



**SAN DIEGO & ARIZONA
EASTERN RAILWAY
COMPANY**

A NEVADA NONPROFIT
CORPORATION

1255 IMPERIAL AVENUE,
SUITE 1000
SAN DIEGO, CA
92101-7490
(619) 231-1466

BOARD OF DIRECTORS
PAUL JABLONSKI, CHAIRPERSON
MATT DOMEN
BLAKE JONES

OFFICERS
PAUL JABLONSKI, PRESIDENT
MATT DOMEN, SECRETARY
ERIN DUNN, TREASURER

LEGAL COUNSEL
KAREN LANDERS

AGENDA

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

January 19, 2016

9:00 a.m.

Executive Committee Room
James R. Mills Building
1255 Imperial Avenue, 10th Floor

This information will be made available in alternative formats upon request. To request an agenda in an alternative format, please call the Clerk of the Board at least five working days prior to the meeting to ensure availability. Assistive Listening Devices (ALDs) are available from the Clerk of the Board prior to the meeting and are to be returned at the end of the meeting.

**ACTION
RECOMMENDED**

1. Approval of the Minutes of October 13, 2015
Action would approve the SD&AE Railway Company Minutes of October 13, 2015. Approve
2. Statement of Railway Finances (Erin Dunn)
Action would receive a report for information. Receive
3. Report on San Diego and Imperial Valley (SD&IV) Railroad Operations (Matt Domen)
Action would receive a report for information. Receive
4. Report on Pacific Southwest Railway Museum (Diana Hyatt)
Action would receive a report for information. Receive
5. Report on the Desert Line (Don Stoecklein/Arturo Alemany)
Action would receive a report for information. Receive
6. Real Property Matters (Tim Allison)
 - a. Summary of SD&AE Documents Issued Since October 13, 2015
Action would receive a report for information. Receive
 - S200-15-629: Right of Entry Permit to Aguirre and Associates, for performing various field surveys in the City of La Mesa.
 - S200-16-631: Right of Entry Permit to Cal Poly State University for public surveys at the Lemon Grove Trolley Station.
 - S200-16-632: Right of Entry Permit to Henkels & McCoy, Inc., for removing SDG&E transmission towers along the South Line between Sampson St. and Schley St.
7. Amendment to Articles of Incorporation (Karen Landers)
Action would approve the Amendment of Articles of Incorporation

8. Board Member Communications
9. Public Comments
10. Next Meeting Date: April 12, 2016
11. Adjournment

DRAFT MINUTES

BOARD OF DIRECTORS MEETING OF THE SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY

October 13, 2015

A meeting of the Board of Directors of the San Diego & Arizona Eastern (SD&AE) Railway Company, a Nevada corporation, was held at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101, on October 13, 2015, at 9:00 a.m.

The following persons, constituting the Board of Directors, were present: Blake Jones, Matt Domen, and Paul Jablonski. Also in attendance were members from:

San Diego Metropolitan Transit System:	Tim Allison, Karen Landers, Wayne Terry, Erin Dunn, Traci Wutke
Pacific Southwest Railway Museum:	Diana Hyatt
Trains Magazine:	Don Jones

1. Approval of Minutes

Mr. Jones moved to approve the Minutes of the July 14, 2015, SD&AE Railway Board of Directors meeting. Mr. Domen seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Erin Dunn reviewed the financial statement for the first quarter of 2016 (attached to the agenda item).

Mr. Jablonski inquired about the uncollectable Port of San Diego invoices totaling \$14,000 that were written off in FY 2014. Ms. Dunn explained that the Port of San Diego refused to pay the invoice regarding fiber-optics. Ms. Landers and Mr. Allison added that this is being reviewed, and the charges are good and fair. Currently, the Port of San Diego is asking for more crossings. Mr. Jablonski and Ms. Landers agreed that with unpaid invoices, these projects are not likely to move forward.

Action Taken

Mr. Jones moved to receive the report for information. Mr. Domen seconded the motion, and it was unanimously approved.

3. Report on San Diego & Imperial Valley Railroad (SD&IV) Operations

Mr. Domen reviewed the report of activities for the third quarter of 2015 (attached to the agenda item).

Mr. Jablonski asked if the cattle feed commodity was relatively new or if SD&IV has always been involved. Mr. Domen said that they have always been involved in cattle feed, but it was contingent on the price as to whether it was purchased in Mexico or in the United States.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the third quarter of 2015 report (attached to the agenda item). Ms. Hyatt reported that the west portal of tunnel four is deteriorating. Ms. Hyatt recognizes that this is not the responsibility of the SD&AE Board; however, she would like to bring this to the Board's attention. Ms. Landers commented that this issue is something that will have to be rectified before too long as it poses a safety threat to traffic using that line. Ms. Landers mentioned that Dan Davis is aware of this need and will be including it in his report.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

5. Report on the Desert Line

There were no representatives from Pacific Imperial Railroad to give an oral report. The Board acknowledged the written report submitted by PIR. Karen Landers gave a brief review of the contents of the PIR report.

Ms. Landers commented that she will join PIR representatives who will be attending a U.S. State Department working group (US/Mexico Bi-national Bridges and Border Crossings Group) on October 28, 2015. The working group asked for a report on the Desert Line project at that time.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Domen seconded the motion, and it was unanimously approved.

6. Real Property Matters

6a. Since the July 14, 2015, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-15-625: Right of Entry Permit to Hulcher Services, Inc., for moving GATX cars on the Desert Line.
- S200-16-626: Right of Entry Permit to the San Diego County Bicycle Coalition for the annual Bike the Bay bike ride.

Mr. Jablonski noted that the Salt Works easement has expired and needs to be renewed. Mr. Allison said that MTS would be entering into new agreements in the near future.

6b. Tim Allison gave a report regarding the drainage easement to the City of La Mesa for a portion of Alvarado Creek.

Action Taken

Mr. Jablonski moved to receive the report for information. Mr. Domen seconded the motion, and it was unanimously approved.

7. Approval of the 2016 SD&AE Board of Directors Meeting Schedule

Karen Landers explained that SD&AE holds quarterly meetings in January, April, July, and October and asked members to review the proposed dates for the 2016 meeting schedule. All Board members were in agreement of the proposed dates as listed:

Tuesday, January 19, 2016	9:00 a.m.	(Fourth Quarter 2015 Reports)
Tuesday, April 12, 2016	9:00 a.m.	(First Quarter 2016 Reports)
Tuesday, July 19, 2016	9:00 a.m.	(Second Quarter 2016 Reports)
Tuesday, October 11, 2016	9:00 a.m.	(Third Quarter 2016 Reports)

Action Taken

Mr. Jones moved to receive the report for information. Mr. Domen seconded the motion, and it was unanimously approved.

8. Board Member Communications

None.

9. Public Comments

None.

10. Next Meeting Date

The next meeting of the SD&AE Railway Company Board of Directors will be on January 19, 2016.

11. Adjournment

The meeting was adjourned at 9:24 a.m.

President

General Counsel

Agenda

Item No. 2

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

January 19, 2016

SUBJECT: STATEMENT OF RAILWAY FINANCES

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a financial report for the period ending November 30, 2015.

Budget Impact

None

DISCUSSION:

Attached are SD&AE's financial results for the period ending November 30, 2015, as well as the financial results for the fiscal year-to-date actuals as of December 31, 2014. Due to the implementation of MTS's new Enterprise Resource Planning (ERP) system on January 1, 2016, December's figures are not available. Results of operation for December 2015 will be reported to the Board at the next quarterly meeting.

The current fiscal year-to-date revenues are \$411,000 favorable to budget primarily due to the Desert Line Lease revenue not included in the budget. This revenue is partially reduced by Right of Entry Permits under budget by \$8,000.

Expenses are \$19,000 favorable to budget primarily due to favorable variances in Personnel Costs and Outside Services.

The Net Income for the period ending November 30, 2015 was \$418,000.

Attachments: SD&AE Operating Statement For The Period Ending November 30, 2015

SD&AE Operating Statement FY2016-15

	FY 2016						FY 2015	
	Q1 Actual	Oct - Nov Actual	YTD - Actual (Jul - Nov)	YTD Budget (Jul - Nov)	Variance		Q1 - Q2 Actual (Jul - Dec)	Variance
Revenues								
Right of Entry Permits	\$ 750	\$ 4,150	4,900	12,500	\$ (7,600)		\$ 8,906	\$ (4,006)
Lease Income	16,529	14,785	31,314	29,165	\$ 2,149		\$ 36,504	\$ (5,190)
Desert Line Lease Revenue	250,000	166,667	416,667	-	\$ 416,667		\$ 500,000	\$ (83,333)
Operator Income - SD&IV 1% Freight Fee	8,500	5,700	14,200	14,585	\$ (385)		\$ 18,000	\$ (3,800)
Total Revenue	275,779	191,302	467,081	56,250	410,831		563,410	(96,329)
Expenses								
Personnel Costs	16,642	8,771	25,413	40,124	14,711		61,814	\$ 36,401
Outside Services	422	17,011	17,433	20,901	3,468		34,048	\$ 16,615
Risk Management	3,347	2,646	5,993	6,670	677		7,375	\$ 1,382
Misc. Operating Expenses	250	156	406	210	(196)		284	\$ (122)
Total Expense	20,661	28,584	49,245	67,905	18,660		103,521	54,276
Net Income/(Loss)	\$ 255,118	\$ 162,718	\$ 417,836	\$ (11,655)	\$ 429,491		\$ 459,889	\$ (42,053)
Reserve Balance 2015	\$ 1,553,150							
Allocated Interest Earnings - Estimated	2,083							
Operating Profit/(Loss) - YTD	417,836							
Reserve Balance 2016 as of Nov. 30, 2015	\$ 1,973,069							

Agenda Item No. 3

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

January 19, 2016

SUBJECT:

REPORT ON SAN DIEGO AND IMPERIAL VALLEY (SD&IV) RAILROAD OPERATIONS

RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

An oral report will be given during the meeting.

Attachment: Periodic Report for the 4th Quarter of 2015



SD&AE Board
C/O MTS
1255 Imperial Avenue, Suite 1000
San Diego, California 92101

January 6 , 2016

Periodic Report

In accordance with Section 20 of the Agreement for Operational Freight Service and Control through Management of the San Diego and Arizona Eastern Railway Company activities of interest for the 4th Quarter of 2015 are listed as follows:

1. Labor

At the end of December 31, 2015 the San Diego & Imperial Railroad had 9 employees:

- 1 General Manager
- 1 Trainmaster
- 1 Manager - Marketing & Sales
- 1 Office Manager
- 1 Mechanical Manager
- 1 Maintenance of Way Employee
- 3 Train Service Employees

2. Marketing

Volume in the 4th Quarter increased 12% as compared to 2015. Bridge traffic into Mexico had a 5% increase, primarily driven by increases in LPG. Traffic terminating or originating on the SDIY was up over 30% versus last year. Increase is due primarily to the addition of a new ethanol transload operation in San Ysidro.

3. Reportable Injuries/Environmental

Days through year to date, December 31, 2015, there were no FRA Reportable injuries or Environmental incidents on the SDIV Railroad.

Days FRA Reportable Injury Free: 6845

4. Summary of Freight

	2015	2014	2013
Total rail carloads that moved by SDIY Rail Service in the quarter.	923	826	1301
Total railroad carloads Terminating/Originating Mexico in the quarter.	655	622	1119
Total railroad carloads Terminating/Originating El Cajon, San Diego, National City, San Ysidro, California in the quarter.	268	204	182
Total customers directly served by SDIY in the quarter	10	11	11
Regional Truck trips that SDIY Railroad Service replaced in the quarter	2769	2478	3903

Respectfully,

Matt Domen

General Manager

Agenda Item No. 4

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

January 19, 2015

SUBJECT:

REPORT ON PACIFIC SOUTHWEST RAILWAY MUSEUM

RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

A report will be presented during the meeting.

Attachment: Quarterly Report



Pacific Southwest Railway Museum

La Mesa Depot 4695 Nebo Drive La Mesa, CA 91941 619-465-7776

January 8, 2016

SD&AE Board
c/o Metropolitan Transit System
1255 Imperial Avenue, Suite 1000
San Diego, CA 92101

Re: Fourth Quarter 2015

Dear SD&AE Board:

During the fourth quarter of 2015, utilizing all volunteer crews, the Pacific Southwest Railway Museum ran 39 passenger trains to Division and return and 56 passenger trains operated within Campo Yard limits carrying 7,110 passengers with no FRA reportable accidents or injuries. Total income from SD&AE property for fourth quarter, 2015 was \$234,294.32. Our check for \$4,685.89 will follow under separate cover. By comparison, PSRM carried 6,765 passengers during the fourth quarter of 2014 and total income from SD&AE property was \$196,218.

Passenger ridership by comparison to the same quarter in previous years:

7,110	Passengers during the fourth quarter of 2015
6,765	Passengers during the fourth quarter of 2014
6,535	Passengers during the fourth quarter of 2013
6,889	Passengers during the fourth quarter of 2012
6,109	Passengers during the fourth quarter of 2011
4,384	Passengers during the fourth quarter of 2010
3,268	Passengers during the fourth quarter of 2009
4,554	Passengers during the fourth quarter of 2008

Passenger ridership has significantly increased during this period as compared to past years. During this season an additional four trains were added to the North Pole Limited offering. And Pumpkin Express trains were offered for one additional day: three additional trains with Halloween landing on a Saturday in 2015.

PSRM continues to maintain both signalized railroad crossings at Highway 94 in Campo, performing the monthly, quarterly and annual inspections. PSRM also performs twice-weekly

track inspections between MP 59.9 and 66.77 while operating passenger trains and as necessary after inclement weather. Our volunteer track crew continues to perform track maintenance tasks, and tie replacement on the mainline.

In early 2016, PSRM looks forward to assisting with the Christmas Train event also known as the Three Kings Train in Tecate, B.C., Mexico on Sunday, January 10, 2016. This will be the seventh year that a train from Campo to Tecate has not been possible. Track work is progressing near Lindero on the Mexican side of the border and the west portal of tunnel 4, the international tunnel has been inspected several times in the past two months with the intention of mitigation and repairs.

Members of this board and staff are always welcome to visit us at Campo, please contact me whenever there is an interest.

Sincerely,


Diana Hyatt
President

Agenda Item No. 5

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

January 19, 2016

SUBJECT:

REPORT ON THE DESERT LINE

RECOMMENDATION:

That the SD&AE Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

A report will be presented during the meeting.

Attachment: Quarterly Report



PERIODIC REPORT

January 19, 2016

The periodic report to the SD&AE Railway Company is produced quarterly by the Pacific Imperial Railroad, Inc. for the SD&AE Board, in fulfillment of contractual requirements and to document activity in the restoration of the line to regional service along with its ongoing improvement for future generations.

Pacific Imperial Railroad, Inc.

Fourth Quarter 2015

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- IV. MOU WITH INTERZONE, INC.**
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- VI. PROGRESS WITH MEXICO**
- VII. REPORTABLE INJURIES / ACCIDENTS /
ENVIRONMENTAL INCIDENTS**
- VIII. FREIGHT ACTIVITY**
- IX. MTS LEASE PAYMENT**

I. MAJORITY OWNERSHIP TRANSFER

On October 28, 2015, Pacific Imperial Railroad, Inc. (PIR), announced the closing of a transaction resulting in the immediate acquisition of the majority controlling interest in PIR by the New York based conglomerate, Pacific Transportation Investments, Inc. (PTI) (formerly Conatus Capital Group, Inc.), represented by Ambassador Joseph Zappala, his legal counsel, Phillip Mindlin of Wachtell, Lipton, Rosen & Katz, Charles E. Fletcher, of the Fletcher Infrastructure Group and Arturo Alemany of Alemany & Associates; from the Nevada Group consisting of International Railroad Investment Fund, Inc. and Gold Mountain North, LLC, sellers represented by Charles McHaffie. Also, Arturo Alemany, principal of PTI, has been confirmed as CEO and President of PIR.

Mr. Alemany has more than 25 years of experience in international business development and operations in the U.S., Europe and Latin America. He is President and Chief Executive Officer of Alemany and Associates, a company providing multi-cultural expertise in international contract negotiations, and has ten (10) years of prior railroad experience with Amtrak.

Donald Stoecklein, former CEO of PIR, who will remain as Chief Compliance Officer also stated that “We welcome Arturo’s experience with Amtrak and his leadership to PIR, and in his new role as CEO & President. His results-oriented approach and ability to think strategically, along with his vital contacts in Mexico and New York will play a pivotal role in helping us grow,” said Stoecklein.

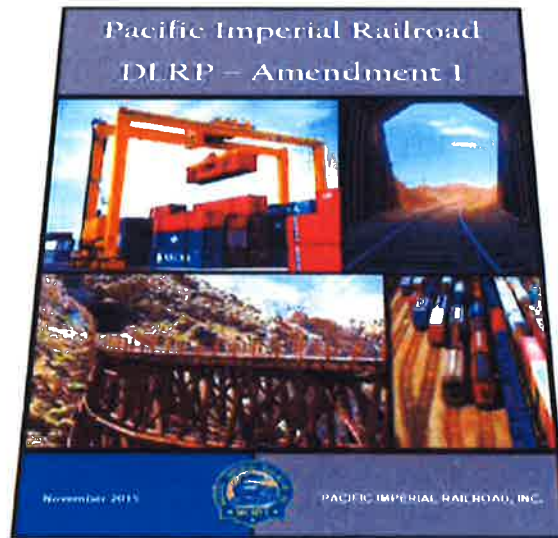
PTI and Alemany intend to work closely with Ambassador Joseph Zappala, former United States Ambassador to Spain, Charles E. Fletcher of the Fletcher Infrastructure Group in New York and New York City lawyer Philip Mindlin to reconstruct and develop the Desert Line railroad.

II. DESERT LINE RECONSTRUCTION PLAN – AMENDMENT I

In accordance with the lease, PIR submitted the Desert Line Reconstruction Plan – Amendment 1 (DLRP – A/1) to MTS on December 1st, 2015. The purpose of this report was to provide an exposition of PIR’s new reconstruction strategy as it relates to our revenue-generating business model as well as a description of the

different phases, the financing plan and the role of our engineering consultant and contractor.

This DLRP/A-1 amends the DLRP Supplement dated June of 2014 as a result of PIR approaching American Pacific Constructors (APC) in March 2015. APC



was a critical component during the initial planning and development stages of the Reconstruction Plan Amendment. APC was the first contractor to bid the phase 1 job and also aided in the reorganization of the lease. We have been in negotiations with APC over the past several months during which several key issues arose including the type and availability of the material, job costing and mobilization expenses as well as environmental concerns.

Once the GATX cars were removed from the Line, the final track inspection and material inventory was conducted by APC and JLP. Based on these inspections and subsequent discussions, our

team realized we needed to use a higher grade of lumber in order to be in compliance with FRA regulations. Once this requirement was established, APC asserted it would take 6 months to get this type of lumber and would cost significantly more. Once we discussed this with JLP and MTS, we decided to approach a pre-fabricated concrete company in order to evaluate our options in order to determine the most efficient and cost effective approach to the rehabilitation of the phase 1 bridges.

On August 27th, 2015, the PIR team met with APC and Trabis, a Mexican precast concrete company, in order to conduct a cost-benefit analysis of concrete vs. wood. During the field inspection, Trabis gathered information and compiled a preliminary bid for the bridge repairs in concrete. The goal was to determine which type of building material would allow for the repairs to be completed on schedule while staying within our budget. Upon further investigation and discussions with JLP, it was determined that the environmental complications associated with the construction of new pre-cast cement bridges and all-new cement pilings would cause similar or worse delays than ordering the lumber. Furthermore, the cost of pre-cast similarly offset the

benefits of using Trabis. As such, it was determined phase 1 would proceed with wooden reconstruction.

After the decision was made to proceed with wooden bridge reconstruction; discussions with APC over the proposed contract revealed that APC's mobilization and material deposit cost were too expensive and required too much up-front capital. It is PIR's understanding that APC's high upfront cost is due to the small size of their operation and their lack of rail specific equipment. Although, we appreciate APC's involvement in the renegotiations of the Lease and the overall reconstruction process, the PIR team decided not to execute the contract with APC..

After being unable to reach an agreement with APC over payment



schedules, mobilization cost and price changes, PIR management approached Railworks Track Services to get a second bid on Phase 1 from a rail specialist. "Railworks is North America's leader in Track and Transit & Systems construction and maintenance services. Railworks provides railway construction and railroad maintenance services for a range of clients, from major transit

authorities and transportation agencies, to industries served by rail, ports, waterways and utilities, to railroads of all sizes". On November 12, 2015, Railworks submitted their proposal and statement of qualification. PIR was impressed with their history of work with MTS and SANDAG as well as their overall railroad expertise. Railworks has an established system for job costing and communicating with their clients as well as a expansive inventory of railroad equipment. Although their prices are slightly higher than APC's, PIR decided to choose Railworks due to the other important advantages listed above. The Railworks contract and scope of work which is included in section 6 is currently under final review and we hope to have a fully executed agreement in the near future. As a disclaimer, the contract is subject to change due to recent discussions over the exact scope work which will best achieve operational status.

III. RL BANKS AND ASSOCIATES

During October, 2015, MTS hired RL Banks & Associates ("RLB") to facilitate further negotiations between PIR and BJRR as a result of the MOU signing. "R.L. Banks

R.L. Banks & Associates, Inc.



& Associates, Inc. embodies deep and diverse expertise in railroad economics, engineering and service planning. RLBA brings over 50 years of experience integrating these disciplines in a unique way across intercity passenger rail, commuter rail and freight rail projects in North America. RLBA's team of rail consultants combines its strong technical understanding of railroad operations, economics and engineering to perform complex analyses and effectively communicate findings that strengthen the work of rail customers, railroads, government agencies, rail authorities, investors, attorneys, planners and economic developers."

RLBA's role was to act as a neutral third-party mediator to provide diverse railroad expertise to both parties specific to the formation of a definitive agreement. During their consultation, RLB and PIR conducted a visual inspection of the entire Desert Line via truck and rail. The final recommendation evaluates the strengths and weaknesses of several different alternative types of agreements including an interchange agreement, a sub-lease agreement and trackage rights agreement.

After the MTS recommendation was completed, PIR entered into a separate consulting agreement with RL Banks on November

6, 2015, in order to obtain further professional support with both the intermodal design and the reconstruction process. The contract with RLBA is to provide on-call professional consulting services to assist PIR in the reactivation of the Desert Line and to assist PIR and InterZone in the construction and operation of the intermodal facility. Under the agreement, RLB acts as an extension of PIR's and InterZone's staffs on an as-needed basis to assist in managing the desert line restoration efforts. Since signing the agreement, RLBA has performed a review of the Railworks contract discussed below as well as a review of the initial Coyote Well's site plans.

PIR has also approached RLBA for assistance with the pro forma economic analysis which is necessary to obtain high-level project financing. On December 29, 2015, RLBA submitted a five step proposal to perform this analysis of the prospective intermodal terminal at Coyote Wells, CA and associated railroad operations developed to a level which can be presented to prospective investors to demonstrate profitability and return on investment. The proposed work would include market research, intermodal and rail operations' costs and revenues and the corresponding

infrastructural requirements as well as the final pro forma economic analysis.

IV. MOU WITH INTERZONE, INC.

Inter-Zone, Inc. (“InterZone”) is a Nevada corporation incorporated on July 1st, 2015, for the purpose of constructing and operating the intermodal facility as an agent on behalf of PIR. On September 28, 2015, PIR and InterZone entered into a Memorandum of Understanding in pursuit of this mutually beneficial relationship.



V. WILSON & COMPANY

Although the Intermodal construction will have its own timing and phasing, PIR and InterZone believe it is important to concurrently develop the site plans for the Coyote Wells facility. As such, InterZone retained Wilson & Company (W&C) on November 9th to develop a conceptual site layout for the Coyote Wells intermodal facility. “For more than eight decades, clients have chosen Wilson & Company to help them



move from concept to completion, unused spaces to productive places, underutilized to efficient facilities, and rural to urban challenges to achievable solutions. Wilson & Company provides engineering, architecture, planning, environmental, survey & mapping, and construction management services. Their focus on their client's specific needs to deliver high-quality professional services with lasting Higher Relationships in mind; discipline, intensity, collaboration, shared ownership, and solutions."

InterZone's management team was attracted to W&C specifically due to their involvement with the newly constructed Union Pacific Santa Teresa Terminal Fueling Facility, Block Swap Yard and Intermodal Ramp. W&C completed all survey; permitting; hydraulic & hydrologic design; utility design; roadway design; grading and track design; electrical design' mechanical design; architectural design; and construction management for the project. David Olsen, the Facility & Utility Design Program Manager for this project, was retained by InterZone for the Coyote Wells initial design work.

On November 13, 2015, InterZone received the initial conceptual design for the layout of the facility which includes the

facility entrance and checkpoint, the parking and maintenance facilities as well as the intermodal strip tracks, gantry crane configuration as well as the circulation roadway and blocking swap yard. The site design directly affects Phase 1 reconstruction because the blocking yard on the eastern side of the freeway extends 8,000 ft. towards Plaster City. As such, it was decided to remove that portion of track and bridge 123.89 from the Phase 1 scope of work because it will require specific planning and design characteristics in order to accommodate 6 blocking and storage tracks. This portion of track and bridge 123.89 will now be considered part of the first phase of the intermodal construction process. The proposed contract with Railworks reflects this decision.

VI. PROGRESS WITH MEXICO

On December 12, 2015, the leadership from PIR and BJRR, in addition to Charles Castany, a former Union Pacific executive who oversaw UP's Mexican operations, met to discuss the rehabilitation of the Desert Line, evaluate the obstacles associated with the rehabilitation, and devise the framework for moving forward that aligns the initiatives of both parties with the aim of

reestablishing binational rail operations in the most cost effective and operationally efficient manner possible. In addition to these fundamental shipping questions Mr. Romandia and Mr. Castany were able to shed some light on other challenges, specific to the Cali Baja freight transportation status quo, to anticipate when attempting to determine accurate pro forma numbers.

In addition to concerns over anticipated freight volumes, there was some discussion on how the unified rail line would be operated. Mr. Romandia was under the impression that it would be more profitable for BJRR to interchange with UP at Plaster City, or even as far east as El Centro by collecting fees for the extra mileage. However, PIR and Mr. Castany asserted that this would create operational inefficiencies because BJRR would be wasting time waiting for their 30-40 car trains to be built into the more desirable 100 car trains for UP, when they could be turning around and retrieving more freight instead. Mr. Castany felt that the most efficient operating method would involve BJRR dropping freight at Coyote Wells, allowing Interzone to build the trains into 100 cars, and then PIR can pull the trains in UP engines to Sealy and simply switch out crews.

It was agreed by all parties that in order to better coordinate our efforts it was necessary to start working on a "Customer Matrix" that includes a list of our top potential customers and the information regarding the movement of their freight in/out of Tijuana. Mr. Romandia suggested hiring a 3rd party to do a feasibility study, however based on past experiences with consultants, everyone felt that it would be beneficial to do as much internally as possible before incurring such expenses. Both parties agreed that it would also be beneficial to have regular meetings face to face at least once weekly in order to effectively coordinate the advancement of our common interests. It was decided that by working together, we could plausibly answer the questions regarding the volumes by January 30th, at the latest.

Another important discussion item was PIR's lease payment schedule in the lease with MTS that ultimately results in a payment of 15% of gross revenue after five years of operations. In recent weeks PIR has undergone extensive research to ascertain expense ratios common to North American short line railroads as part of the effort to develop and refine an accurate pro forma modeling a unified binational railroad. This work included comparing the

operating ratios (operating expenses/operating revenue) of Class I carriers to short lines, retaining R.L. Banks and Associates, and prior meetings with BJRR.

The conclusion of these efforts is that a unified binational rail line operating efficiently will have an operating ratio between 75-85%. As such the lease payments to MTS become problematic for PIR for several reasons given that it poses the threat of running a deficit if operating expenses for a given year exceed 85% of operating revenues. Therefore, it was agreed that renegotiation of the lease payments will be required for reaching a definitive agreement between BJRR and PIR with both parties endeavoring to negotiate a structure minimizing payments to MTS. Mr. Castany expressed a continued willingness to be available to assist us with advancing this project and advising us on any further issues, questions, or concerns. As a result, in December, 2015, PIR was excited to welcome Mr. Castany to the PIR team as an official consultant.

**VII. REPORTABLE INJURIES / ACCIDENTS /
ENVIRONMENTAL INCIDENTS**

- i. There have not been any reportable injuries.
- ii. There have not been any reportable accidents or environmental incidents in the third quarter.

VIII. FREIGHT ACTIVITY

- a. Currently, PIR has not commenced revenue generation pending completion of the construction required to move freight on both Baja Rail and the Desert Line as well as the intermodal facility.

IX. LEASE PAYMENT

- a. On January 1, 2016, the semi-annual lease payment was due to MTS, which PIR paid. To date, PIR has made 6 lease payments totaling \$3,000,000.

Agenda

Item No. 6

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

January 19, 2016

SUBJECT:

SUMMARY OF SD&AE DOCUMENTS ISSUED SINCE OCTOBER 13, 2015

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors receive a report for information.

Budget Impact

None.

DISCUSSION:

Since the October 13, 2015, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-15-629: Right of Entry Permit to Aguirre and Associates, for performing various field surveys in the City of La Mesa.
- S200-16-631: Right of Entry Permit to Cal Poly State University for public surveys at the Lemon Grove Trolley Station.
- S200-16-632: Right of Entry Permit to Henkels & McCoy, Inc., for removing SDG&E transmission towers along the South Line between Sampson St. and Schley St.

Agenda

Item No. 7

San Diego and Arizona Eastern (SD&AE)
Railway Company
Board of Directors Meeting

SDAE 710.1 (PC 50771)

January 19, 2016

SUBJECT:

REVISIONS TO ARTICLES OF INFORMATION

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors adopt Resolution No. 16-1, approving changes to the Articles of Information (Attachment A).

Budget Impact

None.

DISCUSSION:

San Diego Metropolitan Transit System (MTS) purchased SD&AE from Southern Pacific Railroad on November 1, 1979 for purposes of constructing San Diego's light rail system. Because it was an operating freight railway corridor, federal law obligated MTS to continue honoring SD&AE's freight railroad status. Consequently, using the SD&AE entity, MTS contracts with separate freight railroad operators to transport freight – San Diego & Imperial Valley Railroad (SD&IV) on the Blue Line and Orange Line corridors, and Pacific Imperial Railroad on the Desert Line. MTS Administration employees act as SD&AE staff to oversee real property-related issues and perform general corporate functions for SD&AE.

SD&AE was incorporated in the State of Nevada on September 9, 1931. Upon the purchase of SD&AE in 1979, MTS revised the Articles of Incorporation to be a nonstock, nonprofit corporation and to provide that the "specific and primary purpose [of SD&AE] is to own railroad right-of-ways for use as public mass transit corridors and, in conjunction therewith, to operate railway systems thereon for freight transportation." (Article III subparagraph (a).) The Articles of Incorporation have not been amended since November 1, 1979.

In approximately 2007, MTS staff realized that its freight operations contractor, SD&IV, had been filing various tax forms for SD&AE since their contract was awarded in 1984. At that time, MTS formally took on the corporate and administrative tasks of SD&AE, with SD&IV only responsible for its own business/freight transportation obligations. Because SD&AE was an instrumentality of MTS, a public agency, its operations and finances were treated as instrumentalities of the state and reported as a

component unit of MTS. However, at the time of this shift, no formal recognition of SD&AE's exempt status was received from state or federal tax authorities.

Recently, staff has been working with outside legal counsel at Best Best & Krieger LLP to receive formal recognition from the Internal Revenue Service (IRS) and State of California Franchise Tax Board (FTB) that SD&AE is an exempt organization and that SD&AE income is not be subject to taxation as unrelated business taxable income. In Fiscal Year 2015, the FTB confirmed SD&AE's exempt status. MTS and SD&AE are now seeking a formal exemption from federal income tax under Section 501(c)(3) of the Internal Revenue Code as a charitable organization on the basis that it lessens the burdens of government (i.e., MTS).

In order to support SD&AE's application for exemption (IRS Form 1023), certain amendments to the SD&AE Articles of Incorporation are necessary to properly document SD&AE's exempt purpose. Today's action would adopt Resolution NO. 16-1, making the following changes to the current Articles of Incorporation:

Amend Article III subparagraph (a) to read:

The specific and primary purpose is to lessen the burdens of government by owning railroad right-of-ways for use as public mass transit corridors and, in conjunction therewith, to operate railway systems thereon for freight transportation.

Add new Article VIII, titled "DISSOLUTION" to read:

Upon the dissolution of the Corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose.

Attachments: A. Resolution No. 16-1

DRAFT

RESOLUTION NO. 16-1

RESOLUTION OF THE BOARD OF DIRECTORS OF SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY APPROVING AN AMENDMENT TO ARTICLES OF INCORPORATION

WHEREAS, the Board of Directors ("Board") of the San Diego & Arizona Eastern Railway Company ("SD&AE"), a Nevada nonprofit corporation, adopted the Restated Articles of Incorporation of SD&AE effective November 1, 1979 ("Articles"); and

WHEREAS, the Board desires to amend the Articles in order to conform to the requirements for an exemption from federal taxation under Internal Revenue Code Section 501(c)(3); and

WHEREAS, the Board has been provided a copy of the Certificate of Amendment of the Articles prepared by Best Best & Krieger LLP.

NOW, THEREFORE, be it resolved, determined, and ordered by the Board of Directors that the Certificate of Amendment heretofore considered and discussed is hereby adopted and approved effective as of the date set forth below.

APPROVED this ____ day of _____, 2016.

President

ATTEST:

Secretary

EXHIBIT A

CERTIFICATE OF AMENDMENT

DRAFT

CERTIFICATE OF AMENDMENT TO ARTICLES OF INCORPORATION OF SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY

PAUL C. JABLONSKI and MATT DOMEN certify that:

1. They are the President and Secretary, respectively, of the SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY, a Nevada nonprofit corporation ("Corporation").

2. Subparagraph (a) of Article III of the Articles of Incorporation of this Corporation is amended in its entirety to read as follows:

"The specific and primary purpose is to lessen the burdens of government by owning railroad right-of-ways for use as public mass transit corridors and, in conjunction therewith, to operate railway systems thereon for freight transportation."

3. A new Article VIII is added to the Articles of Incorporation of this Corporation to read as follows:

"Article VIII DISSOLUTION

Upon the dissolution of the Corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose."

4. The Board of Directors has approved the amendment by resolution dated _____. The vote by which the amendment was adopted by the Board of Directors is as follows: ____ in favor and ____ opposed.

Date: January 19, 2016

PAUL C. JABLONSKI, President

MATT DOMEN, Secretary