

Original

U.S. DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

DHX, INC.,

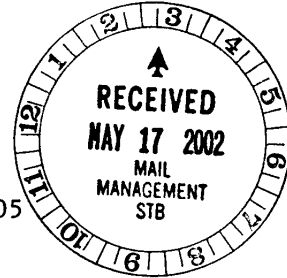
Complainant,

v.

MATSON NAVIGATION COMPANY
and SL SERVICE, INC.,
f/k/a SEA-LAND SERVICE,
INC. and Now Trading As
CSX LINES, LLC,

Defendants.

205412
STB Docket WCC-105



MOTION FOR PROTECTIVE ORDER

COMES NOW, Complainant, DHX, Inc., by and through its counsel, and submits this Motion For Protective Order pursuant to Rule 1114.21(c), 49 CFR (2000 Ed.) requesting that the Board issue an Order extending the time periods in which Complainant is required to respond or otherwise plead in regard to multiple discovery requests that has been served on Complainant. These discovery requests constitute over 60 pages of material that include 149 interrogatories (with 74 subparts), 35 separate document requests and 26 Requests For Admissions. Each and every discovery request was made returnable in the most minimal time period under Rule 1114.26(a). A copy of the involved discovery requests is attached hereto.

The Board, by Order served March 28, 2002, directed DHX to file an Amended Complaint detailing the destructive competitive practices and unreasonable rates that Complainant was subjected by Defendants. On April 29, 2002, Complainant, in full

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compliance with the Board's Order, submitted a detailed Amended Complaint. The review of Defendants' tariffs and operations reflected that commencing on or about August 1, 1997 Defendants began a process of removal and republication of shipper specific tariff items from Defendants' general tariffs (including separate tariffs or tariff 'sections') and publication of shipper rates ostensibly identified as either intermodal rates, proportional rates, or identified/ labeled or otherwise "restricted" from general use by the shipping public. Freight Forwarders, such as DHX, were left with the services and rates available in Defendants' port to port tariffs. These port to port tariffs were then systematically altered and amended to reduce and subsequently eliminate freight forwarders from competition for business in the domestic offshore trade to Hawaii.

The Amended Complaint sets forth the above matters in more detail and likewise reflects Defendants' practices of discriminatory application of/access to Defendants' rates and services. A major feature of the Amended Complaint is that it describes a pattern of non-compliance with the statutory tariff filing and tariff adherence requirements of the ICC Termination Act of 1995.

Defendants sought, and the Board afforded, a very short period of time for discovery in this matter. Defendants, in an effort to "paper" the Complainant, have issued the

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involved discovery requests without due regard for the scope of the requests. Counsel for Complainant and counsel for Defendants have worked to attempt to reach an appropriate time frame for addressing all parties discovery requests but have not been able to establish any overall appropriate schedule.^{1/}

The instant proceeding involves over 25,000 shipments. The file documentation on such shipments constitutes over two hundred fifty thousand (250,000) pieces of paper. Defendants have literally demanded information on each and every shipment and further demanded voluminous statistics and recalculations. Complainant, which is a small company, has placed as many personnel as possible on document location, retrieval and review. However, it is not possible to even remotely meet the deadlines established by Defendants. The involved discovery is as follows:

Defendant Matson's First Set of Interrogatories
And First Set of Document Requests - Dated-May 3, 2002
Faxed-May 3, 2002 (close of business)
Rec'd-May 6, 2002
Returnable-May 20, 2002

Defendant CSX's First Set of Interrogatories
And First Set of Document Requests - Dated-April 29, 2002
Rec'd-April 30, 2002
Returnable-May 17, 2002

Defendant CSX's Second Set of Interrogatories
and Second Set of Document Requests- Dated-May 14, 2002
Rec'd-May 15, 2002
Returnable-May 31, 2002

^{1/} Counsel for Complainant requested Defendants' positions regarding an extension of the June 19, 2002 discovery deadline but Defendants have both failed to respond to the involved inquiry. Since Defendants have not appropriately responded to Complainant's initial discovery (Matson did some response but mostly Matson "Objected"), a separate motion to amend the schedule in this proceeding will be filed by Complainant.

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The above discovery provides, on the average, a total of 16 days from the date of receipt to the date that such discovery is to be completed and full responses and documents made available for photo copy in Washington, D.C. Complainant is located in California. The principal employee of Complainant that is involved with and responsible for the management of Complainant's participation in this case, Mr. Bradley J. Dechter, was out of the continental United States from May 3rd through the 13th. Counsel for Complainant was not able to discuss the involved discovery until May 14th. The proper response to this discovery not involves the above mentioned document review, but will require review by counsel before production. Any response to the involved CSX/Sea-Land Requests For Admissions is impossible until after such review has been made.

The Commission's discovery rules, such as Rule 1114.30(b), reflects that a "reasonableness" requirement be employed. Rule 1114.30(b) states that document production requests

"...should specify a reasonable time, place and manner of making the inspection and related performing the related acts."

Demanding production of information on 250,000 pieces of paper, including the production of the underlying documents/files themselves, in 15 days and 2,500 miles away from where located is not "reasonable" either in time nor place. Further, in order to properly respond to the interrogatories regarding these matters, the document production and review needs to be performed. The Defendants have simply placed an impossible demand both on

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Complainant and its counsel. The Board has the power to enter an order protecting Complainant from the immediate production of documents and information requests which are not only unrealistic in their time requirements, but burdensome in their application and place of production. It must be made clear that Complainant is not herein entering a broad objection to nor attempting to obstruct Defendants' right to discovery. Complainant is seeking herein the establishment of appropriate time frames for responses and that such documents be made available at Complainant's facilities in California.

WHEREFORE, it is hereby respectfully requested that DHX, Inc. be afforded until June 14, 2002 in which to respond to or otherwise plead in regard to the subject discovery by Defendants. Such a minimum period (30 days from the date on which counsel for Complainant was first able to address these matter with his client) is not only very reasonable in the circumstances, but is the very minimum necessary for Complainant to be able to identify, segregate and sort the documents and files sought by Defendants.

Dated - 17 May 2002

Respectfully submitted,



RICK A. RUDE, Esq.
Suite 103
207 Park Avenue
Falls Church, VA. 22046
(AC 703) 536-3063
Counsel For DHX, INC.

Certificate of Service

I hereby certify that a copy of the above and foregoing motion has been served, by first class mail, postage prepaid, upon the below listed counsel of record in this proceeding.

Dated this 17th day of May 2002 at Falls Church, VA.



Mr. Richard A. Allen
Suite 600
888 - 17th Street, N.W.
Washington, D.C. 20006

Mr. C. Jonathan Benner
Suite 1000
401 - 9th Street, N.W.
Washington, D.C. 20004

BEFORE THE
SURFACE TRANSPORTATION BOARD

_____	)	
DHX, Inc.	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. WCC-105
	)	
Matson Navigation Company, Inc. and	)	
Sea-Land Service, Inc.,	)	
	)	
Defendants,	)	
_____	)	

**MATSON'S FIRST SET OF INTERROGATORIES AND
FIRST SET OF DOCUMENT REQUESTS TO DHX**

Defendant Matson Navigation Company, Inc. hereby serves its first set of interrogatories and first set of requests for production of documents upon complainant DHX, Inc.

Pursuant to 49 C.F.R. § 1114.26, DHX is requested to answer separately and fully in writing each of the following interrogatories and serve its answers upon the undersigned no later than Monday, May 20, 2002. Additionally, pursuant to 49 C.F.R. § 1114.30, DHX is requested to produce for inspection and copying at the office of the undersigned no later than Monday, May 20, 2002 all documents described in the following document production requests that are in the possession, custody or control of DHX, its agents or attorneys. Please produce all such documents either as they are

kept in the normal course of business or organized and labeled to correspond with the requests.

If privilege is claimed as to any document responsive to any of the following requests for production, Matson requests that DHX describe each such document in sufficient detail to show whether the document is entitled to privileged status, including, without limitation, the sender or author, recipient, date, type of document (e.g., letter, report, etc.) general subject matter, and basis for the claimed privilege.

DEFINITIONS

The "amended complaint" means the amended complaint of DHX in this proceeding dated April 29, 2002.

The "complaint" means the complaint of DHX in this proceeding dated October 12, 1999.

The "Dechter Affidavit" means the affidavit of Bradley J. Dechter dated September 30, 1999 and attached as Exhibit C to the complaint.

"DHX," "Complainant," "you" and "yours" mean complainant DHX, Inc. and all business entities with which DHX, Inc. is or has been affiliated (including, without limitation, all parents, subsidiaries, predecessors, successors, or affiliates) as well as any officer, director, employee, attorney, agent or other representative of DHX, Inc. or of any of the other foregoing entities.

"Document" means every writing or record of every type and description, including, but not limited to: correspondence, memoranda, tapes, stenographic or handwritten notes, studies, publications, books, pamphlets, pictures, diagrams, drawings, photographs, films, microfilms, voice recordings, maps, reports, surveys,

spreadsheets, minutes or statistical compilations, or any other written or graphic material in any form, including copies, drafts and reproductions. "Document" also refers to any other data compilation from which information can be obtained, and translated, if necessary, by you through computers or detection devices into reasonably usable form.

The "Griggs Letter" means the letter dated September 30, 1999 signed by Elaine Griggs that is Exhibit B to the complaint.

"Identify," when used with respect to a document, means to state:

- a. The nature of the document (*e.g.*, letter, memorandum, contract, tariff, bill of lading, invoice, stowage report, etc.)
- b. The date of the document or, if undated, the date the document was written or created;
- c. The identity of the person or persons who wrote or created the document;
- d. The identity of all persons to whom the document was sent, or who received the document;
- e. The general subject matter of the document;
- f. The present or last known location of the document; and
- g. The name and address of the present or last known custodian of the document.

"Matson" means Matson Navigation Company, Inc. and all business entities with which Matson Navigation Company, Inc. is or has been affiliated (including, without limitation, all parents, subsidiaries, predecessors, successors, or affiliates) as well as any officer, director, employee, attorney, agent or other representative of Matson Navigation Company, Inc. or of any of the other foregoing entities.

"Sea-Land" means Matson's co-defendant in this proceeding and all business entities with which such co-defendant is or has been affiliated (including, without limitation, all parents, subsidiaries, predecessors, successors, or affiliates) as well as any officer, director, employee, attorney, agent or other representative of such co-defendant or of any of the other foregoing entities.

"The relevant period" means January 1, 1996 through the date of these discovery requests, unless otherwise indicated.

INTERROGATORIES

1. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during calendar year 1996, and state the total revenue received by DHX from such customer in 1996. For purposes of this interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and
- (b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

2. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during calendar year 1997, and state the total revenue received by DHX from such customer in 1997. For purposes of this interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and

(b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

3. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during calendar year 1998, and state the total revenue received by DHX from such customer in 1998. For purposes of this interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and
- (b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

4. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during calendar year 1999, and state the total revenue received by DHX from such customer in 1999. For purposes of this interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and
- (b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

5. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during calendar year 2000, and state the total revenue received by DHX from such customer in 2000. For purposes of this interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and
- (b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

6. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during calendar year 2001, and state the total revenue received by DHX from such customer in 2001. For purposes of this interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and
- (b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

7. Identify every customer of DHX that shipped goods in the Hawaii trade and for which Matson acted as the vessel operating common carrier during the period January 1, 2002 through the date of these interrogatories, and state the total revenue received by DHX from such customer during such period. For purposes of his interrogatory, "identify" means to provide, for each customer:

- (a) the customer's name and principal place of business; and
- (b) the name, title, business address and business telephone number of the individual or individuals who acted as the customer's principal point of contact with DHX.

8. Separately for each of calendar years 1996 through 2001, and for the period January 1, 2002 through the date of these interrogatories, state DHX's:

- a. gross revenues;
- b. gross revenues derived from the U.S.-Hawaii trade;
- c. net profit;
- d. net profit derived from the U.S.-Hawaii trade.;
- e. the total number of containers, FEUs or TEUs of cargo shipped in the Hawaii trade for which DHX acted as the freight forwarder.

Identify all documents in which any or all of the foregoing figures are set forth, discussed or calculated, or which were used in preparing the answer to this interrogatory.

9. Identify, by tariff number, tariff item number, and tariff page number each and every of the "numerous" tariff footnotes allegedly removed by Matson as stated on page 1 of the Dechter Affidavit.

10. For each footnote identified in response to Interrogatory No. 9, identify every specific instance in which DHX was required to "pay more freight charges to move the

same items (with a resulting negative impact on rates to consumers)" as alleged on page 1 of the Dechter Affidavit. For purposes of this interrogatory, "identify" means to provide the following information with respect to each individual shipment during the relevant period allegedly affected by the elimination of such footnote: (1) shipper's name; (2) description and quantity of item shipped, (3) shipment date; (4) the dollar amount by which the freight charge for such shipment allegedly was "more" than it would have been had the relevant footnote not been eliminated; and (5) a detailed description of the method by which the dollar value in subpart (4) is calculated.

11. Describe with specificity each and every of the "other examples" referred to in paragraph 6 of the Griggs Letter.

12. Identify with specificity (by tariff number, page number, rule number, item number and, if applicable, note number) each of the "overflow" provisions in any of Matson's tariffs that DHX has "expertly used" to gain market share and maintain profitability/competitiveness in the industry" as asserted in the penultimate paragraph of the Griggs Letter. For each such provision, explain in detail how DHX has "expertly used" such provision "to gain market share and maintain profitability/competitiveness in the industry."

13. Identify with specificity (by tariff number, page number, item number and, if applicable, note number) each and every provision of any of Matson's tariffs included in the "other areas" referred to in the penultimate paragraph of the Griggs Letter. For each

such provision, explain in detail how DHX has "expertly used" such provision "to gain market share and maintain profitability/competitiveness in the industry."

14. State whether, during the relevant period, there have been any instances in which a customer tendered to DHX for shipment in the Hawaii trade at one time one or more containers that have been fully loaded with that customer's commodities.

15. If the answer to Interrogatory No. 14 is yes, identify separately each such instance. For purposes of this interrogatory, "identify" means to state (1) the customer's name and business address, (2) the name, business address and business telephone number of the employee of the customer most knowledgeable about the shipment; (3) the number of containers tendered by the customer; (4) the date the containers were tendered to DHX; and (5) the commodities in each container.

16. If the answer to Interrogatory No. 14 is yes, state whether, in any such instances, DHX has rearranged the cargo by taking some cargo from a full container tendered to DHX and placing it in a different container for shipment in the Hawaii trade.

17. If the answer to Interrogatory No. 16 is yes, identify all instances in which DHX tendered containers for shipment to Matson containing cargo rearranged in the manner stated in Interrogatory 16. For purposes of this interrogatory, "identify" means to state, for each such container tendered to Matson, the number of the container, the date the container was tendered to or shipped by Matson, the tariff item under which the

container was tendered or shipped, and the name of all customers whose cargo was rearranged in the manner stated in Interrogatory No. 16.

18. Identify every instance in which any "representative" of Matson has "indicated to [Mr. Dechter] that the freight forwarders should not be in the full containerload business – that's the steamship line business, not forwarder business;" as alleged on page 4 of the Dechter Affidavit. For purposes of this interrogatory, "identify" means to provide, for each individual instance, (1) the name of the Matson "representative" who made the statement; (2) the date upon which the statement was made; and (3) the means by which the statement was made (e.g., in writing, by telephone, in person, etc.).

19. To the extent not identified in response to Interrogatory No. 18, identify every instance in which either Paul Stevens or Dave Hoppes told Mr. Dechter that DHX "shouldn't be in the full containerload business – 'That's Matson's business, not DHX business'" as alleged on page 5 of the Dechter Affidavit. For purposes of this interrogatory, "identify" means to provide, for each individual instance, (1) the name of the Matson "representative" who made the statement (i.e., Mr. Stevens or Mr. Hoppes); (2) the date upon which the statement was made; and (3) the means by which the statement was made (e.g., in writing, by telephone, in person, etc.).

20. Describe with specificity all activities by Matson allegedly "done to weaken the industry prior to 1998," as alleged on page 5 of the Dechter Affidavit, other than the activities described in paragraphs 1 through 4 on pages 5 and 6 of the Dechter Affidavit.

21. With respect to the statement alleged in paragraph 1 on page 5 of the Dechter Affidavit to have been made by Tom Good, state: (1) the date of the statement; (2) to whom the statement was made; and (3) the means by which the statement was made (e.g., in writing, by telephone, in person, etc.).

22. Identify, by name and principal business address, the "major competitor" of DHX referenced in paragraph 2 on page 5 of the Dechter Affidavit.

23. Identify, by name and principal business address, each of the "numerous others" referred to in paragraph 2 on page 5 of the Dechter Affidavit.

24. Identify each instance in which DHX has asked Matson to quote DHX "discounted rates based on DHX's use of shipper-owned containers," as asserted in paragraph 4 on page 6 of the Dechter Affidavit. For purposes of this interrogatory, "Identify" means to set forth, for each instance, (1) the DHX personnel making the request; (2) the date of the request; (3) the Matson personnel to whom the request was directed; (4) the means by which the request was made (e.g., in writing, by telephone, in person, etc.).

25. Identify all persons employed by DHX at any time during the relevant period with knowledge relevant to the subject matter of this proceeding. For purposes of this interrogatory, "identify" means to provide each such person's (1) name, (2) present

employer, (3) title, (4) business address, (5) business telephone number, and (6) a detailed description of the information relevant to this proceeding known by such person.

26. Identify each person whom you expect to call as an expert witness in this proceeding. For purposes of this interrogatory, "identify" means to provide such person's (1) name, (2) employer, (3) title, (4) business address, (5) business telephone number, (6) a description of the subject matter of the person's expected testimony, and (7) a description of the substance of the findings and opinions to which the person is expected to testify and the grounds therefor.

27. Describe in detail all the ways in which you contend that Matson "enjoys favored treatment under the laws of the United States in this trade" as alleged in paragraph 3 of the complaint.

28. Describe in detail each of the "government subsidiaries" [sic] that you contend benefit Matson as alleged in paragraph 3 of the complaint.

29. Describe in detail (including, as appropriate, references to any pertinent Matson tariff numbers, page numbers, item numbers, note numbers, and the like) all practices by Matson that you contend are unreasonable.

30. Describe in detail (including, as appropriate, references to any pertinent Matson tariff numbers, page numbers, item numbers, note numbers, and the like) all Matson rates that you contend are unreasonable.

31. Describe in detail each instance during the relevant period in which Matson has "decline[d] to make volume pricing available to freight forwarders and the complainant in particular, based upon the representation that [Matson does not participate] in any form of volume pricing nor service contract arrangements in the subject domestic offshore trade" as alleged on page 16 of the amended complaint.

32. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 92 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

33. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 108 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

34. Describe in detail each communication in which Matson complained to DHX as alleged in paragraph 112 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such instance, (1) the name of

the person who complained, (2) the date of the communication, (3) the name, title, business address and telephone number of the person to whom the communication was directed, (4) the method of communication (e.g., by telephone, personal conversation, letter, etc.) (5) and the content of the communication. Identify all documents reflecting, describing, comprising, discussing, or responding to any such communications.

35. Describe in detail each instance in which Matson "denied as to Complainant" the "fact of the filing and rates in ICC MATS 2034-E" as alleged in paragraph 122 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such instance, (1) the name of the person making such denial, (2) the date of the denial, (3) the name, title, business address and telephone number of the person to whom the denial was directed, (4) the method of communication (e.g., by telephone, personal conversation, letter, etc.) (5) and the content of the denial. Identify all documents reflecting, describing, comprising, discussing, or responding to any such denial.

36. Describe in detail each representation to DHX made by Matson as alleged in paragraph 124 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such representation, (1) the name of the person who made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content.

Identify all documents reflecting, describing, comprising, discussing, or responding to any such representation.

37. Describe in detail each representation made by Matson as alleged in paragraph 125 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such representation, (1) the name of the person who made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such representation.

38. Describe in detail each refusal by Matson as alleged in paragraph 126 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such refusal, (1) the name of the source of the refusal (either the person who authored or signed any document constituting the refusal or who otherwise communicated it if not in writing) (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such refusal

39. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 129 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

40. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 130 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

41. Identify (by tariff number, page number, rule number, item number, note number, or the like, as applicable) any tariff rule, item, note or provision that DHX contends Matson has removed, amended or revised as alleged in paragraph 133 of the amended complaint, other than those specifically identified in Count 5 (at pp. 25-28 of the amended complaint). For any rules, items, notes or other provisions identified in response to this interrogatory, state the date on which such rule, item, note or provision was removed, amended or revised, as the case may be.

42. Explain in detail the factual basis for the allegation in paragraph 136 of the amended complaint that the definition of "shipment" referred to in that paragraph was not consistent with the meaning of that term "as commonly understood in the transportation industry."

43. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 154 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

44. Identify, by company name and principal business address, each customer that has been lost as alleged paragraph 154 of the amended complaint.

45. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 160 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

46. State in dollars the total amount of the overcharges to which DHX has been subjected as alleged in paragraph 168 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

47. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 154 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

48. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 178 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

49. Describe in detail each request by DHX to Matson as alleged in paragraph 181 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such request, (1) the name, title, business address and business telephone number of the person who made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

50. Describe in detail each representation by Matson as alleged in paragraph 182 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such representation, (1) the name of the person who made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such representation.

51. Describe in detail each representation made by Matson as alleged in paragraph 183 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such representation, (1) the name of the person who made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such representation.

52. State in dollars the total amount of lost profits from DHX's full containerload business alleged in paragraph 190 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

53. Describe in detail each misrepresentation made by Matson as alleged in paragraph 253 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such misrepresentation, (1) the name of the person who made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such misrepresentation.

54. State separately the total dollar value of each of the amounts described in the second through sixth paragraphs of the prayer for relief at pp. 45-46 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

DOCUMENT REQUESTS

1. All documents identified in response to, or used in the preparation of DHX's response to, any of the foregoing interrogatories.
2. All correspondence, e-mails, memoranda, reports, notes or other documents during the relevant period discussing or referring to, either generically or specifically, any or all of Matson's "overflow rates," as that term is used in the complaint.
3. All business, marketing, pricing or operating plans, reports, studies or other documents during the relevant period discussing, pertaining to or referring to the U.S.-Hawaii trade.
4. To the extent not produced in response to Document Request Nos. 2 or 3, all documents during the relevant period discussing, explaining, or pertaining to DHX's business, marketing, operating, or pricing strategies with respect to the use of any provision of any Matson or Sea-Land tariff.
5. All advertising circulars, brochures or other written materials distributed by DHX to its customers relating to DHX's services.

6. All lists or other documents stating the rates, prices and other charges charged by DHX to its customers for the transportation of goods between points in the mainland United States and Hawaii during the relevant period.
7. All documents used or relied upon in the preparation of the Dechter Affidavit.
8. All documents used or referred to in the preparation of the Griggs Letter.
9. All documents discussing or analyzing the need or justification for DHX's 15% general rate increase referred to on page 2 of the Dechter Affidavit.
10. To the extent not produced in response to Document Request No. 9, all documents discussing, analyzing or demonstrating the effect on DHX's profit of the 15% DHX general rate increase referred to on page 2 of the Dechter Affidavit.
11. All documents discussing or reflecting the effect on DHX's costs of the alleged change in the definition of "shipment" referred to in paragraph 2 on page 3 of the Dechter Affidavit.
12. All documents discussing or analyzing the need or justification for DHX's 3% rate increase referred to in paragraph 3 on page 3 of the Dechter Affidavit.
13. To the extent not produced in response to Document Request No. 12, all documents discussing, analyzing or demonstrating the effect on DHX's profit of the 3% DHX rate increase referred to in paragraph 3 on page 3 of the Dechter Affidavit.
14. All documents reflecting any of the communications identified in response to Interrogatory Nos. 118, 19, 21, 24 or 31.
15. All documents discussing or referring to this proceeding, any matters raised in the complaint or the amended complaint.

16. All documents reflecting or relating to any damages that DHX claims to have suffered as a result of any alleged unreasonable rates or practices of Matson.
17. All documents that you intend to rely upon to support any or all of your claims against Matson in this proceeding.
18. To the extent not produced in response to any other document request, all documents used or relied upon in the preparation of either the complaint or the amended complaint.

Respectfully submitted,



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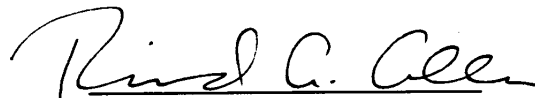
*Attorneys for
Matson Navigation Company, Inc.*

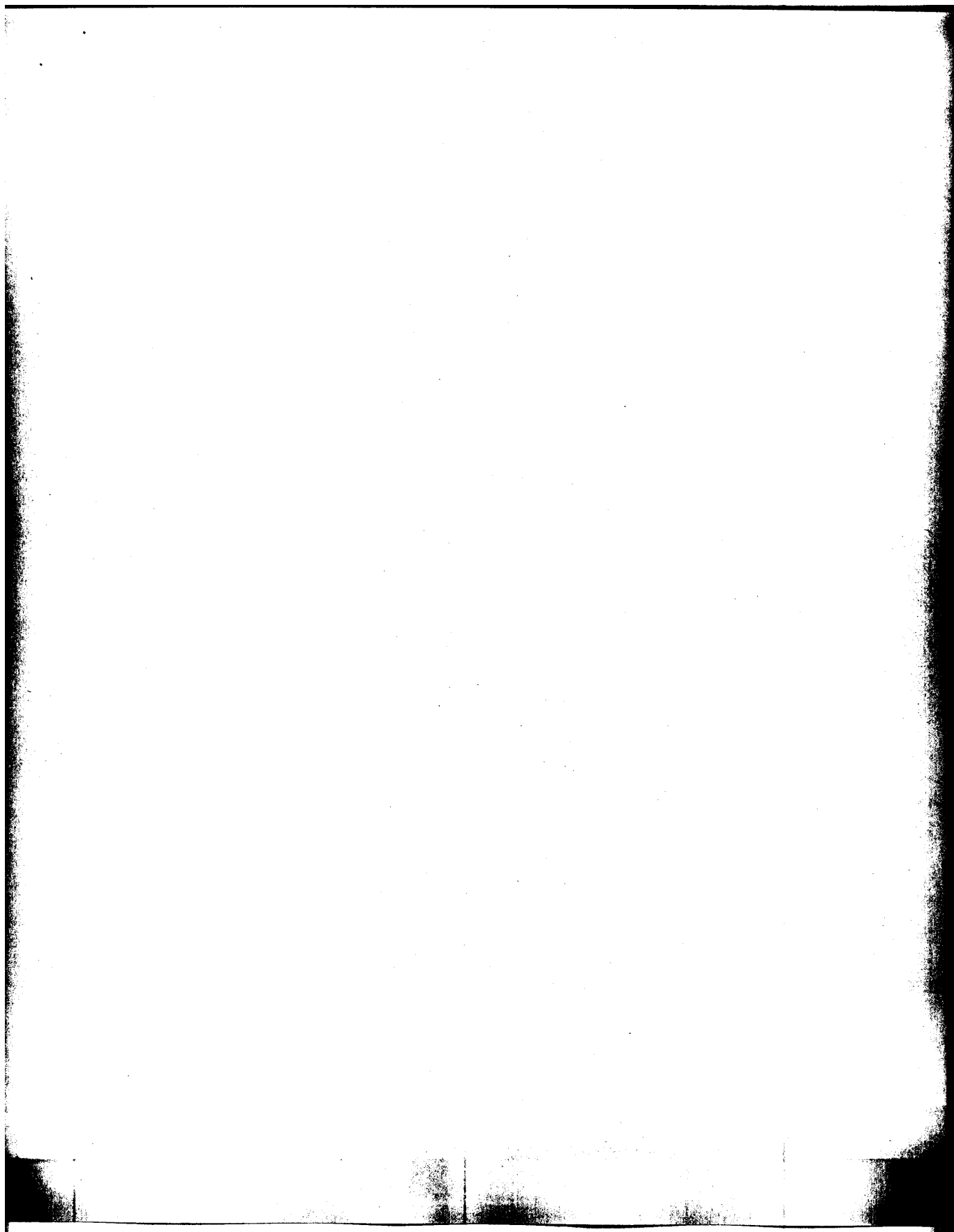
May 3, 2002

CERTIFICATE OF SERVICE

I certify that on May 3, 2002, a true copy of "Matson's First Set Of Interrogatories
And First Set Of Document Requests To DHX" was served by first class U.S. mail,
postage pre-paid, and by facsimile, upon:

Rick A. Rude
Attorney at Law
207 Park Avenue
Suite 103
Falls Church, Virginia 22046


Richard A. Allen



DHX, Inc.)
)
)
 Complainant,)
)
)
 v.) Docket No. WCC-105
)
)
 Matson Navigation Company, Inc. and)
)
)
 Sea-Land Service, Inc.,)
)
)
 Defendants,)
)
)

Defendant Sea-Land Service, Inc. ("Sea-Land"), by its attorneys, Troutman Sanders LLP, pursuant to 49 C.F.R. § § 1114.21(a), 1114.26, 1114.27(a), and 1114.30, propound the following interrogatories, requests for admission, and requests for production of documents to Complainant, DHX, Inc., and hereby requests that, unless otherwise agreed by counsel, complainant produce on Friday, May 17, 2002 the following documents or things in Complainant's possession, custody, or control at the office of the Attorneys for Defendant Sea-Land Service, Inc., 401 9th Street, N.W., Washington, D.C. 20004, at 10:00 o'clock in the forenoon of that day, and to respond in writing to this request within fifteen (15) days of its service upon DHX.

1. These interrogatories, requests for admission, and requests for production of documents are subject to the instructions and definitions set forth below.

2. These interrogatories, requests for admission, and requests for production of documents are continuing in nature and character and require you to promptly file supplemental answers if you obtain further or different information after the filing of initial answers.

3. Each of these interrogatories, requests for admission, and requests for production of documents is to be answered separately and fully in writing under oath, as provided in the Board's Rules of Practice.

4. Unless otherwise stated in interrogatories, requests for admission, and requests for production of documents, each covers the relevant time period, as defined below, in its entirety.

5. If you contend that your answer to any of the following interrogatories or requests for admission differs depending upon the time period involved, identify the basis for this contention and provide separate answers for each time period. If you do not otherwise specify, it will be assumed that your response remains the same throughout the relevant time period.

6. All interrogatories which include the words "do you contend" are to be read broadly, to mean do you contend in any manner that the stated factual or legal assertion, or any portion thereof, is true.

7. If you answer in the affirmative any interrogatory which includes the words "Do you contend that . . .", you should identify the basis for the contention, including whether the contention applies to Sea-Land, Matson, or both, and do so in a manner which distinguishes, where appropriate, between the conduct of Sea-Land and Matson.

8. If any privilege is claimed as to any information called for by interrogatories, requests for admission, and requests for production of documents, state the nature of the privilege claimed and the basis for claiming the privilege.

9. If any documents responsive to the requests set forth below have been lost or destroyed, you are requested to so state and to provide a list identifying such documents, including a statement of the author, recipient, date and contents of the document and the circumstances surrounding the loss or destruction of such documents.

DEFINITION

1. "Beneficial Shipper" means any shipper, underlying shipper, customer, or potential shipper or customer of DHX.
2. "Board" or "STB" means the Surface Transportation Board, an agency of the United States, and its staff, officers, employees, agents or other representatives.
3. "DHX, Inc.", "DHX", "you" and "your" mean and refer to complainant DHX, Inc. and its parent, subsidiary, and commonly-owned companies, and each of their respective owners, officers, and directors.
4. "DHX bill of lading" means and refers to any bill of lading, waybill or similar shipping document issued or provided by DHX to its Beneficial Shippers.
5. "Document" means and includes any kind of written, typewritten or printed material whatsoever, and specifically includes any computer generated or computer readable material, including but not limited to electronic mail ("e-mail"), plus all "writings", "recordings" and "photographs" with the meaning of Rule 1001 of the Federal Rules of Evidence (*see also* 49 C.F.R. § 1114.1). The term "document" includes the original (or any copies when originals are not available) and any non-identical copies that are different from the originals because of notes or any other markings made on such copies, and all drafts prepared in connection with any writing.

6. "Identify", when used in reference to a natural person, means to state that person's full name, and on the first occasion that such person is identified, the following information concerning that person:

- a. Present or last known residence address and telephone number;
- b. Present or last known business address and telephone number;
- c. Present or last known employer; and
- d. Present or last known job title.

7. "Identify" when used in reference to any entity other than a natural person, means to set forth the full name or title of the entity and, on the first occasion that such entity is identified, to state the address, telephone number, and principal business or activity of such entity.

8. "Identify" when used in connection with a document, means to state the following:

- a. The nature of the document (*e.g.*, letter, memorandum, contract, tariff, bill of lading, invoice, stowage report, etc.)
- b. The date of the document or, if undated, the date the document was written or created;
- c. The identity of the person or persons who wrote or created the document;
- d. The identity of all persons to whom the document was sent, or who received the document;
- e. The file number or other identifying mark or code of the document;
- f. The general subject matter of the document;
- g. The present or last known location of the document; and
- h. The name and address of the present or last known custodian of the document.

If any document is no longer in your possession, custody, or control, state whether it is lost, missing, destroyed, transferred or otherwise disposed of, and in each instance, describe the circumstances surrounding the disposition of the document and the date it occurred. In all instances where you are asked to identify a document, you may supply fully legible copies of such documents as attachments to your answers to these interrogatories in lieu of the above-described identification, provided that you specify each interrogatory as to which the document is responsive, and provided further that you stipulate that the document, if a copy, may be used for all purposes for which the original might be used in any hearing in this matter.

9. "Identify" when used in reference to an act, occurrence, transaction, decision, statement, communication or other conduct or event (hereinafter collectively referred to as "act"), means to describe in substance, unless specificity is requested, the event or events constituting the act, what transpired, the place and date thereof, and to identify the persons present, the persons involved and the documents referring or relating thereto.

10. "Investigation" means any investigation, enforcement proceeding, or administrative action, whether formal or informal, involving the United States Customs Service ("Customs"), the Federal Maritime Commission ("FMC"), the Surface Transportation Board or its predecessor ("STB"), the Department of Transportation ("DOT"), the Federal Aviation Administration ("FAA"), the Bureau of Export Administration ("BXA"), the Office of Foreign Assets Control ("OFAC"), the Department of Commerce or the International Air Transportation Association ("IATA").

11. "Mixed Shipments Rule" means Rule No. 645 of Sea-Land's Freight Tariff No. 468.

12. "Overflow Rule" means Rule No. 882 of Sea-Land's Freight Tariff No. 468.
13. "Petition" means *the Petition of DHX, Inc. to Declare Certain Rate Increases Unreasonable* filed with the STB on October 1, 1999.
14. "Relevant time period" means the period commencing on September 1, 1996 to the date of service of this discovery request.
15. "Sea-Land" means defendant Sea-Land Service, Inc. or CSX Lines, LLC.
16. "Sea-Land bill of lading" means any bill of lading or similar shipping document issued by Sea-Land to DHX or to any other person evidencing the transportation of cargo.
17. "Service Contract" means a written contract, other than a bill of lading or receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper makes a commitment to provide a certain minimum quantity or portion of its cargo or freight revenue over a fixed time period, and the individual ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as, assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.
18. "Shipment" means any shipment tendered to Sea-Land by DHX during the relevant time period or, as the case may be, any shipment tendered to DHX by any of DHX's clients or customers during the relevant time period.
19. "Slot charter" or "slot purchase agreement" means a charter or contract whereby the shipowner or vessel operator agrees to place a certain number of container slots

(TEU and/or FEU) at the charterer's disposal, and which obligates the charterer to pay the agreed upon rates for those slots whether or not the charterer utilizes any or all of said slots.

FIRST INTERROGATORIES

1. State the place and date of incorporation of DHX, including any and all name changes from the date of incorporation to the date of these interrogatories.
2. Please identify each of the following persons, entities, and documents:
 - a. Your President, Vice President, and Chief Financial Officer.
 - b. Each member of your Board of Directors.
 - c. If you are a corporation, each person or entity holding twenty percent (20%) or more of your outstanding shares of common stock.
 - d. Your articles of incorporation and by-laws.
 - e. All resolutions of your Board of Directors pertaining to this proceeding.
 - f. All minutes of corporate meetings pertaining to this proceeding.
3. If the individuals identified in response to Interrogatory No. 2 hold, or held positions as officers or directors of any other corporation, identify those other corporations.
4. Please describe in detail the events and circumstances giving rise to DHX's suspension by the California Franchise Tax Board on December 1, 1999.
5. Please describe in detail the events and circumstances giving rise to the resignation of DHX's registered agent on or about July 22, 1998.
6. Please describe in details the events and circumstances giving rise to the issuance of a delinquency notice to DHX by the California Secretary of State on or about March 15, 1996.
7. Please identify DHX Air Freight, Inc. and describe in detail the relationship or affiliation of that entity to Complainant.

8. Please describe in detail the events and circumstances giving rise to any suspension of the corporate status of DHX Air Freight Inc. by the State of California.

9. Please describe in detail the events and circumstances giving rise to DHX Air Freight Inc.'s suspension by the California Franchise Tax Board on or about July 3, 2000.

10. Please identify all offices, terminal facilities, cartage facilities, way-stations, or any other transportation or transportation-related facilities that are under the ownership or control of DHX. If DHX does not own or control any such facilities, please so state.

11. Please identify all offices, terminal facilities, cartage facilities, way-stations, or any other transportation or transportation-related facilities that are rented or leased by DHX. If DHX does not rent or lease any such facilities, please so state.

12. Please identify any facility mentioned or set out in response to Interrogatory No. 11 or Interrogatory No. 12 in which MASSDEC LLC or any of its general partners, Ronald Massman or Bradley Dechter, have an ownership or direct or indirect beneficial interest. To the extent any such direct or indirect interests exist, please explain the nature of said interest.

13. Has DHX or any of its officers or employees ever been the subject of an investigation by the agencies, boards, bureaus, or associations listed in the preceding interrogatory or the Bureau of Export Administration, the Department of Commerce, the Office of Foreign Assets Control, or any other federal agency?

14. If your answer to any portion of the preceding interrogatory is affirmative, please describe in detail the events and circumstances giving rise to the investigation and the

circumstances of its outcome, including a detailed description of any settlement, judgment, or institution of a fine or penalty against DHX.

15. Please identify all proceedings, lawsuits, or actions in any State Court (including non-federal courts in Guam or Puerto Rico), or United States federal courts in which DHX is or was named as a defendant, respondent, or third-party defendant.

16. If you identified any proceedings, lawsuits, or actions in response to the previous interrogatory describe in detail the events and circumstances giving rise to the proceeding and describe in detail the resolution, including dismissal, judgment, or settlement, or same.

17. Please describe in detail the events and circumstances giving rise to an action against DHX by North Pacific Industries, Inc. in the King County Superior Court, Seattle, Washington.

18. Identify all Beneficial Shippers for whom DHX transported cargo from the United States to Hawaii during the Relevant Time Period.

19. Please identify all Beneficial Shippers for whom DHX transported cargo from the United States to Hawaii during the Relevant Time Period and who obtained transportation from Sea-Land that utilized either Sea-Land's Mixed Shipment Rule or Overflow Rule or both.

20. For each Beneficial Shipper identified in response to Interrogatory No. 20 please identify the name(s) of those persons working at or for the Beneficial Shipper with whom you either booked cargo, sought to book cargo or otherwise procured or attempted to procure freight for transportation by DHX.

21. Please identify all instances in which cargo you have tendered to Sea-Land has been inspected or otherwise examined by TAG" a/k/a TAG/ICIB Services, Inc. and "The Adherence Group".

22. Please identify and describe in detail any communication or correspondence between DHX and TAG concerning any shipment tendered by DHX to Sea-land.

23. Have you ever been a party (whether intentionally or inadvertently) to any misrating, re-rating, mis-weighing, mis-measurement, underpayment, or non-payment of any tariff charges owed by you in connection with shipments you have made to or from Hawaii on any Sea-Land vessel?

a. If so, identify the full particulars of each such incident.

b. If not, identify the factual and legal bases for your denial, including a full description of the steps you have taken to determine that no such misrating, re-rating, mis-measurement, underpayment of non-payment has occurred.

24. Please identify all documents referring to any possible misrating, re-rating, mis-measurement, underpayment of non-payment of any charges owed by you or any other person in connection with shipments you have made to or from Hawaii on any Sea-Land vessel.

25. Please identify all licenses, permits, or grants of authority or bond under which or by which DHX conducts its transportation-related activities, including but not limited to those issued by the United States Customs Service ("Customs"), the Federal Maritime Commission ("FMC"), the Surface Transportation Board ("STB") or its predecessor, the Department of Transportation ("DOT"), the Federal Aviation Administration ("FAA"), or the International Air Transport Association ("IATA").

26. Please identify all Shipments tendered by you to Sea-Land during the Relevant Time Period.

27. Please identify all Shipments tendered to you by your Beneficial Shippers during the Relevant Time Period.

a. For each shipment so identified, please identify the total freight charges billed to you by Sea-Land.

b. For each shipment so identified, please identify the total freight charges billed by you to your Beneficial Shippers.

28. Do you contend that DHX is ready, willing, and able to enter into Service Contracts with Sea-Land in the Hawaii trade?

29. Do you contend that DHX is ready, willing, and able to enter into a Slot Charter agreements with Sea-Land in the Hawaii trade?

30. If the answer to the preceding Interrogatory is affirmative, do you contend that DHX is willing to commit itself to slot charter a minimum of 150 TEUs per vessel sailing?

31. If the answer to either Interrogatory No. 29 or Interrogatory No. 30 is affirmative in whole or in part, do you contend that DHX is willing to pay a slot charter rate for a minimum number of slots per vessel whether or not DHX has cargo sufficient to utilize all slots available to it on any given sailing?

32. Do you contend that DHX is willing to utilize its own equipment (including chassis and containers), whether owned by DHX or under lease to DHX, for transportation of any cargo it tenders to Sea-Land under the terms of any slot charter?

33. Please identify and describe in detail any "government subsidiaries" [sic] or subsidies that you contend are received by Sea-Land as set out in your Petition.

34. Please identify and describe in detail any "favored treatment" that you contend is received by Sea-Land as a result of any "government subsidiaries" [sic] described in response to Interrogatory No. 34.

35. Please describe in detail the difference, if any, between the rate total freight charges that you paid to Sea-Land for shipments and the total freight charges that you billed or invoiced to your Beneficial Shippers for shipments that utilized the "overflow" rate described by you in Paragraph 6 of your Petition.

36. Please describe in detail and with specificity what you mean by the phrase "making a small profit on the "overflow" rate" in Paragraph 7 of your Petition.

37. Please describe in detail any steps actions by Sea-Land to "unreasonably acquire DHX's business by greatly increasing the "overflow" rates "charged by Sea-Land as set out in Paragraph 7 of your Petition.

38. With further reference to your use of the phrase "unreasonably acquire DHX's business" do you contend that there is any reasonable way for Sea-Land to acquire DHX's business?

39. With reference to the allegations contained in Paragraph 8 of your Petition:

a. Do you contend that the 10% increase of Sea-Land's Overflow Rule instituted on September 6, 1998 resulted in a 10% increase in the charges paid by you to Sea-Land for shipments tendered to Sea-Land pursuant to the Overflow Rule?

b. If your answer to No. 40a. is negative, please describe in detail the increased cost to DHX, by percentage or average dollar amount, resulting from that increase for shipments tendered by you to Sea-Land that utilized the Overflow Rule.

c. Do you contend that the 7½ % increase instituted by Sea-Land on October 17, 1999 resulted in a 7½ % increase in the charges paid

by you to Sea-Land for shipments tendered to Sea-Land pursuant to the Overflow Rule?

d. If your answer to No. 40c is negative, please describe in detail the increased cost to DHX, by percentage or average dollar amount, resulting from that increase for shipments tendered by you to Sea-Land that utilized the Overflow Rule.

e. Do you contend that the two increases in rates instituted by Sea-Land resulted in a 17½ % increase in the charges paid by you to Sea-Land for shipments tendered to Sea-Land pursuant to the Overflow Rule?

f. If your answer to No. 40e is negative, please describe in detail the increased cost to DHX, by percentage or average dollar amount, resulting from that increase for shipments tendered by you to Sea-Land that utilized the Overflow Rule.

40. Please identify and describe in detail any shipments or Beneficial Shippers or potential Beneficial Shippers that you allege were lost by you as a result of the rate actions alleged by you in Paragraph 8 of your Petition.

41. With reference to the allegations contained in Paragraph 9 of your Petition, do you contend that a carrier is obligated to increase all rates in its tariff because it increases one particular rate?

42. With reference to the allegations contained in Paragraph 9 of your Petition, please describe in detail what you mean by the term "other general freight rates".

43. With further reference to the allegations contained in Exhibit B (letter from DHX to Nourse & Bowles, LLP dated September 30, 1999) to your Petition:

a. Identify "Elaine Griggs, Ocean Pricing Manager".

b. Do you contend that a carrier is in any way obligated to provide a shipper with the benefit of an overflow rate for a second container if that container is not loaded or tendered for the same vessel as the lead container?

c. Does DHX contend that it is impermissible, uncommon, or otherwise unusual for an ocean common carrier to define "shipment" to mean cargo "tendered and loaded to the same vessel"?

d. Does DHX ever issue one DHX bill of lading to a Beneficial Shipper evidencing shipment of multiple containers on one vessel if the cargo is split and is tendered to and loaded upon more than one vessel?

44. With reference to the allegations contained in Exhibit "C" to the Petition (Affidavit), that because "of DHX's expertise in the tariff we were able to ship numerous containerloads of primarily machinery at the paper rate"; do you contend that Sea-Land is in any way obligated to allow DHX or any shipper to ship machinery at "the paper rate"?

45. Do you contend that slot charter agreements between ocean common carriers are subject to any tariff filing or publication requirement?

46. If the answer to Interrogatory No. 46 is affirmative please describe in detail the reasons for said contention.

47. Please identify any and all tariffs, rate sheets, rate quotes, or similar documents used or relied upon by DHX to quote rates to its Beneficial Shippers or potential Beneficial Shippers during the Relevant Time Period.

48. Please identify your twenty largest beneficial Shippers by volume of cargo shipped (either by FEU or TEU) for cargo you have shipped to Hawaii with Sea-Land during the Relevant Time Period, and as to each:

a. Please identify all oral or written contracts between you and such Beneficial Shippers; and

b. Please identify all documents showing whether freight charges due to Sea-Land are for your account, the Beneficial Shippers account, or the account of another person.

49. Please identify your twenty largest beneficial Shippers, in terms of annual gross revenues received by you.

50. Please identify all documents setting out the terms of your compensation by each of your Beneficial Shippers.

51. Please identify all documents showing whether your Beneficial Shippers directly or indirectly reimburse you for transportation costs (including freight charges) incurred in connection with shipments you tender to Sea-Land.

52. Please identify all warehouses, inventory centers, and distribution facilities owned, leased, or operated by you, either in the mainland United States or in Hawaii, for the handling of any cargo shipped by you to Hawaii.

53. Please identify all inland transportation equipment, including tractors, trailers, chassis, and containers, owned, leased or operated by you for the handling of cargoes shipped by you to Hawaii.

54. Please identify all persons or entities that you contend have been unlawfully favored, advantaged, or preferred by Sea-Land in any manner to your detriment. As to each such person or entity, state with particularity the nature and monetary extent of the alleged favor, advantage or preference, and the legal and factual bases for your contention.

55. Identify each person, other than a person intended to be called as an expert witness, having discoverable information that tends to support a position that you have taken or intend to take in this action, including any claim for damages, and state the subject matter of the information possessed by that person.

56. Identify each person whom you expect to call as an expert witness, state the subject matter on which the expert is expected to testify, state the substance of the findings

and opinions to which the expert is expected to testify and summary of the grounds for each opinion, and attach to your answers any written report made by the expert concerning those findings and opinions.

57. If you intend to rely upon any documents or other tangible things to support of position that you have taken or intend to take in the action, including any claim for damages, provide a brief description , by category and location, of all such documents and other tangible things, and identify all persons having possession, custody or control of them.

58. Itemize and show how you calculate any economic damages claimed by you in this action, and describe any non-economic damages claimed.

59. Identify and list all correspondence, memoranda, contracts, bills, invoices or other documentary material which relates directly or indirectly to the damages claimed in the complaint, and with respect to each item identify:

- a. the name and address of each the individual who prepared it; and
- b. the name and address of each person now in possession of it.

60. State whether you have ever participated in any discussions or conference in person or by telephone with either of the defendants or any employee or other agent of the defendants (other than outside counsel) regarding the allegations in STB Docket No. WCC-105, and with respect to each or any said discussion or conference identify and list:

- a. the date, time and place of each said conference or discussion;
- b. the topics and subjects discussed at each said conference or discussion;
- c. the names and addresses of all of the participants in each said conference or discussion;
- d. all documents, memoranda, handwritten or other notes, correspondence or other documentary materials which were considered,

created or prepared during said conference which relate directly or indirectly to the discussions had in said conference or discussion, to a topic or subject considered therein or a participant thereto; and

e. the names and addresses of all persons to whom either the existence or substance of said documentary materials described in the preceding subparagraph have been disclosed.

61. If the plaintiff claims that any party to this action has made any admissions with respect to the subject matter of this lawsuit, set forth as to each such admission:

- a. the date and place of the admission;
- b. the full name, address, occupation, employer, title and/or employment duties/responsibilities of person making the admission;
- c. the full name, address, occupation, employer, title and job duties/responsibilities of all witnesses to the admission;
- d. the manner in which the admission was made (e.g., in person, by telephone, in a letter, etc.);
- e. if oral, the details of each oral admission; and
- f. if written, the identity of and produce each written admission.

62. If you claim that any party to this action has made any admissions with respect to the subject matter of this lawsuit (except for any admissions set forth in response to one of your Requests for Admission), set forth as to each such admission:

- a. the date and place of the admission;
- b. the full name, address, occupation, employer, title and/or employment duties/responsibilities of person making the admission;
- c. the full name, address, occupation, employer, title and job duties/responsibilities of all witnesses to the admission;
- d. the manner in which the admission was made (e.g., in person, by telephone, in a letter, etc.);
- e. if oral, the details of each oral admission; and

f. if written, the identity of each written admission.

63. If you claim that any of the parties to this action, or any of their agents, representatives, officers, directors or employees, have made any declarations against interest with respect to the subject matter of this lawsuit, set forth as to each such declaration against interest:

- a. the date and place of the declaration against interest;
- b. the full name, address, occupation, employer, title and/or employment duties/responsibilities of person making the declaration against interest;
- c. the full name, address, occupation, employer, title and/or employment duties/responsibilities of all witnesses to the declaration against interest;
- d. the manner in which the declaration against interest was made (e.g. in person, by telephone, in a letter, etc.);
- e. if oral, the details of such oral declaration against interest; and
- f. if written, the identity of each written declaration against interest.

64. Are there any documents that DHX knows or believes to be in existence, although not in its possession, custody, or control, that in any way relate to the subject matter of this litigation and, if so, set forth:

- a. a general identification of such documents;
- b. the source of your information or belief regarding the existence of such document(s); and
- c. the name and address of each person or entity in whose possession or control such document is known or believed to be.

65. State what DHX has done to ensure that it has located and produced all documents that are required to be produced by the accompanying request for production of documents.

DOCUMENT REQUESTS

Please produce the following documents:

1. All documents identified, used by or referred to by Complainant in the preparation of Complainant's response to any of the above interrogatories or requests for admission.
2. All documents, including but not limited to articles of incorporation, relating to your establishment as a corporate entity licensed or otherwise authorized to do business in the United States.
3. All documents, not provided in response to Request No. 1, relating to your authority, license, or ability to conduct business as an ocean transportation intermediary, freight forwarder, non-vessel operating common carrier ("NVOCC"), or Customs House Broker during the relevant time period.
4. All state and federal income tax returns filed during the Relevant Time Period.
5. All documents which reflect your alleged damages as set forth in your complaint and amendment complaint.
6. All documents of whatever nature or kind in your possession pertaining to any shipments made by you with Sea-Land during the Relevant Time Period that utilized or otherwise sought the benefit of Sea-Land's Overflow Rule or Mixed Shipment Rule including, but not limited to:
 - a. a copy of any bill of lading, way-bill, or master bill of lading submitted to Sea-Land by you;
 - b. a copy any bill of lading, way-bill, or other shipping document issued by Sea-Land to you;

- c. a copy of any freight bill issued by Sea-Land to you;
 - d. a copy of any freight bill or other invoice submitted by you to your underlying shippers or customers in connection with any shipments so identified;
 - e. a copy of any bill of lading, way-bill, or other shipping document issued by you to your Beneficial Shippers;
 - f. a copy of any stowage, pre-stowage, load reports, weight lists, packing lists, commercial invoices, letters of credit, bank drafts, or other banking documents prepared by DHX in connection with any shipments so identified;
 - g. a copy of any stowage, pre-stowage, load reports, weight lists, packing lists, commercial invoices, letters of credit, bank drafts, or other banking documents prepared by DHX in connection with any shipments so identified;
 - h. a copy of any stowage, pre-stowage, load reports, weight lists, packing lists commercial invoices, letters of credit, bank drafts, or other banking documents prepared by DHX's Beneficial Shippers in connection with any shipments so identified; and
 - i. a copy of your cancelled check or other document establishing or tending to establish that DHX paid Sea-Land the applicable freight charges for each Shipment tendered to Sea-Land during the Relevant Time Period.
7. All documents of whatever nature or kind in your possession from a shipper, customer, or potential client which indicates or otherwise implies that any Sea-Land rate or rule was responsible or the cause of any refusal to do business.
8. All balance sheets, income statements, sales reports, summaries of freight and charges received, and all similar documents regularly prepared by DHX or its agents and employees during the Relevant Time Period.

REQUESTS FOR ADMISSION

- 1. Do you admit that DHX appears as the shipper or exporter on Sea-Land bill of lading issued by Sea-Land to DHX?
- 2. Do you admit that DHX's Beneficial Shippers appear as the shipper or exporter on DHX bill of lading issued by DHX to its Beneficial Shipper?

3. Do you admit that DHX is a common carrier in its relationship to its Beneficial Shippers?
4. Do you admit that DHX is a shipper in its relationship with Sea-land?
5. Do you admit that DHX is not a vessel operating common carrier, or VOCC?
6. Do you admit that DHX is a competitor in its relationship with Sea-Land?
7. Do you admit that DHX does not own or operate any vessels in conjunction with the performance of its transportation or freight-forwarding or ocean transportation intermediary-related activities?
8. Do you admit that that DHX has never owned or operated any vessels in conjunction with the performance of its transportation or freight-forwarding or ocean transportation intermediary-related activities?
9. Do you admit that DHX does not time-charter, voyage-charter, slot-charter or otherwise engage in any vessel chartering activities in conjunction with the performance of its transportation or freight-forwarding or ocean transportation intermediary-related activities?
10. Do you admit that DHX has never time chartered, voyage chartered, slot-chartered or otherwise engaged in any vessel chartering activities in conjunction with the performance of its transportation or freight-forwarding or ocean transportation intermediary-related activities?
11. Do you admit that DHX does not own or otherwise have an ownership interest or long-term lease agreement in the following equipment:
 - a. 20 foot containers (dry, refrigerated, ventilated, open-top or flat rack);
 - b. 35 foot containers (dry, refrigerated, ventilated, open-top or flat rack);

- c. 40 foot containers (dry, refrigerated, ventilated, open-top, flat rack or high cube); or
 - d. 45 foot containers (dry, refrigerated, ventilated, open-top, flat rack or high cube)?
12. Do you admit that DHX does not own or otherwise have an ownership interest or long-term lease agreement in chassis suitable to carry any of the containers listed in the preceding request?
13. Do you admit that when DHX books cargo with Sea-Land, DHX does not provide its own containers for loading by DHX's Beneficial Shippers?
14. Do you admit that when DHX books cargo with Sea-Land, DHX expects Sea-Land to provide the amount of empty containers required by the booking?
15. Do you admit that when DHX books cargo with Sea-Land, DHX does not provide its own chassis to transport the container to the Beneficial Shipper's facility for loading and for redelivery to a Sea-Land marine terminal?
16. Do you admit that when DHX books cargo with Sea-Land DHX expects Sea-land to provide chassis sufficient to transport the containers required by the booking?
17. Do you admit that when DHX books cargo with Sea-Land, DHX does not provide stevedoring or longshore activities with regard to that shipment?
18. Do you admit that once DHX delivers cargo it books with Sea-Land to Sea-land's marine terminal, DHX relies upon Sea-Land to make all necessary arrangements to physically move the cargo alongside the vessel and physically load the cargo on board the designated vessel?
19. Do you admit that DHX is not responsible for the management or navigation of any vessel on which its cargo moves?

20. Do you admit that DHX is not responsible for providing a crew of mariners on any vessel on which its cargo moves?

21. Do you admit that DHX is not responsible for offloading the cargo from the vessel to the pier once the cargo shipped by DHX with Sea-Land reaches its ultimate destination?

22. Do you admit that DHX is not responsible for any U.S. Customs or U.S. Coast Guard formalities concerning the arrival, unloading, loading, or departure of any vessel at a U.S.-mainland port on which DHX has tendered cargo to Sea-Land?

23. Do you admit that DHX is not responsible for any U.S. Customs or U.S. Coast Guard formalities concerning the arrival, unloading, loading, or departure of any vessel at a U.S.-Hawaii port on which DHX has tendered cargo to Sea-Land?

24. Do you admit that the rates charged by Sea-Land to DHX are lower than the rates charged by DHX to its Beneficial Shippers for each shipment tendered to Sea-Land by DHX?

25. Do you admit that increases or decreases in the volumes of cargo DHX shipped with Sea-Land during the Relevant Time Period are attributable to a wide range of factors including Sea-Land's freight charges, DHX's freight charges for the same shipment, (DHX's margin or middle); general economic conditions, the commercial relationship between a Beneficial Shipper and that Beneficial Shipper's customer; the time of the year, seasonal or economic changes in supply and demand?

26. Do you admit that increases or decreases in DHX's cargo volumes cannot be attributable to one single factor?

Respectfully submitted,



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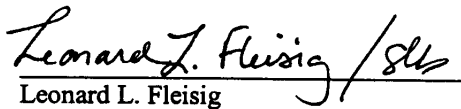
Counsel for Sea-Land Service, Inc.

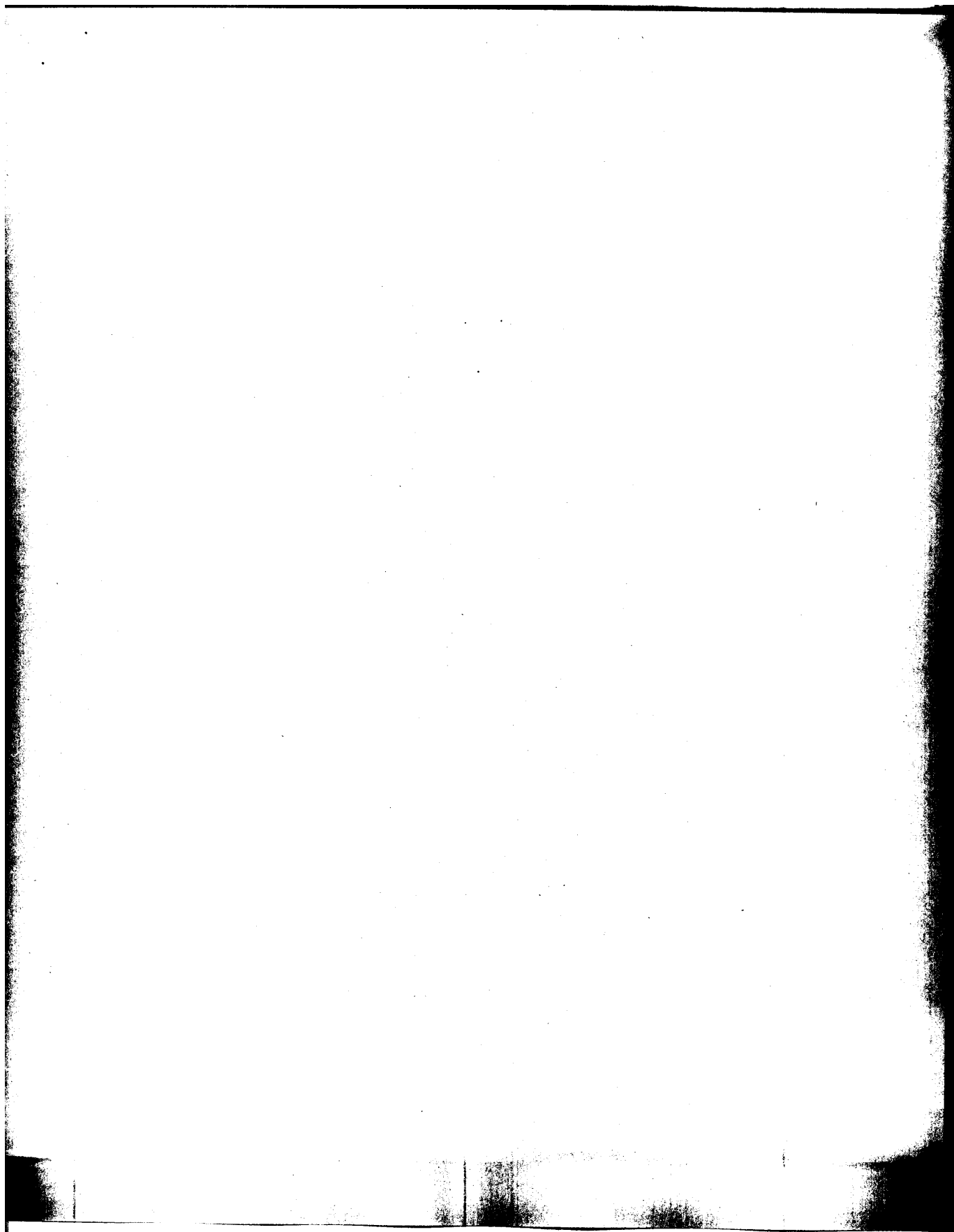
Dated: April 29, 2002

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2002 a copy of the foregoing "*Defendant Sea-Land Service, Inc.'s First Set of Interrogatories, Requests for Production of Documents and Requests for Admission to Plaintiff DHX, Inc.*" was served by overnight delivery on the following counsel for DHX, Inc.:

Rick A. Rude
Attorney At Law
207 Park Avenue
Suite 103
Falls Church, Virginia 22046


Leonard L. Fleisig



Defendant Sea-Land Service, Inc. (“Sea-Land”), by its attorneys, Troutman Sanders LLP, pursuant to 49 C.F.R. § § 1114.21(a), 1114.26, 1114.27(a), and 1114.30, propound the following interrogatories and requests for production of documents to Complainant, DHX, Inc., and hereby requests that, unless otherwise agreed by counsel, complainant produce for inspection and copying the following documents or things in Complainant’s possession, custody, or control at the office of the Attorneys for Defendant Sea-Land Service, Inc., 401 9th Street, N.W., Washington, D.C. 20004 and respond in writing to these requests by May 31, 2002.

INSTRUCTIONS

1. These interrogatories and requests for production of documents are subject to the instructions and definitions set forth below.
2. These interrogatories and requests for production of documents are continuing in nature and character and require you to promptly file supplemental answers if you obtain further or different information after the filing of initial answers.
3. Each of these interrogatories and requests for production of documents is to be answered separately and fully in writing under oath, as provided in the Board's Rules of Practice.
4. Unless otherwise stated in interrogatories and requests for production of documents, each covers the relevant time period, as defined below, in its entirety.
5. If you contend that your answer to any of the following interrogatories differs depending upon the time period involved, identify the basis for this contention and provide separate answers for each time period. If you do not otherwise specify, it will be assumed that your response remains the same throughout the relevant time period.
6. All interrogatories which include the words "do you contend" are to be read broadly, to mean do you contend in any manner that the stated factual or legal assertion, or any portion thereof, is true.
7. If you answer in the affirmative any interrogatory which includes the words "Do you contend that . . .", you should identify the basis for the contention, including whether the contention applies to Sea-Land, Matson, or both, and do so in a manner which distinguishes, where appropriate, between the conduct of Sea-Land and Matson.

8. If any privilege is claimed as to any information called for by interrogatories and requests for production of documents, state the nature of the privilege claimed and the basis for claiming the privilege.

9. If any documents responsive to the requests set forth below have been lost or destroyed, you are requested to so state and to provide a list identifying such documents, including a statement of the author, recipient, date and contents of the document and the circumstances surrounding the loss or destruction of such documents.

DEFINITION

1. "Beneficial Shipper" means any shipper, underlying shipper, customer, or potential shipper or customer of DHX.

2. "Board" or "STB" means the Surface Transportation Board, an agency of the United States, and its staff, officers, employees, agents or other representatives.

3. "DHX, Inc.", "DHX", "you" and "your" mean and refer to complainant DHX, Inc. and its parent, subsidiary, and commonly-owned companies, and each of their respective owners, officers, and directors.

4. "DHX bill of lading" means and refers to any bill of lading, way-bill or similar shipping document issued or provided by DHX to its Beneficial Shippers.

5. "Document" means and includes any kind of written, typewritten or printed material whatsoever, and specifically includes any computer generated or computer readable material, including but not limited to electronic mail ("e-mail"), plus all "writings", "recordings" and "photographs" with the meaning of Rule 1001 of the Federal Rules of Evidence (*see also* 49 C.F.R. § 1114.1). The term "document" includes the original (or any copies when originals are not available) and any non-identical copies that are different from the originals because of notes

or any other markings made on such copies, and all drafts prepared in connection with any writing.

6. "Identify", when used in reference to a natural person, means to state that person's full name, and on the first occasion that such person is identified, the following information concerning that person:

- a. Present or last known residence address and telephone number;
- b. Present or last known business address and telephone number;
- c. Present or last known employer; and
- d. Present or last known job title.

7. "Identify" when used in reference to any entity other than a natural person, means to set forth the full name or title of the entity and, on the first occasion that such entity is identified, to state the address, telephone number, and principal business or activity of such entity.

8. "Identify" when used in connection with a document, means to state the following:

- a. The nature of the document (*e.g.*, letter, memorandum, contract, tariff, bill of lading, invoice, stowage report, etc.);
- b. The date of the document or, if undated, the date the document was written or created;
- c. The identity of the person or persons who wrote or created the document;
- d. The identity of all persons to whom the document was sent, or who received the document;
- e. The file number or other identifying mark or code of the document;
- f. The general subject matter of the document;
- g. The present or last known location of the document; and

- h. The name and address of the present or last known custodian of the document.

If any document is no longer in your possession, custody, or control, state whether it is lost, missing, destroyed, transferred or otherwise disposed of, and in each instance, describe the circumstances surrounding the disposition of the document and the date it occurred. In all instances where you are asked to identify a document, you may supply fully legible copies of such documents as attachments to your answers to these interrogatories in lieu of the above-described identification, provided that you specify each interrogatory as to which the document is responsive, and provided further that you stipulate that the document, if a copy, may be used for all purposes for which the original might be used in any hearing in this matter.

9. "Identify" when used in reference to an act, occurrence, transaction, decision, statement, communication or other conduct or event (hereinafter collectively referred to as "act"), means to describe in substance, unless specificity is requested, the event or events constituting the act, what transpired, the place and date thereof, and to identify the persons present, the persons involved and the documents referring or relating thereto.

10. "Mixed Shipments Rule" means Rule No. 645 of Sea-Land's Freight Tariff No. 468.

11. "Overflow Rule" means Rule No. 882 of Sea-Land's Freight Tariff No. 468.

12. "Petition" or "Original Complaint" means *the Petition of DHX, Inc. to Declare Certain Rate Increases Unreasonable* filed with the STB on October 1, 1999.

13. "Amended Complaint" means the amended complaint of DHX filed in this proceeding on April 29, 2002.

14. "Relevant time period" means the period commencing on September 1, 1996 to the date of service of this discovery request.

15. "Sea-Land" means defendant Sea-Land Service, Inc. or CSX Lines, LLC.

16. "Sea-Land bill of lading" means any bill of lading or similar shipping document issued by Sea-Land to DHX or to any other person evidencing the transportation of cargo.

17. "Shipment" means any shipment tendered to Sea-Land by DHX during the relevant time period or, as the case may be, any shipment tendered to DHX by any of DHX's clients or customers during the relevant time period.

SECOND INTERROGATORIES

1. Separately for each calendar years 1996 through 2001, and for the period January 1, 2002 through the date of these interrogatories, state DHX's

- a. gross revenues;
- b. gross revenues derived from the U.S.-Hawaii trade;
- c. net profit;
- d. net profit derived from the U.S.-Hawaii trade;
- e. the total number of containers, FEUs or TEUs of cargo shipped in Hawaii trade for which DHX acted as a freight forwarder.

Identify all documents in which any or all of the foregoing figures are set forth, discussed or calculated, or which were used in preparing the answer to this interrogatory.

2. Describe in detail (including, as appropriate, references to any pertinent Sea-Land tariff number(s), page numbers(s), item numbers(s), note number(s) and the like) all practices by Sea-Land that you contend are unreasonable.

3. Describe in detail (including, as appropriate, references to any pertinent Sea-Land tariff number(s), page numbers(s), item numbers(s), note number(s) and the like) all Sea-Land rates that you contend are unreasonable.

4. Identify, by page, paragraph, and line of the Petition or original complaint, the item(s) which you contend are "not inconsistent" with the amended complaint and which you therefore allege are incorporated by reference into the amended complaint as stated in second paragraph of page 1 of the amended complaint.

5. Identify all freight tendered to Sea-Land as alleged in paragraph 23 in the amended complaint and not already included in your response to Interrogatory No. 26 in Sea-Land's First Set of Interrogatories, Requests for Production of Documents and Requests for Admission to Plaintiff DHX, Inc. dated April 29, 2002.

6. Identify and describe in detail each "public exchange of price information" by Sea-Land as alleged in page 16 of the amended complaint.

7. Describe in detail each instance during the relevant time period in which Sea-Land has "decline[d] to make volume pricing available to freight forwarders and the complainant in particular" as alleged on page 16 of the amended complaint.

8. Is it your contention, in paragraph 200 of the amended complaint, that a shipper has the statutory authority to challenge the reasonableness of a 'minimum revenue container charge' for mixed shipments? If so, please describe the basis for your contention, including all references to the statute(s) and regulation(s) that you allege support your contention.

9. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 205 of the amended complaint. Describe in detail how such dollar amount has been

calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

10. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 212 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

11. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 218 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

12. Describe in detail (including, as appropriate, references to any pertinent Sea-Land tariff number(s), page number(s), note number(s), and the like) which you contend are the "higher cost rate items" that DHX was required to use, as state in paragraph 218 of the amended complaint and describe in detail (including, as appropriate, references to any pertinent Sea-Land tariff number(s), page number(s), note number(s), and the like) the rate(s) that you contend should have been charged.

13. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 220 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

14. Identify, by company name and principal business address, each customer that has been lost as alleged in paragraph 220 of the amended complaint.

15. Describe in detail (including, as appropriate, references to any pertinent Sea-Land tariff number(s), page number(s), note number(s), and the like) which you contend are the "higher of the rates involved" that DHX was required to use, as state in paragraph 227 of the amended complaint and describe in detail (including, as appropriate, references to any pertinent Sea-Land tariff number(s), page number(s), note number(s), and the like) the rate(s) that you contend should have been charged.

16. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 228 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

17. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 236 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

18. Describe in detail each request by DHX to Sea-Land as alleged in paragraph 239 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such request, (1) the name, title, business address and business telephone number of the person that made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

19. Describe in detail each representation by Sea-Land to DHX as alleged in paragraph 240 of the amended complaint. For purposes of this interrogatory, "describe in detail"

means to state, with respect to each such request, (1) the name, of the person that made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

20. Describe in detail each representation by Sea-Land to DHX as alleged in paragraph 241 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such request, (1) the name, of the person that made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

21. Describe in detail each misrepresentation by Sea-Land as alleged in paragraph 244 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such request, (1) the name, of the person that made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

22. Describe in detail the "terms and conditions of service not contained in the published rate items" as alleged in paragraph 246 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such request, (1) the name, of the person that made it, (2) the date it was made, (3) the name, title, business address

and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

23. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 248 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

24. Describe in detail each "mis-representation" and "unpublished rates" as alleged in paragraph 249 of the amended complaint. For purposes of this interrogatory, "describe in detail" means to state, with respect to each such alleged "unpublished rate," (1) the name, of the person that you contend offered or made it, (2) the date you allege it was made, (3) the name, title, business address and telephone number of the person to whom you allege it was made, (4) the method by which you allege it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) and what you allege is its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

25. Identify, by company name and principal business address, each customer that has been lost as alleged in paragraph 249 of the amended complaint.

26. State in dollars the total amount by which DHX has been damaged, including the lost profits, as alleged in paragraph 249 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

27. Describe in detail each misrepresentation by Sea-Land to DHX as alleged in paragraph 253 of the amended complaint. For purposes of this interrogatory, "describe in detail"

means to state, with respect to each such request, (1) the name, of the person that made it, (2) the date it was made, (3) the name, title, business address and telephone number of the person to whom it was made, (4) the method by which it was made (e.g., by telephone, personal conversation, letter, etc.) and (5) its content. Identify all documents reflecting, describing, comprising, discussing, or responding to any such request.

28. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 265 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

29. State in dollars the total amount by which DHX has been damaged as alleged in paragraph 266 of the amended complaint. Describe in detail how such dollar amount has been calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

30. State separately the total dollar value of each of the amounts described in the ninth through fourteenth paragraphs of the prayer for relief at pages 47-48 of the amended complaint. Describe in detail how such dollar amount is calculated. Identify all documents discussing, referring to, reflecting, or supporting that dollar amount or the calculation thereof.

DOCUMENT REQUESTS

Please produce the following documents:

1. All documents identified, used by or referred to by Complainant in the preparation of Complainant's response to any of the above interrogatories.

2. All business, marketing, pricing or operating plans, reports, studies or other documents during the relevant period discussing, pertaining to or referring to the U.S.-Hawaii trade.

3. To the extent not produced in response to Document Request Nos. 2 or 3, all documents during the relevant period discussing, explaining, or pertaining to DHX's business, marketing, operating, or pricing strategies with respect to the use of any provision of any Sea-Land or Matson tariff.

4. All advertising circulars, brochures or other written materials distributed by DHX to its customers relating to DHX's services.

5. All lists or other documents stating the rates, prices and other charges charged by DHX to its customers for the transportation of goods between points in the mainland U.S. and Hawaii during the relevant period.

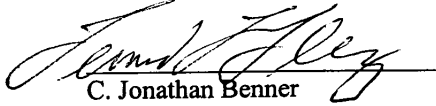
6. All documents reflecting or relating to any damages that DHX claims to have suffered as a result of any alleged unreasonable rates or practices of Sea-Land.

7. All documents discussing or referring to this proceeding, including any matters raised in the original complaint or the amended complaint.

8. All documents that you intend to rely upon to support any or all of your claims against Sea-Land in this proceeding.

9. To the extent not produced in response to any other document request, all documents used or relied upon in preparation of either the original complaint or the amended complaint.

Respectfully submitted,



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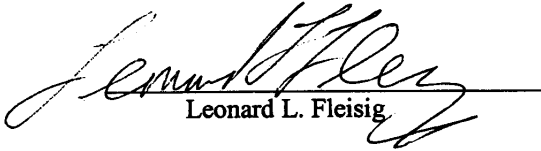
Counsel for Sea-Land Service, Inc.

Dated: May 14, 2002

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2002 a copy of the foregoing "*Defendant Sea-Land Service, Inc.'s Second Set of Interrogatories and Requests for Production of Documents to Plaintiff DHX, Inc.*" was served by overnight delivery on the following counsel for DHX, Inc.:

Rick A. Rude
Attorney At Law
207 Park Avenue
Suite 103
Falls Church, Virginia 22046


Leonard L. Fleisig