

SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-295-4672
FAX: 202-672-5399

216572

SIDNEY L. STRICKLAND, JR.
SIDNEY.STRICKLAND@STRICKLANDPLLC.COM



May 18, 2006

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

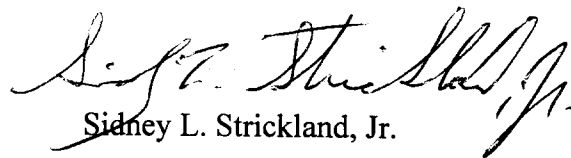
**Re: Surface Transportation Board Finance Docket No. 34876; BNSF Railway
Company – Temporary Trackage Rights Exemption – Norfolk Southern
Railroad Company**

Dear Secretary Williams:

Enclosed for filing in the referenced docket are the original and ten copies of a Verified Notice of Exemption, and a check for \$1,000.00, covering the filing fee.

Please acknowledge receipt of this material by date stamping the enclosed copy of this letter and returning it to me in the enclosed self-addressed stamped envelope.

Sincerely,


Sidney L. Strickland, Jr.

SLS/cac
Encs.

ENTERED
OFFICE OF THE SECRETARY

cc: Mr. John Sims
Mr. John Edwards

FILED

MAY 18 2006

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34876

BNSF RAILWAY COMPANY-- TEMPORARY TRACKAGE RIGHTS EXEMPTION--
NORFOLK SOUTHERN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street N.W.
Suite 101
Washington, DC 20007
(202) 338-1325

ATTORNEY FOR BNSF RAILWAY COMPANY

Dated: May 18, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34876

BNSF RAILWAY COMPANY-- TEMPORARY TRACKAGE RIGHTS EXEMPTION--
NORFOLK SOUTHERN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION

1. BNSF Railway Company ("BNSF") files this verified notice of exemption pursuant to 49 C.F.R. §1180.2(d)(8). Under this notice, BNSF will obtain temporary trackage rights from Norfolk Southern Railroad Company ("NSR") between C.A. Junction, Missouri Milepost S241.9 and Maxwell, Missouri NSR's Kansas City District Milepost S250.6, a distance of 8.7 miles (referred to herein after as "Temporary Trackage"). The temporary trackage rights are for the sole purpose of bridging BNSF's trains while the BNSF main lines are out of service.

The acquisition of these temporary trackage rights is based on a written agreement.

2. The following information is provided as required by 49 C.F.R. §1180.4(g)(1)(i):
Section 1180.6(a)(1)(i-iii).

NSR has granted temporary trackage rights to BNSF between C.A. Junction, Missouri Milepost S241.9 and Maxwell, Missouri, NSR's Kansas City District Milepost S250.6, a distance of 8.7 miles (referred to herein after as "Temporary Trackage"). Subject to approval of the Board, the trackage rights will begin on May 28, 2006, and terminate on May 30, 2006. BNSF will operate its own trains with its own crews over the Temporary Trackage. The carriers involved in this transaction and their business addresses are as follows:

BNSF Railway Company
2600 Lou Menk Drive
P. O. Box 961034
Fort Worth, TX 76161

Norfolk Southern Railroad Company
1200 Peachtree St. NE
Atlanta, GA 30309

Questions regarding this exemption should be sent to Sidney L. Strickland Jr., Sidney Strickland and Associates, PLLC, 3050 K Street N.W., Suite 101, Washington DC 20007. The telephone number is (202) 338-1325.

Consummation of the transaction will occur on May 28, 2006. The purpose of the temporary trackage rights is for bridging BNSF's train service while the BNSF main lines are out of service. The temporary trackage rights will expire on May 30, 2006.

Section 1180.6(a)(5).

The trackage involved in the temporary trackage rights agreement is located in the state of Missouri.

Section 1180.6(a)(6).

The required map is attached hereto as Exhibit No. 1.

Section 1180.6(7)(ii).

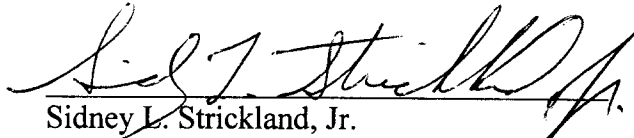
A copy of the temporary trackage rights agreement covering this transaction is attached hereto as Exhibit No. 2.

Applicants are agreeable to the imposition of the standard labor protective conditions imposed by the Board pursuant to Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980), and with respect to the discontinuance of these trackage rights, imposition of conditions pursuant to Oregon Short Line RR Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

This transaction does not require the filing of an environmental report or an historic

report under 49 C.F.R. §1105.6(c)(4) and §1105.8(b)(3) respectively.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sidney L. Strickland, Jr.", written in dark ink.

Sidney L. Strickland, Jr.
Sidney Strickland and Associates, PLLC
3050 K Street N.W.
Suite 101
Washington DC 20007
(202) 338-1325
(202) 672-5399 FAX

ATTORNEY FOR BNSF RAILWAY COMPANY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Finance Docket No. 34876

BNSF RAILWAY COMPANY--TEMPORARY TRACKAGE RIGHTS EXEMPTION--
NORFLK SOUTHERN RAILROAD COMPANY

Norfolk Southern Railroad Company ("NSR") has agreed to grant temporary trackage rights to BNSF Railway Company ("BNSF") between C.A. Junction, Missouri Milepost S241.9 and Maxwell, Missouri, NSR's Kansas City District Milepost S250.6, a distance of 8.7 miles (referred to herein after as "Temporary Trackage").

The temporary trackage rights will facilitate the bridging of BNSF's trains while BNSF's main lines are out of service, and will be effective on May 28, 2006, with operations under this exemption commencing on that date. The temporary trackage rights will expire on May 30, 2006

This notice is filed under §1180.2(d)(8). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

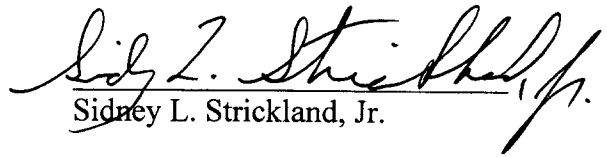
Dated:

By the Board,
Vernon A. Williams,
Secretary.

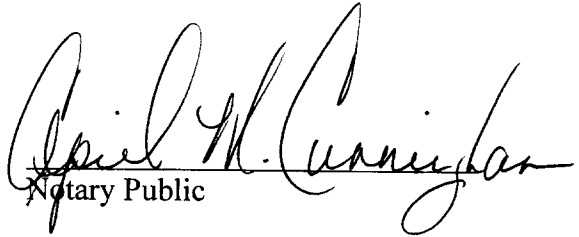
VERIFICATION

THE DISTRICT OF COLUMBIA, §

Sidney L. Strickland, Jr., being duly sworn, deposes and says that he has read the foregoing notice of exemption and that the contents thereof are true and correct to the best of his knowledge and belief.


Sidney L. Strickland, Jr.

Subscribed and sworn to before me this 18th day of May, 2006.


Notary Public

My Commission expires:

6-14-2009

April M. Cunningham
Notary Public, District of Columbia
My Commission Expires 06-14-2009

Filed with Contract No. 93200
Return to
Secretary, The A. T. & S. F. Ry. Co., Topeka

93200

To be made a part of agreement dated as of Sept. 17, 1946, between
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
Missouri Division, Second District
and
WABASH RAILROAD COMPANY
Covering joint facilities between
W.B. Jct. and C.A. Jct. Missouri
Scale 1" = 400' C.E.O. Topeka, Kansas, March 8, 1946
Corrected to June 5, 1947

Identified by

J. D. Kunne

Chief Engineer, The A. T. & S. F. Ry. Co.

J. C. Souffield

Chief Engineer, The Wabash R. R. Co.

LEGEND:

- Red - Facilities owned by The A. T. & S. F. Ry. Co.
- Green - Facilities owned by The A. T. & S. F. Ry. Co.
- Black - Facilities owned by Wabash R.R. Co.
- Yellow - Facilities owned jointly

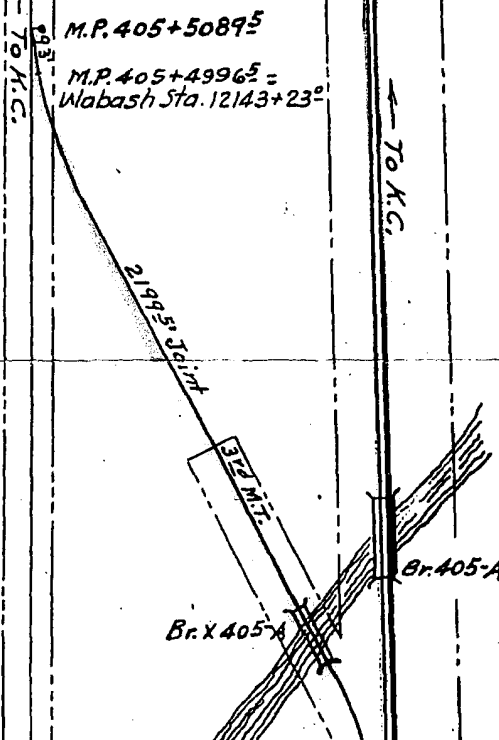
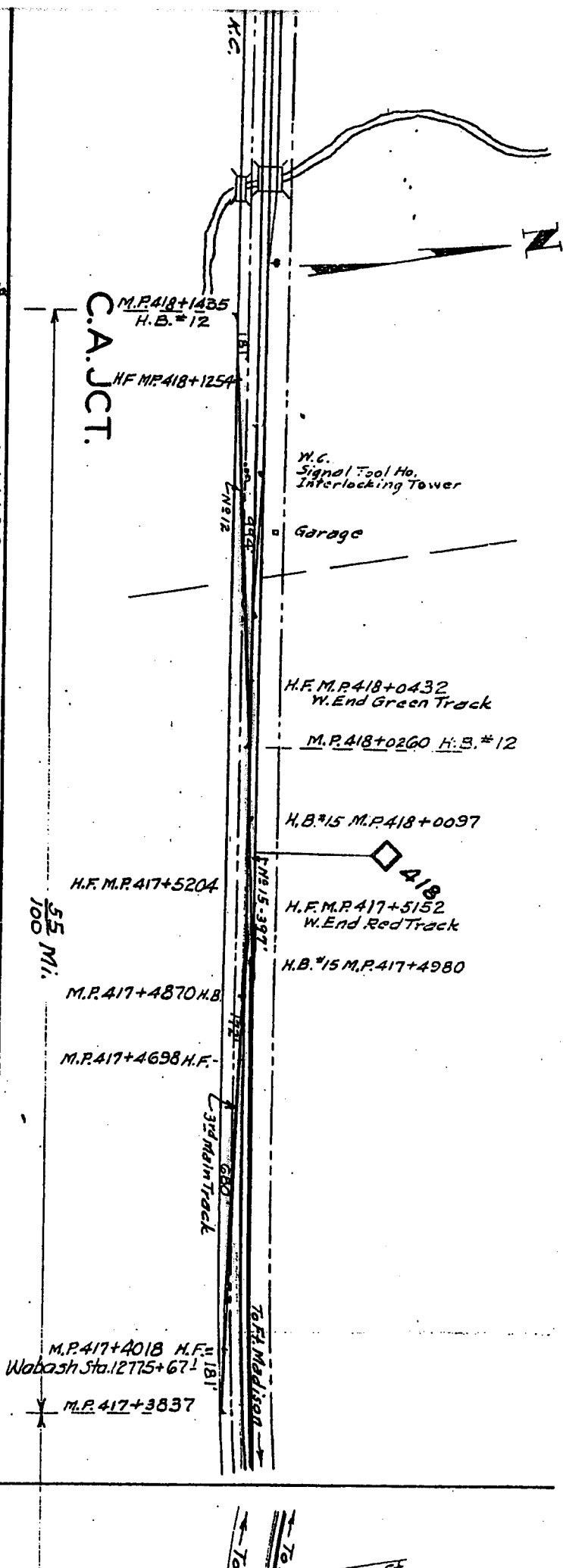
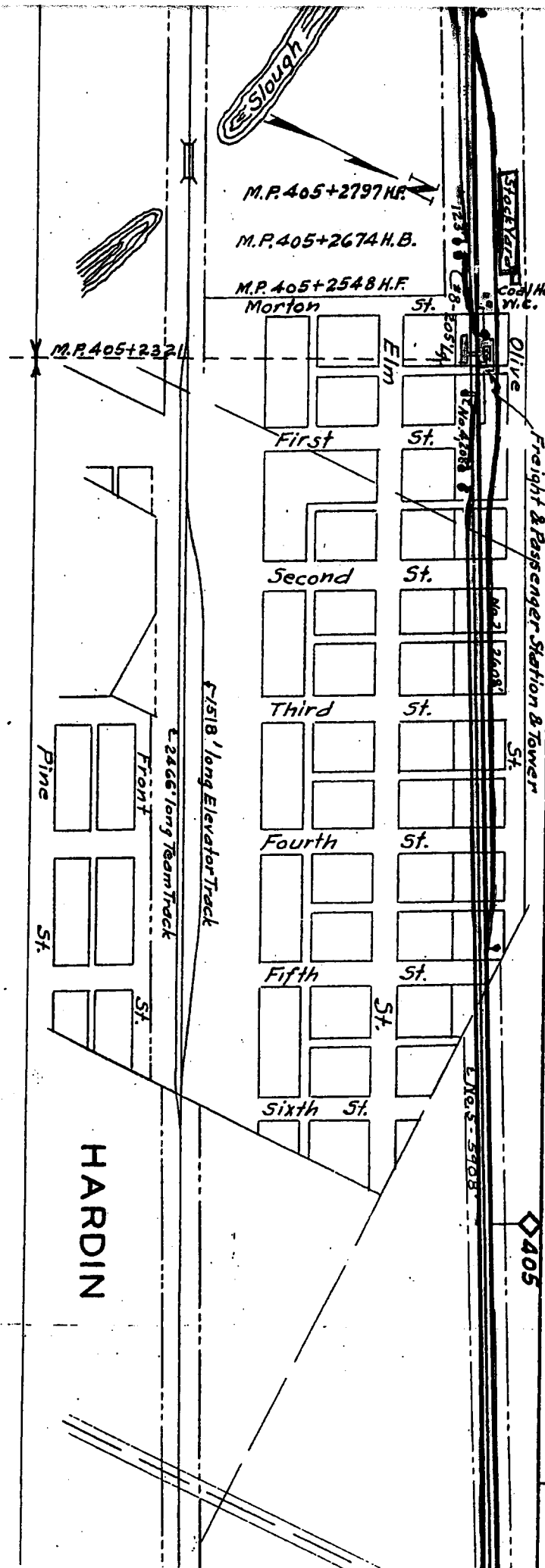


Exhibit No. 1

|||||



Overpass Br. 404-0A

Highway #10

M.P. 404+39074

4.53 Mi.

10.57 Louis

4334.54

2nd Main Track

10.57 Madison

M.P. 403+43534 Wabash

Hand-drawn map of Camden, New Jersey, showing streets, the Delaware River, and various landmarks. The map includes labels for streets like West St., Mill St., Ferry St., Main St., Smith St., Richmond St., Missouri St., Ash St., and Walnut St. It also shows the Delaware River, a Mill, a Ferry, a Stock Well, a Passenger Station, a Coal House, and a Fitt. Scale. Mileposts are marked along the river, including M.P. 416+50212, M.P. 416+49272, M.P. 416+4663, M.P. 416+43437, M.P. 416+42537, and M.P. 415+2710. A north arrow is present in the bottom right corner.

Track No. 5 of Coal Mine removed in 1943 and location shown for information only.

COAL MINE SPUR

5.58 mi.
5.00 mi.

M.P. 414+3473 H.B. 5

To K.C.

No. 5 466'

To Ft. Madison

To Ft. Madison
To St. Louis

M.P. 403+43534
Wabash Sta. 12033+745

Shelter House (Removed)

NIMROD
(Station Abolished 1939)
Shelter House removed Dec. 30, 1943
location shown for information only.

M.P. 400+4779

N

To Ft. Madison

To St. Louis

585' 1/2
Dehydrating Plant

To Kansas City

To Kansas City

To K.C.

4 27
100 mi.

7 1/2 Mi.

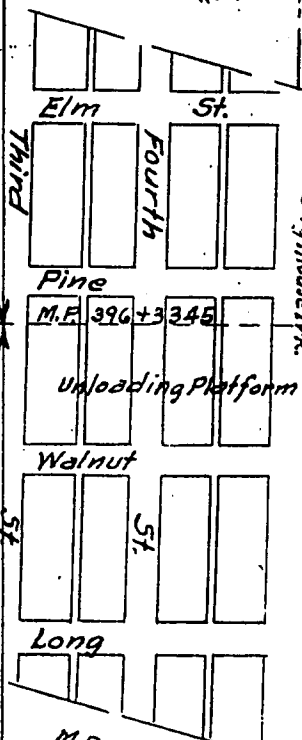
ating Plant

Kansas City

Kansas City

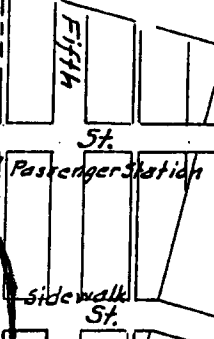
□ 397

1107' long Stock Track
3403" Passing Track



1206' 1/2 House Trk.

Coal Ho.



M.P. 396+2874 H.B.
M.P. 396+2807 H.F.

No. 2 1925' long

M.P. 396+2323 H.F.
M.P. 396+2230 H.B. #9

To K.C.

□ 413

No. 59 8582' long Westward Passing Track

□ 412

#66-175' 1/2

No. 60 2464' 1/2

M.P. 396+2323 H.F.
M.P. 396+2230 H.B.*9

NORBORNE

3 $\frac{68}{100}$ M.I.

L No. 1 4435' long

Stock
Yards

396

To St. Louis

To Ft. Madison

HENRIETTA

7d/KC

484'lg.

First
Elev. Trk.
473'lg.

M.P. 411+1599

L 5105'lg. Eastward Passing Track

1390' long Stock Trk.
2131' long Westward
Passing Trk.

L 433-205'lg.

L 452-218'lg.

No. 29 11243

No. 24 64 1024

No. 11 124

Elm St.

Main St.

Second

Linn

Frt. Station
Pass. Station

Olive

H.B.*29 M.P. 411+1030
H.F.*29 M.P. 411+0962

No. 18-210'lg.

No. 38
No. 61
No. 19
H.B. St. Joe Branch
0+00=M.P. 411+0577

M.P. 0+2500

Third

St.

St.

St.

St.

No. 38 584' long
No. 61 357' "
No. 19 748' "

H.B. St. Joe Branch
0+00 = M.P. 411+0577

18-270' 19.

411

No. 9 2184' long.
No. 2 2457' "
No. 3 2478' "
No. 4 2417' "
No. 17 7500' " Westward Passing Track

No. 5 12578' long. Eastward Passing Track

No. 24 11243' 0.00 long
H.F. 410+5072
410+50302

To St. Louis

TTA

5 $\frac{86}{100}$ Mi.

PALEMON

393

Shelter Ho. Joint

Madison
Louis

To K.C.
To K.C.

M.P. 392+5025

M.P. 392+4958 H.B. #3

M.P. 392+4772

M.P. 392+3889 H.F.

M.P. 392+3796 H.B. #3

4 $\frac{15}{100}$ Mi.

M.P. 389+0213 H.B.
M.P. 389+001

8 Mi.

4 15/100 Mi.

To Ft. Madison

M.P. 389+0213 H.B.
M.P. 389+004 H.F.
389

Slough

M.P. 388+4446 H.F.
M.P. 388+4268 H.B. 713

M.P. 388+4218 H.B.

W.B. JCT.

M.P. 388+4040 H.F.
Wabash Sta. 11239+322

21/100 Mi.

Joint Tower & Interlocking Plant
Signal Tool No.

M.P. 388+3102

2nd Second Main Track

To Ft. Madison

To St. Louis

410

To Ft. Madison

CE.O.T. 20687



Norfolk Southern Corporation
Transportation Department
1200 Peachtree St. NE
Atlanta, Georgia 30309
FAX: (404) 582-5556

Mark M. Owens
Senior Director Joint Facilities
(404) 658-3150

April 21, 2006 - lea
NSR File No. - JF 4503
BNSF File No. - AT93200

Mr. Ronald Harding
Director Contracts & Joint Facilities
Burlington Northern Santa Fe
2600 Lou Menk Drive
Fort Worth, TX 76131

Dear Ronald:

Please reference the May 12, 2004 Letter Agreement, the May 2, 2005 Letter Agreement and the January 6, 2006 Reroute Agreement where Norfolk Southern Railway Company (NSR) agreed to provide Burlington Northern and Santa Fe Railway Company (BNSF) temporary trackage rights on the NSR line from CA Junction, Missouri to Maxwell, Missouri to bridge BNSF trains while the BNSF main lines were out of service. Please reference recent conversations between officers of our respective companies whereby BNSF notified NSR of the need to obtain anew, this service for 2006.

Now, therefore, it is mutually agreed by and between the parties.

For the temporary period starting May 28, 2006 to May 30, 2006 the subject Joint trackage as stated in the September 17, 1946 Joint Use Agreement between The Archison, Topeka and Santa Fe Railway Company predecessor to BNSF and Wabash Railroad Company predecessor to NSR, hereinafter referred to as 1946 Agreement shall be temporarily extended to include the following additional trackage:

W. B. Junction, Missouri Milepost S212.8 to C.A. Junction, Missouri Milepost S241.9 a distance of 29.10 miles as listed in Article I, Section 1.1, item (b) of the 1946 Agreement, and

Temporarily extended, from

C.A. Junction, Missouri NSR's Kansas City District Milepost S241.9 to Maxwell, Missouri NSR's Kansas City District Milepost Milepost S250.6 an additional distance of 8.7 miles.

Mr. Ronald Harding

April 21, 2006

Page 2

NSR agrees to move a maximum of four (4) BNSF trains per day over the extended joint trackage. As compensation for the extended trackage rights BNSF shall pay NSR an additional fifty-six dollars (\$56.00) per train mile for each train operated by BNSF over the extended joint trackage from CA Junction to Maxwell, MO. BNSF shall also furnish NSR a statement of the number of trains operated by BNSF over the extended joint trackage. Compensation for the use of the remainder of the Joint Trackage shall be as set forth in the 1946 Agreement, and all other terms and conditions of the 1946 Agreement shall remain in full force and effect.

BNSF agrees to submit this temporary extension of trackage rights for approval, or exemption from approval, to the Surface Transportation Board ("STB") under 49 C.F.R. 1180.2(d) (8). Any submission to the STB shall be provided to counsel for NSR for NSR's prior review and comment. Each party shall indemnify and hold harmless the other party against any and all costs and payments, including benefits, allowances, and arbitration, administration and litigation expenses, arising out of claims or grievances made by or on behalf of or lawsuits brought by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protection conditions imposed by a governmental agency upon the agency's approval or exemption of this Letter Agreement and operations hereunder or pursuant to a collective bargaining agreement. It is the parties' intention that each party shall bear the full costs of protection of its own employees under employee protection conditions that may be imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

Please indicate your acceptance of this Letter Agreement by signing in the space provided below, and return one original counterpart to my office, retaining one original counterpart for your records.

On behalf of Norfolk Southern Railway Company.:



Mark M. Owens

BNSF (app)

On behalf of The Burlington Northern Railway Company:

Accepted by: 

Date: 4/24/06