

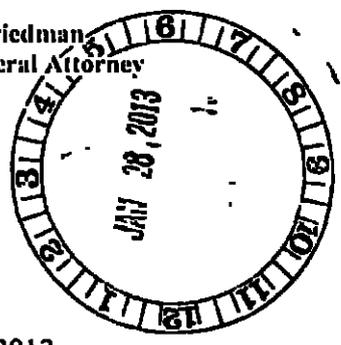
233731



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

FILED
JAN 28 2012

Christine I. Friedman
Assistant General Attorney



**SURFACE
TRANSPORTATION BOARD**

Writer's Direct Dial Number

Phone (757) 629-2892
Fax (757) 533-4872
E-mail Christine.Friedman@nscorp.com

January 25, 2013

VIA UPS OVERNIGHT

FEE RECEIVED

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D C. 20423
(202) 245-0245

JAN 28 2013

ENTERED
Office of Proceedings

**SURFACE
TRANSPORTATION BOARD**

JAN 28 2013

Part of
Public Record

Re: Finance Docket No 35715 Norfolk Southern Railway Company Temporary Trackage Rights Exemption – Grand Trunk Western Railroad Company and Wisconsin Central Ltd

Dear Ms. Brown:

Enclosed for filing in the above proceeding please find the following:

- 1 An original and ten copies of a Verified Notice of Exemption pursuant to 49 C.F.R. § 1180.2(d)(7). The original copy of this document contains a color map attached as Exhibit 1
2. A credit card form authorizing payment in the amount of \$1,200.00 for the filing fee required by 49 C.F.R. § 1002.2(f), Part IV (40).
3. Twenty (20) unbound copies of the map attached as Exhibit 1
- 4 A CD containing an electronic copy of the Verified Notice of Exemption

Thank you for your prompt assistance. If you have any questions, please feel free to contact me

Sincerely,
Christine I. Friedman
Christine I. Friedman

Enclosures
CC: Thomas J. Healey, Esq

233731

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35715

**NORFOLK SOUTHERN RAILWAY COMPANY –
TEMPORARY TRACKAGE RIGHTS EXEMPTION –
GRAND TRUNK WESTERN RAILROAD COMPANY AND
WISCONSIN CENTRAL LTD.**

VERIFIED NOTICE OF EXEMPTION

James A. Hixon
John M. Scheib
Maquiling Parkerson
Christine I. Friedman
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

*Counsel for Norfolk Southern Railway
Company*

Dated: January 25, 2013

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35715

NORFOLK SOUTHERN RAILWAY COMPANY –
TEMPORARY TRACKAGE RIGHTS EXEMPTION –
GRAND TRUNK WESTERN RAILROAD COMPANY AND
WISCONSIN CENTRAL LTD.

VERIFIED NOTICE OF EXEMPTION

Norfolk Southern Railway Company (“NS”) submits this Verified Notice of Exemption (“Notice”), pursuant to 49 C.F.R. § 1180.2(d)(7), with respect to the Temporary Trackage Rights Agreement (the “Agreement”) between Grand Trunk Western Railroad Company and Wisconsin Central Ltd (collectively referred to as “CN”) and NS. The Agreement grants NS temporary overhead trackage rights over two rail lines owned by CN during the construction of a connecting track between CN’s City Track and NS’s Gary Branch at or near Gary, IN (“Gary City Track Connection”) The temporary trackage rights will expire twenty-four months after the commencement date of the Agreement, or the date that the Gary City Track Connection is completed and in use, whichever comes first.¹ The Agreement will be consummated on the effective date of this Notice, which shall be on or after February 24, 2013.

¹ Because the temporary trackage rights covered by this Notice are longer than a year in duration, the filing is not being made under the Board’s class exemption for temporary trackage rights under 49 C.F.R. § 1180.2(d)(8).

Under 49 C.F.R. § 1180.2(d)(7), the acquisition, renewal, or modification of trackage rights by a rail carrier over the lines owned or operated by any other rail carrier or carriers is exempt if the rights are: (i) based on a written agreement, and (ii) not filed or sought in a responsive application in rail consolidation proceedings. The trackage rights covered by this Notice are based upon a written agreement, a redacted version of which is attached hereto as Exhibit 2, and are not being sought in a responsive application in a rail consolidation proceeding. Thus, the Section 1180.2(d)(7) class exemption is applicable.

Section 1180.6 Supporting Information

(a)(1)(i) Description of Proposed Transaction

In the Agreement, CN grants temporary overhead trackage rights to NS over the CN rail lines located (1) between CN's connection with NS at or near Milepost 99.5 in South Bend, IN and at or near Milepost 36.1 in Griffith, IN on CN's South Bend Subdivision, a distance of approximately 63.4 miles; and (2) between Milepost 36.1 in Griffith, IN and CN's Kirk Yard at or near Milepost 45.4 in Gary, IN on CN's Matteson Subdivision, a distance of approximately 9.3 miles. The trackage rights are temporary during the construction of the Gary City Track Connection, and accordingly, the trackage rights will expire twenty-four months after the commencement date of the Agreement, or the date that the Gary City Track Connection is completed and in use, whichever comes first.²

² The "Commencement Date" is defined in Section 21 of the Agreement as the "date User commences operations over the Subject Trackage." The parties intend for NS to commence such operations shortly after the effective date of this Notice

Name and address of tenant railroad:

Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

Questions regarding this transaction are to be addressed to the representative designated below.

Christine I. Friedman
Assistant General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510
(757) 629-2892

(a)(1)(ii) Consummation Date

The trackage rights will be consummated on or after February 24, 2013.

(a)(1)(iii) Purpose of Transaction

The trackage rights are temporary during the construction of the Gary City Track Connection and are intended to allow NS to interchange with CN at CN's Kirk Yard in Gary, IN.

(a)(5) States in which Property of the Applicant is Situated

NS owns rail lines in the following 22 states: Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia.

(a)(6) Map

A map is attached hereto as Exhibit 1.

(a)(7)(ii) Agreement

A redacted version of the Agreement is attached as Exhibit 2, with highly confidential material redacted. An unredacted version of the Agreement is being filed simultaneously herewith under seal, along with an accompanying motion for a protective order.

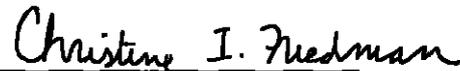
Labor Protections

The applicable labor protection conditions are those imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

Environmental Documentation and Historic Reports

Pursuant to 49 C.F.R. §§ 1105.6(c)(4) and 1105.8(b)(3), neither environmental documentation nor a historic report is required for this transaction.

Respectfully submitted,



James A. Hixon
John M. Scheib
Maquiling Parkerson
Christine I. Friedman
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Counsel for Norfolk Southern Railway Company

Dated: January 25, 2013

VERIFICATION

I, Mark M. Owens, declare under penalty of perjury that I am authorized to make this verification on behalf of Norfolk Southern Railway Company, and that the information included in the foregoing Notice of Exemption is true and correct to the best of my knowledge and belief.



Mark M. Owens
Director Joint Facilities
Norfolk Southern Railway Company

Dated: January 24, 2013

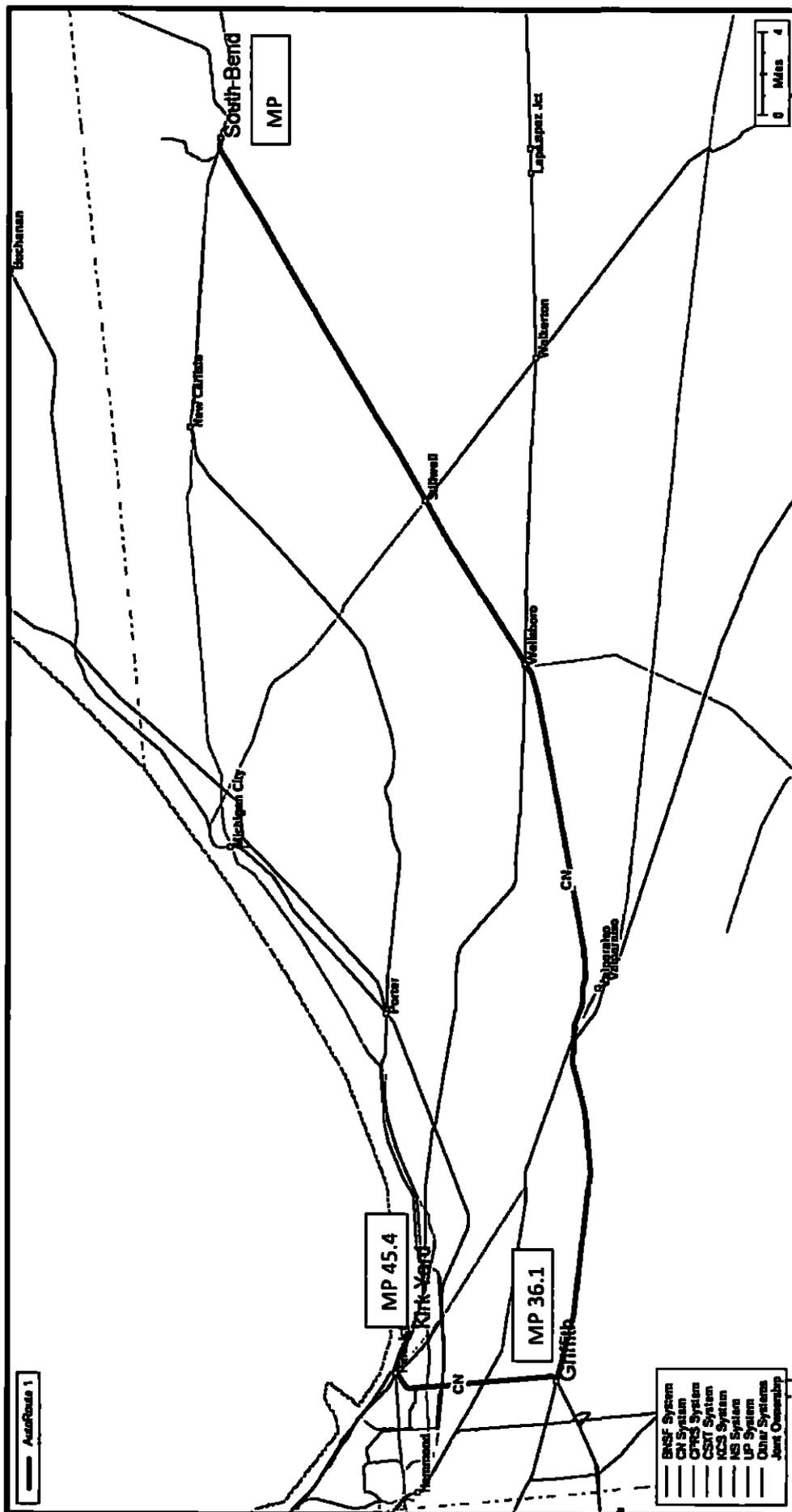
EXHIBITS

Exhibit 1: Map

Exhibit 2: Temporary Trackage Rights Agreement

Exhibit 3: Caption Summary

EXHIBIT 1



PUBLIC VERSION

TEMPORARY TRACKAGE RIGHTS AGREEMENT

THIS AGREEMENT (Agreement") entered into as of this ___ day of _____ 2013, by and between GRAND TRUNK WESTERN RAILROAD COMPANY, WISCONSIN CENTRAL LTD. (hereinafter collectively referred to as "CN" or "OWNER") and NORFOLK SOUTHERN RAILWAY COMPANY, (hereinafter referred to as "NSR" or "USER"). Each of NSR and CN shall individually be referred to as a "Party" and collectively as the "Parties".

WHEREAS, effective January 1, 2013, Canadian National Railway Company merged its wholly owned subsidiary company, Elgin, Joliet and Eastern Railway Company with its sister company Wisconsin Central Ltd., and

WHEREAS, CN owns and operates segments of railroad located between South Bend, IN and Griffith, IN on CN's South Bend Subdivision and between Griffith, IN and CN's Kirk Yard in Gary, IN on CN's Matteson Subdivision; and

WHEREAS, CN and NSR have executed an interchange agreement dated _____, 2013 between themselves covering the interchange of certain loaded and empty cars at CN's Kirk Yard at Gary, IN ("Kirk Yard Interchange Agreement"); and

WHEREAS, CN and NSR have executed a construction agreement dated _____, 2013 between themselves covering the construction of a connecting track between CN's City Track and NSR's Gary Branch at or near Gary, IN ("Gary City Track Connection") ("Gary City Track Construction Agreement"), and

WHEREAS, for operational efficiencies, the parties agree for NSR to obtain limited temporary overhead trackage rights between South Bend, IN and Griffith, IN and between Griffith, IN and CN's Kirk Yard in Gary, IN for the sole purpose of interchanging with CN at CN's Kirk Yard in Gary, IN, and

WHEREAS, CN agrees to grant NS limited temporary overhead trackage rights subject to the terms and conditions as set forth herein

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

SECTION 1.0 GRANT OF TEMPORARY TRACKAGE RIGHTS

1.1 Subject to NSR's agreement to file a "Petition for Partial Revocation of Class Exemption and for Temporary Exemption of Trackage Rights", which requests revocation of the temporary trackage rights on the dates indicated in Section 3 (or otherwise file a temporary trackage rights exemption pursuant to 49 C.F.R. 1180.2(d)(8)), jointly with its "Notice of Exemption" filing for the trackage rights with the Surface Transportation Board, and the terms and conditions herein provided, Owner hereby grants to User the temporary nonexclusive right to operate, in overhead freight service only, its trains, locomotives, cars, and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segment of Owner's railroad shown in green on the plan attached hereto, made a part hereof and marked Exhibit "A" (hereinafter referred to as the "Subject Trackage")

(a) Between CN's connection with NSR at or near Milepost 99.5 in South Bend, IN and at or near Milepost 36.1 in Griffith, IN on CN's South Bend Subdivision, including (1) all sidings, yard tracks and yard leads now existent or hereafter constructed along the aforesaid tracks to be used hereunder, and (2) right-of-way for the aforesaid tracks, signals, interlocking devices and plants, telegraph and telephone lines, and other appurtenances necessary to the use hereunder of the aforesaid tracks by the parties hereto, a distance of approximately 63.4 miles

(b) Between Milepost 36.1 in Griffith, IN and CN's Kirk Yard at or near Milepost 45.4 in Gary, IN on CN's Matteson Subdivision, including (1) all sidings, yard tracks and yard leads now existent or hereafter constructed along the aforesaid tracks to be used hereunder, and (2) right-of-way for the aforesaid tracks, signals, interlocking devices and plants, telegraph and telephone lines, and other appurtenances necessary to the use hereunder of the aforesaid tracks by the parties hereto, a distance of approximately 9.3 miles

(c) The total distance of the Subject Trackage is 72.7 miles.

SECTION 2.0 USE OF SUBJECT TRACKAGE

2.1 User's use of the Subject Trackage shall be in common with Owner and any other user of the Subject Trackage, and Owner's right to use the Subject Trackage shall not be diminished by this Agreement. Owner shall retain the exclusive right to grant to other persons rights of any nature in the Subject Trackage.

2.2 Except as may otherwise be provided by this Agreement User shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing of cars or equipment, or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of Owner, preclude the emergency use by User of such auxiliary tracks as may be designated by Owner for such purpose.

2.3 Owner shall have exclusive control of the management and operation of the Subject Trackage. User shall not have any claim against Owner 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.

2.4 User shall have the right to operate in either direction over the Subject Trackage.

SECTION 3.0 RESTRICTION ON USE

3.1 The temporary trackage rights herein granted are granted for the sole purpose of User using same for bridge traffic only between the terminals of Subject Trackage and User shall not perform any local freight service whatsoever at any point located on Subject Trackage.

3.2 NSR's use of the temporary trackage rights granted herein by CN shall be limited to one (1) pair of trains (one train in each direction) per day to be operated at times agreed upon in advance by CN and NSR operating managers for the sole purpose of NSR delivering interchange traffic from NSR to CN at CN's Kirk Yard and NSR pulling interchange traffic from CN to NSR at CN's Kirk Yard. Any car hire associated with the interchange described herein will be as governed by the Kirk Yard Interchange Agreement. Empty and loaded unit trains of coal and/or coke will not be handled under this Temporary Trackage Rights Agreement unless otherwise mutually agreed upon.

3.3 The temporary limited trackage rights granted to NSR herein shall terminate twenty-four (24) months from the Commencement Date, or the date that the Gary City Track Connection is completed and in use, whichever occurs first

3.4 Subject to mutual agreement between the Parties, the Parties will initiate a written amendment for an extension beyond the twenty-four (24) months from the Commencement Date of this Agreement so long as both Parties can demonstrate that each is actively working toward the timely completion of the referenced Gary City Track Connection

3.5 The Parties shall meet quarterly to review and document the progress of the construction of the Gary City Track Connection

3.6 NSR shall have sufficient fuel for the entire movement on CN.

3.7 NSR agrees that it shall: 1) not stage, hold, store, park or otherwise unreasonably interfere with the joint use of the Subject Trackage and 2) ensure that crews will have sufficient hours of service remaining to clear the Subject Trackage. If the NSR train requires a recrew while operating on the Subject Trackage, NSR will make the necessary arrangements with CN's Dispatcher to have a NSR relief crew in position to relieve the NSR crew prior to the arrival of the NSR train at the recrew location. If NSR doesn't have a crew available, if CN so elects, CN will recrew the NSR train at the sole cost and expense of NSR and move train to its destination on Subject Trackage or move train to a location where it can be held until such time as NSR has a crew available to operate NSR train to destination on Subject Trackage. CN train dispatchers will make every reasonable effort to handle NSR trains operating within their territory

3.7.1 For westbound NSR trackage rights trains only, CN has agreed to reimburse NSR for NSR recrews or provide a CN recrew at CN expense under the following terms and conditions:

3.7.1.1 CN and NSR respective service design shall agree to a designated slot for the NSR trackage rights trains ("Train Slot").

3.7.1.2 Subject to the provisions herein, provided that NSR trackage rights train enters the Subject Trackage at South Bend, IN within the Train Slot and with at least six (6) hours of service time remaining for crew, and such NSR trackage rights train is not able to clear the Subject Trackage and effect interchange at Kirk Yard and requires a recrew, NSR shall provide a relief crew at CN expense. If NSR does not have a crew available, CN shall recrew the NSR trackage rights train at CN expense. For all purposes of this Agreement including but not limited to liability, a CN crew shall be considered an NSR crew.

3.7.1.3 Such recrew by CN shall only apply to events caused directly by CN dispatching of the line or CN's yardmaster delaying access of NSR trackage rights train to Kirk Yard. Recrew of NSR trackage rights trains resulting from all other events shall be the responsibility of NSR

3.7.1.4 NSR expects that the outbound/eastbound train at Kirk will be made up and ready for departure at an agreed to time with available NSR locomotives.

3.8 NSR shall not permit or admit any third party to the use of all or any portion of the Subject Trackage, nor have the right to detour trains of any other railroad over or upon the Subject Trackage, nor under the guise of doing its own business contract or make an agreement to handle as

its own Equipment over or upon the Subject Trackage, or any portion thereof, the Equipment of any third party which in the normal course of business would not be considered the Equipment of User; provided, however, that the foregoing shall not prevent User, pursuant to a run-through agreement with any railroad, from using locomotives and cabooses of another railroad as its own under this Agreement.

3.9 NSR shall not connect or interchange with itself or with any other railroad at any location along the Subject Trackage other than at the points defined in Section 1 on the Subject Trackage.

3.10 User will ensure that immediately upon arrival at South Bend, IN that User's train will exit the Subject Trackage

3.11 If NSR elects to stage locomotives at CN's Kirk Yard for its outbound train, the locomotives will remain in the account of NSR, NSR will be responsible for and shall indemnify CN from any damage that its locomotives cause or incur while being staged at CN's Kirk Yard, and CN will not be liable for any horsepower hours. CN does not intend to use NSR locomotives for any other purpose than to effect interchange between the Parties. If CN utilizes NSR locomotives for any other purpose, then such CN usage will be subject to the terms and conditions of the current locomotive horsepower agreement between the Parties only for such time that CN's use of NSR locomotives were for purposes other than to effect interchange between the Parties.

SECTION 4.0 COMPENSATION

4.1 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 loaded and/or empty car mile (hereinafter referred to as the "Base Charge") and this rate does not cover any ancillary services such as intermediate or reciprocal switch charges regardless of whether such switch charge is absorbed, weighing, lifts, haul-away or other drayage, or transloading services.

4.2 Thereafter, User will pay Owner a sum computed by multiplying (i) the Base Charge, as may be revised in accordance with Section 4.5, by (ii) the number of cars (loaded or empty), locomotive and caboose units moved by User with its own crews and power over the Subject Trackage by (iii) the miles of Subject Trackage used. For purposes of this Agreement, each locomotive unit, each caboose, and each platform of an articulated car shall be counted as one car.

4.3 With respect to articulate units, the number of cars shall be determined by the AAR Car Type Code as defined in the UMLER Specification Manual. The second character 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 53' containers in each well. (Car count data for articulated units are subject to change upon development of technology to separate units by car numbers.)

4.4 Owner will furnish to User, in care of Manager Miscellaneous Billing, or their designates, at the end of each month, a billing statement with the number of loaded and empty cars operated over the Subject Trackage during the month computed in accordance with the provisions of this Section 4, for User's use of the Subject Trackage.

4.5 The Base Charge shall be subject to change to reflect any increases or decreases in labor, material and other costs subsequent to the base year, as hereinafter provided

(i) The Base Charge set forth in Section 4.1 of this Agreement shall be revised effective July 1 of each year, beginning July 1, 2013 to compensate for the prior year increase or decrease in the cost of labor and material, excluding fuel, as reflected in Table A, Annual Indices of Charge-Out Prices and Wage Rates (1977=100), Series RCR, included in "AAR Railroad Cost Indexes" and supplements thereto, issued by the Association of American Railroads (hereinafter referred to as "AAR") In making such determination, the final "Material prices, wage rates and supplements combined (excluding fuel)" index for the East District shall be used.

The Base Charge shall be revised by calculating the percentage of increase or decrease for the year to be revised based on the final index of the most recently completed calendar year as related to the final index of the calendar year prior to the most recently completed calendar year, and applying this percentage of increase or decrease to the current Base Charge to be escalated

(ii) By way of example, assuming "A" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for the calendar year (2011) prior to the most recently completed calendar year; "B" to be the "Material prices, wage rates and supplements combined (excluding fuel)" final index figure for the most recently completed calendar year (2012); and "C" to be the current Base Charge to be escalated, the revised Base Charge would be determined by the following formula.

$B/A \times C =$ Revised Base Charge, Rounded to Nearest Whole Cent (5 Mills or More Rounds to Next Cent)

(iii) In the event the base for the Annual Indexes of Charge-Out Prices and Wage Rates issued by the AAR shall be changed from the year 1977, appropriate revision shall be made. If the AAR or any successor organization discontinues publication of the Annual Indices 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 matter will be referred to the Surface Transportation Board for determination. In the event said Board is without jurisdiction to make such a determination, the parties shall submit the matter to binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator so appointed by said Association shall be final and binding upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees, and expenses of its own witnesses, exhibits, and counsel. The compensation, costs, and expenses of the arbitrator shall be borne equally by such parties

PROVIDED, HOWEVER that under no circumstances shall the Base Charge ever be less than [REDACTED] per car mile for each and every loaded and empty car, provided for in this Section.

4.6 Subject to terms and conditions of the Agreement, [REDACTED]

[REDACTED] this Agreement is solely intended to bridge the gap between the effective change in Chicago interchange locations between NSR and CN and the construction of the Gary City Track Connection which (when completed) will eliminate the need for the temporary trackage rights. As such, this Agreement shall terminate upon completion of the Gary City Track Connection referenced above, or as otherwise provided in this Agreement.

[REDACTED] CN will periodically update the accrual amount of the trackage rights charges and advise NSR of that amount on a semi-annual basis. This Agreement does not supersede any existing agreements between NS and CN.

SECTION 5.0 PAYMENT OF BILLS

5.1 All payments called for under this Agreement shall be made by User within thirty (30) 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.

5.2 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 for a period of three (3) years from the date of billing.

5.3 Bills rendered pursuant to the provisions of this Agreement, other than those set forth in Section 4, shall include direct labor and material costs, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed by one Party for the other Party.

SECTION 6.0 MAINTENANCE OF SUBJECT TRackage

6.1 Owner shall maintain, repair, and renew the Subject Trackage at its own expense and with its own supervision and labor. Owner does not guarantee the condition of the Subject Trackage or that operations there over will not be interrupted. Owner shall take all reasonable steps to ensure that any interruptions will be kept to a minimum. Furthermore, except as may be otherwise provided in Section 12 hereof, User shall not by reason of failure or neglect on the part of Owner to maintain, repair, or renew the Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries or affiliates, or their respective directors, 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. If the use of the Subject Trackage shall at any time be interrupted or traffic thereon is delayed for any cause, Owner shall with reasonable diligence restore the Subject Trackage for the movement of cars.

6.2 Owner shall also perform, at the expense of User, such additional maintenance as User may reasonably require or request.

SECTION 7.0 CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

7.1 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

SECTION 8.0 ADDITIONS, RETIREMENTS AND ALTERATIONS

8.1 Owner, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to, and 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.

8.2 If User requests Owner to make changes in or additions and betterments to the Subject Trackage, including without limitation changes in communication or signal facilities, for purposes required to accommodate User's operations beyond that required for Owner's operation, Owner shall have the option to either make such changes in or additions and betterments to the Subject Trackage and User shall pay to Owner the cost thereof, including the annual expense of maintaining, repairing, and renewing such additional or altered facilities, or to deny such request

SECTION 9.0 MANAGEMENT AND OPERATIONS

9.1 When operating over the Subject Trackage, User's locomotives and crews will be equipped to communicate with Owner on radio frequencies normally used by Owner in directing train movements on the Subject Trackage.

9.2 Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each carrier. All control and usage will be subject to the approval of Owner's representative or his designee.

9.3 Before its locomotives enter onto the Subject Trackage, User shall request permission from Owner's dispatcher or other designated representative. Further, User shall ascertain that said Subject Trackage is clear and shall await confirmation from said representative that such permission has been issued to allow User's movements on or over the Subject Trackage. Upon completing its operations and clearing the Subject Trackage, User will notify Owner's designated representative that it has completed its operations and that its equipment has cleared the Subject Trackage. Once User has notified Owner's representatives that it has cleared the Subject Trackage, User shall not reenter the Subject Trackage without again obtaining permission from Owner's representative. User shall provide and maintain at its expense all communication facilities needed as may be required by Owner to permit User to use Owner's trackage.

9.4 User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Acts, as amended, and all other federal and state 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 Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against all fines, penalties, and liabilities imposed upon Owner or its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, or employees under

such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable to the failure of User to comply with its obligations in this regard

9.5 User, in its use of the Subject Trackage, will comply in all respects with the safety rules, operating rules and other regulations of Owner, 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 Owner. 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, except as provided for in normal clearance process protocols followed between Owner and User and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the authorized freight speeds as provided by Owner's operating rules and regulations without the prior consent of Owner. User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all their directors, officers, agents and employees from and against all liabilities when attributable to the failure of User to comply with the provisions of this subsection.

9.6 All employees of User engaged in or connected with the operations of User on or along the Subject Trackage shall be required to pass periodic examinations on the rules of Owner related to the Subject Trackage, provided, with respect to such examinations that, upon request of User, Owner shall qualify one or more of User's supervisory officers on Owner's rules and such supervisory officer or officers so qualified shall examine all employees of User engaged in or connected with User's operations on or along the Subject Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner, to assist in operating trains of User over the Subject Trackage. User shall pay to Owner, upon receipt of bills therefore, any reasonable cost incurred by Owner in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Owner, until such time as such employees are deemed by the appropriate examining officer of Owner to be properly qualified for operation as herein contemplated, such determination not to be unreasonably withheld, conditioned or delayed

9.7 If any employee of User shall neglect, refuse or fail to abide by Owner's rules, instructions and restrictions governing the operation on or along Owner's property, such employee shall, upon written request of Owner, be prohibited by Owner from working on Owner's property. If any party shall deem it necessary to hold a formal investigation to establish such neglect, refusal or failure on the part of any employee of User, then upon such notice presented in writing, User shall promptly hold an investigation in which all parties concerned shall participate and bear the expense for its officers, counsel, witnesses and employees. Notice of such investigations to User's employees shall be given by User's officers, and such investigation shall be conducted in accordance with the terms and conditions of schedule agreements between User and its employees. If the result of such investigation warrants, such employee shall, upon written request by Owner, be withdrawn by User from service on Owner's property, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal.

9.8 The trains, locomotives, cars, and equipment of User, Owner, and any other present or future user of the Subject Trackage or any portion thereof shall be operated without prejudice or partiality and in such manner as will afford the most economical and efficient manner of movement of all traffic.

9.9 If by reason of any mechanical failure, insufficient hours of service remaining among User's crew, or for any other cause not resulting from an accident or derailment, a train or

locomotive of User becomes stalled or unable to proceed under its own power, or fails to maintain the speed required by Owner on the Subject Trackage, or if in emergencies crippled or otherwise defective cars are set out of User's trains on the Subject Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to recrew User's train as provided in Section 3.5 if User's train is going to interfere with the operation of or on the Subject Trackage) 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 Owner for the cost of rendering any such assistance.

9.10 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 Owner and User shall reimburse Owner for the cost thereof.

9.11 In the event Owner and User agree that Owner 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 additional employees, including without limitation all cost and expense associated with labor protective payments which are made by Owner and which would not have been incurred had the additional employees not been provided.

SECTION 10.0 MILEAGE AND CAR HIRE

10.1 All mileage and car hire charges accruing on cars in User's account 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.

SECTION 11.0 CLEARING OF WRECKS

11.1 Whenever User's use of the Subject Trackage requires rerailing, wrecking service or wrecking train service, Owner shall perform such service, including the repair and restoration of roadbed, track, and structures. The cost, liability and expense thereof, including without limitation loss of, damage to, and destruction of any property whatsoever and injury to or death of any person or persons whatsoever 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 Section 12 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by User at the time of such wreck shall be promptly delivered to User.

SECTION 12.0 LIABILITY

12.1 The responsibility and liability between the Parties for: (i) any personal injury or death of any person (including employees of the Parties and third persons), (ii) any real or personal property damage of any person (including property of the Parties 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, settlements, claims, judgments, 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", shall be allocated as follows:

12.2 If a Loss occurs from use of the Subject Trackage involving the trains, locomotives, engines and/or employees of only one Party, then such Party shall be solely responsible for the Loss, even if caused partially or completely by the other Party

12.3 If a Loss occurs from use of the Subject Trackage involving the trains and locomotives of both Parties, then (i) each Party shall be solely responsible for any Loss to its own employees, locomotives and equipment in its own account including lading and (ii) responsibility for any Loss to the Subject Trackage and Loss sustained by third parties shall be divided equally between the two Parties, regardless of the proportionate responsibility between them as to the cause of the Loss.

(i) Any damage of the environment, including without limitation land, air, water wildlife, and vegetation, occurs with both Owner and User's traffic being involved, then as between themselves, (i) Owner shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in such Owner's traffic and/or Owner's locomotive from which there is a release, (ii) User shall be solely responsible for any damage or destruction to the environment and to third parties which results solely from a substance transported in such User's traffic and/or a User's locomotive from which there was a release, and (iii) responsibility for damage or destruction to the environment and to third parties which results from one or more substances which was (or were) being transported in equipment in the revenue waybill and car hire accounts or locomotives of both Owner and User from which there was a release, shall, to the extent not allocable under subparagraphs (i) and (ii) to the substance released, be shared by the parties in proportion to the total number of cars, in the revenue waybill and car hire account of each party, or equipment or locomotives of the respective parties, from which there was such release

12.4 If a Loss occurs from the use of the Subject Trackage involving both User and any other third party user of the Subject Trackage not a party to this Agreement, then User's responsibilities for the Loss shall be apportioned in the manner specified in Subsection 12.3 with the other party user being considered Owner for the purpose of determining User's share of that portion of the Loss which it must assume

12.5 Whenever any Loss is assumed by or apportioned to a Party under the foregoing provisions, that Party shall forever protect, defend, indemnify, and save harmless the other Party and its parent corporation, subsidiaries and affiliates, and any and all of their respective directors, officers, agents, and employees from and against such Loss 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.

12.6 In every case of death or injury suffered by an employee of either Party, when compensation to such employees 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

12.7 For purposes of determining liability, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees, are on board or getting on or off trains of User, and as otherwise on duty as pilots for User.

12.8 If any suit or action shall be brought against either Party for damages which under the provisions of this Agreement are in whole or in part the responsibility of the other Party, said other Party shall be notified in writing by the party sued, and the party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay a proportionate part of the judgment and costs, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.

12.9 In the event of a Loss as set out herein, the Parties shall be bound by the Freight Claim Rules, Principles, and Practices of the AAR as to the handling of any claims for the loss or damage to lading.

12.10 Notwithstanding the provisions of Section 18.5 of this Agreement, for the purposes of this Section 12 the word "equipment" shall mean and be confined to (i) trains, locomotives, cars and cabooses, (ii) 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 (iii) vehicles and machinery that, at the time of an occurrence, are on the Subject Trackage or its right-of-way for the purpose of the maintenance or repair thereof or the clearing of wrecks thereon.

SECTION 13.0 INVESTIGATION AND CLAIMS

13.1 Except as provided in Subsection 13.2 hereof, all claims, injuries, deaths, 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 therefore under the provisions of this Agreement.

13.2 Each Party will investigate, adjust, and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and 49 C.F.R. Part 1005 (or any revised or substitute regulations adopted to modify, supplement or supersede the regulations herein provided), or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

13.3 In the event a claim or suit is asserted against Owner 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.

13.4 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 employees, including claim agents, attorneys, and other employees of either Party engaged directly or indirectly in such work shall be borne by such Party.

13.5 Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Part 1005 or similar regulation, 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).

13.6 Each Party agrees to indemnify and hold harmless the other Party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, pursuant to a collective bargaining agreement. It is the intention of the parties that each Party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employee arising under its collective bargaining agreements with its employees.

13.7 It is understood that nothing in this Section 13 shall modify or waive the conditions, obligations, assumptions or apportionments, or supersede the provisions of Section 12 hereof.

SECTION 14.0 DEFAULT AND TERMINATION

14.1 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 Owner, Owner shall have the right at its option, after first giving thirty (30) days' written notice thereof by certified mail, and notwithstanding any waiver by Owner of any prior breach thereof, to terminate the Trackage Rights and User's use of the Subject Trackage. The exercise of such right by Owner 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.

SECTION 15.0 ARBITRATION

15.1 Except for matters concerning loss or destruction of, or damage to freight, or injury or death of persons, any irreconcilable dispute arising between the parties with respect to this Agreement shall be settled through final and binding arbitration. The parties shall jointly submit the matter to final and binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator(s) shall be final and conclusive upon the parties hereto. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator(s), if any, shall be borne equally by the parties hereto.

SECTION 16.0 REGULATORY APPROVAL

16.1 Should implementation of this Agreement require the prior approval and authorization of the Surface Transportation Board ("STB"), User, at its own cost and expense, will initiate and thereafter diligently prosecute an action to obtain such approval and authorization or an exemption therefrom. Owner will assist and support efforts of User to obtain any such required approval and authorization or exemption.

16.2 Each Party shall assume and hold the other Party harmless from all employee claims predicated on loss of, or adverse impact on, compensation, benefits or working conditions arising from this Agreement or the activities of the parties hereunder, whether such claims are based on conditions imposed by the STB or predicated on the Railway Labor Act or labor agreements.

SECTION 17.0 ABANDONMENT OF SUBJECT TRACKAGE

17.1 Notwithstanding the provisions of Section 21 of this Agreement, Owner may abandon the Subject Trackage during the term of this Agreement, or any renewals hereof, upon giving User not less than ninety (90) days' written notice of Owner's intent to abandon. In the event regulatory authority is required to effect such abandonment, User will not interfere with Owner's actions to seek and to exercise such authority. In the event regulatory authority is required for User to discontinue its own operations over the Subject Trackage, User will seek and diligently pursue such regulatory authority at the same time that Owner seeks regulatory authority to abandon the Subject Trackage, or as soon thereafter as User may do so in accordance with applicable statutes and regulations, unless User intends to acquire the Subject Trackage from Owner pursuant to 49 U.S.C. Section 10904 or other similar provision. User hereby expressly reserves the right pursuant to 49 U.S.C. Section 10904 or any similar provision which may be in effect to subsidize operations on or to acquire the Subject Trackage. Unless User or another party acquires the Subject Trackage for continued rail use or subsidizes Owner's operations thereon, User shall exercise its authority to discontinue its operations pursuant to this Agreement upon the date established by Owner for abandonment of the Subject Trackage by its aforesaid notice to User, or upon the earliest authorized date of exercise of the regulatory authority to discontinue operations, whichever is later. If regulatory authority for discontinuance of User's operations is not required, User shall discontinue its operations hereunder on the date that Owner is authorized to abandon the Subject Trackage. Upon discontinuance of User's operations, this Agreement shall terminate and be of no further force and effect, except that termination of this Agreement shall not relieve or release either Party hereto from any obligations assumed or from any liability which may have arisen or been incurred prior to said termination. As used herein, Subject Trackage means the entire Subject Trackage or any portion or portions thereof.

SECTION 18.0 GENERAL PROVISIONS

18.1 This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against either of the parties hereto.

18.2 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

18.3 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.

18.4 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.

18.5 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, or equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars, or 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.

18.6 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.

18.7 This agreement is the result of mutual negotiations of the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

18.8 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a Party hereto to enforce its rights under this Agreement, during the initial and any renewal term of this Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either CN or NSR to any Party other than CN's and NSR's affiliates and the respective officers, employees, and attorneys of those affiliates, without the prior written approval of the other Party

SECTION 19.0 SUCCESSORS AND ASSIGNS

19.1 No Party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, by merger or otherwise, to any person, firm, or corporation without obtaining the prior written consent of the other Party (ies) to this Agreement

SECTION 20.0 NOTICE

20.1 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 mutually agree, and shall be addressed as follows:

If to Owner

Region Director Contracts and Administration
Grand Trunk Western Railroad Company
Wisconsin Central Ltd.
17641 South Ashland Avenue
Homewood, IL 60430

If to User:

Executive Vice President Network & Service Management
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

With a copy to.

Director – Joint Facilities
Norfolk Southern Corporation
1200 Peachtree Street, NE – Box 158
Atlanta, Georgia 30309

20.2 Either Party may provide changes in the above addresses to the other Party by personal service or certified mail

SECTION 21.0 COMMENCEMENT, TERM AND TERMINATION

21.1 This Agreement shall take effect on the later of (i) execution by CN and NSR of the Kirk Yard Interchange Agreement, or (ii) execution by CN and NSR of the Gary City Track Construction Agreement, or (iii) the effective date of any required regulatory approvals, and shall be evidenced by an

exchange of correspondence between the appropriate operating officers of the parties hereto. The date User commences operations over the Subject Trackage pursuant to this Agreement shall be referred to herein as the "Commencement Date") The Commencement Date shall not be prior to the execution of the Kirk Yard Interchange Agreement, execution of the Gary City Track Construction Agreement, effective date of any required regulatory approvals or before the completion of any required notice period(s) expire and shall be evidenced by an exchange of correspondence between the appropriate operating officers of the parties hereto.

21.2 This Agreement shall continue in full force and effect until terminated by either Party upon thirty (30) days written notice to the other Party or until terminated under the terms and conditions as specified in Section 3.0

21.3 Termination of this Agreement shall not relieve or release either Party hereto from any obligations 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.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year first hereinabove written.

WITNESS

Susan M. Adygowski

GRAND TRUNK WESTERN RAILROAD
COMPANY

By: Paul E. Ladur

Its: Region Director Contracts & Administration

Date: 1/18/2013

WITNESS

Susan M. Adygowski

WISCONSIN CENTRAL LTD.

By: Paul E. Ladur

Its: Region Director Contracts & Administration

Date: 1/18/2013

WITNESS

[Signature]

NORFOLK SOUTHERN RAILWAY
COMPANY

By: [Signature]

Its: VP Ntwk & Svc Mgmt

Date: 01/24/13

Exhibit A

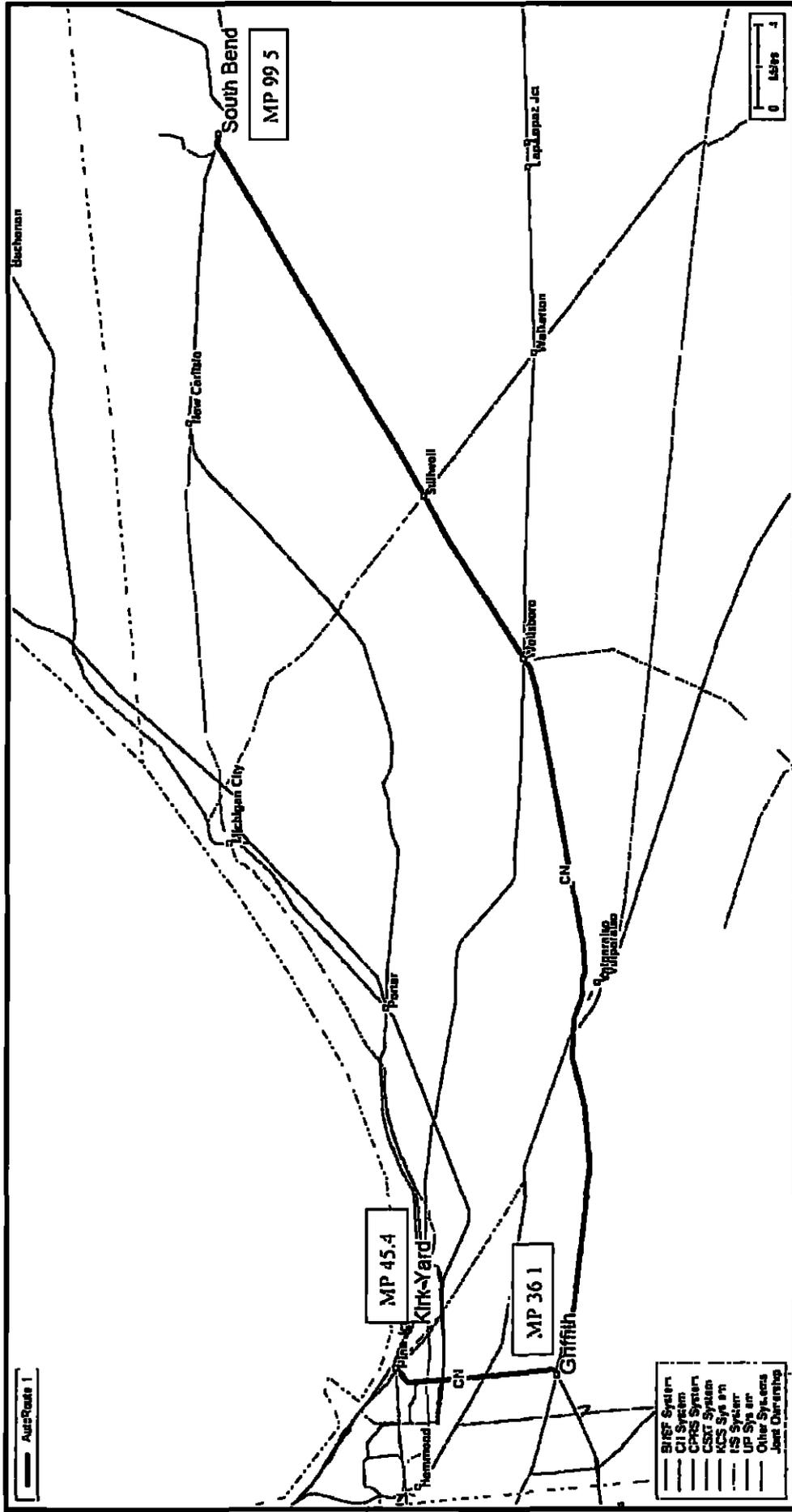


EXHIBIT 3

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Docket No FD 35715

NORFOLK SOUTHERN RAILWAY COMPANY –
TEMPORARY TRACKAGE RIGHTS EXEMPTION –
GRAND TRUNK WESTERN RAILROAD COMPANY AND
WISCONSIN CENTRAL LTD.

Grand Trunk Western Railroad Company and Wisconsin Central Ltd. (collectively referred to as "CN") have agreed to grant temporary overhead trackage rights to Norfolk Southern Railway Company ("NS") over the CN rail lines located: (1) between CN's connection with NS at or near Milepost 99.5 in South Bend, IN and at or near Milepost 36.1 in Griffith, IN on CN's South Bend Subdivision, a distance of approximately 63.4 miles, and (2) between Milepost 36.1 in Griffith, IN and CN's Kirk Yard at or near Milepost 45.4 in Gary, IN on CN's Matteson Subdivision, a distance of approximately 9.3 miles. The trackage rights are temporary during the construction of a connecting track between CN's City Track and NS's Gary Branch at or near Gary, IN (the "Gary City Track Connection"), and accordingly, the trackage rights will expire twenty-four months after the commencement date of the agreement, or the date that the Gary City Track Connection is completed and in use, whichever comes first.

The trackage rights will be consummated on or after February 24, 2013.

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

Dated:

By the Board,

Cynthia T. Brown

Chief, Section of Administration