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ENTERED
Office of Proceedings
October 6, 2023
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PUBLIC VERSION

October 6, 2023

CSXT-1

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: **STB Docket No. FD 36727, CSX Transportation, Inc.—Acquisition and Operation—Rail Line of Meridian & Bigbee Railroad, L.L.C.**

Dear Ms. Brown:

Enclosed for e-filing in the above-referenced proceeding is a public version of a Minor Application pursuant to 49 U.S.C. § 11323(a)(2) and 49 C.F.R. Part 1180, with appropriate redactions that the Board can place in its docket. We are concurrently filing a Motion for Protective Order, along with a highly confidential version of the Application, to be filed under seal.

Directly related requests for Board authority will be filed concurrently in Docket Nos. AB 1335X, *Meridian & Bigbee R.R., L.L.C.—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, AL*, and FD 36724, *Alabama & Gulf Coast Railway, LLC—Trackage Rights Exemption—CSX Transportation, Inc.*

The filing fee of \$9,400 was paid using pay.gov. Please contact me with any questions.

Respectfully submitted,

/s/ Peter W. Denton

Peter W. Denton
Attorney for CSX Transportation, Inc.

Enclosures

FEE RECEIVED
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October 6, 2023
Surface
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BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

APPLICATION

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Dated: October 6, 2023

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TABLE OF ABBREVIATIONS

2003 Agreement	Land Lease Agreement between CSXT and M & B Railroad, L.L.C. (which was renamed MNBR)
AGR	Alabama & Gulf Coast Railway LLC
AGR Myrtlewood Trackage Rights	AGR’s proposed acquisition of trackage rights over CPKC’s track at Myrtlewood, AL
AGR Trackage Rights	AGR’s proposed acquisition from CSXT of overhead trackage and operating rights over the segment of the Eastern Line between Linden, AL and Myrtlewood, AL
Application	CSXT’s application seeking authority for the CSXT Transaction
Assets	The tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures affixed to the Eastern Line
CPKC	Canadian Pacific Railway Company or its subsidiaries
CPKC Transaction	CPKC’s proposed acquisition and operation of the Western Line from MNBR
CPKC Related Transactions	Certain additional transactions that will only occur if the CPKC Transaction is consummated
CSXT	CSX Transportation, Inc.
CSXT Discontinuance	CSXT’s proposed termination of its overhead trackage rights over the Western Line
CSXT Myrtlewood Trackage Rights	CSXT’s proposed acquisition of trackage rights over CPKC’s track at Myrtlewood, AL
CSXT Related Transactions	Certain additional transactions that will be needed to implement the proposed CSXT Transaction
CSXT Transaction	CSXT’s proposed acquisition of the Eastern Line from MNBR and CSXT’s proposed operation of the Eastern Line
Eastern Line	The line totaling approximately 93.68 miles between Myrtlewood, AL and Burkeville, AL
FRA	Federal Railroad Administration
GWI	Genesee & Wyoming Inc.
M&B	M & B Railroad, L.L.C. (which was renamed MNBR)
MNBR	Meridian & Bigbee Railroad, L.L.C.
MNBR Discontinuance	MNBR’s proposed termination of its overhead trackage

	rights over the Burkeville-Montgomery CSXT line
NSR	Norfolk Southern Railway Company
Real Property	The real property underlying the Eastern Line
STB or Board	Surface Transportation Board
Transaction Agreement	The agreement between CSXT and GWI pertaining to the proposed CSXT Transaction
Western Line	The line extending approximately 51 miles between Myrtlewood, AL and Meridian, MS

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

APPLICATION

CSX Transportation, Inc. (“CSXT”), a Class I railroad, files this minor application pursuant to 49 U.S.C. §§ 11323(a)(2) and 49 C.F.R. Part 1180 (the “Application”), seeking approval from the Surface Transportation Board (“STB” or the “Board”) for CSXT to reacquire from Meridian & Bigbee Railroad, L.L.C. (“MNBR”) the assets comprising a line of railroad (the “Eastern Line,” described in further detail below) that runs entirely in the State of Alabama between the cities of Burkeville (also known as Burkville) and Myrtlewood in Lowndes, Dallas, Wilcox and Marengo Counties, and for CSXT to resume operating that line in place of MNBR (the “CSXT Transaction”).

The Eastern Line consists of two segments totaling approximately 93.68 miles: (1) extending from milepost XXB 189.00 near Burkeville, AL to milepost XXB 222.00 at Western Junction, a distance of about 30.22 miles; and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, AL, a distance of about 63.46 miles. The Eastern Line includes Selma Yard, at Selma, AL, and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead, Tyler, Benton, Whitehall, Burkeville. Maps of the Eastern Line and the region are attached as Exhibit 1.

I. INTRODUCTION AND SUMMARY OF THE TRANSACTION

A. The CSXT Transaction.

1. Background.

Prior to 2003, CSXT and its predecessors owned and operated the Eastern Line. In 2003, CSXT entered into a Land Lease Agreement (the “2003 Agreement”) with M & B Railroad, L.L.C. (“M&B,” which was renamed MNBR),¹ whereby CSXT: (1) sold to M&B the tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures affixed to the Eastern Line (the “Assets”); (2) leased to M&B for a 20-year term the real property underlying the Eastern Line (the “Real Property”); and (3) granted M&B incidental overhead trackage rights over approximately 14 miles of CSXT trackage between the eastern end of the Eastern Line at Burkeville, AL and Montgomery, AL, in order to effectuate interchange between M&B and CSXT at CSXT’s S and N Yard and Chester Yard at Montgomery, AL.² *See M & B R.R., L.L.C.—Acquis. & Operation Exemption—CSX Transp., Inc.*, FD 34423 (STB served Nov. 20, 2003).

For the last 20 years, CSXT has continued to own the Real Property and MNBR has owned the Assets, leased the Real Property, and operated the Eastern Line pursuant to the 2003 Agreement and related authority obtained from the Board to acquire and operate the Eastern Line. The 2003 Agreement will expire at the end of its 20-year term, on November 14, 2023, thereby ending MNBR’s leasehold interest in the Real Property. The parties have agreed to

¹ Genesee & Wyoming Inc. (“GWI”) acquired control of M&B in 2005 and later changed the name of M&B to MNBR. *See Genesee & Wyo. Inc., et al—Control Exemption—Rail Partners, L.P., et al.*, FD 34708 (STB served June 24, 2005).

² CSXT and M&B entered into an interchange agreement granting M&B overhead incidental operating rights over this CSXT trackage solely for the purpose of interchange. The Board described these rights in its decision as “incidental overhead trackage rights.”

extend the lease, as discussed below. The 2003 Agreement provides that CSXT may reacquire the Assets from MNBR upon expiration of MNBR's leasehold interest.

In addition to MNBR's operations on the Eastern Line, Alabama & Gulf Coast Railway LLC ("AGR")³ operates over an approximately 10-mile portion of the Eastern Line between Linden, AL and Myrtlewood, AL in order to interchange traffic with MNBR at Myrtlewood. AGR has a roughly north-south rail line that connects with and crosses the Eastern Line at Linden, AL. MNBR also owns and operates a railroad line that extends approximately 51 miles roughly east-west between the connection with the Eastern Line at Myrtlewood, AL on the eastern end, and a connection with a line owned by Canadian Pacific Railway Company or its subsidiaries ("CPKC") at Meridian, MS on the western end (the "Western Line"). In addition to serving local traffic on the Western Line and the Eastern Line and moving traffic to and from AGR, MNBR currently operates over the two rail lines to move overhead traffic between CSXT at Montgomery, AL and CPKC at Meridian, MS, with a limited amount of Norfolk Southern Railway Company ("NSR") traffic.

2. The CSXT Transaction.

CSXT and MNBR have agreed that CSXT will seek authorization from the Board for the following proposed transaction: CSXT will repurchase the Assets from MNBR, CSXT will resume operating the Eastern Line much as MNBR does today, and MNBR will stop operating on the Eastern Line. Upon consummation of the proposed CSXT Transaction, all of the ownership interests in the Real Property and Assets comprising the Eastern Line will once again be consolidated in CSXT's hands and CSXT will operate the Eastern Line, providing local and overhead operations. Because the 2003 Agreement would otherwise terminate during the

³ AGR and MNBR are both controlled by GWI. See *Genesee & Wyo. Inc.—Control—RailAmerica, Inc.*, FD 35654, slip op. at 3 n.7 (STB served Dec. 20, 2012).

pendency of this proceeding, CSXT and MNBR have agreed to extend the 2003 Agreement until the first to occur of: 1) the closing date of the transactions contemplated under the Transaction Agreement attached hereto as Exhibit 2; or 2) the Drop Dead Date, as defined in the Transaction Agreement.

B. The CSXT Related Transactions.

The only Board authority sought by CSXT through this Application is for the proposed CSXT Transaction: CSXT's reacquisition of the Assets from MNBR and CSXT's resumed operation of the Eastern Line. However, the following additional transactions – collectively referred to herein as the “CSXT Related Transactions” – will be needed to implement the proposed CSXT Transaction. Authority for the CSXT Related Transactions is being sought in separate dockets but the CSXT Related Transactions will only occur if the CSXT Transaction is consummated.

1. The MNBR Discontinuance.

Upon consummation of the CSXT Transaction, MNBR will terminate its overhead trackage rights over the Burkeville-Montgomery CSXT line (the “MNBR Discontinuance”) because MNBR will interchange with CSXT at Myrtlewood rather than Montgomery. MNBR has concurrently filed a notice of exemption seeking Board authority to discontinue its Burkeville-Montgomery overhead trackage rights in Docket No. AB 1335X, *Meridian & Bigbee R.R., L.L.C.—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, AL.*

2. The AGR Trackage Rights.

AGR owns and operates a rail line that runs generally north-south and connects with and crosses the Eastern Line at Linden, AL. As noted above, AGR currently operates over the Eastern Line between Linden, AL and Myrtlewood, AL for the sole purpose of interchanging traffic with MNBR at Myrtlewood. Upon consummation of the CSXT Transaction, AGR will obtain from CSXT overhead trackage and operating rights over the segment of the Eastern Line extending between Linden, AL (the point of connection between the Eastern Line and the AGR line) and Myrtlewood, AL, a distance of approximately 10 miles, to allow AGR to interchange traffic at Myrtlewood with CSXT (via the operating rights), and CPKC and MNBR (via the trackage rights, referred to as the “AGR Trackage Rights”). AGR has concurrently filed a notice of exemption seeking Board authority for its Linden-Myrtlewood overhead trackage rights. Docket No. FD 36724, *Alabama & Gulf Coast Railway, LLC—Trackage Rights Exemption—CSX Transportation, Inc.*

C. The CPKC Transaction.

In addition to the CSXT Transaction and the CSXT Related Transactions, CSXT understands that CPKC intends to acquire from MNBR and operate the Western Line (the “CPKC Transaction”). This will result in: (1) CPKC moving overhead traffic over the Western Line from Meridian, MS to Myrtlewood, AL for interchange with CSXT; and (2) MNBR retaining trackage rights allowing MNBR to continue to provide local service to customers located on the Western Line, interchange directly with AGR, and perform some overhead service. CPKC has concurrently filed an application seeking Board authority for the proposed CPKC Transaction. Docket No. FD 36732, *Canadian Pac. Kan. City Ltd. & Kan. City S. Ry—Acquis. & Operation—Certain Rail Line of the Meridian & Bigbee R.R. in Lauderdale Cty., Miss.*

& Choctaw & Marengo Cntys., Ala. As discussed further below, the CSXT Transaction and the CPKC Transaction are not contingent upon each other, in that the CSXT Transaction could proceed regardless of whether the CPKC Transaction is consummated.

The following additional transactions – collectively referred to herein as the “CPKC Related Transactions” – will only occur if the CPKC Transaction is consummated.

1. The CSXT Discontinuance.

CSXT obtained overhead trackage rights over the Western Line in 1996. *See CSX Transp., Inc.—Trackage Rights Exemption—Meridian & Bigbee R.R. Co.*, FD 32962 (STB served June 6, 1996). CSXT has not moved overhead traffic over the line in the last two years. Upon consummation of the CPKC Transaction, CSXT intends to terminate its overhead trackage rights on the Western Line (the “CSXT Discontinuance”). CSXT has concurrently filed a notice of exemption seeking Board authority for this discontinuance in Docket No. AB-55 (Sub-No. 814X), *CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, AL & Lauderdale County, MS.*

2. Additional Trackage Rights Over CPKC.

Should the CPKC Transaction and the CSXT Transaction both occur, AGR and CSXT will each obtain trackage rights to operate over certain CPKC track at Myrtlewood, AL (currently owned by MNBR) to effectuate interchange. AGR will obtain from CPKC trackage rights over CPKC’s track at Myrtlewood, AL to effectuate interchange with CSXT and MNBR at Myrtlewood (“AGR Myrtlewood Trackage Rights”). AGR has concurrently filed a notice of exemption seeking Board authority for its trackage rights over CPKC’s track at Myrtlewood. Docket No. FD 36371, *Alabama & Gulf Coast Railway, LLC—Trackage Rights Exemption—The Kansas City Southern Railway Company d/b/a Canadian Pacific Kansas City.* Similarly, CSXT

will obtain from CPKC trackage rights over CPKC's track at Myrtlewood, AL to effectuate interchange with AGR and MNBR at Myrtlewood ("CSXT Myrtlewood Trackage Rights"). CSXT has concurrently filed a notice of exemption seeking Board authority for its trackage rights over CPKC's track at Myrtlewood. Docket No. FD 36730, *CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway Company*. To be clear, the AGR and CSXT Myrtlewood Trackage Rights are entirely contingent on consummation of the CPKC Transaction.

D. Relationship between the Transactions.

The only Board authority sought by CSXT through this Application is for the proposed CSXT Transaction: CSXT's reacquisition of the Assets from MNBR and CSXT's resumed operation of the Eastern Line. The Board's rules require CSXT to "file concurrently all directly related applications, *e.g.*, those seeking authority to construct or abandon rail lines, obtain terminal operations, acquire trackage rights, etc." 49 C.F.R. § 1180.4(c)(2)(vi). The Board has noted recently that:

[t]here are no specific regulations governing which parts of a multifaceted merger transaction should be included as part of the primary application or a related transaction, or if they may be submitted as an unrelated transaction. However, in past merger/control proceedings, related transactions have generally been ones that are separate from the merger/control transaction but contingent upon approval and consummation of the merger/control transaction.

CSX Corp.—Control & Merger—Pan Am Systems, Inc., FD 36472, slip op. at 21-22 (STB served July 30, 2021). While the proposed CSXT Transaction is a line acquisition, not a "merger/control transaction," the same Board rule regarding "directly related applications" governs applications for both types of transactions.

Here, the CSXT Related Transactions—the MNBR Discontinuance and the AGR Trackage Rights—are "directly related" to the CSXT Transaction within the meaning of 49

C.F.R. § 1180.4(c)(2)(vi). Each of the CSXT Related Transactions is contingent upon approval and consummation of the CSXT Transaction. In contrast, the CPKC Transaction **is not** “directly related” to the CSXT Transaction, because the CSXT Transaction could proceed regardless of whether the CPKC Transaction occurs. Additionally, the CPKC Related Transactions—the CSXT Discontinuance and the AGR and CSXT Myrtlewood Trackage Rights—**are not** “directly related” to the CSXT Transaction, but **are** “directly related” to the CPKC Transaction. CSXT and CPKC are not proposing to enter into any transactions with each other that require Board authority, apart from those discussed above. The CSXT Transaction and the CPKC Transaction are independent transactions governed by different agreements.

Therefore, CSXT believes that the Board should separately embrace, consolidate, and consider as independent, stand-alone sets of transactions: (1) the CSXT Transaction and CSXT Related Transactions, and (2) the CPKC Transaction and the CPKC Related Transactions. However, given the unique posture of these transactions, CSXT has included in this Application information regarding the overall effects on railroad operations and competition of both sets of transactions, in the event that all of these transactions are implemented. CSXT is providing the Board with this information regarding these aggregate effects in the event that the Board decides to consider them in analyzing the proposed CSXT Transaction.

E. The Proposed CSXT Transaction is a “Minor” Transaction.

CSXT is seeking to obtain Board authority pursuant to 49 U.S.C. § 11323(a)(2) to accomplish the proposed CSXT Transaction. In past railroad transactions with similarities to the CSXT Transaction – where a lessee railroad terminated its leasehold interest in a rail line and the lessor railroad stepped back in to operate the line – the lessee has typically obtained discontinuance authority from the Board and the lessor has required no further Board authority to

take back operation of the line.⁴ CSXT and MNBR decided that a similar regulatory approval path may not be appropriate here. Notwithstanding the fact that CSXT has and will continue to own the Real Property underlying the Eastern Line, MNBR obtained Board authority to acquire (not to lease) the Eastern Line in connection with the 2003 Agreement, and CSXT will purchase the Assets (i.e., the “property of another rail carrier,” 49 U.S.C. § 11323(a)(2)). Therefore, CSXT has filed this Application.⁵

As explained above, the only Board authority sought by CSXT through this Application is for the proposed CSXT Transaction: CSXT’s reacquisition of the Assets from MNBR and CSXT’s resumed operation of the Eastern Line. The Board should determine that the CSXT Transaction is a “minor” transaction.

The Board’s regulations classify proposed transactions under 49 U.S.C. § 11323 as “major,” “significant,” “minor,” and “exempt.” The CSXT Transaction is not a “major” transaction because it does not involve the control or merger of two Class I railroads. *See* 49 C.F.R. § 1180.2(a). The CSXT Transaction also is not a “significant” transaction. A significant transaction is a transaction that is not a “major” transaction and “that is of regional or national transportation significance as that phrase is used in 49 U.S.C. 11325(a)(2) and (c).” 49 C.F.R. § 1180.2(b). The Board’s rules provide that a transaction is **not** significant (and therefore is minor):

if a determination can be made either: (1) That the transaction clearly will not have any anticompetitive effects, or (2) That any anticompetitive effects of the transaction will clearly be outweighed by the transaction’s anticipated contribution to the public interest in meeting significant transportation needs.

⁴ *See, e.g., Pac. Sun R.R., L.L.C.—Discontinuance of Serv. & Trackage Rights Exemption—In San Diego Cnty., Cal.*, AB 1304X (STB served Nov. 5, 2020); *Mission Mountain R.R., L.L.C.—Discontinuance of Serv. Exemption—In Flathead Cnty., Mont.*, AB 1009 (Sub-No. 2X) (STB served July 13, 2020).

⁵ Because CSXT is seeking acquisition and operation authority with respect to the Eastern Line, MNBR would require no further Board authority to terminate its lease and operations over the Eastern Line.

Id. Furthermore, a transaction “is significant if neither such determination can clearly be made.”
Id. at § 1180.2(b)(2).

This Application establishes that the CSXT Transaction simply involves the re-acquisition of track assets and resumed operations of a rail line that CSXT currently owns and previously operated. The rail line itself is a single east-west line that is less than 100 miles long. The line is a low-density line with relatively little traffic and only a handful of stations. The effect of the proposed CSXT Transaction is essentially to move the interchange point between MNBR and CSXT (currently at Burkeville/Montgomery, AL), approximately 100 miles to the west (to Myrtlewood, AL). Shippers using the Eastern Line will see no changes except the superior service that CSXT expects to bring to operations on the Eastern Line and the upgrades that CSXT expects to make to the line. Of most importance, the CSXT Transaction “will not have any anticompetitive effects,” or any anticompetitive effects of the CSXT Transaction “will clearly be outweighed by the [CSXT Transaction’s] anticipated contribution to the public interest in meeting significant transportation needs.” 49 C.F.R. § 1180.2(b)(2). A competition analysis is set out in the attached verified statement of Dr. David Reishus showing that the CSXT Transaction will clearly have no adverse impact on competition. Therefore, the CSXT Transaction is not significant, and consequently is “minor.”

As noted above, CSXT understands that CPKC is also seeking authority to purchase the Western Line from MNBR, which would create a direct interchange between CSXT and CPKC and eliminate the need for an intermediate carrier on overhead traffic between CPKC and CSXT. Because the CSXT Transaction is not contingent on the CPKC Transaction, and the two transactions should be classified and evaluated separately, CSXT is providing the Board with a full analysis of the CSXT Transaction regardless of whether the CPKC Transaction occurs.

CSXT is also providing the Board with full information to evaluate any aggregate effects of the CSXT Transaction and the CPKC Transaction, along with all related transactions. Even if the Board were to consider these aggregate effects, the Board should reach the same conclusion that the proposed CSXT Transaction is a minor transaction.

Regardless of whether the Board views the CSXT Transaction and CSXT Related Transactions in isolation, or along with the CPKC Transaction and CPKC Related Transactions:

- CSXT expects to make significant investments in upgrading the Eastern Line in order to bring superior service to local and overhead customers;
- This is an end-to-end acquisition;
- No shipper will experience a reduction in the number of serving carriers;
- No existing routes will be closed;
- No existing interchange options with third parties will be eliminated;
- The short lines that connect with the Eastern Line (MNBR and AGR) will not lose a connecting alternative;
- No Class I railroad that currently has access to rail customers in the region will lose that access;
- CSXT commits to keeping the existing Selma gateway open for access to NSR on commercially reasonable terms; and
- Competition will be preserved and enhanced between CSXT and other railroads and modes in the region.

The CSXT Transaction is an end-to-end acquisition that will simply reextend the CSXT system approximately 94 miles from Burkeville, AL to Myrtlewood, AL. The transaction will not render other trackage duplicative or redundant. Additionally, the transaction will maintain the competitive status quo by reinserting CSXT service for MNBR service on the Eastern Line, with no reduction in the number of competitive rail options available to shippers. As discussed below, CSXT plans to make significant investments in the track, roadbed, bridges, warning devices, and

wayside detectors on the Eastern Line. These significant investments in the infrastructure of the Eastern Line will increase safety, reliability and speeds, allowing CSXT to compete better with trucks and other railroads in the region.

The verified statement of Arthur Adams, Jr., CSXT's Senior Vice President, Sales & Marketing, explains the reasons that CSXT seeks to resume operating and reacquire the assets of the Eastern Line, identifies the expected impact of the CSXT Transaction on traffic flows, and describes the public benefits that will be realized by CSXT's acquisition and operation of the Eastern Line.

As explained in the Verified Statement of Dr. David Reishus, CSXT's economic expert, the proposed CSXT Transaction will have no adverse competitive impact, whether the CSXT Transaction is considered on its own or in connection with the proposed CPKC Transaction. Under both scenarios, there will be no change in competitive options available to MNBR-served shippers with the CSXT Transaction. As explained by Dr. Reishus, the vast majority of traffic on the Eastern Line is traffic interchanged between MNBR and AGR and traffic handled today in overhead service between Meridian, MS, and Montgomery, AL. The proposed CSXT Transaction will have no competitive effect on this traffic, whether the Board approves the proposed CPKC Transaction or not. Similarly, there are no 2-to-1 shippers on the Eastern Line, and MNBR's local traffic (traffic originated or terminated on the Eastern Line) will lose no competitive options.

Dr. Reishus further explains that Selma is currently served by both MNBR and NSR, and there is a direct interchange at Selma between MNBR and NSR. In line with recent practice at the Board in other rail transactions, CSXT has agreed to commit to keeping the Selma gateway open for access to NSR on commercially reasonable terms.

Furthermore, CSXT has committed to {{ [REDACTED] }}, which currently moves freight to both CSXT at Montgomery and to NSR at Selma, that CSXT will continue to provide access to NSR at Selma at MNBR's existing rate for movements to NSR at Selma for five years, subject to reasonable cost escalation. Beyond that time, CSXT is committing to maintain the Selma gateway open to interchange to NSR on commercially reasonable terms, as noted above. CSXT requests that the Board impose these commitments as conditions to approval of the CSXT Transaction.

If the Board approves both the CSXT Transaction and the CPKC Transaction, the principal aggregate effect of the two transactions will be to create a new direct interchange point between CSXT and CPKC at the point where the Western Line and Eastern Line connect in Myrtlewood, AL, thereby eliminating the need for an intermediary carrier (MNBR) that currently moves overhead traffic between CPKC in Meridian, MS and CSXT in Montgomery, AL. The creation of the Myrtlewood gateway will result in more efficient movement of existing CSXT-CPKC interchange traffic between the Eastern U.S. (CSXT) and the Western U.S. and Mexico (CPKC) without any reduction in competition. Currently, certain CSXT-CPKC traffic is interchanged at less efficient gateways (including New Orleans, LA, Brookwood, AL, and East St. Louis, MO). CSXT projects that a portion of this traffic will be diverted to the new CSXT-CPKC Myrtlewood gateway as a result of the CSXT Transaction and the CPKC Transaction. Establishing a new, more efficient gateway between CSXT and CPKC at Myrtlewood, AL will allow each carrier to compete more effectively with other carriers and modes in the region.

Therefore, whether the Board considers the aggregate effects of the CSXT Transaction and the CPKC Transaction (and all related transactions) or simply focuses on the proposed CSXT Transaction and CSXT Related Transactions, CSXT requests that the Board designate the

CSXT Transaction as a “minor” transaction. The geographic scope of the CSXT Transaction is limited to Alabama, and the CPKC Transaction is limited to Alabama and a small portion of Mississippi. The Board has considered transactions of much greater scope as “minor.” *See, e.g., Norfolk S. Ry.—Acquis.—Trustees of The Cincinnati S. Ry.*, FD 36699 (STB served Sept. 20, 2023) (The Board authorized NSR to acquire and operate the Cincinnati Southern Railway, an approximately 338.2-mile rail line between Cincinnati, Ohio, and Chattanooga, Tenn.); *Soo Line Corp.—Control—Cent. Me. & Quebec Ry.*, FD 36368 (STB served May 4, 2020) (The Board authorized Soo Line Corporation to acquire control of Central Maine & Quebec Railway US Inc., which owned and operated approximately 244.2 miles of rail lines in Vermont and Maine and also had the right to operate on approximately 57.25 miles of rail line leased from the Maine Department of Transportation, for a total of approximately 301.45 route miles in the U.S.; Soo Line Corporation would also acquire 236.81 route miles of rail line from Central Maine & Quebec Railway Canada Inc. and would seek authorization from Canadian authorities from that acquisition). Moreover, transactions connecting end-to-end carriers generally enhance competition and are unlikely to present competitive concerns. (*See V.S. Reishus 8-9.*)

Since the Board can find that the CSXT Transaction will clearly not have adverse competitive effects, the Board need not consider the public benefits that will result from the CSXT Transaction (and the CPKC Transaction and all related transactions) in order to classify the CSXT Transaction as a minor transaction. However, even if the Board could not determine that there would clearly be no adverse competitive effects, the Board still can classify the CSXT Transaction as a minor transaction if any adverse competitive effects “will clearly be outweighed by the [CSXT Transaction’s] anticipated contribution to the public interest in meeting significant transportation needs.” 49 C.F.R. § 1180.2(b). Here, the public benefits from the CSXT

Transaction – standing alone or combined with the CPKC Transaction and all related transactions – are large, important, and obvious.

Replacement of MNBR by CSXT as the owner and operator of the Eastern Line will result in improved infrastructure and operations on the Eastern Line and connecting lines. The current state of the rail infrastructure on the Eastern Line inhibits the ability to grow rail traffic and fully realize the potential for expanding access for CSXT’s shippers to western markets and for shippers in the west to reach CSXT’s eastern locations.

As Mr. Adams explains, CSXT expects to enter into an agreement with MNBR that, prior to consummation of CSXT’s acquisition of the Assets comprising the line, MNBR will conduct maintenance work and make certain improvements to the Eastern Line, including adding automated equipment identification (AEI) readers and defect detectors. This MNBR work will upgrade the Eastern Line to CSXT’s operating and safety standards, enabling CSXT to begin operating the line soon after the Board grants CSXT’s Application. The work will also benefit MNBR’s operation of the Eastern Line, which will continue into 2024. (V.S. Adams 11.)

Mr. Adams also explains that, after the CSXT Transaction is consummated, CSXT plans to make significant additional investments in the track, roadbed, bridges, warning devices, and wayside detectors on the Eastern Line. These investments will result in increasing safety, reliability, and speeds. Based on an initial review of the facilities, CSXT plans to upgrade the rail, replace ties, and improve track ballast and track surface. CSXT has identified a number of bridges that require substantial upgrades. Additionally, CSXT intends to improve interchange tracks at Myrtlewood Yard to accommodate efficient interchange at that yard post-transaction. These facility upgrades will harden the existing infrastructure and improve the rail facilities, strengthening the line and reducing the risk of derailments. CSXT’s plan is to update a

substantial portion of the Eastern Line to Federal Railroad Administration (“FRA”) Class II standards within five years. This will result in more reliable and faster transit times that will allow rail users on the Eastern Line to grow their own business as the economy expands. (*Id.* at 11-12.)

CSXT’s reacquisition of the Eastern Line, with or without the CPKC Transaction, would allow CSXT to extend its network. Ownership of the Eastern Line and direct control of operations on that line will allow CSXT to unlock value for CSXT shippers. It will also create redundancy in the southern portion of CSXT’s network that will give CSXT a greater ability to respond to unexpected network problems. In addition, reacquisition of the Eastern Line will support CSXT’s ongoing efforts to attract new industrial development to its rail network and will give CSXT’s shippers expanded transportation options, which CSXT hopes will lead to further rail traffic growth. (*Id.* at 12.)

CSXT will bring to local and overhead users of the Eastern Line CSXT’s best-in-class rail service and its dynamic operating model that has set new standards for safety⁶ and service performance with higher velocity, faster equipment turns, and greater consistency. Improved service, increased reliability and highly consistent rail operations will enhance competition and provide substantial public benefits to the region. (*See id.* at 9.)

Additionally, elimination of an intermediary carrier (MNBR) for overhead traffic over the Eastern Line and Western Line, and the establishment of an efficient new CSXT and CPKC interchange at the connection point between those two lines, will enable each carrier to provide more efficient service and increase economic development opportunities in the region.

⁶ CSXT is a leader in the rail industry in safety metrics relating to train accidents, personal injuries and personal injury frequency. In 2020, CSXT set a new company record for the fewest number of FRA reportable personal injuries, had the lowest injury rate (0.81) for all Class I railroads. In 2022, CSXT reduced our FRA-reportable train accident rate while keeping our FRA-reportable injury index at the same level as the previous year, even as we added 2,000 new train-and-engine employees to our workforce. (V.S. Adams 10-11.)

F. The Board Should Approve this Application.

The Board’s review of “minor” transactions under 49 U.S.C. § 11324(d) focuses primarily on the anticipated competitive impacts of the proposed transaction. *See. e.g., CSX Transp., Inc.—Acquis. of Operating Easement—Grand Trunk W. R.R. (CSXT/GTW)*, FD 35522, slip op. at 5 (STB served Feb. 8, 2013); *CSX Transp., Inc.—Joint Use—Louisville & Ind. R.R. (CSXT/L&I)*, FD 35523, slip op. at 4-5 (STB served Apr. 10, 2015); *Norfolk S. Ry.—Acquis. & Operation—Certain Rail Lines of the Del. & Hudson Ry. (NS/D&H)*, FD 35873, slip op. at 13-21 (STB served May 15, 2015); *Canadian Nat’l Ry.—Control—EJ&E W. Co.*, FD 35087, slip op. at 13 (STB served Dec. 24, 2008), *pet. for review denied sub nom. Vill. of Barrington v. STB*, 636 F.3d 650 (D.C. Cir. 2011). The Board must approve such a transaction unless it finds that it will cause “adverse competitive impacts that are both ‘likely’ and ‘substantial,’” and that those impacts outweigh the public benefits of the transaction and cannot be mitigated through Board-imposed conditions. *NS/D&H*, FD 35873, slip op. at 14. Examples of adverse competitive impacts “would be the likelihood of significantly higher rates or significantly worsened service, or the likelihood of a combination of the two.” *Blackstone Cap. Partners—Control Exemption—CNW Corp.*, 5 I.C.C.2d 1015, 1019 (1989). The CSXT Transaction would have no such anticompetitive effects, even if considered alongside the CPKC Transaction and all related transactions. To the contrary, the CSXT Transaction (standing alone or considered with the CPKC Transaction and all related transactions) would be procompetitive and serve the public interest, as discussed throughout this Application.

The Board has also concluded that a “transaction is not likely to cause a substantial lessening of competition or to create a monopoly or restraint of trade” when “[n]othing in the record indicates that the existing transportation options for shippers and carriers would be

reduced or that any shipper would lose a competitive rail option.” *CSXT/L&I*, FD 35523, slip op. at 5. CSXT is merely replacing MNBR, an end-to-end extension. Moreover, CSXT will not close any routes as a result of the CSXT Transaction. In addition, following upgrade of the Eastern Line, CSXT “would be able to provide shippers with more efficient, competitive service. The proposed transaction would enhance [CSXT’s] ability to compete not only with other railroads, but also with freight that currently moves via other modes of transportation, such as long and short haul trucking companies.” *Id.*

Indeed, this Application establishes that the applicable statutory standard for approval will clearly be met. As a result of the CSXT Transaction: (1) there is not likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and (2) there will be no anticompetitive effects of the transaction, only procompetitive effects, and the public interest in meeting significant transportation needs will be met. *See* 49 U.S.C. § 11324(d). Similarly, if the CSXT Transaction, the CPKC Transaction, and all related transactions are all realized, the transactions will result in no adverse impact on competition, and instead will be procompetitive and firmly in the public interest, as detailed throughout this Application.

II. PROPOSED SCHEDULE

CSXT proposes the following schedule in accordance with the requirements of 49 U.S.C.

§ 11325 and 49 C.F.R. § 1180.6(a)(1)(ii).

DATE	ACTION
1	Application filed with Board and served. Motion for Protective Order filed with Board.
30	Board accepts application and establishes schedule.
45	Notices of intent to participate must be filed with the Board.
60	Comments due from all parties, including the Attorney General and Secretary of Transportation, on the transportation merits of the Proposed Transaction.
90	Responses to comments on the transportation merits of the Proposed Transaction due. Applicant’s rebuttal in support of the application due.
135	Briefs filed. Close of record.
180	Board serves final decision.
210	Board decision becomes effective.

III. INFORMATION PROVIDED IN RESPONSE TO BOARD REGULATIONS

Pursuant to the Board’s regulations at 49 C.F.R. § 1180.4, CSXT submits the following information:

Section 1180.6 Supporting Information

(a)(1) A description of the proposed transaction, including appropriate references to any supporting exhibits and statements contained in the application and discussing the following:

(i) A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

The CSXT Transaction is described fully above and incorporated herein by reference. In summary, CSXT and MNBR have agreed that CSXT will seek authorization from the Board for

the following proposed CSXT Transaction: CSXT will repurchase the Assets from MNBR, CSXT will resume operating the Eastern Line much as MNBR does today, and MNBR will stop operating on the Eastern Line.

Applicant and its business address is:

CSX Transportation, Inc.
500 Water Street J-150
Jacksonville, FL 32202
(904) 359-1229

Questions and correspondence concerning this application may be addressed to:

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(ii) The proposed time schedule for consummation of the proposed transaction.

Pending Board authorization, CSXT seeks to consummate the CSXT Transaction on or soon after the effective date of a Board decision authorizing the CSXT Transaction, subject to the completion of any required labor implementing agreements. CSXT anticipates that the CSXT Related Transactions will be consummated concurrently with the CSXT Transaction.

(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

The proposed CSXT Transaction will allow CSXT to repurchase from MNBR the Assets comprising the Eastern Line and to resume operating the Eastern Line, upon the termination of MNBR's leasehold interest in the Real Property underlying the Eastern Line. The 2003 Agreement will expire soon, and the CSXT Transaction will allow for CSXT to exercise its contractual rights to reassume ownership and operations of the Eastern Line. With the CSXT Transaction, all of the ownership interests in the Real Property and Assets comprising the Eastern Line will once again be consolidated in CSXT's hands and CSXT will operate the Eastern Line. The CSXT Transaction will result in operating economies, improved service, and improved infrastructure on the Eastern Line.

If the separate CPKC Transaction is also realized, the CSXT Transaction will result in the establishment of an efficient new CSXT and CPKC interchange at the connection point between the Eastern Line and the Western Line, which will enable each carrier to provide more efficient service and increase economic development opportunities in the region. The CSXT Related Transactions and the CPKC Related Transactions will ensure that interchange between CSXT, CPKC, MNBR, and AGR will be efficiently conducted at Myrtlewood, AL, after MNBR stops operating the Eastern Line and once CPKC starts moving overhead traffic to interchange with CSXT at Myrtlewood.

The purposes sought to be accomplished and the benefits of the transactions are discussed in detail in the accompanying Verified Statement of Mr. Arthur Adams, Jr., which is incorporated herein by reference.

(iv) The nature and amount of any new securities or other financial arrangements.

CSX Corporation, CSXT's parent, will not issue new securities in connection with the CSXT Transaction. The purchase price for the Assets will be paid by CSXT with cash on hand.

(a)(2) A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including

(i) The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see §1180.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.

The proposed CSXT Transaction will result in no adverse impacts on competition, and instead will enhance competition. The CSXT Transaction is an end-to-end acquisition that will reextend the CSXT system from Burkeville, AL to Myrtlewood, AL, a distance of approximately 94 miles. The CSXT Transaction will maintain the competitive status quo by reinserting CSXT service for MNBR service on the Eastern Line, with no reduction in the number of competitive rail options available to shippers.

If both the CSXT Transaction and the CPKC Transaction are realized, the principal aggregate effect will be to create a new direct interchange point between CSXT and CPKC at Myrtlewood, AL. The creation of the Myrtlewood gateway will result in more efficient movement of existing CSXT-CPKC interchange traffic and will allow the diversion of certain CSXT-CPKC interchange traffic from less efficient gateways (including New Orleans, LA, Brookwood, AL, and East St. Louis, MO) to the new Myrtlewood gateway. The new, more efficient gateway at Myrtlewood will allow CSXT and CPKC to compete more effectively with other carriers and modes in the region.

The CSXT Related Transactions and the CPKC Related Transactions will ensure that MNBR and AGR can continue to access the national rail network much as they do today after MNBR ceases operating the Eastern Line, through an efficient interchange at Myrtlewood, AL.

CSXT's economic expert, Dr. David Reishus, explains that there will be no lessening of competition, creation of a monopoly, or restraint of trade in the relevant market. The Verified Statement of Dr. Reishus is incorporated herein by reference.

(ii) The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

CSXT will purchase the Assets from MNBR for {{ [REDACTED] }} in cash. In the event that the CPKC Transaction occurs along with the CSXT Transaction, CSXT has agreed to extend certain leases between CSXT and other GWI affiliates, and to make payments to AGR for interchange traffic with CSXT.

While CSXT expects that rail operations over the Eastern Line will become much more efficient as a result of the CSXT Transaction, CSXT is not able to quantify the benefits in terms of cost savings or increases in net revenue at this time. Projected increases in traffic are detailed in Exhibit 4.

(iii) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

Since CSXT is paying cash for the Assets from cash on hand, there will not be an increase in fixed charges as a result of the CSXT Transaction.

(iv) The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.

As evidenced by the support letters from the Alabama Department of Commerce and the Selma & Dallas County Economic Development Authority in Exhibit 23, the CSXT Transaction

will result in improved rail service and improved infrastructure on the Eastern Line. The current state of the rail infrastructure on the Eastern Line inhibits the ability to grow rail traffic and fully realize the potential for expanding access for CSXT's shippers to western markets and for shippers in the west to reach CSXT's eastern locations. As discussed above, CSXT plans to make significant additional investments in the track, roadbed, bridges, warning devices, and wayside detectors on the Eastern Line, which will result in increasing safety, reliability and speeds and will allow CSXT to compete better with trucks and other railroads in the region. The planned improvements will result in more reliable and faster transit times that will open new markets to customers that are reliant on supply chains that today do not involve CSXT. Essential transportation services will be preserved, as discussed throughout this Application.

If realized together, the CSXT Transaction and the CPKC Transaction (and all related transactions) will result in a significant improvement in the adequacy of transportation service to the public. As described above, the principal aggregate effect of the CSXT Transaction and the CPKC Transaction will be to create a new direct interchange point between CSXT and CPKC at the point where the Western Line and Eastern Line connect in Myrtlewood, AL, thereby eliminating the need for an intermediary carrier (MNBR) that currently moves overhead traffic between CPKC in Meridian, MS and CSXT in Montgomery, AL. The elimination of an intermediary carrier for overhead traffic over the Eastern Line and Western Line, and the establishment of an efficient new CSXT and CPKC interchange at the connection point between those two lines, will enable each carrier to provide more efficient service and increase economic development opportunities for shippers using the Eastern Line and the Western Line.

(v) The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.

As a result of the CSXT Transaction, CSXT expects to increase its workforce. The projections below and in Appendix 1 reflect the employment level on the Eastern Line as a result of traffic growth and the upgrade of a substantial portion of the track to FRA Class II standards expected over the next five years.

The summarized impact of the CSXT Transaction is set forth in Appendix 1. CSXT and MNBR will not integrate any of their forces, including those maintaining, dispatching, or operating the Eastern Line. CSXT employees will assume the responsibility for maintaining, dispatching, and operating CSXT trains over the Eastern Line. AGR employees will continue to operate AGR trains over the Eastern Line between Linden and Myrtlewood as they do today pursuant to a new trackage rights agreement with CSXT.

To the extent necessary, CSXT will hire additional employees to maintain, operate, and dispatch the Eastern Line. CSXT does not believe that any of its employees will be adversely affected by the CSXT Transaction.

Over three years, CSXT will hire 37 new positions, consisting of: (a) nine full time equivalent ("FTE") locomotive engineers; (b) nine FTE conductors; (c) 12 FTE track workers; (d) four FTE carmen; and (e) three FTE signal positions.

CSXT expects to staff these positions from current forces headquartered at its existing Montgomery, AL terminal and from its regular planned hiring.

Upon closing in 2024, CSXT will add: (a) five FTE locomotive engineers; (b) five FTE conductors; (c) eight FTE track workers; (d) three FTE signal positions. As required by *New York Dock Ry.—Control—Brooklyn Eastern Dist. Term. (New York Dock)*, 360 I.C.C. 60 (1979),

as modified by *Wilmington Term. R.R., Inc.—Pur. & Lease—CSX Transp., Inc. (Wilmington Terminal)*, 6 I.C.C.2d 799 (1990), *aff'd sub nom. Railway Labor Execs. Ass'n v. ICC*, 930 F.2d 511 (6th Cir. 1991), CSXT will inform MNBR employees of positions on the Eastern Line.

After the first year of operations, in 2025, CSXT expects to add: (a) two FTE engineer positions; (b) two FTE conductor positions; (c) two FTE track worker positions; and (d) two FTE carmen positions.

After the second year of operations, in 2026, CSXT expects to add: (a) two FTE engineer positions; (b) two FTE conductor positions; (c) two FTE track worker positions; and (d) two FTE carmen positions at Montgomery to support operations on the Eastern Line.

CSXT also understands that MNBR intends to abolish seven transportation positions, four engineering positions, and one mechanical position as a result of the CSXT Transaction. In addition to possible employment with CSXT, CSXT understands that MNBR or other GWI-controlled carriers may have other positions for employees who currently occupy these positions.

No employee protective arrangements have been reached by either CSXT or MNBR. In accordance with Board precedent, CSXT requests that the Board impose the labor protective conditions in *New York Dock*, as modified by *Wilmington Terminal* on the CSXT Transaction for the benefit of CSXT and MNBR employees.

These conditions clearly apply to the Proposed Transaction because it is a line sale involving a Class I carrier (CSXT) and a Class III carrier (MNBR). *See* 49 U.S.C. § 11326(a); *CSXT/GTW*, FD 35522, slip op. at 7.

CSXT expects the Board to follow its precedent of applying these labor protective conditions to all of the transactions related to CSXT's acquisition of the Eastern Line.

(vi) The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11324.

Inclusion is not available as a form of relief in a minor transaction.

Moreover, the CSXT Transaction will not harm or cause the loss of essential services provided by any carrier, so there would be no public interest basis for ordering the inclusion in the CSXT Transaction of any carrier in the territory, even if such a criterion were considered.

(a)(3) Any other supporting or descriptive statements applicants deem material.

This Application is supported by two attached Verified Statements: (1) Verified Statement of Mr. Arthur Adams, Jr., CSXT's Senior Vice President, Sales & Marketing, describing the anticipated impacts of the CSXT Transaction on traffic flows and the public benefits that can be expected to result from CSXT's acquisition and operation of the Eastern Line (Exhibit 22-A); and (2) Verified Statement of Dr. David Reishus, addressing competition issues (Exhibit 22-B).

Verified Statement of Mr. Arthur Adams, Jr.: The Application is supported by the Verified Statement of Mr. Arthur Adams, Jr., CSXT's Senior Vice President, Sales & Marketing, who explains the reasons that CSXT seeks to resume operating and reacquire the assets of the Eastern Line, identifies the expected impact of the CSXT Transaction on traffic flows, and describes the public benefits that will be realized by CSXT's acquisition and operation of the Eastern Line. Mr. Adams's Verified Statement is incorporated by reference herein. Mr. Adams explains that the CSXT Transaction will allow CSXT to expand its customer-centered operations onto the Eastern Line, giving CSXT's existing customers more efficient access to western locations. Mr. Adams also explains that CSXT plans to make significant investments in the track, roadbed, bridges, warning devices, and wayside detectors on the Eastern Line, thereby improving service and supporting continued growth in both overhead and local traffic on the Eastern Line.

The CSXT Transaction will create reliable single-line access to the rest of CSXT's rail network, allowing the Eastern Line to become more fully integrated into CSXT's broader U.S. rail network and providing expanded market access and increased opportunities to divert traffic from truck to rail and remove that traffic from congested highways. If the CPKC Transaction is also approved, CSXT and CPKC will create a new, efficient competitive route between the East and Southeast and Southwest of the United States.

Verified Statement of Dr. David Reishus: Dr. Reishus explains that the proposed CSXT Transaction will have no adverse competitive impact, whether the CSXT Transaction is considered on its own or in connection with the proposed CPKC Transaction. Under both scenarios, there will be no change in competitive options available to MNBR-served shippers with the CSXT Transaction. Dr. Reishus explains that the CSXT Transaction is essentially end-to-end. Transactions like this one that involve vertical integration pose little or no risk for competitive harm and, indeed, provide the opportunity for pro-competitive service improvements. There are no 2-to-1 shippers. Moreover, the vast majority of traffic on the Eastern Line is either interchanged between MNBR and AGR or handled today in overhead service between Meridian, MS, and Montgomery, AL, and the competitive options of these shippers will be unaffected by the proposed CSXT Transaction, whether or not the Board also approves the CPKC Transaction. MNBR's local traffic (traffic originated or terminated on the Eastern Line) will also lose no competitive options. CSXT's commitment to maintain the Selma gateway open on commercially reasonable terms ensures that Eastern Line shippers will continue to have access to NSR.

CSXT believes that the information furnished in this Application adequately supports the Board's approval of this minor transaction under applicable statutory criteria and Board

precedent. CSXT will furnish the Board with any information concerning this CSXT Transaction that it may require and will participate fully in any proceedings on the CSXT Transaction which the Board deems appropriate.

(a)(4) An opinion of applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Board. This should include specific references to any pertinent provisions of applicants' bylaws or charter or articles of incorporation.

See Appendix 2.

(a)(5) A list of the State(s) in which any part of the property of each applicant carrier is situated.

CSXT owns and operates rail lines in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, the District of Columbia, and the Canadian Provinces of Ontario and Québec.

The Eastern Line, described fully above, consists of two segments totaling approximately 93.68 miles in Alabama.

(a)(6) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

See Exhibit 1.

(a)(7) Explanation of the transaction.

(i) Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

CSXT currently owns the Real Property underlying the Eastern Line. CSXT will reacquire from MNBR the Assets comprising the Eastern Line, and CSXT will resume operating

the Eastern Line much as MNBR does today. The terms of purchase for the Assets are set forth in the Transaction Agreement between CSXT and GWI, attached hereto as Exhibit 2. The purchase price is {{ [REDACTED] }}. In the event that the CPKC Transaction occurs along with the CSXT Transaction, CSXT has agreed to extend certain leases between CSXT and other GWI affiliates, and to make payments to AGR for interchange traffic with CSXT.

(ii) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at §1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.

A copy of the executed Transaction Agreement between CSXT and GWI is submitted in Exhibit 2 attached hereto. A copy of the unredacted Transaction Agreement has been submitted under seal.

(iii) If a consolidation or merger is proposed, indicate: (A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other securities to be issued.

The proposed CSXT Transaction is the acquisition and operation of the Eastern Line by CSXT from MNBR. There will be no consolidation or merger. CSXT will pay the purchase price for the Eastern Line to MNBR from cash on hand.

(iv) Court order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

Not applicable.

(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

The proposed CSXT Transaction involves the Eastern Line currently owned by MNBR. The Eastern Line, described fully above, consists of two segments totaling approximately 93.68 miles in Alabama. CPKC is seeking to acquire the Western Line from MNBR in a separate transaction.

(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

CSXT owns and operates rail lines in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, the District of Columbia, and the Canadian Provinces of Ontario and Québec.

The Eastern Line, described fully above, is currently owned by MNBR. It consists of two segments totaling approximately 93.68 miles, in Lowndes, Dallas, Wilcox and Marengo Counties, AL between Myrtlewood on the west and Burkeville on the east, where it connects with CSXT.

(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

No governmental financial assistance is involved in the proposed CSXT Transaction.

(a)(8) Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR part 1105. In major and significant transaction, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Board's Section of Environmental Analysis for the proper format of the environmental report.

See Exhibit 4.

Section 1180.8 Operational Data

(c) For minor transactions: Operating plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:

- (1) Traffic level density on lines proposed for joint operations.*
- (2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.*
- (3) Operating economies, which include, but are not limited to, estimated savings.*
- (4) Any anticipated discontinuances or abandonments.*

See attached Operating Plan (Exhibit 15).

IV. CONCLUSION

CSXT respectfully requests that the Board accept the Application, determine that this is an Application for a minor transaction, and grant this Application subject to the conditions for the protection of employees in *New York Dock*, as modified by *Wilmington Terminal*, and the commitments made by CSXT in this Application.

Respectfully submitted,

/s/ Peter W. Denton

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Attorneys for CSX Transportation, Inc.

Dated: October 6, 2023

VERIFICATION
(Section 1180.4(c)(2)(i))

I, Steven C. Armbrust, declare under penalty of perjury that the foregoing is true and correct, with respect to CSX Transportation, Inc. Further, I certify that I am qualified and authorized to make this verification and to file this Application.

/s/ Steven C. Armbrust

Steven C. Armbrust
Assistant General Counsel
CSX Transportation, Inc.

October 6, 2023

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

APPENDIX 1

Impacts of the CSXT Transaction upon Carrier Employees

Impacts of the CSXT Transaction upon Carrier Employees

CSX Transportation Inc.

Employees Affected by the Proposed Transaction

Current Location	Job Classification/Craft	Jobs Transferred	Jobs Abolished	Jobs Created	Year
------------------	--------------------------	------------------	----------------	--------------	------

None	Engineer	0	0	5	2024
		0	0	2	2025
		0	0	2	2026

None	Conductor	0	0	5	2024
		0	0	2	2025
		0	0	2	2026

None	Track Workers	0	0	8	2024
		0	0	2	2025
		0	0	2	2026

None	Carmen	0	0	0	2024
		0	0	2	2025
		0	0	2	2026

None	Signal	0	0	3	2024
		0	0	0	2025
		0	0	0	2026

Impacts of the CSXT Transaction upon Carrier Employees

Meridian & Bigbee Railroad, L.L.C.

Employees Affected by the Proposed Transaction

Current Location	Job Classification/Craft	Jobs Transferred	Jobs Abolished	Jobs Created	Year
------------------	--------------------------	------------------	----------------	--------------	------

Selma	Transportation	0	7	0	2023
		0	0	0	2024
		0	0	0	2025

Selma	Engineering	0	4	0	2023
		0	0	0	2024
		0	0	0	2025
Selma	Mechanical	0	1	0	2023
		0	0	0	2024
		0	0	0	2025

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

APPENDIX 2

Opinion of Counsel for CSX Transportation, Inc.

October 6, 2023

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: Docket No. FD 36727, *CSX Transportation, Inc.—Acquisition and Operation—Rail Line of Meridian & Bigbee Railroad, L.L.C.*

Dear Ms. Brown:

As counsel for CSX Transportation, Inc. (“CSXT”), I am familiar with the Application for the acquisition and operation of a rail line of Meridian & Bigbee Railroad, L.L.C. between Burkeville and Myrtlewood, AL, and am of the opinion that the transaction described in said Application meets the requirements of law and will be legally authorized and valid, if approved by the Board.

Very truly yours,

/s/ Steven C. Armbrust

Steven C. Armbrust
Assistant General Counsel
CSX Transportation, Inc.

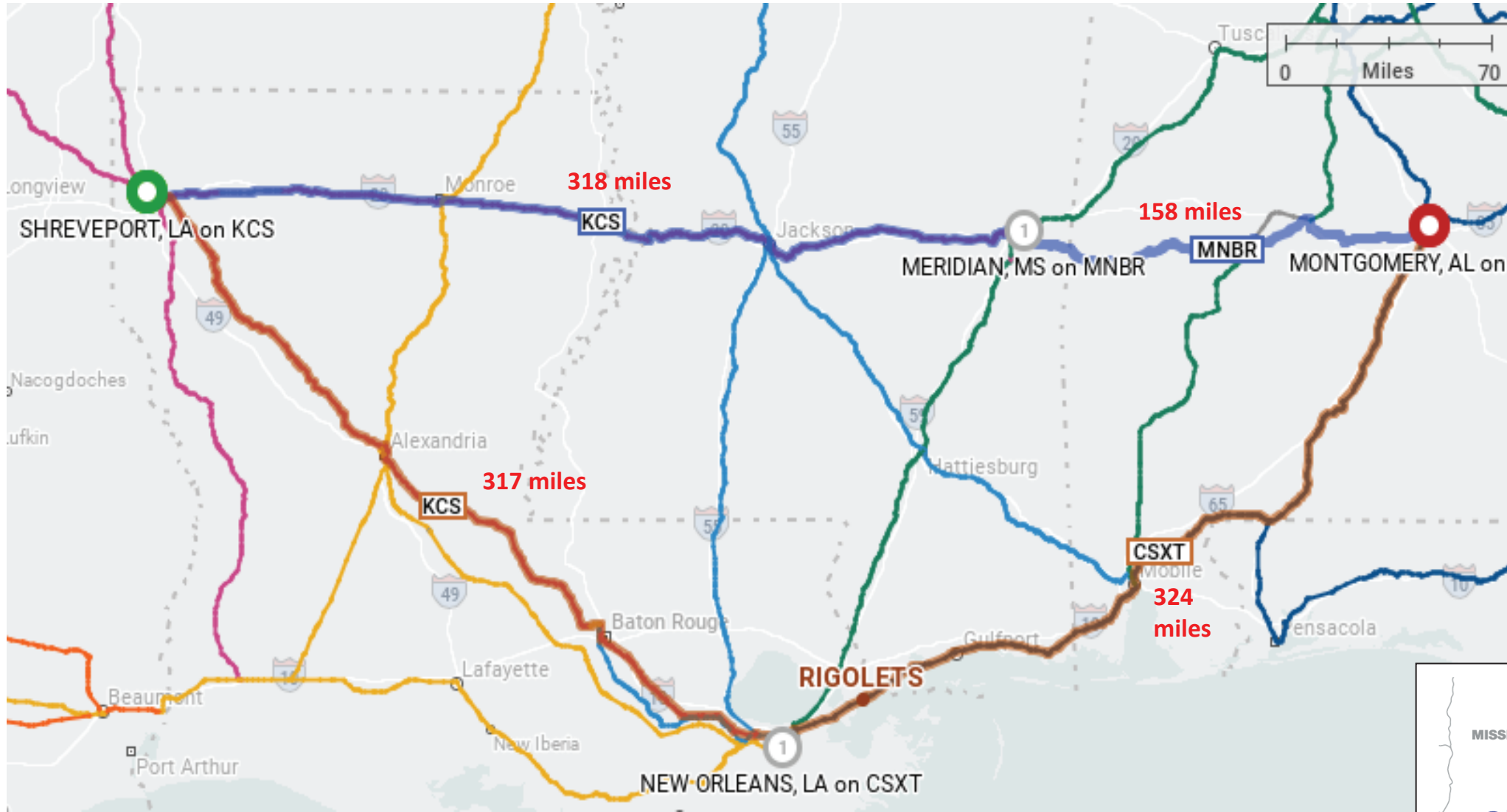
BEFORE THE
SURFACE TRANSPORTATION BOARD

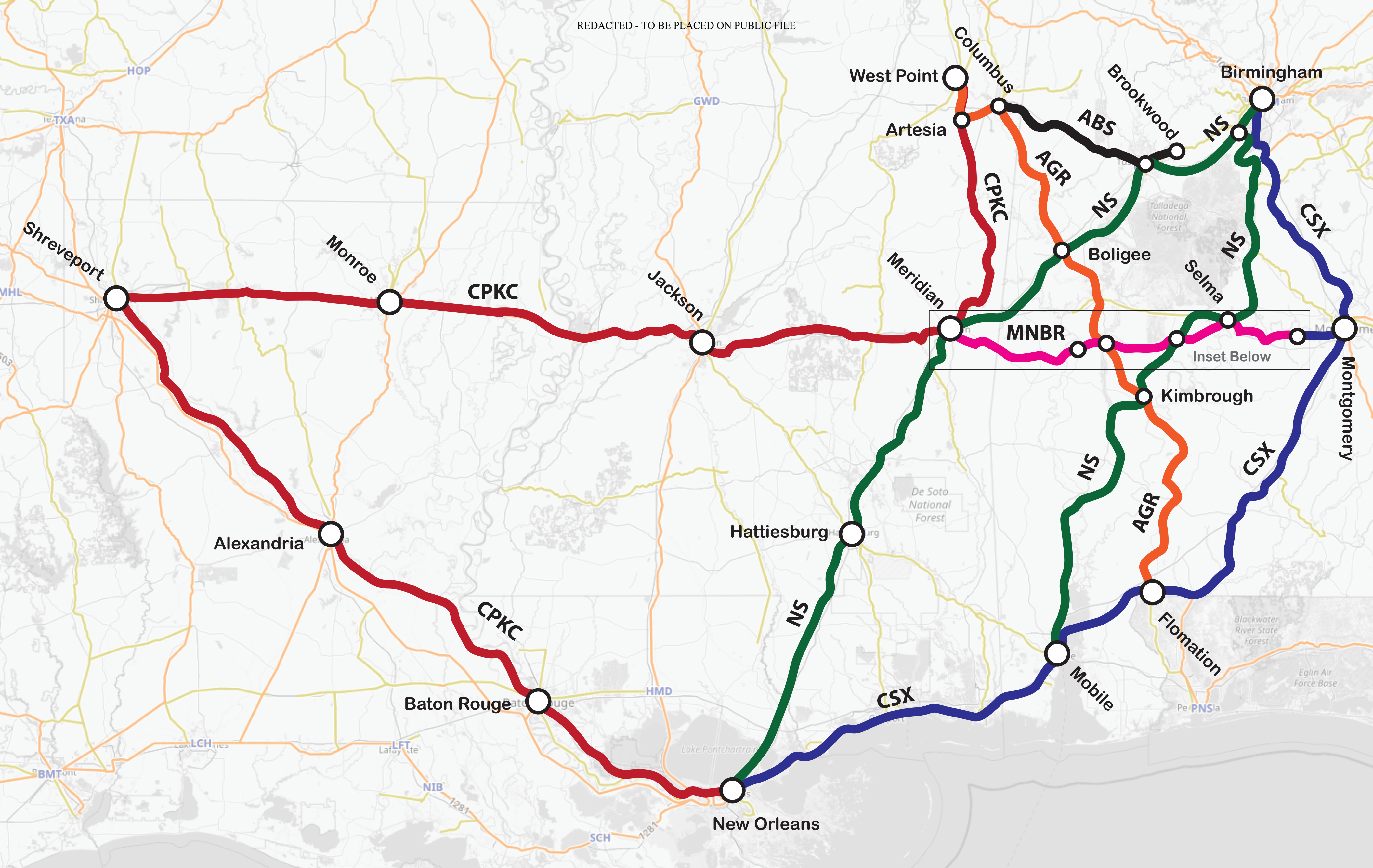
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CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

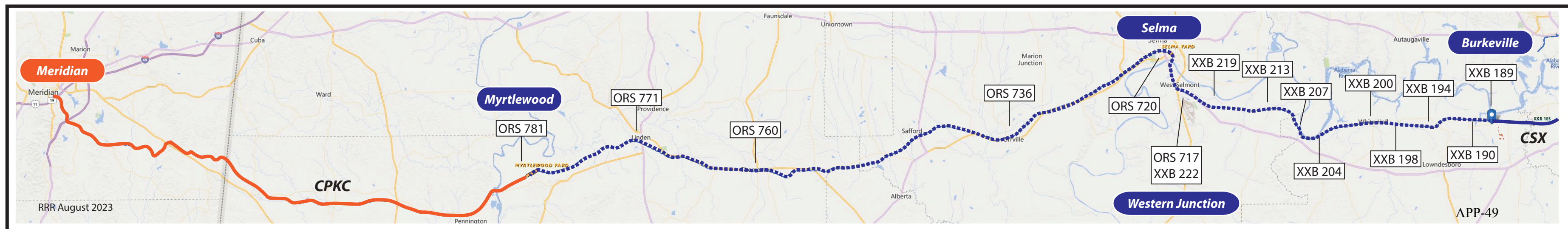
EXHIBIT 1

Maps





August 2023
RRR





CSX

— CSX Transportation
— Meridian & Bigbee Railroad Eastern Line

Revised 9-27-2023 RRR

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 2

Transaction Agreement between CSXT and GWI

TRANSACTION AGREEMENT

dated as of October 6, 2023

between

CSX TRANSPORTATION, INC.

and

GENESEE & WYOMING INC.

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TRANSACTION AGREEMENT

This TRANSACTION AGREEMENT (this “Agreement”), dated as of the 6th day of October, 2023 (the “Execution Date”), between CSX Transportation, Inc. (“CSXT”) and Genesee & Wyoming Inc. (“GWI”).

RECITALS:

A. Under the agreements referenced in this Agreement, CSXT and GWI (itself or through the relevant GWI Subsidiaries) will (i) terminate the land lease from CSXT to MNBR in respect of MNBR’s rail line between Myrtlewood, AL and Burkeville,¹ AL, (ii) CSXT will acquire the Eastern Line and the Purchased Assets from MNBR, (iii) MNBR will assign to CSXT, and CSXT will assume from MNBR, the Assigned Assets, (iv) CSXT will grant trackage and operating rights to AGR over CSXT’s trackage between Linden, AL and Myrtlewood, AL for the purposes of interchanging rail traffic at Myrtlewood, AL, with MNBR and CSXT, and (v) MNBR will discontinue its trackage rights over CSXT’s rail line between Burkeville, AL and Montgomery, AL (collectively, the “Eastern Transaction”).

B. Independently, but proximate in time, Canadian Pacific Railway Company (“CPKC”) and GWI intend to enter into a separate transaction agreement for CPKC’s subsidiary, The Kansas City Southern Railway Company (“KCS”), to, among other things, acquire MNBR’s rail line between Meridian, MS and Myrtlewood, AL, along with such agreements to facilitate interchange among KCS, MNBR, AGR, and CSXT (the “Western Transaction”).

C. Provided the Western Transaction closes prior to the Drop Dead Date, the relevant parties will amend and extend the leases between CSXT and each of FCRD, RSOR and ETRY, and amend the Interchange Agreement CSXT – AGR.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties hereto hereby agree as follows:

¹Also known as Burkville, AL.

I. DEFINITIONS

1.01 Defined Terms. As used herein, the following terms shall have the meanings specified in this Section as follows:

“Affiliates” – Means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to “control” another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” shall have a similar meaning.

“AGR” – Means Alabama & Gulf Coast Railway LLC.

“Agreement” – As defined in the introductory paragraph of this Agreement.

“Assigned Assets” – Means the agreements related to the Eastern Line to be assigned by MBNR to CSXT as more fully described in the Assignment and Assumption Agreement.

“Best Efforts” – Means, as to any party, such party’s reasonable best efforts in accordance with reasonable commercial practice to perform or satisfy an obligation or duty or otherwise act in a manner calculated to obtain the intended result by action or expenditure not disproportionate or burdensome in the circumstances, which means, among other things, that such party shall not be required to (i) expend funds other than for relevant filings or other governmental fees and the payment of the reasonable and customary costs and expenses of employees, counsel, consultants, representatives and agents as a condition to achieving a satisfactory result in connection with the performance or satisfaction of such obligation or duty or other action (provided that the foregoing shall not require a party to institute litigation or arbitration as a part of its Best Efforts) or (ii) suffer any economic or commercial disadvantage or detriment as a condition to achieving a satisfactory result out of reasonable proportion to the benefits to the parties under this Agreement.

“Bill of Sale” – Means that certain Bill of Sale conveying the Purchased Assets from MNBR to CSXT.

“Business Day” – Means any day of the year, other than a Saturday, Sunday or day on which banks are closed for business in New York, New York or Jacksonville, Florida.

“Claims” – As defined in Section 10.02.

“Closing” – Means each of the Eastern Line Closing and the Supplemental Closing.

“Closing Date” – Means each of the Eastern Line Closing Date and the Supplemental Closing Date.

“Confidentiality Agreement” – Means the Mutual Confidentiality Agreement effective December 31, 2022 between Genesee & Wyoming Railroad Services, Inc., a subsidiary of GWI, and CSXT.

“CPKC” – As defined in the recitals.

“CSXT” – As defined in the introductory paragraph of this Agreement.

“CSXT Indemnified Parties” – As defined in Section 10.03.

“CSXT Regulatory Approvals” – Means, collectively, the CSXT Regulatory Approvals Eastern Transaction and the CSXT Regulatory Approvals Supplemental Transaction.

“CSXT Regulatory Approvals Eastern Transaction” – Means the STB authority obtained by CSXT as necessary to allow CSXT’s reacquisition of the Eastern Line and the right to operate thereon as well as CSXT’s acquisition of the Purchased Assets.

“CSXT Regulatory Approvals Supplemental Transaction” – Means the STB authority obtained by CSXT as necessary to allow (i) discontinuance of CSXT’s trackage rights authority (STB Finance Docket No. 32962) on MNBR between Meridian, MS and Myrtlewood, AL, and (ii) CSXT trackage rights over CPKC track that are necessary or convenient to access the Myrtlewood Interchange Track and effectuate interchange there.

“Drop Dead Date” – Means the date that is eighteen months after the Execution Date, which period shall be extended while any STB Order is stayed or enjoined pursuant to Article IX.

“Eastern Line” – Means the MNBR railroad line between Myrtlewood, AL and Burkeville, AL as described in the Lease Agreement CSXT – MNBR.

“Eastern Line Closing” - As defined in Section 2.01.

“Eastern Line Closing Date” - As defined in Section 2.01.

“ETRY” – Means East Tennessee Railway, L.P.

“Execution Date” – As defined in the introductory paragraph of this Agreement.

“Existing Agreement” – As defined in Section 11.12.

“Existing Interchange Agreement CSXT - MNBR” – Means the interchange agreement dated November 15, 2003 between CSXT and MNBR for the interchange of rail traffic at or near Montgomery, AL.

“Eastern Transaction” – As defined in the recitals.

“FCRD” – Means First Coast Railroad Inc.

“First Amendment to Haulage Agreement CSXT - MNBR” – Means an amended Haulage Agreement CSXT – MNBR, which changes the endpoints of the haulage to be Meridian, MS and Myrtlewood, AL.

“Governmental Authority” – Means any national, federal, state, provincial, local or international governmental or public body, court, agency or regulatory authority or commission, or other governmental authority or instrumentality having jurisdiction over the transactions described in this Agreement.

“GWI” – As defined in the introductory paragraph of this Agreement.

“GWI Indemnified Parties” – As defined in Section 10.02.

“GWI Regulatory Approvals” – Means, collectively, the GWI Regulatory Approvals Eastern Transaction and the GWI Regulatory Approvals Supplemental Transaction.

“GWI Regulatory Approvals Eastern Transaction” – Means the STB authority obtained by GWI as necessary to allow (i) AGR trackage rights under the Trackage Rights Agreement CSXT – AGR and (ii) the discontinuance of trackage rights by MNBR over CSXT’s rail line between Burkeville and Montgomery.

“GWI Regulatory Approvals Supplemental Transaction” – Means the STB authority obtained by GWI as necessary to allow: (i) the extension of Lease Agreement CSXT – FCRD; (ii) the extension of Lease Agreement CSXT – RSOR; (iii) the extension of Lease Agreement CSXT – ETRY; and (iv) AGR’s

receipt of trackage rights over CPKC track that are necessary or convenient to access the Myrtlewood Interchange Track to effectuate interchange there.

“GWI Subsidiaries” - Means, collectively, AGR, ETRY, FCRD, MNBR and RSOR.

“Haulage Agreement CSXT - MNBR” – Means the Haulage Agreement dated February 28, 2022 between MNBR and CSXT.

“Indemnified Party” – As defined in Section 10.04(a).

“Indemnifying Party” – As defined in Section 10.04(a).

“Injunction” – As defined in Section 9.01(a).

“Interchange Agreement CPKC - CSXT” – Means an interchange agreement between CPKC and CSXT for the interchange of rail traffic at or near Myrtlewood, AL.

“Interchange Agreement CSXT – AGR” – Means an agreement between CSXT and AGR for the interchange of rail traffic at or near Myrtlewood, AL.

“Interchange Agreement CSXT - MNBR” – Means an agreement between CSXT and MNBR for the interchange of rail traffic at or near Myrtlewood, AL.

"KCS" – As defined in the recitals.

“Labor Protective Conditions” – means the terms of labor protection provided in *New York Dock Ry.--Control--Brooklyn Eastern Dist. Terminal*, 360 I.C.C. 60, aff'd sub nom., as modified by *Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation, Inc.*, 6 I.C.C.2d 799 (1990), *New York Dock Ry. v. United States*, 609 F.2d 83 (2d Cir.1979), *Norfolk & Western Ry.--Trackage Rights--Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), modified sub nom. *Mendocino Coast Ry.--Lease and Operate--California Western R.R.*, 360 I.C.C. 653 (1980), or *Oregon Short Line Railroad Co.--Abandonment – Goshen*, 360 I.C.C. 91 (1979), as applicable.

“Land Lease Termination Agreement” – Means the written agreement acknowledging the expiration of the Lease Agreement CSXT – MBNR.

“Law” – Means any domestic or foreign constitution, law (including common law), statute, ordinance, rule, regulation, regulatory requirement, code, by-law, the terms and conditions of any Permit,

Order, judgment, injunction or decree enacted, issued, promulgated, enforced or entered by any Governmental Authority.

“Lease Agreement CSXT – ETRY” – Means that certain Lease Agreement between CSXT and ETRY dated as of September 8, 2003, which provides for the lease by ETRY of a certain line or railroad and facilities as set forth therein.

“Lease Agreement CSXT – FCRD” – Means that certain Agreement between CSXT and FCRD dated April 8, 2005, as amended, which provides for the lease by FCRD of a certain line of railroad and facilities as set forth therein.

“Lease Agreement CSXT – MNBR” – Means that certain Land Lease Agreement between CSXT and MNBR dated November 13, 2003, as amended, which provides for the lease by MNBR of a certain line of railroad and facilities as set forth therein.

“Lease Agreement CSXT – RSOR” – Means that certain Land Lease Agreement between CSXT and RSOR dated August 20, 2004, which provides for the lease by RSOR of a certain railroad corridor and yard office building as set forth therein.

“Material Adverse Effect” – Means any event, condition, change, occurrence or effect that, individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on a party’s ability to perform its obligations under this Agreement in a timely manner or to consummate the transactions contemplated by this Agreement without material delay.

“MNBR” – Means Meridian & Bigbee Railroad, L.L.C.

“Myrtlewood Interchange Track” – Means approximately 3,700’ of MNBR track at or near Myrtlewood, AL, which track will be owned by KCS following the consummation of the Western Transaction.

“Order” – Means any order, decree, decision, rule, regulation, stipulation, judgment, writ, injunction, determination or award of a Governmental Authority acting in an adjudicative, rulemaking or regulatory capacity, including an STB Order, or of an arbitrator with applicable jurisdiction over the subject matter.

“Permits” – Means all permits, licenses, franchises, approvals, authorizations, registrations, certificates, variances, waivers, exemptions, qualifications, agreements and similar rights obtained, or required to be obtained, from Governmental Authorities.

“Person” – Means an association, a corporation, an individual, a partnership, a limited liability company, a trust, or any other entity or organization, including a Governmental Authority, and the executors, administrators or other legal representatives of an individual in such capacity.

“Purchased Assets” – Means all of the tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures on or affixed to the Eastern Line on the Execution Date as described in the Bill of Sale.

“Pre-Closing Tax Period” – Means all taxable periods ending on or before the Eastern Line Closing Date, and the portion of the Straddle Period ending on the Eastern Line Closing Date.

“Purchase Price” – [REDACTED]

“RSOR” – Means Riceboro Southern Railway, LLC.

“STB” – Means the Surface Transportation Board.

“STB Approval” – Means the receipt from the STB of one or more STB Orders approving or exempting each of the items comprising the CSXT Regulatory Approvals and the GWI Regulatory Approvals.

“STB Condition” – Means any condition or obligation that the STB shall have imposed in an STB Order that a party reasonably believes would have a material impact on the benefits to be realized by consummation of the transactions contemplated hereby (other than the Labor Protective Conditions).

“STB Order” – Means the order, decision or notice issued by the STB approving, exempting, conditioning, or otherwise disposing of each of the items comprising the CSXT Regulatory Approvals and the GWI Regulatory Approvals; *provided, however*, that if more than one STB Order is issued in connection with a contemplated transaction, all such STB Orders shall for purposes of this Agreement, unless otherwise indicated, be referred to collectively as the “STB Order.”

“Straddle Period” – Means any taxable period that includes, but does not end on, the Eastern Line Closing Date.

“Supplemental Closing” – As defined in Section 2.04.

“Supplemental Closing Date” – As defined in Section 2.04.

“Tax” or “Taxes” – Means all United States and Canadian federal, state, provincial, local or foreign taxes, charges, fees, levies, assessments, and other similar charges in the nature of a tax, of any kind, including general, special, ad valorem, ordinary or extraordinary, income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, customs, tariffs, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other similar duty, assessment or governmental charge, whether the same have been paid prior to the Eastern Line Closing Date, are then due or are payable thereafter (in installments or otherwise), together with any interest, penalties, fines, related liabilities or additions attributable to such taxes, charges, fees, levies, assessments or similar charges.

“Tax Authority” – Means any Governmental Authority responsible for the imposition, determination, administration or collection of any Tax.

“Tax Returns” – Means any return, declaration, document, report or similar statement filed or required to be filed with a Taxing Authority with respect to any Taxes (including any attached schedules), including any information return, claim or refund, amended return and declaration of estimated Tax.

“Termination of Existing Interchange Agreement CSXT - MNBR” -- Means the termination of the Existing Interchange Agreement CSXT - MNBR.

“Termination of Haulage Agreement CSXT - MNBR” – Means the termination of the Haulage Agreement CSXT - MNBR.

“Termination of Trackage Rights Agreement CSXT - MNBR” – Means the termination of the Trackage Rights Agreement CSXT - MNBR.

“Third Party Claims” – As defined in Section 10.01(c).

“Trackage Rights Agreement CSXT – AGR” – Means a Trackage Rights Agreement between CSXT and AGR granting AGR trackage rights between Myrtlewood, AL and Linden, AL for purposes of accessing the Eastern Line to interchange AGR traffic with MNBR.

“Trackage Rights Agreement CSXT - MNBR” – Means the Trackage Rights Agreement, dated as of March 21, 1996, between CSXT and MNBR granting CSXT overhead trackage rights between Meridian, MS and Myrtlewood, AL.

“Transfer Taxes” – Means all transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any real property transfer Tax and any similar Tax related to the transfer of property but excluding Taxes determined principally by reference to income or gain) (including any penalties and interest) incurred in connection with this Agreement.

“Western Transaction” – As defined in the recitals.

1.02 Other Definitional Provisions. Unless otherwise stated, terms, phrases and expressions used in this Agreement (whether or not capitalized) which pertain to railroad operations and service shall have the meaning commonly given such terms under common usage and practice of the railroad industry in 2023. All personal pronouns used in this Agreement shall include the other genders whether used in the masculine or feminine or neuter gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein”, “hereof”, “hereby”, “hereunder” and “hereinafter” refer to this Agreement as a whole and not to the particular sentence, paragraph or Section where they appear, unless the context otherwise requires. The term “including” shall mean, and shall be interpreted as though such term were, the phrase “including, without limitation,” in each place where such term appears whether or not “without limitation” or a similar phrase appears in each case. Whenever reference is made to a Section of this Agreement, such reference is to the Section as a whole, including all of the subsections and paragraphs of such Section, unless the reference is expressly made to a particular subsection or paragraph of such Section. References to “\$” means United States of America dollars.

II. CLOSINGS.

2.01 Eastern Line Closing. The closing of the acquisition of the Eastern Line (the “Eastern Line Closing”) shall take place at the office of Holland & Knight LLP, 50 N. Laura Street, Jacksonville, FL 32202 (or remotely using procedures satisfactory to GWI and CSXT) at 10:00 a.m. local time on a date agreed by GWI and CSXT within ten (10) days after the later to occur of (a) the effective date of the relevant STB Approval, and (b) the day on which all other conditions (other than the conditions set forth in Sections 7.03 and 8.03 of this Agreement, which conditions shall have been satisfied or waived on the Eastern Line Closing Date) to each party’s obligations under Articles VII and VIII have been satisfied or waived as provided therein, or at such other day, time and place as the parties may mutually agree (the “Eastern Line Closing Date”).

2.02 Deliveries by CSXT. At or prior to the Eastern Line Closing, if not previously exchanged, CSXT shall deliver to GWI the following, with all instruments being duly executed, in a form substantially similar to the documents provided in the exhibits listed below:

- (a) Land Lease Termination Agreement (Exhibit A)
- (b) Interchange Agreement CSXT – AGR (Exhibit B)
- (c) Interchange Agreement CSXT – MNBR (Exhibit C)
- (d) Trackage Rights Agreement CSXT – AGR (Exhibit D)
- (e) Termination of Existing Interchange Agreement CSXT – MNBR (Exhibit E)
- (f) First Amendment to Haulage Agreement CSXT - MNBR (unless the Termination of Haulage Agreement CSXT - MNBR is delivered prior to or contemporaneously with the Eastern Line Closing) (Exhibit F)
- (g) Bill of Sale (Exhibit G)
- (h) Agreement assigning the Assigned Assets (Exhibit H)
- (i) With respect to CSXT and each subsidiary of CSXT participating in the transactions contemplated by this Agreement, a duly executed Internal Revenue Service Form W-9, and

(j) The Purchase Price by wire transfer in immediately available funds to an account designated by GWI in writing to CSXT at least three (3) Business Days prior to Closing.

2.03 Deliveries by GWI. At the Eastern Line Closing, if not previously exchanged, GWI shall deliver, or shall cause the applicable GWI Subsidiary to deliver, to CSXT the following, with all instruments being duly executed, in a form substantially similar to the documents provided in the exhibits listed below:

- (a) Land Lease Termination Agreement (Exhibit A)
- (b) Interchange Agreement CSXT – AGR (Exhibit B)
- (c) Interchange Agreement CSXT – MNBR (Exhibit C)
- (d) Trackage Rights Agreement CSXT – AGR (Exhibit D)
- (e) Termination of Existing Interchange Agreement CSXT – MNBR (Exhibit E)
- (f) First Amendment to Haulage Agreement CSXT - MNBR (unless the Termination of Haulage Agreement CSXT - MNBR is delivered prior to or contemporaneously with the Eastern Line Closing) (Exhibit F)
- (g) Bill of Sale (Exhibit G)
- (h) Agreement assigning the Assigned Assets, (Exhibit H) and
- (i) With respect to GWI and each GWI Subsidiary transferring an Assigned Asset, a duly executed Internal Revenue Service Form W-9.

2.04 Supplemental Closing. In the event the STB approves the Western Transaction and the Eastern Line Closing has occurred on or before the Drop Dead Date, CSXT and GWI will exchange the documents described in Section 2.05 (the “Supplemental Closing”). The Supplemental Closing shall take place at the office of Holland & Knight LLP, 50 N. Laura Street, Jacksonville, FL 32202 (or remotely using procedures satisfactory to GWI and CSXT) at 10:00 a.m. local time on a date agreed by GWI and CSXT within ten (10) days after the later to occur of (a) the effective date of the relevant STB Approval, and (b) the day on which all other conditions (other than the conditions set forth in Sections 7.03 and 8.03 of this Agreement, which conditions shall have been satisfied or waived on the Supplemental Closing Date)

to each party's obligations under Articles VII and VIII have been satisfied or waived as provided therein, or at such other day, time and place as the parties may mutually agree (the "Supplemental Closing Date").

2.05 Supplemental Closing Deliverables. CSXT and GWI shall deliver to one another, or GWI shall cause the applicable GWI Subsidiary to deliver to CSXT, the following, with all instruments being duly executed, in a form substantially similar to the documents provided in the exhibits listed below:

- (a) Amendment to Interchange Agreement CSXT-AGR (Exhibit I)
- (b) Termination of Trackage Rights Agreement CSXT – MNBR (Exhibit J)
- (c) Extension of Lease Agreement CSXT – FCRD (Exhibit K)
- (d) Extension of Lease Agreement CSXT – RSOR (Exhibit L)
- (e) Extension of Lease Agreement CSXT – ETRY (Exhibit M)
- (f) Termination of Haulage Agreement CSXT – MNBR (Exhibit N)

2.06 Consents; Cooperation. Subject to Section 11.01, each of the parties hereto shall use Best Efforts to take, or cause to be taken, all appropriate action, do or cause to be done all things necessary, proper or advisable, and execute and deliver such documents and other papers, as may be necessary, proper or advisable to consummate the transactions contemplated by this Agreement, including to obtain the STB Approval, each party to bear its own costs and expenses.

2.07 Allocation. CSXT and GWI agree the value of the Purchased Assets and Assigned Assets shall be allocated in accordance with the rules under Section 1060 of the Code and the Treasury Regulations promulgated thereunder as set forth in Schedule 2.05 hereto (an "Allocation"). Each party shall file Tax Returns and other filings and reports for Tax purposes (including any forms or reports required to be filed pursuant to Section 1060 of the Code, the Treasury Regulation promulgated thereunder or any similar provisions of local, state and foreign Law) in a manner that is consistent with an Allocation and shall not take any position which is inconsistent with an Allocation unless required by final "determination" with the meaning of Section 1313(a) of the Code (or any similar provisions of local, state and foreign Law).

2.08 Property Taxes.

(a) With respect to assets transferred by GWI or a GWI Subsidiary: (i) CSXT assumes and agrees to pay that portion of the real estate Taxes and assessments payable in the calendar year in which the Eastern Line Closing occurs for the portion of the Straddle Period after the Eastern Line Closing Date; and (ii) GWI assumes and agrees to pay that portion of the real estate Taxes and assessments (including any special assessment) for all Pre-Closing Tax Periods.

(b) For the purposes of this Section 2.08, the real estate Taxes payable for the calendar year in which the Eastern Line Closing occurs for the portion of the Straddle Period through the Eastern Line Closing Date shall be deemed to be the amount of the relevant Taxes for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in such Straddle Period commencing with the beginning of the Straddle Period and ending on the Eastern Line Closing Date, the denominator of which is the number of days in the entire Straddle Period. In the event that the actual amount of tax is different from the amount used in Section 2.08 (a) or (b) to allocate the Taxes between CSXT and GWI for such period, then such allocation shall be reallocated in accordance with the methodology described in Section 2.08 (a) or (b) using the actual amount of such Taxes. CSXT or GWI shall pay any additional amount it owes to the other party based on such reallocation within twenty (20) Business Days after receiving such notice of the actual amount of Taxes.

2.09 Withholding. CSXT and GWI (and any of their Affiliates or agents) shall each be entitled to deduct and withhold from any amount payable to any Person pursuant to this Agreement such amounts as it is required to deduct and withhold with respect to the making of such payment under any provision of applicable Law. To the extent that amounts are so withheld and paid to the proper taxing authority pursuant to any applicable Tax Law, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to such holder in respect of which such deduction and withholding was made. The parties hereto agree to use commercially reasonable efforts to notify the other party at least 10 Business Days prior to making any such deduction or withholding and agree to cooperate in good faith with such other party to reduce or eliminate any such deduction or withholding as permitted by applicable Tax Law.

III. CSXT'S REPRESENTATIONS AND WARRANTIES.

CSXT represents and warrants to GWI as of the date hereof and as of each Closing Date as follows:

3.01 Organization and Authority.

(a) CSXT is duly organized and existing and in good standing under the Laws of Virginia. CSXT is duly qualified to do business in, and is in good standing under the Laws of, each other jurisdiction in which the ownership or lease of its property or the nature or conduct of its business or both makes such qualification necessary, except where the failure to be so qualified would not have a Material Adverse Effect.

(b) CSXT has the power and authority to own, lease and operate its assets and properties, and to carry on its business related thereto as now conducted.

(c) The execution, delivery and performance by CSXT of this Agreement and of all other agreements and instruments called for hereunder, and the consummation by CSXT of the transactions contemplated by this Agreement, and all such other agreements and instruments called for hereunder, have been duly and validly authorized by all necessary corporate or shareholder action of CSXT under applicable Law, the organizational documents of CSXT and otherwise (none of which actions have been modified or rescinded, and all of which actions are in full force and effect). Assuming the due authorization, execution and delivery of this Agreement by GWI, this Agreement constitutes the legal, valid and binding obligation of CSXT, and upon execution and delivery each other agreement and instrument called for hereunder will constitute, the legal, valid and binding obligation of CSXT. This Agreement is enforceable against CSXT in accordance with its terms, and upon execution and delivery each other agreement and instrument called for hereunder will be enforceable against CSXT in accordance with its terms, subject in each case to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

3.02 No Conflicts; Consents of Third Parties. The execution, delivery and performance of this Agreement by CSXT and each other agreement and instrument called for hereunder will not (a) conflict with the organizational documents of CSXT and will not conflict with, or result in a breach or termination of or constitute a default under, any lease, agreement, commitment, or other instrument (or create an event which, with notice or lapse of time or both, would constitute a default), result in the acceleration, termination or maturity of, create in any party the right to accelerate, terminate, modify, amend or cancel, or result in the loss of a benefit or increase in any fee, liability, or other obligation under any lease, agreement, commitment, or other instrument to which CSXT is a party or (b) constitute a violation by CSXT of any Law or regulation applicable to it. No authorization, consent, or approval of, or designation, declaration or filing with, any Governmental Authority or any other Person is required on the part of CSXT in connection with the execution, delivery, and performance of this Agreement and each other agreement and instrument called for hereunder, except (i) the CSXT Regulatory Approvals and (ii) for such actions with respect to Governmental Authorities which if not obtained, will not individually or in the aggregate be material.

IV. GWI'S REPRESENTATIONS AND WARRANTIES.

SUBJECT TO ANY OBLIGATIONS OF THE PARTIES UNDER THE LEASE AGREEMENT CSXT – MNBR: (A) THE SALE AND PURCHASE AND THE OTHER TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY GWI AND CSXT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF GWI AND CSXT SET FORTH IN THIS AGREEMENT OR ANY CERTIFICATE OR AGREEMENT DELIVERED PURSUANT HERETO; (B) WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF GWI SET FORTH IN THIS AGREEMENT OR ANY CERTIFICATE OR AGREEMENT DELIVERED PURSUANT HERETO, GWI DISCLAIMS ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH

RESPECT TO THE PURCHASED ASSETS; AND (C) CSXT AND GWI AGREE THAT THE PERSONAL PROPERTY INCLUDED IN THE PURCHASED ASSETS ARE BEING CONVEYED “AS IS, WHERE IS, WITH ALL FAULTS” WITHOUT WARRANTY OR REPRESENTATION OF TITLE.

GWI represents and warrants to CSXT as of the date hereof and as of each Closing Date as follows:

4.01 Organization and Authority.

(a) Each of GWI and the GWI Subsidiaries is duly organized and existing and in good standing under the Laws of Delaware. Each of GWI and the GWI Subsidiaries is duly qualified to do business in, and is in good standing under the Laws of, each jurisdiction in which the ownership or lease of its property or the nature or conduct of its business or both makes such qualification necessary, except where the failure to be so qualified would not have a Material Adverse Effect.

(b) Each of GWI and the GWI Subsidiaries has the power and authority to own, lease and operate its assets and properties, and to carry on its business related thereto as now conducted.

(c) The execution, delivery and performance by each of GWI and the GWI Subsidiaries of this Agreement and of all other agreements and instruments called for hereunder to which it is a party, and the consummation by GWI and the GWI Subsidiaries of the transactions contemplated by this Agreement, and all such other agreements and instruments called for hereunder, have been duly and validly authorized by all necessary corporate or shareholder or member action of GWI and the GWI Subsidiaries under applicable Law, the applicable organizational documents of GWI and the GWI Subsidiaries and otherwise (none of which actions have been modified or rescinded, and all of which actions are in full force and effect). Assuming the due authorization, execution and delivery of this Agreement by CSXT, this Agreement constitutes the legal, valid and binding obligation of GWI, and upon execution and delivery each other agreement and instrument called for hereunder will constitute, the legal, valid and binding obligation of GWI. This Agreement is enforceable against GWI in accordance with its terms, and upon execution and delivery each other agreement and instrument called for hereunder will be enforceable against GWI in accordance with its terms, subject in each case to applicable bankruptcy, insolvency,

fraudulent conveyance, reorganization, moratorium and similar Laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity).

4.02 No Conflicts; Consents of Third Parties. The execution, delivery and performance of this Agreement by GWI and the GWI Subsidiaries and each other agreement and instrument called for hereunder to which it is a party will not (a) conflict with the organizational documents of GWI or any of the GWI Subsidiaries and will not conflict with, or result in a breach or termination of or constitute a default under, any lease, agreement, commitment, or other instrument (or create an event which, with notice or lapse of time or both, would constitute a default), result in the acceleration, termination or maturity of, create in any party the right to accelerate, terminate, modify, amend or cancel, or result in the loss of a benefit or increase in any fee, liability, or other obligation under any lease, agreement, commitment, or other instrument to which GWI or any GWI Subsidiary is bound, or (b) constitute a violation by GWI or any GWI Subsidiary of any Law or regulation applicable to it. No authorization, consent, or approval of, or designation, declaration or filing with, any Governmental Authority or any other Person is required on the part of GWI or any GWI Subsidiary in connection with the execution, delivery, and performance of this Agreement and each other agreement and instrument called for hereunder, except (i) the GWI Regulatory Approvals and (ii) for such actions with respect to Governmental Authorities which if not obtained, will not individually or in the aggregate be material.

V. PRECLOSING COVENANTS.

5.01 CSXT Best Efforts. CSXT shall use its Best Efforts to cause the conditions to Closing in Article VII and Article VIII to occur.

5.02 GWI Best Efforts. GWI shall use its Best Efforts to cause the conditions to Closing in Article VII and Article VIII to occur.

VI. OTHER COVENANTS

6.01 Transfer Taxes. [REDACTED]

6.02 Notwithstanding anything to the contrary herein, from and after the Execution Date, GWI will cause MNBR to operate the Eastern Line in accordance with the Lease Agreement CSXT – MNBR and will not remove or retire any of the Purchased Assets from the Eastern Line other than in connection with ordinary course maintenance and capital work and other improvements agreed by the Parties.

VII. CONDITIONS PRECEDENT TO GWI'S OBLIGATION TO CLOSE.

The obligations of GWI to effect the applicable Closing are subject, at the option of GWI, to the satisfaction or waiver at or prior to the applicable Closing of each of the following conditions:

7.01 Representations and Warranties. CSXT's representations and warranties contained in this Agreement shall be true and correct on the applicable Closing Date as though such representations and warranties were made on and as of the applicable Closing Date (except for such other representations and warranties that expressly speak as of an earlier date, which representations and warranties shall be true and correct as of such specified date); and CSXT shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be performed or complied with by CSXT prior to the applicable Closing.

7.02 Regulatory Approvals.

(a) With respect to the Eastern Line Closing, STB Approvals with respect to the CSXT Regulatory Approvals Eastern Transaction and the GWI Regulatory Approvals Eastern Transaction shall have been received and become effective without any STB Conditions.

(b) With respect to the Supplemental Closing, STB Approvals with respect to the CSXT Regulatory Approvals Supplemental Transaction and the GWI Regulatory Approvals Supplemental Transaction shall have been received and become effective without any STB Conditions.

7.03 Documents at Closing.

(a) With respect to the Eastern Line Closing, CSXT shall have delivered to GWI on or before the Eastern Line Closing Date all agreements, instruments and documents required to be delivered by CSXT to GWI pursuant to Section 2.02.

(b) With respect to the Supplemental Closing, CSXT shall have delivered to GWI on or before the Supplemental Closing Date all agreements, instruments and documents required to be delivered by CSXT to GWI pursuant to Section 2.05.

7.04 No Governmental Action. As of the applicable Closing Date, no statute, rule, regulation, Order, decree, directive, litigation, action, writ or judgment shall be pending or have been enacted, adopted, issued, promulgated or rendered by any government or by any Governmental Authority (and not subsequently dismissed, settled, withdrawn or terminated) which seek to or would as of the applicable Closing Date (a) make illegal or prevent the consummation of or restrain or invalidate the transactions contemplated by this Agreement or the other material agreements and instruments called for hereunder or (b) materially interfere with or prohibit the continued effectiveness of such agreements and instruments.

7.05 Other Actions. The following shall have occurred:

(a) With respect to the Supplemental Closing, the Western Transaction shall have been consummated; and

(b) With respect to the Eastern Line Closing, any notices required to be given to the Federal Railroad Administration pursuant to 49 C.F.R. § 213.5(c), if applicable, shall have been given at least thirty (30) days prior to the Eastern Line Closing Date by CSXT.

7.06 No Litigation. No claim, litigation, labor dispute or work stoppage shall be threatened or pending in connection with any of the transactions contemplated in this Agreement or any agreement to be executed in connection herewith.

VIII. CONDITIONS PRECEDENT TO CSXT'S OBLIGATION TO CLOSE.

The obligations of CSXT to effect the applicable Closing are subject, at the option of CSXT, to the satisfaction or waiver at or prior to the applicable Closing of each of the following conditions:

8.01 Representations and Warranties. GWI's representations and warranties contained in this Agreement shall be true and correct on the applicable Closing Date as though such representations and warranties were made on and as of the applicable Closing Date (except for such other representations and warranties that expressly speak as of an earlier date, which representations and warranties shall be true and correct as of such specified date); and GWI shall have performed and complied in all material respects with all covenants and agreements required by this Agreement to be perform, notifying the FRA of the change of railroad operator or complied with by GWI prior to the applicable Closing.

8.02 Regulatory Approvals.

(a) With respect to the Eastern Line Closing, STB Approvals with respect to all CSXT Regulatory Approvals and all GWI Regulatory Approvals shall have been received and become effective without any STB Conditions.

(b) With respect to the Supplemental Closing, STB Approvals with respect to the CSXT Regulatory Approvals Supplemental Transaction and the GWI Regulatory Approvals Supplemental Transaction shall have been received and become effective without any STB Conditions.

8.03 Documents at Closing.

(a) With respect to the Eastern Line Closing, GWI shall have delivered, or shall have caused the applicable GWI Subsidiary to have delivered, to CSXT on or before the applicable Eastern Line

Closing Date all agreements, instruments and documents required to be delivered by GWI to CSXT pursuant to Section 2.03.

(b) With respect to the Supplemental Closing, GWI shall have delivered, or shall have caused the applicable GWI Subsidiary to have delivered, to CSXT on or before the Supplemental Closing Date all agreements, instruments and documents required to be delivered by GWI to CSXT pursuant to Section 2.05.

8.04 No Governmental Action. As of the applicable Closing Date, no statute, rule, regulation, Order, decree, directive, litigation, action, writ or judgment shall be pending or have been enacted, adopted, issued, promulgated or rendered by any government or by any Governmental Authority (and not subsequently dismissed, settled, withdrawn or terminated) which seek to or would as of the applicable Closing Date (a) make illegal or prevent the consummation of or restrain or invalidate the transactions contemplated by this Agreement or the other material agreements and instruments called for hereunder, or (b) materially interfere with or prohibit the continued effectiveness of such agreements and instruments.

8.05 Other Actions. The following shall have occurred:

(a) With respect to the Eastern Line Closing, the Western Transaction shall have been consummated;

(b) With respect to the Supplemental Closing, the Western Transaction shall have been consummated; and

(c) With respect to the Eastern Line Closing, any notices required to be given to the Federal Railroad Administration pursuant to 49 C.F.R. § 213.5(c), if applicable, shall have been given at least thirty (30) days prior to the Closing Date by CSXT.

8.06 No Litigation. No claim, litigation, labor dispute or work stoppage shall be threatened or pending in connection with any of the transactions contemplated in this Agreement or any agreement to be executed in connection herewith.

IX. DEFAULT; TERMINATION

9.01 Termination by CSXT.

(a) (1) If (i) GWI shall have failed to perform in any material respect any of its obligations under this Agreement or any representation or warranty of GWI contained in this Agreement or any certificate delivered pursuant hereto shall not be true and correct, which failure to perform or failure to be true and correct (A) would permit CSXT not to consummate any Closing pursuant to Section 8.01 and (B) is not cured or is incapable of being cured within thirty (30) days after the receipt by GWI of written notice of such failure, (ii) any Governmental Authority which must grant any approval required under this Agreement for the Eastern Transaction or the Western Transaction, as applicable, has denied such approval and such denial has become final and nonappealable or any Governmental Authority shall have issued a judgment, decision, decree, Order, settlement, injunction, writ, stipulation, determination, charge or award, or binding arbitral award (“Injunction”) or taken any other action permanently restraining, enjoining or otherwise prohibiting any of the transactions contemplated by this Agreement, and such Injunction or other action shall have become final and nonappealable, or (iii) any Closing contemplated by this Agreement has not occurred by the Drop Dead Date, and (2) with respect to foregoing clause (1)(i), CSXT shall not then be in material default in the performance of CSXT’s obligations hereunder, CSXT shall, without limiting Section 11.15, be entitled, by written notice to GWI, to terminate this Agreement in its entirety except for the provisions of Section 8.05 (which provisions shall survive such termination).

9.02 Termination by GWI. (1) If (i) CSXT shall have failed to perform in any material respect any of its obligations under this Agreement or any representation or warranty of CSXT contained in this Agreement or any certificate delivered pursuant hereto shall not be true and correct, which failure to perform or failure to be true and correct (A) would permit GWI not to consummate any Closing pursuant to Section 7.01 and (B) is not cured or is incapable of being cured within thirty (30) days after the receipt by the CSXT of written notice of such failure, (ii) any Governmental Authority which must grant any approval required under this Agreement for the Eastern Transaction or the Western Transaction, as applicable, has denied such approval and such denial has become final and nonappealable or any Governmental Authority shall have issued an Injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting any of the transactions contemplated by this Agreement, and such

Injunction or other action shall have become final and nonappealable, or (iii) any Closing contemplated by this Agreement has not occurred by the Drop Dead Date, and (2) with respect to foregoing clause (1)(i), GWI shall not then be in material default in the performance of GWI's obligations hereunder, GWI shall, without limiting Section 11.15, be entitled, by written notice to CSXT, to terminate this Agreement in its entirety except for the provisions of Section 8.05 (which provisions shall survive such termination).

9.03 Failure of STB to Approve. This Agreement may be terminated by either CSXT or GWI upon written notice to the other if: (1) the STB has issued an STB Order denying any of the items comprising the CSXT Regulatory Approvals or the GWI Regulatory Approvals; (2) an STB Condition has been imposed on any of the items comprising the CSXT Regulatory Approvals or the GWI Regulatory Approvals; (3) an STB Approval of the CSXT Regulatory Approvals and the GWI Regulatory Approvals issued prior to the Drop Dead Date is stayed or enjoined pending judicial review, and a final opinion affirming such STB Approval to the extent necessary to permit any Closing to proceed is not issued and effective by the date that is six months after the Drop Dead Date.

9.04 Mutual Agreement. This Agreement may be terminated at any time prior to the relevant Closing upon the mutual written agreement of GWI and CSXT.

9.05 Effect of Termination. Upon termination of this Agreement, the obligations and rights of the parties hereto shall cease, provided that such termination of this Agreement shall not relieve the parties of any liability for breach of this Agreement accruing prior to such expiration or termination. In addition, those provisions that by their nature are intended to survive termination shall survive termination.

X. SURVIVAL; INDEMNIFICATION.

10.01 Survival of Warranties and Covenants; Limitations.

(a) All representations and warranties made by CSXT and GWI in this Agreement or any certificate delivered pursuant hereto shall survive the execution and delivery of this Agreement and any Closing and shall remain operative and in full force and effect for a period of one (1) year following the relevant Closing Date.

(b) Any claim for indemnification under this Agreement shall be computed net of any insurance proceeds actually received by the Indemnified Party in connection with such claim (calculated net of any out-of-pocket expenses related to the receipt of such recovery, including any incremental insurance premium costs).

(c) Neither party shall be required to indemnify the other for punitive or exemplary damages and each party waives all rights of recovery with respect thereto, except to the extent such punitive or exemplary damages arise out of or result from any claim or other assertion of liability by third parties (hereinafter called collectively, “Third Party Claims”).

(d) Except for the remedies provided in Section 11.15, the indemnification set forth in this Article X shall be the sole and exclusive post-Closing remedy of the parties against the other for breach of the representations, warranties and covenants of this Agreement.

(e) Solely for the purposes of calculating the amount of Claims (but not for determining whether a breach of any representation or warranty has occurred) for purposes of this Article X, all materiality, Material Adverse Effect and similar qualifiers shall be disregarded therefrom.

10.02 Indemnification by CSXT. Subject to the limitations of Section 10.01 and to the conditions and provisions of Sections 10.04, and 10.05, from and after the applicable Closing, CSXT agrees to indemnify, defend and hold harmless GWI and its Affiliates, their respective directors, officers, stockholders, employees, members, managers, agents, successors and assigns (collectively, the “GWI Indemnified Parties”), from, against and with respect to any and all demands, claims, actions or causes of action, suits, proceedings, investigations, assessments, losses, damages, fines, settlements, liabilities, costs and expenses, including interest, penalties and attorneys’ fees and disbursements, Third Party Claims, and other costs and expenses (collectively, “Claims”), asserted against, imposed upon or incurred by any such GWI Indemnified Party, by reason of, resulting from, or in connection with (a) any breach or inaccuracy of any representation or warranty of CSXT contained in this Agreement or any certificate delivered pursuant hereto and (b) any breach or noncompliance by CSXT with any covenants, agreements, obligations or

undertakings of CSXT contained in or made pursuant to this Agreement or any certificate delivered pursuant hereto.

10.03 Indemnification by GWI. Subject to the limitations of Section 10.01 and to the conditions and provisions of Sections 10.04, and 10.05, from and after the applicable Closing, GWI agrees to indemnify, defend and hold harmless CSXT and its Affiliates, their respective directors, officers, stockholders, employees, members, managers, agents, successors and assigns (collectively, the “CSXT Indemnified Parties”), from, against and with respect to all Claims asserted against, imposed upon or incurred by any such CSXT Indemnified Party, by reason of, resulting from, or in connection with (a) any breach or inaccuracy of any representation or warranty of GWI or any GWI Subsidiaries contained in this Agreement or any certificate delivered pursuant hereto and (b) breach or noncompliance by GWI with any covenants, agreements, obligations or undertakings of GWI contained in or made pursuant to this Agreement or any certificate delivered pursuant hereto.

10.04 Conditions of Indemnification.

(a) If there occurs an event which a party asserts an indemnifiable event pursuant to this Article X, including any Third Party Claim, the party seeking indemnification (the “Indemnified Party”) shall promptly notify the other party or parties obligated to provide indemnification (the “Indemnifying Party”). Any failure to provide prompt notice as provided herein shall only relieve the Indemnifying Party of its indemnity obligations if and to the extent the delay materially prejudices the defense of such Claim.

(b) Within twenty (20) days after the Indemnified Party gives written notice of a Third Party Claim pursuant to Section 10.04(a), the Indemnifying Party shall have the right to promptly undertake the defense of such Third Party Claim, at the Indemnifying Party’s cost and risk, with counsel or other representatives of its own choosing and reasonably acceptable to the Indemnified Party by providing the Indemnified Party with written notice of its election to assume such defense and acknowledgement that such Third Party Claim is subject to indemnification in favor of the Indemnified Party.

(c) In the event that the Indemnifying Party shall elect not to undertake such defense, or within a reasonable time after notice of any such Third Party Claim from the Indemnified Party shall fail

to defend, the Indemnified Party (upon further written notice to the Indemnifying Party) shall have the right on behalf of and for the account and risk of the Indemnifying Party to undertake the defense, compromise or settlement of such Third Party Claim by counsel or other representatives of the Indemnified Party's own choosing. In such event, the Indemnifying Party shall pay to the Indemnified Party, in addition to any other sums required to be paid hereunder, the costs and expenses incurred by the Indemnified Party in connection with such defense, compromise or settlement as and when such costs and expenses are so incurred.

(d) Anything in this Section 10.04 to the contrary notwithstanding, (i) the Indemnified Party shall have the right, at its own cost and expense, to participate in the defense, compromise or settlement of the Third Party Claim, (ii) the Indemnifying Party shall not, without the Indemnified Party's written consent, settle or compromise any Third Party Claim or consent to entry of any judgment, except if the relief under such settlement, compromise or judgment is solely monetary and such settlement, compromise or judgment does not include any admission of fault and includes as an unconditional term thereof the giving by the claimant or the plaintiff to the Indemnified Party of a release from all liability in respect of such Third Party Claim in a form reasonably satisfactory to the Indemnified Party, (iii) in the event that the Indemnifying Party undertakes defense of any Third Party Claim, the Indemnified Party, by counsel or other representative of its own choosing and at its sole cost and expense, shall have the right to consult with the Indemnifying Party and its counsel or other representatives concerning such Third Party Claim and the Indemnifying Party and the Indemnified Party and their respective counsel or other representatives shall cooperate with respect to such Third Party Claim, and (iv) in the event that the Indemnifying Party undertakes defense of any Third Party Claim, the Indemnifying Party shall have an obligation to keep the Indemnified Party informed of the status of the defense of such Third Party Claim and furnish the Indemnified Party with all documents, instruments and information that the Indemnified Party shall reasonably request in connection therewith. Notwithstanding the foregoing, in the event the Indemnifying Party undertakes the defense of any Third Party Claim, the Indemnified Party shall have the right to employ its own counsel at the Indemnifying Party's expense if the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party that there may be one or more

specific defenses available to it which are different from or additional to those available to the Indemnifying Party or otherwise has a conflict of interest.

10.05 Other Indemnity Matters. The indemnities contained in Sections 10.02 and 10.03 shall be continuing (except that as to representations and warranties, the indemnity shall expire on the date the relevant representation and warranty ceases to survive pursuant to Section 10.01(a)); provided, however, that with respect to any claim for indemnification for which notice has been given to the Indemnifying Party within the period that the relevant representation and warranty survives, the indemnification period shall be extended until the final resolution of such claim. The parties agree that any indemnification payment made pursuant to this Agreement shall be treated for tax purposes as an adjustment to the consideration received unless otherwise required by applicable Law.

XI. MISCELLANEOUS.

11.01 Consents and Filings. Each of the parties hereto shall give or cause to be given all required notices and use its Best Efforts to obtain as soon as practicable after execution hereof, and prior to the relevant Closing, all licenses, Permits, consents, waivers, approvals, authorizations, qualifications and Orders of Governmental Authorities as may be required in order to enable GWI and CSXT to perform their respective obligations under this Agreement, and each of the agreements and instruments called for hereunder, including required or desired approvals, exemptions or actions, if any, by the STB with respect to the items comprising the CSXT Regulatory Approvals or the GWI Regulatory Approvals, as more fully set forth in Section 11.01(a) below; *provided* that except as mutually agreed by the parties all required filings and notices shall be made no later than thirty (30) days from the date of this Agreement. GWI and CSXT shall cooperate and use their Best Efforts to respond as promptly as practicable to all inquiries received from the STB or other federal or state agencies for initial or additional information or documentation. For the avoidance of doubt, nothing in this Agreement shall in any way limit or restrict the ability of GWI or CSXT or any of their respective Affiliates to engage in any acquisitions or similar transactions or any divestitures, investments or similar transactions.

(a) Each party shall use its Best Efforts (and the other party shall use its Best Efforts to cooperate) to prepare and file no later than thirty (30) days from the date of this Agreement with the STB a complete and adequate notice(s) or petition(s) for exemption, or application(s) to authorize the items comprising the CSXT Regulatory Approvals and the GWI Regulatory Approvals, respectively, together with any notices required by the applicable regulations. The parties shall cooperate in seeking STB Approval, and in using Best Efforts to defend against any opposition to the application or exemption filed at the STB, as well as any petition for stay or any petition for revocation before the STB, and to intervene in and defend any appeal of any STB Order by the STB approving the application, notices or requests, and in appealing any STB Order by the STB denying the application(s), petitions(s), notices or requests. Prior to filing any such application(s), petition(s), notice(s), requests and other pleadings with the STB (and any appellate court), each party shall submit such documents to the other party's counsel for review.

11.02 Expenses. Except as otherwise expressly provided herein, each party hereto shall pay its own expenses incident to this Agreement and the transactions contemplated hereunder, including all legal and accounting fees and disbursements, regulatory filing fees and costs of obtaining necessary consents. The party owning the property on which the STB imposes an environmental condition shall be solely responsible for the costs of compliance therewith unless the liability for the environmental condition is allocated to a party under an Existing Agreement or as a matter of law, in which case said allocation shall govern.

11.03 Waiver. No delay or failure on the part of any party hereto in exercising any right, power or privilege under this Agreement, or under any other agreements or instruments given in connection with or pursuant to this Agreement shall impair any such right, power or privilege or be construed as a waiver of default or any acquiescence therein.

11.04 Successors and Assigns. This Agreement shall be binding upon, and enure to the benefit of the respective successors and permitted assigns of the parties.

11.05 Assignment. This Agreement may not be assigned by a party in whole or in part without the advance written consent of the non-assigning party, and any such attempted unauthorized assignment

shall be deemed void and of no effect; *provided, however*, any assignment pursuant to a sale or transfer of all or substantially all of GWI's or CSXT's assets by way of merger, sale, consolidation, combination, or Order or decree of a Governmental Authority shall not require written consent of the non-assigning party.

(a) Notices. All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by any party to any other party pursuant to this Agreement shall be in writing and shall be mailed by a recognized overnight courier service, by first-class, registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or email, with confirmation of transmission, addressed as follows:

If to GWI:

Genesee & Wyoming Inc.
13901 Sutton Park Drive South, Suite 270
Jacksonville, FL 32224
Attention: Chief Executive Officer, North America
Email: LegalNotices@gwrr.com

With a copy to:

Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820
Attention: General Counsel
Email: LegalNotices@gwrr.com

If to CSXT:

Director Joint Facilities
CSX Transportation, Inc.
500 Water Street, J801
Jacksonville, FL 32202

Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given, served, sent and received for all purposes at such time as it is delivered to the addressee (with the return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive, but not exclusive, evidence of such delivery) or at such time as delivery is refused by the addressee upon presentation.

11.06 Announcements. GWI and CSXT shall consult with one another with regard to all press releases and other announcements issued concerning the transactions contemplated by this Agreement at or prior to the applicable Closing. Except as necessary as a result of public disclosure requirements under applicable Laws or the applicable rules and regulations of any Governmental Authority or stock exchange (in which case the party proposing to issue such press release or make such public announcement shall use its commercially reasonable efforts to consult in good faith with the other party before issuing any such press release or making any such public announcement), neither GWI nor CSXT shall issue any such press releases or other announcement or publicity without the prior written consent of the other party hereto at or prior to the applicable Closing. Notwithstanding anything to the contrary, in no event shall the foregoing be construed to restrict or prevent CSXT or GWI or any of their respective Affiliates from making communications pursuant to or regarding this Agreement (and the transactions contemplated hereby) to existing or prospective suppliers, customers and employees of any Affiliate of such Person.

11.07 Entire Agreement. This Agreement, including the Exhibits hereto and other instruments and documents referred to herein or delivered pursuant hereto or in connection herewith, and the Confidentiality Agreement represents the entire understanding of the parties hereto, supersedes all prior oral or written memoranda and agreements and understandings between the parties with respect to the subjects herein, and may not be supplemented or amended, except by a written instrument executed by and delivered to each of the parties hereto designating specifically the terms and provisions so supplemented and amended.

11.08 Headings. Article, section and subsection headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

11.09 Conflicting Terms. In the event that any of the terms or provisions of this Agreement violate, conflict with or are inconsistent with any of the terms or provisions of any of the agreements and

instruments referred to herein or delivered pursuant hereto or in connection therewith, the terms and provisions of this Agreement shall govern and control for all purposes thereunder and hereunder.

11.10 Limitation on Benefits. Except as provided in Article X, nothing herein is intended to be for the benefit of any person or entity other than the parties hereto. It is the explicit intention of the parties hereto that no person or entity other than the parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any of the parties hereto, and the assumptions, indemnities, covenants, undertakings and agreements set forth in this Agreement, and all other documents or instruments called for hereunder shall be solely for the benefit of, and shall be enforceable only by, the parties hereto or their respective successors and assigns as permitted hereunder.

11.11 Severability. Subject to the satisfaction of the conditions to Closing contained herein, which shall not be subject to the provisions of this Section 11.11, if any clause or provision of this Agreement, or the performance of any action related thereto, at the time such fulfillment or performance shall be due, shall be deemed by a court of competent jurisdiction to be unlawful or otherwise invalid or unenforceable, or to exceed the limit of validity prescribed by Law, then the obligation to be fulfilled or performed shall be reduced to the limit of such validity; and if any clause or provision contained in this Agreement operates or would operate prospectively to invalidate any Agreement, in whole or in part, then such clause or provision only shall be held ineffective, as though not herein or therein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

11.12 No Prejudice. Nothing in this Agreement shall alter, modify or amend any right or obligation contained in any other agreement between GWI or any GWI Subsidiary and CSXT (each, an “Existing Agreement”), unless and until the relevant Closing has occurred, and then only to the extent the agreements entered into at the relevant Closing impact any right or obligation in an Existing Agreement. Any proposed modification to any such agreement contained in this Agreement is conditioned on closing and will be null and void if the relevant Closing does not occur.

11.13 Execution. To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signatures of, or on behalf of, each

party, or the signatures of all persons required to bind any party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each party, or the signatures of the persons required to bind any party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this Agreement to produce or account for any particular number of counterparts; but rather any number of counterparts shall be sufficient so long as those counterparts contain the respective signatures of, or on behalf of, all of the parties hereto. Signatures delivered electronically shall be binding to the same extent as an original.

11.14 Governing Law; Jurisdiction.

(a) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contracts executed in and to be performed in that State without regard to any conflicting choice of law principles of that (or any other) State. **ALL ACTIONS AND PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE HEARD AND DETERMINED IN THE DELAWARE COURT OF CHANCERY, AND IF SUCH COURT DOES NOT HAVE JURISDICTION, ANOTHER DELAWARE STATE COURT AND IF NO SUCH COURT HAS JURISDICTION THE FEDERAL COURTS SITTING IN THE STATE OF DELAWARE, AND THE PARTIES HERETO HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF SUCH COURTS IN ANY SUCH ACTION OR PROCEEDING AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING.**

(b) Each of the parties hereto hereby waives to the fullest extent permitted by applicable Law any right it may have to a trial by jury with respect to any litigation directly or indirectly arising out of, under or in connection with this Agreement or the transactions contemplated hereby. Each of the parties hereto (i) certifies that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce that foregoing waiver and (ii) acknowledges that it and the other party hereto have been induced to enter into

this Agreement and the transactions contemplated hereby, as applicable, by, among other things, the mutual waivers and certifications in this Section 11.14.

11.15 Specific Performance. The parties hereto agree that irreparable damage may occur in the event that any provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that the parties shall be entitled to seek an injunction or injunctions to enforce specifically the performance of this Agreement in accordance with its terms. Except as otherwise provided in this Agreement, the foregoing is in addition to, and not in lieu of, any other rights a party hereto may have in respect of a breach of this Agreement, whether at law or in equity.

[Signatures on next page]

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement or has caused this Agreement to be duly executed on its behalf, as of the Execution Date.

CSX TRANSPORTATION, INC.

By: Arthur Adams, Jr.
Name: Arthur Adams, Jr.
Title: Senior Vice President of
Sales and Marketing

GENESEE & WYOMING INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement or has caused this Agreement to be duly executed on its behalf, as of the Execution Date.

CSX TRANSPORTATION, INC.

By: _____
Name: Arthur Adams, Jr.
Title: Senior Vice President of
Sales and Marketing

GENESEE & WYOMING INC.

By: Michael O. Miller
Name: Michael O. Miller
Title: Chief Executive Officer, North America

EXHIBIT "A"

TERMINATION OF LAND LEASE AGREEMENT

This TERMINATION OF LAND LEASE AGREEMENT (this “Agreement”), dated as of _____, 2023 (the “Effective Date”), entered into by MERIDIAN & BIGBEE RAILROAD, L.L.C., an Alabama limited liability company (“MNBR”), and CSX TRANSPORTATION, INC., a Virginia corporation (“CSXT”). Each of MNBR and CSXT may be referred to as a “Party” and sometimes collectively referred to as the “Parties.”

WHEREAS, the Parties entered into a Land Lease Agreement, dated November 15, 2003, which was extended by amendment dated October 6, 2023 (the “Lease”).

WHEREAS, a condition for the Lease to expire has occurred.

WHEREAS, the Parties desire to acknowledge this expiration of the Lease with a formal termination as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Termination.** The Parties hereby agree that the Lease is hereby terminated as of the Effective Date and of no further force or effect except as set forth herein.

2. **Surviving Obligations.** Termination of the Lease shall not relieve or release either Party from any obligation assumed under the Lease that expressly or by its nature is intended to survive termination, or from any liability which may have arisen or been incurred by either Party under the Lease prior to termination thereof.

3. **Governing Law.** THIS AGREEMENT, AND ALL MATTERS, CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALABAMA, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN THIS AGREEMENT UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

4. **Counterparts.** This Agreement may be executed simultaneously in two or more identified counterparts (including by means of email of a portable document format (pdf) of the signature pages and through the use of electronic signatures such as DocuSign), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument, provided that each Party signed at least one counterpart.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

CSX TRANSPORTATION, INC.

By: _____
Name:
Title:

MERIDIAN & BIGBEE RAILROAD, L.L.C.

By: _____
Name:
Title:

EXHIBIT "B"

**INTERCHANGE AGREEMENT
BETWEEN
CSX TRANSPORTATION, INC.
AND
ALABAMA & GULF COAST RAILWAY LLC
AT
MYRTLEWOOD, ALABAMA**

THIS AGREEMENT made and entered into this ___ day of _____ 2024, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose principal place of business is Jacksonville, Florida (hereinafter called "CSXT"), and ALABAMA & GULF COAST RAILWAY LLC, a Delaware limited liability company, (hereinafter called "AGR"), each being hereinafter sometimes severally called "Party" and collectively called "Parties."

WITNESSETH:

WHEREAS, CSXT desires to resume its operation of the rail line between Myrtlewood, AL and Burkeville, AL,¹ currently leased by CSXT to Meridian & Bigbee Railroad, L.L.C. ("MNBR"); and

WHEREAS, Genesee & Wyoming Inc. ("GWI") is the parent company of both AGR and MNBR; and

WHEREAS, CSXT and GWI have entered into a Transaction Agreement dated as of October ___, 2023 (the "Transaction Agreement") pursuant to which CSXT and GWI (itself or through any of its relevant subsidiaries) will (i) terminate the lease from CSXT to MNBR between Myrtlewood, AL and Burkeville, AL, (ii) CSXT will acquire the track infrastructure assets in respect of the leased line from MNBR, (iii) MNBR will assign to CSXT, and CSXT will assume from MNBR, certain contracts related to the leased line, (iv) CSXT will grant trackage and operating rights to AGR over CSXT's trackage between Linden, AL and Myrtlewood, AL, (v) MBNR will terminate its service between Burkeville, AL and Montgomery, AL, and (vi) the respective parties will amend and extend certain leases between CSXT and GWI subsidiaries (collectively, the "Transaction"); and

WHEREAS, CSXT and AGR are also entering into a Trackage Rights Agreement contemporaneously with this Agreement (the "TRA"), pursuant to which AGR will have trackage rights over certain trackage of CSXT between the Parties' connection at Milepost 59.9 near Linden, AL and Milepost 50.4 near Myrtlewood, AL (the "Access Trackage") to reach track owned by [KCS][MNBR] in Myrtlewood, AL (the "Interchange Trackage"); and

WHEREAS, the Parties desire to enter into a written agreement governing the interchange of traffic as described herein.

¹ Also known as Burkville, AL.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is agreed between the Parties as follows:

Article 1. INTERCHANGE

- A. Interchange of railcars between the Parties shall take place on the Interchange Trackage, generally shown in DASHED LINE on Exhibit A attached hereto and made part hereof.
- B. Except as otherwise provided herein, the interchange of traffic between CSXT and AGR shall be governed by the applicable AAR Interchange Rules and the Car Service and Car Hire Rules, including any supplements or amendments to those Rules published from time to time by the Association of American Railroads (hereinafter referred to as "AAR Rules"). Railcars (empty and loaded) together with containers and/or trailers loaded thereon (hereinafter referred to as "Cars") shall be considered as interchanged from the account of one Party to the other when the requirements of the AAR Rules have been satisfied, and in addition when the delivering Party's engine consist is uncoupled therefrom.
- C. In the event that the Cars are being interchanged in run-through service, the Cars shall be considered as interchanged from one Party to the other when the provisions of the AAR Rules have been satisfied, and when the train has been properly secured in accordance with CSXT's rules, and the delivering crew disembarks from the train.
- D. It is the intent of the Parties that data concerning interchanged traffic shall be exchanged between the Parties by Electronic Data Interchange ("EDI") at the earliest possible date. When EDI is implemented in accordance with the written understanding of the Parties, the interchange data to be provided by the delivering Party will conform to industry defined Rail EDI Standards. All cars delivered in interchange shall be preceded by an EDI Advance Interchange Consist 418 transaction set.
- E. Neither CSXT nor AGR shall be required or obligated to violate its labor agreements to satisfy a request on the part of the other. In the event that a CSXT or AGR train and engine crew is required to perform service at the other Party's direction which is in violation of any collective bargaining agreements of the Party performing the service, any resultant penalties arising under CSXT or AGR collective bargaining agreements shall be assumed and borne solely by the Party who directed the service to be performed.
- F. CSXT hereby grants AGR operating rights over the Access Trackage in connection with interchange between CSXT and AGR as provided in this Agreement.

Article 2. ADOPTION OF TRA

- A. The Parties acknowledge that trackage rights are not required for interchange between CSXT and AGR. However, for consistency, the Parties elect to incorporate herein the terms and conditions of the TRA with respect to the Access Trackage and the Interchange

Trackage as if set forth herein.

- B. As between the Parties, with respect to the Access Trackage used in connection with interchange under this Agreement, only the following sections of the TRA apply: Article 2 (Use of Subject Trackage); Article 3 (Restrictions on Use), except that the Access Trackage may only be used in connection with interchange between CSXT and AGR; Article 4 (Miscellaneous Special Provisions); Article 7 (Maintenance of Subject Trackage); Article 10 (Management and Operations); Article 12 (Clearing of Wrecks); Article 13 (Liability); Article 14 (Claims); and Article 15 (Insurance).
- C. As between the Parties, with respect to the Interchange Trackage used in connection with interchange under this Agreement, only the following sections of the TRA apply: Article 13 (Liability); Article 14 (Claims); and Article 15 (Insurance).

Article 3. PAYMENT OF BILLS

- A. All payments called for under this Agreement shall be made within thirty (30) days after receipt of bills therefor. 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 shall be adjusted in the accounts of a subsequent month. The records of each Party, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other Party.
- B. Bills rendered pursuant to the provisions of this Agreement shall include direct labor and material costs, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed.

Article 4. RESERVED

Article 5. ARBITRATION

Other than a claim for injunctive relief, any dispute arising between the Parties with respect to this Agreement that is not resolved within thirty (30) days of the date of the written notice of the dispute shall be determined exclusively by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The Parties shall request that the arbitrator selected be knowledgeable in railroad commercial transaction. The decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the Parties. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

Article 6. FORCE MAJEURE

Neither Party shall be responsible to the other for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, terrorism, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, pandemic, strike, lockout or labor disputes experienced by the Parties, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

Article 7. PRIOR AGREEMENTS

This Agreement and the TRA encompass any and all understandings between the Parties as to the interchange of Cars between them in Myrtlewood, AL and makes null and void any previous oral or verbal agreements between the Parties or their predecessors covering interchange of cars between several or all of them at Myrtlewood, AL. Termination of any such previous agreements shall not release any party thereto from any liability or obligation that may have been incurred by or that might have accrued against it thereunder during the term thereof.

Article 8. TERM AND TERMINATION

- A. This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions from any regulatory agency with respect to the Transaction; and (iii) the closing of the transactions contemplated by the Transaction Agreement (the “Effective Date”) and shall continue in full force and effect until terminated by either Party upon thirty (30) days' advance written notice to the other Party. The Parties shall memorialize the Effective Date through an exchange of written correspondence.
- B. Upon termination of this Agreement, either Party may expire the interchange described herein from the Junction Industry Reference File pursuant to the terms of Appendix A attached hereto and made a part of this Agreement.
- C. Termination of this Agreement shall not release any Party from any liability or obligation that may have been incurred by or that might have accrued against it hereunder during the term hereof.

Article 9. ASSIGNMENT

This Agreement shall enure to the benefit of and be binding upon the successors and assigns of the Parties; provided, however, neither Party shall transfer or assign this Agreement, or any of its rights, interests or obligations hereunder, by merger or otherwise, to any person, firm or corporation without obtaining the prior written consent of the other Party.

Article 10. INTERPRETATION, SEVERABILITY

This Agreement is executed by both Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances or laws. Further, each and every separate division (paragraph, clause, item, term, condition, covenant or agreement) herein contained shall have independent and severable status from each other separate division, or combination thereof, for the determination of legality, so that if any separate division is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate division, or any combination thereof.

Article 11. NOTICE

All notices required to be given by one Party to the other, shall be in writing and addressed as follows:

TO CSXT: Director Joint Facilities
 CSX Transportation, Inc.
 500 Water Street, J801
 Jacksonville, FL 32202

TO AGR: Alabama & Gulf Coast Railway LLC
 13901 Sutton Park Drive South, Suite 270
 Jacksonville, FL 32224
 Attention: President
 E-Mail: LegalNotices@gwrr.com

With copy to:

Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820
Attention: General Counsel
E-Mail: LegalNotices@gwrr.com

Article 12. GENERAL PROVISIONS

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

- B. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing signed by both Parties.
- C. Unless otherwise defined herein, 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.
- D. All Article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- E. This Agreement is the result of mutual negotiations of the Parties, neither of whom shall be considered the drafter for purposes of contract construction.
- F. No Party may disclose the provisions of this Agreement to a third party, excluding a parent, affiliate or subsidiary company, without the written consent of the other Party, except as otherwise required by law, regulation or ruling.
- G. Except as may be expressly provided by this Agreement, nothing in this Agreement shall modify or amend any other agreement between CSXT and AGR.
- H. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.
- I. The recitals to this Agreement are hereby expressly incorporated into this Agreement as if restated in their entirety herein.
- J. All matters related to the interpretation, construction, validity and enforcement of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of Florida, without giving effect to any choice or conflict of laws, provision or rule that would cause the application of laws of any jurisdiction other than the State of Florida.

IN WITNESS WHEREOF the Parties have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

CSX TRANSPORTATION, INC.

By: _____

As its: _____

ALABAMA & GULF COAST RAILWAY LLC

By: _____

As its: _____

EXHIBIT "C"

**INTERCHANGE AGREEMENT
BETWEEN
CSX TRANSPORTATION, INC.
AND
MERIDIAN & BIGBEE RAILROAD, L.L.C.
AT
MYRTLEWOOD, ALABAMA**

THIS AGREEMENT made and entered into this ___ day of _____, 2024, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose principal place of business is Jacksonville, Florida (hereinafter called "CSXT"), and MERIDIAN & BIGBEE RAILROAD, L.L.C., an Alabama limited liability company (hereinafter called "MNBR"), each being hereinafter sometimes severally called "Party" and collectively called "Parties."

WITNESSETH:

WHEREAS, CSXT desires to resume its operation of the rail line between Myrtlewood, AL and Burkeville, AL (the "Line"), currently leased by CSXT to MNBR; and

WHEREAS, Genesee & Wyoming Inc. ("GWI") is the parent company of MNBR; and

WHEREAS, CSXT and GWI entered into a Transaction Agreement dated October ___, 2023 (the "Transaction Agreement") outlining several operating agreements to be executed among CSXT, AGR and MNBR to facilitate resumed CSXT operations on the Line (collectively, the "Transaction"); and

WHEREAS, the Parties desire to enter into a written agreement governing the interchange of traffic between them at Myrtlewood, AL.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is agreed between the Parties as follows:

Article 1. INTERCHANGE

- A. Interchange of railcars between the Parties shall take place in Myrtlewood, AL on trackage owned by [MNBR][CPKC]. This trackage is hereinafter collectively called "Interchange Trackage" and is generally shown in DASHED LINE on Exhibit A, attached hereto and made part hereof.

- B. Except as otherwise provided herein, the interchange of traffic between CSXT and MNBR shall be governed by the applicable AAR Interchange Rules and the Car Service and Car Hire Rules, including any supplements or amendments to those Rules published from time to time by the Association of American Railroads (hereinafter referred to as "AAR Rules"). Railcars (empty and loaded) together with containers and/or trailers loaded thereon

(hereinafter referred to as “Cars”) shall be considered as interchanged from the account of one Party to the other when the requirements of the AAR Rules have been satisfied, and in addition when the delivering Party’s engine consist is uncoupled therefrom.

- C. In the event that the Cars are being interchanged in run-through service, the Cars shall be considered as interchanged from one Party to the other when the provisions of the AAR Rules have been satisfied, and when the train has been properly secured in accordance with CSXT’s rules, and the delivering crew disembarks from the train.
- D. It is the intent of the Parties that data concerning interchanged traffic shall be exchanged between the Parties by Electronic Data Interchange (“EDI”) at the earliest possible date. When EDI is implemented in accordance with the written understanding of the Parties, the interchange data to be provided by the delivering Party will conform to industry defined Rail EDI Standards. All cars delivered in interchange shall be preceded by an EDI Advance Interchange Consist 418 transaction set.
- E. Neither CSXT nor MNBR shall be required or obligated to violate its labor agreements to satisfy a request on the part of the other. In the event that a CSXT or MNBR train and engine crew is required to perform service at the other Party’s direction which is in violation of any collective bargaining agreements of the Party performing the service, any resultant penalties arising under CSXT or MNBR collective bargaining agreements shall be assumed and borne solely by the Party who directed the service to be performed.

Article 2. [RESERVED]

Article 3. OWNER AND USER DEFINED

As used in this Agreement, whenever CSXT is operating over track owned or controlled by MNBR (which shall include the Interchange Trackage owned by MNBR), then CSXT shall be considered as "User" and MNBR as "Owner." Likewise, whenever MNBR is operating over track owned, maintained or controlled by CSXT, then MNBR shall be considered as “User” and CSXT as “Owner.”

Article 4. [RESERVED]

Article 5. MANAGEMENT AND OPERATIONS

- A. User shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains, locomotives, cars and equipment while such trains, locomotives, cars, and equipment are being operated over the Interchange 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 or affiliates, or their respective directors, officers, agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, to the extent attributable to the failure of User to comply with its obligations in this regard.

- B. User in its use of the Interchange Trackage shall 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 Interchange 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 Interchange Trackage as published in Railway Line Clearances or as provided by Owner, and no train shall contain locomotives, cars or equipment which require speed restrictions or other movement restrictions below the maximum authorized freight train speeds as provided by Owner's operating rules and regulations without the prior consent of Owner.
- C. User shall make such arrangements with Owner as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Interchange Trackage qualified for operation thereover, and User shall pay to Owner, upon receipt of bills therefor, 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.
- D. If by reason of any mechanical failure or for any other cause not resulting from an accident or derailment, a train, locomotive or equipment of a Party becomes stalled or unable to proceed under its own power or if in emergencies, crippled or otherwise defective cars are set out of a Party's trains on the Interchange Trackage, Owner shall have the option to furnish motive power or such other assistance as may be necessary to haul, help, or push such trains, locomotives, or cars, or to properly move the disabled equipment off the Interchange Trackage, and User shall reimburse Owner for the costs of rendering any such assistance.
- E. If it becomes necessary to make repairs to or adjust or transfer the lading of crippled or defective cars in User's trains in order to move them off the Interchange Trackage, Owner shall have the option to perform such service, and User shall reimburse Owner for the costs of rendering any such service.
- F. Owner may conduct an investigation at its option if a User employee working on Owner's property is alleged to have violated Owner's safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement rules. To exercise its option, Owner will schedule the investigation and notify User's local Transportation Officer in the territory thereof, who will, in turn, arrange to issue proper notice to the User's employee(s) of the investigation. Owner's scheduling of the investigation must comply with the time limits provided in the applicable labor agreement on User's railroad. Owner will provide its regulations,

supplements, operating rules and safety rules to User at no cost.

- G. If Owner conducts an investigation, Owner shall have the right to exclude from the Interchange 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.
- H. In a major offense, such as violation of prohibited substances, dishonesty, insubordination, or a serious violation of operating rules, 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.
- I. If Owner conducts an investigation, its officer will conduct the investigation, but an officer of User will be present to assure compliance with User's labor agreement and practices with respect to investigation procedures. After the investigation is concluded, Owner will promptly furnish User with two copies of the transcript and a recommendation as to the discipline to be assessed. User's Transportation Officer will arrange to assess discipline, subject to receipt of Owner's recommended 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.
- J. It is understood that Owner shall reimburse User for all payments that User might be required to make as a result of a 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. Owner's reimbursement of any payments made to User's 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.

Article 6. MAINTENANCE

Owner shall maintain, repair and renew (or have maintained, repaired or renewed) its Interchange Trackage at its sole expense and keep same in reasonably good condition for the use herein contemplated, but no guarantees are made by Owner as to the condition of Interchange Trackage or as to uninterrupted operations thereover. Notwithstanding anything contained herein to the contrary, User shall not, by reason of failure or neglect on the part of Owner to maintain, repair or renew (or have maintained, repaired or renewed) Interchange Trackage, have or make any claim or demand against Owner or its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents or employees for any injury to or death of any person or persons whomsoever, or for any damages of any nature suffered as a result of such failure or neglect. If the use of the Interchange Trackage shall at any time be interrupted or traffic thereon

is delayed for any cause, Owner shall with reasonable diligence restore the Interchange Trackage for the interchange of cars.

Article 7. LIABILITY

The responsibility and liability between the Parties for (i) any personal injury or death of any person (including employees of the Parties and third persons), (ii) any real or personal property damage of any person (including property of the Parties and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, litigation expenses and attorneys' fees resulting from, arising out of, incidental to, or occurring in connection with the use of the Interchange Trackage by either Party as described herein, all of which are collectively referred to as a "Loss," will be apportioned between the Parties as follows:

- A. If a Loss occurs on the Interchange Trackage involving the trains and locomotives of only one of the Parties, then that one Party is solely responsible for the Loss, even if caused partially or completely by the other Party.

- B. If a Loss occurs on the Interchange Trackage involving the trains and locomotives of both CSXT and MNBR then (i) each Party is solely responsible for any Loss to its own employees, locomotives and equipment in its own account and (ii) the Parties are equally responsible for any Loss to the Interchange Trackage and any Loss sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Loss, unless the Loss was caused solely by one Party. In that event, the Party solely causing the Loss is solely responsible for (i) any Loss of the Parties, (ii) any Loss of any third parties, and (iii) any Loss to the Interchange Trackage.

- C. For purposes of assigning responsibility for a Loss as between the Parties under this Agreement, a Loss involving only one of the Parties and a third party or parties shall be construed as being the sole responsibility of that one Party.

- D. Whenever any liability, cost, or expense is assumed by or apportioned to a Party under the foregoing provisions, that Party shall forever protect, defend, indemnify, and save harmless the other Party to this Agreement and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against that liability, cost, and expense assumed by that Party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the other Party or its directors, officers, agents and employees.

- E. If any suit or action shall be brought against either Party for damages which under the provisions of this Agreement are in whole or in part the responsibility of the other Party, said other Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay a proportionate part of the judgment and costs, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.

- F. In the event of a Loss as set out herein, the Parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads as to the handling of any claims for the loss or damage to lading.
- G. In every case of death or injury suffered by an employee of either Party, when compensation to such employee or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said Parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such Party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- H. For purposes of this Article, pilots furnished by Owner to User pursuant to this Agreement shall be considered as the employees of User while such employees are on duty as pilots.
- I. Notwithstanding any and all of the forgoing provisions of this Article, in the event a Loss occurs while the Interchange Trackage is being used by CSXT and/or MNBR, and such Loss is attributable solely to the willful or wanton negligence of only one of the Parties, then the Party which was so willfully or wantonly negligent shall be solely responsible for such Loss.
- J. Neither Party shall have the right to prosecute any claim or make any demand against the other Party for any indirect, special or consequential damages, including but not limited to loss, damage or liability accruing to it by reason of any interference with, interruption of or delay in the operating of its trains, engines or cars or the transportation of its freight on account of delays or interruption in the use of any portion of the Interchange Trackage used jointly under the terms hereof.

Article 8. CLEARING OF WRECKS

Whenever User's use of the Interchange Trackage requires rerailling, wrecking service or wrecking train service, Owner shall perform or provide such service, including the repair and restoration of roadbed, track and structures. The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and 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 Article 7 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 it.

Article 9. CLAIMS

- A. All claims, injuries, death, 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 therefor under provisions of this Agreement.

- B. Each Party will investigate, adjust and defend all cargo related liability claims filed with it in accordance with 49 U.S.C. Section 11706 and/or 49 C.F.R. Section 1005, or in accordance with any applicable transportation contract.
- C. In the event a claim or suit is asserted against one of the Parties 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.
- D. All costs and expenses in connection with the investigation, adjustment and defense of any claim 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 attorneys and full-time employees of either Party engaged directly or indirectly in such work shall be borne by the employing Party.
- E. Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005, 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 exceeds [REDACTED]
- F. It is understood that nothing in this Article shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 7 of this Agreement.

Article 10. INDEMNIFICATION FOR LABOR CLAIMS

Except as otherwise provided in Article 1 hereof, each Party agrees to indemnify and hold harmless the other Party and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees pursuant to a collective bargaining agreement. It is the intention of the Parties that each Party shall bear the full costs of labor claims and grievances filed by its own employees arising under its collective bargaining agreements with its employees.

Article 11. INSURANCE

- A. During the term of this Agreement MNBR, at its sole cost and expense, shall procure and maintain in effect a policy of Comprehensive Railroad liability insurance, with limits of not less than [REDACTED] single limit, bodily injury and/or property damage, for damages arising out of bodily injuries to or death of all persons in any one

occurrence and for damage to, or destruction of property, including the loss of use thereof, in any one occurrence, subject to a self-insured retention limit not to exceed [REDACTED] including contractual liability insurance, which names CSXT as an additional insured. Failure to procure and maintain such insurance in force shall constitute a breach of this Agreement. MNBR shall provide a minimum of thirty (30) days' advance written notice to CSXT prior to any material changes to or cancellation of such policy.

- B. This Insurance coverage shall be effected under standard form policies issued by insurers of financial responsibility, which are rated "A-" or better by either Best's Insurance Reports, Standard & Poor's Insurance Rating Service or Moody's Investors Service. CSXT reserves the right to reject as inadequate coverage by an insurance company rated less than "A-" by the aforementioned rating services.
- C. The insurance shall be evidenced by a current certificate furnished by MNBR to CSXT as an additional insured with its return of executed Agreement. Subsequently, annual renewal certificates of insurance shall be furnished to:

Insurance Department
CSX Transportation, Inc.
500 Water Street, C907
Jacksonville, FL 32202
E-Mail: csx@ebix.com
- D. Such certificates shall be subject to the prior approval of CSXT's Insurance Department. All of the required endorsements and notice provisions shall be stated on the certificate of insurance that is provided to CSXT. In addition, MNBR shall provide CSXT's Insurance Department notice of any claim and any other correspondence dealing with insurance and insurance matters.
- E. During the term of this Agreement, it is understood that CSXT is self-insured.

Article 12. PAYMENT OF BILLS

- A. All payments called for under this Agreement shall be made within thirty (30) days after receipt of bills therefor. 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 shall be adjusted in the accounts of a subsequent month. The records of each Party, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other Party.
- B. Bills rendered pursuant to the provisions of this Agreement shall include direct labor and material costs, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed.

Article 13. ARBITRATION

Other than a claim for injunctive relief, any dispute arising between the Parties with respect to this Agreement that is not resolved within thirty (30) days of the date of the written notice of the dispute shall be determined exclusively by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The Parties shall request that the arbitrator selected be knowledgeable in railroad commercial transaction. The decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the Parties. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

Article 14. FORCE MAJEURE

Neither Party shall be responsible to the other for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, terrorism, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, pandemic, strike, lockout or labor disputes experienced by the Parties, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations.

Article 15. PRIOR AGREEMENTS

This Agreement encompasses any and all understandings between the Parties as to the interchange of Cars between them in Myrtlewood, AL and makes null and void any previous oral or verbal agreements between the Parties or their predecessors covering interchange of cars between several or all of them at Myrtlewood, AL. Termination of any such previous agreements shall not release any party thereto from any liability or obligation that may have been incurred by or that might have accrued against it thereunder during the term thereof.

Article 16. TERM AND TERMINATION

- A. This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions from any regulatory agency, with respect to the Transaction; and (iii) the satisfaction or waiver by the party entitled to waive of any conditions precedent to the Transaction (the "Effective Date") and shall remain in full force and effect until terminated as provided herein or by mutual agreement of the Parties. The Parties shall determine the Effective Date through an exchange of written correspondence.

- B. Upon termination of this Agreement, either Party may expire the interchange described herein from the Junction Industry Reference File pursuant to the terms of Appendix A, attached hereto and made a part of this Agreement.
- C. Termination of this Agreement shall not release any Party from any liability or obligation that may have been incurred by or that might have accrued against it hereunder during the term hereof.
- D. In the event the closing of the Western Transaction (as defined in the Transaction Agreement) occurs, Articles 3, 5, 6 and 8 of this Agreement shall be deemed deleted from and after the Supplemental Closing (as defined in the Transaction Agreement) without prejudice to any claims or liabilities that may have arisen pursuant to said Articles prior to the Supplemental Closing.

Article 17. ASSIGNMENT

This Agreement shall enure to the benefit of and be binding upon the successors and assigns of the Parties; provided, however, neither Party shall transfer or assign this Agreement, or any of its rights, interests or obligations hereunder, by merger or otherwise, to any person, firm or corporation without obtaining the prior written consent of the other Party.

Article 18. INTERPRETATION, SEVERABILITY

This Agreement is executed by both Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances or laws. Further, each and every separate division (paragraph, clause, item, term, condition, covenant or agreement) herein contained shall have independent and severable status from each other separate division, or combination thereof, for the determination of legality, so that if any separate division is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate division, or any combination thereof.

Article 19. NOTICE

All notices required to be given by one Party to the other, shall be in writing and addressed as follows:

TO CSXT: Dir. Joint Facilities
CSX Transportation, Inc.
500 Water Street, J801
Jacksonville, FL 32202

TO MNBR: Meridian & Bigbee Railroad, L.L.C.
13901 Sutton Park Drive South, Suite 270
Jacksonville, FL 32224
Attention: President
E-Mail: LegalNotices@gwrr.com

With copy to:

Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820
Attention: General Counsel
E-Mail: LegalNotices@gwrr.com

Article 20. GENERAL PROVISIONS

- A. This Agreement and each and every provision hereof are for the exclusive benefit of the Parties and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties.
- B. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing signed by both Parties.
- C. Unless otherwise defined herein, 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.
- D. All Article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- E. This Agreement is the result of mutual negotiations of the Parties, neither of whom shall be considered the drafter for purposes of contract construction.
- F. No Party may disclose the provisions of this Agreement to a third party, excluding a parent, affiliate or subsidiary company, without the written consent of the other Party, except as otherwise required by law, regulation or ruling.
- G. Except as may be expressly provided by this Agreement, nothing in this Agreement shall

modify or amend any other agreement between CSXT and MNBR.

- H. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.
- I. The recitals to this Agreement are hereby expressly incorporated into this Agreement as if restated in their entirety herein.
- J. All matters related to the interpretation, construction, validity and enforcement of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of Florida, without giving effect to any choice or conflict of laws, provision or rule that would cause the application of laws of any jurisdiction other than the State of Florida.

IN WITNESS WHEREOF the Parties have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

CSX TRANSPORTATION, INC.

By: _____

As its: _____

**MERIDIAN & BIGBEE RAILROAD,
L.L.C.**

By: _____

As its: _____

EXHIBIT A

INSERT IDENTIFIED TRACKAGE MAP

APPENDIX A

TO
INTERCHANGE AGREEMENT DATED _____, 2024 BETWEEN

CSX TRANSPORTATION, INC.
and
MERIDIAN & BIGBEE RAILROAD, L.L.C.

The Parties intend to register the interchange described in Article 1 of the Agreement (the “Interchange”) in the Junction Industry Reference File, with the mutual understanding that the Interchange will be promptly expired from the Reference File upon termination of the Agreement. The Parties understand and agree that prompt expiration is necessary to prevent the presence of inaccurate and duplicative junction information in the Reference File. Accordingly, to allow maximum flexibility and to carry out the Parties’ intent, the Parties desire to grant to one another a limited power of attorney to expire the Interchange on the other’s behalf.

The Parties therefore agree that upon termination of the Agreement, either Party, acting as attorney-in-fact for and with the consent of the other Party, is authorized to expire the Interchange by submitting Form AD 103 (Junction Interchange Update Form) to that effect to Railinc. The Party submitting the Form AD 103 to expire the Interchange shall (1) sign on behalf of itself; (2) sign on behalf of the other Party under authority of this Appendix A; and (3) attach a copy of this Appendix A to the submitted form for Railinc’s records. This Appendix A shall constitute sufficient power of attorney to expire the Interchange from the Reference file, and shall be limited to that exclusive purpose.

IN WITNESS WHEREOF the Parties have caused these presents to be executed in two original counterparts by their duly authorized officers as of the day and year first above written.

CSX TRANSPORTATION, INC.

By: _____

As its: _____

MERIDIAN & BIGBEE RAILROAD, L.L.C.

By: _____

As its: _____

EXHIBIT "D"

TRACKAGE RIGHTS AGREEMENT
between
CSX TRANSPORTATION, INC.
and
ALABAMA & GULF COAST RAILWAY LLC
between
LINDEN, ALABAMA and MYRTLEWOOD, ALABAMA

THIS TRACKAGE RIGHTS AGREEMENT (the “Agreement”) made and entered into this ___ day of _____, 2024, by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose principal place of business is Jacksonville, Florida (hereinafter called “CSXT”), and ALABAMA & GULF COAST RAILWAY LLC, a Delaware limited liability company (hereinafter called “AGR”), each being hereinafter sometimes severally called “Party” and collectively called “Parties.”

WITNESSETH:

WHEREAS, CSXT desires to resume its operation of the rail line between Myrtlewood, AL and Burkeville, AL (the “Line”) the underlying land of which is currently leased by CSXT to Meridian & Bigbee Railroad, L.L.C. (“MNBR”); and

WHEREAS, Genesee & Wyoming Inc. (“GWI”) is the parent company of both AGR and MNBR; and

WHEREAS, CSXT and GWI entered into a Transaction Agreement dated October ●, 2023 outlining several operating agreements to be executed among CSXT, AGR, and MNBR to facilitate resumed CSXT operations on the Line (collectively, the “Transaction”); and

WHEREAS, AGR desires to have overhead trackage rights on CSXT between the Parties’ connection at Linden, AL and Myrtlewood, AL for purposes of reaching the rail line between Meridian, MS and Myrtlewood (the “Western Line”) for the purposes of interchanging traffic with MNBR; and

WHEREAS, CSXT as owner is agreeable to granting such rights to AGR as user under the following terms and conditions;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is agreed between the Parties as follows:

ARTICLE 1. GRANT OF TRACKAGE RIGHTS

Subject to the terms and conditions herein provided, CSXT hereby grants to AGR the right to operate its trains (locomotives or cars) with its own crews (hereinafter referred to as the "Trackage Rights") over the following segments of CSXT's railroad shown on the plan attached hereto, made a part hereof and marked Exhibit “A” (hereinafter referred to as the “Subject

Trackage”):

- A. From the Parties’ connection at Milepost 59.9 near Linden, AL, to the connection between the Line and the Western Line at Milepost 50.4 near Myrtlewood, AL.

ARTICLE 2. USE OF SUBJECT TRACKAGE

- A. AGR's use of the Subject Trackage shall be in common with CSXT and any other user of the Subject Trackage, and CSXT's right to use the Subject Trackage shall not be diminished by this Agreement. CSXT shall retain the exclusive right to grant to other persons rights of any nature in the Subject Trackage.
- B. AGR may use the Subject Trackage solely for the purpose of the overhead movement of its own trains between the end points of the Subject Trackage, except to the extent permitted in an interchange agreement.
- C. Except as may otherwise be provided by this Agreement, AGR shall not use any part of the Subject Trackage for the purpose of switching, storage or servicing cars or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of CSXT, preclude the emergency use by AGR of such auxiliary tracks as may be designated by CSXT for such purposes.
- D. CSXT shall have exclusive control of the management and operation of the Subject Trackage. AGR shall not have any claim against CSXT for liability on account of loss or damage of any kind in the event the use of the Subject Trackage by AGR is interrupted or delayed at any time from any cause.

ARTICLE 3. RESTRICTION ON USE

- A. The Trackage Rights herein granted are granted for the sole purpose of AGR using the same for bridge traffic only between the terminals of the Subject Trackage, and only for interchange with MNBR. AGR shall not perform any local freight service whatsoever at any point located on the Subject Trackage.
- B. Shipments transported by AGR over the Subject Trackage are limited to shipments moving solely in the account of AGR. AGR shall not transport any other shipments over the Subject Trackage unless otherwise provided in a written amendment to this Agreement.
- C. As of the date hereof, the Parties acknowledge and agree that AGR is not currently required under Federal law to equip its locomotives with an onboard PTC apparatus or to bear any cost or responsibility for installing a PTC system in order to traverse the Subject Trackage. CSXT acknowledges and agrees that AGR, until required under Federal law, rule or regulation, shall be permitted to traverse the Subject Trackage without equipping its locomotives with an onboard PTC apparatus and AGR is not responsible for installing

a PTC system.

- D. In the event that AGR is required in the future under Federal law, rule or regulation to install a PTC system or to equip its locomotives with an onboard PTC apparatus to traverse the Subject Trackage (“AGR’s Future PTC Requirement”), AGR shall be responsible for its own costs incurred in connection with AGR’s Future PTC Requirement.
- E. If AGR’s Future PTC Requirement is triggered, the Parties agree to work cooperatively to ensure that AGR’s PTC system and/or onboard PTC apparatus will be interoperable with CSXT’s PTC system on the Subject Trackage.

ARTICLE 4. MISCELLANEOUS SPECIAL PROVISIONS

- A. When operating over the Subject Trackage, AGR's locomotives and crews shall be equipped to communicate with CSXT on radio frequencies normally used by CSXT in directing train movements on the Subject Trackage.
- B. Procedures for qualification and occupancy of the Subject Trackage shall be arranged by the local supervision of each carrier. All control and usage shall be subject to the approval of CSXT's representative or his designee.

ARTICLE 5. COMPENSATION

- A. The factor to be used in calculating payments to be made by AGR for the Trackage Rights covered by this Agreement shall be [REDACTED] (hereinafter referred to as the “Current Charge”).
[REDACTED]
- B. [REDACTED]
- C. AGR shall furnish CSXT information concerning all loaded and empty cars in Electronic Data Interchange (EDI) transmission between the carriers. This procedure shall be required at the time the Association of American Railroads (AAR) defines the standard reporting procedures for trackage rights carriers. The carriers shall determine the minimal data requirements.

D.

[REDACTED]

E.

[REDACTED]

[REDACTED]

[REDACTED]

F.

[REDACTED]

ARTICLE 6. PAYMENT OF BILLS

A. All payments called for under this Agreement shall be made by AGR within thirty (30) days after receipt of bills therefor. 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 shall be adjusted in the accounts of a subsequent month. The records of each Party, insofar as they pertain to matters covered by this Agreement shall be open at all reasonable times to inspection by the other Party for a period of three (3) years from the date of billing.

B. Bills rendered pursuant to the provisions of this Agreement, other than those set forth in this Article, shall include direct labor and material costs, together with the surcharges,

overhead percentages and equipment rentals as specified by CSXT at the time any work is performed by CSXT for AGR.

ARTICLE 7. MAINTENANCE OF SUBJECT TRACKAGE

- A. CSXT shall maintain, repair and renew the Subject Trackage with its own supervision and labor. CSXT shall keep and maintain the Subject Trackage in reasonably good condition for the use herein contemplated, but CSXT does not guarantee the condition of the Subject Trackage at any time during the term hereof or that operations thereover shall not be interrupted. Furthermore, except as may be otherwise provided in Article 14, AGR shall not by reason of failure or neglect on the part of CSXT to maintain, repair or renew the Subject Trackage, have or make any claim or demand against CSXT 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 AGR resulting from any such failure or neglect.
- B. CSXT may, at the expense of AGR, perform such additional maintenance as AGR may reasonably require or request.

ARTICLE 8. CONSTRUCTION AND MAINTENANCE OF NEW CONNECTIONS

- A. Existing connections or facilities that are jointly used by the Parties 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.
- B. Any additional connections to the Subject Trackage which may be required shall be subject to the CSXT 's approval (including design) and shall be constructed, maintained, repaired and renewed as follows:
 - (i). AGR or others shall furnish all labor and material and shall construct, maintain, repair and renew at its sole cost and expense such portions of the tracks located on the right-of-way of AGR or others which connect the respective lines of the Parties.
 - (ii). CSXT shall furnish all labor and material and shall construct, maintain, repair and renew at the sole cost and expense of AGR such portions of the additional tracks located on the right-of-way of CSXT that connect the respective lines of the Parties. Upon termination of this Agreement, CSXT may at its option remove the portion of such trackage and appurtenances as may be located on property of CSXT, at the sole cost and expense of AGR. The salvage material removed shall be released to AGR or, as otherwise agreed upon, CSXT shall credit AGR the current fair market value for said salvage.

ARTICLE 9. ADDITIONS, RETIREMENTS AND ALTERATIONS

- A. CSXT, from time to time and at its sole cost and expense, may make changes in, additions and betterments to or retirements from the Subject Trackage as shall, in its 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.
- B. If the Parties agree that changes in or additions and betterments to the Subject Trackage, including changes in communication or signal facilities, are required to accommodate AGR's operations beyond that required by CSXT to accommodate its operations, CSXT shall construct the additional or altered facilities and AGR shall pay to CSXT the cost thereof, including the annual expense of maintaining, repairing and renewing such additional or altered facilities. All such additional or altered facilities shall be owned by CSXT.

ARTICLE 10. MANAGEMENT AND OPERATIONS

- A. AGR shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains (locomotives and cars) while such trains, locomotives, cars, and equipment are being operated over the Subject Trackage. AGR shall indemnify, protect, defend, and save harmless CSXT 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 CSXT or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable solely to the failure of AGR to comply with its obligations in this regard.
- B. AGR in its use of the Subject Trackage shall comply in all respects with the safety rules, operating rules and other regulations of CSXT, and the movement of AGR's trains (locomotives and cars) over the Subject Trackage shall at all times be subject to the orders of the transportation officers of CSXT. AGR's trains shall not include locomotives or cars 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 or cars which require speed restrictions or other movement restrictions below the maximum authorized freight speeds as provided by CSXT's operating rules and regulations without the prior consent of CSXT.

- C. AGR shall make such arrangements with CSXT as may be required to have all of its employees who shall operate its trains, locomotives and cars over the Subject Trackage qualified for operation thereover, and AGR shall pay to CSXT, upon receipt of bills therefor, any cost incurred by CSXT in connection with the qualification of such employees of AGR, as well as the cost of pilots furnished by CSXT, until such time as such employees are deemed by the appropriate examining officer of CSXT to be properly qualified for operation as herein contemplated.
- D. CSXT may conduct an investigation at its option if an AGR employee working on CSXT's property is alleged to have violated CSXT's safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under applicable agreement rules. To exercise its option, CSXT shall schedule the investigation and notify AGR's local Transportation Officer in the territory thereof, who shall, in turn, arrange to issue proper notice to the AGR's employee(s) of the investigation. CSXT's scheduling of the investigation must comply with the time limits provided in the applicable labor agreement on AGR's railroad. CSXT shall provide its regulations, supplements, and safety rules to AGR at no cost.
- E. If CSXT conducts an investigation, CSXT shall have the right to exclude from the Subject Trackage any employee of AGR except officers, determined by CSXT, as the result of CSXT's investigation or hearing described below, to be in violation of CSXT's rules, regulations, orders, practices or instructions.
- F. In a major offense, such as violation of Rule "G", dishonesty, insubordination, or a serious violation of operating rules, wherein CSXT desires to bar AGR's employee from service on CSXT's territory pending an investigation by CSXT, immediate verbal notification shall be given to the appropriate Transportation Officer of AGR so that proper written notice can be issued to the employee.
- G. If CSXT conducts an investigation, its officer shall conduct the investigation, but an officer of AGR shall be present to assure compliance with AGR's labor agreement and practices with respect to investigation procedures. After the investigation is concluded, CSXT shall promptly furnish AGR with two copies of the investigative hearing transcript and a recommendation as to the discipline to be assessed. AGR's Transportation Officer shall arrange to assess discipline, subject to receipt of CSXT's recommended discipline, within the applicable time limits. If CSXT recommends dismissal, AGR reserves the right to change the recommendation to the extent of barring the individual from operating over CSXT's territory.
- H. CSXT shall reimburse AGR for all payments that AGR might be required to make as a result of a challenge being made by the employee or his representative as to the discipline recommended by CSXT and assessed by AGR. AGR agrees to notify CSXT before committing itself to making payment of any claim. In the event a claim is progressed to an Adjustment Board, CSXT shall be given an opportunity to review AGR'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 AGR may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

- I. The trains, locomotives, cars and equipment of AGR, CSXT, and any other present or future user of the Subject Trackage or any portion thereof, shall be operated without prejudice or partiality to either Party and in such manner as shall afford the most economical and efficient manner of movement of all traffic.
- J. In the event that a train of AGR shall be forced to stop on Subject Trackage, and such stoppage is due to insufficient hours of service remaining among AGR's crew, or due to mechanical failure of AGR's equipment, or any other cause not resulting from an accident or derailment, and such train is unable to proceed, or if a train of AGR fails to maintain the speed required by CSXT on the Subject Trackage, or if in emergencies, crippled or otherwise defective cars are set out of AGR's trains on the Subject Trackage, CSXT shall have the option to furnish motive power or such other assistance (including but not limited to the right to recrew AGR'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 AGR shall reimburse CSXT for the cost of rendering any such assistance.
- K. 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 CSXT, and AGR shall reimburse CSXT for the cost thereof.
- L. In the event CSXT and AGR agree that CSXT should retain employees or provide additional employees for the sole benefit of AGR, the Parties shall enter into a separate agreement under which AGR shall bear all cost and expense for any such retained or additional employees provided, including without limitation all cost and expense associated with labor protective payments which are made by CSXT and which would not have been incurred had the retained or additional employees not been provided.

ARTICLE 11. MILEAGE AND CAR HIRE

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

ARTICLE 12. CLEARING OF WRECKS

Whenever AGR's use of the Subject Trackage requires rerailling, wrecking service or wrecking train service, CSXT shall perform or provide such service, including the repair and restoration of roadbed, track and structures. The cost, liability and expense of the foregoing,

including without limitation loss of, damage to, or destruction of any property whatsoever and injury to and 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 Article 13 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 AGR at the time of such wreck, shall be promptly delivered to it.

ARTICLE 13. LIABILITY

The responsibility and liability between the Parties for: (i) any personal injury or death of any person (including employees of the Parties and third persons), (ii) any real or personal property damage of any person (including property of the Parties and third persons), (iii) any damage or destruction to the environment (including land, air, water, wildlife and vegetation), and (iv) all cleanup and remedial expenses, court costs, settlements, claims, judgements, litigation expenses and attorney's fees resulting from the use of the Subject Trackage by either Party as described herein, all of which are collectively referred to as a "Loss", shall be divided as follows:

- A. If a Loss occurs involving the trains, locomotives, engines and/or employees of only one of the Parties, then the involved Party shall be solely responsible for the Loss, even if caused partially or completely by the other Party.
- B. If a Loss occurs on the Subject Trackage involving the trains and locomotives of both CSXT and AGR, then: (i) each Party is solely responsible for any Loss to its own employees, locomotives and equipment in its own account, including lading, and (ii) the Parties are equally responsible for any Loss to the Subject Trackage and any Loss sustained by third parties, regardless of the proportionate responsibility between them as to the cause of the Loss.
- C. For purposes of assigning responsibility of a Loss under this Article as between the Parties, a Loss involving one of the Parties to this Agreement and a third party or parties shall be construed as being the sole responsibility of that one Party to this Agreement.
- D. Whenever any liability, cost, or expense is assumed by or apportioned to a Party under the foregoing provisions, that Party shall forever protect, defend, indemnify, and save harmless the other Party to this Agreement and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents, and employees from and against that liability, cost and expense assumed by that Party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance, or misfeasance of the indemnitee or its directors, officers agents, or employees.
- E. Notwithstanding any provision of this Article 13 to the contrary, each Party shall assume and bear all responsibility for any Loss caused by acts or omissions of any its employees

while under the influence of drugs or alcohol.

- F. In every case of death or injury suffered by an employee of either AGR or CSXT, when compensation to such employees or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and either of said Parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such Party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- G. For purposes of determining liability under this Article, pilots furnished by CSXT to AGR pursuant to this Agreement shall be considered as the employees of AGR while such employees are on duty as pilots.
- H. For the purpose of determining liability associated with construction, maintenance, repair and renewal of connections as provided in Article 8.B(ii), all work performed by CSXT shall be deemed performed for the sole benefit of AGR and, AGR shall be fully liable for all cost and expense of any and all loss, damage, destruction, injury and death resulting from, arising out of, incidental to or occurring in connection with said construction, maintenance repair and renewal except when such cost and expense of loss, damage, destruction, injury or death is caused by the sole negligence of CSXT. AGR shall protect, indemnify, and save harmless CSXT and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against any and all expense and liability for which AGR is responsible.
- I. If any suit or action shall be brought against either Party for damages which under the provisions of this Agreement are in whole or in part the responsibility of the other Party, said other Party shall be notified in writing by the Party sued, and the Party so notified shall have the right and be obligated to take part in the defense of such suit and shall pay a proportionate part of the judgment and costs, expense and attorneys' fees incurred in such suit according to its liability assumed hereunder.
- J. In the event of a Loss as set out herein, the Parties to this Agreement shall be bound by the Freight Claim Rules, Principles, and Practices of the AAR as to the handling of any claims for the loss or damage to lading.
- K. Neither Party shall have the right to prosecute any claim or make any demand against the other Party for any indirect, special or consequential damages, including but not limited to loss, damage or liability accruing to it by reason of any interference with, interruption of or delay in the operating of its trains, engines or cars or the transportation of its freight on account of delays or interruption in the use of any portion of said tracks used jointly under the terms hereof.

- L. Notwithstanding any and all of the forgoing provisions of this Article 13, in the event a Loss occurs with the trains and locomotives of both CSXT and AGR, and such Loss is attributable solely to the gross negligence or willful or wanton misconduct of only one of the Parties, and such gross negligence or willful or wanton misconduct is the direct or proximate cause of such Loss, then the Party to which such gross negligence or willful or wanton misconduct is attributable shall assume all liability, cost and expense in connection with such Loss. The Parties agree that, for purposes of this Article 13.L, “gross negligence or willful or wanton misconduct” shall be defined as “the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness.”

ARTICLE 14. CLAIMS

- A. Except as provided in Subarticle B below, all claims, injuries, death, 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 therefor under the provisions of this Agreement.
- B. Each Party shall investigate, adjust and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and CFR 1005, or in accordance with any applicable transportation contract.
- C. In the event a claim or suit is asserted against CSXT or AGR 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.
- D. 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 agents, full-time attorneys and other full-time employees of either Party engaged directly or indirectly in such work shall be borne by such Party.
- E. Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or CFR 1005, 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 [REDACTED].
- F. Each Party agrees to indemnify 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 arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, either pursuant to a collective bargaining agreement or employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement. It is the intention of the Parties that each Party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employee arising under its collective bargaining agreements with its employees.

- G. It is understood that nothing in this Article 14 shall modify or waive the conditions, obligations, assumptions or apportionments provided in Article 13.

ARTICLE 15. INSURANCE

- A. During the term of this Agreement AGR, at its sole cost and expense, shall procure and maintain in effect a policy of Comprehensive Railroad liability insurance, with limits of [REDACTED], bodily injury and/or property damage, for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to, or destruction of property, including the loss of use thereof, in any one occurrence, subject to a self-insured retention limit [REDACTED], including contractual liability insurance, which names CSXT as an additional insured. Failure to procure and maintain such insurance in force shall constitute a breach of this Agreement. AGR shall provide a minimum of thirty (30) days' advance written notice to CSXT prior to any material changes to or cancellation of such policy.
- B. This Insurance coverage shall be effected under standard form policies issued by insurers of financial responsibility, which are rated "A-" or better by either Best's Insurance Reports, Standard & Poor's Insurance Rating Service or Moody's Investors Service. CSXT reserves the right to reject as inadequate coverage by an insurance company rated less than "A-" by the aforementioned rating services.
- C. The insurance shall be evidenced by a current certificate furnished by AGR to CSXT as an additional insured with its return of the executed Agreement. Subsequently, annual renewal certificates of insurance shall be furnished to:
- Insurance Department
CSX Transportation, Inc.
500 Water Street, C907
Jacksonville, FL 32202
E-Mail: csx@ebix.com
- D. Such certificates shall be subject to the prior approval of CSXT's Insurance Department. All of the required endorsements and notice provisions shall be stated on the certificate of

insurance that is provided to CSXT. In addition, AGR shall provide CSXT's Insurance Department notice of any claim arising under this Agreement and any other correspondence dealing with insurance and insurance matters directly relating to this Agreement.

- E. During the term of this Agreement, it is understood that CSXT is self-insured.

ARTICLE 16. DEFAULT AND TERMINATION

In the event of any substantial failure on the part of AGR to perform its obligations under this Agreement and its continuance in such default for a period of sixty (60) days after written notice thereof by certified mail from CSXT, CSXT shall have the right at its option, after first giving thirty (30) days written notice thereof by certified mail, and notwithstanding any waiver by CSXT of any prior breach thereof, to terminate the Trackage Rights and AGR's use of the Subject Trackage, subject to any regulatory approval or exemption that may be required under governing law. The exercise of such right by CSXT shall not impair its rights under this Agreement or any cause or causes of action it may have against AGR for the recovery of damages.

ARTICLE 17. REGULATORY APPROVAL

- A. Should this Agreement require the prior approval of the Surface Transportation Board (STB), AGR at its own cost and expense shall initiate and thereafter diligently pursue an appropriate application or petition to secure such approval. CSXT shall assist and support efforts of AGR to secure any necessary STB approval of this Agreement.
- B. Should the STB at any time during the term of this Agreement impose any labor protective conditions upon the exemption of this Agreement from regulation, AGR, solely, shall be responsible for any and all payments in satisfaction of such conditions.

ARTICLE 18. ABANDONMENT OF SUBJECT TRACKAGE

Notwithstanding the provisions of Article 19, CSXT may abandon the Subject Trackage during the term of this Agreement or any renewals thereof, upon giving AGR not less than ninety (90) days' written notice of CSXT's intent to abandon. In the event regulatory authority is required to effect such abandonment, AGR shall not interfere with CSXT's actions to seek and to exercise such authority. In the event regulatory authority is required for AGR to discontinue its own operations over the Subject Trackage, AGR shall seek and exercise such regulatory authority at the same time that CSXT seeks regulatory authority to abandon the Subject Trackage. CSXT and AGR shall exercise the abandonment and discontinuance authority within thirty (30) days from the date CSXT and AGR obtain the aforementioned regulatory authority. Upon the date established by CSXT for abandonment of the Subject Trackage by its aforesaid notice to AGR or upon the above specified date of exercise of the regulatory authority to abandon and discontinue operations,

whichever is later, 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 from any obligations assumed or from any liability which may have arisen or been incurred prior to said termination. The foregoing provisions shall govern the Parties notwithstanding the provisions of 49 U.S.C. Section 10904 or any other provisions of law, and AGR hereby expressly waives any rights it may possess to subsidize operations on the Subject Trackage or to acquire the Subject Trackage pursuant to said provisions of law. As used herein, Subject Trackage means the entire Subject Trackage or any portion or portions thereof.

ARTICLE 19. TERM

- A. A. This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions from any regulatory agency, with respect to the Transaction; and (iii) the satisfaction or waiver by the Party entitled to waive any conditions precedent to the Transaction (the “Effective Date”) and shall continue in full force and effect until terminated as provided herein or by mutual agreement of both Parties. The Parties shall memorialize the Effective Date through an exchange of written correspondence.
- B. Intentionally Omitted.
- C. Within thirty (30) days following the date of this Agreement, AGR, at its sole expense, shall submit to the STB (or successor agency) regulatory filing(s) to obtain any necessary authority or exemption to exercise the Trackage Rights. CSXT will join in any such application or pleading to the STB, upon request of AGR. AGR shall provide CSXT with an opportunity to review and comment on AGR’s regulatory filing prior to their submission to the STB. In the event that one or more parties oppose the granting of the regulatory authority or exemption sought by AGR or appeal a determination to grant such authority or exemption, AGR shall promptly respond to such opponents and shall pursue in good faith appeals of any adverse decision by the STB.
- D. Termination of this Agreement shall not relieve or release either Party from any obligation 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.
- E. Upon termination of this Agreement prior to the expiration of the Term, and if AGR obtained approval or exemption from the STB to operate pursuant to this Agreement, AGR shall immediately make the necessary filing with the STB to discontinue AGR’s rights covered by this Agreement. Should AGR fail to make such a filing within thirty (30) days of said termination, CSXT shall be deemed to have been given AGR’s power of attorney to take such action on AGR’s behalf and AGR shall not oppose such a filing, and shall be responsible for reimbursing CSXT for any reasonable cost associated with said filing, including but not limited to attorney and filing fees. AGR agrees that monetary damages will not be a sufficient remedy in the event it breaches this provision, and agrees that

specific performance or other injunctive relief would be appropriate under the circumstances.

ARTICLE 20. FORCE MAJEURE

CSXT shall not be responsible to AGR for delays of any kind under this Agreement nor for failure to perform under this Agreement if such failure to perform is caused by circumstances beyond its control, including, but not limited to, Acts of God, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climatic conditions, acts of public enemy, war, terrorism, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, pandemic, strike, lockout or labor disputes experienced by the Parties, embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations and other events beyond the reasonable control of CSXT. CSXT shall provide AGR with prompt written notice of any event of force majeure and shall take reasonable steps to resolve such event. Once the force majeure event is resolved, CSXT shall notify AGR in writing, and CSXT shall promptly re-institute operations pursuant to this Agreement.

ARTICLE 21. ARBITRATION

Other than a claim for injunctive relief, any dispute arising between the Parties with respect to this Agreement that is not resolved within thirty (30) days of the date of the written notice of the dispute shall be determined exclusively by binding arbitration under the Commercial Arbitration Rules of the American Arbitration Association. The Parties shall request that the arbitrator selected shall be knowledgeable in railroad commercial transactions. The decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the Parties. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

ARTICLE 22. SUCCESSORS AND ASSIGNS

This Agreement shall enure to the benefit of and be binding upon the successors and permitted assigns of the Parties; provided, that neither Party shall have the right to assign this Agreement, by merger, operation of law, or otherwise, without the prior written consent of the other Party, which consent may be withheld at the discretion of that Party.

ARTICLE 23. NOTICE

All notices required to be given by one Party to the other, shall be in writing and addressed as follows:

TO CSXT: Director Joint Facilities
CSX Transportation, Inc.
500 Water Street, J801
Jacksonville, FL 32202

TO AGR: Alabama & Gulf Coast Railway LLC
13901 Sutton Park Drive South, Suite 270
Jacksonville, FL 32224
Attention: President
E-Mail: LegalNotices@gwrr.com

With copy to:

Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820
Attention: General Counsel
E-Mail: LegalNotices@gwrr.com

ARTICLE 24. GENERAL PROVISIONS

- A. This Agreement and each and every provision hereof is for the exclusive benefit of the Parties and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties.
- B. This Agreement contains the entire understanding of the Parties and supersedes any and all written and oral understandings between the Parties.
- C. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by both Parties.
- D. Unless otherwise defined herein, 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.
- E. All Article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- F. Each and every separate division (paragraph, clause, item, term, condition, covenant or agreement) herein contained shall have independent and severable status from each other

separate division, or combination thereof, for the determination of legality, so that if any separate division is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall be treated as a nullity, but such holding or determination shall have no effect upon the validity or enforceability of each and every other separate division, or any combination thereof.

- G. 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, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the Parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such Party. Whenever such locomotives, cars or equipment are owned or leased by one Party to this Agreement and are in the possession or account of the other Party to this Agreement, such locomotives, cars and equipment shall be considered those of the other Party under this Agreement.
- H. This Agreement is the result of mutual negotiations of the Parties, neither of whom shall be considered the drafter for purposes of contract construction.
- I. No Party may disclose the provisions of this Agreement to a third party, excluding a parent, affiliate or subsidiary company and the attorneys, accountants, consultants, officers and employees of such party, parent, affiliate or subsidiary company, without the written consent of the other Party, except as otherwise required by law, regulation or ruling.
- J. Except as may be expressly provided by this Agreement, nothing in this Agreement shall modify or amend any other agreement between CSXT and AGR.
- K. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.
- L. The recitals to this Agreement are hereby expressly incorporated into this Agreement as if restated in their entirety herein.
- M. All matters related to the interpretation, construction, validity and enforcement of this Agreement shall be governed by and construed in accordance with the domestic laws of the State of Florida, without giving effect to any choice or conflict of laws, provision or rule that would cause the application of laws of any jurisdiction other than the State of Florida.

IN WITNESS WHEREOF the Parties have caused these presents to be executed by their duly authorized officers as of the day and year first above written.

CSX TRANSPORTATION, INC.

By: _____

As its: _____

ALABAMA & GULF COAST RAILWAY LLC

By: _____

As its: _____

EXHIBIT "E"

TERMINATION OF INTERCHANGE AGREEMENT

This TERMINATION OF INTERCHANGE AGREEMENT (this “Agreement”), dated as of _____, 2023, entered into by MERIDIAN & BIGBEE RAILROAD, L.L.C., an Alabama limited liability company (“MNBR”), and CSX TRANSPORTATION, INC., a Virginia corporation (“CSXT”). Each of MNBR and CSXT may be referred to as a “Party” and sometimes collectively referred to as the “Parties.”

RECITALS

WHEREAS, pursuant to the Land Lease Agreement, dated November 15, 2003, by and between CSXT and MNBR, CSXT sold track materials and leased land to MNBR between Myrtlewood and Burkville, AL, for the continued freight operations of its line of railroad between those points by MNBR (the “Lease”);

WHEREAS, MNBR and CSXT are party to that certain Interchange Agreement, dated November 15, 2003 (the “Interchange Agreement”), to govern the interchange of traffic at Montgomery, AL with associated operating rights of MNBR over CSXT trackage to access this interchange location; and

WHEREAS, following the expiration of the Lease, MNBR will no longer require the ability to interchange traffic with CSXT in Montgomery, AL and, therefore, the Parties desire to terminate the Interchange Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Termination.** The Parties hereby agree that the Interchange Agreement will be terminated as provided herein, and will thereafter be of no further force or effect except as set forth herein.

2. **Surviving Obligations.** Termination of the Interchange Agreement shall not relieve or release either Party from any obligation assumed under the Interchange Agreement that expressly or by its nature is intended to survive termination, or from any liability which may have arisen or been incurred by either Party under the Interchange Agreement prior to termination thereof.

3. **Governing Law.** THIS AGREEMENT, AND ALL MATTERS, CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ALABAMA, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN THIS AGREEMENT UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

4. **Term.** The termination of the Interchange Agreement shall take effect upon the expiration of the Lease.

5. **Counterparts.** This Agreement may be executed simultaneously in two or more identified counterparts (including by means of email of a portable document format (pdf) of the signature pages and through the use of electronic signatures such as DocuSign), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument, provided that each Party signed at least one counterpart.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

MERIDIAN & BIGBEE RAILROAD,
L.L.C.

By _____
Name:
Title:

CSX TRANSPORTATION, INC.

By _____
Name:
Title:

EXHIBIT "F"

FIRST AMENDMENT TO HAULAGE AGREEMENT

This FIRST AMENDMENT TO HAULAGE AGREEMENT (this “First Amendment”), dated as of _____, 2024 (the “First Amendment Effective Date”), entered into by MERIDIAN & BIGBEE RAILROAD, L.L.C., an Alabama limited liability company (“MNBR”), and CSX TRANSPORTATION, INC., a Virginia corporation (“CSXT”). Each of MNBR and CSXT may be referred to as a “Party” and sometimes collectively referred to as the “Parties.”

RECITALS

WHEREAS, pursuant to the Land Lease Agreement, dated November 13, 2003, by and between CSXT and MNBR, as amended, CSXT sold track materials and leased land to MNBR between Myrtlewood and Burkeville, AL (the “Subject Trackage”), for the continued freight operations of its line of railroad between those points by MNBR (the “Lease”);

WHEREAS, MNBR and CSXT are party to that certain Haulage Agreement, dated as of February 28, 2022 (the “Haulage Agreement”), pursuant to which MNBR provides haulage services (the “Haulage Services”) for CSXT between Meridian, MS and Montgomery, AL for overhead freight rail traffic moving to and from The Kansas City Southern Railway Company; and

WHEREAS, following the expiration of the Lease, as it may be extended, CSXT intends to operate on the Subject Trackage on its own account and will no longer require, and does not intend to utilize, the Haulage Services between Montgomery, AL and Myrtlewood, AL, and, therefore, the Parties desire to amend the Haulage Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Section 1. Effective as of the First Amendment Effective Date, the Haulage Agreement is hereby amended as follows:

(a) Article 1.A of the Haulage Agreement is deleted in its entirety and replaced with the following:

“A. MNBR agrees to transport in its trains, with its own crews, locomotive power, fuel and end-of-train devices, CSXT's overhead loaded and empty freight cars and intermodal freight cars loaded with trailers or containers and empty intermodal freight cars (the “CSXT Cars”) over MNBR's railroad between Meridian and Myrtlewood, a total distance of approximately 50.4 miles (the “Haulage Line”), as shown in Attachment 1 attached hereto. CSXT Cars moved by MNBR pursuant to this Agreement shall be handled in regularly scheduled MNBR trains and shall be limited to cars that are in the waybill and car hire accounts of CSXT. For the avoidance of doubt, neither party hereto shall be obligated under this Agreement to perform any blocking of trains on behalf of the other party hereto.”

- (b) Article 1.B. of the Haulage Agreement is deleted in its entirety.
- (c) All references to “Montgomery” in Articles 3, 6.A. and 8 of the Haulage Agreement are replaced with references to “Myrtlewood”.
- (d) Article 9.D of the Haulage Agreement is deleted in its entirety and replaced with the following:

“D. Whenever circumstances require wrecking service or wrecking train service in connection with the subject of this Agreement between Meridian and Myrtlewood, MNBR shall perform such service as promptly as possible, and the cost thereof shall be borne as apportioned in accordance with the foregoing liability provisions.”

- (e) Article 13 of the Haulage Agreement is deleted in its entirety and replaced with the following:

“Nothing herein shall preclude MNBR from discontinuing the operation of its line between Meridian and Myrtlewood at any time, subject only to such prior governmental authorization as may be necessary. Upon any such discontinuance, this Agreement shall terminate automatically, subject to Article 12.C., and MNBR shall have no further obligation to CSXT with respect to handling CSXT Cars over the discontinued line.

- (f) Appendix A attached to this First Amendment shall be deemed to replace the existing Attachment 1 to the Haulage Agreement.

- (g) Appendix B attached to this First Amendment shall be deemed to replace the existing Attachment 2 to the Haulage Agreement.

Section 2. To the extent there is any conflict with the language of this First Amendment and the Haulage Agreement, the language of this First Amendment shall govern.

Section 3. Other than as expressly set forth in this First Amendment, the terms of the Haulage Agreement shall continue in full force and effect.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the First Amendment Effective Date.

MERIDIAN & BIGBEE RAILROAD,
L.L.C.

By _____
Name:
Title:

CSX TRANSPORTATION, INC.

By _____
Name:
Title:

Appendix A

(To be reduced to Meridian to Myrtlewood)

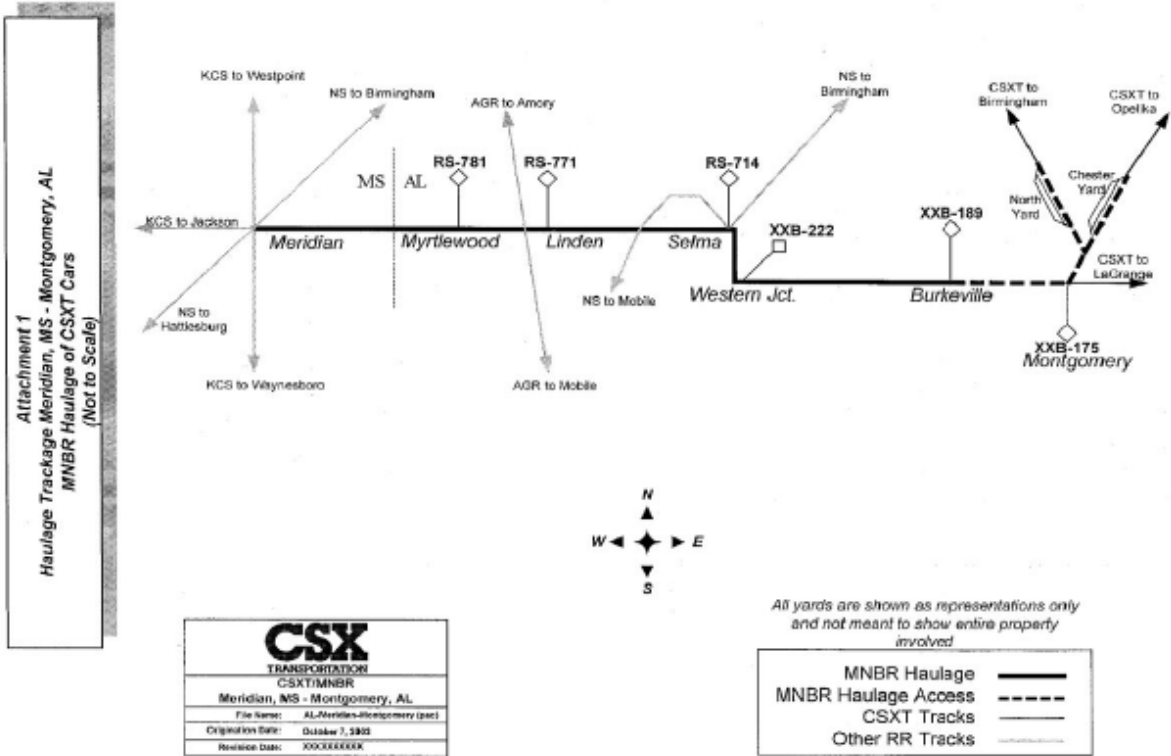


EXHIBIT "G"

BILL OF SALE

THIS BILL OF SALE, made as of this ___ day of _____, 2024, by and between Meridian & Bigbee Railroad, L.L.C. (formerly M & B Railroad, L.L.C.), whose mailing address is 13901 Sutton Park Drive South, Suite 270, Jacksonville, FL 32224, hereinafter called "Vendor," and CSX TRANSPORTATION, INC., a Virginia corporation, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Vendee."

WITNESSETH:

THAT Vendor, for and in consideration of the sum of [REDACTED] [REDACTED] paid to Vendor by Vendee, plus applicable sales tax thereon, the receipt whereof is hereby acknowledged, does hereby BARGAIN, SELL, TRANSFER and DELIVER unto Vendee all of Vendor's right, title and interest in and to the Purchased Assets¹ being more particularly described on Exhibit A attached hereto and incorporated herein.

TO HAVE AND TO HOLD the same unto Vendee, Vendee's successors and assigns, forever.

THE PURCHASED ASSETS, RELATED FACILITIES AND APPURTENANCES ARE SOLD "AS IS, WHERE IS," IN PLACE, ON THE DATE OF THIS INSTRUMENT, WITHOUT WARRANTY AS TO THE MERCHANTABILITY OR FITNESS THEREOF FOR ANY PURPOSE, AND WITHOUT ANY OTHER WARRANTY BY VENDOR, EXPRESSED OR IMPLIED, EXCEPT AS SET FORTH IN THE TRANSACTION AGREEMENT DATED OCTOBER __, 2023 BETWEEN VENDOR AND VENDEE.

IN WITNESS WHEREOF, Vendor has caused its duly authorized representative to sign this Bill of Sale as of the day and year first above written.

Meridian & Bigbee Railroad, L.L.C.

By: _____
Name: _____
Title: _____

¹ Capitalized terms not defined in this Bill of sale shall have the meanings ascribed to them in that certain Transaction Agreement between Vendor and Vendee dated as of September __, 2023.

Exhibit A

All of the tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures on or affixed to the Eastern Line on the date of this instrument.

EXHIBIT "H"

ASSIGNMENT AND ASSUMPTION OF VARIOUS AGREEMENTS, LEASES, LICENSES AND ORDINANCES

FOR VALUE RECEIVED, Meridian & Bigbee Railroad, L.L.C. (formerly M & B Railroad, L.L.C.), hereinafter referred to as “Assignor,” does hereby assign unto CSX Transportation, Inc., hereinafter referred to as “Assignee,” all of the right, title and interest of Assignor in those various agreements, leases, licenses and ordinances affecting the property covered in the Land Lease Agreement between Assignor and Assignee dated November 13, 2003, as amended (the “Lease”), and indicated on this Exhibit H, attached hereto and made a part hereof; the instruments indicated on Exhibit H-1 being those fully assigned to Assignee and the instruments indicated on Exhibit H-2 being those partially assigned to Assignee. [Additional detail on fully and partially assigned exhibits to be added once the inventory of agreements has been reviewed.]

Assignee does hereby assume to the extent of the interest hereby assigned all of the rights, covenants, promises and obligations of Assignor contained within the subject agreements, leases, licenses and ordinances from and after the Effective Date.

It is the intent of Assignor to assign its interest in only those instruments affecting the property covered by the Lease. Should any agreements, leases, licenses or ordinances that do not affect the property covered by the Lease be included in Exhibit H, this instrument of Assignment and Assumption shall be void and of no effect as to those agreements, leases, licenses or ordinances. Upon determination by either party that any agreements, leases, licenses or ordinances have been erroneously included in this document, the original instrument shall be promptly returned to Assignor, if already in the custody of Assignee, and the assignment shall be cancelled as to such agreements, leases, licenses or ordinances.

The instruments indicated on Exhibit H constitute all of such instruments known to Assignor to affect the property covered by the Lease. If subsequent to the Effective Date of this instrument, Assignor discovers any additional instruments which affect the subject property, said discovered instruments shall be automatically assigned as if included herein upon Assignor's mailing by Certified Mail said instruments or copies thereof to Assignee.

Within a reasonable time from the date of the termination or expiration of the Lease, Assignor shall deliver to Assignee the original documents listed on Exhibit H-1 plus the original of any amendments to the documents listed on Exhibit H-1 and copies of the agreements listed on Exhibit H-2.

The Effective Date of this instrument is _____, 2024.

ASSIGNOR: _____
 By:
 Title:

ASSIGNEE: _____
 By:
 Title:

Exhibit H-1
Fully Assigned Agreements
[TBD]

Exhibit H-2
Partially Assigned Exhibits
[TBD]

EXHIBIT "I"

**FIRST AMENDMENT TO INTERCHANGE AGREEMENT
BETWEEN
CSX TRANSPORTATION, INC.
AND
ALABAMA & GULF COAST RAILWAY LLC
AT
MYRTLEWOOD, ALABAMA**

THIS FIRST AMENDMENT TO INTERCHANGE AGREEMENT (this “First Amendment”) made and entered into this ___ day of _____ 2024 (the “First Amendment Effective Date”), by and between CSX TRANSPORTATION, INC., a Virginia corporation, whose principal place of business is Jacksonville, Florida (hereinafter called “CSXT”), and ALABAMA & GULF COAST RAILWAY LLC, a Delaware limited liability company (hereinafter called “AGR”), each being hereinafter sometimes severally called “Party” and collectively called “Parties.”

WITNESSETH:

WHEREAS, the Parties previously entered into that certain Interchange Agreement dated _____ (the “Agreement”); and

WHEREAS, the Parties wish to amend the Agreement as described below.

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

Section 1. A new Article 4 is hereby added to the Agreement as follows:

“ **ARTICLE 4** [REDACTED]

A. [REDACTED]

B. [REDACTED]

C. [REDACTED]

D. [REDACTED]

Section 2. Article 8 of the Agreement is hereby amended and restated as follows:

“ARTICLE 8. TERM AND TERMINATION”

A. This Agreement shall become effective following the latest date of: (i) the date first written above; (ii) following receipt of any required regulatory approvals or exemptions from any regulatory agency with respect to the Transaction; and (iii) the closing of the transactions contemplated by the Transaction Agreement (the “Effective Date”) and shall continue in full force and effect until terminated by either Party upon thirty (30) days' advance written notice to the other Party;

[REDACTED]

The Parties shall memorialize the Effective Date through an exchange of written correspondence.

B. Upon termination of this Agreement, either Party may expire the interchange described herein from the Junction Industry Reference File pursuant to the terms of Appendix A, attached hereto and made a part of this Agreement.

C. Termination of this Agreement shall not release any Party from any liability or obligation that may have been incurred by or that might have accrued against it hereunder during the term hereof.”

Section 3. To the extent there is any conflict with the language of this First Amendment and the Agreement, the language of this First Amendment shall govern.

Section 4. Other than as expressly set forth in this First Amendment, the terms of the Agreement shall continue in full force and effect.

(signature page follows)

IN WITNESS WHEREOF the Parties have caused these presents to be executed by their duly authorized officers as of the First Amendment Effective Date.

CSX TRANSPORTATION, INC.

By: _____

As its: _____

ALABAMA & GULF COAST RAILWAY LLC

By: _____

As its: _____

EXHIBIT "J"

TERMINATION OF TRACKAGE RIGHTS AGREEMENT

This TERMINATION OF TRACKAGE RIGHTS AGREEMENT (this “Agreement”), dated as of _____, 2023, entered into by MERIDIAN & BIGBEE RAILROAD, L.L.C., an Alabama limited liability company (“MNBR”), and CSX TRANSPORTATION, INC., a Virginia corporation (“CSXT”). Each of MNBR and CSXT may be referred to as a “Party” and sometimes collectively referred to as the “Parties.”

RECITALS

WHEREAS, pursuant to the Land Lease Agreement, dated November 15, 2003, by and between CSXT and MNBR, CSXT sold track materials and leased land to MNBR between Myrtlewood and Burkville, AL (the “Subject Trackage”), for the continued freight operations of its line of railroad between those points by MNBR (the “Lease”);

WHEREAS, MNBR and CSXT are party to that certain Agreement, dated as of March 21, 1996 (the “Trackage Rights Agreement”), pursuant to which MNBR granted to CSXT overhead trackage rights over MNBR’s line of railroad between Meridian, MS and Myrtlewood, AL (the “Trackage Rights”); and

WHEREAS, following the expiration of the Lease, CSXT will no longer require, and does not intend to utilize, the Trackage Rights and, therefore, the Parties desire to terminate the Trackage Rights Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Termination.** The Parties hereby agree that the Trackage Rights Agreement will be terminated as provided herein, and will thereafter be of no further force or effect except as set forth herein.

2. **Surviving Obligations.** Termination of the Trackage Rights Agreement shall not relieve or release either Party from any obligation assumed under the Trackage Rights Agreement that expressly or by its nature is intended to survive termination, or from any liability which may have arisen or been incurred by either Party under the Trackage Rights Agreement prior to termination thereof.

3. **Governing Law.** THIS AGREEMENT, AND ALL MATTERS, CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF MISSISSIPPI, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN THIS AGREEMENT UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

4. **Term.** The termination of the Trackage Rights Agreement shall take effect upon the later of (a) the expiration of the Lease and (b) the effective date of the Surface Transportation Board decision or exemption granting discontinuance authority to CSXT in respect of the Trackage Rights.

5. **Counterparts.** This Agreement may be executed simultaneously in two or more identified counterparts (including by means of email of a portable document format (pdf) of the signature pages and through the use of electronic signatures such as DocuSign), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument, provided that each Party signed at least one counterpart.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

MERIDIAN & BIGBEE RAILROAD,
L.L.C.

By _____
Name:
Title:

CSX TRANSPORTATION, INC.

By _____
Name:
Title:

EXHIBIT "K"

THIRD AMENDMENT

This Third Amendment (this “Amendment”) is made as of _____, 2024 (the “Effective Date”) to the Agreement (as previously amended, the “Agreement”), dated April 8, 2005, by and between CSX Transportation, Inc. (“CSXT”), and First Coast Railroad Inc. (“FCRD”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

WHEREAS, the Agreement governs the lease by FCRD from CSXT of the line of railroad from Yulee (MP S 611.95) to the end of track at Seals (MP S 593.4) on the Kingsland Subdivision and Yulee (MP SMA 35.1) to the end of track at Fernandina (MP SMA 48.38) on the Fernandina Subdivision in Nassau County, Florida; and

WHEREAS, the parties desire to amend the Agreement to extend its term.

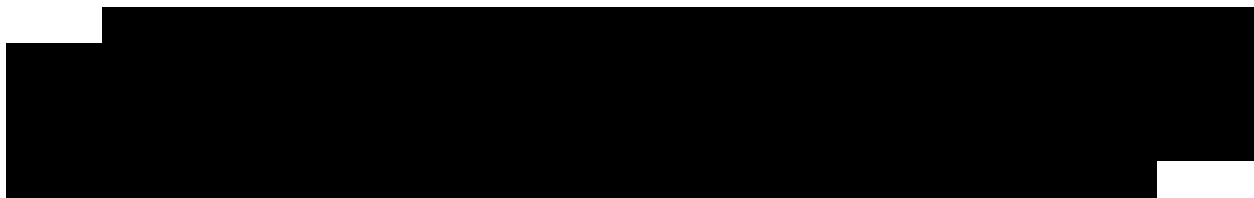
NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Amendments.

Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

“Unless otherwise terminated as provided herein, the term of this Agreement shall begin on the Commencement Date and end on April 30, 2029 (the “Term”).”

2. Agreements.



3. Miscellaneous.

(a) Effective Date. This Amendment shall be effective as of the Effective Date.

(b) Amendment; Conflicts. This Amendment shall only serve to amend and modify the Agreement to the extent specifically provided herein. All terms, conditions, provisions and references of and to the Agreement which are not specifically modified, amended and/or waived herein shall remain in full force and effect and shall not be altered by any provisions herein contained. In the event of any conflict or inconsistency between the provisions of the Agreement and the provisions of this Amendment, the provisions of this Amendment shall control.

(c) Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the

same instrument. This Amendment may be transmitted electronically, and it is the intent of the parties that the electronic copy (or a photocopy or PDF copy) of any signature printed by a computer printer shall be deemed an original signature and shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

CSX TRANSPORTATION, INC.

By: _____
Name:
Title:

FIRST COAST RAILROAD INC.

By: _____
Name:
Title:

EXHIBIT "L"

FIRST AMENDMENT

This First Amendment (this “Amendment”) is made as of _____, 2024 (the “Effective Date”) to the Land Lease Agreement (as previously amended, the “Agreement”), dated August 25, 2004, by and between CSX Transportation, Inc. (“CSXT”) and Riceboro Southern Railway, LLC (“RSOR”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

WHEREAS, the Agreement governs the lease by RSOR from CSXT of the line of railroad from Milepost S 512.2 near Richmond Hill, GA to milepost S 531 end of track at Riceboro, GA; and

WHEREAS, the parties desire to amend the Agreement to extend its term.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Amendments.

Section 3 of the Agreement is hereby deleted in its entirety and replaced with the following:

“Unless otherwise terminated pursuant to its terms, the term of this Lease shall begin on the Commencement Date and end on August 31, 2030 (the “Term”).”

2. Agreements.



3. Miscellaneous.

(a) Effective Date. This Amendment shall be effective as of the Effective Date.

(b) Amendment; Conflicts. This Amendment shall only serve to amend and modify the Agreement to the extent specifically provided herein. All terms, conditions, provisions and references of and to the Agreement which are not specifically modified, amended and/or waived herein shall remain in full force and effect and shall not be altered by any provisions herein contained. In the event of any conflict or inconsistency between the provisions of the Agreement and the provisions of this Amendment, the provisions of this Amendment shall control.

(c) Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the

same instrument. This Amendment may be transmitted electronically, and it is the intent of the parties that the electronic copy (or a photocopy or PDF copy) of any signature printed by a computer printer shall be deemed an original signature and shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

CSX TRANSPORTATION, INC.

By: _____
Name:
Title:

RICEBORO SOUTHERN RAILWAY, LLC

By: _____
Name:
Title:

EXHIBIT "M"

FIRST AMENDMENT

This First Amendment (this “Amendment”) is made as of _____, 2024 (the “Effective Date”) to the Lease Agreement (as previously amended, the “Agreement”), dated as of September 8, 2003, by and between CSX Transportation, Inc. (“CSXT”), and East Tennessee Railway, L.P. (“ETRY”). Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

WHEREAS, the Agreement governs the lease by ETRY from CSXT of the line of railroad comprising the Johnson City Lead and Carnegie Spur branch lines in or near Johnson City, County of Washington, State of Tennessee; and

WHEREAS, the parties desire to amend the Agreement to extend its term.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Amendments.

Section 2.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

“Unless sooner terminated as hereinafter provided, the term of this Lease Agreement (“Term”) shall begin on the date first written above (the “Effective Date”) and end on September 30, 2030.”

2. Miscellaneous.

(a) Effective Date. This Amendment shall be effective as of the Effective Date.

(b) Amendment; Conflicts. This Amendment shall only serve to amend and modify the Agreement to the extent specifically provided herein. All terms, conditions, provisions and references of and to the Agreement which are not specifically modified, amended and/or waived herein shall remain in full force and effect and shall not be altered by any provisions herein contained. In the event of any conflict or inconsistency between the provisions of the Agreement and the provisions of this Amendment, the provisions of this Amendment shall control.

(c) Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original agreement, but all of which together shall constitute one and the same instrument. This Amendment may be transmitted electronically, and it is the intent of the parties that the electronic copy (or a photocopy or PDF copy) of any signature printed by a computer printer shall be deemed an original signature and shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

CSX TRANSPORTATION, INC.

By: _____
Name:
Title:

EAST TENNESSEE RAILWAY, L.P.

By: _____
Name:
Title:

EXHIBIT "N"

TERMINATION OF HAULAGE AGREEMENT

This TERMINATION OF HAULAGE AGREEMENT (this “Agreement”), dated as of _____, 2023, entered into by MERIDIAN & BIGBEE RAILROAD, L.L.C., an Alabama limited liability company (“MNBR”), and CSX TRANSPORTATION, INC., a Virginia corporation (“CSXT”). Each of MNBR and CSXT may be referred to as a “Party” and sometimes collectively referred to as the “Parties.”

RECITALS

WHEREAS, pursuant to the Land Lease Agreement, dated November 15, 2003, by and between CSXT and MNBR, CSXT sold track materials and leased land to MNBR between Myrtlewood and Burkville, AL (the “Subject Trackage”), for the continued freight operations of its line of railroad between those points by MNBR (the “Lease”);

WHEREAS, MNBR and CSXT are party to that certain Haulage Agreement, dated February 28, 2022 (the “Haulage Agreement”), pursuant to which MNBR provides haulage services (the “Haulage Services”) for CSXT over MNBR’s line of railroad between Meridian, MS and Montgomery, AL for overhead freight rail traffic moving to and from The Kansas City Southern Railway Company; and

WHEREAS, following the expiration of the Lease, CSXT intends to operate on the Subject Trackage on its own account and will no longer require, and does not intend to utilize, the Haulage Services and, therefore, the Parties desire to terminate the Haulage Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Termination.** The Parties hereby agree that the Haulage Agreement will be terminated as provided herein, and will thereafter be of no further force or effect except as set forth herein.

2. **Surviving Obligations.** Termination of the Haulage Agreement shall not relieve or release either Party from any obligation assumed under the Haulage Agreement that expressly or by its nature is intended to survive termination, or from any liability which may have arisen or been incurred by either Party under the Haulage Agreement prior to termination thereof.

3. **Governing Law.** THIS AGREEMENT, AND ALL MATTERS, CLAIMS OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE NEGOTIATION, EXECUTION OR PERFORMANCE OF THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN THIS AGREEMENT UNDER APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

4. **Term.** The termination of the Haulage Agreement shall take effect upon the expiration of the Lease.

5. **Counterparts.** This Agreement may be executed simultaneously in two or more identified counterparts (including by means of email of a portable document format (pdf) of the signature pages and through the use of electronic signatures such as DocuSign), each of which shall be deemed to be an original, but all of which taken together shall constitute one and the same instrument, provided that each Party signed at least one counterpart.

[Signature Pages Follow.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

MERIDIAN & BIGBEE RAILROAD,
L.L.C.

By _____
Name:
Title:

CSX TRANSPORTATION, INC.

By _____
Name:
Title:

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 3

Court Order

Court Order

Not applicable

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 4

Environmental Information

Environmental Information

I. Introduction and Background

Pursuant to 49 C.F.R. § 1105.6(b)(4), Environmental Assessments will normally be prepared in actions involving a consolidation, merger, or acquisition of control when the proposed transaction will result in operational changes that would exceed the thresholds set out in 49 C.F.R. §§ 1105.7(e)(4) or (5). While the proposed CSXT Transaction¹ is a line acquisition, and not a consolidation, merger, or acquisition of control, the same environmental thresholds apply. CSXT consulted with the Director of the Board's Office of Environmental Analysis prior to filing this Application.

Under 49 C.F.R. § 1105.8(b)(1), the CSXT Transaction and the CSXT Related Transactions are exempt from historic preservation reporting requirements. Rail operations will continue on the Eastern Line and the Burkeville²-Montgomery segment, and further STB approval will be required to abandon any service. There are no plans to dispose of or alter properties subject to STB jurisdiction that are fifty years old or older. Accordingly, no historic report accompanies the Application.

A. CSXT's Approach to Environmental Review Thresholds

In order to determine whether operational changes resulting from the transactions would exceed any of the Board's environmental review thresholds, CSXT conducted an analysis of rail traffic and rail yard activity, using 2022 as a base year and projecting transaction-related impacts from 2024 through 2029, or five years after anticipated consummation of the transactions.³ This analysis is consistent with the Board's approach in other recent transactions. *See, e.g., CSX*

¹ The acronyms and defined terms used in this Exhibit are the same as those used in the Application.

² Burkeville is also known as Burkville.

³ The Eastern Line and the Burkeville-Montgomery segment are not in a class I or nonattainment area under the Clean Air Act.

Corp.—Control & Merger—Pan Am Systems, Inc., FD 36472, slip op. at 4 (STB served Dec. 10, 2021).

As discussed in the Application, the CSXT Transaction and the CSXT Related Transactions consist of an independent, stand-alone set of transactions that are contingent upon each other. Separately, the CPKC Transaction and the CPKC Related Transactions also consist of an independent, stand-alone set of transactions that are contingent upon each other. The CSXT Transaction that is the subject of the Application could proceed regardless of whether the CPKC Transaction occurs.

Therefore, CSXT believes that the Board should separately embrace, consolidate, and consider each set of transactions. CSXT believes that this treatment should apply both to the Board's review of the transportation merits of the sets of transactions, and the potential environmental impacts of the sets of transactions. However, given the unique posture of these transactions, CSXT has also included information regarding the overall effects of both sets of transactions (the CSXT Transaction, the CPKC Transaction, and all related transactions), assuming that all of these transactions are implemented simultaneously.

Accordingly, CSXT has created two post-transaction traffic projection scenarios. First, CSXT has projected impacts of the CSXT Transaction and the CSXT Related Transactions on rail traffic and rail yard activity, assuming that the CPKC Transaction and the CPKC Related Transactions do not occur. Second, CSXT has projected impacts of all transactions on rail traffic and rail yard activity, assuming that all of the transactions occur at the same time. In each scenario, CSXT has projected impacts on the rail line segments that are the subject of the CSXT Transaction and the CSXT Related Transactions: the Eastern Line and the connecting

Burkeville-Montgomery segment. CSXT has also analyzed any projected “downstream” impacts of the transactions on other rail lines. Those results are discussed below.

II. Projected Impacts of the Transactions

CSXT has conducted an analysis of rail traffic and rail yard activity in order to determine whether operational changes resulting from the transactions would exceed any of the Board’s environmental review thresholds. As discussed below, and consistent with other recent transactions, CSXT used a “no action” and “proposed transaction” framework. CSXT identified: (1) 2022 base figures, including train counts, gross ton miles (“GTMs”), and rail yard activity; (2) “no action” forecast scenarios assuming that none of the transactions occur; (3) “proposed transaction” forecast scenarios assuming that only the CSXT Transaction and the CSXT Related Transactions occur; and (4) “proposed transaction” forecast scenarios assuming that the CSXT Transaction, the CSXT Related Transactions, the CPKC Transaction, and the CPKC Related Transactions occur at the same time.

The Operating Plan set out in Exhibit 15 to the Application demonstrates that the CSXT Transaction and the CSXT Related Transactions will not produce significant changes to the existing patterns or types of service on the Eastern Line or the Burkeville-Montgomery segment. The same number of local and overhead trains currently operated by MNBR and CSXT over the Eastern Line and the Burkeville-Montgomery segment will be operated by CSXT post-transaction. The CSXT Transaction will simply replace the MNBR trains with CSXT trains. Additionally, the same trains currently operated by AGR over the Linden-Myrtlewood segment will continue to be operated by AGR post-transaction.

The principal aggregate effect of the CSXT Transaction and the CPKC Transaction will be to create a new direct interchange point between CSXT and CPKC at the point where the Western Line and Eastern Line connect in Myrtlewood, eliminating the need for an intermediary

carrier (MNBR) that currently moves overhead traffic between CPKC in Meridian, MS and CSXT in Montgomery, AL. CSXT does not project that the CSXT Transactions and the CPKC Transactions occurring together would result in any additional trains over the relevant line segments, although the GTMs and yard activity would increase, as detailed below.

CSXT has determined that the CSXT Transaction and CSXT Related Transactions, standing alone, or considered with the CPKC Transaction and CPKC Related Transactions, will not result in any substantial impacts to downstream moves on the CSXT network east of Montgomery. The projected interchange diversions discussed below are already largely routed through Montgomery and will continue to be routed through Montgomery in the post-transaction scenarios. The new traffic that CSXT projects to occur as a result of the CSXT and CPKC Transactions would move further east from Montgomery onto different high-density CSXT routes in existing train service and would not significantly impact GTMs or yard activity further east in the CSXT network.

A. 2022 Base and “No Action” Forecast Scenario

CSXT used 2022 as the base year for its analysis. In order to develop baseline 2022 traffic volumes on the Eastern Line and the Burkeville-Montgomery segment, CSXT analyzed internal data. CSXT also reviewed traffic data provided by MNBR and AGR. CSXT reviewed 2022 data related to train counts, GTMs, and rail yard activity.

CSXT examined 2022 train counts on the Eastern Line and the Burkeville-Montgomery segment. MNBR operates two road trains over the Eastern Line and the Burkeville-Montgomery segment, and AGR operates one road train over the Eastern Line. CSXT operates one local train per day on the Burkeville-Montgomery segment.

In a “no action” scenario where none of the transactions discussed in this Application occur, CSXT projects that there will be modest GTM and yard activity increases on the Eastern

Line and the Burkeville-Montgomery segment as compared to the 2022 base figures, but no additional train counts. First, CSXT understands that certain new local traffic has developed on the line during 2023 that was not reflected in the 2022 base figures. Second, CSXT expects that certain traffic that is interchanged between CSXT and CPKC at New Orleans would be routed over the Montgomery-Meridian line. (*See V.S. Adams 5-9.*) Certain of that New Orleans interchange traffic has already been diverted to this line segment, and CSXT expects that additional traffic will be diverted in the coming years, regardless of whether the transactions occur. The 2022 base and “no action” scenarios are summarized in Tables 1 and 2:

Table 1: 2022 Base and “No Action” GTMs

	Montgomery to Burkeville	Burkville to Whitehall	Whitehall to Selma	Selma to Linden	Linden to Myrtlewood
2022 Base GTMs	43,964,026	23,621,136	49,965,802	99,676,069	33,021,965
2027 (Year 3) No Action	55,041,268	31,870,146	67,328,004	121,834,051	37,011,269
2029 (Year 5) No Action	55,041,268	31,870,146	67,328,004	121,834,051	37,011,269

Table 2: 2022 Base and “No Action” Rail Yard Activity (average carloads/day)

	S and N Yard Chester Yard (Montgomery)	Selma Yard (Selma)	Myrtlewood Yard (Myrtlewood)
2022 Base Activity	789	9	72
2027 (Year 3) No Action	813	9	96
2029 (Year 5) No Action	813	9	96

B. Scenario #1: “Proposed Transaction” Scenario with Only the CSXT Transaction and CSXT Related Transactions

CSXT expects that the CSXT Transaction and CSXT Related Transactions (standing alone) would cause no change to the “no action” scenarios described above. The CSXT Transaction and the CSXT Related Transactions will not produce significant changes to the existing patterns or types of service on the Eastern Line or the Burkeville-Montgomery segment. Upon consummation of the CSXT Transaction, CSXT will resume operating the Eastern Line, replacing MNBR. The same number of trains currently operated by MNBR and CSXT over the Eastern Line and the Burkeville-Montgomery segment will be operated by CSXT post-transaction. CSXT would interchange with MNBR and AGR at Myrtlewood, and CSXT does not project that any of the traffic increases discussed below in connection with the CPKC Transaction would occur.

C. Scenario #2: Projected Impacts of the CSXT Transaction, the CPKC Transaction, and All Related Transactions

CSXT has projected impacts of all transactions (the CSXT Transaction, the CPKC Transaction, and all related transactions) on rail traffic and rail yard activity, assuming that all of the transactions occur at the same time. The principal aggregate effect of the CSXT Transaction and the CPKC Transaction will be to create a new direct interchange point between CSXT and CPKC at the point where the Western Line and Eastern Line connect in Myrtlewood, eliminating the need for an intermediary carrier (MNBR) that currently moves overhead traffic between CPKC in Meridian, MS and CSXT in Montgomery, AL. The additional traffic that CSXT expects will move over these line segments as a result of all of the transactions is described in detail in the Verified Statement of Arthur Adams, Jr.

CSXT projects that there will be GTM and yard activity increases on the Eastern Line and the Burkeville-Montgomery segment as compared to the “no action” figures, but no

additional train counts. The “no action” and “CSXT+CPKC” scenarios are summarized in Tables 3 and 4 below:

Table 3: “No Action” and “CSXT+CPKC” GTMs

	Montgomery to Burkville	Burkville to Whitehall	Whitehall to Selma	Selma to Linden	Linden to Myrtlewood
2027 (Year 3) No Action	55,041,268	31,870,146	67,328,004	121,834,051	37,011,269
2027 (Year 3) CSXT+CPKC	96,874,008	63,022,187	132,895,632	273,440,648	64,306,390
% Change (Year 3)	76%	98%	97%	124%	74%
2029 (Year 5) No Action	55,041,268	31,870,146	67,328,004	121,834,051	37,011,269
2029 (Year 5) CSXT+CPKC	113,234,731	75,205,704	158,539,035	332,733,766	74,981,472
% Change (Year 5)	106%	136%	135%	173%	103%

Table 4: “No Action” and “CSXT+CPKC” Rail Yard Activity (average carloads/day)

	S and N Yard Chester Yard (Montgomery)	Selma Yard (Selma)	Myrtlewood Yard (Myrtlewood)
2027 (Year 3) No Action	813	9	96
2027 (Year 3) CSXT+CPKC	933	9	192
% Change (Year 3)	15%	0%	100%
2029 (Year 5) No Action	813	9	96
2029 (Year 5) CSXT+CPKC	952	9	235
% Change (Year 5)	17%	0%	145%

III. Infrastructure Improvement Work

Mr. Adams explains that the CSXT Transaction will result in improved infrastructure on the Eastern Line. First, CSXT expects to enter into an agreement with MNBR that, prior to

consummation of CSXT's acquisition of the Assets comprising the line, MNBR will conduct maintenance work and make certain improvements to the Eastern Line, including adding automated equipment identification (AEI) readers and defect detectors. This MNBR work will upgrade the Eastern Line to CSXT's operating and safety standards, enabling CSXT to begin operating the line soon after the Board grants CSXT's Application. The work will also benefit MNBR's operation of the Eastern Line, which will continue into 2024.

Second, after the CSXT Transaction is consummated, CSXT plans to make significant additional investments in the track, roadbed, bridges, warning devices, and wayside detectors on the Eastern Line. These investments will result in increasing safety, reliability, and speeds. Based on an initial review of the facilities, CSXT plans to upgrade the rail, replace ties, and improve track ballast and track surface. CSXT has identified a number of bridges that require substantial upgrades. Additionally, CSXT intends to improve interchange tracks at Myrtlewood Yard to accommodate efficient interchange at that yard post-transaction. These facility upgrades will harden the existing infrastructure and improve the rail facilities, strengthening the line and reducing the risk of derailments. CSXT's plan is to update a substantial portion of the Eastern Line to Federal Railroad Administration (FRA) Class II standards within five years. This will result in more reliable and faster transit times that will allow rail users on the Eastern Line to grow their own business as the economy expands.

IV. The CSXT Transaction and the CSXT Related Transactions will have no adverse environmental effects, and instead will have substantial benefits for the environment.

The CSXT Transaction and the CSXT Related Transactions will have no adverse impacts on the environment. Any increases in rail traffic and rail yard activity following consummation of the CSXT Transaction will have minimal environmental effects. Rail operations are not expected to change in ways that could negatively impact the environment. The same number of

trains currently operated by MNBR and CSXT over the Eastern Line and the Burkeville-Montgomery segment will be operated by CSXT post-transaction. The CSXT Transaction will simply replace the MNBR trains with CSXT trains. Additionally, the same trains currently operated by AGR over the Linden-Myrtlewood segment will continue to be operated by AGR post-transaction.

CSXT expects that the CSXT Transaction and the CSXT Related Transactions will actually produce environmental benefits. As described above, CSXT plans to make significant investments in the infrastructure of the Eastern Line. The planned infrastructure improvements will result in increasing safety, reliability, and speeds and will remove truck traffic from congested highways, which will benefit the environment.

There will also be no adverse impacts on the environment if the CSXT Transaction and the CPKC Transaction are both implemented. Improved efficiency of operations will result from infrastructure improvements, and more efficient operations will produce environmental benefits. More reliable rail service on the line through Myrtlewood will give the rail carriers a stronger position to compete with trucks, eventually leading to the diversion of truck traffic to more environmentally favorable rail transportation. While traffic volumes will increase, as described above, the increases are small in absolute volume terms, the number of trains will not change, and the relative increase percentages should be seen in light of the very low volume of traffic moving on the line today. Given the low traffic volume today, an increase exceeding 100% should not necessarily be seen as indicating the possibility of environmental impacts.

Additionally, CSXT has made great strides in reducing our emissions and fuel consumption. In 2022, we moved 1,000 gross ton-miles of freight on less than one gallon of fuel, making CSXT as much as four times more fuel efficient than trucks on average. From 2014

through 2022, we improved fuel efficiency by 13.1 percent, with a corresponding reduction in emissions intensity. CSXT has received multiple recognitions for its environmental efforts, including, most recently, being named to the Forbes Net Zero Leaders list of the top 100 companies focused on sustainability, and being recognized by USA TODAY as one of America's Climate Leaders.

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 15

Minor Transaction Operating Plan

OPERATING PLAN - MINOR

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1. Introduction and Summary

This Operating Plan is submitted in support of the application (the “Application”) of CSX Transportation, Inc. (“CSXT”), seeking Surface Transportation Board (“STB” or “Board”) approval for CSXT to reacquire from Meridian & Bigbee Railroad, L.L.C. (“MNBR”) the assets comprising a line of railroad (the “Eastern Line”) that runs entirely in the State of Alabama between the cities of Burkeville (also known as Burkville) and Myrtlewood in Lowndes, Dallas, Wilcox and Marengo Counties, and for CSXT to resume operating that line in place of MNBR (the “CSXT Transaction”) after the lease of the real property underlying the Eastern Line expires. The Eastern Line is described further below.

In addition to the CSXT Transaction, the following transactions related to the CSXT Transaction (the “CSXT Related Transactions”) are contemplated: 1) MNBR will terminate its overhead trackage rights over the Burkeville-Montgomery CSXT line; and 2) Alabama & Gulf Coast Railway LLC (“AGR”) will obtain from CSXT overhead trackage and operating rights over the segment of the Eastern Line extending between Linden and Myrtlewood. The CSXT Related Transactions are described fully in the Application.

Additionally, CSXT understands that Canadian Pacific Railway Company or its subsidiaries (“CPKC”) intend to acquire from MNBR and operate the line between Myrtlewood, AL and Meridian, MS (the “Western Line”), which connects to the Eastern Line, and that MNBR will retain local and limited overhead trackage rights over the Western Line (the “CPKC Transaction”).¹ The CSXT Transaction and the CPKC Transaction are not contingent upon each other, in that the CSXT Transaction could proceed regardless of whether the CPKC Transaction is consummated.

¹ In addition to the CPKC Transaction, certain transactions related to the CPKC Transaction are contemplated (the “CPKC Related Transactions”). The CPKC Related Transactions are described fully in the Application.

In accordance with the Board's rules, this Operating Plan describes the current operations of the Eastern Line and the connecting Burkeville-Montgomery segment owned by CSXT (both of which are single-track railroad lines), and "[d]iscuss[es] any significant changes in patterns or types of service" that CSXT currently expects to occur on the Eastern Line and the Burkeville-Montgomery segment post-transaction. 49 C.F.R. § 1180.8(c).

Given the unique posture of these transactions, CSXT has created two post-transaction operating plan scenarios: First, CSXT has created an operating plan assuming that the CPKC Transaction and the CPKC Related Transactions do not occur. Second, CSXT has created an operating plan assuming that all of the transactions occur at or about the same time. In each scenario, the operating plan includes information regarding railroad operations on the Eastern Line, the Burkeville-Montgomery segment, and the connection with the Western Line, as affected by the CSXT Transaction and the CSXT Related Transactions. Because the CSXT Transaction does not involve the Western Line, the operating plans do not discuss operations on the Western Line.

The Verified Statement of Arthur Adams, Jr., CSXT's Senior Vice President of Sales and Marketing, attached to the Application, describes the anticipated impacts of the CSXT Transaction on traffic flows, along with anticipated infrastructure investments in the Eastern Line. The proposed operating and traffic pattern changes described in this Operating Plan are based on the conclusions and growth forecasts set forth in the Adams Verified Statement.

The Eastern Line consists of two segments totaling approximately 93.68 miles: (1) extending from milepost XXB 189.00 near Burkeville, AL to milepost XXB 222.00 at Western Junction, a distance of about 30.22 miles; and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, AL, a distance of about 63.46 miles. The Eastern Line includes Selma Yard, at Selma, AL, and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead,

Tyler, Benton, Whitehall, Burkeville. Maps of the Eastern Line and the region are attached as Exhibit 1 to the Application.

MNBR also owns and operates the Western Line, which extends approximately 51 miles roughly east-west between the connection with the Eastern Line at Myrtlewood, AL on the eastern end, and a connection with a line owned by CPKC at Meridian, MS on the western end. Additionally, AGR owns and operates a rail line that runs generally north-south and connects with and crosses the Eastern Line at Linden.

Upon the expiration of the 2003 Land Lease Agreement between CSXT and M & B Railroad, L.L.C. ("M&B," which was renamed MNBR), and approval of the Application by the Board, the following proposed CSXT Transaction will occur: CSXT will repurchase the assets comprising the Eastern Line from MNBR, CSXT will resume operating local and overhead service on the Eastern Line much as MNBR does today, and MNBR will stop operating on the Eastern Line. With the CSXT Transaction, all of the ownership interests in the real property and assets comprising the Eastern Line will once again be consolidated in CSXT's hands. CSXT will operate under CSXT operational rules on the Eastern Line.

The CSXT Transaction is an end-to-end acquisition that will reextend the CSXT system from Burkeville, AL to Myrtlewood, AL. The CSXT Transaction and the CSXT Related Transactions will not produce significant changes to the existing patterns or types of service on the Eastern Line or the Burkeville-Montgomery segment. Instead, CSXT will introduce efficiencies to the operations over the Eastern Line and the Burkeville-Montgomery segment. The CSXT Transaction will not result in any changes to downstream CSXT operations further east from Montgomery.

This Operating Plan explains the operations over the Eastern Line and the Burkeville-Montgomery segment that will occur under two post-transaction operating plan scenarios. As described fully below, under both scenarios, the following CSXT trains will operate over the Eastern Line and the Burkeville-

Montgomery segment: a westbound road train, an eastbound road train, a local Selma train, and a local Montgomery train. The following AGR trains will continue to operate over the Eastern Line between Linden and Myrtlewood: a westbound road train and an eastbound road train.

The same number of trains operate on the Eastern Line and the Burkeville-Montgomery segment today. The CSXT Transaction will simply replace the MNBR trains with CSXT trains. If both the CSXT Transaction and the CPKC Transaction occur, the principal aggregate effect will be to create a new direct interchange point between CSXT and CPKC where the Western Line and Eastern Line connect in Myrtlewood, eliminating the need for an intermediary carrier (MNBR) that currently moves overhead traffic between CPKC in Meridian, MS and CSXT in Montgomery, AL.

The CSXT Transaction will result in operating economies, improved service, and increased reliability. Operating economies are described throughout the Application and this Operating Plan. While CSXT expects that rail operations over the Eastern Line will become much more efficient as a result of the CSXT Transaction, CSXT is not able to quantify the benefits in terms of cost savings or increases in net revenue at this time. 49 C.F.R. § 1180.8(c)(3).

The CSXT Transaction will also bring highly consistent rail operations to rail users, which will enhance competition and provide substantial public benefits to the region. If both the CSXT Transaction and the CPKC Transaction occur, the creation of the Myrtlewood gateway will result in more efficient movement of existing CSXT-CPKC interchange traffic between the Eastern U.S. (CSXT) and the Western U.S. and Mexico (CPKC). Elimination of an intermediate carrier will result in fewer handlings, which will provide faster and more consistent service to and from the Eastern Line. In addition, the efficiencies of single line service for customers on the Eastern Line accessing the CSXT network will result in lower costs, which coupled with the better service, will improve customer competitiveness. The public benefits

that will result from the CSXT Transaction are discussed further in the Adams Verified Statement.

2. Data Sources and Methodologies

In order to develop baseline 2022 traffic volumes on the Eastern Line and the Burkeville-Montgomery segment, CSXT analyzed internal data. CSXT also reviewed traffic data provided by MNBR and AGR. CSXT used these 2022 baseline data and forecasted growth that would occur on the relevant line segments from 2024 through 2029 (five years following expected consummation of the transaction). CSXT's traffic projections are discussed in detail in the Adams Verified Statement. Information on traffic level density on lines proposed for joint operations is set out in Exhibit 4 to the Application. 49 C.F.R. § 1180.8(c)(1).

3. Pre-Transaction Operations

3.1. Train Operations

Set forth below is a summary of current train operations on the Eastern Line and the Burkeville-Montgomery segment.

3.1.1. Summary of MNBR and AGR Train Operations on the Eastern Line and the Burkeville-Montgomery Segment

The method of operation on the Eastern Line varies between Track Warrant Control and 6.13 Yard Limits. The maximum authorized speed is 25 mph, with certain speed restrictions. The maximum car weight is 286,000 pounds, with certain exceptions.

Road Trains:

MNBR currently operates two road trains over the Eastern Line and the Burkeville-Montgomery segment, and AGR operates one road train over the Eastern Line. The MNBR and AGR road trains are described further below.

- **L125:** MNBR operates L125 three days a week, eastbound from Selma into Montgomery. L125 sets out at Selma and picks up cars in Selma and Whitehall, as needed, then proceeds to Montgomery where it interchanges cars with CSXT at CSXT's S and N Yard (also referred to as North Yard) or Chester Yard. L125 picks up westbound cars from CSXT at Montgomery and turns around, leaving Montgomery as L126. The average train size is 75-100 cars.
- **L126:** MNBR operates L126 three days a week, westbound to Myrtlewood. L126 leaves Montgomery from CSXT's S and N Yard or Chester Yard with westbound cars from CSXT and returns to Selma, setting out cars at Whitehall and Selma, as needed. At Selma, L126 changes crews and goes west, delivering cars to the Myrtlewood interchange. At Myrtlewood, L126 turns around with eastbound cars and ties up in Selma. The average train size is 75-100 cars.
- **AGR:** AGR owns and operates a rail line that runs generally north-south and connects with and crosses the Eastern Line at Linden. AGR operates five days a week on the Eastern Line, entering the line at Linden and moving west to Myrtlewood. At Myrtlewood, AGR drops off two blocks of cars bound for interchange with CSXT and MNBR/CPKC. AGR then picks up cars left by MNBR for interchange with AGR. AGR then operates east to Linden and back onto the AGR line.² The average size of the blocks combined is usually 50-60 cars with an approximately 80/20 split between the CSXT and MNBR/CPKC blocks.

Local Traffic:

In addition to the road train operations described above, MNBR performs customer and local switching in Selma, as needed. MNBR also hands off cars at

² At Myrtlewood, a local MNBR crew out of Naheola picks up the MNBR/CPKC block and brings it to Naheola for further movement west.

Selma with Norfolk Southern Railway Company (“NSR”). MNBR handles these local operations with a local crew, usually sharing power with MNBR road trains.

3.1.2. Summary of CSXT Train Operations on Lines Affected by the CSXT Transaction

Regarding the Burkeville-Montgomery segment, CSXT currently operates local job L676 five days a week, starting from S and N Yard in Montgomery, delivering cars to {{ [REDACTED] }} at Burkeville. L676 then turns around and returns to S and N Yard. The average train size is 11-12 cars.

3.2. Interchanges

3.2.1. Interchanges on the Eastern Line and the Burkeville-Montgomery Segment

MNBR interchanges with the following partners over the Eastern Line and the Burkeville-Montgomery segment: CSXT, NSR, and AGR. A list of MNBR’s interchange partners and locations on the Eastern Line and the Burkeville-Montgomery segment is provided in Table 2 below.

Montgomery. MNBR interchanges with CSXT at Montgomery. In 2003, CSXT granted M&B operating rights over CSXT between Burkeville and Montgomery to effect interchange at Montgomery. Today, MNBR delivers and pulls interline and CPKC haulage traffic from CSXT’s S and N Yard at Montgomery, or, as an alternative overflow option, CSXT’s Chester Yard at Montgomery.

Selma. MNBR interchanges with NSR at Selma. MNBR inherited this interchange as part of the 2003 transaction between CSXT and M&B.

Myrtlewood. AGR interchanges with MNBR at Myrtlewood. AGR currently has incidental operating rights over MNBR for purposes of interchange. The AGR Myrtlewood interchange operations are discussed fully above. A local MNBR crew originating on the Western Line at Naheola picks up the MNBR/CPKC block at Myrtlewood and brings it to Naheola for further movement west.

3.2.2. Interchanges on Connecting Lines Affected by the Transactions

CSXT currently interchanges traffic with CPKC at gateways in New Orleans, LA, Brookwood, AL, and East St. Louis, MO. The CSXT-CPKC interchanged traffic then moves east. As discussed in the Adams Verified Statement, some of the traffic from the New Orleans gateway has already moved to the Meridian/Montgomery gateways, and CSXT expects approximately one quarter of the existing New Orleans interchange volumes to move to the Meridian/Montgomery gateways, regardless of whether the transactions occur. (V.S. Adams 5-7.) If the CSXT Transaction and CPKC Transaction occur, CSXT projects that a portion of this traffic will be diverted to Myrtlewood as a result of the transactions.

New Orleans, LA. CSXT interchanges with CPKC at New Orleans via an intermediate switch on the New Orleans Public Belt Railroad (“NOPB”). NOPB performs switching and intermediate switching between CPKC’s subsidiary Kansas City Southern (“KCS”) and CSXT. CPKC hands off cars to NOPB in Cottonwood Yard. NOPB moves directly into CSXT’s Gentilly Yard, or drops cars at NOPB’s France Yard, and CSXT pulls into Gentilly.

Brookwood, AL. CSXT interchanges with CPKC at Brookwood, which is performed by CPKC’s agent, Alabama Southern Railroad (“ABS”). ABS hauls traffic for CPKC into a CSXT yard in Brookwood for interchange.

East St. Louis, MO. CSXT interchanges with CPKC at East St. Louis. CPKC pulls traffic in and out of CSXT’s Rose Lake Yard in East St. Louis.

3.3. Yards & Terminals

Selma Yard. The Eastern Line includes Selma Yard, at Selma, AL. As part of the 2003 transaction, M&B leased CSXT’s office building and radio tower at Selma Yard. Today, MNBR performs interchange of traffic with NSR at Selma.

Montgomery Yards. The Burkeville-Montgomery segment includes CSXT’s S and N Yard, at Montgomery, AL, where CSXT and MNBR typically interchange traffic. MNBR delivers and pulls interline and CPKC haulage traffic from CSXT’s S

and N Yard, or, as an alternative overflow option, CSXT’s Chester Yard at Montgomery.

Myrtlewood Yard. Current interchange operations at Myrtlewood are described fully above.

A list of interchange yards and facilities on the Eastern Line, the Burkeville-Montgomery segment and the connection with the Western Line is provided in Table 3 below.

Table 3: Interchange Yards & Facilities on the Eastern Line and the Burkeville-Montgomery Segment

<u>Yard</u>	<u>Location</u>
Myrtlewood Yard	Myrtlewood, AL
Selma Yard	Selma, AL
S and N Yard / Chester Yard	Montgomery, AL

3.4. Commuter and Other Passenger Rail Service

There are currently no commuter or other passenger services operated over the Eastern Line or the Burkeville-Montgomery segment.

4. Post-Transaction Operations

Given the unique posture of the transactions, CSXT has created two post-transaction operating plan scenarios: First, CSXT has created an operating plan assuming that the CPKC Transaction and the CPKC Related Transactions do not occur. Second, CSXT has created an operating plan assuming that all of the transactions occur at or about the same time. Each operating plan is described in detail below.

4.1. Operating Plan #1: CSXT Transaction and the CSXT Related Transactions Standing Alone

4.1.1. Changes to Train Operations

Upon consummation of the CSXT Transaction, CSXT will resume operating the single-track Eastern Line, replacing MNBR. The same number of trains currently operated by MNBR and CSXT over the Eastern Line and the Burkeville-Montgomery segment will be operated by CSXT post-transaction. CSXT will operate

under CSXT's operational rules on the Eastern Line. AGR will continue its daily operation over the Eastern Line between Linden and Myrtlewood (approximately 10 miles) via newly granted overhead trackage and operating rights, to allow AGR to interchange with CSXT and MNBR at Myrtlewood. Local customers will continue to be efficiently served – by MNBR on the Western Line and by CSXT on the Eastern Line. Local traffic on those lines and traffic from AGR will be interchanged between the relevant carriers at a new interchange point of Myrtlewood, AL. The CSXT Transaction will not result in any changes to downstream moves further east from Montgomery.

CSXT currently anticipates the following post-transaction operations over the Eastern Line and the Burkeville-Montgomery segment:

4.1.1.1. CSXT Train Operations

CSXT anticipates that the following CSXT trains will operate over the Eastern Line and the Burkeville-Montgomery segment: a westbound road train, an eastbound road train, a local Selma train, and a local Montgomery train.

CSXT Westbound Road Train. A CSXT westbound road train will start at S and N Yard at Montgomery seven days a week with blocks of cars. The westbound road train will set off a block at Selma, then continue west to Myrtlewood without picking up any traffic. The block set off at Selma will include traffic that arrived in S and N Yard via the CSXT eastbound train from Myrtlewood, discussed below, along with other traffic. The block set off at Selma will be further handled by the CSXT local train discussed below, for local moves and NSR interchange.

At Myrtlewood, the westbound road train will set off the AGR and MNBR blocks at the existing 3,700-foot siding (“Siding A”). The westbound road train will then move with the CPKC block to the mainline or the existing 8,200-foot siding (“Siding B”). A local MNBR crew originating on the Western Line at Naheola will pick up the MNBR and CPKC blocks at Myrtlewood and bring it to Naheola for further movement west. All of the carriers will coordinate to allow traffic to be handled in an alternative manner to effectuate a safe and efficient interchange. As

described in the Adams Verified Statement, CSXT intends to improve interchange tracks at Myrtlewood Yard to accommodate efficient interchange movements.

CSXT Eastbound Road Train. A CSXT eastbound road train will start in Myrtlewood, seven days a week. First, the eastbound road train will move to Siding A to pick up cars dropped off by AGR and MNBR for CSXT interchange. Second, the eastbound road train will move to the mainline and head eastbound. Third, the eastbound road train will stop at Selma to pick up outbound CSXT traffic heading to Montgomery.³ Finally, the eastbound road train will continue east to S and N Yard and end there.

CSXT Local Selma Train. A CSXT local train will start and end in Selma Yard five days a week. The local train will interchange cars with NSR and serve all Selma customers. The local train will also maintain a block of cars to be picked up by the CSXT eastbound road train bound for Montgomery.

CSXT Local Montgomery Train. A CSXT local train will start and end in S and N Yard in Montgomery five days a week. This job currently exists today. The local train will continue to serve customers in Whitehall and Burkeville, much as it does today.

4.1.1.2. AGR Train Operations

CSXT anticipates that the following AGR trains will operate over the Eastern Line much as they do today: a westbound road train and an eastbound road train.

AGR Westbound Road Train. An AGR westbound road train will enter the CSXT line at Linden and move west. The road train will drop off cars for interchange with CSXT and MNBR at Siding A at Myrtlewood, for later pick-up by CSXT and MNBR.

³ Traffic interchanged to CSXT at Myrtlewood ultimately bound for Selma will first be brought via the CSXT eastbound road train to S and N Yard for classification, and then back to Selma via the CSXT westbound road train.

AGR Eastbound Road Train. An AGR eastbound road train will start at Myrtlewood with cars interchanged to AGR from CSXT and MNBR at Siding A, then head east. The AGR road train will then continue east to Linden, where it will exit the CSXT line onto the AGR line.

AGR Operating and Trackage Rights. For traffic that AGR takes to Myrtlewood ultimately heading eastbound for interchange with CSXT, AGR will use operating rights for interchange over CSXT between Linden and Myrtlewood. For traffic that AGR takes to Myrtlewood heading westbound for interchange with MNBR, AGR will use trackage rights over CSXT between Linden and Myrtlewood. AGR will use trackage rights and operating rights over MNBR for interchange over the MNBR-owned portion of Siding A at Myrtlewood. The MNBR and CSXT interchange traffic will be handled in the same AGR train.

4.1.2. Changes to Interchanges

Following consummation of the CSXT Transaction, CSXT will interchange traffic with MNBR and AGR at the point where the Western Line and Eastern Line connect in Myrtlewood, AL. The specific post-transaction operations at the Myrtlewood interchange are discussed above. The CSXT Transaction will not result in any changes to downstream CSXT operations further east from Montgomery.

4.1.3. Changes to Yards & Terminals

Following consummation of the CSXT Transaction, CSXT will have a single yard job at Selma, AL to perform switching and interchange of traffic five days per week to and from NSR, as well as any local customer work. Traffic to Selma will be delivered by the CSXT westbound road train, which will start at S and N Yard at Montgomery. Traffic originating or received from interchange in Selma will move on the eastbound road train to Montgomery. CSXT will use existing GWI-leased facilities in Selma.

4.1.4. Impacts on Commuter and Other Passenger Rail Service

Currently, there are no commuter or other passenger rail services operated over the Eastern Line. No adverse impacts on commuter or other passenger services are anticipated. The CSXT Transaction will not result in any impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis. 49 C.F.R. § 1180.8(c)(2).

4.1.5. Anticipated Abandonments and Discontinuances

CSXT does not anticipate abandoning any rail lines because of the CSXT Transaction. 49 C.F.R. § 1180.8(c)(4). As noted above, in addition to the CSXT Transaction, certain CSXT Related Transactions are contemplated, including the following discontinuance:

The MNBR Discontinuance. Upon consummation of the CSXT Transaction, MNBR will terminate its overhead trackage rights over the Burkeville-Montgomery CSXT line because MNBR will interchange with CSXT at Myrtlewood rather than Montgomery. As discussed in the Application, MNBR has concurrently filed a notice of exemption seeking Board authority to discontinue its Burkeville-Montgomery overhead trackage rights. Docket No. AB 1335X, *Meridian & Bigbee R.R., L.L.C.—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, AL.*

4.2. Operating Plan #2: All Transactions Implemented Simultaneously

The second operating plan assumes that the CSXT Transaction, the CPKC Transaction, and all related transactions occur at or about the same time. The Adams Verified Statement fully discusses CSXT's traffic projections under the post-transaction scenario where the CSXT Transaction and the CPKC Transaction are each implemented.

4.2.1. Changes to Train Operations

Upon consummation of the CSXT Transaction and the CPKC Transaction, CSXT will resume operating the Eastern Line, replacing MNBR. The same number of trains currently operated by MNBR and CSXT over the Eastern Line and the

Burkeville-Montgomery segment will be operated by CSXT post-transaction. CSXT will operate under CSXT's operational rules on the Eastern Line. AGR will continue its daily operation over the Eastern Line between Linden and Myrtlewood (approximately 10 miles) via newly granted overhead trackage and operating rights, to allow AGR to interchange with CSXT, CPKC, and MNBR at Myrtlewood. Local customers will continue to be efficiently served – by MNBR on the Western Line and by CSXT on the Eastern Line. Local traffic on those lines and traffic from AGR will be interchanged between the relevant carriers at a new interchange point of Myrtlewood, AL, as discussed further below.

The transactions will not result in any changes to downstream moves further east from Montgomery. Currently, certain CSXT-CPKC traffic is interchanged in less efficient gateways (including New Orleans, LA, Brookwood, AL, and East St. Louis, MO) and then moves to Montgomery. If the CSXT Transaction and CPKC Transaction occur, CSXT projects that a portion of this traffic will be diverted to Myrtlewood as a result of the transactions. Upon consummation of the transactions, this traffic will be interchanged at Myrtlewood and move to Montgomery, and then move downstream through the CSXT network as it does today.

CSXT currently anticipates the following post-transaction operations over the Eastern Line and the Burkeville-Montgomery segment:

4.2.1.1. CSXT Train Operations

CSXT anticipates that the following CSXT trains will operate over the Eastern Line and the Burkeville-Montgomery segment: a westbound road train, an eastbound road train, a local Selma train, and a local Montgomery train.

CSXT Westbound Road Train. A CSXT westbound road train will start at S and N Yard at Montgomery seven days a week, with four blocks of cars: Selma, AGR, MNBR, CPKC. The westbound road train will set off a block at Selma, then continue west to Myrtlewood without picking up any traffic. The block set off at Selma will include traffic that arrived in S and N Yard via the CSXT eastbound train from Myrtlewood, discussed below, along with other traffic. The block set off at

Selma will be further handled by the CSXT local train discussed below, for local moves and NSR interchange.

At Myrtlewood, the westbound road train will set off the AGR and MNBR blocks at the 3,700-foot siding (Siding A). The westbound road train will then move with the CPKC block to the mainline or the existing 8,200-foot siding (Siding B). A local MNBR crew originating on the Western Line at Naheola will pick up the MNBR block at Myrtlewood and bring it to Naheola for further movement west. A CPKC crew will then step on the westbound road train and move it further west under a run-through power agreement. All of the carriers will coordinate to allow traffic to be handled in an alternative manner to effectuate a safe and efficient interchange. As described in the Adams Verified Statement, CSXT intends to improve interchange tracks at Myrtlewood Yard to accommodate efficient interchange movements.

CSXT Eastbound Road Train. A CSXT eastbound road train will start in Myrtlewood, seven days a week. A CSXT crew, under a run-through power agreement, will step onto the CPKC eastbound road train that arrives on the mainline or Siding B at Myrtlewood, with traffic from CPKC and MNBR bound for CSXT interchange. First, the eastbound road train will move to the track where MNBR and AGR dropped off cars for CSXT interchange in order to pick up those cars . Second, the eastbound road train will move to the mainline and head eastbound. Third, the eastbound road train will stop at Selma to pick up outbound CSXT traffic heading to Montgomery.⁴ Finally, the eastbound road train will continue east to S and N Yard and end there.

CSXT Local Selma Train. A CSXT local train will start and end in Selma Yard five days a week. The local train will interchange cars with NSR and serve all

⁴ Traffic interchanged to CSXT at Myrtlewood ultimately bound for Selma will first be brought via the CSXT eastbound road train to S and N Yard for classification, and then back to Selma via the CSXT westbound road train.

Selma customers. The local train will also maintain a block of cars to be picked up by the CSXT eastbound road train bound for Montgomery.

CSXT Local Montgomery Train. A CSXT local train will start and end in S and N Yard five days a week. This job currently exists today. The local train will continue to serve customers in Whitehall and Burkeville, much as it does today.

4.2.1.2. AGR Train Operations

CSXT anticipates that the following AGR trains will operate over the Eastern Line much as they do today: a westbound road train and an eastbound road train.

AGR Westbound Road Train. An AGR westbound road train will enter the CSXT line at Linden and move west. The road train will drop off cars for interchange with CSXT and MNBR in at Siding A at Myrtlewood, for later pick-up by CSXT and MNBR.

AGR Eastbound Road Train. An AGR eastbound road train will start at Myrtlewood with cars interchanged to AGR from CSXT and MNBR at Siding A, then head east. The AGR road train will then continue east to Linden, where it will exit the CSXT line onto the AGR line.

AGR Trackage Rights and Operating Rights. For traffic that AGR takes to Myrtlewood ultimately heading eastbound for interchange with CSXT, AGR will use operating rights for interchange over CSXT between Linden and Myrtlewood. For traffic that AGR takes to Myrtlewood heading westbound for interchange with MNBR, AGR will use trackage rights over CSXT between Linden and Myrtlewood. AGR will use trackage rights or operating rights over CPKC for interchange over the CPKC-owned portion of Siding A at Myrtlewood.

4.2.2. Changes to Interchanges

The principal aggregate effect of the CSXT Transaction and the CPKC Transaction will be to create a new direct interchange point between CSXT and CPKC at the point where the Western Line and Eastern Line connect in Myrtlewood, AL. The new Myrtlewood interchange will eliminate the need for an intermediary carrier (MNBR) that currently moves overhead traffic between CPKC

in Meridian, MS and CSXT in Montgomery, AL. The creation of the CSXT-CPKC Myrtlewood gateway will result in more efficient movement of CSXT-CPKC interchange traffic between the Eastern U.S. (CSXT) and the Western U.S. and Mexico (CPKC). The specific post-transaction operations at the Myrtlewood interchange are discussed above. The transactions will not result in any changes to downstream CSXT operations further east from Montgomery.

4.2.3. Changes to Yards & Terminals

Following consummation of the transactions, CSXT will have a single yard job at Selma, AL to perform switching and interchange of traffic five days per week to and from NSR, as well as any local customer work. Traffic to Selma will be delivered by the CSXT westbound road train, which will start at S and N Yard at Montgomery. Traffic originating or received from interchange will move on the eastbound road train to Montgomery. CSXT will use existing GWI-leased facilities in Selma.

4.2.4. Impacts on Commuter and Other Passenger Rail Service

Currently, there are no commuter or other passenger rail services operated over the Eastern Line. No adverse impacts on commuter or other passenger services are anticipated. The CSXT Transaction will not result in any impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis. 49 C.F.R. § 1180.8(c)(2).

4.2.5. Anticipated Abandonments and Discontinuances

CSXT does not anticipate abandoning any rail lines as a result of the CSXT Transaction and the CPKC Transaction. 49 C.F.R. § 1180.8(c)(4). As noted above, certain CSXT Related Transactions and CPKC Related Transactions are contemplated, including the following discontinuances:

The CSXT Discontinuance. CSXT obtained overhead trackage rights over the Western Line in 1996. *See CSX Transp., Inc.—Trackage Rights Exemption—Meridian & Bigbee R.R. Co.*, FD 32962 (STB served June 6, 1996). CSXT has not moved overhead traffic over the line in the last two years. Upon consummation of

the CSXT Transaction and the CPKC Transaction, CSXT intends to terminate its overhead trackage rights on the Western Line. As discussed in the Application, CSXT has concurrently filed a notice of exemption seeking Board authority for this discontinuance. Docket No. AB-55 (Sub-No. 814X), *CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo and Choctaw Counties, AL and Lauderdale County, MS.*

The MNBR Discontinuance. Upon consummation of the CSXT Transaction, MNBR will terminate its overhead trackage rights over the Burkeville-Montgomery CSXT line because MNBR will interchange with CSXT at Myrtlewood rather than Montgomery. As discussed in the Application, MNBR has concurrently filed a notice of exemption seeking Board authority to discontinue its Burkeville-Montgomery overhead trackage rights. Docket No. AB 1335X, *Meridian & Bigbee R.R., L.L.C.—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, AL.*

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 22-A

Verified Statement of Arthur Adams, Jr.

VERIFIED STATEMENT OF ARTHUR ADAMS, JR.

My name is Arthur Adams, Jr. I am Senior Vice President, Sales & Marketing for CSX Transportation, Inc. In this statement, I will refer to CSX Corporation and CSX Transportation, Inc. collectively as “CSXT.”

My role as Senior Vice President, Sales & Marketing includes responsibility for leading the company’s entire Merchandise business portfolio, which includes Agriculture and Food, Chemicals, Fertilizers, Paper and Forest, Metals, and Minerals markets. I also oversee CSXT’s Business Development team and TRANSFLO Terminal Services, Inc. Prior to being named to my current role in January 2022, I was Senior Vice President of Sales, responsible for leading the company’s Merchandise sales teams as well as Customer Solutions. I also served previously as Head of Marketing Services, where I led the transformation of customer service operations and e-solutions enhancements.

I have been involved in CSXT’s proposed acquisition and operation of a rail line (the “Eastern Line”) owned by Meridian & Bigbee Railroad, L.L.C. (“MNBR”), extending approximately 93.68 miles between Burkeville, AL and Myrtlewood, AL (the “CSXT Transaction”).¹ Specifically, I have led a team responsible for analysis, negotiation, outreach, coordination, and planning related to the CSXT Transaction.

I am submitting this Verified Statement in support of CSXT’s Application for authorization from the Surface Transportation Board (“Board” or “STB”) to implement the CSXT Transaction. In this Verified Statement, I explain the reasons that CSXT seeks to resume operating and reacquire the assets of the Eastern Line, identify the expected impact of the CSXT Transaction on traffic flows, and describe the public benefits that will be realized by CSXT’s

¹ In addition to the CSXT Transaction, certain transactions related to the CSXT Transaction (the “CSXT Related Transactions”) are contemplated. The CSXT Related Transactions are described fully in the Application.

acquisition and operation of the Eastern Line. CSXT's economic expert, Dr. David Reishus, explains in a separate verified statement that the CSXT Transaction will have no adverse impact on competition and indeed will enhance competition. Because the CSXT Transaction will result in significant public benefits and enhance competition in the region, I urge the Board to authorize and approve the CSXT Transaction.

1. The CSXT Transaction involves the simple re-acquisition of the Eastern Line upon termination of an existing lease.

Prior to 2003, CSXT and its predecessors owned and operated the Eastern Line. In 2003, CSXT sold to M & B Railroad, L.L.C. ("M&B," which was renamed MNBR)² the tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures affixed to the Eastern Line (the "Assets") and leased to M&B for a 20-year term the real property underlying the Eastern Line (the "Real Property"). MNBR has been operating the Eastern Line for the past 20 years pursuant to this lease and under the STB authority that was granted in 2003. *See M & B R.R., L.L.C.—Acquis. & Oper. Exemption—CSX Transp., Inc.*, FD 34423 (STB served Nov. 20, 2003). The 20-year lease will expire this year and the lease provides that on expiration of the lease, CSXT has the right to repurchase the Assets and resume operations on the Eastern Line. CSXT now seeks authority from the STB to exercise this right.

CSXT believes that it will be in a better position to maintain and improve the Eastern Line than the current operator. The Eastern Line has historically been a low volume rail line, and the limited traffic volumes have not justified significant investment in improving the facilities. There are a number of speed restrictions on the Eastern Line due to track and bridge conditions.

² Genesee & Wyoming Inc. ("GWI") acquired control of M&B in 2005 and later changed the name of M&B to MNBR. *See Genesee & Wyo. Inc.—Control Exemption—Rail Partners, L.P.*, FD 34708 (STB served June 24, 2005).

However, recently there has been some traffic growth on the line. In particular, CSXT has worked with a shipper whose traffic currently moves through New Orleans to move that traffic onto the Eastern Line. I will describe this development in further detail below. In addition, CSXT has worked with MNBR to attract new business from a shipper located in Selma, AL. These new movements over the Eastern Line indicate that there is potential for further growth. There are also plans for the construction of new automotive plants east of Montgomery that offer the prospect of traffic growth over the Eastern Line.

CSXT believes that its financial strength will give it the ability to improve the infrastructure on the Eastern Line to provide faster and more reliable service to these and future shippers using the Eastern Line. CSXT will also be able to bring the Eastern Line up to CSXT's safety standards. Re-acquisition of the Eastern Line will extend CSXT's existing rail network, providing redundancy and flexibility in CSXT's southern lines, and support CSXT's future growth.

There is also the potential for the creation of a more efficient east-west Class I rail connection between CSXT and Canadian Pacific Railway Company or its subsidiaries ("CPKC"). The Eastern Line connects at its western end at Myrtlewood, AL with another rail line owned by MNBR that extends west from Myrtlewood, AL to Meridian, MS (the "Western Line"), where the Western Line connects with the CPKC rail network. Maps of the Eastern Line and the region are attached as Exhibit 1 to the Application. MNBR currently operates over both the Eastern Line and the Western Line. CSXT understands that CPKC intends to purchase from MNBR and operate overhead service on the Western Line, with MNBR retaining trackage rights to provide local service on the Western Line (the "CPKC Transaction").

The only Board authority sought by CSXT through the Application is for the proposed CSXT Transaction: CSXT's reacquisition of the Assets from MNBR and CSXT's resumed operation of the Eastern Line. The CSXT Transaction could proceed regardless of whether the CPKC Transaction occurs. The CSXT Transaction and the CPKC Transaction are two separate transactions governed by different agreements.

If CPKC acquires the Western Line and the STB approves the CSXT Transaction, there will be a direct connection between CSXT and CPKC at Myrtlewood. A substantial amount of traffic moves today on MNBR over the Eastern Line and Western Line in overhead service between Meridian (the western end of the Western Line) and Burkeville (the eastern end of the Eastern Line). MNBR has incidental trackage rights to move traffic between Burkeville and Montgomery, where the traffic is handled by CSXT. If the STB approves CPKC's acquisition of the Western Line and the STB approves the CSXT Transaction, there will no longer be an intermediate carrier handling this overhead traffic. Traffic can be directly interchanged between CSXT and CPKC at Myrtlewood, creating a new Class I freight corridor.

The elimination of the intermediate carrier – MNBR – connecting CSXT and CPKC today will improve the efficiency of movements going between Meridian (on CPKC) and Montgomery (on CSXT). A direct interchange will reduce necessary handling of traffic, reducing costs and streamlining the movement. CSXT expects that the improved efficiency of the overhead movements will generate additional traffic growth. To facilitate and promote that growth, CSXT expects to improve the infrastructure on the Eastern Line and bring the Eastern Line up to CSXT's safety standards. A stronger, safer and more efficient Eastern Line will create a reliable transportation alternative for traffic moving between CSXT's eastern network and locations on CPKC in the west, thereby enhancing competition and expanding rail transportation.

2. The CSXT Transaction, combined with the CPKC Transaction, will promote traffic growth on the Eastern Line.

As I noted above, the Eastern Line is a low volume line. Most of the traffic on the Eastern Line today is traffic that is interchanged between MNBR and Alabama & Gulf Coast Railway LLC (“AGR”). AGR is a north-south rail line that intersects with the Eastern Line at Linden, AL. Today, AGR brings traffic to the MNBR by accessing the Eastern Line at Linden. It then moves to Myrtlewood to interchange the traffic to MNBR. MNBR then moves the traffic received from AGR at Myrtlewood to CSXT at Montgomery or further west to interchange with CPKC at Meridian. The CSXT Transaction is not expected to make any significant changes in this interchange traffic with AGR.

The total number of revenue carloads handled in 2022 by MNBR on the Eastern Line was {{ [REDACTED] }}. Of this total, the number of carloads received from AGR in interchange at Myrtlewood in 2022 was {{ [REDACTED] }}. Thus, the interchange with AGR accounts for {{ [REDACTED] }} of the total current volume of MNBR traffic on the Eastern Line.

The second largest set of traffic handled by MNBR on the Eastern Line is overhead traffic moving between Meridian and Montgomery. Of the {{ [REDACTED] }} total carloads on the Eastern Line, overhead traffic in 2022 accounted for {{ [REDACTED] }} carloads. It is primarily in this area of overhead traffic between CPKC and CSXT that CSXT expects to see traffic growth.

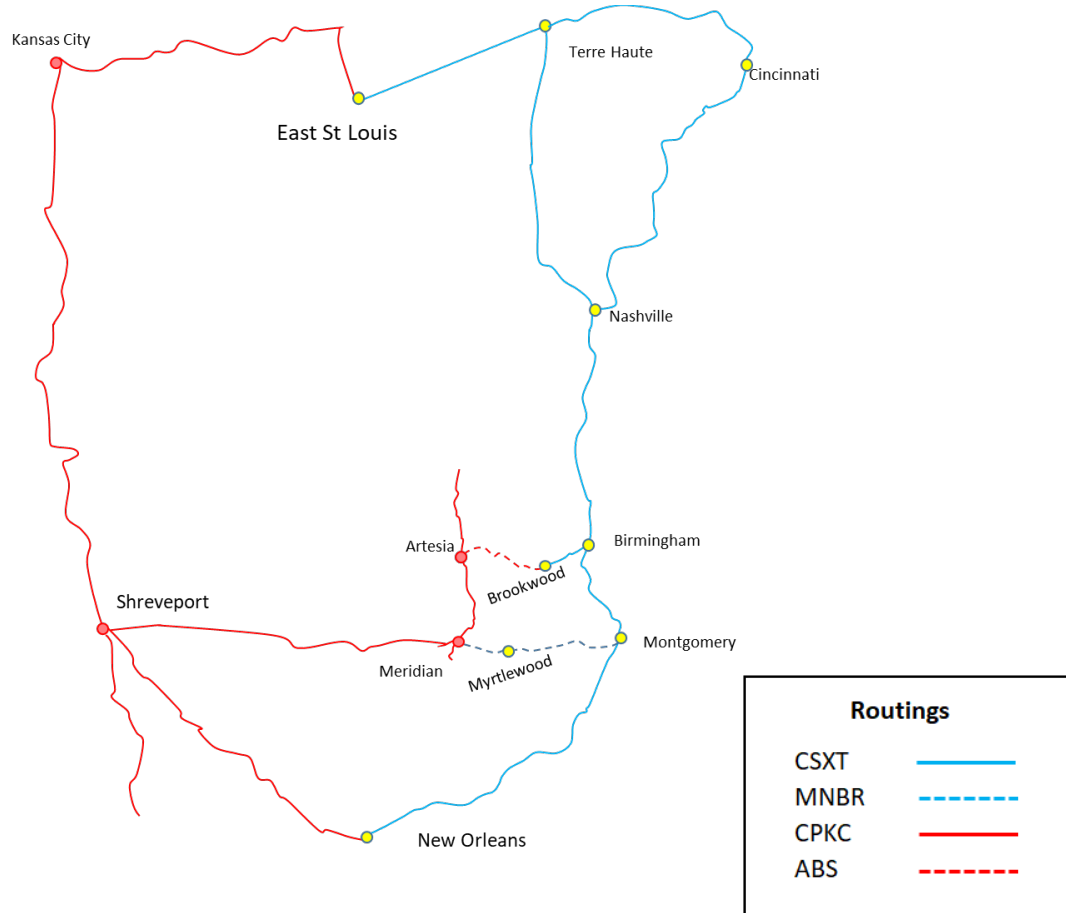
CSXT currently interchanges with CPKC at East St. Louis, MO, Brookwood, AL (performed by CPKC’s agent, Alabama Southern Railroad (“ABS”)), Montgomery, AL (through the haulage arrangement discussed above), and New Orleans, LA (through an intermediate switch on the New Orleans Public Belt Railroad). CSXT and the predecessor to CPKC recently concluded that some of the traffic interchanged in New Orleans could be routed over a shorter route on the Montgomery-Meridian line even without significant upgrades to the existing Eastern

Line. CSXT worked with customers that ship paper to divert a significant volume of overhead traffic to the Montgomery-Meridian route. That traffic is reflected in the overhead carload figure referenced above.

Based on the success of this diversion of traffic, CSXT expects that additional traffic will be diverted from the route through New Orleans to the Montgomery-Meridian line even with MNBR continuing to operate the overhead service. CSXT estimates that about {{ [REDACTED] }} carloads per year would eventually divert from New Orleans. The improved infrastructure on the Eastern Line that will result from the CSXT Transaction will support this diversion of traffic.

However, if CPKC also acquires the Western Line and upgrades it, the substantially improved efficiency of the line between Meridian and Montgomery, resulting from the elimination of an intermediate carrier and the improvement in facilities on both the Eastern Line and Western Line, is expected to significantly increase the amount of traffic that can be diverted to the Eastern Line in overhead traffic. CSXT expects that additional traffic will be diverted from New Orleans to the shorter Meridian-Montgomery route beyond the traffic diversions discussed above. Movement of this traffic over a stronger and more efficient route through Myrtlewood will provide shippers with a transportation option that is more reliable and potentially faster. In addition, if CPKC acquires the Western Line and the STB approves the CSXT Transaction, additional diversion of traffic can be expected from current interchanges between CSXT and CPKC at East St. Louis, MO and Brookwood, AL to the more efficient and less circuitous Meridian-Montgomery route. If a direct connection is created between CSXT and CPKC at Myrtlewood, CSXT estimates that the total volume of diverted traffic from New Orleans, East St. Louis and Brookwood to the Meridian-Montgomery line to be approximately {{ [REDACTED] }} carloads per year within the next five years.

The interchange diversions are shown in the map below. As seen on the map, the distance between Montgomery and Shreveport through Myrtlewood is considerably shorter than the route through New Orleans, over 150 miles shorter. Similarly, the route from Cincinnati to Shreveport through Myrtlewood is shorter than the route through East St. Louis, also about 150 miles shorter.



In addition, if CPKC acquires the Western Line and the STB approves the CSXT Transaction, CSXT expects there to be additional sources of growth in overhead service on the Eastern Line beyond the diversions discussed above. First, the existence of an efficient Meridian-Montgomery line, with a direct connection between CPKC and CSXT, will give shippers in Mexico and the Southwest on CPKC improved access to CSXT’s network in the east. Second, new automobile plants are planned to be built in the east with access to CSXT’s network. An

efficient Meridian-Montgomery line will give these automotive facilities improved access to destinations west of Meridian. It is difficult to estimate the total traffic that will be available from these new facilities when they become operational, but the existence of a reliable, Class I freight corridor through Myrtlewood will unlock opportunities to support these shippers with reliable rail service. Altogether, CSXT estimates that if the CPKC Transaction is authorized along with the CSXT Transaction, total overhead traffic on the Eastern Line and Western Line will increase by about {{ [REDACTED] }} carloads per year within the next five years. And once a reliable Class I freight corridor exists through Myrtlewood, CSXT would expect that corridor to support further long-term growth.

I have converted the carload assumptions that are described above if both the CSXT and CPKC Transactions occur into gross-ton-mile and yard activity estimates. The growth assumptions are set out in Tables 1 and 2 below.

Table 1: “No Action” and “CSXT+CPKC” GTMs

	Montgomery to Burkville	Burkville to Whitehall	Whitehall to Selma	Selma to Linden	Linden to Myrtlewood
2027 (Year 3) No Action	55,041,268	31,870,146	67,328,004	121,834,051	37,011,269
2027 (Year 3) CSXT+CPKC	96,874,008	63,022,187	132,895,632	273,440,648	64,306,390
% Change (Year 3)	76%	98%	97%	124%	74%
2029 (Year 5) No Action	55,041,268	31,870,146	67,328,004	121,834,051	37,011,269
2029 (Year 5) CSXT+CPKC	113,234,731	75,205,704	158,539,035	332,733,766	74,981,472
% Change (Year 5)	106%	136%	135%	173%	103%

Table 2: “No Action” and “CSXT+CPKC” Rail Yard Activity (average carloads/day)

	S and N Yard Chester Yard (Montgomery)	Selma Yard (Selma)	Myrtlewood Yard (Myrtlewood)
2027 (Year 3) No Action	813	9	96
2027 (Year 3) CSXT+CPKC	933	9	192
% Change (Year 3)	15%	0%	100%
2029 (Year 5) No Action	813	9	96
2029 (Year 5) CSXT+CPKC	952	9	235
% Change (Year 5)	17%	0%	145%

3. The CSXT Transaction will produce substantial public benefits.

CSXT’s acquisition and operation of the Eastern Line will result in significant benefits for rail users and all stakeholders. The CSXT Transaction will bring improved service, improved infrastructure, and new market opportunities to the region. Shippers will benefit from CSXT’s superior customer service, greater schedule reliability, and greater transparency. These benefits will result whether or not the CPKC Transaction occurs.

As I explained above, the 20-year lease of the Eastern Line to MNBR is expiring and CSXT intends to take back the Assets and resume operations on the Eastern Line. Shippers using the Eastern Line will benefit from CSXT’s best-in-class rail service and proven operational effectiveness. CSXT is a leader among U.S. railroads in service, having reached new milestones for velocity, dwell and service reliability since the implementation of scheduled railroading in 2017. CSXT’s train velocity for the first half of 2023 averaged 18.04 mph, and terminal dwell averaged 19.17 hours. Intermodal trip plan performance for 2022 was 90% percent, and carload performance was 64%.

In the past few years, CSXT has increasingly emphasized operating consistently and reliably, with careful data measurement and management to ensure accountability. Shippers using the Eastern Line will benefit from these operating improvements. For example, CSXT's trip-plan system, which focuses on individual cars rather than trains, has allowed us to improve transit times and reliability. We have implemented changes in traditional switching and yard management practices to achieve ambitious schedules, and these changes have reduced variability in our rail operations and increased reliability for our customers. CSXT has developed data systems that carefully measure operating performance and have allowed us to streamline the handling of shipments. All of these changes have been focused on improving customer service, and they have succeeded in making CSXT a more resilient and reliable provider of rail services. The CSXT Transaction will allow us to bring these service benefits to rail users on the Eastern Line.

Along with other shippers on CSXT's network, shippers on the Eastern Line will be able to better manage their own logistics costs. CSXT has developed a sophisticated but user-friendly, secure, web-based tool, ShipCSX, that allows customers to monitor their freight movements across the network and better control inventory and manage their supply chain. This and other tools we have created provide our customers with valuable ways to better manage their logistics.

The CSXT Transaction will also allow CSXT to bring our safety-oriented operating philosophy to users on the Eastern Line. CSXT is a leader in the rail industry in safety metrics relating to train accidents, personal injuries and personal injury frequency. In 2020, CSXT set a new company record for the fewest number of Federal Railroad Administration ("FRA") reportable personal injuries, had the lowest injury rate (0.81) for all Class I railroads. In 2022, CSXT reduced our FRA-reportable train accident rate while keeping our FRA-reportable injury

index at the same level as the previous year, even as we added 2,000 new train-and-engine employees to our workforce.

The CSXT Transaction will also result in improved infrastructure on the Eastern Line. The current state of the rail infrastructure on the Eastern Line inhibits the ability to grow rail traffic and fully realize the potential for expanding access for CSXT's shippers to western markets and for shippers in the west to reach CSXT's eastern locations.

First, CSXT expects to enter into an agreement with MNBR that, prior to consummation of CSXT's acquisition of the Assets comprising the line, MNBR will conduct maintenance work and make certain improvements to the Eastern Line, including adding automated equipment identification (AEI) readers and defect detectors. This MNBR work will upgrade the Eastern Line to CSXT's operating and safety standards, enabling CSXT to begin operating the line soon after the Board grants CSXT's Application. The work will also benefit MNBR's operation of the Eastern Line, which will continue into 2024.

Second, after the CSXT Transaction is consummated, CSXT plans to make significant additional investments in the track, roadbed, bridges, warning devices, and wayside detectors on the Eastern Line. These investments will result in increasing safety, reliability, and speeds. Based on an initial review of the facilities, CSXT plans to upgrade the rail, replace ties, and improve track ballast and track surface. CSXT has identified a number of bridges that require substantial upgrades. Additionally, CSXT intends to improve interchange tracks at Myrtlewood Yard to accommodate efficient interchange at that yard post-transaction. These facility upgrades will harden the existing infrastructure and improve the rail facilities, strengthening the line and reducing the risk of derailments. CSXT's plan is to update a substantial portion of the Eastern Line to FRA Class II standards within five years. This will result in more reliable and faster

transit times that will allow rail users on the Eastern Line to grow their own business as the economy expands.

CSXT's reacquisition of the Eastern Line, with or without the CPKC Transaction, would allow CSXT to extend its network. Ownership of the Eastern Line and direct control of operations on that Line will allow CSXT to unlock value for CSXT shippers. CSXT's reacquisition of the Eastern Line will support traffic growth that is already being seen. It will also create redundancy in the southern portion of CSXT's network that will give CSXT a greater ability to respond to unexpected network problems. In addition, reacquisition of the Eastern Line will support CSXT's ongoing efforts to attract new industrial development to our rail network and will give CSXT's shippers expanded transportation options, leading to further rail traffic growth.

If CPKC also acquires the Western Line, the CSXT Transaction will create a more efficient rail corridor linking CPKC's western lines with CSXT's eastern lines that will provide a base for further economic development in the area and bring new market opportunities to shippers on the Eastern Line. As I explained above, CPKC's acquisition of the Western Line and CSXT's re-acquisition of the Eastern Line will create a new direct interchange point between CSXT and CPKC at Myrtlewood, thereby eliminating the need for an intermediary carrier (MNBR) that currently moves overhead traffic between CPKC in Meridian and CSXT in Montgomery. I explained above that CSXT expects that the creation of a new, direct connection between CPKC and CSXT will promote substantial traffic growth. Traffic can be diverted from longer and less efficient interchange operations at New Orleans, East St. Louis and Brookwood to an efficient route through Myrtlewood. New traffic on CPKC resulting from its recent merger will have efficient transportation options for access to eastern locations on CSXT's network. And

automotive facilities that are planned to be constructed in the South will have improved access to western destinations over the more efficient route through Myrtlewood.

4. The CSXT Transaction will have no adverse competitive effects.

In a separate verified statement, CSXT’s economic expert, Dr. David Reishus, addresses the competitive effects of the CSXT Transaction (standing alone) and the CSXT and CPKC Transactions together. As explained by Dr. Reishus, the re-acquisition of the Eastern Line, previously owned and operated by CSXT, will have no adverse competitive effects. For the vast majority of traffic, the CSXT Transaction will have no competitive effects at all. The CSXT Transaction will simply shift the location of the interchange between MNBR and CSXT west to Myrtlewood. Shippers will lose no competitive options they have today. There are no 2-to-1 shippers. Traffic interchanged between AGR and MNBR currently moves to CSXT and with the CSXT Transaction will continue to move to CSXT, although more directly through a direct interconnection at Myrtlewood. Other traffic moving on AGR will have the same competitive options they have today. Overhead traffic moving between CPKC at Meridian and CSXT at Montgomery will have the same competitive alternatives they have today.

In addition, most local traffic on MNBR today moves to CSXT. These movements will be unaffected by the CSXT Transaction. However, local shippers today have the ability to move on MNBR to interchange with Norfolk Southern Railway Company (“NSR”) at Selma, where the Eastern Line connects with an NSR line. MNBR’s shippers do not currently use this option for any notable volume of traffic. Nevertheless, CSXT is committing to keeping the gateway with NSR at Selma open on commercially reasonable terms, and is asking the STB to impose this commitment as a condition to approval of the CSXT Transaction. One MNBR shipper, {{ [REDACTED] }}, currently does move traffic on MNBR to NSR at Selma. {{ [REDACTED] }} {{ [REDACTED] }}

moves traffic west to Selma, connecting with NSR, and east to Montgomery, connecting to CSXT. CSXT will commit to {{ [REDACTED] }} that CSXT will continue to provide service to NSR at Selma at current rates, subject to reasonable cost escalation, for five years. Beyond that time, CSXT is committing to maintain an open gateway at Selma for movement to NSR on commercially reasonable terms, as noted above.

5. The CSXT Transaction will have no adverse environmental effects.

CSXT anticipates that the CSXT Transaction will have no adverse environmental effects. Rail operations are not expected to change in ways that could negatively impact the environment. Even if CPKC acquires the Western Line and the traffic increases described above result from the creation of a more efficient rail corridor between Meridian and Montgomery, the environmental effect will be minimal. Even with the expected traffic increases, CSXT does not expect the number of trains operating on the Eastern Line in the next five years to increase. Improvements in train speeds will counteract any effect of longer train lengths.

In fact, we expect that the CSXT Transaction will actually produce environmental benefits. CSXT has made great strides in reducing our emissions and fuel consumption. In 2022, we moved 1,000 gross ton-miles of freight on less than one gallon of fuel, making CSXT as much as four times more fuel efficient than trucks on average. From 2014 through 2022, we improved fuel efficiency by 13.1 percent, with a corresponding reduction in emissions intensity. CSXT has received multiple recognitions for its environmental efforts, including, most recently, being named to the Forbes Net Zero Leaders list of the top 100 companies focused on sustainability, and being recognized by USA TODAY as one of America's Climate Leaders.

The CSXT Transaction will bring CSXT's experience in achieving environmental benefits to the Eastern Line. As discussed above, we plan to improve the infrastructure of the Eastern Line, which will improve rail safety and the integrity of the local environment.

Additionally, improved service and operations will remove truck traffic from congested highways, which will benefit the environment.

6. The CSXT Transaction will not have any adverse impact on commuter and passenger service.

There are currently no commuter or other passenger services operated over the Eastern Line. The CSXT Transaction will have no negative impact on commuter or other passenger services.

7. The CSXT Transaction will not have any adverse impact on labor.

Similarly, CSXT does not expect the CSXT Transaction to have any adverse impact on labor. CSXT will be employing more people on the Eastern Line as a result of the CSXT Transaction. The positive effect of the CSXT Transaction on employees is explained in more detail in the Application and Labor Impact Statement attached as Appendix 1 to the Application.

CSXT is requesting that the employee protective conditions established in *New York Dock Ry.—Control—Brooklyn Eastern Dist. Term.*, 360 I.C.C. 60 (1979), as modified by *Wilmington Term. R.R., Inc.—Pur. & Lease—CSX Transp., Inc.*, 6 I.C.C.2d 799 (1990), *aff'd sub nom. Railway Labor Execs. Ass'n v. ICC*, 930 F.2d 511 (6th Cir. 1991), be imposed on the CSXT Transaction to address any adverse impact to current employees

* * * * *

CSXT's acquisition and operation of the Eastern Line will result in significant benefits for rail users and other stakeholders. The CSXT Transaction will enhance competition and improve rail service throughout the region. The CSXT Transaction has public support, as evidenced by the support letters from the Alabama Department of Commerce and the Selma & Dallas County Economic Development Authority attached as Exhibit 23 to the Application. I urge the Board to authorize and approve CSXT's acquisition and operation of the Eastern Line.

VERIFICATION

I, Arthur Adams, Jr., declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on October 6th, 2023.

Arthur Adams Jr.

Arthur Adams, Jr.

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 22-B

Verified Statement of Dr. David Reishus

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN AND BIGBEE RAILROAD LLC

**Verified Statement of
David Reishus, Ph.D.**

October 6, 2023

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I. INTRODUCTION AND SUMMARY

A. WITNESS INTRODUCTION

1. My name is David Reishus. I am currently an Executive Vice President at Compass Lexecon in Boston, Massachusetts. Compass Lexecon is an economics consulting firm with offices in various cities throughout North America, South America, and Europe. I earned my M.A. and Ph.D. degrees in economics from Harvard University.

2. Over the past 25 years, I have worked extensively on the organization of markets, competition, and firm behavior in a variety of industries. I have testified before various state, Federal and international bodies on competition issues, primarily in the energy and transportation industries. I have provided testimony multiple times before the Surface Transportation Board (the “STB”) on matters involving competition in the railroad industry.

3. I have analyzed competition issues associated with railroad merger transactions and associated conditions on those mergers. I participated in the analysis of the competitive effects and associated merger conditions for the major railroad consolidations in the 1990s involving Union Pacific/Southern Pacific, Burlington Northern/Santa Fe, and the Conrail transaction. In addition, since then I have testified before (or made presentations to) the responsible government authorities regarding competitive issues arising from proposed transactions involving railroads in the U.S., Canada, and Mexico. My full vita is attached.

4. The opinions expressed herein are my own, and do not necessarily represent those of my employers or their other employees.

B. ASSIGNMENT

5. I have been asked by CSX Transportation, Inc. (“CSXT”) to analyze the competitive consequences of CSXT of reacquiring from Meridian & Bigbee Railroad, L.L.C. (“MNBR”) the assets comprising a line of railroad (the “Eastern Line”) between Burkeville and Myrtlewood, AL and for CSXT to resume operating that line in place of MNBR (the “CSXT Transaction”).

6. In addition, I have been asked to analyze how the competitive effects of the CSXT Transaction would change if Canadian Pacific Kansas City Limited or its subsidiaries (“CPKC”) acquires MNBR line between Meridian, MS and Myrtlewood (the “Western Line”) and CPKC provides overhead operations on that line (the “CPKC Transaction”).

C. SUMMARY OF CONCLUSIONS

7. The CSXT Transaction is a procompetitive, end-to-end transaction which creates no competitive harm to shippers or other carriers. There are no shipper locations jointly served by MNBR and CSXT and no shipper location will lose access to a competing rail carrier as a result of the transaction.¹

8. There is no basis in this instance for finding any risk of vertical competitive harm. Overhead traffic with CSXT accounts for {{[REDACTED]}} of the Eastern Line carloads for which vertical foreclosure by CSXT is nonsensical. There is no basis for finding that any traffic would be harmed by CSXT engaging in foreclosure post-transaction; regardless CSXT commits to maintain the existing gateway at Selma with Norfolk Southern Railway Company (“NSR”) open on commercially reasonable terms.² Moreover, CSXT commits to provide {{[REDACTED]}}, which currently accounts for {{[REDACTED]}} of the Eastern Line shipper traffic using the Selma interchange, MNBR’s existing rate for movements to NSR at Selma, subject to reasonable cost escalation, for five years.³ CSXT also describes its intended improvements on the Eastern Line that will increase the competitive position of shippers located on the line as well as overhead traffic between CPKC and CSXT relative to existing interchanges.

9. The CPKC Transaction only increases the competitive benefits of the CSXT Transaction and poses no risk of competitive harms to Eastern Line shippers. The CPKC Transaction, in combination with the CSXT Transaction, creates a more efficient, direct interchange between CSXT and CPKC for traffic moving between eastern and southeastern locations served by CSXT and locations in the south and southwest, including Mexico, served by CPKC. The improved efficiency of the interchange, made possible by eliminating an intermediate carrier, MNBR, and through facility upgrades, will enhance competition and allow rail traffic to grow over the improved line. As explained by Mr. Adams, CSXT anticipates substantial additional CPKC-CSXT traffic using the Montgomery-Meridian route rather than other less efficient and or more-congested interchanges located at New Orleans, East St. Louis and Brookwood, AL.

¹ For purpose of this statement, unless clear by context, “shipper” will include both originating and receiving locations.

² Verified Statement of Arthur Adams, Jr. (“Adams VS”) at 13.

³ Adams VS at 14.

II. DESCRIPTION OF THE RAILROADS AND THE CSXT TRANSACTION

A. RAILROADS

10. CSXT is a large Class I railway that operates east of the Mississippi River in 26 U.S. states as well as in Ontario and Quebec in Canada and with approximately 20,000 route miles.⁴ The western edges of CSXT network extend at or near East St. Louis, IL, Memphis, TN, and New Orleans, LA. CSXT's network currently extends roughly 14 miles west from Montgomery, AL to Burkeville where it connects with MNBR.

11. MNBR operates a roughly 145 miles long railway running east-west between Burkeville where it connects with CSXT, and Meridian, MS, connecting with CPKC.⁵ MNBR consists of two portions: 1) the approximately 94 miles long Eastern Line between Burkeville and Myrtlewood, and 2) the approximately 51 miles long Western Line between Myrtlewood and Meridian.

12. In addition to the end points, MNBR interconnects with two other railroads; both interconnections are physically located on the Eastern Line. NSR interconnects with MNBR at Selma. Alabama & Gulf Coast Railway, L.L.C. ("AGR"), a Class II carrier that runs north-south, interconnects at Linden, AL⁶. (AGR has incidental operating rights over MNBR between Linden and Myrtlewood where the physical interchange occurs and connects with both the Eastern and Western Lines.)⁷ Maps of the Eastern Line and the region are attached as Exhibit 1 to the Application.

B. TRANSACTIONS

13. Prior to 2003, CSXT owned and operated the Eastern Line. In 2003, through a combination of sales, leases, and granting of trackage rights by CSXT, MNBR came to operate the Eastern

⁴ CSX Corporation, SEC Form 10-K for the period ending December 31, 2022, at 3.

⁵ MNBR has incidental operating rights between Burkeville and CSXT's Montgomery Yard to facilitate physical interchange. CSX Transportation, Inc. -Acquisition and Operation- Rail Line of Meridian & Bigbee Railroad, L.L.C. ("Application"), FD 36727, September 29, 2023, at.3.

⁶ AGR and MNBR are both controlled by Genesee & Wyoming Inc. ("G&W").

⁷ Application, Exhibit-15, Minor Transaction Operating Plan, at 3.

Line.⁸ The CSXT Transaction entails CSXT, upon expiration of the leases, repurchasing the relevant assets and resuming operation of the Eastern Line. As explained in the Application, there are certain related transactions that effectuate these changes.⁹ First, MNBR will terminate its trackage rights over CSXT’s Burkeville-Montgomery line. Second, AGR will obtain from CSXT overhead trackage and operating rights between Linden and Myrtlewood to permit interchange with CSXT and MNBR. For purposes of my competitive analysis, I assume these transactions occur coincident with the CSXT Transaction.

14. While not part of this application, the CPKC Transaction, if implemented, will alter the rail network in a manner potentially relevant for analyzing the CSXT Transaction.¹⁰ The CPKC Transaction entails CPKC acquiring and operating the Western Line with MNBR retaining local and limited trackage rights over the line. As a result of the transaction, CPKC will move overhead traffic on the Western Line between Meridian and Myrtlewood for interchange with CSXT while MNBR will continue to provide local service to shippers located on the Western Line.¹¹ I will separately consider the competitive implications for the CSXT Transaction if the CPKC Transaction is also implemented.

C. MNBR EASTERN LINE TRAFFIC

15. MNBR is a low-volume carrier of predominantly overhead, carload traffic. In 2022, MNBR identified {{[REDACTED]}} revenue carloads that utilized the Eastern Line.¹² Figure 1 summarize MNBR Eastern Line traffic in 2022. The largest single component of traffic,

⁸ See M&B Railroad, L.L.C.—Acquis. & Oper. Exemption—CSX Transp., Inc., FD 34423 (STB served Nov. 20, 2003) for a more detailed explanation of the original transaction. At the time of the transaction, the railroad was called M&B Railroad, L.L.C. G&W acquired control of this railroad in 2005 and later changed the name to MNBR. Adams VS at 2.

⁹ Application, at 3-4.

¹⁰ See Application, at 5-8, for a discussion of the CPKC Transaction and its relationship to the CSXT Transaction.

¹¹ If the CPKC Transaction is implemented, then AGR will interchange with MNBR at Myrtlewood with MNBR functioning as an overhead carrier for further interchange with CPKC. Application, at 6.

¹² This amount excludes {{[REDACTED]}} cars for which MNBR serves as an overhead carrier between AGR and CPKC on the Western Line. AGR uses operating rights between Linden and Myrtlewood on the Eastern Line to deliver and receive cars with MNBR at Myrtlewood. These cars then travel over the Western Line for interchange between MNBR and CPKC at Meridian. With the CSXT Transaction and the related AGR trackage rights, these cars will interchange directly with MNBR on the Western Line. CSXT would receive payment from AGR for use of the trackage rights but would have no other commercial relationship with respect to this traffic.

All MNBR traffic data is based on revenue carload counts in 2022. Total includes carloads moved under existing CPKC haulage rights for overhead traffic between Meridian and Montgomery. Post transaction, Meridian-Montgomery traffic would move over the Eastern Line in CSXT’s account.

accounting for {{█}} carloads is overhead traffic between AGR and CSXT. In addition, overhead haulage between CPKC and CSXT provided by MNBR accounts for another {{█}} carloads, raising MNBR overhead traffic share crossing the Eastern Line to {{█}} of the total carloads.

Figure 1
MNBR Eastern Line Traffic
Carloads by Traffic Category, 2022¹

Traffic Type	Revenue Carloads	Share of Total Traffic
Overhead Traffic to/from CSXT	{{█}}	{{█}}
To/from AGR	{{█}}	{{█}}
To/from CPKC (Haulage)	{{█}}	{{█}}
To/from Western Line	{{█}}	{{█}}
<i>Other Overhead Traffic: Western Line to/from NS</i>	{{█}}	{{█}}
Local & Switched (NS Selma) Traffic	{{█}}	{{█}}
To/from CSXT ²	{{█}}	{{█}}
To/from NS	{{█}}	{{█}}
To/from AGR	{{█}}	{{█}}
To/from Western Line, Meridian (CPKC & NS) ³	{{█}}	{{█}}
Total Traffic	{{█}}	100.0%

Source: MNBR Traffic Data

Notes: 1) This amount excludes {{█}} cars that AGR interchanges with MNBR at Myrtlewood for further interchange with CPKC. AGR uses operating rights on the Eastern Line between Linden and Myrtlewood for this interchange. Post-Transaction, AGR will continue to use rights on the Eastern Line to make this interchange.

2) May include some amount of NS-CSXT overhead traffic.

3) Includes {{█}} carloads of local traffic.

16. Treating the Eastern Line that CSXT is proposing to reacquire as its own railroad, then overhead traffic with CSXT accounts for {{█}} of the total carloads. Over {{█}} carloads originate or terminates on the Western Line and is interchanged with CSXT at the eastern end of MNBR. This traffic is overhead traffic with respect to the Eastern Line and is effectively overhead traffic for purposes of analyzing the competitive effects of the CSXT Transaction.¹³

17. Traffic that is attributable to shippers and receivers located on the Eastern Line is relatively small. In 2022, only {{█}} carloads, less than {{█}} cars a day, originated or terminated with shippers located on the Eastern Line. (Shippers accessed through switching with NSR at Selma are treated as local to the Eastern Line for these calculations.) Traffic to or from shippers

¹³ Less than {{█}} carloads at Western Line locations are interchanged with NSR at Selma.

on the Eastern Line represented less than a {{[REDACTED]}} of the Eastern Line carloads. For the traffic involving local shippers, over {{[REDACTED]}} is interchanged with CSXT, while most of the remainder is exchanged with NSR at Selma.

18. Traffic on the Eastern Line consists of manifest carload traffic.¹⁴ Roughly {{[REDACTED]}} of the traffic carried consists of pulp, paper, and associated inputs (e.g., wood chips and scrap paper). Another {{[REDACTED]}} consists of gravel, while the remainder mainly consists of a mix chemical and mineral products. The Eastern Line carried fewer than {{[REDACTED]}} carloads of coal, and {{[REDACTED]}} intermodal or automotive traffic in 2022.

III. ECONOMICS OF COMPETITION RELEVANT TO RAIL ACQUISITIONS

19. There are well-documented, pro-competitive benefits associated with railroad mergers and acquisitions. Rail mergers and acquisitions often allow railroads to improve the efficiency of their networks and make operational improvements that translate into higher-quality service for shippers. In many cases, these rail control transactions create new single line service, create more efficient routings, or eliminate interchanges. Rail mergers and acquisitions also often result in operational efficiencies – in areas such as car handling, scheduling, customer service, and coordination across the network – that benefit shippers. Further, a rail transaction that creates an improved – and thus more competitive – rail alternative can also put competitive pressure on competing rail carriers to improve performance and can strengthen rail as a competitor with other modes of transportation.

20. It is also the case, however, that when the operations of any two railroads are combined or come under common decision-making control, there may be the potential for competitive harm arising from either the horizontal or vertical effects of the combination. The analysis of horizontal effects considers the potential reduction in competition among railroads to serve existing or new shippers. The analysis of vertical effects considers the more limited and theoretical concern over the reduction in competition that could harm shippers based on the vertical relationships among railroads. Such vertical concerns arise from the potential to harm competition through new and inefficient restrictions or foreclosure on the use of interconnecting upstream or downstream

¹⁴ Consistent with previous definition, these percentages do not include AGR-MNBR-CPKC traffic that uses trackage and operating rights between Linden and Myrtlewood.

carriers. In the railroad industry, however, such theoretical vertical concerns are rarely in practice relevant and are generally more than offset by the pro-competitive aspects of improved service and cost reductions resulting from single-line service.

A. HORIZONTAL EFFECTS

21. Shippers, as consumers of transportation service by railroads, may benefit from competition among railroads that provide such service. To the extent that a shipper has economically relevant alternatives to shipping on a particular railroad, the shipper can use those alternatives to obtain the most desirable combination of price and service among those alternatives. Competition among these alternatives allows the shipper to choose between and negotiate for the best combination of price and service from multiple options. Such competition deters the exercise of market power and pushes economic outcomes toward providing potential customers the best possible alternative, consistent with costs and the alternatives available to the railroad(s) and potential other service providers.

22. In the case of multiple independent railroads that can serve the same shipper, it is generally the case that these railroads provide strong competitive alternatives to the shipper.¹⁵ Shippers may also have competitive alternatives from other modes of transportation (such as trucking, pipeline or water transport) or may have viable alternatives for satisfying their economic needs through procurement or sales in different geographic locations or by using substitutable goods. To the extent any or all of these potential sources of competitive discipline are relevant, they may be able to deter the exercise of market power.

23. Given the economics of the rail industry, it requires very few railroads serving a shipper to provide effective competition, even when other sources of competitive discipline (i.e., intermodal or geographic and source competition) are not effective. Railroads in general have a high proportion of fixed costs relative to the variable and marginal costs of providing transportation service. When that is the case, they have a strong incentive to capture additional traffic that can generate a margin above variable costs that will contribute to covering the fixed costs of the rail

¹⁵ In the atypical case that the available routings—one railroad only runs east and the other only west—or service are sufficiently non-comparable, the degree of effective competition may be more limited.

network. Such incentives encourage competition among railroads in terms of price and service available to the shipper.

24. Mergers and acquisitions risk the potential loss of such direct horizontal competition when two previously independent railroads come under common control for the purpose of setting prices available to a shipper. Depending on the remaining available competitive options, such common price setting among the merged railroads that previously competed may result in the exercise of market power and horizontal competitive harm to shippers. It is not necessary that there be two separate sets of tracks serving a particular shipper, merely that competing railroads with independent price setting can provide service to a shipper through direct access or through terminal switching, haulage, or trackage rights. For these reasons, it is standard in rail control transactions to identify shipper locations that previously had economically independent service and pricing from the two merging parties. When there is no other rail alternative that can provide competitive discipline, alternative conditions are provided to preserve the potential benefits to these “2-to-1” locations of rail-on-rail competition that may otherwise be lost as a result of the transaction, even if other, non-rail sources of competition are adequate to discipline rates.

25. As I describe in more detail below, the CSXT Transaction and associated transactions do not raise any horizontal competitive concerns. There are no shippers that are served by both MNBR and CSXT either directly or through switching or other access rights. No shippers will see a reduction in the number of serving railroads.

B. VERTICAL EFFECTS

26. The re-acquisition and resumption of operation of the Eastern Line by CSXT is an “end-to-end” transaction, meaning that the primary economic effect is to connect continuous rail routes under common ownership. The primary economic effect of the CSXT Transaction is “vertical”. End-to-end transactions may alter the economics of upstream and downstream movements and routing of traffic and can raise theoretical concerns about reduction in competition to shippers based on the vertical relationships among railroads.

27. The primary concern regarding vertical effects of an end-to-end line acquisition is the incentive and ability of the newly combined carrier to divert or fully foreclose shippers from utilizing third-party connecting carriers in a manner that inefficiently restricts competition and harms shippers served by the combined carrier. However, the conditions under which this type of

“vertical foreclosure” leads to reductions in competition in relevant markets are quite limited and are generally absent from railroad markets.¹⁶

28. The combined rail carrier may have the incentive, for economic and efficiency reasons, to encourage more traffic to utilize the new single-line service over its own rail lines than before the line acquisition. Such a change, however, is not a reflection of additional market power or an attempt to obtain additional market power through foreclosure of an alternative interchange railroad. Nor does it demonstrate that shippers have been harmed.

29. The conditions under which anticompetitive vertical harm results from a line acquisition are limited, and not widely applicable to the rail industry. Rather than shifting traffic from other carriers, the acquisition of an end-to-end connecting rail line may create the incentive to route traffic more efficiently and encourage pro-competitive investments to support such routings.

30. Vertical integration of an overhead, “bridge” carrier does not present the potential for vertical competitive harm with respect to the overhead traffic interchanged with the other merging party. None of the conditions that may permit anticompetitive vertical harm from a rail combination apply to this instance. Integration of an acquired, overhead carrier generally provides no additional vertical market power that could be exercised through the acquisition.¹⁷ In the CSXT Transaction, the primary effect is to eliminate MNBR Eastern Line as a bridge carrier for overhead traffic nearly all of which already travels between CSXT and other carriers. Integration of a former bridge carrier enables more efficient planning, operations, and deployment of capital within the same organization with no risk of vertical competitive harm.

31. As shown below, concerns regarding the potential for vertical competitive harm in this transaction are not warranted. Nevertheless, CSXT has made commitments (described below) to ensure the transaction does not result in any vertical competition issues.

¹⁶ See Canadian Pacific -Kansas City Southern, FD 36500, STB Decision No. 35 (“CPKC Decision”), at 42-82, for recent STB views on the economics related to the possibility of vertical competitive harm in end-to-end mergers.

¹⁷ To the extent the merger eliminates the effect of “double marginalization” in price setting by the overhead carrier, it will tend to reduce rates.

IV. THE CSXT TRANSACTION IS PRO-COMPETITIVE

32. The re-acquisition and operation of the Eastern Line by CSXT will create new, more efficient and reliable Class I rail service for existing Eastern Line shippers. This is fundamentally pro-competitive. As discussed by Mr. Adams, CSXT foresees additional traffic over this line through more efficiently routing and planning for traffic interchanged between CPKC and CSXT.¹⁸ In conjunction with the CPKC transaction, the transactions will fully eliminate a third, intermediate carrier for east-west traffic between CPKC and CSXT over the Meridian-Montgomery line. The CSXT Transaction provides an incentive for additional investment by CSXT on the existing Eastern Line; this incentive is enhanced by the CPKC transaction that would create a new direct interchange between CPKC and CSXT and additional options for east-west routing of traffic between the two systems.

A. NO REDUCTION IN HORIZONTAL COMPETITION

33. There is no reduction in horizontal competition as a result of the CSXT Transaction. Based on information provided by CSXT and an independent review of standard rail-industry sources, there are no shippers that MNBR and CSXT both can serve.¹⁹ Given the end-to-end nature of this transaction, there are no shippers that are located adjacent to both MNBR and CSXT rail lines that could easily be served by both carriers. As such, there are no shippers that will see a reduction in the number of railroads serving them.

34. On the Eastern Line, there are three potential shippers (at Selma, AL) accessible to MNBR through switch by NSR. To the extent that CSXT replaces MNBR, there will be no reduction in competitive alternatives available to these shippers which will still have access to NSR and a separate carrier.

B. NO NEGATIVE VERTICAL EFFECTS

35. The primary effect of the CSXT Transaction would be to improve quality of service by reintegrating the Eastern Line with CSXT.²⁰ There is no plausible case by which the CSXT Transaction would lead to vertical competitive harm to shippers. Most of the traffic on the Eastern

¹⁸ Adams VS at 4.

¹⁹ Serving Carrier/Reciprocal Switch database.

²⁰ Adams VS at 9-10.

Line is overhead traffic and CSXT has no economic incentive to discourage an efficient interchange of traffic with CSXT that is currently carried by MNBR over the Eastern Line. With respect to the small amount of traffic that originates or terminates on the Eastern Line, CSXT has no economic incentive to foreclose use of an efficient gateway for traffic served on that line. Regardless, CSXT is making commitments to preclude any such harm in the future.

1. The CSXT Transaction will enhance incentives to retain and attract overhead traffic on the Eastern Line

36. CSXT has no plausible incentive to discourage existing shippers that used the Eastern Line for overhead carriage from continuing to interchange traffic with CSXT. The largest traffic group on the Eastern Line, amounting to more than {{ [REDACTED] }} of the carloads, is overhead traffic to or from CSXT on which MNBR functions as a bridge carrier. Following the CSXT Transaction, CSXT will take over the operations on the Eastern Line. CSXT will continue to interchange the formerly overhead traffic with other carriers (CPKC, AGR, and MNBR, for Western Line shippers) for delivery to or receipt from CSXT. CSXT's interchange location will now be extended to Myrtlewood rather than at the east end of MNBR. CSXT has neither an incentive nor additional vertical market power to discourage on-going interchange of this traffic.

37. CSXT traffic to or from AGR, which represents over {{ [REDACTED] }} of relevant Eastern Line traffic, will now interchange directly with CSXT. This eliminates MNBR as an intermediate carrier and eliminates the associated interchange. CSXT has no incentive to try and foreclose shippers on AGR or CSXT from continuing to use this routing.²¹ CSXT cannot serve most shippers located on AGR and the acquisition of the Eastern Line effectively changes the point of interchange for CSXT from Montgomery to Myrtlewood. Rather, elimination of an intermediate carrier tends to improve service and may attract more traffic for shippers and receivers located on AGR to interchange with CSXT. This effect will be enhanced by CSXT's planned investments and upgrades on the line.

²¹ I note that AGR has separate interchanges with NSR at Boligee, Demopolis, and Kimbrough, AL, which are not far from the AGR's connection with MNBR at Linden, AL. AGR also can interchange with NSR further south at Mobile, AL. Shippers located on AGR could readily reach shippers located on NSR with no involvement from CSXT if they found the arrangements for interchange with CSXT insufficiently competitive for movements to or from NS locations that are potentially competitive with CSXT.

38. If the CPKC Transaction does not occur, for traffic moving to and from CSXT, MNBR will remain as a participating carrier on the Western Line for 1) shippers that are located on the Western Line and 2) for overhead traffic for interchange at Meridian with CPKC. Again, CSXT has no incentive to discourage this overhead traffic by closing gateways or otherwise reducing efficient competitive options for this traffic. CSXT cannot serve traffic located west of Meridian on the Meridian-Shreveport line nor can it generally serve traffic that is likely to reach Meridian from elsewhere on CPKC system. Similarly, for traffic located on the Western Line, rather than foreclosing that traffic, CSXT has every incentive to attract that traffic to CSXT rather than have it go to other carriers. In both cases, CSXT has no incentive to discourage existing overhead traffic on the Eastern Line from continuing to exchange with CSXT.

39. If the CPKC transaction were to occur and CPKC acquires and operates the Western Line, CSXT and CPKC have the common incentive to attract and increase traffic over the former MNBR route. By eliminating an interchange with the bridge carrier and with the anticipated upgrades, quality of service of traffic between CPKC and CSXT should be improved. As discussed below, the elimination of the bridge carrier is anticipated to attract traffic from other routings and potentially new traffic as a result of more efficient service. For CPKC-CSXT interchanged traffic, it is in both carriers' interest to utilize the most economically efficient routings and interchanges, in terms of costs and service, by which to effectuate the through movement of freight. The CSXT Transaction (and the CPKC Transaction) will provide improved, pro-competitive alternatives for moving this traffic.

2. The CSXT Transaction will not result in vertical competitive harm to shippers or foreclosure of competing gateways

40. The CSXT Transaction will not create vertical competitive harm for the small volumes of traffic for shippers and receivers located on the Eastern Line.²² In general, the uncommon conditions in which railroads have the incentives to engage in foreclosure and risk vertical competitive harm to shippers are not met in this instance.²³

²² For purposes of this analysis, I treat shippers at Selma served through switching with NSR as Eastern Line shippers. As shippers directly served by NSR, CSXT lacks the ability to foreclose their use of NSR.

²³ Conditions in the railroad industry typically comport closely to those necessary for the “single monopoly profit” or “one lump” theorem to apply under which an end-to-end merger would result in no vertical competitive harm. Deviations from those conditions, such as due to differences in regulatory policies across jurisdictions or

41. Over {{ [REDACTED] }} of the existing traffic from shippers or receivers located on the Eastern Line interchanges with CSXT. (See Figure 1 above.) CSXT has no incentive to foreclose this traffic. Rather the CSXT Transaction will create pro-competitive single-line service.

42. CSXT cannot plausibly compete for locations served by AGR or reached through CPKC at Meridian (or involving Western Line shippers). The CXST network fails to reach locations or regions served by these other connecting carriers and cannot plausibly provide competing single-line service for the existing interline traffic with these carriers. For the sole-served shippers on the Eastern Line, CSXT has the incentive to provide the most valued transportation service options, net of costs, to these shippers, even if this involves interchange traffic. By providing such service, CSXT is able to enhance the shippers' willingness to pay for the service provided by CSXT. As such, CSXT has no incentive to foreclose these shippers' use of AGR and CPKC for interchange service.

43. As NSR and CSXT compete at a variety of locations across the eastern United States, the interchange at Selma, AL with NSR is the only location that, despite the discussion above, there could possibly be any incentive for CSXT to discourage use of the Selma gateway for accessing NSR-served locations that may compete for CSXT. As standard economic analysis indicates, CSXT has the incentive to use the NSR gateway for interchange traffic if that represents an economically more efficient result for the Eastern Line shippers. There is no evidence for the exceptional circumstances in the railroad setting that would suggest CSXT would not keep the gateway open for commercially efficient movements nor that shippers could suffer vertical competitive harm.²⁴

44. Nevertheless, CSXT is making commitments to avoid any possibility of vertical competitive harm, despite the absence of incentive or evidence that such commitments are economically necessary. First, CSXT is committing to maintain the gateway at Selma with NSR

information uncertainties in pricing and contracting between the merging parties, have little or no relevance for this acquisition. (See CPKC Decision, at 42-48, for a recent discussion of these issues in the context of a large rail merger.) The Eastern Line is a less-than-100-mile line that CSXT once owned and operated and for which CSXT still leases the real property; there is no likelihood of informational uncertainties regarding rates or costs of a magnitude that could provide a non-negligible incentive for CSXT to engage in vertical actions that would harm shippers.

²⁴ See fn. 23 *supra*.

open on commercially reasonable terms and requesting this as a condition of the transaction.²⁵ Second, for the only shipper on MNBR that does move traffic to NS over Selma, {{ [REDACTED] [REDACTED] }}, CSXT will continue to provide service to NSR at Selma at current rates, subject to reasonable cost escalation, for five years. After that, the commitment to keep the gateway open at commercially reasonable rates will apply.²⁶

C. BENEFITS TO SHIPPERS

45. The CSXT Transaction will benefit shippers. For the more than {{ [REDACTED] }} the total traffic that is overhead traffic between AGR and CSXT and the more than {{ [REDACTED] }} of the remaining locally served traffic on the Eastern Line that interchanges with CSXT, the transaction will eliminate an interchange among carriers and create either single-line or eliminate a third carrier in the movement. These changes will reduce necessary handling of traffic, reducing costs and streamlining movements, and represent potential improvements in service to existing shippers.²⁷

46. CSXT has also been working with shippers, CPKC, and MNBR to encourage use of the existing route. CSXT has had some success in shifting traffic to the Meridian-Montgomery line rather than interchanging at New Orleans. CSXT anticipates substantial additional CPKC interchange volumes that will shift to the Meridian-Montgomery line.²⁸ Similarly, additional volumes of traffic are anticipated from new traffic originating on the Eastern Line.

47. As explained by Mr. Adams, there are significant benefits for shippers from CSXT operations of the Eastern Line.²⁹ CSXT anticipates applying CSXT best practices for improved service, operational efficiency, consistency and reliability to traffic on the Eastern Line. CSXT also brings modern logistic tools for its own planning and operations and for customers to track freight and manage inventory and supply chain.

48. CSXT also plans on making substantial investments in improved infrastructure on the Eastern Line. As explained by Mr. Adams, CSXT plans on making numerous upgrades to the rail

²⁵ Adams VS at 13.

²⁶ Adams VS at 13-14.

²⁷ Adams VS at 4.

²⁸ Adams VS at 6.

²⁹ Adams VS at 9-13.

line and bridges and bring much of the Eastern Line up to FRA Class II standards.³⁰ These investments will provide for higher speeds and improved safety and reliability. Substantial private investments in infrastructure improvements triggered by the CSXT Transaction represents clear benefits to shippers and the public.

49. If CPKC also acquires the Western Line, the benefits to shippers should increase dramatically, particularly for CPKC-CSXT interchange traffic. If both the CSXT and CPKC Transactions are completed, MNBR as a bridge carrier will be eliminated for CPKC-CSXT interchange traffic over the Meridian-Montgomery line. As explained by Mr. Adams, these changes will permit traffic to be “diverted from longer and less efficient interchange operations at New Orleans, East St. Louis and Brookwood to an efficient route through Myrtlewood.”³¹ The result may also permit anticipated automotive facilities in the southeast to access western destinations over the line. As Mr. Adams indicated, the completion of both transactions is anticipated to have large increases in traffic, potentially doubling, over the line.³² Such improvements are beneficial to shippers and the anticipated change in volumes are indications of the magnitudes of benefits anticipated.

I declare under penalty of perjury that the foregoing is true and correct.



David Reishus

October 6, 2023

³⁰ Adams VS at 11-12

³¹ Adams VS at 12.

³² Adams VS at Table 1.

CURRICULUM VITAE



David Reishus

OFFICE: Compass Lexecon
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Boston, MA 02109
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PROFESSIONAL EXPERIENCE

Compass Lexecon
Boston, MA
Executive Vice President, April 2013 – present
Senior Vice President/Senior Managing Director, July 1999 – March 2013

The Economics Resource Group, Inc., Cambridge, MA
President, 1993 – June 1999
Senior Economist, 1990 – 1993

Provides economic analysis and advice on issues of regulation, antitrust, taxation and applied microeconomics to a variety of clients. Develops, manages, and oversees economic analyses for clients and other principals. Responsible for the management and operations of the company.

U.S. Congress, Joint Committee on Taxation, Washington, DC
Economist, 1987 – 1990

Provided economic analysis and development of legislative tax proposals. Responsibilities included corporate and foreign taxation and proposals related to low-income taxpayers, child care, and health issues.

Harvard University, Cambridge, MA
Instructor, 1986 – 1987

Leader of senior thesis tutorial for industrial organization and finance topics. Previously taught Introductory Economics.

Information Resources, Inc., Chicago, IL
Consultant, 1979 – 1980

EDUCATION

Harvard University, Cambridge, MA
Ph.D. in Economics, 1988
Dissertation: “Empirical Essays on the Economics of Taxation and the Firm”
M.A. in Economics, 1983

Northwestern University, Chicago, IL
B.A. in Economics, 1979

TESTIMONY AND OTHER REPORTS

Governments of Canada

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), Fifth Administrative Review. Economic Analysis of British Columbia Log Export Permitting Process, Stumpage and Log Markets. Expert Witness Statement, June 29, 2023.

Government of Canada

Federal Court of Canada, Application Under s. 18.1 of the Federal Courts Act, Mosaic Forest Management Corporation, Timberwest Forest Company and Island Timberlands Limited Partnership, Applicants, and The Minister Of Foreign Affairs and His Majesty The King In Right Of Canada, Respondents (T-773-20). Affidavit and Expert Witness Report, April 14, 2023. Cross Examination, August 15, 2023.

Government of Canada

Before the International Trade Administration, Department of Commerce, Antidumping Duty Investigation of Certain Softwood Lumber Products From Canada (A-122-857), Fourth Administrative Review. Evaluation of U.S. Log Export Unit Values as a Measure of Domestic Log Prices. Expert Witness Statement, December 5, 2022.

Governments of Canada

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), Fourth Administrative Review. Economic Analysis of British Columbia Log Export Permitting Process, Stumpage and Log Markets. Expert Witness Statement, June 30, 2022. Response to Selected Petitioner’s Comments on Initial Questionnaire Responses. Expert Witness Statement, August 24, 2022.

BNSF Railway Company

Before the Surface Transportation Board. Finance Docket No. 36500, Canadian Pacific Railway Limited, et. al. -- Control --Kansas City Southern, et. al. Verified Statement, February 28, 2022. Response Verified Statement, July 12, 2022. Hearing Testimony September 29-30, 2022.

Government of Canada

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), Third Administrative Review. Economic Relationships and Disequilibria Among Lumber, Log and Standing Timber Prices in 2020. Expert Witness Statement, December 29, 2021

Governments of Canada and British Columbia

Before the International Trade Administration, Department of Commerce, Antidumping Duty Investigation of Certain Softwood Lumber Products From Canada (A-122-857), Third Administrative Review. Economic Analysis Regarding Claim of Particular Market Situation for Logs Purchased by Respondents in British Columbia and Alberta. Expert Witness Statement, August 19, 2021.

Governments of Canada and British Columbia

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), Third Administrative Review. Economic Analysis of British Columbia Log Export Permitting Process, Stumpage and Log Markets. Expert Witness Statement, June 14, 2021.

BNSF Railway Company

Before the Surface Transportation Board. Finance Docket No. 32760 (Sub-No. 46) BNSF Railway Company -- Terminal Trackage Rights --Kansas City Southern Railway Company and Union Pacific Railroad Company. Reply Verified Statement, April 12, 2021. Rebuttal Verified Statement, May 11, 2021.

CSX Corporation and CSX Transportation, Inc.

Before the Surface Transportation Board. Finance Docket No. 36472. CSX Corporation and CSX Transportation, Inc., et al.—Control and Merger—Pan Am Systems, Inc., Pan Am Railways, Inc., Boston and Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company. Verified Statement, February 25, 2021. Revised Verified Statement, April 26, 2021. Amended and Supplemented Verified Statement, July 1, 2021. Reply Verified Statement, October 18, 2021. Hearing Participation, January 13-14, 2022.

Government of Canada

World Trade Organization, United States—Countervailing Measures on

Supercalendered Paper From Canada, Recourse to Article 22.6 of the DSU by the United States (WT/DS5050). Methodology for Calculating Canada's Losses From U.S. Application of the OFA-AFA Measure. September 18, 2020. (With Andrew Lemon.) Participated in Meeting with Arbitrator, September 20-23, 2021.

Government of Canada

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), Second Administrative Review. Economic Analysis of Allegations Relating to Log Markets and Exports from Four Provinces. Expert Witness Statement, August 5, 2020. *Economic Analysis of British Columbia Log Export Permitting Process, Stumpage and Log Markets.* (Also Government of British Columbia.) Expert Witness Statement, August 5, 2020. *Response to Coalition's Submission of September 15, 2020.* Expert Witness Statement, October 1, 2020.

Association of American Railroads

Before the Surface Transportation Board. Docket No. EP 761, Hearing on Railroad Revenue Adequacy. Response to the "Benchmark Methodology" Proposal Submitted by the American Chemistry Council. Verified Statement, February 13, 2020. (With Joseph Kalt).

Government of Canada

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), First Administrative Review. Response to Petitioner's Submission of August 12, 2019. Expert Witness Statement, August 26, 2019. *Economic Analysis of Log Export Regulations from Four Provinces.* Expert Witness Statement, April 8, 2020. *Evaluation of the Use of U.S. Export Log Prices as a Canadian Log Price Benchmark.* Expert Witness Statement, June 18, 2020.

Governments of British Columbia and Canada

Before the International Trade Administration, Department of Commerce, Countervailing Duty Investigation of Certain Softwood Lumber Products From Canada (C-122-858), First Administrative Review. Economic Analysis of British Columbia Log Export Permitting Process, Stumpage and Log Markets. Expert Witness Statement, July 15, 2019. (With Joseph Kalt).

Government of Canada

Before the International Trade Administration, Department of Commerce, In the Matter of Certain Softwood Lumber Products from Canada (A-122-857). Economic Analysis Regarding Claims of Particular Market Situation for Canadian Softwood Lumber By-Products. Expert Witness Statement, July 20, 2017.

Association of Oil Pipe Lines

Before the Federal Energy Regulatory Commission. Docket No. RM17-1-000 Revisions to Indexing Policies and Page 700 of FERC Form No. 6. Declaration, January 19, 2017.

BNSF Railway Company

Before the Surface Transportation Board. Finance Docket No. 32760 (Sub-No. 46) BNSF Railway Company -- Terminal Trackage Rights --Kansas City Southern Railway Company and Union Pacific Railroad Company. Verified Statement, October 23, 2015.

Association of American Railroads

Petition of the Association of American Railroads to Institute a Rulemaking Proceeding to Reintroduce Indirect Competition as a Factor Considered in Market Dominance Determinations for Coal Transported to Utility Generation Facilities; Surface Transportation Board Ex Parte No. 717. Verified Statement, November 14, 2012.

Modis

In the United States District Court for the District of Columbia, Case 1:09-cv-01051-RWR, Modis, Inc. v. Infotran Systems, Inc. and Tien H. Tran v. Modis Inc. and Timothy W. Martin. Expert Report, October 18, 2010. Deposition testimony December 7, 2011.

Government of Canada

In the Matter of Arbitration No. 91312, Canada v. The United States of America. Expert Witness Statement of Joseph P. Kalt and David Reishus, May 12, 2009.

Government of Canada

In the Matter of Arbitration No. 7941, The United States of America v. Canada. Expert Witness Statement, June 29, 2008. Rebuttal Expert Witness Statement, August 11, 2008. (With Joseph Kalt).

Government of Canada

In the Matter of an Arbitration Under Chapter Eleven of the North American Free Trade Agreement Between Merrill & Ring Forestry, L.P. and The Government Of Canada. Expert Report, May 9, 2008. Supplemental Expert Affidavit, March 19, 2009. Oral testimony, May 21, 2009.

Dynegy

In the Circuit Court of Colbert County, State of Alabama, NO. CV-2003-142JMH, Nelson Brothers, LLC v. Cherokee Nitrogen v. Dynegy Marketing & Trade; Dynegy Inc. Expert Report, August 22, 2007.

Independent Energy Producers Association of California

Before the Federal Energy Regulatory Commission, Docket No. R.06-02-013, Long-Term Procurement Plans, Prepared Testimony of the Independent Energy

Producers Association; Prepared Testimony of David Reishus and Joseph Cavicchi on behalf of the IEPA, March 2, 2007.

First Energy

Before the Pennsylvania Public Utility Commission, Petition of Metropolitan Edison Company for Approval of a Rate Transition Plan (Metropolitan Edison Company Docket No. R-00061366) and Petition of Pennsylvania Electric Company for Approval of a Rate Transition Plan (Pennsylvania Electric Company Docket No. R-00061367), Direct Testimony of David A. Reishus, April 10, 2006.

ExpressTrak LLC

In the United States District Court For the District of Columbia, Case No. 02- CV-1773, National Railroad Passenger Corporation v. ExpressTrak, L.L.C., Expert Report, Dated January 3, 2006; revised April 7, 2006. Deposition testimony, March 24 and April 26, 2006.

British Columbia Lumber Trade Council and the Province of British Columbia

Before the International Trade Administration, Department of Commerce, In the Matter of Certain Softwood Lumber Products from Canada (C-122-839). Statement for the First Administrative Review, March 15, 2004 (with Joseph Kalt); Response to Price Impact of Canadian Log Restraints, March 16, 2004 (with Joseph Kalt); Response to Coalition Submission on Pass-Through Issues, April 15, 2004 (with Joseph Kalt); Economics of Arm's-Length Transactions and Subsidy Pass-Through, September 15, 2004 (with Joseph Kalt); Economic Analysis of the Vancouver Log Market, February 28, 2005 (with Joseph Kalt); Comment on the Economic Implications of the Annual Allowable Cut, December 5, 2005 (with Joseph Kalt); Update to Economic Analysis of the Vancouver Log Market, December 5, 2005 (with Joseph Kalt). Reports filed from March 15, 2004 to December 5, 2005.

Multiple Associations of Energy Producers

Before the Public Utilities Commission of the State of California, Rulemakings R.04-04-025 – R.04-04-003, “Prepared Rebuttal Testimony,” October 28, 2005 (with A. Joseph Cavicchi). Oral testimony, January 23 and 24, 2006.

PPL Corporation

United States of America, Before the Federal Energy Regulatory Commission, Docket No. ER05-1416-000, “Affidavit of A. Joseph Cavicchi, Joseph P. Kalt, Ph.D., and David A. Reishus, Ph.D. on Behalf of the PPL Parties,” October 19, 2005.

The Burlington Northern and Santa Fe Railway Company

Before the Surface Transportation Board, Finance Docket No. 34342, Kansas City Southern -- Control -- The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company. Verified Statement, June 3, 2003; Verified Statement, August 4, 2003; Reply Verified Statement, August 29, 2003.

Dynergy Inc.

United States of America, Before the Federal Energy Regulatory Commission, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services, Investigation of Practices of the California ISO and PX; Pub. Utils. Comm'n of the State of California v. Sellers of Long-Term Contracts. Prepared Rebuttal Testimony (with Patrick Wang), March 20, 2003.

Duke Energy Trading and Marketing LLC

United States of America, Before the Federal Energy Regulatory Commission, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange; Investigation of Practices of the California Independent System Operator and the California Power Exchange. Prepared Rebuttal Testimony (with Patrick Wang), March 20, 2003.

Dynergy Inc.; Duke Energy Services LLC; Mirant Americas, Inc.; Reliant Energy; Williams Energy Marketing and Trading Co.

United States of America, Before the Federal Energy Regulatory Commission, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange; Investigation of Practices of the California Independent System Operator and the California Power Exchange. Affidavit (with Patrick Wang), October 15, 2002 (revised November 12, 2002).

Association of American Railroads

Review of Rail Access and Competition Issues, Before the Surface Transportation Board, Ex Parte No. 575. Joint Verified Statement (with Joseph Kalt), March 26, 1998.

Crow Tribe of Indians

Report Concerning the Crow Tribe Resort Tax (with Joseph P. Kalt), November 27, 1996; *Surrebuttal Report Concerning the Crow Tribe Resort Tax* (with Joseph P. Kalt), February 25, 1997; and *Report Concerning the Crow Tribe Resort Tax* (with Joseph P. Kalt), March 31, 2000.

Sithe Energies

Economic Impact on New York State of the Sithe Plan, Chapter IV of Energizing New York: The Sithe Plan, December 8, 1995.

Massachusetts Department of Environmental Protection

Use of an Economic Test for Distinguishing Legitimate Recycling Activities, July 1993.

SELECTED OTHER CONSULTING EXPERIENCE

Government of Canada

Assisted in developing presentations, responses and submissions and participated in meeting before WTO dispute settlement panel regarding countervailing duties.

Class 1 Railroad

Analyzed competitive issues in arbitration regarding implementation of access agreements.

Major Coal Producers

Analyzed end-market competitive alternatives and pricing behaviors.

Management Company

Analyzed lost profits and other damages arising from contractual dispute in Asian gaming.

Large Integrated Electric Utility

Analyzed cost and rate impacts related to shut down of nuclear plant.

International Oil Company

Analyzed cost structure for major deepwater crude oil exploration and production investment.

Independent Transmission Company

Analyzed risk and financial investment incentives for stand-alone transmission project.

Large Solar Power Provider

Assisted in data analysis of market operations and outcomes.

Merchant Power Generator

Analyzed economic, regulatory and financial issues related to proposed new pipeline investment and novel regulatory regime.

Supermajor Oil Company

Assist in analysis of competition and proposed conditions related to divestiture of regional midstream petroleum product assets.

Electric and Gas Utility Holding Companies

Analyzed potential competitive issues arising from multiple mergers between large electric, gas utility, and interstate gas pipeline companies for use before Federal competition authorities and state regulatory agencies.

Major Regional Hospital

Performed statistical analysis of patient waiting-times and follow-up.

Petroleum Products Pipeline

Analyzed business and regulatory options for large interstate petroleum products pipeline subject to market-based and regulated tariffs.

Dean Foods

Analyzed claims of price fixing and statistical model of antitrust damages for use in class certification.

Group of Class 1 Railroads

Analyzed claims of competitive harm and the development and use of econometric models for pricing, damages and class certification in the context of alleged price-fixing.

Government of Canada

In context of international arbitration under the U.S. Canada Softwood Lumber Agreement, analyzed pricing patterns, effects of risk and government development and timber pricing policies in multiple provinces on the North American lumber markets, Developed dynamic economic models of production and trade capable of determining appropriate export measure adjustments.

Major Energy Traders

Assisted in analyses of claims of market manipulation in physical and financial energy markets.

U.S. Generation Companies

Advise on methods for performing merger analysis and analysis of competitive effects of proposed divestitures.

Western Refining

Analyzed effect of a contested proposed merger involving southwestern refining, wholesale, and marketing operations

AT&T

Analyzed competitive issues in the long-distance telephone market in the context of a class-action price-fixing suit.

Pacific Lumber/Scotia Pacific

Assisted in analysis and projections involving redwood product markets for business valuation in bankruptcy.

TAPS Carriers

Assisted in development of ratemaking analyses for oil pipeline rates.

General Electric & Bechtel

Analyzed derivation of cost of equity, discount factor, and method for contract damages and expropriation of Dabhol power plant in the context of I.C.C. arbitration.

Class 1 Railroad

Analyzed potential competitive harm of vertical rail merger and possible remedies before the Canadian Competition Bureau.

Multinational Oil Companies

Analyzed alternative approaches for identifying, measuring and managing price and fiscal risks in long-term contracts in connection with multiple billion-dollar-plus projects in in Africa and Middle East.

Frontier Oil Corporation

Analyzed application of discount factors and method in damages arising from a failed merger.

Amoco

Analyzed marketability and market value of natural gas for purposes of class-action royalty valuation.

Class 1 Railroad

Analyzed claims of vertical market foreclosure and anticompetitive conduct in rail transportation.

Supermajor Oil Company

Performed functional analysis of sources of global value creation for international tax treatment.

Government of Canada

Assisted in analysis of changes in forestry practices and stumpage charges in the context of international trade agreements.

Exxon Corporation and Affiliated Companies

Performed analysis of design and effect of U.K. oil and gas tax system.

CSX Corporation and CSX Transportation, Inc.

Analyzed historical evidence of rail consolidations and the impact of the proposed Conrail transaction on Eastern coal shippers. Evaluated competitive requirements of proposed conditions on the transaction.

Group of Major Oil Companies

Developed and analyzed a database of crude oil purchases for analyzing issues of crude oil valuation at the wellhead in the context of multiple class action litigations.

Koch Pipeline

Assisted in developing product and market definitions relating oil pipeline antitrust allegations.

British Petroleum

Performed economic analysis of alternative organizational forms for operating petroleum assets. Developed advanced financial tools for valuing decision alternatives and contingent assets.

Exxon

Performed economic analysis of certain fuel used and cost allocations among the Prudhoe Bay Unit owners for a royalty dispute with the State of Alaska.

Burlington Northern Railroad/Santa Fe Railroad

Analyzed competitive impacts of proposed railroad merger for use before the Interstate Commerce Commission.

PSI/CINergy

Adapted economic model of regional economy and performed analysis of the economic impact of alternative merger scenarios for a public utility.

El Paso Natural Gas Company

Performed economic analysis of markets and competition for an open-access natural gas pipeline for use in an antitrust case.

Better Home Heat Council, Inc.

Performed economic analysis of a local gas utility's conservation programs effect on consumer fuel-switching decisions and public policy impact for use before the Massachusetts Department of Public Utilities.

Association of American Railroads

Analyzed the impact of market conditions for the exemption of rail transportation of export corn and soybeans from Interstate Commerce Commission regulation.

ARCO Pipe Line Company

Evaluation of market power of petroleum products pipeline in consideration of light-handed regulation for use before the Federal Energy Regulatory Commission.

BP/America

Assisted in the design and implementation of crude oil valuation analyses for royalty litigation.

Williams Natural Gas Pipeline Co.

Prepared pricing analysis of natural gas purchase contracts, performed calculation of damages, and analyzed economic submissions for use in antitrust case.

El Paso Corporation

Various projects including strategic analysis of market opportunities to enhance value of the pipeline and analysis of market competition in gathering and long-distance gas transportation.

Government of British Columbia

Assisted in evaluation of impact of Canadian log export regulations on U.S. and Pacific Rim log and wood products trade and industry.

Atlantic Richfield Company

Provided economic analysis of market structure and conduct for the distribution of motor fuels for use in an antitrust case.

Burlington-Northern Railroad

Assisted in evaluating market impacts of innovative railroad grain car service rate and reservation policy for use before the Interstate Commerce Commission.

PUBLICATIONS AND RESEARCH

"Corporate Reorganizations: Tax Treatment of Corporate Mergers, Acquisitions, and Reorganizations," *The Encyclopedia of Taxation and Tax Policy*, 2nd ed., The Urban Institute Press, 2006. (Revised and updated.)

"Corporate Reorganizations: Tax Treatment of Corporate Mergers, Acquisitions, and Reorganizations," *The Encyclopedia of Taxation and Tax Policy*, The Urban Institute Press, 1999.

"Outside Directorships, the Reputation of Managers, and Corporate Performance" (with S. Kaplan), *Journal of Financial Economics*, Vol. 27, No. 2, September 1990.

"Financing Child Care: Who Will Pay for the Kids?," *National Tax Journal*, Vol. XLII, No. 3, September, 1989.

"The Effects of Taxation on the Merger Decision" (with A. Auerbach), in A. Auerbach, ed., *Corporate Takeovers: Causes and Consequences*, University of Chicago Press, 1988.

"Taxes and the Merger Decision" (with A. Auerbach), in J. Coffee, L. Lowenstein, and S. Rose-Ackerman, eds., *Knights, Raiders and Targets*, Oxford University Press, 1988.

"The Impact of Taxation on Mergers and Acquisitions" (with A. Auerbach), in A. Auerbach, ed., *Mergers and Acquisitions*, University of Chicago Press, 1988.

OTHER PROFESSIONAL ACTIVITIES

Presentations to National Bureau of Economic Research, Federal Reserve Bank of Cleveland, Federal Reserve Bank of New York, Harvard University, Tax Economists Forum, National Tax Association, Western Economic Association, The Institute for Energy Law of The Center for American and International Law.

Membership in American Economic Association.

Referee for *Quarterly Journal of Economics*, *Journal of Law and Economics*.

HONORS AND AWARDS

National Science Foundation Fellowship, 1981-1985.

International Foundation of Employee Benefit Plans, Graduate Research Fellowship, 1984.

Phi Beta Kappa, 1979.

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36727

CSX TRANSPORTATION, INC.
—ACQUISITION AND OPERATION—
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C.

EXHIBIT 23

Support Letters

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE OF ALABAMA

DEPARTMENT OF COMMERCE

GREG CANFIELD
SECRETARY OF COMMERCE

September 28, 2023

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: STB Docket No. FD [____], [*CSX Transportation, Inc.—Acquisition and Operation—A Portion of Meridian and Bigbee Railroad, LLC*]

Dear Ms. Brown:

I would like to submit this letter on behalf of the Alabama Department of Commerce in support of the application filed by CSX Transportation, Inc. (“CSXT”) to reacquire from the Meridian and Bigbee Railroad, LLC (“MNBR”) and resume operating a rail line extending between Burkeville and Myrtlewood, Alabama.

As the head of Alabama’s primary economic development organization, I am keenly aware of the need for efficient, cost-effective rail service to support the needs of our manufacturers, both in obtaining their necessary supplies and in distributing their goods.

I believe the transaction will have significant benefits for the residents and businesses of Alabama. The transaction is expected to result in improved service, enhanced infrastructure and increased operational efficiencies. The transaction is also expected to provide a base for further economic development in the area. I am excited about the new market opportunities that will result from the transaction.

For the above reasons, I strongly support CSXT’s application and believe that Alabamians will benefit from its adoption. I respectfully request that the Surface Transportation Board expeditiously approves the transaction.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Canfield".

Greg Canfield



September 26, 2023

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: *CSX Transportation's Acquisition and Operation of a Portion of Meridian and Bigbee Railroad*

Dear Ms. Brown:

My name is Wayne Vardaman, and I serve as the Executive of the Selma & Dallas County Economic Development Authority.

I submit this letter in support of the application filed by CSX Transportation, Inc. ("CSXT") to reacquire from the Meridian and Bigbee Railroad, LLC ("MNBR") and resume operating a rail line extending between Burkeville and Myrtlewood, Alabama.

I believe this acquisition and operation will have significant benefits for the residents and businesses of West Alabama. The transaction is expected to result in improved rail service, enhanced infrastructure, and increased operational efficiencies. It is also expected to provide a base for further economic development in the area. As the lead industrial recruiter for Selma and Dallas County, I am excited about the new market opportunities that will result from the transaction.

For the above reasons, I strongly support CSXT's application and believe my community will benefit from its adoption. I respectfully request that the Surface Transportation Board expeditiously approve the transaction.

Sincerely,

Wayne Vardaman
Executive Director

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Application in Docket No. FD 36727, *CSX Transportation, Inc.—Acquisition and Operation—Rail Line of Meridian & Bigbee Railroad, L.L.C.*, to be served electronically or by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation; the Attorney General of the United States; the Federal Trade Commission; and the Governors, Public Service Commissions, and Departments of Transportation of the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, and the District of Columbia, and all parties of record in this proceeding.

/s/ Sally Mordi

Sally Mordi
Attorney for CSX Transportation, Inc.

October 6, 2023