

LAW OFFICES
JOHN D. HEFFNER, PLLC
1750 K STREET, N.W.
SUITE 200
WASHINGTON, D.C. 20006
PH: (202) 296-3333
FAX: (202) 296-3939



FILED

SEP 20 2010

227825

**SURFACE
TRANSPORTATION BOARD**

September 20, 2010

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

ENTERED
Office of Proceedings
SEP 20 2010
Part of
Public Record

BY HAND DELIVERY

Re: **STB Finance Docket No. 35418**
Jackson & Lansing Railroad Company—Trackage Rights
Exemption—Norfolk Southern Railway Company

Dear Madam Chief:

Attached for filing are the original and ten (10) copies of a Verified Notice of Exemption under 49 C.F.R. 1180.2(d)(7) and a check for \$1,200 covering the filing fee.

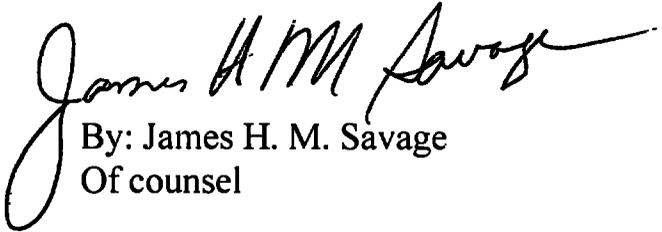
Pursuant to the requirements of 49 CFR 1180.6(a)(7)(ii), Jackson & Lansing Railroad Company (“JAIL”) is filing ten (10) copies of the Trackage Rights Agreements pertaining to this proceeding. A Public version of these **HIGHLY CONFIDENTIAL** documents is attached. A Confidential version of these documents is being submitted under seal pursuant to 49 CFR 1104.14(a) with a motion for protective order.

Please time and date stamp the extra copy of the Notice and return it to our messenger. Should you have any questions about this filing, or this matter generally, please contact me either by telephone: (202) 296-3335 or by E-mail: jsavagelaw@aim.com.

FREE RECEIVED
SEP 20 2010
**SURFACE
TRANSPORTATION BOARD**

We thank the Board's OOP for their time and consideration.

Respectfully submitted,
John D. Hefner, PLLC



By: James H. M. Savage
Of counsel

Enc.

PUBLIC VERSION

RECEIVED
SEP 20 2010
SURFACE
TRANSPORTATION BOARD

227825

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

STB Finance Docket No. 35418

**JACKSON & LANSING RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
NORFOLK SOUTHERN RAILWAY COMPANY**

ENTERED
Office of Proceedings
SEP 20 2010
Part of
Public Record

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d)(7)**

FILED
SEP 20 2010
SURFACE
TRANSPORTATION BOARD

Submitted by:

John D. Heffner, PLLC
1750 K Street, NW
Suite 200
Washington, D.C. 20006
(202) 296-3335

James H. M. Savage
Of counsel

*Attorney for Applicant
Jackson & Lansing Railroad
Company*

Date: September 20, 2010

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

STB Finance Docket No. 35418

**JACKSON & LANSING RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
NORFOLK SOUTHERN RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d)(7)**

Pursuant to 49 CFR 1180.2(d)(7), the Jackson & Lansing Railroad Company (“JAIL”) submits this Verified Notice of Exemption from the prior approval requirements of 49 U.S.C. 11324 to permit JAIL to obtain trackage rights to operate over approximately 1.06 miles of rail line owned by Norfolk Southern Railway Company (“NSR”) and leased to CSX Transportation, Inc. (“CSXT”). In support of this Notice of Exemption and in compliance with 49 C.F.R. 1180.4(g), JAIL states the following information:

49 CFR 1180.6(a)(1)(i): A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

Summary

JAIL seeks Board authority to acquire non-exclusive overhead and local trackage rights on the NSR Lansing Secondary between Milepost LZ 36.8 in Lansing, MI and Milepost LZ 37.86 in North Lansing, MI, a distance of 1.06 miles.

By Lease Agreement entered into April 21, 1995, Conrail leased this trackage to CSXT. By even date, CSXT granted local and bridge trackage rights back to Conrail. Upon acquiring the Lansing Secondary from Conrail in 1998, NSR succeeded to Conrail's rights under both the April 21, 1995 Lease Agreement and Trackage Rights Agreement ("TRA"). NSR now assigns its rights under the TRA to JAIL.

These trackage rights shall enable JAIL to interchange with CSXT at North Lansing, MI.

Concurrently with this Notice, JAIL is filing in Finance Docket No. 35411, Jackson & Lansing Railroad Company--Lease and Operation Exemption—Line of Norfolk Southern Railway Company in Ingham and

Jackson Counties, MI, a Verified Notice of Exemption pursuant to 49 C.F.R. 1150.31 to lease and operate the Lansing Secondary line and other rail property in Lansing, MI, as well as for JAIL to acquire from NSR incidental trackage rights on the NSR Michigan Main Line for purposes of interchange with NSR only.

This Notice is also related to another notice filed concurrently in Finance Docket No. 35410, Adrian & Blissfield Rail Road Company—Continuance in Control Exemption—Jackson and Lansing Railroad Company, in which Adrian & Blissfield Rail Road Company (“ADBF”) is seeking an exemption to continue in control of JAIL, a corporation established under Michigan law.

Applicants’ names, addresses, and telephone numbers:

Jackson & Lansing Railroad Company
38235 Executive Drive
Westland, MI 48185-1971
734-641-2300

Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510
757-629-2806

Applicant’s counsel to receive correspondence:

For Jackson & Lansing Railroad Company-

John D. Heffner, PLLC
1750 K Street, NW - Suite 200
Washington, D.C. 20006

James H. M. Savage
Of Counsel
202-296-3335

For Norfolk Southern Railway Company-

David L. Coleman
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-9241
757-629-2806

49 CFR 1180.6(a)(1)(ii): The proposed time schedule for consummation of the proposed transaction.

JAIL proposes to consummate the proposed transaction as soon as possible after October 16, 2010 but in any event at least thirty days after the filing of this Notice.

49 CFR 1180.6(a)(1)(iii): The purpose sought to be accomplished by the proposed transaction.

The purpose of the proposed transaction is to improve service by establishing a rail link allowing JAIL to interchange traffic originating or terminating on its about-to-be leased Lansing Secondary line with CSXT at North Lansing, MI.

49 CFR 1180.6(a)(5): A list of the State(s) in which any part of the property of each applicant carrier is situated.

JAIL presently operates within the State of Michigan. This transaction would not extend JAIL's operations into any other State. NSR operates approximately 21,000 route miles in 22 states, including the State of Michigan, and the District of Columbia.

49 CFR 1180.6(a)(6): Map (Exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed.

A map satisfying this provision is attached hereto as Exhibit 1.

49 CFR 1180.6(a)(7)(ii): Agreement (Exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at §1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.

A copy of the fully executed trackage rights agreement, with certain commercially sensitive information redacted, is attached as Exhibit 2-A. An unredacted copy of the trackage rights agreement is being contemporaneously submitted to the Board together with JAIL's motion for protective order.

A copy of the fully executed assignment of trackage rights from NSR to JAIL, and CSXT's consent thereto, is attached as Exhibit 2-B.

49 C.F.R. 1180.4(g)(i): Labor Protection.

As mandated by law, JAIL will provide labor protection as set forth in Norfolk and Western Ry. Co. – Trackage Rights – BN, 354 I.C.C. 605 (1978), *as modified in* Mendocino Coast Ry., Inc. – Lease and Operate, 360 I.C.C. 653 (1980).

49 C.F.R. 1180.4(g)(2)(i): Caption Summary

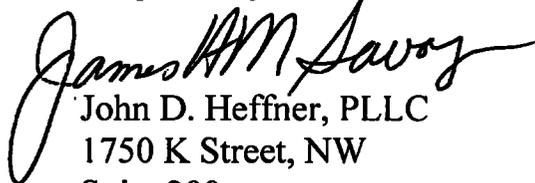
A caption summary suitable for publication in the Federal Register satisfying this provision is attached hereto as Exhibit 3.

49 C.F.R. 1180.4(g)(3): Environmental and historic reporting requirements.

The proposed transaction is exempt from environmental review under 49 CFR 1105.6(c)(4), which provides that environmental documentation need not be prepared for trackage rights transactions or transactions that will not cause any operating changes that exceed the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 49 CFR 1105.8(b)(3) because it will not substantially change the level of maintenance of railroad property.

Respectfully submitted,



John D. Heffner, PLLC
1750 K Street, NW
Suite 200
Washington, D.C. 20006

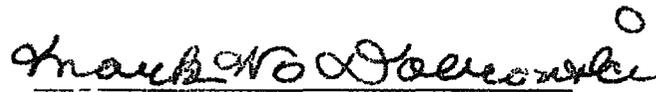
James H. M. Savage
Of counsel
(202) 296-3335

*Attorney for Jackson & Lansing
Railroad Company*

Dated: September 20, 2010

VERIFICATION

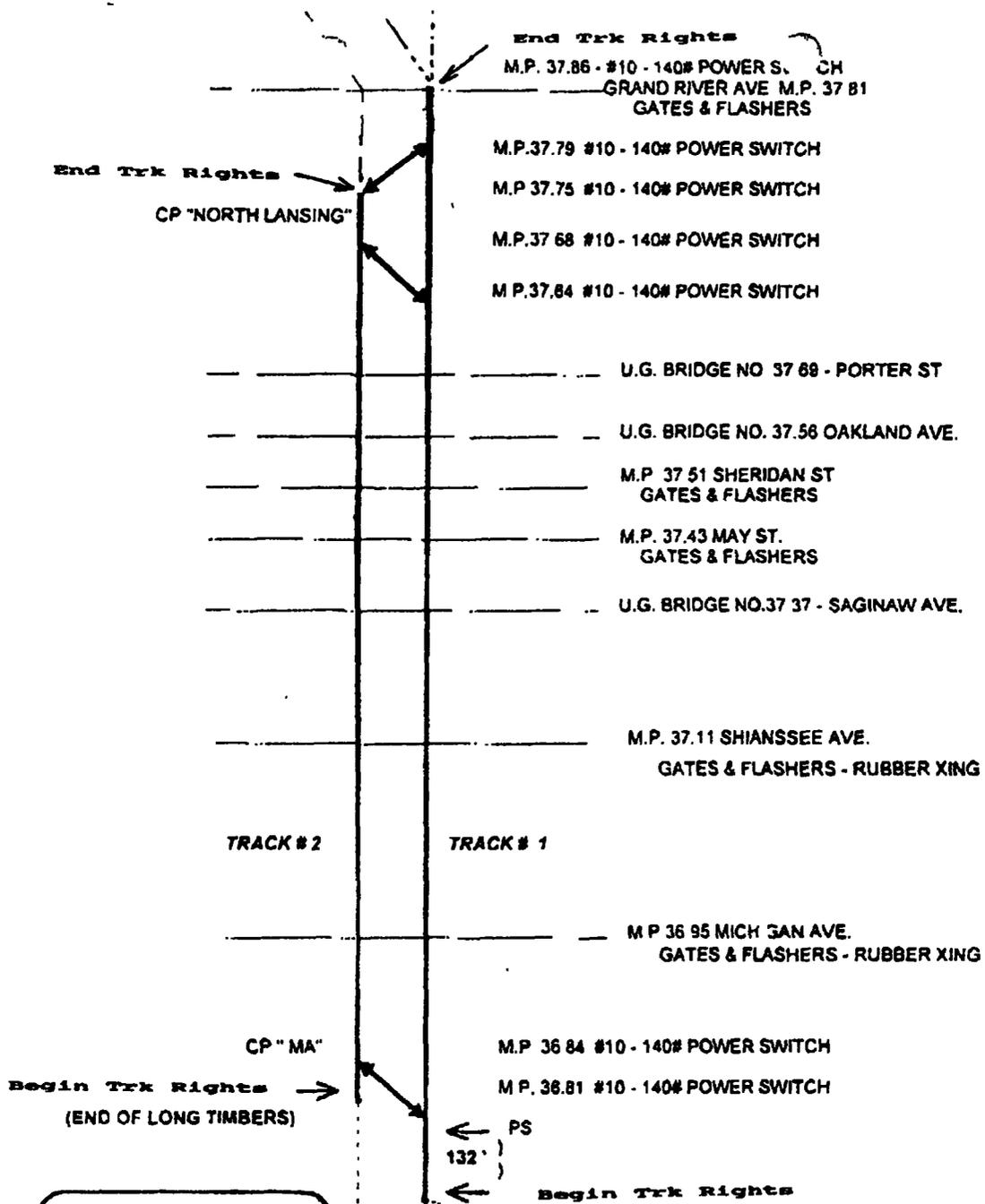
Mark W. Dobronski, under penalty of perjury, declares and verifies that he is President of Jackson & Lansing Railroad Company, that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.


Mark W. Dobronski
Mark W. Dobronski

Dated: September __, 2010

EXHIBIT 1

Map of the subject trackage



LANSING, MICHIGAN
EXHIBIT I
 Trackage Rights
 LANSING BRANCH (LC: 50-3337)
 M.P. 36.80 TO M.P. 37.86
 NOT TO SCALE APRIL 11, 1985

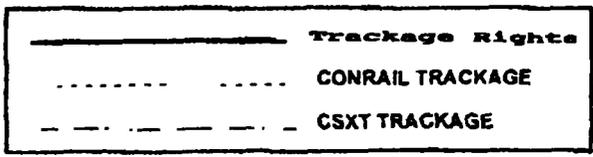


EXHIBIT 2

Transaction Documents
(Public Version)

AGREEMENT

THIS AGREEMENT, entered into as of this 21st day of APRIL 1995, by and between CSX TRANSPORTATION, INC., a Virginia corporation, (hereinafter referred to as "Controller" or "CSXT") and CONSOLIDATED RAIL CORPORATION, a Pennsylvania corporation, (hereinafter referred to as "User" or "Conrail");

WITNESSETH:

WHEREAS, pursuant to the April 21, 1995 agreement between CSXT and Conrail, hereinafter referred to as the "Lease Agreement," CSXT leases and controls certain trackage and right of way owned by Conrail at Lansing, Michigan; and

WHEREAS, Conrail desires to continue operation over said certain trackage at Lansing, Michigan under a trackage rights arrangement to access its existing and future customers; and

WHEREAS, CSXT is agreeable to granting such trackage rights under the following terms and conditions; and

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

SECTION 1. GRANT OF TRACKAGE RIGHTS

Subject to the terms and conditions herein provided, Controller hereby grants to User the right to operate User's trains, locomotives, cars and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segment of Controller's railroad shown on the plan attached hereto, made a part hereof and marked "Exhibit I" (hereinafter referred to as the "Subject Trackage"):

That portion of the Lansing Branch leased and controlled by CSXT between Michigan Avenue (Mile Post 36.80) and Grand River Avenue (Mile Post 37.86) at Lansing, Michigan.

SECTION 2. GENERAL CONDITIONS - FORM A

Except as otherwise may be provided below, this Agreement is subject to and shall be governed by the "General Conditions - Form A", attached hereto, made a part hereof and incorporated herein by reference with the same force and effect as if set forth at length herein.

SECTION 3. COMPENSATION

- A. The factor to be used in calculating payments to be made by User for the Trackage Rights covered by this Agreement shall

be \$ [REDACTED] per car (hereinafter referred to as the "Current Charge," based on a rate of [REDACTED] per car-mile and a distance of 1.06 miles).

- B. User will pay Controller a sum computed by multiplying: (1) the Current Charge, as may be revised in accordance with Part B of Article 2 hereof by (2) the number of cars (loaded or empty), locomotive and caboose units moved by User with its own crews and power over the Subject Trackage. Each locomotive and caboose, for the purpose of this Agreement shall be counted as one car.
- C. User will furnish to Controller, in care of Division Superintendent, Detroit Division, 12780 Levan Road, Livonia, MI 48150, with copy to Director Expenditure Billing J686, CSX II Building, 3rd Floor, 6735 Southpoint Drive South, Jacksonville, FL 32216-6177, at the end of each month, a statement of the number of locomotive units, cabooses, and loaded and empty cars operated over the Subject Trackage during the month. Based on this statement, Controller will render to User a bill, computed in accordance with the provisions of this Section, for User's use of the Subject Trackage. In the absence of a car count furnished by User in accordance with the provisions of this Section, Controller shall have the option to render and User agrees to pay, a bill computed on the basis of Controller's records or an estimated car count. Estimated billing shall be adjusted to conform to actual car counts in subsequent billing.
- D. With respect to articulated units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second numeric in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code "S566" would equate to a five (5) car count as these type cars have five wells capable of handling 40' to 48' containers in each well. Car count data for articulated units is subject to change upon development of technology to separate units by car numbers.

SECTION 4. CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

- A. Existing connections or facilities which are jointly used by the parties hereto under existing agreements or practices shall continue to be maintained, repaired and renewed by and at the expense of the party or parties responsible for such maintenance, repair and renewal under such agreements or practices.
- B. Except as provided in the Lease Agreement for sidetrack connections diverging from the Subject Trackage to serve Conrail's present and future customers, any additional

connections to the Subject Trackage which may be required shall be constructed, maintained, repaired and renewed as follows:

- (1) User or others shall furnish all labor and material and shall construct, maintain, repair and renew at their sole cost and expense such portions of the tracks located on the right-of-way of User or others which connect the respective lines of the parties hereto.
- (2) Controller shall furnish all labor and material and shall construct, maintain, repair and renew at the sole cost and expense of User such portions of the tracks located on the right-of-way of Controller which connect the respective lines of the parties hereto. Upon termination of this Agreement, Controller may at its option remove portion of trackage and appurtenances located on property of Controller, at the sole cost and expense of User. The salvage material removed shall be released to User or, as otherwise agreed upon, Controller will credit User the current fair market value for said salvage.

SECTION 5. RESTRICTION ON USE

The Trackage Rights are granted herein for the purpose of User using same for bridge traffic between the termini of the Subject Trackage and for local freight service to serve present and future customers pursuant to terms of the Lease Agreement.

SECTION 6. TERM

- A. This Agreement shall be effective the day and year first above written or, in the event Interstate Commerce Commission approval is required, on the effective date such approval is secured, and shall remain in full force and effect for an initial period of thirty (30) years; provided, however, User shall have the right to terminate this Agreement, upon giving twelve (12) months' advance written notice to Controller of its intent to do so.
- B. User shall have the right to renew this Agreement for one additional thirty (30) year term under the same terms and conditions, subject to any adjustments agreed upon by Controller and User that may be reasonable and equitable in light of any changed circumstances arising during the initial term, provided renewal is exercised by User by providing notices as specified herein no later than one (1) year prior to the end of the initial term. If such adjustments cannot be mutually agreed to, the parties hereto

shall submit the matter to arbitration for settlement as set out in Article 13 of the General Conditions.

- C. Termination of this Agreement shall not relieve or release either party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

SECTION 7. MISCELLANEOUS SPECIAL PROVISIONS

- A. When operating over Subject Trackage, User's locomotives and crews will be equipped to communicate with Controller on radio frequencies normally used by Controller in directing train movements on Subject Trackage.
- B. Procedures for qualification and occupancy of Subject Trackage will be arranged by the local supervision of each carrier. All control and usage will be subject to the approval of Controller's representative or his designee.

SECTION 8. EDI TRANSMISSION

User will furnish Controller with a report of all loaded and empty cars handled over Subject Trackage. This report will be required in Electronic Data Interchange (EDI) form at such future time as the Association of American Railroads, hereinafter referred to as "AAR," defines the standard reporting procedures for trackage rights carriers. The minimal data requirements will be determined by the carriers.

SECTION 9. CONTINGENCY ON LEASE AGREEMENT

- A. It is expressly understood and agreed that the foregoing Agreement shall have no validity unless the Lease Agreement is in effect between Conrail, as the lessor, and CSXT, as the lessee, which provides for CSXT's lease of Conrail's trackage between Michigan Avenue (Mile Post 36.80) and Grand River Avenue (Mile Post 37.86) at Lansing, Michigan.
- (b) In the event of the termination of the Lease Agreement, this Agreement will automatically stand terminated as of the date of termination of said Lease Agreement.

SECTION 10. NOTICE

Any notice required or permitted to be given by one party to the other under this Agreement shall be deemed given on the date sent by certified mail, or by such other means as the parties may agree, and shall be addressed as follows:

A. If to Controller: Assistant Vice President Joint Facilities
CSX Transportation, Inc. J310
500 Water Street
Jacksonville, FL 32202

B. If to User: General Manager Contracts
Consolidated Rail Corporation
2001 Market Street - 14C
P.O. Box 41414
Philadelphia, PA 19101-1414

Either party may provide changes in the above addresses to the other party by personal service or U.S. mail.

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

*Approved as to form
John Deane
Secretary
5/7/85*

WITNESS

Richard L. Sumner

CSX TRANSPORTATION, INC.

By *P. L. ...*
Title Assistant Vice President
Joint Facilities

WITNESS

John J. Cornue

CONSOLIDATED RAIL CORPORATION

By *Paul ...*
Title

GENERAL CONDITIONS - FORM A

TO TRACKAGE RIGHTS AGREEMENT DATED AS OF APRIL 21, 1995,
BETWEEN CSX TRANSPORTATION, INC. ("CSXT" OR "CONTROLLER") AND
CONSOLIDATED RAIL CORPORATION ("CONRAIL" OR "USER") RELATING TO
CONRAIL'S TRACKAGE RIGHTS OVER TRACK LEASED AND CONTROLLED BY
CSXT AT LANSING, MICHIGAN.

ARTICLE 1. USE OF SUBJECT TRACKAGE

- A. User's use of the Subject Trackage shall be in common with Controller. Controller's right to use the Subject Trackage shall not be diminished by this Agreement.
- B. User shall not use any part of the Subject Trackage for the purpose of storage or servicing cars or equipment, or the making or breaking up of trains, except for serving sidetracks diverging from Subject Trackage for Conrail's present and future customers. Nothing contained herein shall, upon prior approval of Controller, preclude the emergency use by User of such auxiliary tracks as may be designated by Controller.
- C. Controller shall have exclusive control of the management and operation of the Subject Trackage. User shall not have any claim against Controller for liability account of loss or damage of any kind in the event the use of the Subject Trackage by User is interrupted or delayed at any time from any cause.

ARTICLE 2. REVISION OF CURRENT CHARGE

- A. The Current Charge shall be subject to change to reflect any increases or decreases in labor, material and other costs as hereinafter provided.
- B. The Current Charge shall be revised upward or downward each year, beginning with the bill rendered during the month of July to compensate for the increase or decrease in the cost of labor and material, excluding fuel, as reflected in the Annual Indexes of Charge-Out Prices and Wage Rates (1977=100), included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads. In making such determination, the final "Material prices, wage rates and supplements combined (excluding fuel)" indexes for the East District (former Eastern and Southern Districts combined) shall be used. The Current Charge shall be revised by calculating the percent of increase or decrease in the index of the year to be revised (1996 Index for the first annual adjustment to be made in July 1996) as related to the index for the previous year (1995 Index for the first annual adjustment) and by applying that percent to the Current Charge.
- C. By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final

index figure for 1995; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for 1996; "C" to be the Current Charge; and "D" to be the percent of increase or decrease; the revised Current Charge stated herein would be revised by the following calculations:

$$(1) \frac{B - A}{A} = D$$

$$(2) (D \times C) + C = \text{revised Current Charge, effective July 1 of the year being revised.}$$

- D. In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the Association of American Railroads shall be changed from the year 1977, appropriate revision shall be made. If the Association of American Railroads or any successor organization discontinues publication of the Annual Indexes of Charge-Out Prices and Wage Rates, an appropriate substitute for determining the percentage of increase or decrease shall be negotiated by the parties hereto. In the absence of agreement, the parties shall submit the matter to binding arbitration as outlined in Article 13 of these General Conditions.
- E. At the option of either party hereto, the compensation provided for in Section 3 and this Article 2 of this Agreement shall be open for renegotiation every five (5) years from the Commencement Date, as hereinafter defined. In the event the parties fail to reach agreement upon such renegotiation, such failure shall not constitute a breach of this Agreement, and the parties shall continue to be bound by the terms of compensation provided in said Section 3 and Article 2 until the matter is settled or submitted to binding arbitration as hereinafter provided.

ARTICLE 3. ADDITIONS, RETIREMENTS AND ALTERATIONS

- A. Pursuant to terms of the Lease Agreement, Controller, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to or retirements from the Subject Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.
- B. If the parties agree that changes in or additions and betterments to the Subject Trackage, except for additional sidetracks to be constructed pursuant to terms of the Lease

Agreement, including changes in communication or signal facilities, are required to accommodate User's operations beyond that required by Controller to accommodate its operations, Controller shall construct the additional or altered facilities and User shall pay to Controller the cost thereof, including the annual expense of maintaining, repairing and renewing such additional or altered facilities.

ARTICLE 4. MAINTENANCE OF SUBJECT TRACKAGE

- A. In accordance with Lease Agreement, Controller shall maintain, repair and renew the Subject Trackage with its own supervision and labor. Controller shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, but Controller does not guarantee the condition of the Subject Trackage or that operations thereover will not be interrupted. Controller shall take all reasonable steps to ensure that any interruptions will be kept to a minimum. Furthermore, except as may be otherwise provided in Article 8 hereof, User shall not by reason of failure or neglect on the part of Controller to maintain, repair or renew the Subject Trackage, have or make any claim or demand against Controller or its officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damage to or loss or destruction of any property whatsoever, or for any damages of any nature suffered by User resulting from any such failure or neglect.
- B. Controller shall perform, at the expense of User, such additional maintenance as User may reasonably require or request in writing.

ARTICLE 5. MANAGEMENT AND OPERATIONS

- A. User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. User shall indemnify, protect, defend, and save harmless Controller and its officers, agents and employees from and against all fines, penalties and liabilities imposed upon Controller or its officers, agents, and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable solely to the failure of User to comply with its obligations in this regard.

- B. User in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of Controller, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Controller. User's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by Controller's operating rules and regulations without the prior consent of Controller.
- C. User shall make such arrangements with Controller as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Subject Trackage qualified for operation thereover, and User shall pay to Controller, upon receipt of bills therefor, any cost incurred by Controller in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Controller, until such time as such employees are deemed by the appropriate examining officer of Controller to be properly qualified for operation as herein contemplated.
- D. In the event of any investigation or hearing concerning the violation of any orders, instructions, operating or safety rule or practice by User's employees while on Controller's trackage, User shall be notified in advance of any such investigation or hearing, and such investigation or hearing may be attended by any official designated by User, and any such investigation or hearing shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to User's employee or employees required to attend such hearings.
- E. If Controller conducts an investigation, Controller shall have the right to exclude from the Subject Trackage any employee of User, except officers, determined by investigation or hearing described above, to be in violation of Controller's rules, regulations, orders, practices or instructions issued by timetable or otherwise. User shall release, indemnify, defend, and save harmless Controller and its officers, agents, and employees from and against any and all claims and expenses resulting from such an exclusion.
- F. In a major offense, such as violation of Rule "G", dishonesty, insubordination, or a serious violation of operating or safety rules or practices, wherein Controller desires to bar User's employee from service on Controller's territory pending an investigation by Controller, immediate verbal notification will be given to the appropriate

Transportation Officer of User so that proper written notice can be issued to the employee.

- I. The trains, locomotives, cars, and equipment of User, Controller, and any other present or future user of the Subject Trackage or any portion thereof, shall be operated without prejudice or partiality to either party and in such manner as will afford the most economical and efficient manner of movement of all traffic.
- J. In the event that a train of User shall be forced to stop on Subject Trackage, and such stoppage is due to insufficient hours of service remaining among User's crew, or due to mechanical failure of User's equipment, or any other cause not resulting from an accident or derailment, and such train is unable to proceed, or if a train of User fails to maintain the speed required by Controller on the Subject Trackage, or if in emergencies, crippled or otherwise defective cars are set out of User's trains on the Subject Trackage, Controller shall have the option to furnish motive power or such other assistance (including but not limited to the right to re-crew User's train) as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the Subject Trackage, and User shall reimburse Controller for the cost of rendering any such assistance.
- K. If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the Subject Trackage, such work shall be done by Controller, and User shall reimburse Controller for the cost thereof.
- L. In the event Controller and User agree that Controller should retain employees or provide additional employees for the sole benefit of User, the parties hereto shall enter into a separate agreement under which User shall bear all cost and expense for any such retained or additional employees provided, including without limitation all cost and expense associated with labor protective payments which are made by Controller and which would not have been incurred had the retained or additional employees not been provided.

ARTICLE 6. MILEAGE AND CAR HIRE

All mileage and car hire charges accruing on cars in User's trains on the Subject Trackage shall be assumed by User and reported and paid by it directly to the owner of such cars.

ARTICLE 7. CLEARING OF WRECKS

Whenever User's use of the Subject Trackage requires re-railing, wrecking service or wrecking train service, Controller shall perform or provide such service, including the repair and restoration of roadbed, track and structures. The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Article 8 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which is owned by or under the management and control of or used by User at the time of such wreck, shall be promptly delivered to it.

ARTICLE 8. LIABILITY

The responsibility and liability between the parties hereto for: (i) any personal injury or death of any person (including employees of the parties hereto and third persons), (ii) any real or personal property damage of any person (including property of the parties hereto and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorney's fees resulting from the use of the Subject Trackage by either party as described herein, all of which are collectively referred to as a "Loss", will be divided as follows:

- A. If a Loss occurs while the Subject Trackage is being used solely by the trains and locomotives of either Controller or User, then the using party is solely responsible for the Loss, even if caused partially or completely by the other party.
- B. If a Loss occurs while the Subject Trackage is being used by the train(s) and locomotive(s) of both Controller and User, then: (i) each is solely responsible for any Loss to its own employees, locomotives and equipment in its own account including lading and (ii) the parties are equally responsible for any Loss to the Subject Trackage and any Loss sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Loss, unless the Loss was caused solely by one party. In that event, the party causing the Loss is solely responsible.
- C. For purposes of assigning responsibility of a Loss under this Article, a Loss involving one of the parties to this Agreement and a third party or parties shall be construed as

being the sole responsibility of that party to this Agreement.

- D. Whenever any liability, cost, or expense is assumed by or apportioned to a party hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its directors, officers, agents, and employees from and against that liability, cost and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of the indemnitee or its directors, officers, agents, or employees.
- E. In every case of death or injury suffered by an employee of either User or Controller, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- F. For purposes of this Article, pilots furnished by Controller to User pursuant to Part C of Article 5 of these General Conditions shall be considered as the employees of User while such pilots are on board or getting on or off trains of User.
- G. For the purpose of determining liability associated with construction, maintenance, repair and renewal of connections as provided in Item (2) of Part B of Section 4 of this Agreement, all work performed by Controller shall be deemed performed for the sole benefit of User and, User shall be fully liable for all cost and expense of any and all loss, damage, destruction, injury and death resulting from, arising out of, incidental to or occurring in connection with said construction, maintenance repair and renewal except when such cost and expense of loss, damage, destruction, injury or death is caused by the sole negligence of Controller. User shall protect, indemnify, and save harmless Controller against any and all, expense and liability for which User is responsible.
- H. Notwithstanding the provisions of Part F of Article 16 of these General Conditions, for the purpose of this Article, the word "equipment" shall mean and be confined to (1) cabooses, (2) vehicles and machinery which are capable of

being operated on railroad tracks that, at the time of an occurrence, are being operated on the Subject Trackage, and (3) vehicles and machinery that, at the time of an occurrence, are on the Subject Trackage or its right of way for the purpose of maintenance or repair thereof or the clearing of wrecks thereon.

ARTICLE 9. INVESTIGATION

- A. Except as provided in Part B of this Article 9, all claims, injuries, death, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the party bearing the liability, cost, and expense therefor under the provisions of this Agreement.
- B. Each party will investigate, adjust and defend all freight loss and damage claims filed with it in accordance with Section 11707 of the Interstate Commerce Act.
- C. In the event a claim or suit is asserted against Controller or User which is the other's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment and defense of such claim or suit.
- D. All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time agents, full-time attorneys and other full-time employees of either party engaged directly or indirectly in such work shall be borne by such party.
- E. Excluding freight loss and damage claims filed in accordance with Section 11707 of the Interstate Commerce Act, neither party shall settle or compromise any claim, demand, suit or cause of action for which the other party has any liability under this Agreement without the concurrence of such other party if the consideration for such settlement or compromise exceeds Thirty-Five Thousand Dollars (\$35,000).
- F. It is understood that nothing in this Article 9 shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 8 hereof.

ARTICLE 10. PAYMENT OF BILLS

- A. All payments called for under this Agreement shall be made by User within sixty (60) days after receipt of bills therefor. No payments shall be withheld because of any

dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month. The records of each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party.

- B. Bills rendered pursuant to the provisions of this Agreement, other than those set forth in Section 3, shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals as specified by Controller at the time any work is performed by Controller for User.

ARTICLE 11. DEFAULT AND TERMINATION

In the event of any substantial failure on the part of User to perform its obligations under this Agreement and its continuance in such default for a period of sixty (60) days after written notice thereof by certified mail from Controller, Controller shall have the right at its option, after first giving thirty (30) days written notice thereof by certified mail, and notwithstanding any waiver by Controller of any prior breach thereof, to terminate the Trackage Rights and User's use of the Subject Trackage. Should User cure any such default within the said thirty (30) day notice period, the cancellation is automatically voided. The exercise of such right by Controller shall not impair its rights under this Agreement or any cause or causes of action it may have against User for the recovery of damages.

ARTICLE 12. REGULATORY APPROVAL

- A. Should this Agreement require the prior approval of the Interstate Commerce Commission (ICC), User at its own cost and expense will initiate and thereafter diligently pursue an appropriate application or petition to secure such approval. Controller will assist and support efforts of User to secure any necessary ICC approval of this Agreement.
- B. Should the ICC at any time during the term of this Agreement impose any labor protective conditions upon the arrangement; User and Controller shall each be responsible for any and all payments in satisfaction of such conditions for their own labor.

ARTICLE 13. ARBITRATION

Any dispute arising between the parties with respect to any

of the provisions of this Agreement which cannot be settled within ninety (90) calendar days by the parties themselves shall be settled under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay its own expenses, and the compensations, costs, and expenses of the arbitrator, if any, shall be borne equally by the parties hereto.

ARTICLE 15. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests or obligations hereunder, to any person, firm, or corporation without obtaining the prior written consent of the other party to this Agreement.

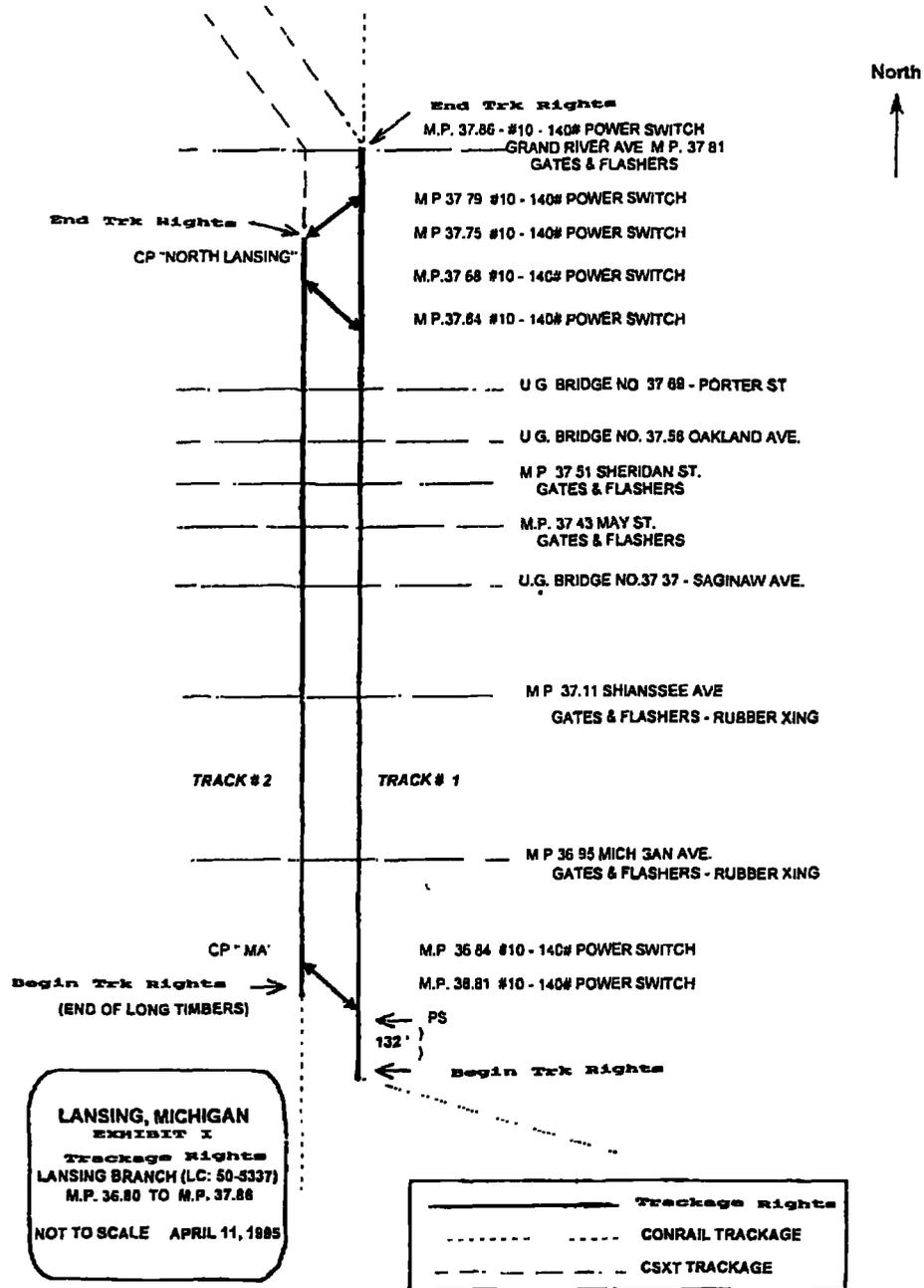
ARTICLE 16. GENERAL PROVISIONS

- A. This Agreement and each and every provision hereof is for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the parties hereto.
- B. All Section and Article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- C. This Agreement and the attachments annexed hereto and integrated herewith contain the entire agreement of the parties hereto and supersede any and all oral understandings between the parties hereto.
- D. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing signed by both parties to this Agreement.
- E. As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the parties hereto, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such party. Whenever such locomotives, cars or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other party to this Agreement, such locomotives, cars and equipment shall be considered those of the other party under this Agreement.

F. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.

e:\mlentr1 4-28-95
Printed May 17, 1995

311 526
EXHIBIT I



**ASSIGNMENT OF TRACKAGE RIGHTS
AND OTHER JOINT FACILITY AGREEMENTS**

This **ASSIGNMENT OF TRACKAGE RIGHTS AND OTHER JOINT FACILITY AGREEMENTS** (this "Assignment") is made and entered into this 16th day of September, 2010, by and between **JACKSON & LANSING RAILROAD COMPANY**, a Michigan corporation ("JAIL"), and **NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation ("NSR"), as successor in interest to Consolidated Rail Corporation ("Conrail").

WHEREAS, there exists that certain trackage rights agreement, dated October 13, 1924, by and between the Pere Marquette Railway Company, predecessor of CSX Transportation, Inc. ("CSXT") and the Michigan Central Railroad Company, predecessor of Conrail and NSR, as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1924 Agreement"); and

WHEREAS, there exists that certain interlocking agreement, dated July 20, 1987, by and between The Chesapeake & Ohio Railway Company ("C&O"), predecessor of CSXT and Conrail, as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1987 Agreement"); and

WHEREAS, there exists that certain interchange and operating rights agreement, dated April 26, 1993, by and between Conrail and CSXT, as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1993 Agreement"); and

WHEREAS, there exists those certain lease and trackage rights agreements (the "1995 Trackage Rights Agreement"), dated April 21, 1995, by and between Conrail and CSXT, as such have been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1995 Agreements"); and

WHEREAS, there exists that certain maintenance and operation agreement, dated September 12, 1996, by and between Conrail and CSXT, as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1996 Agreement"); and

WHEREAS, there exists that certain connecting track agreement, dated December 5, 1969, by and between the Penn Central Company, predecessor of NSR, and Grand Trunk Western Railroad Company ("GTW"), as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1969 Agreement"); and

WHEREAS, there exists that certain interchange agreement, dated January 7, 1980, by and between Conrail, and GTW, as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1980 Agreement"); and

WHEREAS, there exists that certain interlocking agreement, dated November 3, 1988, by and between Conrail and GTW, as it has been from time to time amended and assigned, and the underlying right of movements in and about Lansing, MI (the "1988 Agreement"); and

WHEREAS, NSR is the owner of the line of railroad and related trackage and real property commonly referred to as the "Lansing Secondary", the "Lansing Industrial Track," and the "Lansing Manufacturers Railroad" (collectively, the "Line") and, contemporaneously herewith, NSR and JAIL have entered into a Lease Agreement whereby NSR is leasing the Line to JAIL (the "Line Lease Agreement");

WHEREAS, contemporaneously herewith, NSR and JAIL are entering into a separate Interchange Agreement (providing for the interchange of traffic between the parties) and a separate Thoroughbred Through Freight Agreement (providing for JAIL to serve as a handling line for NSR);

WHEREAS, NSR desires to assign to JAIL, and JAIL desires to assume from NSR, the 1924 Agreement, the 1987 Agreement, the 1993 Agreement, the 1995 Agreements, the 1996 Agreement, the 1969 Agreement, the 1980 Agreement and the 1988 Agreement (collectively "Lansing Joint Facilities Agreements"), in accordance with the terms and conditions hereof.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, and intending to be legally bound hereby, JAIL and NSR hereby agree as follows:

1. Effective as of the later of (i) the Commencement Date of the Line Lease Agreement (as defined therein), (ii) the date on which any and all required consents from third parties (including CSXT) have been obtained, (iii) the effective date of any decision or notice of exemption served by the Surface Transportation Board ("STB") authorizing the consummation hercof and (iv) the expiration of any time periods required by the issuance of labor notices by the parties should such labor notices be required, NSR hereby assigns to JAIL all of NSR's rights and obligations under the Lansing Joint Facility Agreements, and JAIL accepts each such assignment and hereby assumes all of such rights and obligations. JAIL is expressly prohibited from further assigning such rights and obligations by any means and may not amend any provision of the Lansing Joint facilities Agreements assigned hereby without first obtaining the express written consent of NSR.

2. (a) Should any aspect of this Assignment require the prior approval or authorization of the STB or any other regulatory agency for its implementation, modification or termination, in whole or in part, JAIL, at its own cost and expense, shall promptly initiate and diligently pursue an appropriate application, petition or notice ("Application") to obtain that regulatory approval or authorization, or exemption therefrom. JAIL shall provide NSR, for its review and comment, a copy of the Application prior to its filing. NSR will assist and support efforts by JAIL to secure any necessary regulatory approvals. JAIL will reimburse NSR for the cost (including attorney's fees) of obtaining any approval for which JAIL does not timely apply or pursue but for which NSR then applies. JAIL hereby appoints NSR its attorney in fact to apply for any regulatory authority required pursuant to this Assignment. NSR may, but need not, exercise said authority at JAIL's risk, cost and expense, should JAIL fail to promptly do so.

(b) JAIL will not suspend or discontinue its operations over any part of the trackage covered by the 1995 Trackage Rights Agreement (the "1995 Trackage") without first applying for and obtaining from the STB, and any other regulatory agency with jurisdiction, any

necessary certificate or exemption from regulation for such discontinuance of operations over such trackage. JAIL will not seek such regulatory authority, or if no regulatory authority is needed, take any action to suspend or discontinue JAIL's operations without the prior approval of NSR.

(c) Upon the request of NSR, JAIL will fully cooperate with NSR in any regulatory action it takes with the STB that is related in any way to the 1995 Trackage. JAIL will further cooperate with NSR in resolving any issues related to the 1995 Trackage with individual shippers that may be located or may hereafter locate along the 1995 Trackage. JAIL will reimburse NSR for the cost (including attorney fees) of obtaining any required approvals for which JAIL does not timely apply or pursue but for which NSR then applies.

(d) JAIL grants to NSR an irrevocable power of attorney for purposes of consenting to and making any STB filing with respect to any termination of this Assignment in accordance with its terms. This grant of the JAIL's power of attorney shall survive termination or expiration of this Assignment. Notwithstanding the foregoing, at least 60 days prior to the expiration or termination of this Assignment, JAIL shall submit all necessary applications and petitions to the Surface Transportation Board to effectuate a termination of this Assignment.

(c) This Section shall remain effective after the termination or expiration of this Assignment.

3. This Assignment shall continue in effect until and automatically shall terminate upon the termination or expiration of the Line Lease Agreement. Upon any such termination, the respective rights and obligations assigned and assumed hereunder automatically shall revert to NSR.

4. This Assignment is intended for the sole benefit of the parties hereto. The failure of either party to demand strict performance of any or all of the terms of this Assignment, or to exercise any or all rights conferred by this Assignment, shall not be construed as a waiver or relinquishment of that party's right to assert or rely upon any such right in the future. This Assignment represents the entire understanding of the parties, and to that extent supersedes any prior understandings, written or oral and may only be amended in a writing signed by both parties. This Assignment will be construed in accordance with the laws of Delaware without regard to its otherwise applicable conflict of law principles. This Assignment may be executed in any number of counterparts, each of which may be deemed an original for any purpose and all of which together shall be considered one and the same agreement.

[Remainder of Page Intentionally Blank]

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

JACKSON & LANSING RAILROAD COMPANY

By: _____
Name:
Title:

NORFOLK SOUTHERN RAILWAY COMPANY

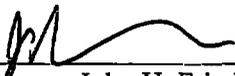
By:  _____
Name: John H. Friedmann
Title: Vice President

EXHIBIT 3

SURFACE TRANSPORTATION BOARD

Notice of Exemption

Finance Docket No. 35418

**Jackson & Lansing Railroad Company
-- Trackage Rights --
Norfolk Southern Railway Company**

Norfolk Southern Railway Company has agreed to assign trackage rights to Jackson & Lansing Railroad Company between Milepost 36.8 in Lansing, MI and Milepost 37.86 in North Lansing, MI. The trackage rights will be effective on October 16, 2010.

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

Dated:

By the Board.

Cynthia T. Brown
Chief, Section of Administration