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May 7, 2012

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Docket No. 12-888-01

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: Finance Docket No. 35622, *SteelRiver Infrastructure Partners LP, SteelRiver Infrastructure Associates LLC, SteelRiver Infrastructure Fund North America LP and Patriot Funding LLC—Control Exemption—Patriot Rail Corp. et al.*

Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a Verified Notice of Exemption under 49 C.F.R. 1180.2(d)(2) and a CD with the notice in Word and Acrobat (.pdf) format. The undersigned is concurrently submitting payment of the required \$1,300.00 filing fee.

Please time and date stamp the extra copy of this letter and the Verified Notice of Exemption and return them with our messenger. Thank you for your assistance.

If you have any questions, please call or email me.

Sincerely yours,

COZEN O'CONNOR

Ahren S. Tryon

Attorney for: Patriot Funding LLC, et al.

Enclosures

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 35622

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STEELRIVER INFRASTRUCTURE PARTNERS LP, STEELRIVER INFRASTRUCTURE  
ASSOCIATES LLC, STEELRIVER INFRASTRUCTURE FUND NORTH AMERICA LP  
AND PATRIOT FUNDING LLC  
-CONTROL EXEMPTION-  
PATRIOT RAIL CORP., ET AL.

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VERIFIED NOTICE OF EXEMPTION

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Attorney for PATRIOT FUNDING LLC  
ET AL.

Dated: May 7, 2012

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 35622

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STEELRIVER INFRASTRUCTURE PARTNERS LP, STEELRIVER INFRASTRUCTURE  
ASSOCIATES LLC, STEELRIVER INFRASTRUCTURE FUND NORTH AMERICA LP  
AND PATRIOT FUNDING LLC  
-CONTROL EXEMPTION-  
PATRIOT RAIL CORP., ET AL.

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VERIFIED NOTICE OF EXEMPTION

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SteelRiver Infrastructure Partners LP, SteelRiver Infrastructure Associates LLC,  
SteelRiver Infrastructure Fund North America LP and Patriot Funding LLC, pursuant to 49  
C.F.R. §§1180.2(d)(2) and 1180.4(g), file this Verified Notice of Exemption with the Surface  
Transportation Board (the “Board”) seeking exemption from the prior approval requirements of  
49 U.S.C. §§11323-11325, to acquire control of Patriot Rail Corp. and its rail carrier subsidiaries  
described below.

a. **1180.6(a)(1)(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.

Patriot Funding LLC (“Patriot Funding”) and Patriot Rail Holdings LLC, owner of  
Patriot Rail Corp. (“Patriot”), entered a Stock Purchase Agreement dated May 4, 2012 (the  
“Agreement”). Under the Agreement, Patriot Funding will acquire all of the common stock of  
Patriot Rail Corp. from Patriot Rail Holdings LLC, and thereby indirect control of the railroad  
subsidiaries of Patriot Rail Corp.

Patriot is a non-carrier holding company that controls the following 13 class III railroads:  
(1) the Tennessee Southern Railroad Company (“TSRR”), which was acquired in November

2006; (2) Rarus Railway Company (“Rarus”), which was acquired in April 2007;<sup>1</sup> (3) Utah Central Railway Company (“Utah”), which was acquired in January 3, 2008<sup>2</sup>; (4) Sacramento Valley Railroad, Inc. (“SAVR”), which was acquired in March 2008<sup>3</sup>; (5) The Louisiana and North West Railroad Company LLC (“L&NW”), which was acquired in June 2008<sup>4</sup>; (6) the Temple & Central Texas Railway, Inc. (“TC”), which was acquired in August 2009<sup>5</sup>; (7) the Piedmont & Northern Railway, Inc. (“P&N”), which was acquired in September 2010<sup>6</sup>; (8) the Columbia & Cowlitz Railway, LLC (“CLC”), which was acquired on December 30, 2010<sup>7</sup>; (9) the DeQueen and Eastern Railroad, LLC (“DQE”), which was acquired on December 30, 2010<sup>8</sup>; (10) the Golden Triangle Railroad, LLC (“GTRA”), which was acquired on December 30, 2010<sup>9</sup>; (11) the Patriot Woods Railroad, LLC (“PAW”), which was acquired on December 30, 2010<sup>10</sup>; (12) the Texas, Oklahoma & Eastern Railroad, LLC (“TOE”), which was acquired on December 30, 2010<sup>11</sup>; and the Mississippi & Skuna Valley Railroad, LLC (“MSV”)<sup>12</sup> (collectively referred

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<sup>1</sup> *Patriot Rail, LLC and Patriot Rail Corp.—Control Exemption—Rarus Railway Company*, STB Finance Docket No. 35013 (STB served April 11, 2007).

<sup>2</sup> *Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Control Exemption—Utah Central Railway Company*, STB Finance Docket No. 35102 (STB served November 15, 2007).

<sup>3</sup> *Sacramento Valley Railroad, Inc.—Operation Exemption—McClellan Business Park*, STB Finance Docket No. 35117 (STB served February 14, 2008); *Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance in Control Exemption—Sacramento Valley Railroad, Inc.*, STB Finance Docket No. 35118 (STB served February 14, 2008).

<sup>4</sup> *Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Control Exemption—The Louisiana and North West Railroad Company LLC*, STB Finance Docket No. 35138 (STB served May 16, 2008).

<sup>5</sup> *Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Control Exemption—Temple & Central Texas Railway, Inc.*, STB Finance Docket No. 35256 (STB served July 15, 2009).

<sup>6</sup> *Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance in Control Exemption—Piedmont & Northern Railway, Inc.*, Docket No. FD 35403 (STB served August 27, 2010). *Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance in Control Exemption—Piedmont & Northern Railway, Inc.*, Docket No. FD 35403 (STB served August 27, 2010).

<sup>7</sup> *Tennessee Southern Railroad Company, Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance in Control Exemption—Columbia & Cowlitz Railway, LLC, DeQueen and Eastern Railroad, LLC, Golden Triangle Railroad, LLC, Mississippi & Skuna Valley Railroad, LLC, Patriot Woods Railroad, LLC, and Texas, Oklahoma & Eastern Railroad, LLC*, STB Docket No. FD 35425 (STB served November 12, 2010).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

to as the “Subsidiary Railroads”). On April 27, 2012, Kingman Terminal Railroad, LLC (“KTRR”) filed a Notice of Exemption to operate over about 3 miles of railroad owned by the Kingman Airport Authority, Inc., located in Mojave County, AZ.<sup>13</sup> Concurrently, a Notice of Exemption was filed by Tennessee Southern Railroad Company, Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp. (“TSRR, et al.”) to continue in control of KTRR once it becomes a railroad.<sup>14</sup> KTRR intends to commence railroad operations and TSRR, et al., intend to continue in control of KTRR as a rail carrier prior to the acquisition of control of Patriot by Patriot Funding. Therefore, Patriot Funding, SteelRiver Infrastructure Fund North America LP (“SRIFNA LP”), SteelRiver Infrastructure Associates LLC (“SRIA LLC”), and SteelRiver Infrastructure Partners LP (“SRIP LP”) are also seeking authority to control KTRR.

Patriot Funding is 100% owned by SRIFNA LP. SRIFNA LP is a limited partnership; its general partner is SRIA LLC, which is 100% owned by SRIP LP. Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP are non-carriers. None of these entities controls any railroads and none is commonly controlled with any railroads. The instant Notice of Exemption seeks exemption for Patriot Funding to acquire control, and, indirectly, for SRIFNA LP, SRIA LLC, and SRIP LP to acquire control, of the Subsidiary Railroads and KTRR through direct control of Patriot.

Although TOE connects to DQE and PAW connects to the CLC, these railroads do not connect

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<sup>12</sup> *Id.* MSV was authorized to abandon its entire 21-mile rail line extending between milepost 21.0 at Bruce Junction, and milepost 0.0 at Bruce, in Yalobusha and Calhoun Counties, Miss. (the “Line”). *Mississippi & Skuna Valley Railroad, LLC.—Abandonment Exemption—in Yalobusha and Calhoun Counties, Miss.*, STB Docket No. AB 1089X (STB served January 20, 2012). Instead of consummating the abandonment, MSV entered a trail use agreement with Mississippi & Skuna Valley Rails-to-Trails (“MSV Trail”) and donated the real estate of the Line to MSV Trail. MSV salvaged the track and material from the Line. Patriot Funding and SRIFNA LP believe that MSV retains a residual common carrier obligation over the Line and therefore is a rail carrier subject to the Board’s jurisdiction for the limited purpose of effecting the provision in 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, although it does not perform railroad operations. See *National Trails System Act and Railroad Rights-of-Way*, STB Docket No. EP 702 slip op. at 5 (STB served February 16, 2011). Therefore, Patriot Funding and SRIFNA LP are also seeking authority to control MSV.

<sup>13</sup> Finance Docket No. 35618, *Kingman Terminal Railroad, LLC—Operation Exemption—Kingman Airport Authority, Inc.*

<sup>14</sup> Finance Docket No. 35619, *Tennessee Southern Railroad Company, Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance-In-Control Exemption—Kingman Terminal Railroad, LLC*

with any railroads controlled by Patriot Funding, SRIFNA LP, SRIA LLC and SRIP LP, since Patriot Funding, SRIFNA LP, SRIA LLC and SRIP LP do not control any railroads. Therefore, the proposed transaction will not allow Patriot Funding, SRIFNA LP, SRIA LLC and SRIP LP to connect railroads together. The Board has previously applied the notice of exemption under 49 CFR §1180.2(d)(2) to similar situations where the railroad assets or the railroads being acquired connected, but did not connect with the railroads controlled by the party controlling the railroads.<sup>15</sup>

Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP are located at 500 5<sup>th</sup> Avenue, 55<sup>th</sup> Floor, New York, NY 10110. Patriot Funding's telephone number is (212) 382-7475.

Since Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP do not control any railroads, this is a transaction where the Subsidiary Railroads and KTRR will not connect with any subsidiary railroads of Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP, where the acquisition of the Subsidiary Railroads and KTRR is not intended to connect with any railroads in the corporate family of Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP, and where a Class I carrier is not involved. The proposed transaction meets the requirements of 49 C.F.R. § 1180.2(d)(2).

Counsel to whom questions concerning the transaction can be addressed is:

Ahren S. Tryon, Esq.  
Cozen O'Connor  
1627 I Street NW, Suite 1100  
Washington, DC 20006  
(202) 912-4827

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<sup>15</sup> See, e.g. *Tennessee Southern Railroad Company, Patriot Rail, LLC, Patriot Rail Holdings LLC, and Patriot Rail Corp.—Continuance in Control Exemption—Columbia & Cowlitz Railway, LLC, DeQueen and Eastern Railroad, LLC, Golden Triangle Railroad, LLC, Mississippi & Skuna Valley Railroad, LLC, Patriot Woods Railroad, LLC, and Texas, Oklahoma & Eastern Railroad, LLC*, STB Docket No. FD 35425 (STB served November 12, 2010); and *Genesee & Wyoming Inc.—Control Exemption—Columbus and Greenville Railway Company, The Chattooga and Chickamauga Railway Company, and Luxapalila Valley Railroad, Inc.*, STB Finance Docket No. 35139 (STB served May 15, 2008).

b. **1180.6(a)(1)(ii)**. The proposed time schedule for consummation of the proposed transaction.

Patriot Funding intends to acquire the shares of Patriot on or after June 6, 2012, and the control of the Subsidiary Railroads and KTRR on the same date.

c. **1180.6(a)(1)(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 transaction is intended to promote the investment objectives of Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP and to improve the Subsidiary Railroad's and KTRR's efficiency, financial strength, and ability to meet the needs of shippers.

Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP have no current plans to make substantial changes in the day-to-day operations of the Subsidiary Railroads and KTRR, to sell any of the Subsidiary Railroads or KTRR, or to abandon rail lines in connection with the proposed transaction. Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP do not contemplate making significant changes in the current workforces at the Subsidiary Railroads and KTRR, and Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP expect that the senior management of the Subsidiary Railroads and KTRR, for the most part, will remain in place.

Because Patriot Funding, SRIFNA LP, SRIA LLC, and SRIP LP are not currently engaged in providing any freight rail transportation services, the proposed transaction cannot result in any lessening of competition in the areas served by the Subsidiary Railroads or KTRR, nor will it make possible any abuse of market power.

d. **1180.6(a)(5)**. A list of the State(s) in which any part of the property of each applicant carrier is situated.

TSRR operates in the States of Tennessee and Alabama. Rarus operates in the State of Montana. Utah operates in the State of Utah. SAVR operates in the State of California. L&NW

operates in the States of Arkansas and Louisiana. TC operates in the State of Texas. P&N operates in the State of North Carolina. CLC operates in southwestern Washington State. DQE operates in southwestern Arkansas. GTRA operates in northeastern Mississippi. PAW operates in southwestern Washington. TOE operates in eastern Oklahoma. MSV operated in the Mississippi. KTRR will operate in Arizona.

e. **1180.6(a)(6). Map (Exhibit B).** 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 B, attached hereto, with colored maps showing each of the Subsidiary Railroads and KTRR.*

f. **1180.6(a)(7)(ii). Agreement (Exhibit A).** Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.

A redacted copy of the Stock Purchase Agreement dated as of May 4, 2012 is attached hereto in Exhibit A. A non-redacted copy of the executed Stock Purchase Agreement is concurrently being filed under seal with the Motion for Protective Order.

g. **1180.4(g)(4). Interchange Commitments.**

There are no interchange commitments in the Stock Purchase Agreement.

h. **Labor Protection.**

TSRR, Rarus, Utah, SAVR, L&NW, TC, P&N, CLC, DQE, GTRA, PAW, TOE, and MSV are all class III railroads. KTRR will become a class III railroad. As such, under 49 U.S.C. §11326(c), labor protection does not apply to this transaction.

i. **Environmental and Historical documentation.**



This transaction qualifies for classification under 49 C.F.R. §§ 1105.6(c)(2) and 1105.8(b)(3); thus, neither an Environmental Report nor a Historic Report is required to be filed.



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(410) 296-2250

Attorney for PATRIOT RAIL CORP.,  
ET AL.

Dated: May 7, 2012

Respectfully submitted,



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Attorney for PATRIOT FUNDING LLC,  
ET AL.

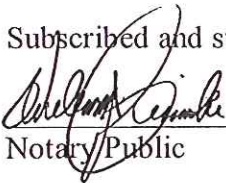
VERIFICATION

State of NEW YORK )  
 ) ss  
County of new York )

John McGuire, being duly sworn, deposes and says that I am Vice President of Patriot Funding, LLC, a Delaware limited liability company, and that he has read the foregoing, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.

  
\_\_\_\_\_

Subscribed and sworn to before me this 4<sup>th</sup> day of May, 2012

  
\_\_\_\_\_  
Notary Public

My Commission expires: MARCH 30, 2015

**WILLIAM J. PLUCINSKI**  
Notary Public - State of New York  
No. 01PL4617853  
Qualified in New York County  
Commission Expires March 30, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused the Verified Notice of Exemption in Finance Docket 35622, *SteelRiver Infrastructure Partners LP, SteelRiver Infrastructure Associates LLC, SteelRiver Infrastructure Fund North America LP and Patriot Funding LLC–Control Exemption–Patriot Rail Corp., et al.* to be served 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 on the Governor, Public Service Commission, and Department of Transportation of the States of Alabama, Arizona, Arkansas, California, Louisiana, Mississippi, Montana, North Carolina, Oklahoma, Tennessee, Texas, Utah, Washington, this 7<sup>th</sup> day of May, 2012.



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Ahren S. Tryon, Esq.

**EXHIBIT A-AGREEMENT  
(REDACTED)**

**STOCK PURCHASE AGREEMENT**

**Dated as of May 4, 2012**

**among**

**PATRIOT FUNDING LLC**

**and**

**PATRIOT RAIL HOLDINGS LLC**

TABLE OF CONTENTS

ARTICLE I DEFINITIONS .....	1
1.1 Certain Definitions .....	1
1.2 Other Defined Terms .....	7
1.3 Other Definitional Provisions .....	7
ARTICLE II PURCHASE AND SALE OF SHARES .....	8
2.1 Purchase and Sale of Shares .....	8
2.2 Purchase Price .....	8
2.3 Closing .....	8
2.4 Closing Deliveries by Seller .....	8
2.5 Closing Deliveries by Purchaser .....	9
2.6 Adjustment of Purchase Price .....	10
2.7 Earn-Out .....	10
2.8 Escrow .....	10
2.9 Withholding Taxes .....	10
2.10 Conversion and Sale of Patriot Rail Services, Inc .....	10
ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER .....	10
3.1 Organization .....	11
3.2 Authority; Binding Nature .....	11
3.3 No Conflict .....	11
3.4 Consents and Approval .....	12
3.5 Capitalization .....	12
3.6 Subsidiaries .....	12
3.7 Financial Information .....	13
3.8 Ordinary Course .....	14
3.9 Taxes .....	14
3.10 Title to Assets; Real Property .....	14
3.11 Litigation; Orders .....	15
3.12 Compliance .....	15
3.13 Permits .....	15
3.14 Intellectual Property .....	15
3.15 Environmental Matters .....	16
3.16 Material Contracts .....	16
3.17 Employee Benefit Matters .....	17
3.18 Labor Relations (Employment Matters) .....	17
3.19 Related Party Transactions .....	17
3.20 Insurance .....	17
3.21 Sale of Patriot Rail Services .....	17
3.22 Brokers .....	17
3.23 Books and Records .....	17
3.24 Bank Accounts .....	17
3.25 Support Services .....	18
3.26 State Takeover Statutes .....	18
3.27 Purchaser's Representations .....	18

ARTICLE IV REPRESENTATIONS AND WARRANTIES OF PURCHASER.....	18
4.1 Organization.....	18
4.2 Authority; Binding Nature .....	18
4.3 No Conflict.....	19
4.4 Consents and Approvals .....	19
4.5 Litigation.....	19
4.6 Funding .....	19
4.7 Brokers.....	19
4.8 Existing Rail Operations .....	19
4.9 Seller’s Representations.....	19
ARTICLE V COVENANTS.....	20
5.1 Conduct of Business by the Patriot Companies.....	20
5.2 Approvals and Filings .....	20
5.3 Access; Confidentiality .....	22
5.4 Notification .....	22
5.5 Public Announcements .....	22
5.6 No Control of Patriot Companies .....	23
5.7 Employee Benefit Matters.....	23
5.8 No Solicitation of Transaction .....	23
5.9 Financing.....	24
5.10 Changes to Organizational Names.....	24
5.11 Corporate Records .....	24
5.12 Instruments.....	25
5.13 Delivery of 2012 Audited Financial Statements.....	25
5.14 Certain Obligations and Arrangements.....	25
ARTICLE VI CONDITIONS TO CLOSE.....	25
6.1 Conditions to Each Party’s Obligations.....	25
6.2 Conditions to Purchaser’s Obligations.....	25
6.3 Conditions to Seller’s Obligations.....	26
ARTICLE VII INDEMNIFICATION .....	27
ARTICLE VIII ESCROW .....	27
ARTICLE IX TAX MATTERS.....	27
ARTICLE X TERMINATION .....	27
10.1 Termination.....	27
10.2 Effect of Termination.....	28
ARTICLE XI MISCELLANEOUS .....	28
11.1 Notices .....	28
11.2 Entire Agreement.....	29
11.3 Amendments .....	29
11.4 Waivers .....	29

11.5	Binding Effect; Assignment.....	29
11.6	Governing Law .....	30
11.7	Consent to Jurisdiction.....	30
11.8	Waiver of Jury Trial.....	30
11.9	Severability .....	31
11.10	Specific Performance .....	31
11.11	Expenses .....	31
11.12	Counterparts.....	31



## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement, dated as of May 4, 2012 ("Agreement"), is entered into by and among Patriot Funding LLC, a Delaware limited liability company ("Purchaser"), and Patriot Rail Holdings LLC, a Delaware limited liability company ("Seller").

**WHEREAS**, Seller owns 1,000 shares of common stock, par value \$0.001 per share (the "Shares"), of Patriot Rail Corp., a Delaware corporation ("Patriot");

**WHEREAS**, the Shares represent all of the issued and outstanding Equity Interests of Patriot; and

**WHEREAS**, Seller desires to sell, and Purchaser desires to purchase, the Shares on the Closing Date.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and conditions hereinafter set forth, intending to be legally bound hereby, the parties hereby agree as follows:

### ARTICLE I DEFINITIONS

1.1 Certain Definitions. As used herein, the following terms shall have the following meanings:

(a) "Acquisition Proposal" means any proposal or offer for, whether in one transaction or a series of related transactions, any (a) merger, consolidation, share exchange, business combination or similar transaction involving Seller or any Patriot Company, (b) sale or other disposition, directly or indirectly, of all or any of the Equity Interests of any Patriot Company, (c) sale or other disposition, directly or indirectly, of all or a material portion of the assets of Seller or any of the Patriot Companies, (c) recapitalization, reorganization, restructuring, liquidation, dissolution or other similar type of transaction with respect to Seller or any Patriot Company, or (d) transaction which is similar in form, substance or purpose to any of the foregoing transactions; provided, however, that the term "Acquisition Proposal" shall not include the sale of the Shares to Purchaser or any of the other transactions contemplated by this Agreement.

(b) "Affiliate" shall mean, with respect to any Person, any other Person that, alone or together with any other Person, directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, such Person. For the purpose of this definition, "control" (including the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by contract, agency or otherwise.

(c) "Affiliated Group" means any affiliated group within the meaning of Section 1504(a) of the Code or any affiliated, consolidated, combined, unitary, aggregate or similar group defined under a similar provision of state, local or foreign law.

(d) "Business Day" shall mean any day other than Saturday, Sunday, a day which is a legal holiday in the City of New York, United States, or a day on which commercial banks in the City of New York, United States, are authorized or required by Law to close.

(e) [REDACTED].

(f) "Cash" shall mean the aggregate amount of immediately available cash and cash equivalents on hand of the Patriot Companies.

(g) "Charter Documents" shall mean with respect to any entity, the certificate of formation, certificate of incorporation, articles of organization, articles of incorporation, bylaws, operating agreement, limited liability company agreement or other organizational document of such entity and any amendments thereto.

(h) [REDACTED].

(i) "Code" shall mean the Internal Revenue Code of 1986, as amended.

(j) "Confidentiality Agreement" shall mean the Confidentiality Agreement, dated as of June 29, 2011, between Purchaser and Seller.

(k) "Contract" shall mean any agreement, contract, arrangement, understanding, undertaking, indenture, note, debenture, bond, loan, instrument, lease, mortgage or commitment, whether formal or informal, written or oral, that is legally binding.

(l) [REDACTED].

(m) [REDACTED].

(n) "Data Room" shall mean the virtual data room hosted by Merrill Datasite, to which Seller has provided Purchaser access to review copies of Contracts, Permits and other due diligence materials pertaining to the Patriot Companies.

(o) [REDACTED].

(p) [REDACTED].

(q) [REDACTED].

(r) "Employees" shall mean those Persons employed by the Patriot Companies immediately prior to the Closing.

(s) "Employee Benefit Plan" shall mean any plan, agreement or arrangement whereby any Patriot Company provides or is obligated to provide any benefit, other than salaries, to any current or former officer, director, employee or independent contractor, including, without limitation, any "employee benefit plan" within the meaning of Section 3(3) of ERISA, and any profit sharing, "golden parachute," deferred compensation, equity, pension, change in control, severance, termination, retirement, health or insurance plans.

(t) “Environmental Law” shall mean all Laws relating to pollution or the protection of human health, the environment or natural resources, including, without limitation, Laws relating to releases, discharges or disposal of hazardous, toxic or radioactive substances, oils, pollutants or contaminants into the environment or otherwise relating to the distribution, use, treatment, storage, transport or handling of such substances, oils, pollutants or contaminants.

(u) “Equity Interest” shall mean, with respect to any Person, (i) any capital stock, shares, partnership interests, membership interests, limited liability company interests, options, stock appreciation rights, phantom equity interests or other ownership or equity interests of such Person, including any interests or securities exercisable, exchangeable or convertible into any of the foregoing, (ii) any other interest or participation that confers on the holder thereof the right to receive a share of the profits and losses of, or distributions of assets of, or any voting power in, such Person, and (iii) any warrants, options, convertible securities or other rights, agreements, arrangements or commitments relating to any of the foregoing.

(v) “ERISA” means the Employment Retirement Income Security Act of 1974.

(w) “ERISA Affiliate” shall mean any Person that is treated as a single employer along with any of the Patriot Companies within the meaning of Sections 414(b), (c), (m) and (o) of the Code, and the regulations thereunder.

(x) [REDACTED].

(y) [REDACTED].

(z) [REDACTED].

(aa) [REDACTED].

(bb) [REDACTED].

(cc) [REDACTED].

(dd) “GAAP” shall mean generally accepted accounting principles in the United States as in effect on the date hereof and from time to time.

(ee) “Governmental Authority” shall mean any governmental, regulatory or administrative body, agency, commission, board, arbitrator or authority, any court or judicial authority, any public, private or industry regulatory authority, whether international, national, federal, state or local, and any entity or official exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any Laws.

(ff) “Hazardous Substance” shall mean (a) any material, substance, chemical, waste, product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or man-made, that is a pollutant or contaminant, or is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or

wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation or polychlorinated biphenyls.

(gg) [REDACTED].

(hh) [REDACTED].

(ii) "Income Tax Return" shall mean any Tax Return relating to any federal, state, local or foreign Tax measured by or imposed on net income.

(jj) [REDACTED].

(kk) "Independent Accounting Firm" shall mean [REDACTED], or such other independent certified public accounting firm in the United States of national recognition mutually acceptable to Seller and Purchaser.

(ll) "IRS" shall mean the Internal Revenue Service.

(mm) "Law" shall mean and include: (i) any statute, law, decree, constitution, rule, regulation, ordinance, code, requirement, announcement, Order, judgment, decree, directive, requirement, rule of law (including common law) or other binding action of or by any Governmental Authority; (ii) any treaty, pact, compact or other agreement to which any Governmental Authority is a signatory or party; (iii) any judicial or administrative interpretation of application of any Law described in (i) or (ii) above; and (iv) any amendment or revision of any Law described in (i), (ii) or (iii) above.

(nn) "Liabilities" shall mean any and all debts, liabilities and obligations of any nature whatsoever, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Law.

(oo) "Lien" shall mean any lien (including environmental and Tax liens), pledge, mortgage, deed of trust, security interest, charge, claim, easement, hypothecation, adverse claim, reversion, reverter, preferential arrangement, restrictive covenant, condition, restriction, encroachment or other similar encumbrance of any kind, including restriction on the use, voting, transfer, receipt of income or other exercise of any attributes of ownership.

(pp) "Losses" shall mean losses, Liabilities, claims, damages, costs, interests, awards, judgments, penalties and expenses (including reasonable attorney's fees and costs of investigation), whether or not involving a third-party claim; provided that, except with respect to third-party claims, "Losses" shall not include any consequential, special, multiple, punitive or exemplary damages, including, but not limited to, damages arising from loss of profits, business interruption or goodwill, unless such damages are claimed by a third party (including a Governmental Authority).

(qq) [REDACTED].

(rr) "Material Adverse Change" or "Material Adverse Effect" shall mean [REDACTED]

(ss) [REDACTED].

(tt) “Order” shall mean any writ, judgment, injunction, determination, consent, order, decree, ruling, subpoena, verdict, stipulation, award or executive order of or by any Governmental Authority.

(uu) [REDACTED].

(vv) “Patriot Companies” shall mean Patriot and its Subsidiaries, collectively and taken as a whole.

(ww) “Patriot Company” shall mean each of Patriot and its Subsidiaries individually.

(xx) [REDACTED].

(yy) [REDACTED].

(zz) [REDACTED]“Permit” shall mean any permit, license, registration, authorization, certificate, order, consent, qualification, filing or approval of, from or with any Governmental Authority.

(aaa) “Permitted Lien” shall mean (i) Liens for current Taxes and assessments not yet past due or the amount or validity of which are being contested in good faith pursuant to Proceedings that are proper for such a contest, and for which adequate reserves have been maintained in accordance with GAAP, (ii) mechanics’, materialmen’s, workmen’s, repairmen’s, warehousemen’s and carriers’ Liens and similar Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days, and (iii) other Liens and imperfections of title that do not materially detract from the value of the property subject thereto or interfere with the use by such Company of the property subject thereto for its current and anticipated purposes.

(bbb) “Person” shall mean any natural person, corporation, association, partnership, organization, business, firm, trust, joint venture, unincorporated organization or any other entity or organization, including a Governmental Authority.

(ccc) “Post-Closing Tax Period” shall mean any taxable period beginning after the Closing Date and the portion of any Straddle Period beginning after the Closing Date.

(ddd) “Pre-Closing Tax Period” shall mean any taxable period ending on or before the Closing Date and the portion of any Straddle Period running through and including the Closing Date.

(eee) “Proceeding” means any claim, action, arbitration, audit, hearing, formal inquiry, proceeding, investigation, litigation, or suit (whether civil, criminal, administrative, investigative, or informal) commenced, brought, conducted, or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

(fff) [REDACTED].

(ggg) [REDACTED].

(hhh) [REDACTED].

(iii) [REDACTED].

(jjj) [REDACTED].

(kkk) [REDACTED].

(lll) [REDACTED].

(mmm)[REDACTED].

(nnn) "Related Party" shall mean: (a) any Person that serves as a director or executive officer of any Patriot Company as of the date of this Agreement, (b) any Person controlled by a Person described in (a) above (other than the Patriot Companies), (c) any trust of which a Person described in (a) above is grantor, and (d) any member of the Immediate Family of any Person described in (a) above. For purposes of this definition, the "Immediate Family" of an individual means (x) the individual's spouse, and (y) the individual's parents, brothers, sisters and children; and "control" of a specified Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through ownership of voting securities, by contract, agency or otherwise.

(ooo) "Seller's Knowledge" shall mean the actual knowledge, after due inquiry, of [REDACTED].

(ppp) [REDACTED].

(qqq) [REDACTED].

(rrr) "Subsidiary" shall mean with respect to any Person any corporation, association or other entity of which either such Person or any subsidiary of such Person (alone or together) owns or controls (either directly or indirectly or through another subsidiary) at least a majority of the issued share capital or other ownership interest, in each case having ordinary voting power to elect directors, managers or trustees of such corporation or other entity (whether or not any Equity Interests or other ownership interests or any other class or classes shall or might have voting power upon the occurrence of any contingency). Notwithstanding the foregoing, Patriot Rail Services, a wholly-owned Subsidiary of Patriot as of the date hereof, shall not be deemed for any purpose under this Agreement, a "Subsidiary" of Patriot; provided, however, that, notwithstanding the foregoing, for purposes of Section 3.9 and Article IX, Patriot Rail Services shall be deemed a Subsidiary of Patriot and included within the group of entities collectively referred to as the "Patriot Companies." For the avoidance of doubt, Patriot Rail Services shall not be considered a "Patriot Company," or included within the group of entities collectively referred to as the "Patriot Companies," except for purposes of Section 3.9 and Article IX.

(sss) "STB" shall mean the Surface Transportation Board.

(ttt) “Tax” or “Taxes” shall mean (A) any and all federal, state, local and foreign taxes, assessments and other governmental charges, duties, impositions, levies and Liabilities, including taxes based upon, measured by, or with respect to income, earnings, profits or gross receipts, or any sales, ad valorem, transfer, franchise, license, lease, withholding, payroll, employment, inventory, excise, severance, stamp, occupation, premium, real or personal property, windfall profits, environmental (including taxes under Section 59A of the Code), alternative or add-on minimum, financial transactions, customs, duties, capital stock, social security (or similar), unemployment, disability, gains, recapture, estimated, use, net worth, recording, registration, value-added, production, service, service use, special assessment, workers’ compensation, utility or any other taxes, fees, assessments or charges of any kind whatsoever in the nature of a tax, together with any interest and any penalties, additions to tax or additional amounts with respect thereto, and (B) any liability for any amount described in the immediately preceding clause (A) as a result of being a transferee or successor, by contract or otherwise, or as a result of being or having been a member of an affiliated, consolidated, combined, unitary, aggregate or similar group for Tax purposes, including under Treasury Regulations Section 1.1502-6 or similar state, local or foreign law, or pursuant to a tax indemnity, tax sharing or other contract, agreement, arrangement or understanding.

(uuu) “Tax Return” shall mean any return, declaration, report, claim for refund, election, notice or information return or statement or other document (including any related or supporting information, schedules or exhibits, and including any amendment that, in each case, relates to any Tax).

(vvv) “Taxing Authority” shall mean any federal, national, provincial, foreign, state or local government, or any subdivision, agency, commission or authority thereof exercising Tax regulatory, enforcement, collection or other similar authority.

(www) “Treasury Regulations” shall mean the regulations (including any proposed and temporary regulations) promulgated by the United States Department of the Treasury with respect to the Code or other United States federal tax statutes.

(xxx) “WARN ACT” shall mean the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign laws related to plant closings, relocations, mass layoffs and employment losses.

(yyy) [REDACTED].

1.2 Other Defined Terms The following capitalized terms have the meanings in the Sections indicated below:

[REDACTED]

1.3 Other Definitional Provisions.

(a) All terms defined in this Agreement shall have the meanings specified herein when used in any certificates or other documents made or delivered pursuant hereto or thereto, unless the context otherwise requires.

(b) Terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

(c) As used herein, the neuter gender shall also denote the masculine and feminine, and the masculine gender shall also denote the neuter and feminine, where the context so permits.

(d) Any document shall include that document as amended, novated, supplemented or otherwise modified from time to time and includes all exhibits, appendices, schedules, attachments and supplements thereto.

(e) The words "include," "includes" and "including" are deemed to be followed by the words "without limitation" whether or not such words appear.

(f) The use of "or" is not intended to be exclusive unless expressly indicated otherwise.

## ARTICLE II PURCHASE AND SALE OF SHARES

2.1 Purchase and Sale of Shares. Upon the terms and subject to the conditions of this Agreement, at the Closing, Purchaser shall purchase the Shares from Seller, and Seller shall sell, assign, transfer, convey and deliver the Shares, free and clear of all Liens, to Purchaser for the consideration specified in Section 2.2 (as adjusted pursuant to Section 2.6) and Section 2.7.

### 2.2 Purchase Price.

(a) Subject to the adjustments set forth in Section 2.6, the purchase price for the Shares (the "Purchase Price") shall be an aggregate amount equal to: [REDACTED]

(b) Satisfaction of Indebtedness and other Liabilities: [REDACTED]

2.3 Closing. Subject to the terms and conditions of this Agreement, the purchase and sale of the Shares contemplated by this Agreement shall take place at a closing (the "Closing") to be held at the offices of Greenberg Traurig, P.A., 333 Avenue of the Americas, Miami, Florida 33131 at 10:00 a.m. (local time) on or prior to the fifth Business Day following the satisfaction or waiver of all conditions to the obligations of the parties set forth in Article VI (other than those conditions that by their nature are to be satisfied at Closing), or at such other time and place as Purchaser and Seller may mutually agree upon in writing (the day on which the Closing takes place is referred to herein as the "Closing Date"). The Closing shall occur upon receipt and delivery of the items specified in Section 2.4 and Section 2.5, respectively.

2.4 Closing Deliveries by Seller. At the Closing, Seller shall deliver or cause to be delivered to Purchaser:



(a) certificates evidencing the Shares free and clear of all Liens and duly endorsed in blank, or accompanied by stock powers duly executed in blank, in form satisfactory to Purchaser and with all required stock transfer taxes affixed;

(b) a duly executed counterpart to the [REDACTED];

(c) a certificate of the Secretary or an Assistant Secretary of Seller, dated as of the Closing Date, certifying: (i) the resolutions of the sole stockholder of Patriot and the board of managers of Seller approving the sale of the Shares and the execution, delivery and performance of this Agreement; and (ii) the incumbency and signatures of the officers of Seller executing this Agreement and any other certificate or document delivered by Seller in connection with this Agreement;

(d) a certificate of good standing for each Patriot Company from the applicable secretary of state;

(e) a duly executed counterpart of the [REDACTED];

(f) a duly executed counterpart of the [REDACTED];

(g) a certificate, dated as of the Closing Date and signed by a duly authorized officer of Seller, that each of the conditions set forth in Section 6.2(c), Section 6.2(d) and Section 6.2(g) have been satisfied;

(h) [REDACTED];

(i) the resignations, effective as of the Closing, of all directors and officers of the Patriot Companies, except for such persons as shall have been designated in writing prior to the Closing by Purchaser to Seller;

(j) an affidavit, dated as of the Closing Date, certifying that Seller is not a foreign person in a form that satisfies the requirements of Section 1445 of the Code;

(k) documentation in form and substance satisfactory to Purchaser evidencing the termination of [REDACTED]; and

(l) such other documents or instruments as Purchaser may reasonably request to effect the transactions contemplated hereby.

2.5 Closing Deliveries by Purchaser. At the Closing, Purchaser shall deliver or cause to be delivered:

(a) Pursuant to a single funds flow memorandum providing for simultaneous wire transfers in immediately available funds, in the following order: [REDACTED]

(b) to Seller, a certificate of good standing for Purchaser from the Secretary of State for the State of Delaware;

- (c) to Seller, a duly executed counterpart of the [REDACTED];
- (d) to Seller, a duly executed counterpart of the [REDACTED];
- (e) to Seller, a certificate, dated as of the Closing Date and signed by a duly authorized officer of Purchaser, that each of the conditions set forth in Section 6.3(c) and Section 6.3(d) have been satisfied; and
- (f) to Seller, such other documents or instruments as Seller may reasonably request to effect the transactions contemplated hereby.

2.6 Adjustment of Purchase Price. The Purchase Price shall be subject to adjustment prior to and after the Closing as specified in this Section 2.6.

[REDACTED]

2.7 Earn-Out.

[REDACTED]

2.8 Escrow. On or prior to the Closing Date, Seller and Purchaser shall enter into an Escrow Agreement with the Escrow Agent substantially in the form of Exhibit D (the "Indemnity Escrow Agreement"). In accordance with the terms of the Indemnity Escrow Agreement, Purchaser shall, at the Closing, deliver to the Escrow Agent an amount in cash equal to the Indemnity Escrow Amount for deposit into an account to be managed and paid out by the Escrow Agent in accordance with the terms of this Agreement and the Indemnity Escrow Agreement.

2.9 Withholding Taxes. Notwithstanding any provision contained herein to the contrary, Purchaser shall be entitled to deduct and withhold from amounts otherwise payable to any Person pursuant to this Agreement such amounts as are required to be deducted and withheld with respect to the making of such payment under any provision of any applicable Tax Law. To the extent that amounts are so withheld by Purchaser, such amounts shall be remitted to the appropriate Taxing Authority and such withheld and remitted amounts shall be treated for all purposes of this Agreement as having been paid to the relevant Person in respect of which such deduction and withholding was made. Seller shall cooperate with Purchaser in the preparation and filing of any forms or other documentation claiming exemption or relief from any requirement to withhold.

2.10 Conversion and Sale of Patriot Rail Services, Inc. [REDACTED].

### ARTICLE III

#### REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby makes the following representations and warranties to Purchaser, subject to such exceptions as are disclosed in the Disclosure Schedules. Except for the representations and warranties contained in this Article III (including the related portions of the Disclosure

Schedules), none of Seller, any Patriot Company or any other Person on behalf of Seller or any Patriot Company has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Seller or any Patriot Company, including any representation or warranty arising from statute or otherwise in law:

3.1 Organization. Seller is a limited liability company (i) duly organized, validly existing and in good standing under the Laws of the State of Delaware, (ii) with all requisite power and authority to own and operate its properties and to carry on its business as presently conducted, and (iii) duly qualified and in good standing as a foreign limited liability company authorized to do business in each jurisdiction in which the nature of its activities or the character of the properties it owns or leases make such qualification necessary, except, in the case of this clause (iii), in such cases where the lack of said authorization or qualification has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Patriot is a corporation (a) duly organized, validly existing and in good standing under the Laws of the State of Delaware, (b) with all requisite power and authority to own and operate its properties and to carry on its business as presently conducted, and (c) duly qualified and in good standing as a foreign corporation authorized to do business in each jurisdiction in which the nature of its activities or the character of the properties it owns or leases make such qualification necessary, except, in the case of this clause (c), in such cases where the lack of said authorization or qualification has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

3.2 Authority; Binding Nature. Seller has all requisite power and authority to enter into this Agreement and the Indemnity Escrow Agreement, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated by this Agreement and the Indemnity Escrow Agreement. The execution, delivery and performance by Seller of this Agreement and the Indemnity Escrow Agreement and the consummation by Seller of the transactions contemplated by this Agreement and the Indemnity Escrow Agreement, have been duly authorized by all necessary action on the part of Seller and no other proceedings (corporate or otherwise) on the part of Seller or its board of managers or members is necessary to authorize this Agreement or the Indemnity Escrow Agreement or to consummate the transactions contemplated hereby or thereby. This Agreement has been duly executed and delivered by Seller and constitutes and, upon the execution of the Indemnity Escrow Agreement, the Indemnity Escrow Agreement shall be duly executed and delivered by Seller and shall constitute (in each case assuming due authorization, execution and delivery by Purchaser), legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency, fraudulent transfer, moratorium, restructuring or similar Laws affecting creditors' rights and remedies generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

3.3 No Conflict. The execution, delivery and performance by Seller of this Agreement and the Indemnity Escrow Agreement, and the consummation of the transactions contemplated hereby and thereby, do not and will not (a) conflict with or violate any Law, Order or Permit applicable to Seller or any Patriot Company, (b) conflict with, or result in a breach of or default under, any terms or conditions of the Charter Documents of Seller or any Patriot Company, or (c) except as set forth on Schedule 3.3, result in any breach of, or constitute a

default (or event which with the giving of notice or lapse of time, or both, would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation pursuant to any Contract to which Seller or any Patriot Company is a party or by which any of their respective assets or properties are bound except, in the case of clause (c), for such breaches, terminations, amendments, accelerations, cancellations or defaults which have not had and would not reasonably be expected to have individually or in the aggregate, a material effect on the assets, properties or businesses of the Patriot Companies.

3.4 Consents and Approval. No (i) consent, approval, authorization or other action by, or filing with or notification to, any Governmental Authority, or (ii) consent, approval, authorization or other action by any other Person (each, a "Consent") on the part of Seller or any Patriot Company is required in connection with the execution, delivery and performance by Seller of this Agreement and the Indemnity Escrow Agreement and the consummation of the transactions contemplated hereby and thereby except as set forth on Schedule 3.4.

### 3.5 Capitalization.

(a) The authorized capital stock of Patriot consists of (i) 1,000 shares of common stock, par value \$0.001 per share ("Common Stock"), of which 1,000 shares are issued and outstanding and constitute the Shares, and (ii) 200 shares of preferred stock, par value \$0.001 per share, of which no shares are issued and outstanding. Seller owns the Shares both beneficially and of record, and as of the Closing Date, the Shares will be free and clear of any Liens. The Shares constitute all of the issued and outstanding Equity Interests of Patriot. Except as set forth on Schedule 3.5(a), Seller holds no assets other than the Shares. The Shares have been duly authorized, validly issued and are fully paid and non-assessable. None of the Shares have been issued or disposed of in violation of any preemptive rights of any Person.

(b) There are no outstanding (i) rights, plans, options, warrants, calls, conversion rights or any agreements, arrangements or commitments of any kind or character (either firm or conditional) obligating Patriot to issue, deliver or sell, or cause to be issued, delivered or sold, any Equity Interests of Patriot, or any securities exchangeable for or convertible into Equity Interests of Patriot, (ii) contractual obligations or rights of a Person to repurchase, redeem or otherwise acquire any Equity Interests of Patriot, or (iii) proxies, voting agreements, voting trusts, preemptive rights, rights of first refusal, rights of first offer, rights of co-sale or tag-along rights, shareholder agreements or other rights, understandings or arrangements regarding the voting, purchase, redemption, acquisition, transfer or disposition of any Equity Interests of Patriot, or any other restrictions (other than those relating to Financing Liens or normal restrictions on transfer under applicable securities Laws) applicable to any Equity Interests of Patriot.

(c) Upon transfer of the Shares by Seller at the Closing, Purchaser will receive good title to the Shares free and clear of all Liens.

### 3.6 Subsidiaries.

(a) Schedule 3.6(a) contains a true and complete list of each Subsidiary of Patriot and sets forth (i) the type of legal entity and jurisdiction of organization of each

Subsidiary and (ii) the designation, par value (if any) and the number of authorized, issued and outstanding Equity Interests for each Subsidiary of Patriot and the number and the percentage of each Subsidiary of Patriot owned directly and indirectly by Patriot. Except as set forth on Schedule 3.6(a), no Patriot Company holds any Equity Interests of any Person. Each Subsidiary of Patriot is a legal entity (i) duly organized and validly existing and in good standing under the laws of its jurisdiction of organization, (ii) with all requisite power (corporate or otherwise) and authority to own and operate its properties and to carry on its business as presently conducted, and (iii) duly qualified and in good standing as a foreign entity authorized to do business in each jurisdiction in which the nature of its activities or the character of the properties it owns or leases make such qualification necessary, except, in the case of this clause (iii), in such cases where the lack of said authorization or qualification has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(B) Seller has made available for review by Purchaser in the Data Room true and complete copies of the Charter Documents of each Patriot Company.

(C) All of the outstanding Equity Interests of each Subsidiary of Patriot are duly authorized, validly issued, fully paid, non-assessable and, as of the Closing Date, will be free and clear of any Liens. All of the outstanding Equity Interests of each Subsidiary of Patriot are owned, beneficially and of record, by Patriot or a Subsidiary of Patriot.

(D) Except as set forth on Schedule 3.6(d), there are no outstanding (i) rights, plans, options, warrants, calls, conversion rights, preemptive rights or any agreements, arrangements or commitments of any character (either firm or conditional) obligating any Subsidiary of Patriot to issue, deliver or sell, or cause to be issued, delivered or sold, any of its Equity Interests or any securities exchangeable for or convertible into its Equity Interests, (ii) contractual obligations or rights of any Person to repurchase, redeem or otherwise acquire any Equity Interests of any Subsidiary of Patriot, or (iii) proxies, voting agreements, voting trusts, preemptive rights, rights of first refusal, rights of first offer, rights of co-sale or tag-along rights, shareholder agreements or other rights, understandings or arrangements regarding the voting, purchase, acquisition, redemption, transfer or disposition of any Equity Interests of any Subsidiary of Patriot, or any other restrictions (other than those relating to Financing Liens or normal restrictions on transfer under applicable securities Laws) applicable to any Equity Interests of any Subsidiary of Patriot.

### 3.7 Financial Information.

(a) Seller has made available in the Data Room true and complete copies of the consolidated audited financial statements of Seller, consisting of the audited consolidated balance sheets of Seller as of December 31, 2011, 2010 and 2009 and the related audited consolidated statements of operations and changes in members' equity and cash flows for the years then ended (the "Audited Financial Statements"), and consolidated unaudited financial statements of Seller, consisting of the unaudited consolidated balance sheets of Seller as of February 29, 2012 and the related unaudited consolidated statements of operations and changes in members' equity and cash flows for the two month period then ended (the "Interim Financial Statements") and together with the Audited Financial Statements, the "Financial Statements"). The audited consolidated balance sheet of Seller as of December 31, 2011 is referred to herein as

the "Balance Sheet" and the date thereof as the "Balance Sheet Date". The unaudited consolidated balance sheet of Seller as of February 29, 2012 is referred to herein as the "Interim Balance Sheet" and the date thereof as the "Interim Balance Sheet Date".

(b) Subject to the assumptions and qualifications set forth therein, the Financial Statements, when read together, present fairly, in all material respects, the consolidated financial position of Patriot at their dates and the consolidated results of operations and changes in members' equity of Seller for the periods indicated, and have been prepared from the books and records of Seller in accordance with GAAP applied on a consistent basis throughout the periods covered thereby except that the Interim Financial Statements have adjustments as indicated therein and do not include footnote disclosures or accruals and adjustments which would normally be made at year end (the effects of which are not material).

(c) No Patriot Company has any material Liability that was not fully and adequately reflected or reserved against in the Audited Financial Statements, and no such material Liabilities have arisen since the Balance Sheet Date, in each case other than any such Liabilities incurred in the ordinary course of business consistent with past practice. Except as set forth in the Financial Statements or on the Disclosure Schedules hereto, no Patriot Company is liable for or with respect to, or obligated in any other way to provide material funds in respect of or to guarantee or assume in any manner, any debt, obligation or dividend of any Person (other than debts or obligations of the Patriot Companies). Except as set forth on Schedule 3.7(c), no Patriot Company is currently liable for, or obligated to pay, any amounts of deferred purchase price arising from the acquisition of the equity or assets of any Person.

3.8 Ordinary Course. Except as set forth on Schedule 3.8, (a) (i) since the Balance Sheet Date, each Patriot Company has operated its business in all material respects in the ordinary course of business consistent with past practice, and (ii) since the Interim Balance Sheet Date, neither Seller nor any of the Patriot Companies has taken any action which, if taken after the date hereof, would violate Section 5.1(b), and (b) since the Balance Sheet Date, no change, event or circumstance has occurred, and no condition exists or has existed, that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Change with respect to Patriot.

3.9 Taxes.

[REDACTED].

3.10 Title to Assets; Real Property.

(a) Except as set forth on Schedule 3.10(a), each Patriot Company has good and valid title to, or a valid leasehold interest in, easement or right to use, all of its properties and assets reflected in the Financial Statements and those acquired since the Balance Sheet Date (except locomotives and other properties and assets disposed of in the ordinary course of business since the Balance Sheet Date, none of which are, individually or in the aggregate, material to such Patriot Company), and none of such properties or assets is subject to any Liens other than Permitted Liens and Financing Liens. Except as set forth on Schedule 3.10(a), at all times since the Balance Sheet Date, Seller and the Patriot Companies have caused such

properties and assets to be maintained in accordance with generally accepted industry practices for similarly situated companies and all such properties and assets of the Patriot Companies constituting personal property are in good operating condition and repair (ordinary wear and tear excepted) and are suitable, in all material respects, for the purposes for which they are used and intended.

(b) The sale of the Shares by Seller will transfer all of the property and assets, tangible and intangible, real or personal, owned or leased, of the Patriot Companies necessary or appropriate to conduct the businesses of the Patriot Companies as conducted in all material respects since the Balance Sheet Date.

### 3.11 Litigation; Orders.

(a) Except as set forth on Schedule 3.11(a), there is no Proceeding pending or, to Seller's Knowledge, threatened against any Patriot Company or affecting the assets or business of any Patriot Company.

(b) Except as set forth on Schedule 3.11(b), there is no Order outstanding against any Patriot Company or affecting the assets or business of any Patriot Company.

### 3.12 Compliance.

(a) Since December 31, 2010, no Patriot Company has defaulted under or violated (or received notice of any such default or violation) any term or provision of (i) its Charter Documents, (ii) any applicable Law, (iii) any applicable Order or (iv) any applicable Permit which it holds, except in the case of each of clause (ii), (iii) and (iv), for defaults or violations which, individually or in the aggregate, have not had and would not reasonably be expected to have a material effect on the Patriot Companies.

(b) Each Patriot Company is in material compliance with all applicable Laws and Orders.

3.13 Permits. To Seller's Knowledge, each Patriot Company holds all Permits necessary to own its properties and assets and carry on its business as it is presently conducted and all such Permits are valid and in full force and effect. There is no Proceeding pending, or to Seller's Knowledge, threatened, contemplating the suspension, modification, cancellation, revocation or nonrenewal of any such Permit.

### 3.14 Intellectual Property.

(a) Schedule 3.14 sets forth, as of the date of this Agreement, a list of all patents, patent applications, trademarks, trademark applications, trade names, service marks, service mark applications, domain name registrations and registered copyrights and applications therefor (collectively, "Intellectual Property Rights") that, in each case, are either registered or are applications for registration or grant, or are otherwise material to the Patriot Companies' conduct of the business of the Patriot Companies, as presently conducted. To Seller's Knowledge: (i) each of the Patriot Companies has a valid license with respect to the Intellectual Property Rights used by it, each of which is listed in Schedule 3.14 or is the exclusive owner of

such Intellectual Property Rights, and (ii) each such Intellectual Property Right is valid and enforceable. To Seller's Knowledge, the Patriot Companies' conduct of the business of the Patriot Companies as currently conducted does not infringe, misappropriate or otherwise violate any Intellectual Property Rights of any Person, and no claims are pending with respect to which any Patriot Company has received notice or service of process, or, to Seller's Knowledge, threatened that any Patriot Company is infringing the rights of any Person with regard to any Intellectual Property Right. Except as otherwise indicated in Schedule 3.14, to Seller's Knowledge, as of the date of this Agreement, no Person is infringing the rights of any Patriot Company with respect to any Intellectual Property Right, in a manner that has had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Patriot Companies have taken commercially reasonable precautions to protect any trade secrets which are material to the Patriot Companies' conduct of the business of the Patriot Companies, as presently conducted.

(b) All computer systems owned or controlled by the Patriot Companies and used in or necessary to the Patriot Companies' conduct of the business of the Patriot Companies as currently conducted (collectively, "Company IT Systems") have been maintained in a manner reasonably consistent with customary standards for comparable systems. The Company IT Systems are in reasonably satisfactory working condition to effectively perform all information technology operations necessary for the Patriot Companies to conduct the business of the Patriot Companies as currently conducted, ordinary wear and tear excepted. The Patriot Companies have taken commercially reasonable measures to provide for the back-up and recovery of the data and information necessary to the Patriot Companies' conduct of the business of the Patriot Companies as currently conducted without material disruption to, or material interruption in, their conduct of the business currently conducted by them.

### 3.15 Environmental Matters.

[REDACTED].

3.16 Material Contracts. Schedule 3.16(a) sets forth a true and complete list of all Patriot Material Contracts, other than those Patriot Material Contracts contemplated by clause (xii) of the definition thereof, true and complete copies of which have been provided to Purchaser by Seller. All Patriot Material Contracts are valid and binding agreements of a Patriot Company and are in full force and effect and are enforceable in accordance with their terms except as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or similar Laws affecting creditors' rights and remedies generally and general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity). Upon consummation of the transactions contemplated by this Agreement, each Patriot Material Contract shall continue in full force and effect without penalty or other adverse consequence, except as set forth on Schedule 3.16(b). No Patriot Company is in material violation or breach of or default under any Patriot Material Contract, and except as set forth on Schedule 3.16(c), to Seller's Knowledge, no Patriot Company has received any notice of termination, cancellation, breach or default of or under any Patriot Material Contract. To Seller's Knowledge, no other party to any Patriot Material Contract is in violation or breach of or default under any Patriot Material Contract. Seller has made available to Purchaser true and complete copies of all Patriot Material Contracts.



3.17 Employee Benefit Matters

[REDACTED].

3.18 Labor Relations (Employment Matters).

[REDACTED].

3.19 Related Party Transactions. Except as set forth on Schedule 3.19, neither Seller nor any Patriot Company is a party to any Contract with any Related Party or in which (to Seller's Knowledge) any Related Party has a material interest.

3.20 Insurance. Schedule 3.20 sets forth a list of all policies of insurance maintained with respect to the business, operations, properties, assets, officers, directors or affairs of the Patriot Companies. All such insurance policies (a) are in full force and effect and enforceable in accordance with their terms and will remain in full force and effect at all times until the Closing and (b) are of such types and amounts and covering such risks as are consistent with customary practices and standards of companies engaged in businesses and operations substantially similar to those of the Patriot Companies. No Patriot Company is in default under any such insurance policy. No Patriot Company has failed to give any notice or present any material claim under any insurance policy in due or timely fashion or as required thereby in a manner that may jeopardize full recovery thereunder. To Seller's Knowledge, there are no pending claims under any such insurance policies for which coverage has been questioned, denied or disputed by the insurer or in respect of which the insurer has reserved its rights. All premiums due under such insurance policies have been paid in full when due. Neither Seller nor any Patriot Company has received any notice of cancellation of or material change to any such insurance policy.

3.21 Sale of Patriot Rail Services. [REDACTED].

3.22 Brokers. Except for Barclays (the fees, costs and expenses of which are solely the responsibility of Seller), no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Seller, Patriot, any Patriot Company or any of their respective directors, officers or employees, for which Purchaser or any Patriot Company may become liable.

3.23 Books and Records. The minute books of each Patriot Company contain complete records of all meetings and accurately reflect all actions taken at meetings, or by written consent in lieu of meetings, of the holders of Equity Interests and members of boards of directors or boards of managers or any committee thereof, as applicable. Complete and accurate copies of the minute books and stock register of each Patriot Company have been provided by Seller to Purchaser.

3.24 Bank Accounts. Schedule 3.24 contains a true and complete list of (a) the names and locations of all banks, trust companies, securities brokers and other financial institutions at which any Patriot Company has an account or safe deposit box or maintains a banking, custodial, trading or similar relationship, (b) a true and complete list and description of each such account,

box and relationship and (c) the name of every Person authorized to draw thereon or having access thereto.

3.25 Support Services. Except as set forth on Schedule 3.25, neither Seller nor any Affiliate of Seller (except for the Patriot Companies) provides any support or other services to any Patriot Company or owns or otherwise holds any assets or properties used in the business of any Patriot Company.

3.26 State Takeover Statutes. Seller has taken all necessary action so that no “business combination,” “moratorium,” “fair value,” “control share acquisition” or other state antitakeover statute or regulation will be applicable to this Agreement or the transactions contemplated hereby.

3.27 Purchaser’s Representations. Except for the representations and warranties contained in Article IV below, as qualified by the Disclosure Schedules, or in any certificates delivered by Purchaser in connection with the Closing, Seller acknowledges that neither Purchaser nor any Person on behalf of Purchaser has made or makes any other express or implied representation or warranty with respect to Purchaser.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser hereby makes the following representations and warranties to Seller, subject to such exceptions as are disclosed in the Disclosure Schedules. Except for the representations and warranties contained in this Article IV (including the related portions of the Disclosure Schedules), none of Purchaser or any other Person on behalf of Purchaser has made or makes any other express or implied representation or warranty, either written or oral, on behalf of Purchaser, including any representation or warranty arising from statute or otherwise in law:

4.1 Organization. Purchaser is a limited liability company (i) duly organized, validly existing and in good standing under the laws of the State of Delaware (ii) with all requisite power (corporate or otherwise) and authority to own and operate its properties and to carry on its business as presently conducted, (iii) duly qualified and in good standing as a foreign limited liability company authorized to do business in each jurisdiction in which the nature of its activities or the character of the properties it owns or leases make such qualification necessary, except in such cases where the lack of said authorization or qualification has not materially adversely affected, and would not reasonably be expected to materially adversely affect, the ability of Purchaser to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

4.2 Authority; Binding Nature. Purchaser has all requisite power and authority to enter into this Agreement and the Indemnity Escrow Agreement and to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by Purchaser of this Agreement and the Indemnity Escrow Agreement have been duly authorized by all necessary action on the part of Purchaser and no other proceedings (corporate or otherwise) on the part of Purchaser or its members are necessary to authorize this Agreement and the Indemnity Escrow Agreement. This Agreement has been

duly executed and delivered by Purchaser and constitutes and, upon the execution of the Indemnity Escrow Agreement, the Indemnity Escrow Agreement shall be duly executed and delivered by Purchaser and shall constitute (in each case assuming due authorization, execution and delivery by Seller), legal, valid and binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency, fraudulent transfer, moratorium, restructuring or similar Laws affecting creditors' rights and remedies generally and general equitable principles regardless of whether such enforceability is considered in a proceeding at law or in equity.

4.3 No Conflict. The execution, delivery and performance by Purchaser of this Agreement, the Indemnity Escrow Agreement and the consummation of the transactions contemplated hereby and thereby do not and will not (a) conflict with or violate any Law, Order or Permit applicable to Purchaser, or (b) conflict with, or result in a breach of or default under, any terms or conditions of Purchaser's Charter Documents.

4.4 Consents and Approvals. No Consent on the part of Purchaser is required in connection with the execution, delivery and performance by Purchaser of this Agreement and the Indemnity Escrow Agreement and the consummation of the transactions contemplated hereby and thereby except as required by the STB.

4.5 Litigation.

(a) There is no Proceeding pending or, to the knowledge of Purchaser, threatened against Purchaser, which, if determined adversely, would reasonably be expected to materially adversely affect the ability of Purchaser to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

(b) There is no Order outstanding against Purchaser or any of its Subsidiaries, or their respective businesses that would reasonably be expected to materially adversely affect the ability of Purchaser to perform its obligations under this Agreement or to consummate the transactions contemplated hereby.

4.6 Funding. [REDACTED].

4.7 Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its respective directors, officers or employees, for which Seller may become liable.

4.8 Existing Rail Operations. Neither Purchaser nor any Affiliate of Purchaser controls a railroad regulated by the STB. Neither Purchaser nor any Affiliate of Purchaser either (a) controls a Class I railroad or (b) controls a railroad that connects to a railroad operated by any Patriot Company.

4.9 Seller's Representations. Except for the representations and warranties contained in Article III above, as qualified by the Disclosure Schedules, or in any certificates delivered by Seller in connection with the Closing, Purchaser acknowledges that neither Seller nor any Person on behalf of Seller or the Patriot Companies has made or makes any other express or implied

representation or warranty with respect to the Patriot Companies or with respect to any other information provided or made available to Purchaser in connection with the transactions contemplated by this Agreement. Except as contemplated by this Agreement, Seller shall not have or be subject to any liability or indemnification obligation, to Purchaser or any other Person resulting from the distribution to Purchaser, or Purchaser's use of, any such information, including any information, documents, projections, forecasts or other material made available to Purchaser in the Data Room or management presentations in expectation of the transactions contemplated by this Agreement.

## ARTICLE V COVENANTS

### 5.1 Conduct of Business by the Patriot Companies.

(a) Seller covenants and agrees that from the date of this Agreement through the Closing, unless Purchaser shall otherwise agree in writing (and except as set forth on Schedule 5.1(b) or as otherwise expressly permitted or required by this Agreement), Seller shall, and shall cause each of the Patriot Companies to, (i) maintain its existence in good standing under applicable Law, (ii) subject to the restrictions and exceptions set forth in Schedule 5.1(b), operate and conduct its business and operations in all material respects in the ordinary and usual course of business, in a manner consistent with prior practice and in accordance with the approved 2012 Operating Budget and Capital Expenditure Budget, each attached hereto as Exhibit C-1 and Exhibit C-2, respectively, (iii) use commercially reasonable efforts to keep available the services of its current officers and employees and to substantially preserve intact its present business organization, goodwill and Permits, (iv) use commercially reasonable efforts to preserve its current relationships with customers, suppliers and other Persons with which it has significant business relationships, and (v) comply with all applicable Laws and Orders.

(b) Without limiting the foregoing, Seller covenants and agrees that from the date of this Agreement through the Closing, Seller shall not, and shall cause the Patriot Companies not to, do (without the prior written consent of Purchaser, such consent not to be unreasonably withheld) any of the following [REDACTED]:.

### 5.2 Approvals and Filings.

(a) Upon the terms and subject to the conditions set forth in this Agreement, each of Seller and Purchaser agrees to use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and to assist and cooperate with the other parties in doing, all things necessary, proper or advisable to fulfill all conditions applicable to such party pursuant to this Agreement and to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement, including (i) obtaining all necessary, proper or advisable actions or non-actions, waivers, Consents, qualifications and approvals from Governmental Authorities and making all necessary, proper or advisable registrations, filings and notices and taking all steps as may be necessary to obtain an approval, waiver or exemption from any Governmental Authority (including from the STB); (ii) obtaining all necessary, proper or advisable Consents, qualifications, approvals, waivers or exemptions from non-governmental Persons; and (iii) executing and delivering any additional

documents or instruments necessary, proper or advisable to consummate the transactions contemplated by, and to fully carry out the purposes of, this Agreement.

(b) In addition to and without limitation of the foregoing, Purchaser shall, as promptly as practicable, file with the STB the appropriate and necessary documentation for the approval or exemption, as the case may be, of the transactions contemplated hereby. Purchaser shall bear its own costs for the preparation of such filings and responding to any inquiries or information requests, if applicable, and Purchaser shall be responsible for the payment of any applicable filing fees. Purchaser and Seller shall cooperate with one another (including by exchanging with and providing to each other such information as may be reasonably requested) (A) in promptly making any such filings, furnishing information required in connection therewith and seeking to obtain timely any such approval or exemption, and (B) in keeping the other party reasonably informed of the status of any communications with, and any inquiries or requests for additional information from, the STB, regarding any of the transactions contemplated hereby. Each party shall provide the other with adequate time to review and provide comments to, prior to filing, all documents proposed by such party to be filed with the STB, any other Governmental Authority to secure approval or exemption of the transactions contemplated hereby.

(c) No party hereto shall independently participate in any substantive meeting or discussion, either in person or by telephone, with any Governmental Authority without giving the other party hereto prior notice of the meeting or discussion and, to the extent permitted by such Governmental Authority, the opportunity to attend and/or participate. Subject to applicable Law, the parties hereto will consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made or submitted by or on behalf of any party hereto relating to a Proceeding under any Law relating to the STB approval or exemption process.

(d) In the event that any Proceeding is instituted (or threatened to be instituted) by a Governmental Authority or private party challenging the transactions contemplated by this Agreement, or any other agreement contemplated hereby, each of Purchaser and Seller shall cooperate fully with each other and use its respective commercially reasonable efforts to contest and resist any such Proceeding and to have vacated, lifted, reversed or overturned any Order, whether temporary, preliminary or permanent, that is in effect and that prohibits, prevents or restricts consummation of the transactions contemplated by this Agreement.

(e) Notwithstanding anything to the contrary, nothing herein shall obligate Purchaser to (w) consent to any change in the terms of any agreement or arrangement which Purchaser in its sole discretion deems adverse to the interests of Purchaser or the Patriot Companies, (x) incur any material expenses (except as expressly contemplated hereby), or agree to materially limit the conduct of its (or any of its Subsidiaries' or Affiliates', or the Patriot Companies') business or divest itself (or any of its Subsidiaries or Affiliates, or any Patriot Company) of any assets or properties (y) propose, negotiate, commit to or effect by consent decree, hold separate order, or otherwise, the sale, divestiture or disposition of any assets or businesses of Purchaser (or any of its Subsidiaries or Affiliates) or the Patriot Companies, and (z)

otherwise take or commit to take actions that limit the businesses, product lines, properties or assets of Purchaser (or any of its Subsidiaries or Affiliates) or the Patriot Companies.

### 5.3 Access; Confidentiality.

(a) From the date hereof to the Closing Date, Seller shall, and shall cause the officers, directors, employees, agents, accountants, counsel and other representatives ("Representatives") of Seller and each Patriot Company to, (i) afford the Representatives (including financing sources) of Purchaser, upon reasonable prior notice, which shall be directed to Bennett Marks (or such other officer of Seller designated in writing), reasonable access during normal business hours to the Representatives, properties, offices and other facilities, Contracts, books and records of each Patriot Company and (ii) furnish to Purchaser and its Representatives (including financing sources) such financial and operating data and other information as such Persons may reasonably request. Prior to the Closing, without the prior consent of Seller, which may be withheld for any reason, Purchaser shall have no right to perform invasive or subsurface investigations of any real property owned or leased by a Patriot Company. Notwithstanding anything herein to the contrary, Purchaser may contact by telephone suppliers to, and customers of, any Patriot Company, so long as Purchaser first provides at least two (2) Business Days' notice to Seller of each such proposed teleconference and grants Seller the opportunity to participate in such teleconference, or as otherwise agreed by Purchaser and Seller. Purchaser and its Representatives shall conduct their investigations pursuant to this provision in such a manner so as not to interfere with the normal operations of any Patriot Company, and in a manner so as to minimize any disruptions with the business of any Patriot Company.

(b) Purchaser acknowledges and agrees that the Confidentiality Agreement remains in full force and effect and, in addition, covenants and agrees to keep confidential, in accordance with the provisions of the Confidentiality Agreement, information provided to Purchaser pursuant to this Agreement. If this Agreement is, for any reason, terminated prior to the Closing, the Confidentiality Agreement and the provisions of this Section 5.3(b) shall nonetheless continue in full force and effect.

(c) No investigation pursuant to this Section 5.3 shall be deemed to modify or affect any representation, warranty, covenant or agreement in this Agreement of any party hereto or any condition to the obligations of the parties hereto.

5.4 Notification. Each party shall promptly (and in any event within three Business Days after becoming aware of any such breach) notify the other party in writing if such first party believes that such first party has breached any representation, warranty, covenant or agreement contained in this Agreement. No notice (or lack of notice) pursuant to this Section 5.4 shall be deemed to amend or supplement the Disclosure Schedules or to prevent or cure any breach, nor shall any such notice (or lack of notice) affect or otherwise limit the remedies of any party hereto.

5.5 Public Announcements. Seller and Purchaser shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or any of the transactions contemplated hereby and shall not issue any such press release or make any such public statement without the prior written consent of the other party,

which consent shall not be unreasonably withheld or delayed; provided, however, that a party may, without the prior written consent of the other party, issue such press release or make such public statement as may be required by Law or Order, or any listing agreement with a national stock exchange or automated quotation system (after using commercially reasonable efforts to consult with the other party).

5.6 No Control of Patriot Companies. Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct the operations of any Patriot Company prior to the Closing Date. Prior to the Closing Date, each of Seller and Purchaser shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations.

5.7 Employee Benefit Matters.

(a) [REDACTED].

(b) Purchaser shall ensure that, as of the Closing Date, each Continuing Employee receives full credit (for all purposes, including eligibility to participate, vesting, vacation entitlement and severance benefits, but excluding benefit accrual under any defined benefit plan) for service with the Patriot Company (or predecessor service credit under its employee benefit plans) under each of the comparable employee benefit plans, programs and policies of Purchaser or the relevant Subsidiary, as applicable, in which such Continuing Employee becomes or may become a participant; provided, however, that no such service recognition shall result in any duplication of benefits. As of the Closing Date, Purchaser shall, or shall cause the relevant Subsidiary to, credit to Continuing Employees the amount of vacation time that such employees had accrued under any applicable Employee Benefit Plan as of the Closing Date. With respect to each health or welfare benefit plan maintained by Purchaser or the relevant Subsidiary for the benefit of any Continuing Employees, Purchaser shall (i) cause to be waived any eligibility waiting periods, any evidence of insurability requirements and the application of any pre-existing condition limitations under such plan; and (ii) cause each Continuing Employee to be given credit under such plan for all amounts paid by such Continuing Employee under any similar Employee Benefit Plan for the plan year that includes the Closing Date for purposes of applying deductibles, co-payments and out-of-pocket maximums as though such amounts had been paid in accordance with the terms and conditions of the applicable plan maintained by Purchaser or the relevant Subsidiary, as applicable, for the plan year in which the Closing Date occurs.

(c) Nothing contained in this Agreement shall (i) amend, or be deemed to amend, any Employee Benefit Plan, (ii) create any third party beneficiary rights in any Person or otherwise provide any Person not a party to this Agreement with any right, benefit or remedy with regard to any Employee Benefit Plan or a right to enforce any provision of this Agreement, or (iii) limit in any way Purchaser's ability to amend or terminate any Employee Benefit Plan at any time, subject to applicable Laws.

5.8 No Solicitation of Transaction

(a) Neither Seller nor any Patriot Company nor any of their Representatives shall, directly or indirectly, (i) solicit, encourage, facilitate or participate in (including by way of furnishing nonpublic information or assistance) any inquiries, proposals or negotiations with respect to, or the making of, any Acquisition Proposal, (ii) approve, endorse or recommend any Acquisition Proposal, or (iii) enter into any agreement in principle, arrangement, understanding, Contract or agreement relating to an Acquisition Proposal. Upon execution of this Agreement Seller shall, and shall direct its Representatives to, immediately cease any discussions, negotiations or communications with any party or parties with respect to any Acquisition Proposal; provided, however, that nothing in this Section 5.8 shall preclude Seller or its representatives from contacting any such party or parties solely for the purpose of complying with the requirements of this sentence.

(b) Seller shall promptly, and in any event within forty-eight hours after receipt, notify Purchaser of the receipt of (i) an Acquisition Proposal, (ii) any request for information relating to the Patriot Companies (other than requests for information unrelated to an Acquisition Proposal) or (iii) any inquiry or request for discussions or negotiations regarding any Acquisition Proposal, which any Representative of Seller or any Patriot Company may receive directly or through any Representative for Seller or any Patriot Company after the date hereof. Such notification shall include, to the extent then known, the identity of the parties and a copy of such Acquisition Proposal, inquiry or request or, if not made in writing, a summary written description thereof. Seller shall keep Purchaser reasonably informed on a prompt basis as to any material developments regarding any such proposal, indication, inquiry or request. No Patriot Company shall, after the date of this Agreement, enter into any confidentiality agreement that would prohibit them from providing such information to Purchaser.

#### 5.9 Financing.

(a) [REDACTED].

(b) For the avoidance of doubt, Purchaser acknowledges that there is no financing contingency and financing is not a condition to Purchaser's obligation to consummate the purchase of the Shares and the other transactions contemplated hereby; accordingly, if any financing (or any alternative) has not been obtained, Purchaser shall continue to be obligated to purchase the Shares on the terms, and subject to the conditions, set forth in this Agreement.

(c) At the Closing, Seller shall, or shall cause the Patriot Companies to, repay in full all Indebtedness of the Patriot Companies and extinguish all guarantees of the Patriot Companies of any such Indebtedness [REDACTED], each as contemplated by Section 2.2(b), and shall have released all Liens in and upon any of the properties, assets or Equity Interests of any and all of the Patriot Companies relating to such Indebtedness.

#### 5.10 Changes to Organizational Names. [REDACTED].

5.11 Corporate Records. At or prior to the Closing, Seller shall deliver to Purchaser all minute books, stock ledgers, stock books, canceled or unused stock certificates, corporate seals, books, records (including for all open Tax periods, any Tax Returns, records and worksheets relating to Taxes, as well as any Tax closing or settlement agreements and any Tax examinations



or similar reports), files, personnel records, policy forms, stationery, software, data, documents, assets and properties of the Patriot Companies that are in the possession of Seller or any of its Affiliates (other than the Patriot Companies).

5.12 Instruments. Any monies, checks, drafts, money orders, postal notes and other instruments received after the Closing by Seller or any of its Affiliates in payment of any amounts due any Patriot Company shall be held in trust therefor and, promptly after receipt by Seller or such Affiliate, be transferred and delivered to Purchaser, and any such instruments made payable to Seller or such Affiliates when so delivered shall bear all endorsements required to effectuate the transfer of the same to Purchaser.

5.13 Delivery of 2012 Audited Financial Statements. [REDACTED].

5.14 Certain Obligations and Arrangements.

[REDACTED]

5.15 Boca Raton Patriot Office. [REDACTED].

## ARTICLE VI CONDITIONS TO CLOSE

6.1 Conditions to Each Party's Obligations. Each party's obligation to consummate the transactions contemplated by this Agreement shall be subject to the fulfillment at or prior to the Closing of the following conditions, any or all of which may be waived in whole or in part by such party:

(a) STB. The approval or exemption, as the case may be, of the STB with respect to the transactions contemplated hereby shall have been obtained.

6.2 Conditions to Purchaser's Obligations. The obligation of Purchaser to purchase the Shares and to consummate the other transactions contemplated by this Agreement shall be subject to the fulfillment prior to or at the Closing of the following conditions, any or all of which may be waived in whole or in part by Purchaser:

(a) No Orders. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law or Order (whether temporary, preliminary or permanent) which has the effect of making illegal, materially restricting or preventing or prohibiting the consummation of the transactions contemplated by this Agreement or imposes limitations on the ability of Purchaser to exercise full rights of ownership of the Shares or any Equity Interests, assets, properties or businesses of any Patriot Company.

(b) No Adverse Proceedings. No Proceeding instituted by a Governmental Authority shall be pending or shall have been overtly threatened in writing, asserted, instituted or entered which seeks to (i) restrain, prohibit or enjoin Purchaser from entering into, or performing any of the transactions contemplated by, this Agreement or any of the other agreements

contemplated hereby or (ii) impose limitations on the ability of Purchaser to exercise full rights of ownership of the Shares or any Equity Interests of any Patriot Company.

(c) Accuracy of Representations and Warranties. The representations and warranties of Seller contained in this Agreement (A) that are not qualified as to “materiality” or “Material Adverse Effect” shall be true and correct in all material respects when made and as of the Closing and (B) that are qualified as to “materiality” or “Material Adverse Effect” shall be true and correct when made and as of the Closing, other than such representations and warranties that are made as of another date, in which case such representations and warranties shall be true and correct in all material respects or true and correct, as the case may be, as of such other date.

(d) Compliance with Obligations. Seller shall have performed and complied in all material respects with all of its obligations required by this Agreement to be performed or complied with prior to or at the Closing.

(e) Termination of Certain Agreements.

[REDACTED].

(f) Consents. All Consents required in connection with the transactions contemplated hereby shall have been duly obtained, made or given and shall be in full force and effect, without the imposition upon Purchaser or any Patriot Company or any of their Affiliates of any limitations on the ability of Purchaser to exercise full rights of ownership of the Shares or any Equity Interests of any Patriot Company.

(g) No Material Adverse Effect. No event or events shall have occurred, or be reasonably likely to occur, which have had or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

6.3 Conditions to Seller’s Obligations. Seller’s obligation to sell the Shares and to consummate the other transactions contemplated by this Agreement shall be subject to the fulfillment prior to or at the Closing of the following conditions, any or all of which may be waived in whole or in part by Seller:

(a) No Orders. No Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law or Order (whether temporary, preliminary or permanent) which has the effect of making illegal, materially restricting or preventing or prohibiting the consummation of the transactions contemplated by this Agreement.

(b) No Adverse Proceedings. No Proceeding instituted by a Governmental Authority shall be pending or shall have been overtly threatened in writing, asserted, instituted or entered which seeks to restrain, prohibit or enjoin Seller from entering into, or performing any of the transactions contemplated by, this Agreement or any of the other agreements contemplated hereby.

(c) Accuracy of Representations and Warranties. The representations and warranties of Purchaser contained in this Agreement (A) that are not qualified as to “materiality” shall be true and correct in all material respects when made and as of the Closing and (B) that are

qualified as to “materiality” shall be true and correct when made and as of the Closing, other than such representations and warranties that are made as of another date, in which case such representations and warranties shall be true and correct in all material respects or true and correct, as the case may be, as of such other date.

(d) Compliance with Obligations. Purchaser shall have performed and complied in all material respects with all of its obligations required by this Agreement to be performed or complied with prior to or at the Closing.

## ARTICLE VII INDEMNIFICATION

[REDACTED].

## ARTICLE VIII ESCROW

[REDACTED].

## ARTICLE IX TAX MATTERS

[REDACTED].

## ARTICLE X TERMINATION

10.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of Seller and Purchaser;

(b) by either Seller or Purchaser if the Closing shall not have occurred on or before [REDACTED], provided that the right to terminate this Agreement under this Section 10.1(b) shall not be available to any party whose failure to fulfill any obligation under this Agreement shall have been the cause of, or shall have resulted in, the failure of the Closing to occur on or prior to such date;

(c) by either Seller or Purchaser, in the event of (i) a material breach by the other party of any representation or warranty contained this Agreement, which breach cannot be or has not been cured within ten (10) days after the giving of written notice to the breaching party of such breach and which breach or breaches would result in a failure to satisfy any condition to Purchaser’s or Seller’s obligations set forth in Section 6.2 or Section 6.3, respectively, or (ii) a material breach by the other party of any of its obligations contained in this Agreement, which breach cannot be or has not been cured within five (5) days after the giving of written notice to the breaching party of such breach; provided that the non-breaching party provides the breaching party with a written notice of termination within five (5) days after the earlier of the expiration of such 5-day period or the date it receives a written notice from the breaching party stating that it is unable or unwilling to cure such breach; or

(d) by either Purchaser or Seller, if any Governmental Authority shall have enacted, issued, promulgated, enforced or entered any Law, or final non-appealable Order which has the effect of making illegal the consummation of the transactions contemplated by this Agreement.

10.2 Effect of Termination. In the event of termination of this Agreement by a party pursuant to Section 10.1, written notice thereof shall promptly be given to the other party(ies) hereto, and upon such notice this Agreement shall terminate. Except as provided under this Section 10.2 or otherwise expressly in accordance with the terms of this Agreement, upon termination of this Agreement pursuant to Section 10.1, this Agreement shall forthwith become void and of no further force and effect, there shall be no liability on the part of any party hereto to the other party(ies), and all rights and obligations of any party hereto shall cease and the parties shall be released from any and all obligations hereunder; provided that (i) the provisions of Section 5.3(c), Section 5.5, this Section 10.2, Article VII and Article XI shall survive any such termination; and (ii) nothing herein shall relieve any party from liability for damages resulting from the breach of any of its representations, warranties, covenants or agreements set forth in this Agreement.

## ARTICLE XI MISCELLANEOUS

11.1 Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed given (and duly received) if delivered personally, sent by overnight courier (providing proof of delivery and confirmation of receipt by telephonic notice to the applicable contact person) to the parties or sent by fax (providing proof of transmission and confirmation of transmission by telephonic notice to the applicable contact person) at the following addresses or fax numbers (or at such other address or fax number for a party as shall be specified by like notice):

if to Purchaser, to:

SteelRiver Infrastructure Fund North America LP  
550 Fifth Avenue  
55<sup>th</sup> Floor  
New York, NY 10110  
Attention: John McGuire  
Fax No.: 212-696-0040  
Email: john.mcguire@steelriverpartners.com

with a copy to:

Dewey & LeBoeuf LLP  
1301 Avenue of the Americas  
New York, NY 10019-6092  
Attn: Rich Shutran  
Brian Smarsh  
Phone: (212) 259-8000  
Fax: (212) 259-6333  
Email: rshutran@dl.com

if to Seller, to:

Patriot Rail Holdings LLC  
2255 Glades Road  
Suite 342-W  
Boca Raton, Florida 33431  
Attn: Gary O. Marino  
Phone: (561) 443-5300  
Fax: (561) 443-5319  
Email: gary@patriotrail.com

with a copy to:

Greenberg Traurig, P.A.  
333 Avenue of the Americas  
Miami, Florida 33131  
Attn: Gary M. Epstein  
Lorne S. Cantor  
Phone: (305) 579-0500  
Fax: (305) 579-0717  
Email: epsteing@gtlaw.com  
cantorl@gtlaw.com

11.2 Entire Agreement. This Agreement (including the Exhibits and Disclosure Schedules hereto) and the other documents and agreements delivered at the Closing pursuant to the express provisions hereof constitute the full and entire understanding and agreement of the parties hereto in respect of its subject matter, and supersedes all prior agreements, understandings (oral and written) and negotiations between or among the parties with regard to such subject matter. The Disclosure Schedules and the Confidentiality Agreement attached hereto constitute a part hereof as though set forth in full herein.

11.3 Amendments. This Agreement (including the Exhibits and Disclosure Schedules attached hereto) may not be modified, amended, supplemented, canceled or discharged, except by a written instrument executed by all parties hereto.

11.4 Waivers. No failure to exercise, and no delay in exercising, any right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude the exercise of any other right, power or privilege. No waiver of any breach of any provision shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision, nor shall any waiver be implied from any course of dealing between the parties. No extension of time for performance of any obligations or other acts hereunder or under any other agreement shall be deemed to be an extension of the time for performance of any other obligations or any other acts. Any waiver, permit, consent or approval of any kind or character by any party of any breach or default under this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing and all rights and remedies under this Agreement or otherwise afforded by Law to any party, shall be cumulative and not alternative.

11.5 Binding Effect; Assignment. The rights and obligations of this Agreement shall be binding on and enforceable by the parties hereto and their respective successors and permitted assigns. Except as expressly provided herein, the rights and obligations of this Agreement may

not be assigned by Purchaser or Seller without the express prior written consent of the other party. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon Person other than the parties hereto and their respective successors and permitted assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

11.6 Governing Law. This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of New York, without regard to principles of conflicts of laws.

11.7 Consent to Jurisdiction.

(a) Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the state courts of New York and to the jurisdiction of the United States District Court located in the Southern District of New York for the purpose of any action arising out of or relating to this Agreement, and each of the parties hereto irrevocably agrees that all claims in respect to such action may be heard and determined exclusively in any New York state or federal court located in the Southern District of New York. Each of the parties hereto agrees that a final judgment in any action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) Each party hereby (a) consents to service of process in any action between the parties arising in whole or in part under or in connection with this Agreement in any manner permitted by the Laws of New York, (b) agrees that service of process made in accordance with clause (a) or made by registered or certified mail, return receipt requested, at its address specified pursuant to Section 11.1, will constitute good and valid service of process in any such action and (c) waives and agrees not to assert (by way of motion, as a defense, or otherwise) in any such action any claim that service of process made in accordance with clause (a) or (b) does not constitute good and valid service of process.

11.8 Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) 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 THE FOREGOING WAIVER, (B) EACH SUCH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) EACH SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) EACH SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.8.

11.9 Severability. In the event that any one or more of the provisions contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the parties shall negotiate in good faith with a view to the substitution therefor of a suitable and equitable solution in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid provision, provided, that the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein shall not be in any way impaired thereby, it being intended that all of the rights and privileges of the parties hereto shall be enforceable to the fullest extent permitted by Law.

11.10 Specific Performance. Without limiting the rights of a party hereto to pursue all other legal and equitable rights available to such party for another party's failure to perform its obligations under this Agreement, the parties hereto acknowledge and agree that the remedy at law for any failure to perform their respective obligations hereunder would be inadequate and that each party shall be entitled to specific performance, injunctive relief or other equitable remedies in the event of any such failure.

11.11 Expenses. Except as expressly set forth in this Agreement, each party to this Agreement shall bear its own expenses incurred in connection with the preparation, execution and performance of this Agreement and the transactions contemplated hereby, whether or not such transactions are consummated, including all fees and expenses of agents, representatives, counsel and accountants.

11.12 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

**[Remainder of page was intentionally left blank; signature page follows]**

IN WITNESS WHEREOF, the parties have executed this Stock Purchase Agreement on the day and year first above written.

**PATRIOT FUNDING LLC**

By: \_\_\_\_\_  
Name: John McGuire  
Title: Vice President

**PATRIOT RAIL HOLDINGS LLC**

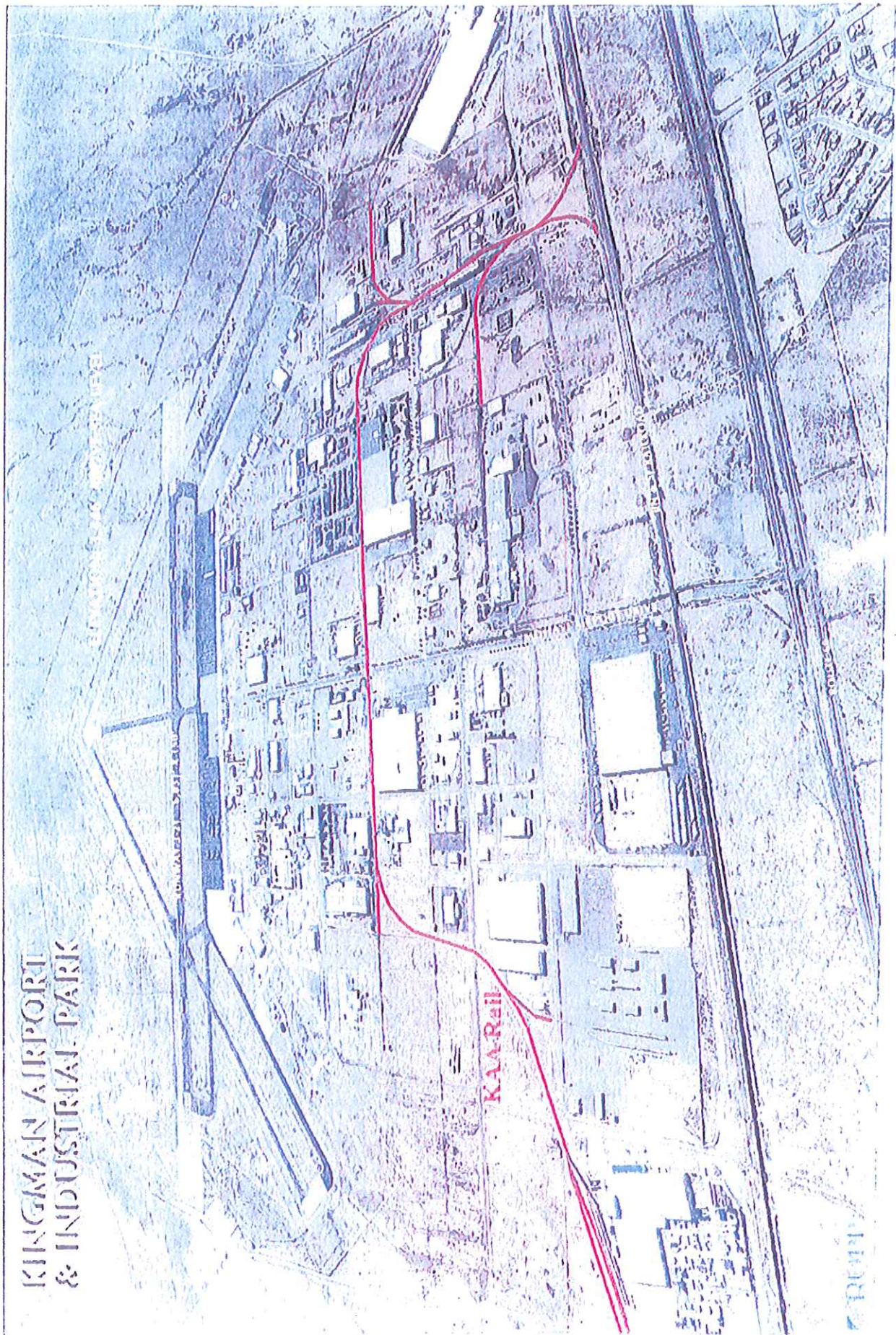
By: \_\_\_\_\_  
Name: Gary O. Marino  
Title: Chairman, CEO and President

*[signature page to Stock Purchase Agreement]*



**EXHIBIT B-MAPS**

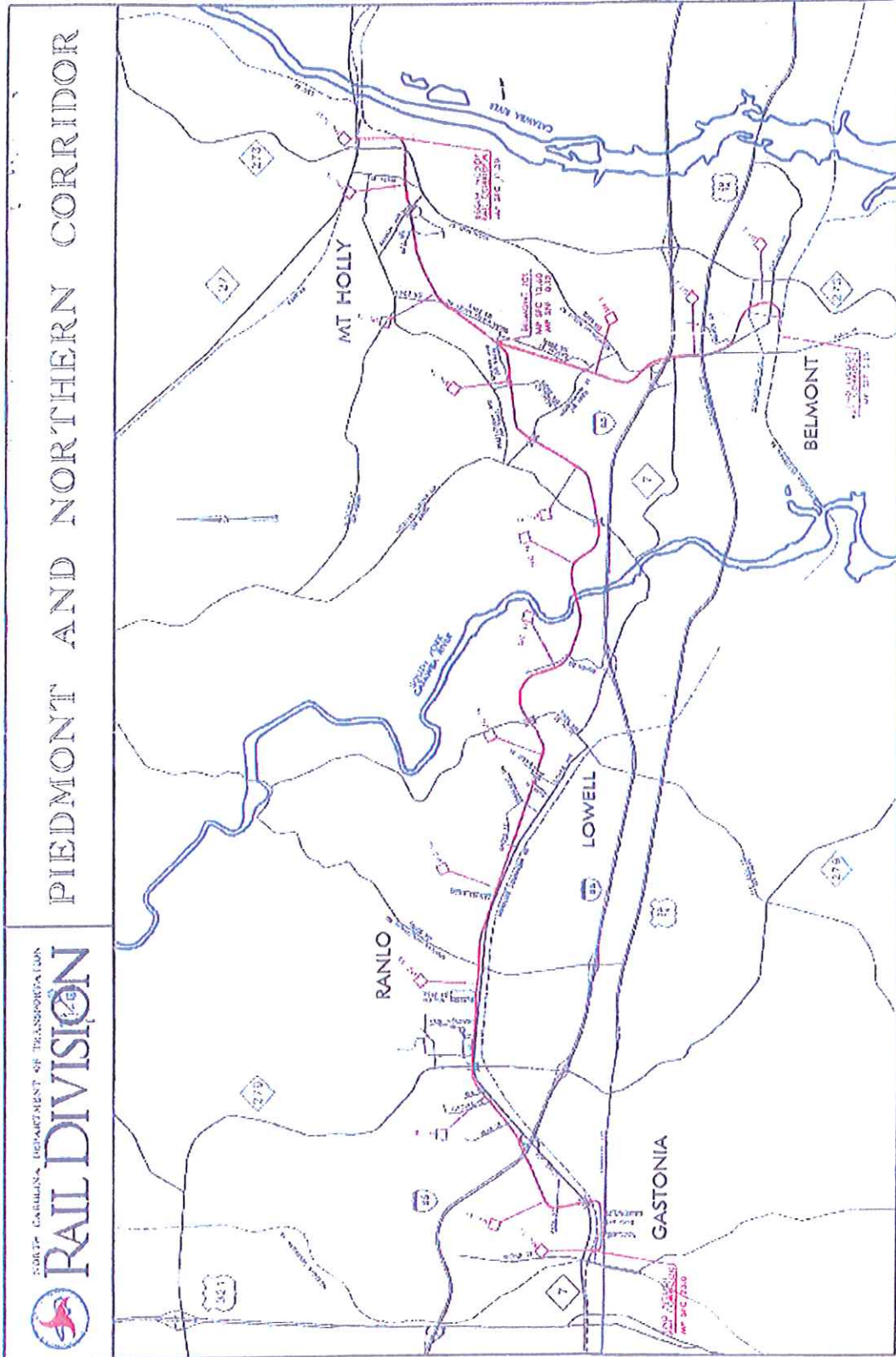
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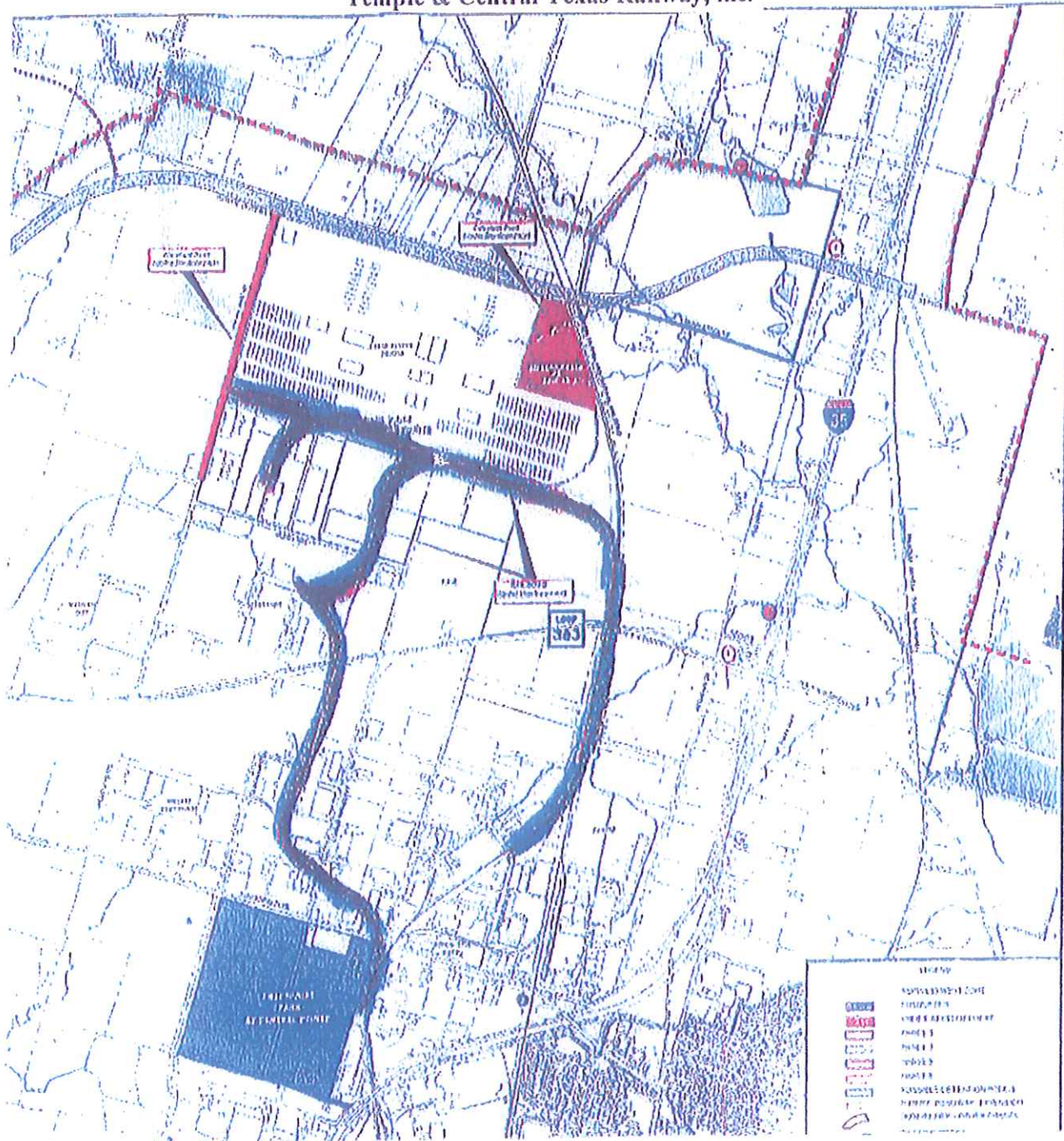
K-A-Rail

TRIP

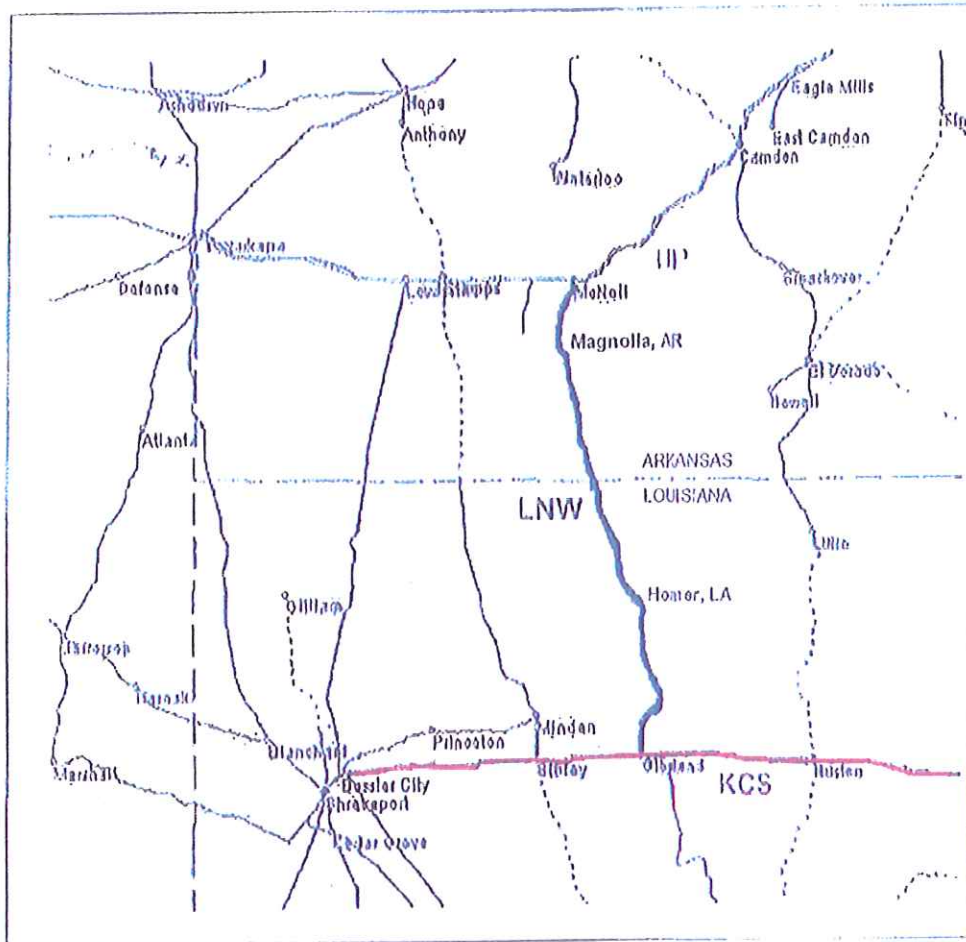
Piedmont & Northern Railway, Inc.



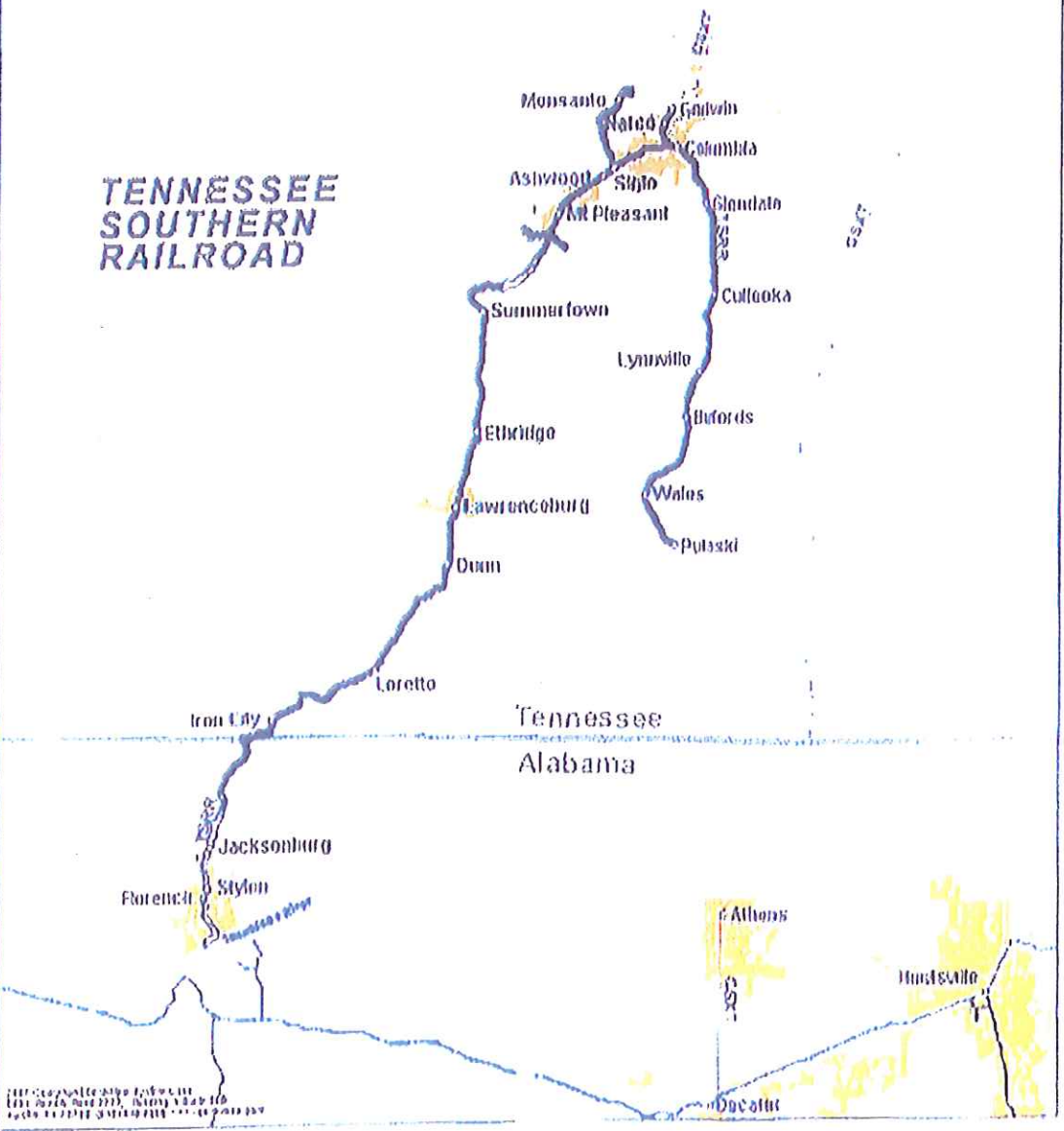
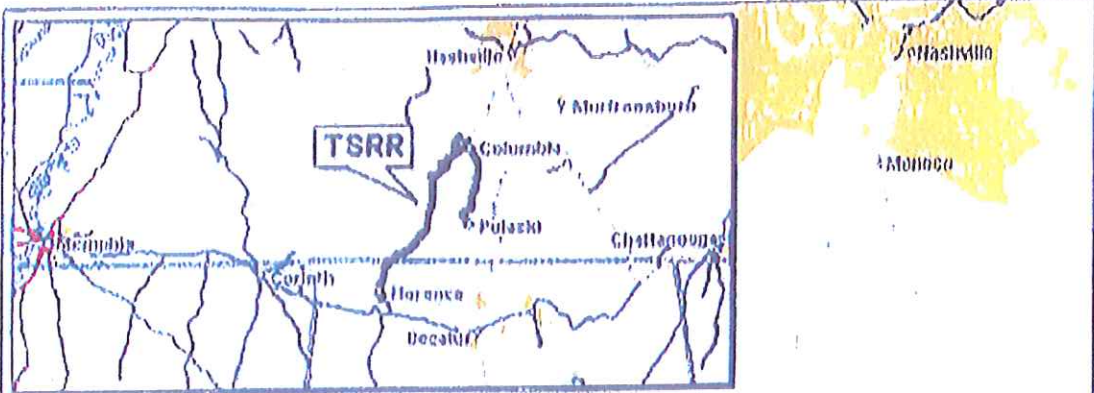
# Temple & Central Texas Railway, Inc.



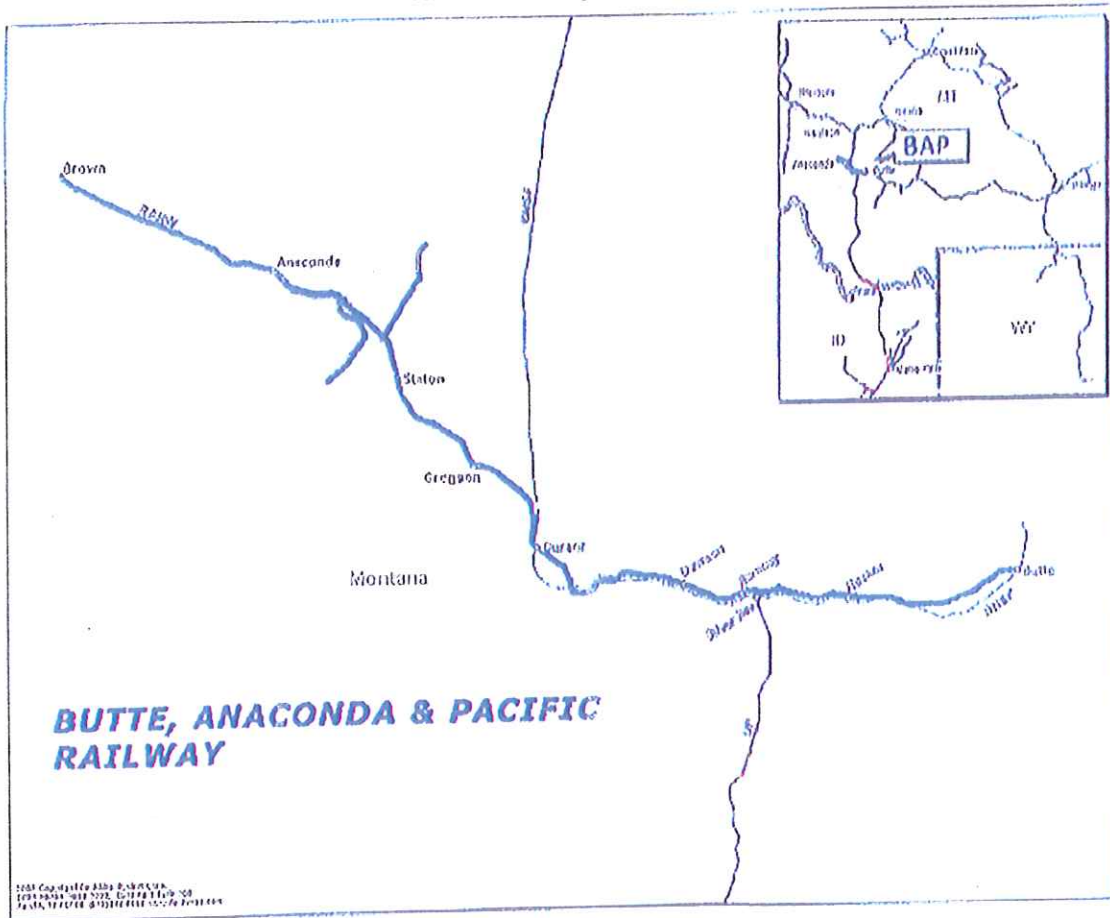
## Louisiana and North West Railroad (LNW) Map



The Louisiana and North West Railroad (LNW) operates 63 miles of owned and leased rail line from Gibsland, Louisiana, to McNeil, Arkansas. The railroad leases 6.8 miles (from Magnolia to McNeil, Arkansas) from the Union Pacific Railroad (UP). LNW interchanges traffic with the UP at McNeil and with Kansas City Southern (KCS) at Gibsland, LA.

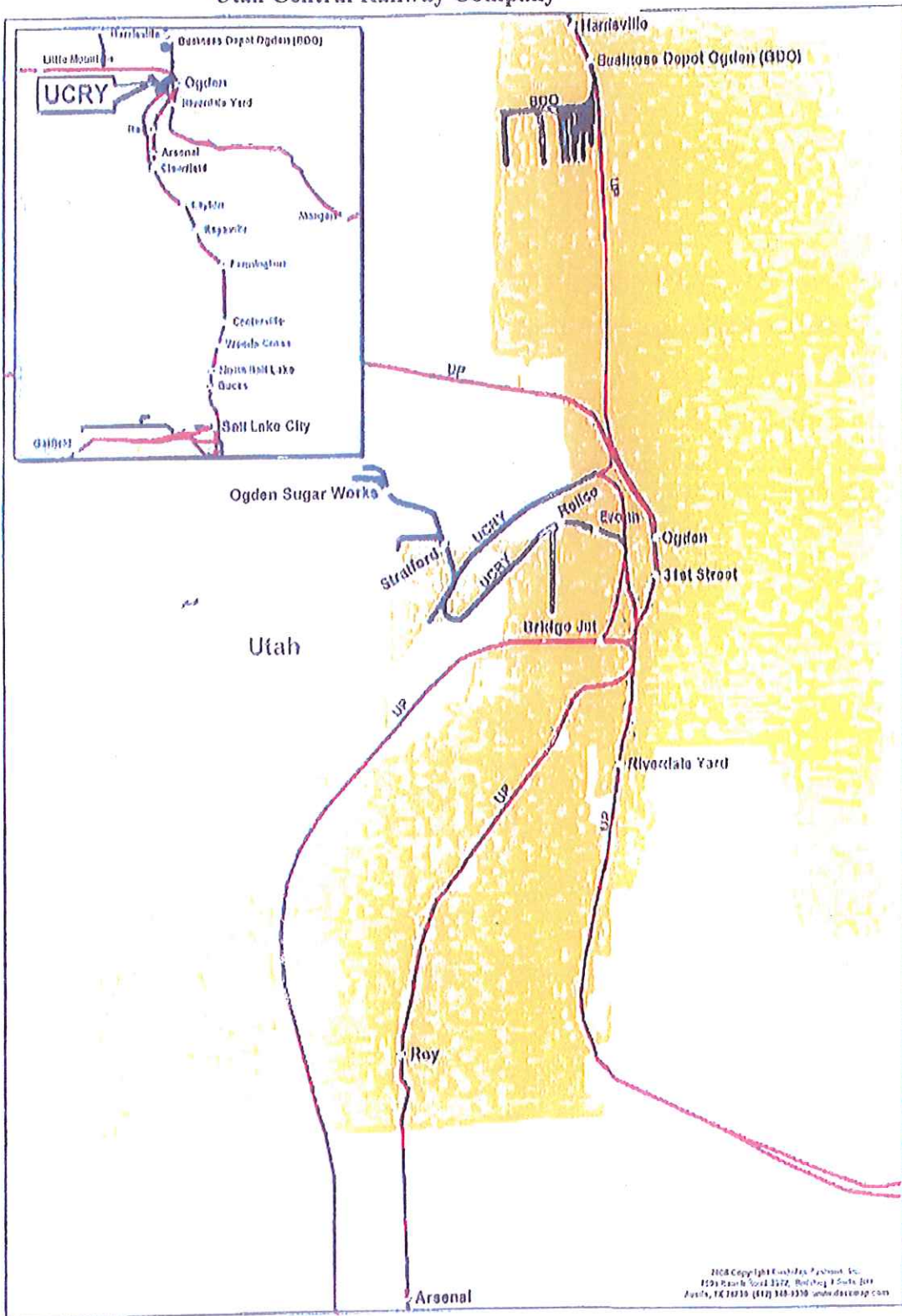


Rarus Railway Company



1  
2  
3

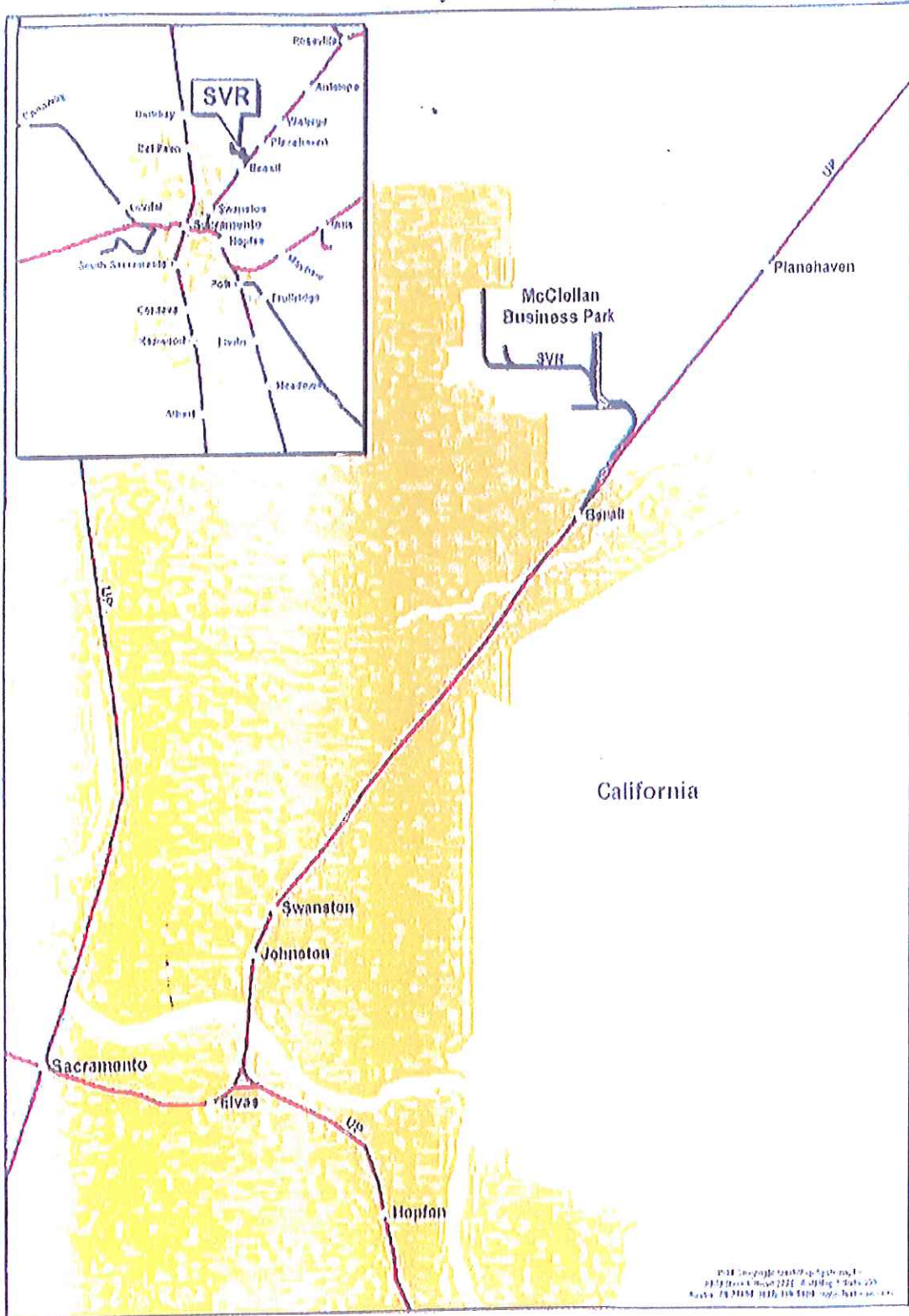
# Utah Central Railway Company



©2008 Copyright Union Pacific System, Inc.  
 2201 Pacific Street, Omaha, NE 68102  
 Omaha, NE 68102 (416) 348-3330 [www.up.com](http://www.up.com)

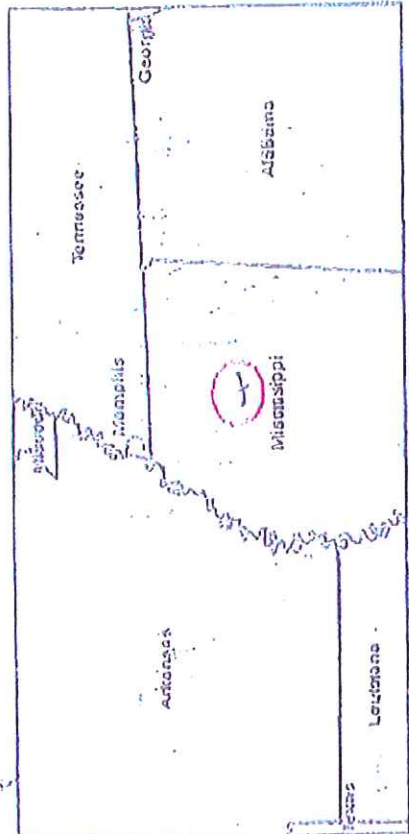
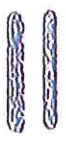


# Sacramento Valley Railroad, Inc.



# Mississippi & Skuna Valley Railroad, LLC

Class I Railroads  
WV Railroad



*MSV  
MP 0.0*

Bruce Lumber Mill

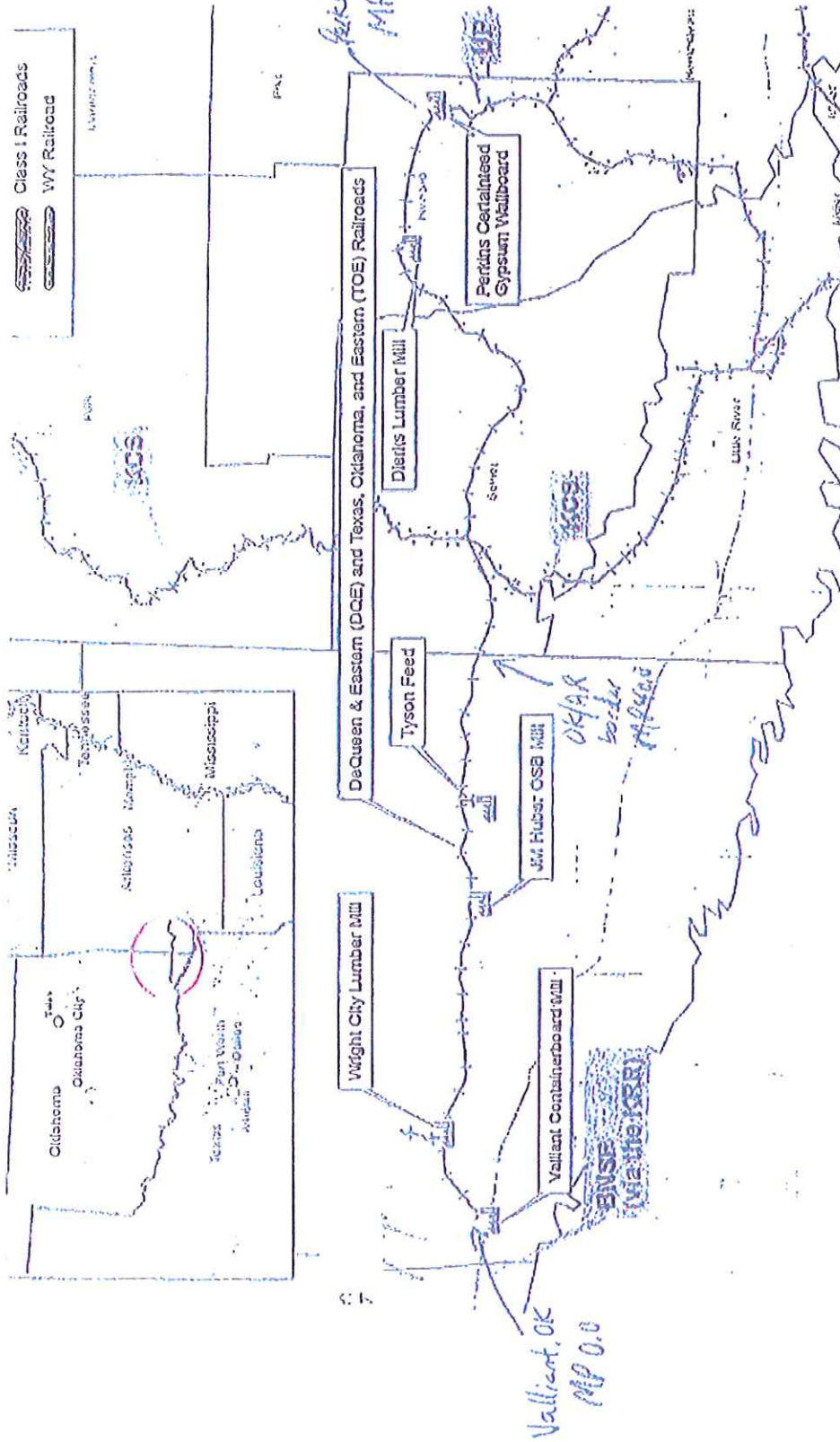
MSV Railroad

*Bruce Jet  
MP 21.0*

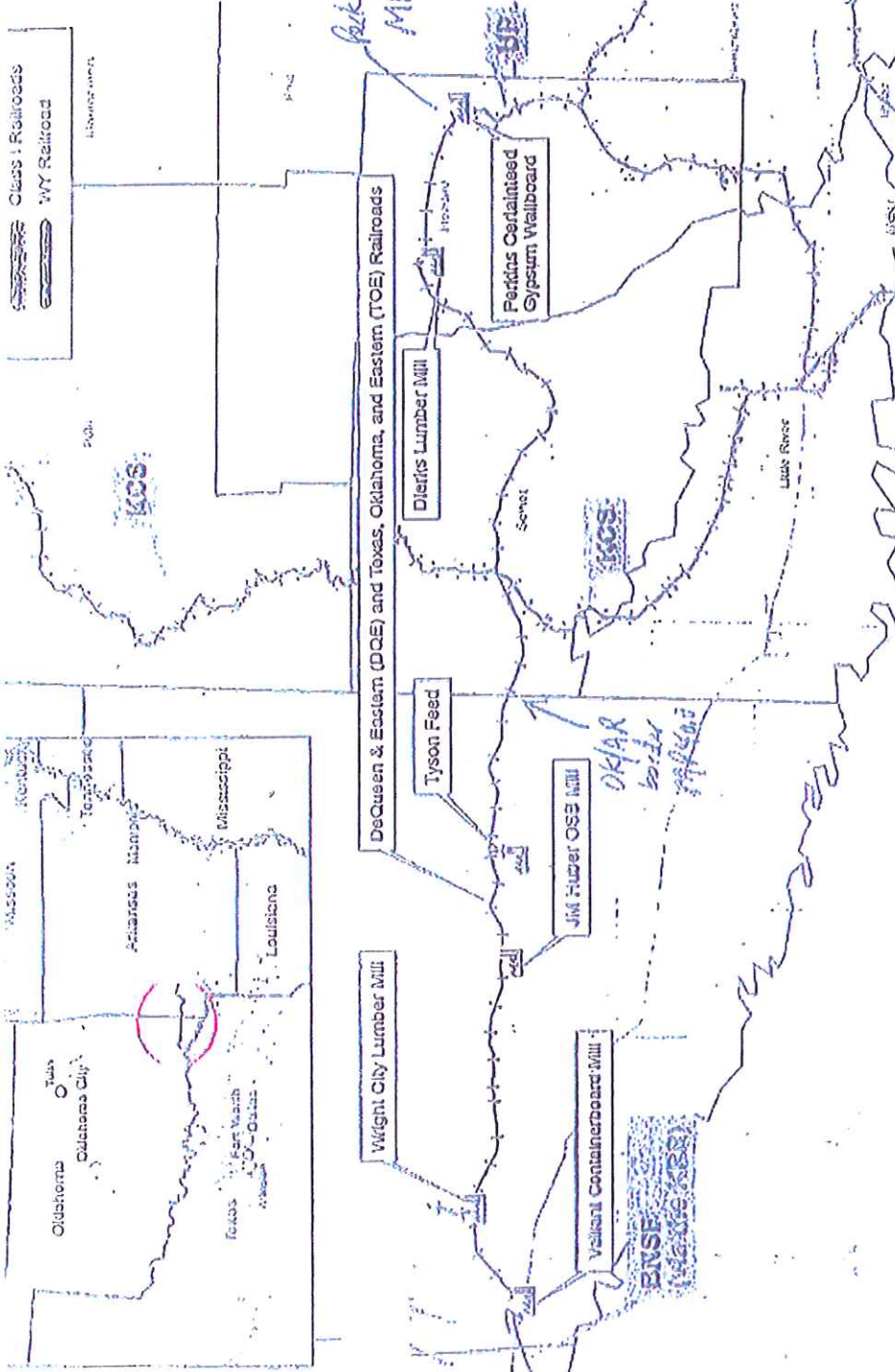
MSV

Street

Texas, Oklahoma & Eastern Railroad, LLC



DeQueen and Eastern Railroad, LLC

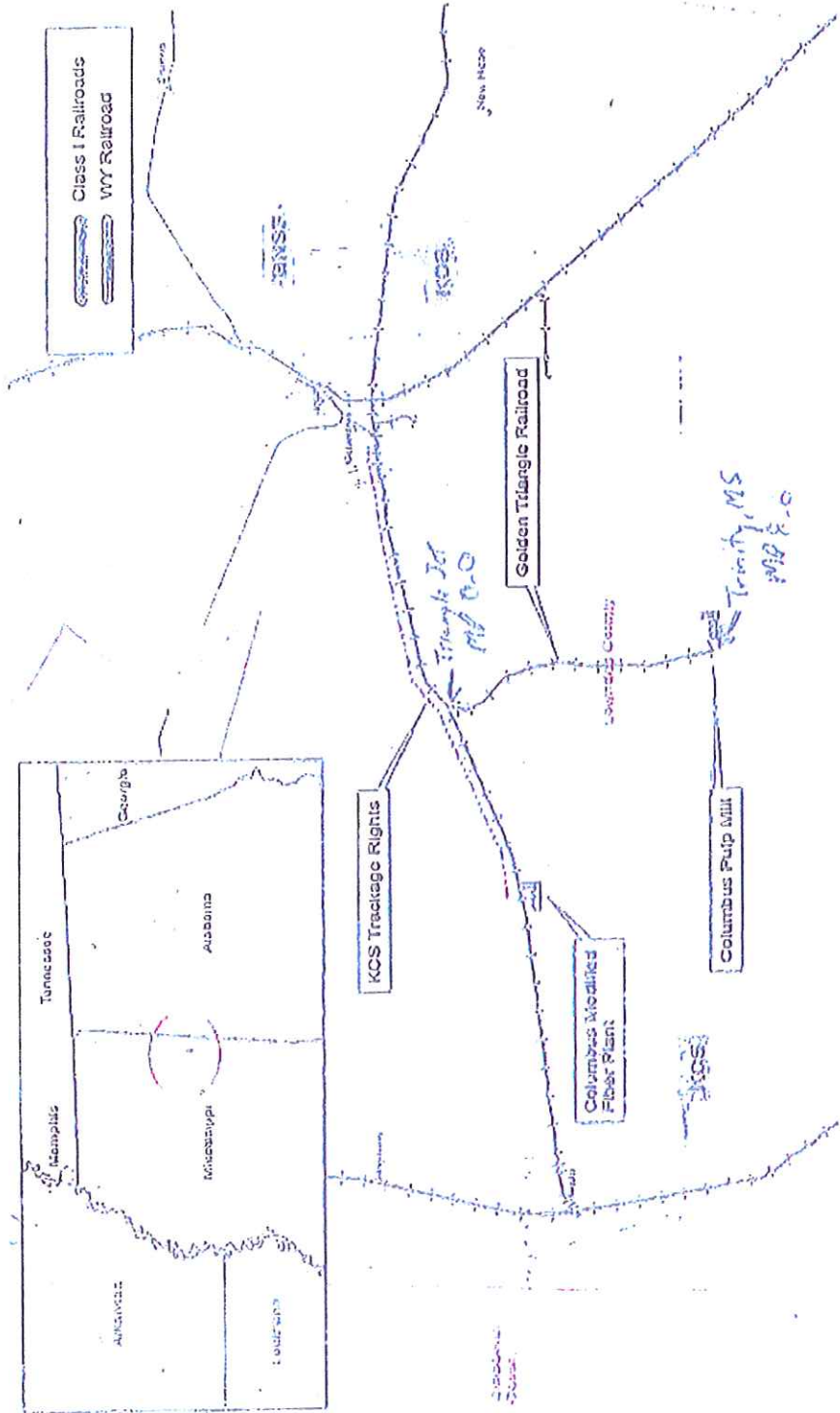


*Parkins, Ark  
MP 93.0*

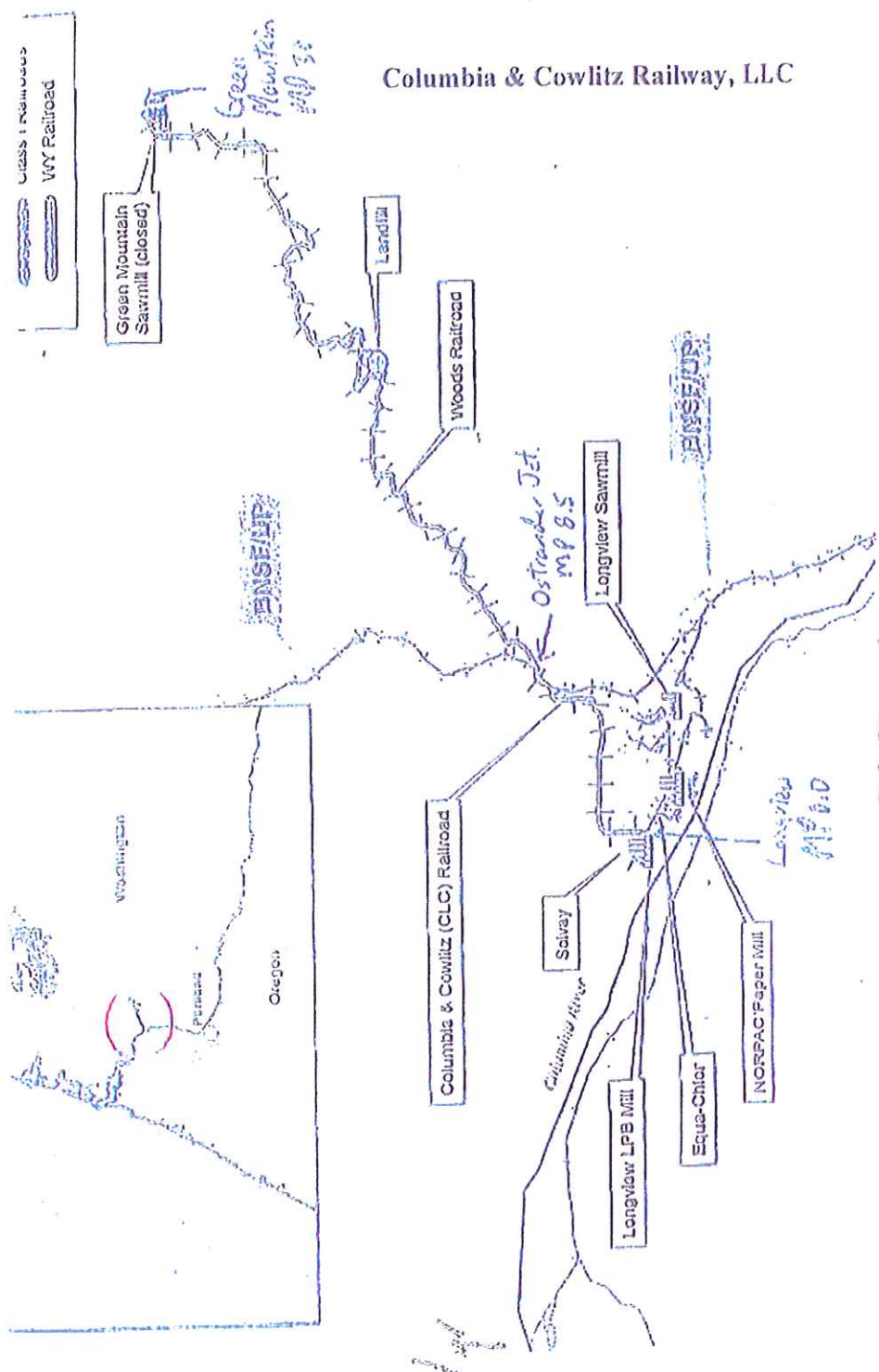
*Vailant, OK  
MP 0.0*

C 7

# Golden Triangle Railroad, LLC



# Columbia & Cowlitz Railway, LLC



# Patriot Woods Railroad, LLC

