



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
Randy Perry, Chairman
Bob Jones
Paul Jablonski

OFFICERS
Paul Jablonski, President
Bob Jones, Secretary
Linda Musengo, Treasurer

GENERAL COUNSEL
Karen Landers

AGENDA

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

January 15, 2013

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. | <u>Approval of the Minutes of October 16, 2012</u>
Action would approve the SD&AE Railway Company Minutes of October 16, 2012. | Approve |
| 2. | <u>Statement of Railway Finances (Linda Musengo)</u>
Action would receive a report for information. | Receive |
| 3. | <u>Report on San Diego and Imperial Valley (SD&IV) Railroad Operations (Matt Domen)</u>
Action would receive a report for information. | Receive |
| 4. | <u>Report on Pacific Southwest Railway Museum (Diana Hyatt)</u>
Action would receive a report for information. | Receive |
| 5. | <u>Report on the Desert Line (Chas McHaffie/Donald Stoecklein)</u>
Action would receive a report for information. | Receive |
| 6. | <u>Real Property Matters (Tim Allison)</u> | |
| a. | <u>Summary of SD&AE Documents Issued Since October 16, 2012</u>
Action would receive a report for information. | Receive |
| b. | <u>Right of Entry Permit Process Finances</u>
Action would receive a report for information. | Receive |
| c. | <u>Motor Transport Museum Request for Spur Track Fee Waiver</u>
Action would provide direction to staff on the request for a fee waiver connected with the plan review and agreement execution for a spur track previously approved by the SD&AE Board. | Possible
Action |

7. Donation of Unused Rail Cars to the Pacific Southwest Railway Museum and the Baja California Railway Foundation or Affiliated Nonprofit Organization (Karen Landers) Approve
Action would authorize the SD&AE President to take any action necessary to donate the unused rail cars with historical value to the Pacific Southwest Railway Museum (Box Cars "SDAE 1084" and "SP 116033") and the Baja California Railway Foundation (Tank Car 1025) or affiliated nonprofit organizations.
8. Extension of Pacific Southwest Railway Museum Operating Agreement (Karen Landers) Approve
Action would: (1) negotiate with Pacific Southwest Railway Museum (PSRM) to extend its operating agreement for passenger-excursion services on a portion of the Desert Line and operation of a museum on the Campo Depot property; and (2) execute such agreement consistent with the terms.
9. Board Member Communications
10. Public Comments
11. Next Meeting Date: April 16, 2013
12. Adjournment

San Diego and Arizona Eastern Railway Company

January 15, 2013

Sign-in Sheet (VOLUNTARY)

Name	Company
1. Diane Hyatt	PSRM
2. MICHAEL EDWARDS	PSRM
3. LYATT Doherty	SPRU
4. RANDY E. PERA	SLV
5. CARL CALVERT	MOTOR TRANSPORT MUSEUM
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Pacific Southwest Railway Museum

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

**Mr. Don Stoecklein
President
Pacific Imperial Rail
c/o Stoecklein Law Firm
401 West A Street, Suite 1150
San Diego, CA 92101**

Re: Our meeting Friday, January 11, 2013

Dear Don:

Please accept this letter as a summary of our meeting held at your office last Friday, January 11, 2013. Those in attendance were: Sheila Lamire, PIR, Don Stoecklein, PIR, Greg Luiz, PSRM Director of Operations, Michael Edwards, PSRM Assistant Director of Operations and myself.

The primary objective for this meeting was to discuss the renewal of PSRM's operating agreement with the Metropolitan Transit System (MTS) and its impact upon the parallel operating agreement between MTS and PIR. This letter is intended to identify the responsibilities and establish the administrative infrastructure with regards to rail operations and traffic control as it pertains to the SDAE railway known as the Desert Line between MP 59.94 and MP 74. It was agreed upon that Pacific Southwest Railway Museum will be identified as the "Host Railroad" and control all rail operations between MP 59.94 and MP 74.0, specifically:

- 1. All rail traffic will be dispatched by PSRM.**
- 2. PSRM will be responsible for training and qualifying dispatchers in accordance with Federal Railroad Administration (FRA) standards including supervision, testing and record keeping.**
- 3. PSRM will establish and maintain all operating rules, policies, timetables, general orders, track bulletins, road frequencies and procedures for all rail traffic operating between MP 59.94 and MP 74.0 in compliance with all FRA and FCC regulations.**
- 4. PSRM will be responsible for maintaining designated track, structures, and right-of-way to Class 2 Federal standards in compliance with all FRA regulations.**
- 5. PSRM will be responsible for vegetation abatement along the right of way and in compliance with Cal-Fire and California PUC requirements.**

6. PIR and PSRM agree that PSRM is unable to assume liability for the grade crossings without maintaining financial responsibility for the public utility service at the two automated grade crossing warning systems located at state highway 94 at the west and east ends of the Campo Valley respectively. PSRM will perform all FRA mandated monthly, quarterly, semi-annual and annual inspections and maintenance and any other inspections and maintenance as necessary.
7. The above points shall not inhibit or restrict PIR's ability to operate freight trains along museum's portion of the Desert Line. PIR freight trains will be dispatched in conjunction with PSRM trains and with minimal delay.
8. This agreement shall remain in effect until such time as it naturally expires or until such time as PIR begins revenue freight rail movement on a consistent basis.

Thank you for your time and attention to this matter. I look forward to a mutually benefitting relationship.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana Hyatt", with a long horizontal flourish extending to the right.

Diana Hyatt
President

MINUTES

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

October 16, 2012

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 16, 2012, at 9:05 a.m.

The following persons, constituting the Board of Directors, were present: Bob Jones and Paul Jablonski. Randy Perry was absent. Also in attendance were members from:

San Diego Metropolitan Transit System:	Tim Allison, Karen Landers, Wayne Terry, Linda Musengo
San Diego & Imperial Valley Railroad:	Matt Domen
Pacific Southwest Railway Museum:	Diana Hyatt
Pacific Imperial Railroad, Inc./Carrizo:	Chas McHaffie
Tierra Madre Railway/FPN:	R. Mitchell Beauchamp
Burlington Northern Santa Fe:	John Hoegemeier
Public:	Bob Nickles

1. Approval of Minutes

Mr. Jablonski moved to approve the Minutes of the July 10, 2012, SD&AE Railway Board of Directors meeting. Mr. Jones seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Linda Musengo reviewed the financial statement for the second quarter of 2012 (attached to the agenda item). Mr. Jablonski asked about cost-recovery for staff time in relation to processing right of entry permits. Mr. Allison responded that he has not done an analysis lately, but his guess is that all costs are not recouped. Mr. Jones added that other agencies are recouping their costs. Board members agreed that staff should research current permitting recovery costs and come back to the Board with a report at the next meeting in January.

Action Taken

Mr. Jablonski moved to direct staff to research cost recovery for staff time spent processing right of entry permits and if the current reimbursement rate needs revision. Mr. Jones seconded the motion, and it was unanimously approved.

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

Matt Domen reviewed the report of activities for the second quarter of 2012 (attached to the agenda item). Mr. Jones added that RailAmerica has added an independent marketing company south of the border, which is getting results in new business. Mr. Domen clarified that there has been an increase in gas movements compared to 2010. Board members discussed new business and continued growth.

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 presented the second quarter of 2012 report (attached to the agenda item). Ms. Hyatt asked Chas McHaffie to follow up on a Federal Communications Commission (FCC) requirement to convert Carrizo-owned radios to narrow band for road frequencies and at repeater stations. Ms. Hyatt added that the frequency itself expires at the end of the year. Mr. McHaffie responded that he will follow up.

Ms. Hyatt clarified for the Board that the Museum is contracting with Anthony Anderson for engineering work. Ms. Landers reiterated that engineers' credentials and all corresponding reports be submitted to Tim Allison. Mr. Allison also reiterated that he needs to be notified whenever there will be any inspections.

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

Chas McHaffie apologized for submitting the quarterly report late. Mr. McHaffie stated that Carrizo's main focus has been to work with Pacific Imperial Railroad (PIR) to understand the forward-moving rights and obligations regarding the Museum and the Mexican border.

Ms. Landers stated that she has been waiting on information that was requested at the previous meeting in July regarding the track damage related to SDG&E's subcontractor PAR Electrical Contractors, Inc. (PAR) so that she can follow up with SDG&E. The quarterly report submitted states that Carrizo is unable to confirm who is at fault for the damage.

Mr. McHaffie responded that it was difficult to find out who was responsible for the damage. Ms. Landers reiterated that she needs all information from Carrizo outlining where and when the damage was discovered. She added that she needs to address the damage with SDG&E, but all there is currently is a statement from the July meeting that Carrizo discovered it and traced it back to PAR. Mr. McHaffie agreed to bring Ms. Landers the whole file. Discussion ensued regarding possible causes of the damage by a fire on the line. Mr. McHaffie confirmed that the damage has been repaired. Mr. Allison requested that Mr. McHaffie provide the fire damage report of the line as soon as possible.

- Public Speaker - R. Mitchell Beauchamp: Please see attached comments.

Action Taken

No action taken.

6. Real Property Matters

Tim Allison submitted the documents described below that have been processed by staff since the July 10, 2012, meeting.

- S200-12-518: Lease to Innovative Cold Storage, Inc. for building use at the San Ysidro Freight Yard.
- S200-12-521: Right of Entry Permit to Navy Region Southwest Morale, Welfare and Recreation Department for the Bay Bridge Run/Walk.

6. Real Property Matters - Continued

- S200-12-528: Right of Entry Permit to Outdoor Dimensions to install banners at the Grossmont Trolley Station.
- S200-12-529: Right of Entry Permit to the City of La Mesa for the Flag Day Parade.
- S200-12-530: Right of Entry Permit to Hazard Construction, Inc. to construct the COMM 22 project in the City of San Diego.
- S200-12-513: Right of Entry Permit to Peterson Chase General Engineering Construction, Inc. to repair bridge railings at the Grossmont Trolley Station.
- S200-12-532: Right of Entry Permit to Ninyo & Moore to perform field investigations for various SANDAG projects.
- S200-12-534: Construction and Maintenance Agreement to the Ocotillo Express LLC for crossings in the Ocotillo area of the Desert Line.

Action Taken

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

7. Approval of the 2013 SD&AE Board of Directors Meeting Schedule

Karen Landers stated that staff is proposing the following meeting schedule for 2013:

Tuesday, January 15, 2013	9:00 a.m.	(Fourth Quarter 2012 Reports)
Tuesday, April 16, 2013	9:00 a.m.	(First Quarter 2013 Reports)
Tuesday, July 16, 2013	9:00 a.m.	(Second Quarter 2013 Reports)
Tuesday, October 15, 2013	9:00 a.m.	(Third Quarter 2013 Reports)

Upon approval of the above meeting dates, additional information regarding materials due dates and mail-outs are as follows:

Materials Due to Clerk

Friday, January 4, 2013
 Friday, April 5, 2013
 Friday, July 5, 2013
 Friday, October 4, 2013

Materials Mailed

Wednesday, January 9, 2013
 Wednesday, April 10, 2013
 Wednesday, July 10, 2013
 Wednesday, October 9, 2013

Action Taken

Mr. Jablonski moved to approve the 2013 SD&AE Board of Directors meeting schedule. Mr. Jones seconded the motion, and it was unanimously approved.

8. Board Member Communications

None.

9. Public Comments

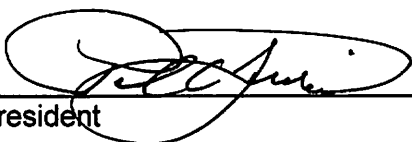
Chas McHaffie suggested that Board members look at the public speaker's (R. Mitchell Beauchamp under Agenda Item No. 5) record at the Sweetwater Authority.

10. Next Meeting Date

The next meeting of the SD&AE Railway Company Board of Directors is on January 15, 2013.

11. Adjournment

The meeting was adjourned at 9:36 a.m.



President



General Counsel

Attachment: Public Comments from Agenda Item No. 5 submitted by R. Mitchell Beauchamp

Date: 16 October 2012



REQUEST TO SPEAK

Agenda Item No. 5

Order Request Received 1

PLEASE SUBMIT THIS COMPLETED FORM (AND ANY WRITTEN STATEMENTS) TO THE CLERK OF THE COMMITTEE PRIOR TO DISCUSSION OF YOUR ITEM¹.

1. INSTRUCTIONS

This Request to Speak form must be filled out and submitted in advance of the discussion of your item to the Clerk of the Committee (please attach any written statement to this form). Communications on hearings and agenda items are generally limited to three (3) minutes per person unless the Committee authorizes additional time. However, the Chairperson may limit comment to one or two minutes each if there are multiple requests to speak on a particular item. General public comments on items not on the agenda are limited to three (3) minutes. Please be brief and to the point. No yielding of time is allowed. Subjects of previous hearings or agenda items may not again be addressed under General Public Comments.

Please Print

NAME	R. Mitchel Beauchamp
Address	1434 East 24 th St National City CA
Telephone	619 477 5333
Organization represented (if any)	
Subject of your remarks	Presider for the record
Regarding Agenda Item No.	Five
Your comments are presenting a position of:	<input type="checkbox"/> SUPPORT <input type="checkbox"/> OPPOSITION

2. TESTIMONY AT NOTICED PUBLIC HEARINGS

At public hearings of the Committee, persons wishing to speak shall be permitted to address the Committee on any issue relevant to the subject of the hearing.

3. DISCUSSION OF AGENDA ITEMS

The Chairman may permit any member of the public to address the Committee on any issue relevant to a particular agenda item.

4. GENERAL PUBLIC COMMENTS ON MATTERS NOT ON THE AGENDA

Public comment on matters not on the agenda will be limited to five (5) speakers with three (3) minutes each under the Public Comment agenda item. Additional speakers will be heard at the end of the Committee's agenda.

Request to Speak Form.doc

¹ REMEMBER: Subjects of previous hearings or agenda items may not again be addressed under General Public Comments.

Members of the Board,

On July 10, 2012 I appeared in front of the MTS Board to provide information which shareholders and creditors of CZRY researched and believe important to be shared. A copy of the presentation I read to the MTS Board is incorporated here today for your review and consideration. This presentation and the information I am sharing with the SD&AE Board today is important not only to the SD&AE and MTS Boards, but to the public's interest.

On May 30, 2012, Karen Landers, General Counsel of MTS, submitted a declaration in opposition to an application for a preliminary injunction filed by CZRY shareholder Ken Kahan. In that declaration, Ms. Landers offered the following (and these are all paraphrased for brevity here but the complete content of her declaration is submitted today for your review and consideration):

- Following receipt of a court order dated January 3, 2012, MTS began working with PIH and Sheila Lemire.
- MTS later understood CZRY transferred its operating and trackage rights to PII (owned and controlled by Sheila Lemire) January 5, 2012, two days after the court order. MTS came to understand PII transferred the operating and trackage rights to PIR on November 1, 2011, about one year ago. Though not in the declaration, MTS is known to have met and corresponded with Chas McAfee and Donald Stoecklein, amongst others, principals of and consultants to PIR.
- MTS encouraged PIH, PII and PIR to develop a proposal to repair the Desert Line and re-open it for freight operations.
- Ms. Landers declared PIR has the ability to finance this project as opposed to CZRY; that MTS met with PIR and its bankers and confirmed "the project is moving forward and that PIR appears able to obtain the financing needed. This financing will be secured by assets controlled by PIR and not associated with CZRY" and that if PIR "is unable to fulfill its obligation...then it is not in MTS or the public's interest to allow them to continue in an exclusive operating rights position."

In addition to the disclosures contained in the information provided to the MTS Board, the following is important for the public record:

- **Donald Stoecklein, Chas McAfee and Dwight Jory have been involved in various businesses together since at least 1995.**
- **In 1995, Stoecklein, McAfee and Jory were elected directors of C.E.C. Industries Corp. and Advantage Capital Development Corp.**
- **Donald Stoecklein disclosed, as part of his appointment, he entered into an Administrative Offer and Settlement with the SEC (Securities and Exchange Commission) and agreed to an Order Instituting Cease and Desist proceedings against him under the '33 and '34 Acts.**
- **Dwight Jory disclosed, as part of his appointment, a filing of bankruptcy liquidation in September 1994.**
- **Copies of these disclosures are being provided to the SD&AE Board as part of this presentation.**
- **On June 28, 2011, Lone Ranger Holdings Inc., a Nevada corporation of which Dwight Jory is sole shareholder and Board member, approved the filing of a bankruptcy petition designed to stall the foreclosure of a single family residential home it held title to in Ranch Santa Fe. Copies are being provided.**
- **Chas McAfee is the tenant in that home and has lived there for several years rent free from Mr. Jory. That home has a public records history of changing title every few years through various trusts and other vehicles while the tenants remain living there seemingly without the need to pay rent.**

The public deserves answers to the following:

- **To what extent has MTS, the sole shareholder of SD&AE, confirmed PIR is able to obtain the required financing? Shareholders of CZRY are informed and believe PIR is unable to obtain any such financing.**
- **It is in the public's interest to have PIR present at these meetings to disclose whether it truly is or can fulfill its obligations. If not, then as Ms.**

Landers declared under penalty of perjury, it is not in MTS or the public's interest to allow them to continue in an exclusive operating rights position.

- **The public deserves to know why SD&AE and MTS do not require PIR to file a quarterly report since it is the contractual "operator" of the Desert Line.**
- **Finally, the public deserves to know why SD&AE and MTS believe in:**
 - **Chas McAfee, who has consented to a six-figure fraud judgment against him and has consented to a mid-six-figure IRS judgment against him for non-payment of CZRY payroll taxes,**
 - **Donald Stoecklein, who has a history with Chas McAfee of at least 17 years and who consented to an order to Cease and Desist with the SEC,**
 - **and Dwight Jory, a former bankrupt and who owns a property Chas McAfee (and, formerly Sheila Lemire) lives in rent free**
 - **as opposed to the shareholders and investors of CZRY who want only their rightful opportunity to rebuild what MTS, SD&AE and SDIV never could quite figure out how to do and that is rebuild the Desert Line and restore freight operations. You are not going to find that talent or money at PIR. Guaranteed. What you will find instead is resultant litigation that will affect MTS, SD&AE and SDIV for years to come. Guaranteed.**

Good Morning Directors

I am Mitch Beauchamp, currently serving as the Treasurer of the City of National City, but I was once a member of this Board, representing the City of National City. During those 8 years on this Board I was focused on opening the Desert Line of the San Diego and Arizona Eastern Railroad. You have before you today yet another action that will not serve that purpose. The action proposed will further degrade the complex system require to make this dream of John D. Spreckels work, a system that requires Mexican and US cooperation.

I will point out some cogent issues for your consideration:

1. Pacific Imperial Railroad is owned, managed, directed by, controlled and otherwise comprised of many of the former key shareholders, officers and directors, and their advisors, of Carrizo Gorge Railway, the same people who lost the Mexican railroad contract last year.

2. Through an internal transfer of assets, currently the subject of pending litigation in San Diego Superior Court, Pacific Imperial Railway obtained an assignment of Carrizo Gorge Railway's operating rights.

3. It is a matter of public record from files contained in Federal District Court, San Diego, that Charles McHaffie, former president and director of Carrizo Gorge Railway, and now intimately involved with the management and control of Pacific Imperial Railway, consented to a significant six-figure fraud judgment against himself within the past 12 months.

4. It is a matter of public record, and all public records one would assume have been thoroughly vetted by MTS prior to entering into any negotiations with Pacific Imperial Railroad and it's cronies, that the same Charles McHaffie has consented to a mid six-figure personal tax liability and judgment arising out of his failure to pay payroll taxes on behalf of Carrizo Gorge Railway while it was under his management and control as president of that company.

5. It is a matter of opinion whether persons who consent to fraud judgments and who otherwise have failed to pay tax liabilities are trustworthy, honest or have integrity. I offer no such opinion here-only the actual facts that are a matter of public record for MTS to investigate thoroughly on its own on behalf of the public it represents.

6. It is also a matter of public record that Charles McHaffie has been sued in the last several years, following his run as president of Carrizo Gorge Railway, by investors who invested money in Carrizo Gorge Railway and later claimed fraud or breach. Gina Seau, for example, the former wife of the recently deceased Junior Seau, sued Mr. McHaffie for fraud after investing over \$2 million in Carrizo Gorge Railway.

7. If any one of the MTS board members currently paying attention to my words would take a moment to go to the register of actions for the San Diego Superior Court website you would find confirmation of any of the state court actions I just mentioned against Mr. McHaffie personally for fraud and other causes of action. MTS and it's investigators could also go to the Federal District Court website and find the same information for that court system and it could also inquire with the IRS for the consent judgment IRS currently possesses against Mr. McHaffie.

8. The point of my presentation here to the MTS board today, and I do thank you for your time and for listening, is to suggest caution. Caution with whom you're dealing. Caution with respect to what you are being told. There is a history behind Pacific Imperial Railroad and behind Mr. McHaffie. They are deeply and genetically inseparable. We are all familiar with the admonition regarding history repeating itself. We are also, each of us, very familiar with human behavior and how it often repeats itself. As recited above and as each of you can individually research on your own, there is a vivid history of repetitive, recidivist behavior in the form of fraud and misrepresentation of fact supported by public record. I would not like to see MTS be the victim of a new fraud. As result, I urge you respectfully and as an experienced politician myself, use an abundance of caution before considering entering into any significant transaction involving Pacific Imperial Railroad and it's lead, Charles McHaffie.

I thank you for your time and can provide you this written statement.

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

CHARLES MCHAFFIE, individually, and Does 1 through 100,
inclusive.

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

GINA SEAU, individually.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

2010 OCT -4 PM 1:54

SAN DIEGO COUNTY, CA

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorta.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte lo podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorta.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desahcer el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **Superior Court, County of San Diego**
330 West Broadway
San Diego, CA 92101

CASE NUMBER:
(Número del Caso):

37-2010-00101621-CU-FR-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Devin T. Shoecraft, Esq., 1230 Columbia St., Ste. 1140, San Diego, CA 92101; (619) 794-2280

Rob Shoecraft

DATE:
(Fecha)

04 2010

Clerk, by
(Secretario)

C. J. J. J.

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):

(SEAL)



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Devin T. Shoecraft, Esq. (SBN - 255489) SHOECRAFT BURTON, LLP 1230 Columbia Street, Suite 1140 San Diego, CA 92101 TELEPHONE NO.: (619) 794-2280 FAX NO.: (619) 794-2278 ATTORNEY FOR (Name): Gina Seau		FOR COURT USE ONLY <div style="text-align: right; font-size: 1.2em;">2010 OCT -4 PM 1:54</div> <div style="text-align: center;">SAN DIEGO COUNTY, CA</div>	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central			
CASE NAME: Seau v. McHaffie			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: 37-2010-00101621-CU-FR-CTL JUDGE: DEPT:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other P/DP/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other P/DP/WD (23) Non-P/DP/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DP/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (38) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (08) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Tecore tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **Five**
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related cases. (You may use form CM-045.)

Date: **October 4, 2010**

Devin T. Shoecraft, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 West Broadway	
MAILING ADDRESS: 330 West Broadway	
CITY AND ZIP CODE: San Diego, CA 92101	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7075	
PLAINTIFF(S) / PETITIONER(S): Gina Seau	
DEFENDANT(S) / RESPONDENT(S): Charles McHaffie	
SEAU VS. MCHAFFIE	
NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2010-00101621-CU-FR-CTL

Judge: Richard E. L. Strauss

Department: C-75

COMPLAINT/PETITION FILED: 10/04/2010

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

1 Robert D. Shoecraft, Esq. (SBN-96217)
Michelle L. Burton, Esq. (SBN-187152)
2 Devin T. Shoecraft, Esq. (SBN-225489)
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5 Attorneys for Plaintiff Gina Seau
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10 GINA SEAU, individually	)	Case No.: 37-2010-00101621-CU-FR-CTL
11 Plaintiff,	)	PLAINTIFFS' COMPLAINT FOR:
12 vs.	)	1. BREACH OF CONTRACT
13 CHARLES MCHAFFIE, individually, and	)	2. INTENTIONAL
14 DOES 1 through 100, inclusive	)	MISREPRESENTATION
15 Defendants.	)	3. FALSE PROMISE
	)	4. CIVIL RACKETEERING ("RICO")
	)	5. VIOLATION OF BUSINESS &
	)	PROFESSIONS CODE § 17200, et seq.
	)	(UNLAWFUL BUSINESS PRACTICES)

16
17 COMES NOW Plaintiff GINA SEAU, individually, (hereinafter "SEAU") complaining
18 of defendant CHARLES McHAFFIE (hereinafter "McHAFFIE") and DOES 1 through 100,
19 inclusive, and alleges as follows:

20 PARTIES

- 21 1. Plaintiff SEAU is an individual over the age of 18 at all times relevant residing in
22 the State of California, County of San Diego.
- 23 2. Defendant McHAFFIE is an individual over the age of 18. SEAU is informed
24 and believes that at all relevant times herein McHAFFIE has been a resident of the State of
25 California. SEAU is informed and believes that McHAFFIE has at all relevant times performed
26 substantial, continuous, and systematic business in the State of California, as described more
27 fully in this complaint, such that McHAFFIE is subject to general personal jurisdiction of the
28 Courts of this State. SEAU further is informed and believes and thereon alleges that in

1 performing the acts and omissions and engaging in the transactions and occurrences alleged
2 herein within the State of California out of which SEAU's Complaint arises, McHAFFIE
3 purposefully directed his activities at residents of this State and purposefully availed himself of
4 the privilege of conducting such activities in this State, such that McHAFFIE is subject to
5 specific personal jurisdiction of the Courts of this State.

6 3. SEAU is ignorant of the true names and/or capacities of the defendants sued
7 herein as DOES 1 through 100, inclusive, and therefore sues said defendants by such fictitious
8 names. SEAU is informed and believes and thereupon alleges that each of the defendants
9 designated herein as a DOE is legally responsible in some manner for the events and happenings
10 referred to in this complaint and caused damages to SEAU as alleged more fully herein. SEAU
11 is informed and believes that each of the defendants herein designated as DOES 1 through 100,
12 inclusive, have an interest in the litigation which is the subject of this Complaint. When the true
13 names have been ascertained of said DOE defendants, leave of court will be requested so as to
14 include said names in lieu of said fictitious names.

15 4. SEAU is informed and believes and thereon alleges that at all times herein
16 mentioned each of the defendants identified in the paragraphs above, were agents and/or
17 employees of each of the remaining defendants and were acting within the course and scope of
18 said agency and/or employment at all times mentioned herein.

19 GENERAL ALLEGATIONS

20 5. SEAU alleges that after securing a position of trust and confidence, McHAFFIE
21 solicited SEAU's investment in a certain business investment opportunity hereinafter designated
22 as the "Corrizo Gorge Railway transaction." In connection with his solicitation of SEAU's
23 investment in the Corrizo Gorge Railway transaction, McHAFFIE knowingly and intentionally
24 misrepresented to SEAU material facts regarding the nature of the risk involved in the
25 investment, with the purpose and intent of inducing SEAU to provide investment capital to
26 McHAFFIE. McHAFFIE held himself out to SEAU as an experienced, professional, and reliable
27 business investor as well as a friend and confidant and induced SEAU to rely upon his false
28 representations as to the nature of the Corrizo Gorge Railway transaction. McHAFFIE had

1 actual knowledge that SEAU was highly unsophisticated in matters of business, investments and
2 lending transactions

3 6. In connection with his solicitation of SEAU's investment, McHAFFIE requested
4 SEAU loan him the sum of two million-five hundred thousand dollars (\$2,500,000.00)
5 (hereinafter the "Funds") which loan was allegedly for purposes of facilitating the consummation
6 of the Corrizo Gorge Railway transaction. After first receiving five-hundred thousand dollars
7 (\$500,000.00), McHAFFIE induced SEAU to take a loan in the amount of two million dollars
8 (\$2,000,000.00) against her residential real property located in the County of San Diego
9 knowingly and falsely represented to SEAU that McHAFFIE would repay this sum in full at 5%
10 interest per anum, and McHAFFIE knowingly and falsely represented to SEAU that he would
11 also pay all transactional costs and fees associated with SEAU's obtaining this loan as charged
12 by the financial institution that made the residential, interest only loan to SEAU, and further
13 knowingly and falsely represented that he would pay all of the monthly interest on principal
14 charged by the financial institution arising out of the two million dollar (\$2,000,000.00) loan.

15 7. In reliance upon McHAFFIE's materially false representations, SEAU took out
16 the referenced loan and encumbered her residential real property as collateral. At McHAFFIE's
17 direction, SEAU caused the electronic transfer of the two million dollars (\$2,000,000.00) to be
18 made to the attorney client trust account of James J. Warner, Esq., an attorney licensed to
19 practice law in the State of California. McHAFFIE knowingly represented to SEAU that
20 attorney Warner would act as SEAU's attorney and fiduciary in connection with the Corrizo
21 Gorge Railway transaction and the associated loan and protect her interest in connection with the
22 matter until the loan was repaid. At all time relevant hereto, SEAU reasonably relied on such
23 representations and believed and understood attorney James J. Warner was acting as her legal
24 counsel charged with the responsibility to protect her interest.

25 8. After SEAU transferred the Funds to Warner, SEAU is informed and believes
26 McHAFFIE and DOES 1 through 100, inclusive, misappropriated the Funds for purposes
27 unrelated to the Corrizo Gorge Railway transaction. McHAFFIE did make payments to SEAU
28 for the loan payments due by SEAU, however within the past months McHAFFIE has failed to

1 pay the costs or interest on the loan as promised to SEAU despite SEAU's demands and
2 demands made by attorney James J. Warner on SEAU's behalf in January and February of 2010.
3 McHAFFIE and DOES 1 through 100, inclusive, have defaulted on the terms of his loan
4 agreement with SEAU and failed to repay the loan with interest on the terms promised to SEAU.

5 9. SEAU has been actually and substantially harmed by the actions and omissions of
6 McHAFFIE and DOES 1 through 100, inclusive, as described herein. SEAU is unable to pay the
7 monthly interest on the loan secured by her residential property and is danger of losing the
8 property to the lender. McHAFFIE and DOES 1 through 100, inclusive, have converted the
9 Funds to their own use. McHAFFIE's actions as described herein are malicious, oppressive, and
10 fraudulent, and SEAU asserts the following causes of action against McHAFFIE.

11 **FIRST CAUSE OF ACTION**

12 **(Breach of Contract)**

13 **(As Against All Defendants)**

14 10. SEAU incorporates all of the preceding paragraphs as though set forth fully
15 herein.

16 11. SEAU alleges that by the transactions, occurrences, and series of transactions and
17 occurrences by and between SEAU and McHAFFIE and DOES 1 through 100, inclusive, as
18 alleged herein, a contract was formed between these parties.

19 12. SEAU alleges that she performed everything required of her under the terms of
20 the contract. SEAU alleges that McHAFFIE's and DOES 1 through 100, inclusive, performance
21 under the contract was not excused, and that all conditions requiring McHAFFIE's and DOES 1
22 through 100, inclusive, performance thereunder have occurred.

23 13. SEAU alleges that by McHAFFIE's and DOES 1 through 100, inclusive, acts and
24 omissions complained of herein, McHAFFIE and DOES 1 through 100, inclusive, breached their
25 contract with SEAU, and SEAU was harmed by that breach, and is entitled to an award of
26 damages based thereon.

27 **SECOND CAUSE OF ACTION**

28 **(Fraud – Intentional Misrepresentation)**

1 (As Against All Defendants)

2 14. SEAU incorporates all of the preceding paragraphs as though set forth fully
3 herein.

4 15. SEAU alleges that by McHAFFIE's and DOES 1 through 100, inclusive, acts and
5 omissions complained of herein, McHAFFIE and DOES 1 through 100, inclusive, made false
6 representations of important facts to SEAU, which McHAFFIE and DOES 1 through 100,
7 inclusive, knew were false when made, and upon which McHAFFIE and DOES 1 through 100,
8 inclusive, intended SEAU to rely. SEAU reasonably relied upon McHAFFIE's and DOES 1
9 through 100, inclusive, false representations, and this reliance was a substantial factor in causing
10 harm to SEAU.

11 16. McHAFFIE's and DOES 1 through 100, inclusive, acts and omissions complained
12 of herein were malicious, fraudulent and oppressive, entitling SEAU to an award of exemplary
13 damages.

14 **THIRD CAUSE OF ACTION**

15 (Fraud – False Promise)

16 (As Against All Defendants)

17 17. SEAU incorporates all of the preceding paragraphs as though set forth fully
18 herein.

19 18. SEAU alleges that McHAFFIE and DOES 1 through 100, inclusive, made false
20 promises of important facts to SEAU in order to induce her to enter the transaction and provide
21 McHAFFIE and DOES 1 through 100, inclusive, the Funds, which promises McHAFFIE and
22 DOES 1 through 100, inclusive, knew were false and which he did not intend to perform when
23 made. McHAFFIE and DOES 1 through 100, inclusive, intended SEAU to rely upon their false
24 promises, and SEAU did so reasonably rely. McHAFFIE and DOES 1 through 100, inclusive,
25 failed to perform as promised, and this failure was a substantial factor in causing harm to SEAU.

26 19. McHAFFIE's and DOES 1 through 100, inclusive, acts and omissions complained
27 of herein were malicious, fraudulent and oppressive, entitling SEAU to an award of exemplary
28 damages.

1 **FOURTH CAUSE OF ACTION**

2 **(Civil Violation of the Racketeer Influenced and Corrupt Organizations Act;**

3 **18 U.S.C. § 1961 et seq.)**

4 **(As Against All Defendants)**

5 20. SEAU incorporates all of the preceding paragraphs as though set forth fully
6 herein.

7 21. SEAU is informed and believes that in doing the things herein alleged,
8 McHAFFIE and DOES 1 through 100, inclusive, have engaged in a pattern of racketeering
9 activity in connection with an enterprise that affects interstate commerce, including without
10 limitation mail fraud, wire fraud, and fraud in the sale of securities. SEAU has suffered damages
11 as a direct and proximate result of the racketeering activities of McHAFFIE and DOES 1 through
12 100, inclusive, such that SEAU is entitled to an award of actual damages, statutory treble
13 damages, and attorneys' fees and costs.

14 **FIFTH CAUSE OF ACTION**

15 **(Violation of Business & Professions Code § 17200)**

16 **(As Against All Defendants)**

17 22. SEAU incorporates all of the preceding paragraphs as though set forth fully
18 herein.

19 23. SEAU alleges that the wrongful acts of McHAFFIE and DOES 1 through 100,
20 inclusive, as herein alleged were performed pursuant to McHAFFIE's and DOES 1 through 100,
21 inclusive, unlawful business practice of defrauding potential investors with false promises of
22 illusory investment opportunities. SEAU is informed and believed and based thereon allege that
23 McHAFFIE and DOES 1 through 100, inclusive, have a pattern and practice of illegally
24 misappropriating the personal funds of unknowledgeable investors such as SEAU herein.

25 24. SEAU alleges she has suffered injury in fact as a result of McHAFFIE's and
26 DOES 1 through 100, inclusive, unlawful business practice alleged herein. SEAU further alleges
27 that pursuant to the laws of this State, SEAU is entitled to restitution of all amounts illegally
28 misappropriated by McHAFFIE and DOES 1 through 100, inclusive, pursuant to the unlawful

1 business practice alleged herein, in an amount to be proven. SEAU further seeks injunctive
2 relief against McHAFFIE and DOES 1 through 100, inclusive, to prohibit the unlawful business
3 practices complained of herein.

4 **WHEREFORE, SEAU prays for judgment as follows:**

5 1. For a judicial determination of the respective rights of SEAU and the duties of
6 McHAFFIE and DOES 1 through 100, inclusive, pursuant to applicable law;

7 2. That judgment be entered in favor of SEAU and against McHAFFIE and DOES 1
8 through 100, inclusive, with respect to all amounts due and owing SEAU, plus interest, including
9 pre-judgment interest, and other economic and consequential damages, in an amount to be
10 determined at the time of trial;

11 3. Attorney's fees pursuant to contract and law, witness fees, and costs of litigation
12 incurred by SEAU to obtain relief sought herein, in an amount to be determined at the time of
13 trial;

14 4. Treble damages pursuant to RICO;

15 5. Punitive and exemplary damages in an amount to be determined at the time of
16 trial;

17 6. Restitution;

18 7. Injunctive relief;

19 8. Such other relief as the Court may deem just and proper.

20 Respectfully submitted,

21
22 Dated: October 4, 2010

By: 

Robert D. Shoecraft, Esq.
Shoecraft ♦ Burton, LLP,
Attorneys for PLAINTIFF
Gina Seau



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Last Name requested: MCHAFFIE First Name requested: CHARLES Search Result Page: 1

Case Number	Party Name Matches	Opposing Party	Case Location	Case Type	Date Filed
UN017026	MCHAFFIE, CHARLES	PACIFIC HORIZON FINANCIAL INC	North County	Civil	04/08/2005
UN015766	MCHAFFIE, CHARLES	PACIFIC HORIZON FINANCIAL INC	North County	Civil	10/22/2004
N77140	MCHAFFIE, CHARLES	FORT WORTH CREDIT PARTNERS, LTD.	North County	Civil	01/23/1998
N76402	MCHAFFIE, CHARLES	FORT WORTH CREDIT PARTNERS, LTD.	North County	Civil	10/30/1997
N44469	MCHAFFIE, CHARLES	TREMBLAY, ZAO	North County	Civil	07/19/1989
N37191	MCHAFFIE, CHARLES	VIDAL, M.D., JOSE	North County	Civil	08/02/1987
IC672602	MCHAFFIE, CHARLES	GERSON LAW FIRM APC	San Diego	Civil	09/18/2008
GIN046101	MCHAFFIE, CHARLES	BEDELL, RON	North County	Civil	05/19/2005
GIN028136	MCHAFFIE, CHARLES	A & A HOLDINGS LIMITED PARTNERSHIP	North County	Civil	03/08/2003
GIC847109	MCHAFFIE, CHARLES	BEDELL, RON	San Diego	Civil	05/19/2005
GIC834016	MCHAFFIE, CHARLES	AMERICAN MOTORISTS INSURANCE COMPANY	San Diego	Civil	08/10/2004
GIC833202	MCHAFFIE, CHARLES	RORABAUGH GROUP	San Diego	Civil	07/26/2004
GIC809034	MCHAFFIE, CHARLES	KATZMAN, RICHARD	San Diego	Civil	11/14/2002
GIC734404	MCHAFFIE, CHARLES	JORY, DWIGHT	San Diego	Civil	08/30/1999
841800	MCHAFFIE, CHARLES	U. S. SECURITIES CLEARING CORP.	San Diego	Civil	08/28/1991
37-2010-00101621-CU-ER-CL	MCHAFFIE, CHARLES	SEAU, GIÑA	San Diego	Civil	10/04/2010
37-2010-00067473-CU-CL-EC	MCHAFFIE, CHARLES	STRAUSS LIMITED PARTNERSHIP	East County	Civil	04/09/2010
37-2008-00092295-CU-WM-CL	MCHAFFIE, CHARLES	EAST COUNTY DIRT WORKS INC	San Diego	Civil	09/22/2008
37-2007-00083785-CU-ER-CL	MCHAFFIE, CHARLES	WHILLOCK, MARK	San Diego	Civil	12/14/2007
GIN040250	MCHAFFIE, CHARLES R	FORSEST BEND LTD	North County	Civil	10/22/2004
GIC833002	MCHAFFIE, CHARLES R	HALIFAX INVESTMENTS LLC	San Diego	Civil	06/26/2004
N36800	MCHAFFIE, CHARLES ROBERT	MILLER, DAVID GREGORY	North County	Civil	05/01/1987

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Last Name requested: CARRIZO GORGE First Name requested: Search Result Page: 1

Case Number	Party Name Matches	Opposing Party	Case Location	Case Type	Date Filed
IE031642	CARRIZO GORGE RAILWAY INC	CANADIAN PACIFIC RAILWAY	East County	Civil	04/04/2008
GIE036664	CARRIZO GORGE RAILWAY INC	HELM FINANCIAL CORPORATION	East County	Civil	03/05/2007
GIE034315	CARRIZO GORGE RAILWAY INC	GE RAIL CAR NEW LIFE	East County	Civil	09/19/2006
GIE032058	CARRIZO GORGE RAILWAY INC	WHILLOCK CONTRACTING INC	East County	Civil	05/01/2006
37-2010-00071565-CU-BC-EC	CARRIZO GORGE RAILWAY INC	BNSF RAILWAY COMPANY	East County	Civil	09/15/2010
37-2010-00070009-CU-BC-EC	CARRIZO GORGE RAILWAY INC	SAN DIEGO & IMPERIAL VALLEY RAILROAD INC	East County	Civil	08/31/2010
37-2010-00067473-CU-CL-EC	CARRIZO GORGE RAILWAY INC	STRAUSS LIMITED PARTNERSHIP	East County	Civil	04/09/2010
37-2010-00066915-CU-CO-EC	CARRIZO GORGE RAILWAY INC	UNION PACIFIC RAILROAD COMPANY	East County	Civil	04/09/2010
37-2009-00085325-CU-EN-EC	CARRIZO GORGE RAILWAY INC	FIRST UNION RAIL CORPORATION	East County	Civil	04/06/2009
37-2008-00102537-CL-R3-EC	CARRIZO GORGE RAILWAY INC	SCHEUERMAN, RENE LAMAR	East County	Civil	12/30/2008
37-2008-00100369-CL-R3-EC	CARRIZO GORGE RAILWAY INC	RYAN CREDIT SERVICE	East County	Civil	12/02/2008
37-2008-00066073-CL-R3-EC	CARRIZO GORGE RAILWAY INC	NORTHWESTERN RAILROAD CONSTRUCTION INC	East County	Civil	07/28/2008
37-2008-00063165-CL-R3-EC	CARRIZO GORGE RAILWAY INC	SAN DIEGO WHOLESALE CREDIT ASSOCIATION	East County	Civil	04/01/2008
37-2008-00083133-CL-R3-EC	CARRIZO GORGE RAILWAY INC	CANADIAN PACIFIC RAILWAY	East County	Civil	04/07/2008
37-2008-00034721-CL-UD-EC	CARRIZO GORGE RAILWAY INC	HARMONY GROVE PARTNERS LP	East County	Civil	07/16/2008
37-2007-00080931-CU-BC-EC	CARRIZO GORGE RAILWAY INC	UNION PACIFIC RAILROAD COMPANY	East County	Civil	08/28/2007
37-2008-00086073-CL-R3-EC	CARRIZO GORGE RAILWAY TOURS INC	NORTHWESTERN RAILROAD CONSTRUCTION INC	East County	Civil	07/28/2008
GIE030423	CARRIZO GORGE RAILWAY, INC	PHOENIX CONSTRUCTION SERVICES, INC	East County	Civil	01/03/2006

 Superior Court of California, County of San Diego

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Last Name requested: CARRIZO GORGE First Name requested: Search Result Page: 1

Case Number	Party Name Matches	Opposing Party	Case Location	Case Type	Date Filed
37-2008-00085174-CU-PA-CTL	CARRIZO GORGE INTERNATIONAL AGGREGATES INC	GARCIA, RUBEN	San Diego	Civil	06/05/2008
GIC867965	CARRIZO GORGE RAILWAY INC	PHOENIX CONSTRUCTION SERVICES INC	San Diego	Civil	01/03/2006
37-2010-00106551-CU-CO-CTL	CARRIZO GORGE RAILWAY INC	LIT INDUSTRIAL LIMITED PARTNERSHIP	San Diego	Civil	12/23/2010
37-2010-00102989-CU-BC-CTL	CARRIZO GORGE RAILWAY INC	HULCHER SERVICES INC	San Diego	Civil	10/22/2010
37-2010-00101083-CU-NP-CTL	CARRIZO GORGE RAILWAY INC	SWEETWOOD, GARY	San Diego	Civil	09/24/2010
37-2010-00092501-CU-BC-CTL	CARRIZO GORGE RAILWAY INC	GATX RAIL LOCOMOTIVE GROUP LLC	San Diego	Civil	05/20/2010
37-2009-00097887-CU-CL-CTL	CARRIZO GORGE RAILWAY INC	LUCE FORWARD HAMILTON & SCRIPPS LLP	San Diego	Civil	09/04/2009
37-2008-00096937-CU-BT-CTL	CARRIZO GORGE RAILWAY INC	SWEETWOOD, GARY	San Diego	Civil	11/26/2008
37-2008-00095237-CU-BT-CTL	CARRIZO GORGE RAILWAY INC	BEAUCHAMP, R MITCHEL	San Diego	Civil	11/03/2008
37-2008-00093319-CU-BC-CTL	CARRIZO GORGE RAILWAY INC	EAST COUNTY DIRT WORKS INC	San Diego	Civil	10/06/2008
37-2008-00092295-CU-WM-CTL	CARRIZO GORGE RAILWAY INC	CARRIZO GORGE RAILWAY INC	San Diego	Civil	09/22/2008
37-2008-00092295-CU-WM-CTL	CARRIZO GORGE RAILWAY INC	CARRIZO GORGE RAILWAY INC	San Diego	Civil	09/22/2008
37-2008-00092295-CU-WM-CTL	CARRIZO GORGE RAILWAY INC	EAST COUNTY DIRT WORKS INC	San Diego	Civil	09/22/2008
37-2008-00092295-CU-WM-CTL	CARRIZO GORGE RAILWAY INC	EAST COUNTY DIRT WORKS INC	San Diego	Civil	09/22/2008
37-2008-00085174-CU-PA-CTL	CARRIZO GORGE RAILWAY INC	GARCIA, RUBEN	San Diego	Civil	06/05/2008
37-2008-00083791-CU-BT-CTL	CARRIZO GORGE RAILWAY INC	BAJA CALIFORNIA RAIL ROAD INC	San Diego	Civil	05/13/2008



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FAQ

DWIGHT JORY and CHARLES McHAFFIE

Dwight Jory has been a business associate of John Madsen since at least 1991, documented by this filing *Nelson v Jory and Madsen, etal*. (This case is listed in the Cases 1991-2000) While looking into Mr. Jory's business activities, it was discovered that Dwight Jory and Charles McHaffie are business associates.

It can be established that Jory and McHaffie have known each other since at least 1989. This is the case history of the Robert Bartoli vs Kent Greene, etal, filed in 1989. Charles McHaffie and Dwight Jory are named as third-party defendants. The company DSM Golf Enterprises, Inc., was also named. Since the case is old, the court filings cannot be found. Even though the case was filed in 1989, Kent Green was issuing orders in 1994 and 1996 for the appearance of "judgment debtor" Charles McHaffie. There is a judgment in the amount of \$167,251.92 against both Dwight Jory and Charles McHaffie given in 1994 to Mr. Greene, per the case history. The reason for the case is unknown.

Dwight Jory was on the board of a company called Advantage Capital Management and also DSM Golf Enterprises (scroll to page 17) Advantage Capital Management had previously been C.E.C. Industries Corp. When reading all the information, it is hard to determine what the actual business is, there were several different types of businesses. Charles McHaffie was also involved with the company.

Another person on the board of Advantage Capital Management was *Donald J Stoecklein*, an attorney. Dwight Jory filed his Written Consent (June 28, 2011) for the Lone Ranger Holdings, Inc. bankruptcy from the office of *Stoecklein Law Group*.

When reviewing the case history of Bartoli v Green, most of the people named as defendants in the case were also involved with Advantage Capital Management(ACM). Also when reviewing the ACM //k/a C.E.C Industries information, a company named Mission Valley Mini Storage was a part of C.E.C. Industries (on page 3 and page 7). While not noted in the information, Dwight Jory was the manager. Mission Valley Mini Storage and C.E.C. Industries had the same address 23 Cactus Garden Drive, F-60.

Jory and McHaffie have both been Trustees for Sharnee Family Trust Partnership. They have both been involved with Carrizo Gorge Railway, which is a company that Jory mentions in his filings with BDCM. They have also been involved with a non-profit group called Keepers of The Wild. Dwight Jory was the treasurer for the group.

SIDE NOTE: Carrizo Gorge Railway was started years ago (the actual line was started in 1919), how they became involved and their involvement in it is unclear at this time.

SHARNEE FAMILY TRUST PARTNERSHIP

Researching Sharnee Family Trust Partnership (SFTP), it has been discovered through an involuntary bankruptcy filing in 2001 in Nevada, that SFTP is a Real Estate Business Trust. (def: Involuntary Bankruptcy) The filing was done by individuals trying to get debts repaid, the bankruptcy was dismissed because the filers failed to pay a fee. Most of the other involuntary filings for the Sharnee Family Trust have been filed by either Charles McHaffie or Dwight Jory. The Sharnee Family Trust was mentioned in a Relief of Stay for the recent (June 2011) *Lone Ranger Holdings bankruptcy*. It appears that the property in the bankruptcy could belong to McHaffie/Sharnee Family Trust. Please go to the Dwight Jory page to read more about the bankruptcy.

Here is a list of the Sharnee Family Trust bankruptcies. All were dismissed except for the most recent filing in October 2008, which appears to still be active. Prior to the October 2008 filing there was another involuntary bankruptcy filed April 2008.

In April 2000, Sharnee Family Trust Partnership's Trustee, Dwight Jory, filed a voluntary bankruptcy. In this bankruptcy, Washington Mutual filed this Ex-Parte Application. It states that it is a frivolous filing as well as another frivolous filing in 1999. Washington Mutual was owed \$1,200,000.

In 2001 bankruptcy Case No 01-13141-PB7 was filed in Southern California. This bankruptcy had a Motion for Relief from Stay filed by Tri Acceptance Corporation in February 2002. The first paragraph states it is a "complex multi-party consolidated proceedings in Clark County Nevada Superior Court". What can also be said is there is a great deal of money talked about in this filing. This Motion cites several actions done by Jory, McHaffie, and Richard Katzman, an attorney. On page 7 of the filing, it is stated "Katzman, McHaffie and Jory are scheming for some improper purpose, likely to once again prevent the foreclosure of Calle Privada property". The Relief states that the involuntarily bankruptcy was "not filed in good faith or for proper purpose" and, on Page 4 of 8, that this bankruptcy is a replica of a bankruptcy filed previously Case 99-08450-PB7, Southern California Bankruptcy Court.

NOTE: In the Motion filed for Tri-Acceptance f/k/a Tri-Capital, Victory Village III is mentioned, it is also in the Advantage Capital Management SEC filing. Tri-Capital is also in the SEC filing. (SEC = Securities Exchange Commission)

UC LOFTS on 4th, LLC UC LOFTS on 5th, LLC and URBAN COAST, LLC

McHaffie is also involved with, and the registered agent for, U C Lofts on 4th LLC, U C Lofts on 5th, LLC and Urban Coast, LLC. This is the link for the California business search. Type in UC Lofts or Urban Coast. Be sure to "click" on Limited Liability Company.

In October 2005 an involuntary bankruptcy was filed for UC Lofts on 4th LLC and UC Lofts on 5th, LLC, Case No. 05-15409-JM. In October 2008, Adversary Proceeding No. 08-90439-JM was filed. The Sharnee Family Trust Partnership is named as a defendant in this adversary hearing. This document outlines another bankruptcy and adversary hearing in 2007. The document outlines different parties and provides background to the case. Fraudulent transfer of property is outlined in the filing. There was a hearing set for May 7 2009.

A common denominator in these bankruptcies - Lone Ranger Holdings LLC, Sharnee Family Partnership Trust and UC Lofts bankruptcies is a piece of property - 14995 Calle Privada, Del Mar, CA. This property has been in filings since at least 1999, as outlined in the Relief of Stay in bankruptcy Case No 01-13141 (link for Relief is above)

CARRIZO GORGE RAILWAY

A lawsuit was filed against McHaffie by Gina Seau in 2010. The lawsuit claims breach of contract, intentional misrepresentation, RICO and Violation of Business & Professional Code. Gina Seau vs Charles McHaffie. This lawsuit is about McHaffie seeking a \$2.5 Million investment into the Carrizo Gorge Railway via a loan from Seau to "consummate the Carrizo Gorge Railway transaction". James Warner, McHaffie's attorney, is mentioned in this lawsuit, on Page 3, Paragraph 7, where it is stated that Warner would also act as Seau's attorney in the loan transaction. The status of this lawsuit is not known at this time.

Information about Carrizo Gorge Railway and other lawsuits will be added.

VARIOUS LAWSUITS for CHARLES MCHAFFIE

Mr. McHaffie has been involved in several lawsuits - Charles McHaffie lawsuits (some could have been filed by Mr. McHaffie) The list contains old and current lawsuits. The list can be accessed by going to the San Diego County site, follow the instructions. For Case Location and Party Type - Choose "unknown-all".

Mr. McHaffie was involved in a lawsuit with Mr. and Mrs. Whillock. The Whillock's alleged fraud. There was a jury trial, resulting in a judgment against McHaffie in the amount of \$1,663,814.43. The information is found on Whillock's attorney site, Scott Waddle.

MISCELLEANEOUS

This is a link to an article in the Valley News, dated October 24 2008, about the unfinished Warm Springs Townhome project, in Murrieta, CA. It is stated that McHaffie was originally given the project. The project was not finished and Ron Bedell, who originally funded the project, took it over. The article states that there was a 16 unit townhome project started in 2003. The residents were very unhappy about the uncompleted project and wanted something done. There were several meetings of the Murrieta Planning Commission about this project. The minutes of the meeting can be found by searching Ron Bedell and Murrieta Planning Commission. One meeting was on 9-24-08, just before Valley News article. This article, dated April 7 2009, states that the townhouses were to be torn down - the last paragraph in this article says "The project was first approved by the Riverside County Planning Commission in 2001, and Bedell took over its construction in 2006 when the original developer defaulted on his loan."

One interesting note is that someone took information from this site and posted it as a comment on Dec. 9 2011, three (3) years after the original article.



Aerial Photo of the vacant townhome pads in Murrieta

Information will be added when found.

If you have any information about the above cases or others, please write mycokermadsenstory@gmail.com



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Remember to go to the Known Associates page under Associates & Other Information Section

DWIGHT JORY

NOTE: This page was started because of the Locatl Global Holdings/Broadcast Marketing Group, Inc.(BDCM) merger and the great similarity with GlobeTrack Wireless in the GPS business. There is a lot of information on this page about this merger, some of it is not critical but all information has been left, as it was discovered. In September 2011, a few months after the merger, there was an "unwind agreement" for Locatl Global Holdings and BDCM. The information is below. **NEW:** The OTC Market site (OTC site) was updated on Dec. 15 2011 with the new information for BDCM. The Florida Business Link was also updated. (The OTC Market site -Pinks section-has information on very small companies which is supplied by the people involved with the company.)

Nov. 2011 - After the unwind agreement with BDCM, Locatl Global Holdings was going to merge with another company. The company was called 3D Eye Solutions (TDEY) out of Florida. The merger was not completed, apparently due to non-payment of funds. This is the letter posted to the OTC site - Letter removing CEO and Chairman. John Madsen's name is included along with Frank Hariton (the security attorney for Locatl/BDCM). The last paragraph of the letter states "Furthermore, you are directed to immediately surrender to the Transfer Agent the stolen shares issued directly to John Madsen or I will have no choice but to contact the authorities". In reading all the documents submitted to the OTC site, Dwight Jory's name is never mentioned. Madsen, Hariton and Simon Vernon Rodriguez, who had been made the new Chairman/CEO of the company, are the only names. There are other reports listed, in November, which are informative, please visit the OTC site to read them.

Read below about Lone Ranger Holdings (started June 22 2011) and the bankruptcy filed(June 29) just 7 days after starting the business.

One of Dwight Jory's business associates is Charles McHaffie, read more on Dwight Jory and Charles McHaffie .

Lawsuits naming Dwight Jory as a defendant are in the Known Associates section, as well in the "More Dwight Jory Companies" section below.

The Patent page outlines the patent that is mentioned in the press release for BDCM, as well as more information for BDCM. Go to True Patent Story to read the actual background of the patent and how it can't work.

Locatl Global Holdings, LLC/Broadcast Marketing Group, Inc

February 3, 2011, Dwight Jory started Locatl Global Holdings, LLC , which is marketing GPS products very similar to *GlobeTrack Wireless, Inc.* A recent document filed (July 2011) stated Locatl "completes acquisition of GTW". Why wasn't this information made public in a press release as was done with Broadcast Marketing Group, Inc.?

Locatl Global Holdings, LLC has acquired a public company, Broadcast Marketing Group, Inc (BDCM). This action appears to be a reverse merger. In the June 3 2011 article, it stated that the company would be filing a Form 15. A Form 15 means the company will "cease filing various required forms". In fact, on June 16, 2011 Dwight Jory did file the Form 15 with the SEC. On the SEC site it states BDCM was previously Imagica Entertainment and Ranger International, SIC Code 2390, Misc Fabricated Textile Products - which remains the SIC code for BDCM. (SEC = Securities Exchange Commission)

July 31 2011 - the SIC Code has not changed on the SEC site however the OTC Pink site has been changed. OTC Pink is changed by the individuals with the company. Other sites still list BDCM as a "textile manufacturer".

On June 5 2011, the OTC site listed Dwight Jory as President/CEO of BDCM. Using the Florida Business Link a person named R.H Alvarez is the only person listed for Broadcast Marketing Group, Inc. R H Alvarez is also the person associated with Imagica and Ranger International, Inc.

On June 23 2011 R H Alvarez filed an annual report for BDCM. On June 30 2011 paperwork was filed with Florida, Jory is listed as CEO of BDCM. In paperwork submitted to the OTC site for BDCM it states Alvarez resigned as President of BDCM in December 2010. Why was Alvarez filing papers in Florida on June 23 2011?

Mr. Jory has not registered BDCM in Arizona or Nevada but, as noted previously, he has started another company in Nevada. Here is a link to the Arizona Corporation Commission database , type in Broadcast and click on search. Here is the link for the Nevada SOS site enter Dwight Jory as an officer, Broadcast Marketing Group does not appear. There are several companies for Dwight Jory, they are listed below.

June 2011 Update: A recent change to the OTC link - the notice has been changed from STOP to Caveat Emptor.

July 1 2011 Update - The OTC site has changed back to STOP. An Initial Disclosure Statement for June 2011 was filed. When reading the paper, notice that it refers to a new product being released November 2010 - 4th page. 2010 not 2011. (A correction has been made, it now reads 2011). The document also states: " May 5 2011 Dwight Jory, representing Locatl, completes acquisition agreement with GTW" GTW = *GlobeTrack Wireless*. You can see all documents submitted to the OTC.

July 5 2011 Update - the OTC site has changed the status to a Yield Sign which means limited information for the company and that it could be in *financial distress*.

July 28 2011 Update: The OTC site now shows that BDCM has met all filing requirements for the OTC site and is OTC Pink. As stated on the site, "it is not a designation of quality or investment risk". One of the requirements is that an attorney letter is filed. This was done July 25, 2011. If you read the letter, the attorney, Frank Hariton, states he met with Dwight Jory in San Diego and looked at pictures of the inventory. WHY look at pictures? WHY did they meet in San Diego? Why not Henderson NV? He filed the letter on July 25 but then filed a revised letter on July 27. Revised financial statements were submitted on July 27, as well. Also, in the letter, note the wrong dates for the different reports which he references and the phrase "over the next few weeks I have performed" (future and past tense in one sentence). *Please read August 30 update.*

A discovery on the SEC site: the ticker symbol for Broadcast Marketing Group is *IMEA* not BDCM. Go to the site, type in IMEA, notice that Broadcast Marketing Group Inc is listed.

August 30 2011 Frank Hariton, securities attorney for BDCM, has a withdrawal letter on the OTC site. He states "due to events that have come to his attention". What events would those be? Could it be fear that the crime-fraud exception would happen again? It would be interesting to know what happened. This is the link for the OTC site which shows he filed it on August 24. The rating on the OTC site for BDCM has gone back to the yield sign same rating for July 5.

UNWIND AGREEMENT - BDCM and Locatl Global Holdings, filed an "unwind agreement" on Sept. 20 2011. Go to the OTC site and read the BDCM and Locatl Global Holdings Unwind Agreement. (It is a large document) In reading the Unwind Agreement on the 3rd page under the NOW THEREFORE area, paragraph 3 - UNRESOLVED MATTERS - FINRA INQUIRY. "BMG has received an inquiry regarding the SEA and other matters from FINRA. BMG has provided certain information to FINRA and may be required to provide additional information to FINRA. DJ agrees to cooperate with BMG with respect to any further information requests from FINRA" DJ = Dwight Jory. FINRA = Financial Industry Regulatory Authority. The entire document should be read. Exhibit B, under "Paid" shows that \$6,200 to Pink OTC Markets and under "Accrued" it shows Frank Hariton \$5,000. Keith Webb was part of the unwind agreement. His name cannot be found in documents for BDCM on the Florida Business Link but he was paid \$6,000 for the company, per Exhibit B. There was a consulting contract, with Keith Webb, attached in the unwind agreement, it is the last document. According to the contract it was signed in March 2011, it was not outlined in the Initial Disclosure Statement of June 30 2011.

Questions about the INTERIM FINANCIAL REPORT in the Reports Released for BDCM:

The unaudited financial statements (as of June 30 2011) and the Information Note 3 (page 7) and Note 5 presents questions.

(1) What is the "property, plant and equipment" and "inventory" valued over \$1 Million that BDCM is getting from GTW? Certain things are known (1) before GTW "moved" out of Texas, the company had been locked out of the *rented* office space due to lack of payment (2) office equipment, furniture, files were seized by writs and (3) the GPS inventory was seized. All of the seized items sit in a warehouse. What property and inventory is being referenced in Note 3? Is it the furniture & inventory shown on the Photos Submitted page?

(2) How is a \$750,000 value assigned to the intellectual property? Note 5 says the \$750,000 was from "expenses, recorded time by inventors and other cost". Madsen and Coker did the patent filing on their own, an attorney was not used. The dollars spent, per the patent paperwork, was \$1500-\$2000. Is there paperwork to prove the time that Madsen and Coker spent "inventing"? What is the "other cost"? To date, the patent submitted by John Madsen and Michael Coker has not been reviewed by the US Patent Office.

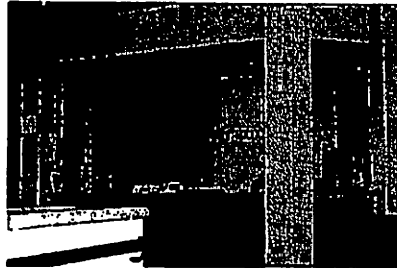
(3) What is the prepaid advertising expense of \$5 Million? Does it mean that GTW paid \$5 Million for advertising? If GTW could afford \$5 Million in advertising, why wasn't Coker being paid his salary at GTW? He stated in his 341 Bankruptcy hearing (and in his filings) that GTW owed him over \$735,000 in wages. Go to the More Information section and listen to the "Funding" clip, at the end of the short clip the \$735K is discussed.

(4) Who are the "4 arm length" people that have been employed. When will they be announced?

(5) The Notes Payable in the amount of \$1,904,841.03, does match the amount in the GTW Financials (link below). Why has nothing been paid on the note? Is it one note or multiple notes? With individuals? Another Company? A bank?

Billie J. Allred (**Fed Tax Lien** over \$74K for tax year 2006 filed in 2010) produced this Financial Report for GlobeTrack Wireless (GTW) ending June 30 2010. Comparing the figures in this document with what is stated in Interim Financial Report for the GTW numbers is interesting. There isn't any mention of the "Intellectual Property" in the GTW financials. There are attorney fees but are not allocated to the patent. The asset numbers don't seem to match. In the letter from Allred prior to the financials, he states "management elected to not submit disclosures normally submitted". Why?

Locatl Global Holdings/BDCM, Lone Ranger Holdings, Carrizo Gorge Railway business office shown below:



Suite 200 - Jory has Locatl Global Holdings/BDCM and Lone Ranger Holdings. It is an Executive Suite used by several companies.

Century Executive Suites, take a tour of the building on their site. Why wouldn't he want his own building since he has several businesses? He is in the real estate business.

LONE RANGER HOLDINGS, INC.

June 22 2011 -Dwight Jory started Lone Ranger Holdings, Inc. (LRH). The address is the same address of Locatl Global Holdings, LLC. It is also the address for another company Jory is involved with, Carrizo Gorge Railway. As shown above, it is an Executive Suite, there are many other companies located at 10120 S. Eastern Ave., Suite 200. The above photo plus an outside shot is on the Photos page, bottom two photos.

Mr. Jory created Lone Ranger Holdings, Inc. on June 22 2011, transferred property to LRH and then filed Chapter 11 Bankruptcy for Lone Ranger Holdings, Inc., on June 29 2011 in Las Vegas, Case 11-20243. Another document. This is the Written Consent for the bankruptcy filed by Jory. This is the original filing of the bankruptcy. In this Motion for Relief of Stay filed by a creditor, it is stated that Jory transferred property from the Shamee Family Trust to Lone Ranger Holdings, just prior to the sale of the property. The person was owed money by the Shamee Family Trust. Jory was Trustee at the time of the loan. Apparently, Jory put up the piece of property (in CA) for collateral. Payments were not made, as outlined in the contract. The person decided to sell the property, Shamee Trust filed bankruptcy, so the sale was stopped. Recently the person tried to sell the property again, this is when the LRH bankruptcy was filed. Over \$800,00 was owed. The attorney for Lone Ranger Holdings, Inc. filed for a dismissal on August 26 2011 (2 months after the filing), Motion for Order Dismissing Case the dismissal was granted.

MORE DWIGHT JORY COMPANIES

Dwight Jory has started or been involved with many companies in Nevada, Arizona and California.

Looking in the Nevada business search, you will discover that many have been revoked or permanently revoked. If you look under "registered agent" in the Nevada site, for Dwight Jory, you will find additional companies. Dwight Jory also has companies listed with Arizona. The link should be for an Agent list - type in Dwight Jory. The list of companies is provided below, for your convenience.

Dwight Jory was on the board of a company of Advantage Capital Management and DSM Golf Enterprises (scroll to page 17). These companies were involved with a company called C.E.C. Industries Corp. McHaffie was also involved with these companies. (More on the Jory-McHaffie page.)

Dwight Jory also has a business called Las Vegas Business Promotions it is not listed with Nevada. There is also a company called DWJORY Consulting. Have a look at his website, watch the first video in the video gallery. Dec. 2011 - It has been discovered this link is no longer active - reason unknown.

IG LLC a Jory company has had at least one lawsuit. DSM Golf Enterprises has had at least one lawsuit.

Klugman (lawsuit is listed in Legal Cases) filed a Foreign Judgment in 2007 against Jory, Madsen and IGP.

Here is the list of lawsuits in Clark County NV (some were filed by Jory) If you would like to get more information about the cases, here is the link to the Clark County site, remember to change "Case" to "Party", then enter his name in the appropriate boxes. One of the lawsuits was Jory suing his ex-wife, she won.

Please notice in the list that a lawsuit was filed 9/22/2011 by Barclay Bank against Dwight Jory.

More lawsuits have been found in San Diego. Here is the link to the San Diego Court Cases follow the directions. For Case Location and Party Type - Choose "unknown-all".

Go to the Jory-McHaffie Page to learn more about other companies.

For your convenience, a list of the Jory companies from the Nevada site is below.

Company Name	Yr Started	Position in Company	Status of Company
Las Vegas Sunset Ridge Apartments, LTD	1987	Registered Agent	Expired
I G LLC	1995	Manager	Permanently Revoked
Mission Valley Mini-Stoarge LLC	1995	Managing Member	Permanently Revoked
Embassy Investments LLC	1998	Managing Member	Permanently Revoked
TxStar Entertainment, Inc	1998	Registered Agent	Permanently Revoked
Golden Resort and Movie	1999	Manager	Dissolved
Help Rescue The Earth Foundation, Inc.	1999	Secretary	Permanently Revoked
Land by the Sea 21, LLC	2004	Manager	Revoked
Gold Mountain North LLC	2004	Manager	Active
The Way of Humanity 2 LLC	2006	Manager/Registered Agent	Revoked
South of the Border F, LLC	2006	Registered Agent	Revoked
Jory Family Limited Partnership	2006	General Partner	Revoked
Consolidated Capital Investments LLC	2007	Managing Member	Revoked
KMFJ Water LLC	2008	Managing Member	Active
JRED	2008	Managing Member	Active
The Way of Humanity Inc	2010	President/Director	Active
LocatI Global Holdings LLC	2/2/2011	Managing Member	Active
Lone Ranger Holdings	6/22/2011	Pres,Sec, Treas,Dir	Active

For your convenience, a list of the Jory companies from the Arizona site is below.

Company Name	Year Started	Position in Company	Status of Company
Gold Mountain Development Corp.	1999	Secretary	Dissolution
Consolidated Properties Financial, LLC	2002	Manager	Terminated
Gold Mountain North, LLC	2004	Manager	Good Standing (Foreign LLC)
Chief White Hills, LLC	2004	Manager/member	Good Standing

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4

5 *Attorneys for Lone Ranger Holdings, Inc.*

6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8 In re:

9 LONE RANGER HOLDINGS, INC.,

10 Debtor.

Chapter 11

Case No: 11-20243-bam

Hearing Date: 9/27/2011

Hearing Time: 10:00 am

Location: Foley Federal Building
Courtroom No. 3

11
12
13
14 **MOTION FOR AN ORDER DISMISSING CASE:**
15 **MEMORANDUM OF POINTS AND AUTHORITIES**

16 Debtor-in-Possession, Lone Ranger Holdings, Inc., a Nevada corporation ("Debtor"),
17 hereby moves for an Order voluntarily dismissing the instant bankruptcy case. The Motion
18 shall be based upon the Memorandum of Points and Authorities below, and Notice of Hearing
19 on Motion to Dismiss of Debtor submitted concurrently herewith.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **1. BACKGROUND**

22 The Debtor filed a voluntary Chapter 11 bankruptcy petition on June 29, 2011. At the
23 time, the Debtor owned and was in possession of real property located at 14995 Calle Privada,
24 Rancho Santa Fe, CA 92067 (the "Real Property"), secured by a first deed of trust ("Primary
25 Lender") and a second deed of trust ("Secondary Lender"), as well as a non-operational
26 Conoco gas station located in Branson, MO. The total debt outstanding associated with the
27
28

1 Real Property is approximately \$1,800,000.00. Aside the Real Property debt, the Debtor
2 possesses manageable outstanding pre-petition unsecured debts. The justification for filing of
3 bankruptcy was in an effort to maintain the Real Property.

4 2. DISCUSSION

5 11 U.S.C Section 305(a)(1) of the Bankruptcy Code provides in relevant part that, (a)
6 The court, after notice and a hearing, may dismiss a case under this title, or may suspend all
7 proceedings in a case under this title, at any time if: the interest of creditors and the debtor
8 would be better served by such dismissal or suspension;...

9
10 In the present case, the interests of creditors and the debtor would be better served by
11 dismissal of the case. Given the current circumstances whereby Debtor and Secondary Lender
12 can resolve the outstanding debt owed through alternative financing, or otherwise foreclose on
13 the property, "reorganization" is not necessary or practical. The Debtor is current with the
14 Primary Lender, and thus can maintain the Real Property through the current Secondary
15 Lender negotiations. The cost of requiring Debtor to remain in bankruptcy for the sole purpose
16 of resolving the contemplated obligation would outweigh any benefit to be gained.

17
18 Among the factors that Bankruptcy Courts consider in deciding whether to dismiss or
19 suspend a bankruptcy case, in the exercise of their discretionary authority, are: (a)
20 consideration of who filed the bankruptcy petition; (b) the availability of another alternate
21 forum; (c) the necessity of federal proceedings to achieve a just and equitable solution; (d) the
22 expense of federal proceedings in comparison with proceedings in another forum; (e) the
23 purpose of the party seeking to remain in Bankruptcy Court; (f) the economy and efficiency of
24 having the Bankruptcy Court resolve the matter; and (g) possible prejudice to parties. In re
25 Mazzocone, 200 B.R. 568, 575 (E.D. Pa. 1996); In re Fortran Printing, Inc., 297 B.R. 89, 94
26 (Bankr. N.D. Ohio 2003); *see also* In re Fax Station, Inc.; 118 B.R. 176, 177 (Bankr. D.R.I.
27 1990).
28

1 In the instant case, the party filing the bankruptcy petition, the Debtor, is the same
2 party seeking to dismiss the case, due to changed circumstances. This is not a situation where a
3 third-party creditor is attempting to dismiss the Debtor's case in order to extract payment. On
4 the contrary, it will be more efficient for the Debtor to negotiate the outstanding balance owed
5 outside of bankruptcy then if compelled to negotiate and arrange satisfaction of the debt
6 through an unnecessary and expensive plan of reorganization.

7 Furthermore, federal proceedings are unnecessary in order to achieve a just and
8 equitable solution, and the expense of continuing the bankruptcy proceedings will far outweigh
9 any benefit to creditors or the Debtor. A key consideration for determining whether dismissal
10 is appropriate is whether economy and efficiency of administration will be served. In re
11 Business Information Co., Inc., 81 B.R. 382, 387 (Bankr. W.D. Pa. 1988); In re Deacon
12 Plastics Machine, Inc., 49 B.R. 982 (Bankr. D. Mass. 1985). Here, economy and efficiency
13 will best be served by dismissal of the case, since the attorney's fees and other expenses that
14 will be incurred during the course of ongoing administration of this bankruptcy case will
15 simply diminish the estate more than is necessary, making it more costly to arrange
16 satisfaction of the debt.

17 Therefore, the Debtor's bankruptcy case should be dismissed.
18

19 3. CONCLUSION

20 Based on the foregoing, the Debtor respectfully requests that the Courts dismiss the
21 instant Chapter 11 bankruptcy case.
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1 Dated: August 24, 2011

2 /s/ Dwight Jory
3 President
4 Lone Ranger Holdings, Inc.

5 Respectfully,

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7 RYAN STIBOR
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1 RYAN STIBOR
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4

5 *Attorneys for Lone Ranger Holdings, LLC*

6 **UNITED STATES BANKRUPTCY COURT**
7 **DISTRICT OF NEVADA**

8 In re:

9 **LONE RANGER HOLDINGS, INC.,**
10 **Debtor.**
11

Chapter 11

Case No: 11-20243-bam

Hearing Date: 9/27/2011

Hearing Time: 10:00 am

Location: Foley Federal Building
Courtroom No. 3

12
13 **CERTIFICATE OF MAILING**
14

15 I HEREBY CERTIFY that on the August 24, 2011, I served a true and correct copy of
16 the foregoing MOTION TO DISMISS CHAPTER 11 BANKRUPTCY, by depositing a copy
17 in the United States Mail at Las Vegas, Nevada, standard mail, addressed to:

18 American Savings Bank/ EMC
19 PO Box 7589
Springfield, Ohio 45501

20 Brian C. Whitaker
21 Jason M. Wiley
1349 W. Galleria Dr. #200
22 Henderson, NV 89014

23 Stoecklein Law Group
402 West Broadway, Suite 690
24 San Diego, CA 92101

25 The following persons were served by electronic transmission:

26 US TRUSTEE OFFICE
300 Las Vegas Blvd., South Suite 4300
27 Las Vegas, Nevada 89101
28 USTPREGION17.LV.ECF@usdoj.gov

LONE RANGER HOLDINGS, INC.

WRITTEN CONSENT TO ACTION WITHOUT MEETING OF THE**BOARD OF DIRECTORS****OF****LONE RANGER HOLDINGS, INC.****A Nevada Corporation****Dated: June 28, 2011**

The undersigned, being all of the duly appointed and acting members of the Board of Directors of Lone Ranger Holdings, Inc., a Nevada corporation ("Corporation"), do hereby consent to the adoption of, and do hereby adopt, the following resolutions with the same force and effect as if adopted at a meeting of the Board of Directors duly called and held, pursuant to §NRS 78.315 and §78.325 of the General Corporation Law of the State of Nevada, and pursuant to the bylaws of the Corporation.

Authorization to file for Chapter 11 Bankruptcy

RESOLVED, that the Board of Directors has determined that the Corporation will file for bankruptcy protection status in accordance with Chapter 11, Title 11 of the United States Bankruptcy Code.

FURTHER RESOLVED, that the filing for such status shall take place in the State of Nevada.

AUTHORIZATION OF CORPORATE ACTION.

RESOLVED THAT each officer of the Corporation is hereby authorized and directed to do and perform, or cause to be done and performed, all such acts, deeds and things and to make, execute and deliver, or cause to be made, executed and delivered, all such agreements, undertakings, documents, instruments or certificates in the name and on behalf of the Corporation or otherwise as each such officer may deem necessary or appropriate to effectuate or carry out fully the purpose and intent of the foregoing resolutions and any of the transactions contemplated thereby.

All actions heretofore taken by any director or officer of the Corporation in connection with any matter referred to in the foregoing resolutions are hereby approved, ratified and confirmed in all respects.

LONE RANGER HOLDINGS, INC.

The secretary and any assistant secretary of the Corporation or any other officer of the Corporation, is hereby authorized to certify and deliver, to any person to whom such certification and delivery may be deemed necessary or appropriate in the opinion of such officer, a true copy of the foregoing resolutions.

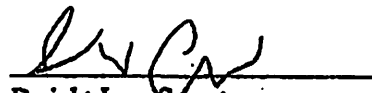
APPROVAL

Dated: June 28, 2011

The undersigned, being all the directors of Lone Ranger Holdings, Inc., waive the required notice of meeting and consent to all actions taken hereby.


Dwight Jory, Director

IN WITNESS WHEREOF


Dwight Jory, Secretary

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington D.C., 20549

Form 8-K/A

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) September 15, 1995

Commission file number 0-16734

C.E.C. INDUSTRIES CORP.

(Exact name of registrant as specified in charter)

Nevada

(State of other jurisdiction of
incorporation or organization)

87-0217252
(I.R.S. Employer
Identification Number)

23 Cactus Garden Drive, F-60
Green Valley (Henderson), Nevada
(Address of Principal Executive Office)
(702) 893-4747

89014
(Zip Code)

(Registrant's Telephone Number, Including Area Code)

Copies To:

Gerald Levine
President

23 Cactus Garden Drive, F-23
Henderson, Nevada 89014
(702) 893-4747

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C.E.C. Industries Corp. Page 2

Item No 1 Changes in Control of Registrant.

On September 15, 1995, the Company elected new Directors and Officers for fiscal 1996. The following persons were elected as Directors: Ronald J. Robinson, George A. Matthews, Donald J. Stocklein, Ronald G. Stocklein, Dwight J. Jory, Charles R. Hoffe and Ralph Mann.

Ronald J. Robinson was elected President, Donald J. Stocklein as Secretary and George A. Matthews as Treasurer.

In accepting the election, Ronald G. Stocklein disclosed a recent case filed in the United States District Court, Southern District of New York, Securities Exchange Commission vs. Softpoint, Inc., et al., where in Mr. Stocklein is named as a co-defendant. Donald J. Stocklein disclosed an Administrative Offer and Settlement with the Securities and Exchange Commission, although neither admitting nor denying allegations, agreed to the Order Instituting Cease and Desist proceedings pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities and Exchange Act of 1934. Dwight Jory disclosed the filing of a Bankruptcy Liquidation in September, 1994.

Item No. 2. Acquisition or Disposition of Assets.

The Board of Directors unanimously approved a plan to spin-off CEI, a wholly owned subsidiary of C.E.C. Industries Corp.

The Board of Directors further approved an agreement whereby CEC would joint venture a 20.30 acre multi-family and commercial project with TRI Financial, Inc., of San Francisco, California. Final documents for the transaction are currently being prepared.

Item No. 3. Bankruptcy or Receivership.

No events to report.

Item No. 4. Changes in Registrant's Certifying Accountant.

No events to report.

Item No. 5. Other Events.

No events to report.

Item No. 6. Resignation of Registrant's Directors.

No events to report.

Item No. 7. Financial Statements, Proforma Financial Information and Exhibits.

Exhibit -Agreement for the Exchange of Common Stock of CEC Industries Corp. For 24.5% Limited Partnership Interest Victory Village Ltd.
III

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Advantage Capital Development Corp · 8-K/A · For 9/15/95

Filed On 11/29/96 · SEC File 0-16734 · Accession Number 54175-96-29

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Amendment to Current Report · Form 8-K **Filing Table of Contents**

<u>Document/Exhibit</u>	<u>Description</u>	<u>Pages</u>	<u>Size</u>
1: <u>8-K/A</u>	Amendment to Current Report	17	60K

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"	<u>C.E.C</u>	• <u>Alternative Formats (RTF, XML, et al.)</u>	
2	<u>Item No 1. Changes in Control of Registrant</u>	• <u>Acquisition or Disposition of Assets</u>	
"	<u>Item No. 2. Acquisition or Disposition of Assets</u>	• <u>Bankruptcy or Receivership</u>	
"	<u>Item No. 3. Bankruptcy or Receivership</u>	• <u>C.E.C</u>	
		• <u>Changes in Control of Registrant</u>	

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Advantage Capital Development Corp - '8-K/A'

Accession Number 54175-96-29 - Documents containing "dwight and jory" with Text matching "dwight or jory" anywhere in This Filing

[Find] dwight jory In this entire Filing. Show Docs searched and every "hit".
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As Of: 11/29/96 Filer: Advantage Capital Development Corp 8-K/A(1,2,7 11/19/96) Doc Filing: 1: 8-K/A..... Amendment to Current Report -- 17 pages
 Doc: 8-K/A(1,2,7 11/19/96) Size: 1:17

8-K/A - End Page of 17	Just End (How)
For fiscal 1996. The following persons were elected as Directors: Ronald J. Robinson, George A. Matthews, Donald J. Stocklein, Ronald G. Stocklein, Charles A. Baffio and Ralph Mann.	
Order Instituting Cease and Desist proceedings pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities and Exchange Act of 1934. Dwight Jory disclosed the filing of a Bankruptcy liquidation in September, 1994.	
8-K/A - 11th Page of 17	Just 11th (How)
Robert Mahou Director George Matthews Director Dwight Jory Director	

Find Words in Filing - Advantage Capital Development Corp - '8-K/A'

1 textual document within the filing was searched.

1 doc's text contained the words "dwight and jory".

It matched "dwight or jory" anywhere.

4 document text matches are highlighted above.

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2 SAN DIEGO METROPOLITAN TRANSIT SYSTEM
3 1255 Imperial Avenue, Suite 1000
San Diego, California 92101

4 Attorney for
5 SAN DIEGO METROPOLITAN TRANSIT SYSTEM (Specially Appearing)

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 FOR THE COUNTY OF SAN DIEGO

8
9 KEN KAHAN,

10 Plaintiff,

11 vs.

12 CARRIZO GORGE RAILWAY, INC.,

13 Defendant
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Case No.: 37-2012-00095975-CU-BT-CTL

DECLARATION OF KAREN LANDERS (GENERAL
COUNSEL FOR SAN DIEGO METROPOLITAN
TRANSIT SYSTEM) IN OPPOSITION TO
PRELIMINARY INJUNCTION

Hearing Date: June 8, 2012

Hearing Time: 10:30 a.m.

Dept: 68

Judge: Hon. Judith F. Hayes

Declaration of Karen Landers in Opposition to Preliminary Injunction

1
2 1. I am employed as General Counsel for San Diego Metropolitan Transit System
3 (MTS) and its related entities (San Diego Transit Corp, San Diego Trolley, Inc., and San Diego &
4 Arizona Eastern Railway Co.) (collectively referred to as "MTS"). I also supervise the MTS Land
5 Management Department, which oversees real estate assets owned by MTS. The statements
6 set forth herein are based on my personal knowledge, or information available to me in my
7 position as General Counsel.
8

9
10 2. MTS is a public transit development board created by statute. (Pub. Util. Code, §
11 120050 et seq.) MTS is the sole member of the San Diego & Arizona Eastern Railway Co., a
12 Nevada non-profit corporation (SD&AE). MTS purchased SD&AE and its real estate assets from
13 Southern Pacific Transportation Company in 1979. The purchase was prompted, in part, by
14 MTS's opposition to Southern Pacific's petition to abandon the "Desert Line", which consists of
15 approximately 70 miles of railroad tracks extending from the US-Mexico border at Division,
16 California, to Plaster City, California. Operations on the Desert Line were suspended because of
17 severe storm damage suffered in 1976. MTS opposed the abandonment of the Desert Line on
18 the basis that "restoration of SD&AE's storm-damaged lines, and resumption of full railroad
19 freight services by SD&AE, are necessary and desirable for the use and benefit of San Diego
20 County, California, its economy, its business, and its residents."
21

22
23 3. Between 1979 and 1984, operations on the Desert Line stopped and started as a
24 result of various natural disasters, including fires and floods. Notwithstanding these difficulties,
25 the Interstate Commerce Commission denied an application by SD&AE's freight operator (Kyle
26
27
28

DECLARATION OF KAREN LANDERS (MTS) IN OPPOSITION TO PRELIMINARY INJUNCTION

1 Railways) to abandon or discontinue service on the Desert Line. (ICC Decision No. AB-16 (Sub-
2 No. 1) dated April 25, 1984.)

3 4. In 1984, MTS entered into an operating agreement for SD&AE's freight railroad
4 assets with San Diego & Imperial Valley Railway Company (SD&IV) ("1984 Operating
5 Agreement"). The 1984 Operating Agreement gives SD&IV the exclusive right to operate freight
6 on the SD&AE right-of-way, including the Desert Line. The 1984 Operating Agreement includes
7 5 ten-year terms through March 8, 2034. SD&IV has the right to unilaterally exercise each
8 option period.
9

10 5. Between 1985 and 1992, fire damaged two additional tunnels and two bridges.
11 Because of the high cost of repairs, not all repairs were completed. In 1994, costs to repair the
12 Desert Line were estimated at approximately \$17 million (including service upgrades after
13 operations restored). In 1996, a San Diego Association of Governments study estimated the
14 project cost at \$24 million to \$105 million, depending on the project scope.
15

16 6. In 2002, MTS consented to an assignment by SD&IV to Carrizo Gorge Railway Inc.
17 (CZRY) of its rights to operate the Desert Line ("CZRY Operating Agreement"). The term of the
18 CZRY Operating Agreement coincides with the 1984 Operating Agreement but is subject to
19 SD&IV's reasonable discretion, and SD&AE/MTS consent, to extend the CZRY Operating
20 Agreement for each new ten-year term. The current term for each agreement ends on March
21 8, 2014.
22

23 7. The 2002 CZRY Operating Agreement was entered into based on CZRY's intent to
24 "reopen the Desert Line by reconstructing the line to accommodate freight service." (CZRY
25 Operating Agreement, page 2.) MTS agreed to SD&IV's assignment of the Desert Line operating
26
27
28

1 rights to CZRY to allow "CZRY the ability to reinstate the line and provided common carrier
2 service over the line." (CZRY Operating Agreement, page 2.)

3 8. Since CZRY took over the Desert Line in 2002, very little freight activity has taken
4 place. In 2007, a study was prepared concerning the state of repair for the Desert Line bridges.
5 The study concluded that the condition of the infrastructure was significantly more
6 deteriorated than previously known. Costs to bring the Desert Line into a state of good repair
7 were informally estimated at more than \$100 million. The tunnels along the Desert Line have
8 not been inspected or repair costs estimated.
9

10 9. As a result of the bridge study, and a lack of funds to commence the full set of
11 repairs needed, CZRY agreed to an embargo and no freight activity has occurred on the line
12 since early 2009.
13

14 10. It is MTS's understanding that CZRY has been engaged in various shareholder
15 and creditor disputes since approximately 2005. These disputes have impacted performance
16 under the CZRY Operating Agreement and created uncertainty for MTS as to who was in control
17 at CZRY.
18

19 11. In early 2011, MTS was provided with a copy of a January 3, 2011 court order in
20 *Sweetwood v. CZRY* (SDSC Case No. 37-2008-00092295-CU-WM-CTL), which established the
21 shares and votes held by each CZRY shareholder and a statement that "The Court believes that
22 its ruling resolves issues of control, such that further interference of the type complained of in
23 the motion is not likely to occur, obviating the need for injunctive relief." On the basis of this
24 court order, which appeared to resolve the ongoing shareholder disputes and questions of
25
26
27
28

1 control, MTS began working with Sheila LeMire and Pacific Imperial Holdings, LLC (PIH) as the
2 representative in control of CZRY.

3 12. In February or March 2012, MTS was made aware that CZRY had formally
4 assigned its rights under the CZRY Operating Agreement to Pacific Imperial Railroad (PIR)
5 through a series of loans, assignments, and other agreements between CZRY, its shareholders,
6 and creditors:
7

8 a. January 5, 2011, Assignment, Assumption, and Settlement Agreement
9 between CZRY, Pacific Imperial Holdings, LLC (PIH), Pacific Imperial Industries, LLC (PII),
10 and Sheila Lemire. (Transfer of operating and trackage rights to PII).
11

12 b. November 1, 2011, Assignment Agreement between PII and PIR.
13 (Transfer of operating and trackage rights to PIR.)
14

15 c. January 7, 2012, Amendment to CZRY Operating Agreement (formally
16 assigning CZRY Operating Agreement to PIR) – SD&IV, SD&AE, and MTS consent
17 required.
18

19 13. MTS was generally aware that these transactions were occurring. During the
20 course of 2011, MTS was informed that PIH and some associated entities, PII and PIR, were
21 developing a proposal to repair the Desert Line and resume freight operations as originally
22 contemplated by the CZRY Operating Agreement. MTS encouraged PII to develop its proposal,
23 since this action was the first substantive progress towards re-opening the Desert Line for
24 freight service that had occurred since CZRY took over the Desert Line.
25

26 14. Since the costs to bring the Desert Line bridges into a state of good repair has
27 been informally estimated by MTS staff to be approximately \$100 million, MTS recognizes that
28

1 very few entities have the ability to finance the repairs necessary. Based on MTS's limited
2 knowledge of the shareholder and creditor disputes that have been filed against CZRY, it does
3 not appear that CZRY has the assets or collateral available to finance a project of this size and
4 scope.
5

6 15. In contrast to CZRY's lack of financing, the entity proposed to succeed CZRY in
7 the CZRY Operating Agreement, PIR, appears to have the ability to finance a project of this
8 nature. MTS has met with PIR and its bankers and confirmed that the project is moving forward
9 and that PIR appears able to obtain the financing needed. This financing will be secured by
10 assets controlled by PIR and not associated with CZRY.
11

12 16. In or about March 2012, MTS was informed that additional progress on PIR
13 obtaining funds to finance the repairs could not proceed to the next step until SD&AE and MTS
14 formally acknowledged the transfer of the operating rights to PIR.
15

16 17. On April 10, 2012, the SD&AE Board met and authorized staff to consent to the
17 assignment of the CZRY Operating Agreement to PIR. This authorization was conditioned upon
18 staff confirming that PIR was authorized to do business in the State of California. Staff
19 subsequently obtained confirmation from the Secretary of State to this effect.
20

21 18. On or about April 30, 2012, I was informed that the *Kahan* action was filed and a
22 temporary restraining order granted related to the CZRY Operating Agreement. On May 1,
23 2012, I spoke with the Department 68 court clerk to confirm if a restraining order had been
24 granted. At that time, I was informed that no order had been entered and that the next
25 hearing was scheduled for June 15, 2012. I was informed that during the April 25, 2012 ex
26 parte hearing, the Court had ordered the parties to meet and confer concerning the scope of
27
28

1 the temporary restraining order the Court agreed to grant at the hearing. On May 2, 2012, I
2 obtained a copy of the April 25, 2012 hearing transcript from the court reporter.

3 19. Upon reviewing the transcript and moving papers from the April 25, 2012 ex
4 parte hearing, I noted that MTS was not a named party and the moving papers requested an
5 order restraining CZRY from taking any action. The action being proposed for MTS, consent to
6 the assignment of the CZRY Operating Agreement, was the last step that needed to be taken to
7 finalize this transaction. CZRY had already taken all action required when it signed the
8 documents listed in Paragraph 12.
9

10
11 20. On May 17, 2012, at 9:00 am, the MTS Board met to authorize the assignment of
12 the CZRY Operating Agreement to PIR. At approximately 8:41 am on May 17, 2012, I was
13 provided via email with a May 3, 2012 court order that allegedly prevented MTS from taking
14 any action on the assignment. Upon reviewing the court order, I concluded that it did not, and
15 could not, assert any jurisdiction over MTS. However, given the required elements for granting
16 a temporary restraining order, the court order appears to raise questions regarding the validity
17 of the assignment document that MTS was consenting to. On this basis, the MTS Board
18 authorized staff to consent to the assignment of the CZRY Operating Agreement, contingent
19 upon the outcome of the June 8, 2012 preliminary injunction hearing scheduled before this
20 Court.
21
22

23
24 21. MTS is concerned that granting the preliminary injunction proposed will
25 unreasonably delay and/or terminate the proposed development and associated financing for
26 this project. MTS has been incredibly patient in allowing CZRY and its shareholders to resolve
27 their differences and return their attention to performing under the CZRY Operating
28

DECLARATION OF KAREN LANDERS (MTS) IN OPPOSITION TO PRELIMINARY INJUNCTION

1 Agreement. However, during this time, the Desert Line has fallen into greater disrepair and no
2 freight activity has taken place. MTS does not have any confidence that the CZRY shareholders,
3 on their own, have the capacity to repair the Desert Line and resume freight operations.

4
5 22. MTS has informed PIR and CZRY that unless a new agreement to invest in all
6 necessary repairs and restart freight operations on the Desert Line is in place by March 8, 2014,
7 then MTS will not agree to extend the CZRY Operating Agreement beyond its expiration date.

8
9 23. Since 2007, MTS has received less than \$10,000 in revenue as a result of giving
10 CZRY the exclusive operating rights to the Desert Line. This is an insignificant amount
11 compared to a railroad under normal freight operations. Therefore, for every year that CZRY
12 has been unable or incapable of repairing the Desert Line and resuming freight operations, MTS
13 has lost out on significant revenue.

14
15 24. In addition, based on the continued disfunction between CZRY and its
16 shareholders, if this current shareholder dispute substantially delays or terminates the current
17 proposed development, then MTS is prepared to review its options to immediately terminate
18 the CZRY Operating Agreement for default (failure to diligently pursue and obtain funding to
19 reopen the Desert Line). If CZRY or its successor-in-interest is unable to fulfill its obligations
20 under the CZRY Operating Agreement, then it is not in MTS or the public's interest to allow
21 them to continue in an exclusive operating rights position. Instead, MTS will take steps to
22 publicly bid operation of the line, with a requirement that any proposer provide evidence of the
23 ability to finance and a plan to develop the Desert Line within the next two to five years.

24
25
26 25. Based on the foregoing, MTS opposes the Kahan request for a preliminary
27 injunction. The TRO language that prohibits CZRY "from implementing the provisions of the"
28

1 assignment agreement has been described to MTS as preventing assignment of the CZRY
2 Operating Agreement to PIR, at least until some further action is taken by CZRY at an
3 undetermined time. Any significant delay in formally recognizing the assignment to PIR will
4 harm MTS by delaying and compromising performance of the CZRY Operating Agreement.
5

6 26. Because they do not have the capacity to finance the necessary repairs, the CZRY
7 Operating Agreement does not have any value if it remains in the hands of the current CZRY
8 shareholders. The CZRY Operating Agreement only has value in the hands of an entity that can
9 finance the repairs.
10

11 27. To the extent there is a "bonus value" associated with CZRY's limited right to
12 assign the agreement to an entity that can perform, it appears that this value can be calculated
13 and compensated for with a money damages judgment between the minority and majority
14 shareholders, if warranted on the merits. Upon my review of the assignment request, it
15 appeared that this value and exchange of compensation was already calculated in the
16 cancellation of debts and other actions that were set forth in the January 5, 2011 Assignment,
17 Assumption & Settlement Agreement.
18

19 28. Granting a preliminary injunction in this case will only further drive CZRY into
20 default under the CZRY Operating Agreement, while at the same time prejudicing MTS by
21 delaying its ability to see the Desert Line restored for freight operations. MTS will be forced to
22 either declare CZRY in default and take on the litigation risks associated with such a step, or
23 delay all progress on this project until the agreement naturally expires on March 8, 2014. Such
24 an outcome is not in the public interest and places too much burden on MTS, who is not a party
25 to this shareholder dispute.
26
27
28

DECLARATION OF KAREN LANDERS (MTS) IN OPPOSITION TO PRELIMINARY INJUNCTION

Agenda Item No. 2

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

January 15, 2013

SUBJECT:

STATEMENT OF RAILWAY FINANCES

RECOMMENDATION:

That the SD&AE Board of Directors receive a financial report for two quarters ended December 31, 2012.

Budget Impact

None.

DISCUSSION:

The financial results (attached) for the first two quarters of fiscal year 2013 include the periods ended December 31, 2012, and 2011. Final audited results for FY 2012 are reflected in the Reserve Balance.

The current year-to-date income is \$9,100 favorable to budget due to an increase in expected right of entry permit revenue offset by lower-than-planned lease income and budgeted revenue for San Diego and Imperial Valley Railroad freight fee that will not be received until the 3rd or 4th quarter (but is budgeted ratably throughout the year). Income has increased by \$33,500 compared to the same period last year due to a significant increase in fees for right of entry permits. Expenses are \$5,300 unfavorable to budget due to increased personnel costs directly related to the increase in permit activity offset by budgeted expenses for outside services that have not been incurred. Expenses have increased by \$18,100 over the same period last year due to the increase in personnel costs. The net income for the first two quarters of FY 13 was \$11,523 compared to a net loss of \$3,904 for the same period in FY 12.

Attachment: SD&AE Operating Statement 2nd Quarter FY 13

SD&AE operating statement FY2013-12

	FY2013					FY2012	
	Q1 2013	Q2 2013	YTD	Budget	Variance	Q1 - Q2	Variance
Revenue							
Right of entry permits	\$ 13,400	\$ 29,689	\$ 43,089	\$ 10,002	33,087	5,621	37,468
Lease income	19,563	16,497	36,060	42,498	(6,438)	39,991	(3,931)
SD&IV 1% freight fee	-	-	-	17,502	(17,502)	-	-
Total revenue	32,963	46,186	79,149	70,002	9,147	45,612	33,537
Expense							
Personnel costs**	25,179	30,410	55,589	40,820	(14,769)	37,435	(18,154)
Outside services	-	-	-	10,054	10,054	-	-
Energy costs	-	-	-	-	-	-	-
Risk management	5,752	5,752	11,503	11,154	(349)	11,772	269
Misc operating expenses	534	-	534	252	(282)	309	(225)
Depreciation	-	-	-	-	-	-	-
Total expense	31,465	36,162	67,626	62,280	(5,346)	49,516	(18,110)
Net income/(loss)	\$ 1,498	\$ 10,025	\$ 11,523	\$ 7,722	3,801	\$ (3,904)	15,427

Reserve balance 2012 \$ 916,413

Allocated interest earnings 1,101

Operating profit/(loss) 11,523

Improvement expense 2012 -

Reserve balance 2013-est \$ 929,036

Agenda Item No. 3

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

January 15, 2013

SUBJECT:

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



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

January 2, 2013

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 2012 are listed as follows:

1. Labor

At the end of December 31, 2012 the San Diego & Imperial Railroad had 10 employees:

- 1 General Manager
- 1 Asst. General Manager
- 1 Asst. Trainmaster
- 1 Manager - Marketing & Sales
- 1 Office Manager
- 1 Mechanical Manager
- 1 Roadmaster
- 1 Maintenance of Way Employee
- 2 Train Service Employees

2. Marketing

Volume in the 4th Quarter rose 23% as compared to 2011. Bridge traffic had a 32% increase, primarily driven by a rise in LPG traffic. Traffic terminating or originating on the SDIV had a decrease of 17% as compared to this time last year. Slight decrease from each customer contributed to the overall shortfall.

3. Reportable Injuries/Environmental

Days through year to date, December 31, 2012, there were no FRA Reportable injuries or environmental incidents on the SDIV Railroad.

Days FRA Reportable Injury Free: 4843

4. Summary of Freight

	2012	2011	2010
Total rail carloads that moved by SDIY Rail Service in the quarter.	1397	1140	1371
Total railroad carloads Terminating/Originating Mexico in the quarter.	1215	804	1121
Total railroad carloads Terminating/Originating El Cajon, San Diego, National City, San Ysidro, California in the quarter.	182	181	250
Total customers directly served by SDIY in the quarter	9	11	13
Regional Truck trips that SDIY Railroad Service replaced in the quarter	4191	3420	4113

Respectfully,

Randy Perry
General Manager

Agenda Item No. 4

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

January 15, 2013

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: Fourth Quarter Report for 2012



Pacific Southwest Railway Museum

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

January 4, 2013

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

Re: Fourth Quarter 2012

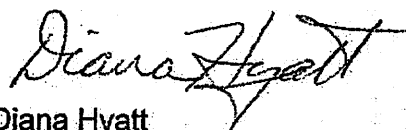
Dear SD&AE Board:

During the fourth quarter of 2012, the Pacific Southwest Railway Museum carried 6,889 passengers with no FRA reportable accidents or injuries. Total income from SD&AE property for fourth quarter 2012 was \$185,410.29, a check for \$3,708.21 will follow under separate cover. By comparison, PSRM carried 1,012 passengers and earned \$13,707.54 during the third quarter of this year. During the fourth quarter of 2011, PSRM carried 6,109 passengers with an income of \$130,460.78. There were eight weeks of special event trains during this quarter.

Maintenance of Way work continues along the right of way including the monthly signal inspections. In early 2012, PSRM assumed full responsibility for the liability, maintenance and inspections of the two rail-highway grade crossing active warning systems at State Highway 94 in the Campo Valley. In November, 2012 the power was turned off to the east Highway 94 crossing by San Diego Gas & Electric due to non-payment of several months billing and there was an impending shut off of the west crossing gates for the same reason. This deficiency wasn't discovered until the batteries had drained down sufficiently to drop the gates and local agencies notified us. Therefore, I would like to make a formal request to Pacific Imperial Rail and/or Carrizo Gorge Railway to transfer the two electric bills for these two meters serving the two grade crossing signal systems along Highway 94 in Campo into the name of Pacific Southwest Railway Museum at our business address below.

A separate response will be forthcoming as it pertains to the museum's passenger contract renewal with the Metropolitan Transit System and the implications of a new freight operator contract with Pacific Imperial Rail which is a separate agenda item.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "Diana Hyatt". The signature is written in dark ink and is positioned above the printed name.

Diana Hyatt
President

Agenda Item No. 5

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

January 15, 2013

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



Jan.
2013

PERIODIC REPORT

The periodic report to the SD&AE Railway Company is produced quarterly by the Pacific Imperial Railroad 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

Fourth Quarter 2013

CONTENTS

- I. GOVERNMENTAL**
- II. DESERT LINE**
- III. REPORTABLE INJURIES / ACCIDENTS /
ENVIRONMENTAL INCIDENTS**
- IV. MARKETING**
- V. FREIGHT ACTIVITY**

Pacific Imperial Railroad

Fourth Quarter 2013

**Metropolitan Development Transit Board
San Diego & Arizona Eastern Railway Board
1255 Imperial Avenue 10th Floor
San Diego, California 92101**

I. Governmental

- A. As of December 20, 2012, Pacific Imperial Railroad acquired the rights and obligations of a ninety-nine year lease with MTS.**
- B. PIR is furthering negotiations with Carrizo Gorge Railway Inc. in regard to security on the Desert Line.**
- C. STB (Surface Transit Board) applications have been submitted and accepted.**
- D. PIR established the facts in the HAZMAT situation on the desert line in Jacumba. Although the original clean up was complete, there were further issues with equipment on the line leaking into buckets.**
- E. Pacific and Imperial Railroad is establishing it's presence with the appropriate governmental entities.**

II. Desert Line

- A. The bridges, tunnels, and rail infrastructure are being analyzed and prioritized for reconstruction.**
- B. The storage and unaccounted for items are being categorized for demolition and/or removal for a comprehensive clean up of the line.**
- C. Meetings with the PSRM to establish a close, mutually beneficial, future on the desert line were planned.**

D. The SDG&E and water bills for Jacumba, Campo, and the crossing arms were taken over from CZRY because the addresses and online accounts were diverted by certain unauthorized parties.

E. PIR is forming a steering committee for safety and security. The team will be comprised of representatives of PIR, CZRY Railroad Police, and PSRM.

F. A team was put into place to communicate with all interested parties and establish a plan to work with the Boarder Patrol teams that have requested access to the Desert Line.

G. Investigations continue on the disappearance of materials from the area including steel, lumber and other useful and valuable materials.

III. Reportable Injuries / Accidents / Environmental Incidents

A. There have not been any reportable accidents.

B. There have not been any reportable injuries.

C. There have not been any reportable environmental incidents.

IV. Marketing

A. A team was established to facilitate the cross border marketing plan.

B. The draft revision of the Pacific Imperial business plan is being Revised.

V. Income

A. There are 52 GE cars on the line. The revenue is being negotiated.

Agenda

Item No. 6a

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

SDAE 710.1 (PC 50771)

January 15, 2013

SUBJECT:

SUMMARY OF SD&AE DOCUMENTS ISSUED SINCE OCTOBER 16, 2012

RECOMMENDATION:

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

Budget Impact

None.

DISCUSSION:

Since the October 16, 2012, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff.

- S200-13-538: Right of Entry Permit to Land Forms Construction for construction of the Lemon Grove Promenade Project.
- S200-13-541: Right of Entry Permit to SECC Corporation to construct fiber facilities at 24th Street in National City.
- S200-13-549: Right of Entry Permit to SCS Timber Resources to perform vegetation abatement at MP 94 on the Desert Line near Jacumba.
- S200-13-550: Right of Entry Permit to R Dugan Construction Inc. to construct storm drainage facilities at 22nd Street, San Diego.
- S200-13-551: Right of Entry Permit to Orion Construction Corporation to construct sidewalk improvements from 65th Street to 68th Street in the Encanto neighborhood in the City of San Diego.
- S200-13-552: Right of Entry Permit to Aguirre Engineering Inc. to perform surveying for various SANDAG capital projects.
- S200-13-553: Right of Entry Permit to Schilling Paradise Corporation to construct various dry utilities at 22nd Street, San Diego.
- S200-13-554: Right of Entry Permit to Malcolm Drilling Company, Inc. to construct shoring at 22nd Street, San Diego.
- S200-13-555: Right of Entry Permit to Shimmick Construction Co., Inc. to construct traction power substations for the Trolley Rehabilitation Project.
- S200-13-557: Right of Entry Permit to AES Property Services to perform graffiti removal maintenance along the orange line in El Cajon.
- S200-13-559: Right of Entry Permit to San Diego Gas and Electric to remove a transformer at the Lemon Grove Trolley Station.
- S200-13-560: Operating Agreement with Pacific Imperial Railroad, Inc. to operate freight on the Desert Line.

Agenda

Item No. 6b

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

SDAE 710.1 (PC 50771)

January 15, 2013

SUBJECT:

RIGHT OF ENTRY PERMIT PROCESS FINANCES

RECOMMENDATION:

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

Budget Impact

None.

DISCUSSION:

The SD&AE Board directed staff to investigate and report on right-of-entry permit process finances. Staff will provide a report to the Board.

Agenda

Item No. 6C

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

SDAE 710.1 (PC 50771)

January 15, 2013

SUBJECT:

MOTOR TRANSPORT MUSEUM REQUEST FOR SPUR TRACK FEE WAIVER

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors provide direction to staff on the request for a fee waiver connected with the plan review and agreement execution for a spur track previously approved by the SD&AE Board.

Budget Impact

Costs to be reimbursed depending upon direction from the SD&AE Board.

DISCUSSION:

On April 21, 2009, the SD&AE Board approved the request to add a spur track to the Motor Transport Museum at approximately MP 67 on the Desert Line in Campo (pertinent agenda item and minutes attached). The Board approved the item including the requirement that all costs for the plan review, agreement execution, and construction be borne by the Motor Transport Museum.

The Motor Transport Museum would like the SD&AE Board to revisit the issue of cost reimbursement and requests that the Board waive the fees for this effort.

Attachment: Agenda Item and Minutes Pertaining to Prior Spur Track Approval

Agenda

Item No. 6e

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

SDAE 710.1 (PC 50771)

April 21, 2009

SUBJECT:

MOTOR TRANSPORT MUSEUM REQUEST FOR SPUR TRACK

RECOMMENDATION:

That the SD&AE Railway Company Board of Directors provide direction to staff on the request by the Motor Transport Museum (MTM) for a spur track on the Desert Line.

Budget Impact

Costs to be reimbursed depending on direction from the Board.

DISCUSSION:

By letter dated January 16, 2009, the Motor Transport Museum requested a spur track connection from the Desert Line Main at approximately Mile Post 67 to serve the museum for passenger traffic served by the Pacific Southwest Railway Museum. The property historically served as a feldspar mill and today houses the Museum. MTM wants to reconnect an old spur alignment as per its attached letter.

If this request is granted, staff will require a deposit to cover costs to prepare the agreements, plan reviews, and processing.

APRIL21-09.6e.MOTOR TRANSPORT MUSEUM REQ.TALLISON.doc

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

April 21, 2009

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 April 21, 2009, at 9:01 a.m.

The following persons, constituting the Board of Directors, were present: Bob Jones and Paul Jablonski. Also in attendance were:

MTS staff:	Tiffany Lorenzen, Tim Allison, Linda Musengo, Wayne Terry
SANDAG staff:	Pete d'Ablaing, John Haggerty
Kimley-Horn (consultant):	Anthony Podegracz
SD&IV staff:	Matt Domen, Jose Ramos
Pacific Southwest Railway Museum:	Diana Hyatt, Dick Pennick
Carrizo Gorge Railway, Inc. (Carrizo):	Armando Freire
CFNR:	Don Seil
International Border Rail Institute:	Richard Borstadt
Motor Transport Museum:	Carl Calvert, Ed Dilginis
EB Property:	Brian Martins

Bob Jones introduced Don Seil and stated that RailAmerica is proposing that Mr. Seil replace Pete Jespersen as Chairman on the SD&AE Board of Directors. He explained that Mr. Seil has 30 years of experience in railroad—exclusively in California. Mr. Jones feels that Mr. Seil's business and operating background would be an asset to the Board. Paul Jablonski responded that staff will review the terms of the contract and make a decision at the next meeting in regard to the reelection or addition of officers.

1. Approval of Minutes

Mr. Jablonski moved to approve the Minutes of the February 3, 2009, SD&AE Railway Board of Directors meeting. Mr. Jones seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Linda Musengo reviewed the fiscal years 2008 & 2009 operating statement (attached to the agenda item).

Action Taken

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

3. Report on SD&IV Operations

Jose Ramos reviewed the Periodic Report of the SD&AE Railway Company for activities for the first quarter of calendar year 2009 (attached to the agenda item). Mr. Jones clarified that the

decline in carloads is in part due to the warm winter and the economy. He added that gas customers make up more than half of of RailAmerica's income.

Mr. Ramos stated that in the future, more trucks will replace rail freight. Mr. Jablonski expressed concern regarding how many truck trips will be added. He stated that the goal is to promote freight, and we should be cognizant any time we could lose freight traffic to trucks. Mr. Ramos agreed to include the number of trucks trips replacing rail in future reports to the Board.

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 Museum's first quarter report for 2009 (attached to the agenda item). Ms. Hyatt added that the Museum contracted with Allied Weed for weed removal. She clarified that gas prices have negatively affected the Museum's passenger business (other than North Pole trains).

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

Armando Freire reviewed Carrizo's first quarter report for 2009 (attached to the agenda item). Mr. Freire stated that Carrizo is following Osmose's report with regard to repairs. Mr. Freire agreed that once repairs are completed, Carrizo will get in contact with Tim Allison, SD&IV, and the Board to determine when the repairs would be inspected. Mr. Freire will send all completed reports to the Board. He added that Carrizo has started a surveillance system using cameras with Internet access.

Mr. Freire reported that there was a wildfire on the tracks and 80 ties were replaced. In regard to the fire on the bridge at mile post 118.6, Carrizo police are investigating it as arson. Carrizo is waiting on the police report before continuing with the repairs. Mr. Allison reported that there is extensive damage to helper bent 4a. The Board agreed that this bridge will need to be reinspected.

Action Taken

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

6. Real Property Mattersa. Summary of SD&AE Documents Issued Since February 3, 2009

Tim Allison reported that since the February 3, 2009, SD&AE Railway Company Board of Directors meeting, the documents as outlined in the agenda item have been processed by staff.

Action Taken

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

b. Sewer Easement at 54th Street

Tim Allison reviewed the request for an easement to the City of San Diego for an underground sewer pipeline crossing SD&AE right-of-way at 54th Street south of Market Street.

Action Taken

Mr. Jablonski moved to approve an easement to the City of San Diego for an underground sewer pipeline crossing SD&AE right-of-way at 54th Street south of Market Street. Mr. Jones seconded the motion, and it was unanimously approved.

c. License Agreement with SDG&E for Private Crossings and Underground Utility Crossings

Mr. Allison reviewed a request from San Diego Gas and Electric (SDG&E) for a license for private crossings over SD&AE tracks located south of L Street in Chula Vista on the Coronado Branch.

Tiffany Lorenzen clarified that SD&AE would be indemnified. The Board had concerns with terminating the old crossing and adding a new one. Mr. Allison responded that the Board has the option to close the old crossing and only allow the new crossing. He added that there would be a license fee, and the license would be terminable. Mr. Jablonski stated that he would be supportive if the compensation is acceptable.

Action Taken

Mr. Jablonski moved to approve issuing a license to San Diego Gas and Electric, (SDG&E) for private crossings over SD&AE tracks located south of L Street in Chula Vista on the Coronado Branch. Mr. Jones seconded the motion, and it was unanimously approved.

d. License to the United State Fish and Wildlife Service for the Bayside Birding and Walking Trail Project

Mr. Allison reviewed a request for a license to US Fish & Wildlife for construction of the Bayside Birding and Walking Trail within SD&AE right-of-way in Imperial Beach. He stated that this license would be similar to the Bayshore Bikeway license and would be

terminable. Mr. Allison stated that the right-of-way is approximately 45 feet wide, and the bikeway is about 12 feet wide. The new walking trail would be about five feet inside of the right-of-way. Mr. Allison confirmed that the revenue has not been negotiated yet. He added that SD&AE does not get any revenue from the Cities of San Diego and Imperial Beach.

Action Taken

Mr. Jablonski moved to approve issuing a license to the United States Fish and Wildlife Service, San Diego National Wildlife Refuge Complex (USFW) for the construction of the Bayside Birding and Walking Trail within SD&AE right-of-way in the City of Imperial Beach. Mr. Jones seconded the motion, and it was unanimously approved.

e. Motor Transport Museum Request for Spur Track

Mr. Allison reviewed a request by the Motor Transport Museum to install a spur track on the Desert Line east of the Campo Depot. He stated that it used to be a Feldspar mill, which is currently occupied as a museum for buses, delivery vehicles, etc. The Motor Transport Museum is asking to reinstall a spur to the back of its facility to accommodate passenger rail from the Museum's trains, and passengers could get off and go to the Museum facilities. Mr. Allison stated that a full deposit to cover expenses for engineering, etc. would be required.

Public Speakers

1. *Carl Calvert – Mr. Calvert explained that this spur was originally installed in 1926 and was taken out in the 1950s. He added that Wally Barber is a contractor who would reinstall the spur, which would enable the Motor Transport Museum to work with the Pacific Southwest Railway Museum and recreate historic rail cars. Mr. Calvert felt that since the rail line is not currently in operation, it is an ideal time to consider installing the spur.*

Mr. Calvert responded to a question from Mr. Jablonski regarding the Motor Transport Museum's intention to run cars occasionally for tours. He added that the Motor Transport Museum is currently open Wednesdays, Fridays, and Saturdays.

2. *Richard Borstadt – Mr. Borstadt stated that in the mid-90s, this request was approved by this Board. He also stated that adding the spur would alleviate traffic flow and simplify activities on the main line.*

Ms. Hyatt clarified that the Pacific Southwest Railway Museum would collaborate with the Motor Transport Museum in transporting passengers to the Stone Store and the Motor Transport Museum. She asked to be included in the Motor Transport Museum's plans. The bridge at mile post 66.7 was discussed, and Mr. Allison informed the Board that the Simon Wong bridge inspection report commissioned by the Pacific Southwest Railway Museum has not been submitted to MTS. He added that there are bent caps and stringers that haven't been replaced yet.

Mr. Jablonski stated that he is supportive of adding the spur, but all repairs to the bridge must be completed and inspected before transporting passengers. Mr. Jones added

that Carrizo, the Museum, and the Motor Transport Museum need to work together to formulate a plan and list of responsibilities.

Mr. Allison clarified that the costs to add the spur would be covered by the industry (in this case, the Motor Transport Museum). Mr. Freire stated concern regarding additional costs to Carrizo on an installation that has no bearing to its operations. Mr. Allison responded that no approvals would be considered without letters of support from the Pacific Southwest Railway Museum and Carrizo.

Action Taken

Mr. Jones moved to direct staff to begin the process for the spur installation contingent upon the following:

1. The Motor Transport Museum, Carrizo, and the Pacific Southwest Railway Museum will meet to determine whether they have any issues with the installation. If there are any issues, the operators will contact Tim Allison within the next two weeks, and a report will be brought to the Board at the next meeting; and
2. If the three operators are in agreement regarding the spur installation, they will collaboratively send the Board a letter of support within the next two weeks. Upon receipt of the letter of support, the SD&AE Board will notify the operators whether the spur installation is approved, and, if so, the Motor Transport Museum will bear all costs for the installation.
3. No trains will operate on the line until the bridge has been inspected to FRA standards and the inspection has been provided to the SD&AE Board.

Mr. Jablonski seconded the motion, and it was unanimously approved.

7. a. Status of SD&AE Main Line Track and San Ysidro Freight Yard Improvement Projects

Pete d'Ablaing, Senior Engineer with the San Diego Association of Governments (SANDAG) and Project Manager, introduced Anthony Podegracz of Kimley-Horn. Mr. d'Ablaing reviewed the SD&AE Main Line Track and San Ysidro Freight Yard Improvement Projects (see attached PowerPoint).

In response to Mr. Jones' question regarding the lengthy time period to complete the project, Mr. d'Ablaing explained that the project requires environmental and FRA clearances and purchasing 12 parcels of right-of-way. John Haggerty, Design Principal with SANDAG, added that he doesn't feel that project will take as long as projected. He stated that the State of California is broke, and the Prop 1b money has not yet been distributed. The lengthy time lines for the project were conservative so as not to jeopardize the funding under the "use it or lose it" deadlines.

Mr. Haggerty explained to the Board that although the funds for the San Ysidro Yard have been sitting for about 12 years, there was never enough money to get the project going. He stated that the Yard Project is in the preliminary engineering stage and will be completed by July. The Yard Project has significant drainage, silt, water quality, and right-of-way acquisition issues.

SANDAG staff agreed to include Don Seil in all of the project meetings and keep him updated on all information.

Action Taken

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

b. F Street Diamond, Track, and Signal Elements

John Haggerty reviewed the F Street Diamond Project (see the attached PowerPoint). Mr. Haggerty reported that project team is working to implement improvements to the South Line to bring low-floor vehicles from Imperial Avenue to San Ysidro as one corridor. He stated that due to funding, the project team must be careful implementing projects. The preliminary design work has begun. Interlock crossovers would be added on the line. Mr. Haggerty stated that SANDAG is requesting SD&AE Board approval of the removal of the F Street diamonds. He added that the F Street diamonds increase the costs and complexity of the corridor project. Further engineering would be conducted, and the project team would report back with a recommendation on costs and implications.

Wayne Terry stated that MTS maintains the diamonds, and the diamonds are tough on the trolleys. He added that no freight has been going over the tracks for years, and he would like to see the diamonds removed as there is no use for them.

In response to public concern expressed by Dick Pennick and Richard Borstardt regarding eliminating the final connection to the Coronado Branch line, Mr. Jones stated that the cost to maintain a diamond and the circuitry is excessive, and he understands the preservation concerns but stated that the Board has to do what is reasonable and prudent. Diana Hyatt requested to be on record as opposing SANDAG's request as she is in support of preserving the historic corridor.

Action Taken

Mr. Jones moved to approve the removal of the F Street diamond. Mr. Jablonski seconded the motion, and it was unanimously approved.

8. Old Business

None.

9. New Business

None.

10. Public Comments

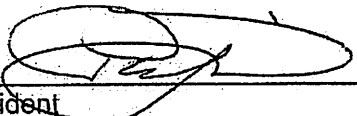
None.

11. Next Meeting Date

The next meeting was changed from July 21 to July 28, 2009, at 9:00 a.m.

12. Adjournment

The meeting was adjourned at 10:25 a.m.



President



Of Counsel

JGardetto
MINUTES-SDAE 4-21-09.doc

Attachments: South Line Freight Rail Projects PowerPoint (7a)
F Street Diamond PowerPoint (7b)

Agenda Item No. 7

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

January 15, 2013

SUBJECT:

DONATION OF UNUSED RAIL CARS TO THE PACIFIC SOUTHWEST RAILWAY MUSEUM AND THE BAJA CALIFORNIA RAILWAY FOUNDATION OR AFFILIATED NONPROFIT ORGANIZATIONS (KAREN LANDERS)

RECOMMENDATION:

That the SD&AE Board of Directors authorize the SD&AE President to take any action necessary to donate the unused rail cars with historical value to the Pacific Southwest Railway Museum (Box Cars "SDAE 1084" and "SP 116033") and the Baja California Railway Foundation (Tank Car 1025) or affiliated nonprofit organizations.

Budget Impact

None. The rail cars in question are not maintained in the SD&AE inventory and are not actively used for SD&AE business. Costs to move the rail cars exceed their value on the market or for scrap purposes.

DISCUSSION:

Historic Box Cars

In or about 1979, MTS obtained two box cars (see photos in Attachment A) as part of the purchase of the SD&AE from the Southern Pacific by MTS in 1979. These cars (estimated circa 1930s) were already obsolete for freight service at the time of the purchase. The cars were assigned to the Maintenance-of-Way Department. In approximately 1988, the cars were given to San Diego Trolley Inc. (SDTI) for the storage of track materials. At that time, the box cars were delivered to a spur within the SDTI yard where they remain parked today. Due to their deteriorated condition, the cars are not safe to be moved over the MTS rail system without extensive work on the wheel bearings and air brakes. The approximate weight of each car—including trucks and wheels—is 45,000 pounds. The estimated scrap value for each car is \$7,300.00.

MTS and SD&AE have received inquiries requesting a donation of the box cars to the Pacific Southwest Railway Museum (Museum) in Campo. The Museum has agreed to pay all costs to transport the box cars from the MTS yard to the Museum.

MTS, SDTI, and SD&AE have no use for the box cars. SDTI needs the spur track that the box cars sit on and has requested that the box cars be donated to the Museum. Given the historic nature of the box cars and the Museum's agreement to cover the costs of removing the cars, it is staff's opinion that the public interest supports donating the box cars to the Museum where they will be restored and available for public viewing (rather than selling the cars for scrap). Scrapping would destroy historic rail cars and provide only a minimal financial return to MTS and SD&AE.

1916 Tank Car #1025

MTS and SD&AE have also received inquiries from the Baja California Railway Foundation (BCRF) in Tijuana requesting the donation of a tank car that has been abandoned on the railway in Baja California for at least 20 years (see BCRF presentation - Attachment B). Research performed by BCRF shows that this maintenance-of-way tank car belongs to SD&AE and is located at Valle Redondo on the Tijuana-Tecate short line. Built in 1916, the tank car was used to carry water for fire protection and for railroad workers on the line from San Diego to El Centro. The tank car was retired by Southern Pacific sometime in the 1950s and left in a RIP track at Redondo Station where the old water tank was located. The tank car has been a target for vandalism and represents a liability for accidents in the area. Over the years, it has received damage, such as a stolen brake, missing air-brake system, old trucks, couplers, and graffiti. The car contains SD&AE ownership marks. Presumably, it was acquired by MTS when it purchased SD&AE from Southern Pacific in 1979.

MTS and SD&AE do not have a current inventory that lists this car. It appears that the car may have been abandoned for the entire time that MTS has owned SD&AE. The logistical issues with removing this car from its location in Mexico, and the fact that it has no use or value to MTS or SD&AE's current operations, support a recommendation that this tank car be donated to the BCRF museum in Baja California. The BCRF museum will cover all costs to relocate the car and will restore the car for public viewing at museum facilities.

MTS staff will need to conduct additional research on the proper method for transferring ownership of the box cars and tank car to the two museums. By this action, the SD&AE Board is requested to authorize the SD&AE President to take any action necessary to donate the unused rail cars with historical value to the Pacific Southwest Railway Museum and the Baja California Railway Foundation or affiliated nonprofit organizations.

Attachments: A. Historic Box Cars
B. Rail Car Request from BCRF

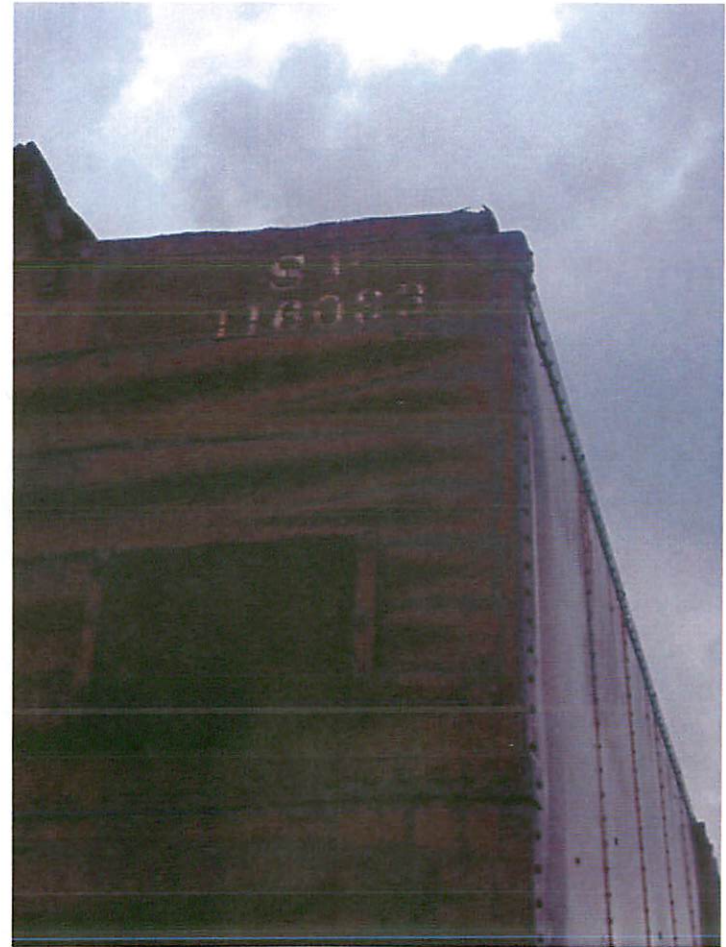
Historic Box Cars

for donation to

Pacific Southwest Railway Museum




Box Car Markings



Box Cars





BAJA CALIFORNIA RAILWAY FOUNDATION, I.A.P.

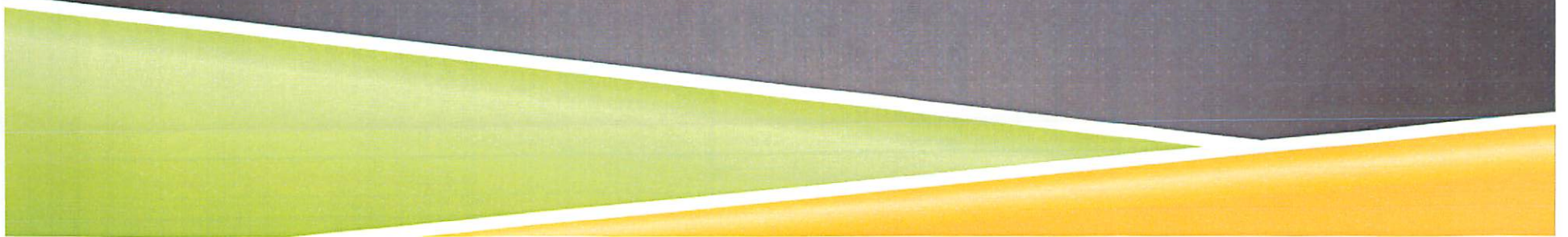
*Fundacion Ferrocarriles de
Baja California, I.A.P.*

Hector M. Gonzalez

OUR GOALS

- ▶ To preserve the history and legacy of Baja California and northwest Mexico Railway heritage
- ▶ To promote cultural activities such as model railroading and related subjects for it's development
- ▶ To obtain a few key pieces of historic locomotives and railroad cars and restore some of them to operation so the public can see it as it was back in it's time.
- ▶ To keep all this rich history alive in a same place, our goal is to build the Baja California Railway Museum in the City of Tijuana by building a replica of the original Tijuana Depot lost in a fire a mile east of it's original location next to the Tijuana-Tecate short line.

RESTORATION PROJECTS



SD&AE MW 1025

- ▶ Maintenance of way tank car that belongs to the San Diego & Arizona Eastern Railway located at Valle Redondo on the Tijuana-Tecate short line.
- ▶ Built in 1916, this tank car was used to carry water for fire protection and for railroad workers on the line from San Diego to El Centro.
- ▶ It was retired sometime in the 1950's and left in a RIP track at Redondo station where the old water tank was. It was always kept with water from a local pipe until about twenty years ago when the State of Baja California built water pipes to ranches where urban sprawl reached the area.

- ▶ It received a small pipe and caboose ladders to a deck of wood for water access.
- ▶ Tank car has been a target to vandalism and is a liability for accidents.
- ▶ It has received damage such as stolen brake, air brake system missing, old trucks, couplers and graffiti.
- ▶ The Baja California State Institute of Culture has been notified and ADMICARGA has stated that the owner has to make a decision.

REASONS TO ASK FOR DONATION...

TO THE BAJA CALIFORNIA RAILWAY FOUNDATION:

- ▶ It represents a liability to the San Diego & Arizona Eastern Railway Company and the Metropolitan Transit System since FFBC is not aware of any Liability or Deaccession of the specific car.
- ▶ The car has SD&AE Reporting marks, therefore if it has not been deaccessed before, FFBC to the Board it should.
- ▶ The Pacific Southwest Railway Museum in Campo, CA where I'm also a volunteer, has performed an excellent job in preserving equipment and the owns sister cars SD&AE MW 1027 and SD&AE MW 1028.

DISCOVERING REPORTING MARKS

- Antonio Lara, Treasurer of FFBC.



REMOVAL OF CABOOSE LADDERS WITH CUTTING TORCH



THANK YOU!

Agenda Item No. 8

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

January 15, 2013

SUBJECT:

EXTENSION OF PACIFIC SOUTHWEST RAILWAY MUSEUM OPERATING
AGREEMENT (KAREN LANDERS)

RECOMMENDATION:

Authorize the SD&AE President to: (1) negotiate with the Pacific Southwest Railway Museum (PSRM) to extend its operating agreement for passenger excursion services on a portion of the Desert Line and operation of a museum on the Campo Depot property; and (2) execute such agreement consistent with the terms (stated below).

Budget Impact

The proposed agreement will continue the 2% of PSRM operating-revenue fee that is currently in place. In FY 2012, PSRM-related revenues to SD&AE were \$4,420 (rounded).

DISCUSSION:

In 1985, SD&AE entered into an "Agreement for Operation of Passenger Excursion Services and for Custody and Control of a Portion of SD&AE Right-of-Way." This agreement allowed PSRM to operate passenger-excursion trains on a portion of the Desert Line right-of-way and also to construct the Campo Depot museum area. The agreement has been amended, extended, and restated over the years. The most recent agreement is dated December 13, 2007, and expired on December 12, 2012. Therefore, the PSRM agreement is currently in holdover status on a month-to-month basis.

On December 20, 2012, MTS and SD&AE entered into an agreement with Pacific Imperial Railroad, Inc. (PIR) to be the new, exclusive freight operator on the Desert Line for a 50-year period (plus options). PIR plans to refurbish and repair the Desert Line and resume active freight operations on the full length of the right-of-way.

PIR's plans to operate freight services may require some revisions to the PSRM agreement responsibilities. Therefore, MTS staff is working with PIR and PSRM to revise and extend the PSRM agreement. The new agreement will continue PSRM's rights to operate passenger excursion trains along the designated mileposts (MP 59.94 to MP 74) and to occupy the Campo Depot property for the museum facilities. Currently,

PSRM provides all necessary maintenance for the designated right-of-way. MTS staff has requested that PSRM and PIR negotiate and agree to a plan for maintenance that takes into account the new PIR agreement and PIR's development plans. This agreement will be incorporated into a new agreement between MTS, SD&AE, PIR, and PSRM. The new term will be a minimum of 5 years with potential option periods. For the first 5 years, fees will stay at 2% of operating revenues to be paid on a quarterly basis.

Staff is requesting that the SD&AE Board authorize the SD&AE President to continue these negotiations and to execute a new agreement with PSRM. If the final terms differ materially from any of those described in this Agenda Item, it will be brought back to this Board for approval before execution.