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RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

518 N. Center Street, Ste. 1

Ebensburg, PA 15931

(814) 419-8152

888-454-3817 (Toll Free)

(814) 419-8156 FAX

rwilson@rrwilson.net - Email

www.rrwilsonesq.com - Website

Of Counsel to:

Vuono & Gray LLC

2310 Grant Building

Pittsburgh, PA 15219

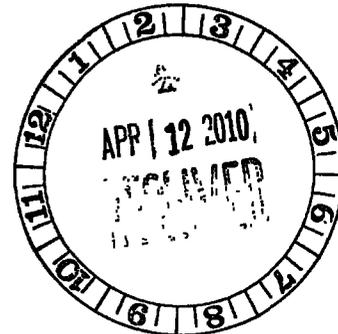
(412) 471-1800

(412) 471-4477 FAX

851 Twelfth Street

Oakmont, PA 15139

April 7, 2010



The Honorable Anne Quinlan, Acting Secretary

Surface Transportation Board

395 E Street, SW

Washington, DC 20423

Re: STB Finance Docket No. ~~35340~~ **35343**; Susquehanna Union Railroad Company -
Petition for Exemption - North Shore Railroad System Carriers
Docket No. ~~35340~~ **35343**

Dear Secretary Quinlan:

Enclosed for filing in the above captioned proceeding please find Susquehanna Union Railroad Company's Petition for Exemption and a Supplemental Verified Statement of Richard D. Robey referencing three confidential exhibits. Also enclosed is Petitioners Motion for Protective Order and copies of those three confidential exhibits submitted under seal. The filing fee in the amount of \$9,500.00 is also enclosed.

Copies of this filing have been served on SEDA-COG Joint Rail Authority.

Please date stamp the additional copy of this letter as proof of filing and return it to the undersigned in the enclosed self addressed stamped envelope provided for that purpose. Should you have any questions regarding this filing, please contact me.

Very truly yours,

RICHARD R. WILSON, P.C.

Richard R. Wilson, Esq.

Attorney for Susquehanna Union Railway

Company and North Shore Railroad

System Carriers

RRW/bab

Enclosures

xc: Richard D. Robey
All Parties of Record

226795

Before the
SURFACE TRANSPORTATION BOARD



STB FINANCE DOCKET NO: ~~95340~~ **35343**

SUSQUEHANNA UNION RAILROAD COMPANY -
- ACQUISITION OF CONTROL EXEMPTION -
NORTH SHORE RAILROAD COMPANY, NITTANY & BALD EAGLE RAILROAD
COMPANY, SHAMOKIN VALLEY RAILROAD COMPANY, JUNIATA VALLEY
RAILROAD COMPANY, LYCOMING VALLEY RAILROAD COMPANY AND
UNION COUNTY INDUSTRIAL RAILROAD COMPANY

PETITION FOR EXEMPTION

ENTERED
Office of Proceedings
APR 12 2010
Part of
Public Record

FILED
APR 12 2010
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
APR 12 2010
SURFACE
TRANSPORTATION BOARD

RICHARD R. WILSON, ESQ.
Attorney for Susquehanna Union Railroad Company
and North Shore Railroad System Carriers
Pa. I.D. #25661
518 N. Center Street, Ste. 1
Ebensburg, PA 15931
(814) 419-8152
(814) 419-8156 Fax

Dated: April 7, 2010

Before the
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO: ~~35340~~ 35343

SUSQUEHANNA UNION RAILROAD COMPANY
-CONTROL EXEMPTION -
NORTH SHORE RAILROAD COMPANY, NITTANY & BALD EAGLE RAILROAD
COMPANY, SHAMOKIN VALLEY RAILROAD COMPANY, JUNIATA VALLEY
RAILROAD COMPANY, LYCOMING VALLEY RAILROAD COMPANY, AND
UNION COUNTY INDUSTRIAL RAILROAD COMPANY

PETITION FOR EXEMPTION

I. INTRODUCTION

Pursuant to 49 U.S.C. §10502 and 49 C.F.R. §1121.1 et seq. Susquehanna Union Railroad Company ("SURC") a nonoperating holding company owned 100% by Mr. Richard D. Robey, petitions for exemption from the prior approval requirements of 49 U.S.C. §11323(a)(4) in order to permit SURC to acquire 100% stock control of six Class III railroads ("North Shore Railroad System Carriers") presently owned and controlled 100% by Richard D. Robey.

SURC plans to consummate the stock acquisition of the six North Shore Railroad System carriers subsequent to the Board's issuance of a decision granting the exemption in this matter. While this control transaction would normally be subject to the Board's Notice of Exemption regulations under 49 C.F.R. §1180.2(d)(3), SURC petitions the Board to review and exempt this transaction and to preempt and nullify under 49 U.S.C. §11321(a) certain provisions of the December 13, 2006 Operating Agreement between the SEDA-COG Joint Rail Authority ("JRA") and five of the North Shore Railroad System carriers which operate JRA owned lines. As explained by the Verified Statement

of Richard D. Robey, preemption and nullification of these contractual provisions are necessary in order to permit the Board to exercise its exclusive jurisdiction to exempt and allow the prompt implementation of this nominal acquisition of control transaction.

The name and address of the Petitioner is as follows:

Susquehanna Union Railroad Company
356 Priestley Avenue
Northumberland, PA 17857

Questions and correspondence concerning this Petition should be sent to the representative of SURC at the following address:

Richard R. Wilson, Esq.
518 N. Center Street, Ste. 1
Ebensburg, PA 15937
(814) 419-8152

II. JRA CONDUCT

For over twenty-five years,¹ the System carriers have provided common carrier rail service on JRA owned rail lines under the terms of an Operating Agreement with JRA which was most recently renegotiated and extended to 2017 on December 13, 2006. Under the terms of this agreement, JRA incurs an implied contractual obligation of good faith and fair dealing in the performance and enforcement of this agreement. Giant Food Stores, LLC v. THF Silver Springs Development, L.P., 959 A2d 438 (Pa. Super. 2008) The JRA Board stands in a fiduciary relationship to the public and their decisions and conduct must be guided by good faith, fair dealing, integrity and sound judgment. Schwartz v. Urban Redevelopment Assn., 411 Pa. 530, 536, 192 A2d 371, 374 (1963); Aeilig Bros. Co. Inc. v. Kohler, 366 Pa. 72, 77-78; 26 A2d 613, 616 (1950).

¹ A detailed history of JRA's rail line acquisitions is available at www.sedacograil.com.

The conduct and decisions of the JRA Board in response to Mr. Robey's request for JRA approval of the SURC acquisition of control transaction conclusively demonstrate that the JRA Board has failed to conform to these legal standards in its performance of its contractual and fiduciary obligations. The JRA Board's use of the oppressive tactics described by Mr. Robey to gain control over the System carriers' track maintenance tax credits smacks of coercion and duress and constitutes an unreasonable practice in violation of 49 U.S.C. §10701. However, the Board need not, in this proceeding, address the legality vel non of JRA's actions.

Rather, SURC, the System carriers and Richard D. Robey request that the Board, in considering this exemption petition, confirm the preemption and nullification of the provisions of the December 13, 2006 Operating Agreement requiring System carriers to obtain JRA prior approval of any change of control transaction over which the Board has exclusive jurisdiction so that this change of control transaction can be exempted and implemented without violating the provisions of the Operating Agreement and constituting an event of default under Section 23 of the Operating Agreement.

III. STB PREEMPTION AND CONTRACTUAL NULIFICATION AUTHORITY

Ample statutory, judicial and administrative authority supports the relief sought by SURC. 49 U.S.C. §11321 specifically prohibits any requirement for a corporation or a rail carrier to obtain approval from a state authority for a Section 11323 change of control transaction. 49 U.S.C. §11321(a) provides that a person participating in a transaction approved by the Board under 49 U.S.C. §11321-25 "is exempt from the anti-trust laws and all other law... as necessary to let that ... person carry out the transaction". Since the exemption from all other law "is broad enough to include laws that govern the obligations

imposed by contract,” the exemption “effects an override of contractual obligations, as necessary to carry out an approved transaction, by suspending application of the law that makes the contract binding.” Accordingly, 49 U.S.C. §11321(a) preemption of “all other law” effectively nullifies contract terms as well as laws, provided the nullification of any particular contract provision is necessary to let a person participating in a Board approved §11321-25 transaction carry out the transaction. Norfolk and Western R. Co. v. Am. Train Dispatchers Ass’n, 499 U.S. 117, 129-30 (1991). See also Swonger v. Surface Transportation Board, 265 F.3d 1135 (C.A. 10 2001) cert. denied 122 S. Ct. 1908, 535 U.S. 1053; American Train Dispatchers Ass’n. v. ICC, 26 F.3d 1157, 307 U.S. App. D.C. 93 (C.A.D.C. 1994); City of Palestine, Texas v. U.S., 559 F.2d 408 (C.A. 5 Tex.1977), cert. denied 98 S. Ct. 1576, 435 U.S. 1950; Spaulding v. United Transportation Union, 279 F.3d 901 (C.A. 10 2002) cert. denied 123 S. Ct. 84, 537 U.S. 816. See also Consolidated Coal Sales Company v. Consolidated Rail Corporation, STB Finance Docket No. 34169, 2002 W.L. 1046015 (May 24, 2002) finding that Conrail’s obligations under a 1991 and a 1992 agreement were preempted by 49 U.S.C. §11321(a) relieving Conrail from certain minimum fee obligations under those agreements and noting that those contract provisions were at odds with 49 U.S.C. §11321(a) which exempts rail carriers from all laws, including laws governing contracts, as necessary to allow carriers in a Board approved consolidation to carry out the consolidation transaction. In CSX Corporation and CSX Transportation, Inc. – Control and Merger – Consolidated Rail Corporation, 1997 W.L. 5993 STB Finance Docket No. 33220 (January 8, 1997), the Board reemphasize that... the preemptive, immunizing force of 49 U.S.C. §11321(a) can

preempt contractual rights . . . if necessary to permit a Board-approved transaction to go forward.

Moreover, Section 11321 preemption is self executing. As Justice Stevens explained, Section 11321's predecessor, Section 11341 "does not condition exemptions on the ICC's announcing that a particular exemption is necessary to an approved transaction. . . The breadth of the exemption is defined by the scope of the approved transaction, and no explicit announcement of exemption is required to make the statute applicable." ICC v. Bhd. Of Locomotive Eng'rs, 482 U.S. 270, 298 (1987) (Stevens, J., concurring) (footnote omitted). See also Bhd. of Locomotive Eng'rs. v. Boston & Maine Corp., 788 F.2d 794, 801 (1st Cir. 1986) (noting self-executing nature of section 11341); Bhd. of Locomotive Eng'rs v. Chicago & N.W. Ry. Co., 314 F.2d 424, 432 (8th Cir. 1963) (same). To that end, the Board has never required that railroads identify at the time a transaction is approved every law or contract that might be preempted by the Board's approval of the transaction. See e.g. CSX Corp. – Control – Chessie Sys., Inc., & Seaboard Coast Lines Indus., 8 I.C.C. 2d 715, 723 n.12 (1992). Thus, notwithstanding the terms of the Operating Agreement, JRA may exercise no contractual preapproved rights over a change of control transaction that is subject to the exclusive jurisdiction of the STB under 49 U.S.C. §11321.

By seeking Board confirmation of the preemption and nullification of the terms of Sections 1, 4 and 23 of the Operating Agreement that require JRA preapproval of this change of control, SURC seeks to resolve this issue with JRA and preserve the 25 year public private partnership with JRA which has served the rail shippers of Central Pennsylvania so well. Nor does nullification of these Operating Agreement provisions

leave JRA's legitimate interests in qualified and financially responsible operation of its rail lines unprotected. JRA can participate and protect its interests in any STB change of control proceeding initiated by SURC and the North Shore Railroad System carriers and JRA can request the Board impose protective conditions to address any appropriate concern JRA may have regarding a proposed change of control transaction. What JRA should not be able to do is use the terms of the Operating Agreement to arrogate to itself the exclusive powers of the Board and obstruct SURC and the North Shore Railroad System carriers from implementing a change of control transaction under the circumstances described above.

IV. BASIS FOR EXEMPTION

Because it will obtain control of at least two common carrier railroads, SURC must obtain Board approval of this proposed transaction. 49 U.S.C. §11323(a)(4). However, the Board is required to exempt an acquisition of control from regulation and the prior-approval requirement where the Board finds that regulation:

- (1) is not necessary to carry out the transportation policy of section 10101 of this title; and
- (2) either—
 - (A) the transaction or services of limited scope; or
 - (B) the application in whole or in part of the provision is not needed to protect shippers from an abusive market power.

49 U.S.C. §10502(a).

The Board will issue an exemption that exempts an entity from the requirement to obtain prior approval where the transaction is within a corporate family that does not result in adverse changes in service levels, significant operational changes or a change in

the competitive balance with carriers outside the corporate family. 49 C.F.R. §1180.2(d)(3). While no such changes will result from the proposed transaction, neither SURC nor the North Shore Railroad System carriers wish to implement this change of control transaction in violation of the Operating Agreement with JRA. Thus, out of an abundance of caution, SURC is filing this Petition for Exemption to confirm, pursuant to 49 U.S.C. §§10502 and 11321(a), the nullification of the provisions of the December 13, 2006 Operating Agreement with JRA that could impede the implementation of this transaction and then to obtain an exemption for the change of control transaction by which SURC will acquire 100% stock ownership of North Shore Railroad System carriers.

A. The Board's prior approval is not required to carry out the national transportation policy

Detailed scrutiny of the transaction, through an application for review and approval under §11323(a)(4), is not necessary to carry out the rail transportation policy ("RTP") established in 49 U.S.C. §10101. To the contrary, exemption from prior approval will promote the policies in the RTP.

Use of an exemption process rather than an application process will advance several aspects of the RTP. Such a procedure will "minimize the need for Federal regulatory control over the rail transportation system" (49 U.S.C. §10101(2)), "reduce regulatory barriers to entry into and exit from the industry" (49 U.S.C. §10101(7)), and "provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part" (49 U.S.C. §10101(15)). On the other hand, requiring SURC to obtain prior approval by means of an application will frustrate that policy of regulatory minimization. Genesee & Wyoming Inc. – Continuance in Control

Exemption – Chattahoochee Bay Railroad, Inc., STB Finance Docket No. 34913 (served Nov. 9, 2006). It will also place unwarranted regulatory burdens in the way of Mr.

Robey to restructure his corporate ownership of his railroads. StatesRail, Inc. –

Acquisition of Control Exemption – Kyle Railways, Inc., STB Finance Docket No. 33340 (served Apr. 17, 1997).

The decision to allow the six North Shore Railroad System carriers to be consolidated under a nonoperating holding company will also substantively advance the national RTP. Such a transaction will “ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers” (49 U.S.C. §10101(4)), and “foster sound economic conditions in transportation” (49 U.S.C. §10101(9)). In particular, the proposed change of control will enhance the efficient management of those railroads, to the benefit of the shippers that use the North Shore Railroad System carriers. Genessee & Wyoming, Inc. – Continuance in Control

Exemption – Chattahoochee Bay Railroad, Inc., STB Finance Docket No. 34913 (served Nov. 9, 2006).

Other aspects of the RTP will not be adversely affected.

B. The Board’s prior approval is not required to protect shippers from the abuse of market power

The proposed transaction does not involve a change in rail operations or a lessening of competition. As such, the proposed transaction raises no specter of market power, and the Board should exempt SURC from the requirement of prior Board approval.

At the same time, shippers can expect that benefits will come from being on the SURC system in the form of stronger financial resources, enhanced management support for operations and safety systems, and a more effective relationship with Class I railroads.

C. The Board's prior approval is not required because the transaction is of limited scope

Because regulation is not necessary to protect shippers from the abuse of market power, the Board need not address the factor of whether the transaction is of limited scope. Ft. Worth & Western Railroad Co., Inc. – Lease Exemption – St. Louis Southwestern Railway Co., STB Finance Docket No. 32955 (served Sept. 5, 1996). Nevertheless, the planned transaction is also of limited scope, affecting only a nominal change of control by means of a nonoperating holding company which will be 100% owned and controlled by Richard D. Robey.

Moreover, the railroads being acquired operate on short stretches of line that do not exceed 60 miles. See Exhibit A and Exhibit A to the December 18, 2006 Operating Agreement. Further, this is simply a change in control proceeding and there will be no significant operational changes that will flow from it. As noted above, SURC believes that this transaction falls within the class exemption available for the acquisition of control within a corporate family and for that additional reason this transaction is of limited scope.

V. ENVIRONMENTAL AND HISTORICAL REPORTS

No environmental analysis under the National Environmental Policy Act need be prepared because the proposed transaction will not involve significant changes in carrier

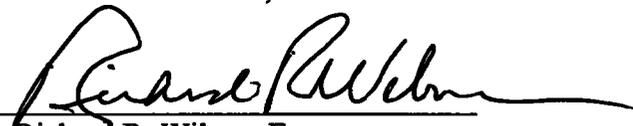
operations, as defined in 49 C.F.R. §1105.7(e)(4,5). 49 C.F.R. §1105.6(c)(2). Likewise, a historic report under the National Historic Preservation Act is not required for two reasons. First, there are no plans to alter properties subject to Board justification that are 50 years old or older. 49 C.F.R. §1105.8(b)(1). Second, this control transaction will not substantially change the level of maintenance of railroad property. 49 C.F.R. §1105.8(b)(3).

VI. CONCLUSION

For the foregoing reasons, SURC respectfully requests that pursuant to 49 U.S.C. §§10501(b) and 11321(b) the Board confirm the preemption and nullification of Sections 1, 4, and 25 (a)(viii) of the Operating Agreement with JRA that would impede implementation of this change of control transaction and exempt SURC's acquisition of stock control of the North Shore Railroad System Carriers from regulation under 49 U.S.C. §10502.

Respectfully submitted,

RICHARD R. WILSON, P.C.

By: 

Richard R. Wilson, Esq.
Attorney for Attorney for Susquehanna
Union Railroad Company and North Shore
Railroad System Carriers

RICHARD R. WILSON, P.C.
518 N. Center Street, Suite 1
Ebensburg, PA 15931
(814) 419-8152

Before the
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO: 35340

SUSQUEHANNA UNION RAILROAD COMPANY-
- ACQUISITION OF CONTROL EXEMPTION -
NORTH SHORE RAILROAD COMPANY, NITTANY & BALD EAGLE RAILROAD
COMPANY, SHAMOKIN VALLEY RAILROAD COMPANY, JUNIATA VALLEY
RAILROAD COMPANY, LYCOMING VALLEY RAILROAD COMPANY AND
UNION COUNTY INDUSTRIAL RAILROAD COMPANY

VERIFIED STATEMENT OF RICHARD D. ROBEY
(IN SUPPORT OF PETITION FOR EXEMPTION)

RICHARD R. WILSON, ESQ.
Attorney for Susquehanna Union Railroad Company
and North Shore Railroad System Carriers
Pa. I.D. #25661
518 N. Center Street, Ste. 1
Ebensburg, PA 15931
(814) 419-8152
(814) 419-8156 Fax

Dated: January 18, 2010

Before the
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO: 35340

SUSQUEHANNA UNION RAILROAD COMPANY
-CONTROL EXEMPTION -
NORTH SHORE RAILROAD COMPANY, NITTANY & BALD EAGLE RAILROAD
COMPANY, SHAMOKIN VALLEY RAILROAD COMPANY, JUNIATA VALLEY
RAILROAD COMPANY, LYCOMING VALLEY RAILROAD COMPANY, AND
UNION COUNTY INDUSTRIAL RAILROAD COMPANY

VERIFIED STATEMENT OF RICHARD D. ROBNEY
(IN SUPPORT FOR PETITION FOR EXEMPTION)

I. INTRODUCTION

My name is Richard D. Robey and I am Chairman, Chief Executive Officer and the sole owner of North Shore Railroad Company, Nittany and Bald Eagle Railroad Company, Shamokin Valley Railroad Company, Lycoming Valley Railroad Company, Juniata Valley Railroad Company, and Union County Industrial Railroad Company. I am also the sole owner of Susquehanna Union Railroad Company. I am authorized to make this Verified Statement in support of the Susquehanna Union Railroad Company Petition for Exemption.

II. THE NORTH SHORE RAILROAD SYSTEM

The first five railroad companies listed above lease and operate five separate lines of railroad owned by SEDA-COG Joint Rail Authority ("JRA"), a Pennsylvania municipal authority created under the Pennsylvania Municipal Authorities Act. These five rail lines are all former properties of Consolidated Rail Corporation which connect with Norfolk Southern lines in Central Pennsylvania. The lines were acquired from

Conrail by JRA between 1984 and 1996 and all the railroads except the Juniata Valley Railroad Company are connected by trackage rights over Norfolk Southern's Harrisburg/Buffalo line. The Juniata Valley Railroad Company connects with the Norfolk Southern Pittsburgh-Harrisburg main line. The Union County Industrial Railroad Company operates the line of railroad in Union County Pennsylvania which is owned by the West Shore Railroad Company and the Lewisburg and Buffalo Creek Railroad Company. I own no interest in either of these nonoperating railroads. Collectively, my railroad companies are known as the North Shore Railroad System.

In August 1984, the North Shore Railroad Company commenced operating the line between Northumberland and Berwick, PA which was acquired by JRA from Conrail. In 1984, JRA also acquired the Conrail lines between Tyrone and Lock Haven, PA and Nittany and Bald Eagle Railroad Company began operating that line in 1984. In 1988, JRA acquired the Shamokin Valley line and Shamokin Valley Railroad Company commenced operating that line between Sunbury and Mt. Carmel, PA. In August 1996, JRA acquired the Juniata Valley Railroad line and the Lycoming Valley Railroad line from Conrail and these two railroad companies commenced operation of those lines at the same time. A map of these lines is attached at Exhibit A.¹

Over the past 25 years, the North Shore Railroad System carriers (hereinafter "System carriers") and JRA have forged an effective public private partnership which has successfully preserved, rebuilt, maintained and increased shipper generated traffic on these lines. The North Shore Railroad System handled 1500 car loads of traffic during the first year of operations and in 2008, rail traffic on the five JRA lines operated by the

¹ The ICC/STB Docket Numbers for the acquisition and operation proceedings for each of the JRA lines are noted on Page 1 of the December 13, 2006 Operating Agreement. See Exhibit B.

System carriers exceeded 22,400 car loads and generated \$8,883,800.00 in freight revenues, 10% of which was paid to JRA as an operating fee under the provisions of the Operating Agreement between the five operating railroads and JRA. In 2006, the five North Shore Railroad System carriers and JRA renegotiated and extended the Operating Agreement for JRA lines until 2017 and the agreement was filed with the Surface Transportation Board. Under Section 13 of the Operating Agreement, the System carriers assumed maintenance responsibilities for the five JRA owned lines under enhanced FRA track standards and under Section 14 JRA agreed to be solely responsible for all capital improvements. A copy of the December 13, 2006 renegotiated Operating Agreement is attached to this Petition for Exemption as Exhibit B.

The six North Shore Railroad System carriers are operated from a central office in Northumberland, Pennsylvania and share a common management staff which I lead. Locomotives and track maintenance equipment are owned by an affiliated company and locomotives are identified by different paint schemes for each operating railroad company. Significant management, budgeting, maintenance and operational functions for all six System railroads takes place at the central headquarters in Northumberland, Pennsylvania. Accounting, clerical, car management, purchasing, human relations and related functions are also centralized in Northumberland as are maintenance of way and signal activities for all six railroads.

The marketing activities for all six railroads are also coordinated and directed from our headquarters in Northumberland, PA. Customers for all railroads call into the Northumberland office for commercial transactions, rate quotations and operational service matters. In 2006 and 2007, North Shore Railroad System carriers were

recognized by Norfolk Southern Corporation for exceptional traffic growth, business development and operated efficiencies as indicated by the press releases attached hereto as Exhibit C.

III. THE CHANGE OF CONTROL TRANSACTION

In order to conform the corporate structure of my six railroad companies with their day to day functional management and operations, in 2008, I decided to consolidate 100% stock control of my railroad companies in a nonoperating corporate holding company, Susquehanna Union Railroad Company ("SURC").² This nominal change of control transaction will involve my noncash tender to SURC of 100% of my shares of System Carrier stock in exchange for additional shares of SURC. I will thereby own and control the six North Shore Railroad System carriers through SURC. This will improve our ability to provide consolidated management and administration of all six System carriers.

Upon the consummation of this transaction, I intend to provide members of my management staff an opportunity to acquire an equity interest in SURC in recognition of their many years of commitment and dedication to the System carriers. However, I will continue to retain 100% voting control of SURC for the immediate future.

IV. THE DECEMBER 13, 2006 OPERATING AGREEMENT

During the negotiation of Sections 1, 4, and 23(a)(viii) of the December 13, 2006 Operating Agreement, JRA insisted that it be granted prior approval rights of any change of control transaction for the North Shore Railroad System carriers in order to assure

² In January 2006, SURC, incorrectly identified as Susquehanna Valley Railroad Company, sought a Notice of Exemption to control seven Class III carriers including the North Shore Railroad System carriers in STB Finance Docket No. 34806 but subsequently notified the Board that it would not consummate the exempt change of control transaction given a decision to retain the existing corporate ownership of the North Shore Railroad System Carriers pending negotiation of the December 13, 2006 Operating Agreement with JRA.

qualified and financially responsible operation of its rail lines. Additionally, under Section 25 of the Operating Agreement, the parties also agreed that the Operating Agreement would be subject to the “order, rules, and regulations of appropriate regulatory authorities, including the STB having jurisdiction over the parties.” In the exercise of these contractual rights, JRA as a Pennsylvania municipal authority and as a signatory to this agreement incurs both contractual and fiduciary obligations of good faith and fair dealing. As a common carrier rail line owner, JRA is also subject to provisions of the ICC Termination Act of 1995 including those pertaining to acquisition of control transactions and may not unreasonably withhold its approval of legitimate change of control transactions.

Unfortunately, despite a long history of cooperation and partnership, in July 2008 long standing differences between JRA and the North Shore System carriers involving assertions by JRA that it was entitled to control the proceeds of sale of the five System carrier’s Internal Revenue Code §45G track maintenance tax credits (See Exhibit D) came to a head. JRA had adopted an ambitious schedule of capital projects and sought enhanced funding participation by the System carriers notwithstanding Section 14 of the Operating Agreement and the track maintenance provisions of Section 13. In pursuit of this objective, JRA sought the disclosure of a confidential and proprietary railroad shipper agreement pertaining to the transfer of tax credits by the System carriers for review by JRA outside counsel. (Exhibit E)

Eventually, our System carriers agreed to provide that proprietary agreement under appropriate confidential protective conditions for review by JRA’s solicitor and regulatory counsel. See Exhibit F. However, in 2009 JRA again sought further disclosure

of this agreement to additional outside counsel for review of a broader scope of legal issues, and the System carriers objected to that request. Exhibit G. In correspondence from its solicitor, JRA then stated that it would not give further consideration to the SURC request for approval of the proposed nominal change of control transaction until the System carriers agreed to disclose to the additional outside counsel the terms of the confidential shipper carrier agreement related to the tax credit transfer. See Exhibit H.

At the same time, JRA also sought a proposed modification to the December 13, 2006 Operating Agreement seeking control over the System carriers' transfer of future Section 45G track maintenance tax credits. On November 9, 2009, the System carriers declined JRA's proposed tax credit modification of the Operating Agreement. See Exhibit I. On November 11, 2009, the JRA Board of Directors took formal action on the System carriers/SURC request for approval of the nominal change of control transaction and voted to deny Board approval. See Exhibit J, Page 4. After the Board voted to not approve the requested change of control transaction, I requested an explanation from the Board for its action but the Board refused to provide any explanation to me. See Exhibit J, Page 5.

On December 8, 2009, I received correspondence from JRA Chairman Walls responding to concerns expressed by members of my staff to JRA directors regarding JRA's denial of our proposed change of control transaction.(Exhibit K) I responded to Mr. Walls on December 16, 2009 and Mr. Walls replied on December 22, 2009 seeking information which we had previously provided to the JRA Board. (Exhibit M) It is evident from JRA's correspondence that control of the System Carriers' tax credits

remains a central issue in JRA's refusal to approve our proposed change of control transaction.

It is unfortunate that Board has refused to approve the nominal change of control transaction which I had proposed. This type of transaction is routinely exempted from regulation by the Surface Transportation Board under 49 U.S.C. §1180.2(d)(3).

However, from the exchange of correspondence attached as exhibits to my Verified Statement and from the action of the JRA Board on November 11, 2009, it is evident that the JRA Board has determined to exert inappropriate pressures on our railroad companies by withholding its approval of the proposed nominal change of control transaction to extract financial concessions and a contractual amendment from the System carriers for the financial benefit of the Rail Authority. Given the unreasonable delay and oppressive tactics adopted by the JRA Board in refusing to approve our nominal change of control transaction, I am requesting that the Board grant this Petition for Exemption and preempt the pertinent sections of the December 13, 2006 Operating Agreement so that our proposed change of control transaction can be exempted and implemented without violating the terms of our Operating Agreement with JRA.

EXHIBITS

Exhibit A	North Shore Railroad Systems Map
Exhibit B	December 13, 2006 Operating Agreement
Exhibit C	Norfolk Southern Awards Article
Exhibit D	JRA Short Line Tax Credit "Policy"
Exhibit E	Email of January 4, 2008 to JRA counsel re: disclosure of proprietary 45G Agreement
Exhibit F	Letter of August 20, 2008 to JRA counsel Re: Procedures for Confidential Review of Redacted 45G Agreement
Exhibit G	Letter of July 30, 2009 to JRA counsel Re: Further Review of 45G Agreement
Exhibit H	Letter of August 5, 2009 to System Carriers' counsel refusing to consider change of control without further review of 45G Agreement
Exhibit I	JRA September 2, 2009 proposed amendment of Operating Agreement Re: Operator Use of Section 45G Tax Credits and System Carriers' November 6, 2009 Declination of Amendment
Exhibit J	November 11, 2009 Minutes of JRA Board Meeting rejecting change of control proposal
Exhibit K	December 8, 2009 letter from JRA Chairman Walls to Mr. Robey
Exhibit L	December 16, 2009 letter from Mr. Robey to JRA Chairman Walls
Exhibit M	December 22, 2009 letter from JRA Chairman Walls to Mr. Robey

OPERATING AGREEMENT

THIS AGREEMENT is made and entered into on the 13th day of December, 2006, to become effective January 1, 2007, by and between SEDA-COG JOINT RAIL AUTHORITY, a Pennsylvania municipal authority created under the Municipality Authorities Act of 1945, referred to herein as the "Authority;"

a
n
d
LYCOMING VALLEY RAILROAD COMPANY ("LVRR"), NITTANY & BALD EAGLE RAILROAD COMPANY ("NBER"), NORTH SHORE RAILROAD COMPANY ("NSRR"), JUNIATA VALLEY RAILROAD COMPANY ("JVRR") and SHAMOKIN VALLEY RAILROAD COMPANY ("SVRR"), the foregoing parties all being Pennsylvania corporations and are individually referred to herein as an "Operator" and collectively referred to herein as the "Operators".

WITNESSETH

WHEREAS, the Authority is the owner of certain lines of railroad (the "Railroad Premises") described in Exhibit A as authorized by the Interstate Commerce Commission in Docket No. AB-167 (Sub Nos. 392N, 457N, 489N, 989, 779 and 485N), and STB Finance Docket Nos. 33010 and 33008; and

WHEREAS, The Operating Companies have been authorized to conduct and provide common carrier railroad operations and service on lines of railroad (the "Railroad Premises") described in Exhibit "A", in ICC Finance Docket Nos. 30536, 30543, 31378 and 31378 (Sub No. 1) and STB Finance Docket Nos. 33010 and 33008; and

WHEREAS, the Authority has selected the Operating Companies to provide rail freight service and to maintain the Railroad Premises for the benefit of shippers and communities served by said lines of railroad;

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

Section 1. Definitions

"Affiliate" means any entity engaged in providing railroad services to the Operators, owned, directly or indirectly, in whole or in part, by either: (i) any of the Operators; (ii) any of the directors, officers or employees of any of the Operators or their spouses or lineal descendants; (iii) any individual having greater than a 25% ownership interest in the equity of any of the Operators (a "Principal"), or (iv) a Principal's spouse or lineal descendants

"Authority Standards" means the maintenance standards set forth in Exhibit B, "Track Maintenance Standards", of this agreement

"Capital Improvements" mean asset additions, improvements, or replacements, that are not the result of ordinary maintenance activities to be performed by Operators under this Agreement. In the event of a dispute as to whether an improvement constitutes a Capital Improvement or Maintenance, the dispute shall be submitted to Arbitration pursuant to Section 29 of this Agreement.

"Change in Control" of the Operators shall be deemed to have occurred if and when any person or group of persons shall, subsequent to the date of this Operating Agreement, have acquired ownership of or the right to vote or to direct the voting of shares of any of the Operators representing fifty-one (51%) percent or more of the total voting interest of such Operator.

"Environmental Contamination" shall mean any contamination of the Railroad Premises arising from the deposit, acceptance, use, storage, transport, disposal or release of Hazardous Materials to, or under the Railroad Premises as a result of the receipt, transportation, delivery, use or storage of said materials by any of the Operating Companies.

"Hazardous Materials" shall mean and include, without limitation, (1) "hazardous substances" or "toxic substances", or "pollutants or contaminants" as those terms are defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et seq; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; or the Transportation of Hazardous Materials Act, 49 U.S.C. §5102, et. seq., all as amended, (2) "hazardous wastes" as that term is defined by the Resource Conservation and Recovery Act, 42 U.S.C. §6901, et seq., as amended, (3) any pollutant, contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of any other applicable federal, state or local law, regulation, code, ordinance, guideline, order, agreement or requirement imposing liability or standards of conduct concerning any hazardous, toxic or dangerous residual waste substance or material, or the exposure of persons thereto all as amended as of the date hereof, (4) any crude oil or any other petroleum product; (5) any radioactive material, including any source, special or nuclear or by-product material as defined in 42 U.S.C. §2100, et seq as amended; (6) asbestos and asbestos containing materials in any form; or (7), compounds containing polychlorinated biphenyls

"Janotti Report" means the Track Inspection and Maintenance Right of Way Report to be prepared by Paul Janotti pursuant to Section 13(a) of this Agreement and appended to this Agreement as Exhibit "E".

"Railroad Premises" means all property of every kind and description, real, personal, and mixed, including, but not limited

to, the right of way, roadbed, tracks, bridges, track materials, poles, wire lines, signals, switches, and other facilities, buildings, and appurtenances comprising the premises described on Exhibit "A" and utilized in the provision of rail freight services pursuant to this agreement.

"Rail Freight Service" means rail freight transportation service to be provided by the Operating Companies pursuant to the provisions of Title 49 of the United States Code, Part A, and under the terms of this Agreement.

"STB" means the Surface Transportation Board of the United States Department of Transportation.

"This Agreement" means this Operating Agreement.

"Track Consultant" means a qualified consultant engaged by the Authority from time to time for the purpose of inspecting the Railroad Premises and providing periodic reports to the Authority regarding the condition thereof

Section 2. Exclusive Use of Railroad Premises The Authority shall provide to the Operating Companies access to and use of the Railroad Premises. The Operating Companies shall have the exclusive right to use the Railroad Premises only for the purpose of providing rail freight service thereon during the term of this Agreement, or any extension or renewal thereof, subject to the terms and conditions hereinafter contained. This Agreement shall not be construed as conveying any ownership interest to Operators. Any use for purposes other than rail freight service, including passenger service or rail excursions, shall require prior written permission of the Authority.

Section 3. Use by Other Carriers or Third Parties. In the event that Operators desire to allow any other person or entity access to or upon the Railroad Premises for any purpose other than the provision of rail freight services hereunder, the Operator shall secure prior written approval from the Authority which approval shall not be unreasonably withheld. Nothing herein shall

prohibit Operator from providing access to or upon the Railroad Premises by persons or entities as required to enable Operator to provide rail freight services as provided herein.

Section 4. Non-Transferability. This Agreement and the rights herein granted shall not be assigned, sold, leased, transferred, or in any other way alienated without prior written consent of the Authority. For purposes of this Section 4, an assignment shall include any transfer of any rights under this agreement, whether voluntary or involuntary or by operation of law, including any merger or consolidation of the Operator or any Change in Control of the Operator made without the Authority's prior written consent.

Section 5. Defects in Title. The rights contained herein as to the Railroad Premises are granted only insofar as the Authority's federal regulatory authorization and title permits. The Authority specifically disavows any implied or other warranty of title, nor shall the Authority be liable to Operators for any defects or encumbrances upon the title to the properties constituting the grant of exclusive use in Section 3. Should a third party assert a claim of title to the Railroad Premises, Authority and Operators shall cooperate with each other and take action as necessary to preserve the Railroad Premises for its intended use hereunder.

Section 6. Right to Inspect. The Authority, its agents or assigns, shall have the right, upon reasonable notice, to enter upon the properties constituting the Railroad Premises for the purpose of making reasonable inspections. The parties shall make reasonable arrangements to assure that the inspections can be performed safely, without undue interference or disruption of the Operators' railroad operations, in a manner consistent with the security of the railroad facilities. Operators shall, upon adequate advance notice, provide hi-rail equipment and a qualified driver to facilitate inspections exercised hereunder. The cost of such hi-rail equipment and driver shall be borne by Operators; provided, however that in the event the Authority requires such inspections more than two times during any calendar year, the Authority shall reimburse to Operators the cost incurred by Operators for such additional inspections.

Section 7. Taxes and Utilities. Operators shall pay and discharge, on or before the last day on which payment may be made without penalty or interest, any and all taxes (including without limitation all real property taxes), assessments, charges for public utilities, excise, license and permit fees, assessments, sewer rentals and other governmental impositions and charges which shall or may during the term hereof be charged, assessed, imposed, become due and payable, or a lien upon, or arising in connection with the use by the Operators of the Railroad Premises for rail freight service. Operators shall have the right to contest any such taxes or other charges by appropriate legal proceedings, conducted at their own expense, providing that Operators shall furnish to Authority a surety bond or other security satisfactory to the Authority sufficient to cover the amount of the contested item or items when such item or items exceed \$2,500 00, with interest and penalty for the period which such proceeding may be expected to take. Operators shall also pay any and all charges for water, gas, electricity, and other utility services provided to the Railroad Premises and used by the Operator in the provision of rail freight services hereunder.

Section 8. Existing Agreements. Operators' use of the Railroad Premises is subject to all of the terms and conditions contained in the following existing agreements, copies of which have been previously delivered to the Operator:

a) Acquisition Agreement dated July 25, 1984 between the Authority and the Consolidated Rail Corporation ("Conrail") under which the Railroad Premises was acquired from Conrail (referred to herein as the July 25, 1984 Agreement),

b) Acquisition Agreement dated November 28, 1988, between the Authority and Conrail (referred to herein as the November 28, 1988 Agreement);

(c) Acquisition Agreement dated November 6, 1996 between the Authority, NBER and Conrail (referred to herein as the "November 6, 1996 Agreement");

(d) Trackage Rights Agreement dated August 15, 1996, between the Norfolk Southern (as successor to Conrail), NBER and the Authority (the "Trackage Rights Agreement"); and

(e) Settlement Agreement dated July 1, 2005 between Norfolk Southern Railway (NSR), LVRR, NBER, NSHR, SVRR, and Union County Industrial Railroad (UCIR) and the Authority.

The Operators shall conduct their operations over said Railroad Premises in accordance with the terms and conditions of the aforesaid Agreements and all other agreements to which they are a party and the Authority is now or hereafter becomes a party or third party beneficiary. Additionally the Operators hereby jointly and severally assume all obligations of LVRR under the July 1, 2005 Settlement Agreement and all obligations of NBER under the November 6, 1996 Agreement and the Trackage Rights Agreements, and shall indemnify and hold the Authority harmless from all liability with respect thereto. Except as set forth herein, neither the Authority nor the Operators shall incur any obligation, undertake any action or assume any liability of the other party under the aforesaid Agreements.

Section 9. Term. The term of this Agreement shall commence January 1, 2007 and continue until June 30, 2017, unless terminated prior thereto in accordance with the provisions of this Agreement.

Section 10. Operating Fees

(a) Operators shall be jointly and severally obligated to pay certain Operating Fees for the use of the Railroad Premises as set forth in Exhibit C, "Operating Fees".

(b) It is expressly understood that such Operating Fees shall be paid to the Authority without off-set for any charges incurred by Operators in the provision of rail freight services.

Section 11. Condition of Railroad Premises. Operators have inspected the Railroad Premises and accept the same "as is". The Authority makes no representation or warranty as to the physical condition of the Railroad Premises or the condition of the legal title. Operators shall return the Railroad Premises to the Authority upon the termination of this Agreement in the same condition as received or as improved. Notwithstanding the foregoing, the Authority shall make no claim or demand against the Operators regarding the condition of the Railroad Premises at the termination of this Agreement.

provided that the Operators have complied with their annual maintenance responsibilities as set forth in Section 13 of this Agreement.

Section 12. Provision of Additional Equipment and Facilities. Operators shall be responsible for providing all equipment and facilities that are reasonably necessary for the safe and adequate rail freight services on the Railroad Premises. Such equipment and facilities shall include, but shall not be limited to, locomotives, rolling stock as available, maintenance equipment, office space, and such other facilities and equipment as are reasonably necessary to provide rail freight service on the Railroad Premises as contemplated under this Agreement. Notwithstanding the above, Operators shall not be found in default if cars which must be obtained from a Class I Carrier are not available at that time.

Section 13. Maintenance

a. Promptly following the execution of this Agreement, the parties shall engage Mr. Paul Janotti, at Operators' sole expense, to prepare a comprehensive report (the "Janotti Report"), setting forth the existing condition of the Railroad Premises, which report shall be appended to this Agreement as Exhibit "E." Operators shall be solely responsible for maintaining the Railroad Premises in accordance with the Authority Standards or to the condition to which they have been improved. Notwithstanding the foregoing, to the extent the Janotti Report establishes that the present condition of any portion of the Railroad Premises fails to comply with the Authority Standards, Operators shall not be required to maintain such portion of the Railroad Premises to the Authority Standards, but shall instead maintain said portion of the Railroad Premises to condition as described in the Janotti Report, but not less than applicable FRA Standards. It is the intention of the parties that any portion of the Railroad Premises that do not presently comply with the Authority Standards shall be improved to a condition that complies with Authority Standards over a reasonable period of time, giving due consideration to the reasonable rail traffic and revenue projections for said portions of the Railroad Premises through the Annual Maintenance Program hereinafter described, and which

shall thereafter be maintained to the Authority Standards. Without limiting the foregoing, the parties further agree as follows:

(1) On or before January 15 of each year, Operators shall prepare and submit to the Authority, a program (hereinafter referred to as the "Annual Maintenance Program") setting forth the maintenance items to be performed for the entire Railroad Premises during the remainder of the calendar year, and the anticipated cost of such items to ensure that the Railroad Premises are maintained in accordance with the Authority Standards.

(2) Operators will review the Annual Maintenance Program with the Authority's Staff and Track Consultant who shall review and amend the same to ensure that it complies with the Authority Standards not later than March 1 of said year.

(3) Operators shall at their own cost be responsible for maintaining the Railroad Premises in accordance with the Authority Standards as set forth in the Annual Maintenance Program approved by the Authority's Track Consultant.

(4) The Authority's Track Consultant shall inspect the Railroad Premises at least twice each calendar year to ensure that Operator is maintaining the same in accordance with the Annual Maintenance Program adopted by the parties for the Railroad Premises. Any deficiencies noted by the Track Consultant or by inspectors from the Federal Railroad Administration or the Pennsylvania Public Utilities Commission in routine inspections of the Railroad Premises shall be promptly remedied by the Operators at their sole cost and expense.

(5) Any disputes arising with respect to either the terms or requirements of the Annual Maintenance Program or Operators' compliance with the Annual Maintenance Program shall be submitted to Arbitration pursuant to Section 29 of this Agreement.

(b) The parties agree that any and all rails, ties or other items of track and signaling equipment removed and replaced by Operators in the performance of required maintenance (the "Replaced Materials") shall become the property of the Operators, regardless of whether such removed property is sold or retained by Operator as materials and

supplies, provided the Operators purchased the material used in the replacement.

(c) It is expressly agreed that Operators shall be financially responsible for the repair of damage to any portion of the Railroad Premises caused by a landslide, geological disturbance, flood or significant natural catastrophe in an amount not to exceed \$25,000 per occurrence. In the event of an uninsured catastrophe resulting in damages to the Railroad Premises in excess of \$25,000, the Authority shall have the right, but not the obligation to pay such excess amount required to repair the damages, and in the absence of such repair the provisions of Section 27 of this Agreement shall apply

Section 14. Capital Improvements Operators shall have the right, but not the obligation with the prior written approval of the Authority, to make, at their own expense, Capital Improvements for railroad purposes on the Railroad Premises during the term of this Agreement. In such voluntary capital improvements, Operators shall be required to pay the cost of removal of appurtenant structures, excluding track improvements, where required by the Authority. Where such Operator financed Capital Improvements require or involve the replacement of an asset in place, the parties shall agree in writing in advance of installation of the replacement asset, who will have ownership of the assets to be removed from the Railroad Premises, and in the absence of such written agreement such assets will belong to the Authority. The Operators shall have no other obligations to finance or pay for any capital improvement to the Railroad Premises under the terms of this Agreement.

Section 15. Operators' Obligations. Operators agree that they will at all times during the continuance of this Agreement.

(a) Pay all charges in accordance with Sections 7 and 13 herein, at such time as the same are due and payable, which charges may be recovered by the Authority in the same manner as any charge due or in arrears.

(b) Operate rail freight service in accordance with all federal, state and local requirements and shall be responsible for obtaining all governmental approvals, authorizations, franchises, licenses and permits as may be prerequisite to the rendering of such service.

(c) Observe and comply with any and all requirements of all constituted public authorities and with all federal, state and local statutes, ordinances, regulations and standards applicable to Operators or their use of the Railroad Premises.

(d) Maintain and operate at their own expense the Railroad Premises, including any buildings used or leased by Operators thereon, in good operating condition and repair in a manner consistent with sound, accepted engineering practices and maintain the track in accordance with the provisions of Section 13 of this Agreement. Such operations shall include, but not be limited to, the removal of all wrecks and derailments within thirty (30) days following any such occurrence, restoration of the derailment site to safe operating condition within thirty (30) days following such occurrence, and restoration of a derailment site to its original condition or better within ninety (90) days following the occurrence, subject to the provisions of Sections 13(c) and 17 of this Agreement.

e. Operate rail freight service on lines of the Authority at such levels and at such frequency as reasonably acceptable to the Authority, subject to the following guidelines:

(1) Frequency of Service. The Operators shall provide rail freight service a minimum of twice a week. Nothing herein shall require the Operators to operate a scheduled train when there are no cars to be picked up from or delivered to shippers on the Railroad Premises. The failure to provide rail freight service for ten (10) days (exclusive of Saturdays, Sundays, and Holidays) after need for such rail freight service has been established, according to subsection (e) (2) hereof, shall constitute a breach of this agreement by the Operators.

(2) Shipments destined to and from stations on the Railroad Premises shall be handled in accordance with rail transportation contractors or delivered to consignee not later than the third day (exclusive of Saturdays, Sundays, and Legal Holidays) after arrival of the shipment in the yard serving the line with adequate billing information unless consignee notifies the supervisor in charge of the Operator's Rail Freight Service of the shipment's imminent arrival on the lines of the Operators, in

which case the consignee can request a prompt placement date. The Operators shall exercise reasonable efforts to provide prompt empty car placement whenever the consignor notifies the Operators' supervisor three (3) days prior to the day on which the loaded car(s) shall be placed for loading, specifying the date for the placement of the empty car(s) for movement to the destination. However, nothing in this paragraph contemplates the Operators' providing better levels of rail freight service for certain customers with similar, but not identical, characteristics without collection of the applicable contract or appropriate published charges for such special rail freight service. Nothing in this paragraph precludes the Operators from providing more frequent rail freight service than that agreed upon in accordance with Section 15(e) (1)

(3) Quality of Service: The Operators shall provide safe and efficient rail freight service, including, but not limited to (1) delivery and access to empty rail cars subject to car availability; (2) prompt handling of loaded rail cars with reasonable dispatch to and from points of interchange with other carriers, and (3) maintenance and repairs, snow removal, and clearing of train derailments and wrecks on the Railroad Premises, all as specified in this agreement. The Operators shall provide the name, address, telephone number, and point of contact of the shippers that are served on the Railroad Premises to the Authority within thirty (30) days from the date of execution of this agreement. The Authority will survey shippers during the term of this agreement to determine quality of rail freight service provided by the Operators, provided, however, that such survey shall not seek information concerning confidential rail transportation contracts, rates or price negotiations of rail freight service by any of the Operators or their connecting carriers, and the survey results will be provided to Operators.

(4) Control: The Operators shall have exclusive control of the operation, performance and pricing of the rail freight service, including but not limited to the dispatching and control of trains, assignment of available cars in good order, assignment

of crews and other employees, and assignment and use of power. The Operators shall use their best efforts to provide such rail freight service in an efficient manner.

(5) Operating Rules and Regulations: The Operators shall have the exclusive authority to promulgate and adopt rules, regulations and tariffs that are consistent with regulations issued by the STB and FRA and the provisions of Title 49 United States Code, Subtitle IV, Part A.

(f) Notify the Authority in writing within ten (10) days of any management and supervisory personnel changes. In the event that such employee is no longer part of the Operators' organization, the Operator shall advise the Authority of the action taken to ensure that it will be able to provide rail freight services under this Agreement.

(g) The individual Operator authorized by the STB to provide rail freight services on the rail line on which a claim arises shall fully indemnify, defend and hold harmless the Authority, its members, officers, agents, employees, successors and assigns, from and against all claims and actions up to the Authority's legal obligation to pay any such claims, including the Authority's reasonable attorney's fees and litigation costs and expenses, based upon or arising out of (1) Operator's breach of its obligations under this Agreement; or (2) damage or injuries to persons or property (including the Railroad Premises) caused by the negligence of the involved individual Operator, or its agents, employees, guests, invitees, contractors, suppliers of materials, or furnishers of service in the use and occupancy of the Railroad Premises by the Operator

(h) The individual Operator authorized by the STB to provide rail freight services on the rail line on which a claim arises shall be liable, defend and indemnify the Authority for any damages, harm or injury to the Railroad Premises caused by the negligence of the involved individual Operator, its agents or employees.

(i) All of the Operators shall be jointly and severally responsible to the Authority and defend, indemnify and hold the Authority, its directors, officers and agents harmless from and against any liability arising out of any environmental protection or pollution law, or any liability in tort (strict liability or otherwise), up to the

Authority's legal obligation to pay any such liability, arising out of Environmental Contamination of the Railroad Premises caused by any of the Operators' rail operations or their use of the Railroad Premises.

(j) Maintain a policy or policies of liability insurance to insure itself against liability for injury or damage to persons and property, which policies will be in the minimum amounts set forth below:

<u>Type</u>	<u>Limits</u>
(1) <u>Comprehensive General Liability</u>	
Insuring against claims for	For all claims
(a) Bodily Injury and	\$5,000,000 per
(b) Property Damage	Occurrence, \$25,000
	deductible
(2) <u>Federal Employer's Liability Act</u>	Covered by blanket policy noted in (1)
(3) <u>Cargo Legal Liability</u>	Covered by blanket policy noted in (1)
(4) <u>Foreign Rolling Stock</u>	Covered by blanket policy noted in (1)
(5) <u>Automobile Liability</u>	1,000,000 per occurrence, \$1,000 deductible

(k) Cause the Authority to be named as an additional insured under each such policy (other than Employer's Liability) and furnish the Authority appropriate certificates of such insurance which shall specifically state that the insurance company shall furnish to the Authority at least thirty (30) days notice of any lapse or material changes in such insurance.

(l) Perform marketing and sales activities to promote increased rail traffic to and from the Railroad Premises.

(m) Annually, on the anniversary date of this agreement, provide Authority with the following information, which to the extent possible under applicable law, shall be maintained by the Authority in confidence:

1. Complete listing of names and addresses of all officers, directors and senior management of Operators.
2. Complete listing of names and addresses of all stockholders of Operators, including the total number of shares owned by each stockholder.

(n) Operators hereby covenant and agree to provide one hundred twenty (120) days written notice of any proposed Change in Control of Operators. The Authority shall have the right to approve or disapprove any such Change in Control and shall have the right to terminate this Agreement if any actual Change in Control occurs without Authority approval.

(o) Operators agree to provide and maintain combined unencumbered minimum working capital of fifty thousand dollars (\$50,000.00).

(p) Operators agree to provide and maintain a reserve on deposit with the Authority, of twenty five thousand dollars (\$25,000.00) at all times in addition to the minimum working capital requirements of this section for the purpose of payment of liability claims not otherwise covered by insurance. The said reserve shall be held by the Authority in an interest bearing account, with all interest accruing to the benefit of the Operator. This amount may be reduced or waived upon written approval of the Authority. The Operators shall make an equal deposit to match any withdrawal from this reserve for payment of claims within thirty (30) days thereafter.

(q) Peacefully deliver up and surrender possession of the Railroad Premises to the Authority at the expiration or upon earlier termination of this Agreement.

(r) Upon expiration of this Agreement or termination of this Agreement for any reason, the Operators shall immediately file for discontinuance with the Surface Transportation Board and assist the Authority in making the transition to a new operator. Notwithstanding the foregoing, in the event the Operators contest any asserted termination by reason of default and demand arbitration in accordance with Section 29 of this Agreement, Operators shall not be required to file for discontinuance of rail freight service until such date as such arbitration has been concluded and a determination has been made that Operators have breached the Agreement.

Section 16. Restrictions. Operators further agree that they will not:

(a) Occupy the Railroad Premises in any way or for any purposes unrelated to the provision of rail services on the Railroad Premises;

(b) Assign, mortgage, pledge or encumber the Railroad Premises or any part thereof or assign its obligations under this Agreement without the prior written consent of the Authority;

(c) Permit to be created or knowingly allow to exist upon the Railroad Premises any use or storage (except as necessary for the provision of rail freight services), or the disposal or release of Hazardous Materials, public or private, and Operators shall indemnify and hold harmless the authority and all of its directors, officers, agents and employees, in accordance with Section 15(i). Operators shall comply with all applicable federal, state and local laws, rules and regulations pertaining to air, water, noise and wastes and other pollution or relating to the storage, transport, disposal or release of Hazardous Materials, and shall bear the expense of any and all pollution control structures, devices or equipment which are required during the term of this Agreement under applicable laws, ordinances or governmental regulations as a result of Operator's provision of rail freight services. Operators shall exercise due care in their use and operation of the Railroad Premises, including taking precautions against reasonably foreseeable acts or omissions or the release of Hazardous Materials into the environment.

(d) Institute or conduct rail passenger service over the Railroad Premises without the prior written approval of the Authority in accordance with Section 2;

(e) Except upon the Authority's prior written consent, neither the Operator(s) nor any Affiliate of the Operator(s) shall continue or enter into negotiations or enter into any agreements with any other railroad, including specifically Class I railroads, which in the reasonable opinion of the Authority affects the interests of the Authority, including: (i) the competitive access of the shippers within the constituent counties of the Authority to Class I rail services; (ii) the proper maintenance of the Railroad Premises; or (iii) the carrying out of the Authority's stated mission to preserve rail service in

Central Pennsylvania and to further economic development through the retention, improvement and expansion of the infrastructure.

(f) Enter into a contract or agreement with an Affiliate of the Operators having a value in excess of \$5,000, except upon the Authority's prior written consent, which consent will not be withheld if the transaction is determined by the Authority to be commercially reasonable.

(g) Except upon the Authority's prior written consent, enter into negotiations or agreements with any third parties for the lease or acquisition of rail lines located within the counties comprising the membership of the SEDA-Council of Governments or which directly connect with the Railroad Premises, it being the parties' express understanding that the Authority shall have the first right and option to acquire any such lines.

Section 17. Relationship between Operators and the Authority. Authority is a Pennsylvania municipal authority, and a body corporate and politic. Each of the Operators is a private corporation, an independent contractor, and none of the Operators are agents of the Authority. Except as set forth in Section 15(g) and (h), each of the Operators shall be jointly and severally liable to the Authority for any breach of this Agreement by any single Operator. Whenever Operators require written approval from the Authority, the signature of the Executive Director will suffice to validate such written approval. Whenever the Authority requires written approval from the Operators, the signature of the President of any single Operator will suffice to validate the written approval of each Operator. Operators and the Authority shall meet at least quarterly to review and discuss revenues, costs, operations, maintenance, marketing, and service. Operators shall inform the Authority and affected shippers of any major action or event related to the Railroad Premises that may affect rail freight service to those shippers as soon as Operators know such action or event. The Authority will inform Operators of any problems or concerns related to the rail freight service.

Section 18. Annual Reporting.

(a) Annual Report: The Operators shall prepare an annual report including, at a minimum, 1) the number of revenue producing carloads, 2) the number of reportable accidents as defined by FRA and their location, 3) reportable derailments as defined by FRA and their location, 4) Financial statements audited by an accounting firm acceptable to the Authority, 5) construction and maintenance expenses, 6) FRA and/or Authority inspection reports with corrective action taken or planned, and 7) a report of other occurrences having a significant impact on the condition of the Railroad Premises or the rail traffic handled thereon. An annual report shall cover the Operator's fiscal years or parts of fiscal years from the date of execution of this agreement to its termination. Annual reports shall be submitted to the Authority within three (3) months after the close of each such fiscal year, provided Operators' tax filings are completed by that time and shall be submitted to the Authority subsequent to a deferred tax filing upon completion by Operators' accountant, in which instance a preliminary Report shall be submitted within three (3) months after the close of the Operator's fiscal year.

(b) Audit and Inspection: Upon reasonable notice, the Operator will allow the auditors of the Authority to audit all the records of the Operators that were used to determine the revenues and costs related to the annual report. All such records shall be kept for a period of four (4) years after the issuance of the related annual report. The Operators will also allow inspection of the Railroad Premises and the equipment used thereon by the authorized representatives of the Authority upon reasonable notice.

Section 19. Performance Audit. The Authority may at its expense, from time to time, conduct a performance audit of marketing, operating, maintenance, and other obligations and functions of the Operators.

Section 20. Rents from Non-Operating Properties. The Authority is solely responsible for entering into, extending, or terminating all non-operating leases, licenses, and easements on all Authority property, including the Railroad Premises. The Authority shall receive any and all rents arising from any leases, private crossings, licenses and occupations or renewals thereof

on any portion of the Railroad Premises, including, but not limited to, rents, license fees, crossing fees, easements, and other revenues paid by any party occupying a portion of the Railroad Premises with poles and wire, and rentals and fees for signboards, platform locations, driveways, storage facilities, side tracks, pipe lines, water rights, fiber optics, land rents, building rents and water tank rents, among other things. The Authority shall collect such amounts as they become due. The Authority shall determine the properties classified as "Non-Operating Properties," except that any such designation shall not interfere with Operators' ability to fulfill its obligations under this Agreement. It is expressly agreed that the Authority shall have the unilateral right to withdraw such portions of the Railroad Premises from the provisions of this Operating Agreement as it reasonably determines are not required to enable Operators to fulfill their common carrier obligations and to provide Rail Freight Services to customers under this Agreement.

Section 21. Public Crossings. During the term of this Agreement or any renewal thereof, Operators shall assume and shall indemnify the Authority for and against all obligations with respect to all public crossings by public highways, bridges, or utilities, including such obligations as presently exist or which may be hereinafter imposed under the provisions of Pennsylvania Public Utility Code and any orders issued thereunder with respect to the Railroad Premises except those "non-operating properties" for which the Authority has sole responsibility under Section 20 of this Agreement.

Section 22. Condemnation of Railroad Premises. If the Authority's ownership interest in the Railroad Premises, or any portion thereof, are condemned or taken by any competent authority for public use, the award for payment of damages resulting therefrom, or any amount paid in settlement thereof, shall be paid to and retained by the Authority, except as hereinafter provided. If the Operators' occupancy interest in the Railroad Premises or any portion thereof are condemned or taken by any competent authority for public use, the award or payment of damage resulting or any amount paid in settlement thereof shall be paid to and retained by the Operators. If the entire Railroad Premises are so taken or such substantial part thereof as shall materially impair or interfere with Operators' proper use and enjoyment thereof, this Agreement shall automatically terminate as of the date of the taking. If only

such portion of the Railroad Premises is taken as shall not materially impair or interfere with the Operator's proper use and enjoyment thereof, this Agreement shall continue in full force and effect, and all proceeds of the condemnation award or payment to either party shall first be used as may be required for the restoration of the Railroad Premises in such a manner as will enable the continuing operation thereof for rail freight services hereunder.

Section 23. Breach

(a) Any one or more of the following events shall constitute an event of default (an "Event of Default"):

(i) Operators' failure to pay any Operating Fees to the Authority hereunder within fifteen (15) days of the date due and payable hereunder;

(ii) Operators' failure to observe and perform any of the terms, covenants, conditions, limitation or commitments under this Agreement on Operators' part to be observed or performed (other than payment of Operating Fees) for a period of thirty (30) days following written notice thereof;

(iii) Any of the Operators shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, arrangements, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy or insolvency statute or law (collectively in this Article "insolvency laws"), or shall seek, consent to or acquiesce in the appointment of any bankruptcy or insolvency trustee, receiver or liquidator of any such Operators or of all or any substantial part of their properties;

(iv) The commencement of any action, case or proceeding ("proceeding") against any of the Operators seeking (1) any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any insolvency laws, or (2) the appointment, without the consent or acquiescence of such Operator, of any trustee, receiver or liquidator of Operator or of all or substantially all of its properties, and the proceedings shall continue un-dismissed for a period of sixty (60) days;

(v) Operators shall discontinue service or vacate any portion of the Railroad Premises without the Authority's prior written consent;

(vi) If a federal or state tax Lien is filed against any of the Operators affecting the Railroad Premises and remains undischarged within sixty (60) days after its filing;

(vii) If a final judgment for the payment of money in excess of \$25,000 shall be rendered against any of the Operators and such judgment shall remain undischarged for a period of sixty (60) days during which execution shall not be effectively stayed;

(viii) A Change in Control of any of the Operators shall occur without the Authority's prior written consent

(b) Notwithstanding the provisions of Section 23(a), if any default other than a default in payment is curable, it may be cured (and no Event of Default will be deemed to have occurred) if Operators, after receiving written notice from the Authority demanding cure of such default: (1) either cure the default within thirty (30) days, or (2) if the cure requires more than thirty (30) days, immediately initiate to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical;

(c) In the event any of the Operators commits an Event of Default as provided in Section 23(a), which Event of Default is not timely cured as provided in Section 23(b), in addition to its other rights and remedies available at law or equity, the Authority shall have the immediate right upon written notice to the Operators to terminate this Agreement. In the event of such termination, the Authority will use its best efforts to engage a replacement operator to provide such service. In the event such replacement operator must be subsidized by the Authority, the Authority will bill the Operator for the subsidy amount and the Operator shall remit payment to the Authority in a timely manner for a period not to exceed one (1) year from the date of such termination. However, in the event no operator can be engaged for such purpose, and in the event the Railroad Premises are abandoned by the Authority by reason of such breach, or otherwise terminated by legal action, the Operator shall cooperate fully with the Authority in settling any and all claims sought by any party as a result.

Section 24. Notice. Notice provided for herein shall be sufficient if sent by certified mail postage prepaid, or commercial overnight delivery service requiring execution of a receipt indicating delivery, as follows:

To the Authority:

SEDA-COG JOINT RAIL AUTHORITY
201 Furnace Road
Lewisburg, PA. 17837

To Operators:

North Shore Railroad Company
356 Priestley Avenue
Northumberland, PA 17857

or to such other address as either party may, from time to time designate to the other in writing. It is expressly agreed that notice to any of the Operators provided to the above addressed shall constitute notice to all Operators

Section 25. Regulatory Jurisdiction

(a) This Agreement is subject to the orders, rules and regulations of appropriate regulatory authorities, including the STB and the Pennsylvania Public Utility Commission, having jurisdiction over Operators and the Authority

(b) In the event that either party determines that it is necessary to participate in an administrative or judicial proceeding or to take a position before any governmental body which may affect the interests of the other or the rail freight services provided hereunder, each party shall provide the other party reasonable advance notice of its intent to do so and the nature of the interest or position it will assert. The parties shall use their best efforts to communicate and coordinate their participation and/or positions.

Section 26. Access to Records.

(a) Operator agrees to maintain sufficient records and reports to permit the Authority to fully verify statements of traffic, revenue, and expenditures furnished to the Authority by Operator. The

Authority shall maintain the information contained in such records and reports in confidence to the extent possible under applicable law.

(b) The Authority shall have full access to these records and reports during normal business hours and the right to make copies at the Operators' office upon 48 hours written notice, duly given to Operator.

Section 27. Force Majeure. None of the parties hereto shall be held responsible or liable, either directly or indirectly, or be deemed in default or breach of this Agreement for any loss, damage, injury, delay, failure or inability to meet all or any portion of its commitments hereunder caused by or arising from any cause which is unavoidable or beyond its reasonable control, including without limitation, war, hostilities, invasion, insurrection, riot, terrorist activities the order of any competent civil or military government, explosion, fire, strikes, lockouts, AAR service orders, actions of other carriers that materially affects Operator's operations, labor disputes, perils of water including floods, ice, breakdowns, Acts of God including storms or other adverse weather conditions, washouts, wrecks or derailments that cannot be removed within thirty (30) days pursuant to Section 15(d) or other causes of a similar or dissimilar nature which wholly or partially prevent the Parties or either of them from carrying out the terms of this Agreement, provided that the Party experiencing such force majeure or partial force majeure promptly gives to the other Party written notice that the disabling effect of such force majeure shall be eliminated as soon as and to the extent reasonably possible and that each Party shall have the right to determine and settle any strike, lockout and labor dispute in which that Party may be involved in its sole discretion. In the event that one Party's performance is suspended in whole or in part by force majeure, the other Party's obligation to perform hereunder shall be suspended or commensurately reduced for the duration of the force majeure and for such additional reasonable period as may be required because of the existence of the force majeure. In the event that one party's performance hereunder is suspended by force majeure and cannot be resumed within a reasonable period of time, either party shall have the right to seek STB authorization to abandon and/or seek a discontinuance of service with respect to that portion of the Rail Premises adversely affected by the

force majeure condition and upon receipt of such authorization to terminate this Agreement with respect thereto.

Section 28. Labor Conditions. If during the term of this Agreement or subsequent renewal thereof, any labor protective conditions should be imposed as a result of an STB order or pursuant to the Railway Labor Act, Operator agrees to fully indemnify the Authority from the costs of said labor protective conditions.

Section 29. Arbitration. Any claim or controversy arising under the provisions of this Agreement, or an asserted breach thereof, which cannot be resolved by the parties, shall be settled by arbitration in Lewisburg, Pennsylvania, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration proceeding shall be held in Lewisburg, Pennsylvania. The decision of the arbitrator(s) shall be final and conclusive upon the parties hereto and shall be enforceable in a court of competent jurisdiction. Each party to the arbitration shall pay the compensation costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation costs of the arbitrator(s), if any, shall be borne equally by the parties hereto. The arbitrator(s) shall not have the power to award consequential or punitive damages or to determine violations of criminal law or antitrust law. The arbitrators shall have the right to refer any rail regulatory issues to the STB for an advisory opinion.

Section 30. Successors and Assigns This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. However, this provision shall not be construed to confer on Operators any right or authority to assign all or any part of this Agreement without the Authority's prior consent. It is expressly agreed that the Authority shall have the right to assign its interest in this Agreement to a lending institution for purposes of financial security.

Section 31. Entire Agreement. This Agreement, together with the Agreements described in Section 8, contains the entire understanding of the parties with respect to its subject matter. It is expressly understood that the within Agreement shall supersede and replace the existing Operating Agreements

between the Authority and the Operators, which shall each terminate effective midnight, December 31, 2006. No oral statement or prior written matter shall have any force or effect. The parties hereby acknowledge that they are not relying on any representations or agreements other than those contained in this Agreement and the Agreements described in Section 8. This Agreement shall not be modified except by a written instrument subscribed by both parties hereto.

Section 32. Severability. If any term, covenant, condition or provision (or part thereof) of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision (or remainder thereof) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 33. Nondiscrimination. The Operator shall comply with the nondiscrimination clause attached hereto and incorporated herein as Exhibit D

Section 34. Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have caused this Operating Agreement to be executed by themselves or by their respective duly authorized officers as of the date and year first above written

ATTEST:

By: Donald R. Krome

ATTEST:

By: M. Susan R. Policy
Sec. - Treas.

SEDA-COG JOINT RAIL AUTHORITY

By: Jerry S. Waller

OPERATORS:

LYCOMING VALLEY RAILROAD COMPANY

By: Paul D. Roby, CEO

By: M. M. P. Policy
B.S. - T. U. S.

By: M. M. P. Policy
B.S. - T. U. S.

By: M. M. P. Policy
B.S. - T. U. S.

By: M. M. P. Policy
B.S. - T. U. S.

NITTANY & BALD EAGLE RAILROAD

By: Richard N. Mabe CEO

NORTH SHORE RAILROAD COMPANY

By: Richard N. Mabe CEO

JUNIATA VALLEY RAILROAD COMPANY

By: Richard N. Mabe CEO

SHAMOKIN VALLEY RAILROAD COMPANY

By: Richard N. Mabe CEO

Exhibit A – Railroad Premises

The Railroad Premises shall include all of the property of every kind and description, real, personal, and mixed, including the right-of-way, roadbed, track, track materials, poles, wire lines, signals, and other facilities, buildings, and appurtenances for the following lines, except as otherwise defined or provided for in the Operating Agreement. These Premises are more fully described in certain deeds from the Consolidated Rail Corporation to the Authority.

Nittany & Bald Eagle Railroad

Nittany Main Line from M.P. 1.0W to M.P. 54.3 (Lock Haven to Tyrone)
Gray Yard adjacent to M.P. 222.2 – M.P. 223.2 (Norfolk Southern Pittsburgh line M.P. numbers)
Lock Haven Yard adjacent to M.P. 194.3 – M.P. 195.1 (Norfolk Southern Buffalo line M.P. numbers)
Pleasant Gap Industrial Track from M.P. 0.0 to M.P. 3.0
Bellefonte Branch from M.P. 30.8 to M.P. 42.5 (Milesburg to Lemont)
Bellefonte Sunnyside Yard M.P. 32.4 to M.P. 33.1
"Shop" Track from M.P. 0.0 to M.P. 1.0
All operating remnants of the Mill Hall Industrial Track (N&BE main line M.P. 51.9)

North Shore Railroad

North Shore Railroad from M.P. 213.45 to M.P. 176.97
Berwick Yard M.P. 178.7

Shamokin Valley Railroad

Shamokin Valley Main from M.P. 0.0 to M.P. 25.2
Carbon Run Branch from M.P. 0.0 to M.P. 1.5
SAIC Industrial Park Track from M.P. 0.0 to M.P. 1.0

Lycoming Valley Railroad

Lycoming Secondary from M.P. 199.8 to M.P. 181.1
Newberry Yard M.P. 181.1 to M.P. 179.4
Avis branch from M.P. 179.4 to to M.P. 166.00 at Avis
All operating remnants of the Williamsport Industrial Track
Antlers Running Track M.P. 179.4 to M.P. 178.7

Juniata Valley Railroad

Lewistown Yard M.P. 0.2
Maitland Industrial Track from M.P. 0.0 to M.P. 7.4
Burnham Branch from M.P. 0.0 to M.P. 4.0
MCIDC track

Exhibit B - SEDA-COG JOINT RAIL AUTHORITY Track Maintenance and Safety Standards

CFR Title 49: Transportation, PART 213—Modified TRACK SAFETY STANDARDS

The following subparts have been extracted from the U.S. Department of Transportation's Code of Federal Regulations Title 49: Track Safety Standards - Part 213 and have been modified to provide enhanced track standards to be utilized by the Operator/s for the Railroad Premises owned by the SEDA-COG Joint Rail Authority (JRA). Applicable Subparts that have been modified from the FRA Track Safety Standards for the Authority include the following Subparts: B-Roadbed, C-Track Geometry, D-Track Structure, and E-Track Appliances and Track Related Devices. An additional subpart, JRA Maintenance of Way General Requirements, has been added to include general items pertaining to the Operators' responsibilities to the Authority under the Agreement regarding reporting and Operators' response to identified defects.

Applicable Subparts have been identified with the prefix lettering JRA to distinguish the Subpart from the FRA Track Safety Standards. FRA Subparts not listed or modified have not been incorporated into this document for the sake of brevity. All other FRA Track Safety Standard Subparts, any other Federal, State, or local regulatory requirements and AREMA track standards shall apply to the Railroad Premises and shall be followed by the Operators in the maintenance thereof.

FRA Section Contents Modified for the SEDA-COG Joint Rail Authority

Subpart A—JRA Maintenance of Way General Requirements

- § JRA 200 Operator's Responsibilities.
- § JRA 201 Reporting.
- § JRA 202 Annual M.W. Plan.
- § JRA 203 Response to Identified Defects.

Subpart B—Roadbed

- § JRA 213.31 Scope.
- § JRA 213.33 Drainage.
- § JRA 213.37 Vegetation.

Subpart C—Track Geometry

- § JRA 213.51 Scope.
- § JRA 213.53 Gage.
- § JRA 213.55 Alinement.
- § JRA 213.57 Curves: elevation and speed limitations.
- § JRA 213.59 Elevation of curved track: runoff.
- § JRA 213.63 Track surface.

Subpart D—Track Structure

- § JRA 213.101 Scope.
- § JRA 213.103 Ballast: general.
- § JRA 213.109 Crossties.

- § JRA 213.110 Gage restraint measurement systems.
- § JRA 213.113 Defective rails.
- § JRA 213.115 Rail end mismatch.
- § JRA 213.119 Continuous welded rail (CWR); general.
- § JRA 213.121 Rail joints.
- § JRA 213.122 Torch cut rail.
- § JRA 213.123 Tie plates.
- § JRA 213.127 Rail fastening systems.
- § JRA 213.133 Turnouts and track crossings generally.
- § JRA 213.135 Switches.
- § JRA 213.137 Frogs.
- § JRA 213.139 Spring rail frogs.
- § JRA 213.141 Self-guarded frogs.
- § JRA 213.143 Frog guard rails and guard faces: gage.

Subpart E—Track Appliances and Track-Related Devices

- § JRA 213.201 Scope.
- § JRA 213.205 Derails.

Subpart A—JRA Maintenance of Way General Requirements

Subpart B—Roadbed

§ JRA 213.31 Scope.

This subpart prescribes minimum requirements for roadbed and areas immediately adjacent to roadbed within the Railroad Premises.

§ JRA 213.33 Drainage.

Each drainage or other water carrying facility under or immediately adjacent to the roadbed shall be maintained and kept free of obstruction to accommodate expected water flow for the area concerned.

Special attention shall be given to maintaining drainage flow away from the track structure at turnouts and grade crossings.

§ JRA 213.37 Vegetation.

Vegetation on railroad property which is on or immediately adjacent to roadbed shall be controlled so that it does not—

- (a) Become a fire hazard to track-carrying structures.
- (b) Obstruct visibility of railroad signs and signals:
 - (1) Along the right-of-way, and
 - (2) At highway-rail crossings.
- (c) Interfere with railroad employees performing normal trackside duties.
- (d) Prevent proper functioning of signal and communication lines, or
- (e) Prevent railroad employees from visually inspecting moving equipment from their normal duty stations

Subpart C—Track Geometry

§ JRA 213.51 Scope.

This subpart prescribes requirements for the gage, alignment, and surface of track, and the elevation of outer rails and speed limitations for curved track.

§ JRA 213.53 Gage.

(a) Gage is measured between the heads of the rails at right-angles to the rails in a plane five-eighths of an inch below the top of the rail head.

(b) Gage shall be within the limits prescribed in the following table—

Class of track	The gage must be at least-	But not more than-
Excepted track	NA	4' 10"
Class 1 track	4' 8"	4' 10"
Class 2 and 3 track	4' 8"	4' 9¾"
Class 4 and 5 track	4' 8"	4' 9½"

§ JRA 213.55 Alinement.

Alinement may not deviate from uniformity more than the amount prescribed in the following table:

Class of track	Tangent track	Curved track	
	The deviation of the mid-offset from a 62 foot line ¹ may not be more than - (inches)	The deviation of the mid-ordinate from a 31 foot chord ² may not be more than - (inches)	The deviation of the mid-ordinate from a 62 foot chord ² may not be more than - (inches)
Class 1 track	3	NA ²	3
Class 2 track	2	NA ²	2
Class 3 track	1½	1¼	1½
Class 4 track	1½	1	1½
Class 5 track	¾	½	¾

¹The ends of the line shall be at points on the gage side of the line rail five-eighths of an inch below the top of the railhead. Either rail may be used as the line rail, however, the same rail shall be used for the full length of that tangential segment of track.

²The ends of the chord shall be at points on the gage side of the outer rail, five-eighths of an inch below the top of the railhead.

NA - Not Applicable.

§ JRA 213.57 Curves: elevation and speed limitations.

(a) The maximum crosslevel on the outside rail of a curve may not be more than 6 inches on track Classes 1 and 2; and 6 inches on Classes 3 through 5. Except as provided in §213.63, the outside rail of a curve may not be lower than the inside rail.

(b)(1) The maximum allowable operating speed for each curve is determined by the following formula—

$$V_{\max} = \sqrt{\frac{E_a + 3}{0.0007D}}$$

Where—

V_{\max} = Maximum allowable operating speed (miles per hour).

E_a = Actual elevation of the outside rail (inches).¹

¹ Actual elevation for each 155 foot track segment in the body of the curve is determined by averaging the elevation for 10 points through the segment at 15.5 foot spacing. If the curve length is less than 155 feet, average the points through the full length of the body of the curve.

D = Degree of curvature (degrees).²

² Degree of curvature is determined by averaging the degree of curvature over the same track segment as the elevation.

(2) Table 1 of Appendix A is a table of maximum allowable operating speed computed in accordance with this formula for various elevations and degrees of curvature

(c)(1) For rolling stock meeting the requirements specified in paragraph (d) of this section, the maximum operating speed for each curve may be determined by the following formula—

$$V_{\max} = \sqrt{\frac{E_a + 4}{0.0007D}}$$

Where—

V_{\max} = Maximum allowable operating speed (miles per hour).

E_a = Actual elevation of the outside rail (inches).¹

D = Degree of curvature (degrees).²

(2) Table 2 of Appendix A is a table of maximum allowable operating speed computed in accordance with this formula for various elevations and degrees of curvature.

§ JRA 213.59 Elevation of curved track; runoff.

(a) If a curve is elevated, the full elevation shall be provided throughout the curve, unless physical conditions do not permit. If elevation runoff occurs in a curve, the actual minimum elevation shall be used in computing the maximum allowable operating speed for that curve under §213.57(b).

(b) Elevation runoff shall be at a uniform rate, within the limits of track surface deviation prescribed in §213.63, and it shall extend at least the full length of the spirals. If physical conditions do not permit a spiral long enough to accommodate the minimum length of runoff, part of the runoff may be on tangent track.

§ JRA 213.63 Track surface.

The Operators shall maintain the surface of its track within the limits prescribed in the following table:

Track surface	Class of track				
	1 (inches)	2 (inches)	3 (inches)	4 (inches)	5 (inches)
The runoff in any 31 feet of rail at the end of a raise may not be more than.....	3 ½	3	2	1 ½	1
The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may not be more than.....	2 ¾	2 ¾	2 ¼	2	1 ¼
The deviation from zero crosslevel at any point on tangent or reverse crosslevel elevation on curves may not be more than.....	3	2	1 ¾	1 ¼	1
The difference in crosslevel between any two points less than 62 feet apart may not be more than*	3	2 ¼	2	1 ¾	1 ¼
*Where determined by engineering decision prior to the promulgation of this rule, due to physical restrictions on spiral length and operating practices and experience, the variation in crosslevel on spirals per 31 feet may not be more than.....	2	1 ¾	1 ¼	1	¾

*Except as limited by § 213.57(a), where the elevation at any point in a curve equals or exceeds 6 inches, the difference in crosslevel within 62 feet between that point and a point with greater elevation may not be more than 1 1/2 inches.

²However, to control harmonics on Class 2 through 5 jointed track with staggered joints, the crosslevel differences shall not exceed 1 1/4 inches in all of six consecutive pairs of joints, as created by 7 low joints. Track with joints staggered less than 10 feet shall not be considered as having staggered joints. Joints within the 7 low joints outside of the regular joint spacing shall not be considered as joints for purposes of this footnote.

Subpart D—Track Structure

§ JRA 213.101 Scope.

This subpart prescribes minimum requirements for ballast, crossties, track assembly fittings, and the physical conditions of rails.

§ JRA 213.103 Ballast; general.

Unless it is otherwise structurally supported, all track shall be supported by material which will —

- (a) Transmit and distribute the load of the track and railroad rolling equipment to the subgrade;
- (b) Restrain the track laterally, longitudinally, and vertically under dynamic loads imposed by railroad rolling equipment and thermal stress exerted by the rails;
- (c) Provide adequate drainage for the track; and
- (d) Maintain proper track crosslevel, surface, and alinement.

§ JRA 213.109-A Crossties.

- (a) Crossties shall be made of a material to which rail can be securely fastened.
- (b) Each 39 foot segment of track shall have—

(1) A sufficient number of crossties which in combination provide effective support that will—

- (i) Hold gage within the limits prescribed in §213.53(b).
- (ii) Maintain surface within the limits prescribed in §213.63, and
- (iii) Maintain alinement within the limits prescribed in §213.55.

(2) The minimum number and type of crossties specified in paragraphs (c) and (d) of this section effectively distributed to support the entire segment; and

(3) At least one crosstie of the type specified in paragraphs (c) and (d) of this section that is located at a joint location as specified in paragraph (f) of this section.

(c) Each 39 foot segment of: Class 1 track shall have seven crossties; Classes 2 and 3 track shall have eleven crossties; and Classes 4 and 5 track shall have 14 crossties, which are not:

- (1) Broken or split through;
- (2) Split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners in place;

(3) So deteriorated that the tie plate or base of rail can move laterally more than 1/2 inch relative to the crossties; or

(4) Cut by the tie plate through more than 10 percent of a ties' thickness.

(d) Each 39 foot segment of track shall have the minimum number and type of crossties as indicated in the following table:

Class of track	Tangent track and curves less than or equal to 2 degrees	Turnouts and curved track over 2 degrees
Class 1 track	7	8
Class 2 track	11	13
Class 3 track	11	13
Class 4 and 5 track	14	15

(e) Crossties counted to satisfy the requirements set forth in the table in paragraph (d) of this section shall not be—

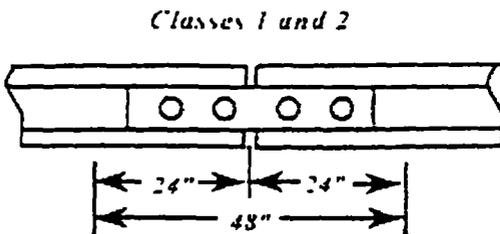
(1) Broken or split through:

(2) Split or otherwise impaired to the extent the crossties will allow the ballast to work through, or will not hold spikes or rail fasteners in place;

(3) So deteriorated that the tie plate or base of rail can move laterally more than 1/2 inch relative to the crossties; or

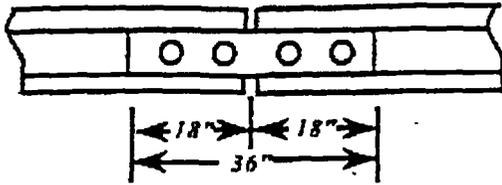
(4) Cut by the tie plate through more than 10 percent of a crosstie's thickness

(f) Class 1 and Class 2 track shall have one crosstie whose centerline is within 24 inches of each rail joint location, and Classes 3 through 5 track shall have one crosstie whose centerline is within 18 inches of each rail joint location or, two crossties whose centerlines are within 24 inches either side of each rail joint location. The relative position of these ties is described in the following diagrams:

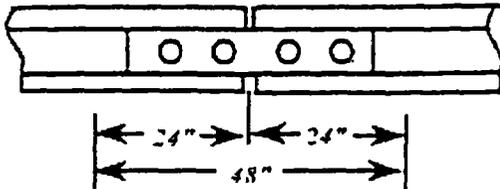


Each rail joint in Classes 1 and 2 track shall be supported by at least one crosstie specified in paragraphs (c) and (d) of this section whose centerline is within 48 inches; shown above.

Classes 3 through 5



Each rail joint in Classes 3 through 5 track shall be supported by either at least one cross-tie specified in paragraphs (c) and (d) of this section whose centerline is within 36&inch; shown above, or:



Two cross-ties, one on each side of the rail joint, whose centerlines are within 24&inch; of the rail joint location shown above.

Curves greater than 2 degrees on Classes 2 through 5 track shall have the high side joints supported by effective ties on each side of the rail joint

(g) For track constructed without cross-ties, such as slab track, track connected directly to bridge structural components, and track over servicing pits, the track structure shall meet the requirements of paragraphs (b) (i) (1), (ii), and (iii) of this section.

§ JRA 213.109-B Switch Timber.

§ JRA 213.113 Defective rails.

(a) When the Operators learn, through inspection or otherwise, that a rail in that track contains any of the defects listed in the following table, a person designated under §213.7 shall determine whether or not the track may continue in use. If he determines that the track may continue in use, operation over the defective rail is not permitted until—

- (1) The rail is replaced; or
- (2) The remedial action prescribed in the table is initiated.

REMEDIAL ACTION

Defect	Length of defect (inches)		Percent of rail head cross-sectional area weakened by defect		If defective rail is not replaced, take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Transverse fracture			20 (10)	50 (25)	E, A2, A
Complete fracture			20 (10)	50 (25)	B, A1, A
Diagonal fracture Explosive fracture Fracture with fish-tail			30 (15)	75 (37.5)	C, D, (All of E and III, (A) or (E and III), (A) or (E and III).
Horizontal split head Vertical split head Split web Splice web Head web separation	1 2 4 (1)	6 12 24 (6)	10 (5)	25 (12.5)	Head E, Head G, E, A
Not a tie crack	1 2 4 (1)	6 12 24 (6)	10 (5)	25 (12.5)	Head E, Head G, E, A
Broken bar	1 2 4 (1)	6 12 24 (6)	10 (5)	25 (12.5)	Head E, Head G, E, A
Highway break			10 (5)	25 (12.5)	D, (A) or (E and III), A or E.
Damaged rail			10 (5)	25 (12.5)	A or E.
Flattened rail	Depth, 1/8 inch Length, 6 inches		10 (5)	25 (12.5)	D, E.

(1) Break out in rail head

Notes A. Assign person designated under §213.7 to visually supervise each operation over defective rail.

A2. Assign person designated under §213.7 to make visual inspection. After a visual inspection, that person may authorize operation to continue without continuous visual supervision at a maximum of 10 m.p.h. for up to 24 hours prior to another such visual inspection or replacement or repair of the rail.

B. Limit operating speed over defective rail to that as authorized by a person designated under §213.7(a), who has at least one year of supervisory experience in railroad track maintenance. The

operating speed cannot be over 30 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

C. Apply joint bars bolted only through the outermost holes to defect within 20 days after it is determined to continue the track in use. In the case of Classes 3 through 5 track, limit operating speed over defective rail to 30 m.p.h. until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower. When a search for internal rail defects is conducted under §213.237, and defects are discovered in Classes 3 through 5 which require remedial action C, the operating speed shall be limited to 50 m.p.h., or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower, for a period not to exceed 4 days. If the defective rail has not been removed from the track or a permanent repair made within 4 days of the discovery, limit operating speed over the defective rail to 30 m.p.h. until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

D. Apply joint bars bolted only through the outermost holes to defect within 10 days after it is determined to continue the track in use. In the case of Classes 3 through 5 track, limit operating speed over the defective rail to 30 m.p.h. or less as authorized by a person designated under §213.7(a), who has at least one year of supervisory experience in railroad track maintenance, until joint bars are applied; thereafter, limit speed to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

E. Apply joint bars to defect and bolt in accordance with §213.121(d) and (e).

F. Inspect rail 90 days after it is determined to continue the track in use.

G. Inspect rail 30 days after it is determined to continue the track in use.

H. Limit operating speed over defective rail to 50 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

I. Limit operating speed over defective rail to 30 m.p.h. or the maximum allowable speed under §213.9 for the class of track concerned, whichever is lower.

(b) As used in this section—

(1) *Transverse fissure* means a progressive crosswise fracture starting from a crystalline center or nucleus inside the head from which it spreads outward as a smooth, bright, or dark, round or oval surface substantially at a right angle to the length of the rail. The distinguishing features of a transverse fissure from other types of fractures or defects are the crystalline center or nucleus and the nearly smooth surface of the development which surrounds it.

(2) *Compound fissure* means a progressive fracture originating in a horizontal split head which turns up or down in the head of the rail as a smooth, bright, or dark surface progressing until substantially at a right angle to the length of the rail. Compound fissures require examination of both faces of the fracture to locate the horizontal split head from which they originate.

(3) *Horizontal split head* means a horizontal progressive defect originating inside of the rail head, usually one-quarter inch or more below the running surface and progressing horizontally in all

directions, and generally accompanied by a flat spot on the running surface. The defect appears as a crack lengthwise of the rail when it reaches the side of the rail head.

(4) *Vertical split head* means a vertical split through or near the middle of the head, and extending into or through it. A crack or rust streak may show under the head close to the web or pieces may be split off the side of the head.

(5) *Split web* means a lengthwise crack along the side of the web and extending into or through it.

(6) *Piped rail* means a vertical split in a rail, usually in the web, due to failure of the shrinkage cavity in the ingot to unite in rolling.

(7) *Broken base* means any break in the base of the rail.

(8) *Detail fracture* means a progressive fracture originating at or near the surface of the rail head. These fractures should not be confused with transverse fissures, compound fissures, or other defects which have internal origins. Detail fractures may arise from shelly spots, head checks, or flaking.

(9) *Engine burn fracture* means a progressive fracture originating in spots where driving wheels have slipped on top of the rail head. In developing downward they frequently resemble the compound or even transverse fissures with which they should not be confused or classified.

(10) *Ordinary break* means a partial or complete break in which there is no sign of a fissure, and in which none of the other defects described in this paragraph (b) are found.

(11) *Damaged rail* means any rail broken or injured by wrecks, broken, flat, or unbalanced wheels, slipping, or similar causes

(12) *Flattened rail* means a short length of rail, not at a joint, which has flattened out across the width of the rail head to a depth of $\frac{3}{8}$ inch or more below the rest of the rail. Flattened rail occurrences have no repetitive regularity and thus do not include corrugations, and have no apparent localized cause such as a weld or engine burn. Their individual length is relatively short, as compared to a condition such as head flow on the low rail of curves.

(13) *Bolt hole crack* means a crack across the web, originating from a bolt hole, and progressing on a path either inclined upward toward the rail head or inclined downward toward the base. Fully developed bolt hole cracks may continue horizontally along the head/web or base/web fillet, or they may progress into and through the head or base to separate a piece of the rail end from the rail. Multiple cracks occurring in one rail end are considered to be a single defect. However, bolt hole cracks occurring in adjacent rail ends within the same joint must be reported as separate defects.

(14) *Defective weld* means a field or plant weld containing any discontinuities or pockets, exceeding 5 percent of the rail head area individually or 10 percent in the aggregate, oriented in or near the transverse plane, due to incomplete penetration of the weld metal between the rail ends, lack of fusion between weld and rail end metal, entrainment of slag or sand, under-bead or other shrinkage cracking, or fatigue cracking. Weld defects may originate in the rail head, web, or base, and in some cases, cracks may progress from the defect into either or both adjoining rail ends.

(15) *Head and web separation* means a progressive fracture, longitudinally separating the head from the web of the rail at the head fillet area.

§ JRA 213.115 Rail end mismatch.

Class of track	Any mismatch of rails at joints may not be more than the following -	
	On the tread of the rail ends (inches)	On the gage side of the rail ends (inches)
Class 1 track	1/4	1/4
Class 2 track	1/4	3/16
Class 3 track	3/16	3/16
Class 4 and 5 track	1/8	1/8

§ JRA 213.119 Continuous welded rail (CWR); general.

Each Operator with track constructed of CWR shall have in effect and comply with written procedures which address the installation, adjustment, maintenance, and inspection of CWR, and a training program for the application of those procedures, which shall be submitted to the Federal Railroad Administration. FRA reviews each plan for compliance with the following—

(a) Procedures for the installation and adjustment of CWR which include—

(1) Designation of a desired rail installation temperature range for the geographic area in which the CWR is located, and

(2) De-stressing procedures/methods which address proper attainment of the desired rail installation temperature range when adjusting CWR

(b) Rail anchoring or fastening requirements that will provide sufficient restraint to limit longitudinal rail and crosstie movement to the extent practical, and specifically addressing CWR rail anchoring or fastening patterns on bridges, bridge approaches, and at other locations where possible longitudinal rail and crosstie movement associated with normally expected train-induced forces, is restricted

(c) Procedures which specifically address maintaining a desired rail installation temperature range when cutting CWR including rail repairs, in-track welding, and in conjunction with adjustments made in the area of tight track, a track buckle, or a pull-apart. Rail repair practices shall take into consideration existing rail temperature so that—

(1) When rail is removed, the length installed shall be determined by taking into consideration the existing rail temperature and the desired rail installation temperature range; and

(2) Under no circumstances should rail be added when the rail temperature is below that designated by paragraph (a)(1) of this section, without provisions for later adjustment.

(d) Procedures which address the monitoring of CWR in curved track for inward shifts of alignment toward the center of the curve as a result of disturbed track.

(e) Procedures which control train speed on CWR track when—

(1) Maintenance work, track rehabilitation, track construction, or any other event occurs which disturbs the roadbed or ballast section and reduces the lateral or longitudinal resistance of the track; and

(2) In formulating the procedures under this paragraph (e), the track owner shall—

(i) Determine the speed required, and the duration and subsequent removal of any speed restriction based on the restoration of the ballast, along with sufficient ballast re-consolidation to stabilize the track to a level that can accommodate expected train-induced forces. Ballast re-consolidation can be achieved through either the passage of train tonnage or mechanical stabilization procedures, or both; and

(ii) Take into consideration the type of crossties used.

(f) Procedures which prescribe when physical track inspections are to be performed to detect buckling prone conditions in CWR track. At a minimum, these procedures shall address inspecting track to identify—

(1) Locations where tight or kinky rail conditions are likely to occur;

(2) Locations where track work of the nature described in paragraph (e)(1) of this section have recently been performed; and

(3) In formulating the procedures under this paragraph (f), the track owner shall—

(i) Specify the timing of the inspection, and

(ii) Specify the appropriate remedial actions to be taken when buckling prone conditions are found.

(g) The Operators shall have in effect a comprehensive training program for the application of these written CWR procedures, with provisions for periodic re-training, for those individuals designated under §213.7 of this part as qualified to supervise the installation, adjustment, and maintenance of CWR track and to perform inspections of CWR track.

(h) The Operators shall prescribe record keeping requirements necessary to provide an adequate history of track constructed with CWR. At a minimum, these records must include:

(1) Rail temperature, location, and date of CWR installations. This record shall be retained for at least one year; and

(2) A record of any CWR installation or maintenance work that does not conform with the written procedures. Such record shall include the location of the rail and be maintained until the CWR is brought into conformance with such procedures.

(i) As used in this section—

(1) *Adjusting/de-stressing* means the procedure by which a rail's temperature is re-adjusted to the desired value. It typically consists of cutting the rail and removing rail anchoring devices, which provides for the necessary expansion and contraction, and then re-assembling the track.

(2) *Buckling incident* means the formation of a lateral mis-alignment sufficient in magnitude to constitute a deviation from the Class 1 requirements specified in §213.55 of this part. These normally occur when rail temperatures are relatively high and are caused by high longitudinal compressive forces.

(3) *Continuous welded rail (CWR)* means rail that has been welded together into lengths exceeding 400 feet.

(4) *Desired rail installation temperature range* means the rail temperature range, within a specific geographical area, at which forces in CWR should not cause a buckling incident in extreme heat, or a pull-apart during extreme cold weather.

(5) *Disturbed track* means the disturbance of the roadbed or ballast section, as a result of track maintenance or any other event, which reduces the lateral or longitudinal resistance of the track, or both

(6) *Mechanical stabilization* means a type of procedure used to restore track resistance to disturbed track following certain maintenance operations. This procedure may incorporate dynamic track stabilizers or ballast consolidators, which are units of work equipment that are used as a substitute for the stabilization action provided by the passage of tonnage trains.

(7) *Rail anchors* means those devices which are attached to the rail and bear against the side of the crosstie to control longitudinal rail movement. Certain types of rail fasteners also act as rail anchors and control longitudinal rail movement by exerting a downward clamping force on the upper surface of the rail base.

(8) *Rail temperature* means the temperature of the rail, measured with a rail thermometer

(9) *Tight/kinky rail* means CWR which exhibits minute alignment irregularities which indicate that the rail is in a considerable amount of compression.

(10) *Train-induced forces* means the vertical, longitudinal, and lateral dynamic forces which are generated during train movement and which can contribute to the buckling potential.

(11) *Track lateral resistance* means the resistance provided to the rail/crosstie structure against lateral displacement.

(12) *Track longitudinal resistance* means the resistance provided by the rail anchors/rail fasteners and the ballast section to the rail/crosstie structure against longitudinal displacement.

§ JRA 213.121 Rail joints.

(a) Each rail joint, insulated joint, and compromise joint shall be of a structurally sound design and dimensions for the rail on which it is applied.

(b) If a joint bar on Classes 3 through 5 track is cracked, broken, or because of wear allows excessive vertical movement of either rail when all bolts are tight, it shall be replaced.

(c) If a joint bar is cracked or broken between the middle two bolt holes it shall be replaced.

(d) In the case of conventional jointed track, each rail shall be bolted with at least two bolts at each joint in Classes 2 through 5 track, and with at least one bolt in Class 1 track.

(e) In the case of continuous welded rail track, each rail shall be bolted with at least two bolts at each joint.

(f) Each joint bar shall be held in position by track bolts tightened to allow the joint bar to firmly support the abutting rail ends and to allow longitudinal movement of the rail in the joint to accommodate expansion and contraction due to temperature variations. When no-slip, joint-to-rail contact exists by design, the requirements of this paragraph do not apply. Those locations, when over 400 feet in length, are considered to be continuous welded rail track and shall meet all the requirements for continuous welded rail track prescribed in this part.

(g) No rail shall have a bolt hole which is torch cut or burned in Classes 2 through 5 track.

(h) No joint bar shall be reconfigured by torch cutting in Classes 3 through 5 track.

§ JRA 213.122 Torch cut rail.

(a) Except as a temporary repair in emergency situations, no rail having a torch cut end shall be used in Classes 3 through 5 track. When a rail end is torch cut in emergency situations, train speed over that rail end shall not exceed the maximum allowable for Class 2 track. For existing torch cut rail ends in Classes 3 through 5 track the following shall apply—

(1) Within one year of July 1, 2007, all torch cut rail ends in Class 5 track shall be removed;

(2) Within two years of July 1, 2007, all torch cut rail ends in Class 4 track shall be removed, and

(3) Within one year of July 1, 2007, all torch cut rail ends in Class 3 track over which regularly scheduled passenger trains operate, shall be inventoried by the track owner.

(b) Following the expiration of the time limits specified in paragraphs (a)(1), (2), and (3) of this section, any torch cut rail end not removed from Classes 4 and 5 track, shall be removed within 30 days of discovery. Train speed over that rail end shall not exceed the maximum allowable for Class 2 track until removed.

§ JRA 213.123 Tie plates.

(a) In Classes 2 through 5 track where timber cross-ties are in use there shall be tie plates under the running rails on all ties.

(b) In Classes 3 through 5 track no metal object which causes a concentrated load by solely supporting a rail shall be allowed between the base of the rail and the bearing surface of the tie plate.

§ JRA 213.127 Rail fastening systems.

Track shall be fastened by a system of components which effectively maintains gage within the limits prescribed in §213.53(b). Each component of each such system shall be evaluated to determine whether gage is effectively being maintained.

§ JRA 213.133 Turnouts and track crossings generally.

(a) In turnouts and track crossings, the fastenings shall be intact and maintained so as to keep the components securely in place. Also, each switch, frog, and guard rail shall be kept free of obstructions that may interfere with the passage of wheels.

(b) Classes 3 through 5 track shall be equipped with rail anchoring through and on each side of track crossings and turnouts, to restrain rail movement affecting the position of switch points and frogs. (c) Each flangeway at turnouts and track crossings shall be at least 1 1/2 inches wide.

(d) Turnouts shall be level laterally and properly anchored.

§ JRA 213.135 Switches.

(a) Switch points shall match flush to the stock rails with full bearing on all plates. Stock rail or switch point (lip) overflow shall be ground periodically to maintain flush closure of the switch point. Each stock rail must be securely seated in switch plates, but care shall be used to avoid canting the stock rail by overtightening the rail braces.

(b) All plates shall lie flat on all switch timber with braces drawn tight and secure without displacing the "seating" of the stock rail.

(b) Each switch point shall fit its stock rail properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail in the switch plates or of a switch plate on a tie shall not adversely affect the fit of the switch point to the stock rail. Broken or cracked switch point rails will be subject to the requirements of §213.113, except that where remedial actions C, D, or E require the use of joint bars, and joint bars cannot be placed due to the physical configuration of the switch, remedial action B will govern, taking into account any added safety provided by the presence of reinforcing bars on the switch points.

(c) Each switch shall be maintained so that the outer edge of the wheel tread cannot contact the gage side of the stock rail.

(d) The heel of each switch rail shall be secure with a complete set of all heel block bolts secured and the bolts in each heel shall be kept tight.

(e) Each switch stand and connecting rod shall be securely fastened and operable without excessive lost motion.

(f) Each throw lever shall be maintained so that it cannot be operated with the lock or keeper in place. Keepers shall be tightly secured to the headblock timber so there is no more than 1/8-inch movement in the keepers when the throw lever is manipulated.

(g) Each switch position indicator shall be clearly visible at all times.

(h) Unusually chipped or worn switch points shall be repaired or replaced. Metal flow shall be removed to insure proper closure. Switch points that are worn in excess of six inches back and 5/8" below the running surface of the stock rail shall be replaced if located on Main Line track. Welding switch points at the point of switch to the head separation shall not be permitted on Main Line Track. Switch points may be welded at the points to the head separation by a qualified track welder on Branch Lines, Industrial Tracks, and in Yards. Rail-end battered switch heels may be welded by a qualified track welder on all track.

(i) Immediate protection and prompt corrective action shall be taken if a switch point is found to stand open more than 3/16 - inch or if a switch point is found to have an unprotected flat vertical surface of 5/16-inch or more in width at a depth of 5/8-inch below the running surface of the stock rail.

(j) Tongue & Plain Mate switches, which by design exceed Class 1 and excepted track maximum gage limits, are permitted in Class 1 and excepted track

(k) All fastenings shall be properly torqued and secured.

§ JRA 213.137 Frogs.

(a) The flangeway depth measured from a plane across the wheel-bearing area of a frog on Class 1 track shall not be less than 1 3/8 inches, or less than 1 1/2 inches on Classes 2 through 5 track

(b) If a frog point is chipped, broken, or worn more than five-eighths inch down and 6 inches back, operating speed over the frog shall not be more than 10 m.p.h.

(c) If the tread portion of a frog casting is worn down more than three-eighths inch below the original contour, operating speed over that frog shall not be more than 10 m.p.h.

(d) Where frogs are designed as flange-bearing, flangeway depth may be less than that shown for Class 1 if operated at Class 1 speeds.

§ JRA 213.139 Spring rail frogs.

(a) The outer edge of a wheel tread shall not contact the gage side of a spring wing rail.

(b) The toe of each wing rail shall be solidly tamped and fully and tightly bolted.

(c) Each frog with a bolt hole defect or head-web separation shall be replaced.

(d) Each spring shall have compression sufficient to hold the wing rail against the point rail.

(e) The clearance between the holddown housing and the horn shall not be more than one-fourth of an inch.

§ JRA 213.141 Self-guarded frogs.

- (a) The raised guard on a self-guarded frog shall not be worn more than three-eighths of an inch.
- (b) If repairs are made to a self-guarded frog without removing it from service, the guarding face shall be restored before rebuilding the point.

§ JRA 213.143 Frog guard rails and guard faces; gage.

The guard check and guard face gages in frogs shall be within the limits prescribed in the following table—

Class of track	Guard check gage The distance between the gage line of a frog to the guard line ¹ of its guard rail or guarding face, measured across the track at right angles to the gage line ² , may not be less than -	Guard face gage The distance between guard lines ¹ measured across the track at right angles to the gage line ² , may not be more than -
Class 1 track	4' 6 1/4"	4' 5 1/8"
Class 2 track	4' 6 1/4"	4' 5 1/8"
Class 3 and 4 track	4' 6 3/8"	4' 5 1/8"
Class 5 track	4' 6 1/2"	4' 5"

¹ A line along that side of the flangeway which is nearer to the center of the track and at the same elevation as the gage line

² A line 5/8 inch below the top of the center line of the head of the running rail, or corresponding location of the tread portion of the track structure

Exhibit C – Operating Fees

On the fifteenth (15th) day of each month following the execution of this Agreement, Operator shall pay to the Authority the following:

(a) Gross Freight Revenues : For the period beginning January 1, 2007, until June 30, 2007, an amount equal to five (5%) percent of the gross freight revenues received by Operator during the previous calendar month. For the period beginning July 1, 2007 and continuing through the remainder of the term of the Operating Agreement, an amount equal to ten (10%) percent of the gross freight revenue received by Operator during the previous calendar month. "Gross Freight Revenues" shall include all freight revenue settlements with the Class 1 carriers, and local freight charges. Excluded from this definition are Operators' revenues received for demurrage, car repairs, car hire, car usage and car cleaning and repair or maintenance of track off of the Railroad Premises

(b) Car Storage Twenty five (25%) percent of the car storage rentals received by Operator during the preceding calendar month.

(c) LVRR Scale. The Authority has installed a scale in the Newberry Yard, Williamsport, Pennsylvania. The Authority and the Operator agree that such scale will be made available for use by customers of the Operator in weighing such inbound and/or outbound materials as required by such customers, provided that the Operator shall pay to the Authority \$5.00 per each carload weighed on the said scale. Operator shall be solely responsible for the maintenance and repair of the said scale during the term of the Operating Agreement and will be liable, defend and indemnify the Authority for any damages, harm, or injury to the scale caused by the negligence of the Operator, its agents, or employees. Operator shall have the right to charge its customers such amounts as it determines for use of such scale

(d) NBER Main Trackage Rights: The Authority and Operator have executed a certain agreement with Norfolk Southern (referred to herein as the "Trackage Rights Agreement") providing for the grant of trackage rights to Norfolk Southern on portions of both the Nittany and Bald Eagle and Lycoming Valley Railroads (the "Subject Trackage") in consideration of the payment to Operator of compensation (referred

to as "Current Charges") as set forth in Sections 4 and 5 of said Trackage Rights Agreement. The parties agree that Operator shall be entitled to receive all compensation payable by Norfolk Southern pursuant to said Agreement; provided, however, that in addition to the Operating Fees to be paid to the Authority pursuant to Exhibit C of this Agreement, Operator agrees to pay to the Authority fifteen (15%) percent of all such compensation received by it from Norfolk Southern under the terms of the said Trackage Rights Agreement.

Exhibit D - Anti-Discrimination Clause

During the term of the Operating Agreement, the Operators, pursuant to Presidential Executive Order No. 11246, agree as follows:

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any subcontract, the Operator, subcontractor, or any person acting on behalf of the Operator or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Operator nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Agreement on account of gender, race, creed, or color.
- c. The Operator and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated, and employees who practice it will be disciplined.
- d. The Operator shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the Agreement relates.
- e. The Operator and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Authority for the purpose of investigation to ascertain compliance with the provisions of this Anti-Discrimination Clause.
- f. The Operator shall include the provisions of this Anti-Discrimination Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. The Authority may cancel or terminate the Agreement, and all money due or to become due from the Authority under the Agreement may be forfeited upon a final determination by an administrative agency or court of the operator's noncompliance with the terms and conditions of this Anti-Discrimination Clause.

Recent News

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Regional Rail System is Recognized for Business Development

For the second year in a row, Central Pennsylvania's system of short line railroads has received three awards from Norfolk Southern (NS), the major Class I railroad that serves much of the eastern United States. Awards were distributed at NS's recent short line conference in Roanoke, VA. NS connects with over 250 short lines including the five in Central Pennsylvania, all of which are owned by the SEDA-COG Joint Rail Authority (JRA):

- Juniata Valley Railroad
- Lycoming Valley Railroad
- Nittany & Bald Eagle Railroad
- North Shore Railroad
- Shamokin Valley Railroad

North Shore Railroad Systems, the private firm which operates the JRA's lines, received Norfolk Southern's Platinum Award for exceeding its carload goals for 2007. Last year, all the short lines that are connected with NS committed to adding at least 250 additional carloads. The JRA's five lines actually exceeded its goal by over a thousand.

Lycoming Valley Railroad (LVRR) received a NS business development award for a new liquid propane terminal, owned by UGI Energy Services, at the Newberry rail yard in Williamsport. The project grew out of discussions between UGI and Todd Hunter, LVRR's Marketing Director. Propane is shipped to the site via LVRR and offloaded into a bank of three 90,000 gallon horizontal storage tanks.

A business development award was also presented to the Nittany & Bald Eagle (NBER) for routing assistance it provided to NS. NS lacked a contiguous north-south route for shipments of sand. NBER provided the necessary link between Tyrone and Lock Haven.

No other short line operator received as many awards as North Shore Railroad Systems. Last year, North Shore and the JRA received NS's General Managers Award plus awards for Marketing Initiative and Industrial Development.

SEDA-COG Joint Rail Authority
Short Line Tax Credit Policy
November 14, 2007

Over the past two years, the SEDA-COG Joint Rail Authority (JRA) has discussed the Federal Short Line Tax Credit in regular session and informally. This tax credit was passed to foster short line track improvements nationally and increase railroads' investments in track rehabilitation. In 2006, staff recognized a need to have an agreement in place to ensure any use of the tax credit would be for the JRA's lines. Below is a recommended policy relative to this issue:

- Short line tax credit benefits go to the betterment of JRA lines.
- The JRA must be fully informed relative to the operator's proposed use, allocation, or sale of tax credits applicable to the JRA lines.
- The JRA must be provided details of the tax credit application as part of any sale of the operator's companies or assets.
- Use of the tax credit must be agreed to jointly between the JRA and operator.
- Discussion of existing, or future, tax credits shall be part of the quarterly meetings specified in the operating agreement between the JRA and operator.

Background Information-excerpts from the minutes of the SEDA-COG Joint Rail Authority:

November 9, 2005

Mr. Robey distributed the traffic data and financials for the five (5) Authority railroads. He also discussed the track maintenance federal tax credit. The allowed amount could be \$675,000 - \$700,000 a year over the next three (3) years for the five (5) Authority railroads. The problem is that the railroads do not generate enough tax to use this credit. However, the tax credit can be passed on to vendors and contractors who provide track maintenance related services, but the process of how to do this is not yet defined. Mr. Robey is also trying to determine if these tax credits can be passed on to the Authority in place of the local match for projects. The tax credits can be carried forward for the next 20 years.

March 8 2006

Federal Track Maintenance Tax Credit

Mr. Jim Bowers, CPA discussed this tax credit and responded to questions from board and staff.

Mr. Robey made a proposal to the Board: for the next two (2) years the Authority should ask vendors and contractors to provide bids using tax credits and take advantage of whatever amount of the tax credit that we can, and the rest would go to the operator. Mr. Walls asked if Mr. Robey would then use this benefit for further maintenance. Mr. Robey responded he would like the benefit of the rest that the Authority cannot use. Mr. Fernsler suggested letting the operator take all the credits and then give 20% back to the Authority after three (3) years. Attorney O'Brien countered that we do not know if the operator can take all the credits. Mr. Robey added that the Authority may be able to generate additional credits he cannot. The Board wants to ensure that the tax credits are actually used for track maintenance and upgrades.

Mr. Stover stated that there should be an agreement showing that the intent of the tax credit is for track maintenance upgrades. If the operator sells his company, the credits should stay with the company. If the Authority would change operators, the credits would need to be pro-rated.

Mr. Rumberger ruled that the tax credit issue will be handled by the Operating Agreement Committee, with Mr. Jones, Mr. Bowers, and Attorney O'Brien as advisors to the Committee.

Subj: 45G Tax Credit
Date: 1/4/2008 2:08:56 PM Eastern Standard Time
From: rwilson@atlanticbbn.net
To: SSHurvitz@mqlaw.com
CC: rrobey@ptd.net, wilsonesq1@aol.com

Steve:

I have checked with Dick Robey and it appears that the parties are not inclined to disclose their 45G designation agreement to the Rail Authority which is subject to Sunshine Act requirements, especially prior to IRS review of the transaction. As we previously discussed, IRS regs clearly state that an "assignment" of track miles (not the tracks themselves) is only a designation for purposes of making the 45G credit available to eligible rail shippers or suppliers, and does not involve the transfer of any interest in the tracks themselves. Dick has advised the Authority that the agreement is limited to a designation of track miles solely for purposes of 45G, thus there is no transfer of any JRA property interest as a result of the transfer of the tax credits.

While we understand the Board's interest in this transaction, I would point out that the tax credit was enacted by the Congress to create an incentive for Class II and III railroads to undertake necessary track maintenance expenditures and not defer maintenance on those lines. As you know, under the JRA Operating Agreement, the operating railroads have agreed to maintain JRA's tracks in accordance with the elevated maintenance standards set forth in the operating contract and are doing so. Thus the operating railroads have fully met their track maintenance obligations to JRA at levels that already exceed rail industry maintenance standards. As intended by Congress, the tax credit has thus enabled the operating railroads to undertake this enhanced level of track maintenance to the benefit of JRA's track facilities. Thus, JRA has and will continue to receive the full benefit of enhanced track maintenance as a direct result of the 45G tax credit legislation, but there is no statutory or contractual provision that grants JRA any interest in the proceeds of the transfer tax credits by the operating railroads.

Very truly yours,
Dick Wilson

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RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

127 Lexington Avenue, Suite 100

Altoona, PA 16601

(814) 944-5302

888-454-3817 (Toll Free)

(814) 944-6978 FAX

rrwilson@atlanticbbr.net - Email

www.rrwilsonesq.com - Website

Of Counsel to:

Vuono & Gray LLC

2310 Grant Building

Pittsburgh, PA 15219

(412) 471-1800

(412) 471-4477 FAX

851 Twelfth Street

Oakmont, PA 15139

August 21, 2008

Steven Hurvitz, Esq.

811 University Drive

State College, PA 16801-6699

Re: Section 45G Track Maintenance Agreement

Dear Steve:

The purpose of this letter is to propose a procedure by which you and Keith O'Brien, Esq. as attorneys for the SEDA-COG Joint Rail Authority (JRA"), can review the redacted provisions of a track maintenance agreement executed by North Shore Railroad Company and its affiliated lines with a shipper/customer in order to utilize the track maintenance tax credit afforded to Class III common carrier short lines railroads under IRS Code section 45G. The redacted material will be limited to the identity of the shipper/customer.

The track maintenance agreement contains a confidentiality provision which precludes any public release, announcement or statement regarding the agreement or the transaction contemplated thereunder without the prior written consent of the parties to the agreement. Accordingly, consistent with that provision, North Shore Railroad Company and its affiliated lines are willing to make this Agreement available solely to you and Attorney O'Brien, as counsel for the JRA on a confidential basis so you can examine the text of the agreement to render a legal opinion to the JRA as to whether the assignment of railroad track miles for purposes of claiming the tax credit under IRS Code Section 45G. results in or constitutes a default or violation of the operator's obligations under the operating agreement with the JRA. My clients, of course, believe that this assignment does not constitute a default or violation and they would have to contest any determination to the contrary.

Under these arrangements, we understand that you will not release the track maintenance agreement to the JRA Board or staff and upon completion of your examination of the agreement, you will return all copies of it to North Shore Railroad Company counsel. Furthermore, we understand that your examination of this agreement will be limited to rendering the above legal opinion and that your legal opinion will be communicated solely to the JRA board members and its executive director in executive session. To the extent permitted by applicable law, you will maintain the contents of the agreement in confidence, and will refuse to provide a copy of the same to third parties seeking disclosure of the same under the Pennsylvania Right to Know Act.

Steven Hurvitz, Esq.
August 21, 2008
Page 2

65 P.S. §66.1. In the event you receive a formal request for disclosure under the Right to Know Act, you will notify us of such request and permit us an opportunity to intervene in any administrative, judicial or quasi judicial proceedings seeking to require public disclosure of the agreement. We further understand that unless otherwise required by a court of competent jurisdiction, your legal opinion will be discussed and considered by the JRA Board and staff in executive session pursuant to 65 Pa. C.S.A/ §708(1), (4) and/or (5).

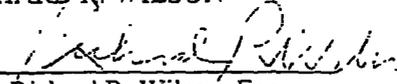
Finally, these arrangements pertain only to the confidential treatment to be accorded the track maintenance agreement to facilitate your review of that document on behalf of JRA and nothing contained herein shall be deemed or construed to constitute any agreement with or acceptance by north Shore Railroad Company and its affiliated lines of any legal opinion or conclusions rendered by you to JRA and North Shore Railroad Company and its affiliated lines expressly reserves all of their legal rights with respect thereto.

If these arrangements are acceptable to you, to Attorney O'Brien and to the JRA, please have this letter executed by Attorney O'Brien, yourself and your client and return it to me in the enclosed self-addressed, envelope provided for that purpose. I will then forward a copy of the redacted track agreement to your for your review.

Very truly yours,

RICHARD R. WILSON

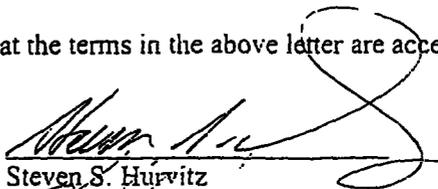
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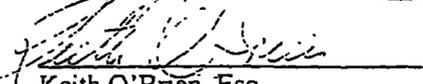

Richard R. Wilson, Esq.
Attorney for North Shore Railroad Company
and Affiliated Rail Lines

We the undersigned, hereby acknowledge that the terms in the above letter are acceptable and we agree to be bound.

Date: _____

September 3, 2008


Steven S. Hurvitz


Keith O'Brien, Esq.

SEDA COG JOINT RAIL AUTHORITY

By: _____

Steven Hurvitz, Esq.
August 21, 2008
Page 2

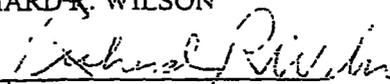
65 P.S. §66.1. In the event you receive a formal request for disclosure under the Right to Know Act, you will notify us of such request and permit us an opportunity to intervene in any administrative, judicial or quasi judicial proceedings seeking to require public disclosure of the agreement. We further understand that unless otherwise required by a court of competent jurisdiction, your legal opinion will be discussed and considered by the JRA Board and staff in executive session pursuant to 65 Pa. C.S.A/ §708(1), (4) and/or (5).

Finally, these arrangements pertain only to the confidential treatment to be accorded the track maintenance agreement to facilitate your review of that document on behalf of JRA and nothing contained herein shall be deemed or construed to constitute any agreement with or acceptance by north Shore Railroad Company and its affiliated lines of any legal opinion or conclusions rendered by you to JRA and North Shore Railroad Company and its affiliated lines expressly reserves all of their legal rights with respect thereto.

If these arrangements are acceptable to you, to Attorney O'Brien and to the JRA, please have this letter executed by Attorney O'Brien, yourself and your client and return it to me in the enclosed self-addressed, envelope provided for that purpose. I will then forward a copy of the redacted track agreement to your for your review.

Very truly yours,

RICHARD R. WILSON

By: 

Richard R. Wilson, Esq.

Attorney for North Shore Railroad Company
and Affiliated Rail Lines

We the undersigned, hereby acknowledge that the terms in the above letter are acceptable and we agree to be bound.

Date: Sept 3, 2008

Steven S. Hurvitz

Keith O'Brien, Esq.

SEDA COG JOINT RAIL AUTHORITY

By: 

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851 Twelfth Street
Oakmont, PA 15139

September 17, 2008

Steven Hurvitz, Esq.
811 University Drive
State College, PA 16801-6699

Re: Section 45G Track Maintenance Agreement

Dear Steve:

We are in receipt of the executed letter of understanding dated August 21, 2008 and accordingly, I am forwarding for your review consistent with the terms of that letter, a redacted copy of the track maintenance agreement executed by North Shore Railroad Company and its affiliated lines with a shipper/customer under the provisions of Section 45G of the Internal Revenue Code.

If you have any questions in connection with the terms of this agreement, please contact me.

Very truly yours,

RICHARD R. WILSON



Richard R. Wilson, Esq.
Attorney for North Shore Railroad Company
and Affiliated Rail Lines

RRW/bab
Enclosure
xc: North Shore Railroad Company
Keith O'Brien, Esq.

RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

518 N. Center Street, Ste. 1

Ebensburg, PA 15931

(814) 419-8152

888-454-3817 (Toll Free)

(814) 419-8156 FAX

rwilson@rrwilson.net - Email

www.rrwilsonesq.com - Website

Of Counsel to:

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851 Twelfth Street
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July 30, 2009

Steven Hurvitz, Esq.
McQuaide, Blasko, Fleming & Faulkner, Inc.
811 University Drive
State College, PA 16801-6699

Re: Section 45G Track Maintenance Tax Credit - Document Review

Dear Steve:

You recently requested that I contact my client North Shore Railroad Company and affiliated lines ("Operators") and determine whether or not they would be willing to release the 2006-2007 Track Maintenance Agreement for review by Attorney Jack Stover on behalf of the SEDA-COG Joint Rail Authority under the same confidentiality agreement which we used to make that document available to you and Attorney Keith O'Brien for a similar review last year. In discussing this matter with my client, he expressed several reservations and concerns regarding this request which I will share with you in order to determine whether or not we can reach an agreement on satisfactory arrangements for Attorney Stover's review of the Track Maintenance Agreement.

As you recall, the confidentiality arrangements negotiated with you and Attorney O'Brien were intended primarily to protect the commercial confidentiality of that agreement and the sale of tax credits covered by that agreement while limiting its dissemination to counsel for JRA and precluding public dissemination under various statutory provisions to which JRA is subject. Your review of the agreement was limited solely to the question of whether or not the assignment of track miles for purposes of Section 45G of the Internal Revenue Code constituted as assignment which required JRA approval under the 2006 Operating Agreement and for no other purpose. Since you and Keith O'Brien represented JRA in connection with the current operating agreement negotiations, you were both fully knowledgeable concerning the intent of the parties in connection with the negotiations that resulted in the Operating Agreement. Furthermore, you were also familiar with the background of those negotiations and the fact that no provision of the Operating Agreement addressed Section 45G tax credits which were then pending before Congress. Moreover, under the terms of the Operating Agreement, the JRA is not an operating common carrier railroad and is not an eligible tax payer for purposes of Section 45G of the Internal Revenue Code. Finally, under Section 45G the "assignment" of track miles

Steven Hurvitz, Esq.
July 30, 2009
Page 2

as used in the IRS regulations conveys no interest in railroad property and is used solely for purposes of calculating the permissible tax credit.

Given these facts and whatever advice you and Keith provided to the Rail Authority in connection with your review of the Track Maintenance Agreement, my clients are concerned that the JRA has sought further legal advice in connection with this matter not from an attorney with a tax or rail background but from a high profile litigator. I recognize that Attorney Stover may be only the initial point of contact at Buchanan Ingersoll in connection with a review of the Track Maintenance Agreement by other attorneys within the firm, but I think you will recognize it is equally possible that the JRA is looking for legal advice that will bolster its assertions repeatedly expressed in meetings with my clients that a portion of the tax credit proceeds should be paid to JRA not withstanding its ineligibility to receive tax credit proceeds under the Internal Revenue Code and the absence of any provision in the Operating Agreement concerning the sale of track maintenance tax credits.

As you may be aware, our clients have recently initiated an informal dialogue to address issues of credibility and trust in connection with information provided under the Operating Agreement by the Operators to JRA. Likewise, in this situation, the Operators have issues of credibility and trust regarding the intentions of the JRA and do not wish to place themselves in a position where the JRA might seek to utilize the threat of litigation to exact from the Operators a portion of past or future tax credit sale proceeds to which JRA is not entitled.

Accordingly, to avoid litigation and as a demonstration of "trust building" my clients after giving this matter thoughtful consideration, will agree to release the Track Maintenance Agreement to Attorney Stover on the following conditions:

1. Attorney Stover's review of the Track Maintenance Agreement will be subject to the same terms and conditions as set forth in our confidentiality letter of August 21, 2008;
2. JRA must agree to indemnify, defend and hold harmless the Operators and the other parties to the Track Maintenance Agreement for any adverse financial consequences or damages arising from the disclosure and/or review of the Track Maintenance Agreement or from any adverse action or determination taken by the IRS or other government agency based on, arising from, or as a result of the review of this agreement by JRA counsel;
3. JRA must waive any claims against the Operators or other parties to the Track Maintenance Agreement arising from or based on any opinion or advice rendered by JRA counsel with respect to the Section 45G sale of track maintenance tax credits; and
4. My clients will be provided with a copy of any opinion letters or legal memoranda from yourself, Attorney O'Brien, Attorney Stover, or members of his firm concerning this matter.

Steven Hurvitz
July 30, 2009
Page 3

JRA's agreement to these conditions will assure that everybody's cards are placed face up on the table and that we can address the respective positions of the parties in an atmosphere of trust and cooperation rather than under a cloud of potential litigation.

Once you have had an opportunity to discuss these matters with your client, please let me know how you wish to proceed.

Very truly yours,

RICHARD R. WILSON, PC

A handwritten signature in cursive script, appearing to read "Richard R. Wilson", is written over a horizontal line.

Richard R. Wilson, Esq.

Attorney for North Shore Railroad Company
Nittany & Bald Eagle Railroad Company
Lycoming Valley Railroad Company
Juniata Valley Railroad Company
Shamokin Valley Railroad Company

RRW/bab



MCQUAIDE BLASKO

ATTORNEYS AT LAW

811 University Drive, State College, Pennsylvania 16801-6699
Additional offices in Hershey and Hollidaysburg

(814) 238-4926

FAX (814) 234-5620
www.mqblaw.com

August 5, 2009

Via First Class Mail

Richard R. Wilson, Esquire
127 Lexington Avenue
Suite 100
Altoona, PA 16601

In Re: Seda-Cog Joint Rail Authority Section 40(C)(G) Track Maintenance Tax Credit – Document Review

Dear Dick:

I received your letter of July 30, 2009 and have had an opportunity to discuss the same with my client. While we take issue with your characterization of certain of the facts serving as a background to the execution of the Operating Agreement, we see no benefit of entering into a dialog with respect to our client's differing perspectives.

The Authority has engaged Attorney Stover for the purpose of securing legal advice with respect to its rights and obligations under the Operating Agreement. In addition to issues related to your client's sale of the Section 45(G) Sale of Track Maintenance Tax Credits, the Authority is seeking Attorney Stover's advice with respect to your client's recent request for a change in control. Attorney Stover is unable to provide the requested advice until he is afforded the opportunity to review all relevant documents, including the Track Maintenance Agreement.

A requirement that the Authority waive any claims against the operators or other parties to the Track Maintenance Agreement as a condition to permitting review of the document is unacceptable. Furthermore, it is inappropriate for either party to be expected to provide to the other copies of confidential legal opinions.

We are requesting that your client reconsider its position and permit Attorney Stover to review the Track Maintenance Agreement under the same conditions as were imposed by your letter of August 21, 2008. Absent that approval, Attorney Stover will be providing opinions to the Authority without knowledge of all the facts. Furthermore, absent Attorney Stover's review of the Track Maintenance Agreement, the Authority will not be able to address your client's pending request for change in control.

MCQUAIDE, BLASKO, FLEMING & FAULKNER, INC.

State College Office John W. Blasko, R. Mark Faulkner, David M. Wexel, Steven S. Hurvitz, James M. Horne, Wendell V. Courtney, Darryl R. Slimak, Mark Righter, Daniel E. Bright, Janine C. Gismondi, John A. Snyder, April C. Simpson, Allen P. Noely, Katherine V. Oliver, Katherine M. Allen, Wayac L. Mowery, Jr., Chena L. Glenn-Hart, Lavina N. Oluwole, Cristin R. Long, Anthony A. Simon, Dominick J. Muracco, Amanda L. Seelye, Thomas S. Schrack, Aaron T. Brooks, Philip K. Miles, III, Ashley D. Cooper, Suzette V. Sims

Hershey Office Grant H. Fleming, Maureen A. Gallagher, Michael J. Mohr, Jonathan B. Stepanian, Erin K. Dragann

Hollidaysburg Office Thomas M. Reese, J. Benjamin Yeager, Sean M. Burke, Michael P. Routh

John G. Love (1893-1966), Roy Wilkinson, Jr. (1915-1995), Delbert J. McQuaide (1936-1997)

Exhibit H

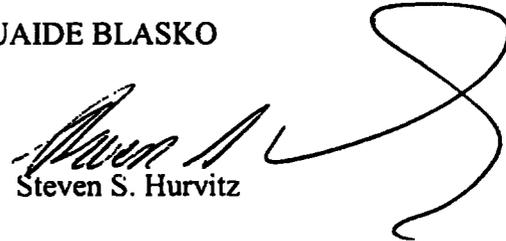
Richard R. Wilson, P.C.
August 5, 2009
Page 2

Please get back to me with your response after you have had an opportunity to more fully discuss this matter with your client.

Very truly yours,

MCQUAIDE BLASKO

By:


Steven S. Hurvitz

SSH:jhb

cc: Jeffrey R. Stover, Director
Jack M. Stover, Esquire

RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

518 N. Center Street, Ste. 1

Ebensburg, PA 15931

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August 17, 2009

Steven S. Hurvitz, Esq.

McQuaide, Blasko, Fleming & Faulkner, Inc.

811 University Drive

State College, PA 16801-6699

BY E-MAIL (SSHurvitz@mqblaw.com)

Re: SEDA-COG Joint Rail Authority Section 45(g) Track Maintenance Tax Credit
– Document Review

Dear Steve:

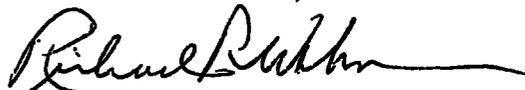
I am in receipt of your letter of August 5, 2009 concerning the proposals advanced by my clients for providing outside counsel access to the proprietary and confidential Track Maintenance Agreement used by my clients to sell their 2006-2007 Track Maintenance Tax Credits under Section 45(g) of the Internal Revenue Code. Since our goal is to avoid a dispute with JRA over these issues, I forwarded your letter to Mr. Robey and he has asked me to consider if there are alternative or less restrictive arrangements under which we can reach an arrangement with JRA concerning your review of the Track Maintenance Agreement. I am currently in the process of examining various possibilities, researching their ramifications and then I will provide Dick with appropriate guidance and recommendations.

As I am sure you realize, this is a sensitive matter for my clients and we must be certain that any action taken in an effort to accommodate JRA's request does not create potential problems for other parties with whom my clients have contractual obligations as well.

Accordingly, once I have had an opportunity to complete my review of these issues and discuss them with my clients, I will be able to provide a further response to your letter of August 5, 2009.

Very truly yours,

RICHARD R. WILSON, P.C.



Richard R. Wilson, Esq.

RRW/klw/72780

cc: Richard D. Robey

From: Stover, Jeff [mailto:JStover@seda-cog.org]
Sent: Wednesday, September 02, 2009 3:18 PM
To: Richard Robey; Jeff Pontius; Gary Shields
Cc: Jerry Walls; Fury, George; Aikey, Kay; James A. Spendiff
Subject: Proposed Language for Operating Agreement

Dick,

You had asked for some suggested language that would pertain to the federal short line tax credit and would amend the existing Operating Agreement. The following would receive JRA support:

Section 16. Restrictions. Operators further agree that they will not:

(new h) Claim, use, transfer or assign any right or interest in federal, state or local tax credits, loans, grants or other incentives available to Operators with respect to expenses incurred in the maintenance or improvement of the Railroad Premises, including without limitation on tax credits available under Section 45G of the Internal Revenue Code, except upon the Authority's prior written consent."

Please let me know your thoughts.

jsk

Jeff Stover
Executive Director
SEDA-COG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17837
570-524-4491
570-524-9190 (F)
570-847-9503 (M)
www.sedacograil.org

"The path of progress takes the form more of a winding mountain trail than a laser" Anon

November 6, 2009

Mr. Jeffery K. Stover
Executive Director
SEDA-CoG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17837

Dear Jeff:

Please refer to your September 2nd e-mail to me regarding suggested language to amend our Operating Agreement to deal with Operator tax credit use.

I understand the Rail Authority's motivation in asking for this amendment. The Authority has a substantial capital project program which it is endeavoring to finance. However, I respectfully suggest that this amendment would be an inappropriate regulatory intrusion by a municipal authority into the financial affairs of private railroad corporations. Current federal legislation provides for tax credits only to private for-profit railroad corporations.

I understand that other municipal rail line owners are seeking federal funding from the Obama Administration's Economic Stimulus Fund Program rather than by contract amendment with their operations. This appears to be the path that the Rail Authority could follow—seeking direct federal infrastructure funding applicable only to governmental agencies. Since the world of municipally owned rail lines is much smaller than the private corporation short line railroad world, a focused federal funding program for those governmental entities would be a more appropriate way to address those needs. Moreover, the Obama Administration has already shown that it is looking favorably on this type of funding by its recent grants to municipal transit agencies.

By agreeing to have its Operators assume all track maintenance responsibility for JRA owned track under enhanced track maintenance standards contained in Exhibit B of our Operating Agreement which substantially exceed previously required FRA track maintenance standards, the JRA already receives and has received a significant annual financial investment in its lines from its Operating Railroad Companies. The increased track maintenance expenditures incurred by the JRA

Operating Railroads under the current existing agreement are rendered affordable by the availability of transferable tax credits. This is especially true as we have seen our freight revenue decline in the last eighteen months. If our railroad companies were not to have full use of their tax credits, it might become necessary to institute surcharges to our shippers to pay for our enhanced track maintenance responsibilities under the Operating Agreement.

It also appears that the adoption of this contract amendment would produce future problems for the Rail Authority. Future potential operators, especially those with the best operating competencies, will be unreceptive to such a provision in the Operating Agreement. And if the Rail Authority were to offer different Operating Agreements to different parties it would create significant problems of inappropriate discrimination among its bidders.

So, for the above reasons, I think it is accurate to state that the Rail Authority has already obtained the benefit of the six years of tax credits obtained by its Operators because of the amount our Operating Companies have spent maintaining and upgrading the Rail Authority Premises. Accordingly, I must respectfully decline the Rail Authority's suggested tax credit amendment to our Operating Agreement.

Very truly yours,

Richard D. Robey
Chairman & CEO



SEDA-COG JOINT RAIL AUTHORITY MEETING
WEDNESDAY, NOVEMBER 11, 2009
NEWBERRY YARD, WILLIAMSPORT, PA
11:45 P.M.

PRESERVING
RAIL FREIGHT
SERVICE

AUTHORITY MEMBERS PRESENT

- John Gummo, Clinton County
- Scott Harvey, Lycoming County
- Mike Hawbaker, Centre County
- Bud Henry, Columbia County
- Tom Herman, Montour County
- Rick Jenkins, Columbia County
- Don Kramer, Clinton County
- Michael Krentzman, Mifflin County,
- Dennis Reitz, Northumberland County
- John Showers, Union County
- Dennis Shaffer, Union County
- John Sychalski, Centre County
- Jerry Walls, Lycoming County

GUESTS PRESENT

- Tom Avery, Railroad Operating Companies
- Al Bubb, NRI-IS
- Todd Hunter, Railroad Operating Companies
- Mark Murawski, Lycoming County
- Russ Nicodemus, Railroad Operating Companies
- Nikki Reedy, Railroad Operating Companies
- Dick Robey, Railroad Operating Companies
- Mimi Robey, Railroad Operating Companies
- Gary Shields, Railroad Operating Companies
- Pete Simcox, Railroad Operating Companies
- Job Stotter, Railroad Operating Companies
- Diana Williams, Railroad Operating Companies

STAFF PRESENT

- Steve Hurvitz, Esq., McQuaide Blasko Law Offices
- Kay Aikey
- George Fury
- Steve Kusheloff
- Jeff Stover

ADMINISTRATIVE ITEMS

Call to Order

Mr. Walls called the meeting to order at 11:45 p.m.

**SEDA-COG JOINT
RAIL AUTHORITY**

201 Furnace Rd
Lewisburg
PA 17837

(570) 524-4491
fax 524-9190

jra@seda-cog.org
<http://jra.seda-cog.org>



Pledge of Allegiance

Mr. Walls led the Pledge of Allegiance.

Mr. Walls stated that Mr. Redin resigned from the SEDA-COG Joint Rail Authority.

Mr. Jenkins made a motion that the Executive Director prepare appropriate resolution and plaque to acknowledge Mr. Redin's service; Mr. Kramer seconded the motion; motion carried.

Mr. Walls welcomed new board member, Dr. John Spychalski who was appointed November 10, 2009 by the Centre County commissioners. Introduction of board members, staff, and guests followed.

Mr. Stover stated that Rob Postal will be appointed November 12, 2009 to represent Mifflin County due to the vacancy caused by Jim Spendiff's resignation.

Approval of the October 14, 2009, Meeting Minutes of the SEDA-COG Joint Rail Authority

Mr. Herman made a motion to approve the October 14, 2009 meeting minutes of the SEDA-COG Joint Rail Authority; Mr. Henry seconded the motion; motion carried.

Treasurer's Report

Mr. Reitz presented the Treasurer's Report for the month of October 2009

Mr. Harvey made a motion to approve the Treasurer's Report for the month of October 2009; Mr. Spychalski seconded the motion; motion carried.

Legal Issues

Attorney Hurvitz stated that Attorney Schrack is continuing to work with Mr. Furry on property issues.

Mr. Walls asked the status of the action to quiet title in Williamsport. Attorney Hurvitz stated it stands in limbo; waiting on a proposal from the plaintiff/property owner terminating the litigation.

Events Calendar/Projects Map/Staff Report

Mr. Stover presented the events calendar for November and December, the projects map, and staff report

Mr. Stover reported that with the discharge of Jeff Pontius from North Shore Railroad, the Authority may want to consider a resolution of contribution of Jeff's services to rail service in the region and to the Authority.

Mr. Spychalski made a motion to authorize the Executive Director to prepare and develop appropriate appreciation of resolution to Mr. Pontius; Mr. Henry seconded the motion; motion carried.

Mr. Walls asked Mr. Hunter to update board members on his working with the Williamsport-Lycoming Industrial Properties Corporation on future rail served industrial parks. Mr. Hunter will share his presentation on Marcellus shale business development as it affects the railroads at the December meeting.

The meeting was recessed at 12:07 p.m. for lunch; the meeting reconvened at 12:45 p.m.

Operator's Status Report and Business Forecast

Mr. Robey referred to the Operator's Report included in the packet.

Mr. Walls asked Mr. Simcox if the 2009 maintenance of way program has been achieved. Mr. Simcox replied it is about 95% achieved. Mr. Simcox reported on the types of improvements that were made for the "Unstoppable" movie that would represent permanent maintenance of way improvements.

PROPERTY MANAGEMENT COMMITTEE

Allegheny Power Easement (NBER)

Mr. Fury reported that Allegheny Power is seeking approval of an overhead wire occupation of the NBER Main near Port Matilda. All JRA design requirements have been met for this routine utility occupation. The utility is prepared to pay the easement cost of \$8,593.75.

Mr. Spychalski made a motion to authorize the JRA officers to execute the Deed of Easement for this transverse overhead occupation upon receipt of payment from the utility; Mr. Hawbaker seconded the motion; motion carried.

OLD BUSINESS

JRA RFAP (LVRR/NSHR Bridges Project) Change Order

Mr. Fury reviewed the 2009 Rail Freight Assistance Program Budget provided as a handout. Mr. Walls explained the work on the 2009 Rail Freight Assistance Program has been properly authorized.

Mr. Shaffer will work with Mr. Stover to set up a Capital Budget Committee meeting to further discuss and resolve the issue of the PPI contribution being applied toward maintenance on the North Shore Railroad.

Mr. Hetman made a motion to approve the JRA match for the 2009 Rail Freight Assistance Program projects in the amount of \$89,100.00 with a Joint Rail Authority overmatch of \$331.50; Mr. Reitz seconded the motion; motion carried.

Newberry South Change Orders

Mr. Stover stated there are some change orders which have been approved by Larson Design Group that need Board approval. The contract amount was increased by \$4,631.50 based on these changes.

Mr. Shaffer made a motion to approve the set of change orders for Newberry South in the amount of \$4,631.50; Mr. Kramer seconded the motion; motion carried.

Mr. Stover stated there is a change order in the amount of \$9,919.00 which will be borne by Bulkmatic for the installation of a flow meter, plumbing and electric to the manhole locations.

Mr. Reitz made a motion to approve the change order for Newberry South in the amount of \$9,919.00 to be recovered by Bulkmatic; Mr. Shaffer seconded the motion; motion carried with Mr. Hawbaker abstaining.

Other

Mr. Walls stated that he will be updating committee assignments in December and asked that if any board member is interested in volunteering to serve on the Property Management Committee, Capital Budget Committee, or Operating Agreement Committee to let him know

Mr. Walls appointed Mr. Henry as chair of the Nominating Committee and asked the following board members to serve on the committee: Mr. Showers and Mr. Kramer. The Nominating Committee will present a slate of officers at the December 9, 2009 meeting.

Operator's Change of Control

Mr. Robey stated that the request he made to the Rail Authority was to restructure the seven separate corporations by folding them into Susquehanna Union Railroad, a holding company which has been in existence for a couple of years.

Mr. Walls called for an executive session at 1:27 p.m. to discuss the Operator's Change of Control.

Mr. Walls reconvened the regular meeting at 2:45 p.m.

Mr. Walls stated that the purpose of the Executive Session was to discuss the Operator's requested change in control and matters related to that.

Mr. Krentzman made a motion that the Joint Rail Authority reject the proposed Operator's Change of Control; Mr. Hawbaker seconded the motion; motion carried.

Mr. Robey requested if it would be possible for the board to give a reason for the disapproval of the Operator's Change of Control. Mr. Walls replied that the contract does not require the Authority to disclose a reason, but in the interest of going forward and getting this resolved, the Operating Agreement Committee will meet to be definitive as to what will be required of the Operator and then a meeting will be set up with the Operator to outline what will be required.

Mr. Robey stated that what he is proposing is not actually a change of control and that there is some question as to the appropriateness of the clause in the Operating Agreement about necessity of board approval for a change in control.

Attorney Hurvitz responded that he is of the opinion that it is a change of control as defined under the agreement. Whether or not it is appropriate is a question that it goes along with other provisions in the agreement that may or may not be appropriate that were agreed upon and it is clear in the Agreement that the Authority has the right to reject any requested change of control.

Public Forum

No comments from the public.

ADJOURNMENT

Mr. Walls adjourned the meeting at 2:55 p.m.

Respectfully submitted,

Jeffery K. Stover, Executive Director

I hereby certify these minutes were approved by the SEDA-COG Joint Rail Authority Board of Directors on December 9, 2009.

Secretary/Assistant Secretary

FINANCIAL STATEMENT
November 2009



**PRESERVING
RAIL FREIGHT
SERVICE**

Balance - October 2009
Checking/Investment
Money Market

\$918,928.55
\$142,139.47
\$ 1,061,068.02

Cash Receipts - November 2009

Nittany & Bald Eagle Railroad (engine house rent)	\$1,050.00
Juniata Valley Railroad (engine house rent)	\$500.00
North Shore Railroad (operating fees)	\$121,374.14
Genismore Trucking (2009 rent)	\$638.89
MilTech Services (right-of-way maps)	\$1,000.00
Nittany Oil Company (application fee)	\$200.00
PennDOT (JVRR South Pine St. signals)	\$186,950.00
PennDOT (Newberry South Capital Grant)	\$868,947.03
Croda (local share)	\$26,136.49
Bell Lumber & Pole (lease agreement)	\$10,357.70
George Andreykovich (Rail Freight seminar)	\$60.00
Jersey Shore State Bank (loan payout for Newberry project - October reimbursement)	\$430,296.39
Interest - Checking	\$3,717.93

\$1,651,228.57

Cash Disbursements - November 2009

Kay Aukey (travel expense)	\$84.84
Frank Dombroski (travel expense)	\$23.23
John Gummo (travel expense)	\$54.54
Scott Harvey (travel expense)	\$31.31
George Henry (travel expense)	\$39.39
Rick Jenkins (travel expense)	\$30.81
Donald Kramer (travel expense)	\$52.52
Michael Krentzman (travel expense)	\$75.75
Mike Redin (travel expense)	\$57.57
Denny Reitz (travel expense)	\$23.74
Dennis Shaffer (travel expense)	\$10.10
Jerry Walls (travel expense)	\$130.29
Buchanan, Ingersoll & Rooney (legal)	\$1,343.00
City of Williamsport (Kennedy-King advertising/engineering)	\$8,700.00
Daily Item (advertising)	\$76.20
Eastern Grade Crossing Seminars (registration reimbursement)	\$200.00
Hepco Construction (Newberry South)	\$215,692.47
Hillas-Carnes Engineering (consulting - Newberry South)	\$557.37
Korean War Veterans of Lycoming County (donation)	\$100.00
Jersey Shore State Bank (credit card pmt)	\$336.97
Journal of Commerce (reference materials)	\$146.00
Larson Design Group (Newberry South)	\$3,132.81
Lycoming Valley Railroad (CP River Bridge navigation lights)	\$1,821.56
McCarthy Rail Insurance Managers (insurance)	\$24,642.00
Nittany Bald Eagle Railroad (Walnut St. crossing)	\$5,000.00
Pegasus Wedding & Party Rental (Newberry South dedication rentals)	\$138.72
PII. (former Marine Corps League building)	\$11.54
SEDA-COG (staff services, printing, ITG)	\$49,804.75
Susan Stover (meetings)	\$298.75
UGI-PNG [PG Energy] (former Marine Corps League bldg)	\$13.25
Voided check (Rail Freight Seminar reimb)	(270.00)
Loan Payment (Jersey Shore)	\$13,672.34
Loan Payment (PIB loan - Aug thru Oct)	\$6,324.06
Loan Payment (M&I)	\$1,651.91

\$334,007.79

BALANCE - November 2009
Checking/Investment
Money Market

\$2,236,149.33
\$142,139.47

\$2,378,288.80

* Reimbursable Items

**SEDA-COG JOINT
RAIL AUTHORITY**

201 Furnace Rd
Lewisburg
PA 17837

(570) 524-4491
fax: 524-9190

jra@seda-cog.org
<http://jra.seda-cog.org>



December 8, 2009



Mr. Dick Robey
North Shore Railroad System
356 Priestley Avenue
Northumberland, PA 17857

Dear Dick,

**PRESERVING
RAIL FREIGHT
SERVICE**

servicing the counties of

Centre

Clinton

Columbia

Lycoming

Mifflin

Montour

Northumberland

Union

On November 11, 2009, the SEDA-COG Joint Rail Authority voted to reject your request for a change of control as defined in our standing Operating Agreement. The matter has been referred to the Rail Authority's Operating Agreement Committee chaired by Michael Krentzman; he will contact you in the near future.

The board has since been approached by two of your senior managers expressing concern that the November action demonstrates a lack of confidence in the team of shareholders that were standing by to become minority owners in the operating companies and Rail Scavengers. Attached is a copy of a letter to you dated June 24, 2009. Please review the second paragraph which deals with this situation. As you can see, Jeff Stover formally let you know that the board had no objections to the senior management becoming partial owners. Note that his letter asked you to relay that sentiment to your team. We can only assume that was not done.

A second important point both you and the prospective shareholders need to know is the JRA intends on issuing a Request for Proposals (RFP) approximately 18-24 months prior to the current operating agreement's expiration in mid-2017. This group needs to assess whether their collective ownership equity at the expiration of the current contract will be a bankable enterprise to compete effectively for a new agreement. **By this letter, I request that you convey to the appropriate individuals both of these items of information and that you confirm your follow-up at the December 9, 2009 meeting.** The JRA wants to assure the prospective new owners of the operations will be successful.

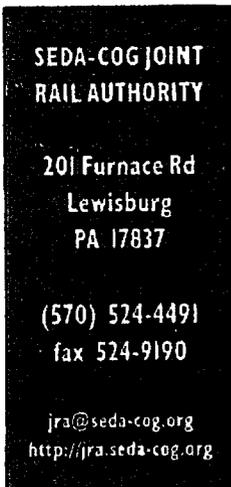
The only item before the board at this moment is your proposed change of control related to Susquehanna Union. Despite recent contact to us from your senior managers related to a subsequent sale to them, the JRA does not have in hand a sales proposal from you. In the event you pursue approval to sell the companies, I am enclosing a copy of a comprehensive list of questions and required information for the seller and buyer to provide as a complete package to the JRA. Most of the items on the list were conveyed to you in 2008 by Jim Spendiff. Please respond item by item. Please share this letter and attachments with the prospective shareholders.

Sincerely,

Jerry S. Walls
Chairman

cc: SEDA-COG Joint Rail Authority Board Members
Gary Shields, North Shore Railroad

Enclosures



Affiliated with
SEDA Council of Governments

SEDA-COG Joint Rail Authority
December 8, 2009

Information that shall be requested by the Authority when asked to consider a 'Change of Control' of the contract operator shall include, but is not necessarily limited to, the following:

1. Evidence of an agreement between buyer and seller(s)

2. Questions for Seller:

A. Terms of Sale

Who will buy what, when? What corporate entities (Operating Railroad, Rail Scavengers, Susquehanna Union Railroad Company, or other entity) are included in the sale agreement? How will the sale(s) be structured (sale of stock or assets)? When will sale(s) be executed?

[When will change of control take place?]

B. What does Susquehanna Union Railroad Company own? Who owns this holding company?

C. What third party approvals, (E.G. S'IB, JRA, PUC, bank) are required?

D. What "Tax Credits" are carried forward by each JRA railroad, and how will these be treated in the sale?

E. Have tax credits been transferred between the companies, and how was this accomplished?

F. Are there any other understandings, representations, or agreements between the buyer and seller(s)

3. Questions for Buyer(s): (A meeting with the buyer(s) will be scheduled)

A. Background experience for conducting rail freight operations and maintenance

Knowledge

Experience

Financial Information

B. How will purchase be financed? (Sources of buyer financing?)

C. How will purchase be structured? (Will a separate entity be formed for purchase?)

D. Corporate and ownership structure after purchase? (Who will make decisions?)

E. Any changes in management and/or workforce contemplated?

F. Are there any understandings, representations, or agreements between the buyers that are not included in the purchase and sale agreement?

G. Financial projections trending from the most recent three years.

- 3-5-7 year cash flows and pro formas
- Balance sheet before and after purchase
- 3 years income statements and balance sheets with account detail and cost and pricing assumptions.
- Schedule of ownership which clearly defines the bankability of transaction at conclusion of current operating agreement.

(Will need to see books of company acquiring JRA contract railroads)

(Will need to know interest payments and debt of holding company)



June 24, 2009

**PRESERVING
RAIL FREIGHT
SERVICE**

servicing the counties of

Centre
Clinton
Columbia
Lycoming
Mifflin
Montour
Northumberland
Union

**SEDA-COG JOINT
RAIL AUTHORITY**

201 Furnace Rd
Lewisburg
PA 17837

(570) 524-4491
fax 524-9190

jra@seda-cog.org
<http://jra.seda-cog.org>

Mr. Richard Robey
356 Priestley Avenue
Northumberland, PA 17857

Dear Dick:

You are aware that the SEDA-COG Joint Rail Authority has agreed to engage a special legal counsel relative to the Operating Agreement and tax credit issues. An attorney in Harrisburg, Mr. Jack Stover (no relation to me) of the firm Buchanan, Ingersoll and Rooney has been engaged. He may be in contact with you or Attorney Wilson at some point. His selection will be ratified at the July 8 board meeting. Since Mr. Stover has just been selected, we are not likely to have any opinion until mid to late July. Therefore, further consideration of your "change of control" request will be deferred until the Board receives his opinion.

Aside from your pending request to transfer stock to Susquehanna Union, you may recall the Board provided guidance and expectations for future operations. You may want to revisit that information. From talking to some of your senior managers during other meetings or routine business interactions, it seems that some got the erroneous impression the Board did not want them to be part-owners. I know of no board member that had a philosophical problem with your senior staff having a partial ownership. Please relay that sentiment to them.

Sincerely,

Jeffery K. Stover
Executive Director

JKS/ka

cc: Jeff Pontius, Railroad Operating Companies
Gary Shields, Railroad Operating Companies
SEDA-COG Joint Rail Authority Board Members



Affiliated with
SEDA Council of Governments



NORTH SHORE RAILROAD COMPANY

356 Priestley Avenue, Northumberland, PA 17857

Phone: (570) 473-7949

Fax: (570) 473-8432

December 16, 2009

Mr. Jerry Walls, Chairman
SEDA-CoG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17837

Dear Jerry:

As I promised at last Wednesday's JRA board meeting, this is a response to your letter of last Tuesday (December 8).

As I noted at the board meeting, we distributed your letter to most of our management who will be participating in ownership of our companies. Several of our management staff said that last summer they had seen Jeff Stover's June letter saying that the JRA board had no problems with management ownership of the railroad companies but they still felt that the JRA board expressed no confidence in our management team by their rejection of my corporate restructuring proposal in two public meetings which they attended--last January and recently at the November board meeting. The board's actions in public meetings made a much greater negative impression than what was stated in Jeff's letter.

Reinforcing our management staff's impression that the JRA board is expressing a no confidence vote in them is your statement, five years in the future that the JRA board intends to seek Requests for Proposal for the operation of the JRA's rail lines. They believe you are indicating that the board has so little confidence and regard for your present Operator's management team that five years hence you intend to seek a new operator. Also, you imply that ownership purchase terms will be so onerous that our management will not be able complete its purchase by the end of the contract term and will have to seek bank financing which will put them at a disadvantage compared to other bidders. Does this reflect the perspective of one board member who told some of our employees that "Robey will suck all of the cash out of the railroad companies"? Although it is difficult to predict the financial future of the railroad companies, my current analysis, using traffic projections based on the past few years, indicates that our management team will likely complete their purchase of the railroad companies before the contract term expires and therefore our management team should have a financial advantage over the competition.

Hopefully, this advantage would be important to the Rail Authority board.

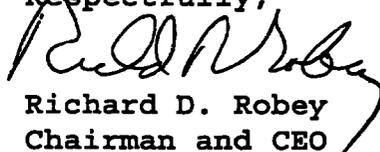
Regarding your statement that the JRA does not have a sales proposal in hand, please note that I am currently proposing only a restructuring of our companies (see my letter to Jim Spendiff of April 2). I propose to turn over ownership to our management through a stock buyback process over a period of several years. The actual change of control will occur sometime in the future when the stock buyback process is completed. I do not have a specific change of control date today because the buyback process will be variable depending on the financial results of the companies. The JRA board will be able to monitor the buy back process through stock ownership data as shown in the annual reports of the operating companies. It is my earnest request that the JRA board understand that I want to reward our hard working management by turning over my ownership of the operating companies to them for a discounted value compared to what an outside purchaser would pay. This will be accomplished under a process where the purchase is funded internally by the ongoing financial success of the operating companies. This is the reason why you have received letters from our management staff asking why the board is rejecting our plans.

Please note, also, that many of the questions and data requested in the letter from Jim Spendiff in 2008 (the third page of your letter) are not applicable, already known, or irrelevant to the transfer of ownership process as I have proposed. There will be no changes in management other than my and Mrs. Robey's retirement. Corporate ownership will be reported each year in our annual reports. There will be no bank financing. And, you know all of the present management, so why do you need background data on them?

So, Jerry, please, can we get on with this process of my retirement and the restructuring of the operating companies? We have spent a whole year on this topic and we haven't made much progress.

I do wish you a Merry Christmas and a Happy New Year and I look forward to continuing discussion of this topic with you and the JRA board in the new year.

Respectfully,


Richard D. Robey
Chairman and CEO

Main Identity - Backup

From: "Richard Robey" <rdrobey@ptd.net>
To: "Jeff Stover" <JStover@seda-cog.org>
Cc: "Gary Shields" <gshields@nshr.com>; "RICHARD WILSON" <rwilson@rwilson.net>
Sent: Tuesday, October 06, 2009 12:53 PM
Attach: JRChangeControl3-30-09.DOC; JRChangeControl5-7-09.doc
Subject: Change of Control Documents

Jeff:

You asked for my documents governing the change of control to Susquehanna Union Railroad Company in your email of August 21. Please refer to my letter to JRA Board Member Jim Spendiff of April 2 which I have attached, your email of April 8 asking board questions about my proposal in the April 2 letter, and my email to you of May 8 containing a letter to Mr. Spendiff (which I also attach) with the answers to the board's questions in your April 8 email. As you can see, I am proposing only a restructuring of the operating railroad companies at this time and I have answered the questions that the board posed about this restructuring. The restructuring would be accomplished by appropriate corporate board resolutions allowing the sale and purchase of the various corporate stock after we receive STB approval for the transactions. These would be simple transactions since I own and control all of the stock involved.

I am at a loss as to what documents you want me to send. Do you want to see the board resolutions before they are executed?

Dick

Information from ESET NOD32 Antivirus, version of virus signature database 4484
(20091006)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

April 2, 2009

Mr. James A. Spendiff
Chairman, Operating Agreement Committee
SEDA-CoG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17837

Dear Jim:

This is a follow up letter to my several email messages to the Rail Authority on January 7 concerning the proposed change of control of our various corporations.

After considerable discussion with my legal and financial counselors, and due to the uncertainties presented by current economic conditions, I have decided to modify my change of control proposal as outlined in my January 7 email. I have decided to defer turning over control of the operating railroad companies to my management team. Instead I plan to have Susquehanna Union Railroad Company, a holding company controlled 100% by me, acquire the operating railroad companies in a tax free exchange of stock. This is technically a change of control, since Susquehanna Union is a different entity than me personally, but this change of control is only nominal because as I will continue to exercise 100% control over the operating companies through Susquehanna Union Railroad Company.

There will be no change in the management or organizational structure of the operating railroad companies. And, since there will be no financial obligations created by this transaction, it will not affect the operating companies' ability to fulfill their obligations under our Operating Agreement. If requested, Susquehanna Union will become a signatory to the JRA Operating Agreement.

We look forward to discussing this matter with you and your committee with the expectation that you can recommend approval of this nominal change of control so that we can proceed with simplifying our accounting and corporate structure.

Yours truly,



Richard D. Robey
Chairman & CEO

May 8, 2009

Mr. James A. Spendiff
Chairman, Operating Agreement Committee
SEDA-CoG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17837

Dear Jim:

This letter provides answers to the questions presented in Jeff Stover's letter of April 9, 2009 concerning JRA approval of my proposed exchange of stock and the nominal acquisition of control of my operating railroad companies by Susquehanna Union Railroad Company. I have taken the liberty of briefly summarizing each question contained in Jeff's letter together with the answer to the question.

1. What changes are envisioned with respect to Mr. Robey's role in the every day management of the companies?

Mim and I have transitioned responsibility for daily operations to our management group and staff. We will, however, continue to exercise executive supervision and oversight of corporate administrative matters, financial performance, operational planning and JRA relations. We will also continue participation in all major and long term decisions affecting our companies.

2. Does the proposed change aid/detract or make no change to levels of service and MOW provided by the operating companies?

The proposed change of control will not change levels of service or maintenance of way provided by the operating companies under the terms of the Operating Agreement.

3. If the proposed change does not improve service or maintenance of way, what benefit does the JRA gain by approving the change in control?

The acquisition of control of the operating railroad companies by Susquehanna Union Railroad Company consolidates stock ownership of the operating railroad

companies in a single holding company over which I will continue to exercise 100% stock control. As you know, holding companies are widely used by railroads and other industries to consolidate and simplify accounting and financial systems. Efficiencies derived from these changes will improve our management and financial information systems and reduce costs and administrative overheads to the benefit of our companies and the rail services we provide to JRA and our shippers.

4. How will these changes impact the efficiency/complexity of the relationship with the JRA? Will JRA work with a holding company or management of the operating companies or both?

The proposed restructuring will not change any relationships with JRA. The existing management structure and personnel of each operating railroad will be adopted and implemented by Susquehanna Union Railroad Company. Accordingly, JRA will continue to interface and work with the same management personnel as in the past.

5. What is the status of your April 2, 2008 letter to the JRA which indicates that SURC was going to be sold to Jeff Pontius?

The April 2, 2008 letter has been superseded by later correspondence to the JRA concerning the proposed restructuring. When I wrote the April 2, 2008 letter, there was still a requirement for certain joint agreements and financing arrangements which never came to fruition.

6. Do you intend to revisit any previous proposals concerning the disposition of your companies to one or more members of your management group?

I still plan to sell my ownership in my companies to my management group but those plans have been postponed and will have to be developed sometime in the future in light of current economic conditions. I believe that any such sale should be fair to my management group and should not impose an undue financial burden on any of these individuals. I intend to be governed by these principles in any future transaction.

7. Provide a clear explanation as to why you want to use this approach.

Mr. James A. Spendiff, May 8, 2009, Page 3

The purpose of this transaction is to simplify our management, financial and accounting structures as outlined above in this letter.

8. Please indicate the mechanism by which current and future tax credits will be assigned and used for improvements to track and related facilities in a form that can be incorporated into the Operating Agreement.

The nominal change of control that I have proposed has no bearing on and will not affect the assignment or use of current or future tax credits. Under our Operating Agreement we have accomplished substantial improvements to JRA tracks and facilities and our procedures for annual maintenance of way programming are well suited to continue this progress in the future.

I hope this letter answers the questions that JRA board members have posed and that the Board will approve the nominal change of control transaction which I have proposed.

Sincerely,



Richard D. Robey
Chairman & CEO

December 8, 2009

Mr. Jerry Walls, Chairman
SEDA-COG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17837

Dear Jerry:

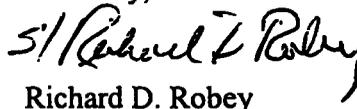
Thank you for your letter of December 8, 2009 and this opportunity to respond to the concerns expressed in your letter. First, I find your letter to be disingenuous. Mr. Stover's letter of June 24, 2009 is hardly a positive indication of Board support for equity participation by my management team, particularly in light of JRA communications and events occurring thereafter. Moreover, if, as you claim, JRA has no "philosophical" problems with my staff becoming partial owners of my companies, then it is evident that the Board's rejection of our proposed transition is based on other issues and the Board should not be surprised that my staff was puzzled and upset by the Board's unexplained rejection of our proposed restructuring.

Similarly, my management group is aware of the financial implications posed by the 2017 renewal of the Operating Agreement and they are fully able to assess those matters notwithstanding your comments regarding the "bankability" of future transactions.

Finally, if you will review JRA's files I think you will find that we have already responded to similar inquiries from Messrs. Stover and Spendiff regarding the relevant items set forth on the December 8, 2009 memo enclosed with your letter. I have attached those prior responses to this letter. A number of the items on JRA's list are not pertinent to our proposed restructuring and/or involve proprietary corporate information which is beyond our reporting requirements and JRA access to railroad records under the terms of the Operating Agreement. This is particularly true with respect to our track maintenance tax credits and how we will deal with those credits, if at all, in connection with our restructuring transaction. That topic is totally irrelevant to our restructuring and the Board's preoccupation with this issue represents an unwarranted intrusion by JRA into the financial and tax management activities of our railroad companies. Finally, I hardly need point out that the Board is already well aware of our operating and maintenance capabilities given that we have been performing those functions on JRA lines for over 25 years.

Again, I appreciate this opportunity to respond to your concerns.

Sincerely,

Handwritten signature of Richard D. Robey in black ink.

Richard D. Robey



December 22, 2009

Mr. Dick Robey
North Shore Railroad
356 Priestley Ave.
Northumberland, PA 17857

**PRESERVING
RAIL FREIGHT
SERVICE**

RE: Change of Control

Dear Dick,

covering the counties of

- Centre
- Clinton
- Columbia
- Lycoming
- Mifflin
- Monroe
- Northumberland
- Union

This letter is in response to your letter dated December 16, 2009

The rejection of your request at the November 11, 2009 Board meeting was based primarily on the inadequacy of the information available to the Board with respect to the transaction for which you have requested Authority approval. The Authority has repeatedly requested in writing and verbally that you provide various kinds of information concerning your proposed transaction. To date, that information has not been forthcoming. In your recent letter you have diminished the importance and applicability of this information apparently based in part on your assumption that the Authority already knows most of what was requested. The Authority does not have much of this information, especially information in a written form on which the Authority can rely. As one simple example, we had to check the attendance records at the meeting attended by your management team to determine even who the potential new owners are proposed to be.

In the past, you have written in generalities regarding the financial arrangements to accomplish the proposed change of control, but the Authority needs, among other matters, to see how the companies' finances can support the transaction, taking into account all your various organizations. The entire Authority Board is concerned whether the restructuring and change of control transactions will support long-term financial stability and effective rail service and maintenance of way.

Enclosed is the Authority's list of questions dated December 8, 2009. Our Operating Agreement Committee is prepared to meet with you to discuss your transaction. Before we can schedule this meeting, however, we must have a comprehensive response with detailed written answers to each item on the enclosed list. At a meeting, we will then review the responses to each item with you so that the Board can be fully informed.

Sincerely,

Jerry S. Walls
Chairman

Enclosure

cc Gary Shields, North Shore Railroad

**SEDA-COG JOINT
RAIL AUTHORITY**

201 Furnace Rd
Lewisburg
PA 17837

(570) 524-4491
fax 524-9190

jra@seda-cog.org
<http://jra.seda-cog.org>



SEDA COG
RAIL AUTHORITY

SEDA-COG Joint Rail Authority

December 8, 2009

Information that shall be requested by the Authority when asked to consider a 'Change of Control' of the contract operator shall include, but is not necessarily limited to, the following:

1. Evidence of an agreement between buyer and seller(s)

2. Questions for Seller:

A. Terms of Sale

Who will buy what, when? What corporate entities (Operating Railroad, Rail Scavengers, Susquehanna Union Railroad Company, or other entity) are included in the sale agreement? How will the sale(s) be structured (sale of stock or assets)? When will sale(s) be executed?

[When will change of control take place?]

B. What does Susquehanna Union Railroad Company own? Who owns this holding company?

C. What third party approvals, (E.G. STB, JRA, PUC, bank) are required?

D. What "Tax Credits" are carried forward by each JRA railroad, and how will these be treated in the sale?

E. Have tax credits been transferred between the companies, and how was this accomplished?

F. Are there any other understandings, representations, or agreements between the buyer and seller(s)

3. Questions for Buyer(s): (A meeting with the buyer(s) will be scheduled)

A. Background experience for conducting rail freight operations and maintenance Knowledge Experience Financial Information

B. How will purchase be financed? (Sources of buyer financing?)

C. How will purchase be structured? (Will a separate entity be formed for purchase?)

D. Corporate and ownership structure after purchase? (Who will make decisions?)

E. Any changes in management and/or workforce contemplated?

F. Are there any understandings, representations, or agreements between the buyers that are not included in the purchase and sale agreement?

G. Financial projections trending from the most recent three years

- 3-5-7 year cash flows and pro formas
- Balance sheet before and after purchase
- 3 years income statements and balance sheets with account detail and cost and pricing assumptions.
- Schedule of ownership which clearly defines the bankability of transaction at conclusion of current operating agreement.

(Will need to see books of company acquiring JRA contract railroads)

(Will need to know interest payments and debt of holding company)

VERIFICATION

I, Richard D. Robey, verify that the statements made in the foregoing Petition for Exemption are true and accurate to the best of my knowledge, information and belief.

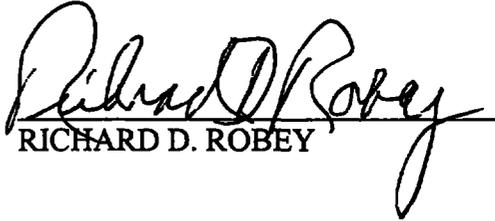
Jan 11 2010
DATE

Richard D. Robey
RICHARD D. ROBEY

VERIFICATION

I, Richard D. Robey, verify that the statements made in the foregoing Verified Statement of Richard D. Robey are true and accurate to the best of my knowledge, information and belief.

1-18-2010
DATE


RICHARD D. ROBEY

CERTIFICATE OF SERVICE

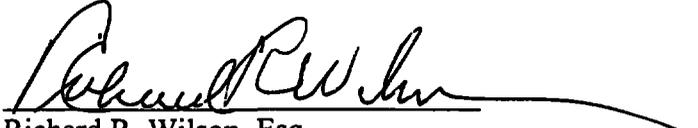
I, Richard R. Wilson, hereby certify that a true and correct copy of the foregoing Petition for Exemption and Verified Statement of Richard D. Robey was served this 7th day of April 2010, upon the following by U.S. first class, postage prepaid mail:

Jeffrey Stover
SEDA-COG Joint Rail Authority
RR 1 Box 372
Lewisburg, PA 17837

Stephen S. Hurvitz, Esq.
811 University Drive
State College, PA 16801-6699

Keith G. O'Brien, Esq.
BAKER & MILLER, PLLC
2401 Pennsylvania Avenue, N.W., Ste. 300
Washington, DC 20037

Richard D. Robey
Susquehanna Union Railroad Company
356 Priestley Avenue
Northumberland, PA 17857


Richard R. Wilson, Esq.