

FIRST AMENDMENT TO INDUSTRIAL TRACK AGREEMENT BN27696

THIS FIRST AMENDMENT TO INDUSTRIAL TRACK AGREEMENT ("First Amendment") is made to be effective the 29th day of February, 2012 (the "Effective Date"), by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Railroad") and **CITY OF JONESBORO, ARKANSAS**, a municipality, ("Industry").

RECITALS:

A. Industry and Railroad entered into that certain Industrial Track Agreement dated July 7th, 1989 (the "**Original ITA**") regarding the maintenance and operation of certain track located at Nettleton, County of Craighead, State of Arkansas, ("**Track**") as more particularly described in the Original ITA. The Original ITA as modified by this First Amendment hereof shall be referred to herein as the "**ITA**".

B. Railroad and Industry desire to amend the terms of the Original ITA as described below.

AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual covenants, premises, and agreements and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Effective immediately, Drawing No. 32843-430, dated June 3, 1988 and July 6, 1988, originally identified as Exhibit "A" to the Original ITA, is hereby replaced and superseded by Drawing No. 3-50648A-B, dated December 17, 2010 and revised December 22, 2011, marked **Exhibit "A"**, attached hereto and incorporated herein by this reference. Effective immediately, (i) "Railroad Track" as used in the Original ITA shall refer to the track shown heavy solid on Exhibit "A" attached hereto, (ii) "Industry Track" as used in the Original ITA shall refer to the track shown heavy hatched on Exhibit "A" attached hereto, and (iii) "Track" as used in the Original ITA shall collectively refer to the track shown heavy solid and the track shown heavy hatched on Exhibit "A" attached hereto.

2. Unless otherwise provided herein, all capitalized and/or defined terms herein shall have the same meaning given to such capitalized and/or defined terms in the Original ITA.

3. Except as amended hereby, all of the terms and provisions of the Original ITA are hereby reaffirmed and remain in full force and effect. In the event there is a conflict between the terms and provisions of the Original ITA and the terms and provisions of this First Amendment, the terms and provisions of this First Amendment shall control.

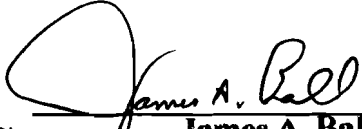
4. Industry agrees that Railroad is not currently in default under the ITA, nor does any condition exist which, with the passage of time alone, could constitute a default under the ITA. Industry agrees to fully and forever release and discharge Railroad from any claim whatsoever relating to any period covered by the ITA prior to the Effective Date above.

5. This First Amendment (i) shall be binding upon and inure to the benefit of Railroad and Industry and their respective legal representatives, successors and assigns; (ii) may be modified or amended only by a writing signed by each party hereto; and (iii) may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original but which together shall constitute one and the same instrument, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed documents, and counterparts of this First Amendment may also be exchanged via electronic facsimile machines and any electronic facsimile of any party's signature shall be deemed to be an original signature for all purposes.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date below each party's signature; to be effective, however, as of the Effective Date above.

RAILROAD

BNSF Railway Company

By: 
Name: James A. Ball
Title: Senior Manager - Land Revenue Management
Date: 2/29/2012