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10 Attorneys for Plaintiff
 BNSF Railway Company, a Delaware Corporation

11
 12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 BNSF Railway Company, a Delaware
 15 Corporation,

16 Plaintiff,

17 v.

18 San Joaquin Valley Railroad Company, a
 19 California Corporation; and Tulare Valley
 Railroad Company, a Nevada Corporation,

20 Defendants.

Case No. 1:08-CV-01086-AWI-SMS

Case Type: Declaratory Judgment/Contract

**STIPULATION FOR AMENDED
 COMPLAINT; ORDER**

Trial Date: May 11, 2009

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 22 Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, the parties through their
 23 respective undersigned counsel hereby stipulate and agree that Plaintiff may serve and file its
 24 Amended Complaint. The parties agree that defendants shall have twenty (20) days to respond to
 25 the Amended Complaint after being served with it.

26 As a condition of this stipulation and agreement, the parties also agree that the trial in this
 27 matter shall not be bifurcated, and respectfully ask the Court to enter the attached proposed order.

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Defendants are stipulating to the filing of this pleading in the attached format to avoid the necessity of a motion for leave to amend the original complaint under Rule 15, but reserve all rights, including without limitation the right to bring any responsive motions under the Federal Rules of Civil Procedure.

Dated: November 4, 2009

Briggs and Morgan, P.A.

By: s/ Paul J. Hemming

Timothy R. Thornton
Paul J. Hemming
Attorneys for Plaintiff
BNSF Railway Company, a Delaware Corporation

Dated: November 3, 2009

Hicks | Park LLP

By: s/ James B. Hicks

James B. Hicks
Gary W. Park
Attorneys for Defendants
San Joaquin Valley Railroad Company
and Tulare Valley Railroad Company

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ORDER

The Court notes that as a condition of this stipulation and agreement, the parties have agreed that the trial in this matter shall not be bifurcated, and the Court therefore hereby orders that the trial in this matter shall not be bifurcated, and pursuant to the parties' agreement and Local Rule 83-143, the Court also hereby approves the Stipulation for Amended Complaint.

IT IS SO ORDERED.

IT IS FURTHER ORDERED THAT Plaintiff shall file the Amended Complaint within five (5) days from service of this Order.

IT IS SO ORDERED.

Dated: November 4, 2009

/s/ Sandra M. Snyder

UNITED STATES MAGISTRATE JUDGE