

LAW OFFICE  
**THOMAS F. MCFARLAND, P.C.**  
208 SOUTH LASALLE STREET - SUITE 1666  
CHICAGO, ILLINOIS 60604-1228  
TELEPHONE (312) 236-0204  
*mcfarland@aol.com*

THOMAS F. MCFARLAND

September 9, 2019

By e-filing

248449

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

ENTERED  
Office of Proceedings  
September 9, 2019  
Part of  
Public Record

Re: Docket No. AB-1272X, *Central Texas & Colorado River Railway, LLC*  
-- *Abandonment Exemption* -- in *McCulloch, San Saba, Mills, and Lampasas*  
*Counties, TX*

Dear Ms. Brown:

Hereby transmitted on behalf of the Brady Line Shipper Group is a Formal Expression of Intent to File an Offer of Financial Assistance (Purchase) and Demonstration of Preliminary Financial Responsibility for filing with the Board in the above referenced matter.

Respectfully submitted,



Thomas F. McFarland  
*Attorney for Brady Line Shipper Group*

*TMcF:mg:1860\efSTB3*

cc: Robert A. Wimbish, Esq., *rwimbish@fletcher-sippel.com*  
Thomas Healey, Esq., *thealey@fletcher-sippel.com*  
Messrs. Donny Smith, *donny@jcsmith.co*  
Jon Sheridan, *jon.sheridan@pwgcoinc.com*  
Jason Jacoby, *jason@jacobyfeed.com*

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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|                                 |   |                     |
|---------------------------------|---|---------------------|
| CENTRAL TEXAS & COLORADO        | ) |                     |
| RIVER RAILWAY, LLC --           | ) |                     |
| ABANDONMENT EXEMPTION -- IN     | ) | DOCKET NO. AB-1272X |
| MCCULLOCH, SAN SABA, MILLS, AND | ) |                     |
| LAMPASAS COUNTIES, TX           | ) |                     |

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**FORMAL EXPRESSION OF INTENT TO FILE  
AN OFFER OF FINANCIAL ASSISTANCE (PURCHASE)  
AND DEMONSTRATION OF PRELIMINARY  
FINANCIAL RESPONSIBILITY**

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THE BRADY LINE SHIPPER GROUP  
471 South Highway 16  
San Saba, TX 76877

Offeror

THOMAS F. McFARLAND  
THOMAS F. McFARLAND, P.C.  
208 South LaSalle Street, Suite 1666  
Chicago, IL 60604-1228  
(312) 236-0204  
mcfarland@aol.com

Attorney for Offeror

Due Date: September 9, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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**FORMAL EXPRESSION OF INTENT TO FILE  
AN OFFER OF FINANCIAL ASSISTANCE (PURCHASE)  
AND DEMONSTRATION OF PRELIMINARY  
FINANCIAL RESPONSIBILITY**

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Pursuant to 49 C.F.R. § 1152.27(c)(1)(i) and (ii), the BRADY LINE SHIPPER GROUP (the Shipper Group or Offeror) hereby provides a formal expression of its intent to file an Offer of Financial Assistance (OFA) to purchase the rail line proposed for abandonment, and demonstrates its preliminary financial responsibility to fund such a purchase.

**IDENTITY AND INTEREST OF THE SHIPPER GROUP**

The Shipper Group is an ad hoc association of active users of the rail service provided by Central Texas & Colorado River Railway, LLC (CTXR). The members of the Shipper Group are The J.C. Smith Co., 471 South Highway 16, San Saba, TX 76877; P.W. Gillibrand Co. of Texas Inc., 4537 Ish Drive, Simi Valley, CA 93063; and Jacoby and Jacoby, Inc., 103 East Mesquite, Melvin, TX 76858. As active users of the rail line, the Shipper Group has a legitimate interest in continued rail service over that rail line.

**PRELIMINARY FINANCIAL RESPONSIBILITY AMOUNT**

It is provided in 49 C.F.R. § 1152.27(c)(1)(ii) that a person submitting an expression of intent to file an OFA must demonstrate that the person is financially responsible, under the

definition set forth in 49 C.F.R. § 1152.27(c)(1)(iv)(B), for the calculated preliminary financial responsibility amount (PFRA). A person is financially responsible under § (c)(1)(iv)(B) if the person “has or within a reasonable time will have the financial resources to fulfill its proposed contractual obligations”. That is, for present purposes, will the offeror have the financial ability to pay the PFRA?

The PFRA for a rail line purchase is determined by means of a calculation set forth in 49 C.F.R. § 1152.27(c)(1)(ii), i.e.:

...the sum of the rail steel scrap price per ton (dated within 30 days of the submission of the expression of intent), times 132 short tons per track mile or 117.857 long tons per track mile, times the length of the line in miles, plus \$4,000 times the number of miles of track times two.

It is provided in the same subsection that evidence must be provided in support of the calculation.

A letter from a representative of All American Track, Inc., dated September 4, 2019 states that the current price for uncut rail steel scrap is \$40 per short ton. A copy of that letter is attached hereto as Appendix 1. The representative of All American Track determined that price by means of recent conversations with rail scrap buyer, David J. Joseph Co. and Western Recycling (Appendix 1, first paragraph). The price was for rail scrap “in and near Brady, Texas”. (*Id.*) That determination of the current local rail scrap price provides adequate support for the rail steel scrap price of \$40 per short ton used in the Shipper Group’s calculation of PFRA.<sup>1/</sup>

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<sup>1/</sup> The letter was not directed to the Shipper Group, but its author has given permission for its inclusion in this pleading by the Shipper Group.

On that basis, the PFRA is \$896,400 as calculated below:

- (1) \$40 per short ton times 132 short tons per mile = \$5,280 per mile times 67.5 miles =  
\$356,400
- (2) \$4,000 per mile times 67.5 miles = \$270,000 times 2 = \$540,000
- (3) \$356,400 plus \$540,000 = PFRA of \$896,400

**THE SHIPPER GROUP'S ABILITY TO PAY THE PFRA**

Attached to this pleading as Appendix 2 is a copy of a Balance Sheet of The J.C. Smith Co. as of February 28, 2018 and February 28, 2019. The Balance Sheet shows that The J.C. Smith Co. has retained earnings of \$1,742,760 as of February 28, 2019. That amount is sufficient to pay the PFRA without regard to the retained earnings of other members of the Shipper Group. Appendix 2 therefore establishes that the Shipper Group has the ability to pay the PFRA.

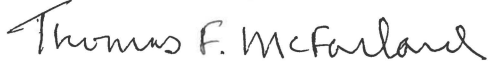
**CONCLUSION AND REQUESTED RELIEF**

WHEREFORE, the Shipper Group should be found to be financially responsible on a preliminary basis to purchase and operate the rail line.

Respectfully submitted,

THE BRADY LINE SHIPPER GROUP  
471 South Highway 16  
San Saba, TX 76877

Offeror

  
THOMAS F. McFARLAND  
THOMAS F. McFARLAND, P.C.  
208 South LaSalle Street, Suite 1666  
Chicago, IL 60604-1228  
(312) 236-0204  
mcfarland@aol.com

Attorney for Offeror

Due Date: September 9, 2019

**Appendix 1**



1238 Canyon Rd.  
PO BX 186  
Ash Fork AZ.  
86320

To: Tim Tennant  
North Central Railcorp, Inc.

Date: September 4, 2019

RE: Declining scrap prices

This letter is to advise you that while conducting business with our scrap buyer DJJ (David J Joseph, and Western Recycling) I was advised that the scrap price values have changed drastically since I first evaluated the scrap value of the CTRX Railroad in and near Brady, Texas.

The current price has dropped to \$70 a short ton for prepared (meaning each piece of rail is cut to 5 feet lengths or less) and for unprepared the price is \$40 a ton (which is how it would be scrapped by AAT).

The numbers listed above are scrap prices only; this does not allow for the rail being salvaged and resold as relay. The relay rail price is affected by graded headwear of rail, scrap values and supply and demand, and a company's ability to stockpile and sit on the rail until a buyer comes or scrap metal prices recover.

Feel free to contact me personally with questions and /or concerns.

**Richard Boehm**  
Engineering/Marketing  
(719) 240-7518  
[www.allamericantrack.com](http://www.allamericantrack.com)

**All American Track Inc – eRailsafe, ISN and BROWZ Certified**

J. C. SMITH COMPANY  
Balance Sheet  
February 28, 2019 and 2018

STB Docket No. AB-1272X

Appendix 2

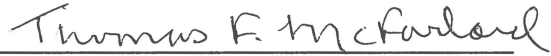
| ASSETS                              | <u>2019</u>             | <u>2018</u>             |
|-------------------------------------|-------------------------|-------------------------|
| Current Assets                      |                         |                         |
| Cash in Bank                        | 1,282,264               | 1,698,956               |
| Accounts Receivable                 | 212,031                 | 243,244                 |
| Notes Receivable Stockholders       | 114,490                 | 57,245                  |
| Inventory                           | 135,000                 | 135,000                 |
| Cash Surrender Value Life Insurance | 203,336                 | 203,336                 |
| Total Current Assets                | <u>1,947,120</u>        | <u>2,337,781</u>        |
| Fixed Assets                        |                         |                         |
| Land                                | 2,760                   | 2,760                   |
| Buildings, Trucks, Equipment        | 2,834,552               | 2,392,484               |
| Less Accumulated Depreciation       | 2,464,107               | 2,088,845               |
| Total Fixed Assets                  | <u>373,205</u>          | <u>306,399</u>          |
| Total Assets                        | <u><u>2,320,325</u></u> | <u><u>2,644,180</u></u> |

LIABILITIES AND STOCKHOLDERS' EQUITY

|                                                                               |                         |                         |
|-------------------------------------------------------------------------------|-------------------------|-------------------------|
| Current Liabilities                                                           |                         |                         |
| Accounts Payable                                                              | 156,667                 | 129,043                 |
| Accrued Bonuses Payable                                                       | 400,000                 | 765,000                 |
| Federal Income Tax Payable                                                    | 10,253                  | 19,294                  |
| Customer Deposits and Other Liabilities                                       | 645                     | 645                     |
| Total Current Liabilities                                                     | <u>567,565</u>          | <u>913,982</u>          |
| Stockholders' Equity                                                          |                         |                         |
| Capital Stock (10,000 Shares Authorized<br>and Outstanding, \$1.00 Par Value) | 10,000                  | 10,000                  |
| Retained Earnings                                                             | 1,742,760               | 1,720,198               |
| Total Stockholders' Equity                                                    | <u>1,752,760</u>        | <u>1,730,198</u>        |
| Total Liabilities and Stockholders' Equity                                    | <u><u>2,320,325</u></u> | <u><u>2,644,180</u></u> |

**CERTIFICATE OF SERVICE**

I hereby certify that on September 9, 2019, I served the foregoing document, Formal Expression Of Intent To File An Offer Of Financial Assistance (Purchase), And Demonstration Of Preliminary Financial Responsibility on Robert A. Wimbish, *rwimbish@fletcher-sippel.com* and Thomas Healey, Esq., *thealey@fletcher-sippel.com*, attorneys for Central Texas & Colorado River Railway, LLC.



Thomas F. McFarland