

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

October 12, 2006

By overnight mail

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

ENTERED
Office of Proceedings
OCT 12 2006
Part of
Public Record

217808

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

Finance Docket No. 34922, *Keokuk Junction Railway Co. -- Feeder Line
Application -- Lines of South Plains Switching, Ltd. Co.*

217809

Dear Mr. Williams:

Enclosed please find an original and 10 copies of Reply To (1) KJRY's Expanded Competing Feeder Line Application; and (2) PYCO's Amended Valuation Evidence, for filing with the Board in the above referenced matters.

Very truly yours,

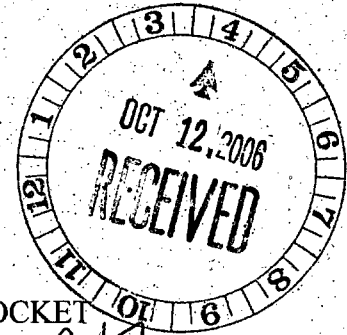
Tom McFarland

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

TMcF:kl:enc:wp8.0\1169-A,B\lstrsb5

cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD



KEOKUK JUNCTION RAILWAY CO. --)
FEEDER LINE APPLICATION -- LINES)
OF SOUTH PLAINS SWITCHING, LTD.)
CO.)

FINANCE DOCKET
NO. 34922 - 217809

PYCO INDUSTRIES, INC. -- FEEDER)
LINE APPLICATION -- LINES OF)
SOUTH PLAINS SWITCHING, LTD. CO.)

FINANCE DOCKET - 217808
NO. 34890

**REPLY TO (1) KJRY'S EXPANDED COMPETING
FEEDER LINE APPLICATION; AND (2) PYCO'S
AMENDED VALUATION EVIDENCE**

ENTERED
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Public Record

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

Respondent

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Steet, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204

Attorney for Respondent

Date Filed: October 12, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

KEOKUK JUNCTION RAILWAY CO. --	)	
FEEDER LINE APPLICATION -- LINES	)	FINANCE DOCKET
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CO.	)	
	)	
PYCO INDUSTRIES, INC. -- FEEDER	)	FINANCE DOCKET
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**REPLY TO (1) KJRY'S EXPANDED COMPETING
FEEDER LINE APPLICATION; AND (2) PYCO'S
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**REPLY TO (1) KJRY'S EXPANDED COMPETING
FEEDER LINE APPLICATION; AND (2) PYCO'S
AMENDED VALUATION EVIDENCE**

Pursuant to the procedural decision served August 16, 2006, as amended by decision service August 18, 2006 SOUTH PLAINS SWITCHING, LTD. CO (SAW), Respondent, hereby replies to (1) the Expanded Competing Feeder Line Application filed on behalf of Keokuk Junction Rasilway Co. (KJRY) on September 27, 2006; and (2) the Amended Valuation Evidence filed by PYCO Industries, Inc. (PYCO) on September 28, 2006.

SUMMARY OF LEGAL POSITION

SAW remains adamantly opposed to Board approval of "Alternative Two". For reasons detailed in SAW's filing of August 2, 2006, sale of trackage comprising Alternative Two is not permitted by public convenience and necessity (PC&N). Alternative Two is opposed by BNSF, Southern Cotton Oil Co. (ADM), and KJRY. PYCO stands alone in arguing for Alternative Two, and even PYCO's support for that alternative is lukewarm. The application for approval of Alternative Two should be emphatically denied.

SAW does not oppose a Board determination that sale of "All-SAW" is permitted by PC&N. SAW takes that position because it would be difficult for SAW to continue to operate its rail lines when a number of its shippers have expressed support for sale of its rail lines, and because sale of All-SAW is operationally and financially preferable to sale of Alternative Two. In taking that position, SAW does not concede that it has provided inadequate service to its shippers.

The Board should find that the constitutional minimum value (CMV) of All-SAW is its going concern value (GCV) of \$8,537,903, as identified and explained in the verified statement of SAW Witness Plaistow. The evidence of GCV in Mr. Plaistow's Statement is much more reliable and representative of SAW's current and likely future financial results than the evidence put forth by PYCO or KJRY. The financial authorities on the subject emphasize that GCV must fully reflect a corporation's earning power, not just its historical earnings. Mr. Plaistow's evidence is consistent with that principle in taking into account surcharges that SAW can apply without BNSF's

permission, and haulage revenues on Jarvis' traffic that BNSF has recently begun to pay. Evidence of GCV put forth by PYCO and KJRY is irreconcilable with that governing principle.

In no event can the GCV of All-SAW be lawfully determined to be less than \$6 Million. There is documentary evidence that SAW would have sold its rail lines to KJRY or to US Rail Partners for \$6 Million in an arm's-length transaction but for the pendency of this feeder line proceeding. SAW has cited consistent Board and ICC precedent that the purchase price offered to be paid in such an arm's-length transaction represents compelling evidence of the value of the rail line. (For ease of reference, the pertinent decisions are identified again in the next paragraph). SAW has referred to that value as net liquidation value (NLV) because the amount so offered was determined to be the NLV of the rail lines in the pertinent decisions. KJRY and PYCO have quibbled that an amount so offered cannot be a rail line's NLV because liquidation of the line was not contemplated in those decisions. Regardless of whether such amount constitutes an NLV or a GCV, the overriding point is that it is compelling evidence of the line's constitutional minimum value. Accordingly, consistently with the requirements of 49 U.S.C. § 10907(b), the Board cannot lawfully require SAW to sell its rail lines for less than \$6 Million.

Set out below are precedential decisions in which a rail line's value was found to correspond to the price offered in furtherance of a good faith, arm's-length purchase of the rail line:

1411 Corporation -- Aband. Exempt. -- in Lancaster County, PA, 2001 STB LEXIS 800 at *6 (Docket No. AB-581X, served Oct. 18, 2001) (signed option to purchase); *Portland Traction Co. -- Aband. Exempt. -- in Multnomah and Clackamas Counties, OR*, 1990 ICC LEXIS 16 at *10-13 (Docket No. AB-225 [Sub-No. 2X], served Jan. 10, 1990) (executed sales contract); *Baltimore & O.R. Co. -- Aband. & Discon. -- in Montgomery County, MD & DC*, 1988 ICC LEXIS 774 at *23 (Docket No. AB-19 [Sub-No. 112], served Aug. 17, 1988) (unqualified offer to purchase); *Florida E. Coast Ry. Co. -- Aband. -- in St. John & Putnam Counties, FL*, 1987 ICC LEXIS 35 at *17 (Docket No. AB-70 [Sub-No. 2], served Dec. 8, 1987) (agreement in principle to purchase); and *Washington & Old Dominion R. Abandonment - Virginia*, 331 ICC 587, 600 (1968) (firm commitment for purchase).

For its Reply, SAW submits the Reply Verified Statements of SAW's owner Delilah Wisener and Joseph J. Plaistow of L. E. Peabody & Associates, Inc., which follows.

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**REPLY 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. I am the same Delilah Wisener that filed a verified statement in this proceeding on August 2, 2006 and on September 18, 2006.

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. SAW acquired its rail lines at Lubbock from BNSF in 1999.

I am familiar with the feeder line applications that PYCO and the Keokuk Junction Railway Company ("KJRY") have filed to acquire the assets of the SAW railroad. I would like to respond to several representations made in the PYCO and KJRY filings.

1. Pioneer Railcorp's \$6 Million Offer to Purchase SAW

In his Verified Statement, KJRY Witness Mr. Daniel A. LaKemper questions usage of Pioneer Railcorp's offer of \$6 Million to purchase SAW as the basis for a net liquidation value ("NLV") of the rail lines. Mr. LaKemper suggests that the value of the offer was dissimilar to KJRY's feeder line application, in that "[I]t was also to include all of SAW's assets, including locomotives, vehicles, materials, tools, files, and other assets of SAW, not just the rail line." Presumably, without these additional assets, SAW would have less value. However, there are no other assets and Mr. LaKemper should have know that because the 21-page SAW offering package that I sent KJRY on

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

July 27, 2006 detailed the assets included as "All-SAW".^{1/} My attorney, Tom McFarland received an e-mail from Mr. LaKemper on July 31, 2006 saying, "A PRC subsidiary would like to enter into a letter of intent to buy SAW for \$6 Million,..." SAW does not own a locomotive, vehicle, material, tools or any other assets. The \$6 million offer was for the rail lines.

2. PYCO's \$5.5 Million Offer for a Portion of SAW

In 2005, PYCO was sent a packet offering them a large portion (but not all) of SAW railroad. PYCO said they were interested. SAW's attorney drafted a letter of intent for PYCO to sign so that SAW could get "the ball rolling" with the BNSF regarding BNSF's first right of refusal.^{2/} PYCO's attorney drafted another contract specifying that if PYCO's due diligence and other efforts to purchase SAW were thwarted for reasons such as BNSF's first right of refusal, then SAW would be liable to PYCO. They wanted a guaranteed sale before they moved forward (We asked them to sign a letter of intent before they expended money for due diligence). I could not sign anything that would make SAW liable to PYCO if BNSF chose to exercise its right under the contract.

Mr. Robert Lacey of PYCO verbally offered to pay \$5.5 million for a portion of SAW. But because I refused to sign the contract (with wording that legal counsel felt was an entrapment), the deal was never consummated. Soon after that, PYCO instituted proceedings before the Board to take away my railroad through regulatory proceedings. Obviously, PYCO hoped that they could get a

^{1/} The offering package was sent to J. Michael Carr of KJRY on July 27, 2006.

^{2/} I have a contract with BNSF that allows BNSF the first right of refusal if SAW sells a major part of the railroad.

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

better deal from the Board than they could by dealing in private enterprise with me and my offer to sell.

**3. KJRY Witness Brennan's Comment
Regarding SAW's Profit and Loss Statements**

I take issue with statements made by KJRY Witness Brennan where he states that, "It is not clear, for example, why Mr. Plaistow did not rely on the actual profit and loss statements that SAW undoubtedly prepared in the on-going course of business." SAW has never prepared profit and loss statements, so Mr. Plaistow could not have relied upon them, and, instead, had to prepare his own profit and loss statements from financials that SAW prepares in the ordinary course of business. SAW is a small company wholly owned by me. Profit and loss statements have never been prepared because I do not have to report to anyone except the Internal Revenue Service. Therefore, Mr. Plaistow relied upon the SAW tax returns and other documents to create the profit and loss statements. Neither PYCO nor KJRY has presented any evidence challenging the validity of the SAW's federal income tax returns or SAW's Texas franchise tax public information reports prepared by independent certified public accountants. The Surface Transportation Board has no reason to doubt the validity of those reports. In fact, PYCO has now adopted the results of Mr. Plaistow's analysis based on those reports in PYCO's determination of GCV. (See PYCO Witness Banks statement at pages 2 and 3 and compare the "Expense" amounts in Banks' Tables 2 through 5 with "Total Operating Expenses" on line 6 of Mr. Plaistow's Exhibit Nos. 56, 62, and 68 of his September 18, 2006 Verified Statement.)

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

**4. KJRY Witness Brennan's Comment
Regarding the Relationship Between
SAW's Carload Counts and Texas Cotton Crops**

I also do not agree with Witness. Brennan's assumption that SAW's car count is strictly related to the size of Texas cotton crops. Witness Brennan assumes that our customers' traffic in 2006 will be far different and lower than the 2005 traffic levels because the cotton crop is not expected to be as large. In reality, our customers' traffic levels are far more dependent upon their specific business fortunes as represented by their contracts, rather than the overall magnitude of the Texas cotton crop.

PYCO has contracts to fill. If the cotton crop in West Texas is not good, PYCO, as well as other customers, ship in product in order to fulfill contracts. This has a positive effect on SAW's business rather than a negative as SAW has loads in and loads out. In 2002 and 2003 PYCO shipped into Lubbock over 2,500 carloads of cottonseed for processing. PYCO has won large contracts for shipments of raw cottonseed that did not exist before 2004/2005. Witness Brennan has not shown any empirical evidence as to the correlation between SAW's car count and the cotton crop production for other years or why 2005 carloads should be unduly diluted by being combined with clearly-outdated historical averages.

5. The Inclusion of Traffic from Hanson Aggregates

This issue involves Hanson, Vulcan, BNSF and SAW. Briefly, Hanson did not like the fact that SAW used the same tracks to unload Vulcan cars that SAW used to unload Hanson's cars. Hanson complained and that complaint may have prompted Hanson's statement cited at page 5 of PYCO

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

Witness Banks regarding Hanson's displeasure with SAW. But these tracks are owned by SAW, and SAW should not serve Hanson preferentially vis-a-vis Hanson's competitor, Vulcan.

At pages 5 and 6 of PYCO Witness Banks' Verified Statement, he leads the reader to believe that Hanson was going to discontinue shipping on SAW because of Hanson's displeasure with SAW. But Hanson's real reason is that due to circumstances beyond its control, it could not compete in the Lubbock marketplace. Because of this, Hanson was going to discontinue shipping on SAW, and Hanson would have no aggregate carload sales that it could ship on any potential purchaser of SAW. We will see below that Vulcan will get the business that would otherwise have been handled by Hanson.

In March of 2006, Hanson's Field Foreman, Chuck Brewer informed us that Hanson would leave the Lubbock area after their last trains in March / April 2006. Mr. Brewer said that Hanson had no more contracts for Lubbock. BNSF had sold the Perdernal, New Mexico facility from which Hanson supplied that Lubbock area, and Hanson could not compete in the Lubbock area from their Davis, OK facility because of the added distance.

In December, 2005, Hanson cancelled their contract with Savage Industries that had operated Hanson's Lubbock and Pedernal facilities. SAW purchased a trackmobile at Hanson's request to allow a local trucking company to finish operating Hanson's facility, thus allowing Hanson to complete their contract. When Hanson stopped operations, Mr. Brewer wanted SAW to purchase

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

Hanson's unloader, but SAW declined because these proceedings were pending. However, Martin Marietta expressed interest (*See the reference to Martin Marietta below*).

You will see below that the increase in Vulcan traffic will more than offset the decrease in Hanson traffic. This means that PYCO Witness Banks erred when he "excluded from SAW Revenue beginning in 2007, all revenues associated with the rail haul of [Hanson's] traffic." The traffic that had been handled by Hanson will now be handled by Vulcan or another aggregate supplier.

Vulcan has stated that they plan on increasing their traffic by 1,400 carloads annually over and above the levels Vulcan handled in 2006. In addition, Vulcan had already increased their traffic between 2004 and 2005 by over 1,700 carloads.

Also Martin-Marietta has contacted SAW about buying Hanson's on site underground unloader and receiving rock on the SAW owned track formerly used by Hanson. Martin-Marietta is another large aggregate firm that is trying to get into the Lubbock market. They will ship by rail if they are successful with contract bids.

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

**6. PYCO's Witness Banks Is Wrong
When He States That Non-agricultural
Commodity Carloads Will Be Flat in the Future**

At page 15 of his September 28, 2006 Verified Statement, PYCO Witness Banks states:

“As a result, my going concern valuations are based on my assumption that non-agricultural product car loadings of SAW will be steady at best. At my behest, my staff called current and previous customers of SAW, representing a majority of SAW's carloads in 2005, to inquire about future shipment volumes. In sum, that survey provided no foundation to support the notion that non-agricultural product shipment volumes by current or former SAW customers could be expected to increase in the future.”

(Banks explains his position on non-agricultural commodity carloads at pages 12 through 15.)

In the first place, Witness Banks' claims are totally undocumented. His statement summarizes his claimed survey, but does not submit the names of the companies surveyed, the questions that those companies were asked, or the documented answers of the companies surveyed. One thing for certain is that Banks did not survey Vulcan. Another certainty is that Banks is wrong when he states that non-agricultural commodity carloads will be flat in the future. My immediately preceding item 5, “The Inclusion of Traffic from Hanson Aggregates” proves that Banks is wrong since Vulcan's traffic is going to increase substantially.

7. Why Surcharges Have Not Been Applied As Yet

BNSF did not want SAW to apply the surcharges that SAW wanted to put into effect, so BNSF fought SAW's right to apply the surcharges. SAW won the right to apply surcharges of \$40 or \$60

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

through a Fort Worth, Texas Court jury decision. BNSF lost the initial decision and appealed. BNSF then lost the appeal.

The approved surcharges were not instituted immediately because BNSF appealed the decision. Had we lost the appeals we would not have had the authority under the SAW-BNSF contract provisions to implement the surcharge. When the jury's decision survived the appeals process, we instituted a portion of the allowed surcharge on PYCO only, in late 2005. The amount instituted was \$20.

The \$20 surcharge came about in response to the following set of circumstances. In late 2005, PYCO began filling our yard with cars that PYCO could not hold in their facility because of the inadequacy of PYCO's tracks. PYCO continued to use their trackmobile on SAW property to spot PYCO cars that could not fit on PYCO's facilities. PYCO used shortcuts to load cars on SAW property after SAW operating hours. PYCO refused to obey SAW's operating procedures and regulations. The resulting congestion in our yard made it difficult and more expensive for me to handle all SAW's traffic including PYCO's. To offset the additional costs that were being incurred by SAW in the latter part of 2005 (due solely to PYCO plugging our yard), SAW applied a \$20 per car surcharge to cars handled for PYCO. The surcharge was not applied to other shippers because they were not causing us to incur increased costs.

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

Following SAW's court victory and the application of the surcharge, Mr. W.E. Hale of the BNSF abruptly cancelled a locomotive agreement for the servicing of aggregates that had been in place since 1999. He also cancelled a boxcar agreement implemented by our previous shortline director that had SAW storing surplus cars for BNSF at no charge for prospective loading for SAW customers. (Appendix DW-1 is an e-mail from BNSF dated February 05, 2001 establishing the boxcar agreement. Appendix DW-2 is the August 12, 2005 letter from BNSF cancelling the boxcar agreement).

I believe that the a \$20 surcharge charged to PYCO has resulted in me almost losing my railroad. PYCO claimed inadequate service as a pretext for attempting to force me to sell, but I showed earlier that SAW's service to PYCO faltered for only one day at one of PYCO's facilities and that service lapse was due to mechanical problems with one of SAW's locomotives. Even though the STB has declared that the Board has no authority over ancillary charges, our \$20 surcharge on PYCO traffic is at the root of most of PYCO's complaints.

SAW was in the process of revising its tariff to be published effective January 2006 for all of SAW's customers. This revision would have made several changes including the amount of the surcharge being applied to each customer. BNSF made it clear that the implementation of any surcharge would be at SAW's peril. In view of the consequences we suffered when we applied the \$20 PYCO surcharge, we did not dare apply the larger surcharges to all SAW's customers.

**REPLY VERIFIED STATEMENT
OF DELILAH WISENER**

**8. The Adverse Effect of a Forced Sale of SAW
on SAW's Financial and Operating Performance**

One of the five criteria for determining the public convenience and necessity of a forced sale of SAW under the feeder line statute is whether the sale would have an adverse effect on the overall financial and operating performance of SAW. SAW would suffer devastating financial harm if it were forced to sell its rail lines for the amounts being suggested by PYCO and KJRY. Such financial harm would seriously hurt our ability to provide good service to the customers remaining (that is, those at Slaton, TX) after the conclusion of a forced sale of SAW.

**9. The Feeder Line Remedy is NOT
Appropriate for Application to SAW**

Finally, I do not believe that the Feeder Line Remedy ("FLR") is applicable to the SAW railroad. It is my understanding that the FLR is to be used if a rail carrier refuses to serve its customers. As I mentioned in my Verified Statement submitted on August 2, 2006 in Finance Docket No. 34890, SAW has provided adequate service to its customers (*see* SAW's August 2, 2006 filing Argument pages 2 through 5 and my August 2, 2006 Verified Statement, pages 2 through 7). SAW missed service to PYCO one day at one of PYCO's plants due to mechanical problems with a SAW locomotive. Surely, this is stretching the applicability of the FLR.

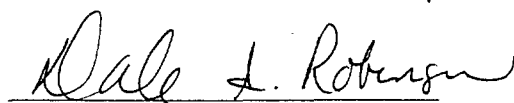
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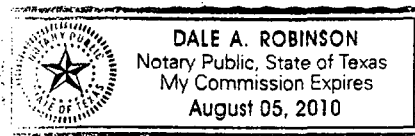
STATE OF TEXAS)
) SS:
COUNTY OF LUBBOCK)

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 10th day
of October, 2006.


Notary Public



My Commission Expires: *August 05, 2010*

APPENDIX DW-1

delliah

From: Roach, Allan K <Allan.Roach@bnsf.com>
To: OCampo, Marie K <Marie.OCampo@bnsf.com>
Cc: <delliah@odsy.net>
Sent: Monday, February 05, 2001 5:28 PM
Subject: SAW Boxcars

Marie,

In following up with our conversation today, the SAW is used as a storing, staging and prospective loading point for boxcars. Therefore BNSF boxcars while on the SAW are car hire free. Foreign boxcars are also car hire free to the SAW. The SAW will file reclaims on foreign equipment.

Thank you,
Allan Roach
Director Shortline Development
BNSF
817-352-6012

APPENDIX DW-2



EDDIE HALE
Director
Shortline Development

BNSF Railway Company
2500 Lou Menk Drive
3rd Floor
Fort Worth, Texas 76131-2830
(817) 352-6012
(817) 296-4589 Cellular
(817) 352-7154 Fax
Email Weldon.Hale@BNSF.com

August 12, 2005

Mr. Larry Wisener
President
South Plains Lamesa Railroad, Ltd.
South Plains Switching, Ltd. Co.
P.O. Box 64299
Lubbock, Texas 79464

Dear Mr. Wisener,

BNSF is no longer using the SAW as a place to store boxcars or as a staging point for prospective loading of boxcars. Effective Monday, August 15, boxcars will no longer be car hire free while on the SAW. Car hire reclaim for boxcars will be the same as provided for other cars in the Sale Agreement.

Regards,

A handwritten signature in black ink, appearing to read "Eddie Hale". The signature is written in a cursive, flowing style.

cc: Tina Kanatzar
Dan Sanders

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REPLY VERIFIED STATEMENT OF JOSEPH J. PLAISTOW

I. INTRODUCTION

My name is Joseph J. Plaistow. I am the same Joseph J. Plaistow that filed a verified statement concerning going concern value ("GCV") on August 2, 2006 in STB Finance Docket No. 34890 and on September 18, 2006. 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 were attached to my August 2, 2006 verified statement. For convenience of reference, I have attached a copy of that Exhibit No. 1.

a. Background of Proceeding

The "All-SAW Option", involves PYCO's and KJRY's attempt to purchase the entirety of All-SAW's rail lines serving every All-SAW customer. On September 28, 2006 and September 27, 2006 PYCO's Witness Banks and KJRY's Witness Brennan, respectively, filed a verified statement regarding the All-SAW GCV. Those statements responded to my September 18, 2006 verified statement in this proceeding regarding both the Alternative Two and the All-SAW GCV.¹ The instant Reply Verified Statement specifically endorses my

¹ The Board's August 16 and August 18, 2006 procedural decisions in Finance Docket Nos. 34890, 34922, and 34802 specifically authorize PYCO and KJRY to file on October 19, 2006 rebuttals to my instant Reply Verified Statement (see point 8 of the Board's August 16, 2006 procedural decision). PYCO's witnesses are under the impression that they may rebut my reply and all my previous statements (see, for example, Witness Banks' September 28, 2006 Verified Statement, page 1). To the extent that Witness Banks rebuts my statements filed prior to my October 12, 2006, Reply, I reserve the right to file sur-rebuttal to each of Witness Banks' arguments.

September 18, 2006 GCVs with no changes to the values determined therein.² The instant Reply Verified Statement also responds to the verified statements of Witnesses Banks and Brennan.

b. The Constitutional Minimum Value

The feeder line procedures require the STB to determine the constitutional minimum value of a line to the seller of that line, not to the buyer.³ The constitutional minimum is defined as “not less than the net liquidation value [“NLV”] of such line or the going concern value of such line, whichever is greater” (49 U.S.C. 10907 (b)(2)). Prior to his September 28, 2006 Verified Statement, PYCO Witness Banks had determined the value of the line to the buyer, not to the seller. His GCV’s were therefore irrelevant. However, in his September 28, 2006 statement, Witness Banks now determines the value to the seller making his GCV determination relevant. The change that he made was to adopt my SAW expenses determination.⁴

On the other hand, Witness Brennan still determines SAW’s value to the buyer, so KJRY’s GCV remains irrelevant. At pages 19-22 of his Verified Statement, Witness

² The Alternative Two GCV’s were covered in my September 18, 2006 Verified Statement at Exhibit Nos. 2 through 31. The All-SAW GCV’s were covered in my September 18, 2006 Verified Statement at Exhibit Nos. 32 through 73.

³ 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).”

⁴ See PYCO Witness Banks statement at pages 2 and 3 and compare the “Expense” amounts in Witness Banks’ Tables 2 through 5 with “Total Operating Expenses” on line 6 of my Exhibit Nos. 56, 62, and 68 of my September 18, 2006 Verified Statement.

Brennan outlines the reasons he used URCS to determine railroad operating expenses. In my September 18, 2006 verified statement at pages 11 through 14, I showed that it is wrong to use URCS to calculate railroad operating expenses in the context of determining GCV in conjunction with a Feeder Line Application ("FLA").

One final point, KJRY Witness Brennan claims no special expertise with regard to URCS (*see* Witness Brennan Verified Statement, September 27, 2006 at pages 41 and 42), so it is difficult to understand why he adopts Witness Banks' pre-September 28, 2006 use of URCS in the determination of the GCV. As was pointed out above, even Witness Banks now admits that URCS should not be used in this context. In and of itself, Witness Brennan's adoption of Witness Banks' prior use of URCS to determine expenses invalidates KJRY Witness Brennan's GCV determination.

While PYCO's GCVs have now become relevant, its position regarding the constitutional minimum value of SAW still makes no sense. PYCO continues to insist that substantial rehabilitation costs must be subtracted from All-SAW's GCVs. (*See* my September 18, 2006 Verified Statement, pages 18 through 21.

With All-SAW's NLV less than its GCV, GCV measures the compensation that SAW should receive for the involuntary taking of property that SAW currently owns. 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. Critique of Witnesses Banks/Brennan

IV. Going Concern Value

V. Conclusion

II. SUMMARY AND FINDINGS

SAW has the right to assess \$40 to \$60 surcharges on each carload of its traffic. These surcharges represent only 2% of the total freight charges being paid for the movement of the commodity, and, thus, will not cause the number of carloads shipped by SAW's customers to decline.

SAW and BNSF have agreed that \$75 per carload will constitute SAW's revenue for each car of Jarvis Metals traffic handled at Burris, TX.

While Hanson will no longer ship aggregates via SAW, the carloads that were once shipped by Hanson, will now be shipped by Vulcan. Vulcan will increase its future carloads by approximately 1,400 carloads per year.

Base year agricultural carloads should not be changed from that included in my September 18, 2006 Verified Statement. Witness Brennan's economic arguments attempting to reduce base year carloads have been shown to be erroneous, and his equations forecasting future years carloads have been shown to be inferior. Witness Banks analysis has been shown to be flawed and lacking in support.

Out-year non-agricultural traffic will increase at the rate of increase in the rail industry's ton-miles. Just the expected increase in Vulcan carloads is enough to justify that rate of increase.

III. CRITIQUE OF WITNESSES BANKS/BRENNAN

In this section, I provide additional critique of the verified statements of PYCO Witness Banks and KJRY Witness Brennan. My critique will be organized in the order of Witness Banks' presentation of each issue.

Below, I list six issues associated with the calculation of All-SAW's GCV. These issues are as follows:

1. Surcharges applied to PYCO's and other shippers' traffic;
2. SAW revenues from the traffic of Jarvis Metals at Burris, Texas;
3. The inclusion of traffic from Hanson Aggregates;
4. SAW's base year agricultural traffic forecast;
5. SAW's out year forecast of non-agricultural traffic; and
6. SAW's revenue forecast.

1. Surcharges Applied to PYCO's and Other Shippers' Traffic

Witness Banks takes issue with SAW's right to impose a surcharge on PYCO and other shippers. Witness Brennan makes similar statements at pages 13 through 18.⁵ Both say that the imposition of surcharges will cause carload volumes to decrease.

⁵ Much of Witness Brennan's discussion regarding this issue is only relevant to the determination of All-SAW's GCV to the buyer, not to the seller. For example, at page 15, Witness Brennan discusses surcharges in the context of WTL's interference with the SAW operations. Witness Brennan does not understand that in determining All-SAW's GCV, he should be determining the cost of SAW operating the property, not the cost of WTL operating part of the property and SAW operating the remaining portion of the property. In the context of SAW operating All-SAW, there is no interference from WTL.

First, SAW has the legal right to impose the surcharge. SAW's revenues are a flat rate per car that is negotiated with BNSF in lieu of SAW receiving a division of the line-haul revenue. The surcharge is a second revenue vehicle available to SAW in place of renegotiating a per car rate with BNSF.

On the second point regarding the loss of traffic due to price increases, the surcharges are variously \$20, \$40, or \$60 per car. Exhibit No. 74⁶, "BNSF 2005 QCS Data", lists the BNSF average rates for each of the commodities that are relevant to SAW. The most important SAW traffic segment is Oil Seeds. SAW interchanges all its traffic with BNSF. Since the average BNSF rate for Oil Seed traffic is \$3,248 as shown in Exhibit No. 74, even the \$60 surcharge is only 2% of BNSF's freight charges. The increase is even a smaller percentage if you include charges in addition to BNSF's QCS rates.

Further, SAW offers its customers a three tiered pricing system. The system includes a rate for cars received in blocks of 27 cars or more, with the same commodity and going to the same destination, a rate for the first 5,000 carloads transported over SAW in a calendar year excluding cars moving under the block rate, and a third rate for cars over 5,000 carloads transported over SAW. At the 2006 rate levels, SAW's charges are \$45.67 for block cars, \$125.60 for the first 5,000 cars and \$142.72 for all other cars transported during the year. Further, if BNSF could deliver cars to SAW's customers at SAW's rates or cheaper, BNSF would not have sold the facilities to SAW in the first place. The rate breaks inherent in this pricing structure offset any surcharges.

⁶ My exhibits are numbered consecutively beginning with those in the August 2, 2006 Verified Statement.

While Witnesses Banks and Brennan state that the surcharge would drive away rail customers, they offer no evidence to support their claims. SAW's shippers will only be absorbing a small rate increase, and their other alternatives (for example, in some cases, motor carriers could be relied upon) are not competitively effective from a price standpoint. While Witness Brennan may discuss the price elasticity within the transportation industry, the market that a trucking company faces has little to do with SAW's customers.

Rather than dealing with the specific competitive circumstances pertaining to SAW's shippers, Witness Brennan offers an esoteric discussion regarding economic theory applying to markets in general. (See Witness Brennan, pages 16 and 17.) On the other hand, BNSF deals in the real world of economics applied to individual shippers. In recent years, BNSF has sometimes doubled the rates it charges captive coal shippers with no loss of carload traffic.⁷ SAW's 2% rate increase through application of the surcharges pales in comparison with some of BNSF's rate increases. One must conclude that the relationship between price and carload volume depends on the specifics of a particular shipper's options, not the application of generalized economic theory.

Both Witnesses Banks and Brennan also object to the \$20 surcharge that SAW applied to PYCO traffic in mid-2005. Witness Brennan states on page 17:

Finally, SAW has announced that it has imposed a \$20 surcharge on one customer, PYCO. KJRY has not included these revenues in its GCV calculations. It appears that the imposition of this surcharge was a form of retaliation by SAW."

⁷ See, for example, Coal Outlook, August 14, 2006, page 10 and Public Version of Opening Evidence of Complainants Western Fuels Association, Inc. and Basin Electric Power Cooperative, Inc., STB Docket No. 42088, page I-4.

Witness Brennan is not familiar with the facts of this proceeding. SAW applied the \$20 surcharge on PYCO traffic in mid-2005.⁸ PYCO filed its FLA on December 20, 2005. If there was any retaliation involved, it was PYCO's filing of its FLA in retaliation against SAW for applying the \$20 surcharge.

2. The SAW revenues from the traffic of Jarvis Metals at Burris, Texas

The Jarvis Metals traffic at Burris, Texas was a contractual issue between SAW and BNSF that was adjudicated in SAW's favor in court. BNSF recently agreed to increase the revenue per car to SAW from 50 dollars per car to 75 dollars per car. There is no basis for Witnesses Banks or Brennan to exclude the revenue from this traffic in any calculations of SAW's going concern value.

3. The Inclusion of Traffic from Hanson Aggregates

For a complete discussion of this issue, please see the Reply Verified Statement of Delilah Wisener, item 5, pages 4-6. There Ms. Wisener explains that the traffic that had been being handled by Hanson was now going to be handled by Vulcan. Ms. Wisener also explains that Vulcan's future carloadings will be greater than the sum of both companies' current carloadings.

4. SAW's Base Year Agricultural Traffic Forecast

Both Witnesses Banks and Brennan take issue with my usage of 2005 as a base year upon which to forecast carload volumes of agricultural traffic. The gist of their arguments is that 2005 was an abnormal year in which those customers that shipped commodities related to the 2005 cotton crop

⁸ See item 7 of SAW Witness Wisener's Reply Verified Statement for a more detailed discussion of the operating circumstances that led to the initiation of the \$20 per carload surcharge on PYCO traffic, and why that surcharge was only appropriate for application to PYCO.

shipped far higher volumes than they presumably would ship in the future. Witnesses Banks and Brennan claim that this is because the 2005 cotton crop was abnormally bountiful in the Lubbock area due to favorable weather conditions.

In my September 18, 2006 Verified Statement, I modified my forecast of agricultural commodities to account for expected changes in cotton production. In my earlier August 2, 2006 analyses, I assumed that the number of carloads for the "NEW" scenario railroad would increase at the same rate as the United States freight railroad ton-miles as forecasted by the U.S. Energy Information Agency in the 2006 Annual Energy Outlook ("AEO"). Projections that appear in the AEO are frequently used by parties in maximum rate coal proceedings before the STB as an unbiased government source for long-term forecasts. I continued to rely on the AEO ton-mile forecasts in my September 18 Verified Statement for non-agricultural commodities, but I used a forecast reflecting expected changes in cotton production for agricultural commodities. That is, one third of the change in SAW and NEW carloads were assumed to follow the AEO ton-mile forecast, while two-thirds of the change in yearly forecasted carloads was based upon expected changes in upland cotton production. Long-term forecasts of upland cotton production were obtained from the U.S. Department of Agriculture. No forecast of upland cotton production specific to Texas was available, so I used a national forecast. Witness Brennan attempted developing a "made-for-litigation" version of a forecast specific to Texas, but I show below that his forecast is inferior.

By my introduction of cotton production data into my forecast, I appear to have prompted a series of attempts by my fellow consultants to closely tie SAW's carloads with cotton production. Both Witnesses Brennan and Banks tie SAW's forecasted carloads to cotton production and decry

my usage of a national cotton forecast as inadequate to reflect what they consider to be an inevitable drop in cotton traffic in 2006. They point out that 2005 was a particularly good year for cotton specifically in Texas and in the Lubbock area. Witnesses Brennan and Banks do not point out that Texas is the largest state component of the U.S. forecast, and, for that reason, the U.S. forecast is heavily influenced by the Texas forecast. Witness Banks also does not point out that the production figures he uses and the forecast of Upland Cotton Production that I use were both produced by the USDA.

Witness Brennan presents what he believes is a “normal” 2006 Texas cotton crop, which he estimates to be 5,286 thousand bales, compared with 7,800 thousand that the USDA predicted for the 2005 crop year. Witness Banks contends that the 2004-2005 cotton production was 42.8% above a five year average cotton production. He therefore reduces two-thirds of the SAW 2005 revenue by 42.8%. (See Section 6, below.) This compares to a 6.3% reduction in 2006 carloads to account for lower cotton production

a. Application of Texas Cotton Production to SAW Traffic

In general, Witnesses Brennan and Banks have taken a link that I introduced between SAW carloads and cotton production to an absurd level. While cotton production should influence SAW carloads, the impact is nowhere near what Witnesses Brennan and Banks believe. As Delilah Wisener notes in her Verified Statement, PYCO’s rail traffic level is more a measure of its contractual obligations to its customers than it is to the crop yield in the Lubbock area. The data in Table 1 below illustrate that the crop yield in the Lubbock area is not the driving force behind PYCO’s rail traffic level nor does it correlate to PYCO’s rail traffic levels.

Table 1
PYCO Rail Traffic Levels and Lubbock Crop Yields

<u>Year</u> (1)	<u>PYCO Carloads</u> ^{1/}			<u>Crop Yields</u> ^{2/}	
	<u>Inbound</u> (2)	<u>Outbound</u> (3)	<u>Total</u> (4)	<u>Lbs. Per Acre</u> (5)	<u>Total Bales(000)</u> (6)
2000	192	1,415	1,607	389.6	2,303
2001	1,653	1,164	2,817	494.2	2,493
2002	594	1,347	1,941	551.3	3,246
2003	483	1,512	1,995	436.8	2,180
2004	393	1,527	1,920	715.0	4,878
2005	309	5,641	5,950	796.0	5,677

^{1/} Source: SAW.

^{2/} Source: Witness Banks Table 1, page 2.

The data in Table 1 show that neither the yield per acre or the total bales harvested determine PYCO's rail traffic level. Total PYCO carloads goes up 1,210 carloads or 75% between 2000 and 2001 while Crop Yields only go up 190 or 8%. The following year, PYCO's carloads drop by 876 or 31% while Crop Yields increase by 753 or 30%. The hypothesis that the crop yield in the Lubbock area is the sole determining factor in the shipment of agricultural commodities or even of cotton products on SAW is incorrect.

b. Specific Issues Related to the Usage of Cotton Production to Predict SAW Carloads

While it is useful to consider cotton production in the forecast of SAW carloads, Witness Brennan's and Witness Banks' attempt to use cotton production as the direct, determining factor for SAW carloads runs into a significant problem in that few carloads handled by SAW actually are

carloads of cotton. PYCO Industries, SAW's biggest customer, does not ship cotton. Rather, PYCO ships cottonseed products. While shipments of these products should relate to cotton harvests, the milling of cottonseeds is certainly not equivalent. Cottonseed crushing is a better metric for predicting PYCO shipments, since this is what occurs at PYCO's plants. As can be seen from Exhibit 77, the year-to-date statistics for cottonseed in the Southwest do not suggest a significant drop in crushings in 2006 from 2005. Cottonseed crushings from January 2006 to August 2006 are only about 1% less than crushings during the same period in 2005.

Cottonseed crushing is far less volatile than cotton production. As can be seen from Exhibit 76, 2005 Southwest cottonseed crushing was about 22% higher than 2003 crushing, compared to an 80% change in cotton production in data relied upon by Witness Brennan and a 160% reflected in Witness Banks' Table One. Monthly data on cottonseed crushings suggests that Texas comprises about 85% of Southwest cottonseed crushing.⁹ Exhibit 77 further shows the difference in volatility, such that during the period from 1980 to 2005, the average absolute percentage change per year in United States upland cotton production was 19.5% while the average change in cottonseed crushing was 13.7%.

c. Specific Issues With Witness Brennan's Development of a "Normal 2006 Crop Year"

Witness Brennan has created a regression model that purports to characterize a "Normal 2006 Crop year." This use of a "made-for-litigation forecast analysis is contradictory to the STB's stated preference for use of neutral, governmental forecast. As the STB stated in its CP&L decision, the

⁹U.S. Census Bureau, Current Industrial Reports, M311J - Fats and Oils: Oilseed Crushings

use of neutral, government produced forecasts which take into account differing production between years is the preferred method of forecasting traffic levels in STB proceedings.

Therefore, the Board's analysis is based on 2001 tonnage, indexed to 2002 (the first year of operation for the P&SH) using the actual rate of change reported by the EIA for Central Appalachian region tonnage from 2001 to 2002. (The fact that 2001 traffic levels were abnormally high and declined in 2002 is reflected in the EIA adjustment.) The 2003 and 2004 traffic levels are also determined by relying on EIA forecasts, rather than NS's internal business forecasts, in view of the demonstrated inaccuracy of the NS forecasts and the general preference for reliance on official, neutral governmental forecasts.¹⁰

The STB stated its preference for neutral government produced forecasts also in its TMPA decision when they stated, "We are also reluctant to rely on forecasts prepared specifically for this litigation", and in its Duke/NS decision, the Board stated, "As the Board explained in TMPA (at 29), reliance on impartial EIA forecasts is preferable. Duke's use of a historic escalation factor is inferior when impartial forecasts such as EIA's exist."¹¹ In contrast to Witness Brennan's forecast, my forecast relies upon a hybrid of objective, governmental forecasts produced by the Energy Information Administration and the U.S. Department of Agriculture.

Witness Brennan's regression equation has less predictive value in forecasting Texas cotton production than the approach that I used. As can be seen from Exhibit 75, usage of national cotton production statistics is a more accurate predictor of Texas cotton production in a given year than is

¹⁰ CP&L at 18 (emphasis added).

¹¹ See TMPA at 29 and Duke/NS at 64.

Witness Brennan's regression equation. A forecast's accuracy is often evaluated using a mean absolute percentage error ("MAPE"). In effect, this measures the average percentage by which the forecast was wrong in prior years. The extent to which a forecast succeeded or failed to predict prior years is an indicator of how the forecast will perform in predicting future years. Witness Brennan's approach yields a MAPE of 20%, while my approach yields a slightly better result of 19%.

Witness Brennan's regression also has a weakness in that it does not reflect a strong relationship between acreage planted, year, and Texas cotton production. The adjusted coefficient of determination ("Adjusted R-Squared") is only 0.365¹². The Adjusted R-Squared indicates the proportion of the variability of the dependent variable explained by its linear relationships to the independent variables accounting for the number of independent variables. A value of one (1) indicates 100% of the variability of the dependent variable is accounted for by the independent variables, while a value of zero (0) indicates no relationship between the independent and dependent variables. The Adjusted R-Squared value in Witness Brennan's regression indicates that only 36.5% of the variability in production is accounted for by the amount of acres planted and a time factor. In other words, 63.5% of the variability is accounted for by other, unknown factors. This tremendous variability suggests that Witness Brennan's regression is not particularly meaningful.

Second, while his two regression coefficients are statistically significant, his intercept term is not even close to being significant. This is seen by its p-value 0.759 which infers that his intercept is only significant at a 24.1% level. Normally, statisticians look for at least a 95% significance level. In many cases, the significance of the intercept term is not important because researchers are more

¹² See Witness Brennan VS at Table A-2.

interested in the change in the individual coefficients. However, here Witness Brennan is using the entire equation to predict 2006 production and the impact of the intercept term is one key part of the predicted value.

d. The Number of Cotton Crop-Related Carloads Issue

Of SAW's larger shippers, only PYCO Industries and Farmers Compress solely ship cotton products, and these shippers accounted for 6,544, or a little less than half of SAW's carloads in 2005. Attebury Grain and a few other small shippers also probably generate some cotton traffic. If one assumes that about half of these carloads are cotton-related, then this boosts the cotton-related carloads by another 1,210 carloads to equal 7,754 carloads, about 55% of SAW 14,048 carloads. This contrasts to the 9,365 ($14,048 \times 2/3$) carloads to which Witness Banks applied his 42.8% downward adjustment.

e. Specific Issues With Witness Banks' Development of "Adjusted SAW Revenue"

Another serious flaw in Mr. Banks' development of base year carloads is the illogical nature of the analysis. The most intuitive approach to develop 2006 carloads would be to use actual SAW carload data and then apply a forecast of how the traffic will change to produce a 2006 volume. This is the approach that I used to identify the 2006 carloads. I identified the actual 2005 SAW carloads and then applied a forecast to arrive at a predicted 2006 traffic volume. In contrast, Witness Banks' estimated 2006 traffic volume is not a forecast at all. There was no attempt to use forward looking data. Rather, it is an adjustment of SAW carloads using a five year average of historic cotton data. The STB has clearly stated repeatedly its preference for use of forward looking forecast data instead

of backward looking historic averages. As the STB said in its *Carolina Power & Light v. Norfolk Southern Railway* Decision (“CPL”):

Generally, however, forecasts of future inflation, when available, are preferable to historical inflation rates. Forecasts take into account the outlook for the future, using available data and observations to predict the most likely future outcome. In contrast, historical indices, which are simply a compilation of data from the recent past, are not forward-looking.¹³

The STB came to the same conclusion in its decision in *Duke Energy Corporation v. Norfolk Southern Railway* (“Duke/NS”). See Duke/NS at 37 and 64.

f. Conclusion - Base Year Agricultural Forecast

In conclusion, while it is useful to consider cotton production in forecasting SAW carloads, Witnesses Brennan and Banks have taken this connection to an extreme and unrealistic level. As Delilah Wisener mentions in her Reply Verified Statement, the quantity of cotton-related products shipped by SAW customers such as PYCO and Farmers Compress is influenced by other factors than the cotton crop, such as these companies’ specific contract activity. Only about half of SAW’s 2005 carloads contained cotton products. Even if SAW’s carloads did follow Texas cotton trends, the volume of cottonseed crushing would be a better metric of PYCO carloads than cotton production. Cottonseed crushing is less volatile, so that the 2005 crop year would have represented less of a spike

¹³ CP&L at 28.

in volume than cotton production would indicate. Witness Brennan's regression equation has little predictive value and is not as accurate in forecasting Texas cotton as my use of national cotton statistics. Witness Banks' analysis is illogical in that it relies on historical data rather than forecast data to predict 2006 carload volumes.

5. SAW's Out Year Forecast of Non-agricultural Traffic

For a complete discussion of this issue, please see the Reply Verified Statement of Delilah Wisener, items 5 and 6, pages 4 through 7. There, Ms. Wisener explains that PYCO's claimed surveys on non-agricultural carload volumes are totally undocumented. She also explains that at a minimum, aggregates traffic will increase since the traffic that had been being handled by Hanson will now be handled by Vulcan. Hanson and/or Vulcan have been two of SAW's largest customers for some time. Ms. Wisener further explains that Vulcan's future carloadings will be greater than the sum of both Hanson's and Vulcan's current carloadings.

Witness Banks criticizes SAW for using a broad railroad traffic forecast that includes commodities that are not handled by SAW, i.e., coal and intermodal. Using AAR carload data for the total United States, Witness Banks shows that carloads excluding coal and intermodal are flat. This is Witness Banks' basis for including no growth in SAW's non-agricultural traffic levels. While criticizing SAW for using a broad traffic forecast in its projections, Witness Banks uses an overall United States statistic to support his position that there is no growth in SAW's non-agricultural traffic levels.

Carload increases in the aggregates area by itself is enough to justify SAW's application of future growth in railroad ton-miles to the non-agricultural segment of SAW's traffic.

6. SAW's Revenue Forecast

Both Witnesses Banks and Brennan have adopted the same tactic for calculating the lowest possible GCV. Both claim that SAW's actual 2005 carloads should not be used, but should be replaced by a substantially lower number of carloads. They make this claim in spite of the fact that 2006 carloads have been approximately the same as 2005 carloads. (See my September 18, 2006 Verified Statement, pages 12 and 13.) Witness Banks justifies his claim for dramatic carloadings decreases by looking separately at the number of acres harvested and the yield per acre. Witness Brennan justifies his claim through his statistical analysis that has been dealt with in Section 4, above.

At page 10, Witness Banks claims, "The key thing, of course, is not how many acres farmers plant in cotton, or even how many bear plants worthy of harvesting. What is more important is yield, expressed in both total bales and bales per acre." At page 10, Witness Banks compares yields of 500 to 600 per acre in the 1990's to yields of 715 pounds per acre in 2004 and 795 pounds per acre in 2005. He concludes from that comparison that the yields in 2004 and 2005 are an aberration which is not likely to be repeated in the future.

What Witness Banks fails to mention is that improved farming technology has taken expected yields to new and higher plateaus. Exhibit No.78 shows U.S. Upland Cotton crop yields from 2004 through 2015. (Lubbock area crop yields were about 9% less than the U.S. average in 2004 and 2005, but the change in crop yields over the years would be expected to be the same as the U.S. crop yield changes.) Compared with crop yields in 2004 and 2005, the drop in expected crop yields over the next 10 years is expected to be only 2% to 8%, not the 27% reduction implied by Witness Banks comparison (i.e., 500 plus 600 versus 715 plus 795 pounds per acre yield).

The application of Witness Banks' adjustment factor reduces SAW's revenues related to agriculture traffic by approximately \$305,000 for the year. As previously discussed, the premise of Witness Banks' adjustment to agricultural revenues and traffic is invalid and the adjustment is not warranted. Witness Banks did not adjust the revenues for non-agricultural traffic and assumes that the traffic level will not grow. This assumption has also been shown to be unfounded and unproven.

There is an additional error in Witness Banks' calculation of SAW's going concern valuations. His proposed reduction in agricultural revenues corresponds to a reduction in carload traffic of agricultural commodities of approximately 4,000 cars. This reduction in traffic amounts to approximately 29 percent of SAW's 2005 total carloads. The calculation of this 29% follows:

1. SAW total 2005 carloads	14,048
2. Percent agricultural	66.7 %
3. Agricultural carloads (1 x 2)	9,370
4. Adjustment factor (Banks)	42.8%
5. Carload adjustment (3 x 4)	4,010
6. Percent of total carloads (5 / 1)	28.5%

Witness Banks has reduced the traffic volume by almost 29 percent but has not recognized that this change would result in lower operating expenses for SAW. In other words, Witness Banks fails to see any operating expenses associated with the 4,000 carloads that he claims would not be moved by SAW. Operating expenses are variable with traffic volumes. For this additional reason, as a result of failing to restate All-SAW's pro forma operating results to reflect the significant reduction in traffic volume, Witness Banks GCVs are fatally flawed.

IV. GOING CONCERN VALUE

I confirm the GCV's calculated in my September 18, 2005 Verified Statement. There I concluded that All-SAW has the following GCV's under the four All-SAW scenarios (note that the exhibit numbers to which I refer are from my September 18, 2006 Verified Statement):

1. A GCV of \$8,537,903 under the Full Surcharge Scenario including the Burris traffic. (See Exhibit No. 50.)
2. A GCV of \$8,161,052 under the Full Surcharge Scenario excluding the Burris traffic. (See Exhibit No. 56.)
3. A GCV of \$4,336,926 under the \$20 PYCO Surcharge Scenario including the Burris traffic. (See Exhibit No. 62.)
4. A GCV of \$3,958,547 under the \$20 PYCO Surcharge Scenario excluding the Burris traffic. (See Exhibit No. 68.)

When the Board makes its decision in this proceeding, it is likely to be close to the end of the year. This fact is significant for the determination of GCV's since the date of the valuation is critical to the selection of discount factors. The GCV's presented by the parties in this proceeding assumed a valuation date significantly earlier than December 31, 2006 or January 1, 2007. Assuming that the valuation date is actually January 1, 2007, my discount factor for 2006 should be changed from 0.91 to 1.00. My discount factor for 2007 should assume a mid-year convention in which a year's cash flows are assumed to have been realized in the middle of the year. This means that my discount factor for 2007 should be changed from 0.82 to 0.95. Similar adjustments would be required in each year to reflect the new valuation date of January 1, 2007.

V. CONCLUSIONS

The GCV's of All-SAW under the 4 scenarios are as follows (note that the exhibit numbers to which I refer are from my September 18, 2006 Verified Statement):

1. The GCV of All-SAW under the Full Surcharge Scenario including the Burris traffic is \$8,537,903. (See Exhibit No. 50.)
2. The GCV of All-SAW under the Full Surcharge Scenario excluding the Burris traffic is \$8,161,052. (See Exhibit No. 56.)
3. The GCV of All-SAW under the \$20 PYCO Surcharge Scenario including the Burris traffic is \$4,336,926. (See Exhibit No. 62.)
4. The GCV of All-SAW under the \$20 PYCO Surcharge Scenario excluding the Burris traffic is \$3,958,547. (See Exhibit No. 68.)

SAW has the right to assess \$40 to \$60 surcharges on each carload of its traffic, and those surcharges will not cause the number of carloads shipped by SAW's customers to decline.

SAW will receive \$75 per carload for each car of Jarvis Metals traffic handled at Burris, TX.

The carloads of aggregates once shipped by Hanson, will now be shipped by Vulcan. Vulcan will increase its future carloads by approximately 1,400 carloads per year.

Base year agricultural carloads should not be changed from that included in my September 18, 2006 Verified Statement.

Out-year non-agricultural traffic will increase at the rate of increase in the rail industry's ton-miles.

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 & Plariston

Joseph J. Plaistow

Sworn to and subscribed
before me this day of October 12, 2006.

AV Quaslaw

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

My Commission expires: September 30, 2007

Exhibit 74 - BNSF 2005 Quarterly Commodity Statistics ("OCS") Report Data

QCS Code (1)	Commodity (2)	Total Freight Revenue Carried			
		# of Carloads (3)	# of Tons (4)	Revenue (\$) (5)	\$/Carload (6)
01133	Oats	4,387	355,460	\$6,800,479	\$1,550
01137	Wheat	205,697	21,500,350	\$554,351,025	\$2,695
0112	Cotton	14,113	339,487	\$13,746,615	\$974
0114	Oil Seeds	76,035	7,647,684	\$246,931,225	\$3,248
24	Lumber and Wood Products	197,389	16,619,400	\$619,403,758	\$3,138
01341	Beans (dry, ripe)	4,106	364,825	\$12,813,535	\$3,121
20	Food and kindred Products	448,989	30,955,644	\$981,092,786	\$2,185
142	Crushed and Broken stone	114,807	11,543,714	\$76,374,723	\$665
144	Sand and gravel	42,457	4,209,565	\$89,974,397	\$2,119
32	Stone clay glass and concrete products	146,222	13,884,752	\$332,967,136	\$2,277
32411	Cement	47,528	5,189,681	\$73,236,955	\$1,541
295	Paving and roofing materials	6,580	462,093	\$17,015,011	\$2,586
325	Structural clay products	2,235	144,370	\$5,196,835	\$2,325
147	Chemical and fertilizer minerals	15,312	1,516,809	\$35,840,249	\$2,341
287	Agriculture chemicals	38,062	3,708,405	\$90,336,849	\$2,373
344	Fabricated structural metal products	1,802	42,803	\$4,431,335	\$2,459

Exhibit 75 - Comparison of Methods for Predicting Texas Cotton Production
Dr. Brennan's Regression Versus L. E. Peabody Adjustment by National Cotton Production

Year (1)	Time 1/ (2)	Acreage 1/ (3)	Brennan Predicted Production 2/ (4)	Actual Texas Production 1/ (5)	Absolute Percentage Error 3/ (6)	National Production 4/ (7)	LEPA Predicted Production 5/ (8)	Absolute Percentage Error 6/ (9)
1965	1	5,822		4,632		14,850		
1966	2	4,236	2,573	3,156	18	9,484	2,958	6
1967	3	3,936	2,466	2,740	10	7,374	2,454	10
1968	4	4,426	2,763	3,499	21	10,847	4,030	15
1969	5	5,148	3,179	2,831	12	9,913	3,198	13
1970	6	5,225	3,265	3,191	2	10,135	2,894	9
1971	7	5,230	3,314	2,579	28	10,379	3,268	27
1972	8	5,570	3,534	4,246	17	13,608	3,381	20
1973	9	5,400	3,494	4,673	25	12,896	4,024	14
1974	10	5,200	3,438	2,462	40	11,450	4,149	69
1975	11	4,350	3,050	2,382	28	8,247	1,773	26
1976	12	4,800	3,327	3,307	1	10,517	3,038	8
1977	13	6,650	4,319	5,465	21	14,277	4,489	18
1978	14	6,950	4,519	3,792	19	10,762	4,120	9
1979	15	7,700	4,949	5,515	10	14,531	5,120	7
1980	16	7,850	5,072	3,320	53	11,018	4,182	26
1981	17	7,460	4,919	5,645	13	15,566	4,690	17
1982	18	5,800	4,117	2,700	52	11,864	4,302	59
1983	19	4,000	3,244	2,380	36	7,677	1,747	27
1984	20	5,350	3,980	3,680	8	12,851	3,984	8
1985	21	5,000	3,848	3,910	2	13,277	3,802	3
1986	22	4,850	3,818	2,535	51	9,525	2,805	11
1987	23	4,700	3,788	4,635	18	14,475	3,852	17
1988	24	5,600	4,294	5,215	18	15,077	4,828	7
1989	25	4,650	3,855	2,870	34	11,504	3,979	39
1990	26	5,500	4,336	4,965	13	15,147	3,779	24
1991	27	6,300	4,792	4,710	2	17,216	5,643	20
1992	28	5,500	4,430	3,265	36	15,710	4,298	32
1993	29	5,550	4,502	5,095	12	15,764	3,276	36
1994	30	5,450	4,497	4,915	9	19,324	6,246	27
1995	31	6,400	5,029	4,460	13	17,532	4,459	0
1996	32	5,700	4,718	4,345	9	18,414	4,684	8
1997	33	5,500	4,662	5,140	9	18,245	4,305	16
1998	34	5,650	4,786	3,600	33	13,476	3,796	5
1999	35	6,150	5,088	5,050	1	16,294	4,353	14
2000	36	6,400	5,262	3,940	34	16,799	5,207	32
2001	37	6,000	5,104	4,260	20	19,602	4,597	8
2002	38	5,600	4,946	5,040	2	16,530	3,592	29
2003	39	5,600	4,993	4,330	15	17,823	5,434	26
2004	40	5,850	5,167	7,740	33	22,505	5,467	29
2005	41	5,900	5,239	7,800	33	22,517	7,744	1
Sum of the Errors					809			770
Number of Periods 7/					40			40
Mean Absolute Percentage Error 8/					20			19

1/ Verified Statement of William J. Brennan, Table A-1

2/ Per regression equation, Verified Statement of William J. Brennan, Table A-2

3/ $[\text{Col (4)} - \text{Col (5)}] \div \text{Col (5)} \times 100$

4/ USDA Cotton and Wool Yearbook, Table 7 - <http://usda.mannlib.cornell.edu/usda/ers/89004/table07uplandproduction.xls>

5/ $\text{Col (5)} \times (\text{Col (7) year} + \text{Col (7) year} - 1)$

6/ $[\text{Col (8)} - \text{Col (5)}] \div \text{Col (5)} \times 100$

7/ Years 1966 - 2005

8/ Sum of the Errors + Number of Periods

Exhibit 76 - Southwestern Cottonseed Crashings

<u>Year</u> (1)	<u>Amount 1/</u> (2)	<u>Percent Chg.</u> (3)
2002	1,036.1	
2003	1,142.1	10%
2004	1,130.9	-1%
2005	1,394.8	23%
August 2005 YTD	904.8	
August 2006 YTD 2/	896.8	-1%

1/ 1,000 Short Tons

2/ Estimated July crashings using August
because July was not available

Texas comprises about 85% of Southwest crashings

Source: U.S. Census Bureau, Current Industrial Reports

M311J - Fats and Oils: Oilseed Crashings

<http://www.census.gov/cir/www/311/m311j.html>

**Exhibit 77 - Comparison of Average Annual Change - U.S. Cotton Production
Versus U.S. Cottonseed Crushing**

<u>Crop Year 1/</u> (1)	<u>Cotton Seed Crushing 2/</u> (2)	<u>Absolute Percent Change</u> (3)	<u>Cotton Production 3/</u> (4)	<u>Absolute Percent Change</u> (5)
1980/81	4,076		11,018	
1981/82	4,585	12.5%	15,566	41.3%
1982/83	3,800	17.1%	11,864	23.8%
1983/84	2,583	32.0%	7,677	35.3%
1984/85	3,514	36.0%	12,851	67.4%
1985/86	3,417	2.8%	13,277	3.3%
1986/87	2,520	26.3%	9,525	28.3%
1987/88	3,396	34.8%	14,475	52.0%
1988/89	3,730	9.8%	15,077	4.2%
1989/90	2,974	20.3%	11,504	23.7%
1990/91	3,369	13.3%	15,147	31.7%
1991/92	3,981	18.2%	17,216	13.7%
1992/93	3,629	8.8%	15,710	8.7%
1993/94	3,470	4.4%	15,764	0.3%
1994/95	3,947	13.7%	19,324	22.6%
1995/96	3,882	1.6%	17,532	9.3%
1996/97	3,860	0.6%	18,414	5.0%
1997/98	3,889	0.8%	18,245	0.9%
1998/99	2,719	30.1%	13,476	26.1%
1999/00	3,064	12.7%	16,294	20.9%
2000/01	2,753	10.2%	16,799	3.1%
2001/02	2,791	1.4%	19,602	16.7%
2002/03	2,495	10.6%	16,530	15.7%
2003/04	2,643	5.9%	17,823	7.8%
2004/05	2,923	10.6%	22,505	26.3%
2005/06	3,150	<u>7.8%</u>	22,517	<u>0.1%</u>
Average Absolute Percent Change		13.7%		19.5%

1/ Crop year for cotton and cottonseed is from August 1 to July 31

2/ 1,000 Short Tons - USDA Oil Crops Situation and Outlook Yearbook,
May 2006, Appendix table 17

3/ 1,000 480-lb bales - USDA Cotton and Wool Yearbook, Table 7

<http://usda.mannlib.cornell.edu/usda/ers/89004/table07uplandproduction.xls>

Exhibit 78

Table 15. U.S. upland cotton baseline

Item	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
Area (million acres):												
Planted acres	13.4	13.9	14.0	14.0	14.0	13.9	13.7	13.7	13.6	13.6	13.5	13.5
Harvested acres	12.8	13.4	12.9	12.9	12.9	12.8	12.6	12.6	12.5	12.5	12.4	12.4
Yields (pounds per acre):												
Yield/harvested acre	843	806	760	765	770	775	780	785	790	795	800	805
Supply and use (thousand bales):												
Beginning stocks	3,428	5,525	5,938	5,500	5,300	5,200	5,100	4,900	4,800	4,700	4,700	4,700
Production	22,505	22,517	20,400	20,600	20,700	20,700	20,500	20,600	20,600	20,700	20,700	20,800
Imports	8	15	10	10	10	10	10	10	10	10	10	10
Supply	25,941	28,057	26,348	26,110	26,010	25,910	25,610	25,510	25,410	25,410	25,410	25,510
Domestic use	6,461	5,940	5,700	5,500	5,300	5,100	4,900	4,800	4,700	4,600	4,500	4,400
Exports	13,618	16,130	15,100	15,300	15,500	15,700	15,800	15,900	16,000	16,100	16,200	16,300
Total use	20,079	22,070	20,800	20,800	20,800	20,800	20,700	20,700	20,700	20,700	20,700	20,700
Ending stocks	5,525	5,938	5,500	5,300	5,200	5,100	4,900	4,800	4,700	4,700	4,700	4,800
Stocks/use ratio, percent	27.5	26.9	26.4	25.5	25.0	24.5	23.7	23.2	22.7	22.7	22.7	23.2
Prices (dollars per pound):												
Farm price ¹	0.416	---	---	---	---	---	---	---	---	---	---	---
Loan rate	0.52	0.52	0.52	0.52	0.52	0.52	0.52	0.52	0.52	0.52	0.52	0.52
Variable costs of production (dollars):												
Per acre	328.84	343.47	351.57	356.50	359.61	362.95	366.45	370.07	373.54	377.03	380.53	384.13
Per pound	0.39	0.43	0.46	0.47	0.47	0.47	0.47	0.47	0.47	0.47	0.48	0.48
Returns over variable costs (dollars per acre):												
Net returns ²	230.83	192.03	149.12	150.16	145.28	152.74	162.23	162.64	163.82	165.08	166.27	167.37

1/ USDA is prohibited from publishing cotton price projections.

2/ Net returns include estimates of marketing loan benefits.

CERTIFICATE OF SERVICE

I certify that on October 12, 2006, I served the foregoing document, Reply To (1) KJRY's Expanded Competing Feeder Line Application; and (2) PYCO's Amended Valuation Evidence, by overnight mail, on the following:

Charles H. Montange, Esq.
426 N.W. 162nd Street
Seattle, WA 98177

Gary McLaren, Esq.
Phillips & McLaren
3305 66th Street, Suite 1A
Lubbock, TX 79413

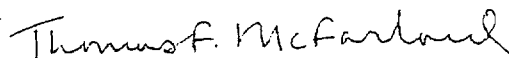
John D. Heffner, Esq.
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, DC 20036

William A. Mullins, Esq.
Baker & Miller, PLLC
2401 Pennsylvania Avenue, N.W.
Suite 300
Washington, DC 20037

Daniel A. LaKemper, Esq.
Pioneer Industrial Railway Co.
1318 S. Johanson Rd.
Peoria, IL 61607

William C. Sippel, Esq.
Fletcher & Sippel, LLC
29 North Wacker Drive
Suite 920
Chicago, IL 60606-2875

Adrian L. Steel, Jr.
Mayer, Brown, Rowe & Maw, LLP
1909 K Street, N.W.
Washington, DC 20006-1101



Thomas F. McFarland