

BEFORE THE SURFACE TRANSPORTATION BOARD
FINANCE DOCKET No. 36460

301401

ENTERED
Office of Proceedings
December 29, 2020
Part of
Public Record

MICHAEL WILLIAMS
VERIFIED NOTICE OF EXEMPTION –
ACQUISITION AND CONTROL EXEMPTION –
S & S SHORTLINE LEASING, LLC

CLARIFICATION

The Board in its Decision in this proceeding served December 10 asked for clarification whether Mr. Williams (an individual non-carrier) was seeking after-the-fact authority to acquire S&S Shortline Leasing, LLC (“S&S”), and implicitly if not, why not.

Mr. Williams, who owns and controls other railroads through stock or membership interests, in this proceeding is seeking authority to continue in control of S&S (and his other railroads) upon acquisition by S&S of a line of railroad from City of Ely and the Nevada Northern Railroad Foundation (“Ely and Foundation”). Mr. Williams accordingly filed the Notice and documents understood to be required by this Board’s regulations for that purpose.

Mr. Williams in this proceeding did not seek after-the-fact authority to acquire S&S from the original owners (Steve and Susan Flanders). Mr. Williams acquired

S&S from Steve and Susan Flanders in what he believed was an unregulated transaction in July 2011. Mr. Williams regarded the transaction as unregulated because, at that time, S&S did not have property interests in the line sufficient to provide common carrier service, was not providing common carrier service, and has not subsequently provided common carrier service.

S&S (while owned by Steve and Susan Flanders) obtained authority to operate over the line for common carrier purposes in S&S Shortline Leasing, LLC – Operation Exemption – City of Ely, et al, F.D. 35284, served August 14, 2009. However, the lease agreement entered into between Ely and Foundation on the one hand and S&S on the other allowed only car storage, not common carrier use of the track. See Verified Statement of Mr. Williams, attached, at p.3, and Exhibit 2 thereto. The referenced operator authority was evidently in anticipation of a lease amendment that never occurred. Since (a) S&S lacked property interest sufficient to provide common carrier service, (b) S&S did not provide common carrier service, (c) STB authorizations to provide common carriers services are permissive not mandatory, and (d) any authority this Board granted in F.D. 35284 was not consummated, Mr. Williams did not understand his subsequent acquisition of the membership shares in S&S from Steve and Susan Flanders to be a regulated transaction. See Verified Statement at pp. 3-4 & 5. Moreover, he disclosed the

circumstances to the Board in 2015 (in somewhat less detail)¹ and did not understand that the Board viewed the transaction as regulated. Ver. Statement at 5.

Mr. Williams is now seeking to retain control of S&S in the event this Board authorizes S&S (which he views currently as a non-carrier) to acquire a line of railroad for common carrier purposes. Ver. Statement at 4-5. Mr. Williams requests that the Board view the Notice of Exemption subject to this clarification.

If this Board believes that Mr. Williams should obtain authority for the original 2011 acquisition, Mr. Williams respectfully requests that the Board treat the instant proceeding as now providing sufficient information to do so, and to this end is supplying the original contract with Steve and Susan Flanders as Exhibit 3 to his Verified Statement. In addition, he thereby identifies the parties from whom he acquired S&S, as instructed by the Board in its December 10 Decision.² Of course, if this Board wishes an additional control filing notwithstanding the explanation provided herein and in Mr. Williams' Verified Statement, Mr. Williams undertakes to comply.

¹ See Verified Statement Exhibit 1 (footnote on p.5).

² Because there is a non-disclosure agreement between Mr. Williams and the Flanders, and because Mr. Flanders has not waived confidentiality as to the purchase price, Mr. Williams is supplying a version of the contract with the purchase price redacted from the public version of this filing. Mr. Williams is filing the two pages of the contract setting out the purchase price pursuant to a protective order and under seal.

The Board's December 10 decision requested information from Mr. Williams on other matters. E.g., Decision at 3. Mr. Williams Verified Statement responds to those matters at Verified Statement pp. 6-13 and Exhibit 1.

The Board's December 10 decision notes that Mr. Williams had previously disclosed a regulated transaction (acquisition of McCloud Railway Company) for which Board authority had not been sought. Mr. Williams previously indicated that he would retain counsel to make the requisite filing. See Exhibit 1 to the Verified Statement at p.4 n.1. The prior owner of McCloud (Mr. Forbis) was in ill health at the time, and some months later passed away. The matter evidently slipped Mr. Williams' mind. However, he has now retained counsel, and a filing for control of McCloud is being submitted under separate cover in a new Finance Docket (F.D. 36474) to address this matter on the same date as this Clarification is provided.

Mr. Williams respectfully requests that, with this Clarification, the Board authorize Mr. Williams' (continued) control upon acquisition by S&S of the line at issue, so that the parties may proceed with settlement of pending state court litigation. Mr. Williams believes that this is consistent with the public interest and in particular will assist the City of Ely in addressing fiscal issues as well as providing shippers a rail option. Ver. Statement pp. 5-6.

By my signature below, I certify service by email attachment upon Jeffrey Moreno, counsel for City, Foundation, and Great Basin.

Respectfully submitted,

s/ Charles H. Montange

Charles H. Montange
426 NW 162nd St.
Seattle, WA 98177
(206) 546-1936
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c.montange@frontier.com
Counsel for Michael Williams

Att: Williams Verified Statement and exhibits

cc. Mr. Moreno, w/att (by email attachment)

BEFORE THE SURFACE TRANSPORTATION BOARD
FINANCE DOCKET No. 36460

MICHAEL WILLIAMS
VERIFIED NOTICE OF EXEMPTION –
ACQUISITION AND CONTROL EXEMPTION –
S & S SHORTLINE LEASING, LLC

VERIFIED STATEMENT OF MICHAEL WILLIAMS IN RESPONSE
TO BOARD'S DECISION SERVED DECEMBER 10, 2020
(for filing by 30 December 2020)

The undersigned, Michael Williams, responds as follows to the Board's Decision served December 10, 2020, requiring certain clarifications in connection with this and other proceedings. This matter appears to arise from my original acquisition of S&S Shortline Leasing, LLC ("S&S").

Summary. As I have previously indicated to the Board, I only retain counsel to advise on rail regulatory issues on a transactional basis. In the case of my acquisition of the shares in S&S Shortline Leasing, LLC ("S&S"), I did not believe that Board regulations required me to obtain prior Board control authorization, and still believe that to be a reasonable interpretation of the law, given the circumstances I set forth herein in part 1. Moreover, I had previously brought the

attention of the Board to this situation (with advice of counsel). Supplemental Information, filed Nov. 3, 2015, in F.D. 35957, copy attached as Exhibit 1, portion of footnote 1 on p. 5. I received no indication from the Board that my acquisition of S&S required pre-authorization in the circumstances. On this basis, I did not understand my original acquisition to have required Board authorization.

Decision in F.D. 35957, served Dec. 10, 2015; Decision in F.D. 35957, served Dec. 15, 2015. Thus though “unauthorized,” it was because I believed that no authority was necessary for the original acquisition. However, I believe that a control authorization is now necessary for continued control because, as indicated below, S&S is seeking to acquire a line subject to a common carrier obligation. Of course, if the Board feels that a control authorization was necessary for the original acquisition of S&S, then I request the Board to accept the notice of exemption for acquisition and control as filed in this case as sufficient to rectify the situation and to allow me to close the acquisition of the line in question, which will resolve litigation with City of Ely.

1. Clarification as to whether control is sought after the fact for an unauthorized acquisition of stock (Dec. at p. 3, bullet point one).

Although S&S Shortline Leasing, LLC (“S&S”) had filed a notice of exemption to become the operator of the line (see S&S Shortline Leasing – Op.Ex. – City of Ely, et al., FD 35284 (served Aug. 14, 2009), I did not believe that a

Board authorization for control was necessary at the time I acquired the shares in S&S. The reason is that the only property interest S&S held in the line was a lease to provide car storage (which was the purpose for which I acquired S&S). That property interest is embodied in the Lease Agreement/Joint Development Agreement entered into by S&S in July 2009 (Exhibit 2). I understood that the 2009 operator exemption was sought for an anticipated amendment to the lease that did not transpire. As noted, the lease speaks entirely to car storage use of the line (Lease 3d Whereas Clause, para 2, para 3, para 8, para 10, para 12, para 16, and by implication other provisions). Indeed, the lease provided that City of Ely could terminate the agreement on twelve months' notice if a customer provided the City with a "viable option...to bring the track into operation." Lease para 2. The lease provided that Ely need only "consider" proposals from S&S to continue to be operator in the event common carrier service was resumed. Id.

That lease remains the only property interest S&S currently holds in the line. The lease was not amended to include a lease for purposes other than storage. Any purported authority for S&S to operate the line for common carrier purposes was thus not consummated.

It is my understanding that this agency's authority is permissive rather than mandatory. Indeed, this Board has recently reiterated that its "exemption authority is permissive only," and that it does not require that an "authorized transaction ...

be consummated.” Jon Delli Priscoli et al. – Acq. of Control Exemption – Massachusetts Coastal Railroad LLC, F.D. 36409, served June 18, 2020, slip op. p. 1, n.2. Citing authority, the Board in particular explained that the Board’s authority “is permissive and an entity must still obtain the requisite property rights.” Id. at 2 n.1. Simply stated, I did not understand S&S to have consummated a transaction with City of Ely by which it obtained the property rights necessary to be a common carrier for the line.

Circumstances have now changed in a way which seems to me to moot the issue. After I purchased the shares of S&S, City of Ely sued S&S seeking termination of the Lease, chiefly over financial issues (the parties disagreed over revenue streams subject to sharing under the lease). S&S substantially prevailed in the litigation by order granting partial summary judgment on June 23, 2020 in City of Ely v. S&S Shortline Leasing, LLC, 7th Jud. Dist. Ct. of State of Nevada in and for White Pine County, No. CV 1506071. The parties have recently entered into a settlement which envisions S&S acquiring the line in question from MP 0 to MP 127. Because this will expand S&S’s property rights in the line sufficient to provide common carrier service, and because it is S&S’s intention to provide such services upon acquisition of the line, it is now appropriate for me to seek an exemption for both acquisition and continued control, before I actually obtain the property rights necessary to provide common carrier service or hold S&S out to

provide such service. I further note that the Decision served August 14, 2009, is insufficient to authorize the acquisition of the line now before the Board. The Decision served August 14, 2009, seemed to me to be simply a permissive authorization never exercised, and which could never be exercised, because S&S never held an interest in the line sufficient to exercise it.

This explanation is a more thorough version of the explanation I provided in Supplemental Information, filed Nov. 3, 2015, in F.D. 35957, copy attached as Exhibit 1 (and already referenced in the summary at the beginning of this statement). See portion of footnote 1 appearing on p. 5 (noting that S&S has not held itself out to provide common carrier services). I indicated in my filing of November 3, 2015, that if the Board felt my understanding incorrect, I would retain counsel to make required additional filings. The Board did not indicate that additional filings would be necessary.

If the Board now feels that in the circumstances described above, I should have sought an exemption for control prior to acquiring S&S in the first instance, then I respectfully request that the Board allow me to rectify the situation by granting an exemption from control so that S&S may in fact acquire as owner the property interests necessary to provide common carrier services on the line. I believe that the public interest supports this result: it is my understanding that the City of Ely would draw benefit from receiving the line sale proceeds in a time of difficult

budget choices due to the economic disruption experienced by state and local government from the pandemic. And S&S Leasing may then compete with trucks to provide transportation services to local mining interests.

2. Clarification of Ivory Beggs' and Tammy Williams' relationship to S&S and the other rail carriers owned or controlled by Williams (Dec. at p. 3, bullet point two). I previously provided clarification on the status of Tammy Williams. See Exhibit 1, pp. 2-4. Tammy Williams is my wife, and we share marital property. The railroads (or non-carrier holding companies owning railroads) which I own are marital property. I manage the marital property. Ivory Beggs is my daughter. Ivory Beggs is not an officer of S&S, nor does she have an ownership in S&S. (I surmise that the Board's inquiry concerning Ms. Beggs arises because City of Ely/Foundation insisted that she be included as a signatory on the settlement agreement. When asked for grounds, City/Foundation indicated (a) that they believed her to be the "CFO" for S&S and (b) that they wished to effectuate further protections of the City of Ely/Foundation's interests in the portion of the rail line they were retaining by requiring her signature. Ms. Beggs is not and has never been "CFO" for S&S. However, it caused no harm to add Ms. Beggs, so she was added as a signatory although extraneous to S&S. Ivory Beggs is "CFO" for McCloud (see below), and registered agent (not an officer) for Boot Hill & Western (see below), but otherwise holds no position with any of the other of the

railroads which I own or control, and she holds no ownership position in any of them. (It is my understanding that Ms. Beggs is developing her own interests in the shortline rail industry, and is endeavoring timely to obtain STB authorizations for acquisitions and/or control as needed.)

3. Comprehensive list of railroads owned or controlled by Williams with date of acquisition of control, entity from whom control obtained, whether authorization was first obtained, and if so when, and if no authorization was sought or obtained, an explanation why. I previously supplied information responsive to this inquiry in Exhibit 1. Certain additional information is now requested. Before addressing this portion of the Board's informational request, I will state my understanding that the Board's question concerning date of acquisition of control to be the date stock or shares were actually transferred, or, in the event of an asset transaction, the date of recording or at least receipt of deeds and/or bill of sale. I will use the term "closing" to refer to that date. I treat the best evidence of closing as a closing statement or, in informal closings, date of first recordation of deeds (for asset acquisitions) or contract provision (for stock or membership share acquisitions). As used below, "effective date" means the stated effectiveness of authorizing decision. If closing is after that date, then STB authority was fully obtained prior to the transaction being closed. In all cases (save McCloud), it is my understanding that the Board has authorized the transaction (although

retrospectively in the case of SDR). I will use the term “seller” to refer to the entity from whom control was obtained. I will use the term “owner” to describe my ownership and control interest in the railroad.

S&S. I am currently seeking to continue in control for purposes of acquiring a line of railroad. I am currently seeking Board authority to acquire the line and to operate it for common carrier purposes. In response to the Board’s specific inquiry in its Decision served Dec. 10, 2010, slip op. at p. 3, I originally acquired S&S from Steven (and Susan) Flanders (“seller”) by purchase of all membership shares. A copy of the purchase agreement, which was entered on or about July 12, 2011, is attached as Exhibit 3. I have not located documentation as to the exact date the membership shares transferred but believe shortly thereafter.

I will acquire the line in question from City of Ely and the Foundation, as indicated in the notice of exemption which I caused to be filed in F.D. 36461. Closing is conditioned on STB approval. I am currently seeking authorizations for that transaction. See notices of exemption filed in F.D. 36460 and 36461. The situation is further explained in response 1 above.

Avory Beggs is not an officer for S&S and owns no interest in it.

BG&CM. Board authority: BG&CM’s first appearance before this Board was to obtain authority to operate a line as a contract carrier. BG&CM Railroad – Exemption from 49 U.S.C. Subtitle IV, F.D. 34299, served Oct. 17, 2003, clarified

Camas Prairie Railnet, Inc. – Abandonment – in Lewis et al Counties, ID, AB 564,
served May 3, 2004. I do not construe the Board to be requesting information
about transactions exempted from Subtitle IV. BG&CM subsequently acquired
two additional line segments as common carrier lines, authorized in BG & CM
Railroad – Acquisition and Operation Exemption – Great Northwest Railroad, Inc.,
F.D. 34713, served July 6, 2005, and BG&CM Railroad – Acq. and Op. Exemption
– Line of Great Northwest Railroad, F.D. 36098, served March 1, 2017. Focusing
on the first common carrier transaction -- Seller: Great Northwest Railroad, Inc.
Effective date: June 13, 2005. Closing: The copy of the deed and bill of sale in
my file indicate execution on August 19, 2005, well after the effective date.
Focusing on the second common carrier transaction – Seller: Great Northwest
Railroad, Inc. Effective date: March 15, 2017. Closing: The original purchase
agreement was assigned to BG & CM with consent of Seller by an instrument
executed Feb. 4 (BG & CM) and Feb. 9 (Great Northwest Railroad), 2017. The
assignment provided that BG&CM would promptly seek STB authorization, which
BG&CM did by a filing on February 13, 2017. The consideration for the
transaction involved a property swap, in which the Seller was to receive rail
material from Buyer prior to closing. The transaction is not yet complete and a
deed has not yet been recorded. Inasmuch as the transaction is not yet complete
and a deed to BG & CM not yet recorded, closing is after the effective date. The

BG & CM Owner: Michael and Tammy Williams (marital property). Avory Beggs is not an officer of nor does she hold any ownership interest in BG & CM.

Ozark Valley Railroad. Board authority: Ozark Valley Railroad -- Acquisition and Operation Exemption – The Kansas City Southern Railway Co., F.D. 34989, served June 8, 2007. Seller: The Kansas City Southern Railway Co. Effective date: June 24, 2007. Closing: The deeds in my files for the transaction show execution on June 29, 2007, subsequent to the effective date. Owner: Michael and Tammy Williams (marital property). Avory Beggs is not an officer of, nor does she hold an interest in, Ozark Valley Railroad.

St. Maries River Railroad. Board authority: Michael Williams – Control Exemption – St. Maries River Railroad, F.D. 35365, served April 28, 2010. Effective date: May 12, 2010. Seller: Potlatch Land and Lumber, LLC. Closing: The relevant deeds were bear an execution date of May 18, 2020, and recorders' marks (three separate counties) of May 19, June 7, and June 10, 2010, which indicate closing subsequent to effective date. Owner: Williams Group owns the stock in this railroad, and the stock in Williams Group is owned by Michael Williams as marital property with Tammy Williams. Avory Beggs is not an officer of Williams Group or St. Maries River Railroad. Avory Beggs has no ownership interest in either.

SDR Holding Company/Dakota Southern Railway. Board authority: Williams
– Control Exemption -- SDR Holding Company, F.D. 35957, served Dec. 15,
2015. Effective date: Dec. 29, 2015. Seller: Dakota Southern Railway, which in
turn was owned by George Alexander Huff, IV. Closing: The stock purchase
agreement provided for closing on or before Oct. 1, 2009. Owner: SDR Holding
Company is owned by Michael and Tammy Williams (marital property). SDR
Holding Company owns (by stock) Dakota Southern Railway. The tardiness in
seeking a control exemption has previously been disclosed to and considered by
the Board. See decision in F.D. 35957 served Dec. 10, 2015. Avory Beggs is not
an officer of SDR (or Dakota Southern Railway). Avory Beggs holds no
ownership interest in SDR (or Dakota Southern Railway).

Boot Hill & Western Railway. Board authority: Williams – Continuance in
Control Exemption – Boot Hill & W. Ry. Holding Co., F.D. 35925, served June 3,
2015; Boot Hill & W. Ry Holding Co., Inc. – Acq. & Op. Exemption – Boot Hill
& W. Ry., F.D. 35924, served May 8, 2015. Effective date: June 17, 2015 for
control, May 24, 2015 for acquisition. Seller: Boot Hill and Western Ry
Company, LC. Closing: The relevant deed was recorded on July 31, 2015,
indicating closing subsequent to effective date. Owner: Boot Hill & Western Ry.
Holding Co., which in turn is owned by Michael and Tammy Williams (marital
property). Avory Beggs is not an officer of Boothill & Western Ry. Holding

Co., nor does she have an ownership interest in it. As she is a Kansas resident, she serves as registered agent for Boothill & Western Ry. Holding Co., but this is not an ownership or control position.

McCloud Railway. Board authority: none (I am seeking to remedy this situation by applying for a control exemption contemporaneous with this filing).

Seller: Jeff Forbis (deceased). Closing: on or shortly after October 3, 2011.

Owner: Michael and Tammy Williams (marital property). Explanation: The McCloud Railway originally was approximately 100 miles in length. At the time of my stock acquisition under a contract dated October 3, 2011, all but 19.6 miles had been abandoned (and are now railbanked with Shasta Land Trust). At the time of my acquisition and up to the current time, there have been no common carrier operations on the 19.6 miles of McCloud Railway that have not been authorized for abandonment. I acknowledge that as long ago as November 2015, I had committed to retain counsel to make such a filing. However, as I disclosed in 2015, Mr. Forbis had not included any railroad real estate in the portfolio of assets owned by McCloud. Instead, the real estate was owned by another entity owned and controlled by Mr. Forbis (4 Rail, Inc.). See Exhibit 1 at p. 4 n.1. At time of acquisition by me, McCloud included rail fixtures and equipment. Coterminous with purchase of the stock, I executed a lease of, and option to buy, the right of way real estate for the 19.6 miles of unabandoned trackage with Mr.

Forbis. Discussions concerning the purchase option have been on-going with representatives of his heirs. As already indicated, coterminous with this Verified Statement, I have caused to be filed a Notice of Exemption for Control of McCloud Railway. I apologize for this delay and acknowledge error in failing to seek authority when this was first brought to my attention in 2015. Ivory Beggs: Ms. Beggs has been designated CFO for McCloud Railway. Ms. Beggs has no ownership interest in McCloud Railway.

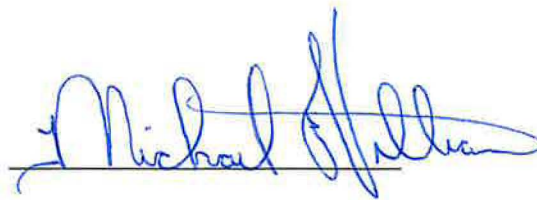
Other railroads. I do not own/control any other railroads providing common carrier services at the current time.

Exhibits to this Verified Statement:

Exhibit 1: previous supplemental information

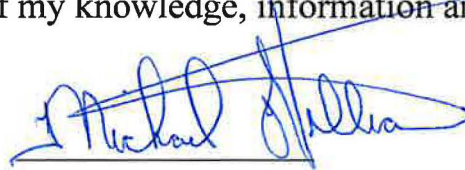
Exhibit 2: July 2009 lease

Exhibit 3: purchase agreement for S&S

A handwritten signature in blue ink, appearing to read "Michael Williams", written over a horizontal line.

Michael Williams

I, Michael Williams, declare under penalty of perjury pursuant to 28 U.S.C. 1746 that I am the Manager of S&S Shortline Leasing, LLC, and that the foregoing is true and correct to the best of my knowledge, information and belief.

A second handwritten signature in blue ink, appearing to read "Michael Williams", written over a horizontal line.

Executed on: Dec 29 2020

Exhibit 1

BEFORE THE SURFACE TRANSPORTATION BOARD
FINANCE DOCKET 35957

ENTERED
Office of Proceedings
November 3, 2015
Part of
Public Record

MICHAEL WILLIAMS

- CONTROL EXEMPTION -

SDR HOLDING COMPANY

SUPPLEMENTAL INFORMATION
And
AMENDMENT TO NOTICE OF EXEMPTION

This Board's decision served October 14, 2015, directed Mr. Williams to supply supplemental information by November 4, 2015 on a number of matters. Mr. Williams hereby supplies the supplemental information, as compiled to date. In addition, Mr. Williams makes the amendment to his notice of exemption filed September 15, 2015, as directed by this Board's decision served October 14, 2015.

Supplemental Information

1. Explanation for delay in filing for Board authorization for continuance in control in connection with September 30, 2009 stock acquisition of Dakota Southern.

Mr. Williams does not have an attorney on staff or on general retainer to advise on rail regulatory issues, but instead retains counsel for that purpose on a transactional basis. In connection with the transaction in question, Mr.

Williams relied upon counsel for the lender and upon the seller, neither of whom indicated a need for an STB pre-authorization for the transaction. Mr. Williams acknowledges that counsel in another subsequent transaction made him aware of the need for a filing in connection with the Dakota Southern proceeding. He further acknowledges that the ownership was disclosed to STB in the subsequent transaction, along with an indication that authority would be requested. Mr. Williams apologizes for failure to pursue the matter immediately by retaining counsel to proceed in the matter, and states that he inadvertently overlooked the matter. His attention was drawn to the oversight by a need to renew the Dakota Southern/State of South Dakota relationship. Mr. Williams retained counsel and authorized an effort to correct the oversight as soon as possible. In addition, Mr. Williams has directed his staff to review other transactions that may involve STB rail regulatory requirements in order to ensure compliance with Board regulations.

2. Clarification whether Dakota Southern is owned by Mr. Williams or by SDR, and if by Williams, why Williams did not seek authorization for control.

Mr. Williams and his wife (Tammy Williams) own the stock in SDR. SDR owns the stock in Dakota Southern. Mr. Williams, through his counsel, made inquiry to the Office of Public

Assistance at STB by telephone and email (attached) prior to filing the notice of exemption in this case concerning what filings were required, and counsel was advised to proceed essentially as per the filing made. The Office of Public Assistance indicated that the Board would advise if additional filings or information were required. In short, Mr. Williams undertook in good faith to understand and to file what this Board would deem sufficient, and will endeavor to comply with all applicable requirements.

3. Explanation of how SDR fits into hierarchy of railroads.

Mr. Williams and his wife own (by stock) SDR Holding Company (SDR), which owns (by stock) Dakota Southern. Mr. Williams owns (by stock) Williams Group. Williams Group owns St. Maries River Railroad. Mr. Williams and his wife own BG & CM Railroad; Ozark Valley Railroad; Boot Hill & Western Railway Holding Company, Inc.; and McCloud Railway. Boot Hill & Western Railway Holding Company, Inc. was inadvertently omitted from the list of rail lines in the notice of exemption filed in this docket, as further explained in paragraph 4 below. Please note that although the word "Holding" is used in that company's name, it did not acquire the stock of its predecessor, Boot Hill & Western Railway Company, but the rail assets and common

carrier obligation. It is thus not a "holding" company as Mr. Williams believes the Board used the term in its decision of October 14, 2015 (that is, a company holding the stock of another). It is merely doing business as Boot Hill & Western Railway Company.

Mr. Williams and his wife also own several other S Corporations or LLCs related to rail services or to rail property that Mr. Williams understands was previously authorized for abandonment and/or which otherwise do not have a current common carrier obligations attached. As indicated, Mr. Williams has directed his staff to review all recent transactions involving these companies to determine if additional filings with this Board are required. Staff are currently examining two situations which Mr. Williams summarizes in the footnote below in the interest of full disclosure.¹

¹ According to this Board's decisions, the trail manager identified in this Board's decision in AB 924X served June 18, 2012 (i.e., Shasta Land Trust), acquired the railbanked portion of the line from McCloud Railway Company's parent, 4-Rail, Inc. In accordance with the representation in the referenced Decision, Mr. Williams believes that 4-Rail, Inc. still owns all remaining pertinent real estate on which McCloud previously operated. Upon further examination by staff, Mr. Williams now believes that McCloud retains an unabandoned common carrier obligation on approximately 19 miles of rail line in California. Mr. Williams will retain counsel to undertake appropriate filings at the Board in connection with acquisition of McCloud that may be triggered by the unabandoned common carrier obligation.

None of the railroads or lines discussed in this supplemental information or the original filing interconnect with any other companies with rail assets owned or controlled by Mr. Williams, directly or indirectly.

Amendment to Notice filed September 15, 2015

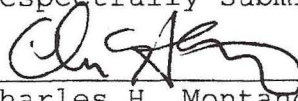
Please amend the Notice of Exemption filed on September 15, 2015 in this docket to include the following after subparagraph (4) on p. 4:

"(5) Boot Hill & Western Railway Holding Company. 10.2 miles of line from Wilroads to Dodge City, in Ford County, Kansas, and the right to reactivate rail service on a previously railbanked 15.8 mile section of line from Bucklin to Wilroads in Ford

Mr. Williams (and his wife) also own approximately 83.3% of S&S Shortline Leasing, LLC, which leases for car storage approximately 127.9 miles of rail line (MP 0.0 near Cobre to MP 127.9 near McGill Junction) from (and owned by) City of Ely (Nevada) and White Pine Historical Railroad Foundation. Mr. Williams has recently become aware that the S&S under prior ownership sought and obtained an exemption to operate on this line. Decision in STB F.D. 35284, served August 14, 2009. Mr. Williams understands that this authority is permissive, not mandatory, and inasmuch as S&S to Mr. Williams' knowledge has not held itself out to offer common carrier services (its operations have been limited to car storage since the inception of the S&S/City of Ely lease), the Decision does not itself make S&S a common carrier, concerning which a change in control requires Board pre-authorization. If this understanding is not correct, then Mr. Williams will retain counsel to undertake such filings as may be required.

County, Kansas. See Boot Hill & Western Railway Holding Co., Inc. - Acquisition and Operation Exemption - Boot Hill & Western Railway Co., LC, F.D. 35924, served May 8, 2015; related proceedings, F.D. 35935, served June 3, 2015 (continuation of control) & AB 927X, served June 23, 2015 (substitute trail manager)."

Respectfully submitted,



Charles H. Montange
Law Offices of Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
Attorney for SDR Holding Company
and Michael Williams

Attachments:

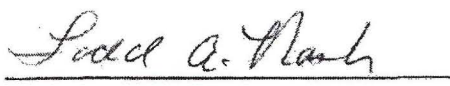
Verification by Mr. Williams

Email exchange STB Office of Public Assistance

Verification

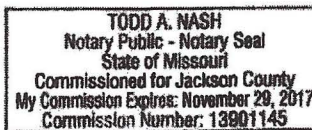
Michael Williams, being duly sworn, deposes and states that he is president and co-owner of SDR Holding Company, that he has read the forgoing Supplemental Information and Amendment, and knows the facts asserted therein, and the same are true as stated.


Subscribed and sworn to
Before me this 3th day of
November 2015.



Notary Public

My commission expires:



Subject: Re: procedural inquiry
From: Stephanie.Lyons@stb.dot.gov (Stephanie.Lyons@stb.dot.gov)
To: c.montange@frontier.com;
Date: Thursday, September 10, 2015 12:04 PM

Charles,

I will take a look at this, and get back to you as soon as possible.

Thank you,
Stephanie

Stephanie P. Lyons
Attorney Advisor
Surface Transportation Board
Office of Public Assistance, Governmental Affairs and Compliance
Stephanie.Lyons@stb.dot.gov
(202) 245-0536

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From: "C. Montange" <c.montange@frontier.com>
To: "stephanie.lyons@stb.dot.gov" <stephanie.lyons@stb.dot.gov>
Date: 09/10/2015 01:58 PM
Subject: procedural inquiry

To: Stephanie Lyons.

First, thanks for offering to look into this.

Second, this is the scenario: I represent XYZ RR Holding Company. XYZ RR Holding Company wishes to acquire all the stock in XYZ RR Co. It is my understanding that XYZ RR Co owns no track (that is, real estate, track and ties) but instead holds a lease (or holds multiple leases) to operate on certain state-owned lines, and also some trackage rights -- mainly or exclusively for switching purposes -- from BNSF. It is my understanding that XYZ RR Co. has previously obtained STB or ICC authority for the leases of lines, and has a common carrier obligation to provide service on the leased lines.

XYZ RR Holding Company (which intends to seek authority to acquire all the stock in XYZ RR Co.) itself to my knowledge owns no other rail lines. However, XYZ RR Holding Company is owned by a husband and wife, and the husband (who himself is not a rail carrier) does own or control some other companies that own rail lines (but none of these lines interconnect with the trackage over which XYZ RR Company operates).

XYZ RR Holding Company wants to comply as soon as possible with whatever regulatory approvals are required by STB. Upon review of the regulations, my reading is that for a stock acquisition such as this, we need only apply for an exemption for common control under 49 CFR 1180.2(d), and need not also make a second filing for an exemption for acquisition of a rail line under 49 CFR 1150.31 et seq.

Could you advise as soon as possible what regulatory filings are believed necessary on the facts stated above? My client would like to express to STB whatever regulatory filing is required on Monday, if possible. Thanks again.

Charles Montange, Seattle
206-546-1936

Exhibit 2

LEASE AGREEMENT/JOINT DEVELOPMENT AGREEMENT

RECITALS

WHEREAS, the parties to this agreement are designated as, City of Ely and the White Pine Historical Railroad Foundation, (herein referred to collectively as "Ely") and S&S Shortline Leasing LLC, (herein referred to as "S&S"); and

WHEREAS, the City of Ely and the White Pine Historical Railroad Foundation jointly own the rail line subject to this agreement; and

WHEREAS, Ely, in the year 2009, submitted a REQUEST FOR PROPOSALS FOR RAIL CAR STORAGE ON THE NEVADA NORTHERN RAILWAY AT OR NEAR THE SHAFTER JUNCTION AND/OR NEAR THE COBRE JUNCTION (herein referred to as "Request"); and

WHEREAS, Ely has disclosed the nature of a condemnation lawsuit pending in the Nevada Supreme Court which includes this track of rail; and

WHEREAS, Ely and S&S believe that Ely will prevail on its position of the aforementioned condemnation lawsuit; and

WHEREAS, Ely and S&S agree that the Lease Agreement/Joint Development Agreement is subject to the outcome of the pending condemnation lawsuit wherein the agreement will be null and void if Ely loses its position as owners of the rail line; and

WHEREAS, S&S submitted a proposal, dated March 19, 2009, to the Request; and

WHEREAS, Ely accepted S&S's proposal by letter dated April 9, 2009; and

WHEREAS, for good and valuable consideration between S&S and Ely; and

WHEREAS, Ely and S&S believe that a joint effort to utilize this section of rail is beneficial to both parties such that allowing S&S to fix and maintain the rail, a profit could be generated to financially benefit Ely and allow S&S to have a financial benefit with the possibility of ownership interest if it becomes necessary for S&S to financially assist in the pending lawsuit. The parties desire to execute this document, further setting terms as to the agreement and conditions between the parties as follows:

AGREEMENT

1. INCORPORATE RECITALS: The parties agree the recitals indicate the basis for the agreement and incorporate the aforementioned recitals in to this agreement.

2. TERM: S&S and Ely agree to a lease term of one (1) year with continuous automatic yearly renewals, with the beginning date effective the date of the execution of this agreement, subject to the pending lawsuit, as expressed in the REQUEST FOR PROPOSALS FOR RAIL CAR STORAGE ON THE NEVADA NORTHERN RAILWAY AT OR NEAR THE SHAFTER JUNCTION AND/OR NEAR THE COBRE JUNCTION.

If the final outcome of the aforementioned lawsuit changes ownership of the rail line, S&S at its option, may terminate this agreement. Should S&S be brought into the aforementioned lawsuit, Ely will inquire as to whether its insurance carrier will also include the defense costs of S&S.

If the final outcome of the aforementioned lawsuit determines that the ownership is maintained with the City of Ely and White Pine Historical railroad, the lease term will be amended to ten (10) years with at least two (2) additional continuous automatic ten (10) year renewals. If, however, at any time during the pendency of this agreement, a potential customer presents a viable option to Ely to bring the track into operation, this agreement may be terminated by Ely upon notice to S&S of a minimum of 12 months. Additionally, should operations commence on this section of the rail line, Ely will consider S&S's proposal to become the operator of that track pursuant to the proper provisions set forth in the Nevada Revised Statutes.

If Ely decides at some point to sell the rail line, S&S will be given notice sufficient to allow them to bid as a potential purchaser.

3. PAYMENT: As consideration the lease will be paid through revenue sharing between S&S and Ely at a rate of 25% of net revenue payable by S&S to Ely on a quarterly basis with accompanying accounting documentation.

Additionally, S&S will provide Ely with copies of the manifests of each car that is being stored on its rail line so Ely may verify that no hazardous materials are being stored on the line.

4. DEFAULT: If S&S shall default in the payment of any installment hereinabove provided for, or in the compliance with any covenant, agreement or condition hereof upon its part to be kept and performed, then in such event, Ely may, by ten (10) days' written notice thereof given to S&S, declare a forfeiture hereof upon the ground or grounds in said notice set forth, and unless the said default shall be corrected with fifteen (15) days from receipt of notice, Ely shall thereupon have the right to re-enter and take possession of said premises without legal proceedings and eject S&S and any and all persons holding under it therefrom and shall have the following additional rights:

- a. Instead of re-entry and repossession as aforesaid, to declare the entire balance of unpaid payments for the term hereof to be immediately due and payable, and to pursue by court action any legal remedy for the collection thereof. S&S shall pay all costs, fees and expenses incident to such collection and awarded to the City by the court.

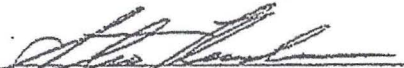
- b. On such re-entry and repossession as aforesaid, the City shall retain any payments theretofore made as liquidated damages for such breach upon the part of S&S.

- 5. EVENTS CONSTITUTING DEFAULT: The following events shall constitute default under this Agreement:
 - a. The failure of S&S to make the payments pursuant to the term of payments contained herein;
 - b. The nonperformance by S&S of any other term, covenant, or condition of this Agreement that is not cured within fifteen (15) days after notice of nonperformance by Ely;
 - c. Any affirmative act of insolvency by S&S, or the filing by S&S of any petition under any bankruptcy, reorganization, insolvency, or moratorium law, or any law for the relief of, or relating to, debtors;
 - d. The filing of any involuntary petition under any bankruptcy statute against S&S, or the appointment of any receiver or trustee to take possession of the property of S&S, unless such petition or appointment is set aside or withdrawn or ceases to be in effect within ten (10) days of the date of the filing or appointment;
- 6. SUBLEASING OR ASSIGNMENT: S&S shall not sublet or assign the premises, or any portion thereof, without the prior written consent of Ely.
- 7. REPAIRS AND MAINTENANCE: S&S will make any and all the necessary repairs and/or rehabilitation to the track and structure to allow for operations of car storage. S&S will build a shed/shop for storage and maintenance and retain ownership of the shed/shop.
- 8. INITIAL COSTS: S&S will fund the upfront costs for the repairs and rehabilitation of the track with the total costs to be shared equally between S&S and Ely. The costs and expenses will be taken from the revenue of the storage proceeds. S&S will provide Ely with an accounting of any expenses incurred for rehabilitation and maintenance on a quarterly basis, at a minimum, but may be more frequent.
- 9. NET REVENUE DEFINED: Those costs directly associated with the car storage operations will be considered costs which will be deducted from the income derived from the storage of rail cars.
- 10. RAILCAR SWITCHING: S&S will be responsible for any and all car switching that will take place at the storage location.
- 11. INSURANCE: S&S will maintain a general liability insurance policy with a one (1) million dollar aggregate and Ely will be listed as an additional insured.

12. HAZARDOUS MATERIALS: S&S will not store any rail cars on the rail line that contain any hazardous materials. Should any hazardous materials be stored on the line and there is any leakage of any such material, S&S shall pay for all costs associated with any potential environmental or other type of clean up that may be necessary.
13. ELY'S NON-LIABILITY: Ely will not be liable for damages to persons or property sustained by S&S or S&S' employees, invitees, or other persons due to the premises becoming out of repair unless such damage is proximately caused by the gross negligence of Ely. Ely shall not be responsible or liable to S&S for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to the premises as defined herein.
14. INDEMNITY: S&S shall indemnify and hold Ely harmless from and against all claims, actions, proceedings, costs, damages and liabilities, including attorney's fees, arising out of, connected with, or resulting from the use of the property, unless otherwise noted herein
15. INSPECTION: Ely, by its officers, employees or other authorized agent, shall have the right to enter upon said premises at any and all reasonable times during the term hereof for the purpose of informing itself as to the compliance or non-compliance by S&S of the terms, covenants and conditions of this Agreement upon its part to be kept and performed.
16. STORAGE COMMITMENT: It is estimated that S&S will store approximately seventy (70) cars per mile of track, however a firm commitment is not required as the initial contact with clients has yet to be initiated.
17. ADDITIONAL AGREEMENTS: S&S will make good faith efforts to acquire the needed agreements from NNRY and Union Pacific.
18. DISPUTE RESOLUTION: In the event of disagreement or allegations of breach of agreement, prior to any court or legal action, the parties will retain an independent third party to mediate or arbitrate the matter, with each party paying one half (1/2) the costs associated. If dispute resolution is unsuccessful the party who prevails in any legal action will be entitled to its costs and fees, including attorney fees, from the non-prevailing party.
19. CHOICE OF LAW: In the event of disagreement, the laws of the State of Nevada will control and all parties stipulate that the jurisdiction of any dispute to be either White Pine or Elko County in the State of Nevada.

20. MISCELLANEOUS: If any part or portion of this agreement is deemed to be invalid, all other parts will retain full force and effect between the parties.

Dated this 31 day of July, 2009.


S&S Shortline Leasing, LLC

Dated this _____ day of _____, 2009.


Mayor - City of Ely

Dated this 16th day of July, 2009.


Chairman - White Pine Historical
Railroad Foundation

Exhibit 3

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (this "**Agreement**") is made effective as of the ____ day of _____ (the "**Effective Date**") by and between Stephen M. Flanders and Susan D. Flanders joint members of a Utah limited liability company named S&S Shortline Leasing, LLC with its principal office at Farmington, Utah ("**Sellers**"); and Mike Williams, an individual located at _____ or his designee (collectively, "**Purchaser**").

RECITALS

A. Sellers own a 100% membership interest in S&S Shortline Leasing, LLC, a Utah limited liability company (the "**Company**"); and

B. The parties intend by this Agreement to set forth and agree upon the conditions required for Purchaser to purchase from Sellers all of Sellers membership interest and assets (the "**Interest**") in the Company, subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the parties hereto agree as follows:

1. Purchase of Interest. Sellers hereby agrees to transfer, assign, and convey to Purchaser all of Sellers right, title, and interest in and to the Interest, including, without limitation, all of Sellers rights as a member in and to the Company (including voting rights), and Purchaser hereby agrees to accept the Interest from Seller.

2. Purchase of Assets. Sellers hereby agrees to transfer, assign, and convey to Purchaser all of Sellers right, title, and interest in and to the assets of S&S Shortline Leasing, LLC as described (in the form attached as Exhibit "A" hereto).

a. It is understood and agreed between Sellers and Purchaser that Interest includes, contracts currently engaged by the Company (in the form and attached as Exhibit "B" hereto).

3. Consideration. In consideration of the transfer of the Interest from Seller to Purchaser, Purchaser shall pay to Sellers the total purchase price of _____ (the "**Purchase Price**"), and Sellers hereby agrees to accept receipt of such payment as payment in full for the purchase of the Interest and assets. The Purchase Price shall be paid at closing:

4. Closing. The purchase and sale contemplated by this Agreement (the "**Closing**") shall take place and no later than March 11, 2011 at the offices of Cathcart and Peterson, LLC or such other place as the parties hereto shall designate. The parties hereto agree that the Closing shall not occur and the Interest and assets shall not be sold and assigned to Purchaser unless and until the following are accomplished:

(a) Purchaser shall deliver to Sellers in cash or cash equivalent the sum of [REDACTED]

(b) Sellers shall deliver to Purchaser an original, duly executed Assignment of Membership Interests (in the form attached as Exhibit "C" hereto).

© Sellers shall cause to be delivered to Purchaser satisfactory evidence of the assignment and transfer of the Interest and assets from Sellers to Purchaser.

5. Power of Attorney. Sellers hereby irrevocably constitute and appoint Purchaser and each of its officers and agents, with full power of substitution, as Sellers true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Sellers and in the name of Sellers or in Sellers own name, from time to time in the discretion of each such attorney-in-fact, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Agreement and, without limiting the generality of the foregoing, hereby gives each such attorney-in-fact the power and right, on behalf of Sellers, without notice to or assent by Sellers to execute the aforementioned Assignment of Membership Interests for Sellers or in its name.

6. Representations and Warranties of Seller. Sellers represent and warrant to Purchaser that:

(a) Sellers are the sole owner of the Interest and that Sellers owns the Interest, beneficially and of record, free and clear of any lien, security interest, pledge, claim, demand, or encumbrance or restriction of any kind or character whatsoever.

(b) Other than the Interest, Sellers have no right or claim to any ownership interest in the Company.

© This Agreement constitutes, or when executed will constitute, legal, valid and binding obligations of Sellers, enforceable against Sellers in accordance with the terms herein and therein, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and by general equitable principles.

(d) Upon the execution and delivery of this Agreement, this Agreement will transfer title to all of Sellers right, title, and interest in and to the Interest, free and clear of any liens, pledges, claims and encumbrances.

(e) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby will not constitute nor with notice or lapse of time or both would constitute (i) a breach of or default under any contract, judgment, indenture, mortgage, deed of trust, instrument or understanding to which Sellers are a party or is subject or (ii) the creation or imposition of any lien affecting Sellers ability to consummate all of the transactions contemplated hereunder.

(f) Neither this Agreement nor any other document, certificate or written statement attached as an exhibit or schedule hereto or made in connection herewith, contains or will contain any untrue statement of a material fact, or omits or will omit to state any material fact necessary in order to make the statements contained therein not misleading. There is no fact known to Sellers that has a material adverse effect on the Company's business or its assets that has not been disclosed to Purchaser in writing.

7. Representations, Warranties and Agreements of Purchaser. Purchaser represents and warrants to Sellers that:

(a) This Agreement constitutes, or when executed will constitute, legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with the terms herein, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and by general equitable principles.

(b) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby will not constitute nor with notice or lapse of time or both would constitute (i) a breach of or default under any contract, judgment, indenture, mortgage, deed of trust, instrument or understanding to which Purchaser is a party or is subject or (ii) the creation or imposition of any lien affecting Purchaser's ability to consummate all of the transactions contemplated hereunder.

8. Release. In partial consideration for the purchase price paid by Purchaser for the Interest, Sellers hereby release and waive any claim Sellers have or may have against Purchaser or the Company (including without limitation all claims against any officer, member, manager, employee, agent, or representative of the Company and Purchaser) related to the ownership, business, or assets of the Company.

9. Indemnification. In partial consideration of the purchase price paid for the Interest, Sellers agree to indemnify Purchaser for and hold Purchaser harmless from and against any and all claims, costs, liabilities, expenses, losses, damages, obligations or deficiencies related to or arising out of any breach of the representations, warranties, covenants, and obligations of Sellers under this Agreement. Sellers indemnification obligations set forth in this paragraph shall survive the purchase of the Interest and shall continue in effect in perpetuity.

10. Miscellaneous.

(a) Attorney's Fees. In any action or proceeding arising out of or related to this Agreement, the prevailing party shall be entitled to its reasonable attorney fees and related costs, including fees and costs incurred prior to formal initiation of an action or proceeding, and including fees and costs incurred for collecting or attempting to collect any judgment or award.

(b) Brokers and Finders. Except as otherwise provided herein, each of the parties hereto represents and warrants that it has dealt with no broker or finder in connection with any of the transactions contemplated by this Agreement. In the event that any finder's fee or broker's commission shall become payable by any party hereto as a result of such party's misrepresentation or breach of warranty, such fee and commission shall be the sole and exclusive

responsibility and liability of such party with no right of contribution by any other party. In the event that any finder's fee or broker's commission shall become payable by any party, other than as set forth herein, as a result of such party's misrepresentation or breach of warranty, the breaching party shall indemnify, defend and hold all other parties harmless in respect of all claims, losses, expenses and obligations (including reasonable attorney's fees) to the extent that the same arise or result from such finder's fee or broker's commission.

© Further Assignments and Assurances. If at any time after the closing of this Agreement legal counsel for Purchaser or Sellers shall deem it necessary, advisable or appropriate to take further or additional steps for the purpose of assigning, transferring, conveying, perfecting and/or confirming or reducing to possession the Interest, then the other party shall execute, acknowledge and deliver any such assignments, conveyances, certificates or other documents or instruments of transfer consistent with the terms of this Agreement as may reasonably be requested by legal counsel. This covenant and obligation shall survive the closing of this Agreement.

(d) Survival. All parties agree that the representations, warranties and agreements contained in this Agreement shall survive the execution of this Agreement and shall thereafter remain in full force and effect.

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

(f) Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the subject matter contained herein and may be amended only by a written instrument executed by Purchaser and Seller. There are no restrictions, promises, warranties, covenants, or undertakings other than those expressly set forth or referred to herein. Any section or paragraph captions or headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(g) Counterparts. This Agreement may be executed simultaneously in two or more counterparts, by original or facsimile signature, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

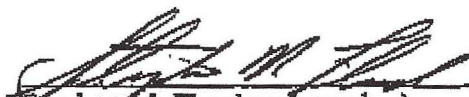
(h) Binding Affect. This Agreement shall inure to the benefit of and be binding upon Purchaser and Sellers and their respective successors, but shall not inure to the benefit of anyone other than the parties signing this Agreement, the Company (which shall be an intended third-party beneficiary of this Agreement), and their respective successors.

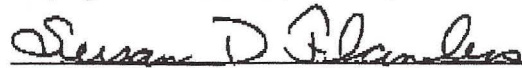
(i) Governing Law; Venue. This Agreement shall be governed by the laws of the State of Utah. Any action to enforce any claim arising out of this Agreement shall be brought in any state or federal court having subject matter jurisdiction which is located in Salt Lake County, Utah. For purposes of any action or proceeding with respect to any such claim, the

parties hereby irrevocably submit to the jurisdiction and venue of such courts. Each party irrevocably waives, to the full extent permitted by law, any objection which it may have, now or hereafter, to the laying or maintenance of the venue of any such suit, action, or proceeding brought in any such court located in Salt Lake County, Utah, and any claim that any such suit, action, or proceeding brought in such a court has been brought in an inconvenient forum.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

SELLER:


Stephen M. Flanders (member)


Susan D. Flanders (member)

PURCHASER:


Michael W. Williams, an individual

ACKNOWLEDGMENT AND CONSENT OF MANAGER AND MEMBERS

The undersigned hereby acknowledge the terms of this Agreement and consent to (a) the terms of this Agreement, (b) Sellers entering into the Agreement, (c) Sellers performance of its obligations hereunder, (c) Purchaser's or its designee's right to purchase a portion or all of Sellers Membership Interests in S&S Shortline Leasing, LLC.

MANAGER:


Name: Stephen M. Flanders
Title: Manager

MEMBERS:


Name: Stephen M. Flanders
Title: Member


Name: Susan D. Flanders
Title: Member