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January 26, 2021

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Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: Finance Docket No. 32760 (Sub No. 46)
BNSF Railway Company—Terminal Trackage Rights—
The Kansas City Southern Railway Company and
Union Pacific Railroad Company

Dear Ms. Brown:

Enclosed for electronic filing in the above-referenced proceeding is the Public version of BNSF's Opening Statement and Evidence on Compensation (BNSF-144). We are also separately submitting workpapers for the Verified Statements of Michael R. Baranowski and Robert Boileau.

Please contact me if you have any questions. Thank you.

Sincerely,



Peter W. Denton, Esq.

Enclosures

cc: Adrian L. Steel, Jr., Esq.
William A. Mullins, Esq.
Michael L. Rosenthal, Esq.
All parties of record

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

APPLICATION FOR TERMINAL TRACKAGE RIGHTS

BNSF's Opening Statement and Evidence on Compensation

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Dated: January 26, 2021

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Before the
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—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

APPLICATION FOR TERMINAL TRACKAGE RIGHTS

BNSF's Opening Statement and Evidence on Compensation

I. Introduction and Summary

BNSF Railway Company (“BNSF”) hereby submits its Opening Statement and Evidence setting forth its position regarding the compensation terms that the Surface Transportation Board (“STB” or “Board”) should set to govern BNSF’s use of the terminal trackage rights ordered by the Board in this proceeding over the Rosebluff Lead, a line owned jointly by Union Pacific Railroad Company (“UP”) and Kansas City Southern Railway Company (“KCS”) at Lake Charles, Louisiana.

As described below, BNSF first affirms its position that BNSF’s payment to UP of the Prescribed Fee fully satisfies BNSF’s payment obligation for use of the trackage rights. Therefore, BNSF requests that the Board direct: (1) BNSF to pay UP the Prescribed Fee, and (2) UP to pay KCS any amount due to KCS for BNSF’s terminal trackage rights movements under existing UP/KCS joint facility agreements governing the Rosebluff Lead, or under any separate compensation terms set by the Board through this proceeding.

Next, BNSF explains why the compensation terms for KCS that the Board will set in this proceeding should apply to all BNSF terminal trackage rights movements over the Rosebluff Lead, not just BNSF movements to a LyondellBasell (“Lyondell”) facility accessible via the Rosebluff Lead. Additionally, the scope of this proceeding should include all track covered by the Board’s grant of terminal trackage rights – namely, all Rosebluff Lead trackage jointly owned by KCS and UP that BNSF may directly operate over to serve shipper facilities accessible via the Rosebluff Lead and covered by the Lake Charles Merger Conditions. The Board should not require BNSF to return for a multi-year proceeding to set compensation terms for each customer that BNSF elects to serve directly.

Although BNSF itself should not be responsible for payment of any amount other than the Prescribed Fee, BNSF applies the principles of the Board’s *SSW Compensation*¹ methodology to determine the compensation owed to KCS by UP for BNSF’s terminal trackage rights movements. BNSF will only access the Rosebluff Lead under UP’s ownership and operating rights. BNSF explains that the application of the principles of the *SSW Compensation* methodology therefore leads to the conclusion that KCS should be compensated for BNSF terminal trackage rights movements just as KCS is paid today for UP’s movements on the Rosebluff Lead. BNSF should pay UP the Prescribed Fee, and BNSF cars and trains should be treated like UP cars and trains for the purposes of UP’s compensation to KCS under their existing cost-sharing agreements.

Because UP and KCS have an existing cost-sharing arrangement that satisfies the objectives of the *SSW Compensation* standard, the use of an alternative

¹ See *St. Louis S.W. Ry.—Trackage Rights Over Mo. Pac. R.R.—Kan. City to St. Louis*, 1 I.C.C.2d 776 (1984) (*SSW Compensation I*), 4 I.C.C.2d 668 (1987) (*SSW Compensation II*), 5 I.C.C.2d 525 (1989) (*SSW Compensation III*), 8 I.C.C.2d 80 (1991) (*SSW Compensation IV*), & 8 I.C.C.2d 213 (1991) (*SSW Compensation V*) (collectively, the *SSW Compensation* cases), *aff’d sub nom. Union Pac. Corp. v. ICC*, 978 F.2d 745 (D.C. Cir. 1992), *cert. denied*, 508 U.S. 950 (1993).

methodology would unnecessarily complicate and override the existing arrangement. This compensation arrangement is fair to KCS because it fully compensates KCS for BNSF's use of the jointly-owned facilities and it is consistent with the terms under which BNSF's cars access the Rosebluff Lead today via UP and KCS reciprocal switch. The arrangement is also fair to UP since it would hold UP responsible for its failure to take any action to provide the trackage rights which it promised.

However, should the Board decide to set compensation terms for KCS apart from the existing cost-sharing arrangements, BNSF analyzes the traditional *SSW Compensation* methodology components and describes how the Board should consider the interest rental, maintenance and operation, and variable cost components in the unique circumstances presented in this case. Finally, BNSF provides a fee structure for compensation due to KCS by UP, calculated by converting the *SSW Compensation* components to usage fees based on normalized historical levels of traffic on the Rosebluff Lead.

BNSF's arguments are supported by the Verified Statements of Michael R. Baranowski ("V.S. Baranowski"), Robert Boileau ("V.S. Boileau"), and Brent Pitts ("V.S. Pitts"), each attached to this Opening Statement.

II. Background

The background in this proceeding has been recounted numerous times by the three parties and the Board. *See, e.g., BNSF Ry.—Terminal Trackage Rights—Kan. City S. Ry. (Decision No. 8)*, FD 32760 (Sub-No. 46) (STB served Feb. 21, 2020); BNSF Pet., Dec. 18, 2020 (BNSF-143). BNSF briefly recounts the relevant events here, and a timeline of key events is set out in the Appendix.

A. In connection with the UP/SP merger, UP agreed to and the Board imposed the Lake Charles Merger Conditions.

In approving the merger of UP and the rail carriers controlled by Southern Pacific Rail Corporation (“SP”) nearly twenty-five years ago, the Board imposed certain conditions, including the terms of two principal settlement agreements – one between UP/SP and BNSF (the “BNSF Agreement,” since revised as the “Restated and Amended BNSF Agreement”), and one between UP/SP, BNSF, and the Chemical Manufacturers’ Association (the “CMA Agreement”). *Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp. (UP/SP Decision No. 44)*, 1 S.T.B. 233, 419 (1996).

Under these agreements and merger conditions, UP/SP agreed (and is now obligated) to provide BNSF with access to shippers that would have lost competitive options as a result of the merger of UP and SP. *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 2. Under the CMA Agreement, UP agreed to grant BNSF certain rights to handle traffic of Lake Charles area shippers – either directly or indirectly via UP reciprocal switch, each at BNSF’s sole election (the “Lake Charles Merger Conditions”).² The Board also provided Lake Charles area shippers with an independent right under the CMA Agreement and the Lake Charles Merger Conditions to receive direct BNSF service as a competitive replacement for the loss of SP service. *See UP/SP Decision No. 44*, 1 S.T.B. at 247 n.15.

² “Specifically, the Lake Charles Merger Conditions allowed BNSF to handle traffic of shippers open to all of UP, SP, and KCS at Lake Charles and Westlake, and to handle traffic of shippers open to SP and KCS at West Lake Charles, ‘on the same basis’ as BNSF’s access to ‘2-to-1’ points, which included the option of ‘direct’ or ‘reciprocal switch’ access.” *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 2 (citing *UP/SP Decision No. 44*, 1 S.T.B. at 427-29; *BNSF Ry.—Terminal Trackage Rights—Kan. City S. Ry. (Decision No. 3)*, FD 32760 (Sub-No. 46), slip op. at 2-3, 9-10 (STB served July 5, 2016)).

B. The Board’s merger conditions set the fee that BNSF must pay for trackage rights movements over UP lines at a level that will permit BNSF to serve as a competitive replacement to SP.

In order to implement the BNSF access to affected shippers required by the Board in *UP/SP Decision No. 44*, UP/SP granted BNSF trackage rights over approximately 3,400 miles of UP/SP’s lines, “at a fee designed to allow BNSF to garner sufficient traffic and compete effectively with the newly merged UP/SP.” *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 2. These UP/SP lines included the former SP Lafayette Subdivision, from which the Rosebluff Lead extends. *Id.* at 4.

In the Board’s decision approving the UP/SP merger subject to the Lake Charles Merger Conditions and other conditions, the Board conducted a thorough analysis of the BNSF trackage rights fee (the “Merger Fee”) and rejected challenges by KCS and others who argued that the Merger Fee was too high and that BNSF could not effectively provide replacement competition at that rate level. *UP/SP Decision No. 44*, 1 S.T.B. at 413-17. The Board found that the Merger Fee is “well within a reasonable level,” *id.* at 413, and “will permit BNSF to compete effectively,” *id.* at 416. The D.C. Circuit specifically affirmed the Board’s determination on this issue. *Western Coal Traffic League v. STB*, 169 F.3d 775, 781 (D.C. Cir. 1999). The Board again considered the Merger Fee four years later and found “no real evidence that the trackage rights fee has hindered BNSF from competing.” *Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp. (Gen. Oversight, Decision No. 16)*, 5 S.T.B. 388, 397 (2000).

C. The specific fee governing BNSF movements over the Rosebluff Lead derives from the UP/BNSF 50/50 Line Agreement.

UP and BNSF later agreed to jointly own and operate the former SP Lafayette Subdivision between Dawes, Texas and Avondale, Louisiana, thereafter referred to as “the 50/50 Line.” *See Decision No. 8*, FD 32760 (Sub-No. 46), slip op.

at 4. Under the 50/50 Line Agreement, UP granted BNSF trackage rights on former SP spurs and branches connecting to the 50/50 Line, including the Rosebluff Lead, and slightly modified the Merger Fee for BNSF movements on the 50/50 Line and the relevant spurs and branches. BNSF Rebuttal 11, Oct. 23, 2015 (BNSF-124).

Therefore, the trackage rights fee applicable to BNSF movements on the 50/50 Line and the Rosebluff Lead – the “Prescribed Fee” referred to by BNSF and the Board in this proceeding – is the Merger Fee set by Section 9(a), as escalated by Section 12, of the Restated & Amended BNSF Agreement, and as modified by BNSF and UP in Section 7 of the 50/50 Line Agreement (as amended by Sections 1 and 4 of the 2003 Letter Agreement). *See* BNSF Suppl. 6, Feb. 4, 2019 (BNSF-139). The Prescribed Fee is currently \$0.003552 per gross ton-mile.

D. The Board granted BNSF terminal trackage rights over the Rosebluff Lead in order to implement the Lake Charles Merger Conditions.

Even though UP and KCS jointly own track needed to serve certain customers covered by the Lake Charles Merger Conditions, including the Rosebluff Lead, UP agreed to the terms of the conditions that accorded BNSF access to the track without obtaining KCS’s consent. Soon after the Board approved the UP/SP merger and imposed the conditions discussed above, KCS asked the Board to reconsider the Lake Charles Merger Conditions, arguing that BNSF access to Lake Charles area customers was not necessary and that KCS had veto rights over BNSF access under the terms of the UP/KCS joint facility agreements governing the Rosebluff Lead. *See Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp.* (UP/SP Decision No. 63), FD 32760, slip op. at 4-6 (STB served Dec. 4, 1996).

The Board denied the KCS petition, finding that “giving BNSF additional rights was the most effective way to assure continued competition for Lake Charles area shippers.” *Id.* at 8. The Board addressed UP’s failure to obtain KCS consent for

BNSF access to the Rosebluff Lead by directing BNSF to “return to the Board to seek approval of a terminal trackage rights application” if BNSF, UP, and KCS could not otherwise agree to provide BNSF with direct access to shippers covered by the Lake Charles Merger Conditions. *Id.* at 9-10. The Board left open the possibility of an override under 49 U.S.C. § 11321(a) of the relevant UP-KCS contract provisions if the Board denied a BNSF terminal trackage rights application. *Id.* at 10.

On February 27, 2013, after KCS blocked BNSF’s attempt to directly serve a CITGO facility covered by the Lake Charles Merger Conditions, BNSF followed the Board’s direction in *UP/SP Decision No. 63* and filed an application with the Board seeking terminal trackage rights over the Rosebluff Lead. On July 5, 2016, the Board issued *Decision No. 3* in this proceeding, granting BNSF the requested terminal trackage rights, and thereby implementing the direct access portion of the Lake Charles Merger Conditions.

E. BNSF has sought to implement the terminal trackage rights granted by the Board for more than four years.

In an echo of the Board’s earlier wishes in *UP/SP Decision No. 63* for the parties to resolve issues privately, the Board ordered BNSF, KCS, and UP in *Decision No. 3* to “collectively develop conditions governing their use of the Rosebluff Lead,” and to “attempt to agree upon the terms of compensation for BNSF’s use of the Rosebluff Lead.” *Decision No. 3*, FD 32760 (Sub-No. 46), slip op. at 19-20. The Board stated that, if the parties could not reach an agreement on these issues, the parties could request that the Board establish conditions of use and compensation, consistent with the Board’s authority under the statute authorizing the Board to order terminal trackage rights, 49 U.S.C. § 11102(a). *Id.*

After more than a year of negotiations over conditions of use and compensation for BNSF's use of its terminal trackage rights to serve Lyondell, it became clear that the parties could not agree privately to such terms, primarily because the parties could not agree on the necessity of constructing additional rail facilities to facilitate direct BNSF service. *See* BNSF Pet. 5-7, Jan. 12, 2018 (BNSF-132) (describing the negotiations in greater detail). BNSF then petitioned the Board in January 2018 to impose the conditions of use and compensation, again following the direction of the STB in *Decision No. 3* in this proceeding. BNSF requested that the Board establish BNSF's proposed operating plan for BNSF direct service to the Lyondell facility accessible via the Rosebluff Lead as a condition of use. *Id.* at 17. BNSF also asked that the Board establish compensation terms governing any BNSF use of the terminal trackage rights granted by the Board "under the principle controlling compensation in condemnation proceedings," consistent with § 11102(a). *Id.* at 15.

On February 21, 2020, the Board served *Decision No. 8* in this proceeding, establishing conditions for direct service by BNSF to the Lyondell facility and setting forth a procedure for establishing compensation due to KCS for the Board-ordered terminal trackage rights.

III. Argument

A. BNSF's payment of the Prescribed Fee to UP fully satisfies BNSF's payment obligation for the terminal trackage rights, and UP should pay KCS any shortfall.

BNSF has stated throughout this proceeding that BNSF should pay no more than the Prescribed Fee for BNSF's use of the terminal trackage rights over the Rosebluff Lead. *See Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 12-13 (summarizing BNSF's filings in this proceeding). UP has stated that its "basic position" is that BNSF should pay UP the Prescribed Fee. UP Suppl. 3, Feb. 4, 2019

(UP/SP-430). However, UP has further stated that, “to the extent that KCS is entitled to compensation established under the *SSW Compensation* methodology or any other methodology, BNSF is obligated to pay KCS under 49 U.S.C. § 11102(a).” *Id.* The Board has identified this allocation issue as “[t]he parties’ central disagreement” in this compensation proceeding. *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 15.

UP is right that BNSF should pay UP the Prescribed Fee as compensation for its use of the terminal trackage rights ordered by the Board. UP does not (and cannot) deny that it has an affirmative obligation to BNSF and Lake Charles area shippers – under the BNSF Settlement Agreement, the CMA Agreement, the 50/50 Line Agreement, and the Lake Charles Merger Conditions – to provide BNSF with direct service trackage rights over the Rosebluff Lead at the Prescribed Fee.³

But by taking the position that BNSF should pay any compensation due to KCS under the *SSW Compensation* methodology, UP now asks the Board to require BNSF to pay more than the trackage rights fee level set by the Board to allow BNSF to implement the Board-imposed competitive conditions on the UP/SP merger. The Board should reject outright UP’s continued effort to avoid responsibility for failing to secure KCS consent prior to granting BNSF trackage rights on the Rosebluff Lead. Instead, the Board should hold UP responsible for any compensation due to KCS for BNSF access beyond the Prescribed Fee.

The Board should thus require UP to accept responsibility for any shortfall between the Prescribed Fee and any terminal trackage rights compensation owed to KCS. Knowing that KCS objected to the grant of Rosebluff Lead trackage rights to BNSF, UP **voluntarily** chose to proceed with the UP/SP merger and to commit to provide BNSF with direct service trackage rights to the Rosebluff Lead at the

³ KCS has also recognized UP’s ultimate responsibility. *See* KCS Suppl. 7, Feb. 4, 2019 (“KCS is the innocent bystander of a promise that UP made but had had no legal right to make.”).

Prescribed Fee in order for BNSF to serve as an effective competitive replacement to Lake Charles shippers. UP's failure to secure KCS's consent to the grant of those trackage rights forced BNSF to institute this proceeding.⁴ Therefore, UP bears responsibility for whatever compensation to KCS the Board deems appropriate. Neither BNSF nor Lake Charles area shippers should be responsible for any shortfall.

BNSF and UP agreed to, and the Board set, a uniform fee level for all BNSF trackage rights service subject to the UP/SP merger conditions so that BNSF could effectively compete on both long-haul and short-haul movements. UP's failure to obtain KCS's consent should not result in BNSF paying more for its use of the Rosebluff Lead trackage rights than the Prescribed Fee.

The Board would frustrate its own carefully calculated conditions, as well as the parties' bargained-for agreements, if the Board were to require BNSF to pay a rate that is greater than the Prescribed Fee for its trackage rights service in conjunction with enabling BNSF to fully implement the Lake Charles Merger Conditions. As noted, Lake Charles area shippers have an independent right under the CMA Agreement and the Lake Charles Merger Conditions to receive direct BNSF service subject to the Prescribed Fee. *See UP/SP Decision No. 44*, 1 S.T.B. at 247 n.15 (striking the "no third-party beneficiary" clauses in the BNSF and CMA

⁴ UP's discovery responses (as well as those of KCS) in this proceeding, relevant excerpts of which are attached to this Opening Statement and Evidence as Attachments 1-3, confirm that UP has shirked its admitted responsibility for over 25 years to take action to secure KCS's consent to the grant of trackage rights to BNSF: (i) UP has not asked KCS for the necessary consent (KCS Response to Interrogatory No. 15 of BNSF First Set of Discovery Requests Related to Compensation to KCS (5/29/2020)); (ii) UP has not initiated a legal action, arbitration or otherwise asserted a claim with respect to the consent provisions (UP Response to Interrogatory No. 3 BNSF Second Round of Discovery Requests (2/20/2015)); and (iii) UP has not even had any conversations (other than conversations that may be protected from disclosure) with KCS concerning the compensation that KCS should receive for BNSF's use of the Rosebluff Lead (UP Response to Request for Admission No. 10 of BNSF's Third Set of Discovery Requests to UP (8/28/2020)).

Agreements, and specifically providing that Lake Charles shippers could enforce the terms of those agreements).

UP should not be permitted to cause BNSF service to Lake Charles area shippers to cost more than service using the Prescribed Fee just because, by its failure to secure KCS's consent, UP forced BNSF to file a terminal trackage rights application. Basic economics dictate that higher costs imposed on BNSF service will make it harder for BNSF to compete with UP and KCS – thereby depriving Lake Charles area customers of the full competition that the Board envisioned when it imposed the Lake Charles Merger Conditions. V.S. Baranowski at 29. Indeed, the Board cannot require BNSF to pay any amount greater than the Prescribed Fee without the Board formally reopening the UP/SP merger conditions and rewriting the CMA Agreement.

Therefore, BNSF now requests that the Board direct: (1) BNSF to pay UP the Prescribed Fee, and (2) UP to pay KCS any amount due to KCS for BNSF cars directly accessing the Rosebluff Lead under existing UP/KCS joint facility agreements governing the Rosebluff Lead, or under any separate compensation terms set by the Board. If the Board ultimately orders BNSF to pay any amount greater than the Prescribed Fee for use of the terminal trackage rights, BNSF reserves the right to seek reimbursement from UP for such amount.

B. The compensation terms set by the Board through this proceeding should apply to all BNSF terminal trackage rights movements on the Rosebluff Lead.

The conclusions and terms regarding compensation that the Board reaches in this proceeding should apply to all BNSF terminal trackage rights movements on the Rosebluff Lead, not just BNSF movements to the Lyondell facility referenced in BNSF's January 2018 petition.

As Mr. Baranowski explains, when conducting direct service operations using the terminal trackage rights, BNSF trains may access as much as { } of the { } miles of Rosebluff Lead trackage. V.S. Baranowski at 17. This includes all Rosebluff Lead track segments jointly owned by KCS and UP over which BNSF may operate to serve customers, including the “connecting trackage” terminating at the Montell Lead at issue earlier in this proceeding. *Id.* at 6; *see Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 8 n.13. The { } miles of relevant track does not include any track in the terminal area not jointly owned by KCS and UP, such as the Montell Lead itself or other privately-owned industry track. V.S. Baranowski at 19.

Shortly after BNSF filed its January 2018 petition, KCS moved to dismiss the petition, arguing that the terminal trackage rights did not permit BNSF to directly serve any shipper facilities other than CITGO. The Board denied the KCS motion and confirmed that the BNSF trackage rights allow BNSF to use the Rosebluff Lead to directly serve Lyondell and all other shipper facilities accessible via the Rosebluff Lead and covered by the Lake Charles Merger Conditions. *BNSF Ry.—Terminal Trackage Rights—Kan. City S. Ry. (Decision No. 4)*, FD 32760 (Sub-No. 46), slip op. at 1, 5-7 (STB served May 4, 2018).

In July 2020, Lyondell concluded a bidding process for its rail transportation business at its Lake Charles facility, choosing to move its business from BNSF to UP beginning January 1, 2021. *See BNSF Pet. 7*, Dec. 18, 2020. BNSF understands that BNSF may have the opportunity to compete again for the Lyondell rail transportation business at Lake Charles in a few years. *Id.* While the conclusions and terms regarding compensation the Board reaches in this proceeding would govern any future BNSF movements to Lyondell, they should also cover BNSF movements to any shipper accessible via the Rosebluff Lead.

Indeed, in addition to CITGO and Lyondell, there are more than a dozen additional shipper facilities accessible via the Rosebluff Lead and covered by the Lake Charles Merger Conditions that BNSF may serve directly using its terminal trackage rights. All of these shippers are entitled to the full benefit of UP's commitment to enable BNSF to serve as a competitive replacement for SP. Therefore, the scope of this proceeding should include all track covered by the Board's grant of terminal trackage rights – namely, all Rosebluff Lead trackage jointly owned by KCS and UP that BNSF may directly operate over to serve shipper facilities accessible via the Rosebluff Lead and covered by the Lake Charles Merger Conditions.

In KCS's Reply to BNSF's Petition to Establish Conditions of Use, filed one week ago on January 19, 2021, KCS argued that BNSF's temporary loss of the Lyondell business means that this compensation proceeding "is no longer ripe," and KCS requested that the Board should hold this proceeding in abeyance (or dismiss it) "until such time as there is a true case or controversy for the Board to decide." This is a patent attempt to further delay these proceedings and impede BNSF's ability to timely bid for future Lyondell business and other shipper business as the occasion arises. BNSF intends to respond in due time, explaining why the Board should reject the KCS request.

For the purposes of this Opening Statement, however, the KCS request illustrates that the Board should affirmatively clarify that the compensation terms it decides here apply to all BNSF terminal trackage rights movements on the Rosebluff Lead. Contrary to KCS's unstated assumption, the controversy here involves more than just access to Lyondell. Indeed, the Board typically sets trackage rights compensation terms to cover all movements by a carrier using the trackage rights, and it should do no different here. *See, e.g., New England Cent. R.R.—*

Trackage Rights Order—Pan Am. S. LLC, FD 35842, slip op. at Appendix A, 3 (STB served Oct. 30, 2017) (setting terms to cover all carrier movements over the line).

If BNSF must return to the Board for a multi-year proceeding to set compensation terms for each customer (including, in the future, Lyondell) that BNSF elects to serve directly, shippers would have no confidence that BNSF could begin direct service upon request in a timely fashion, and the shippers will thus not fully realize the competitive benefits of the Lake Charles Merger Conditions. Any such delays would compromise BNSF's participation in the real-world bidding processes undertaken by Lake Charles area shippers for rail transportation services. Such an approach would also be a gross misuse of the Board's limited administrative resources, particularly given the extensive evidence gathered and to be submitted by the parties in this proceeding regarding all Rosebluff Lead track that BNSF may operate over using its terminal trackage rights.

C. The Board should apply *SSW Compensation* principles to determine the compensation owed to KCS by UP.

While the matter of how much BNSF should pay for its terminal trackage rights movements on the Rosebluff Lead has been settled, the Board has instituted this proceeding to determine how much KCS is owed for such movements. The Board has regularly applied the *SSW Compensation* methodology when setting compensation pursuant to § 11102(a) under the “principle controlling compensation in condemnation proceedings.” The Board should similarly begin its analysis in this proceeding by applying the principles of *SSW Compensation*. Under that methodology, the Board calculates the sum of the following three elements:

(1) the variable cost incurred by the owning carrier due to the tenant carrier's operations over the owning carrier's track; (2) the tenant carrier's usage-proportionate share of the track's maintenance and operation expenses; and (3) an interest rental component designed to compensate the owning carrier for the tenant carrier's use of its capital dedicated to the track.

Decision No. 8, FD 32760 (Sub-No. 46), slip op. at 11.

1. **Under *SSW Compensation* principles, UP should pay KCS for BNSF terminal trackage rights movements just as UP pays KCS today for UP movements.**

The Board has acknowledged that “the *SSW Compensation* method is a flexible approach that can be (and has been) modified to account for the particular facts of each case, including difficulties in valuation, various types of costs, and the specific nature and extent of the line’s use.” *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 16. In applying the principles of *SSW Compensation* here, the Board should consider each component of the methodology in light of five facts unique to this case:

1. UP and KCS are each one-half owners of the Rosebluff Lead, and the two owners have split their ownership and operating rights in half, both geographically (into two zones) and temporally (use of the Rosebluff Yard in 12-hour windows).
2. BNSF will access the Rosebluff Lead under UP’s ownership and operating rights when BNSF makes direct movements using the terminal trackage rights.
3. UP and KCS have long-standing cost-sharing agreements governing compensation paid by each party for each other’s movements on the Rosebluff Lead. These agreements are flexible enough to fully compensate KCS for BNSF’s physical presence.
4. UP is obligated to provide BNSF with direct access over the Rosebluff Lead so that BNSF can serve as a competitive replacement for UP’s predecessor.
5. All parties and the Board agree that UP is only owed the Prescribed Fee for BNSF terminal trackage rights movements.

Due to these unique circumstances, application of the principles of the *SSW Compensation* methodology leads to the conclusion that KCS would be owed no more by UP for BNSF’s use of the terminal trackage rights than KCS would be owed for corresponding UP movements on the Rosebluff Lead. First, BNSF should

pay UP the Prescribed Fee, in the same way that BNSF pays UP switching fees today for BNSF cars to/from Rosebluff Lead shippers. Second, BNSF cars and trains should be treated like UP cars and trains for the purposes of UP's compensation to KCS under their existing joint facility agreements, described in more detail below. Under this approach, UP would fulfill its obligation to provide BNSF with direct access to the Rosebluff Lead by compensating KCS fully for the physical presence of BNSF, and BNSF would continue to pay UP directly at the rate the Board mandated to ensure BNSF competitive service.

The Board has not actually or constructively "condemned" or "taken" any of KCS's property by granting BNSF terminal trackage rights. In setting conditions of use, the Board provided that BNSF will not infringe on KCS's ownership and operating rights by limiting BNSF's movements to UP's 12-hour operating window. *See Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 9. As Mr. Baranowski explains, no KCS trains will operate when and where BNSF trains will operate in terminal trackage rights service. V.S. Baranowski at 20-21. From KCS's perspective, a BNSF train moving through the Rosebluff Yard in the UP operating window will act just as a UP train does today, and KCS will incur no incremental cost as a result of such BNSF movement. Therefore, KCS will incur no loss in the productive value of its one-half interest in the Rosebluff Lead.

Indeed, as Mr. Baranowski describes, there is no reason why compensation should be formulated differently under BNSF's direct service terminal trackage rights operations than under the current arrangement for switching BNSF cars by UP and KCS. V.S. Baranowski at 15. Under the current cost-sharing arrangement, a BNSF car switched by UP is treated the same as a UP car. This is appropriate since the cost to the joint owners does not change based on the identity of the party whose car is using the facility. There is no reason to change the cost-sharing result

simply because BNSF will be providing direct service within the confines of UP's ownership rights.

This outcome is equitable, as KCS will be compensated fully for all incremental costs that KCS will incur as a result of BNSF's terminal trackage rights operations.⁵ Additionally, KCS can seek any additional compensation from UP as a result of UP breaching the consent provisions of the Rosebluff Lead joint facility agreements. As detailed below, this conclusion is also fully consistent with the principles of the *SSW Compensation* methodology.

2. Because BNSF will act exclusively within UP's ownership rights, KCS is owed no additional compensation under the interest rental component of the *SSW Compensation* methodology.

The interest rental component of the *SSW Compensation* methodology is designed to compensate the owning carrier for the tenant carrier's use of its capital dedicated to the track. *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 11. "The interest rental is derived by first multiplying (i) the value of the assets by (ii) a rate of return equal to the current pre-tax nominal cost of capital. Then, the resulting product is apportioned to the tenant carrier according to its percentage of cars traversing the line." *Id.* at 12 n.18.

This case presents two key distinctions that the Board should account for in determining how to treat the interest rental component: (1) BNSF's usage share of the interest rental base, and (2) KCS's joint ownership of the Rosebluff Lead with UP.

⁵ As BNSF explained in February 2019, long-standing federal court and ICC/STB precedent preclude the recovery of "lost profits" or a "market-based access fee" under condemnation principles. See BNSF Reply 12-15, Feb. 25, 2019 (BNSF-140). In addition, condemnation principles do not provide for the consideration of components of compensation such as delay charges, so-called "spillover" effects, and increased operating costs. See BNSF Rebuttal 5, July 16, 2018 (BNSF-138); BNSF Suppl. 5-8, Feb. 4, 2019 (BNSF-139).

The development of BNSF's usage share of the interest rental base should directly reflect how (and whether) BNSF will actually use KCS's portion of the property interest. If, as here, BNSF operates within the existing ownership interest of UP, BNSF uses none of the KCS ownership interest for which KCS would be entitled to compensation.

If it were necessary to calculate the interest rental component, one must develop an annual amount of rent associated with the entire value of the trackage assets. *See* V.S. Baranowski at 25-26. In past cases, where joint owners have not already determined how to allocate ownership and operating rights, this amount is then allocated among the owner and tenant proportional to usage to develop the actual fees the tenant would pay. *See id.* In most past *SSW Compensation* proceedings, the Board based such usage allocation of the annual interest rental amount on the relative percentages of traffic of a single incumbent and a single tenant. *See, e.g., New England Cent. R.R.—Trackage Rights Order—Pan Am. S. LLC*, FD 35842, slip op. at 3; Appendix A, 3.2.

In this case, however, the Board must account for the facts that: (1) UP and KCS have already determined how to split their ownership and operating rights between them, and (2) BNSF will only use UP's portion of UP's and KCS's joint ownership and usage rights. As discussed above, in conducting its terminal trackage rights service exclusively under UP's ownership and operating rights, BNSF will effectively sublet exclusively from UP's one-half ownership share in the Rosebluff Lead, and BNSF's direct operations will have no meaningful impact on KCS's ownership rights. *See* V.S. Baranowski at 15. In other words, BNSF's usage share of KCS's property rights is zero. *Id.* Since BNSF does not, and will not, use a portion of KCS's property interest, there is no reason to calculate the interest rental component of the *SSW Compensation* methodology.

However, if it was necessary to calculate an interest rental component, the interest rental base itself should reflect fifty percent of the valuation of the Rosebluff Lead, due to KCS's joint and equal ownership of the line with UP. Mr. Baranowski testifies that the Replacement Cost New Less Depreciation ("RCNLD") approach is the most appropriate methodology for determining the value of the Rosebluff Lead, because it provides an objective measure of the value of the track. V.S. Baranowski at 18.

Based on the reproduction cost estimate and condition assessment performed by Mr. Boileau and the real estate appraisal performed by Mr. Pitts, Mr. Baranowski calculated the KCS interest rental base as { } – one-half of the total RCNLD valuation of the relevant Rosebluff Lead assets. *See id.* at 25. Applying these inputs to the *SSW Compensation* methodology, Mr. Baranowski explains that the Board would need to multiply the value of the KCS assets ({ }) by a rate of return equal to the current pre-tax nominal cost of capital ({ }), resulting in an annual interest rental amount of { } . V.S. Baranowski at 26. However, this number is only relevant if the Board determines that BNSF will use any portion of KCS's ownership interest in the Rosebluff Lead, and the Board's express limitation in *Decision No. 8* precludes BNSF from doing so. Because BNSF has established here that its usage share of KCS's property rights will be zero, the Board should apportion none of that annual interest rental amount to BNSF's operations.

This result is fully consistent with the principles of the *SSW Compensation* methodology, as applied to the unique facts of this case. Because BNSF cars will count towards UP's account when BNSF runs trains using its terminal trackage rights, and because BNSF's operations will not impact KCS's exercise of its one-half ownership interest in the Rosebluff Lead, BNSF will not "use" any portion of KCS's property. Indeed, BNSF has had commercial access to Rosebluff Lead customers for

nearly twenty-five years via UP and KCS reciprocal switch, and KCS has not requested or been paid any “interest rental” or similar equivalent for such access. The same should remain true here.

3. The maintenance and operation component of the *SSW Compensation* methodology should be calculated using existing UP/KCS cost-sharing agreements.

Mr. Baranowski concludes that the Board should compensate KCS for the maintenance and operation component of the *SSW Compensation* methodology using the existing KCS/UP cost-sharing agreements regarding the Rosebluff Lead. V.S. Baranowski at 3.

In *Decision No. 8* in this proceeding, the Board discussed UP’s and KCS’s joint ownership and operation of the Rosebluff Lead and the Rosebluff Yard through which the Rosebluff Lead runs. *See Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 5. Mr. Baranowski further summarizes the relevant agreements between UP and KCS that govern the two carriers’ relationship with respect to the Rosebluff Lead. *See* V.S. Baranowski at 5-8[]. {

} . *See* V.S. Baranowski at 16.

BNSF currently serves Lake Charles area shippers accessible via the Rosebluff Lead through reciprocal switching. *See Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 5. BNSF pays UP handling, haulage, and switching fees for these services. *See* BNSF Suppl. 5-6, Feb. 4, 2019 (BNSF-139). UP directly moves BNSF cars to Zone 2 customers. Following delivery by UP at Rosebluff Yard, KCS moves BNSF cars destined to Zone 1 customers. In each case, UP includes BNSF cars as

part of UP's loaded car count for the UP/KCS maintenance expense sharing regime described above.

Mr. Baranowski explains that {

} would fully compensate KCS for the maintenance and operation component of the *SSW Compensation* methodology. V.S. Baranowski at 21. Mr. Baranowski further explains that this approach is aligned with the *SSW Compensation* usage-based maintenance approach, and it has the advantage of being based on actual maintenance and operation costs and volume levels, rather than projections based on historical levels. *Id.* Mr. Baranowski also identifies difficulties in accurately establishing levelized maintenance and operation costs due to historical spending fluctuations, among other issues. *Id.*

In the event that the Board decides instead to override the existing cost-sharing arrangement and establish fixed maintenance and operation compensation levels for BNSF's direct service cars in the way that the Board has done in prior *SSW Compensation* proceedings, Mr. Baranowski develops the applicable fee that properly accounts for KCS's joint ownership. As he explains, this requires including half of total maintenance and operation costs in the KCS allocation. V.S. Baranowski at 24. Mr. Baranowski further explains that the Board should include only maintenance costs associated with the Rosebluff Lead trackage that BNSF's direct service operations may potentially use, which he determines is { } of the { } total miles of Rosebluff Lead trackage. *Id.* at 23.

Applying these principles, Mr. Baranowski has developed an annual total maintenance and operation level of {{ }}, a share of which would be allocated to BNSF proportional to its usage when developing the applicable fee for the maintenance and operation component. V.S. Baranowski at 24. Mr. Baranowski

develops this figure using 2017 to 2019 normalized routine maintenance and operation costs and by deriving an estimate of capital maintenance costs from the reproduction cost new estimate prepared by Mr. Boileau. This amount also includes an appropriate share of state and local tax payments, estimated to be {{ }}.

Id.

If the Board used this calculated fee to assess the costs attributable to BNSF's direct service cars, in effect over-riding the existing cost-sharing arrangement for those cars, it is unclear how KCS and UP would share the costs of the remaining operations on the jointly-owned assets. There would be a mismatch between a regulatory calculation of the costs of BNSF direct service cars and the existing cost-sharing calculations that UP and KCS have long used for other traffic. The difficulties in reconciling a regulatory calculation of costs with longstanding UP/KCS cost-sharing arrangements would be exacerbated if the Board included an interest rental component that is completely inconsistent with the way UP and KCS now treat ownership costs. These complications and the resulting regulatory override of the existing cost-sharing approach are entirely unnecessary, since the Board could simply adopt the existing cost-sharing arrangement as full satisfaction of the *SSW Compensation* principles.

In any event, regardless of how the Board calculates the maintenance and operation compensation for BNSF operations, the Board should require UP – not BNSF – to pay these costs, in accordance with the principles described above.

4. KCS will not incur any variable costs as a result of BNSF's terminal trackage rights operations.

Mr. Baranowski begins his evaluation of the variable cost component of the *SSW Compensation* methodology by describing how the existing UP/KCS cost-sharing mechanism for switches performed in their respective zones of operation

identify all of the variable costs of access that the parties agree to share. V.S. Baranowski at 8-9. Mr. Baranowski explains that it is appropriate to limit the variable cost component of the *SSW Compensation* methodology to those variable costs incurred by KCS as a result of BNSF's direct service operations. *Id.* at 16.

Based on his review of existing cost-sharing arrangements, the information produced by KCS and UP in response to BNSF's discovery requests, and the effect of BNSF's direct service on KCS's and UP's existing operations, Mr. Baranowski concludes that KCS would not incur any variable costs as a result of BNSF's direct service operations. V.S. Baranowski at 20. Furthermore, Mr. Baranowski notes that any dispatching services for BNSF trains would be provided by UP. *Id.* Accordingly, the variable cost component of the *SSW Compensation* methodology should be zero.

5. The Board should convert the annual amounts calculated using the *SSW Compensation* methodology to usage fees.

If the Board were to override the existing cost-sharing arrangement and assess the costs associated with BNSF's direct usage of the Rosebluff Lead under an alternative, from-the-ground-up *SSW Compensation* calculation, the final step in the *SSW Compensation* methodology process would be converting the annual amounts developed for the required components into a fee per unit of usage.

Mr. Baranowski developed operating statistics that the Board may use to determine the per gross-ton-mile fees for any applicable interest rental, maintenance and operation, or variable cost components of the *SSW Compensation* methodology that the Board may determine should be due to KCS for BNSF's direct usage of the Rosebluff Lead. V.S. Baranowski at 26. According to Mr. Baranowski, the gross-ton-mile metric: (1) appropriately reflects the particular usage of BNSF's specific direct service operations over the Rosebluff Lead, (2) is consistent with the gross-ton-miles basis of BNSF's Prescribed Fee payments to UP, and (3) is aligned

with current railroad industry practices. *Id.* at 26-27. Mr. Baranowski explains that it would be appropriate for the Board to base any operating statistics on normalized historical levels over the longest time frame possible, or from 2014 to 2019 in this case. *Id.* at 27.

Using these figures, Mr. Baranowski developed the following table depicting a fee structure that applies the principles and analysis described above to each of three scenarios: (1) the existing UP/KCS cost-sharing arrangements, (2) BNSF only operating within the ownership interest of UP, and (3) BNSF operating within an ownership interest that is independent of the ownership interest of UP and KCS.⁶ Consistent with the Board’s past practice, Mr. Baranowski states that it would be reasonable for the Board to adjust these fees annually by the percentage change in the Quarterly Material Prices and Wage Rates (“QMPW”) index published by the Association of American Railroads. *See, e.g., New England Cent. R.R.—Trackage Rights Order—Pan Am. S. LLC*, FD 35842, slip op. at Appendix A, 3.

Summary of SSW Compensation to KCS, Per Gross Ton-Mile			
Fee Component	Existing Cost-Sharing Arrangements	Outside Existing Arrangements and Within UP Ownership Rights	Outside Existing Arrangements and No UP Ownership Rights Restriction
Variable Costs	N/A	\$0.0000	\$0.0000
Maintenance and Operating Costs	N/A	{{ }}	{{ }}
Interest Rental	N/A	\$0.0000	{{ }}
Total Compensation	See note ⁷	{{ }}	{{ }}

⁶ As explained above, this latter scenario is not consistent with either the agreements and conditions imposed by the Board in the UP/SP merger, which allowed BNSF to act within UP’s ownership rights to preserve competition lost by the merger, or with the approach already used by UP and KCS to allocate ownership and operating rights.

⁷ The existing UP/KCS cost-sharing arrangements cannot readily be translated to a gross-ton-mile compensation figure owed to KCS for comparison to the figures calculated using the SSW *Compensation* methodology. However, as described above, the existing UP/KCS cost-sharing

IV. Conclusion

The compensation terms set by the Board in this proceeding should apply to all of BNSF terminal trackage rights movements over the Rosebluff Lead, and the scope of this proceeding should include all track covered by the Board's grant of terminal trackage rights – namely, all Rosebluff Lead trackage jointly owned by KCS and UP that BNSF may directly operate over to serve shipper facilities accessible via the Rosebluff Lead and covered by the Lake Charles Merger Conditions.

All parties and the Board agree that, to compensate UP and KCS for BNSF's terminal trackage rights operations: (1) UP is owed nothing more than the Prescribed Fee, and (2) KCS is entitled separately to some level of compensation under § 11102(a). Additionally, BNSF has established that UP must pay KCS any separate compensation set here by the Board. UP voluntarily and knowingly chose to proceed with the UP/SP merger and to provide BNSF with direct service trackage rights to the Rosebluff Lead at the Prescribed Fee without first obtaining the consent of KCS. The merger condition that UP agreed to in order to consummate its merger made UP responsible at its expense to place BNSF in the shoes of UP on this line as the replacement for SP, and UP should not be permitted to evade that responsibility. In fact the record establishes that UP has taken no action for nearly 25 years to seek the necessary consent or to otherwise resolve KCS's claims.

Furthermore, the principles of the *SSW Compensation* methodology, as applied to the unique facts of this proceeding, dictate that the amount owed to KCS should be calculated under the existing UP/KCS cost-sharing agreements for the Rosebluff Lead. BNSF cars and trains should be treated just like UP cars and trains for these purposes. If the Board decides to substitute a regulatorily-based

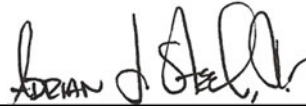
arrangements would fully compensate KCS for all incremental costs that KCS will incur as a result of BNSF's terminal trackage rights operations.

compensation calculation for the existing cost-sharing agreements, BNSF has provided the inputs and analysis necessary for the Board to calculate compensation owed to KCS under the traditional *SSW Compensation* methodology.

This result is fair to all parties. It fully protects the rights of Lake Charles area shippers to the competitive direct service they sought and were promised. KCS will receive the compensation to which it is entitled under the *SSW Compensation* methodology. BNSF will pay the trackage rights fee to which UP, BNSF, and CMA agreed and which was imposed by the Board. And UP will be held responsible for its refusal to take action to provide the trackage rights that it promised.

If KCS believes that it is entitled to more than the *SSW Compensation* methodology amount under the terms of its Joint Facility Agreements with UP, KCS can seek that amount by asserting a claim against UP in arbitration or litigation. KCS may well be entitled to such additional compensation for UP's breach of the Joint Facility Agreement consent provisions, but the Board should not countenance KCS's attempt to induce the Board to require BNSF to pay such additional compensation through this proceeding.

Respectfully submitted,



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Dated: January 26, 2021

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

APPENDIX

Timeline of Key Events

Timeline of Key Events

- **September 24, 1995, November 18, 1995, and June 27, 1996:** UP/SP and BNSF entered into settlement agreements intended to address competitive issues raised by the merger of UP and SP (collectively, the “BNSF Agreement”). *See Decision No. 3*, slip op. at 2.
- **April 18, 1996:** CMA Agreement, which includes BNSF’s right to serve Lake Charles shippers, is entered into between UP/SP, BNSF, and the Chemical Manufacturers’ Association. *See id.* at 2-3.
- **August 12, 1996:** STB approved merger between the rail carriers controlled by UP and the rail carriers controlled by SP, imposing the BNSF Agreement, the CMA Agreement, and the Lake Charles Merger Conditions as conditions to the merger approval. *See UP/SP Decision No. 44*, 1 S.T.B. 233, 241 (1996).
- **December 4, 1996:** The Board denied KCS’s petition to reopen and reconsider *UP/SP Decision No. 44* and the BNSF access rights granted through the Lake Charles Merger Conditions. *See UP/SP Decision No. 63*.
- **1996 to Present:** BNSF serves shippers on the Rosebluff Lead via reciprocal switching from UP. *See Decision No. 3*, slip op. at 4.
- **May to December 2012:** BNSF elected to institute direct service to CITGO at Lake Charles after CITGO sought direct single-line service from BNSF. KCS prevented BNSF from providing the service. *Id.* at 4.
- **February 27, 2013:** BNSF filed a terminal trackage rights application with the Board, arguing that “KCS and UP continued to block BNSF direct access to shippers at West Lake Charles despite months of negotiation.” *Id.*
- **July 5, 2016:** The Board issued *Decision No. 3*, granting BNSF terminal trackage rights over the Rosebluff Lead to facilitate BNSF’s direct access to Lake Charles area shippers and implement the Lake Charles Merger Conditions. *Id.* at 9-13.
- **January 12, 2018:** After BNSF, KCS, and UP could not agree to terminal trackage rights terms, BNSF requested that the Board establish conditions of use and compensation for BNSF service using its terminal trackage rights. *Decision No. 4*, slip op. at 1.
- **May 4, 2018:** *Decision No. 4* issued, which stated “BNSF’s trackage rights over the Rosebluff Lead applied to all customers accessible via the Rosebluff Lead and covered by the Lake Charles Merger conditions, including Lyondell, and that the Board’s findings in *Decision No. 3* under § 11102(a) were not limited to BNSF’s service to the CITGO facility.” *Id.* at 5-7.

- **February 21, 2020:** Board established conditions of use, set forth a procedure for establishing compensation for such trackage rights, and ordered the parties to submit a joint procedural schedule to govern discovery and briefing on the remaining issues regarding compensation by March 16, 2020. *See BNSF Ry.—Terminal Trackage Rights—Kan. City S. Ry. (Decision No. 8)*, FD 32760 (Sub-No. 46), slip op. at 1, 17 (STB served Feb. 21, 2020).

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

ATTACHMENT 1

KCS Response to Interrogatory No. 15 of BNSF First Set of
Discovery Requests Related to Compensation to KCS
(5/29/2020)

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May 29, 2020

VIA E-MAIL

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Re: BNSF Railway Company – Terminal Trackage Rights – The Kansas City
Southern Railway Company and Union Pacific Railroad Company, FD 32760
(Sub-No. 46)

Dear Gentlemen:

Enclosed please find The Kansas City Southern Railway Company's ("KCSR") Written Responses and Objections ("KCSR's Response") to "BNSF's First Set of Discovery Requests Related to Compensation to KCS." The documents being produced are subject to the Protective Order ("Order") issued on December 18, 2014, in this proceeding. If there are any questions concerning KCSR's Response, please contact me at the address and phone listed above or at wmullins@bakerandmiller.com. If I am not available, please contact my associate, Crystal Zorbaugh, at 202-663-7831 or czorbaugh@bakerandmiller.com.

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins

cc Michael L. Rosenthal
Judge Thomas McCarthy (w/o documents)
Paul Hemmersbaugh (w/o documents)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 32760 (SUB-NO. 46)

**BNSF RAILWAY COMPANY
-- TERMINAL TRACKAGE RIGHTS --
THE KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY**

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY'S
WRITTEN RESPONSES AND OBJECTIONS TO BNSF'S FIRST SET OF DISCOVERY
REQUESTS RELATED TO COMPENSATION TO KCS**

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**Attorneys for The Kansas City Southern
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Dated: May 29, 2020

provide such documents, if any, are located. KCSR refers BNSF to documents KCS-C-0484-KCS-C-0486, KCS-HC-3746-KCS-HC-3761, KCS-HC-3831-KCS-HC-3839, KCS-HC-7598-KCS-HC-7600, KCS-HC-7658-KCS-HC-7667, KCS-HC-7890-KCS-HC-7895, and KCS-HC-7904 as potentially relevant to this request.

15. With no date limitation, has UP requested KCS's consent for the UP conveyance of trackage rights to BNSF on the Rosebluff Lead? If so, identify all such requests and state how KCS responded and identify all Documents and Communications relating to UP's request(s) and KCS's response(s).

RESPONSE:

Subject to and without waiving the General Objections set forth above, particularly General Objection No. 21, related to BNSF's unlimited timeframe, based on documents in KCSR's possession and information known to KCSR, UP has not requested KCSR's consent for the UP conveyance of trackage rights to BNSF on the Rosebluff Lead.

KCSR continues to search for non-privileged documents and to the extent said documents are not otherwise subject to objection, KCSR will provide such documents, if any, are located.

16. State, with no date limitation, whether KCS has initiated a legal action, arbitration or otherwise asserted a claim against UP with respect to the provisions of the Joint Facilities Agreements which KCS asserts require KCS's consent for the grant of trackage rights on the Rosebluff Lead by UP to BNSF. If so, identify each such legal action, arbitration or claim and state the result thereof and identify all Documents and Communications relating thereto. If KCS has not initiated or asserted any such legal action, arbitration or claim, explain why KCS has not done so and identify all Documents and Communications relating to KCS's reasons for not doing so.

RESPONSE:

Subject to and without waiving the General Objections set forth above, particularly General Objection No. 21, related to BNSF's unlimited timeframe, since the UP/SP merger both BNSF has had competitive access to the Lyondell facility via a UP reciprocal switch/haulage arrangement. Given that BNSF service to Rosebluff Lead shippers was provided via UP

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

ATTACHMENT 2

UP Response to Interrogatory No. 3 BNSF Second Round of
Discovery Requests (2/20/2015)

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
–TERMINAL TRACKAGE RIGHTS–
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

**UNION PACIFIC'S OBJECTIONS AND RESPONSES
BNSF'S FIRST SET OF INTERROGATORIES AND
SECOND SET OF DOCUMENT REQUESTS TO UP**

Union Pacific Railroad Company responds to BNSF's First Set of Interrogatories and Second Set of Document Requests to UP, dated February 5, 2015, as follows:

GENERAL RESPONSES

The following General Responses apply to each of BNSF's interrogatories and document requests:

1. Where Union Pacific states that it will produce documents, Union Pacific will conduct a reasonable search for responsive, non-privileged documents, subject to any other qualifications specified in its response.
2. Production of documents does not necessarily imply that they are relevant to or admissible in this proceeding and is not to be construed as waiving any of the general or specific objections stated below.
3. Union Pacific has not secured verifications of the answers to interrogatories in this document. Union Pacific is prepared to discuss this matter with BNSF with respect to any particular answer.

UP's request for consent. If UP has not sought KCSR's consent, explain why UP has not done so.

Union Pacific Response:

Union Pacific objects to the interrogatory as overbroad and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information about Union Pacific's requests for consent for conveyance of rights to BNSF on the "Trackage Rights Lines" rather than the "Rose Bluff Industrial Lead." Subject to and without waiving its objections, Union Pacific states that it has sought repeatedly to facilitate discussions among Union Pacific, BNSF, and KCSR regarding BNSF's interest in operating its own trains over the Rose Bluff Industrial Lead.

Interrogatory No. 3

State whether UP has initiated a legal action, arbitration or otherwise asserted a claim against KCSR with respect to the provisions of the Joint Facility Agreements which KCSR claims require consent for the grant of any or all of the Trackage Rights by UP to BNSF. If so, identify such legal action, arbitration or claim. If not, explain why UP has not done so.

Union Pacific Response:

Union Pacific objects to the interrogatory to the extent it offers an incomplete and/or inaccurate characterization of KCSR's "claims." Union Pacific further objects to the interrogatory to the extent it assumes that Union Pacific should have initiated a legal action, arbitration, or otherwise asserted a claim against KCSR with respect to the provisions of the Joint Facility Agreements. Subject to and without waiving these objections, Union Pacific states that it has not initiated a legal action, arbitration, or otherwise asserted a claim against KCSR with

respect to the provisions of the Joint Facility Agreements, especially in the absence of any request from BNSF.

Interrogatory No. 4

Identify with specificity each segment of track in the Lake Charles Area that UP believes is subject to each Joint Facility Agreement, and identify all maps or other documents depicting all such trackage identified by which Joint Facility Agreement is applicable.

Union Pacific Response:

Union Pacific objects to the interrogatory as overbroad and as seeking information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks information about track segments other than the Rose Bluff Industrial Lead. Subject to and without waiving its objections, Union Pacific will produce responsive documents, to the extent they have not already been produced, which speak for themselves.

Interrogatory No. 5

Describe in detail the current operations on the Rosebluff Industrial Lead and Rosebluff Yard, including the schedule for operations and routing of UP and KCSR trains, and state whether UP or KCSR has an “operating plan” for the Rosebluff Industrial Lead or Rosebluff Yard. Identify all documents reflecting or relating to such operations or plans.

Union Pacific Response:

Union Pacific objects to the interrogatory as compound, as seeking information that is not within Union Pacific’s custody or control, and as premature. Subject to and without waiving its objections, Union Pacific states that its reply evidence will contain a description of current operations on the Rose Bluff Industrial Lead and in Rose Bluff Yard. Union Pacific also refers BNSF to the documents produced in response to BNSF’s First Set of Document Requests.

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

ATTACHMENT 3

UP Response to Request for Admission No. 10 of BNSF's
Third Set of Discovery Requests to UP (8/28/2020)

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
–TERMINAL TRACKAGE RIGHTS–
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

**UNION PACIFIC’S OBJECTIONS AND RESPONSES
TO BNSF’S THIRD SET OF DISCOVERY REQUESTS
RELATED TO COMPENSATION TO UP**

Union Pacific Railroad Company responds to BNSF’s Third Set of Discovery Requests
Related to Compensation to UP, dated August 13, 2020, as follows:

GENERAL RESPONSES

The following General Responses apply to each of BNSF’s discovery requests:

1. Where Union Pacific states it will produce documents, Union Pacific will conduct a reasonable search for responsive, non-privileged documents, subject to any other qualifications specified in its response. Union Pacific will produce only documents that already exist in Union Pacific’s possession and will produce those documents in the format in which they are maintained in the ordinary course of business, unless otherwise indicated.
2. Production of documents does not necessarily imply they are relevant to or admissible in this proceeding and is not to be construed as waiving any of the general or specific objections stated below.

how the parties should attempt to resolve disputes over BNSF's access to the Rosebluff Lead, and that when BNSF expressed a desire to operate over the Rosebluff Lead using trackage rights in 2012, Union Pacific sought repeatedly to facilitate discussions among Union Pacific, BNSF, and KCS. After reasonable inquiry, Union Pacific is unable to admit or deny Request for Admission No. 7. However, Union Pacific is continuing to review archived documents. Once that review is completed, Union Pacific will supplement this response if necessary.

Request for Admission No. 8:

Admit that UP has breached the consent provisions of the Joint Facility Agreements.

Union Pacific Response:

Denied.

Request for Admission No. 9:

Admit that neither UP or KCS has initiated or asserted any legal action, arbitration, demand, or other claims against the other with respect to the consent provisions of the Joint Facility Agreements.

Union Pacific Response:

Admitted, with the exception of the KCS-initiated proceedings that produced Decision No. 63.

Request for Admission No. 10:

Admit that UP has not had any discussion, communication or agreement with KCS (other than in connection with the Surface Transportation Board-ordered mediations) concerning the compensation which KCS should receive for BNSF's use of the Rosebluff Lead pursuant to the terminal trackage rights, including the allocation between UP and BNSF of the payment of such compensation.

Union Pacific Response:

Union Pacific admits it has not had any discussions with KCS concerning the compensation which KCS should receive for BNSF's use of the Rosebluff Lead pursuant to the

terminal trackage rights, other than discussions that are privileged or otherwise protected from discovery under Surface Transportation Board rules and practices.

Request for Admission No. 11:

Admit that UP will incur no additional costs on the Rosebluff Lead or elsewhere as the result of BNSF's direct service trains.

Union Pacific Response:

Denied.

Request for Admission No. 12:

Admit that UP will incur no "spill-over" effects (as that term is used by UP in its pleadings in this proceeding) on the Rosebluff Lead or elsewhere as the result of BNSF's direct service trains.

Union Pacific Response:

Denied.

INTERROGATORIES

Interrogatory No. 1 [17]:

Identify, from 2015 to present, which portions of the Rosebluff Lead (including the Rosebluff Yard) UP is responsible for maintaining.

Union Pacific Response:

Union Pacific maintains the Rosebluff Lead beginning at approximately milepost 2.8, at the south end of the structure that carries the Rosebluff Lead over the Maple Fork Bayou, and continuing south to the end of the Rosebluff Lead.

Interrogatory No. 2 [18]:

Regarding operating expenses in Document Request #24 of BNSF's First Set of Discovery Requests Related to Compensation to UP, UP stated it will produce "documents sufficient to show the requested information." BNSF has identified various responsive documents including UP invoices to KCS for expenses related to maintaining the Rosebluff Lead, e.g., UP-COMP-008162 and summaries of various operating expenses for Rosebluff Lead operations in UP-COMP-024028. Do these documents contain all operating expenses incurred by UP related to the Rosebluff Lead? If not, explain and provide information on the total operating expenses incurred.

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

EXHIBIT A

Verified Statement of Michael R. Baranowski

PUBLIC

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

APPLICATION FOR TERMINAL TRACKAGE RIGHTS

**OPENING STATEMENT AND EVIDENCE ON COMPENSATION
VERIFIED STATEMENT OF**

MICHAEL R. BARANOWSKI

JANUARY 26, 2021

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I. Introduction

I am Michael R. Baranowski, a Senior Managing Director at FTI Consulting and the head of FTI's Network Industries Strategies group within the Economic Consulting division. I have over thirty years of experience in analyzing railroad traffic and revenue patterns, evaluating railroad operations, analyzing railroad data, calculating and projecting the costs of providing railroad service, analyzing contribution and profitability, analyzing damage claims, and determining the reasonableness of railroad rates and charges. I have testified numerous times before the Surface Transportation Board ("STB"), arbitration panels, and other federal and state regulatory agencies regarding economic issues related to transportation. I submitted a Rebuttal Verified Statement in this proceeding on October 23, 2015 (Application Rebuttal V.S.), a Verified Statement in support of the petition filed by BNSF Railway Company ("BNSF") in this proceeding on January 12, 2018 (Petition V.S.), and a Rebuttal Verified Statement in support of BNSF's petition in this proceeding on July 16, 2018 (Petition Rebuttal V.S.). A copy of my Curriculum Vitae is included as Exhibit MRB-1.

My previous testimony included determining from available data the operational capacity of the Rosebluff Lead and Rosebluff Yard to accommodate BNSF's direct service as well as analyzing measures of market share and costs of access. In prior decisions, the STB has confirmed BNSF's direct service access rights to customers on the Rosebluff Lead and Rosebluff Yard (collectively, "Rosebluff Lead" or "Lead") and set conditions of use for BNSF's direct service. In its most recent decision approving BNSF's conditions of use, the STB recognized the next and final step was to determine the appropriate compensation due The Kansas City Southern Railway Company ("KCS") for BNSF's exercise of these rights. The STB has stated that the

compensation determined in this proceeding will be set based on “the principles controlling compensation in condemnation proceedings, including *SSW Compensation*.”¹

Accordingly, I have been asked by counsel for BNSF to determine the appropriate compensation due KCS when BNSF exercises its direct service access right to the Rosebluff Lead customers via trackage rights under the conditions of use imposed by the STB. My determination considers the unique circumstances applicable to this case that distinguish it from other terminal trackage rights proceedings under the *SSW Compensation* methodology.

Based on my review of the relevant materials, I have concluded that the applicable circumstances of UP and KCS joint ownership of the Rosebluff Lead and the conditions of BNSF direct access need to be considered in the determination of any compensation due KCS. These unique circumstances necessitate adjustments to the standard *SSW Compensation* methodology to account explicitly for the following:

- Union Pacific Railroad Company (“UP”) and KCS are each one-half owners of the Rosebluff Lead.
- BNSF will access the Rosebluff Lead under UP’s ownership and operational rights when it makes direct movements using its terminal trackage rights.
- UP and KCS have long-standing cost-sharing agreements to govern compensation paid by each party for each other’s movements on the Rosebluff Lead.

Two other relevant factors inform the application of the *SSW Compensation* methodology in this case. First, I understand that BNSF and UP have agreed to compensation terms for BNSF

¹ See *BNSF Ry.—Terminal Trackage Rights—Kan. City S. Ry. (Decision No. 8)*, FD 32760 (Sub-No. 46), slip op. at 15-16 (STB served Feb. 21, 2020) (“In a subsequent decision, the Board will set compensation based on an application of the Prescribed Fee and the principles controlling compensation in condemnation proceedings, including *SSW Compensation*.”). The Board further noted its “pledge to set appropriate compensation under the Prescribed Fee and condemnation principles fulfills the alternative requirement in § 11102(a) that compensation be ‘adequately secured’ before commencement of terminal trackage rights operations.” *Id.* at 17 (citing *S. Pac. Transp. Co. v. ICC*, 736 F.2d 708, 723-24 (D.C. Cir. 1984)).

direct access to the Rosebluff Lead. Specifically, BNSF will pay UP the Prescribed Fee which is gross-ton-mile based, for carloads accessing the Rosebluff Lead directly. Second, BNSF currently accesses the Rosebluff Lead via a reciprocal switching arrangement with UP. Under this arrangement, KCS is compensated for BNSF access under existing UP and KCS cost-sharing agreements in effect for the Rosebluff Lead. Under these agreements, BNSF's cars accessing the Lead via reciprocal switch accrue to UP's account for cost sharing purposes, and KCS is compensated for all related costs.

Based on these circumstances and facts, I have concluded that the compensation due KCS under the *SSW Compensation* methodology for BNSF's trackage rights should continue to be based on the existing cost-sharing arrangement between KCS and UP. Such cost-sharing arrangements for this line were first established in a 1948 Agreement between the joint owners and have been updated over the years as conditions warranted. The agreement currently in effect provides a mechanism for compensating each joint owner for any variable costs and maintenance and operating expenses incurred in a manner that is consistent with the provisions outlined in the Board's *SSW Compensation* methodology. Further, the unique circumstances of BNSF's direct access satisfy the requirement of the *SSW Compensation* methodology to compensate the owner for its ownership interest. Under the current Rosebluff Lead cost-sharing arrangements, UP and KCS do not compensate one another for their respective 50 percent ownership stakes. The Board has constrained the direct access it granted BNSF to require BNSF to work within UP's ownership rights by limiting its access to UP's 12-hour operating window. As such, KCS's ownership rights are not affected by BNSF direct access, and it is due no compensation for interest rental.

The use of the existing cost-sharing agreements to compensate the joint owners of the Rosebluff Lead for BNSF access that I have outlined here is already in place for BNSF's existing service to Rosebluff Lead customers via reciprocal switch and should remain in place for BNSF's service to Rosebluff Lead customers via direct service.

Alternative Compensation Methodology

I have also been asked by counsel to assess the compensation due KCS for BNSF direct access under an alternate application of the *SSW Compensation* methodology, should the Board determine that BNSF's cars accessing the Rosebluff Lead via direct access should be considered differently than BNSF cars currently accessing the Lead via reciprocal switch. Again, taking account of the unique circumstances here, I apply the *SSW Compensation* methodology for variable costs, maintenance and operating expenses, and interest rental in the context of BNSF direct access. Specifically, for variable costs and maintenance and operating expenses, I develop estimates of relevant costs based on actual cost information produced by UP and KCS in response to BNSF discovery requests. For interest rental, I determined that the appropriate approach for establishing the value of the Rosebluff Lead is Reproduction Cost New Less Depreciation ("RCNLD"). I then determined the level of any compensation due KCS based on BNSF direct service operations. Details of my evaluation and analysis are included below.

Section II describes the configuration of the Rosebluff Lead and the agreements governing operations and cost-sharing between the joint owners. Section III summarizes the *SSW Compensation* methodology. Section IV explains the specific application of the principles of the *SSW Compensation* methodology to the present circumstances. Section V describes the scope and methodology for the development of the interest rental valuation. Section VI provides the

detailed steps of how I developed compensation. Section VII summarizes the resulting fee structure for compensation due KCS.

II. Description of the Rosebluff Lead

A. Configuration and Operations of Rosebluff Lead

The Rosebluff Lead trackage includes an approximately 9-mile single running track,² the Rosebluff Yard and certain railroad-owned tracks connecting with privately owned industry tracks in the Lake Charles, LA area. The Rosebluff Lead connects KCS's railroad line and UP and BNSF's jointly owned 50/50 mainline to the facilities of railroad customers in West Lake, LA and West Lake Charles, LA. Approximately one-half mile south of where the Rosebluff Lead connects to KCS's and UP/BNSF's railroad lines, the running track passes through the middle of the Rosebluff Yard, which contains five yard tracks. This is depicted on Exhibit MRB-2.

The northernmost four miles of the Rosebluff Lead and parts of the Rosebluff Yard were built in the early 1940s by the Army Corps of Engineers during World War II to provide railroad access for industrial plants owned and operated by the Defense Plant Corporation (DPC). After the war, KCS and T&NO (UP/SP predecessor) ("joint owners") purchased the Rosebluff Lead from DPC in 1947, each with a 50% ownership share, for a total fee of { }.³

The joint owners entered into an agreement on March 29, 1948 ("1948 Agreement") establishing terms of joint operations and financial obligations for their shared use of Rosebluff Lead. This agreement stipulates that the joint owners possessed joint and equal rights and could not { } without the consent of the other. Under this agreement, each of the joint owners could serve any customers located on the

² Referred to also as the "Rosebluff Lead."

³ KCS-C-0454 at KCS-C-0473.

Rosebluff Lead, and operational responsibility would rotate every two years. In other words, KCS would switch both its loaded cars and T&NO's loaded cars to Rosebluff customers for two years, and T&NO would pay KCS an agreed upon fee for each loaded car switched on its behalf, and then the parties would reverse roles for the next two years. Regardless of which joint owner had operational responsibility at the time, {

}.⁴

In 1952, the joint owners built an approximately 4-mile extension to the Rosebluff Lead to access additional industrial plants being built in the area. Ownership, operating rights and financial terms for the new extension were incorporated under the terms of the 1948 Agreement.⁵ Various other tracks extending the Rosebluff Lead to other customers built by the joint owners over the years were also incorporated under the 1948 Agreement.⁶ These jointly owned track extensions include the 0.4 mile connecting track to the Montell Lead.⁷ In total, UP and KCS own { } miles of Rosebluff Lead trackage, including { } miles of track on the single-main Rosebluff Lead running track, { } miles of track in the Rosebluff Yard, and { } miles of track connecting to privately owned industry track.⁸

⁴ UP-COMP-001868-C.

⁵ KCS-HC-7726.

⁶ UP-COMP-029995-C.

⁷ See KCS-C-2296-2299(R), KCS-C-2300(R), KCS-C-2287-95(R), KCS-C-2249-57(R), and KCS-C-2248(R). Specifically, KCS-C-2300 (R) shows the railroads own the portion of the connecting track from the Rosebluff Lead to Highway 108 and KCS-C-2295(R) shows the railroads possess a servitude easement for the associated right-of-way. KCS-C-2248(R) shows the Lake Charles Harbor and Terminal District own the track starting from Highway 108 eastward.

⁸ See Baranowski workpaper "Compensation Calculations.xlsx."

Under the 1948 Agreement, the joint owners initially rotated switching responsibility for customers located on the Rosebluff Lead every two years with the non-operating carrier paying a per car switch rate to the operating carrier intended to cover the costs incurred for performing the switch. On September 2, 1981, the joint owners entered into a new agreement (“1981 Agreement”) formally establishing switching zones for customers on the Rosebluff Lead covered by the 1948 Agreement as well as for customers located on other nearby jointly owned or operated trackage. Under the 1981 Agreement, one joint owner would switch and maintain the southern portion of the Rosebluff Lead, called zone 2. The other joint owner would switch and maintain the northern portion of the Rosebluff Lead and the Rosebluff Yard as well as provide switching to certain other customers located on nearby trackage, all of which was designated zone 1. Each joint owner would have exclusive use of Rosebluff Yard for 12 hours per day to facilitate their portion of the switching operations.⁹

The joint owners initially rotated zones every two years until 1999 when UP assumed permanent responsibility for switching and maintaining zone 2 and KCS for zone 1.¹⁰ UP’s usage window of the Rosebluff Yard is from 6:00 a.m. to 6:00 p.m., and KCS’s window is from 6:00 p.m. to 6:00 a.m.¹¹ Switching payments and maintenance cost-sharing for Rosebluff Lead continued to be administered under the terms of the original 1948 Agreement, but the levels of switching fees were updated to apply specifically to zone 1 and zone 2. These switching fees were last updated in 2004 based on a special study performed in 2003 that was designed to determine the costs of providing service and escalated since by { }.¹²

⁹ UP-COMP-001922-C.

¹⁰ KCS-HC-7859.

¹¹ See *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 5.

¹² UP-COMP-001939-C.

Under these arrangements tens of thousands of carloads of traffic to and from local customers, primarily in the chemical manufacturing industry, originate and terminate on the Rosebluff Lead each year. Operationally, both joint owners handle incoming linehaul traffic to Rosebluff Lead customers at their respective yards in the area, UP's North Yard and KCS's Mossville Yard, and run local trains delivering these carloads to Rosebluff Yard, where they are then either delivered to Rosebluff customers in zone 1 by KCS, or to Rosebluff customers in zone 2 by UP. The same operational situation occurs in reverse for outgoing linehaul traffic.¹³ As is common for shared assets in the railroad industry, the cost-sharing mechanisms which the joint owners have established for the Rosebluff Lead under the 1948 and 1981 Agreements are designed to ensure each joint owner pays its fair share of costs for operating and maintaining the joint facility. UP pays KCS a switch rate for each of its loaded cars, including BNSF's reciprocally switched cars in its account, that KCS switches to customers in zone 1¹⁴ Similarly, KCS pays UP a switch rate for each of its loaded cars that UP switches to customers in zone 2.¹⁵ As with its own loaded cars switched in zone 2, UP is not paid under the cost-sharing mechanism when switching BNSF cars in zone 2. {

¹³ See Decision No. 8, FD 32760 (Sub-No. 46), slip op. at 5.

¹⁴ KCS-HC-8289 – 8337.

¹⁵ KCS-HC-8052 – 8175.

¹⁶ { }

}.

Table 1: 2019 Illustrative Example of UP and KCS Maintenance Cost Sharing Under Existing Cost Sharing Mechanism{{

}}

The joint owners apply these cost-sharing mechanisms for both switching fees and maintenance and operating expense cost-sharing to all loaded cars on the Rosebluff Lead.¹⁷ As

¹⁷ KCS-HC-8289 – 8337 and KCS-HC-8052 – 8175.

discussed further below, under these mechanisms BNSF's loaded cars are treated identically to UP's loaded cars in all respects from KCS's perspective.

B. BNSF's Access Rights to Trackage

BNSF obtained rights to serve customers located on Rosebluff Lead trackage as part of the UP/SP Merger in 1996.¹⁸ Under the terms granted by UP and the Board, and reaffirmed in multiple decisions, BNSF may either have UP deliver its cars to and from Rosebluff customers via reciprocal switching, or directly serve these customers with its own trains via trackage rights over the Rosebluff Lead.

From 1996 to present, BNSF's service to Rosebluff customers has been via reciprocal switch.¹⁹ Under the current reciprocal switch arrangement, BNSF delivers incoming cars to UP's North Yard, and from there BNSF's cars are handled by UP identically to its own cars. Specifically, UP moves the BNSF and UP cars to Rosebluff Yard, UP will perform the switches for customers in zone 2 and deliver cars destined to customers in zone 1 to KCS, which will perform the customer switches. Once the cars are switched and returned to Rosebluff Yard, UP will move them back to North Yard where BNSF will pick up its cars for further linehaul movement. For this service, BNSF pays UP the reciprocal switch fee established under the UP/SP Merger conditions along with haulage and other fees.²⁰ UP in turn either performs the switch itself for zone 2 customers without further remuneration, {

¹⁸ Specifically, the Lake Charles Merger Conditions granted BNSF rights to all customers open to all of UP, SP and KCS at Westlake and Lake Charles, LA, and to all customers open to SP and KCS at West Lake Charles, LA, which includes all customers accessible via the Rosebluff Lead. See *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 2 (citing *Union Pac. Corp.—Control & Merger—S. Pac. Rail Corp. (UP/SP Decision No. 44)*, 1 S.T.B. 233, 427-29 (1996)).

¹⁹ See *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 3; BNSF Br. 3, Dec. 30, 2015 (BNSF-127).

²⁰ See UP Suppl. 1, Feb. 4, 2019 (UP/SP-430).

}.²² KCS is not compensated for its ownership share in the Rosebluff Lead or for any “lost profits” related to Rosebluff Lead customers served by BNSF via reciprocal switch.

In 2012, BNSF notified UP of its intent to elect direct service on the Rosebluff Lead.²³ In December 2014, BNSF filed an application with the STB for terminal trackage rights over the Lead.²⁴ In 2016, the STB granted the application.²⁵ Later, in 2020, the Board established that UP must provide a 4-hour daily window during its 12-hour daily window for BNSF to exercise the trackage rights required to perform its direct service operations.²⁶

BNSF and UP have recognized that the applicable fee which BNSF owes UP for exercising these trackage rights is the Prescribed Fee.²⁷²⁸ Based on the parties’ positions and the

²¹ {

}

²² See “UP-COMP-024025-HC” at tabs “Summary” (showing 2,440 UP cars and 190 KCS cars) and tab “UP” at column B (showing 1,294 of 2,449 UP cars are cars reciprocally switched for BNSF).

²³ BNSF Br. 3, Dec. 30, 2015 (BNSF-127).

²⁴ BNSF App., Feb. 27, 2013 (BNSF-118).

²⁵ See *BNSF Ry.—Terminal Trackage Rights—Kan. City S. Ry. (Decision No. 3)*, FD 32760 (Sub-No. 46) (STB served July 5, 2016).

²⁶ See Decision No. 8, FD 32760 (Sub-No. 46), slip op. at 11.

²⁷ See UP Suppl. 3, Feb. 4, 2019 (UP/SP-430) (“Union Pacific’s basic position is that, regardless of when BNSF trains move to Lyondell, and regardless of the methodology used to calculate appropriate compensation under 49 U.S.C. § 11102(a), if BNSF uses trackage rights to serve Lyondell, BNSF should pay Union Pacific the trackage rights fee established by the Revised and Amended BNSF Settlement Agreement.”)

²⁸ UP estimated this fee level to be \$6.02 per car at the current time. *Id.* at 2-3 (“BNSF would owe Union Pacific approximately \$6.02 per car moving to and from Lyondell – \$3.66 per car, for the loaded and empty movements between North Yard and the Rose Bluff Industrial Lead, and \$2.36 per car for the loaded and empty movements over the Rose Bluff Lead.”)

Board's findings in *Decision No. 8*, it is my understanding that compensation due UP for BNSF direct access is not at issue here.

III. SSW Compensation Methodology

The *SSW Compensation* methodology refers to a set of principles the STB's predecessor, the Interstate Commerce Commission ("ICC"), developed in a series of cases beginning in the 1980s for determining the appropriate compensation due the owner of railroad trackage for usage by a non-owning tenant railroad.²⁹ There are three essential elements of the *SSW Compensation* methodology:

- 1) the variable cost that is incurred by the owning carrier but attributable to the tenant carrier's operations;
- 2) the tenant carrier's usage-proportionate share of track maintenance and operating expenses; and
- 3) an interest or rental component to compensate the owning carrier for the tenant carrier's use of capital dedicated to the track by the owning carrier determined by multiplying the value of the assets by a rate of return equal to the railroad's current pre-tax nominal cost of capital.

These principles have been applied by the STB to set compensation for trackage rights in a variety of different situations where the parties have been unable to come to a voluntary agreement. The STB has also repeatedly concluded that the *SSW Compensation* methodology satisfies the principles of compensation in condemnation proceedings.³⁰ The STB has

²⁹ See *St. Louis S.W. Ry.—Trackage Rights Over Mo. Pac. R.R.—Kan. City to St. Louis*, 1 I.C.C.2d 776 (1984) (*SSW Compensation I*), 4 I.C.C.2d 668 (1987) (*SSW Compensation II*), 5 I.C.C.2d 525 (1989) (*SSW Compensation III*), 8 I.C.C.2d 80 (1991) (*SSW Compensation IV*), & 8 I.C.C.2d 213 (1991) (*SSW Compensation V*) (collectively, the *SSW Compensation cases*), *aff'd sub nom. Union Pac. Corp. v. ICC*, 978 F.2d 745 (D.C. Cir. 1992), *cert. denied*, 508 U.S. 950 (1993).

³⁰ "The Board has concluded in prior cases that the *SSW Compensation* methodology satisfies the principles of compensation in condemnation proceedings." *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 16.

emphasized that, in establishing compensation, the *SSW Compensation* methodology is intended to be flexibly applied to account for the specific facts of individual situations.³¹ As described in more detail below, I have adapted the application of the *SSW Compensation* methodology here to reflect the unique circumstances applicable to BNSF's direct access to the Rosebluff Lead.

IV. Unique Circumstances Affecting the Application of the *SSW Compensation* Methodology to BNSF's Trackage Rights on the Rosebluff Lead

BNSF has been granted trackage rights over the Rosebluff Lead jointly owned by KCS and UP. BNSF and UP have agreed to the compensation terms for such BNSF direct access. The STB has already determined that to the extent any separate trackage rights compensation is due KCS, such compensation will be based on condemnation principles, and that the *SSW Compensation* methodology is consistent with condemnation principles.

As I explained above, I conclude that the existing Rosebluff Lead cost-sharing arrangements between UP and KCS should be used as the basis for compensating KCS for BNSF direct access. This conclusion satisfies the principles of the *SSW Compensation* methodology applied to the present circumstances. In the alternative, I have evaluated separately any compensation due KCS under the parameters of the Board's *SSW Compensation* methodology in

³¹ See *id.* at 11 (“The *SSW Compensation* methodology has been flexibly applied in many different situations, including where trackage rights are imposed as a merger condition and where trackage rights agreements are entered into voluntarily.”). The Board also noted that “[w]ith regard to KCS’s concerns about the potential application of the *SSW Compensation* methodology here, the Board observes generally that the *SSW Compensation* method is a flexible approach that can be (and has been) modified to account for the particular facts of each case, including difficulties in valuation, various types of costs, and the specific nature and extent of the line’s use.” *Id.* at 16 (citing *CSX Corp.—Control & Operating Leases/Agreements—Conrail Inc.*, 3 S.T.B. 196, 344-345 (1998); *Ark. & Mo. R.R.*, 6 I.C.C.2d at 622-627; *SSW III*, 5 I.C.C.2d at 529). Further, by “considering case-specific facts concerning the market value of the property, the tenant’s proportionate use, and the costs associated with such use, *SSW Compensation* is designed to fairly compensate the owning carrier for the tenant’s partial use thereof.” *Id.* at 16.

the event that the Board determines that the existing cost-sharing agreements are not applicable. My application considers the case-specific issues raised by the present circumstance.

A. Conditions of Use for the Trackage Rights Granted Affecting SSW Compensation Methodology Interest Rental

The SSW Compensation methodology is sufficiently flexible for determining compensation due KCS under the specific circumstances related to the Rosebluff Lead ownership and the direct access granted BNSF by the Board. Pursuant to Decision No. 8, the conditions of use imposed by the Board expressly limit BNSF's exercise of trackage rights to UP's operating window in Rosebluff Yard.³² Not only would there be no KCS trains operating in the Rosebluff Yard during times when BNSF may exercise its trackage rights, but under the protocols of joint operations established by the 1981 Agreement, there would be no KCS trains operating on any of the Rosebluff Lead trackage where BNSF's trains may be operating.³³ It further is important to note that BNSF's conditions of use do not allow for it to perform any switching activities in Rosebluff Yard. To the extent that switching activities are required to make a clear path through Rosebluff Yard or the Rosebluff Lead, these will be performed by

³² *Decision No. 8* states “[s]pecifically, unless the parties mutually agree otherwise, BNSF’s direct service on the Rosebluff Lead shall be limited to one exclusive, four-hour window of time, to occur each day during UP’s 12-hour window for Rosebluff Yard operations (i.e., between 6:00 a.m. and 6:00 p.m.). By ‘exclusive’ window, the Board means that UP and KCS must ensure that BNSF’s train has an unimpeded route along the Rosebluff Lead between the 50/50 Line and the Montell Lead for the duration of the four-hour window, including maintaining one clear running track through the Rosebluff Yard and clearing all UP and KCS trains from the sections of the Rosebluff Lead that BNSF must traverse to access Lyondell. BNSF’s four-hour window shall begin at approximately the same time each day.” *Id.* at 9.

³³ See KCS Reply, V.S. Scott 4-7, Aug. 24, 2015 (Describing how KCS’s two switching jobs operating on Rosebluff Lead and in the Rosebluff Yard do not enter Rosebluff trackage until after UP’s switching jobs operating during its window have departed).

UP.³⁴ In contrast, BNSF cars in reciprocal switch service can be, and often are, in the Rosebluff Yard during KCS's window and may be physically handled by KCS, which treats them equivalently to the UP cars it switches.³⁵ The Board has correctly recognized that BNSF's direct service operations would cause relatively less interference compared to the existing reciprocal switch service.³⁶

KCS is not compensated for its Rosebluff Lead ownership share under BNSF's current access via reciprocal switch. There is no economic reason why that should change under BNSF direct access, which the Board has acknowledged may increase efficiency of operations on the Rosebluff Lead. Further, under BNSF's granted access to Rosebluff Lead, it is effectively subletting UP's property rights and therefore do not impact the exercise of KCS's property rights. In other words, looked at from the perspective of the principles of the *SSW Compensation* methodology, BNSF is not using any of the property rights possessed by KCS under its partial ownership of the trackage, and accordingly KCS is due no interest rental compensation.

B. Conditions of Use for the Trackage Rights Granted Affecting SSW Compensation Methodology Variable Costs and Maintenance and Operating Expenses

Under the 1948 Agreement and amendments, {

}, which is equivalent to the

³⁴ It should be noted that UP already has to perform whatever switching operations are required to clear a path through Rosebluff Yard in order for its own trains to run down the Rosebluff Lead during its operating window.

³⁵ See BNSF Rebuttal, V.S. Baranowski 8-9, July 16, 2018.

³⁶ *Decision No. 3* states “[h]ere, our review of the record shows that BNSF’s direct service will free up capacity and eliminate some of the congestion in Rosebluff Yard, as numerous BNSF cars will no longer be switched or stored there. Moreover, the use of direct unit trains (such as BNSF’s proposed service to CITGO) may well increase the efficiency of operations on the Lead, by reducing the amount of time that trains spend on the Lead itself.” *Decision No. 3*, FD 32760 (Sub-No. 46), slip op. at 17.

objective of the maintenance component under the *SSW Compensation* methodology.

Specifically, {

}.³⁷

As discussed above, {

} . This approach is the most appropriate application of the *SSW Compensation* maintenance and operating expense component because it would compensate KCS based on processes it has already established with UP that are aligned with the usage-based requirement of the *SSW Compensation* methodology. Moreover, this

³⁷ See UP-COMP-001922-C at 1927-8. The 1981 Agreement states, {

³⁸ { }

mechanism has the advantage of sharing costs that have actually been incurred by the joint owners as opposed to estimating maintenance and operating costs prospectively.

A similar approach could be used in the alternative. The primary difference would be that, outside of the existing cost-sharing arrangements, BNSF cars that access the Rosebluff Lead via direct service would {
}.
}

In addition, maintenance and operating costs need to be adjusted to reflect that BNSF will not be performing any classification switching in Rosebluff Yard. Therefore, cost for maintaining tracks in the yard used exclusively by UP and KCS for classification switching (and not as run-through track) should be excluded from any estimate of alternate compensation. I have determined that under direct service operations BNSF's trains may at some point in time access as much as { } miles of Rosebluff Lead trackage jointly owned by KCS and UP.³⁹ The alternative approach would then allocate the portion of the maintenance and operating expenses attributable to the tracks accessed by BNSF via trackage rights to BNSF based on relative usage shares.⁴⁰

³⁹ See Baranowski Workpaper "Compensation Calculations.xlsx," tab "Trackage."

⁴⁰ There is a similar consideration related to the development of the variable cost component.
{

In other words, {
}.
} This is comparable with the objective of the variable cost component of the *SSW Compensation* methodology to identify the costs incurred by the incumbent as a result of the tenant's operations. Accordingly, as discussed in detail below, my evaluation of variable costs is informed by how the joint owners themselves identify costs incurred on behalf of each other as part of performing switching operations on Rosebluff trackage.

V. Selection of the Proper Valuation Scope and Methodology for the SSW Compensation Interest Rental Component

Each application of the *SSW Compensation* methodology requires selection of the appropriate valuation technique for developing the interest rental component based on the case-specific facts of the situation.⁴¹ The STB/ICC has recognized Capitalized Earnings (CE), Reproduction Cost New Less Depreciation (RCNLD), stand-alone costs, and comparable line sales as valid methodologies.⁴² Based on my review of the available information and consideration of the assets at issue, I have concluded that an RCNLD approach is the most appropriate methodology for determining the value of the Rosebluff Lead.⁴³

I have rejected the use of the CE approach in this case for several reasons. First, it is unclear how to incorporate BNSF's earnings generated from its existing traffic in reciprocal switch service into part of a capitalized earnings valuation, which in turn would be used to develop fees affecting BNSF's earnings generated under prospective direct service access. This concern is related to the issue of earnings circularity that has led the ICC/STB to conclude that the CE approach was not suitable in certain past *SSW Compensation* proceedings.⁴⁴ Second, in

⁴¹ See *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 10-11 (“Depending on the track’s particular use and other case-specific circumstances, the interest rental component may be computed in several different ways, to most accurately reflect a fair valuation base for the property.”)

⁴² *Decision No. 8*, FD 32760 (Sub-No. 46), slip op. at 12 n.18.

⁴³ I note that KCS has concurred that RCNLD is the most appropriate approach in this proceeding. See KCS Suppl. 35-38, 40-41, V.S. Carey 11-12, Feb. 4, 2019.

⁴⁴ For example, concerns related to earnings circularity that the STB/ICC have previously recognized make the capitalized earnings approach unsuitable in certain situations also apply here. See *Arkansas and Missouri R.R. Co. v. Missouri Pac. R.R. Co.*, 6 I.C.C.2d 619 (Mar. 23, 1990) (“The current compensation is at issue in this case, and we must avoid the circular reasoning which would be involved in any attempt to establish a new level of compensation based on an existing level of compensation which is itself at issue.”); see also *Toledo, Peoria & W. Ry.—Trackage Rights Comp.—Peoria & Pekin Union Ry. (Toledo, Peoria & W. Ry. 1994)*, FD 26476 (Sub-No. 1), slip op. at 3 (ICC served Sept. 20, 1994).

the context of joint ownership, it is unclear how the earnings UP or BNSF generates should influence, if at all, the earnings valuation that would be the basis for compensation to KCS. Third, there are significant challenges with allocating the appropriate level of revenues to assets in terminal areas that are both used as part of switching operations and overhead trackage rights movements.

In contrast, RCNLD provides an objective measure of the value of the subject assets relevant to BNSF's exercise of its trackage rights. Also, due to the relatively modest size of trackage at issue, it is possible to fully inspect and discern the value of the relevant railroad assets using sound engineering judgement. The RCNLD valuation also allows for tailoring the valuation to include only the { } miles of Rosebluff Lead trackage that BNSF's direct service operations may potentially involve.⁴⁵ This includes all Rosebluff Lead trackage except for four tracks in Rosebluff Yard that would be used exclusively by UP and KCS for switching (and not run-through) operations, which the conditions of use prohibit BNSF from performing. The RCNLD estimate would not include the Montell Lead track and other tracks owned by private parties other than KCS and/or UP. This scope of an RCNLD valuation is consistent with the development trackage rights compensation applicable to all BNSF trackage rights operations on the Rosebluff Lead.

⁴⁵ See UP-COMP-029995-C for identification of the specific tracks on Rosebluff trackage UP has identified as owned by KCS and UP. Additionally, UP provided inventories of other railroad assets including turnouts (UP-COMP-015279-C), crossings (UP-COMP-30016-C), and bridges and culverts (UP-COMP-15300-C) that included some information related to which assets are owned by UP and KCS. UP and KCS also produced some supplemental information related to ownership and public funding for certain crossings (UP-COMP-000618-C) and bridges (KCS-HC-8555 to KCS-HC-8557 and KCS-HC-8544 to KCS-HC-8554). I provided this information to Mr. Robert Boileau and instructed him to develop his reproduction cost estimate and condition assessment for all assets associated with the { } miles of subject track identified as relevant to BNSF's exercise of trackage rights.

VI. Development of Compensation Under the SSW Compensation Methodology

Below I discuss the different steps I performed to develop my alternative compensation amounts using the information available in this proceeding and based on application of the SSW *Compensation* methodology discussed above.

A. Variable Cost Component

The existing cost-sharing arrangements provide a framework for identifying variable costs incurred by the joint owners. Based on the 2003 cost study data that KCS produced, I was unable to identify any categories of costs that would apply to BNSF's direct service operations.⁴⁶ Neither did KCS produce any requested information on operating expenses for the Rosebluff Lead that indicated that KCS would incur costs as a result of BNSF's direct service operations.⁴⁷ Further, since BNSF's direct service operations will occur during UP's window, when no KCS trains would be operating in the area, presumably any dispatching services for BNSF trains would be provided by UP. Based on these considerations, it is reasonable to conclude that KCS would not incur any variable costs as a result of BNSF's trackage rights, and accordingly there should be no compensation for this component.

⁴⁶ See KCS-HC-8982-7.

⁴⁷ Document Request #24 of BNSF's First Set of Discovery Requests to KCS requested information on KCS's operating expenses by category for the Rosebluff trackage. After KCS stated that it had not identified any responsive materials, BNSF, on August 13, 2020, sent a follow-up letter requesting KCS to provide whatever information it had relating to operating expenses for the Rosebluff trackage regardless of what individual categories were available. KCS responded on August 28, 2020, that {

} These documents contain information on switch payments between KCS and UP and do not include information on actual operating expenses incurred.

B. Maintenance and Operating Expense Component

As discussed above, the most precise way to compensate KCS for maintenance is by

{

} Such an approach would be ideal for determining maintenance costs under the *SSW Compensation* methodology because it would reflect actual future levels of expenses and usage rather than estimates based on past levels. This is particularly true in light of the difficulties in accurately establishing levelized maintenance costs for the Rosebluff Lead given the limited information provided in discovery and observed historical fluctuations in amounts of spending.

For my alternative application, I developed an estimate of normalized maintenance costs from the materials produced by UP and KCS and the reproduction cost new estimate prepared by Mr. Boileau. The below table compiles historical maintenance cost information from the various data sources produced by UP and KCS.⁴⁸

Table 2: 2014-2019 Rosebluff Lead Maintenance Costs

	UP	KCS	Total
2014	{{		
2015			
2016			
2017			
2018			
2019			}}

⁴⁸ See workpaper “Historical Maintenance Expenses.xlsx” for details on how historical maintenance costs were compiled from the various documents produced by KCS and UP. See also UP-COMP-024474-C (UP’s 2017-19 Rosebluff Maintenance Expenses), UP-COMP-011177-C et al. (example UP to KCS Invoice for January 2013 under 1948 Agreement), UP-COMP-010104-C et al. (example KCS Invoice for February 2019 under 1948 Agreement), and KCS-HC-8349 (KCS’s summary of expenses invoiced UP from 2013 to February 2019). KCS confirmed in its August 28, 2020 letter to BNSF that all maintenance expenses invoiced under the 1948 Agreement were produced. UP similarly confirmed this in its September 25, 2020 response to BNSF.

See Baranowski Workpaper “Historical Maintenance Expenses.xlsx”, tab “Table”.

The significant variation in annual maintenance costs is driven by intensive capital programs in certain years and none in others.⁴⁹ Because capital maintenance cycles for this relatively small portion of track recur in cycles longer than the six-year period for which historical data is available, any attempt to normalize capital maintenance expenses over this period of time would introduce timing bias that would skew the results.^{50,51} Accordingly, I determined it appropriate to derive a normalized capital maintenance estimate from the replacement cost new estimate prepared by Mr. Boileau for the portions of the Rosebluff Lead relevant to BNSF’s direct service operations.

Applying average depreciation rates reported in KCS and UP’s 2019 R-1 annual reports to the reproduction cost new yields a reasonable estimate of annual normalized capital maintenance costs at current price levels. The below table shows the details of my calculation.

Table 3: Summary of Developed SSW Compensation Methodology Levelized Capital Maintenance Expenses {

⁴⁹ See Baranowski workpaper “Historical Maintenance Expense.xlsx.”

⁵⁰ It should be noted that BNSF requested UP and KCS historical maintenance data back to 2010 as well as details on UP and KCS maintenance plans, but UP and KCS only identified sufficient responsive information on historical maintenance costs from 2014 onwards and no information on maintenance plans.

⁵¹ For example, UP performed capital tie replacements in { }, but if capital maintenance costs were normalized between 2014 to 2019, this would effectively spread the cost of the tie program over 6-years. See UP-COMP-015227-C and UP-COMP-015216-C.

See Baranowski Workpaper “Compensation Calculations.xlsx,” tab “Maintenance.” }

Routine maintenance annual spending patterns are more consistent, and normalized levels may reasonably be derived from data provided by UP and KCS covering the 2017 to 2019 period. Because this data reflects routine maintenance for all the Rosebluff Lead, it is necessary to limit the expenses to those associated with the portion of the Rosebluff Lead relevant to BNSF’s direct service operations. Based on the ratio of the { } miles of Rosebluff Lead that may involve BNSF direct service operations to the total { } miles of Rosebluff Lead discussed above, I conclude that it is appropriate to include { } of maintenance costs. See Baranowski Workpaper “Compensation Calculations.xlsx,” tab “Maintenance.”

The below table summarizes this calculation

Table 4: Summary of Developed SSW Compensation Methodology Levelized Routine Maintenance Expenses

	2017-19 Average
UP	{{
KCS	
Total Routine Maintenance	
Allocation Factor	
Adjusted Total Routine Maintenance	}}

See Baranowski Workpaper “Compensation Calculations.xlsx,” tab “Maintenance.”

Typically, the *SSW Compensation* methodology maintenance and operating expense component includes state and local property tax payments in with the expenses allocated based on usage to the trackage rights tenant’s cars. Although property taxes are treated differently in

the existing cost sharing agreements, I have included property taxes of { } annually in my estimate.⁵²

Total annual maintenance and operating expenses reflecting the 50% KCS adjustment are summarized on the below table.

Table 5: Summary of Developed SSW Compensation Maintenance, Operating Expense, and Tax Component

+ Capital Maintenance	{{
+ Routine Maintenance	
+ Estimated Annual Property Taxes	
= Total	
x Adjust for KCS's 50% Ownership	
= Annual SSW Maint., Opr., + Tax Component	}}

See Baranowski Workpaper “Compensation Calculations.xlsx,” tab “Maintenance.”

C. Interest Rental Component

The interest rental component is determined based on the value of the Rosebluff Lead assets that BNSF may use when exercising its trackage rights. As discussed above, the subject assets consist of the { } miles of the { } miles of Rosebluff Lead as well as associated inventories of other railroad assets including culverts, bridges, turnouts, and signals (referred to generally as “Rosebluff subject assets”).

⁵² UP provided its 2019 tax assessments for Louisiana, which appear to be based on running track miles, that reported an assessed value of { } miles of track in “Ward 4 Outside” of Calcasieu parish. The description matches the running track portion of the Rosebluff Lead. Based on comparison of assessment rates for “side” track on other fully owned UP lines, it appears the full value is assessed as opposed to only UP’s 50% portion. See UP-COMP-014778-C at UP-COMP-014792-C. KCS separately provided a system-wide assessment allocating a portion to Louisiana but this was not sufficiently granular to rely on for present purposes. Neither UP nor KCS provided actual tax payment information as requested by BNSF in Document Request #24. Accordingly, I used the tax estimator provided on the website of the Calcasieu parish tax assessor’s webpage in conjunction with the provided information on assessed value to estimate UP and KCS’s annual property tax payment for Rosebluff trackage assets. See workpaper “Rosebluff Trackage Property Tax Estimate.pdf.”

1. RCNLD Valuation

Based on the reproduction cost new estimate and condition assessment performed by Robert Boileau and the real estate appraisal performed by Brent Pitts-in their verified statements in this proceeding, the total RCNLD valuation of the Rosebluff subject assets as of the fourth quarter of 2020 is { } as summarized by the below table.

Table 6: Summary of Rosebluff Lead Valuation

Reproduction Cost New	{
Less Physical Depreciation	
Plus Land Value	
Rosebluff Subject Assets Valuation	}

See Baranowski Workpaper “Compensation Calculations.xlsx,” tab “Fees.”

As discussed above, determining KCS’s interest rental base requires adjusting the overall valuation by KCS’s 50% ownership share as shown by the below table.

Table 7: Development of KCS Interest Rental Base

Rosebluff Subject Assets Valuation	{
KCS Ownership Share	
KCS Interest Rental Base	}

See Baranowski Workpaper “Compensation Calculations.xlsx,” tab “Fees.”

In summary, KCS’s interest rental base for the Rosebluff subject assets is { }.

2. Interest Rental Rate

The appropriate interest rental rate is the STB’s 2019 railroad industry pre-tax cost of capital.⁵³ This figure is derived from the actual cost of capital of Class I railroads including KCS, has previously been accepted for use as an interest rental rate in *SSW Compensation* proceedings, and is equally applicable here. The below table shows the development of the STB’s 2019 railroad industry pre-tax cost of capital. This calculation uses the statutory federal income tax

⁵³ See *Railroad Cost of Capital—2019*, EP 558 (Sub-No. 23) (STB served Aug. 5, 2020).

rate of 21% and the statutory Louisiana state income tax rate of 8%, which results in a combined statutory tax rate of 27.3%.

Table 8: Development of STB’s 2019 Pre-Tax Cost of Capital

	Weight	Post-Tax	Pre-Tax
Long Term Debt	18.54%	3.48%	3.48%
Common Equity	81.45%	10.67%	14.68%
Preferred Equity	0.00%	3.65%	5.02%
Cost of Capital		9.34%	12.60%

See Baranowski Workpaper “Compensation Calculations.xlsx”, tab “Fees.”

3. Annual Interest Rental Base

Applying the interest rental rate of 12.60% to KCS’s interest rental base of { } results in an annual interest rental amount of { }, as summarized in the below table.

Table 9: Development of Annual Interest Rental Base for KCS (Before Usage Allocation)

KCS Interest Rental Base	{
Interest Rental Rate	
Annual KCS Interest Rental Base (before usage allocation)	}

See Baranowski Workpaper “Compensation Calculations.xlsx”, tab “Fees.”

D. Conversion of SSW Compensation Components to Usage Fees Based on Operating Metrics

Under the existing cost-sharing arrangements, { }.

For my alternative *SSW Compensation* calculations, I have developed an estimate of 2017 to 2019 levelized annual gross-ton-miles on the Rosebluff Lead that may be used for allocating any alternative *SSW Compensation* including applicable variable cost, maintenance and operation expense or interest rental components due KCS. A gross-ton-miles metric appropriately reflects the particular usage of BNSF’s specific direct service operations over the Rosebluff Lead. It is also consistent with the gross-ton-miles basis of BNSF’s current trackage payments to UP under the Prescribed Fee and aligned with

current railroad industry practices that commonly use a gross-ton-miles basis for administering joint facilities agreements. The first step to my calculations is determining overall loaded car volumes. Loaded cars using Rosebluff Lead trackage are identified on billing and usage statements exchanged by KCS and UP under the 1948 Agreement.⁵⁴ KCS and UP provided total loaded car counts on the Rosebluff Lead from 2014 to 2019 summarized in the below table.

Table 10: 2014-2019 Rosebluff Lead Usage Metrics

	Loaded Cars on Rosebluff Lead
2014	{{
2015	
2016	
2017	
2018	
2019	}}

See Baranowski Workpaper “Usage Development.xlsx.”

Given the observed annual volume fluctuations, it is appropriate to develop a normalized annual loaded car volume using the three most recent full years of data from 2017 to 2019.⁵⁵ KCS and UP provided industry switching event data sufficient to identify the relative shares of volumes to the various customers located on the Rosebluff Lead during recent years.⁵⁶ Based on area maps and track charts, I determined the roundtrip miles on Rosebluff Lead required to serve each customer.⁵⁷ Total annual car miles were calculated by weighting the roundtrip miles for each customer by the relative customer shares, and applying this to the 2017 to 2019 levelized loaded car count. Average net tons per car and tare tons per car were derived from waybill data

⁵⁴ See Baranowski Workpaper “Usage Development.xlsx.”

⁵⁵ I note that a three-year smoothed average was used when developing usage metrics in the second *SSW Compensation* case. *SSW II*, 4 I.C.C.2d at 672-73.

⁵⁶ See Baranowski workpapers “Usage Development.xlsx” and “UP Event Data.xlsx.”

⁵⁷ *Ibid.*

produced by BNSF, KCS, and UP and converted to an average gross-ton weight per car amount based on an assumed empty-to-loaded ratio of 2.0, which reflects a roundtrip movement to and from the customer consistent with direct service operations.⁵⁸ Applying the average roundtrip miles and gross-ton weight per car to 2017 to 2019 normalized loaded cars provides an estimate of total gross-ton-miles on the Rosebluff Lead. The below table summarizes gross-ton-mile calculations.

Table 11: 2017-19 Levelized Annual Gross-Ton-Miles Usage Metric Estimated for Rosebluff Lead

Customer Weighted Average Miles on Rosebluff Lead	{{
Loaded to Empty Ratio	
Roundtrip Miles	
Average Net Tons Per Car	
Average Tare Tons Per Car	
Average Gross Ton Weight Per Car For Roundtrip Movement	
Average GTMs Per Loaded Car Roundtrip Movement	
Average Loaded Cars 2017-2019	
Rosebluff Lead Levelized Annual GTMs	}}

See Baranowski Workpaper “Usage Development.xlsx.”

VII. Summary of Compensation Under the SSW Compensation Methodology

Based on the above analysis and discussion, the compensation due KCS for BNSF’s trackage rights may be satisfied by {

}. Basic economics dictate
that, should the Board reject this position, the higher costs imposed on BNSF service will make it
harder for BNSF to compete with UP and KCS – thereby depriving Lake Charles area customers

⁵⁸ The methodology I use does include car-miles related to switching operations in the Rosebluff Yard or include the weight of locomotives. This is consistent with the development of operating statistics corresponding to the direct service operations BNSF will exercise under its trackage rights.

of the full competition that the Board envisioned when it imposed the Lake Charles Merger Conditions.

Alternatively, the below table summarizes the relevant amounts KCS would be due under a version of the *SSW Compensation* methodology applied without consideration of the existing cost-sharing mechanisms in place or if it is found KCS is due any interest rental.

Table 12: Summary of Developed *SSW Compensation* Methodology Fee Structure and Alternatives

<i>SSW Compensation Summary to KCS, Per Gross Ton-Mile</i>			
Fee Component	Existing Cost-Sharing Arrangements	Outside Existing Arrangements and Within UP Ownership Rights	Outside Existing Arrangements and No UP Ownership Rights Restriction
Variable Costs	N/A	\$0.0000	\$0.0000
Maintenance and Operating Costs	N/A	{{ }}	{{ }}
Interest Rental	N/A	\$0.0000	{{ }}
Total Compensation	See note ¹	{{ }}	{{ }}

Note 1: The existing UP/KCS cost-sharing arrangements cannot readily be translated to a gross-ton-mile figure for comparison to the figures calculated using the *SSW Compensation* methodology. However, as described above, the existing UP/KCS cost-sharing arrangements would fully compensate KCS for all incremental costs that KCS will incur as a result of BNSF's terminal trackage rights operations.

See Baranowski Workpaper "Compensation Calculations.xlsx"

To put the gross ton-mile fee estimates in Table 12 into perspective, assuming that the typical loaded BNSF freight car in direct service in the Rosebluff Lead generates 600 gross ton-miles⁵⁹ per roundtrip loaded car movement, the alternative *SSW Compensation* maintenance and operating expenses to KCS are \${{ }}⁶⁰ per loaded car when such payment is made outside

⁵⁹ (80 tons lading + 20 tons tare) x 5 loaded miles + 20 tons tare x 5 empty miles = 600 GTMs.

⁶⁰ 600 GTMs x {{ }} = \${{ }}.

the existing cost-sharing arrangements and BNSF is assumed to be operating within UP's ownership rights. The alternative *SSW Compensation* for maintenance and operating expenses and interest rental are \${{ }} per loaded car when such payment is made outside of the existing cost-sharing arrangements and BNSF is not assumed to be operating within UP's ownership rights. These fee levels would vary based on the specific lading, tare and distance characteristics of each BNSF loaded car moving in BNSF direct service on the Rosebluff Lead.

The alternative SSW Compensation fees that I have developed are at fourth quarter 2020 cost levels. In my opinion, it would be reasonable for the above fees to be adjusted annually by the percentage change in the Quarterly Material Prices and Wage Rates ("QMPW") index published by the Association of American Railroads.

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Mike Baranowski heads FTI's Network Industries Strategies practice and provides strategic, financial and economic consulting services to the telecommunications and railroad and pipeline transportation industries. He has special expertise in analyzing and developing complex costing and cash flow models, conducting detailed operations analysis, and transportation engineering. Much of his work involves providing oral and written expert testimony before courts, arbitration panels and regulatory bodies.

He is a recognized expert in railroad regulatory economics and has assisted FTI's railroad clients in a broad range of litigation and regulatory engagements involving pricing of services, contract disputes, damage calculations and analyses of the specific effects of pending or proposed changes in policy or regulation.

Some of Mr. Baranowski's representative experience includes:

- Development of strategic litigation analyses for large network industry regulatory rate proceedings based on the theory of Constrained Market Pricing and the Stand-Alone cost test. Theory assumes the existence of a hypothetical, efficient competitor and involves detailed analysis of short and long run operations, expenses, capital expenditures and revenues.
- Analysis of market dynamics effecting pricing and development of a suite of modeling tools to assess the regulatory risk of tariff and contract transportation rates for a mix of commodities and services based on key cost drivers and forecasts.
- Expert testimony related to the determination of damages in a variety of commercial contract disputes in the railroad, telecommunications, pipeline and trucking industries.
- Evaluation of market effects of proposed railroad mergers and identification of merger related efficiencies and quantification of the associated savings.

- Going concern and liquidation value estimates for railroad related assets as the basis for trackage rights and competitive access compensation.
- Develop detailed cost and revenue allocation metrics to assess relative profitability of individual asset groups or segments of complex network industries.

Mr. Baranowski holds a B.S. in Accounting from Fairfield University in Fairfield, Connecticut and has pursued supplemental finance studies at Kean College in Union, New Jersey.

Select Railroad Testimony

Surface Transportation Board

January 6, 2011	Docket No. 42056 Texas Municipal Power Agency v. BNSF Railway Company, BNSF Reply to TMPA Petition for Enforcement of Decision, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
October 28, 2011	Docket No. FD 35506 Western Coal Traffic League - Petition for Declaratory Order, Opening Evidence of BNSF Railway Company, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
November 10, 2011	Docket No. 42127 Intermountain Power Agency v. Union Pacific Railroad Company, Reply Evidence of Union Pacific Railroad Company
November 28, 2011	Docket No. FD 35506 Western Coal Traffic League - Petition for Declaratory Order, Reply Evidence of BNSF Railway Company, Joint Reply Verified Statement of Michael R. Baranowski and Benton V. Fisher
May 10, 2012	Docket No. 42056 Texas Municipal Power Agency v. BNSF Railway Company, BNSF Reply to TMPA Petition to Reopen and Modify Rate Prescription, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
November 30, 2012	Docket No. 42125 E.I. DuPont De Nemours & Company v. Norfolk Southern Railway Company, Reply Evidence of Norfolk Southern Railway Company
December 7, 2012	Docket No. Ex Parte 715, Rate Regulation Reforms, Reply Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski
January 7, 2013	Docket No. 42130 SunBelt Chlor Alkali Partnership v. Norfolk Southern Railway Company, Reply Evidence of Norfolk Southern Railway Company
March 1, 2013	Ex Parte No. 711 Petition for Rulemaking to Adopt Revised Competitive Switching Rules, Opening Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Richard W. Brown
April 12, 2013	Docket No. 42136 Intermountain Power Agency v. Union Pacific Railroad Company, Reply Evidence of Union Pacific Railroad Company

April 30, 2013	Ex Parte No. 711 Petition for Rulemaking to Adopt Revised Competitive Switching Rules, Reply Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Richard W. Brown
June 20, 2013	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Comments of the Association of American Railroads, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
September 5, 2013	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Reply Comments of the Association of American Railroads, Joint Verified Statement of Michael R. Baranowski and Benton V. Fisher
July 21, 2014	Docket No. 42121 Total Petrochemicals & Refining USA, Inc. v. CSX Transportation, Inc., Reply Evidence of CSX Transportation, Inc.
September 5, 2014	Ex Parte No. 722 Railroad Revenue Adequacy, Opening Comments of Norfolk Southern Railway Company, Verified Statement of Michael R. Baranowski
November 4, 2014	Ex Parte No. 722 Railroad Revenue Adequacy, Reply Comments of Norfolk Southern Railway Company, Verified Statement of Michael R. Baranowski
September 4, 2015	Docket No. FD 35743 Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(a) - Canadian National Railway Company, Opening Evidence of Illinois Central Railroad Company and Grand Trunk Western Railroad, Joint Verified Statement of Michael Baranowski and Benton Fisher
October 7, 2015	Docket No. 42121 Total Petrochemicals & Refining USA, Inc. v. CSX Transportation, Inc., Supplemental and Compliance Evidence of CSX Transportation, Inc.
October 23, 2015	Docket No. FD 33760 (Sub-No. 46) BNSF Railway Company - Terminal Trackage Rights -- Kansas City Southern Railway Company and Union Pacific Railroad Company, BNSF Rebuttal Statement, Verified Statement of Michael R. Baranowski
November 20, 2015	Docket No. 42121 Total Petrochemicals & Refining USA, Inc. v. CSX Transportation, Inc., Reply to Supplemental and Compliance Evidence
March 7, 2016	Docket No. 42142 Consumers Energy Company v. CSX Transportation, Inc., Reply Evidence of CSX Transportation, Inc.
July 18, 2016	Docket No. FD 35842 New England Central Railroad, Inc. -- Trackage Rights Order -- Pan Am Southern LLC, Pan Am Southern Reply Evidence, Verified Statement of Michael R. Baranowski
July 26, 2016	Ex Parte No. 704 (Sub-No. 1) Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
August 26, 2016	Ex Parte No. 704 (Sub-No. 1) Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher

October 11, 2016	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Comment of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
October 26, 2016	Ex Parte No. 711 (Sub-No. 1) Reciprocal Switching, Opening Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski
November 7, 2016	Ex Parte No. 431 (Sub-No. 4) Review of the General Purpose Costing System, Reply Comments of the Association of American Railroads, Verified Statement of Michael R. Baranowski and Benton V. Fisher
March 6, 2017	Docket No. 42142 Consumers Energy Company v. CSX Transportation, Inc., Supplemental Reply Evidence of CSX Transportation, Inc.
January 12, 2018	Docket No. FD 32760 (Sub-No. 46) BNSF Railway Company - Terminal Trackage Rights -- Kansas City Southern Railway Company and Union Pacific Railroad Company, BNSF Petition to Establish Conditions of Use and Compensation, Verified Statement of Michael R. Baranowski
July 16, 2018	Docket No. FD 32760 (Sub-No. 46) BNSF Railway Company - Terminal Trackage Rights -- Kansas City Southern Railway Company and Union Pacific Railroad Company, BNSF Rebuttal, Verified Statement of Michael R. Baranowski
April 26, 2019	Docket No. 42144 North American Freight Car Association, et al v. Union Pacific Railroad Company, Verified Statement of Michael R. Baranowski

U.S. District Court for the Northern District of Texas, Fort Worth Division

November 7, 2017	Civil Action No. 4:16-cv-1061-O, BNSF Railway Company v. Panhandle Northern Railroad LLC, Expert Report of Michael R. Baranowski
November 22, 2017	Civil Action No. 4:16-cv-1061-O, BNSF Railway Company v. Panhandle Northern Railroad LLC, Reply Expert Report of Michael R. Baranowski
December 21, 2017	Civil Action No. 4:16-cv-1061-O, BNSF Railway Company v. Panhandle Northern Railroad LLC, Rebuttal Expert Report of Michael R. Baranowski

Arbitrations and Mediations

July 25, 2011	American Arbitration Association Case No. 58 147 Y 0031809, BNSF Railway Company and Kansas City Southern Railway Company, Expert Report of Michael R. Baranowski on behalf of BNSF Railway Company
April 25, 2013	JAMS REF #1340009009, Union Pacific Railroad vs. Canadian Pacific and Dakota, Minnesota & Eastern Railroad Arbitration, Expert Report of Michael R. Baranowski on behalf of Union Pacific Railroad Company
September 6, 2013	IN JAMS ARBITRATION, Case No. 1220044715, Union Pacific Railroad Company v. BNSF Railway Company, Expert Report of Michael R. Baranowski
October 25, 2013	IN JAMS ARBITRATION, Case No. 1220044715, Union Pacific Railroad Company v. BNSF Railway Company, Expert Reply Report of Michael R. Baranowski

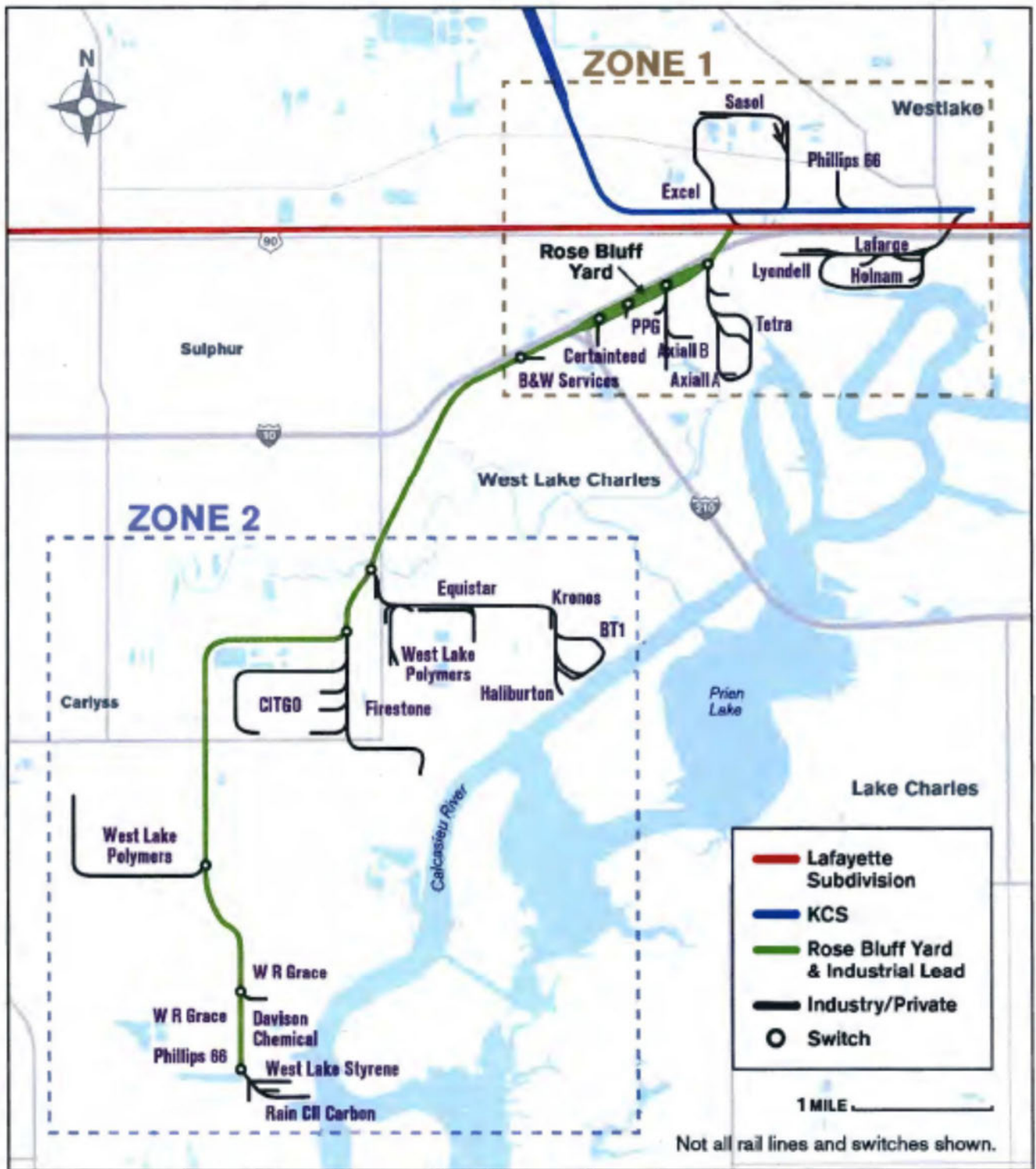
January 1, 2014	IN JAMS ARBITRATION, Case No. 1220044715, Union Pacific Railroad Company v. BNSF Railway Company, BNSF Post-Argument Submission, Affidavit of Michael R. Baranowski
April 14, 2017	American Arbitration Association Case No. 01-15-0004-4830 and 01-15-0004-4931, Arbitration Between FirstEnergy Generation LLC and CSX Transportation, Inc. & BNSF Railway Company, Expert Report of Michael R. Baranowski
November 22, 2017	American Arbitration Association Case No. No. 01-16-0003-6208, CSXT Transportation, Inc. v. JEA and Florida Power & Light Co., Expert Report of Michael R. Baranowski
January 26, 2018	American Arbitration Association Case No. No. 01-16-0005-5615, BNSF Railway Company & Norfolk Southern Railway Company v. FirstEnergy Generation, LLC, Expert Report of Michael R. Baranowski
February 16, 2018	American Arbitration Association Case No. 01-16-0005-5615, BNSF Railway Company & Norfolk Southern Railway Company v. FirstEnergy Generation, LLC, Rebuttal Expert Report of Michael R. Baranowski
February 23, 2018	American Arbitration Association Case No. 01-17-0000-0130, J.B. Hunt Transport, Inc. and BNSF Railway Company, Expert Report of Michael R. Baranowski
April 17, 2018	American Arbitration Association Case No. 01-17-0000-0130, J.B. Hunt Transport, Inc. and BNSF Railway Company, Reply Expert Report of Michael R. Baranowski
June 22, 2018	JAMS REF #1100088262, BNSF Railway Company v. Union Pacific Railroad Company, Expert Report of Michael R. Baranowski
March 25, 2019	American Arbitration Association Case No. 01-17-0000-0130, J.B. Hunt Transport, Inc. and BNSF Railway Company, Expert Report of Michael R. Baranowski
April 26, 2019	American Arbitration Association Case No. 01-17-0000-0130, J.B. Hunt Transport, Inc. and BNSF Railway Company, Reply Expert Report of Michael R. Baranowski
January 18, 2021	American Arbitration Association Case No. 01-18-0001-3283, BNSF Railway Company & Norfolk Southern Railway Company, and Dynegy Midwest Generation, LLC, Expert Report of Michael R. Baranowski on Behalf of BNSF & NS

Select Pipeline Testimony

Federal Energy Regulatory Commission

November 20, 2019	Docket Nos. OR18-7-002, et al. (Consolidated), Epsilon Trading, et al v. Colonial Pipeline Company, Prepared Answering Testimony of Michael R. Baranowski on behalf of Colonial Pipeline
March 20, 2020	Docket Nos. OR18-7-002, et al. (Consolidated), Epsilon Trading, et al v. Colonial Pipeline Company, Prepared Answering Testimony to Trial Staff of Michael R. Baranowski on behalf of Colonial Pipeline

Rose Bluff Yard and Industrial Lead



VERIFICATION

I, Michael R. Baranowski, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.



Michael R. Baranowski

Executed: January 26, 2021

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

EXHIBIT B

Verified Statement of Robert Boileau

PUBLIC

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

OPENING STATEMENT AND EVIDENCE ON COMPENSATION
VERIFIED STATEMENT OF

ROBERT BOILEAU

JANUARY 26, 2021

Introduction

My name is Robert Boileau. I have worked for 36 years as an engineer for BNSF, including 18 years as an assistant vice president of engineering. Over the years, my work included supervising hundreds of individual capital improvement, maintenance, and inspection projects across BNSF's network involving all types of railroad assets. Details of my experience are provided in my Curriculum Vitae included as Exhibit A. I have been asked by counsel for BNSF to develop the Reproduction Cost New Less Depreciation ("RCNLD") value for certain railroad track assets in the Lake Charles, LA area commonly referred to as the Rosebluff Lead and Rosebluff Yard that are owned by KCS and UP. The subject track for my RCNLD valuation consists of the main Rosebluff Lead running track, certain tracks in the Rosebluff Yard, and all other tracks owned by KCS and UP directly connecting to the Rosebluff Lead and Rosebluff Yard tracks. The as-of date for my RCNLD valuation is December 31, 2020.

In my statement below, I describe in detail the development of the reproduction costs and condition assessment of the subject track. My RCNLD valuation of the Rosebluff trackage assets determines what it would cost to duplicate the assets in their present condition. I first estimate the cost of reproducing these assets new and then perform a condition assessment to determine the percentage of physical depreciation for each asset category. My conclusions are based on information produced by UP and KCS in this proceeding, my physical inspection of the subject track performed on November 11 and 12, 2020, other supporting information, and my professional judgment as an engineer. The below table summarizes my opinion of the reproduction cost new value and physical depreciation of the subject track. These figures do not include any value for real estate.

Miles of Subject Track	{
Reproduction Cost New	
Less Physical Depreciation	
Reproduction Cost New Less Depreciation (RCNLD)	}

Description of Subject Track

The Rosebluff Lead is railroad spur with a main running track that begins at the connection to the 50/50 mainline in Westlake, LA and runs 8.6 miles southward to West Lake Charles, LA. The top half, approximately the first four miles, was originally built in the early 1940s by the Army Corps of Engineers. The bottom half, also approximately four miles long, was constructed in the early 1950s by KCS and Texas & New Orleans Railroads, the joint owners at the time.¹ {

. }.² Beginning approximately 0.4 miles south of the 50/50 line connection, the Rosebluff Lead's main running track passes through the middle of the Rosebluff Yard, which includes five-yard tracks comprising of { } total miles.³ The Rosebluff Lead and Rosebluff Yard tracks are connected to many privately-owned railroad tracks that provide physical access into different industrial plants located in the area. Based on information provided by UP, I have identified that KCS and UP own { } miles of additional connecting track between the Rosebluff Lead and Rosebluff Yard and the privately-owned industry tracks. My reproduction cost estimate includes all main running track, all railroad-owned connecting track and the eastern-most track in

¹ KCS-P-0555 at KCS-P-0579 and KCS-C-0476.

² UP-COMP-015227-C and UP-COMP-015223-C.

³ UP-COMP-015271-C.

Rosebluff Yard (yard track #441).⁴ The below table summarizes the amount of track included in my reproduction cost development.

	Total	Included in Subject Track Valuation
Rosebluff Lead	{	
Rosebluff Yard		
Connecting Tracks		
Total Rosebluff Trackage*		}
*Totals do not add exactly to above lines due to rounding		

See Boileau Workpaper “RCNLD Calculations.xlsx,” tab “Tables.”

UP also provided inventories of bridges, turnouts, crossings, and culverts that identify which assets are owned jointly by KCS and UP located along the track segments for which I am developing reproduction costs.⁵ These inventories also include certain information on asset characteristics relevant to my development of reproduction costs. I also rely on track charts provided by UP to determine certain track features including curvatures.⁶

Reproduction Costs New

Grading

Subgrade Preparation

During my physical inspection, I observed the grading characteristics of the subject track including fill heights, side-slopes, and top width as well as the environmental and topographical conditions of the surrounding land. From this review, I determined that for purposes of developing earthwork quantities that all sections of single main running track have a 16-foot top

⁴ UP-COMP-029995-C.

⁵ See UP-COMP-15300-C (bridges and culverts), UP-COMP-015279-C (turnouts), and UP-COMP-30016-C (crossings).

⁶ UP-COMP-015227-C.

width, all sections of single connecting tracks have a 14-foot top width, all additional tracks have 14-foot track centers and that the side slope ratio for all tracks is 1.75 to 1.⁷

Using these parameters, I develop cross-sections that calculate the cubic yards of embankment per track foot required to construct the embankment based on the average observed height and top-width determinations for the different track sections. I also develop the incremental cubic yards per track foot of grading for additional parallel tracks. Grading quantities are then determined by applying the appropriate cross-sections to the corresponding track segments.⁸

Based on my inspection of the area, I determined the appropriate level of costs to include for clearing and seeding activities. Vegetation ranges from light brush or none at all in some areas to moderate brush and thin trees in other areas. Overall, about half of the right-of-way length would require clearing, and accordingly I provide for clearing a 40-foot width for this portion. This width represents the area directly under and immediately adjacent to the embankment. I also provide for seeding the entire length of the right-of-way for a 30-foot width, representing 15 feet on each side of the side slopes where construction activities may be expected to disturb the land.⁹

The embankment is generally no more than a few feet high along the right-of-way except in certain limited locations. Given the flat land and the relatively low prevailing embankment heights, I assumed that the embankment will be constructed using borrow from nearby sections along or adjacent to the right-of-way. Costs for grading activities are derived from information UP produced related to a nearby grading project. UP produced AFE estimate details related to its

⁷ See workpaper “Engineering Calculations.pdf.”

⁸ See workpaper “RCNLD Calculations.xlsx,” tab “Unit Costs.”

⁹ See workpaper “RCNLD Calculations.xlsx,” tab “Unit Costs.”

construction of approximately five miles of siding tracks in 2016 within a few miles of the Rosebluff trackage, referred to as the Lockmoor storage tracks.¹⁰ The surrounding terrain and grading requirements for the Lockmoor storage tracks are comparable to that of the Rosebluff Lead trackage. Accordingly, it is appropriate to use grading costs from this project when determining costs for the applicable activities related to grading for the Rosebluff trackage.¹¹

Based on the Lockmoor project, I develop unit costs for embankment, clearing, and seeding. Also, the Lockmoor project documents report sub-excavation and sub-excavation fill quantities equal to ten percent of embankment volumes. I applied this same relationship to Rosebluff trackage embankment volumes and derived applicable unit costs for the sub-excavation activities. Unit costs are adjusted to 4Q2020 levels using the Quarterly Indexes of Chargeout Prices and Wage Rates, Material and Supplies, published by the Association of American Railroads (“M&S Index”). Total grading costs for the subject track are developed by applying the appropriate unit costs to the quantities for each track section less deductions for bridges and crossings as well as for turnout lengths, which are developed separately based on the fill height and size of each turnout. See Workpaper “RCNLD Calculations.xlsx,” tabs “Units Costs” and “Tables.”

Culverts

There are four locations with culverts on the subject track.¹² Three locations use corrugated metal pipes (CMPs) with 24-, 60-, and 66-inch diameters respectively and one location has concrete culverts with 36-inch diameters. The Lockmoor project documents

¹⁰ UP-COMP-024656-C and UP-COMP-024505-C.

¹¹ It should be noted that the Rosebluff trackage would involve larger amounts of grading work than at Lockmoor which would presumably reduce costs to some extent due to economies of scale.

¹² UP-COMP-0015300-C.

discussed above include cost information for installing 50 feet of 24-inch CMP and 170 feet of 72-inch CMP from which I derive average costs per foot for each diameter inch to apply to the CMP culverts on the subject track.¹³ Based on my project experience, I assumed the concrete culvert would cost twice as much per foot. Costs for rip rap, which I observed at some of the ends of the culverts on the subject track, were also derived from information provided in the Lockmoor project documents. See Workpaper “RCNLD Calculations.xlsx,” tabs “Units Costs” and “Tables.”

Track Construction

The materials required to construct the subject track include rail, ties, ballast, and other track materials including plates, spikes, and anchors. During my inspection, I collected the information required to develop comprehensive track materials inventories. Below, I discuss the details of how I developed these inventories and determined the appropriate unit costs. I also discuss development of track and turnout installation costs. See Workpaper “RCNLD Calculations.xlsx,” tabs “Unit Costs” and “Tables.”

Ballast

Based on my experience, I assumed that the subject tracks were originally constructed with six inches of ballast.¹⁴ Based on six-inch ballast depth and observed tie spacing, I calculate the cubic yards of ballast required per mile, convert this amount to tons assuming a cubic yard of ballast weighs 1.4 tons, and apply these figures to the lengths of each track section including deductions for crossings, bridges, and turnouts which are developed separately to calculate the

¹³ UP-COMP-024656-C. Specifically, in the Lockmoor project documents, 72-inch CMP have a cost per diameter inch of { }, and 24-Inch CMP have a cost per diameter inch of { }.

¹⁴ As discussed below, my condition assessment is developed consistent with the assumption of an initial six-inch ballast depth.

total tons of ballast required to construct the subject track. The cost per ton of ballast is derived from a February 2016 UP invoice produced by UP showing the costs for purchasing 285 tons of ballast installed on Rosebluff Lead trackage adjusted to 4Q2020 levels using the AAR's M&S Index.^{15,16}

Crossties

The main running track generally has standard 7" x 9" x 8'6" crossties that are on average spaced every 19.5 inches and the yard and connecting tracks have industry grade crossties typically spaced every 21 inches. Based on this observed spacing, I determine the number of crossties in each section of track making the necessary adjustments for turnout lengths and bridges and apply corresponding costs per crosstie to determine the total tie cost for the subject track. Costs for standard crossties are derived from a July 2016 invoice produced by UP showing the costs for purchasing over 3,000 standard grade crossties installed on Rosebluff Lead trackage.¹⁷ Costs for industry grade crossties are derived from a May 2016 UP invoice showing the costs for purchasing over 7,000 industry grade crossties installed on Rosebluff Lead trackage.¹⁸ Both unit costs are adjusted to 4Q2020 levels using the AAR's M&S Index.

Rail

The rail installed on the subject tracks is predominantly 113- or 115-pound welded relay rail, but there are also sections of 112-, 119-, and 136-pound welded relay rail. The rail is

¹⁵ UP-COMP-012941-C.

¹⁶ Unless otherwise noted the unit costs for the track materials in this section are derived from UP invoices to KCS for its portion of costs for work performed on Rosebluff Lead trackage. Certain of the relevant costs have additives applied including for material service and Louisiana state taxes. Since it is not possible to isolate what portions of the costs or additives relate to transportation and unloading, when deriving unit costs from these invoices I apply the same additives as are included to ensure all applicable costs are captured.

¹⁷ UP-COMP-007981-C.

¹⁸ UP-COMP-008149-C.

typically installed in segments on average about 1,000 feet long bolted together using 4-hole rail joints. I develop an inventory of rail for the subject track using the rail weights observed during my field inspection in conjunction with the track feet information produced by UP.¹⁹

Costs for rail are based on an April 2016 UP invoice showing the costs for purchasing over 11,000 feet of 119-pound second hand welded rail that was installed on the Rosebluff Lead.²⁰ I also develop a cost per foot for rail joints assuming 1,000-foot spacing and unit costs from a March 2020 KCS invoice for work on the Rosebluff Lead.²¹ I adjust these to 4Q2020 cost levels using the AAR's M&S Index. I scale the rail component of this unit cost proportionally to the various weights of the rail located on the subject track. Total rail costs for the subject track are developed by applying the appropriate unit costs to the corresponding feet of rail in each track section less deductions for turnout lengths which are developed separately.

Tie Plates

The subject track includes 10-, 11-, 13-, and 14-inch tie plates depending on the section. Based on my above development of tie inventories and observed plate sizes, I develop inventories of each type of plate and apply corresponding costs per plate to determine the total plate cost for the subject track. The cost per 11-inch plate is derived from an April 2016 UP invoice showing the costs for purchasing over 6,000 11-inch plates installed on Rosebluff Lead trackage.²² I scale this cost per plate to other sizes proportional to total plate inches and adjust the resulting unit costs to 4Q2020 levels using the AAR's M&S Index.

¹⁹ I generally observed rail weights in the field that aligned with those reported in the track charts and rail inventory provided by UP, but in some case identified minor discrepancies. Where discrepancies were noted, I rely on my field observation. See UP-COMP-015227-C and UP-COMP-015214-C.

²⁰ UP-COMP-007700-C.

²¹ UP-COMP-010081-C.

²² UP-COMP-007700-C.

Spikes

Most of the subject track typically includes 2 spikes per plate except for the track sections for curves, which include either 2, 3, or 4 spikes per plate. I develop spike inventories based on my above development of plate inventories and observed spikes per plate. The cost per spike is derived from a May 2016 UP invoice showing the costs for purchasing over thirteen-thousand spikes installed on Rosebluff Lead trackage adjusted to 4Q2020 levels using the AAR's M&S Index.²³

Anchors

During my field inspection, I observed that generally anchor spacing is inconsistent and irregular and that on average about one of every four crossties on the subject trackage includes anchors except for the twelve track sections for curves, which include anchors on every crosstie, or every second or third crosstie. I develop anchor inventories based on my above development of plate inventories and observed anchor spacing. The cost per anchor is derived from an April 2016 UP invoice showing the costs for purchasing over eight-thousand anchors installed on Rosebluff Lead trackage adjusted to 4Q2020 levels using the AAR's M&S Index.²⁴

Track Installation Labor

I obtained a quote from the vendor Herzog for the cost per mile to construct a 10-mile section of track on a finished subgrade in the Gulf Coast area.²⁵ The quote specifies the typical characteristics of the subject track observed during my physical inspection. The cost per mile derived from this quote of { } includes all labor, equipment, and all other costs required to build the track and assumes that all materials are delivered to a railhead at the beginning of the

²³ UP-COMP-008149-C.

²⁴ UP-COMP-007700-C.

²⁵ See workpaper "Herzog Quote.pdf."

track build out. Total track installation costs were determined by applying the cost per mile to the lengths of the subject track less deductions for bridges, crossings, and turnouts, which are developed separately.

Turnouts

There are 38 turnouts owned by UP and KCS that I identified as part of the subject track.²⁶ The turnouts range in size from #8 turnouts to #11 turnouts and in rail weight from 90 to 136 pounds. Turnout material costs are derived from a July 2016 UP invoice showing the cost for purchasing a #11 panelized turnout with 136-pound rail and associated switch equipment installed on Rosebluff Lead trackage.²⁷ I scaled these costs relative to turnout size and then separated out the estimated portion of costs for crossties. The remaining non-tie costs relate primarily to the steel components which I scaled relative to rail weight. I adjusted the costs to 4Q2020 levels using the AAR's M&S Index. Ballast costs for turnouts were developed separately based on cubic yards required for each different turnout size and using the same ballast cost per ton discussed above. As discussed above, I also determined grading quantities based on the size and embankment height for each turnout.

Turnout installation costs were obtained from the same vendor quote obtained from Herzog described above. The costs provided were for installing ten (10) #9 panelized turnouts and ten (10) #11 panelized turnouts using angle bars. I scaled the installation cost per turnout proportional to turnout size. For turnouts installed 2012 or later, I included costs for twelve additional internal welds using a cost per weld of { } provided by Herzog. Turnouts older than this assume 12 sets of conventional joint bars connect rail within the turnout.

²⁶ See workpaper "RCNLD Calculations.xlsx," tab "Turnouts."

²⁷ UP-COMP-007981-C.

I also developed costs for connecting the turnouts to the track structures. Six corresponding transition rails or compromised joints are required to connect each turnout to the surrounding track. During my inspection, I observed that about half of the turnouts installed in 2012 or after were connected using welded transition rails and the other half with compromise joint bars, and turnouts installed before 2012 used compromise joint bars. I develop costs consistent with the overall distribution of these different types of turnout connections using a cost per weld provided by Herzog, transition rail and compromise joint costs from a July 2016 UP invoice and joint bar and bolt costs from a March 2020 KCS invoice.²⁸

Bridges

I develop reproduction costs for six timber-span bridges on the subject track.²⁹ Bridge feet, span lengths and type, and pier type and spacing information for five of these bridges were provided by UP. During my field inspection, I corroborated this information as well as collected additional information for the one bridge not on UP's list. Based on this information and my observations in the field, I obtained a quote from the vendor Koppers for the completed price of constructing six timber bridges with characteristics typical of those on the subject track.³⁰ Since timber bridges are now rarely built as new construction Koppers indicated there is difficulty

²⁸ See UP-COMP-007981-C and UP-COMP-010081-C.

²⁹ UP provided an inventory identifying five bridges located beyond milepost 2.5 on the Rosebluff Lead that included information on the relevant characteristics of each bridge (UP-COMP-0015300-C). During my inspection I identified two additional bridges that are not listed on UP's track charts, one TSTOD approximately 255 feet long at about MP 2.5 and one concrete and steel bridge approximately 200 feet long over Hwy 90 at about MP 0.05. I developed a cost for the bridge at MP 2.5 based on characteristics I observed in the field. I do not include the bridge over Highway 90 because { {

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}}. The bridge at MP 3.69 includes one 38-foot steel span but all other bridge spans are timber.

³⁰ See "Koppers Quote.pdf."

establishing a precise cost estimate.³¹ Koppers provided an estimate of { } per foot for timber bridges excluding certain piling work below the groundline. They were unable to provide the cost component for the timber piling portion as new construction since they had no recent project experience.³² Accordingly, I made the conservative assumption to use the higher cost provided for concrete bridges, including all construction activities, of { } per foot, even though in my judgment this would exceed the additional costs for the timber piling portion.

Crossings

UP provided an inventory identifying at-grade crossings on the subject track owned by the railroads that included information on their relevant characteristics.³³ I also inspected these during my field observations. The crossing materials are concrete, asphalt, timber, or gravel. I developed costs per foot for each type from AFE estimate documents produced by UP for track construction work on tracks at Livonia yard.³⁴ These unit costs include the asphalt materials and installation components for the asphalt crossings, and both asphalt and concrete materials and installation components for concrete crossings, which I determine are also a reasonable representation of cost levels for the two timber crossings. For the gravel crossings I used the same track installation and ballast costs developed for standard track sections. I also included \$2,000 for gravel materials for each gravel crossing, which is a reasonable level based on my project experience.

³¹ To my knowledge, railroad timber bridges are not frequently, if at all, constructed new in the United States at this time.

³² Specifically, their estimate assumes framing all bents on the existing piling that are cutoff at or below groundline and accordingly would not cover the entire reproduction cost for new construction of a comparable timber bridge.

³³ UP-COMP-030016-C.

³⁴ UP-COMP-025086-C and UP-COMP-027589-C.

Typically, railroad crossings across public roads are largely or entirely paid for with public funds and many railroad crossings across private roads are paid for by the industries using these private roads. UP provided agreements for some crossings indicating that the railroads paid no share of the costs.³⁵ I conservatively assume a ten percent cost share for all railroad-owned crossings.

Signals

The Rosebluff Lead is non-signaled territory. The only signal equipment I observed during my inspection was at certain crossing protection equipment including cantilevers and flashers. UP provided an inventory identifying four locations with railroad-owned crossings with either cantilevers or flashers and an additional two locations with crossbuck or yield signs. Based on my experience and using the same type of hardware and technology, I assumed costs of \$150,000 for cantilevers, \$100,000 for flashers, and \$500 for signage at each applicable crossing.³⁶ For the same reasons discussed above for crossings, I also apply a ten-percent railroad cost share here.

Mobilization Additive

I apply a 2.7% mobilization additive to all amounts consistent with STB precedent in SAC rate cases.

Engineering Additive

I apply a 10% engineering additive to all amounts above, not including mobilization, consistent with STB precedent in SAC rate cases.

³⁵ See UP-COMP-000618-C and UP-COMP-000073-C.

³⁶ I also add 17 signs at each milepost and half-milepost along the Rosebluff Lead at \$100 each. These are in the track account.

Contingency Additive

I apply a 10% contingency additive to all amounts above, including mobilization and contingency additive amounts, consistent with STB precedent in SAC rate cases.

Summary of Total Reproduction Costs New

The below table summarizes the reproduction costs new for the subject track.

Reproduction Costs New For Subject Track	
Grading	{
Rail	
Ties	
Ballast	
Plates	
Spikes	
Anchors	
Track Installation	
Crossings	
Turnouts	
Bridges	
Signals	
Total Before Additives	
Mobilization	
Engineering	
Contingency	
Replacement Cost New	}

See Boileau Workpaper "RCNLD Calculations.xlsx," tab "Tables."

Condition Assessment

My condition assessment of the subject track is based on physical inspection, field measurements, information provided by UP and KCS on past capital programs, system-average asset lives for the relevant asset accounts, engineering studies on lives for certain specific assets, project experience, and my professional judgement as an engineer. In forming this assessment, I consider each category of railroad assets for which I developed reproduction costs new. Below I

summarize my relevant observations and condition assessment determinations for each asset category.

Grading

The grading for the subject track was primarily constructed in the late 1940s and early 1950s which indicates an asset age of about 75 years. KCS's 2019 R-1 Annual Report shows an overall 120-year life for its grading assets and UP's 2019 R-1 Annual Report shows an overall 86-year life for its grading assets, or 101 years when averaged together.³⁷ This is realistic based on my experience working on grading engineering projects. While limited to surface inspection that is insufficient to identify all structural deterioration issues, my physical observations indicated this grade is in relatively good condition given its older age. I did note instances of eroding side-slopes and variations in fill heights due to ground depressions or settlement that have emerged over time. It appears ballast materials, which includes the use of seashells in the original construction, along with the fill embankment have settled over time in some areas. Due to the low embankment heights and adjacent development and trackage, drainage is poor which contributes to embankment settlement. This is exacerbated by heavy rainfall, hurricanes, and surrounding waters prone to flooding in the area. Based on these considerations it is my opinion that the overall condition of Rosebluff trackage grading assets reflects 50 percent physical depreciation.

Ballast

There is little ballast remaining on the majority of the subject track and it appears that most has deteriorated, been contaminated or sunken into the sub-grade. During my inspection, I scraped down into the ballast in numerous places and in most locations the ballast turns to dirt, or small

³⁷ See "Depreciation Worksheet.xlsx."

rock filled with dirt, within an inch or two of the surface of the ballast. In few places other than where new turnouts have been installed or tracks rebuilt is the ballast section full depth and not fouled. There is also significant visual evidence of poor drainage, water accumulation and mud contamination in the ballast section. Based on available information, it appears UP and KCS have performed limited ballast work in the past decade overall which is consistent with the observed ballast condition. In line with the assumption that six-inches of ballast was originally installed as part of my reproduction cost new estimate, it is my opinion that the overall condition of Rosebluff trackage ballast assets reflects 80 percent physical depreciation.

Ties

The condition of individual ties on the subject track varies considerably based on when they were last replaced. During my physical inspection, I observed that approximately one-third of ties appeared relatively new and the majority of the remaining ties showed signs of deterioration. With this in mind, it should be noted that the primary cause of deterioration in ties in this area is decay which cannot be readily seen by a visual inspection. Based on review of available documents, it appears the UP last performed capital tie programs in { }, and KCS last performed a substantial capital tie program in { }.³⁸ The capital tie programs in { } involved replacement of about one-third of ties on the Rosebluff trackage. Since FRA standards require five good ties per 39 feet of tangent track, or roughly one of every four ties, a tie program replacing one of every three ties indicates that tie deterioration was significant at the time, and the ties not replaced then have since deteriorated.³⁹ A recent report by the Railway Tie Association (RTA) found that expected life for creosote treated wood ties is 18.1 years in the

³⁸ UP-COMP-015227-C.

³⁹ My calculations indicate { }. See workpaper "Tie Replacements.xlsx."

zone where Rosebluff trackage is located, which is in Wood Decay Zone 5 where decay rates are the highest.⁴⁰ It is conceivable tie life may be even shorter due to the deteriorated and muddy fouled ballast and poor drainage conditions which result in water and moisture being held in the track contributing to greater rates of decay. In summary, approximately one-third of the ties on Rosebluff trackage were installed around five years ago may be viewed as approximately one-quarter deteriorated, and the remaining ties replaced in { } or prior are all at or near the end of their useful lives. Based on these considerations, it is my opinion that the overall condition of Rosebluff trackage tie assets reflects 70 percent physical depreciation.⁴¹

Rail and Other Track Materials

The subject track uses second-hand rail that was originally manufactured over 70 years ago on average and since relayed into the Rosebluff trackage.⁴² Average life for the lowest-use rail from KCS's and UP's depreciation studies are 55 and 96 years respectively.⁴³ Based on my inspection, I estimate an average remaining useful life of 30 to 40 years for the rail.⁴⁴ The condition of other track materials including spikes, plates, and anchors varied, with certain areas appearing in good condition due to more recent repair work, but the majority of sections showing wear and defects. I observed many visual signs of deterioration including missing or inconsistent

⁴⁰ See Workpaper "RTA Tie Report #11.pdf."

⁴¹ One-third ties x 75% remaining life + two-thirds ties x assumed 10% remaining life = 31% overall remaining life.

⁴² UP-COMP-015214-C indicates a weighted average rail age of { }. It is not clear from the materials provided when the rail was relayed to Rosebluff trackage but based on the condition of the rail it is likely that this occurred several decades ago on average.

⁴³ See "Depreciation Worksheet.xlsx."

⁴⁴ During my inspection I noted several areas with engine burns, shelling, flaking, flow and lip cracked off, but also observed sections that were in good condition for their age. Vertical head loss measurements ranged up to ¼ of an inch and horizontal headless ranged up to ¾ inch. Signs of wear were especially visible on the curves located on the Rosebluff trackage. Metal shavings were seen on most curves indicating continued rail wear.

spike patterns, worn and shifted plates, and missing anchors and anchors not tight to ties. Rail is running in places with skewed ties evident. Slightly less than half of the turnouts on the subject track were installed in the past decade, and the other half of turnouts are on average over 50 years old.⁴⁵ I observed conditions of the individual turnouts consistent with this. It is reasonable to view the newer turnouts as barely depreciated and the older turnouts as almost entirely depreciated. Based on these considerations it is my opinion that the overall condition of Rosebluff trackage rail and other track materials assets reflects 50 percent physical depreciation.

Bridges

All six bridges included in my RCN of the subject track were originally built at least 60 years ago.⁴⁶ As context, KCS and UP's 2019 R-1 Annual Reports show an average bridge life of 75 years.⁴⁷ These are all timber bridges which are expected to deteriorate faster than the more prevalent types of concrete and steel bridges. This is exacerbated for the bridges in this region due to similar wood decay issues as those discussed above for wood cross ties. During my field inspection I observed the bridges were significantly deteriorated, especially the timber pilings, and that certain select repair work was performed on pilings, stringers/caps, and deck ties⁴⁸. To

⁴⁵ See UP-COMP-015279-C. Specifically, 18 of 38 turnouts were installed in 2012 or after. It should be noted that UP's turnout inventory occasionally listed turnout installation dates that conflicted with the dates I observed listed on these turnouts during my inspection, which I view as more reliable.

⁴⁶ Five timber bridges on the subject track were built in 1952, sixty-eight years ago, and one timber bridge was built in 1960, sixty-years ago.

⁴⁷ See "Depreciation Worksheet.xlsx."

⁴⁸ For example, in 2018 seven bents of timber piling were replaced with steel H-pile and steel caps on Br. 3.69. Visible holes and large splits were observed in other piling looking from the deck between the bridge ties. Some timber pilings have been replaced with posts or entire bents replaced with framed bents which indicates the existing piling have reached or are very near the end of their useful life. On Br. 3.69 piling have been inspected by a contractor by drilling small holes and measuring the voids in the center of the piling. This inspection was performed in January 2014 at which time the interior of the piling was treated with a preservative to extend the life of the piling. Despite this work, the bent replacements still had to take place in 2018. Ties,

account for both the more recent repair work on certain bridge components as well as the overall older condition of the bridges, and using component ages as shown on UP inspection reports for five of the bridges, I estimated the age and life of pilings, stringers/caps, and deck and calculated overall weighted figures. This is summarized on the below table.

	Weighting Factor Based on Relative Cost	Average Year Last Renewed (Weighted by Length)	Estimated Age	Estimated Life
Pilings	60%	1963	57	75
Stringers	25%	1966	54	75
Deck	15%	2008	12	25
Overall			50	68
Percent Useful Life Remaining				26%

See Boileau Workpaper "Depreciation Worksheet.xlsx."

Culverts are also classified under the account for bridges. The four culverts on Rosebluff trackage were built in 1945, 1960, 1968, and 2004. Two appeared in relatively good condition from summary surface inspection given their ages but the concrete culvert had visible separations between different segments of pipe indicating what will be a reduced life. One of the CMP's has noticeable invert corrosion which will reduce its life.

Based on these considerations, it is my opinion that the overall condition of Rosebluff bridge assets reflects 70 percent physical depreciation.

Crossings/Public Improvements

The eleven (11) crossings included in my RCN of subject track generally appeared to have significant deterioration and were likely installed when the welded rail was placed on the line. They still appear functional for providing train operations at low speed. It is my opinion that the overall condition of Rosebluff crossing assets reflects 60 percent physical depreciation.

stringers and caps have been replaced on some of the structures as noted in the UP inspection report. See UP-COMP-015281-C to UP-COMP-015299-C.

Signal Equipment

The signal equipment included in my RCN of the subject track consists of four crossings with either flashers or cantilevers and associated equipment and wiring. Although I was not able to identify the installation dates or perform functionality inspections, the equipment appears to be of a vintage from the 1980s or earlier and uses types of analog circuitry that would not be installed today. It is my opinion that the overall condition of Rosebluff signal assets reflects 80 percent physical depreciation.

Reproduction Cost New Less Depreciation

The below table applies the physical depreciation factors from my condition assessment to the corresponding RPN amounts for subject track assets by account.

R-1 Account	Rosebluff Trackage Reproduction Cost New	Rosebluff Trackage Physical Depreciation	Rosebluff Trackage RCNLD
Grading	{		
Ballast			
Ties			
Rail and other track material			
Bridges			
Signals			
Public Improvements			
Total			}

See Boileau Workpaper "RCNLD Calculations.xlsx," tab "Tables."

Robert J. Boileau, P.E.

2332 Ember Woods Drive, Keller, Texas 76262 | 817-235-3983 | rboileau@sljrail.com

Objective

- After retirement from BNSF in January 2014, am currently self-employed in SLJ Rail Consulting, Inc. providing rail engineering related support and expertise to owners and consultants. Plan and coordinate freight and commuter rail related infrastructure improvements on behalf of owners. Develop feasibility studies for rail capacity improvement projects. Develop capital plans for infrastructure and rail improvements for short line and commuter railroads. Develop asset valuations and NLV's for rail facilities and infrastructure. Mentor younger engineers in freight and passenger rail planning and engineering.

Education

BACHELORS CIVIL ENGINEERING | 1977 | UNIVERSITY OF MINNESOTA

- Related coursework: Transportation, Structural, Surveying, Hydraulics, Engineering Economics, Geotechnical/Soil Mechanics, Materials, Highway Pavements, Water Resources

MASTERS BUSINESS ADMINISTRATION | 1989 | UNIVERSITY OF KANSAS

- Related coursework: Economics, Finance, Human Resources Management, Business Law, Marketing Management, Communications, Operations Analysis

Skills & Abilities

MANAGEMENT

- Experienced rail engineer that has overseen the capacity improvement program for a major class 1 railroad for 20 years. Responsibilities included coordination and oversight of capacity improvement projects and facility projects from start to finish including planning, design, permitting, and construction through closeout.
- Worked 11 years in structures and 5 years in track maintenance. Have a broad background in rail engineering and operations.
- Managed large staffs and budgets through most of 36 year career with BNSF Railway.

COMMUNICATION

- Have spoken to and made numerous formal presentations to trade groups and associations concerning BNSF projects and programs/strategies including the American Railway Engineering and Maintenance Association (AREMA), the National Railroad Construction and Maintenance Association (NRC), the Railway Tie Association (RTA), and the Railway Engineering-Maintenance Suppliers Association (REMSA).

LEADERSHIP

- Member of AREMA since 1982, active on committees
- Past member of the Board of Directors and Board of Governors with AREMA
- Past President of AREMA
- Professional Engineer licensed in Texas

Experience

ASSISTANT VICE PRESIDENT STRUCTURES | BNSF RAILWAY | 2012-2014

- Managed Structures Department which has responsibility to inspect and program replacement and maintenance projects for 13,000 bridges on the BNSF system. Operating budget \$90MM and Capital Budget \$150MM. Added design staff to produce bridge plans in-house versus subcontract out to consultants.
- Worked 8 additional years in the Structures Department early in career, designing structures, inspecting and planning capital improvement programs, developing bridge standards.

ASSISTANT VICE PRESIDENT ENGINEERING SERVICES | BNSF RAILWAY | 2001-2012

ASSISTANT VICE PRESIDENT CONSTRUCTION- NORTH | BNSF RAILWAY | 1995-1999

- Managed Engineering Services group of up to 80 professionals that was responsible to deliver the BNSF capacity improvement program. Projects overseen included both line and marketing expansion projects funded by the railroad such as double and triple track projects, yard and terminal track additions, new tracks built to serve origination and destination facilities (build-ins) such as mines and power plants, economic development projects serving new industry, intermodal logistics parks, automotive unloading facilities, bulk unloading terminals, buildings, fueling facilities and bridges.
- Managed a group that coordinated public projects with States and Municipalities including Section 130 grade crossing surface and signal improvement projects, crossing closures, grade separations and other public projects.
- Oversaw passenger and commuter rail project improvements where commuter agencies funded capacity improvements allowing passenger service to operate over railway owned trackage jointly with freight. Various Federal funding mechanisms used by the agencies included High Speed Rail and TIGER grant monies.
- Including work earlier in career, worked 20 years on capacity improvements. A total of \$6 billion (non-inflation adjusted) in infrastructure improvements were constructed.

ASSISTANT VICE PRESIDENT LINE MAINTENANCE | BNSF Railway| 2000-2001

- Managed field operations overseeing inspection, maintenance and capital improvements of the track infrastructure on roughly one half of the system. Annual budget of \$1billion and work force of 5000 salaried and union employees.

VERIFICATION

I, Robert Boileau, verify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.



Robert Boileau

Executed: January 26, 2021

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 46)

BNSF RAILWAY COMPANY
—TERMINAL TRACKAGE RIGHTS—
KANSAS CITY SOUTHERN RAILWAY COMPANY AND
UNION PACIFIC RAILROAD COMPANY

EXHIBIT C

Verified Statement of Brent Pitts

ROSEBLUFF LEAD LAND OWNED BY UP/KCS

Calcasieu Parish, Louisiana 70665 / 70669

APPRAISAL REPORT

Date of Report: January 25, 2021

Colliers File #: DAL200976



PREPARED FOR
Tyler R. White
Senior General Attorney
BNSF Railway Company
2500 Lou Menk Dr
AOB-3
Fort Worth, TX 76131

PREPARED BY
COLLIERS INTERNATIONAL
VALUATION & ADVISORY SERVICES

LETTER OF TRANSMITTAL

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January 25, 2021

Tyler R. White
Senior General Attorney
BNSF Railway Company
2500 Lou Menk Dr
AOB-3
Fort Worth, TX 76131

RE: Rosebluff Lead Land Owned by UP/KCS
Calcasieu Parish, Louisiana 70665 / 70669

Colliers File #: DAL200976

Mr. White:

Pursuant with our engagement, the above captioned property was appraised utilizing best practice appraisal principles for this property type. This appraisal report satisfies the scope of work and requirements agreed upon by BNSF Railway Company and Colliers International Valuation & Advisory Services.

The date of this report is January 25, 2021. At the request of the client, this appraisal is presented in an Appraisal Report format as defined by *USPAP* Standards Rule 2-2(a). My appraisal format provides a detailed description of the appraisal process, subject and market data and valuation analyses.

The purpose of this appraisal is to develop an opinion of the as-is value of the subject property, which includes fee simple and servitude components. At the request of the client, I have not estimated the value of the subject rail improvements. The value estimates herein represent land value only.

The subject is a variable width rail corridor. A complete survey of the property was not provided. I have based my size estimates on deed records from the original acquisition and assemblage of the subject corridor (please refer to ownership history section for additional discussion). In general, the corridor ranges from 25 to 100 feet in width and passes through a largely industrial area in central Calcasieu Parish in and around the city of Sulphur. The majority of the subject lies within unincorporated areas.

The analyses, opinions and conclusions communicated within this appraisal report were developed based upon the requirements and guidelines of the current Uniform Standards of Professional Appraisal Practice (USPAP), the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.

The COVID-19 virus (aka coronavirus) is a serious illness and pandemic that has affected the world and more specifically the United States. The effects thus far include volatility in the stock and capital markets. The impact to demand and ultimately values for real estate is also developing, although there is a wide range of viewpoints with very little consensus on the potential impact. The range of views from market participants suggests the risk premium is widening and we should analyze implications to both near-term and longer-term valuation assumptions. Real estate as an investment type historically takes a longer period of time to be impacted in comparison to alternative investment types, such as stocks and bonds. CIVAS professionals have consulted with market participants in preparation of this assignment to understand and best address how the subject property may be impacted.

Land Area Summary

The subject corridor has been valued via Across the Fence (ATF) methodology, which utilizes land values of properties through which the corridor runs to establish a base unit value for the land within the corridor.

LAND AREA & VALUE SUMMARY - CORRIDOR						
Segment	Total Area (SF)	Total Area (Acres)	Estimated Value \$/SF	Estimated Value (Fee)	Percentage of Fee	Estimated Value
Usable Area - Fee	{					
Limited Utility Area - Fee						
Usable Area - Servitude						
Limited Utility Area - Servitude						
Total Value Estimate						}

The entire length of the subject corridor is utilized as an active rail line. In my opinion, this use is the highest and best use of the property.

The methodology employed was based on the corridor valuation approach. A contiguous rail corridor is a unique parcel which requires special treatment as a variation of the Market Approach (Sales Comparison Approach). This conventional market-recognized approach distinguishes the special value of a right of way, which is an integrated parcel of land with continuity and the ability to move from one point to another over an unbroken stretch of land.

In order to estimate a value for the subject corridor, the property is divided into parcels or zones for the purpose of valuation. The value of these individual zones is estimated by a comparison of sales of abutting or nearby land; this approach is commonly known as the Across the Fence (ATF) method. Each valuation zone is viewed as part of a typical sale parcel of adjoining land, so no adjustments are made for size, shape, or accessibility. The resulting value indicates the level at which typical land along the right of way sells in the market. The subject traverses industrial land with some sections passing through limited utility areas such as existing road easements, floodplain areas, creeks and waterways, and physically restrictive areas (narrow dimensions, surrounding properties heavily encumbered by other easements / servitudes, etc.). At the request of the client, I have estimated only the underlying land value of the subject property.

The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter. *USPAP* defines an Extraordinary Assumption as, "an assignment specific-assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions". *USPAP* defines a Hypothetical Condition as, "that which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis".

The Extraordinary Assumptions and/or Hypothetical Conditions that were made during the appraisal process to arrive at my opinion of value are fully discussed below. I advise the client to consider these issues carefully given the intended use of this appraisal, as their use might have affected the assignment results.

EXTRAORDINARY ASSUMPTIONS

A complete survey of the subject right of way was not made available nor were any figures provided showing the actual size of the corridor as a whole. I have based my size calculations on a series of deeds recorded in 1947, 1951-52, and 1960 as well as an agreement between Kansas City Southern / Texas & New Orleans and the Louisiana Department of Highways. The sizes for each tract are either taken directly from deeds or maps or estimated based on centerline lengths and stated widths. The northeastern portion of the line was relocated to cross IH 10 and US 90; the areas are not given for this portion and I have estimated the sizes based on GIS measurements. I am not a surveyor and would defer to a professional survey should one become available. This analysis is based on the Extraordinary Assumption that the size calculations are reasonably accurate and consistent with the actual size of the subject corridor. If this is not the case, the value estimates herein could change. I reserve the right to amend this report should a survey of the entire corridor become available.

A title report for the subject property was not provided. This report is based on the Extraordinary Assumption that the ownership of the property is consistent with what has been represented by the client and with deed records. If this is not the case, the value estimates herein may change. I reserve the right to amend this report should a full title commitment become available.

HYPOTHETICAL CONDITIONS

No Hypothetical Conditions were considered necessary for this appraisal.

RELIANCE LANGUAGE

Colliers International Valuation & Advisory Services hereby expressly grants to Client the right to copy the Appraisal and distribute it to other parties to the intended use for which the Appraisal has been prepared, including employees and assigns of the clients, other consultants, attorneys, or agents of the court.

My opinion of value reflects current conditions and the likely actions of market participants as of the date of value. It is based on the available information gathered and provided to us, as presented in this report, and does not predict future performance. Changing market or property conditions can and likely will have an effect on the subject's value.

The signature below indicates my assurance to the client that the development process and extent of analysis for this assignment adhere to the scope requirements and intended use of the appraisal. If you have any specific questions or concerns regarding the attached appraisal report, or if Colliers International Valuation & Advisory Services can be of additional assistance, please contact the individual listed below.

Sincerely,

COLLIERS INTERNATIONAL
VALUATION & ADVISORY SERVICES



Brent Pitts, MAI, R/W-AC
Valuation Services Director | Right of Way
Certified General Real Estate Appraiser
State of Louisiana License #G4351
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CERTIFICATION**ASSUMPTIONS & LIMITING CONDITIONS****ADDENDA**

Zoning Information
Qualifications of Appraiser
Qualifications of Colliers International Valuation & Advisory Services

GENERAL INFORMATION

Property Name	Rosebluff Lead Land Owned by UP/KCS
Property Type	Land - Right-of-Way
City	Sulphur Area
State	Louisiana
Zip Code	70665 / 70669
County	Calcasieu Parish
Core Based Statistical Area (CBSA)	Lake Charles, LA
Latitude	30.194474
Longitude	-93.331513
Number Of Parcels	Multiple

CORRIDOR INFORMATION

Land Area	Acres	Square Feet
{{		

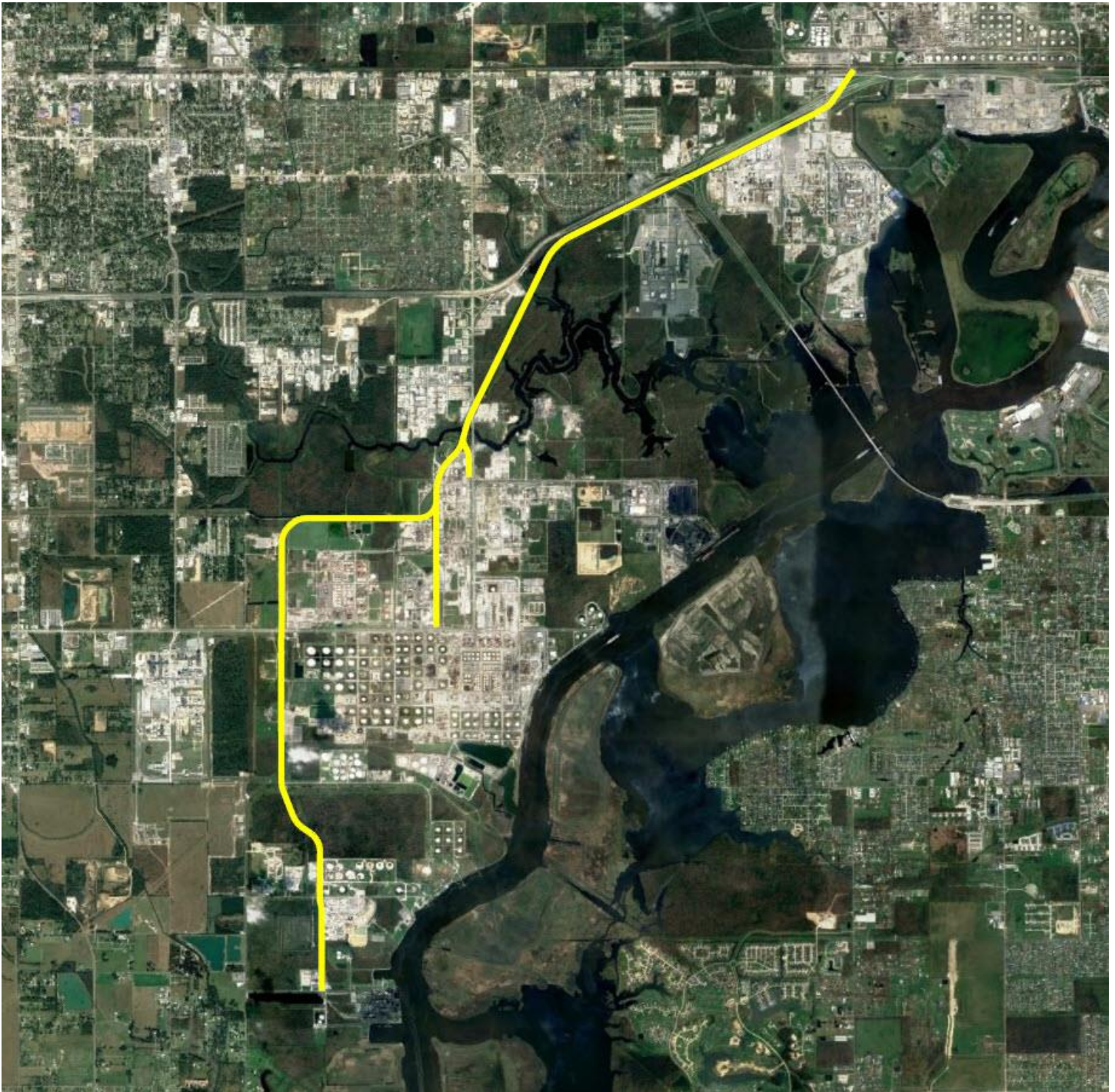
Topography	Generally Level
Shape	Variable Width Rail Corridor
Access	Average
Exposure	Average
Current Zoning	Varies
Flood Zone	Zone X / X500 / AE
Seismic Zone	Low Risk

VALUATION SUMMARY

VALUATION INDICES	AS-IS MARKET VALUE
INTEREST APPRAISED	FEE SIMPLE
DATE OF VALUE	DECEMBER 31, 2020

FINAL VALUE CONCLUSION

FINAL VALUE	{{	}}
-------------	----	----



The location of the subject rail line is approximated in yellow on the above aerial. This approximation is based on deed records and my physical inspection of the line. The line shown above represents the appraiser's approximation and was not provided by the client.



LOOKING NORTH FROM SOUTHERN END OF LINE



LOOKING NORTH ALONG LINE



LOOKING NORTH ALONG LINE



VIEW OF DAVISON ROAD CROSSING



LOOKING NORTH ALONG LINE



LOOKING NORTH ALONG LINE



VIEW OF TYPICAL ADJACENT PROPERTY



LOOKING NORTH ALONG LINE



VIEW OF CLIFTON RIDGE RD CROSSING



LOOKING NORTH ALONG LINE



LOOKING EAST ALONG LINE



VIEW OF ABOVE GRADE PIPELINE CROSSING



**VIEW OF DRIVEWAY TO ADJACENT PROPERTY
(CROSSES LINE)**



**LOOKING NORTHEAST ALONG LINE (RAIL
SPUR TO RIGHT)**



**LOOKING NORTHEAST ALONG LINE AT
DRIVEWAY CROSSING**



**LOOKING NORTHEAST ALONG LINE AT
DRIVEWAY CROSSING**



**LOOKING NORTHEAST ALONG LINE (1960
SPUR ON RIGHT)**



VIEW OF BRIDGE (LIMITED UTILITY AREA)



VIEW OF WATER CROSSING



**LOOKING NORTHEAST AT SH 108 CROSSING
(100' WIDTH SEGMENT)**



**LOOKING SOUTH ALONG SH 108 FROM
CROSSING**



LOOKING NORTHEAST ALONG LINE



**LOOKING SOUTHWEST ALONG LINE AT
WATER CROSSING**



VIEW OF WATER CROSSING



LOOKING NORTHEAST ALONG LINE TOWARD PRATER RD BRIDGE CROSSING



LOOKING NORTHEAST ALONG LINE



VIEW OF YARD AT SW/C IH 10 AND PPG DR



TYPICAL ADJACENT PROPERTY



VIEW OF LINE IN NARROW PORTION (LIMITED UTILITY) BETWEEN IH 10 & PETE MANENA RD



LOOKING NORTH TOWARD IH 210 BRIDGE CROSSING

PROPERTY IDENTIFICATION

The subject is a variable width rail corridor located in Calcasieu Parish, Louisiana. The subject passes through multiple separate tracts under different ownerships. According to tax records, it does not appear that the portions of the corridor that are held in fee are separately assessed by the parish assessor.

The subject property comprises multiple segments passing through many separately owned parcels. A legal description of the subject in its entirety was not provided. I have relied on recorded documents and maps provided by the client in my determination of the approximate boundaries of the subject property.

CLIENT IDENTIFICATION

The client of this specific assignment is BNSF Railway Company.

PURPOSE

The purpose of this appraisal is to develop an opinion of the Market Value of the rights owned by Union Pacific/Kansas City Southern on the Rosebluff Lead, which include fee simple ownership and servitude interests as further discussed and separated in the body of this report.

INTENDED USE

The intended use of this appraisal is to submit as evidence in a proceeding before the United States Surface Transportation Board.

INTENDED USERS

BNSF Railway Company is the only intended user of this report. Use of this report by third parties and other unintended users is not permitted. This report must be used in its entirety. Reliance on any portion of the report independent of others, may lead the reader to erroneous conclusions regarding the property values. Unless approval is provided by the authors no portion of the report stands alone.

ASSIGNMENT DATES

Date of Report	January 25, 2021
Date of Inspection	November 11, 2020
Valuation Date - As-Is	December 31, 2020

PERSONAL INTANGIBLE PROPERTY

No personal property or intangible items are included in this valuation.

PROPERTY AND SALES HISTORY

Current Owner

{{

}}

.}}

Three-Year Sales History

The property has not sold in the three years preceding the effective date of this appraisal.

Subject Sale Status

The property is not listed for sale and there are no sales known to be pending.

DEFINITIONS

This section summarizes the definitions of value, property rights appraised, and value scenarios that are applicable for this appraisal assignment. All other applicable definitions for this assignment are located in the Valuation Glossary retained in the appraiser's file.

DEFINITIONS OF VALUE

Given the scope and intended use of this assignment, the following definition of value is applicable:

Market Value

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently, knowledgeably, and assuming that the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹

PROPERTY RIGHTS APPRAISED

The property rights appraised constitute either the fee simple interest or an easement / servitude interest.

Fee Simple Estate

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power and escheat.²

Easement / Servitude Interest

The right to use another's land for a stated purpose. Access or right of way easements may be acquired by private parties or public utilities. Governments may be the beneficiaries of easements placed on privately owned land that is dedicated to conservation, open space, or preservation.³

Louisiana is the only civil law jurisdiction in the United States. Under civil law, servitude agreements function similarly to easements in common law by giving one party a right over the immovable property of another party.

¹ Office of Comptroller of the Currency (OCC), Title 12 of the Code of Federal Regulation, Part 34, Subpart C - Appraisals, 34.42 (g); Office of Thrift Supervision (OTS), 12 CFR 564.2 (g); This is also compatible with the FDIC, FRS and NCUA definitions of market value.

² The Dictionary of Real Estate Appraisal, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015

³ The Dictionary of Real Estate Appraisal, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015

The servitude agreements noted in the deeds for the subject corridor are generally consistent in the rights they convey, made up primarily of the right to construct, maintain, and operate a rail line on the corridor. Please refer to the Addenda for the deeds provided by the client, which include complete language regarding the rights conveyed with each servitude agreement.

Corridor Valuation

The process of estimating market value associated with rights to corridor real estate. Valuation approaches may include methods such as the across the fence method, sales comparison, alternate route (cost avoidance) approach, and estimation of net liquidation value.⁴

Across the Fence (ATF) Value

In the valuation of real estate corridors, the value concluded based on a comparison with adjacent lands before the consideration of any other adjustment factors.⁵

APPRAISAL PROBLEM

The appraisal problem is related to a rail corridor located in Calcasieu Parish, Louisiana. The subject is an assembled and active rail corridor currently owned by Union Pacific and Kansas City Southern. The subject is a limited market property for which there is limited demand and a highly specialized buyer pool. However, where demand exists, the assemblage of a corridor can present a value opportunity for the buyer or lessee as compared to the long and expensive process of acquiring land from private owners to create a new corridor. The appraisal problem is to arrive at an opinion of value the market value of the corridor taking into consideration ownership interest and other factors.

VALUE SCENARIOS

As-Is Value

The estimate of the market value of real property in its current physical condition, use, and zoning as of the appraisal date.⁶

Prospective Value

A value opinion effective as of a specified future date. The term does not define a type of value. Instead, it identifies a value opinion as effective at some specific future date. An opinion of value as of a prospective date is frequently sought in connection with projects that are proposed, under construction, or under conversion to a new use, or those that have not achieved sellout or a stabilized level of long-term occupancy.”⁷

⁴ The Dictionary of Real Estate Appraisal, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015

⁵ The Dictionary of Real Estate Appraisal, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015

⁶ The Dictionary of Real Estate Appraisal, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015

⁷ The Dictionary of Real Estate Appraisal, Sixth Edition, Appraisal Institute, Chicago, Illinois, 2015

INTRODUCTION

The appraisal development and reporting processes requires gathering and analyzing information about those assignment elements necessary to properly identify the appraisal problem to be solved. The scope of work decision must include the research and analyses that are necessary to develop credible assignment results given the intended use of the appraisal. Sufficient information includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed. Unless otherwise stated in the appraisal report, we have no knowledge of any hidden or unapparent conditions of the property that would make it more or less valuable and make no guarantees or warranties, expressed or implied, regarding the condition of the entire property. The scope of work for this appraisal assignment is outlined below:

- The appraiser analyzed the regional and local area economic profiles including employment, population, household income, and real estate trends. The local area was further studied to assess the general quality and condition, and emerging development trends for the real estate market. The immediate market area was inspected and examined to consider external influences on the subject.
- The appraiser confirmed and analyzed legal and physical features of the subject property including sizes, flood plain data, seismic zone, zoning, easements and encumbrances, access and exposure of the site. A visual inspection of the entire line was completed.
- The appraiser completed an industrial market analysis that included market and sub-market overviews. The Calcasieu Parish market overviews analyzed supply/demand conditions using vacancy, absorption, supply change and rent change statistics. Conclusions were drawn regarding the subject property's competitive position given its physical and locational characteristics, the prevailing economic conditions and external influences.
- The appraiser conducted Highest and Best Use analysis and conclusions were drawn for the highest and best use of the subject property As-Vacant. The analysis considered legal, locational, physical and financial feasibility characteristics of the subject site.
- The appraiser confirmed and analyzed financial and legal features of the subject property including ownership rights, assessor's records, and deed records. This information as well as trends established by confirmed market indicators was used to forecast performance of the subject property. An extensive range of sale data was analyzed and reviewed. For the purposes of this appraisal, those sales we believed to be most relevant to this assignment were selected for further analysis. The sales we used are presented in the body of this report and are separated into usable and limited utility portions.
- The valuation analysis is completed to provide an opinion of market value of the subject corridor. Due to the specialized nature of the subject property, the corridor value approach has been developed. This approach relies on Across the Fence (ATF) methodology where land values within the corridor are estimated based on values of surrounding properties with similar highest and best uses. The concluded values are applied to each component of the subject corridor. This does not mean that each individual property through which the corridor passes has been appraised, but that land values derived from comparable land sales for each highest and best use present on the corridor were applied to the applicable segment of the subject corridor. An adjustment was required to reflect that portions of the subject corridor constitute easement / servitude agreement interests instead of fee simple ownership. At the request of the client, I have presented the estimated value of the underlying land only and no improvements have been considered in this analysis.
- Reporting of this appraisal is in an Appraisal Report format as required in USPAP Standard 2. The appraiser's analysis and conclusions are fully described within this document.
- I understand the Competency Rule of USPAP and the author of this report meets the standards.

- No one provided significant real property appraisal assistance to appraiser signing this certification.

SOURCES OF INFORMATION

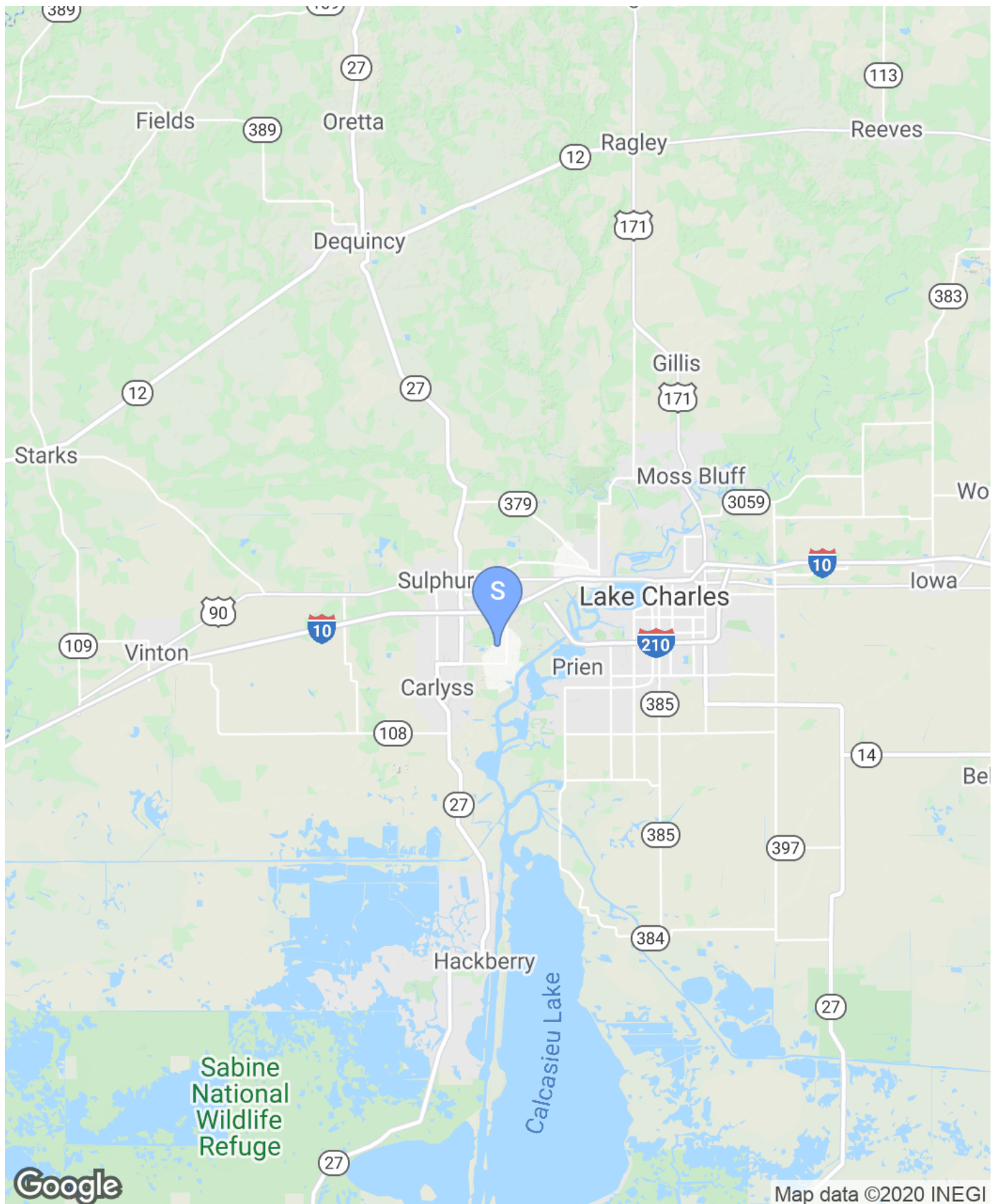
The following sources were contacted to obtain relevant information:

SOURCES OF INFORMATION	
ITEM	SOURCE
Tax Information	Calcasieu Parish Tax Assessor
Zoning Information	City of Sulphur
Size Information	Deed Records (provided by client)
New Construction	City of Sulphur / Calcasieu Parish
Flood Maps	InterFlood
Demographics	Pitney Bowes/Gadberry Group - GroundView®
Comparable Information	See Comparable Datasheets for details
Legal Descriptions	Deed Records (provided by client)

SUBJECT PROPERTY INSPECTION

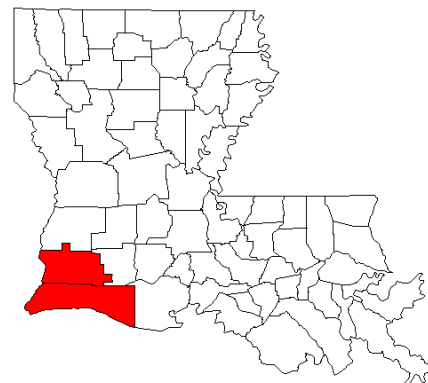
SUBJECT PROPERTY INSPECTION			
APPRAISER	INSPECTED	EXTENT	DATE OF INSPECTION
Brent Pitts, MAI, R/W-AC	Yes	Site Only	November 11, 2020

The inspection of the line was carried out from a hi-rail. BNSF also provided aerial photography of the entire Rosebluff Lead taken on the date of inspection for further reference.



INTRODUCTION

The Lake Charles, LA Metropolitan Statistical Area is in southwest Louisiana. According to the 2013 census estimate, the MSA had a population of 202,040. The Lake Charles, LA MSA is in the Acadiana Region, and is comprised of two parishes: Calcasieu and Cameron, anchored by the city of Lake Charles. The MSA is bordered by the parishes of Beauregard, Jefferson Davis and Vermillion in Louisiana and the counties of Jefferson and Orange in Texas. Main arterials serving the MSA include Interstates 10 and 210, U.S. Routes 90, 165 and 171, and State Routes 12, 14, and 27. Air transportation is provided by the Chennault International Airport, a public airport four miles east of Lake Charles central business district. The MSA is comprised of several waterways and national wildlife refuges, including Cameron Prairie National Wildlife Refuge, East Cove National Wildlife Refuge, Sabine National Wildlife Refuge and a portion of Lacassine National Wildlife Refuge. The Lake Charles, LA MSA is home to the Louisiana Army National Guard, including the 256th Infantry Brigade Combat Team and the 156th Infantry Regiment.



DEMOGRAPHIC ANALYSIS

The following is a demographic study of the region sourced by *Pitney Bowes/Gadberry Group - GroundView®*, an on-line resource center that provides information used to analyze and compare the past, present, and future trends of geographical areas. Demographic changes are often highly correlated to changes in the underlying economic climate. Periods of economic uncertainty necessarily make demographic projections somewhat less reliable than projections in more stable periods. These projections are used as a starting point, but we also consider current and localized market knowledge in interpreting them within this analysis. Please note that our demographics provider sets forth income projections in constant dollars which, by definition, reflect projections after adjustment for inflation. We are aware of other prominent demographic data providers that project income in current dollars, which do not account for inflation. A simple comparison of projections for a similar market area made under the constant and current dollar methodologies can and likely will produce data points that vary, in some cases, widely. Further, all forecasts, regardless of demographer methodology(ies), are subjective in the sense that the reliability of the forecast is subject to modeling and definitional assumptions and procedures.

Population

According to Pitney Bowes/Gadberry Group - GroundView®, a Geographic Information System (GIS) Company, the Lake Charles metropolitan area had a 2019 total population of 211,453 and experienced an annual growth rate of 0.6%, which was higher than the Louisiana annual growth rate of 0.3%. The metropolitan area accounted for 4.5% of the total Louisiana population (4,675,952). Within the metropolitan area the population density was 77 people per square mile compared to the higher Louisiana population density of 100 people per square mile and the higher United States population density of 92 people per square mile.

POPULATION			
YEAR	US	LA	CBSA
2010 Total Population	308,745,538	4,533,372	199,607
2019 Total Population	329,429,186	4,675,952	211,453
2024 Total Population	340,686,154	4,754,450	218,312
2010 - 2019 CAGR	0.7%	0.3%	0.6%
2019 - 2024 CAGR	0.7%	0.3%	0.6%

Source: Pitney Bowes/Gadberry Group - GroundView®

POPULATION DENSITY			
YEAR	US	LA	CBSA
2019 Per Square Mile	92	100	77
2024 Per Square Mile	95	102	80

Source: Pitney Bowes/Gadberry Group - GroundView®

The 2019 median age for the metropolitan area was 36.34, which was 5.24% younger than the United States median age of 38.25 for 2019. The median age in the metropolitan area is anticipated to grow by 0.44% annually, increasing the median age to 37.16 by 2024.

MEDIAN AGE			
YEAR	US	LA	CBSA
2019	38.25	37.26	36.34
2024	38.90	38.06	37.16
CAGR	0.34%	0.43%	0.44%

Source: Pitney Bowes/Gadberry Group - GroundView®

Education

The Lake Charles, LA MSA is home to McNeese State University, a public university in Lake Charles. The institution offers 83 degree programs in eight colleges and divisions, which include The Burton College of Education and The Doré School of Graduate Studies. With an endowment of approximately \$80 million, McNeese State University has an annual enrollment of approximately 7,600 students.

Household Trends

The 2019 number of households in the metropolitan area was 84,868. The number of households in the metropolitan area is projected to grow by 1.0% annually, increasing the number of households to 89,130 by 2024. The 2019 average household size for the metropolitan area was 2.45, which was 5.77% smaller than the United States average household size of 2.60 for 2019. The average household size in the metropolitan area is anticipated to decrease by 0.33% annually, reducing the average household size to 2.41 by 2024.

NUMBER OF HOUSEHOLDS			
YEAR	US	LA	CBSA
2019	123,740,541	1,863,010	84,868
2024	127,610,429	1,934,737	89,130
CAGR	0.6%	0.8%	1.0%

Source: Pitney Bowes/Gadberry Group - GroundView®

AVERAGE HOUSEHOLD SIZE			
YEAR	US	LA	CBSA
2019	2.60	2.44	2.45
2024	2.61	2.39	2.41
CAGR	0.07%	(0.42%)	(0.33%)

Source: Pitney Bowes/Gadberry Group - GroundView®

The Lake Charles metropolitan area had 29.70% renter occupied units, compared to the higher 32.78% in Louisiana and the higher 34.87% in the United States.

HOUSING UNITS			
	US	LA	CBSA
Owner Occupied	65.13%	67.22%	70.30%
Renter Occupied	34.87%	32.78%	29.70%

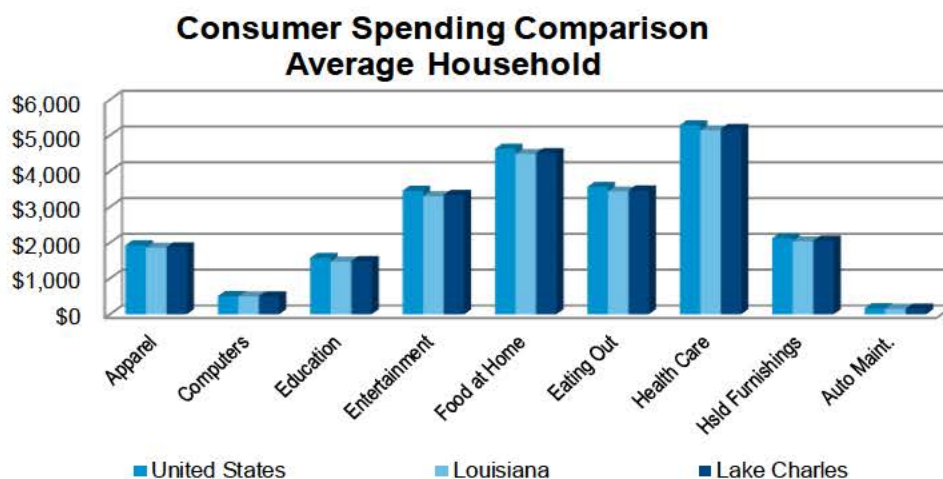
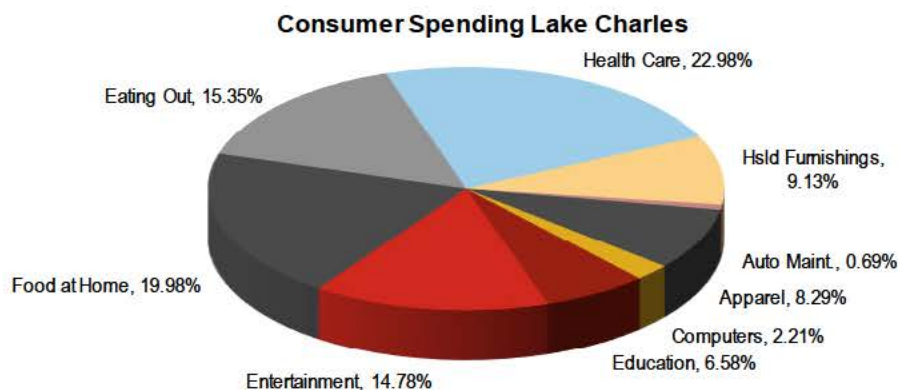
Source: Pitney Bowes/Gadberry Group - GroundView®

The 2019 median household income for the metropolitan area was \$51,553, which was 15.4% lower than the United States median household income of \$60,918. The median household income for the metropolitan area is projected to grow by 3.9% annually, increasing the median household income to \$62,301 by 2024.

As is often the case when the median household income levels are lower than the national average, the cost of living index is also lower. According to the American Chamber of Commerce Researchers Association (ACCRA) Cost of Living Index, the Lake Charles, LA MSA's cost of living is 88.0 compared to the national average score of 100. The ACCRA Cost of Living Index compares groceries, housing, utilities, transportation, health care and miscellaneous goods and services for over 300 urban areas.

MEDIAN HOUSEHOLD INCOME			
YEAR	US	LA	CBSA
2019	\$60,918	\$48,891	\$51,553
2024	\$73,705	\$58,946	\$62,301
CAGR	3.9%	3.8%	3.9%

Source: Pitney Bowes/Gadberry Group - GroundView®

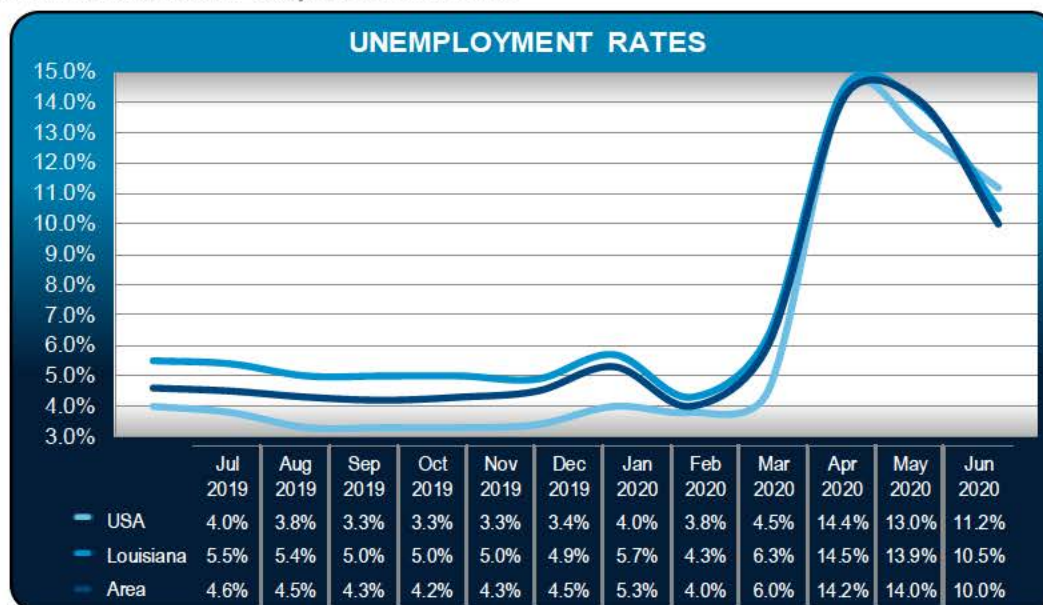


EMPLOYMENT

Total employment has increased annually over the past decade in the state of Louisiana by 0.4% and increased annually by 2.6% in the area. From 2018 to 2019 unemployment decreased in Louisiana by 0.1% and increased by 0.3% in the area. In the state of Louisiana unemployment has decreased over the previous month by 3.4% and decreased by 4.0% in the area.

EMPLOYMENT & UNEMPLOYMENT STATISTICS 2010 - 2019							
TOTAL EMPLOYMENT					UNEMPLOYMENT RATE		
Year	Louisiana		Lake Charles, LA Metropolitan Statistical Area		United States*	Louisiana	Lake Charles, LA Metropolitan Statistical Area
	Total	% Δ Yr Ago	Total	% Δ Yr Ago			
2010	1,919,852	(0.2%)	83,943	(5.8%)	9.6%	8.0%	8.0%
2011	1,911,021	(0.5%)	83,380	(0.7%)	8.9%	7.8%	7.6%
2012	1,933,137	1.2%	84,896	1.8%	8.1%	7.1%	6.8%
2013	1,960,539	1.4%	86,728	2.2%	7.4%	6.7%	6.4%
2014	2,014,189	2.7%	92,248	6.4%	6.2%	6.4%	5.9%
2015	2,021,509	0.4%	97,315	5.5%	5.3%	6.3%	5.4%
2016	1,992,249	(1.4%)	101,603	4.4%	4.9%	6.1%	4.8%
2017	1,995,433	0.2%	107,910	6.2%	4.4%	5.1%	3.9%
2018	2,001,995	0.3%	109,483	1.5%	3.9%	4.9%	3.8%
2019	1,994,285	(0.4%)	105,591	(3.6%)	3.7%	4.8%	4.1%
CAGR	0.4%	-	2.6%	-	-	-	-

Source: U.S. Bureau of Labor Statistics *Unadjusted Non-Seasonal Rate



The preceding chart depicts unemployment trends in the region, Louisiana and the U.S. Overall levels of unemployment in the region experienced an exponential increase throughout the past three months. By the end of June 2020, unemployment in the region was 0.5% lower than Louisiana's and 1.2% lower than the national average.

TOP EMPLOYERS		
EMPLOYER NAME	EMPLOYEES	INDUSTRY
Calcasieu Parish School Board	4,899	Education
Lake Charles Memorial Health Systems	2,148	Healthcare/Social Assistance
Westlake Group	1,693	Professional/Scientific/Technical Services
Turner Industries, LLC	1,650	Manufacturing
Golden Nugget	1,413	Arts/Entertainment/Recreation
L'auberge du Lac Casino & Hotel	1,300	Arts/Entertainment/Recreation
Citgo Petroleum Corporation	1,113	Mining/Oil/Gas Extraction
Christus St. Patrick Hospital	915	Healthcare/Social Assistance
Calcasieu Parish Sheriff's Office	869	Education
City of Lake Charles	810	Public Administration

Source: <http://www.cppj.net>

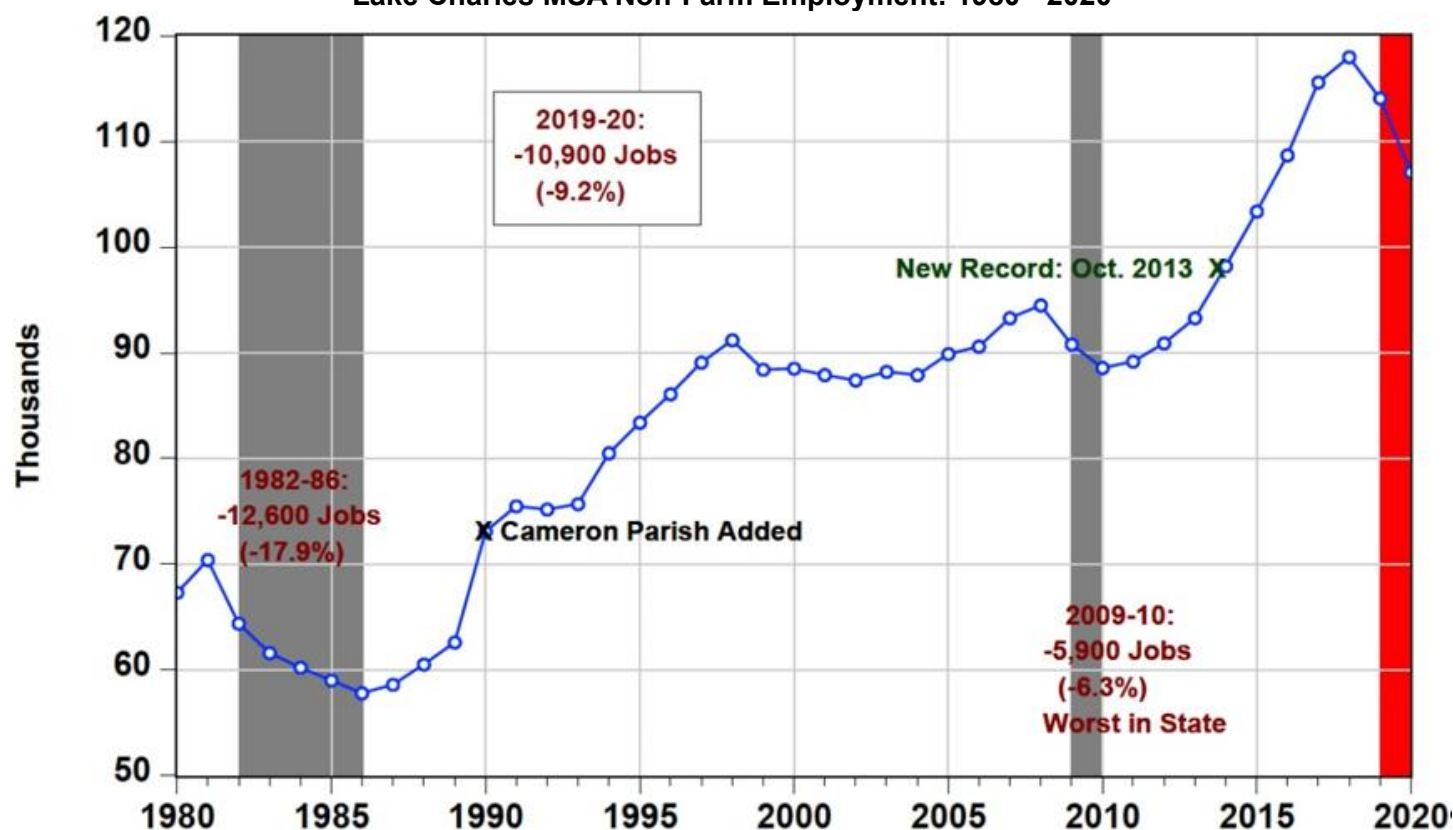
The preceding chart depicts the top employers in Calcasieu Parish. Principal employers in the region are spread throughout different sectors, including education, healthcare/social assistance, and professional / scientific / technical services. The top employer is Calcasieu Parish School Board. With 4,899 professional, supervisory and support personnel employed in the school district, it serves approximately 32,000 students. The second largest employer is Lake Charles Memorial Health Systems. The Lake Charles Memorial Hospital, an acute care hospital, is the flagship institution of the Memorial Health System. The system is also comprised of the Lake Charles Memorial Hospital for Women and the Memorial Specialty Hospital. The third largest employer is Westlake Group, in Sulphur. It is a manufacturer of petrochemicals, polymers and the largest producer of low-density polyethylene in the United States.

This MSA is dominated by three industries. One of which is what is broadly referred to as the petrochemical industry. This phrase handily combines two closely related industries—chemicals (which include LNG export terminals for purposes of our discussion) and refining. The Lake Area Industry Alliance reports that Calcasieu Parish was the home to 16 different chemical plants, two refineries, two LNG export facilities (and another under construction), and three industrial gas processing plants. Total employment in these facilities was in excess of 7,500 direct employees and about 3,800 contractors. This huge capital-intensive petrochemical complex supports a very large industrial construction industry.

A second major industry in Lake Charles is gaming. Pre-Hurricane Rita, Lake Charles was home to five riverboat casinos. Now there are three in operation, plus the Delta Downs Racetrack. The two largest operational casinos are L'Auberge du Lac, which opened in the summer of 2005, and the Golden Nugget, which opened in December 2014. Hurricane Rita badly damaged both of the casinos owned by Harrah's. Harrah's sold its two licenses to Pinnacle Entertainment, owner of L'Auberge du Lac. Pinnacle moved a license to Baton Rouge. Isle of Capri closed one of its smaller riverboats and moved that license to Shreveport. It is interesting to note that while the gaming sector in the Shreveport-Bossier and Baton Rouge MSAs have declined and New Orleans casinos have remained relatively stable over the past five years, in the Lake Charles MSA it has grown. Total employment at the three casinos and the racetrack was at 5,391 as of 2019, a 29% increase over five years ago. Mainly this was due to the opening of the Golden Nugget in December 2014. While this new casino did cannibalize some from the other three gaming venues in the area, on the net the region's gaming market was way up. The gaming sector was especially hammered by the COVID-19 outbreak.

A third key sector is aircraft repair. There are now three significant employers located at Chennault Industrial Airpark—Northrop Grumman, Landlock Aviation and Citadel Completions. Changes in tenants at Chennault have had a major impact on the MSA's employment pattern over time.

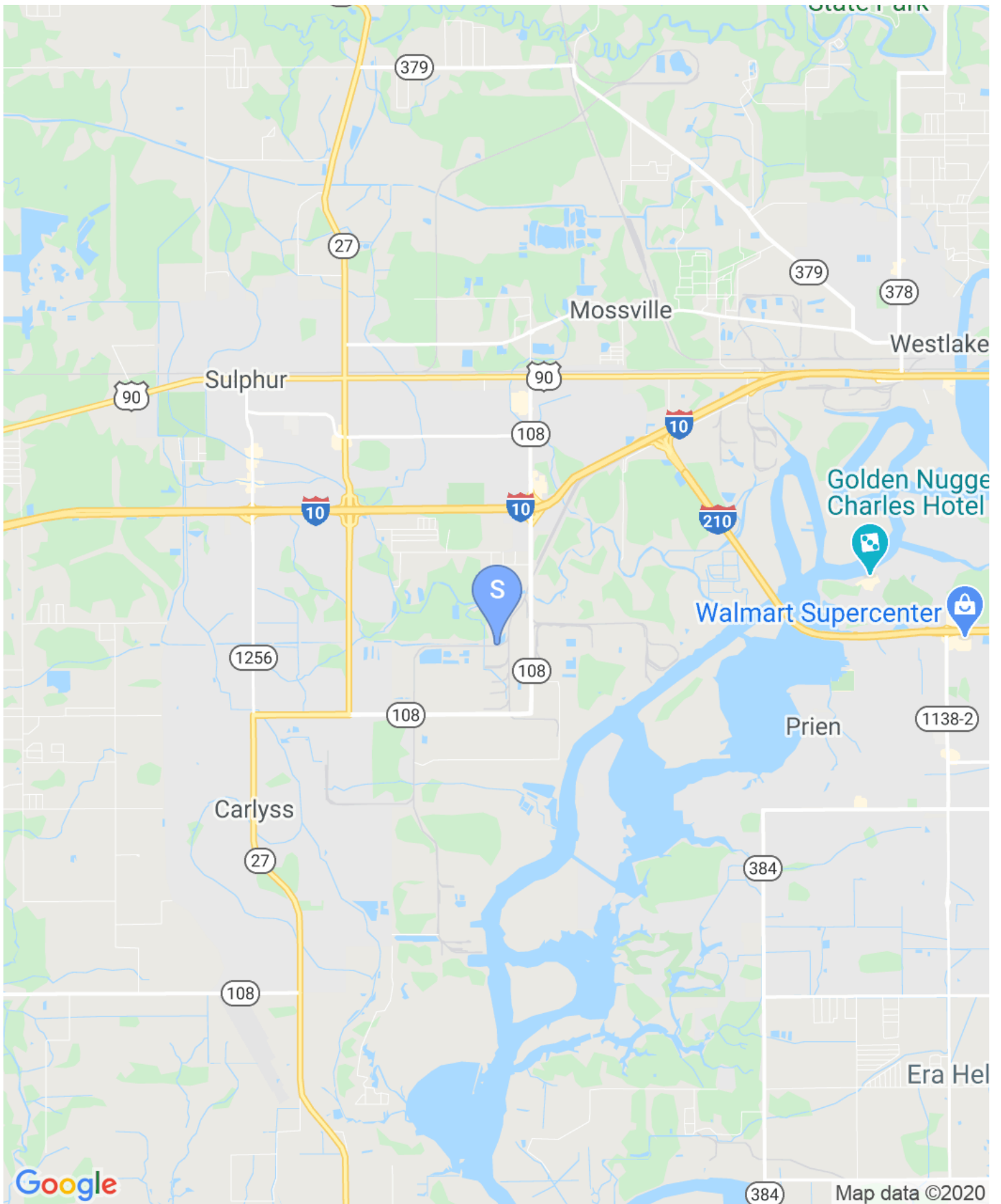
Lake Charles MSA Non-Farm Employment: 1980 - 2020



SUMMARY

The Lake Charles, LA MSA is a main cultural, industrial and education center in the southwest region of Louisiana. The Lake Charles region has been an attractive location to potential investors as it is supported by the petrochemical industry, as well as by a robust entertainment industry. There is a long road of rebuilding ahead for Lake Charles and the surrounding region. As of this writing, the area is still reeling from the immediate impacts of two hurricanes. The storms instantly caused disruptions in local business and other productive activities due to evacuations and lost utilities, damage to structures and equipment, displaced employees and so on. These changes hurt the regional economy through losses in business sales, jobs and wage earnings. But these negative impacts on the local economies are expected to be temporary. Economic gains stemming from recovery efforts and rebuilding activity will help to offset most of the overall indirect economic loss as soon as early 2021. In addition to insurance payments, the infusion of disaster relief funds from various government agencies and philanthropic organizations will help to facilitate construction and repair activities that will in turn spur local business and job growth.

Hurricanes Laura and Delta have generated substantial economic shocks to the Lake Charles area and will test the region's resilience in the long run. With hindsight, full recovery will likely take years to complete. While observed statistics on the benefit of fiscal stimulus to a region's long-term economic growth are mixed, anecdotally we find strong evidence to support the value of large-scale government spending programs as incentive to revitalize a regional economy. We are of the opinion that the Lake Charles area will return to a period of employment and economic growth once rebuilding is completed.



INTRODUCTION

In this section of the report, I provide details about the local area and describe the influences that bear on the real estate market as well as the subject property. A map of the local area is presented on the prior page. Below are insights into the local area based on fieldwork, interviews, demographic data and experience working in this market.

LOCAL AREA PROFILE

The subject is located in central Calcasieu Parish. The subject line is located southeast of Sulphur and west of Lake Charles across Prien Lake and the surrounding waterways. The majority of the subject line is located outside the Sulphur city limits. The area is characterized by heavy industrial, refinery, and petrochemical storage uses. There is substantial vacant land in the vicinity of the subject, much of which has been held in common ownership for many years.

DEMOGRAPHIC PROFILE

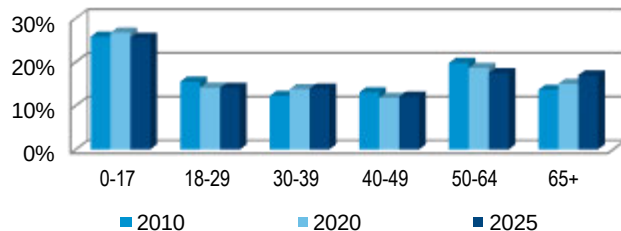
Below is a demographic study of the area, sourced by *Pitney Bowes/Gadberry Group - GroundView®*, an on-line resource center that provides information used to analyze and compare the past, present, and future trends of properties and geographical areas. Please note that our demographics provider sets forth income projections in constant dollars which, by definition, reflect projections after adjustment for inflation. We are aware of other prominent demographic data providers that project income in current dollars, which do not account for inflation. A simple comparison of projections for a similar market area made under the constant and current dollar methodologies can and likely will produce data points that vary, in some cases, widely. Further, all forecasts, regardless of demographer methodology(ies), are subjective in the sense that the reliability of the forecast is subject to modeling and definitional assumptions and procedures.

LOCAL AREA DEMOGRAPHICS

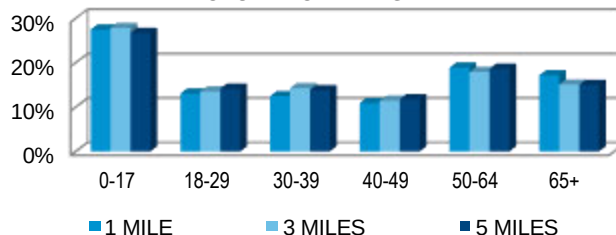
DESCRIPTION	1 MILE	3 MILES	5 MILES	DESCRIPTION	1 MILE	3 MILES	5 MILES
POPULATION				AVERAGE HOUSEHOLD INCOME			
2000 Population	552	15,023	38,677	2020	\$70,258	\$73,754	\$85,973
2010 Population	522	15,494	41,685	2025	\$75,544	\$84,606	\$102,663
2020 Population	515	16,916	45,482	Change 2020-2025	7.52%	14.71%	19.41%
2025 Population	510	17,570	47,375	MEDIAN HOUSEHOLD INCOME			
Change 2000-2010	(5.43%)	3.14%	7.78%	2020	\$49,999	\$58,566	\$59,881
Change 2010-2020	(1.34%)	9.18%	9.11%	2025	\$56,428	\$67,132	\$71,035
Change 2020-2025	(0.97%)	3.87%	4.16%	Change 2020-2025	12.86%	14.63%	18.63%
POPULATION 65+				PER CAPITA INCOME			
2010 Population	72	2,136	5,686	2020	\$28,502	\$29,925	\$35,201
2020 Population	88	2,549	6,815	2025	\$31,270	\$34,953	\$42,740
2025 Population	98	2,955	8,027	Change 2020-2025	9.71%	16.80%	21.42%
Change 2010-2020	22.22%	19.34%	19.86%	2020 HOUSEHOLDS BY INCOME			
Change 2020-2025	11.36%	15.93%	17.78%	<\$15,000	9.5%	8.1%	9.0%
NUMBER OF HOUSEHOLDS				\$15,000-\$24,999	8.0%	11.4%	11.4%
2000 Households	205	5,647	14,492	\$25,000-\$34,999	16.0%	10.3%	9.0%
2010 Households	195	5,905	16,241	\$35,000-\$49,999	16.5%	13.7%	12.7%
2020 Households	200	6,790	18,548	\$50,000-\$74,999	11.0%	18.1%	17.1%
2025 Households	202	7,183	19,647	\$75,000-\$99,999	17.0%	12.9%	11.6%
Change 2000-2010	(4.88%)	4.57%	12.07%	\$100,000-\$149,999	12.5%	17.9%	16.0%
Change 2010-2020	2.56%	14.99%	14.20%	\$150,000-\$199,999	8.5%	5.5%	6.7%
Change 2020-2025	1.00%	5.79%	5.93%	\$200,000 or greater	1.0%	2.1%	6.5%
HOUSING UNITS (2020)				MEDIAN HOME VALUE			
Owner Occupied	150	4,998	13,524	AVERAGE HOME VALUE	\$153,000	\$151,779	\$157,407
Renter Occupied	46	1,783	5,049	HOUSING UNITS BY UNITS IN STRUCTURE			
HOUSING UNITS BY YEAR BUILT				1, detached	142	5,083	12,986
Built 2010 or later	5	420	1,477	1, attached	0	29	198
Built 2000 to 2009	54	1,147	3,937	2	23	164	468
Built 1990 to 1999	17	683	2,787	3 or 4	4	228	383
Built 1980 to 1989	12	1,008	2,516	5 to 9	0	239	944
Built 1970 to 1979	28	1,287	2,581	10 to 19	0	45	169
Built 1960 to 1969	25	859	2,013	20 to 49	0	39	126
Built 1950 to 1959	37	1,066	2,140	50 or more	0	49	337
Built 1940 to 1949	21	294	721	Mobile home	27	867	2,870
Built 1939 or earlier	0	26	377	Boat, RV, van, etc.	0	38	93

Source: Pitney Bowes/Gadberry Group - GroundView®

POPULATION GROWTH BY AGE - 5 MILES



POPULATION BY AGE



Transportation Routes

Major traffic arteries are shown in the chart below:

MAJOR ROADWAYS & THOROUGHFARES

HIGHWAY	DIRECTION	FUNCTION	DISTANCE FROM SUBJECT
IH 10	east-west	Interstate Highway	Northern segment of subject fronts this roadway
IH 210	east-west	Partial Loop	Northern segment of subject crosses this roadway
SH 108	north-south	State Highway	Central segment of subject fronts and crosses this roadway (twice)
SH 27	north-south	State Highway	Located 0.7 miles west of subject
SURFACE STREETS	DIRECTION	FUNCTION	DISTANCE FROM SUBJECT
PPG Dr	north-south	Secondary Roadway	Located at northeast end of line
Pete Manena Rd	east-west	Secondary Roadway	Northern segment of subject fronts this roadway
Prater Rd	north-south	Secondary Roadway	Northern segment of subject crosses this roadway
E Dave Dugas Rd / Clifton Ridge Rd	east-west	Secondary Roadway	Southern segment of subject crosses this roadway
Davison Rd	east-west	Secondary Roadway	Southern segment of subject crosses this roadway
Paktank Rd	east-west	Secondary Roadway	Located at southern end of line

Economic Factors

The economy of the immediate area is driven by the energy and petrochemical industries with the majority of surrounding properties utilized for refining, manufacturing, and hydrocarbon and chemical storage. Westlake Chemical has multiple facilities located along the subject line, the largest of which encompasses more than 400 acres. Other large chemical manufacturing and energy sector operators in the vicinity include LACC (JV between Axiall Corp. and Lotte Chemical Corp.), Citgo, Grace, and Kinder Morgan, among many smaller and/or local operators. Overall, the immediate area is heavily reliant on these industries.

Community Services

Community services and facilities are readily available in the surrounding area. These include public services such as fire stations, hospitals, police stations, and schools (all ages). The subject property is located in the Calcasieu Parish School Board. GreatSchools.org is an on-line tool that rates every school on a scale of one to ten based on test scores. They also track parents rating of the school on a one to five scale. The following chart details the ratings of schools nearest to the subject.

HIGH SCHOOLS

HIGH SCHOOLS	GREATSCHOOLS RATING	PARENT RATING	SCHOOL TYPE	GRADES SERVED	DISTANCE FROM SBJ.	CITY LOCATION	TOTAL ENROLLMENT
Sulphur High School	6	4	public	8-12	3.14 miles	Sulphur	2,025
Jake Drost School For Exceptional Chilc	-	5	public	PK-12	4.25 miles	Sulphur	32
Alfred M. Barbe High School	7	4	public	8-12	5.00 miles	Lake Charles	2,032
Westlake High School	7	5	public	8-12	5.72 miles	Westlake	534
Lagrange High School	3	4	public	8-12	7.57 miles	Lake Charles	1,107
Sam Houston High School	8	3	public	8-12	9.91 miles	Lake Charles	1,244
Washington/Marion Magnet High Schoo	3	4	public	8-12	9.96 miles	Lake Charles	610
Vinton High School	5	4	public	8-12	15.20 miles	Vinton	271
Hackberry High School	5	3	public	PK-12	15.65 miles	Hackberry	238
Grand Lake High School	8	4	public	PK-12	15.71 miles	Lake Charles	776

Source: GreatSchools.org

IMMEDIATE AREA PROFILE

This section discusses uses and development trends in the immediate area that directly impact the performance and appeal of the subject property.

Predominant Land Uses

Development in the immediate area is predominantly characterized by industrial facilities including warehouses, manufacturing facilities, refineries, and petrochemical storage. There is some commercial development noted around the IH 10 and SH 108 intersection, primarily comprising hotels, restaurants, and gas stations.

Residential Development

The limited residential development in the area is primarily made up of manufactured housing communities south of IH 10 with some single-family residential development noted on the north side of IH 10. There are some rural residential uses noted west and southwest of the southern segment of the subject line.

Multi-Family Development

The following chart shows a summary of multi-family data by type in the immediate area from CoStar.

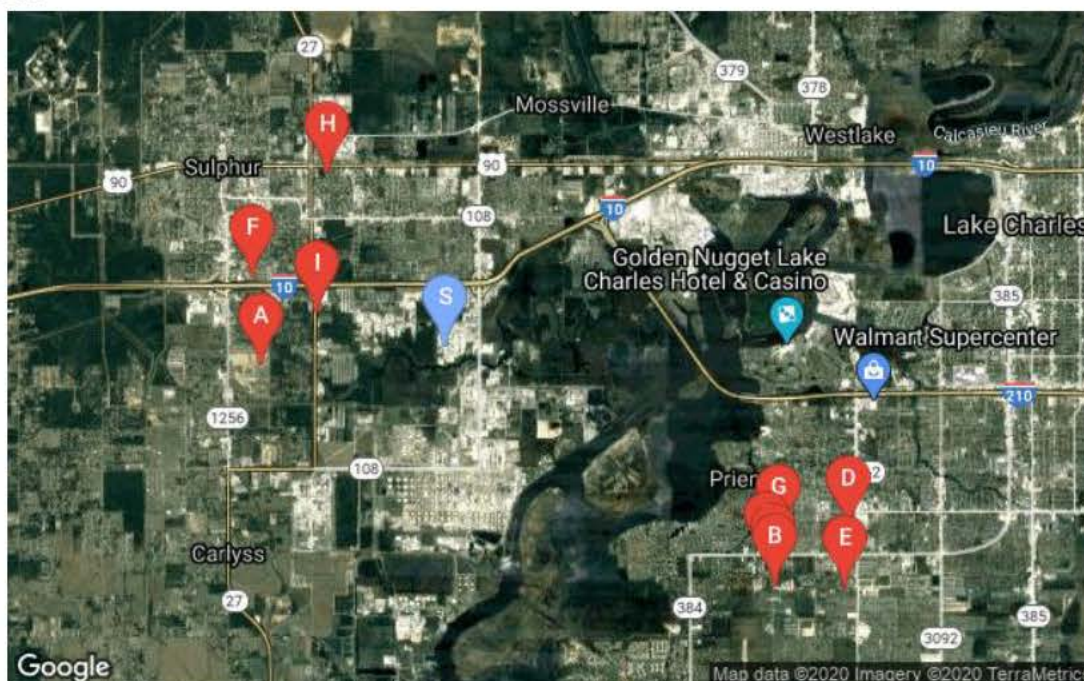
MULTIFAMILY SUMMARY			
CLASS	PROPERTIES	NRA (SF)	AVG YR BLT
A	2	512,800	2018
B	17	1,977,966	2005
C	18	720,978	1989
TOTAL	37	3,211,744	1998

Source: CoStar

The largest three multi-family properties are at 1000 East Carlyss Boulevard, 5225 Elliott Road and 2845 Country Club Road with an NRA of 400,000 SF, 350,000 SF and 344,468 SF that were built in 2016, 2017 and 2008, respectively. The closest large multi-family property in proximity to the subject is at 2877 South Beglis Parkway with an NRA of 122,400 SF that was built in 2006. The majority of properties were constructed after 2000. The following chart and map show the subject property and its location relative to the 10 largest multi-family properties in the immediate area from CoStar.

LARGEST MULTIFAMILY PROPERTIES						
NAME	DISTANCE	MAP PIN	CLASS	NRA (SF)	STORIES	YEAR BUILT
Belle Savanne Apartments	2.2 Miles	A	A	400,000	2	2016
The Legacy at Lake Charles	4.9 Miles	B	B	350,000	3	2017
Country Club Pointe Apartment Homes Lake Char	4.7 Miles	C	B	344,468	2	2008
Evergreen at River Oaks	5.3 Miles	D	B	284,795	2	1999
Nelson Pointe Apartment Homes Lake Charles	5.6 Miles	E	B	187,000	2	2005
Sulphur Springs	2.5 Miles	F	C	182,284	2	-
The Ihles	4.6 Miles	G	B	169,278	2	-
Multifamily Building	2.5 Miles	H	C	130,680	1	-
Peppermill Apartments	1.6 Miles	I	B	122,400	2	2006
Country Club Cottages	4.8 Miles	J	A	112,800	0	2020

Source: CoStar



Retail Development

The following chart shows a summary of retail data by type in the immediate area from CoStar.

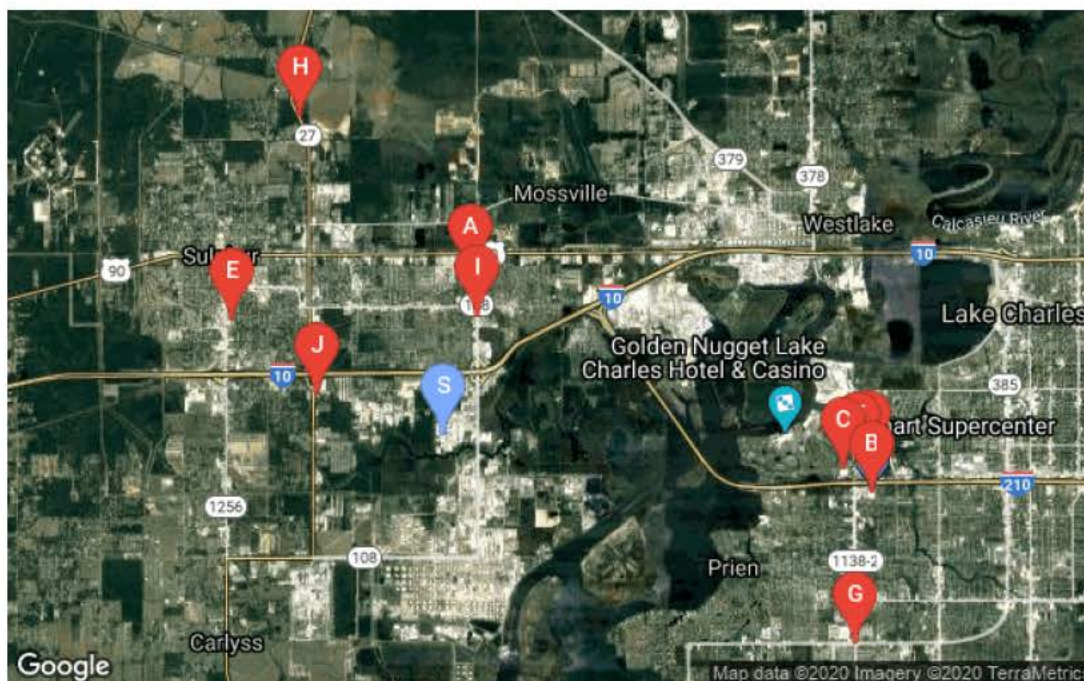
RETAIL SUMMARY					
TYPE	PROPERTIES	NRA (SF)	AVG YR BLT	OCCUPANCY	AVG RENT
General Retail	233	1,878,203	1998	98.7	\$17.69
TOTAL	233	1,878,203	1998	98.7	\$17.69

Source: CoStar

The largest three retail properties are at 525 North Cities Service Highway, 3451 Nelson Road and 2025 Sam South Way with an NRA of 209,016 SF, 179,576 SF and 130,602 SF that were built in 0, 0 and 0, respectively. The closest large retail property in proximity to the subject is at 305 South Cities Service Highway with an NRA of 99,440 SF that was built in 0. The majority of properties were constructed before 2000. The following chart and map show the subject property and its location relative to the 10 largest retail properties in the immediate area from CoStar.

LARGEST SHOPPING CENTERS							
NAME	DISTANCE	MAP PIN	TYPE	NRA (SF)	% LEASED	YEAR BUILT	AVG RENT
Wal-Mart	2.0 Miles	A	General Retail	209,016	100.0	-	N/Av
Lumpkin Plaza	5.2 Miles	B	Community Center	179,576	100.0	-	N/Av
Sam's Club	4.8 Miles	C	General Retail	130,602	100.0	-	N/Av
Prien Lake Plaza	5.1 Miles	D	Community Center	125,274	100.0	2002	N/Av
Kenwood Shopping Center	2.9 Miles	E	Neighborhood Center	120,000	100.0	1965	N/Av
Prien Lake Plaza	5.0 Miles	F	Community Center	106,818	100.0	2002	N/Av
Lake Charles Marketplace	5.6 Miles	G	Community Center	102,473	100.0	2017	N/Av
Parish Shopping Center	4.2 Miles	H	Neighborhood Center	100,000	100.0	1976	N/Av
Low e's	1.5 Miles	I	General Retail	99,440	100.0	-	N/Av
Sulphur Plaza	1.6 Miles	J	Neighborhood Center	75,550	96.8	1999	\$15.00

Source: CoStar



Office Development

The following chart shows a summary of office data by class in the immediate area from CoStar.

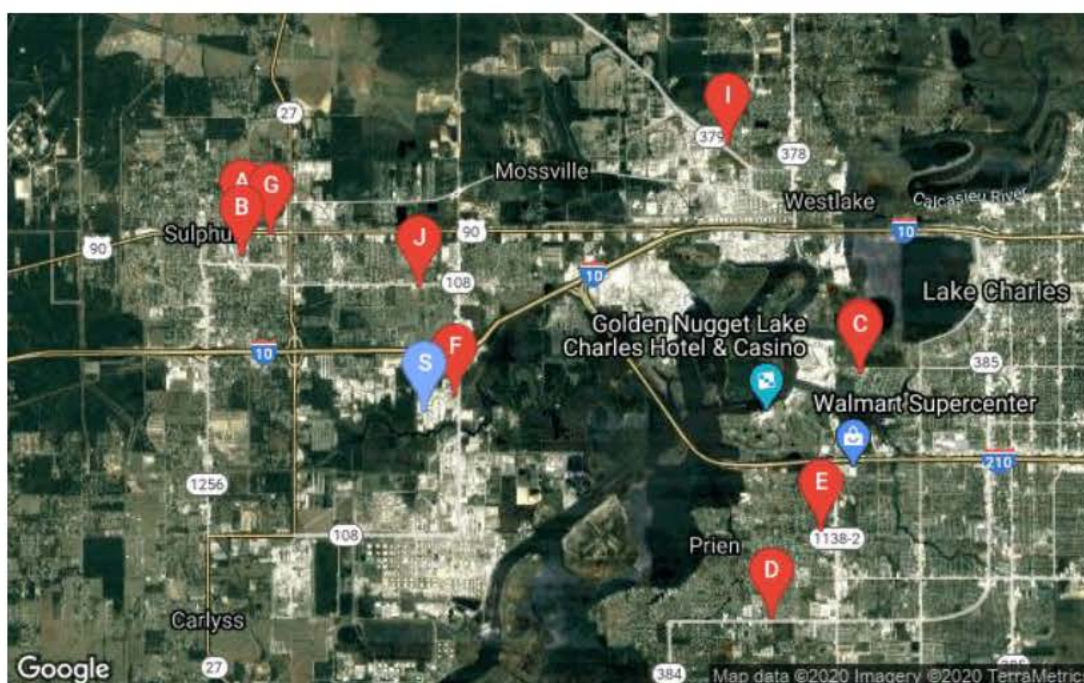
OFFICE SUMMARY					
CLASS	PROPERTIES	NRA (SF)	AVG YR BLT	OCCUPANCY	AVG RENT
A	0	0	-	-	-
B	26	140,924	2003	96.2	-
C	67	282,280	1982	96.1	\$11.76
TOTAL	93	423,204	1987	96.1	\$11.76

Source: CoStar

The largest three office properties are at 716 East Napoleon Street, 700 1st Avenue and 1450 William Street with an NRA of 29,316 SF, 21,886 SF and 18,419 SF that were built in 1975, 0 and 2012, respectively. The closest large office property in proximity to the subject is at 510 South Cities Service Highway with an NRA of 11,360 SF that was built in 0. The majority of properties were constructed before 2000. The following chart and map show the subject property and its location relative to the 10 largest office properties in the immediate area from CoStar.

LARGEST OFFICE BUILDINGS							
NAME	DISTANCE	MAP PIN	CLASS	NRA (SF)	% LEASED	YEAR BUILT	AVG RENT
Office Building	3.1 Miles	A	C	29,316	100.0	1975	N/Av
Office Building	2.9 Miles	B	C	21,886	100.0	-	N/Av
Law ton Building	5.3 Miles	C	B	18,419	100.0	2012	N/Av
Office Building	4.9 Miles	D	B	16,095	100.0	-	N/Av
Lake Charles Primary Care	5.0 Miles	E	B	15,000	100.0	2000	N/Av
510 S Cities Service Hwy	0.4 Miles	F	B	11,360	100.0	-	N/Av
Office Building	2.8 Miles	G	C	9,600	100.0	1950	N/Av
Office Building	5.3 Miles	H	B	9,504	100.0	2015	N/Av
Modular Office Space	4.9 Miles	I	C	9,000	100.0	-	N/Av
Office Building	1.5 Miles	J	C	8,954	100.0	-	N/Av

Source: CoStar



Industrial Development

The following chart shows a summary of industrial data by type in the immediate area from CoStar.

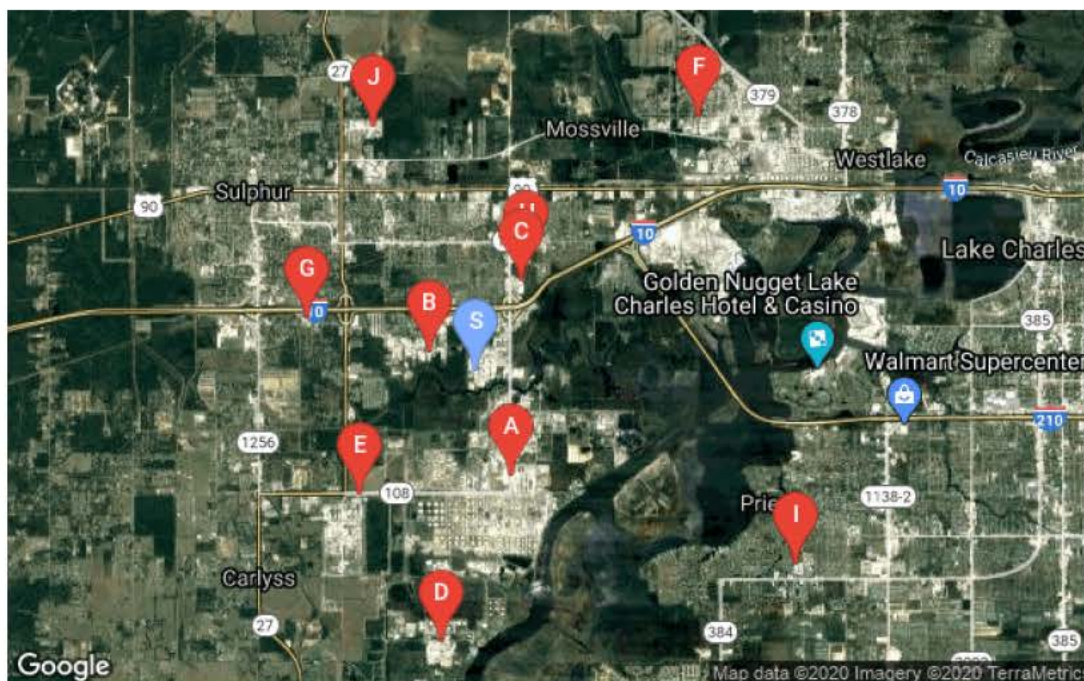
INDUSTRIAL SUMMARY					
TYPE	PROPERTIES	NRA (SF)	AVG YR BLT	OCCUPANCY	AVG RENT
Industrial	98	1,464,701	1999	96.2	\$12.15
Flex	5	47,432	1989	80.0	-
TOTAL	103	1,512,133	1999	95.4	\$12.15

Source: CoStar

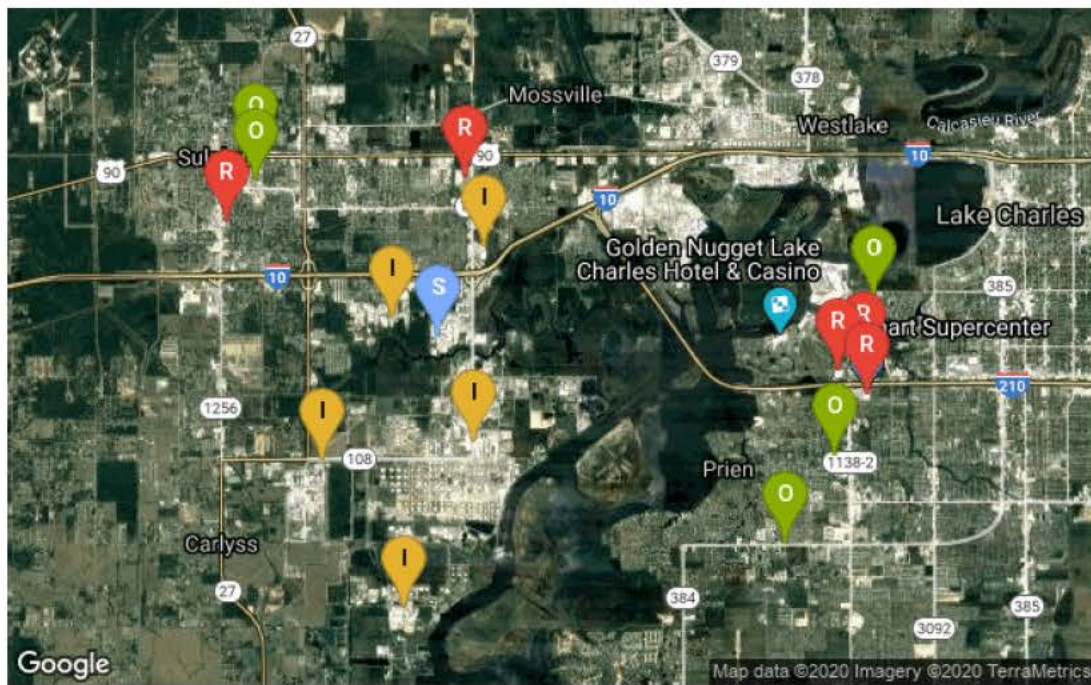
The largest three industrial properties are at 3524 Cities Service Highway, 1750 Swisco Road and 299 South Cities Service Highway with an NRA of 194,372 SF, 112,000 SF and 96,000 SF that were built in 0, 0 and 1985, respectively. The closest large industrial property in proximity to the subject is at 1750 Swisco Road. The majority of properties were constructed before 2000. The following chart and map show the subject property and its location relative to the 10 largest industrial properties in the immediate area from CoStar.

LARGEST INDUSTRIAL PROPERTIES							
NAME	DISTANCE	MAP PIN	TYPE	NRA (SF)	% LEASED	YEAR BUILT	AVG RENT
Industrial Building	1.4 Miles	A	Industrial	194,372	100.0	-	N/Av
Industrial Building	0.6 Miles	B	Industrial	112,000	100.0	-	N/Av
Industrial Building	1.2 Miles	C	Industrial	96,000	100.0	1985	N/Av
Industrial Building	3.3 Miles	D	Industrial	84,540	100.0	-	N/Av
Industrial Building	2.0 Miles	E	Industrial	80,168	100.0	-	N/Av
Industrial Building	4.1 Miles	F	Industrial	68,479	100.0	-	N/Av
Industrial Building	2.1 Miles	G	Industrial	42,480	100.0	-	N/Av
Industrial Building	1.5 Miles	H	Industrial	40,600	100.0	2010	N/Av
Industrial Building	4.5 Miles	I	Industrial	40,000	100.0	-	N/Av
Industrial Building	3.2 Miles	J	Industrial	33,130	100.0	2013	N/Av

Source: CoStar



The following map shows the subject property and the five largest retail, office, and industrial properties in the immediate area from CoStar.



As shown above, the closest large properties to the subject (as reported by CoStar) are all industrial uses.

General Description

The subject property is a variable width rail right of way corridor that consists of both fee-owned portions and easement interests / servitude agreements. I have calculated the size of the subject property based on deed records provided by the client dated from the original acquisition and assemblage of the subject corridor in 1947, 1951-55, and 1960. The documents relied upon are identified by the Bates number of the evidence I understand was provided by UP and KCS. The following table shows my calculations.

FEE RIGHT OF WAY LIST					
SOURCE	RIGHT OF WAY WIDTH	ACRES PER DEED	SF (CALCULATED)	EVIDENCE PAGE	NOTES
{{	100'	1.73	75,310	KCS-HC	}}
{{	}}				
Tract 1	100'	0.50	21,780	KCS-P-0558	Acreage stated in deed
Tract 2	100'	1.30	56,628	KCS-P-0558	Acreage stated in deed
Tract 27	100'	0.10	4,356	KCS-P-0558	Acreage stated in deed
Tract 3	100'	3.50	152,460	KCS-P-0558	Acreage stated in deed
Tract 13	100'	3.40	148,104	KCS-P-0558	Acreage stated in deed
Tract 14	100'	0.20	8,712	KCS-P-0559	Acreage stated in deed
Tract 26 Parcel 1	100'	3.15	137,214	KCS-P-0559	Acreage stated in deed
Tract 26 Parcel 2	100'	9.08	395,525	KCS-P-0559	Acreage stated in deed
Tract 26 Exclusion		(0.05)	(2,001)	KCS-P-0560	Two valve gas reduction stations stated to be servitudes
Tract 4	100'	0.13	5,663	KCS-P-0560	Acreage stated in deed
Tract 5	100'	1.26	54,886	KCS-P-0561	Acreage stated in deed
Tract 6	100'	0.08	3,485	KCS-P-0561	Acreage stated in deed
Tract 7	100'	1.52	66,211	KCS-P-0561	Acreage stated in deed
Tract 8	100'	0.62	27,007	KCS-P-0562	Acreage stated in deed
Tract 9	100'	0.99	43,124	KCS-P-0562	Acreage stated in deed
Tract 10	100'	0.61	26,572	KCS-P-0562	Acreage stated in deed
Tract 11	100'	1.58	68,825	KCS-P-0562	Acreage stated in deed
Tract 12	100'	0.10	4,356	KCS-P-0563	Acreage stated in deed
Tract 15	100'	6.40	278,784	KCS-P-0564	Acreage stated in deed
Tract 16	100'	0.80	34,848	KCS-P-0564	Acreage stated in deed
Tract 17	100'	2.70	117,612	KCS-P-0564	Acreage stated in deed
Tract 20	100'	3.50	152,460	KCS-P-0564	Acreage stated in deed
Tract 21	100'	3.50	152,460	KCS-P-0565	Acreage stated in deed
Tract 22	100'	3.50	152,460	KCS-P-0565	Acreage stated in deed
Tract 23	100'	1.00	43,560	KCS-P-0566	Acreage stated in deed
Tract 24	100'	2.50	108,900	KCS-P-0566	Acreage stated in deed
Tract 25	100'	3.15	137,214	KCS-P-0566	Acreage stated in deed
{					}
					}
Total Fee Area					

The widths given above are based on the documents provided by the client. I have relied completely on these documents and have made no independent measurements or conclusions regarding potential differences with what has been presented.

EASEMENT / SERVITUDE AGREEMENT LIST

CUSTODIANS NUMBER / SOURCE	RIGHT OF WAY WIDTH	SIZE (ACRES)	SIZE (SF)	EVIDENCE PAGE	NOTES
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}

Total Servitude Area	{	}	{	}
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{

}

LIMITED UTILITY AREAS - FEE

RIGHT OF WAY WIDTH	ESTIMATED LENGTH (FT)	SIZE (SF)	NOTES
100'	80	8,000	Small area surrounded by road rights of way, far northern end of line
100'	335	33,500	PPG Dr crossing and IH 10 right of way
100'	5,425	542,500	Narrow section between IH 10 and Pete Manena Rd, also passes under IH 210
100'	520	52,000	Water crossing / flood impact
100'	100	10,000	Water crossing / flood impact
100'	230	23,000	SH 108 crossing
100'	565	56,500	Water crossing / flood impact
Total Limited Utility Area - Fee		725,500	

LIMITED UTILITY AREAS - SERVITUDE

RIGHT OF WAY WIDTH	ESTIMATED LENGTH (FT)	SIZE (SF)	NOTES
100'	-	88,690	IH 10 & US 90 crossings, size estimated based on GIS measurements
50'	125	6,250	SH 108 crossing
50'	60	3,000	Clifton Ridge Rd crossing
50'	60	3,000	Davison Rd crossing
Total Limited Utility Area - Servitude		100,940	

Due to the size of the documents, each deed and map has not been included in the Addenda to this report but are retained in the appraiser's file.

Assessor Parcel Subject passes through multiple parcels, fee-owned portions do not appear to be separately assessed

Number Of Parcels 1

Land Area **Acres** **Square Feet**
 {{

Total Land Area }}

Shape Variable Width Rail Corridor

Topography Variable

Drainage Assumed Adequate

Utilities Available to surrounding properties

Street Improvements	Street	Direction	No. Lanes	Street Type	Curbs	Sidewalks	Street Lights	Center Lane	Gutters	Median
IH 10	Primary Street	two-way	four-lane	major arterial	☒	☒	☒			
SH 108	Primary Street	two-way	four-lane	major arterial	☒	☒	☒	☒	☒	
Pete Manena Rd	Secondary Street	two-way	two-lane	connector street						
Clifton Ridge Rd	Secondary Street	two-way	two-lane	connector street						
Frontage	The property crosses multiple roadways, the above being some of the larger thoroughfares.									

Accessibility **Average** - The property has variable accessibility. A large section of the corridor runs along IH 10, but this section of IH 10 is access-controlled with no at grade crossings or driveways permitted.

Exposure **Average** - The corridor has variable exposure with large sections set well back from any public right of way and other sections running parallel along existing roadways.

Seismic The subject is in Low Risk. The seismic zone factor (or Z factor) corresponds numerically to the effective horizontal peak bedrock acceleration (or equivalent velocity) that is estimated as a component of the design base shear calculation. In each seismic zone an earthquake-related event would create an effective peak bedrock acceleration of 0.1 times the force of gravity for Zone 1, 0.15 times the force of gravity for Zone 2A, 0.2 times the force of gravity for Zone 2B, 0.3 times the force of gravity for Zone 3 and 0.4 times the force of gravity for Zone 4. These values correspond to ground motion values with a 10% probability of being exceeded in 50 years.

Flood Zone The subject runs through various flood areas. The majority of the corridor is located outside the floodplain. There are sections within Flood Zone X500 and Flood Zone

AE, the 500- and 100-year floodplains, respectively. Please refer to the flood aerials following this section for a representation of the flood zone boundaries.

Easements

A complete title report was not available for review. I have based my analysis on several deeds and agreements from the 1940s to the 1960s. Title is assumed to be clear and marketable.

Soils

A detailed soils analysis was not available for review. Based on the development of the subject, it appears the soils are stable and suitable for the existing improvements.

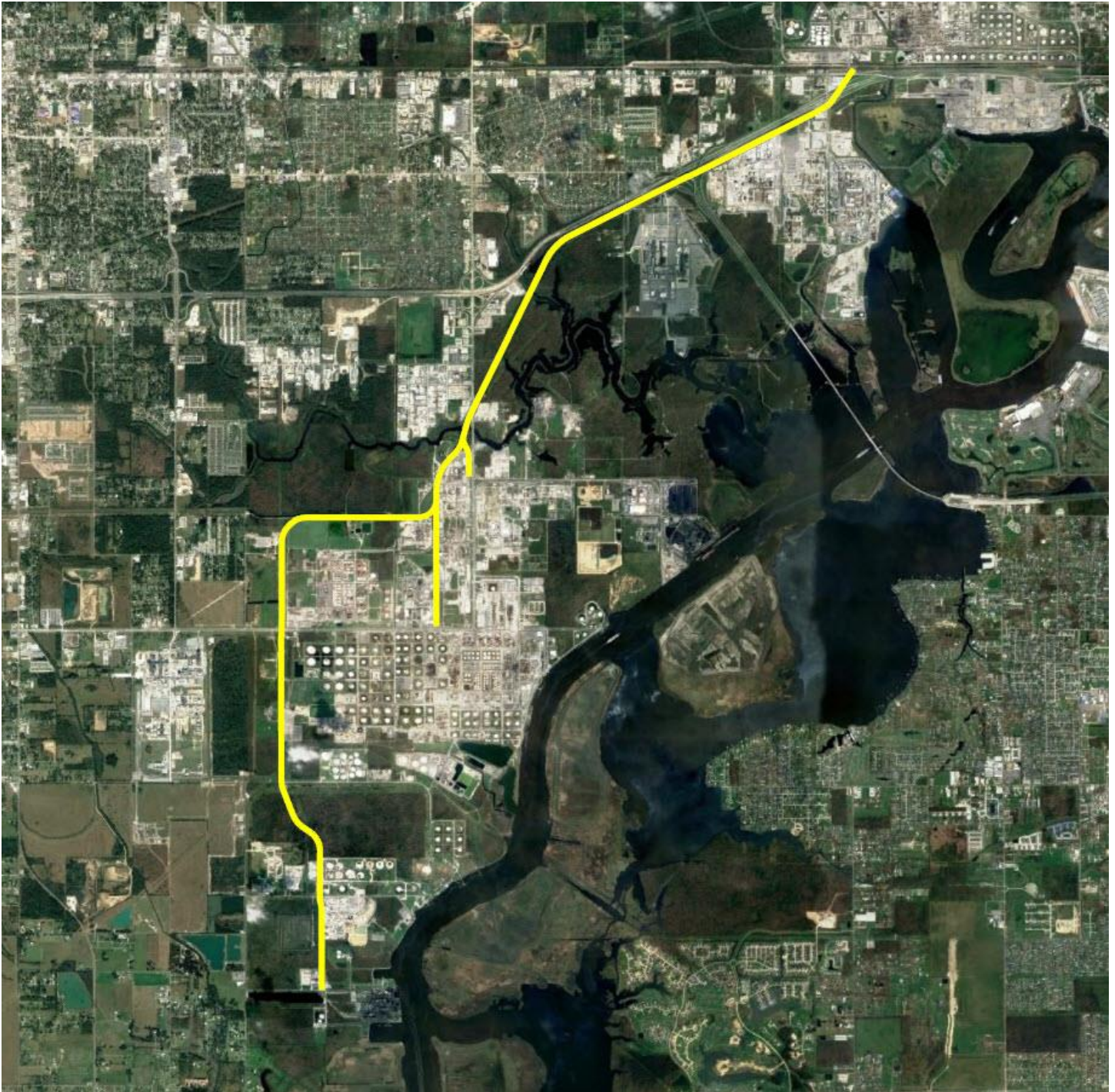
Hazardous Waste

We have not conducted an independent investigation to determine the presence or absence of toxins on the subject property. If questions arise, the reader is strongly cautioned to seek qualified professional assistance in this matter. Please see the Assumptions and Limiting Conditions for a full disclaimer.

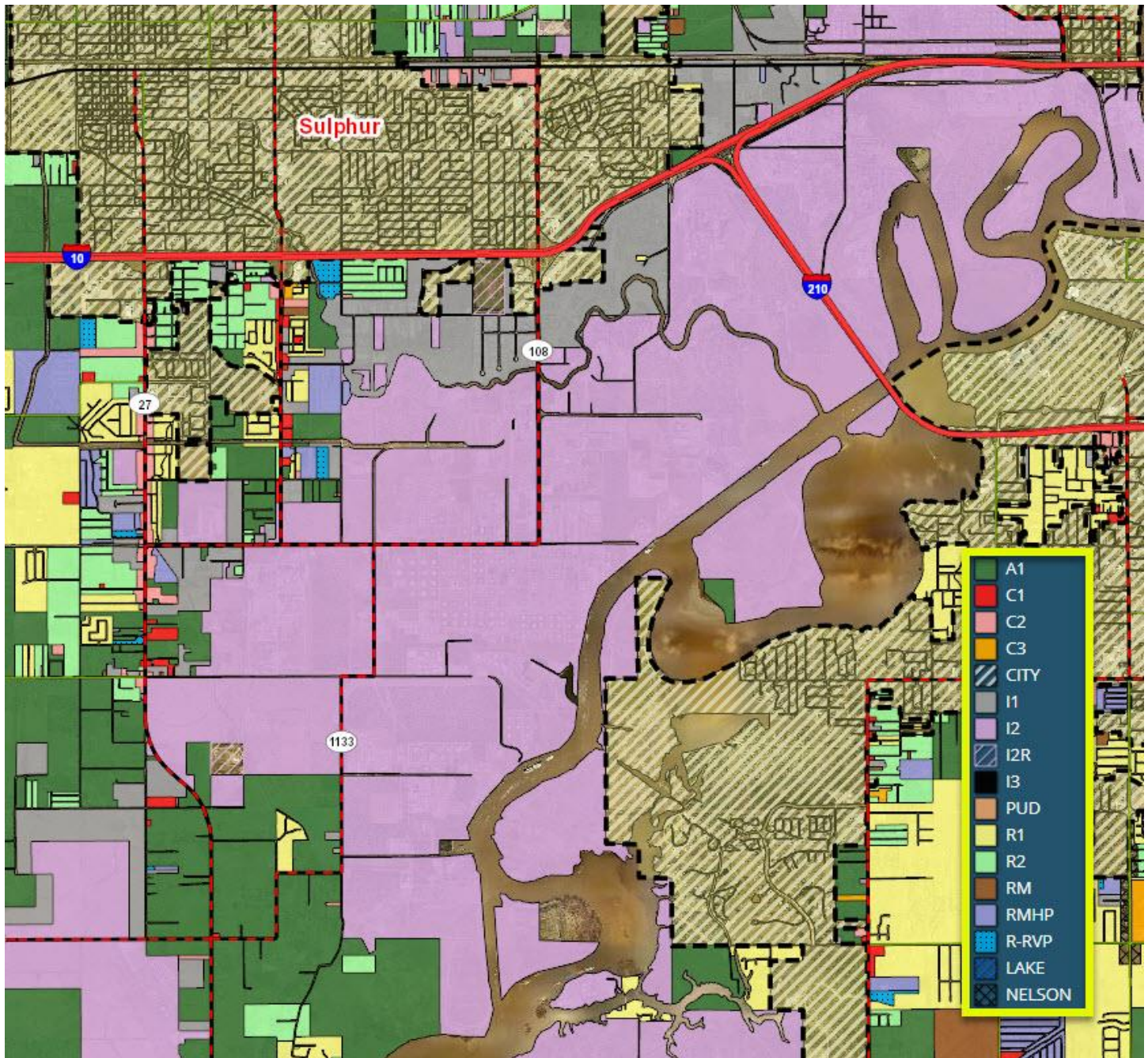
Improvement Description

The subject is an active rail corridor and is improved with railroad tracks, ties, and other typical rail improvements. At the request of the client, I have included the land value only in this analysis.

AERIAL

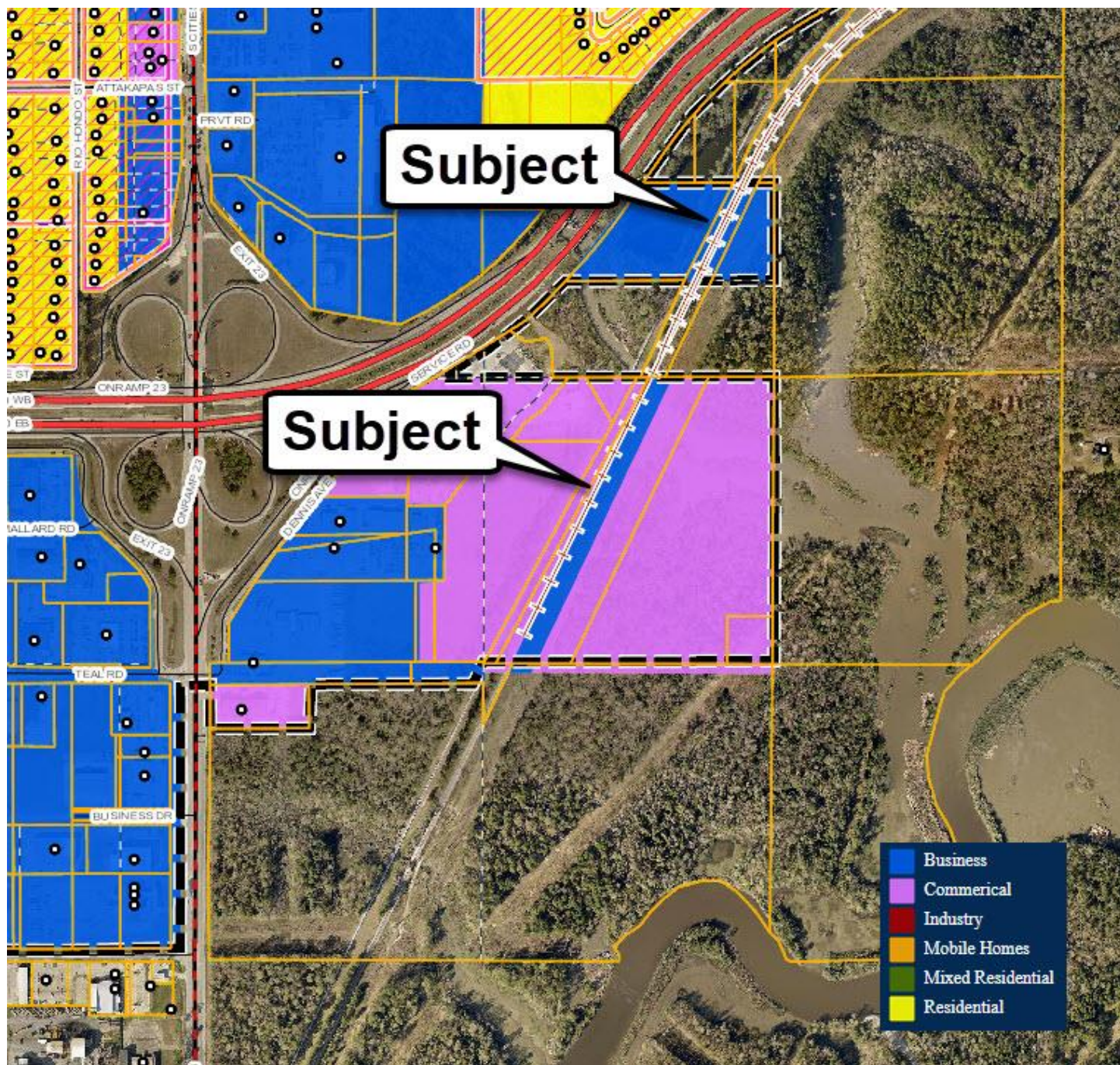


ZONING MAP - CALCASIEU PARISH



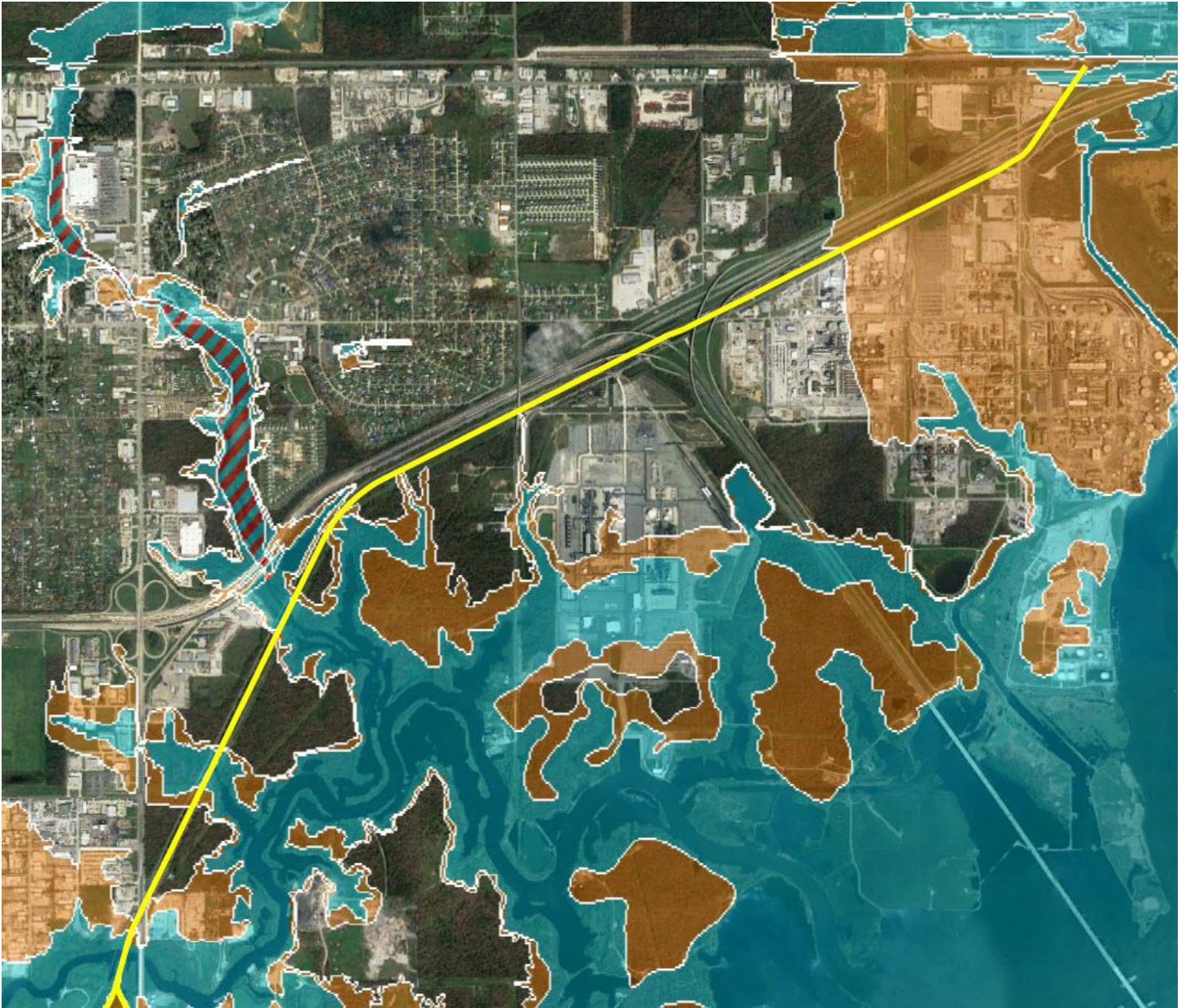
The subject is located within the I1 - Light Industrial and I2 - Heavy Industrial districts.

ZONING MAP - CITY OF SULPHUR



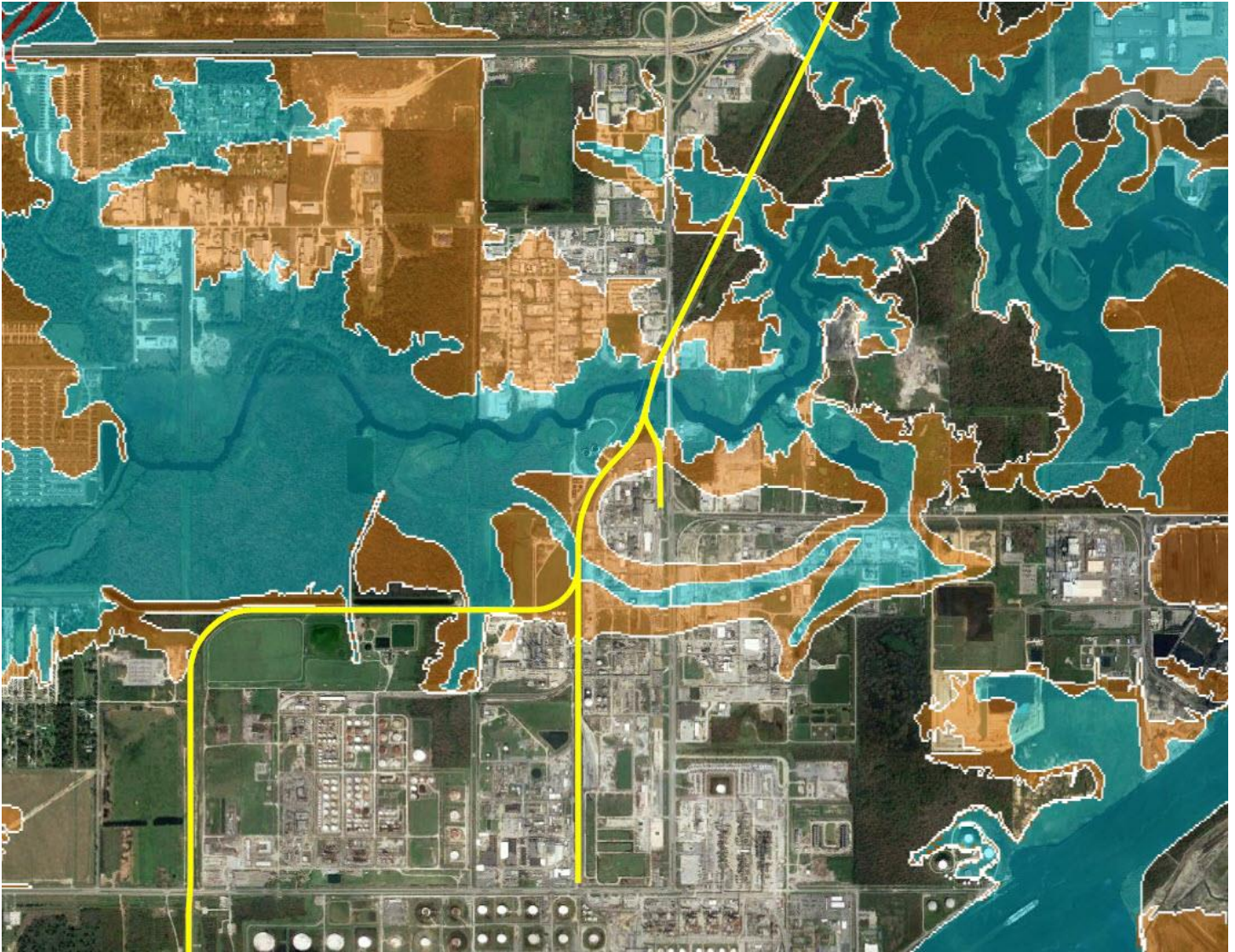
The portion of the subject within the City of Sulphur is shown as B - Business and C - Commercial on the city's zoning map.

FLOOD MAP - NORTHERN PORTION



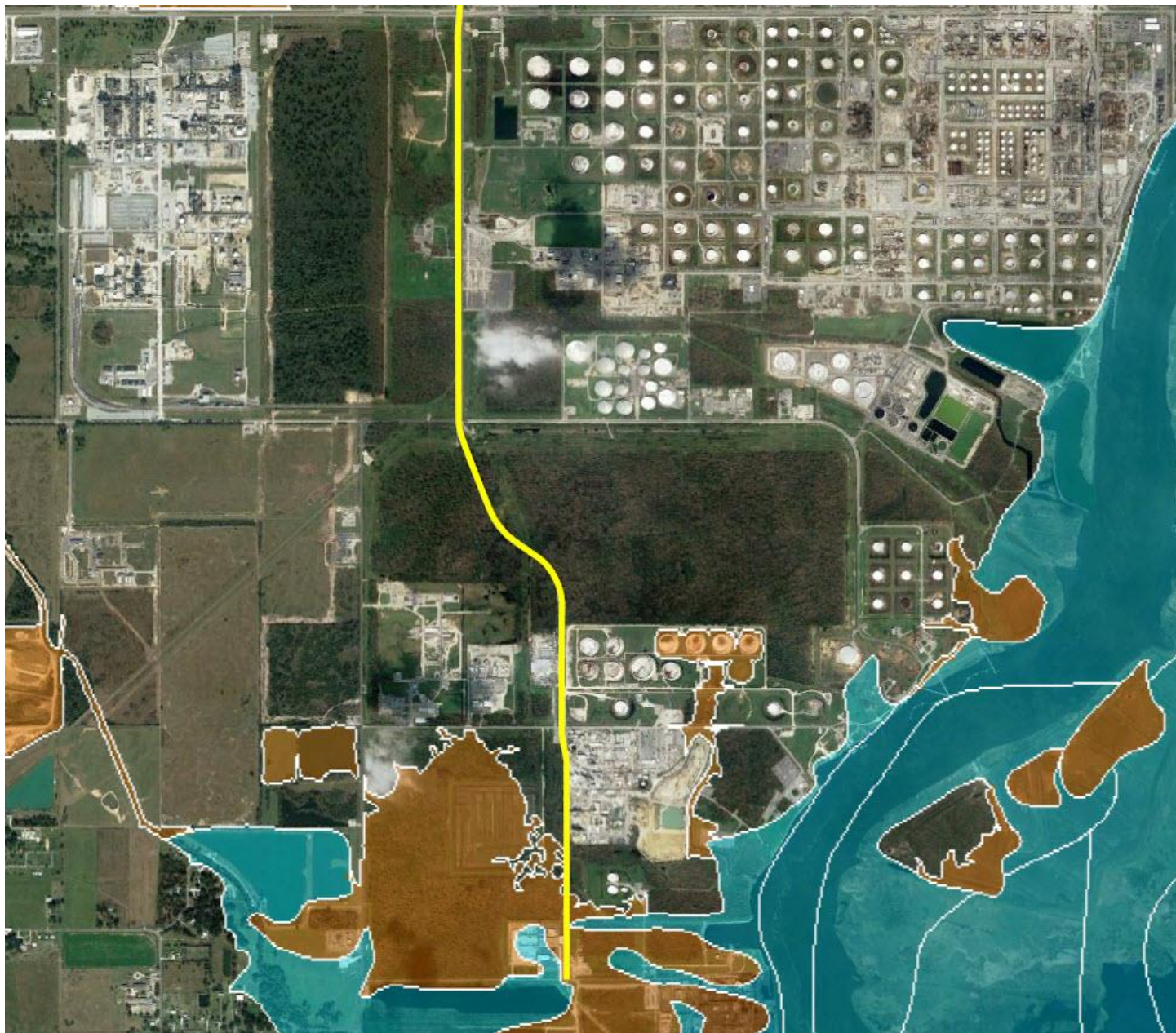
The orange shaded area represents Flood Zone X500, areas within the 500-year floodplain. The blue shaded area represents Flood Zone AE, areas within the 100-year floodplain. The red and blue striped area represents the floodway. The subject line is approximated as the yellow line.

FLOOD MAP - CENTRAL PORTION



The orange shaded area represents Flood Zone X500, areas within the 500-year floodplain. The blue shaded area represents Flood Zone AE, areas within the 100-year floodplain. The red and blue striped area represents the floodway. The subject line is approximated as the yellow line.

FLOOD MAP - SOUTHERN PORTION



The orange shaded area represents Flood Zone X500, areas within the 500-year floodplain. The blue shaded area represents Flood Zone AE, areas within the 100-year floodplain. The red and blue striped area represents the floodway. The subject line is approximated as the yellow line.

INTRODUCTION

Assessment of real property is established by an assessor that is an appointed or elected official charged with determining the value of each property. The assessment is used to determine the necessary rate of taxation required to support the municipal budget. A property tax is a levy on the value of property that the owner is required to pay to the municipality in which it is situated. Multiple jurisdictions may tax the same property.

The subject property consists of a rail corridor that is partially fee-owned and partially under servitude agreements. The subject fee-owned portions do not have associated tax parcels and are not separately assessed. The areas that are within servitude agreements are part of tax parcels owned by the underlying fee owner on which the rail user is not required to pay taxes.

INTRODUCTION

Zoning requirements typically establish permitted and prohibited uses, building height, lot coverage, setbacks, parking and other factors that control the size and location of improvements on a site. The zoning characteristics for the subject property are summarized below:

ZONING SUMMARY		
Municipality Governing Zoning	Calcasieu Parish	City of Sulphur
Current Zoning	I1 & I2	B & C
Permitted Uses	Industrial uses including manufacturing, food processing, fabrication, warehousing, distribution, truck terminals	Day care, churches, schools, retail, offices, restaurants, entertainment, hotels, light manufacturing
Current Use	Rail Corridor	Rail Corridor
Is Current Use Legally Permitted?	Yes	No
Zoning Change	Not Likely	Not Likely

ZONING REQUIREMENTS		
Minimum Site Area (SF)	10,000 SF / 5 acres for workforce housing	5,000 - 25,000 SF (depending on use)
Minimum Yard Setbacks		
Front (Feet)	30 Feet	20 Feet
Rear (Feet)	None	None
Side (Feet)	None	None
Maximum Building Height	100 Feet	35 - 50 Feet
Maximum Floor Area Ratio (FAR)	None	0.5 - 1.0
Maximum Building Area	None	None
Conforming Use	The subject property is a rail corridor. Surrounding properties are industrial in nature and appear in general to conform to the applicable zoning codes.	

Source: City of Sulphur Planning & Zoning Department

ZONING CONCLUSIONS

The subject is a rail corridor and is a legally permitted use by the Calcasieu Parish zoning code. The small portion of the subject located within the city limits of Sulphur is zoned for a more retail / commercial oriented use, which is inconsistent with surrounding parish zoning regulations. It appears the commercial zoning is primarily focused at the corner of IH 10 and SH 108. It is unlikely that the tracts directly abutting the subject would be purchased for retail development. The portion of the subject within the City of Sulphur constitutes a legally nonconforming use. Please refer to the Addenda for a copy of each applicable zoning district complete list of the permitted uses per the zoning code.

Detailed zoning studies are typically performed by a zoning or land use expert, including attorneys, land use planners, or architects. The depth of my analysis correlates directly with the scope of this assignment, and it considers all pertinent issues that have been discovered through my due diligence. Please note that this appraisal is not intended to be a detailed determination of compliance, as that determination is beyond the scope of this real estate appraisal assignment.

INTRODUCTION

The market analysis section provides a comprehensive study of supply/demand conditions, examines transaction trends, and interprets ground level information conveyed by market participants. The market analysis is included as support for the conclusion of highest and best use later in this report and is not meant to be representative of values for industrial land in the subject market. Based on these findings and an analysis of the subject property, conclusions are drawn with regard to the subject's competitive position within the marketplace. Below is a list of the various sections covered in the following Industrial Market Analysis:

- › Calcasieu Parish Industrial Market
- › 70665 / 70669 Industrial Submarket

CALCASIEU PARISH INDUSTRIAL MARKET

The following is an analysis of supply/demand trends in the Calcasieu Parish Industrial Market using information provided by CoStar, widely recognized as a credible source for tracking market statistics. The table below presents historical data for key market indicators.

CALCASIEU PARISH HISTORICAL STATISTICS (LAST TEN YEARS)					
PERIOD	SUPPLY	NEW CONSTRUCTION	NET ABSORPTION	VACANCY	ASKING RENT
2010	4,518,509 SF	75,200 SF	49,100 SF	5.2%	\$2.56/SF
2011	4,518,509 SF	0 SF	(18,060) SF	5.4%	\$2.86/SF
2012	4,518,509 SF	0 SF	46,039 SF	3.6%	\$4.05/SF
2013	4,663,639 SF	145,130 SF	65,252 SF	5.0%	\$7.42/SF
2014	4,786,656 SF	123,017 SF	96,947 SF	5.9%	\$7.98/SF
2015	4,827,956 SF	41,300 SF	(316,273) SF	12.6%	\$7.16/SF
2016	4,905,236 SF	77,280 SF	425,701 SF	9.1%	\$6.74/SF
2017	4,901,936 SF	0 SF	23,497 SF	6.3%	\$7.21/SF
2018	4,919,436 SF	17,500 SF	157,710 SF	4.4%	\$7.53/SF
2019	4,925,236 SF	5,800 SF	46,155 SF	2.8%	\$7.61/SF
CAGR	0.9%	-	-	-	11.5%

*Supply numbers based on information which is amended/updated on an on-going basis by Costar.

Source: Costar®

Over the past ten years the Calcasieu Parish Industrial market was stable where there was balance in prevailing Industrial supply/demand conditions. Over this time period the market inventory significantly increased by 10.7%. Further there was significant positive absorption (12.7% change), moderate decrease in the vacancy rate (-2.4% change) and considerable increase of the asking average rent (197.3% change).

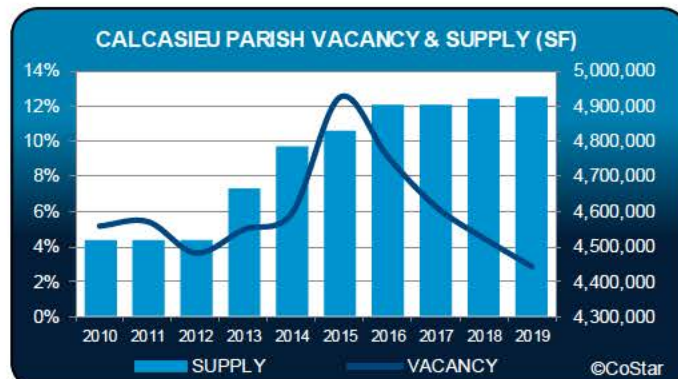
Analysis of the data indicates the Calcasieu Parish Industrial market has gone through three distinctive trends over the past ten years.

TEN YEAR HISTORICAL TREND ANALYSIS				
PERIOD	ADDED SUPPLY	NET ABSORPTION	VACANCY	ASKING RENT
2010-2019	485,227 SF	576,068 SF	5.2%→2.8%	\$2.56→\$7.61
10 Yrs	10.7%	12.7%	-2.4%	197.3%
2010-2013	220,330 SF	142,331 SF	5.2%→5.0%	\$2.56→\$7.42
4 Yrs	4.9%	3.1%	-0.2%	189.8%
2014-2016	241,597 SF	206,375 SF	5.9%→9.1%	\$7.98→\$6.74
3 Yrs	5.0%	4.3%	3.2%	-15.5%
2017-2019	23,300 SF	227,362 SF	6.3%→2.8%	\$7.21→\$7.61
3 Yrs	0.5%	4.6%	-3.5%	5.5%

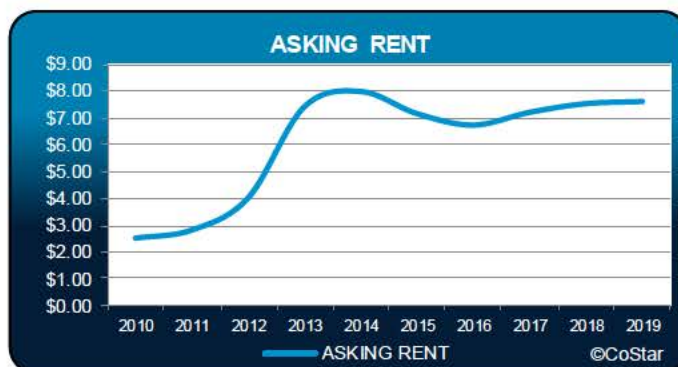
The four year period from 2010 to 2013 was highlighted with significantly increased supply, positive absorption, moderate decrease of vacancy rates and considerable increase of asking rent in the market. The next three year

period from 2014 to 2016 featured significantly increased supply, significant positive absorption, substantial increase of vacancy rates and considerable decrease of asking rent levels. The most recent three year period from 2017 to 2019 featured slightly increased supply, significant positive absorption, substantial decrease of vacancy rates and considerable increase of asking rent levels.

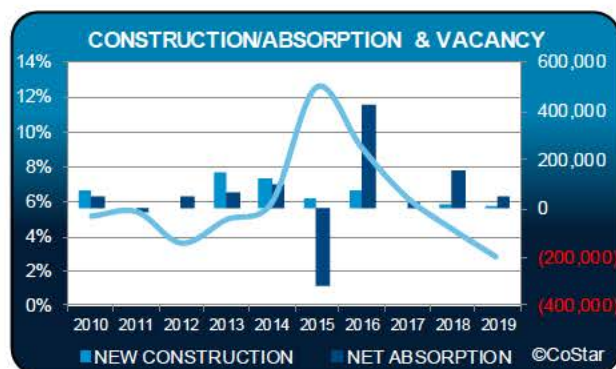
Over the past ten years the market had a compound annual growth rate (CAGR) of 0.9% per year. Vacancy has ranged from 2.8% to 12.6% with an average of 6.0%. Vacancy decreased from 5.2% in 2010 to 5.0% in 2013, increased from 5.9% in 2014 to 9.1% in 2016 and decreased from 6.3% in 2017 to 2.8% in 2019.



Over the past ten years asking rent has experienced a CAGR of 11.5%. Asking rent hit a low of \$2.56/SF in 2010 and a high in 2014 at \$7.98/SF.



In the past ten years a total of 485,227 SF were added to the supply with 576,068 SF of net absorption achieved during the same period.

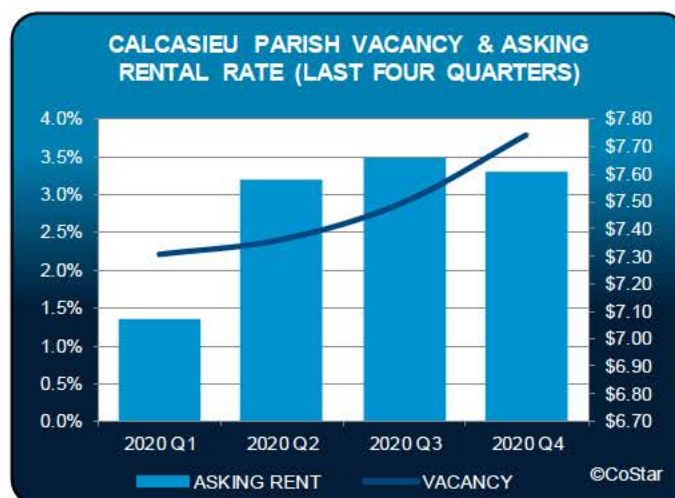


CALCASIEU PARISH TRAILING FOUR QUARTER PERFORMANCE					
PERIOD	SUPPLY	NEW CONSTRUCTION	NET ABSORPTION	VACANCY	ASKING RENT
2020 Q1	4,925,236 SF	0 SF	4,816 SF	2.2%	\$7.07/SF
2020 Q2	4,925,236 SF	0 SF	(9,337) SF	2.4%	\$7.58/SF
2020 Q3	4,925,236 SF	0 SF	(26,280) SF	2.9%	\$7.66/SF
2020 Q4	4,925,236 SF	0 SF	(42,645) SF	3.8%	\$7.61/SF

Source: Costar®

As of Q4 2020 the Calcasieu Parish market has a total Industrial inventory of 4,925,236 SF with 186,913 SF vacant indicating a current vacancy rate of 3.8%. There was no additional inventory delivered last quarter, nor were there any new deliveries in the last year.

Over the past four quarters the Calcasieu Parish industrial market has experienced no growth of supply. These key factors have resulted in negative net absorption, increase of vacancy rates and increase of asking rent in the marketplace.



Key supply/demand statistics for the most recent quarter, last year and historical averages are summarized below.

CALCASIEU PARISH MARKET TREND ANALYSIS			
	Q4 2020	2019	Last 10
Total SF	4,925,236	4,925,236	4,748,562
Vacant SF	186,913	137,907	285,531
Market Vacancy	3.8%	2.8%	6.0%
Construction Growth Rate	0.0%	0.1%	0.9%
Absorption Rate	(0.9%)	0.9%	1.2%
Average Asking Rent/SF	\$7.61	\$7.61	\$6.11

Source: Costar®

Vacancy

The Q4 2020 vacancy rate (3.8%) is slightly higher than last year (2.8%) and lower than the average vacancy over the past ten years (6.0%). The historic vacancy trend indicates strong long-term demand for industrial space in the Calcasieu Parish market. The most recent vacancy trends demonstrate slightly superior market conditions in comparison to the historic trend and suggest continued stability moving forward.

Supply

There was no new inventory added during Q4 2020, whereas the growth rate was 0.1% last year. Over the past ten years the Calcasieu Parish industrial market grew at a CAGR of 0.9%. The historic trend demonstrates a

nominal growth rate that was generally supported. The most recent trends show reduced growth in comparison to the historic trend in reaction to the current economic conditions.

CALCASIEU PARISH INDUSTRIAL CONSTRUCTION ACTIVITY SUMMARY			
STATUS	NO. OF PROJECTS	SIZE (SF)	% OF SUPPLY
Under Construction	0	0	-

Source: Costar®

Absorption

During Q4 2020 net absorption was -0.9% and net absorption was 0.9% over the last year. The Calcasieu Parish industrial market has established an overall trend of stable absorption (1.2%) over the past ten years. The historic absorption trend indicates stable long-term demand for industrial space in the Calcasieu Parish market. The most recent absorption trends demonstrate slightly inferior market conditions in comparison to the historic trend and suggest continued stability moving forward.

Calcasieu Parish Market Conclusion

Based on the preceding analysis, the Calcasieu Parish Industrial market demonstrates sound fundamentals. Analysis of supply and demand factors indicate the market is currently stable with no evidence to prove this will change any time soon. The greatest strength of the market appears to be its low vacancy rates. The greatest weakness of the market appears to be its weak absorption trends.

70665 / 70669 INDUSTRIAL SUBMARKET OVERVIEW

There is not a defined boundary of the subject submarket shown in CoStar. I have presented information for the zip codes through which the subject rail line runs as an analysis of industrial development trends for the submarket. The table below presents historical data for key market indicators.

70665 / 70669 HISTORICAL STATISTICS (LAST NINE YEARS)					
PERIOD	SUPPLY	NEW CONSTRUCTION	NET ABSORPTION	VACANCY	ASKING RENT
2011	957,877 SF	0 SF	(9,100) SF	0.8%	\$3.38/SF
2012	957,877 SF	0 SF	(15,000) SF	1.5%	\$6.64/SF
2013	965,877 SF	8,000 SF	(18,393) SF	4.1%	\$12.34/SF
2014	976,294 SF	10,417 SF	33,300 SF	4.2%	\$12.17/SF
2015	983,669 SF	7,375 SF	(53,210) SF	7.1%	\$10.88/SF
2016	1,029,869 SF	46,200 SF	91,395 SF	5.7%	\$10.16/SF
2017	1,029,869 SF	0 SF	(30,237) SF	6.0%	\$11.36/SF
2018	1,047,369 SF	17,500 SF	54,587 SF	4.6%	\$10.31/SF
2019	1,047,369 SF	0 SF	21,161 SF	3.1%	\$10.66/SF
CAGR	1.0%	-	-	-	13.6%

*Supply numbers based on information which is amended/updated on an on-going basis by Costar.

Source: Costar®

Over the past nine years the 70665 / 70669 Industrial market was stable where there was balance in prevailing Industrial supply/demand conditions. Over this time period the market inventory significantly increased by 9.3%. Further there was positive absorption (7.8% change), moderate increase in the vacancy rate (2.3% change) and considerable increase of the asking average rent (215.4% change).

Analysis of the data indicates the 70665 / 70669 Industrial market has gone through three distinctive trends over the past nine years.

NINE YEAR HISTORICAL TREND ANALYSIS				
PERIOD	ADDED SUPPLY	NET ABSORPTION	VACANCY	ASKING RENT
2011-2019	89,492 SF	74,503 SF	0.8%→3.1%	\$3.38→\$10.66
9 Yrs	9.3%	7.8%	2.3%	215.4%
2011-2013	8,000 SF	(42,493) SF	0.8%→4.1%	\$3.38→\$12.34
3 Yrs	0.8%	-4.4%	3.4%	265.1%
2014-2016	63,992 SF	71,485 SF	4.2%→5.7%	\$12.17→\$10.16
3 Yrs	6.6%	7.3%	1.5%	-16.5%
2017-2019	17,500 SF	45,511 SF	6.0%→3.1%	\$11.36→\$10.66
3 Yrs	1.7%	4.4%	-2.9%	-6.2%

The three year period from 2011 to 2013 was highlighted with slightly increased supply, significant negative absorption, substantial increase of vacancy rates and considerable increase of asking rent in the market. The next three year period from 2014 to 2016 featured significantly increased supply, significant positive absorption, increase of vacancy rates and considerable decrease of asking rent levels. The most recent three year period from 2017 to 2019 featured increased supply, significant positive absorption, decrease of vacancy rates and considerable decrease of asking rent levels.

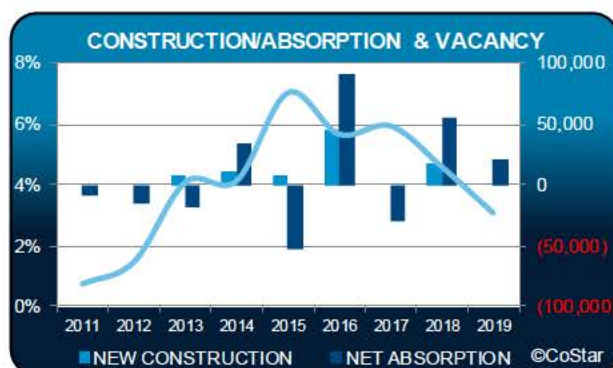
Over the past nine years the market had a compound annual growth rate (CAGR) of 1.0% per year. Vacancy has ranged from 0.8% to 7.1% with an average of 4.1%. Vacancy increased from 0.8% in 2011 to 4.1% in 2013, increased from 4.2% in 2014 to 5.7% in 2016 and decreased from 6.0% in 2017 to 3.1% in 2019.



Over the past nine years asking rent has experienced a CAGR of 13.6%. Asking rent hit a low of \$3.38/SF in 2011 and a high in 2013 at \$12.34/SF.



In the past nine years a total of 89,492 SF were added to the supply with 74,503 SF of net absorption achieved during the same period.



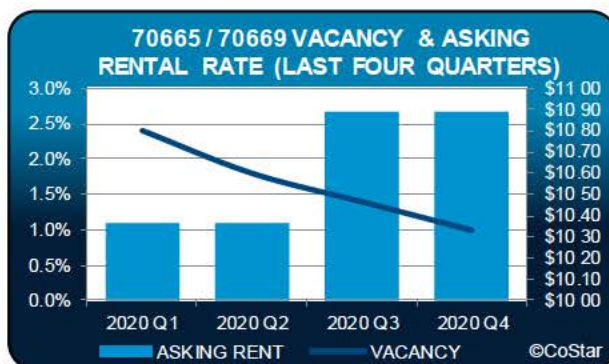
The following table summarizes the trailing four quarter performance of the 70665 / 70669 submarket.

70665 / 70669 TRAILING FOUR QUARTER PERFORMANCE					
PERIOD	SUPPLY	NEW CONSTRUCTION	NET ABSORPTION	VACANCY	ASKING RENT
2020 Q1	1,047,369 SF	0 SF	(10,000) SF	2.4%	\$10.36/SF
2020 Q2	1,047,369 SF	0 SF	6,417 SF	1.8%	\$10.36/SF
2020 Q3	1,047,369 SF	0 SF	4,000 SF	1.4%	\$10.89/SF
2020 Q4	1,047,369 SF	0 SF	4,572 SF	1.0%	\$10.89/SF

Source: Costar®

As of Q4 2020 the 70665 / 70669 market has a total Industrial inventory of 1,047,369 SF with 10,000 SF vacant indicating a current vacancy rate of 1.0%. There was no additional inventory delivered last quarter, nor were there any new deliveries in the last year.

Over the past four quarters the 70665 / 70669 industrial market has experienced no growth of supply. There was also positive net absorption, decrease in vacancy rates and increase of asking rent in the marketplace.



Key supply/demand statistics for the most recent quarter, last year and historical averages are summarized below.

70665 / 70669 MARKET TREND ANALYSIS			
	Q4 2020	2019	Last 9
Total SF	1,047,369	1,047,369	999,563
Vacant SF	10,000	32,259	40,915
Market Vacancy	1.0%	3.1%	4.1%
Construction Growth Rate	0.0%	0.0%	1.0%
Absorption Rate	0.4%	2.0%	0.8%
Average Asking Rent/SF	\$10.89	\$10.66	\$9.77

Source: Costar®

Vacancy

The Q4 2020 vacancy rate (1.0%) is lower than last year (3.1%) and substantially lower than the average vacancy over the past nine years (4.1%). The historic vacancy trend indicates strong long-term demand for industrial space in the 70665 / 70669 market. The most recent vacancy trends demonstrate superior market conditions in comparison to the historic trend and suggest continued moderately strong demand moving forward.

Supply

There was no new inventory added during Q4 2020, nor were there any new deliveries in the last year.

70665 / 70669 INDUSTRIAL CONSTRUCTION ACTIVITY SUMMARY			
STATUS	NO. OF PROJECTS	SIZE (SF)	% OF SUPPLY
Under Construction	0	0	-

Source: Costar®

Absorption

During Q4 2020 net absorption was 0.4% and net absorption was 2.0% over the last year. The 70665 / 70669 industrial market has established an overall trend of stable absorption (0.8%) over the past nine years. The historic absorption trend indicates stable long-term demand for industrial space in the 70665 / 70669 market. The most recent absorption trends demonstrate similar market conditions in comparison to the historic trend and suggest continued stability moving forward.

70665 / 70669 Submarket Conclusion

Based on the preceding analysis, the 70665 / 70669 Industrial market demonstrates sound fundamentals. Analysis of supply and demand factors indicate the market is currently stable with no evidence to prove this will change any time soon. The greatest strength of the market appears to be its low vacancy rates. There are no observed weaknesses of the market that stand out.

EXPOSURE TIME & MARKETING PERIOD

Exposure time is defined as "The estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective opinion based on an analysis of past events assuming a competitive and open market" (The Dictionary of Real Estate Appraisal, Appraisal Institute, 2015). Reasonable exposure time is impacted by the aggressiveness and effectiveness of a property's exposure to market participants, availability and cost of financing, and demand for similar investments. Exposure time is best established based the recent history of marketing periods for comparable sales, discussions with market participants and information from published surveys.

Based on the specialized nature of the subject property and the resulting limited buyer pool, we have estimated a marketing / exposure time of 18 - 24 months for the subject. Typical exposure times for industrial property similar to what abuts the majority of the subject line is estimated at six to twelve months depending on a variety of factors including location, physical characteristics, and utility.

INTRODUCTION

The highest and best use of an improved property is defined as that reasonable and most probable use that will support its highest present value. The highest and best use, or most probable use, must be legally permissible, physically possible, financially feasible, and maximally productive. This section develops the highest and best use of the subject property.

AS-VACANT ANALYSIS

The market value of the subject land is based on the probable highest and best use of the land as if vacant. The total subject property consists of a variable width rail corridor. Such properties have two general possibilities as to their highest and best use.

The first involves liquidation of the land assuming it would be subdivided into smaller parcels and sold to abutting owners on an as-is, where-is basis for an expansion of existing abutting uses. The second is for its intact use as a corridor for rail, utilities, pipelines, transportation, and/or communications purposes. The servitude rights of the existing corridor were summarized in the discussion of property rights appraised earlier in this report.

The subject is clearly a unique rail corridor connecting to further rail infrastructure on each end and including multiple spurs and private access points. The corridor represents the result of numerous real estate acquisitions to create an assembled parcel for this specialized use, as detailed in the ownership history discussion. The only similar corridors in the area are reserved for vehicular traffic, rail, and utility and natural gas transmission lines.

The subject represents a special benefit to the owner in that many significant costs are avoided as a potential buyer or user/developer of the corridor can purchase or develop it intact. Some of the areas in which significant costs are avoided are:

1. Dealing with a single owner
2. Savings in appraisal and legal costs
3. Corridor with clearly defined locations
4. Elimination of delays as corridor is already in place
5. Avoidance of need for negotiations with public authorities for utility relocation or construction in easement areas
6. Disruption avoidance through established residential neighborhoods and business areas
7. Avoidance of the cost and disruption of temporary construction easement acquisitions
8. Avoidance of premium acquisition cost to avoid litigation and/or severance damages associated with acquiring corridors
9. Site clearance has largely been completed relative to the construction of a new corridor

The acquisition cost (including all of the associated soft costs) of obtaining rights from each fee owner of tracts through which the subject corridor passes to create a substitute line makes the existing corridor more financially feasible to accommodate a rail use.

Demand is evidenced by the continued growth of surrounding markets and communities. The property's use as a corridor and as an integral component of a rail network is considered to be economically viable. Demand beyond the current owner is considered likely to exist given the characteristics of the subject corridor.

In view of the economic circumstances and the characteristics of the subject property, the highest and best use of the subject is for corridor purposes consistent with the historical and proposed use.

In the valuation of a corridor, the acquisition cost would be based on the prevailing land values in the area or so-called Across the Fence (ATF) values. In that regard, I have considered uses of land through which the subject corridor passes. The subject corridor passes through primarily industrial properties. There are some segments

of the subject corridor that pass through areas with severely limited utility due to terrain, floodplain characteristics, or other encumbrances such as easements and roadways. I have utilized a single set of land sales that provide a reliable indication of industrial land value in the subject vicinity. Where applicable, I have applied a subsequent downward adjustment to those sections of the subject that abut limited utility land. The below-the-line utility adjustment is based on paired sales retained in the appraiser's files.

AS-IMPROVED ANALYSIS

The subject property is an active rail corridor and is improved with typical rail improvements. The improvements appear to be in functional condition. I have not made any conclusion regarding deferred maintenance related to the improvements and no information was made available to me in this regard. The highest and best use as improved is considered to be continued use as a rail corridor.

INTRODUCTION

The following presentation of the appraisal process deals directly with the valuation of the subject property. The As-Is Market Value of the subject's fee simple interest is estimated using the Sales Comparison Approach, which is recognized as the standard appraisal technique for commercial land. The Cost and Income Capitalization Approaches are not applicable when valuing unimproved commercial land and are therefore excluded. Their exclusion is not detrimental to the reliability or credibility of the final value conclusion.

SALES COMPARISON APPROACH

The Sales Comparison Approach is based on the principle of substitution, which asserts that no one would pay more for a property than the value of similar properties in the market. This approach analyzes comparable sales by applying transactional and property adjustments in order to bracket the subject property on an appropriate unit value comparison. The sales comparison approach is applicable when sufficient data on recent market transactions is available.

LAND VALUATION

The subject is a variable width rail corridor analyzed using across the fence methodology. As discussed in the highest and best use section, the majority of the subject corridor runs through areas dominated by heavy industrial land uses. Some portions of the corridor are noted to abut areas with limited utility due to physical characteristics, floodplain, topography, and other encumbrances such as roadways. The area of these portions of the subject has been estimated using GIS measurements and an adjustment has been made to reflect their limited utility.

UNIT OF COMPARISON

The most relevant unit of comparison is the price per square foot. This indicator best reflects the analysis used by buyers and sellers in this market for land with similar utility and zoning in this marketplace.

COMPARABLE SELECTION

A thorough search was made for similar land sales in terms of proximity to the subject, size, location, development potential, and date of sale. Databases examined in our search included CoStar as well as our internally maintained database. We also conducted interviews with other brokers and appraisers active in the subject market. In selecting comparables, emphasis was placed on confirming recent sales of industrial sites that are similar to the typical abutting property in terms of location and physical characteristics. Overall, the sales selected represent the best comparables available for this analysis.

ADJUSTMENT PROCESS

Quantitative adjustments are made to the comparable sales. The following adjustments or general market trends were considered for the basis of valuation.

Transactional Adjustments

Dollar adjustments to the comparable sales were considered and made when warranted for transactional adjustments in the sequence shown below:

Property Rights Transferred	The valuation of the subject site was completed on a fee simple basis. If warranted, leased fee, leasehold and/or partial interest land sales were adjusted accordingly.
Financing Terms	The subject site was valued on a cash equivalent basis. Adjustments were made to the comparables involving financing terms atypical of the marketplace.

Conditions of Sale	This adjustment accounts for extraordinary motivation on the part of the buyer or seller often associated with distressed sales and/or assemblages.
Expenditures After Purchase	Adjustments were applied if site conditions warranted expenditures on the part of the buyer to create a buildable site. Examples include costs for razing pre-existing structures, general site clearing and/or mitigation of environmental issues.
Market Conditions	Market conditions adjustments were based on a review of historical sale data, market participant interviews and review of current versus historical pricing. Based on my research, the following table summarizes the market conditions adjustment applied in this analysis.

MARKET CONDITIONS ADJUSTMENT

Per Year As Of	March 2020 (PRE COVID-19)	1%
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The analysis applies an upward market conditions adjustment of 1% annually reflecting the conditions between the oldest comparable sale date up through the period preceding COVID-19.

COVID-19 Impact Adjustment

The subject industrial land market has showed overall stability during the general uncertainty surrounding COVID-19. Demand for similar industrial and development properties is anticipated to remain steady. A line item adjustment for COVID-19 is therefore not warranted.

Property Adjustments

In order to estimate a value for the subject corridor, the property is divided into parcels or zones for the purpose of valuation. The value of these individual zones is estimated by a comparison of sales of abutting or nearby land; this approach is commonly known as the Across the Fence (ATF) method. Each valuation zone is viewed as part of a typical sale parcel of adjoining land, so no adjustments are made for location or other physical characteristics. The resulting value indicates the level at which typical land along the right of way sells in the market.

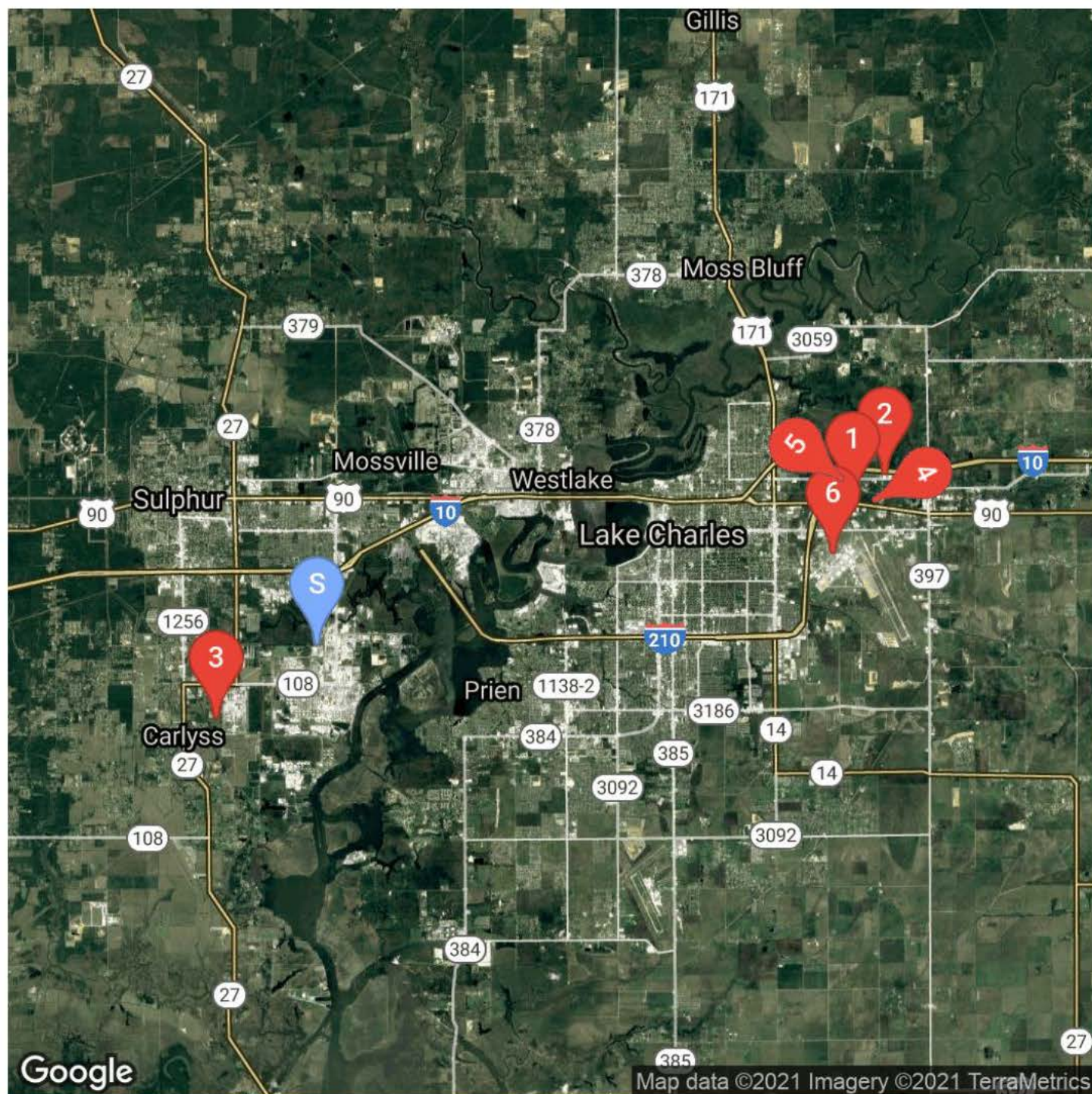
LAND VALUATION PRESENTATION

The following Land Sales Summation Table, Location Map and datasheets summarize the sales data used in this analysis. Following these items, the opinion of site value is concluded.

LAND SALES SUMMATION TABLE

COMPARABLE	COMPARABLE 1	COMPARABLE 2	COMPARABLE 3	COMPARABLE 4	COMPARABLE 5	COMPARABLE 6
Name	Industrial Land	Industrial Land	Industrial Land	Industrial Land	Industrial Land	Industrial Land
Address	213 S Goodman Rd	5151 Opelousas St	5299 S Boudoin Rd	4900 US 90	201 Signal St	4000 Avenue F
City	Lake Charles	Lake Charles	Sulphur	Lake Charles	Lake Charles	Lake Charles
State	LA	LA	LA	LA	LA	LA
Zip	70615	70615	70665	70615	70601	70615
Parish	Calcasieu Parish	Calcasieu Parish	Calcasieu Parish	Calcasieu Parish	Calcasieu Parish	Calcasieu Parish
APN	350908-0697-130-0002-02, -04	01362868	231010-000-210-0003, 340-0003	Out of 01353206A	350908-1189-0015, & 0018	00099082
PHYSICAL INFORMATION						
Acres	5.28	8.32	44.06	15.05	4.46	3.17
SF	230,040	362,258	1,919,076	655,632	194,278	138,172
Shape	Irregular	Generally Rectangular	Irregular	Generally Rectangular	Generally Rectangular	Irregular
Zoning	I1	I1	I2	I1 / I2	I1	MU-X
Flood Zone	X500	AE	X500 (33%) / X	AE	X	X
Topography	Level	Level	Level	Generally Level	Level	Level
Utilities	All Available	All Available	All Available	All Available	All Available	All Available
Easements	Standard	Standard	Drainage	Standard	Standard	Standard
SALE INFORMATION						
Date	8/15/2018	5/16/2019	12/10/2013	8/9/2017	4/13/2018	3/28/2018
Status	Recorded	Recorded	Recorded	Recorded	Recorded	Recorded
Rights Transferred	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Transaction Price	\$315,000	\$738,650	\$1,800,000	\$450,000	\$185,000	\$201,732
Analysis Price	\$315,000	\$738,650	\$1,800,000	\$450,000	\$185,000	\$201,732
\$/Acre	\$59,659	\$88,780	\$40,853	\$29,900	\$41,480	\$63,638
\$/SF Land	\$1.37	\$2.04	\$0.94	\$0.69	\$0.95	\$1.46

LAND SALES LOCATION MAP



COMPARABLE KEY

COMP	DISTANCE	ADDRESS	SALE DATE	ACRES	SF	\$/SF
SUBJECT	-	Calcasieu Parish, LA	-			\$1.25
No. 1	11.0 Miles	213 S Goodman Rd, Lake Charles, LA	8/15/2018	5.3	230,040	\$1.37
No. 2	11.7 Miles	5151 Opelousas St, Lake Charles, LA	5/16/2019	8.3	362,258	\$2.04
No. 3	2.5 Miles	5299 S Boudoin Rd, Sulphur, LA	12/10/2013	44.1	1,919,076	\$0.94
No. 4	11.1 Miles	4900 US 90, Lake Charles, LA	8/9/2017	15.1	655,632	\$0.69
No. 5	10.8 Miles	201 Signal St, Lake Charles, LA	4/13/2018	4.5	194,278	\$0.95
No. 6	10.4 Miles	4000 Avenue F, Lake Charles, LA	3/28/2018	3.2	138,172	\$1.46

COMPARABLE 1

LOCATION INFORMATION

Name	Industrial Land
Address	213 S Goodman Rd
City, State, Zip Code	Lake Charles, LA, 70615
County	Calcasieu Parish
MSA	Lake Charles, LA
APN	350908-0697-130-0002-02, -04

SALE INFORMATION

Buyer	Vicente Saul Velasquez
Seller	RM Land LLC
Transaction Date	08/15/2018
Transaction Status	Recorded
Transaction Price	\$315,000
Analysis Price	\$315,000
Recording Number	4276, 890
Rights Transferred	Fee Simple
Financing	Cash at Settlement
Conditions of Sale	Arms-Length

PHYSICAL INFORMATION

Intended Use	Vacant Land	
Location	Average	
Flood Zone	X500	
Frontage	Average	
Site Size	Acres	SF
Net	5.28	230,040
Gross	5.54	241,540
Zoning	I1	
Shape	Irregular	
Topography	Level	
Easements	Standard	
Utilities	All Available	



INDUSTRIAL LAND

ANALYSIS INFORMATION

Price	<u>\$/Acre</u>	<u>\$/SF</u>
Gross	\$56,859	\$1.30
Net	\$59,659	\$1.37

CONFIRMATION

Name	Keith Ryder	
Company	Flavin Realty Inc.	
Source	Seller's Broker	
Date / Phone Number	11/2/2020	+1 337 540 1025

REMARKS

The property was listed for \$325,000 and sold at a 3% discount. The buyer owns a roofing company which outgrew its previous location. The buyer intends to build a warehouse / storage facility for owner-occupancy. The broker confirmed the arms length transaction. This irregularly shaped site has frontage along the east side of Goodman Rd, the north side of US 90, and the west side of the Union Pacific rail line. The property is located just outside the Lake Charles city limits and is zoned for light industrial use by Calcasieu Parish. The western 30 feet of the property is located within the Goodman Rd right of way per the most recent deed. This area is estimated at 11,500 SF and deducted from the total size to estimate the usable size of the property.

COMPARABLE 2

LOCATION INFORMATION

Name	Industrial Land
Address	5151 Opelousas St
City, State, Zip Code	Lake Charles, LA, 70615
County	Calcasieu Parish
MSA	Lake Charles, LA
APN	1362868

SALE INFORMATION

Buyer	Tadco Ventures, LLC
Seller	Prairie Land Company
Transaction Date	05/16/2019
Transaction Status	Recorded
Transaction Price	\$738,650
Analysis Price	\$738,650
Recording Number	4324, 489
Rights Transferred	Fee Simple
Financing	Cash at Settlement
Conditions of Sale	Arms-Length

PHYSICAL INFORMATION

Intended Use	Vacant Land	
Location	Average	
Flood Zone	AE	
Frontage	Interstate Highway	
Site Size	Acres	SF
Net	8.32	362,258
Gross	8.72	379,646
Zoning	I1	
Shape	Generally Rectangular	
Topography	Level	
Easements	Standard	
Utilities	All Available	



INDUSTRIAL LAND

ANALYSIS INFORMATION

Price	<u>\$/Acre</u>	<u>\$/SF</u>
Gross	\$84,708	\$1.95
Net	\$88,780	\$2.04

CONFIRMATION

Name	Robbie Ingle	
Company	Coldwell Banker	
Source	Seller's Broker	
Date / Phone Number	11/18/2020	+1 337 304 0481

REMARKS

The selling broker confirmed this was an arm's length transaction. The buyer intends to owner-occupy the property for use as a storage container yard. The industrial site is located along Opelousas St, with frontage and visibility along IH 10. The property does not have access along IH 10 as there is no frontage road along the property's highway frontage. The southern 30 feet of the property lies within the Opelousas St right of way. This area is calculated to be 17,388 square feet and is deducted from the total property size as it is unusable.

COMPARABLE 3**LOCATION INFORMATION**

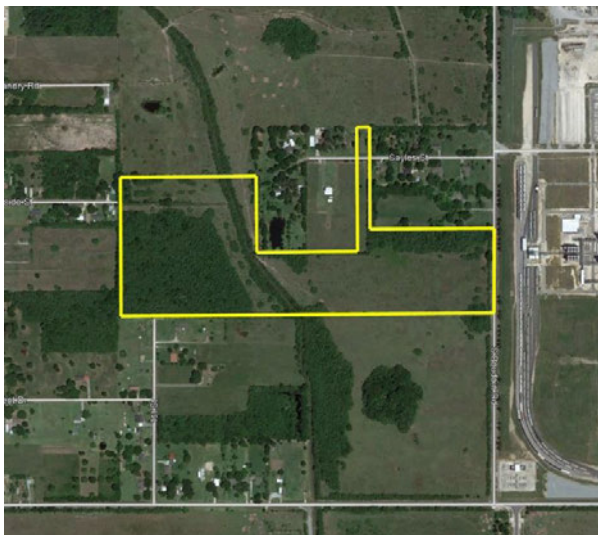
Name	Industrial Land
Address	5299 S Boudoin Rd
City, State, Zip Code	Sulphur, LA, 70665
County	Calcasieu Parish
MSA	Lake Charles, LA
APN	231010-000-210-0003, 340-0003

SALE INFORMATION

Buyer	Westlake Petrochemicals LLC
Seller	J. Lawton Company, LLC et al
Transaction Date	12/10/2013
Transaction Status	Recorded
Transaction Price	\$1,800,000
Analysis Price	\$1,800,000
Recording Number	3121851
Rights Transferred	Fee Simple
Financing	Cash at Settlement
Conditions of Sale	Arms-Length

PHYSICAL INFORMATION

Intended Use	Vacant Land	
Location	Average	
Flood Zone	X500 (33%) / X	
Frontage	Average	
Site Size	Acres	SF
Net	44.06	1,919,076
Gross	44.48	1,937,353
Zoning	I2	
Shape	Irregular	
Topography	Level	
Easements	Drainage	
Utilities	All Available	

**INDUSTRIAL LAND****ANALYSIS INFORMATION**

Price	<u>\$/Acre</u>	<u>\$/SF</u>
Gross	\$40,468	\$0.93
Net	\$40,853	\$0.94

CONFIRMATION

Name	Calcasieu Parish Conveyance Records	
Company	Calcasieu Clerk of Court	
Source	Local Tax Record	
Date / Phone Number	11/5/2020	+1 337 437 3558

REMARKS

The site is on the west side of S Boudoin Rd and is bordered to the east by Westlake's Petrochemical plant. The site is divided by a north/south drainage easement and creek which drains to Moss Lake, about 3.5 miles to the south. The area around the drainage easement is located in the 500-year floodplain. The eastern boundary of the property lies within the S Boudoin Rd right of way. The area within the existing roadway is calculated to be 18,277 SF and is deducted from the total size per the deed.

COMPARABLE 4**LOCATION INFORMATION**

Name	Industrial Land
Address	4900 US 90
City, State, Zip Code	Lake Charles, LA, 70615
County	Calcasieu Parish
MSA	Lake Charles, LA
APN	Out of 01353206A

SALE INFORMATION

Buyer	JKL Developments, LLC
Seller	Mke Pedersen Properties, LLC
Transaction Date	08/9/2017
Transaction Status	Recorded
Transaction Price	\$450,000
Analysis Price	\$450,000
Recording Number	3286792
Rights Transferred	Fee Simple
Financing	Cash at Settlement
Conditions of Sale	Arms-Length

PHYSICAL INFORMATION

Intended Use	Vacant Land	
Location	Average	
Flood Zone	AE	
Frontage	Average	
Site Size	Acres	SF
Net	15.05	655,632
Gross	15.74	685,822
Zoning	I1 / I2	
Shape	Generally Rectangular	
Topography	Generally Level	
Corner	Yes	
Easements	Standard	
Utilities	All Available	

**INDUSTRIAL LAND****ANALYSIS INFORMATION**

Price	<u>\$/Acre</u>	<u>\$/SF</u>
Gross	\$28,590	\$0.66
Net	\$29,900	\$0.69

CONFIRMATION

Name	Calcasieu Parish Conveyance Records	
Company	Calcasieu Clerk of Court	
Source	Local Tax Record	
Date / Phone Number	01/8/2021	+1 337 437 3558

REMARKS

Vacant tract just east of Lake Charles city limits. Property zoned for industrial use. Western boundary located within existing Cappel Rd right of way. The area within the right of way is calculated to be approximately 30,190 SF and is deducted from the size calculated from the most recent deed.

COMPARABLE 5

LOCATION INFORMATION

Name	Industrial Land
Address	201 Signal St
City, State, Zip Code	Lake Charles, LA, 70601
County	Calcasieu Parish
MSA	Lake Charles, LA
APN	350908-1189-0015, & 0018

SALE INFORMATION

Buyer	Guinn Family Properties LLC
Seller	Roja Investments LLC
Transaction Date	04/13/2018
Transaction Status	Recorded
Transaction Price	\$185,000
Analysis Price	\$185,000
Recording Number	3313547
Rights Transferred	Fee Simple
Financing	Cash at Settlement
Conditions of Sale	Arms-Length

PHYSICAL INFORMATION

Intended Use	Vacant Land	
Location	Average	
Flood Zone	X	
Frontage	Average	
Site Size	Acres	SF
Net	4.46	194,278
Gross	4.46	194,278
Zoning	I1	
Shape	Generally Rectangular	
Topography	Level	
Easements	Standard	
Utilities	All Available	



INDUSTRIAL LAND

ANALYSIS INFORMATION

Price	<u>\$/Acre</u>	<u>\$/SF</u>
Gross	\$41,480	\$0.95
Net	\$41,480	\$0.95

CONFIRMATION

Name	Calcasieu Parish Conveyance Records	
Company	Calcasieu Clerk of Court	
Source	Local Tax Record	
Date / Phone Number	11/16/2020	+1 337 437 3558

REMARKS

In our understanding the buyer's motivation to purchase was for development of a truck storage yard. The site is located at the northwest terminus of Signal St. The site has frontage along the south side of the BNSF / UP rail line, but no access. The property is zoned for light industrial use.

COMPARABLE 6

LOCATION INFORMATION

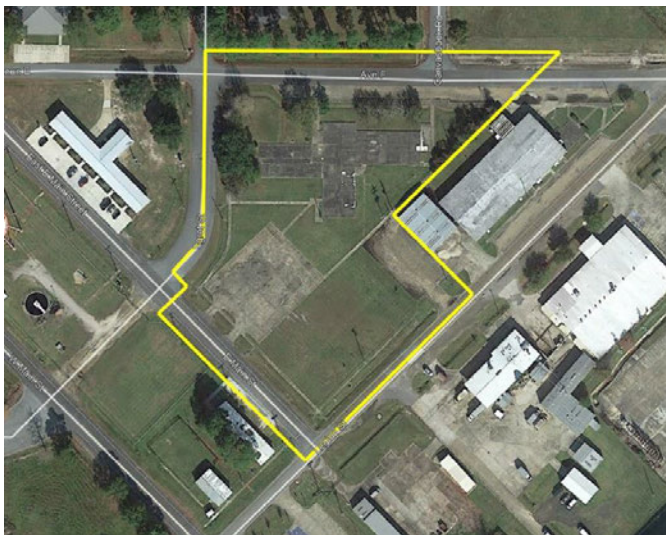
Name	Industrial Land
Address	4000 Avenue F
City, State, Zip Code	Lake Charles, LA, 70615
County	Calcasieu Parish
MSA	Lake Charles, LA
APN	99082

SALE INFORMATION

Buyer	Elite Collision Holdings, LLC
Seller	KVH, LLC
Transaction Date	03/28/2018
Transaction Status	Recorded
Transaction Price	\$201,732
Analysis Price	\$201,732
Recording Number	3310983
Rights Transferred	Fee Simple
Financing	Cash at Settlement
Conditions of Sale	Arms-Length

PHYSICAL INFORMATION

Intended Use	Redevelopment	
Location	Average	
Flood Zone	X	
Frontage	Average	
Site Size	Acres	SF
Net	3.17	138,172
Gross	4.71	205,168
Zoning	MU-X	
Shape	Irregular	
Topography	Level	
Corner	Yes	
Easements	Standard	
Utilities	All Available	



INDUSTRIAL LAND

ANALYSIS INFORMATION

Price	<u>\$/Acre</u>	<u>\$/SF</u>
Gross	\$42,831	\$0.98
Net	\$63,638	\$1.46

CONFIRMATION

Name	Calcasieu Parish Conveyance Records	
Company	Calcasieu Clerk of Court	
Source	Local Tax Record	
Date / Phone Number	07/29/2019	+1 337 437 3558

REMARKS

May 2018 transfer from KVH LLC to Elite Collision Holdings, LLC. Prior to purchasing, the buyer requested a conditional use permit to construct a vehicle body repair shop, which was required because the property fronts a local street. It was approved and deemed reasonable as the use is consistent with that of the immediate area. Property is surrounded by light industrial and office uses. Irregularly shaped industrial site with frontage along Ave F, E Main St, and Sen J Bennett Johnston Ave in Eastern Lake Charles near Chennault International Airport. Property includes areas within existing road rights of way on its northern, western, and southern sides. The most recent recorded deed states a size of 4.71 gross acres and 3.172 net usable acres excluding the areas within existing roadways. Property zoned by Lake Charles for mixed use.

LAND SALES ADJUSTMENT TABLE

COMPARABLE	COMPARABLE 1	COMPARABLE 2	COMPARABLE 3	COMPARABLE 4	COMPARABLE 5	COMPARABLE 6
Name	Industrial Land	Industrial Land	Industrial Land	Industrial Land	Industrial Land	Industrial Land
Address	213 S Goodman	5151 Opelousas	5299 S Boudoin	4900 US 90	201 Signal St	4000 Avenue F
City	Lake Charles	Lake Charles	Sulphur	Lake Charles	Lake Charles	Lake Charles
Acres	5.28	8.32	44.06	15.05	4.46	3.17
SF	230,040	362,258	1,919,076	655,632	194,278	138,172
Shape	Irregular	Generally Rectangular	Irregular	Generally Rectangular	Generally Rectangular	Irregular
SALE INFORMATION						
Date	8/15/2018	5/16/2019	12/10/2013	8/9/2017	4/13/2018	3/28/2018
Status	Recorded	Recorded	Recorded	Recorded	Recorded	Recorded
Rights Transferred	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Analysis Price	\$315,000	\$738,650	\$1,800,000	\$450,000	\$185,000	\$201,732
Price/Acre	\$59,659	\$88,780	\$40,853	\$29,900	\$41,480	\$63,638
Price/SF	\$1.37	\$2.04	\$0.94	\$0.69	\$0.95	\$1.46
TRANSACTIONAL ADJUSTMENTS						
Property Rights	0%	0%	0%	0%	0%	0%
Financing	0%	0%	0%	0%	0%	0%
Conditions of Sale	0%	0%	0%	0%	0%	0%
Expenditures After the Sale	0%	0%	0%	0%	0%	0%
Market Conditions (preceding COVID-19)¹	2%	1%	6%	3%	2%	2%
COVID-19 Market Impact	0%	0%	0%	0%	0%	0%
Subtotal Transactional Adj Price	\$1.40	\$2.06	\$1.00	\$0.71	\$0.97	\$1.49
Subtotal Property Adjustment	0%	0%	0%	0%	0%	0%
TOTAL ADJUSTED PRICE	\$1.40	\$2.06	\$1.00	\$0.71	\$0.97	\$1.49
STATISTICS	ADJUSTED					
LOW	\$0.71					
HIGH	\$2.06					
MEDIAN	\$1.20					
AVERAGE	\$1.27					

¹ Market Conditions Adjustment: 1%

Date of Value (for adjustment calculations): 3/1/20

INDUSTRIAL LAND VALUE CONCLUSION

The comparable land sales indicate an adjusted value range from \$0.71 to \$2.06/SF, with a median of \$1.20/SF and an average of \$1.27/SF. Based on the results of the preceding analysis, Comparable 1 (\$1.40/SF adjusted), Comparable 3 (\$1.00/SF adjusted), Comparable 4 (\$0.71/SF adjusted), Comparable 5 (\$0.97/SF adjusted) and Comparable 6 (\$1.49/SF adjusted) are given primary consideration for the subject's opinion of land value.

The following table summarizes the analysis of the comparables, reports the reconciled price per square foot value conclusion, and presents the concluded value of the subject site. The transactional adjustment shown consists of the market conditions adjustment made to the sales as detailed at the beginning of this section. Since there are no property adjustments made to the sales, the net and gross adjustment figures are the same.

INDUSTRIAL LAND VALUE CONCLUSION								
COMP	ANALYSIS	ADJUSTMENT				NET	GROSS	OVERALL
	PRICE	TRANSACTIONAL ¹	ADJUSTED	PROPERTY ²	FINAL	ADJ %	ADJ %	COMPARISON
1	\$1.37	2%	\$1.40	0%	\$1.40	2%	2%	PRIMARY
2	\$2.04	1%	\$2.06	0%	\$2.06	1%	1%	SECONDARY
3	\$0.94	6%	\$1.00	0%	\$1.00	6%	6%	PRIMARY
4	\$0.69	3%	\$0.71	0%	\$0.71	3%	3%	PRIMARY
5	\$0.95	2%	\$0.97	0%	\$0.97	2%	2%	PRIMARY
6	\$1.46	2%	\$1.49	0%	\$1.49	2%	2%	PRIMARY
LOW	\$0.71					AVERAGE		\$1.27
HIGH	\$2.06					MEDIAN		\$1.20
COMPONENT					\$/SF CONCLUSION			
INDUSTRIAL LAND VALUE (FEE SIMPLE)					\$1.25			

¹Cumulative ²Additive

Rounded to nearest \$10,000

The selected comparable sales are considered to provide a good indication of value for industrial land similar to that which abuts the majority of the subject property. Therefore, a value consistent with the median and mean of the sales is considered reasonable.

CALCULATION OF VALUE

As previously discussed, portions of the subject corridor constitute easement interests / servitude agreements and thus do not represent ownership of the full bundle of rights associated with fee simple land ownership. Therefore, an adjustment to the concluded value is necessary to account for the percentage of fee ownership that remains with the underlying fee owner. In the case of the subject corridor considering the rights and characteristics held by the subject corridor owner, a reasonable percentage of the fee value attributable to the subject corridor is considered to be 90% as no permanent improvements are permitted within the easement / servitude areas and the rail lines typically cannot be crossed without prior agreements in place. This conclusion is based primarily on a consideration of the portion of the bundle of rights held within the easement / servitudes and is consistent with my professional experience.

Additionally, I have concluded a reduced unit value for portions of the subject corridor that abut limited utility areas, such as those within existing road rights of way, areas that would not be developable due to highly irregular terrain, water features, or floodplain, and areas that would have limited utility due to physical characteristics including depth and existing encumbrances unrelated to the subject rail corridor, such as pipelines or high voltage transmission lines. In order to estimate a reasonable unit value for these areas of limited utility, I have applied a single adjustment based on a selection of paired sales retained in my file. Typically, limited utility tracts will trade similarly to assemblage or heavy floodplain impacted properties and show a significantly lower unit value than surrounding properties that are well-suited for development. For the purposes of this analysis, I have made a

downward adjustment of 80% to the concluded industrial land value per square foot in order to reasonably estimate the contributory value of those portions of the subject with notably limited utility as previously outlined. Examples of the limited utility segments are shown below.



My opinion of value reflects current conditions and the likely actions of market participants as of the date of value. It is based on the available information gathered and provided to us, as presented in this report, and does not predict future performance. Changing market or property conditions can and likely will have an effect on the subject's value.

LAND AREA & VALUE SUMMARY - CORRIDOR

Segment	Total Area (SF)	Total Area (Acres)	Estimated Value \$/SF	Estimated Value (Fee)	Percentage of Fee	Estimated Value
Usable Area - Fee	{					
Limited Utility Area - Fee						
Usable Area - Servitude						
Limited Utility Area - Servitude						
Total Value Estimate						}

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions of the signer are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- The signer of this report has no present or prospective interest in the property that is the subject of this report, and no personal interest with respect to the parties involved.
- Brent Pitts, MAI, R/W-AC has performed no services, as an appraiser or in any other capacity regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- The signer is not biased with respect to the property that is the subject of this report or to the parties involved with this assignment.
- The engagement in this assignment was not contingent upon developing or reporting predetermined results.
- The compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analysis, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and the *Code of Professional Ethics and Standards of Professional Appraisal Practice* of the Appraisal Institute.
- Brent Pitts, MAI, R/W-AC inspected the property that is the subject of this report.
- Jason Lindsey, MAI provided significant real property appraisal assistance to the person signing this report, including market and sale research.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

As of the date of this report Brent Pitts, MAI, R/W-AC completed the continuing education program for Designated Members of the Appraisal Institute.



Brent Pitts, MAI, R/W-AC
Valuation Services Director | Right of Way
Certified General Real Estate Appraiser
State of Louisiana License #G4351
+1 817 614 4989
brent.pitts@colliers.com

January 25, 2021
Date

This appraisal is subject to the following assumptions and limiting conditions:

- The appraiser may or may not have been provided with a survey of the subject property. If further verification is required, a survey by a registered surveyor is advised.
- We assume no responsibility for matters legal in character, nor do we render any opinion as to title, which is assumed to be marketable. All existing liens, encumbrances, and assessments have been disregarded, unless otherwise noted, and the property is appraised as though free and clear, under responsible ownership, and competent management.
- The exhibits in this report are included to assist the reader in visualizing the property. We have made no survey of the property and assume no responsibility in connection with such matters.
- Unless otherwise noted herein, it is assumed that there are no encroachments, zoning, or restrictive violations existing in the subject property.
- The appraiser assumes no responsibility for determining if the property requires environmental approval by the appropriate governing agencies, nor if it is in violation thereof, unless otherwise noted herein.
- Information presented in this report has been obtained from reliable sources, and it is assumed that the information is accurate.
- This report shall be used for its intended purpose only, and by the party to whom it is addressed. Possession of this report does not include the right of publication.
- The appraiser may not be required to give testimony or to appear in court by reason of this appraisal, with reference to the property in question, unless prior arrangements have been made therefore.
- The statements of value and all conclusions shall apply as of the dates shown herein.
- There is no present or contemplated future interest in the property by the appraiser which is not specifically disclosed in this report.
- Without the written consent or approval of the author neither all, nor any part of, the contents of this report shall be conveyed to the public through advertising, public relations, news, sales, or other media. This applies particularly to value conclusions and to the identity of the appraiser and the firm with which the appraiser is connected.
- This report must be used in its entirety. Reliance on any portion of the report independent of others, may lead the reader to erroneous conclusions regarding the property values. Unless approval is provided by the author no portion of the report stands alone.
- The valuation stated herein assumes professional management and operation of the buildings throughout the lifetime of the improvements, with an adequate maintenance and repair program.
- The liability of Colliers International Valuation & Advisory Services, its principals, agents, and employees is limited to the client. Further, there is no accountability, obligation, or liability to any third party. If this report is placed in the hands of anyone other than the client, the client shall make such party aware of all limiting conditions and assumptions of the assignment and related discussions. The appraiser is in no way responsible for any costs incurred to discover or correct any deficiency in the property.
- The appraiser is not qualified to detect the presence of toxic or hazardous substances or materials which may influence or be associated with the property or any adjacent properties, has made no investigation or analysis as to the presence of such materials, and expressly disclaims any duty to note the degree of fault. Colliers International Valuation & Advisory Services and its principals, agents, employees, shall not be liable for any costs, expenses, assessments, or penalties, or diminution in value, property damage, or personal

injury (including death) resulting from or otherwise attributable to toxic or hazardous substances or materials, including without limitation hazardous waste, asbestos material, formaldehyde, or any smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, solids or gasses, waste materials or other irritants, contaminants or pollutants.

- The appraiser assumes no responsibility for determining if the subject property complies with the *Americans with Disabilities Act (ADA)*. Colliers International Valuation & Advisory Services, its principals, agents, and employees, shall not be liable for any costs, expenses, assessments, penalties or diminution in value resulting from non-compliance. This appraisal assumes that the subject meets an acceptable level of compliance with *ADA* standards; if the subject is not in compliance, the eventual renovation costs and/or penalties would negatively impact the present value of the subject. If the magnitude and time of the cost were known today, they would be reduced from the reported value conclusion.
- An on-site inspection of the subject property was conducted. No evidence of asbestos materials on-site was noted. A Phase 1 Environmental Assessment was not provided for this analysis. This analysis assumes that no asbestos or other hazardous materials are stored or found in or on the subject property. If evidence of hazardous materials of any kind occurs, the reader should seek qualified professional assistance. If hazardous materials are discovered and if future market conditions indicate an impact on value and increased perceived risk, a revision of the concluded values may be necessary.
- A detailed soils study was not provided for this analysis. The subject's soils and sub-soil conditions are assumed to be suitable based upon a visual inspection, which did not indicate evidence of excessive settling or unstable soils. No certification is made regarding the stability or suitability of the soil or sub-soil conditions.
- This analysis assumes that the financial information provided for this appraisal, including rent rolls and historical income and expense statements; accurately reflect the current and historical operations of the subject property.

Zoning Information

Qualifications of Appraiser

Qualifications of Colliers International Valuation & Advisory Services

ZONING DISTRICT: I-1
(LIGHT INDUSTRIAL)

Permitted uses—Same as C-3; plus airports and airstrips; automobile, truck, trailer, motorcycle, bicycle repair and assembly; bakery factories; wholesale manufacturing; basket and hamper construction (wood, reed, rattan, etc.); bedding manufacture (mattress, pillow, and quilt); blending processes; candy wholesale (manufacturing permitted); carbon paper and inked ribbon manufacture; carpet, rug, and mat manufacture and cleaning; cemetery (mausoleum); cigar and cigarette manufacture; coffee roasting and blending; cold storage; contractor shop and storage yard; dairy product processing and packaging; dwelling for resident watchman or caretaker employed on premises; exterminating establishments; fruit and vegetable processing and packaging; garment factory; heliport and helistop; ice manufacture, including dry ice (no gases to be manufactured on premises); industrial vocational training school (including internal combustion engines); iron (ornamental) fabrication or storage; knitting, weaving, printing, and finishing of textiles and fibers into fabric goods; laboratories (research or experimental); leather goods manufacture (excluding tanning); meat products, processing and packaging, (except slaughtering); monument processing and shaping, including sales; pipe fabrication; plating, communication tower; shipping container manufacture (including corrugated board, fiber, steel, or wood); transit vehicle storage and servicing; warehouses; oil well drilling and service company; water well service and drilling company; welding and machine shops; sandblasting shops; wholesale distributors; truck terminals; railroads; ponds; and public uses; tire recycling and storage/processing facilities.

Permitted as exceptions by planning and zoning board—All residential uses; borrow pits; parking lots for business uses within three hundred (300) feet of district boundary; solid waste sites, excluding sanitary landfills; and workforce housing.

Permitted signs—On-premises signs shall conform to article III, division 10.

Maximum floor area—None.

Minimum lot area—Ten thousand (10,000) square feet.

Minimum lot area for workforce housing—Five (5) acres.

Maximum height of main building—One hundred (100) feet.

Note—Frontage requirements or driveway spacing minimums may be required subject to article III, division 4.

Yard requirements—

Front yard—Thirty (30) feet.

Side yard—None.

Rear yard—None.

Note—All ponds not required as a runoff management plan feature and all borrow pits shall have a set-back minimum of fifty (50) feet from all property lines, right-of-way lines, or easements.

Screening/fences—May be required subject to article III, division 6.

ZONING DISTRICT: I-2
(HEAVY INDUSTRIAL)

Permitted uses—Same as I-1; plus, beverage blending and bottling (including distilling); bulk materials storage, sales, and manufacture (cement lime in bags or containers, sand, gravel, shell, lumber, and the like); chemical processing and storage; coal and coke storage, sales and manufacture; commercial and industrial machinery sales and service; electric utility generating (excluding nuclear power plant); fish, shrimp; oysters, and other seafood processing, packaging, and storing; fur finishing (including tanning); grain and rice blending, milling, packaging; insecticides, fungicides, disinfectants and related industrial and household chemical compounds (manufacturing); junk and scrap storage and sales; manufacture of gases; meat products packaging and processing (including slaughtering); paper products manufacture; petroleum and petrochemical production, refining and storage; tire retreading, recapping, and vulcanizing; transportation terminal; borrow-pits; and on-site generated naturally occurring radioactive materials (NORM) storage facilities.

Permitted as exceptions by planning and zoning board—All residential uses; institutions; parking lots for business uses within three hundred (300) feet of district boundary; solid waste sites, excluding sanitary landfills; and workforce housing.

Permitted signs—On-premises signs shall conform to article III, division 10.

Maximum floor area—None.

Minimum lot area—Ten thousand (10,000) square feet.

Minimum lot area for workforce housing—Five (5) acres.

Maximum height of main building—One hundred (100) feet.

Note—Frontage requirements or driveway spacing minimums may be required subject to article III, division 4.

Yard requirements—

Front yard—Thirty (30) feet.

Side yard—None.

Rear yard—None.

Note—All ponds not required as a runoff management plan feature and all borrow pits shall have a setback minimum of fifty (50) feet from all property lines, right-of-way lines, or easements.

Screening/fences—May be required subject to article III, division 6.

Section 4. - Business district (B).

- (1) *Purpose:* This district is intended to provide an area of general commerce devoted to a healthy economic environment while minimizing impacts on more fragile areas.
- (2) *Permitted Uses:*
 - (a) Day care.
 - (b) Churches, schools, libraries and museums.
 - (c) General retail sales—Service establishments.
 - (d) Offices.
 - (e) Financial institutions.
 - (f) Restaurants (sit down, drive through and drive in).
 - (g) Entertainment. (Establishments whose gross receipts for the sale of alcoholic beverages constitute less than fifty (50) percent of their overall gross receipts).
 - (h) Business accessory use.
- (3) *Permitted as Exceptions by Land Use Commission and City Council:*
 - (a) All uses permitted in Residential District, Mixed Residential District and Mobile Home District.
 - (b) **All proposed buildings to be constructed greater than 50 feet shall meet International Building Code construction requirements and require Land Use Commission and City Council approval.
 - (c) The procedure for Permitted as Exceptions by Land Use Commission and City Council shall be in accordance with Article III, Part 2, Section 1.
- (4) *Development Standards:*
 - (a) No front foot dimension of a lot shall be less than fifty (50) feet. The total area of a lot shall not be less than six thousand (6,000) square feet.
 - (1) Exception. No front foot dimension of any lot in a cul-de-sac shall be less than thirty (30) feet and a total area of a lot shall not be less than ten thousand (10,000) square feet. In a cul-de-sac with a front foot of fifty (50) feet or more the lot shall not be exempt from the requirement of (b) of Article IV, Part 3, Section 4 (3).
 - (b) All development in the Business District shall conform to the development standards set out in the following table:
Side and rear setbacks to be determined by building codes adopted by city.

Use	Density	Lot Size (sq. ft.)	Front Setback (sq. ft.)	Height (ft.)
Single Family	7 du/a	6,000	20	35
Multi-family	18 du/a	6,000	20	50
Retail and Service	FAR .5	5,000	20	50
Offices, Restaurant and Entertainment	FAR 1	5,000	20	50**
Schools, Churches	—	10,000	20	50**

Section 5. - Commercial District (C).

- (1) *Purpose:* This district is intended to provide an area of commercial activity devoted to a healthy economic development while managing impact on more fragile areas.
- (2) *Permitted Uses:*
 - (a) All uses as permitted in business district classification except single-family detached residence.
 - (b) Kennels.
 - (c) Hotels and motels.
 - (d) Light manufacturing, wholesaling and warehousing.
 - (e) Institutions.
 - (f) Bars (only on major arterial streets and interstate highways).
 - (g) Entertainment (establishment whose gross receipts for the sale of alcoholic beverages constitutes fifty (50) percent or more of their overall gross receipts)(On major arterial streets and interstate highways).
 - (h) Park and Rides and Park and Ride Shares.

Definitions. For purposes of this article, the following words shall have the following meanings:

Operator is any individual, property owner, employer or company that operates, runs, controls or otherwise engages in the business of a Park and Ride or Park and Ride Share.

Park and Ride is a designated place where workers park their vehicles and take a bus or other form of transport to a job site or work site not adjacent to the designated parking place. A minimum of 200 parking spaces.

Park and Ride Share is a designated place where workers park their vehicles and car pool, or otherwise share a ride with a designated driver or other workers, to a job site or work site not adjacent to the designated parking place.

Park and Rides and Park and Ride Shares must meet the following criteria:

1. A Special Permit shall be issued by City of Sulphur Permit. Department for a term not to exceed one year at a fee of \$250.00.
2. Permit applicants shall submit a site plan to the City for review and approval identifying all improvements, access points, parking areas, drainage plan and lighting.
3. A parking area shall be constructed no closer than five (5) feet from any public right-of-way and no less than two and one-half (2½) feet from any adjacent property. Access drives between adjacent parking lots will be allowed. With the exception of a bumper rail or wheel barrier, each required parking space shall have minimum dimensions of 9.5'x18' with a 24' wide aisle for ninety (90) degree parking. A bumper rail or wheel barrier shall be installed so that no part of parked automobiles can extend into the public right-of-way. A minimum of three (3) feet shall be provided from the property line to the wheel guard.
4. A minimum 6-foot wooden privacy fence around perimeter of permitted space.
5. Lighting shall have adequate illumination and plan reviewed and approved by city engineering.
6. Parking Hours must be submitted and adhered to with reference of peak times of traffic.
7. Traffic study shall be performed if required by governmental agency having jurisdiction over the access road(s) providing access to any facility.
8. Traffic control shall be provided during hours of use by sworn off-duty police officers at all points of egress/ingress to prescribed lot.

9. Ingress/Egress shall be only on the following arterial streets:
 - a. Highway 90.
 - b. Beglis Parkway/Hwy 27.
 - c. Cities Service Hwy/Hwy 108.
 - d. Cypress Street.
 - e. Maplewood Drive.
 - f. Ruth Street/Hwy 1256.
 - g. Prater Road.
10. Route approval to workplace shall be agreed upon by Department of Transportation and Development, Calcasieu Parish Police Jury, as well as City of Sulphur.
11. If surface of Park and Ride spaces creates an emission of particles in the air (e.g., dust), permit holder must submit for review, a plan to limit said emission so as to not negatively affect surrounding structures/subdivisions.
12. Upon expiration of the Park and Ride the Permit Holder shall restore the site to pre-development condition or a more pristine state. In the event the property owner desires to retain all or any portion of the improvements, said improvements shall comply with current ordinances of the City of Sulphur. The Permit Holder is responsible for satisfying all obligations imposed by the City of Sulphur Ordinance.
13. Special permit may be revoked or suspended by the Chief Building Official.
14. Criminal Penalties. Any person, whether as an owner, lessor, agent, manager, employee, lessee, or occupant, who violates, causes a violation, or with knowledge permits a violation of any provisions of these regulations shall be guilty of a misdemeanor and, upon conviction, may be subject to a fine not to exceed five hundred dollars (\$500.00) per violation or subject to imprisonment not to exceed thirty (30) days, or both fine and imprisonment. Any person shall be deemed to have committed a separate violation for each and every day during any portion of which any violation of any provision of these regulations is committed, permitted, or continued by such person and shall be subject to the remedies provided in this section.

(3) *Permitted as Exceptions by Land Use Commission and City Council:*

- (a) Recreational facilities.
- (b) ****All** proposed buildings to be constructed greater than 50 feet shall meet International Building Code construction requirements and require Land Use Commission and City Council approval.
- (c) The procedure for Permitted as Exceptions by Land Use Commission and City Council shall be in accordance with Article III, Part 2, Section 1.

(4) *Development Standards:*

- (a) No front foot dimension of a lot shall be less than fifty (50) feet. The total area of a lot shall not be less than six thousand (6,000) square feet.
- (1) *Exception.* No front foot dimension of any lot in a cul-de-sac shall be less than thirty (30) feet and a total area of a lot shall not be less than ten thousand (10,000) square feet. In a cul-de-sac with a front foot of fifty (50) feet or more, the lot shall not be exempt from the requirement of (b) of Article IV, Part 3, Section 5(3).
- (b) All development in the Commercial District shall conform to the development standards set out in the following table:
Side and rear setbacks to be determined by building codes adopted by city.

Use	Density	Lot Size (sq. ft.)	Front Setback (sq. ft.)	Height (ft.)

Multi-Family	18 d/u	6,000	20	50
Retail and Service	FAR .5	5,000	20	50
Offices, Restaurant and Entertainment	FAR 1	5,000	20	50**
Wholesaling, Warehousing, Light Manufact., Inst. and Public Use	FAR 1	10,000	20	50**
Hotels and Motels	FAR 1	25,000	20	50**
Schools, Church, Kennels	—	10,000	20	50**
Bars	FAR 1	5,000	20	50
Rec. Facil.	FAR .5	10,000	20	50

(Ord. No. 761, 2-12-07; Ord. No. 815, 10-9-07; Ord. No. 976, 5-10-10; Ord. No. 1266, 11-10-14; Ord. No. 1290, 4-13-15; Ord. No. 1460, 4-10-17)



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Brent Pitts is a Valuation Services Director for Colliers International Valuation & Advisory Services. Mr. Pitts has been involved in valuation and advisory since early 2010. Brent has prepared assignments on various property types, including vacant land, net leased retail, restaurants, industrial properties, gasoline station/convenience stores, offices, retail centers, mobile home parks, apartments, condominiums, automotive related properties, hospitality properties, religious facilities, single-family residences and subdivisions, timeshares, and special purpose properties. Valuation clients include banks, lending institutions, government agencies, brokers, law firms, estates, and individuals. Brent has also appraised multiple properties for whole takings, partial takings, and easement acquisitions in eminent domain proceedings, with many of these appraisals requiring consideration of damages to the remainder.

Brent has also qualified as an expert witness and testified in multiple special commissioners' hearings as well as in trial settings.

EXPERIENCE

Appraiser – Appraisal Source, Inc., Fort Worth, Texas

Appraiser – National Appraisal Partners, LLP, Houston, Texas

MEMBERSHIPS, LICENSES AND PROFESSIONAL AFFILIATIONS

Appraisal Institute – Member # 541404

International Right of Way Association –
Associate Right of Way Professional

APPRAISAL INSTITUTE COURSES

Uniform Standards of Professional Appraisal Practice (USPAP)

Advanced Concepts & Case Studies

Advanced Market Analysis and Highest & Best Use

Advanced Income Capitalization

Quantitative Analysis

Real Estate Finance Statistics & Valuation Modeling

Business Practices & Ethics

OTHER RELATED COURSES

International Right of Way Association (IRWA) – Principles of Land Acquisition

IRWA – Ethics and the Right of Way Profession

IRWA – The Uniform Act Executive Summary

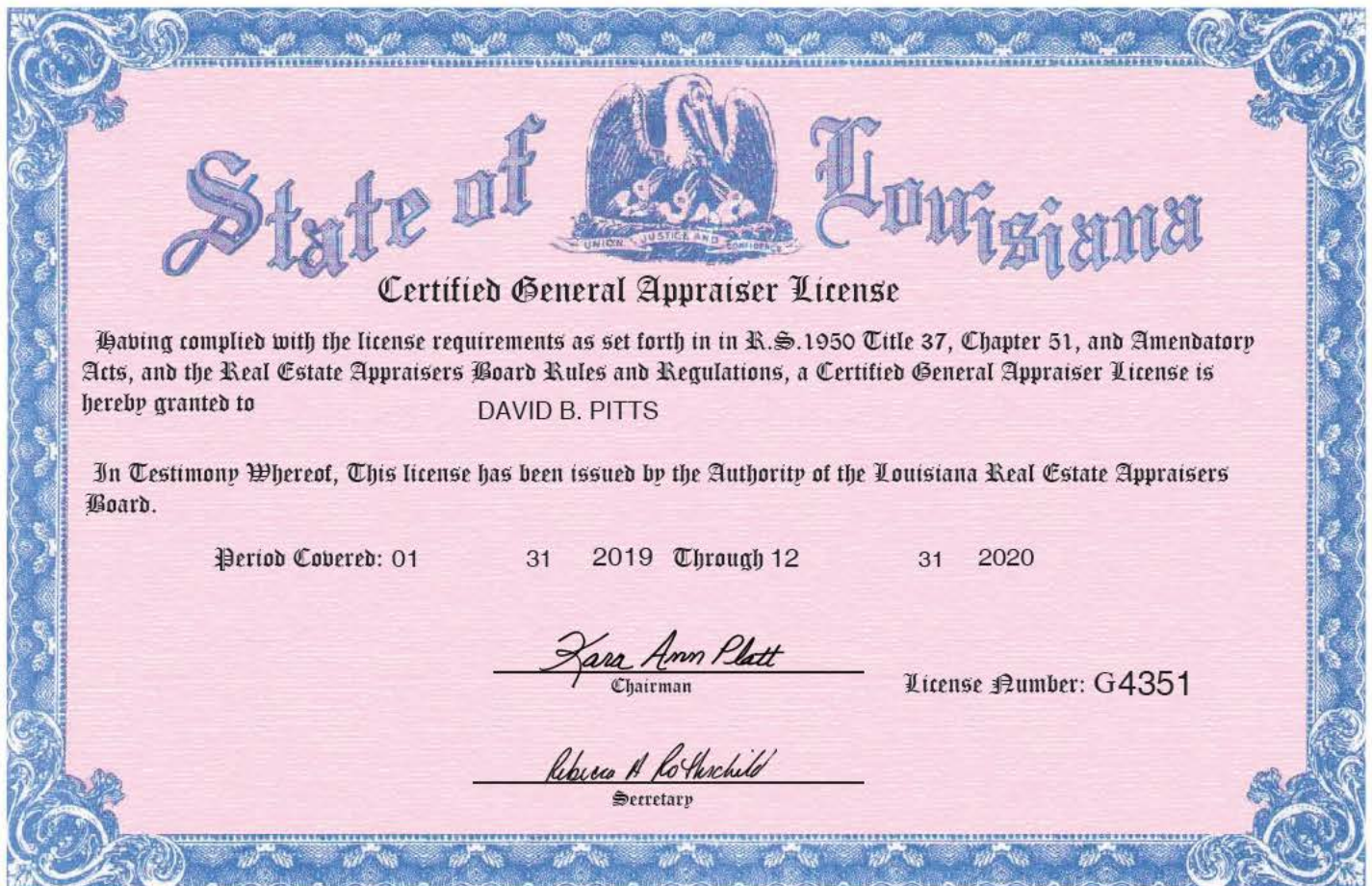
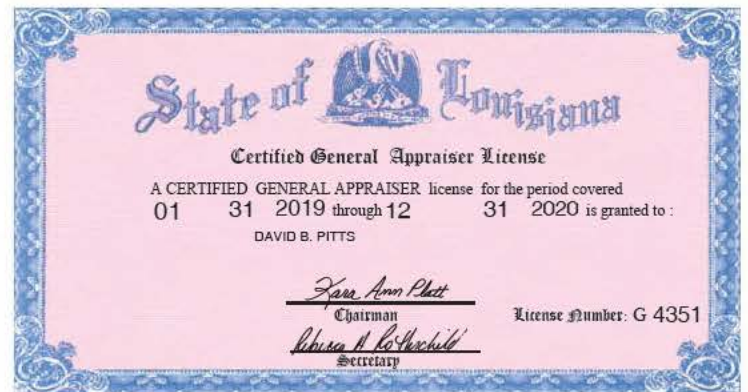
IRWA – Principles of Real Estate Negotiation

IRWA – Easement Valuation

IRWA – When Public Agencies Collide

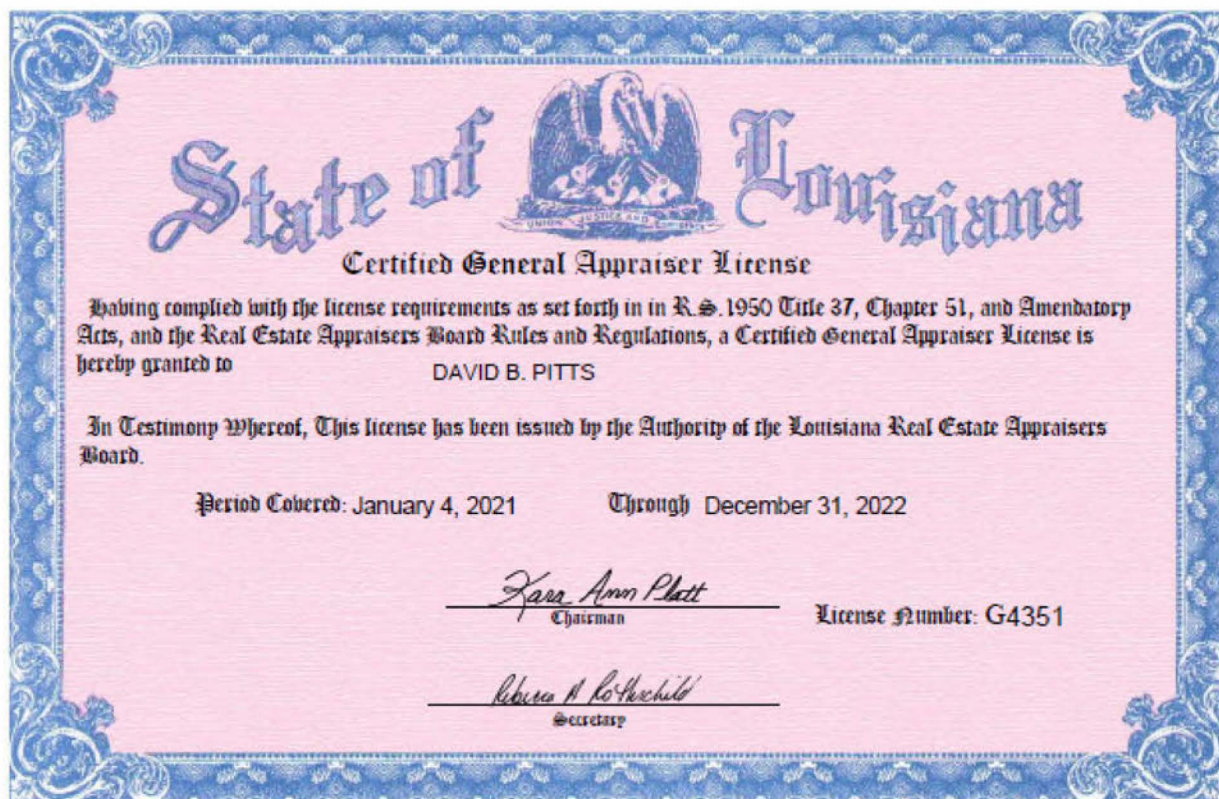
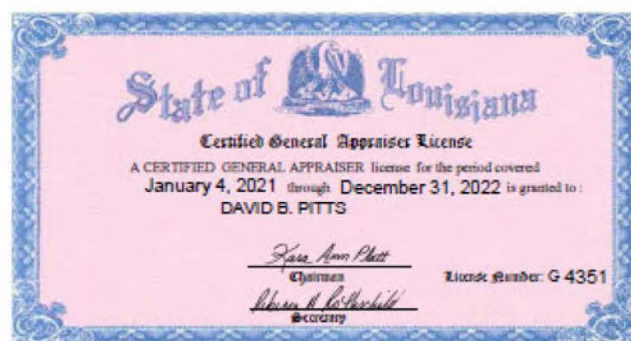
IRWA – Environmental Awareness

4351
CGA



4351

APR-CGA





Colliers International

Valuation & Advisory Services

Services Offered

Single Asset Valuation
Portfolio Valuation
Institutional Asset Valuation
Loan Pool Valuation
Appraisal Review
Appraisal Management
Lease and Cost Analysis
Insurance Valuation
Arbitration & Consulting
Feasibility Studies
Investment Analysis
Highest and Best Use Studies
Tax Appeals
Litigation Support
Segregated-Cost Analysis

Experience That Counts

Office
Industrial
Retail
Multifamily
Mixed-Use Properties
Senior Housing
Land
Self-Storage
Manufactured Housing
Agriculture
Net Lease
Hospitality
Health Care
Subdivisions
Embassies & Consulates
GSA Properties
Special Use Properties
Telecommunications

Real estate valuations play a pivotal role in today's business climate. An accurate and well supported opinion of property value can mean the difference between reaching a critical goal—securing a loan, closing a sale, reporting to investors, choosing the best asset—or failing to achieve it altogether.

Colliers Valuation & Advisory Services' reports are designed to deliver insight into a property's fundamentals, its competition and the overall market dynamics affecting value. A solid valuation report can be a strategic asset for investors, lenders and owners, provided that it addresses both a property's unique characteristics and the most current market conditions.

Commitment to high-end client service, coupled with Colliers International's unparalleled market intelligence and resources, differentiates us as the firm of choice in the real estate industry.

PROFESSIONALS

Our professionals share a commitment to deliver the highest level of service and consistent results. We go the extra mile for our clients, whether this means meeting a tight deadline or working with a complex and challenging property.

TECHNOLOGY

Our unmatched report creation technology speeds appraisals through the pipeline. This secure, centralized production system generates a wide range of reports and high volume portfolio orders without delays.

INFORMATION

Today's business climate places valuation in a more pivotal position than ever before. All our appraisals are evaluated and approved by an experienced review team to ensure our clients receive concise and timely appraisals. With clear, prompt reporting and a comprehensive, big picture approach, Colliers International's Valuation and Advisory reports give our clients the information they need to make better business decisions.

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CERTIFICATE OF SERVICE

I certify that I have, on January 26, 2021, served copies of BNSF's Opening Statement and Evidence (BNSF-144) upon all parties of record in this proceeding, by electronic mail.

A handwritten signature in black ink, appearing to read 'Peter W. Denton', written over a horizontal line.

Peter W. Denton
Attorney for BNSF Railway Company