

DILLON & NASH, LTD.
Attorneys at Law

David C. Dillon, M.B.A., J.D.

December 10, 2018

Surface Transportation Board
Chief Section of Administration
395 E. Street S.W.
Washington, D.C. 20423



246887

3100 Dundee Road
Suite 508
Northbrook, Illinois 60062
Telephone: (847) 498-3000
Fax: (847) 291-3415

ENTERED
Office of Proceedings
December 11, 2018
Part of
Public Record

Re: Filing of Verified Notices of Exemption
Under 49 C.F.R. §1150.31 – Gateway
Industrial Railroad, LLC
FD 36260

Dear Sir or Madam:

Our office represents Gateway Industrial Railroad, LLC. I have enclosed herewith Verified Notices of Exemption Under 49 C.F.R. §1150.31 (an original and ten copies). I have also enclosed a check in the amount of \$1,800.00 for the filing fee. (We incorrectly instructed the client that the filing fee is \$1,500, so we have supplemented that remaining fee with a check for \$300.)

While I have filed this action as Verified Notice of Exemption that the railroad entity is a Class III rail, I want to confirm that the ***railroad revenue will be under Five Million Dollars (\$5,000,000).***

Further, the total track acquired and operated by Great Lakes Terminal Railroad is 2,400 linear feet (0.46 mile).

If you have any questions please feel free to contact me. Thank you for your assistance in this matter.

Very truly yours,

David C. Dillon

Enclosures

FILED
December 11, 2018
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
December 11, 2018
SURFACE
TRANSPORTATION BOARD

))

**VERIFIED NOTICES OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

Gateway Industrial Railroad, LLC

Applicant in FD 36260

-1-

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Gateway Industrial Railroad, LLC

)
)

FD 36260



**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

Pursuant to 49 C.F.R. § 1150.31, *et. seq.* and 49 U.S.C. § 10502(a), Gateway Industrial Railroad, LLC (GIRR), hereby provides verified notice of exemption from 49 U.S.C. § 10901 for GIRR's acquisition by Operating Agreement from Avatar Corporation, and operation pursuant to operating agreement between Gateway Industrial Railroad, LLC and Avatar Corporation of approximately 2,400 feet (0.46 mile) of existing railroad right-of-way and trackage and transloading facilities owned by Avatar Corporation, in University Park, Illinois ("University Park Transload Facility trackage"). The University Park Transload Facility trackage is more specifically described and depicted in Appendix 1-A (description) and Appendix 1-B (map) attached to this notice.

GATEWAY INDUSTRIAL RAILROAD, LLC IS A LINE OF RAILROAD THAT QUALIFIES FOR THE CLASS EXEMPTION FROM 49 U.S.C. § 10901, RATHER THAN TRACK EXCEPTED FROM BOARD ACQUISITION AND OPERATION AUTHORITY UNDER § 10906

Equinox, LLC, owns the subject property and leases to Avatar Corporation the University Park Transload Facility trackage. The trackage is used in conjunction with interchanging freight cars with Canadian National Railroad. Inbound shipments of fully refined white mineral oil and base oil, glycerin, and propylene glycol arrive primarily to the University Park Transload Facility. Avatar

Corporation blends the oils and ships outbound via truck and rail for final delivery to customers. It is anticipated that GIRR will service nearby companies. Negotiations are underway to deliver bulk sugar to Marigold Company.

There is currently 2,400 linear feet of track located on the University Park Transload Facility.

In this circumstance, the University Park Transload Facility trackage is properly considered to be a line of railroad under 49 U.S.C. § 10901 pursuant to the Board's tenant-use test, rather than spur, switching or side tracks excepted from Board authority over their acquisition and operation by virtue of 49 U.S.C. § 10906. The tenant-use test is described in the Board's decision denying reconsideration in *Effingham Railroad Company - Petition for Declaratory Order - Construction at Effingham, IL*, STB Docket No. 41986 and embraced proceedings, 1998 STB LEXIS 253, decision served September 18, 1998; *aff'd sub nom. United Transp. Union v. Surface Transportation Board.*, 183 F.3d 606 (7th Cir. 1999).

In that case, as here pertinent, Agracel Corporation transloaded beer from rail to truck at a warehouse that it operated in an industrial park at Effingham, IL. Agracel owned approximately 206 feet of right-of-way and track that extended between its warehouse and trackage owned and operated by Conrail. Previously, Conrail had operated over the Agracel trackage to provide service to Agracel. It was proposed that Effingham Railroad Company (ERRC), a noncarrier, substitute for Conrail as provider of the rail service over the Agracel trackage. ERRC filed a notice of exemption under 49 C.F.R. § 1150.31 for its operation over that trackage. The United Transportation Union (UTU) contended that the Board lacked authority over the proposed operation because Agracel trackage is spur, switching or side track excepted from Board operation authority under 49 U.S.C. § 10906.

In finding that the Agracel trackage was a line of railroad under 49 U.S.C. § 10901, the Board said (1998 STB LEXIS 253, at 8-9 (emphasis in original)):

...(I)n those cases where a tenant railroad's intended use of a track segment is different from the use made by the railroad owning the track, we have determined that the tenant's use, rather than the character of the trackage itself, is controlling with regard to its own operations, subject to consideration of the purpose and effect of the construction under *Texas & Pacific* (citations omitted).

In the initial notice, even under its new approach, ERRC became the operator of a line of track connecting Conrail to the site of the industrial park. Conrail clearly had operated this short track segment as an exempt siding or spur. However, because it was ERRC's initial railroad operation, this track segment became ERRC's entire line of railroad and was not, as to ERRC, a siding or spur. This small piece of trackage initiated ERRC's service from a connection or interchange point with Conrail to a shipper's facility within the industrial park. Thus ERRC's becoming the operator was the proper subject of the initial notice of exemption and was not statutorily exempt under section 10906.

It is apparent from the Board's decision in that case that the tenant-use test also applies when a new rail carrier is using trackage pursuant to an operating agreement rather than a lease, and when the prior use of the track was by a third-party carrier rather than by the shipper-owner of the trackage. In upholding the Board's decision in that case, the reviewing court held that it was reasonable for the Board to classify the trackage by virtue of the tenant's use. *United Transp. Union vs. Surface Transportation Bd.*, *supra*. 193 F.3d at 614. *Accord: University Park Rail Link LLC - Lease & Oper. - Union Pacific R.R. Co.*, 2 S.T.B. 534 (1997), *aff'd sub nom. United Transp. Union - Illinois v. Surface Transp.*, 169 F.3d 474 (7th Cir. 1999).

Inasmuch as the subject transaction will be GIRR's initial railroad acquisition, and the University Park Transload Facility trackage will constitute the entire line of railroad of GIRR, it follows that the University Park Transload Facility trackage is a line of railroad under 49 U.S.C. § 10901, rather than spur, switching or side tracks excepted from Board acquisition and operation authority by virtue of 49 U.S.C. § 10906.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

- (a) *The full name and address of the applicant;*

The full name and address of the applicant in FD 36260 is Gateway Industrial Railroad, LLC, 500 Central Avenue, University Park, Illinois, 60484.

- (b) *The name, address, and telephone number of the representative of the applicant who should receive correspondence;*

GIRR representative is David C. Dillon, Dillon & Nash, Ltd., 3100 Dundee Road, Suite 508, Northbrook, Illinois, 60062. 847-498-3000.

- (c) *A statement that an agreement has been reached or details when an agreement will be reached;*

An Operating Agreement between Avatar Corporation and Gateway Industrial Railroad, LLC, concerning the University Park Transload Facility trackage will be reached within thirty (30) days, and an agreement in principle has been reached. A copy of draft of the Operating Agreement is provided herewith.

- (d) *The operator of the property;*

GIRR will be the operator of the property.

- (e) *A brief summary of the proposed transaction, including:*

- (1) *The name and address of the railroad transferring the subject property,*

The entity transferring the subject property is Avatar Corporation, a non-railroad entity, 500 Central Avenue, University Park, Illinois, 60484.

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

Gateway Industrial Railroad, LLC will enter into an Operating Agreement with Avatar Corporation within the next 30 days. Operations are proposed to be consummated on or about December 14, 2018.

(3) *The mile-posts of the subject property, including any branch lines, and*

The University Park Transload Facility trackage is not described by milepost numbers. The trackage is described and depicted in Appendices 1-A and 1-B attached to this Notice.

(4) *The total route miles being acquired;*

A total of approximately 2,400 feet/0.46 mile of trackage is to be operated by GIRR.

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

The required map is attached to this Notice as Appendix 1-B.

(g) *A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.*

The required certificate is attached to this Notice as Appendix 2.

CAPTION SUMMARY

A caption summary required by 49 C.F.R. § 1150.34 for Finance Docket Number FD36160 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC REPORT

The proposed acquisition and operation do not require environmental and historic reporting. See 49 C.F.R. § 1105.6(c)(2)(I) and 49 C.F.R. § 1105.8(b)(1).

LABOR PROTECTION

Pursuant to 49 U.S.C. § 10901©, labor protection requirements do not apply to this transaction.

VERIFICATION

The verification is attached to this Notice as Appendix 4.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 30 days of the filing of this Notice, the Director of the Board's Office of Proceedings should publish notices in the Federal Register of the filing of notices of exemption in FD 36260. See 49 C.F.R. § 1150.32(b).

Respectfully submitted,

By: David C. Dillon
Dillon & Nash, Ltd.
3100 Dundee Road, Suite 508
Northbrook, Illinois 60062
(847) 498-3000

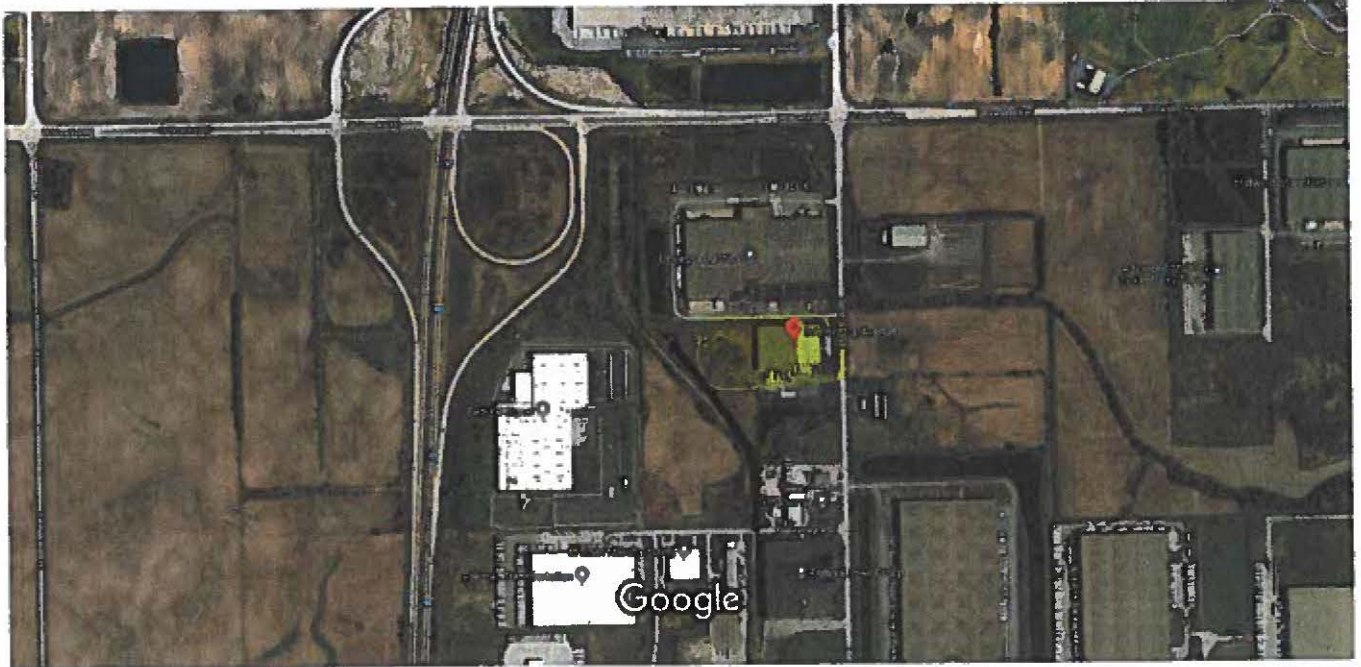
Gateway Industrial Railroad, LLC

*Attorney for Applicant
in FD 36260*

Applicant in Finance Docket No. FD 36260

DATE FILED: December 10, 2018

APPENDIX 1-B



 Railroad

 Subject Property

**Address: 500 Central Avenue
Univeristy Park, IL 60684**

FD 36260

Appendix 1-A

LENGTH OF GATEWAY INDUSTRIAL RAILROAD, LLC
UNIVERSITY PARK TRANSLOAD FACILITY

Total Track: 2,400 linear feet = 0.46 mile of track

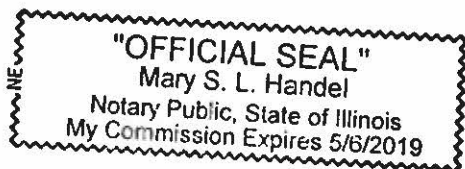
CERTIFICATION UNDER 49 C.F.R. § 1150.33(g)

Gateway Industrial Railroad, LLC hereby certifies under 49 C.F.R. § 1150.33(g), that the projected revenues from the acquisition and operation proposed in this matter do not exceed those that would qualify it as a Class III rail carrier, and will not exceed Five Million Dollars (\$5,000,000).



David C. Dillon
Authorized Representative of
Gateway Industrial Railroad, LLC

SUBSCRIBED AND SWORN TO before
me this 10th of December, 2018.


Notary Public

Appendix 3
FD 36260

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. FD 36260

**GATEWAY INDUSTRIAL RAILROAD, LLC
- ACQUISITION EXEMPTION -
RAIL LINE OF AVATAR CORPORATION
AT UNIVERSITY PARK TRANSLOAD FACILITY, UNIVERSITY PARK, ILLINOIS**

Gateway Industrial Railroad, LLC (GIRR), has filed a Notice of Exemption to acquire and operate from Avatar Corporation, a non-carrier, approximately 2,400 feet (0.46 mile) of right-of-way and trackage at Avatar Corporation's University Park Transload Facility in University Park, Illinois. Comments must be filed with the Board and be served on GIRR's representative, David C. Dillon, Dillon & Nash, Ltd., 3100 Dundee Road, Suite 508, Northbrook, Illinois, 60062, (847) 498-3000.

This Notice is filed under 49 C.F.R. § 1150.31. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

By the Board

(Seal)

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board

VERIFICATION

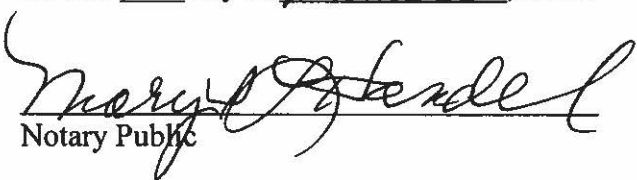
STATE OF ILLINOIS)
)
COUNTY OF COOK)

David C. Dillon, being duly sworn, states that he is an attorney for Gateway Industrial Railroad, LLC; that he is familiar with the factual allegations made in the foregoing Notice of Exemption on behalf of GIRR; and that such allegations are true as stated.



David C. Dillon, Attorney for
Gateway Industrial Railroad, LLC

SUBSCRIBED AND SWORN to before
me this 10th day of December, 2018.



Notary Public



DRAFT

THIS AGREEMENT CONTAINS AN AUTOMATIC RENEWAL PROVISION

OPERATING AGREEMENT

THIS AGREEMENT, made and entered into as of the _____ day of _____, 2018, between AVATAR and GATEWAY INDUSTRIAL RAILROAD, LLC (GIRR).

WITNESSETH:

WHEREAS, GIRR has acquired from Avatar approximately 2,400 linear feet (0.46 mile) of right-of-way and trackage located at Avatar's University Park Transload Facility, in University Park, Illinois, more particularly described in Appendix 1 attached hereto ("the University Park Transload Facility trackage"); and

WHEREAS, GIRR desires to operate and maintain the University Park Transload Facility trackage for the provision of rail service in the name of, and in behalf of, Avatar; and

WHEREAS, Avatar is agreeable to such operation and maintenance upon the terms and conditions herein contained.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein the parties hereto agree as follows:

ARTICLE ONE

**GRANT OF RIGHT TO OPERATE AND MAINTAIN THE
UNIVERSITY PARK TRANSLOAD FACILITY TRACKAGE**

Subject to the terms and conditions provided in this Operating Agreement between Avatar and Gateway Industrial Railroad, LLC, (i) Avatar hereby grants to GIRR the right to operate its trains, locomotives, cars, and equipment with its crews over the University Park Transload Facility trackage for the purpose of providing rail service to shippers and receivers located on such lines and

to transport shipments by rail over such lines, and to maintain the University Park Transload Facility trackage, and (ii) GIRR agrees to operate and maintain the University Park Transload Facility trackage. GIRR reserves the right to operate trains, locomotives, cars, and equipment on an as-needed basis, using a leased locomotive, shuttle wagon, or track mobile, using its own personnel. GIRR will perform all necessary freight car switching at the University Park Transload Facility and will operate all freight car loading and unloading facilities.

ARTICLE TWO

TERM; TERMINATION

Section 2.01 Term. Subject to earlier termination as provided herein, the term of this Agreement shall be one year from the date of this Agreement shown above; provided, however, that this Agreement will be renewed automatically for additional one year periods unless, no later than 60 days before its expiration, either Avatar or GIRR provides written notice to the other party of its intent not to renew this agreement.

Avatar may terminate this Agreement upon ten (10) calendar days written notice if by any reason most of the circulating shares in GIRR with right to a vote are no longer property of Avatar, or its parent or affiliated companies, or if any shares in GIRR are owned, directly or indirectly, by a competitor of Avatar.

Section 2.02 Termination For Default. Either party may terminate this Agreement by written notice if the other party fails to perform any obligation required of it hereunder and fails to remedy such default within thirty (30) days after receipt of written notice of such default.

Section 2.03 Termination for Bankruptcy, Etc. Either party may immediately terminate this Agreement by written notice if the other party enters into or is placed in bankruptcy or receivership or is nationalized, become insolvent, or makes an assignment for the benefit of its creditors.

ARTICLE THREE

SCOPE OF OPERATIONS AND MAINTENANCE AND COMPENSATION THEREFORE

The scope of operations and maintenance and the agreed compensation therefore are contained in Appendix 2 attached hereto. The parties may amend Appendix 2 from time to time by executing an amended scope of operations and maintenance and compensation.

ARTICLE FOUR

GOVERNMENT APPROVAL, ETC.

GIRR at its own expense shall obtain any and all governmental approvals, authorizations, permits, licenses, and exemptions that may be required for its operation and maintenance of the University Park Transload Facility trackage.

ARTICLE FIVE

INSURANCE

GIRR shall be required to obtain and keep in force a commercial general liability insurance policy covering GIRR's operation and maintenance of the University Park Transload Facility trackage, including public liability, personal injury, property damage, and contractual liability with per occurrence and aggregate limits of not less than \$2 million. Avatar shall be named as an additional insured in such policy. Upon reasonable request, GIRR shall make such policy available for inspection and review by Avatar.

ARTICLE SIX

MANAGEMENT AND OPERATIONS

GIRR shall comply with the provisions of the Federal Safety Appliances Act, as amended, and all other federal, state, and local laws, regulations and rules respecting (i) the operations and maintenance of the University Park Transload Facility trackage, (ii) the operation, condition,

inspection and safety of GIRR's trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the University Park Transload Facility trackage. GIRR shall indemnify, protect, defend, and save harmless Avatar and its officers, agents and employees from and against all fines, penalties and liabilities imposed upon GIRR or its officers, agents and employees under such laws, rules and regulations by any public authority or court having jurisdiction in the premises, when attributable in any manner to the failure of GIRR to comply with its obligations under this article.

ARTICLE SEVEN

LIABILITY AND INDEMNITY

Whenever any loss of, damage to, or destruction of any property whatsoever, or injury or death of any person or persons whomsoever, occurs with the trains, locomotives, cars, or equipment of, or in the account of GIRR, GIRR shall assume all liability therefore, and shall forever protect, defend, indemnify and save harmless Avatar and its officers, agents and employees from and against any such liability, cost and expense, except if such loss, damage, injury or death was caused by GIRR.

ARTICLE EIGHT

ENVIRONMENTAL CONDITIONS

Avatar shall indemnify GIRR for any and all Losses resulting from environmental conditions existing on the University Park Transload Facility trackage as of the commencement of operations by GIRR. GIRR shall indemnify Avatar for any and all Losses resulting from environmental conditions occurring or arising on the University Park Transload Facility trackage during the term of this Agreement except to the extent caused by the act or omission of Avatar.

ARTICLE NINE

THIRD PARTY CLAIMS RELATING TO OWNERSHIP OPERATION

GIRR shall not cause any lien, claim, or encumbrance to be placed against the University Park Transload Facility trackage. If any such lien, claim or encumbrance shall be filed or placed against the University Park Transload Facility trackage or any part thereof, GIRR agrees to discharge the same within 30 days after GIRR has notice thereof. If GIRR fails to do so, Avatar shall have the right (but not the obligation) to pay or discharge any such liens, claims or encumbrances without inquiry as to their validity and any amount so paid, including interest, fees, charges, and expenses, shall be paid by GIRR to Avatar, as applicable.

ARTICLE TEN

FINANCIAL STATEMENTS

If Avatar shall so request, GIRR shall be required on a quarterly basis to provide statements reflecting its financial condition, such as a balance sheet and profit-loss statement.

ARTICLE ELEVEN

CONFIDENTIALITY

GIRR will keep secret and confidential at all times and will not disclose, divulge, or communicate any confidential or proprietary information provided by Avatar hereunder, in any manner, directly or indirectly, to any third party, except as permitted by this Agreement, and except where that information:

- (a) is or later become publicly known under circumstances involving no breach of this Agreement by GIRR;

- (b) was already known to GIRR at the time it was received from Avatar, not under an obligation of confidentiality, as evidenced by written documents in the possession of GIRR; or
- (c) is made available to GIRR by a third party without secrecy obligations and without breach of an obligation to Avatar.

GIRR may disclose confidential information only to those of its directors, officers, and employees who legitimately require it for the purposes permitted by this Agreement, and will use its best efforts to prevent any unauthorized disclosure by them.

Notwithstanding the termination of this Agreement, the obligations of GIRR under this Section 11 shall continue in force for ten (10) years after termination.

ARTICLE TWELVE

REAL PROPERTY TAXATION

GIRR agrees to file Illinois Department of Revenue Railroad Property Tax Returns (including but not limited to PTAX 500 through 513 and 520A through 523, and 537), listing the University Park Transload Facility property as “railroad operating property” as defined in the applicable Illinois statutes. GIRR shall pay the resulting property taxes or immediately fully reimburse Avatar if Avatar pays such taxes.

ARTICLE THIRTEEN

AMENDMENTS

This Agreement represents the entire understanding between the parties and supersedes and replaces any and all prior agreements between the parties relating to the subject matter hereof. This Agreement may not be amended except by a written instrument signed on behalf of each party by its authorized representatives.

ARTICLE FOURTEEN

ASSIGNMENT

Neither party may assign this Agreement without the prior written consent of the other, except that Avatar may assign this Agreement to any entity which succeeds, by sale, merger, acquisition, transfer, or otherwise, to all or substantially all of its assets or business at its University Park Transload Facility.

ARTICLE FIFTEEN

MISCELLANEOUS

Section 15.01 Any notices, requests, or other communications hereunder shall be in writing and shall be deemed to have been duly given when made upon a party by personal service at any place where they may be found or by mailing such notices, requests, or communications by certified mail, postage prepaid and return receipt requested, or by nationally recognized courier, or by transmitting such notice by facsimile, in each case to the following addresses or facsimile numbers, as the case may be:

- (a) If to Avatar
- (b)
- (a) If to GIRR:
- (b)

Either party may provide changes in the above addresses to the other party by a notice given to the other party in this Section 15.01.

Section 15.02 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

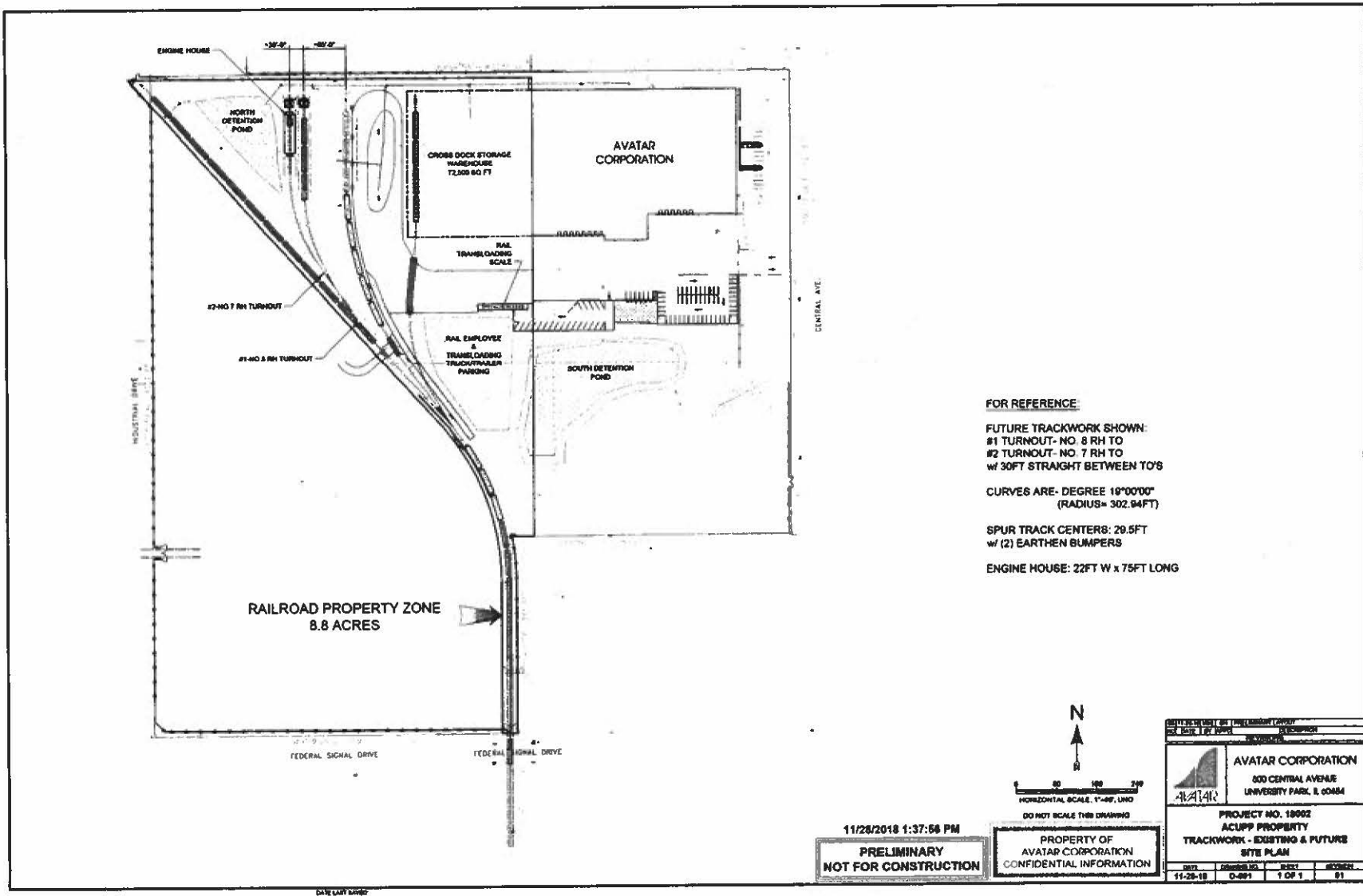
Section 15.03. Severability. If any provision in this Agreement shall for any reason be determined to be invalid or unenforceable, the balance of such provision and the remaining provisions of this Agreement shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable provision had not been a part hereof.

Section 15.4 Titles. The title of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

By: _____
Authorized Representative
Avatar, LLC

By: _____
Authorized Representative
Gateway Industrial Railroad, LLC



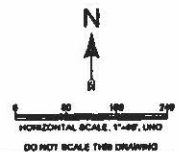
FOR REFERENCE:

FUTURE TRACKWORK SHOWN:
 #1 TURNOUT- NO. 8 RH TO
 #2 TURNOUT- NO. 7 RH TO
 w/ 30FT STRAIGHT BETWEEN T/O'S

CURVES ARE- DEGREE 19°00'00"
 (RADIUS= 302.84FT)

SPUR TRACK CENTERS: 29.5FT
 w/ (2) EARTHEN BUMPERS

ENGINE HOUSE: 22FT W x 75FT LONG



11/28/2018 1:37:56 PM
**PRELIMINARY
 NOT FOR CONSTRUCTION**

PROPERTY OF
 AVATAR CORPORATION
 CONFIDENTIAL INFORMATION

AVATAR CORPORATION 000 CENTRAL AVENUE UNIVERSITY PARK, IL 60484			
PROJECT NO. 18062 ACUPP PROPERTY TRACKWORK - EXISTING & FUTURE SITE PLAN			
DATE	REVISION NO.	BY	REVISION
11-28-18	0-001	1 OF 1	81

APPENDIX 2

SCOPE OF WORK

AVATAR and GREAT LAKES TERMINAL RAILROAD, LLC (GIRR) hereby agree to the following scope of work in accordance with Article Three of the Operating Agreement between them made and entered into as of December 14, 2018.

A. Operation

GIRR will furnish a properly trained and qualified locomotive engineer or shuttle wagon/track mobile operator, and railroad switchman (collectively, operating crew) or a crew consisting of qualified remote control operators (as qualified and certified according to federal transportation standards) to provide railroad switching service at the University Park Facility, University Park, Illinois (work site). It is expected that the operating crew will work eight hours a day, Monday through Friday (full time) or as required. If such railroad switching service does not occupy that number of hours of operation on any day, the operating crew shall utilize the remaining hours of any such day doing one or more of the following activities: (1) hand check track gauge within all tracks and turnouts; (2) clean and lubricate moving parts of all switches; (3) hand check bolts within switch and track area; (4) perform other railroad-related projects as needed. At the reasonable request of GLR from time to time, the operating crew will work a greater number of hours per day than the numbers identified above.

GIRR will furnish a locomotive, track mobile, or shuttle wagon capable of performing the railroad switching service identified above. GIRR will maintain that locomotive, track mobile, or shuttle wagon in such manner that it is in condition adequate to perform the rail switching service

identified above. GIRR will provide for use by operating crew: (1) a contractor vehicle with small tools and a generator; (2) a set of hand radios; and (3) railroad switchmen's lanterns and flares (fuses).

B. **Maintenance**

The operating crew will perform light track maintenance and daily inspection of the trackage at the work site. GIRR will provide sufficient properly trained and qualified maintenance personnel to perform other maintenance activity, as needed (collectively, maintenance crew). The number of persons in a maintenance crew will vary depending on the maintenance work to be done. However, in most cases, a maintenance crew will consist of four persons. GIRR will provide equipment and tools as required for maintenance activity.