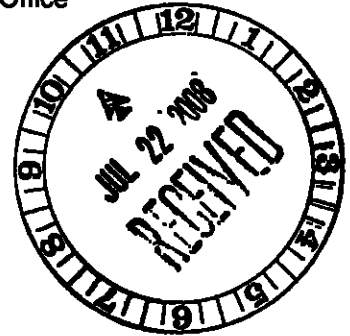




United States Steel Law Department
6200 E J Oliver Boulevard - Suite 192
P O Box 599
Fairfield, Alabama 35064
(205) 783-2515
Fax (205) 783-2036
email mmpartain@uss.com

Michael M. Partain
General Attorney
Fairfield Office



223004

July 18, 2008

ENTERED
Office of Proceedings

JUL 22 2008

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street NW - Room 700
Washington, D. C. 20006

Part of
Public Record

**Re: STB No. 192 (Sub - No. 2X) Birmingham Southern Railroad Company
Verified Notice of Exemption for Abandonment and Discontinuance of Service of 0.18 Mile of
Birmingham Southern Railroad Company's "Old Port Branch" Line in Jefferson County,
Alabama**

Dear Mr. Williams:

Enclosed please find for filing with the Surface Transportation Board ("STB"), pursuant to 49 C.F.R. § 1152.29 (e) (2), one original and ten copies of the "Notice of Consummation" of the abandonment of the Old Port Branch line as described above. Copies of this Notice was served on the State of Alabama Public Service Commission as required by 49 C.F.R. § 1152.29 (e) (2). A Certificate of Service is also enclosed.

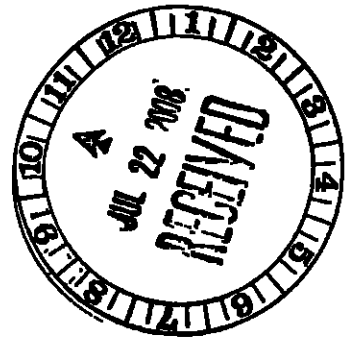
Please acknowledge receipt of this filing by date stamping the enclosed copy of this letter and returning it to me in the enclosed self-addressed, DHL overnight envelope. Should you have any questions concerning this filing, please contact me at (205) 783-2515.

Very truly yours,

Michael M. Partain
General Attorney

Enclosures





BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 192 (Sub No. 2-X)

BIRMINGHAM SOUTHERN RAILROAD COMPANY
ABANDONMENT AND DISCONTINUANCE OF SERVICE OVER THE
OLD PORT BRANCH IN JEFFERSON COUNTY, ALABAMA

NOTICE OF CONSUMMATION

MICHAEL M. PARTAIN
6200 E. J. Oliver Boulevard, Suite 192
Fairfield, Alabama 35064
Counsel for
BIRMINGHAM SOUTHERN
RAILROAD COMPANY

**BEFORE
THE SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB 192 (Sub No. 2-X)

**BIRMINGHAM SOUTHERN RAILROAD COMPANY
ABANDONMENT AND DISCONTINUANCE OF SERVICE OVER THE OLD PORT
BRANCH
IN JEFFERSON COUNTY, ALABAMA**

NOTICE OF CONSUMMATION

Birmingham Southern Railroad Company, (hereinafter referred to as "Applicant" or "BSRC") herewith gives its Notice of Consummation of the abandonment and discontinuance of rail service over its line of railroad known as the "Old Port Branch", extending from point of switch Survey Station 936+04.07 of Turnout P-63 A, and extending from that point over and across the Trestle 17.9 to a rail connection with Ergon Terminaling, Inc.'s Survey Station 945+52.55 in the City of Birmingham, Jefferson County, Alabama, a distance of 0.18 miles. Trestle 17.9 (FAC# P 18 E) is located at Milepost 17.9 on the Short Creek in Birmingham, Jefferson County, Alabama.

The Old Port Branch and Trestle 17.9 shall be sold and conveyed by the Applicant to Ergon Terminaling, Inc. pursuant to a Purchase Agreement dated April 3, 2008, as amended, wherein Ergon Terminaling, Inc. has agreed to be legally bound by the conditions imposed by the Surface Transportation Board in its decision dated January 22, 2007. A copy of the Purchase Agreement is attached hereto as **EXHIBIT A** and made a part hereof.

Respectfully Submitted,



MICHAEL M. PARTAIN
6200 E. J Oliver Boulevard, Suite 192
Fairfield, Alabama 35064
(205) 783-2515
Counsel for
BIRMINGHAM SOUTHERN
RAILROAD COMPANY

**CERTIFICATE OF SERVICE AND PUBLICATION
PURSUANT TO 49 C.F.R. § 1105.7(c)**

I hereby certify that I have served the Notice of Consummation upon the State of Alabama

Public Service Commission pursuant to 49 C F R § 1152.29 (e) (2).

A handwritten signature in black ink, reading "Michael M. Partain". The signature is written in a cursive, flowing style.

MICHAEL M. PARTAIN
6200 E J Oliver Boulevard, Suite 192
Fairfield, Alabama 35064
(205) 783-2515
Counsel for
BIRMINGHAM SOUTHERN
RAILROAD COMPANY

EXHIBIT A

**Purchase Agreement, as amended, by and between
Birmingham Southern Railroad Company and Ergon Terminaling, Inc.**

(see attachment)

FIRST AMENDMENT OF PURCHASE AGREEMENT

This First Amendment of Purchase Agreement ("First Amendment") dated as of the 8th day of JULY 2008, by and between **BIRMINGHAM SOUTHERN RAILROAD COMPANY**, an Alabama corporation (the "Seller"), and **ERGON TERMINALING, INC.**, a Mississippi corporation (the "Purchaser")

WITNESSETH:

WHEREAS, the parties heretofore executed that certain "Purchase Agreement" dated April 3, 2008 (the "Agreement"), for the purchase and sale of certain real property and improvements (the "Old Port Branch" rail line and "Trestle 17.9") located in Jefferson County, Alabama, more particularly described in the Agreement as the "Premises"; and

WHEREAS, the parties desire to amend the Agreement to acknowledge that the Purchaser has agreed to be legally bound by those certain conditions imposed by the Surface Transportation Board on the use of the Premises by its Decision in STB Docket No. AB-192 (Sub-No. 2X) dated January 22, 2007.

NOW, THEREFORE, in consideration of the mutual agreements herein, and other good and valuable consideration, including the sum of Ten Dollars (\$10.00) paid by each party to the other, the receipt of which is hereby acknowledged, and intending to be legally bound, the parties hereby agree to amend the Agreement as follows:

1. Paragraph 1 (c) is hereby added to the Agreement:

*(c) Purchaser hereby acknowledges and agrees that it shall be legally bound by those certain conditions imposed by the Surface Transportation Board on the use of the Premises by its Decision in STB Docket No. AB-192 (Sub-No. 2X) dated January 22, 2007, a copy of which is attached hereto as **EXHIBIT A** and made a part hereof (the "STB Conditions"). The Purchaser's agreement to be bound by the STB Conditions shall survive the Closing and the delivery of the Deed.*

2. This First Amendment may be executed by the parties hereto individually or in combination, in one or more counterparts, each of which shall be an original and all of which will constitute one and the same Amendment.

3. As modified herein, all terms and conditions in the Agreement shall remain in full force and effect. Except as otherwise expressly provided for herein, capitalized terms used herein shall have the same meaning as set forth in the Agreement.

4. Capitalized terms not otherwise specifically defined in this First Amendment shall have the same meanings given to such terms in the Agreement.

(Remainder of page intentionally left blank. See following page for signatures.)

EXHIBIT A

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

SELLER:

ATTEST:

BIRMINGHAM SOUTHERN
RAILROAD COMPANY

By Janice K. Gondek
Title: SECRETARY

By John Ayres
Title: Vice President-Finance &
Treasurer
Date 7/8/08



PURCHASER:

ATTEST:

ERGON TERMINALING, INC.

By Kathryn W. Stone
Its: - Sec -

By Jimmy Slaughter
Its: Vice President
Date 7/1/08

EXHIBIT A

EXHIBIT A

Surface Transportation Board
Decision in STB Docket No. AB-192
(Sub-No. 2X) dated January 22,
2007

(see attachment)

EXHIBIT A

EXHIBIT A

37677
DO

SERVICE DATE – LATE RELEASE JANUARY 22, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-192 (Sub-No. 2X)

BIRMINGHAM SOUTHERN RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN JEFFERSON COUNTY, AL

Decided: January 22, 2007

Birmingham Southern Railroad Company (BSRC) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.18-mile line of railroad known as the Old Port Branch, extending from Survey Station 936+04.07 of Turnout P-63 A, over Trestle 17.9, to a connection with Ergon Terminaling, Inc.'s (Ergon) rail line at Survey Station 945+52.55 in Jefferson County, AL. Notice of the exemption was served and published in the Federal Register on December 22, 2006 (71 FR 77095). The exemption is scheduled to become effective on January 23, 2007.

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding on December 29, 2006. In the EA, SEA advised that the Alabama Historical Commission (State Historic Preservation Officer or SHPO) had not yet submitted its comments in response to BSRC's historic report, and pointed out that potential impacts to historic sites or structures would occur only if the line is salvaged. Because BSRC might not salvage the line, SEA recommended that, in the event BSRC does not sell the line for continued rail use and decides to salvage the line, BSRC be required, prior to beginning any salvage activities, to: (a) reinitiate the consultation process pursuant to section 106 of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), (b) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register of Historic Places until completion of the section 106 process, (c) report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties that have been identified, and (d) refrain from initiating any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

By letter dated January 5, 2007, the Alabama Department of Environmental Management (ADEM) submitted comments on the EA. ADEM recommends that BSRC be required to (1) ensure that all salvage activities associated with the abandonment are in compliance with the permit requirements of the National Pollutant Discharge Elimination System (NPDES) for stormwater discharges, and (2) prior to initiating salvage activities, install Best Management Practices in order to minimize the release of pollutants to surface waters. Therefore, SEA recommends that, prior to commencement of any salvage activities, BSRC be required to consult

EXHIBIT A

with ADEM and comply with the reasonable NPDES requirements, and that BSRC be required to consult with ADEM regarding its land disturbance requirements and comply with its reasonable requirements. Accordingly, the environmental condition recommended by SEA in the EA and the two new conditions recommended by SEA will be imposed.

Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that BSRC shall: (1) prior to commencement of any salvage activities, consult with ADEM and comply with the reasonable requirements of NPDES; (2) prior to commencement of any salvage activities, consult with ADEM regarding its land disturbance requirements and comply with its reasonable requirements; and (3) in the event BSRC does not sell the line for continued rail use and decides to salvage the line, prior to beginning any salvage activities, (a) reinstate the consultation process pursuant to section 106 of the NHPA, (b) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register of Historic Places until completion of the section 106 process, (c) report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties that have been identified, and (d) not initiate any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

EXHIBIT A

PURCHASE AGREEMENT

This Agreement dated as of the 3rd day of April 2008, by and between **BIRMINGHAM SOUTHERN RAILROAD COMPANY**, whose address is 1200 Penn Avenue, Suite 300, Pittsburgh, PA 15222-4219, a corporation organized and existing under the laws of the state of Alabama (the "Seller"), and **ERGON TERMINALING, INC** whose address is 2829 Lakeland Drive, Jackson, MS 39208 (the "Purchaser").

WITNESSETH

Subject to the terms and conditions of this Agreement, and subject to the final approval of the Seller's Board of Directors, in consideration of the mutual promises set forth below, Seller and Purchaser agree as follows

1 Premises

(a) Seller shall sell to Purchaser or cause to be sold, and Purchaser shall purchase from Seller, all of Seller's right, and interest in and to that certain real estate located in City of Birmingham, Jefferson County, Alabama, consisting of ± 12 acres, more or less, as depicted on Exhibit "A-1" attached hereto, together with all rights, privileges and easements appurtenant thereto (collectively the "Premises") The exact legal description shall be determined by the Survey (as defined in Paragraph 5 below) Notwithstanding any other provision set forth in this Agreement, the release of Seller's interest to Purchaser is without any covenant of marketability

(b) Purchaser warrants that its purchase of the Premises is for continued or future rail use and not for salvage of the line of railroad located on the Premises Further, the Purchaser shall indemnify and hold the Seller harmless from and against any liabilities and expenses including, but not limited to, reasonable attorney fees, that Seller may incur as a result of Purchaser's breach of this warranty.

2 Title Matters (a) Title Reference Deed book Volumes 40 (Bess) / 242 (B'ham), Pages 725-733 and 894-902, respectively, recorded in the Recorder's Office of Jefferson County, Alabama

(b) Within thirty (30) days of the date of execution of this Agreement, Purchaser will obtain, at Purchaser's sole cost and expense, a title insurance commitment or attorney's title certificate with respect to the Premises (herein "Title Evidence") and promptly provide a copy of such Title Evidence to Seller If the Title Evidence or the Survey obtained by Purchaser pursuant to Paragraph 5 fails to show good and marketable fee simple title to the Premises to be in Seller free and clear of all encumbrances other than the Permitted Exceptions listed on Exhibit "B," then Purchaser shall, no more than ten (10) days of its receipt of such Title Evidence, give Seller written notice specifying Purchaser's objections (herein "Objections"), if any. Seller shall, in its sole discretion, and no more than ten (10) days of receipt of the Objections, either (1) cure such Objections at Seller's sole cost and expense, or (2) provide written notice to Purchaser

that this Agreement is terminated, and with such notice refund Purchaser's Deposit, whereupon, neither party shall have any further liability under this Agreement, except for those obligations of Purchaser incurred during the term of this Agreement and set forth in Paragraphs 13 and 14, and Exhibit "C" (Confidentiality Agreement) of this Agreement,

Deleted: 1

3 Purchase Price Purchaser shall pay to Seller as the Purchase Price for the Premises the sum of Fifty Thousand Dollars (\$50,000 00), which shall be paid as follows

(a) The sum of Five Thousand Dollars (\$5,000 00) shall be deposited with the Seller by check upon execution of this Agreement. The sum deposited pursuant to this Paragraph 3(a) is referred to hereinafter as the "Deposit". The Deposit shall be held by the Seller for the mutual benefit of the parties hereto and pursuant to the terms of this Agreement. At Closing the Deposit shall be applied against the Purchase Price.

(b) The Purchase Price less the amount of the deposit, plus or minus proration, credits and adjustments, shall be paid to Seller at Closing in immediately available funds either by cashier's or certified check or wire transfer to an account designated by Seller.

(c) In determining the total area of the Premises, there shall be no deduction or other adjustment with respect to the Purchase Price for any portion of the Premises falling within any roads, streets, highways, wetlands, floodplain, ditches, drainage tiles, feeders, laterals, easements, utility rights-of-way, waterways, streams, or other bodies of water.

4 Closing The transactions described in this Agreement shall be closed ("the Closing") at the offices of the Seller, or such other location on which the parties shall mutually agree, one hundred twenty (120) days after date of execution of this Agreement, or such earlier date as the parties shall mutually agree (the "Closing Date"). If the Closing is not concluded within six (6) months after the execution of this Agreement, as a result of a delay caused solely by Purchaser, the Seller, and only the Seller, reserves the right to consider this Agreement null and void and the Purchaser in Default.

5 Survey and Plan of Subdivision The parties acknowledge that the Premises is a part of a larger tract owned by the Seller and that subdivision approval for the conveyance of the Premises will be required by the municipality. Within thirty (30) days following the full execution of the Agreement, Purchaser, at Purchaser's sole cost and expense, will cause a survey and plan of subdivision ("Survey") to be prepared by a land surveyor licensed in the State of Alabama showing the boundaries of the Premises, A precise legal description thereof. The Seller will cooperate, without cost to Seller, in the preparation of the Survey and, will execute the Survey as prescribed by the municipality having jurisdiction over the subdivision for the Premises. Following approval of the subdivision shown by the Survey by all governmental bodies having jurisdiction thereof, Purchaser, at Purchaser's sole cost and expense, will have said survey recorded in the Recorder's Office of Jefferson County, Alabama in connection with the Closing.

6 Closing Documents

(a) Seller shall deliver to Purchaser at Closing the following documents

- (i) A recordable special warranty Deed (the "Deed") conveying the Premises to Purchaser or its nominee, subject only to the Permitted Exceptions, and,**
- (ii) A Bill of Sale for track and bridge located on the premises Track and bridge to be conveyed to purchaser "AS IS, WHERE IS",**
- (iii) A certificate of the Secretary or an Assistant Secretary of Seller dated not more than ten (10) days prior to the Closing Date setting forth the resolutions of the Board of Directors of Seller authorizing the conveyance of the Premises to Purchaser or its nominee and certifying that such resolutions were duly adopted, are then in full force and effect and have not been modified; and**
- (iv) An owners affidavit in the form prescribed by Purchaser's title insurer (if any)**

(b) At Closing, Purchaser shall deliver to Seller the following

- (i) The balance of the Purchase Price in the manner described in Paragraph 3(b) hereof.**
- (ii) Survey and plan of subdivision**

(c) At Closing, Seller and Purchaser shall jointly execute and deliver the following

- (i) A closing statement prepared in accordance with this Agreement, and**
- (ii) All real estate tax declarations, statements or certificates required by any applicable federal, state or local law, statute, ordinance, order, decree, rule or regulation**

7. Conditions Precedent to Obligations of the Seller The obligations of the Seller under this Agreement are subject to the condition precedent that the covenants of this Agreement to be performed by Purchaser on or before Closing Date shall have been duly performed or waived

8 Conditions Precedent to Obligations of Purchaser The obligations of Purchaser under this Agreement are subject to the condition precedents that (a) on or

before the Closing Date the covenants in this Agreement to be performed by Seller shall have been duly complied with and performed, (b) there shall have occurred no material adverse change in the title to or condition of the Premises since the date of this Agreement

9 Possession Possession of the Premises shall be delivered to Purchaser on the Closing Date, free and clear of all tenancies or occupations by third parties whatsoever.

10 DELETED

11 Proration.

(a) Real estate taxes on the Premises for the year or years which are, as of the Closing Date, a lien on the Premises but not yet due and payable shall be apportioned as of the Closing Date based upon the most recent ascertainable complete bills therefore, and Purchaser shall be given a credit against the Purchase Price due to Seller at Closing in the amount of Seller's share thereof, provided, however, that if the Premises or any portion thereof are assessed as so-called "Carrier" or "Operating" property, Seller shall pay when due all taxes attributable solely to such assessment for the year or years which are, as of the Closing Date, a lien on the Premises but not yet due and payable

(b) Each party shall pay the fees of its attorney and the cost of preparing all documents, which this Agreement requires such party to furnish

(c) Purchaser shall pay all state and local transfer taxes

(d) Rents under any leases or licenses assigned to Purchaser at Closing pursuant hereto shall be apportioned as of the Closing Date

12 Eminent Domain In the event any proceedings are instituted to take the Premises or any material part thereof, by condemnation or eminent domain prior to the Closing Date, either party hereto shall have the right to terminate this Agreement by giving written notice to such effect to the other party hereto at any time after receiving notice of such proceedings. In the absence of such written notice, this Agreement shall remain in full force and effect. Seller shall furnish Purchaser with written notice of any such proceedings within five (5) days after Seller receives notice of same. Should this Agreement be terminated as a result of any such eminent domain proceedings, the Deposit shall be returned to Purchaser and neither party shall have any further rights or obligations hereunder. In the event this Agreement is not terminated, all proceeds of a taking arising out of such eminent domain proceedings shall belong to Purchaser, and Seller shall assign such proceeds to Purchaser at Closing

13 Inspection of the Premises

(a) Prior to the Closing Date, upon at least forty-eight (48) hours' prior written notice to the General Foreman, Maintenance of Way of Seller, Purchaser, its agents, employees, contractors, engineers and consultants shall have the right at reasonable times to enter upon the Premises at Purchaser's sole risk for the purposes of conducting engineering studies, surveying, soil, water and ground water tests, site investigations, site layout and other engineering, property, architectural and environmental studies, making tests, inspections, measurements and the like, including without limitation, soil tests and soil borings (collectively, the "Inspections") If as a result of the Inspections Purchaser is not satisfied with the nature or condition of the Premises, for any reason, Purchaser may terminate this Agreement and receive a refund of the Deposit, by giving written notice to Seller of termination prior to the Closing Date and neither party shall have any further liability under this Agreement except for those obligations of Purchaser incurred during the term of this Agreement and set forth in Paragraphs 13 and 14, and Exhibit "C" (Confidentiality Agreement) of this Agreement However, prior to any entry onto the Premises, any agent, contractor, engineer or consultant of Purchaser must execute a confidentiality agreement as described in Section 13(b) hereof Purchaser shall indemnify, defend and save Seller, its directors, officers, employees and agents harmless from and against any and all claims, demands, losses, actions, awards and judgments of any nature whatsoever made against Seller or any of its directors, officers, employees and agents on account of injury to or death of any person, including without limitation, the employees, agents and representatives of Purchaser and Seller, occurring on the Premises, including any and all claims brought by Purchaser, its agents, servants, employees or representatives and any and all claims brought by Seller, its agents, servants, employees or representatives, or on account of loss of or damage to any property, including without limitation, the property of Purchaser and Seller, arising out of or in any manner connected with the right of entry granted pursuant hereto or any other entry by Purchaser, its agents, employees, contractors, engineers and consultants, provided however that in no event shall Purchaser be required to indemnify any party for injury or damage resulting from such party's own negligence or willful misconduct Purchaser acknowledges and agrees that this Section 13(a) operates as a waiver of Purchaser's immunity under any state or federal workers' compensation act, disability act or other employee benefit act in order that Purchaser's obligations hereunder shall in no way be limited by the provisions of any state or federal workers' compensation act, disability act or other employee benefit act

(b) In consideration of the right of entry granted in subparagraph 13(a) above, Purchaser hereby covenants and agrees that it shall, to the extent permitted by law, for itself, its agents, employees, contractors, engineers and consultants maintain in strictest confidence all information and materials about the Seller and/or the Premises obtained pursuant to subparagraph 13(a) above, including without limitation, all information and materials with respect to (x) Seller's operations on and use of the Premises and (y) the physical condition, including but not limited to, the environmental condition, of the Premises Purchaser shall not use such information or materials other than to familiarize Purchaser with the condition of the Premises Further, any agent, contractor, engineer, or consultant of Purchaser must execute and deliver to Seller prior to entry onto the Premises, a confidentiality agreement in the exact form attached hereto and made a part hereof as Exhibit C If the transactions contemplated hereby are not

consummated for any reason whatsoever, Purchaser shall promptly return to Seller all information and materials about Seller and/or the Premises, including without limitation, any and all environmental studies, tests, results and reports, and shall not use any such information and materials so long as same are not within the public domain. Purchaser's covenant hereunder shall survive the termination of this Agreement.

14 Condition of the Premises

(a) Purchaser acknowledges that Seller has made no representations or warranties to Purchaser with respect to the physical condition of the Premises, including without limitation, the condition of the soils thereon, or the fitness of the Premises for any particular purpose or use. Purchaser further acknowledges that it shall rely solely upon its own investigations and due diligence with regard to the condition of the Premises, including environmental matters and the location, size, subsurface or soil conditions, state of repair and character thereof. Purchaser is purchasing the Premises "AS IS", without any representation or warranty whatsoever, either express or implied. SELLER EXPRESSLY HEREBY DISCLAIMS ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE WARRANTY OF HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. In the event that any remediation, removal or other corrective action is at any time in the future required to be performed on the Premises pursuant to any Environmental Laws (as defined in subparagraph 14(c) below) or otherwise as a result of the presence of any environmental problems or contamination, including without limitation, the presence of any Hazardous Materials (as defined in subparagraph 14(c) below), Purchaser acknowledges and agrees that any such remediation, removal or corrective action shall be performed by it at its sole cost and expense and Seller has no duty or other obligation to perform or cause to be performed any such remediation, removal or other corrective action of any kind whatsoever with respect thereto.

(b) Purchaser, for itself, its successors and assigns hereby irrevocably and unconditionally waives, releases and relinquishes all claims, causes of action, demands, losses, costs, injuries, fees (including attorney's fees), damages or liability which Purchaser or its successors and assigns now has or may have, whether the same be known or unknown, latent or patent, against Seller, its directors, officers, employees and agents, by reason of (w) the presence of any Hazardous Materials on or under the Premises or the ground or surface waters thereof, (x) the escape, seepage, release or leakage of any Hazardous Materials from the Premises into the air or upon any land, water or ground water, (y) any environmental defect, environmental problem or contamination of the Premises, or (z) any remediation, removal or other corrective action which may be required or desirable with respect to the Premises pursuant to any Environmental Laws or otherwise. Purchaser further acknowledges and agrees that the provisions contained in this subparagraph 14(b) may, at Seller's option, be included in the Deed.

(c) For the purposes of this Agreement, the term "Environmental Laws" means any Federal, state or local law, statute, ordinance, order, decree, rule or regulation relating to releases, discharges, emissions or disposals to air, water, land or

ground water, to the withdrawal or use of ground water, to the use, handling or disposal of polychlorinated biphenyls ("PCB's"), asbestos or urea formaldehyde, to the treatment storage, disposal or management of Hazardous Materials and petroleum, its derivative, by-products or other hydrocarbons, to exposure to toxic, hazardous or other controlled, prohibited or regulated substances, and to the transportation, storage, disposal, management, release of gaseous or other liquid substances, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9601, et seq., the Resource Conservation and Recovery Act of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984 ("RCRA"), 42 U.S.C. 6901, et seq., the Toxic Substances Control Act ("TSCA"), 15 U.S.C. 2601, et seq., the Occupational, Safety and Health Act of 1970, 29 U.S.C. 651, et seq., the Clean Air Act of 1966, as amended, 42 U.S.C. 7401 et seq., and the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977, 33 U.S.C. 1251, et seq., and all rules, regulations and guidance documents promulgated pursuant thereto or published thereunder. For the purposes of this Agreement, the term "Hazardous Material" means (i) any hazardous or toxic substance, chemical or waste or any pollutant or contaminant defined as such in CERCLA, RCRA, TSCA, the Federal Water Pollution Control Act, as amended, or any other now or hereafter existing Environmental Law, (ii) asbestos, (iii) radon, (iv) petroleum, its derivative by-products and other hydrocarbons, (v) PCB's, (vi) explosives, (vii) radioactive materials and (viii) any additional substances or materials which at any time are classified or considered to be hazardous or toxic under any Environmental Laws.

15. Default and Remedies

(a) Purchaser shall be in default hereunder in the event Purchaser breaches any of its covenants, representations or warranties contained in this Agreement and fails to cure such breach within fifteen (15) days after receipt of written notice thereof from Seller. In the event Purchaser is in default hereunder, Seller shall have all rights and remedies available to it at law or in equity, including without limitation, the right to terminate this Agreement and retain the Deposit as liquidated damages, the right to retain the Deposit and to sue Purchaser for all damages arising from such Default and, to the extent permitted by law, the right to enforce the obligations of Purchaser by injunction or suit for specific performance.

(b) Seller shall be in default hereunder in the event Seller breaches any of its covenants, representations or warranties contained in this Agreement and fails to cure such breach within fifteen (15) days after receipt of written notice thereof from Purchaser. In the event Seller is in default hereunder, Purchaser shall have all rights and remedies available to it at law or in equity, including without limitation, the right to sue Seller for all damages arising from such default, the right to terminate this Agreement and obtain a refund of the Deposit, and the right to enforce the obligations of Seller by injunction or suit for specific performance.

(c) No election of remedy by a party hereto for a default hereunder by the other party shall be exclusive or prejudice or preclude exercise of any other right or remedy available to it at law or equity.

16 Miscellaneous

(a) Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given when deposited in a United States Post Office, registered or certified mail, postage prepaid, return receipt requested and addressed as follows

If to Seller Asset Management Department
Birmingham Southern Railroad Company
1200 Penn Avenue, Suite 300
Pittsburgh, PA 15222-4219

With copy to Secretary
Birmingham Southern Railroad Company
600 Grant Street, Suite 1887
Pittsburgh, PA 15219

If to Buyer Ergon, Terminaling, Inc
Attn Robert H Lampton, President
2829 Lakeland Drive
Flowood, MS 39232
P O Box 1639
Jackson, MS 39215-1639
Tel 601 933 3000
Fax 601.933 3351

With a copy to Mr. Jimmy Langdon
Vice President
Ergon Terminaling, Inc
2829 Lakeland Drive
Jackson, MS 39208

And to
W Robert Jones, III
Watson & Jones, P.A
2829 Lakeland Dr Ste 1502
Flowood, MS 39232
Post Office Box 23546
Jackson, MS 39225-3546
Telephone (601) 939-8900
Facsimile (601) 932-4400

or to such other address as either party from time to time may specify in writing to the other

(b) Subject to the limitations contained in Paragraph 16(l) hereof, this Agreement shall be binding upon, and inure to the benefit of the parties hereto and their respective successors and assigns

(c) Seller and Purchaser have no knowledge of any real estate broker or any finder in connection with the transaction contemplated by this Agreement. Seller and Purchaser each represent and warrant to the other that it has not committed any act or suffered any act to be committed so as to create any liability or give rise to a claim for any real estate brokerage commission or finder's fee.

(d) Seller and Purchaser agree that no insurance policies are being assigned in the transaction described in this Agreement.

(e) Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Purchaser.

(f) Purchaser acknowledges that the Premises are not or may not be separately assessed and taxed for real estate tax purposes. If the Premises are not so separately assessed and taxed, Purchaser covenants and agrees to file a petition for tax division of the Premises from all other real property of Seller no later than December 31st of the calendar year in which Closing occurs.

(g) This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

(h) The paragraph headings inserted in this Agreement are for convenience only and are not intended to, and shall not be construed to limit, enlarge or affect the scope or intent of this Agreement or the meaning of any provisions hereof.

(i) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

(j) This Agreement supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof.

(k) All exhibits attached to this Agreement shall be deemed incorporated herein by reference.

(l) Except as otherwise provided in paragraph 16(b) above, neither party may assign its interest in this Agreement without the express written consent of the other party. No consent by a party to any assignment hereof shall release the assignee of the obligation to obtain such party's consent to any subsequent assignment hereof.

(m) Time is of the essence in this Agreement.

(n) Any of the representations, warranties, covenants, and agreements of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the settlement of the transactions contemplated hereby, shall survive the settlement and shall not be merged therein

(o) This Agreement is for the sole benefit of the parties hereto and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any provision hereof

(p) This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing this Agreement to be drafted

(q) In the event that any provision of this Agreement shall be construed as or declared invalid, unenforceable or unconstitutional, then such invalidity, unenforceability or unconstitutionality shall not affect the remaining provisions of this Agreement, and said provisions shall be given full force and effect as if the invalid, unenforceable or unconstitutional provision did not exist

(r) If any words or phrases in this Agreement shall have been stricken out or otherwise eliminated, whether or not any other words or phrases have been added, then this Agreement shall be construed as if the words or phrases so stricken out or otherwise eliminated were never included in this Agreement, and no implication or inference shall be drawn from the fact that those words or phrases were so stricken out or otherwise eliminated

(s) No consent (either express or implied) by a party to and no waiver (either express or implied) by a party of (i) a breach of any representation, warranty or covenant by the other party or (ii) any failure or refusal by the other party to comply with its obligations, shall be deemed consent to or a waiver of any other or subsequent breach or failure or refusal to so comply

(t) The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any other similar terms shall refer to this Agreement and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this Agreement. The terms "include", "including" and similar terms shall be construed as if followed by the phrase "without being limited to". Words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders and words importing the singular number shall mean and include the plural number and vice versa. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons

(u) Whenever, under the terms of this Agreement, the time for performance of a covenant or condition falls upon a Saturday, Sunday or legal holiday, such time for performance shall be extended to the next business day. Except for express provisions to the contrary, all references herein to "days" shall mean calendar days

(v) To the best of Seller's knowledge and understanding the Premises is not zoned. However, Purchaser shall not rely on Seller's knowledge and understanding with respect to the zoning of Premises

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above

SELLER:

ATTEST:

Janice K. Gondak
Secretary

**BIRMINGHAM SOUTHERN
RAILROAD COMPANY**

By John Ayres
Vice President- Finance and Treasurer

PURCHASER:

ATTEST:

Elizabeth M. Hemsley

ERGON TERMINALING, INC.

By James Singleton - Vice President

My Commission Expires April 28, 2009

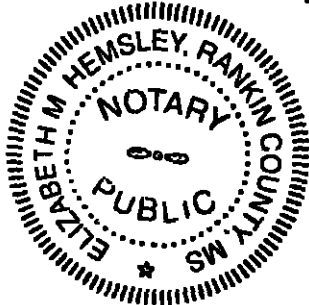


EXHIBIT INDEX

A-1 Drawing of Premises

~~A-2. Surface Transportation Board Environmental Assessment~~

JA 4/3/08

~~A-3 Surface Transportation Board Decision~~

JA 4/3/08

B Permitted Exceptions

C Form of Confidentiality Agreement

EXHIBIT A-1 *MS*
4/3/08

DRAWING OF PREMISES

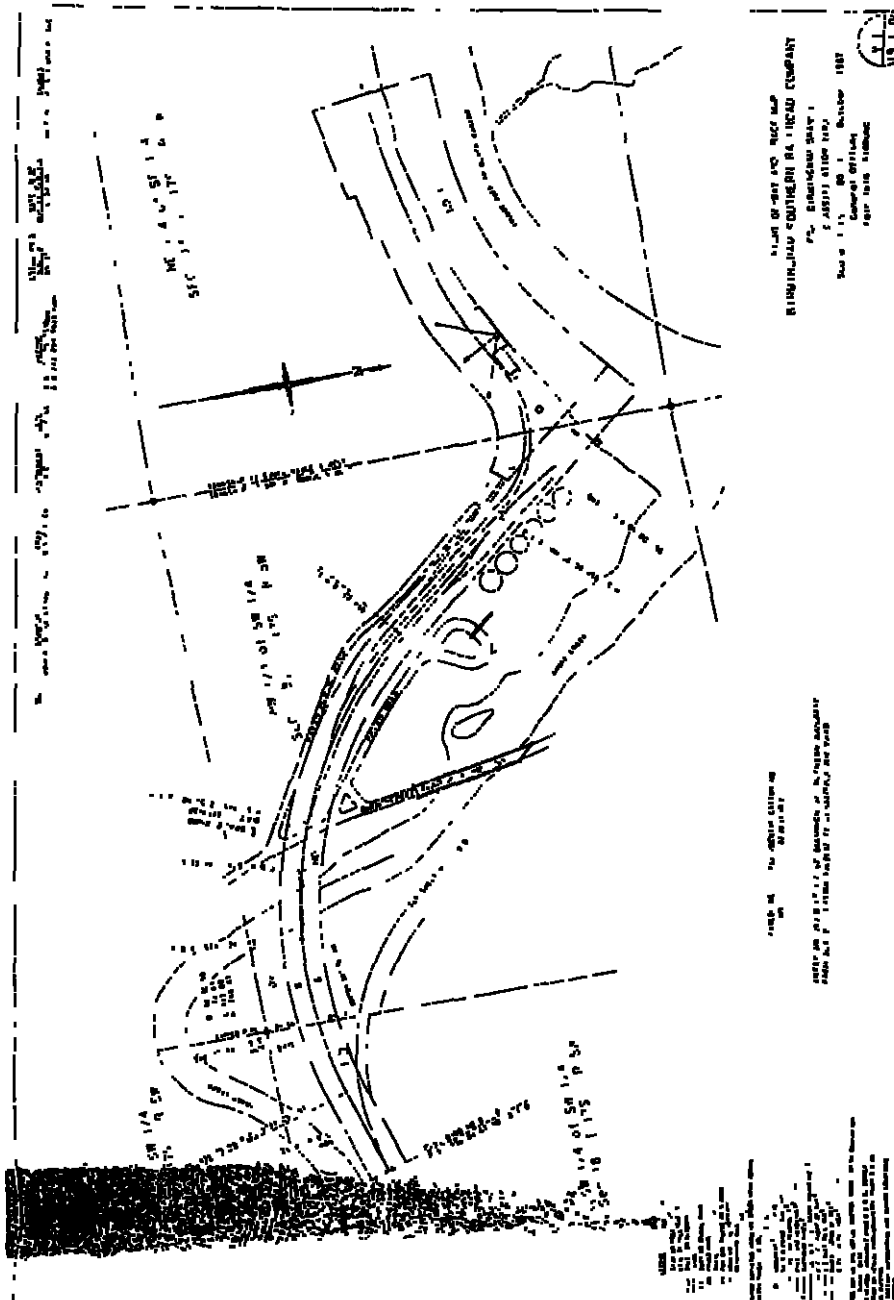


EXHIBIT B

PERMITTED EXCEPTIONS

General Real Estate Taxes for the current year which are a lien on the Premises but not yet due and payable, and subsequent years

Covenants, conditions and restrictions of record, if any , provided same do not restrict use of the Premises for location and operation of railroad switch and spur tracks and related purposes

Easements of record for utilities, quasi-public utilities and access, if any

Roads, highways and streets, if any

Drainage tiles, ditches, feeders and laterals, if any

Applicable zoning and building laws, ordinances, codes and regulations

Building set back lines and restrictions, if any

Rights of the public, the State of Alabama and the municipality, if any, in and to that part of the land, if any, taken or used for road or highway purposes

Railroad switch and spur tracks, if any

EXHIBIT C

FORM OF CONFIDENTIALITY AGREEMENT

_____, 20____

Mr Jeffrey W Claney
Director - Asset Management
Birmingham Southern Railroad Company

Dear Mr Claney

Reference is made to that certain Purchase Agreement dated _____, 20____, (the "Agreement"), made by and between the Birmingham Southern Railroad Company (the "Seller"), and ERGON TERMINALING INC., as purchaser (the "Purchaser") for the sale of approximately 1.2 acres of land, more particularly described therein (the "Premises")

Subparagraph (a) of the Agreement permits the Purchaser, its agents, employees, contractors, engineers and consultants to enter onto the Premises, at *reasonable times prior to the Closing Date (as defined in the Agreement) and upon at least forty-eight (48) hours' prior written notice to the Chief Engineer of Seller*, for the purposes of conducting certain studies, investigations and tests more particularly described in said subparagraph (a) As a condition of the right of entry granted under said subparagraph (a), Seller has required that all of Purchaser's agents, contractors, engineers and consultants execute and deliver this Confidentiality Agreement

In consideration of the right of entry granted in said subparagraph (a) of the Agreement, ERGON TERMINALING, INC hereby covenants and agrees that it shall, to the extent permitted by law, for itself, its agents, employees, contractors, engineers, and consultants, maintain in strictest confidence all information and materials about the Seller and/or the Premises obtained pursuant to said subparagraph (a) of the Agreement, including, without limitation, all information and materials with respect to (x) Seller's operations on and use of the Premises and (y) the physical (including, but not limited to, the environmental) condition of the Premises ERGON TERMINALING INC shall not use such information and materials other than to familiarize Purchaser with the condition of the Premises

Mr Jeffrey W. Claney

_____, 20____
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If the transactions contemplated by the Agreement are not consummated for any reason whatsoever, ERGON TERMINALING, INC shall promptly return to Seller all information and materials about Seller and/or the Premises, including, without limitation, any and all environmental studies, test results and reports, and shall not use any such information or materials so long as same are not within the public domain

If the foregoing terms are acceptable to you, please indicate by signing and dating the enclosed copy of this letter and returning it to the undersigned

Very truly yours,

(Name of Agent, Contractor,
Engineer or Consultant)

Accepted the _____ day of _____, 200____

BIRMINGHAM SOUTHERN RAILROAD COMPANY

By _____

Its _____