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THOMAS F. MCFARLAND

August 1, 2006

By UPS overnight mail

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: Finance Docket No. 34890, *PYCO Industries, Inc. -- Feeder Line Acquisition -- South Plains Switching, Ltd. Co.*

Dear Mr. Williams:

Enclosed please find an original and 10 copies of Statement In Opposition To Revised Feeder Line Acquisition, for filing with the Board in the above referenced matter.

Also enclosed is a computer disk with the filing in .pdf format.

Very truly yours,

Tom McFarland

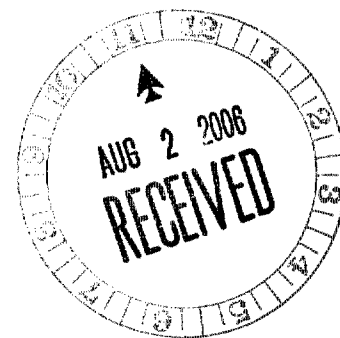
Thomas F. McFarland
Attorney for South Plains
Switching, Ltd. Co.

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BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. -- FEEDER)
LINE ACQUISITION -- SOUTH PLAINS) FINANCE DOCKET
SWITCHING, LTD. CO.) NO. 34890



**STATEMENT IN OPPOSITION TO
REVISED FEEDER LINE APPLICATION**

SOUTH PLAINS SWITCHING, LTD. CO.
P.O. Box 64299
Lubbock, TX 79464-4299

Respondent

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DATE FILED: August 2, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. -- FEEDER	)	
LINE ACQUISITION -- SOUTH PLAINS	)	FINANCE DOCKET
SWITCHING, LTD. CO.	)	NO. 34890

**STATEMENT IN OPPOSITION TO
REVISED FEEDER LINE APPLICATION**

Pursuant to the Board's decision served July 3, 2006, SOUTH PLAINS SWITCHING, LTD. CO. ("SAW") hereby submits its Statement in Opposition to the Revised Feeder Line Application (RFLA) filed by PYCO Industries, Inc. (PYCO) on June 14, 2006.

By virtue of a Board decision issued on July 21, 2005, KEOKUK JUNCTION RAILWAY COMPANY (KJRY) is authorized to file a competing feeder line application (FLA) on or before August 4, 2006. Under the accelerated procedural schedule adopted by the Board in this proceeding, to which SAW strongly objects (see Appendix 6 attached to this Statement), SAW's filing in response to FLAs is required to be filed before the filing of KJRY's FLA. SAW has filed a request for the right to reply to KJRY's FLA within a reasonable period of time after its filing. As of the filing of this Reply, the Board has not responded to that request.

FOREWORD

The genesis of the litigation that has culminated in this feeder line application was SAW's refusal to continue to grant PYCO the privilege of operating PYCO's trackmobile over SAW's yard tracks. PYCO had used SAW's yard tracks as its own private tracks since the inception of SAW's operations at Lubbock. The inability to operate its trackmobile in SAW's

yard required PYCO to construct extensive private trackage in PYCO Plant 1 in order to accommodate the number of railcars desired to be shipped from that Plant. SAW's discontinuance of the trackmobile privilege apparently infuriated PYCO because it required PYCO to make a substantial expenditure to construct the required private tracks.

PYCO has claimed that SAW's discontinuance of the trackmobile privilege was in retaliation for PYCO's refusal to purchase a portion of SAW's trackage at SAW's asking price before completion of due diligence. SAW has claimed that the privilege was discontinued instead for legitimate safety reasons, inasmuch as PYCO derailed cars in SAW's yard during trackmobile operations on several occasions, and PYCO's employees had been observed performing switching operations in an unsafe manner. Assuming for the sake of argument that the discontinuance was retaliatory, it was not an unlawful retaliation, inasmuch as it is clear that PYCO never had a contractual or legal right to operate its trackmobile in SAW's yard in the first place.

When SAW discontinued the trackmobile privilege, SAW invited PYCO to meet to talk about alternative means of accommodating the volume of traffic desired to be shipped from Plant 1. Instead of responding to that invitation, PYCO commenced preparation of litigation. As a result of PYCO's refusal to communicate, SAW was not requested to provide an additional daily switch and/or weekend switching at Plant 1 that would have enabled PYCO to ship the desired volume of traffic pending completion of additional private trackage. SAW would have provided the extra switching at no additional cost to PYCO, as evidenced by SAW's written offer to do so. PYCO ignored that offer as well, preferring again to litigate rather than to request SAW to provide the required rail service.

Under the plain and commonly-accepted meaning of “inadequate rail service,” a rail switching carrier provides inadequate service when on a recurring basis it fails to provide pick up and/or delivery of railcars in a reasonably timely manner, or fails to provide pick up and/or delivery at all. If that legally-sound definition is applied in this case, the record will not support a finding that SAW has provided inadequate rail service to PYCO, let alone to Attebury Grain or Farmers Compress. There is only a single instance in which SAW failed to provide requested pick up and delivery of railcars to PYCO. That occurred on Monday, November 28, 2005, when SAW experienced a locomotive breakdown that was repaired so that rail service resumed the next day. That is nothing like a pattern of failure to provide service that would support a finding of inadequate rail service. As for Attebury Grain and Farmers Compress, not once during SAW’s seven years of rail operations at Lubbock did either of those shippers complain that SAW was late on a pick up or delivery, let alone that there was a pattern of untimely SAW rail service.

There is no support in the record or in law for the Board’s novel finding that SAW provided inadequate rail service to Attebury Grain and Farmers Compress on the ground that those shippers “fear() that (they) could suffer retaliation in the form of poor service for criticizing (SAW)” (decision served July 3, 2006 at 4). The “fear” of those shippers is assertedly grounded on inadequate service that SAW allegedly provided not to those shippers themselves, but rather to Hi Plains Bag and Bagging Company (Hi Plains), Floyd Trucking Company (Floyd) and PYCO. Aside from the lack of factual support for those allegations, the actions on which those allegations are based do not constitute inadequate rail service as a matter of law:

- threatening to retaliate by providing poor service, but not carrying out the threat (Hi Plains);
- expending over \$15,000 to restore a switch connection to a shipper's private track, and providing the shipper with a copy of the standard railroad industry track agreement (Floyd); and
- withdrawing privileges extended to a shipper that are not part of the carrier's common carrier obligation, and to which the shipper had no contractual or legal right (PYCO).

Thus, there was no legal basis for any fear of "poor service" on the part of Attebury Grain or Farmers Compress. But even if there were, a fear of poor service in the future does not support a finding that rail service is inadequate. Congress cannot have intended that a rail carrier be deprived of its property not on the basis of poor service actually being provided to specific shippers, but instead based on their subjective fear that they might be poorly served in the future.

The reason that PYCO could not find another SAW shipper to testify that SAW has failed to provide it with timely switching service, or that SAW has refused to provide it with requested rail service, is that there is no such shipper. SAW has increased its rail traffic from 5,935 carloads in its first full year of operation in 2000 to 14,048 carloads in its most recent full year of operation in 2005, a 137 percent increase in only five years! SAW achieved that stellar traffic increase as a result of providing consistent, dependable rail switching service, not by bullying or threatening its shippers, as claimed by PYCO. There is simply no reasonable basis in this record for a finding that SAW has provided inadequate rail service to Attebury Grain, or to Farmers Compress, or to PYCO for that matter.

Moreover, splitting up SAW's rail lines under PYCO's Alternative Two would be the absolute worst possible result for all concerned. Depriving SAW of substantial trackage at and near its yard is certain to have a significant adverse financial effect on SAW, and to materially impede SAW's overall operational performance. SAW achieves an operating profit from its rail lines as a whole, but would suffer an operating loss if tracks comprising Alternative Two were required to be sold. SAW has been unable to respond affirmatively to a recent request by Southern Cotton Oil Company (an ADM affiliate that competes with PYCO) for trainload service because SAW does not have sufficient yard trackage to accommodate the necessary railcars in light of alternative rail service being performed for PYCO in and near SAW's yard. Taking additional SAW trackage to serve two more shippers would make that situation worse. If PYCO were to take Tracks 9201 and 9204 in SAW's yard as proposed under Alternative Two, SAW would be unable to provide rail service to its existing customers, Brite Trucking and Furr's.

Ironically, rail service would not be likely to improve under Alternative Two for PYCO, Attebury Grain, and Farmers Compress. BNSF has complained that the requirement that it interchange with both PYCO and SAW at the south end of BNSF's Lubbock Yard under Alternative Two would have a material adverse effect on its own operational efficiency. There necessarily would be a corresponding reduction in operational efficiency for PYCO and SAW, and a resulting decline in quality of rail service for shippers served by both PYCO and SAW. The broad overall public interest thus dictates that rail switching service in the South Lubbock area be performed by only one rail carrier. That wholly undermines PYCO's proposed Alternative Two.

For each of the foregoing reasons and all of them, public convenience and necessity, as spelled out in subparagraphs A through E of 49 U.S.C. § 10907(c)(1), cannot reasonably be found to permit or require SAW to involuntarily sell its trackage comprising Alternative Two. Factual support for the foregoing can be found in the verified statement of Mrs. Delilah Wisener, owner of SAW, that is attached as Appendix 1 of this Statement. Legal support for the positions set forth above can be found in SAW's Legal Argument at the conclusion of its factual presentation, attached as Appendix 5.

Inasmuch as the RFLA is required to be denied, it should be unnecessary for the Board to reach the issue of valuation of the trackage comprising Alternative Two. Nonetheless, in order to protect its interests in the event that the application were to be granted, SAW is submitting the following evidence on valuation:

<u>WITNESS</u>	<u>APPENDIX NO.</u>	<u>SUBJECT MATTER</u>
Joseph Plaistow	2	The Going Concern Value of the Trackage Comprising Alternative Two is \$8,053,614 if the surcharges authorized to be applied by SAW are fully applied, and \$5,463,649 if only the surcharge currently being applied by SAW is applied.
Edward Landreth	3	The trackage comprising Alternative Two does not require rail replacement or rehabilitation.
Dennis Olmstead	4	Furnishes Traffic Information for Going Concern Value

In Appendix 6 attached to this Statement, SAW sets forth its objection to the unfair accelerated procedural schedule adopted by the Board in this proceeding. In that Appendix, SAW also preserves its objections to the Board's acceptance of the RFLA for filing, on the following grounds:

- (1) the Board does not have statutory authority to entertain a FLA for the trackage comprising Alternative Two because under 49 U.S.C. § 10907(b)(1)(A)(i) the Board can only require a sale of "a particular railroad line," and the trackage comprising Alternative Two is not "a particular railroad line" of SAW; and
- (2) the Board does not have statutory authority to entertain a FLA for the trackage comprising Alternative Two because that trackage constitutes "switching tracks" within the meaning of 49 U.S.C. § 10906, over which the Board does not have authority to require the provision of adequate rail service, nor to require sale for the provision of inadequate rail service.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Revised Feeder Line Application should be denied.

Respectfully submitted,

SOUTH PLAINS SWITCHING, LTD. CO.
P.O. Box 64299
Lubbock, TX 79464-4299

Respondent

Thomas F. McFarland

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Attorney for Respondent

DATE FILED: August 2, 2006

VERIFIED STATEMENT OF DELILAH WISENER

My name is Delilah Wisener. I have been the sole owner of SOUTH PLAINS SWITCHING, LTD. CO. ("SAW") since the inception of SAW's rail operations in July, 1999.

SAW is a Class III rail carrier subject to the jurisdiction of the Surface Transportation Board (STB). SAW acts as a switching carrier transporting rail traffic between the South Lubbock Yard of BNSF Railway Company and the facilities of 24 shippers in the Lubbock Switching District located adjacent to SAW's tracks. Attached to this Statement as Appendix DW-1 is a listing of the shippers served by SAW. SAW acquired its rail lines at Lubbock from BNSF in 1999.

SAW is a small privately-owned company. My son, Shad, works as a member of the SAW train crew. My daughter, Shaila, works in the SAW office. Until he resigned a few months ago to placate PYCO Industries, Inc. (PYCO), my husband, Larry, was President and General Manager of SAW. I now perform the functions of those positions. SAW has a total of 11 employees.

I am familiar with the litigation between SAW and PYCO that has culminated in the revised feeder line application (RFLA) under consideration by the STB in this proceeding. In contrast to SAW's small local character, PYCO is a powerful national corporation. It is ludicrous for PYCO to contend, as it constantly does, that it is intimidated by SAW, which is essentially a mom-and-pop operation. The truth is that the relationship between SAW and PYCO is akin to that between David and Goliath, with PYCO the Goliath-like entity.

In its first full year of operation at Lubbock (i.e., in the year 2000), SAW originated or terminated 5,935 carloads. In 2005, its most recent full year of operation, SAW originated or terminated 14,048 carloads. That is an increase in traffic of 137 percent in only five years! SAW achieved that remarkable traffic increase as a result of good hard work, and by providing consistently dependable rail switching service for its customers. That extraordinary record of success could not have been achieved if SAW was bullying, threatening, and browbeating its shippers, as PYCO has falsely accused SAW of doing.

Attached to this Statement as Appendix DW-2 are copies of the results of a survey conducted by SAW in 2004 of how its shippers rate the quality of SAW's service. All 16 shippers who returned the survey rated SAW's service as excellent or nearly excellent (Goetz mistakenly marked the wrong numbers, as evidenced by its comment "great crew"). All three of the shippers located on the tracks comprising Alternative Two in this proceeding (i.e., PYCO, Attebury Grain and Farmers Compress) gave SAW's service the highest possible rating. (Appdx. DW-2 at 1, 2 and 7).

It is not reasonable to believe, as contended by PYCO, that after having provided the highest quality rail service to its shippers for the first five years of its operation, SAW would suddenly begin to browbeat and bully its shippers, and downgrade its rail service, beginning in 2005. That did not occur.

The event that sparked this litigation was SAW's refusal to continue to grant PYCO the privilege of operating PYCO's trackmobile on SAW's yard tracks to switch and stage PYCO's

rail shipments to and from its Plant No. 1. That occurred in early November, 2005. PYCO's Petition for Alternative Rail Service was filed a few weeks later.¹¹

From the inception of SAW's rail operations at Lubbock in 1999 until November, 2005, SAW permitted PYCO to operate PYCO's trackmobile between PYCO's Plant 1 and the nearby SAW Yard, and over SAW's yard tracks. By virtue of that privilege, PYCO used SAW's yard tracks as its own private tracks. PYCO's trackmobile was provided access to SAW's Yard at any time of the day or night. The trackmobile was used to switch and stage railcars to or from PYCO Plant No. 1. The trackmobile privilege permitted PYCO to greatly increase their efficiency of rail operations at its Plant No. 1.

The trackmobile privilege masked the fact that the private trackage at PYCO Plant 1 was inadequate to accommodate the number of railcars that would be required to be shipped each day in the event of a large cotton crop in the area. It turned out that there was such a crop in 2005. PYCO wanted to ship 24 cars per day from its Plant No. 1, but its private tracks at that Plant could accommodate only 13 cars at a time. Consequently, discontinuance of the trackmobile privilege required PYCO to construct additional private trackage at its Plant No. 1 at substantial cost. That apparently infuriated PYCO, because at that point PYCO began a vendetta against SAW which is still continuing.

¹¹ PYCO complained of service problems at its Plant No. 2 earlier in 2005, but by PYCO's own admission, those problems were resolved to its satisfaction, and did not precipitate litigation.

PYCO has claimed that SAW's discontinuance of the trackmobile privilege was in retaliation for PYCO's refusal to purchase a portion of SAW's rail lines at SAW's asking price before PYCO had a chance to complete due diligence. SAW has claimed that the privilege was discontinued instead for legitimate safety reasons, inasmuch as PYCO derailed cars on SAW's tracks during trackmobile operations on several occasions, and PYCO employees had been observed performing PYCO switching operations in an unsafe manner. However, even if the discontinuance was retaliatory, it was not unlawful retaliation because PYCO never had a contractual or legal right to operate the trackmobile on SAW's tracks in the first place. Nevertheless, PYCO has contended that SAW's discontinuance of this privilege was retaliation that resulted in inadequate rail service by SAW.

When SAW discontinued the PYCO trackmobile privilege, SAW invited PYCO to meet to talk about alternative means to accommodate the volume of traffic that PYCO desired to ship from Plant No. 1. SAW was willing to provide an additional daily switch and weekend switching at Plant 1 without additional charge to PYCO pending completion of PYCO's additional private trackage. Appendix DW-3 attached to this Statement is a copy of SAW's written offer to do so, dated January 6, 2006. PYCO ignored both SAW's invitation for a meeting and SAW's offer to provide additional switching at no added charge. PYCO cut off all communication with SAW in November, 2005 when SAW discontinued the PYCO trackmobile privilege.

PYCO has attempted to justify its failure to communicate by claiming that its representatives were too intimidated by Mr. Larry Wisener to accept SAW's invitation to meet. That explanation will not wash. PYCO's representatives could have requested that SAW provide a representative other than Mr. Wisener for the proposed meeting. I was available in that respect. In addition, PYCO could have responded in writing to SAW's meeting invitation and offer for additional switching. Instead, PYCO stonewalled, and increased litigation activities.

Moreover, PYCO has distorted Mr. Wisener's behavior throughout this litigation. For example, in the early part of 2005 PYCO flooded SAW's yard with railcars that PYCO could not accommodate at Plant No. 2 because of inadequate private trackage at that location. Mr. Wisener threatened to "cut PYCO's service off" (i.e., impose an embargo) because of the resulting congestion in SAW's yard. SAW would have been fully justified in doing so. However, PYCO complained to STB staff that Mr. Wisener threatened to withdraw rail service to Plant 2 permanently. PYCO has constantly repeated unjustified mischaracterizations of that kind in the hope of influencing the STB against SAW.

In late January, 2006, the STB ordered that West Texas & Lubbock Railway Company (WTL) provide alternative rail service to PYCO in lieu of SAW. PYCO has stated that WTL has handled many more railcars per day to or from PYCO's Plant No. 1 than SAW handled prior to the alternative rail service. That comparison is meaningless. WTL provided the additional switching service at Plant 1 that PYCO did not give SAW an opportunity to provide. Moreover, PYCO constructed additional private trackage to accommodate more cars at Plant 1 during

WTL's tenure that was lacking when SAW was providing service. SAW did not handle additional traffic to or from Plant 1 only because PYCO did not give SAW a reasonable opportunity to do so.

I now provide facts and circumstances that bear on the criteria used to determine whether public convenience and necessity permit or require sale of a rail line under the feeder line statute.

1. WHETHER SAW HAS REFUSED WITHIN A REASONABLE TIME TO MAKE THE NECESSARY EFFORTS TO PROVIDE ADEQUATE SERVICE TO ATTEBURY GRAIN, FARMERS COMPRESS AND PYCO

During the seven-year period in which SAW has provided service at Lubbock, not once has Attebury Grain or Farmers Compress complained to SAW or to the STB that SAW has refused to make necessary efforts to provide adequate service to their facilities. Had there been any such instance, Attebury Grain or Farmers Compress surely would have provided evidence of it for the record inasmuch as both shippers have supported PYCO's feeder line application. In light of their failure to do so, it can reasonably be concluded that there has been no such instance.

On the contrary, SAW has provided consistently dependable rail service to Attebury Grain and Farmers Compress during that seven-year period. Indeed, SAW has provided extra services to both of those shippers at no extra charge. There have been occasions when SAW made one of its locomotives and enginemen available to Attebury Grain without charge to replace an Attebury Grain locomotive that required repair during Attebury's switching of cars for its grain train. SAW has arranged for its mechanical and electrical technicians to work on Attebury Grain's locomotives when Attebury did not know who to call for repairs. SAW has

pulled grain trains for Attebury Grain on weekends at no extra charge. On many occasions, SAW crews have repaired railcars that were damaged by employees of Farmers Compress, without charging Farmers for the repairs. SAW negotiated with Union Pacific Railroad Company to provide boxcars to Farmers Compress when boxcars were in short supply on BNSF.

The only specific claim that PYCO has made that SAW refused to provide it with adequate service is that “SAW failed to provide any service to PYCO’s Plant No. 2 for approximately six days during the 2005 Thanksgiving holiday period.” That claim was made by Mr. Lacy of PYCO in a statement that was part of PYCO’s Petition for Alternative Rail Service filed at the STB in December, 2005.

Even if that claim were accurate, a single six-day service failure over a seven-year period of rail service cannot justify depriving a rail carrier of its rail line for inadequate service. If that were the case, every rail carrier in the country would be susceptible to having their rail lines involuntarily taken away. Rail carriers inevitably experience service failures from time to time. Only chronic, repeated service failures would warrant the drastic action of taking away a carrier’s property. SAW has not been accused of recurring service failures.

In any event, PYCO’s claim of service failure on the part of SAW is false and materially misleading. Daily service logs that were attached to Mr. Lacy’s Statement showed the following:

<u>Date</u>	<u>Activity at Plant 2</u>
Mon. Nov. 21, 2005	Scheduled service provided
Tues. Nov. 22, 2005	*Scheduled service not provided
Wed. Nov. 23, 2005	*Schedule service not provided
Thurs. Nov. 24, 2005	Thanksgiving Day - no scheduled service
Fri. Nov. 25, 2005	No log - no scheduled service
Sat. Nov. 26, 2005	No log - no scheduled service
Sun. Nov. 27, 2005	No log - no scheduled service
Mon. Nov. 28, 2005	*Scheduled service not provided (locomotive breakdown)
Tues. Nov. 29, 2005	Scheduled service provided

Those logs allege a failure of scheduled service by SAW on three occasions, not six as claimed by Mr. Lacy. But except for service prevented by a locomotive failure on November 28, SAW's records refute Mr. Lacy's contention that service to Plant 2 was not provided on November 22 and 23. SAW's records show that on Monday, November 21, PYCO requested 12 empty gondola cars at Plant 2. On Tuesday, November 22, PYCO requested 12 empty gondola cars at Plant 2. On November 22, SAW transported 29 loaded cars to the BNSF yard, including 12 loaded gondola cars from Plant 2. On November 23, PYCO requested 12 empty gondola cars at Plant 2. On November 23, SAW transported 25 loaded cars to the BNSF yard, including 11 loaded gondola cars and one "bad ordered" car from Plant 2. SAW's records thus establish that PYCO received scheduled rail service on both November 22 and 23.

Attached to this Statement as Appendix DW-4 is a copy of SAW's Invoice #41916 to PYCO, dated November 29, 2005, that shows that SAW placed empty gondola cars at PYCO Plant No. 2 on November 22, 2005 and November 23, 2005. That contemporaneous record refutes PYCO's contention that service was not performed at Plant 2 on those days. The only

day on which PYCO did not receive scheduled rail service was November 28 when a locomotive broke down. It was repaired promptly, and scheduled service resumed the next day.

There is no way that an isolated service glitch such as occurred on that single day can reasonably be treated as “refusal within a reasonable time to make the necessary efforts to provide adequate service” to PYCO. No railroad would be safe from an involuntary feeder line sale if a one-day service interruption due to equipment failure warranted STB action.

PYCO has made no other claim that SAW refused to provide it with scheduled rail service. In a verified statement signed on December 15, 2005, Mr. Lacy said:

... (S)ervice has been presently restored to the requested 12 railcars per day since Thanksgiving ...

PYCO made numerous filings at the STB between December 15, 2005 and late January, 2006.

In none of those filings did PYCO allege that SAW failed to provide scheduled rail service to PYCO during that period, even for a single day.

The isolated, single-day, quickly-corrected, service failure by SAW at Plant 2 is thus not the kind of event that warrants a finding that SAW refused within a reasonable time to make the necessary efforts to provide adequate service to PYCO.

2. WHETHER TRANSPORTATION IS INADEQUATE FOR THE MAJORITY OF SHIPPERS WHO TRANSPORT TRAFFIC OVER THE LINE

I do not see how transportation by SAW can be considered to be inadequate for Attebury Grain and Farmers Compress when the alleged supporting evidence is not based on service that SAW provided to Attebury Grain or Farmers Compress, but rather on a fear of possible future

inadequate service based on the alleged experience of other entities. Even if it could, however, the evidence does not support a finding that those other entities experienced retaliation in the form of poor service, as alleged.

Mr. Calvin Kidwell of High Plains Bag and Bagging Company has not alleged in his statement that SAW ever retaliated by providing poor rail service to High Plains. The most that can be gleaned from Mr. Kidwell's statement is an allegation that on one isolated occasion in 2005, Mr. Wisener threatened to retaliate against High Plains. SAW denies that Mr. Wisener did so, but, in any event, there is neither an allegation nor proof by High Plains that SAW ever actually provided inadequate service to High Plains, retaliatory or otherwise.

Floyd Trucking Company is not a shipper on SAW, and never has been. For that reason, it is obvious that SAW has never retaliated against Floyd Trucking by providing poor service. The upshot of the lengthy statement submitted in behalf of Floyd Trucking is: (1) at the urging of STB Staff, SAW expended more than \$15,000 to restore a switch connection to Floyd Trucking's private track; (2) SAW sent a standard industry track agreement to Floyd Trucking for signature that had the same terms and conditions as the agreement that governed the same private track before Floyd Trucking acquired it; (3) Floyd Trucking neither signed that agreement, nor contacted SAW to request changes in the agreement; (4) Floyd Trucking has never shipped anything by rail to or from that private track; and (5) SAW heard nothing from Floyd Trucking until nearly two years later when Floyd Trucking supported PYCO's Petition for Alternative Rail Service. Floyd Trucking now criticizes the standard industry track agreement, but it never did so

at the appropriate time when the agreement was first presented for its signature. Floyd Trucking has not made a credible case that SAW did not reasonably respond to its request for rail service.

PYCO has not proven that SAW ever retaliated against it by providing inadequate rail service. There have been instances in which SAW withdrew privileges that SAW previously provided to PYCO in light of PYCO's institution of legal actions against SAW. For example, SAW declined to enter into a new lease when PYCO's one-year lease of SAW Track 9298 expired. Similarly, SAW refused to agree to a private road crossing of SAW's tracks by PYCO. These were instances of SAW not going out of its way to make life easier for an adversarial party who was actively seeking to take away its railroad. There was nothing unlawful about SAW's actions. PYCO did not have a property right or a legal right to use of Track 9298, nor did PYCO have a contractual right or a legal right to cross SAW's tracks or operate its trackmobile on SAW's tracks.

Therefore, if SAW's actions are viewed as retaliatory, they were not unlawful retaliation. At no time did SAW ever retaliate against PYCO by providing less timely pick up and delivery of PYCO's shipments, or by compromising the rail switching service provided to PYCO in any other way.

Thus, if Attebury Grain and Farmers Compress feared possible future inadequate rail service based on the quality of rail service provided by SAW to High Plains and PYCO, and SAW's treatment of Floyd Trucking, it was a fear which was unfounded.

PYCO raised only one other claim of inadequate rail service by SAW, i.e., failure to supply an adequate number of boxcars to PYCO Plant No. 2. That, too, was an allegation by Mr. Lacy in PYCO's Petition for Alternative Service. That allegation, too, is contradicted by the facts.

Attached to this Statement as Appendix DW-5 is a copy of SAW's record of cars ordered by PYCO for Plant No. 2 and cars supplied in response to those orders during January, 2006. The appendix shows that all 16 boxcars ordered by PYCO during that period were supplied on a timely basis. Obviously, a 100-percent car supply cannot be considered to be inadequate rail service.

Even if the boxcar supply at PYCO Plant No. 2 were not shown to be adequate as a matter of fact, the guilty party would be BNSF, whose obligation it is to supply boxcars to PYCO, not SAW. Pursuant to the agreement by which BNSF sold its rail lines in South Lubbock to SAW, BNSF retained the right and the obligation to establish through routes and rates to and from points on SAW. Correspondingly, BNSF also retained the right and the obligation to furnish freight cars in furtherance of those rates. As strictly a switching railroad in the Lubbock terminal area, SAW does not have a legal right or obligation to furnish freight cars for transportation to or from points beyond its line.

In summary, there is no basis for a finding that SAW has failed to provide adequate transportation to any of the three shippers located on trackage comprising Alternative Two. That

being the case, PYCO has failed to prove that transportation is inadequate for the majority of shippers who transport traffic over the Alternative Two trackage.

3 and 4. WHETHER SALE OF TRackage COMPRISING ALTERNATIVE TWO WOULD HAVE (1) A SIGNIFICANT ADVERSE FINANCIAL EFFECT ON SAW; AND (2) AN ADVERSE EFFECT ON THE OVERALL OPERATIONAL PERFORMANCE OF SAW

Splitting up traffic and operations in the south Lubbock terminal, as proposed under Alternative Two, would have a serious adverse financial and operational effect on SAW, and on shippers that would continue to be served by SAW. That would be the case regardless of whether or not SAW receives the constitutional minimum value for the forced sale of the trackage comprising Alternative Two.

A forced sale of the trackage comprising Alternative Two would deprive SAW of approximately 57 percent of its total revenues, but would leave it with about 64 percent of its trackage on which it would continue to incur costs for maintenance and operation. It is evident that such a disproportionate loss of revenue vis-a-vis retention of costs would have a significant adverse financial effect on SAW. As appears in the verified statement of Joseph Plaistow, SAW derives a significant operating profit when operating all of its rail lines, but it would experience an operating loss if it were to be deprived of the trackage that comprises Alternative Two.

In addition, the Alternative Two scenario would prevent SAW from growing its traffic and revenue base, which is essential for the financial success of any shortline rail carrier. That is evident from SAW's inability to handle substantial new traffic that would be tendered by

Southern Cotton Oil Company (SCO). SCO recently inquired if SAW could transport new traffic consisting of trainloads of 80 to 100 cars of gluten feed.

SAW was forced to respond that it would be unable to transport that traffic under the current alternative service, which would worsen if SAW were to be deprived of the trackage that comprises Alternative Two. SAW would need extensive use of its only rail yard to handle SCO's trainloads. SCO's track capacity is 25 cars. Consequently, SAW would have to be able to hold 55 to 75 cars at a time for SCO in its yard. That would require the full use of two of SAW's yard tracks. SAW would require additional trackage for cars of its other customers. There would not be enough trackage available in SAW's yard if PYCO were to acquire the trackage that comprises Alternative Two.

SCO is an affiliate of Archer-Daniels-Midland Company. SCO is a competitor of PYCO. SCO has expressed dissatisfaction that its competitor may assume a dominant position as a railroad in the Lubbock terminal. SAW's inability to handle SCO's new traffic is a result of that dominance.

Based on SAW's extremely unsatisfactory operational experience during the period of alternative rail service, it would be an operating nightmare for SAW if its railroad were to be split up in the manner proposed in Alternative Two. Current operations in SAW's yard remain chaotic with West Texas & Lubbock Railway (WTL) using some yard tracks to serve PYCO; SAW using other yard tracks to serve its other shippers; and WTL and SAW sharing use of the main track through the yard. That intolerable situation would worsen if a rail carrier other than

SAW were to own tracks in SAW's yard, and were to use them to stage and store cars for two more shippers in addition to PYCO.

Attached to this Statement as Appendix DW-6 is a diagram of SAW's tracks. SAW's yard tracks are shown near the bottom of the diagram. There are five tracks for storing and staging cars in that yard, i.e., Track Nos. 9204, 9203, 9202, 9201 and 9205. Track No. 9298 is the main track through the SAW.

PYCO proposes to take Track Nos. 9204, 9201 and 9205 under Alternative Two. That action would leave SAW with only two of the shorter yard tracks to serve 21 shippers, while PYCO would have three lengthy yard tracks to serve only 3 shippers. That would be plainly unfair.

At a minimum, SAW needs Track Nos. 9201, 9202 and 9203 to have space for storage and handling cars for its remaining shippers under Alternative Two. Those three tracks have a combined capacity of approximately 90 cars. That is barely adequate to serve 21 shippers. PYCO does not need Track No. 9201 for storage of cars now that it has constructed extensive additional private track within its Plant No. 1. PYCO can make up its outbound interchange from Plant 1 on Track 9205, which accommodates 45 to 50 cars, depending on their length.

Moreover, as can be seen from Appendix DW-6, if PYCO were to own both Track No. 9204 and Track No. 9201, SAW could be denied access to two of its existing customers, Brite Trucking and Furrs, as well as SAW's track for inspecting, servicing and storing locomotives. A

feeder line proceeding should not be used to deprive an incumbent rail carrier of the ability to provide service to customers that the new rail carrier does not propose to serve.

SAW's yard is too small for two rail carriers to operate on an efficient basis. If SAW were to be forced to share operations in that yard with PYCO, there undoubtedly would be an adverse effect on SAW's overall operational performance.

5. WHETHER SALE OF TRACKAGE COMPRISING ALTERNATIVE TWO WOULD RESULT IN IMPROVED TRANSPORTATION FOR PYCO, ATTEBURY GRAIN AND FARMERS COMPRESS

Ironically, if trackage comprising Alternative Two were to be sold to PYCO, rail service to PYCO, Attebury Grain and Farmers Compress would not improve. On the contrary, rail service for all shippers in South Lubbock would be likely to decline.

Prior to WTL's operation under alternative rail service, only one rail carrier, SAW, interchanged with BNSF at the south end of BNSF's Lubbock Yard. Even under alternative rail service as a result of an operating protocol, only one rail carrier, WTL, interchanged with BNSF on inbound traffic.

If trackage comprising Alternative Two were to be sold to PYCO, two rail carriers, PYCO and SAW, would interchange with BNSF at the south end of BNSF's Lubbock Yard on both inbound and outbound traffic. That would have a material adverse effect on overall service efficiency for all Lubbock shippers, including PYCO, Attebury Grain and Farmers Compress.

Attached to this Statement as Appendix DW-7 is a copy of a pleading that BNSF recently filed in a related STB proceeding. The upshot of that pleading is that a requirement that BNSF

interchange with two rail carriers at the south end of BNSF's Lubbock Yard would adversely affect, and unduly interfere with, BNSF's rail operations. BNSF's reference is clearly to PYCO and SAW. BNSF suggested in that pleading that the STB require PYCO and SAW to enter into an operating plan whereby only one of them would interchange, similar to the operating protocol under alternative rail service.

SAW would vehemently resist any such requirement that would result in PYCO interchanging SAW's traffic with BNSF. As a result of SAW's Asset Purchase Agreement with BNSF, SAW has a specific contractual right to interchange directly with BNSF in BNSF's Lubbock Yard. I have been advised by SAW's counsel that in addition, SAW has a legal right to directly interchange with BNSF that cannot be lawfully rescinded in a feeder line proceeding that does not require sale of the track by which such direct interchange is effected.

SAW has experienced distinctly inferior rail service, compared to direct interchange with BNSF, when SAW has had to rely on WTL to bring its inbound traffic from BNSF's yard during alternative rail service. For that reason, SAW definitely would not agree that PYCO could interchange SAW's inbound and outbound traffic with BNSF. Based on my experience with PYCO, it is virtually certain that PYCO would not agree that SAW could interchange PYCO's traffic with BNSF. The inevitable result would be interchange by both PYCO and SAW with decreased efficiency in BNSF's yard, as referred to in Appendix DW-7, and a corresponding decline in quality of service for all Lubbock shippers, including PYCO, Attebury Grain and Farmers Compress.

CONDITION OF TRACK COMPRISING ALTERNATIVE TWO

On July 24, 2006, Mr. David Roberts, a track inspector employed by the Federal Railroad Administration (FRA) at its office in Clarendon, Texas, stopped in my office in Slaton, Texas. Mr. Roberts stated to me that earlier that day he had inspected the trackage that comprises Alternative Two in response to a complaint that the FRA had received. Mr. Roberts stated to me that based on his inspection, there are no defects of FRA safety regulations in that trackage, and that the condition of that trackage exceeds FRA requirements for my railroad.

Attached to this Statement as Appendix DW-8 is a copy of SAW's letter to the STB dated June 16, 2006 regarding a WTL derailment on Alternative Two trackage on June 14, 2006. I bring that matter to the attention of the STB because PYCO falsely alleged that the derailment occurred because of a defective track condition. As attested by the statements of SAW operating personnel that are part of Appendix DW-8, the derailment actually occurred because of unsafe operation by WTL.

SURCHARGE AUTHORITY

SAW has authority to assess surcharges in the amount of \$60 per car on shipments of less than 27 cars and \$40 per car on shipments of 27 cars or more. Attached to my statement as Appendix DW-9 is a copy of a letter dated April 26, 2004 from an attorney for BNSF to an attorney for SAW providing BNSF's consent to SAW's assessment of such surcharges.

SAW's authority to assess such surcharges was an important factor in offer that SAW recently received for purchase of its rail lines. Without question, SAW's authority to assess surcharges adds substantial value to SAW as a going concern.

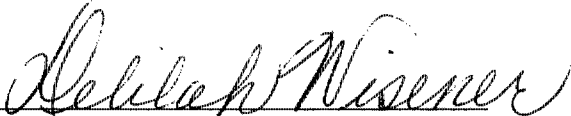
CONCLUSION

My evidence shows that SAW has not provided inadequate service to PYCO, Attebury Grain and Farmers Compress. On the contrary, during SAW's seven years of providing rail service at Lubbock, SAW has provided consistently dependable rail service that has led to nearly a tripling of SAW's traffic. I implore the STB to permit SAW to continue to provide high-quality rail service to all Lubbock shippers by denying the Revised Feeder Line Application.

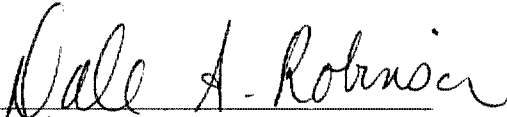
VERIFICATION

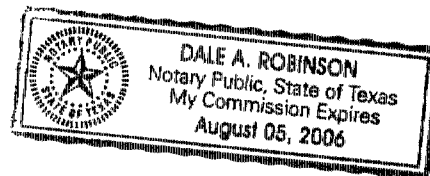
STATE OF TEXAS)
) SS:
COUNTY OF LUBBOCK)

DELILAH WISENER, being duly sworn on oath, deposes and states that she has read the foregoing statement, that she knows the contents thereof, and that the facts therein stated are true and correct.


DELILAH WISENER

SUBSCRIBED AND SWORN to
Before me this 28th day
of July, 2006.


Notary Public



My Commission Expires:

Aug 05, 2006

APPENDIX DW-1

South Plains Switching, Ltd. Co.
P. O. BOX 64299 LUBBOCK, TEXAS 79464
PHO: (806)828-4841 FAX: (806)828-4863

JUNE 15, 2006

List of SAW Customers:

- | | |
|--------------------------------|---|
| 1) Farmrail | 13) Blue Linx |
| 2) PYCO | 14) International Fiber Products |
| 3) Teinert Metals, Inc. | 15) Farmers Compress |
| 4) Dodson Lumber | 16) Attebury Grain |
| 5) Russell E. Womack | 17) Southern Cotton Oil |
| 6) 84 Lumber | 18) Hanson Aggregate |
| 7) Wilkerson Storage | 19) Brite Trucking |
| 8) Vulcan Materials | 20) ABC Supply |
| 9) Acme Brick | 21) Dynamic Foods |
| 10) Robertson Bonded Warehouse | 22) South Plains Warehouse |
| 11) Stock Builders | 23) Hi Plains Bag and Bagging |
| 12) Pantex | Soon to be 24) Weaver Grain Company
(sent track lease yesterday) |

APPENDIX DW-2

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

PYCO

Rail car delivery to facility (1) 2 3 4 5 6 7 8 9 10

Rail car pick up at facility (1) 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) (1) 2 3 4 5 6 7 8 9 10

Office response for questions (1) 2 3 4 5 6 7 8 9 10

Car supply for loads (1) 2 3 4 5 6 7 8 9 10

Survey Completed by

Kelly Jack

All of the service has been excellent &
it is very much appreciated.

Additional Comments

I think there is some misunderstanding
on our end about when demurrage charges
start. We should be able to eliminate those
all together, but we're still getting some pretty
high bills. We need to see which equipment
is getting charged so I can let the guys on
the yard know what they need to do differently.

Guys
on
the
yard

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Attebury Grain

Rail car delivery to facility (1) 2 3 4 5 6 7 8 9 10

Rail car pick up at facility (1) 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) (1) 2 3 4 5 6 7 8 9 10

Office response for questions (1) 2 3 4 5 6 7 8 9 10

Car supply for loads (1) 2 3 4 5 6 7 8 9 10

Survey Completed by

Dean M. Hood

Additional Comments

Larry, Can you please buy out the
BNSF so we can have good service at
all of our locations?
Dean

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Dodson Lumber

Rail car delivery to facility ① 2 3 4 5 6 7 8 9 10

Rail car pick up at facility ① 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) ① 2 3 4 5 6 7 8 9 10

Office response for questions ① 2 3 4 5 6 7 8 9 10

Car supply for loads 1 2 3 4 5 6 7 8 9 10

Survey Completed by

Hud

Additional Comments

Your entire crew are always very
accomodating and courteous. Very efficient + helpful -
It is a pleasure to work with you. Thanks,
Hud

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Russell E. Womack

Rail car delivery to facility ① 2 3 4 5 6 7 8 9 10

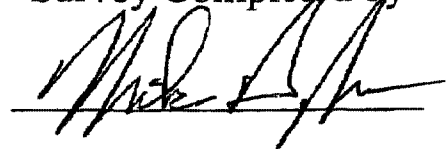
Rail car pick up at facility ① 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) ① 2 3 4 5 6 7 8 9 10

Office response for questions ① 2 3 4 5 6 7 8 9 10

Car supply for loads 1 2 3 4 5 6 7 8 9 10

Survey Completed by



Additional Comments

We are still having problems with cars getting bunched together by
the BN Railroad.

Please circle service with 1 being excellent and 10 being poor

Car supply for loads (1 2 3 4 5 6 7 8 9 10)

Additional Comments
We have been satisfied with the quality of service. We do prefer switching early mornings

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Stock Builders

Rail car delivery to facility 1 ② 3 4 5 6 7 8 9 10

Rail car pick up at facility 1 2 ③ 4 5 6 7 8 9 10

Additional switching
(requested or required) 1 ② 3 4 5 6 7 8 9 10

Office response for questions 1 ② 3 4 5 6 7 8 9 10

Car supply for loads N/A 1 2 3 4 5 6 7 8 9 10

Survey Completed by

James Cyp

Additional Comments

Thank you for all of your help that ya'll do for us!

I wish you had a way of getting cars out of amarillo
that tend to sit there for several days.

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Farmers Co-op

Rail car delivery to facility 1 ② 3 4 5 6 7 8 9 10

Rail car pick up at facility ① 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) ① 2 3 4 5 6 7 8 9 10

Office response for questions ① 2 3 4 5 6 7 8 9 10

Car supply for loads ① 2 3 4 5 6 7 8 9 10

Survey Completed by

Albert Jimenez

Additional Comments

YOUR SWITCH CREW IS DOING AN EXCELLENT
JOB. I KNOW SOMETIMES I REQUEST IF I CAN
GET A SWITCH EARLY BUT GET IT AFTER LUNCH
BUT I UNDERSTAND YOU GUYS ARE VERY BUSY AND CAN'T
ALWAY GET MY CARS THAT EARLY. I KNOW YOU GOT OTHER
CUSTOMERS BESIDES ME.

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

ABC Supply

Rail car delivery to facility 1 ② 3 4 5 6 7 8 9 10

Rail car pick up at facility 1 2 3 4 5 6 7 8 9 10

we do not monitor.

Additional switching *N/A* 1 2 3 4 5 6 7 8 9 10
(requested or required)

Office response for questions ① 2 3 4 5 6 7 8 9 10

* Car supply for loads 1 2 3 4 5 ⑥ 7 8 9 10

Survey Completed by

Brian Dulaney
ABC Supply Co.

Additional Comments

** At location of shipper (Malakoff @ Portland, Or.), they sometimes
have problems getting cars.*

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Georgia Pacific

Rail car delivery to facility

① 2 3 4 5 6 7 8 9 10

Rail car pick up at facility

① 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required)

① 2 3 4 5 6 7 8 9 10

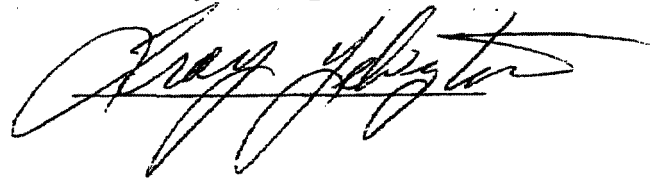
Office response for questions

① 2 3 4 5 6 7 8 9 10

Car supply for loads

① 2 3 4 5 6 7 8 9 10

Survey Completed by



Additional Comments

EVERY ONE, OFFICE & SWITCHING DOES
EVERYTHING THEY CAN TO SOLVE OUR
PROBLEMS. YOUR SERVICE HAS BEEN
EXCELLENT AND I LOOK FORWARD TO WORKING
WITH ALL OF YOU IN THE FUTURE
THANK YOU FOR THE SERVICE WE RECEIVE
IT IS APPRECIATED.

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

ACME Brick

Rail car delivery to facility 1②3 4 5 6 7 8 9 10

Rail car pick up at facility ①2 3 4 5 6 7 8 9 10

Additional switching ①2 3 4 5 6 7 8 9 10
(requested or required)

Office response for questions ①2 3 4 5 6 7 8 9 10

Car supply for loads 1 2 3 4 5 6 7 8 9 10 NA

Survey Completed by

Pat Sattis

Additional Comments

Cars are sometimes delivered with doors on
wrong side to be unloaded.

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Robertson Bonded Warehouse

Rail car delivery to facility ① 2 3 4 5 6 7 8 9 10

Rail car pick up at facility ① 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) ① 2 3 4 5 6 7 8 9 10

Office response for questions ① 2 3 4 5 6 7 8 9 10

Car supply for loads ① 2 3 4 5 6 7 8 9 10

Survey Completed by

Walter Robertson

Additional Comments

Everyone involved is great to work
with! Very cooperative & communication
is great! Thank you for a job well done!

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Hi Plains Bag - Bagging

Rail car delivery to facility 1 2 3 4 5 6 7 8 9 10

Rail car pick up at facility 1 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) 1 2 3 4 5 6 7 8 9 10

Office response for questions 1 2 3 4 5 6 7 8 9 10

Car supply for loads 1 2 3 4 5 6 7 8 9 10

Survey Completed by



Additional Comments

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Furrs

Rail car delivery to facility ① 2 3 4 5 6 7 8 9 10

Rail car pick up at facility ① 2 3 4 5 6 7 8 9 10

Additional switching
(requested or required) ① 2 3 4 5 6 7 8 9 10

Office response for questions ① 2 3 4 5 6 7 8 9 10

Car supply for loads ① 2 3 4 5 6 7 8 9 10

Survey Completed by

Lynda Dube
4/26/03

Additional Comments

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Goetz

Rail car delivery to facility 1 2 3 4 5 6 7 8 9 (10)

Rail car pick up at facility 1 2 3 4 5 6 7 8 9 (10)

Additional switching 1 2 3 4 5 6 7 8 9 (10)
(requested or required)

Office response for questions 1 2 3 4 5 6 7 8 9 (10)

Car supply for loads 1 2 3 4 5 6 7 8 9 (10)

Survey Completed by

Bill Davidson

Additional Comments

Great Crew

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

Pantex

Rail car delivery to facility	1 2 ③ 4 5 6 7 8 9 10	
Rail car pick up at facility	1 ② 3 4 5 6 7 8 9 10	
Additional switching (requested or required)	1 2 3 4 5 6 7 8 9 10	N/A
Office response for questions	1 2 ③ 4 5 6 7 8 9 10	
Car supply for loads	1 2 3 4 5 6 7 8 9 10	N/A

Survey Completed by

Mark Gann

Additional Comments

Service and support comments for South Plains Switching Railroad

Please circle service with 1 being excellent and 10 being poor

84 Lumber

Rail car delivery to facility ① 2 3 4 5 6 7 8 9 10

Rail car pick up at facility 1 ② 3 4 5 6 7 8 9 10

Additional switching
(requested or required) 1 2 3 4 5 6 7 8 9 10 N/A

Office response for questions ① 2 3 4 5 6 7 8 9 10

Car supply for loads ① 2 3 4 5 6 7 8 9 10

Survey Completed by

Pat Beller

Additional Comments

Quality Service is the #1 key so keep
up the good work!

APPENDIX DW-3

LAW OFFICE
THOMAS F. McFARLAND, P.C.
208 SOUTH LASALLE STREET, SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. McFARLAND

January 6, 2006

By electronic mail

Vernon A. Williams
Surface Transportation Board
Case Control Branch
1925 K Street, N.W., Suite 713
Washington, DC 20423-0001

Re: STB Finance Docket No. 34802, *PYCO Industries, Inc. - Alternative Rail Service - South Plains Switching, Ltd. Co.*

Dear Mr. Williams:

Pursuant to 49 C.F.R. § 1117.1, South Plains Switching, Ltd. Co. (SAW) hereby respectfully seeks leave to submit the following matter in clarification of matter in PYCO's rebuttal on the subject of a second switch to PYCO's Plant No. 1. The matter hereby submitted is intended to provide a basis for agreement between SAW and PYCO in resolution of the dispute in this proceeding.

SAW provides service to Plant 1 at 7:30 a.m., Monday through Friday. SAW first pulls loads from the Plant 1 shop track on which 12 cars can be accommodated. SAW then spots empties on the shop track, again as many as the 12 cars that the shop track will hold. That operation typically takes about one hour. SAW then provides service to its other shippers. SAW has 18 other shippers. Not all of those shippers have traffic on every weekday, but the amount of time required to serve those shippers is substantial. The workday of SAW's switch crew is also affected by the amount of time required to gain access to the BNSF yard to interchange cars.

SAW hereby undertakes to provide a second switch to PYCO Plant 1, on request, with SAW's regular switch crew at no extra charge to PYCO if SAW can provide that second switch within that crew's 12-hour day. Even if the second switch cannot be performed in the 12-hour day, SAW hereby undertakes to perform the second switch without additional charge if PYCO releases at least 24 loaded cars in the two switching operations. If a second switch to PYCO Plant 1 cannot be performed within that 12-hour day and a total of 24 loaded cars are not released in the two switches, SAW will perform the second switch, on request, with a second switch crew at the tariff charge of \$500.

THOMAS F. McFARLAND, P.C.

Vernon A. Williams

January 6, 2006

Page 2

SAW has the equipment and personnel to provide that second switch. SAW has six locomotives; five FRA-certified locomotive engineers; and three qualified trainmen at Lubbock. SAW denies ever having told anyone at PYCO that SAW did not have sufficient equipment or personnel to provide a second switch to PYCO. Regardless of who is telling the truth about that, SAW emphasizes that it does have sufficient equipment and personnel to provide the second switch at this time, and that it is ready, willing and able to provide second switches, as requested.

SAW's commitment to provide a second switch to meet all of PYCO's reasonable service requirements removes any legitimate issue about the adequacy of SAW's rail service to PYCO within the meaning of 49 U.S.C. § 11123(a) and 49 C.F.R. § 1146.

There are numerous inaccuracies and distortions in PYCO's Rebuttal which could be corrected by SAW, but SAW will not burden the record in light of the overriding importance of its commitment to provide a second switch. One inaccuracy is so blatant, however, that it should not remain uncorrected. Contrary to the statement in the letter of Floyd Trucking, Inc. (Floyd), Floyd has never been a shipper on SAW. At the urging of Board staff, SAW restored a switch connection to Floyd's property at a cost of \$15,000 to SAW. Floyd had never made a rail shipment on SAW prior to that time, and has never made a rail shipment since. Floyd says that the contract that SAW sent to Floyd was "entirely unacceptable." That contract was the Santa Fe Railway standard industrial track agreement with American Iron & Metal Company that existed for a lengthy time before Floyd acquired the property. The only change was replacing Santa Fe's name with SAW's, and American's name with Floyd's. Floyd is not a shipper on SAW, and Floyd's support of PYCO's Petition is thus worthless.

The Board should be made aware that the owner of the West Texas & Lubbock Railroad has twice attempted to purchase SAW, but SAW did not agree to be sold. West Texas & Lubbock is attempting to use the Board for an acquisition that it was not able to negotiate on an arm's-length basis.

The verification of SAW President, Larry D. Wisener, is attached to confirm SAW's commitment to provide a second switch to PYCO Plant 1 under the circumstances described.

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for South Plains
Switching, Ltd. Co.

TMF:kt/1144/urnb2

cc: Charles H. Montange, Esq.) by facsimile w/mail
John Heffner, Esq.) confirmation

VERIFICATION

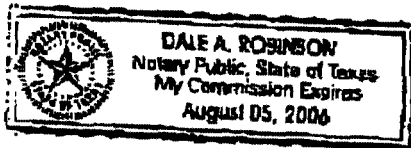
STATE OF TEXAS)
)
COUNTY OF LUBBOCK)

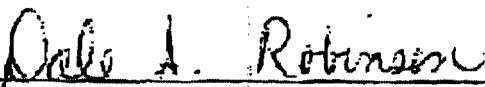
SS:

LARRY WISENER, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein state are true and correct.


Larry Wisener

SUBSCRIBED AND SWORN to before me this 5th day of January, 2006.




Notary Public
My Commission Expires on: August 05, 2006

APPENDIX DW-4

SOUTH PLAINS SWITCHING LTD., CO.

P. O. BOX 64299
LUBBOCK, TX 79462-4299
SLATON, TX 79364

Invoice

Date	Invoice #
11/29/2005	41916

Bill To PYCO INDUSTRIES P. O. BOX 841 LUBBOCK, TEXAS 79408
--

PAID

P.O. No.	Terms	Project
	Due Upon Receipt	

Quantity	Description	Rate	Amount
11	NOVEMBER 22, 2005, REQUEST FOR 12 EMPTY GONDOLA CARS FOR PLANT TWO 12 PLACED; ONE REJECTED; CHARGE FOR 11	150.00	1,650.00
3	NOVEMBER 23, 2005, REQUEST FOR 3 EMPTY TANK CARS AT PLANT ONE CARS PLACED: NATX 250711, NATX 250964, NATX 250983	150.00	450.00
2	NOVEMBER 23, 2005, REQUEST FOR 2 EMPTY BOX CARS AT PLANT ONE CARS PLACED: ATSF 600606, ATSF 600670	150.00	300.00
1	NOVEMBER 23, 2005, REQUEST FOR 1 EMPTY HOPPER AT PLANT ONE CAR PLACED: BNSF 469671	150.00	150.00
4	NOVEMBER 23, 2005, REQUEST 4 EMPTY GONDOLA CARS AT PLANT ONE CARS PLACED: BN 585263, BN 585272, BN 587334, BN 587300, BN 587515, BN 587006	150.00	600.00
11	NOVEMBER 23, 2005, REQUEST 12 EMPTY GONDOLA CARS AT PLANT TWO CARS PLACED: BN 587241, BN 587350, BN 587663, BN 587095, BN 587375, BN 587250, BN 587655, BN 587640, BN 585294, BN 585283, BN 587266, BN 587219 12 PLACED; ONE REJECTED; CHARGE FOR 11	150.00	1,650.00
With questions regarding this invoice please contact Larry Wisener. Office: 828-484 Cell: 781-4441		Total	\$9,150.00

APPENDIX DW-5

PYCO
Box Car Request to Plant 2
January 1, 2006 through January 29, 2006

	Request	Received
1/2/06	2	2
1/3/06	2	2
1/4/06	0	0
1/5/06	2	2
1/6/06	2	0
1/9/06	0	0
1/10/06	0	2
	Requested 12 gons 0 boxes/ out of gons placed 9 Gons and 2 Boxes	
1/11/06	0	0
1/12/06	0	0
1/13/06	0	0
1/16/06	4	4
1/17/06	4	4
1/18/06	0	0
1/19/06	0	0
1/20/06	0	0
1/23/06	0	0
1/24/06	0	0
1/25/06	0	0
1/26/06	0	0
1/27/06	0	0
1/28/06	0	0
1/29/06	0	0

APPENDIX DW-6

TOSANTA

50th

GATE

RUN

PAYLESS

9420

46th

9330

9331

9332

FLATS

BOXES

9325

9

44th

932

HILL PLAINS

9321

9324

42nd

9310

So. PLAINS

9311

9320

WALKE

40th

9409

9410 FLAT

BO

9414

BEANS

34th

Locomotive inspection,
servicing and storage
track

9204

9203

9202

9201

9298

9205

FURR

FURR

ORCHARD LEAD

DERAIL

TANK PLANT

P.C.O. PLANT

Welded

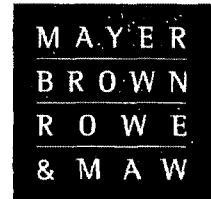
To Brite Trucking

APPENDIX DW-7

RECEIVED

JUL 11 2006

McFarland, P.C.



July 10, 2006

Mayer, Brown, Rowe & Maw LLP
1909 K Street, N.W.
Washington, D.C. 20006-1101

BY HAND-DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Main Tel (202) 263-3000
Main Fax (202) 263-3300
www.mayerbrownrowe.com

Adrian L. Steel, Jr.
Direct Tel (202) 263-3237
Direct Fax (202) 263-5237
asteel@mayerbrownrowe.com

Re: Finance Docket No. 33753 (Sub-No. 1), South Plains
Switching, Ltd. – Acquisition Exemption – BNSF Railway
Company

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are the original and ten (10) copies of BNSF Railway Company's Reply to Petition for Partial Revocation.

I would appreciate it if you would date-stamp the enclosed extra copy and return it to the messenger for our files. Please let me know if you have any questions. Thank you for your assistance.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Adrian L. Steel, Jr.", with a stylized flourish at the end.

Adrian L. Steel, Jr.

Enclosures

cc: Thomas F. McFarland, Esq.
William R. Power, Esq.
Charles H. Montange, Esq.
Gary McLaren, Esq.
John D. Heffner, Esq.
William C. Sippel, Esq.

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33753 (Sub-No. 1)

SOUTH PLAINS SWITCHING, LTD.
– ACQUISITION EXEMPTION –
BNSF RAILWAY COMPANY

**BNSF RAILWAY COMPANY'S
REPLY TO PETITION FOR PARTIAL REVOCATION**

Richard E. Weicher
Michael E. Roper
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

Adrian L. Steel, Jr.
Mayer, Brown, Rowe & Maw LLP
1909 K Street, NW
Washington, DC 20006
(202) 263-3237

Attorneys for BNSF Railway Company

Dated: July 10, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33753 (Sub-No. 1)

SOUTH PLAINS SWITCHING, LTD.
– ACQUISITION EXEMPTION –
BNSF RAILWAY COMPANY

**BNSF RAILWAY COMPANY'S
REPLY TO PETITION FOR PARTIAL REVOCATION**

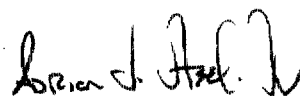
BNSF Railway Company (“BNSF”) hereby submits its reply to the Petition for Partial Revocation filed in this docket by PYCO Industries, Inc. (“PYCO”). BNSF expresses no position with respect to whether partial revocation should be granted. However, if the Board determines to grant revocation or otherwise act to address PYCO’s concerns with respect to the service provided at its facility at Lubbock, TX,¹ BNSF requests that the Board ensure that BNSF’s operations at Lubbock not be disadvantaged or adversely impacted.

Specifically, under the Board’s interim alternative service order issued in *PYCO Industries, Inc.–Alternative Rail Service–South Plains Switching, Ltd. Co.*, F.D. No. 34802 (served June 21, 2006), BNSF interchanges traffic with South Plains Switching, Ltd., Co. (“SAW”) and West Texas & Lubbock Railway Company, Inc. (“WTL”) at BNSF’s Lubbock Yard. Prior to the institution of alternative rail service, BNSF interchanged only with SAW at its

¹ PYCO has applied under the Feeder Line provisions of 49 U.S.C. 10907 and 49 C.F.R. 1151 to acquire certain lines of SAW at Lubbock. *See Revised Feeder Line Application*, F.D. No. 34890, filed June 14, 2006.

Lubbock Yard, and, while BNSF has worked with SAW and WTL to seek to maintain efficient operations during the interim period of alternative rail service,² the Board should require that, whatever relief is ultimately granted, BNSF can operate at Lubbock efficiently and without undue interference. This could be achieved by requiring that the relevant parties enter into an operating plan which would achieve that result. If the parties are not able to agree to the terms and conditions of such a plan, the Board could resolve their differences.

Respectfully submitted,



Richard E. Weicher
Michael E. Roper
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76131
(817) 352-2353

Adrian L. Steel, Jr.
Mayer, Brown, Rowe & Maw LLP
1909 K Street, NW
Washington, DC 20006-1101
(202) 263-3237

Attorneys for BNSF Railway Company

Dated: July 10, 2006

² Under the parties' current arrangement, BNSF delivers incoming traffic destined to shippers on SAW's lines to WTL at BNSF's Lubbock Yard. WTL then moves the traffic to SAW's yard where the traffic which SAW is to deliver is given to SAW. WTL then delivers PYCO's traffic to its facility. In contrast, outgoing traffic is delivered from the customers' facilities to the BNSF yard directly by both SAW and WTL. Both SAW and WTL must utilize portions of BNSF's mainline in making their deliveries of outgoing traffic, and the increased use of the mainline has at times interfered with BNSF's operations.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of July 2006, a true and correct copy of the foregoing
Reply to Petition for Partial Revocation was served by overnight delivery on the following:

Thomas F. McFarland, Esq.
Thomas F. McFarland, P.C.
208 South LaSalle St., Suite 1890
Chicago, IL 60604-1112

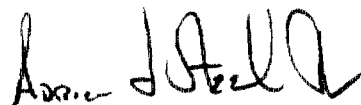
William R. Power, Esq.
William R. Power, P.C.
260 Cordovan Park-5840 W Interstate 20
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Charles H. Montange, Esq.
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Suite 920
Chicago, IL 60606-2875



Anne J. Steel

APPENDIX DW-8

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LA SALLE STREET - SUITE 1890
CHICAGO, ILLINOIS 60604-1112
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mcfarland@aol.com

THOMAS F. MCFARLAND

June 16, 2006

By UPS overnight mail
(Monday delivery)

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 34802, *PYCO Industries, Inc. -- Alternative Rail Service*
-- South Plains Switching, Ltd. Co.

Dear Mr. Williams:

Alternative rail service in the above proceeding is scheduled to expire on June 25, 2006. South Plains Switching, Ltd. Co. (SAW) has petitioned the Board to allow alternative rail service to expire as scheduled.

SAW is hereby bringing to the attention of the Board that on June 14, 2006, West Texas & Lubbock Railway Company (WTL), the alternative rail service provider for PYCO, derailed 3 cars as a result of running through a switch on the property of Farmers Compress. WTL's only locomotive for providing rail service to PYCO and for SAW is located behind that switch, unable to provide rail service. Farmers Compress had released 6 cars for transportation by SAW on June 14, but SAW was prevented from providing that transportation due to the derailment. There were also 20 cars for Hanson Aggregates in the BNSF yard awaiting transportation by SAW, but WTL was unable to pick them up from the yard, so SAW was unable to deliver those cars to Hanson.

This derailment was caused solely by railroad error (by WTL running through a switch), not by any defective track conditions. Attached to this communication are statements by SAW employees Rodney Kern, Alan Davidson, Leonel Guerra, and Ruben Robles attesting to that fact.

This is brought to the Board's attention so that PYCO and WTL cannot falsely claim that the service failures for Farmers Compress and Hanson Aggregates were caused by defective

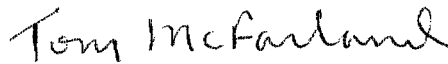
Vernon A. Williams
June 16, 2006
Page 2

SAW track conditions or other SAW service failure. The sole cause of this derailment and resulting service failure was negligence on the part of WTL.

PYCO has utterly failed to identify service failures on the part of SAW, except for a single day on November 28, 2005 due to locomotive failure that was repaired the following day. More to the point, PYCO has utterly failed to provide evidence that there is a continuing service emergency at its plants, which is the sole ground for the drastic remedy of alternative rail service. Instead, PYCO contends that SAW would be unlikely to provide adequate service to PYCO because SAW refuses to extend privileges to PYCO to which PYCO is not entitled by law (such as granting an easement to cross SAW's tracks). But SAW is fully capable of providing adequate rail service to PYCO without extending special privileges not required by law. And that is not the standard for determining whether to continue alternative rail service in any event.

Ten copies accompany the original of this communication.

Very truly yours,



Thomas F. McFarland
Attorney for South Plains
Switching, Ltd. Co.

TMCF:kl:wp8.0\1144\lstrsb

cc: Charles H. Montange, Esq., *by fax to 206-546-3739*
John D. Heffner, Esq., *by fax to 202-296-3939*
Gary McLaren, Esq., *by fax to 806-785-2521*
Mrs. Delilah Wisener, *by e-mail*
Mr. Dennis Olmstead, *by e-mail*

Incident Report

Date: _____

Name of Witness: Rodney Kern

Write in your own words what happened:

I Rodney Kern have 20+ Years Railroad exp.
in track & switching. I have done a thorough
investigation on a derailment on 6-13-06 By WTL
at Farmers compress. I find that human error
at fault for this costly and interruption
of service derailment. The south run around
switch had being run threw south bound
and the run back threw north bound with
load cars causing this derailment.
proper inspection by man on point should of
been point was spit (or had been run threw)
I am a certified track inspector for SLAL
and have been since 1997. I do track inspection
& reports. This switch had repairs made 4-14-06
a switch stand and new foot lock installed,
switch adjusted. on 6-13-06 I personal
line this switch and found no defects.

Signature: R L Kern 6-15-06

6-15-06

STATEMENT CONCERNING FARMERS SWITCH
AT PLANT 3. ON 6-13-06 AT ABOUT 11⁴⁵ AM WE
HAD OBTAINED AUTHORITY TO CROSS OVER FROM
OUR MAIN LINE OVER BNSF MAIN LINE TO
TRK 310 IN ORDER TO PLACE CARS ON SPOT IN
PLANT 3 AT FARMERS. IN ORDER TO DO THIS
WE USED SOUTH RUNAROUND SWITCH 3 TIMES IN
ORDER TO SPOT CARS IN PLANT, A TOTAL OF SIX
CARS I FOUND NOTHING WRONG WITH THE SWITCH
AS IT HAD BEEN SERVICED JUST LAST WINTER

Alan
Danson

06-15-06

MY NAME IS LEONEL GUERRA AND I HAVE BEEN
EMPLOYED BY SOUTH PLAINS LAMESA RAILROAD
AS OF MAY 2004. ON TUESDAY JUNE 13 AT
APPROX. 1145 HRS. THE SAW CREW (ALAN DAVIDSON,
RUBEN ROBLES, AND MYSELF) WENT TO SPOT CARS
IN PLANT 3 AT FARMERS. WE USED THE SOUTH
RUNAROUND SWITCH APPROX. 2-3 TIMES. AT NO
TIME DID WE HAVE ANY PROBLEMS WITH THE
SWITCH, SWITCH POINTS OR TRACK. THIS STATEMENT
IS TRUE AND CORRECT TO THE BEST OF MY
KNOWLEDGE.

Leonel Guerra
LEONEL GUERRA

6-13-06, at 11:45.

went to Farmers and used so stated switches.
repeatedly used these switches 3 or more times. We took 6 cars across
main and used these switches to spot 6 cars in Plant 3. All switches
ted in order and we had no problems during this time.

Reuben Robles

-15-06

APPENDIX DW-9



MICHAEL E. ROPER
Senior General Attorney

The Burlington Northern and
Santa Fe Railway Company
2500 Low Meek Drive
Fon Worth, Texas 76131-3528
(817) 352-2313 - Telephone
(817) 352-2397 - Fax
mailto:Michael.Roper@BNSF.com

April 26, 2004

VIA FACSIMILE (806-771-6476)

Mr. James L. Gorsuch, Esq.
4412 - 74th Street, Suite A-100
Lubbock, TX 79424

Re: South Plains Switching, Ltd. Co. Surcharge Request

Dear Jim:

In view of the jury's verdict of Thursday, April 22, 2004, The Burlington Northern and Santa Fe Railway Company (BNSF) consents to a surcharge to be imposed by South Plains Switching in an amount not to exceed \$60.00 on single car shipments and \$40.00 on unit train shipments of 27 or more cars. BNSF continues to believe that such a surcharge will have an adverse impact on the market in the Lubbock area. Please send me a copy of any tariff publication imposing a surcharge, as well as a list of the shippers receiving the notice.

BNSF will likely appeal the jury's verdict on this issue as we believe it was erroneous and contrary to law.

Sincerely,

Michael E. Roper

Cc: Don Hermann
P. J. Rickershauser
J. M. Johnson
W. E. Hale

**VERIFIED STATEMENT OF
JOSEPH J. PLAISTOW**

I. INTRODUCTION

My name is Joseph J. Plaistow. I am an economist and a Vice President of the economic consulting firm of L. E. Peabody & Associates, Inc. The Firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314. My qualifications and experience are attached to this verified statement as Exhibit No. 1.

I have been asked by South Plains Switching Ltd., Co. ("SAW") and South Plains Lamesa Railroad, Ltd. (collectively, these two companies will be referred to herein as SAW¹) to reply to the Verified Statement of Charles H. Banks (hereinafter "Banks") testifying on behalf of PYCO Industries, Inc. ("PYCO") regarding the determination of the going concern value ("GCV") of the rail lines that PYCO seeks to acquire from SAW through the feeder line provisions of the Interstate Commerce Commission Termination Act ("ICCTA"). These lines consist of 25,560 feet of rail lines and certain other assets in Lubbock, TX capable of providing service to PYCO and two additional nearby shippers, Attebury Grain ("Attebury") and Farmers Compress ("Compress"). The Board's decision in this proceeding served July

¹ Both of these companies are owned by Larry and Delilah Wisener, and are operated as partnerships. Virtually all the assets and cash flows of the combined SAW/SLAL flow through the books of SLAL, which was the first company that Larry and Delilah Wisener purchased.. They later purchased SAW, but the only cash flows that appear on SAW's books are those related to the operations at Slaton, TX, approximately 15 miles from SAW's operations in Lubbock, TX. The track between Lubbock and Slaton, TX is owned and operated by BNSF Railway, SAW's only connection. None of the operations or cash flows at Slaton, TX are relevant to this proceeding or to the cash flows in and around Lubbock, TX. SLAL's federal income tax return and SLAL's Texas Franchise Tax Public Information Report are the source financial documents upon which I relied, and are included in the workpapers submitted with this verified statement.

3, 2006 refers to PYCO's feeder line application as Alternative Two. I will refer to it as Alternative Two and the company formed thereby as NEW. I will also refer to NEW as the feeder line.

The feeder line procedures require the STB to determine the constitutional minimum value of a line. The constitutional minimum is defined as "not less than the net liquidation value of such line or the going concern value of such line, whichever is greater" (49 U.S.C. 10907 (b)(2)). I have determined the GCV of NEW to the seller of the feeder line. SAW is the seller. I refer to PYCO as the buyer. The Board's rules call for determining feeder line values based on the value to the seller, not to the buyer.²

To determine NEW's GCV, I relied upon SAW's federal income tax returns and Texas Franchise Tax Public Information Reports filed by SAW in the normal course of business.

Banks at page 2 states that he "...estimated the GCV of an efficient and economical short line railroad freight enterprise providing switching services only to PYCO Industries, Inc., Attebury and Compress...".³ He calls this his Limited Customer Scenario. Actually, Banks determined the value of NEW as a hypothetical stand-alone company. He did not determine the value of NEW to SAW, the seller. This renders the Banks analysis of GCV irrelevant to this proceeding for purposes of determining the value of the feeder line to the seller.

² 4 S.T.B. 326, 340 (Caddo Antoine and Little Missouri Railroad Company - Feeder Line Acquisition - Arkansas Midland Railroad Company Line Between Gurdon and Birds Mill, AR—hereinafter "Caddo") states, "GCV is defined as what a line is worth as an operating business, not its break-up value. ETC's projections may or may not prove correct, but in any case, the relevant GCV here is what the line is worth to AMR [the seller] as a going concern not its projected value to an acquiring company [the buyer]. *United States v. Miller*, 317 U.S. 369, 375 (1942)."

³ SAW's plant used to provide service at Lubbock is efficient and economical and PYCO has provided no evidence to the contrary.

Banks' analysis is totally hypothetical in that he builds a new, currently non-existent switching company. He determines the GCV of NEW by assuming that West Texas and Lubbock Railway Company ("WTLC") provides the service to his limited group of customers, that is, PYCO, Attebury and Compress. He determines the costs of WTLC providing switching service using the Surface Transportation Board's ("STB's") Uniform Railroad Costing System ("URCS") formula. Banks is wrong because:

- i. He assumes that WTLC should provide the service (he should have known that the relevant costs are those incurred by the seller, SAW, providing the service);
- ii. He overstates freight revenue by determining those revenues without regard to the nuances of SAW's actual revenue realization as reported in my Exhibit No. 3, "Calculation of NEW Shipper Revenue";
- iii. He uses URCS to determine the relevant cost related cash flows of NEW, but URCS is not appropriate for determining the costs of a company such as NEW; it is relevant only for determining the costs of individual traffic movements;
- iv. He determines "an estimated total variable cost..." (see Banks, p. 13) of providing WTLC's operations to the NEW customers, and "exclude[s] the variable depreciation, rent and lease costs and return on investment costs that are typically included in URCS computations and fixed costs that SAW might incur." (see Banks, p. 13);
- v. His cash flows are based upon the hypothetical operations of WTLC (see Banks' Prospective Rail Service Plant to PYCO, Compress and Attebury, pp. 8 and 9), not the actual operations of SAW, the seller, as is appropriate; and
- vi. He calculates only the cash flows associated with WTLC operations for 2006 and assumes that capitalizing those cash flows at a rate of 14.1% yields a valid GCV, instead of projecting the cash flows of NEW over perpetuity and then taking the present value of all those years' cash flows to determine NEW's GCV.

Banks also includes the cost of increased maintenance and rehabilitation of NEW. As explained by SAW Witness Ed Landreth, these increased maintenance and rehabilitation costs should not have been included since SAW shows that Banks' increased expenditures

are not required under the circumstances that apply in this feeder line application. Because the track and facilities that PYCO seeks to acquire are in satisfactory condition and have been providing good service to its shippers over the years, Banks should have determines the GCV of the fixed plant in its current condition since that is the plant that has been used to produce the cash flows of operations over the historical period (see Exhibit No. 2) and the cash flows of operations over the future years (see Exhibits No. 20 and 26).

As the Board said in *Caddo*, “GCV is defined as what a line is worth as an operating business....the relevant GCV here is what the line is worth to [the seller] as a going concern not its projected value to an acquiring company [the buyer].” 4 S.T.B. 326, 340. The value of the feeder line NEW to the seller, SAW, is equal to:

- i. SAW’s going concern value as an entity including the feeder line NEW;
LESS
- ii. SAW’s going concern value as an entity excluding the feeder line NEW.

This formula measures the decrease in SAW’s value before and after selling NEW, and it also measures the compensation that SAW should receive for the involuntary taking of property that SAW currently owns, NEW. Any amount less than that would constitute the taking of private property without due process of law.

The remainder of this verified statement is organized under the following topical headings:

- II. Summary and Findings
- III. Historical Financial Performance
- IV. Adverse Financial Effect of the NEW FLA on SAW
- V. Going Concern Value
- VI. Conclusion

II. SUMMARY AND FINDINGS

First, I determined the historical financial performance of NEW using SAW's actual financial statements developed in the normal course of business. I converted these statements to profit and loss statements. (See Exhibits No. 2 through 16). I find that had NEW existed in 2005, it would have contributed \$403,457 Net Income After Taxes and Depreciation to the financial statements of SAW. (See Exhibit No. 2)

Second, I used SAW's actual financial statements to determine the adverse effect on SAW of being forced to sell the feeder line NEW to PYCO. I did this by determining 1) the Net Operating Income Before Taxes in 2005 of SAW, 2) the Net Operating Income Before Taxes in 2005 of NEW, and 3) the difference between SAW's and NEW's Net Operating Income Before Taxes in 2005. I find that SAW's Net Operating Income Before Taxes in 2005 was \$549,139. I find that NEW's Net Operating Income Before Taxes in 2005 would have been \$571,968. I find that SAW's Net Operating Income Before Taxes in 2005 after the forced sale of NEW to PYCO would have been minus \$22,829. (See Exhibits No. 17 through 19.) This \$571,968 loss of Net Operating Income Before Taxes would be

devastating to SAW. Similarly, in 2006, the loss of the PYCO traffic due to the Board's forced transfer of this traffic to WTLC has meant of loss of \$1,137,450⁴ in revenue to SAW. These adverse financial effects on SAW have forced SAW to take the dramatic steps of attempting to sell SAW to interested buyers.

Third, I determined the future cash flows of NEW (see my Exhibit No. 20) by projecting NEW's cash flows over the 10 years from 2006 through 2015 starting with the base historical cash flows in 2005 which, in turn, are based on the historical profit and loss statements developed in Exhibit No. 2. I also reflect the impact on cash flows of NEW's terminal value which is based on the cash flows in all the years succeeding 2015. In projecting 2005 cash flows into 2006-2015, I forecasted NEW's revenue based on SAW's current revenue adjustment formula with BNSF, that is, based on 50% of the change in the RCAF-U. I forecasted NEW's expenses based on the increase in the RCAF-A index, and I forecasted the growth in carloads based on the projected increase in ton-miles over the forecast period.

Fourth, I determined GCV under 2 scenarios: 1) a Full Surcharge Scenario in which all surcharges currently authorized were charged to all customers, and 2) a \$20 PYCO Surcharge Scenario in which only the \$20 surcharge on PYCO traffic was applied. The latter \$20 surcharge scenario was already in effect during the latter part of 2005. I find that the GCV of NEW under the \$20 PYCO Surcharge Scenario is \$5,463,649. (See Exhibit No. 26.)

⁴ 5,950 PYCO carloads in 2005 (see Witness Olmstead, p. 2) times 1.03 (the ratio of 2006 carloads to 2005 carloads from Exhibit No. 25) times \$185.60 per carload (a rate of \$125.60 plus the surcharge of \$60.00 from Exhibit No. 21).

Finally, I find that the GCV of NEW under the Full Surcharge Scenario is \$8,053,614. (See Exhibit No. 20.) This is the amount that SAW should be compensated if it is forced by the Board to sell NEW to PYCO under the feeder line statutes.

III. HISTORICAL FINANCIAL PERFORMANCE

a. Traffic and Revenue Data

NEW's traffic and revenue was determined based on data provided by SAW witness Dennis Olmstead and Delilah Wisener of SAW. The traffic and revenue were calculated for NEW's three shippers PYCO, Attebury, and Compress and for all of SAW's other customers. The carload traffic count for each shipper in each year between 1999 and 2005 was provided by Dennis Olmstead. The data for 1999 only represents six months and was not used.

The revenue per carload for each year was provided by Delilah Wisener. The rates charged per car fall into a multiple tiered structure. A highest rate is applied to the first 5,000 carloads and a lower rate per car applies to all cars over 5,000. Cars that move in blocks of 27 cars or more do not count against the 5,000 cars charged the highest rate. The rates that would apply under each rate level were provided for each year between 2000 and 2006. Table 1, below, shows the rates that apply on SAW's traffic at both rate levels. In addition, during 2005 SAW placed a \$20 per car surcharge on PYCO traffic.

Table 1 - SAW Haulage Charges Per Car for Years 2000 Through 2006							
<u>Rate Per Car</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
1. First 5,000	\$125.00	\$128.15	\$129.12	\$130.91	\$132.03	\$137.22	\$142.72
2. Over 5,000	\$110.00	\$112.77	\$113.62	\$115.21	\$116.18	\$120.75	\$125.60
3. Blocks - =>27 cars	\$40.00	\$41.01	\$41.32	\$41.89	\$42.25	\$43.91	\$ 45.67
4. Surcharge	N/A	N/A	N/A	N/A	N/A	\$20.00	\$ 60.00
5. Surcharge - =>27 cars	N/A	N/A	N/A	N/A	N/A	N/A	\$ 40.00
Source: Delilah Wisener, SAW and Dennis Olstead							

The carload traffic data for each year, provided by SAW's witness Dennis Olmstead, was totaled separately for the non-NEW customers and the three NEW customers. In addition, the number of cars moving under the 27 cars or more rate (block rate), for both NEW shippers and non-NEW shippers was also determined.

Since all cars moving under the block rate are not included in the 5,000 car count for rate purposes, the total number of cars moving under the block rate has to be identified. The NEW shipper cars moving under the block rate include a portion of Attebury traffic. In addition, a portion of the cars for non-NEW shippers Hanson Rock and Vulcan also move under the block rate. The cars moving under the block rate must be subtracted from the total carloads of both NEW and non-NEW shippers separately. This will determine the total number of NEW and non-NEW cars that are subject to the single car over and under 5,000 car rates. For the calculation of NEW revenues it has been assumed that all cars subject to the single car rates over 5,000 are NEW cars. (This understates NEW's

revenues, so it is conservative.) The number of NEW cars not included in the over 5,000 group are assumed to move at the base rate charged to the first 5,000 cars. These carloads are charged the higher rate per car.

An illustration of this procedure using year 2001 traffic is as follows. The total SAW carloads were 7,857. Of this total number of cars, 2,139 were cars moving under the block rates, 751 NEW cars and 1,388 non-NEW cars. This determines that 5,718 (i.e., 7,857 minus 2,139) cars are subject to the over and under 5,000 car rates. The first 718 NEW carloads (i.e., 5,718 minus 5,000) are charged the rate applicable to cars over 5,000 and 2,556 cars (i.e., 4,025 total NEW cars minus 718 NEW cars moving under the over 5,000 car rate minus 751 cars moving at the 27 car block rate - see Table 2, below) are charged at the under 5,000 rate. This procedure was applied to the SAW traffic in each year between 2000 and 2005.

Table 2, below, shows the breakdown of SAW carloads between NEW cars and non-NEW cars. The number of non-NEW cars are separated between those moving in blocks of 27 cars or more and the number moving as single cars. The NEW cars are separated between those moving in blocks of 27 cars or more, the number subject to the rate applicable to cars over 5,000 and the number subject to the under 5,000 cars rate. Table 2 includes this data for the years 2000 through 2005.

Table 2 - Carload Traffic Counts for SAW for Years 2000 Through 2005						
<u>Carloads</u>	<u>Traffic Year</u>					
	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
1.SAW Total	5,922	7,857	8,616	6,330	6,541	14,048
2. Non-NEW Total	2,647	3,832	4,531	3,148	3,740	6,863
3.Blocks 27>	715	1,388	1,634	851	1,178	2,769
4. Non-NEW<5000	1,932	2,444	2,897	2,297	2,562	4,094
5. NEW Total	3,275	4,025	4,085	3,182	2,801	7,185
6. Blocks 27>	572	751	1,070	309	608	549
7. NEW>5000	0	718	912	170	0	5,730
8. NEW<5000	2,703	2,556	2,103	2,703	2,193	906
Source: SAW witness Dennis Olmstead, and SAW						

Table 3, below, shows the revenues that were calculated for the NEW customers based on the haulage rates per car included in Table 1 and the traffic data shown in Table 2 above.

Table 3 - NEW Revenues for Each Year 2000 Through 2005						
Revenue	2000	2001	2002	2003	2004	2005
1. NEW>5000	\$ 0	\$ 80,969	\$103,621	\$ 19,586	\$ 0	\$691,898
2. NEW<5000	\$337,875	\$327,551	\$271,539	\$353,850	\$289,542	\$124,321
3. Blocks 27 >	\$ 22,880	\$ 30,799	\$ 44,212	\$ 12,944	\$ 25,688	\$ 24,107
4. PYCO Other	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 49,445
5. Total Revenue	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$840,325

During the latter portion of year 2005 a surcharge of \$20.00 per car was assessed on PYCO's cars. The surcharge and other ancillary revenue from PYCO totaled \$49,445. Beginning in 2006 the surcharge to the NEW shippers would be \$60.00 per car for cars not moving in blocks of 27 cars or more and \$40.00 per car for cars moving in blocks of 27 cars or more. (See the Witness Statement of Delilah Wisener.)

b. Operating Expenses Allocated to NEW's Shipper Operations

I based NEW's operating expenses on SAW's avoidable costs of providing service to these customers. See Exhibits No. 4 through 10. This is consistent with the concept that NEW's GCV equals the value of SAW including NEW minus the value of SAW excluding NEW. Similarly, NEW's operating expenses equal the magnitude of SAW's operating expenses including NEW minus the magnitude of SAW's operating expenses excluding NEW. Furthermore, it is likely that the decrease in SAW's operating expenses as a result of divesting NEW will approximately equal the increase in WTLC's operating expenses as a result of acquiring NEW.

The SAW operating expense data for the years 2000 through 2005 was provided by SAW from their financial accounting records.

- **Determination of Avoidable Expenses if the Board Approves NEW:**

The financial accounting data received from SAW was reviewed and each accounting category was discussed with Delilah Wisener of SAW. We discussed the reduction in the number of SAW personnel and the number of SAW locomotives that would result from establishing NEW. These reductions are discussed below. Additionally, we discussed the SAW track and right-of-way structures reductions due to establishing NEW. Based on the personnel, equipment, and track structures reductions, the accounting categories were identified that would then be apportioned to NEW's service to its shippers. The allocation factors for each accounting category are discussed in the next sub-section, "Expense Allocation Factors", below.

The NEW operations lost by SAW are absorbed by WTLC which was an operating company before it absorbed NEW. NEW traffic and operations are incremental to WTLC. WTLC will likely be required to increase its personnel, equipment, and track structures by the same magnitude as the SAW reductions.

- **Expense Allocation Factors:**

The allocation factors for each accounting category are calculated in Exhibit No. 10 and are applied to the values in SAW's corresponding accounting category to derive the

amount of that accounting category to be placed in NEW's financial reports. For example, Exhibit No. 9 shows the allocation factor calculations for Year 2005. Line 35 is the accounting category "Locomotive Repairs". The allocation factor for Locomotive Repairs is 37.5% because SAW would reduce its number of locomotives by 3 out of its original 8 locomotives and $3/8$ equals 37.5%. Exhibit No. 9 multiplies SAW's Year 2005 Locomotive Repairs of \$43,114 by 37.5% to derive NEW's Locomotive Repairs of \$16,168.

Locomotives - SAW currently has eight locomotives in its fleet. As a result of the loss of NEW, SAW determined that three locomotives (37.5% of its fleet) could be eliminated. Therefore, expenses associated with the operation of locomotives such as fuel and maintenance will have 37.5% of SAW's expenses in that category allocated to NEW shipper operations.

Personnel - SAW currently has a staff of eleven persons. The staff consists of six locomotive personnel, who are crossed trained in maintenance of way work, two maintenance of way personnel, and three office personnel. As a result of NEW, three locomotive personnel will be eliminated. There will not be any other personnel changes.

Expenses associated only with locomotive personnel will be allocated 50% to NEW shipper operations since three of SAW's six (that is, 50%) locomotive personnel will be reduced. Expenses associated with maintenance of way personnel and office personnel will not be allocated to NEW shipper operations since SAW would make no personnel reductions in these areas. Likewise, it is likely that WTLC would not have to add

employees to perform these functions and to handle the increase in traffic resulting from absorbing NEW. Expenses associated with all personnel will be allocated to NEW shipper operations in the proportion that the three locomotive personnel reduced are to the total number of personnel covered by the expense. An example is health insurance. Only ten of SAW's eleven employees are covered by SAW's health plan. In this instance 30% (3 out of 10) of the expense will be allocated to NEW shipper operations to account for the employee reduction of 3.

Track Related Expenses - NEW encompasses 5.8935 miles of SAW's current tracks. Track related expenses, such as track maintenance materials and repair cost, will be allocated based on the ratio of the track miles included in NEW to the total track miles operated by SAW. The total miles of track operated by SAW is 18.000 miles. The ratio for allocating track related expenses to NEW shipper operations is 32.74% (i.e., 5.8935 divided by 18.000). NEW track miles were furnished by Ed Landreth, a witness for SAW, and SAW total miles operated were furnished by Delilah Wisener.

- Expense Categories That Will Change as a Result of Creating NEW:

Through discussions with SAW personnel, the expense categories that will change if NEW is approved have been identified and will be included in NEW's expenses. The individual expense categories are identified below along with the allocation factor that will be applied to calculate the expenses associated with NEW shipper operations.

Employee Medical - This expense is for drug tests, hearing tests and any other tests performed on locomotive personnel. Expenses in this category are allocated 50% to NEW shipper operations.

Locomotive Oil - This expense is solely assigned to the eight locomotives owned by SAW. Expenses in this category will be allocated 37.5% to NEW shipper operations.

Non-Taxed Diesel - Expenses in this category represent the fuel for the diesel locomotives, and these expenses will be allocated 37.5% to NEW shipper operations.

Health Insurance - The hospitalization cost in the account represents coverage for ten of SAW's eleven employees, including the three locomotive personnel that will be eliminated if NEW is approved. Expenses in this category will be allocated 30% to NEW shipper operations.

Materials - This expense includes track materials such as rails, spikes, ties, ballast and other track materials. These materials include those used in the repair and maintenance activities on both SAW's tracks and work they perform on the tracks of other parties under maintenance agreements. The total Materials Expense was provided as a single amount for each year from 2000 through 2005. The separation of Materials Expenses into the amount chargeable to maintenance agreements with others and SAW's maintenance of way ("MOW") is based on the expense for these two categories included in the Repairs and Maintenance Expenses provided for 2005. Repairs and Maintenance Expenses were separated between Maintenance Agreements with Others and SAW's MOW. Maintenance Agreements with Others represented 12.95% of total Repair and

Maintenance Expenses in 2005. SAW MOW represented 87.05% of total Repair and Maintenance Expenses. These percentages were applied to Materials Expenses to separate that account category between Maintenance Agreements with Others and SAW MOW. The assumption is that the Materials Expenses related to these two categories is in the same proportion as the Repairs and Maintenance Expenses. Table 4, below, shows the Repairs and Maintenance expenses provided by SAW in their 2005 financial accounting data (see Exhibit No. 9) and the percent relationship used to apportion the Materials Expense.

Table 4 Apportionment of Materials Expense		
<u>Category</u>	<u>Expense</u>	<u>Percent of Total</u>
(1)	(2)	(3)
1. Maint. Agreements with Others	\$ 15,071	12.95%
2. SAW MOW	\$101,315	87.05%
3. Total	\$116,386	100.00%
Source: SAW financial accounting data for 2005.		

This procedure results in 87.05% of the annual Materials Expense in each year being assigned to SAW MOW. The total Material Expense associated with SAW's tracks is apportioned to NEW shipper operations based on the ratio of track miles included in NEW to the total miles of track operated by SAW which is 32.74%. The factors of

87.05% and 32.74% are applied to the total Materials Expense provided in each year in SAW's financial accounting data.

Operating Supplies - This category of expense includes supplies and small miscellaneous parts for the repair and/or maintenance of locomotives and is exclusively related to SAW's eight locomotives. This expense is allocated 37.5% to NEW shipper operations.

Payroll Expenses - SAW's payroll expenses are separated into two accounting categories: "Payroll Expenses" and "3R". The amount in Payroll Expenses relates to the six locomotive employees and two of the three office employees. The amount in the 3R account covers the payroll and payroll taxes associated with the two maintenance of way employees and one office employee. The employees included in the expense recorded in the 3R account are not impacted by NEW and will not be included in the allocation of expenses.

With the exclusion of the three employees included in the 3R account, the Payroll Expenses only cover eight employees. Three of these eight employees are the locomotive personnel who would be eliminated as a result of NEW being approved. Therefore, 37.5% of the amount recorded as Payroll Expense is allocated to NEW shipper operations.

Payroll Taxes (941, CT-1, and DC1) - These taxes apply to the eight SAW personnel included under the Payroll Expense. The amount in the 3R account include both the wages and payroll taxes for the three employees reported in this expense category.

Therefore, the allocation of these payroll taxes (not including 3R's payroll taxes) is 37.5% to the NEW shipper operations, which represents the three locomotive personnel eliminated out of the eight represented by this expense.

Repair and Maintenance - This category of expense includes costs associated with locomotives, maintenance-of-way on SAW tracks, work performed under maintenance agreements and other equipment and facilities. The detailed separation of the Repair and Maintenance Expense for 2005 was provided in SAW's financial accounting data (see Exhibit No. 9). This expense is separated between locomotives, maintenance-of-way, maintenance agreements and other. The data for 2005 is the only year for which the separation was provided due to the time constraints of the procedural schedule. The proportions that each of the four categories of Repairs and Maintenance Expense are of the total expense in 2005 is shown in Table 5 below.

Table 5 Separation of Repair and Maintenance Expense for 2005		
<u>Category</u>	<u>Expense</u>	<u>Percent of Total</u>
(1)	(2)	(3)
1. Locomotive Repairs	\$ 43,114	23.42%
2. Maintenance Agreements	\$ 15,071	8.19%
3. Maintenance Of Way	\$101,315	55.05%
4. Other Maintenance	\$ 24,558	13.34%
5. Total Repairs and Maintenance	\$184,058	100.00%
Source: SAW financial accounting data for 2005 and Exhibit No. 9.		

For the years prior to 2005, the total Repairs and Maintenance Expense will be separated into Locomotives Repairs, Maintenance Agreements, Maintenance-of-Way, and Other Maintenance in the same proportions as the Repair and Maintenance Expense is in 2005. This assumes that the ratio of these expenses to Total Repairs and Maintenance does not change year-to-year.

The expenses associated with the locomotive Repairs and Maintenance is allocated 37.5% to NEW shipper operations in each year. The expense associated with maintenance-of-way is allocated to NEW shipper operations based on the ratio of NEW track miles to SAW's total track miles operated, that is, 32.74%. The balance of the 2005 expenses are not associated with NEW shipper operations.

Franchise Tax - The Franchise Tax assessed by Texas is computed based on the financial operations computed for NEW shipper operations. In order to compute the Franchise Tax, a pro-forma tax return was developed based on the financial results of

NEW shipper operations. The net taxable income from the pro-forma tax return was used to compute the Franchise Tax. This procedure was completed for each year, 2000 through 2005. See Exhibits No. 11 and 12.

Property Tax - The Property Taxes consist of tax bills from over twenty taxing jurisdictions. The taxes specific to the properties included under NEW could not be identified. Therefore, SAW Property Taxes re assigned to NEW properties in the ratio of NEW track miles to SAW's total track miles operated, that is, 32.74%.

IV. ADVERSE FINANCIAL EFFECT OF THE NEW FLA ON SAW

One of the five criteria for determining the public convenience and necessity of a forced sale of a rail line (in this case, the forced sale of NEW) under the feeder line statute is whether the sale would have an adverse effect on the overall financial and operating performance of the incumbent rail carrier (that is, SAW). Witness Delilah Wisener discusses the harm to SAW operations that would be caused by the creation of NEW. In this section, I discuss the harm to SAW's financial strength that would be caused by the creation of NEW. This devastating financial harm would soon manifest itself in additional and crippling harm to SAW's operations.

The impact on SAW's net operating income resulting from the forced sale of NEW was measured using the revenue and expense data for 2005 provided by SAW's Delilah Wisener. The procedure used to measure the impact of eliminating NEW from the SAW system subtracts NEW's revenue and expenses from the revenue and expenses of SAW

before the forced sale of NEW. The net remaining revenues and expenses after eliminating NEW represent the financial results for the balance of the SAW system without NEW. To illustrate the adverse financial effect, a pro-forma Profit and Loss Statement was developed for 1) the entire SAW system including NEW, 2) the NEW shipper operations, and 3) SAW excluding the NEW shipper operations. These results are summarized in Exhibit No. 17 which, in turn, is supported by Exhibits No. 18 and 19.

The revenues for the complete SAW system include the total haulage revenues, the other revenues from PYCO (including the surcharge revenues), track job revenues, and car storage revenues. The total haulage revenues and the other revenues received from PYCO are the same revenue sources included in developing the revenues for NEW shipper operations. Revenues from track jobs represent revenue from maintenance work performed by SAW's maintenance of way personnel for parties other than SAW, that is, shippers and other short line railroads, and are included for the entire SAW system. The revenue from this service is not effected by the NEW shipper operations. Revenues from car storage are also included for the entire SAW system. Car storage revenue was included in the financial data provided by SAW, and that revenue was not related to the NEW shipper operations.

The operating expenses for SAW are the same ones that were examined and, where appropriate, apportioned to the NEW shipper operations. The only additional operating expense included for the entire SAW operation is identified by SAW in their financial data as "Transfers to 3R". Expenses in this accounting category represent wages and

payroll taxes applicable to the two maintenance of way employees and one office employee. These expenses are not impacted by the elimination of the NEW shipper operations.

Table 6, below, shows the impact on SAW's net operating income of eliminating NEW's shipper operations.

Table 6 - Pro-Forma Profit and Loss for SAW, NEW and SAW Excluding NEW				
For 2005				
<u>Ln. No.</u>	<u>Item</u>	<u>Total SAW</u>	<u>NEW</u>	<u>SAW Excl NEW</u>
(1)	(2)	(3)	(4)	(5)
	<u>Revenues</u>			
1.	Haulage	\$1,919,922	\$840,325	\$1,079,597
2.	Other PYCO	\$ 49,445	\$ 49,445	\$ 0
3.	Track Jobs	\$ 34,505	\$ 0	\$ 34,505
4.	Car Storage	\$ 131,890	\$ 0	\$ 131,890
5.	Total Revenue (L's 1 to 4)	\$2,135,762	\$889,770	\$1,245,992
	<u>Operating Expenses</u>			
6.	Transportation	\$ 421,110	\$144,967	\$ 276,143
7.	Loco Maintenance	\$ 72,496	\$27,186	\$ 45,310
8.	MOW	\$ 392,528	\$66,142	\$ 326,386
9.	G & A	\$ 482,471	\$30,294	\$ 452,177
10.	Franchise Tax	\$ 25,876	\$26,951	(\$ 1,076)
11.	Depreciation	\$ 67,992	\$22,262	\$ 45,730
12.	Transfers to 3R	\$ 124,150	\$0	\$ 124,150
13.	Total Expenses (L's 6 to 12)	\$1,586,623	\$317,802	\$1,268,820
14.	Net Oper Income (L5 - L13)	\$ 549,139	\$571,968	(\$ 22,829)

The data in Table 6 shows that the elimination of NEW shipper operations from the SAW system will reduce SAW's Net Operating Income from an operating profit of \$549,139 to an operating loss of \$22,829. The net loss to SAW is \$571,968, a

devastating financial harm to SAW. The magnitude of this loss will seriously jeopardize the ability of SAW to provide adequate service to its remaining customers.

V. GOING CONCERN VALUE

I estimated the GCV of NEW. The American Society of Business Appraisers defines GCV as “..the value of a business enterprise that is expected to continue to operate into the future.” And, as stated in Business Valuation Methods “[t]he price...for the business will generally be related to the future earnings the business is expected to produce,” where “[t]he best indicator of future business performance is its actual past history.”⁵

Based upon our development of NEW’s pro forma financial statements from SAW’s actual past history, as well as forecasts of prices, volume, and costs using publicly available data sources, we conclude that NEW has a GCV of \$8,053,614 (see Exhibit No. 20). This assumes that as of the beginning of 2006 and thereafter, the company charges all customers with blocks of 27+ cars a surcharge of \$40 per car and charges all customers without blocks of 27+ cars a surcharge of \$60 per car (Scenario 1 - see Exhibit No. 20). If one assumes that the company charges neither the \$40 surcharge nor the \$60 surcharge, but only a \$20 surcharge that is applied to PYCO cars only, the GCV of NEW is \$5,463,649 (Scenario 2 - see Exhibit No. 26).

⁵ Business Valuation Methods, The American Institute of Certified Public Accountants, Inc. 1990, p. 17-6.

a. Net Present Value of Cash Flows

To determine the GCV of NEW, cash flows that the company could expect to realize over 2006 to 2015 were identified. These cash flows were then discounted back to the beginning of 2006. Cash flows for each period were assumed to be equal to NEW's net income plus depreciation, minus capital expenditures, and minus changes to net working capital.

The terminal value of NEW was calculated using the "perpetuity formula." The last period's (2015's) cash flows were divided by the discount rate, net of the expected growth rate. The expected growth rate was given by the percentage increase of the 2015 cash flows over 2014 cash flows. The resulting terminal value was then discounted back to the beginning of 2006.

The overall going concern value was calculated by summing all of the discounted cash flows from 2006 to 2015, as well as the terminal value.

b. Forecasted Revenues

Forecasted rates per carload were derived from 2005 rates as found in the revenue portion of NEW's pro forma financial exhibits. The rates were escalated using 50% of the change in year-over-year 4th Quarter Railroad Cost Adjustment Factor, Unadjusted ("RCAF-U") per SAW's rate escalation clauses. The RCAF-U forecasts were taken from a June, 2006 Global Insight RCAF forecast. Global Insight forecasts quarterly RCAF-U

amounts through 2008, and the annual change in the RCAF-U thereafter. Therefore, changes in 4th quarter RCAF-U levels were used to forecast rates through 2008.

However, because quarterly data was unavailable, annual data was used to estimate rate escalations from 2009 – 2015. Forecast indexes are detailed in Exhibit No. 25 for Scenario 1 and Exhibit No. 30 for Scenario 2. Surcharges were assumed to remain constant during the forecast period.

Carload volumes were derived from 2005 carload volumes as found in the revenue portion of NEW's pro forma financial exhibits. Volumes were escalated using U.S. Energy Information Agency ("EIA") railroad ton-mile forecasts. These can be found in Table 55 – Freight Transportation Energy Use of the 2006 Annual Energy Outlook ("AEO"). Forecasted revenues are detailed in Exhibit No. 21 for Scenario 1 and Exhibit No. 27 for Scenario 2.

c. Forecasted Operating Expenses

Forecasted operating expenses were derived from 2005 operating expenses as found in NEW's Pro Forma Income Statement. Operating expenses were escalated using the June 2006 Global Insight forecast of the Railroad Cost Adjustment Factor – Adjusted ("RCAF-A"), as well as by increases in ton-miles as forecasted in Table 55 of the EIA's Annual Energy Outlook. Forecasted operating expenses are detailed in Exhibit No. 20 for Scenario 1 and Exhibit No. 26 for Scenario 2. The operating expenses come from lines 2 through 5 of these exhibits which, in turn, use the base year 2005 operating expenses from Exhibit No. 9, row 45, columns 6 through 9.

d. Capital Expenditures and Depreciation

Capital expenditures were based upon the average of 2003 – 2005 NEW capital expenditures as found in NEW's pro forma Exhibit No. 15. Capital expenditures were assumed to increase by the RCAF-A as forecasted by Global Insight, as well as by the percentage increase of the EIA freight railroad ton-mile forecast found in the 2006 Annual Energy Outlook.

Each year's capital expenditure was assumed to depreciate based upon a seven-year Modified Accelerated Cost Recovery System ("MACRS") schedule. Depreciation calculation results are reported in Exhibit No. 13. However, it was necessary to perform an additional analysis that would account for the depreciation of investment that was made prior to NEW's pro forma period (2000 – 2005). Some of this earlier investment would still be undepreciated at the beginning of the GCV forecast period in 2006. In assessing the undepreciated NEW investment, overall SAW financials were analyzed.

In order to estimate the undepreciated investment, the total SAW reserve at the end of the pro forma period (December 31, 2005) was subtracted from SAW depreciable assets at the beginning of the pro forma period (January 1, 2000). This would have been a negative number, since SAW's depreciation reserve at December 31, 2005 was \$575,075 (see Exhibit No. 23), while SAW's depreciable assets at January 1, 2000 were \$515,779 (see Exhibit No. 15). However, some of the additions to depreciation that occurred within the pro forma period would have covered capital expenditures that were made

during that time. Using a seven year MACRS schedule, this was estimated to amount to \$87,488 in depreciation for the 2000 – 2005 investment (see Exhibit No. 23). When the December 31, 2005 depreciation reserve was subtracted from the January 1, 2000 assets, but the \$87,488 was added back, the total remaining undepreciated investment as of January 1, 2006 was found to be \$28,192 (see Exhibit No. 23). Of this, \$9,230 (i.e., 32.74% of \$28,192) would be allocable to NEW (see Exhibit No. 23).

The \$9,230 undepreciated investment was assumed to depreciate during the GCV forecast period (2006 – 2015). This amount was assumed to represent investment that was in its final years of depreciation. The average NEW investment per year between 2000 and 2005 was \$11,676 (see Exhibit No. 15). Per MACRS schedules, it is possible to find the number of generations of \$11,676 investment that would be in their final years of depreciation and that would collectively yield a total depreciation of close to \$9,230. In fact, if four generations are in their last four years of depreciating, the total depreciation is \$8,337 (see Exhibit No. 23). The resulting annual depreciation was added to the first four years of the GCV forecast period, 2006 – 2009. The remaining depreciation (\$9,230 - \$8,337 (see Exhibit No. 23)) was then allocated among these four years. As a result of these calculations, \$4,039 in depreciation was added to 2006 forecasted depreciation; \$2,884 was added to 2007; \$1,731 to 2008; and \$577 to 2009 (see Exhibit No. 22). Details of these calculations can be found in Exhibits No. 22 and 23 for Scenario 1 and Exhibits No. 28 and 29 for Scenario 2.

e. Changes to Net Working Capital

Changes to net working capital were calculated by estimating changes to accounts receivable and accounts payable. Accounts receivable was assumed to equal one month of revenues, i.e., annual revenues divided by 12. Accounts payable was assumed to equal one month of operating expenses, i.e., annual operating expenses divided by 12. The change in accounts receivable minus the change in accounts payable equaled the change in net working capital. Details of the changes in net working capital calculations can be found in Exhibit No. 24 for Scenario 1 and Exhibit No. 30 for Scenario 2.

f. Discount Rate

A 10.1% cost of capital was used to discount cash flows. This is based upon the after tax railroad cost of capital determination pursuant to the STB's June 21, 2005 decision in Ex Parte 558, Sub No. 8. The after tax cost of capital is most appropriate to use in this analysis rather than the before tax cost of capital because taxes are already accounted for within the GCV model.

g. No Increased Maintenance or Rehabilitation

On July 24, 2006, the Federal Railroad Administration ("FRA"), Department of Transportation of the U.S. Government, Issued an Inspection Report regarding SAW stating: "No defects found for Track Safety Standards 'Excepted Track'". (See the Witness Statement of Ed Landreth.) This inspection of SAW facilities included the tracks that provide service to PYCO, Attebury and Compres. SAW witness Ed Landreth's Verified Statement confirms the FRA's inspection finding that no rehabilitation or rail

replacement is required. Therefore, I have not adjusted my GCV estimates for increased maintenance and rehabilitation since the track and structures used to produce the cash flows developed in my Exhibits No. 2 through 31 were already in satisfactory condition and there was no deferred maintenance that would have otherwise required adjustment of my cash flows.

On the other hand, Banks does not even attempt to determine the maintenance costs of SAW maintaining NEW's tracks. At page 2, Banks states that he "...estimated the GCV of an efficient and economical short line railroad freight enterprise...". In calculating the GCV of his hypothetical railroad, Banks adjusts his GCV by subtracting the cost of increased maintenance and rehabilitation of NEW. He subtracts rehabilitation costs of \$1,185,800 assuming rehabilitation to 90# rail or \$2,153,800 assuming rehabilitation to 112/115# rail. (See Banks, p. 34) As SAW Witness Ed Landreth attests, these rehabilitation cost adjustments are not appropriate.

The Banks maintenance cost calculations are wholly artificial and made up. He calculates the hypothetical maintenance cost of WTLC providing service to NEW, not the cost of SAW providing service to NEW. (Recall that in feeder line cases, it is the value to the seller (SAW), not to the buyer, that is relevant for GCV determinations. Similarly, NEW's maintenance expenses from SAW's accounting records should be used in determining NEW's GCV) Banks first calculates maintenance costs using Region 7 URCS costs. But Region 7 costs do not represent SAW's cost of maintaining NEW; Region 7 costs represent the average variable cost of the major Western Class I railroads

maintaining track to standards far more stringent than would be appropriate for SAW's switching operations. The track of the Western Class I's must be maintained, in many cases, to standards adequate to haul 120 ton cars in 15,000 ton coal unit trains over 132# continuously welded rail. Reflecting the Region 7 URCS maintenance cost, Banks derives an estimated GCV of \$1,616,263. (See Banks, p. 44.)

Banks then substitutes an even higher made up maintenance cost estimate for his already overstated Region 7 URCS maintenance costs. He calls this his site specific maintenance cost. This reduces his estimated NEW GCV from \$1,616,263 to \$1,405,864. (See Banks, p. 44.) But once again, Banks does not even claim that his site specific maintenance costs are the costs that SAW, the seller, would incur to provide service to NEW.

Most importantly, it is not necessary to estimate NEW's maintenance costs when NEW's actual maintenance costs are available from SAW's actual accounting records. SAW has been in operation since 1999 and has long experience maintaining its tracks to its current satisfactory standards. The FRA has found no exceptions to the current condition of SAW's tracks serving NEW. SAW's actual maintenance costs are reported in Exhibit No. 2, and those are the maintenance costs that must be reflected in determining NEW's GCV. My GCV reflects those maintenance costs.

VI. CONCLUSION

The GCV of NEW is \$8,053,614. (See Exhibit No. 20.) This value is based on the actual accounting records of SAW and reflects SAW's intention in 2006 and after to apply a \$60 per car surcharge to all traffic except cars that are handled in blocks of 27 cars or more. For cars in blocks of 27 or more, SAW's intention was to apply a \$40 per car surcharge. If, instead, one assumed that SAW applied only a \$20 per car surcharge to PYCO's traffic, the GCV drops to \$5,463,649. (See Exhibit No. 26.) These determinations of GCV do not reflect a downward adjustment for increased maintenance and rehabilitation costs because SAW has maintained its track and structures to an adequate standard.

If the Board forces SAW to divest itself of NEW, SAW's Net Operating Income Before Taxes would drop from \$549,139 including NEW to a minus 22,829 without NEW. The net financial loss to SAW is \$571,968. (See Exhibit No. 17.) This dramatic financial loss to SAW would seriously jeopardize SAW's ability to provide adequate service to its remaining customers.

Witness Banks estimate of GCV must be rejected as irrelevant because he did not determine the GCV of NEW to SAW, the seller. Banks determined the GCV of a hypothetical railroad that was operated by WTLC.

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Exhibit Description</u>
(1)	(2)
1	Qualifications of Joseph Plaistow
2	Pro-Forma Income Statement for NEW Shipper Operations
3	Calculation of NEW Shipper Revenues
4	South Plains Lamesa Railroad, Ltd. Expenses in Year 2000
5	South Plains Lamesa Railroad, Ltd. Expenses in Year 2001
6	South Plains Lamesa Railroad, Ltd. Expenses in Year 2002
7	South Plains Lamesa Railroad, Ltd. Expenses in Year 2003
8	South Plains Lamesa Railroad, Ltd. Expenses in Year 2004
9	South Plains Lamesa Railroad, Ltd. Expenses in Year 2005
10	Basis of Expense Allocations to NEW Shipper Operations
11	Pro-Forma Income Tax Calculations for NEW Shipper Operations
12	Pro-Forma Franchise Tax Calculations for NEW Shipper Operations
13	Annual Changes in the Depreciation Reserve Representing Track and Locomotives

LIST OF EXHIBITS

- 14 Calculation of Tax Liability for NEW Shipper Operations Using Individual Tax Rates
- 15 Annual Capital Investment Representing Track and Locomotives of NEW Shipper Operations
- 16 Calculations of the Percent NEW Shipper Revenues are to the Toal Revenues
- 17 Pro-Forma Profit and Loss Statement for 2005 For The Total SAW Operation, NEW Shipper Operation and SAW Excluding NEW Operations
- 18 South Plains Lamesa Railroad, Ltd. Expenses in Year 2005
- 19 SAW Pro-Forma Franchise Tax Liability in Year 2005
- 20 NEW Going Concern Value - Full Surcharge
- 21 NEW Revenue Forecast - Full Surcharge
- 22 NEW Capital Expenditures and Depreciation - Full Surcharge
- 23 Estimate and Allocate Underappreciated Assets - Full Surcharge
- 24 NEW Changes to Networking Capital - Full Surcharge
- 25 NEW GCV Forecasts Indexes - Full Surcharge
- 26 NEW Going Concern Value - \$20 PYCO Surcharge
- 27 NEW revenue Forecast - \$20 PYCO Surcharge

LIST OF EXHIBITS

- 28 NEW capital Expenditures and Depreciation - \$20 PYCO Surcharge
- 29 Estimate and Allocate Underappreciated Assets - \$20 PYCO Surcharge
- 30 NEW Changes to Networking Capital - \$20 PYCO Surcharge
- 31 NEW GCV Forecasts Indexes - \$20 PYCO Surcharge

VERIFICATION

COMMONWEALTH OF VIRGINIA)
)
CITY OF ALEXANDRIA)

I, Joseph J. Plaistow, verify under penalty of perjury that I have read the foregoing Verified Statement of Joseph J. Plaistow, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Joseph Plaistow

Joseph J. Plaistow

Sworn to and subscribed
before me this day of August 1, 2006.

Anthony V. Gaslano

Anthony V. Evanshaw III
Notary Public for the State of Virginia

My Commission expires: September 30, 2007



QUALIFICATIONS OF JOSEPH PLAISTOW

Mr. Plaistow is a Vice President and principal of L.E. Peabody & Associates, Inc., an economic consulting firm whose principal office is located at 1501 Duke Street, Suite 200, Alexandria, VA 22314.

Mr. Plaistow graduated in 1967 from Michigan Technological University with a Bachelor of Science Degree in Metallurgical Engineering. In 1972 he graduated from the University of Minnesota with a Masters Degree in Business Administration. He is a member of Tau Beta Pi (the national honorary engineering fraternity), Alpha Sigma Mu (the national honorary metallurgical fraternity), Phi Eta Sigma (a national academic honor society), and Phi Kappa Phi (a national academic honor society). He is also a member of the Association for Transportation Law, Logistics and Policy, and is a past President of the Washington Chapter and National Secretary of the Cost Analysis Chapter of the Transportation Research Forum.

In 1998, Mr. Plaistow joined L.E. Peabody & Associates, Inc., where he advises clients on transportation economics, rate structures, and rate reasonableness determinations. He came to L.E. Peabody & Associates, Inc. after serving as Vice President of Snavely King Majoros O'Connor & Lee, Inc. where from 1988 to 1998 he provided economic consulting services in the transportation field. In 1987 and 1988, he was Vice President, FMI, Inc., managing the efficient operation of refrigerated boxcars.

From 1972 to 1987, Mr. Plaistow was employed by the Burlington Northern Railroad ("BN") (now BNSF) as Director of Costs and Economic Analysis in the Finance Department, as Director of Equipment and Service, and as Director of Planning and Equipment in the Food and Manufactured Products Business Unit of the Marketing Department. From 1967 to 1970, Mr. Plaistow was a metallurgical engineer for Pickands Mather designing processing facilities in the iron mining region of northern Minnesota.

While at BN, Mr. Plaistow determined the variable cost of operations using both internal management and regulatory costing procedures. In the late 1970's and early 1980's, he directed the team that designed a complete replacement of BN's management costing systems including the institution of separate and distinct systems for the costing of coal, intermodal, and general freight.

The management costing system renovation at BN preceded the replacement of Rail Form A with URCS for regulatory costing in the railroad industry. Mr. Plaistow participated on behalf of BN in industry meetings evaluating the early versions of URCS components as they went through their developmental stages. He also testified on behalf of BN in numerous ICC proceedings regarding the economic principles underlying the implementation of maximum-rate principles including the proper application of cost of capital and capital investment analyses and procedures.

Throughout his 33-year career in transportation, Mr. Plaistow has become thoroughly familiar with the economic analysis of railroad operations and service from the perspective of both the shipper and the transportation provider. He has testified

before the Board and its predecessor many times on cost and economic issues, including the presentation of evidence on transportation costs in maximum rate reasonableness cases. He has also made public presentations and written published articles in the areas of transportation economics, maximum rate regulation, corporate investment policies, competitive effects of mergers, and the competitive access issue.¹

¹ See, e.g., “Strategic Railroad Issues - Service & Pricing” presented at the Seventh Annual Burns & McDonnell Coal-Fired Generation Symposium, April 26, 2006, “Recent Rail Mergers - What Was Promised - What Was Delivered”, Rail Customer Forum, March 1, 2000, “The Effects of Increased Competition and Improved Service on the Railroad Industry and Its Customers”, Alliance for Rail Competition, November 1999, “Competitive Effects of Railroad Mergers” Journal of the Transportation Research Forum, Spring, 1999, “A Layman’s Guide to Economic Terms in Stand-Alone Costing”, Transportation Practitioner’s Journal, Summer 1994; “Regulation as a Substitute for Competition”, College of St. Thomas, St. Paul, MN, May 5, 1980; “Are Internal Rate of Return and Other Investment Analyses Misleading?”, Railroad Capital Investment Conference, St. Charles, Illinois, November 5, 1979; “Analyzing Large Incremental Investments”, Cost Analysts Organization Meeting, Lexington, KY, May, 1978; and “Railroad’s Opportunity to Earn a Fair Return”, ICC Practitioner’s Journal, March-April, 1976.

Pro Forma Income Statement For NEW Shipper Operations

<u>Ln. No.</u>	<u>Item</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
1.	Haulage Revenue	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$840,325
2.	PYCO Other Revenue	\$0	\$0	\$0	\$0	\$0	\$49,445
3.	Total Revenues	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$889,770
4.	Transportation Expense	\$94,018	\$121,307	\$78,945	\$91,716	\$78,895	\$144,967
5.	Locomotive Maintenance	\$15,477	\$18,210	\$15,357	\$12,501	\$17,746	\$27,186
6.	Maintenance of Way Expense	\$23,663	\$33,383	\$59,785	\$66,518	\$35,410	\$66,142
7.	General and Administrative Expense	\$20,850	\$28,554	\$28,106	\$30,189	\$31,954	\$57,245
8.	Total Operating Expense (Sum of Lines 4 - 7)	\$154,007	\$201,454	\$182,193	\$200,923	\$164,005	\$295,541
9.	Earnings Before Taxes and Depreciation	\$206,748	\$237,864	\$237,180	\$185,457	\$151,225	\$594,230
10.	Depreciation	\$12,994	\$8,528	\$9,639	\$20,013	\$22,262	\$22,262
11.	Income Taxes	\$48,138	\$59,405	\$56,605	\$32,137	\$21,741	\$168,511
12.	Net Income After Taxes and Depreciation	\$145,616	\$169,931	\$170,936	\$133,307	\$107,223	\$403,457

Calculation of NEW Shipper Revenues

Ln. No.	ITEM	YEAR						
		2000	2001	2002	2003	2004	2005	2006
1.	Revenue per car							
2.	First 5,000 carloads	\$125.00	\$128.15	\$129.12	\$130.91	\$132.03	\$137.22	\$142.72
3.	Carloads over 5,000	\$110.00	\$112.77	\$113.62	\$115.21	\$116.18	\$120.75	\$125.60
4.	Blocks of 27 cars or more	\$40.00	\$41.01	\$41.32	\$41.89	\$42.25	\$43.91	\$45.67
5.	Revenue surcharge per car						\$20.00	\$60.00
6.	Carloads	5,922	7,857	8,616	6,330	6,541	14,048	
7.	Non- NEW Shippers single car	1,932	2,444	2,897	2,297	2,562	4,094	
8.	Non- NEW Shippers 27 or more	715	1,388	1,634	851	1,178	2,769	
9.	Total Non-NEW Shippers	2,647	3,832	4,531	3,148	3,740	6,863	
10.	NEW Shippers single car	2,703	3,274	3,015	2,873	2,193	6,636	
11.	NEW Shippers 27 or more	572	751	1,070	309	608	549	
12.	Total NEW Shippers	3,275	4,025	4,085	3,182	2,801	7,185	
13.	Total Cars at single rate (L.7 + L.10)	4,635	5,718	5,912	5,170	4,755	10,730	
14.	NEW Cars							
15.	Number in over 5,000 rate (L.13 - 5,000)	0	718	912	170	0	5,730	
16.	Number in first 5,000 rate (L.10 - L.15)	2,703	2,556	2,103	2,703	2,193	906	
17.	Number in blocks 27 or more (L11)	572	751	1,070	309	608	549	
18.	NEW Revenue							
19.	Carloads over the 5,000 limit (L.15 x L. 3)	\$0	\$80,969	\$103,621	\$19,586	\$0	\$691,898	
20.	Carloads within the 5,000 limit (L. 16 x L. 2)	\$337,875	\$327,551	\$271,539	\$353,850	\$289,542	\$124,321	
21.	Carloads in blocks of 27 or more (L. 17 x L. 4)	\$22,880	\$30,799	\$44,212	\$12,944	\$25,688	\$24,107	
22.	Total Haulage Revenue	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$840,325	
23.	PYCO Other Revenue						\$49,445	
24.	NEW Revenue	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$889,770	

Source: Carload data provided by Dennis Olmstead
Revenue per carload provided by South Plains Lamesa Railroad, Ltd.
PYCO Other revenue provided by South Plains Lamesa Railroad, Ltd.

South Plains Lamesa Railroad, Ltd Expenses in Year 2000

Ln. No. (1)	Expense Category (2)	Total Expense (3)	NEW		Operating Expense Groups			
			Allocation 1/ (4)	Expense (5)	Transp (6)	Loco Maint (7)	MOW (8)	G&A (9)
1.	Advertising	\$1,544	0.00%	\$0				
2.	Auto Expenses	\$2,516	0.00%	\$0				
3.	Car Hire	\$14,099	0.00%	\$0				
4.	Donations	\$4,100	0.00%	\$0				
5.	Dues, Subscriptions & Fees	\$4,117	0.00%	\$0				
6.	Employee Bonus	\$0	0.00%	\$0				
7.	Employee Medical	\$323	50.00%	\$162	\$162			
	Drug Screening							
	Other							
8.	Freight	\$3,592	0.00%	\$0				
	Fuel							
9.	Auto Gas and Oil	\$17,825	0.00%	\$0				
10.	Locomotive Oil	\$2,049	37.50%	\$768	\$768			
11.	Non-Taxed Diesel	\$34,051	37.50%	\$12,769	\$12,769			
12.	Taxed Diesel	\$950	0.00%	\$0				
	Insurance							
13.	General Liability	\$26,540	0.00%	\$0				
14.	Health	\$30,146	30.00%	\$9,044				\$9,044
15.	Other	\$13,985	0.00%	\$0				
	Lease Payments							
16.	Computer Lease	\$4,369	0.00%	\$0				
17.	Equipment Lease	\$19,396	0.00%	\$0				
18.	Radio Lease	\$4,035	0.00%	\$0				
19.	Vehicle Lease	\$0	0.00%	\$0				
	Legal and Professional							
20.	Attorney's Fees	\$19,489	0.00%	\$0				
21.	Consulting Fees	\$3,600	0.00%	\$0				
22.	Materials	\$45,379						
23.	Maint. Agreements	\$5,876	0.00%	\$0				
24.	Maint. Of Way	\$39,503	32.74%	\$12,934			\$12,934	
25.	Office Expense	\$15,441	0.00%	\$0				
26.	Operating Supplies	\$27,327	37.50%	\$10,248		\$10,248		
	Payroll Taxes							
27.	941 Taxes	\$16,806	37.50%	\$6,302	\$6,302			
28.	CT-1 Taxes	\$48,473	37.50%	\$18,177	\$18,177			
29.	DC1 Taxes	\$0	37.50%	\$0				
30.	Payroll Expenses	\$148,904	37.50%	\$55,839	\$55,839			
31.	Repair and Maintenance	\$59,532						
32.	Locomotive Repairs	\$13,945	37.50%	\$5,229		\$5,229		
33.	Maint. Agreements	\$4,875	0.00%	\$0				
34.	Maint. Of Way	\$32,769	32.74%	\$10,729			\$10,729	
35.	Other Maintenance	\$7,943	0.00%	\$0				
	Taxes							
36.	FranchiseTax 2/	\$9,130	100.00%	\$9,130				\$9,130
37.	Property Tax	\$8,173	32.74%	\$2,676				\$2,676
38.	Other	\$6,186	0.00%	\$0				
39.	Telephone	\$18,057	0.00%	\$0				
40.	Travel and Entertainment	\$138	0.00%	\$0				
41.	Utilities	\$6,280	0.00%	\$0				
42.	Total Expenses			\$154,007	\$94,018	\$15,477	\$23,663	\$20,850
43.	Total Expenses excluding Franchise taxes			\$144,878	\$94,018	\$15,477	\$23,663	\$11,720

Data provides by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

South Plains Lamesa Railroad, Ltd Expenses in Year 2001

Ln. No.	Expense Category	Total Expense	NEW		Operating Expense Groups			
			Allocation 1/	Expense	Transp	Loco Maint	MOW	G&A
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Advertising	\$2,872	0.00%	\$0				
2.	Auto Expenses	\$3,513	0.00%	\$0				
3.	Car Hire	\$2,651	0.00%	\$0				
4.	Donations	\$3,560	0.00%	\$0				
5.	Dues, Subscriptions & Fees	\$8,283	0.00%	\$0				
6.	Employee Bonus	\$0	0.00%	\$0				
7.	Employee Medical	\$229	50.00%	\$115	\$115			
	Drug Screening							
	Other							
8.	Freight	\$2,606	0.00%	\$0				
	Fuel							
9.	Auto Gas and Oil	\$18,702	0.00%	\$0				
10.	Locomotive Oil	\$3,226	37.50%	\$1,210	\$1,210			
11.	Non-Taxed Diesel	\$36,823	37.50%	\$13,809	\$13,809			
12.	Taxed Diesel	\$1,335	0.00%	\$0				
	Insurance							
13.	General Liability	\$37,733	0.00%	\$0				
14.	Health	\$45,726	30.00%	\$13,718				\$13,718
15.	Other	\$12,988	0.00%	\$0				
	Lease Payments							
16.	Computer Lease	\$4,901	0.00%	\$0				
17.	Equipment Lease	\$23,949	0.00%	\$0				
18.	Radio Lease	\$5,291	0.00%	\$0				
19.	Vehicle Lease	\$7,338	0.00%	\$0				
	Legal and Professional							
20.	Attorney's Fees	\$0	0.00%	\$0				
21.	Consulting Fees	\$0	0.00%	\$0				
22.	Materials	\$66,288						
23.	Maint. Agreements	\$8,584	0.00%	\$0				
24.	Maint. Of Way	\$57,704	32.74%	\$18,893			\$18,893	
25.	Office Expense	\$13,435	0.00%	\$0				
26.	Operating Supplies	\$29,729	37.50%	\$11,148		\$11,148		
	Payroll Taxes							
27.	941 Taxes	\$33,485	37.50%	\$12,557	\$12,557			
28.	CT-1 Taxes	\$54,584	37.50%	\$20,469	\$20,469			
29.	DC1 Taxes	\$0	37.50%	\$0				
30.	Payroll Expenses	\$195,062	37.50%	\$73,148	\$73,148			
31.	Repair and Maintenance	\$80,396						
32.	Locomotive Repairs	\$18,832	37.50%	\$7,062		\$7,062		
33.	Maint. Agreements	\$6,583	0.00%	\$0				
34.	Maint. Of Way	\$44,254	32.74%	\$14,490			\$14,490	
35.	Other Maintenance	\$10,727	0.00%	\$0				
36.	Rent on Equipment	\$16,347	0.00%	\$0				
	Taxes							
37.	FranchiseTax 2/	\$10,806	100.00%	\$10,806				\$10,806
38.	Property Tax	\$12,308	32.74%	\$4,030				\$4,030
39.	Other	\$2,696	0.00%	\$0				
40.	Telephone	\$14,200	0.00%	\$0				
41.	Travel and Entertainment	\$2,024	0.00%	\$0				
42.	Utilities	\$8,283	0.00%	\$0				
43.	Total Expenses			\$201,454	\$121,307	\$18,210	\$33,383	\$28,554
44.	Total Expenses excluding Franchise taxes			\$190,648	\$121,307	\$18,210	\$33,383	\$17,748

Data provides by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

South Plains Lamesa Railroad, Ltd Expenses in Year 2002

Ln. No.	Expense Category	Total Expense	NEW		Operating Expense Groups			
			Allocation 1/	Expense	Transp	Loco Maint	MOW	G&A
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Advertising	\$1,522	0.00%	\$0				
2.	Auto Expenses	\$2,848	0.00%	\$0				
3.	Donations	\$2,688	0.00%	\$0				
4.	Dues, Subscriptions & Fees	\$2,456	0.00%	\$0				
	Employee Medical							
5.	Drug Screening	\$356	50.00%	\$178	\$178			
6.	Hearing Screening	\$162	50.00%	\$81	\$81			
7.	Freight	\$2,982	0.00%	\$0				
	Fuel							
8.	Auto Gas and Oil	\$12,971	0.00%	\$0				
9.	Locomotive Oil	\$3,043	37.50%	\$1,141	\$1,141			
10.	Non-Taxed Diesel	\$35,304	37.50%	\$13,239	\$13,239			
11.	Taxed Diesel	\$1,102	0.00%	\$0				
	Insurance							
12.	General Liability	\$51,937	0.00%	\$0				
13.	Health	\$34,899	30.00%	\$10,470				\$10,470
14.	Property Office Buildings	\$0	0.00%	\$0				
15.	Other	\$17,790	0.00%	\$0				
	Lease Payments							
16.	Computer Lease	\$4,677	0.00%	\$0				
17.	Equipment Lease	\$29,245	0.00%	\$0				
18.	Radio Lease	\$6,194	0.00%	\$0				
19.	Vehicle Lease	\$16,144	0.00%	\$0				
	Legal and Professional							
20.	Attorney's Fees	\$0	0.00%	\$0				
21.	Other	\$0	0.00%	\$0				
22.	Materials	\$159,555						
23.	Maint. Agreements	\$20,661	0.00%	\$0				
24.	Maint. Of Way	\$138,894	32.74%	\$45,476			\$45,476	
25.	Office Expense	\$29,182	0.00%	\$0				
26.	Operating Supplies	\$22,354	37.50%	\$8,383		\$8,383		
	Payroll Taxes							
27.	941 Taxes	\$211	37.50%	\$79	\$79			
28.	CT-1 Taxes	\$11,765	37.50%	\$4,412	\$4,412			
29.	Payroll Expenses	\$159,505	37.50%	\$59,814	\$59,814			
30.	Rent on Equipment	\$12,837	0.00%	\$0				
31.	Repair and Maintenance	\$79,395						
32.	Locomotive Repairs	\$18,598	37.50%	\$6,974		\$6,974		
33.	Maint. Agreements	\$6,501	0.00%	\$0				
34.	Maint. Of Way	\$43,703	32.74%	\$14,309			\$14,309	
35.	Other Maintenance	\$10,593	0.00%	\$0				
	Taxes							
36.	FranchiseTax 2/	\$10,722	100.00%	\$10,722				\$10,722
37.	Property Tax	\$21,119	32.74%	\$6,915				\$6,915
38.	Other	\$1,963	0.00%	\$0				
39.	Telephone	\$13,003	0.00%	\$0				
40.	Travel and Entertainment	\$1,147	0.00%	\$0				
41.	Utilities	\$6,082	0.00%	\$0				
42.	Total Expenses			\$182,193	\$78,945	\$15,357	\$59,785	\$28,106
43.	Total Expenses excluding Franchise taxes			\$171,471	\$78,945	\$15,357	\$59,785	\$17,384

Data provides by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

South Plains Lamesa Railroad, Ltd Expenses in Year 2003

Ln. No.	Expense Category	Total Expense	NEW		Operating Expense Groups			
			Allocation 1/	Expense	Transp	Loco Maint	MOW	G&A
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	Advertising	\$540	0.00%	\$0				
2.	Auto Expenses	\$5,416	0.00%	\$0				
3.	Donations	\$8,021	0.00%	\$0				
4.	Dues, Subscriptions & Fees	\$2,498	0.00%	\$0				
	Employee Medical							
5.	Drug Screening	\$50	50.00%	\$25	\$25			
6.	Other	\$303	50.00%	\$152	\$152			
7.	Freight	\$3,117	0.00%	\$0				
	Fuel							
8.	Auto Gas and Oil	\$14,693	0.00%	\$0				
9.	Locomotive Oil	\$1,979	37.50%	\$742	\$742			
10.	Non-Taxed Diesel	\$34,551	37.50%	\$12,957	\$12,957			
11.	Taxed Diesel	\$1,549	0.00%	\$0				
	Insurance							
12.	General Liability	\$45,997	0.00%	\$0				
13.	Health	\$52,806	30.00%	\$15,842				\$15,842
14.	Property Office Buildings	\$1,924	0.00%	\$0				
15.	Other (Vehicle)	\$687	0.00%	\$0				
	Lease Payments							
16.	Computer Lease	\$5,488	0.00%	\$0				
17.	Equipment Lease	\$4,689	0.00%	\$0				
18.	Radio Lease	\$5,134	0.00%	\$0				
19.	Vehicle Lease	\$17,424	0.00%	\$0				
	Legal and Professional							
20.	Attorney's Fees	\$113,253	0.00%	\$0				
21.	Other	\$11,161	0.00%	\$0				
22.	Materials	\$183,175						
23.	Maint. Agreements	\$23,720	0.00%	\$0				
24.	Maint. Of Way	\$159,455	32.74%	\$52,208			\$52,208	
25.	Miscellaneous	\$1,468	0.00%	\$0				
26.	Office Expense	\$40,994	0.00%	\$0				
	Operating Supplies							
27.	Employee Safty Work Wear	\$691	50.00%	\$346		\$346		
28.	Other (locomotives)	\$13,818	37.50%	\$5,182		\$5,182		
	Payroll Taxes							
29.	941 Taxes	\$9,940	37.50%	\$3,728	\$3,728			
30.	CT-1 Taxes	\$49,583	37.50%	\$18,594	\$18,594			
31.	Payroll Expenses	\$148,051	37.50%	\$55,519	\$55,519			
32.	Rent on Equipment	\$11,457	0.00%	\$0				
33.	Repair and Maintenance	\$79,395						
34.	Locomotive Repairs	\$18,598	37.50%	\$6,974		\$6,974		
35.	Maint. Agreements	\$6,501	0.00%	\$0				
36.	Maint. Of Way	\$43,703	32.74%	\$14,309			\$14,309	
37.	Other Maintenance	\$10,593	0.00%	\$0				
	Taxes							
38.	FranchiseTax 2/	\$7,796	100.00%	\$7,796				\$7,796
39.	Property Tax	\$20,008	32.74%	\$6,551				\$6,551
40.	Other	\$1,361	0.00%	\$0				
41.	Telephone	\$12,017	0.00%	\$0				
42.	Travel and Entertainment	\$2,434	0.00%	\$0				
43.	Utilities							
44.	Electric	\$3,090	0.00%	\$0				
45.	Trash	\$980	0.00%	\$0				
46.	Other	\$347	0.00%	\$0				
47.	Total Expenses			\$200,923	\$91,716	\$12,501	\$66,518	\$30,189
48.	Total Expenses excluding Franchise taxes			\$193,127	\$91,716	\$12,501	\$66,518	\$22,393

Data provides by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

South Plains Lamesa Railroad, Ltd Expenses in Year 2004

Ln. No. (1)	Expense Category (2)	Total Expense (3)	NEW		Operating Expense Groups			
			Allocation 1/ (4)	Expense (5)	Transp (6)	Loco Maint (7)	MOW (8)	G&A (9)
1.	Advertising	\$1,057	0.00%	\$0				
2.	Auto Expenses	\$2,375	0.00%	\$0				
3.	Car Hire	\$33	0.00%	\$0				
4.	Donations	\$11,666	0.00%	\$0				
5.	Dues, Subscriptions & Fees	\$1,665	0.00%	\$0				
6.	Employee Bonus	\$1,000	0.00%	\$0				
	Employee Medical							
7.	Drug Screening	\$369	50.00%	\$185	\$185			
8.	Other	\$319	50.00%	\$160	\$160			
9.	Freight	\$3,171	0.00%	\$0				
	Fuel							
10.	Auto Gas and Oil	\$16,313	0.00%	\$0				
11.	Locomotive Oil	\$3,336	37.50%	\$1,251	\$1,251			
12.	Non-Taxed Diesel	\$36,354	37.50%	\$13,633	\$13,633			
13.	Taxed Diesel	\$12	0.00%	\$0				
	Insurance							
14.	General Liability	\$60,121	0.00%	\$0				
15.	Health	\$61,070	30.00%	\$18,321				\$18,321
16.	Other	\$5,933	0.00%	\$0				
	Lease Payments							
17.	Computer Lease	\$5,588	0.00%	\$0				
18.	Equipment Lease	\$10,856	0.00%	\$0				
19.	Radio Lease	\$3,267	0.00%	\$0				
20.	Vehicle Lease	\$11,027	0.00%	\$0				
	Legal and Professional							
21.	Attorney's Fees	\$105,730	0.00%	\$0				
22.	Consulting Fees	\$4,392	0.00%	\$0				
23.	Materials	\$71,672						
24.	Maint. Agreements	\$9,281	0.00%	\$0				
25.	Maint. Of Way	\$62,391	32.74%	\$20,428			\$20,428	
26.	Office Expense	\$48,988	0.00%	\$0				
27.	Operating Supplies	\$27,849	37.50%	\$10,443		\$10,443		
	Payroll Taxes							
28.	941 Taxes	\$859	37.50%	\$322	\$322			
29.	CT-1 Taxes	\$7,692	37.50%	\$2,885	\$2,885			
30.	DC1 Taxes	\$13,178	37.50%	\$4,942	\$4,942			
31.	Payroll Expenses	\$148,051	37.50%	\$55,519	\$55,519			
32.	Repair and Maintenance	\$83,130						
33.	Locomotive Repairs	\$19,472	37.50%	\$7,302		\$7,302		
34.	Maint. Agreements	\$6,807	0.00%	\$0				
35.	Maint. Of Way	\$45,759	32.74%	\$14,982			\$14,982	
36.	Other Maintenance	\$11,092	0.00%	\$0				
	Taxes							
37.	FranchiseTax 2/	\$6,077	100.00%	\$6,077				\$6,077
38.	Hazmat Permit	\$550	0.00%	\$0				
39.	Property Tax	\$23,077	32.74%	\$7,556				\$7,556
40.	Other	\$1,800	0.00%	\$0				
41.	Telephone	\$12,238	0.00%	\$0				
42.	Travel and Entertainment	\$809	0.00%	\$0				
43.	Utilities	\$4,466	0.00%	\$0				
44.	Total Expenses			\$164,005	\$78,895	\$17,746	\$35,410	\$31,954
45.	Total Expenses excluding Franchise taxes			\$157,928	\$78,895	\$17,746	\$35,410	\$25,877

Data provides by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

South Plains Lamesa Railroad, Ltd Expenses in Year 2005

Ln. No. (1)	Expense Category (2)	Total Expense (3)	NEW		Operating Expense Groups			
			Allocation 1/ (4)	Expense (5)	Transp (6)	Loco Maint (7)	MOW (8)	G&A (9)
1.	Advertising	\$902	0.00%	\$0				
2.	Auto Expenses	\$2,889	0.00%	\$0				
3.	Car Hire	\$0	0.00%	\$0				
4.	Contract Labor	\$124,324	0.00%	\$0				
5.	Donations	\$11,628	0.00%	\$0				
6.	Dues, Subscriptions & Fees	\$2,614	0.00%	\$0				
7.	Employee Medical							
8.	Drug Screening	\$272	50.00%	\$136	\$136			
9.	Other	\$62	50.00%	\$31	\$31			
10.	Freight	\$5,212	0.00%	\$0				
	Fuel							
11.	Auto Gas and Oil	\$25,576	0.00%	\$0				
12.	Locomotive Oil	\$6,905	37.50%	\$2,589	\$2,589			
13.	Non-Taxed Diesel	\$66,788	37.50%	\$25,046	\$25,046			
14.	Taxed Diesel	\$13	0.00%	\$0				
	Insurance							
15.	General Liability	\$52,401	0.00%	\$0				
16.	Health	\$47,930	30.00%	\$14,379				\$14,379
17.	Vehicle and Other	\$6,164	0.00%	\$0				
	Lease Payments							
18.	Computer Lease	\$4,942	0.00%	\$0				
19.	Equipment Lease	\$21,771	0.00%	\$0				
20.	Radio Lease	\$0	0.00%	\$0				
21.	Telephone Lease	\$1,242	0.00%	\$0				
	Legal and Professional							
22.	Accountant's Fees	\$3,280	0.00%	\$0				
23.	Attorney's Fees	\$155,113	0.00%	\$0				
24.	Consulting Fees	\$13,010	0.00%	\$0				
25.	Other	\$17,033	0.00%	\$0				
26.	Materials	\$115,676						
27.	Maint. Agreements	\$14,979	0.00%	\$0				
28.	Maint. Of Way	\$100,697	32.74%	\$32,970			\$32,970	
29.	Office Expense	\$61,218	0.00%	\$0				
30.	Operating Supplies	\$29,382	37.50%	\$11,018		\$11,018		
	Payroll Taxes							
31.	941 Taxes	\$20,514	37.50%	\$7,693	\$7,693			
32.	CT-1 Taxes	\$72,927	37.50%	\$27,348	\$27,348			
33.	Payroll Expenses	\$219,000	37.50%	\$82,125	\$82,125			
34.	Rent on Equipment	\$6,372	0.00%	\$0				
	Repair and Maintenance							
35.	Locomotive Repairs	\$43,114	37.50%	\$16,168		\$16,168		
36.	Maint. Agreements	\$15,071	0.00%	\$0				
37.	Maint. Of Way	\$101,315	32.74%	\$33,172			\$33,172	
38.	Other Maintenance	\$24,558	0.00%	\$0				
	Taxes							
39.	FranchiseTax 2/	\$26,951	100.00%	\$26,951				\$26,951
40.	Property Tax	\$48,607	32.74%	\$15,915				\$15,915
41.	Other	\$15,266	0.00%	\$0				
42.	Telephone	\$12,537	0.00%	\$0				
43.	Travel and Entertainment	\$7,428	0.00%	\$0				
44.	Utilities	\$5,549	0.00%	\$0				
45.	Total Expenses			\$295,541	\$144,967	\$27,186	\$66,142	\$57,245
46.	Total Expenses excluding Franchise taxes			\$268,589	\$144,967	\$27,186	\$66,142	\$30,294

Data provided by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

Basis of Expense Allocations to NEW Shipper Operations

Data was provided by Delilah Wisener of the South Plains Lamesa Railroad, Ltd.

Ln. No.

Locomotives:

1.	Total locomotives	8
2.	Locomotives eliminated after NEW application	3
3.	Allocation of Locomotive Expenses	37.50%

Personnel:

1.	Total Personnel	11
2.	Personnel covered by health insurance	10
3.	Personnel eliminated after NEW application	3
4.	Allocation of health insurance costs	30.00%

Allocation of payroll and payroll taxes

1.	Salaried employees excl. 3R	8
2.	Personnel eliminated after NEW	3
3.	Allocation of payroll and payroll taxes	37.50%

1.	Locomotive personnel	6
2.	Locomotives personnel eliminated after NEW	3
3.	Allocation of Locomotive personnel	50.00%

1.	Maintenance of way personnel	2
2.	Maintenance of way personnel eliminated after NEW	0
3.	Allocation of maintenance of way personnel	0.00%

1.	Office personnel	3
2.	Office personnel eliminated after NEW	0
3.	Allocation of office personnel	0.00%

Track Mile Related Expenses

1.	Total SAW track miles operated (95,040 feet of track)	18.0000
2.	Track miles in NEW (31,117.7 feet of track)	5.8935038
3.	Maintenance of way allocation Total miles of track received from SAW NEW track received from SAW witness Ed Landreth.	32.74%

Maintenance of Way Materials

	2005 Repair and Maintenance Data	
1.	Monthly Maintenance Agreements	\$15,071
2.	Maintenance of Way	<u>\$101,315</u>
3.	Total Repair and Maint. Track Related	<u>\$116,386</u>
4.	Maintenance of Way Percent	87.05%

Repair and Maintenance Expenses

	2005 Repair and Maintenance	
1.	Locomotive Repairs	\$43,114
2.	Monthly Maintenance Agreements	\$15,071
3.	Maintenance of Way	\$101,315
4.	Other Repair and Maintenance	<u>\$24,558</u>
5.	Total Repair and Maintenance Expense	<u>\$184,058</u>
	Percent Allocation of Repairs and Maint.	
6.	Locomotive Repairs	23.42%
7.	Monthly Maintenance Agreements	8.19%
8.	Maintenance of Way	55.05%
9.	Other Repair and Maintenance	13.34%
10.	Total Repair and Maintenance Expense	100.00%

Proforma Income Tax Calculations for NEW Shipper Operations

Ln. No.	Item	Year						Six Year Total
		2000	2001	2002	2003	2004	2005	
1.	Revenues	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$889,770	
	Less Deductions:							
2.	Operating Expenses excl Franchise Tx	\$144,878	\$190,648	\$171,471	\$193,127	\$157,928	\$268,589	
3.	Franchise Tax	\$9,130	\$10,806	\$10,722	\$7,796	\$6,077	\$26,951	1/
4.	Depreciation	\$12,994	\$8,528	\$9,639	\$20,013	\$22,262	\$22,262	2/
5.	Total Operating Expenses (L.2 + L.3 L.4)	\$167,001	\$209,983	\$191,832	\$220,936	\$186,266	\$317,802	
6.	Taxable Business Income (L.1 - L.5)	\$193,754	\$229,336	\$227,541	\$165,444	\$128,963	\$571,968	
7.	Standard Deduction	\$7,350	\$7,600	\$7,850	\$9,500	\$9,700	\$10,000	
8.	Exemptions	\$5,600	\$5,800	\$6,000	\$6,100	\$6,200	\$6,400	
9.	Net Taxable Income (L.6 -(L7+ L.8)	\$180,804	\$215,936	\$213,691	\$149,844	\$113,063	\$555,568	\$1,428,907
10.	Tax Liability	\$48,138	\$59,405	\$56,605	\$32,137	\$21,741	\$168,511	\$386,536 3/
11.	Effective Tax Rate (L.10 / L.9)	26.62%	27.51%	26.49%	21.45%	19.23%	30.33%	27.05%

1/ Franchise Tax is sourced to Exhibit No. 12, Line 3 for the applicable year.

2/ Depreciation is sourced to Exhibit No. 13 for the applicable year.

3/ Taxes are calculated at the individual tax rate. See Exhibit No. 14.

Proforma Franchise Tax Calculations for NEW Shipper Operations

Ln. No.	<u>Item</u>	Year					
		<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
1.	Taxable Business Income 1/	\$202,884	\$240,143	\$238,263	\$173,240	\$135,040	\$598,920
2.	Tax rate on taxable income 2/	0.045	0.045	0.045	0.045	0.045	0.045
3.	Franchise Tax Liability (L. 1 x L. 2)	\$9,130	\$10,806	\$10,722	\$7,796	\$6,077	\$26,951

1/ Taxable income is sourced to Exhibit No. 11, Line 1 minus Lines 2 and 4.

2/ Source of tax rate is Texas Corporation Franchise Tax Report, Line 29.

Annual Changes in the Depreciation Reserve Representing Track and Locomotives

Ln. No.	Year and Asset	Annual Depreciation Charges				
		January 1	December 31	Net Change	NEW Pct. 2/	NEW Depreciation
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Year 2000					
2.	Depreciable Reserve	\$282,795	\$322,480	\$39,685	32.74%	\$12,994
3.	Year 2001					
4.	Depreciable Reserve	\$322,480	\$348,527	\$26,047	32.74%	\$8,528
5.	Year 2002					
6.	Depreciable Reserve	\$348,527	\$377,968	\$29,441	32.74%	\$9,639
7.	Year 2003					
8.	Depreciable Reserve	\$377,968	\$439,091	\$61,123	32.74%	\$20,013
9.	Year 2004					
10.	Depreciable Reserve	\$439,091	\$507,083	\$67,992	32.74%	\$22,262
11.	Year 2005 1/					
12.	Depreciable Reserve	\$507,083	\$575,075	\$67,992	32.74%	\$22,262
13.	Total Change 2000 through 2005 (Sum of Lines 2, 4, 6, 8, 10, and 12)			\$292,280		\$95,697
14.	Average Annual Depreciation (L. 13 / 6 Years)			\$48,713		\$15,950

Source: Depreciation data is sourced to SAW's Federal Tax Returns for the years 2000 through 2004.

1/ The change in depreciation reserve for 2005 is assumed to be the same as the 2004 change.

2/ The NEW percent is based on the ratio of track miles in NEW to the total track miles operated by SAW.
See Exhibit No. 10, Track Mile Related Expenses.

Calculation of Tax Liability For NEW Shipper Operations
Using Individual Tax Rates

<u>Year 2000</u>			
<u>Income Bracket</u>	<u>Income</u>	<u>Rate</u>	<u>IncTax</u>
0-43,850	\$43,850	0.150	\$6,578
43,850-105,950	\$62,100	0.280	\$17,388
105,950-161,450	\$55,500	0.310	\$17,205
161,450-288,350	\$19,354	0.360	\$6,967
Over 288,350		0.396	
Total	\$180,804		\$48,138

<u>Year 2001</u>			
<u>Income Bracket</u>	<u>Income</u>	<u>Rate</u>	<u>IncTax</u>
0-45,200	\$45,200	0.150	\$6,780
45,200-109,250	\$64,050	0.275	\$17,614
109,250-166,500	\$57,250	0.305	\$17,461
166,500-297,350	\$49,436	0.355	\$17,550
Over 297,350		0.391	
Total	\$215,936		\$59,405

<u>Year 2002</u>			
<u>Income Bracket</u>	<u>Income</u>	<u>Rate</u>	<u>IncTax</u>
0-12,000	\$12,000	0.100	\$1,200
12,000-46,700	\$34,700	0.150	\$5,205
46,700-112,850	\$66,150	0.270	\$17,861
112,850-171,950	\$59,100	0.300	\$17,730
171,950-307,050	\$41,741	0.350	\$14,609
Over 307,050		0.386	
Total	\$213,691		\$56,605

<u>Year 2003</u>			
<u>Income Bracket</u>	<u>Income</u>	<u>Rate</u>	<u>IncTax</u>
0-14,000	\$14,000	0.100	\$1,400
14,000-56,800	\$42,800	0.150	\$6,420
56,800-114,650	\$57,850	0.250	\$14,463
114,650-174,700	\$35,194	0.280	\$9,854
174,700-311,950		0.330	
Over 311,950		0.350	
Total	\$149,844		\$32,137

<u>Year 2004</u>			
<u>Income Bracket</u>	<u>Income</u>	<u>Rate</u>	<u>IncTax</u>
0-14,300	\$14,300	0.100	\$1,430
14,300-58,100	\$43,800	0.150	\$6,570
58,100-117,250	\$54,963	0.250	\$13,741
117,250-178,650		0.280	
178,650-319,100		0.330	
Over 319,100		0.350	
Total	\$113,063		\$21,741

<u>Year 2005</u>			
<u>Income Bracket</u>	<u>Income</u>	<u>Rate</u>	<u>IncTax</u>
0-14,600	\$14,600	0.100	\$1,460
14,600-59,400	\$44,800	0.150	\$6,720
59,400-119,950	\$60,550	0.250	\$15,138
119,950-182,800	\$62,850	0.280	\$17,598
182,800-326,450	\$143,650	0.330	\$47,405
Over 326,450	\$229,118	0.350	\$80,191
Total	\$555,568		\$168,511

Annual Capital Investment Representing Track and Locomotives of NEW Shipper Operations

Ln. No.	Year and Asset	Capital Investment				
		January 1	December 31	Net Change	NEW Pct. 2/	NEW Investment
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1. Year 2000						
2. Depreciable Property		\$515,779	\$515,779	\$0	32.74%	\$0
3. Year 2001						
4. Depreciable Property		\$515,779	\$529,727	\$13,948	32.74%	\$4,567
5. Year 2002						
6. Depreciable Property		\$529,727	\$549,127	\$19,400	32.74%	\$6,352
7. Year 2003						
8. Depreciable Property		\$549,127	\$600,862	\$51,735	32.74%	\$16,939
9. Year 2004						
10. Depreciable Property		\$600,682	\$665,127	\$64,445	32.74%	\$21,100
11. Year 2005 1/						
12. Depreciable Property		\$665,127	\$729,572	\$64,445	32.74%	\$21,100
13. Total Change 2000 through 2005 (Sum of Lines 2, 4, 6, 8, 10, and 12)				\$213,973		
14. Total Change 2003 through 2005 (Sum of Lines 8, 10, and 12)				\$180,625		
15. Average Annual Investment 2000-2005 (L. 13 / 6 Years)				\$35,662	32.74%	\$11,676
16. Average Annual Investment 2003-2005 (L. 14 / 3 years)				\$60,208	32.74%	\$19,713

Source: Investment data is sourced to SAW's Federal Tax Returns for the years 2000 through 2004.

1/ The change in capital investment for 2005 is assumed to be the same as the 2004 change.

2/ The NEW percent is based on the ratio of track miles in NEW to the total track miles operated by SAW.
See Exhibit No. 10, Track Mile Related Expenses.

Calculation of the Percent NEW Shipper Revenues are to the Total Revenues

Ln. No.	ITEM	YEAR						
		2000	2001	2002	2003	2004	2005	2006
1.	Revenue per car							
2.	First 5,000 carloads	\$125.00	\$128.15	\$129.12	\$130.91	\$132.03	\$137.22	\$142.72
3.	Carloads over 5,000	\$110.00	\$112.77	\$113.62	\$115.21	\$116.18	\$120.75	\$125.60
4.	Blocks of 27 cars or more	\$40.00	\$41.01	\$41.32	\$41.89	\$42.25	\$43.91	\$45.67
5.	Revenue surcharge per car						\$20.00	\$60.00
6.	Carloads							
7.	Non- NEW Shippers single car	1,932	2,444	2,897	2,297	2,562	4,094	
8.	Non- NEW Shippers 27 or more	715	1,388	1,634	851	1,178	2,769	
9.	Total Non-NEW Shippers	2,647	3,832	4,531	3,148	3,740	6,863	
10.	NEW Shippers single car	2,703	3,274	3,015	2,873	2,193	6,636	
11.	NEW Shippers 27 or more	572	751	1,070	309	608	549	
12.	Total NEW Shippers	3,275	4,025	4,085	3,182	2,801	7,185	
13.	Total Cars at single rate (L.7 + L.10)	4,635	5,718	5,912	5,170	4,755	10,730	
14.	NEW Cars							
15.	Number in over 5,000 rate (L.13 - 5,000)	0	718	912	170	0	5,730	
16.	Number in first 5,000 rate (L.10 - L.15)	2,703	2,556	2,103	2,703	2,193	906	
17.	Number in blocks 27 or more (L11)	572	751	1,070	309	608	549	
18.	NEW Revenue							
19.	Carloads over the 5,000 limit (L.15 x L. 3)	\$0	\$80,969	\$103,621	\$19,586	\$0	\$691,898	
20.	Carloads within the 5,000 limit (L. 16 x L. 2)	\$337,875	\$327,551	\$271,539	\$353,850	\$289,542	\$124,321	
21.	Carloads in blocks of 27 or more (L. 17 x L. 4)	\$22,880	\$30,799	\$44,212	\$12,944	\$25,688	\$24,107	
22.	Total Haulage Revenue	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$840,325	
23.	PYCO Other Revenue						\$49,445	
24.	NEW Revenue	\$360,755	\$439,319	\$419,373	\$386,379	\$315,230	\$889,770	
25.	Non-NEW Revenue							
26.	Non- NEW Shippers 27 or more (L.8 x L.4)	\$28,600	\$56,922	\$67,517	\$35,648	\$49,771	\$121,587	
27.	Carloads within the 5,000 limit (L. 7 x L. 2)	\$241,500	\$313,199	\$374,061	\$300,700	\$338,261	\$561,779	
28.	Total Non-NEW Haulage Revenue	\$270,100	\$370,120	\$441,578	\$336,349	\$388,031	\$683,365	
29.	Total Revenues (L. 24 + L. 28)	\$630,855	\$809,439	\$860,951	\$722,728	\$703,261	\$1,573,136	
30.	NEW Pct. Of Revenues (L.24 / L. 29)	57.19%	54.27%	48.71%	53.46%	44.82%	56.56%	

Source: Carload data provided by Dennis Olmstead

Revenue per carload provided by South Plains Lamesa Railroad, Ltd.

PYCO Other revenue provided by South Plains Lamesa Railroad, Ltd.

Pro-Forma Profit and Loss Statement for 2005 For The
Total SAW Operation, NEW Shipper Operation and SAW Excluding NEW Operations

<u>Ln. No.</u>	<u>Item</u>	<u>Total SAW Operation</u>	<u>NEW Operation</u>	<u>SAW Excl NEW (c. 3-c.4)</u>
(1)	(2)	(3)	(4)	(5)
	Revenues:			
1.	Haulage	\$1,919,922	\$840,325	\$1,079,597
2.	Surcharge and Other PYCO Revenues	\$49,445	\$49,445	\$0
3.	Track Jobs	\$34,505	\$0	\$34,505
4.	Car Storage	\$131,890	\$0	\$131,890
5.	Total Revenues (Sum L. 1 - L.4)	\$2,135,762	\$889,770	\$1,245,992
	Operating Expenses			
6.	Transp	\$421,110	\$144,967	\$276,143
7.	Loco Maint	\$72,496	\$27,186	\$45,310
8.	MOW	\$392,528	\$66,142	\$326,386
9.	G&A	\$482,471	\$30,294	\$452,177
10.	Transfer to 3R 1/	\$124,150	\$0	\$124,150
11.	Total Operating Expenses excl Franchise Tax: Sum of Lines 6 through 10)	\$1,492,755	\$268,589	\$1,224,166
12.	Franchise Tax 2/	\$25,876	\$26,951	-\$1,076
13.	Depreciation	<u>\$67,992</u>	<u>\$22,262</u>	<u>\$45,730</u>
14.	Total Operating Expenses (L. 11 + L. 12 + L. 13)	\$1,586,623	\$317,802	\$1,268,820
15.	Net Operating Income Before Taxes (L. 5 - L. 14)	\$549,139	\$571,968	-\$22,829

South Plains Lamesa Railroad, Ltd Expenses in Year 2005

Ln. No.	Expense Category	Total Expense	NEW		Total SAW Operations				NEW Shipper Operations			
			Allocation 1/	Expense	Operating Expense Groups				Operating Expense Groups			
					Transp	Loco Maint	MOW	G&A	Transp	Loco Maint	MOW	G&A
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1.	Advertising	\$902	0.00%	\$0				\$902				
2.	Auto Expenses	\$2,889	0.00%	\$0	\$2,889							
3.	Car Hire	\$0	0.00%	\$0								
4.	Contract Labor	\$124,324	0.00%	\$0			\$124,324					
5.	Donations	\$11,628	0.00%	\$0				\$11,628				
6.	Dues, Subscriptions & Fees	\$2,614	0.00%	\$0				\$2,614				
7.	Employee Medical											
8.	Drug Screening	\$272	50.00%	\$136	\$272					\$136		
9.	Other	\$62	50.00%	\$31	\$62					\$31		
10.	Freight	\$5,212	0.00%	\$0			\$5,212					
	Fuel											
11.	Auto Gas and Oil	\$25,576	0.00%	\$0	\$25,576							
12.	Locomotive Oil	\$6,905	37.50%	\$2,589	\$6,905				\$2,589			
13.	Non-Taxed Diesel	\$66,788	37.50%	\$25,046	\$66,788				\$25,046			
14.	Taxed Diesel	\$13	0.00%	\$0	\$13							
	Insurance											
15.	General Liability	\$52,401	0.00%	\$0				\$52,401				
16.	Health	\$47,930	30.00%	\$14,379				\$47,930				\$14,379
17.	Vehicle and Other	\$6,164	0.00%	\$0	\$6,164							
	Lease Payments											
18.	Computer Lease	\$4,942	0.00%	\$0				\$4,942				
19.	Equipment Lease	\$21,771	0.00%	\$0				\$21,771				
20.	Radio Lease	\$0	0.00%	\$0				\$0				
21.	Telephone Lease	\$1,242	0.00%	\$0				\$1,242				
	Legal and Professional											
22.	Accountant's Fees	\$3,280	0.00%	\$0				\$3,280				
23.	Attorney's Fees	\$155,113	0.00%	\$0				\$155,113				
24.	Consulting Fees	\$13,010	0.00%	\$0				\$13,010				
25.	Other	\$17,033	0.00%	\$0				\$17,033				
26.	Materials	\$115,676										
27.	Maint. Agreements	\$14,979	0.00%	\$0			\$14,979					
28.	Maint. Of Way	\$100,697	32.74%	\$32,970			\$100,697				\$32,970	
29.	Office Expense	\$61,218	0.00%	\$0				\$61,218				
30.	Operating Supplies	\$29,382	37.50%	\$11,018		\$29,382				\$11,018		
	Payroll Taxes											
31.	941 Taxes	\$20,514	37.50%	\$7,693	\$20,514					\$7,693		
32.	CT-1 Taxes	\$72,927	37.50%	\$27,348	\$72,927					\$27,348		
33.	Payroll Expenses	\$219,000	37.50%	\$82,125	\$219,000					\$82,125		
34.	Rent on Equipment	\$6,372	0.00%	\$0			\$6,372					
	Repair and Maintenance											
35.	Locomotive Repairs	\$43,114	37.50%	\$16,168		\$43,114				\$16,168		
36.	Maint. Agreements	\$15,071	0.00%	\$0			\$15,071					
37.	Maint. Of Way	\$101,315	32.74%	\$33,172			\$101,315				\$33,172	
38.	Other Maintenance	\$24,558	0.00%	\$0			\$24,558					
	Taxes											
39.	FranchiseTax 2/	\$26,951	100.00%	\$26,951								\$26,951
40.	Property Tax	\$48,607	32.74%	\$15,915				\$48,607				\$15,915
41.	Other	\$15,266	0.00%	\$0				\$15,266				
42.	Telephone	\$12,537	0.00%	\$0				\$12,537				
43.	Travel and Entertainment	\$7,428	0.00%	\$0				\$7,428				
44.	Utilities	\$5,549	0.00%	\$0				\$5,549				
45.	Total Expenses			\$295,541					\$144,967	\$27,186	\$66,142	\$57,245
46.	Total Expenses excluding Franchise taxes			\$268,589	\$421,110	\$72,496	\$392,528	\$482,471	\$144,967	\$27,186	\$66,142	\$30,294

Data provided by South Plains Lamesa Railroad, Ltd

1/ Source for allocation percentages is Exhibit No. 10.

2/ Source for Franchise Tax calculation is Exhibit No. 12.

SAW Pro-Forma Franchise Tax Liability in Year 2005

<u>Ln. No.</u>	<u>Item</u>	<u>SAW 2005</u>
(1)	(2)	(3)
1.	Taxable Business Income 1/	\$575,015
2.	Tax rate on taxable income 2/	0.045
3.	Franchise Tax Liability (L. 1 x L. 2)	\$25,876

1/ Source Tab "P&L Proforma" Line 5, col.3 minus Lines 11 and 13, col. 3.

2/ Source of tax rate is Texas Corporation Franchise Tax Report, Line 29.

Exhibit 20 - NEW Going Concern Value - Full Surcharge

Ln. No. (1)	Item (2)	2005 (3)	2006 (4)	2007 (5)	2008 (6)	2009 (7)	2010 (8)	2011 (9)	2012 (10)	2013 (11)	2014 (12)	2015 (13)	Terminal Value 4/ (14)
1.	Total Revenues 1/	\$889,770	\$1,378,086	\$1,416,469	\$1,443,262	\$1,479,030	\$1,504,346	\$1,542,936	\$1,572,165	\$1,596,479	\$1,620,218	\$1,646,119	
2.	Transportation Expense 2/	\$144,967	\$150,874	\$156,137	\$159,773	\$164,739	\$168,611	\$174,090	\$178,059	\$181,861	\$185,325	\$189,071	
3.	Locomotive Maintenance 2/	\$27,186	\$28,294	\$29,261	\$29,963	\$30,694	\$31,620	\$32,647	\$33,392	\$34,105	\$34,754	\$35,457	
4.	Maintenance of Way Expense 2/	\$63,142	\$66,837	\$71,238	\$72,898	\$75,163	\$76,930	\$79,429	\$81,240	\$82,975	\$84,556	\$86,265	
5.	General and Administrative Expense 2/	\$57,245	\$57,989	\$58,511	\$58,921	\$59,451	\$60,048	\$60,706	\$61,313	\$62,110	\$62,793	\$63,484	
6.	Total Operating Expense (Sum of Lines 4 - 7)	\$295,541	\$305,994	\$315,168	\$321,554	\$330,247	\$337,206	\$346,873	\$354,004	\$361,051	\$367,429	\$374,276	
7.	Earnings Before Taxes and Depreciation (L. 1 - L. 6)	\$594,230	\$1,072,092	\$1,101,301	\$1,121,707	\$1,148,782	\$1,167,140	\$1,196,063	\$1,218,161	\$1,235,428	\$1,252,790	\$1,271,843	
8.	Depreciation 3/	\$22,262	\$18,919	\$19,969	\$21,010	\$21,798	\$22,639	\$23,415	\$24,073	\$24,787	\$25,456	\$26,036	
9.	Earnings before Taxes (L. 7 - L. 9)	\$571,968	\$1,053,173	\$1,081,332	\$1,100,698	\$1,126,984	\$1,144,500	\$1,172,649	\$1,194,088	\$1,210,641	\$1,227,334	\$1,245,807	
10.	Income Taxes 4/	\$168,511	\$368,611	\$378,466	\$385,244	\$394,445	\$400,575	\$410,427	\$417,931	\$423,724	\$429,567	\$436,033	
11.	Net Income After Taxes and Depreciation (L. 9 - L. 10)	\$403,457	\$684,563	\$702,866	\$715,454	\$732,540	\$743,925	\$762,222	\$776,157	\$786,917	\$797,767	\$809,775	
12.	Plus: Depreciation (L. 8)	\$22,262	\$18,919	\$19,969	\$21,010	\$21,798	\$22,639	\$23,415	\$24,073	\$24,787	\$25,456	\$26,036	
13.	Plus: Decreases in Net Working Capital 5/	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
14.	Less: Capital Expenditures 3/	\$21,100	\$20,516	\$22,726	\$23,255	\$23,978	\$24,542	\$25,339	\$25,917	\$26,470	\$26,975	\$27,520	
15.	Less: Increases in Net Working Capital 5/	\$36,917	\$39,822	\$2,434	\$1,701	\$2,256	\$1,530	\$2,410	\$1,842	\$1,439	\$1,447	\$1,588	
16.	Total Available Cash Flow (L. 11 + L. 12 + L. 13 - L. 14 - L. 15)	\$367,701	\$643,143	\$697,675	\$711,507	\$728,103	\$740,493	\$757,887	\$772,472	\$783,795	\$794,801	\$806,703	\$9,377,457
17.	Discount Factor at 10.1% 6/	1.00	0.91	0.82	0.75	0.68	0.62	0.56	0.51	0.46	0.42	0.38	0.38
18.	Present Value of Cash Flows (L. 16, x L. 17)		\$584,144	\$575,544	\$553,111	\$495,500	\$457,704	\$425,481	\$393,887	\$362,998	\$334,328	\$308,206	\$3,562,712
19.	Cumulative Present Value of Cash Flows (Sum of L. 18, Cols (3) - (14))	\$8,053,614											

1/ See revenue forecast

2/ Expenses are increased by EIA 2006 AEO forecasted ton-mile increases, as well as by RCAF-A increases

3/ See Exhibit 22

4/ Multiplied by 35% per highest marginal tax rate

5/ See Exhibit 24

6/ After tax cost of capital from U.S. Surface Transportation Board's June 21, 2005 decision in Ex Parte 558 Sub No. 8 (1 + (1 + 10.1%)^t)

7/ Terminal value = 2015 Cash Flows + (10.1% discount rate - ((2015 Cash Flow + 2014 Cash Flow) - 1)

Exhibit 21 - NEW Revenue Forecast - Full Surcharge

Ln. No.	ITEM	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1.	Revenue per car 1/											
2.	First 5,000 carloads	\$137.22	\$142.72	\$143.49	\$144.26	\$145.12	\$146.06	\$147.23	\$148.71	\$150.34	\$151.92	\$153.51
3.	Carloads over 5,000	\$120.75	\$125.60	\$126.28	\$126.95	\$127.71	\$128.54	\$129.57	\$130.87	\$132.31	\$133.70	\$135.10
4.	Blocks of 27 cars or more	\$43.91	\$45.67	\$45.92	\$46.16	\$46.44	\$46.74	\$47.11	\$47.59	\$48.11	\$48.61	\$49.12
5.	Revenue surcharge per car - Not in 27+ blocks	\$20.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00	\$60.00
5 b.	Revenue surcharge per car - 27+ blocks		\$40.00	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00	\$40.00
6.	Carloads	14,048										
7.	Non- NEW Shippers single car	4,094	4,206	4,314	4,384	4,480	4,540	4,636	4,695	4,734	4,771	4,815
8.	Non- NEW Shippers 27 or more	2,769	2,845	2,918	2,965	3,030	3,070	3,136	3,175	3,202	3,227	3,256
9.	Total Non-NEW Shippers	6,863	7,051	7,232	7,349	7,510	7,610	7,772	7,870	7,935	7,998	8,071
10.	NEW Shippers single car	6,636	6,818	6,993	7,106	7,261	7,358	7,515	7,610	7,673	7,734	7,804
11.	NEW Shippers 27 or more	549	564	579	588	601	609	622	630	635	640	646
12.	Total NEW Shippers	7,185	7,382	7,571	7,694	7,862	7,967	8,136	8,240	8,308	8,374	8,450
13.	Total Cars at single rate (L.7 + L.10)	10,730	11,024	11,307	11,490	11,741	11,898	12,151	12,305	12,406	12,505	12,619
14.	NEW Cars											
15.	Number in over 5,000 rate (L.13 - 5,000)	5,730	6,024	6,307	6,490	6,741	6,898	7,151	7,305	7,406	7,505	7,619
16.	Number in first 5,000 rate (L.10 - L.15)	906	794	686	616	520	460	364	305	266	229	185
17.	Number in blocks 27 or more (L.11)	549	564	579	588	601	609	622	630	635	640	646
18.	NEW Revenue											
19.	Carloads over the 5,000 limit (L.15 x (L. 3 + L. 5))	\$691,898	\$1,118,032	\$1,174,795	\$1,213,237	\$1,265,374	\$1,300,565	\$1,355,611	\$1,394,267	\$1,424,296	\$1,453,715	\$1,486,477
20.	Carloads within the 5,000 limit (L. 16 x (L. 2 + L. 5))	\$124,321	\$160,934	\$139,587	\$125,859	\$106,715	\$94,865	\$75,402	\$63,676	\$55,032	\$48,467	\$39,551
21.	Carloads in blocks of 27 or more (L. 17 x (L. 4 + L. 5b))	\$24,107	\$48,321	\$49,703	\$50,651	\$51,926	\$52,804	\$54,159	\$55,142	\$55,929	\$56,697	\$57,543
22.	Total Haulage Revenue	\$840,325	\$1,327,286	\$1,364,085	\$1,389,747	\$1,424,015	\$1,448,234	\$1,485,173	\$1,513,085	\$1,536,257	\$1,558,879	\$1,583,571
23.	PYCO Other Revenue	\$49,445	\$50,799	\$52,384	\$53,515	\$55,014	\$56,112	\$57,763	\$59,080	\$60,223	\$61,339	\$62,548
24.	NEW Revenue	\$889,770	\$1,378,086	\$1,416,469	\$1,443,262	\$1,479,030	\$1,504,346	\$1,542,936	\$1,572,165	\$1,596,479	\$1,620,218	\$1,646,119

Source: Carload data provided by Dennis Olmstead
Revenue per carload provided by South Plains Lamesa Railroad, Ltd.
PYCO Other revenue provided by South Plains Lamesa Railroad, Ltd.
1/ Forecasted revenue per carload is increased by 50% RCAF-U per SAW rate escalation
2/ Carloads are increased by EIA 2006 AEO forecasted ton-mile increases

Exhibit 22 - NEW Capital Expenditures and Depreciation - Full Surcharge

Line No.	Item	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1.	Capital Spending 1/	\$0	\$4,567	\$6,352	\$16,939	\$21,100	\$21,100	\$20,516	\$22,726	\$23,255	\$23,978	\$24,542	\$25,339	\$25,917	\$26,470	\$26,975	\$27,520
2.	Depreciation																
3.	Prior Investments 2/	\$0	\$0	\$0	\$0	\$0	\$0	\$4,039	\$2,884	\$1,731	\$577						
4.	2000 Additions 3/		\$653	\$1,118	\$799	\$570	\$408	\$407	\$408	\$204							
5.	2001 Additions 3/			\$908	\$1,556	\$1,111	\$793	\$567	\$567	\$567	\$283						
6.	2002 Additions 3/				\$2,421	\$4,148	\$2,963	\$2,116	\$1,513	\$1,511	\$1,513	\$755					
7.	2003 Additions 3/					\$3,015	\$5,167	\$3,690	\$2,635	\$1,884	\$1,884	\$1,884	\$941				
8.	2004 Additions 3/						\$5,167	\$3,690	\$2,635	\$1,884	\$1,884	\$1,884	\$1,884	\$941			
9.	2005 Additions 3/						\$2,932	\$5,024	\$3,588	\$2,563	\$2,563	\$1,832	\$1,830	\$1,832	\$915		
10.	2006 Additions 3/							\$3,248	\$5,566	\$3,975	\$3,975	\$2,839	\$2,029	\$2,027	\$2,029	\$1,014	
11.	2007 Additions 3/								\$3,323	\$5,695	\$5,695	\$4,067	\$2,905	\$2,077	\$2,074	\$2,077	\$1,037
12.	2008 Additions 3/									\$5,872	\$5,872	\$4,194	\$2,995	\$2,077	\$2,141	\$2,139	\$2,141
13.	2009 Additions 3/										\$3,426	\$3,507	\$6,010	\$4,292	\$3,065	\$2,192	\$2,189
14.	2010 Additions 3/											\$3,507	\$6,010	\$6,206	\$4,432	\$3,165	\$2,263
15.	2011 Additions 3/												\$3,621	\$3,704	\$6,347	\$4,533	\$3,237
16.	2012 Additions 3/														\$3,783	\$6,483	\$4,630
17.	2013 Additions 3/															\$3,855	\$6,606
18.	2014 Additions 3/																\$3,933
19.	Forecasted Depreciation 4/							\$18,919	\$19,969	\$21,010	\$21,798	\$22,639	\$23,415	\$24,073	\$24,787	\$25,456	\$26,036

1/ 2006 capital spending uses average 2003 - 2005 capital spending

Capital spending is escalated by the RCAF-A and ton-mile increases

2/ See Exhibit 23

3/ Each year capital expenditures are depreciated via MACRS table below for 7 year life.

4/ Sum Lines 2 - 18

MACRS 7-Year Tax Deprec.	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
	14.29%	24.49%	17.49%	12.49%	8.93%	8.92%	8.93%	4.46%

Estimate Undepreciated 1/1/2000 NEW Assets

Calculate Depreciation of 2000 - 2005 SAW Investment for line 3

Allocate Undepreciated 1/1/2000 investment after 12/31/05

1/ From SAW Pro Forma

2/ L. 8 x MACRS depreciation schedule

3/ Sum Lines 9 - 14

4/ Sum Line 15, years 2000 - 2005

5/ Assume that \$9,230 represents previous years' investment amounts that are in the final years of depreciation

Assume that these previous years' investments were \$11,676 per average 2000 - 2005 investment, and are depreciated per 7 year MACRS schedules

6/ Sum Lines 19 - 22

$$7 / (L. 18 - L. 23_{\text{Total}}) \times (L. 23_{\text{year}} + L. 23_{\text{Total}})$$

8/ L. 23 + L. 24

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
MACRS Schedule	14.29%	24.49%	17.49%	12.49%	8.93%	8.92%	8.93%	4.46%

Exhibit 24 - NEW Changes to Net Working Capital - Full Surcharge

<u>Line No.</u>	<u>Item</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
1.	Estimated Change in Accts Receivable 1/	(\$47,878)	(\$40,693)	(\$3,199)	(\$2,233)	(\$2,981)	(\$2,110)	(\$3,216)	(\$2,436)	(\$2,026)	(\$1,978)	(\$2,158)
2.	Estimated Change in Accts Payable 2/	\$10,961	\$871	\$764	\$532	\$724	\$580	\$806	\$594	\$587	\$531	\$571
3.	Change in Net Working Capital (L. 1 + L. 2)	(\$36,917)	(\$39,822)	(\$2,434)	(\$1,701)	(\$2,256)	(\$1,530)	(\$2,410)	(\$1,842)	(\$1,439)	(\$1,447)	(\$1,588)

1/ $((\text{Revenues}_{\text{year} + 12}) - (\text{Revenues}_{\text{year} - 1} \div 12)) \times -1$

2/ $(\text{Operating Expenses}_{\text{year} + 12}) - (\text{Operating Expenses}_{\text{year} - 1} \div 12)$

Exhibit 25 - NEW GCV Forecasts Indexes - Full Surcharge

<u>Line No.</u> (1)	<u>Item</u> (2)	<u>2005</u> (3)	<u>2006</u> (4)	<u>2007</u> (5)	<u>2008</u> (6)	<u>2009</u> (7)	<u>2010</u> (8)	<u>2011</u> (9)	<u>2012</u> (10)	<u>2013</u> (11)	<u>2014</u> (12)	<u>2015</u> (13)
1.	RCAF-A % Chg 1/		1.3%	0.9%	0.7%	0.9%	1.0%	1.1%	1.0%	1.3%	1.1%	1.1%
2.	RCAF-A Index	1.00	1.01	1.02	1.03	1.04	1.05	1.06	1.07	1.08	1.10	1.11
3.	4Q RCAF-U 1/	118.50	120.50	121.80	123.10							
4.	RCAF-U % Chg 1/			1.1%	1.1%	1.2%	1.3%	1.6%	2.0%	2.2%	2.1%	2.1%
5.	50% RCAF-U 2/			0.5%	0.5%	0.6%	0.7%	0.8%	1.0%	1.1%	1.1%	1.1%
6.	50% RCAF-U Index		1.00	1.01	1.01	1.02	1.02	1.03	1.04	1.05	1.06	1.08
7.	Ton-Mile Forecast (Billions) 2/	1552.174	1594.686	1635.597	1662.054	1698.423	1721.129	1757.721	1779.995	1794.674	1808.961	1825.44
8.	Ton-Mile Index	1.00	1.03	1.05	1.07	1.09	1.11	1.13	1.15	1.16	1.17	1.18

1/ June 2006 Global Insight Forecast

2/ Per SAW rate escalation, rates are increased 50% of change of each year's 4Q RCAF-U. Global Insight forecast provides quarterly forecasts until 2008, so use annual change beyond that time

3/ U.S. Energy information Agency, 2006 Annual Energy Outlook, Table 55 - Freight Transportation Energy Use

Exhibit 26 - NEW GOING CONCERN VALUE - \$20 PYCO SURCHARGE

Ln. No. (1)	Item (2)	2005 (3)	2006 (4)	2007 (5)	2008 (6)	2009 (7)	2010 (8)	2011 (9)	2012 (10)	2013 (11)	2014 (12)	2015 (13)	Terminal Value 4/ (14)
1.	Total Revenues 1/	\$889,770	\$1,018,805	\$1,048,986	\$1,076,858	\$1,099,807	\$1,126,639	\$1,150,240	\$1,181,323	\$1,205,821	\$1,226,259	\$1,247,056	
2.	Transportation Expense 2/	\$144,967	\$150,874	\$156,137	\$159,773	\$164,739	\$168,811	\$174,090	\$178,059	\$181,861	\$185,325	\$189,071	
3.	Locomotive Maintenance 2/	\$27,186	\$28,294	\$29,281	\$29,963	\$30,894	\$31,620	\$32,647	\$33,382	\$34,105	\$34,754	\$35,457	
4.	Maintenance of Way Expense 2/	\$66,142	\$68,837	\$71,238	\$72,898	\$75,163	\$76,930	\$79,429	\$81,240	\$82,975	\$84,556	\$86,265	
5.	General and Administrative Expense 2/	\$57,245	\$57,969	\$58,511	\$58,921	\$59,451	\$60,046	\$60,706	\$61,313	\$62,110	\$62,793	\$63,484	
6.	Total Operating Expense (Sum of Lines 4 - 7)	\$295,541	\$305,994	\$315,168	\$321,554	\$330,247	\$337,206	\$346,873	\$354,004	\$361,051	\$367,429	\$374,278	
7.	Earnings Before Taxes and Depreciation (L. 1 - L. 6)	\$594,230	\$712,811	\$733,819	\$755,303	\$769,560	\$789,433	\$803,367	\$827,319	\$844,770	\$858,831	\$872,780	
8.	Depreciation 3/	\$22,262	\$18,919	\$19,969	\$21,010	\$21,798	\$22,639	\$23,415	\$24,073	\$24,787	\$25,456	\$26,036	
9.	Earnings before Taxes (L. 7 - L. 9)	\$571,968	\$693,892	\$713,849	\$734,294	\$747,762	\$766,794	\$779,953	\$803,245	\$819,983	\$833,375	\$846,744	
10.	Income Taxes 4/	\$168,511	\$242,862	\$249,847	\$257,003	\$261,717	\$268,378	\$272,884	\$281,136	\$286,994	\$291,681	\$296,360	
11.	Net Income After Taxes and Depreciation (L. 9 - L. 10)	\$403,457	\$451,030	\$464,002	\$477,291	\$486,045	\$498,416	\$506,969	\$522,109	\$532,989	\$541,694	\$550,384	
12.	Plus: Depreciation (L. 8)	\$22,262	\$18,919	\$19,969	\$21,010	\$21,798	\$22,639	\$23,415	\$24,073	\$24,787	\$25,456	\$26,036	
13.	Plus: Decreases in Net Working Capital 5/	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
14.	Less: Capital Expenditures 3/	\$21,100	\$20,516	\$22,726	\$23,255	\$23,978	\$24,542	\$25,339	\$25,917	\$26,470	\$26,975	\$27,520	
15.	Less: Increases in Net Working Capital 5/	\$36,917	\$9,882	\$1,751	\$1,790	\$1,188	\$1,656	\$1,161	\$1,996	\$1,454	\$1,172	\$1,162	
16.	Total Available Cash Flow (L. 11 + L. 12 + L. 13 - L. 14 - L. 15)	\$387,701	\$439,551	\$459,494	\$473,255	\$482,677	\$494,858	\$503,884	\$518,270	\$529,851	\$539,003	\$547,737	\$6,459,473
17.	Discount Factor at 10.1% 6/	1.00	0.91	0.82	0.75	0.68	0.62	0.56	0.51	0.46	0.42	0.38	0.38
18.	Present Value of Cash Flows (L. 16 x L. 17)		\$398,228	\$378,058	\$354,595	\$328,479	\$305,875	\$282,883	\$264,268	\$245,389	\$226,728	\$209,266	\$2,467,879
19.	Cumulative Present Value of Cash Flows (Sum of L. 18, Cols (3) - (14))	\$5,463,649											

1/ See revenue forecast

2/ Expenses are increased by EIA 2006 AEO forecasted ton-mile increases, as well as by RCAFA-A increases

3/ See Exhibit 27

4/ Multiplied by 35% per highest marginal tax rate

5/ See Exhibit 29

6/ After tax cost of capital from U.S. Surface Transportation Board's June 21, 2005 decision in Ex Parte 558 Sub No. 8 (1 + (1 + 10.1%)^t)

7/ Terminal value = 2015 Cash Flows * (10.1% discount rate - ((2015 Cash Flow + 2014 Cash Flow) - 1)

Exhibit 27 - NEW Revenue Forecast - \$20 PYCO Surcharge

Ln. No.	ITEM	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1.	Revenue per car											
2.	First 5,000 carloads	\$137.22	\$142.72	\$143.49	\$144.26	\$145.12	\$146.06	\$147.23	\$148.71	\$150.34	\$151.92	\$153.51
3.	Carloads over 5,000	\$120.75	\$125.60	\$126.28	\$126.95	\$127.71	\$128.54	\$129.57	\$130.87	\$132.31	\$133.70	\$135.10
4.	Blocks of 27 cars or more	\$43.91	\$45.67	\$45.92	\$46.16	\$46.44	\$46.74	\$47.11	\$47.59	\$48.11	\$48.61	\$49.12
5.	Revenue surcharge per car - Not in 27+ blocks	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
6.	Carloads	14,048										
7.	Non- NEW Shippers single car	4,094	4,018	4,133	4,267	4,319	4,439	4,474	4,596	4,669	4,708	4,742
8.	Non- NEW Shippers 27 or more	2,769	2,845	2,918	2,965	3,030	3,070	3,136	3,175	3,202	3,227	3,256
9.	Total Non-NEW Shippers	6,863	6,863	7,051	7,232	7,349	7,510	7,610	7,772	7,870	7,935	7,998
10.	NEW Shippers single car	6,636	6,636	6,818	6,993	7,106	7,261	7,358	7,515	7,610	7,673	7,734
11.	NEW Shippers 27 or more	549	549	564	579	588	601	609	622	630	635	640
12.	Total NEW Shippers	7,185	7,185	7,382	7,571	7,694	7,862	7,967	8,136	8,240	8,308	8,374
13.	Total Cars at single rate (L. 7 + L. 10)	10,730	10,654	10,951	11,259	11,425	11,700	11,833	12,111	12,279	12,381	12,476
14.	NEW Cars											
15.	Number in over 5,000 rate (L. 13 - 5,000)	5,730	5,654	5,951	6,259	6,425	6,700	6,833	7,111	7,279	7,381	7,476
16.	Number in first 5,000 rate (L. 10 - L. 15)	906	982	867	733	681	561	526	404	331	292	258
17.	Number in blocks 27 or more (L. 11)	549	549	564	579	588	601	609	622	630	635	640
18.	PYCO Cars	5,950	6,113	6,270	6,371	6,511	6,598	6,738	6,823	6,880	6,934	6,998
19.	NEW Revenue											
20.	Carloads over the 5,000 limit (L. 15 x L. 3)	\$691,898	\$710,163	\$751,464	\$794,652	\$820,519	\$861,303	\$885,322	\$930,622	\$963,024	\$986,795	\$1,009,971
21.	Carloads within the 5,000 limit (L. 16 x L. 2)	\$124,321	\$140,128	\$124,385	\$105,763	\$98,837	\$81,907	\$77,392	\$60,016	\$49,806	\$44,341	\$39,622
22.	Carloads in blocks of 27 or more (L. 17 x L. 4)	\$24,107	\$25,073	\$25,898	\$26,705	\$27,299	\$28,078	\$28,681	\$29,584	\$30,288	\$30,859	\$31,431
23.	Total Haulage Revenue	\$840,325	\$875,364	\$901,748	\$927,119	\$946,655	\$971,289	\$991,395	\$1,020,221	\$1,043,118	\$1,061,995	\$1,081,024
24.	PYCO \$20 Surcharge	\$29,000	\$122,259	\$125,396	\$127,424	\$130,212	\$131,953	\$134,759	\$136,466	\$137,592	\$138,687	\$139,950
25.	PYCO Other Revenue	\$20,445	\$21,182	\$21,843	\$22,315	\$22,940	\$23,397	\$24,086	\$24,635	\$25,112	\$25,577	\$26,081
26.	NEW Revenue	\$889,770	\$1,018,805	\$1,048,986	\$1,076,858	\$1,099,807	\$1,126,639	\$1,150,240	\$1,181,323	\$1,205,821	\$1,226,259	\$1,247,056

Source: Carload data provided by Dennis Olmstead

Revenue per carload provided by South Plains Lamesa Railroad, Ltd.

PYCO Other revenue provided by South Plains Lamesa Railroad, Ltd.

1/ Forecasted revenue per carload is increased by 50% RCAF-U per SAW rate escalation

2/ Carloads are increased by EIA 2006 AEO forecasted ton-mile increases

Exhibit 28 - NEW Capital Expenditures and Depreciation - \$20 PYCO Surcharge

Line No.	Item	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1.	Capital Spending 1/	\$0	\$4,567	\$6,352	\$16,939	\$21,100	\$21,100	\$20,516	\$22,726	\$23,255	\$23,978	\$24,542	\$25,339	\$25,917	\$26,470	\$26,975	\$27,520
2.	Depreciation																
3.	Prior Investments 2/	\$0	\$0	\$0	\$0	\$0	\$0	\$4,039	\$2,884	\$1,731	\$577						
4.	2000 Additions 3/		\$653	\$1,118	\$799	\$570	\$408	\$407	\$408	\$204							
5.	2001 Additions 3/			\$908	\$1,556	\$1,111	\$793	\$567	\$567	\$567	\$283						
6.	2002 Additions 3/				\$2,421	\$4,148	\$2,963	\$2,116	\$1,513	\$1,511	\$1,513	\$755					
7.	2003 Additions 3/					\$3,015	\$5,167	\$3,690	\$2,635	\$1,884	\$1,882	\$1,884	\$941				
8.	2004 Additions 3/						\$5,167	\$5,167	\$3,690	\$2,635	\$1,884	\$1,882	\$1,884	\$941			
9.	2005 Additions 3/							\$2,932	\$5,024	\$3,588	\$2,563	\$1,832	\$1,830	\$1,832	\$915		
10.	2006 Additions 3/								\$3,248	\$5,566	\$3,975	\$2,839	\$2,029	\$2,027	\$2,029	\$1,014	
11.	2007 Additions 3/									\$3,323	\$5,695	\$4,067	\$2,905	\$2,077	\$2,074	\$2,077	\$1,037
12.	2008 Additions 3/										\$3,426	\$5,872	\$4,194	\$2,985	\$2,141	\$2,139	\$2,141
13.	2009 Additions 3/											\$5,507	\$6,010	\$4,292	\$3,065	\$2,192	\$2,189
14.	2010 Additions 3/												\$3,621	\$6,206	\$4,432	\$3,165	\$2,263
15.	2011 Additions 3/													\$3,704	\$6,347	\$4,533	\$3,237
16.	2012 Additions 3/														\$3,783	\$6,483	\$4,630
17.	2013 Additions 3/															\$3,855	\$5,606
18.	2014 Additions 3/																\$3,933
19.	Forecasted Depreciation 4/							\$18,919	\$19,989	\$21,010	\$21,798	\$22,639	\$23,415	\$24,073	\$24,787	\$25,456	\$26,036

1/ 2006 capital spending uses average 2003 - 2005 capital spending

Capital spending is escalated by the RCAF-A and ton-mile increases

2/ See Exhibit 28

3/ Each year capital expenditures are depreciated via MACRS table below for 7 year life.

4/ Sum Lines 2 - 18

MACRS 7-Year Tax Deprec.	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
	14.29%	24.49%	17.49%	12.49%	8.93%	8.92%	8.93%	4.46%

Exhibit 29 - Estimate and Allocate Undepreciated Assets - \$20 PYCO Surcharge

Estimate Undepreciated 1/1/2000 NEW Assets

1. SAW 1/1/2000 Depreciable Assets 1/	\$515,779
2. SAW 12/31/05 Depreciation Reserve 1/	\$575,075
3. SAW Depreciation of 01/01/00 - 12/31/05 Investment (-L. 16)	<u>(\$87,488)</u>
4. SAW Depreciation Applied to 1/1/2000 Assets (L. 2 + L. 3)	\$487,587
5. Undepreciated 1/1/2000 SAW Assets (L. 1 - L. 4)	\$28,192
6. NEW Allocation 1/	32.74%
7. NEW Undeprec. 1/1/2000 SAW Assets @ 12/31/05 (L. 5 x L. 6)	<u>\$9,230</u>

Calculate Depreciation of 2000 - 2005 SAW Investment for line 3

Year	2000	2001	2002	2003	2004	2005
8. Investment 1/	\$0	\$13,948	\$19,400	\$51,735	\$64,445	\$64,445
Depreciation						
9. 2000 Additions 2/	\$0	\$0	\$0	\$0	\$0	\$0
10. 2001 Additions 2/		\$1,993	\$3,416	\$2,440	\$1,742	\$1,246
11. 2002 Additions 2/			\$2,772	\$4,751	\$3,393	\$2,423
12. 2003 Additions 2/				\$7,393	\$12,670	\$9,048
13. 2004 Additions 2/					\$9,209	\$15,783
14. 2005 Additions 2/						\$9,209
15. Depreciation of 2000 - 2005 Investment 3/	\$0	\$1,993	\$6,188	\$14,583	\$27,014	\$37,709
16. Total Depreciation 4/						<u>\$87,488</u>

Allocate Undepreciated 1/1/2000 investment after 12/31/05

17. Average Investment 2000 - 2005 1/								\$11,676
18. Undepreciated Assets (L. 7)								\$9,230
	<u>Generation</u>	<u>Investment</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Year 7</u>	<u>Year 8</u>	<u>Total</u>	
19. Generation 1 5/		\$11,676	\$1,043	\$1,042	\$1,043	\$521		
20. Generation 2 5/		\$11,676	\$1,042	\$1,043	\$521			
21. Generation 3 5/		\$11,676	\$1,043	\$521				
22. Generation 4 5/		\$11,676	\$521					
23. Allocate Avg Investment 6/			\$3,648	\$2,605	\$1,563	\$521		\$8,337
24. Allocate Residual 7/			\$391	\$279	\$168	\$56		\$894
25. Allocate Undeprec. Assets 8/			\$4,039	\$2,884	\$1,731	\$577		\$9,230

1/ From SAW Pro Forma

2/ L. 8 x MACRS depreciation schedule

3/ Sum Lines 9 - 14

4/ Sum Line 15, years 2000 - 2005

5/ Assume that \$9,230 represents previous years' investment amounts that are in the final years of depreciation

Assume that these previous years' investments were \$11,676 per average 2000 - 2005 investment, and are depreciated per 7 year MACRS schedules

6/ Sum Lines 19 - 22

7/ (L. 18 - L. 23_{Total}) x (L. 23_{year} + L. 23_{Total})

8/ L. 23 + L. 24

MACRS Schedule	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
	14.29%	24.49%	17.49%	12.49%	8.93%	8.92%	8.93%	4.46%

Exhibit 30 - NEW Changes to Net Working Capital - \$20 PYCO Surcharge

<u>Line No.</u>	<u>Item</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
1.	Estimated Change in Accts Receivable 1/	(\$47,878)	(\$10,753)	(\$2,515)	(\$2,323)	(\$1,912)	(\$2,236)	(\$1,967)	(\$2,590)	(\$2,042)	(\$1,703)	(\$1,733)
2.	Estimated Change in Accts Payable 2/	\$10,961	\$871	\$764	\$532	\$724	\$580	\$806	\$594	\$587	\$531	\$571
3.	Change in Net Working Capital (L. 1 + L. 2)	(\$36,917)	(\$9,882)	(\$1,751)	(\$1,790)	(\$1,188)	(\$1,656)	(\$1,161)	(\$1,996)	(\$1,454)	(\$1,172)	(\$1,162)

$$1/((\text{Revenues}_{\text{year}} \div 12) - (\text{Revenues}_{\text{year} - 1} \div 12)) \times -1$$
$$2 / (\text{Operating Expenses}_{\text{year} + 12}) - (\text{Operating Expenses}_{\text{year} - 1} \div 12)$$

Exhibit 31 - NEW GCV Forecasts Indexes - \$20 PYCO Surcharge

<u>Line No.</u> (1)	<u>Item</u> (2)	<u>2005</u> (3)	<u>2006</u> (4)	<u>2007</u> (5)	<u>2008</u> (6)	<u>2009</u> (7)	<u>2010</u> (8)	<u>2011</u> (9)	<u>2012</u> (10)	<u>2013</u> (11)	<u>2014</u> (12)	<u>2015</u> (13)
1.	RCAF-A % Chg 1/		1.3%	0.9%	0.7%	0.9%	1.0%	1.1%	1.0%	1.3%	1.1%	1.1%
2.	RCAF-A Index	1.00	1.01	1.02	1.03	1.04	1.05	1.06	1.07	1.08	1.10	1.11
3.	4Q RCAF-U 1/	118.50	120.50	121.80	123.10							
4.	RCAF-U % Chg 1/		1.7%	1.1%	1.1%	1.2%	1.3%	1.6%	2.0%	2.2%	2.1%	2.1%
5.	50% RCAF-U 2/		0.8%	0.5%	0.5%	0.6%	0.7%	0.8%	1.0%	1.1%	1.1%	1.1%
6.	50% RCAF-U Index		1.00	1.01	1.01	1.02	1.02	1.03	1.04	1.05	1.06	1.08
7.	50% RCAF-U Index Base 2006	1.00	1.01	1.01	1.02	1.03	1.03	1.04	1.05	1.06	1.07	1.08
8.	Ton-Mile Forecast (Billions) 2/	1552.174	1594.686	1635.597	1662.054	1698.423	1721.129	1757.721	1779.995	1794.674	1808.961	1825.44
9.	Ton-Mile Index	1.00	1.03	1.05	1.07	1.09	1.11	1.13	1.15	1.16	1.17	1.18

1/ June 2006 Global Insight Forecast

2/ Per SAW rate escalation, rates are increased 50% of change of each year's 4Q RCAF-U. Global Insight forecast provides quarterly forecasts until 2008, so use annual change beyond that time

3/ U.S. Energy information Agency, 2006 Annual Energy Outlook, Table 55 - Freight Transportation Energy Use

ENGINEERING INSPECTION REPORT
OF
RAILROAD ASSETS

LISTED AS

PYCO INDUSTRIES, INC. ALTERNATIVE 2
STB FINANCE DOCKET 34890
A PORTION OF TRACKAGE OWNED BY
SOUTH PLAINS SWITCHING, LTD., CO.

INSPECTED FOR:

SOUTH PLAINS SWITCHING, LTD., CO.
C/O Thomas F. McFarland, Esq.
208 South LaSalle Street – Suite 1890
Chicago, IL 60604

INSPECTION DATE:
July 17-18, 2006

INSPECTED BY:
LANDRETH ENGINEERING, LLC
P. O. Box 92156
Albuquerque, NM 87199

A. INTRODUCTION

South Plains Switching, Ltd., Co. (SAW) engaged Landreth Engineering, LLC to inspect and evaluate the condition of approximately 6.44 miles of rail line owned by South Plains Switching, Ltd., Co. Landreth Engineering, LLC understands that this report is to be utilized in a Surface Transportation Board (STB) proceeding. Qualifications for Landreth Engineering, LLC are detailed in Attachment "A"

The objective of the inspection was to determine the present condition and suitability for continuing operations for the track and underlying real estate within STB Finance Docket 34890 identified as PYCO industries, Inc. (PYCO) Alternative 2 as of July 26, 2006 and to assist in the preparation of the on going concern valuation for these rail assets. This report presents findings as to the condition of the rail assets and discusses the factors that influence the value of railroad rail, other track material (OTM), ties and ballast.

B. SCOPE OF INSPECTION

The railroad assets are located in Lubbock, Lubbock County, Texas. The line segments are described in the footnote of STB Finance Docket 34890 (Document 37144) as PYCO Alternative 2 and in the PYCO Feeder Line Application STB Finance Docket 34844 (Document 216497) and listed for convenience as follows:

PYCO use:

Track 5, SAW yard,	2,400 feet
Track 1, SAW yard,	2,100 feet
Track 9200	3,900 feet
Track 9298, east of BNSF main	4,320 feet
Track lead to PYCO Plant 2 to 50 th Street	6,280 feet
Track 231 lead to 9200/9298	960 feet
<u>Track 310 through Farmers Plant 1</u>	<u>5,600 feet</u>
TOTAL:	25,560 feet

Crossing Right Track 9298	5,000 feet
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PYCO Additional Request:

All of track no. 6 from western end of the SAW yard to the western clearpoint of the eastern most switch of the "wye" track connecting to track no. 6 from the south, and also the western branch of said "wye" from its southern clearpoint north to and including its connection with track no. 6. The estimated linear feet of track involved is 1100.

C. TRACK SEGMENTS REQUIRED FOR PYCO ALTERNATIVE 2

Landreth Engineering, LLC, identified the track segments required by PYCO as described in the footnote of STB Finance Docket 34890 (Document 37144) as PYCO Alternative 2 and in the PYCO Feeder Line Application STB Finance Docket 34844 (Document 216497) for PYCO Alternative 2 Rail Served Industries from the BNSF records furnished to SAW as follows:

TRACKS EAST OF BNSF MAIN LINE

CLIC 231

(AT ICC No. 65) &	1,368 TF
(FWD Interchange Track 2) (FWD ICC No. 19)	1,094 TF

<u>TEAM No. 9298</u> SAW Main Line (Original FW&D Main Line)	4,667 TF
(BNSF Removed 1,280 TF of Original FW&D Main Line)	

<u>TEAM No. 9200</u> FWD Siding (FWD ICC No. 92)	3,949 TF
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Trackage Serving Attebury Grain, LLC

CLIC No. 310 (AT ICC No. 127) Trackage to Attebury	769 TF
CLIC No. 311 (AT ICC No. 128)	255 TF
(FWD ICC No. 33)	419 TF
CLIC No. 312 (AT ICC No. 129)	129 TF
(FWD ICC No. 32)	81 TF
CLIC No. 313 (AT ICC No. 130)	49 TF
(FWD ICC No. 31)	1,474 TF

Trackage Serving Farmers Cooperative Compress

CLIC No. 310 (AT ICC No. 127) Trackage to Farmers	1,035 TF
(FWD ICC No. 37)	3,486 TF
CLIC No. 325 (FWD ICC No. 100)	398 TF
CLIC No. 324 (FWD ICC No. 101)	432 TF
CLIC No. 323 (FWD ICC No. 65) (To 50 th Street)	3,900 TF
Runaround Track (FWD ICC No. 102)	1,253 TF

Total Trackage East of BNSF Main Line	24,758 TF
	(4.689 Miles)

TRACKS WEST OF BNSF MAIN LINE

<u>TEAM No. 9201</u> – SAW Yard Track No. 1 (FWD ICC No. 20)	3,330 TF
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<u>TEAM No. 9205</u> – SAW Yard Track No. 5 (FWD ICC No. 34)	3,332 TF
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<u>TEAM No. ??</u> - FWD ICC No. 137 – Connection Yard Track No. 5 To North Side PYCO Plant 1	98 TF
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<u>TEAM No. 9204</u> – SAW Yard Track No. 4 (FWD ICC No. 46) West Yard Lead & West Portion Yard Track No. 4	2,170 TF
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<u>TEAM No. ??</u> – FWD ICC No. 23 – Connection Yard Track No. 4 To South Side PYCO Plant 1	155 TF
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<u>TEAM No. ??</u> – FWD ICC No. 44 – Connection ICC No. 23 to PYCO Track No. 403	66 TF
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<u>TEAM No. 9206</u> (FWD ICC No. 73) – West Lead BN Industrial	100 TF
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District (PYCO refers to as West Leg of Wye) Portion of
Track & Property Previously Sold to Choo – Choo Properties
Yard Track No. 6 – Is Not identified in SAW records and description
fits west yard lead and west portion of Yard Track 4 –
TEAM No. 9204 (FWD ICC No. 46) and west portion of West Lead
BN Industrial District TEAM No. 9206 (FWD ICC No. 73)

<u>Total Trackage West of BNSF Main Line</u>	<u>9,251 TF</u> (1.752 Miles)
<u>Trackage segments required for PYCO Alternative 2</u>	34,009 TF (6.441 Miles)
<u>Plus SAW Main Line Track Rights</u>	
<u>TEAM No. 9298 - SAW Main Line (FW&D Original Main Line)</u> West of BNSF R/W Line to East R/W Line of Avenue A	5,439 TF

D. FIELD INSPECTION OF TRACKAGE IDENTIFIED AS PYCO ALTERNATIVE 2

Landreth Engineering inspected the tracks identified as PYCO ALTERNATIVE 2 during July 17 & 18, 2006 and makes the following general observations:

1. The tracks identified as PYCO ALTERNATIVE 2 are operated by South Plains Switching, Ltd., Co. in accordance with South Plains Switching, Ltd., Co. General Order # 1 "NOTICE OF EXCEPTED TRACK" dated January 2, 2003 which states that the SAW (former FW&D) tracks will be operated in accordance with FRA Standards as excepted track. See Attachment 1.

Note: FRA Excepted Track is not operated in excess of 10 MPH.

2. The line and surface of the tracks are good and the SAW is maintaining the tracks at an FRA Maintenance Class 2 Standard or greater. See typical photo's Attachments 2 through 5.

It should be noted that rail operations within Industrial Areas can not be safely performed at other than restricted speeds of less than 10 MPH. Note: FRA Class 2 Maintenance Standards provides for 25 MPH operations.

3. Fifty-seven percent (57%) of the rail assets are 90 lbs/yard rail or greater. Tracks TEAM 9200, and the former ATSF portions of CLIC 231, CLIC 310, and the former ATSF & FW&D portions of CLIC 311, CLIC 312, CLIC 313, a portion of FW&D TEAM 9204, and the east lead to the SAW yard track are 90 lbs/yd.

Additionally a portion of the SAW main west of the BNSF has been relayed by SAW with 110-lbs/yd rail. The remaining portion (43%) of the rail asset is 85 lbs/ yd rail.

Industry freight car standards has migrated from the 263,000 pound gross rail car (supported by the rail section) to the 286,000 pound gross rail car for unrestricted interchange between rail carriers and the rail industry is now positioning for the migration to the 318,000 pound gross rail car.

The 85-lbs/yd rail is adequate for the 263,000 pounds gross railcar for Class 1 railroad branch line operations and the 286,000 pounds gross railcar for Class 1 operations in accordance with a 25 MPH maximum operating speed. The 286,000 pound gross railcar and 318,000 pound gross rail cars can still be safely handled on those lines of railroad (predominately industrial areas) operating at a restricted speed of 10 MPH.

The allegation in the PYCO filings before the Surface Transportation Board that the entire rail track structure identified as the PYCO Alternative 2 requires replacement is misleading and false. There is presently no engineering justification for rebuilding and/or replacing the PYCO Alternative 2 track structure. Based on my 36 years of experience in the Railroad industry and

the inspection of the track structure identified as the PYCO Alternative 2, the track structure identified as the PYCO Alternative 2 is adequate to accommodate 286,000-pound rail cars in accordance with the current annual traffic volume and maximum train speed

Rail located on industrial tracks where operations are conducted at 10 MPH or less is normally replaced with a 90-lbs/yd rail section as the rail develops defects or fails unless the frequency of the rail failures becomes an issue affecting rail operations. To simply relay rail for the sake of bigger is better normally cannot be justified when the rail service requirements are considered for industrial tracks.

No failed rail, defects, broken rail or cracked joint bars were observed which would indicate that the existing rail section is inadequate for the current rail operations.

4. The ties were predominately covered by ballast and dirt, which is common in industrial areas. Industrial tracks on the West Texas High Plains are also commonly depressed to allow storm drainage to pass across the track. The ties are serviceable. The ties are not spike dead as the spike heads were resting at the base of rail. Additionally another indicator that the ties were supporting the rail and maintaining track gage is that no wheel flange marks were observed on the joint bars.

5. The switches were all in a good serviceable condition with no requirements for preventive maintenance on the switch frogs. Additionally the switch points were all serviceable however a few were observed that had approximately 8" of wear and they will need to be watched and probably will require repair probably in the next 6 - 12 months.

6. The other track material (OTM) consisted of two (2) tie plates per cross tie with two (2) spikes per tie plate and four hole joint bars matching the rail section with 4 bolts per joint bar. No rail anchors were observed on the rail line except for a few isolated locations.

7. The trackage identified, as PYCO Alternative 2 is currently adequate and serviceable for the current and expected rail operations and no defects that would indicate that the track maintenance level was less than an FRA Maintenance Class 2 standard were observed during the inspection.

8. The FRA track inspector also recently inspected the SAW on July 24, 2006 and noted "NO FRA Defects". Copy of the July 24, 2006 FRA Inspection Report is attached as Attachment 6.

E. TRackage REQUIREMENTS

1. South Plains Switching, Ltd., Co. has grown the rail car business from approximately 4,000 cars in 2000 to 14,048 cars in 2005. A rail yard capacity study needs to be preformed to ascertain the rail yard switching and capacity requirements. The existing SAW rail yard is inadequate for the growing rail car business served by this yard.

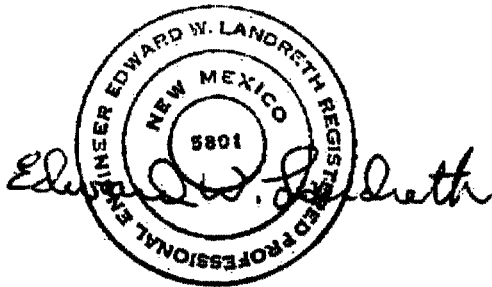
2. South Plains Switching, Ltd., Co. currently operates the SAW yard by utilizing Yard track 4 as the clear track for the yard to maintain access to the east lead for the tracks within the Burlington Industrial area and the locomotive and equipment pocket track and the track that serves PYCO Industries. The former FW&D main line through the yard is utilized as a yard track.

3. Granting Trackage rights to PYCO Industries on the former FW&D main line through the SAW yard will require that this track also remain clear and would reduce the number of tracks in the SAW yard that can utilized for switching from 5 tracks to 4 tracks.

4. Should PYCO Industries obtain Yard track 5 the number of tracks in the SAW yard that can be utilized for switching will be reduced from 4 tracks to 3 tracks.
5. PYCO Industries has a major trackage expansion currently underway within their Plant 1 facility and without knowledge of the PYCO track expansion plans and possible business expansion plans it would be arbitrary to grant PYCO Industries Trackage Rights through the SAW yard and the acquisition of yard track 5.

F. CONCLUSIONS

1. Fifty-seven (57) per cent of the rail assets identified as PYCO Alternative 2 is constructed with a rail section that is 90lbs/yd or greater.
2. The primary switches within the SAW yard have been upgraded to 90 lb/yd and the majority of the switches identified in PYCO alternative 2 are 90 lb/yd or greater.
3. The level of track maintenance provided in the past and the past track upgrade programs that have been initiated and completed by the South Plains Switching, Ltd., Co will provide dependable rail service to the industries that are located along the rail lines identified in PYCO Alternative 2.
4. The South Plains Switching, Ltd., Co existing rail assets identified as PYCO alternative 2 are adequate for the present and future contemplated rail operations.



VERIFICATION

STATE OF NEW MEXICO)
) SS:
COUNTY OF BERNALILLO)

EDWARD W. LANDRETH, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.


Edward W. Landreth

SUBSCRIBED AND SWORN to
Before me this 27 day of July, 2006.



OFFICIAL SEAL
ASTRID R. LUGOWSKI
NOTARY PUBLIC
NOTARY PUBLIC STATE OF NEW MEXICO

My commission expires: 3/15/08


My Commission Expires:

Attachment 1

South Plains Lamesa Railroad, Ltd.
P. O. BOX 676 SLATON, TEXAS 79364
PHO: (806)828-4841 FAX: (806)828-4863

South Plains Switching, Ltd. Co.
P. O. Box 676
Slaton, Texas 79364-0676

GENERAL ORDER #1

**NOTICE OF
EXCEPTED TRACK**

January 2, 2003

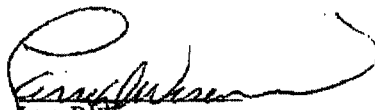
TO: TRAIN CREWS AND ALL CONCERNED

EFFECTIVE IMMEDIATELY, THE LINE FORMERLY KNOWN AS THE FORT WORTH AND DENVER AND WHAT IS NOW SOUTH PLAINS SWITCHING, LT. CO. (SAW) WILL BE CLASSIFIED BY FRA STANDARDS AS EXCEPTED TRACK.

IN ORDER TO MEET THE REGULATIONS, CERTAIN OPERATING REQUIREMENTS LISTED BELOW WILL BE STRICTLY ADHERED TO:

1. NO TRAIN SHALL BE OPERATED IN EXCESS OF 10 MPH.
2. NO REVENUE PASSENGER TRAIN SHALL BE OPERATED.
3. NO FREIGHT TRAIN SHALL BE OPERATED THAT CONTAINS MORE THAN FIVE (5) CARS REQUIRED TO BE PLACARDED BY HAZARDOUS MATERIAL REGULATIONS (49 CFR, PART 172)

Be governed accordingly, failure to comply is cause for immediate dismissal.


Larry D. Wisener
President

Attachment 2



East Side of BNSF Main Line
Center Line of Removed FW&D Main Line
Looking west towards Quirt Avenue OP
Track on right side of photograph is CLIC 231
(Portion of FWD ICC No. 85) 85# Rail Section



East Side of BNSF Main Line
Looking RR West on Center Line TEAM Track No. 9298 (SAW Main Line) 85# Rail
TEAM Track No. 9200 (90# Siding) is on the South Side of the Main Line

Attachment 3

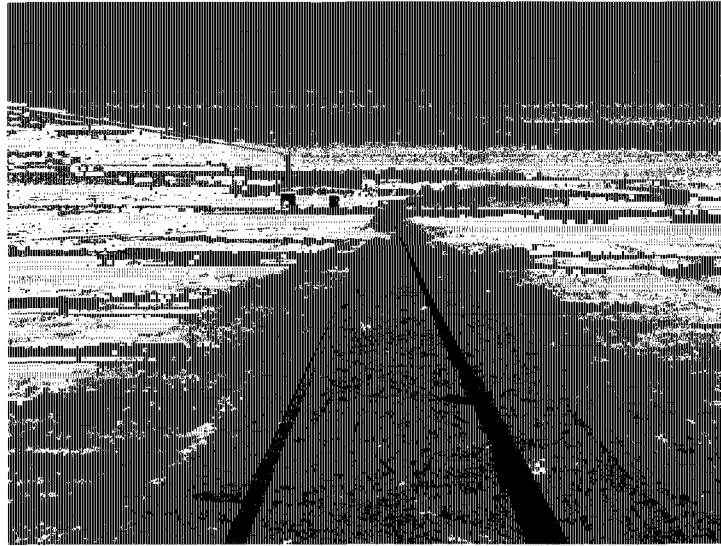


East Side of BNSF Main Line
CLIC Track 0310 (90# Rail) Looking South towards Atteberry & Farmers Compress



CLIC Track 0310 (FWD ICC No. 37) within Farmers Compress
Looking Geographic East

Attachment 4

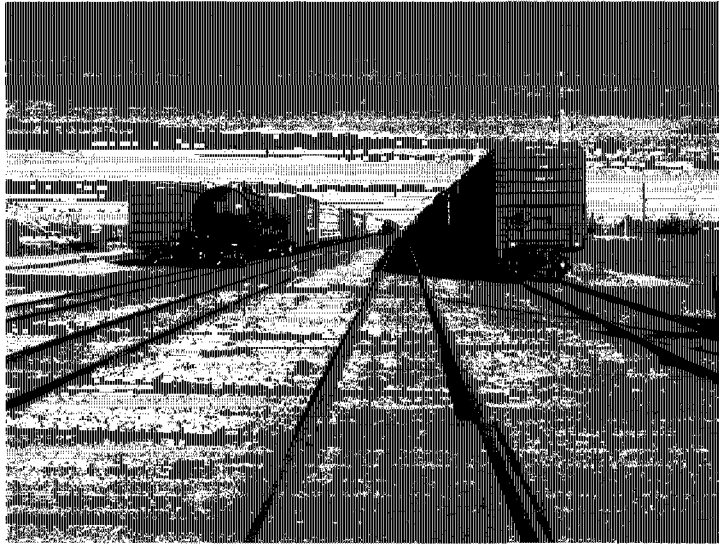


CLIC Track No. 323 FWD ICC No. 65 within Farmers Compress
Looking Geographically North



West Side of BNSF Main Line
TEAM Track No. 9298 – SAW Main Line (Looking West from HB Orchard Lead)

Attachment 5



East End SAW Yard
TEAM No. 9298 (SAW Main Line) @ Center of Jupiter Rd Grade Crossing Looking West



West End SAW Yard
TEAM No. 9298 (SAW Main Line) at West Switch for West Yard Lead

Attachment 6

DEPARTMENT OF TRANSPORTATION		INSPECTION REPORT		OMB Approval No.: 5130-0025			
FEDERAL RAILROAD ADMINISTRATION (FRA)		Inspector's Name		Inspector's Signature	Inspector's ID No.	Report No.	Date
ROBERTS, DAVID					73880	29	7/20/06
Railroad/Company Name & Address				IRC	Station	FRA's Representative (If exempt, Address/Station)	
SOUTH PLAINS SWITCHING CO. 1304 JUMPER AVE. LUBBOCK, TX 79404				R		Name: LARRY D. WISNER	
				ENR Code	Refraction	Title: PRESIDENT/ MANAGER	
				SEAL		Signature	
From City	Order	Destination City & County		Order	From Latitude		
LUBBOCK	4140						
State	48	City	LUBBOCK	6140	From Longitude		
TX							
County	C905	County	LUBBOCK	C905	To Latitude		
LUBBOCK							
Mile Post: From	0332.00	To	0337.00	Inspection Point		YARD TRACKS	
Activity Code	YTW	TOY					
Unit:	2	8					
Item	1	Equipment/Track #	Typical	48	ENR Code	Refraction	Activity Code
Description: ^{***} Consent to Railroad/Company ^{***} No defects found for Track Safety Standards "Exempted Track".							
Violations Recommended				Yes	No	Longitude:	
Written Modification to FRA's of Standard Action is:				Required	Optional	Comments on track? ☐	



Landreth Engineering, LLC

P. O. Box 92156 --- Albuquerque, New Mexico 87199
Cellular: 505 - 239 - 9915 --- Email: EWLandreth@aol.com

Example List of Services

Contract Management

- Property Rental Rates
- Preparation of Exhibits for Leases and Contracts
- Evaluation of existing Leases and Contracts
- Annual Leased Property Inspections
- Maintenance of Lease and Contract Records

Property Management

- Net Liquidation Values for Railroad Lines
- Land Development Plans
- Land Sales & Acquisitions
- Asset Acquisitions
- Asset Liquidation's
- Due Diligence Studies
- Annual Inspections
- Maintenance of Land Records and Inventory

Engineering & Design

- Industry Track Alignments
- Field Surveys and Studies
- Cost Estimates
- Hydrology
- Concrete & Foundation Design
- new line location
- Intermodal Facilities
- Auto Unloading Facilities
- Grade Crossings
- Grade Separations
- Litigation Support
- Net Liquidation Estimates
- Maintenance of Engineering Records and Maps

Construction Management

- Preparation of Plans
- Construction Sequence
- Standards and Specifications
- Contract and Bid Preparation
- Project Contract Management
- Project Inspection and Quality Control

Track Maintenance

- Track & Bridge Inspections
- Rehabilitation Programs
- R/W Inspections
- Roadway Drainage Inspections



Landreth Engineering, LLC

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Cellular: 505 - 239 - 9915 --- Email: EWLandreth@aol.com

About Landreth Engineering

Landreth Engineering, LLC provides railroad engineering and administrative services to the short line industry and corporate clients. These services include: net liquidation values for railroad lines, railroad real estate valuations, railroad acquisition valuations, railroad operations, track and bridge inspections, track and bridge maintenance plans as well as railroad startup assistance.

Landreth Engineering, LLC also provides private individuals and corporate clients engineering plans, specifications, bid documents, and engineering management for the construction of private rail lines and industry tracks.

With over 25 years of progressive experience with The Atchison, Topeka & Santa Fe Railway Company, **Edward W. Landreth** founded Landreth Engineering, LLC in 1994. Ed is a Registered Professional Engineer with more than thirty-five years' hands-on experience, designing and managing major civil engineering projects. He has provided expert witness affidavits in proceedings before the STB and predecessor agencies during his career with the Santa Fe Railroad and has continued to provide expert witness affidavits and testimony as a railroad consultant. As a railroad consultant, he provides engineering consulting services to railroads.

VERIFIED STATEMENT OF DENNIS OLMSTEAD

My name is Dennis Olmstead. I am a Rail Transportation Consultant. My business address is 1124 South 11th Street, Montrose, CO 81401.

I have been in the consulting business since my retirement from The Burlington Northern and Santa Fe Railway Company (now BNSF Railway Company) in 1996. Prior to that time, I had been employed by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) for 26 years in its Marketing and Executive Departments. During the last 6 of those years, I was the Marketing and Executive Department Representative on Santa Fe's "line-sale team," a group of employees formed to negotiate sales of Santa Fe's rail lines. During that period, I was actively involved in the sale of 22 rail lines totaling over 3,500 miles. My responsibility included writing line sale proposals as well as evaluation of all responses to those proposals. As a result of that experience, I became familiar with traffic and revenue considerations involving rail lines to be operated by shortline rail carriers.

As here pertinent, I have acted as a Rail Transportation Consultant for South Plains Switching, Ltd. Co. (SAW) since SAW began to operate its rail lines at Lubbock, TX in 1999. As a result of consulting for SAW for the past seven years, I have become familiar with SAW's rail traffic and revenues. In particular, I regularly compile SAW's rail traffic.

I am familiar with the Feeder Line Application (FLA) filed by PYCO Industries, Inc. (PYCO) to acquire SAW's rail lines, and with the decision of the Surface Transportation Board (STB) accepting that FLA for filing as to Alternative Two, encompassing trackage that serves PYCO, Farmers Compress and Attebury Grain. I was asked to provide to SAW Witness Joseph

Plaistow traffic originated or terminated by SAW. The traffic of those three shippers in 2005, the most recent calendar year of record, is as follows:

<u>SHIPPER</u>	<u>CARLOADS</u>
PYCO	5,950
Attebury Grain	641*
Farmers Compress	<u>594</u>
TOTAL	7,185

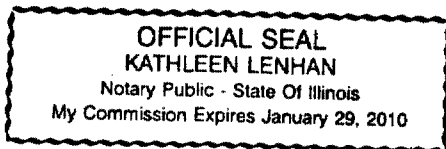
*549 cars for Attebury moved on waybills of
27 cars or more

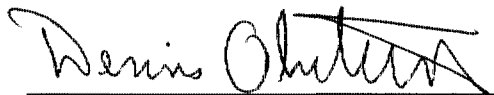
In addition, SAW transported 136 carloads for PYCO during 2005 in interplant transportation between Plant No. 2 and Plant No. 1, at a tariff rate of \$150 per car.

VERIFICATION

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

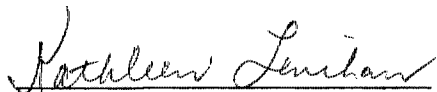
DENNIS OLMSTEAD, being duly sworn on oath, deposes and states that he has read the foregoing statement, that he knows the contents thereof, and that the facts therein stated are true and correct.





DENNIS OLMSTEAD

SUBSCRIBED AND SWORN to
before me this 28th day
of July, 2006.



Notary Public

My Commission Expires: 1/29/2010

LEGAL ARGUMENT

Pursuant to 49 U.S.C. § 10907(b)(1)(A)(i), PYCO has asked the Board to require SAW to sell trackage that comprises Alternative Two to PYCO on the ground that public convenience and necessity (PC&N) require or permit sale of that trackage. By virtue of 49 U.S.C. §§ 10907(c)(1)(A)-(E), the Board must make the following findings in order to determine that PC&N require or permit that sale:

(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

The Board can order a sale under PC&N only when it makes all of the findings under the five criteria of the statute. *Caddo Antoine et al. - Feeder Li. Acq. - Arkansas Midland RR*, 4 STB 326, 334 (1999); *PSI Energy, Inc. - Feeder Line - Norfolk Southern Corp.*, 7 I.C.C.2d 227, 233 (1991).

Where the Board requires sale of trackage under the feeder line statute, it is required by 49 U.S.C. § 10907(b)(1) to set a purchase price that is not less than the constitutional minimum value of the trackage. By virtue of 49 U.S.C. § 10907(b)(2), the constitutional minimum value of

trackage is presumed to be not less than the net liquidation value (NLV) or going concern value (GCV) of the trackage, whichever is greater.

JURISDICTIONAL AND PROCEDURAL OBJECTIONS

Reference is made to Appendix 6 of this Statement in which the Board's authority to entertain PYCO's Revised Feeder Line Application is challenged on the grounds that the trackage that comprises Alternative Two (1) does not constitute "a particular railroad line" of SAW within the meaning of 49 U.S.C. § 10907(b)(1)(A)(i); and (2) is in the nature of "switching tracks" within the meaning of 49 U.S.C. § 10906, over which the Board can neither require the provision of adequate service, nor require involuntary sale for failure to provide adequate service. Appendix 6 also contains SAW's fundamental objection to the unfair accelerated procedural schedule ordered by the Board in this proceeding.

The following legal arguments on PC&N and on valuation are without prejudice to the objections raised in Appendix 6.

Application Of The Statute To The Facts Of Record

1. Public Convenience and Necessity

A. Whether SAW Refused Within A Reasonable Time To Make The Necessary Efforts To Provide Adequate Service To PYCO, Attebury Grain, And Farmers Compress

The Board sometimes considers the criteria of Subparagraphs (A) and (B) of 49 U.S.C. § 10907(c)(1) collectively under a broad category of "Adequate Service." *See, e.g., Caddo Antoine et al. - Feeder Li. Acq. - Arkansas Midland RR, supra*, 4 S.T.B. at 336. That is not

legally permissible. Those subparagraphs cover distinct aspects of “adequate service” that must be considered independently of each other.

Subparagraph (A) is a more specific criterion of inadequate service than Subparagraph (B). The language used in Subparagraph (A) --- that a rail carrier “refused” to make an “effort()” to provide service --- indicates that the provision is aimed at a situation in which a rail carrier did not provide service at all. The more general language in Subparagraph (B) --- that “transportation” is inadequate --- suggests that the provision is directed at broader aspects of inadequate service, such as late pick-up and/or delivery, inadequate freight car supply, and the like.

The issue under Subparagraph (A), therefore, is whether SAW has failed or refused to provide rail service to PYCO, Attebury Grain and Farmers Compress, and has not made a reasonable effort to restore such service. That issue is required to be resolved in the negative.

SAW has provided rail service to Attebury Grain and Farmers Compress for over seven years, right up to the present time. Not once in that lengthy period has either Attebury Grain or Farmers Compress complained that SAW failed or refused to provide rail service at the request of those shippers. On the contrary, SAW has provided consistently dependable rail service to Attebury Grain and Farmers Compress, including services over and above those required of SAW as a rail common carrier. (VS D. Wisener at 6-7).

SAW failed to provide requested rail service to PYCO on only one occasion --- on November 28, 2005, at Plant No. 2 due to a locomotive breakdown. The locomotive was repaired and rail service was restored on the following day. (VS D. Wisener at 7-9). It cannot be

legitimately found on that basis that SAW did not make a reasonable effort to restore service on that single isolated instance of service failure.

In light of the foregoing, there is no factual or legal basis for the Board to make a finding under Subparagraph (A) that SAW refused within a reasonable time to make the necessary efforts to provide adequate service to PYCO, Attebury Grain, and Farmers Compress.

B. Whether Transportation Is Inadequate For A Majority Of Shippers Served By Trackage Comprising Alternative Two

The issue under Subparagraph (B) is whether transportation “is” inadequate for the majority of shippers, not whether the majority of shippers fear that transportation may become inadequate in the future. This criterion is phrased in the present tense. Consequently, the appropriate inquiry under Subparagraph (B) is whether the majority of shippers are currently experiencing inadequate transportation.

Attebury Grain and Farmers Compress, which constitute the majority of shippers under Alternative Two, have not alleged that they are currently experiencing inadequate transportation service. Instead, they have expressed a fear that the transportation provided to them by SAW may become inadequate in the future. Their statements in the FLA contain the following identical purported basis for their claim of inadequate rail service (FLA, Ex. I, J):

... When a switching railroad takes these kinds of actions toward some of its shippers, it can no longer be regarded as reliable by any of its shippers because they may become the subject of similar retaliation or service degradation at any time ...

That is not a claim that Attebury or Farmers are experiencing inadequate rail service.

In its decision served July 3, 2006 the Board found that such fear of future inadequate service itself constitutes inadequate service, *viz.* (at 4):

... A shipper's affirmative statement that it fears that it could suffer retaliation in the form of poor service for criticising its rail service provider is sufficient in our view to constitute a showing of inadequate service to the shipper that makes the statement ...

That finding is not in accordance with the law. It does not comport with the statutory standard, which requires a showing of inadequate service on a current basis. Depriving a rail carrier of property under the feeder line statute is a drastic action. Congress cannot reasonably have intended that a carrier be deprived of property on the basis of a shipper's subjective fear that it might experience inadequate rail service at some point in the future. If the Board is going to take away a carrier's rail line, it has to be on the basis of inadequate rail service actually experienced by the affected shippers, not on the basis of what an unaffected shipper may have experienced.

There is no basis in this record for a finding that Attebury Grain or Farmers Compress ever actually experienced inadequate rail service by SAW. On the contrary, not once in more than seven years of service did either Attebury Grain or Farmers Compress ever complain about a late pick-up or delivery by SAW, let alone a pattern of tardiness in service. (VS D. Wisener at 6-8).

Attebury Grain and Farmers Compress constitute a majority of shippers located on trackage comprising Alternative Two. In light of the foregoing facts regarding the quality of rail service actually experienced by Attebury Grain and Farmers Compress, there is no rational basis

in fact or in law for the Board to find under Subparagraph (B) that transportation is inadequate for the majority of shippers located on Alternative Two trackage.

Although it is not necessary for the Board's finding under Subparagraph (B), the record does not support a determination that transportation provided by SAW has been inadequate for PYCO. PYCO has not identified a single instance in which SAW was late in picking up or delivering railcars for PYCO, let alone a pattern of lateness. While PYCO has complained about boxcar supply at its Plant 2, the 100-percent boxcar supply experienced in January, 2006 refutes any basis for that complaint. Moreover, BNSF, not SAW, has the right and the obligation to make through rates to and from points on SAW, as well as the corresponding right and obligation to furnish freight cars in relation to those rates. Any inadequacy in boxcar supply thus counts against BNSF, not SAW.

PYCO's real complaint is that SAW has "retaliated" against PYCO --- in discontinuing the practice of permitting PYCO's trackmobile to operate in SAW's Yard; in refusing to lease SAW Track No. 9298; in refusing to grant a private crossing of SAW's tracks; and the like. However, all of those things are privileges that SAW extended to PYCO, not obligations of SAW as a common carrier. It is not surprising, nor legally meaningful, that SAW would withdraw privileges previously extended to an entity that is now attempting to forcibly take away its best rail lines. If that is retaliation, it is not unlawful retaliation. There is no evidence in this record that SAW ever retaliated against PYCO by degrading rail service or by taking any other action inconsistent with SAW's obligations as a rail common carrier. There is thus no factual basis for

the fear expressed by Attebury Grain and Farmers Compress that SAW would ever retaliate against them by providing poor service.

The foregoing evidence in regard to service to PYCO reinforces the conclusion that there is no basis for a finding under Subparagraph (B) that transportation is inadequate for the majority of shippers located on Alternative Two trackage.

C. Whether Sale Of Trackage Comprising Alternative Two Would Have A Significant Adverse Financial Effect On SAW

Splitting up SAW's rail lines as proposed under Alternative Two is the worst possible scenario for SAW, and for the shippers who would continue to rely on SAW for service if the Alternative Two trackage were to be sold. That scenario would materially weaken SAW and would significantly impair SAW's ability to provide adequate rail service to its remaining shippers. That is so regardless of whether SAW receives an adequate purchase price for its Alternative Two trackage.

A forced sale of Alternative Two trackage would deprive SAW of approximately 57 of its revenues, but would leave it with approximately 64 percent of its rail lines to continue to maintain and operate. After the sale, SAW would have only about 43 percent of its former revenues to offset the costs to maintain and operate 64 percent of its former rail lines. SAW derived an operating profit of \$549,139 from operating its rail lines in 2005, but it would suffer an operating loss of \$22,829 if it were to be deprived of the Alternative Two trackage. (VS Plaistow at 5). It is thus clear that the sale would have a significant adverse financial effect on SAW.

That material adverse effect on SAW would have a correspondingly serious adverse effect on shippers who would continue to rely on SAW for service after the sale. A significant adverse financial effect on SAW would result in diminished quality of service for those SAW shippers. In particular, Southern Cotton Oil Company (ADM) would be substantially harmed in its competitive position vis-a-vis PYCO.

In addition, a requirement that SAW split up its Yard, as proposed under Alternative Two, would materially impede SAW's ability to develop new traffic and revenues, which is critical for the success of a shortline railroad. SAW has been unable to respond affirmatively to an inquiry from Southern Cotton Oil Company regarding whether SAW would be able to handle new traffic consisting of 80-car to 100-car trainloads of gluten feed. Southern Cotton Oil can accommodate 25 cars on its plant track. With SAW's Yard divided between SAW and PYCO, as proposed in Alternative Two, there would not be enough track space for SAW to store 55 to 75 cars for Southern Cotton Oil and still be able to handle SAW's other traffic.

In light of the foregoing, the Board should find that sale of trackage comprising Alternative Two would have a significant adverse financial effect on SAW.

D. Whether Sale Of Trackage Comprising Alternative Two Would Have An Adverse Effect On The Overall Operational Performance Of SAW

Dividing up SAW's Yard between two rail carriers, as proposed under Alternative Two, would be an operating disaster for SAW, with corresponding adverse effects on service for shippers who would continue to be served by SAW. The yard is simply too small for two rail carriers to handle more than 14,000 cars per year on an efficient basis. Under Alternative Two,

PYCO would take three of the five tracks in the Yard for service to three shippers, while SAW would be left with only two short tracks to provide service to 21 shippers. That is guaranteed to have an adverse effect on SAW's overall operational performance. It would also be guaranteed that SAW's shippers would suffer as a result of a materials decline in quality of service.

If PYCO were to take Track Nos. 9204 and 9201, as proposed under Alternative Two, SAW could be denied access to two of its existing customers, Brite Trucking's reload facility and Furrs, as well as the ability to reach the track SAW uses for inspecting, servicing and storing locomotives. (VS D. Wisener at 15). Congress surely did not intend that a feeder line proceeding be used to deprive an incumbent rail carrier of the ability to provide service to customers that the new carrier does not propose to serve.

In light of the foregoing, a finding is compelled under Subparagraph (D) that sale of the trackage comprising Alternative Two would have an adverse effect on SAW's overall operational performance, and a corresponding adverse effect on the quality of service provided to shippers who would continue to be served by SAW.

E. Whether Sale Of Trackage Comprising Alternative Two Would Be Likely To Result In Improved Railroad Transportation For PYCO, Attebury Grain, And Farmers Compress

A recent filing by BNSF Railway Company (BNSF) in Finance Docket No. 33753 (Sub-No. 1) strongly indicates that rail service for all shippers in south Lubbock, including PYCO, Attebury and Farmers, would be adversely affected if trackage comprising Alternative Two were to be sold to PYCO, such that BNSF would be required to interchange traffic with both PYCO and SAW at the south end of BNSF's Lubbock Yard.

Prior alternative rail service in January, 2006, BNSF interchanged solely with SAW at the BNSF yard. Pursuant to an operating protocol governing alternative rail service, BNSF interchanged solely with WTL (the service provider under alternative service) on inbound traffic, but interchanged with both WTL and SAW on outbound traffic. BNSF's filing referred to above states that the requirement that it interchange with two rail carriers has adversely affected BNSF's operating efficiency.

That situation would materially worsen if SAW's rail lines were to be split up between PYCO and SAW, as proposed under Alternative Two. Under that scenario, BNSF would be required to interchange with both PYCO and SAW on both inbound and outbound traffic. The resulting inefficiency in BNSF's yard operations would inevitably result in diminution in the quality of rail service for all shippers in south Lubbock. PYCO, Attebury, and Farmers would certainly not be immune to the decline in service quality.

The BNSF filing referred to above contains a request that the Board impose an operating agreement on PYCO and SAW whereby only one of them would interchange with BNSF. SAW would oppose such a requirement in the strongest manner. Service for SAW declined drastically when WTL interchanged SAW's inbound traffic with BNSF under alternative rail service. The Board cannot lawfully prevent SAW from interchanging directly with BNSF. SAW has a clear contractual right to a direct BNSF interchange by virtue of Section 13(a) of the Asset Purchase Agreement between SAW and BNSF (*see* FLA, Ex. G at 21). In addition, SAW has a statutory right to such a direct BNSF interchange by virtue of 49 U.S.C. § 10742.

It follows that a decline in service quality is inevitable for all south Lubbock shippers, including PYCO, Attebury, and Farmers, if trackage comprising Alternative Two were to be sold to PYCO and the remaining trackage were to continue in SAW's ownership. For that reason, Alternative Two is the worst possible scenario for the overall public interest in south Lubbock. There is thus no factual or legal basis for a finding under Subparagraph (E) that sale of trackage comprising Alternative Two would be likely to result in improved railroad transportation for PYCO, Attebury Grain, and Farmers Compress.

2. Valuation

Pursuant to 49 U.S.C. § 10907(b)(2), a rail line that is ordered to be sold under the feeder line statute is required to be priced at the line's constitutional minimum value, which is presumed to be the lines going concern value (GCV) or its net liquidation value, whichever is greater.

Where a rail line is being operated profitably, the line is to be priced at its GCV. *Caddo Antoine et al. - Feeder Li. Acq. - Arkansas Midland RR, supra*, 4 STB at 340 ("... the southernmost portion of the line on which AMR profitably serves IP also plainly has a GCV ...")

GCV is defined as what a line is worth as an operating business, not its break-up value. *Caddo Antoine - Feeder Li. Acq. - Arkansas Midland RR, supra*, 4 STB at 340. Thus, GCV must be based on what the Alternative Two trackage is worth to SAW, not its projected value to PYCO. *Id.*, citing the leading Supreme Court authority, *United States v. Miller*, 317 U.S. 369, 375 (1942). Mr. Plaistow's determination of GCV should be accepted, and Mr. Banks' testimony about GCV is required to be rejected because Mr. Plaistow's GCV is based on the

worth of the trackage to SAW, whereas Mr. Banks' GCV is based on the value of the trackage to PYCO. (VS Plaistow at 2-3).

The trackage comprising Alternative Two is appropriately priced at GCV because it is being operated at a profit. (VS Plaistow at 5).

The GCV of the trackage comprising Alternative Two is \$8,053,614 if the surcharge that SAW is authorized to assess were to be fully implemented. (VS Plaistow, Ex. 20). The effect of full assessment of the surcharge should be taken into account in determining the GCV of Alternative Two because the revenues that would be derived from such assessment are a realizable asset of SAW. SAW recently received an offer to purchase its rail lines that was conditional on full assessment of the surcharge. (VS D. Wisener at 19).

The GCV of the Alternative Two trackage is \$5,463,649 under the current minimal application of the surcharge. (VS Plaistow, Ex. 26). The GCV of that trackage is appropriately determined by taking in to account full application of the surcharge. However, the GCV under the current minimal application of the surcharge represents the absolute minimum GCV of the trackage.

As confirmed by a very recent FRA inspection, no rehabilitation is required to correct defective track conditions. (VS Landreth). The track structure and existing rail are adequate to accommodate loads of up to 286,000 pounds at current traffic volumes and train speeds. (*Id*). Accordingly, the rail replacement advocated by PYCO is not required. (*Id*). That is consistent with the Board's determination of GCV in *Caddo Antoine*, *supra*, 4 STB at 342, viz.:

Our GCV estimate does not include costs associated with rehabilitating the approximately 3-mile southern portion on which AMR continues to serve IP. It is unclear from the evidence submitted how much rehabilitation will be necessary for the south portion. Inasmuch as trains are regularly using that portion of the line to serve IP, we have assumed that the amount of rehabilitation on that portion will be minimal . . . (emphasis added).

Quite obviously, the successful performance of regular train operations over the Alternative Two trackage clearly negates any need for rail replacement on that trackage, even more than it negates the need for track rehabilitation.

Reference is made to the verified statement of Joseph J. Plaistow (Appendix 2 hereof) for a full explanation and justification for the GCVs referred to above.

SAW'S OBJECTIONS

OBJECTION TO ACCELERATED PROCEDURAL SCHEDULE

SAW hereby objects to the accelerated procedural schedule adopted by the Board in this proceeding. That procedural schedule does not provide SAW with adequate time to prepare its opposition case in this highly complex matter.

It is provided in 49 C.F.R. § 1151.2(e) that unless otherwise provided, statements in opposition to an FLA must be filed within 60 days after the FLA is accepted. That is a reasonable amount of time to permit an opponent of an FLA to prepare its evidence and argument in opposition.

Here, the Board cut that time in half for preparation of SAW's opposing case. That action ostensibly was taken to coordinate the decision date on the FLA with the expiration of alternative rail service under 49 U.S.C. § 11123(a). (decision served July 3, 2006 at 6). But it was the filing of a defective FLA by PYCO that delayed the decision date on the FLA by 30 days when the FLA was rejected by the Board. SAW did not do anything to delay that decision date.

Here, SAW has had 30 days taken out of its time to prepare its opposition case in order to make up for the 30-day delay caused by PYCO in filing a defective FLA. That is highly unfair and prejudicial. SAW expresses its strong objection to that procedural Board action.

**OBJECTION TO THE BOARD'S ACCEPTANCE OF PYCO'S
FLA FOR LESS THAN "A PARTICULAR RAILROAD LINE"**

Pursuant to 49 U.S.C. § 10907(b)(1)(A)(i), the Board can require the sale of "a particular railroad line" if the Board finds that public convenience and necessity (PC&N) require or permit

the sale. In *Caddo Antoine and Little Missouri R. Co. v. United States*, 95 F.3d 740, 749 (8th Cir. 1996), the Court held that the term “a particular railroad line” as used in that statute must be read to encompass the entirety of a railroad line that is operated as a unit. SAW’s entire rail line has always been operated by SAW as a single unit. Therefore, an FLA based on PC&N must encompass SAW’s rail line in its entirety. It follows that PYCO’s FLA for Alternative Two should have been rejected because it does not encompass SAW’s “particular railroad line.”

Attached as Appendix 6-A is a copy of SAW’s Motion for Rejection of Alternative Two of Feeder Line Application filed in Finance Docket No. 34844 on May 16, 2006. SAW hereby adopts the argument in that Motion as grounds for its objection to the Board’s acceptance of PYCO’s FLA for less than SAW’s particular railroad line, i.e., Alternative Two. In addition, SAW relies on the argument on that subject matter at pages 11-12 of SAW’s Motion for Rejection of Revised Feeder Line Application filed on July 3, 2006 in this proceeding.

The Board’s attempt to distinguish the *Caddo Antoine and Little Missouri R. Co.* case on factual grounds in the decision served July 3, 2006 (at 5) is legally ineffective. The legal basis for the Court’s decision in that case was statutory. Specifically, the Court held that the statutory term “a particular railroad line” means the entirety of a railroad line that is operated as a unit. From a legal standpoint, therefore, it does not matter that the issue regarding “a particular railroad line” in the present case arises in a different factual context from that in which that issue arose in the *Caddo Antoine and Little Missouri R. Co.* case. The statute requires that the result be the same.

**OBJECTION TO THE BOARD'S ACCEPTANCE OF
PYCO'S FLA APPLIED TO "SWITCHING TRACKS"**

The tracks that comprise Alternative Two are quintessentially "switching tracks" as that term is used in 49 U.S.C. § 10906 under the use test in *Chevron USA, Inc. -- Lease & Oper. Exempt. -- Richmond Belt Railway*, 1995 ICC LEXIS 137 at *5 (Finance Docket No. 32352, served June 12, 1995).

Under *Battaglia Distributing Co. v. Burlington Northern*, 2 S.T.B. 323, 329 (1997), and *Valley Feed Co. v. Greater Shenandoah Valley Develop. Co.*, 1995 ICC LEXIS 323 at *13-20 (Docket No. 41068, served Dec. 21, 1995), a rail carrier cannot be found to have violated 49 U.S.C. § 11101(a) by failing to provide adequate service over switching tracks or other excepted track under 49 U.S.C. § 10906. It necessarily follows from that principle that a rail carrier cannot be required to sell switching tracks under the feeder line statute on the ground that it failed to provide adequate service over those tracks when it could not be required to provide adequate service over those tracks in the first place.

Attached as Appendix 6-B is a copy of Second Supplement to Petition to Terminate Alternative Rail Service, filed by SAW in Finance Docket No. 34802 on June 13, 2006. SAW hereby adopts the argument in that Supplement as grounds for its objection to the Board's acceptance of Alternative Two of PYCO's FLA. In addition, SAW relies on the argument on that subject matter at pages 8-10 of SAW's Motion to Rejection of Revised Feeder Line Application filed in this proceeding on July 3, 2006. That argument was directed at the FLA as a whole, but it necessarily applies as well to Alternative Two of the FLA.

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. -- FEEDER)
LINE DEVELOPMENT -- SOUTH) FINANCE DOCKET
PLAINS SWITCHING, LTD. CO.) NO. 34844

**MOTION FOR REJECTION OF
ALTERNATIVE TWO OF
FEEDER LINE APPLICATION**

SOUTH PLAINS SWITCHING, LTD. CO.
P.O. Box 64299
Lubbock, TX 79464-4299

Incumbent Carrier

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DATE FILED: May 16, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. -- FEEDER	)	
LINE DEVELOPMENT-- SOUTH	)	FINANCE DOCKET
PLAINS SWITCHING, LTD. CO.	)	NO. 34844

**MOTION FOR REJECTION OF
ALTERNATIVE TWO OF
FEEDER LINE APPLICATION**

Pursuant to 49 C.F.R. § 1117.1, SOUTH PLAINS SWITCHING, LTD. CO. (SAW) hereby moves that the Board reject Alternative Two of the Feeder Line Application filed by PYCO Industries, Inc. (PYCO) on May 5, 2006.^{1/} SAW submits the following in support of this Motion.^{2/}

A feeder line application under the public-convenience-and-necessity (PC&N) standard of 49 U.S.C. § 10907(b)(1)(A)(i) cannot be filed for acquisition of less than the entirety of a rail line that is operated as a unit. *Caddo Antoine and Little Missouri R. Co. v. United States*, 95 F.3d 740, 749 (8th Cir. 1996) ("*Caddo Antoine*"). Thus, a feeder line applicant will not be allowed to "cherry-pick" by seeking to acquire only the most attractive part of a rail line, while leaving the incumbent rail line owner and its shippers with a remaining portion of a line that

^{1/} SAW seeks leave to submit this Motion, if required. As a matter of basic fairness, an incumbent rail carrier should have an opportunity to comment on a feeder line application that potentially could have the very harmful effect of forcing it to dispose of its rail lines involuntarily.

^{2/} The verification of Mrs. Delilah Wisener, Owner of SAW, is attached in support of factual allegations in this Motion in relation to operation of SAW's rail lines.

cannot be operated successfully. *Id.* at 747 (“If the Commission’s position is affirmed in this case, Arkansas Midland will have succeeded in lopping off service to the majority of the former shippers while ‘cherry-picking’ the single, more easily served shipper on the remaining seven percent of the line it elected to retain.”).

That principle is statutorily compelled because the term “a particular railroad line” in § 10907(b)(1)(A)(i) was intended by Congress to refer to the full length of a rail line that is operated as a unit. That statutory term is in contrast to 49 U.S.C. § 10903(a)(1) that permits a rail carrier to abandon “any part” of its railroad lines; and to 49 U.S.C. § 10904(b)(1) that relates to offers of financial assistance to maintain service on a “portion” or “part” of an abandoned rail line; and to 49 U.S.C. § 10907(h) that permits a purchasing rail carrier to propose to sell or abandon “all or any portion of a purchased railroad line.” As articulated by the Court in *Caddo Antoine, supra* (95 F.3d at 747, 749):

... (I)n light of CALM’s application to provide service over the entire length of the Norman Branch, a line that had historically operated as a unitary operation, the Commission (now STB) should have treated the entirety of the Norman Branch as “a particular railroad line” and thus have reviewed CALM’s application under the PN&C (*sic*) standard of section 10910(b)(1)(A)(i) (now section 10907[b][1][A][i]) rather than under (A)(ii) (at 747).

* * *

... (W)e conclude that the words ‘a particular railroad line’ when viewed in light of the history of the Norman Branch, the purposes of the feeder line development program, and the circumstances of this case, must be read to describe the entirety of the Norman Branch ... (at 749).

Consistently since acquisition of its rail lines in 1999, SAW has operated those lines as a single unit. All shippers and receivers located on SAW’s rail lines are served by the same locomotives and the same train crews on the same day. SAW does not provide rail service to

PYCO, or to Farmers Compress and Attebury Grain, separately or independently from providing rail service to its many other shippers and receivers. Without question, therefore, SAW's rail lines as a whole constitute "a particular railroad line" within the meaning of 49 U.S.C.

§ 10907(b)(1)(A)(i). The Board is requested to so find.

PYCO's Feeder Line Application is filed in the alternative. Alternative One seeks a forced sale of the totality of SAW's rail lines. It is clear from § 10907(b)(1)(A)(i) and the *Caddo Antoine* case that Alternative One is cognizable by the Board because that alternative encompasses "a particular railroad line," i.e., SAW's rail lines as a whole.

Alternative Two seeks a forced sale of less than the totality of SAW's rail lines. In particular, Alternative Two relates to "... trackage employed to provide service to PYCO ... and coincidentally all tracks needed to provide service to Farmers Cooperative Compress and Attebury Grain ..." (Application at 13). The trackage encompassed in Alternative Two constitutes only about one-third of SAW's rail lines, but rail traffic originated and terminated on that trackage constitutes about two thirds of SAW's total traffic (*id.* at 11, 13, 36).^{3/}

^{3/} According to PYCO, Alternative Two seeks to force sale of 25,560 feet of SAW's total of 74,384 feet of rail lines, or 34 percent of SAW's rail lines. (Applic. at 11, 13). According to PYCO, traffic for PYCO, Farmers Compress and Attebury Grain totaled 8,635 cars of the total of 12,747 cars transported by SAW in 2005, or 66 percent. (Applic. at 36).

Section 10907(b)(1)(A)(i), as interpreted by the Court in the *Caddo Antoine* case, does not permit PYCO to cherry-pick SAW's rail lines as proposed in Alternative Two.^{4/} Thus, Alternative Two of the Feeder Line Application is statutorily required to be rejected by the Board because that alternative does not encompass "a particular railroad line" as required by § 10907(b)(1)(A)(i), i.e., the totality of SAW's rail lines.

WHEREFORE, Alternative Two of the Feeder Line Application should be rejected.

Respectfully submitted,

SOUTH PLAINS SWITCHING, LTD. CO.
P.O. Box 64299
Lubbock, TX 79464-4299

Incumbent Carrier

Thomas F. McFarland

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DATE FILED: May 16, 2006

^{4/} The term "a particular railroad line" in 49 U.S.C. § 10907(b)(1)(A)(i), as interpreted by the Court in *Caddo Antoine*, *supra*, requires that Alternative Two of the Feeder Line Application be rejected notwithstanding that such statutory term is to be applied in a somewhat different context than in the *Caddo Antoine* case. It cannot be argued successfully that such statutory term should be interpreted in one manner in *Caddo Antoine* and in a contrary manner in the present case.

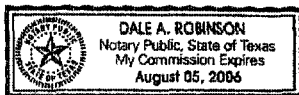
VERIFICATION

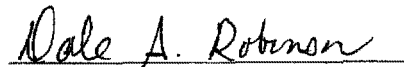
STATE OF TEXAS)
)
COUNTY OF LUBBOCK)

DELILAH WISENER, being duly sworn on oath, deposes and states that she has read the foregoing statement, that she knows the contents thereof, and that the facts therein stated are true and correct.


DELILAH WISENER

SUBSCRIBED AND SWORN TO before me on this the 15th day of May, 2006.




NOTARY PUBLIC

My Commission Expires: August 05, 2006

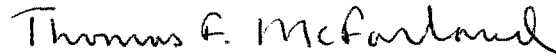
CERTIFICATE OF SERVICE

I certify that on May 15, 2006, I served the foregoing document, Motion For Rejection Of
Alternative Two Of Feeder Line Application, by UPS overnight mail, on the following:

Charles H. Montange, Esq.
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Thomas F. McFarland

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --)
ALTERNATIVE RAIL SERVICE --) FINANCE DOCKET
SOUTH PLAINS SWITCHING, LTD. CO.) NO. 34802

SECOND SUPPLEMENT TO PETITION
TO TERMINATE ALTERNATIVE RAIL SERVICE

SOUTH PLAINS SWITCHING, LTD. CO.
P.O. Box 64299
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DATE FILED: June 13, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --	)	
ALTERNATIVE RAIL SERVICE --	)	FINANCE DOCKET
SOUTH PLAINS SWITCHING, LTD. CO.	)	NO. 34802

**REPLY IN OPPOSITION TO PETITION
FOR ALTERNATIVE RAIL SERVICE**

Pursuant to 49 C.F.R. § 1146.1(d)(1), SOUTH PLAINS SWITCHING, LTD. CO. (SAW) hereby files a Second Supplement to its Petition to Terminate Alternative Rail Service, filed on March 30, 2006. SAW submits the following in support of this Second Supplement.

OVERVIEW

This Second Supplement urges the Board not to continue alternative rail service beyond the scheduled expiration date of June 25, 2006 on the ground that the Board does not have authority to order alternative rail service over the tracks at issue. The Board lacks authority because those tracks are switching tracks as to which the Board does not have abandonment authority by virtue of 49 U.S.C. § 10906. In accordance with the principle of *Battaglia Distributing Co., Inc. v. Burlington Northern*, 2 S.T.B. 323 (1997) ("*Battaglia*"), where the Board lacks authority over termination of rail service over specific tracks, it also lacks authority to order a rail carrier to provide service over those tracks, including the provision of alternative rail service. *Battaglia*, 2 S.T.B. at 328 ("We may not order the resumption of rail service where we lack jurisdiction over its termination").

While this Second Supplement is filed toward the scheduled end of the alternative rail service, it is not legally objectionable on that basis. The real issue is whether alternative rail service will be extended for the balance of the statutory period. The authority or jurisdiction of the Board can be lawfully challenged at any time in a proceeding.

BACKGROUND

In a decision served January 26, 2006, the Board ordered that SAW permit West Texas & Lubbock Railroad Company (WTL) to operate over its tracks for 30 days to provide rail service to PYCO Industries, Inc. (PYCO) at its Plant Nos. 1 and 2. The Board's action was taken pursuant to 49 U.S.C. § 11123(a) and the Board's implementing regulations at 49 C.F.R. Part 1146.

In a decision served February 25, 2006, the Board denied a Petition to Terminate Alternative Rail Service that had been filed by SAW and ordered that alternative rail service continue for 120 additional days until June 25, 2006.

On March 30, 2006, SAW filed a Petition to Terminate Alternative Rail Service, directed to the service ordered in the decision served February 25, 2006. On April 6, 2006, PYCO filed a Reply in opposition to that Petition. On May 24, 2006, SAW filed a Supplement to Petition to Terminate Alternative Rail Service, requesting that the Board not continue alternative rail service beyond the scheduled June 25, 2006 expiration date. On May 26, 2006, PYCO filed a Reply in opposition to that Supplement. The Board has not yet ruled on either that Petition or the Supplement.

This Second Supplement reiterates the request that the Board not continue alternative rail service beyond the June 25, 2006 expiration date. The Second Supplement presents the

additional issue of the lack of Board authority to order alternative rail service over switching tracks as defined in 49 U.S.C. § 10906. That legal argument only recently came to SAW's attention. It is hereby presented to the Board for the first time in this proceeding.

ARGUMENT

THE BOARD LACKS AUTHORITY TO ORDER CONTINUATION OF ALTERNATIVE RAIL SERVICE OVER THE SWITCHING TRACKS USED TO PROVIDE RAIL SERVICE TO PYCO

1. The Tracks Used To Provide Rail Service To PYCO Are Switching Tracks Within The Meaning Of That Term In 49 U.S.C. § 10906

A. The Legal Principle

The SAW tracks that are used to provide rail service to PYCO are clearly categorized as switching tracks as that term is used in 49 U.S.C. § 10906. The applicable legal principle is clearly set forth in *Battaglia, supra*, 2 S.T.B. at 326-327, viz.:

... There is no single test of what constitutes a side track (or a switching track). Instead, our analysis focuses on the disputed track's use, history and physical characteristics, and we rely on a variety of indicia, including, the length of the track; whether it serves more than one shipper; whether it is stub ended; whether it was built to invade the territory of another railroad; whether the shipper is located at the end of the track; whether there is regularly scheduled service; the volume of traffic moving over the track; who owns and maintains the track; whether the track was constructed with light weight rail; the condition of the track; what the track is used for (e.g., loading, unloading, switching); and whether there are stations on the track ...

B. The Tracks Used To Provide Rail Service To PYCO

The track used to provide service to PYCO's Plant No. 1 is a lead track that extends from SAW's yard to point of connection with PYCO's private "shop" track and "scale" track. It is commonly referred to as SAW Track No. 6. It is depicted on a print that was part of Exhibit A to

PYCO's Feeder Line Application (FLA), and which is attached to this Supplement as Appendix A.^{1/}

The primary track used to provide service to PYCO Plant No. 2 is Track No. 310, which is a lead track that extends from the BNSF main track to point of connection with PYCO's private track. It extends through property of Farmers Compress Company. It is depicted on a photograph from the FLA that is attached to this Supplement as Appendix B.

Alternative track used to provide service to PYCO Plant No. 2 consists of Lead Track No. 231 that extends from BNSF's yard to connection with Track No. 9298, thence to connection with PYCO's private track. Track 9298 extends through the property of Attebury Grain Company and Farmers Compress Company. The trackage is shown on the photograph that is attached to this Supplement as Appendix B.

Facts in regard to those tracks are verified by Mrs. Delilah Wisener, whose verification is attached to this Supplement as Appendix C.

The use and physical characteristics of those tracks are further identified below.

**C. Application Of The Legal Principle To The Tracks
Used To Provide Rail Service To PYCO**

(a) Use of the tracks

The most significant criterion in the determination of whether particular track is part of a "line of railroad" subject to Board entry and exit authority, or a "switching track" or other exempt track identified in 49 U.S.C. § 10906, is the use to which the track is put. The Board has found

^{1/} Two switching tracks in SAW's yard (Nos. 1 and 5) and SAW Track Nos. 9298 and 9200 are used to switch, store and stage railcars before and after rail service to PYCO Plant No. 1.

that track that is used exclusively for switching of cars to and from shipper facilities is exempt "switching track" notwithstanding that other characteristics might point to classification of the track as a line of railroad, such as the volume of traffic and the number of shippers served by the track. *See Chevron USA, Inc. -- Lease & Oper. Exemption -- Richmond Belt Railway*, 1995 ICC LEXIS 137 at *5 (Finance Docket No. 32352, served June 12, 1995) ("... In our view, the focus is more properly on the use of the trackage under the terms of the transaction rather than on the character of the trackage itself... (A)s the lease is for switching purposes only, the transaction does not require our approval...").

The tracks used to provide rail service to PYCO are quintessentially switching tracks in accordance with the "use" test. Those tracks are located wholly within the Lubbock, Texas switching limits and terminal area. Those tracks are used exclusively to switch cars to and from PYCO Plant Nos. 1 and 2 after those cars have arrived at SAW's yard. SAW is exclusively a switching rail carrier operating within the Lubbock terminal. SAW's rail service over the tracks under consideration is confined to pick up and delivery of cars at PYCO's plants. The tracks at issue are never used in conjunction with line-haul transportation for PYCO. On the foregoing bases, a finding is compelled that the tracks used to provide rail service to PYCO are used exclusively as switching tracks.

(b) Length of track

According to PYCO's testimony in the Feeder Line Application, Track No. 6 used to provide service to PYCO Plant No. 1 is 1,100 feet long; Track No. 310 used to provide service to PYCO Plant No. 2 is 5,600 feet long; and Track Nos. 231 and 9298 alternatively used to provide

service to PYCO Plant No. 2 are a total of 7,240 feet long (Ex. B at 5). Those track lengths are well within the customary length of switching tracks.

(c) **Number of Shippers Served**

PYCO is the only shipper served by Track No. 6 at Plant No. 1. That is indicative of switching track. The tracks used to provide service to PYCO Plant No. 2 can be used to provide service to Farmers Compress and Attebury Grain, but that service, too, is switching service. In any event, several shippers were to be provided switching service in the *Chevron* case without affecting the finding that the track there involved was switching track.

(d) **Stub-ended nature**

Both the track used to serve PYCO Plant No. 1 and the tracks used to provide service to PYCO Plant 2 are stub-ended, i.e., they end at their points of connection to PYCO's private tracks. That is a hallmark of switching tracks.

(e) **Invasion of another railroad's territory**

Neither track that serves PYCO was constructed to invade the territory of another railroad. That, too, is an indication of switching track.

(f) **Location of shipper**

PYCO is located at the end of the tracks used to provide rail service to its Plant Nos. 1 and 2. That is yet another hallmark of switching track.

(g) **Regularly scheduled service**

PYCO Plant Nos. 1 and 2 are served on a regularly-scheduled basis, i.e., five days per week. This is a criterion that can be associated with a line of railroad, as well as a switching track.

(h) Volume of traffic

Substantial volumes of traffic move over the tracks used to provide service to PYCO Track Nos. 1 and 2. That is not necessarily indicative of a line of railroad. In the *Chevron* case, 11,274 cars per year moved over the track there classified as switching track. 1995 ICC LEXIS 137 at *4.

(i) Ownership and maintenance of track

SAW owns and maintains all of Track No. 6 that provides rail service to PYCO Plant No. 1. SAW owns and maintains the tracks that are used to provide rail service to PYCO Plant 2. SAW's ownership and maintenance of most of the track is a minor factor in favor of classification as a line of railroad.

(j) Weight of rail

The tracks used to provide service to PYCO are constructed with 85-pound and 90-pound rail. Those weights of rail are more indicative of switching tracks than line of railroad.

(k) Condition of the track

The tracks used to provide service to PYCO are classified as FRA excepted track. That track classification is more indicative of switching track than line of railroad.

(l) Stations on the track

There are no stations on the tracks that are used to provide rail service to PYCO Plant Nos. 1 and 2. The absence of stations is yet another indication of switching track.

(m) Summary

The use of the tracks at issue solely for switching cars to and from PYCO's Plant Nos. 1 and 2, as well as the overwhelming majority of the physical characteristics of those tracks,

compel a determination that those tracks are switching tracks within the meaning of 49 U.S.C.

§ 10906. What the Board said in *Battaglia, supra*, is equally applicable here, substituting “switching track” for “side track”, which is also exempted under § 10906, viz. (2 STB at 327-328):

Just as there is no single test for what constitutes a side track, there is no single characteristic related to its use, history, or physical characteristics that is dispositive in making a side track determination . . . However, the overwhelming balance of factors relevant to this analysis supports a finding that the disputed track is side track.

**2. The Board Does Not Have Authority Under 49 U.S.C.
§ 11123(a) To Order Alternative Rail Service To Be Provided
Over Switching Tracks**

Under 49 U.S.C. § 10906, the authority of the Board does not extend to the construction, acquisition, operation, abandonment or discontinuance of service over spur, industrial, team, switching or side tracks located in a single state. That means simply that SAW could have abandoned and removed the switching tracks used to provide service to PYCO without seeking permission from the Board, and the Board would have been without authority to have required SAW to replace those track and to restore rail service. As stated by the Board in *Battaglia, supra*, 2 STB at 326:

. . . Thus, if the track that served Battaglia’s warehouse is side track, discontinuance of operations and abandonment could have occurred without our prior approval, and we would have no jurisdiction to order a restoration of service.

The decision in the *Battaglia* case is also authority for the proposition that the authority of the Board to order alternative rail service under 49 U.S.C. § 11123(a) does not extend to service over switching tracks. The shipper in *Battaglia* filed a complaint alleging that the rail carrier was failing to provide rail service to its facility on reasonable request in violation of 49 U.S.C.

§ 11101(a), and seeking an order from the Board requiring the rail carrier to provide that service.

The rail carrier filed a motion to dismiss the complaint on the ground that the track used to provide service to the shipper's facility is a side track, which is exempt from the Board's authority under what is now 49 U.S.C. § 10906. In opposing the motion to dismiss, the shipper argued that the exemption in § 10906 does not extend to failure to provide rail service on reasonable request in violation of 49 U.S.C. § 11101(a). The Board flatly rejected that argument, *viz.* (2 STB at 328):

... We may not order the resumption of rail service where we lack jurisdiction over its termination.

Thus, the Board does not have authority under 49 U.S.C. § 11101(a) to require a rail carrier to provide service over § 10906 switching tracks on the ground that the rail carrier has failed or refused to provide any service at all over those tracks in response to shipper's reasonable request. It necessarily follows that the Board does not have the lesser authority under 49 U.S.C. § 11101(a) to require a rail carrier to provide more adequate rail service than previously provided over § 10906 switching tracks on the ground that the rail carrier has provided inadequate rail service in response to a shipper's reasonable request. (SAW intends to supplement its Motion to Dismiss PYCO's § 11101(a) Complaint on that basis). It also necessarily follows that the Board does not have lesser authority under 49 U.S.C. § 11123(a) to require temporary alternative rail service over a rail carrier's § 10906 switching tracks on the ground that there has been a deterioration of rail service over those tracks. In other words, if the Board does not have authority under 49 U.S.C. § 11101(a) to enforce a rail carrier's common carrier service obligation over § 10906 switching tracks, neither does the Board have authority to

enforce a rail carrier's common carrier service obligation over § 10906 switching tracks by ordering alternative rail service under 49 U.S.C. § 11123(a). See Valley Feed Co. v. Greater Shenandoah Valley Devel. Co., 1995 ICC LEXIS 323 at *13-20 (Docket No. 41068, served Dec. 21, 1995). On the authority of that case and Battaglia, supra, the Board may not order permanent rail service under § 11101(a), nor temporary rail service under § 11123(a), where it lacks authority to terminate that service.

Without question, therefore, the Board did not have authority under 49 U.S.C. § 11123(a) in the first instance to order alternative rail service to be provided over the § 10906 switching tracks that are used to provide rail service to PYCO Plant Nos. 1 and 2. In the absence of such authority initially, it necessarily follows that the Board lacks authority to order that alternative rail service be extended over those tracks beyond the scheduled expiration date of June 25, 2006.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, the Board should enter an order providing that alternative rail service will expire on June 25, 2006, as scheduled.

Respectfully submitted,

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Incumbent Rail Carrier

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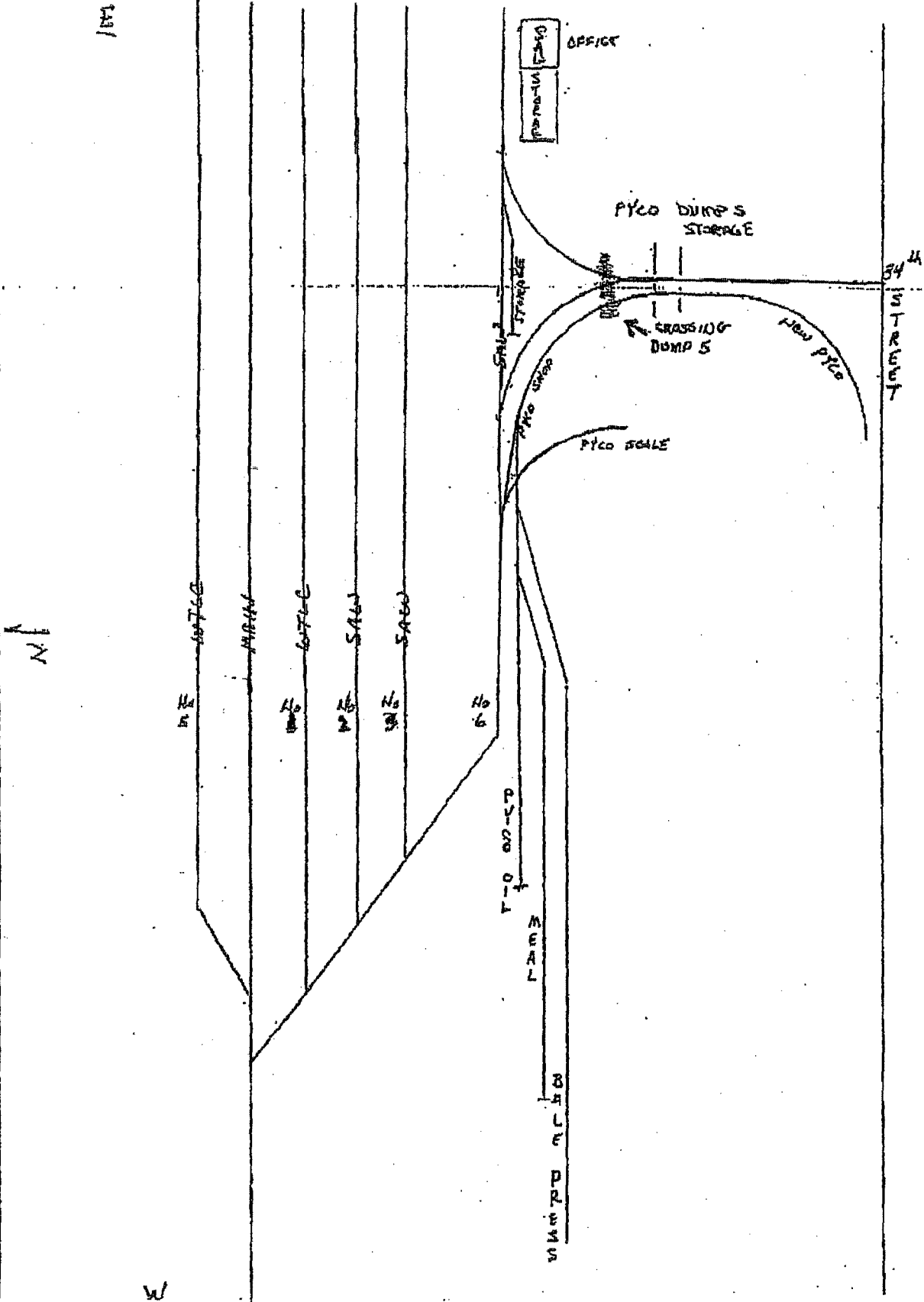
Attorney for Incumbent Rail Carrier

DATE FILED: June 13, 2006

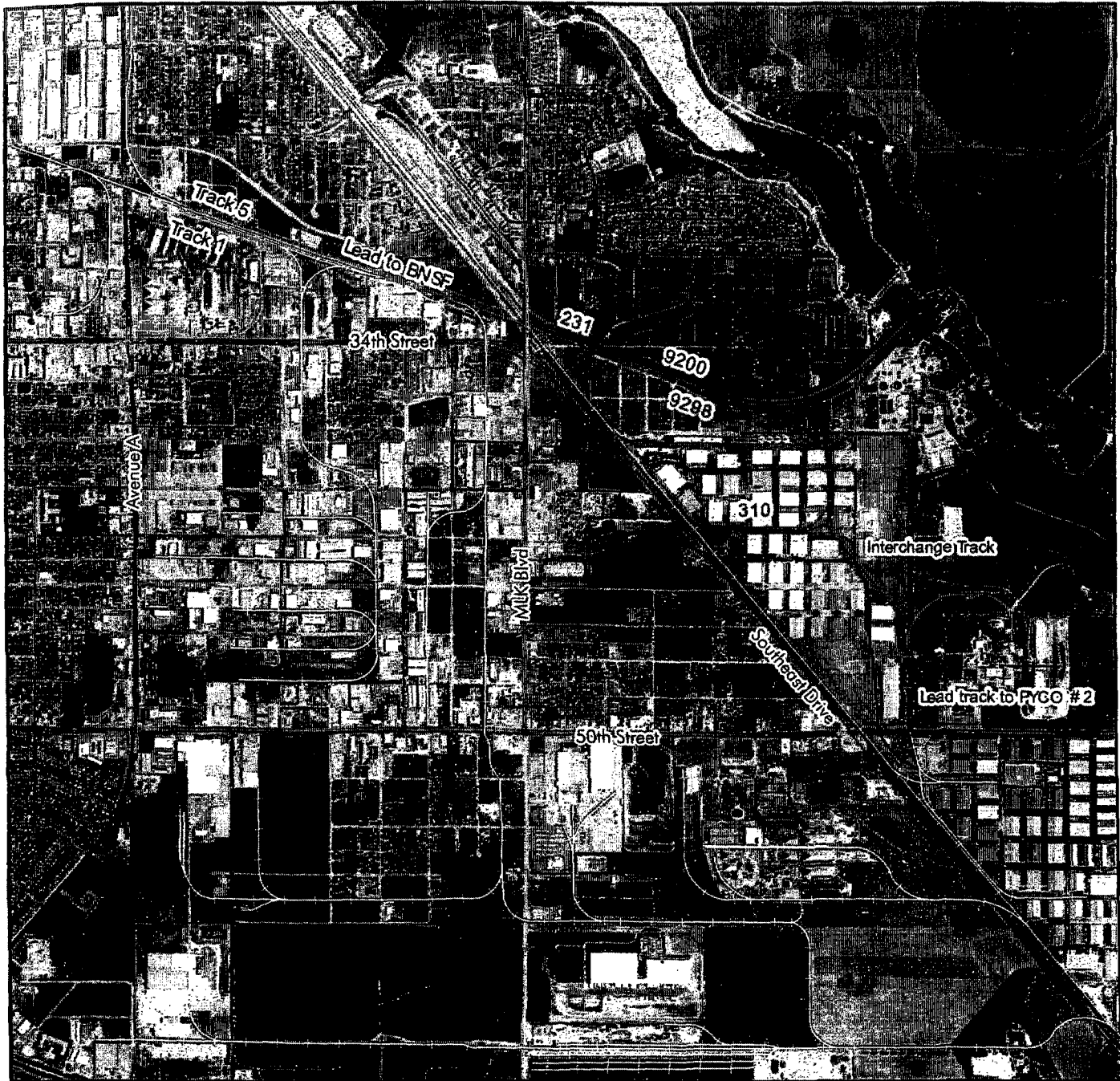
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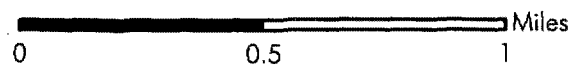
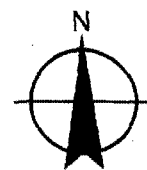


Alternative Two



Legend

-  PYCO Tracks
-  BNSF Tracks
-  Atterbury Track
-  SAW Tracks (Some privately owned)
-  Alternative Two Aquisition



Source: Image is from the National Agriculture Image Program 2005.

Projection: Universal Transverse Mercator Zone 14 North; North American Datum 1983

VERIFICATION

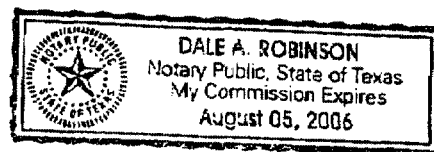
STATE OF TEXAS)
) SS:
COUNTY OF LUBBOCK)

DELILAH WISENER, being duly sworn on oath, deposes and states that she has read the foregoing statement, that she knows the contents thereof, and that the facts therein stated are true and correct.


DELILAH WISENER

SUBSCRIBED AND SWORN to
Before me this 12th day
of June, 2006.


Notary Public



My Commission Expires:

August 05, 2006

CERTIFICATE OF SERVICE

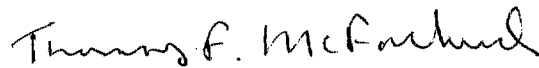
I certify that on June 12, 2006, I served the foregoing document, Second Supplement To
Petition To Terminate Alternative Rail Service, by UPS overnight mail, on the following:

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CERTIFICATE OF SERVICE

I certify that on August 1, 2006, I served the foregoing document, Statement In
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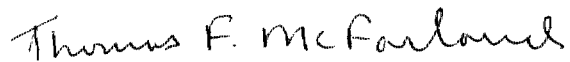
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