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REPORT

to

THE PRESIDENT

by the

EMERGENCY BOARD

Appointed May 22, 1947

Pursuant to Section 10 of the Railway Labor Act

To investigate an unadjusted dispute between the Bingham and Garfield Railway Company and certain of its Employees represented by the Brotherhood of Locomotive Firemen and Enginemen and the Order of Railway Conductors of America.

SALT LAKE CITY, UTAH

July 16, 1947

(No. 46)

Salt Lake City, Utah
July 16, 1947

THE PRESIDENT
The White House

Dear Mr. President:

We have the honor to submit herewith the report of the Emergency Board appointed by you on May 22, 1947, to investigate and report to you respecting a dispute between the Bingham & Garfield Railway Company and certain of its employees represented by the Brotherhood of Locomotive Firemen and Enginemen and the Order of Railway Conductors of America.

Respectfully,

/s/ H. Nathan Swaim
H. Nathan Swaim, Chairman

/s/ George E. Bushnell.
George E. Bushnell, Member

/s/ Joseph L. Miller
Joseph L. Miller, Member

REPORT OF THE EMERGENCY BOARD APPOINTED MAY 22, 1947.

UNDER SECTION 10 OF THE RAILWAY LABOR ACT OF 1926 AS AMENDED

In Regard to Bingham & Garfield Railway Company and the Brotherhood of Locomotive Firemen and Enginemen and the Order of Railway Conductors of America

The Emergency Board appointed by the President pursuant to the provisions of the Railway Labor Act, as amended, and in accordance with the Executive Order of the President dated May 16, 1947, to investigate and report its findings respecting a dispute between the Bingham and Garfield Railway Company and certain of its employees represented by the Brotherhood of Locomotive Firemen and Enginemen and the Order of Railway Conductors of America, convened in Room 220 of the Federal Building, Salt Lake City, Utah, at 10:00 A.M., May 26, 1947.

The board organized by selecting H. Nathan Swaim as Chairman and confirmed the appointment of Acme Reporting Company as reporter for its hearings. Public hearings were held commencing May 26, 1947, and concluding June 3, 1947.

On behalf of the Carrier, Bingham & Garfield Railway Company and the Kennecott Copper Corporation, the owner of all of the capital stock of the Carrier corporation, there were appearances by:

C. C. Parsons, President of the Bingham & GarfieldRailway Company and Counsel for the Kennecott Copper Corporation;

Roy Hatch, Director of Labor Relations for Kennecott Copper Corporation, Utah Copper Division;

G. C. Earl, Chief Engineer, Bingham & Garfield Railway Company and Utah Copper Division of Kennecott Copper Corporation;

Eugene Culleton, Assistant Superintendent, Bingham & Garfield Railway Company.

On behalf of the Employees, there were the following appearances:

Alden T. Hill, Attorney for the two Brotherhoods;

A. J. Chipman, General Chairman, Brotherhood of Locomotive Firemen and Enginemen;

C. E. Johnson, General Chairman, Order of Railway Conductors;

H. W. Corbett, Acting Vice President, Order of Railway Conductors of America;

B. M. Alvord, Vice President, Brotherhood of Locomotive Firemen and Enginemen;

C. E. Turner, Local Chairman, Brotherhood of Locomotive Firemen and Enginemen;

J. A. Paddock, Secretary, General Committee, Order of Railway Conductors.

This report of the board is based upon the statements made by the various representatives of the parties, the evidence submitted, and a personal inspection of the properties by all of the members of the board.

HISTORY OF THE DISPUTE

Description of the Property Involved

The Bingham & Garfield Railway Company operates a short line railroad approximately 20 miles in length extending from the open pit copper mine of the Kennecott Copper Corporation located at Bingham, Utah, to junctions with the Union Pacific and Western Pacific Railroads near Garfield, Utah, with various spurs.

The mine here in question was originally owned by the Utah Copper Company, a New Jersey corporation, organized in 1904. The ore of this mine is of low grade and requires treatment of enormous quantities of ore daily by milling, concentration and smelting operations to make it profitable. Approximately 84,000 tons of ore per day are presently being taken from this mine and processed. The Company erected a concentration mill approximately 20 miles distance from the mine at Magna, Utah. For a time the Company shipped the ore from the mine to the mill by the Denver and Rio Grande Western Railroad. It later decided to construct its own railroad to transport this ore. For this purpose, it organized and incorporated the Bingham & Garfield Railway Company in 1908 as a common carrier, the entire capital stock being owned by the Copper Company. When the line began its operations in 1911, there were some 25 or 30 independent mines which it served in the Bingham area. Originally all of the Railway Company's transportation business, both for the Copper Company and for the public, was under regular published tariff schedules. This practice continued until 1920, at which time, in order to enable the Railway Company to avoid paying any part of its net income to the Federal Government under the recapture provisions of the Transportation Act of that year, a new arrangement was entered into by the two companies. Pursuant to this arrangement, the Railway Company granted a license to the Copper Company to use the tracks and other

facilities of the Railway Company in the transportation of all ore mined at Bingham to the Copper Company's mills at Arthur and Magna. The written contract setting out this agreement provided that the Copper Company should transport its ore from its mine to the mills with its own equipment and with its own employees, but all under the supervision of the Railway Company. The written agreement between the parties also provided that this transportation license should also cover the movement of all empty cars and equipment from the mills to the mine.

The consideration for the license granted to the Copper Company was to be the payment by the Copper Company of a sufficient amount to make a return to the Railway Company of six per cent per annum on the total valuation of the Railway Company's transportation lines.

At the time this trackage agreement was entered into, the Railway Company transferred to the Copper Company the title to all of its equipment then being used in the transportation of its ore. At the same time, all of the Railway Company employees engaged in this transportation were transferred to the payroll of the Copper Company and were thereafter paid by the Copper Company. Although these employees were transferred to the payroll of the Copper Company, there was no substantial change in their status or in the nature or conditions of their work. They continued to be under the supervision and control the Railway Company the same as its other employees. They were disciplined and discharged by the Railway Company. Men seeking employment in that particular service were interviewed in the Railway Company offices and the question of their employment was determined by the Railway Company officials. All of the operation, both as to their work and as to their employment, remained substantially the same as before their transfer to the payroll of the Copper Company.

The Copper Company payment of the ore train crews had no serious repercussions before enactment of the social legislation of the Thirties. Since about 1938, however, the employment status of these crews (i.e., as to whether they were Railway Company employees) has been almost continuously at issue. The present dispute is but one of a series which can be traced back to the trackage agreement of 1920.

DISPUTE AS TO FAIR LABOR STANDARDS ACT

First came a dispute as to whether the ore train crews were covered by the Fair Labor Standards Act of 1938 as to their hours and overtime, or by the agreements the Bingham & Garfield Railway had negotiated at about that time with the Brotherhoods here involved. Railway employees are exempt from the application of the Fair Labor Standards Act.

After the Fair Labor Standards Act became effective, the Copper Company reduced the number of hours of employment for all of its employees, the mill men and miners being reduced to 44 hours a week and

the men working in the Ore Delivery Department on the railroad being reduced to 48 hours a week. The men working on the ore trains took exception to the application of the Fair Labor Standards Act to their work, and instituted claims for each day that they were held out of service under the provisions of the Act. These claims were based upon the agreement between the Railway Company and its employees who shortly before that time had affiliated with the two Railroad Brotherhoods representing the employees in this dispute.

The Railway Company then served notice on the employees through the officers of their organizations that unless all such claims were withdrawn within 30 days, it would terminate its agreements with the organizations. The claims were not withdrawn and on October 30, 1939, the Railway Company gave notice pursuant to the Railway Labor Act that, as of November 29, 1939, the agreement of June 1, 1938 between it and its employees would be terminated.

Pursuant to mediation invoked by the Conductors organization, the Railway Company on January 31, 1941, posted a notice reinstating the agreement of June 1, 1938 with the expressed understanding, however, "that the same shall apply only to the Conductors, Engine Foremen and Switchmen of this Company, as distinguished from those persons engaged in the ore haul of the Utah Copper Company."

DISPUTE AS TO RAILROAD RETIREMENT ACT

After the Railroad Retirement Act of 1937 became effective, the employees engaged in hauling Copper Company ore made application to the Railroad Retirement Board for the benefits of the Act. The Board ordered the Copper Company to make the necessary deductions for Railroad Retirement for the employees engaged in hauling ore. The Copper Company then filed an action in the United States District Court for the District of Colorado to set aside the decision of the Board. There was a decision in favor of the employees which was appealed by the Copper Company to the United States Circuit Court of Appeals and there affirmed, 129 Fed. 2d. 358. The court held that the employees engaged in the ore haul were in fact employees of the Bingham & Garfield Railway Company within the meaning of the Railroad Retirement Act of 1937. A writ of certiorari to the United States Supreme Court was denied.

Throughout the pendency of this action, the Copper Company continued to deal with these men as its employees. One of the principal reasons given by the court for its decision was that these particular employees were under the supervision of the officials of the Railway Company.

After the final decision of the case, the Copper Company, on June 30, 1943, posted a notice to its employees engaged in the Ore Delivery Department to the effect that on and after July 1, 1943, the ore haulage from mine to mills and the return of empty cars from the mills would be under the immediate supervision and direction of N. E.

McKinnon, Superintendent of Operations, Ore Delivery Department of the Copper Company; and that neither the General Superintendent nor any other official of the Railway Company would have or exercise any authority or supervision over the workers engaged in the hauling of ore and the return of empty cars.

Before the posting of this notice, the Order of Railway Conductors of America had given the Railway Company notice that it desired its contract changed to include the employees engaged in the hauling of ore.

On July 6, 1943, the conductors and brakemen engaged in ore delivery walked off the job in protest against what they considered a move by the Copper Company to deprive them of their railroad employee status which had been recognized by the above described court decisions.

In compliance with telegrams from the National Mediation Board and the National War Labor Board dated July 8, 1943, the Copper Company withdrew the posted notice and the men returned to work.

Mediation was then invoked and as a result these employees and the Railway Company reached an agreement to which the Copper Company also became a party. The Copper Company today maintains that both its desire to further the war effort and fear of government seizure of its properties caused it to become a party to this agreement. The Copper Company was then, and is now, producing about 30% of the nation's domestic copper.

The agreement provided that all ore delivery employees shall be covered by the provisions of the Railroad Retirement Act and the Railway Labor Act, and be considered within the scope of the agreements between the Railway Company and the respective Brotherhoods.

SEIZURE BY GOVERNMENT

The Brotherhoods and the Company had another dispute in 1945 which led to seizure and operation of the Carrier by the Army for a brief period. The issues in that dispute, which involved the question of requiring two men in a cab, were in no way related to the current controversy.

COPPERTON LINE DISPUTE

To understand the present dispute between the employees and the Railway Company as to the new Copperton Line or "Low Line," a further description of the mine and the present main line of the Bingham & Garfield Railway Company is necessary.

The mine is a tremendous conical hole being scooped out of the top of a mountain. As the operation goes deeper, the top of the cone

must be continually widened. It reputedly is the largest open pit copper mine in the world. The ore, however, is known as "low grade." Each ton of ore yields not more than one per cent of copper. In 1945, approximately two million tons of ore removed contained less than five tenths of one per cent. Profitable operation depends upon large production and economical handling of the ore. The Company is always seeking to avoid any considerable movement of ore up hill and all of its major engineering projects are in furtherance of this principle. The Company has constructed railroad tracks in spirals inside the pit on various levels beginning at the top of the mine and extending to the bottom. Ore cars are brought to these tracks and are loaded by electric shovels. The tracks inside the pit lead out to yards at different levels where connections are made with the Bingham & Garfield line. These are known as the Apex Yard, the Auxiliary Yard, the Bingham Yard, and the Central Yard. These yards are at different elevations. The highest is the Apex Yard and the lowest, the Central Yard. Ore is delivered from the pit to these various yards depending upon the elevation at which it is taken from the pit. Approximately one-third of the ore originally was above the elevation of the Bingham Yard. The ore now remaining above the Bingham Yard is only seven or eight per cent of the total. The Bingham Yard is at an elevation of 6335 feet and the mine has now been worked down to 5990 feet, or 350 feet below the Bingham Yard level.

The Copper Company has found it necessary, therefore, to plan construction of three different tunnels going into the mine at different levels. The first of these has already been constructed at an elevation of 6040 feet, 300 feet below the Bingham Yard level and is now in operation. The second tunnel, at an elevation of 5840 feet, 200 feet lower than the first, is still on blue prints, but construction probably will be started in two or three years. The Central Yard was built to serve both the 6040 foot tunnel and the proposed 5840 foot tunnel. Since it is estimated that the ore body extends down some 1200 feet below the level of the Bingham Yard, it will be necessary in the future to construct a third tunnel into the pit either at, or slightly above, the level of the new Copperton Yard now being constructed.

The present main line of the Bingham & Garfield Railway has many sharp curves and a 2.5 per cent grade making the ore haulage and the return of empties a rather costly operation. In view of this and the engineering necessities at the mine, the Company for many years has been planning to substitute another railroad for the Bingham & Garfield as an ore route. This line, now in process of construction, extends from the town of Copperton to the vicinity of the Magna and Arthur mills. The Company estimates that it will be completed and ready for operation in the early part of 1948. It is to be used exclusively as an industrial railroad.

The new line is to be electrified and will have less grade and fewer curves than the Bingham & Garfield Railway. The Company estimates

that it will save 40 per cent of the total cost of ore haulage (a saving of about $500,000) a year by using the Copperton line.

The Copper Company and the Railway Company plan eventually to divert all ore haulage to this Copperton Line and away from the Bingham & Garfield Railway, and, as soon as possible, to seek abandonment of the Bingham & Garfield Railway.

With this ultimate plan in mind, officials of the Railway Company and of the Copper Company are, at the present time, using various methods of divesting the Bingham & Garfield Railway of all its common carrier business. Various examples of this were shown at the hearings. The Brotherhoods insisted that a project to divert ore haulage from the United States Mining & Smelting Company's mine near Bingham to the Denver & Rio Grande Western Railroad by means of a tunnel was a part of this program. The Company, however, stated that this project was an engineering and economic necessity to both companies.

When the employees in 1946 first learned of the construction of the Copperton Line and its proposed use, they inquired of the Railway Company as to their status with respect to the movement of ore over this new line. They were referred to the Copper Company and there were told that the operation of the new line was to be entirely by and with equipment and employees of the Copper Company. The Copper Company, they were told, would employ them for service on the new line in the order of their Bingham & Garfield seniority, but without retention of any of their present rights as railway employees under the Railway Labor and kindred acts. This gave rise to the present dispute.

As soon as the Employees learned that the Copper Company proposed to operate the low line as an industrial railroad, they saw it well might take away the rights they had won as railroaders. The Company, in fact, said that employees of the new road would be covered by the Social Security Act instead of the Railroad Retirement Act; by the Fair Labor Standards Act instead of current railroad working hours practices; by the Wagner Act instead of the National Railway Labor Act. The Company contended it would have no choice other than to make these general industrial laws applicable to an industrial operation. Such applications, the Company held, would make necessary either abrogation or complete revision of the 1943 agreements, so far as they affected the Copperton Line. Negotiation of successor agreements, the Company said, depended upon the determination of representation and an appropriate unit by the National Labor Relations Board.

The Brotherhoods, on the other hand, took the view that the Copper Company and its wholly-owned railroad subsidiary were engaged in another attempt to deprive the employees of their rights through a transfer of the employees from one payroll to another without any substantial change in the nature of their work. They viewed the Copperton Line as just another branch of the Bingham & Garfield, or of the Copper Company's railroad facilities. In this connection, it should be

pointed out that in both the Bingham area and around the Magna and Arthur mills, both the Copper Company and the Bingham & Garfield Railway Company own a considerable amount of connecting trackage. Also both at the mine and at the mills, both the Copper Company and the Railway Company operate their own equipment over each other's tracks. For instance, cars destined from Bingham to mines around the Kennecott pit (not owned by the Kennecott Corporation) are moved over both Railway Company and Copper Company tracks, sometimes by Bingham & Garfield locomotives and sometimes by Copper Company electrical motors. Copper Company electrical motors regularly move ore cars out of the pit to the Bingham Yard over Bingham & Garfield tracks for assembly into trains for movement to the mills by Bingham & Garfield locomotives and crews. This has led to the impression among the railroad employees that there is no distinction between the railroad operations of the Bingham & Garfield Railway and the railway operations of the Copper Company. The difference, if any, they think is in name only. This impression is emphasized by the interchange of names on railroad equipment, the presentation of a 20-year medal by the Copper Company to a railroad employee and identical treatment of these employees while on the payroll of the Copper Company and on the payroll of the Railway Company.

The Employees also feared a reduction in their net earnings, owing to the application of the Fair Labor Standards Act, even though they were assured that there would be no cut in their hourly rates when they moved to the Copperton Line. If ore productions were curtailed, the Employees felt, the Company would reduce the number of "penalty" hours instead of maintaining the present work schedule. The Brotherhoods did not protest the Company's proposal to use fewer men to move the ore trains on the Copperton Line, owing to the greater efficiency of the operation. The Company said it would save about 40 per cent of its present cost of moving ore by use of the Copperton Line. About 55 per cent of the total saving could be attributed to savings in labor costs.

The current dispute started in the summer of 1946 when the Employees first learned of the Copper Company's plan to build the Copperton Line. The Company and the Brotherhoods developed the following positions largely through an exchange of correspondence which continued well into this year:

The Company maintained it was getting out of the "railroad business" with its common carrier liabilities and was substituting an industrial facility, the employees of which would be solely industrial employees.

The Brotherhoods contended that the Copperton Line would be just another of the Company's railroad facilities and that their railroad contracts and railroad rights should be applied to the Copperton Line, lock, stock, and barrel.

Mediation failed after neither side would make any substantial concession, and the Company refused to submit the issues to arbitration. Appointment of this Board followed on May 22.

CONCLUSIONS AND RECOMMENDATIONS

We conclude from our investigation:

(1) that the Carrier, until its existing contracts with its employees are terminated or amended in the manner required by law, will conform to them;

(2) that until that time, any movement of ore by the Copper Company over the Copperton or any other line from mine to mill, etc., must be in accordance with the terms of these contracts;

(3) that being the sole owner and in absolute control of the Carrier, the Copper Company should not, directly or indirectly, cause a breach in the contractual relations between the Employees and the Carrier;

(4) that the Copper Company, however, is not precluded from constructing and operating a plant facility such as the proposed inter-plant Copperton Line;

(5) that it may move its ore over such line and may employ in such inter-plant operation such persons as it desires on such terms and conditions as may be mutually agreed upon and subject to the then existing laws and contracts applicable thereto.

A fair reading of the testimony and careful consideration of the history of the relations between the Copper Company and the Railway Company and its Employees requires the conclusion that certain mutual obligations have been definitely established. The mediation agreements of July 17, 1943, are mutually binding upon the parties thereto; viz., (a) the Carrier, (b) its Employees, and (c) the parent company, i.e., Kennecott Copper Corporation as the successor of Utah Copper Company.

There arises out of these agreements and the course of dealings between the parties a definite obligation on the part of the Carrier and the Copper Company not to deliberately destroy the business of the Carrier and thereby deprive the Employees of the work covered by the agreements.

The new "low line" i.e., Copperton, is undoubtedly an industrial and engineering necessity and is expected to save the Copper Company about forty per cent of the present ore haulage cost. The operating Employees on the Copperton Line will nevertheless perform the same type of work as they are now performing for the Carrier, although each employee may operate more and heavier trains each day. For this work they

should receive no less compensation than they are now receiving from the Carrier, and other benefits of the present contracts in so far as they can be applied to an industrial operation. They should have the same safety protection now afforded under existing laws and have substantially the same economic security now afforded them as railroad employees under the provisions of law and their present contract agreements. Needless to say, their earnings may be affected by changing business conditions.

On the other hand, the Employees have a duty to perform the work required under their contract in order that the Copper Company operations may be maintained. The Employees have at all times been aware that the Carrier existed primarily for the purpose of providing an outlet from the mine to the mills and smelter for the Copper Company ore. If this can be more economically and successfully accomplished by ore haulage over the new low line or Copperton Line, then the Employees should assist in every way possible in such operation.

We, therefore, recommend that the Copper Company, the Carrier, and its Employees through their own designated bargaining agencies immediately establish mutual agreements by collective bargaining processes so that the transition from the present common carrier haulage of ore to the new low line plant facility -- the Copperton line -- will be accomplished in line with our foregoing conclusions.

The paralyzing effect of a strike or work stoppage in this essential industry is to be deplored. Because of the splendid cooperation of all the parties at our settlement conferences and their thorough understanding of all matters involved, we have every confidence in their ability to satisfactorily negotiate mutually acceptable working agreements.

Respectfully submitted,

/s/ H. Nathan Swaim
H. Nathan Swaim, Chairman

/s/ George E. Bushnell
George E. Bushnell, Board Member

/s/ Joseph L. Miller,
Joseph L. Miller, Board Member

SUPPLEMENTAL REPORT

The foregoing report was drafted by the Board at the conclusion of its session at Salt Lake City. At the request of the parties, the life of the Board was extended for 30 days and a recess was taken on June 4, 1947. The parties thereafter continued their negotiations and conferences without reaching a settlement.

At our request, the parties met with the Board at Washington on July 14th and negotiations were then resumed. Some differences were reconciled but the parties were unable to agree on certain matters which they deemed insurmountable.

In the light of further information furnished the Board regarding the interim conferences at Salt Lake City and our discussions with the parties at Washington, the Board now recommends:

That the parties immediately resume their contract negotiations and that the contract to be negotiated shall include the following provisions:

1. Present rates of pay to be maintained with addition of either (1) any general increase granted in railroad industry prior to transfer of employees from Bingham & Garfield to industrial employment or (2) in absence thereof, any general increase granted to industrial employees.

2. The respective Brotherhoods to be recognized as collective bargaining agencies for the employees involved herein.

3. Equipment to be maintained in same state of repair as now required on Bingham & Garfield.

4. Present seniority of employees to be carried over and continued in industrial operation.

5. Complaints and claims to be adjusted on the property or appealed to General Chairman of Brotherhood involved and highest ranking local operating officer. Failing adjustment, then to be arbitrated in manner to be agreed upon, the neutral arbitrator, however, to be selected by the Judge of the United States District Court for that District.

6. Employees transferred to industrial employment should be compensated, as to retirement, death, unemployment and sick benefits, by annuities or cash payments for any net difference under present laws, in benefits to which they would be entitled if they continued as railroad employees, and the benefits they will receive as industrial employees.

7. Compensation for the loss to junior employees laid off because of the use of the Copperton Line should also be included.

8. Change in basic rates under Denver & Rio Grande yardstick of Rule 20 of present agreement to be waived and in lieu thereof Employer to agree that for a period of five years the dollars and cents differential between the pay of these men and the average of all other daily rates of other daily wage plant employees shall not be decreased.

9. All other provisions of the current agreements of these men with the Bingham & Garfield Railway Company shall be included in the agreement covering the operation of the Copperton Line, with only such changes and amendments as are legally required or made necessary by an industrial operation.

In the event an agreement is reached, the Board recommends that the Employees join with the Carrier in seeking an early abandonment of the Bingham & Garfield Railway Company carrier operations.

In a desire to assist the parties in their future negotiations, the Board makes the following statement regarding its specific recommendations:

To avoid further disputes, the conversion from common carrier to industrial operation should and must be clear-cut and final.

The Company has indicated its willingness to protect the earnings of present Bingham & Garfield employees and their security benefits so far as is compatible with industrial employment.

The Employees have shown a desire to cooperate in furthering the economic interests of the Kennecott Copper Corporation with which their own economic future is so closely connected.

The Copper Company has contended that after the operation is transferred to the Copperton Line it will no longer have any voice in negotiations of rates of railroad pay and that it should not be expected to accept results of negotiations in which it could take no part. It also points out that the future of carrier business and copper mining might vary so widely as to make different rates of pay in the two industries necessary.

The Employees contend that they fear an eventual leveling of their wages with the wages of other plant employees. As assurance that this will not be done, the Copper Company offered to accept the Board's suggestion that it guarantee that the dollars and cents differential between the wages of these men and the average of the daily rates of all other daily wage employees in the plant shall not be decreased for a period of five years. We believe that the Employees should also accept this guaranty in lieu of Rule 20 of the present agreement. The Board recognizes, of course, that the prevailing wages in the district which are paid for similar services inevitably will affect the wages paid on the Copperton Line.

All parties should recognize that when Copperton Line operations begin, common carrier operations cease so far as those who transfer to industrial employment are concerned.

We repeat the observation, trite though it may be, that eventually all matters in dispute will be settled and the economic well-being of all concerned will be enhanced by such compromises in viewpoint as will most speedily result in such a settlement.

Respectfully submitted,

/s/ H. Nathan Swaim
H. Nathan Swaim, Chairman

/s/ George E. Bushnell
George E. Bushnell, Board Member

/s/ Joseph L. Miller
Joseph L. Miller, Board Member