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14 August 2006
by Hand and Express

Hon. Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: PYCO Industries, Inc. -- Feeder Line Application
-- South Plains Switching, F.D. 34890 34922

PYCO's Opposition to KJRY Competing Application and
Motion to Reject; due August 14

Please distribute immediately

Dear Secretary Williams:

In the Board's decision served August 3, the Board indicated that it would decide whether to accept or to reject KJRY's competing feeder line application in F.D. 34890 by August 18, and further indicated that comments on that issue must be submitted by August 14. PYCO Industries, Inc., hereby submits its opposition to the KJRY competing application and motion to reject that application on a variety of grounds. We note that on August 2, a number of shippers also expressed opposition to further KJRY involvement.

Because the Board has indicated it intends to act expeditiously, we request that our filing be distributed immediately.

Thank you for your assistance in this matter.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Charles H. Montange'.

Charles H. Montange
for PYCO Industries, Inc.

Encls.

cc. Counsel (per above) (w/encl.)
Mr. McLaren (w/encl.)

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Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --
FEEDER LINE DEVELOPMENT --
SOUTH PLAINS SWITCHING LTD.

)
) F.D. 34890
)

34922



PYCO INDUSTRIES, INC.'s
OPPOSITION TO PURPORTED COMPETING APPLICATION
FILED BY PIONEER RAILCORP d/b/a
KEOKUK JUNCTION RAILWAY

PYCO Industries, Inc. (PYCO), hereby moves the Surface Transportation Board to reject the competing feeder line application tendered in the above-captioned proceeding on behalf of Pioneer Railcorp's Keokuk Junction Railway (KJRY).

It is no secret that Pioneer and KJRY are in this proceeding at the behest of incumbent carrier South Plains Switching, Ltd. (SAW). It is also obvious that SAW wishes to retaliate against PYCO in any way it can. Pioneer emphasizes several times in its application that if it is allowed into the proceeding, then it (and presumably SAW) will claim that SAW has absolute discretion to choose to deal with it as opposed to PYCO, even if a majority of shippers support PYCO, and even if none support Pioneer. SAW wishes to supplant itself in Lubbock with "son of SAW," and not with a shipper-owned entity dedicated to service and to fixing up the badly deteriorated physical plant that SAW currently operates.

The question now is whether this maneuver can be successfully accomplished by SAW and Pioneer. For the reasons stated below, we believe the Board must say no.

I. Background

In Finance Docket 34844, PYCO pursuant to 49 U.S.C. § 10907 originally filed a feeder line application (FLA) to acquire all of SAW, or, in the alternative (termed "Alternative Two"), a portion of the SAW lines in use by PYCO's alternative service provider [West Texas & Lubbock Railroad (WTL)] to provide alternative service to PYCO's Plant No. 1 pursuant to orders in Finance Docket 34802, plus all remaining SAW track east of the BNSF mainline. The track east of the BNSF mainline is necessary not only to serve PYCO but also to serve Attebury and Compress, the two other shippers with east-side facilities in addition to PYCO's Plant No. 2.

The Director rejected the original FLA for lack of showing of financial responsibility and because a majority of shippers had failed to supply letters stating that service was inadequate as to them. PYCO timely appealed to the full Board, and filed a revised FLA (Finance Docket 34890) incorporating its showings from Finance Docket 34844 but also attaching additional evidence. By a decision issued on July 3, the Board rejected PYCO's appeal in Finance Docket 34844, but accepted for filing the revised FLA in Finance Docket 34890. The Board issued an expedited schedule for resolution of the proceeding. That expedited schedule required competing feeder line applications to be filed on or by July 18, 2006.

Under this Board's regulations, if a competing application is accepted, then once the Board sets terms and conditions for transfer, the incumbent railroad ordinarily can choose the

feeder line applicant to which it must sell its lines.

Larry Wisener, past president and continued eminence at SAW, indicated in November 2005 that he intended to retaliate against PYCO, and has consistently caused SAW to pursue policies of retaliation from that time to the current time. PYCO fully concedes that it would be the last entity to which Mr. Wisener would voluntarily allow SAW to sell its lines, at least at a price that left a viable rail operation behind.

Consistent with his retaliatory and destructive objectives, Mr. Wisener urged Pioneer Railcorp to file a competing application. This is not speculation; it is what Pioneer's representatives have indicated to both PYCO and BNSF. Pioneer's general counsel (Daniel LaKemper) told PYCO on July 18 that SAW had invited Pioneer's interest,¹ and Mr. Carr on August 2 told BNSF that Mr. Wisener requested Pioneer's involvement.² At the time Pioneer first expressed interest (July 18), it indicated it knew nothing of the situation in Lubbock.³ Pioneer's president (and CEO and CFO), Mr. J. Michael Carr, made essentially the same concession to BNSF on August 2.⁴

On July 18, rather than file a competing application,

¹ See Declaration of Gary R. McLaren, Exhibit to "Statement by PYCO Industries" served 28 July 2006 in F.D. 34890 (and other dockets), at ¶¶ 3-5.

² See Exhibit A (PYCO understands it may use this email publicly).

³ See note 1 supra at ¶ 5.

⁴ Exhibit B.

Pioneer d/b/a KJRY filed a paper castigating PYCO, claiming that Alternative Two amounted to "cherry picking," and requesting an extension through August 14 to file a competing application for the whole line. SAW filed a letter on the same date supporting Pioneer/KJRY's request, urging that a sale of the entirety of SAW was preferable for shippers. PYCO opposed any further extensions of time: Pioneer obviously had not done any homework, Mr. Wisener had invited its interest to confuse and to delay the proceeding, and to avoid the establishment of a viable railroad operation in place of SAW. In PYCO's view, further delay in the circumstances would be inconsistent with national rail transportation policy under 49 U.S.C. § 10101.

By decision issued July 21, this Board nonetheless granted Pioneer an extension through August 4 to file a competing application.

On August 4, Pioneer filed a competing application, but only for Alternative Two. Although Pioneer in its competing feeder line application repeatedly indicates that an all-SAW alternative is preferable, Pioneer was not in a position on August 4 to show financial responsibility to acquire the whole of SAW (Pioneer indicates that the value may be in the range of \$5.5. million, but it had not received a loan commitment for that amount yet).⁵

Ironically, as of this time, only PYCO has met all the

⁵ See, e.g., Exhibit 1 to Carr Verified Statement (bank says it is evaluating making a loan commitment).

requirements for acquisition of all of SAW under 49 U.S.C. § 10907. See PYCO's Compilation of Shipper Comments, filed August 2, 2006 (majority of shippers state service inadequacy and support PYCO application for all-SAW). Only PYCO has shown financial responsibility sufficient for acquisition of all-SAW and rehabilitation as well. SAW and Pioneer/KJRY both seem to agree that PYCO's acquisition of all-SAW is preferable to splitting SAW into two parts.

At the time of Pioneer's August 4 filing, Pioneer had no shipper support.⁶ Pioneer filed no expert statements to establish value of SAW. Pioneer instead relied on an internal analysis by its president, Mr. Carr. Based on Mr. Carr's admissions to BNSF on August 2, Mr. Carr has no knowledge of SAW's operations in Lubbock. Mr. Carr's analysis was apparently limited to reviewing the testimony of PYCO's expert (Charles Banks) and SAW's expert (Mr. Plaistow) with respect to "going concern value" (GCV). Mr. Carr rejected Mr. Plaistow's approach to valuation, and basically concurred with the analysis of Mr. Banks with two exceptions: Mr. Carr erroneously double-counted maintenance expenses (with the effect of reducing GCV), and did not take necessary rehabilitation into account (arbitrarily increasing GCV). Under his faulty analysis, Mr. Carr ascribes a value of \$935,000 to "Alternative Two."

KJRY evidently has no cash reserves or credit line.

⁶ Although Pioneer in its application (p. 5) claims a "good service record," PYCO is aware of many complaints.

Pioneer's president represents that Pioneer has some cash and a credit line. Pioneer's bank supplied a statement indicated that Pioneer did have a credit line in the amount of \$1.5 million; it did not say anything about any cash. Moreover, there is no showing by Pioneer that such funds as it does have are not required operating reserves for its other lines. When PYCO supplied evidence supported by its bank that it had \$5 million in resources actually for acquisition, the Director (upheld by the Board on appeal) rejected PYCO's showing as insufficient in F.D. 34844.

In this Board's August 3 decision, this Board indicated that SAW and any other party had through August 14 to comment on whether the Board should accept Pioneer/KJRY's "competing application."⁷

In a compilation of comments filed on August 2,⁸ PYCO along with numerous other shippers on the SAW lines indicated that they opposed involvement by Pioneer/KJRY.

II. Summary

1. The KJRY competing application must be rejected because

⁷ Aug. 3 decision at p. 8. When this Board originally established the expedited procedural schedule for this proceeding, the Board envisioned competing applications by July 18, and shipper comments on all matters including competing applications on August 2. When this Board allowed an extension for Pioneer/KJRY to file a competing application until August 4, this Board did not provide a specific due date for shipper comments on the actual Pioneer/KJRY application. This Board's August 3 order specifies that comments may be filed on the KJRY application, if it is accepted, by August 24.

⁸ See note 7 supra.

it seeks to acquire a portion of SAW which will not result in adequate service to PYCO; because KJRY fails to offer meaningful evidence in support of its proposed purchase price; because KJRY has failed to show financial responsibility per the standards employed by this Board in this proceeding to date (and because KJRY ignores rehabilitation expenses because they would render the lines unprofitable); and because KJRY's further participation will result in inadequate service and is not consistent with the public convenience and necessity.

2. PYCO has signed a letter of intent with West Texas & Lubbock Railroad (WTL), an experienced operator, to provide rail services on whatever lines PYCO is authorized to acquire. WTL already operates in the Lubbock area and brings efficiencies and knowledge to the scene that Pioneer/KJRY cannot hope to match. PYCO and WTL are prepared to acquire and to operate the lines now, and do not need the time to climb the learning curve that Pioneer/KJRY both need and request at p. 14 of the KJRY application.

3. BNSF's right of first refusal should apply to any purchaser of SAW assets, whether pursuant to 49 U.S.C. § 10907 or not.

4. PYCO continues to seek relief by October 23, 2006.

III. The KJRY Competing Application Must Be Rejected

A. KJRY's Competing Application
Defines a Set of Assets that Are Inadequate

Given facts developed during the discovery period, and SAW's continued misconduct during that period, it is now obvious

that KJRY's Alternative Two will not result in adequate or reliable service to PYCO, Attebury, or Compress.

Shortly before PYCO filed its Revised FLA (for Finance Docket 34890), SAW, unbeknown to PYCO, engaged in a classic "spite fence" maneuver,⁹ selling a portion of its rail yard along the south side of the yard (area of track 6 and the wye) to Larry Wisener d/b/a Choo Choo Properties.¹⁰ Mr. Wisener (Choo Choo) then proceeded to terminate PYCO leases, obtain restraining orders against PYCO use of a key industrial crossing, and otherwise to disrupt PYCO's rail-dependent operations. This Board voided the sale from SAW to Choo Choo on August 3 due to the pending FLA proceeding. However, if SAW is left in possession of any property in the SAW yard (other than its office and the side track on which it stores its engines), it can now be expected to engage in similar disruption in the future. Moreover, SAW has generally indicated that it wishes to bar PYCO from any entry or use of its property.

During PYCO's entry on July 24-25 pursuant to this Board's order, PYCO among other things had the yard inspected by a professional engineer. Mr. Davis (the engineer) advised that

⁹ Black's Law Dictionary (7th ed.) p. 1409 defines "spite fence" to mean "[a] fence erected solely to annoy a neighbor, as by blocking the neighbor's view or preventing the neighbor from acquiring an easement of light - the court temporarily enjoined the completion of the 25-foot spite fence -."

¹⁰ The Choo Choo deed is attached as Appendix V. Hugo Reed & Associates (land surveyors) have preliminarily mapped the land encompassed in the Choo Choo deed as creating a "spite strip" in the area shown in Exhibit B.

due to the proximity of the yard tracks to each other, and the joint use of some of the switches, repair and rehabilitation would difficult unless one party owned and controlled all track in the yard. In other words, shared ownership of the yard with SAW is incompatible with repairing, maintaining, and rehabilitating the track, and this is all the more the case given SAW's objective of retaliating against PYCO.

Despite repeated orders from this Board, SAW still does not participate in morning calls to discuss service issues, and from the inception of alternative service under Finance Docket 34802 has violated the protocol ordered by this Board. This hardly makes SAW a candidate to share ownership of the yard. Ownership needs to be in a single entity with control over dispatch, other than SAW.

KJRY's Alternative Two thus will result in inadequate and unreliable service to PYCO and to other shippers as well. KJRY's competing application must therefore be rejected. In PYCO's discovery-related modifications filed August 11, PYCO indicated that the entire yard (except for SAW's spur on which it stores its engines and SAW's small office building) must be part of the transfer.

B. Pioneer/KJRY's Application
Is Incomplete in that Mr. Carr's GCV Analysis
and thus Purchase Price Are Spurious and Pioneer/KJRY
also Fails to Show Financial Responsibility

Pioneer/KJRY's competing application is incomplete in at least two respects. First, the Pioneer/KJRY evidence in support of the Pioneer/KJRY proposed GCV purchase price is

fundamentally spurious. The application thus does not meet the requirements of 49 C.F.R. § 1151.3(a)(4) for evidence in support of the purchase price (the higher of GCV or NLV). Indeed, because Pioneer/KJRY's GCV figure is spurious, it is not possible to determine whether Pioneer/KJRY can be viewed as financially responsible. For this reason, Pioneer/KJRY's error on evidence concerning GCV renders the application deficient under 49 C.F.R. § 1151.3(a)(3) as well.

Second, and in any event, Pioneer/KJRY's showing of financial responsibility is deficient under the law as declared by this Board in this proceeding. The application thus fails to meet the requirements of 49 C.F.R. § 1151.3(a)(3).

1. KJRY's GCV.

Pioneer/KJRY is required to estimate both NLV and GCV, to supply evidence in support, and to bid the higher of the two. Pioneer/KJRY claims that GCV is higher. Pioneer asserts that the GCV of "Alternative Two" is approximately \$935,000. See Pioneer/KJRY application at p. 14. Pioneer/KJRY rests its analysis of GCV of "Alternative Two" on an analysis by Pioneer's president, Mr. Carr. Carr basically indorses the approach adopted by PYCO's expert, Charles Banks. However, Mr. Carr then states that he is "modifying Mr. Banks' calculations" (Carr V.S. at p. 37). But Mr. Carr's modification amounts to a double deduction for costs. See Charles Banks' Supplemental Verified Statement at pp. 3-4, attached as Appendix VII to PYCO's "Modifications to Feeder Line Application" filed August 11

(discusses the error). Once that mistake is recognized, Pioneer's "bid" of \$935,000 simply lacks evidence in support. If one assumes arguendo with Mr. Carr that rehabilitation can be ignored because it renders the rail lines unprofitable,¹¹ the Pioneer/KJRY/Carr bid for "Alternative Two" must be higher. Unless one knows what higher number Pioneer/KJRY intend to propose in light of the mistake in Mr. Carr's calculation, it is not possible to determine whether Pioneer/KJRY is financially responsible. This means that Mr. Carr's analysis is insufficient as evidence in violation of 49 C.F.R. § 1151.3(a)(4), and that Pioneer/KJRY cannot demonstrate financial responsibility (for lack of sufficient information on price) in violation of 49 C.F.R. § 1141.3(a)(3). Since the Pioneer/KJRY application is thus incomplete, it must be rejected.

2. Additional failure on financial responsibility. Pioneer did not file an all-SAW application on August 4 because it could not show financial responsibility under its own analysis. But it also failed as to Alternative Two.

Pioneer/KJRY is required to show financial responsibility sufficient to pay the higher of GCV or NLV, and to pay three years' operating costs. 49 C.F.R. § 1151.3(a)(3). Pioneer/KJRY nowhere provides evidence of a calculation of three years' operating costs. It apparently assumes that away on the ground that operating costs will be paid from net revenue, but

¹¹ This is a rather astonishing assumption for setting GCV, especially in a feeder line railroad context, and PYCO certainly does not concur with it.

there is still a need for liquidity and a need for a reserve for repair costs (which have been deferred so long that major rehabilitation is required). Pioneer/KJRY appears to assume that all it need show is financial resources sufficient to cover a \$935,000 purchase price (which price, as PYCO has shown, is not based on evidence, but on error). Because Pioneer/KJRY has not established the amount for which it must be financially responsible (we only know it to be something in excess of \$935,000 if Mr. Carr's reasoning is otherwise accepted), Pioneer/KJRY has not shown financial responsibility.

This is no small matter. PYCO has presented expert analysis showing that substantial rehabilitation is necessary for these lines. Mr. Carr notes that the rehabilitation for Alternative Two was estimated at \$1.18 to \$2.13 million dollars. Carr V.S. at 36.¹² Mr. Carr rejects a deduction for rehabilitation. Mr. Carr's opinion on rehabilitation can not be persuasive; indeed, it does not deserve any weight at all, given his admission to BNSF essentially contemporaneously with his statement that he "hadn't spent any time on the property ... and didn't know what condition the line is in." See Exhibit A.

Mr. Carr gives two grounds to reject rehabilitation. Carr at 36-37. Mr. Carr's first argument for ignoring rehabilitation is that trains still serve three customers over the lines. The fact that the line is still in operation (i.e.,

¹² The estimated rehabilitation costs based on actual inspection are now higher. See PYCO's "Modifications to Feeder Line Application," Appendix VI (Davis V.S.).

not embargoed) does not mean rehabilitation can be ignored. SAW's track is all "exempt" status. It has deteriorated for decades under deferred maintenance. While SAW continues to run on the track, the deterioration continues and the need for rehabilitation does not go away, it just gets more expensive the longer it is postponed. WTL has sustained major derailments on the lines in service to PYCO and has noted that it may have to embargo the lines or take some equivalent measures unless some kind of substantial repair is made in the near future. That is why PYCO has repeatedly complained to this Board that SAW is not maintaining its lines. That is why rehabilitation is very much a part of the calculation not only of GCV, but of what a rail carrier should be required to show in order to demonstrate financial responsibility in this proceeding. The Verified Statements PYCO filed on August 12 (Appendices VI and VI) by Messrs. Davis and Banks based on a two day inspection by Mr. Davis affirm the need for substantial rehabilitation.

The second grounds offered by Carr for ignoring rehabilitation is that rehabilitation would render these run-down lines unprofitable. Carr 36-37. This is not a grounds to reject rehabilitation costs; it instead is a grounds to assume that the party claiming that rehabilitation should be ignored either (a) has not examined the lines and is proceeding in ignorance or (b) intends to run them down even further (we note that Pioneer commits to operate on the lines if it acquires them for only three more years, see KJRY application at 14). PYCO

and shippers want dependable service, not a provider that intends to make a bad situation worse (i.e., allow what is already "exempt" status track to decay to the point of embargo) because that is the only way it can hope to turn a profit.

Any rail operator on these lines must be prepared to cover the purchase price and the cost of rehabilitation. This Board should require such a showing of Pioneer/KJRY under the facts of this case. It would be error for the Board to allow a substitute carrier to acquire these lines which lacks the resources to handle rehabilitation expenses. The fact that Mr. Carr so cavalierly dismisses the issue demonstrates only that his railroad is not prepared to offer adequate and reliable rail service on the lines. It suggests his railroad simply wants to milk it a few more years and then hopefully pass it on.

Turning to Pioneer's financial showing, Pioneer/KJRY does not claim that KJRY has the resources to do anything in Lubbock. Instead, Pioneer/KJRY claim that Pioneer will somehow transfer funds to KJRY to finance its acquisition of SAW properties. Thus Pioneer/KJRY makes no showing of financial responsibility on the part of KJRY -- the entity they put forward to acquire the lines; Pioneer/KJRY only attempts a showing as to Pioneer, which is not acquiring the lines. As to Pioneer, the application (pp. 6-7) seems to suggest that Mr. Carr in his verified statement will show that Pioneer has \$1.5 million in cash on hand, that Pioneer has a \$1.5 million line of credit, and that Pioneer's various operations have \$2.4 million in net

income.

Mr. Carr's verified statement asserts that Pioneer has \$1.5 million in cash, and submits a letter from its bank indicating a \$1.5 million line of credit. Mr. Carr states he is hopeful Pioneer at some point can get a loan commitment for around \$5.5 million, but does not have one yet. Mr. Carr submits no financial statements or reports to corroborate his claims. Pioneer's filings indicate that the Pioneer system encompasses some 15 operations. So far as we can tell, the cash and line of credit Mr. Carr refer to also are the cash reserves necessary to operate Pioneer's 15 existing operations, and are not in fact available to purchase or to operate the SAW lines at all. That presumably is why Mr. Carr is seeking a loan, which he acknowledges his company did not have in hand yet.

When PYCO furnished a letter from its Bank in F.D. 34844 representing that PYCO had "at least" \$5 million in financing available for the acquisition of SAW's lines, the Director rejected this showing as inadequate, and this determination was upheld on appeal. Pioneer/KJRY has not even shown that it has \$1.5 million available for purchase of SAW's lines. All we know at this point is that it certainly does not have the amount available that PYCO's bank said PYCO had (i.e., at least \$5 million), and the Director and this Board deemed that inadequate. Clearly since PYCO's application in F.D. 34844 was ruled incomplete on financial grounds, the Pioneer/KJRY application showing even less is incomplete on the same

grounds.

C. Pioneer/KJRY's Application Contravenes
the Public Convenience and Necessity

PYCO objects to Pioneer/KJRY's application as contravening the public convenience and necessity. Pioneer/KJRY claims that it is an experienced operator (Pioneer/KJRY Application at 14) and from time to time contrasts that alleged experience with PYCO, described as a mere shipper uninterested in matters rail (id. at 25).

Pioneer's claim that PYCO is somehow unfit is spurious. The legislative history of the feeder line statute makes clear that it was designed to provide shipper relief, not as a happy hunting ground for the shortline equivalent of headhunters. It is well known that owners of rail property can contract with competent short line operators to provide rail services on shortlines which they own (many local and state governments operate rail systems on this basis), and PYCO has long indicated that it intends to contract with WTL to provide such services for whatever portion or the entirety of SAW's system that PYCO is authorized to acquire in this proceeding.

To underscore the spurious nature of Pioneer's argument, PYCO Industries has signed a letter of intent with its alternative service provider [West Texas & Lubbock Railroad (WTL)] from the Part 1146 proceeding in F.D. 34802. The letter of intent indicates that, in the event PYCO acquires lines from SAW pursuant to 49 U.S.C. § 10907, WTL will provide all rail operational services. A copy is attached as Exhibit C. WTL is

part of Permian Basin Railways, which in turn is part of Iowa Pacific Holdings (IPH). We attach as Exhibit D material from the IPH website. IPH advises PYCO that IPH's current corporate annual revenue exceeds \$14 million, and that IPH owns and operates over 540 miles of track. Moreover, IHP's Arizona Eastern Railway recently filed an application to construct 10 more miles to serve a Phelps Dodge copper mine. Significantly, WTL already operates in the Lubbock area, already interchanges with BNSF, and has a yard of its own where overflow cars can be stored if necessary for current SAW shippers.¹³ Moreover, because WTL has been providing alternative service to PYCO since January 2006 pursuant to this Board's orders in F.D. 34802, WTL has equipment and crews in place, and is familiar with the track. WTL has already worked with several SAW shippers other than PYCO to address inbound shipping problems and to expedite cars through BNSF (WTL delivers all cars to the SAW yard). WTL is in a position immediately to work with all SAW shippers to address their service needs, and has assured PYCO that it is prepared to begin immediately. BNSF has repeatedly indicated to PYCO that BNSF is pleased with the cooperation it has achieved with WTL, and both PYCO and BNSF are pleased with the improved service resulting from WTL's exemplary performance under the alternative service orders issued by this Board in F.D. 34802.

¹³ Since IPH acquired WTL, WTL has added 8 new customers and loading locations, increasing the WTL customer base (and business volume) by 25%. WTL has informed PYCO that it intends to devote the same business development initiative to the SAW lines acquired by PYCO if given the opportunity.

In short, WTL has a great track record, can operate more efficiently in Lubbock than Pioneer, is operating in Lubbock, and is prepared to provide service to all SAW customers immediately. WTL has much more to offer, and much more evidence of record to back that up. PYCO, the major local shipper, is prepared to buy the lines and to engage in a rehabilitation program. This is what the feeder line statute is all about.

In contrast, what can be said for Pioneer/KJRY? As it turns out, PYCO is able to say that the answer is not much. Pioneer, by its own admission to both PYCO and to BNSF, became belatedly involved in this proceeding at the behest of Mr. Wisener. As late as August 2, two days before the filing of its competing application, KJRY's president (Carr) explained to BNSF that

"Pioneer was only interested in purchasing SAW because Larry Wisener contacted him [Mr. Carr] and he [Mr. Carr] thought the railroad might be a good opportunity. He told me he hadn't spent any time on the property, didn't know who the customers were and didn't know what condition the line was in. He also said he didn't know anything about the service difficulties that lead to PYCO seeking alternative service in the first place. He thought the entire dispute arose because PYCO refused to pay for more than one switch per day."

See Exhibit A, attached.¹⁴

¹⁴ The first (and only) known contact between Pioneer and a shipper in Lubbock was on August 18. At that time, Pioneer's General Counsel LaKemper made two calls to PYCO's

To PYCO's knowledge, no Pioneer affiliated railroad operates in Texas, much less in the Lubbock area. Pioneer cannot hope to match the experience, efficiencies, and ability to initiate service immediately that PYCO and WTL already have demonstrated in Lubbock.

This brings up an additional important point: this Board has repeatedly found in F.D. 34802 and in this docket that PYCO has demonstrated that it has not received adequate rail service from SAW. In order to prevent further episodes of inadequate rail service from SAW, this Board has adopted expedited procedures in this docket to conclude the feeder line process so that a new carrier is in place on these lines before the expiration of PYCO's alternative service order (October 23). On August 2, a majority of shippers on SAW's lines expressed their view that SAW service was inadequate. Many noted threats from SAW to them, and voiced fears that they would be retaliated against for speaking out publicly. The majority supported action by this Board by October 23 to allow a new carrier to begin operation, obviously to mitigate the risk of retaliation.

local counsel, exhibiting no knowledge of the situation in Lubbock nor indication that Pioneer intended to file a feeder line application. Pioneer/KJRY's filing later that day in this docket ostensibly for an extension was mainly comprised of an unprovoked attack on PYCO. Pioneer/KJRY has made no effort to get in touch with PYCO since that time, even though PYCO would be the largest shipper by far on the lines Pioneer/KJRY seeks to acquire. See Declaration of Gary McLaren ¶¶ 3-5, attached to PYCO's "Statement by PYCO Industries" served 28 July 2006 in F.D. 34890 (and other dockets). Pioneer's conduct is not that of a concerned shortline even remotely interested in working with its shippers.

Yet Pioneer/KJRY, ignorant by admission to BNSF on August 2, still does not appear to understand the importance of expedition in this proceeding. It not only ignores the need to begin operations by October 23, but actually asks for something else. As part of its feeder line application, Pioneer/KJRY requests that it be given 60 days from any Board order "granting" the application (which we assume means setting the terms and conditions and designation of Pioneer/KJRY as purchaser) to consummate the transaction. Pioneer/KJRY application at 14. Since filings are now scheduled in this proceeding through early September (and may drag out further due to Pioneer's litigious reputation -- PYCO notes that the KJRY feeder line proceeding took two years for any resolution), and since it is reasonable to assume that the Board would wish 30 days to consider the evidence, the earliest a decision can issue is in the first half of October. Under this Board's regulations, if there are multiple applicants, SAW will have 15 days to choose with whom to deal. We will already be at or past October 23 before SAW is obligated to select. We presume the selection, if Pioneer's faulty application is accepted, will be Pioneer, because of SAW's animosity to PYCO. But Pioneer has stated it wants 60 days to close. Given Pioneer's admission to BNSF as to utter lack of knowledge of what it is getting into, Pioneer likely will need that and more. PYCO will be faced with inadequate service on October 23, at the height of cotton rush. This hardly serves the public convenience and necessity.

PYCO is prepared today to buy either modified alternative two (all of the SAW yard) or the entirety of SAW at the price set by this Board. WTL is prepared to begin operations. Pioneer/KJRY wants 60 days from whenever the Board acts. While we understand why Pioneer/KJRY needs a lot of time, that does not mean that it is in the interest of shippers or the public. PYCO will sustain service inadequacy during that interval; other shippers are similarly subject to retaliation by the incumbent railroad and its management.

For these and all the reasons stated above, the public convenience and necessity do not support authorizing such an acquisition on the part of KJRY.

IV. BNSF's Right of First Refusal

In BNSF's August 2 comments on PYCO's feeder line application as to Alternative Two, BNSF requests entry into a protocol by the two switch railroads such that there would be no interference with BNSF operations in Lubbock. PYCO supports BNSF's request. SAW has been more inclined to litigate with BNSF than cooperate with it to achieve better service for customers, and at one point caused congestion threatening to shut down BNSF's yard. A protocol is definitely needed if SAW remains. The problem will be in gaining SAW adherence to the protocol.

BNSF also notes that it has a right of first refusal over sales of all or a portion of SAW lines, and requests that the right of first refusal continue to apply.

Pioneer/KJRY states that it is opposed to applying the BNSF right of first refusal "to preempt a grant of PYCO's or KJRY's feeder line application." Pioneer/KJRY application at 28.

PYCO supports application of the BNSF right of first refusal to all sales of SAW lines, whether pursuant to a 49 U.S.C. § 10907 authorization or pursuant to 49 U.S.C. § 10901. The customers served by SAW in Lubbock are actually customers of BNSF; SAW simply provides a local switch pursuant to its contract with BNSF. SAW necessarily operates on the BNSF mainline in order to provide this service. BNSF has a legitimate interest in insuring that any new switch provider in Lubbock satisfy BNSF that it will treat BNSF customers fairly, and be ready, willing and able to cooperate with BNSF to provide adequate, efficient rail service without congesting BNSF's yard and system.

If BNSF feels that PYCO and its operator (WTL) are not qualified to take over the SAW lines, then by all means PYCO wants BNSF to exercise its contractual right of first refusal. Similarly, if BNSF feels that Pioneer/KJRY is not qualified, then we expect the vast majority of the shippers in Lubbock, if not all, would wish BNSF to exercise its right of first refusal and ensure that we are ably served.

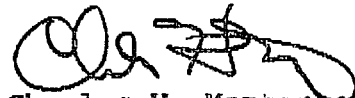
BNSF is in a far better position to choose a qualified and able entity to provide rail operations than is SAW (which reflects the views of Larry Wisener, whose truculent views toward his customers is all over the record by this point). SAW

and in particular Mr. Wisener brought Pioneer/KJRY into this equation, not the shippers in Lubbock. BNSF's right of first refusal is the only protection shippers have from abuse if this Board accepts Pioneer/KJRY's application, notwithstanding our objections as stated herein.

V. Conclusion

The Pioneer/KJRY application must be rejected.

Respectfully submitted,



Charles H. Montange
for PYCO Industries, Inc.
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
fax: -3739

Of counsel:

Gary McLaren, Esq.
Phillips & McLaren
3305 66th St., Suite 1A
Lubbock, TX 79413
(806) 788-0609
for PYCO Industries, Inc.

Verification

Exhibit A -- BNSF email (PYCO understands it has authorization to use this email publicly)
Exhibit B -- mapping of SAW/Choo Choo spite strip
Exhibit C -- IHP/WTL letter of intent
Exhibit D -- PYCO/WTL website material

AUG-14-2006 (MON) 07:00

PYCO Industries

(FAX) 7443221

P. 001/001



PYCO Industries, Inc.
Processors of Cottonseed Products

P.O. BOX 841
LUBBOCK, TX 79408-0841
TELEPHONE: (806) 747-3434
FAX: (806) 744-3221

P.O. BOX 1320
GREENWOOD, MS 38935-1320
TELEPHONE: (662) 453-4312
FAX: (662) 455-8807

Verification

Pursuant to 28 U.S.C. 1746, I declare and verify under penalties of perjury under the laws of United States of America that I am the Senior Vice President of Marketing for PYCO Industries, that I have been employed by PYCO for fifteen years, that I am responsible for rail shipments for PYCO, that I have read the foregoing, and that the foregoing is true and correct.

Executed on: 8-14-06

A handwritten signature in cursive script, appearing to read 'Robert Hays', is written over a horizontal line.

Certificate of Service

By my signature below, I certify service upon the following counsel of record by express (next business day) by timely deposit with an express service provider on 14 August 2006:

Thomas McFarland
208 South LaSalle St., Suite 1890
Chicago, IL 60604-1112 (SAW)

William A. Mullins
Baker & Mullins
2401 Pennsylvania Ave. NW #300
Washington, D.C. 20037 (KJRY)

William Sippel
Fletcher & Sippel
29 North Wacker Drive, Suite 920
Chicago, IL 60606-2875 (USRP)

John Heffner
1920 N Street, NW #800
Washington, DC 20036 (WTL)

Adrian Steel
Mayer Brown Rowe & Maw
1909 K Street, NW
Washington, D.C. 20006-1101

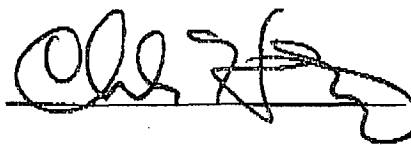
A handwritten signature in black ink, appearing to read "Ch Montange", written over a horizontal line.

Exhibit A

c.montange

From: "Hale, Weldon E" <Weldon.Hale@bnsf.com>
To: "c.montange" <c.montange@verizon.net>
Sent: Thursday, August 03, 2006 3:57 PM
Subject: Pioneer

Charles,

Mike Carr, President & CEO of Pioneer called me yesterday. He told me Pioneer was only interested in purchasing the SAW because Larry Wisener had contacted him and he thought the railroad might be a good opportunity. He told me he hadn't spent any time on the property, didn't know who the customers were and didn't know what condition the line was in. He also said he didn't know anything about the service difficulties that led to PYCO seeking alternative service in the first place. He thought the entire dispute arose because PYCO refused to pay for more than one switch per day.

He told me Pioneer was interested in purchasing the property, and he is aware that BNSF has a right of first refusal in the sale agreement. He also told me he expected Pioneer to file its feeder line application on Friday the 4th.

As info,

Eddie Hale
Shortline Development

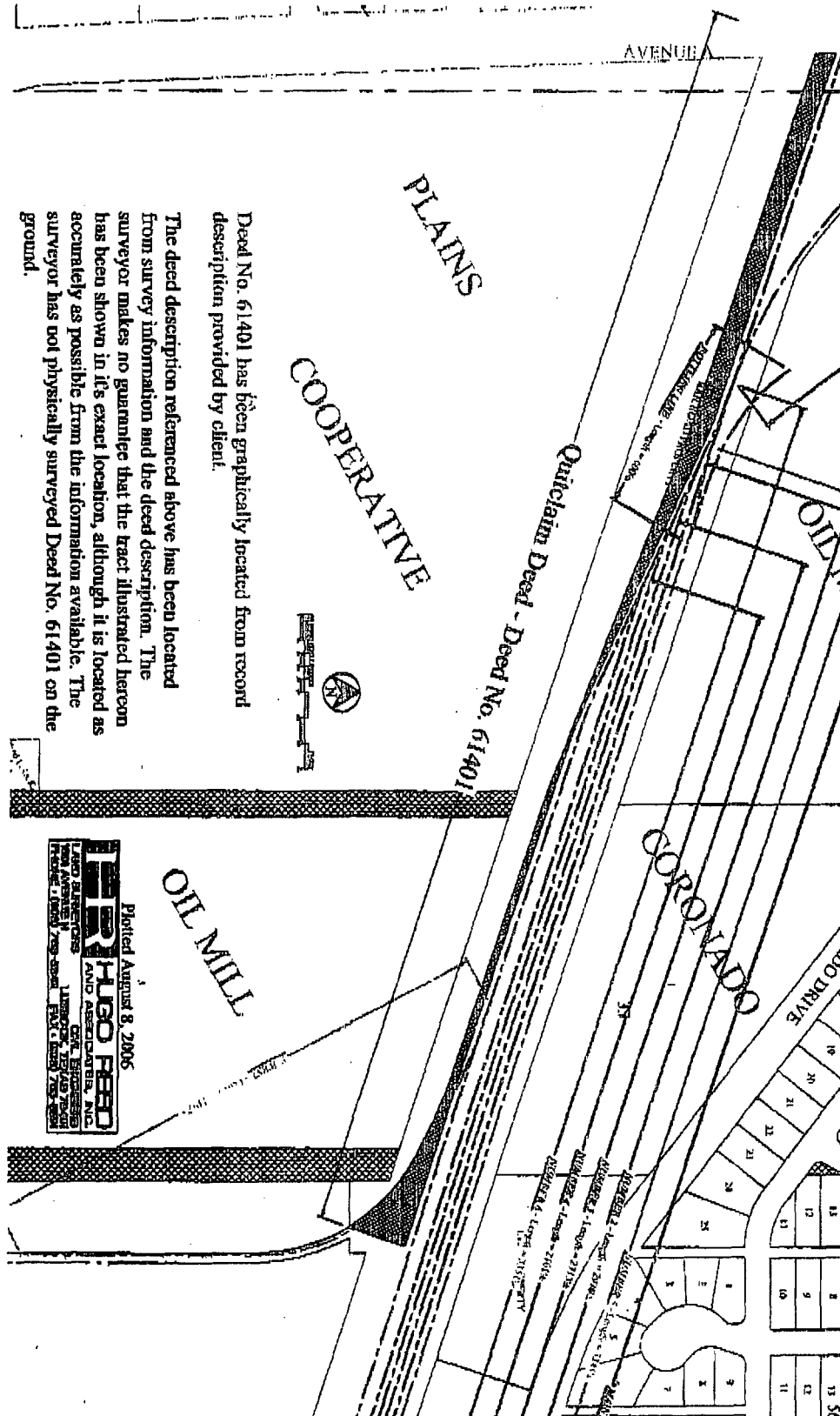
BNSF Railway
(817) 352-6012

CONFIDENTIALITY NOTICE:

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please delete this message from all computers and notify us immediately by return e-mail and/or phone (817) 352-6012.

8/11/2006

Exhibit B



Deed No. 61401 has been graphically located from record description provided by client.

The deed description referenced above has been located from survey information and the deed description. The surveyor makes no guarantee that the tract illustrated hereon has been shown in its exact location, although it is located as accurately as possible from the information available. The surveyor has not physically surveyed Deed No. 61401 on the ground.

Printed August 8, 2006

Exhibit C

AUG-12-2006(SAT) 15:34 PYCO Industries

(FAX)7443221

P.001/002

August 14, 2006

Mr. Stephen Gregory, Vice President
West Texas & Lubbock Railroad
118 South Clinton,
Suite 300,
Chicago, IL 60661

**RE: Letter of intent for operation of South Plains
Switching, Ltd. Rail lines in Lubbock, TX**

Dear Mr. Gregory:

I am writing on behalf of PYCO Industries, Inc. ("PYCO"), in connection with the future operation of rail lines serving its facilities at Lubbock, TX, currently owned by South Plains Switching, Ltd. ("SAW"). Once you sign and return one copy of this letter, it will become a nonbonding letter of intent reflecting the good faith intentions of both parties to execute a formal operating agreement.

Assuming that PYCO is successful in its efforts to acquire the subject rail properties, in whole or in part, through an application it has filed with the federal Surface Transportation Board ("the Board") in STB FD 34890, PYCO desires to contract with your company, the West Texas & Lubbock Railroad ("WTL") to operate the subject properties on a long term basis. Towards that end, PYCO will be preparing a formal operating agreement that covers WTL's continued occupancy and operation of these properties once acquired by PYCO. This agreement will require approval by the boards of directors of both parties and will not become effective until signed by both parties. Neither party will incur any liability as to the other in connection with WTL's continued occupancy and operation after PYCO acquires the subject rail properties until after executing a definitive formal operating agreement.

In that regard, I anticipate that WTL, as PYCO's chosen operator, will be responsible for all aspects of rail operations including crews, equipment, marketing, dispatching, and maintenance. WTL will obtain suitable liability insurance naming PYCO as an additional insured. PYCO and WTL will work jointly with BNSF Railway to insure a smooth transition of operations and all commercial arrangements between carriers and with all rail

RUG-12-2006(SRT) 15:34 PYCO Industries

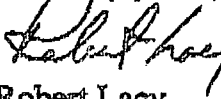
(FAX)7443221

P. 002/002

customers on the line once PYCO acquires the subject rail properties. WTL will also coordinate its operations with PYCO to insure that there is no blockage of PYCO property or street crossings.

This letter is subject to modification in light of any orders of the STB. Each party shall be solely responsible for its own costs, including attorney fees, arising under or pursuant to this letter of intent. If this letter is acceptable, please sign and return one copy.

Sincerely yours,


Robert Lacy

Accepted:



Exhibit D

MAPS CONTACTS NEWS TRANSPORTING INDUSTRIAL DEVELOPMENT

 IOWA PACIFIC HOLDINGS
 ARIZONA EASTERN RAILWAY
 TEXAS-NEW MEXICO RAILROAD
 WEST TEXAS & LUBBOCK RAILWAY
 CENTRAL CAR REPAIR
 PERMIAN BASIN RAILWAYS
 SAN LUIS & RIO GRANDE RAILROAD

OVERVIEW

Iowa Pacific Holdings (IPH) was formed in March 2001 to acquire railroads and businesses. IPH has focused on smaller feeder railroads with annual revenues of less. IPH has successfully acquired and operated four railroads – while working to value to rail customers and the communities they serve, through improvements in facilities and equipment.

IPH formed Permian Basin Railways (PBR) to acquire the Texas – New Mexico & West Texas & Lubbock Railway in May 2002. In December, 2004, PBR acquired Railway. In December 2005, PBR acquired the San Luis & Rio Grande Railroad. the acquisition of each railroad, IPH opened a Central Car Repair shop location & contract freight car repairs.

IPH management is a diverse group, collectively with hundreds of years of rail-in experience. IPH managers have backgrounds with class I railroads, shortlines, A and mail and express operations, railroad supply, intermodal, trucking companies, car repair and much more. With such wide-ranging expertise, IPH is uniquely capable of creative solutions to transportation problems.

IPH continuously seeks opportunities to increase rail freight business on its railroads, growth of existing traffic, relocation of new customers on-line or in conjunction with non-rail-served sites. In addition, IPH continues to explore expansion of its portfolio, shortline acquisitions, joint ventures and other opportunities.

OFFICES

Business Office
 P. O. Box 618181
 Chicago, IL 60661
 312-466-0900 (voice)
 312-466-9589 (fax)

MAPS

Iowa Pacific Holdings

Page 2 of 2

IOWA PACIFIC COMPANIES

Arizona Eastern Railway
Central Car Repair
Permian Basin Railways
San Luis & Rio Grande Railroad
Texas - New Mexico Railroad
West Texas & Lubbock Railway

Regions Served

Southeast New Mexico
Southeast Arizona
South-central Colorado
West Texas

Services Available:

Rail freight service
Truck-to-rail and rail-to-truck
transloading
Freight car repairs
Passenger train management
Real estate leasing
Freight logistics
Fleet management
Freight car leasing
Freight and passenger rail
consulting

Arizona Eastern Railway

Page 1 of 4

MAPS CONTACTS NEWS TRANSLADING INDUSTRIAL DEVELOPMENT

IOWA PACIFIC HOLDINGS
 ARIZONA EASTERN RAILWAY
 TEXAS-NEW MEXICO RAILROAD
 WEST TEXAS & LUBBOCK RAILWAY
 CENTRAL CAR REPAIR
 PERMIAN BASIN RAILWAYS
 SAN LUIS & RIO GRANDE RAILROAD

ARIZONA EASTERN Railway at a Glance

Reporting Marks
AZER

Miles of Track
135.1

Cities Served/ Transloading
Facilities Available

All stations have siding(s) for
liquid and/or bulk transfer.

Bowle, AZ

Solomon, AZ

Safford, AZ
freight dock

Pima, AZ

San Carlos, AZ

Globe, AZ

Claypool, AZ
freight dock

Counties Served
Cochise, AZ
Graham, AZ
Gila, AZ

Locomotives Operated
One EMD SW-1200
Two EMD GP-7

OVERVIEW

The Arizona Eastern Railway (AZER) operates 135 miles of railroad between Bowle, AZ. The railroad serves the copper mining region of southeastern Arizona, Gila River Valley and the east end of the Phoenix metroplex. Primary AZER commodities are copper concentrate, copper anode and cathode, and copper rod and other copper materials. AZER also handles minerals, chemicals, building supplies and lumber, a transload center for lumber, building materials and other consumer commodities.

HISTORY

What is now the AZER was chartered as the Gila Valley Globe and Northern Railway in 1885. Before completion to Globe in 1889, the GVGN came under the control of Eastern Railroad (AE). The AE was leased by the Southern Pacific Railroad (SP) and merged into the SP system in 1924. SP sold the Bowie - Miami line to Kyle Rail. Kyle was purchased by shortline holding company StatesRail in 1995. StatesRail purchased by RailAmerica (RA) in 2001. RA sold the AZER to Permian Basin Railroad on December 9, 2004.

Of historical note, the Gila Valley Globe & Northern's first locomotive - appropriate number 1 - was purchased from the Central Pacific Railroad, its number 1195. V 1195 was named *Jupiter*. *Jupiter* was the Central Pacific locomotive that met cowcatcher with Union Pacific number 119 at Promontory Point, Utah on May 10 driving of the golden spike commemorating the completion of the first transcontinental. Despite its historical significance, in 1909 the GVGN, by then controlled by Central successor Southern Pacific, sold number 1 for \$1000 as scrap.

OFFICES

Operating Office
P. O. Box 2200
Claypool, AZ 85532
Voice: 928-473-2447
Fax: 928-473-2449

Business Office
P.O. Box 618181
Chicago, IL 60661
Voice: 312-466-0900
Fax: 312-466-9589

MAPS

PHOTOS

Arizona Eastern Railway

Page 2 of 4

OSix EMD GP-20
Three EMD GP-35

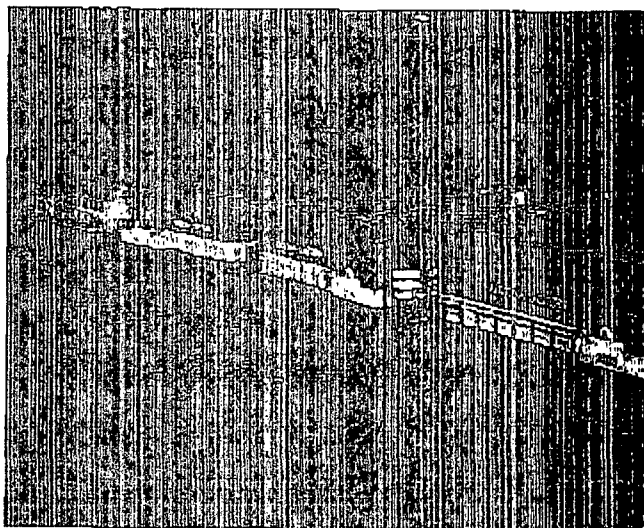
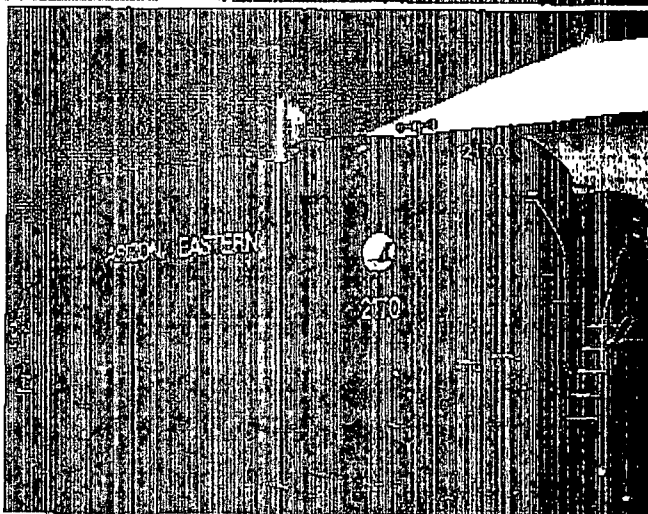
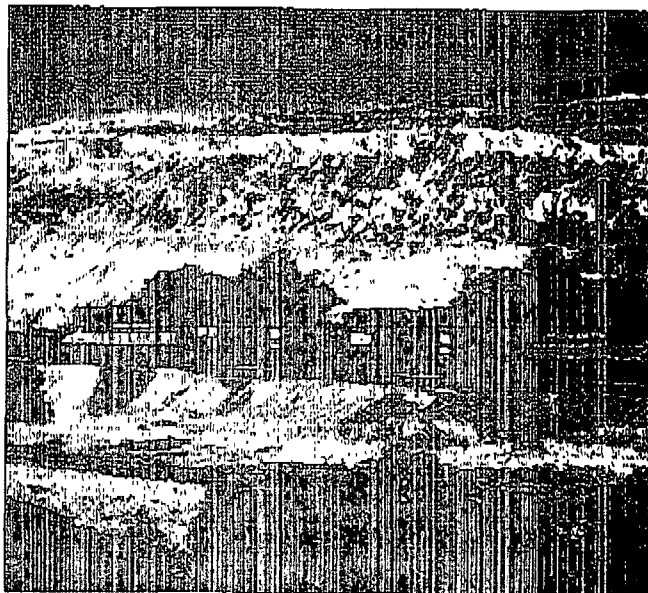
Freight Cars Operated
21 flatcars

Service Frequency
Six days per week

Car Storage Capacity
none

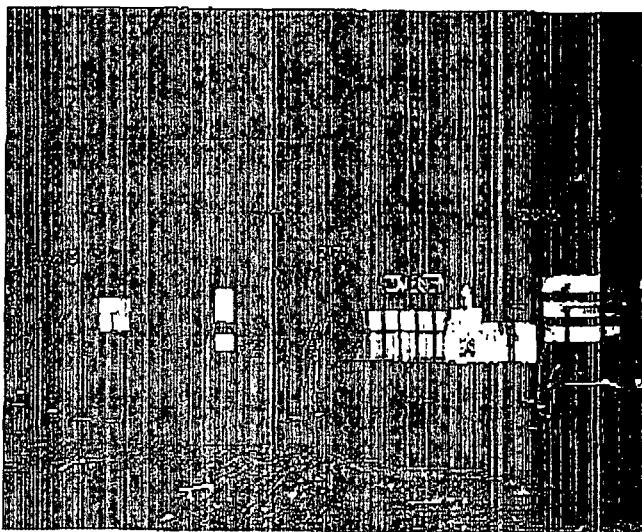
Railroad Connections
Union Pacific Railroad at Bowie,
AZ

Commodities Transported
Chemicals
Copper Concentrate
Copper Products
Fertilizer
Lumber



Arizona Eastern Railway

Page 3 of 4



The Texas - New Mexico Railroad

Page 1 of 4

MAPS CONTACTS NEWS TRANSLADING INDUSTRIAL DEVELOPMENT

IOWA PACIFIC HOLDINGS
ARIZONA EASTERN RAILWAY
TEXAS-NEW MEXICO RAILROAD
WEST TEXAS & LUBBOCK RAILWAY
CENTRAL CAR REPAIR
PERMIAN BASIN RAILWAYS
SAN LUIS & RIO GRANDE RAILROAD

OVERVIEW

The Texas - New Mexico Railroad (TNMR) operates 104 miles of railroad extent Pacific connection at Monahans, TX to Lovington, New Mexico. The railroad serves west Texas and southeast New Mexico. The primary commodities hauled are oil and minerals, construction aggregates, industrial waste and scrap.

HISTORY

The TNMR was completed in 1930 as a subsidiary of the Texas and Pacific Railroad. The primary purpose of the TNMR was to serve the oil fields in west Texas and south Mexico. The TP was under financial control of the Missouri Pacific Railway (MP) in 1928. In 1976, the MP completely merged the TP. In 1982, the MP was, in turn, merged with the Union Pacific Railroad (UP). UP sold the TNMR to shortline operator RailTex (RT) in 1999. RT merged with another shortline holding company, RailAmerica (RA). RA sold the TNMR to Permian Basin Railways on May 25, 2002.

TEXAS-NEW MEXICO
Railroad at a Glance

Reporting Marks
TNMR

Miles of Track
104.28

Cities Served/ Transloading

Facilities Available

All stations have siding(s) for liquid and/or bulk transfer.

Monahans, TX

Kermit, TX

Jal, NM

Combest, NM

Eunice, NM

Hobbs, NM
freight dock
warehouse

Lovington, NM
freight dock
warehouse

Counties Served
Ward, TX
Winkler, TX
Lea, NM

OFFICES

Operating Office
821 West Broadway
Brownfield, TX 79316
Voice: 806-637-8323
Fax: 806-637-8074

Business Office
P.O. Box 618181
Chicago, IL 60661
Voice: 312-466-0900
Fax: 312-466-9589

MAPS

PHOTOS

The Texas – New Mexico Railroad

Page 2 of 4

Locomotives Operated

Three EMD GP-35M
One EMD GP-7

Freight Cars Operated

28 gondolas marked TMNR
2 flat cars marked TMNR

Service Frequency

Six days per week

Car Storage Capacity

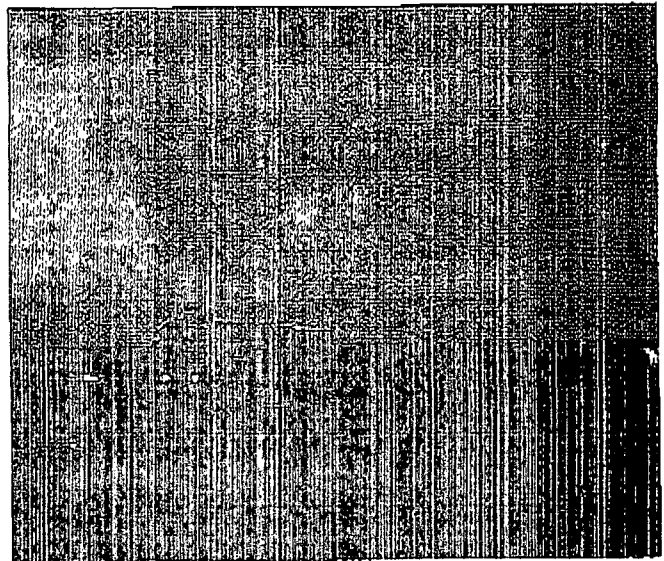
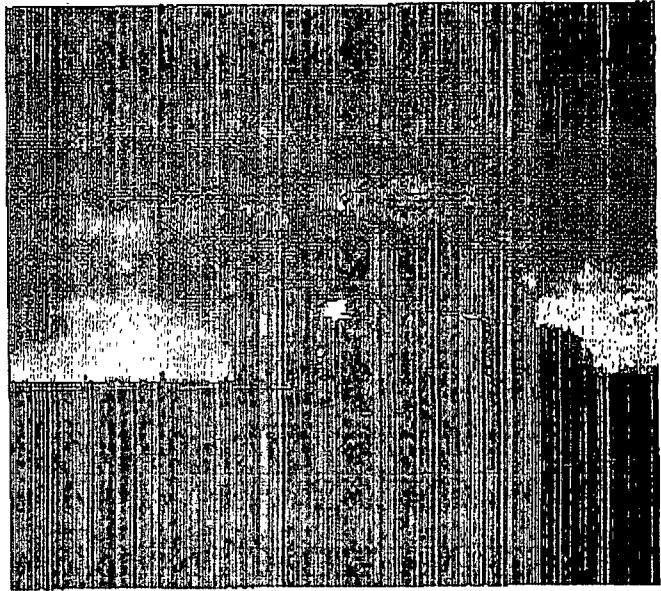
500 50-foot cars

Railroad Connections

Union Pacific Railroad at
Monahans, TX

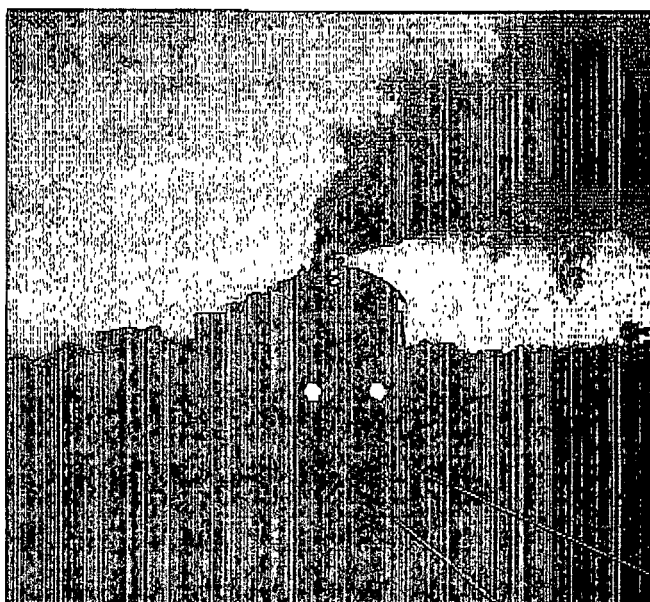
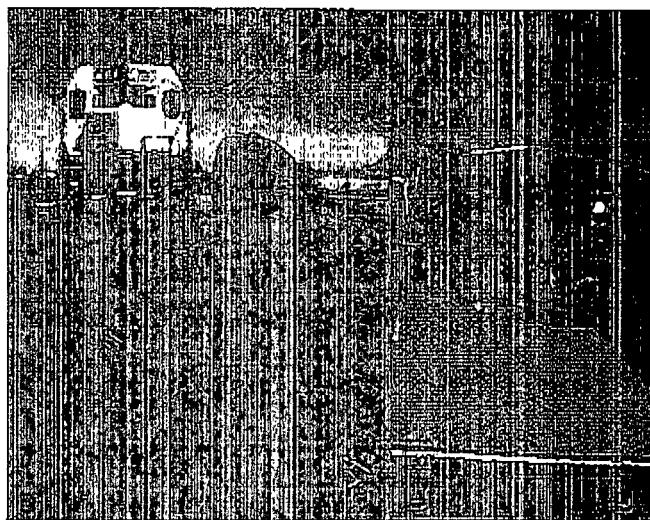
Commodities Transported

Chemicals
Waste Soil
Petroleum Products
Rock
Scrap



The Texas - New Mexico Railroad

Page 3 of 4



West Texas & Lubbock Railway

Page 1 of 3

MAPS CONTACTS NEWS TRANSLADING INDUSTRIAL DEVELOPMENT

IOWA PACIFIC HOLDINGS
 ARIZONA EASTERN RAILWAY
 TEXAS-NEW MEXICO RAILROAD
 WEST TEXAS & LUBBOCK RAILWAY
 CENTRAL CAR REPAIR
 PERMIAN BASIN RAILWAYS
 SAN LUIS & RIO GRANDE RAILROAD

OVERVIEW

The West Texas & Lubbock Railway (WTLC) operates 107 miles of railroad on two from Lubbock, TX to Seagraves and Whiteface, TX. The railroad serves the agriculture and southwest of Lubbock and the oil fields of west Texas. The primary commodities are fertilizer, construction aggregates, grain, cotton, chemicals, peanuts and plastics.

HISTORY

The origin of the two lines that make up today's WTLC is the Crosbyton-South Plains Company (CS) which was chartered in 1910 to build a line from Lubbock to Crosbyton. In 1915, the CS was purchased by the Atchison Topeka and Santa Fe Railway (AT&SF). The line was changed its name to the South Plains and Santa Fe Railway (SPSF). The Seagraves line was completed by the SPSF in 1918. In 1917, the SPSF was leased by the Panhandle Railway (PSF), also controlled by the AT&SF. The Whiteface line was completed in 1925 to Crosbyton. The SPSF and PSF were eventually merged into the AT&SF. AT&SF sold the two lines minus Bledsoe to Whiteface portion abandoned in 1984, to the Seagraves Whiteface Lubbock Railroad (SWLR). SWLR was purchased by shortline holding company (RA) in 1995. RA then renamed SWLR to West Texas & Lubbock Railroad. RA sold to Permian Basin Railways on May 25, 2002.

WEST TEXAS & LUBBOCK
Railroad at a Glance

Reporting Marks
WTLC

Miles of Track
106.64

Cities Served/ Transloading
Facilities Available

All stations have siding(s) for
liquid and/or bulk transfer.

Lubbock, TX

Shallowater, TX

Doud, TX

Woolfthorpe, TX

Ropesville, TX
elevator

Meadow, TX
elevator

Brownfield, TX
freight dock
warehouse
elevator

Wellman, TX

Seagraves, TX

OFFICES

Operating Office
821 West Broadway
Brownfield, TX 79316
Voice: 806-637-8323
Fax: 806-637-8074

Business Office
P.O. Box 618181
Chicago, IL 60661
Voice: 312-466-0900
Fax: 312-466-9589

MAPS

PHOTOS

West Texas & Lubbock Railway

Page 2 of 3

freight dock
warehouse

Hurlwood, TX

Smyer, TX

Levelland, TX
freight dock
warehouse

Whiteface, TX

Counties Served

Cochran, TX
Gaines, TX
Hockley, TX
Lubbock, TX
Terry, TX

Locomotives Operated

One EMD GP-7U
One EMD GP-7
One EMD GP-38

Freight Cars Operated
8 covered hoppers

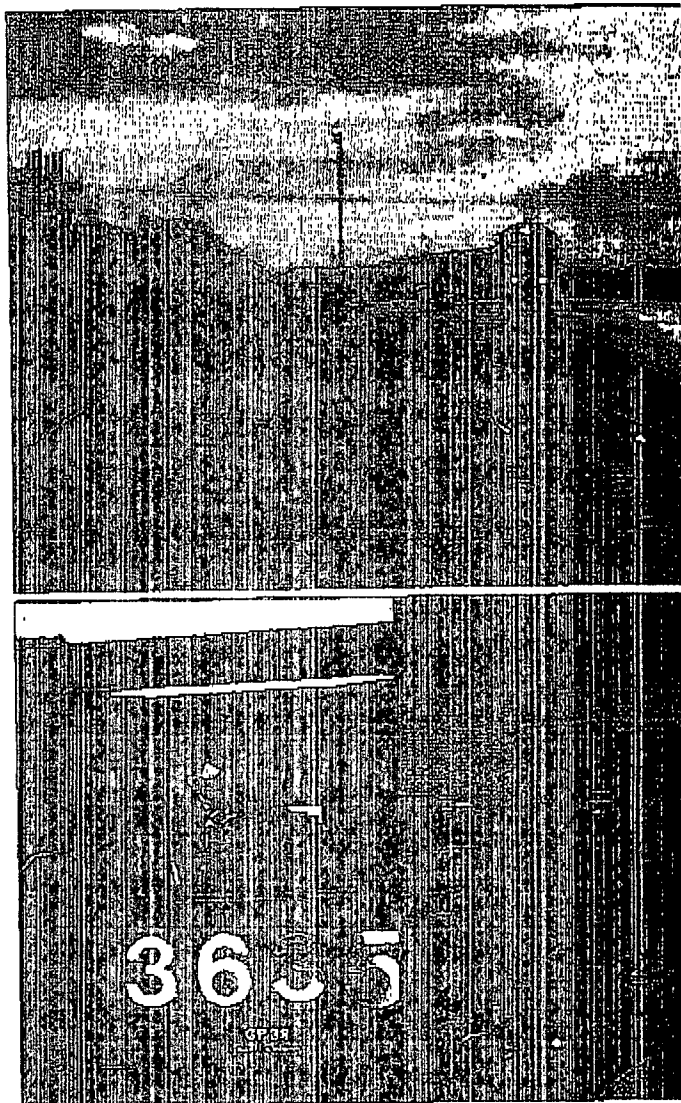
Service Frequency
Six days per week

Car Storage Capacity
500 50-foot cars

Railroad Connections
BNSF Railway at Lubbock, TX
Union Pacific Railroad at
Lubbock, TX via BNSF haulage

Commodities Transported

Chemicals
Cotton
Grain
Farm Machinery
Lumber
Oilfield Supplies
Peanuts
Plastic
Rock



San Luis & Rio Grande Railroad

Page 1 of 3

MAPS CONTACTS NEWS TRANSLADING INDUSTRIES DEVELOPMENT

IOWA PACIFIC HOLDINGS
ARIZONA EASTERN RAILWAY
TEXAS-NEW MEXICO RAILROAD
WEST TEXAS & LUBBOCK RAILWAY
CENTRAL CAR REPAIR
PERMIAN BASIN RAILWAYS
SAN LUIS & RIO GRANDE RAILROAD

OVERVIEW

The San Luis & Rio Grande Railroad (SLRG) runs west from a connection with the Railroad at Walsenburg, CO, over the Sangre de Cristo Mountains at La Veta Pass, the fertile valley of the San Luis and Rio Grande Rivers. At Alamosa, the railroad extends south to Antonito -- just north of the New Mexico border -- and north to South Fork. In addition to the Union Pacific, the SLRG connects with the shortline San Railroad (SLC) at Monte Vista and the Denver and Rio Grande Historical Found just west of South Fork. The SLRG is just under 150 miles long. The highest point at La Veta Pass, is 9,242 feet above sea level, the highest rail freight line in North America.

SAN LUIS & RIO GRANDE Railway at a Glance

Reporting Marks SLRG

Miles of Track
149.60

Cities Served/ Transloading Facilities Available

All stations have siding(s) for liquid and/or bulk transfer.

La Veta, CO

Fort Garland, CO

Blanca, CO

Alamosa, CO
freight dock
warehouse

La Jara, CO

Romeo, CO

Conejos, CO

Antonito, CO
freight dock
warehouse

Monte Vista, CO

Torres, CO

The primary commodities hauled by the SLRG are grain, minerals, specialty rock produce. SLRG also handles substantial bridge traffic to and from the SLC. Pen Railways acquired SLRG in December 2005.

HISTORY

The oldest predecessor of today's SLRG was the Denver and Rio Grande Railroad which was chartered in 1870. The line over La Veta Pass to Alamosa and Antonito originally envisioned as part of an ambitious and never-realized narrow gauge (the between the rails) line linking Denver with Mexico City. The narrow gauge tracks passed in 1877 and reached Alamosa on July 6, 1878. The railroad was pushed on to 1880 and ultimately to Santa Fe, New Mexico and Silverton, Colorado. The D&RG from Alamosa, completing the line to South Fork and its terminus at Creede in 1881.

By the late 1880s, the inherent isolation of narrow gauge railroads from the nation began to put them at a competitive disadvantage. The D&RG converted the La Veta and the Creede lines to standard gauge around 1900. The line to Antonito was also converted to standard gauge, but a third rail, laid to three-foot gauge, remained to Alamosa for regular narrow gauge operation in 1968. Coincident with the conversion to standard gauge, D&RG realigned the route over La Veta Pass to lower the summit, straighten out grades.

In 1908, the D&RG was consolidated with the Rio Grande Western to form the Denver and Rio Grande Western (DRGW). In 1988, the DRGW purchased the giant Southern Pacific (SP). The combined companies were named for the larger and wider-reaching Santa Fe, Union Pacific Railroad (UP) purchased and merged the SP in 1996. On June 1, 1996, UP sold the Walsenburg - Alamosa, Alamosa - Antonito and Alamosa - Derrick - South Fork to shortline railroad conglomerate RailAmerica (RA). The Derrick - South Fork line, which had been out of service, was sold to the Denver and Rio Grande Historical Foundation as a tourist line. RA sold the SLRG to Permian Basin Railways on December 22, 2005.

EXCURSION TRAINS

The San Luis & Rio Grande Railroad operates passenger excursion trains over the Pass and through the San Luis Valley to connect with the Cumbres & Toltec Scenic Railway May through October. The trains, made up of vintage passenger equipment, leave Alamosa, Antonito and La Veta daily. The trains operate in conjunction with the

San Luis & Rio Grande Railroad

Page 2 of 3

Grande Historical Foundation. For more information, schedules and fares go to www.alamosatrain.com or call 877-7CO-RAIL (877-726-7245).

Del Norte, CO

South Fork, CO

Counties Served

Huerfano, CO

Costilla, CO

Alamosa, CO

Conejos, CO

Rio Grande, CO

Locomotives Operated

Five

Freight Cars Operated

none

Service Frequency

Five days per week

Car Storage Capacity

500 50-foot cars

Railroad ConnectionsUnion Pacific Railroad atWalsenburg, COSan Luis Central Railroad, SugarJunction, CO**Commodities Transported**

Grain

Minerals

Rock

Potatoes

OFFICES**Operating Office**

601 State Street

P. O. Box 1807

Alamosa, CO 81101

Voice: 719-587-0552

Fax: 719-587-0522

Business Office

P. O. Box 618181

Chicago, IL 60661

Voice: 312-466-0900

Fax: 312-466-9589

MAPS**PHOTOS**

MAPS CONTACTS NEWS TRANSLATING INDUSTRIAL DEVELOPMENT

IOWA PACIFIC HOLDINGS
 ARIZONA EASTERN RAILWAY
 TEXAS-NEW MEXICO RAILROAD
 WEST TEXAS & LUBBOCK RAILWAY
 CENTRAL CAR REPAIR
 PERMAN BASIN RAILWAYS
 SAN LUIS & RIO GRANDE RAILROAD

PRESS RELEASE



NEWS
ARIZONA EASTERN RAILWAY

FOR IMMEDIATE RELEASE

Contact: Jeff Barker - 904-463-0910

August 3,
PRAZER0

118 S. Clinton St., Suite 300, Chicago, IL 60661

Arizona Eastern Railway Files To Build New Rail Line

Washington, D.C. - Arizona Eastern Railway, an Iowa Pacific Holdings company, filed a petition with the Surface Transportation Board today seeking permission to build a new railroad line in Arizona. The 10-mile long line will serve a new Phelps Dodge Mining Company copper mine and an industrial park in Safford, Ariz.

The new rail line will carry copper and copper-production materials to and from Phelps Dodge Mining Company mines and facilities around the country. By building directly to the mine rather than relying on trucks to transfer product from the mine to the railroad, approximately 22,000 truck trips per year will be avoided. The line will also facilitate development of an industrial park near the Safford airport.

"The new rail line is an excellent addition to the Gila Valley and the City of Safford," said Safford Mayor Ron Green. "Building the rail line is a win for everyone - it will reduce the number of trucks on area roads, facilitate the development of the Phelps Dodge mine and be a valuable marketing tool for our airport industry."

The new line would diverge from the existing Arizona Eastern Railway line near Safford, Ariz., cross the Gila River on a new 500-foot bridge, pass the Safford industrial park site and end at a new Phelps Dodge Mining Company copper complex. Construction on the \$22 million rail line is projected to commence in 2007 with completion a year later.

"We are very excited to work with Phelps Dodge and the City of Safford to build this new line," said Arizona Eastern Railway President Ed Ellis. "By building this line, Phelps Dodge will gain the cost efficiencies of direct rail service and the Safford and the Gila Valley will have fewer trucks on the roads."

Phelps Dodge Mining Company is already a major rail shipper, sending over freight cars per year over the Arizona Eastern Railway. The new branch line expected to generate over 5,000 additional carloads. Rail shipments are generally more costly than trucking due to the inherent efficiencies of rail technology.

Arizona Eastern Railway is owned by Iowa Pacific Holdings, LLC. Iowa Pacific is a shortline railroad holding company based in Chicago. Iowa Pacific owns four railroads in Arizona, Colorado, New Mexico and Texas.

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NEWS

WEST TEXAS & LUBBOCK RAILWAY

FOR IMMEDIATE RELEASE

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January 2

PBR01261

West Texas & Lubbock Railway to provide rail service to Pyco Industries in Lubbock.

Lubbock, Texas -- West Texas & Lubbock Railway (WTLC) was directed by the Surface Transportation Board (STB) today to provide freight rail service to two industries facilities in Lubbock. WTLC will begin switching freight cars for Pyco Industries at midnight.

The STB action is the result of a petition filed by Pyco Industries December 1, 1999 seeking interim alternative rail service by WTLC over rail lines owned by Surface Switching, Limited (SAW). Pyco filed the petition due to service issues relating to switching provided by SAW. The STB decision directs WTLC to provide rail service to two Pyco plants over SAW tracks for 30 days. For the full text of the STB decision, visit the STB website.

<http://www.stb.dot.gov/decisions/readingroom.nsf/51d7c65c6f78e79385256541007f0580/b6bad02f3bdeb71852571020051b033?OpenDocument>

WTLC will receive freight cars destined for Pyco from the BNSF Railway at the Lubbock rail yard. WTLC locomotives and crews will move the cars over SAW tracks and place them at the Pyco plants for loading and unloading. Pyco is the largest cottonseed processor in the southern U.S.

"West Texas & Lubbock Railway crews stand ready to provide Pyco Industries quality rail service they require," said WTLC President Ed Ellis. "We are at Pyco's service for as long as necessary."

Iowa Pacific Holdings

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WTLC is a shortline railroad operating 105 miles of track on two lines west a southwest of Lubbock. For more information on WTLC, go to

www.westtexasandlubbock.com

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NEWS

San Luis & Rio Grande Railroad

FOR IMMEDIATE RELEASE

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