

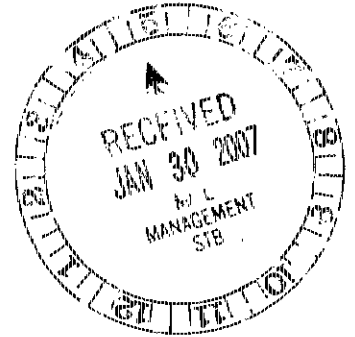
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SIDNEY STRICKLAND AND ASSOCIATES, PLLC

3050 K ST. N.W., SUITE 101
WASHINGTON, DC 20007-5108
TELEPHONE: 202-338-1325
FAX: 202-295-3854

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

January 30, 2007



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

**Re: Surface Transportation Board Finance Docket No. 34979,
BNSF Railway Company —Trackage Rights Exemption— Grand
Trunk Western Railroad Incorporated**

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.

The trackage rights agreement, attached to the Notice as an exhibit, is redacted to protect against the release of certain confidential, proprietary and/or commercially sensitive information. Concurrent with this filing, BNSF Railway Company has filed with the Surface Transportation Board in this proceeding (i) an unredacted version of the trackage rights agreement, "under seal," and (ii) a Motion for Protective Order.

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.

FEE RECEIVED

JAN 30 2007

**SURFACE
TRANSPORTATION BOARD**

Sincerely,

Sidney L. Strickland, Jr.

SLS/cac
Encls.

FILED

JAN 30 2007

**SURFACE
TRANSPORTATION BOARD**

cc: Ted Kalick
Cindy Bergmann
John Sims

**ENTERED
Office of Proceedings**

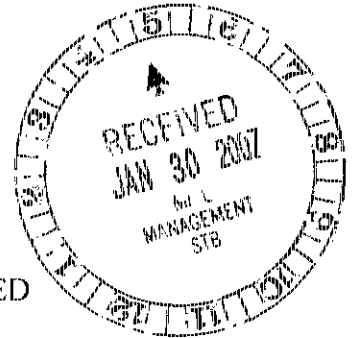
JAN 30 2007

**Part of
Public Record**

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34979

BNSF RAILWAY COMPANY
—TRACKAGE RIGHTS EXEMPTION—
GRAND TRUNK WESTERN RAILROAD INCORPORATED



VERIFIED NOTICE OF EXEMPTION

Richard E. Weicher
Sarah W. Bailiff
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76131-2828
(817) 352-2354

Sidney L. Strickland, Jr.
Elizabeth E. Waite
Sidney Strickland and Associates, PLLC
3050 K Street, N.W.
Suite 101
Washington, DC 20007
(202) 338-1325
(202) 295-3854 FAX

ATTORNEYS FOR BNSF RAILWAY COMPANY

Dated: January 30, 2007

FEE RECEIVED

JAN 30 2007

SURFACE
TRANSPORTATION BOARD

FILED

JAN 30 2007

SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings

JAN 30 2007

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34979

BNSF RAILWAY COMPANY
—TRACKAGE RIGHTS EXEMPTION—
GRAND TRUNK WESTERN RAILROAD INCORPORATED

VERIFIED NOTICE OF EXEMPTION

1. BNSF Railway Company (“BNSF”) files this verified notice of exemption pursuant to 49 C.F.R. §1180.2(d)(7). Under this notice, BNSF will obtain overhead trackage rights from Grand Trunk Western Railroad Incorporated d/b/a Canadian National Railway Company (“CN”) between CN’s connection with Norfolk Southern Corporation (“NS”) trackage at or about CN’s Milepost 8.5 and CN’s connection with NS at the west end of CN’s Fence Track at or about CN’s Milepost 6.1, all on CN’s Elsdon Subdivision, a distance of approximately 2.4 miles, all in the State of Illinois, (referred to herein as “Subject Trackage”). The overhead trackage rights are for the sole purpose of movement of specific traffic between Corwith and Railport, all in the State of Illinois.

The acquisition of these overhead trackage rights is based on a written agreement. The trackage rights are not sought as a responsive application in a rail consolidation proceeding.

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).

CN has granted overhead trackage rights to BNSF between CN’s connection with Norfolk Southern Corporation (“NS”) trackage at or about CN’s Milepost 8.5 and CN’s

connection with NS at the west end of CN's Fence Track at or about CN's Milepost 6.1, all on CN's Elsdon Subdivision, a distance of approximately 2.4 miles, all in the State of Illinois.

Subject to approval of the Board, the overhead trackage rights will terminate twenty (20) years from the Agreement Date, however that User shall have the right to terminate this Agreement upon giving sixty (60) days' advance written notice to CN. BNSF will operate its own trains with its own crews over the Subject 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

CN
17641 South Ashland Avenue
Homewood, IL 60430

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 the effective date of Surface Transportation Board ("STB") approval of this transaction.

Section 1180.6(a)(5).

The trackage involved in the overhead trackage rights agreement is located entirely in the State of Illinois.

Section 1180.6(a)(6).

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

Section 1180.6(a)(7)(ii).

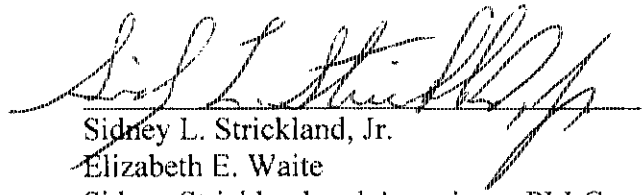
A copy of the overhead trackage rights agreement covering this transaction is attached hereto as Exhibit No. 2.

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).

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,



Sidney L. Strickland, Jr.
Elizabeth E. Waite
Sidney Strickland and Associates, PLLC
3050 K Street N.W.
Suite 101
Washington, DC 20007
(202) 338-1325
(202) 295-3854 FAX

Richard E. Weicher
Sarah W. Bailiff
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76131-2828
(817) 352-2354

ATTORNEYS FOR BNSF RAILWAY COMPANY

Dated: January 30, 2007

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Finance Docket No. 34979

BNSF RAILWAY COMPANY
—TRACKAGE RIGHTS EXEMPTION—
GRAND TRUNK WESTERN RAILROAD INCORPORATED

Grand Trunk Western Railroad Incorporated ("CN") has granted overhead trackage rights to BNSF Railway Company ("BNSF"). Under this notice, BNSF will obtain overhead trackage rights from CN between CN's connection with Norfolk Southern Corporation ("NS") trackage at or about CN's Milepost 8.5 and CN's connection with NS at the west end of CN's Fence Track at or about CN's Milepost 6.1, all on CN's Elsdon Subdivision, a distance of approximately 2.4 miles, all in the State of Illinois (referred to herein as "Subject Trackage").

The overhead trackage rights are for the sole purpose of movement of specific traffic between Corwith and Railport, all in the State of Illinois. This transaction will be effective on the effective date of Surface Transportation Board ("STB") approval of this transaction. The overhead trackage rights will terminate twenty (20) years from December 18, 2006; provided, however, that User shall have the right to terminate this Agreement upon giving sixty (60) days' advance written notice to CN.

This notice is filed under 49 C.F.R. §1180.2(d)(7). 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.

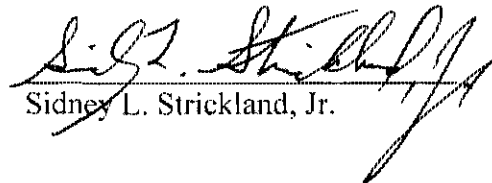
Dated:

By the Board,
Vernon A. Williams,
Secretary.

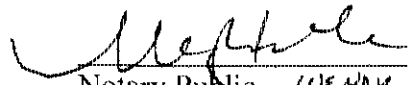
VERIFICATION

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 29TH day of January, 2007.


Notary Public WENDY HUBER

My Commission expires:

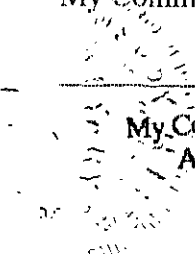
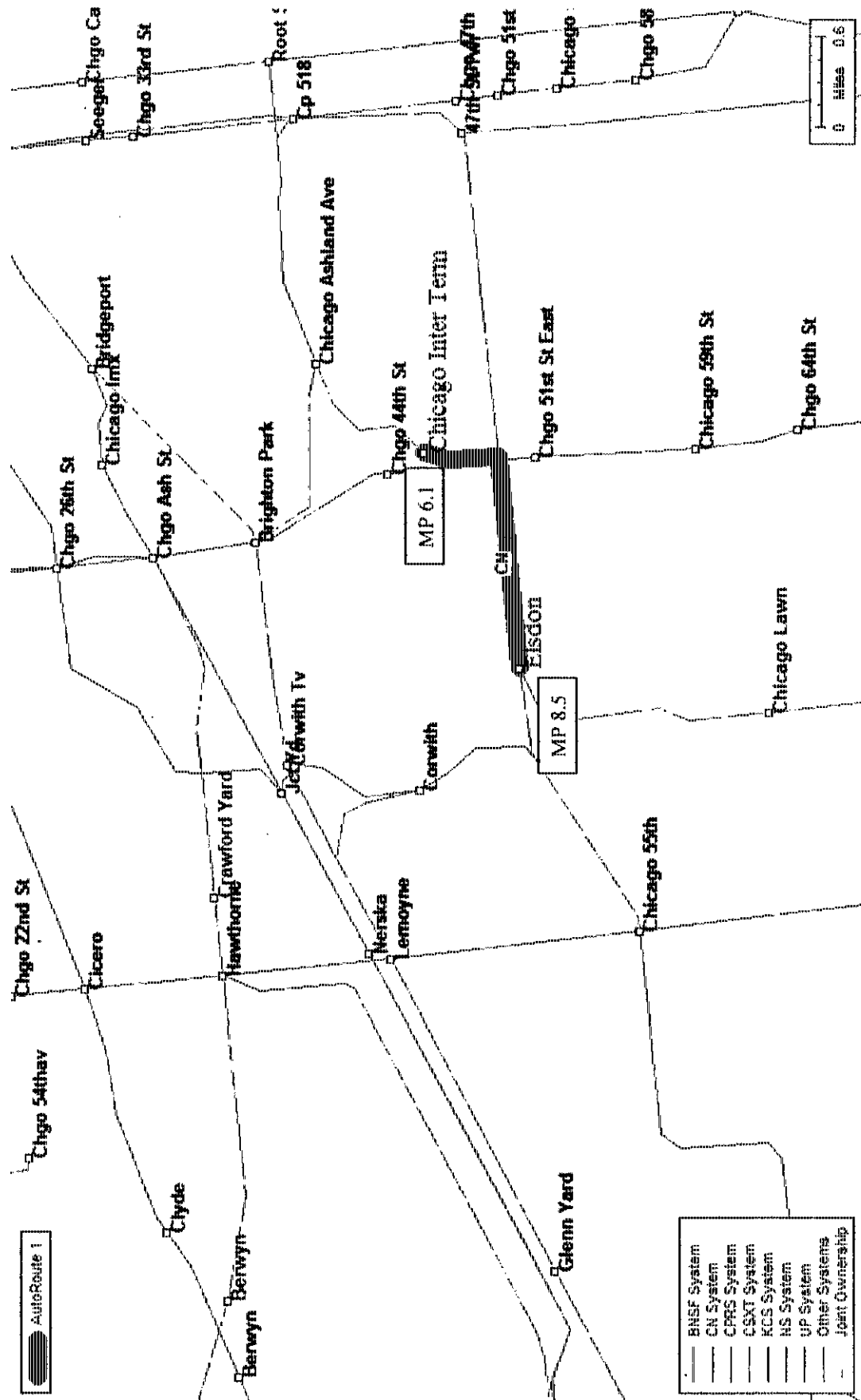

My Commission Expires
August 14, 2008

Exhibit A 49th Street Line MP 8.5 - MP 6.1



TRACKAGE RIGHTS AGREEMENT

Agreement No. _____

Between

GRAND TRUNK WESTERN RAILROAD INCORPORATED

("CN" or "Owner")

And

BNSF RAILWAY COMPANY

("BNSF" or "User")

Relating to BNSF's Limited Trackage Rights Over

CN 's Lines Of Railroad Between

CN's connection with Norfolk Southern Corporation ("NS")

near Corwith at approximately Milepost 8.5 and

CN's connection with NS near CN's Railport Terminal

at the west end of CN's Fence Track

at approximately Milepost 6.1 on CN's Elsdon Subdivision

all in the State of Illinois

AGREEMENT

THIS AGREEMENT entered into as of this 18th day of December 2006, ("Agreement Date") by and between **GRAND TRUNK WESTERN RAILROAD INCORPORATED**, (hereinafter referred to as "CN" or "OWNER") and **BNSF RAILWAY COMPANY**, (hereinafter referred to as "BNSF" or "USER").

WHEREAS, CN owns and operates a segment of railroad located between CN's connection with Norfolk Southern Corporation ("NS") near Corwith at approximately Milepost 8.5 and CN's connection with NS near CN's Railport Terminal at approximately Milepost 6.1 on CN's Elsdon Subdivision all in the State of Illinois; and

WHEREAS, BNSF has requested trackage rights over CN's lines between Corwith and Railport all in the State of Illinois; and

WHEREAS, CN agrees to grant BNSF limited overhead trackage rights for the sole movement of specific traffic between Corwith and Railport all in the State of Illinois; subject to the terms and conditions set forth herein:

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1.0 **GRANT OF TRACKAGE RIGHTS**

Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate, in overhead freight service only, its trains, locomotives, cars, and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segments of Owner's railroad shown on the plan attached hereto, made a part hereof and marked Exhibit "A" (hereinafter referred to as the "Subject Trackage").

- Between CN's connection with NS trackage at or about CN's Milepost 8.5 and CN's connection with NS at the west end of CN's Fence Track at or about CN's Milepost 6.1, all on CN's Elsdon Subdivision, a distance of approximately 2.4 miles, all in the State of Illinois.

SECTION 2.0 **USE OF SUBJECT TRACKAGE**

2.1 User's use of the Subject Trackage shall be in common with Owner and any other user of the Subject Trackage, and Owner's right to use the Subject Trackage shall not be diminished by this Agreement. Owner shall retain the exclusive right to grant to other persons rights of any nature in the Subject Trackage.

2.2 Except as may otherwise be provided by this Agreement, User shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing of cars or equipment, or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of Owner, preclude the emergency use by User of such auxiliary tracks as may be designated by Owner for such purpose.

2.3 Owner shall have exclusive control of the management and operation of the Subject Trackage. User shall not have any claim against Owner for liability account of loss or damage of any kind as a result of interruptions or delays at any time from any cause on or along the Subject Trackage.

2.4 User shall have the right to operate in either direction over the Subject Trackage.

2.5 User shall ensure that its trains 1) have obtained clearance to enter NS Ashland Avenue Yard or BNSF Corwith Yard and have a clear route (or available offline staging capacity) beyond the Subject Trackage before entering or occupying the Subject Trackage; 2) are not staged, held, stored, or parked on the Subject Trackage (except at the direction of Owner), or otherwise unreasonably interfere with the joint use of the Subject Trackage; 3) are staffed with qualified crews that have sufficient hours of service remaining to clear the Subject Trackage; and 4) restore all connection switches for mainline movement on and by Owner (collectively "Clearance Obligations").

If in the reasonable judgment of Owner, use of the Subject Trackage by User unreasonably interferes with the fluidity of the Subject Trackage as a result of failure to meet its Clearance Obligations, and such failure interferes with or blocks Owner's operations for sixty (60) minutes or more ("Interference"), Owner shall have the right to move (using either User's or Owner's power, at Owner's discretion) User's trains to a location of Owner's choosing, and the right to split User's trains into two or more sections to be reassembled by User, to restore fluidity of the Subject Trackage, and all expenses, costs and liability associated with Interference shall be borne solely by the User, unless such failure was caused by CN in which case, all expenses and costs associated with the relocation of User's trains shall be borne solely by Owner.

If Owner experiences Interference, and said Interference was not caused by CN, on four (4) or more occasions in any one (1) calendar month, Owner shall notify User in writing of each specific instance of Interference, and shall further specify the time, date and location of a face-to-face meeting of designated representatives of both parties within five (5) days of such notification. Said meeting shall be held at a City of Owner's choosing on the Subject Trackage (or at any other location mutually agreed to by the parties hereto). At said meeting, User shall present a written plan to Owner detailing specific steps User will undertake, at User's cost and expense, to avoid future occurrences similar to those giving rise to Owner's Interferences.

If Owner experiences Interference, and said Interference was not caused by CN, on four (4) or more occasions in each of any two (2) months within a twelve (12) month period, Owner shall notify User in writing of each specific instance of Interference, and shall further specify the time, date and location of a face-to-face meeting of designated representatives of both parties within five (5) days of such notification. Said meeting shall be held at a City of Owner's choosing on the Subject Trackage (or at any other location mutually agreed to by the parties hereto). At said meeting, CN may require BNSF to construct additional trackage or other

infrastructure ("Additional Infrastructure") on BNSF property (or, if the parties agree, on CN property) to support BNSF's train movements in the vicinity of the Interference as may be required in the reasonable judgment of CN, the cost and expense of which shall be borne solely by BNSF. Such Additional Infrastructure shall be constructed, maintained and renewed at the sole cost and expense of BNSF, and shall be reserved for the exclusive use of BNSF. However, should CN elect to use the Additional Infrastructure for its own trains and equipment, it may do so only after negotiating agreed terms for such use with BNSF.

If Owner and User, as a result of either meeting specified above, are in disagreement as to the remedy to ensure that User meets its Clearance Obligations, then the General Managers of each party, or their designee with authority to resolve said matters, shall meet within five (5) days to resolve the issue. If the issue is not resolved at such meeting, the parties agree to immediately submit the matter to arbitration pursuant to Article 15 on the sole issue of the measures necessary to remediate User's failure to meet its Clearance Obligations. Such meetings described above shall replace the requirements of the parties to meet as provided in Section 15.1.

Upon the termination or expiration of this Agreement, BNSF shall remove any Additional Infrastructure constructed on CN at its sole expense within sixty (60) days, or, at the mutual agreement of the parties, CN may pay to BNSF an agreed upon amount for the Additional Infrastructure constructed on CN. Upon receipt of payment for the Additional Infrastructure, BNSF shall provide a quitclaim deed to CN for title to the Additional Infrastructure.

Third parties admitted (current or future) to the Subject Trackage shall be considered as Owner for the purposes of this Section 2.5.

Owner shall make best efforts to avoid blocking User's trains. If an issue concerning Owner's best efforts to avoid blocking User's trains cannot be resolved between the parties, then the General Managers of each party, or their designee with authority to resolve said matters, shall meet within five (5) days to resolve the issue. If the issue is not resolved at such meeting, the parties agree to immediately submit the matter to arbitration pursuant to Article 15 on the sole issue of the measures necessary to remediate Owner's blocking of User's trains. Such meetings described above shall replace the requirements of the parties to meet as provided in Section 15.1.

2.6 User shall provide Owner with train information via AAR EDI 161 standard format and will include train symbol, estimated time of arrival, train length, tonnage, load/empty count, locomotives, and end of train device.

2.7 The rights provided to User under the terms of this Agreement are for the sole purpose of User transporting its own traffic over the Subject Trackage. Nothing herein expressed or implied is intended to or shall be construed to confer upon or to give any person, firm, partnership, corporation or governmental entity other than the User any right or benefit under or by reason of this Agreement. User shall not move traffic for or on behalf of any other party or foreign railroad or under the guise of doing business as User.

SECTION 3.0 RESTRICTION ON USE

3.1 The Trackage Rights herein granted are granted for the sole purpose of User conducting interchange between User at User's Corwith Yard and NS at NS Ashland Avenue Yard and for no other purpose. User shall not perform any local freight service whatsoever at any point located on Subject Trackage.

3.2 BNSF shall operate Trackage Rights trains in accordance with CN's standard mainline restrictions that currently are 1.0 Horsepower per ton (HPT), maximum train length of 10,000 feet and maximum gross tonnage of 15,000 tons.

SECTION 4.0 COMPENSATION

4.1

4.2 User will furnish to Owner, to the attention of Manager Contract Compliance, or to other designated representatives as otherwise instructed by Owner, at the end of each month, a statement of the number of trains operated over the Subject Trackage in each direction each day during the month. Based on this statement, Owner will render to User a bill, computed in accordance with the provisions of this Section 4, for User's use of the Subject Trackage.

4.3

SECTION 5.0 PAYMENT OF BILLS

5.1 All payments called for under this Agreement shall be made by User within thirty (30) days after receipt of bills therefore. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month.

5.2 The records of each party hereto, insofar as they pertain to billing matters under this Agreement, shall be open at all reasonable times to inspection during normal business hours by the other party on reasonable advance notice for a period of two (2) years from the date of billing.

5.3 Bills rendered pursuant to the provisions of this Agreement, other than those set forth in Section 4 or for indemnity or loss or damage claims, shall include direct labor and material costs actually incurred, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed by Owner for User and consistent with industry custom and practice for such costs.

SECTION 6.0 MAINTENANCE OF SUBJECT TRACKAGE

6.1 Except as otherwise provided, Owner shall maintain, repair, and renew the Subject Trackage at its own expense and with its own supervision and labor. User accepts the condition of the Subject Trackage AS IS WHERE IS and Owner commits to keep and maintain the mainline of the Subject Trackage in reasonably good condition for the use herein contemplated. Owner does not guarantee or otherwise promise to provide any particular transit or running times over the Subject Trackage, but Owner does commit to provide non-discriminatory dispatching to BNSF trains, and to provide BNSF with the same level of efficiency of operations as is accorded to CN trains. Further, Owner does not guarantee or otherwise promise that operations over the Subject Trackage will not be interrupted. However, Owner shall make best efforts to ensure that any interruptions will be kept to a minimum. Furthermore, except as may be otherwise provided in Section 12 hereof, User shall not by reason of failure or neglect on the part of Owner to maintain, repair, or renew the Subject Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damage to or loss or destruction of any property whatsoever, or for any damages of any nature suffered by User resulting from any such failure or neglect, except to the extent such loss, damage, injury, or death may be caused solely by the gross negligence or intentional misconduct of Owner.

6.2 Owner shall also perform, at the expense of User, such additional maintenance as User may reasonably require or request.

SECTION 7.0 CONSTRUCTION AND MAINTENANCE OF CONNECTIONS

7.1 Existing connections or facilities which are jointly used by the parties hereto under existing agreements or practices to access the Subject Trackage shall continue to be

maintained, repaired, and renewed by and at the expense of the party or parties responsible for such maintenance, repair, and renewal under such agreements or practices.

7.2 Any additional connections to the Subject Trackage which may be required shall be subject to the Owner's approval (including design) and shall be constructed, maintained, repaired, and renewed as follows:

- (i) User or others shall furnish all labor and material and shall construct, maintain, repair, and renew at its sole cost, liability and expense such portions of the tracks or facilities located on the right-of-way of User or others which connect the respective lines of the parties hereto; and
- (ii) Owner shall furnish all labor and material and shall construct, maintain, repair, and renew at the sole cost, liability and expense of User such portions of the tracks or facilities located on the right-of-way of Owner which connect the respective lines of the parties hereto.
- (iii) Upon termination of this Agreement, Owner may at its option remove that portion of trackage and appurtenances located on property of Owner, at the sole cost and expense of User. The salvage material removed shall be released to User or, as otherwise agreed upon, Owner will credit User the current fair market value for said salvage.

SECTION 8.0 ADDITIONS, RETIREMENTS AND ALTERATIONS

8.1 Owner, from time to time and at its sole cost and expense, may make such changes in, additions and betterments to, and retirements from the Subject Trackage as shall, in its reasonable judgment, be necessary or desirable for the economical or safe operation thereof or as shall be required by any law, rule, regulation, or ordinance promulgated by any governmental body having jurisdiction. Such additions and betterments shall become a part of the Subject Trackage and such retirements shall be excluded from the Subject Trackage.

8.2 If User requests Owner to make changes in or additions and betterments to the Subject Trackage, including without limitation changes in communication or signal facilities for purposes required to accommodate User's operations beyond that required for Owner's operation, and Owner determines that such changes in or additions and betterments to the Subject Trackage do not interfere with Owner's operation over the Subject Trackage, Owner shall make such changes in or additions and betterments to the Subject Trackage, and User shall pay to Owner the cost thereof, including the annual expense of maintaining, repairing, and renewing such additional or altered facilities.

8.3 Notwithstanding the provisions of Sections 8.1 and 8.2, additions and betterments required by either or both of the parties for future capacity improvements to the Subject Trackage made necessary by increasing traffic volumes of either or both parties, shall be performed by Owner and the costs thereof shall be borne in accordance with this Section 8.3. Expenditures for future capacity improvements including, but not limited to sidings, Centralized Traffic Control, grade separations, future connections, including renewals of such improvements, on and along the Subject Trackage, shall be apportioned on the basis of growth in CN's and BNSF's respective average daily train volume above a base line volume (train volume refers to the number of train movements operated by each party) for the Subject Trackage.

BNSF will provide CN (ninety) 90 days advance written notice of its intent to commence ("Commencement Date") Trackage Rights operations over the Subject Trackage.

For any future capacity expansion projects on the Subject Trackage which may be required, a base line train volume for each of CN and BNSF will be determined based on the average daily number of trains operated by each party during the first consecutive 12-month period following BNSF's exercise of the rights granted herein. This average base line train volume will be compared to the actual average daily train volume during the 12-months following the completion of any capacity expansion project. Funding for future capacity expansion projects will be provided by each railroad up front based on the estimated percentage of increase in train volume from the base line volume. Reconciliation and settlement will occur immediately following the determination of the final apportionment and will include a market-based interest component applied to the settlement amount. The use of Subject Trackage by any third party shall be attributed to Owner for purposes of computing train volumes for purposes of this Section 8.3.

8.4 Notwithstanding the provisions of Sections 8.1, 8.2, and 8.3, Owner in its sole judgment shall make all determinations regarding its physical plant including all capacity related issues. However, except as provided in Section 17, should Owner diminish its physical plant as it relates to capacity of Subject Trackage, User will not be required to participate in capacity expansion projects until such time as the diminished capacity has been replaced by Owner provided that User carries the burden of proof to establish that either: (i) such project by Owner to diminish capacity was performed for the sole purpose of requiring financial participation from User as defined in Section 8.3 or (ii) User informed Owner in writing, prior to Owners project to diminish capacity, of User's scheduled start dates of additional Trackage Rights trains. User shall have the right to (in writing) periodically request a written statement from Owner as to Owner's plans, if any, to diminish its plant as it relates to capacity of the Subject Trackage. Owner agrees to respond within thirty (30) days with any plans known to Owner, on the date of User's request, to diminish capacity of the Subject Trackage. In the event no response is received from Owner, User may initiate a meeting or telephone conference between the respective Regional Vice Presidents to discuss capacity issues related to the Subject Trackage.

SECTION 9.0 MANAGEMENT AND OPERATIONS

9.1 When operating over the Subject Trackage, User's locomotives and crews will be equipped to communicate with Owner on radio frequencies normally used by Owner in directing train movements on the Subject Trackage.

9.2 Procedures for qualification and occupancy of the Subject Trackage will be arranged by the local supervision of each carrier. All control and usage will be subject to the approval of Owner's representative or his designee.

9.3 Before its locomotives enter onto the Subject Trackage, User shall request permission from Owner's dispatcher or other designated representative at Homewood, IL or such other location as Owner may designate. Further, User shall ascertain that said Subject

Trackage is clear and shall await confirmation from said representative that such permission has been issued to allow User's movements on or over the Subject Trackage. Upon completing its operations and clearing the Subject Trackage, User will notify Owner's designated representative that it has completed its operations and that its equipment has cleared the Subject Trackage. Once User has notified Owner's representatives that it has cleared the Subject Trackage, User shall not reenter the Subject Trackage without again obtaining permission from Owner's representative. User shall provide and maintain at its expense all communication facilities needed as may be reasonably required by Owner to permit User to use Owner's trackage.

9.4 The parties shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Acts, as amended, and all other federal and state laws, regulations, and rules respecting the operation, condition, inspection, and safety of their respective trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against all fines, penalties, and liabilities imposed upon Owner or its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, or employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable to the failure of User to comply with its obligations in this regard.

9.5 User, in its use of the Subject Trackage, will comply in all respects with the safety rules, operating rules and other regulations of Owner, and the movement of User's trains, locomotives, cars, and equipment over the Subject Trackage shall at all times be subject to the orders of the transportation officers of Owner. User's trains shall not include locomotives, cars or equipment which exceed the width, height, weight or other restrictions or capacities of the Subject Trackage as published in Railway Line Clearances, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the authorized freight speeds as provided by Owner's operating rules and regulations without the prior consent of Owner. User shall indemnify, protect, defend, and save harmless Owner and its parent corporation, subsidiaries and affiliates, and all their directors, officers, agents and employees from and against all liabilities when attributable to the failure of User to comply with the provisions of this subsection.

9.6 All employees of User engaged in or connected with the operations of User on or along the Subject Trackage shall be required to pass periodic examinations on the rules of Owner related to the Subject Trackage, provided, with respect to such examinations that, upon request of User, Owner shall qualify one or more of User's supervisory officers on Owner's rules and such supervisory officer or officers so qualified shall examine all employees of User engaged in or connected with User's operations on or along the Subject Trackage. Pending qualification of train and engine crews of User, Owner shall furnish a pilot or pilots, at the expense of User, as deemed necessary by Owner, to assist in operating trains of User over the Subject Trackage. User shall pay to Owner, upon receipt of bills therefore, any cost incurred by Owner in connection with the qualification of such employees of User, as well as the cost of pilots furnished by Owner, until such time as such employees are deemed by the appropriate examining officer of Owner to be properly qualified for operation as herein contemplated.

9.7 Owner may request an investigation at its option if User's employee working on Owner's property is alleged to have violated Owner's rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement rules. User will schedule the investigation and notify owners Local Transportation Officer in the territory. Provided Owner has given sufficient advance notice of its request for investigation, User's scheduling of the investigation must comply with the time limits provided in the applicable agreement on User's railroad. Owner will provide its regulations, supplements, and safety rules and all updates thereto to User at no cost.

9.8 If Owner requests an investigation, Owner shall have the right to exclude from the Subject Trackage any employee of User, except officers, determined by Owner as the result of Owner's investigation or hearing described below, to be in violation of Owner's rules, regulations, orders, practices or instructions.

9.9 In a major offense including, but not limited to, violation of Rule G, dishonesty, insubordination, or a serious violation of operating rules or other offenses of comparable magnitude, wherein Owner desires to bar User's employee from service on Owner's territory pending an investigation by Owner, immediate verbal notification will be given to the appropriate Transportation Officer of User so that proper written notice can be issued to the employee.

9.10 If Owner requests an investigation, an Officer of User will conduct the investigation, but an officer of Owner may be present. After the investigation is concluded, a Transportation Officer of User will arrange to assess discipline, within the applicable time limits. If Owner recommends dismissal, User reserves the right to change the recommendation to the extent of barring the individual from operating over Owner's territory. User shall release, indemnify, defend and save harmless Owner and its officers, agents and employees from and against any and all claims and expenses resulting from such exclusion.

9.11 If the disciplinary action is appealed by the employee of User to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not be barred from service on the Subject Trackage by reason of such occurrence (unless an arbitration concerning such matter is held pursuant to this Agreement and this arbitration upholds Owner's continued exclusion of such employee).

9.12 It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a successful challenge being made by the employee or his representative as to the discipline recommended by Owner and assessed by User. User agrees to notify Owner before committing itself to making payment of any claim. In the event a claim is progressed to an Adjustment Board, Owner will be given an opportunity to review User's submission. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which User may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

9.13 The trains, locomotives, cars, and equipment of User, Owner, and any other present or future user of the Subject Trackage or any portion thereof shall be operated and

dispatched without prejudice or partiality and in such manner as will afford the most economical and efficient manner of movement of all traffic.

9.14 If by reason of any mechanical failure, insufficient hours of service remaining among User's crew, or for any other cause not resulting from an accident or derailment, a train or locomotive of User becomes stalled or unable to proceed under its own power, or fails to maintain the speed required by Owner on the Subject Trackage, or if in emergencies crippled or otherwise defective cars are set out of User's trains on the Subject Trackage, Owner shall have the option to furnish motive power or such other assistance (including but not limited to the right to recrew User's train) as may be necessary to haul, help, or push such trains, locomotives, or cars, or to properly move the disabled equipment off the Subject Trackage, and User shall reimburse Owner for the cost of rendering any such assistance.

9.15 If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the Subject Trackage, such work shall be done by Owner and User shall reimburse Owner for the cost thereof.

SECTION 10.0 MILEAGE AND CAR HIRE

10.1 All mileage and car hire charges accruing on cars in User's account in User's trains on the Subject Trackage shall be assumed by User and reported and paid by it directly to the owner of such cars.

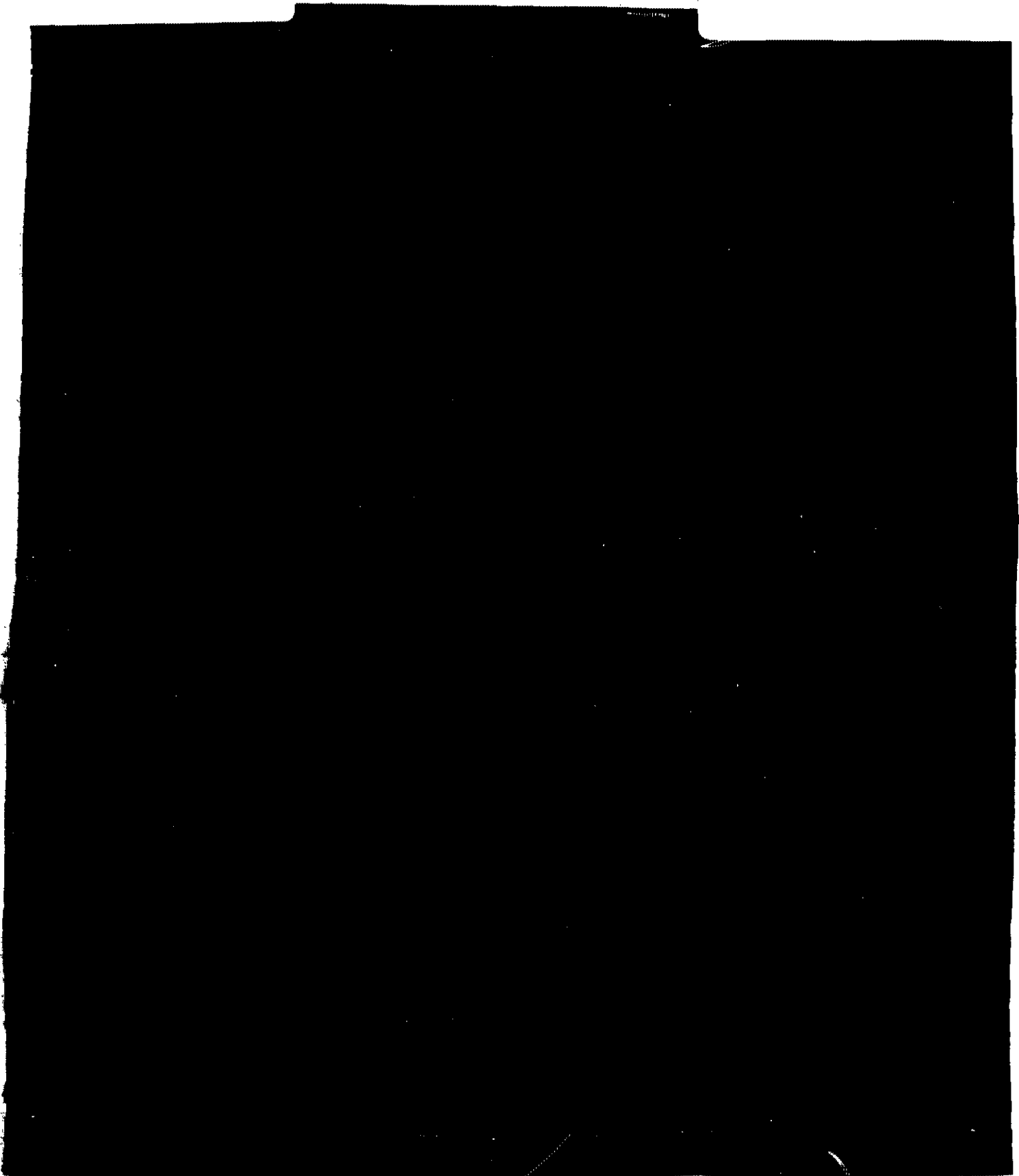
SECTION 11.0 CLEARING OF WRECKS

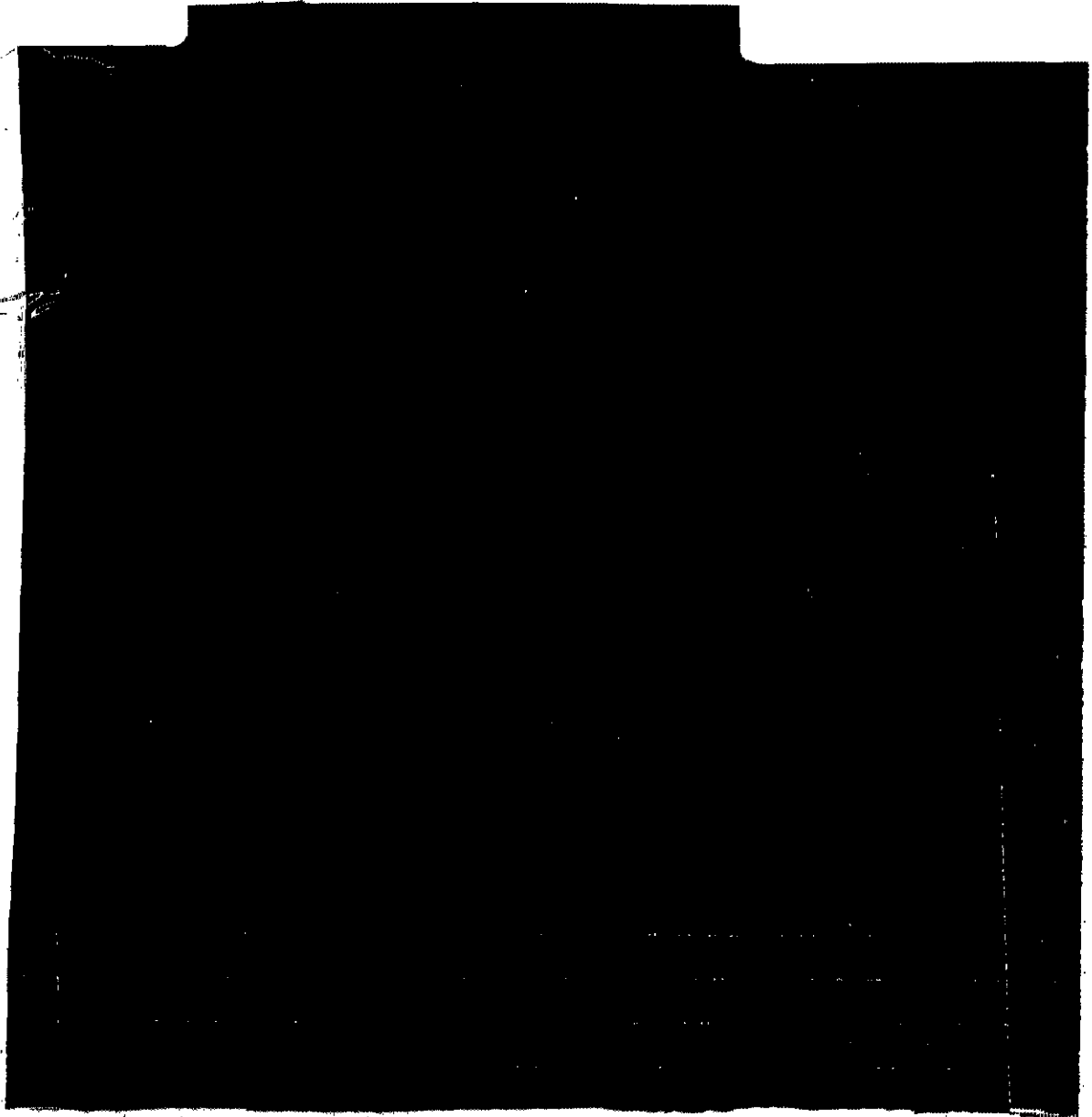
11.1 Whenever User's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, Owner shall perform such service, including the repair and restoration of roadbed, track, and structures. The cost, liability and expense thereof, including without limitation loss of, damage to, and destruction of any property whatsoever and injury to or death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Section 12 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by User at the time of such wreck shall be promptly delivered to User.

SECTION 12.0 LIABILITY

12.1







SECTION 13.0 INVESTIGATION AND CLAIMS

13.1 Except as provided in Subsection 13.2 hereof, all claims, injuries, deaths, property damages, and losses arising out of or connected with this Agreement shall be investigated, adjusted, and defended by the party bearing the liability, cost, and expense therefore under the provisions of this Agreement.

13.2 Each party will investigate, adjust, and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and 49 C.F.R. Section 1005 (or any revised or substitute regulations adopted to modify, supplement or supersede the regulations herein provided), or in accordance with any applicable transportation contract entered into pursuant to 49 U.S.C. Section 10709.

13.3 In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust, or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment, and defense of such claim or suit.

13.4 All costs and expenses in connection with the investigation, adjustment, and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time employees, including claim agents, attorneys, and other employees of either party engaged directly or indirectly in such work shall be borne by such party.

13.5 Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005 or similar regulation, neither party shall settle or compromise any claim, demand, suit, or cause of action for which the other party has any liability under this Agreement without the concurrence of such other party if the consideration for such settlement or compromise exceeds thirty-five thousand dollars (\$35,000).

13.6 It is understood that nothing in this Section 13 shall modify or waive the conditions, obligations, assumptions or apportionments, or supersede the provisions of Section 12 hereof.

SECTION 14.0 DEFAULT AND TERMINATION

14.1 In the event of material default on the part of User to perform its obligations under this Agreement and its continuance in such default for a period of sixty (60) days after receipt of written notice thereof by Owner and failure to substantially cure such default, Owner shall have the right at its option, after first giving thirty (30) days' written notice thereof; and notwithstanding any waiver by Owner of any prior breach thereof, to terminate the Trackage Rights and User's use of the Subject Trackage as provided in Section 21.4. The exercise of such right by Owner shall not impair its rights under this Agreement or any cause or causes of action it may have against User for the recovery of damages.

SECTION 15.0 DISPUTE RESOLUTION

15.1 If at any time a question or controversy shall arise between the parties hereto in connection with this Agreement upon which the parties cannot agree, either party shall have the right to require a meeting of designated representatives with authority to settle the matter within 30 days of written notice of a desire to meet; if it cannot be resolved within 30 days of the meeting of the parties, then the aggrieved party may demand arbitration. Unless other procedures are agreed to by the parties, arbitration between the parties pursuant to this Section 15 shall be governed by the rules and procedures set forth in this Section 15. For all purposes, this Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, regardless of its conflicts of law's principles.

15.2 If the parties to the dispute are able to agree upon a single competent and disinterested arbitrator within twenty (20) days after written notice by one party of its desire for

arbitration to the other party, then the question or controversy shall be submitted to and settled by that single arbitrator. Otherwise, any party (the notifying party) may notify the other party (the noticed party) in writing of its request for arbitration and nominating one arbitrator. Within twenty (20) days after receipt of said notice, the noticed party shall appoint an arbitrator and notify the notifying party in writing of such appointment. Should the noticed party fail within twenty (20) days after receipt of such notice to name its arbitrator, said arbitrator may be appointed by the American Arbitration Association, which shall designate said appointment from the CPR Panel of Distinguished Neutrals, or other similar body of competent neutral arbitrators which may be agreed upon between the parties, upon application by either party after ten (10) days' written notice to the other party. The two arbitrators so chosen shall select one additional arbitrator to complete the board. If the arbitrators so chosen fail to agree upon an additional arbitrator, the same shall, upon application of a party, be appointed in the same manner hereto before stated.

15.3 Upon selection of the arbitrator(s), said arbitrator(s) shall, with reasonable diligence, determine the questions as disclosed in said notice of arbitration, shall give both parties reasonable notice of the time and place (of which the arbitrator(s) shall be the judge) of hearing evidence and argument, may take such evidence as the arbitrator(s) shall deem reasonable or as either party may submit with witnesses required to be sworn, and hear arguments of counsel or others. If an arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) by whom the arbitrator was chosen or the American Arbitration Association, as the case may be, shall appoint another to act in the arbitrator's place.

15.4 After considering all evidence, testimony and arguments, said single arbitrator or the majority of said board of arbitrators shall promptly state such decision or award and the reasoning for such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. The award rendered by the arbitrator(s) may be entered as a judgment in any court in the United States of America having jurisdiction thereof and enforced as between the parties without further evidentiary proceeding, the same as entered by the court at the conclusion of a judicial proceeding in which no appeal was taken. Until the arbitrator(s) shall issue the first decision or award upon any question submitted for arbitration, performance under this Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

15.5 Each party to the arbitration shall pay all compensation, costs, and expenses of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, cost, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by all parties to the arbitration.

15.6 The parties may obtain discovery and offer evidence in accordance with the Federal Rules of Civil Procedure Rules 26 - 37, and Federal Rules of Evidence, as each may be amended from time to time.

SECTION 16.0 REGULATORY APPROVAL

16.1 Should implementation of this Agreement require the prior approval and authorization of the Surface Transportation Board ("STB"), User, at its own cost and expense, will initiate and thereafter diligently prosecute an action to obtain such approval and authorization or an exemption therefrom. Owner will assist and support efforts of User to obtain any such required approval and authorization or exemption.

16.2 Each party agrees to indemnify, defend and hold harmless the other party and its parent corporation, subsidiaries and affiliates, and all their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances, and without limitation, arbitration, administrative, reasonable attorneys fees and costs, in any way related to, connected with or arising out of claims or grievances (i) made by or on behalf of its own employees pursuant to employee protective conditions imposed by the STB as a condition of that agency's approval or exemption from approval of this Agreement; or (ii) made by or on behalf of its own employees pursuant to a collective bargaining agreement.

SECTION 17.0 ABANDONMENT OF SUBJECT TRACKAGE

17.1 Notwithstanding the provisions of Section 21 of this Agreement, Owner may, to the extent it may lawfully do so, abandon the Subject Trackage during the term of this Agreement, or any renewals hereof, upon giving User not less than 180 days' written notice of Owner's intent to abandon ("Abandonment Notice").

In the event regulatory authority is required to effect abandonment or User's desire to acquire the Subject Trackage pursuant to the Offer of Financial Assistance procedures, Owner shall prosecute such abandonment proceedings and User will not interfere with Owner's actions to seek and to exercise such authority. In the event regulatory authority is required for User to discontinue its own operations over the Subject Trackage, User will seek and diligently pursue such regulatory authority at the same time that Owner seeks regulatory authority to abandon the Subject Trackage, or as soon thereafter as User may do so in accordance with applicable statutes and regulations, unless User intends to seek to acquire the Subject Trackage from Owner pursuant to 49 U.S.C. Section 10904 or other similar provision. User hereby expressly reserves the right pursuant to 49 U.S.C. Section 10904 or any similar provision which may be in effect to subsidize operations on or to seek to acquire the Subject Trackage. Unless User or another party acquires the Subject Trackage for continued rail use or subsidizes Owner's operations thereon, User shall exercise its authority to discontinue its operations pursuant to this Agreement upon the date established by Owner for abandonment of the Subject Trackage by its aforesaid notice to User, or upon the earliest authorized date of exercise of the regulatory authority to discontinue operations, whichever is later. If regulatory authority for discontinuance of User's operations is not required, User shall discontinue its operations hereunder on the date that Owner is authorized to abandon the Subject Trackage. Upon discontinuance of User's operations and/or purchase of the Subject Trackage, this Agreement shall terminate and be of no further force and effect, except that termination of this Agreement shall not relieve or release either party hereto from any obligations assumed or from any liability which may have arisen or been incurred prior to said termination. As used herein, Subject Trackage means the entire Subject Trackage or any portion or portions thereof.

SECTION 18.0 GENERAL PROVISIONS

18.1 This Agreement and each and every provision hereof are for the exclusive benefit of the parties hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against either of the parties hereto.

18.2 All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

18.3 This Agreement and the attachments annexed hereto and integrated herewith contain the entire agreement of the parties hereto and supersede any and all oral understandings between the parties.

18.4 No term or provision of this Agreement may be changed, waived, discharged, or terminated except by an instrument in writing signed by both parties to this Agreement.

18.5 As used in this Agreement, whenever reference is made to the trains, locomotives, cars, or equipment of, or in the account of, one of the parties hereto such expression means the trains, locomotives, cars, or equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars, or equipment which are owned by, leased to, or in the account of such party except that User trains while being moved by Owner pursuant to Sections 2.5 and 9.14 hereto shall be deemed User trains for all purposes herein.

18.6 All words, terms, and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms, and phrases in the railroad industry.

18.7 This Agreement is the result of mutual negotiations of the parties hereto, neither of whom shall be considered the drafter for purposes of contract construction.

18.8 Except as provided by law or by rule, order, or regulation of any court or regulatory agency with jurisdiction over the subject matter of this Agreement or as may be necessary or appropriate for a party hereto to enforce its rights under this Agreement, during the initial and any renewal term of this Agreement, all commercial information to which access is provided or obtained hereunder will be kept confidential and will not be disclosed by either CN or BNSF to any party other than CN's and BNSF's affiliates and the respective officers, employees, and attorneys of those affiliates, without the prior written approval of the other party which shall not be unreasonably withheld.

SECTION 19.0 SUCCESSORS AND ASSIGNS

19.1 This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. No party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder, to any person, firm, or corporation without obtaining the prior written consent of the other party(ies) to this Agreement; provided, however, no such consent shall be required where assignment occurs as a result of a sale of all or

substantially all of a party's assets by way of merger, sale, consolidation, combination, or order or decree of governmental authority.

SECTION 20.0 NOTICE

20.1 Any notice required or permitted to be given by one party to the other under this Agreement shall be deemed given on the date such notice is confirmed in writing as delivered to and/or received by such party. Written confirmation of delivery may be evidenced by electronic verification of receipt, written reply communication confirming receipt, or written or electronic confirmation from a third party express mail carrier of delivery to such party at the address below, or by such other means as the parties may mutually agree, and shall be addressed as follows:

If to Owner:

Region Director, Contracts and Administration
Canadian National Railway Company
17641 South Ashland Avenue
Homewood, IL 60430

If to User:

Assistant Vice President Contracts and Joint Facilities
BNSF Railway Company
2600 Lou Menk Drive
Fort Worth, Texas 76131

20.2 Either party may provide changes in the above addresses to the other party by personal service or by notice in the manner identified in Section 20.1.

SECTION 21.0 COMMENCEMENT, TERM AND TERMINATION

21.1 This Agreement shall take effect on the Agreement Date. User shall not commence operations over the Subject Trackage prior to the effective date of any required regulatory approvals, and shall be evidenced by an exchange of correspondence between the appropriate operating officers of the parties hereto.

21.2 This Agreement shall continue in full force and effect for a period of twenty (20) years from the Agreement Date provided, however, that User shall have the right to terminate this Agreement upon giving sixty (60) days' advance written notice to the Owner. The Term of this Agreement may be extended ("Extension Term") only by the mutual written consent of both parties.

21.3 Termination of this Agreement shall not relieve or release either party hereto from any obligations assumed or from any liability which may have arisen or been incurred by either party under the terms of this Agreement prior to the termination hereof.

21.4 Upon termination or expiration of the term of this Agreement, User shall within sixty (60) days following such termination or expiration initiate and thereafter diligently prosecute any action to obtain approval from the Surface Transportation Board (STB) or other regulatory body having jurisdiction authorizing abandonment or discontinuance of the Trackage Rights herein granted. If User fails to file within (60) days, User hereby expressly authorizes Owner to file with the STB, or other regulatory body having jurisdiction, on behalf of User to abandon or discontinue the Trackage Rights granted hereunder, and in such event, User further agrees to reimburse Owner for all costs reasonably incurred to prosecute to conclusion such abandonment or discontinuance authority.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year first hereinabove written.

WITNESS

Chaim Paw

ILLINOIS CENTRAL RAILROAD COMPANY

By: Francis C. Hébert

Its: Vice President

Network Strategies
Date: DECEMBER 18, 2006

WITNESS

Jim Hill

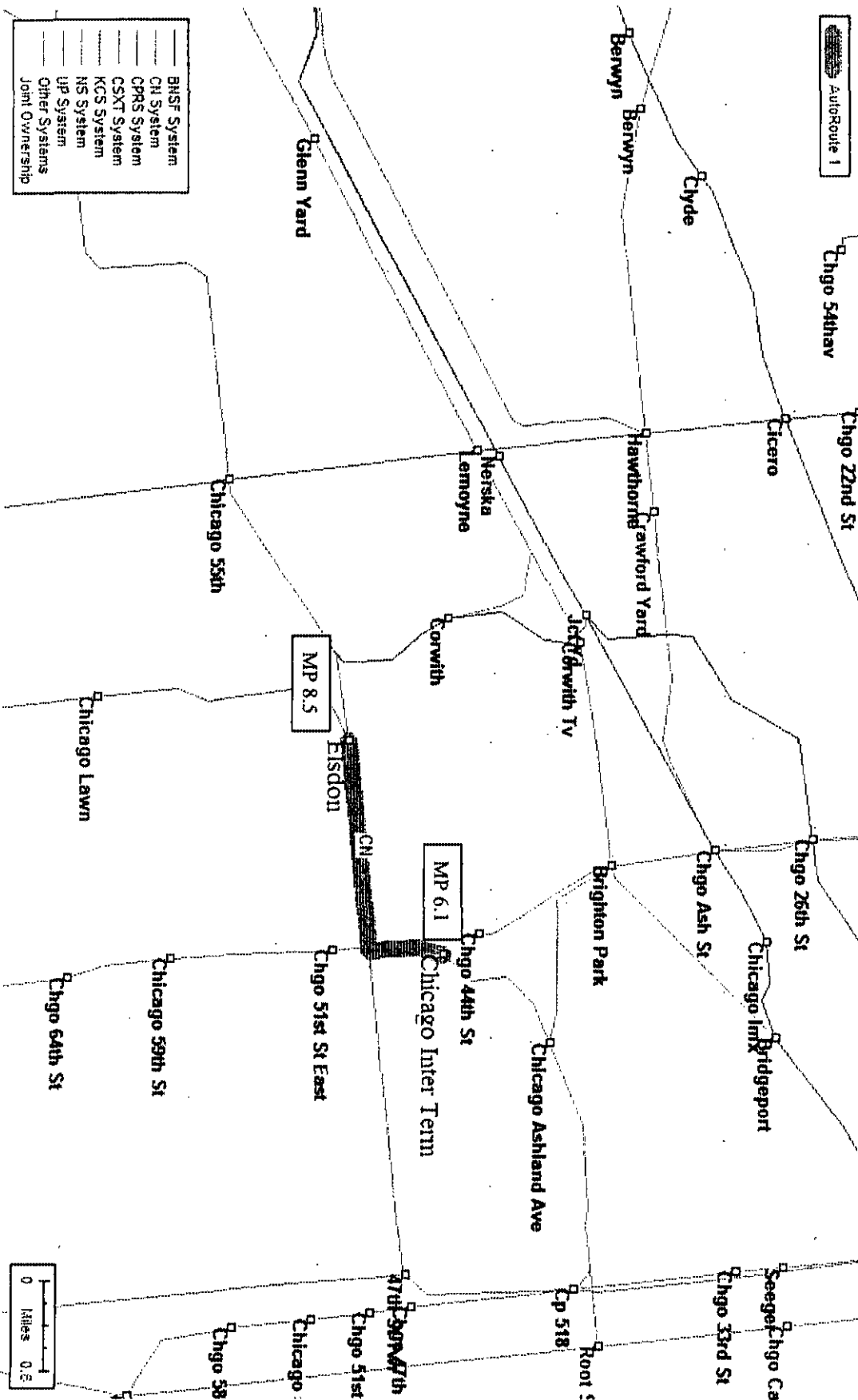
BNSF RAILWAY COMPANY

By: Jim Hill

Its: Vice President

Date: December 18, 2006

Exhibit A 49th Street Line MP 8.5 - MP 6.1



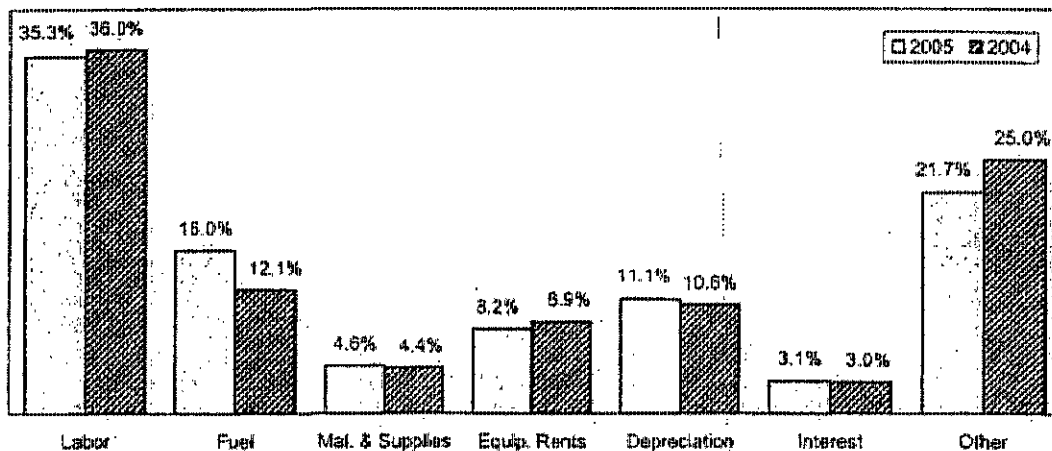


ASSOCIATION
OF AMERICAN
RAILROADS

September 2006

AAR RAILROAD COST INDEXES

**2005-Based Weights Adopted for RCAF
Beginning 2006Q4**



Including Series RCR,
The All-Inclusive Index,
and The Rail Cost Adjustment Factor

Table AC
ALL-INCLUSIVE INDEX LESS FUEL ON VARIOUS BASES

	Base *	
	1980	2002Q4
1996Q1	178.1	88.4
1996Q2	177.4	88.1
1996Q3	179.3	89.0
1996Q4	180.1	89.4
1997Q1	183.9	91.3
1997Q2	184.2	91.5
1997Q3	184.9	91.8
1997Q4	183.7	91.2
1998Q1	183.0	90.9
1998Q2	182.8	90.8
1998Q3	184.8	91.8
1998Q4	185.0	91.9
1999Q1	185.1	91.9
1999Q2	184.9	91.8
1999Q3	186.3	92.5
1999Q4	185.5	92.1
2000Q1	190.3	94.5
2000Q2	190.3	94.5
2000Q3	192.0	95.3
2000Q4	191.8	95.1
2001Q1	195.5	97.1
2001Q2	196.2	97.4
2001Q3	197.2	97.9
2001Q4	196.3	97.5
2002Q1	199.1	98.9
2002Q2	197.3	98.0
2002Q3	197.5	98.1
2002Q4	201.4	100.0
2003Q1	202.4	100.5
2003Q2	203.2	100.9
2003Q3	204.8	101.7
2003Q4	207.0	102.8
2004Q1	206.9	102.7
2004Q2	207.5	103.0
2004Q3	212.0	105.3
2004Q4	215.2	106.9
2005Q1	217.3	107.9
2005Q2	220.3	109.4
2005Q3	221.8	110.1
2005Q4	220.0	109.2
2006Q1	225.2	111.8
2006Q2	224.9	111.7
2006Q3	228.9	112.7
2006Q4	229.1	113.8

* The 1980 linked All-Inclusive Index for each quarter is divided by the following linking factors to determine the values shown on Table AC: 4Q/02 = 2.014