC	84.48	\$0	Assigned	Totally
240641	5164006	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	107.1	\$0	Assigned	Totally
240670	5166785	Active	PACIFIC GAS & ELECTRIC COMPANY	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	102.03	\$0	Assigned	Totally
240689	5169397	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	118.95	\$0	Assigned	Totally

EXHIBIT "A"	240736	240764	241007	241008	241010	241011	241855	242883	244957	245617	245822	245926	246083	246084	246557	246558	246662	246654	246802	246866	246930	249032	249033	249034	249035	249036	250407	250753	251340	252817	252841	253423	254242	256506	256899	256900	256902	256903	256904	256905	256906	256907									
	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active	Active							
	152018	219721	78037562	78037571	78037693	78037704	138604510	116415613	149484	245617	206085	89994411	89050423	89018731	87221737	87227366	167187	8932280	149487	248166	89546841	19179681	86656208	86309135	86309141	86282535	86247633	89832417	149664	138608317	90435574	149656	204481	86866666	155175	138596191	256900	138596191	138596191	138596191	138596191	138596191	138596191	138596191	138596191						
	PACIFIC GAS & ELECTRIC COMPANY	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	DEASY, LEWIS S. (MRS.)	SEABRIGHT STATION PARTNERSHIP	SCHWARTZ, STEVE / VILLA GLEN MUTUAL WATER COMPANY WATER USEAS GROUP	GARCIA, R.L.	HOLDOMB CORPORATION	PACIFIC BELL	PACIFIC BELL TELEPHONE COMPANY	PACIFIC BELL TELEPHONE COMPANY	BROADBAND	CHARTER COMMUNICATIONS	CHARTER COMMUNICATIONS	PROPERTIES, LLC	CHARTER COMMUNICATIONS	PROPERTIES, LLC	WORLD BROS	PACIFIC TELEPHONE	WATSONVILLE CANNING & FROZEN FOOD CO	NELLANY, JOHN & RIUMARTA, VERNON	SCOTT'S VALLEY CITY OF	LORENZI, G.B.ILO & ZEPHER, K	CAPITOLA, CITY OF	R.J. FAMBRIANI & CO., INC.	PACIFIC BELL	SANTA CRUZ COUNTY SANITATION DIST	SANTA CRUZ COUNTY CA	SANTA CRUZ COUNTY CA	SANTA CRUZ COUNTY CA	SANTA CRUZ COUNTY SANITATION DIST																					
	Pipeline	Wire	Wire	Wire	Pipeline	Pipeline	Lease of Land for Beautification, Parks,	Lease of Land for Beautification, Parks,	Lease of Land for Retail Business	Crossing - Private Roadway	Crossing - Private Roadway	Wire	Wire	Wire	Wire	Crossing - Wireline	Blanket Assignment/Adoption	Blanket Assignment/Adoption	Pipeline	Track	Lease of Land for Storage and Handling	Pipeline	Wire	Wire	Wire	Wire	Wire	Pipeline	Pipeline	Lease of Land for Retail Business	Pipeline	Crossing	Lease of Land for Public/Private Parking	Lease of Land for Agricultural Purposes	Wire	Pipeline	Pipeline	Pipeline	Crossing - Private Roadway	Lease of Land for Public/Private Parking	Pipeline	Pipeline	Pipeline	Pipeline							
	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz	Santa Cruz					
	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Use Burnside	Use Burnside	Use Burnside	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Joan M. Preble	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside	Use Burnside				
	CLIFFSIDE	APTOS	APTOS	APTOS	APTOS	APTOS	SEABRIGHT	SEABRIGHT	SANTA CRUZ	CAPITOLA	APTOS	CAPITOLA	DAVENPORT	APTOS	CAPITOLA	CAPITOLA	CAPITOLA	DAVENPORT	DAVENPORT	SANTA CRUZ	SANTA CRUZ	SANTA CRUZ	SANTA CRUZ	SANTA CRUZ	SANTA CRUZ	SANTA CRUZ	DAVENPORT	WATSONVILLE	GORDOLA	SCOTT'S VALLEY	MAJORS	CAPITOLA	ORRY	APTOS	SANTA CRUZ COUNTY	APTOS	CLIFFSIDE	APTOS	APTOS	CLIFFSIDE	CAPITOLA	SEABRIGHT	APTOS	APTOS							
	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC	CA SP Route Code EC			
	118.11	111.41	110.53	110.22	110.52	110.35	116.39	119.3	121	115.6	110.54	115.94	81.81	107.7	115.9	115.56	116.22	87.09	81.15	80.96	89.8	119.56	115.9	109.64	116.1	90.5	102.19	86.49	120.5	86.51	116.58	82	110.53	113.4	112.9	117.1	117.81	112.8	118.1	118.1	115.24	118.64	117.87								
	\$0	\$0	\$0	\$0	\$0	\$0	\$341.58	\$428.40	\$657.90	\$10	\$128.09	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,939.55	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$3,207.72	\$0	\$0	\$477.88	\$383.10	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0		
	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned	Assigned
	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally	Totally

EXHIBIT "A"	87010605	Active	SANTA CRUZ COUNTY SANITATION DIST	Pipeline	Joan M. Preble	Santa Cruz	APTOS	CA SP Route Code EC	112.4	\$0	Assigned	Totally
256908 \$120381	87010605	Active	SANTA CRUZ COUNTY SANITATION DIST	Pipeline	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	112.4	\$0	Assigned	Totally
256909 \$21682	138598600	Active	SANTA CRUZ COUNTY SANITATION DIST	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	116.56	\$0	Assigned	Totally
257778 \$751206	86164521	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	79.66	\$0	Assigned	Totally
257779 \$715207	86164716	Active	SANTA CRUZ CITY OF	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	79.67	\$0	Assigned	Totally
257847 \$164604	138595935	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	80.59	\$0	Assigned	Totally
257849 \$181098	138596299	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	CLIFFSIDE	CA SP Route Code EC	118.1	\$0	Assigned	Totally
257849 \$182706	138596604	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	117.22	\$0	Assigned	Totally
257851 \$185240	138608501	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	SEABRIGHT	CA SP Route Code EC	119.53	\$0	Assigned	Totally
257851 \$193104	138610161	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	117.3	\$0	Assigned	Totally
257853 \$204278	138603076	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	80.06	\$0	Assigned	Totally
257857 \$209666	138590386	Active	SANTA CRUZ CITY OF	Lease of Land for Storage and Handling	Lisa Burnside	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	79.66	\$32,023.08	Assigned	Totally
257858 \$209914	116413841	Active	SANTA CRUZ CITY OF	Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	79.26	\$0	Assigned	Totally
257859 \$211908	138598511	Active	SANTA CRUZ CITY OF	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	120.41	\$80	Assigned	Totally
257860 \$211909	138598594	Active	SANTA CRUZ CITY OF	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	114.96	\$0	Assigned	Totally
257948 \$076543	92833985	Active	PACIFIC TELEPHONE	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	103.1	\$0	Assigned	Totally
257953 \$102588	92904185	Active	PACIFIC TELEPHONE	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	107.85	\$0	Assigned	Totally
257958 \$169530	89746048	Active	PACIFIC TELEPHONE	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	110.1	\$0	Assigned	Totally
257967 \$172929	89591346	Active	PACIFIC TELEPHONE	Wire	Joan M. Preble	Santa Cruz	APTOS	CA SP Route Code EC	108.89	\$0	Assigned	Totally
257965 \$174669	89514808	Active	PACIFIC TELEPHONE	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	114.5	\$0	Assigned	Totally
257967 \$176301	89395130	Active	PACIFIC TELEPHONE	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	115.07	\$0	Assigned	Totally
258938 \$121003	78032164	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	119.25	\$0	Assigned	Totally
258400 \$164103		Active	PACIFIC GAS & ELECTRIC COMPANY	Attachments Wire/Pipeline/Antennas	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	116.22	\$0	Assigned	Totally
258403 \$164902	90006601	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA SP Route Code EC	102.45	\$0	Assigned	Totally
258406 \$165501	78033461	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	113.05	\$0	Assigned	Totally
258422 \$167972	78041095	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	APTOS	CA SP Route Code EC	7.77	\$0	Assigned	Totally
258423 \$168290	78033834	Active	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	APTOS	CA SP Route Code EC	85.68	\$0	Assigned	Totally
258434 \$171142	78034251	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	DAVENPORT	CA SP Route Code EC	85.27	\$0	Assigned	Totally
258435 \$171176	78034156	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	DAVENPORT	CA SP Route Code EC	109.77	\$0	Assigned	Totally
258437 \$171320	78034270	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	CA SP Route Code EC	114.13	\$0	Assigned	Totally
258442 \$171875	78034615	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	APTOS	CA SP Route Code EC	119.5	\$472.68	Assigned	Totally
260224 \$708710	116415575	Active	KOVALENKO, LAWRENE B.	Lease of Land for Beautification, Parks,	Lisa Burnside	Santa Cruz	SEABRIGHT	CA SP Route Code EC	102.01	\$2,160	Assigned	Totally
260304 \$708852	195115	Active	CASCADE REFRIGERATED NORTHERN CALIF., INC.	Track, Tract Lease (Non-Haz)	Dan L. Zeck	Santa Cruz	WATSONVILLE	CA SP Route Code EC	102.15	\$0	Assigned	Totally
272042 \$713661	138598622	Active	WATSONVILLE COGENERATION PARTNERSHIP	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	118.34	\$0	Assigned	Totally
272684 \$717219	156502	Active	SANTA CRUZ COUNTY CA MOON PROPERTIES, L.P.	Pipeline	Joan M. Preble	Santa Cruz	CLIFFSIDE	CA SP Route Code EC	120.87	\$0	Assigned	Totally
275375 \$718084	155177	Active	WATSONVILLE CITY OF	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	106.29	\$0	Assigned	Totally
275521 \$18204	83997474	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	81.64	\$0	Assigned	Totally
277277 \$117141	91906286	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	83.2	\$0	Assigned	Totally
277278 \$122730	91751367	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	83.4	\$0	Assigned	Totally
277279 \$121876	91789739	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA SP Route Code EC	84.85	\$0	Assigned	Totally
277280 \$143910	90935567	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	NEW BRIGHTEN	CA SP Route Code EC	102.25	\$0	Assigned	Totally
277285 \$116946	138613071	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC	111.34	\$0	Assigned	Totally
277295 \$121028	91802165	Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA SP Route Code EC				

EXHIBIT "A"	91753046 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	115.56	\$0	Assigned	Totally
277300	91753046 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	115.56	\$0	Assigned	Totally
277301	90845592 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	115.6	\$0	Assigned	Totally
277303	138612603 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	117.9	\$0	Assigned	Totally
277304	91683457 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SEABRIGHT	CA	SP Route Code EC	118.8	\$0	Assigned	Totally
277305	92018449 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	119.66	\$0	Assigned	Totally
277313	78087970 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	79.7	\$0	Assigned	Totally
277316	91701797 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	DAVENPORT	CA	SP Route Code EL	86.5	\$0	Assigned	Totally
277317	91753996 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	DAVENPORT	CA	SP Route Code EL	86.56	\$0	Assigned	Totally
277318	91898920 Active	PGE/SP LEASE AGREEMENT FROM EXHIBIT "A"	Wire	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	86.8	\$0	Assigned	Totally
278138	86091778 Active	LA SELVA BEACH RECREATION DISTRICT	Pipeline	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	105.22	\$0	Assigned	Totally
278295	13859828 Active	CALPINE MONTEREY COGENERATION, INC	Pipeline	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	104.23	\$0	Assigned	Totally
367101	207254	MARTINELLI & COMPANY	Crossing - Private Roadway	Joan M. Preble		SYSTEM	CA		0	\$119.41	Assigned	Totally
408724	5006275	HOMER T HAYWARD LUMBER COMPANY	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
409395	5007232	SANTA CRUZ CITY OF	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
410634	3015548	DEL MAR FOOD PRODUCTS CORPORATION	Track - Industry Track Agreement	Dan L. Zack	Santa Cruz	WATSONVILLE	CA		109.1	\$	Assigned	Totally
410835	5003303	THE UNION ICE COMPANY	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
411066	5002819	BOROVICH & DRAGOVICH COMPANY	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$	Assigned	Totally
411500	5002518	PAJARO VALLEY COLD STORAGE COMPANY	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$	Assigned	Totally
411557	5007852	SANTA CRUZ PORTLAND CEMENT COMPANY	Track	Dan L. Zack	Santa Cruz	DAVENPORT	CA			\$	Assigned	Totally
412474	5007967	ASSOCIATED OIL COMPANY	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$	Assigned	Totally
412823	5000771	B PISTA	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$	Assigned	Totally
437224	5020733	PACIFIC GAS & ELECTRIC COMPANY	Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP ROUTE CODE EC	102.62	\$	Assigned	Totally
437231	5020737	PACIFIC GAS & ELECTRIC COMPANY	Crossing Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
437887	5076726	PHIN, FRED D.	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
438233	5021662	APPLE GROWERS COLD STORAGE CO	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$	Assigned	Totally
442068	5025134	PACIFIC TELEPHONE & TELEGRAPH CO	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
446570	5017462	SANTA CRUZ COUNTY OF	Crossing - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA			\$	Assigned	Totally
447769	5029379	SANTA CRUZ CITY OF	Easement - Pipe	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
451635	5048324	MONTEREY COUNTY OF	None	Paul G. Farrell	Santa Cruz	WATSONVILLE	CA			\$	Assigned	Totally
451920	5049513	MONTEREY COUNTY OF	Pipeline	Joan M. Preble	Monterey	WATSONVILLE CT	CA		101.16	\$	Assigned	Partially
453380	5043997	CALIFORNIA, STATE OF	Crossing - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA			\$	Assigned	Totally
453663	5080717	COUNTY OF SANTA CRUZ	Crossing - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA			\$	Assigned	Totally
457023	5087624	CAPITOLA, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	CAPITOLA	CA			\$	Assigned	Totally
457497	5091557	CAPITOLA, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	CAPITOLA	CA			\$	Assigned	Totally
457879	5095809	CAPITOLA, CITY OF	Easement - Roadway	Paul G. Farrell	Santa Cruz	CAPITOLA	CA			\$	Assigned	Totally
459511	5108176	COAST DAIRIE & LAND CO.	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	DAVENPORT	CA			\$	Assigned	Totally
464372	5047233	SOQUEL CREEK COUNTY WATER DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA			\$	Assigned	Totally
465104	5047491	SANTA CRUZ COUNTY OF	Warning Devices - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA		112.8	\$	Assigned	Totally
508398	213224	SANTA CRUZ	Lease of Land for Beautification, Parks,	Lisa Burnside	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
508454	208007	SANTA CRUZ CITY OF	Crossing Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Sub	80.46	\$	Assigned	Totally
514595	211721	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA			\$	Assigned	Totally
571718	213704	PACIFIC GAS & ELECTRIC COMPANY	Easement - Wire	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	Santa Cruz Sub.	102.63	\$0	Assigned	Totally

EXHIBIT "A"	JOHNSON & COMPANY	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	Santa Cruz	12.47	\$	Assigned	Totally				
596730	213464	190590	138605246	Active	JOHNSON & COMPANY	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	Santa Cruz	12.47	\$	Assigned	Totally
621074	221068	196381	107431769	Active	COASTAL INNS OF DISTINCTION	Lease of Land for Public/Private Parking	Lisa Burnside	Santa Cruz	CAPITOLA	CA	Santa Cruz	56,842.85	\$	Assigned	Totally
652248	220811	197517	107161113	Active	JIM CASTELLANOS	Lease of Land for Public/Private Parking	Lisa Burnside	Santa Cruz	CAPITOLA	CA	Santa Cruz	20.75	\$	Assigned	Totally
627694	220462	198165	106637031	Active	CITY OF SANTA CRUZ	Consent Pipeline Crossing in Public ROW	Joan M. Preble	Santa Cruz	DAVENPORT	CA	Santa Cruz	31.1	\$	Assigned	Totally
629883	227459	190630	114021545	Active	RMC PACIFIC MATERIALS, INC	Encroachment - Drainage Agreement	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	120.84	\$	Assigned	Totally
631142	220738	198987	107105127	Active	PACIFIC GAS AND ELECTRIC COMPANY	Consent Wire Crossing in Public ROW	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	19.02	\$	Assigned	Totally
651881	227007	207711	113765220	Active	SANTA CRUZ COUNTY SANITATION DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	Santa Cruz	20.78	\$	Assigned	Totally
652248	227469	211469	114039215	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Sub.	20.75	\$	Assigned	Totally
652250	227485	211469	114212611	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Sub.	19.02	\$	Assigned	Totally
652251	228377	211470	114675818	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Sub.	14.26	\$	Assigned	Totally
659048	230499	216207	116836671	Active	SANTA CRUZ COUNTY SANITATION DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	Santa Cruz	18.6	\$	Assigned	Totally
661112	230173	217766	116539209	Active	SANTA CRUZ COUNTY SANITATION DISTRICT	Crossing Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	20.31	\$	Assigned	Totally
662485	230472	218655	116960015	Active	CITY OF SANTA CRUZ	Encroachment - Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	16.3	\$	Assigned	Totally
664538	236600	220951	139853978	Active	CAPITOLA, CITY OF - STAIRS	Right of Entry Agreement	Lisa Burnside	Santa Cruz	CAPITOLA	CA	SANTA CRUZ	22	\$1,788.91	Assigned	Totally
665784	233528	222183	119704940	Active	UNIVERSITY BUSINESS PARK LLC	Lease of Land for Industrial Purposes	Lisa Burnside	Santa Cruz	SANTA CRUZ	CA	SANTA CRUZ	1.12	\$	Assigned	Totally
665949	291783	223078	117905095	Active	MONTEREY COUNTY	Warning Devices - Public Roadway	Paul G. Farrell	Monterey	WATSONVILLE ICT	CA	Santa Cruz Sub.	20	\$	Assigned	Totally
667395	231857	223667	117988761	Active	RMC PACIFIC MATERIALS	Track	Dan L. Zack	Santa Cruz	DAVENPORT	CA	Santa Cruz	79.3	\$	Assigned	Totally
674607	235739	229095	137592379	Active	CITY OF SANTA CRUZ	Encroachment - Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	31.8	\$	Assigned	Totally
675852	236101	230222	137865481	Active	SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION	Environmental Right of Entry Agrm II	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Branch	22.09	\$	Assigned	Totally
689438	244025	207714	154264038	Active	CEMEX	Industrial Track Agreement w/o Maint Chg	Dan L. Zack	Santa Cruz	DAVENPORT	CA	Santa Cruz Ind Lead	17.1	\$	Assigned	Totally
690096	242123	232126	152627809	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Lead	15.88	\$	Assigned	Totally
690940	243313	247035	153658957	Active	SANTA CRUZ COUNTY SANITATION DISTRICT	Crossing Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	14.85	\$	Assigned	Totally
692827	244643	244166	154705656	Active	SANTA CRUZ BEASIDE COMPANY	Crossing Pipeline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	22.38	\$	Assigned	Totally
693366	244221	244824	154416309	Active	SANTA CRUZ, COUNTY OF	Right of Entry Agreement	Paul G. Farrell	Santa Cruz	CAPITOLA	CA	Santa Cruz Lead	13.02	\$	Assigned	Totally
698046	246403	248405	158272703	Active	SANTA CRUZ COUNTY SANITATION DISTRICT	Crossing Pipeline	Joan M. Preble	Santa Cruz	CAPITOLA	CA	Santa Cruz Industria	13.12	\$	Assigned	Totally
700742	248207	250765	158618272	Active	STEVEN B. SPENCE KING CRANE	Right of Entry Agreement	Joan M. Preble	Santa Cruz	CAPITOLA	CA	Santa Cruz	12c	\$	Assigned	Totally
700943	250406	251009	161875395	Active	SUNSYS, LLC.	Crossing - Wireline	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	Santa Cruz	13.02	\$	Assigned	Totally
701216	248206	251181	158611987	Active	SOQUEL CREEK WATER DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	Santa Cruz Ind.	13.12	\$	Assigned	Totally
702518	249785	252625	160623883	Active	SOQUEL CREEK WATER DISTRICT	Crossing Pipeline	Joan M. Preble	Monterey	APTOS	CA	Santa Cruz	12c	\$	Assigned	Totally
668419	PT66136	142965		Active	SANTA CRUZ, BIG TREES & PACIFIC RAILWAY COMPANY	Joint Track Agreement W/ other RR UP own	Myrtle Glersch	Santa Cruz	SANTA CRUZ	CA	Santa Cruz		\$	Assigned	Totally

EXHIBIT F

FIRST AMERICAN TITLE INSURANCE COMPANY CONDUCTS ESCROW BUSINESS UNDER CERTIFICATE OF AUTHORITY NO. 2787 ISSUED BY THE STATE OF CALIFORNIA DEPARTMENT OF INSURANCE

ESCROW HOLDER GENERAL PROVISIONS**DEPOSIT OF FUNDS AND DISBURSEMENTS**

Escrow Holder shall deposit all funds received in this escrow in any financial institution insured by a federal agency of the United States Government, including financial institutions affiliated with Escrow Holder's company, in one or more general escrow demand accounts. Unless Escrow Holder is handed a W-9 form and specific investment instructions from the Buyer and Seller, all funds delivered to Escrow Holder pursuant to these instructions will be deposited in a non-interest bearing fiduciary account. All disbursements shall be made by Escrow Holder's check unless otherwise instructed in writing. Escrow Holder is authorized not to close escrow or disburse until collected funds have been confirmed in escrow.

GOOD FUNDS LAW

The parties understand that ALL funds to close escrow and/or to be released early must be deposited into escrow prior to the date of closing/early release to allow sufficient time for clearance of the funds prior to disbursement. In the event such funds are not in the form of a cashier's, certified or teller check drawn on a financial institution, sufficient time must be allowed for clearance to comply with any "good funds" law which is in effect. (For escrows conducted in California, the good funds law is Section 12413.1 of the California Insurance Code.) Funds may be wired directly into Escrow Holder's depository bank account to avoid waiting for clearance.

PRORATIONS AND ADJUSTMENTS

SUBJECT TO THE EXPRESS TERMS OF THE AGREEMENT, the expression "close of escrow" used in this escrow means the date on which documents referred to herein are recorded and relates only to prorations and/or adjustments unless otherwise specified.

All prorations and/or adjustments are to be made on the basis of a 30-day month unless otherwise instructed in writing.

RECORDATION OF DOCUMENTS

Escrow Holder is authorized to record any documents delivered through this escrow, the recording of which is necessary or proper in the issuance of the requested policy of title insurance.

AUTHORIZATION TO FURNISH COPIES

Escrow Holder is to furnish a copy of these instructions, amendments thereto, closing statements and/or any other documents deposited in this escrow to the lender(s), the real estate broker(s), the attorney(s) and/or the accountant(s) involved in this transaction upon request of the lenders, brokers, attorneys or accountants.

PERSONAL PROPERTY TAXES

No examination, UCC Search or insurance as to personal property and/or the amount or payment of personal property taxes is required unless otherwise instructed in writing.

RIGHT OF CANCELLATION

Any party instructing Escrow Holder to cancel this escrow shall file notice of cancellation in Escrow Holder's office, in writing. Within a reasonable time, Escrow Holder shall mail, by certified and regular mail, one copy of the notice to each of the other parties at the addresses stated in this escrow. Unless a written objection to cancellation is filed in Escrow Holder's office by a party within ten (10) days after date of mailing, Escrow Holder is authorized at its option to comply with the notice and demand payment of Escrow Holder's cancellation charges as provided in this agreement. If a written objection is filed, Escrow Holder is authorized at Escrow Holder's option to hold all the money and documents contained in this escrow and take no further action until otherwise directed, either by the parties' mutual written instructions, or final order of a court of competent jurisdiction.

ACTION IN INTERPLEADER

The parties hereto expressly agree that Escrow Holder has the absolute right at Escrow Holder's election to file an action in interpleader requiring the parties to answer and litigate their several claims and rights between themselves and Escrow Holder is authorized to deposit all documents and funds held in this escrow with the clerk of the court. In the event such an action is filed, the parties jointly and severally agree to pay Escrow Holder's cancellation charges and costs, expenses and reasonable attorneys' fees which Escrow Holder is required to expend or incur in the interpleader action, the amount thereof to be fixed and judgment therefor to be rendered by the court. Upon the filing of the action, Escrow Holder shall thereupon be fully released and discharged from all obligations to further perform any duties or obligations otherwise imposed by the terms of this escrow, provided such filing is meritorious.

hazard or liability insurance, unless Escrow Holder has received written instruction prior to close of escrow from the parties or their respective lenders.

FACSIMILE INSTRUCTIONS

In the event the parties utilize "facsimile" transmitted signed documents, Buyer and Seller hereby agree to accept and instruct the Escrow Holder to rely upon such documents as if they bore original signatures. Buyer and Seller hereby acknowledge and agree to provide to Escrow Holder, within 72 hours of transmission, such documents bearing the original signatures. Buyer and Seller further acknowledge and agree that documents necessary for recording with other than original signatures (i.e., facsimiles) will not be accepted for recording by the County Recorder thereby delaying the close of escrow.

EXECUTE IN COUNTERPART

These escrow instructions and any subsequent amendments may be executed in one or more counterparts, each of which independently shall have the same effect as if it were the original, and all of which taken together shall constitute one and the same instruction.

IF THE TRANSACTION WHICH IS THE SUBJECT OF THIS ESCROW IS A SALE, THE PARTIES TO THIS TRANSACTION MAY HAVE CERTAIN TAX REPORTING AND WITHHOLDING OBLIGATIONS PURSUANT TO STATE LAW OR FEDERAL LAW REFERRED TO BELOW.

REPORTING TO THE INTERNAL REVENUE SERVICE

The Tax Reform Act of 1986 provides that Escrow Holder must report certain information regarding all real estate transactions to the Internal Revenue Service. This information includes, among other things, the Seller's social security number and/or tax identification number and forwarding address, and the gross sales price of the transaction. This is not a requirement generated by Escrow Holder, but rather a means of complying with the new tax law. This information must be provided to Escrow Holder upon the opening of escrow and neither can escrow be closed, nor can a deed or any other documents be recorded until the information is provided and the Seller certifies the accuracy of the information in writing. By execution of these escrow instructions, the parties acknowledge receipt of this notice.

TAX REPORTING AND WITHHOLDING OBLIGATIONS OF THE PARTIES

CALIFORNIA LAW: In accordance with Section 18662 and 18668 of the California Revenue and Taxation Code, a Buyer may be required to withhold an amount equal to three and one-third (3-1/3) percent of the sales price, in the case of a disposition of California real property interest by either: (1) A Seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of the Seller; OR (2) A corporate Seller which has no permanent place of business in California. For failure to withhold, the Buyer may become subject to a penalty in an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500.00). However, notwithstanding any other provision included in the California statutes referenced herein, no Buyer will be required to withhold any amount or be subject to penalty for failure to withhold if: (a) The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000.00); OR (b) The Seller executes a written certificate, under the penalty of perjury, certifying that the Seller is a resident of California, or if a corporation, has a permanent place of business in California; OR (c) The Seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the Seller's principal residence (as defined in Section 1034 of the Internal Revenue Code). The Seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement. The California statutes referenced herein include provisions which authorize the Franchise Tax Board to grant reduced withholding and waivers from withholding on a case-by-case basis.

The Seller may request a reduction in withholding or waiver and the Buyer and Seller may obtain additional information by contacting the Franchise Tax Board, Withhold at Source Unit, P.O. Box 651, Sacramento, CA 95812-0651 (916-845-4900).

LAW OF STATES OTHER THAN CALIFORNIA

If the parties are required to withhold by the law of a state other than California, the parties understand that the withholding obligation is the exclusive obligation of the parties to this transaction and that Escrow Holder is not obligated to withhold or notify the parties of any withholding obligation they may have.

FEDERAL LAW

Internal Revenue Code Section 1445 places special requirements for tax reporting and withholding on the parties to a real estate transaction where the Seller (Transferor) is a non-resident alien, a non-domestic corporation or partnership, a domestic corporation or partnership controlled by non-residents or non-resident corporations or partnerships.

With respect to both the State Law and Federal Law referred to above, the parties to this transaction should seek an attorney's, accountant's, or other tax specialists' opinion concerning the effect of these laws on this transaction. The parties to this transaction should NOT act on or rely on any statements made or omitted by the Escrow Officer, Title Officer, or other closing Officer with respect to tax reporting or withholding requirements. By execution of these escrow instructions, the parties acknowledge receipt of this notice.

EXHIBIT G**CERTIFICATION OF NON-FOREIGN STATUS**

Under Section 1445(e) of the Internal Revenue Code, a corporation, partnership, trust, or estate must withhold tax with respect to certain transfers of property if a holder of an interest in the entity is a foreign person. To inform the transferee, **SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION**, that no withholding is required with respect to the transfer of a U.S. real property interest by **UNION PACIFIC RAILROAD COMPANY**, the undersigned hereby certifies the following on behalf of **UNION PACIFIC RAILROAD COMPANY**:

1. **UNION PACIFIC RAILROAD COMPANY** is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. **UNION PACIFIC RAILROAD COMPANY** is not a disregarded entity as defined in Section 1.445.2(b)(2)(iii) of the Internal Revenue Code;
3. **UNION PACIFIC RAILROAD COMPANY'S** U.S. employer identification number is 94-6001323; and
4. **UNION PACIFIC RAILROAD COMPANY'S** office address is 1400 Douglas Street, Omaha, Nebraska 68179, and place of incorporation is Delaware.

UNION PACIFIC RAILROAD COMPANY agrees to inform the transferee if it becomes a foreign person at any time during the three year period immediately following the date of this notice.

UNION PACIFIC RAILROAD COMPANY understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of **UNION PACIFIC RAILROAD COMPANY**.

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

By: _____
Title: _____
Date: _____

2010 Real Estate Withholding Certificate

593-C

Part I - Seller's Information

Return this form to your escrow company.

Name UNION PACIFIC RAILROAD COMPANY		SSN or ITIN	
Spouse's/RDP's name (if jointly owned)		Spouse's/RDP's SSN or ITIN (if jointly owned)	
Address (suite, room, PO Box, or PMB no.) 1400 DOUGLAS STREET, MAIL STOP 1690		<input type="checkbox"/> FEIN <input checked="" type="checkbox"/> CA Corp no. 5 8 5 4 7 6	
City OMAHA	State NE	ZIP Code 6 8 1 7 9-	Ownership percentage 100.00 %
Property address (if no street address, provide parcel number and county)			

To determine whether you qualify for a full or partial withholding exemption, check all boxes that apply to the property being sold or transferred. (See line-by-line notes in the instructions)

Part II - Certifications which fully exempt the sale from withholding:

1. The property qualifies as the seller's (or decedent's, if sold by the decedent's estate) principal residence within the meaning of Internal Revenue Code (IRC) Section 121.
2. The seller (or decedent, if sold by the decedent's estate) last used the property as the seller's (decedent's) principal residence within the meaning of IRC Section 121 without regard to the two-year time period.
3. The seller has a loss or zero gain for California income tax purposes on this sale. To check this box you must complete Form 593-E, Real Estate Withholding-Computation of Estimated Gain or Loss, and have a loss or zero gain on line 16.
4. The property is being compulsorily or involuntarily converted and the seller intends to acquire property that is similar or related in service or use to qualify for nonrecognition of gain for California income tax purposes under IRC Section 1033.
5. The transfer qualifies for nonrecognition treatment under IRC Section 351 (transfer to a corporation controlled by the transferor) or IRC Section 721 (contribution to a partnership in exchange for a partnership interest).
6. The seller is a corporation (or a limited liability company (LLC) classified as a corporation for federal and California income tax purposes) that is either qualified through the California Secretary of State or has a permanent place of business in California.
7. The seller is a California partnership, or qualified to do business in California (or an LLC that is classified as a partnership for federal and California income tax purposes and is not a single member LLC) that is not disregarded for federal and California income tax purposes. If this box is checked, the partnership or LLC must still withhold on nonresident partners or members.
8. The seller is a tax-exempt entity under California or federal law.
9. The seller is an insurance company, individual retirement account, qualified pension/profit sharing plan, or charitable remainder trust.

Part III - Certifications that may partially or fully exempt the sale from withholding:

Real Estate Escrow Person (REEP): See instructions for amounts to withhold.

10. The transfer qualifies as a simultaneous like-kind exchange within the meaning of IRC Section 1031.
11. The transfer qualifies as a deferred like-kind exchange within the meaning of IRC Section 1031.
12. The transfer of this property is an installment sale where the buyer is required to withhold on the principal portion of each installment payment. Copies of Form 593-I, Real Estate Withholding Installment Sale Acknowledgement, and the promissory note are attached.

Part IV - Seller's Signature

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance and that completing this form does not exempt me from filing a California income or franchise tax return to report this sale.

Seller's Name and Title Union Pacific Railroad Company Seller's Signature _____ Date _____
 Spouse's/RDP's Name _____ Spouse's/RDP's Signature _____ Date _____

Please verify that the SSN or ITIN listed above in Part I of this form is correct.

Seller: If you checked any box in Part II, you are exempt from real estate withholding.
 If you checked any box in Part III, you may qualify for a partial or complete withholding exemption.
 If you did not check any box in Part II or Part III, the withholding will be 3 1/3% (.0333) of the total sales price or the optional gain on sale withholding amount certified by seller on Form 593, Real Estate Withholding Tax Statement.
 If you are withheld upon, the withholding agent should give you one copy of Form 593. Attach a copy to the lower front of your California income tax return and make a copy for your records.

Keep Form 593-C for five years following the close of the transaction. You must furnish the form to the FTB upon request.

EXHIBIT I

POST-CLOSING STRUCTURAL REHABILITATION WORK

Santa Cruz Branch Rail Line Five-Year Plan for Capital Improvements to Structures

MP Structure Name	Year 1		Year 2		Year 3		Year 4		Year 5		Total	
	Low	High	Low	High	Low	High	Low	High	Low	High	Low	High
0.88									\$34,213	\$38,426	\$34,213	\$38,426
1.05a									\$0	\$0	\$0	\$0
1.05b									\$71,981	\$85,848	\$71,981	\$85,848
1.05c									\$0	\$0	\$0	\$0
4.65									\$0	\$0	\$0	\$0
4.67									\$11,362	\$22,851	\$11,362	\$22,851
5.42									\$11,362	\$45,576	\$11,362	\$45,576
5.54									\$4,545	\$22,851	\$4,545	\$22,851
6.01									\$4,545	\$22,851	\$4,545	\$22,851
6.14									\$4,545	\$22,851	\$4,545	\$22,851
6.25									\$11,362	\$45,576	\$11,362	\$45,576
8.32									\$0	\$0	\$0	\$0
8.64a									\$0	\$12,781	\$0	\$12,781
8.64b									\$11,362	\$45,576	\$11,362	\$45,576
8.69	\$1,021,333	\$1,445,333			\$100,000	\$138,203			\$100,000	\$138,203	\$100,000	\$138,203
9.30			\$841,507	\$796,027							\$1,562,840	\$2,211,360
10.45			\$200,000	\$364,000							\$200,000	\$364,000
11.16									\$45,576	\$136,063	\$45,576	\$136,063
12.30									\$0	\$0	\$0	\$0
12.34									\$0	\$0	\$0	\$0
12.39									\$0	\$0	\$0	\$0
12.71a									\$0	\$0	\$0	\$0
12.71b									\$0	\$0	\$0	\$0
12.83									\$0	\$0	\$0	\$0
14.85									\$0	\$5,050	\$0	\$5,050
15.88a									\$11,362	\$18,306	\$11,362	\$18,306
15.88b							\$372,899	\$149,877	\$372,899	\$149,877	\$745,798	\$295,770
15.89c					\$187,841	\$285,170			\$187,841	\$285,170	\$187,841	\$285,170
15.89d									\$30,868	\$48,832	\$30,868	\$48,832
15.89e									\$0	\$0	\$0	\$0
15.89f									\$7,576	\$10,731	\$7,576	\$10,731
16.84									\$0	\$0	\$0	\$0
18.43a					\$404,486	\$508,744			\$404,486	\$508,744	\$404,486	\$508,744
19.43b					\$49,438	\$50,874			\$49,438	\$50,874	\$49,438	\$50,874
19.43c									\$0	\$0	\$0	\$0
19.43					\$1,429,219	\$1,429,219			\$1,429,219	\$1,429,219	\$1,429,219	\$1,429,219
22.29	\$38,100	\$108,400							\$38,100	\$108,400	\$38,100	\$108,400
23.47									\$0	\$0	\$0	\$0
23.54									\$0	\$0	\$0	\$0
26.09	\$14,500	\$23,600							\$14,500	\$23,600	\$14,500	\$23,600
26.55									\$0	\$0	\$0	\$0
TOTALS	\$1,071,333	\$1,577,233	\$771,327	\$1,154,907	\$741,570	\$1,070,791	\$1,650,085	\$1,028,028	\$226,771	\$377,457	\$4,357,682	\$5,897,316

* Costs for years 2, 3, 4, and 5 are calculated by 6% per year to account for construction cost increases

**Santa Cruz Branch Rail Line Structures Assessments
Summary of Estimated Capital and Annual Maintenance Costs
Updated April 2008**

MP	Structure Name	Biggs Centrosa			HNTB			HNTB & Biggs Centrosa		
		Potential Capital Costs ^{1,2}	Potential Maintenance Costs ^{3,4}	Potential Capital Costs ^{1,2}	Potential Maintenance Costs ^{3,4}	Potential Capital Costs ^{1,2}	Potential Maintenance Costs ^{3,4}	Potential Capital Costs ^{1,2}	Potential Maintenance Costs ^{3,4}	
		Low	High	Low	High	Low	High	Low	High	
0.08		\$27,100	\$54,200	\$4,300	\$8,600	\$27,100	\$54,200	\$4,300	\$8,600	
1.08a	Pajero River Crossing	\$0	\$187,700	\$0	\$0	\$0	\$0	\$0	\$0	
1.08b	Wilamette Slough	\$0	\$0	\$1,800	\$2,500	\$5,670	\$5,595	\$6,670	\$6,595	
4.45	Retaining Wall	\$0	\$0	\$1,300	\$1,400	\$0	\$0	\$1,300	\$1,400	
4.87	Hartum Slough	\$0	\$18,100	\$3,800	\$5,000	\$0	\$0	\$3,800	\$5,000	
5.42		\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
5.54		\$0	\$0	\$2,800	\$3,500	\$0	\$0	\$2,800	\$3,500	
6.01		\$0	\$0	\$1,800	\$2,400	\$0	\$0	\$1,800	\$2,400	
6.14		\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
6.25		\$0	\$0	\$2,400	\$3,200	\$0	\$0	\$2,400	\$3,200	
8.22		\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
8.64a	San Andres Road	\$0	\$16,100	\$1,000	\$1,400	\$0	\$0	\$1,000	\$1,400	
8.64b	San Andres Road	\$0	\$28,100	\$2,200	\$3,100	\$0	\$0	\$2,200	\$3,100	
8.80	Retaining Wall	\$0	\$0	\$7,000	\$12,000	\$0	\$0	\$7,000	\$12,000	
8.30	La Brea Beach Trestle	\$4,729,000	\$9,458,000	\$0	\$0	\$4,729,000	\$9,458,000	\$0	\$0	
10.46	Retaining Wall	\$72,300	\$144,600	\$4,700	\$7,600	\$72,300	\$144,600	\$4,700	\$7,600	
11.16	Retaining Wall	\$3,100	\$6,200	\$2,100	\$2,800	\$3,100	\$6,200	\$2,100	\$2,800	
12.30	Valencia Creek	\$0	\$0	\$4,000	\$5,000	\$0	\$0	\$4,000	\$5,000	
12.39	Somali Drive	\$0	\$0	\$1,300	\$1,700	\$0	\$0	\$1,300	\$1,700	
12.71a	Agua Creek & Spradden Dr.	\$0	\$0	\$3,600	\$4,800	\$0	\$0	\$3,600	\$4,800	
12.71b		\$0	\$0	\$1,700	\$2,200	\$0	\$0	\$1,700	\$2,200	
12.83	State Route 1	\$0	\$0	\$3,100	\$4,000	\$0	\$0	\$3,100	\$4,000	
14.05	New Brighton Beach Rd.	\$0	\$4,000	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
15.25a	Capital Crossing	\$0	\$44,300	\$2,600	\$3,300	\$0	\$0	\$2,600	\$3,300	
15.25b	Capital Crossing	\$3,100	\$6,200	\$4,200	\$5,500	\$3,100	\$6,200	\$4,200	\$5,500	
16.99a	Capital Crossing	\$0	\$29,600	\$3,300	\$4,200	\$0	\$0	\$3,300	\$4,200	
13.95a	Capital Crossing	\$18,100	\$36,200	\$1,000	\$1,300	\$18,100	\$36,200	\$1,000	\$1,300	
13.95b	Capital Crossing	\$0	\$2,200	\$1,300	\$1,700	\$0	\$0	\$1,300	\$1,700	
17.81	Poplar Gulch	\$0	\$0	\$4,200	\$5,500	\$0	\$0	\$4,200	\$5,500	
18.04	BC Canal Craft Harbor	\$0	\$0	\$4,000	\$5,100	\$0	\$0	\$4,000	\$5,100	
18.42a	San Lorenzo River	\$17,500	\$35,000	\$5,400	\$7,100	\$17,500	\$35,000	\$5,400	\$7,100	
18.42b	San Lorenzo River	\$8,500	\$17,000	\$1,300	\$1,700	\$8,500	\$17,000	\$1,300	\$1,700	
19.43	San Lorenzo Bolsonic Right ⁵	\$0	\$0	\$9,500	\$12,300	\$0	\$0	\$9,500	\$12,300	
22.29	Kovach Gulch	\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
23.47	Wilder Creek	\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
24.84	Meadow Creek Crossing	\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
26.09	Baldwin Creek	\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
26.55		\$0	\$0	\$1,000	\$1,300	\$0	\$0	\$1,000	\$1,300	
TOTALS		\$3,194,400	\$11,132,100	\$107,300	\$139,400	\$3,194,400	\$11,132,100	\$107,300	\$139,400	

¹ Repair costs and maintenance costs include modifications/alterations (10% design engineering (12%), construction management (12%), and project reserve (6%)).
² Figures in structural assessment report did not include additional "soft costs" and are included here consistent with note 1.
³ These costs are based on the most recent figures. (Costs are from HNTB June 29, 2006 report when available and from July 2008 Structural Assessment for structures not available in June 23, 2008 report).
⁴ Updated and reconciled to August 2008 cost figures by Biggs Centrosa in March 2009 with the exception of HNTB maintenance costs.
⁵ HNTB maintenance costs reconciled by 35% consistent with the Biggs Centrosa updated maintenance figures of March 2008.

EXHIBIT J

TAX LETTER

SCC RTC Letterhead

_____, 2010

Mr. Tony Love
Assistant Vice President-Real Estate
Union Pacific Railroad Company
1400 Douglas Street, Mail Stop 1690
Omaha, NE 68179

RE:

Dear Mr. Love:

The Santa Cruz County Regional Transportation Commission is negotiating with Union Pacific to acquire a portion of Union Pacific's Santa Cruz Branch Line in Santa Cruz and Monterey Counties, California, extending from Santa Cruz Branch Milepost 0.433 (east boundary of Salinas Road) to Milepost 31.39, located two hundred fifty (250) feet north of Highway 1 crossing at Davenport (the "Property").

Please be advised that if Union Pacific does not transfer its interest in the Property to the Santa Cruz County Regional Transportation Commission voluntarily, the Santa Cruz County Regional Transportation Commission is expressly authorized by California Public Utilities Code §67941 to initiate proceedings under its power of eminent domain to acquire the Property.

Sincerely,

Title: _____

LIST OF EXHIBITS

EXHIBIT A	PRINT OF LINE
EXHIBIT B	BILL OF SALE
EXHIBIT C	PROPERTY MATERIALS
EXHIBIT D	QUITCLAIM DEED
EXHIBIT E	ASSIGNMENT AND ASSUMPTION AGREEMENT
EXHIBIT F	ESCROW INSTRUCTIONS
EXHIBIT G	CERTIFICATION OF NON-FOREIGN STATUS
EXHIBIT H	CALIFORNIA FORM 593-C
EXHIBIT I	POST-CLOSING STRUCTURAL REHABILITATION WORK
EXHIBIT J	TAX LETTER

ATTACHMENT 3

**FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

First American Title Company ("Escrow Holder")
100 Spear Street, Suite 1600
San Francisco, California 94105
Attention: Kimberleigh Toci
Telephone: (415) 837-2251
Facsimile: (415) 398-1750

Escrow No. NCS-138073-SF

**FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT
AND ESCROW INSTRUCTIONS**

This FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "**Amendment**") is made as of March 25, 2011, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("**Seller**"), and SANTA CRUZ COUNTY REGIONAL TRANSPORTATION COMMISSION, a public agency created under California law ("**Buyer**").

Recitals

- A. WHEREAS, effective August 20, 2010, Buyer and Seller entered into that certain PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "**Purchase Agreement**"); and
- B. WHEREAS, Buyer and Seller desire to amend the Purchase Agreement as set forth in this Amendment.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Except as otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Purchase Agreement.
2. Section 4.1.4 of the Purchase Agreement is amended by deleting the original Section 4.1.4 in its entirety and replacing it with a new Section 4.1.4, as follows:

"4.1.4 Granite Construction Contamination. Provided, however, notwithstanding the provisions set forth in Sections 4.1.1 and 4.1.2 above, Seller acknowledges that Buyer has not waived, released, remised, acquitted or discharged Seller or Seller's Affiliates from claims, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation, if any, on account of or in any way arising out of or in connection with any contamination in, under and emanating from the drainage ditch west of and adjacent to the Granite Construction facility in Watsonville, California, to the extent such

contamination is located on the Property on the date of Closing (the "**Granite Construction Contamination**"). Provided, further, notwithstanding the provisions of Section 4.1.3 above, Buyer shall not be responsible to Seller to complete the Environmental Remediation of the Granite Construction Contamination. If during the Feasibility Review Period, either party determines in such party's sole discretion, the costs associated with any potential Environmental Remediation of the Granite Construction Contamination are unacceptable, the party may terminate this Agreement upon written notice to the other. After Closing, Seller shall use commercially reasonable efforts to cause Granite Construction to complete any Environmental Remediation that may be required by federal, state or local regulatory agencies of the Granite Construction Contamination and to obtain the applicable agency's written acknowledgment that the required Environmental Remediation has been completed. Provided, however, Seller's commercially reasonable efforts to cause Granite Construction to complete any such Environmental Remediation shall be limited to the Property, and Seller shall have no obligation to use any efforts to cause Granite Construction to complete any remediation on, or take any other action with respect to, any property other than the Property. Concurrently with the Closing, Buyer shall grant to Seller a license to access the Property in order for Seller or (if Seller assigns such license to such owner) the owner of such Granite Construction facility to complete any required Environmental Remediation of the Granite Construction Contamination. The license will be in a form reasonably acceptable to both parties and, among other things, will not unreasonably interfere with the use of the Property as an industrial railway corridor. If Granite Construction has not completed such Environmental Remediation by June 1, 2012, Seller shall, within a reasonable time thereafter, commence and work diligently to complete such Environmental Remediation and shall obtain the applicable regulatory agency's written acknowledgment that the required Environmental Remediation has been completed. Also, Buyer and Seller acknowledge that any Environmental Remediation of the Granite Construction Contamination on the Property by Seller shall be proposed to be based on the use of the Property as an industrial railway corridor, and Buyer shall restrict the use of, or accept a use restriction on, the applicable area of the Property accordingly in order to obtain agency approval of any such proposed remediation plan and then to obtain such written acknowledgement following cleanup to a standard acceptable for such use. If Buyer later elects to use the Property for some other purpose, which requires further remediation of the Property, then Buyer, and not Seller, shall have responsibility for such further remediation. Absent Buyer's subsequent change in use of the Property, Buyer assumes no responsibility for the Granite Construction Contamination other than accepting a restriction on the use of the subject portion of the Property, as needed to obtain the regulatory agency's written acknowledgment that the required Environmental Remediation has been completed. Provided, however, at such time as Seller or Granite Construction has obtained such written acknowledgement that the required

Environmental Remediation has been completed, Seller shall be deemed to have performed all its obligations under this Section 4.1.4. Provided, however, Seller shall have no responsibility to obtain such written acknowledgment for any property other than the Property. The provisions of this Section shall survive the Close of Escrow."

3. Buyer acknowledges that the Feasibility Review Period set forth in Section 6.2 of the Purchase Agreement has expired and that Buyer has not elected to terminate the Purchase Agreement pursuant to the provisions of that Section.
4. Section 6.8.1 of the Purchase Agreement is amended by deleting the original Section 6.8.1 in its entirety and replacing it with a new Section 6.8.1, as follows:

"6.8.1 On or before the Closing, (a) Buyer will have entered into an Administration and Coordination Agreement with the Short Line Operator, which Administration and Coordination Agreement shall provide, notwithstanding its other provisions, that in the event that Buyer does not (i) secure funding of Five Million Dollars (\$5,000,000.00) to perform the Rehabilitation Work by July 1, 2012 or (ii) complete all Rehabilitation Work by December 31, 2014, then in either event Buyer acknowledges the Short Line Operator, or its successors and assigns, shall have the right, but not the obligation, to request at any time from the STB authority (or an exemption therefrom) to discontinue or abandon freight common carrier obligations on the Line or any portion thereof, and further that in the event Short Line Operator makes such a request to discontinue or abandon to the STB, Buyer shall not make any objection to the STB related to Short Line Operator's request or otherwise make any filing with the STB which could delay Short Line Operator's obtaining the requested relief from the STB, and further that Short Line Operator shall be released from any obligation under the Administration and Coordination Agreement with respect to or in any way arising out of the physical condition of the Line; and (b) Seller and the Short Line Operator will have entered into (i) an Interchange Agreement covering the interchange of freight car equipment at Watsonville Junction, (ii) a Cooperative Marketing Agreement covering allocation of routing, rates and tariffs for rail shipments over the Line, (iii) an agreement approved by Buyer by which Seller transfers its retained easement for freight railroad purposes to the Short Line Operator, and (iv) a track lease (the "**Track Lease**") on Seller's customary form of track lease covering any and all trackage owned by Seller north of the Property that Short Line Operator requires in order to provide freight rail service to the property adjacent to such trackage and served over such trackage. The Track Lease shall provide that, beginning on June 1, 2011, if Short Line Operator does not provide at least 150 rail carloads of freight rail service to or from such property in any twelve (12) month period, which provide road haul revenue, then Seller shall have the right to terminate the Track Lease. The Track Lease shall further provide that it shall be assigned to any successor

Short Line Operator designated by the Buyer and approved by the STB to be the freight rail operator on the Line, provided that the Track Lease is then still in effect. The Interchange Agreement and the Cooperative Marketing Agreement between Seller and the Short Line Operator shall be confidential and shall not be assignable by the Short Line Operator or disclosed to any other person without the prior written consent of Seller, which consent could be withheld by Seller in its sole discretion. The provisions of this Section shall survive the Close of Escrow."

5. Section 6.8.2 of the Purchase Agreement is amended to add the following, additional text at the end:

"If Seller elects not to file or otherwise take action to abandon or change the status of Seller's trackage north of the Line prior to Closing, then Seller reserves the right to do so after Closing. If Seller files to abandon or change the status of Seller's trackage north of the Line after Closing, Buyer's obligations under this Section 6.8.2, including the obligation to cooperate in connection with any such filing and not to file a Statement of Willingness to Assume Financial Responsibility or make an Offer of Financial Assistance, shall remain in effect and survive the Close of Escrow."

6. Seller acknowledges that the terms and conditions of this transaction have been approved in accordance with Seller's Management Policy Statement, as required by Section 7.1 of the Purchase Agreement. Section 7.1 is deleted from the Purchase Agreement.
7. Section 8.2.1 of the Purchase Agreement is amended by deleting the original Section 8.2.1 in its entirety and replacing it with a new Section 8.2.1, as follows:

"8.2.1 Closing Date. The consummation of the transaction contemplated by this Agreement and recording of the Deed (the "Closing" or "Close of Escrow") will occur and delivery of all items to be made at the Closing under the terms of this Agreement will be made on or before April 29, 2011 (the "Closing Date")."

8. Section 8.11 is added to the Purchase Agreement to read as follows:

"8.11 Seller's Contribution to Buyer's Costs. Notwithstanding the provisions of Sections 8.6, 8.7 and 8.8 of the Purchase Agreement, Seller shall pay the costs allocated to Buyer under those sections, together with any other items listed in Buyer's *Revised Allocation Request for Proposition 116 and STIP Funds for the Santa Cruz Branch Rail Line Acquisition*, submitted to the California Transportation Commission on September 3, 2010 (the "Allocation Request"), up to a maximum of Four Hundred Thousand Dollars (\$400,000). Subject in all events to such maximum of Four Hundred Thousand

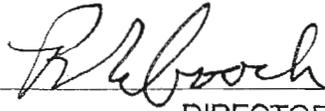
Dollars (\$400,000), costs set forth in Sections 8.6, 8.7 and 8.8 of the Purchase Agreement, together with Allocation Request costs incurred by Buyer prior to or concurrently with the Closing, shall be paid by Seller at Closing. In the event that such costs set forth in Sections 8.6, 8.7 and 8.8 of the Purchase Agreement, together with the Allocation Request costs incurred by Buyer prior to or concurrently with the Closing, are less than Four Hundred Thousand Dollars (\$400,000), then the amount by which Four Hundred Thousand Dollars (\$400,000) exceeds the total of such costs together with such Allocation Request costs, shall be retained from Seller's proceeds at Closing and deposited in Escrow, to be paid to Buyer pursuant to an escrow agreement in a form reasonably acceptable to both parties."

9. Except as expressly amended herein, all of the terms and conditions of the Purchase Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, Buyer and Seller have executed this Amendment effective as of the date first above written.

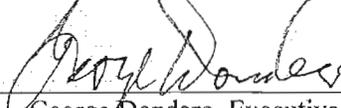
SELLER:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

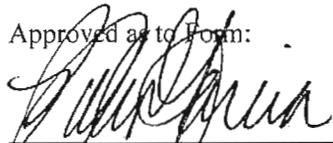
By: 
Title: DIRECTOR
SPECIAL PROPERTIES

BUYER:

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION,
a public agency created under California law**

By: 
George Dondero, Executive Director

Approved as to Form:


Rahn Garcia, General Counsel

THE UNDERSIGNED ESCROW HOLDER ACKNOWLEDGES ITS RECEIPT OF ONE EXECUTED COPY OF THIS AMENDMENT AND AGREES TO ACT IN ACCORDANCE THEREWITH.

ESCROW HOLDER:

FIRST AMERICAN TITLE COMPANY

By: _____, Escrow Officer

ATTACHMENT 4

ASSIGNMENT OF FREIGHT EASEMENT

DRAFT 04-06-11

**WHEN RECORDED RETURN TO,
AND MAIL TAX NOTICES TO:**

Sierra Northern Railway
341 Industrial Way
Woodland, CA 95776
Attention: David Magaw

SPACE ABOVE FOR RECORDER'S USE ONLY

ASSIGNMENT OF FREIGHT EASEMENT

This Assignment of Freight Easement (the "Assignment") is made and entered into as of the ____ day of April, 2011, by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (formerly known as Southern Pacific Transportation Company, a Delaware corporation) ("Assignor"), and **SIERRA NORTHERN RAILWAY**, a California corporation ("Assignee"), WITNESSETH:

WHEREAS, by Quitclaim Deed dated _____, 20__, recorded _____, ____, as Instrument No. _____ in the Official Records of Santa Cruz County, California, and as Instrument No. _____ in the Official Records of Monterey County, California (the "Quitclaim Deed"), Assignor reserved unto itself, its successors and assigns, an easement upon, over, under and across certain real property (the "Property") in the Counties of Santa Cruz and Monterey, State of California, described on **Exhibit "A"** attached hereto and incorporated by reference, extending ten (10) feet on either side of the center line of the existing tracks and including rights of access along the length thereof, for purposes of conducting freight rail operations and otherwise to fulfill Assignor's rights and obligations as a common carrier freight railroad under applicable federal laws and regulations, including the right to use the Property to provide freight rail service to all customers on or served from the Property, and to operate, use, construct, reconstruct, maintain, repair, relocate and/or remove existing and/or future railroad, rail and railroad-related equipment, facilities and transportation systems necessary for and related to freight rail operations (the "Freight Easement"); and

WHEREAS, Assignee has been authorized, or exempted, by the Surface Transportation Board to acquire the common carrier freight railroad obligations with respect to the Property through the assignment of the Freight Easement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Assignment by Assignor.

Effective as of the date of this Assignment, Assignor hereby transfers, assigns and quitclaims to Assignee all of Assignor's right, title and interest in, to and under the Freight Easement.

2. Acceptance and Assumption by Assignee.

Assignee hereby accepts the foregoing assignment of Assignor's right, title and interest in, to and under the Freight Easement and assumes and agrees to perform and keep and to be bound by all covenants, agreements, indemnities and obligations contained in the Quitclaim Deed for the Property pertaining to the Freight Easement to be made, kept and performed by the Grantor thereunder, and in the Administration, Coordination, and License Agreement between the Santa Cruz County Regional Transportation Commission and Assignee dated as of September 28, 2010.

This Assignment of Freight Easement is made subject to all the terms and conditions of the Quitclaim Deed pertaining to the Freight Easement as stated above, including, without limitation, paragraphs (a)(i) through (a)(v), and in particular, paragraph (a)(i) states as follows:

"This Freight Easement is made subject to the unrecorded Administration, Coordination, and License Agreement between Grantee [Santa Cruz County Regional Transportation Commission] and Sierra Northern Railway ("Short Line Operator") dated as of September 28, 2010, as the same may be amended from time to time. The Administration, Coordination, and License Agreement includes terms and conditions governing the following, without limitation: maintenance, repair and replacement of the Freight Easement and improvements thereon; allocation of liability; reasonable restrictions on rail car storage and use of lay down space; tourist rail service; future modifications and improvements to the Property, including the Freight Easement; reservations of rights by the Grantee; and expiration and termination of the Administration, Coordination, and License Agreement."

3. Release of Assignor.

From and after the effective date of this Assignment, the Assignee agrees to release the Assignor from any obligations to be kept, observed and performed by grantees under the Freight Easement with respect to the Property.

4. Effective Date of Assignment.

The effective date of Assignment shall be the date first herein written.

IN WITNESS WHEREOF, the Assignor and Assignee have each duly executed this Assignment of Freight Easement as of the date first herein written.

Attest:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

Assistant Secretary
(Seal)

By: _____
Name: _____
Title: _____

Attest:

**SIERRA NORTHERN RAILWAY,
a California corporation**

Secretary
(Seal)

By: _____
Name: _____
Title: _____

STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS)

On this ____ day of _____, 201__, before me, a Notary Public in and for said County and State, personally appeared _____ and _____ who are the _____ and the Assistant Secretary, respectively, of Union Pacific Railroad Company, a Delaware corporation, and who are personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to in the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

(Seal)

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 201__, before me, _____, a Notary Public in and for said County and State, personally appeared _____ and _____, who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signature on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

(Notary Seal)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

ATTACHMENT 5

ADMINISTRATION, COORDINATION AND LICENSE AGREEMENT

ADMINISTRATION, COORDINATION, AND LICENSE AGREEMENT

This administration, coordination, and license agreement is dated September 28, 2010, and is between the Santa Cruz County Regional Transportation Commission (the "Commission"), a public agency created under California law, and Sierra Northern Railway, a California Corporation ("Sierra").

The Commission purchased the Santa Cruz Branch railroad line (the "Property") from Union Pacific Railroad Company ("UP"), via an August 20, 2010, Purchase and Sale Agreement (the "Purchase and Sale Agreement"); and

UP reserved an easement to conduct common carrier freight railroad operations on and over the Property (the "Freight Easement"), which Freight Easement is set forth in the Quitclaim Deed by which UP, as grantor, quitclaimed all of its right, title and interest in and to the Property to the Commission, as grantee; and

UP has quitclaimed all of its right, title, and interest in and to the Freight Easement to Sierra and Sierra is the sole freight rail operator on the Freight Easement;

Sierra needs a long-term agreement of at least 10 years, covering all facets of railroad operations, in order to justify its investment of time and money needed to conduct such railroad operations; and

Sierra and the Commission desire to establish their respective rights and obligations with respect to the Property and the Freight Easement by entering into this agreement.

The parties therefore agree as follows:

1. **Definitions**

- 1.1 The term "Commission" is defined in the introductory paragraphs of this agreement and includes its directors, officers, employees, agents, parents, subsidiaries, affiliates, commonly controlled entities, and all others acting under its or their authority.
- 1.2 The term "Coordination Committee" is defined as the committee established by the parties pursuant to Section 11.
- 1.3 The term "FRA" is defined as the United States Federal Railroad Administration or its regulatory successor.
- 1.4 The term "Freight Easement" is defined in the introductory paragraphs of this agreement.

- 1.5 The term “Freight Easement Property” is defined as the portion of the Property subject to the Freight Easement consisting of all real and personal property within 10 feet of the centerline of any track on the Property except where roadways, buildings, or Property boundary lines reduce such distance to less than 10 feet, and except for any retained rights and personal property described herein.
- 1.6 The term “Freight Service” is defined as any and all common carrier rail freight operations, rights, or obligations as to the Freight Easement Property including freight transportation, switching, temporary rail car storage (subject to the conditions of Section 2.4), transloading freight and dispatching.
- 1.7 The term “Hazardous Materials” is defined as any substance: (a) that now or in the future is regulated or governed by, requires investigation or remediation under, or is defined as any hazardous waste, hazardous substance, bio-hazard, medical waste, pollutant, or contaminant under any governmental statute, code, ordinance, regulation, rule, or order, or any amendment thereto, including the Hazardous Material Transportation Act 49 U.S.C. § 5101 *et seq.*, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*, and the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, or (b) that is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, dangerous, or otherwise hazardous, including gasoline, diesel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon, and urea formaldehyde foam insulation.
- 1.8 The term “Hazardous Materials Laws” means all present and future governmental statutes, codes, ordinances, regulations, rules, orders, permits, licenses, approvals, authorizations, and other requirements of any kind applicable to Hazardous Materials.
- 1.9 The terms “include”, “includes”, and “including” are to be read as if they were followed by the phrase “without limitation.”
- 1.10 The term “Loss” is defined as any loss, damage, claim, demand, action, cause of action, penalty, fine, payment, cost, liability, or expense of whatsoever nature, including court costs and reasonable attorneys’ fees, resulting from or related to: (a) any injury to or death of any person, including officers, agents, and employees of the Commission or Sierra; or (b) damage to or loss or destruction of any property, including the Property, any adjacent property, and the roadbed, tracks, equipment, other property of the Commission or Sierra, and any property in the Commission’s or Sierra’s care or custody.

- 1.11 The term "Property" is defined as the entire Santa Cruz Branch railroad line right-of-way purchased from UP by the Commission, including all improvements thereto, whether now existing or hereafter constructed.
- 1.12 The term "Railroad Facilities" is defined as all tracks and other railroad property and fixtures, including ties, switches, trackbeds, bridges, trestles, retaining walls, culverts, railroad signs, switch mechanisms, signals, grade crossings, active and passive grade crossing warning devices and other appurtenances associated with the trackage described on Exhibit A and located on the Freight Easement Property.
- 1.13 The term "Sierra" is defined in the introductory paragraphs of this agreement and includes its directors, officers, employees, agents, parents, subsidiaries, affiliates, commonly controlled entities, any other related persons and entities, and all others acting under its or their authority.
- 1.14 The term "STB" is defined as the United States Surface Transportation Board or its regulatory successor.
- 1.15 The term "Tourist Service" is defined as the transportation of tourists by rail. Tourist Service does not include regularly-scheduled passenger transit or commuter service.
- 1.16 The term "UP" is defined in the introductory paragraphs of this agreement.

2. **Commission Grants Rights**

- 2.1. **Freight Service.** The Commission grants Sierra the exclusive right and obligation to provide Freight Service on the Freight Easement Property. Sierra's rights and obligations to provide Freight Service under this agreement are limited to those set forth in the Freight Easement or in this agreement. Sierra may not, in performing such Freight Service, exceed the maximum speeds authorized by applicable law for the existing track conditions or transport rail cars exceeding the applicable track and bridge weight limits.
- 2.2. **Trackage License.** The Commission grants Sierra an exclusive license to use, maintain, repair, and operate all of the Railroad Facilities for all Freight Service purposes. Notwithstanding their location on the Freight Easement Property, buildings and other fixtures which are not appurtenances associated with the tracks and related railroad property are not included as part of this license.

2.3. Tourist Service and Other Third-Party Licenses.

2.3.1. Sierra Tourist Service. The Commission grants Sierra a non-exclusive license to use the Freight Easement Property and Railroad Facilities to provide Tourist Service between Milepost 18.74 in Santa Cruz and Milepost 31.39 in Davenport; provided that prior to the commencement of operations (a) the Commission has approved in writing a detailed plan from Sierra describing such Tourist Service, (b) the Tourist Service will not materially conflict with, and will be subject and subordinate to Freight Service, and (c) Sierra has obtained any governmental authorizations required under applicable law for such Tourist Service. Sierra's Tourist Service plan shall include, at a minimum, the proposed seasons, dates and times of operation (including a proposed train schedule), a financial plan and a marketing plan. The parties understand and agree that Sierra may assign this Tourist Service license to Mendocino Railway by written assignment approved in writing by the Commission. The assignment shall require Mendocino Railway to be bound by the terms and conditions of this agreement relating to this Tourist Service license and to atorn to the Commission as the licensor. No such assignment shall relieve Sierra of its obligations under this agreement, including obligations related to this Tourist Service license.

2.3.2. Third-Party Licenses. The Commission reserves the right to grant additional licenses over the Freight Easement Property and the Railroad Facilities provided that any such licenses: (a) do not materially conflict with, and are subject and subordinate to, Sierra's right to use, maintain, repair, and operate all of the Railroad Facilities for all Freight Service purposes, (b) do not materially conflict with any other license with a plan previously approved in writing by the Commission, (c) require the licensee to pay its proportionate share of Sierra's costs (including labor costs, materials costs, equipment costs — using equivalent rental costs as a proxy for capital and maintenance and repair costs — travel, fuel, contract labor, and appropriate overhead) to maintain and repair the portion of the Freight Easement Property and Railroad Facilities used by the licensee, and (d) require the licensee to (i) provide insurance equal to or better than that required of Sierra in Section 9 and (ii) indemnify and hold harmless Sierra and the Commission as to any Loss arising out of or related to licensee's operations.

2.3.2.1. For a period of three years after the effective date of this agreement, any third-party license for Tourist Service between Milepost 20.9 and Milepost 31.39 will be deemed to materially conflict with Sierra's Tourist Service license, except in the case of special Tourist Service events as described in Section 2.3.2.9. The provisions of this Section 2.3.2.1 are conditioned on the following (all dates are measured following the effective date of this agreement):

- a. Within 6 months: Sierra shall submit its plan for its initial Tourist Service to the Commission pursuant to Section 2.3.1.
- b. Within 3 months after Commission approval of initial plan: Sierra shall ensure that the Railroad Facilities for its initial Tourist Service meet and are maintained to Class 1 track standards and obtain appropriate FRA and PUC inspections to verify the same.
- c. Within 5 months after Commission approval of initial plan: Sierra shall secure all permits and agreements required to operate its initial Tourist Service.
- d. Within 6 months after Commission approval of initial plan: Sierra shall initiate its initial Tourist Service.
- e. Levels of Service: Sierra's Tourist Service shall carry the following numbers of revenue passengers:
 - I. First Year of Service: 5,000 passengers.
 - II. Second Year of Service: 10,000 passengers.
 - III. Third Year of Service: 15,000 passengers.

2.3.2.2. Following the date that is three years after the effective date of this agreement, a third-party license will be deemed to materially conflict with another license with a plan previously approved in writing by the Commission if the third party (a) operates on a substantially similar portion of the Freight Easement Property and Railroad Facilities covered by the previously-approved license/plan,

(b) permits an activity that is substantially similar to the previously-approved license/plan and (c) operates during substantially similar seasons, and on substantially similar days and times of day, as the previously-approved license/plan.

2.3.2.3. If Sierra or any third-party licensee ("Tourist Operator") fails to initiate and continue to operate Tourist Service substantially in accordance with the plan approved by the Commission, then the applicable Tourist Operator's operations may, at the Commission's option, lose priority over any other operations, but only to the extent of such failure to operate.

2.3.2.4. If Sierra constructs capital improvements to the portion of the Freight Easement Property and Railroad Facilities used by the licensee, the Commission shall promptly and reasonably determine (i) the benefit of such improvements to the licensee, (ii) the cost apportionment of such improvements between Sierra and the licensee, and (iii) the appropriate amortization period for such improvements (for capital improvements the Commission shall make such determination concurrently with its approval of such capital improvements pursuant to Section 6.2). The licensee will, within 30 days following receipt of written notice, pay amounts due. As used in this agreement, the term "capital improvement" means any improvement or repair that is subject to the capital depreciation rules of the Internal Revenue Service.

2.3.2.5. The licensee's proportionate share of Sierra's costs shall be calculated in advance by Sierra (based on the prior year's maintenance and repair costs plus any reasonably anticipated extraordinary maintenance and repair costs, and the parties' relative need or usage during the licensee's operating season) on a car-mile basis as to the portion of the Freight Easement Property and Railroad Facilities used by any licensee. (As used in this subsection, "repair costs" refers to the cost of repairs that maintain property in good operating condition and not to repairs that are "capital improvements," which are dealt with in Subsection

2.3.2.4.) The licensee shall pay its proportionate share of costs monthly in advance during the months of the licensee's operations. Sierra shall at the end of each calendar year reconcile the amounts paid to the actual costs incurred. If the actual costs exceed the amount charged to the licensee, the licensee will within 30 days following receipt of written notice of such reconciliation pay the additional amount to Sierra. If the actual costs are less than the amount charged to the licensee, Sierra will within 30 days following such reconciliation refund the balance to the licensee.

2.3.2.6. If the Commission, in its discretion, elects to require a lower level of insurance coverage for the licensee than the level of coverage then required of Sierra under Section 9, the Commission shall correspondingly lower the limits of coverage required of Sierra under Section 9, provided that if Sierra elects to reduce the levels of its insurance, it shall also reduce the self-insured retention to the level required of the third-party licensee.

2.3.2.7. The Commission or its designee shall have the right to review, obtain, and copy all books, records, computer records, accounts, documentation and any other materials (collectively "Records") pertaining to Sierra's costs that are subject to apportionment under this section, including any Records in the possession of any subcontractors, for the purpose of monitoring, auditing, or otherwise verifying said costs. Sierra agrees to provide the Commission or its designees with any Records requested for this purpose and shall permit the Commission or its designees access to its premises, upon reasonable notice, during normal business hours, for the purpose of inspecting and copying such Records. Sierra further agrees to maintain such Records for a period of three years. The Commission acknowledges and agrees that these Records constitute Sierra's confidential information and shall not be disclosed to any third-party without Sierra's prior written approval, except as otherwise required by applicable law.

2.3.2.8. Sierra will reasonably cooperate with any third party holding rights to use the Property, including,

without limitation, any third-party Tourist Service operator seeking to secure the necessary certification or qualification required by applicable law to operate on the Railroad Facilities.

2.3.2.9. In addition to all other rights of Commission under this agreement, and notwithstanding anything to the contrary in this agreement, the Commission reserves the right to use the Freight Easement Property and Railroad Facilities for special events. Such special events shall be subject to the provisions of Sections 2.3.2.(a) and (b), provided that such special events will only be deemed to materially conflict with another license with a plan previously approved in writing by the Commission if they operate during the same season, and on the same days and times of day, as the previously-approved license/plan. The Commission will consult with Sierra regarding Sierra's willingness and ability to operate such special events.

If the Commission elects to have Sierra operate the special event, Sierra will operate the special event for an all-inclusive fee (for locomotive, crew, fuel, trainset, and trackage rights) (the "Special Event Fee") in the amount of \$4,500 per day. If the Commission elects to have another operator operate the special event, the Special Event Fee paid to Sierra will be \$2,500 per day, which fee shall cover all services to be provided by Sierra to support an event operated by a third party including, but not limited to, dispatching, inspections, and maintenance (but excluding Sierra's provision of any locomotive, trainset, crew, and fuel). The Special Event Fee shall be adjusted annually as of July 1st of each year to an amount calculated by multiplying the Special Event Fee specified above by a fraction, the numerator of which shall be the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-San Jose, CA (1982-84=100), or the successor of such index (the "CPI"), for the month immediately preceding such adjustment, and the denominator of which shall be the CPI for June 2010. Nothing in this paragraph shall preclude the Commission and Sierra from negotiating other arrangements for

special events (e.g., special events for which there is a different operational or fee structure, including events for which Sierra is both the operator and receives all or a portion of the fare revenue).

2.4. Temporary Rail Car Storage. Subject to the terms and conditions of this agreement, Sierra may enter into agreements with any party for temporary rail car storage or repairs. However, Sierra shall not enter into any agreements pursuant to this section without obtaining the Commission's prior written consent.

2.4.1. Unless otherwise expressly agreed by the Commission in writing, Sierra will not (i) store more than 100 rail cars, (ii) store rail cars in locations other than those marked on Exhibit B (which locations are intended to substantially avoid visibility from Highway 1 and blocking designated public beach access), or (iii) store any rail car for more than six months. Absent the Commission's prior written consent, which consent may be withheld in the Commission's sole discretion, Sierra may not store railcars that have been used to transport Hazardous Materials unless such railcars are empty or contain only residual amounts of Hazardous Materials.

2.4.2. Following the earlier of (i) Sierra's institution of Tourist Service pursuant to Subsection 2.3.1, or (ii) three years after the effective date of this agreement, Sierra shall not exercise its right to use the Freight Easement Property or Railroad Facilities for temporary rail car storage or repair in a manner that materially affects the ability of any third-party Tourist Service licensee to access the Railroad Facilities for the purpose of exercising its licensed rights. A reciprocal provision will be placed in any third-party license for Tourist Service granted by the Commission.

2.4.3. The provisions of Subsections 2.4.1 and 2.4.2 apply to future storage agreements as well as storage agreements existing as of the effective date of this agreement.

2.5. Investigation.

2.5.1. Sierra hereby acknowledges that (a) it has satisfied itself at the time of this agreement with respect to the condition of the Freight Easement Property and Railroad Facilities and their suitability for Sierra's intended use; (b) it has made such investigations as it deems necessary with respect to the Freight Easement Property and Railroad Facilities, as

they exist at the time of this agreement, and assumes responsibility therefor as to its occupancy and use thereof; and (c) neither the Commission nor any of the Commission's agents has made any oral or written representations or warranties with respect to the Freight Easement Property or Railroad Facilities.

- 2.5.2. The Commission acknowledges that Sierra cannot make any investigation, or satisfy itself, with respect to how the Property or the public's use of the Property may change following the Commission's purchase of the Property from UP. In the event that any public use of the Property, or illegal activities by third parties including trespassing, cause any significant economic or operational problems for Sierra, Sierra may terminate this agreement, provided Sierra complies with the provisions of Section 8.3.
- 2.6. As-Is, Where-Is. Sierra shall take the Freight Easement Property in an "as-is, where-is" condition and without any express or implied warranties, including, but not limited to, any warranties of merchantability, fitness for a particular purpose or volume or quality of traffic on the Freight Easement Property, and subject to: (i) encroachments or other existing conditions, (ii) all existing ways, alleys, privileges, rights, appurtenances and servitudes, howsoever created, and (iii) the Commission's rights hereunder.
- 2.7. Release. Sierra, for itself, its successors and assigns, to the maximum extent permitted by law, hereby waives, releases, remises, acquits and forever discharges the Commission, its officers, employees, agents, successors and assigns, from any Loss in any way arising out of, or connected with, the known or unknown, existing or future physical or environmental condition of the Freight Easement Property and Railroad Facilities (including any Hazardous Materials contamination in, on, under, or adjacent to, the Freight Easement Property, or any clearance constraints on the Freight Easement Property), or any federal, state, or local law, ordinance, rule or regulation applicable thereto.
- 2.7.1. Sierra hereby grants to Commission, on behalf of any insurer providing property, general liability, or automobile liability insurance to either Sierra or Commission with respect to the operations of Sierra, a waiver of any right to subrogation which any such insurer of Sierra may acquire against Commission by virtue of the payment of any loss under such insurance.

2.7.2. If any Loss described in Section 2.7 is caused by a third party under contract with the Commission, the Commission may, at its option, (i) pursue any claim it may have against the third party contractor, or (ii) assign to Sierra any such claim, provided that Sierra shall not be obligated to pursue such claim. Any amounts recovered as a result of any such claim shall, to the extent they exceed any fees and costs incurred in pursuing such claim, be used to repair or replace any of the following that are damaged or destroyed in connection with the subject Loss:

2.7.2.1. First, Freight Easement Property and Railroad Facilities;

2.7.2.2. Then, railroad equipment.

If Sierra commences abandonment proceedings for the subject portion of the Property under Section 8.3, the Commission will not assign any such claim to Sierra and neither party will have any further responsibility under this Subsection 2.7.2 as to such claim. If Sierra's abandonment application is withdrawn, or not approved by the STB, the Commission may assign such claim to Sierra, as provided above.

2.7.3. The provisions of this Section 2.7 shall survive the termination or expiration of this agreement.

2.8. The rights granted by the Commission under Sections 2.1 - 2.4 are subject to all existing licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title that may affect the Property and the word "grant" as used herein shall not be construed as a covenant against the existence of any thereof.

3. **Limitation and Subordination of Rights Granted**

3.1. Commission's Use of Property. The foregoing granted rights are subject and subordinate to the Commission's prior and continuing right to use and maintain the Property for any purpose that is not inconsistent with this agreement. Without limiting the generality of the foregoing, the Commission may construct, maintain, repair, renew, use, operate, change, modify or relocate public projects of any kind, railroad tracks, signals, communication equipment, fiber optics, pipelines, or other facilities upon, along, or across any or all of the Property, all or any of which the Commission may freely do at any time or times without liability to Sierra for compensation or damages; provided, however, that the Commission may not

materially interfere with Sierra's rights and operations under this agreement or Sierra's Freight Service rights and obligations under federal law (unless first approved by the STB); and provided, further, that the Commission shall to the extent possible notify Sierra as soon as practicable of any such planned or actual interference and provided that the Commission takes all practicable measures to minimize any such interference. Sierra shall reasonably cooperate with the Commission in implementing the foregoing uses of the Property. If the Commission or its designee requests Sierra's assistance to transport materials or to perform other transportation or construction services for public projects, Sierra will provide such assistance at rates reasonably to be determined between the parties.

- 3.2. Commission's Inspection Access; Access for Maintenance. The Commission may, as reasonable and as coordinated in advance with Sierra, (i) inspect the Freight Easement Property and the Railroad Facilities, including any rail-yard or maintenance facility used in connection with Freight Service or Tourist Service, and (ii) access the Freight Easement Property and Railroad Facilities (including access with Commission or third party rail vehicles) as necessary to maintain areas of the Property outside of the Freight Easement Property that are not otherwise reasonably accessible. The Commission shall defend, indemnify and hold Sierra, its officers, directors, employees, and agents, harmless from and against Loss arising from injuries to or death of the Commission's officers, directors, employees, agents, invitees, and contractors relating to such inspections, regardless of the cause of such injuries, death, or damage and regardless of the negligence of any person, except to the extent caused by the willful misconduct or gross negligence of Sierra, its employees, or agents. The Commission shall ensure that any of its officers, directors, employees, agents, invitees, and contractors involved in such inspections are trained in all safety requirements and qualified for any operations related to work conducted on or near railroad operations.
- 3.3. Future At-Grade Crossings. The parties acknowledge that (i) local governments may desire to create future at-grade public crossings of the Freight Easement Property, and (ii) the Aptos Village Plan, dated February 23, 2010, specifically includes a future at-grade roadway crossing of the Freight Easement Property at approximately Milepost 12.55. Sierra shall, at no cost or expense to itself, cooperate with the efforts of any applicable local governments to secure PUC approval of such crossings; provided, however, that Sierra shall be entitled to raise any reasonable safety concerns related to such crossings. The fees and costs associated

with the construction, maintenance, and repair of such crossings shall be set either by agreement between Sierra and the applicable local government (which agreement shall become a Sierra Agreement under Sections 4.2 and 4.3), or by the PUC pursuant to Public Utilities Code Section 1202, *et seq.*

4. **Assignment of certain Contracts and Agreements**

- 4.1. Pursuant to the Assignment and Assumption Agreement dated as of December 18, 2009, Union Pacific assigned to Sierra certain agreements concerning the operation of the Railroad Facilities, including all track agreements, grade crossing agreements, and other operating agreements set forth in Exhibit C hereto (all such agreements hereinafter referred to as the "Sierra Agreements"). Upon close of escrow under the Purchase and Sale Agreement, Union Pacific will assign to the Commission all other agreements relating to the Property, including all easements, licenses, and leases (all such agreements hereinafter referred to as the "Commission Agreements").
- 4.2. Any new Sierra Agreement is subject to the Commission's prior written consent and is to be documented by Sierra using forms approved by the Commission, which forms shall, among other things, include provisions indemnifying the Commission and holding it harmless from any Loss in connection with the exercise of rights under such agreements, and the construction, maintenance, or operation, of any facilities constructed in connection with such agreements.
- 4.3. In addition to the general consent requirement of Section 4.2, Sierra is not, without the Commission's prior written consent, to execute any new Sierra Agreements affecting the Freight Easement Property or Railroad Facilities for a term exceeding the term of this agreement.
- 4.4. Sierra is not, without the Commission's prior written consent, to terminate or modify any Sierra Agreement.

5. **Maintenance and Operation of Railroad Facilities**

- 5.1. Initial Rehabilitation and Repair Projects. The Commission may, subject to the Commission's contracting policies, rules, and procedures and to the terms of this agreement, including Section 6.1, perform any rehabilitation of, or repairs to, the Railroad Facilities required to be performed under the terms of the Purchase and Sale Agreement.

5.2. Maintenance of Freight Easement Property and Railroad Facilities.

5.2.1. Freight Easement Property and Railroad Facilities. Sierra, at its expense, shall keep the Freight Easement Property and Railroad Facilities used by Sierra (including occasional use, or use for rail car storage or lay down space) in good repair and in a good and safe condition in conformity with applicable law or any Sierra Agreement.

5.2.2. Weeds, Trash, Drainage and Graffiti. The parties agree that Sierra shall be responsible for: (i) drainage and culvert maintenance and clearance on the Property unless a third person or entity is contractually responsible for such maintenance and clearance, and (ii) weed abatement, vegetation management, and trash collection over the Freight Easement Property as required by applicable law. The Commission grants Sierra a license to enter all portions of the Property as necessary to perform such maintenance; Sierra shall be required to repair any damage caused as the result of Sierra's performance of any such maintenance. Except as required by applicable law, Sierra shall not be responsible for the prevention, removal, or abatement of graffiti wheresoever it may occur. Sierra shall also not be responsible for drainage maintenance, weed abatement, vegetation management, or trash collection related to any construction by the Commission (except for Railroad Facilities that Sierra is entitled to use), or necessitated by the actions of any third party authorized by the Commission to be on the Property, or related to any actions, omissions, or situations off or outside of the Property.

5.2.3. Slopes, Trees and Other Conditions outside of Freight Easement Property. Sierra may, at its option, enter portions of the Property outside the Freight Easement Property to maintain or repair slopes, clear fallen trees and branches, or address other conditions, as necessary to ensure the safety of Sierra's operations. The Commission grants Sierra a license to enter all portions of the Property as necessary to perform such work; Sierra shall be required to repair any damage caused as the result of Sierra's performance of any such maintenance. The Commission shall have no liability to Sierra for maintenance of portions of the Property outside of the Freight Easement Property and Sierra's exclusive remedies for damage to the Freight Easement Property or Railroad Facilities shall be limited to those set forth in Sections 5.5.3 and 8.3. However, this section shall

not apply to any claims that result from the sole active negligence or willful misconduct of the Commission or its officers, directors, employees, agents, contractors, or a third party under contract with the Commission, in which case Sierra's exclusive remedies are those set forth in Section 2.7.2, 8.3 and 14.2.

- 5.2.4. Scope of Maintenance. For purposes of this section 5.2, the maintenance and repairs to be performed by Sierra include, as required by applicable law, (a) inspections, testing, track profiling, adjustments, lubricating, welding, re-spiking surfacing, tamping, and any other tasks constituting customary and routine maintenance of track structures; (b) repair, renewal, replacement, or other customary and routine work required to ensure the safety of Railroad Facilities, including compliance with any applicable bridge safety management program regulations that may be promulgated by the Secretary of Transportation pursuant to Public Law 110-432, Section 417, including the regulations set forth in 49 CFR Part 237; (c) weed and brush control and drainage management; and (d) compliance with all mandated reporting. Sierra shall not be in default under this agreement if it does not perform tie replacement programs or upgrades of rail, switches, bridges, or other track material provided that (e) Sierra's failure to perform such replacement programs or upgrades does not violate applicable law or Sierra's specific maintenance obligations under this agreement, and (f) Sierra uses reasonable diligence to seek outside funding sources for such work. The Commission shall have no responsibility to maintain the trackage, structures, or any other Railroad Facilities.
- 5.2.5. Concurrently with the execution of this agreement and deposit into escrow, both parties shall execute and deliver to the FRA a written notice of the assignment of track inspection and maintenance responsibilities, and bridge safety management responsibilities, to Sierra in accordance with 49 CFR § 213.5(c) and 49 CFR § 237.3. The notice of assignment shall attach a copy of this agreement.
- 5.2.6. Limits of Commission Liability. Notwithstanding the limitations on the Commission's maintenance responsibilities set forth in Section 5.2, the Commission shall be responsible for the maintenance of any improvement it constructs on any portion of the Property. As used in this subsection, the term "improvement" excludes improvements made to the Railroad Facilities,

unless such improvement is made at the request of a third-party, in which case such third-party shall be responsible for the incremental increase in the maintenance cost thereof. Notwithstanding the foregoing, maintenance responsibility for improvements to public crossings shall be governed by the provisions of Section 3.3.

- 5.3. Ownership of Track Materials. All track materials installed by Sierra as part of the Railroad Facilities shall be of equal or better quality than those track materials existing at the time of execution of this agreement, or after completion of rehabilitation and repair projects by the Commission, including the projects described in Section 5.1, and shall become the Commission's property. All materials removed by Sierra from the Railroad Facilities and replaced as part of maintenance, repairs, or capital improvements shall, if the decision to remove them was Sierra's, become the property of Sierra. Sierra shall not, without the prior written approval of Commission, remove track materials or other improvements from the Property unless they are replaced as provided in this section. Sierra shall keep a written record of track materials and other improvements removed from, or installed upon, the Property and shall provide an updated copy of the record to the Commission on or before the end of each calendar quarter.
- 5.4. Clearing of Obstructions, Derailments, and Wrecks. Sierra shall as soon as practicable clear any obstructions, derailments, and wrecks of railroad equipment or Railroad Facilities.
- 5.4.1. To the extent that any such obstruction, derailment, or wreck damages the Property, Sierra shall as soon as practicable restore the Property to the condition it was in prior to the obstruction, derailment, or wreck.
- 5.4.2. If Sierra fails to comply with the provisions of this section, the Commission may perform the required action and charge Sierra the reasonable cost thereof. Notwithstanding the foregoing, the Commission shall not charge Sierra for the restoration of any damage caused by any third party (i) to any bridge, if Sierra abandons the subject portion of the Property under Section 8.3, or (ii) to Property other than bridges, if in the Commission's reasonable judgment, such damage does not expose the Commission to potential liability to the FRA, PUC, or any other third party, and either (A) such damage does not obstruct or interfere with any roadway or other property or facility used by the Commission or another third party, or (B) Sierra abandons the subject portion of the Property under Section 8.3. In addition, the Commission shall not charge Sierra for the restoration of any damage caused by the Commission's

contractors, or any third party granted access to the Property by specific agreement with the Commission.

- 5.4.3. Nothing in this section is intended to preclude legal action by Sierra or the Commission against any third party causing such obstruction, derailment, or wreck.

5.5. Responsibility for Repair or Replacement.

5.5.1. Damage Caused by Freight Operations. Except as otherwise set forth in this agreement, Sierra will be responsible to repair or replace any damage to the Freight Easement Property or Railroad Facilities caused by, or related to, Sierra's operations.

5.5.2. Damage Caused by Commission. Sierra will not be responsible to repair or replace any damage to the Freight Easement Property or Railroad Facilities caused by the Commission, its officers, directors, employees, agents, or contractors.

5.5.3. Damage Caused by Acts of God or Other Factors beyond Sierra's Control. If any portion of the Freight Easement Property or the Railroad Facilities are damaged or destroyed by flood, fire, civil disturbance, earthquake, earth movement, storm, sabotage, act of God, terrorism, accident or any other event beyond Sierra's reasonable control, including damage or destruction caused by third parties, even if said damage or destruction originates outside of the Freight Easement Property, then Sierra may, but shall not be required to, at no cost or expense to the Commission, (a) repair, or cause to be repaired, the damaged or destroyed portion of the Railroad Facilities; (b) replace, or cause to be replaced, such portion of the Freight Easement Property or the Railroad Facilities; or (c) seek to abandon Tourist Service or Freight Service over all or such portion of the Property as Sierra deems appropriate as set forth in Section 8.3.

6. **Construction, Relocation, or Removal of Railroad Facilities**

6.1. By the Commission.

6.1.1. The license herein granted is subject to the Commission's needs and requirements to improve and use the Property. Subject to Sierra's rights under this agreement, the Commission, at its sole cost and expense, may add to or remove any portion of the Railroad Facilities, or change or

relocate them to new locations as reasonably designated by the Commission, whenever, in the furtherance of the Commission's needs and requirements, the Commission finds such action to be necessary.

- 6.1.2. In the course of performing such work, the Commission may not materially reduce, or otherwise materially interfere with, Sierra's rights and operations under this agreement or Sierra's Freight Service rights and obligations under federal law (unless first approved by the STB). The Commission shall to the extent possible notify Sierra as soon as practicable of any such planned or actual interference and take all practicable measures to minimize any such interference.
 - 6.1.3. Sierra shall in such cases provide the Commission with a fixed-price quote for performing any related work, and the Commission shall have the option of accepting Sierra's quote and having Sierra perform the work, performing the work itself, or having another qualified rail contractor perform such work. If the Commission selects a third-party contractor, the contractor shall execute Sierra's Right of Entry Agreement (a copy of which is attached as Exhibit D).
 - 6.1.4. The Commission shall have the right to salvage, stockpile, or otherwise dispose of any Railroad Facilities removed pursuant to this section; provided, however, that if the removed Railroad Facilities are reusable elsewhere on the Freight Easement Property, then Sierra shall have the right to so reuse them. Any Railroad Facilities not so reused on the Freight Easement Property shall be returned to the Commission upon expiration or termination of this agreement and may not be sold to third parties or used elsewhere.
 - 6.1.5. All such work performed, and any installation of Railroad Facilities, shall be in conformance with all applicable laws. If the Commission relocates any portion of the tracks used for Freight Service, the centerline of the Freight Easement Property shall, upon completion of the relocation work, be deemed to have been modified to coincide with the centerline of the realigned tracks.
- 6.2. By Sierra. Sierra may, at its cost and expense, modify or improve the Freight Easement Property and Railroad Facilities as needed to accommodate its Freight Service or Tourist Service; provided,

however, that Sierra first obtains the Commission's written approval of Sierra's plans for such modifications and improvements, which approval may be granted or withheld in the Commission's sole and absolute discretion. Sierra's modification or improvement of the Freight Easement Property and Railroad Facilities may not interfere with or impede any existing or future legal public use of the Property that the Commission may authorize. Sierra may, upon the termination of this agreement or upon the abandonment of any applicable section of the Freight Easement Property or portion of the Railroad Facilities, remove any modifications or improvements to such Freight Easement Property or Railroad Facilities that were paid for by Sierra, that do not constitute any repair or replacement to such Freight Easement Property or Railroad Facilities, and that have not become fixtures to such Freight Easement Property or Railroad Facilities.

- 6.3. The Commission understands that Sierra requires locations at which to store and maintain equipment and materials necessary for Sierra's Freight Operations including a locomotive pit. The parties agree that Sierra may store equipment and materials at the location known as Wrigley's, located between Swift Street and Natural Bridges Drive at or about Milepost 21.5. The parties agree that Sierra will need to identify and construct additional maintenance and storage locations on the Property, which Sierra may do as needed, subject to applicable law and the Commission's prior written consent, which consent may be granted or withheld in the Commission's sole and absolute discretion.
- 6.4. The terms, conditions, and stipulations expressed in this agreement as to the Freight Easement Property and Railroad Facilities shall apply to the Freight Easement Property and Railroad Facilities as they may at any time be expanded, added to, modified, changed, or relocated.

7. License Fees

- 7.1. For consideration of the rights granted under this agreement, Sierra shall pay the Commission the following fees as calculated on a quarterly basis:

7.1.1. Freight Service:

7.1.1.1. First 500 carloads per quarter: \$0.00;

7.1.1.2. Any additional carloads per quarter: 5% of Sierra's handling revenue for such carloads.

7.1.1.3. Storage: \$1.00 per day per car in storage.

7.1.2. Temporary Use of Laydown Space. Sierra may from time to time make arrangements with a temporary shipper by rail for the use of otherwise unused laydown space (open space next to railroad track). The parties agree that Sierra will need to identify such temporary laydown locations on the Property, which Sierra may do as needed, subject to applicable law and the Commission's prior written consent. Sierra shall also notify the Commission of the expected duration of each such use. If subsequently the Commission reasonably objects to any specific use of laydown space by Sierra or its shipper, Sierra shall as soon as practicable discontinue that use of such laydown space. Sierra shall, in addition to the license fees set forth above, pay the Commission 20% of all revenue (if any) received by Sierra by such shippers for such use of such laydown space.

7.1.3. Tourist Service: \$1.00 per passenger.

7.2. Sierra shall, on or before the last day of the month following the end of each calendar quarter, determine the amounts payable to the Commission arising from the preceding calendar quarter and shall provide the Commission with a statement describing all amounts due the Commission during the quarter. Sierra shall also, upon reasonable request from the Commission, make available for inspection and copying all documents and receipts upon which such fees are based.

7.3. Sierra shall, on or before January 31 of each calendar year, pay the Commission all amounts due the Commission for the prior four calendar quarters.

8. **Term and Termination**

8.1. This agreement shall become effective when fully executed and delivered to the parties in accordance with Section 27.4, and shall continue in full force and effect for a period of 10 years unless otherwise terminated as provided herein.

8.2. If (i) Sierra does not regularly use the Freight Service or Tourist Service rights in accordance with the plan approved by the Commission (other than railcar storage rights) herein granted over any segment of the Freight Easement Property, or the Railroad Facilities on such segment, for a period of one year without the Commission's prior written approval, or (ii) Sierra remains in default in its performance of any covenant or agreement contained

herein for a period of 30 days after written notice from the Commission to Sierra specifying such default, the Commission may, at its option, forthwith terminate this agreement by written notice; provided however, that if such default cannot reasonably be cured within 30 days after such notice, the Commission may not terminate this agreement provided that Sierra begins to cure the default within the 30-day notice period and proceeds diligently to complete such cure. Upon expiration or termination of this agreement by either party, Sierra shall proceed to abandon Freight Service in accordance with section 8.3. As used in this Section 8.2, the term "regularly use" means revenue train operations for either Freight Service or Tourist Service consisting of a minimum of 40 freight cars per year, or 15,000 passengers per year (beginning with the third year following the effective date of this agreement), as applicable.

8.2.1. The parties recognize that there are currently little or no revenue train operations on the Freight Easement Property or Railroad Facilities and that it may take time for Sierra to develop such operations, if they can be developed. The Commission thus agrees that it shall not terminate this agreement due to the lack of any such revenue train operations for a period of three years from the effective date of this agreement.

8.2.2. The Commission also agrees that it shall not terminate this agreement due to Sierra's failure to use the rights herein granted with respect to any segment of the Freight Easement Property or Railroad Facilities that is necessary to support any Freight Service or Tourist Service over any regularly-used portion of the Freight Easement Property north of any unused segment.

8.3. Abandonment.

8.3.1. Sierra may at any time, in its sole and absolute discretion, immediately and without any liability to the Commission: (a) abandon Tourist Service over all or such portion of the Property as Sierra deems appropriate, and (b) seek STB approval to abandon Freight Service over all or such portion of the Property as Sierra deems appropriate. In the event that Sierra seeks to abandon Freight Service, Sierra shall provide the Commission with 90 days advance notice of Sierra's intention and shall, at no cost to Sierra, cooperate with the Commission's efforts to take upon itself all Freight Service operations relating to the Property, to appoint another person or entity to do so, or to rail bank

any portion of the Property as to which Sierra intends to abandon Freight Service. Nothing in this agreement is intended by the parties to limit these rights on the part of Sierra and the Commission agrees that it will cooperate with Sierra in Sierra's efforts to so abandon any Tourist Service or Freight Service.

8.3.2. Any abandonment proceedings instituted by Sierra shall comply with the abandonment provisions set forth in the Freight Easement, including the railbanking/OFA provisions thereof.

8.3.3. To the extent that Sierra abandons Freight Service over all or any part of the Freight Easement Property or Railroad Facilities, this agreement and any other rights and obligations of Sierra to the Commission, shall, at the time of consummation of such abandonment, terminate with respect to any abandoned portions of the Freight Easement Property and Railroad Facilities. Upon the effective date of such abandonment, Sierra shall, if so requested by the Commission, (i) assign to the Commission any Sierra Agreements affecting the abandoned portions of the Freight Easement Property and Railroad Facilities, (ii) quitclaim the abandoned portion of the Freight Easement to the Commission, and (iii) execute any additional documents reasonably necessary to effectuate the purpose and intent of this agreement.

8.4. All obligations incurred by the parties prior to the termination of this agreement shall be preserved until satisfied. Notwithstanding the foregoing, if Sierra terminates this agreement as to any portion of the Freight Easement Property or Railroad Facilities after damage to the same by any third party, or because the cost to maintain, repair, or replace the same is not economical, Sierra shall thereafter have no liability to the Commission for the cost to perform any related obligations.

8.5. Upon the effective date of termination of this agreement, Sierra shall, if so requested by the Commission, (i) assign to the Commission all Sierra Agreements, (ii) quitclaim the Freight Easement to the Commission, and (iii) execute any additional documents reasonably necessary to effectuate the purpose and intent of this agreement.

9. **Insurance.** Sierra and the Commission shall obtain the insurance set forth below, to be kept in force during the life of this agreement. All insurance policies must be written by a reputable insurance company reasonably

acceptable to the Commission, or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in California. The limits of insurance coverage required under this section shall be increased every five years during the term hereof and any extended term based on any increases or decreases in the Producer Price Index, or any successor index.

9.1. Sierra Insurance: Sierra shall, at its own cost and expense, provide and procure Commercial General Liability ("CGL") and, as applicable, Workman's Compensation or Federal Employer's Liability Act ("FELA"), insurance.

9.1.1. The CGL insurance policy providing bodily injury, including death, personal injury and property damage coverage shall have a limit of not less than \$25 million each occurrence and an aggregate limit of not less than \$50 million. The self-insured retention may not exceed \$100,000 (as that value is periodically adjusted by the Consumer Price Index from and after the effective date of this agreement.) The CGL insurance policy must be written on ISO occurrence form CG 00 01 12 04 or a substitute form providing reasonably equivalent coverage. This insurance shall contain broad form contractual liability covering the indemnity provisions contained in this agreement, coverage for railroad operations, and coverage for construction or demolition work on or near railroad tracks. Prior to the execution of this agreement, Sierra shall provide the Commission with a certificate of insurance on a standard ACORD form, or other form reasonably acceptable to the Commission, substantiating the required coverages and limits set forth herein. Upon request by the Commission, Sierra shall immediately furnish a complete copy of any policy required hereunder, including all endorsements, with said copy certified by the insurance company to be a true and correct copy of the original policy.

9.1.2. The CGL insurance policy must include the Commission as an "additional insured" (using ISO Additional Insured Endorsement CG 20 26 or a substitute form reasonably acceptable to the Commission providing reasonably equivalent coverage).

9.1.3. Required Provisions: The CGL insurance policy shall contain, or be endorsed to contain, the following provisions:

- 9.1.3.1. For any claims related to this agreement, Sierra's insurance coverage shall be primary insurance as respects the Commission, its directors, officers, employees, and agents and any insurance or self-insurance maintained by the Commission, its directors, officers, employees, or agents, shall be in excess of Sierra's insurance and shall not contribute to it. However, this section shall not apply to any claims that result from the sole negligence or willful misconduct of the Commission or its officers, directors, employees, agents, or invitees; as to any such claim, the Commission's insurance shall be primary and any insurance or self-insurance maintained by Sierra, its directors, officers, employees, or agents, shall be in excess of Commission's insurance and shall not contribute to it.
- 9.1.3.2. Any failure by Sierra to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the Commission, its directors, officers, employees, or agents.
- 9.1.3.3. Sierra's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 9.1.3.4. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to the Commission.
- 9.1.4. Workers' Compensation or FELA insurance shall cover any statutory liability as determined to be applicable by the compensation laws of the State of California or FELA, as applicable, with a limit of at least \$1 million.
- 9.1.5. The fact that insurance is obtained by Sierra or by the Commission on behalf of Sierra will not be deemed to release or diminish Sierra's liability, including liability under the indemnity provisions of this agreement. Damages recoverable by the Commission from Sierra or any third

party will not be limited by the amount of the required insurance coverage.

9.2. Commission Insurance: The Commission shall, at its own cost and expense, provide and procure such Commercial General Liability (“CGL”) and Workman’s Compensation insurance as it deems necessary to cover its obligations under this agreement.

10. **Notices**. All correspondence, notices, and other papers shall be delivered either in person or by certified or registered mail, postage prepaid, to the parties hereto at the following addresses:

If to Sierra: President
Sierra Northern Railway
341 Industrial Way
Woodland, CA 95616
Fax: 530-666-2919

If to Commission: Executive Director
Santa Cruz County Regional Transportation
Commission
1523 Pacific Avenue
Santa Cruz, CA 95060
Fax: 831-460-3215

11. **Coordination Committee**

11.1. In order to ensure the safety and efficiency of all operations on the Property, the parties shall establish a Coordination Committee. The Coordination Committee shall be composed of two representatives from each party (and any other persons or entities as the parties may mutually agree) and shall (a) serve as a forum to coordinate the parties’ activities and resolve questions or disputes (but only to the extent the parties’ representatives have been so authorized), and (b) be responsible to make recommendations to the parties. The Coordination Committee shall meet on a regular schedule to be determined by the parties, but may be convened for special meetings by either party upon 10 days written notice to the other party. Following each meeting, the Coordination Committee shall deliver written minutes of such meeting to Sierra and the Commission.

12. **Claims and Liens for Labor and Material**

12.1. Sierra agrees to pay in full for all materials joined or affixed to the Property, to pay in full all persons who perform labor upon the Property, and not to permit or suffer any mechanic’s or

materialman's lien of any kind or nature to be enforced against the Property, as to any work done or materials furnished thereon by Sierra or at Sierra's request. Sierra shall indemnify, hold harmless and defend Commission (with counsel reasonably acceptable to Commission) against and from any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed or materials furnished.

13. Property Taxes

- 13.1. So far as it lawfully may do so, the Commission shall assume, bear, and pay all property and other taxes and assessments of whatsoever nature or kind (whether general, local, or special) levied or assessed upon or against the Property, excepting taxes levied upon and against any Freight Easement Property or Railroad Facilities. Sierra shall assume, bear, and pay all property and other taxes and assessments of whatsoever nature or kind (whether general, local, or special) levied or assessed upon or against any Freight Easement Property or Railroad Facilities, including possessory interest taxes under California Revenue and Taxation Code section 107 *et seq.*, unless applicable law otherwise excuses payment of taxes due to the Commission's ownership of the Property, the Freight Easement Property, or the Railroad Facilities.

14. Indemnity

- 14.1. Sierra shall indemnify, defend and hold harmless the Commission from any Loss which is due to or arises from: (a) Sierra's operation, maintenance, repair, or use of the Freight Easement Property, Railroad Facilities, any appurtenances thereto, or any part thereof; (b) Sierra's provision of Freight Service or Tourist Service; or (c) Sierra's failure to comply with or perform any of the terms and conditions set forth in this agreement, except to the extent that the Loss is caused by the sole negligence or willful misconduct of the Commission, its officers, agents, or employees, or a breach of an express material warranty of the Commission. The provisions of this section shall survive the termination or expiration of the term of this agreement.
- 14.2. The Commission shall indemnify, defend and hold harmless Sierra from any Loss which is due to or arises from the sole negligence or willful misconduct of the Commission, its officers, agents, employees, and contractors. For purposes of this Section 14.2 only, the term "Loss" is limited to any loss, damage, claim, demand, action, cause of action, penalty, fine, payment, cost, liability, or expense of whatsoever nature, including court costs and reasonable

attorneys' fees, resulting from or related to: (a) any injury to or death of any person, including officers, agents, and employees of the Commission or Sierra; or (b) damage to or loss or destruction of Sierra's equipment, rolling stock and any items being transported on behalf of Sierra's customers. Any Loss related to damage to or destruction of the Freight Easement Property or Railroad Facilities is subject to the provisions of Section 2.7. The provisions of this section shall survive the termination or expiration of the term of this agreement.

15. **Removal of Sierra Equipment, Personnel, and Property upon Termination of Agreement.** Prior to, or upon, the termination of this agreement, Sierra shall, at its sole expense, remove its equipment, personnel, and other property from the Freight Easement Property and Railroad Facilities and shall restore, to the Commission's reasonable satisfaction, such portions of the Freight Easement Property and Railroad Facilities used by Sierra to as good a condition as they were in at the beginning of this agreement or after the completion of rehabilitation and repairs by the Commission, including the projects specified in Section 5.1, excepting normal wear and tear. If Sierra fails to do the foregoing, the Commission may do such work at the cost and expense of Sierra. Sierra may not remove any property, including the Railroad Facilities, that is or becomes the property of the Commission under this agreement.

16. **Hazardous Substances and Wastes**

- 16.1. Sierra shall not be liable or responsible for any Hazardous Materials present on, in, or under the Property, or other problems relating to the Property, prior to December 31, 2009, which is the commencement date of its operations under its lease agreement with Union Pacific Railroad, except to the extent Sierra's activities exacerbate the contamination of any such pre-existing Hazardous Materials.
- 16.2. Sierra shall comply with all applicable laws in its occupancy, operation, and maintenance of the Freight Easement Property and Railroad Facilities. Without first obtaining the Commission's written permission (which may be withheld in the Commission's sole reasonable discretion), Sierra shall not treat or dispose of Hazardous Materials on the Freight Easement Property or Railroad Facilities. Sierra shall not release any Hazardous Materials on or at the Freight Easement Property or Railroad Facilities, including through any drainage or sewer systems. Sierra assumes all responsibility for the investigation and cleanup of any such release or exacerbation by Sierra and shall indemnify, defend, and hold harmless the Commission and its property, its officers, agents, and employees, for all costs, including reasonable environmental

consultant and reasonable attorneys' fees, and claims resulting from or associated with any such release or exacerbation by Sierra. Sierra shall assume all responsibility for and shall indemnify, defend, and hold harmless Commission against all costs and claims associated with a release or leak of Hazardous Materials, or exacerbation of pre-existing Hazardous Materials, occurring between December 31, 2009, and the expiration or sooner termination of this agreement, and related to Sierra's use of the Freight Easement Property and Railroad Facilities, unless such event was caused by the sole negligence or willful misconduct of the Commission, its officers, employees, or agents.

- 16.3. Sierra shall not install any above-ground or underground storage tanks without the Commission's prior written consent, which consent may be granted or withheld in Commission's sole and absolute discretion. If such consent is granted, Sierra shall obtain any necessary permits, notify the proper authorities, and provide the Commission with copies of any such permits and notifications. Sierra shall assume all responsibility for and shall indemnify, defend, and hold harmless the Commission against all costs and claims associated with a release or leak of the contents of any such tank occurring between December 31, 2009, and the expiration or termination of this agreement, unless such event was caused by the sole negligence or willful misconduct of the Commission, its officers, employees, or agents.
- 16.4. The Commission understands and acknowledges that the regular operation and maintenance of railroad equipment and tracks involve the storage, use, and release of *de minimus* amounts of Hazardous Materials, including petroleum products, creosote, and chromated copper arsenate. The Commission agrees that Sierra shall not be liable or responsible for the *de minimus* release of any such Hazardous Materials, unless (i) such release violates applicable law, or (ii) the Commission is otherwise entitled to defense and indemnity under Section 14.1.
- 16.5. If Sierra knows, or has reasonable cause to believe, that any Hazardous Materials have come to be located under or about the Freight Easement Property or Railroad Facilities, other than as specifically provided herein or as previously consented to in writing by the Commission, Sierra shall immediately give the Commission written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to or received from any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to, such Hazardous Materials.

- 16.6. This Section 16 shall continue in full force and effect regardless of whether this agreement is terminated pursuant to any other provision or the Freight Easement Property and Railroad Facilities are abandoned and vacated by Sierra.
17. **Trespassers and Dangerous Conditions.** Sierra shall not be required to take any action or incur any expense (including posting signage or warnings, providing fencing or other security) as to or against trespassers on the Property, or invitees of the Commission, other than to promptly notify local law enforcement and the Commission concerning any trespassers observed on the Property by Sierra personnel. If Sierra becomes aware of any dangerous conditions on or about the Property, Sierra shall promptly notify the Commission of such conditions.
18. **Waivers.** The failure of either party hereto to enforce any of the provisions of this agreement, or to enforce any right or option which is herein provided, shall in no way be construed to be a waiver of such provision(s) as to the future, nor in any way to affect the validity of this agreement or any part hereof, or the right of either party to thereafter enforce each and every such provision and to exercise any such right or option. No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach.
19. **Consent.** Unless expressly provided to the contrary elsewhere in this agreement, whenever the consent, approval, judgment, or determination (collectively, "consent") of a party is required or permitted under this agreement, the consenting party shall exercise good faith and reasonable judgment in granting or withholding such consent. No party may unreasonably withhold or delay its consent; consent shall be deemed to have been withheld if a party fails to consent to the other party within 30 days of having been given written notice of the other party's intention to take any action as to which consent is required or permitted.
20. **Non-binding Mediation**
- 20.1. If at any time a question or controversy shall arise between the parties hereto in connection with this agreement and upon which the parties cannot agree, such question or controversy shall be submitted to a single mediator within 20 days after written notice by one party to the other party of its desire for mediation. The parties shall in good faith consult to select a mutually acceptable mediator. The mediator so selected shall be a person with at least one-year of exposure to the concepts of railroad operations and maintenance.
- 20.2. Upon selection of the mediator, said mediator shall with reasonable diligence determine the questions as disclosed in said notice of

demand for mediation and shall give both parties reasonable notice of the time and place of any mediation. Until the completion of mediation, performance under the agreement shall continue in the manner and form existing prior to the rise of such question.

- 20.3. The compensation, cost, and expenses of the mediator shall be paid in equal shares by the parties.
21. **Entire Agreement.** This document, and the exhibits attached hereto, constitute the entire agreement between the parties, all oral agreements being merged herein, and supersedes all prior representations, agreements, arrangements, understandings, or undertakings, whether oral or written, between or among the parties relating to the subject matter of this agreement that are not fully expressed herein.
22. **Modification to Agreement.** The provisions of this agreement may be modified at any time by agreement of the parties hereto, provided such modification is in writing and signed by all parties to this agreement. Any agreement made after the date of this agreement and related to the subject matter contained herein shall be ineffective to modify this agreement in any respect unless in writing and signed.
23. **No Assignment Absent Consent.** Except as specifically provided in this agreement, Sierra shall not assign this agreement, in whole or in part, or any rights herein granted, without the Commission's prior written consent.
24. **Successors and Assigns.** Subject to the provisions of Section 23, this agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and assigns.
25. **Venue and Choice of Law**
- 25.1. Any and all disputes, controversies, or claims arising out of, relating to, or in connection with this agreement shall be instituted and maintained in a competent court in San Francisco County, California and the parties hereby consent to the jurisdiction of any such court and to service of process by any means authorized under California law.
- 25.2. This agreement shall be governed, construed, and enforced in accordance with the laws of the State of California, without reference to its conflicts of laws provisions. The prevailing party in any claim or action arising out of or connected with this agreement shall be entitled to recover all reasonable attorneys' fees and related costs, in addition to any other relief that may be awarded by any court or other tribunal of competent jurisdiction.

26. **Acts of God and Other Disruptions of Service.** Neither party shall be deemed to be in default of this agreement if any failure to meet any condition or to perform any obligation or provision hereof is caused by, a result of, or due to strikes, insurrections, acts of God, or any other causes beyond the party's control; provided, however, that performance shall only be excused for as long as the disruption persists.

27. **Miscellaneous**

27.1. In the event that any of the provisions of this agreement are held by a court or other tribunal of competent jurisdiction to be invalid or unenforceable, the remaining portions hereof shall remain in full force and effect and any invalid or unenforceable provisions shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed to the extent necessary to make such provisions valid and enforceable. Without limiting the generality of the foregoing, if the requirement in Section 5.2 that Sierra comply with applicable bridge safety management program regulations (under Public Law 110-432, Section 417) is held to be a non-delegable duty of the Commission, the Commission may, at its option, (i) undertake this obligation and charge Sierra for the cost thereof, or (ii) terminate this agreement.

27.2. Each party has participated in negotiating and drafting this agreement so if an ambiguity or a question of intent or interpretation arises, this agreement is to be construed as if the parties had drafted it jointly, as opposed to being construed against a party because it was responsible for drafting one or more provisions of this agreement.

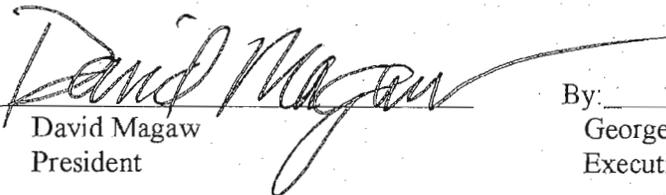
27.3. Each party acknowledges that the officer executing this agreement has the authority to enter into this agreement on behalf of the party and in so doing is authorized to bind the party on whose behalf he is signing, to the terms and conditions of this agreement.

27.4. This agreement may be executed in one or more counterparts and by facsimile signature, each of which shall be deemed an original, but all of which together constitute one and the same instrument. Each party shall deposit the executed agreement into escrow with instructions to deliver the agreement upon close of escrow under the Purchase and Sale Agreement.

In witness whereof, the parties hereto have caused this agreement to be executed as of the date first herein written.

SIERRA NORTHERN RAILWAY

**SANTA CRUZ COUNTY REGIONAL
TRANSPORTATION COMMISSION**

By: 
David Magaw
President

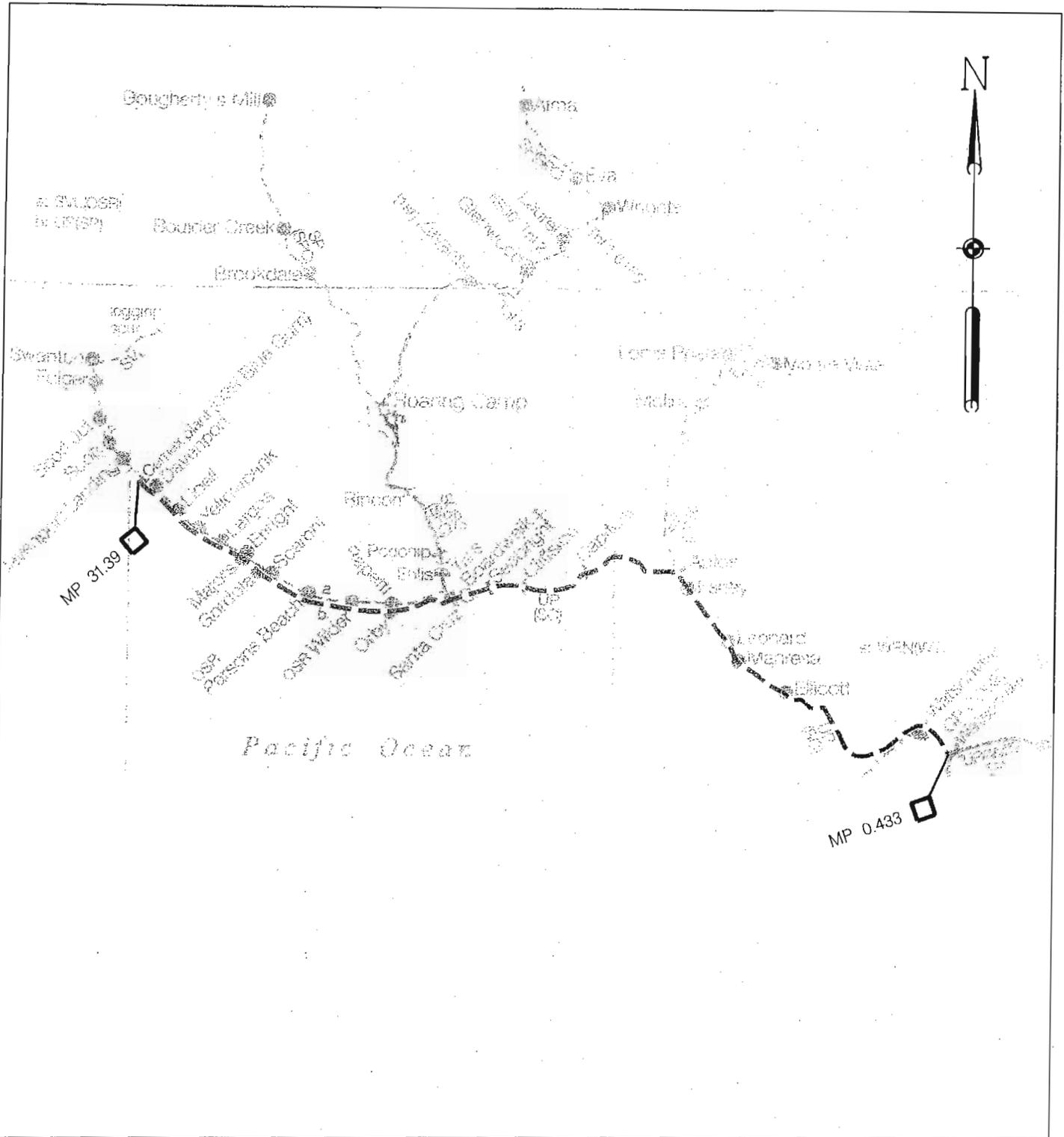
By: _____
George A. Dondero
Executive Director

By its signature below, Sierra Railroad Company, a California corporation, acknowledges that it is the parent company of Sierra Northern Railway and agrees to be bound by the terms and conditions of this agreement as if it were a party, except for such terms and conditions that relate to Sierra Northern Railway's obligations to provide common carrier freight rail service.

SIERRA RAILROAD COMPANY

By: 
Mike Hart, President

Exhibit A
Map of Railroad Facilities



NOT TO SCALE

LEGEND

LINE TO BE LEASED SHOWN
MP 0.433 - 31.39



EXHIBIT "A"

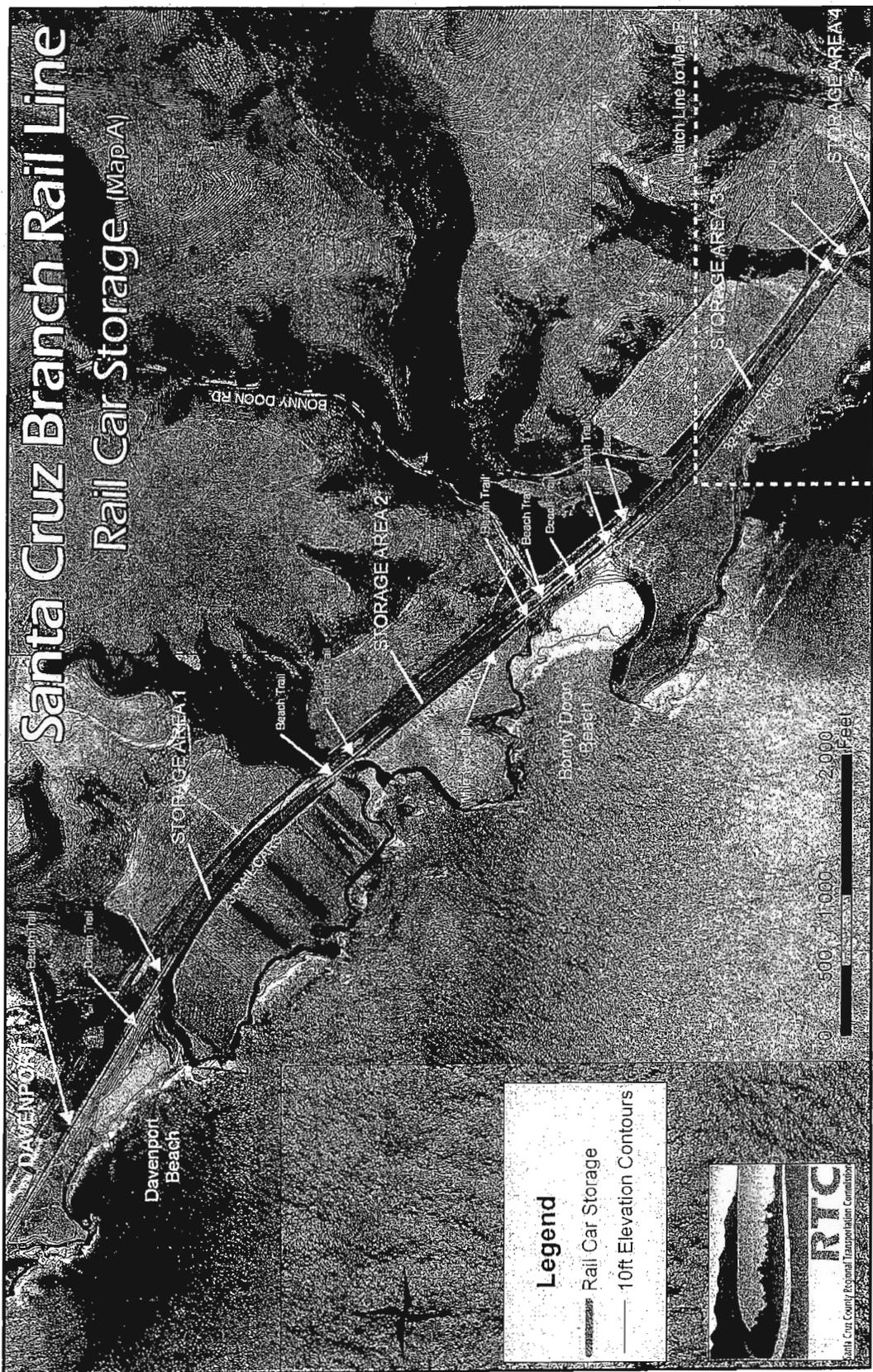
UNION PACIFIC RAILROAD CO.

TO ACCOMPANY AGREEMENT WITH
SIERRA NORTHERN RAILWAY
WATSONVILLE JCT - DAVENPORT, CA.
M.P. 0.433 - 31.39+- SANTA CRUZ SUB.
SP CA V72 /1-6 & V89 /1-7
REAL ESTATE DEPARTMENT OMAHA NE.
FILE #1728-03 DATE: 11-2-2009 T.D.A.

Exhibit B

Permitted Rail Car Storage Locations

Santa Cruz Branch Rail Line Rail Car Storage (Map A)



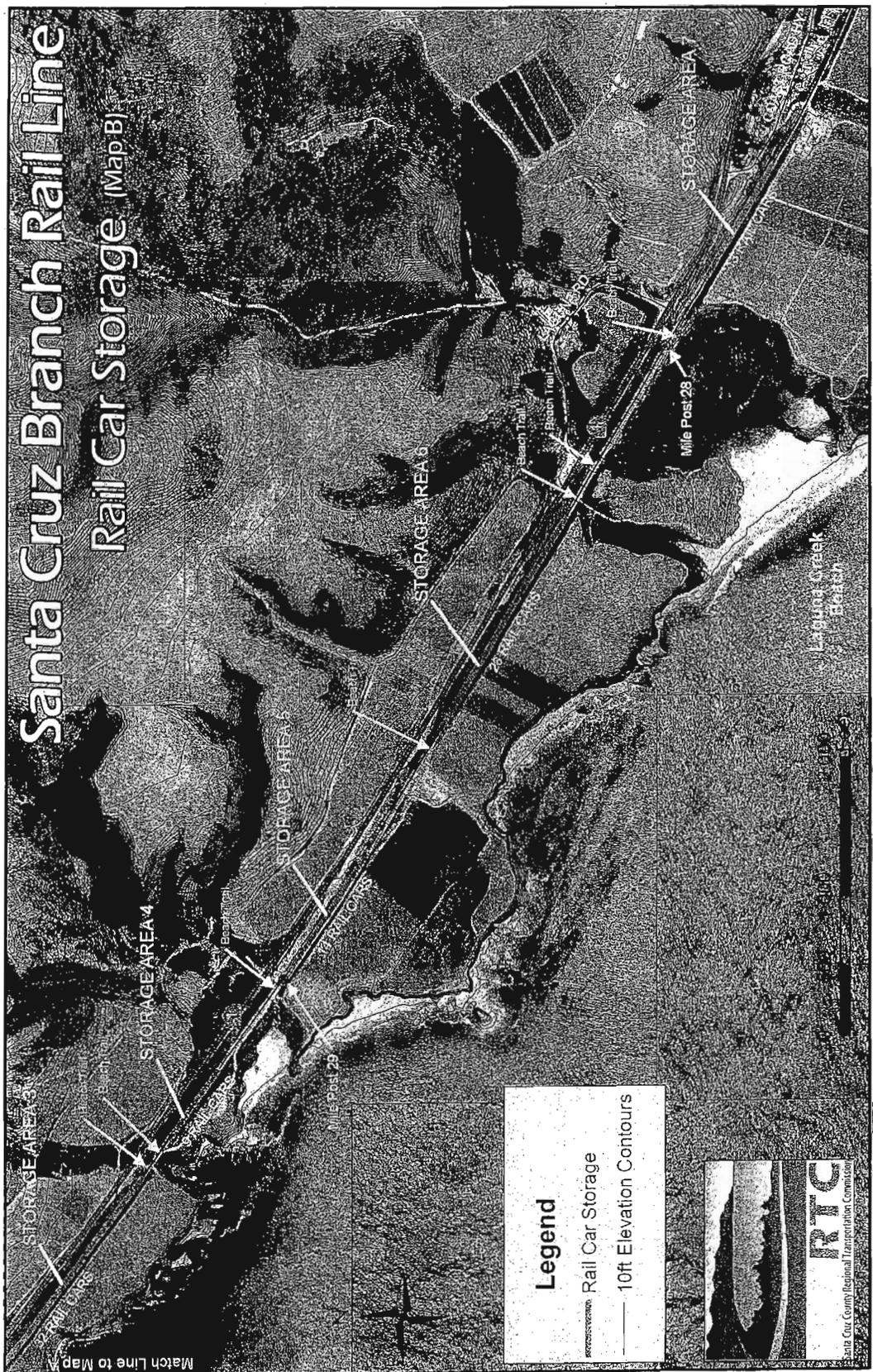
Legend

-  Rail Car Storage
-  10ft Elevation Contours



Santa Cruz Branch Rail Line

Rail Car Storage (Map B)



Match Line to Map A

Legend

- Rail Car Storage
- 10ft Elevation Contours



RTC
Santa Cruz County Regional Transportation Commission

Exhibit C

Sierra Agreements

List of Agreements to be Assigned

anta Cruz Branch

PROJECT	AUDIT	FOLDER	FILENET	LEG STAT	PARTY NAME	PURPOSE	MANAGER	COUNTY	CITY	ST	SUBDV	MP START	ANNUAL AMT
186878	207416	158035	85764492	Active	CITY OF WATSONVILLE	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	WATSONVILLE	CA	MoJave	102.62	\$0
190837	202098	161195	81633173	Active	SANTA CRUZ CITY OF	Warning Devices - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	SANTA CRUZ BRANCH	119.4	\$0
200147	5155932		138609731	Active	APTOS SEASCAPE CORP	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	111.04	\$0
200154	5157723		138597466	Active	SANTA CLARA COUNTY OF	Crossing - Private Roadway	Paul G. Farrell	Santa Cruz	APTOS	CA	SP Route Code EC	11.1	\$0
200156	5156717		138597266	Active	SANTA CRUZ COUNTY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	APTOS	CA	SP Route Code EC	113.7	\$0
200157	5157786		138597471	Active	SANTA CRUZ COUNTY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	APTOS	CA	SP Route Code EC	108	\$0
203028	5158150		138596753	Active	SANTA CRUZ CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	ORBY	CA	SP Route Code EC	81.4	\$0
203789	5163007		138596841	Active	SANTA CRUZ PORT DISTRI	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	SEABRIGHT	CA	SP Route Code EC	119.09	\$0
206269	5092513	250763	72879530	Active	COUCH DISTRIBUTING CO INC	Track: Industry Track Agreement	Dan L. Zack	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	103.1	\$0
208017	5027248	153176	73553975	Active	JOSEPH GEORGE DIST	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	118.1	\$0
208855	5PXD0329		74806317	Active	MONDO BROS INC	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	80.6	\$0
210400	5PX0507		74584632	Active	SANTA CRUZ ARTICHOKE & SPROUT GRWAS ASSN	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	80.7	\$0
210408	5189267		138608562	Active	SANTA CRUZ COUNTY OF	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	CLIFFSIDE	CA	SP Route Code EC	118.1	\$0
211518	5012360			Active	TOBEYS RASP SERVICE INC	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	80.7	\$0
231292	5194780		88201370	Active	RESEAR, ANTHONY P / PILO, MARY	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	102	\$0
233023	5018043	155201	74205556	Active	MOCEO, JM (MRS)	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	80.7	\$0
235323	5191872		138609734	Active	TRESTLE BEACH ASSOCIATES	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	109.6	\$0
238757	5182045		89052655	Active	CALIFORNIA UNIVERSITY REGENTS	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	ORBY	CA	SP Route Code EL	81.8	\$10
239770	5161489		90189973	Active	SULLIVAN, R. & A.	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	109.07	\$10
245617	5171658		89674339	Active	GARCIA, R.L.	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	CAPITOLA	CA	SP Route Code EC	115.6	\$10
245622	5212398	206085	86922350	Active	HOLCOMB CORPORATION	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	110.54	\$128.09
246802	5014667	149487	74522703	Active	WRIGLEY W M JR CO	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA	SP Route Code EL	81.15	\$0
252817	5157272		90435574	Active	LORENZI, G,BLO & ZEHER, K	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	MAJORS	CA	SP Route Code EL	86.51	\$10
256900	5181065		138596191	Active	SANTA CRUZ COUNTY CA	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	CLIFFSIDE	CA	SP Route Code EC	117.1	\$0
256902	5192311		88282628	Active	SANTA CRUZ COUNTY CA	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	APTOS	CA	SP Route Code EC	112.81	\$0
257860	5211909	181663	132598594	Active	SANTA CRUZ CITY OF	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	SANTA CRUZ	CA	SP Route Code EC	120.41	\$80
260304	5708852	195115	72001973	Active	CASCADE REFRIGERATED NORTHERN CALIF., INC.	Track: Track Lease (Non-Haz)	Dan L. Zack	Santa Cruz	WATSONVILLE	CA	SP Route Code EC	102.01	\$2,160
367101	207254	58589	83992413	Active	MARTINELLI & COMPANY	Crossing - Private Roadway	Joan M. Preble		SYSTEM	CA		0	\$119.41
408724	5006275		74992691	Active	HOMER T HAYWARD LUMBER COMPANY	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$
409385	5PX7232		75095136	Active	SANTA CRUZ CITY OF	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$
410634	5015548	250762	74461604	Active	DEL MAR FOOD PRODUCTS CORPORATION	Track: Industry Track Agreement	Dan L. Zack	Santa Cruz	WATSONVILLE	CA		103.1	\$
410859	5003303		75283601	Active	THE UNION ICE COMPANY	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$
411066	5002819		75291400	Active	BORCOVICH & DRAGOVICH COMPANY	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$
411500	5002518	233844	75335962	Active	PAJARO VALLEY COLO STORAGE	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$
412157	5PX7852		75400986	Active	SANTA CRUZ PORTLAND CEMENT COMPANY	Track	Dan L. Zack	Santa Cruz	DAVENPORT	CA			\$
412474	5PX7967		75485582	Active	ASSOCIATED OIL COMPANY	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$
412823	5000771		75513451	Active	B PISTA	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$
437887	5076726		74959748	Active	HIHN, FRED D.	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$
438235	5P21662		78219062	Active	APPLE GROWERS COLD STORAGE CO	Track	Dan L. Zack	Santa Cruz	WATSONVILLE	CA			\$
442068	5P25134		78964216	Active	PACIFIC TELEPHONE & TELEGRAPH CO	Track	Dan L. Zack	Santa Cruz	SANTA CRUZ	CA			\$
455390	5PA3997		83085683	Active	CALIFORNIA, STATE OF	Crossing - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA			\$
455863	5080717		83117118	Active	COUNTY OF SANTA CRUZ	Crossing - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA			\$
457023	5087624		83333021	Active	CAPITOLA, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	CAPITOLA	CA			\$

List of Agreements to be Assigned

Santa Cruz Branch

PROJECT	AUDIT	FOLDER	FILENET	LEG STAT	PARTY NAME	PURPOSE	MANAGER	COUNTY	CITY	ST	SURDV	MP START	ANNUAL AMT
57497	5091557		83409248	Active	CAPITOLA, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	CAPITOLA	CA			\$
57879	5095809		83507962	Active	CAPITOLA, CITY OF	Easement - Roadway	Paul G. Farrell	Santa Cruz	CAPITOLA	CA			\$
59511	5108176		83747796	Active	COAST DAIRIE & LAND CO.	Crossing - Private Roadway	Joan M. Preble	Santa Cruz	DAVENPORT	CA			\$
65104	5947491		85337230	Active	SANTA CRUZ COUNTY OF	Warning Devices - Public Roadway	Paul G. Farrell	Monterey	APTOS	CA		112.8	\$
114595	211721		76387	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA			\$
153249	227448		211468	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Sub.	20.78	\$
155250	227485		211469	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Sub.	20.75	\$
166949	231783		223078	Active	MONTEREY COUNTY	Warning Devices - Public Roadway	Paul G. Farrell	Monterey	WATSONVILLE ICT	CA	Santa Cruz Sub.	19.02	\$
167395	231857		223367	Active	BMC PACIFIC MATERIALS	Track	Dan L. Zack	Santa Cruz	DAVENPORT	CA	Santa Cruz Sub.	1.12	\$
199438	244075		207714	Active	CEMEX	Industrial Track Agreement w/o Maint Chg	Dan L. Zack	Santa Cruz	DAVENPORT	CA	Santa Cruz Ind Lead	31.8	\$
190096	242123		232126	Active	SANTA CRUZ, CITY OF	Crossing - Public Roadway	Paul G. Farrell	Santa Cruz	SANTA CRUZ	CA	Santa Cruz Lead	22.09	\$

446570 S017462 79955856 Santa Cruz County of Crossing - public roadway Paul G. Garrell Monterey Aptos CA

Note: The following agreement is assigned to Sierra by the Commission pursuant to the October 13, 2010, Assignment and Assumption Agreement: the February 1, 1985 Trackage Rights and Interchange Agreement made by and between Southern Pacific Transportation Company and Santa Cruz, Big Trees and Pacific Railway Company, as amended on August 21, 1986.

Exhibit D

Form of Sierra Right of Entry Agreement

Contract No. _____

CONTRACTOR'S RIGHT OF ENTRY AND INDEMNITY AGREEMENT

This contractor's right of entry and indemnity agreement is dated _____ 2010 and is between **Sierra Northern Railway**, a California Corporation ("Railroad") and _____ ("Contractor").

Contractor has requested that Railroad permit Contractor to enter upon property used by Railroad in order to permit Contractor to conduct certain work on, under, adjacent to, or related to such property. Railroad is agreeable thereto subject to the terms and conditions set forth in this agreement.

The parties therefore agree as follows:

1. Definitions

- 1.1 The term "Applicable Law" is defined as the applicable rules and regulations of the Federal Railroad Administration, the California Public Utilities Commission, and any other statewide or federal governmental agency with general jurisdiction over railroad operations or operations on, under, or adjacent to railroad property.
- 1.2 The term "Contractor" is defined as Contractor and includes its directors, officers, employees, agents, parents, subsidiaries, affiliates, commonly controlled entities, subcontractors, any other related persons and entities, and all others acting under its or their authority.
- 1.3 The terms "include", "includes", and "including" are to be read as if they were followed by the phrase "without limitation."
- 1.4 The term "Railroad" is defined in the introductory paragraphs of this agreement and includes its directors, officers, employees, agents, parents, subsidiaries, affiliates, commonly controlled entities, any other related persons and entities, and all others acting under its or their authority.
- 1.5 The term "Railroad Representative" is defined as Railroad's General Manager or Track and Maintenance Manager, as appropriate.
- 1.6 The term "Railroad's Right-of-Way" is defined as all real and personal property within 10 feet of the centerline of any track on the portion of the Santa Cruz Branch railroad line right-of-way, including all improvements thereto, purchased from the Union Pacific Railroad Company by the Santa Cruz County Regional Transportation Commission (the "Commission"), except where

Contract No. _____

roadways, buildings, or property boundary lines reduce such distance to less than 10 feet and except for any retained rights and personal property described in the _____, 2010 Administration, Coordination, and License agreement between Sierra and the Commission. Railroad's Right-of-Way is depicted on Exhibit A attached hereto.

- 1.7 The term "Work" is defined as all work, activities, and services to be performed by Contractor on, under, adjacent to, or relating to the Property including the following:

2. **Right Granted; Purpose.** Railroad hereby grants Contractor the right, upon the terms, provisions, and conditions set forth in this agreement, to enter upon, have ingress to, and egress from, the Railroad's Right-of-Way for the purpose of performing the Work described herein.
3. **Terms and Conditions contained in Exhibits B and B-1.** The terms and conditions contained in Exhibits B and B-1 hereto are hereby made a part of this agreement.
4. **All Expenses to be Borne by Contractor; Railroad Representative.** Contractor shall bear any and all costs and expenses associated with Contractor's Work and any and all costs and expenses incurred by Railroad caused by or related to Contractor's Work. Contractor shall perform all Work on the Railroad's Right-of-Way in a manner that is reasonably satisfactory to the Railroad Representative.
5. **Term, Termination.** The grant of right herein made to Contractor shall commence on the date first set forth above and shall continue until _____, unless sooner terminated as herein provided, or until such time as Contractor has completed its Work on the Railroad's Right-of-Way, whichever is earlier. Contractor agrees to notify the Railroad Representative in writing when it has completed its Work on the Railroad's Right-of-Way.
6. **License and other fees.** As compensation to Railroad for the rights herein granted and for Railroad's administrative and other costs, Contractor agrees to pay Railroad the amount of \$2,500 as a license fee. The license fee shall be payable upon execution of this agreement and the effectiveness of this agreement is contingent upon Contractor's payment of such license

Contract No. _____

fee. Such license fee shall be in addition to any flagging, switching, or other costs or expenses payable by Contractor under the terms of this agreement.

7. Certificate of Insurance

7.1 Before commencing any Work, Contractor will provide Railroad with a certificate issued by its insurance carrier providing the insurance coverage required pursuant to Exhibit B-1 of this agreement.

7.2 Contractor warrants that this agreement has been thoroughly reviewed by its insurance agents and brokers and that such agents and brokers have been instructed to procure insurance coverage and an endorsement as required herein.

7.3 All insurance correspondence shall be directed to: President, Sierra Northern Railway, 341 Industrial Way, Woodland, California 95776; telephone number (530) 666-9646.

8. Enforceability; Choice of Law; Choice of Forum

8.1 Any and all disputes, controversies, or claims arising out of, relating to, or in connection with this agreement shall be instituted and maintained in a competent court in the City and County of San Francisco, California and the parties hereby consent to the jurisdiction of any such court and to service of process by any means authorized under California law.

8.2 This agreement shall be governed, construed, and enforced in accordance with the laws of the State of California, without reference to its conflicts of laws provisions. The prevailing party in any claim or action arising out of or connected with this agreement shall be entitled to recover all reasonable attorneys' fees and related costs, in addition to any other relief that may be awarded by any court or other tribunal of competent jurisdiction.

9. Payment of Fees, Bills: Construction Contracts Only. Contractor agrees to pay to Railroad, at the time of Contractor's signing of this agreement, an advance against fees and costs to be incurred by Contractor for Railroad's services in accordance with this agreement in an amount equal to 1% of (i) the total amount of the contract between Contractor and the Commission (if the contract is payable on a lump sum basis), or (ii) the Commission's budgeted amount (if the contract is payable on a time and materials basis). Contractor authorizes Railroad to use such funds from time to time to pay for Railroad's services in accordance with this agreement. Any funds remaining after the completion of all Work and of all

Contract No. _____

of Railroad's services rendered in accordance with this agreement shall be returned to Contractor. Contractor shall not be entitled to any interest on such funds while held by Railroad. If the reasonable cost of Railroad's services exceeds the 1% advance paid under this section, Contractor shall pay Railroad's invoices for such services in arrears on a monthly basis. This Section 9 applies to rights of entry issued for construction purposes only.

10. **Notices.** Each notice given pursuant to this agreement shall be effective when delivered by hand or upon mailing by certified or registered mail, postage prepaid, to the party for whom it is intended at the address set forth below or such other address as may be specified from time to time in writing by one party to the other.

To Railroad:

Sierra Northern Railway
Attn: President
341 Industrial Way
Woodland, CA 95776-6012
Telephone 530-666-9646
Facimile 530-666-2919

To Contractor:

11. **Miscellaneous.**

- 11.1 In the event that any of the provisions of this agreement are held by a court or other tribunal of competent jurisdiction to be invalid or unenforceable, the remaining portions hereof shall remain in full force and effect and any invalid or unenforceable provisions shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed to the extent necessary to make such provisions valid and enforceable.
- 11.2 Each party acknowledges that the officer executing this agreement has the authority to enter into this agreement on behalf of the party

Contract No. _____

and in so doing is authorized to bind the party on whose behalf he is signing, to the terms and conditions of this agreement.

11.3 This agreement may be executed in one or more counterparts and by facsimile signature, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

In witness whereof, the parties hereto have caused this agreement to be executed as of the date first herein written.

Sierra Northern Railway

By: _____
President

Contractor

By: _____

Contract No. _____

EXHIBIT B

GENERAL PROVISIONS FOR CONTRACTOR'S RIGHT OF ENTRY AND INDEMNITY AGREEMENT

1. **Notice of Commencement of Work; Flagging.**
 - 1.1 Contractor agrees to notify the Railroad Representative at least 48 hours in advance of Contractor commencing its Work and at least 24 hours in advance of the proposed performance of any Work in which any person or equipment will be on Railroad's Right-of-Way, or will be near enough to any railroad track that any equipment extension (including a crane boom) will encroach on Railroad's Right-of-Way. If an emergency should arise requiring immediate attention, Contractor shall provide as much notice as practicable to Railroad before commencing any Work.
 - 1.2 Upon receipt of such notice, the Railroad Representative will determine in its reasonable discretion, and will inform Contractor, whether one or more flagmen will need to be present and whether Contractor will need to implement any special protective or safety measures. Any flagman or other special protective or safety measures shall, at Railroad's reasonable discretion, be performed by Railroad at Contractor's sole cost and expense with the understanding that Railroad's provision of any such flagging or other services shall not relieve Contractor of any of its responsibilities or liabilities set forth in this agreement. Flagging costs are billed in hourly increments at \$75 per hour per flagman for regular working hours, and \$112.50 per hour, per flagman, for overtime hours, holidays, and weekends, or such higher rate as may be in effect at the time of the flagging; provided that rate increases from the date of the Administration and Coordination Agreement shall not exceed increases in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index, All Urban Consumers, All Items, San Francisco-Oakland-San Jose, CA.
 - 1.3 The flagging requirements of this agreement shall apply only on days when Railroad has scheduled train movements and then only to those areas of the Railroad's Right-of-Way on which the train movements are scheduled to occur. Otherwise, Contractor may establish working limits for its construction activities pursuant to any means permissible under the provisions of 49 CFR 214.319.
2. **Limitation and Subordination of Rights Granted**
 - 2.1 The foregoing grant of right is subject and subordinate to any prior and continuing right and obligation of Railroad to use and maintain all or some portion of the Railroad's Right-of-Way, including the right and power of Railroad to construct, maintain, repair, renew, use, operate, change, modify, or relocate railroad tracks, signals, communications equipment and lines, and other railroad facilities upon, along, or across any or all parts of Railroad's Right-of-Way, all or any of which may be freely done at any time or times by Railroad without liability to Contractor or to any other party for compensation or damages.
 - 2.2 The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of the Railroad's Right-of-Way, and others) and the right of Railroad to renew and extend the same, and is made without covenant of title or for quiet enjoyment.
3. **No Interference with Railroad's Operations.** Subject to the terms and conditions of the Administration and Coordination Agreement, no Work performed by Contractor shall cause any material interference with Railroad's ability to fulfill its rights and obligations under the Administration and Coordination Agreement and federal law, unless specifically permitted under this agreement, or the Administration and Coordination Agreement, or specifically authorized in writing, in advance, by the Railroad Representative. Nothing shall be done or suffered to be done

Contract No. _____

by Contractor at any time that would in any manner impair the safety thereof. When not in use, Contractor's machinery and materials shall be kept clear of Railroad's Right-of-Way.

4. **Permits.** Prior to beginning any Work, Contractor, at its sole cost and expense, shall obtain all necessary permits to perform any Work contemplated by this agreement.
5. **Mechanic's Liens.** Contractor shall pay in full all persons who perform labor or provide materials for the Work to be performed by Contractor. Contractor shall not permit or suffer any mechanic's or materialman's liens of any kind or nature to be enforced against the Railroad's Right-of-Way or against any property of Railroad. Contractor shall indemnify and hold harmless Railroad from and against any and all liens, claims, demands, costs, and expenses of whatsoever nature in any way connected with, or growing out of, such Work done, labor performed, or materials furnished.
6. **Compliance with Laws.** In the prosecution of the Work covered by this agreement, Contractor shall comply with all applicable federal, state, and local laws, regulations, and enactments affecting the Work. Contractor shall use only such methods as are consistent with safety, both as concerns Contractor, Contractor's agents and employees, the Railroad's Right-of-Way, the officers, agents, employees, and property of Railroad, and the public in general. Contractor (without limiting the generality of the foregoing) shall comply with all applicable state and federal occupation safety and health acts and regulations. All Federal Railroad Administration regulations shall be followed when Work is performed on the Railroad's Right-of-Way. If any failure by Contractor to comply with any such laws, regulations, and enactments results in any fine, penalty, cost, or charge being assessed, imposed, or charged against Railroad, Contractor shall reimburse and indemnify Railroad for any such fine, penalty, cost, or charge, including attorney's fees and court costs and expenses. Contractor further agrees, in the event of any such action and upon notice thereof being provided by Railroad, to defend such action free of cost, charge, or expense to Railroad.
7. **Safety Instructions.** Safety of personnel, property, rail operations, and the public is of paramount importance in the prosecution of the Work pursuant to this agreement. As reinforcement and in furtherance of overall safety measures to be observed by Contractor (and not by way of limitation), the following special safety rules shall be followed:
 - 7.1 Contractor shall keep the job site free from safety and health hazards and ensure that any person working on its behalf is competent and adequately trained in all safety and health aspects of the job. Contractor shall have proper first aid supplies available on the job site so that prompt first aid services can be provided to any person that may be injured on the job site. Contractor shall promptly notify Railroad of any any hidden dangers discovered by Contractor and of U.S. Occupational Safety and Health Administration reportable injuries occurring to any person that may arise during the Work performed on the job site. Contractor shall have a non-delegable duty to control its employees while they are on the job site, on the Railroad's Right-of-Way, or on any property of Railroad to be certain they do not use, are not under the influence of, and do not have in their possession any alcoholic beverage or illegally obtained drug, narcotic, or other similar or illegal substance.
 - 7.2 Contractor's employees and agents shall be suitably dressed to perform their duties safely and in a manner that will not interfere with their vision and hearing or their free use of their hands and feet. Only waist length shirts with sleeves and trousers that cover the entire leg are to be worn. If flare-legged trouser are worn, the trouser bottoms must be tied to prevent catching. Contractor's employees and agents should wear sturdy and protective footwear. Such employees and agents shall not wear boots (other than work boots), sandals, canvas-type shoes, or other shoes that have thin soles or heels that are higher than normal. In addition, Contractor shall require its employees and agents to wear personal protective equipment as specified by Railroad rules, regulations or by any Railroad officials overlooking the Work at the job site. In particular, the protective equipment to be worn shall be:

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- 7.2.1 Protective head gear that meets American National Standard Z89.1, latest revision. It is suggested that all hard-hats be affixed with Contractor's or subcontractor's company logo or name.
- 7.2.2 Eye protection that meets American National Standard for occupational and educational eye and face protection, Z87.1, latest revision. Additional eye protection must be provided to meet specific job situations such as welding, grinding, burning, etc.; and
- 7.2.3 Hearing protection which affords enough attenuation to give protection from noise levels that will be occurring on the job site.
- 7.3 All heavy equipment provided or leased by Contractor shall be equipped with audible back-up warning devices. If in the opinion of the Railroad Representative any of Contractor's or any of Contractor's subcontractor's equipment is unsafe for use on the Railroad's right-of-way, Contractor, at the request of the Railroad Representative, shall remove such equipment from Railroad's right-of-way.
- 7.4 If Contractor will or does have persons or equipment on Railroad's Right-of-Way, then Contractor's employees who will be or are within such zone shall be trained in safety as prescribed by the Federal Roadway Worker Protection clauses of the Code of Federal Regulations (49 CFR 214 *et seq.*) prior to working within such limits and shall at all times follow Railroad's reasonable trackworker safety rules and procedures. If Contractor's employees have been trained by another common carrier railroad within one year prior to their working on the Railroad's Right-of-Way, only a refresher training will be required on Railroad's trackworker safety program and rules. Strict compliance with Railroad's trackworker safety program shall be required at all times and Contractor agrees to indemnify and hold Railroad harmless from any fines or fees caused by Contractor's failure to comply at all times with Railroad's trackworker safety program.
- 7.5 Contractor shall not cross the railroad tracks of Railroad with any vehicles except at existing, open public or private crossings.
- 7.6 Contractor's employees must be familiar with procedures to clear men and equipment from any railroad track area for approaching trains. In addition, all applicable safety procedures, including the following, shall be adhered to by all of Contractor's employees:
- Always be on the alert for moving equipment while working near any railroad tracks or facilities.
 - Do not step or walk on the top of the rail, frogs, switches, guard rails, or other track components.
 - In passing around ends of standing railroad cars, engines, railroad machinery, and other on-track equipment, leave at least one rail car length (50 feet) between yourself and the end of the equipment.
 - Avoid walking or standing on railroad track at any time.
 - When it is necessary to walk or work on railroad track, always keep a sharp lookout in both directions for approaching trains.
 - Before stepping or crossing railroad tracks, look in both directions first. The same is true when walking around machinery and equipment on and about the railroad tracks.

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Do not sit on, lie under, or cross between railroad cars except as required in performance of your duty, and only when railroad track and equipment are under proper protection.

In multiple railroad track territory, do not stand on one railroad track while a train is passing on another.

8. Warranty of Work

8.1 Contractor warrants to Railroad for a period of one (1) year, or until Railroad no longer conducts any railroad operations on the Railroad's Right-of-Way, whichever is less, that its Work (including all materials and workmanship) is new, of good quality, suitable for its intended purpose, free from any faults and defects, and in accordance with any and all applicable laws, rules, and regulations. Contractor shall promptly either repair or replace, at Railroad's option and to Railroad's reasonable satisfaction, all Work that Railroad determines, in its reasonable discretion, to be defective in workmanship or materials within the warranty period, ordinary wear and tear, and unusual abuse or neglect, excepted, together with all other work or property which may be damaged or displaced in so doing. All repairs or replacements shall have a warranty period equal to the original warranty period as herein stated, dated from Railroad's final acceptance of such repairs or replacements.

8.2 This section 8 shall continue in full force and effect regardless of whether this agreement is terminated pursuant to any other provision of this agreement.

9. Indemnity

9.1 As used in this section, the term "Railroad" is defined to include both Railroad and any other railroad companies (including passenger or tourist railroads) using Railroad's Right-of-Way at or near the location of Contractor's Work and their respective officers, agents, employees, and customers.

9.2 As used in this section, "Loss" is defined as any and all losses, damages, claims, demands, actions, causes of action, penalties, fines, costs, and expenses of whatsoever nature (including court costs and reasonable attorney's fees) resulting from or related to (a) Contractor's Work; (b) any injury to or death of any person whomsoever (including Railroad's officers, agents, employees, customers, and passengers, Contractor's officers, agents, and employees, and any other persons or entities); and (c) any damage to or loss or destruction of any property whatsoever (including Railroad's Right-of-Way, any adjacent property, Contractor's property, Railroad's property, the property of any customers of Railroad, and any property in Railroad's care or custody).

9.3 As a major inducement, and in consideration of the license and permission herein granted, Contractor agrees to indemnify and hold harmless Railroad from any Loss which is due to or arises from any cause associated either in whole or part, directly or indirectly, with the Work performed under this agreement, with any breach of this agreement, with any failure to observe the health and safety provisions herein, or with any activity or omission arising out of the performance or nonperformance of this agreement. However, Contractor shall not be required to indemnify Railroad when the Loss is caused by the sole negligence or willful misconduct of Railroad.

9.4 Contractor accepts Railroad's Right-of-Way and all of Railroad's property in its present condition and hereby assumes the risk of any injury to or death of persons, and any damage to or destruction of property, resulting from the condition of, or defects anywhere in or upon, Railroad's Right-of-Way or any of Railroad's property regardless of whether such condition or defects are known or unknown, apparent or latent, and regardless of whether such condition or defects exist at the commencement of this agreement or at some later time.

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- 9.5 This section 9 shall continue in full force and effect regardless of whether this agreement is terminated pursuant to any other provision.
10. **Restoration of Railroad's Property.** In the event Railroad or the Commission authorizes Contractor to take down any fence or structure on Railroad's Right-of-Way or of Railroad, or in any manner move or disturb any of Railroad's Right-of-Way or other property of Railroad in connection with the Work, Contractor shall, as soon as possible and at Contractor's sole cost and expense, restore such fence or structure or other property to the same condition as it was in before it was taken down, moved, or disturbed and Contractor shall indemnify and hold harmless Railroad, its officers, agents, and employees against and from any and all liability, loss, damages, claims, demands, costs, and expenses of whatsoever nature, including court costs and reasonable attorney's fees, which may result from any injury to or death of any persons whomsoever, or any damage to or loss or destruction of any property whatsoever, when such injury, death, damage, loss, or destruction grows out of or arises from the taking down of any fence or the moving or disturbance of any property. Railroad will not pay Contractor for any betterments or improvements by Contractor of such fence or other property.
11. **Hazardous Materials.**
- 11.1 Contractor shall comply with all federal, state and local environmental laws and regulations in its Work. Without first obtaining Railroad's written permission (which may be withheld in Railroad's sole reasonable discretion), Contractor shall not treat or dispose of Hazardous Materials on Railroad's Right-of-Way. Contractor shall not release any Hazardous Materials on or at Railroad's Right-of-Way, including through any drainage or sewer systems. Contractor assumes all responsibility for the investigation and cleanup of any such release by Contractor and shall indemnify, defend, and hold harmless Railroad and its property, its officers, agents, and employees for all costs, including reasonable environmental consultant and reasonable attorneys' fees, and claims resulting from or associated with any such release by Contractor. Commencing upon the effective date of this agreement and until Contractor has provided Railroad with the required notice concerning Contractor's completion of its Work, Contractor shall assume all responsibility for and shall indemnify, defend, and hold harmless Railroad against all costs and claims associated with a release or leak of Hazardous Materials related to Contractor's Work, unless such event was caused by the sole negligence or willful misconduct of Railroad.
- 11.2 If Contractor knows, or has reasonable cause to believe, that any Hazardous Materials have come to be located under or about the Railroad's Right-of-Way, other than as specifically provided herein or as previously consented to by Railroad, Contractor shall immediately give Railroad written notice thereof, together with a copy of any statement, report, notice, registration, application, permit, business plan, license, claim, action, or proceeding given to or received from any governmental authority or private party concerning the presence, spill, release, discharge of, or exposure to, such Hazardous Materials.
- 11.3 This section 11 shall continue in full force and effect regardless of whether this agreement is terminated pursuant to any other provision of this agreement.
12. **Waiver of Breach.** The waiver by Railroad of the breach of any condition, covenant, or agreement herein contained to be kept, observed, and performed by Contractor shall in no way impair the right of Railroad to avail itself of any subsequent breach thereof.
13. **Assignment – Subcontracting.** Contractor shall not assign, sublet, or subcontract this agreement or any interest therein without Railroad's or Commission's prior written consent and any attempt to so assign, sublet, or subcontract without such prior written consent shall be void. If Contractor obtains such permission to subcontract all or any portion of the Work, Contractor is and shall remain responsible for all Work of any such subcontractors and all Work of any such subcontractors shall be governed by the terms of this agreement.

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EXHIBIT B-1

**CONTRACTOR'S RIGHT OF ENTRY AND INDEMNITY AGREEMENT
INSURANCE REQUIREMENTS**

1. Contractor shall, at its own cost and expense, provide and procure Commercial General Liability ("CGL") insurance, Automobile Public Liability insurance, and, as applicable, Workman's Compensation or Federal Employers Liability Act ("FELA") insurance.

1.1. The CGL insurance policy providing bodily injury, including death, personal injury and property damage coverage shall have a limit of not less than \$5 million each occurrence and an aggregate limit of not less than \$5 million. If the Commission requires higher insurance limits from the licensee, such insurance limits shall apply to this agreement as well. The CGL insurance policy must be written on ISO occurrence form CG 00 01 12 04 or a substitute form providing reasonably equivalent coverage. This insurance shall contain broad form contractual liability covering the indemnity provisions contained in this agreement, and coverage for construction or demolition work on or near railroad tracks. Contractor shall provide Railroad with a certificate of such insurance prior to the execution of this agreement. Upon request by Railroad, Contractor shall immediately furnish a complete copy of any policy required hereunder, including all endorsements, with said copy certified by the insurance company to be a true and correct copy of the original policy.

1.2. The CGL insurance policy must include Railroad and any other railroad users, including any tourist or passenger railroads and their customers and passengers, as an "additional insured" (using ISO Additional Insured Endorsement CG 20 26 or a substitute form providing reasonably equivalent coverage).

1.3. The CGL insurance policy shall contain, or be endorsed to contain, the following additional provisions:

1.3.1. For any claims that result from the misconduct or negligence of Contractor or its officers, directors, employees, agents, or invitees, Contractor's insurance shall be primary and any insurance or self-insurance maintained by Railroad, its directors, officers, employees, or agents, shall be in excess of Contractor's insurance and shall not contribute to it.

1.3.2. Any failure by Contractor to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to Railroad, its directors, officers, employees, or agents.

1.3.3. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

1.3.4. Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to Railroad.

1.4. Automobile Public Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least \$1,000,000 each occurrence or claim. This insurance shall provide contractual liability covering all motor vehicles including hired and non-owned and mobile equipment to the extent it may be excluded from the general liability insurance.

1.5. Workers' Compensation insurance covering any statutory liability determined to be applicable under the compensation laws of the State of California.

1.6. FELA insurance, if applicable, as required by federal law.

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2. All insurance policies must be written by a reputable insurance company reasonably 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 California, and must be kept in force during the life of this agreement.

3. The fact that insurance is obtained by Contractor or by Railroad on behalf of Contractor will not be deemed to release or diminish Contractor's liability, including liability under the indemnity provisions of this agreement. Damages recoverable by Railroad from Contractor or any third party will not be limited by the amount of the required insurance coverage.