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March 31, 2017

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: KCVN, LLC and Colorado Pacific Railroad, LLC -
Feeder Line Application -
In Crowley, Pueblo, Otero and Kiowa Counties, Colorado
STB Docket No. FD 36005

Dear Ms. Brown:

Enclosed is the Reply to Applicants' Supplemental Pricing Information being filed on behalf of V and S Railway, LLC (V&S). V&S is filing both a "public" version and a "highly confidential" (HC) version that is subject to the protective order in this proceeding. The highly confidential information is marked by gray highlighting in the HC version, and redacted in the public version.

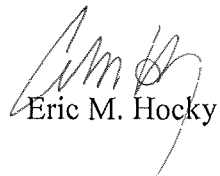
A disk with the work papers of RL Banks & Associates (including spreadsheets in their native format, but not including other work papers that are included as appendices to the RLBA Supplemental Verified Statement) are being sent to the Board by FedEx for delivery on Monday since we are unable to include them with the electronic filing. Copies of the work papers are being produced electronically to counsel for Applicants together with service of the V&S Reply.

March 31, 2017
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Please let us know if there are any questions regarding this filing.

Respectfully,

CLARK HILL PLC



Eric M. Hocky

EMH/e

cc: All persons shown on the certificate of service

Before the
SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

**REPLY OF V AND S RAILWAY, LLC TO
APPLICANTS' SUPPLEMENTAL PRICING INFORMATION**

Applicants KCVN, LLC and its subsidiary Colorado Pacific Railroad, LLC (“Applicants”) commenced this proceeding by filing a feeder line application to acquire the 121.9 mile Towner Line in Colorado owned by V and S Railway, LLC (“V&S”). By decision served March 3, 2017, to aid the Board in its analysis of the case, the Board directed the Applicants to file supplemental pricing information reflecting “wholesale” prices for the “materials [comprising the Towner Line] as they are classified and inventoried by V &S.” The Board’s decision, as extended by decision served March 22, 2017, also allowed V&S file a reply by today, and Applicants to file a rebuttal by April 7, 2017.

Initially, it should be noted that Applicants’ supplemental pricing information went beyond the Board’s request, and provided an updated NLV calculation based not only on the materials as classified and inventoried by V&S as directed, but also on the materials as classified and inventoried by Applicants in their September 27, 2016 Reply (Applicants’ Reply). The Board should disregard such information as beyond the scope of the Board’s request, and V&S is

not herein replying further to Applicants' classification and inventory or its updated value based thereon.

I. Wholesale Pricing

If the Board were to authorize a sale of the Towner Line under the feeder line provisions of 49 U.S.C. §10907, the sale price must not be less than the constitutional minimum value which has been held to be the greater of net liquidation value ("NLV") or going concern value. The parties have agreed that NLV would be applicable in this proceeding.

In setting NLV, the Board looks to establish the fair market value that the selling railroad could expect to receive for a sale of materials comprising the line to be sold. As this sale would generally be to a railroad salvage company, the Board sometimes discusses the amount that would be received by the selling railroad from the salvage company as a "wholesale" value, as distinguished from the "retail" price that the railroad salvage company will receive when it resells the materials in the market.

In general, when rail lines are sold by a railroad, the materials are sold in bulk to a railroad salvage company in their as is, where is condition. The salvage company is responsible for the costs of pulling up and removing the materials from the property, any required restoration of the property, for holding and marketing the materials, and for the administrative costs of managing these tasks. The selling railroad will not have to bear any of these costs, and any "wholesale" price paid to the selling railroad should represent the net amount that it would receive for the materials. *See* Verified Statement of Kern Schumacher attached hereto as Appendix I ("Schumacher V.S.") at 2.

Wholesale prices for relay steel (as contrasted to scrap steel) are not available generally in an index or publication. In the experience of A&K Railroad Materials (“A&K”)¹, salvage companies like itself do not maintain a wholesale price list. *See* Schumacher V.S. at 2. The prices a railroad salvage company is willing to pay are determined at the time the rail line is offered for sale, and will vary based on the types of materials, the current retail price that the materials can be sold for, and the competition for the materials.² *See* Schumacher V.S. at 2; Supplemental Verified Statement of R.L. Banks & Associates attached hereto as Exhibit II (“RLBA S.V.S.”) at 2-8. The wholesale price to be paid to the selling railroad is not truly fixed until the selling railroad and railroad salvage company enter into a binding contract for the sale and salvage of the materials. In this proceeding, where the rail line is not actually being offered for sale at this time, there is no binding agreement between V&S and any railroad salvage company that would reflect what the actual wholesale prices would be, and any wholesale prices would be purely theoretical. *See Oregon International Port of Coos Bay – Feeder Line Application – Coos Bay Line of the Central Oregon & Pacific Railroad, Inc*, STB Finance Docket No. 35160 (“*Coos Bay*”) (served October 31, 2008), slip op. at 11 (Board does not accept bids or offers to purchase as evidence of track asset value unless there are truly firm contracts). Recognizing that wholesale prices may not be available, the Board accepts retail prices, as reduced by appropriate deductions, as the equivalent of wholesale prices. *See Keokuk Junction Railway Company – Feeder Line Acquisition – Line of Toledo Peoria and Western Corporation between La Harpe and Hollis, IL*, STB Finance Docket No. 34335 (“*TPW*”) (served October 28, 2004), slip op. at 15; *SWKR Operating Co. – Abandonment Exemption – In*

¹ As previously disclosed, A&K is an affiliate of V&S. However, as one of the largest railroad salvage companies in the United States its experience in, and knowledge, of the salvage and secondary market cannot be questioned.

² Often rail lines being sold are put out to railroad salvage companies for open bidding.

Cochise County, AZ, STB Docket No. AB-441 (Sub-No. 2X) (“*SWKR*”) (served November 12, 1997) slip op. at 9; *SF&L Railway, Inc – Abandonment Exemption – in Ellis and Hill Counties, TX*, Docket No. AB-448 (Sub-No. 1X) (“*SF&L*”) (served July 30, 1996), 1996 STB LEXIS 345, at *44-47 (Board accepts retail prices less appropriate salvage and overhead costs is wholesale prices are not available).

II. Issues with Applicants’ Supplemental NLV Calculation

A. No basis for wholesale price of relay materials

In the Applicants’ Reply, they provided retail prices for some of the relay materials from three railroad salvage companies, and purported wholesale prices from one railroad salvage company (Harmer Steel). In the Applicants’ Supplement, they provide wholesale quotes from Harmer Steel and two other railroad salvage companies.³ These are “quotes” and not binding offers. They were provided in response to Applicants’ request, and were not part of a general listing by the railroad salvage company. Moreover, the quotes are incomplete as they do not provide prices for all of the various classifications of materials comprising the line. While Applicants’ Supplement indicates that the wholesale prices quoted do not include costs for removal or transportation to the location of the purchaser, it does not indicate whether the railroad salvage companies would require the selling railroad to bear such costs as a condition of purchase. Thus, it is not clear from Applicants’ Supplement what terms and conditions would apply or how the quotes were requested. Further, as indicated in the Applicants’ Reply, Harmer Steel is not in the market for all materials, and in many instances has provided lower wholesale prices for relay steel than would be available for scrap. *See also* RLBA S.V.S. at 7.

³ Applicants evidently did not seek, or were unable to obtain, updated retail prices or wholesale prices from the other salvage companies referenced in Applicants’ Reply.

RLBA attempted to reach each of the three railroad salvage companies cited in Applicants' Supplement in an attempt to learn more about the terms and conditions of the quotes, and how the requests were presented. In the time allowed for this Reply, RLBA was able to reach two of the salvage companies, and speak to the person who provided the quotes to Applicants. Based on these discussions, it appears that the salvage companies were advised to assume that the material was already taken up and ready to be transported; one of the companies assumed that it would pay for transportation. It is not clear that the cited companies knew that they were providing "wholesale" prices. It is clear that none of the salvage companies maintains a generally applicable "wholesale" price list, and that the quotes were estimates based on the minimal inventory sheet provided. The prices provided were influenced by the types of materials they were interested in handling (there are no wholesale prices provided for a significant number of categories of materials for sale), and the prices were quoted conservatively because the companies did not have the opportunity to do their own inspection of the materials or to investigate the local conditions. *See* RLBA S.V.S., at 5-8.

There is no evidence presented by Applicants to support the wholesale prices that they suggest – there is no evidence of purchases at the prices listed (by the salvage companies cited, or by anyone), nor is there any evidence that the railroad here, or a railroad anywhere, would accept the listed wholesale prices. There is nothing binding about the price lists provided – on either the salvage company or on any prospective seller.⁴ Moreover, Applicants have not

⁴ In some OFA cases, the Board has accepted an executed, binding asset purchase agreement between the selling railroad and a salvage company as evidence of the "wholesale" price (NLV) that the seller would receive. However, in the absence of a binding agreement, the Board will not accept the agreement as evidence of NLV. *See Coos Bay* (served October 31, 2008), slip op. at 11. *Cf. East Penn Railroad, LLC – Abandonment Exemption – In Berks and Montgomery Counties, PA*, STB Docket No. AB-1020X (served January 28, 2009), slip op. 4-5 (accepting firm arms-length salvage contract as evidence).

updated the retail prices provided in Applicants' Reply, which in any event only covered a portion of the relay components of the rail line. Accordingly, Applicants' Supplement does not provide any additional information that the Board should rely upon in determining the NLV of the Towner Line.

B. Transportation, and Administration and Marketing Costs.

For the same reason that it is appropriate to deduct transportation costs, and administrative and marketing fees from retail prices (because the railroad salvage company, and not the selling railroad, will bear those costs), it is not appropriate for those costs to be deducted from "wholesale" prices. Since most sales to railroad salvage companies are where is, why would any railroad pay transportation to a railroad salvage company's facility?⁵ The railroad salvage company will build those costs into its retail price. Therefore, while it may be true that railroad salvage companies on whom Applicants rely did not include transportation or other costs in the wholesale price (Applicants' Supplement at 4), that is because the railroad salvage companies will bear those costs, not because the selling railroad would pay such costs. As discussed above, it would not be appropriate for these costs to be deducted from any NLV calculated on wholesale prices.⁶

C. Scrap materials.

There is a recognized market for the sale of scrap metal with established wholesale prices delivered to the destination. In many cases, the parties in NLV proceedings use wholesale prices

⁵ Moreover, in any event not even the salvage company would ship materials all the way from Colorado to California not knowing to whom the materials will be sold. *See* discussion in Section III.B, below. Thus, Applicants' transportation cost of \$7,300 per carload is greatly overstated.

⁶ Based on RLBA's discussions with two of the salvage companies as reflected in the RLBA S.V.S. work papers being produced separately, it appears that those companies assumed that the rail and materials had already been removed, and accordingly it might be appropriate to deduct take up / removal costs.

published by American Metal Market (“AMM”) or Iron Age, usually based on delivery to Chicago. However, in this case there is a scrap dealer located in Pueblo, Colorado, just beyond the Towner Line. In the V&S Comments, V&S used the AMM-Chicago rates, and transportation costs to Pueblo. Applicants accept the transportation costs proposed by V&S, but argue that pricing must be the pricing offered by the dealer in Pueblo. As reflected in V&S’s updated NLV, V&S accepts the wholesale scrap price used by Applicants.

D. Ties.

V&S agrees that in calculating the NLV of ties, they can be valued altogether as a single unit, although each type of tie has a separate value. V&S does not agree with the values for relay and landscape ties used by Applicants, and believe that the current tie prices shown in the V&S Updated NLV are more supported and accurate based on evidence of recent A&K sales. *See* RLBA S.V.S. at 17; Schumacher V.S. at 3-4.

Moreover, the disposal costs for scrap ties used by Applicants (\$17.50 per tie) is grossly overstated. As explained in the Schumacher V.S. at 4, in rural agricultural areas like those near the Towner Line, farmers are often willing to take scrap ties for use in the fields as windscreens. In that situation the only cost that might be incurred by the railroad salvage company would be a local trucking cost to deliver the ties. Moreover, there is a local landfill in Lamar, CO, that will accept railroad ties for approximately \$1.00 per tie, and cost to transport the ties by truck to the landfill is only an additional \$1.80 per tie. Thus, actual disposal costs would be less than \$3.00 per tie. Schumacher V.S. at 4-5; RLBA S.V.S. at 11,17-18.

III. V&S Updated NLV Calculation

As set forth in Appendix II, RLBA has prepared an updated NLV calculation using updated wholesale prices (based on updated retail prices and deductions). Because there are no

definitive sales agreements embracing the wholesale prices suggested by Applicants, V&S does not believe that the Board should rely on them. As discussed above, the reduction of retail prices by accepted deductions for transportation, administration and marketing, has long been accepted by the Board as a proper way to determine wholesale prices. In addition to the standard NLV calculation, RLBA has also included as Table 2, a breakdown by component that shows the retail price, the allocated deductions, and the resulting wholesale price per component. RLBA S.V.S. at 15. Comparing these wholesale prices to the quotes obtained by Applicants is more meaningful than the comparisons that Applicants make between their wholesale quotes and the retail prices that V&S starts with.

The updated NLV reflects the following adjustments from the NLV presented in the V&S Comments:

A. Profit. RLBA has continued to apply a 13% administration and marketing cost deduction for relay steel, and a 5% deduction for scrap steel. In addition, RLBA has deducted an additional 5% to provide for an average railroad salvage company profit margin across all of the materials. RLBA S.V.S. at 13. Some Board decisions break out the profit separately and others do not. *TPW*, slip op. at 15 (retail reduced by 15% to eliminate retail profit, and 5% to eliminate inventory costs); *McCloud Railway Company – Abandonment and Discontinuance of Service Exemption – In Siskiyou, Shasta and Modoc Counties, CA*, STB Docket No. AB-914X (served August 25, 2006), slip op. at 5 (accepting carrier's estimate of 5% for profit and overhead); *SWKR*, *supra* slip op. at 9 (discount of 15% for approximation of profit margin, and unstated percentage for marketing and administrative costs); *SF&L*, 1996 STB LEXIS 345, at *44-47 (retail prices for track materials reduced by 20% for transportation costs, brokerage fees, and overhead costs (storage, sales, administration, cost of capital) to reflect wholesale prices). *See*

also Coos Bay (served November 20, 2008) slip op at 4 (cost of money and profit expenses are components of “Administrative and Marketing Expenses” used in computing the lines NSV). V&S believes the total deductions of 18% and 10% are reasonable.

B. Transportation. Railroad salvage companies will generally take the relay steel from a line and store it locally while it is being marketed. A&K, as an example, generally does not ship relay steel more than 100 miles. For example, on one 144-mile current project in Kansas and Missouri, steel from the west end of the line was shipped less than 100 miles to A&K’s Kansas City storage yard, steel from the east end of the line was shipped to A&K’s permanent yard in Granite City, IL, and the steel in the middle has been shipped to a temporary yard leased by A&K in the center of the project. Similarly, with respect to a 62-mile removal project in Almena, KS, A&K is stockpiling material in a temporary yard leased to A&K near Almena as all of its permanent yards are over 100 miles away. Schumacher V.S. at 5-6. There is no reason to ship the materials to a distant site only to have to ship the materials again when they are sold. There is absolutely no basis to believe that materials from the Towner Line would be shipped 1500 miles to California, especially at the exorbitant price of \$7,300 per car calculated by Applicants. Schumacher V.S. at 6-7.

In this case, although it is possible A&K would establish a yard along the Towner Line, RLBA’s updated NLV is calculated using transportation costs to nearby Pueblo where A&K currently has warehousing arrangements.⁷ RLBA S.V.S. at 9-10, 16; Schumacher V.S. at 7. RLBA is using the same per car cost that RLBA used in the V&S Comments, and is the same cost that Applicants have accepted for the transportation of scrap steel to Pueblo.

⁷ An affiliate of one of the salvage company’s cited by Applicants also has a rail facility in Pueblo. RLBA S.V.S. at 9.

C. Updated price list. The updated NLV is based on a current retail price list provided by A&K. Most of the steel prices are lower than the prices used in the V&S Comments. A&K also provided information on sales made since the V&S Comments so that RLBA could validate the price lists. (Average sales prices for some components were slightly higher in some cases than the price lists.) RLBA S.V.S. at 12-16.

D. Scrap steel. As discussed above, the updated NLV uses the EVRAZ price for scrap steel obtained and used by Applicants, together with the agreed upon transportation cost to Pueblo. RLBA S.V.S. at 16.

E. Ties. As discussed above, V&S agrees that the values and disposal costs of the various types of ties can be bundled to determine NLV. Thus, the disposal costs of scrap ties can be deducted from the net liquidation of the relay and landscape ties. However, while steel prices have generally gone down, prices for relay and landscape ties have gone up due to changes in their availability as Class I railroads change how they dispose of ties. Schumacher V.S. at 3-4; RLBA V.S. at 17. Accordingly, RLBA has increased the retail prices for relay and landscape ties based on its analysis and its review of recent A&K tie sales. RLBA V.S. at 17.

As discussed above, RLBA has calculated a conservative scrap tie disposal cost of less than \$3.00 per tie based on the disposal charges of a local landfill in Lamar, CO, and the costs to truck the ties to that landfill. RLBA V.S. at 17-18.⁸

Using the updated values for relay and landscape ties, less standard deductions to the equivalent of wholesale, and deducting the costs of scrap tie disposal at a local landfill results in a positive addition to the NLV of the line.

⁸ Even these costs may be high as often times in rural areas, local farmers will take the scrap ties for use in their fields. Schumacher V.S. at 4.

F. Updated NLV. The result of the RLBA updated NLV as set forth in more detail in Appendix 1 is an NLV of \$20,107,900. The updated NLV is slightly lower than, but consistent with, the level of value determined in the previous RLBA NLVs. Applicants have portrayed RLBA's NLVs as being outliers, and extravagantly high. However, there are outside indicators that RLBA's NLVs are the more accurate ones. As discussed in the V&S Comments, there was a signed contract for the sale of the CWR on the line that is consistent with the values attributed to that rail by RLBA. Additionally, Kiowa County, despite being a critic of V&S, has assessed taxes on the portion of the Towner Line in the county based on the values in the 2014 RLBA NLV. *Schumacher V.S.* at 8. And given the challenges to the NLV calculations, A&K sought to get a purchase price for the materials on the line, excluding transportation and removal costs, from its salvage competitors by providing them with the inventory and classification of the materials, and an inspection report. It received a price quote from Cando Rail Services, a large railroad salvage company based in Canada that operates in both Canada and the United States between the RLBA gross salvage value and the RLBA NLV. *Schumacher V.S.* 7-8. While this offer is not binding, and does not have enough detail to be relied upon by RLBA, it does serve as evidence of the reasonableness of the RLBA updated NLV.

IV. Conclusion

V&S continues to believe that the feeder line application should be denied. However, were the Board to find otherwise, then the Board should find that the revised current NLV of the Towner Line is no less than \$20,107,900 as presented in the RLBA S.V.S.

Respectfully submitted,



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Attorneys for V&S Railway, LLC

Dated: March 31, 2017

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2017, I served a copy of the confidential and public versions of the foregoing document on the following:

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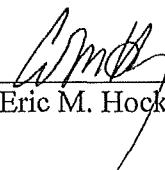
and copies of the public version of the foregoing document by US mail, postage prepaid on the following persons shown as parties of record by the Board:

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Eric M. Hocky

Before the
SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO

REPLY OF V AND S RAILWAY, LLC TO
APPLICANTS' SUPPLEMENTAL PRICING INFORMATION

APPENDIX I

VERIFIED STATEMENT OF
KERN SCHUMACHER

**VERIFIED STATEMENT OF
KERN SCHUMACHER**

My name is Kern Schumacher. I have personal knowledge of the facts to which I will testify. I am the founder, co-owner and Chairman of A&K Railroad Materials, Inc. ("A&K"). Rhonda Nicoloff, the President of A&K, and I are also the sole members/owners of V and S Railway, LLC. Ms. Nicoloff previously provided a Verified Statement on behalf of V&S in this proceeding.

A&K is one of the largest suppliers of new and used railroad track materials, including relay rail and relay OTM, in North America. A&K has successfully removed tens of thousands of miles of railroad track across the United States and Canada. Over the last 50 years, A&K has purchased and removed railroad tracks that were owned by most of the major railroads in North America.

Wholesale Prices Generally

As part of its business of purchasing rail lines for salvaging and resale of the track materials, A&K determines the wholesale price of the rail lines it is evaluating for possible purchase, including the price components of relay rail, OTM and ties. Wholesale prices for relay steel (as contrasted to scrap steel) are not available generally in an index or publication. In my experience, salvage companies like A&K do not maintain a wholesale price list. The actual wholesale price is only determined at the time an agreement is made with the selling railroad based on negotiations or bid after review of the rail line components and consideration of the resale market for such components. Wholesale prices are not determined in the abstract. When purchasing a rail line, it is almost always the case, that the rail line is purchased in bulk as-is,

where is – that being A&K as the purchaser will be responsible for the removal costs and transporting the materials off-site.

To assist in the calculation of the net liquidation value of the Towner line track materials, A&K provided R. L. Banks & Associates, Inc. (“RLBA”), who is submitting a Supplemental Verified Statement in this proceeding, A&K’s highly confidential current retail price lists (which include, among other things, unit prices for relay rail, and relay OTM) and sales transaction data for relay rail, relay OTM and relay and landscape ties since RLBA’s last appraisal in June 2016.

I concur with the methodology of RLBA for determining the wholesale value of the Towner line by subtracting from the retail value of the materials¹ the track removal and transportation costs, 13% for administrative and marketing costs and 5% for profit. Five percent is a valid estimate for what a railroad salvage company would expect to receive as profit, in addition to covering its administrative and marketing costs. I have reviewed the wholesale prices assigned to the Towner line track materials by RLBA, and in my opinion, they represent a fair and reasonable approximation of what A&K would pay to a selling railroad for the types of materials listed.

Relay and Landscape Ties Prices

The prices for relay and landscape ties used by RLBA (\$■/relay and \$■/landscape) are conservative, and in fact, are much lower than A&K’s recent sales of relay ties from A&K’s yard in Tacoma, WA and landscape ties from the Almena, KS salvage project. The average sales prices for these ties, excluding freight costs, were \$■ per tie and \$■ per tie, respectively,

¹ It is noteworthy that the only “actual” retail pricing for any of the Towner Line materials is set out in the August, 2014 sales contract, between A&K and OmniTRAX’s Great Western Railway for the sale of 136 lb. CWR rail from the Towner line. This contract conclusively establishes the retail price for that rail, from which the wholesale price can be calculated. Whereas A&K actually contracted to sell 24 miles of the materials for \$5,509,144.55, the Applicants would have Board believe that all 134.5 track miles on the line are worth only \$4,640.874.00

for relay and landscape ties. The prices of relay and landscape ties have increased since RLBA's last appraisal, based on a shortage of such ties resulting from Class 1 railroads, due to environmental concerns, increasingly disposing of such ties at co-gen facilities rather than selling them to the public.

Scrap Ties Disposal Costs

The Applicants' estimated scrap disposal cost of \$17.50 per tie is extremely inflated. In most of A&K's salvage projects in rural areas like Southeastern Colorado, local farmers will take most of the scrap ties for free and use them for various purposes including wind screens. However, taking a conservative approach that assumes local personnel along the Towner line will not take the scrap ties, A&K contacted several local landfills along the Towner line to determine the best location at which to dispose of the scrap ties. It was ultimately confirmed that the City of Lamar, CO landfill would accept railroad ties at a rate of \$7.00 per cubic yard, or approximately \$1.00 per tie.

Trucks that would be used to transport the scrap ties to the Lamar landfill have a load capacity of approximately 45,000 lbs. and scrap ties weigh about 180 lbs. each, meaning that each truck would hold approximately 250 scrap ties ($45,000/180 = 250$ ties). The Lamar landfill is 55.6 road miles from Towner, CO, 35.9 miles from Eads, CO and 83.3 miles from Crowley, CO. Taking an average of those distances, it is reasonable to assume that each round trip to the Lamar landfill by a contract trucker would consist of one hour for loading, 45 minutes to drive each way and one hour for unloading. Based on trucking rates quoted to A&K averaging approximately \$100 per hour, the estimated per truck load cost to ship the scrap ties to the Lamar landfill would be between \$425 and \$475, equating to a transportation cost of

approximately \$1.50 per tie. Therefore, RLBA's conservative estimate of \$2.00 per tie for transportation, and a total of \$3.00 per tie for both transportation and disposal are reasonable.

Transportation Costs

The Applicants' deduction of \$7,300.00 per rail car for transportation costs from Colorado all the way to Chowchilla, California, a distance of over 1,500 miles, is seriously misguided and unrealistically high. In reality, A&K and other railroad salvage companies purchase the track materials in-place, and as such, there are no transportation costs to the selling railroad associated with a wholesale purchase of a rail line for salvage. The costs incurred by railroad salvage companies to transport the track materials to a temporary holding yard are included in their removal costs.

For the reasons described below, even if transportation costs were relevant in the calculation of wholesale prices for a railroad salvage company, such costs are more reasonably closer to the \$[REDACTED] per rail car rate to Pueblo, CO used by RLBA, as opposed to the \$7,300.00 per rail car rate to Chowchilla, CA used by the Applicants. Except for the CWR that would need to be moved by rail train, because the track would already be removed, the reality is that the materials would need to be shipped by truck to Pueblo. The average price for truck transportation to Pueblo, at approximately \$20 per N/T of material, would be similar to the rail costs used by RLBA.

A&K's policy is, and has been for over 50 years, to sell relay materials from salvage projects for prices that are exclusive of transportation costs from a temporary storage site at or near the location where the track material is being removed. Freight costs for transportation of the materials to the holding yard are included in the track removal costs. There is no legitimate

reason for A&K or any other railroad salvage company to incur long-distance freight costs, both because the customer pays the freight cost from the temporary yard and because the final delivery location is unknown.

If a railroad salvage project is 100 miles or more from one of A&K's permanent yards, A&K will lease property for a temporary yard located near the project to stockpile the material. For example, A&K is currently salvaging the 144-mile Missouri Central Railroad line (the old Rock Island line) between Kansas City and St. Louis. The track materials on the west end of this line which are within 100 miles of Kansas City, KS are being transported to A&K's permanent yard in Kansas City. The materials that are on the east end are being shipped to A&K's permanent yard in Granite City, IL, and the materials in between are being shipped to a temporary yard leased by A&K in the center of the project.

A&K is also currently removing approximately 62 miles of track in Almena, KS. Because the line is more than 100 miles away from a permanent yard of A&K, other than the scrap ties provided to local farmers for free, all the materials are being shipped to and stockpiled at a temporary yard leased by A&K near Almena, KS. Another example is A&K's current salvage of the 51-mile Eagle Mountain Railroad line in Riverside County, CA. All the materials will be shipped to and stockpiled at a temporary yard leased by A&K in Desert Center, CA (near Indio), even though A&K has a permanent yard in Mira Loma, CA, which is located only 133 miles west of Desert Center. The rationale is that there is no reason to incur the costs to transport the materials an additional 133 miles west when they are just as likely to be sold to customers east of Desert Center.

These real-life examples of standard practice in the railroad salvage industry demonstrate that the Applicants' proposed transportation expense of \$7,300.00 per rail car to ship the relay

materials all the way to California is excessive and inappropriate. RLBA's assumption that the relay material would be transported to a temporary holding yard established in Pueblo, CO is much closer to reality and more appropriate than the Applicant's proposed transportation to California. A&K currently has warehousing arrangements in Pueblo, CO, and it is reasonable to assume that other railroad salvage companies already have or could easily secure a holding yard there as well.

The Applicants' Proposed Wholesale Prices

The Applicants' proposed wholesale relay prices, claimed to have been derived from A&K's competitors Harmer Steel, Progress Rail and L.B. Foster, provide no basis for a valid comparison to RLBA's pricing for the relay rail and relay OTM on the Towner line. Significantly, the Applicants failed to produce written purchase offers or quotes from any of these competitors on what they were asked to provide pricing. Nor did they provide pricing from A&K's competitors for all of the types of relay steel found on the Towner line. In addition, factors that are not included with the relay rail pricing data from A&K's competitors that would have a significant impact on prices are whether the rail is prime or industrial grade, whether it is drilled or torch cut, and whether it has shelling, excess flow on the head, pitting, anchor nicks or internal defects.

To illustrate the absurdity of the Applicants' proposed wholesale price of \$4,640.874, A&K requested and obtained from Cando Rail Services a valuation of all of the Towner line materials in bulk and in-place, as classified and inventoried by V&S and excluding track removal and transportation costs.² Cando is a railroad salvage company founded in 1978 with extensive

² To assist Cando with the preparation of its valuation, A&K provided (i) a one-page inventory table of the Towner line materials, describing the materials, grade and quantities, as classified by RLBA, and (ii) an inspection report containing the same inventoried materials by location on the line. A&K did not provide any pricing information.

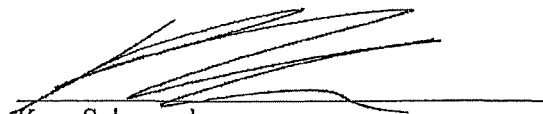
experience in purchasing and salvaging thousands of miles of railroad track in both Canada and the United States. Cando is engaged in exactly the same business and utilizes the same practices as A&K. Cando provided A&K with a valuation of \$ [REDACTED] (a copy of which is attached as Exhibit A), only about 10% less than the RLBA valuation.

Further confirming the validity of RLBA's valuation, Kiowa County, the largest County through which the Towner line traverses who has filed letters of support with the Board for the Applicants, relied on RLBA's 2014 appraisal of the Towner line as a basis for its property tax assessment. A copy of the Kiowa County Tax Assessment, purportedly based on early 2016 prices, and email correspondence from the Kiowa County Assessor are collectively attached as Exhibit B.

VERIFICATION

I, Kern Schumacher, Chairman of A&K Railroad Materials, Inc., verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on March 31, 2017.



Kern Schumacher

EXHIBIT A
CANDO VALUATION OF TOWNER LINE MATERIALS



830 Douglas Street • Brandon, Manitoba • R7A 7B2
Phone 204-726-4545 • Fax 204-727-4100 • Toll Free 1-866-989-5310

www.candoltd.com

March 29, 2017

Rocky – A&K Railroad Materials Inc.

RE: V&S Railway's Towner railroad line

Pricing has been calculated based on the supplied material list and grade stated by the A&K Railroad.

Please find below a list of materials along with their current market values:

- Rail 85lb – 136lb, various lengths and grades = \$ [REDACTED]
- Tie plates, various sizes and grades = \$ [REDACTED]
- Joint bars, various sizes and grades = \$ [REDACTED]
- Anchors, relay and scrap = \$ [REDACTED]
- Spikes, bolts and washers = \$ [REDACTED]
- Turnouts, relay and scrap = \$ [REDACTED]
- Ties, relay, landscape and scrap = \$ [REDACTED]

Total = \$ [REDACTED]

A handwritten signature in black ink, appearing to read 'Ryan Wannamaker'.

Ryan Wannamaker

Steel department

Cando Rail Services Ltd.



EXHIBIT B
KIOWA COUNTY TAX ASSESSMENT AND EMAIL CORRESPONDENCE

From: M Miller [mailto:kcassrmjm@gmail.com]
Sent: Wednesday, January 25, 2017 9:15 AM
To: Ashli Riggle
Subject: Re: 2016 Tax Notice

Ashli,

Since this railroad line has no "going concern" value, these rail assets were valued using a net liquidation value method. The prior two years values were based on "scrap" metal prices. After doing some research it became apparent that this value was not accurate since most of this rail material is not "scrap" designation, but rather relay rail designation. I know that scrap metal prices took a sharp downward dive in 2015, but most of these track materials should not have been valued at scrap metal prices and the relay rail market prices do not seem to have taken the same sharp downward trend.

Since the assessment date for the 2016 value was January 1, 2016, this office used the services of a railroad consulting business to assist us in valuing these assets at early 2016 prices. We provided them with the track materials inventory and condition of the materials that was compiled from an inspection performed by R. L. Banks in 2014 for V & S Railways, LLC. We also only valued the the portion of this line that is in Kiowa County. 84.5 miles out of 121.9 miles of main line track and 8.4 miles out of 12.2 miles of spur tracks, plus other track material. Since we are uncertain of the ownership of the right of way land and what happens to it if the rails are pulled up, we have not included any real estate value in our assessments.

A "Notice of Valuation" was sent to your company on June 15, 2016 showing the new values, but we did not receive any communication from your company in the following two week protest period.

Sincerely,

Marci Miller
Kiowa County Assessor
P.O. Box 295
Eads, CO 81036
(719) 438-5521

On Mon, Jan 23, 2017 at 2:44 PM, Ashli Riggle <ariggle@freeportwest.com> wrote:
Hello,

I am emailing you to ask how you determine the value of rail property. I just received the attached tax assessments, and as you can see, they have increased exponentially. What is the reason for this increase? I attempted to call, but I was unable to reach anyone by telephone. Please either email me back or call me at 801-977-6357 to help me with this issue.

Regards,

Ashli Riggle | Administrative Assistant – Real Estate
Tel 801 977 6357 | Fax 801 977 9387
PO Box 30076, Salt Lake City, UT 84130
avass@akrailroad.com | www.akrailroad.com

Hearings will be held: **JUNE 15TH 2016**
 Through: **JULY 5TH, 2016**
 Location: **ASSESSOR'S OFFICE**
 Office Hours: **8 AM TO 4.30 PM**
 Telephone #: **(719)438-5521**
 Fax #: **(719)438-5327**
 DATE: **6/15/2016**

**PERSONAL PROPERTY
 NOTICE OF VALUATION**

SCHEDULE NUMBER	TAX YEAR	TAX AREA CODE	LEGAL DESCRIPTION OF PROPERTY (MAY BE INCOMPLETE)		
SEE ATTACHED----			SEE ATTACHED----		
V & S RAILWAYS, LLC ATTN: PROPERTY TAX DEPT. P.O. BOX 26421 SALT LAKE CITY, UT 84126					
PROPERTY CLASSIFICATION			PRIOR YEAR ACTUAL VALUE	+ OR - CHANGE	CURRENT YEAR ACTUAL VALUE
SEE ATTACHED-----			SEE ATTACHED		

The assessment rate for personal property is 29% of the current year actual value,
 § 39-1-104(1), C.R.S.

The tax notice you receive next January will be based on the current year actual value

You have the right to protest the valuation of your personal property.

Please refer to the reverse side of this notice for additional information.

VALUATION INFORMATION

Personal property (furnishings, machinery, and equipment) is valued according to its use and condition as of January 1. The value of personal property is based on consideration of the market, cost, and income approaches to value, § 39-1-103(5)(a), C R S.

If you did not submit a Declaration Schedule as required by § 39-5-108, C R S., the current year actual value, shown on this Notice of Valuation is based on the best information available pursuant to § 39-5-116(2)(a), C.R.S.

PERSONAL PROPERTY PROTEST PROCEDURES PUBLIC VERSION

Hearings will be held from June 15 through July 5

To assist you in the protest process, you may elect to complete and submit the Protest Form shown below.

BY MAIL: If you wish to protest in writing, please include your estimate of property value and any additional documentation that you believe supports a change in the valuation of your property. **Written protests must be postmarked no later than June 30, § 39-5-122(2), C.R.S.** You may be required to prove that you mailed your protest on or before the June 30 deadline; therefore, we recommend that you retain proof of mailing.

IN PERSON: If you wish to protest in person, present to the Assessor's office your estimate of property value and a copy of any documentation that you believe supports a change in the valuation of your property. **You must appear in the office of the County Assessor no later than June 30, § 39-5-122(2), C.R.S.**

To preserve your appeal rights, your protest must be either postmarked or received by the Assessor no later than June 30 – after such date, your right to protest is lost.

The Assessor must mail a Notice of Determination to you **on or before July 10**. If you disagree with the Assessor's determination, or if you do not receive a Notice of Determination, you must submit a written appeal to the County Board of Equalization **on or before July 20** if you wish to continue your appeal, § 39-8-106(1)(a) and (3), C.R.S.

If the date for filing any report, schedule, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed if filed on the next business day, § 39-1-120(3), C.R.S.

PERSONAL PROPERTY PROTEST FORM

YOU MAY USE THIS FORM TO BEGIN THE PROTEST PROCESS. PLEASE COMPLETE THE FORM AND SEND IT TO THE ASSESSOR.

What is your estimate of the property's value? \$ _____

What is the basis for your estimate of value or your reason for requesting a review? (Please attach additional sheets as necessary and any supporting documentation, i.e., original installed cost, comparable sales, rental income, etc.)

AGENT AUTHORIZATION

I, the undersigned owner of the property identified on the Notice of Valuation, authorize the agent named below to act on my behalf in the property tax protest for the year shown on the front of this form

Agent's Name (Please Print) _____

Signature of Property Owner _____

Agent's Street Address _____

Date _____

Agent's City, State, Zip Code _____

Agent's Telephone Number _____

ATTESTATION

I, the undersigned owner or agent* of the property identified on the Notice of Valuation, affirm that the statements contained herein and on any attachments hereto are true and complete

Signature _____

Telephone Number _____

Date _____

* Attach letter of authorization signed by the property owner

Esta **NOTICIA IMPORTANTE** es tocante a la valuación de impuestos (tasación) de su propiedad. Si no comprende esta noticia o si tiene algunas preguntas, haga sus preguntas a la oficina del asesor en su condado inmediatamente y le darán información acerca de sus derechos a protestar dichos valores. Si esta noticia se refiere a su casa o otro terreno, usted debe comunicarse con su asesor antes del 1 de junio a más tardar. Si esta noticia es tocante su propiedad personal, usted debe comunicarse con su asesor antes del 30 de junio a más tardar. Si usted no se comunica con su asesor, usted perderá todos los derechos a apelar.

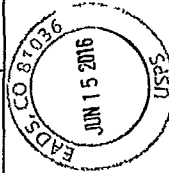
FOR MORE INFORMATION, CONTACT THE ASSESSOR'S OFFICE AT THE TELEPHONE NUMBER LISTED ON THE NOTICE OF VALUATION.

V & S RAILWAYS, LLC KIOWA COUNTY VALUATION FOR TAX YEAR 2016

ACCOUNT NUMBER	TAX DISTRICT	LEGAL DESCRIPTION	2015 ACTUAL VALUE	CHANGE IN VALUE	2016 ACTUAL VALUE
152935000	293	4 5 MILES OF RAIL, SECTIONS 19, 20, 21, & 22-18-42	180000	527220	707220
152315000	231	1.4 MILES OF RAIL, TOWN OF SHERIDAN LAKE	30000	190024	220024
152915000	291	15 5 MILES OF RAIL- SECTIONS 20, 21, 22, 23, 24, 29, & 30-18-43 SECTIONS 25, 26, 27, 28, 29, 30, & 31-18-44 SECTIONS 34, 35, & 36-18-45	510000	1925980	2435980
151115000	111	1.9 MILES OF RAIL, TOWN OF EADS	30000	268604	298604
151925000	192	38 3 MILES OF RAIL, SECTIONS 31, 32, & 33-18-45 SECTIONS 29, 30, 33, & 36-18-46 SECTIONS 1, 2, 3, & 4-19-46 SECTIONS 19, 20, 21, 25, 26, 27, & 28-18-47 SECTIONS 19, 20, 21, 22, 23, & 24-18-48 SECTIONS 13, 14, 15, 16, 17, & 18-18-49 SECTIONS 7, 8, 9, 10, 11, 13, 14, & 18-18-50 SECTIONS 13, 23, & 24-18-51	1050000	4969228	6019228
151215000	121	1.9 MILES OF RAIL, TOWN OF HASWELL	30000	268604	298604
151935000	193	29 4 MILES OF RAIL, SECTIONS 21, 22, 28, 29, 30, & 31-18-51 SECTIONS 33, 34, 35, & 36-18-52 SECTIONS 4, 5, 6, & 7-19-52 SECTIONS 12, 13, 14, 23, 26, 27, & 34-19-53 SECTIONS 3, 4, 9, 16, 17, 20, & 30-20-53 SECTIONS 25, 26, 27, 28, 31, 32, & 33-20-54	660000	3960504	4620504
			2490000	12110164	14600164

PUBLIC VERSION

U.S. POSTAL SERVICE		CERTIFICATE OF MAILING	
MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL, DOES NOT PROVIDE FOR INSURANCE—POSTMASTER			
Received From		<u>Kiowa County Assessor</u> <u>PO Box 295</u> <u>Eads, CO 81036</u>	
One piece of ordinary mail addressed to		<u>V&S Railways, LLC</u> <u>Attn: Property Tax Dept</u> <u>PO Box 26421</u> <u>Salt Lake City, UT 84126</u>	



PS Form 3817, Mar. 1989

EADS
 1200 MAINE ST
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 81036-9900
 0725920798
 06/15/2016 (800)275-8777 2.26 PM
 Product Sale Final
 Description Qty Price
 First-Class 1 \$0.47
 Mail
 Letter
 (Domestic)
 (SALT LAKE CITY UT 84126)
 (Weight: 0.11 lb 0.70 Oz)
 (Expected Delivery Day)
 (Saturday 06/18/2016)
 Cert of Mail 1 \$1.30
 (Affixed Amount: \$0.00)
 Total \$1.77
 Cash \$1.77

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or scan this code with
 your mobile device



or call 1-800-410-7420

YOUR OPINION COUNTS

Bill # 840-58000277-1-300122-2
 Clerk 3

Before the

SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

**REPLY OF V AND S RAILWAY, LLC TO
APPLICANTS'SUPPLEMENTAL PRICING INFORMATION**

APPENDIX II

**SUPPLEMENTAL VERIFIED STATEMENT OF

CHARLES L. BANKS AND JOHN D. IRELAND

R.L. BANKS & ASSOCIATES**

**Supplemental Verified Statement of
Charles H. Banks and John D. Ireland**

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**Supplemental Verified Statement of
Charles H. Banks and John D. Ireland**

Introduction

We are Charles H. Banks and John D. Ireland, of R.L. Banks & Associates (RLBA), a consulting firm based in Arlington, VA. Founded in 1956, RLBA is a multidisciplinary firm providing economic, engineering and operational counsel to freight railroad, passenger railroad and governmental organizations. RLBA features more than 60 years of experience providing expert economic, analytical, valuation and litigation support services to a nationwide group of clients representing every principal segment of the economy.

We are the same Charles H. Banks and John D. Ireland whom, along with our colleague Ralph Lee Meadows, Jr. P.E., previously submitted a Verified Statement on behalf of V and S Railway, LLC (hereafter “V&S”) in this Surface Transportation Board (“STB” or “Board”) proceeding regarding the Feeder Line Application of KCVN, LLC and Colorado Pacific Railroad, LLC (hereafter “Applicants”) concerning the V&S Towner Line in Eastern Colorado. Our original testimony and evidence is included as Exhibit “F-1” to the Comments of V&S Railway, LCC, filed before the STB on August 30, 2016. This Supplemental Verified Statement is in response to the STB’s decision of March 3, 2017 (hereafter “March 3 Decision”), directing the Applicants “to file with the Board the wholesale price (rather than the retail prices) for the materials as they are classified and inventoried by V&S” and likewise stating that “V&S will be permitted to respond.” Specifically, this Supplemental Statement addresses the following two issues:

- 1) Respond to prices, sources and methodologies advanced in the two statements (the Fauth S.V.S. and the Crowley/Fapp S.V.S.) included in KCVN/CRP’s March 17, 2017 filing entitled “Applicants’ Supplemental Pricing Information” and

- 2) Recalculate the Towner Line NLV, using the 2016 RLBA inventory classifications and updated ‘wholesale’ pricing, in accordance with the STB’s March 3 Decision.

Section One: Response to KCVN/CPR Supplemental Pricing Information

RLBA’s review of the Applicant’s Supplemental Pricing Information and recalculated NLV identified errors in the methodologies used by Applicant’s experts to determine wholesale pricing, transportation cost and tie disposition. It is our belief that these discrepancies render said components of the Applicant’s recalculated Towner Line NLV inaccurate, for the reasons explained below.

The Difficulty Determining Wholesale Pricing in the Relay Railroad Materials Market

As the Board knows, railroad salvage companies in the secondary railroad material markets effectively act as ‘wholesalers.’ These companies act as salvagers, scrapping long and short segments of railroad, liquidating the various components harvested from said railroad segments, warehousing them in inventory and then selling components to customers in a small volume, piece meal fashion, at a ‘retail’ price. As such, railroad salvage companies in the secondary railroad material markets sustain their operations based on the margin between what railroad salvage companies pay for the material in bulk (what could be called ‘wholesale’ pricing) and what customers will pay for small volumes of said material after the salvager has incurred additional expense and effort to harvest, collect, sort and prepare the material for sale (what could be called ‘retail’ pricing). While this conceptual distinction between wholesale and retail pricing is simple, the nature and market forces of the secondary railroad materials market make it difficult to actually assign any single monetary value as ‘wholesale.’ That is because throughout the entirety of the liquidation process, multiple variables are constantly affecting not only the price at which railroad salvage companies purchase the subject materials but also the prices at which the materials can be sold and, as a result, the profit margin which allows railroad salvage companies to sustain their operations.

These variables are present from the beginning of the liquidation process, when a railroad salvage company first considers purchasing a rail line segment. While the end goal of any railroad salvage company is to liquidate all of the assets in every segment in a piece meal fashion, experienced salvagers do not determine a purchase price bid based solely on the expected value of the various components comprising a given line/segment, nor do they attribute a given wholesale price to each such component as they usually are purchasing the line or segment in bulk. While salvagers do develop rough inventories of the assets and perform rudimentary calculations of what prices said assets could be resold at in the then current market conditions, there are almost always additional, greater considerations in play when making an offer on a rail line/segment. As but one example, a seller could be financially or politically distressed and, therefore, willing to divest of a line/segment to a salvager at a lower price. Conversely, if a seller were not particularly motivated to sell, a salvager might have to pay substantially more than the then current market “wholesale” price to outbid competing offers and secure the assets into the salvager’s inventory.

Further complicating the matter, a railroad salvage company’s unique disposition greatly impacts how any liquidation opportunity is assessed. Large salvagers, such as V&S’ affiliate company, A&K Railroad Materials, Inc. (“A&K”), have the sales volume, storage capacity, and national presence to hold large volumes of many material types for years until market conditions and demand for said materials improve. Conversely, smaller, regional salvagers may not have the storage capacity or strategic desire to hold materials indefinitely, nor the demand to carry to a wide inventory beyond the most popular grades of materials. The size and complexity of assets constituting a rail line or long segment also would affect the competition; smaller salvagers may lack the necessary equipment (i.e., trains to haul away husbanded CWR), expertise (i.e., experience recovering CWR) or geographic range to warrant purchasing a line regardless of whether or not the market for the material on the line was favorable at the time.

Even once a line/segment has been purchased successfully and all the desirable material harvested; changing variables within the market place continue to affect a railroad salvage company’s expected profit margin. As the Board is aware, the secondary railroad material market is highly volatile,

not only in terms of what a salvager could expect to pay to purchase materials in a wholesale fashion but also what materials would fetch on the retail market. Indicative of the volatile nature of the secondary railroad material market, there has been significant fluctuation in the retail price of many of the materials found along the Towner Line even since the beginning of these proceedings. Because of this volatility, it is very possible, if not likely, that an expected or projected wholesale price, retail price or profit margin could change significantly in the interim between purchasing a line/segment, harvesting the materials on it and finally preparing said materials for sale. As such, different railroad salvage companies would approach the same liquidation opportunity very differently as larger salvagers are positioned to assume more potential risk when purchasing assets, while smaller salvagers might not be interested in a rail line or willing to only submit a very low bid even if there is clearly an opportunity to liquidate at a profit at the time of first purchase.

Because of all these complex variables, salvagers must consider, specific wholesale pricing associated with a particular unit of material is not a commonly determined or tracked metric. Indeed, A&K, among the largest liquidators in the country, does not keep a list of such information¹. Instead, secondary railroad material salvagers gauge liquidation opportunities by considering the potential overall profit margin once all other expected removal and preparation expenses have been applied. It is important to note, that while salvagers have ideal margins they would prefer to achieve, any experienced salvager realizes that any target margin is just a guideline and not a 'hard and fast' amount which must be obtained to make a transaction attractive. The reality is that a margin might be much lower or much higher depending on the specific circumstances of each transaction, especially including the total price at which a line or segment is purchased. Through its established precedents of applying or accepting discounts or haircuts associated with various removal, administrative, marketing and transportation costs, the STB has correctly accepted the notion that the appropriateness of a liquidation transaction should be determined by a review of the associated marginal cost

¹ See Verified Statement of Kern Schumacher, page 2

The Ambiguity of the Crowley/Fapp Wholesale Unit Prices Data

Despite these large number of variables which impact what a railroad salvage company's expected margin and cost may be, the purported 'wholesale' prices provided in "TDC/DLF Exhibit No 1" of the Crowley/Fapp S.V.S. section of the "Applicant's Supplemental Pricing Information" are essentially presented in a vacuum, devoid of any explanation or documentation. In addition to prices not being provided in connection with all components constituting the Towner Line, limited or no information is provided about the sales volumes, market shares, capabilities or business strategies of any of the three salvagers contacted by L.E. Peabody & Associates staff. Likewise, essentially no information is provided about how this information request was framed to the three salvagers, nor what, if any, additional qualifiers were presented to or said by the three salvagers. Essentially, the TDC/DLF Exhibit No 1 is a very limited presentation of an incomplete data set, designed to project results favorable to the Applicants. This lack of additional information or context is further undermined by a number of unexplained abnormalities in L.E. Peabody's prices. As but one example, Exhibit No. 1 suggests that 112 and 115 pound RE rails in poorer condition (no. 2 fit) command a *lower* average wholesale value (and thus, by extension, retail value) than scrap metal. Not only is this conclusion counterintuitive but it directly contradicts actual A&K historical sales data, which shows that A&K has routinely sold no. 2 fit 112 and 115 pound rail for nearly twice as much as consumers paid for scrap in early 2017².

In an attempt to clarify the ambiguity surrounding the wholesale numbers advanced in the TDC/DLF Exhibit No. 1, RLBA attempted to contact the three railroad salvage companies who responded (out of twelve contacted) to L.E. Peabody's request for wholesale pricing information. To that end, RLBA was able to successfully communicate with the same sales representatives from Progress Rail and Harmer

² In January 2017, A&K sold [REDACTED] net tons of no. 2 fit 112 pound RE rail for an average of \$[REDACTED] per net ton and [REDACTED] net tons of no. 2 fit 115 pound RE rail for an average of \$[REDACTED] per net ton. AMM com reports that the January 2017 average consumer buying price of no. 1 heavy melt in Chicago was \$274.75 per gross ton. See Appendix 2 'Recent Transactional Data from A&K Railroad Materials, Inc.' and Appendix 4 'American Metal Market Past Monthly Average'

Steel whom communicated with L. E. Peabody³. Both companies attached specific considerations and caveats to the quotes they provided to L.E. Peabody staff which were not presented in either TDC/DLF Exhibit No 1 nor the Statement of which said Exhibit was a part. These additional qualifiers and caveats proved to have a profound impact on the quotes provided by both salvagers, so much so that the Board should choose to view the entirety of the information advanced in the TDC/DLF Exhibit No 1 with skepticism.

Both salvager company representatives reported that L.E. Peabody provided them with a list of materials, associated condition (what ‘fit’ the rail was) and the location of the material, but did not provide any additional detailed information or data regarding the condition or quality of the material, forcing the representatives to make an offer based on limited information. This lack of additional information was a significant factor in the low price provided by the Progress Rail representative. Without the ability to inspect the rail first hand or to review photos, wear head measurements or previous inspection reports (such as those produced by RLBA’s inspectors), Progress Rail was only willing to provide a very conservative estimate, well below competitive pricing levels, to protect itself in the event that the material was not in the condition advertised.

Progress Rail used this conservative approach not only with the prices of metal materials (rail and OTM) advanced, but also in connection with the tie prices. The representative stated that he provided a very conservative quote regarding the ties as he, again, was not able to inspect the ties himself, but also because he did not know off hand the regional demand for landscape ties. Likewise, the disposal cost of \$20.00 per scrap tie was a ‘worst case scenario’ as he was not familiar with the particular regulations and disposal options available in Eastern Colorado. Conversely, the representative said there are many locations in the country where local entities will allow salvagers to burn scrap ties free of charge.

Perhaps most importantly, the Progress Rail representative reported that he did not recall L.E. Peabody using the term ‘wholesale’ when requesting a quote. Additionally, the representative said that he

³ After several unsuccessful attempts, RLBA was able to get in contact with Progress Rail on March 29, 2017. Had V&S not received its requested filing extension from the Board, Progress Rail’s comments would not have been received in time to be included in this Statement

would not characterize the quote he provided to L.E. Peabody as ‘wholesale’ pricing. Specifically, when RLBA told the representative that his quote was being advanced as a ‘wholesale’ price in these proceedings, the representative responded that such a characterization of his quote was incorrect. He went on to agree with RLBA that given the nature of the secondary railroad material market, it would be very difficult to provide ‘spot’ wholesale pricing on individual components like L.E. Peabody has suggested it has done.

The Harmer representative identified other unique factors beyond those listed by Progress Rail, which impacted the quotes provided to L.E. Peabody. The representative reported several company specific considerations which likely contributed to the company’s significantly lower quote price on no. 2 and no. 3 fit material than the other two railroad salvage companies referenced. Namely, Harmer, a smaller regional salvager, was not interested in committing space in its existing yard to lower quality materials and less ‘popular’ weights of rail until the market for such materials improved. As a result, the representative quoted a price for no. 3 fit 112 pound rail which was 87% lower than for no. 1 fit 115 pound rail (\$60 per net ton compared to \$350 per net ton). This variance in pricing runs counter to actual historical sales data provided by A&K, which shows that A&K sold relay no. 3 fit 112 and 115 pound rail at only a 21.8% discount to relay no. 1 fit 112 and 115 pound rail in 2016 and 2017⁴. There is no obvious expense in the liquidation process that would explain such a large variance in pricing, leading RLBA to conclude that Harmer’s lower quote is simply a reflection of the company’s disinterest in participating in the market for such materials.

Based on the Fauth S.V.S. and the TDC/DLF S V.S , we do not know whether Harmer has either bought or sold any of the materials attributed to it at any price, let alone at the prices listed in L.E. Peabody’s statement and relied upon by Mr. Fauth⁵. Understanding this, RLBA believes that Harmer’s

⁴ RLBA’s perusal of A&K sales data since January 1, 2016 revealed that the average selling price of relay no 1 112 and 115 pound rail was \$ [REDACTED] per net ton. During that same period, the average selling price of relay no 3 112 and 115 pound rail was \$ [REDACTED] per net ton. See Appendix 2 ‘Recent Transactional Data from A&K Railroad Materials, Inc.’

⁵ In contrast, A&K has provided RLBA with actual, recent sales data which, when discounted to yield synthesized retail, list prices, has informed the revised values we put forth later in this S.V.S.

exceedingly low quotes in connection with certain materials expressed in the TDC/DLF Exhibit No. 1 are not just a reflection of market conditions but also of the disposition of Harmer itself. As such, the prices advanced by Harmer should not be considered indicative pricing at any level and should be rejected outright by the Board. Conversely, A&K, which is under no edict to refrain from buying lower quality and less demanded materials, both routinely holds large quantities of such materials (sometime for years) and makes an adequate profit doing so. As such, it is very possible, if not likely, that if both companies bid to liquidate the Towner Line, A&K could be expected to submit a significantly higher bid than Harmer and still make a sustainable profit.

After conversations with both companies, it is clear that due to the limited information provided to Progress Rail and Harmer Steel by L.E. Peabody, the price quotes provided by both salvagers are very conservative, not realistic reflections of the current secondary railroad materials market and not wholesale pricing. Additionally, L E Peabody's decision to not attempt to understand the rationale behind the provided price quotes nor to disclose said rationale in its Statement further undermines the value of said price quotes in determining what an appropriate wholesale value is. While RLBA was not able to successfully initiate a conversation with a representative of L.B. Foster, it is fair to assume that RLBA would have learned of additional circumstances and considerations specific to that company railroad salvage company which affected the numbers it advanced which, just as in the case of Progress Rail and Harmer Steel, are neither presented nor considered in L.E Peabody's presentations. As such, given the lack of information provided by L E. Peabody regarding the specifics underlying the provided quotes and the insight provided by Harmer Steel and Progress Rail regarding said quotes, RLBA cannot recommend using or relying on the wholesale prices L.E. Peabody generated.

Inaccuracies in the Fauth Recalculated Transportation Cost

First, it should be noted that it is not proper to deduct transportation costs from wholesale prices that would be paid to a selling railroad as Mr. Fauth and the Applicants have done. Any transportation costs incurred in removing relay material is borne by the railroad salvage company. It is not a deduction

from the amount realized by the seller of said materials. As such, it is proper to deduct such costs from a retail price when determining a wholesale price but it is not proper to deduct such costs from a wholesale price.

Additionally, in his recalculation of transportation costs, Mr. Fauth greatly overstates costs by erroneously assuming relay material would be transported to Chowchilla, CA; a distance of 1,566 miles. The only flimsy basis Mr. Fauth advances for selecting Chowchilla is its proximity to material yards of two of the railroad salvage companies which responded to L.E. Peabody's request for wholesale pricing information, indicating that he made no attempt to identify or consider any other material yards closer to the Towner Line which would have yielded significant savings if the remainder of his methodology was applied. For example, the L.B. Foster Rail Products website⁶ indicates that its Allegheny Rail Products subsidiary operates a rail facility in Pueblo, Colorado. What's more, L.B. Foster is not the only salvager which maintains rail storage facilities in Pueblo; A&K enjoys an ongoing warehousing arrangement which allows the company to store and transport rail from a third party facility in the city⁷. Additionally, A&K alone owns and operates two more material yards less than half the distance from the Towner Line as is Chowchilla⁸, one of which actually lies along the route trains would likely take to Chowchilla. In reality, the selection of Chowchilla is likely nothing more than a thinly veiled attempt to overstate transportation costs so as to realize a lower net liquidated value of the subject line, an outcome desired by the Applicants.

In any case, such calculations are a moot point as common practice in a liquidation of this scale is that the salvager would establish a temporary material yard in the vicinity of the job site. A&K regularly establishes such temporary yards, leasing undeveloped, adjacent land for months, or years, as need be. A&K currently has a number of such temporary yards active across the country,⁹ including the

⁶ <http://www.lbfoster-railproducts.com/contact.asp#mstto=>

⁷ See Verified Statement of Kern Schumacher, page 6

⁸ A&K Railroad Materials maintains material yards in Kansas City, KS and Salt Lake City, UT. Towner, CO to Kansas City, KS is a distance of 458 route miles. N/A Junction, CO to Salt Lake City, UT is a distance of 711 route miles.

⁹ See Verified Statement of Kern Schumacher, page 4

aforementioned warehousing arrangement in which a third party stores and loads rail for shipment on behalf of A&K in nearby Pueblo, CO. As such, the RLBA 2016 NLV reflected the assumption that all material harvested from the Towner Line would be stored in Pueblo, CO through a combination of this existing warehousing arrangement and the establishment of a nearby temporary yard also in Pueblo as necessary. It remains the assumption in this Statement that all relay material would be shipped to the Pueblo, CO yard at a rate of \$[REDACTED] per car, with additional transport cost to the material's final disposition borne by the ultimate buyer. As this is standard practice in the industry, the additional transportation expense calculated by Mr. Fauth to ship material beyond Pueblo (even if it were applicable to wholesale prices, which it is not) is both excessive and inappropriate.

Inaccuracies in the Fauth Recalculated Tie Value

In his recalculation of ties, Mr. Fauth employs several unnecessary and unrealistic costs which greatly understate the net liquidated value of this particular asset group. First, Mr. Fauth is incorrect in his assertion on page 7 of the Fauth S.V.S. that RLBA did not develop a cost associated with the removal of ties from the V&S. Like all other salvageable material on the line, preparation and removal of ties is reflected collectively in the 'Preparation Cost Adjustment' and 'Administrative and Estimated Marketing Expense' calculations included in RLBA Net Liquidation Value of Track Assets Calculations¹⁰. Through these two calculations, which are based on accepted STB precedents regarding removal cost, RLBA arrives at an all-in removal and transportation cost of \$[REDACTED] for relay ties (which comprise [REDACTED] of all ties in the inventory) and \$[REDACTED] for landscape ties (which comprise [REDACTED] of all ties in the inventory)¹¹. By comparison, Mr. Fauth arbitrarily assigns a removal cost of \$2 to each tie on top of an additional 10% Administrative and Marking Cost, providing no justification other than he feels such cost are

¹⁰ See Appendix 1, 'RLBA Recalculated NLV Spreadsheets – Net Liquidation Value of Track Assets'

¹¹ See Appendix 1, 'RLBA Recalculated NLV Spreadsheets – Wholesale Unit Prices Calculation' All-in removal cost calculated by subtracting 'salvager profit margin' from 'total retail markup' for relay and landscape ties.

‘conservative.’¹² These arbitrary values result in an overstated removal cost (less transportation) of \$2.45 per tie, regardless of quality.

Second, Mr. Fauth applies an extremely high and unsupported scrap tie disposal cost of \$17.50 per tie. This value appears to stem from the flawed TDC/DLF Exhibit No 1, which as previously discussed, lacks almost any explanation about factors or circumstances which were considered to arrive at the concluded values¹³. As standard practice, RLBA would consider a fair disposal cost for scrap ties to be between \$2-5 per tie. RLBA’s values are supported by the standard practices of A&K Materials, which would expect to dispose of scrap ties at local landfills or distribute scrap ties essentially at no cost to local farmers for a variety of uses (a practice which was confirmed by the representative at Progress Rail). Indeed, as discussed in Section Two, “RLBA Scrap Ties Disposition Methodology” below, with respect to the Towner Line, the expected disposition cost of a scrap tie is only \$3.00. Again, without additional explanation, RLBA can only guess at the rationale underlying Mr. Fauth’s exorbitant rate and, therefore, cannot recommend using Fauth’s recalculated tie value. As such, the additional 27 railcars for scrap ties included in Mr. Faith’s calculations (resulting in an additional \$[REDACTED] discount from the Applicant’s NLV) are inappropriate and unrealistic and, as such, should not be accepted by the Board.

Finally, Mr. Fauth incorrectly includes an additional cost regarding the transportation of relay and landscape ties to Pueblo, CO (Mr. Fauth gives no explanation why he elects to ship ties to Pueblo, the location of a steel mill which accepts scrap, when all other relay materials are erroneously shipped to storage yards in Chowchilla, CA). In reality and as is standard practice of A&K, ties of acceptable quality for resale would not move by rail, but would rather be sold to local buyers as the material was removed from the right-of-way, either being removed from the property immediately or briefly being stored along the right-of-way or at a local yard adjacent to the right-of-way until such a time that the ultimate buyer could move the material at its sole expense. These nominal associated recovery,

¹² See Fauth S.V.S, page 7.

¹³ When asked about the scrap tie disposal price of \$20.00 provided in the TDC/DLF Exhibit No 1, the Progress Rail sales representative whom provided said quote to L E Peabody called this a ‘worst case scenario’ as he was not familiar with the specific circumstance of the Towner Line. He also went on to say that local entities frequently will allow salvagers to burn scrap ties at no cost on-site in many parts of the country. See page 6 of this Statement

preparation and transportation costs for relay and landscape ties are captured in the 'Fit Rail & OTM Removal' discount of \$16,000 per mile applied during RLBA's NLV calculations¹⁴. As such, the additional 412 railcars for relay and landscape ties included in Mr. Faith's calculations (resulting in an additional \$741,600 discount from the Applicant's NLV) are inappropriate and unrealistic and, as such, should not be accepted by the Board.

Section Two: Recalculation of the 2016 RLBA NLV with Current 2017 Wholesale Pricing

Due to the above-discussed issues regarding the wholesale pricing, transportation cost and tie disposition in the Applicant's recalculated NLV, RLBA has recalculated the 2016 RLBA NLV using what we consider to be an appropriate and sound methodology, in accordance with the Board's March 3 Decision.

RLBA Wholesale Pricing Methodology

As previously discussed, it is difficult, if not impractical, to determine wholesale pricing based on current market conditions due to a large number of constantly changing variables acting on the secondary railroad material market. As such, railroad salvage companies generally calculate an approximation of wholesale value for the line/segment by applying marginal discounts or deductions to what the market would currently bare for certain material (i.e., retail pricing). While this system itself is not without some margin of error, the application of time tested and refined marginal discounts for the various aspects of the liquidation process, combined with a rough profit goal, provides the most practical definition of wholesale value a salvager would pay for the materials comprising a line or segment being purchased in bulk. Through its acceptances of such discounts in past proceedings which required an NLV to be calculated, the Board has acknowledged that the application of discounts to current retail pricing is the appropriate method for determining the wholesale value a railroad salvage company could expect to pay to purchase a line to be liquidated.

¹⁴ See Appendix 1, 'RLBA Recalculated NLV Spreadsheets – Net Liquidation Value of Track Assets'

The Applicants, who have no apparent railroad salvaging or material resale experience and who originally developed a hypothetical, unproven and flawed model to approximate material value,¹⁵ are now relying on their unsupported and unexplained fixed wholesale values. Conversely, all of the RLBA NLV calculations produced thus far as part of these proceedings (and indeed, all other RLBA produced NLVs) have employed the accepted Board precedent of applying discounts to current retail pricing to consider and reflect various expenses in the liquidation process, ultimately arriving at the equivalent of a wholesale price. RLBA again used this methodology when producing the following recalculated NLV.

Because of RLBA's consistent application of this methodology, RLBA's previous NLV calculations regarding the Towner Line already reflect most of the necessary discounts to translate current retail pricing into appropriate wholesale pricing. Discounts for site preparation, crossing restoration, administrative considerations, marketing considerations and transportation cost were all previously explained in RLBA's original NLV methodology and previous Verified Statement. The only discount not included in RLBA's previous NLV calculations was a specific profit margin for the railroad salvage company which is not always shown separate and apart from the other discounts. As such, RLBA developed and applied an additional discount of 5%¹⁶ to account for said profit margin, to be applied to total Track Salvage Value. To respond to the Board's request for updated wholesale pricing, RLBA first requested and received a current retail price listing from A&K Materials¹⁷ and applied the same pricing methodology employed in RLBA's August 30, 2016 Statement¹⁸. These retail prices were then applied to the 2016 RLBA NLV inventory to arrive at an updated Gross Value. Finally, RLBA applied the appropriate discounts, including the additional 5% profit margin discount to the Gross Value to arrive at a Net Liquidation Value reflecting current wholesale pricing. This methodology resulted in a recalculated

¹⁵ See Part 2 of RLBA's original statement, filed August 30, 2016.

¹⁶ RLBA was advised by V&S counsel that a 5% profit margin has been accepted by the Board in similar proceedings and A&K Materials has confirmed that this is a reasonable estimate. See Verified Statement of Kern Schumacher.

¹⁷ See Appendix 3, 'Current A&K Railroad Materials, Inc. Price Listings'.

¹⁸ See Appendix 10 'RLBA Unit Price Calculation Methodology' of RLBA's original statement, filed August 30, 2016.

NLV of \$20,107,900 as of March 31, 2017, the details of which are provided in Appendix 1 and summarized in Table 1.

Table 1
Net Liquidation Value of Track Assets

	Unit	Unit Cost	Total	Grand Total
Track Nominal Value.				
Relay Railroad Materials			\$22,469,900	
Steel Scrap and Re-roll OTM (net of transportation)			\$607,600	
Ties and Non-steel OTM			\$4,316,100	
Gross Value				\$27,393,600
Preparation Cost Adjustments:				
Fit Rail & OTM Removal (miles)	124	\$16,000	-\$1,987,600	
Scrap/Re-roll Rail & OTM Removal (miles)	10	\$15,500	-\$161,100	
Fit Turnout Removal (each)	23	\$800	-\$18,400	
Scrap Turnout Removal (each)	7	\$500	-\$3,500	
Total Adjustments				-\$2,170,600
Restoration Cost Adjustments:				
Public Highway Crossing (each)	64	\$2,000	-\$128,000	
Private Highway Crossing (each)	12	\$300	-\$3,600	
Total Adjustments				-\$131,600
Track Salvage Value				\$25,091,400
Profit Margin, Administrative, Marketing and Transportation Expense				
Salvager Profit Margin - 5 percent			-\$1,254,600	
Relay Steel Materials Admin and Marketing - 13 percent			-\$2,921,100	
Scrap, Re-roll and Non-steel Materials Admin and Marketing - 5 percent			-\$246,200	
Transportation - Carloads to Pueblo, CO	312	@ \$1,800	-\$561,600	
Total Estimated Expense				-\$4,983,500
Net Liquidation Value				\$20,107,900

To be particularly responsive to the Board's March 3 Decision regarding the source and calculations of wholesale pricing, RLBA has amended our standard NLV calculations template (provided in Appendix 1 to this statement) to include an additional table entitled "Wholesale Unit Price Calculations." This table applies the various RLBA discounts regularly applied to the Gross Salvage Value to the Retail Unit Cost used as the baseline in RLBA's recalculated NLV, thus allowing the Board to see not only the wholesale cost of each type of material found along the Towner Line but also the value of every individual discount used to convert retail pricing to wholesale. These calculations are reproduced below in Table 2.

Table 2
Wholesale Unit Price Calculations

Recalculated Towner Line NLV	<u>Gross</u> <u>Salvage</u>	<u>Prep Cost</u>	<u>Restoration</u> <u>Cost</u>	<u>Salvager</u> <u>Profit Margin</u>	<u>A&M</u> <u>Steel Relay</u>	<u>A&M</u> <u>Other</u>	<u>Transport</u>	<u>Total</u> <u>Discount</u>	<u>NLV</u>
Value	\$27,393,600	(\$2,170,600)	(\$131,600)	(\$1,254,600)	(\$2,921,100)	(\$246,200)	(\$561,600)	(\$7,285,700)	\$20,107,900
Percentage Discount		-7.92%	-0.48%	-5.00%	-13.00%	-5.00%	-2.24%	-27.20%	73.40%
Steel (Rail, Net Ton)	<u>Retail Price</u>	<u>Prorated Prep</u>	<u>Prorated</u> <u>Restoration</u>	<u>Prorated</u> <u>Profit Margin</u>	<u>Prorated</u> <u>A&M- Relay</u>	<u>Prorated</u> <u>A&M - Other</u>	<u>Prorated</u> <u>Transport</u>	<u>Retail</u> <u>Markup</u>	<u>Wholesale</u> <u>Price</u>
Rail 136 pound per yard, CWR, Fit #1									
Rail 136 pound per yard, CWR, Fit #2									
Rail 136 pound per yard, Jomted, Fit #2									
Rail 133 pound per yard, CWR, Fit #1									
Rail 132 pound per yard, CWR, Fit #2									
Rail 132 pound per yard, CWR, Fit #3									
Rail 115 pound per yard, CWR, Fit #1									
Rail 115 pound per yard, Jomted, Fit #1									
Rail 113 pound per yard, CWR, Fit #2									
Rail 112 pound per yard, Jomted, Fit #3									
Rail Scrap (Gross Ton)									
Steel (OTM)	Component								
Scrap OTM									0
Tie Plates, D/S, 8" X 16"									2
Tie Plates, D/S, 8" X 14"									5
Tie Plates, D/S, 8" X 13"									4
Joint Bars, 136 pound, Fit									4
Joint Bars, 133/132/131 pound, Fit									1
Joint Bars, 119/112 pound, Fit									0
Joint Bars, 115 pound, Fit									3
Joint Bars, 90 pound, Fit									5
Joint Bars, 85 pound, Fit									2
Anchors, Fit									4
Timber (Ties)	Component								
Relay									
Landscape									
Scrap									
Turnouts	Component								
Weight 136									
Weight 115									

RLBA is confident in the validity of this wholesale price approach, particularly as the prices they produce are supported by actual recent sales data provided by A&K. As displayed in Table 3 below, recent sales of certain types of materials have matched, if not exceeded the currently listed retail pricing provided by A&K. As such, if anything, the retail and wholesale prices employed by RLBA in our recalculation are conservative and slightly understate the value of the material on the Towner Line, no doubt a reflection of the volatility of the secondary railroad materials market.

Table 3
Comparisons of Recent Average Transaction Price, Current Listed Retail Price and Current Calculated Wholesale Price of Select Material in A&K Inventory¹⁹

Value	No. 1 Fit 115 RE, Jointed (Net Ton)	No. 2 Fit, 115 RE, Jointed (Net Ton)	No. 3 Fit 115 RE, Jointed (Net Ton)	Realy DSTP 13" 5-1/2" Base (Unit)
2016/2107 Actual Sales Avg				
Current Listed Retail Price				
Current Wholesale Price				

RLBA Transportation Cost Methodology

As previously discussed, based on established practice, RLBA believes that our previous assumption that all relay material would be transported to a combination of existing and temporary holding yards established in Pueblo, CO to be appropriate. As such, RLBA's transportation calculations regarding relay steel material remains unchanged²⁰.

RLBA Scrap Metal Pricing Methodology

RLBA accepts the Applicant's wholesale scrap metal price of \$200.00 per gross ton, received at EVRAZ Rocky Mountain Steel. RLBA transportation calculation regarding scrap metal remains unchanged (and was accepted by Fauth in his calculations of the NLV of the scrap metal).

¹⁹ Actual Sales price calculated from Appendix 2 'Recent Transactional Data from A&K Railroad Materials, Inc.' Current Listed Retail Price calculated according to pricing and methodology in Appendix 3 'Current A&K Railroad Materials, Inc Price Listings.' Current wholesale price calculated using total discount percentage from Table 2 'Wholesale Unit Price Calculations.'

²⁰ While RLBA accepts and agrees with the Board's precedent that metal relay material would be transported from the jobsite via rail car, in actual practice, it is possible that some, if not most, relay metal material outside of CWR would be transported to the temporary holding yard in Pueblo, CO by truck at a similar cost per net ton as rail

RLBA Tie Pricing Methodology

Through conversations with A&K staff and a review of A&K recent sales data, RLBA has confirmed that there have been substantial changes in the relay and landscape tie markets in the intervening six month since RLBA's original Verified Statement was filed with the Board on August 30, 2016. Among the most prominent factors impacting the used ties market is the growing trend among Class I railroads of selling high quality landscape ties harvested from capital improvement programs directly to cogeneration power plants (cogen plants). These ties would otherwise have ended up being sold on the secondary materials market²¹. As such, both demand and what the market would bear for such material has increased. To reflect these changed market conditions, RLBA has modified our previous retail prices of \$[REDACTED] per relay tie and \$[REDACTED] per landscape tie to \$[REDACTED] per relay and \$[REDACTED] per landscape tie, respectively (with the corresponding wholesale price calculation of \$[REDACTED] per relay tie and \$[REDACTED] per landscape tie²²). While these revised prices are a notable increase over those advanced in RLBA's Verified Statement, it is the belief of RLBA that based on recent transactions (included as Appendix 5), these base retail and associated wholesale prices are actually conservative.

RLBA Scrap Ties Disposition Methodology

As previously mentioned, Mr. Fauth's scrap tie disposal cost of \$17.50 strikes both RLBA and the professionals at A&K as exceedingly high. As such, utilizing the experiences of A&K, RLBA developed an appropriate rate to transport and dispose of scrap ties at a local landfill in the vicinity of the Towner Line. First, A&K contacted several local landfills to determine the best location at which to dispose of scrap ties. Ultimately, it was confirmed that the City of Lamar, CO landfill would accept railroad ties at a rate of \$7.00 per cubic ton, or approximately \$1.00 per tie²³. Finally, A&K determined

²¹ See Verified Statement of Kern Schumacher, page 3

²² See Table 2 'Wholesale Unit Price Calculations'

²³ See Verified Statement of Kern Schumacher, page 3 and Appendix 6 'Rate Sheet for Lamar County Landfill and Accompanying Internal A&K Emails' describing transportation and local disposal costs for scrap ties near the Towner Line.

an average transportation rate of \$450 per truck load to move the scrap ties to the Lamar landfill²⁴.

Assuming a loaded truck holds 250 scrap ties, this transportation cost comes to approximately \$1.80 per tie. As such, RLBA used a conservative total scrap tie removal and disposal cost of \$3.00 per tie. For purposes of calculating the NLV, RLBA has aggregated the NLV's of relay and landscape ties with the negative value associated with the scrap ties.

Conclusion

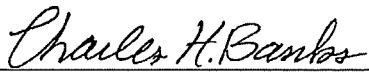
The Applicant's recalculated NLV of \$5,522,518 suffers from multiple errors and unexplained or documented assumption, that the values advanced in said recalculations cannot be considered supported or supportable and should be rejected by the Board. Conversely, RLBA recalculation utilizes established Board precedents and is based upon the extensive valuation experience of RLBA, as well as the real world liquidation experience of A&K Railroad Materials, Inc. As such the Board should instead accept RLBA's recalculated NLV of \$20,107,900.

²⁴ See Appendix 6 'Rate Sheet for Lamar County Landfill and Accompanying Internal A&K Emails', A&K assumes a contract trucker would run round trips to the Lamar landfill at an hourly rate. The \$450 per load is an average rate assuming a rate of \$475 per load from NA Junction to Lamar and \$425 per load from Towner to Lamar.

Verification

I, Charles H. Banks, verify under penalty of perjury that I have prepared and read this Supplemental Verified Statement to be filed on behalf of V and S Railway, LLC in the aforementioned proceeding before the Surface Transportation Board, that I know the contents thereof, and that the same is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on March 31, 2017



Charles H. Banks

I, John D. Ireland, verify under penalty of perjury that I have prepared and read this Supplemental Verified Statement to be filed on behalf of V and S Railway, LLC in the aforementioned proceeding before the Surface Transportation Board, that I know the contents thereof, and that the same is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on March 31, 2017



John D. Ireland

Supplemental Verified Statement of
Charles H. Banks and John D. Ireland

Appendix 1
RLBA Recalculated NLV Spreadsheets

Appendix One

Net Liquidation Value of Track Assets

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



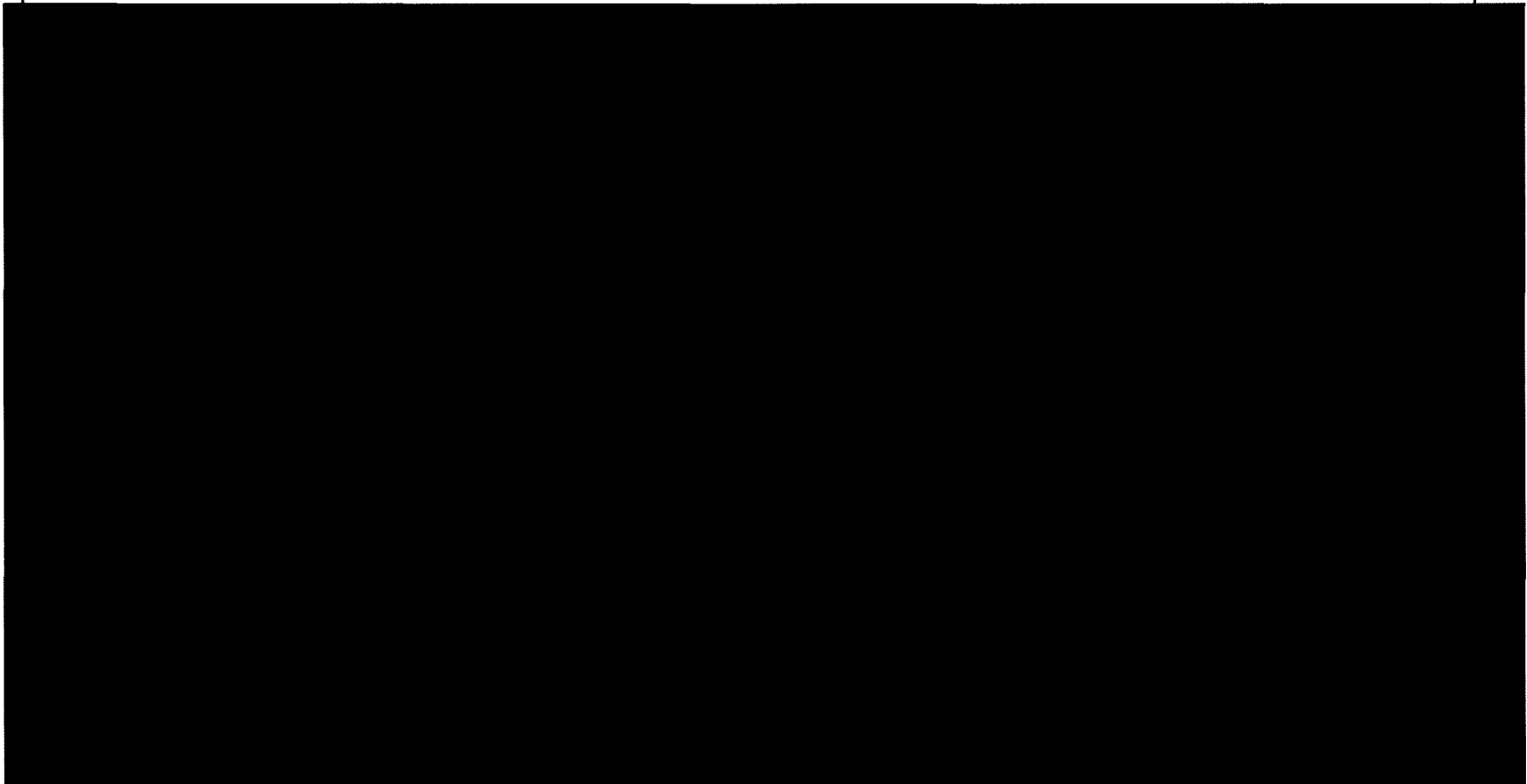
Appendix Two

Gross Liquidation Value of Track Assets

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



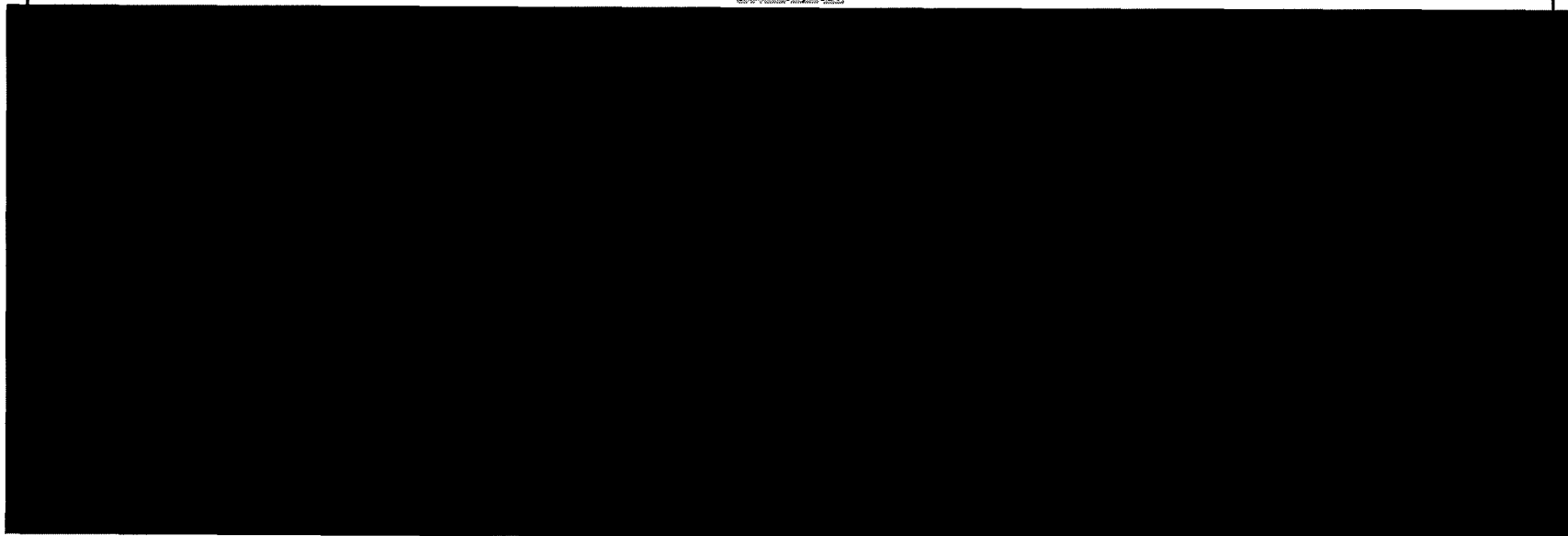
Appendix Two

Gross Liquidation Value of Track Assets

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



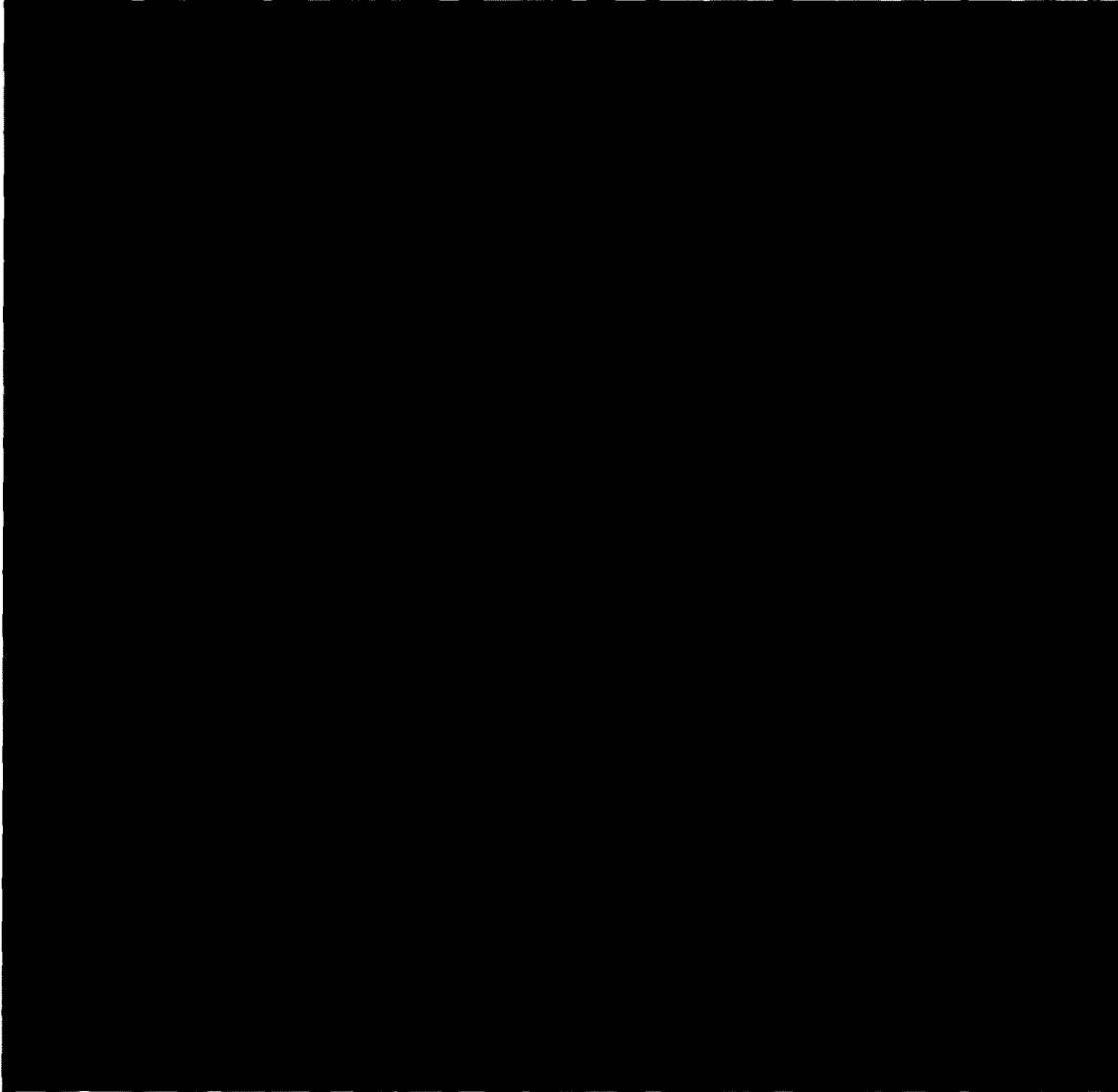
Appendix Three

Summary of Rail Evaluated

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



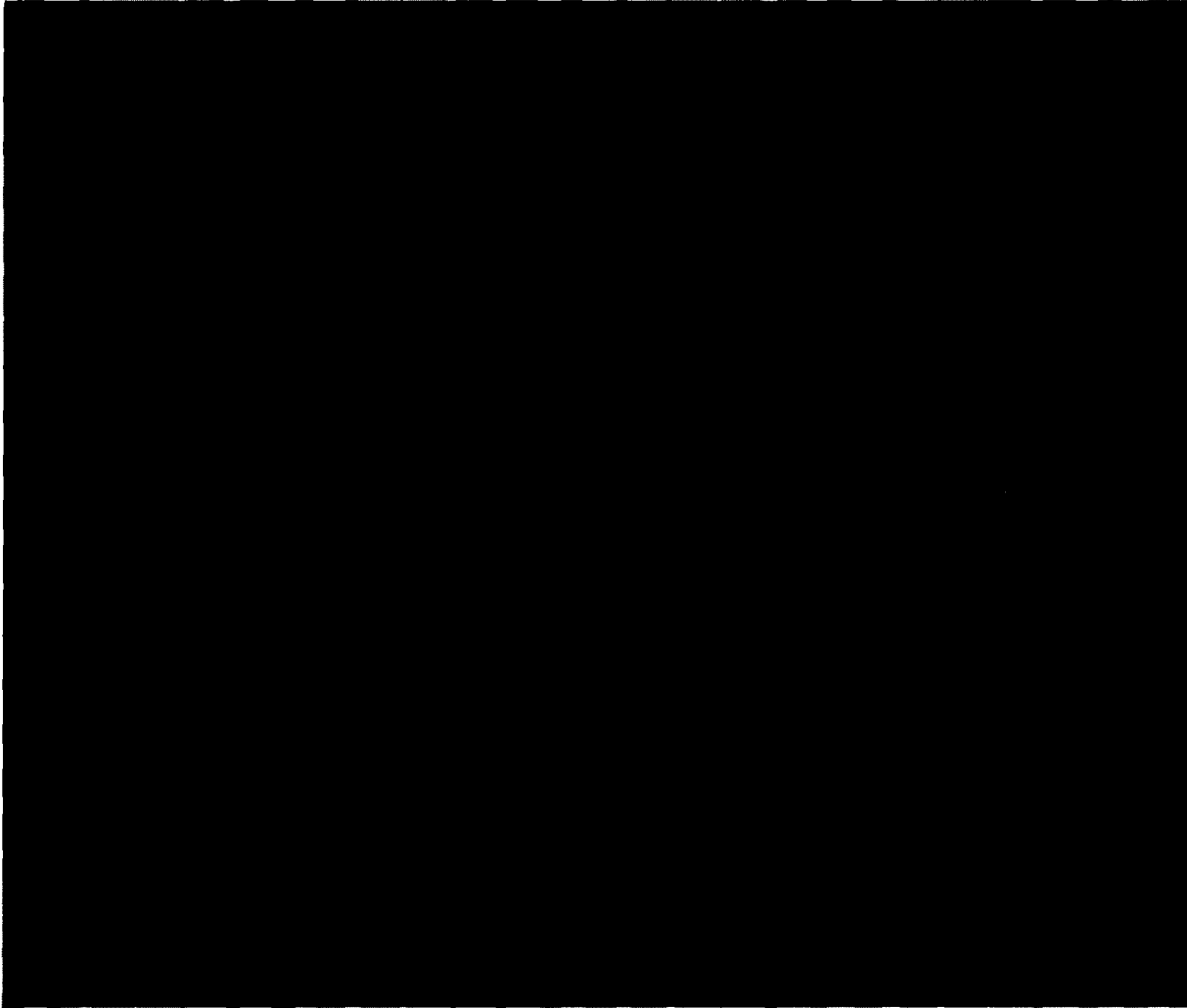
Appendix Three

Summary of Rail Evaluated

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



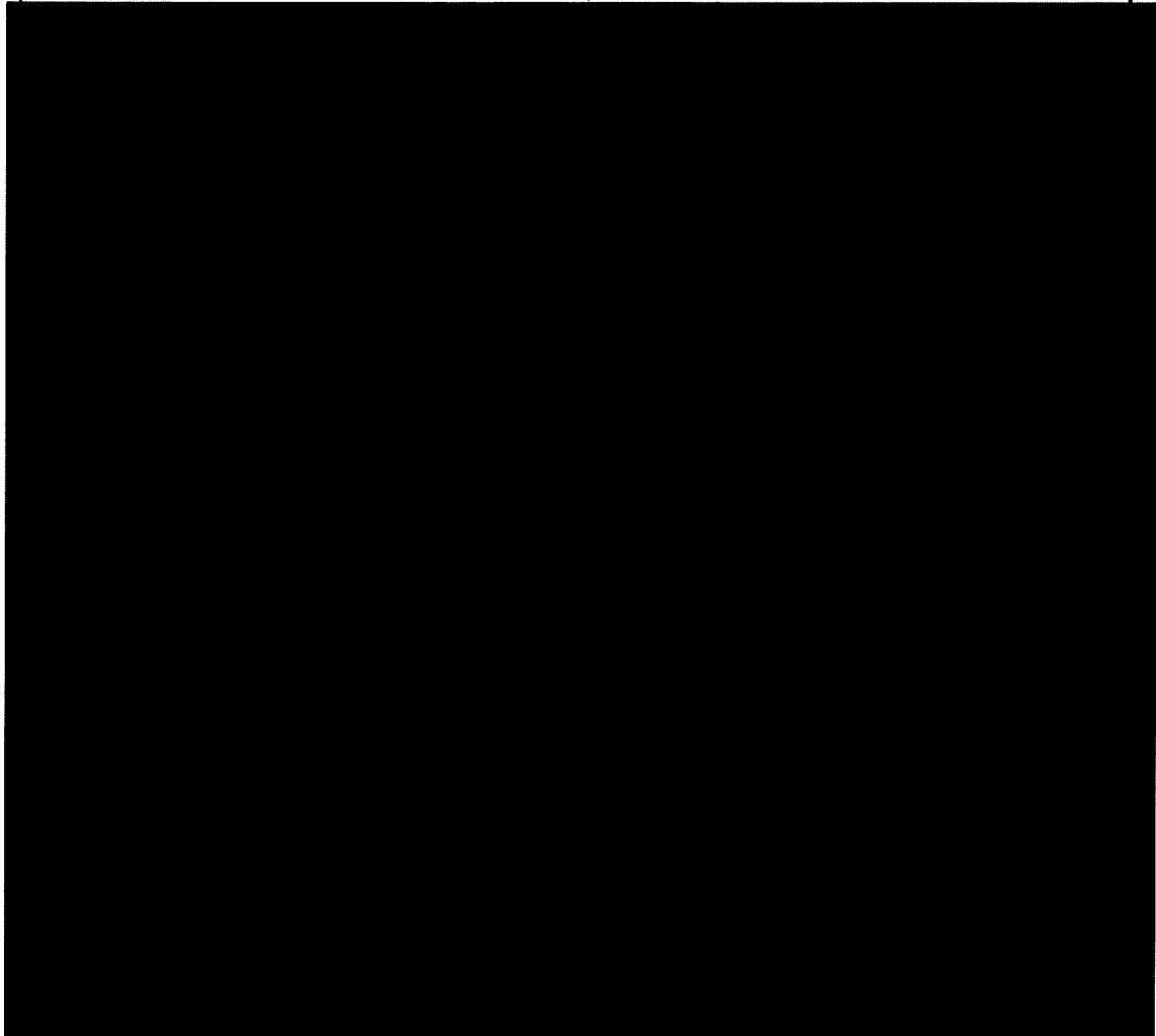
Appendix Four

Summary of Turnouts

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



Appendix Five

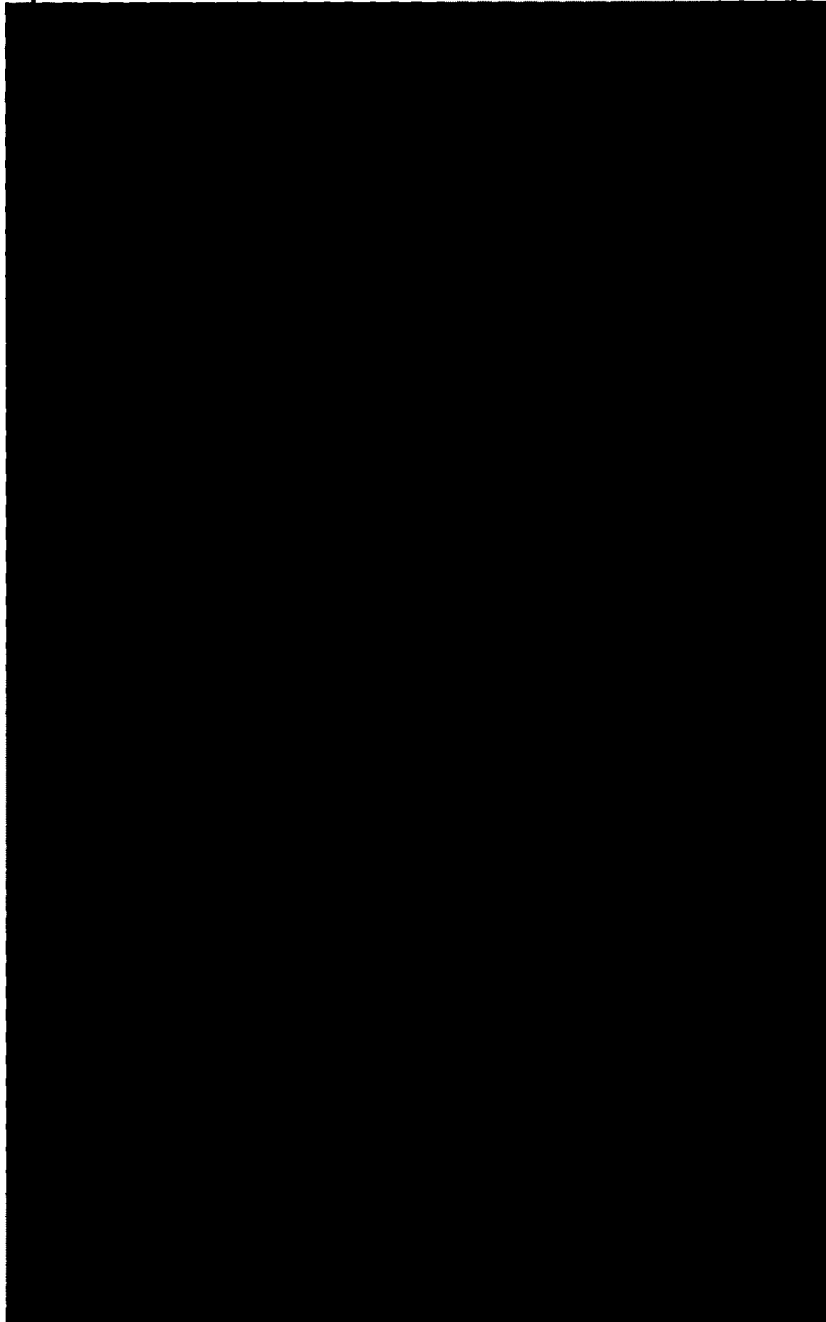
Summary of Tie Condition

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017

(Sample Blocks of 100)



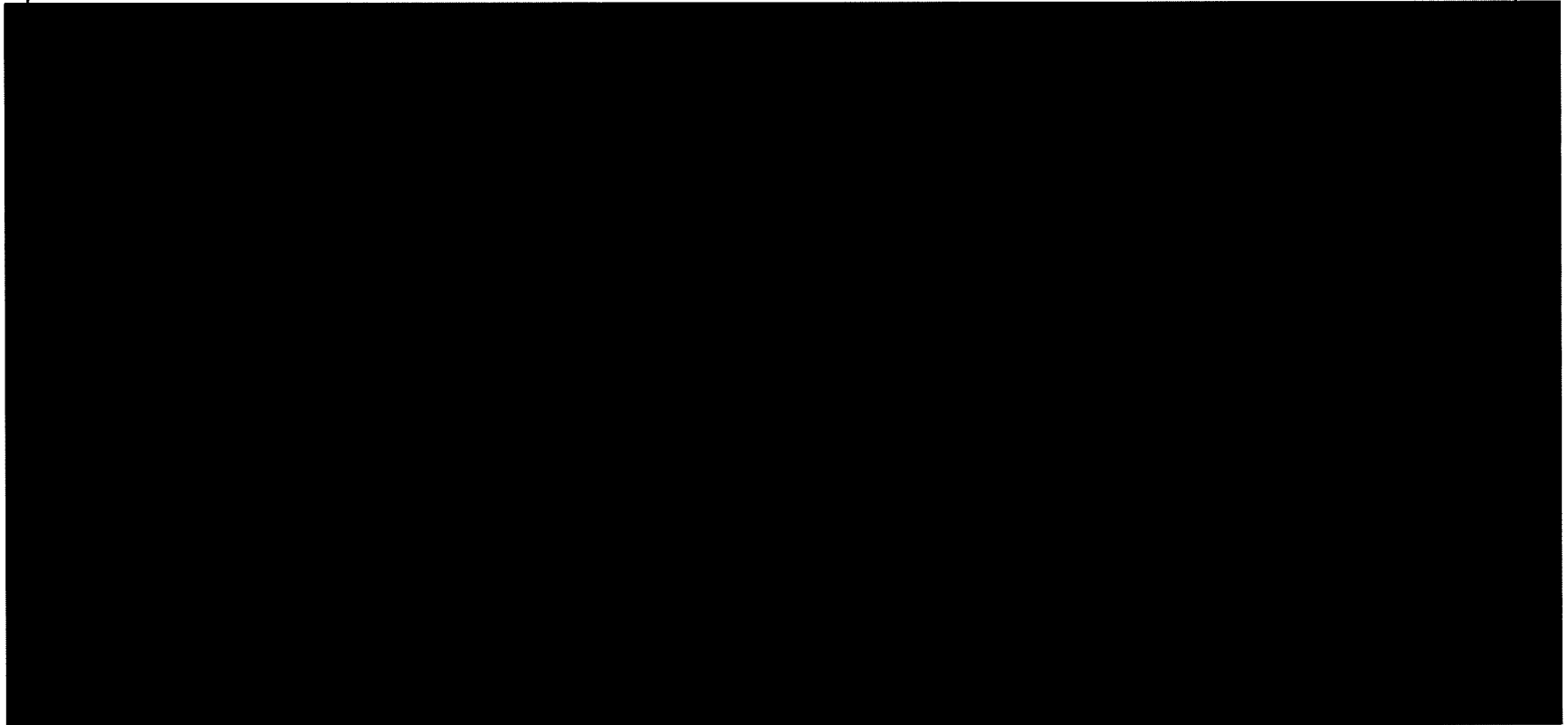
Appendix Six

Summary of Rail Class By Mileage

VAS Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



Appendix Six

Summary of Rail Class By Mileage

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



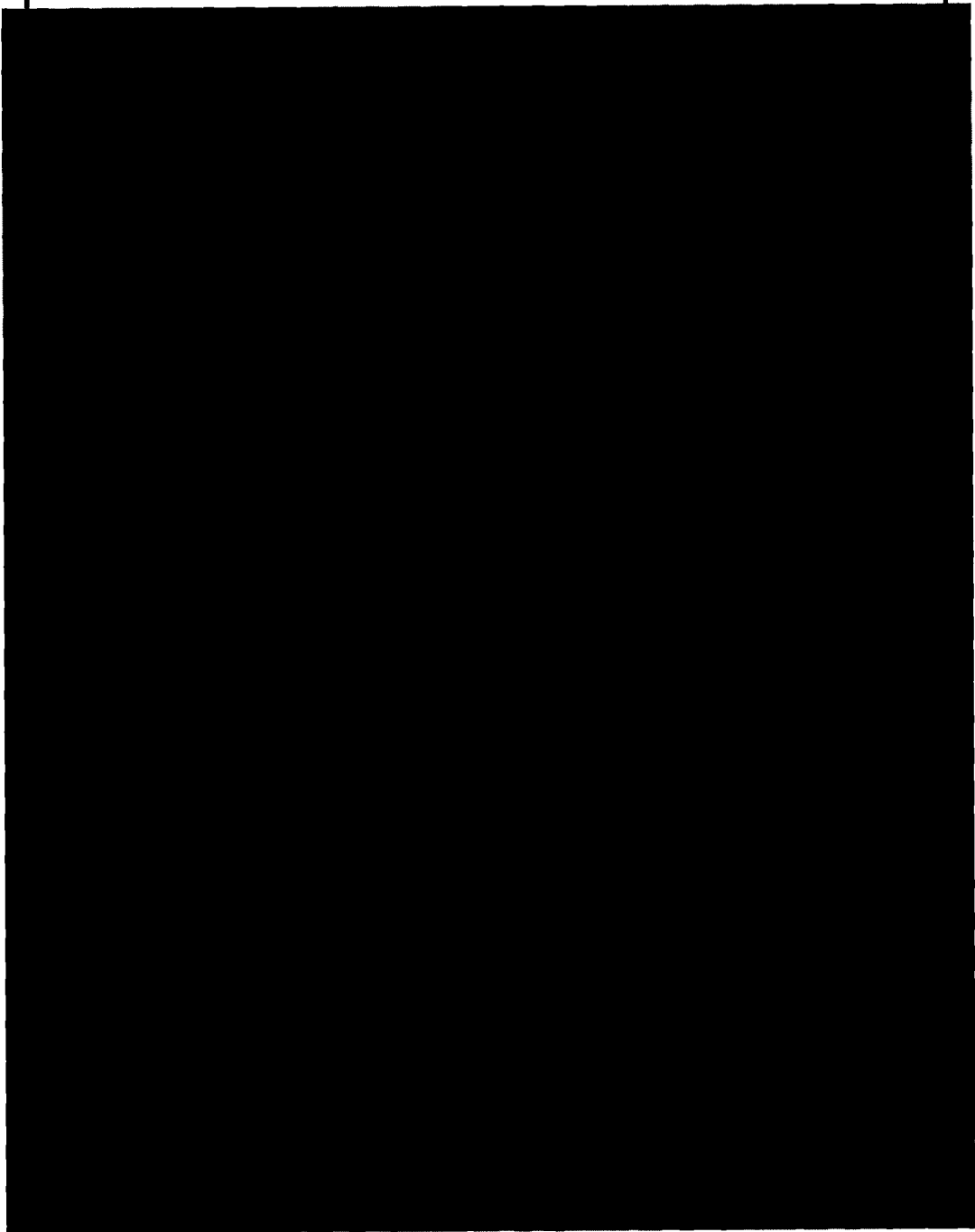
Appendix Seven

Track Material Unit Prices

V&S Railway

Mile Post 747.5 - Mile Post 869.4

March 31, 2017



Appendix Eight

Wholesale Unit Price Calculations

V&S Railway

Mile Post 747.3 - Mile Post 869.4

March 31, 2017



Appendix Nine

Summary of Shipments Volume
V&S Railway
Mile Post 747.5 to Mile Post 869.4
March 31, 2017



Supplemental Verified Statement of
Charles H. Banks and John D. Ireland

Appendix 2
Recent Transactional Data from A&K Railroad Materials, Inc.

A dark, textured horizontal band at the top of the page, possibly a header or separator, with a grainy, metallic appearance. The band is approximately 20 pixels high and spans the entire width of the image. Below this band is a large, solid black rectangular area that occupies the majority of the image.

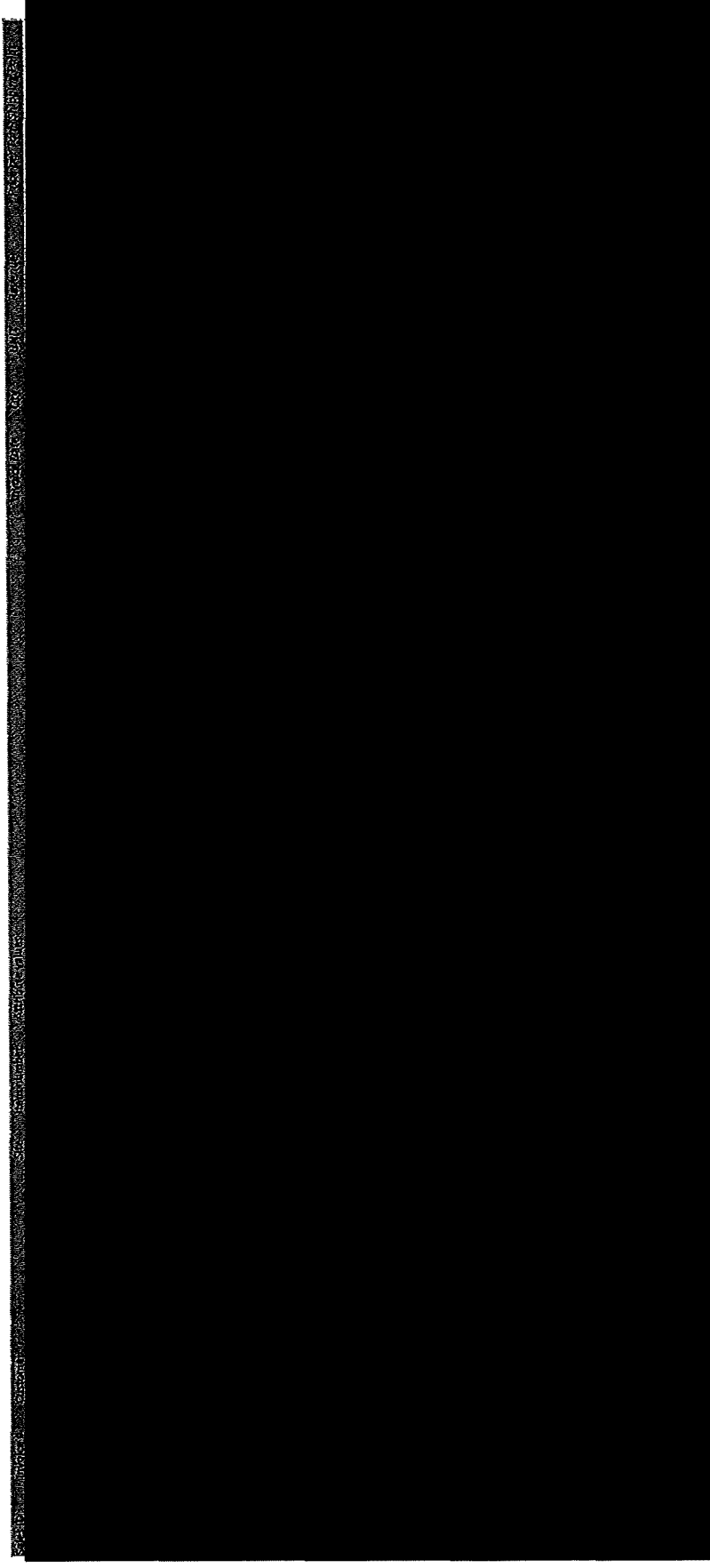
[REDACTED]

[REDACTED]



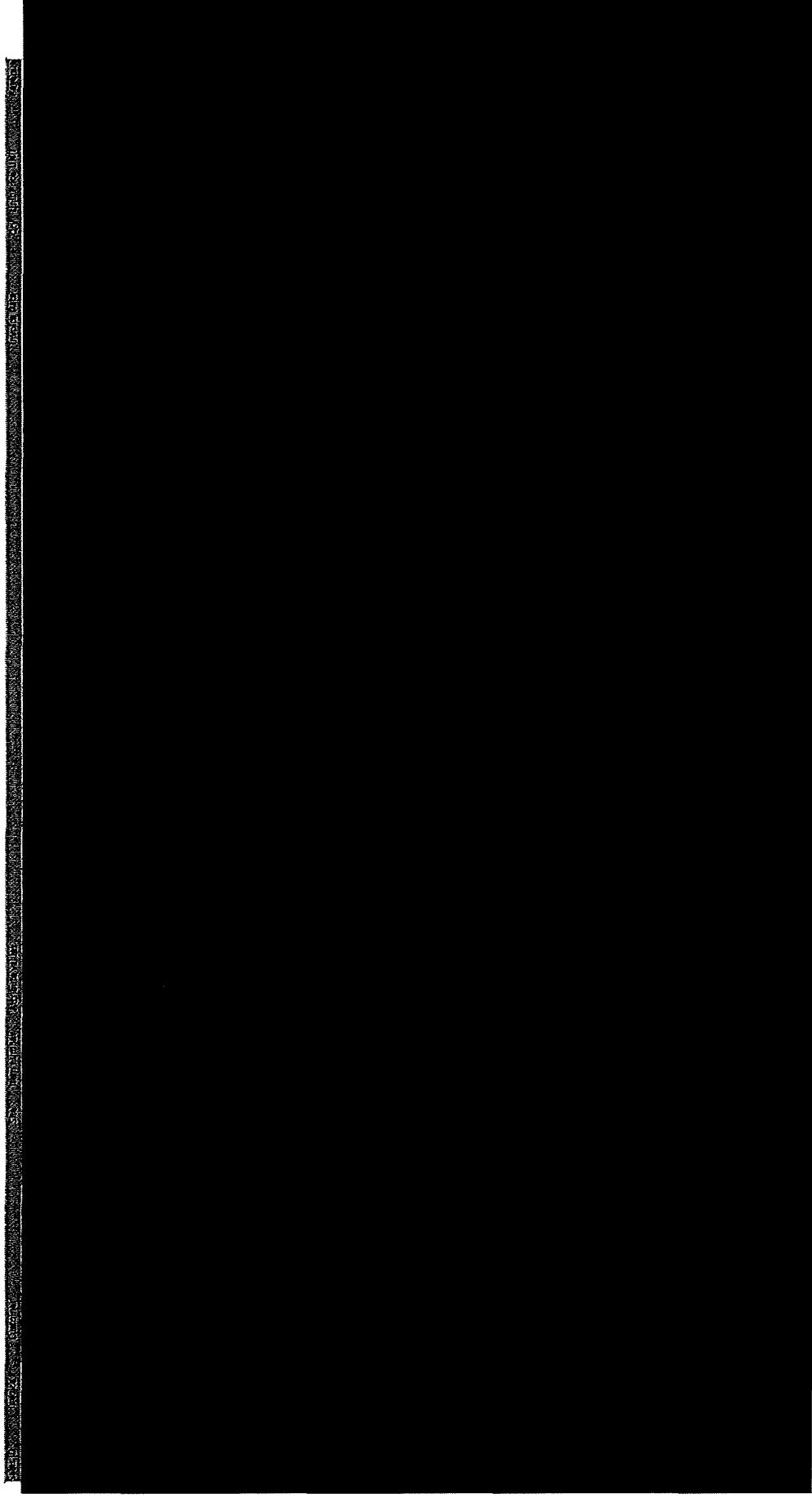
[REDACTED]

[REDACTED]

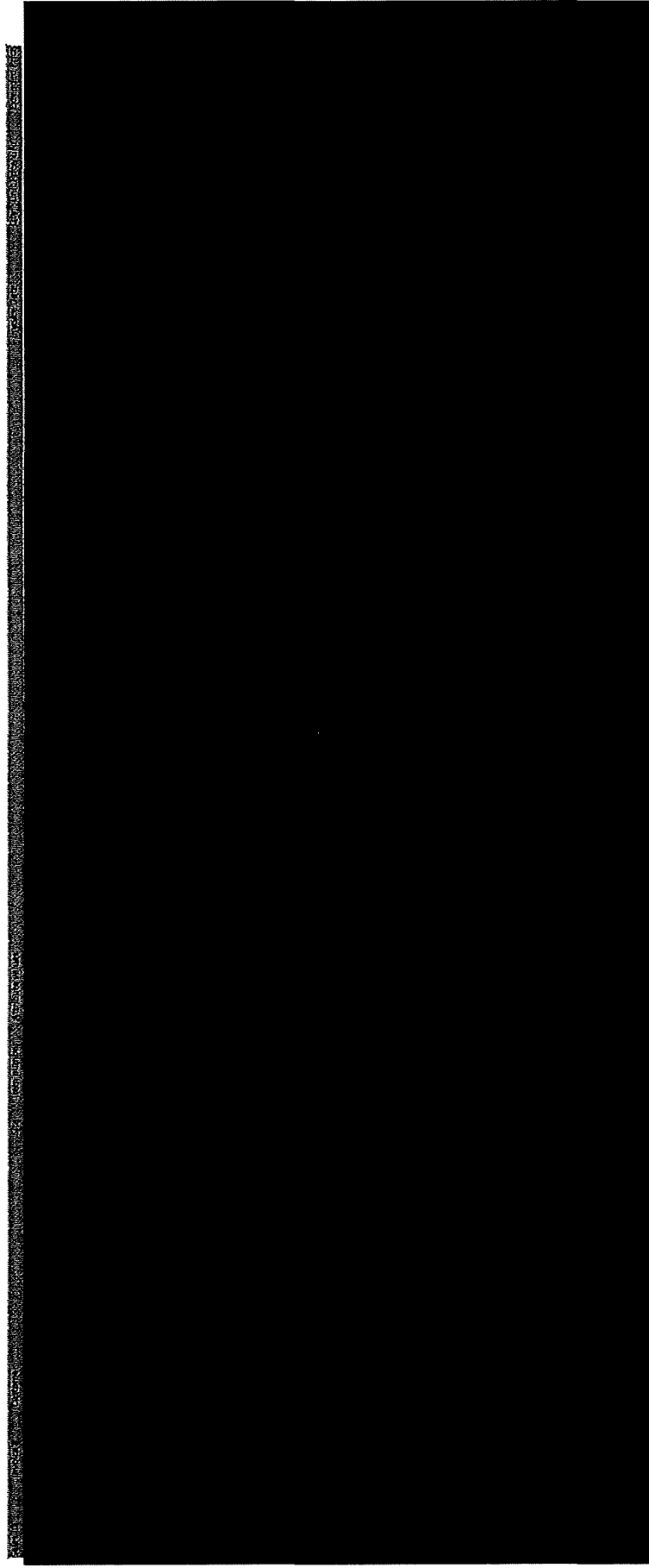


[REDACTED]









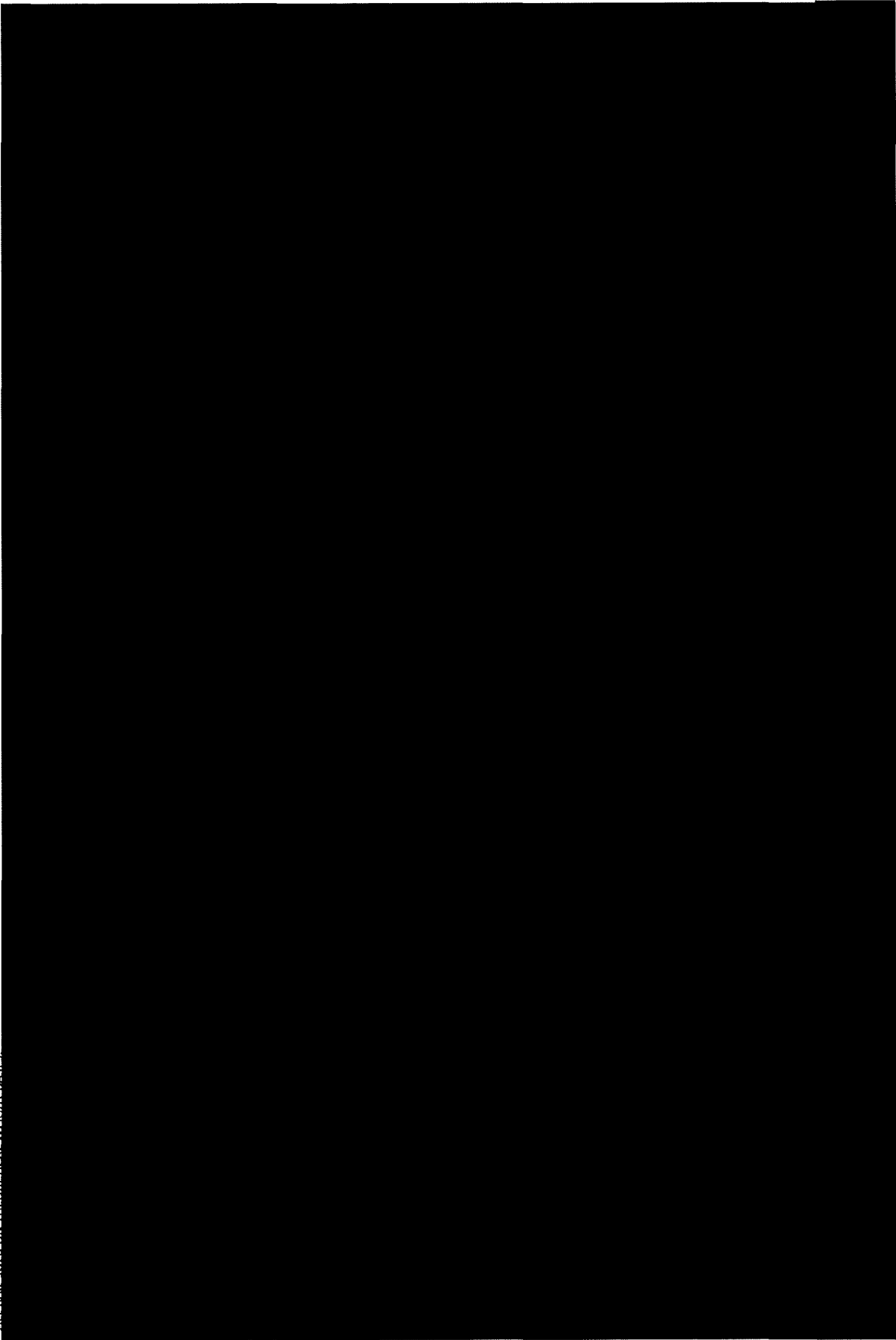
Supplemental Verified Statement of
Charles H. Banks and John D. Ireland

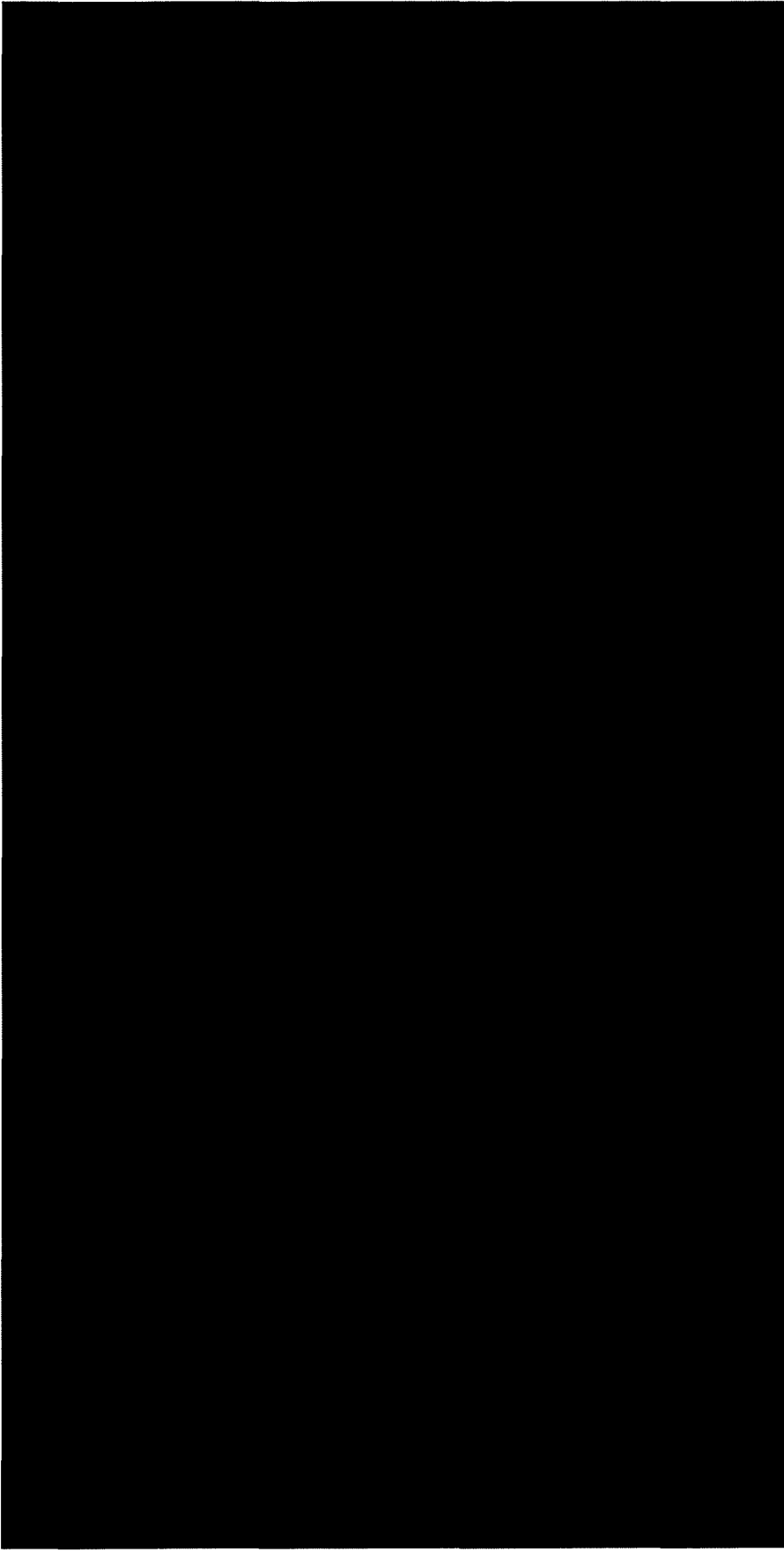
Appendix 3
Current A&K Railroad Materials, Inc. Price Listing

CONFIDENTIAL

AL&K RAILROAD MATERIALS, PRICES EFFECTIVE 03/05/17
ALL PRICES BASED ON #1 RELAY RAIL SOLD WITH MATCHING BARS & PLATES
ALL RAIL SOLD ON THEORETICAL WEIGHT BASES

BOLDED CHANGED FROM PREVIOUS LIST

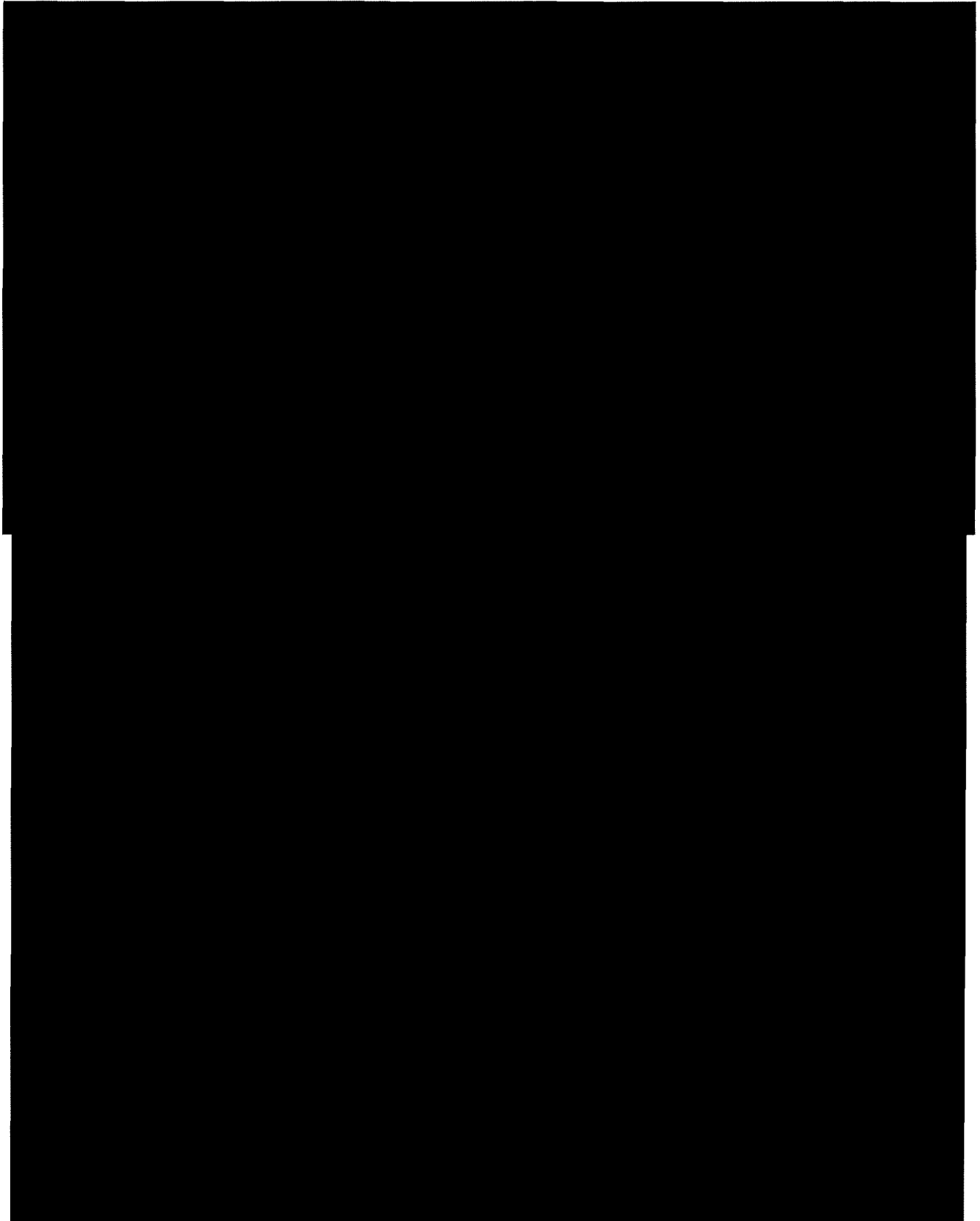


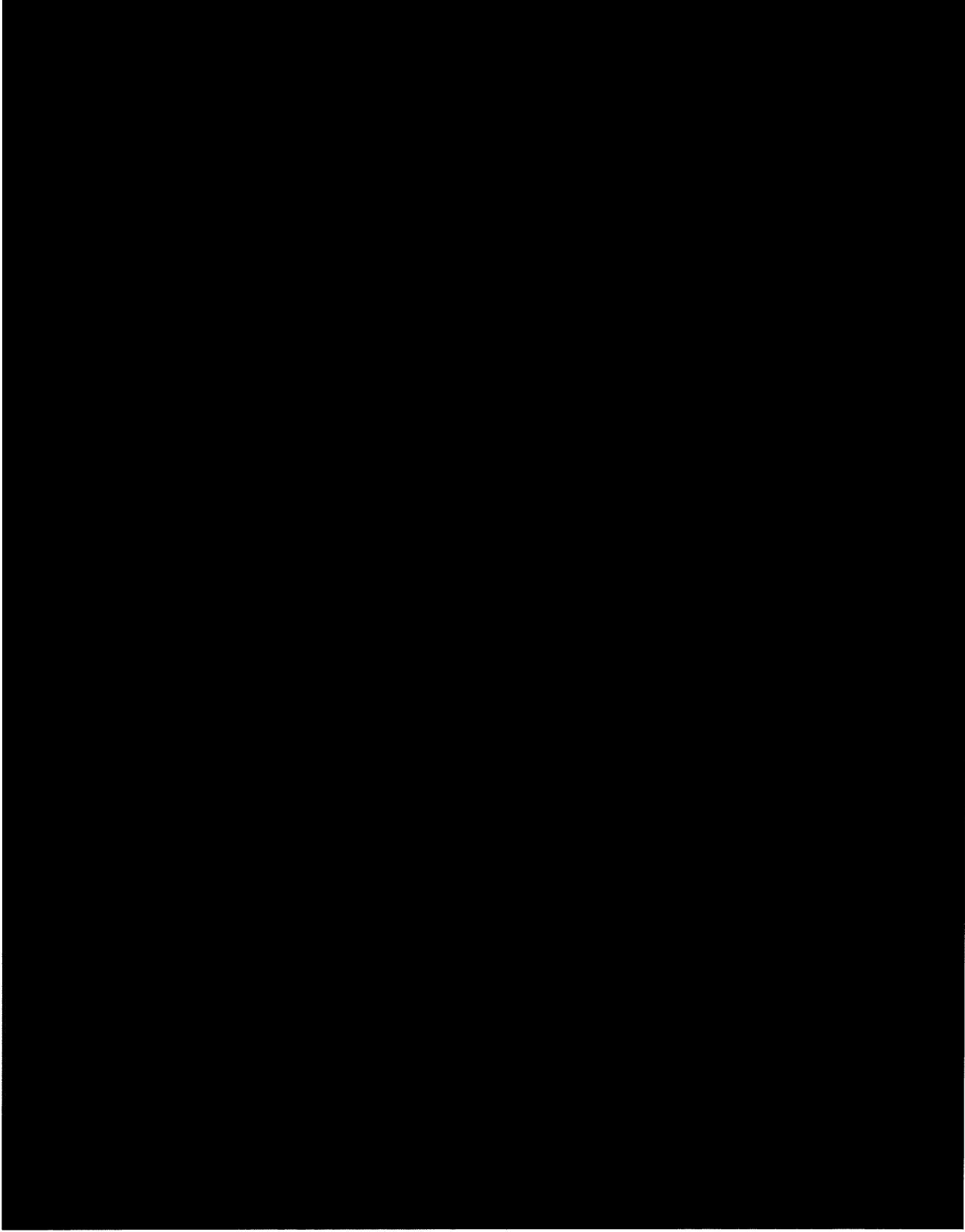


A & K RAILROAD MATERIALS, INC.

PRICES EFFECTIVE 01.05.17

RELAY TIE PLATES





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Appendix 4
American Metal Market Past Monthly Average

American Metal Market

Past Monthly Averages

— Chicago No. 1 heavy melt scrap consumer buying price \$/gross ton



Permission must be sought from American Metal Market if you wish to republish this chart. Please refer to American Metal Market's permissions page at www.amm.com/permissions to ensure your use of this chart is in compliance with our Terms of Use.

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Appendix 5

Recent Relay and Landscape Tie Transactions from A&K Railroad Materials, Inc.

[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

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[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

REDACTED

[SALES CONTRACT]

REDACTED

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Appendix 6

Rate Sheet for Lamar County Landfill and Accompanying Internal A&K Emails

16 Sanitation Rates

The following rates were set forth by Resolution 11-08-02 and amended by Resolution 11-11-05

Commercial - Extra pick up at full price

Residential - Extra pick up at full price

2017
Fee

Commercial Rates (300 gallon) Inside City Limits

1st tub	32.75
2nd tub	24.25

Small tub (65-95 gallon) Residential size
Cardboard (1.5 yards)

18.00
24.25

Commercial Rates (300 gallon) Outside City Limits

1st tub	65.50
2nd tub	48.50

Residential Rates (65-90 gallon) Inside City Limits

1st tub	18.00
2nd tub	12.75

**Residential Rates (65-90 gallon) Outside City Limits
including the Meadows and County Rd HH**

1st tub	36.00
2nd tub	25.50

Commercial refuse haulers (such as DW Waste, Town of Wiley and Fort Lyon)

Compacted Trash - per yard	16.25
Non-compacted Trash - per yard	11.50

Roll Offs

Minimum Monthly rate = 20 yard container	292.50
Minimum Monthly rate = 30 yard container	372.50
Minimum Monthly rate = 40 yard container	452.50

Containers must be emptied at least once a month or minimum charge will be automatically applied.

Landfill Dumping Fees Rates set forth by Resolution 11-08-02 and Resolution 13-11-01.

Special Handling Fee (Truck Accident insurance requirements)	100.00	Per Hour (one hour minimum)
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Per Cubic Yard	7.00
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Punch Card	35.00
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Freon Removal	44.00
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Appliance Disposal Fee	7.00
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Tire Disposal (up to 1100 series)	2.50
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Tire Disposal (1100 series & up)	5.25
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E-Waste

Small televisions (up to 15")	10.00
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Medium televisions (15" to 32")	20.00
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Large televisions (larger than 32")	30.00
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Old style console televisions (any size)	35.00
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Personal computers	10.00
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CRT monitors	10.00
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Laptops, flat screen monitors, or stereo components	5.00
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Desktop printers, faxes, dvd/vcr/cable or satellite receivers	3.00
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Floor standing large copiers	50.00
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Misc. cords, keyboards, mouse items will be accepted free of charge

Transfer Station

Per Cubic Yard	8.25
----------------	------

All disconnects (in town and out of town) for non-pay of trash tub fees will be charged a \$14 disconnect fee. There will be a \$20 re-connect fee.

John Ireland

~
Begin forwarded message:

From: Fred Chipp <FChipp@akrailroad.com>
Date: March 22, 2017 at 9:19:12 AM PDT
To: Kern Schumacher <Kern@akrailroad.com>
Cc: Rocky Smith <RSmith@akrailroad.com>, Korey Richins <KRichins@akrailroad.com>
Subject: Landfill charges for ties

Kern,

I spoke to the man in charge of the Eads (Kiowa County) Landfill and he said absolutely **no railroad ties** in their landfill.

He did refer me to the Lamar (Lamar County) Landfill and I spoke to Lamar County Sanitation and she said they would accept railroad ties (truckload quantities) at \$7 / cubic yard. I have attached her email with the attached fee schedule but she could not alter the schedule to show railroad ties. I have also included a freight rate from Ryan Spencer.

Thanks,

Fred Chipp | Operations Manager
Tel: 801 977 6307 | Cell. 801 209 1294
Fax 801 956 0873
PO Box 30076, Salt Lake City, UT 84130

John Ireland

-----Original Message-----

From: Ryan Spencer
Sent: Monday, March 27, 2017 6:30 AM
To: Kern Schumacher
Cc: Doug Davis
Subject: RE: Truck rates.

Towner- Pueblo - \$585/truck
NA Junction - Pueblo-\$400/truck
Towner to Lamar- \$425/Truck
NA Junction to Lamar - \$475/Truck

These are based on the assumption that the drivers will get as many loads/day and run round trips the entire day.

-----Original Message-----

From: Kern Schumacher
Sent: Monday, March 27, 2017 4:45 AM
To: Ryan Spencer
Cc: Doug Davis
Subject: Truck rates.

Need best estimate of truck freight rate between the following locations.
Towner to Pueblo
NA Jct to Pueblo. NA jct is 120 miles west of Towner near Pueblo.
Then give me the same from both Towner and NA jct to Lamar, Co
Doug. We have a permanent yard in Pueblo or could set up a yard at Lamar on BNSF