

302971

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

September 2, 2021

ENTERED
Office of Proceedings
September 2, 2021
Part of
Public Record

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20006

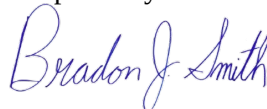
Re: **FD 34495 (Sub-No. 1)**
Buckingham Branch Railroad Company — Acquisition and Operation
Exemption with Interchange Commitment — CSX Transportation, Inc.

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is the **Verified Notice of Exemption of Buckingham Branch Railroad Company Pursuant to 49 C.F.R. part 1150, subpart E and Petition for Waiver of 49 C.F.R. § 1150.42(e)** dated September 1, 2021. The filing fee has been tendered via Pay.gov.

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

Respectfully submitted,



Bradon J. Smith
**ATTORNEY FOR BUCKINGHAM BRANCH
RAILROAD COMPANY**

FILED
September 2, 2021
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
September 2, 2021
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 34495 (Sub-No. 1)

BUCKINGHAM BRANCH RAILROAD COMPANY
—ACQUISITION AND OPERATION EXEMPTION WITH INTERCHANGE
COMMITMENT—
CSX TRANSPORTATION, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E

Robert A. Wimbish
Braden J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR BUCKINGHAM
BRANCH RAILROAD COMPANY**

Date: September 2, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 34495 (Sub-No. 1)

BUCKINGHAM BRANCH RAILROAD COMPANY
—ACQUISITION AND OPERATION EXEMPTION WITH INTERCHANGE
COMMITMENT —
CSX TRANSPORTATION, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E

Pursuant to 49 C.F.R. Part 1150, subpart E, Buckingham Branch Railroad Company (“BBRC”), a Class III carrier, files this Verified Notice of Exemption from the prior approval requirements of 49 U.S.C. § 10902 to alter its interest in approximately 164.22 miles of railroad line extending between approximately milepost 276.0 in the town of Clifton Forge in Allegheny County, VA, and milepost 111.78 at Doswell in Hanover County, VA, where it meets Segment 1 described in Footnote 1 (“Segment 3”), owned by CSX Transportation, Inc. (“CSXT”).¹ Specifically, BBRC and CSXT have agreed to convert BBRC’s current leasehold

¹ CSXT and the Virginia Department of Rail and Public Transportation (“DRPT”) completed the sale and purchase of the approximately 144.6 mile rail line, as well as associated property, improvements, fixtures and personal property, (i) beginning approximately at milepost CFP 112.35 and QLZ 137.49/Amtrak 136.49 between Washington Avenue SW and 2nd Street SW in Washington, DC and extending to milepost CFP 110.1 at the southern terminus of the Long Bridge Project in Arlington County, VA, (ii) extending from milepost CFP 110.1 to milepost CFP 1.0/SRN 4.0 in the City of Richmond, VA, (iii) extending from milepost CFP 1.0/SRN 4.0 to milepost SRN 0.0/S 0.0 at Main Street Station in the City of Richmond, VA, (iv) extending from milepost SRN 0.0/S 0.0 to milepost S 10.9/A 10.7 at Centralia in Chesterfield County, VA and (v) extending from milepost S 10.9/A 10.7 to a connection with the S-Line (Segment 2) approximately at milepost A 29.04 in Dinwiddie County, VA, on March 26, 2021. See *Commonwealth of Virginia—Acquisition Exemption—Certain Assets of CSX Transportation, Inc.*, FD 36441, (STB served December 14, 2020).

interest in Segment 3 into a permanent, exclusive rail freight operating easement (the “Easement”), under which BBRC will continue to operate Segment 3 and other, interconnecting railroad lines.² CSXT and BBRC have agreed that CSXT may reacquire or designate the assignment of all or a portion of the Easement to a third-party carrier in the event BBRC seeks authorization from the Surface Transportation Board (the “Board”) to abandon or discontinue service over all or a portion of Segment 3, subject to advance Board authorization for the Easement transfer.

BBRC began operations on Segment 3 in 2004 as part of a larger transaction wherein BBRC leased and commenced operations over a 190.6-mile line extending between AM Junction (near Richmond, VA) and Clifton Forge, and subleased and commenced operations over a 9.1-mile railroad line owned by Norfolk Southern Railway Company (“NSR”) extending between Gordonsville, VA, and Orange, VA (collectively, the railroad lines described immediately above – of which Segment 3 is a part – will be referred to herein as the “R&A Lines”).³ See *Buckingham Branch Railroad Company-Lease-CSX Transportation, Inc.*, FD 34495 (STB served Nov. 5, 2004) (“*Decision No. 6*”). CSXT is granting the Segment 3 Easement to BBRC in anticipation of a future transaction wherein CSXT expects to transfer the real estate and track and materials comprising Segment 3 to the DRPT to facilitate DRPT’s longer-term passenger and commuter service plans. The Easement will enable BBRC to

² See *Portland & Western Railroad, Inc.-Acquisition and Operation Exemption-Union Pacific Railroad Company*, FD 34792 (served Nov. 24, 2006) (authorizing a change in the incumbent operator’s property interest in a line of railroad from a leasehold to a permanent, exclusive rail freight operating easement).

³ BBRC leased the R&A Lines pursuant to a Land and Track Lease Agreement dated December 20, 2004, which has subsequently been modified by letter agreement and by four formal amendments (collectively the “L&T Lease”).

continue to provide common carrier service in conjunction with existing and future passenger operations.⁴

In support of this Notice of Exemption, BBRC submits the following information as required by 49 C.F.R. § 1150.43:

(a) Full name and address of applicant:

Buckingham Branch Railroad Company
1063 Main Street
Dillwyn, VA 23936

(b) Applicant's Representative:

Robert A. Wimbish
Fletcher & Sippel LLC
29 N. Wacker Dr.
Suite 800
Chicago, IL 60606
(312) 252-1500

(c) Statement of Agreement:

As part of the subject transaction BBRC and CSXT will enter into a Permanent Easement Agreement (the "Easement Agreement"), L&T Lease Amendment No. 5 ("L&TLA No. 5"), Segment 3 Operating Agreement, Addendum No. 4 to Exhibit "F," and Freight Operating Agreement Amendment Number One ("FOA-1") (collectively the "Transaction Agreements") prior to closing.

(d) The operator of the property:

⁴ CSXT and DRPT are negotiating the sale from CSXT to DRPT of Segment 3 pursuant to the doctrine developed in *Maine, Department of Transportation—Acquisition & Operation Exemption—Maine Central Railroad (State of Maine)*, 8 I.C.C. 2d 835 (1991), which will be subject to the agreements between CSXT and BBRC. Once the agreements are finalized between CSXT and DPRT, an appropriate petition will be filed by DPRT with the Board. DRPT has consented to the grant of an easement from CSXT to BBRC, which along with the petition to be filed by DRPT is expected to extinguish CSXT's common carrier obligation over Segment 3.

BBRC will be the operator of Segment 3.

(e) Summary of proposed transaction:

BBRC currently leases from CSXT and operates a 190.6-mile line between AM Junction (near Richmond) and Clifton Forge (which includes Segment 3), and subleases from CSXT and operates an NSR-owned, 9.1-mile railroad line between Gordonsville and Orange (collectively, the “R&A Lines”). As currently drafted, the L&TLA covers the R&A Lines, and has a 20-year term, which may be extended twice for an additional five years per optional extension. In the subject transaction, CSXT has agreed to grant BBRC a permanent, exclusive rail freight operating easement over the Segment 3 portion of the R&A Lines. In keeping with the Segment 3 Easement transaction, CSXT and BBRC have agreed to terminate the L&T Lease with respect to Segment 3, while continuing the lease arrangement for the balance of the R&A Lines. The balance of the R&A Lines not included in Segment 3 will be operated pursuant to the L&T Lease as amended by L&TLA No. 5. BBRC will operate Segment 3 pursuant to the terms of the Easement and Segment 3 Operating Agreement.

The proposed transaction will change BBRC’s property interest in Segment 3, but BBRC will continue to operate over Segment 3 and the rest of the R&A Lines as a common carrier, subject to CSXT’s reserved trackage rights to handle empty trains west bound and local trackage rights to handle certain aggregate train service from Martin Marietta at Verdon, VA (the “Retained Trackage Rights”). CSXT anticipates it will sell Segment 3 to DRPT to facilitate DRPT’s interest in enhancing and expanding passenger service subject to BBRC’s Easement.

BBRC has leased and operated R&A Lines since 2005, and CSXT has continued to operate pursuant to the terms of its Retained Trackage Rights. *Decision No. 6*. The scope and nature of BBRC and CSXT operations over Segment 3 (and over the balance of the R&A Lines)

will not be affected by the proposed transaction, and, as such, no employees of either company will be adversely impacted. Concurrent with the filing of this Notice of Exemption, BBRC has filed a Petition for Waiver of the advance labor notice requirements of 49 C.F.R. § 1142(e). As is reflected in 2004's *Decision No. 6*, the Board imposed labor protection conditions on the original lease transaction pursuant to *Mendocino Coast Ry., Inc. — Lease and Operate*, 354 I.C.C. 732 (1978), as modified in *Mendocino Coast Ry., Inc. — Lease and Operate*, 360 I.C.C. 653 (1980), and clarified in *Wilmington Term. R.R, Inc. — Pur. & Lease — CSX Transp., Inc.*, 6 I.C.C.2d 799, 814-826 (1990). See *Decision No. 6*, 5-6, 11.

- (1) The name and address of the railroad granting the easement:

CSX Transportation, Inc.
500 Water Street, J-885
Jacksonville, Florida 32202

- (2) The proposed time schedule for the consummation of the transaction:

The Segment 3 Easement transaction is expected to be consummated on or about the effective date of this notice.

- (3) The mileposts of the subject property, including any branch lines:

BBRC will acquire from CSXT a permanent, exclusive rail freight operating easement over approximately 164.22 miles between approximately milepost 276.0 in the town of Clifton Forge in Allegheny County, VA and milepost 111.78 at Doswell in Hanover County, VA, where it meets Segment 1. BBRC's lease/sublease arrangements for the balance of the R&A Lines will remain in effect.

- (4) The total route miles being acquired:

The Segment 3 rail line is approximately 164.22 route miles in length.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states:

A map of the rail lines being acquired is attached as Exhibit A. Red shading identifies Segment 3.

(g) A certificate that applicant's projected revenue as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under § 1150.45.

BBRC hereby certifies that this transaction will not result in BBRC becoming a Class II or Class I rail carrier. Upon consummation of this transaction, BBRC will remain a Class III carrier. The projected annual revenues of BBRC will exceed \$5 million. As discussed above, concurrent with this notice, BBRC is seeking a waiver of the labor notice requirement under 49 C.F.R. 1150.42(e).

(h)(1) Interchange Commitments:

The subject transaction is governed by an interchange commitment, as reflected in the case caption. Specifically, a Freight Operating Agreement (the "Original FOA"), as amended by FOA-1, does not prohibit BBRC interchange with third-party connecting carriers, but does contain provisions that would require BBRC to provide additional compensation to CSXT for use of Segment 3, which limit BBRC's future incentive to interchange with third-party connecting carriers. Since the implementation of the Original FOA, the amount of the interchange commitment has decreased as can be seen by comparing the provisions of the Original FOA and FOA-1. In accordance with 49 C.F.R. § 1150.43(h)(1), BBRC hereby provides the following information in connection with the subject interchange commitment:

- i. The existence of that provision or agreement and identification of the affected interchange points.

There is an interchange commitment contained in the amended Freight Operating Agreement. The affected interchange points are Charlottesville, VA (Norfolk Southern Railway Company – “NSR”) and Waynesboro, VA (NSR).

- ii. A confidential, complete version of the document(s) containing or addressing that provision or agreement.

The Freight Operating Agreement and FOA-1 are filed under seal pursuant to 49 C.F.R. § 1150.44(h).

- iii. A list of shippers that currently use or have used the line in question within the last two years.

Augusta Coop Farm Bureau
Dominion Virginia Power
ExxonMobil
Graphics Packaging International LLC
Klockner Pentaplast of America
Koppers Inc
Luck Stone
Martin Marietta Materials
Orange-Madison Co-op
Pilot Flying J
Sasol Chemical
Stella Jones
U.S. Silica Co
University of Virginia
Valley Recycling LLC
Viper Rail Car Storage
Virginia Vermiculite LLC

- iv. The aggregate number of carloads those shippers specified in paragraph (h)(1)(iii) of this section originated or terminated (confidential).



- v. A certification that the filing party has provided notice of the proposed transaction and interchange commitment to the shippers identified in paragraph (h)(1)(iii) of this section.

BBRC certifies below that it has provided notice of the proposed transaction and interchange commitment to the shippers identified in paragraph (h)(1)(iii). See Exhibit D.

- vi. A list of third party railroads that could physically interchange with the line sought to be acquired or leased.

NSR and DGVR.

- vii. An estimate of the difference between the sale or lease price with and without the interchange commitment (confidential).

See Confidential Exhibit E.

- viii. A change in the case caption so that the existence of an interchange commitment is apparent from the case title.

BBRC has complied with this requirement, as is reflected in the case title.

ENVIRONMENTAL AND HISTORIC IMPACTS

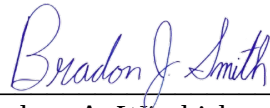
The subject transaction alters BBRC's interest in Segment 3 from a lease to an easement. The transaction will not alter the scope of BBRC's or CSXT's current operations over Segment 3. To wit, there will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of these lines to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the lines; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. BBRC's acquisition and operation of the rail lines will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the

transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

BBRC is changing its property interest in Segment 3 from a lease to an easement for continued rail operations. Further Board approval would be required if BBRC were to abandon any service. There are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,



Robert A. Wimbish

Bradon J. Smith

Fletcher & Sippel

29 North Wacker Drive

Suite 800

Chicago, Illinois 60606-3208

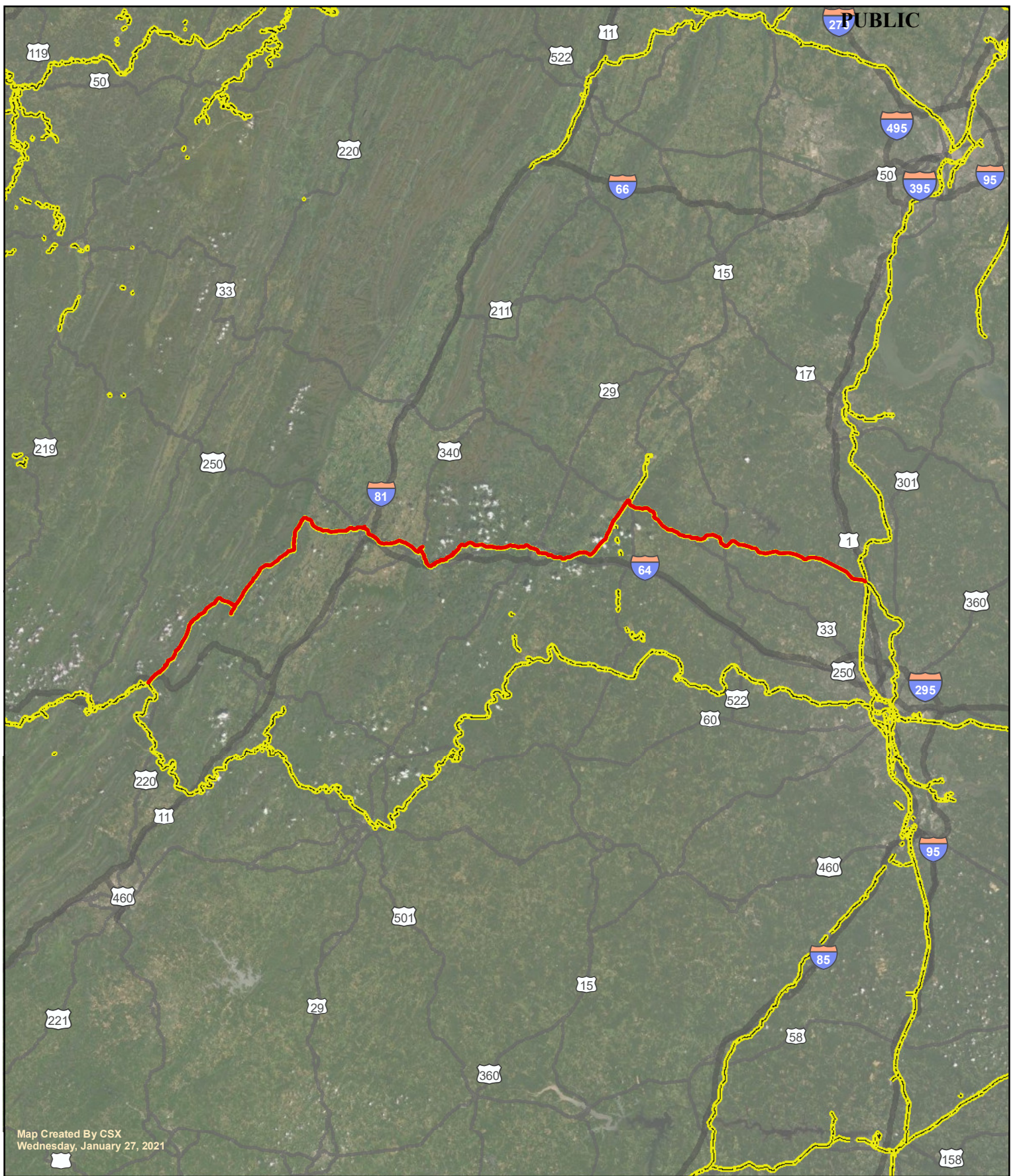
(312) 252-1500

**ATTORNEYS FOR THE
BUCKINGHAM BRANCH RAILROAD
COMPANY**

Dated: September 2, 2021

EXHIBIT A

MAP



SEGMENT 3
BUCKINGHAM BRANCH ACQUISITION OF
PERPETUAL EASEMENT FROM CSXT
CLIFTON FORGE AND DOSWELL
MILEPOST CA 276 - CA 111.78)

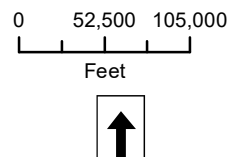


EXHIBIT B

CERTIFICATION OF COMPLIANCE WITH 49 CFR 1150.42(e)

BBRC is seeking waiver of this provision because this transaction involves a change in BBRC's interest in the line from a lease to an easement and will not adversely impact BBRC's employees.

EXHIBIT C (PUBLIC)

December 20, 2004

Freight Operating Agreement

WHEREAS, CSX Transportation, Inc. ("CSXT"), a Virginia Corporation, and Buckingham Branch Railroad Company, a Virginia corporation ("Shortline") have entered into a transaction involving the lease of track and operating right-of-way for a line of railroad of CSXT known as the North Mountain, Washington and Piedmont Subdivisions in Virginia, to Shortline ("the Transaction");

WHEREAS, the parties have obtained approval of the transaction from the United States Surface Transportation Board as required by 49 U.S.C. Section 11323 and the STB's regulations;

WHEREAS, the parties now wish to enter into an agreement governing the commercial and operating relationship between them with respect to Shortline's operation of the line of railroad which is subject to the lease.

NOW, THEREFORE, this 20th day of December, 2004 for and in consideration of the foregoing premises and the mutual covenants and obligations hereinafter set forth, the parties to this Agreement hereby agree as follows:

PART I - DEFINITIONS

- 1.1. As used in this Agreement, the following terms shall have the meanings as specified here:
- 1.1.1. "AAR" shall mean the Association of American Railroads.
 - 1.1.2. "AAR Car Hire Rules" shall mean the rules contained in AAR Circular OT-10 governing settlement for the use of railroad-marked cars between common carrier railroads as amended from time to time.
 - 1.1.3. "AAR Circular OT-10" shall mean AAR Transportation Division Circular No. OT-10, as published in the Official Railway Equipment Register and amended from time to time.
 - 1.1.4. "AAR Interchange Rules" shall mean the interchange rules as published in the Field Manual of the AAR Interchange Rules as amended from time to time.
 - 1.1.5. "AEI Reader" shall mean a device capable of electronically identifying a properly equipped rail car as the rail car passes the location of the AEI Reader.
 - 1.1.6. "Agreement" shall mean this Agreement.
 - 1.1.7. "Car Hire" shall mean the charge to be paid for use of a railroad car while on the lines of a carrier that is not the car owner and includes time and mileage charges.
 - 1.1.8. "Commencement Date" shall mean the first day on which Shortline conducts operations on the Line.
 - 1.1.9. "CSXT" shall mean CSX Transportation, Inc.
 - 1.1.10 "Consideration" shall mean the mutual obligations undertaken by the parties hereunder.
 - 1.1.11 "EDI" shall mean the transfer of data via Electronic Data Interchange.

- 1.1.12 "Interchange Agreements" shall mean the agreements attached hereto as Appendix A governing the location and other terms for the exchange of traffic between CSXT and Shortline.
- 1.1.13 "Junction Settlement Railroad" shall have the meaning given the term in the Railway Accounting Rules of the Association of American Railroads.
- 1.1.14 "IRCS" shall mean Integrated Railroad Control System, a software package system copyrighted by Railcar Management, Inc., used for the electronic interchange of railroad operating and accounting data.
- 1.1.15 "Interline Settlement System" shall mean the system of dividing and paying to each participating carrier in an interline movement of freight that carrier's respective portion of the total freight charges all as provided in the Railway Accounting Rules.
- 1.1.16 "Lease" shall mean the lease covering the operating right-of-way entered into between CSXT and Shortline on December 20, 2004.
- 1.1.17 "Line" shall mean the line or lines of railroad leased by CSXT to Shortline under the Lease.
- 1.1.18 "Mileage Allowances" shall mean the charge to be paid for use of a private (not railroad-supplied) rail car.
- 1.1.19 "RCAF-U" shall mean the Rail Cost Adjustment Factor- Unadjusted for productivity as determined by the STB.
- 1.1.20 "ShipCSX®" shall mean an internet-based computer software application owned by CSXT, and any replacement software application that CSXT may from time to time adopt to perform similar functions.
- 1.1.21 "Shortline" shall mean the Buckingham Branch Railroad Company.
- 1.1.22 "STB" shall mean the United States Surface Transportation Board.
- 1.1.23 "Switching Settlement Process" shall mean the procedures for settling revenue between a line-haul and a switching carrier as prescribed by the Railway Accounting Rules.

1.1.24 "TRAIN II ©" shall mean the railroad industry's electronic system for reporting and verifying cars in interchange service by car initial and number.

1.1.25 "Trackage Rights" shall mean the trackage rights retained by CSXT over the Line pursuant to the "Trackage Rights Agreement" entered into between CSXT and Shortline on December 20, 2004.

PART 2 - ONGOING TRAFFIC RELATIONSHIPS

- 2.1. Purpose. The parties agree that the method of best achieving efficient rail service to and from the Line, and to customers served in conjunction with CSXT, is to establish a mutually beneficial commercial arrangement between CSXT and Shortline.
- 2.2. Scope. It is the intention of the parties that rail freight transportation be conducted over the Line as efficiently and at the lowest cost possible, consistent with the ability of the parties to retain and increase the rail freight business. The Trackage Rights are not subject to the Agreement. CSXT's provision of freight transportation under the Trackage Rights shall be governed by the Trackage Rights Agreement.
- 2.3. Common Carrier. Shortline understands and agrees that it will be a line haul common carrier railroad, and will have the full common carrier responsibility with respect to service to and from shippers located on the Line.
- 2.4. Line Haul Carrier. Shortline understands and agrees that it will have the status, rights, and obligations of a line haul rail carrier, and shall not attempt to characterize itself as a switching carrier in its relationship with CSXT.
- 2.5. Junction Settlement. Shortline shall be a Junction Settlement Railroad and payments to Shortline by CSXT as Shortline's share of revenue shall be made accordingly.
- 2.6. Adoption. Effective upon the Commencement Date, Shortline shall adopt all stations on the Line as stations to which it holds itself out to provide service, and shall adopt all classifications, rules, concurrences, traffic agreements, authorities, powers of attorney, and other instruments whatsoever insofar as said instruments apply to, from, or via the adopted stations. The adoption of former CSXT stations shall be evidenced by publication, filings and notices to the appropriate regulatory authorities

and rail industry agencies. At least thirty days in advance of the Commencement Date, Shortline shall certify to CSXT that it has taken all actions called for under this Part 2.6.

- 2.7. Industry Agreements. Prior to the Commencement Date, Shortline will become, or will continue to be, a signatory to the rail industry's Interchange Rules, Car Service and Car Hire Agreement, and Accounting Rules.
- 2.8. Pricing of Joint Line Services. Except as may be agreed from time to time between authorized officers of each party, Shortline agrees to accept as its portion of the through line haul revenue on interline movements between Shortline and CSXT (including CSX / Shortline movements involving other carriers) the revenue factors set out in Appendix B. CSXT may rely upon the factors in Appendix B and may use them in setting joint line rates including, without limitation, joint line rates to be embodied in Rail Transportation Contracts, private price quotations, and public pricing documents. If CSXT uses the factors set out in Appendix B in entering into a railroad transportation agreement that includes a provision for increase in the through rate to be paid by the shipper, Shortline's factor shall be increased by the same percentage, and at the same time as the through rate is increased, in lieu of any increase that might otherwise be provided for by Appendix B. For purposes of this Part 2.8, any fuel cost recovery charge (fuel surcharge) shall be treated as an increase in the through rate for the period during which it is effective. Other ancillary charges, including without limitation storage in transit, demurrage, branch line surcharges on other lines, and finance or late payment charges, do not constitute increases in the through rate.
- 2.9. Assessorial Charges. Shortline shall establish, publish and administer a schedule of such other rules and charges governing matters customary in the rail industry, including demurrage charges, as Shortline shall deem appropriate.

- 2.10. Price Publication and Administration. CSXT, from or to local CSXT stations, shall have responsibility for establishing, publishing and administering all line-haul rates either by public pricing document (tariff), private price quotation, or by contract. When, by Industry practice, the objective to publish and administer a joint line price is the responsibility of another carrier (as for example prices for joint line movements originating on a western Class I carrier) CSXT shall have responsibility for coordinating with the publishing carrier.
- 2.10.1 Public Price Lists and/or Tariffs. The Shortline revenue factor will not be an automatic add-on to CSXT's rate. In public rate documents, CSXT will endeavor to absorb up to [REDACTED] per car of the Shortline revenue factor when constructing through rates. Shortline agrees that it will provide factors to CSX for use in constructing public rate documents (tariffs) on a timely basis (generally within 2 weeks of the time of the request).
- 2.10.2 Contract Prices and/or Private Price Publications. When transportation prices must be structured for specific customers, in specific markets, that require private contract rates, or private, confidential price quotes, the through rates governing such movements shall not be governed by the provisions of Section 2.10.1, but rather will be negotiated between CSXT and Shortline on a case-by-case basis. These cases should involve traffic potential that cannot be addressed with tariff rates in place between CSXT and Shortline.
- 2.11. Rail Transportation Contracts. Shortline hereby grants to CSXT the right and power of attorney to execute transportation contracts with shippers to and from stations on the Line without Shortline's prior consent, so long as CSXT honors Shortline's revenue factor(s) in Appendix B, or other factors as may be agreed upon from time to time between authorized officers of each party.

2.12. Agents. Shortline may from time to time designate an agent or contractor (other than CSXT) to perform, on behalf of Shortline, some or all of the administrative responsibilities associated with its obligations undertaken in this Agreement.

PART 3 – Intentionally Blank

PART 4 - CONTINUING OPERATIONS

- 4.1. Application. The handling and administration of freight traffic that originates, terminates or moves via the Line after the Commencement Date, and is interchanged between CSXT and Shortline, shall be governed by this Part 4.
- 4.2. Freight Billing. CSXT shall be responsible for all billing of line haul freight charges and related administrative functions.
- 4.3. Interchange. CSXT and Shortline shall interchange traffic at the locations and in the manners specified in interchange agreements in Appendix A, which shall be entered into contemporaneously with this Agreement.
- 4.4. Responsibility for Operations. No provision of this Agreement shall be construed to impose any right or obligation on CSXT to provide direct service to any station or point on the Line or to use or make available its own or any other locomotives or crews for purposes of providing rail freight service to, from, or via any station or point on the Line.
- 4.5. Data Exchange and other information systems requirements. Shortline will supply its own hardware, software and related services, which shall be within two versions of the then current AAR standard. Shortline will use its best efforts to work with CSXT to maximize the electronic flow of information. Shortline shall electronically transmit within 24 hours records of cars that have been rejected for loading. Shortline shall install electronic data interchange with the AAR, and shall transmit via EDI to CSXT Bill of Lading Instructions and advance train consist information prior to arrival at interchange point(s).

PART 5 - CAR SUPPLY

- 5.1. Car Supply and Reclaim. The rights and responsibilities of CSXT and Shortline for car supply, Car Hire and Mileage Allowances, as between themselves, shall be governed by the terms of this Part 5.
- 5.2. Governing Agreements. Prior to the effective date of this Agreement, CSXT and Shortline shall subscribe to the Car Service and Car Hire Agreement contained in AAR Circular No. OT-10, which together with the Code of Car Hire Rules and Code of Car Service Rules (except as modified herein), shall govern the use and movement between the parties of cars bearing railroad reporting marks. Shortline shall also, prior to the effective date of this Agreement, adopt and become a participating carrier in Freight Tariff RPS 6007 (private car mileage) and Freight Tariff RPS 6740 (heavy duty flat cars). Prior to entering into this agreement, Shortline shall certify compliance with this Part 5.2. To the extent said agreements are inconsistent with the provisions of this Agreement, the provisions of this Agreement shall control relationships between CSXT and Shortline.
- 5.3. Payment of Car Hire and Mileage Allowances. Shortline shall be responsible to pay all Car Hire and Mileage Allowances accrued on its lines for a foreign car or a private car (as defined in AAR Circular No. OT-10) including but not limited to cars owned by TTX Company or its affiliates (the "TTX Cars"), directly to the party to whom such charges are due as car owner or car lessee. Should CSXT be charged for or inadvertently pay Car Hire or Mileage Allowance accrued on foreign or private cars (including TTX Cars) moving on the Line, CSXT shall have the right to collect from Shortline the Car Hire or Mileage Allowance costs it is so charged or has so paid, by deducting such amount from any available junction settlement account between CSXT and Shortline. Shortline shall not reclaim any car hire for cars originating or terminating on the Line.

- 5.4. Car Supply. Shortline and CSXT anticipate that the primary source of car supply on the Line will be CSXT, but CSXT shall have no special duties or obligations to Shortline with respect to car supply and car service. CSXT expects and anticipates that it will be generally able to supply cars upon reasonable request, but supply and demand for cars does and will vary. CSXT undertakes only to supply cars on the same basis that it supplies cars to customers it directly serves and under no circumstances whatsoever shall CSXT have any liability to Shortline or any third party for failure to provide car supply. Shortline is solely responsible for car ordering for CSXT traffic on the Line, and shall so advise shippers on the line.
- 5.5 Car Hire Rates. In the event that CSXT can not, or for any reason, does not supply a car to Shortline for loading on the Line, Shortline may place a car for loading using cars bearing its own or a third party's marks, subject to the following conditions:
- 5.5.1 The time and mileage charges to be paid by CSXT for the use of such car on CSXT shall not exceed the time and mileage charges set out in Appendix C, and
 - 5.5.2 Shortline shall save, defend, indemnify and hold CSXT harmless for any claims by third parties against CSXT for payment of time and mileage charges to the extent such charges exceed those set out in Appendix C, and
 - 5.5.3 No box cars subject to the exclusions set forth in 49 C.F.R. § 1039.14(c)(2) shall be placed for loading on the Line (sometimes colloquially referred to in the industry as a "grandfathered boxcar") unless CSXT has negotiated agreed-upon car hire rates with the party entitled to payment of car hire for such cars.
- 5.6 Misloading of Cars. If CSXT has placed a car in AAR "assigned service" on the Line, Shortline shall not permit such a car to be loaded and routed via a line haul carrier other than CSXT. In the event that such a car placed in AAR assigned service by CSXT is loaded to a different line haul

carrier, in addition to any other compensation that may be due CSXT, Shortline shall pay CSXT a misloading charge of [REDACTED] per car misloaded.

5.6.1 If requested by CSXT, Shortline shall use its best efforts to have cars serving one or more of Shortline's customers placed in assigned service.

5.6.2 If CSXT supplies a car to Shortline for loading (non-assigned) and such car is loaded in the line haul service via a carrier other than CSXT Shortline shall pay CSXT a misloading charge of [REDACTED] per misloaded car.

5.7. Setback and other charges. Neither party shall seek to impose on the other, either directly or indirectly, charges or liabilities of any type, including without limitation charges for rejected cars, misdelivery, delay or setback, whether by tariff or otherwise.

5.7.1 Shortline will be responsible to gather car orders and forecast car needs from shippers on the Line. Shortline will provide to CSXT, via ShipCSX®, a weekly car order and weekly forecast of equipment requirements prior to noon each Thursday. The weekly car order shall indicate Shortline's bona fide expectation of needs for the following workweek (Monday through Sunday). This forecast shall be for the next following workweek. Both car orders and forecasts should be in CSXT authorized format and specify the number of cars anticipated to be required by type and size, and the date required. CSXT may from time to time change its procedures for car ordering and Shortline shall accommodate such procedures to the extent that they are generally applicable to CSXT's Class III connections.

5.8. Cleaning and Pre-Inspection. Shortline will not be responsible for any CSXT freight car cleaning or pre-inspection services required to satisfy shipper equipment quality requirements for cars to be loaded on the Line. Any car rejected by a shipper as unfit for loading may be returned to

CSXT by Shortline at no charge to either CSXT or Shortline, but Shortline shall not be entitled to any car hire relief for such cars.

- 5.9. Demurrage. Shortline shall have the right to determine what demurrage charges, if any, to assess to shippers when cars including cars bearing CSXT's mark are on its lines and shall be responsible for the billing and collection of all such charges. Shortline shall maintain all demurrage records and shall bill, collect and retain any and all demurrage charges it may assess to shippers located on the Line.
- 5.10. Cycle Time. Shortline agrees it will encourage shippers located on its lines to contribute to the efficient movement of CSXT cars between Shortline and CSXT. Shortline agrees to cooperate with CSXT to maximize the efficient flow of equipment.

PART 6 - GENERAL PROVISIONS - LIABILITY / INDEMNIFICATION

6.1 Shortline Shall Act As a Separate and Independent Party. The employees, agents, and/or independent contractors of Shortline engaged in performing any of the services Shortline is to perform pursuant to this Agreement shall be employees, agents, and independent contractors of Shortline for all purposes, and under no circumstances shall be deemed to be employees, agents, franchisees or independent contractors of CSXT. In its performance under this Agreement, Shortline shall act, for all purposes, as an independent entity and not as an agent for CSXT. CSXT shall have no supervisory power or control over any employees, agents or independent contractors engaged by Shortline in connection with Shortline's performance hereunder, and all complaints or requested changes in procedures will be transmitted by CSXT only to a designated or responsible officer of Shortline. Nothing contained in this Agreement is intended to limit or condition Shortline's control over its operations or the conduct of its business as a rail carrier, and Shortline and its principals assume all risks of financial losses which may result from the operation of the rail services to be provided by Shortline hereunder.

6.2. Liability and Indemnification

6.2.1 The terms of the Interchange Agreement(s) set out in Appendix A shall govern the relationships of the parties with respect to the activities contemplated therein. In all other respects, the provisions of this Part 6.2 shall apply.

Each party assumes full responsibility for any and all liability to its own directors, officers, employees, or agents on account of injury or death resulting from or sustained in the performance of their respective services under this Agreement.

6.2.2 Each party, with respect to its own employees, accepts full and exclusive liability for the payment of worker's compensation, FELA claims and/or employer's liability insurance premiums with respect

to such employees, and for the payment of all taxes, contributions or other payments for unemployment compensation or old age benefits, pensions or annuities now or hereafter imposed upon employers by the government of the United States or by any state or local governmental body with respect to such employees measured by the wages, salaries, compensation or other remuneration paid to such employees, or otherwise, and each party further agrees to make such payments and to make and file all reports and returns, and to do everything necessary to comply with the laws imposing such taxes, contributions or other payments.

PART 7 - MISCELLANEOUS PROVISIONS

- 7.1. Notices. All notices or other communications given pursuant to this Agreement shall be sent by United States express, certified or registered mail, or by a private courier service providing proof of delivery, addressed as set forth below (or to such other address as either of the parties hereto may designate by written notice to the other party). A return receipt shall be conclusive evidence of the fact, date, and time of receipt.

If to CSXT:

CSX Transportation
500 Water St.
Jacksonville, Florida 32202
Attention: Managing Director Rail Network Marketing, J855

With additional copies to:

Network Rationalization
CSX Transportation
500 Water St.
Jacksonville, Florida 32202
Attention: Assistant Vice President, J200
and
Property Services
CSX Transportation
500 Water St.
Jacksonville, Florida 32202
Attention: Director Contract Administration, J180

If to Shortline:

Buckingham Branch Railroad Company
P. O. Box 336
Highway U. S. 15
Dillwyn, VA 23936
Attention: Robert E. Bryant, President

- 7.2. Entire Agreement; Amendment. This Agreement and the Appendices hereto set forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby, and may not be amended except by written instrument executed by the parties.

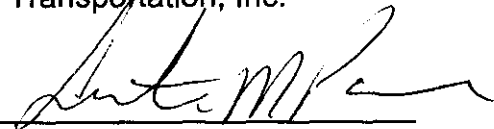
- 7.3 Survival of Terms. All representations (as modified pursuant to the provisions hereof), warranties, covenants, terms, conditions, stipulations, and provisions of this Agreement shall survive the Effective Date and be binding upon and inure to the benefit of, and be enforceable by, the Parties, and their successors and assigns.
- 7.4 Assignment. Neither CSXT nor Shortline may assign, pledge, encumber, or transfer this Agreement, or any interest herein, without the prior written consent of the other party hereto.
- 7.5 Beneficiaries. Except as specifically otherwise provided herein, this Agreement is intended for the sole benefit of the parties hereto. Nothing in this Agreement is intended to or may be construed to give any person, firm, corporation, or other entity, other than the parties hereto, any rights pursuant to any provision or term hereof, and all provisions and terms of this Agreement are and shall be for the sole and exclusive benefit of the parties to this Agreement.
- 7.6 Governing Law. This Agreement and the rights and obligations accruing hereunder shall be construed and enforced in accordance with the laws of the United States and the state of Virginia.
- 7.7 Appendices. All appendices referred to in this Agreement are intended to be, and are hereby, specifically made a part of this Agreement.
- 7.8 Waiver. No waiver by either party of any failure of or refusal by the other party to comply with any obligation under this Agreement shall be deemed a waiver of any other or subsequent failure or refusal so to comply.
- 7.9 Confidentiality. The terms and conditions of this Agreement are confidential, and neither party hereto without the prior written consent of the other shall reveal any provisions hereof to any third party (except an employee, attorney or consultant entitled to know the provisions hereof in the ordinary course of the business of the party), except to the extent required by law or regulation or a valid judicial or administrative order.
- 7.10 Arbitration. Except as otherwise provided in this Agreement, any disputes arising under this Agreement or as a result of any of the services or

covenants created by this Agreement shall be arbitrated pursuant to the Commercial Rules of the American Arbitration Association (AAA) in the office of the AAA, under law, before a single arbitrator knowledgeable in transportation law and the railroad industry. The parties agree that the results of said arbitration shall be binding, and that any award of the arbitrator or arbitrators shall be enforceable in any court of general jurisdiction.

- 7.11 Force Majeure. A party shall be excused from its performance during a force majeure period if prevented from performing by any of the following force majeure conditions: Act of God, authority of law, severe weather, fire, explosion, labor disputes, embargo, war, threatened or actual act of terrorism, insurrection, derailment or like causes beyond its control. The party claiming force majeure shall notify the other party as soon as practical upon the beginning and ending of the force majeure period.
- 7.12 Conditions Precedent. This Agreement is contingent upon execution of the Lease, the required regulatory approval from the Surface Transportation Board (without conditions unacceptable to either party, in its sole discretion), and the satisfaction by the parties of all STB conditions which are a prerequisite to implementation of the transaction approved by the STB. If the Lease has not been executed and either (i) the required approval of the Surface Transportation Board has not been obtained by November 5, 2004, or (ii) the parties have not satisfied the STB conditions described above, then either party may give the other notice of immediate termination, and this Agreement shall be void and of no effect.

7.13 Term. This agreement shall terminate upon the termination of the Lease or the assignment (or purported assignment) of the Lease.

CSX Transportation, Inc.

By: 

Print Name: Les M Passa

Title: VP-Strategic Planning

Date: 12/17/04

Buckingham Branch Railroad Company

By: 

Print Name: ROBERT E. BRYANT

Title: PRESIDENT

Date: 12-16-04

Appendix A
Interchange Agreement(s)
Doswell
Clifton Forge

APPENDIX B				
REVENUE FACTORS				
			Revenue Factor (Dollars Per Car)	
To/From ESHR (Staunton)				
* To/From NS (Waynesboro)				
	Except 28211 (Plastics)			
01XXX	Grain			
11XXX	Coal			
14XXX	Aggregates			
	Except 14919 (Virginia Vermiculite) at Louisa, VA			
20XXX	Grain Products			
	Except 20511 (Bakery Refuse) at Doswell, VA			
24XXX	Logs/Lumber/Ties			
	Except 24111 (Logs) at Doswell, VA			
	Except 24912 at Goshen, VA			
26XXX	Paper			
	Except 26211 (Newsprint) at Atlee, Bear Island, VA			
28XXX	Chemicals/Fertilizer			
	Except 28122 (Caustic Soda) at Bear Island, VA			
	Except 28211 (Plastics) at Doswell, VA			
	Except 28211(Plastics) at Gordonsville, VA			
29XXX	LPG			
32XXX	Misc. Aggregates and Cement			
	Except 32754 (Wallboard) at Doswell, VA			
	Except 32959 (Aplite Rock) at Beaverdam, VA			
34912	Misc. Fabricated Metal			
36129	Generators			
37XXX	RR Equipment			
All Other Commodities				
* Customers served by NS in Waynesboro open to switch (includes NS switch charge of [REDACTED] per car) which will be paid by BB				

LPCT

*

LPCT Desc.HourMile

Appendix C

Bilateral Car Hire Rates

102	50 FT RBL BOX		
103	60 FT RBL BOX		
104	50 FT RUF BOX		
105	50 FT CUF BOX		
107	60 FT BOX		
108	86 FT BOX		
109	MECH REFG CARS		
113	COVERED HOP <4000 CFC		
114	COVERED HOP 4000+ CFC		
	SPCL. BIG COVERED		
115	HOPPER		
120	GONDOLA <52' 70T LO SIDE		
122	COVERED COIL GONDOLA		
123	OPEN COIL GON		
125	COVERED COIL GONDOLA		
	GEN SERVICE OTH <100		
128	TON		
	GEN SERVICE OTH >		
129	100TON		
134	BULKHEAD FLATS		
141	CENTER BEAM FLATS		
	ALL OTHER		

* LPCT is the group of AAR car types as shown on p. 2 and 3 of this Appendix C.

Appendix C (cont'd) Bilateral Car Hire Rates

CSX LPCT/AAR Code Cross Reference

<u>LPCT</u>	<u>Name</u>	<u>AAR Codes</u>
102	50 FT RBL BOX	R000, R100, R110, R200, R210, R300, R310, R400, R410
103	60 FT RBL BOX	R500, R510, R600, R610, R700, R710, R800, R810
104	50 FT RUF BOX	A000, A100-A107, A110-A117, A120-A127, A130-A137, A140-A147, A200-A207, A210-A217, A220-A227, A230-A237, A240-
A247,		A300-A307, A310-A317, A320-A327, A330-A337, A340-
A347,		B000, B100-B107, B110-B117, B120-B127, B130-B137, B140-B147, B150-B157, B160-B167, B170-B177, B180-B187, B200-B207, B210-
B217,		B220-B227, B230-B237, B240-B247, B250-B257, B260-B267, B270-B277, B280- B287, B300-B307, B310-B317, B320-B327, B330-B337, B340-B347, B350-B357, B360-B367, B370-B377, B380- B387
105	50 FT CUF BOX	A400-A407, A410-A417, A420-A427, A430-A437, A440-
A447,		B400-B407, B410-B417, B420-B427, B430-B437, B440- B447, B450-B457, B460-B467, B470-B477, B480-B487
107	60 FT BOX	A500-A507, A510-A517, A520-A527, A530-A537, A540-
A547,		A600-A607, A610-A617, A620-A627, A630-A637, A640-
A647,		B500-B507, B510-B517, B520-B527, B530-B537, B540- B547, B550-B557, B560-B567, B570-B577, B580-B587, B600-B607, B610-B617, B620-B627, B630-B637, B640- B647, B650-B657, B660-B667, B670-B677, B680-B687
108	86 FT BOX	A700-A707, A710-A717, A720-A727, A730-A737, A740-
A747,		A800-A807, A810-A817, A820-A827, A830-A837, A840-A847, B700-B707, B710-
	B717,	B720-B727, B730-B737, B740-B747, B750-B757, B760-B767, B770-B777, B780-
	B787,	B800-B807, B810-B817, B820-B827, B830-B837, B840-B847, B850-B857, B860-
	B867,	B870-B877, B880-B887
109	MECHANICAL REFG. CARS	R120, R150, R160, R170, R180, R190, R220, R250, R260, R270, R280, R290, R320, R350, R360, R370, R380, R390, R420, R450, R460, R470, R480, R490, R520, R550, R560, R570, R580, R590, R620, R650, R660, R661, R670, R680, R690, R720, R750, R760, R770, R780, R790, R820, R850, R860, R870, R880, R890
113	COVERED HOP <4000 CFC	C111, C112, C122, C211, C212, C221, C222, C311, C312, C321, C322, C511, C512, C521, C522, C711, C712, C721, C722

114	COVERED HOP >4000 CFC	C000, C113, C123, C213, C223, C313, C323, C513, C523, C713, C723
115	SPECIAL BIG COV HOP	C114, C124, C214, C224, C314, C324, C414, C424, C514, C524, C714, C724

120	GON <52' <100T HI SIDE	E234, E330, E334, E434, E530, E534, E630, E634 G000, G100-G109, G110-G118, G120-G219, G130-G139, G140-G149, G150-G159, G160-G169, G180-G189, G200- G209, G210-G219, G220-G229, G230-G239, G240-G249, G250-G259, G260-G269, G280-G289, G300-G309, G310- G319, G320-G329, G330-G339, G340-G349, G350-G357, G359, G360-G369, G380-G389, G400-G409, G410-G419, G420-G429, G430-G439, G440- G449, G450-G459, G460-G469, G480-G489, G500-G509, G510-G519, G520-G529, G530-G539, G540-G549, G550- G559, G560-G569, G580-G589
122	COVERED COIL GONDOLA	E111, E121, E141, E191, E211, E221, E232, E241, E242, E291, E311, E321, E341, E391, E411, E421, E432, E441, E491, E511, E521, E541, E59, E611, E621, E641, E691, E711, E721, E741, E791, E811, E821, E841, E891
123	OPEN COIL GONDOLA	E101, E131, E132, E151, E161, E181, E201, E231, E251, E261, E281, E301, E331, E351, E361, E381, E401, E431, E451, E461, E481, E501, E531, E532, E551, E554-E557, E561, E581, E601, E631, E632, E651, E661, E681, E701, E731, E751, E761, E781, E801, E831, E851, E861, E881
125	OTHER EQUIPPED GON. E220,	E120, E124-E127, E130, E134-E137, E140, E144-E147, E150, E154-E157, E160, E164-E167, E180, E184-E187, E190, E194-E197, E224-E227, E230, E235-E237, E240, E245-E247, E250, E255-E257, E260, E265-E267, E280, E284-E287, E290, E294-E297, E320, E324-E327, E334- E337, E340, E344-E347, E350, E354-E357, E360, E364-E367, E380, E384-E387, E390, E394-E397, E420, E424-E427, E430, E434-E437, E440, E444-E447, E450, E454-E457, E460, E464-E467, E480, E484-E487, E490, E494-E497, E520, E524-E527, E534-E537, E540, E544-E547, E550, E560, E564-E567, E580, E584- E587, E590, E594-E597, E620, E624-E627, E635-E637, E640, E644-E647, E650, E654-E657, E660, E664-E667, E680, E684- E687, E690, E694-E697 L010-L014, L016-L018
128	GEN SVC < 100T	G119, H120-G123, H130-H133, H140-H143, H150-H153, H160-H163, H220-H223, H230-H233, H240-H243, H250-H253, H260-H263
129	GEN SVC > 100T	H000, H320-H323, H330-H333, H340-H343, H350-H353, H360-H363
134	BULKHEAD FLATS	F000, F151-F156, F241-F246, F251-F256, F341-F346, F351- F356, F441-F446, F451-F456, F541-F546, F551-F556,
F741-		F746, F751-F756, F841-F846, F851-F856,
141	CENTERBEAM FLATS	F181-F186, F281-F286, F381-F386, F481-F486, F581-
F586,		F781-F786, F881-F886

AGREEMENT to Cover INTERCHANGE
Clifton Forge, VA

THIS AGREEMENT, made and entered into this 20th day of December, 2004, by and among CSX TRANSPORTATION, INC., a Virginia corporation (hereinafter called "CSXT"), and BUCKINGHAM BRANCH RAILROAD COMPANY, a Virginia corporation (hereinafter called "BBRR").

WITNESSETH:

WHEREAS, by Lease effective December 20, 2004 between CSXT and BBRR, the parties will interchange rail freight cars at Clifton Forge, VA; and

WHEREAS, CSXT and BBRR desire to enter into a formal agreement to govern the interchange of traffic at Clifton Forge.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, it is agreed between the parties hereto as follows:

ARTICLE 1. INTERCHANGE

- A. Interchange between the parties shall take place in CSXT's Clifton Forge Yard in the vicinity of CSXT's Alleghany Subdivision Milepost (MP) CA 278.0, Clifton Forge, VA. Specific yard trackage to be used for interchange as herein contemplated shall be designated by CSXT's Clifton Forge Yardmaster at the time of movement. Said trackage shall be hereinafter referred to as the "Interchange Trackage". Neither CSXT nor BBRR shall be required or obligated to violate its labor agreements to satisfy a request on the part of the other. In the event that a CSXT or BBRR train and engine crew is required to perform service at the other party's direction which is in violation of any collective bargaining agreements of the party performing the service, any resultant penalties arising under CSXT or BBRR collective bargaining agreements shall be assumed and borne solely by the party who directed the service to be performed.
- B. Except as may be specifically set out otherwise herein, the interchange of traffic covered by this Agreement shall be governed by the applicable AAR Interchange Rules and the Car Service and Car Hire Rules and any supplements or amendments thereto promulgated from time to time by the Association of American Railroads (hereinafter referred to as "AAR Rules"). Cars (empty and loaded) together with containers and/or trailers loaded thereon (hereinafter referred to as "Cars") shall be considered as interchanged from the account of one party to the other when the provisions of the AAR Rules have been satisfied, and in addition, upon delivery to CSXT, when the BBRR engine consist is uncoupled therefrom, and upon delivery to BBRR, when CSXT has completed mechanical inspection, made the interchange cut solid and laced air hoses. CSXT shall furnish BBRR with air slip.

- C. In the case of an Electronic Data Interchange road, the character of the necessary data will be determined by each receiving road in accordance with American National Standards Institute (hereinafter called "ANSI") X-12 Rail Standards as they may be revised from time to time. All cars delivered in interchange shall be preceded by an ANSI X-12 Advance Interchange Consist 418 transaction set.
- D. By separate Operating Plan and Interline Service Agreement to be agreed upon between the parties as a condition of the interchange herein contemplated, the parties shall identify related operating issues including but not limited to days and hours of interchange operation, tonnage and blocks to be interchanged, arrangements for locomotives and markers, and alternative arrangements to apply in the event of certain unforeseen events. Either party shall have the right from time to time during the term hereof, to make adjustments to such operating arrangements, provided that such adjustments shall be reasonable and shall not intentionally interfere with the conduct of the interchange subject hereof.

ARTICLE 2. OPERATING RIGHTS FOR INTERCHANGE

- A. Subject to the terms and conditions herein provided, CSXT hereby grants BBRR the right to operate its trains, locomotives, cars and equipment with its own crews over the following segment(s) of CSXT's railroad:

CSXT's Alleghany Subdivision # 1 and # 2 Main Tracks,
Switching Lead and yard tracks as required between JD Cabin at
MP CA 276.0 and Low Moor at MP CA 280.8 as necessary for
entry and exit of the Interchange Trackage.

- B. The abovementioned rights are hereinafter referred to as "Operating Rights" and the abovementioned segment of CSXT's railroad is hereinafter referred to as "Subject Trackage". The specific Subject Trackage to be used by BBRR shall be designated by CSXT's Clifton Forge yardmaster at the time of movement.

ARTICLE 3. USE OF SUBJECT TRACKAGE

Operating Rights granted herein are for the sole purpose of BBRR using same for the delivery and receipt of interchange traffic, and BBRR shall not perform any local freight service whatever at any point located on the Subject Trackage. BBRR shall ingress and egress the Subject Trackage only at the endpoints specified in Article 2 hereof.

ARTICLE 4. OWNER AND USER DEFINED

As used hereinafter in this Agreement, whenever BBRR is operating over track operated or controlled by CSXT, then BBRR shall be considered as "User" and CSXT as "Owner".

ARTICLE 5. MANAGEMENT AND OPERATIONS

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

- B. User in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of 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 as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by Owner's operating rules and regulations without the prior consent of Owner.

- C. User shall make such arrangements with Owner as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Subject Trackage qualified for operation thereover, and User shall pay to Owner, upon receipt of bills therefor, any 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.

- D. If an employee of User working on Owner's trackage is alleged to have violated Owner's safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement rules, User, when appropriate, will conduct an investigation, and an officer of Owner may be present during such investigation. After the investigation is concluded, User shall promptly furnish Owner with two copies of the transcript and a recommendation as to the discipline to be assessed. User's Transportation Officer shall arrange to assess discipline within the applicable time limits. If Owner recommends dismissal, User reserves the right to change the recommendation to the extent of barring the individual from operating over Owner's territory.

- E. 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, up to and including permanent prohibition from working on said property, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal.
- F. In a major offense, such as violation of Rule "G," dishonesty, insubordination, or a serious violation of operating rules, wherein Owner desires to bar User's employee from service on Owner's territory pending an investigation by User, immediate verbal notification shall be given to the appropriate Transportation Officer of User so that proper written notice can be issued to the employee.
- G. It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a challenge being made by the employee or his representative as to the discipline when the Owner has barred User's employee from the property prior to an investigation. User agrees to notify Owner before committing itself to making payment of any claim. In the event a claim is progressed to an Adjustment Board, Owner shall be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned," shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

ARTICLE 6. MAINTENANCE

Owner shall maintain, repair and renew (or have maintained, repaired or renewed) its Interchange Trackage and Subject Trackage at its sole expense and keep same in reasonably good condition for the use herein contemplated, but no guarantees are made by Owner as to the condition of Interchange Trackage or Subject Trackage or as to uninterrupted operations thereover. User shall not by reason of failure or neglect on the part of Owner to maintain, repair or renew (or have maintained, repaired or renewed) Interchange Trackage and Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damages of any nature suffered as a result of such failure or neglect. Should the condition of trackage operated or controlled by Owner become such that User deems it to be unsafe for normal interchange operations, User may discontinue operations thereover, with notification to Owner of such discontinuance, until Owner has such trackage restored to a reasonably safe condition. In the event of any such discontinuance of service by User, Owner shall indemnify and hold harmless User for costs of any claims, judgements or other actions which may result from or in any way be connected with such discontinuance of service.

ARTICLE 7. LIABILITY

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, litigation expenses and attorney's fees, claims, settlements and judgements resulting from the use of the Interchange Trackage and Subject Trackage by either party as described herein, all of which are collectively referred to as a "Loss", will be divided as follows:

- A. If a Loss occurs on the Interchange Trackage or Subject Trackage involving the trains and locomotives of only one of the parties hereto, then that one party is solely responsible for the Loss, even if caused partially or completely by the other party.
- B. If a Loss occurs on the Interchange Trackage or Subject Trackage involving the trains and locomotives of both Owner and User, then: (i) each party is solely responsible for any Loss to its own employees, locomotives and equipment in its own account and (ii) the parties are equally responsible for any Loss to the Interchange Trackage or Subject Trackage and any Loss sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Loss, unless the Loss was caused solely by one party. In that event, the party solely causing the Loss is solely responsible for (i) any Loss of the parties hereto, (ii) any Loss of any other parties, and (iii) any Loss to the Interchange Trackage or Subject Trackage
- C. For purposes of assigning responsibility of a Loss as between the parties hereto under this Agreement, a Loss involving only one of the parties to this Agreement and a third party or parties shall be construed as being the sole responsibility of that one party to this Agreement.
- D. Whenever any liability, cost, or expense is assumed by or apportioned to a party hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents and employees.
- E. 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.
- F. In the event of a Loss as set out herein, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads as to the handling of any claims for the loss or damage to lading.

- G. In every case of death or injury suffered by an employee of either party hereto, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- H. For purposes of determining liability under this Article, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on duty as pilots.
- I. Notwithstanding any and all of the forgoing provisions of this article, in the event a Loss occurs while the Interchange Trackage or Subject Trackage is being used by Owner and/or User, and such Loss is attributable solely to the willful or wanton negligence of only one of the parties to this Agreement, then the party hereto which was so willfully or wantonly negligent shall be solely responsible for such Loss.

ARTICLE 8. CLEARING OF WRECKS

Whenever User's use of the Subject Trackage requires rerailing, wrecking service or wrecking train service, Owner shall perform or provide such service, including the repair and restoration of roadbed, track and structures. The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Article 7 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which is owned by or under the management and control of or used by User at the time of such wreck, shall be promptly delivered to it.

ARTICLE 9. CLAIMS

- A. Except as provided in Part B of this Article, all claims, injuries, death, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the party bearing the liability, cost, and expense therefor under provisions of this Agreement.
- B. Each party will investigate, adjust and defend all cargo related liability claims filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.
- C. In the event a claim or suit is asserted against one of the parties hereto which is the other's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment and defense of such claim or suit.

- D. All costs and expenses in connection with the investigation, adjustment and defense of any claim 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 attorneys and full-time employees of either party engaged directly or indirectly in such work shall be borne by the employing party.
- E. Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 exceeds [REDACTED] Dollars (\$ [REDACTED]).
- F. It is understood that nothing in this Article shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 7 of this Agreement.
- G. In the event that a customer served by Owner or User requests an inspection of damaged lading, the inspection of such damaged lading shall be a joint responsibility of Owner and User. Owner shall cooperate with and assist User in any such inspection.

ARTICLE 10. INDEMNIFICATION

Except as otherwise provided in Article 1 and 5H, hereof, each party hereto agrees to indemnify and hold harmless the other party and its parent corporation, subsidiaries and affiliates, and all of 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 hereto that each party shall bear the full costs of labor claims and grievances filed by its own employee arising under its collective bargaining agreements with its employees.

ARTICLE 11. INSURANCE

- A. During the term of this Agreement BBRR, at its sole cost and expense, shall procure and maintain in effect a policy of public liability insurance, with limits of not less than \$ [REDACTED] single limit, bodily injury and/or property damage, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to, or destruction of property, including the loss of use thereof, in any one occurrence, subject to a self-insured retention limit not to exceed [REDACTED] Dollars (\$ [REDACTED]), including contractual liability insurance, which names CSXT as an additional insured and provides for a minimum of thirty (30) days' advance written notice to CSXT prior to any changes or cancellation. Failure to procure and maintain such insurance in force shall constitute a Breach of Contract hereunder.
- B. This Insurance coverage shall be effected under standard form policies issued by insurers of financial responsibility, which are rated "A" or better by either Best's Insurance Reports, Standard & Poor's Insurance Rating Service or Moody's Investors Service.

CSXT reserves the right to reject as inadequate, coverage by an insurance company rated less than "A" by the aforementioned rating services.

- C. The insurance shall be evidenced by a current certificate furnished by BBRR to CSXT as an additional insured with its return of executed Agreement. Subsequently, annual renewal certificates of insurance shall be furnished to CSXT's Risk Management Department J907; CSX Transportation, Inc.; 500 Water Street; Jacksonville, FL 32202). Such certificate shall be subject to the prior approval of CSXT's Risk Management Department. All of the required endorsements and notice provisions shall be stated on the certificate of insurance that is provided to CSXT. In addition, BBRR shall provide CSXT's Risk Management Department notice of any claim and any other correspondence dealing with insurance and insurance matters.

ARTICLE 12. PAYMENT OF BILLS

- A. All payments called for under this Agreement shall be made 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. The records of each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party.
- B. Bills rendered pursuant to the provisions of this Agreement, 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.

ARTICLE 13. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the parties hereto. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

ARTICLE 14. PRIOR AGREEMENTS

This Section intentionally left blank.

ARTICLE 15. TERM AND TERMINATION

- A. This Agreement shall take effect on the day and year first above written, and shall continue in full force and effect until terminated by either party upon thirty (30) days' written notice to the other party.

- B. Termination of this Agreement shall not release any party hereto from any liability or obligation that may have been incurred by or that might have accrued against it hereunder during the term hereof.

ARTICLE 16. ASSIGNMENT

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, neither 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 to this Agreement.

ARTICLE 17. INTERPRETATION, SEVERABILITY

This Agreement is executed by all parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances or laws. Further, each and every separate division (paragraph, clause, item, term, condition, covenant or agreement) herein contained shall have independent and severable status from each other separate division, or combination thereof, for the determination of legality, so that if any separate division is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate division, or any combination thereof.

ARTICLE 18. NOTICE

All notices required to be given by one party to the other, shall be in writing and addressed as follows:

TO CSXT: AVP Passenger & Joint Facility Contracts
 CSX Transportation, Inc.
 500 Water Street-J315
 Jacksonville, FL 32202

TO BBRR: President
 Buckingham Branch Railroad Company
 PO Box 336
 Highway US 15
 Dillwyn, VA 23936

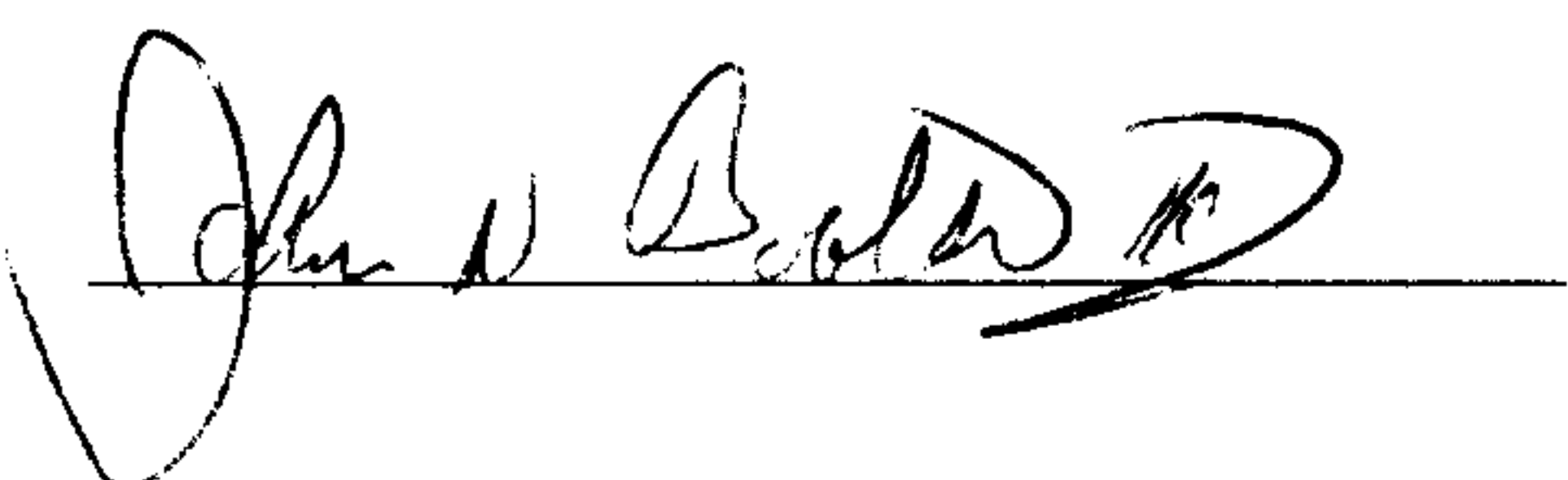
ARTICLE 19. GENERAL PROVISIONS

- A. 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 of any third party to recover by way of damages or otherwise against either of the parties hereto.

- B. This Agreement contains the entire understanding of the parties hereto and supersedes any and all oral understandings between the parties.
- C. 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.
- D. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.
- E. All Article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- F. 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.
- G. No party may disclose the provisions of this Agreement to a third party, excluding a parent, affiliate or subsidiary company without the written consent of the other party, except as otherwise required by law, regulation or ruling.

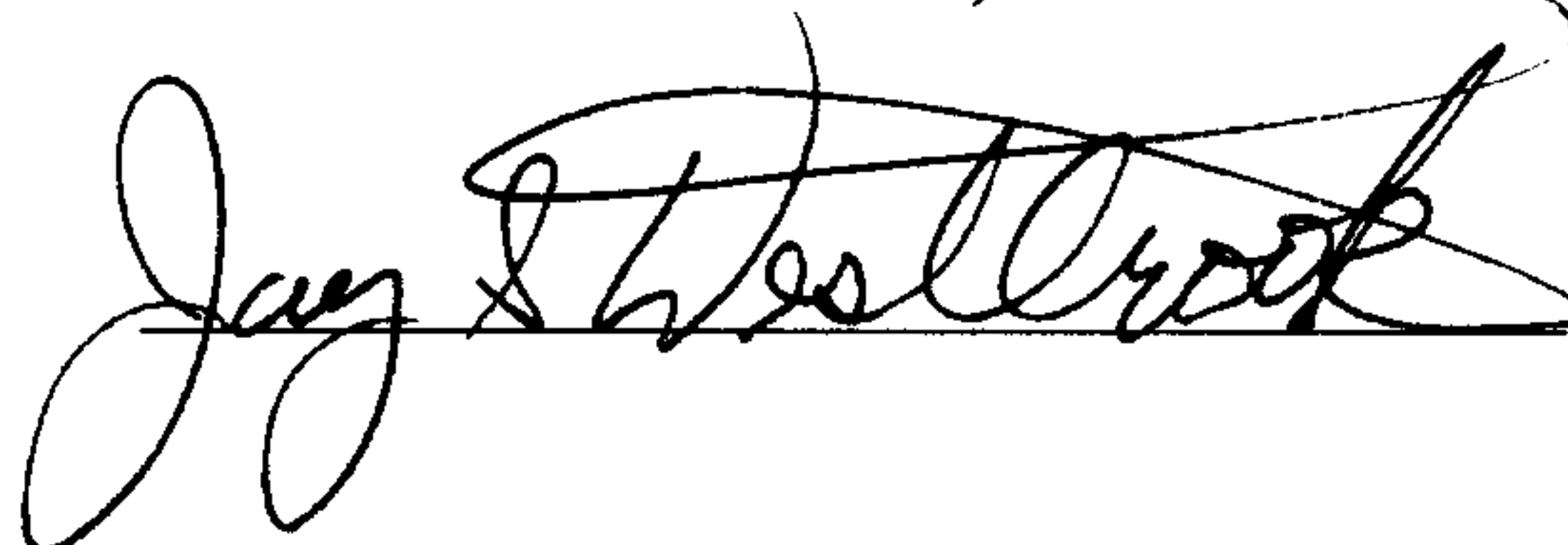
IN WITNESS WHEREOF the parties hereto have caused these presents to be executed in two original counterparts by their duly authorized officers as of the day and year first above written.

WITNESS



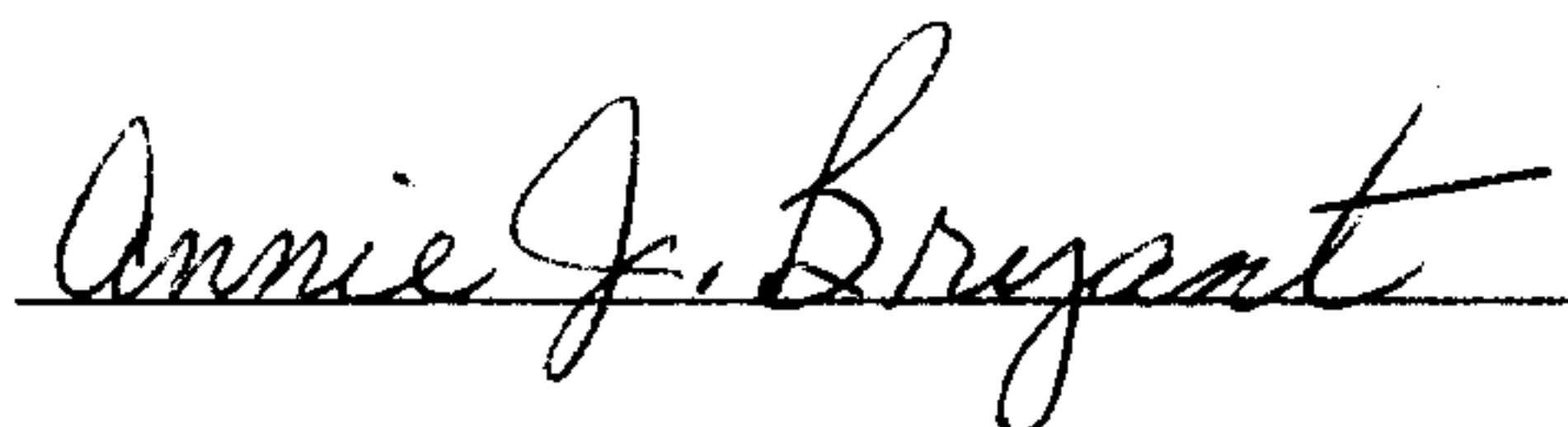
CSX TRANSPORTATION, INC.

By:



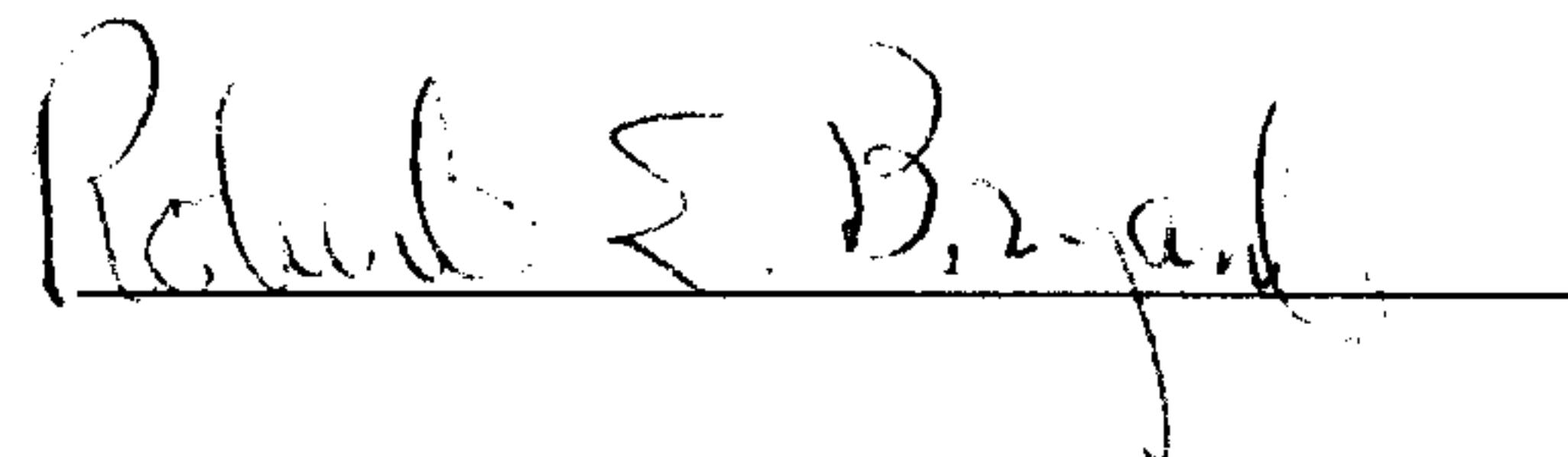
As its: AVP Passenger & Joint Facility Contracts

WITNESS



BUCKINGHAM BRANCH RAILROAD COMPANY

By:



As its: President

AGREEMENT to Cover INTERCHANGE
Doswell, VA

THIS AGREEMENT, made and entered into this 20th day of December, 2004, by and among **CSX TRANSPORTATION, INC.**, a Virginia corporation (hereinafter called "**CSXT**"), and **BUCKINGHAM BRANCH RAILROAD COMPANY**, a Virginia corporation (hereinafter called "**BBRR**").

WITNESSETH:

WHEREAS, Under the provisions of Lease effective December 20, 2004 between the parties, CSXT and BBRR will interchange rail freight cars at Doswell, VA; and

WHEREAS, CSXT and BBRR desire to enter into a written agreement to govern the interchange of traffic at Doswell.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, it is agreed between the parties hereto as follows:

ARTICLE 1. INTERCHANGE

- A. Interchange between the parties shall take place on CSXT and BBRR trackage at the connection of CSXT's RF&P Subdivision with BBRR's Piedmont Subdivision in the northwest quadrant of the crossing of said Subdivisions in the vicinity of CSXT's RF&P Subdivision Milepost (MP) CFP 21.8 and BBRR's Piedmont Subdivision MP CA 111.8 at Doswell, VA. The specific trackage to be used in the conduct of carload interchange between the parties as hereinafter contemplated shall normally consist of # 4 Controlled Siding and BBRR's Bank Track. The specific trackage to be used for interchange CSXT company material unit ballast and empty ballast trains shall normally consist of BBRR's C&O Passing Track immediately west of the crossing at Doswell.
- B. # 4 Controlled Siding shall at all times be under the supervision and control of CSXT's RF&P Subdivision Dispatcher. BBRR's Bank Track, Depot Track and Wye Track, all in the northwest quadrant of the crossing at Doswell, and C&O Passing Track west of the crossing, shall be under the supervision of BBRR's operating officer in charge or his designee.
- C. In delivering cars other than ballast empty units for interchange to BBRR, CSXT shall normally place said delivery in BBRR's Bank Track, doubling when necessary to Depot Track and Wye Track. CSXT shall enter and exit the Bank Track in compliance with Yard Limits operating rules. In delivering cars other than ballast units for interchange to CSXT, BBRR shall normally place said delivery in # 4 Controlled Siding, in accordance with instructions of CSXT's RF&P Dispatcher to be provided at time of movement. BBRR shall not enter Siding # 4 without authorization from CSXT dispatcher to do so, and BBRR shall notify CSXT Dispatcher promptly upon its final departure from Siding # 4. In delivering CSXT company material unit ballast and empty ballast trains, the parties shall normally deliver the trains in BBRR's C&O Passing Track, with CSXT traversing the Bank, Wye and Depot Tracks in compliance with Yard Limits rules as aforesaid.

- D. The foregoing tracks used by the parties for the subject interchange shall hereinafter be referred to as the "Interchange Trackage". Except in emergency and in accordance with special instructions to be observed by the parties at the time of such emergency, neither party shall use the Interchange Trackage of the other party except as necessary for the conduct of interchange as herein contemplated. At no time during the term hereof, shall the parties park or store cars on the Interchange Trackage.
- E. Neither CSXT nor BBRR shall be required or obligated to violate its labor agreements to satisfy a request on the part of the other. In the event that a CSXT or BBRR train and engine crew is required to perform service at the other party's direction which is in violation of any collective bargaining agreements of the party performing the service, any resultant penalties arising under CSXT or BBRR collective bargaining agreements shall be assumed and borne solely by the party who directed the service to be performed.
- F. Except as may be specifically set out otherwise herein, the interchange of traffic covered by this Agreement shall be governed by the applicable AAR Interchange Rules and the Car Service and Car Hire Rules and any supplements or amendments thereto promulgated from time to time by the Association of American Railroads (hereinafter referred to as "AAR Rules"). Cars (empty and loaded) together with containers and/or trailers loaded thereon (hereinafter referred to as "Cars") shall be considered as interchanged from the account of one party to the other when the provisions of the AAR Rules have been satisfied, and in addition when the engine consist of the delivering party is uncoupled therefrom.
- G. In the case of an Electronic Data Interchange road, the character of the necessary data will be determined by each receiving road in accordance with American National Standards Institute (hereinafter called "ANSI") X-12 Rail Standards as they may be revised from time to time. All cars delivered in interchange shall be preceded by an ANSI X-12 Advance Interchange Consist 418 transaction set.
- H. By separate Operating Plan and Interline Service Agreement to be agreed upon between the respective Service Design representatives, as a condition of the interchange herein contemplated, the parties shall identify related operating issues including but not limited to days and hours of interchange operation, tonnage and blocks to be interchanged, arrangements for locomotives and markers, and alternative arrangements to apply in the event of certain unforeseen events. Either party shall have the right from time to time during the term hereof, to make adjustments to such operating arrangements, provided that such adjustments shall be reasonable and shall not intentionally interfere with the conduct of the interchange subject hereof.

ARTICLE 2. OPERATING RIGHTS FOR INTERCHANGE

- A. Subject to the terms and conditions herein provided, BBRR hereby grants to CSXT the right to operate its trains, locomotives, cars and equipment with its own crews over BBRR's Bank Track, Depot Track, Wye Track and C&O Passing Track as necessary to enter and exit the Interchange Trackage.

- B. Subject to the terms and conditions herein provided, CSXT hereby grants BBRR the right to operate its trains, locomotives, cars and equipment with its own crews over # 4 Controlled Siding as necessary to enter and exit the Interchange Trackage.
- C. The abovementioned grants are hereinafter referred to as "Operating Rights" and the abovementioned segment(s) of CSXT's and BBRR's railroad are hereinafter referred to as "Subject Trackage".
- D. Upon mutual consent and as required for efficiency of operations, additional connecting and side trackage of the parties at Doswell may be used from time to time in connection with the interchange subject hereof. In such event, said additional trackage shall be considered as Interchange or Subject Trackage as appropriate. Any arrangements other than those specifically provided in Articles 1 and 2 hereof shall be communicated in advance of movement and shall be subject to the mutual consent of the parties.
- E. At no time during the term hereof shall the parties park or store cars on # 4 Controlled Siding. At no time during the term hereof, shall the parties park or store cars on BBRR's portion of the Subject Trackage in such manner as will interfere with the interchange herein contemplated or the operations of BBRR.

ARTICLE 3. USE OF SUBJECT TRACKAGE.

Operating Rights granted herein are for the sole purpose of each party using same for the delivery and receipt of interchange traffic, and neither party shall perform any local freight service whatever at any point located on the other's Subject Trackage, nor is either party permitted to ingress or egress at any point other than the endpoints of the Subject Trackage as specified in Article 2 hereof.

ARTICLE 4. OWNER AND USER DEFINED

As used hereinafter in this Agreement, whenever CSXT is operating over track owned or controlled by BBRR, then CSXT shall be considered as "User" and BBRR as "Owner," and whenever BBRR is operating over track operated or controlled by CSXT, then BBRR shall be considered as "User" and CSXT as "Owner".

ARTICLE 5. MANAGEMENT AND OPERATIONS

- A. User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains, locomotives, cars and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. User shall indemnify, protect, defend, and save harmless 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 or affiliates, or their respective directors, officers, agents and employees under such laws,

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

- B. User in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of 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 as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by Owner's operating rules and regulations without the prior consent of Owner.
- C. User shall make such arrangements with Owner as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Subject Trackage qualified for operation thereover, and User shall pay to Owner, upon receipt of bills therefor, any 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.
- D. If an employee of User working on Owner's trackage is alleged to have violated Owner's safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement rules, User, when appropriate, will conduct an investigation, and an officer of Owner may be present during such investigation. After the investigation is concluded, User shall promptly furnish Owner with two copies of the transcript and a recommendation as to the discipline to be assessed. User's Transportation Officer shall arrange to assess discipline within the applicable time limits. If Owner recommends dismissal, User reserves the right to change the recommendation to the extent of barring the individual from operating over Owner's territory.
- E. 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, up to and including permanent prohibition from working on said property, and User shall release and indemnify Owner from and against any and all claims and expenses because of such withdrawal.
- F. In a major offense, such as violation of Rule "G," dishonesty, insubordination, or a serious violation of operating rules, wherein Owner desires to bar User's employee from service on Owner's territory pending an investigation by User, immediate verbal notification shall be given to the appropriate Transportation Officer of User so that proper written notice can be issued to the employee.
- G. It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a challenge being made by the employee or his

representative as to the discipline when the Owner has barred User's employee from the property prior to an investigation. User agrees to notify Owner before committing itself to making payment of any claim. In the event a claim is progressed to an Adjustment Board, Owner shall be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned," shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

ARTICLE 6. MAINTENANCE

Owner shall maintain, repair and renew (or have maintained, repaired or renewed) its Interchange Trackage and Subject Trackage at its sole expense and keep same in reasonably good condition for the use herein contemplated, but no guarantees are made by Owner as to the condition of Interchange Trackage or Subject Trackage or as to uninterrupted operations thereover. User shall not by reason of failure or neglect on the part of Owner to maintain, repair or renew (or have maintained, repaired or renewed) Interchange Trackage and Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damages of any nature suffered as a result of such failure or neglect. Should the condition of trackage operated or controlled by Owner become such that User deems it to be unsafe for normal interchange operations, User may discontinue operations thereover, with notification to Owner of such discontinuance, until Owner has such trackage restored to a reasonably safe condition. In the event of any such discontinuance of service by User, Owner shall indemnify and hold harmless User for costs of any claims, judgements or other actions which may result from or in any way be connected with such discontinuance of service.

ARTICLE 7. LIABILITY

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, litigation expenses and attorney's fees, claims, settlements and judgements resulting from the use of the Interchange Trackage and Subject Trackage by either party as described herein, all of which are collectively referred to as a "Loss", will be divided as follows:

- A. If a Loss occurs on the Interchange Trackage or Subject Trackage involving the trains and locomotives of only one of the parties hereto, then that one party is solely responsible for the Loss, even if caused partially or completely by the other party.
- B. If a Loss occurs on the Interchange Trackage or Subject Trackage involving the trains and locomotives of both Owner and User, then: (i) each party is solely responsible for any Loss to its own employees, locomotives and equipment in its own account and (ii) the parties are equally responsible for any Loss to the Interchange Trackage or Subject Trackage and any Loss sustained by third parties, regardless of the proportionate

responsibility between them as to the cause of the Loss, unless the Loss was caused solely by one party. In that event, the party solely causing the Loss is solely responsible for (i) any Loss of the parties hereto, (ii) any Loss of any other parties, and (iii) any Loss to the Interchange Trackage or Subject Trackage

- C. For purposes of assigning responsibility of a Loss as between the parties hereto under this Agreement, a Loss involving only one of the parties to this Agreement and a third party or parties shall be construed as being the sole responsibility of that one party to this Agreement.
- D. Whenever any liability, cost, or expense is assumed by or apportioned to a party hereto under the foregoing provisions, that party shall forever protect, defend, indemnify, and save harmless the other party to this Agreement and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents and employees.
- E. 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.
- F. In the event of a Loss as set out herein, the parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads as to the handling of any claims for the loss or damage to lading.
- G. In every case of death or injury suffered by an employee of either party hereto, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- H. For purposes of determining liability under this Article, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on duty as pilots.
- I. Notwithstanding any and all of the forgoing provisions of this article, in the event a Loss occurs while the Interchange Trackage or Subject Trackage is being used by Owner and/or User, and such Loss is attributable solely to the willful or wanton negligence of only one of the parties to this Agreement, then the party hereto which was so willfully or wantonly negligent shall be solely responsible for such Loss.

ARTICLE 8. CLEARING OF WRECKS

Whenever User's use of the Subject Trackage requires rerailing, wrecking service or wrecking train service, Owner shall perform or provide such service, including the repair and restoration of roadbed, track and structures. The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Article 7 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which is owned by or under the management and control of or used by User at the time of such wreck, shall be promptly delivered to it.

ARTICLE 9. CLAIMS

- A. Except as provided in Part B of this Article, all claims, injuries, death, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the party bearing the liability, cost, and expense therefor under provisions of this Agreement.
- B. Each party will investigate, adjust and defend all cargo related liability claims filed with it in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract filed pursuant to 49 U.S.C. Section 10709.
- C. In the event a claim or suit is asserted against one of the parties hereto which is the other's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment and defense of such claim or suit.
- D. All costs and expenses in connection with the investigation, adjustment and defense of any claim 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 attorneys and full-time employees of either party engaged directly or indirectly in such work shall be borne by the employing party.
- E. Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 exceeds [REDACTED] Dollars (\$[REDACTED]).
- F. It is understood that nothing in this Article shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 7 of this Agreement.
- G. In the event that a customer served by Owner or User requests an inspection of damaged lading, the inspection of such damaged lading shall be a joint responsibility of Owner and User. Owner shall cooperate with and assist User in any such inspection.

ARTICLE 10. INDEMNIFICATION

Except as otherwise provided in Article 1, hereof, each party hereto agrees to indemnify and hold harmless the other party and its parent corporation, subsidiaries and affiliates, and all of 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 hereto that each party shall bear the full costs of labor claims and grievances filed by its own employee arising under its collective bargaining agreements with its employees.

ARTICLE 11. INSURANCE

- A. During the term of this Agreement BBRR, at its sole cost and expense, shall procure and maintain in effect a policy of public liability insurance, with limits of not less than \$[REDACTED] single limit, bodily injury and/or property damage, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to, or destruction of property, including the loss of use thereof, in any one occurrence, subject to a self-insured retention limit not to exceed [REDACTED] Dollars (\$ [REDACTED]), including contractual liability insurance, which names CSXT as an additional insured and provides for a minimum of thirty (30) days' advance written notice to CSXT prior to any changes or cancellation. Failure to procure and maintain such insurance in force shall constitute a Breach of Contract hereunder.
- B. This Insurance coverage shall be effected under standard form policies issued by insurers of financial responsibility, which are rated "A" or better by either Best's Insurance Reports, Standard & Poor's Insurance Rating Service or Moody's Investors Service. CSXT reserves the right to reject as inadequate, coverage by an insurance company rated less than "A" by the aforementioned rating services.
- C. The insurance shall be evidenced by a current certificate furnished by BBRR to CSXT as an additional insured with its return of executed Agreement. Subsequently, annual renewal certificates of insurance shall be furnished to CSXT's Risk Management Department

(Risk Management Department J907; CSX Transportation, Inc.; 500 Water Street; Jacksonville, FL 32202). Such certificate shall be subject to the prior approval of CSXT's Risk Management Department. All of the required endorsements and notice provisions shall be stated on the certificate of insurance that is provided to CSXT. In addition, BBRR shall provide CSXT's Risk Management Department notice of any claim and any other correspondence dealing with insurance and insurance matters.

ARTICLE 12. PAYMENT OF BILLS

- A. All payments called for under this Agreement shall be made 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. The records of

each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party.

- B. Bills rendered pursuant to the provisions of this Agreement, 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.

ARTICLE 13. ARBITRATION

Any irreconcilable dispute arising between the parties with respect to this Agreement shall be jointly submitted for binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensations, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the parties hereto. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

ARTICLE 14. PRIOR AGREEMENTS

This Article intentionally left blank.

ARTICLE 15. TERM AND TERMINATION

- A. This Agreement shall take effect on the day and year first above written, and shall continue in full force and effect until terminated by either party upon thirty (30) days' written notice to the other party.
- B. Termination of this Agreement shall not release any party hereto from any liability or obligation that may have been incurred by or that might have accrued against it hereunder during the term hereof.

ARTICLE 16. ASSIGNMENT

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, neither 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 to this Agreement.

ARTICLE 17. INTERPRETATION, SEVERABILITY

This Agreement is executed by all parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances or laws. Further, each and every separate division (paragraph, clause, item, term, condition, covenant or agreement) herein contained shall have independent and severable status from each other separate division, or combination thereof, for the determination of legality, so that if any separate division is determined to be unconstitutional, illegal, violative of trade or commerce, in

contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate division, or any combination thereof.

ARTICLE 18. NOTICE

All notices required to be given by one party to the other, shall be in writing and addressed as follows:

TO CSXT: AVP Passenger & Joint Facility Contracts
CSX Transportation, Inc.
500 Water Street – J315
Jacksonville, FL 32202

TO BBRR: President
Buckingham Branch Railroad Company
PO Box 336
Highway US 15
Dillwyn, VA 23936

ARTICLE 19. GENERAL PROVISIONS

- A. 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 of any third party to recover by way of damages or otherwise against either of the parties hereto.
- B. This Agreement contains the entire understanding of the parties hereto and supersedes any and all oral understandings between the parties.
- C. 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.
- D. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.
- E. All Article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- F. 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.
- G. No party may disclose the provisions of this Agreement to a third party, excluding a parent, affiliate or subsidiary company without the written consent of the other party, except as otherwise required by law, regulation or ruling.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed in two original counterparts by their duly authorized officers as of the day and year first above written.

WITNESS

John W. Booth

CSX TRANSPORTATION, INC.

By:

As its:

Jay Westbrook
AVP

WITNESS

Annie J. Bryant

BUCKINGHAM BRANCH RAILROAD COMPANY

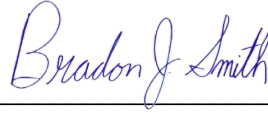
By:

As its:

Robert E. Bryant
PRESIDENT

EXHIBIT D – CERTIFICATE OF SERVICE ON SHIPPERS

BBRC certifies that it has provided notice of this transaction and of the involved interchange commitment to the shippers identified in pursuant to 49 C.F.R. § 1150.44(h)(iii).



Bradon J. Smith
September 1, 2021

CONFIDENTIAL EXHIBIT – E

Difference in sale price with and without interchange commitment

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 34495 (Sub-No. 1)

BUCKINGHAM BRANCH RAILROAD COMPANY
—ACQUISITION AND OPERATION EXEMPTION WITH INTERCHANGE
COMMITMENT—
CSX TRANSPORTATION, INC.

Buckingham Branch Railroad Company (“BBRC”) has filed a notice of exemption to change the status of its property rights from a leasehold interest, and will acquire from CSX Transportation, Inc., a permanent, exclusive rail freight operating easement to replace the current lease for approximately 164.22 miles between approximately milepost 276.0 in the town of Clifton Forge in Allegheny County, VA, and milepost 111.78 at Doswell in Hanover County, VA.

Comments must be filed with the Board and served on BBRC’s representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

VERIFICATION

STATE OF VIRGINIA

)

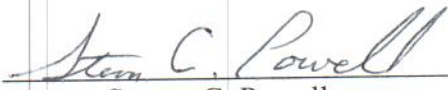
)

ss.

COUNTY OF BUCKINGHAM

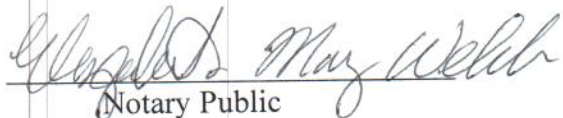
)

I, Steven C. Powell, being duly sworn depose and state that I am President of Buckingham Branch Railroad Company, that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.


Steven C. Powell

SUBSCRIBED AND SWORN TO before me this 31 day of August 2021, in the County of Buckingham, State of Virginia.

My Commission Expires: 10/31/22


Notary Public

