Memorandum

Florida Department of Environmental Protection

ENFORCEMENT MEETING DOCUMENTATION

| Attendees: See attached List | | |
|--|-------------------------------|----------------------------|
| Location: NWD PCB DEP Office | Date: May 29, 2009 | _ Time : 10:30 A.M. |
| Subject: Enforcement of alleged violations | at Bay Line RR of Panama Cit | y |
| Meeting Requested By: FDEP | | |
| Meeting Objectives: To discuss enforcement | nt action being taken by DEP. | |

Notes:

The meeting was opened with introductions of the participants. Jim Byer provided an explanation of the two phases of the meeting, first to discuss contents of the inspection report for accuracy and provide an opportunity to provide additional information or any circumstances regarding the case. Second is to discuss the proposed resolution to the issues determined and the possibility of a voluntary mutual agreement.

Jim Byer provided everyone with a copies of the previous inspection instances of similar issues and the most recent inspection report with alleged violations cited. Bay Line RR (BLRR) representative, Mr. Michael Taylor was asked to review the inspection report and the alleged violations cited for any inaccuracies. The first violation for failure to have proper liability insurance was discussed. Department representatives had obtained a copy of BLRR's current insurance coverage as provided by the insurer, Marsh – Lexington Insurance Company. All three remaining alleged violations were discussed and BLRR provided copies of 8700-12FL notification and annual report sent to HWRS in Tallahassee subsequent to the inspection of April 23, 2009. It was mutually agreed by DEP and BLRR representative to eliminate alleged violations for failure to maintain current insurance required for a HW Transporter.

Jim Byer explained that Florida DEP has EPA-delegated authority to enforce the Resource Conservation and Recovery Act program. He mentioned that EPA oversees the program and has provided DEP with compliance and enforcement guidance and then explained the characterization process and the application to each of the three remaining alleged violations. He further explained and identified the associated penalties derived from the penalty matrix. The penalty for the remaining three violations was selected from the top of the penalty range in each case because of a

history of non-compliance by BLRR for these same issues. BLRR had no additional facts or information to consider in determination of the civil penalty.

Agreements/Conclusions Reached:

- DEP would propose a settlement in the form of a short form consent order, to be sent to BLRR within 30 days.
- The proposal would have a civil penalty of \$4,510 and Department costs of \$250.
- Payment of Department cost and civil penalty would be made within 60 days.
- BLRR would correct all alleged violations and follow up review of the records would be conducted to confirm compliance.
- BLRR was given the option to propose a P2 Project for possible penalty offset. The proposal by BLRR will be evaluated by the Department within 30 days.

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Prepared by: James Byer



State of Florida DEPARTMENT OF ENVIRONMENTAL PROTECTION

CONFERENCE ROOM ROSTER

| SUBJECT: BAY | LINE | Railway | DATE: 5 | /29/09 | Annual Control |
|--------------|------|---------|---------|--------|----------------|
| | | | | | |

| NAME | AFFILIATION | PHONE |
|--|--|---------------------|
| Thomas Dillard | FDEP | 850-872-4375-60110 |
| JIM BYEL | FDEP | 850-595-8300 Ed 125 |
| Michael Taylor | Bay Line Railroad | 8-8-785-4609 |
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| | on time | |
| , | | |
| | a Genesee & Wyoming Company | |
| | Michael Taylor Manager of Operations | |
| 950.78 | Bay Line Railroad O. Box 35098 • Panama City, Florida 32412 -4609 • Fax 850-747-4037 • Cell 850-541-3244 | |
| (5:)A. (1) | mtaylor@gwrr.com | |
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PENALTY COMPUTATION WORKSHEET

Violator's Name:

BAY LINE RAILROAD LLC

Violator Facility:

BAY LINE RAILROAD LLC

Staff Responsible for the Penalty Computations:

G James Byer and Thomas Dillard

5-15-09 Date:

Part I - Penalty Determinations

| Violation Type | ELRA | Potential for Harm | Extent of Deviation | Matrix Amount | Multi- | Adjustments | Total | |
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| 62-730.1ZD(2)(a) #154 | i jest voj konjuna verkolėjojos silisėjo pina vilkinjos (kilojojos oliojojo) Verkolinin in Volentinė i kontrolinin kilojos (kilojojos) | describe transfer and the second seco | The second secon | concession of the second construction of the sec | обай <mark>а</mark> подац і павоамберого ў роберіну аркера | remonent series of the commence of the commenc | massa Grand Andrews | The state of the s |
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| Department enforcement costs: | cement cos | ES. | | \$250 | 9.0 | reduction accounts of the contract of the cont | 9/5% | 才 一 |
| Department cost for review of corrective actions: (\$2,500 for 62-770 or \$3,500 for 62-780, 62-782) Total Department costs: | or review c -770 or \$3,5 costs: | of corrective a | actions: \$ (62-782) | \$250 | | | | > |
| The total assessed is: | un • pred | | \$ | 4,7670 | 4,760 | | | |
| Michael S. Kennedy Waste Program Administrator | ly dministrato | X | - | Date: | | | 4 | |
| W. Richard Fancher | Ş | | a de la companya de l | Date: | | | ı | |

District Director

Part II - Multi-Day Penalties and Adjustments

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|--|--|
| Adjustments | Dollar Amount |
| Good faith/Lack of Good Faith prior to Discovery: Justification | \$0.00 |
| Good faith/Lack of Good Faith after Discovery: | \$0.00 |
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| History of Non Compliance | |
| Justification | телет жыласты применен жаласты |
| Economic Benefit | 100 mm |
| Justification EB=(\$5,500 X one vehicle X one year)(138) | |
| Ability to Pay | \$0.00 |
| Justification | |
| Total Adjustments | \$0.00 |
| Multi-Day Penalty | Dollar Amount |
| Number of days adjustment factor(s) to be applied | \$0.00 |
| Justification | |
| Or | |
| Number of Days matrix amount is to be multiplied" | \$0.00 |
| Justification | |

| Part III - Other Adjustments Made After Meeting with the Responsible Party | usible Party |
|--|---------------|
| Adjustment | Dollar Amount |
| Relative merits of the case: | |
| Resource Considerations: | |
| Other Justification: | |
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Facsimile Transmittal Sheet

MARSH An MAR Company

From: Karen Haas

Thomas Dillard

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850-872-7790

(A)

Phone:
Date: 29-May-09

Time: 10:57 AM

Company

Attention:

29-May-09 10:57 AM

Message:

The information contained in this facsimile message is confidential, may be privileged, and is intended for the use of the individuat or entity named above. If you, the reader of this message, are not the intended recipient, the agent, or employee responsible for delivering this information to the intended recipient, you are expressly prohibited from copping, disseminating, distributing, or in any other way using any of the information contained in this facsimile message.

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If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or after the coverage afforded by the policies listed thereon,

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| San Antonio, 1A (2203-1303) Afth: Karen Haas, karen.haas@marsh.com 827760Raiir-08-09 | INSURERS AFFORDING COVERAGE | | * ZYZ |
| INSURED The Bay Line Rallroad LLC Co Genesee & Wyoning Railroad Inc. 1200-C Scottsville Road | INSURER 8. National Union Fire Ins Co Pittsburgh | | 19445 |
| Rochester, NY 14624 | NOURER C. (NOURER D. (NR. 1980 6. | | |
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| | Failure to submit Transporter Status form annually. | | Х | | | statedox | Minor | (e) (S) 0\I:0E\-S9 | Record | ART | 143 | $ \Phi $ |
| | Failure of a Transporter to meet financial responsibility for sudden accidental occurrences; no coverage | | | | | 20[594 | 30[aM | +=>-12}-064-061-29 | Istonenti | *** | PSI | F |
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RCRA GRAVITY-BASED PENALTY MATRIX

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Note: If the violation involving a hazardous waste results in human injury or death, or involves the deliberate disposal to the ground, surface water or groundwater, the \$50,000 per day statutory maximum penalty should be pursued.