

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**DOCKET NO. FD 36694**

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**COLORADO PACIFIC RIO GRANDE RAILROAD, LLC – PETITION FOR  
EXEMPTION — ACQUISITION AND OPERATION OF LINE OF RAILROAD IN  
COSTILLA COUNTY, COLORADO**

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**PETITION FOR EXEMPTION**

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The Colorado Pacific Rio Grande Railroad, LLC, (“CP Rio Grande”), a Class III carrier, hereby files this Petition for Exemption pursuant to 49 U.S.C. §10502, 49 C.F.R. §1180.20(a)(2), and 49 C.F.R. Part 1121,<sup>1</sup> for the grant of “after the fact” authority for CP Rio Grande to acquire in bankruptcy and provide common carrier operations over a 1.53-mile line of railroad extending from milepost 0.0 in Blanca, CO to milepost 1.53, in McClintock, CO, known historically as the “Blanca Spur.” This petition follows the recent acquisition in bankruptcy by CP Rio Grande of substantially all the assets of San Luis & Rio Grande Railroad, Inc. (“SLRG”) in Docket No. FD 36656, *Colorado Pacific Rio Grande Railroad, LLC – Acquisition and Operation Exemption – San Luis & Rio Grande Railroad, Inc.*<sup>2</sup> CP Rio Grande became a

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<sup>1</sup> See also, 49 C.F.R. §1180.20(d).

<sup>2</sup> Specifically, CP Rio Grande acquired the SLRG’s tracks which it had previously acquired from the Union Pacific Railroad Company (“UP”) (1) from milepost 299.30 near Derrick, CO, to milepost 180.00 near Walsenburg, CO, comprising SLRG’s Alamosa Subdivision, and (2) between milepost 251.7 at Alamosa, CO, and milepost 281.78 at Antonito, CO (the Antonito Subdivision), a total distance of approximately 149.38 miles (the “Acquired Line”). CP Rio

Class III rail carrier as a result of that transaction, so exemption authority was obtained in that docket pursuant to 49 C.F.R. §1180.20(a)(1) and 1150, subpart D, and became effective January 29, 2023. Because CP Rio Grande has replaced SLRG as the owner and operator of the former SLRG tracks covered by that exemption authority, it is seeking after the fact authority to acquire and operate the Blanca Spur pursuant to 49 C.F.R. §1180.20(a)(2)(ii), which applies to existing Class III carriers.

### **I. Factual Background**

The Blanca Spur is the 1.53-mile vestige of a 31-mile line of rail completed in 1910 (“Original Line”) by the San Luis Valley Southern Railway Company (“SLVSR”)<sup>3</sup> that connected to tracks of the Denver & Rio Grande Railroad (“DRGR”). A map showing the location of the Blanca Spur is attached as Exhibit A to this Petition. The DRGR tracks eventually became part of UP’s system. UP subsequently conveyed them to SLRG as described above in Footnote 2, and they are now owned by CP Rio Grande. As explained below, the Blanca Spur was included among the assets conveyed to CP Rio Grande in the SLRG bankruptcy proceeding. However, the circumstances surrounding the history of this separate line segment and how it came to be acquired by the bankruptcy Trustee are unique and complicated. Because of the real and pressing need for rail operations over the SLRG tracks to continue to numerous active rail shippers, CP Rio Grande – with the assent of the SLRG bankruptcy Trustee - elected to consummate its purchase of the former UP lines from

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Grande also acquired incidental trackage rights conveyed to SLRG by UP in the vicinity of Walsenburg between milepost 180.00 and milepost 175.00.

<sup>3</sup> The history of the San Luis Valley Southern Railway Company is recounted in the book Colorado’s Loneliest Railroad, by P.R. “Bob” Griswold, Pruett Publishing Co. (1980), which includes a reference to a decision in Interstate Commerce Commission Finance Docket No. 17639 served September 23, 1953, where the ICC directed SLVSR to sell the railroad, which it did to the Southern San Luis Valley Railroad Company. *Id.* at 127.

SLRG, and to later seek separate, after-the-fact authority to acquire and operate the Blanca Spur. The Blanca Spur is not being used by CP Rio Grande pending further Board action.

As constructed, the Original Line was owned and operated by the SLVSR and ran from Blanca, CO to Jaroso, CO. In 1953, at the direction of the Interstate Commerce Commission, the Original Line was acquired by the Southern San Luis Valley Railroad (“SSLVR”).<sup>4</sup> Over the next 40 years or so, the SSLVR abandoned and sold off sections of the Original Line, and eventually, the track was systematically shortened to the 1.53 miles it is today.

On information and belief, the SSLVR ceased all operations over the Blanca Spur in the mid-1990s, but no formal abandonment authority was sought for the last 1.53-mile section. This was followed by several transactions for which Board licensing approval probably should have been sought but was not. First, in 2000, SSLVR sold the right-of-way and track to a Mr. Richard Vondrak of Conjeos, Colorado.<sup>5</sup> CP Rio Grande could find no information indicating why this transaction took place, or why Mr. Vondrak was the purchaser. Nor is there any evidence that Mr. Vondrak sought approval from the Board to acquire the Blanca Spur and/or to conduct rail operations over it. Moreover, CP Rio Grande was unable to locate any information about what Mr. Vondrak did with the line after acquiring it. As for SSLVR, it went out of business subsequent to that transaction.

Second, Mr. Vondrak sold his interests in the Blanca Spur and underlying right-of-way to Iowa Pacific Holdings LLC (“IPH”) in 2007. Until it went bankrupt in 2021 and was subsequently dissolved, IPH was a railroad holding company and the parent company of Permian Basin Railways, Inc. The wholly-owned subsidiaries of Permian Basin Railways, Inc. included SLRG.

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<sup>4</sup> See Note 3, *supra*.

<sup>5</sup> See deed included in Exhibit B to this Petition.

Although the Blanca Spur had never been formally abandoned, IPH did not seek approval from the Board for the 2007 transaction. This omission came to light in a Notice of Exemption filed in 2012 by IPH in Docket No. FD 35586, *Southern San Luis Valley Railroad, LLC – Acquisition and Operation Exemption – Iowa Pacific Holdings, LLC* (“*IPH Exemption Proceeding*”), by which IPH sought after-the-fact exemption authority to acquire and operate the Blanca Spur.<sup>6</sup> Upon IPH revealing to the Board the existence of the 2007 transaction with Mr. Vondrak, the Board rejected the Notice of Exemption and advised IPH that “[i]f it wishes to proceed with the contemplated transactions, IPH should file a petition for exemption or an application for authority for its alleged 2007 acquisition. IPH should trace the history of the Line as well as it can, with supporting evidence, and request specific authority from the Board for this prior transaction.”<sup>7</sup> Unfortunately, while IPH consummated its acquisition of the Blanca Spur (and SLRG, at least, used the track for some purposes),<sup>8</sup> IPH never filed the petition for exemption requested by the Board.

According to the website Ancestry.com, Richard Vernon Vondrak died in 2018 but it appears that no probate estate was ever opened.

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<sup>6</sup> Iowa Pacific’s Notice of Exemption was factually incorrect in an arguably material way, because it wrongly concluded that Mr. Vondrak only conveyed the railroad right-of-way to Iowa Pacific in 2007, and that a separate transaction would be required in 2012 to acquire the track. See Notice of Exemption filed in the *IPH Exemption Proceeding* at 5-7. However, an examination of the deeds utilized in 2000 and 2007 included in Exhibit B reveals that they were identical in all material respects, and both conveyed the underlying right-of-way and “any improvements” and “appurtenances.” Consequently, notwithstanding the erroneous statements in its Notice of Exemption, IPH acquired both the land and the tracks in 2007 from Mr. Vondrak.

<sup>7</sup> *IPH Exemption Proceeding* (Decision served February 10, 2012) at 3.

<sup>8</sup> On information and belief, SLRG entered into a Track License Agreement with Blanca Forestry Products, Inc. in 2016 for use of certain track owned by Blanca Forestry Products to store railcars, and that track was accessed over the Blanca Spur. Accordingly, SLRG used the Blanca Spur at least for this purpose. CP Rio Grande acquired this Track Lease Agreement when it acquired SLRG’s assets. At that time, no railcars were being stored, and CP Rio Grande has not stored any railcars there since the acquisition.

As noted above, in March 2021 IPH filed a voluntary petition for bankruptcy under Chapter 7 of the Bankruptcy Code (liquidation). IPH's bankruptcy was dismissed on January 6, 2022. On October 16, 2019, SLRG was placed into involuntary bankruptcy under Chapter 11 of the Code (reorganization) and the order for relief granting the involuntary petition was entered on November 7, 2019.<sup>9</sup> As part of a litigation settlement agreement entered into in those proceedings described in the Motion to Approve Settlement Agreement with Iowa Pacific Holdings, Inc. attached as Exhibit C hereto (granted by Court order dated July 14, 2022, attached as Exhibit D hereto), ownership of the Blanca Spur was transferred from IPH to the Trustee in bankruptcy for SRLG in 2022. While IPH was administratively dissolved by the Illinois Secretary of State on June 10, 2022, and is consequently no longer in existence, it had the power to wind up its affairs after dissolution.<sup>10</sup> Consequently, in 2022, the Blanca Spur was a separate SLRG-owned rail track asset included among the SLRG assets held by the Trustee that were eventually conveyed to CP Rio Grande under the Purchase and Sale Agreement in January 2023.

CP Rio Grande became aware of the checkered history of the Blanca Spur during the process of bidding on and acquiring the main SLRG's railroad assets in the bankruptcy proceeding. However, given the magnitude of that transaction and the immediate need to continue rail service to SLRG's shippers, contrasted with the separate inactive status of the Blanca Spur and its lesser significance, CP Rio Grande elected to first obtain exemption authority to acquire and operate the SLRG lines. While there is potential rail traffic on the Blanca Spur,<sup>11</sup> CP Rio Grande has not

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<sup>9</sup> Permian Basin Railways, Inc. was involuntarily dissolved on October 8, 2021, per the Illinois Secretary of State.

<sup>10</sup> Exhibit C, at paragraphs 9 -13.

<sup>11</sup> The existing rail shipper on the Blanca Spur is Blanca Forestry Products, which has a need for railcars to fill with wood chips. This shipper in that the past also received rail service for finished wood products. There also exists the potential for rail service for firewood and logs. All

conducted any railroad operations on the Blanca Spur since acquiring it pending the resolution of this after-the-fact request for acquisition and operation authority.

## **II. Argument**

### **A. Directing CP Rio Grande to Take Remedial Action for Past Transactions Would be Futile and Unnecessary**

The Blanca Spur appears to remain a line of railroad subject to the Board's jurisdiction. CP Rio Grande is eager to commence common carrier operations on the Blanca Spur and develop traffic in conjunction with its operation of the acquired SLRG assets and the development of traffic from existing and new shippers along those tracks. The prior transactions from 2000, 2007, and IPH's actions after the 2012 Decision rejecting its Notice of Exemption arguably were contrary to applicable statutes and the Board's regulations. In IPH's ill-fated Notice of Exemption proceeding, the Board asked IPH to go back and "trace the history" of the line and to request specific authority for the 2007 transaction with Mr. Vondrak. CP Rio Grande has attempted to supply the requested historical background to the Board with this Petition, but it respectfully submits that an order directing it to correct any of the prior regulatory missteps of others under these circumstances would be futile. The SSLVR ceased operations in the mid-1990s and no longer exists. Richard Vondrak passed away in 2018 after conveying the Blanca Spur to IPH in 2007.<sup>12</sup> IPH is also no more, having gone bankrupt and then being formally dissolved.

While the past transactions could be determined to be contrary to the Board's rules, there is no evidence that less than the full 1.53-mile Blanca Spur was conveyed by or to any of these

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such service would commence after the Blanca Spur is rehabilitated with new crossties and replacement of broken rails, and longer-term rehabilitation consisting of larger rail changeouts.

<sup>12</sup> Docket No. FD 36432, *Independence Rail Works Ltd. – Acquisition and Operation Exemption – Byesville Scenic Trails, LLC* (Served April 13, 2021) at 4 (No action regarding prior transactions was required where past owner died and the business had been dissolved).

parties, and so it cannot be disputed that the Blanca Spur currently is owned in total by CP Rio Grande. Nor is CP Rio Grande seeking retroactive authority, as the line is currently not in service.<sup>13</sup> In light of all the foregoing, CP Rio Grande submits that the most prudent and efficient course of action would be for the Board to grant CPRG exemption authority to acquire the Blanca Spur after-the-fact and to operate the 1.53-mile line in common carrier service.

**B. This Transaction Meets the Requirements of 49 U.S.C. §10502**

Under 49 U.S.C. § 10502(a), the Board must exempt a transaction from the detailed application process of 49 U.S.C. §10902 or 11323 when the Board finds (1) that the process is not necessary to carry out the rail transportation policy (“RTP”) of 49 U.S.C. § 10101; and (2) either (a) the proposal is of limited scope, or (b) the application process is not necessary to protect shippers from the abuse of market power. The Board is to apply the exemption provisions broadly in pursuing exemptions for transportation or service that comply with the standards of the exemption statute.<sup>14</sup>

First, the goals of the RTP will be furthered by exempting this transaction from the full application requirements. An exemption will “minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required.”<sup>15</sup> It will also “ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet

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<sup>13</sup> See, *Id.* at 5-6 (explaining how the Board disfavors retroactive grants of authority).

<sup>14</sup> See, e.g., *American Trucking Ass 'ns v. ICC*, 656 F. 2d 1115, 1119 (5th Cir, 1981) (where the court held the ICC was charged with the responsibility of actively pursuing exemptions for transportation and service that comply with the section’s standards); H.R. Rep. No. 96-1430, at 105 (1980) (the ICC is charged with removing “as many as possible of the Commission’s restrictions...”).

<sup>15</sup> 49 U.S.C. §10101(2)

the needs of the public and the national defense.”<sup>16</sup> An exemption will also “reduce regulatory barriers to entry into and exit from the industry,”<sup>17</sup> and encourage honest and efficient management of railroads.<sup>18</sup> Finally, it will encourage and promote energy conservation,<sup>19</sup> and an exemption will meet the policy objective of providing for “the expeditious handling and resolution of all proceedings required or permitted to be brought under this part.”<sup>20</sup>

Moreover, this transaction is clearly limited in scope, as it entails the after-the-fact grant of authority to a 1.53-mile line of railroad which is currently not being used for common carrier rail service. While it is not necessary for CP Rio Grande to also demonstrate that the regulation by the Board is not necessary to protect shippers from the abuse of market power, that is clearly the case here. CP Rio Grande purchased the SLRG assets out of bankruptcy for the purpose of investing in the tracks and developing business for existing and new shippers. The Blanca Spur will be part of that development, which aims to provide rail shippers with rail alternatives and service.

### **C. No Interchange Commitment, Environmental and Historical Review**

Pursuant to 49 C.F.R. §1121(d), CP Rio Grande certifies that its acquisition of the Blanca Spur does not involve an interchange commitment.

CP Rio Grande’s operations will involve no diversion of traffic to motor carriage. Moreover, this transaction will not result in an increase in rail traffic of eight or more trains a day on any segment of the line. CP Rio Grande’s operations will not affect a Class I or nonattainment

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<sup>16</sup> *Id.* at §10101(4).

<sup>17</sup> *Id.* at §10101(7).

<sup>18</sup> *Id.* at §10101(9).

<sup>19</sup> *Id.* at §10101(14).

<sup>20</sup> *Id.* at §10101(15).

area under the Clean Air Act. Finally, the transportation of ozone depleting materials is not contemplated. Accordingly, an Environmental Assessment is not required pursuant to under 49 C.F.R. §§ 1105.6(c)(1)(i), 1105.7(e)(4), (5).

CP Rio Grande will utilize the Blanca Spur for continued rail operations. Board approval will be required for CP Rio Grande to discontinue any service over the Blanca Spur and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Accordingly, no historic report is required pursuant to 49 C.F.R. § 1105.8(b)(1).

**D. Conclusion**

For all the reasons set forth above, CP Rio Grande requests that the Board grant this Petition for Exemption.

Respectfully submitted,

A handwritten signature in blue ink that reads "Thomas W. Wilcox".

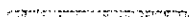
Thomas W. Wilcox  
**Law Office of Thomas W. Wilcox, LLC**  
1629 K. Street NW, Suite 300  
Washington, D.C. 20006  
202-508-1065  
[tom@twilcoxlaw.com](mailto:tom@twilcoxlaw.com)

*Attorney for Colorado Pacific Rio Grande  
Railroad, LLC*

June 20, 2023

## **EXHIBIT A**

# San Luis & Rio Grande Railroad

-  SLRG / San Luis & Rio Grande Railroad /
-  RGSR Rio Grande Scenic Railroad
-  SLRG San Luis & Rio Grande Railroad
-  SLRG Trackage Rights
-  BNSF BNSF Railway
-  SLC San Luis Central
-  UP Union Pacific



Central Car Repair Facilities

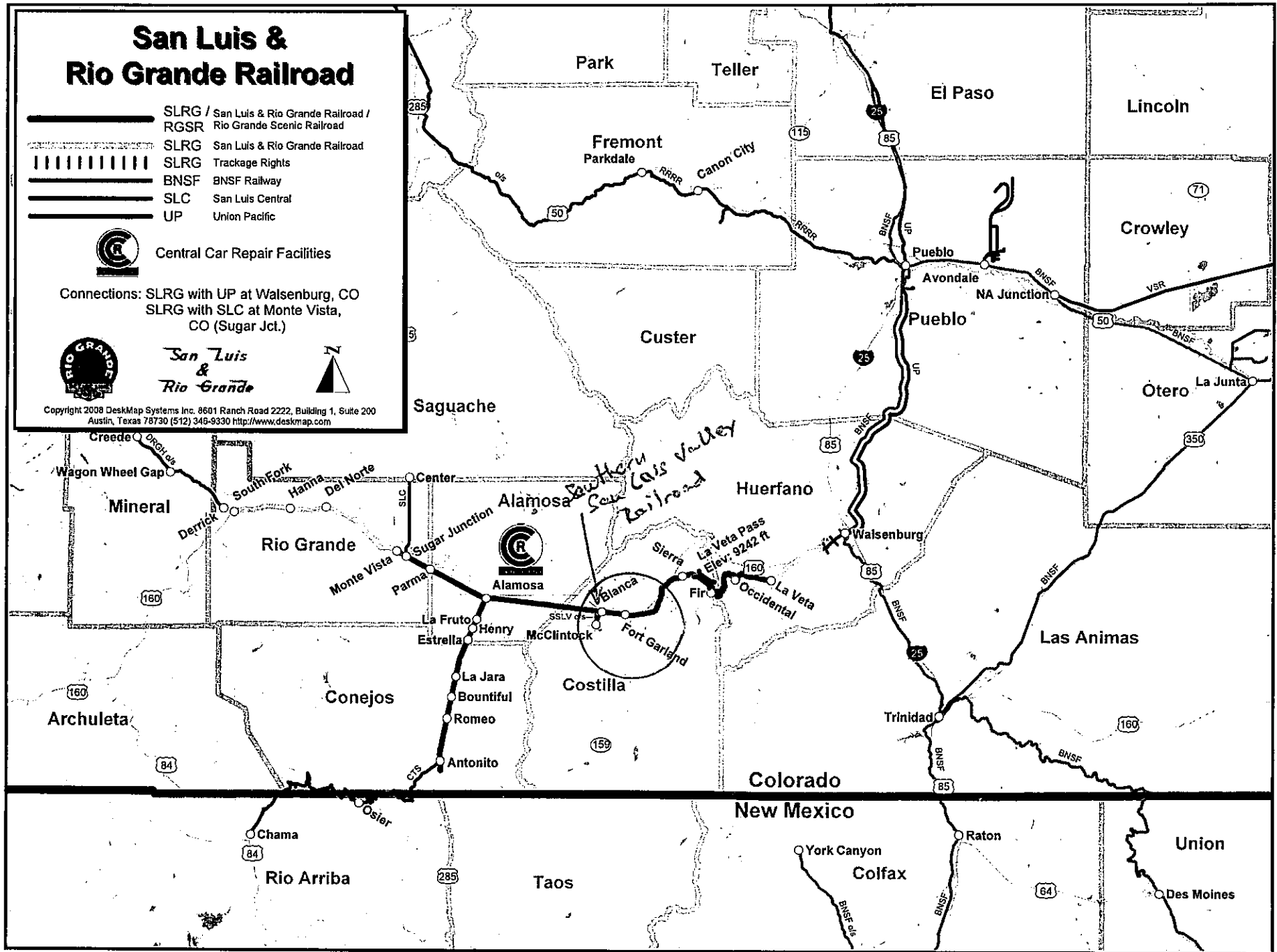
Connections: SLRG with UP at Walsenburg, CO  
SLRG with SLC at Monte Vista,  
CO (Sugar Jct.)



San Luis  
&  
Rio Grande



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Austin, Texas 78730 (512) 345-9330 <http://www.deskmap.com>



## **EXHIBIT B**

WARRANTY DEED

RECORDER'S STAMP

THIS DEED, Made this 14 day of JULY . 2000 .  
between  
SOUTHERN SAN LUIS VALLEY RAILROAD COMPANY AND COLORADO  
AGGREGATE COMPANY OF NEW MEXICO, BY, MERGER HAVING BECOME,  
MWCA, INC., AN IDAHO CORPORATION  
of the \*County of COSTILLA and State of  
Colorado, grantor(s), and  
RICHARD VONDRAK

whose legal address is 3750 COUNTY RD. 12.5, ANTONITO

of the County of CONEJOS and State of Colorado, grantees:  
WITNESS, that the grantor(s), for and in consideration of the sum of TEN DOLLARS AND NO/100-- DOLLARS,  
the receipt and sufficiency of which is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents  
do grant, bargain, sell, convey and confirm unto the grantees, their heirs and assigns forever, not in tenancy in common but  
in joint tenancy, all the real property together with improvements, if any, situate, lying and being in the County  
of CONEJOS and State of Colorado, described as follows:

SEE ATTACHED

7/30/01 RERECORD WARRANTY DEED TO CORRECT NOTARY ACKNOWLEDGEMENTS  
8/21/01 RERECORD LEGAL WAS LEFT OUT.

also known by street and number as

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the  
reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and  
demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and  
appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantees, their heirs  
and assigns forever. And the grantor(s), for themselves, their heirs and personal representatives do covenant,  
grant, bargain and agree to and with the grantees, their heirs and assigns, that at the time of the enscaling and delivery of these  
presents are well seized of the premises above conveyed, have good, sure, perfect, absolute and indefeasible estate  
of inheritance, in law, in fee simple, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in  
manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes,  
assessments, encumbrances and restrictions of whatever kind or nature soever, except

and the above bargained premises in the quiet and peaceable possession of the grantees, their heirs and assigns, against all and every  
person or persons lawfully claiming or to claim the whole or any part thereof, the grantor(s) shall and will WARRANT AND FOREVER  
DEFEND.

IN WITNESS WHEREOF the grantor(s) have  
SOUTHERN SAN LUIS VALLEY  
RAILROAD COMPANY

executed this deed on the date set forth above.

COLORADO AGGREGATE COMPANY OF NEW MEXICO, BY, MERGER  
HAVING BECOME, MWCA, INC. AND AN IDAHO CORPORATION

BY: J. Gary Childress - President

BY: Michael B. White - Secretary

STATE OF Idaho

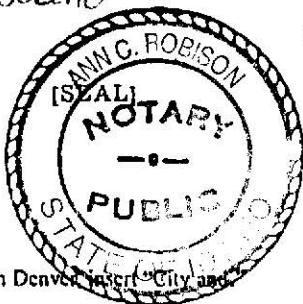
County of Kootenai

BY: J. Gary Childress - Vice President

BY: Michael B. White - Asst. Secretary

The foregoing instrument was acknowledged before me in the  
of Colorado, this 14th day of July  
Idaho

My commission expires



\*If in Denver, insert City and

County of Kootenai, State  
of Idaho, J. Gary Childress &  
Michael B. White  
10/31/2000 Witness my hand and official seal.

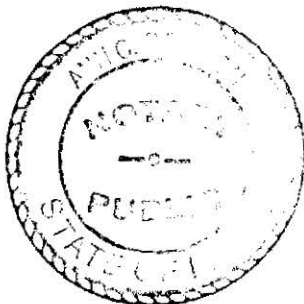
Ann C. Robison  
Notary Public  
Residing at Hayden, ID  
Address

ACKNOWLEDGEMENTS

STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

On this 14th day of July, 2000, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared J. Gary Childress, known or identified to me to be the President of SOUTHERN SAN LUIS VALLEY RAILROAD and the Vice President of COLORADO AGGREGATE COMPANY OF NEW MEXICO BY MERGER HAVING BECOME MWCA, INC., the officer who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

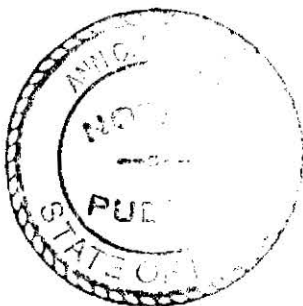


Ann C. Robison  
Notary Public  
Residing at Hayden, Idaho  
My Commission Expires October 31, 2000

STATE OF IDAHO )  
 ) ss.  
County of Kootenai )

On this 14th day of July, 2000, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Michael B. White, known or identified to me to be the Secretary of SOUTHERN SAN LUIS VALLEY RAILROAD and the Assistant Secretary of COLORADO AGGREGATE COMPANY OF NEW MEXICO BY MERGER HAVING BECOME MWCA, INC., the officer who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.



Ann C. Robison  
Notary Public  
Residing at Hayden, Idaho  
My Commission Expires October 31, 2000

221269 07/26/2000 01:05P B361 P46  
2 of 2 R 10.00 D 0.00 ROY D. MARTINEZ, COSTILLA

**PARCEL 1:**

Lots 12 and 15, Block 106, in the Town of Blanca,

**PARCEL 2:**

Part of Tracts 28, 29, 35, 36 and 37, of the Trinchera Colony Tracts, according to the map thereof, which lie South and West of the Wye of the Southern San Luis Valley Railroad (formerly the San Luis Valley Southern Railroad) in Section 22, Township 30 South, Range 73 West of the Sixth Principal Meridian.

The part included therein being described as follows, to-wit:

From a point 130.6 feet West of the Southeast corner of said Tract 35, which point is on the West right of way line of said Southern San Luis Valley Railroad, run Northerly along West line of said right of way, on a curve to the left with a radius of 435 feet, a distance of 75 feet to the point of beginning of this described tract of land. Thence Northwesterly on a curve to the left with a radius of 453 feet (same being identical with the South leg of the Wye tract of said railroad) a distance of 535 feet to intersect the West boundary of Tract 35, which point is 105 feet South of the Northwest corner of said Tract 35. Thence continuing on the same curve a distance of 26 feet, thence North 66°52' West, 353 feet to intersect the West line of Tract 29, at a point 40 feet North of the Southwest corner thereof; thence continuing North 66°52' West a distance of 353 feet to intersect the West line of Tract 28, thence South along the West boundary lines of tracts 28 and 37 to a point 275 feet South of the Northwest corner of said Tract 37, thence South 66°52' East, 933 feet, more or less, to the point of beginning.

**AND**

A parcel of land located in Tracts 27, 28, 29, 30, 31, 34, 35 and 36 in the NE¼ of Section 22, Township 30 South, Range 73 West 6<sup>th</sup> P.M., the Trinchera Colony Tracts, according to the map thereof, Costilla County, Colorado, which parcel is more particularly described by metes and bounds as follows, to-wit: Beginning at the Northwest corner of the parcel herein described whence the North Quarter corner of said Section 22 bears N 53°50' W., 1300.94 feet distant; thence S 66°22' E, 1101.76 feet to the Northeast corner of the parcel herein described; thence S 17°51' W, 98.18 feet to the Southeast corner of the parcel herein described; thence Westerly, 479.7 feet on the arc of a curve to the right with radius 461.2 feet, the chord of which curve is S 87°50' W, 458.33 feet, along the Northerly limit of the 50 foot wide right of way of the Southern San Luis Valley Railroad Company to the South corner of the parcel herein described; thence N 66°32' W, 668.80 feet along the Northerly limit of said railroad right of way, and its extension, to the Southwest corner of the parcel herein described; thence N 17°52' E, 300.60 feet to the place of beginning.

**AND**

A parcel of land located in Tracts 27, 28, 35, 36, 37 and 38 situated in the NE¼ of Section 22 Township 30 South, Range 73 West, 6<sup>th</sup> P.M., the Trinchera Colony Tracts, according to the map thereof, Costilla County, Colorado, which parcel is more particularly described by metes and bounds as follows, to-wit: Beginning at the Northeast corner of the parcel herein described, whence the North Quarter corner of said Section 22 bears N 53°50' W, 1300.94 feet distant; thence S 89°42' W, 395.37 feet to the Northwest corner of the parcel herein described; thence S 0°37' W, 1201.00 feet along the West line of said Tracts 27 and 38 to the Southwest corner of said Tract 38, which corner is identical with the Southwest corner of the parcel herein described; thence N 89°41' E, 1189.70 feet along the South line of said Tracts 38, 37, 36 and 35 to its point of intersection with the Westerly limit of the right of way for the Southern San Luis Valley Railroad Company, which point is identical with the Southeast corner of the parcel herein described; thence Northerly, 65.0 feet on the arc of a 12½° curve to the left, the chord of which curve is N 16°35' E, 64.95 feet, along the Westerly limit of said railroad right of way to the Southeast corner of that parcel of land described in Book 162 at Page 147 of the records in the office of the Costilla County Clerk and Recorder; thence N 66°32' W, 950.90 feet along the Southerly line of that parcel of land described in said Book 162 at Page 147 to the Southwest corner thereof; thence N 0°38' E, 458.55 feet along the West line of said Tracts 37 and 28, identical with the West line of that parcel of land described in said Book 162 at page 147, to its point of intersection with the Northerly limit, extended, of said railroad company's spur track right of way through said Tracts 28 and 29; thence N 66°32' W, 27.22 feet along the Northerly limit, extended, of said railroad spur track right of way; thence N 17°52' E, 300.60 feet to the place of beginning.

225166 06/22/2001 10:48A B364 P946  
3 of 3 R 15.00 D 0.00 ROY D. MARTINEZ, COSTILLA

## WARRANTY DEED

THIS DEED, made this 24TH day of MAY, 2007, between

**RICHARD VONDRAK**

Of the County of **CONEJOS**, State of **COLORADO**, grantor and

**IOWA PACIFIC HOLDINGS LLC, an ILLINOIS LIMITED LIABILITY COMPANY**

Whose legal address is **118 SOUTH CLINTON STREET, SUITE 300, CHICAGO, ILLINOIS 60661** grantee:

**WITNESSETH**, That the grantor for and in consideration of the sum of **TWO HUNDRED THOUSAND DOLLARS and NO/100 (\$200,000.00)**, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee, his heirs and assigns forever, all the real property together with improvements, if any, situate, lying and being in the County of **COSTILLA** and the State of **COLORADO** described as follows:

**SEE EXHIBIT "A" ATTACHED HERETO.**

Also known as: **29841 CR 12 BLANCA, C0 81123**

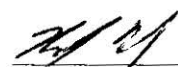
**TOGETHER** with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

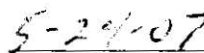
**TO HAVE AND TO HOLD** the said premises above bargained and described, with the appurtenances, unto the grantee, his heirs and assigns forever. And the grantor, for himself, his heirs, and personal representatives, does covenant, grant, bargain, and agree to and with the grantee, his heirs and assigns, that at the time of the ensembling and delivery of these presents, he is well seized of the premises above conveyed, has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature whatsoever, except

**General taxes for the current year and subsequent years and subject to easements, restrictions, reservations, covenants and rights of way of record, if any.**

The grantor shall and will **WARRANT AND FOREVER DEFEND** the above-bargained premises in the quiet and peaceable possession of the grantee, his heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

**IN WITNESS WHEREOF**, the grantor has executed this deed on the date set forth above.

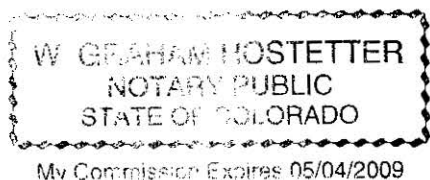
  
\_\_\_\_\_  
**RICHARD VONDRAK**

  
\_\_\_\_\_

STATE OF **COLORADO** )  
 )  
COUNTY OF **ALAMOSA** ) SS.

The foregoing instrument was acknowledged before me this 24TH day of MAY, 2007 by  
**RICHARD VONDRAK**

My commission expires:



  
\_\_\_\_\_  
Notary Public

[SEAL]



EXHIBIT "A"  
LEGAL DESCRIPTION

**PARCEL 1:**

**Lots 12 and 15, Block 106, Town of Blanca, County of Costilla, State of Colorado.**

**PARCEL 2:**

**Part of Tracts 28, 29, 35, 36 and 37, of the Trinchera Colony Tracts, according to the map thereof, which lie South and West of the Wye of the Southern San Luis Valley Railroad (formerly the San Luis Valley Southern Railroad) in Section 22, Township 30 South, Range 73 West of the 6<sup>th</sup> P.M., County of Costilla, State of Colorado.**

**The part included therein being described as follows, to-wit:**

**From a point 130.6 feet West of the Southeast corner of said Tract 35, which point is on the West right of way line of said Southern San Luis Valley Railroad, run Northerly along West line of said right of way, on a curve to the left with a radius of 435 feet, a distance of 75 feet to the point of beginning of this described tract of land. Thence Northwesterly on a curve to the left with a radius of 453 feet (same being identical with the South leg of the Wye tract of said railroad) a distance of 535 feet to intersect the West boundary of Tract 35, which point is 105 feet South of the Northwest corner of said Tract 35. Thence continuing on the same curve a distance of 26 feet, thence N66°52'W, 353 feet to intersect the West line of Tract 29, at a point 40 feet North of the Southwest corner thereof; thence continuing N66°52'W a distance of 353 feet to intersect the West line of Tract 28, thence South along the West boundary lines of tracts 28 and 37 to a point 275 feet South of the Northwest corner of said Tract 37, thence S66°52'E, 933 feet, more or less, to the point of beginning.**

**AND**

**A parcel of land located in Tracts 27, 28, 29, 30, 31, 34, 35 and 36 in the NE1/4 of Section 22, Township 30 South, Range 73 West 6<sup>th</sup> P.M., the Trinchera Colony Tracts, according to the map thereof, Costilla County, Colorado, which parcel is more particularly described by metes and bounds as follows, to-wit: Beginning at the Northwest corner of the parcel herein described whence the North Quarter corner of said Section 22 bears N53°50'W 1300.94 feet distant; thence S66°22'E 1101.76 feet to the Northeast corner of the parcel herein described; thence S17°51'W 98.18 feet to the Southeast corner of the parcel herein described; thence Westerly, 479.7 feet on the arc of a curve to the right with radius 461.2 feet, the chord of which curve is S87°50'W 458.33 feet, along the Northerly limit of the 50 foot wide right of way of the Southern San Luis Valley Railroad Company to the South corner of the parcel herein described; thence N66°32'W 668.80 feet along the Northerly limit of said railroad right of way, and its extension, to the Southwest corner of the parcel herein described; thence N17°52'E 300.60 feet to the place of beginning.**

**AND**

**A parcel of land located in Tracts 27, 28, 35, 36, 37 and 38 situated in the NE1/4 of Section 22, Township 30 South, Range 73 West, 6<sup>th</sup> P.M., the Trinchera Colony Tracts, according to the map thereof, Costilla County, Colorado which parcel is more particularly described by metes and bounds as follows, to-wit: Beginning at the Northeast corner of the parcel herein described, whence the North Quarter corner of said Section 22 bears N53°50'W 1300.94 feet distant; thence S89°42'W 395.37 feet to the Northwest corner of the parcel herein described; thence S0°37'W 1201.00 feet along the West line of said Tracts 27 and 38 to the Southwest corner of said Tract 38, which corner is identical with the Southwest corner of the parcel herein described; thence N89°41'E 1189.70 feet along the South line of said Tracts 38, 37, 36 and 35 to its point of intersection with the Westerly limit of the right of way for the Southern San Luis Valley Railroad Company, which point is identical with the Southeast corner of the parcel herein described; thence Northerly, 65.0 feet on the arc**

*RV*

of a 12-1/2° curve to the left, the chord of which curve is N16°35'E 64.95 feet, along the Westerly limit of said railroad right of way to the Southeast corner of that parcel of land described in Book 162 at Page 147 of the records in the office of the Costilla County Clerk and Recorder; thence N66°32'W 950.90 feet along the southerly line of that parcel of land described in said Book 162 at Page 147 to the Southwest corner thereof; thence N0°38'E 458.55 feet along the West line of said Tracts 37 and 28, identical with the West line of that parcel of land described in said Book 162 at page 147, to its point of intersection with the Northerly limit, extended, of said railroad company's spur track right of way through said Tracts 28 and 29; thence N66°32'W 27.22 feet along the Northerly limit, extended, of said railroad spur track right of way; thence N17°52'E 300.60 feet to the place of beginning.

*R.E.*

## **EXHIBIT C**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**  
Bankruptcy Judge Thomas B. McNamara

|                                        |   |                                       |
|----------------------------------------|---|---------------------------------------|
| In re:                                 | ) |                                       |
|                                        | ) | Lead Bankruptcy Case No. 19-18905-TBM |
| SAN LUIS & RIO GRANDE RAILROAD, INC.,  | ) |                                       |
|                                        | ) | Chapter 11                            |
| Debtor.                                | ) |                                       |
| <hr/>                                  |   |                                       |
| In re:                                 | ) |                                       |
|                                        | ) |                                       |
| SARATOGA AND NORTH CREEK RAILWAY, LLC, | ) | Bankruptcy Case No. 20-12313-TBM      |
|                                        | ) |                                       |
| Debtor-in-Possession.                  | ) | Chapter 11                            |
|                                        | ) |                                       |

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**MOTION TO APPROVE SETTLEMENT AGREEMENT WITH IOWA PACIFIC HOLDINGS, LLC**

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William A. Brandt, Jr., in his capacity as the chapter 11 trustee (the “Trustee”) of the San Luis & Rio Grande Railroad, Inc. (the “Debtor” or “SLRG”), by and through the undersigned counsel, respectfully moves this Court to approve a Settlement Agreement (the “Settlement Agreement”, a copy of which is submitted as Exhibit A) between the Trustee and Iowa Pacific Holdings, LLC (“Iowa Pacific”). In support thereof, he would state as follows:

**Background**

1. The Debtor owns and operates a railroad that is approximately 150 miles long that primarily supports the transportation of grain, minerals, specialty rock products, and produce in Colorado.
2. On October 16, 2019, a Chapter 11 Involuntary Petition was filed against the Debtor by three unsecured creditors.
3. The Debtor did not oppose the Involuntary Petition, and on November 7, 2019, the Court entered its Order for Relief and Procedure in Involuntary Case, in which it ordered, among other things, “that an order for relief under Chapter 11 of Title 11 of the U.S. Code is hereby GRANTED.”

4. On December 30, 2019, the United States Trustee filed its Notice of Appointment of Trustee, in which the United States Trustee appointed “William A. Brandt, Jr. to serve as the chapter 11 trustee in this case.”

5. The Debtor is wholly owned by Permian Basin Railways, Inc., which in turn is wholly owned by Iowa Pacific.

6. Iowa Pacific is the owner of a railroad spur that connects to the Debtor’s rail line in Blanca, Colorado in Costilla County (the “Blanca Spur”). Iowa Pacific is also the owner of certain pieces of equipment that are located in Alamosa, Colorado (the “Iowa Pacific Equipment”). A list of the Iowa Pacific Equipment is attached hereto as Exhibit B.

7. On December 22, 2017, California Splendor, Inc. filed suit (the “State Court Litigation”) against Iowa Pacific and the Debtor. On April 16, 2018, the in the Circuit Court of Cook County, Illinois County Department – Law Department entered a Stipulated Judgment against the Debtor and Iowa Pacific, jointly and severally, in the amount of \$252,053.21 plus post-petition interest (the “Judgment”). On April 30, 2018, California Splendor domesticated the Judgment in Costilla County, Colorado. On May 23, 2018, California Splendor filed transcripts of the Judgment in the property records of Costilla and Alamosa Counties (the “Transcripts of Judgment”).

8. On March 22, 2021, Iowa Pacific filed a voluntary petition under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (Eastern Division). Initially, Richard J. Mason was appointed as the chapter 7 trustee for Iowa Pacific; following the resignation of Mr. Mason, Miriam R. Stein was appointed as the chapter 7 trustee for Iowa Pacific (the “Iowa Pacific Trustee”).

9. In the summer of 2021, the Trustee offered the Iowa Pacific Trustee \$25,000.00 in exchange for the Blanca Spur and the Iowa Pacific Property. The Iowa Pacific Trustee turned down the offer due to the fact that the value of the estate’s assets were exceeded by the administrative costs of the case and the potential tax liability. Instead, the Iowa Pacific Trustee moved to dismiss the Iowa Pacific bankruptcy case “for cause.” Upon dismissal, the Iowa Pacific Trustee returned the assets of the estate to Iowa Pacific. Iowa Pacific has since been administratively dissolved by the Illinois Secretary of State.

10 In February 2022, the Debtor and California Splendor entered into a settlement agreement and pursuant to that agreement, California Splendor assigned the Judgment against Iowa Pacific to the Trustee. The assignment included any and all rights held by California Splendor in the Transcripts of Judgment filed in the deed records of Costilla County and Alamosa County.

11. The Trustee has made preparations to commence the legal process of foreclosing upon the Blanca Spur and the Iowa Pacific Equipment in reliance upon the Judgment and the Transcripts of Judgment.

12. The Trustee and Iowa Pacific have concluded that it is in their respective best interests to consensually resolve all disputes between them on the terms and conditions set forth in the Settlement Agreement.

**The Proposed Settlement Agreement**

13. The Settlement Agreement includes the following terms:

- a. Bankruptcy Court Approval. The Settlement Agreement is subject to, and shall not become effective, until it is approved in its entirety by a final, written, non-appealable Order of the Bankruptcy Court pursuant to B.R. 9019 and related procedures (the "Approval Order").
- b. Deed in Lieu of Foreclosure. Contemporaneously with its execution of this Agreement, Iowa Pacific shall execute the Quit Claim Deed to transfer ownership of the Blanca Spur to the Trustee. The Trustee shall hold the executed Quit Claim Deed in escrow pending the occurrence of the Effective Date and the completion of the Debtor's duties under the Settlement Agreement, at which time he may execute upon the Quit Claim Deed by filing it in the deed records of Costilla County, Colorado.
- c. Limited Power of Attorney. On the Effective Date, Iowa Pacific shall appoint the Trustee as attorney for Iowa Pacific for the limited purpose of executing any and all documents and instruments in Iowa Pacific's name to transfer ownership of the Iowa Pacific Equipment to the Trustee.
- d. Iowa Pacific Attorney Fees. On the Effective Date, the Trustee shall pay the reasonable attorney fees of Iowa Pacific's counsel in connection with this transaction subject to a cap of \$10,000.00.
- e. Mutual Release. The Settlement Agreement contains mutual releases.

14. The above description represents a summary of the Settlement Agreement. Interested parties should refer to the Settlement Agreement for a complete understanding of the terms and conditions of the Settlement Agreement. Any inconsistency between the Settlement Agreement and the summary provided herein shall be resolved by reference to the terms of the Settlement Agreement.

**Motion to Approve**

14. The Trustee seeks approval of the Settlement Agreement pursuant to 11 U.S.C. § 105 and Fed. R. Bankr. P. 9019. The law generally favors compromises and settlements of disputes between parties. *See Stanpec Corp. v. Jelco, Inc.*, 464 F.2d 1184 (10th Cir. 1972).

15. Fed. R. Bankr. P. 9019 provides that, after a hearing on notice to creditors, the bankruptcy court may approve a compromise or settlement. “The standards by which to evaluate a settlement proposal have been defined by the courts. In general, the court must determine whether the settlement is fair and equitable and in the best interests of the estate.” *In re Kaiser Steel Corp.*, 105 B.R. 971, 976 (D. Colo. 1989). The factors often considered in this determination are (1) the probability of success on the merits in the litigation; (2) the difficulties, if any, to be encountered in collection of any judgment that might be obtained; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interests of creditors and the proper deference to their reasonable views in the premises. *Kaiser Steel*, 105 B.R. at 976-77. “[S]ome deference to the business judgment” of a trustee is also appropriate where a proposed settlement otherwise is fair and equitable to the estate. *In re OptInRealBig.com, LLC*, 345 B.R. 277, 291 (Bankr. D. Colo. 2006).

16. In the Trustee’s business judgment, the proposed Settlement Agreement is fair, reasonable, and in the best interests of the SLRG estate and its creditors. The Settlement Agreement is fair in that it represents a reasonable resolution of the disputes between the parties without the costs and delays of litigation. It results in a transfer in ownership to the SLRG estate of the Blanca Spur and the Iowa Pacific Equipment, which are both important in facilitating the ultimate sale of the Debtor’s business operations. To the extent the Settlement Agreement is not approved, the Trustee will have to move forward with his remedies under state law to foreclose upon the Blanca Spur and the Equipment. Iowa Pacific would have the ability to challenge the foreclosure. The settlement provides certainty without the attendant delays and costs inherent in the foreclosure process.

17. Further, the Settlement Agreement is the product of arms’-length negotiations and represents the best outcome achievable under the circumstances.

18. Accordingly, the *Kaiser Steel* factors weigh in favor of the Settlement Agreement.

19. For these reasons, the Settlement Agreement is fair and reasonable and in the best interests of creditors and should be approved by the Court.

WHEREFORE, Trustee respectfully requests the Court enter an Order approving the Settlement Agreement and grant such other and further relief as the Court deems appropriate.

Respectfully submitted this 15th day of June, 2022.

**MARKUS WILLIAMS YOUNG &  
HUNSICKER LLC**

*s/ Jennifer Salisbury*

Jennifer Salisbury, #37168  
1775 Sherman Street, Suite 1950  
Denver, CO 80203  
(303) 830-0800  
(303) 830-0809 Fax  
[jsalisbury@markuswilliams.com](mailto:jsalisbury@markuswilliams.com)

*Attorneys for William A. Brandt, Jr., chapter 11  
trustee of the San Luis & Rio Grande Railroad,  
Inc.*

## Settlement Agreement

This Settlement Agreement (“Agreement”) is made this 13<sup>th</sup> day of June, 2022, by and between William A. Brandt, Jr. (the “Trustee”) in his capacity as the chapter 11 trustee of the San Luis & Rio Grande Railroad, Inc. (“Debtor”), and Iowa Pacific Holdings, LLC (“Iowa Pacific” and together with Trustee collectively, the “Parties” and each individually, a “Party”). This Agreement is predicated on the following recitals.

### RECITALS

1. On October 16, 2019 (the “Petition Date”), a Chapter 11 involuntary petition (the “Involuntary Petition”) was filed against the Debtor by three unsecured creditors in the United States Bankruptcy Court for the District of Colorado (the “Bankruptcy Court”). The bankruptcy case was designated as Case No. 19-18905.

2. The Debtor did not oppose the Involuntary Petition, and on November 7, 2019, the Court entered its Order for Relief and Procedure in Involuntary Case, in which it ordered, among other things, “that an order for relief under Chapter 11 of Title 11 of the U.S. Code is hereby GRANTED.”

3. On December 30, 2019, the United States Trustee filed its Notice of Appointment of Trustee, in which the United States Trustee appointed “William A. Brandt, Jr. to serve as the chapter 11 trustee in this case.”

4. The Debtor owns and operates a railroad that is approximately 150 miles long that primarily supports the transportation of grain, minerals, specialty rock products, and produce in Colorado.

5. The Debtor is wholly owned by Permian Basin Railways, Inc., which in turn is wholly owned by Iowa Pacific.

6. Iowa Pacific is the owner of a railroad spur that connects to the Debtor’s rail line in Blanca, Colorado in Costilla County (the “Blanca Spur”). The legal description of the Blanca Spur is attached hereto as Exhibit A also known as 29841 CR 12, Blanca, CO 81123. Iowa Pacific is also the owner of certain titled vehicles and pieces of railroad equipment that are located in Alamosa, Colorado (the “Iowa Pacific Equipment”). A list of the Iowa Pacific Equipment is attached hereto as Exhibit B.

7. On December 22, 2017, California Splendor, Inc. filed suit (the “State Court Litigation”) against Iowa Pacific and the Debtor. On April 16, 2018, the in the Circuit Court of

Cook County, Illinois County Department – Law Department entered a Stipulated Judgment against the Debtor and Iowa Pacific, jointly and severally, in the amount of \$252,053.21 plus post-petition interest (the “Judgment”). On April 30, 2018, California Splendor domesticated the Judgment in Costilla County, Colorado. On May 23, 2018, California Splendor filed transcripts of the Judgment in the property records of Costilla and Alamosa Counties (the “Transcripts of Judgment”).

8. On March 22, 2021, Iowa Pacific filed a voluntary petition under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (Eastern Division). Initially, Richard J. Mason was appointed as the chapter 7 trustee for Iowa Pacific; following the resignation of Mr. Mason, Miriam R. Stein was appointed as the successor chapter 7 trustee for Iowa Pacific (the “Iowa Pacific Trustee”).

9. In the summer of 2021, the Trustee offered the Iowa Pacific Trustee \$25,000.00 in exchange for the Blanca Spur and the Iowa Pacific Property. The Iowa Pacific Trustee turned down the offer due to the fact that the value of the estate’s assets were exceeded by the administrative costs of the case and the potential tax liability. Instead, the Iowa Pacific Trustee moved to dismiss the Iowa Pacific bankruptcy case “for cause.” Upon dismissal, the Iowa Pacific Trustee returned the assets of the estate to Iowa Pacific. Iowa Pacific has been administratively dissolved by the Illinois Secretary of State.

10. In February 2022, the Debtor and California Splendor entered into a settlement agreement and pursuant to that agreement, California Splendor assigned the Judgment against Iowa Pacific to the Trustee. The assignment included any and all rights held by California Splendor in the Transcripts of Judgment filed in the deed records of Costilla County and Alamosa County. The purpose of the assignment was to provide the Trustee with the option of judicially foreclosing upon the Blanca Spur.

11. The Trustee has made preparations to commence the legal process of foreclosing upon the Blanca Spur and the Iowa Pacific Equipment in reliance upon the Judgment and the Transcripts of Judgment.

12. Without admission of liability or fault in any way by either Party, this Agreement is intended to fully and finally resolve all controversies between the Parties.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the foregoing recitals and the covenants,

**EXHIBIT A**

agreements, promises, and representations set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Party agrees as follows, subject only to the Bankruptcy Court's entry of an order approving this Agreement:

13. Recitals. The Parties hereby incorporate and verify the above Recitals into this Agreement.

14. Bankruptcy Court Approval. This Agreement is expressly conditioned upon, and requires the approval of, the Bankruptcy Court. This Agreement shall be deemed null and void if the Bankruptcy Court does not approve this Agreement in full. The Trustee shall seek prompt approval of this Agreement by the Bankruptcy Court, and the Parties shall cooperate with each other to file such pleadings and stipulations as necessary to cause the Bankruptcy Court to approve this Agreement. The form of the proposed Order of the Bankruptcy Court approving this Agreement shall be subject to the reasonable approval of Iowa Pacific.

15. Effective Date. This Agreement shall become effective (the "Effective Date") upon an order (the "Approval Order") entered by the Bankruptcy Court approving the Trustee's motion to enter into this Agreement (the "Settlement Motion") becoming final and non-appealable.

16. Deed in Lieu of Foreclosure. Contemporaneously with its execution of this Agreement, Iowa Pacific shall execute the Quit Claim Deed attached hereto as Exhibit C to transfer ownership of the Blanca Spur to the Trustee. The Trustee shall hold the executed Quit Claim Deed in escrow pending the occurrence of the Effective Date and the completion of the Debtor's duties under paragraph 18 below, at which time he may execute upon the Quit Claim Deed by filing it in the deed records of Costilla County, Colorado.

17. Limited Power of Attorney. On the Effective Date, Iowa Pacific hereby appoints the Trustee as attorney for Iowa Pacific for the limited purpose of executing any and all documents and instruments in Iowa Pacific's name to transfer ownership of the Iowa Pacific Equipment to the Trustee. THIS POWER OF ATTORNEY IS STRICTLY LIMITED TO THE TRANSFER OF THE IOWA PACIFIC EQUIPMENT.

18. Iowa Pacific Attorney Fees. On the Effective Date, the Debtor shall pay the reasonable attorney fees of Iowa Pacific's counsel in connection with this transaction subject to a cap of \$10,000.00.

19. Mutual Releases.

a. Except for the obligations created or otherwise contemplated by this Agreement

and as otherwise provided in this Agreement, and subject to the occurrence of the Effective Date, each Party, on behalf of itself, its predecessors, successors, assigns, employees, directors, officers, accountants, counsel, brokers, and agents, hereby forever and irrevocably discharges, remises, and releases the other Party and its present and former employees, officers, directors, members, managers, agents, accountants, counsel, brokers and anyone actually or allegedly associated with any of the foregoing or acting on their behalf, and all of them and their successors and assigns, of and from all claims, rights, causes of actions, suits, matters, issues and/or liabilities of any kind, nature, or amount, whether in law or equity, whether known or unknown, anticipated or unanticipated, present or contingent, liquidated or unliquidated, concealed or hidden, suspected or unsuspected, direct or derivative, for any equitable relief, injury, damage or loss whatsoever, including but not limited to compensatory damages, statutory liquidated damages, exemplary damages, punitive damages, costs, expenses and attorneys' fees related thereto arising or existing at any time from the beginning of the world through and including the Execution Date.

- b. Each Party represents and warrants that it has made such investigation of the facts pertaining to this Agreement and all matters pertaining thereto as it deems necessary. Each Party acknowledges that it may hereafter discover facts different from, or in addition to, those that it now knows or believes to be true with respect to these matters, and each Party agrees that this Agreement shall remain effective in all respects, including, without limitation, the releases contained herein, notwithstanding any different or additional facts or the discovery thereof. Each Party agrees that if facts, claims, or circumstances are at any time later found, suspected, or claimed to be other than or different from the facts, claims, and circumstances now believed to be true, such Party expressly accepts and assumes the risk of such possible differences of facts, claims, and circumstances and agrees that the releases set forth herein shall be and remain effective notwithstanding any such difference in any fact, claim, or circumstance. In addition, each Party acknowledges the risk and the possibility that other claims not known may develop or be discovered or consequences or results of claims may develop or be discovered

in the future. Each Party expressly acknowledges the risk that there may be claims released herein that they may not now know or suspect to exist, whether through ignorance, oversight, error, negligence, or otherwise, and that, if known could affect their decision to enter into this Agreement. Each Party nevertheless agrees that the releases set forth herein have been negotiated and agreed upon and each hereby expressly waives any and all rights that each may have under any federal or state statute or common law principle that may provide that a general release does not extend to claims that are not known to exist at the time of execution.

20. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and, where applicable, the United States Bankruptcy Code.

21. Jurisdiction. The Bankruptcy Court shall have exclusive jurisdiction to resolve any dispute over the meaning, intent, or enforcement of this Agreement.

22. Successors and Assigns. This Agreement is binding on the Parties and their successors and assigns, including any successors in title to either of the Parties' property.

23. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior written and oral agreements concerning the subject matter hereof. This Agreement may be supplemented, altered, amended, modified, or revoked by writing only, signed by both Parties or their successors in existence at the time of such action.

24. Authority. Each entity or individual executing this Agreement on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such Party and that this Agreement is binding on such Party in accordance with its terms; the Parties acknowledge that Iowa Pacific has been administratively dissolved, and that its authority to enter into this agreement derives from Illinois statute 805 ILCS 180/35-4, which empowers members of a dissolved LLC to dispose of and transfer the company's property, settle disputes, and perform other acts necessary or appropriate to winding wind up the Company's business.

25. General Disclaimer of Title Warranties and Representations. Iowa Pacific makes no warranty or representation, express, implied, statutory or otherwise, with respect to its title to the Blanca Spur and/or the Iowa Pacific Equipment.

26. Voluntary and Knowing. The Parties acknowledge that they have read this Agreement and understand all of its terms, and that this Agreement is executed voluntarily, without duress, and with full knowledge of its legal significance. The Parties do not rely upon each other in any fashion in making their independent decision to enter into this Agreement.

27. Costs and Attorneys' Fees. Except as provided in this paragraph and in Paragraph 18 above, each Party shall bear its own costs and attorneys' fees in connection with the Disputes and this Agreement. In connection with any litigation, mediation, arbitration, special proceeding or other proceeding brought to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover from the other Party, such prevailing Party's costs and reasonable attorneys' fees, through and including any appeal or post-judgment proceeding.

28. Severability. If any provision of this Agreement or the application thereof is held to be invalid or unenforceable, its invalidity or unenforceability shall not affect any other provision or application of this Agreement to the extent that such other provision or application can be given effect without the invalid or unenforceable provision or application, provided, however, that the economic and legal substance of the transactions contemplated by this Agreement are not materially adversely affected in any way.

29. Captions. The captions or headings in this Agreement are for convenience only and in no way do they define, limit, or describe the scope or intent of any provisions or sections of this Agreement.

30. Counterparts. This Agreement may be executed in counterparts and each such counterpart shall be an original Agreement, but all of which together shall constitute one and the same Agreement. Electronic transmission of pdfs of signatures of the Parties or their designated representatives to this Agreement shall be deemed original signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date indicated herein.

**IOWA PACIFIC HOLDINGS, LLC**



By: \_\_\_\_\_

Printed Name: Edwin Ellis

**EXHIBIT A**

Title: President

**WILLIAM A. BRANDT, JR. IN HIS CAPACITY AS THE  
CHAPTER 11 TRUSTEE OF THE SAN LUIS & RIO GRANDE  
RAILROAD, INC.**

By: William A. Brandt, Jr.

Printed Name: William A. Brandt, Jr.

Title: CHAPTER 11 TRUSTEE

EXHIBIT "A"  
LEGAL DESCRIPTION

PARCEL 1:

Lots 12 and 15, Block 106, Town of Blanca, County of Costilla, State of Colorado.

PARCEL 2:

Part of Tracts 28, 29, 35, 36 and 37, of the Trinchera Colony Tracts, according to the map thereof, which lie South and West of the Wye of the Southern San Luis Valley Railroad (formerly the San Luis Valley Southern Railroad) in Section 22, Township 30 South, Range 73 West of the 6<sup>th</sup> P.M., County of Costilla, State of Colorado.

The part included therein being described as follows, to-wit:

From a point 130.6 feet West of the Southeast corner of said Tract 35, which point is on the West right of way line of said Southern San Luis Valley Railroad, run Northerly along West line of said right of way, on a curve to the left with a radius of 435 feet, a distance of 75 feet to the point of beginning of this described tract of land. Thence Northwesterly on a curve to the left with a radius of 453 feet (same being identical with the South leg of the Wye tract of said railroad) a distance of 535 feet to intersect the West boundary of Tract 35, which point is 105 feet South of the Northwest corner of said Tract 35. Thence continuing on the same curve a distance of 26 feet, thence N66°52'W, 353 feet to intersect the West line of Tract 29, at a point 40 feet North of the Southwest corner thereof; thence continuing N66°52'W a distance of 353 feet to intersect the West line of Tract 28, thence South along the West boundary lines of tracts 28 and 37 to a point 275 feet South of the Northwest corner of said Tract 37, thence S66°52'E, 933 feet, more or less, to the point of beginning.

AND

A parcel of land located in Tracts 27, 28, 29, 30, 31, 34, 35 and 36 in the NE1/4 of Section 22, Township 30 South, Range 73 West 6<sup>th</sup> P.M., the Trinchera Colony Tracts, according to the map thereof, Costilla County, Colorado, which parcel is more particularly described by metes and bounds as follows, to-wit: Beginning at the Northwest corner of the parcel herein described whence the North Quarter corner of said Section 22 bears N53°50'W 1300.94 feet distant; thence S66°22'E 1101.76 feet to the Northeast corner of the parcel herein described; thence S17°51'W 98.18 feet to the Southeast corner of the parcel herein described; thence Westerly, 479.7 feet on the arc of a curve to the right with radius 461.2 feet, the chord of which curve is S87°50'W 458.33 feet, along the Northerly limit of the 50 foot wide right of way of the Southern San Luis Valley Railroad Company to the South corner of the parcel herein described; thence N66°32'W 668.80 feet along the Northerly limit of said railroad right of way, and its extension, to the Southwest corner of the parcel herein described; thence N17°52'E 300.60 feet to the place of beginning.

AND

A parcel of land located in Tracts 27, 28, 35, 36, 37 and 38 situated in the NE1/4 of Section 22, Township 30 South, Range 73 West, 6<sup>th</sup> P.M., the Trinchera Colony Tracts, according to the map thereof, Costilla County, Colorado which parcel is more particularly described by metes and bounds as follows, to-wit: Beginning at the Northeast corner of the parcel herein described, whence the North Quarter corner of said Section 22 bears N53°50'W 1300.94 feet distant; thence S89°42'W 395.37 feet to the Northwest corner of the parcel herein described; thence S0°37'W 1201.00 feet along the West line of said Tracts 27 and 38 to the Southwest corner of said Tract 38, which corner is identical with the Southwest corner of the parcel herein described; thence N89°41'E 1189.70 feet along the South line of said Tracts 38, 37, 36 and 35 to its point of intersection with the Westerly limit of the right of way for the Southern San Luis Valley Railroad Company, which point is identical with the Southeast corner of the parcel herein described; thence Northerly, 65.0 feet on the arc

EXHIBIT A

of a  $12\text{-}1/2^\circ$  curve to the left, the chord of which curve is  $N16^\circ35'E$  64.95 feet, along the Westerly limit of said railroad right of way to the Southeast corner of that parcel of land described in Book 162 at Page 147 of the records in the office of the Costilla County Clerk and Recorder; thence  $N66^\circ32'W$  950.90 feet along the southerly line of that parcel of land described in said Book 162 at Page 147 to the Southwest corner thereof; thence  $N0^\circ38'E$  458.55 feet along the West line of said Tracts 37 and 28, identical with the West line of that parcel of land described in said Book 162 at page 147, to its point of intersection with the Northerly limit, extended, of said railroad company's spur track right of way through said Tracts 28 and 29; thence  $N66^\circ32'W$  27.22 feet along the Northerly limit, extended, of said railroad spur track right of way; thence  $N17^\circ52'E$  300.60 feet to the place of beginning.

## **EXHIBIT B**

### **Titled Vehicles:**

1. IPH – SL-04: 1997, Ford f-800 boom truck, 1FDXF80E3VVA12687
2. IPH – SL-39: 1995, Ford LTL 9000 Grapple truck, 1FDZA99W4SVA14839
3. IPH – SL-26: 2006, Nissan Pathfinder, 5N1AR18U66C658366
4. IPH – HR-24: 2015, GMC Refridge Truck, 1GT02XEG2FZ524442
5. CCR – SL-03: 1982, GMC CCR Wheel truck, 1GDT9C4Z6CV594562
6. CCR – SL-15: 1995, Chevy 3500 HD, 1GBKC34FXSJ112564
7. CCR – SL-02: L800 "KERMIT", Heavy Work Truck, 1FDYW82A6LVA42939

### **Railroad Equipment:**

1. IL/IPH - 0-6-0F #7: Locomotive #7, Formerly of Great Lakes RR, Carbon Fireless Steam
2. SLRG – 459, Locomotive EMD F40PH, Manufacture date 1977, Serial no. 777018-10
3. SSLV D-500, switcher locomotive

## EXHIBIT C

### QUIT CLAIM DEED

IOWA PACIFIC HOLDINGS, LLC, (“Grantor”), in consideration of Ten and no/100 Dollars (\$10.00) in hand paid to Grantor, and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, hereby grants, bargains, sells, and conveys to SAN LUIS & RIO GRANDE RAILROAD, INC. (“Grantee”), whose address is 225 South Main Avenue, Sioux Falls, South Dakota 57104, Attn: Daniel Phillips, the personal and real property and improvements located thereon in Costilla County, State of Colorado, with all the appurtenances thereto, to wit:

See Exhibit A attached hereto

(the “Property”)

This Quit Claim Deed is an absolute conveyance and grant of title, the Grantor having sold and conveyed the Property to the Grantee for a fair and adequate consideration. Grantor declares that this conveyance is freely and fairly made and that there are no agreements between the Grantor and the Grantee with respect to the Property, oral or written, other than this Quit Claim Deed and the Agreement among William A. Brandt, Jr., in his capacity of the chapter 11 trustee of the Grantee and the Grantor, entered into and approved by the United States Bankruptcy Court for the District of Colorado, in Case No: 19-18905-TBM, together with all exhibits and documents relating thereto. Grantor further acknowledges fair and adequate consideration given for its waiver of all cure, redemption, and homestead rights, if any, permitted by law.

Grantor states that it is its intention that the fee simple interest of the Grantee in the Property conveyed by this Quit Claim Deed and the lien interest of Grantee under the following instruments: (i) Transcript of Judgment in the amount of \$252,053.21 held by California Splendor, Inc. Recorded Reception 295763 on June 6, 2018, in the records of the Clerk and Recorder in and for Costilla County, CO and (ii) Notice of Assignment of Judgment Recorded Reception No. 315089 on May 16, 2022 in the records of the Clerk and Recorder of Costilla County; shall not merge and the Transcripts of Judgment shall remain in full force and effect until specifically released of record by William A. Brandt, Jr., in his capacity as the chapter 11 trustee of San Luis & Rio Grande Railroad, Inc..

EXECUTED this \_\_\_\_ day of \_\_\_\_\_ 2022.

#### GRANTOR:

IOWA PACIFIC HOLDINGS, LLC

By:\_\_\_\_\_

EXHIBIT B

Edwin Ellis, Manager/Member

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by Edwin Ellis, as Manager/Member of Iowa Pacific Holdings, LLC.

WITNESS MY HAND AND OFFICIAL SEAL.

\_\_\_\_\_  
Notary Public for the State of Illinois

My commission expires: \_\_\_\_\_

## **EXHIBIT D**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**  
Bankruptcy Judge Thomas B. McNamara

|                                        |   |                                       |
|----------------------------------------|---|---------------------------------------|
| In re:                                 | ) |                                       |
|                                        | ) | Lead Bankruptcy Case No. 19-18905-TBM |
| SAN LUIS & RIO GRANDE RAILROAD, INC.   | ) |                                       |
|                                        | ) | Chapter 11                            |
| Debtor.                                | ) |                                       |
| _____                                  | ) |                                       |
| In re:                                 | ) |                                       |
|                                        | ) |                                       |
| SARATOGA AND NORTH CREEK RAILWAY, LLC, | ) | Bankruptcy Case No. 20-12313-TBM      |
|                                        | ) |                                       |
|                                        | ) | Chapter 11                            |
| Debtor-in-Possession.                  | ) |                                       |
|                                        | ) |                                       |

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**ORDER APPROVING MOTION TO APPROVE SETTLEMENT AGREEMENT WITH  
IOWA PACIFIC HOLDINGS, LLC**

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**THIS MATTER** having come before the Court on the Motion to Approve Settlement Agreement with Iowa Pacific Holdings, LLC (the “Motion). The Court, having reviewed the Motion, and any responses or objections thereto, hereby

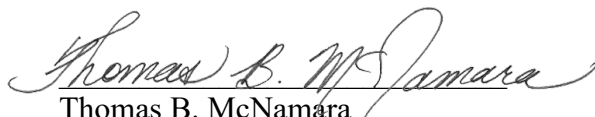
**ORDERS** that the Motion is **GRANTED**.

**IT IS FURTHER ORDERED THAT** the Settlement Agreement (attached as Exhibit A to the Motion) is hereby **APPROVED**.

**IT IS FURTHER ORDERED THAT** the Trustee is authorized to take all actions necessary to effectuate the terms of the Settlement Agreement.

**DATED** this 14th day of July, 2022.

BY THE COURT:

  
Thomas B. McNamara  
United States Bankruptcy Judge