

828329
LARRY R. DAVIDSON
Attorney at Law

1850 Benj. Franklin Plaza
One SW Columbia Street
Portland, Oregon 97258
(503) 229-0199
Fax (503) 229-1856
E-mail: larry@rollin-on.com



November 27, 2010

Attn: Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

NOV 29 2010

Part of
Public Record

Re: Portland & Western Railroad, Inc. – Petition for Declaratory Order –
Certain Rates & Practices as Applied to R K Storage & Warehousing, Inc.

STB Docket No. FD35406

Dear Chief:

Enclosed is R K Storage & Warehousing, Inc.'s Response to the Petition for Declaratory Order – Certain Rates and Practices as Applied to R K Storage & Warehousing, Inc., together with 10 copies of the Response.

Thank you for your attention to this matter. Please contact me by email or telephone if you have any questions.

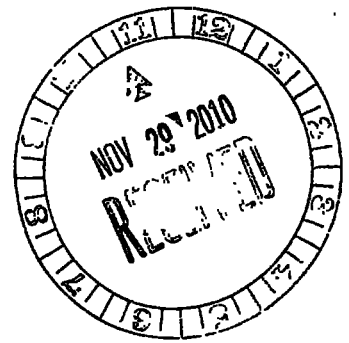
Sincerely,

A handwritten signature in cursive script that reads 'Larry R. Davidson'.

Larry R. Davidson

Enclosures

cc: P. Campbell Ford
Timothy Coleman



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD35406

**PORTLAND & WESTERN RAILROAD, INC. – PETITION FOR
DECLARATORY ORDER – CERTAIN RATES AND PRACTICES AS APPLIED
TO RK STORAGE & WAREHOUSING, INC.**

**RESPONSE TO PETITION FOR DECLARATORY ORDER –
CERTAIN RATES AND PRACTICES AS APPLIED TO
RK STORAGE & WAREHOUSING, INC.**

SUBMITTED ON BEHALF OF R K STORAGE & WAREHOUSING, INC.

BY

Larry R. Davidson
Oregon Bar No. 75089
1850 Benj. Franklin Plaza
One SW Columbia St.
Portland, OR 97258
Telephone: (503) 229-0199
Facsimile: (503) 229-1856
larry@rollin-on.com

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STB Docket No. FD35406

**PORTLAND & WESTERN RAILROAD, INC. – PETITION FOR
DECLARATORY ORDER – CERTAIN RATES AND PRACTICES AS APPLIED
TO R K STORAGE & WAREHOUSING, INC.**

**RESPONSE SUBMITTED ON BEHALF OF
R K STORAGE & WAREHOUSING, INC.**

R K Storage & Warehousing, Inc. ("R K") files this Response to the Petition filed by Portland & Western Railroad, Inc. ("PNWR") in which PNWR seeks payment of almost \$100,000 in demurrage charges from R K.

I. UNDISPUTED FACTS.

Before we dive into the disputed facts, there are some undisputed facts that should provide some guidance.

A. PNWR'S INADEQUATE SERVICE.

1. There were times when PNWR could not provide proper service for R K, and therefore extended credits to R K. (Petition, ¶52).
2. On particularly heavier days, pulling cars from the Willbridge interchange and switching the railcars at the Linnton Yard took twice as long, adding to the congestion. (Petition, ¶ 47).
3. When the Linnton Yard was congested, PNWR was sometimes required to constructively place R K's storage railcars so that they could deliver larger cars to customers that have larger tracks. (Petition, ¶ 49).

4. There is often congestion that causes delays in PNWR's transportation of its customer's railcars to the Linnton Yard. (Petition, ¶ 47).

B. PNWR – ONLY GAME IN TOWN.

5. PNWR is the only rail carrier that operates at the Willbridge interchange in the Astoria District so that all of the incoming railcars are for PNWR's customers. (Petition, ¶ 27).

6. PNWR is the only rail carrier serving R K.

C. PNWR'S BIG CUSTOMERS COME FIRST.

7. PNWR had customers with tracks that could accommodate up to 35 railcars at one time. (Petition, ¶ 48).

8. PNWR maintains that R K's track could only hold three cars. (Petition, ¶ 48).

9. PNWR maintains that there would be no benefit to anyone for PNWR to stop its efficient service in order to switch whichever two or three cars R K Storage requested. (Petition, ¶ 51).

10. PNWR maintains it is of no advantage to anyone for PNWR to stop its efficient rail service, maneuver from the congestion or constructive placement of whatever three cars R K has requested delivery of, and spot those three cars at R K's track when doing so, will only cause the congestion to linger longer and possibly be worsened if additional railcars are delivered to the Linnton Yard before the congestion is cleared out. (Petition, Vincent Affidavit, A-6, ¶ 21).

D. EXAMPLES OF DEMURRAGE CHARGES CLAIMED BY PNWR.

11. PNWR is seeking \$3,600 for three separate cars for the period ending July 2008, for total of \$10,800 for three cars. (Petition, Creswell Affidavit, A-1, p. 35).

12. PNWR is seeking \$21,100 from R K for the period ending June 2008. (Creswell Affidavit, A-1, p. 33).

E. PNWR'S RECEIPT OF RAILCARS FROM OTHER RAILROADS.

13. The PNWR had no control over the deliveries to the Willbridge Interchange. (Petition, ¶ 47).

F. IRREGULAR SERVICE TO R K.

14. R K Storage received 19 cars on one day, 9 cars on a different day, 8 cars on a different day, 6 cars on a different day, 5 cars on two different days, 7 cars on one day, and 4 cars on one day. (Petition, ¶ 63, fn. 8).

G. NO AUTHORITY CITED FOR PNWR'S PRACTICES.

15. PNWR has not cited any reference to its tariff regarding how to determine when it should voluntarily extend credits to R K for PNWR's service failures.

16. PNWR has not provided any standards or guidelines for what it uses in determining how much credit should be extended to R K for PNWR's service failures.

17. PNWR has not cited any reference to its tariff regarding the imposition of demurrage charges when PNWR receives numerous R K railcars at one time at its Willbridge Interchange.

H. R K'S ADMISSION OF LIABILITY FOR DEMURRAGE CHARGES.

18. R K admits that it owes \$5,970 in storage charges to PNWR. (Affidavit of Roger Krofft, ¶14).

II. DISCUSSION.

19. The PNWR has requested the STB to issue a Declaratory Order determining that its demurrage charges to R K in the amount of \$96,879.50, were reasonable, or, in the alternative, to determine the amount of demurrage that is reasonable under the circumstances. (Petition, ¶ 4).

20. R K has admitted that it owes \$5,970 in demurrage charges. (Affidavit of Roger Krofft, ¶ 14). The amount of \$90,909.50 remains in dispute.

21. PNWR admits that it had numerous service failures, and extended credit to R K for some of those failures. However, PNWR has not stated how it determined the extent of those credits, nor has it cited any provision in its tariff regarding the extension of credits due to service failures.

22. PNWR has admitted that its track gets congested and its services compromised. However, PNWR is very clear that its larger customers, who can accommodate up to 35 railcars, are its primary focus, and that R K can just sit and wait for the two or three cars that R K has requested.

23. R K asserts, and has shown (Krofft Affidavit, Ex.A), that R K's spur can hold four railcars. PNWR states that it can hold only three at most, and only two of the larger railcars. In any event, using PNWR's math for the sake of discussion, R K's spur was utilized at most up less than 70 % of capacity for its busiest month (Krofft Affidavit, ¶ 11). R K could easily have accommodated all of the cars had PNWR not showed favoritism to its largest customers.

24. One has to wonder what incentive PNWR has to dig out the old cars and thereby inconvenience itself. It is a win-win situation for PNWR to keep the old cars buried: Its so-called efficient services not compromised, and it rings the bell, to tune of \$80 per day initially, and later \$50 per day per car, for each day that it keeps the cars buried. The train crew is happy for not having to dig out the old cars, and the revenue-takers and bean-counters for this foreign corporation, located in far away locations such as Rochester, New York and Jacksonville, Florida, are thrilled at the prospect of enhancing their revenue statements.

25. To its credit, PNWR extended credits to R K for its service failures, for which R K is appreciative. However, R K would not know about charges until after they were assessed. (Affidavit of Roger Krofft, ¶ 29).

26. PNWR did not extend those credits for when it really counted, such as for the three cars that were billed at \$3,600 for each car during the month of June 2008. (Petition, Vol. 2, p. 35). Nor did R K know in advance that it would be billed \$21,100 for one month alone in demurrage charges. (Petition, Vol. 2, p. 35). R K was billed over \$40,000 in demurrage charges for the period of May 2008 to July 2008. (Petition, Vol. 2, p. 31-35). To PNWR, that \$40,000 is chump change. To R K, with its two employees (Petition, Vol. 1, p. 434), \$40,000 is the difference between eking out a living or closing its doors.

27. Is it reasonable for PNWR to sit on a car for over two months, and then to invoice a customer \$3,600 in demurrage charges for one car, when the customers track was, at most, utilized 50% in the period in question?

28. Giving PNWR the benefit of the doubt, there is still no justification for holding those cars for that long. From April 21, 2008 to June 25, 2008, the PNWR spotted only 47 cars on the R K track. (Petition, Vol. 2 A-1, p. 31-33). Even assuming that R K could only accommodate two cars per day, and even assuming that there are 20 business days in a month, that still means that, for those 40 days, R K could have accommodated 80 cars. Since most of those cars that were spotted were regular size cars (only 13 were the longer PTTX cars) R K's track was severely under-utilized, by roughly 50%. Given that R K's track can accommodate four regular size cars, and two PTTX cars plus a regular car, R K's track was probably under-utilized by close to 75%.

29. R K got slammed with railcars, could not get cars spotted timely or as requested, and then got slammed again with demurrage charges.

III. CONCLUSION.

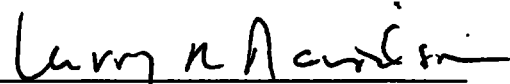
30. PNWR admits that its focus is on service for its service for its largest customers. Conversely, its attitude toward R K is that it will get to R K when it pleases to do so, no earlier.

PNWR dumps multiple carloads on R K at one time, and then starts its demurrage clock. R K admits that it owes \$5,970. Any amount larger would be unreasonable and unjustifiable.

VERIFICATION.

I, Larry R. Davidson, declare under penalty of perjury that the foregoing is true and correct and that I am qualified and authorized to file this motion.

Executed on November 27, 2010.


Larry R. Davidson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to Petition for Declaratory Order – Certain Rates and Practices As Applied to R K Storage & Warehousing, Inc. has been furnished to Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, D.C. 20423-0001, via Federal Express, P. Campbell Ford, Ford, Miller and Wainer, P.A. (lead counsel for PNWR), 1835 N. Third Street, Jacksonville Beach, Florida 32250 via Federal Express, and Timothy Coleman (local counsel for P & W), 805 SW Broadway, 8th Floor, Portland, Oregon 97205 via first class mail, postage prepaid, on this 27th day of November, 2010.



Larry R. Davidson
Oregon Bar No. 75089
1850 Benj. Franklin Plaza
One SW Columbia St.
Portland, OR 97258
Telephone: (503) 229-0199
Facsimile: (503) 229-1856
Attorney for R K Storage & Warehousing, Inc.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD35406

**PORTLAND & WESTERN RAILROAD, INC. – PETITION FOR
DECLARATORY ORDER – CERTAIN RATES AND PRACTICES AS APPLIED
TO R K STORAGE & WAREHOUSING, INC.**

**AFFIDAVIT OF ROGER KROFFT IN SUPPORT OF
RESPONSE R K STORAGE & WAREHOUSING, INC**

Before me, the undersigned authority, this day personally appeared Roger Krofft, who first being sworn, states as follows:

My name is Roger Krofft. I am over eighteen (18) years of age. I have personal knowledge of the following matters.

1. I am president of R K Storage & Warehousing, Inc. ("R K") which I formed in 1982.
2. I have worked in the transportation industry for over 44 years and am knowledgeable regarding the transportation of cargo and interstate commerce, both by rail carrier and motor carrier.
3. R K owns property located at 10937 NW Front Avenue, Portland, Oregon 97231. R K's business involves the transportation of steel products received at its yard by rail carrier, and transported by R K to various destinations located within the Northwest region.
4. R K is a duly licensed motor carrier of cargo and interstate commerce, holding authority and MC No. 189490. Its USDOT No. is 292077.
5. R K owns property that is served by one rail carrier, Portland & Western Railroad, Inc. ("PNWR").
6. R K's spur can hold four standard size 65 feet bulk head cars. It can hold two super railcars, at 90 feet in length, plus the standard size bulk head car.

7. Attached as Exhibit A is a copy of an R K Dispatch Sheet for July 2007 and May 2008 which shows that PNWR spotted four railcars on R K's spur for the dates indicated, specifically July 2, 2007 and May 6, 2008. Those months were during the period of time for which PNWR is seeking demurrage charges from R K. PNWR's former train crew was on the job at that time.

8. Attached as Exhibit B is a copy of an R K Dispatch sheet for January 2010, which also confirms that PNWR spotted four railcars on R K's spur, this time on January 20, 2010. These cars were spotted by PNWR's new train crew.

9. During the time for which PNWR issued demurrage charges, from June 20, 2006 from July 20, 2008, the PNWR crew would almost always only spot three cars on R K's track at one time, even though there was room for four cars.

10. It is more efficient for R K to move four cars onto and off of its tracks at one time rather than three cars.

11. If we use PNWR's math, R K's spur can accommodate three cars per day, five days a week, for a total of 15 cars per week, and over 60 cars per month. The heaviest usage month for the period in question was June 2006, when R K had 41 railcars on its spur during that month. That means that, again, using PNWR's math, R K' spur was less than 70 % occupied during June 2006.

12. Admittedly, some of those cars were 90 feet long instead of 65 feet long, but even so, R K's spur could still accommodate two larger cars and one smaller car. Even using two cars per day, 10 cars per week, 40 cars per month, R K's spur was still under-utilized.

13. If we use the correct number of four cars per day, 20 cars per week and 80 cars per month, even allowing for larger cars at times, R K's spur was severely under-utilized.

14. I admit that R K owes PNWR some demurrage charges. Attached as Exhibit C is a copy of the history of railcars spotted on R K's spur during the period in question. Noted in the right column is the amount that R K owes PNWR in demurrage charges. These demurrage charges are owed since R K did not remove the cars within two days of when the cars were spotted on R K's spur. The amounts owed are as follows:

June 2006	\$160
July 2006	\$1,280
January 2007	\$480
February 2007	\$400
March 2007	\$480
April 2007	\$470
May 2007	\$700
June 2007	\$950
July 2007	\$400
May 2008	\$200
June 2008	\$250
July 2008	\$200
Total:	\$5970

15. During June 20, 2006 to July 20, 2008 PNWR was extremely busy. It had stashed railcars all over the place, at the various PNWR tracks, spurs and yards. Some of R K's railcars were placed at those various locations, and were buried six or eight cars deep.

16. The train crew told me they were overworked and stretched thin, and that it would be very difficult and impractical to get my buried cars out frequently. I was hesitant about being too assertive or aggressive with the train crew, and therefore, let things slide, since those cars, for the most part, had pipe on them that could be interchanged with pipe delivered on the newer cars.

17. R K had no control over the deliveries of cars to the Willbridge Interchange.

18. I had no control over what the BNSF or any other railroad was doing in terms of consolidating cars at distant locations, for the transportation from those various locations to Portland.

19. My customers would load and ship cars to me on a regular basis. If the cars had been delivered in a timely fashion after they were loaded, I never would have received numerous cars at one time.

20. Instead, I was informed by railroad personnel that the railcars would be consolidated in locations such as Pasco, Washington, the consolidated cars would then be sent to me by the railroad in one train, and then I would get slammed with a huge influx of railcars courtesy of the railroad.

21. To add insult to injury, PNWR would then blame me for the operational practices of either or both PNWR and the BNSF.

22. PNWR has assessed demurrage charges against R K for the month of July 2008, in the amount of \$21,100, (Petition, Vol. 2, A-1, p. 33,) and another \$14,050 for July 2008 (Petition, Vol. 2, A-1, p. 35). Three of the cars arrived in town on April 21, 2008 and were not spotted on my track until June 24, 2008 (one car) and June 25, 2008 (two cars). The car that was spotted on June 24 was released the same day, and the two cars that were spotted on June 25 were also released on the same day.

23. The total demurrage charges for those three cars are \$9,400, three cars that PNWR would not bring to my track. (Petition, Vol. 2, A-1, p. 33, lines 4-6).

24. Exhibit C also contains a history of railcars that were spotted on my track for the pertinent months, from June 2006 to July 2008. Except as stated in paragraph 14, in each instance PNWR did not bring R K these railcars when requested.

25. Attached as Exhibit D is a copy of R K's dispatch sheets for the period of July 2006 through July 2008. These dispatch sheets show that on several days R K had empty spots on the track which were available. The empty spot count is based upon a capacity of three cars, not four

cars, since PNWR used three cars as its standard for R K's track, even though R K's spur could hold four cars at one time, and has in fact had four cars on its spur in several different instances.

26. Attached as Exhibit E are two examples of months during which PNWR spotted new railcars, thereby passing the older railcars. This was a very normal practice of PNWR with R K.

27. Also during this period of time, when I would call PNWR to release a car, the car was not immediately removed. This was an inconvenience to myself and my crew as we had to work around empty cars that were taking up space and inhibiting other activities. PNWR's attitude was that it would remove those empty railcars when it felt like doing so, and not earlier.

28. R K Storage was previously served by BNSF. R K never had service issues with BNSF, since BNSF switched cars in a timely manner.

29. R K does not know in advance, prior to receipt of its statement, how much PNWR will be claiming due for any particular railcar.

30. Although PNWR claims that I had a defective track, that is not true. I had placed rubber mats on each side of the track, and in between, to accommodate other traffic. PNWR simply drove too quickly over the mats. The track was the correct gauge and was fixed, being placed back in the same condition as it was before PNWR damaged it.

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31. As PNWR's records confirm, I almost always unloaded the cars on the same day that they were spotted on my spur.



ROGER KROFFT

State of Oregon)
County of Multnomah)

SWORN TO AND SUBSCRIBED before me by Roger Krofft, as President of R K
Storage & Warehousing, Inc. this 27th day of November, 2010



Notary Public, State of Oregon
My commission expires:

7-Jul 67

10

[illegible]

8-May 08

EXHIBIT A
PAGE 2 OF 2

[illegible]

Rail Cars - June 2006

Time	Name	Order Date	Car #	Shipper	Material	Date Rec.	Date/Time Rel.	Person	Switch Date
	NO SPOT SINCE 5/25/06								
			TPPX 805253	SKY	14X117X40	6/1/06 5.00	6/1/06 10.00	ANDREW	
			TPPX 811188	SKY	14X102/117	6/1/06 5.00	6/1/06 10.00	ANDREW	
			TPPX 81459	LIBERTY	12/10.8	6/1/06 5.00	6/1/06 11.30	RICH	
			TPPX 806319	SKY	14X89 55	6/1/2006	6/1/06 6.15	RICK	NO CREDIT
			TPPX 82754	SKY	14X89X60	6/1/2006	6/1/06 4.45	JOE	NO CREDIT
			TPPX 804442	SKY	14X89X60	6/1/2002	6/1/06 4.45	JOE	NO CREDIT
			BN 624352	SKY	14X117X65	6/2/2006	6/2/06 2.45	JOE	
			TPPX 805254	SKY	14X117X50	6/2/2006	6/2/06 4.45	JOE	
			TPPX 806096	SKY	14X117X60	6/2/2006	6/2/06 4.45	JOE	
			TPPX 804307	SKY	14X89 60	6/3/2006	6/3/06 2.00	RICH	
			TPPX 82068	SKY	14X8940/55	6/3/2006	6/3/06 2.00	RICH	
			BNSF 564000	PACO	8/65/12/11.8	6/3/2006	6/3/06 2.00	RICH	
			TPPX 804457	SKY	12/74/14/73	6/5/06 12.00	6/7/06 9.45	JOE	/
			TPPX 806312	SKY	12X74 14X89	6/5/06 12.00	6/6/06 2.00	RICK	
			TPPX 806287	SKY	14X89 12X74	6/5/05 12.00	6/5/06 4.00	ANDREW	
ORDERED 6/7/06			BN 624364	SKY	14X117X65	6/8/06 10.30	6/8/06 3.30	JOE	
			TPPX 804606	SKY	14X89X55	6/8/06 10.30	6/8/06 3.30	JOE	
			TPPX 806090	SKY	14X89X55	6/8/06 10.30	6/8/06 2.30	JOE	
			PTTX 913761	SKY	18X375PIPE	6/9/06 10.30	6/9/06 3.30	EVYLEN	
			PTTX 150504	SKY	18X375X40-45	6/9/06 10.30	6/9/06 3.45	JOE	
			BNSF 564001	PACO	10X9.0X40	6/10/06 1.00	6/12/06 3.40	RICK	
			BNSF 564170	ZIEMAN	12X10.8 40	6/10/06 1.00	6/13/06 1.45	JOE	
			BNSF 564034	ZIEMAN	12 X 10.8 X406/14/06 3.00	6/15/06 3.40	6/15/06 3.40	RICK	
			BNSF 564050	ZIEMAN	10 X8.0 X 40	6/14/06 3.00	6/15/06 4.30	JOE	
			IHB 98213	SKY	12 X 500	6/14/06 3.00	6/15/06 9.45	RICH	
			TPPX 811148	SKY	14X89X55	6/16/06 11.30	6/16/06 3.30	EVYLEN	
			TPPX 805033	SKY	14X89 60	6/16/06 11.30	6/16/06 3.30	EVYLEN	
			TPPX 806392	SKY	14X89X55/60	6/16/06 11.30	6/16/06 3.30	EVYLEN	
			TPPX 806396	SKY	14X89X60	6/17/06 10.00	6/17/06 2.30	RICK	
			TPPX 804733	SKY	14X89X60	6/17/06 10.00	6/17/06 2.30	RICK	
			BNSF 564033	PACO	10X9.0 X40	6/18/2006	6/19/06/3/30	SHAWN	
			TPPX 806101	SPARTAN	12X500X40/60	6/18/2006	6/20/06 11.30	JOE	/
			TPPX 806418	SKY	24 X 500 X 60	6/20/06 3.30	6/21/06 12.45	ANDREW	

		BNSF 564079	PACO	10X 9. X 40	6/20/06 3.30	6/22/06 2.15	JOE	
		BNSF 564177	ZIEMAN	8 X 6.5 X 40	6/20/06 3.30	6/22/06 2.00	JOE	
		TTPX 804259	SKY	24X500 X60	6/23/2023	6/23/06 3.00	RICK	
		XTTX 142375	ZIEMAN	8 X 6.5 40	6/23/2006	6/23/06 3.00	RICK	
		TTPX 80339	SKY	14 X 73 59/60	6/23/2006	6/24/06 1.00	RICK	
		BSF 545756N	SKY	14X89X55/60	6/26/2006	6/28/06 5.30	ANDREW	
		TTPX 80798	LIBERTY	12X10.8X40	6/25/2006	6/27/06 2.30	ANDREW	
		TFM 71005	ZIEMAN	TUBING	6/25/2006	6/28/06 2.00	ANDREW	

BROKEN COUPLER ON RAIL CAR WHEN SWITCHED OUT ON RK SPUR 6/28/06 LEFT ON RK SPUR
NO SWITCH UNTIL 7/7/06

NO SPOT 6/6/06
NO SPOT 6/7/06
IHB SPOT 6/14/10 NOT 6/3/06
BNSF 546033 REL 6/19/06 NOT 6/20/10

[illegible]

16

[illegible]

240
240

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22

88

452

EXHIBIT C
PAGE 6 OF 14

Rail Cars - MARCH 2007

[illegible]

EXHIBIT C

PAGE 7 OF 14

[illegible]

470

Rail Cars - May 2007

Time	Name	Order Date	Car #	Shipper	Material	Date Rec.	Date/Time Rel.	Person	Switch Date
			TTPX 806407	SKY	10X42/12/84/10X57	4/30/2007	5/1/2007	EVYLN	1
			TTPX 805320	ZIEMAN	6X6X4.4	4/30/2007	6/2/2007	RICK	
	X		BNSF 546295	SKY	10X42	5/4/2007	5/6/2007	RICH	1
	X		TTPX 81067	SKY	10X42	5/4/2007	5/6/2007	RICH	
			TTPX 805411	PACO	12/11.8X40	5/4/2007	5/8/07 10.15	RICH	3
			IHP 17019	RICHARDS	123/4 375	5/12/2007	5/15/2007	RICH	1
	X		BNSF 518451	SKY	AX -13	5/12/2007	5/12/2007	RICH	
	X		TTPX 806036	SKY	10X57	5/12/07	5/15/2007	RICH	2
			TTPX 806098	ZEMAN	PLATE	5/15/2007	5/16/07 3.00	EVYLN	
			TN 8042	SPARTAN	16' PIPE	5/15/2007	5/17/07 2.00	EVYLN	1
	X		TTPX 805282	PACO	8X6.5	5/17/2007	5/18/07 1.15	RICK	
	X		TTPX 80995	SKY	12X53	5/17/2007	5/18/2007	RICH	
	X		TTPX 82544	SKY	12X53	5/17/2007	5/18/2007	RICH	
	X		TTPX 806372	ZIEMAN	PLATE	5/19/2007	5/19/07 4.00	EVYLN	
	X		TTPX 81733	PACO	12X11.8 X40	5/19/2007	5/19/07 4.00	EVYLN	
	X		BNSF 518299	SKY	AZ 13	5/19/2007	5/21/07 12.30	RICH	1
	X		TTPX 806224	SKY	14X117V45	5/21/2007	5/22/07 3.45	JOE	
	X		BNSF 546145	SKY	14X117X60	5/21/2007	5/22/07 3.45	JOE	
	X		TTPX 806385	SKY	14X117X60	5/23/2007	5/23/07 5.00	RICK	
	X		TTPX 82683	SKY	14X117X40	5/23/2007	5/23/07 5.30	EVYLN	
	X		TTPX 81295	SKY	14X117X55	5/23/2007	5/24/07 1.30	EVYLN	
	X		BNSF 516382	SKY	AZ 13	5/24/2007	5/25/07 11.30	JOE	
	X		BNSF 518479	SKY	AZ 13	5/24/2007	5/25/07 2.30	EVYLN	
	X		AOK 35042	SKY	AZ 13	5/26/2007	5/30/2007	RICH	3
	X		TTPX 806283	ZIEMAN	PLATE	5/26/2007	5/28/07 12.00	AL	JOE
	X		BNSF 564115	PACO	10X9.0X40	5/26/2007	5/28/07 12.00	AL	JOE
			TTPX 806283	ZIEMAN	PLATE	5/29/2007	5/30/07 3.45	EVYLN	
			TTPX 80501	SKY	14X89X60	5/29/2007	5/30/07 3.45	EVYLN	
			TTPX 82119	SKY	14X73X40/50	5/31/2007	6/1/07 5.00	EVYLN	
			TTPX 546054	SKY	14X73X40/50	5/31/2007	6/2/2007	RICK	1

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Rail Cars - June 2007

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Rail Cars - May 2008

Time	Name	Order Date	Car #	Shipper	Material	Date Rec.	Date/Time Rel.	Person	Switch Date
			PTPX 82156	REM	PLATE	5/5/2008	5/5/08 4.45	EVYLN	
			MTTX 95279	REM	PLATE	5/5/2008	5/5/08 4.45	EVYLN	
			PTPX 804614	ZIEMAN	PLATE	5/5/2008	5/8/08 3.45	EVYLN	
			PTPX 804143	ZIEMAN	10X8.0X0	5/7/2008	5/8/08 1.00	RICH	
			PTPX 811012	ZIEMAN	12X10.8X40	5/7/2008	5/8/08 1.00	RICH	
			PTPX 804721	ZIEMAN	6X4.4X40	5/7/2008	5/8/08 5.45	BEN	
			PTPX 82211	REM	PLATE	5/7/2008	5/8/08 1.00	BEN	
			PTPX 89121	ZIEMAN	8X6.5 X 40	5/9/2008	5/9/08 6.30	BEN	
			BNSF 546145	ZIEMAN	PLATE	5/9/2008	5/9/08 6.30	BEN	
			PEYX 2082	REM	PLATE	5/14/2008	5/14/08 5.45	BEN	
			PEYZ 2097	REM	PLATE	5/14/2008	5/14/08 5.45	BEN	
			PTTX 137251	SKY	30' PIPE	5/15/2008	5/15/08 6.00	BEN	
			PTTX 132176	SPARTAN	24' X 500	5/15/2008	5/16/08 5.30	TREVOR	
			PTTX 142118	SPARTAN	24X500 40-60'	5/17/2008	5/19/2008 3.30	EVYLN	
			PTTX 142133	SKY	30' X 1-00	5/17/2008	5/21/08 12.30	EVYLN	3
			PTPX 82379	REM	PLATE	5/21/2008	5/21/08 5.30	TREVOR	
			PEYX 2101	REM	PLATE	5/21/2008	5/21/08 5.30	TREVOR	
			PEYX 105564	REM	PLATE	5/21/2008	5/21/08 5.30	TREVOR	
			PTPX82283	ZIEMAN	PLATE	5/22/2008	5/22/08 6.45	RICK	
			PEYX 105563	REM	PLATE	5/22/2008	5/22/08 6.46	RICK	
			PEYX 2118	REM	PLATE	5/22/2008	5/22/08 6.45	RICK	
			PEYX 2030	REM	PLATE	5/23/2008	5/24/08 2.00	RICK	
			PTTX 142158	SKY	30' PIPE	5/23/2008	5/24/08 2.00	RICK	
			TTTX 804686	REM	PLATE	5/26/2008	5/28/08 6.15	RICK	1
			MTTX97592	REM	PLATE	5/26/2008	5/28/08 6.15	RICK	
			PEYX 2022	REM	PLATE	5/26/2008	5/28/08 4.45	TREVOR	
			BNSF 546040	SKY	30"	5/29/2008	5/30/08 2.30	TREVOR	
			TTTX 81295	ZIEMAN	PLATE	5/29/2008	5/29/08 5.45	TREVOR	
			TTTX 804438	ZIEMAN	8 X 6.5 X 40'	5/29/2008	5/30/08 2.45	TREVOR	

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Rail Cars - June 2008

Time	Name	Order Date	Car #	Shipper	Material	Date Rec.	Date/Time Rel.	Person	Switch Date
			TTPX 806384	SKY	12/74/84/53	6/2/2008	6/3/08 4.15	BEN	
			BNSF 545761	SKY	14X8960/65	6/2/2008	6/3/08 4.15	BEN	
			TTPX 811257	FOSTER	123/4 X 375X40	6/2/2008	6/3/08 4.15	BEN	
			TTPX 804881	ZIEMAN	10 X 8.0 X 40	6/4/2008	6/5/08 4.30	TREVOR	
			PEYX 90219	REM	PLATE	6/4/2008	6/5/08 4.30	TREVOR	
			BNSF 564004	SKY	SHEET PILE	6/6/2008	6/6/08 4.00	TREVOR	
			TTPX 805360	ZIEMAN	PLATE	6/6/2008	6/6/08 4.00	TREVOR	
			BNSF 517005	SKY	L/D AZ 26 X50	6/7/2008	6/7/08 4.00	EVYLN	
			BNSF 518159	SKY	L/D AZ 26 X50	6/7/2008	6/7/08 4.00	EVYLN	
			PTTX 142166	SPARTAN	24X 500	6/9/2008	6/10/08 4.15	BEN	2
			PTTX 137268	SPARTAN	24X500	6/9/2008	6/12/08 4.15	JOE	
			BN 621524	PACO	12X11.8X40	6/13/2008	6/14/08 2.45	EVYLN	
			BN 621845	PACO	12X11.8X40	6/13/2008	6/14/08 2.45	EVYLN	
			PEYX 2069	REM	PLATE	6/15/2008	6/16/08 2.30	JOE	1
			NW 97201	FOSTER	SHEET PILE	6/15/2008	6/17/08 6.45	JOE	
			NW 97194	FOSTER	SHEET PILE	6/19/2008	6/20/08 12.00	JOE	
			NW 97033	FOSTER	SHEET PILE	6/19/2008	6/20/08 9.00	JOE	
			NS 194725	FOSTER	SHEET PILE	6/19/2008	6/19/08 4.45	TREVOR	
			PTTX 137182	SKY	30" PIPE	6/24/2008	6/24/08 5.15	BEN	
			PTTX 136106	SKY	30" PIPE	6/24/2008	6/24/08 5.15	BEN	
			PTTX 142158	SKY	30" PIPE	6/25/2008	6/25/08 2.15	EVYLN	
			PTTX 141014	SKY	30" PIPE	6/25/2008	6/25/08 2.15	EVYLN	
HAMILTON			PTTX 914046	SPARTAN	24" PIPE	6/26/2008	6/28/08 10.00	BEN	1
HAMILTON			PTTX 154544	SPARTAN	24" PIPE	6/26/2008	6/28/08 10.45	BEN	1
			NS 194789	L.B.FOSTER	SHEET PILE	6/29/2008	6/30/2008 1.50	JOE	
			BNSF 518186	SKY	SHEET PILE	6/29/2008	6/30/2008 2.08	EVYLN	
			CR 609100	L.B.FOSTER	SHEET PILE	6/29/2008	7/1/2008 9.09	JOE	
			COMPLETE RAILCAR BYPASSED WITH NEWERCARS EXCEPT CARS						
			TTPX 805360						
			BNSF 584004						

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JULY -06

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7-Mar 67

EXHIBIT D
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Driver	Dispatch No.	Load Value	Comp	Shipper	Org	Consignee	Destination
		2-Mar	1	EMPTY SPOTS			
		5-Mar	2				
		3-Nov	3				
		11-Mar	2				
		15-Mar	3				
		16-Mar	3				
		21-Mar	2				
		29-Mar	2				
7-Apr							
		2-Apr	3				
		5-Apr	1				
				4-7 NO SWITCH			
		10-Apr	3				
		13-Apr	3				
		16-Apr	3				
		17-Apr	3				
		20-Apr	1				
		23-Apr	1				
		25-Apr	1				
		27-Apr	1				
		30-Apr	2				

7-Jul 67

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8-Aug 03

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bypassed cars

EXHIBIT 3
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PASSED OVER

EXHIBIT E
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