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VIA FEDEX

Mr Vernon A Williams, Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

219727

Re Town of Babylon and Pinelawn Cemetery – Petition for Declaratory Order
Finance Docket No 35057

Dear Secretary Williams

It has come to our attention that a page from one of the exhibits annexed to the Petition in this matter was copied incompletely. Accordingly, I am enclosing eleven copies of page 7 of Exhibit D. I apologize for any inconvenience this copying problem caused.

Respectfully,

Fran M. Jacobs

Fran M. Jacobs

Enclosures

cc Parties on Certificate of Service (w/encl)
Howard M. Miller, Esq. (w/encl)
Mark A. Cuthbertson, Esq. (w/encl)

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ARTICLE III - LOADING AND USAGE FEES

3.01. Rates and Charges. For and as its sole compensation for performing the transloading services, COASTAL shall be entitled to charge a Loading Fee ("Loading Fee") for such services, which fee shall be in addition to the rail freight transportation charge otherwise payable to RAILROAD for loaded freight car movements.

3.02 Use Charge: COASTAL shall pay to RAILROAD, for the use of the Facility and in recognition of the previous contributions to construction of the Facility by the parties, a usage fee (the "Usage Fee") of twenty dollars (\$20) per loaded rail car (inbound or outbound). The Usage Fee for each loaded car in excess of 1,200 in any contract year (as determined by the anniversary of the effective date) shall be reduced to five dollars (\$5).

3.03 Payment. Usage Fees payable to RAILROAD under this agreement shall be paid as provided in Section 2.02 above.

3.04 Discrepancies: Any discrepancy in billing or charges provided for under this agreement shall be reconciled between the parties. Any claim for adjustment or correction of charges paid, collected or remitted shall be made in writing by the party making the claim and delivered to other party within six (6) months of the date upon which the charge was paid, collected or remitted or shall be deemed waived. Any such claim shall be resolved pursuant to Section 7.03.

ARTICLE IV - COVENANTS OF COASTAL

4.01. Use of the Facility. During the term of this Agreement, COASTAL agrees and covenants as follows:

- (a) COASTAL shall use the Facility only for the transfer of Commodities between trucks and railcars transported by RAILROAD.
- (b) COASTAL shall access the Facility using only RAILROAD's primary access route off New Highway and shall not load or unload railcars outside the Facility.
- (c) COASTAL may not allow other persons to operate the Facility without the prior written permission of RAILROAD which permission may be withheld for any reason.
- (d) COASTAL shall, at its sole cost and expense, obtain any applicable required permits, licenses, waivers, consents or other governmental authority required for it to operate the Facility. Any costs incurred by RAILROAD in the process of obtaining any permits or operating authority for COASTAL will be paid by COASTAL, provided however COASTAL will not be responsible for any legal fees incurred by RAILROAD in reviewing submissions made by COASTAL or costs incurred by RAILROAD in obtaining any additional permits, authority or exemptions in the name of RAILROAD.



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